

# Acceptable Use Policy

January 21, 2014 - Version 3.11

**Please read the following carefully.**

The following is the myhosting® (“**We**”, “**Our**”, “**myhosting**” or “**myhosting.com**”) Acceptable Use Policy (the “**AUP**”). The AUP defines the terms and conditions that you (“**You**”, “**Your**” or “**Customer**”) agree to when You register and subscribe for Services with myhosting.com. **Please read these terms and conditions carefully before using the Services.** BY CONTINUING TO USE THE SERVICES, YOU ARE CONSENTING TO BE BOUND BY THE AUP, AND ALL RELATED POLICIES AND GUIDELINES OF MYHOSTING.COM, IF ANY, AS INDICATED IN THIS AUP ARE INCORPORATED BY REFERENCE.

myhosting.com reserves the exclusive right to revise, change or amend any portion of the AUP, or any other policies or guidelines governing the Services, at any time, in its sole discretion and without advance notice to You. You agree to comply with all policies regarding permitted and prohibited uses of the Services that may be posted by myhosting.com on the myhosting.com website, including any related Blogs and/or forums (the “**Site**”). Any changes will be effective upon posting of the revisions on the Site. Your use of the Services will be subject to the most current version of the AUP posted on the Site at the time of such use. You may view the most current version of this policy at ([myhosting.com/privacy-policy/aup.aspx](http://myhosting.com/privacy-policy/aup.aspx)). YOUR CONTINUED USE OF THE SERVICES FOLLOWING OUR POSTING OF ANY CHANGES WILL CONSTITUTE YOUR ACCEPTANCE OF SUCH CHANGES OR MODIFICATIONS. IF YOU DO NOT AGREE TO ANY CHANGES TO THE AUP, PLEASE IMMEDIATELY DISCONTINUE USE OF THE SERVICES.

At the sole discretion of myhosting.com, a Customer in violation of the AUP may have the Services cancelled without refund and/or, if appropriate, be subject to a civil action and/or criminal prosecution.

myhosting.com does not provide any services to customers located in the following countries: Belarus, Cuba, Iran, North Korea, Sudan, Syria, and any other countries, from time to time, that require myhosting.com to obtain any export license, permit or other approval under applicable laws and regulations including, but not limited to export control and/or sanctions regulations of any jurisdiction the laws of which may be implicated by this AUP.

## 1. DEFINITIONS

In this AUP, capitalized terms shall have the meanings set out in this Section 1:

“**AUP**” means this acceptable use policy and the terms and conditions contained herein in respect of use of the Services, as the same may be amended or replaced from time to time in accordance with the provisions of this AUP;

“**APAUP**” means the Affiliate Program Acceptable Use Policy and the terms and conditions associated with that agreement, found here <http://myhosting.com/privacy-policy/affiliate-aup.aspx>;

“**Charges**” means the relevant and appropriate fees and charges payable by You for using the Services as outlined in the registration process and that appear on the Site at

[myhosting.com/web-hosting/](http://myhosting.com/web-hosting/), as the same may be amended from time to time in accordance with the provisions of this AUP;

“**Claims**” means any claim, demand, liability, damage, loss, suit, action, or cause of action and all related costs and expenses, including legal fees, if any;

“**Content**” includes information made available, displayed or transmitted in connection with the Services including but not limited to all trade-marks, domain names, contents of any bulletin boards or chat rooms or forums, information made available by means of an HTML “hyper link”, a third party posting or similar means and all updates, upgrades, modifications and other versions of any of the foregoing;

“**Domain Agreements**” means any Domain Registration Agreements published and maintained by OpenSRS that pertain to any domain names You have registered through myhosting.com, including: <http://myhosting.com/privacy-policy/opensrs-agreement.aspx>

“**Initial Term**” means the initial term during which You receive the Services from myhosting.com, as specified in the registration process when You register and subscribe for Services with myhosting.com. The Initial Term shall be no less than one (1) month, but not longer than thirty six (36) months, unless otherwise stated in any fully executed Service Order You have with myhosting;

“**Microsoft License**” means the Microsoft Software License that You agree to be bound by as it relates to the Services You subscribe to under the terms of this AUP. The most current version of the Microsoft License can be found here <http://myhosting.com/privacy-policy/microsoft-end-user-license-agreement.aspx>;

“**Services**” means the web hosting, application hosting, server hosting, virtual private server hosting (VS), domain registration, and/or dial-up Internet access services, subject to this AUP, provided to You by myhosting.com;

“**Spam**” means unsolicited e-mails, including without limitation, commercial advertising and informational announcements;

“**Spamming**” means sending spam; and

“**Term**” means any additional term subsequent to the Initial Term, including any renewal term(s).

## **2. INTERPRETATION**

The provisions contained in this AUP are intended to be guidelines for You as it relates to acceptable behaviour and conduct in connection with Your use of the Services. THESE PROVISIONS ARE NOT MEANT TO BE EXHAUSTIVE. In general, any conduct that violates any laws, regulations, or any of the generally accepted norms of the Internet community, whether or not expressly mentioned in this AUP, is prohibited. myhosting.com reserves the exclusive right, at any and all times, to prohibit any of Your activities, in connection with Your use of the Services, that in any way damage the commercial reputation and goodwill of myhosting.com.

Unless otherwise specified, words importing the singular include the plural and vice versa and words importing gender include all genders.

## **3. SYSTEM AND NETWORK SECURITY**

In connection with Your use of the Services, You are strictly prohibited from engaging in the following activities:

1. tampering with accounts of other users, or committing unauthorized intrusions into any part of the myhosting.com system or related systems;
2. using servers, files, accounts, or networks to intrude, without authorization, into any other system or systems;
3. using accounts not provided or intended for use by You or circumventing security provisions in order to access Services without incurring Charges;
4. using the myhosting.com system in a manner that unfairly, as determined in the sole and absolute discretion of myhosting.com, encumbers disk space, processors, network or other system resources beyond those provided to You as part of the Services purchased;
5. making deliberate attempts to interfere with or overload any other service or attempt to disable a host;
6. any network-based attack on local and/or foreign networks, hosts, servers, or any systems or applications, including without limitation, overloading, engaging in “denial of service” attacks, “crashing” or “mail-bombing”, in which case myhosting.com will promptly notify the appropriate law enforcement authorities of such violation(s); and
7. utilizing the Services in any other manner so as to interrupt or interfere with the access to and/or usage of the Internet by another party.

#### **4. E-MAIL**

In connection with Your use of the services, You are strictly prohibited from engaging in the following activities:

1. sending commercial e-mail to a recipient if such recipient has requested that You discontinue such communication;
2. transmitting e-mail, to non-consenting recipients, that is unlawful, harmful, threatening, abusive, harassing, defamatory, vulgar, obscene, pornographic, libelous, invasive of another’s privacy, hateful, or racially, ethnically or otherwise objectionable, including but not limited to any e-mail that encourages conduct that would constitute a criminal offence, violate the laws of others or otherwise violates any applicable local, provincial, national or international law;
3. knowingly transmitting e-mail that contains software viruses or any other computer code, files or programs designed to interrupt, destroy, alter or limit the functionality of any computer software or hardware;
4. forging e-mail header information in any way;
5. using Your account with myhosting.com or access to a network connection by using the myhosting.com Services to collect e-mail replies of messages sent from any other Internet service provider that is in violation of this AUP or those of the originating service provider;
6. Spamming;
7. using another site's mail server to relay Your e-mail without the expression permission of that other site; and

8. using the SMTP gateway provided by myhosting.com for any purpose that is deemed, in the sole and absolute discretion of myhosting.com, to constitute resource abuse.

myhosting.com reserves the sole right to block, without notice to You, any e-mail messages to You that, in myhosting.com's sole and absolute discretion, are considered Spam.

## **5. BILLING**

In connection with the use of the Services, You agree to the following:

1. paying, as applicable, any and all relevant Charges relating, but not limited, to:
  1. hosting subscription fees;
  2. domain registration and/or renewal fees;
  3. SSL certificate fees;
  4. additional features;
  5. additional disk space;
  6. additional bandwidth;
  7. additional e-mail accounts;

Note: Canadian Customers in Ontario, British Columbia and the Maritimes will be charged HST, while all other Canadian Customers will be charged GST in respect of these Charges.

You agree to the Charges, as they may be amended from time to time. Notice to You of any such amendments shall be made by myhosting.com updating the Site and/or sending notification thereof by e-mail or regular mail. By agreeing to this AUP, You authorize myhosting.com to charge any amounts payable by You, in connection with Your use of the Services, automatically to the credit card You provided in the registration process or such credit card number that You provide thereafter, regardless of the status of Your account with myhosting.com and subject only to the terms and conditions of the agreement between You and Your credit card issuer. Your right to use the Services is subject to any limits established by Your credit card issuer.

2. All prices on the myhosting.com website are listed in U.S. Dollars (\$). myhosting.com reserves the right to charge You in any currency, at the U.S. Dollar equivalent at the time of billing. The following administration fees will apply:
  1. NSF check(s) – USD\$25 / check returned by Your bank.
  2. Chargebacks – 5% fee of the chargeback or USD\$25, whichever is greater, will be levied.
  3. Wire Transfers - should include any additional processing fees that may apply, particularly international wire transfers. You are responsible to ensure these additional fees, if any, are added to the wire transfer submitted to Us.
  4. Reactivation – a reactivation fee of USD19.95 will apply for cancelled accounts. A USD\$99.95 fee may be assessed if We restore Your data files to Your reactivated account(s).

5. Account Splits – a fee of USD\$19.95 will apply if you split existing accounts into new accounts. This fee will be applied to the new account(s) created.
3. Each Term, will be for a period equal to the Initial Term unless You or We give the other prior written notice of termination on no less than thirty (30) days before the end of the Initial Term or Term (as applicable). Such termination notice will be effective from the end of the then current Term, if received with proper notice; or the end of the next Term if proper notice was not received before the end of the then current Term. Any prepaid amounts will not be refunded after the expiry of the 30-day money back guarantee period. You will be responsible for all Charges until the end of the then current Term.
4. If You are provided with a free Domain Registration as part of any special offer at the time of sign-up with myhosting.com for any of the Services, You agree to pay all related Domain Registration fee(s) should any Services be cancelled by You or by Us before the Initial Term has lapsed from the date You signed up for said Services.
5. In respect of all valid credit cards that You provide to myhosting.com for the purpose of payment, if myhosting.com is not notified by You, prior to the expiry date of such credit card, myhosting.com will automatically update the expiry date of the credit card on myhosting.com's own internal system, to the next year in order to prevent any undesired interruption of the Services.
6. If applicable, myhosting.com will automatically renew all domain names, associated with hosting Your account, that were registered by or transferred to myhosting.com. A reminder notice will be sent to Your e-mail address on record, one (1) to two (2) months prior to the expiry of such domain name(s). You are provided with the opportunity to decline the renewal by following the appropriate instructions attached to the e-mail from myhosting.com. Any failure to decline this renewal request is deemed sufficient authorization from You for myhosting.com to renew the relevant domain name(s) for a period of one (1) year at the current rates, as further detailed in the renewal notice. Pricing details for domain name renewals are available by following the instructions provided in the email, but may not always be provided in the email itself.
7. All Services come with a 30-day money back guarantee. If You are not completely satisfied with any of the Services within the first 30 days of activating Your account, You must contact Us (by email – [support@myhosting.com](mailto:support@myhosting.com)) with a brief explanation of the issue. A representative of myhosting.com will contact you back to validate and process any cancellation request. Sending a cancellation email to myhosting.com does not confirm your cancellation of any Services with myhosting. myhosting.com will provide You with a confirmation email once Your Services have been cancelled. We will provide a full refund for any of the Services, excluding any setup or any additional Services provisioned by You, including, but not limited to Internet Access roaming charges, domain registration fees, additional disk space and additional bandwidth charges. Refunds are processed manually, and must be received and processed by myhosting.com within six (6) months of terminating Your account under the terms of this 30-day money back guarantee. myhosting.com will use discretion to process all refunds and will either refund to the same Credit Card used originally, issue a company Check or remit a payment through PayPal.

8. myhosting.com provides 100% availability for all hosting services (excluding scheduled maintenance and Force Majeure). A service credit request must be submitted to Our support department within thirty (30) days of any service impairment to be eligible for consideration. All eligible credits will be provided on a proportional basis, i.e. one minute worth of credit for every one minute of downtime, and will be applied toward future service charges only. All other services running as part of the hosting plans are not included in the definition of our uptime guarantee.
9. When registering any domain names through myhosting.com, in addition to agreeing to be bound by these terms and conditions hereunder, You also accept and agree to all Domain Agreements, as they existed at the time of registration, or as they may change from time-to-time. myhosting.com publishes all Domain Agreements at: <http://myhosting.com/privacy-policy/opensrs-agreement.aspx>.

## 6. SSL CERTIFICATES

Customers of **Our SSL Certificates** must abide by these additional terms and conditions:

1. All SSL and EV SSL Certificates provided by myhosting.com are provided to You for exclusive use with other Services You purchase from myhosting.com. SSL and EV SSL certificates purchased from myhosting.com may not be used with other services provided by any 3rd parties.
2. The SSL and EV SSL Certificates provided may not be resold or otherwise redistributed for profit unless express written permission is provided to You by myhosting.com.
3. All SSL and EV Certificates provided to You by myhosting.com are provided by way of a reseller arrangement myhosting.com has with Comodo CA Ltd. Comodo may, as required by the reseller agreement between myhosting.com and Comodo, contact You to validate the information provided for such SSL and/or EV SSL Certificates and Your eligibility for same. Comodo is solely responsible for determining eligibility for all SSL and/or EV SSL Certificates.
4. All legal issues related to SSL and/or EV SSL Certificates will be interpreted and construed under the laws of the United Kingdom without regard to its conflicts of law principles. You agree to indemnify, without limitation, myhosting.com, its directors, officers, shareholders, employees, agents or advisors from any and all claims related to the SSL and EV SSL Certificates. You agree that You will be solely responsible for addressing any claims to Comodo directly as they pertain to any and all SSL and EV SSL Certificates purchased through myhosting.com.

## 7. VIRTUAL SERVER

Customers of **Our Virtual Server (VS)** must abide by these additional terms and conditions:

1. All VS accounts are provided 'as is' without any expressed or implied warranty or service guarantees beyond any explicitly mentioned herein in this AUP.
2. The VS accounts purchased are intended for Your exclusive use, however, they may be extended to 3rd parties as long as any such 3rd party use is consistent with this AUP. You will be exclusively responsible for all actions taken by anyone that You extend access of

the VS account(s) to, without exception, if there is any violation of these Terms and Conditions.

3. You, and anyone You extend access to the VS account(s), are permitted to install 3rd party applications in the VS environment specifically allocated to You, provided that You maintain at all times an up-to-date license for any such 3rd party application(s) and agree to voluntarily remove unlicensed 3rd party applications and to provide copies of said license(s), without delay, to myhosting.com if asked by an authorized myhosting.com representative. If myhosting.com does not receive copies of said license(s) within five (5) business days of any such request, myhosting.com will have the right to remove any potential unlicensed 3rd party application(s) without any further notice to You and suspend or terminate Your account with myhosting.com based on Our sole discretion. If Your VS account(s) are suspended or terminated for any license issues, as stated in Article 7(c), myhosting.com reserves the sole and exclusive right to charge a reasonable administration fee for the time and effort employed by Our technical personnel. Any such administration fee will be detailed by myhosting.com to You at the time of suspension or termination. Further, You agree to fully indemnify, without exception and limitation, myhosting.com, their shareholders, officers, managers, employees, partners, vendors, and affiliates from any and all legal liabilities that may arise due to the actions undertaken by myhosting.com stated in Article 7(c) and 7(d).
4. You, and anyone You extend access to the VS account(s) are subject, if applicable, to any Microsoft License, as found at <http://myhosting.com/privacy-policy/microsoft-end-user-license-agreement.aspx>. This applies specifically to any Microsoft software installed in Your VS accounts(s) at any time. myhosting.com requires that You purchase all Microsoft software licenses through myhosting.com as part of Your Service. If Your VS account(s) has been provisioned on a Microsoft Operating System, You are provided with one (1) terminal services account for administration purposes only. Should You require more, You are required to purchase all additional terminal service accounts through myhosting.com.
5. You accept and acknowledge that myhosting.com is not responsible for any and all Content hosted in Your VS account(s) without exception. You are solely responsible for backing up Your Content and/or any of Your files and 3rd party applications that reside in Your VS account(s). myhosting.com will perform daily and weekly routine back-ups for business continuity purposes, but any said back-ups should not be depended on by You for any reason whatsoever. myhosting.com is only responsible to restore the base VS environment (the Operating System and any pre-installed applications maintained by myhosting.com) in the event of any data restoration occurrence.
6. You acknowledge and agree that all 3rd party applications installed by You in the VS environment specifically allocated to You is Your exclusive responsibility to maintain and support. myhosting.com, at absolutely no time, will be responsible to support any of these 3rd party applications, including any troubleshooting issues that may occur as a result of any of these 3rd party applications being installed in Your allocated VS environment. If You request assistance from myhosting.com to troubleshoot, research or correct any said 3rd party application issues, You will be responsible for a reasonable administration fee that will be determined in advance by myhosting.com and presented to You prior to any said corrective work being performed by myhosting.com.

7. You are prohibited from performing any action or installing any 3rd party application that violates any of the Terms of this AUP, or in the opinion of myhosting.com personnel, violates the rights of any myhosting.com customers, partners, vendors and affiliates.
8. myhosting.com provides You the option of locating Your VS account(s) in either Canada and/or the United States. You acknowledge and agree that hosting Your VS account(s) in the United States may subject You to additional laws and regulations specific to being hosted in the United States. You hereby agree and acknowledge myhosting.com personnel, and/or any representatives working on behalf of myhosting.com, is authorized to take all necessary and appropriate action to ensure Your VS account in the United States remains compliant with all relevant and applicable United States laws and regulations. As with any violations, myhosting.com will investigate, as per Article 12 hereunder.
9. All Hyper-V-based VS accounts are provided with “localadmin” or “administrator” accounts. These accounts are required for myhosting.com technicians to monitor the operational status of Your VS account in order to provide support as well as maintenance, patching and updates. You are explicitly prohibited from modifying the passwords assigned, permissions or settings of these accounts in any way.

The following additional Support services apply exclusively to Virtual Servers:

10. myhosting.com will provide the following support services:
  1. 100% uptime guarantee, subject to the Service Level Agreement (“SLA”) <http://myhosting.com/privacy-policy/sla.aspx>.
  2. Patching and Security Updates. Patching and maintenance of host machine may or may not include patching of related VS software by virtue of host updates.
  3. Disaster Recovery. myhosting.com will provide disaster recovery of the host server should unforeseen downtime, damage or data loss occur. myhosting.com does not guarantee that all of Your content will be restored to the exact state just prior to any Disaster Recovery event. You are still required to back-up all of Your content on a regular basis, and may be required to restore Your content to Your VS account(s) following any said Disaster Recovery event. Disaster Recovery is limited to the operation of the myhosting.com Data Center and cannot be used for:
    1. Accidental deletion of VS data by You or any of Your FTP users;
    2. External attacks to VS content through virus or SQL injection; or
    3. Content uploaded to the client VS that was previously compromised on a local machine

## **8. "UNLIMITED" USAGE POLICIES AND DEFINITIONS**

This section applies only to services purchased that are provided with unlimited features, i.e. bandwidth and disk space. All other services are provided with set limitations, as defined by the service plan(s) subscribed to, as they may change from time-to-time.

myhosting.com does not set any pre-defined limits on the amount of resources You can consume as part of the Services they subscribe to. However, myhosting.com reserves the sole and exclusive right to decide what constitutes reasonable consumption based on the principal of

providing You with all the disk space and file transfer resources necessary to operate Your web site, as long as You use the hosting services in accordance with the following additional terms:

1. myhosting.com does not set any limits on the amount of disk space You can use for Your website, nor does myhosting.com charge additional fees based on an increased amount of storage used, provided Your use of storage complies with these Terms. You agree that these resource allocations are optimized and dedicated towards serving web documents, email services and is not intended for online storage, backups, or archiving of electronic files, documents, log files, etc., and any such prohibited use of the Services will result in the termination of Your account, with or without notice. All downloadable files or files stored on server must be available for download via a HTML document stored on hosted account in publicly accessible area(s) and must be directly related to the general nature of the website index. Accounts with an excessive number of files negatively affect the performance of servers and myhosting.com may request that the number of files be reduced to ensure proper performance.
2. myhosting.com's web hosting service is a shared service, which means multiple web sites are hosted on the same server utilizing the same server resources. myhosting.com's service is architected to meet the typical needs of home based office and small business website customer in North America. It is NOT intended to support the demands of large enterprises, international businesses, or non-typical applications better suited to a Virtual or Dedicated Server.
3. myhosting.com will make every commercially reasonable effort to provide additional resources to You should you be in compliance with the Terms and Conditions of this AUP, including moving You to less utilized servers, should that be necessary. However, in order to ensure a consistent and quality service for all Subscribers, myhosting.com reserves the right to implement safeguards to protect the integrity and service quality of all customers by imposing limitations on specific web sites until such time as myhosting personnel have had an opportunity to decide what the best course of action is to take.

## **9. DISCLAIMER**

1. ALL SERVICES PROVIDED BY MYHOSTING.COM, IS PROVIDED TO YOU "AS IS" AND "AS AVAILABLE" WITHOUT WARRANTY OR CONDITION OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT, OR NON-INFRINGEMENT.
2. MYHOSTING.COM MAKES NO REPRESENTATIONS OR WARRANTIES THAT (I) THE SERVICES WILL MEET YOUR REQUIREMENTS; (II) THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE; AND (III) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES WILL BE ACCURATE OR RELIABLE.
3. MYHOSTING.COM IS NOT RESPONSIBLE FOR ANY DAMAGES ARISING FROM YOUR USE OF ANY SERVICES PROVIDED BY MYHOSTING.COM OR YOUR INABILITY TO USE ANY SERVICES FOR ANY REASON. THIS EXPRESSLY INCLUDES ANY REIMBURSEMENT FOR LOSSES OF INCOME

DUE TO DISRUPTION OF SERVICES BY MYHOSTING.COM OR ITS PROVIDERS THAT EXCEED THE FEES PAID BY YOU.

## **10. LIMITATION OF LIABILITY**

1. YOU EXPRESSLY UNDERSTAND AND AGREE THAT IN NO EVENT SHALL MYHOSTING.COM, ITS DIRECTORS, OFFICERS, SHAREHOLDERS, EMPLOYEES, AGENTS OR ADVISORS BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF MYHOSTING.COM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES UNDER CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER THEORY), RESULTING FROM: (I) THE USE OR THE INABILITY TO USE THE SERVICES, THE SITE OR ANY CONTENT; (II) ANY THIRD PARTY CLAIMS THAT THE USE BY YOU OF THE SERVICES OR THE CONTENT VIOLATES ANY INTELLECTUAL PROPERTY RIGHT; OR (III) ANY OTHER MATTERS RELATING TO THE SERVICE, THE SITE OR THE CONTENT.
2. YOU SPECIFICALLY ACKNOWLEDGE THAT MYHOSTING.COM IS NOT LIABLE FOR THE DEFAMATORY, OFFENSIVE OR ILLEGAL CONDUCT OF THIRD PARTIES AND THAT THE RISK OF INJURY FROM THE FOREGOING RESTS ENTIRELY WITH YOU. FURTHER, MYHOSTING.COM SHALL HAVE NO LIABILITY TO YOU FOR ANY CONTENT DOWNLOADED FROM THE SERVICE. YOU AGREE THAT THE AGGREGATE LIABILITY OF MYHOSTING.COM, ITS DIRECTORS, OFFICERS, SHAREHOLDERS, EMPLOYEES, AGENTS OR ADVISORS TO YOU FOR ANY AND ALL CLAIMS UNDER CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY, OR OTHER THEORY ARISING FROM THIS AUP OR FROM THE USE OF THE SITE, THE CONTENT, OR THE SERVICES IS LIMITED TO \$CDN100.

## **11. GENERAL**

You agree to abide by the following general provisions:

1. All hosting services provided to You by myhosting.com may only be used for lawful purposes. Transmission, distribution or storage of any Content in violation of any applicable law or regulation is prohibited. This includes, without limitation, material protected by copyright, trade-mark, trade secret or other intellectual property rights used without proper authorization, and material that is obscene, defamatory, constitutes an illegal threat, or violates export control laws. Further examples of non-acceptable Content or links, include without limitation: “pirated software”, “hacker programs or archives”, “warez Sites”, “IRC Bots” and “MP3” files.
2. You represent and warrant that You are (a) party doing business, (b) located in a jurisdiction, and (c) engaged in activities, such that myhosting.com is not required to obtain any export license, permit or other approval under applicable laws and regulations including, but not limited to export control and/or sanctions regulations of any jurisdiction the laws of which may be implicated by this AUP. Furthermore, You acknowledge and agree that myhosting.com shall have the exclusive authority to monitor

such status on a regular basis and, if it should be determined by myhosting.com that You, at any point in time, are in violation of any of these representations and warranties, myhosting.com shall have the exclusive authority to immediately terminate any and all Service(s) to You without prior written notice, and You will forfeit any remaining balance on Your account.

3. 100% uptime guarantee, subject to the Service Level Agreement (“SLA”) <http://myhosting.com/privacy-policy/sla.aspx>.
4. myhosting.com reserves the right, in its sole discretion, to deactivate Your account(s) upon an indication of credit problems, including delinquent payments, and if portions of this AUP are, in the sole and absolute discretion of myhosting.com, being violated in any way.
5. Ownership of any Domain registration(s) registered on Your behalf by myhosting.com will not be transferred to You until satisfactory payment is received in full by myhosting.com for said registration(s). If payment is not received, or if myhosting.com determines payment provided is unsatisfactory (fraud, insufficient funds, etc...), You agree to waive any and all rights to said domain registration(s) and permit myhosting.com to return domain registration(s) to the domain name registry, if possible, or assume full and complete ownership of domain registration(s) for any purpose whatsoever. myhosting.com does not permit You to transfer any domain registration(s) away from myhosting.com’s control until full and satisfactory payment is received by myhosting.com for all domain registration(s). If You have purchased Your domain registration(s) as part of a special promotion, i.e. the domain registration(s) is included in the price of the service plan subscribed to, ownership will transfer to You at the time satisfactory payment is received by myhosting.com for the service plan subscribed to. If You cancel any special promotional service before the end of the term, You will be required to compensate myhosting.com the cost of the domain registration(s) provided as part of the special promotion.
6. myhosting.com has no obligation to monitor content or Your use of Our network. However You agree that We have the right to monitor and investigate content and Your use of Our network electronically from time to time and to disclose any information as necessary to:
  1. satisfy any law, regulation or other governmental request or to assist in the pursuit of any legal action against you;
  2. operate the Services properly;
  3. ensure or enforce compliance with this AUP and the Privacy Policy; or
  4. protect myhosting.com or Our subscribers.
7. myhosting.com reserves the right, in its sole and absolute discretion, to decide the content that is displayed on any and all domain parking pages that are hosted by myhosting.com. A domain name is considered parked if myhosting.com has registered or manages a domain name on behalf of You, but You have not purchased or subscribed for any accompanying Services that are connected to that domain name, including, but not limited to domain forwarding, email hosting, file hosting, and shared web hosting. You hereby consent to Us displaying any type of domain parking pages, without Your prior

consent, that We deem to be appropriate including, but not limited to domain parking pages which may advertise other Services provided by myhosting.com or any wholly-owned and/or affiliated brands.

8. You are solely responsible for backing up Your Content and or any of Your files that reside on myhosting.com's managed and/or owned servers. myhosting.com is not responsible in any way for the Content You host on myhosting.com servers, or for the reliability of the transmission of data across or through the myhosting.com network.
9. You agree that any material or Content that You submit for publication on myhosting.com managed and/or owned servers will not contain anything leading to an abusive or unethical use of the hosting Service. Abusive and unethical materials and uses include, but are not limited to, pornography, obscenity, nudity, violations of privacy, computer viruses, and any defamatory, harassing and harmful materials or uses. You agree to indemnify and hold harmless myhosting.com, its associated brands, including but not limited to mail2web.com, alloterra.net, softcom.biz and news2web.com, as they may be amended from time to time, and its officers, directors, shareholders, employees, agents and advisors from and against any Claims, losses, judgments, damages, costs and expenses (including, without limitation, reasonable legal fees), incurred by any of the foregoing parties due to or resulting from Your publication of such materials or Your use of such materials. myhosting.com, at its sole and absolute discretion, may or may not give notice to You before deactivating the use of any of Your account(s) that are determined to violate this AUP in any way.
10. Should You participate in the myhosting.com Affiliate Program, You agree to be bound by the additional terms and conditions of that agreement found here <http://myhosting.com/privacy-policy/affiliate-aup.aspx>.
11. Should You decide to become a recognized Friend of myhosting.com Services, You agree to be bound by the additional terms and conditions found here <http://myhosting.com/friends-with-benefits/>. The definition of a recognized Friend means You have completed and have been accepted by myhosting.com as a known advocate and participant of the myhosting Friends Program.
12. Due to the public nature of the Internet, all information should be considered generally accessible to the public and important or private information should be treated carefully. myhosting.com is not liable for protection or privacy of Your e-mail or Your other information transferred through the Internet or any other network myhosting.com or its customers may utilize.
13. myhosting.com maintains exclusive control and ownership of any and all Internet Protocol numbers and addresses that may be assigned to You and reserves in its sole and absolute discretion the right to change or remove any and all such Internet Protocol numbers and addresses.
14. Your use of any Content obtained via the Site is at Your own risk. myhosting.com specifically denies any responsibility for the accuracy or quality of information obtained through its Services.
15. Your use of other organizations' networks or computing resources is subject to their respective permission and usage policies.

16. If myhosting.com cancels Your account(s) for any reason, You agree not to reregister with myhosting.com without myhosting.com's prior written consent. In the event You reregister without myhosting.com's prior written consent, myhosting.com will cancel Your account(s) and all dues and fees paid to date will be forfeited regardless of whether Services have been rendered. Additionally, any amounts owed in arrears will be made due and payable immediately.
17. myhosting.com requires that You be qualified to enter a legal contract. myhosting.com cannot accept payments from persons who are not at least eighteen (18) years of age. You will be held responsible for keeping all billing data for myhosting.com accurate and up-to-date. Any misrepresentation made by You in respect of any data and/or information supplied by You during the registration process will be grounds for myhosting.com to terminate Your account. You acknowledge and agree that Your use and continued use of the Services are subject to periodic fraud screening techniques, that may include, but are not limited to, credit card address verification systems, fraud ranking scores, telephone number verification, SMS verification, photo ID and any other methods considered reasonable and acceptable in the industry.
18. You agree to defend, hold harmless, and expeditiously indemnify myhosting.com from any and all liability, Claim, loss, judgment, damage, cost or expense (including, without limitation, reasonable legal fees) arising out of Your breach or violation of any covenant contained in this policy, or resulting from Your use of the Services.
19. You agree to waive and hold myhosting.com harmless from any Claims relating to any action taken by myhosting.com as part of an investigation into a suspected violation of this AUP or as a result of its conclusion that a violation of this AUP has occurred. Therefore, You cannot sue or recover any damages whatsoever from myhosting.com as a result of myhosting.com's decision to remove material from its server, or to suspend or terminate Your account.
20. The web server is physically located in the Province of Ontario, and You may only access the server by means of the Internet.
21. myhosting.com reserves the sole and exclusive right to cancel Your account with myhosting.com, based on, but not limited to, You engaging in activities that:
  1. encumber the CPU;
  2. require resource intensive processes, including the usage of resource intensive software applications or server-side scripts;
  3. require significant bandwidth (including involuntary DDoS attacks against You); and/or
  4. require significant disk space.
22. myhosting.com reserves the sole and exclusive right to limit, at any time and without prior notice, the type and quantity of support provided to You for the Services purchased. Support shall include, not is not limited to; telephone, email, chat, fax and any other medium deemed acceptable to myhosting.com personnel.
23. myhosting.com may terminate any of Your account(s) immediately by giving notice in writing, in the event that You present an abnormal risk of loss (including without

limitation, incurring a significant amount of billable Charges for which You have not been credit approved, and You being subject to involuntary local or remote DDoS attacks), as determined by myhosting.com in its sole and absolute discretion.

24. myhosting.com has a strong corporate policy to respect and protect the privacy of its customers and their information that is stored on myhosting.com's servers. This policy is available at [myhosting.com/privacy-policy/](https://myhosting.com/privacy-policy/). myhosting.com will only access and disclose information as necessary to comply with applicable laws and government requests, to provide myhosting.com Services, to operate or maintain its systems or to protect itself or its customers.

## **12. POLICY ENFORCEMENT**

myhosting.com does not routinely monitor Your activity for violation of this AUP. However, in Our efforts to promote good citizenship within the Internet community, we will respond appropriately if We become aware of inappropriate use of Our Services. Although myhosting.com has no obligation to monitor the Services and/or the network, myhosting.com, its affiliates, suppliers and agents reserve the right to monitor and investigate usage and content from time to time to operate the Services; to identify violations of this AUP; and/or to protect the network and Our subscribers.

When myhosting.com becomes aware of any alleged violation of this AUP, myhosting.com will immediately initiate an investigation. myhosting.com, may at its own discretion anytime during an investigation, restrict Your access to the Services in order to prevent any further possible unauthorized activity. Depending on the severity of the violation, myhosting.com may, at its sole discretion, restrict, suspend, or terminate Your account and/or pursue other legal remedies. If such violation is a criminal offense, myhosting.com will promptly notify the appropriate law enforcement officials of such violation. You hereby authorize myhosting.com, its affiliates, suppliers and agents to cooperate with: (i) law enforcement authorities in the investigation of suspected criminal violations; and (ii) system administrators at other Internet service providers or other network or computing facilities in order to enforce this AUP. Such cooperation may include myhosting.com providing the username, IP address or other identifying information about a subscriber.

Notwithstanding any of the above, myhosting.com reserves the right, in its sole and absolute discretion, to terminate Your access to any Services, at any time. Any fees that have been paid in advance of cancellation will be pro-rated and refunded to You if cancellation is initiated without cause by myhosting.com. If cancellation of Services is a result of a violation of this AUP that causes myhosting.com to incur any additional costs (i.e. network traffic, disk space, licensing charges, etc), You acknowledge Your responsibility to reimburse myhosting.com from fees paid in advance and/or future billing. Upon termination of the Services, myhosting.com is authorized to delete any files, programs and data associated with Your account and will have no obligation to return any such files, programs or data associated with Your account. You are responsible for maintaining back ups of any such files, programs or data.

## **13. COPYRIGHT INFRINGEMENT**

1. Should myhosting.com become aware of any material posted by You that could be infringing on a third party's copyright, myhosting.com will immediately initiate an investigation. If a claim is received by myhosting.com from a third party complainant

with the applicable copyright or trademark registration number, a copy of the underlying copyrighted work along with Your materials and/or a good faith declaration, signed under penalty of perjury, that (i) the material is the property of the complainant; or (ii) the work has been copied and that use of the material is not defensible, myhosting.com, at its sole discretion, may, at anytime, restrict Your access to the challenged material.

2. myhosting.com will notify You of the copyright infringement allegation and will allow You to respond to the allegation(s)
3. myhosting.com shall have no liability, directly or indirectly, to third parties for any of Your infringing materials. You agree to indemnify and hold harmless myhosting.com, its associated brands, including but not limited to mail2web.com, alloterra.net, softcom.biz and news2web.com, as they may be amended from time to time, and its officers, directors, shareholders, employees, agents and advisors from and against any Claims, losses, judgments, damages, costs and expenses (including, without limitation, reasonable legal fees), incurred by any of the foregoing parties due to or resulting or associated with processing valid infringement allegations and defending any and all legal claims associated therewith.

#### **14. CONTENT**

1. All Services may be used for lawful purposes only. Your transmission, storage, or presentation of any Content in violation of any and all applicable federal, provincial and municipal laws is prohibited. This includes, but is not limited to: copyrighted material, material judged to be defamatory, threatening or obscene, or material protected by trade secret and other statute. You agree to indemnify and hold myhosting.com and all associated brands including but not limited to mail2web.com, alloterra.net, softcom.biz and news2web.com, as they may be amended from time to time, and its officers, directors, shareholders, employees, agents and advisors from and against any Claims, losses, judgments, damages, costs and expenses (including, without limitation, reasonable legal fees) resulting from the use of the Services which damages You or any other party.
2. Pornography and sex-related merchandising are prohibited on all myhosting.com servers. This includes the hosting of sites that may infer sexual content or any links to adult content elsewhere. The foregoing applies equally to sites that promote any illegal activity or content and that may be damaging to Our servers or any other server on the Internet. Links to such materials are also prohibited.

The following are examples of non-acceptable content or links:

- i. Pirated software;
- ii. Hackers' programs or archives;
- iii. Warez Sites;
- iv. IRC Bots;
- v. MP3 files;
- vi. Spyware or any related software that records an user's activities without their permission and forwards that information via the Internet; and

vii. SPAM software (i.e., any software that allows a user to transmit SPAM in violation of Our SPAM policy (please refer to Section 3 above)).

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

## **15. REPORTING ABUSE OF THIS POLICY**

Any party seeking to report any violations of this policy may send an e-mail to: [abuse@myhosting.com](mailto:abuse@myhosting.com)

## **16. APPLICABLE LAW**

You agree that all matters relating to the use of the Site, the Services and the Content shall be governed, controlled, interpreted and defined by and under the laws of the Province of Ontario and the federal laws of Canada applicable therein without giving effect to any principles of conflicts of laws. You also agree that any action at law or in equity arising out of or relating to this AUP or Your use of the Site, the Services or the Content will be filed only in a court located in Toronto, Ontario, Canada and You hereby irrevocably and unconditionally consent and submit to the exclusive jurisdiction of such courts for the purpose of any such action.

## **17. ENTIRE AGREEMENT**

This AUP constitutes the entire agreement between You and myhosting.com relating to the subject matter hereof and supersede any prior understandings or agreements (whether oral or written), claims, representations, and understandings of the parties regarding such subject matter and this AUP may not be amended or modified except in writing or by making such amendments or modifications available on the Site.

## **18. NO AGENCY; THIRD-PARTY BENEFICIARY**

myhosting.com is not Your agent, fiduciary, trustee, or other representative. Nothing expressed or mentioned in or implied from this AUP is intended or will be construed to give to any person other than the parties hereto any legal or equitable right, remedy, or claim under or in respect to this AUP. This AUP and all of the representations, warranties, covenants, conditions, and provisions hereof are intended to be and are for the sole and exclusive benefit of myhosting.com and You.

## **19. ASSIGNMENT**

You may not assign, convey, subcontract or delegate any of Your rights, duties or obligations hereunder.

## **20. SEVERABILITY**

If any provision of the AUP is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavour to give effect to the parties' intentions as reflected in the provision, and the other provisions of the AUP remain in full force and effect.

## **21. LIMITATION**

You agree that regardless of any statute or law to the contrary, any Claim arising out of or related to use of the Services or the AUP must be filed within one (1) year after such claim or cause of action arose or be forever barred.

## **22. NO WAIVER**

myhosting.com will not be considered to have waived any of its rights or remedies described in this AUP unless the waiver is in writing and signed by myhosting.com. No delay or omission by myhosting.com in exercising its rights or remedies will impair or be construed as a waiver. Any single or partial exercise of a right or remedy will not preclude further exercise of any other right or remedy. myhosting.com's failure to enforce the strict performance of any provision of the terms and conditions herein will not constitute a waiver of myhosting.com's right to subsequently enforce such provision or any other provisions of the AUP

**22. FORCE MAJEURE.** Myhosting.com will not be liable for any failure or delay in myhosting.com's performance of services due to causes beyond its reasonable control including, without limitation, Domain Name Server issues outside the direct control of myhosting.com, instant messaging issues outside of the direct control of myhosting.com, labor strikes or shortages, riots, insurrection, fires, flood, storm, explosions, acts of God, war, terrorism, any law, regulation, Order or other governmental action, labor conditions, earthquakes and material shortages ("Force Majeure").

## **23. HEADINGS**

The headings used in this AUP are included for convenience only and have no legal or contractual effect.

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