



SERVICE AGREEMENT

TERMS OF SERVICE

When you purchase any hosting service or additional product from First Point Technology Pty Ltd trading as (FIRSTPOINT IT, ABN: 99 665 267 498) you (referred to as "The Customer") are entering into an agreement with FIRSTPOINT IT bound by the Terms of Service ("TOS") outlined in this document. This Agreement will be interpreted in accordance with the laws of the state of QLD, Australia, pertaining to contracts enforceable in that state. By completing the ordering process, you acknowledge that you have read, understood, and agree to be bound by these Terms of Service.

1. Definitions

1.1 Hosting service – Any shared, reseller, virtual, or dedicated service used for storing and delivering web-based content.

1.2 Additional services – Any product or service considered an "addon" to a primary hosting service or covering one-off charges for additional work performed by a FIRSTPOINT IT staff member.

1.3 Resource usage – All allocated resources provided to the customer for storing and delivering web-based content within a hosting service. This includes, but is not limited to, disk space, memory, CPU, and bandwidth.

1.4 Subscription Duration: Refers to the term (monthly, quarterly, semi-annually, annually) applicable to the purchased service.

1.5 Members Portal: A user-friendly interface designed for account management, allowing customers to oversee billing aspects of hosting or additional services purchased. This includes access to invoices, contact information, and domain registrations.

2. Fees

2.1 Payment Process: The activation of any hosting or additional service is subject to FIRSTPOINT IT is receiving payment for the specified charges as outlined on the FIRSTPOINT IT website, documentation, or custom quotes provided to The Customer. Subsequent payments are due on the anniversary date of the subscription term in advance for the following term's service. All service fees are clearly stated within product descriptions or will be communicated to the customer before payment is required for any custom quotations or services ordered via phone.

2.2 Setup Fee Payment: The Customer commits to paying the full upfront setup fee, which covers the non-recurring amount necessary for the initial setup of the hosting service purchased. These fees are clearly indicated as setup fees in the service description or will be communicated in any custom quotations before any server provisioning, equipment acquisition, or installation by FIRSTPOINT IT.

2.3 Subscription Renewal: The Customer acknowledges that all subscriptions for hosting services provided by FIRSTPOINT IT are recurring. The Customer agrees to settle the recurring fees outlined in the service description in advance on each anniversary date until submitting a cancellation request as per the guidelines specified in these Terms of Service.

2.4 Non-Refundable Fee: Some fees paid to FIRSTPOINT IT are non-refundable given the nature of the product or service procured. This includes, but is not limited to:

2.4.1 Non-Refundable Third-Party Products: Products provided by FIRSTPOINT IT where FIRSTPOINT IT acts as a reseller for another provider (such as web hosting, domain registrations, SSL certificates, and third-party product licenses) are non-refundable once activated on an account.

2.4.2 Non-Refundable Advanced Administration Time: Services necessitating extra labor by FIRSTPOINT IT staff are non-refundable once they have been completed.

2.5 Additional Resource Usage Fees: Should the Customer surpass the allotted hosting resource usage outlined in the Service Definitions, overage fees will be incurred and are payable immediately. The current rates for additional resource usage can be found in the Members Portal and on the server addons page.

2.6 Invoices and Statements: Invoices are dispatched to The Customer via email, utilizing the designated email address assigned to the Customer or any supplementary billing contacts within the FIRSTPOINT IT billing system. Invoices are not dispatched through postal mail or any other courier service. FIRSTPOINT IT does not furnish written or printed statements; however, an account's invoice history is readily accessible for review within the Members Portal.

2.7 Failure to Pay: If the customer fails to pay the applicable recurring fees, FIRSTPOINT IT reserves the right to temporarily suspend service or terminate this Agreement after 28 days of overdue payment. Such termination or suspension does not absolve The Customer of the obligation to settle all outstanding charges, including reasonable interest and any collection fees. Accounts deemed uncollectible by FIRSTPOINT IT may be referred to an external collection agency for further action, potentially incurring additional fees or penalties.

3. Refunds, Disputes, and Cancellations

3.1 Money Back Guarantee – FIRSTPOINT IT offers a 10-Day Money Back Guarantee for Dedicated and VPS services ordered under a subscription period of quarterly or greater.

3.2 Refunds – Payments made to FIRSTPOINT IT are generally non-refundable, except within the applicable money-back period if a refund request is made within 10 days of the service signup date. Setup and additional fees are non-refundable unless FIRSTPOINT IT is unable to provide the ordered service.

3.3 Disputes – Any overcharges or billing disputes must be reported within 60 days of occurrence. If a valid charge dispute is reported to your credit card issuer, an "Administrative Fee" will be charged.

3.4 Service Cancellation by The Customer – The Customer's hosting service will remain active until a cancellation request is submitted through the online cancellation form available within the Members Portal. Requests must be submitted at least 2 business days before the next due date to avoid further fees.

3.5 Service Cancellation by FIRSTPOINT IT – FIRSTPOINT IT reserves the right to cancel The Customer's hosting service for any breach of these Terms of Service or the AUP without prior notification. FIRSTPOINT IT cannot guarantee the retrievability of The Customer's data once the cancellation process is completed.

4. Account Ownership

4.1 Account Owner – The Account Owner, the highest authority of a single Members Portal Account, controls individual hosting or additional services associated with the account. Only the Account Owner or their Authorized Additional Contact can make modifications and updates to an account's information. The Account Owner's identity must be that of a real person; the use of fictitious or "fake" names for Account Owner details is prohibited. Accounts found with fictitious or "fake" names or inaccurate contact details may be suspended or terminated without notice.

4.2 Account Information – The Customer warrants that all information provided to FIRSTPOINT IT is truthful, accurate, and up to date. The designated Account Owner must be at least 18 years old and legally empowered to act and enter into this contract on behalf of The Customer as indicated on the relevant application form.

4.2.1 Maintaining Account Information – The Customer is responsible for keeping the contact information stored within their account current. Failure to do so does not waive any fees, overdue fees, or warnings issued by FIRSTPOINT IT.

4.3 Authorized Additional Contact – The Account Owner can add and authorize additional contacts to act on their behalf. The Account Owner can add one additional billing contact and a maximum of three additional technical contacts. Accounts with more than the allowed maximum additional contacts will be asked to remove the excess.

4.4 Account Transfer – The Account Owner role can be transferred to another Authorized Additional Contact or a FIRSTPOINT IT Customer by contacting our billing support team to obtain the necessary steps. Contact billing support via the ticket system, phone, or email.

4.5 Account Closure – An account will be automatically deactivated when no active hosting or additional services are operated under the account.

5. Domain Registrations, Transfers, and Renewals

5.1 Domain Registrations – Once domain registrations have successfully completed the registration process and are considered active by the Domain Registrar, they are considered final and cannot be cancelled or refunded. The Customer is responsible for providing all necessary information for domain registration.

5.2 Domain Transfers – Domain transfers typically take 5-7 days to complete after final authorization is received by the Domain Registrar. The Customer must ensure that all contact information is updated with the Domain Registrar before initiating a domain transfer order.

5.3 Domain Renewal – Domains must be renewed before their expiration date to avoid becoming inactive. Multiple notifications are sent to The Customer reminding them of upcoming domain renewals starting from 60 days before the expiry date. FIRSTPOINT IT is not responsible for websites becoming inaccessible due to The Customer failing to renew their domain.

6. GENERAL TERMS AND SUPPORT BOUNDARIES

6.1 Support Boundaries – FIRSTPOINT IT offers technical support exclusively to its direct customers within defined support boundaries. This support is intended to assist customers in utilizing and connecting to the hosting service. It does not extend to diagnosing or resolving issues related to website or web application coding hosted within The Customer's hosting service.

6.1.1 Support for The Customer's Customers – FIRSTPOINT IT does not provide direct technical support to customers of The Customer. Resellers, Affiliates, Dedicated and VPS customers, and those with multiple hosting accounts under a single Members Portal account should not instruct their customers to contact FIRSTPOINT IT directly. Instead, they should act as intermediaries and contact FIRSTPOINT IT on behalf of their customers. FIRSTPOINT IT is open to assisting with support issues within its scope when contacted by The Customer.

6.2 Advanced Support – Upon agreement, FIRSTPOINT IT may offer advanced support to The Customer, subject to additional service fees. These fees are payable in advance based on the estimated time required for the task. FIRSTPOINT IT does not guarantee resolution within the estimated time, and additional fees may apply for extended support time.

6.3 Responsibility for Content and Account Activity – The Customer bears sole responsibility for the content stored on and served by the purchased hosting service, as well as the activity of any scripts or email services created under it. The Customer must maintain the security of all account passwords and applications/scripts, ensuring they are free from malicious content that may compromise any part of FIRSTPOINT IT's infrastructure or other client accounts.

6.3.1 Acceptable Usage – The Customer must adhere to FIRSTPOINT IT's Acceptable Usage Policy (AUP) and refrain from hosting content or allowing account activity that violates the AUP. Violations may result in warnings, temporary suspension, or immediate termination, depending on the severity and recurrence of the violation.

6.3.2 Web Applications – The Customer is responsible for keeping all web applications used on the hosting service secure, patched, and up to date to prevent vulnerabilities. It is incumbent upon The Customer to install updates/patches, and if unable to do so, they should seek assistance from a qualified Web Developer.

6.3.3 Maintaining Compatibility – The Customer must ensure that installed web applications remain compatible with the latest stable releases of server applications. FIRSTPOINT IT regularly updates server applications, and The Customer is responsible for maintaining compatibility with these updates.

6.4 Resource Utilization:

All hosting services are subject to predefined resource limits based on the corresponding plan. It is The Customer's responsibility to ensure that their hosting service operates within these allocated resources. Should additional resources be required for optimal performance, The Customer must upgrade their service accordingly.

6.4.1 Resource Utilization Policy (excluding Dedicated Server Customers):

FIRSTPOINT IT imposes per-account resource constraints on Shared, Reseller, and VPS hosting services, which may vary depending on the plan. Additionally, customers are prohibited from:

- Utilizing 50% or more of the allocated CPU resources for longer than 60 seconds.
- Running stand-alone, unattended server-side processes, including daemons like IRCD.
- Using shared or reseller servers for storing unrelated content or content that violates the FIRSTPOINT IT AUP.
- Running any form of indexing software.
- Running software that connects to IRC networks.
- Using bit torrent applications or engaging in illegal file-sharing activities.
- Scheduling cron tasks on shared or reseller servers with intervals of less than 5 minutes.
- Maintaining excessively large MySQL databases on shared or reseller servers, surpassing specified limits.
- Running MySQL queries longer than 15 seconds on shared or reseller servers.
- Storing multiple backups on shared hosting servers, which may cause heavy strain on storage arrays.
- Generating backups on Shared or Reseller Hosting for accounts utilizing over 15GB of disk space without contacting Technical Support.
- Retaining emails in the trash folder for more than 30 days.
- Misconfiguring VPS resources resulting in excessive usage.
- Storing files in the cPanel trash folder.

6.4.2 File and Directory Usage (Inode):

Each file and directory hosted on FIRSTPOINT IT servers consumes 1 inode. Accounts found to have an excessive number of inodes on shared or reseller servers must either upgrade their hosting service or reduce the number of files stored. An inode count exceeding 250,000 for shared and reseller hosting services is considered excessive and often indicates issues within a web application or its configuration unsuitable for shared hosting. It is advisable to maintain fewer than 100,000 inodes per account for optimal

performance. For VPS hosting, an inode count exceeding 4,000,000 is considered excessive.

6.4.3 Bandwidth/Data Transfer Monitoring

Bandwidth/data transfer is monitored using various methods across different services:

- Monitoring "Unlimited" bandwidth plans for high usage.
- Tracking bandwidth on a monthly cycle.
- Sending alerts to registered email addresses before reaching predetermined bandwidth limits.
- Applying additional charges for Personal and Business hosting plans exceeding set limits.
- Temporarily suspending Reseller hosting plans and sub-accounts for surpassing bandwidth limits until upgraded.
- Imposing overage fees for VPS plans exceeding fixed quotas.
- Applying overage charges for Dedicated and Virtual Dedicated Server plans surpassing fixed quotas.

6.4.4 Bandwidth Misuse

FIRSTPOINT IT reserves the right to shape, suspend, or terminate services of customers causing issues or performance degradation for others on its network. In cases where a customer's traffic results in unmanageable costs, FIRSTPOINT IT may adjust the customer's plan or suspend/terminate the service.

6.5 Media Streaming

Media streaming is not allowed on Personal Hosting, Business Hosting, Reseller Hosting, or VPS plans. Customers requiring media-streaming services should choose Dedicated Server Plans. Violations of this policy may lead to immediate suspension without prior notice.

7. Third-Party Tools, Applications, and Licenses

FIRSTPOINT IT may provide access to additional third-party software and/or services ("Third-Party Products") through commercial agreements with specific vendors ("Third-Party Vendors"). Unless explicitly stated otherwise, The Customer acknowledges that product support for Third-Party Products is offered by FIRSTPOINT IT, not the Third-Party Vendor. Neither FIRSTPOINT IT nor any Third-Party Vendor makes any express or implied representations or warranties regarding Third-Party Products. The Customer understands and agrees that the use of Third-Party Products is at their sole risk, provided "as is," without any warranty from FIRSTPOINT IT or any Third-Party Vendor. To the fullest

extent permitted by law, neither FIRSTPOINT IT nor any Third-Party Vendor will be liable for any damages, whether direct, indirect, or consequential, arising from the use or inability to use any Third-Party Product. The Customer must adhere to the terms of any license or applicable end-user subscriber agreement for Third-Party Products and is fully responsible for any improper use or violation of license agreements.

7.2 Microsoft Licensing

For Microsoft software licensed through FIRSTPOINT IT, The Customer agrees to comply with Microsoft Licensing terms. If user licenses are purchased, it is The Customer's responsibility to accurately report and obtain the appropriate level of user licenses as outlined in Microsoft's licensing terms.

7.3 Availability of Features

FIRSTPOINT IT does not assure that all features accessible within Third-Party Products will be supported or provided to The Customer. The decision regarding which features are enabled and whether support will be extended for their utilization rests solely with FIRSTPOINT IT.

Additional Legal Information

8.1 Disclosure to Law Enforcement

FIRSTPOINT IT's Acceptable Usage Policy prohibits illicit activities, and The Customer consents to FIRSTPOINT IT disclosing customer information to law enforcement upon written request without further consent or notification. FIRSTPOINT IT retains the right to promptly terminate any hosting service implicated in illegal activities.

8.2 System and Network Security

Users are barred from breaching the security of the FIRSTPOINT IT Network. Such violations may lead to civil or criminal liability, and FIRSTPOINT IT will engage in investigations and collaborate with law enforcement to prosecute offenders.

8.3 Disclaimer

FIRSTPOINT IT endeavours to ensure the accuracy and error-free nature of the information provided on its website and by its staff. However, FIRSTPOINT IT makes no warranties, express or implied, including but not limited to the service's fitness for a particular purpose, except where not offering such warranties would be deemed unlawful under the Trade Practices Act 1974 (Cth).

8.4 Limitation of Liability

FIRSTPOINT IT shall not be held liable for any costs or losses incurred by The Customer due to service usage, errors, breaches, interruptions, unauthorized access, or service suspension/termination resulting from breaches of the AUP or legal obligations.

8.5 Indemnification

The Customer agrees to indemnify FIRSTPOINT IT against any and all demands, liabilities, losses, costs, and claims arising from the use of hosting services.

8.6 Modification of These Terms

FIRSTPOINT IT reserves the right to modify these terms without prior notice. Changes affecting The Customer's service usage will be communicated via email, and continued usage constitutes acceptance of the revised terms.