

General Terms of Service

Our terms of service include important information about Third Arc Products and Services, your rights to refunds, what you can expect from us and our exclusion of liability.

By accessing this website and/or placing an order for Products and/or Services, YOU (“the Customer”) AGREE TO BE BOUND BY THESE GENERAL TERMS OF SERVICE AND THE TERMS OF SERVICE SPECIFIC TO EACH PRODUCT AND SERVICE. If you do not agree to be legally bound by all of these terms, please do not use this website and do not order any Products or Services from Third Arc Limited (“the Company”).

Definitions

In all Third Arc Limited’s Terms of Service, the following expressions will have the following meanings, unless inconsistent with the context:

“Customer”

Party or Parties identified in an order confirmation.

“Company”

Third Arc Limited.

“Content”

All information, data, text, Software, music, sound, photographs, graphics, video, messages or other materials (“content”).

"Domain Services"

Domain registration and other related Services (if any) provided to the Customer by Third Arc Limited.

“Hosted Environment”

All hardware, including servers, routers, firewalls and associated operating system, Software and patches.

“Products”

Concept or other work product, Content, or media.

“Registrar”

Third party Registrar used by Third Arc Limited to provide Domain Services to the Customer.

"Services"

Design, development, implementation, consultancy, hosting, support, Domain Services and other services (if any) provided to the Customer by Third Arc Limited.

"Software"

Any files or media that form any part of an application or website supplied by Third Arc Limited. This includes but is not limited to object code, source code, css, html, sql or other database code, java script, audio, video, animation and image files.

Introduction

These Terms of Service are set out below with immediate effect and apply to the Products and Services supplied by Third Arc Limited (“the Company”).

We may revise these terms and conditions at any time by updating this posting. You should check this website from time to time to review the then current terms and conditions, because they are binding on you. Certain provisions of these terms and conditions may be superseded by expressly designated legal notices or terms located on particular pages of this Website. If you do not wish to accept any new terms and conditions after we have given notice, you should not use the Products and Services to which these terms apply.

All minors are recommended to consult with their parents/guardians in respect of these terms and conditions before using this website or the Products and Services supplied by Third Arc Limited.

Unless explicitly stated otherwise, any new features, Services, Products, Software tools or resources, shall be subject to these Terms of Service. Third Arc Limited may add, delete or change some or all of the Products and Services that they provide at any time.

You may also be bound by the terms and conditions of any third party who's Products and Services we utilise on your behalf such as domain name registration or the use of copyrighted materials in our designs. Please see Third Party Terms and Conditions, for further information.

Placing an Order with Third Arc Limited

You are deemed to place an order with us by ordering via our online checkout process. As part of our checkout process you will be given the opportunity to check your order and to correct any errors.

Where the order is not placed online, we will issue a quote for Products and Services. If a quote is not issued then the Product and/or Service descriptions and costs from our website (www.thirdarc.com) will apply.

Once we have received your order we will send you an order acknowledgement, detailing the Products that you have ordered.

Our acceptance of an order takes place when we send an order acceptance email to you. At this point the purchase contract will be made even if your payment has been processed immediately, unless we have notified you that we do not accept your order or you have cancelled your order.

We may refuse to accept an order:

- (a) where goods and/or Services are not available;
- (b) where we cannot obtain authorisation for your payment;
- (c) if there has been a pricing or Product description error;

Where we are unable to provide a firm quote, due to the unpredictable nature of the work concerned we will issue an estimate. By placing an order based upon an estimate provided by Third Arc Limited, you accept that the cost incurred by you may be more or less than that specified in the estimate. Unless otherwise stated, work will be carried out at our standard rate of £65 per hour.

Where an order has been placed that is not based on a quote or estimate you acknowledge that work will be carried out at our standard rate of £65 per hour, unless stated otherwise in a support contract.

Payment

Unless specified otherwise in a project's terms and conditions all payment will be paid in advance.

In accordance with our rights set out in the Late Payment of Commercial Debts Regulations, the Company reserves the right to charge 5% interest per month on any outstanding and overdue balances. The Company reserves the right to Invoice the Customer for any costs incurred during the recovery of late payments.

Pricing

Our prices do not include VAT as we are not registered for VAT.

Our prices are reviewed periodically and may change at any time without notice. The next scheduled review will be on 01/06/2009.

Cancellation and Refund Policy

If you wish to cancel your order you can notify us by email to accounts@thirdarc.com before we have sent to you our acceptance of the order.

Deposits are non- refundable and cover any applicable setup and design costs.

Where an order is cancelled after acceptance, Third Arc reserves the right to Invoice the Customer for any costs Incurred during the provision of the Product or Service up to but not exceeding the cost of the Product and/or Service agreed in the purchase contract. Any refunds will be at the discretion of Third Arc Limited and will be less any costs already incurred. A standard administration charge of £20 will apply.

Should an order be cancelled by either party, the Customer acknowledges that it will have no right (express or implied) to use any concept or other work Product, Service, Content, or media, nor any ownership interest in or to them.

Rights and Licences

Rights and licences as set out in these terms and conditions will only be transferred to the Customer subject to compliance with the Terms of Service and when full and final payment has been received by Third Arc Limited. Until that time, Third Arc and its licensors retain full ownership and copyright of any Product.

It is the Customer's responsibility to ensure that their company name and any design(s) produced by Third Arc Limited are not already in use, and that the use of any such name or images are legal in accordance with the laws in which the Customer will trade.

Third Arc Limited is not and will not be held responsible for any legal action that may result from improper due diligence on the availability of a company name or image. Third Arc Limited is not responsible for trademark violations or infringements that may or may not arise as a result of using designs produced by Third Arc Limited.

Service Availability

The Customer acknowledges that Third Arc Limited's systems, servers and equipment may from time to time be inoperative or only partly operational as a consequence of mechanical breakdown, maintenance, hardware or Software upgrades, telecommunication connectivity problems or other causes outside its control.

Third Arc Limited agrees to rectify faults or problems and to restore the system to full operational capacity as soon as reasonably practicable.

Third Arc Limited excludes liability for any loss of profit caused to the Customer as a result of the system not being fully operational.

Termination

You agree that Third Arc Limited, in its sole discretion, may terminate your password, account (or any part thereof) or your use of Third Arc Limited Services at any time with or without notice.

You agree that Third Arc Limited may remove and archive or discard any Content within Third Arc Limited Services, including, without limitation, for lack of use or if the Company believes that you have violated or acted inconsistently with the letter or spirit of the Terms of Service.

Third Arc Limited may also in its sole discretion and at any time discontinue providing any of its Products and Services, or any part thereof, with or without notice. You agree that any termination of your access to these Services under any provision of these Terms of Service may be effected without prior notice.

You acknowledge and agree that Third Arc Limited may immediately deactivate, archive or delete your account and all related information and files in your account and/or bar any further access to such files or accounts

If such action is taken as a result of your breach of these Terms of Service, the remainder of any payment made by you will not be refundable.

Disclaimer of Warranties

You expressly understand and agree that:

You use Third Arc Limited Products and Services at your sole risk. These Services are provided on an "as is" and "as available" basis and the Company and its suppliers, to the fullest extent permitted by law, make no warranties, express or implied, in relation to these Products and Services.

Third Arc Limited makes no warranty that:

1. Its Products or Services will meet your requirements or expectations;
2. That the Services will be uninterrupted, timely, secure, or error-free;

3. Any errors in the Software or Services will be corrected.

Liability

Third Arc Limited, any other party (whether or not involved in creating, producing, maintaining or delivering the Software), and any of our group companies and the officers, directors, employees, shareholders or agents of any of them, exclude all liability and responsibility for any amount or kind of loss or damage that may result to you or a third party (including without limitation, any direct, indirect, punitive or consequential loss or damages, or any loss of income, profits, goodwill, data, contracts, use of money, or loss or damages arising from or connected in any way to business interruption, and whether in tort (including without limitation negligence), contract or otherwise) in connection with, as a result of or caused by any of the following:

1. The Software in any way or in connection with the use of or inability to use the Software, any websites linked to Software or the material on such websites, including but not limited to loss or damage due to viruses that may infect your computer equipment, Software, data or other property on account of your access to, use of, or browsing 'the Software' or your downloading of any material from 'the Software' or any websites linked to 'the Software';
2. Unauthorised access to or alteration of your transmissions or data; statements or conduct of any third party on the Service; or any problems resulting from improper use of the Software by you or any other third party;
3. The termination of any Third Arc Limited Products and/or Services or your access to them;
4. The expiration of the domain name as a result of the Customer's failure to renew the Services;
5. Technical fault or any other fault caused by Third Arc Limited or any third party;
6. The expiration of the domain name as a result of a technical fault of any other fault caused by the negligence of Third Arc Limited;
7. The deletion or failure to store any messages and other communications or other Content maintained or transmitted by Third Arc Limited.

If your use of material from the Software or the Software itself results in the need for servicing, repair or correction of equipment, Software or data, you assume all costs thereof.

Third Arc Limited is not responsible for any third party charges incurred by transferring a domain name away from Third Arc Limited.

Nothing in these terms and conditions shall exclude or limit our liability for:

1. Death or personal injury caused by negligence (as such term is defined by the Unfair Contract Terms Act 1977);
2. Fraud;
3. Misrepresentation as to a fundamental matter; or
4. Any liability which cannot be excluded or limited under applicable law.

You agree that all Content whether publicly posted or privately transmitted, are the sole responsibility of the person from which such Content originated. This means that you, and not the Third Arc Limited, are entirely responsible for all Content that you, your Customers or the company upload, post, email or otherwise transmit via Third Arc Limited Services.

Third Arc Limited in no way endorses or takes responsibility for any third party goods, Services or transactions that are promoted by or facilitated using any of the Third Arc Products and Services.

Where you have commissioned Third Arc Limited to carry out any development or maintenance task that requires direct or remote access to a Hosted Environment (either owned by you or leased by you), you agree to allow Third Arc Limited or its employees access to the Hosted Environment free of charge as is necessary to carry out the work. You also acknowledge that you have authorisation to do so.

Indemnity

You agree to indemnify Third Arc Limited fully, defend and hold us, and our officers, directors, employees and agents, harmless from and against all claims, liability, damages, losses, costs (including reasonable legal fees) arising out of any breach of the terms and conditions by you, or your use of the Software, or the use by any other person using your security details or security details supplied by you or your Company, or by your use of any Content or Service supplied by Third Arc limited

Code of Conduct

You agree not to use any Third Arc Products or Services to upload, post, publish, distribute, disseminate or otherwise transmit any Content that:

1. Is unlawful, tortuous, defamatory, harmful or invasive of another's privacy, or otherwise objectionable, including but not limited to material that promotes or provides instructional information about illegal activities or promotes physical harm or injury against any group or individual;
2. You do not have a right to transmit under any law or under contractual relationships (such as inside information, proprietary and confidential information learned or disclosed as part of employment relationships or under non disclosure agreements);
3. Infringes any patent, trademark, trade secret, copyright or other proprietary and intellectual property rights of any party, or rights of publicity or privacy of any party, unless you are the owner of such rights or have the permission of the owner to post or transmit such material, including but not limited to offering pirated computer programs or links to such programs;
4. Contains nudity, or pornographic material, or sexual material of a lewd, lecherous or obscene nature and intent, or material of a vulgar, profane or obscene nature;
5. Contains unsolicited or unauthorised advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of solicitation;
6. Contains Software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer Software or hardware or telecommunications equipment;
7. Promotes or provides instructional information about illegal activities, promotes physical harm or injury against any group or individual, or promotes any act of cruelty to animals.

While using Third Arc Products or Services you agree not to:

1. Impersonate any person or entity or otherwise misrepresent your affiliation with a person or entity;

2. Forge headers or otherwise manipulate identifiers in order to disguise the origin of any Content transmitted through Third Arc Limited;
3. Interfere with or disrupt Third Arc Limited Services, servers or networks connected to these Services, or interfering with another user's use of these Services, including but not limited to (i) transmitting any material that contains viruses, trojan horses, worms, time bombs, or other computer programming routines that are intended to damage, detrimentally interfere with, intercept or steal any system, data or personal information, or (ii) attempting to gain unauthorised access to any Third Arc Limited Service or other user's account through password mining or by any other means;
4. Intentionally or unintentionally violate any applicable local, state, national or international law, including, but not limited to, UK legislation such as the Data Protection Act, Consumer Protection Act, or Financial Services Act, or any amendments or replacements of such acts;
5. Defame, abuse, harass, stalk, threaten or otherwise violate the legal rights (such as rights of privacy and publicity) of others;
6. Engage in commercial activities that are deemed inappropriate by Third Arc Limited. As such the Company has the right to remove or bar Content, links, sponsorships, affiliate programmes or other Content that they feel fall into this category.
7. Divulge security details or account passwords to any persons not in your direct employment or fail to re-set any account passwords known by any individual no longer in your employment.

Third Arc Limited reserves the right to remove any Content that violates the Terms of Service or which is otherwise in its opinion, objectionable. You agree that you must evaluate, and bear all risks associated with, the use of any Content, including any reliance on the accuracy, completeness, or usefulness of such Content.

You acknowledge and agree that Third Arc Limited may preserve Content and may also disclose Content if required to do so by law or in the good faith belief that such preservation or disclosure is reasonably necessary to:

1. Comply with any applicable law;
2. Enforce the Terms of Service;
3. Respond to claims that any Content violates the rights of third-parties; or
4. Protect the rights, property, or personal safety of Third Arc Limited, its users and the public.

Governing Law and Jurisdiction

These terms and conditions shall be governed by and construed in accordance with English law. Disputes arising in connection with these terms and conditions shall be subject to the exclusive jurisdiction of the English courts.

We do not warrant that materials/items for sale on the Website are appropriate or available for use outside the United Kingdom. It is prohibited to access the Website from territories where its Contents are illegal or unlawful. If you access this Website from locations outside the United Kingdom, you do so at your own risk and you are responsible for compliance with local laws.

Miscellaneous

You may not assign, sub-license or otherwise transfer any of your rights under these terms and conditions.

If any provision of these terms and conditions is found by any court of competent jurisdiction to be invalid, the invalidity of that provision will not affect the validity of the remaining provisions which shall continue to have full force and effect.

Only the parties to these terms and conditions may seek to enforce them under the Contracts (Rights of Third Parties) Act 1999.

Force Majeure

Neither the Third Arc Limited nor the Customer shall be liable to the other or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of its obligations in relation to the Services, if the delay or failure was due to any cause beyond that party's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond either party's reasonable control:-

1. Breakdown in machinery or power failure;
2. Act of God, explosion, flood, tempest, fire or accident;
3. War or threat of war, sabotage, insurrection, civil disturbance or requisition;
4. Acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
5. Strikes, lock-outs, or other industrial actions or trade disputes (whether involving employees of either the Supplier or the Customer or of a third party);
6. Difficulties in obtaining raw materials, labour, fuel, part or machinery;
7. Import or export regulations or embargoes.

Confidential Information

Each party (Third Arc Limited and the Customer) may use the Confidential Information of a disclosing party only for the purposes of these Terms of Service and must keep confidential all Confidential Information of each disclosing party except to the extent (if any) the recipient of any Confidential Information is required by law to disclose the Confidential Information.

Each party (Third Arc Limited and the Customer) may disclose Confidential Information of the other party to those of its employees and agents who have a need to know the Confidential Information for the purposes of these Terms of Service but only if the employee or agent executes a confidentiality undertaking in a form approved by the other party.

The obligations of confidentiality do not extend to information that:

1. Is or becomes public knowledge (otherwise than as a result of a breach of these Terms of Service); or
2. Is required by law to be disclosed.

Trademark Information

Third Arc Limited, the Third Arc Limited logo and other Third Arc Limited logos and Product and Service names are trademarks of Third Arc Limited (“the Third Arc Limited Marks”). You agree not to reproduce these Third Arc Limited Marks without the Company's prior permission.

Third Party Terms and Conditions

Third Arc Limited may in its absolute discretion sub-contract the performance of any of its obligations under these Terms.

The licensing of any third party font, art work, or images used in any Product remains the responsibility of the Customer.

Licensing any photographs or other Third Party art work that is used in the development of the designs remains the responsibility of the Customer.