

# TELARUS HOSTING – SERVICE SCHEDULE

## SERVICE DESCRIPTION

The Telarus Hosting Service offers virtual and dedicated hosting of Internet services and tele-housing services. Virtual and dedicated hosting services include domain name services (DNS), email (SMTP and POP) and web (HTTP/HTTPS) hosting. Tele-housing services offers the Customer space within a managed data centre facility in which to house their own equipment and may incorporate network access services.

## PRICING

Pricing for the Service and other charges under the Agreement shall be as notified by Telarus (for example, in its proposal to the Customer) and as otherwise notified or varied by Telarus in accordance with the General Terms.

## ADDITIONAL TERMS – GENERAL

1. For the purposes of this Agreement: “**Defined Abuse**” includes misuse of the Service including without limitation: (a) giving an unauthorized person the Customer’s account and password details; (b) deliberately or recklessly disrupting Telarus’ service; (c) engaging in the practice known as spamming; (d) using the Service in an unlawful manner; (e) using the Service to menace or harass others; (f) Denial-of-service attacks on other customers or any network; (g) using the Service to obtain unauthorized access to any network; or (h) as otherwise reasonably determined by Telarus; and “**Denial-of-service attack**” includes behaviour of the Customer that results in disruption of Telarus’ service, disruption of other people’s access or their enjoyment of that access, including without limitation computer viruses and other harmful components, IRC harassment, e-mail bombardment, damage to internet-connected resources and channel flooding.
2. Telarus will use reasonable endeavours to make the Service available to the Customer 24 hours a day, 7 days a week. However, the Customer acknowledges that the Service may be unavailable at times, due to various factors including but not limited to system maintenance, peak congestion, Service Equipment or line failure. The Customer further acknowledges that Telarus does not guarantee the performance or quality of the Service.
3. Charges shall commence from the time Telarus makes the Service available to the Customer, whether or not the Customer is ready to make use of the Service at that time.
4. Telarus may provide the Customer with a unique login identification code, password and other login information required to enable connection to the Service.
5. The Customer shall be solely responsible for the development, formatting, installing and maintenance of its content and for uploading its content to Telarus’ server in a format compatible with that used by Telarus.
6. The Customer grants Telarus a licence to view, use, reproduce and transmit the Customer’s content for the purposes of this Agreement.
7. The Customer must ensure that all content loaded on Telarus’ server via the Customer’s connection to Telarus’ server or transmitted via Telarus’ server (whether by the Customer or another person):
  - (a) is free from computer viruses, trojans, worms, hacking tools and other harmful components;
  - (b) does not infringe the intellectual property rights of any person;
  - (c) complies with the terms of this Agreement;
  - (d) does not defame any person; and
  - (e) does not breach any law (including without limitation any law relating to pornographic, obscene or offensive material, vilification, unsolicited electronic messaging, consumer protection, confidential information and public safety).
8. The Customer agrees to use the Service only in accordance with any acceptable use policy provided or published by Telarus from time to time.
9. The Customer shall be responsible for backup and storage of the Customer’s software including without limitation data.
10. Telarus reserves the right to delete the Customer’s files (including all files, databases, email and other related data) upon termination of this Agreement. Telarus will typically deactivate the Service within 2 business days of the Customer requesting cancellation and will subsequently delete the Service (including all files, databases, email and other related data). It is the Customer’s responsibility to ensure that it has made a copy of or backed up any required data prior to cancellation or upon termination of this Agreement.
11. Notwithstanding anything in this Agreement, Telarus is not obliged to review or monitor any of the Customer’s content, although Telarus may do so if permitted or required by law.

12. The initial term for the Service will be 12 months. The Agreement shall automatically renew for successive 12 month periods thereafter, provided either party may terminate the Agreement at the end of the then current term by notifying the other party in writing at least 60 days prior to the end of the then current term.
13. Telarus will use reasonable efforts to protect the integrity of Customer data stored on managed servers. The Customer is responsible for maintaining and backing up the data. The Customer is solely responsible for any data held servers being housed on behalf of the Customer through tele-housing. The Customer must fully indemnify and defend Telarus against any claim relating to the loss of data relating to the use of the Service.
14. The Customer is responsible for ensuring that it has the relevant hardware, software and services to access and maintain the Service and any data hosted on the Service.
15. The Customer acknowledges that servers connected to a network, and particularly those connected to the internet, are subject to security threats. The Customer agrees that Telarus will not be responsible or liable for ensuring the security, privacy or integrity (including threats arising from viruses, trojans, worms, hacking tools or any other harmful component) of any data or electronic mail transfer via or held on the servers used to provide any Services or on Customer systems (including servers hosting or being hosted via tele-housing with Telarus). The Customer must fully indemnify and defend Telarus in relation to any claim relating to the matters referred to in this paragraph.
16. Nothing in this Schedule limits any limitation, exclusion or indemnity contained in the General Terms.

#### **ADDITIONAL TERMS – DOMAIN NAMES**

1. Registration and use of a domain name are subject to the policies of the relevant naming authorities. The Customer agrees not to hold Telarus responsible and must fully indemnify and defend Telarus in relation to any claim relating to the inability to register a given domain name.
2. Although, if requested, Telarus will facilitate the renewal of a domain name it is managing on behalf of the Customer and, if registered as a contact for a given domain, may prompt the Customer that the domain is in need of renewal, the renewal of that domain name is the responsibility of the Customer.
3. Telarus reserves the right to request payment in advance before registering or renewing a domain name.
4. Registration or renewal of a domain name by Telarus on behalf of the Customer will be dependent upon Telarus using its registrar of choice.
5. Telarus shall endeavour to process domain registration and renewal requests within 2-3 working days of receiving any required information and, if required by Telarus, payment first being received from the Customer by Telarus.
6. Policy information regarding .au namespace can be found at [www.auda.org.au](http://www.auda.org.au).

#### **ADDITIONAL TERMS – CO-LOCATION**

1. For the purposes of these *Additional Terms – Tele-housing*: "**Customer Equipment**" shall include any equipment or facility provided by the Customer, to be housed by Telarus; and "**Data Centre**" means a data centre (or alternative location) for housing the Customer Equipment, as may be determined by Telarus in its absolute discretion.
2. The Customer must deliver the Customer Equipment to the Data Centre, or any alternative location as is reasonably required by Telarus, at a time agreed between Telarus and the Customer.
3. Telarus may, in its absolute discretion, refuse to accept any Customer Equipment into the Data Centre.
4. Subject to agreement otherwise between the parties, Telarus will, subsequent to delivery of the Customer Equipment to the Data Centre, install the Customer Equipment in the Data Centre. Telarus shall be under no liability to the Customer or any other person for any delay in installing the Customer Equipment in the Data Centre.
5. Telarus may relocate the Customer Equipment to an alternative location as nominated by Telarus. If such a requirement occurs, Telarus will provide 10 weeks' prior written notice to the Customer and will bear all reasonable costs in relation to such relocation.
6. Telarus may relocate the Customer Equipment to another location within the Data Centre. If Telarus decides to do so, Telarus shall provide 2 weeks' prior written notice to the Customer.
7. The Customer or its representatives (including its agents, contractors, officers and employees) must not touch, tamper or interfere with any equipment (other than Customer Equipment) located at the Data Centre.

8. The Customer must provide Telarus with a minimum of 48 hours' prior written notice in order to access the Data Centre except in the event of an emergency. Whilst visiting the Data Centre, the Customer must be accompanied by a representative of Telarus at all times.
9. Telarus reserves the right to charge additional or higher costs should after-hours access to the Data Centre be required.
10. The Customer acknowledges and agrees that, should any monies payable to Telarus be outstanding, the Customer shall be deemed to have granted to Telarus a general lien upon the Customer Equipment in respect of such monies. Telarus may enforce the lien by sale of the Customer Equipment and shall be entitled to the proceeds of the sale up to and including the amount of any monies then due and payable to Telarus, together with any costs and disbursements relating to the sale.
11. Should the Customer wish to remove Customer Equipment from the Data Centre, the Customer must provide a written description to Telarus of the Customer Equipment to be removed at the time of arranging the visit. The Customer must not remove any Customer Equipment from the Data Centre until all amounts owing to Telarus have been paid in full.
12. Upon termination of this Agreement, the Customer must at its expense remove all Customer Equipment within 5 days, after which time the Customer Equipment shall, at Telarus' discretion, become the property of Telarus. In such case, Telarus may sell the Customer Equipment and shall be entitled to the proceeds of the sale up to and including the amount of any monies then due and payable to Telarus, together with any costs and disbursements relating to the sale.
13. The Customer shall provide a list of the Customer Equipment and its estimated market value to Telarus as required from time to time.
14. Access to the Data Centre shall only be provided to authorised representatives of the Customer as notified to Telarus in writing by the Customer. Notwithstanding any provision in this Agreement, Telarus may exclude or eject any person from the Data Centre if Telarus (acting reasonably) considers it necessary or desirable.
15. Telarus shall use its best endeavours to maintain the security of Customer Equipment within the Data Centre. However, Telarus does not guarantee such security. The Customer must fully indemnify and defend Telarus in the event of any breach in security at the Data Centre.
16. The Customer must, at the time of delivery of the Customer Equipment to the Data Centre, provide to Telarus any keys or other means of access to the Customer Equipment for the purposes of this Agreement.
17. The Customer warrants that it and its representatives have the legal right and authority to install and operate the Customer Equipment and any associated software and that they will operate the Customer Equipment and any associated software in accordance with applicable manufacturers' specifications.
18. Without limitation and in addition to any other indemnity in this Agreement, the Customer must fully indemnify and defend Telarus in relation to any damage caused by the Customer or its representatives (including its agents, contractors, officers and employees) to the Data Centre or any infrastructure or equipment at or within the Data Centre (including without limitation any Service Equipment).
19. The Customer must maintain public liability and product liability insurance in relation to the Customer Equipment and its and its representatives' (including its agents', contractors', officers' and employees') activities at the Data Centre, to a minimum value of \$10 million per claim per year and must provide evidence of such cover to Telarus upon request.
20. The Customer must ensure that any representatives (including its agents, contractors, officers and employees) accessing the Data Centre are covered by workers' compensation and any other required insurance and must fully indemnify and defend Telarus against any claims relating to such persons.
21. Nothing in this Agreement shall be construed as granting the Customer any lease or sub-lease (or any other proprietary interest) in or over any property.
22. In the event the Customer is covered by insurance in respect of any matter, circumstance or thing relating to this Agreement, the full proceeds of such cover shall be applied to reducing any liability of Telarus. If Telarus shall be found liable, such liability shall be limited to the replacement value of the Customer Equipment.
23. Telarus shall not be liable or responsible in relation to Customer or third party software and/or data.
24. Representatives of the Customer entering the Data Centre must not take with them or have on their persons any volatile, noxious, dangerous or harmful materials or substances of any kind.
25. Should additional services (e.g. phone lines, data services etc) be required by the Customer within the Data Centre, the Customer shall provide 10 weeks' prior written notice to Telarus, including all details in relation to the services as may be reasonably required by Telarus.

26. The Customer must at all times strictly comply with all rules, policies and directions as required by Telarus, as advised to the Customer from time to time.