

# WEBSITE HOSTING

18 November 2022

Ask Charly Leetham  
Relax, You're In Good Hands



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**Ask Charly Leetham**  
Relax, You're In Good Hands

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Charly has been designing, developing and managing my website for over 5 years. The strategic insight she brings to the table is above and beyond any other web developer I have worked with. I consider Charly an integral part of the growth of my business and have recommended her to many of my mentoring clients. Charly's logo of 'Relax, you're in good hands' completely embodies the experience I have with her every time.

***Gabrielle Dolan, Director, Gabrielle Dolan Consulting***

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## ABOUT ASK CHARLY LEETHAM

At Ask Charly Leetham, our goal is to assist small business owners realise the power of the Internet as a channel to market their organisations in an appropriate and cost-effective manner.

We help solopreneurs and small businesses map their business processes, plan their web presence, build the web presence and provide ongoing support and advice to help the business grow their Internet presence.

We realise that the purpose of a website is defined by an overall business and marketing strategy. More often than not, a website begins as an online brochure that provides prospects with the feeling that the business is legitimate and provides enough information for them to feel comfortable enough to contact your business for more information. However at times, the website becomes the 'hub' of service delivery processes as well as the business' online brochure. We find that reaching the balance between 'online brochure' and 'business hub' is a fine one and we bring our considerable experience to bear in this process.

At Ask Charly Leetham, we translate the client's visual requirements to a web view that works within the client's budget.

Our Principal, Charly Leetham, has been described as forthright and helps clients discover their real needs for their online presence - sometimes these differ greatly to the "wants" the clients start out with.

We understand that the process of building a website and a web presence is an iterative one, which evolves over time as the business grows or changes and as technologies come into existence.

## OUR AWARDS

We believe that Awards and nominations are a way for our clients to recognise the value that we provide to them. In that light, we are delighted to share that Charly, along with Ask Charly Leetham, has been awarded a number of National and International awards including:

- MCEI Women in Business Marketing Award 2010
- Stevie Awards, Best Entrepreneur – Service Businesses - Up to 100 Employees, 2011
- Top 100 Women in Ecommerce to Watch by Women in Ecommerce
- Golden Mouse for Website Design by Women in ECommerce
- Being shortlisted multiple times for the Telstra Business Woman of the Year awards.

## HOSTING SERVICE

### OVERVIEW

Our server is located in the US. It is a Virtual Private Server (VPS) that we share amongst our clients. We have optimised it's performance primarily for hosting WordPress Websites and to provide excellent security precautions.

The security on our server will ban anyone who makes multiple failed attempts to login to a WordPress website. This ban will stop them accessing the server in total and is designed to stop those hackers who try multiple sites located on a server.

Databases are stored on a separate server to the web host to reduce the processing load and improve website performance.



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## HOSTING OPTIONS

| Package  | Shared          | Small VPS       | Medium VPS      | Large VPS       |
|--|-----------------|-----------------|-----------------|-----------------|
| Memory   | N/A             | 1GB             | 2GB             | 4GB             |
| Disk Quota   | 1GB             | 25GB            | 50GB            | 80GB            |
| Data Transfer  | 3GB             | 1000GB          | 2TB             | 4TB             |
| Data Transfer Capped?<br><small>Website will stop displaying if data transfer limit is reached</small> | Y               | N               | N               | N               |
| FTP Accounts   | Unlimited       | Unlimited       | Unlimited       | Unlimited       |
| MySQL Databases  | Unlimited       | Unlimited       | Unlimited       | Unlimited       |
| Parked Domains   | Unlimited       | Unlimited       | Unlimited       | Unlimited       |
| Aliased / Addon Domains  | Unlimited       | Unlimited       | Unlimited       | Unlimited       |
| Dedicated IP Address   | N               | N               | N               | N               |
| SSL Certificate  | Y               | Y               | Y               | Y               |
| Monthly Fee  | <b>n/a</b>      | <b>\$34.00</b>  | <b>\$40.00</b>  | <b>\$50.00</b>  |
| Annual Fee<br><small>Paid annually in advance</small>  | <b>\$330.00</b> | <b>\$340.00</b> | <b>\$400.00</b> | <b>\$500.00</b> |



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## UNCAPPED BANDWIDTH PACKAGES

Some of our packages do not cap the bandwidth usage but seek to provide website owners with some certainty around their monthly spend. Packages that do not have a CAPPED limit will be charged excess bandwidth (bandwidth that exceeds the package limit) quarterly in arrears at the current monthly rate.

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## BACKUPS

The webserver is backed up once per week.

**Please note:** That whilst all care is taken, backups can't be guaranteed.

***A restoration fee of \$80 per backup applies.***

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## SITE TRANSFERS

We will transfer your websites to our hosting platform.

First site transfer is FREE

Subsequent site transfers:

- a) Sites with up to 500 MBytes of data and 1 database: \$80.00
- b) For each every 100 MByte (or part thereof) over 500 MByte: \$10 per MByte
- c) For each additional database: \$10 per database

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## CONTACT DETAILS

Ask Charly Leetham (a Leetham Trust project)  
39 Wittunga Crescent  
BANKS ACT 2906  
E: [support@askcharlyleetham.com](mailto:support@askcharlyleetham.com)

**ABN:** 57 339 100 878



## ATTACHMENT A: TERMS AND CONDITIONS

### PREAMBLE

#### 1. Preamble

- 1.1 All Services of Ask Charly Leetham, whether gratuitous or not, are supplied subject to these Terms and Conditions and:
- (a) the provisions of Part I shall apply to the provision of all and any Services; and
  - (b) the provisions of Part II shall only apply to the provision of Web Development Services; and
  - (c) the provisions of Part III shall only apply to the provision of Web Site Hosting Services.

#### 2. Definitions

- 2.1 "A.C.L." shall mean The Leetham Trust T/A Ask Charly Leetham, its successors and assigns or any person acting on behalf of and with the authority of The Leetham Trust T/A Ask Charly Leetham.
- 2.2 "Client" shall mean the Client (or any person acting on behalf of and with the authority of the Client) as described on any quotation, work authorisation or other form as provided by A.C.L to the Client.
- 2.3 "Guarantor" means that person (or persons) who agrees to be liable for the debts of the Client on a principal debtor basis.
- 2.4 "Web Site" means the Client's location which is accessible on the internet through the worldwide web and which provides multimedia content via a graphical user interface.
- 2.5 "Services" shall mean all Services supplied by A.C.L to the Client, and includes any advice or recommendations (and where the context so permits shall include any supply of Materials as hereinafter defined).
- 2.6 "Materials" shall mean all data, graphics, pictures, trademarks, software and other materials to be incorporated in the Web Site (including, but not limited to), user data created by the operation of the Web Site (and where the context so permits shall include any supply of Services as defined above).
- 2.7 "Prohibited Content" means any content on a Web Site that:
- (a) is, or could reasonably be considered to be, in breach of the Broadcast Services Amendment (Online Service) Act 1999 (Cth); the Trade Practices Act 1974 (Cth); or any other applicable law or applicable industry code; or
  - (b) contains, or could reasonably be considered to contain, any misrepresentations; or is, or could reasonably be considered to be, misleading or deceptive, likely to mislead or deceive or otherwise unlawful; or
  - (c) is, or could reasonably be considered to be, in breach of any person's Intellectual Property rights.
- 2.8 "Price" shall mean the Price payable for the Services as agreed between A.C.L and the Client in accordance with clause 5 of this contract.

#### 3. The Commonwealth Trade Practices Act 1974 ("TPA") and Fair Trading Acts ("FTA")

- 3.1 Nothing in this agreement is intended to have the effect of contracting out of any applicable provisions of the TPA or the FTA in each of the States and Territories of Australia, except to the extent permitted by those Acts where applicable.

#### 4. Acceptance

- 4.1 Any instructions received by A.C.L from the Client for the supply of Services and/or the Client's acceptance of Services supplied by A.C.L shall constitute acceptance of the terms and conditions contained herein.
- 4.2 Where more than one Client has entered into this agreement, the Clients shall be jointly and severally liable for all payments of the Price.
- 4.3 Upon acceptance of these terms and conditions by the Client the terms and conditions are binding and can only be amended with the written consent of A.C.L.
- 4.4 The Client shall give A.C.L not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client or any change in the Client's name and/or any other change in the Client's details (including but not limited to, changes in the Client's address, facsimile number, or business practice). The Client shall be liable for any loss incurred by A.C.L as a result of the Client's failure to comply with this clause.
- 4.5 Services are supplied by A.C.L only on the terms and conditions of trade herein to the exclusion of anything to the contrary in the terms of the Client's order notwithstanding that any such order is placed on terms that purport to override these terms and conditions of trade.



**5. Price and Payment**

- 5.1 At A.C.L's sole discretion the Price shall be either:
- (a) as indicated on invoices provided by A.C.L to the Client in respect of Services supplied; or
  - (b) A.C.L's current Price as at the date of the delivery of the Services calculated by A.C.L's current hourly labour rate; or
  - (c) A.C.L's quoted Price (subject to clause 5.2) which shall be binding upon A.C.L provided that the Client shall accept A.C.L's quotation in writing within thirty (30) days.
- 5.2 A.C.L reserves the right to change the Price in the event of a variation to A.C.L's quotation. Any variation from the plan of scheduled Services or specifications will be charged for on the basis of A.C.L's quotation and will be shown as variations on the invoice. Payment for all variations must be made in full at their time of completion.
- 5.3 At A.C.L's sole discretion, payment shall be made in accordance with the specified payment plan. The Client acknowledges that first instalment must be receipted by A.C.L prior to the commencement of the Services. A.C.L shall not be held responsible for any subsequent delay in completion of the Services where payment of any instalment is not made by the Client.
- 5.4 A.C.L may submit a detailed payment claim at intervals not less than one month for Services performed up to the end of each month. The value of Services so performed shall include the reasonable value of authorised variations and the value of Materials provided by A.C.L but not yet installed on the Client's Web Site.
- 5.5 At A.C.L's sole discretion a non-refundable deposit of fifty percent (50%) may be required.
- 5.6 Time for payment shall be of the essence and will be stated on the invoice or any other forms. If no time is stated then payment shall be due fourteen (14) days following the date of the invoice.
- 5.7 Payment will be made by cash, or by cheque, or by bank cheque, or by Visa or MasterCard (plus a surcharge of up to two and a half percent (2.5%) of the Price), or by direct credit, or by PayPal, or by any other method as agreed to between the Client and A.C.L.
- 5.8 GST and other taxes and duties that may be applicable shall be added to the Price except when they are expressly included in the Price.

**6. Delivery of Services**

- 6.1 The failure of A.C.L to deliver shall not entitle either party to treat this contract as repudiated.
- 6.2 A.C.L shall not be liable for any loss or damage whatsoever due to failure by A.C.L to deliver the Services (or any of them) promptly or at all where due to circumstances beyond the control of A.C.L.

**7. Risk**

- 7.1 If A.C.L retains ownership of the Services nonetheless, all risk for the Services passes to the Client on delivery.

**8. Errors and Omissions**

- 8.1 The Client shall inspect the Services on delivery and shall within seven (7) days of delivery (time being of the essence) notify A.C.L of any alleged defect, shortage in quantity, errors, omissions or failure to comply with the description or quote. The Client shall afford A.C.L an opportunity to inspect the Services within a reasonable time following such notification if the Client believes the Services are defective in any way. If the Client shall fail to comply with these provisions, the Services shall be conclusively presumed to be in accordance with the terms and conditions and free from any defect or damage. For defective Services, which A.C.L has agreed in writing that the Client is entitled to reject, A.C.L's liability is limited to either (at A.C.L's discretion) replacing the Services or rectifying the Services, except where the Client has acquired Services as a consumer within the meaning of the Trade Practices Act 1974 (Cwlth) or the Fair Trading Acts of the relevant state or territories of Australia, and is therefore also entitled to, at the consumer's discretion either a refund of the Price of the Services, rectification of the Services, or replacement of the Services.





**9. Title**

- 9.1 It is the intention of A.C.L and agreed by the Client that property in the Materials shall not pass until:
- (a) The Client has paid all amounts owing for the particular Materials, and
  - (b) The Client has met all other obligations due by the Client to A.C.L in respect of all contracts between A.C.L and the Client, and that where practicable the Materials shall be kept separate until A.C.L shall have received payment and all other obligations of the Client are met.
- 9.2 Receipt by A.C.L of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised and until then A.C.L's ownership of rights in respect of the Materials shall continue.
- 9.3 It is further agreed that:
- (a) until such time as ownership of the Materials shall pass from A.C.L to the Client A.C.L may give notice in writing to the Client to return the Materials or any of them to A.C.L. Upon such notice the rights of the Client to obtain ownership or any other interest in the Materials shall cease.
  - (b) A.C.L shall have the right of stopping the Materials in transit whether or not delivery has been made; and
  - (c) If the Client fails to return the Materials to A.C.L then A.C.L or A.C.L's agent may (as the invitee of the Client) enter upon and into land, premises of Web Site owned, occupied or used by the Client, or any premises where the Materials are situated and take possession of the Materials.
  - (d) the Client shall not deal with the money of A.C.L in any way which may be adverse to A.C.L.
  - (e) the Client shall not charge the Materials in any way nor grant nor otherwise give any interest in the Materials while they remain the property of A.C.L.
  - (f) A.C.L may require payment of the Price or the balance of the Price due together with any other amounts due from the Client to A.C.L arising out of these terms and conditions, and A.C.L may take any lawful steps to require payment of the amounts due and the Price.

**10. Intellectual Property**

- 10.1 Notwithstanding anything herein, the Intellectual Property rights in A.C.L's Materials and A.C.L's routines do not vest in the Client and there is no assignment of the Intellectual Property rights in A.C.L's Materials or A.C.L's routines to the Client. A.C.L hereby grants to the Client an irrevocable, non-exclusive and non-transferable licence to use and reproduce A.C.L's Materials and A.C.L's routines for the purposes of this agreement only.
- 10.2 The Client warrants that all designs or instructions to A.C.L will not cause A.C.L to infringe any patent, registered design or trademark in the execution of the Clients order.
- 10.3 Where A.C.L has provided photographic or graphical (digital or otherwise) images for the Client, at A.C.Ls sole discretion any such images may be subject to ongoing licence payments for use of such images. The period of any such licence is determined by A.C.L from time to time.

**11. Default and Consequences of Default**

- 11.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at A.C.L's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 11.2 In the event that the Client's payment is dishonoured for any reason the Client shall be liable for any dishonour fees incurred by A.C.L.
- 11.3 If the Client defaults in payment of any invoice when due, the Client shall indemnify A.C.L from and against all costs and disbursements incurred by A.C.L in pursuing the debt including legal costs on a solicitor and own client basis and A.C.L's collection agency costs.
- 11.4 Without prejudice to any other remedies A.C.L may have, if at any time the Client is in breach of any obligation (including those relating to payment), A.C.L may suspend or terminate the supply of Services to the Client (which shall include the deactivation of the Web Site and/or the Web Site being deemed completed, whether or not it complies with the Client's specifications and/or A.C.L's quotation) and any of its other obligations under the terms and conditions. A.C.L will not be liable to the Client for any loss or damage the Client suffers because A.C.L has exercised its rights under this clause.
- 11.5 If any account remains overdue after thirty (30) days then an amount of the greater of twenty dollars (\$20.00) or ten percent (10%) of the amount overdue (up to a maximum of two hundred dollars (\$200.00)) shall be levied for administration fees which sum shall become immediately due and payable.
- 11.6 Without prejudice to A.C.L's other remedies at law A.C.L shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to A.C.L shall, whether or not due for payment, become immediately payable in the event that:
- (a) any money payable to A.C.L becomes overdue, or in A.C.L's opinion the Client will be unable to meet its payments as they fall due; or
  - (b) the Client becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
  - (c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.



**12. Security and Charge**

- 12.1 Despite anything to the contrary contained herein or any other rights which A.C.L may have howsoever:
- (a) where the Client and/or the Guarantor (if any) is the owner of land, realty or any other asset capable of being charged, both the Client and/or the Guarantor agree to mortgage and/or charge all of their joint and/or several interest in the said land, realty or any other asset to A.C.L or A.C.L's nominee to secure all amounts and other monetary obligations payable under these terms and conditions. The Client and/or the Guarantor acknowledge and agree that A.C.L (or A.C.L's nominee) shall be entitled to lodge where appropriate a caveat, which caveat shall be withdrawn once all payments and other monetary obligations payable hereunder have been met.
  - (b) should A.C.L elect to proceed in any manner in accordance with this clause and/or its sub-clauses, the Client and/or Guarantor shall indemnify A.C.L from and against all A.C.L's costs and disbursements including legal costs on a solicitor and own client basis.
  - (c) the Client and/or the Guarantor (if any) agree to irrevocably nominate constitute and appoint A.C.L or A.C.L's nominee as the Client's and/or Guarantor's true and lawful attorney to perform all necessary acts to give effect to the provisions of this clause 12.1.

**13. Cancellation**

- 13.1 A.C.L may cancel any contract to which these terms and conditions apply or cancel delivery of Services at any time before the Services are delivered by giving written notice to the Client. On giving such notice A.C.L shall repay to the Client any sums paid in respect of the Price. A.C.L shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 13.2 In the event that the Client cancels delivery of Services the Client shall be liable for any loss incurred by A.C.L (including, but not limited to, any loss of profits) up to the time of cancellation.

**14. Privacy Act 1988**

- 14.1 The Client and/or the Guarantor/s (herein referred to as the Client) agree for A.C.L to obtain from a credit reporting agency a credit report containing personal credit information about the Client in relation to credit provided by A.C.L.
- 14.2 The Client agrees that A.C.L may exchange information about the Client with those credit providers either named as trade referees by the Client or named in a consumer credit report issued by a credit reporting agency for the following purposes:
- (a) to assess an application by the Client; and/or
  - (b) to notify other credit providers of a default by the Client; and/or
  - (c) to exchange information with other credit providers as to the status of this credit account, where the Client is in default with other credit providers; and/or
  - (d) to assess the creditworthiness of the Client.

The Client understands that the information exchanged can include anything about the Client's creditworthiness, credit standing, credit history or credit capacity that credit providers are allowed to exchange under the Privacy Act 1988.

- 14.3 The Client consents to A.C.L being given a consumer credit report to collect overdue payment on commercial credit (Section 18K(1)(h) Privacy Act 1988).
- 14.4 The Client agrees that personal credit information provided may be used and retained by A.C.L for the following purposes (and for other purposes as shall be agreed between the Client and A.C.L or required by law from time to time):
- (a) the provision of Services; and/or
  - (b) the marketing of Services by A.C.L, its agents or distributors; and/or
  - (c) analysing, verifying and/or checking the Client's credit, payment and/or status in relation to the provision of Services; and/or
  - (d) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Client; and/or
  - (e) enabling the daily operation of Client's account and/or the collection of amounts outstanding in the Client's account in relation to the Services.
- 14.5 A.C.L may give information about the Client to a credit reporting agency for the following purposes:
- (a) to obtain a consumer credit report about the Client;
  - (b) allow the credit reporting agency to create or maintain a credit information file containing information about the Client.



- 14.6 The information given to the credit reporting agency may include:
- (a) personal particulars (the Client's name, sex, address, previous addresses, date of birth, name of employer and driver's licence number;
  - (b) details concerning the Client's application for credit or commercial credit and the amount requested;
  - (c) advice that A.C.L is a current credit provider to the Client;
  - (d) advice of any overdue accounts, loan repayments, and/or any outstanding monies owing which are overdue by more than sixty (60) days, and for which debt collection action has been started;
  - (e) that the Client's overdue accounts, loan repayments and/or any outstanding monies are no longer overdue in respect of any default that has been listed;
  - (f) information that, in the opinion of A.C.L, the Client has committed a serious credit infringement (that is, fraudulently or shown an intention not to comply with the Clients credit obligations);
  - (g) advice that cheques drawn by the Client for one hundred dollars (\$100) or more, have been dishonoured more than once;
  - (h) that credit provided to the Client by A.C.L has been paid or otherwise discharged.

**15. General**

- 15.1 If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 15.2 These terms and conditions and any contract to which they apply shall be governed by the laws of Australian Capital Territory (ACT) and are subject to the jurisdiction of the courts of ACT.
- 15.3 A.C.L shall be under no liability whatsoever to the Client for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by A.C.L of these terms and conditions.
- 15.4 In the event of any breach of this contract by A.C.L the remedies of the Client shall be limited to damages which under no circumstances shall exceed the Price of the Services.
- 15.5 The Client shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Client by A.C.L nor to withhold payment of any invoice because part of that invoice is in dispute.
- 15.6 A.C.L may license or sub-contract all or any part of its rights and obligations without the Client's consent.
- 15.7 A.C.L reserves the right to review these terms and conditions at any time. If, following any such review, there is to be any change to these terms and conditions, then that change will take effect from the date on which A.C.L notifies the Client of such change.
- 15.8 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.
- 15.9 The failure by A.C.L to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect A.C.L's right to subsequently enforce that provision.

**PART II: DEVELOPMENT OF THE WEB SITE**

**16. A.C.L's Responsibilities**

- 16.1 Upon acceptance of A.C.L's quotation, and in accordance with this agreement, A.C.L will:
- (a) use its best endeavours to develop the Web Site in accordance with the Client's specifications; and
  - (b) negotiate and procure third party agreements on behalf of the Client, where necessary.

**17. Client's Responsibilities**

- 17.1 The Client will, in addition to any other obligations expressed in this agreement, have the following responsibilities:
- (a) provision of all data to be incorporated into the Web Site; and
  - (b) provision of logos, designs, graphic and related Materials to be incorporated into the Web Site; and
  - (c) provision of any other information, ideas or suggestions which are to be expressly considered by A.C.L in developing the Web Site.
- 17.2 The Client will ensure that A.C.L is given such information and assistance as A.C.L reasonably requires to enable A.C.L to construct and maintain the Web Site.
- 17.3 A.C.L will not be responsible for, and accepts no liability for, any deficiency or alleged deficiency in the Web Site which is attributable to:
- (a) incorrect information provided by the Client, either pursuant to this clause or otherwise; or
  - (b) failure by the Client to provide relevant information, either pursuant to this clause or otherwise; or
  - (c) any third party Materials used by A.C.L in creation of the Web Site.



**18. Maintenance Services**

- 18.1 Subject to clause 18.2, A.C.L will provide Maintenance Services to the Web Site in accordance with the terms and conditions set out in A.C.L's maintenance schedule.
- 18.2 The Client will procure all necessary authorisations, licences and consents to enable A.C.L to have access to the Web Site in order to provide the Maintenance Services.

**PART III: WEB SITE HOSTING**

**19. A.C.L's Responsibilities**

- 19.1 A.C.L will, at its sole cost and expense:
- (a) install the Client's Materials on A.C.L's Webserver; and
  - (b) host the Web Site on A.C.L's Webserver; and
  - (c) ensure that from the live date:
    - (i) sufficient capacity is maintained on A.C.L's Webserver to enable users access to the Web Site in a timely manner; and
    - (ii) the Web Site is accessible to users in accordance with the service levels (subject to reasonable downtime for server maintenance, which shall be notified to the Client prior to the commencement of the downtime or maintenance in accordance with clause 19.1(d)).
  - (d) provide the Client with reasonable access to the Web Site to perform maintenance services.
- 19.2 A.C.L shall not be responsible for:
- (a) the alteration or amendment, or the granting of permission to any person to alter or amend the Web Site without the written consent of the Client; or
  - (b) posting or displaying on the Web Site any advertisement, sponsorship or promotion without the written consent of the Client; or
  - (c) using any user data for marketing, referral or other purposes except as expressly authorised by this agreement; or
  - (d) sub-licensing, renting, time-sharing, leasing, lending or granting any rights to use the Web Site; or
  - (e) the assignment, transference or authorisation of anyone else to exercise the rights in any licence granted pursuant to this agreement.

**20. Client's Responsibilities**

- 20.1 The Client will, at its sole cost and expense:
- (a) develop and maintain the Web Site;
  - (b) provide Materials to A.C.L, in such form as reasonably prescribed by A.C.L from time to time, and hereby grants A.C.L a non-exclusive, worldwide, irrevocable licence to use the Materials for the purposes of hosting the Web Site;
  - (c) do all things reasonably necessary to enable A.C.L to host the Web Site on A.C.L's Webserver;
  - (d) ensure that the Materials supplied to A.C.L do not contain:
    - (i) Prohibited Content or a link to any other site that contains Prohibited Content. In the event the Client fails to adhere to this clause, A.C.L shall be entitled to deactivate the Web Site or refuse the provision of Services to the Client; or
    - (ii) any viruses, trojan horses, worms, time bombs or any other software program or routine designed for or capable of interfering with the operation of the hosting Services.



## ATTACHMENT B: SPECIFIC INTELLECTUAL PROPERTY PROVISIONS

### DEFINITIONS

**Client Content** means all materials, information, photography, writings and other creative content provided by Client for use in the preparation of and/or incorporation in the Deliverables.

**Copyrights** means the property rights in original works of authorship, expressed in a tangible medium of expression, as defined and enforceable under U.S. or the prevailing country's, Copyright Law.

**Deliverables** means the services and work product specified in the Proposal to be delivered by SUBCONTRACTOR to Client, in the form and media specified in the Proposal.

**Designer Tools** means all design tools developed and/or utilized by SUBCONTRACTOR in performing the Services, including without limitation pre-existing and newly developed software including source code, Web authoring tools, type fonts, and application tools, together with any other software, or other inventions whether or not patentable, and general non-copyrightable concepts such as website design, architecture, layout, navigational and functional elements.

**Final Art** means all creative content developed or created by SUBCONTRACTOR, or commissioned by SUBCONTRACTOR, exclusively for the Project and incorporated into and delivered as part of the Final Deliverables, including and by way of example, not limitation, any and all visual designs, visual elements, graphic design, illustration, photography, animation, sounds, typographic treatments and text, modifications to Client Content, and SUBCONTRACTORS selection, arrangement and coordination of such elements together with Client Content and/or Third Party Materials.

**Final Deliverables** means the final versions of Deliverables provided by SUBCONTRACTOR and accepted by Client.

**Third Party Materials** means proprietary third party materials which are incorporated into the Final Deliverables, including without limitation stock photography or illustration.

**Preliminary Works** means all artwork including, but not limited to, concepts, sketches, visual presentations, or other alternate or preliminary designs and documents developed by SUBCONTRACTOR and which may or may not be shown and or delivered to Client for consideration but do not form part of the Final Art.

**Services** means all services and the work product to be provided to Client by SUBCONTRACTOR as described and otherwise further defined in the Proposal.

**Trademarks** means trade names, words, symbols, designs, logos or other devices or designs used in the Final Deliverables to designate the origin or source of the goods or services of Client.





## INTELLECTUAL PROPERTY PROVISIONS

### RIGHTS TO DELIVERABLES OTHER THAN FINAL ART

**Client Content.** Client Content, including all pre-existing Trademarks, shall remain the sole property of Client or its respective suppliers, and Client or its suppliers shall be the sole owner of all rights in connection therewith. Client hereby grants to ASK CHARLY LEETHAM a nonexclusive, nontransferable license to use, reproduce, modify, display and publish the Client Content solely in connection with ASK CHARLY LEETHAM's performance of the Services and limited promotional uses of the Deliverables as authorized in this Agreement.

**Third Party Materials.** All Third Party Materials are the exclusive property of their respective owners. ASK CHARLY LEETHAM shall inform Client of all Third Party Materials that may be required to perform the Services or otherwise integrated into the Final Art. Under such circumstances ASK CHARLY LEETHAM shall inform Client of any need to license, at Client's expense, and unless otherwise provided for by Client, Client shall obtain the license(s) necessary to permit Client's use of the Third Party Materials consistent with the usage rights granted herein. In the event Client fails to properly secure or otherwise arrange for any necessary licenses or instructs the use of Third Party Materials, Client hereby indemnifies, saves and holds harmless ASK CHARLY LEETHAM from any and all damages, liabilities, costs, losses or expenses arising out of any claim, demand, or action by a third party arising out of Client's failure to obtain copyright, trademark, publicity, privacy, defamation or other releases or permissions with respect to materials included in the Final Art.

**Preliminary Works.** ASK CHARLY LEETHAM retains all rights in and to all Preliminary Works. Client shall return all Preliminary Works to ASK CHARLY LEETHAM within 30 days of completion of the Services and all rights in and to any Preliminary Works shall remain the exclusive property of ASK CHARLY LEETHAM.

**Original Artwork.** ASK CHARLY LEETHAM retains all right and title in and to any original artwork comprising Final Art, including all rights to display or sell such artwork. Client shall return all original artwork to ASK CHARLY LEETHAM within 30 days of completion of the Services.

**Trademarks.** Upon completion of the Services and expressly conditioned upon full payment of all fees, costs and out-of-pocket expenses due, ASK CHARLY LEETHAM assigns to Client all ownership rights, including any copyrights, in and to any artworks or designs comprising the works created by ASK CHARLY LEETHAM for use by Client as a Trademark.

ASK CHARLY LEETHAM shall cooperate with Client and shall execute any additional documents reasonably requested by Client to evidence such assignment. Client shall have sole responsibility for ensuring that any proposed trademarks or Final Deliverables intended to be a Trademark are available for use in commerce and federal registration and do not otherwise infringe the rights of any third party. Client hereby indemnifies, saves and holds harmless ASK CHARLY LEETHAM from any and all damages, liabilities, costs, losses or expenses arising out of any claim, demand, or action by any third party alleging any infringement arising out of Client's use and/or failure to obtain rights to use or use of the Trademark.

**Designer Tools.** All Designer Tools are and shall remain the exclusive property of ASK CHARLY LEETHAM. ASK CHARLY LEETHAM hereby grants to Client a nonexclusive, nontransferable (other than the right to sublicense such uses to Client's web hosting or internet service providers), perpetual, worldwide license to use the Designer Tools solely to the extent necessary with the Final Deliverables for the Project. Client may not directly or indirectly, in any form or manner, decompile, reverse engineer, create derivative works or otherwise disassemble or modify any Designer Tools comprising any software or technology of ASK CHARLY LEETHAM.



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## RIGHTS TO FINAL ART

### LICENSE FOR LIMITED USAGE, NO MODIFICATION RIGHTS:

Upon completion of the Services, and expressly subject to full payment of all fees, costs and out-of-pocket expenses due, ASK CHARLY LEETHAM grants to Client the rights in the Final Art as set forth below. Any additional uses not identified herein require an additional license and may require an additional fee. All other rights are expressly reserved by ASK CHARLY LEETHAM. The rights granted to Client are for the usage of the Final Art in its original form only. Client may not crop, distort, manipulate, reconfigure, mimic, animate, create derivative works or extract portions or in any other manner, alter the Final Art.

### LIQUIDATION FOR UNLICENSED USE:

Client's use of the Final Art shall be limited to the usage rights granted herein for the Project only. Use of the Final Art, Deliverables or any derivative works thereof by Client at any other time or location, or for another project or outside the scope of the rights granted herein require an additional fee and ASK CHARLY LEETHAM shall be entitled to further compensation equal to Extra Compensation% of the original Project fee unless otherwise agreed in writing by both parties. In the event of non-payment, ASK CHARLY LEETHAM shall be entitled to pursue all remedies under law and equity.



## ATTACHMENT D: WEBHOSTING TERMS AND CONDITIONS

The use of services from Geek Goddess Web Hosting (a project of Leetham Trust) [hereafter referred to as "GGWH"] constitutes agreement to these terms. You may view our Privacy Policy [here](#).

### **1.) Account Setup / Email on file**

We will setup your account after we have received payment and we and/or our payment partner(s) have screened the order(s) in case of fraud. It is your responsibility to provide us with an email address which is not @ the domain(s) you are signing up under. If there is ever an abuse issue or we need to contact you, the primary email address on file will be used for this purpose. It is your responsibility to ensure the email address on file is current or up to date at all times. If you have a domain name registered with GGWH, it is your responsibility to ensure that the contact information for your domain account and your actual domain name(s) is correct and up-to-date. GGWH is not responsible for a lapsed registration due to outdated contact information being associated with the domain. If you need to verify or change this information, you should contact our sales team via email. Providing false contact information of any kind may result in the termination of your account. In high risk transactions, it will be necessary to provide government issued identification and possibly a scan of the credit card used for the purchase. If you fail to meet these requirements, the order may be considered fraudulent in nature and be denied.

### **Ownership**

The credit card holder or owner of the PayPal e-mail address which is utilized for payment on the account is designated as the authorized owner of the account.

### **Transfers**

Our transfers team will make every effort to help you move your site to us. However, transfers are provided as a courtesy service, and we can not make guarantees regarding the availability, possibility, or time required to complete an account transfer. Each hosting company is configured differently, and some hosting platforms save data in an incompatible or proprietary format, which may make it extremely difficult if not impossible to migrate some or all account data. We will try our best, but in some cases we may be unable to assist you in a transfer of data from an old host.

The free transfer services are available for 30 days from your sign up date. Transfers outside of the 30 day free period will incur a charge; please contact our helpdesk and provide the specific details to receive a price quote.

Paid transfer fees are based on the assumption that transfers are available from another CPanel account. Should your existing hosting account not support CPanel transfers, an additional fee may apply and no guarantees are provided.

### **Dedicated IP Address Allocation**

Any dedicated IP order in addition to ones provided with a hosting package may be subject to IP Justification. Justification practices are subject to change to remain in conformity with policies of American Registry for Internet Numbers (ARIN). We reserve the right to deny any dedicated IP request based on insufficient justification or current IP utilization.

### **Third Party Providers**

All transactions with third party providers are solely between the visitor and the individual provider. GGWH is not the agent, representative, trustee or fiduciary of you or the third party provider in any transaction. Some products provided by GGWH are provided under license with vendors, and the use of any such third party products will be governed by the applicable license agreement, if any, with such third party.





All discounts, promotions and special third party offers may be subject to additional restrictions and limitations by the third party provider. All transactions with third party providers are subject to the terms and conditions under which the provider agrees with you to provide the goods or services. You should confirm the terms of any purchase and/or use of goods or services with the specific provider with whom you are dealing.

We do not make any representations or warranties regarding, and are not liable for, the quality, availability, or timeliness of goods or services provided by a third party provider. You undertake all transactions with these providers at your own risk. We do not warrant the accuracy or completeness of any information regarding third party providers.

## **2.) Content**

All services provided by GGWH may only be used for lawful purposes. The laws of the Australian Capital Territory, and Australia apply.

The customer agrees to indemnify and hold harmless GGWH from any claims resulting from the use of our services.

Use of our services to infringe upon any copyright or trademark is prohibited. This includes but is not limited to unauthorized copying of music, books, photographs, or any other copyrighted work. The offer of sale of any counterfeit merchandise of a trademark holder will result in the immediate termination of your account. Any account found to be in violation of another's copyright will be expeditiously removed, or access to the material disabled. Any account found to be in repeated violation of copyright laws will be suspended and/or terminated from our hosting. If you believe that your copyright or trademark is being infringed upon, please email [helpdesk@geekgoddesswebhosting.com](mailto:helpdesk@geekgoddesswebhosting.com) with the information required. If the request is of a licensing issue, we may require further documentation.

Using a shared account as a backup/storage device is not permitted, with the exception of one cPanel backup of the same account. Please do not take backups of your backups.

Examples of unacceptable material on all Shared and Reseller servers include:

- Topsites
- IRC Scripts/Bots
- Proxy Scripts/Anonymizers
- Pirated Software/Warez
- Image Hosting Scripts (similar to Photobucket or Tinypic)
- AutoSurf/PTC/PTS/PPC sites
- IP Scanners
- Bruteforce Programs/Scripts/Applications
- Mail Bombers/Spam Scripts
- Banner-Ad services (commercial banner ad rotation)
- File Dump/Mirror Scripts (similar to rapidshare)
- Commercial Audio Streaming (more than one or two streams)
- Escrow/Bank Debentures
- High-Yield Interest Programs (HYIP) or Related Sites
- Investment Sites (FOREX, E-Gold Exchange, Second Life/Linden Exchange, Ponzi, MLM/Pyramid Scheme)
- Sale of any controlled substance without prior proof of appropriate permit(s)
- Prime Banks Programs
- Lottery/Gambling Sites
- MUDs/RPGs/PBBGs
- Hacker focused sites/archives/programs
- Sites promoting illegal activities
- Forums and/or websites that distribute or link to warez/pirated/illegal content
- Bank Debentures/Bank Debenture Trading Programs
- Fraudulent Sites (Including, but not limited to sites listed at [aa419.org](http://aa419.org) & [escrow-fraud.com](http://escrow-fraud.com))
- Push button mail scripts
- Broadcast or Streaming of Live Sporting Events (UFC, NASCAR, FIFA, NFL, MLB, NBA, WWE, WWF, etc)



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- Tell A Friend Scripts
- Anonymous or Bulk SMS Gateways
- Bitcoin Miners
- PayDay Loan Sites (including any site related to PayDay loans, PayDay loan affiliate programs, etc)
- Examples of unacceptable material on all Dedicated servers include:
  - IRC (irc servers)
  - IRC Scripts/Bots
  - Pirated Software/Warez
  - IP Scanners
  - Bruteforce Programs/Scripts/Applications
  - Mail Bombers/spam Scripts
  - Escrow
  - High-Yield Interest Programs (HYIP) or Related Sites
  - Investment Sites (FOREX, E-Gold Exchange, Second Life/Linden Exchange, Ponzi, MLM/Pyramid Scheme)
  - Sale of any controlled substance without prior proof of appropriate permit(s)
  - Prime Banks Programs
  - Lottery/Gambling Sites
  - Hacker focused sites/archives/programs
  - Sites promoting illegal activities
  - Forums and/or websites that distribute or link to warez/pirated/illegal content
  - Bank Debentures/Bank Debenture Trading Programs
  - Fraudulent Sites (Including, but not limited to sites listed at [aa419.org](http://aa419.org) & [escrow-fraud.com](http://escrow-fraud.com))
  - Mailer Pro
- Broadcast or Streaming of Live Sporting Events (UFC, NASCAR, FIFA, NFL, MLB, NBA, WWE, WWF, etc)

GGWH services, including all related equipment, networks and network devices are provided only for authorized customer use. GGWH systems may be monitored for all lawful purposes, including to ensure that use is authorized, for management of the system, to facilitate protection against unauthorized access, and to verify security procedures, survivability, and operational security. During monitoring, information may be examined, recorded, copied and used for authorized purposes. Use of GGWH system(s) constitutes consent to monitoring for these purposes.

Any account found connecting to a third party network or system without authorization from the third party is subject to suspension. Access to networks or systems outside of your direct control must be with expressed written consent from the third party. GGWH may, at its discretion, request and require documentation to prove access to a third party network or system is authorized.

We reserve the right to refuse service to anyone. Any material that, in our judgment, is obscene, threatening, illegal, or violates our terms of service in any manner may be removed from our servers (or otherwise disabled), with or without notice.

Failure to respond to email from our abuse department within 48 hours may result in the suspension or termination of your services. All abuse issues must be dealt with via [troubleticket@gmail.com](mailto:troubleticket@gmail.com) and will have a response within 48 hours.

Sites hosted on GGWH's service(s) are regulated only by Australian and U.S law. Given this fact, and pursuant to Section 230(c) of the Communications Decency Act, we do not remove allegedly defamatory material from domains hosted on our service(s). The only exception to this rule is if the material has been found to be defamatory by a court, as evidenced by a court order. GGWH is not in a position to investigate and validate or invalidate the veracity of individual defamation claims, which is why we rely on the legal system and courts to determine whether or not material is indeed considered defamatory. In any case in which a court order indicates material is defamatory, libelous, or slanderous in nature; we will disable access to the material. Similarly, in any case in which a US Court has placed an injunction against specified content or material; we will comply and remove or disable access to the material in question.



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The language of Section 230(c) of the Communications Decency Act fundamentally states that Internet services providers like GGWH and many of GGWH other webhosting services and brands are republishers and not the publisher of content. Our service merely provides a hosting platform and space on which to host content, and any creation or publication of content on our services is the sole responsibility of the third-party user which creates or publishes the content. Therefore, GGWH should not be held liable for any allegedly defamatory, offensive or harassing content published on sites hosted under GGWH's webhosting service(s).

If in doubt regarding the acceptability of your site or service, please contact us at [helpdesk@geekgoddesswebhosting.com](mailto:helpdesk@geekgoddesswebhosting.com) and we will be happy to assist you.

Potential harm to minors is strictly forbidden, including but not limited to child pornography or content perceived to be child pornography (Lolita):

Any site found to host child pornography or linking to child pornography will be suspended immediately without notice.

Resellers: we will suspend the site in question and will notify you so you may terminate the account. We will further monitor your activity; more than one infraction of this type may result in the immediate termination of your account.

Direct customers: Your services will be terminated with or without notice.

Violations will be reported to the appropriate law enforcement agency.

It is your responsibility to ensure that scripts/programs installed under your account are secure and permissions of directories are set properly, regardless of installation method. When at all possible, set permissions on most directories to 755 or as restrictive as possible. Users are ultimately responsible for all actions taken under their account. This includes the compromise of credentials such as user name and password. It is required that you use a secure password. If a weak password is used, your account may be suspended until you agree to use a more secure password. Audits may be done to prevent weak passwords from being used. If an audit is performed, and your password is found to be weak, we will notify you and allow time for you to change/update your password.

**HIPAA Disclaimer** We are not "HIPAA compliant."

Users are solely responsible for any applicable compliance with federal or state laws governing the privacy and security of personal data, including medical or other sensitive data. Users acknowledge that the Services may not be appropriate for the storage or control of access to sensitive data, such as information about children or medical or health information. GGWH does not control or monitor the information or data you store on, or transmit through, our Services.

We specifically disclaim any representation or warranty that the Services, as offered, comply with the federal Health Insurance Portability and Accountability Act ("HIPAA"). Customers requiring secure storage of "protected health information" under HIPAA are expressly prohibited from using this Service for such purposes. Storing and permitting access to "protected health information," as defined under HIPAA is a material violation of this Terms of Service, and grounds for immediate account termination. We do not sign "Business Associate Agreements" and you agree that GGWH is not a Business Associate or subcontractor or agent of yours pursuant to HIPAA. If you have questions about the security of your data, you should contact [helpdesk@geekgoddesswebhosting.com](mailto:helpdesk@geekgoddesswebhosting.com)

### **3.) Zero Tolerance Spam Policy**

We take a zero tolerance stance against sending of unsolicited e-mail, bulk emailing, and spam. "Safe lists", purchased lists, and selling of lists will be treated as spam. Any user who sends out spam will have their account terminated with or without notice.

Please read our generalized mail policy.



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Sites advertised via SPAM (Spamvertised) may not be hosted on our servers. This provision includes, but is not limited to SPAM sent via fax, phone, postal mail, email, instant messaging, or usenet/newsgroups. No organization or entity listed in the ROKSO may be hosted on our servers. Any account which results in our IP space being blacklisted will be immediately suspended and/or terminated.

GGWH reserves the right to require changes or disable as necessary any web site, account, database, or other component that does not comply with its established policies, or to make any such modifications in an emergency at its sole discretion.

GGWH reserves the right to charge the holder of the account used to send any unsolicited e-mail a clean up fee or any charges incurred for blacklist removal. This cost of the clean up fee is entirely at the discretion of GGWH.

#### **4.) Payment Information**

You agree to supply appropriate payment for the services received from GGWH, in advance of the time period during which such services are provided. Subject to all applicable laws, rules, and regulations, all payments will apply to the oldest invoice(s) in your billing account. You agree that until and unless you notify GGWH of your desire to cancel any or all services received, those services will be billed on a recurring basis.

Cancellations must be done in writing via the cancellation form provided. Once we receive your cancellation and have confirmed all necessary information with you via e-mail, we will inform you in writing (typically email) that your account has been canceled. Your cancellation confirmation will contain a ticket/tracking number in the subject for your reference, and for verification purposes. You should immediately receive an automatic "Your request has been received..." email with a tracking number. An employee will confirm your request (and process your cancellation) shortly thereafter. If you do not hear back from us, or do not receive the automatic confirmation email within a few minutes after submitting your cancellation, please contact us immediately via phone. We require that cancellations of service are done through the online form to (a) confirm your identity, (b) confirm in writing you are prepared for all files/emails to be removed, and (c) document the request. This process reduces the likelihood of mistakes, fraudulent/malicious requests, and ensures you are aware that the files, emails, and account may be removed immediately after a cancellation request is processed.

As a client of GGWH, it is your responsibility to ensure that your payment information is up to date, and that all invoices are paid on time. You agree that until and unless you notify GGWH of your desire to cancel any or all services received (by the proper means listed in the appropriate section of the Terms of Service), those services will be billed on a recurring basis, unless otherwise stated in writing by GGWH. GGWH reserves the right to bill your credit card or billing information on file with us. GGWH provides a 7 day grace period from the time the invoice is generated and when it must be paid. Any invoice that is outstanding for 14 days and not paid will result in an account suspension until account balance has been paid in full. Access to the account will not be restored until payment has been received.

It is the customer's responsibility to notify our Billing department via a support ticket created from <http://helpdesk.askcharlyleetham.com> after paying for a domain. Domain renewal notices and invoices are provided as a courtesy reminder and GGWH cannot be held responsible for failure to renew a domain or failure to notify a customer about a domain's renewal.

Invoices that have been paid more than once with multiple Paypal Subscriptions can only be added as credit towards the account and cannot be refunded via Paypal. If you require assistance with this provision, please visit <http://helpdesk.askcharlyleetham.com> to create a support ticket to our Billing department.

GGWH reserves the right to change the monthly payment amount and any other charges at anytime.

#### **5.) Backups and Data Loss**

Your use of this service is at your sole risk. Our backup service runs once a week, overwrites any of our previous backups made, and only one week of backups are kept. This service is provided to you as a courtesy. GGWH is not



responsible for files and/or data residing on your account. You agree to take full responsibility for files and data transferred and to maintain all appropriate backup of files and data stored on GGWH servers.

## **6.) Cancellations and Refunds**

GGWH reserves the right to cancel, suspend, or otherwise restrict access to the account at any time with or without notice.

Exchange rate fluctuations for international payments are constant and unavoidable. All refunds are processed in AU dollars, and will reflect the exchange rate in effect on the date of the refund. All refunds are subject to this fluctuation and GGWH is not responsible for any change in exchange rates between time of payment and time of refund.

Customers may cancel at any time via our helpdesk.

The account will remain active until the period expires.

### **6.1) Monthly Accounts**

Cancellations will be processed at the end of the current monthly billing cycle, prior to the next month's billing.

### **6.2) Semi-Annual Accounts & Annual Accounts:**

No refund is payable. We do not charge a setup or renewal fee. No refunds are payable should the account be cancelled before it's renewal date.

The following methods of payments are non-refundable, and refunds will be posted as credit to the hosting account:

Direct Bank Transfers

Paypal

Credit Card transactions

Only first-time accounts are eligible for a refund. For example, if you've had an account with us before, canceled and signed up again, you will not be eligible for a refund or if you have opened a second account with us.

Violations of the Terms of Service will waive the refund policy.

## **7a.) Resource Usage**

User may not:

- 1) Use 25% or more of system resources for longer than 90 seconds. There are numerous activities that could cause such problems; these include: CGI scripts, FTP, PHP, HTTP, etc.
- 2) Run stand-alone, unattended server-side processes at any point in time on the server. This includes any and all daemons, such as IRCd.
- 3) Run any type of web spider or indexer (including Google Cash / AdSpy) on shared servers.
- 4) Run any software that interfaces with an IRC (Internet Relay Chat) network.
- 5) Run any bit torrent application, tracker, or client. You may link to legal torrents off-site, but may not host or store them on our shared servers.
- 6) Participate in any file-sharing/peer-to-peer activities
- 7) Run any gaming servers such as counter-strike, half-life, battlefield1942, etc



- 8) Run cron entries with intervals of less than 15 minutes.
- 9) Run any MySQL queries longer than 15 seconds. MySQL tables should be indexed appropriately.
- 10) When using PHP include functions for including a local file, include the local file rather than the URL. Instead of `include("http://yourdomain.com/include.php")` use `include("include.php")`
- 11) To help reduce usage, do not force html to handle server-side code (like php and shtml).
- 12) Only use https protocol when necessary; encrypting and decrypting communications is noticeably more CPU-intensive than unencrypted communications.
- 13) Violate our Email terms of use

#### **7b.) INODES**

The use of more than 250,000 inodes on any shared account may potentially result in a warning first, and if no action is taken future suspension. Accounts found to be exceeding the 100,000 inode limit will automatically be removed from our backup system to avoid over-usage, however databases will still be backed up. Every file (a webpage, image file, email, etc) on your account uses up 1 inode.

#### **7c.) Backup Limit**

Any shared account using more than 20 gigs of disk space will be removed from our off site weekly backup with the exception of Databases continuing to be backed up.

#### **8.) Bandwidth Usage**

You are allocated a monthly bandwidth allowance. This allowance varies depending on the hosting package you purchase. Should your account pass the allocated amount we reserve the right to suspend the account until the start of the next allocation, suspend the account until more bandwidth is purchased at an additional fee, suspend the account until you upgrade to a higher level of package, terminate the account and/or charge you an additional fee for the overages. Unused transfer in one month cannot be carried over to the next month.

#### **9a.) Money back Guarantee**

We do not offer a money back guarantee

GGWH will not activate new orders or activate new packages for customers who have an outstanding balance with GGWH. For a new order to be setup or a new package to be activated, you must have a balance of \$0.00, unless otherwise stated by GGWH in writing.

#### **9b.) Uptime Guarantee**

If your shared / reseller server has a physical downtime that is not within the 99.2% uptime you may receive one month of credit on your account. Approval of the credit is at the discretion of GGWH dependent upon justification provided. Third party monitoring service reports may not be used for justification due to a variety of factors including the monitor's network capacity/transit availability. The uptime of the server is defined as the reported uptime from the operating system and the Apache Web Server which may differ from the uptime reported by other individual services. To request a credit, please visit <http://helpdesk.askcharlyleetham.com> to create a support ticket to our Billing department with justification. Uptime guarantees only apply to shared / reseller solutions.

#### **10.) Reseller: Client Responsibility**

Resellers are responsible for supporting their clients. GGWH does not provide support to our Reseller's Clients. If a reseller's client contacts us, we reserve the right to place the client account on hold until the reseller can assume their





responsibility for their client. All support requests must be made by the reseller on their clients' behalf for security purposes. Resellers are also responsible for all content stored or transmitted under their reseller account and the actions of their clients'. GGWH will hold any reseller responsible for any of their clients actions that violate the law or the terms of service.

#### **11.) Shared (non-reseller accounts)**

Shared accounts may not resell web hosting to other people, if you wish to resell hosting you must use a reseller account. You must maintain your own backups.

#### **12.) Dedicated Servers**

GGWH reserves the right to reset the password on a dedicated server if the password on file is not current so that we may do security audits as required by our datacenter. It is the responsibility of the client to ensure that there is a valid email address and current root password on file for their dedicated server on file to prevent downtime from forced password resets. GGWH reserves the right to audit servers as needed and to perform administrative actions at the request of our datacenter. Dedicated servers are NOT backed up by us and it is the responsibility of the client to maintain backups or have a solution for this. It is your responsibility to maintain backups.

#### **13.) Price Change**

The amount you pay for hosting is subject to annual review. We reserve the right to change prices listed on GGWH, and the right to increase or decrease the amount of resources given to plans at any time.

#### **14.) Coupons**

Discounts and coupon codes are reserved for first-time accounts \*or first-time customers\* only and may not be used towards the purchase of a domain registration unless otherwise specified. If you have signed up using a particular domain, you may not resign up for that domain using another coupon at a later date. Any account found in violation of these policies will be reviewed by our sales department and the appropriate invoices will be added to the account. Coupon abuse will not be tolerated and may result in the suspension or termination of the account. Coupons or discounts are only valid towards the initial purchase, and do not affect the renewal or recurring price.

#### **15a.) Indemnification**

Customer agrees that it shall defend, indemnify, save and hold GGWH harmless from any and all demands, liabilities, losses, costs and claims, including reasonable attorney's fees asserted against GGWH, 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, its agents, employees or assigns. Customer agrees to defend, indemnify and hold harmless GGWH against liabilities arising out of; (1) any injury to person or property caused by any products sold or otherwise distributed in connection with GGWH; (2) any material supplied by customer infringing or allegedly infringing on the proprietary rights of a third party; (3) copyright infringement and (4) any defective products sold to customers from GGWH's server.

#### **15b.) Arbitration**

By using any GGWH services, you agree to submit to binding arbitration. If any disputes or claims arise against GGWH or its subsidiaries, such disputes will be handled by an arbitrator of GGWH's choice. Arbitrators shall be attorneys or retired judges and shall be selected pursuant to the applicable rules. All decisions rendered by the arbitrator will be binding and final. The arbitrator's award is final and binding on all parties. You are also responsible for any and all costs related to such arbitration.

#### **16.) Disclaimer**



GGWH shall not be responsible for any damages your business may suffer. GGWH makes no warranties of any kind, expressed or implied for services we provide. GGWH disclaims any warranty or merchantability or fitness for a particular purpose. This includes loss of data resulting from delays, no deliveries, wrong delivery, and any and all service interruptions caused by GGWH and its employees.

#### **17.) Disclosure to law enforcement**

GGWH may disclose any subscriber information to law enforcement agencies without further consent or notification to the subscriber upon lawful request from such agencies. We will cooperate fully with law enforcement agencies.

#### **18.) Changes to the TOS**

GGWH reserves the right to revise its policies at any time without notice.

### **Email Policy**

#### **Limits**

There is a 500 outgoing email hourly limit per domain. This limit is also applied towards Mailman. If you send over this amount in any hour, most of the e-mails will bounce back with an undeliverable error. If this occurs, it will then take some time for your account to be able to send again so we recommend waiting at least 1 hour after this issue occurs to begin sending email again.

Many of our servers have a limit of 30 POP3/IMAP checks per hour per each user's connecting IP address. If you go over this you're likely to get a wrong password error message or an error stating "login incorrect". If this occurs, please wait an hour and it will automatically unblock you. To prevent this from happening again, please make sure to disable auto checking or at least set it to something higher such as once every 10 minutes.

Any mailing list larger than 5,000 addresses will require a dedicated server or VPS hosting solution from us. Note: Dividing one large list into smaller lists to get below this limit is not allowed.

There is also a limit to the number of Mailman mailing lists permitted as follows (NOTE: This does not apply to other mailing list programs such as PHPList. This only applies to Mailman.)

All business packages: Unlimited number of Mailman mailing lists

#### **Mailing Lists Rules**

1. Any time you're sending a message no matter how large your e-mail list is you must throttle it. We recommend you throttle it to at the very least sending 1 email every 8 seconds. (Sending 1 every 8 seconds would send 450 emails within 1 hour, keeping you below the 500 outgoing email limit.) If the mailing list software you're using does not allow you to throttle you must switch to an application or script that will. We recommend PHPList, which can be found in your CPanel, under Quickinstall.

**IMPORTANT:** If you do not throttle and you try sending 500 emails, the server will try sending all 500 in 1 second which is not possible on our shared servers. This will cause a very high load on the server and the entire server will be sluggish, potentially affecting your sites and service, until this sending process is completed. It is our job to keep the server up and running without being sluggish or experiencing issues. Anyone who causes the server's load to go high will be suspended and the process will be terminated. If you choose not to throttle, you will most likely be suspended for crashing the server.

2. Any mailing list over 900 email addresses is only allowed to be sent to during off-peak times to prevent high server loads. Off peak times qualify as all day Saturday and Sunday, and 1AM - 8AM Eastern Standard Time, Monday through Friday.





## Ask Charly Leetham

Relax, You're In Good Hands

3. The list must be a Double Opt-In list. This means a user has subscribed for a newsletter or other email marketing messages by explicitly requesting it and confirming the email address to be their own. Confirmation is usually done by responding to a notification/confirmation email sent to the email address the end user specified. The double opt-in method eliminates the chance of abuse where somebody submits someone else's email address without their knowledge and against their will. You will not be permitted to mail any mailing list that you were given or purchased. In doing so, this will also be considered spamming and may result in termination of the offending account.

Email Scripts must be able to handle and document all information from a double opt-in list. This includes processing opt-outs (via web or email) and list removal on bounce backs. All opt-outs or bounce back removals must be handled in a timely manner, and outbound mail must be throttled on shared packages to a maximum of five hundred (500) emails per hour. If your account is found to be using a script that does not meet these requirements, HostGator reserves the right to suspend, terminate, or deactivate your script or account.

4. Any unsolicited e-mail being sent will result in suspension or termination of the offending account. We take a zero tolerance stance against sending of unsolicited e-mail and other forms of spam.

5. Any mailing list MUST comply with all guidelines set forth by the United States government. These can be found at:

<http://www.ftc.gov/bcp/edu/pubs/business/ecommerce/bus61.shtm> .

6. No direct SMTP mailers are allowed. An example of this would be a Darkmailer or The Bat!. Any mail should be sent through the local mail server/MTA for further delivery by the server and not done directly by scripts.