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You must accept the terms of this Agreement in order to use the Services. By Ticking or Clicking the "I Accept the Terms and Conditions" during the order process confirms you have read, accepted and acknowledged these Terms And Conditions laid out below. Failure to tick the checkbox "I Accept the Terms And Conditions" will not allow the order to be processed. In addition, signing our Debit Order Authority for services confirm that you have read and agreed to our Terms and Conditions and duly accept them.

NOTWITHSTANDING, BY USING THE SERVICES, YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT AND AGREE TO BE BOUND BY THE TERMS AND CONDITIONS CONTAINED HEREIN AS WELL AS ALL ACCEPTABLE USE POLICIES INCORPORATED BY REFERENCE.

Blue Blue Interactive (Pty) Ltd hereafter referred to as "Blue Box Host"

Blue Box Host reserves the right to change or modify any of the terms and conditions contained in this Agreement, any Addendum and any policy or guideline incorporated by reference at any time and from time to time in its sole discretion, and to determine whether and when any such changes apply to both existing or future customers. Any changes or modification will be effective upon posting of the revisions on the Blue Box Host Web site (the "Site"). Your continued use of Services following Blue Box Host's posting of any changes or modifications will constitute your acceptance of such changes or modifications.

## 1. TERM AND PAYMENT FOR SERVICES

### 1.1 Term and Cancellation

This Agreement shall be for an "Initial Term" as chosen by you in the Order Form located on this Site or by signing an agreement presented on paper in the form of a quotation, form or Acceptance Form at the time you register for the Services. This Agreement will be automatically renewed (the "Renewal Term") at the end of the Initial Term for the same period as the Initial Term unless you provide Blue Box Host with notice of termination prior to the end of the Initial Term or the Renewal Term. Notice is provided via cancellation request, which must be requested via the Client Area.

### 1.2 Termination Policy

If you terminate your receipt of the Services prior to the end of the Initial Term or the Renewal Term, whichever is then applicable, (a) Blue Box Host will not refund to you any fees paid in advance of such termination and (b) you shall be required to pay 100% of Blue Box Host standard monthly charge for each month remaining in the term, unless otherwise expressly provided in this Agreement. Notwithstanding the foregoing, if you

terminate your receipt of Shared Hosting Services prior to the end of the first thirty (30) days of the Initial Term, you are entitled to a refund of the fees you paid in advance for the monthly Services, not including any setup fees. No refunds will be paid for ADSL Services. Your termination request or notice must be submitted to Blue Box Host in the manner described in Section 1.1 Blue Box Host may terminate this Agreement at any time and for any reason by providing to you written notice thirty (30) days prior to the date of termination. If Blue Box Host terminates this Agreement, Blue Box Host will refund to you the pro-rata portion of prepaid fees attributable to Services (excluding setup fees) not yet rendered as of the termination date unless otherwise expressly provided in this Agreement. If termination was enforced due to violations that result in damages or fees assigned to Blue Box Host on your behalf, no refunds shall apply and you will be held liable for such fees.

### 1.3 Default and Cure

In the event that either party hereto defaults in the performance of any of its material duties or obligations under this Agreement, including failure to make any payments due under this Agreement, and such default is not cured within five (5) days after written notice is given to the defaulting party specifying the default, then the party not in default, after given written notice thereof to the defaulting party, may terminate this Agreement.

### 1.4 Charges

You agree to pay for all charges attributable to your use of the Services at the then current Blue Box Host prices, which are inclusive of any applicable taxes.

### 1.5 Payment

All charges for Services must be paid in advance according to the then current prices applicable to the Services. Upon entering this Agreement, you must choose to pay by Credit Card, Cheque Card or Instant EFT. If you choose to pay by Credit Card or Cheque Card upon registering for the Services, you thereby authorize Blue Box Host to charge your bank account provided in the site signup process or an actual signed agreement to pay for any charges that may apply to your account. You must notify Blue Box Host of any changes to your bank account/credit card (including, without limitation, applicable account number or cancellation or expiration of the account), your billing address, or any information that may prohibit Blue Box Host from charging your account. Blue Box Host may also create periodic invoices for any applicable Supplemental Charges associated with your use of the Services. You agree to pay to Blue Box Host the amount indicated in each invoice by the due date reflected on that invoice. If you fail to pay any fees by the applicable due date for invoice payments, late charges of the lesser of one and one-half per cent (1.5%) per month or the maximum allowable under applicable law but at no time less than R15 shall also become payable by you to Blue Box Host. In addition, your failure to fully pay any fees within five (5) days after the applicable due date will be deemed a material breach of this Agreement, and Blue Box Host may, in addition to any other remedy it may have:

- (i) suspend its performance of the Services and/or terminate this Agreement; and/or
- (ii) At the time of such non-payment, Blue Box Host may, delete any and all content from the Blue Box Host Servers.

- (iii) Suspend your client profile and services that fall under your profile due to unsuccessful collection attempts and /or your failure to communicate cancellation to us as per our cancellation policy and/or failure to make payment on any outstanding invoices which we would deem to be breach of this contractual agreement.

Any such suspension or termination of the Services would not relieve you from paying past due fees plus interest. In the event of collection enforcement, you will be liable for any costs associated with such collection, including, without limitation, reasonable attorneys' fees, court costs and collection agency fees. Late payments, regardless of the amount will, after written warning be reported to the ITC Organization, thus limiting and damaging the company's or person's current credit rating.

#### 1.6 Chargeback's

If you ever feel that Blue Box Host incorrectly debited your bank account, you must contact accounts for a correction. If you do contact your banking institution and issue a chargeback then you will be responsible for the R350 chargeback fee. If you do not pay this fee then your account will be terminated and your details will be reported to the ITC. Declined debit orders will incur a R45.00 (forty five rand) decline fee. Declined credit cards will incur a R60.00 (sixty rand) declined fee.

#### 1.7 Refunds

Blue Box Host provides a 30 day refund policy on all its reseller hosting and web hosting facilities from date of order. Your refund is solely for hosting purposes and in order to claim the refund, a full calendar month's notice must be provided to Blue Box Host in writing with date of termination. Your refund will be processed at the end of the month and will be returned to you via EFT or credited back to your credit card from which the initial payment was made. Your refund is valid for 30 days from the date of purchase. ADSL refunds are not applicable. You understand that Blue Box Host will not refund any amount used for ADSL services rendered or purchased. No refunds or credits will be processed for the current month should you request a downgrade of your ADSL Service. You also understand that the ADSL network is maintained by a third party of which Blue Box Host have limited control over. The network and line integrity is the responsibility of the client and the third party provider.

## 2. USE OF SERVICES

### 2.1 Acceptable Use Policy

The Blue Box Host Acceptable Use Policy (the "Usage Policy") governs the general policies and procedures for use of the Services. By using the Services, you agree to be bound by the Terms of the Usage Policy and any modifications. Blue Box Host reserves the right to terminate your account for any violation of the Usage Policy or this Agreement.

**BY USING THE SERVICES, YOU AGREE TO BE BOUND BY THE TERMS OF THE USAGE POLICY AND ANY MODIFICATIONS. Blue Box Host RESERVES THE RIGHT TO TERMINATE YOUR ACCOUNT FOR ANY VIOLATION OF THE USAGE POLICY OR THIS AGREEMENT.**

## 2.2 General and Acceptable Use

You are expected to use the Internet and other networks and services access through the services with respect, courtesy, and responsibility, giving due regard to the rights of other Internet users. We expect you to have a basic knowledge of how the Internet functions, the types of uses which are generally acceptable, and the types of uses which are to be avoided. Common sense is the best guide as to what is considered acceptable use.

## 2.3 Unacceptable Use

- Illegality in any form, including but not limited to activities such as unauthorized distribution or copying of copyrighted material, violation of export restrictions, harassment, fraud, trafficking in obscene material, child sexual abuse imagery, drug dealing, and other illegal activities.
- Blue Box Host's services and servers may be used only for lawful purposes. Transmission, distribution or storage of any material in violation of any applicable law or regulation is prohibited. This includes, without limitation, material protected by copyright, trademark, trade secret or other intellectual property right used without proper authorization, and material that is obscene, defamatory, constitutes a legal threat, or violates export control laws. Examples of unacceptable content or links: "Pirated software", "Hackers programs or archives", "Warez Sites", "Irc Bots", "Illegal MP3's" etc.
- Due to the nature of a shared web hosting environment, Blue Box Host reserves the right to ask customers to upgrade or correct issues pertaining to the upgrade of their shared web hosting package, or to correct issues on their shared web hosting package, should it adversely affect the network or server performance for the majority of our hosting customers.
- The Blue Box Host shared web hosting platform is intended for hosting a website with relevant content and function for a personal or small home business without the concern of traffic overages. The use of the service should not be indicative for large scale enterprises or applications where a dedicated server would be more suited.
- Blue Box Host prohibits the use of the shared web hosting service disk space to be utilised for purposes other than its intended function: content hosting, personal and small enterprise email and relevant web files.
- The use of shared or dedicated hosting services for hosting torrent boxes and/or running proxies is strictly prohibited. Servers continuously running a risk of supporting these types of services will be disabled and cancelled from our network.
- Posting of defamatory, scandalous, violent or private information about a person without their consent, intentionally inflicting emotional distress, or violating trademarks, copyrights, or other intellectual property rights.
- Any unacceptable use of the services constitutes a material breach of these Terms of Use and Blue Box Host fully and strictly reserves its rights in this regard

## 2.4 Material and Product Requirements

Unless we have agreed otherwise in a separate agreement, you must ensure that all material and data placed on Blue Box Host's equipment is in a condition that is "server-ready", which is in a form requiring no additional manipulation by Blue Box Host. Blue Box Host will make no effort to validate any of this information for content, correctness or

usability. If your material is not “server-ready”, Blue Box Host has the option at any time to reject this material. Blue Box Host will notify you of its refusal of the material and afford you the opportunity to amend or modify the material to satisfy the needs and/or requirements of Blue Box Host. Use of the Web Hosting Services requires a certain level of knowledge in the use of Internet languages, protocols and software. This level of knowledge varies depending on the anticipated use and desired content of your Web Site. You must have the necessary knowledge to create and maintain a Web site. It is not Blue Box Host’s responsibility to provide this knowledge or customer support outside of the Services agreed to by you and Blue Box Host.

## 2.5 Bandwidth and Storage Usage

You agree that use of the Web Hosting Services under this Agreement will not exceed the bandwidth and storage usage limits set out. If you use any bandwidth or storage space in excess of the agreed upon number of megabytes per month, you agree to pay the associated additional charges. Data stored in your user account on a Blue Box Host Server is not necessarily in all cases owned by Blue Box Host; therefore Data preservation is the ultimate responsibility of you, the client. Blue Box Host is in no way responsible for the client’s data and or the backup of that data. An over-usage fee will be charged per Megabyte of Data should the bandwidth exceed that of what is displayed on our Web Hosting Packages. The cost for this over-usage is displayed in a per Megabyte Unit on our website. Blue Box Host allows the hosting of multiple domains on a single package (Referred to as add on domains on our order page). Blue Box Host prohibits the resale of hosting (Shared Web Hosting) services to a third party’s clientele without prior consent. In addition Blue Box Host does not allow the resale of space; email accounts and any features or resources, it’s our Shared Web Hosting packages. Clients may upgrade/change their package to a Reseller Account where this is allowed.

## 3. ENFORCEMENT

### 3.1 Investigation of Violations

Blue Box Host may investigate any reported or suspected violation of this Agreement, its policies or any complaints and take any action that it deems appropriate and reasonable under the circumstance to protect its systems, facilities, customers and/or third parties. Blue Box Host will not access or review the contents of any e-mail or similar stored electronic communications except as required or permitted by applicable law or legal process.

Should Blue Box Host suspect that your order was placed fraudulently or in any adverse manner, Blue Box Host reserves the right to suspend all services placed or previously ordered in an effort to verify your identity through specific documents such as a driver’s licence, utility bill, copy of your credit card or passport.

### 3.2 Actions

Blue Box Host reserves the right and has absolute discretion to restrict or remove from its servers any content that violates this Agreement or related policies or guidelines, or is otherwise objectionable or potentially infringing on any third party’s rights or potentially in violation of any laws. If we become aware of any possible violation by you of this

Agreement, any related policies or guidelines, third party rights or laws, Blue Box Host may immediately take corrective action, including, but not limited to,

- (a) Issuing warnings
- (b) Suspending or terminating the Service,
- (c) Restricting or prohibiting any and all uses of content hosted on Blue Box Host's systems, and/or
- (d) Disabling or removing any hypertext links to third party Web Sites, any of your content distributed or made available for distribution via the Services, or other content not supplied by Blue Box Host which, in Blue Box Host's sole discretion, may violate or infringe any law or third-party rights or which otherwise exposes or potentially exposes Blue Box Host's civil or criminal liability or public ridicule. It is Blue Box Host's policy to terminate repeat infringers.

Blue Box Host's right to take corrective action, however, does not obligate us to monitor or exert editorial control over the information made available for distribution via the Services. If Blue Box Host takes corrective action due to such possible violation, Blue Box Host shall not be obligated to refund to you any fees paid in advance of such correction action.

### 3.3 Disclosure Rights

To comply with applicable laws and lawful governmental requests, to protect Blue Box Host's systems and customers, or to ensure the integrity and operation of Blue Box Host's business and systems, Blue Box Host may access and disclose any information it considers necessary or appropriate, including, without limitation, user profile information (i.e name, e-mail address, etc.), IP addressing and traffic information, usage history, and content residing on Blue Box Host's servers and systems. Blue Box Host also reserves the right to report any activity that it suspects violates any law or regulation to appropriate law enforcement officials, regulators, or other appropriate third parties.

## 4. INTELLECTUAL PROPERTY RIGHTS

### 4.1 Your Licence Grant to Blue Box Host

You hereby grant to Blue Box Host a non-exclusive, worldwide, and royalty-free licence for the Initial Term and any Renewal Term to use your content as necessary for the purposes of rendering and operating the Services to you under this Agreement. You expressly (a) grant to Blue Box Host a licence to cache materials distributed or made available for distribution via the Services, including content supplied by third parties, and (b) agree that such caching is not an infringement of any of your intellectual property rights or any third party's intellectual property rights.

### 4.2 Blue Box Host Materials and Intellectual Property

All materials, including but not limited to any computer software ( in object code and source code form), data or information developed or provided by Blue Box Host or its suppliers or agents pursuant to this Agreement, and any know-how, methodologies, equipment, or processes used by Blue Box Host to provide the Services to you, including, without limitation, all copyrights, trademarks, patents, trade secrets and other proprietary rights are and will remain the sole and exclusive property of Blue Box Host or its suppliers, including but not limited to any software programs, inventions, products and/or technology

innovations and methodologies utilized, developed, or disclosed by Blue Box Host during the term of this Agreement. Unauthorized copying, reverse engineering, decompiling, and creating derivative works based on the any such software is expressly forbidden except as permitted in this Agreement. You may be held legally responsible for violation of any patent rights, copyright or trade secret rights that is caused or encouraged by failure to abide by the terms of this Agreement.

#### 4.3 Trademarks

You hereby grant to Blue Box Host a limited right to use your trademarks, if any, for the limited purpose of permitting Blue Box Host to fulfil its duties under this Agreement. This is not a trademark licence and no other rights relating to the trademarks are granted by this Agreement.

Specifically, but without limitation, the rights granted by this Agreement do not include the right to sublicense use of your trademarks or to use your trademarks with any other products or services outside the scope of the Services provided under this Agreement. The limited trademark use rights granted under this section terminate upon termination of this Agreement.

### 5. WARRANTY; WARRANTY DISCLAIMER

#### 5.1 Customer and/or Third Party Acts

Blue Box Host is not responsible in any manner for any non-confirming Services to the extent caused by you or your customers. In addition, Blue Box Host is not responsible for loss or corruption of data in transmission, or for failure to send or receive data due to events beyond Blue Box Host's reasonable control.

#### 5.2 No Express or Implied Warranty

All services, systems and products provided by Blue Box Host under this Agreement are provided without any express or implied warranty in face or in law, whatsoever. You acknowledge and agree that Blue Box Host exercises no control over, and accepts no responsibility for, the content of the information passing through Blue Box Host's computers, network hubs and points of presence, or the internet. Blue Box Host does not warrant that the operation of the services will be uninterrupted or error-free, or completely secure, and does not make any warranties with respect to patent, copyright, trade secret or trademark infringement. All services performed under this agreement are performed "as is" and without warranty against failure of performance including, without limitation, any failure due to computer hardware or communication systems. Except as expressly provided in this Agreement, Blue Box Host does not make and hereby disclaims, and you hereby waive all reliance on any representations or warranties, arising by law or otherwise regarding the services, including, without limitation, implied warranties of merchantability, fitness for a particular purpose, or conditions of quality, and any warranties with respect to patent, copyright, trade secret or trademark infringement.

#### 5.3 Your Warranties and Representations to Blue Box Host

You warrant, represent, and covenant to Blue Box Host that (a) you are at least eighteen (18) years of age or are a duly organized and validly existing entity; (b) you possess the

legal right and ability to enter into this Agreement; (c) you will use the Services only for lawful purposes and in accordance with this Agreement and all applicable policies and guidelines; (d) you will be financially responsible for the use of your account; (e) you have acquired or will acquire all authorization(s) necessary for hypertext links to third-party Web sites or other content; (f) you have verified or will verify the accuracy of materials distributed or made available for distribution via the Services, including, without limitation, your content, descriptive claims, warranties, guarantees, nature of business, and address where business is conducted, and (g) your content and/or any software that you install or provide does not and will not infringe or violate any right of any third party (including any intellectual property rights ) or violate any applicable law, regulation or ordinance.

## 6. LIMITATION AND EXCLUSION OF LIABILITY

### 6.1 Limitations

In no event shall Blue Box Host have any liability whatsoever for damage, unauthorized access to, alteration, theft or destruction of information provided to Blue Box Host, distributed or made available for distribution via the Services. Blue Box Host shall have no liability under this Agreement or otherwise for consequential, exemplary, special, incidental, or punitive damages even if Blue Box Host has been advised of the possibility of such damages. In any event, the liability of Blue Box Host to you for any reason and upon any cause of action shall be limited to the amount actually paid to Blue Box Host by you under this Agreement during the thirty (30) days immediately preceding the date on which such claim accrued. This limitation applies to all causes of action in the aggregate, including, without limitation, to breach of contract, breach of warranty, negligence, strict liability, misrepresentations, and other torts. The fees for the Services set by Blue Box Host under this Agreement have been and will continue to be based upon this allocation of risk. Accordingly, you hereby release Blue Box Host from any and all obligations, liabilities, and claim in excess of the limitation stated in this section.

Some states do not allow the exclusion or limitation of liability for consequential or incidental damages, in such states, our liability is limited to the extent permitted by law.

### 6.2 Interruption of Service

You hereby acknowledge and agree that Blue Box Host will not be liable for any temporary delay, outages or interruptions of the Services. Further, Blue Box Host shall not be liable for any delay or failure to perform its obligations under this Agreement, where such delay or failure results from any act of God or other cause beyond its reasonable control (including, without limitation, any mechanical, electronic, communications or third-party supplier failure)

### 6.3 Maintenance

You hereby acknowledge and agree that Blue Box Host reserves the right to temporarily suspend services for the purposes of maintaining, repairing, or upgrading its systems and network.



Blue Box Host will use best efforts to notify you of pending maintenance however at no time is under any obligation to inform you of such maintenance.

## 7. INDEMNIFICATION

You will defend, indemnify and hold harmless Blue Box Host and its directors, shareholders, employees, consultants, agents, affiliates and suppliers (an "Indemnitee") from any and all threatened or actual claims, demands, causes of action, suits, proceedings (formal or informal), losses damages, fines, penalties, liabilities, costs and expenses of any nature, including attorneys' fees and court costs, sustained or incurred by or asserted against any Indemnitee by any person, firm, corporation, governmental authority, partnership or other entity by reason of or arising out of or relating to:

- (i) Your violation or breach of any term, condition, representation or warranty of this Agreement or any applicable policy or guideline;
- (ii) Your conduct, including but not limited to your negligence, gross negligence, or wilful misconduct;
- (iii) Your use of the Services, including any improper or illegal uses;
- (iv) Any claim by a former employee of yours whose employment has been or may be terminated in connection with or as a result of the execution of this Agreement and performance of the Services by Blue Box Host.
- (v) Any claim relating to your Services or products, or your installation and/or use of any third-party software, including but not limited to advertising, product liability claims or infringement of any trademark, copyright, patent, trade secrets or nonproprietary right of a third party (including, without limitation, defamation, libel, or violation of privacy or publicity).

## 8. MISCELLANEOUS

### 8.1 Confidentiality

The parties each agree that all Confidential Information (as defined below) communicated to it by the other is done so in confidence and will be used only for the purposes of this Agreement and will not be used to compete with the other party or disclosed to any third party without the prior written consent of the other party except as permitted under this Agreement. "Confidential Information" means all information in any form, including, without limitation, printed or verbal communications and information stored in printed, optical or electromagnetic format, which relates to the Services; or computer; data processing or electronic commerce programs and software; electronic data processing applications, routines, subroutines, techniques or systems; information which incorporates or is based upon proprietary information of either party; or information concerning business or financial affairs, product pricing, financial conditions or strategies, marketing, technical systems of either party; or any information concerning customers or vendors of either party; or any data exchange between a party and any customers or vendors. Exceptions to Confidential Information include:-

- (i) Information in the public domain;
- (ii) Information developed independently by a party without reference or information disclosed under this

Agreement; or

- (iii) Information received from a third party without restriction and/or breach of this or a similar Agreement

It is not a violation of this provision to disclose Confidential Information in compliance with any legal, accounting or regulatory requirement beyond the control of either Party or, but in such case, prior to disclosure, the disclosing Party shall give written notice to the other Party to permit that Party an opportunity to challenge such disclosure. If either Party is subpoenaed, such Party shall give written notice to the other Party to permit that Party an opportunity to challenge the disclosure of Confidential Information. Upon the termination of this Agreement and upon written request of the disclosing Party, each party shall promptly return all Confidential Information of the other Party. This provision shall survive the termination of this Agreement for two (2) years.

## 8.2 Notices

All notices, reports, requests, or other communications given pursuant to this Agreement shall be made in writing, shall be delivered by hand delivery, overnight courier service, fax, or electronic mail, shall be deemed to have been duly given when delivered.

## 8.3 Choice of Law and Forum

This Agreement, will be governed by the laws of South Africa, without reference to rules governing choice of laws. Any action relating to this Agreement must be brought in the provincial courts located in Gauteng, and you irrevocably consent to the jurisdiction of such courts.

## 8.4 Entire Agreement

This Agreement and all policies and guidelines incorporated in this Agreement by reference constitutes the entire Agreement of the parties and may not be modified or altered orally but only by an agreement in writing signed by both parties.

## 8.5 No Fiduciary Relationship

No Third-Party Beneficiaries. Blue Box Host is not the agent, fiduciary, trustee or other representative of you. Nothing expressed or mentioned in or implied from this Agreement is intended or shall be construed to give to any person other than the parties hereto any legal or equitable right, remedy or claim under or in respect to this Agreement. This Agreement and all of the representations, warranties, covenants, conditions and provisions hereof are intended to be and are for the sole and exclusive benefit of the parties hereto.

## 8.6 Assignments

You may not transfer or assign your rights, duties, or obligations under this Agreement without Blue Box Host's prior written consent. Blue Box Host may assign its rights and obligations under this Agreement and may utilize affiliate and/or agents in performing its duties and exercising its rights under this Agreement, without your consent. Subject to that restriction, this Agreement will be binding on, inure to the benefit of, and be enforceable against the parties and their respective successors and assignees.

## 8.7 No Waiver

Blue Box Host's failure to enforce the strict performance of any provision of this Agreement will not constitute a waiver of Blue Box Host's right to subsequently enforce such provision or any other provisions under this Agreement.

#### 8.8 Severability

If any provision of this Agreement is deemed illegal, invalid, void or otherwise unenforceable in whole or in part, that provision shall be severed or shall be enforced only to the extent legally permitted, and the remainder of the provision and the Agreement shall remain in full force and effect. If any provision of this Agreement is deemed to be invalid, void or unenforceable only with respect to a particular application, such term or provision shall remain in full force and effect with respect to all other applications.

#### 8.9 Survival

All provisions of this Agreement relating to your warranties, intellectual property rights, limitation and exclusion of liability, your indemnification obligations and payment obligations shall survive the termination or expiration of this Agreement.