



TERMS & CONDITIONS

Ver: 20051001

DEFINITIONS

"DYX"	means DIYIXIAN.COM LIMITED, of Unit 2501, Global Gateway (HK), 168 Yeung Uk Road, Tsuen Wan, Hong Kong or any of its subsidiaries, affiliates or associated companies.
"the Customer"	means any company or person to whom DYX has agreed to provide the Services;
"Agreement"	means any agreement between DYX and the Customer which expressly or impliedly incorporates these Terms and Conditions as the parties agree.
"Fees"	means the installation fee, monthly fee and other charges in respect of the Services agreed to between DYX and the Customer;
"Operating Rules"	means the following rules relating to the Services published by DYX and may be revised by DYX from time to time and also form part of the Agreement.
"Services"	means the services as described in the Agreement, which may include, but is not limiting to, Internet access, VPN, server hosting, hardware supply, and other services offered by DYX as the context requires.

OPERATING RULES

- In consideration for payment of the Fees, DYX agrees to provide the Services to the Customer. The Customer shall pay the Fees and all applicable taxes and tariffs relating to its use of the Services. DYX will invoice the Customer (on a monthly basis for monthly recurring fee) by electronic mail, post and/or facsimile transmission. Any Fees are due and payable within 30 days after receipt of the invoice. If payments are received after the specified date, a late charge of 1.5% of the amounts due and unpaid per day will incur, calculated from the end of the specified date, and DYX will be entitled to terminate this Agreement, and/or DYX will be entitled the right of use of Customer's equipment in DYX premises, and/or DYX will be entitled to suspend the provision of any of the Services to the Customer, without prejudice to any other right and remedies available to DYX.
- The Customer is responsible for and must provide all equipment (including, but without limitation, the cabling and network facility installation within the Customer premises' building) necessary to access the Services and must comply at all times with DYX's requirements as regards mode of access and/or use of the Services. The Customer also agrees to abide by (1) generally accepted rules of conduct relating to the proper use of Internet resources (2) the Operating Rules and (3) the Agreement. DYX shall have the right to modify, vary or discontinue any aspect of the Services (whether to the Customer alone or otherwise) at any time at its sole discretion and without prior notice. DYX reserves the right to disconnect or deactivate any of the Customer's equipment or software at any time without prior notice. DYX shall not be responsible for any defect which is caused by the defectiveness of the equipment, cabling and network facilities installation of the Customers.
- The Customer shall be entirely responsible for all use of the Services and agrees to indemnify DYX against all and any liability arising, directly or indirectly, and in any jurisdiction, out of the use of the Services. The Customer agrees to abide by all applicable laws (whether of Hong Kong or of any relevant jurisdiction) relating to the use of the Services, in particular, but without limitation, the Customer shall not access or publish any information or document which violates any laws (whether of Hong Kong or of any relevant jurisdiction) and warrants that its use of the Services will not, directly or indirectly, infringe any third party's intellectual property rights in any jurisdiction. If the provision of the service by DYX is affected by the local rules and regulations beyond the control of the DYX, DYX shall not be held responsible and the Customer shall not terminate the service.
- The Customer expressly agrees that use of the Services is at the Customer's sole risk and that the entire risk as to the quality and performance of the Services is with the Customer. Neither DYX nor any of its directors, employees or agents warrants that the Services will be uninterrupted or error free, or give any warranty as to the results to be obtained from use of the Services. In no event will DYX or its directors, employees or agents be liable to the Customer for any damage, (including, but without limitation, special, incidental, or consequential damage) arising from the use of, or inability to use (for whatever reason), the Services, including but not limited to damages resulting from loss of data or loss of profits but not including death or personal injury due to the negligence of DYX, its directors, employees or agents. DYX shall not be held responsible for the error and fault of any third party in providing Service to the Customer.
- For any DYX-owned equipment (including, but without limitation, rental, free loan or lease-to-buy option) provided to the Customer under the Agreement, the Customer shall be liable for replacement costs by paying 80% of the Suggested Retail Price of the equipment if the equipment is subject to any damage by lightning, storms, water surges, unauthorized alteration/modification/repair, abnormal use, misuse, neglect, abuse, accident, improper installation, or other acts caused by the Customer, its employees, contractors or any other person. DYX is not responsible for any service disruptions caused by the equipment failure and the Customer's request of replacing the equipment. Upon termination of the Service, the Customer agrees to return DYX-owned equipment as directed by DYX or to allow DYX to remove the equipment. For those Customers purchased the service of server co-location, it is the Customers' responsibility to remove the server and other ancillary equipment, if any from the premises of DYX at its own costs and expense within 7 days from the expiry date of the contract between them and DYX. The DYX shall have the right to dispose those servers and ancillary equipments from the premises of DYX without any notice if the Customer fails to remove the same as aforesaid. If the Customers fail to settle the payment as set out in the invoice issued by DXY in full within the prescribed date stated therein, DYX shall have the right to dispose the server and other ancillary equipment if any after giving 7 days' written notice to client.
- Any Internet Protocol address(es) allocated by DYX to the Customer, remain(s) the property of DYX. The Customer undertakes not to advertise nor broadcast, such address(es) upon termination of the Services or the Agreement, nor to use the word "DYX" in any way as a business/company name or trademark.
- Customers agree that all ideas, deployments and solutions provided by DYX shall be exclusively DYX's property and DYX reserves the right to take full control on the usage of the same. Customers shall not have any right on the aforesaid property.
- If the Customer is in breach of any of the terms of the Agreement, DYX may, at its sole discretion, either suspends the Customer's access to and use of any of the Services until such breach is remedied or terminate the Agreement forthwith and the Customer's access to and use of any of the Services. Reinstatement will be at the sole option of DYX and upon such terms and conditions as it shall determine.
- Unless otherwise agreed in writing the Term of the Agreement will be one year from the service effective date or the first date the Customer is billed the monthly recurring fee, whichever is later ("the Initial Term"). Each Service will continue automatically for additional same terms as the Initial Term ("Renewal Term") unless the Customer notifies DYX in writing at least two (2) months prior to the end of the Initial Term or a Renewal Term, as applicable, that it has elected to terminate such Service, in which case such Service shall terminate at the end of such term. The termination of any Service will not affect Customer's obligations to pay for other Service(s). DYX may by thirty (30) days written notice terminate this Agreement without cause at any time during the Initial Term or the Renewal Term. Notwithstanding the foregoing, DYX may change or increase the prices it charges Customer for any Service at any time after the Initial Term effective thirty (30) days after providing notice to customer. DYX hereby reserve its right to amend any terms and conditions herein stated by giving 14 days written notice to the Customer. If the Customer fails to make any objection, it shall be deemed that the Customer agrees to such variation and amendment and agree to be bound by it. Any alternations without DYX's express endorsement to these terms and conditions shall be invalid and have no effect and shall be regarded as null and void.
- If any provision of this Agreement is found to be invalid the other provisions shall remain in full force and effect. All obligations and restrictions on the Customer under this Agreement will survive the termination of this Agreement and/or the termination of the provision of any of the Services. No waiver by either party of a breach of any provision of this Agreement, nor delay or omission to exercise any right, shall constitute a waiver of any other breach or default by the other party.
- Unless otherwise agreed in writing and signed by both parties, this Agreement constitutes the entire agreement between the parties. At the sole discretion of DYX, DYX's rights, duties and responsibilities under this Agreement may be assigned, delegated or otherwise transferred to any of its subsidiaries, affiliates or associated companies. This Agreement is governed by the laws of Hong Kong, SAR and the parties hereby submit to the non-exclusive jurisdiction of the courts of Hong Kong, SAR.

For and on behalf of,
DIYIXIAN.com Limited

For and on behalf of,
(Authorized Signature & Company Chop)

Name :
Title :
Date :

Name :
Title :
Date :

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