

Web Hosting Agreement, Terms, Conditions, & Policies

AGREEMENT

This agreement is between DESCnet Internet Services (hereinafter referred to as Provider), and the individual or entity who is applying for Web Hosting Services, (hereinafter referred to as Client).

GENERAL

Authorisations.

Client will use Provider's services in a manner consistent with all applicable local, state, and federal regulations and laws. Client agrees to pay and authorizes Provider to charge all fees due using the payment information provided by Client at the time of application.

Disclaimer of Warranty.

Provider's service is provided on an "as is, as available" basis. Provider gives no warranty, expressed or implied, for the Provider's services, including without limitation, any warranty of merchantability or warranty of fitness for a particular purpose. Any damages incurred by Client due to disruption of service by Provider or its providers shall be expressly limited to the fees paid by Client to Provider for services and shall under no circumstances include reimbursement for losses of income or other consequential damages claimed by Client.

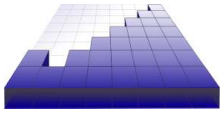
Indemnification.

Client agrees that it shall defend, indemnify, save and hold Provider harmless from any and all demands, liabilities, losses, costs and claims, including reasonable legal fees asserted against Provider, its agents, its customers, officers and employees, that may arise or result from any service provided or performed or agreed to be performed or any product sold by customer, it's agents, employees or assigns. Client agrees to defend, indemnify and hold Provider harmless against liabilities arising out of;

- (1) any injury to person or property caused by any products sold or otherwise distributed in connection with a Provider server;
- (2) any material supplied by Client infringing or allegedly infringing on the proprietary rights of a third party and
- (3) copyright infringement.

Client Responsibilities.

Effective use of Provider's services presumes a certain degree of knowledge and skill on the part of the Client. For example, it is presumed that Client possesses at least a rudimentary knowledge of Internet-related processes and software applications such as e-mail, FTP, Telnet, and web-browsing. Creating and publishing a web site on Provider's servers will require some knowledge of either HTML programming or the use of HTML editors, such as Microsoft FrontPage. Certain advanced applications may require a certain level of competence with CGI/Perl programming applications. In lieu of already-established knowledge and skill levels, patience, a desire and ability to learn, and perhaps a little courage will be required. Provider will not be held responsible for Client's inability to use Provider's services due to Client's lack of the requisite knowledge and skills.



Notifications.

Provider relies on e-mail as the primary means of notifying Clients of important system news, problems with Clients' accounts or usage of those accounts, billing problems, etc. Any notifications will be e-mailed to Client domain's primary e-mail address and/or to the contact e-mail address provided by Client upon application for services. Client agrees to monitor these e-mail addresses on a regular basis and to respond promptly, if required, to any notifications. Client agrees to notify Provider of any changes to Client's physical or e-mail address, telephone numbers, etc.

Policy Changes.

These policies may change with or without notice. Client agrees to comply with these policies in their current and future state. Client agrees to periodically review published policies to ensure understanding of and compliance with current policies.

Refusal of Service.

Provider reserves the right to refuse or cancel service at Provider's sole discretion, with or without reason, with or without warning.

Acceptance.

Client expressly understands, acknowledges, and agrees that in submitting an application and paying for any and all services to be rendered by Provider, Client shall abide by all Terms and Conditions stated herein.

Jurisdiction.

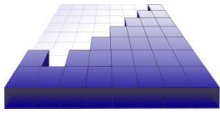
Client agrees to submit to the jurisdiction of the applicable country, state or federal court of Provider's physical residence for any litigation, mediation, or arbitration which may arise from any dispute concerning any of the provisions herein. Controlling law shall be that of the State of Provider's residence.

Acceptable Use Policies

Prohibited Services.

The following content and activities may not be displayed or promoted by Client nor associated in any way with Client's account or Provider's services. Provider shall be the sole arbiter as to what constitutes violation of this provision.

- Transmission, storage, or presentation of any information, data or material in violation of any Australian Federal, State or Local law.
- Copyrighted material used without permission.
- Material or activities judged by Provider to be threatening, obscene, disparaging, or hate-related.
- Material protected by trade secret or other statute.
- Pornography, nudity, erotica, and sex-related merchandising, including sites that may infer sexual content, or link to adult content elsewhere.
- Content that promotes any illegal or prohibited activity.
- Content that may be damaging to Provider's servers or to any other server on the Internet.



- Pirated software (warez).
- IRC, IRC Bots, IRC BNC, etc.
- Promotion or sale of unsolicited or bulk e-mail (SPAM) software or services.
- Unsolicited or bulk e-mail or newsgroup posts (SPAM) which references and/or is traceable to Provider and/or any Client in any way.
- Illegally distributed MP3 media.
- Harassing, annoying, or otherwise interfering with any person's, group's, or organization's use or enjoyment of the Internet experience.
- Links or reference to any of the above.

Background Running Applications.

Background daemons in general are prohibited. Provider will consider requests to allow these applications on a case-by-case review basis. If allowed, extra charges will be assessed based on resources and system maintenance needed.

Internet Relay Chat (Irc).

IRC, IRC bots, BNC, or MUDs may not be operated on Provider's servers.

Chat Rooms.

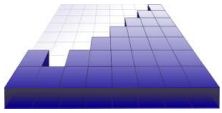
Clients may not install their own chat rooms. These tend to be large system hogs and are not allowed as an account option. However, PROVIDER does offer a choice of Java chatrooms for a small extra charge that will more than fill Client needs and run without hindering the performance of the machine for others.

Unsolicited E-Mail (Spam).

Provider's servers may not be the source, intermediary, or destination address involved in the transmission of unsolicited bulk e-mail (UBE), unsolicited commercial e-mail (UCE), spam, off-topic newsgroup posts, flames, or mail bombs. Client's domain may not be referenced or traceable in any way as a result of any of the above. Provider reserves the right to refuse and/or cancel service to known spammers. Provider reserves the sole right to determine what constitutes violation of this provision.

SPAM is any unsolicited e-mail, post, or facsimile in the newsgroup, e-mail, fax, or other electronic medium. Any unsolicited commercial email (no matter how relevant or important it may be) is spam; any unsolicited bulk email (commercial or not) is also spam. Mass and unsolicited are not concurrent conditions for spam. One and/or the other is sufficient. In the medium of newsgroups, spam is considered to be any off-topic posting and/or any identical posting to multiple newsgroups.

Any spam complaints received about Client domains are addressed seriously. After investigation, if it is deemed by Provider that spamming practices have indeed been utilized on Provider's servers, Provider reserves the right to terminate a domain account immediately with no refund and to assess a \$500 penalty per spam incident. Client expressly accepts Provider's right to assess this penalty and agrees to its assessment and payment.



Clarification on UCE and UBE. Unsolicited commercial e-mail is, simply put, sending an email to someone you don't personally know or a company you don't have a relationship with. If you come upon e-mail addresses in a web site you visit, the simple existence of an e-mail address in a web-site does not imply acceptance of unsolicited commercial e-mails. A request for link reciprocation is just that, unsolicited and commercial. Unless of course, a working relationship already exists between you and the other party. Unsolicited bulk e-mail is the sending of UCE to more than one recipient at a time.

Server Abuse.

Any attempts to undermine or cause harm to any server is strictly prohibited. This includes, but is not limited to attempting to gain access to password files other than your own, attempting to gain unauthorized access to other accounts on your server, or anything that causes server malfunction. Failure to comply is subject to immediate account deactivation without refund.

Please note that while CGI/PERL scripts and/or mSQL/mysql code can unintentionally cause server malfunction, PROVIDER will make the final determination if the code was maliciously programmed. If the code was programmed incorrectly but not out of apparently malicious intent, Provider will disable the program, but not cancel Client's account.

Traffic.

Client account receives a monthly traffic/bandwidth allocation according to the type of account applied for. No per-hit charges or limitations apply. Due to the unique resource characteristics and traffic patterns associated with certain types of sites, the following are limited to 1 gigabyte of free traffic:

- Subhosting - any domain housing additional users
- Shareware, sound, video, image and multimedia archives
- Mirror sites
- Distribution points
- Any site whose primary purpose is file distribution

For those accounts that do not qualify for "normal" traffic guidelines, traffic will go unmonitored up to 1 gigabyte. Thereafter, normal data transfer cost of \$0.055/mB will apply.

Provider will be the sole arbiter as to what constitutes a violation of this provision.

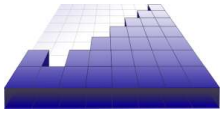
Traffic Overages.

Provider will make every reasonable effort to notify Client of projected traffic overages prior to any action being taken to disable Client's account. However, Provider reserves the right to disable Client's account without prior warning due to traffic in excess of the account allocation. In some cases, "unusual" traffic patterns will cause an automatic disablement of Client's account.

Technical Support.

While Provider will make every reasonable effort to help Clients with all of their questions, there are some times when PROVIDER must either refer Client to the manual, or confess an inability to help. It is impossible for Provider to support all of the countless 3rd party programs and configurations that are available to web developers and users today.

To assist Client in knowing Provider support boundaries, here's a guideline to what's supported and what's not.



What's Supported:

- Server-Side Issues such as:
- Password Changes
- Server Failure
- General Questions
- E-mail issues
- FrontPage extension issues
- Web-based control panel questions

Client-Side Issues such as:

- Inability to connect to server space.
- Internic Assistance
- Domain name registration/modification issues for current or prospective clients

What's Not Supported:

- CGI-scripts - preinstalled or 3rd party
- Web Page development or programming
- 3rd party software, including FrontPage and other HTML Editors
- mSQL/mySQL database

Support.

Provider offers limited telephone support to Client. Client agrees not to abuse this resource. Abuse includes placing multiple repeat calls without leaving a message or leaving multiple messages in the same 24-hour period (when Client receives Provider's voice-mail message system). Telephone support is not available and shall not be used for non-supported items as described above. Clients who abuse telephone support privileges may, at Provider's sole discretion, have telephone support privileges revoked and/or incur a charge of \$5.00 per call. Provider shall have sole authority to determine violations of this policy.

Resold Web Space.

Client may not subdivide, give away or resell for profit web space and other services on Client's account to other users without written consent from Provider. Client's clients must adhere to these policies and guidelines, too. Any infraction from Client domain, regardless of the source, shall be treated as a violation by the Client. If an infraction is serious enough (server tampering, spam, etc.), Client account can and will be cancelled without refund, without warning.

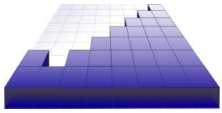
Monitoring Resold Server Space. It is up to the Client as a reseller to monitor resold web space. Provider cannot apply server space restrictions to any directory.

Technical Support for Resold Web Space. Client shall be the first point of contact for resold web space. Provider will not support Client's clients directly.

Domain Name Registration.

Provider will provide reasonable assistance to Client in the area of domain name registration and modification. Reasonable assistance may include submission of registration or modification requests to appropriate domain name registration agencies and/or supplying Client with the necessary information to effect registration or modification of Client domain. Provider will not, under any circumstances, make changes to any part of a domain name record except name server and technical contact information relating to the pointing of Client domain name to Provider's servers.

Client is responsible for payment of all applicable domain name registration and renewal fees.



Cancellation Policy

Client bears all responsibility for ensuring effective cancellation of Client account. This responsibility includes providing effective and verifiable notification to Provider of Client's desire to cancel an account. This responsibility shall not be waived or modified by Provider or Client in any way at any time subsequent to the submission by Client of an application for Provider account. Provider will act immediately to implement Client's cancellation notice, providing the terms of this cancellation policy have been followed.

Provider must receive Client cancellation at least 14 days prior to the anniversary date of Client domain's activation in order to avoid monthly hosting charges. All credit card charges or billing will cease immediately upon receipt of notice of cancellation. Accounts may be cancelled by emailing or telephoning Provider's sales department. E-Mail cancellations must be from the contact e-mail address Client registered at the time of account setup. If that e-mail account is no longer available, Client must provide the original account password. Telephone cancellations need to have their original account password.

All email cancellations are confirmed by email by Provider within 24 hours of receipt. If Client does not receive confirmation, cancellation can not be assumed to have been effected. It is Client's responsibility to ensure that a cancellation confirmation is forthcoming from Provider. The purpose of requiring confirmation of cancellation is to protect both Client and Provider from inaccurate claims of cancellation and notification.

If Client has a balance due at the time of cancellation, this balance must be paid in full. Cancellation does not absolve Client of any outstanding financial obligations. Provider does not monitor account usage or the status of domain name records on Provider servers. If Client transfers Client domain without notifying Provider of a desire to cancel the account, Client will continue to be charged/billed, even if Provider learns that Client domain has been transferred.

Provider's services are independent of account usage and domain name records, and are still in effect whether Client domain is pointing to Provider's name server or to some other name server.

Provider reserves the right, in its sole discretion, to suspend (temporarily disable) or cancel the Client's account(s) without further warning upon any indication of delinquent payments, or if the terms and conditions outlined herein are violated, or if Client's account causes any kind of network or server problem and/or disturbances.

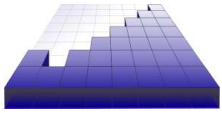
Security.

Provider implements the latest technology for providing a secure and encrypted environment for information protection. There is no guarantee that the information on the Internet is absolutely secure and may never be destroyed. Client agrees to indemnify and hold Provider harmless in case of information loss or loss of privacy.

Provider is not responsible for any damages arising from Client's use of or by Client's inability to use the server, web hosting packages, or any other services for any reason.

Provider shall make every reasonable effort to protect and backup data for Client on a regular basis. Provider is not responsible for Client's files. Client is solely responsible for their independent backup of data stored on Provider's server and network.

Provider is not liable for and does not guarantee the protection or privacy of electronic mail or information transferred through the Internet or any other public network.



INTERNET SERVICES

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Subiaco, Western Australia 6008
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email mail@descnet.com.au

www.descnet.com.au

Ownership

Provider maintains control and ownership of any and all IP numbers and addresses that may be assigned to Client and reserves in its sole discretion the right to change or remove any and all IP numbers and addresses. Client shall keep the rights of ownership and use of the domain name even if Client changes Provider.

In case of disputes regarding authority over domain names, Provider will follow industry standard practice of giving ultimate authority to the domain name registrant.

Provider maintains control and ownership of any copyright, proprietary and/or licensed software, scripts, programs, images, or other electronic data or media installed and or provided by Provider.

Billing & Payment

CHEQUE PAYMENTS

Cheque payments are due 5 business days prior to the new hosting period.

All checks should be made payable to DESCnet Internet Services and mailed to:

DESCnet Internet Services
Suite 3, 19 York St
Subiaco WA Australia 6008

Dishonoured Cheques

Client agrees to pay a \$40 fee for each returned check. Hosting payments plus the dishonoured cheque fee must be received by Provider prior to expiration of the current hosting period to avoid account suspension or cancellation. Provider will no longer accept cheque payments from any Client with two instances of dishonoured cheques.

Credit Card Payments

Accounts that pay by credit card are automatically billed 5 - 10 days prior to the beginning of each new hosting period. In the event that credit card payments are declined by the issuing financial institution, Provider will make every reasonable effort to contact Client to request another form of payment. If Provider is unable to contact Client in this event, Client's account will be considered past due as described below.

Client agrees to notify Provider of any changes to Client's physical and e-mail addresses, telephone numbers, credit card numbers, and credit card expiration dates.

Past Due Accounts

All payments are due approximately 5 - 10 days prior to the start date of Client's account hosting period. If payment is not received by the due date, Provider will send a notification/reminder via e-mail to Client's primary contact e-mail address.

If Client's account is not paid in full by the hosting period start date, Client's account will be disabled. The account will be reactivated within 10 days of the disablement, upon receipt of payment plus a \$40.00 administrative/account reactivation fee.

If payment is not received within 10 days after account disablement, the account will be cancelled, and all files associated with the account will be deleted from Provider's servers.

Provider may (or may not) choose to waive the enforcement of this policy if Client contacts Provider prior to the payment due date to discuss alternative payment methods.

revised 6December 2005