



## Computer Systems Integration Hosting Terms and Conditions of Service

### **TERMS AND CONDITIONS OF SERVICE**

This Agreement sets forth the Standard Terms and Conditions that apply to the use of the XDF Net LLC d/b/a Computer Systems Integration Hosting Services. YOUR USE OF THE SERVICES INDICATES YOUR AGREEMENT TO BE BOUND BY THESE TERMS OF SERVICE.

### **USER ELIGIBILITY**

You represent and warrant that you are the person legally responsible for all use of this account, and are at least 18 years of age. If you are under 18 years of age, you must have parental consent in order to participate, and the account must be opened and maintained by a parent or legal guardian, in their name. You agree to provide XDF Net LLC with your full legal name, postal address, telephone number and an email address that is not hosted through XDF Net LLC for our records, and you have a continued obligation to keep this information current. You also agree that you are an authorized user of any credit card that you supply to XDF Net LLC and you understand and agree that XDF Net LLC has an obligation to fully investigate any possible fraudulent credit card use.

### **CONTENTS OF MESSAGES**

You are responsible for the contents of your messages and your website and the consequences thereof. You agree not to do anything that would restrict or inhibit any other user from using and enjoying the Internet. You further agree not to use XDF Net LLC to post any content or send any messages or material that are unlawful, harassing, libelous, abusive, threatening, harmful, vulgar, obscene or may constitute a criminal offense, give rise to civil liability or encourage conduct that could constitute a criminal offense, give rise to civil liability or otherwise violate any applicable local, state, national or international law, regulation or court order. XDF Net LLC reserves the right to terminate your account without prior notice if XDF Net LLC becomes aware of and determines, in its sole discretion, that you have violated any of the foregoing guidelines.

### **UNLAWFUL OR PROHIBITED USE**

As a condition of your use of XDF Net LLC services, you warrant to XDF Net LLC that you will not use XDF Net LLC services for any unlawful purpose.

You agree to abide by all applicable local, state, national and international laws and regulations regarding your use of XDF Net LLC services.

### **TERMS OF PAYMENT**

You agree to pay XDF Net LLC appropriate payment for the services received from XDF Net LLC in advance of the time period during which such services are provided. You further understand that services may be interrupted if payment has not been received in advance of the service period. You agree to provide XDF Net LLC with current billing and contact information, and you authorize XDF Net LLC to bill all accounts and related charges to the credit card on file. You further understand that until and unless you notify XDF Net LLC of your desire to cancel any or all services received, and you complete the cancellation process, those services will be billed on a recurring basis. In order for the account to be cancelled, it must be paid in full at the time of cancellation. You agree that prepayments will be billed and charged automatically, and that XDF Net LLC may apply the amount due to the provided credit card at any time.

If your credit card is denied for any reason on the first attempt, XDF Net LLC will automatically resubmit your card for the amount due on a weekly basis.

Each account has resource quotas; it is the account owner's responsibility to monitor usage. Any quota excess is payable by the account owner.

### **APPROPRIATE CONTENT AND ACCOUNT LIMITS**

The following services are not allowed on XDF Net LLC servers:

- Any process that requires more than 0.50 MB of memory space, more than 0.10 CPU seconds or uses more than 0.10% of any available system resources at any time or otherwise threatens the stability of the server.
- Interactive real-time chat applications that require server resources.
- Software that performs functions for any site not within the account.
- Stand-alone, unattended server-side processes (including daemons).
- Software that interfaces with an IRC (Internet Relay Chat) network.
- Data archives of any kind, including backups, video and audio archives.
- Tracking software that logs information available through server logs.

The following limits apply to all accounts:

- Image galleries must not exceed 200mb.
- No individual file may exceed 50mb
- Databases are only to be used for XDF Net LLC -hosted websites, and no outside access will be granted.
- No scheduled job may run more than once every two hours.

You agree not to interfere with the operation of the system. You further agree not to interfere with the proper operation of other systems reachable through the Internet, including any attempt at unauthorized access. You agree to adhere to system policies as published by XDF Net LLC, including restrictions on services available with each service type, restrictions on certain features, and all other policies. You agree to abide by any and all future XDF Net LLC policy decisions. Failure to observe these policies may include suspension or termination of your account without notice.

You are responsible for keeping a copy of your most current website files as backup on a remote system. XDF Net LLC is not responsible for any lost files, information or data, including but not limited to such losses that are a direct result of XDF Net LLC's negligence.

### **ZERO TOLERANCE SPAM POLICY**

XDF Net LLC takes a zero-tolerance stance against sending unsolicited email, commonly known as spam. The accounts of any user who sends spam will be terminated without notice, and the account holder will be billed at a rate of \$100 per recipient to whom the message was sent, regardless of whether the messages were sent from a XDF Net LLC server or from another server advertising a site hosted on XDF Net LLC servers. All commercial mailings must also comply with the CAN-SPAM act and all other applicable laws.

**MONITORING OF SERVICE**

You agree that XDF Net LLC has the right to monitor the service electronically from time to time and to disclose any information as necessary to satisfy the law, or to protect itself or its subscribers. XDF Net LLC reserves the right to remove or to refuse to post any information or materials, in whole or in part, that, in its sole discretion, are unacceptable, undesirable or in violation of this agreement. XDF Net LLC reserves the right to monitor any and all communications through or with its facilities. You agree that XDF Net LLC is not considered a "secure communications medium" for the purposes of the ECPA, and that no expectation of privacy is afforded.

**14-DAY NO QUESTIONS ASKED MONEY-BACK GUARANTEE**

We stand behind our services and offer a 14-day no questions asked money-back guarantee. If at any point during the first 14 days of your stay with us you find our services do not meet your needs, we will refund your money in full except for cost of domain registrations.

**100% UPTIME GUARANTEE**

We know that your website is valuable to you and we firmly stand behind the quality of our services. If your web site is unusable as a result of a direct failure in our systems and for reasons other than previously announced scheduled maintenance we'll credit your next invoice with 1 hour of hosting for each 1 hour of service interruption; up to 10% of your next pre-paid hosting renewal fee. Credits may not be converted into refunds; other restrictions may apply. Service credits may be denied at the sole discretion of XDF Net LLC.

**REFUND AND PRICING CHANGE POLICY**

Except as stated herein, XDF Net LLC offers absolutely no refunds under any conditions. XDF Net LLC reserves the right to change prices at any time, with or without any notice.

**TERMINATION**

XDF Net LLC may terminate this agreement and your access to any or all XDF Net LLC -related services at any time, with or without cause, effective immediately, and without any refund of any kind, including but not limited to refunds for pre-paid services. XDF Net LLC shall have no responsibility to notify any third-party providers of services, merchandise or information, nor any responsibility for any consequences resulting from such discontinuance or lack of notification. Any outstanding amount due on the account will still be payable.

You may terminate this Agreement at any time by contacting the support department at XDF Net LLC, which will then provide you with a form that must be completed in full and returned to confirm cancellation. No refund shall be issued. XDF Net LLC must receive all completed and correct termination requests, in writing, at least 30 days in advance of contract renewal date. Account to be cancelled must be paid in full at the time of cancellation.

All plans automatically renew every period, unless cancellation is requested in writing at least 30 days before renewal time.

**RELATIONSHIP OF THE PARTIES**

Nothing contained in this Agreement shall be construed as creating any agency, legal representative, partnership or other form of joint enterprise between the parties. Neither party shall have authority to contract for or bind the other in any manner whatsoever.

**DISCLAIMER OF WARRANTIES/LIMITATION OF LIABILITY**

THE XDF Net LLC SERVICE PROVIDED IS PROVIDED ON AN "AS IS", "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. XDF Net LLC EXPRESSLY DISCLAIMS ANY REPRESENTATION OR WARRANTY THAT THE XDF Net LLC SERVICE WILL BE ERROR-FREE, TIMELY, SECURE OR UNINTERRUPTED. NO ORAL ADVICE OR WRITTEN INFORMATION GIVEN BY XDF Net LLC, ITS EMPLOYEES, LICENSORS OR AGENTS WILL CREATE A WARRANTY; NOR MAY YOU RELY ON ANY SUCH INFORMATION OR ADVICE.

UNDER NO CIRCUMSTANCES, INCLUDING NEGLIGENCE, WILL XDF Net LLC , OR ITS AFFILIATES BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES THAT RESULT FROM THE USE OF OR INABILITY TO USE THE XDF Net LLC SERVICE, INCLUDING BUT NOT LIMITED TO RELIANCE ON ANY INFORMATION OBTAINED ON THE XDF Net LLC SERVICE; OR THAT RESULT FROM MISTAKES, OMISSIONS, INTERRUPTIONS, DELETION OF FILES OR E-MAIL, LOSS OF OR DAMAGE TO DATA, ERRORS, DEFECTS, VIRUSES, DELAYS IN OPERATION, OR TRANSMISSION, OR ANY FAILURE OF PERFORMANCE, WHETHER OR NOT LIMITED TO ACTS OF GOD, COMMUNICATION FAILURE, THEFT, DESTRUCTION OR UNAUTHORIZED ACCESS TO XDF Net LLC RECORDS, PROGRAMS OR SERVICES. YOU HEREBY ACKNOWLEDGE THAT THIS PROVISION WILL APPLY WHETHER OR NOT XDF Net LLC IS GIVEN NOTICE OF THE POSSIBILITY OF SUCH DAMAGES AND THAT THIS PROVISION WILL APPLY TO ALL SERVICES AVAILABLE FROM XDF Net LLC AND ITS AFFILIATES.

UNDER NO CIRCUMSTANCES, UNDER THE TERMS OF THIS AGREEMENT, SHALL DAMAGES INCLUDE LOSS OF BUSINESS, OR LOSS OF PROFITS WHETHER BASED ON BREACH OF AGREEMENT, BREACH OF WARRANTY, TORT, PRODUCT LIABILITY OR OTHERWISE.

THE TERMS OF THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT FOR WHATEVER REASON.

**COPYRIGHT AND TRADEMARKS**

All contents of the XDF Net LLC website are proprietary to XDF Net LLC, and/or its suppliers and are protected under copyright law. All rights are reserved. XDF Net LLC reserves any rights not expressly granted herein.

**FORCE MAJEURE**

If by reason of failure of telecommunications or Internet service providers, labor disputes, riots, inability to obtain labor or materials, earthquake, fire or other action of the elements, accidents, governmental restrictions or other causes beyond the control of XDF Net LLC , XDF Net LLC is unable to perform in whole or in part its obligations as set forth in this Agreement, then XDF Net LLC shall be relieved of those obligations to the extent it is so unable to perform, and such inability to perform shall not make XDF Net LLC liable to the user.

**GOVERNING LAW**

Connecticut law shall govern this Agreement, and any dispute arising from the relationship between the parties to this Agreement, excluding any laws that direct the application of another jurisdiction's laws. In any litigation, arbitration or other proceeding by which one party either seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing party shall be awarded its reasonable attorney fees, and cost and expenses incurred, subject to the Limitation of Liabilities clause. The parties consent to the exclusive

jurisdiction and venue of the courts of the State of Connecticut or to any Federal Court located within the State of Connecticut.

### **ARBITRATION**

Any legal controversy or legal claim arising out of or relating to this Agreement or XDF Net LLC services shall be settled by binding arbitration before the American Arbitration Association. Any such controversy or claim shall be arbitrated on an individual basis, and shall not be consolidated in any arbitration with any claim or controversy of any other party. The arbitration shall be conducted in Connecticut, as the parties to this agreement agree to be governed by the laws of Connecticut. Either party may seek any interim or preliminary relief from a court of competent jurisdiction in Connecticut necessary to protect the rights or property of party pending the completion of arbitration. The prevailing party from arbitration shall be entitled to reasonable attorney fees, which shall be set forth by the arbitrator(s). Judgment upon the award rendered may be entered in any court in the state of Connecticut with jurisdiction. The decision of the arbitrator shall be final and binding on the parties. The parties shall bear equally all fees, costs and expenses of the arbitration, and each party shall bear its own legal expenses, attorney fees and costs of all experts and witnesses, provided, however, the arbitration panel may apportion between the parties, as said arbitrator may deem equitable, the cost incurred by either party.

Should either party file an action contrary to this provision, the other party may recover attorney fees and costs up to one thousand (\$1000) dollars.

### **SEVERABILITY**

If any provisions of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid or enforceable, then such provision will be deemed to be written, construed and enforced as so limited.

### **SURVIVABILITY**

The terms of this Agreement apply to those obligations that survive any cancellation, termination or rescission, namely warranty, indemnification, liability and limits thereon, rights and obligations upon and following termination and assignment.

### **INDEMNIFICATION**

You agree to defend, indemnify and hold harmless XDF Net LLC against any and all claims, losses, penalties, causes of action, damages, liability, costs, expenses (including but not limited to reasonable attorney fees) or claims caused by or resulting indirectly from your use of the service, without limitation or exception, including your violation of any third-party's rights, (including, without limitation, infringement of any copyright trademark, service mark, trade secrets, right of privacy or publicity or any other third-party right). The terms of this section shall survive the termination of your relationship with XDF Net LLC.

### **REMEDY**

You agree that your sole and exclusive remedy to any issues relating to XDF Net LLC services is to discontinue using the service.

### **ASSIGNMENT**

In the event of a merger or consolidation of XDF Net LLC, the surviving or new corporation and any subsidiaries are similarly subject to the rights and obligations of this Agreement.

**ENTIRE AGREEMENT**

Unless otherwise specified herein, this Agreement constitutes the complete and exclusive statement of the Agreement between the parties regarding the products and services provided hereunder, and supersedes any prior Agreements between the parties with respect thereto.

**WAIVER**

The failure of XDF Net LLC to enforce a provision of this Agreement shall not be construed as a waiver or limitation of XDF Net LLC's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

**MODIFICATION OF TERMS**

XDF Net LLC reserves the right to modify this policy at any time and without advance notice, effective upon making the modified provisions available on the XDF Net LLC website. You are responsible for regularly reviewing these documents. Continued use of the XDF Net LLC services after any such changes shall constitute your consent to such changes. XDF Net LLC does not and will not assume any obligation to notify you of any changes to the Terms of Service.