

# OUR CUSTOMER TERMS

## CLOUD SERVICES – WEBSITE SERVICES



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Certain words are used with the specific meanings set out below or in the [General Terms section of Our Customer Terms](#).

### 1 ABOUT THE WEBSITE SERVICES SECTION

- 1.1 This is the Website Services section of Our Customer Terms. Depending on the nature of the products and services you are receiving under this Cloud Services section, provisions in other parts of the Cloud Services section, as well as in the General Terms of Our Customer Terms at <http://www.telstra.com.au/customer-terms/business-government/index.htm>, may apply.
- 1.2 Unless you have entered into a separate agreement with us which excludes them, the General Terms section of Our Customer Terms also applies. See section one of the General Terms of Our Customer Terms at <http://www.telstra.com.au/customer-terms/business-government/index.htm> for more detail on how the various sections of Our Customer Terms are to be read together.
- 1.3 See section one of the General Terms of the Cloud Services section for more detail on how the various parts of the Cloud Services section are to be read together.
- 1.4 **Website Services have been withdrawn from sale from 31 March 2016 and are not available to new customers. Existing customers may continue to use these services .**

### 2 WEBSITE SERVICES

#### What are Website Services?

- 2.1 The Website Services are a suite of customisable, easily deployed website services which enable you to create and/or host your website.
- 2.2 Website Services consist of:
  - (a) a Premium Website service – which enables you to create, build and modify your website;
  - (b) a Website Hosting service - You will need to select a plan which will determine the amount of data that can be hosted for that website;
  - (c) Search Engine Optimisation (SEO) tool – the basic SEO tool features are included with the above Website Services. We may make enhanced features available through the tool from time to time at an additional charge;
  - (d) custom design and additional services which are charged on an hourly basis.
- 2.3 We will also provide you with access to the Website Control Panel in connection with your Website Services. The Website Control Panel is a web based portal which you may use to manage certain aspects of your Website Services.

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- 2.4 As part of the Website Services, we provide servers, the associated operating system (if applicable), and other applicable software, equipment used for internet connectivity and required space in our or third party supplier's data centre (collectively, the "Equipment").

### Eligibility

- 2.5 You must have a registered domain name in order to use the Website Services.
- 2.6 You must be an existing Website Services customer to acquire custom design or additional services.

### Additional acceptable use terms

- 2.7 In addition to the acceptable use policy in the General Terms part of the Cloud Services section, you must not use the Website Services, or allow them to be used by your end users or affiliates, for the following prohibited activities:
- (a) maintaining an open SMTP relay;
  - (b) email sent by or through a third party engaged by you that advertises or otherwise directs traffic or links to your website;
  - (c) subscribing email addresses to any mailing list used for sending emails from an account hosted as part of the Website Services without the express and verifiable permission of the email address owner. All mailing lists managed by you and used for sending emails from an account hosted as part of the Website Services must meet the requirements of a confirmed opt-in;
  - (d) non-legitimate use of Website Services. The Website Services provided by us are intended to be used by small and medium-sized businesses for the purpose of hosting and maintenance of a website deemed suitable for a shared server environment ("Legitimate Web-Hosting Purposes"). Using these hosting services for purposes inconsistent with these intended purposes or in excess of the capacity of the acquired service ("Non-Legitimate Web-Hosting Purposes") is prohibited. Whether your usage constitutes Non-Legitimate Web-Hosting Purposes shall be determined solely at our or our supplier's discretion. If we or our supplier determine that you are using the Website Services for Non-Legitimate Web-Hosting Purposes, we may suspend, disable, limit, or terminate your account without notice. By way of example:
    - (i) "Legitimate Web-Hosting Purposes" may include maintenance of:
      - (A) HTML Files
      - (B) XML Files
      - (C) Imbedded images such as JPEG or GIF, etc.
      - (D) Scripts such as PERL or PHP, etc

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- (ii) “Non-Legitimate Web-Hosting Purposes” may include maintenance of multimedia files for streaming video or audio, online storage, data backups and archives that exceed the capacity of the selected Website Service plan;
  - (e) using the Website Services to advertise, transmit, store, post, display, or otherwise make available child pornography. In addition to our rights to disable or terminate your account, we may also report the conduct to the relevant authorities (including law enforcement agencies or the NCMEC);
  - (f) illegal or unauthorised access to other computers or networks (including any activity that might be used as a precursor to an attempted system penetration such as a port scan, stealth scan, or other information gathering activity);
  - (g) facilitating a violation of these acceptable use terms. This can include failure to update software used on your account or website that is known to be vulnerable to malicious activity or exploitation. You must use secure passwords to protect your accounts and associated email accounts. Use of passwords deemed by us or our supplier to be insecure is a violation of these acceptable use terms;
  - (h) exporting encryption software over the Internet or otherwise, to points outside the United States;
  - (i) engaging in activities, whether lawful or unlawful, that we determine to be harmful to our or our third party supplier’s reputation, goodwill, or customer relations; and
  - (j) security scans. Security scans may affect other customers and harm our or our supplier’s systems and unauthorized scanning by you or your representative is a violation of these acceptable use terms.
- 2.8 If you offer internet services, you must cooperate with us in any corrective or preventive action that we deem necessary. Failure to cooperate with such corrective or preventive measures is a violation of these acceptable use terms. You must comply fully with all applicable laws concerning the privacy of on-line communications. You acknowledge and agree that we or our supplier may take direct action against any of your end users that violate these acceptable use terms.
- 2.9 You acknowledge and agree that in an effort to control spam we (or our supplier) may:
- (a) utilize certain technologies to block incoming and outgoing email which we determine, in our sole discretion, may be spam;
  - (b) not accept connections from unsecured systems (including, without limitation, open relays, open proxies, open routers or any other system that has been determined to be available for unauthorized use);
  - (c) reject connections from systems that use dynamically assigned or residential IP addresses; and

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- (d) reject connections from any IP address that does not have reverse DNS (also known as a PTR record).

2.10 If we or our supplier become aware of a violation of these acceptable use terms, we may take any action to stop the violation, including disabling, suspending, limiting, or terminating your Website Services, removing information, shutting down a website, implementing screening software designed to block offending transmissions and denying access to the Internet, or take any other action we deem appropriate. We will provide you with notice. Depending on the severity of the misuse, we may grant you a remedy period to cure the violation of these acceptable use terms.

### Your responsibilities - General

- 2.11 You agree to purchase the level of Website Services commensurate with the needs of your usage requirements. We may monitor your bandwidth and/or disk usage and to utilize technology to limit such usage to ordered amounts.
- 2.12 You must not use the Website Services in such a way so as to adversely affect other customers.
- 2.13 You agree that if we determine, in our sole discretion, that a server is approaching capacity or your bandwidth or your storage space usage otherwise adversely affects other customers or us or our supplier's systems, we may take remedial action which may include disabling, suspending, limiting, or terminating your Website Services without notice. We will provide you with notice and grant you a reasonable remedy period in order to prevent any remedial action to be taken by us.
- 2.14 You must nominate a system administrator to manage your Website Services.
- 2.15 We provide support to the system administrator that you nominate, including assistance with ad hoc questions about the Website Services but this does not include on-site assistance. We do not provide support for all of your users.
- 2.16 Depending on the nature of the support requested we may refer you to our recommended third party specialists to provide advanced support.
- 2.17 You are solely responsible for ensuring that your contact information is kept up-to-date.

### Your responsibilities – Website Hosting

2.18 If you apply for a Website Hosting service with additional products and features ("Hosting Add-Ons") provided by a third party provider (a "Third-Party Provider"), use of the Hosting Add-Ons are subject to the terms set out in Our Customer Terms together with any Third-Party Provider's terms and conditions, which, depending on those terms, the Third-Party Provider may be entitled to update from time to time. Hosting Add-Ons with additional terms and conditions are:

- (a) SEO Tools: please refer to the SubmitNet Terms and Conditions of Service at [http://submitnet.net/terms\\_of\\_service/default/](http://submitnet.net/terms_of_service/default/).

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- (b) Free Add-Ons: we may occasionally provide access to certain free and open-source tools and add-ons (the "Free Add-Ons"). Free Add-Ons are each subject to their own licensing restrictions and requirements. In addition, by installing these tools, you agree that it is your sole responsibility to update or upgrade each of these Free Add-Ons to the most recent version provided (except for courtesy Updates as described below). The terms of use for the Free Add-Ons can be found at [www.telstra.com/business/oneclickinstallseula](http://www.telstra.com/business/oneclickinstallseula). If you apply for a Linux plan, you may be required to accept the licence terms as part of the installation process.
- 2.19 Hosting Add-Ons may be updated, modified for error and security fixes, or upgraded by the Third-Party Provider without notice ("Updates"). Unless we provide courtesy Updates for Free Add-Ons, you agree to run any Updates provided for your installed Free Add-Ons.
- 2.20 We provide the Free Add-Ons and Upgrades solely as a courtesy and, to the extent permitted by law:
- (a) we do not provide any warranty or support for these tools; and
  - (b) you agree that neither we nor our supplier will be liable for any inconvenience or any other potential or actual damage to you as a result, directly or indirectly, of these Free Add-Ons, Updates or your failure to update or upgrade Free Add-Ons.

### Your data

- 2.21 You acknowledge and agree that whilst we may perform certain backups as part of our internal operations with respect to the Website Services, such backups are not meant to be a complete disaster recovery solution for your Website. Any backups are only held for a short period of time and backups are regularly deleted.
- 2.22 You are solely responsible for backup of your software and data residing on equipment associated with your Website Services.
- 2.23 Without limiting anything else in Our Customer Terms, we may provide certain limited information about you to our suppliers in connection with the Website Services. This information is provided in accordance with our Privacy Policy.
- 2.24 We and our supplier:
- (a) will not intentionally monitor private electronic mail messages sent or received by you unless required to do so by law, governmental authority, or when public safety is at stake, but may monitor the Website Services electronically to determine that their facilities are operating satisfactorily;
  - (b) may disclose information, including information concerning you, a transmission made using your network, or a website, in order to comply with a court order, subpoena, summons, discovery request, warrant, statute, regulation, or governmental requirement;

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- (c) are not obliged to inform you that your information has been disclosed in the circumstances in (b) above and in some cases may be prohibited by law from giving such notice; and
  - (d) may disclose your information or information transmitted over your network where necessary to protect us and our supplier and others from harm, or where such disclosure is necessary for the proper operation of the system.
- 2.25 You acknowledge that your Personal Information, as defined in the Privacy Act 1988 (Cth), collected in connection with your Website Services may be transferred and stored and processed in the United States, the Philippines and Germany or any other country in which our suppliers and their subcontractors maintain facilities.
- 2.26 By using a Website Service, you consent to the transfer of Personal Information as defined in the Privacy Act 1988 (Cth) outside of Australia.

### Limitations

- 2.27 If your Website Service is cancelled (including in connection with changing your service), you must save any files, images, content and data you have on your website otherwise this data will be lost when the service is cancelled. The SEO tools set up as part of your Website Service will also be cancelled and the Website Control Panel application and any other tools will be deactivated. You must ensure that you have backed up or migrated your completed website to an alternative host before your Website Services are cancelled.
- 2.28 Any delivery dates or time periods specified are estimates only, and, provided that we have used commercially reasonable efforts to meet these estimates, we are not liable for any delay in meeting them.
- 2.29 We have no obligation to provide support and no liability for any interruption or deficiency in the Website Services resulting from:
- (a) tampering or alteration of the Equipment by persons not authorised, or in a manner not expressly required, by us; or
  - (b) the function or malfunction of hardware or software not supplied by us or our third party supplier.
  - (c) You must promptly report all alterations to Equipment or software initiated or implemented by persons not authorised by us and must promptly implement any corrective procedures required by us.
- 2.30 We and our supplier exercise no control over, and to the extent permitted by law and are not responsible for the content, accuracy or quality of information passing or obtained through or stored on the Equipment.
- 2.31 You acknowledge and agree that we will not provide Payment Card Industry (PCI) or any other compliance certifications or an Attestation of Compliance (AOC) or any other form of certification in connection with the Website Services.

### Intellectual Property Rights

- 2.32 You acknowledge that all right, title and interest in any and all technology, including the software, that is part of or provided with the Website Services and any trade marks or service marks of ours or third parties utilised in connection with the Website Services (collectively, "Telstra Intellectual Property") vests in us and/or in our licensors. Other than provided in these terms and condition, you have no right, title, claims or interest in or to the Telstra Intellectual Property.
- 2.33 You must not copy, modify or translate the Telstra Intellectual Property or related documentation, or decompile, disassemble or reverse engineer the Telstra Intellectual Property, to use it other than in connection with the Website Services, or grant any other person or entity the right to do so.
- 2.34 If you wish us to include any open source software in any deliverable in connection with the Website Services, you must make such request in writing and you are responsible for obtaining appropriate licences for that software.
- 2.35 You agree not to provide any content for which you do not have proper ownership, licensing, or other applicable rights and hereby grants to us and our supplier a world-wide, royalty-free, revocable, non-transferable, non-exclusive licence to use the content you provide for the performance of the Website Services.
- 2.36 You will, at your expense, grant us and our supplier a world-wide, royalty-free, revocable, non-transferable, non-exclusive licence to use any third party technologies licensed to you that we or our supplier will require to modify, develop or design your website in connection with performing the web development or design services.
- 2.37 You acknowledge that all technology (excluding any technology licensed by you to us above) utilized by us or our supplier to perform the Website Services is our property or the property of our supplier or their licensors.

### Software and hardware

- 2.38 You are responsible for having the system, hardware and software needed to use the Website Services as set out in the Telstra Apps Marketplace Catalogue (under Manage My Website Services).
- 2.39 You acknowledge that if you do not have such system, hardware or software then you may not be able to access or use the Website Services or the technical support we can provide you may be limited. In such circumstances, you must still pay for all charges in relation to your Website Services.

## 3 CHARGES

- 3.1 The charges for your Website Services will depend on the service that you select.
- 3.2 We will commence billing for your Website Services on and from the date your service is activated.



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- 3.3 For a Premium Website or Website Hosting plan, we will charge you a monthly charge in advance for each service that you acquire (as set out in the Telstra Apps Marketplace portal).
- 3.4 If you select a custom design or additional services we will charge you a once-off upfront fee (as set out at <http://www.telstra.com/marketplacesupport>)
- 3.5 Any upfront charges or amounts paid in advance are not refundable in the event that your Website Service is cancelled.