

Welcome to CatsNine's web hosting service.

Why is this document important?

This Terms of Service agreement is an important legal document that contains details of the product/s that you have purchased from us. Before you buy any product from us, please read this document carefully. Please keep this agreement with your other important documents relating to our service.

Money back guarantee

After you purchase a web hosting product from us, you have 14 days to consider the information in this agreement and the product you have purchased. If you wish, and provided you have not broken any terms of this agreement, you can cancel your service within 14 days from the day your service was ordered. We will then refund any money you have paid, minus any services or surcharges that are non-refundable. Further details about our refund policy are contained within this document.

Your full and correct disclosure of facts

You must comply with our duty of disclosure when you order a product from us. We may ask you for information about your web hosting requirements, web hosting history, and yourself, which is used by us to consider your application for web hosting. You must answer any questions honestly and tell us anything you or a reasonable person in the circumstances would include in their answer.

Not meeting your responsibilities

If you do not meet your responsibilities, it may lead to us:

- cancelling your web hosting services or related product
- passing on costs incurred by us due to you not meeting your responsibilities

If fraud is involved, we can treat your service as if it had never existed.

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SERVICES

Subject to the terms of this agreement, and contingent on your satisfaction of our approval requirements, we agree to provide web hosting services and/or products as described in the order for the fees stated in the order.

PERIOD OF SERVICE

The initial period of service shall begin on the date that we generate an e-mail message to you announcing the activation of your account and shall continue for the period as indicated on the order. Upon expiration of the period of service, this agreement shall automatically renew for unlimited renewal terms having the same number of full calendar months as the initial period of service unless we or you provide the other party with written notice of non-renewal at least ten days prior to the expiration of period of service. We reserve the right to refuse you a renewal term. The initial period of service and any renewal of this may be referred to collectively in this agreement as the "Term" or "Period of Service".

PAYMENTS

We will tell you how much you have to pay and how much time you have for payment. You must pay the amount due by the due date.

If you pay after the due date, we can reject your payment and your service will cease from the due date. If we accept your late payment, we might re-commence your service from the date of payment. Unless we tell you, any payment reminder we send you does not change the expiry or due date. If your payment is overdue we can cancel your service without notifying you if your payment is five days (or more) late. If you do not pay the invoice and any other charges in full, we may reduce your period of service so it is in line with the amount you paid or cancel your service.

If your order provides for credit/debit card billing, you authorise us to bill subsequent fees to the credit/debit card on or after the first day of each billing cycle during the Term of this Agreement, otherwise we will invoice you via e-mail to the primary customer contact listed on the account. You are responsible for providing us with changes to billing information. At our discretion, we may accrue charges to be made to a credit/debit card until such charges exceed \$10.00. We may charge interest on overdue accounts at the lesser of 6.5% per month of the total amount due, or the maximum non-usurious rate under applicable law. Payments overdue by two days will be suspended. We may charge a reasonable fee for re-activation of service. You are responsible for the management of all recurring payments (such as PayPal subscriptions). If you make an unintended payment, we may refund in part or whole the payment, minus any applicable administration fee we deem appropriate. If your or our payment processor informs us that you will be filing a chargeback or similar payment dispute, we may suspend all your services and only deal with the payment processor until an outcome has been reached. We will uphold that payment processor's ruling. We may refuse to issue a refund if you file a chargeback or similar payment dispute. Fees not disputed before the due date are conclusively deemed accurate. You agree to pay our reasonable reinstatement fee following a suspension of service, and agree to pay our reasonable costs of collection of overdue amounts, including collection agency fees, attorney fees and court costs.

We may increase our fees for our services effective the first day of a renewal term by giving you notice of the new fees at least five days prior to the beginning of the renewal term. If you do not give notice of non-renewal, then you shall be deemed to have accepted the new fee for that renewal term and any subsequent renewal terms (unless the fees are increased in the same manner for a subsequent renewal term).

At our request, you shall remit to us all sales, GST or similar tax imposed on the provision of services (but not in the nature of an income tax on us), regardless of whether we fail to collect the tax at the time the related services are provided.

You acknowledge that the amount of the fee for the service is based on your agreement to pay the fee for the entire period of service, or renewal term, as applicable. In the event we terminate your service for your breach of the agreement, or you terminate the service, the unpaid fees for the period of service remaining are due on the business day following the termination of the service.

If you are unsatisfied with our service within the first 14 days, we shall issue a refund. No refund will be issued if abuse of our stated policies forces us to suspend or terminate your service prematurely. No refunds will be issued for setup fees, domain names, optional extras or additional services (including but not limited to dedicated IP addresses, billing software licenses, and account migrations). If you request a refund when you have received free additional services, we will withhold the value of these services from your refund. We reserve the right to refuse any refund without reason. Refunds may take up to 30 days to process.

Accounts purchased under a promotion, with or without a promotion code, are excluded from our money back guarantee.

CANCELLATIONS

We incur costs in establishing and administering your service. If you cancel one or more services, we will charge a cancellation fee. You also pay any relevant government charges. If you cancel your service in the period of service, we can charge a fee. The amount of the fee is \$15 (plus relevant government charges) for all services. The most we will charge you is \$30 (plus relevant government charges) if you cancel more than one service. The cancellation fee is deducted from any refund. A refund will not be issued if the cancellation fee is a greater amount, although we will not charge you any additional amounts to cover the difference.

You must notify us of your cancellation at least 7 days before your Term renewal date; else you will be charged for any subsequent Terms where cancellation notice has not been provided. Cancellations must be submitted through our billing system.

We will not charge any cancellation fee to a service cancelled within the first 14 days of the period of service, unless it has been purchased under a promotion, with or without a promotion code.

Your data will be removed within 24 hours after receipt of a cancellation request.

You can cancel your service at any time and the cancellation takes effect on the date we receive your request. We will refund any money we owe you less any cancellation fee that might apply and non-refundable government charges. We can cancel your service at any time according to law. We can cancel your service if you do not pay any fees by the due date. If we cancel your service you will receive no refund.

LAW AND ACCEPTABLE USE POLICY

You agree to use the service in compliance with applicable law and our acceptable use policy (the "AUP"), which is hereby incorporated by reference in this agreement. You agree that we may, in our reasonable judgment, amend the AUP from time to time to further detail and describe reasonable restrictions and conditions on your use of your services. Amendments to the AUP are effective on the day that they are made. You agree to co-operate with our investigation of any suspected violation of the AUP. In the event of a dispute, our reasonable interpretation of the AUP shall govern.

FAIR USE POLICY

It is important to us that our customers can access our services. Because of this, you must follow our Fair Use Policy when you use any of our services.

Our Fair Use Policy is intended to ensure that our customers do not use our services in an excessive, unreasonable or fraudulent manner or in connection with equipment that has not been approved by us. Such usage may impact the reliable operation of our network and/or the quality or reliability of our services.

Where we consider that you have breached our Fair Use Policy (including excessive usage, as outlined below) we may suspend or cancel your service.

The following is considered excessive use;

- Using more than 25% of system resources for longer than 80 seconds
- MySQL queries that run for longer than 20 seconds
- Cron jobs with intervals less than 15 minutes
- At least 75% of the files hosted on your service must be a functioning and readily accessible part of your website, and not backup space
- Sending more than 300 emails per hour

You may only use a reasonable and fair portion of our server's resources. We will determine what is reasonable and fair usage in relation to anything not mentioned above on a case by case basis.

Cloud Nine hosting

The above limits do not apply to our Cloud Nine hosting. We will determine what is reasonable and fair use for these accounts on an individual basis.

We do not allow you to actively resell web hosting on our 'web hosting plans'. You may only actively resell web hosting on our 'reseller hosting plans'. In limited circumstances you may offer accounts to third parties under our 'web hosting plans'. For example, if you are a web developer and web hosting comes as part of your web development package, but you are not actively selling web hosting as a standalone product. You should contact us to ensure you meet the criteria before offering web hosting to third parties under our 'web hosting plans'.

CUSTOMER INFORMATION

You represent and warrant to us that the information you have provided and will provide to us for purposes of establishing and maintaining your service is accurate. If you are an individual, you represent and warrant to us that you are at least 18 years of age. We may rely on the instructions of the person listed as primary customer contact on the account with regard to the account until we have been provided written notice changing the primary customer contact.

END USER SUPPORT

At your request, we will provide end user technical support to your customers. We guarantee no response or resolution time. We will be acting on your behalf and thus you are responsible for any communication provided by us to your customers. You must use our provided helpdesk software to receive end user support. We do not guarantee anonymity.

INDEMNIFICATION

You agree to indemnify and hold harmless us, our affiliates, and each of their respective officers, directors, agents and employees from and against any and all claims, demands, liabilities, obligations, losses, damages, penalties, fines, punitive damages, amounts in interest, expenses and disbursements of any kind and nature whatsoever (including reasonable attorney's fees) brought by a third party under any theory of legal liability arising out of or related to you or any person using your log on information, regardless of whether such person has been authorised to use services by you.

DISCLAIMER OF WARRANTIES

We do not warrant or represent that the services will be uninterrupted, error-free, or completely secure. To the extent permitted by applicable law, we disclaim any and all warranties including the implied warranties of merchant ability, fitness for a particular purpose, and non-infringement. To the extent permitted by applicable law, all services are provided on an "as is" basis.

LIMITATION OF DAMAGES

Neither party shall be liable to the other for any lost profits, or any indirect, special, incidental, consequential or punitive loss or damage of any kind, or for damages that could have been avoided by the use of reasonable diligence, arising in connection with the agreement, even if the party has been advised or should be away of the possibility of such damages.

Notwithstanding anything else in the agreement to the contrary, the maximum aggregate liability of our and any of our employees, agents, or affiliates, under any theory of law, shall be a payment of money not to exceed the amount payable by you for one month of service.

SUSPENSION/TERMINATION

You agree that we reserve the right to suspend your services without notice and without liability. We will suspend your service if we believe that the service is being used in violation of this agreement, if you fail to co-operate with any investigation of suspected violation of this agreement, if we believe that the suspension of your service is necessary to protect our network or our other customers, or as requested by a law enforcement, regulatory agency or service provider. You shall pay our reasonable reinstatement fee if service is reinstated following a suspension of service.

The agreement may be terminated by you prior to the expiration of the period of service without further notice and without liability if we fail in a material way to provide the service in accordance with the terms of the agreement and does not cure the failure within 20 business days of your written notice describing the failure in reasonable detail. The agreement may be terminated by us prior to the expiration of the period of service without further notice and without liability. We may terminate the agreement if you are overdue on the payment of any fees, or if you violate any provision of the agreement. Either party may terminate this agreement upon 10 days advance notice if the other party admits insolvency, makes an assignment for the benefit of its creditors, files for bankruptcy or similar protection, is unable to pay debts as they become due, has a trustee or receiver appointed over all or a substantial portion of its assets, or enters into an agreement for the extension or readjustment of all or substantially all of its obligations.

REQUESTS FOR CUSTOMER INFORMATION

You agree that we may, without notice to you, report to the appropriate authorities any conduct by you or your customers or end users that we believe violates applicable law, and provide any information that we have about you or any of your customers or end users in response to a formal or informal request from a law enforcement or regulatory agency or in response to a formal request in a civil action that on its face meets the requirements for such a request.

BACK UP COPY

You agree to maintain a current copy of all content hosted by us. We are not responsible for any of your data. You are responsible for the backing up for your data, and we do not accept any liability for the loss or damage of your data.

CHANGES TO OUR NETWORK

Upgrades and other changes in our network, including, but not limited to changes in software, hardware, and service providers, may affect the display or operation of your hosted content and/or applications. We reserve the right to change our network in our reasonable discretion, and we shall not be liable for any resulting harm to you.

NOTICES

Notice to us under the agreement shall be given via e-mail to the e-mail address posted for customer support. Notices to you shall be given via e-mail to the individual listed as primary customer contact on your account. Notices are deemed received on the day transmitted, or if that is not a business day, on the first business day following the day delivered. You may change your notice address by a notice given in accordance with this section

FORCE MAJEURE

We shall not be in default of any obligation under the agreement if the failure to perform the obligation is due to any event beyond our control, including, without limitation, failure of the power grid, failure of the internet, natural disaster, war (whether declared or not) riot or civil commotion, insurrection, epidemic, strikes or other organised labour action, terrorist activity, or other events of a magnitude or type for which precautions are not generally taken in the industry.

GOVERNING LAW/DISPUTES

The agreement shall be governed by the laws of the State of New South Wales, exclusive of its choice of law principles, and the laws of Australia, as applicable. This agreement shall not be governed by the United Nations Convention on the International Sale of Goods. Exclusive venue for all disputes arising out of or relation to the agreement shall be the state and federal courts in New South Wales, Australia, and each party agrees not to dispute such personal jurisdiction and waives all objections thereto.

MISCELLANEOUS

Each party acknowledges and agrees that the other party retains exclusive ownership and rights in its trademarks, service marks, trade secrets, inventions, copyrights, and other intellectual property, Neither party may use the other party's name or trade mark without the other party's prior written consent. The parties intend for their relationship to be that of independent contractors and not a partnership, joint venture, or employer/employee. Neither party will represent itself to be agent of the other. Each party acknowledges that it has no power or authority to bind the other on any agreement and that it will not represent to any person that it has such power or

authority. This agreement may be amended at any time without prior notice. The terms on your order or other business forms are not binding on us unless they are expressly incorporated into a formal written agreement signed by both parties. A party's failure or delay in enforcing provision of the agreement will not be deemed a waiver of that party's rights with respect to that provision or any other provision of the agreement. A party's waiver of any of its right under the agreement is not a waiver of any of its other rights with respect to a prior, contemporaneous or future occurrence, whether similar in nature or not. The captions in the agreement are not part o the agreement, but are for the convenience of the parties. The following provisions will survive expiration or termination of the agreement: fees, indemnity obligations, provisions limiting liability and disclaiming warranties, provisions regarding ownership of intellectual property, these miscellaneous provisions, and other provisions that by their nature are intended to survive termination of the agreement. There are no third party beneficiaries to this agreement. Staff abuse is prohibited. If we determine that you have been abusive to our staff we will terminate your service immediately without notice or refund. Communication between us and you is confidential, and may not be disclosed to a third party without written consent from us. Disclosing confidential information is a breach of this agreement. Neither insurers nor customers of resellers are third party beneficiaries to the agreement. You may not transfer the agreement without our prior written consent. Our approval for assignment is contingent with the assignee meeting our approval criteria. We may assign the agreement in whole or in part. We do not provide support for third party applications. We are not responsible domain name/DNS issues and cannot guarantee a resolution if these issues are reported to us. We do not warrant that any software provided to you by us is appropriate for your needs or will function as advertised. If we have provided you a license for a software script, we can revoke this license and your right to use it at any time without reason or notification. IP addresses will only be provided with justification. If no sufficient justification is provided, we will not refund any IP address fee. All prices listed on our website are in US dollars and do not contain any applicable taxes unless otherwise stated.

This agreement together with your order and our AUP constitutes the complete and exclusive agreement between the parties regarding its subject matter and supersedes and replace and prior understanding or communication, written or oral. We reserve the right to change this agreement at any time without notice.

TERMS EXPLAINED

agreement

See terms of service.

duty of disclosure

You have a duty of disclosure to tell us everything you know or should know, that is relevant to our decision to provide a service to you.

The information you tell us can affect:

- the amount you pay
- if we will be able to provide you with services
- if special conditions will apply to your services.

You do not need to tell us of anything which:

- reduces the chances of you breaching this agreement
- we should know about because of the business we are in or
- we tell you we do not want to know.

If you are unsure it is better to tell us. If you do not tell us something which you know or should know is relevant, we might cancel your service or, if fraud is involved we can treat the service as if it had never existed.

fees

The amount you pay us for any product or service we provide you with. You also pay GST and any additional government charges if applicable.

period of service

When your product/service starts to when it ends. It is shown on your order, invoice, or account.

product

The product or service we provide you with.

service

The product or service we provide you with.

terms of service

The terms of service is this document and contains the terms we and you must abide by. It tells you what your rights and responsibilities are, details of costs, fees and charges and other important information. It should be read together with your any other communication sent by us.

we, our and us

Please see 'who we are' on the last page of this document.

you and your

The people or entity shown as the account holder or primary customer contact.

How to Contact Us

Visit us on the web, <http://www.catsnine.com>

Email us directly, clients@catsnine.com

Or write to us:

PO Box 5029

East Lismore NSW 2480

Australia

Please do not write to us for urgent issues, email is the preferred medium for contact.

Who we are

All products and services are issued by Roehr Pty. Ltd., trading under the name of CatsNine.

Roehr Proprietary Limited

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