

IAA Membership Agreement

Last updated on 22 July 2024

The Internet Association of Australia Ltd ACN 168 405 098 (**IAA, we, our and us**) is a public company limited by guarantee incorporated under the *Corporations Act 2001* (Cth). It is governed by, among other things, the IAA Constitution.

Pursuant to rule 3.4(e) of the IAA Constitution, applicants who apply for Membership of IAA (**you, your**) must agree in the application to be bound by any membership agreement specified by the Board in the application form (each, a **Membership Agreement**), subject to the applicant's application for Membership being accepted by the Board.

The Board has approved this IAA Membership Agreement (**Agreement**) as a Membership Agreement for the purposes of rule 3.4(e) of the IAA Constitution.

| Terms and Conditions | |
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| <p>1. Application for Membership and our acceptance of your Membership with IAA</p> | <p>1.1. By applying for Membership, you:</p> <ul style="list-style-type: none"> (a) warrant that you satisfy all eligibility criteria for the class of Membership that you are applying for, as set out in the IAA Constitution; (b) acknowledge that your application for Membership is subject to the IAA Constitution, including consideration by the Board under rule 3.5 thereof; (c) agree to be bound by this Agreement, the IAA Constitution and any Regulations, or if applying on behalf of an entity, that you are authorised to bind the entity which you represent, subject to your application for Membership being accepted by the Board; and (d) warrant that during the process of applying for Membership you will provide truthful and accurate information only. <p>1.2. In accordance with rule 3.5 of the IAA Constitution, if the Board receives an application for Membership from you that is made in accordance with rule 3.4 of the IAA Constitution, it will consider the application at its next meeting or implement any other procedure for the prompt consideration of the application, and will decide whether to accept or reject your application and if accepted, on what conditions.</p> <p>1.3. You understand and agree that the Board has the absolute discretion to accept or reject your application for Membership, or request further information to determine your application for Membership, subject to clause 1.4.</p> <p>1.4. IAA is committed to fostering an association free from wrongful discrimination. The Board will not take into account factors of race, colour, national origin, ancestry, sex, gender identity, sexual orientation, age, disability, religion, marital status, or any other protected characteristic under Australian law in assessing an application for Membership.</p> <p>1.5. If any of the information that you submit during the Membership application process (Application Details) changes before the Board decides whether or not to accept your application, or after the Board approved your Membership application (if applicable) you must promptly provide us with your up-to-date Application Details, including (but not limited to) any:</p> <ul style="list-style-type: none"> (a) change of name; (b) valid email address; and |

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| | (c) change of address. |
| 2. Membership Term | <p>2.1. Your Membership will commence on the Commencement Date, subject to your payment of the Membership Fee.</p> <p>2.2. Your Membership is effective for 12 months from the Commencement Date unless terminated earlier in accordance with this Agreement (Term).</p> <p>2.3. Your Membership shall renew, and this Agreement shall continue for consecutive periods of 12 months after the initial Term, subject to your payment of the Membership Fee (each a Renewal Term) unless you give us at least 7 days' notice prior to the expiry of the Term or Renewal Term that you do not wish to renew your Membership.</p> <p>2.4. We shall send you a Membership renewal reminder notice to the email nominated by you in the IAA Member Portal 30 days prior to the expiry of the Term or Renewal Term.</p> |
| 3. Member Obligations | <p>3.1. You understand and agree that your Membership will be subject to the IAA Constitution and this Agreement and you agree that you will:</p> <ul style="list-style-type: none"> (a) not do anything to damage the brand, name and/or reputation of IAA; (b) act in good faith at all times in your dealings with IAA and other Members; and (c) comply with all policies and codes of conduct that we issue from time to time in respect of your Membership (to the extent they are applicable to you), for the purposes of rule 3.4(f) of the IAA Constitution. (d) accept the responsibility to regularly check the IAA Member Portal for all applicable policies and code of conduct we issue to you. <p>3.2. You agree and acknowledge that your Membership with us does not grant you any right to represent us. You must not bind us to any obligation, or represent to any person that you are our representative, without our prior written consent.</p> <p>3.3. You agree that clauses 3, and 7 of this Agreement, comprise part of the code of conduct for the purposes of clause 3.1(c).</p> |
| 4. Payments | <p>4.1. Your Membership is subject to payment of the initial Membership Fee, following the Board's acceptance of your application, and subsequently, for each Renewal Term in accordance with the Payment Terms set out in the relevant invoice.</p> <p>4.2. Without limiting any other rights or remedies available to us or you, failure to pay the Membership Fee may result in:</p> <ul style="list-style-type: none"> (a) the lapse of your application for Membership, or the cancellation of your Membership, as the case may be; (b) suspension of your voting rights at a General Meeting; and/or (c) suspension of all other Membership rights, in accordance with rule 4.3 of the IAA Constitution. <p>4.3. You understand that IAA Member Services are only available to Members, subject to Regulations and a separate agreement that we enter into with you for the supply of IAA Member Services to you. For the avoidance of any doubt, a lapse of your application for Membership or cancellation of your Membership, as the case may be, will therefore affect your ability to access IAA Member Services.</p> <p>4.4. Except as otherwise agreed in writing, all invoices for Membership Fees will be sent via email to an address nominated by you in the IAA Member Portal. It is your responsibility to ensure all email and payment details in the IAA Member Portal are accurate and updated.</p> <p>4.5. The Membership Fees are inclusive of all taxes such as GST and you agree to pay all such taxes to us, in respect of any supply (as that term is defined in the GST Law) made for the purposes of the Agreement. You must pay all such taxes at the same time as the Fees in accordance with the Payment Terms.</p> <p>4.6. We may increase the Membership Fees, from time to time but no more than once per annum in accordance with the IAA Constitution (Increased Membership Fees). Increased Membership Fees will apply from the</p> |

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| | following Renewal Term. |
| 5. Member Benefits | <p>5.1. As a Member:</p> <ul style="list-style-type: none"> (a) we hereby grant you a royalty-free, non-exclusive, non-transferable, revocable, non-sublicensable licence to reproduce the IAA logo in your marketing material and websites, adjacent to a conspicuous message stating that as a Member of IAA, you support the Internet industry and are involved in its promotion and protection. You must not use the IAA logo in any other manner; (b) we hereby grant you a royalty-free, non-exclusive, non-transferable, revocable, non-sublicensable licence to access and use the IAA Member Portal, subject to clause 7. (c) you irrevocably consent to IAA listing you as a Member on its websites and to otherwise refer to you as a Member in any other manner including in any marketing material of IAA but acknowledge that IAA has no obligation to do so; and (d) you are entitled to the benefits specified in the IAA Constitution or the Regulations for your Membership class. |
| 6. Responsibility for other Members | <p>6.1. We do not accept responsibility for the conduct or misconduct of any Member.</p> <p>6.2. If you become aware that another Member has breached this Agreement, any code of conduct that we issue, or any other agreement between us and that Member, you must promptly notify us.</p> |
| 7. Acceptable Use Policy | <p>7.1. You understand and agree that:</p> <ul style="list-style-type: none"> (a) using the IAA Website, IAA Member Portal, and any IAA Member Services (together, IAA Services) to violate any and all legal rights of any person or entity in any jurisdiction; (b) using the IAA Services in relation to crimes, including but not limited to theft, fraud and/or scam activity; (c) using the IAA Services in breach of laws relating to the protection of copyright, trade secrets, patents or other intellectual property, or privacy and whether such violation is by way of the installation or distribution of 'pirated' software or otherwise; (d) introduction of malicious programs into IAA's networks or servers, including but not limited to viruses, worms, trojan horses, e-mail bombs; (e) revealing your account password to others or allowing use of your account on IAA Services by unauthorised parties; (f) using another person's details including but not limited to name, username and/or password to gain access to IAA Services via another person or entity's account; (g) using IAA Services to carry out breaches or disruptions of network communication, including but not limited to accessing data of which you are not an intended recipient or logging into a server or account that you are not expressly authorised to access, or corrupting any data, network sniffing, ping floods, packet spoofing, denial of service, or use of any program, script or command with the intent to interfere with or disable any person's use of the IAA Services; (h) compromising the security of our property, systems, networks, equipment or services, or those of any other Members; (i) use of IAA Services to execute any form of network monitoring which will intercept data not intended for you; (j) use of IAA Services to circumvent user authentication or security of any of our hosts, networks or accounts or those of our Members or suppliers; (k) use of the IAA Services to send any form of harassment whether through language, frequency or size of message via any form of messaging; (l) aiding, abetting, inciting or encouraging any other person to do any of the actions listed in this clause 7.1; |

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| | <p>is strictly prohibited, and breach of this clause 7.1 is a material breach of this Agreement.</p> <p>7.2. You must immediately notify us if you become aware that the security of IAA Services is compromised, hacked, or used to carry out any network attack of any kind.</p> |
| 8. Limitation of Liability | <p>8.1. You and we are not liable to each other for any loss of profits, loss of business opportunity, loss of savings or loss of revenue whether caused by your or our breach of this Agreement or otherwise.</p> <p>8.2. To the extent that either party's liability is not otherwise lawfully excluded under this Agreement, each party's liability is capped, in respect of one or more events, in the aggregate, at an amount equivalent to the Membership Fees paid by you in the 12-month period preceding the date of the last event.</p> <p>8.3. A party is not liable for any failure to perform the Agreement caused by the other party, its affiliates or its/their Personnel and a party (in this clause 8.3, the first party)'s liability is capped to the extent the other party contributed to the loss or event giving rise to the first party's liability.</p> <p>8.4. Except with respect to conditions, warranties and guarantees that we are unable to exclude from this Agreement under applicable law that are implied into this Agreement (if any), all conditions, warranties and guarantees implied into this Agreement are excluded.</p> |
| 9. Termination and Suspension | <p>9.1. A party (the first party) may terminate this Agreement by written notice to the other party if the other party (the Defaulting Party) is in material breach of this Agreement and the breach is not capable of remedy, or where the breach is capable of remedy and the Defaulting Party fails to remedy the breach within 30 days of the Defaulting Party's receipt of a written request from the first party to remedy the breach.</p> <p>9.2. A party may terminate this Agreement by written notice to the other party, if:</p> <ul style="list-style-type: none"> (a) either party suffers an Insolvency Event except where such termination would contravene the Corporations Act 2001 (Cth); (b) we cease operating our business; or (c) any agreement that we enter into with you for the supply of IAA Member Services to you is terminated due to your breach of that agreement. <p>9.3. This Agreement will automatically terminate if you cease to be a Member, whether as a result of your registration, expulsion or otherwise.</p> <p>9.4. On termination of this Agreement, you shall:</p> <ul style="list-style-type: none"> (a) promptly pay to us all moneys due and owing to us as at the date of termination; (b) remove any reference to IAA, our business or your Membership from your websites and other materials; and (c) cease to represent that you are a Member of IAA. <p>9.5. Termination of this Agreement does not affect any accrued rights of either party and any rights or obligations that, by their nature, survive termination shall so survive, including any provision dealing with confidentiality, Intellectual Property Rights, liability, dispute resolution and jurisdiction..</p> <p>9.6. You agree that upon termination of the Agreement for any reason, prior to the expiry of the Term, or Renewal Term, we are under no obligation to give you a refund of the Membership Fee, including for any pro-rata amounts.</p> |
| 10. Dispute Resolution | <p>10.1. A party seeking to resolve a dispute arising out of or in connection with the Agreement or in relation to your Membership (Dispute) must notify the existence of the Dispute to the other party in writing, specifying the nature of the dispute (Notice of Dispute).</p> <p>10.2. Upon receipt of a Notice of Dispute, each party must refer resolution of the Dispute to their senior executive (or nominees). The senior executives (or their nominees) must meet in person or by audio visual means within ten (10) Business Days from the date of the Notice of Dispute to discuss the Dispute on a confidential without prejudice basis. If the Dispute has not been resolved within twenty (20) Business Days from the date of the Notice</p> |

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| | <p>of Dispute, then each party will be entitled to pursue such course of action as it determines.</p> <p>10.3. Nothing in this clause shall limit either party's right to seek urgent interlocutory relief from any court of competent jurisdiction at any time.</p> |
| 11. Notices | <p>11.1. All notices under this Agreement shall be in writing, sent by hand delivery, post, email or if applicable in the circumstances, via the IAA Member Portal.</p> <p>11.2. Any notice issued by hand shall be deemed delivered upon delivery.</p> <p>11.3. Any notice sent by post shall be deemed delivered three (3) Business Days after posting if posted from Australia to another location in Australia, or ten (10) Business Days after posting in all other circumstances.</p> <p>11.4. Any notice issued via email shall be deemed to be delivered upon the email being sent, provided that if an email is sent out of Business Hours, it shall be deemed to be delivered at 9am on the next Business Day.</p> <p>11.5. Any party may change its address for notice hereunder by giving written notice to the other party in accordance with this clause 11.</p> |
| 12. Personal Information - Collection Notice | <p>12.1. This clause 12 is a collection notice prepared for the purposes of Australian Privacy Principle 5.</p> <p>12.2. By applying for Membership, we confirm that:</p> <ul style="list-style-type: none"> (a) our identity and contact details are as follows: <ul style="list-style-type: none"> (i) Identity: Internet Association of Australia Limited ACN 168 405 098; (ii) Contact details: As set out on our website at https://internet.asn.au/contact-us/; (b) we are collecting the personal information requested in the Membership application in order for our Board to consider your application, including whether or not you are eligible for Membership, to request further information that the Board requires to consider your application; and to notify you in relation to the results of your application and whether any conditions will be applied to your Membership (if your application is accepted); (c) we are also collecting the information requested in the Membership application in order to list and refer to you as a Member (if your Membership application is successful) in accordance with clause 5.1(b), to otherwise communicate with you in connection with the Objects of IAA and to operate our business in the ordinary course; (d) if you do not provide us with the information requested in the Membership application form, we will not be able to process your application; (e) we will disclose your information where required by law (including in response to a request for access to and/or a copy of our Member register) and otherwise where specified in our Privacy Policy (for example, to our legal and professional advisors); (f) you can obtain the IAA Privacy Policy from the Privacy Policy hyperlink in the footer of the IAA Website; and <p>12.3. We are not likely to disclose your personal information overseas.</p> |
| 13. General | <p>13.1. <u>Amendment</u>: We may amend the terms and conditions of this Agreement at any time by notifying you with the updated version. Provided that you are already a Member at that time, the amendments will only become applicable to you when you renew your Membership. If you do not accept the amendments, you may terminate this Agreement by notice to us prior to your Membership expiring in accordance with clause 2.3, or contact us to negotiate the terms and conditions of the Agreement. For the avoidance of doubt, variation of the code of conduct or Membership Fees, does not constitute amendment of this Agreement for the purposes of this clause 13.1. You may not amend this Agreement without our prior written consent.</p> <p>13.2. <u>Assignment</u>: Neither party may assign, transfer, license or novate its rights or obligations under this Agreement without the prior written consent of the other party (such consent not to be unreasonably withheld, conditioned or</p> |

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| | <p>delayed).</p> <p>13.3. Severability: If any provision of this Agreement is deemed invalid by a court of competent jurisdiction, the remainder of this Agreement will remain enforceable.</p> <p>13.4. Waiver: Waiver of any right arising from a breach of this Agreement must be in writing and signed by the party granting the waiver. A failure or delay in exercising a right arising from such a breach does not result in a waiver of that right. This clause 13.4 may not itself be waived except by writing.</p> <p>13.5. Relationship: This Agreement does not create any relationship of partnership, joint venture or employment.</p> <p>13.6. Entire Agreement: This Agreement and the IAA Constitution constitutes the entire agreement between you and us regarding your Membership with IAA and to the extent possible by applicable law, supersedes all prior understandings, representations, arrangements and agreements between you and us regarding their subject matter.</p> <p>13.7. Jurisdiction: This Agreement will be interpreted in accordance with the laws in force in New South Wales. You and we hereby irrevocably submit to the non-exclusive jurisdiction of the courts located in New South Wales and the courts of appeal therefrom in respect of any dispute concerning this Agreement and if you are a Member, your Membership.</p> <p>13.8. Electronic Execution: You and we agree that this Agreement may be executed via electronic execution, including via the IAA Member Portal.</p> |
| <p>14. Definitions and Interpretation</p> | <p>14.1. In this Agreement, words defined in parentheses have the meanings given to them therein. In addition, the following words have the following meanings and words not otherwise defined in this Agreement have the meanings given to them in the IAA Constitution:</p> <p>Business Day means any day from Monday to Friday excluding public holidays in New South Wales.</p> <p>Commencement Date means:</p> <p>(a) where no membership agreement exists between the parties, the date this Agreement is signed by us in acceptance of your Membership application; or</p> <p>(b) where there is a membership agreement in place between the parties, including the IAA Membership Agreement v1.1, the date that agreement came into place.</p> <p>Execution Date means the date that this Agreement is last executed by both parties.</p> <p>IAA Constitution means our company constitution available here.</p> <p>IAA Member Portal means our member portal accessible here.</p> <p>IAA Member Services means provision of an allocated port, peering services, virtual peering services, transit services and virtual lease line services, and any other services that we may offer from time to time.</p> <p>IAA Website means the website of the Internet Association of Australia Ltd. found at https://internet.asn.au/.</p> <p>Insolvency Event means, in respect of a party: (a) the party ceases to carry on business, is unable to pay its debts as and when they fall due, or is deemed to be insolvent or bankrupt; (b) a receiver or a liquidator or provisional liquidator or an administrator is appointed to the party, or an application (including voluntary application filed by that party) is lodged or an order is made or a resolution is passed for the winding up (whether voluntary or compulsory) or reduction of capital of that party; (c) the party enters into an arrangement with its creditors; (d) where the party is a partnership, the partnership is dissolved or an application is made for its dissolution; (e) the party suspends payment of its debts to the other party or a third party, or the party takes the benefit of any law for the relief of insolvent debtors; or (f) anything analogous or having a substantially similar effect to any of the events described in (a) through (e) above, occurs under</p> |

any applicable law.

Intellectual Property Rights means all copyright, trademark rights, patent rights, and design rights, whether registered or unregistered, and all other rights to intellectual property as defined under Article 2 of the Convention Establishing the World Intellectual Property Organisation, and all rights to enforce any of the foregoing rights.

Payment Terms are as specified in the invoice issued to you, or if not specified, thirty (30) days from the date of the invoice.

you and **your** refers to the applicant applying for Membership, including natural persons and corporations or other entities on behalf of which an application for Membership is being made.

14.2. In this Agreement:

- (a) headings and underlinings are for convenience only and do not affect the construction of this Agreement;
- (b) a provision of this Agreement will not be interpreted against a party because the party prepared or was responsible for the preparation of, the provision, or because the party's legal representative prepared the provision;
- (c) a reference to a party is to you or us as the context dictates and a reference to the "parties" is to both you and us;
- (d) a reference to a statute or regulation includes that statute or regulation as amended from time to time;
- (e) a reference to time is to time in New South Wales unless expressly specified otherwise;
- (f) a reference to a person includes an individual, partnership, company, joint venture, government body, government department and any other legal entity;
- (g) the words "includes", "including" and similar expressions shall be interpreted as if they were immediately followed by the words "but not limited to"; and
- (h) a reference to the singular includes the plural and vice versa.

Execution – Corporate and Affiliate Members:

This Agreement is between:

Internet Association of Australia Ltd

ACN 168 405 098

Unit 2/28 Ruse St, Osborne Park WA

Australia

and

name

abn/acn

address

country

Executed as an agreement:

Executed by an authorised representative of the

Internet Association of Australia Ltd

in accordance with s 126(1) of the Corporations Act

Name

Position

Signature

Date

Executed by an authorised representative of the

[insert company]

in accordance with s 126(1) of the Corporations Act

Name

Position

Signature

Date

Execution – Professional Members:

This Agreement is between:

Internet Association of Australia Ltd

ACN 168 405 098

Unit 2/28 Ruse St, Osborne Park WA

Australia

and

name

address

country

Executed as an agreement:

Executed by an authorised representative of the

Internet Association of Australia Ltd

in accordance with s 126(1) of the Corporations Act

Name

Position

Signature

Date

Executed by:

Name

of

Address

Signature

Date