

# Terms Conditions

2004-05-21

## Terms and Conditions of Use for the XOOPS.org websites

### 1. ACCEPTANCE OF TERMS

The XOOPS organisation (“XOOPS”), comprised of the internet sites [www.xoops.org](http://www.xoops.org), [modules.xoops.org](http://modules.xoops.org), [themes.xoops.org](http://themes.xoops.org), [dev.xoops.org](http://dev.xoops.org) (the “the XOOPS Sites”), provides the information and services on the the XOOPS Sites to you, the user, conditioned upon your acceptance, without modification, of the terms and conditions of use (“Terms”) contained herein. Your use of the the XOOPS Sites constitutes agreement with such Terms.

Before using the XOOPS Sites, please carefully read this agreement relating to your use of the XOOPS Sites. By using the XOOPS Sites, you agree to be bound by these terms and conditions. If you do not agree to these terms and conditions, please do not use the XOOPS Sites.

XOOPS reserves the right, at XOOPS's sole discretion, to change, modify, add or remove portions of these Terms periodically. Such modifications shall be effective immediately upon posting of the modified agreement to the website unless provided otherwise (e.g., when implementing major, substantive changes, XOOPS intends to provide users with up to fourteen days of advance notice). Your continued use of the the XOOPS Sites following the posting of changes to these Terms will mean that you accept those changes.

Use of the XOOPS Sites constitutes full acceptance of and agreement to the Terms; if a user does not accept XOOPS's Terms, he or she is not granted rights to use the XOOPS Sites as defined herein, and should refrain from accessing the XOOPS Sites.

To update these Terms, XOOPS will post both the changed version and its effective date at <http://www.xoops.org>.

XOOPS reserves the right at any time and from time to time to modify or discontinue, temporarily or permanently, any or all the XOOPS Sites (or any part thereof). XOOPS shall not be liable to any user or other third party for any such modification, suspension or discontinuance except as expressly provided herein.

### 2. NO UNLAWFUL OR PROHIBITED USE

By using the XOOPS Sites, you warrant to XOOPS that you will not use the XOOPS Sites, or any of the content obtained from the XOOPS Sites, for any purpose that is unlawful or prohibited by these Terms. If you violate any of these Terms, your permission to use the XOOPS Sites automatically terminates.

### 3. DESCRIPTION OF SERVICES

The the XOOPS Sites are owned and operated by XOOPS for the purpose of software development, discussion, implementation and innovation (the “Purpose”). The the XOOPS Sites provide technology news, tools, products and education for the IT and developer community as well as the userbase of the XOOPS System.

### 4. REGISTRATION OBLIGATIONS

When requested, each XOOPS Site user must: (1) personally provide true, accurate, current and complete information on the XOOPS Site's registration form (collectively, the "Registration Data") and (2) maintain and promptly update the Registration Data as necessary to keep it true, accurate, current and complete. If, after investigation, XOOPS has reasonable grounds to suspect that any user's information is untrue, inaccurate, not current or incomplete, XOOPS may suspend or terminate that user's account and prohibit any and all current or future use of the the XOOPS Sites (or any portion thereof) by that user other than as expressly provided herein.

Each user will receive passwords and account designations upon completing certain XOOPS Site registration processes and is wholly responsible for maintaining the confidentiality thereof and wholly liable for all activities occurring thereunder. XOOPS cannot and will not be liable for any loss or damage arising from a user's failure



to comply with this Section 4, including any loss or damage arising from any user's failure to: (1) immediately notify **XOOPS** of any unauthorized use of his or her password or account or any other breach of security; and (2) ensure that he or she exits from his or her account at the end of each session.

**XOOPS** handles user Registration Data in accordance with the the **XOOPS Sites'** Privacy Policy.

## 5. CONTENT

All information, data, text, software, music, sound, photographs, graphics, video, messages, or any other materials whatsoever (collectively, "Content"), whether publicly posted or privately transmitted, is the sole responsibility of the person from whom such Content originated. This means that the user, and not **XOOPS**, is entirely responsible for all Content that he or she uploads, posts, emails or otherwise transmits via the the **XOOPS Sites**. No user shall transmit Content or otherwise conduct or participate in any activities on the **XOOPS Sites** that, in the judgment of **XOOPS**, is likely to be prohibited by law in any applicable jurisdiction, including laws governing the encryption of software, the export of technology, the transmission of obscenity, or the permissible uses of intellectual property.

**XOOPS** reserves the right to refuse or delete any Content of which it becomes aware and reasonably deems not to fulfill the Purpose. In addition, **XOOPS** shall have the right (but not the obligation) in its sole discretion to refuse or delete any Content that it reasonably considers to violate the Terms or be otherwise illegal. **XOOPS**, in its sole and absolute discretion, may preserve Content and may also disclose Content if required to do so by law or judicial or governmental mandate or as reasonably determined useful by **XOOPS** to protect the rights, property, or personal safety of the **XOOPS Sites'** users and the public. **XOOPS** does not control the Content posted to the the **XOOPS Sites** and, as such, does not guarantee the accuracy, integrity or quality of such Content. Under no circumstances will **XOOPS** be liable in any way for any Content, including, but not limited to, liability for any errors or omissions in any Content or for any loss or damage of any kind incurred as a result of the use of any Content posted, emailed or otherwise transmitted via the **XOOPS Sites**.

Each user, by using the **XOOPS Sites**, may be exposed to Content that is offensive, indecent or objectionable. Each user must evaluate, and bear all risks associated with the use of any Content, including any reliance on the accuracy, completeness, or usefulness of such Content.

## 6. LICENSING AND OTHER TERMS APPLYING TO CONTENT POSTED ON THE the XOOPS SITES:

Use, reproduction, modification, and other intellectual property rights to data stored on the the **XOOPS Sites** will be subject to licensing arrangements that may be approved by **XOOPS** as applicable to such Content. For the **XOOPS Site** ?SourceForge.net, use, reproduction, modification, and other intellectual property rights to data stored in CVS or as a file release and posted by any user on cvs.xoops.org ("Source Code") shall be subject to the OSI-approved license applicable to such Source Code, or to such other licensing arrangements as may be approved by **XOOPS** as applicable to such Source Code.

With respect to text or data entered into and stored by publicly-accessible site features such as forums, comments and bug trackers ("XOOPS Public Content"), the submitting user retains ownership of such **XOOPS Public Content**; with respect to publicly-available statistical content which is generated by the site to monitor and display content activity, such content is owned by **XOOPS**. In each such case, the submitting user grants **XOOPS** the royalty-free, perpetual, irrevocable, non-exclusive, transferable license to use, reproduce, modify, adapt, publish, translate, create derivative works from, distribute, perform, and display such Content (in whole or part) worldwide and/or to incorporate it in other works in any form, media, or technology now known or later developed, all subject to the terms of any applicable license.

With respect to Content posted to private areas of the **XOOPS Site** dev.xoops.org (e.g., private development tools or mail), the submitting user may grant to **XOOPS** or other dev.xoops.org users such rights and licenses as the submitting dev.xoops.org user deems appropriate.

Content located on any **XOOPS**-hosted subdomain which is subject to the sole editorial control of the owner or licensee of such subdomain, shall be subject to the appropriate license applicable to such Content, or to such other licensing arrangements as may be approved by **XOOPS** as applicable to such Content.

## 7. NO RESALE OF SERVICE

You agree not to sell, resell, or offer for any commercial purposes, any portion of the the **XOOPS Sites**, use of the the **XOOPS Sites**, or access to the the **XOOPS Sites**.

## 8. GENERAL PRACTICES REGARDING USE AND STORAGE

**XOOPS** may establish general practices and limits concerning use of the the **XOOPS** Sites. While **XOOPS** will use reasonable efforts to back up site data and make such data available in the event of loss or deletion, **XOOPS** has no responsibility or liability for the deletion or failure to store any messages and other communications or other Content maintained or transmitted by any **XOOPS** Site. **XOOPS** reserves the right to mark as "inactive" and archive accounts and/or Content that are inactive for an extended period of time. **XOOPS** reserves the right to change these general practices at any time, in its sole discretion, with notice to users and the public as described in Section 1 above.

## 9. TERMINATION

**XOOPS** may terminate a user's account in **XOOPS**'s absolute discretion and for any reason. **XOOPS** is especially likely to terminate for reasons that include, but are not limited to, the following: (1) violation of these Terms; (2) abuse of site resources or attempt to gain unauthorized entry to the site or site resources; (3) use of an **XOOPS** Site in a manner inconsistent with the Purpose; (4) a user's request for such termination; or (4) as required by law, regulation, court or governing agency order.

**XOOPS**'s termination of any user's access to any or all the **XOOPS** Sites may be effected without notice and, on such termination, **XOOPS** may immediately deactivate or delete user's account and/or bar any further access to such files. **XOOPS** shall not be liable to any user or other third party for any termination of that user's access or account hereunder. In addition, a user's request for termination will result in deactivation but not necessarily deletion of the account. **XOOPS** reserves the right to delete, or not delete, a user's account at **XOOPS**'s sole discretion, as well as to delete, or not delete, content at **XOOPS**'s sole discretion.

## 10. LINKS

**XOOPS**, any **XOOPS** Site or a third party may provide links to other websites. **XOOPS** exercises no control whatsoever over such other websites and web-based resources and is not responsible or liable for the availability thereof or the Content, advertising, products or other materials thereon. **XOOPS** shall not be responsible or liable, directly or indirectly, for any damage or loss incurred or suffered by any user in connection therewith. Your access and use of linked websites, including information, material, products and services therein, is solely at your own risk.

The the **XOOPS** Sites' Privacy Statement is applicable only when you are on an **XOOPS** Site. Once you choose to link to another website, you should read that website's privacy statement before disclosing any personal information.

## 11. INDEMNITY; DISCLAIMER; LIMITATIONS OF LIABILITY

Each user shall indemnify, defend and hold harmless **XOOPS**, and its parent corporation and affiliates and their respective officers, employees and agents, and each of **XOOPS**'s website partners, from any and all claims, demands, damages, costs, and liabilities including reasonable attorneys' fees, made by any third party due to or arising out of that user's acts or omissions, including claims arising out of that user's use of the the **XOOPS** Sites; his or her submission, posting or transmission of Content or his or her violation of the Terms.

EACH USER'S USE OF THE **XOOPS** SITES IS AT HIS OR HER SOLE RISK. THE **XOOPS** SITES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS AND **XOOPS** ASSUMES NO RESPONSIBILITY FOR THE TIMELINESS, DELETION, MIS-DELIVERY OR FAILURE TO STORE ANY USER COMMUNICATIONS OR PERSONALIZATION SETTINGS. EACH USER WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO HIS OR HER COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL. **XOOPS** EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. SPECIFICALLY, **XOOPS** MAKES NO WARRANTY THAT (i) THE **XOOPS** SITES OR ANY SERVICE THEREON WILL MEET YOUR REQUIREMENTS, (ii) ANY USER ACCESS WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE, (iii) THE QUALITY OF ANY CONTENT, PRODUCTS, SERVICES, INFORMATION OR OTHER MATERIAL OBTAINED BY ANY USER WILL MEET HIS OR HER EXPECTATIONS, AND (iv) ANY ERRORS IN THE SOFTWARE WILL BE CORRECTED. EXCLUDING ONLY DAMAGES ARISING OUT OF **XOOPS**'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, **XOOPS** SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES



(EVEN IF XOOPS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM ANY USER'S USE OR INABILITY TO USE ANY XOOPS SITE OR SERVICES THEREON; THE COST OF PROCUREMENT OF SUBSTITUTE SERVICES; UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE THE XOOPS SITES; OR ANY OTHER MATTER RELATING TO THE XOOPS SITES. IN NO EVENT SHALL XOOPS'S TOTAL CUMULATIVE LIABILITY TO ANY USER OR OTHER PARTY UNDER THESE TERMS OF SERVICE OR OTHERWISE EXCEED \$1,000.00. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU. NOTHING HEREIN SHALL BE DEEMED TO CREATE AN AGENCY, PARTNERSHIP, JOINT VENTURE, EMPLOYEE-EMPLOYER OR FRANCHISOR-FRANCHISEE RELATIONSHIP OF ANY KIND BETWEEN XOOPS AND ANY USER OR OTHER PERSON OR ENTITY NOR DO THESE TERMS OF SERVICE EXTEND RIGHTS TO ANY THIRD PARTY. AS NOTED ABOVE, XOOPS DOES NOT AND CANNOT CONTROL THE ACTIONS OF XOOPS SITE USERS, VISITORS OR LINKED THIRD PARTIES. WE RESERVE THE RIGHT TO REPORT ANY MALFEASANCE THAT COMES TO OUR ATTENTION TO THE APPROPRIATE AUTHORITIES. WE DO NOT GUARANTEE CONTINUOUS UNINTERRUPTED OR SECURE ACCESS TO THE XOOPS SITES. OPERATION OF the XOOPS Sites MAY BE SUBJECT TO INTERFERENCE FROM NUMEROUS FACTORS OUTSIDE OUR CONTROL. FURTHER, SCHEDULED AND PREVENTIVE MAINTENANCE AS WELL AS REQUIRED AND EMERGENCY MAINTENANCE WORK MAY TEMPORARILY INTERRUPT SERVICES OR ACCESS TO THE WEBSITE. THE DISCLAIMERS OF WARRANTY AND LIMITATIONS OF LIABILITY APPLY, WITHOUT LIMITATION, TO ANY DAMAGES OR INJURY CAUSED BY THE FAILURE OF PERFORMANCE, ERROR, OMISSION, INTERRUPTION, DELETION, DEFECT, DELAY IN OPERATION OR TRANSMISSION, COMPUTER VIRUS, COMMUNICATION LINE FAILURE, THEFT OR DESTRUCTION OR UNAUTHORIZED ACCESS TO, ALTERATION OF OR USE OF ANY ASSET, WHETHER ARISING OUT OF BREACH OF CONTRACT, TORTIOUS BEHAVIOUR, NEGLIGENCE OR ANY OTHER COURSE OF ACTION BY XOOPS.

## 12. COPYRIGHTS

**XOOPS** respects the intellectual property rights of others, and requires that the people who use the the **XOOPS** Sites do the same. It is our policy to respond promptly to claims of intellectual property misuse.

If you believe that your work has been copied and is accessible on this site in a way that constitutes copyright infringement, you may notify us by providing our copyright agent with the following information in writing:

1. the electronic or physical signature of the owner of the copyright or the person authorized to act on the owner's behalf;
2. identification of the copyrighted work that you claim has been infringed;
3. identification of the material that is claimed to be infringing and information reasonably sufficient to permit XOOPS to locate the material, including the full URL.
4. your name, address, telephone number, and email address.
5. a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law;
6. a statement, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright owner or are authorized to act on the copyright owner's behalf.

If **XOOPS** receives such a claim, **XOOPS** reserves the right to refuse or delete Content as described under Section 5 hereto, or to terminate a user's account in accordance with Section 9.

Our designated agent to receive notification of claimed infringement under the Digital Millennium Copyright Act OF 1998 ("DMCA") is: "Herko Coomans Core Team Leader, XOOPS herko@XOOPS.org"

After receiving a claim of infringement, XOOPS will process and investigate notices of alleged infringement and will take appropriate actions under the DMCA and other applicable intellectual property laws. Upon receipt of notices complying or substantially complying with the DMCA, XOOPS will act expeditiously to remove or disable access to any material claimed to be infringing or claimed to be the subject of infringing activity, and will act expeditiously to remove or disable access to any reference or link to material or activity that is claimed to be

infringing. XOOPS will take reasonable steps to expeditiously notify the subscriber that it has removed or disabled access to such material.

Upon receipt of a proper counter notification under the DMCA, XOOPS will promptly provide the person who provided the initial notification of claimed infringement with a copy of the counter notification and inform that person that it will replace the removed material or cease disabling access to it in ten (10) to fourteen (14) business days. Additionally, XOOPS will replace the removed material and cease disabling access to it ten (10) to fourteen (14) business days following receipt of the counter notice, unless XOOPS's designated agent first receives notice from the person who submitted the initial notification that such person has filed an action seeking a court order to restrain the subscriber from engaging in infringing activity relating to the material on the XOOPS system or network.

You may provide us with a counter notification by providing our copyright agent the following information in writing:

1. your physical or electronic signature;
2. identification of the material that has been removed or to which access has been disabled, and the location at which the material appeared before it was removed or access to it was disabled, including the full URL;
3. a statement under penalty of perjury that you have a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled;
4. your name, address, and telephone number, and a statement that you consent to the jurisdiction of Federal District Court for the judicial district in which your address is located, or if your address is outside of the United States, for any judicial district in which XOOPS may be found and that you will accept service of process from the person who provided the initial notification of infringement.

### 13. GENERAL INFORMATION

The Terms constitute the entire agreement between each user and XOOPS and govern each user's use of the XOOPS Sites, superseding any prior agreements. Each user may be subject to additional terms and conditions that may apply when that user uses affiliate services, third party content or third party software. The Terms and the relationship between each user and XOOPS shall be governed by the laws of the State of California without regard to its conflict of law provisions and each party shall submit to the personal and exclusive jurisdiction of the courts located within the county of Santa Clara, California. If any provision of the Terms is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of the Terms remain in full force and effect.

### 14. VIOLATIONS

Please report any violations of the Terms (except for claims of intellectual property infringement) to the **XOOPS** Site Director at <webmaster@XOOPS.org>.