

Mean Canary Master Service Agreement

Agreement Scope

This agreement is between Mean Canary and its clients/customers.

Security

The client is responsible for passwords associated with their account with Mean Canary. The client must take reasonable care that any passwords are not compromised. If an unauthorized party accesses our server, we may take your site offline. Any compromise is dangerous to Mean Canary and possibly other customers.

Hacking and Vulnerability Tests

Customer agrees that they shall never attempt to hack or test our system for vulnerability whether by intrusive or passive means. Any such attempt is a breach of this agreement and your service may be cancelled or suspended at our sole discretion.

Modifications

Mean Canary reserves the right to periodically make changes to this agreement. Nothing verbally stated shall modify this agreement, all changes will be made in writing. It is the responsibility of the client to request and keep up to date with the most recent agreement.

Services

You agree that our products and service are provided without warranty, expressed or implied. Mean Canary does not accept any responsibility for products or services provided by any third party. The client represents and warrants that it will provide client materials as required in a professional, competent, reasonable and timely manner. Mean Canary is not liable or subject to any client imposed or expected deadlines or time-lines. Only deadlines agreed to in writing will be observed by Mean Canary. The timely services of Mean Canary are dependant on the timely and competent cooperation of the client. If a client does not deliver client materials in a timely and professional manner their services may be delayed or terminated at the sole discretion of Mean Canary. Client materials include but are not limited to photographs, illustrations, logos, text, verbiage, graphics and content. Development ends when the initially requested design and content has been implemented. After implementation, the client is immediately responsible for outstanding balances pertaining to any development, implementation and other products or services rendered. Support is billed at current hourly rates established by Mean Canary. Any support rendered after implementation is billed separately. The Client may chose a domain name that is currently available. If the domain name is not available, parked, or in the Clients possession then it is the Clients responsibility to make the domain available to Mean Canary.

Performance

Mean Canary will submit Services based on turnaround times stated in this contract and estimates submitted to Client. Client is to provide Mean Canary with all data needed to complete Services, including but not limited to text, code, graphics, and photos. Mean Canary will complete work in a reasonable amount of time after receiving the initial deposit. Mean Canary is not liable for any delays caused by the unforeseen circumstances or unresponsiveness by the client. Websites designed by Mean Canary are highly customized and therefore, any deadlines are subject to change. Mean Canary will acquire a domain name of the client's choosing if said name is available. If it is not available the client will choose a different domain name. If the domain name is currently owned by the client then it is the client's responsibility to make the domain name available to Mean Canary.

Web Development Standards

All services described herein may be performed by Mean Canary in accordance with the most commonly accepted standards and practices of the Web Services Industry. Mean Canary may use the most universally accepted website design technologies to satisfy the broadest market possible - meaning web pages affected by Services rendered may look and act similar on the latest versions of certain widely used web browsers in use at the time of launch. Development required to implement an online storefront will be within the guidelines of 3rd party software vendors, and the visual design goals of the client. There are times where the visual goals of the client will be superseded by software restrictions. Mean Canary reserves the right to choose what software is used for development.

Intellectual Property

All programming code, Software, Marketing Ideas and Services used to develop the marketing plan, website, application or mock up will remain intellectual property of Mean Canary and shall not be released or used by client upon termination of the contract. You understand and agree that Mean Canary holds title and rights to all such material. No right of such intellectual property is given to you by this agreement or otherwise. You agree not to attempt to de-compile, find, or reverse engineer our source code at any time.

Trademarks and Copyrights

Client represents to Mean Canary and unconditionally guarantees that any elements of text, graphics, photos, designs, trademarks, or other artwork furnished to Mean Canary for inclusion in web pages are owned by the Client, or Client has permission from the rightful owner to use each of these elements, and will hold harmless, protect, and defend Mean Canary from any claim or suit arising from the use of such elements furnished by the Client. Mean Canary initially owns copyright to the assembled work of Services produced by Mean Canary. Upon completion of all payments, all rights owned by Mean Canary as to Services rendered for Client's Site transfer to the Client.

Web Developer Credits

For a period of at least 1 year beginning on date of launching, and as long as Mean Canary is performing Services for Client, Client agrees to allow Mean Canary to claim credit for Services rendered by posting a link, visible to search engines, to <http://meancanary.com> on Client's Site and in author meta tags of Client's Site.

Content Liability

You are responsible for ensuring that your website is in compliance with all relevant laws . These laws include but are not limited to county, state, federal and international laws.

Mean Canary or its agents shall in no way be liable for content published or any damages as a result of any such content or our services. If there is a discrepancy between what you want on your site and what is currently displayed, you must contact us to make those changes. All changes will be made within 7 business days. Mean Canary has no warranty, expressed or implied. You accept full responsibility and agree not to seek any damages.

You accept responsibility for content. Mean Canary reserves the right to terminate services if the content results in legal action against Mean Canary. Mean Canary will terminate services, if at our sole discretion, we deem there is any spam activity or any content of questionable moral turpitude. You agree that if your IP numbers are listed with any abuse database, this is considered a violation of this agreement and your site may be taken offline.

Excessively violent material, child pornography, terrorist, slanderous and/or libelous material, copyright violations, promotion of drug use and promotion of any illegal activity will not be tolerated. Any such material violates this agreement and your site may be taken offline.

The state or country may not allow this broad exclusion, in such cases our liability is limited to the law. You agree that our maximum liability is limited to your total initial payment not including monthly fees or deposits. All disputes will be handled by an arbitrator and you agree to pay all fees associated with arbitration. This agreement is considered to be entered into in Miami-Dade County, FL. Any arbitration or legal action will be handled within Miami-Dade County, FL.

Mean Canary is not an information content provider. The Client is the information content provider, and as such accepts sole responsibility for content on the website, marketing materials and any advertising created, published or distributed by Mean Canary. The client has the responsibility to provide all content to Mean Canary in a timely manner. We may assist you in developing content or ideas, but the Client is completely responsible for ensuring that everything complies with all applicable laws and standards.

Hold Harmless

You agree to hold our Company and its agents harmless. You also agree to indemnify and defend Mean Canary. You agree to cooperate with Mean Canary in any legal issue, until the dispute is settled.

Cancellation

You may cancel your service, but any fees including but not limited to initial fees, monthly fees and deposits will not be refunded or pro-rated for refund. Cancellation of service will not excuse the client from paying for services rendered or outstanding balances. All outstanding balances must be delivered to Mean Canary within 30 days of the cancellation of service. Outstanding balances include but are not limited to monthly fees, installment plans and support packages. If customer breaches this agreement we reserve the right to cancel the service at any time. If we cancel your service we may give you a pro-rated refund at our discretion. You may cancel service at any time, but if the Client and Mean Canary agree to provide any hosted products after service termination, a decommissioning fee of 28% will be charged. This fee will include but is not limited to all money paid or scheduled for payment regarding the initial setup, additional page setup fees and other charges. You agree not to make alterations to any source code, if you need changes you must contact Mean Canary and we will make the changes for a cost at our discretion. Any applications or software sold to you will be governed by the "Applications Agreement".

Severance of Agreement

If any part of this agreement is declared unenforceable by a court, then the remaining sections of this agreement shall stand in effect.

Digital Millennium Copyright Act

If you feel that any site hosted or serviced by Mean Canary is violating your rights under the Digital Millennium Copyright Act you must inform us in writing. You must give us a way to contact you and you must specify the material in question. You may find more information on the Digital Millennium Copyright Act by viewing this website address:: <http://www.copyright.gov/legislation/dmca.pdf>

Collections

If any payment is overdue we will give you at least 5 days notice before we suspend your service. You agree to pay our reinstatement fee of 5% of the amount due if your service is suspended. If you fail to pay, your account may be referred to a collections agency. You accept responsibility to pay for all costs associated with collections, legal fees and arbitration costs.

Force Majeure

Neither party shall be liable for failures, delays and/or damages(other than payment of monies due)to the extent that said failures, delays or damages are caused by causes beyond the party's reasonable control and occurs without negligence or fault. Dates of performance obligations shall be extended to an equal amount of time lost due to said delays.

Agreement

This agreement may be modified at anytime at our sole discretion. The Internet is constantly evolving and so are relative laws. It is your responsibility to stay up to date with our Master Service Agreement. You may contact us for the latest copy of this agreement at any time.

Disclosures and Disclaimers

The Internet is not a completely secure environment. There are risks associated with its use. There will be interruptions in use. We do not warrant that there will be complete security or uninterrupted service. There is always a risk on the Internet and the possibility of a loss of confidential information. Mean Canary accepts no responsibility for loss of confidential information. We reserve the right to refuse service for any reason at the sole discretion of Mean Canary.

Anti-terrorism Representation

Customer states that they (i) have not been designated as a "specifically designated national and blocked person" on the most current list published by the U.S. Treasury Department Office of Foreign Assets Control at its official website, <http://www.treas.gov/ofac/:11> sdn.pdf or at any replacement website or other replacement official publication of such list; (ii) is currently in compliance with and will at all times during the term of this agreement (including any extension thereof) remain in compliance with the regulations of the Office of Foreign Asset Control of the Department of the Treasury and any statute, executive order (including the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action relating thereto; and (iii) has not used and will not use funds from illegal activities for any payment made under the agreement.

Always contact Mean Canary of the newest version of this MSA! Thank you for your business.

Revised June 4,2008