

# Terms of Use (TOU)

Voinco, Inc.  
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## Contact Us

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The following Terms of Use (TOU) apply to all Voinco customers:

## Voinco Services

Voinco's services include, but are not limited to:

- any act of preparing, setting up, connecting, maintaining, terminating, or reconnecting customers' account (including all billing data and the space on the particular Web server that Voinco provides to customers);
- any use by customers, or any access provided to customers by Voinco, of computing, telecommunications, software, information, hardware, and equipment;
- any act, or provision of any service, by Voinco to customers, related to Web hosting and domain name registrations (including server usage and technical support), regardless of duration and whether paid for or not;
- any provision by Voinco to customers, of any space, Internet connectivity, or electrical power;
- any access or use related to the Voinco's Web site, including the Web site itself;
- any other service mentioned in the TOU;
- any other service provided by Voinco to customers, whether used or not;
- any other Voinco services that are used by customers, whether offered or provided by Voinco to customers.

## Ownership of Web Site

The legal owner of customers' Web sites and accounts with Voinco will be the individual or organization whose name is listed in Voinco's database as the owner. Customers will fully cooperate with and abide by any and all of Voinco's security measures and procedures in the event of any dispute over ownership of customers' Web sites and accounts with Voinco.

## Illegal Use

Voinco servers may be used for lawful purposes only. Transmission, storage, or distribution of any information, data, or material in violation of any applicable law or regulation, or that may directly facilitate the violation of any particular law or regulation is prohibited. This includes, but is not limited to: copyrighted material; trademarks; trade secrets or other intellectual property rights used without proper authorization; material that is obscene, defamatory, constitutes an illegal threat, or violates export control laws. Additionally, in purchasing Voinco services, all Voinco customers certify that they and/or the organization they represent in procuring services from Voinco are not, nor have been designated, a suspected terrorist as defined in Executive Order 13224; are not owned or controlled by a 'suspected terrorist' as defined in Executive Order 13224; and are not on, are not a member of, related to, associated with, or controlled by any organizations on the list contained in the Annex to Executive Order 13224 and all updates thereto.

## Spamming

Sending unsolicited bulk and/or commercial messages over the Internet (known as "spamming") is prohibited, regardless of whether or not it overloads a server or disrupts service to Voinco's customers. The term "spamming" also includes, but is not limited to, maintaining an open SMTP policy, engaging in spamming using the service of another ISP or IPP and referencing in the spam a Web site hosted on a Voinco server, and selling or distributing software (on a Web site residing on a Voinco server) that facilitates spamming. Violators will be assessed a minimum fine of US\$500 and will face immediate suspension. Voinco reserves the right to determine, in its sole and absolute discretion, what constitutes a violation of this provision.

## System and Network Abuse

Violations of system or network security are prohibited and may result in criminal and civil liability including a fine of \$1,000 per incident. Examples of system or network security violations include, without limitation the following: unauthorized access to or use of data, systems or networks, including any attempt to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without express authorization of the owner of the system or network; interference with service to any user, host or network including, without limitation, mail bombing, flooding, deliberate attempts to overload a system and broadcast attacks; forging of any TCP-IP packet header or any part of the header information in an e-mail or a newsgroup posting.

## Viruses and Other Destructive Activities

Use of Voinco's services or equipment for creating or sending Internet viruses, worms or Trojan horses, or for ping, flooding or mail bombing, or engaging in denial of service attacks is prohibited. It is also prohibited for any customer to engage in other activity that is intended to disrupt or interfere with, or that results in the disruption of or interference with, the ability of others to effectively use Voinco's services and equipment (or any connected network, system, service or equipment) or conduct their business over the Internet.

#### Copyright Violations

The Digital Millennium Copyright Act ("DMCA") sets forth the law regarding the use of copyrighted materials on the Internet. All Voinco customers are subject to the requirements of the DMCA. Individuals or entities submitting notifications of copyright infringement by a Voinco customer (per the DMCA) to Voinco must follow the below procedures. Copyright infringement notifications submitted to Voinco according to these procedures will be processed within 21 days of receipt. Customers who are the subject of a DMCA notification that meets the below criteria may be subject to account termination at Voinco's sole discretion.

#### DMCA Copyright Infringement Notification Requirements

- Signature of the copyright owner or a person authorized to act on the copyright owner's behalf (the "Claimant").
- Identification of the copyrighted work(s) claimed to have been infringed.
- Identification of the material claimed to infringe the copyright(s), and enough information for Voinco to locate it including URLs and specific descriptions of the infringing material at each URL.
- The Claimant's name, address, and telephone number(s).
- A statement that the Claimant has a good faith belief that use of the disputed material is not authorized by the copyright owner or his agent.
- A statement, under penalty of perjury, that the information in the notification of copyright infringement is accurate and that the Claimant is authorized to act on behalf of the copyright owner.
- Mail the notification to:

Voinco, Inc.

#### DMCA Complaints

93 Black Bear Lane  
Palm Coast, Florida 32137

#### Adult Content

Pornography and sex-related merchandising are prohibited on Voinco servers. This includes sites that may infer sexual content or provide links to adult content elsewhere. This is also true for sites that promote any illegal activity or content that may be damaging to our servers or any other server on the Internet, or provide links to such sites.

#### Child Pornography

The use of Voinco's services to store, post, display, transmit, advertise or otherwise make available child pornography is prohibited. Voinco is required by law, and will, notify law enforcement agencies when it becomes aware of the presence of child pornography on, or being transmitted through, its services.

#### Privacy

Voinco is concerned with the privacy of on-line communications and Web sites. In general, the Internet is neither more nor less secure than other means of communication, including mail, facsimile, and voice telephone service, all of which can be intercepted and otherwise compromised. As a matter of prudence, however, Voinco urges its customers to assume that all of their on-line communications are insecure. Voinco cannot take any responsibility for the security of information transmitted over Voinco's facilities.

#### Customer Responsibility

Customers are required to use the Voinco network responsibly. This includes respecting the other customers of Voinco. Voinco reserves the right to suspend and/or cancel service with any customer who uses the Voinco network in such a way that adversely affects other Voinco customers. While Voinco may monitor its service electronically to determine that its facilities are operating satisfactorily, as a general practice, Voinco does not monitor its customers' communications or activities to determine whether they are in compliance with the TOU. However, when Voinco becomes aware of any violation of the TOU or other user agreements, Voinco may take any action to stop or correct such violation, including, but not limited to, denying access to Voinco's services and equipment or to the Internet. In addition, Voinco may take action against a customer or a customer of such customer because of the activities of such customer. Voinco anticipates that customers who offer Internet services will cooperate with Voinco in any corrective or preventive action that Voinco deems necessary. Failure to cooperate with such corrective or preventive measures is a violation of Voinco policy and Voinco reserves the right to take any such action even though such action may affect other customers of the Voinco customer.

#### Actions Taken by Voinco

The failure by a customer to meet or follow any of the TOU is grounds for account deactivation. Voinco will be the sole arbiter as to what constitutes a violation of the TOU. Voinco reserves the right to remove any account without prior notice and to refuse service to anyone at any time. When Voinco becomes aware of an alleged violation of its TOU, Voinco will

initiate an investigation. During the investigation, Voinco may restrict a customer's access in order to prevent further potentially unauthorized activity. Depending on the severity of the violation, Voinco may, at its sole discretion, restrict, suspend, or terminate a customer's Web hosting account and/or pursue other civil remedies. If such violation is a criminal offense, Voinco will notify the appropriate law enforcement authorities of such violation. An unlisted activity may also be a violation of the TOU if it is illegal, irresponsible, or constitutes disruptive use of the Internet. Voinco does not issue credits for outages incurred through service disablement resulting from TOU violations. Violators of the policy are responsible, without limitations, for the cost of labor to rectify any damage done to the operation of the network and business operations supported by the network, and to respond to complaints incurred by Voinco.

#### Indemnification

Voinco customers agree to protect, defend, hold harmless, and indemnify Voinco, any third party entity related to Voinco (including, without limitation, third party vendors), and Voinco's executives, directors, officers, attorneys, managers, employees, consultants, contractors, agents, parent companies, subsidiaries, and co-subsidiaries with the same parent company as Voinco, from and against any and all liabilities, losses, costs, judgments, damages, claims, or causes of actions, including, without limitation, any and all legal fees and expenses, arising out of or resulting in any from the customer's use of Voinco's services.

#### Disclaimer

The Voinco service is provided on an as is, as available basis without warranties of any kind, either express or implied, including, but not limited to, warranties of merchantability, fitness for a particular purpose or non-infringement. Voinco expressly disclaims any representation or warranty that the Voinco service will be error-free, secure or uninterrupted. No oral advice or written information given by Voinco, its employees, licensors or the like, will create a warranty; nor may you rely on any such information or advice. Voinco and its partners and suppliers will not be liable for any cost or damage arising either directly or indirectly from any transaction or use of the service.

#### Termination for Bankruptcy or Insolvency

If a customer becomes insolvent or any bankruptcy petition is filed by the customer, or any third party against the customer, Voinco may immediately terminate provision of Voinco's services to the customer without prior notice or penalty. Such customer consents to the grant of relief from any automatic stay of proceedings against Voinco in such event.

#### LIMITATION OF LIABILITY

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT, AND UNDER NO THEORY OF LAW OR EQUITY, WILL VOINCO (INCLUDING, WITHOUT LIMITATION, VOINCO'S EXECUTIVES, DIRECTORS, OFFICERS, ATTORNEYS, MANAGERS, EMPLOYEES, CONSULTANTS, CONTRACTORS, AGENTS, PARENT COMPANIES, SUBSIDIARIES, CO-SUBSIDIARIES WITH THE SAME PARENT COMPANY AS VOINCO, AFFILIATES, THIRD-PARTY PROVIDERS, MERCHANTS, LICENSORS, OR THE LIKE) OR ANYONE ELSE INVOLVED IN CREATING, PRODUCING, OR DISTRIBUTING VOINCO'S SERVICES, BE LIABLE FOR THE LOSS OF A DOMAIN NAME, OR ANY BUSINESS OR PERSONAL LOSS, REVENUES DECREASE, EXPENSES INCREASE, COSTS OF SUBSTITUTE PRODUCTS AND/OR VOINCO SERVICES, OR ANY OTHER LOSS OR DAMAGE WHATSOEVER, OR FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE OR INDIRECT DAMAGES OF ANY KIND ARISING OUT OF ANY USE OF, OR ANY INABILITY TO USE, ANY VOINCO SERVICES EVEN IF VOINCO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. VOINCO'S TOTAL CUMULATIVE LIABILITY, IF ANY, TO CUSTOMER, OR ANY THIRD PARTY, FOR ANY AND ALL DAMAGES, RELATED TO THE TOU OR VOINCO'S SERVICES, INCLUDING, WITHOUT LIMITATION, THOSE FROM ANY NEGLIGENCE, ANY ACT OR OMISSION BY VOINCO OR VOINCO'S REPRESENTATIVES, OR UNDER ANY OTHER THEORY OF LAW OR EQUITY, WILL BE LIMITED TO, AND WILL NOT EXCEED, THE ACTUAL DOLLAR AMOUNT PAID BY THE CUSTOMER FOR THE SERVICES WHICH GAVE RISE TO SUCH DAMAGES, LOSSES AND CAUSES OF ACTIONS DURING THE 3-MONTH PERIOD PRIOR TO THE DATE THE DAMAGE OR LOSS OCCURRED OR THE CAUSE OF ACTION AROSE.

#### Modifications

Voinco may discontinue, upgrade, replace, modify, or change in any way, without limitation, any software, application, program, data, hardware, equipment, or portions or components thereof, used to provide customers with Voinco's services. Certain changes to Voinco's services may affect the operation of customers' personalized applications and content. Each customer is solely responsible, and Voinco is not liable, for any and all such personalized applications and content, except as expressly agreed to by Voinco.

#### Backup of Data

Except where Voinco has expressly agreed in writing to the contrary, customers are solely and entirely responsible, and Voinco is in NO way responsible, for the management and backup of all customer data, and all updates, upgrades, and patches to any software that customers use in connection with Voinco services.

#### Third Party Licenses

Voinco makes a reasonable effort to provide customers with technologies, developments, and innovations (collectively "Technologies"), part of which may be licensed, or co-branded, from or by, third party entities. However, Voinco makes

NO warranty of any kind, either express or implied, regarding the quality, accuracy, reliability, validity, or continued existence of any or all aspects of such Technologies. Moreover, Voinco specifically disclaims all warranties of merchantability and fitness for a particular purpose for such Technologies. Furthermore, no customer will hold Voinco liable in any way for the revocation of any license, which has been licensed to Voinco. The use of the Technologies obtained from or through Voinco, or any other referred third party, whether directly or indirectly, is at the sole risk of customers.

#### Non-Voinco Products

Any mention of non-Voinco products by Voinco, its employees, or any third party entity related to Voinco is for information purposes only and does not constitute an endorsement or recommendation by Voinco. Voinco disclaims any and all liabilities for any representation or warranty made by the vendors of such non-Voinco products or services.

#### Voinco's Intellectual Property

Customers will not, without Voinco's express written consent, copy, reproduce, republish, or otherwise use any material, in whole or in part, that is located on Voinco's Web site, and customers will not use any of Voinco's trademarks, service marks, copyrighted materials, or other intellectual property without Voinco's express written consent. Customers will not, in any way, misrepresent their relationship with Voinco, attempt to pass themselves off as Voinco, or claim that customers are Voinco.

#### Assignment

Customers may not assign or delegate their rights or obligations under the TOU or other agreement for Voinco's services, either in whole or in part, without the prior written consent of Voinco.

#### Minimum Age Requirement

Voinco customers must be at least 18 years of age. Any individual under the age of 18 years ("Minor") must have a parent or guardian accept the TOU in order for the Minor to become a Voinco customer. A parent or guardian who accepts the TOU on behalf of a Minor will be primarily liable for ensuring complete and proper compliance with the TOU, including the timely and full payment of the charges for Voinco services, and such primary liability will continue even when the Minor has attained the age of 18, unless the parent or guardian obtains Voinco's express written consent to the contrary. Any acceptance of the TOU or any other agreement for Voinco's services will be deemed null and void to the extent that Voinco will not be liable in any way as a result of the Minor's age or legal incapacity or the Minor's use of Voinco's services.

#### Governing Law and Severability

The TOU, and any other agreement for Voinco services, will be governed by and construed in accordance with the laws of the State of Florida, USA without reference to its conflicts of laws principles. Any litigation or arbitration between a customer and Voinco will take place in Florida, and the customer will consent to personal jurisdiction and venue in that jurisdiction. If any provision or portion of the TOU or other Voinco agreement is found by a court of competent jurisdiction to be unenforceable for any reason, the remainder of the TOU or the agreement will continue in full force and effect.

#### Force Majeure

Voinco will not be liable for delays in its performance of the TOU or Voinco services caused by circumstances beyond Voinco's reasonable control, including acts of God, wars, insurrection, civil commotions, riots, national disasters, earthquakes, strikes, fires, floods, water damage, explosions, shortages of labor or materials, labor disputes, transportation problems, accidents, embargoes, or governmental restrictions (collectively "Force Majeure"). Voinco will make reasonable efforts to reduce to a minimum and mitigate the effect of any Force Majeure. Notwithstanding anything contained elsewhere herein, lack of finances will not be considered an event of Force Majeure nor will any event of Force Majeure suspend any obligation of customers for the payment of money due. Waiver and Amendment Any waiver, modification, or amendment of any provision of the TOU or other agreement for Voinco services, initiated by a customer, will be effective only if accepted in writing and signed by an authorized representative of Voinco.

#### Independent Contractors

Nothing in this Agreement will be construed as creating a partnership or relationship of employer and employee, principal and agent, partnership or joint venture between Voinco and its customers. Each of Voinco and its customers will be deemed an independent contractor at all times and will have no right or authority to assume or create any obligation on behalf of the other, except as may be expressly provided herein.

#### Construction and Interpretation

Wherever in this TOU the masculine, feminine, or neuter gender is used, it will be construed as including all genders, and wherever the singular is used, it will be deemed to include the plural and vice versa, where the context so requires. The division of the TOU into sections/paragraphs, and the insertion of headings/captions, are for convenience of reference only and will not affect the construction or interpretation of the TOU. Any rule of construction to the effect that any ambiguity is to be resolved against the drafting party will not be applicable in the construction or interpretation of the TOU.

### Complete Agreement and Exclusivity

The TOU, and/or any other specific agreement for Voinco services, constitutes the complete understanding and agreement between Voinco and its customers. Except when expressly agreed to the contrary in signed writing by an authorized representative of Voinco, the TOU supersedes any other written (including digitized/computerized) agreement, oral agreement, and/or agreement by conduct. This TOU, and/or any other specific agreement for Voinco services is between Voinco and its customers only and will not confer any rights in any third party except as otherwise expressly provided by Voinco.

### Voinco Customer Billing Policy

The following Terms of Use constitute Voinco's Billing Policy and apply to ALL Voinco customers:

#### Payments

All charges are shown in US Dollars. Payments are to be made in US dollars. Voinco accepts the following types of payment:

- Credit Card (Visa, MasterCard, American Express, Discover)

All payments are due on the Account Statement Date. The Account Statement Date is the monthly anniversary of the date the account was activated. If you provide Voinco your credit card information, you authorize Voinco to automatically charge your credit or debit card for charges that apply to your account. Recurring charges will be posted to your credit card until such time that you cancel your account in accordance with Voinco's Billing Policy in the TOU. You are responsible for directly updating, or notifying Voinco, of any changes to your credit card (including, but not limited to card number, expiration date, billing address, or card status).

Accounts that are ten (10) days past due will be subject to suspension. Reactivation of a hosting account will include a \$50.00 service charge, and reactivation of a reseller account will include a \$50.00 service charge. Dedicated subscribers which are past due will be subject to a \$50.00 late payment fee per past due invoice. All past due and unpaid balances are subject to collection. In the event of collection, you will be liable for costs of collection including attorney's fees, court costs, and collection agency fees.

#### Billing Cycles (Terms)

Voinco offers two Billing Cycles (terms) for hosting charges: Monthly, and Yearly (12 months). The Billing Cycle begins on the Plan Activation Date.

You may elect to change your Billing Cycle at any time.

Additional items including dedicated IP addresses, SSL Certificates, application installations, and monitoring/management services are non-refundable.

#### Account Renewals

In order to insure uninterrupted service to your website, all plans will automatically renew at the end of the plan's Billing Cycle. Plan renewal charges are based on the rate of the initial purchase date according to the service selected. Plans are renewed for the same billing cycle. If you wish to cancel your plan before plan renewal, please refer to the Cancellation section below.

#### Statements

Voinco does not mail paper invoices or statements. Statements can be viewed and printed through the Voinco Account Manager.

#### Fees

##### Credit Card Chargebacks

A \$50.00 chargeback fee will be assessed for each credit card chargeback received by Voinco.

#### Cancellations

Hosting plans will automatically renew until a plan is cancelled. In order to cancel service, you must submit a cancellation request via the Voinco Account Manager. Voinco's customer service representatives will assist you with the cancellation process. Please be aware that there are no pro-rated refunds after the first 30 days of service.

Cancellation requests must be received by Voinco a minimum of thirty (30) days prior to the end of your Billing Cycle for dedicated server plans and a minimum of ten (10) days prior to the end of your Billing Cycle for all other plans. Cancellations submitted later than this time may result in automatic renewal of your hosting plan. Cancellations become effective on the day processed by Voinco. Voinco is unable to cancel your account effective for a future date. Voinco will confirm the cancellation request when it is processed. If you do not receive a confirmation, please contact Voinco as

soon as possible.

Voinco will not provide partial refunds for early terminations. Annual service agreements paid on a monthly recurring basis will require 100% payment in full for remaining agreement length at the time of any early termination.

Voinco does not monitor, and will not automatically cancel, plans for problems related to domain name transfers, non-usage, Internic, your ISP, or any other secondary issues not directly related to Voinco's services. Cancellation of services does not relieve the customer from paying any outstanding balance owed on the account. Voinco, LLC reserves the right to cancel any account, at any time, without notice, for any reason Voinco LLC considers appropriate.

#### 30-Day Money Back Guarantee

Each of Voinco's shared hosting plans carries a 30-day unconditional money back guarantee. If you are not completely satisfied with our services or support within the first 30 days, you will be given a full refund of the fees paid in advance (excluding setup fees) upon plan cancellation. The following services do not qualify for the 30 Day Money Back Guarantee: additional items and services; domain name registration; dedicated servers; items and services ordered through the reseller program; domain parking plus; and overage fees.

#### Refund Policy

Refunds are only available in accordance with the 30 Day Money Back Guarantee. Refunds will be provided in the same payment method of the original payment. There are no refunds offered or promised after 30 days.

#### Credit Card Disputes/Chargebacks

Voinco has a zero tolerance policy for chargebacks. Any customer who disputes a credit card payment is subject to a fine, suspension and account termination at Voinco's discretion. A charge of \$50.00 per chargeback will be assessed to all accounts that receive a chargeback.

#### Billing/Price Changes

Voinco's policies and prices are subject to change without notice. Any price changes become effective in the next billing cycle.

Last Updated: 01/01/2008