

Web Hosting and Domain Registration Terms & Conditions

Effective 10 May 2016

1.0 Term and Amendments

- 1.1 Please read this agreement carefully as Your use of ADG Web Hosting Service (Service) is subject to these terms and conditions (Terms) and these Terms form an agreement between You and Pleasure Hound Productions Pty Limited (ACN 000 904 825), trading as Aslan Design & Graphics (ADG).
- 1.2 ADG may change these Terms and Conditions at any time. Such changes may include changing the pricing structure for the Service or the Terms
- 1.3 Notice of change may be given by post or on ADG's Web Site. Any use of the Service after such notice will be an acceptance of that change. So please remain alert to any amendments to these Terms that ADG may make in the future.
- 1.4 If You object to the amended Terms, You may terminate Your Service.
- 1.5 These Terms constitute the entire agreement between You and ADG for the Service and supersede all previous agreements, understandings and negotiations on that subject matter.
- 1.6 This agreement commences on the Commencement Date and continues until terminated in accordance with this agreement.

2.0 Service

- 2.1 ADG makes no representation or warranty that the Service will be uninterrupted or error free.
- 2.2 You may apply for the Service by completing an Application required by ADG.
- 2.3 If ADG accepts your Application, which it may do at its discretion, ADG will supply the Service to you from the Commencement Date.
- 2.4 You grant to Us all rights, consents, permissions and licences necessary to enable Us and Our subcontractors and suppliers to legally view, copy and store your Contents for the sole purpose of performing our obligations under this agreement or any law.

3.0 Use of Service

- 3.1 You must not use the Service for any activity that violates any local, state, federal or international law, order or regulation. Prohibited activities include, but are not limited to:
 - a) posting, disseminating or in some cases accessing material which is unlawful.
 - b) posting or disseminating material which violates the copyright or other intellectual property rights of others. You assume all risks regarding the determination of whether material is in the public domain.
 - c) posting or disseminating material that defames, harasses or abuses anyone or violates their privacy.
 - d) Pyramid or other illegal soliciting schemes.
 - e) Any fraudulent activities, including impersonating any person or entity or forging anyone else's digital or manual signature.
- 3.2 The Service must not be used to obtain or attempt to obtain unauthorised access to any computer, system or network. If You do not have authorisation, prohibited activities include, but are not limited to:
 - a) accessing, monitoring or using any data, systems or networks;
 - b) probing, scanning or testing the vulnerability of a system or network;
 - c) breaching any security or authentication measures for a system or network;
 - d) accessing the account or private information of any other user;
 - e) accessing any server in violation of any acceptable use policy of that server, including any attempt to do any of the things mentioned in a) to e) above.
- 3.3 There are a number of activities that You can perform when accessing the Internet that may be harmful or cause loss to You, others that may access Your service, or Your equipment. Any other these activities considered by ADG as damaging, harmful or illegal will result in temporary or permanent termination of your account. Typical activities include but are not limited to the following:
 - a) downloading content (including receiving emails) from the Internet which may introduce viruses or other harmful features to your computer;
 - b) purchasing goods or services using the Internet;
 - c) transmitting confidential information over the Internet (such as your credit card number or other personal information), or
 - d) accessing and viewing content on the Internet or otherwise available through the service that may be offensive to some individuals, or inappropriate for children (for example, it is possible to obtain access to content that is pornographic, offensive and/or unsuitable for children).

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4.0 Technical support

- 4.1 Hosting - Hosting technical support refers to issues pertaining to the hosting account only and does not include third party software including client hardware and software issues. This includes but is not limited to:
- a) Email software setup and email connection issues pertaining to the incorrect setup of third party software or ISP issues (please refer to our Knowledge base for details);
 - b) Third party software;
 - c) Domain registration password retrieval;
 - d) Updating DNS records if no hosting account exists with ADG unless subscribed to a DNS account;
 - e) User support for any software or hardware unless as part of a subscription or package, or stated in a authorised quotation;
 - f) Any technical difficulties incurred as a direct result of clients error, third party hardware and software security issues;
 - g) Loss of data where loss of data is due to client negligence.
- 4.2 CMS - CMS technical support pertains to software bugs and does not include user support issues.
- 4.3 Any service required outside of hosting technical support & CMS technical support may incur additional charges at our standard hourly service rates. All charges will be quotable and approved by client before proceeding.

5.0 Payment

- 5.1 An invoice will be issued by ADG no later than thirty (30) days prior to its due date, by way of email (post if required). Payment of such invoice must be made in accordance with the terms set out on the invoice.
- 5.2 If You do not pay the invoice by the due date then ADG will charge You a late fee of \$10.
- 4.3 If You elect to pay by cheque and the cheque is dishonored then a fee of \$45 will be charged.
- 4.4 If You elect to pay by direct debit and there are insufficient funds in the account to meet the invoice then a fee of \$45 will be charged.
- 5.5 ADG is not liable for any charges imposed by Your telecommunications carrier.
- 5.6 Renewal. The Term of this Agreement shall automatically be renewed for the same term as set forth in the Client's Plan, unless prior to fourteen (14) days in advance of the end of the Term, Client either:
- (i) submits email cancellation, or
 - (ii) faxes a cancellation request
- to ADG, containing the account name, password, reason for cancellation and signature of Client. Termination will only be affected once Client receives written acknowledgement of receipt of cancellation request from ADG.

6.0 Disclaimers and Liability

- 6.1 You represent and warrant that:
- a) all Personal Details and other Relevant Details provided to ADG are current and correct.
 - b) all information, data, text, logos, images, audio, movie clips, links and or content in any form which forms part of Your website (Content) You submit to ADG for publication will:
 - i. not breach any laws;
 - ii. not be misleading or deceptive or likely to mislead or deceive;
 - iii. not be defamatory;
 - iv. not be obscene, offensive or in any way unsuitable for people under the age of 18 years; and
 - c) the storage, transmission and reproduction of the Content by ADG for the purpose of fulfilling its obligations under this Agreement will not infringe the intellectual property rights of any person;
 - d) at the time of entering into this agreement You:
 - i. have the authority to enter the agreement; and
 - ii. are not relying on any representation made by ADG which has not been stated expressly in this agreement, or on any descriptions or specifications contained in any other document, including any catalogues or publicity material which ADG has produced;
 - e) You will conduct such tests and computer virus scanning as may be necessary to ensure that data uploaded by You onto or downloaded by You from the Server does not contain any computer virus and will not, in any way, corrupt the data or systems of any person;
 - f) You are responsible for all Contents You submit to ADG for publication through the Service.
- 6.2 ADG will not be liable for any losses, expenses, damages or costs which You may suffer or incur as a result of any breach of the warranties in 6.1 by You.
- 6.3 You acknowledge that failure to notify ADG of any changes in Your ISP could affect the Service You receive.

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- 6.4 You indemnify ADG against all liabilities, losses, expenses, damages and costs that ADG may suffer or incur as a result (whether directly or indirectly) of:
- a) any claim or proceedings by third parties arising from Your act or omission (or any act or omission of Your officers, employees, agents or contractors) in connection with this Agreement, or the Content;
 - b) the use or misuse of the Service by You or any person using Your Account; and
 - c) any breach of the warranties in 6.1 by You.
- 6.5 ADG:
- a) excludes all conditions and warranties implied into this agreement to the extent permitted by law; and
 - b) limits their liability for any breach of any such condition or warranty that cannot be excluded at law to the amount payable to ADG under the contract for Service, for the period commencing on that date of breach to the expiry of the contract for Service.
- 6.6 ADG's liability under this agreement is diminished to the extent that Your acts or omissions (or those of a third party) contribute to or cause the loss or liability.
- 6.7 ADG excludes all liability for indirect and consequential loss or damage of any kind, loss or corruption of data, loss of revenue, loss of profits, failure to realise expected profits or savings and any other commercial or economic loss of any kind, in contract, tort (including negligence), under any statute or otherwise arising from or relating in any way to this agreement and/or its subject matter.
- 6.8 ADG's total liability for loss or damage of any kind not excluded by clause 6.8, however caused, in contract, tort (including negligence), under any statute or otherwise arising from or relating in any way to this agreement and/or its subject matter is limited to the amount payable to ADG under the contract for Service, for the period commencing on that date of breach to the expiry of the contract for Service.
- 6.9 ADG will not be liable for failing to comply with the Terms because of something that happens out of their control.
- 6.10 This clause applies notwithstanding any other provision in this agreement.
- 6.11 Indemnity. Client agrees to indemnify, defend and hold harmless ADG, its directors, officers, employees and agents, and defend any action brought against same with respect to any claim, demand, cause of action, debt or liability.

7.0 Suspension and Termination

- 7.1 Either party may terminate this agreement at any time by providing the other party with at least thirty (30) days written notice.
- 7.2 If this agreement is terminated for any reason, You must immediately pay all fees and charges owing up to the date of termination (without any deduction or set-off of any kind).
- 7.3 Monthly, quarterly or bi-annual fees are not refundable if your Service is terminated part way through a payment period. Each time we charge a transaction, we will provide you with a receipt of the payment. We require 3 business days' notice prior to your next billing date to avoid charging you at that next billing date. If you elect to cancel a payment method, we will then, subsequent to the expiry of the notice period, provide a cancellation or refund confirmation within 3 business days.
- 7.4 Without prejudice to our other rights and remedies under this agreement, if any Services fees are not paid on or before their due date, we reserve the right, immediately and at our sole discretion, to suspend the provision of Services to you until such payment is made (including any interest charged on overdue amounts, calculated at the daily rate of 12% per annum).
- 7.5 ADG may from time to time without notice suspend or terminate the Service:
- a) during any technical failure, modification or maintenance of the Service, provided that ADG use reasonable endeavours to resume the Service as soon as reasonably practicable; or
 - b) if ADG consider that You have failed to comply with any provision of this agreement (including, but not limited to, failure to pay fees or charges due), or You do, or allow to be done, anything which in ADG's opinion may have the effect of jeopardising the operation of the Service.
- 7.6 If we have taken action to recover overdue amounts from you, any reasonable costs incurred by us in recovering the debt, including but not limited to any legal expenses and collection agency charges, will be recoverable from you.

8. Provision of Secure Access to Our Systems

- 8.1 You must keep all login details to The Console secure and confidential at all times and must not disclose them to anyone else (except those of your employees who need to know them for the purposes of their employment).
- 8.2 You agree that you are totally responsible for all actions of the people (if any) to whom you provide your login details (whether knowingly or not, and whether directly or indirectly) while they obtain access to our systems using those login details, and that we are entitled to treat instructions provided by those people through such access as instructions originating from you.
- 8.3 You must notify us immediately of any breach of security or unauthorised use of your login details to access our systems. We will not be liable for any loss you incur due to any unauthorised use of your login details.

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8.4 You consent to our use of your login details in provisioning the Services, including in respect of any migration or transition of your account, content or data (to or from any suppliers we use) as reasonably necessary for the continued provision of the Services.

9.0 General

8.1 This agreement is governed by the law in force in New South Wales, Australia.

8.2 You may not resell the Service or assign any of Your rights or obligations under this agreement. ADG may assign or subcontract any of ADG's rights or obligations under this agreement to a third party.

8.3 If a provision of the Agreement is void, voidable or unenforceable, it will be severed and the remainder of the Agreement will not be affected.

8.4 Client is responsible for ensuring a current copy of the content or Web Site is located at their premises.

10.0 Definitions

10.1 Unless otherwise stated or the contrary intention appears in this agreement, the following words have these meanings:

"Application" means a request by You to ADG to provide Service, made orally, in writing or electronically.

"ADG" means Pleasure Hound Productions Pty Limited (ACN 000 904 825) trading as Aslan Design & Graphics.

"ADG Web Site" means the web site located at <http://www.adghosting.com.au>.

"Commencement Date" means the date that ADG accepts Your Application for the Service

"Contents" means all information, data, text, logos, images, audio, movie clips, links and or content in any form which forms part of Your website.

"ISP" means Internet Service Provider.

"Personal Details" means all information about You from which Your identity is apparent or can reasonably be ascertained; and includes Your name, address, contact telephone number and other details.

"Relevant Details" means all information requested from You in Your Application, including but not limited to ISP details.

"Service" means web hosting service provided by ADG, together with associated services and software including, but not limited to, email facilities, web space and customer support.

"Us" or "Our" means Pleasure Hound Productions Pty Limited (ACN 000 904 825) trading as Aslan Design & Graphics.

"You" means the person or legal entity that applies and accepts supply of the Service from ADG

10.2 Unless the contrary intention appears, a reference to:

a) a clause is a reference to a clause in this agreement;

b) law includes common law, principles of equity, and laws made by parliament (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them);

c) an amount of money is a reference to the lawful currency of Australia;

d) a day is a calendar day and is to be interpreted as the period of time commencing at midnight and ending 24 hours later; and

e) the words "include", "including", "for example", or "such as" are not to be interpreted as words of limitation, and when such words introduce an example, they do not limit the meaning of the words to which the example relates, or to examples of a similar kind.