

This agreement is required to obtain and maintain a web hosting, design, online service, marketing service or any other service with eXia Pty Limited. It acts as protection for both eXia Pty Limited and its customers, to prevent misunderstandings, and to provide the framework for a legal recourse in the event of a dispute or violation.

Our services may only be used for lawful purposes.

Transmission or solicitation of any material which violates national and/or international laws which may apply in our local jurisdiction or your local area is prohibited. This includes material which is obscene, threatening, harassing, libellous, or in any way a violation of intellectual property laws.

PORNOGRAPHIC CONTENT & WAREZ SITES ARE STRICTLY PROHIBITED.

You agree to indemnify and hold harmless eXia Pty Limited in any legal action which arises as a result of your use of our services, without limitation or exception. eXia Pty Limited makes no warranties or representations of any kind for the services being offered, including warranties of merchantability or fitness for any purpose.

You agree not to hold eXia Pty Limited responsible for any loss you suffer as a result of using our services, including but not limited to loss resulting from service delays and incomplete or interrupted service, regardless of cause.

However, eXia Pty Limited agrees that any complete service interruption in excess of 24 hours may justify a refund or credit to its customers for the appropriate amount, but that no further compensation will be made. Scheduled outages and account suspensions do not count towards our refund policy.

You agree not to maliciously or intentionally interfere with the proper operation of the system, including but not limited to defeating identification procedures, obtaining access beyond that which you are authorised for, and impairing the availability, reliability, or quality of service for other customers. 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 that the security of your account or server is first and foremost your own responsibility.

You further agree that if you believe the security of your account or server has been compromised in any way, you will notify eXia Pty Limited immediately. You agree that if you become aware of misuse of your account or server, and do not notify eXia Pty Limited, you will be held responsible for that misuse.

You agree not to transmit unsolicited or prohibited advertising through electronic mail or inappropriate Usenet postings through eXia Pty Limited's services. You specifically agree that the use of eXia Pty Limited's services for unsolicited mass mailings or postings (commonly known as "Spam") will cause your services to be terminated immediately and without warning, and that you will be held legally responsible for any and all damages to eXia Pty Limited, both monetary and in reputation, as well as hourly fees for reading the complaints which may arise.

You agree that we have the right and responsibility to fully co-operate in any legal investigation regarding any aspect of our services, including services sold to you.

You agree to supply a current and truthful name, postal address, and billing address and telephone number for our records, fake names and numbers on account could lead to account termination without notice. eXia Pty Limited agrees not to sell or donate its mailing list to any other company or person, and not to publish any information about its customers.

You agree that backup of files is your responsibility and that eXia Pty Limited is in no way responsible for the loss of, or for saving or returning any data, files or directories stored on the server for/to the Client.

This contract supersedes any written, electronic, or oral communication you may have had with eXia Pty Limited or any representative thereof, and constitutes the complete and total agreement between the parties. Violation of any of the terms and conditions of this contract may result in the immediate termination of your services with eXia Pty Limited, at our discretion. Criminal or civil prosecution may result in extreme cases.

Hardware, Equipment and Software

Client is responsible for and must provide all telephone, computer, hardware and software equipment and services necessary to access the eXia Pty Limited's services.

eXia Pty Limited makes no representations, warranties or assurances that Client's equipment will be compatible with eXia Pty Limited's services.

Age

Customers that are signing into contract must be at least the age of 18.

Shared hosting customers must be at least the age of 13 and have parental permission to use such services.

IP Address Leasing

All IP addresses that are used within the eXia Pty Limited network solely belong to

eXia Pty Limited and are not portable to any other Network other than eXia Pty Limited's own network.

eXia Pty Limited remains the main holder for the IP addresses from Servers Australia Pty Ltd therefore we reserve the right to change your IP and or remove your IP at any stage with reasonable explanation.

Internet Etiquette

a) Users of Internet and electronic forums should be considerate of the expectation and sensitivities of others on the network when posting material for electronic distribution.

The network resources may not be used to impersonate another person or misrepresent authorisation to act on behalf of others or eXia Pty Limited. All messages transmitted via eXia Pty Limited's service should correctly identify the sender; users may not alter the attribution of origin in

electronic mail messages or posting. Users must not attempt to undermine the security or integrity of computing systems or networks and must not attempt to gain unauthorised access.

b) Due to the public nature of the Internet, all information should be considered publicly accessible, and important or private information should be treated carefully. eXia Pty Limited is not liable for protection or privacy of electronic mail or other information transferred through the Internet or any other network eXia Pty Limited or its customers may utilise.

c) Use of distribution lists via unsolicited electronic mail or other electronic mailings is strictly prohibited. eXia Pty Limited reserves the right to deactivate the Client's Server account(s) upon and indication of such activity. In such case eXia Pty Limited is not responsible for saving or returning any data, files or directories stored on the server for/to the Client. Client hereby agrees to indemnify and hold harmless eXia Pty Limited from any claim resulting from the Client's or another party's use of electronic mail service(s) on the Client's account(s).

Indemnification

Client agrees that it shall defend, indemnify, save and hold eXia Pty Limited harmless from any and all demands, liabilities, losses, costs and claims, including reasonable attorneys' fees, ("Liabilities") asserted against eXia Pty Limited, agents, its clients, servants, officers and employees, that may arise or result from any service provided or performed or agreed to be performed or any product sold by Client, its agents, employees or assigns. Client agrees to defend, indemnify and hold harmless eXia Pty Limited against Liabilities arising out of (i) any injury to person or property caused by any products or services sold or otherwise distributed in connection with eXia Pty Limited's

Server service; (ii) any material supplied by Client infringing on the proprietary rights of a third party; (iii) copyright infringement and (iv) any defective product which Client sold on the Server

Limited Liability

a) Client expressly agrees that use of eXia Pty Limited's service is at Client's sole risk. eXia Pty Limited, its employees, affiliates, agents, third party information providers, merchants, licensors or the like, cannot warrant that the eXia Pty Limited's Server service will not be interrupted or error free; nor do they make any warranty as to the results that may be obtained from the use of eXia Pty Limited's service or as to the accuracy, reliability or content of any information service or merchandise contained in or provided through the eXia Pty Limited service, unless otherwise expressly stated in this Agreement.

b) Client hereby agrees that any material submitted for publication by eXia Pty Limited through Client's account(s) will not contain anything leading to an abusive or unethical use of the product(s) or the host server(s). Abusive or unethical materials and uses include, but are not limited to: pornography, obscenity, violations of privacy, computer viruses, any harassing and harmful material or uses, any illegal activity or material(s) advocating illegal activity, and any infringement of privacy or libel.

c) Client hereby agrees to indemnify and hold harmless eXia Pty Limited from any claim resulting from Client's publication of material or use of those materials. eXia Pty Limited may or may not give notice before deactivating the use of an account(s) which eXia Pty Limited decides is an abusive or

unethical use of, or a potentially illegal use of the Server account(s) or host server(s). In such case eXia Pty Limited is not responsible for saving or returning any data, files or directories stored on the server for/to the Client. Client hereby agrees to indemnify and hold harmless eXia Pty Limited for any claim resulting from the submission of illegal materials.

d) Under no circumstances, including negligence, shall eXia Pty Limited, its officers, agents or anyone else involved in creating, producing or distributing eXia Pty Limited's services be liable for any direct, indirect, incidental, special or consequential damages that result from the use of or inability to use eXia Pty Limited's services; or that results from mistakes, omissions, interruptions, deletion or loss of files or data, errors, defects, delays in operation, or of performance, whether or not limited to acts of God, communication failure, theft, destruction or unauthorised access to eXia Pty Limited's records, programs or services. Client maintains sole responsibility for data backups and restoration.

Client hereby acknowledges that this paragraph shall apply to all content on eXia Pty Limited's services.

e) Notwithstanding the above, Client's exclusive remedies for all damages, losses and causes of actions whether in contract, tort including negligence or otherwise, shall not exceed the aggregate dollar amount which Client paid during the term of this Agreement and any reasonable attorney's fee and court costs.

f) In the case of "Force Majeure" (as defined below), the eXia Pty Limited will notify the Client at the earliest opportunity of the circumstances. "Force Majeure" will entitle either party to withdraw from their contractual obligations. The Client will remain liable for all costs incurred up to the occurrence of "Force Majeure". "Force Majeure" means any event or thing outside eXia Pty Limited's reasonable control, which directly or indirectly causes eXia Pty Limited's Servers becoming unable in whole

g) or in part to perform its obligations under this Agreement, and includes but is not limited to:

(a) acts of God or the public enemy, national emergencies, asteroids or other space calamity (including but not limited to meteorological or astronomical disturbances), use of atomic weapons or nuclear fusion or fission, radioactive contamination, insurrection, riot, hostile or warlike action in peace or war, sabotage, receive earth station outage, earthquakes, tidal waves, hurricanes, snowstorms, rain fade, fires, floods, or electromagnetic radiation from the sun;

(b) strikes, lockouts, labour disputes, work stoppages, embargoes or any other labour difficulties;

(c) action or inaction by a government entity or agency; or

(d) the unrelated action or inaction of a third party which is beyond eXia Pty Limited's reasonable control, which causes a delay or ultimately a failure to perform eXia Pty Limited's obligations under this Agreement.

Support

Client agrees that eXia Pty Limited is in no way responsible for support or for editing or configuring of the following:

PHP Scripts, Os Commerce Sites, PHPBB Sites, Miva Cart Sites, Web pages FTP transfer of files, 3rd Party E-Mail Programs, 3rd Party Scripting, 3rd Party mail programs and any other problems that are the responsibility of the customer, or anything else that is not server specific related.

Termination

a) This Agreement may be terminated by either party, without cause, by giving the other party 14 days written notice. Notwithstanding the above, eXia Pty Limited may terminate service under this Agreement at any time without penalty if Client fails to comply with the terms of this Agreement.

b) In the event that it becomes necessary for eXia Pty Limited to enforce the terms of this agreement eXia Pty Limited shall be entitled to all reasonable costs and expenses of such enforcement including collection fees, court costs, and attorney's fees.

Acknowledgement and acceptance of this agreement is required for an account to be setup at eXia Pty Limited. By signing-up for hosting or other services you indicate that you have read and understand this service agreement in its entirety and agree to be bound by its content.

This Agreement constitutes the entire understanding of the parties. Any changes or modifications to this Contract thereto are agreed to by the both parties upon renewal of services.

The parties agree that this agreement shall be governed by and be interpreted according to the laws of the Commonwealth of Australia, and International laws enforceable by way of treaty. Any and all actions regarding or relating to this agreement shall be brought about in the State of New South Wales, Australia.

Billing Policy

eXia Pty Limited bills all accounts using the following methods, if you have any queries about the way we perform the billing, please do not hesitate to contact the billing department via E-Mail accounts@exia.com.au

On the first day of your Billing Cycle you will be issued a Tax Invoice via E-Mail OR a notification will E-Mail you advising that your Invoice is ready to be viewed in our billing system, you will then have 7 days to make your payment. If you choose to pay via Credit Card then the amount will automatically be debited before the Invoice due date.

If you have an enquiry about your Tax Invoice you can contact the eXia Pty Limited billing department at accounts@exia.com.au before you make payment or before your payment is due to be debited from your account, this will allow us to rectify the problem, or fix up any discrepancies before any payments are made.

All charges are shown in Australian Dollars and as such payments are to be made in Australian dollars.

Payment Options:

Credit Card

Visa and Mastercard are accepted, login to <https://customers.exia.com.au> to pay for your service using your Visa or Mastercard.

- Cheque / money order

Please make out to:

eXia Pty Limited
PO BOX 9326
Wyoming
NSW 2250

- Direct Bank Deposit

Bank: St George
Account Name: EXIA PTY LIMITED
BSB: 112-879
Account Number: 473 549 263

Please use your Invoice Number ONLY for a reference when using direct deposit.

All payments are due on the account statement due date.

If you provide eXia Pty Limited with your credit card information, you authorise eXia Pty Limited to automatically charge your credit or debit card for charges that apply to your account you are responsible for directly updating, or notifying eXia Pty Limited, of any changes to your credit card (including, but not limited to card number, expiration date, billing address, or card status).

Customers not paying by credit card agree to make payment of their balance due within Ten (10) days of the account statement date.

Accounts that are overdue will be automatically suspended and late payment fees of 10% will be added. All past due and unpaid balances are subject to collection. In the event of collection, you will be liable for costs of collection including legal fees, court costs, and collection agency fees.

Billing Cycles (Terms)

eXia Pty Limited offers four Billing Cycles (terms) for hosting charges:

Monthly

Yearly (12 months)

You may elect to change your Billing Cycle at any time; however, the new Billing Cycle will only take effect at the time of the next plan renewal.

All additional features added to an account are charged monthly. Additional items are non-refundable .

Account Renewals

In order to insure uninterrupted service to your website, all plans will automatically renew at the end of the plan's billing cycle. Plan renewal charges are based on the prevailing rate on the date of renewal according to the service selected. Plans are renewed for the same billing cycle. If you wish to cancel your plan before plan renewal, please refer to the Cancellation page located in the terms and conditions

Statements

eXia Pty Limited does not mail paper invoices or statements. Invoices can be viewed and printed through the online control panel. Customers may elect to receive their monthly account billing statement via email in the billing system.

The tax Invoices that we issue provides all the necessary information to claim a GST tax input credit. Please print off a copy of these invoices and maintain them for your records.

Bounced Cheques

eXia Pty Limited charges a \$45.00 fee for Bounced cheques. Customers that have a bounced cheque will be required to submit future payments with a certified cheque, money order or other payment option offered by eXia Pty Limited.

Direct Bank Deposit

eXia Pty Limited does not charge fees for accepting payment via direct bank deposit or Internet Bank Transfer.

Reactivation

Customers that wish to reactivate a closed account will be assessed a \$9.95 reactivation fee. A \$59.95 fee will be assessed if eXia Pty Limited restores your data files to your reactivated account.

Hosting Plan Changes

Customers electing to change to a lower priced hosting plan on the same platform will be charged a \$9.95 downgrade fee. There is no upgrade fee for upgrading to a higher priced plan; however, you will be charged any difference between the setup fee applicable to your new and former plans.

Account Splits and Mergers

eXia Pty Limited encourages customers to merge hosting plans contained in two or more accounts into one account. There is no fee for this service. Customers may also request that eXia Pty Limited separate one or more plans contained less than one account into separate accounts. The fee for this service is \$19.95 for each new account created and is charged to the new account. Please direct all requests for these services to:

accounts@exia.com.au

Cancellations

Hosting plans will automatically renew until a plan is cancelled. Cancellation can be arranged through Postal Mail, E-mail and/or Fax.

In E-Mail cancellations your account name and phone number must be provided and sent to accounts@exia.com.au from your registered E-Mail address on file at eXia Pty Limited.

Upon receiving your email we will contact you via your phone number listed under the account to confirm the request.

If you have any problems, our support staff will be more than happy to help you out.

Fax: (02) 8821 7170

Mail:

eXia Pty Limited
Attn Billing Dept
PO BOX 9326
Wyoming
NSW 2250

Cancellation requests must be received by eXia Pty Limited billing a minimum of fourteen (14) days prior to the end of your Billing Cycle. Cancellations submitted later than this time may result in automatic renewal of your hosting plan or service.

Cancellations become effective on the day processed by eXia Pty Limited.

eXia Pty Limited is unable to cancel your account effective for a future date e.g. you wish to cancel in 2 months time. eXia Pty Limited will confirm the cancellation request when it is processed. If you do not receive a confirmation, please contact eXia Pty Limited as soon as possible.

eXia Pty Limited does not monitor, and will not automatically cancel, plans for problems related to domain name transfers, non-usage, Internic, your ISP, or any other secondary issues not directly related to eXia Pty Limited's services. Cancellation of services does not relieve the customer from paying any outstanding balance owed on the account.

eXia Pty Limited reserves the right to cancel any account, at any time, without notice, for any reason eXia Pty Limited considers appropriate.

Refund Policy

Refunds are only given in the event of an incorrect order and no refunds will be offered after 7 days from the initial order date.

Credit Card Disputes/Chargeback's

eXia Pty Limited has a zero tolerance policy for chargeback's. Any customer who disputes a credit card payment with their bank prior to contacting eXia Pty Limited is subject to a fine, suspension and account termination at eXia Pty Limited's discretion. A charge of \$55.00 per chargeback will be assessed to all accounts that receive a chargeback.

Miscellaneous

eXia Pty Limited's policies and prices are subject to change without notice. Any price changes become effective in the next billing cycle.

eXia Pty Limited will always notify you of Plan Changes and any price changes to your primary e-mail address that is stored on file.

To check or change the e-mail address in the eXia Pty Limited database please contact

eXia Pty Limited billing on accounts@exia.com.au

Affiliate terms and requirements:

- You the affiliate must be of 18 years of age.
- You take full responsibility for the functioning of your affiliate link, you must notify us if your link is not working.
- Commission is paid at a rate defined on our affiliate commission chart which can be found at <https://customers.exia.com.au/index2.php?action=affiliateswhysignup>
- Commissions are paid on new customer accounts only. No commissions will be paid on account renewals, existing customers, new accounts and signups made directly by you.
- To qualify to receive your commission referred accounts must stay active for at least 60 days, be in good standing, have not breached the eXia Pty Limited Acceptable Use Policy and Terms of Service.
- Accounts can be deactivated at any time without notice, account will be deactivated and all commissions reversed and balance reset to \$0 for failure to comply with the affiliate terms herein.
- Any false or misleading advertising or suspected fraudulent activity associated with your affiliate account will result in its deactivation.
- Affiliate accounts that generate a large number of fraudulent or suspected fraudulent orders will be deactivated and pending review.
- If you wish to discontinue your affiliate program simply remove the links and no longer promote eXia Pty Limited services.
- Affiliates agree not promote using the following methods:
 - Offer cash back, rewards or incentives.
 - Spamming of any kind.
 - Bid on trademark keywords for the purpose of PPC (pay per click) on search engines.
 - Act on behalf, for or as a representative of eXia Pty Limited