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Web Hosting Terms and Conditions

This Services Agreement (the "Agreement") contains the complete terms and conditions which govern your subscription of web hosting and other internet-related services provided by activIT systems, (the "Services"). As used in this agreement "Customer", "you", or "your" means the individual or business entity that is registering to use the Services, including its employees and agents. By clicking on the "Order Hosting Package" button, you acknowledge that you have read the Agreement, and you agree to its terms and conditions and all policies posted on the activIT systems web site. As referred to in this Agreement, "Site" refers to a World Wide Web site and "activIT systems Site" refers to the Site located at the URL <http://www.activITsystems.com.au> , or any other successor Sites owned or maintained by activIT systems.

Our Services are available only to individuals and business in good legal standing that can form legally binding contracts under applicable law. Customer hereby represents and warrants that it is duly licensed to do business and is in good legal standing in the jurisdictions in which it does business (during the term of this Agreement), that it is not a competitor of activIT systems, and that the person agreeing to this Agreement for Customer is at least eighteen years of age and otherwise capable of and authorized to enter binding contracts for Customer.

1. Customer Information

Customer represents and warrants that the information it provides activIT systems is true, accurate, current and complete. Customer agrees to maintain and update this information to ensure that it is true, accurate, current and complete. If, at any time, any information provided by Customer is untrue, inaccurate, not current or incomplete, activIT systems will have the right to suspend or terminate Customer's account and this Agreement.

2. Customer Account(s)

2.1. Authorized Users.

Customer may designate persons to act as its agents to use the Services, provided that each designated person has the legal capacity to enter into binding contracts for Customer. Furthermore, Customer represents and warrants that each person who registers under Customer's account is an authorized agent of Customer (an "Authorized User") who has such legal capacity.

2.2. Responsibility for Access

Customer is solely responsible and liable for any and all access to and use of the Services (including all activities and transactions) by any Authorized User and/or User ID registered under Customer's account, unless such access to or use of the Services. It is Customer's responsibility to set the appropriate access for each of Customer's Authorized Users.

3. Responsibility for User IDs and Passwords

Customer is solely responsible for maintaining the confidentiality of Customer access information such as the account/user IDs and passwords of its Authorized Users, and you are responsible for all activities that occur under your account.

3.1. Notification of Unauthorized Use

Customer will immediately notify activIT systems by email if Customer notices any activity indicating that Customer's account is being used without authorization, including: (a) Customer has received confirmation of an order or orders placed using Customer's account which Customer did not place or any similar conflicting report; or (b) Customer becomes aware of any unauthorized use of any product or service related to its account(s).

4. Customer Data

Customer has sole responsibility and liability for the data stored under your account(s) on activIT systems servers. Customer is solely responsible for maintaining current off-site backups of all data stored under your account(s). activIT systems is not liable for the loss of data stored on its servers or for archiving and backing-up your data. activIT systems will delete Customer data from its servers upon termination of this Agreement. However, activIT systems may retain Customer data in its archives after deletion and will not be liable to Customer in any way for such retained data.

5. Fees And Payments

Customer shall pay any and all fees in advance based on the billing cycle chosen during registration. In the event that Customer fails to pay Fees due, activIT systems reserves the right to suspend or terminate Customer's account(s), according to section 11 on Termination below. activIT systems does not collect and is not responsible for any additional fees imposed in Customer's local jurisdiction, including without limitation: import or state tax.

Additional fees, specified at the activIT systems Site, will be charged for exceeding the disk space and/or network bandwidth allowance of your selected account type (hosting plan). Additional fees are invoiced on a monthly basis and are payable within 7 days of invoice unless otherwise expressly stated by activIT systems. activIT systems may terminate or suspend Customer account(s) where additional fees are over-due and remain unpaid. activIT systems reserves the right to vary the price of additional bandwidth and disk space fees from time to time and Customer should consult the activIT systems Site for the current pricing of additional fees.

6. Acceptable Use

6.1. No Spam

Customer agrees not to use Service to transmit "spam", including but not restricted to bulk unsolicited commercial email; advertising in newsgroups, IRC, chat rooms, instant messenger programs and online forums where advertising is not allowed. Customer agrees not to "spamvertise" your Site by advertising, mentioning or linking to it in any spam transmission. activIT systems reserves the right to determine, solely at its discretion, what transmissions or behaviour constitute spam and spamvertising and reserves the right to suspend or terminate any Customer account(s) for spamming.

6.2. Illegal or Obscene Content

activIT systems neither sanctions nor permits Site content or the transmission of data that contains illegal material or fosters or promotes illegal activity. Additionally, activIT systems neither sanctions nor permits Site content or the transmission of data that is pornographic, harmful, threatening, abusive, harassing, tortuous, defamatory, vulgar, obscene, libellous, invasive of another's privacy, hateful, or racially, sexually, ethnically or otherwise objectionable or vilifying. activIT systems reserves the right to determine, solely at its discretion, what Site content or data is objectionable.

activIT systems reserves the right to immediately suspend or terminate any account or transmission that violates this policy, without prior notice. In the event of such termination, Customer agrees that the unused portion of any fees Customer may have paid for any Services rendered are not refundable and Customer agrees not to seek recovery of those fees.

Further, should Customer violate this policy, activIT systems will actively assist and cooperate with law enforcement agencies and government authorities in collecting and tendering information about Customer, Customer's site, the illegal or obscene content, and those persons that may have accessed, acquired, or used the illegal or obscene content.

6.3. Access and Interference

Violations or attempts to violate activIT systems systems or to interrupt activIT systems services are strictly prohibited, and may result in criminal and civil liability. Examples of system violations include, without limitation:

- a. Unauthorized access to or use of activIT systems Services, including any attempt to probe, scan or test the vulnerability of a system or to breach security or authentication measures without the express authorization of activIT systems; or
- b. Interference with Service to any customer or network including, without limitation, flooding, or deliberate attempts to overload a system and broadcast attacks; or
- c. Any attempt to circumvent limitations in subscriptions; or
- d. Use of any device, software, or routine to interfere or attempt to interfere with the proper working of the Services; or
- e. Any action that imposes an unreasonable or disproportionately large load on activIT systems's infrastructure; or
- f. any use of server programs and resources without the express authorization of activIT systems.

Customer shall not decompile, disassemble, decrypt, extract, reverse engineer or otherwise attempt to derive the source code of the "software tools" (including the tools, programs, methods, processes, and infrastructure) underlying the Services or any other software on activIT systems's servers and Site.

6.4. Copyright or Trademark Infringement

Service may be used only for lawful purposes. Transmission, distribution or storage of any material in violation of any applicable law or is prohibited. This includes, without limitation, material protected by patent, copyright, trademark, service mark, trade secret or other intellectual property rights. If you use another party's material, you must obtain prior authorization. By using the Service, you represent and warrant that you are the author and copyright owner and/or proper licensee with respect to any hosted content and software and you further represent and warrant that no content or software violates the trademark or rights of any third party. activIT systems reserves the right to suspend or terminate a Customer's account(s) which, at activIT systems's sole discretion, it deems violates these policies or violates any law or regulation.

6.5. Misuse of System Resources

Customer shall not misuse system resources including, but not limited to, employing content which consume excessive CPU time or storage space; or utilising excessive bandwidth or data transfer. activIT systems reserves the right to suspend or terminate a Customer's account(s) which, at activIT systems's sole discretion, it deems to have misused system resources.

6.6. Other Activities

Whether lawful or unlawful, activIT systems reserves the right to determine what is harmful to its Customers, operations or reputation, including any activities that restrict or inhibit any other user from using and enjoying the Service or the Internet. Please be aware activIT systems reserves the right to cancel any account they find in violation of any of the above policies. If appropriate, activIT systems will refer complaints to law enforcement authorities, and in such case, activIT systems will actively assist law enforcement agencies with the investigation and prosecution of any such activities, including surrendering Customer account information.

7. No Warranty

You expressly understand and agree that:

- a) your use of the Service is at your sole risk. activIT systems Services are provided on an "as is" and "as available" basis. activIT systems and its suppliers, to the fullest extent permitted by law, disclaim all warranties, including but not limited to warranties of title, fitness for a particular purpose, merchantability and non-infringement of proprietary or third party rights. activIT systems and its suppliers make no warranties about the accuracy, reliability, completeness, or timeliness of our Services, software, or content;
- b) activIT systems makes no warranty that:
 - i. the Service will meet your requirements,
 - ii. the service will be uninterrupted, timely, secure, or error-free,
 - iii. the results that may be obtained from the use of the service will be accurate or reliable,
 - iv. the quality of any products, services, information, or other material purchased or obtained by you through the Service will meet your expectations, and
 - v. any errors in the software will be corrected;
- c) any material downloaded or otherwise obtained through the use of the Service is done at your own discretion and risk and that you will be solely responsible for any damage to your computer system or loss of data that results from the download of any such material;
- d) no advice or information, whether oral or written, obtained by you from us or through or from the Service shall create any warranty not expressly stated in these terms and conditions.

8. Indemnity

You agree to defend, indemnify, and hold harmless activIT systems, its affiliates, officers, employees and agents, from and against any claims, actions or demands, including without limitation reasonable legal fees, alleging or resulting from your use the Service, or your breach of this Agreement or other activIT systems policies, terms and conditions.

9. Limitation of Liability

Your use of activIT systems Services is at your own risk. If you are dissatisfied with any aspect of our Service or with these terms & conditions, or any other rules or policies, your sole remedy is to discontinue use of the Service.

You expressly understand and agree that activIT systems shall not be liable for any direct, indirect, incidental, special, consequential exemplary damages, including but not limited to, damages for loss of profits, goodwill, use, data or other intangible losses (even if we have been advised of the possibility of such damages), resulting from: (i) the use or the inability to use the Service; (ii) the cost of procurement of substitute goods and services resulting from any goods, data, information or services purchased or obtained or messages received or transactions entered into through or from the Service; (iii) unauthorized access to or alteration of your transmissions or data; (iv) statements or conduct of any third party on the service; or (v) any other matter relating to the Service. In no event will activIT systems's liability arising out of or in respect of these terms and conditions exceed the amount of moneys paid by Customer for Services during the preceding twelve months.

10. Modifications to Agreements, Policies or to our Services

We reserve the right to change this Service Agreement at any time without notice. We also reserve the right at any time to modify or discontinue the Service, temporarily or permanently, with or without notice to you. You agree that we shall not be liable to you or any third party for any modification, suspension or discontinuance of the Service. You acknowledge that we may establish general practices and limits concerning use of the Service, including the maximum disk space that will be allotted on activIT systems's servers on your behalf, and the maximum number of times (and the maximum duration for which) you may access the Service in a given period of time. Further, you acknowledge that activIT systems may change subscription fees at any time without notice. Changes in subscription fees will take effect on expiration of any existing Customer subscription. The current Service Agreement and account fees can be viewed by you at the activIT systems Site.

11. Termination

11.1

Without limiting other remedies, activIT systems may immediately issue a warning, suspend (that is, lock out access and operation of Services for Customer) either temporarily or indefinitely, or terminate Customer's account and refuse to provide Services to Customer if:

- a. activIT systems believes that Customer have violated or acted inconsistently with this Agreement, or any of our policies; or
- b. Customer have failed to pay fees or other payments due to activIT systems; or
- c. activIT systems is unable to verify or authenticate any information Customer provides to activIT systems; or
- d. activIT systems believes that Customer's actions may cause legal liability for Customer, activIT systems's other clients, or activIT systems.

activIT systems may also in its sole discretion and at any time discontinue providing the Service, or any part thereof, with or without notice. You agree that any termination of your access to the Service under any provision of these terms and conditions may be effected without prior notice, and acknowledge and agree that activIT systems may immediately deactivate, archive or delete your account and all related information and data in your account and/or any further access to such data or the Service. Further, you agree that the activIT systems shall not be liable to you or any third-party for any termination of your access to the Service.

Upon termination of this Agreement by either Customer or activIT systems, all of Customer rights under this Agreement, and activIT systems's provision of Services, will terminate immediately. Any amounts Customer owes activIT systems, if any, will become immediately due and payable, including Fees for the remainder of the subscription cycle. Refunds to Customer will be given solely at the discretion of activIT systems.

11.2.

The Sections 4 ("Customer Data"), 7 ("No Warranty"), 8 ("Indemnity"), 9 ("Limitation Of Liability") and this Section 11 will survive any termination of this Agreement.

12. Jurisdiction

These terms and conditions will be governed by and construed in accordance with the laws of the State of Western Australia, Australia. Any legal action or proceeding relating to or arising out of these Terms or your use of the Web site will be brought in a federal or state court in Western Australia, Australia, and you submit to the venue and personal jurisdiction of such court. If any provision of these Terms is held to be invalid or unenforceable, such provision will be enforced to the greatest extent possible and the remaining provisions will remain in full force and effect. Headings are for reference purposes only and in no way define, limit, construe, or describe the scope or extent of such section. activIT systems's failure to act with respect to a breach by Customer or others does not waive activIT systems's right to act with respect to subsequent or similar breaches. No action by Customer arising under this Agreement may be brought at any time more than twelve (12) months after the facts occurred upon which the cause of action arose.

13. Money Back Guarantee

All web hosting accounts have a 30 day money back guarantee from the time the account was created by activIT systems. Should Customer wish to cancel their account and receive a refund, you must request the refund by email within 30 days of the account having been set up by activIT systems. The amount of the refund payable will be the dollar amount paid by Customer for web hosting services. Moneys paid for domain name registrations are not refundable. The refund is payable to the original payee and is not transferable. Where payment was made by credit or debit card, the refund will be made as a credit to that card used. Should Customer exceed the bandwidth (data transfer) or disk space allocation included with their account during the first 30 days this money back guarantee expires and no refund will be paid. Should Customer violate any other terms and conditions as set out in the Terms and Conditions of Service, the money back guarantee expires and no refund will be paid.

14. Miscellaneous

14.1. Relationship

Customer and activIT systems are independent contractors, and no agency, partnership, joint venture, employee-employer or franchise-franchisee relationship is intended or created by this Agreement.

14.2. Assignment

Customer may not assign any of its rights, or delegate any of its duties, under this Agreement, and any attempted assignment will be null and void.

14.3. Force Majeure

Operation of our Services may be interfered with by numerous factors outside of our control and we shall not be liable to you for any delay or failure in performance under this Agreement resulting directly or indirectly from causes beyond activIT systems's control.

14.4. Interpretation

If any provision of this Agreement is held to be invalid or unenforceable, such provision shall be struck, as narrowly as possible, and the remaining provisions shall be enforced. Headings are for reference purposes only and in no way define, limit, construe or describe the scope or extent of such section.