

WebCitz, LLC

Custom Web Solutions

1045 N Lynndale Drive Ste 2H • Appleton, Wisconsin, 54914 • 888.360.0001 • www.webcitz.com

Hosting Service Agreement

Client Information:

Name: _____

Company: _____

Address: _____

Phone: _____

Email: _____

Domain: _____

The above-named Client (hereinafter referred to as "Client" or "Customer" or "You" or "Your") is engaging WebCitz LLC, (hereinafter referred to as "WebCitz" or "We" or "Our"), for the website hosting services, (hereinafter referred to as "Service" or "Hosting Service" or "Hosting").

1.) Account Setup / Email on file. We will setup your account after we have received payment and we and/or our payment partner(s) have screened the order(s) for fraud. It is your responsibility to provide us with a valid email address which is not at the domain(s) you are signing up under. If there is ever an abuse issue or we need to contact you, the primary email address on file will be used for this purpose. It is your responsibility to ensure the email address on file is current or up to date at all times. Providing false contact information of any kind may result in the suspension or termination of your account with or without notice.

2.) Transfers. Our transfer department will make every effort to help you move your website to our servers; however, we cannot make guarantees of the transfer process or success. We provide this as a courtesy service and cannot make guarantees regarding its availability or the amount of time it may take. The existing web hosting provider and the Client must agree to grant WebCitz full access to an FTP account and Database Backup Utility to facilitate the duplication process of files, folders and databases. WebCitz will not be responsible for files, folders and/or databases that are missed or forgotten in the duplication process. In some cases we may be unable to assist you in the transfer of data from an existing web host.

2.) Content. All services provided by WebCitz may only be used for lawful purposes. The laws of the State of Wisconsin, the State of Florida, the State of Texas, and the United States of America apply. In the event of conflicting state laws it will be at the discretion of WebCitz or the state with jurisdiction which laws are used.

The customer agrees to indemnify and hold harmless WebCitz and its subcontractors, vendors, and agents from any claims resulting from the use of our services.

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Use of our services to infringe upon any copyright or trademark is prohibited. This includes but is not limited to unauthorized copying of music, books, photographs, or any other copyrighted work. The offer of sale of any counterfeit merchandise of a trademark holder will result in the immediate termination of your account. If you believe that your copyright or trademark is being infringed upon, please email abuse@webcitz.com with the information required. A list of required information may be found at www.webcitz.com/terms/. If the request is of a licensing issue, we may require further documentation.

Examples of unacceptable material include:

IRC Bots, Proxy Scripts / Anonymizers, Pirated Software / Warez, ".img" / image hosting only sites that do not host an actual domain name, Escrow, High-Yield Interest Programs(HYIP) or related sites, Investment sites (FOREX, egold exchange), AutoSurf sites, Bank Debentures, Bank Debenture Trading Programs, Prime Banks Programs, lottery sites, muds / rpg's, hate sites, hacker focused sites/archives/programs, or sites promoting illegal activities.

We reserve the right to refuse service to anyone. Any material that, in our judgment, is obscene or threatening is prohibited and will be removed from our servers with or without notice.

Failure to respond to email communication from our abuse department within 48 hours may result in the suspension or termination of your services. All abuse issues must be dealt with via email and will have a response within 48 hours.

If in doubt regarding the acceptability of your website or service you should contact us at abuse@webcitz.com. We will be happy to assist you.

Potential harm to minors is strictly forbidden, including but not limited to child pornography or content perceived to be child pornography (Lolita):

- Any site found to host child pornography or linking to child pornography will be suspended or terminated immediately without notice.
- Violations will be reported to the appropriate law enforcement agencies.

It is your responsibility to ensure all scripts/programs installed under your account are secure and permissions of directories are set properly, regardless of installation method. When possible, it is prudent to set permissions on directories to 755 or as restrictive as possible. Users are ultimately responsible for all actions taken under their account. This includes the compromise of credentials such as username and password, even if that username and password was created by WebCitz. It is required that you use a secure password. If a weak password is used, your account may be suspended until you agree to use a more secure password. Security audits may be performed to prevent weak passwords from being used. If an audit is performed, and your password is found to be weak, we will notify you and allow time for you to change or update your password.

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3.) Zero Tolerance Spam Policy. We take a zero tolerance stance against sending of unsolicited e-mail, bulk emailing, and spam. "Safe lists" and "double opt-in" will be treated as spam. Any user who sends out spam will have their account terminated with or without notice.

Please visit <http://www.webcitz.com/terms/> for our generalized mail policy.

Sites advertised via SPAM (Spamvertised) may not be hosted on our servers. This provision includes, but is not limited to SPAM sent via fax, email, instant messaging, or usenet/newsgroups. No organization or entity listed in the [ROKSO](#) may be hosted on our servers. Any account which results in our IP space being blacklisted will be immediately suspended and/or terminated with or without notice.

WebCitz reserves the right to require changes or disable as necessary any web site, account, database, or other component that does not comply with its established policies, or to make any such modifications in an emergency at its sole discretion.

WebCitz reserves the right to charge the holder of the account used to send any unsolicited e-mail a clean-up fee. This cost of the clean-up fee is entirely at the discretion of WebCitz.

4.) Payment Information. You agree to supply appropriate payment for the services received from WebCitz in advance of the time period during which such services are provided. You agree that until and unless you notify WebCitz via email of your desire to cancel any or all services received, those services will be billed on a recurring basis.

Cancellations must be done in writing via the [cancellation form](#) provided. Once we receive your cancellation and have confirmed all necessary information with you via e-mail, we will inform you that your account has been canceled. At this time, your account with us has been canceled. If you do not hear back from us or receive an e-mail confirming this cancellation, please contact us immediately.

As a client of WebCitz, it is your responsibility to ensure that your payment information is up-to-date, and that all invoices are paid on time. WebCitz provides a ten (10) day grace period from the time the invoice is due and when it must be paid. Any invoice that is overdue for 10 days and not paid will result in a \$10 late fee and/or an account suspension until account balance has been paid in full.

WebCitz reserves the right to change the monthly payment amount and any other charges at any time.

5.) Backups and Data Loss. Your use of this service is at your sole risk. WebCitz is not responsible for files and/or data residing on your account. You agree to take full

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responsibility for files and data transferred and to maintain all appropriate backup of files and data stored on WebCitz servers.

6.) Cancellations and Refunds. WebCitz reserves the right to cancel the account at any time with or without notice.

Any abuse of our staff in any medium or format will result in the suspension or termination of your services.

Customers may cancel at any time via our [cancellation form](#). WebCitz gives you an unconditional thirty (30) day money back guarantee on hosting services. There are no refunds on administrative fees, install fees for custom software, domain name registration or website services. Refund requests after 30 days will be refunded on a prorated basis of any unused time.

Only first-time accounts are eligible for a refund. For example, if you have had an account with us before, cancelled and signed up again, you will not be eligible for a refund. This also applies to any Client with multiple accounts.

Violations of this Web Hosting Agreement will waive the refund policy.

7a.) Resource Usage. The Client may not:

- a) Use 25% or more of system resources for longer than 90 seconds. There are numerous activities that could cause such problems; these include: CGI scripts, FTP, PHP, HTTP, etc.
- b) Run any type of interactive real-time chat applications that require server resources. Remotely-hosted services are fully allowed.
- c) Run stand-alone, unattended server-side processes at any point in time on the server. This includes any and all daemons, such as IRCD.
- d) Run any software that interfaces with an IRC (Internet Relay Chat) network.
- e) Run any bit torrent application, tracker, or client. Please note that you may link to torrents off server, but may not host or store them.
- f) Participate in any file-sharing/peer-to-peer activities
- g) Run any gaming servers such as counter-strike, half-life, battlefield1492, etc
- h) Run cron entries with intervals of less than 15 minutes

When using PHP include functions for including a local file, include the local file rather than the URL. Instead of `include("http://yourdomain.com/include.php")` use `include("include.php")`

7b.) INODES. The use of more than 50,000 INODES will result in account suspension. Accounts found exceeding 50,000 INODES will not be backed up on our backup servers. A INODE is the actual file or directory and not the size of that file or

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directory. For example your index.html file is 1 INODE and a directory called images is counted as 1 INODE as well.

8.) Bandwidth Usage. You are allocated a monthly bandwidth allowance. This allowance varies depending on the web hosting package you purchase. Should your account pass the allocated amount we reserve the right to suspend the account until the start of the next allocation, suspend the account until more bandwidth is purchased at an additional fee, suspend the account until you upgrade to a higher level of package, terminate the account, or charge you an additional fee for the overages. Unused transfer in one month cannot be carried over to the next month.

9a.) Money back Guarantee. If you are not completely satisfied with our web hosting services within the first thirty (30) days of your service, you will be given a full refund of the contract amount. Remember, this is only for monthly hosting packages and does not apply to administrative fees, install fees for custom software, or domain name purchases or web services.

9b.) Uptime Guarantee. If your hosting server has a physical downtime that is not within the 99.9% uptime guarantee you may receive one month of credit on your account. Approval of the credit is at the discretion of WebCitz dependant upon justification provided. Third party monitoring service reports may not be used for justification due to a variety of factors including the monitor's network capacity and transit availability. The uptime of the server is defined as the reported uptime from the operating system of the server which may differ from the uptime reported by individual services. To request a credit, please contact info@webcitz.com with justification. All requests must be made in writing via email within three (3) calendar days of the end of the monthly billing cycle.

10.) Resale of Hosting Space/Bandwidth. The Client may not resell web hosting space or bandwidth to other people, organizations or companies. If it is discovered the Client is engaging in such activity we will suspend the account without notice.

11.) Price Change. WebCitz reserves the right to increase the amount you pay for hosting at the end of the Client's billing cycle. We reserve the right to change prices listed on webcitz.com, and the right to increase the amount of resources given to plans at any time.

12.) Indemnification. Client agrees that it will protect, indemnify, save and hold WebCitz harmless from any and all stipulations, liabilities, losses, expenses and claims, as well as reasonable attorney's fees assessed against WebCitz, its agents, customers, officers, employees and administration that may arise or result from any service provided or performed or agreed to be performed or any product sold by it's customers, agents, employees or assigns. Client agrees to defend, indemnify and hold WebCitz harmless against liabilities arising out of; (1) any injury to person or property caused by any products sold or distributed in association with WebCitz Hosting Services; (2) any material furnished by customer infringing or allegedly

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infringing on the proprietary rights of a third party; (3) copyright violation and any defective products sold to a customer from WebCitz's server(s).

13.) Choice of Law and Venue. This Agreement shall be governed and construed in accordance with the laws of the United States and the State of Wisconsin, and the parties consent to the sole and exclusive jurisdiction of the state courts and U.S. federal courts having jurisdiction in Winnebago County, Wisconsin for any dispute arising out of this Agreement.

14.) Severability. In the event that a court finds any provision of this Agreement invalid and/or unenforceable, both parties agree the remaining provisions shall remain valid and in force.

15.) Term and Termination. This agreement is effective immediately after signature by both WebCitz and the Client. Client accepts the terms of this agreement by signature or electronic acceptance and payment for services. The agreement shall continue in force unless terminated pursuant to the following:

The Client may terminate this agreement without cause upon written notice to WebCitz via e-mail at info@webcitz.com. WebCitz may terminate this agreement at any time by providing written notice to the Client at the email address provided.

16.) Disclaimer of Warranty and Limitation of Liability. THE PRODUCTS AND SERVICES ARE PROVIDED "AS IS" WITHOUT ANY WARRANTY OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR TITLE, WHICH ARE HEREBY DISCLAIMED.

WEBCITZ, ITS AGENTS, EMPLOYEES, VENDORS, AND SUBCONTRACTORS SHALL NOT BE LIABLE FOR (1) LOSS OR THEFT OF COMMERCIAL, PERSONAL, OR FINANCIAL DATA OF THE CLIENT OR CLIENT'S CUSTOMERS OR (2) ANY LOSS OF USE, LOSS OF DATA, INTERRUPTION OF BUSINESS OR (3) ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, LOST PROFITS) REGARDLESS OF THE FORM OR ACTION WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, EVEN IF WEBCITZ HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. WEBCITZ'S LIABILITY HEREUNDER SHALL NOT EXCEED THE AMOUNT PAID BY THE CLIENT TO WEBCITZ FOR WEB HOSTING SERVICES DURING THE THREE (3) MONTH PERIOD BEFORE THE ACTION AROSE. THE CLIENT UNDERSTANDS THIS IS AN INTEGRAL PART OF THE CONTRACT AND LEGAL ADVICE SHOULD BE SOUGHT TO CLARIFY ANY MISUNDERSTANDINGS.

17.) Sole Agreement. The agreement contained in this "Hosting Service Agreement" constitutes the sole agreement between WebCitz and the Client regarding web hosting services.

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18.) Disclosure to law enforcement. WebCitz may disclose any subscriber information to law enforcement agencies without further consent or notification to the subscriber upon lawful request from such agencies. We fully cooperate with law enforcement agencies.

19.) Changes to the TOS. WebCitz reserves the right to revise its policies at any time without notice.

The undersigned hereby agree to the terms, conditions and stipulations of this Agreement on behalf of his or her organization or business and has sought or declined legal consultation before entering into the contract.

On behalf of the Client:

Full Name: _____

Position: _____

Signature: _____

Date: _____

On behalf of WebCitz:

Full Name: _____

Position: _____

Signature: _____

Date: _____