

Terms and Conditions

BELOW ZERO is the trading name of BELOW ZERO HOSTING LIMITED, registered at 44 Montgomery Street, Edinburgh. EH7 5JY with company number SC216506 and is referred to as "we" or "our" in the rest of this document. This document refers to anything relating to our Customers as "you" or "your".

Where Below Zero "packages" are mentioned further details can be found on the packages page at <http://below0.net>

Where "Server" is referred to this covers all Networking devices and Communications Equipment hosted with Below Zero.

Where "Property" is mentioned it shall refer to the data centre or building where the Customers' Equipment resides.

EQUIPMENT

The Customer shall not be permitted to make any alteration or modification to the Property, or any of the Racks, storage facilities, fixtures and fittings or any other facilities provided by Below Zero. The Customer shall keep that part of the Property at which their Equipment is located, clean and tidy and free from rubbish and other debris and refrain from obstructing any doors or access to that space at all times.

RIGHTS OF ACCESS

Below Zero shall permit the Customer upon giving reasonable notice to enter the Property between 09:00 hrs and 17:00 hrs on a Business Day for the purpose of inspecting the Equipment and allowing the Customer's potential clients to inspect the facilities provided by Below Zero and charged on a time and materials basis to the Customer if the allotted physical access (as stated in their Below Zero package) has been used in that month.

Below Zero reserves the right to refuse any person entry to the Property if: he or she cannot demonstrate to Below Zero and its suppliers reasonable satisfaction that he or she is appropriately authorised; or Below Zero and its suppliers reasonably considers it inappropriate to allow the individual access to the Property for any reason (whether or not they are appropriately authorised); or any individual wishing to acquire access refuses to be searched and for any items (including data storage devices) to be properly checked.

For the avoidance of doubt, the person will only be "appropriately authorised" if Below Zero and its suppliers has had reasonable prior written notice from the Customer stating that the person concerned is to be permitted access to the Equipment on its behalf together with the status of such person(s). The Customer acknowledges that it is its duty to notify Below Zero of sufficient personnel, in good time.

AFFECTING OTHER CUSTOMERS

We aim to supply the fastest network service to our Customers. Should any individual Customer cause unnecessary slow down to our network, whether it be intentional or unintentional, which affects other Customers then we reserve the right to alter or suspend the service to that Customer after we have attempted to contact them using their last known contact details.

ACCOUNTS NOTIFICATION BY E-MAIL

Below Zero run a paperless invoicing system where notifications of billing is sent by electronic mail (**e-mail**).

You are required to accept e-mail addressed to "accounts" at your Domain Name. For

example, if you have Domain Name "company.co.uk" then you should accept e-mail addressed to accounts@company.co.uk

You will be deemed to have read any and all such e-mail addressed to Accounts. Below Zero may take action on the basis of this assumption.

BILLING PERIOD

Standard contract length for each customer is a period of twelve months. Customers requiring a six month contract must request written acceptance from Below Zero. Customers may cancel their account giving notice of three months.

OFFENSIVE MATERIAL

Nothing must be put on our network that breaches any laws in Scotland. Also, we reserve the right to suspend service if we find content to be offensive or believe that others may find it offensive. Notwithstanding this clause, you have full responsibility for the content of your Server, including software licenses.

FAULTS

For Customers with a Service Level Agreement we will respond to any fault reports reported to our emergency number within two hours. The Duty Engineer number is available at all times. Should we fail to respond within two hours £50 will be credited to your account. Calling out the Duty Engineer for problems with your hardware or software, that Below Zero is not responsible for, will incur other costs for time, expenses and materials.

LIABILITIES

We will accept no liability for any loss caused through service failure. Customers with a Service Level Agreement will receive compensation as outlined below. Under any and all circumstances our liability is limited to double the amount of fees paid for that contract.

SERVICE LEVEL AGREEMENT

This applies only to Customers who have a Service Level Agreement (**SLA**). In any rolling period of thirty days, we guarantee 99.85% uptime of our network service. This excludes maintenance work. Maintenance work will be carried out in our Maintenance Window, 12am - 8am and Customers will be notified on the Below Zero News page at <http://below0.net>

Should there be a proven breach to this SLA, Below Zero will credit your account after one whole hour of the network being unavailable in any thirty day period for the value of three days of your service.

For each consecutive hour of downtime thereafter three days of service will be credited to the Customer, for up to a maximum of nine days of service credited to the Customer in any rolling thirty day period. SLAs differing from 99.85% will adhere to special terms of compensation agreed by both parties.

To claim a credit note please write to Below Zero and include a brief summary with any statistical information you can supply.

If Below Zero decide there was no fault or the fault was not caused by Below Zero or anyone we contract, you may then appeal to the Managing Director, whose decision will be final.

ILLEGAL ACCESS

We will withdraw service from any Customer who attempts to gain illegal access to our Servers or our Networking and Communications Equipment or to other Customers' Servers or related Equipment. In this instance, no refunds will apply under any circumstances.

ACCOUNTS

Credit terms are 14 days from receipt of invoice notification. All invoices must be paid by their due dates. In the event of any invoice being unpaid we reserve the right to suspend service after giving seven days written notice to your last known postal address. Suspension of service will not remove your liability to pay your account. In addition we will have the right to charge interest at the rate of 4% over the current Bank of Scotland base rate.

VALUE ADDED TAX

If you are in the United Kingdom you must add 17.5 percent VAT to all prices.

In the rest of the European Union you must also add 17.5 percent VAT, unless you are VAT registered, no VAT is payable providing you quote your VAT number.

Outside the European Union no VAT is payable.

PAYMENT METHODS

Below Zero services are paid one month in advance for all Customers other than Customers just using the Economy package. Customers in the USA may pay with an ordinary cheque in US dollars. European Union Customers may pay also with Euro Cheque.

All other Customers must pay monthly by standing order in pounds sterling. For all packages other than the Economy package, where the years fees must be paid fully in advance, the first month can be paid by cheque should the standing order not be set up in time for commencement of services. This does not apply to Customers with special contracts.

Standing orders must be paid to:

Bank of Scotland, Sort code: **removed**, Account number: **removed**

All payments made by the Customer under this Agreement shall be made in full without any set-off, restriction or condition and without any deductions for or on account of any counterclaim unless agreed in writing by Below Zero. No sums paid under this Agreement shall be refundable if a Service ceases to be used (in whole or part) before the end of the period for which payment has been made in advance.

ECONOMIC LOSS

The Customer grants Below Zero a lien over Customer Equipment to secure all sums due, owing or incurred to Below Zero under this Agreement and such lien shall continue and Below Zero shall be entitled to retain possession of all Equipment (and the Customer shall not be entitled to remove the Equipment from the Property) until Below Zero has received all such sums in cleared funds.

RESELLING

Commerical use including reselling of all Below Zero packages is acceptable.

DISCOUNTS

Agreed discounts for services provided by Below Zero shall be deemed null and void should payment for those services not be received inside their payment terms.

ADVICE AND CONSULTANCY

If consultancy quoted for includes a site visit, travel expenses by train or taxi may be added without notice to you. Advice given from Below Zero without cost to you will incur no liability for Below Zero nor will Below Zero accept any liability for suppliers Below Zero staff recommend.

ADMINISTRATION PASSWORDS

To cover the administration costs of issuing new passwords a charge of £25 will be made should you forget your password more than three times.

INSURANCE

Insurance of your Servers against fire or theft is not included for Servers hosted by Below Zero. However we do have insurance covering damage to Server caused by our staff.

CHANGES TO TERMS AND CONDITIONS

We may vary these terms and conditions at any time by giving one months notice. Should you object, our agreement will be terminated and your fee will be refunded pro rata.

AGREEMENTS AND DECLARATIONS

The Customer undertakes and agrees that where it has any rights under accepting these terms and conditions, by virtue of the Telecommunications Act 1984 or any other relevant statute then, to the extent that it can contract out of them, it agrees not to exercise those rights to the detriment of Below Zero nor cause Below Zero to be in breach of any agreement it may have with any third party.

FORCE MAJEURE

Neither party shall be liable to the other in any manner whatsoever if it is unable to perform any of its obligations under its terms due to any cause beyond its reasonable control including but not limited to acts of God, war or national emergency, riots, civil commotion, fire, explosion, flood, epidemic, lock-outs (whether or not by that party), strikes and other industrial disputes (in each case, whether or not relating to that party's workforce), acts of Government, highway authorities, telecommunications network operators or other competent authorities or interruption of, or inability in obtaining, supplies or services from third parties.

NOTICES

Any notice or other communication required or permitted under these terms shall be in writing addressed to the Customer at their last known address and shall be deemed to have been duly given.

ASSIGNMENT

The Customer may not assign, delegate or otherwise deal with any of its rights or obligations under their agreement with Below Zero without the prior written consent of Below Zero; such consent not to be unreasonably withheld. Below Zero shall be entitled to assign its rights and obligations under these terms and as it sees fit.

CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

Nothing in our Terms and Conditions is intended to create any right which, by virtue of the Contracts (Rights of Third Parties) Act 1999, might otherwise be enforceable by a third party against either party to this agreement.

SERVICE ENGINEERING

Due to our packages offering a scaleable upgrade path, Below Zero may introduce an extra installation fee for multiple servers being installed in rack space not already in use but allocated to that customer. Service Engineering will not incur separate expenses but will fall under our one-off hourly charge of £80 per server should several visits to the data centre be required for one customer.

“HANDS-ON” SUPPORT AND PHYSICAL ACCESS

Hands-on support is 24x7 support provided to Customers over the telephone. Time spent over and above the period per month stated in the Customer's package will be charged at £40 per hour during office hours and £60 per hour outside of office hours, at a minimum of one hour in each instance. Unused support time expires at the end of each billing period and cannot be carried forward. Hands-on Support will be provided in any instance where Below Zero's attention to the Equipment is required, and shall comprise solely of engineers following precise Customer instructions. The responsibilities for the outcome of those actions lie with the Customer (unless the engineer acts maliciously).

Physical Access is where Customers require access to the Property in order to perform maintenance work on their own equipment. These charges are necessary as each time our Customers visit the Property they must be escorted by a member of our staff or representative. Time spent over and above the period per month stated in the Customer's package will be charged at £40 per hour during office hours and £60 per hour outside of office hours, at a minimum of one hour in each instance. For the avoidance of doubt our office hours are 9am – 5pm Monday to Friday, including Bank Holidays.

ACCEPTABLE USE POLICY

Below Zero provide an Acceptable Use Policy (**AUP**) document for customers to carefully read. We reserve the right to suspend the service of any customer that does not adhere to the AUP. The AUP is available at <http://below0.net>

GOVERNING LAW

Below Zero terms shall be governed by and construed and interpreted in accordance with Scottish law and the parties hereby submit to the exclusive jurisdiction of the Scotland's Courts.

Version 29.05.02

10.10.06 Previous Change	Removed Sort Code and Account Number from Online Version
29.05.02 Previous Change:	Reduction in both Hands-on support charges and Physical Access charges
14.03.02 Previous change:	Hands-on support section added to clarify responsibilities
01.08.01 Previous change:	Grammer corrected
14.05.01 Previous change:	VAT section, European Union terms corrected