

Important information

This document contains important provisions about your rights and obligations, as well as MySite Design's rights and obligations. MySite Design reserves the right, at MySite Design's sole discretion, to change, modify, update, add, or remove portions of the Terms and Conditions at any time without notice to you.

Please check these Terms and Conditions for changes. Your continued use of mysite.com.au and mysitepartners.com.au following the posting of changes to the Terms and Conditions will mean you accept those changes.

1. Customer Registration Form - offer to contract

MySite's Customer Registration Form is an offer by me to MySite Design, containing the terms upon which I request MySite Design to provide the Services described below. I understand that if I am using the website on behalf of my employer, I represent that I am authorised to accept these Terms and Conditions on my employer's behalf.

2. Subject to acceptance by MySite Design

My offer is subject to acceptance by MySite Design. Acceptance by MySite Design occurs when MySite Design notifies me by email that it has accepted my offer. MySite Design is not obliged to accept my offer. MySite Design does not have to provide reasons for declining to accept my offer.

3. The Services

- (a) Depending on the plan I choose, the services that MySite Design will provide to me may include:
 - i. storage of my web pages upon MySite Design's chosen server;
 - ii. registration and / or renewal of my domain name;
 - iii. provision of email service;
 - iv. making my web pages available through the world wide web (other than when MySite Design's server is off line for server maintenance);
 - v. sending of my electronic newsletters to my mailing lists;
 - vi. use of the tools on the mysite.com.au and mysitepartners.com.au websites, to enable me to build my web pages and electronic newsletters.
- (b) My web pages and electronic newsletters can only contain information, images and documents that I upload using the tools on the mysite.com.au and mysitepartners.com.au websites. They cannot contain software programs or databases.
- (c) MySite Design will make my web pages and electronic newsletters available on the internet only after I make payment for their services.
- (d) MySite Design acknowledges that I own the content in my web pages and electronic newsletters that I upload to MySite Design's server in the course of building my web pages and electronic newsletters.

- (e) I acknowledge that as I will be using the tools on the mysite.com.au and mysitepartners.com.au websites, along with MySite Design's other customers, that my web pages or electronic newsletters may be similar in appearance, in some respects, to the web pages or electronic newsletters of other customers.
- (f) I understand that copying or reproducing the MySite Design tools at mysite.com.au and mysitepartners.com.au or any website I create with these tools to any other server or location for further reproduction or redistribution is expressly prohibited and will be prosecuted to the full extent of the law.
- (g) I understand that I have a total maximum size allocation of 200MB of file space on MySite Design's servers, and that should I exceed this size allocation that additional charges will apply.
- (h) I understand that I have a maximum monthly bandwidth allocation of 1 GB (outbound) on MySite Design's servers, and that should I exceed this allocation that additional charges will apply.
- (i) I acknowledge that where I elect to have a payment gateway available on my website, that the payment gateway will be provided by a third party other than Mysite and that the use of the payment gateway is subject to the terms and conditions imposed by that third party for its use, and I acknowledge and agree:
 - i. MySite is not responsible for any transaction that occurs through that payment gateway; and
 - ii. Any errors or any loss or damage suffered by us or anyone who uses the payment gateway via our website is a matter between the third party who supplies the payment gateway, me and the person who uses my website, and I hereby indemnify MySite for any claim made against MySite arising out of the use of the third party payment gateway in accordance with clause 7(e) below.

4. What I have to provide

I understand that I need to have my own computer, phone line, and modem or broadband connection. I understand that I need to have my own account with an internet service provider, and that I need to have a browser such as Internet Explorer. I understand that the tool works best in Internet Explorer 5.5 or higher and may not work with all browsers.

5. Web page and email operation

- (a) I understand that as with all computers:
 - iii. there may be times that MySite Design's chosen server is not operational, or has been shut down for maintenance
 - iv. there may be software errors or other interruptions in use affecting MySite Design's chosen server
 - v. despite taking all reasonable security measures, as with all servers, MySite Design's chosen server is vulnerable to hackers, viruses, and unauthorised access and that MySite Design cannot guarantee the integrity of data and the remaining contents of my web pages or email messages and that as a result of any of these events, my web pages or email messages will not be accessible, and there may be interruption to my business.

- (b) I understand that persons with access to my username and password may access my web pages, electronic newsletters and mailing lists and make changes to or copy them.
- (c) I understand that if my username and password are intercepted that my web pages, electronic newsletters and mailing lists may be changed or copied.
- (d) I understand that since different email servers and email programs have different rules about what constitutes spam, MySite Design cannot guarantee the delivery of all of my electronic newsletters. As a consequence, and since some email servers and email programs may block the collection of electronic newsletter statistics, I also understand that MySite Design cannot guarantee the accuracy of my electronic newsletter statistics.
- (e) I understand that there are many different types and versions of email programs available and that some may display my electronic newsletters poorly and/or not display images and/or not allow links to work. As a consequence I understand that MySite Design cannot guarantee that electronic newsletters will work on all email programs.
- (f) I understand that there are many different types and versions of web browsers available and that some may display my finished website differently. As a consequence I understand that MySite Design cannot guarantee that the final website when published live to the internet will look the same on all browsers.
- (g) MySite Design will have no liability to me for anything referred to in paragraphs (a), (b), (c), (d), (e) or (f).
- (h) If MySite Design's liability to me cannot be excluded by paragraph (a) MySite Design's maximum liability to me is limited to:
 - i. if MySite Design's chosen server is not operational, the cost of my web pages being hosted elsewhere for the period that they may be offline, or MySite Design hosting my web pages without charge for an equal period (this does not apply where MySite Design's chosen server is off line for maintenance), or
 - ii. if my web pages are lost, the cost to me of the identical web pages being rebuilt, or MySite Design providing me with access at no charge, to its tools, to enable me to rebuild my web pages, in each case as MySite Design decides.

6. Support by MySite Design

- (a) I understand that if I have a query about my website, electronic newsletters or email service, I should first contact my website designer to attempt to resolve them.
- (b) If I cannot resolve my query in this way, MySite Design will provide email support to me for general advice and assistance.
- (c) MySite Design's support for any of its products does not include updating or maintaining my web pages for me.
- (d) MySite Design's support does not include the promotion of my web pages.

- (e) MySite Design's email support is available during the hours of 8.00am to 5.00pm, Monday to Friday.

7. My promises

- (a) I promise that all information and files that I upload onto MySite Design's chosen server:
- i. do not knowingly contain any viruses, and that I will take all reasonable measures to ensure this
 - ii. do not infringe the copyright of another person or organisation, and do not infringe any other industrial or intellectual property rights, or privacy rights, of another person or organisation
 - iii. are not defamatory, offensive, or obscene
 - iv. are not misleading or deceptive or likely to mislead or deceive
 - v. are not illegal
- (b) I grant to MySite Design a non-exclusive license to store on its server, and to publish to persons accessing its server, all works that I request to be published on the internet. I also grant to MySite Design a non-exclusive license to reproduce all works on my web pages or electronic newsletters for marketing and promotion by MySite Design of its services.
- (c) I promise that I own the copyright in all works, and trade marks, which I upload onto MySite Design's server, or if I do not own that copyright or those trade marks, that I have a license to the copyright in those works, or those trade marks, upon such terms as enables me to use those works and trade marks on my web pages and electronic newsletters, and enables me to grant to MySite Design the licenses in paragraph (b).
- (d) I understand that MySite Design hosting my web pages is not support of me or my business, and I must not claim any such support, approval or affiliation.
- (e) I indemnify MySite Design from and against all loss and damage it may suffer, and from all actions, claims or proceedings by third parties against MySite Design arising in any way from a breach of my promises in paragraphs (a) to (d) above and any claims arising out of the use of the third party payment gateway as referred to in clause 3(i) above.
- (f) MySite Design may remove or alter any information from my web pages or electronic newsletters that does not comply with paragraph (a).
- (g) When using any of the email services (including electronic newsletters and mailing lists) that MySite Design provides I promise not to spam or send any unsolicited email. I understand that MySite Design may be irreparably harmed by the damage this may do. I understand MySite Design reserves the right to block, filter or delete unsolicited email and may suspend my account should I knowingly spam.

8. My Obligations

- (a) I will keep my username and password secure and will not communicate them to an unauthorized person.

(b) I will not on sell, assign, or sub-let my rights in this Agreement to another person.

9. MySite Design's Fees

(a) MySite Design's current fees for the Services are set out in the Customer Registration Form.

(b) MySite Design may require that I sign a Direct Debit Authority for payment of MySite Design's Fees. I understand that this Direct Debit Authority may be used by MySite Design to recover any amounts owing.

(c) I understand that should my Direct Debit fail due to insufficient funds in my account then a dishonour fee of \$35.00 will apply for every dishonour.

(d) I acknowledge that MySite Design's minimum contract term is 12 months and that if I wish to cancel my contract before these 12 months are up I will pay out the remainder.

(e) I understand that after the 12 months is up I can leave at any time with one month's notice.

(f) MySite Design may increase the fees from time to time. I will be notified by MySite Design of any increased fees at least 30 days before the increase takes effect. If I agree to pay the increased fees there is nothing that I need to do. If I do not agree to pay the increased fees, I will notify MySite Design and request MySite Design to cancel my account and to remove my web pages from its server.

(g) I agree to pay MySite Design's current fees when requested. If I do not request the cancellation of my account, I also agree to pay MySite Design's increased fees of which I am notified.

(h) I understand that if I exceed my quota of electronic newsletter sends in a given calendar month, MySite may charge me an additional fee per email in excess of this quota.

(i) All fees are inclusive of goods and services tax.

(j) MySite Design will provide me with a tax invoice that meets the requirements of the A New Tax System (Goods and Services Tax) Act 1999.

(k) I will pay invoices sent by MySite Design within 30 days.

(l) If an invoice is unpaid for 30 days, I understand that my account will be cancelled, and that my web pages will be removed from the server until payment is made. I also understand that my email accounts will be cancelled in this process, and that there will be a setup fee charged to cover to reconnection of both my MySite Design account and my email accounts.

(m) If I am a Partner of MySite Design and my account is overdue for 30 days or more I understand that my Partner login will be suspended until the overdue account is paid.

10. Closing and cancellation of account

- (a) I can close my account at any time by notifying MySite Design in writing. If this is within my 12 month contract time then I will pay out the remainder of my contract.
- (b) MySite Design can terminate this Agreement and cancel my account at any time on 30 days written notice.
- (c) MySite Design can terminate this Agreement and cancel my account immediately if I breach any promise in this Agreement, or if I breach any obligation.
- (d) MySite Design can suspend the operation of my account if I breach any promise in this Agreement, or if I breach any obligation.
- (e) If I close my account, or my account is cancelled or suspended, I understand that I am not entitled to a refund of any prepaid amount. If my account is cancelled:
 - i. my web pages and electronic newsletters will be removed from all publicly accessible areas on MySite Design's server
 - ii. my email service will be suspended
 - iii. the data from my web pages and emails will be stored for 60 days
 - iv. if I request MySite Design in writing to provide me with a copy of my data, MySite Design will do so
 - v. at the end of that 60 day period, my data will be permanently deleted

11. General

- (a) Notices to be given by one party to another may be given by post, facsimile, or by email, but in the case of email given to MySite Design, it will be deemed properly given only if sent to the following address: support@mysite.com.au
- (b) This Agreement is subject to the laws of Queensland, Australia.
- (c) The failure of MySite Design to exercise or enforce any right or provision of the Terms and Conditions does not constitute a waiver of such right or provision. If a court of competent jurisdiction finds any provision of the Terms and Conditions to be invalid, the parties nevertheless agree that the court should endeavour to give effect to the parties' intentions as reflected in the provision, and the other provisions of the Terms and Conditions remain in full force and effect.