



Terms of Service

Version 1.0

1. AGREEMENT

1(a) Click Host Pty Ltd (ACN 653046014) These terms and conditions are bound to any quote or proposal that you receive from Click Host.

Terms outlined in the quote document, proposal document or email correspondence from Click Host, along with the terms and conditions herein, form the legally binding Contract between you and Click Host. These terms and conditions of the Contract shall be governed by the laws of New South Wales, and are subject to the jurisdiction of the courts of New South Wales.

1(b). The Customer signified acceptance of the Acceptable Use Policy, as well as our Terms of Service, Privacy Policy, Customer Service Policy and any applicable Registrant Agreement when they submitted their order to Click Host for Services, and that order was accepted

2. DEFINITIONS

2.a. "Supplier", "our", "we" or "us" shall mean Click Host or any person acting on behalf of and with the authority of Click Host including employees, contractors and suppliers.

2.b. "Customer" , "Customers" or "you" shall mean the person or entity who is contracting Services from the Supplier, or any person acting on behalf of and with the authority of the Customer.

2.c.. "Services" shall mean all work and offerings supplied by the Supplier to the Customer, whether charged for or delivered free of charge.

2.d. "Customer Dashboard" shall mean our client management portal located at <https://clickhost.com.au/manage>

2.e. "Customer Service" means the relationship between Click Host staff and the Customer, with the purpose of assisting the Customer with a question they have asked.

2.f. "Ticket" refers to a secure electronic message sent by the Customer to Click Host via the customer dashboard for assistance or for any questions they may have with any Service(s).

2.g. "Registry" refers to person(s) or entity(ies) responsible for providing registry services. These services include customer database administration, zone file publication, DNS and DNSSEC operation, marketing and policy determination in regards to a top level domain name. A Registry may outsource some, all, or none of these services. Different registries exist for different TLDs.

2.h. "Service", "Service(s)" or "Services" means any product(s) or service(s) the Customer has signed up to use. This can include, but is not limited to, the provisioning of space on one of our servers and a connection to and from the internet for web, email hosting and/or FTP services to function at the level specified in the chosen service level, domain name registration or transfer or renewal. These product(s) and service(s) are identified in full within the "sign up" and "service provision" emails Click Host has sent after the Customer requests the service. The specific details of the Services can be found by logging in to the customer dashboard or on our website.

3. TERM

3.1 The customer agrees to a month to month term for services unless otherwise stated in the product, for example, domain names are a minimum of 1 year terms or otherwise agreed in writing. The month to month services are automatically renewed in perpetuity until a cancellation is requested by the customer in Click Host's Management portal.

3.2 Monthly services may be subjected to a pro-rata charge to align their service renewal dates to the 1st of each month.

4. Service and Promotional emails

4.1 The customer agrees to receive service and marketing emails directly from Click Host to the email they have registered on file.

4.2 Emails from Click Host regarding important service information such as maintenance notices, unplanned emergency outages or customer invoices should always be read by the customer as this will contain vital service information.

4.3 The customer may choose to opt-out of non service related emails such as marketing, promotional, special discounts, etc inside Click Host Customer portal (under the account details tab).

4.4 We are obligated to email you about important service events and invoices, should you not wish to receive emails from us, you can close your account in the account details area of the Click Host Customer portal.

5. AVAILABILITY OF SERVICES

5.1 Click Host endeavours to provide 100% uptime and continuous availability to all services inside and outside of our direct control, however Click Host will not be held liable for any service interruptions or downtime.

5.2 Like any service, from time to time we may need to perform scheduled maintenance, this may be completed by Click Host or an upstream supplier. Should maintenance be service impacting for thirty (30) or more minutes, Click Host will endeavour to post an advisory 24 hours prior.

5.3 Unscheduled maintenance or downtime will be advised on our status advisory system at <https://clickhost.com.au>. Events under 15 minutes (15) may not be displayed here.

5.4 Occasionally we may need to perform emergency maintenance, Click Host will make every effort to notify clients in advanced and perform the maintenance out of hours however makes no guarantee on SLA agreements or the timing of said maintenance.

6. DOMAIN REGISTRATION AND RENEWAL

6.1 The customer acknowledges that Click Host is an authorised reseller of domain names with Synergy Wholesale Pty Ltd.

6.2 The customer acknowledges that they have read and agree to all terms and agreements from auDA (<https://www.auda.org.au/policies>) or any domain governing body (e.g ICANN).

6.3 The customer acknowledges that domain name registrations, transfers or renewals once the order is submitted are **NON REFUNDABLE**. These services cannot be refunded upstream and are final irrespective of reason or cause (e.g spelling mistake).

6.4 Click Host does not guarantee that a domain name application will be approved. Until you have received confirmation and an Active status in the Click Host dashboard, a domain name may be still available. auDA may require further verification in cases of .org.au, asn.au and id.au before a registration is completed.

6.5. The registration of the domain name and the ongoing use of the domain name are subject to the relevant naming authority's terms of service and the Customer is responsible for ensuring awareness of these terms and that they are adhered to. The Customer waives any right to make a claim against Click Host in respect to a decision made by a naming authority to refuse registration or renewal of a domain name.

6.6. The Customer acknowledges that Click Host is not obligated to renew a domain name for the Customer, if the Customer has not confirmed to Click Host that the domain name is to be renewed, or the invoice for renewal has not been paid in full, or it is determined that the Customer does not satisfy the eligibility criteria to continue holding the domain name license. In these circumstances, Click Host will not be held liable by the Customer for any loss or damages. All renewal requests must be submitted via the customer portal.

6.7. Domain name registration or renewal may be declined by Click Host if the Customer is in breach of these Terms of Service, Acceptable Use Policy, Customer Service Policy or any applicable Registrant Agreement, or the customer has other unpaid or unresolved fees.

6.8. It is the Customer's responsibility to ensure that all contact details held by Click Host in relation to the billing of domain names are kept up to date, as Click Host will use these details to advise the Customer of any pending renewal or transfer requests.

6.9. Should the Customer choose to terminate all services with Click Host, but does not transfer a domain name to another registrar, the Customer agrees that Click Host may contact the Customer after the account closure to advise of any domain name renewal or transfer.

6.10 You accept that it is your responsibility to ensure that your Domain Name Licence(s) are renewed when placing a renewal request.

7. LIMITATION OF LIABILITY

7.1. Click Host shall not be liable to the Customer for harm caused by or related to Customer's Service or inability to utilise the Service unless caused by gross negligence or wilful misconduct.

7.2. Neither Party shall be liable to the other for lost profits, direct or indirect, special or incidental, consequential or punitive, or damages of any kind whether or not they were known or should have been known.

7.3. Notwithstanding anything else in this agreement, the maximum aggregate liability of Click Host, any of its employees, agents or affiliates, under any theory of law shall not exceed a payment in excess of the amount paid by the Customer for the Service in question for the three months prior to the occurrence of the event(s) giving rise to the claim.

8. Customer General Warranties and Undertakings

8.1. The Customer warrants that any information supplied for the purpose of creating an account with Click Host, including but not limited to, first name, last name, address, telephone number and email address is true and correct, and will be kept up to date in the customer dashboard.

8.2. The Customer warrants that they will keep any passwords or sensitive information used with the service in a secure location. We recommend a password manager such as Lastpass.

8.3. The Customer warrants that they hold and will continue to hold the copyright for data stored on Click Host's servers, or that they are licensed and will continue to be licensed to use that data.

8.4. The Customer warrants that at the time of entering into this agreement they are not relying on any representation made by Click Host which has not been expressly stated in this agreement, or on any descriptions or specifications contained in any other document produced by Click Host.

8.5. The Customer warrants that all due care has been taken to ensure data integrity on Click Host's servers. This includes an undertaking that the Customer will conduct computer virus scanning and other tests as necessary to ensure that the data uploaded

by the Customer on to or downloaded by the Customer from the server does not contain any computer virus and will not in any way corrupt the data or systems of any person.

8.6. The Customer agrees that they are solely responsible for dealing with anyone who accesses their data, and that you will not refer complaints or inquiries in relation to such access to Click Host.

9. General Assurances and Undertakings

9.1. Click Host accepts liability for the supply of the Service to the Customer to the extent provided in this agreement.

9.2. Click Host does not warrant that:

- a. The Services provided within this agreement will be uninterrupted or error free;
- b. The Services will meet your requirements, other than as expressly set out in this agreement;
- c. The Services will not be subjected to external hacking attempts, viruses, worms, denial of service attacks, or other persons gaining unauthorised access to the Service or internal Click Host systems.

9.3. Click Host does not make or give any express or implied warranties including, without limitation, the warranties of merchantability or fitness for a particular purpose, or arising from a course of dealing, usage or trade practice, with respect to any goods or services provided under or incidental to this agreement.

9.4. No oral or written information or advice given by Click Host or its resellers, agents, representatives or employees, to the Customer, shall create a warranty or in any way increase the scope of the express warranties hereby given, and the Customer should not rely on any such information or advice.

9.5. In no event will Click Host be liable to the Customer for any loss of business, contracts, profits or anticipated savings or for any other indirect or consequential or economic loss whatsoever.

10. Fees and Credit

10.a Fees for services ordered by the customer will begin on the date ordered, however all services will pro-rata to the 1st of the next month plus the billing cycle they have selected which may be Monthly, Semi-Annually, Annually, Biennial or Triennial.

10.b The first of the month will be the renewal date going forward for all services unless otherwise specified (i.e Domain names are not pro-rata).

10.c Fees are due in advance of the billing cycle and will be invoiced to the client fourteen (14) days before the due date. If a credit card is stored on file, we will attempt payment 3 days before due date, to allow time for any failed payments to be remedied.

10.d Click Host stores credit cards for the purpose of automatic billing, should the customer wish to renew, a cancellation request must be placed inside the portal prior to 3 days before the due date. It's the customers responsibility to ensure any related invoices to the cancelled service are removed.

10.e The customer agrees that all services are recurring and accepts Click Host will take payment automatically should a cancellation request not be received. Cancellations are processed by the customer dashboard only.

10.2. In relation to fees for upgrades to Services:

a. Upgrades ordered by the Customer on the billing anniversary date will be billed for a full cycle and will continue each cycle on the anniversary date, unless the Services only allows annual or biennially billing cycles (e.g. domain name registrations, etc.).

b. Upgrades ordered by the Customer after the billing anniversary date will be pro-rated to the next anniversary date at the full monthly costs. Future fees will appear as the new plan from your existing anniversary billing date.

c. Fees for upgrades will be payable prior to the upgrade taking place. If a credit card is stored on file, it will be charged immediately.

10.3. In relation to fees for downgrades to Services:

a. Downgrades will be processed when the request is received by Click Host from the Customer, unless otherwise specified in the request.

b. A credit will be issued to the Customer's account for the difference of any pro-rated pre-paid amount minus the cost of the new plan pro-rated on the chosen cycle.

c. A \$9.95 administration fee may be charged for a downgrade request at Click Host's sole discretion. Additional fees may be payable for downgrades where manual work is required by Click Host to process the downgrade request (e.g. reseller hosting to shared hosting, intercontinental transfers, inter-server transfers, etc.).

10.4. Fees for add-on Services including, but not limited to, Spam Experts, Premium Email Addons, and Extended Backups, are due within fourteen (14) of the invoice being issued and are non-refundable.

10.5. All published prices are inclusive of any government taxes and charges, unless otherwise noted.

10.6. The speed of provisioning new Services is reliant upon the Customer having paid any and all outstanding fees in full.

10.7. Accounts that are more than seven (7) days past the due date will be automatically suspended.

10.8. Accounts which are not paid in full within thirty (30) days of the due date will be automatically deleted from our servers.

10.9. Accounts that have been terminated for non-payment and require a restore will attract a \$190.00 restoration fee. Depending on the length of time the termination has taken place a backup restore may not be available. Click Host has no obligation to keep data past the termination date.

10.10. Where a chargeback has been issued after services including hosting, domains, licenses have been provided and are deemed incorrect, an \$150.00 fee will apply to reinstate the service. These are due to merchant fees for challenging a chargeback and loss of reputation with our merchant facility.

11. Suspension and Termination of Services

11.1. Click Host may suspend or terminate Services if:

a. The Customer is found to be in breach of any formal policy including but not limited to these Terms of Services, Acceptable Use Policy, Customer Service Policy, or any applicable Registrant Agreement;

b. The Customer has become insolvent or bankrupt;

c. The Customer has outstanding fees that are more than fourteen (14) or thirty (30) days respectively, past the due date.

11.2. Click Host may decide at its sole discretion to advise a Customer that their service will be terminated by giving fourteen (14) days written notice. In this circumstance, Click Host will refund any pre-paid fees for Services on the account.

11.3. If a Customer's account is closed for any reason, the Customer must pay all outstanding charges by the due dates.

11.4. Click Host is under no obligation to provide the Customer with a copy of the data stored on our servers if Click Host has suspended or terminated access to the service for any breach of terms 11.1 "a" through "c" of this agreement. In this circumstance, a copy of the data may be provided to the Customer for an additional fee.

12. Cancellation

12.1. The Customer can request cancellation of any Service with us for any reason by logging in to the customer dashboard and submitting a secure cancellation request. For account security reasons, we will not accept cancellation requests by any other manner.

12.2. Any pre-paid fees for Services past the current billing month will be refunded, except the Services that are not eligible for a refund (eg. domain name registration, SSL certificates, web hosting services that specify "no refund" on the plan page, etc).

12.3. The Customer agrees to pay any and all outstanding fees upon cancellation of their Services.

12.4. Cancellation requests must be received by Click Host four (4) days before the package renewal date. If cancellations are not placed prior to this date, automatic renewal and subsequent administration fees of \$9.95 may be attached.

13. Refund

13.1. Types of products for the following items are not eligible for refunds

- Domain Names
- Spam Experts Mail filtering

13.2. Refunds for any items not listed above will be eligible for a full refund within thirty (30) days post order. This applies to:

- All Shared cPanel hosting plans
- All Reseller cPanel hosting plans
- All ClickX cPanel hosting plans

13.3. Refunds will not be provided should any breaches of the Terms of Service or Acceptable Use Policy Agreements be evident. This will be advised to the customer in writing stating the reasons for this action.

13.4. All refunds are processed at the discretion of Click Host management and in accordance with the Australian Competition & Consumer Commission published policies and guidelines located at <http://www.accc.gov.au/consumers/consumer-rights-guarantees/repair-replace-refund>.

13.5. Should a part refund be requested, it may be that a \$9.95 administration fee be applied and deducted from the refund amount. Click Host management will decide this at their sole discretion.

14. Data Management

14.1. Click Host will backup and archive the Customer's data on a regular basis for the purpose of disaster recovery.

14.2. In the event of hard disk failure or data corruption, Click Host will restore data from the last known verified archive.

14.3. If all backup and archived data appear to be corrupt, the Customer should be prepared to upload the data to their account from a local copy, and setup all mailboxes and FTP accounts.

14.4. The Customer should always maintain a recent copy of all data, as Click Host will not be liable for incomplete, out of date, corrupt or otherwise incomplete data recovered from our backups and archives.

14.5. Should the Customer require Click Host to restore or supply a backup of the account data where no fault was caused by Click Host, a restoration fee of \$190.00 per account will be payable, prior to restoration.

14.6. Click Host takes automatic system incremental backups of all web hosting packages at the following schedule:

- A backup for every hour, for the last 24 hours
- A backup for every day, for the last 7 days
- A backup for every week, for the last 5 weeks
- A monthly backup, from the last 2 months

15. Changes

15.1. Click Host may amend the Terms of Service at any time with or without warning. Should any change occur, we will advise the Customer by email and note the specific changes which have occurred and provide fourteen (14) days' notice before any changes are enforced.

15.2. In exceptional circumstances, Click Host may be required to amend the Terms of Service and enforce the amendments immediately. If this is the case, the Customer will be advised by email and the circumstances will be explained.

15.3. Our Terms of Service are made available online for viewing at <https://clickhost.com.au/legals>

16. Entire Agreement

16.1. These terms and conditions constitute the entire agreement between Click Host and the Customer, and it supersedes all prior oral or written agreements, understandings and representations.

17. Governing Law

17.1. The Customer agrees to abide by all local, state and federal laws pursuant to the Services delivered by Click Host.

17.2. The Customer agrees that these terms and conditions are governed by the laws of New South Wales, Australia, and agrees to the exclusive jurisdiction of the Courts of that state.