



■ SERVER4YOU.COM/RESELLER

Reseller Agreement

As of October 30, 2009

We look forward to doing business with you. To establish our business relationship, we have created this Reseller Agreement. This Reseller Agreement is between BSB Service GmbH d/b/a 4RESELLERS (4RESELLERS, we, use or our) and the individual or entity whose application form we accept (you or your). The “Effective Date” of this Reseller Agreement is the date we notify you that we have accepted your reseller application form. Our Terms of Service, Acceptable Use Policy (AUP) and Privacy Policy apply to you through this Reseller Agreement and are incorporated into it. If provisions of those agreements contradict this Reseller Agreement, this Reseller Agreement controls. By submitting the reseller application form, you represent and warrant to us that you have read these agreements, and agree to be bound by them.

1. Relationships

- 1.1. This Reseller Agreement is between 4RESELLERS and you. We grant to you, a non-exclusive, non-transferable right to market and resell the Services set out on <http://www.serverloft.com/dedizierte-server/> with third parties with whom you have contracts (End User).
- 1.2. We have no relationship with an End User. You agree to indemnify and hold us fully harmless from any claims made against us by an End User based on the Services we provide.
- 1.3. This Reseller Agreement does not give you an exclusive, or any, territory. Nor does it create an exclusive relationship with us. We may, and will, enter into other, and different reseller relationships with other entities on terms that may differ from these. Other companies, including we and our other resellers, can and will compete against you.

2. The Services

- 2.1. A list of the Services you may resell is set out <http://www.serverloft.com/dedizierte-server/>. You may not represent yourself as authorized to sell any other items or services offered by us.
- 2.2. We will provide the Services directly to End Users as an added value to those products provided by you. Our Services are subject to our Terms of Service, AUP and Privacy Policy. You agree that your contract with End Users will contain provisions similar to those agreements, and in no case less favorable to us. In particular, your limitation of liabilities, warranties and privacy policy, must be similar to the one we include in our Terms of Service and Privacy Policy. You agree to make your contract available to End Users prior to their entering into a contract with you.
- 2.3. The Services will be provided to your End Users in the same manner as we would provide the Services to the general public: other than set out herein, we will not treat End Users differently from customers who contract directly with us for the same Services you resell.

3. Your Obligations

- 3.1. You will use efforts to market the Services which exceed or are equivalent to those you use to market your own Services or those of other hosting companies. In particular, you will use commercially reasonable efforts to promote, solicit and obtain contracts to resell the Service, and to perform your contractual obligations in general.
- 3.2. You will implement training and incentive programs to facilitate the sale of the Services which are equivalent to those you use for your own products or those of other hosting companies.
- 3.3. You agree to train your support personnel to provide tier 1 support for the Services. In no event will this training be any less thorough than that which you provide to your own support staff. End Users may not contact us directly to support the Services. You agree that we may terminate this Reseller Agreement, and create direct contract relationship with End Users, should we determine that you are not providing adequate support to End Users, we have provided you with at least sixty days notice of that determination, and a information reasonably designed to assist you in providing adequate support.
- 3.4. You may promote, distribute and market the Services using the trademarks, service marks or other designations that you deem appropriate. These marks may not infringe on, or denigrate, our marks. You may not use, or register, our trademarks or copyrighted material.
- 3.5. You will have sole responsibility for assuring compliance with the provisions of your contracts with End Users, and for otherwise reasonably protecting our rights in the Services, including, but not limited to, our right to be free from abuse or misconduct by End Users.

4. Term and Termination

- 4.1. The term of this Reseller Agreement shall begin on the Effective Date and continue for a period of one year, and continue thereafter from year-to-year unless one party provides written notice to the other of its intent to terminate.
- 4.2. Either party can terminate this Reseller Agreement upon thirty days written notice.
- 4.3. This Reseller Agreement may be terminated by the either party upon written notice should: (i) there be the occurrence of a material breach which has not been cured within ten days of such notice, or which is not capable of cure; and/or (ii) you are acquired by our competitor.
- 4.4. Upon the date of the termination of this Reseller Agreement, you will immediately cease marketing the Services.

5. Prices

- 5.1. We will provide the Services to you based on the discounts we have established on Exhibit A. You will be placed in the Tier level for which you qualify. The discounts require an annual volume commitment. Should you fail to meet your volume commitment in a particular year, we reserve the right to place you in the Tier for which you would have qualified, adjust your discounts retroactively, and invoice you for the balance. You agree to pay any such invoice within ten business days from the date set out on the invoice. Once paid, all invoices are final. Should you fail to pay such an invoice, we reserve the right to contact the End Users and assume a direct contractual relationship with them.
- 5.2. You will have the right to determine, at your sole discretion, the prices or fees that you charge for the Services you resell. You are solely responsible for collecting all charges, including, but not limited to, applicable taxes, related to the Services, from End Users.

6. Acknowledgements

- 6.1. You acknowledge that you are bound by applicable provisions of our Terms of Service, including, but not limited to our warranty limitations and disclaimers of liability, as if they were set out in this Reseller Agreement.
- 6.2. You acknowledge that the Services may not satisfy all of the End Users' requirements. We have no obligation to you or End Users if the Services fail to meet your expectations for any reason.
- 6.3. We represent that we have the right to provide the Services to you and the End Users and to enter into this Reseller Agreement with you.
- 6.4. We are not an insurer. Any insurance, if any, shall be obtained by you, or the End User. You will, and you will direct any End Users to, look to any insurance you or an End User have to recover for injuries or damage in the event of any loss, and agree to hold us fully harmless from any such claim.
- 6.5. We shall be able to rely, and take action based, on the information provided by you and End Users.
- 6.6. The sole and exclusive remedy for any breach of this Reseller Agreement by us, whether based on contract, tort or otherwise, shall be repair or replacement of the Services. If neither of the foregoing alternatives is commercially reasonable to us, we may terminate this Reseller Agreement and pay to you the amount of \$10,000. We each agree that calculation of damages in such an event may be difficult, or impossible, and that such a payment represents an agreed upon amount of compensation to you in such an event.

7. Any claims, warranties, promises or other representations about the Services must be yours alone. You may not make any warranties on our behalf.

8. Confidential and Proprietary Information.

- 8.1. Each party may have access to certain non-public information of the other party. All such information, if in writing, shall be specifically and obviously marked as „confidential“ by the disclosing party at the time of disclosure, or if disclosed orally, shall be orally designated as confidential and thereafter identified as confidential by written notice to the receiving party within a reasonable time („Confidential Information“). Our software code, business strategies, and method

of providing its services are hereby deemed Confidential Information without any obligation to designate as such. Neither party will use for its own account or the account of any third party, nor disclose to any third party (except as required by law or as reasonably necessary to the receiving party's attorneys, accountants and other advisors who are obligated to maintain the confidentiality of such information), any of the other party's Confidential Information. The disclosing party retains all right, title and interest in all Confidential Information it discloses under this Agreement and all improvements and modifications made thereto. No license or other rights with respect to the Confidential Information is hereby granted or intended. Each party will use reasonable care, at least equivalent to the care used for its own similar Confidential Information, to protect the confidentiality of the disclosing party's Confidential Information. Each party's obligation under this section will survive for a period of two years following the expiration or termination of this Agreement.

- 8.2. Disclosure of Confidential Information hereunder is solely for the purposes set forth in this Agreement. A receiving party shall use the Confidential Information only to facilitate the performance of its obligations hereunder and the Confidential Information may be shared only with those who have a need to know within the receiving party's company and who are bound by nondisclosure obligations at least equivalent to the obligations imposed on the receiving party herein. The receiving party shall not, and shall not enable or allow any third party to, reverse-engineer, decompile, or disassemble any software disclosed by the disclosing party and shall not remove, overprint or deface any notice of copyright, trademark, logo, legend, or other notices of ownership from any originals or copies of Confidential Information it obtains from the disclosing party.
- 8.3. Confidential Information shall not include information that (i) is in or enters the public domain without breach of this Agreement and through no fault of the receiving party; (ii) the receiving party was legally in possession of prior to receiving it; (iii) the receiving party can demonstrate was developed by it independently and without use of or reference to the disclosing party's Confidential Information; or (iv) the receiving party receives from a third party without restriction on disclosure. If a party is directed to disclose Confidential Information by law, court order, or a government agency, such disclosure shall not be deemed to be a breach of this section, provided the receiving party provides timely prior written notice of such requirement to the disclosing party, to the extent reasonably practicable or allowed by law, and reasonably cooperates with the disclosing party's efforts to contest or limit the scope of such required disclosure.
- 8.4. Any unauthorized copying, transfer, or use of any Confidential Information by the receiving party shall cause irreparable injury to the disclosing party that cannot be adequately compensated by monetary damages. Monetary damages may not be a sufficient remedy for any such breach. If a party engages, or is reasonably suspected of engaging, causing, or permitting any person or entity to engage in any material breach of this section, the disclosing party shall be entitled, in addition to such other remedies, damages and relief as may be available under applicable law, to seek an injunction prohibiting any such act or specifically enforcing this section.

9. General

- 9.1. Compliance with Laws. Each party shall comply, at its own expense, with the provisions of all federal, state and local laws, regulations, ordinances, requirements and codes which are applicable to it in connection with the performance of its obligations hereunder.
- 9.2. We are each independent parties. Nothing in this Reseller Agreement will be construed to make one party an agent, employee, franchisee, joint venture, partner or legal representative of the other party. Neither party will have, nor represent itself to have, any authority to bind the other party or to act on its behalf.
- 9.3. You may not assign, delegate, sub-contract or otherwise transfer this Reseller Agreement, or any of its rights or obligations without our approval. Any attempt to do so will be void. We may assign this Reseller Agreement, or any of its rights or obligations, to a related or unrelated party.
- 9.4. This Reseller Agreement, with the incorporated Terms of Service, Acceptable Use Policy, and Privacy Policy, constitutes the complete and entire statement of all terms, conditions and representations of the agreement between the parties. This Reseller Agreement will supersede all prior discussions, commitments or agreements related to this Reseller Agreement, whether written or oral.

Company: _____

Name: _____

Date : _____ Signature : _____

■ Exhibit A

Basic

- 5% off server monthly fee
- FREE setup
- FREE ResellerPanel
- FREE e-mail support

Silver

- 10% off server monthly fee
- FREE setup
- FREE ResellerPanel
- FREE Premium e-mail support
- FREE IP addresses (up to total offered/product)

Gold

- 15% off server monthly fee
- FREE setup
- FREE ResellerPanel
- FREE Premium e-mail support
- FREE IP addresses (up to total offered/product)
- 25% discount on Plesk Billing

Platinum

- 20% off server monthly fee
- FREE setup
- FREE ResellerPanel
- FREE Platinum e-mail support
- FREE Platinum phone support
- FREE IP addresses (up to total offered/product)
- 50% discount on Plesk Billing

- 30% discount on all additional features
- Personal Key Account Manager