

## **Southcourt Property Website Package - Terms and Conditions**

This document (together with any documents referred to on it) tells you the terms and conditions on which we supply our Property Websites or any part of it.

Please read these terms and conditions carefully before using any of our Services. You should understand that by using any of our Services, you agree to be bound by these Terms and Conditions. Please read through these terms and conditions carefully and print a copy for future reference.

### **1. Information about us**

1.1. Southcourt Property and SouthcourtHub are trading names of Southcourt Property Services Limited ("we", "us" and "our"). SouthcourtHub is our property software database and website control service. We own and operate [www.southcourtproperty.co.uk](http://www.southcourtproperty.co.uk) website where we offer and promote our Lettings and Estate Agency Business Package and Property Website Packages and other services. We also operate other related domain names that may link to or from [www.southcourtproperty.co.uk](http://www.southcourtproperty.co.uk).

1.2. Southcourt Property Services Limited is a company registered in England under company number 8108696, registered office; Kemp House, 152 City Road, London EC1V 2NX.

### **2. Quality**

2.1. We warrant that (subject to the other provisions of these terms and conditions) any Services purchased from us will be provided with reasonable care and skill.

2.2. We will not be liable for a breach of the warranty in clause 2.1 unless:

2.2.1. you give written notice of the breach by email to our main email address at [admin@southcourtproperty.co.uk](mailto:admin@southcourtproperty.co.uk); and

2.2.2. we are given a reasonable opportunity after receiving the information of examining our provision of the Services to you.

2.3. We will not be liable for a breach of the warranty in clause 2.1 if:

2.3.1. the problem arises because you failed to follow our oral or written instructions as to the use of the Services (if there are any); or

2.3.2. you alter the Services without our written consent; or

2.3.3. the problem arises because of misuse.

2.4. Subject to clause 2.2 and clause 2.3, if we are in breach of the warranty in clause 2.1 we will, at our expense, use all reasonable commercial efforts to remedy the breach promptly or refund the price of the Services at the pro rata Contract price. This constitutes your sole and exclusive remedy for any breach of the warranty set out in clause 2.1. Notwithstanding the foregoing, we do not warrant that your use of the Services will be uninterrupted or error-free.

2.5. We reserve the right to modify the Services without notice to you provided such modification does not adversely effect your access to, or use of, the Services or detract from the overall performance of the Services. Any change which may have such adverse effect on you or may detract from the overall performance of the Services will be notified to you at least sixty (60) days prior to the change taking effect.

2.6. You acknowledge that you have not relied on any statement, promise or representation made or given by or on our behalf which is not set out on our website [southcourtproperty.co.uk](http://southcourtproperty.co.uk) or otherwise confirmed in writing by us. Nothing in this clause will exclude or limit our liability to you for fraudulent misrepresentation.

### **3. Websites, SouthcourtHub and Software**

3.1. The website that we provide for you will be prepared by personalising your choice of one of our readymade template designs (website "Set Up"). Our website set up consists of the following: applying your chosen 1 or 2 colour

theme, adding your business name and contact details, adding your local area names in the meta-tags (for the search engines), inserting your logo, and focusing the Google map to your location.

3.2. We will provide you with an expected project completion date if requested. We will endeavour to meet any agreed deadline but we do not guarantee and are not bound in any way to complete the project by this date.

3.3. When your website has been set up, we will upload the site to our servers into a temporary preview area for you to view and advise us of any errors we may have made. Any included or free hosting period will be deemed to commence at this point whether or not your domain nameservers are set to ours. When you wish the website to be made live, we will transfer it to the public folder of your hosting account and it will be visible on the internet.

3.4. Notwithstanding the above, any free hosting period offered will be deemed to commence from the moment we make your website live in our preview area, regardless of the reason for any delay.

3.5. Once your website is live on the internet, you can edit the page text and change pictures as you wish. Our websites are fully editable. However if you prefer we may be able to make some changes for you from time to time, and can provide a quotation upon request.

3.6. In the event that we agree to carry out any modifications to one of our existing design templates which may alter the look and feel or functionality of the design you have chosen, we will do so at a price lower than industry standard for such work, in return for which you agree to allow us if we wish to add the modified design to our template collection and offer it to future customers as one of our designs with no liability to you. We may use 3<sup>rd</sup> party developers to carry out website amendments who are supervised and quality checked by Southcourt Property and who will be able to an independent receipt.

3.7. SouthcourtHub is our property software service and is the property listing database engine, portal feed (portal upload) software behind our new websites and is provided by ourselves. It is branded as SouthcourtHub. The login and welcome page is at [www.southcourthub.net](http://www.southcourthub.net).

3.8. Our Property Website Package includes all of the following: Business-Class Web Hosting, Unlimited Email & Email Addresses, SouthcourtHub.Net Property Listings for Lettings & Sales, Unlimited Portal Uploads and Support.

3.9. Our charges for use of all or any of the above services may be as listed on our website or communicated by email, and may change from time to time. The price paid will be the price in force at the time of website build and software integration, regardless of when the order was placed. After any initial included hosting period, our monthly charge to you will be subject to our fair usage policy as expected of a small or medium property agency, and be payable for each 100 properties or part thereof held in the SouthcourtHub.Net software system under your account. For example if you hold 99 properties in the database, the monthly charge will be our basic monthly charge. If you hold 100 to 199 properties, this will be subject to an additional 50% either monthly or annually. You accept that when you exceed these thresholds your subscription to the system will automatically be increased or decreased based on the number of properties held within the SouthcourtHub system.

3.10. Payments, as determined above, are due monthly or annually in advance by recurring credit/debit card payments via our subscription provider or by bank Direct Debit. For biennial payments (2 years) payment must be made via BACS bank transfer in advance. These charges will remain the same whether we are providing all, or any of the services as listed at 3.8 above.

3.11. If you have not already set up a periodic payment method as above, when a payment is becoming due we will send at least one renewal reminder to you by email to the admin contact address you have provided to us at the time of website build, and another address with which you have frequently communicated with us. This email will be considered sufficient notice that your account is due for renewal.

3.12. In the event that a payment is not received by its due date, the hosting account and associated services will be hidden from public view. Hosting fees will continue to become due whilst the account remains inactive.

3.13. Before a suspended account can be reactivated, all due renewal fees, plus a reconnection fee of £25 will be payable. This is to cover the administration time required to disable your website, archive your website and the time involved in retrieving your website from storage and making it live again, along with reenabling all billing, property

software, email and hosting systems. If you choose a monthly payment and have 3 failures of your monthly payment in any 12 month period or 2 consecutive monthly payment failures, we reserve the right to refuse a monthly subscription in favour of an annual subscription.

3.14. If your website and email services are disabled because of non-payment, following a 'grace' period of 30 days suspended accounts will be permanently deleted from our system together with all associated services and data relating to that account, including emails, website files and properties that are held within the SouthcourtHub software system.

3.15. You will be issued with a username and password to access the SouthcourtHub system in order to upload property details and perform associated tasks. You are not permitted to disclose this username or password to any person or entity outside of your single office location. In particular you are not permitted to allow access to the admin area of the SouthcourtHub system to your customers or to any member of the public under any circumstances. Please note that failure to comply with this condition will result in immediate termination of your services.

3.16. In order to increase your advertising coverage property details that you list on your website may also be displayed on one of our syndicated advertising websites at our discretion. We may also feed them to some property portal websites at our discretion. We make no charge for this service. We will endeavour to forward all enquiries that we receive about your properties to you by email. You may at any time request that we remove one or all of your properties from these systems by emailing us from your admin email address with such a request.

3.17. Where you ask us to provide search engine optimisation (SEO), in common with all reputable providers of SEO, we do not guarantee any specific placement or high ranking on search engines, however we will seek to raise your ranking on the natural listings within the major search engines by increasing the popularity of your website.

3.18. If you wish to cancel the services we provide you must provide 1 calendar month's notice by email to our main email address: admin@southcourtproperty.co.uk. We will acknowledge this within 24 hours by return of email. For data protection purposes, your email must be sent from the same Admin email account on your account. We cannot accept emailed cancellations from other email accounts.

3.19. If you have a Wordpress website, you will be provided with logins that have "Editor" access to edit certain parts of your website yourself. If you want to change things more significantly, you can ask us to carry out the work and we will advise the cost, or we can provide you with the Admin Logins. To do this, you'll need to confirm to us that you know Wordpress works at a developer level to avoid breaking the website. If you do make changes that break the functioning of the website, we may or may not be able to assist and there would usually be a charge for any restoration work, if it's indeed possible. If you wish to have the Admin rights to the website, you agree that you are familiar with how Wordpress works at a developer level, and sufficiently experienced to make fundamental changes to the site operation, and may not be able to fix or repair any code or software integrations that we've completed in building the original website.

#### **4. Hosting Service Access and Service Levels**

4.1. You are responsible for making all arrangements necessary for you to have access to our Hosting Services. You are also responsible for ensuring that all persons who access our Services through your Internet connection are aware of these terms and conditions and that they comply with them.

4.2. We will use our reasonable endeavours to make our servers available to you as part of the Hosting Service you purchase for ninety-nine point nine-nine (99.99) per cent of each calendar month. We do not warrant access to our servers will be uninterrupted or error free but we shall use reasonable endeavours to keep downtime to a minimum.

#### **5. IP (Internet Protocol) addresses**

5.1. You will have no right, title or interest in any internet protocol address ("IP address") allocated to you, and any IP address allocated to you is allocated as part of the Hosting Service you purchased and is not portable or otherwise transferable by you in any manner whatsoever.

5.2. If an IP address is re-numbered or re-allocated by us, we shall use our reasonable endeavours to avoid any disruption to you.

5.3. You agree that you shall have no right, title or interest to any IP address upon expiry or termination of the services, and that the acquisition by you of a new IP address following expiry or termination of the Services shall be solely your responsibility.

## **6. Back-up of your material on our servers**

6.1. It is your responsibility to maintain appropriate and up-to-date back-up copies of any data, information, pictures or other material you upload (or permit to be uploaded) onto our servers ("Material") as part of your use of the Hosting Services and database. You will find a back-up facility in your hosting account control panel. In the event of loss of or damage to your Material, you will not be given access to the server back-up we maintain pursuant to our backup procedure.

6.2. We will follow our back-up procedures for the data stored on our servers. In the event of any loss or damage to your data on our servers caused by us or our service providers, your sole and exclusive remedy will be for us to use reasonable commercial efforts to restore the data on our servers (including your Material) from the latest back-up we maintained in accordance with our standard back-up procedure. We will not be responsible for any loss, destruction, alteration or disclosure of your Material caused by you or any third party.

## **7. Hosting Service usage limitations**

7.1. All our Hosting Service packages come with a generous web space allowance provided that:

7.1.1. your Material is linked into web pages;

7.1.2. you do not use the Hosting Service as a back-up of, or repository for, your Material;

7.1.3. you operate good housekeeping to maintain your Material.

7.2. Unless the Hosting Service package you order includes a dedicated server, you will only be allowed to use a maximum of five (5) per cent of our server's processing capacity when using the Hosting Service package you order. At our absolute discretion, we may allow your usage to exceed this limitation, and we will speak to you about your hosting requirements if your usage has, or may have, a detrimental effect on our other customers.

7.3. The Hosting Service package you order includes the number of mailboxes applicable to that hosting package as this is set out on our website at the time of your order. However, any mailboxes that have not been accessed for one hundred (200) days will be automatically deleted from our system.

7.4. We shall be entitled to terminate or suspend the provision of any individual Services, if you are in breach of any of these terms and conditions.

## **8. Provision of Support**

8.1. If a query has arisen with regard to the Services or your registered account, you can access support through our Helpdesk. Support for Websites, Software and Email is provided through our Helpdesk and Knowledgebase, enabling you to carry out a wide range of tasks. For security and compliance purposes, all support requests must be authenticated via our Helpdesk. Support may be initiated by emailing [support@southcourtproperty.co.uk](mailto:support@southcourtproperty.co.uk) from your registered Admin email address. Any telephone support that we offer to provide is only provided after a support request has been initiated via the Helpdesk. We also provide a website portal to enable self-service of your support requirements.

8.2. To ensure support is provided in a timely and quality focussed manner, and to prioritise urgent support requests, we reserve the right to deny support for Clients who raise excessive support requests. We therefore limit the quantity of support requests as initiated in the procedure outlined in 8.1 to 25 (twenty five) support requests per year. This excludes any support requests initiated as a result of our failure to provide services outlined in 3.0.

8.3. A minimum level of computer literacy is required to operate any business. This includes the ability to connect a new email account, edit and send an email, edit a file and save it and a range of basic computer tasks. We provide

support and assistance on the services we provide and guidance on how to use them. We are unable to provide training on how to use your computer, and we are unable to provide IT support for your individual device.

## **9. Domain Names**

9.1. Where the Contract includes our Domain Registration Service:

9.1.1. we will endeavour to procure the registration of the domain name you request. Where we offer initial free domain registration this will be for a .co.uk domain, which we will register for a period of one year;

9.1.2. we will not be liable in the event that the relevant domain name registry refuses to register the domain name you request, or subsequently suspends or revokes any registration for that domain name;

9.1.3. we shall not act as your agent or on your behalf in any dealings with domain name registry;

9.1.4. the registration of the domain name you request and its ongoing use is subject to the relevant domain name registry's terms and conditions of use which you should obtain and consider

9.1.5. you are responsible for ensuring that you are aware of the terms referred to in clause 9.1.4 so that you can comply with them;

9.1.6. the domain name you request will only have been successfully registered when you appear as the registrant on the appropriate "whois" database of the top level domain name registrar;

9.1.7. we shall have the absolute discretion to require you to select a replacement domain name to the one you have requested to be registered, and may suspend or terminate our performance of the Domain Registration Service, if, in our opinion, there are reasonable grounds for us to believe that your current choice of name is, may or is likely to be in bad faith, breach of the provisions of these terms and conditions

9.1.8. or any legal or regulatory requirement; and you confirm and warrant that you are the owner of any trade mark in any domain name (or have the authority of the owner of any trade mark to use such name) that you have requested be registered.

9.2. You confirm and warrant that you are the legal owner of any domain name (or have the authority of the legal owner to use such domain name) supplied by you, or otherwise authorised by you, for use as a domain name in connection with any website in relation to which the Hosting Service supplied to you is used.

9.3. Once the domain name has been successfully registered, it will need to be renewed periodically to ensure you retain your registration of it. Although we may send you a renewal reminder to an email address we may have on record for you, we do not undertake to do so, nor are we obliged to do so, and therefore you must arrange your own reminder to renew the domain. We will accept no responsibility in the event that a domain name registration expires as a result of your non-renewal of it.

9.4. Where your domain name expires because you have not renewed it, or you have let it expire, and we continue to provide hosting, software and email services by making available our servers, storage, accounts and access arrangements, we will continue to provide the services as described, however your website and email will not be usable until you renew your domain name and make the necessary DNS (domain name system) changes to point it back to our servers. During this period our charges are still payable.

## **10. Link to our website**

10.1. The customer agrees that Southcourt Property Services reserves the right to place on each page of the customer's website a link to [www.southcourtproperty.co.uk](http://www.southcourtproperty.co.uk), the anchor text of which may be of Southcourt Property Services choosing.

## **11. Changes to DNS or domain name settings**

11.1. In the event that you request a change to any DNS or domain name setting under the control of Southcourt Property, or wish to transfer a domain away from our control, an administration fee of £40 plus vat will be payable.

Where a domain is transferred away from our control all Services relating to that domain name provided Southcourt Property Services will terminate immediately without notice, and all files, emails, properties and all other records will immediately be deleted permanently.

## **12. Appropriate use of our services**

12.1. You may only use any of our services for legal and reasonable activities. Customers who send threatening or demeaning messages, or present misleading, insulting or illegal information will have their account closed without notice. We provide facilities to upload photographic images and data for the purpose of promoting real estate for rent and for sale. No other type of images or data may be uploaded without our written agreement.

12.2. You may upload images and data only if you have permission where appropriate to do so, for example from the owner of the property being advertised, and where applicable in accordance with Consumer Protection from Unfair Trading Regulations 2008 (CPRs) and the Business Protection from Misleading Marketing Regulations 2008 (BPRs), The Estate Agents Act 1979 and regulations made thereunder, such as The Estate Agents (Provision of Information) Regulations 1991, The Estate Agents (Undesirable Practices) (No 2) Order 1991, The Estate Agents (Specified Offences) (No 2) Order 1991, and The Accommodation Agencies Act 1979.

12.3. If you have not followed the above guidelines, you agree to indemnify us against any costs or losses we may incur as a result of any claims or legal proceedings that are brought or threatened against us by any third party. 13. Indemnities and intellectual property rights.

12.4 Many of our websites make use of Google Cloud in order to display dynamic maps and streetviews. Included within your subscription we provide a generous limit of 500 Map Loads or Streetview loads per month. If your website becomes so popular and your business is grows to a level that you require more than this, we require clients to open their own Google Cloud account and take advantage of the their own free quota from Google. This free quota is currently 28000 maps loads or 14000 street views loads per month. See this link to Google's pricing for more info: <https://cloud.google.com/maps-platform/pricing/sheet/>

## **13 Indemnity**

13.1. You will defend, indemnify and hold us harmless against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with your use of the Services or of any claim or action that your Material infringes, or allegedly infringes, the intellectual property rights of a third party.

13.2. We retain all intellectual property rights in the Hosting Services and SouthcourtHub systems, property database and software (other than in your Material). Accordingly, you must not decompile, disassemble or reverse engineer any of our services or our software.

## **14. Our liability**

14.1. We do not monitor and will not have any liability for your Material or any other communication you transmit, or allow to be transmitted, by virtue of the Hosting Services.

14.2. Due to the public nature of the Internet, we shall not be liable for the protection of the privacy of electronic mail or any other information transferred through the Internet or via any network provider and no guarantee or representation is given that the Hosting Services will be free from hackers or unauthorised users. You shall be liable for the content of any emails transmitted by virtue of the Hosting Services, for any material you upload to, or allow to be uploaded to, our servers and for ensuring compliance at all times with all relevant legislation (including, but not limited to the Data Protection Act 1998 and all other privacy laws, regulations and guidance notes made or issued thereunder).

14.3. All conditions, terms, representations and warranties that are not expressly set out in these terms and conditions (or the documents referred to in them) are hereby expressly excluded.

14.4. We do not exclude or limit in any way our liability:

14.4.1. for death or personal injury caused by our negligence;

14.4.2. under section 2(3) of the Consumer Protection Act 1987;

14.4.3. for fraud or fraudulent misrepresentation; or

14.4.4. for any matter for which it would be illegal for us to exclude, or attempt to exclude, our liability.

14.5. We will not be responsible for the following types of losses (in each case whether direct, indirect or consequential) and whether they are caused by our negligence or otherwise:

14.5.1. loss of income or revenue;

14.5.2. loss of business;

14.5.3. loss of profits or contracts;

14.5.4. loss of anticipated savings;

14.5.5. loss of goodwill;

14.5.6. loss of software or data;

14.5.7. wasted expenditure (such as pay per click advertising costs); or

14.5.8. wasted management or office time.

14.6. Subject to clause 14.4 and clause 14.5, our maximum aggregate liability under or in connection with the performance or contemplated performance of the Contract, whether in contract, tort (including negligence) or otherwise, shall in no circumstances exceed one hundred and ten (110) per cent of the price you have paid to us for the Services during the twelve (12) months preceding the event giving rise to the liability in question. Accordingly, you are advised to acquire business interruption insurance, or other appropriate insurance, to protect you and your business in the event of interruption of the Services (in particular the Hosting Service).

## **15. Refunds**

15.1. Pro-rata refunds will not be issued for services that are cancelled before the end of the paid for period.

15.2. Where a refund is issued, this will be subject to a reasonable deduction for admin fees and payment processing costs.

## **16. Deletion of your data**

16.1. If you cancel or do not pay for your Services within the required timeframe, any data we hold or host in relation to the Services you have cancelled will be immediately and permanently deleted from our system. Accordingly, you are strongly advised to make appropriate copies of such data before you cancel your Services.

## **17. Notices**

17.1. All notices given by you to us must be given through our main email address [admin@southcourtproperty.co.uk](mailto:admin@southcourtproperty.co.uk).

We may give notice to you at either the then current e-mail or postal address registered against your account with us.

## **18. Third party rights and transfer of rights and obligations**

18.1. Neither you nor we intend that any term of the Contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

18.2. The Contract is binding on you and us and on our respective successors and assigns.

18.3. You may not transfer, assign, charge or otherwise dispose of the Contract, or any of your rights or obligations arising under it, without our prior written consent.

18.4. We may transfer, assign, charge, sub-contract or otherwise dispose of the Contract, or any of our rights or obligations arising under it, at any time during the term of the Contract.

## **19. Events outside our control**

19.1. We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under the Contract that is caused by events outside our reasonable control ("Force Majeure Event").

19.2. A Force Majeure Event includes any act, event, non-happening, omission or accident beyond our reasonable control and includes in particular (without limitation) the following:

19.2.1. misuse, alteration or interference by you or any third party of our servers or systems (including virus and hacker attacks);

19.2.2. strikes, lock-outs or other industrial action;

19.2.3. civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war;

19.2.4. fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster;

19.2.5. impossibility of the use of public or private telecommunications networks; and

19.2.6. the acts, decrees, legislation, regulations or restrictions of any government.

19.3. Our performance under the Contract will be deemed to be suspended for the period that the Force Majeure Event continues, and we will have an extension of time for performance for the duration of that period. We will use our reasonable endeavours to bring the Force Majeure Event to a close or to find a solution by which our obligations under the Contract may be performed despite the Force Majeure Event.

## **20. Waiver**

20.1. If we fail, at any time during the Contract, to insist upon strict performance of any of your obligations under the Contract or any of these terms and conditions, or if we fail to exercise any of the rights or remedies to which we are entitled under the Contract, this shall not constitute a waiver of such rights or remedies and shall not relieve you from compliance with such obligations.

20.2. A waiver by us of any default shall not constitute a waiver of any subsequent default.

20.3. No waiver by us of any of these terms and conditions shall be effective unless it is expressly stated to be a waiver and is communicated to you in writing in accordance with clause 17.

## **21. Severability**

21.1. If any of these terms and conditions or any provisions of the Contract are determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such term, condition or provision will to that extent be severed from the remaining terms, conditions and provisions which will continue to be valid to the fullest extent permitted by law.

## **22. Entire agreement**

22.1. These terms and conditions and any document expressly referred to in them represent the entire agreement between us both in relation to the subject matter of any Contract and supersede any prior agreement, understanding or arrangement between us, whether oral or in writing.

22.2. We each acknowledge that, in entering into the Contract, neither of us has relied on any representation, undertaking or promise given by the other or be implied from anything said or written in negotiations between us prior to such Contract except as expressly stated in these terms and conditions.

22.3. Neither of us shall have any remedy in respect of any untrue statement made by the other, whether orally or in writing, prior to the date of any Contract (unless such untrue statement was made fraudulently) and the other party's only remedy shall be for breach of contract as provided in these terms and conditions.

## **23. Our right to vary these terms and conditions**

23.1. We have the right to revise and amend these terms and conditions from time to time to reflect changes in market conditions affecting our business, changes in technology, changes in payment amounts or methods, changes in relevant laws and regulatory requirements and changes in our system's capabilities. We will send out an email to your registered email address when an update occurs.

23.2. You will be subject to the policies and terms and conditions in force at the time that you order services from us, unless any change to those policies or these terms and conditions is required to be made by law or governmental authority, or if we provide notification of the change to those policies or these terms and conditions in our Members Area which is accessible through our Support Website [southcourtsupport.co.uk](https://southcourtsupport.co.uk).

23.3. No variation of these terms and conditions shall be valid unless it is in writing and published by ourselves.

#### **24. Suspension and Termination**

24.1. We shall be entitled to terminate or suspend the provision of any individual Services at our discretion, in the event by you of a breach of these terms and conditions.

#### **25. Law and jurisdiction**

25.1. Any dispute arising from or related to anything contained in this contract shall be subject to the exclusive jurisdiction of the courts of England and Wales. English is the language offered for the conclusion of the contract between us both.