



## Terms and Conditions - Hosting Services

### 1. General

- 1.1. By submitting your application/order for your Hosting Services account with Secure eHost the client confirms they have read, understood and accepted these Terms & Conditions and Policies and agrees to be bound by them. If you do not understand and/or accept these Terms & Conditions and Policies please do not either submit an application/order or use the Hosting Services and/or Drumbeat CMS account.
- 1.2. We reserve the right to revise, amend or modify these Terms & Conditions, Policies and Agreements at any time and in any manner. Clients will be notified by email of any revision, amendment, or modification. Revisions, amendments or modifications shall not be grounds for early contract termination or non-payment.

### 2. Account Commencement & Renewal Date

- 2.1. This agreement commences on the date Secure eHost sends you our welcome message to the email address specified on the application form. This date then becomes your annual renewal date for the account(s).

### 3. Hosting Service

- 3.1. Scheduled maintenance. Secure eHost must perform scheduled maintenance to servers from time to time. Secure eHost will attempt to perform all scheduled maintenance at times that will affect the least amount of clients.
- 3.2. Unscheduled maintenance may need to be performed due to data corruption, service failure or equipment failure. Secure eHost will endeavour to inform you via email with details of any outage.
- 3.3. The services provided by Secure eHost are expected to change as technology changes and systems are upgraded. Secure eHost reserves the right to change any service offered or the feature of any service offered or its systems without notice, including changes to access and use procedures and all system hardware and software.
- 3.4. All hosting services are provided with Unlimited or Unmetered Bandwidth. Secure eHost has the right to monitor our client's bandwidth and monitor any abuse that may result of excessive bandwidth usage. We reserve the right to limit or terminate your account if consistent bandwidth abuse is found.

### 4. Acceptable Use Policy

- 4.1. Content:
  - 4.1.1. You are responsible for any and all content in and under your account at all times.
  - 4.1.2. All services provided by Secure eHost may be used for lawful purposes only. Transmission, storage, or presentation of any information, data or material in violation of any Australian Federal, State or City law is prohibited.
  - 4.1.3. Secure eHost is not responsible for any claims resulting from the use of our service. This is also true for sites that promote any illegal activity or content that may be damaging to our servers or any other server on the internet. Links to such materials are prohibited. This also includes, but not limited to Adult/Pornography sites (excluding online adult stores), pirated software, hacker programs/archives, Warez, copyrighted material whereby you are not the owner or have permission from the owner or material protected by trade secrets and other statutes.
- 4.2. The following constitute violations:
  - 4.2.1. Threats and unlawful conduct: Use of our service to transmit any material (by e-mail, uploading, posting or otherwise) that threatens or encourages bodily harm or destruction of property. Use of our services to transmit any material (by e-mail, uploading, posting or otherwise) that harasses another.
  - 4.2.2. Fraud: Use of our service to make fraudulent offers to sell or buy products, items, or services, or to advance any type of financial scam such as "pyramid schemes," "ponzi schemes," and "chain letters." Adding, removing or modifying identifying network header information in an effort to deceive or mislead is prohibited. Attempting to impersonate any person by using forged headers or other identifying information is prohibited. The use of anonymous remailers or nicknames does not constitute impersonation. It involves a knowing misrepresentation or misleading statement, writing or activity made with the intent that the person receiving it will act upon it.
  - 4.2.3. Attacks and Exploits: Any activity which affects the ability of other people or systems to use any services or other internet services. This includes "denial of service" (DOS) attacks against another network host or individual user. Interference with or disruption of other network users, services or equipment is prohibited. A client may not, through action or inaction, allow others to use the network for illegal or inappropriate actions. Unauthorised entry and/or use of another company and/or individual's computer system will result in immediate account termination. We will not tolerate any subscriber attempting to access the accounts of others, or penetrate security measures of our or other systems.
  - 4.2.4. Programs: We do not allow client programs to run continually in the background on our hosting servers. This is to minimise system resources used and operational maintenance needed. We do not allow any chat or topsite programs on our hosting servers other than the ones we pre-install for our clients to use. IRC: We DO NOT allow

IRC or IRC bots to be operated on our servers or network. BitTorrent and other peer-to-peer programs/servers are not permitted to run on any server on our network.

- 4.2.5. Commercial Advertising-Email (SPAM): Spamming, or the sending of unsolicited email, from a Secure eHost service or using an email address that is maintained by us is STRICTLY prohibited and will qualify your account for immediate deactivation with no refund. Secure eHost will be the sole arbiter as to what constitutes a violation of this provision. Additionally claims investigated by us about spam from any of our users or users of theirs, will be fined and billed for such work. The fee for such an instance if you are found to be at fault is \$1 per email sent and up to a \$1,000 fine per incident.
- 4.2.6. Server & Network abuse: Any attempts to undermine or cause harm to any Secure eHost server/network or client of ours is strictly prohibited. Secure eHost holds no responsibility for the use of our clients' accounts. Any account that abuses resources and actions are not taken to desist, calls for immediate de-activation without any refund of payments. Any site using what we deem to be using excessive cpu cycles or any resources that cause strain to other sites may also be offered new terms. Use of our service to access, or to attempt to access, the accounts of others, or to penetrate, or attempt to penetrate, security measures of our or another entity's computer software or hardware, electronic communications system, or telecommunications system is prohibited.

#### 4.3. CGI Scripts:

- 4.3.1. Each hosting account comes with its own cgi-bin. You are free to use any CGI scripts you wish, however we reserve the right to disable any CGI or other form of scripts that effects normal server operation.

#### 4.4. Back-ups:

- 4.4.1. Secure eHost performs daily backups on all of our servers to ensure critical files are never lost.
- 4.4.2. We do not restore a file any user has accidentally deleted or modified.
- 4.4.3. The back-up restoration is for emergency procedures only and is chargeable at our standard rates.
- 4.4.4. You are advised to backup all of your own files to your local drive.
- 4.4.5. We are not responsible for lost data, time, income or any other resource due to faulty backups or non-existent back-ups.

#### 4.5. Security:

- 4.5.1. You are responsible for any misuse of your account, even if the inappropriate activity was committed by a friend, family member, guest or employee. Therefore, you must take steps to ensure that others do not gain unauthorised access to your account. In addition, you may not use your account to breach security of another account or attempt to gain unauthorised access to another network or server.
- 4.5.2. Sharing your password and account access with unauthorised users is prohibited and you will be held responsible for such use.
- 4.5.3. Attempting to obtain another user's account password is strictly prohibited and may result in termination of service.
- 4.5.4. You may not attempt to circumvent user authentication or security of any host, network or account. Users who violate systems or network security may incur criminal or civil liability. We will cooperate fully with investigations of violations of systems or network security at other sites, including cooperating with law enforcement authorities in the investigation of suspected criminal violations.

- 4.6. Refusal of Service: We reserve the right to refuse, cancel, or suspend service at our sole discretion.

## 5. Support

- 5.1. Secure eHost is always available to assist you in any queries you have. In order to provide you with the best service, we ask that you read our support policy and use the proper contact procedures.
- 5.2. Telephone Support:
  - 5.2.1. Secure eHost can answer general queries over the phone but emailed support requests receive higher priority
  - 5.2.2. Phone support hours are 9am–5pm, Monday–Friday, excluding South Australian Public Holidays.
- 5.3. Email Support:
  - 5.3.1. Secure eHost's main priority is to answer all emailed support requests within 1-2 hours during normal business hours.
  - 5.3.2. Email support is put at the highest priority and is put before any phone support.
  - 5.3.3. All requests for support should go to support@ehost.com.au.
  - 5.3.4. Please do not email individual staff members as this can cause delays.
- 5.4. Included Technical Support:
  - 5.4.1. Secure eHost provides free support directly relating to our servers and the officially supported features that are included with the relevant Hosting Service packages.

## 5.5. Fee Based Support

5.5.1. We are often asked to do extraordinary things in short timeframes. Extraordinary support is chargeable at our standard rates.

## 5.6. Emergency Support:

5.6.1. Our servers are constantly monitored by our NOC (Network Operations Center) to ensure that they are running properly and their connections to the Internet are maintained. If a server loses connectivity to the Internet, our NOC (Network Operations Center) monitoring server will alert us within 5 mins of the outage 24x7.

5.6.2. If hard reboots are required outside of business hours it can sometimes take longer than 30 minutes to restore services.

## 6. Billing

6.1. Invoices are sent via email as PDF attachments. We do not post out printed invoices unless requested.

6.2. Invoices are due strictly seven (7) days after date on the invoice.

6.3. New services will not be activated until payment has been received and processed.

6.4. Should a due date fall on a weekend or public holiday your invoice will be due the next business day.

6.5. Failure to pay your invoice by the due date will result in suspension of all your services you hold with us, including re-taking control of any domains you have with us, until full payment is received.

6.6. We reserve the right not to send a warning regarding account suspension and accounts may only be unsuspended by the Managing Director during regular business days and hours.

6.7. Set-up and service fees are non-refundable unless we are unable to provision the service to you. No refunds will be given for terminating an account before the expiry date.

6.8. All portions of usage are charged for and unused allocations are not transferable or refundable.

6.9. Secure eHost reserves the right to re-issue an invoice if any error is subsequently discovered.

6.10. Your invoice will be calculated by reference to data recorded or logged by Secure eHost.

6.11. Records held by Secure eHost will be conclusive evidence of the usage of the service and the charges payable by you.

6.12. You may not make any allowance by way of set-off or withholding.

6.13. The applicant agrees to maintain their account in good order and meet the payment conditions applicable to their account(s).

6.14. Where an account becomes in arrears Secure eHost will initiate actions to secure payment of delinquent accounts. If we are unable to secure a suitable payment, your service will be restricted without further notice.

6.15. Debt recovery services will be used to recover any amount outstanding beyond this initial action plus an administration fee. Please note that you will be liable for any financial institution charges and collection fees including but not limited to solicitors costs, court and collection agent fees as appointed by Secure eHost.

6.16. Notwithstanding any suspension of any service you shall remain liable for all charges due throughout the period of suspension.

6.17. Your service will continue automatically beyond your contract period.

6.18. To terminate your account, you must provide written notice of this intent at least seven (7) days before your next billing cycle/renewal date. You will be responsible for all charges during this notice period. Any services provided by Secure eHost cannot be pro-rated nor are refundable.

6.19. We do not accept credit card payments.

6.20. Payment options:

1. Bank Transfer/EFT – preferred option
2. Cheque/Money Order

## 7. Warranties & Liabilities

7.1. Secure eHost shall not be liable for any loss or damage you suffer if a server is not working.

7.2. Secure eHost do not warrant that the:

7.2.1. provision of the services or any part of them will be continuous or uninterrupted;

7.2.2. provision of the services will provide you with a secure or confidential means of communication;

7.2.3. data transmitted or received by you through the use of the services will be accurate or virus free

7.2.4. services are free from defects; or

7.2.5. services will operate without interruption or errors.

7.3. Secure eHost shall not be liable to you or any third party for any loss or damage (including, without limitation, consequential loss or damage) suffered by you whether arising directly or indirectly from the supply of any goods or services under this agreement or from any failure or omission on the part of us or otherwise.

7.4. The client warrants that:

7.4.1. at the time of entering into this agreement it is not relying on any representation made by Secure eHost which has not been stated expressly in this agreement or on any descriptions or specifications contained in any other document, including any catalogues or publicity material produced by Secure eHost.

- 7.4.2. it will conduct such tests and computer virus scanning as may be necessary to ensure that data uploaded by it onto or downloaded by it from the server does not contain any computer virus and will not, in any way, corrupt the data or systems of any person.
- 7.4.3. it will keep secure any passwords used to upload data to the server.
- 7.4.4. all data uploaded onto the server under this agreement will not expose Secure eHost to the risk of any claim, legal or administrative action or prosecution.
- 7.5. Secure eHost reserves the right (but is under no obligation) to remove from Internet access any part of the client data that in Secure eHost's opinion, infringes any of the warranties set out in this agreement.
- 7.6. Secure eHost has no obligation to review or edit content of the client data.
- 7.7. The client is solely responsible for dealing with persons who access the client data.
- 7.8. If there is any claim against Secure eHost due to a breach of the client's warranties, or otherwise attributable to the client data, the client must indemnify and hold Secure eHost harmless against all liabilities, losses, damages, costs and expenses (including legal fees and expenses) associated with, or arising out of, the claim.
- 7.9. The Client may not assign its rights and obligations under this agreement without the prior written consent of Secure eHost.

## 8. Termination

- 8.1. You may terminate this agreement by giving us notice in writing at least seven (7) days before commencement of your next billing period/renewal date.
- 8.2. Secure eHost may terminate this agreement immediately by notice in writing if:
  - 8.2.1. any payment due from you to us under this agreement remains unpaid for a period of thirty (30) days &/or
  - 8.2.2. you breach any clause of this agreement and such breach is not remedied within thirty (30) days of written notice by us &/or
  - 8.2.3. you become subject to any form of insolvency administration;
  - 8.2.4. the services become unavailable for a period in excess of one month.
- 8.3. Secure eHost, in its sole discretion, reserves the right to temporarily suspend or terminate the service for any reason.
- 8.4. On termination or expiry of this agreement for any reason, Secure eHost may delete all client data from any storage media.