



**ELLENET** PTY. LTD.  
DIGITAL & INTERNET SOLUTIONS

Website Hosting: [Terms And Conditions](#)

**These are the Ellenet Pty Limited (ABN 33 088 758 196) Standard Terms And Conditions for the Supply of the Ellenet Web Host Service and Web Hoster Australia ("the Service"). These terms apply to you as a user of the Service ("client"). It is intended to ensure that you know your rights and obligations when using the Service.**

Please read these terms and conditions carefully. It is a condition of your use of the Service that you comply with these terms and conditions.

Please look out for any amendments to these Terms and Conditions that Ellenet ("we") might make in the future. From time to time we will make amendments to them by giving you notice of the change and you will then be obliged to comply with these terms and conditions as amended or cease using the Service.

This agreement commences on the date listed in the Web Host (Website-Designer.net) Control Panel and continues until either party terminates by 30 days notice in writing to the other party. On termination or expiry of this agreement for any reason, we may delete all of your data from any storage media.

1. Application and Variation of these Terms and conditions are the terms on which we provide the Service to you. These terms constitute the agreement in its entirety and supersede prior agreements. We may modify these terms as applying to any agreement, the pricing structure for any Service or the terms of the operation by general notice on a page of the Internet referred to on the our Home Page, and any use after that publication will constitute an acceptance of that modification.

## 2. Service

a. We will assign the client a logon name ("username") and password which will provide you with access to the Ellenet Web Host or Website Designer.net Control Panel (which is used by you to configure various features of your Web Site/ Email Service). We will provide the client with Web and Email Services as per the Web Host service level you have selected in the "Control Panel" and as defined in <http://www.website-designer.net/main.php>.

b. Scheduled Maintenance - We must perform scheduled maintenance to servers from time to time. We will attempt to perform all scheduled maintenance at times which will affect the least

amount of customers.

c. Archiving of Data - We will archive your data onto backup mechanisms on a regular basis for the purposes of disaster recover. In the event of equipment failure or data corruption, we will restore from the last known good archive. In the event of corruption of all of our archives, or in the event that an old archive is used to restore data, you should be prepared to upload your data to your Web Site. This process requires that you maintain a recent copy of your data at your premises at all times. As we will not take full responsibility for your data or email, it is your responsibility to have a back-up should all other means fail.

### **3. Payment**

a. You must pay for the Service as agreed yearly in advance. In particular you must pay all Service time charges, minimum charges and other amounts incurred by you or any designated users or incurred as a result of any use of your password (whether authorised or not) in accordance with the billing option selected. To this end you must pay to us the Hosting Fee and Setup Fee in advance. The Hosting Fee is inclusive of any government taxes or charges and exclusive of any registration or delegation charges imposed by domain name authorities. Extra bandwidth charges for each year must be paid at the end of that year either together with the following years hosting fees, or in the case where termination of the client's account has occurred – the balance must be paid within 14 days of termination.

b. In addition you must provide and pay for: -

(i) the installation and use of telephone lines and all other equipment needed to access the Service; and

(ii) all government taxes, duties and levies (if any) imposed on either you or us in respect of the Services or any other service or goods supplied.

(iii) You must pay all amounts billed in accordance with your billing option. No credit terms are given to credit card accounts. Upon registration of a credit card account, you give us authorisation to debit your credit card for all charges. Billing period is on a yearly cycle

beginning when you register.

(iv) You consent to us obtaining a credit reporting agency containing personal information (as well as information concerning commercial creditworthiness and activities) for the purpose of assessment by us of an application for credit (whether commercial or personal) or for the purpose of the collection of payments which are overdue.

#### **4. Warranties and Liabilities**

a. We do not warrant that:

(i) the services provided under this agreement will be uninterrupted or error free; or

(ii) the services will meet your requirements, other than as expressly set out in this agreement.

b. Except as expressly provided to the contrary in this agreement, all warranties whether express, implied, statutory or otherwise, relating in any way to the subject matter of this agreement, are excluded. Where any statute implies in this agreement any term, and that statute avoids or prohibits provisions in a contract excluding or modifying the application of or liability under such a term, then the term will be taken to be included in this agreement. However, our liability for any breach of the term will, if permitted by that statute be limited, at our option, to the resupply of the services again; or payment of the cost of having the services supplied again.

c. You warrant that;

(i) at the time of entering into this agreement you are not relying on any representation made by us which has not been stated expressly in this agreement, or on any descriptions or specifications contained in any other document, including any catalogues or publicity material which we have produced;

(ii) you will conduct such tests and computer virus scanning as may be necessary to ensure that data uploaded by you onto or

downloaded by you from the Server does not contain any computer virus and will not, in any way, corrupt the data or systems of any person;

(iii) you will keep secure any passwords used to upload data to the Server;

d. You accept responsibility for all information and material you issue over any Service, and indemnifies us and hold us harmless against any liability in relation thereto. In particular you undertake that you shall not publish or issue any information which is illegal. You also acknowledges that we do not vet or approve any information or material available through the Service and that we do not accept any liability. To the full extent permitted by law you access and use such information and material at your own risk.

e. You agree to abide by our Acceptable Use policy.

f. You are solely responsible for dealing with persons who access the client data, and must not refer complaints or inquiries in relation to such data to us.

g. Except as provided in clause 4.b. we are not liable to you or any other person for: -

(i) any cost, loss or liability (including loss of profit or other consequential damage) arising from our supply or failure or delay in supplying the Service;

(ii) the content, context or confidentiality of any communications made using the Service.

## **5. Suspension of Service**

a. We may from time to time without notice suspend the Service or disconnect or deny your access to the Service: -

(i) during any technical failure, modification or maintenance involved in the Service provided that we will use reasonable

endeavours to procure the resumption of the Services as soon as reasonably practicable; or

(ii) if the Customer fails to comply with any agreement (including failure to pay charges due) until the breach (if capable of remedy) is remedied, or does, or allows to be done, anything which in our opinion may have the affect of jeopardising the operation of the Service. Notwithstanding any suspension of any Service under this clause you shall remain liable for all charges due throughout the period of suspension.

## 6. Miscellaneous

- a. the client grants to Ellenet a license to use and reproduce all Client Data in order to fulfil its obligations under this agreement.
- b. A provision of, or a right created under this agreement, may not be waived except in writing signed by the party granting the waiver, or varied except in writing signed by the parties.
- c. This agreement and the transactions contemplated by this agreement are governed by the law in force in NSW, Australia.
- d. You may not assign its rights and obligations under this agreement without our prior written consent.

## Ellenet Acceptable Use Policy

### Ellenet PTY LIMITED

#### ACCEPTABLE USE POLICY

This is Ellenet's Acceptable Use Policy. It applies to you if you are a Ellenet Customer or User ("you"). It is intended to ensure that your use of Ellenet's service is trouble free and that you have due regard to the law and the needs of other users.

Please read it carefully. It is a condition of your use of our service that you comply with the terms of this Policy.

Please look out for any amendments to the Policy that Ellenet ("we") might make in the future. From time to time we will make amendments to it by giving you notice of the change and you will then be obliged to comply with

the policy as amended.

In this policy we use the following definitions:

**Customer** means the person or company which has entered into an agreement with Ellenet for supply of Services whether via Ellenet's website or <http://www.website-designer.net> or otherwise.

**Service** means all products and services offered by Ellenet from time to time, which you use;

**Users** means users of the Service who have not obtained it as a Customer, but via a Customer who is authorised to resell the Services such as a Ellenet Partner.

**Ellenet** means Ellenet Pty Limited ACN 088 758 196

## **SOME GENERAL PRINCIPLES**

### **1. Ellenet is not responsible for the content of traffic: -**

(a) We exercise no supervision or control whatsoever over the content of the information passing through our network.

(b) We do not assume any responsibility for information not sent or expressly authorised by us.

(c) The responsibility for traffic that does not conform with this policy and all possible consequences lie with the sender of the traffic;

(d) We accept no responsibility for the consequences of unauthorised breach of our system security such as hacking or denial of service attacks;

**1.2 You are responsible for use of your account.** If you permit others to use our service, you are responsible for making users of the service aware of this policy and obtaining compliance of your users with this policy.

**1.3 You are responsible for complying with conditions of use of other networks.** If we provide you with access to a network outside our service you must comply with any acceptable use conditions which apply to that network.

## **2. ACCEPTABLE USES**

**2.1 You have responsibilities.** It is your responsibility for yourself and for others whom

you permit or enable to use Ellenet's service to:

- (a) use our service and services in a manner which does not violate any applicable laws or regulations;
- (b) respect the conventions of the newsgroups, lists and networks that you use;
- (c) respect the legal protection afforded by copyright, trade marks, license rights and other laws to materials accessible via our service;
- (d) respect the privacy of others and to observe the provisions of Ellenet's privacy policy at <http://www.website-designer.net/extras/privacy.html>
- (e) use the service in a manner which does not interfere with or disrupt other network users, services or equipment;
- (f) refrain from acts that waste resources or prevent other users from receiving the full benefit of our services; and
- (g) comply with Ellenet's Terms and Conditions of supply.

2.2 **Use must be ethical.** Your use of our services should be ethical and in accordance with accepted community standards.

### 3. UNACCEPTABLE USES

3.1 **You must comply with the Law.** It is not acceptable to use our service for any purpose which violates local, State, Federal or international laws.

3.2 **Specific kinds of use are not allowed.** It is not acceptable to use our service to do any of the following ("Unacceptable Conduct"):

- (a) send any unsolicited Comm messages or Comm in any form ("SPAM")
- (b) violate copyright or other

intellectual property rights;

(c) illegally store, use or distribute software; to transmit threatening, libellous, obscene or offensive materials;

(d) engage in electronic 'stalking' or any other form of harassment such as using abusive or aggressive language;

(e) misrepresent or defame others;

(f) commit fraud; gain unauthorised access to any computing, information, or communications devices or resources, including but not limited to any machines accessible via the Internet;

(g) damage, modify or destroy the files, data, passwords, devices or resources of Ellenet, other users or third parties;

(h) engage in misleading or deceptive on-line marketing practices;

(i) conduct any business or activity or solicit the performance of any activity that is prohibited by law;

(j) make an unauthorised transmission of confidential information or material protected by trade secrets;

(k) intentionally omit, forge, delete or misrepresent transmission information including headers, return mailing addresses, Internet protocol addresses;

(l) engage in any activity intended to withhold or mask Customer's, or its if you are an authorised reseller, its User's corporate identity or contact information; or

(m) attempt to do any of these things.

**3.3 *Disruption of the network is not allowed.*** In particular, for example, you must not:

- (a) distribute messages to inappropriate or unrelated forums, newsgroups or mailing lists ('spamming');
- (b) send unsolicited commercial messages;
- (c) propagate computer worms, viruses and other types of malicious programs;
- (d) make transmissions of any type or quantity which adversely affect our operation or jeopardise the use of our service, or its performance for other subscribers;
- (e) harass or impersonate Ellenet or other users; and
- (f) you may not use the service to interfere with or disrupt other network users, services or equipment.

**3.4 *Soliciting subscribers to other services is not allowed.*** It is also not acceptable to use our service to solicit subscribers to become subscribers of other competitive services.

**3.5 *Resale of our services is not allowed.*** Resale of our services to others is strictly forbidden under all circumstances unless expressly approved by Ellenet in writing. The Partner program <http://www.ellenet.net/> provides for the resale of services.

#### **4. WHAT WE MAY DO TO ENSURE THAT THIS POLICY IS BEING FOLLOWED**

**4.1 *We may monitor your account but will respect your privacy.*** We may monitor the conduct of your account to determine whether this policy is being followed.

**4.2** If we monitor the conduct of your account we will safeguard your privacy subject to the terms of our privacy policy.

**4.3 *We may suspend or terminate your***

***account and/or notify the authorities.*** If we believe that your use of the service may break the law or that you have not complied with this policy we may:

(a) warn you by email (but we are not obliged to do so);

(b) suspend your access to the service;

(c) terminate your account without notice; and/or

(d) notify and provide relevant information to the authorities, as appears appropriate in the circumstances.

4.4 In the event of taking action under 4.2 we reserve the right to delete any or all of your information, material, software or other content stored on our system in our sole discretion.

4.5 We may in our absolute discretion and without notice to you suspend or terminate your access to the service:

(a) where we are made aware that a court order, judgment, decree, determination or otherwise has been made to the effect that the Customer data is illegal, offensive, objectionable or in breach of a third party's rights; and

(b) if we are directed to do so by the ABA under a takedown notice in accordance with its obligations under the *Broadcasting Services Amendment (Online Services) Act 1999* (as amended).

4.6 You agree that you will have no claim against Ellenet in respect of any action reasonably taken by Ellenet in its implementation of the terms of this Acceptable Use Policy, and you indemnify Ellenet against any claim by a User arising out of the same.

Webmistress: [webmistress](#)