

HOSTING SERVICE AGREEMENT

1. This is an agreement between **THE CLIENT** and **Dot Cube (Pty) Ltd** (hereafter referred to as Dot Cube) regarding the clients use of Dot Cube's Hosting Services. This Agreement governs the terms and conditions under which Dot Cube makes the services offered by Dot Cube available to individual consumers through a personal computer or similar access, or to individual consumers or small businesses in connection with the "Dot Cube" web hosting or similar services.
2. Dot Cube will host an account for the client, the purchaser, for the client's chosen package, for the period (the Term) corresponding with the payment plan chosen by the client. This contract will be renewed at the end of the Term and each successive renewal term, unless terminated. The client will be Invoiced 21 days prior to the renewal date. Should the client decide not to renew Dot Cube requires notification of non-renewal, prior to the Due Date indicated on the renewal Invoice. The client must have all account information available to cancel. If the client does not provide this notice, the client will be charged for the next terms rate. There are no refunds on a la carte services.
3. Dot Cube's services are provided on an as is, as available basis without warranties of any kind, either express or implied, including, but not limited to, warranties of merchantability, fitness for a particular purpose or non-infringement. Dot Cube expressly disclaims any representation or warranty that Dot Cube's services will be error-free, secure or uninterrupted. No oral advice or written information given by Dot Cube, its employees, licensors of the like, will create a warranty; nor may the client rely on any such information or advice. The terms of this section will survive any termination of this Agreement. Dot Cube will however strive to maintain an uptime on all services equal to or better than 99.9% of overall expected service delivery time.
4. The hosting service and/or related electronic services can only be used for legal purposes under all applicable international, federal, provincial, and municipal laws. Further, the client agrees not to store, transmit, link to, advertise or make available any images containing pornography. Violations of these or any other provisions of this Agreement may result in termination of the services provided by Dot Cube, with or without the grant of a notice or cure period, such notice or cure period to be granted at the sole discretion of Dot Cube based upon the severity of the violation. Dot Cube reserves the right to refuse service if any of the content within, or any links from, the client's website(s) is deemed illegal, misleading, or obscene, or is otherwise in breach of Dot Cube's then current Acceptable Use Policy, in the sole and absolute opinion of Dot Cube. Notwithstanding anything in this Agreement, the content of the client's website(s) is the sole responsibility of the client. The client agrees to indemnify and hold harmless Dot Cube from any and all claims, losses, damages, liabilities, judgments, or settlements, including reasonable attorney's fees, costs, and other expenses incurred by Dot Cube, (collectively, Claims) related to or in connection with the content of the client's website. The terms of this Section will survive any termination of this Agreement.
5. The client acknowledges that the nature of the service furnished, and the initial rates and charges have been communicated to the client. The client is aware that Dot Cube reserves the right to change the specified rates and charges from time to time.
6. The client agrees to follow generally accepted rules of "Netiquette" when sending e-mail messages or any other electronic communication from the services hosted by Dot Cube.
7. Dot Cube will not change passwords to any account without proof of identification, which is satisfactory to Dot Cube, which may include written authorization with signature. In the event of any partnership break-up, divorce or other legal problems that includes the client, the client understands that Dot Cube will remain neutral and may put the account on hold until the situation has been resolved. Under no circumstances will Dot Cube be liable for any losses incurred by the client during this time of determination of ownership, or otherwise. The client agrees to indemnify and hold harmless Dot Cube from any and all Claims arising from such ownership disputes. The terms of this Section will survive any termination of this Agreement.

8. The client agrees not to harm Dot Cube, its reputation, computer systems, programming and/or other persons using Dot Cube's services. Dot Cube reserves the right to select the server for the client's website for best performance. The client understands that the services provided by Dot Cube are provided on a shared server. This means that one website cannot be permitted to overwhelm the server with heavy CPU usage, for example from the use of highly active CGI scripts. If the client's website overwhelms the server and causes complaints from other users, the client has outgrown the realm of shared servers, and will need to relocate/upgrade its website. Dot Cube will refund any unused portion of prepaid services. If the client refuses to comply with this Section, then Dot Cube has the right to terminate the services provided to the client without any refunds of the unused portion prepaid by the client. The client agrees to indemnify and hold harmless Dot Cube and any other client from any and all Claims resulting from the client's use of the services provided by Dot Cube. The terms of this Section will survive any termination of this Agreement.
9. The client's rights and privileges under this Agreement cannot be sold or transferred without the prior written consent of Dot Cube.
10. If the client sells or resells advertising or web space to a third party, then the client will be responsible for the contents of that advertising and the actions of that third party. Dot Cube has the absolute right to reject any advertising or other third-party content that is illegal, offensive or otherwise in breach of the then current Dot Cube Acceptable Use Policy. The e-mail distribution by the client of "SPAM", "JUNK MAIL", or "UNSOLICITED COMMERCIAL E-MAIL", is expressly prohibited. If the client refuses to remove any advertising or other third-party content deemed objectionable by Dot Cube, Dot Cube may terminate the services being provided to the client.
11. Dot Cube will use its best efforts to maintain a full time Internet presence for the client. The client hereby acknowledges that the network may, at various time intervals, be down due, but not restricted to, utility interruption, equipment failure, natural disaster, acts of God, or human error. In no event shall Dot Cube be liable to the client for any damages resulting from or related to any failure or delay of Dot Cube in providing access to the Internet under this Agreement. In no event shall Dot Cube be liable to the client for any indirect, special or consequential damages or lost profits arising out of or related to this Agreement or the performance or breach thereof. The aggregate, total liability of Dot Cube under this Agreement, if any, shall in no event or circumstance exceed the total amount actually paid by the client hereunder. The terms of this Section will survive any termination of this Agreement.
12. This Agreement applies to all accounts, sub-accounts, and alternative account names associated with the client principal account. The client is responsible for the use of each account, whether used under any name or by any person, and for ensuring full compliance with this Agreement by all users of that account. Any Dot Cube account may not be transferred without prior written approval from Dot Cube. The client is responsible for maintaining the confidentiality of his/her password. In the event of a breach of security through the client's account, the client will be liable for any unauthorized use of Dot Cube services, including any damages resulting there from, until the client notifies Dot Cube' customer service.
13. If Dot Cube assigns the client an Internet Protocol address in connection with the client's use of the Dot Cube services, the right to use that Internet Protocol address will remain with and belong only to Dot Cube, and the client will have no right to use that Internet Protocol address except as allowed by Dot Cube in its sole and absolute discretion.
14. This Agreement constitutes the entire agreement between the client and Dot Cube with respect to the Dot Cube services and supersedes all prior agreements between the client and Dot Cube. Dot Cube's failure to enforce any provision of this Agreement shall not be construed as a waiver of any provision or right. In the event that a portion of this Agreement is held unenforceable, the unenforceable portion will be construed in accordance with applicable law as nearly as possible to reflect the original intentions of the parties, and the remainder of the provisions will remain in full force and effect. The terms of this Section will survive any termination of this Agreement.

15. The parties shall attempt to resolve all disputes arising out of this Agreement in a spirit of cooperation and with a problem-solving mind set, without formal proceedings. Any dispute, which cannot be so resolved, shall be subject to binding arbitration upon the written demand of either party. Arbitration shall take place in South Africa. Should any legal action permissible under this Agreement be instituted to enforce the terms and conditions of this Agreement, in particular the right to collect money due on unpaid invoices, the prevailing party shall be entitled to recover reasonable attorney's fees and expenses incurred at both the trial and appellate levels. The terms of this Section will survive any termination of this Agreement.
16. The client agrees to indemnify and hold Dot Cube harmless from any and all Claims resulting from or connected with any activities conducted by the client. The client and Dot Cube will promptly notify the other upon receipt of any Claim or legal action arising out of activities conducted pursuant to this Agreement. The rights and responsibilities established in this paragraph will survive any termination of this Agreement.
17. Dot Cube may include the client's name and contact information in directories of Dot Cube's service subscribers for the purpose promoting the use of the services by additional potential clients. However, Dot Cube is not authorized to print the client's name, trademarks or other identifying information in any other advertising or promotional materials without the prior written consent of the client.
18. The interpretation and enforcement of this Agreement shall be governed according to the laws of the Republic of South Africa (excluding its choice of law rules). The client hereby consents to personal jurisdiction in the federal and provincial courts of South Africa for any action arising out of or relating to the client's use of the Dot Cube services. The federal and provincial courts of South Africa will have exclusive jurisdiction over all such actions. In any such action, the prevailing party will be entitled to recover all legal expenses incurred in connection with the action, including but not limited to its costs, both taxable and non-taxable, and reasonable attorney's fees. The terms of this Section will survive any termination of this Agreement.
19. Notices required by this Agreement shall be in writing and shall be delivered either by personal delivery or by mail. If delivered by mail, notices shall be sent by any express mail service; or by certified or registered mail, return receipt requested; with all postage and charges prepaid. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, or as specified by subsequent written notice delivered by the party whose address has changed.
20. Because the Internet is a global communication tool, and we have clients from nearly every country in the world it is difficult to dictate what is considered "adult material." However, it is not our function to discriminate against those who choose to utilize adult content or adult related material.
21. Once the client's account has exceeded its allotted resource limits (such as, but not limited to bandwidth or disk space) additional fees will be applied. Full responsibility for any excess resources generated by an account is assumed by the client. Clients who exceed the allocated disk space or bandwidth allocation will be notified in writing to upgrade services to the next package level. Clients failure to respond to this notification within 72 hours of the first notification will result in an automatic upgrade in services.
22. If the client's account becomes overdue, the account will be suspended. Interest will accrue on the overdue account at a rate of 5% per month until the outstanding balance is paid in full.

23. If the client charges back for services rendered, a R200 charge back fee will be added to the amount charged back by the customer.
24. In the event of 10 days of non-payment, the client agrees to Dot Cube' right to place a "suspension" notification on the clients domain. Furthermore, the client agree that DNS of the client domain will remain unchanged until full payment for the outstanding balance on the client account has been received by Dot Cube. A R250.00 re-connection Fee will be due on all overdue Invoices older than 30 days.
25. If the client's account is overdue for 60 days, the account will be cancelled, and all associated site files will be deleted from the server. At this time the client will be handed over to an outside collection agency and a R200 collection fee will be added to the balance previously due.
26. Dot Cube may temporarily deny service or terminate this Agreement upon the failure of the client to pay charges when they become due. Such termination or denial will not relieve the client of responsibility for the payment of all accrued charges, plus reasonable interest and any collection fees.
27. All accounts are subject to verification.
28. The client agree that Dot Cube may establish limits concerning use of any Dot Cube service offered on any Dot Cube web site, including without limitation the maximum number of days that e-mail messages will be retained by any Dot Cube service, the maximum number of e-mail messages that may be sent from or received by an account on any Dot Cube service, the maximum size of an e-mail message that may be sent from or received by an account on any Dot Cube service, the maximum disk space that will be allotted on Dot Cube' servers on the client behalf either cumulatively or for any particular service. The client agrees that Dot Cube has no responsibility or liability for the deletion, corruption or failure to store any messages or other content maintained or transmitted by any Dot Cube service. The client acknowledges that the features, parameters (for example, the amount of storage available to users) or existence of any Dot Cube service may change at any time.
29. The responsibility of all passwords and other related sensitive information is assumed by the client, should any additional fees arise from resource consumption due to poor credentials (such as, but not limited to blank passwords or "test" accounts) no fault shall be levied on Dot Cube.
30. Traffic Overage Disputes – Should the client wish to dispute a traffic overage charge the client may do so by requesting an overage investigation, however should the traffic usage be accurate within a 5% margin a once off charge of R150 per domain/server will be applied to the corresponding account.
31. Clients are entitled to upgrade/downgrade their service at any time during the Hosting Period.

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