



Terms & Conditions

Version 1.0

By signing up and submitting an order, where that order has been accepted, You (as defined below) are deemed to have accepted the following terms and conditions (together the "Conditions") which set out the terms under which **Tyree Domains Pty Ltd (ACN 615 241 702)** and its related bodies corporate and partnerships ("Tyree Domains", "We", "Us", "Our") will provide Services to You.

You acknowledge that we may amend the Conditions at any time without Your prior consent by posting the amended terms and conditions on our website (www.tyree.domains) and any new, different or additional features changing the Services will automatically be subject to these Conditions. Your continued use of the Services after any such changes to the Conditions shall constitute Your acceptance of those changes.

1. Definitions

1.1. The definitions and rules of interpretation in this clause apply in this Agreement. Unless the context requires otherwise:

- 1.1.1. **"Agreement"** means this agreement, (including the recitals, schedules, appendices and exhibits to it), as it may later be amended or supplemented by the parties in writing.
- 1.1.2. **"Customer", "You", or "Your"** means the person, corporation or entity who is entering into this Contract with Us and who will use our Client Area and associated products and services.
- 1.1.3. **"Contact", "Contact(s)", or "Authorised Contact"** means any person, corporation or entity who the Customer has provided permission or assigned through the Dashboard to act as, or on behalf of, the Customer through the Dashboard, any Services, or any Tyree Domains systems.
- 1.1.4. **"Account Holder"** means the primary person whose name and email address are assigned to the account.
- 1.1.5. **"Service", "Service(s)" or "Services"** means any product(s) or service(s) the Customer has signed up to use. This can include, but is not limited to, the provisioning of space on one of Our or our Partner servers and a connection to and from the internet for web, email hosting and/or FTP services to function at the level specified in the chosen service level, domain name registration or transfer or renewal, SSL, Website Builder, Home Security, Business Security, SEO and Marketing services. These product(s) and service(s) are identified in full within the "order confirmation" and "service provision" emails Tyree Domains has sent after the Customer requests the service. The specific details of the Services can be found by logging to the the Dashboard or on our website.

- 1.1.6. **“Dashboard”, or “Client Area”** refers to Tyree Domains’ customer account, billing and management portal available online at <https://secure.tyree.domains>.
- 1.1.7. **“Intellectual Property Rights”, or “IPR”** means all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.
- 1.2. Clause, schedule and paragraph headings shall not affect the interpretation of this Agreement.
- 1.3. A Person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors and permitted assigns.
- 1.4. The schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the schedules.
- 1.5. Words in the singular shall include the plural and vice versa.
- 1.6. A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.7. A reference to “writing” or “written” includes faxes and e-mail.
- 1.8. Where the words “include(s)”, “including”, or “in particular” are used in this Agreement, they are deemed to have the words “without limitation” following them. Where the context permits, the words “other” and “otherwise” are illustrative and shall not limit the sense of the words preceding them.
- 1.9. Any obligation in this Agreement on a person not to do something includes an obligation not to agree, allow, permit or acquiesce in that thing being done.
- 1.10. References to clauses and schedules are to the clauses and schedules of this Agreement.

2. Terms of your Contract

- 2.1. These General Terms & Conditions apply to the provision of Services by Tyree Domains.
- 2.2. Your Contract with us for each Service is made up of:
 - a. These General Terms & Conditions;
 - b. Any relevant Service Terms;
 - c. Our Refund and Cancellations Policy;
 - d. Our Customer Service Policy;
 - e. Our Acceptable Use Policy; and
 - f. Our Privacy Policy.
- 2.3. The documents listed above superseded all prior arrangements (whether written or oral) in relation to their subject matter.
- 2.4. We may change the terms of your Contract by giving You notice of the change and posting new version of any online terms on our Website. The period of notice depends on the nature of the change. If:
 - a. The change will benefit You or have a neutral impact on You, we may make the change effective immediately and without advance notice;

- b. the change is required to comply with any law or requirement of any regulatory body (including ICANN, auDA or any other domain name regulatory body), we will provide a reasonable period of notice not exceeding 3 days;
- c. for all other changes, we will give You at least 30 days' notice.

3. Severability

- 3.1. If any provision of this Agreement is prohibited by law or held to be unenforceable, that provision will be severed and the remaining provisions hereof shall not be affected such that this Agreement shall continue in full force and effect as if such unenforceable provision had never constituted a part hereof.

4. Eligibility

- 4.1. By signing up for or using the Services, you represent and warrant that:
 - 4.1.1. The Account Holder is eighteen (18) years of age or older. The Service(s) are intended solely for persons who are eighteen (18) years of age or older. Any registration, use of or access to the Services, by anyone under eighteen (18) is unauthorised and is a violation of this Agreement.
 - 4.1.2. If You use the Service(s) on behalf of another party you agree that you are authorised to bind such other party to this Agreement and to act on such other party's behalf with respect to any actions you take in connection with the Service(s).
 - 4.1.3. It is the responsibility of the Customer to provide accurate, current, and complete information on the registration forms, including an email address that is different from the domain you are signing up under. If there is ever an abuse issue or we need to contact you, Tyree Domains will use the primary email address we have on file.

5. Supply of Services

- 5.1. We shall use reasonable endeavours to supply the Services in accordance with your Contract until the Service is terminated in accordance with the Contract. We shall not be liable for any delay or failure to perform our obligations under this Contract if such delay or failure is due to termination of access to a Service by the end supplier of the Service or as a result of a change to the conditions of supply by that supplier.
- 5.2. Monthly contracts will roll on a monthly basis without notice to You. Fixed contract period Services (other than a month-to-month contract) will automatically roll over for a further fixed contract period on the date notified to You by our reminder notice.
- 5.3. If your fixed contract period Service is to be auto-renewed, we will notify You of, and provide You the ability to cancel the impending auto-renewal. You must advise us prior to the auto-renewal date if you wish to cancel the Service. If we do not receive your cancellation or "do not renew" advice in time, we will auto-renew the Service to ensure it continues uninterrupted. Your Service will be renewed for the same duration at the then current applicable charges published on our website.
- 5.4. Nothing in the Contract transfers to either party any Intellectual Property Rights owned by the other party existing prior to the commencement of the Services. All IPR in the materials produced by Us in connection with the Services (including websites, designs, information, reports and data) other than your pre-existing IPR, are and will remain owned by Us. We grant you a perpetual, irrevocable, non-exclusive, royalty-free licence to use those materials for your internal business purposes. All IPR in the materials You submit to Us in connection with the Services remain owned by

You. Any material you submit to Us, You grant Us and our partners a perpetual, irrevocable, non-exclusive, royalty-free licence to use those materials.

6. Provision of Secure Access to Tyree Domains Systems

- 6.1. You must keep all login details secure and confidential at all times and must not disclose them to anyone else. Any additional access that you wish to grant to your account must be done in the form of an authorised Contact, which can be done within your Dashboard.
- 6.2. You agree that you are fully responsible for all actions of the people (if any) to whom you provide your login details (whether knowingly or not, and whether directly or indirectly) or to whom you assign as an authorised Contact to your account, during their use of our systems, and that we are entitled to treat instructions provided by those people through such access as instructions originating from you.
- 6.3. You must notify us immediately of any breach of security or unauthorised use of your login details to access our systems. We will not be liable for any loss you incur due to any unauthorised use of your login details.

7. Your Obligations

- 7.1. You must provide us with such cooperation and support as we may reasonably request to perform the Services, including by:
 - a. Responding promptly to our communications in relation to the Services; and
 - b. Providing accurate and prompt responses to our requests for any information or documentation reasonably required by us to perform the Services.
- 7.2. You are solely responsible for obtaining any and all necessary intellectual property rights clearances and/or other consents and authorisations, including without limitation, clearances and/or consents in respect of your proposed domain name, any materials given by you to us, any content that you upload to your Service, and merchant services agreements between you and the relevant financial institutions.
- 7.3. You indemnify us from and against any and all liabilities incurred by us in connection with our:
 - a. Use or reliance upon any images or trading names, or any data, information, specifications, documentation, computer software or other materials provided by you; or
 - b. Compliance with any directions or instructions by you in relation to the provision of the Services.
- 7.4. Except to the extent that Tyree Domains expressly agrees to do so as part of a Service, you must conduct backups of any of your data (whether hosted on our computer systems or provided to us in connection with the performance of the Services) at such intervals as are reasonable having regard to the nature of the data.

8. Fees and Payment

- 8.1. You must pay us the Service fees as described and by the due date specified in any invoice sent to You or as required at the time of purchase. All subscriptions are payable within 3 days of invoice issue.
- 8.2. The Service fees payable by You to Us under this Agreement are exclusive of GST, or any other Sales Tax. We are not GST registered and therefore do not charge tax.
- 8.3. The Service fees payable to Us under this Agreement shall be paid in full without any deduction, set-off or withholding other than as required by law. You shall not be entitled to assert any credit, set-off or counterclaim against Us in order to justify withholding payment of any such amount in whole or in part.

- 8.4. For the avoidance of doubt, once a request for a Domain Name has been placed, including any Renewals, Backorders or Preorders, You do not have the right to cancel such request.
- 8.5. We reserve the right at our sole discretion to amend the Service fees stated on our website without prior written notice or consent.
- 8.6. Any unpaid invoices relating to the Service must be paid in full before the new Service will be provisioned.
- 8.7. Unless otherwise stated in this Agreement or the individual Service Terms, monthly, quarterly, semi-annual, annual, bi-annual or tri-annual fees are non-refundable if your Service is terminated part way through a payment period.
- 8.8. Without prejudice to our other rights and remedies under this Agreement, if any Services fees are not paid on or before their due date, Tyree Domains reserves the right, immediately and at our sole discretion, to suspend the provision of Services to You until such payment is made (including any applicable Late Payment Fees).
- 8.9. Services with unpaid invoices that are more than seven (7) days past the due date will be automatically suspended, and a reconnection fee of \$9.95 in addition to any outstanding fees may apply to have the service restored.
- 8.10. Services with unpaid invoices that are not paid in full with fourteen (14) days of the due date will be automatically terminated.
- 8.11. We are under no obligation to allow You to use the Dashboard until we have received the required Service fees and any other sums outstanding from You to Us.
- 8.12. If we have taken action to recover overdue amounts from You, any reasonable costs incurred by Us in recovering the debt, including but not limited to any legal expenses and collection agency charges, will be recoverable from You.
- 8.13. Some customers nominate to transact with us by depositing funds into a prepaid credit account, which can then be used to pay for transactions within their account. In the event that there is an unused prepaid balance, the funds cannot be held indefinitely. Prepaid credit deposits will be forfeited if there is no activity on the account for a continuous 12 month period.

9. Termination

- 9.1. Either party may terminate this Contract immediately by notice in writing to the other party if:
- 9.2. If we terminate a Service for a reason set out in 5.1, we shall also be entitled to immediately cease any of our other Services to you.
- 9.3. If You wish to terminate a Service, You must do so by submitting a cancellation request through the Dashboard. We will not accept verbal instructions to terminate a Service. To submit the cancellation request, login to the Dashboard, select 'My Services', click on the Service you would like to cancel, then click on 'Request Cancellation'. Submission of this online form will generate an automated email to the email address of the primary account holder. We will complete the cancellation request to your Service at the first available opportunity, however we acknowledge the date of lodgement of the cancellation request as the date of cancellation.
- 9.4. If You wish to terminate your account, You must first ensure the cancellation of each Service (as outlined in 7.3) before submitting a request via the Secure Ticket system to the 'Accounts Department'. We will not accept verbal instructions to terminate an account.
- 9.5. Where a Service is provided on a subscription basis, and where a cancellation request has not been received for such Service, the Service will be automatically renewed for the same subscription period and You will be liable for, and immediately invoiced upon the commencement of, such additional subscription period.

- 9.6. Where the Contract does not state expressly that the Services are to be provided for a minimum fixed period or, following the expiry of such a period if specified and where renewal of a further fixed period has not occurred, either party may terminate the Contract of 30 days' written notice to the other.

10. 30 Day Money Back Guarantee

- 10.1. Our 30 Day Money Back Guarantee is in accordance with our Refund and Cancellations Policy. Please refer to that policy for details.

11. Customer General Warranties and Undertakings

- 11.1. The Customer warrants that any information supplied for the purpose of creating an Account with Tyree Domains, including but not limited to, first name, last name, address, telephone number and email address, is true and correct and will be kept up to date via the Dashboard.
- 11.2. The Customer warrants that they will keep any passwords or sensitive information used with the Service in a secure location.
- 11.3. The Customer warrants that at the time of entering into this agreement they are not relying on any representation made by Tyree Domains which has not been expressly stated in this agreement, or on any descriptions or specifications contained in any other document produced by Tyree Domains.
- 11.4. The Customer warrants that all due care has been taken to ensure data integrity before it has been uploaded to Tyree Domains' servers. This includes an undertaking that the Customer will conduct the appropriate virus and malware scans on the data before it is uploaded to Tyree Domains' servers.
- 11.5. If you are not the customer, you warrant that you have the power and authority to enter into this Contract on behalf of the Customer and will indemnify Us for any breach of the Contract by the Customer.

12. General Warranties and Undertakings

- 12.1. We do not warrant that the Services will be uninterrupted, timely, secure or error free, or that they will be free from hackers, viruses, malware, denial of service attacks or other persons gaining unauthorised access to the Service, that of our suppliers, or internal Tyree Domains systems.
- 12.2. You agree that we may be required to perform maintenance in response of our systems to ensure their security and satisfactory operation which may affect the availability or functioning of the Services. We will use reasonable endeavours to provide you with advance notice of any maintenance downtime, except when circumstances beyond our reasonable control prevent us from doing so.
- 12.3. Tyree Domains does not make or give any express or implied warranties including, without limitation, the warranties of merchantability or fitness for a particular purpose, or arising from a course of dealing, usage or trade practice, with respect to any goods or services provided under or incidental to this Agreement.
- 12.4. No information or advice, whether oral or written, given by Tyree Domains or its agents, representatives, suppliers or employees, to the Customer, shall create a warranty or in any way increase the scope of the express warranties hereby given, and the Customer should not rely on any such information for advice.
- 12.5. If any goods or services supplied pursuant to this agreement are supplied to you as a 'consumer' of goods or services within the meaning of that term in the Australian Consumer Law as amended or relevant state legislation ("the Acts"), you will have the benefit of certain non-excludable rights and remedies in respect of the products or services and nothing in these terms and conditions excludes or restricts or modifies

any condition, warranty, right or remedy which is so conferred by the Acts. However, if the goods or services are not ordinarily acquired for personal, domestic or household use or consumption, we limit our liability to:

- a. In relation to goods - the replacement of the goods or the supply of equivalent goods or payment of the cost of replacing the goods or acquiring equivalent goods; or, the repair of the goods or payment of the cost of having the goods repaired;
- b. in relation to services - the supplying of the services again; or the payment of the cost of having the services supplied again as in each case we may elect.

13. Limitation of Liability

- 13.1. Nothing in the Contract excludes or limits either party's liability under or in respect of:
 - a. Any indemnity;
 - b. Any fraud or other criminal act;
 - c. Personal injury or death caused by the negligence, breach of contract or other wrongful act or omission of that party; or
 - d. Any other liability that cannot be excluded by the law.
- 13.2. To the maximum extent permitted by applicable law, neither party is liable for:
 - a. any indirect, special or consequential loss or damage, any loss of profit, revenue or business opportunities, loss of or damage to data or loss of goodwill arising out of or in connection with the Contract (whether or not the loss or damage may reasonably be supposed to have been in the contemplation of the parties as at the date the Contract was formed as a probable result of any act or omission);
 - b. any loss or damage to the extent such loss or damage is caused or contributed to by the other party's negligence, breach of contract or other wrongful acts or omissions; or
 - c. any claim made 6 months or more after the circumstances giving rise to the claim first became known by the claimant or could, with reasonable diligence, have become known by the claimant.

14. General

- 14.1. Except where expressly provided otherwise, any notice to be given by either party to the other may be sent by either email, fax, post or courier to the address of the other party as appearing in this Agreement or ancillary application forms or such other address as such party may from time to time have communicated to the other in writing, and if sent by email shall unless the contrary is proved be deemed to be received on the day it was sent or if sent by fax shall be deemed to be served on receipt of an error free transmission report, or if sent by post or courier shall be deemed to be served two days following the date of posting.
- 14.2. Neither party may assign its rights or obligations under this Contract without the written consent of the other party which consent will not be unreasonably withheld; provided, however, that we may assign this Contract to a successor in connection with any merger, acquisition, or sale of all or substantially all of our business or assets to which this Contract relates.
- 14.3. We are free to sub-contract any of our obligations under the Contract, but such sub-contracting will not release us from our liabilities under the Contract.
- 14.4. The Contract is to be interpreted in accordance with the laws of the State of New South Wales.