

AUCTIONZIP WEB HOSTING SERVICE AGREEMENT

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

1. OVERVIEW

This Web Hosting Agreement (this “Agreement”) is entered into by and between Auctionzip LLC, a Delaware limited liability company (“Auctionzip”) and you. This Agreement sets forth the terms and conditions of your use of Auctionzip’s Web Hosting services (the “Web Hosting Services”, or the “Services”, as applicable) and is made effective as of the date of electronic accept or your payment for Services, whichever is earlier.

Your electronic acceptance of this Agreement signifies that you have read, understand, acknowledge and agree to be bound by this Agreement, along with Auctionzip’s Terms of Use Agreement, which is incorporated herein by reference and available at <http://www.auctionzip.com/agreements/terms.html>. The terms “we”, “us” or “our” shall refer to Auctionzip. 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.

Auctionzip, in its sole and absolute discretion, may change or modify this Agreement, and any policies or agreements which are incorporated herein, at any time, and such changes or modifications shall be effective immediately upon posting to the Auctionzip Web Hosting Services website (this “Site”). You acknowledge and agree that (i) Auctionzip may notify you of such changes or modifications by posting them to this Site and (ii) your use of this Site or the Services found at this Site after such changes or modifications have been made (as indicated by the “Last Revised” date at the top of this page) shall constitute your acceptance of this Agreement as last revised. If you do not agree to be bound by this Agreement as last revised, do not use (or continue to use) this Site or the Services found at this Site. In addition, Auctionzip may occasionally notify you of changes or modifications to this Agreement by email. It is therefore very important that you keep your account (“Account”) information, including your email address, current. Auctionzip assumes no liability or responsibility for your failure to receive an email notification if such failure results from an inaccurate or out-of-date email address.

2. DESCRIPTION OF SERVICES

Auctionzip currently provides the Services to its customers for a monthly fee. Auctionzip will host your website on Auctionzip’s servers, provided, however, you abide by the terms and conditions set forth herein and in each of Auctionzip’s policies and procedures here.

License of Your Website Content

Auctionzip grants to you, and you accept from Auctionzip, a non-exclusive, worldwide and royalty free license to copy, display, use and transmit on and via the Internet your website content in connection with Auctionzip’s performance or enforcement of this Agreement.

Availability of Services

Subject to the terms and conditions of this Agreement, Auctionzip shall attempt to provide the Services for twenty-four (24) hours per day, seven (7) days per week throughout the term of this Agreement. You agree that from time to time the Services may be inaccessible or inoperable for any reason, including, without limitation:

- i. equipment malfunctions;
- ii. periodic maintenance procedures or repairs that Auctionzip may undertake from time to time; or
- iii. causes beyond the control of Auctionzip or that are not reasonably foreseeable by Auctionzip, including, without limitation, interruption or failure of telecommunication or digital transmission links, hostile network attacks network congestion or other failures.

You agree Auctionzip has no control of availability of the Services on a continuous or uninterrupted basis.

You further agree that as a normal course of its business, it may be necessary for Auctionzip to migrate its servers. As a result, even though you may have a dedicated IP, you may be assigned a different IP number. Auctionzip does not warrant that you will be able to consistently maintain your given IP numbers.

Service Uptime

Auctionzip offers service uptime assurance for the Services of 99.9% ("Service Uptime") of available time. If Auctionzip fails to maintain this level of service availability, you may contact Auctionzip and request a credit of 5% of your monthly hosting fee from Auctionzip for that month. The credit may be used only for the purchase of further products and services from Auctionzip, and is exclusive of any applicable taxes. The credit does not apply to service interruptions caused by:

- i. periodic scheduled maintenance or repairs Auctionzip may undertake from time to time;
- ii. errors caused by you from custom scripting or coding;
- iii. outages that do not affect the appearance of the website but merely affect access to the administrative functions to manage your website and other functions such as FTP and email;
- iv. causes beyond the control of Auctionzip or that are not reasonably foreseeable by Auctionzip; and
- v. outages related to the reliability of certain programming environments.

Total Service Uptime shall be solely determined by Auctionzip and shall be calculated on a monthly basis.

Website Content

You shall be solely responsible for providing, updating, uploading and maintaining your website and any and all files, pages, data, works, information and/or materials on, within, displayed, linked or transmitted to, from or through your website, including, without limitation, trade or service marks, images, photographs, illustrations, graphics, audio clips, video clips, email or other messages, meta tags, domain names, software and text. Your website content shall also include any registered domain names provided by you or registered on behalf of you in connection with the Services. Notwithstanding anything in this Agreement to the contrary, in no event shall your website consist of the following: search results, registration, "thank you", error, email or chat pages, or pages containing any of the following types of content:

- i. pornographic, obscene or excessively profane content;
- ii. content intended to advocate or advance computer hacking or cracking;
- iii. gambling;
- iv. illegal activity;
- v. drug paraphernalia; or
- vi. hate, violence or racial or ethnic intolerance.

Information Shared with Partners

As a condition of purchasing and using the Services, you acknowledge and agree Auctionzip may provide your personal information to their partners, as required to provide the plans which you are purchasing.

3. YOUR OBLIGATIONS

Upon the expiration of your initial hosting service term, your hosting services shall automatically renew for the same period of time and your payment method shall be charged for the renewal term on the renewal date. You acknowledge and agree that in the event you do not desire to automatically renew your hosting services for the same period of time, it is your responsibility and obligation to contact your Account Manager by email webhostingsupport@auctionzip.com at least 30 days before expiration of your then current service terms. Your failure to contact your Account Manager shall be deemed acceptance of the renewal term.

You represent and warrant to Auctionzip that:

- i. Your Content does not and shall not contain any content, materials, data, work, trade or service mark, trade name, link, advertising or services that actually or potentially violate any applicable law or regulation, or infringe or misappropriate any proprietary, intellectual property, contract or tort right of any person; and
- ii. you own your website content and all proprietary or intellectual property rights therein, or have express written authorization from the owner to copy, use and display the content on and within your website.

You also warrant that the website being hosted by Auctionzip will not be used in connection with any illegal activity. By hosting your website on Auctionzip's servers, you are responsible for ensuring there is no excessive overloading on Auctionzip's DNS or servers. In the event you exceed your allotted bandwidth, compute cycles or disk space and thereby overload Auctionzip's DNS or servers, you shall be assessed any and all fees, costs and penalties associated with such overloading. You may not use Auctionzip's 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.

Server hacking or other perpetration of security breaches is prohibited and Auctionzip reserves the right to remove sites containing information about hacking or links to such information. Use of your website as an anonymous gateway is prohibited. Auctionzip prohibits the use of software or scripts run on its servers that cause the server to load beyond a reasonable level, as determined by Auctionzip. You agree Auctionzip reserves the right to remove your website temporarily or permanently from its servers if Auctionzip is the recipient of activities that threaten the stability of its network. Further, you acknowledge and agree Auctionzip has the right to terminate your Services in its sole discretion and for any reason, including, but not limited to, your failure or unwillingness to comply with the terms and limitations of this Agreement, specifically, the content and material restrictions set forth in this Agreement. You agree not to engage in unacceptable use of the Services, which includes, without limitation, use of the Services to:

- i. disseminate or transmit unsolicited messages, chain letters, unsolicited commercial email, or unreasonably large volumes of email on a daily basis, provided, Auctionzip, in its sole discretion, may permit you, if you have a legitimate purpose and after request, to send more email than Auctionzip's standard SMTP relay limit;
- ii. disseminate or transmit any material that, to a reasonable person may be abusive, obscene, pornographic, defamatory, harassing, grossly offensive, vulgar, threatening or malicious;

- iii. disseminate or transmit files, graphics, software or other material, data or work that actually or potentially infringes the copyright, trademark, patent, trade secret or other intellectual property right of any person;
- iv. create a false identity or to otherwise attempt to mislead any person as to the identity, source or origin of any communication;
- v. export, re-export or permit downloading of any message or content in violation of any export or import law, regulation or restriction of the United States and its agencies or authorities, or without all required approvals, licenses and/or exemptions;
- vi. 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;
- vii. disseminate or transmit any virus, trojan horse or other malicious, harmful or disabling data, work, code or program;
- viii. engage in any other activity deemed by Auctionzip to be in conflict with the spirit or intent of this Agreement or any Auctionzip policy; or
- ix. use your server as an "open relay" or similar purposes.

Auctionzip prohibits the running of a public recursive DNS service on any Auctionzip server. All recursive DNS servers must be secured to allow only internal network access or a limited set of IP addresses. Auctionzip actively scans for the presence of public DNS services and reserves the right to remove any servers from the network that violate this restriction.

Storage and Security

At all times, you shall bear full risk of loss and damage to your website and all of your website content. You are entirely responsible for maintaining the confidentiality of your password and account information. You agree you are solely responsible for all acts, omissions and use under and charges incurred with your account or password or in connection with the Site or any of your website content displayed, linked, transmitted through or stored on the Server. You shall be solely responsible for undertaking measures to:

- i. prevent any loss or damage to your website content;
- ii. maintain independent archival and backup copies of your website content;
- iii. ensure the security, confidentiality and integrity of all your website content transmitted through or stored on Auctionzip servers; and
- iv. ensure the confidentiality of your password.

Auctionzip's shared hosting servers are not an archive and Auctionzip 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) compliant environment and therefore should not be considered as one. Auctionzip shall have no liability to you or any other person for your use of the Services in violation of these terms. You shall at all times use the Services as a conventional and/or traditional website. You shall not use the Service in any way, in Auctionzip's sole discretion, that shall impair the functioning or operation of Auctionzip's services or equipment. Specifically by way of example and not as a limitation, you shall not use the Services as: (i) a repository or instrument for placing or storing archived files; and/or (ii) placing or storing material that can be downloaded through other websites. You acknowledge and agree that Auctionzip has the right to carry out a forensic examination in the event of a compromise to your account.

In the event you terminate, moving your website off of the Auctionzip shared hosting servers is your responsibility. Auctionzip will not transfer or FTP your website to another provider. In the event your use of the Services is terminated, Auctionzip will not transfer or manage your Services or your website content.

Storage and Plan Limits

All web hosting plans are subject to Auctionzip's reasonable file and folder limits. Any account that exceeds this limit will be notified and subject to suspension if no action is taken by the customer to reduce the number of files and folders (as the case may be).

Third-party Software

You acknowledge that Auctionzip does not allow, recommend or support the use of third-party software on its hosted websites without written permission. The granting of permission to use third-party software will be in Auctionzip's sole discretion, and if granted, Auctionzip reserves the right to terminate such permission at any time without notice or justification. In the event that you obtain written permission from Auctionzip to install third-party software, the following terms shall apply. You represent and warrant you have the right to use and install the third-party software, and have paid the applicable licensing fees for the third party software, and the third-party software does not and shall not infringe on the intellectual property rights of any other person or entity. You agree to defend, indemnify and hold harmless Auctionzip and its employees, officers and directors for, from and against any and all claims brought against Auctionzip and its employees, officers and directors by a third-party alleging the software infringes: (i) the third-party's rights; or (ii) a U.S. patent, trademark, copyright or other intellectual property right. You agree that in such an event you shall pay all resulting costs, damages, expenses and reasonable attorneys' fees that a court awards and settlements incurred by Auctionzip in connection with any such claims.

4. 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.

5. DEFINITIONS; CONFLICTS

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

Revised: 11/18/2011.