

## THE BLUE GRID WEB HOSTING AGREEMENT

PLEASE READ THIS AGREEMENT CAREFULLY, AS IT CONTAINS IMPORTANT INFORMATION REGARDING YOUR LEGAL RIGHTS AND REMEDIES.

### 1. OVERVIEW

This Hosting Agreement (this “Agreement”) is entered into by and between The Blue Grid AB Ltd a corporation in the Province of Alberta Canada ("TheBlueGrid") and you (“The Client”), and is made effective as of the date of acceptance. This Agreement sets forth the terms and conditions of your use of TheBlueGrid’s Hosting services (the “Services”), and represents the entire agreement between you and TheBlueGrid concerning the subject matter hereof.

Your electronic acceptance of this Agreement signifies that you have read, understand, acknowledge and agree to be bound by this Agreement, and any other agreements or policies that are expressly incorporated herein.

The terms “we”, “us” or “our” shall refer to TheBlueGrid. The terms “you”, “your”, “user” or “customer” shall refer to any individual or entity who accepts this Agreement. Nothing in this Agreement shall be deemed to confer any third-party rights or benefits.

We may, in our sole and absolute discretion, change or modify this Agreement, any policies or agreements which are incorporated herein, and any limits or restrictions on the Services, at any time, and such changes or modifications shall be effective immediately upon posting to The Blue Grid Web hosting site ([www.thebluegrid.net](http://www.thebluegrid.net)). Your use of the Services after such changes or modifications shall constitute your acceptance of this Agreement and any limitations to the Services as last revised. **If you do not agree to be bound by this Agreement and any Service limitations as last revised, do not continue to use the Services.** We may occasionally notify you of changes or modifications to this Agreement by email. We assume no liability or responsibility for your failure to receive an email notification if such failure results from an inaccurate email address.

### 2. DESCRIPTION OF SERVICES

We offer varying plans of Hosting Services:

**Web Hosting.** If you purchase Web Hosting, your site is placed within one or more servers and resources are shared between many customers on the same servers; however, your site is given a unique address (DNS).

**Managed WordPress Hosting.** If you purchase Managed WordPress Hosting, you get a streamlined and optimized experience to build and manage WordPress sites while we handle the basic hosting administrative tasks which include installing WordPress, automated daily backups, WordPress core updates and server-level caching.

We may install a plugin on your external WordPress site for the purpose of facilitating your WordPress migration into our own Managed WordPress hosting environment. This plugin will not change anything on your source site. Its purpose is to facilitate the Hosting Migration of your WordPress files. You are welcome to disable the plugin on your source site after the Hosting Migration has been completed.

**Expert Hands Services.** If we determine that any support request falls outside the scope of your plan, you can request custom support services (“Expert Hands Services”) on a thirty (30) minute incremental basis for a fee, or on a per service basis, which we will quote to you before providing the custom support

service. If you elect to use our Expert Hands Services, we reserve the right to charge any or all of the fees for such Services prior to the commencement of any work being performed. Expert Hands Services fees are non-refundable. You must, within fourteen days of any Expert Hands Services, notify us if there are any issues with the Expert Hands Services. We are not responsible for and will not provide assistance with any issue(s) that arise beyond fourteen days of any Expert Hands Services.

**WordPress (“WP”) Premium Support.** If you elect to use our WP Premium Support Services (either as a subscription or as a one-time Service), we reserve the right to charge any or all of the fees for such Services prior to the commencement of any work being performed. All services, both subscription and one time, will be listed as a "Best Effort Service." Even after taking all reasonable steps, we may not be able to resolve certain issues. We are not responsible for and will not provide assistance with any issue(s) that arise beyond fourteen days of any use of WP Premium Support Services.

We may install a plugin on your hosted WordPress site for the purpose of facilitating your WP Premium Support Services. Its purpose is to facilitate the requested change and maintenance of your WordPress files. The plugin allows us to access, automate updates to core files, other plugins, themes, and other files related to the maintenance of your site.

### **3. LIMITATIONS; ACCOUNT TERMINATION**

**Migration of Servers.** You acknowledge and agree that as a normal course of business, it may be necessary for us to migrate our servers. As a result, even if you have a dedicated IP, you may be assigned a different IP number. We do not warrant that you will be able to consistently maintain your given IP numbers.

**Termination of Services.** You acknowledge and agree that upon expiration or termination of your Services, you must discontinue use of the Services and relinquish use of the IP addresses and server names assigned to you in connection with Services, including pointing the domain name system (“DNS”) for your domain name(s) away from our servers. Prior to termination of the Services, you are responsible for moving your website or server content off our servers. We will not transfer or FTP your website or server content to another provider. If you fail to move your website or server content off our servers prior to cancellation, then all such content will be deleted and we will not be able to provide a copy of such content.

**Free Products Credits.** Upon termination of the Services, all free products provided as part of the Services will be cancelled or revoked.

**Notice Regarding Licensed Images on Migration or Export (where available).** Subject to all other applicable licenses terms and conditions, images available and licensed for use are intended for TheBlueGrid hosted customers only and are subject to the terms and conditions of third-party intellectual property rights and licensing restrictions. To the extent you wish to export or migrate your hosted product or service to another service provider (if available as an option), it is solely your responsibility to ensure your continued right to use any images incorporated therein, and you acknowledge and agree that TheBlueGrid does not warrant and shall have no responsibility for any claims resulting from your continued use after migration and/or termination (whichever occurs first).

IN NO EVENT SHALL THEBLUEGRID BE LIABLE FOR DAMAGES RESULTING FROM LOSS OF DATA, PROFITS, USE OF THE THEBLUEGRID SITE OR ANY THEBLUEGRID PRODUCTS OR SERVICES, OR FOR ANY INCIDENTAL, INDIRECT, PUNITIVE, OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH THIS AGREEMENT OR IN CONNECTION WITH ANY PRODUCTS OR SERVICES PROVIDED HEREUNDER. IN NO

EVENT SHALL THEBLUEGRID CUMULATIVE LIABILITY EXCEED AN AMOUNT GREATER THAN FIVE HUNDRED DOLLARS (\$500 US).

#### **4. CLIENT CONTENT**

You agree that you will not distribute, electronically transmit or display any materials supplied by yourself or a third party which: violate any provincial/state, federal or foreign laws or regulations; infringe on any intellectual property rights (e.g., copyright, trademark, patent or other proprietary rights); are defamatory, slanderous or trade libelous; are threatening or harassing; are discriminatory based on gender, race, age or promotes hate. You agree that you will not send malicious e-mails which contain viruses or other computer programming defects which result in damage to other parties.

You acknowledge and agree that you shall not use Services in a manner, as determined by us in our sole and absolute discretion:

- To display or advertise pornographic, X-rated, sexually explicit, or otherwise tasteless materials, images, products or services (including, but not limited to: massage, dating, escort or prostitution services); or
- That uses pornographic, X-rated, sexually explicit keywords or images in video names, descriptions or listings.

FAILURE TO COMPLY WITH THE CLIENT CONTENT TERMS SHALL RESULT IN THE SUSPENSION OF YOUR ACCOUNT AND THE REMOVAL OF THE OFFENDING CONTENT FROM THE SERVER. TheBlueGrid will not be liable for any damages that might arise to a third party for such content.

#### **5. YOUR OBLIGATIONS; REPRESENTATIONS AND WARRANTIES**

**Justification.** You acknowledge and agree that we shall have the right to seek justification in connection with your use of the Services, specifically your purchase of IP addresses, and you shall be obligated to provide any and all information reasonably sought by us pursuant to such justification. In connection with such purchase, you acknowledge and agree that your name and justification may be disclosed to certain registries including, but not limited to, the American Registry of Internet Numbers, in accordance with policies promulgated by any and all such registries and such information may be displayed publicly on the Whois database.

**Abusive Activities and Other Threats.** You acknowledge and agree that you may not use our servers and your website as a source, intermediary, reply to address, or destination address for mail bombs, Internet packet flooding, packet corruption, denial of service, or other abusive activities that threaten the stability of our network or will damage the systems of, or cause a disruption of internet services to, TheBlueGrid, our customers, or third-parties. Server hacking or other perpetration of security breaches is prohibited and we reserve the right to remove sites containing information about hacking or links to such information. Use of your website as an anonymous gateway is prohibited. We prohibit the use of software or scripts run on our servers that cause the server to load beyond a reasonable level, as determined by us. You agree that we reserve the right to remove your website temporarily or permanently from our servers if you are in violation of this Agreement and/or there are activities that threaten the stability of our network. You acknowledge and agree that all websites associated with your hosting account may be removed if one website is in violation of this Agreement. You further acknowledge and agree that TheBlueGrid reserves the right to scan your hosted account for malicious content (e.g., malware), and that, in the event any such content is discovered, it may be removed in TheBlueGrid's discretion for security purposes.

You agree not to engage in unacceptable use of the Services, which includes, without limitation, use of the Services to: (1) attempt to mislead any person as to the identity, source or origin of any communication; (2) interfere, disrupt or attempt to gain unauthorized access to any computer system, server, network or account for which you do not have authorization to access or at a level exceeding your authorization; or (3) use your server as an “open relay” or for any of the above purposes.

We prohibit the running of a public recursive DNS service on any of our servers. All recursive DNS servers must be secured to allow only internal network access or a limited set of IP addresses. We actively scan for the presence of public DNS services and reserve the right to remove any servers from the network that violate this restriction.

Further, you are responsible for ensuring that any product posted for sale on your website is in compliance with all applicable laws and regulations where your items can be purchased. We reserve the right and sole discretion to determine whether the sale of any particular item is illegal or otherwise prohibited and/or cancel your Services.

**Storage and Security.** You shall be solely responsible for undertaking measures to: (1) prevent any loss or damage to your website or server content; (2) maintain independent archival and backup copies of your website or server content; and (3) ensure the security, confidentiality and integrity of all your website or server content transmitted through or stored on our servers.

Our servers are not an archive and we shall have no liability to you or any other person for loss, damage or destruction of any of your content. The Services are not intended to provide a PCI (Payment Card Industry) or HIPAA (Health Insurance Portability and Accountability Act) compliant environment and therefore should not be used or considered as one. You shall not use the Service in any way, in our sole discretion, that shall impair the functioning or operation of our services or equipment. Specifically, by way of example and not as a limitation, you shall not use the Services as: (1) a repository or instrument for placing or storing archived files; and/or (2) placing or storing material that can be downloaded through other websites. You acknowledge and agree that we have the right to carry out a forensic examination in the event of a compromise to your server or account.

**Website/Server Content.** You shall be solely responsible for providing, updating, uploading and maintaining your website or server and any and all files, pages, data, works, information and/or materials on, within, displayed, linked or transmitted to, from or through your website or server including, but not limited to, trade or service marks, images, photographs, illustrations, graphics, audio clips, video clips, email or other messages, meta tags, domain names, software and text. You acknowledge and agree that in the course of providing you with technical assistance, it may be necessary for our support staff to modify, alter or remove the content of your hosted product. Your website or server content shall also include any registered domain names provided by you or registered on behalf of you in connection with the Services.

If access to a third-party hosting website is required in the provision of any Service, you represent and warrant that you are authorized to provide us with access to the third-party hosting account for the purposes of this Agreement. You agree that you retain sole contractual and any other legal or fiduciary responsibilities related to your third-party hosting account.

If you request that we install any Third Party Software (defined below) not provided as part of the Services, you represent and warrant that (1) you have the right to use and install the Third Party Software, (2) you have paid the applicable licensing fees for the Third Party Software, and (3) the Third Party Software does not and shall not infringe on the intellectual property rights of any other person or entity.

Client will pay and indemnify and hold Insider Hosting harmless from any and all taxes associated with or arising from Client's use of the Services, including any penalties and interest and any costs associated with the collection or withholding thereof.

## **6. PROVISIONS SPECIFIC TO WEB AND WORDPRESS HOSTING**

**Storage and Plan Limits.** All Web Hosting and WordPress Hosting plans, including the unlimited plans, are subject to a limit of no more than 250,000 inodes per account for Linux® hosting accounts or 500,000 files and folders per account for Windows® hosting accounts. The plans are also limited to no more than 1,000 tables per database and no more than one gigabyte of storage per database. Any account or database that exceeds these limits may be issued a network violation warning and will be required to reduce the number of inodes, files and folders, tables or gigabytes (as the case may be), or may be temporarily or permanently suspended, in our sole discretion. All Linux hosting plans are subject to the following limitations: no more than a) 25% of one CPU core; b) 512MB of RAM; c) 100 website connections; d) 100 active processes; e) 1 MB/s disk IO. In the event these limitations are exceeded, your site may slow down or not be served until more resources are added. More resources may be added for additional fees.

WordPress Hosting may only be used to host a WordPress website. Only a single WordPress installation is allowed per website. Any WordPress hosting account found to be hosting a non-WordPress website may be issued a network violation warning and will be required to remove the non-WordPress website, or may be temporarily or permanently suspended, in our sole discretion. Additionally, you may be required to purchase an appropriate hosting plan in order to host the non-WordPress site should you wish to continue hosting the non-WordPress site on our network.

You acknowledge and agree that inbound UDP is not support in shared hosting environments.

**Website/Server Content.** Your website may not include any of the following content: (1) image hosting scripts that allow an anonymous user to upload an image for display on another website (similar to Photobucket or Tinypic); (2) banner ad services for display on other websites or devices (commercial banner ad rotation); (3) file dump/mirror scripts that allow an anonymous user to upload a file for other to download (similar to rapidshare); (4) commercial audio streaming (more than one or two streams); (5) push button mail scripts that allow the user to specify recipient email addresses; (6) anonymous or bulk SMS gateways; (7) backups of content from another computer or website; (8) Bittorrent trackers; or (9) any script that causes a degradation in the performance of our server or network environment.

## **7. BASE BANDWIDTH, AND FEES FOR USAGE OVER BASE BANDWIDTH**

The Hosting service provided by TheBlueGrid operates with 2GB of storage space and 30GB of transfer bandwidth per month. **You are granted to unlimited access to internet resources.** Should your website bandwidth exceed the monthly limits of TheBlueGrid service and cause TheBlueGrid to incur additional charges, TheBlueGrid will invoice you for the additional fees incurred.

## **8. SERVICE UPTIME GUARANTEE**

We offer a Service uptime guarantee of 99.9% ("Service Uptime Guarantee") of available time per month. If we fail to maintain this Service Uptime Guarantee in a particular month (as solely determined by us), you may contact us and request a credit of 5% of your monthly hosting fee for that month. The credit may be used only for the purchase of further products and services from us, and is exclusive of any applicable taxes. The Service Uptime Guarantee does not apply to service interruptions caused by: (1) periodic scheduled maintenance or repairs we may undertake from time to time; (2) interruptions

caused by you from custom scripting, coding or the installation of third-party applications; (3) outages that do not affect the appearance of your website but merely affect access to your website such as FTP and email; (4) causes beyond our control or that are not reasonably foreseeable; and (5) outages related to the reliability of certain programming environments.

## **9. SSL CERTIFICATES**

Our Service will support the installation of SSL Certificates, but these will have to be purchased separately. THEBLUEGRID will provide technical support for the installation of these certificates.

## **101. THIRD PARTY SOFTWARE**

Definition.

“Third Party Software” means any software or application developed and owned by a third party provider that we may contract with from time to time.

Operating Software. The Services may be operated in both Linux® and Windows® environments. Each time you commission a server, we will provision the server with the operating system you choose.

We reserve the right to modify, change, or discontinue any Third-Party Software at any time, and you agree to cooperate in performing such steps as may be necessary to install any updates to the Third-Party Software. The Third-Party Software is neither sold nor distributed to you, and you may use the Third-Party Software solely as part of the Services. You may not use the Third-Party Software outside of the Services. We may provide your personal information to third-party providers as required to provide the Third-Party Software. You acknowledge and agree that your use of the Third-Party Software is subject to our agreement(s) with the third-party providers. In addition, if the Third-Party Software is accompanied by or requires consent to a service or license agreement from the third-party provider, your use of the Third-Party Software is subject to such service or license agreement. You may not download, install, or use any Third-Party Software that is accompanied by or requires consent to a service or license agreement from a third-party provider unless you first agree to the terms and conditions of such service or license agreement. You may not remove, modify, or obscure any copyright, trademark, or other proprietary rights notices that are contained in or on the Third-Party Software. You may not reverse engineer, decompile, or disassemble the Third-Party Software, except and only to the extent that such activity is expressly permitted by applicable law. You acknowledge and agree that the third-party providers (and their affiliates and suppliers) make no representations or warranties about any Third-Party Software offered in connection with the Services, and expressly disclaim any liability or damages (whether direct, indirect, or consequential) arising from the use of the Third-Party Software. You acknowledge and agree that any Third-Party Software will be supported by us and not by the third-party providers (or their affiliates or suppliers).

## **12. TITLES AND HEADINGS; INDEPENDENT COVENANTS; SEVERABILITY**

The titles and headings of this Agreement are for convenience and ease of reference only and shall not be utilized in any way to construe or interpret the agreement of the parties as otherwise set forth herein. Each covenant and agreement in this Agreement shall be construed for all purposes to be a separate and independent covenant or agreement. If a court of competent jurisdiction holds any provision (or portion of a provision) of this Agreement to be illegal, invalid, or otherwise unenforceable, the remaining provisions (or portions of provisions) of this Agreement shall not be affected thereby and shall be found to be valid and enforceable to the fullest extent permitted by law.

## **13. DEFINITIONS; CONFLICTS**

Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Universal Terms of Service Agreement. In the event there is a conflict between the provisions of this Agreement and the provisions of the Universal Terms of Service Agreement, the provisions of this Agreement shall control.

#### **14. ENGLISH LANGUAGE CONTROLS**

This Agreement, along with all policies and the applicable product agreements identified above and incorporated herein by reference (collectively, the “Agreement”), is executed in the English language. To the extent any translation is provided to you, it is provided for convenience purposes only, and in the event of any conflict between the English and translated version, where permitted by law, the English version will control and prevail. Where the translated version is required to be provided to you and is to be considered binding by law (i) both language versions shall have equal validity, (ii) each party acknowledges that it has reviewed both language versions and that they are substantially the same in all material respects, and (iii) in the event of any discrepancy between these two versions, the translated version may prevail, provided that the intent of the Parties has been fully taken into consideration.