

Hotchilli Dialup
Pay As You Go
Terms of Use

Hotchilli Internet Solutions, Barrack House, Barrack Square, Chelmsford, Essex CM2 0UU

Tel. +44 (0) 8702 555 555
Fax. +44 (0) 8702 555 666

sales@hotchilli.com
www.hotchilli.com

Hotchilli Internet will provide you with access to the Internet using our Pay As You Go services together with variable related services and applications, for example, email facilities, spam filtering and personal web space.

Please read them carefully ...

If there is anything in the Terms of Use that you do not understand then please contact us on 08702 555 555.

Telephone access is provided by the Pay As You Go service, a metered product with per minute call charges rendered as local call charges within your BT or other reputable telephone account.

In this Agreement the term "Services" will mean the Additional Services provided at no charge whilst using Hotchilli Pay As You Go.

Unless otherwise stated, the Services and Pay As You Go shall be provided to you by Hotchilli Internet, Barrack House, Barrack Square, Chelmsford, Essex, CM2 0UU.

- 1 Services can only be provided if you have a valid contract for analogue telephone services with a reputable telephone service provider; and
You have a computer with Internet Explorer 5.0 or above.
- 2 You can sign up for Pay As You Go using the Hotchilli Internet signup screen provided on your PC, the Hotchilli Internet CD ROM or via our website at www.hotchilli.com.
- 3 You must ensure that the information that you give to us during registration is true, correct and complete. If there are any changes to your registration details you must inform us immediately either by calling us or by sending us an email addressed to support@hotchilli.com
- 4 By signing up for the Services you consent to our using and/or disclosing your personal data as follows:
 - 4.1 processing your application or changes to your registration details, which may involve credit checking by a credit reference agency who may record that a credit check has been made;
 - 4.2 disclosing certain personal details including account details to a bank, credit card operator or other payment processor for the purposes of setting up a continuous payment authority;
 - 4.3 providing registration details to any telecommunications provider who operates the telephone access network over which the Services are delivered;
 - 4.4 providing or arranging for third parties to provide any part of the Services including but not limited to customer care facilities and billing, email and tools and services, which may involve disclosing information about you to third parties solely for this purpose;
 - 4.5 providing you with communications about our Services, special announcements including but not limited to instructions, information, changes to the products, services and prices, organisational and administrative changes; and Service newsletters that shall include but not be limited to Hotchilli Dial Up services.
 - 4.6 providing personal data to distributors of Hotchilli Internet access products with whom Hotchilli have a commercial relationship for the purpose of accounting and auditing.

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- 5 During registration for any of the Services, we will issue you with a username and a password which are essential for your secure use of the Services. You will be responsible for keeping this information confidential and agree to take all necessary steps to ensure that it is kept secure and not disclosed to any unauthorised person. If you think that your username or password has been discovered or is being misused by someone else then you must tell us immediately and take all steps necessary (or requested by us) to prevent such use. If we think there is likely to be a misuse of the Services because of a breach of security we may:
 - 5.1 suspend your use of the Services; and/or
 - 5.2 change your password and then notify you that we have done this.
- 6 We may accept instructions in connection with the Services from someone we are satisfied has your authority and, you agree that you will be responsible for all use of the Services whether or not authorised by you.
- 7 Calls made to access the Hotchilli Internet Services must be made by the Pay As You Go service using dial-up numbers that we will provide you with at the time you register for Pay As You Go. Any calls made without using the correct dial-up numbers provided to you by us will remain your sole responsibility. We may make changes to your dial-up numbers at any time. Hotchilli Internet will provide the Hotchilli Internet Services and Pay As You Go telephone access to you with reasonable skill and care and in accordance with the provisions of this Agreement.
- 8 In order to prevent spam from entering and effecting the operation of our systems and Service, Hotchilli Internet will take any reasonable measure to block access to or delivery of any email which appears to be of an unsolicited nature and/or part of a bulk email transmission. We may also use within our systems virus screening technology which may result in the deletion or alteration of email and or email attachments, although we do not warrant that such technology will be effective against all virus attacks.
- 9 Pay As You Go is billed to you as an 0845 local call by your telephone service provider (call rates may vary depending on your telephone service provider). You will not be required to pay Hotchilli Internet directly for Internet access using Pay As You Go. Hotchilli Internet receives a fraction of the cost of the local call paid to Hotchilli Internet via your telephone service provider.
- 10 We reserve the right to vary the charges and to introduce new payment methods at any time by writing or sending an email to you notifying you of the changes.
- 11 Your use of the services
 - 11.1 In order to access the Services you must make your telephone number or Caller Line Identification available when connecting to the Services. If you choose to restrict presentation of your telephone number or CLI, we may take such steps as we consider necessary to override that restriction on a per call basis. You consent to any steps we take to override the restriction on the telephone number or CLI presentation in order for us to provide you with the Services, If we are unable to see your CLI you will not be able to use this service.
 - 11.2 If you use the Services for business purposes you agree that you do so without any conditions, guarantees, warranties, whether express or implied including but not limited to any warranties or conditions as to satisfactory quality or fitness for a particular purpose, which are expressly excluded to the maximum extent permitted by law. You will not hold us responsible for any loss of profit, business, opportunity, goodwill, reputation, revenue or savings you expect to make, wasted expenditure or data being lost or corrupted. Nor will you hold us liable for damages which may or may not have been foreseeable at the time you entered the contract.
 - 11.3 You shall comply with any policies or guidelines we publish governing how you are allowed to make use of the Services ("Acceptable Use Policy").
 - 11.4 You shall not use, and shall take all reasonable steps to ensure that no other person uses, the Services:
 - 11.4.1 in a way that does not comply with the terms of any laws or any licence applicable to you or that is in any way unlawful or fraudulent or has any unlawful or fraudulent purpose or effect;

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- 11.4.2 to send, knowingly receive, upload, download, use or re-use any material which is abusive, indecent, defamatory, obscene or menacing, or in breach of any copyright, confidence, privacy or any other rights;
- 11.4.3 to spam or send or procure the sending of any unsolicited advertising or promotional material;
- 11.4.4 to cause annoyance, inconvenience or needless anxiety;
- 11.4.5 to send or upload any material that contains viruses, Trojan horses, worms, time bombs or any other harmful programs;
- 11.4.6 in a way that does not comply with any instructions that we or our agents have given to you (including instructions that we or our agents believe are necessary for health or safety reasons or to maintain the quality of the Services);
- 11.4.7 to store more than 5MB of emails in your email account with us;
- 11.4.8 to send POP emails greater than 10MB in size (including attachments) or send emails greater than 3MB in size (including no more than 6 attachments) using the Webmail Interface;
- 11.4.9 to provide bureau services, or resell the Services, to any person.
- 11.5 If you have not followed the above guidelines or Acceptable Use Policy, you agree to indemnify us and/or our agents against any costs or losses we and/or our agents may incur as a result of any claims or legal proceedings that are brought or threatened against us and/or our agents by anyone else.
- 11.6 In order to provide you with the Services, Hotchilli Internet will attach cookies to your system that are essential to enable us to identify you as a registered user to understand and facilitate your use of the Services. We also use cookies to ensure that our mailing tools are working correctly. You hereby consent to receiving the cookies by accepting these Terms of Use. Further details on how we use the information generated from the cookies is set out in our Privacy and Cookie Policy.
- 12 Limitations on the services
 - 12.1 You should note that various elements of the Services are not provided by us but instead by other companies. We are therefore unable to guarantee that such products and services or any websites accessible via the Services are virus or error free. You should check all emails, attachments or files before downloading them.
 - 12.2 We take reasonable steps to safeguard the security of any information you input or send to us in connection with the Services by using secure servers and encryption technology, however, we accept no responsibility for any damage that you may suffer as a result of the loss of confidentiality of such information.
 - 12.3 You acknowledge that licensed telephone operators provide the telephone networks which are utilised by us and therefore we cannot guarantee that the Services will be uninterrupted or error free. Similarly, we cannot guarantee that the transmission of information over the Internet will be secure or that you will be able to access the Internet at all times or at the speeds that we have indicated are available.
 - 12.4 As part of the Pay As You Go service we will provide you with 5 email account facilities, web hosting and other services that involve us providing storage space on our computers. In order to manage our computers and services we may restrict the amount of storage space provided. Limits may be by reference to the physical amount of web space made available to you, the number of email messages held, the size of any attachments sent or any other method we may specify. We reserve the right to vary these limits from time to time and we will keep you informed by email of any changes. We also reserve the right to refuse to accept material and/or to delete material, which exceeds the relevant limit. The current limit is as set out in Clauses 11.4.7 and 11.4.8 above.

- 12.5 We may provide you with software that enables you to use the Services. You must not copy or modify this software (unless allowed by law) or use it for any purpose other than to access the Services in accordance with these Terms of Use. If specified by us, you must only access the Services using this software or in an alternative way that we have authorised.
- 12.6 The Services and associated software are provided to you for your use only and you must not resell, transfer, assign or sub-licence them or any part of them to any other person.
- 13 Suspension and termination of the services
- 13.1 If you do not follow the guidelines set out under Clause 4 then we may suspend or terminate the Services. We may also suspend or terminate the Services or any part of them if you fail or have failed to pay any charges for any other service that we or our affiliates may supply or you have used such services in breach of the applicable terms and conditions.
- 13.2 We reserve the right to suspend or terminate your use of the Services without notice if you do not connect to the Internet using the Member Services at least once in each period of 30 days.
- 13.3 We reserve the right to suspend, restrict, or terminate your access to the Services or any part of them if we believe your use of the Services causes or is likely to cause the whole or part of the Services to be interrupted, damaged, rendered less efficient or in any way impaired.
- 13.4 We may need to temporarily suspend any or all of the Services without notice in order to repair, maintain or improve the Services or our network, or in an emergency. If we need to do this we will try to keep you informed and to keep interruptions to a minimum, although we cannot always guarantee to do so.
- 14 Our rights and obligations
- 14.1 We reserve the right to forward your contact details to the police, or other regulatory or government authorities where properly requested to do so; we may also forward contact details where a complaint arises concerning your use of the Services and where that use is deemed by us to be inconsistent with these Terms of Use.
- 14.2 We, or our merchants and content providers found via the Services, may provide links to other web sites or resources. We are unable to accept responsibility for these web sites or resources; neither have we endorsed their content, products or services merely because they are accessible via the Services.
- 14.3 We make all reasonable efforts to ensure that all information provided by us in connection with the Internet Services is accurate at the time of its inclusion. However, there may be errors, inaccuracies or omissions in respect of which we exclude all liability. We make no representations or warranties about the information included on our web pages (including links to third parties' web pages). You shall be solely responsible for any decisions based on the information contained on such web pages.
- 14.4 Some modifications may need to be made to your computer to use the Services and it is your responsibility to ensure that such modifications do not invalidate the terms of any warranty or contracts you may have in relation to the computer. We shall have no liability for any claim that your warranty has been invalidated or a contract breached as a result of work carried out by you, us or our agents in order to make your computer operate with the Services.
- 15 Terms and termination of this agreement
- 15.1 This Agreement will operate from the time we accept all your registration details during the registration process and will continue unless and until terminated by either of us as set out under Clause 5 and this Clause 13.
- 15.2 You may terminate your use of the Services at any time.
- 15.3 We may terminate this Agreement or any part of it, at any time for any reason on one month notice to you, unless we terminate pursuant to Clause 5 without notice.

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- 15.4 We may also terminate the Agreement or any part of it or suspend the supply of any of the Services to you, immediately and without notice if:
- 15.4.1 you breach these Terms of Use;
 - 15.4.2 you or any person using your account misuses the Services in any way, including, without limitation, misuse in the manner set out under Clause 11.4;
 - 15.4.3 bankruptcy or other insolvency proceedings are brought against you, or if you are unable to pay your debts as they become due, fail to make payments as they fall due, or you cancel your continuous payment authorisation preventing us from collecting payment as it becomes due;
 - 15.4.4 you are no longer able lawfully to receive the Services;
 - 15.4.5 you no longer have an appropriate residential telephone account from which the Internet is accessed or satisfy the conditions for becoming a Member as set out in Clause 1; or
- We can no longer provide the Services or provide the Services in a way that we deem appropriate.
- 15.4.6 If the Services are suspended or restricted by us, as described under Clause 12, you must continue paying charges (if applicable) unless and until this Agreement is terminated.
 - 15.4.7 In the event that this Agreement is terminated for any reason other than under Clause 15.3, you will remain responsible for all charges due under this Agreement until the end of the month in which this Agreement is terminated but you will not be entitled to a refund of any charges already paid in advance. Where we terminate this Agreement under Clause 15.3 and do not offer comparable services to replace the Services you shall be reimbursed for amounts you have paid in advance on a pro-rata basis from the date of expiry of the notice given under Clause 15.3.
 - 15.4.8 In the event of termination, all the information we are storing on your behalf on our servers may be deleted and in particular we may delete all web space all the emails in your email account.
- 16 Our liability to you
- 16.1 We do not limit our liability if you die or are injured as a result of our negligence or you suffer loss as a consequence of any fraud by us.
 - 16.2 We shall not be liable to you in contract, tort (including negligence) or otherwise for:
 - any damage or loss arising from the consequences of viruses received by you via the Services or of our failure to provide the Services in accordance with these Terms of Use; or
 - any economic losses (including loss of business, contracts, profits, revenues, capital or anticipated savings), any indirect, special or consequential loss, loss of data, goodwill or reputation or for any wasted expense including but not limited to the cost of using any other service or losses caused by viruses.
 - 16.3 Except as set out in Clause 16.1 any liability we may have to you whether in contract, tort (including negligence) or otherwise for any loss or damage suffered by you in relation to the provision of the Services is limited to £500 in any 12 month period.
 - 16.4 We are not liable for any failure to perform our obligations if we are prevented from doing so by an event beyond our reasonable control (which may include, without limitation, strikes; labour disputes; acts of God; war; riot; civil action; malicious acts or damage; compliance with any law, governmental or regulatory order, rule, regulation or direction; any act or omission of any government or other competent authority; accident; equipment or services failure, including the unavailability of third party telecommunications services, lines, or other equipment; fire; flood or storm).

- 16.5 Each provision of this Clause operates separately as between you and Hotchilli Internet. If any part is held by a court to be unreasonable, inapplicable or unenforceable then the other parts shall still apply. If any part is held by a court to be unreasonable, inapplicable or unenforceable against Hotchilli Internet, that part shall, for the avoidance of doubt, still apply for the benefit of the other company.
- 17 Complaints procedure
- 17.1 If you have a complaint about any aspect of the Services, please let us know by calling the Customer Support Number and we will endeavour to resolve any complaints as soon as is reasonably possible.
- 17.2 If you are not satisfied that your complaint has been resolved, you can escalate your issue, in writing, to the Customer Service Manager, Hotchilli Internet, Barrack House, Barrack Square, Chelmsford Essex, CM2 0UU.
- 18 Giving notice
- 18.1 Unless otherwise provided in these Terms of Use, any notices must be sent by email, post or delivered by hand to the Customer Service Manager, Hotchilli Internet, Barrack House, Barrack Square, Chelmsford Essex, CM2 0UU.
- 18.1.1 to you, at the address you have given us or the email address given to us in your registration details or to any other address you provide to us subsequently in accordance with Clause 18.1.2; and
- 18.2.1 to us by telephone by calling the Customer Support Number, please note that calls to the Technical Phone Support is open Monday to Friday 08:30 to 17:30 excluding Bank Holidays. These calls are charged at 50p a minute and will automatically terminate after sixty (60) minutes.
- 18.3 In the case of notices sent by email, such notices shall be deemed to be received when capable of being accessed by you. In the case of notices sent by post, such notices shall be deemed to be received on the second business day after posting.
- 19 Changes to the services or the Terms of Use
- 19.1 We may alter and/or amend at any time:
- 19.1.1 any aspect of the Services upon giving you one month notice in advance, of such alteration taking effect, provided such alteration or amendment does not require any material change to this Agreement; and
- 19.1.2 this Agreement upon giving you one month notice in advance of any such amendment taking effect. If, upon receiving any such notice, you do not wish to continue with the Services, you may terminate the Agreement upon giving us written notice. Your notice shall take effect upon the earlier of 7 days from our receipt of your notice or the date upon which the amended Agreement would otherwise have taken effect.
- 19.1.3 You will be deemed to have accepted any alteration and/or amendment to the Agreement and/or the Services if you continue to use the Services after the relevant period of notice has expired.
- 19.1.4 Other things you need to know
- 19.1.5 You may not transfer this Agreement or any part of it to anyone else.
- 19.1.6 We may transfer the benefit and burden of this Agreement to any person taking over the supply of the Services or any part of the Services without your prior consent by giving you notice. We may also sub-contract or assign the provision of the Services or any part of the Services to any other person.
- 19.1.7 If any part of this Agreement is found to be illegal or unenforceable, this will not affect the validity and enforceability of the remainder of the Agreement.
- 19.1.8 If either of us delay or fail to enforce any right under this Agreement that will not be deemed to be a waiver of that right and will not prevent that right or any other right or remedy from being exercised or enforced.

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- 19.1.9 This Agreement constitutes the entire agreement between us relating to the provision of the Services and supersedes any previous agreements and understandings between us relating to the Services (except that we do not limit or exclude our liability to you in respect of any fraudulent misrepresentations).
- 19.2.0 Nothing in this Agreement is intended to create any rights under the Contracts (Rights of Third Parties) Act 1999, which is enforceable, by any person who is not a party to this Agreement. Nothing in this Agreement shall affect any right or remedy of a third party which exists or is available other than as a result of the aforementioned Act.
- 19.2.1 The provision of the Services and the application of this Agreement are governed by English Law and the parties hereby agree to submit to the exclusive jurisdiction of the English Courts in respect of any dispute or matter arising out of or in connection with this Agreement

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