

Terms Of Service

By submitting the online order form, or by using Netstyle Designs' service, Customer hereby agrees to Netstyle Designs' Terms of Service (TOS), Acceptable Use Policy (AUP), No Spam Policy (NSP), and Privacy Policy.

Unless otherwise specified, in this TOS, the AUP, the NSP, and the Privacy Policy, the usage of "us", "we", "our", and "ours" shall refer to Netstyle Designs, an Australian business, and all its parents, subsidiaries, successors, and assigns. The usage of "you", "your", "they", and "them" shall refer to the Customer of Netstyle Designs.

Moreover, in this TOS, the AUP, the NSP, and the Privacy Policy, "Netstyle Designs" shall refer to Netstyle Designs, an Australian business, and all its parents, subsidiaries, successors, and assigns; unless otherwise specified, "Netstyle Designs" and "Netstyle Hosting" shall have the same meaning and shall be interchangeable.

Customer agrees that it shall comply with this TOS, Netstyle Designs' Acceptable Use Policy (AUP), and Netstyle Designs' No-Spam Policy (NSP). Customer further agrees that it has read Netstyle Designs' Privacy Policy and agrees to all the terms and conditions in the Privacy Policy. In this document, the word "Agreement," with a capital "A," refers to the TOS, the AUP, the NSP, and the Privacy Policy collectively.

1. General Terms.

In consideration of hosting services to be delivered, Customer agrees to be bound by the following terms and conditions:

- **1.1.** Customer agrees to pay, in advance of each monthly service term, for hosting services to be rendered.
- **1.2.** Customer agrees to be bound by the service term selected on the online order form or via applicable promotional codes that may require Customer to order Netstyle Designs' service for a certain minimum period of time.
- **1.3.** Customer agrees to a no-refund policy in advance. Setup fees and monthly web hosting service fees are non-refundable.
- **1.4.** Non-Payment of services shall result in a 5-day notice of disconnection. All payment failures must be cured within 5 business days from invoice due date or account will be suspended. Account termination will result from invoices overdue for 30 days, after which contents of the reseller account are unrecoverable.
- **1.5.** Netstyle Designs is not and shall not responsible for data integrity for any accounts that are terminated, disconnected, or interrupted because of Customer's failure to pay for Netstyle Designs' services.
- **1.6.** Customers agree to pay all GST (Australian Goods and Services Tax) applicable to your account.

2. Agreement for Services.

- **2.1.** Netstyle Designs will provide, and Customer will purchase and pay for, the Web hosting services (the "Services"), according to the service fees specified in the Order for the applicable Service Description. Customer acknowledges that the service, and service fees have been communicated to the Customer, and that Customer is aware of all applicable charges as per the Agreement. Customer also understands that no promotional offers will apply to their individual service unless said promotional offers are specified in this Agreement.

3. Payment.

- **3.1.** Establishment and provision of service is contingent upon receipt of payment from Customer to Netstyle Designs.
 - **3.1.1.** Customer must pay in full for the Services before Netstyle Designs begins to provide the Services to Customer. Invoices are generated prior to renewal and customer agree that if paying by credit card, recurring billing will be billed and charged automatically on the date the invoice is generated and that Netstyle Designs may apply the amount due at any time to the credit card.
 - **3.1.2.** Setup fees will be charged and are due at the time of the Customer's initial request of the Services requiring setup.
- **3.2.** Payment is due on the defined monthly recurring billing date of each month. All returned checks will be charged a \$20.00 service fee. Service will be interrupted on accounts that reach 5 days past due. Accounts that are not collectable by Netstyle Designs will be turned over to an outside agency for collection. If your account is turned over for collection, you agree to pay to Netstyle Designs a "Processing and Collection" Fee of not less than Fifty Five (\$55.00 incl GST) Dollars nor more than One Hundred Sixty Five (\$165.00 incl GST) Dollars.

4. Delinquent Accounts.

Netstyle Designs may temporarily deny service or terminate this Agreement upon failure of Customer to pay charges when due. Such termination or denial will not relieve Customer of responsibility for the payment of all accrued service fees, and any collection fees to which Netstyle Designs may be entitled under this Agreement or under applicable law.

5. Account Cancellation.

Customers may voluntarily cancel their account at any time, for any reason or for no reason, by emailing:

admin@netstyledesigns.com.au

Once a Customer has cancelled their account before the renewal date, no more charges will be billed to the account. Cancellations on or after renewal will be charged renewal fees.

All cancellations must be advised. Customer can terminate their account for any reason or for

no reason. However, Customer understands and agrees that Netstyle Designs does not provide pro-rated or any other kinds of refunds on cancellations. All fees Customer has paid shall be nonrefundable.

6. Refunds and Disputes.

IMPORTANT NOTICE: ALL PAYMENTS TO NETSTYLE DESIGNS ARE NONREFUNDABLE.

All payments to Netstyle Designs are non-refundable. This includes any setup fees and monthly fees regardless of usage. All billing disputes must be reported within thirty (30) days of the time the dispute occurred. Disputed charges to your credit card issuer, also known as chargebacks, which, in Netstyle Designs' sole discretion, are invalid under the terms and conditions of this Agreement, will result in service interruption, and reconnection fees to restore the desired service.

7. Customer agrees not to engage in any activity that violates any international, foreign, federal, state, or local laws applicable to the service terms described in this Agreement.

8. Netstyle Designs reserves the right to discontinue service to any Customer it deems, in its sole discretion, violates any condition of service including, but not limited to, the following:

- 8.1. the [Acceptable Use Policy](#), or
- 8.2. the [No-Spam Policy](#).

9. Backups.

- 9.1. In order to allow us to provide the best service to you, Netstyle Designs accounts are backed up weekly. However, these backups are intended for Netstyle Designs' administrative purposes only. As part of its commitment to first-rate customer service, Netstyle Designs always seeks to create complete and accurate backups of customer accounts.
- 9.2. Even the best and most complete and redundant backup systems can and do fail for a variety of reasons, despite the best efforts of the Web hosting service. THEREFORE, NETSTYLE DESIGNS DOES NOT GUARANTEE THE AVAILABILITY, COMPLETENESS, CURRENCY, OR INTEGRITY OF THESE BACKUPS OR THE DATA THEY CONTAIN. Consequently, you must not rely upon the availability, completeness, currency, or integrity of these backups.
- 9.3. Customers are responsible for maintaining their own backups on their own personal computers or other computers.
- 9.4. Netstyle Designs does not provide any sort of compensation for lost, inaccurate, incomplete, or outdated data in the event that Netstyle Designs' backups do not function properly, regardless of the reason(s) for any such malfunction, even if the malfunction was due to the fault or negligence of Netstyle Designs or any of its employees or agents, and regardless of whether Netstyle Designs had been informed of the possibility of such malfunction, or any fault or negligence that might cause it.
- 9.5. In the event that you need to recover data from a backup, Netstyle Designs will use reasonable efforts to restore data to your account from the appropriate backup. HOWEVER, PLEASE NOTE THAT THIS SERVICE IS INTENDED TO

COMPLEMENT YOUR OWN BACKUPS TO YOUR OWN COMPUTER, AND IS NOT A SUBSTITUTE FOR THOSE BACKUPS. AGAIN, NETSTYLE DESIGNS DOES NOT GUARANTEE THE AVAILABILITY, COMPLETENESS, CURRENCY, OR INTEGRITY OF ITS BACKUPS.

- **9.6.** You understand and agree that Netstyle Designs' backup policy does not create any warranties for whose breach Netstyle Designs can be held liable.

10. Customer agrees to defend, indemnify, and hold harmless Netstyle Designs, and the parents, subsidiaries, successors, assigns, employees and agents of Netstyle Designs against any losses, claims, damages, liabilities, penalties, actions, proceedings or judgments (collectively, "Losses") to which an indemnified party may become subject and which Losses arise out of, or relate to this Agreement or Customer's use of the Services, and to reimburse an indemnified party for all legal and other expenses, including reasonable attorneys' fees incurred by such indemnified party in connection with investigating, defending, or settling any Loss whether or not in connection with pending or threatened litigation in which such indemnified party is a party.

11. NETSTYLE DESIGNS SHALL NOT BE LIABLE UNDER ANY CIRCUMSTANCES FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, PUNITIVE OR EXEMPLARY DAMAGES, OR FOR ANY LOSS OF PROFITS, LOSS OF REVENUE, LOSS OF USE, OR LOSS OF DATA RESULTING FROM THE USE OF NETSTYLE DESIGNS' SERVICES BY CUSTOMER OR ANY THIRD PARTIES, REGARDLESS OF THE FORM OF ACTION OR THEORY OF LIABILITY, OR

11.2. ANY LOSS OF DATA RESULTING FROM DELAYS, NONDELIVERIES, MISDELIVERIES OR SERVICE INTERRUPTIONS.

12. NETSTYLE DESIGNS PROVIDES THE SERVICES AND PRODUCTS AS IS, WITHOUT WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED. NETSTYLE DESIGNS DISCLAIMS ALL WARRANTIES OF NON-INFRINGEMENT OF ANY THIRD-PARTY RIGHTS, AND DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. CUSTOMER SHALL BE SOLELY RESPONSIBLE FOR THE SELECTION, USE, AND SUITABILITY OF THE SERVICES AND NETSTYLE DESIGNS SHALL HAVE NO LIABILITY THEREFOR.

13. TO THE MAXIMUM EXTENT PERMITTED BY LAW, NETSTYLE DESIGNS DISCLAIMS, ALL WARRANTIES, REPRESENTATIONS OR OTHER ENDORSEMENTS, EXPRESS OR IMPLIED, WITH REGARD TO THE INFORMATION ACCESSED FROM, OR THROUGH, THIS SERVICE, THE SYSTEMS WHICH PROVIDE IT, AND THE INTERNET, INCLUDING ALL WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE, OR NON-INFRINGEMENT OF ANY THIRD-PARTY RIGHTS.

14. NETSTYLE DESIGNS DOES NOT ASSUME ANY LIABILITY FOR THE COMPLETENESS, ACCURACY, OR USEFULNESS OF ANY INFORMATION DISCLOSED OR MATERIALS ACCESSED THROUGH ITS SERVICES, ITS SYSTEMS, ITS NETWORKS, OR THE INTERNET.

15. No Waiver of Rights by Netstyle Designs.

Any failure by Netstyle Designs to enforce this Agreement in every instance in which it might apply does not amount to a waiver of any of Netstyle Designs' rights.

16. Arbitration.

ANY CONTROVERSY OR CLAIM ARISING OUT OF OR RELATING TO THIS CONTACT OR ANY BREACH THEREOF IN EXCESS OF \$250.00 SHALL BE SETTLED BY WAY ARBITRATION.

17. Notices.

- **17.1.** From Netstyle Designs to Customer.
Netstyle Designs will notify you by e-mail of any notices that Netstyle Designs is required to provide to you under this Agreement, at the most current e-mail address you have provided to Netstyle Designs.

By entering this Agreement, you consent to receive notices by e-mail. You are solely responsible for ensuring that Netstyle Designs has your most current e-mail address, and Netstyle Designs shall not be responsible for any lost, misdirected, bounced, forwarded, or undeliverable e-mail that Netstyle Designs sends to the most current e-mail address you have provided to Netstyle Designs.

- **17.2.** From Customer to Netstyle Designs.

Unless otherwise specified in this Agreement, notices to Netstyle Designs shall be sent to the following address:

NETSTYLE DESIGNS
PO BOX 1995
GRIFFITH NSW 2680

18. Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of Australia, without regard to choice of law or conflicts of law provisions that would cause the application of the law of another country.

19. Currency.

All monetary amounts to which this Agreement refers shall be in Australian dollars and include the GST.

20. Entire Agreement.

This Agreement, including all of its component parts, comprises the entire agreement between you (the Customer) and Netstyle Designs, and supersedes any prior or previous agreements between you and Netstyle Designs with respect to the subject matter of this Agreement; provided, however, that you agree that you shall be subject to any additional terms and conditions of which Netstyle Designs notifies you from time to time, pursuant to this Agreement.

21. No Oral Modification of this Agreement.

This Agreement may not be modified orally.

22. Assignment.

- **22.1** Customer shall not assign or attempt to assign its obligations under this Agreement without Netstyle Designs' prior and express written consent to such assignment.
- **22.2.** Netstyle Designs may assign any or all of its rights and obligations under this Agreement at any time without prior notice to or consent of Customer.

23. Consent to Jurisdiction; Venue.

Jurisdiction and venue for arbitration or litigation of any dispute, controversy, or claim arising out of, in connection with, or in relation to this Agreement, or the breach thereof shall be proper only in a venue determined Netstyle Designs.

24. Choice of Law.

For all purposes, this Agreement shall be deemed to have been made within the State of New South Wales, Australia. This Agreement shall be governed by the laws of Australia and Netstyle Designs and Customer each submit to the exclusive jurisdiction of the courts of New South Wales, Australia should any claim or question arise under Federal law or federal jurisdiction based upon diversity of citizenship.

25. Force Majeure.

Netstyle Designs shall not be liable or deemed to be in default for any delay or failure in performance under this Agreement or interruption of service resulting directly or indirectly from acts of God, civil or military authority, acts of public enemy, war, terrorism, riots, civil disturbances, insurrections, accidents, fire, explosions, earthquakes, floods, the elements, strikes, labor disputes, shortages of suitable parts, materials, labor or transportation, magnetic interference, interruptions of electrical power or other utility service, unavailability of any telecommunications or wireless service or connection to any telecommunications or wireless service, or any cause beyond the reasonable control of Netstyle Designs.

26. Severability of Terms of this Agreement.

In the event that any portion of this Agreement is held to be unenforceable, the unenforceable portion shall be construed in accordance with applicable law as nearly as possible to reflect the original intentions of the parties hereto, and the remainder of the provisions shall remain in full force and effect.

27. Limitation of Actions Arising Under this Agreement.

Any cause of action you may have with respect to Netstyle Designs' performance or alleged non-performance of this Agreement must be commenced within one (1) year after the claim or cause of action arises or such claim or cause of action is forever barred.

28. Denial of Service

Netstyle Designs reserves the right to refuse or discontinue service to anyone at our sole discretion.

29. Abuse of Netstyle Designs Staff or Support Personnel.

- **29.1.** At Netstyle Designs, we take pride in providing excellent service to all of our customers. It is our policy always to treat our customers with the highest level of respect and courtesy. In return, we expect the same respect and courtesy from you.
- **29.2.** If our staff feels that you are consistently engaging in abusive content toward them, or addressing them in a demeaning or rude manner, your account(s) may be suspended and you may be asked to take your business elsewhere. In the event that we terminate service for abusive conduct, customers will be given five (5) days' notice. We will issue a refund only for the unused portion of pre-paid service.
- **29.3.** Abusive conduct includes, but is not limited to, the following behaviors:
 - Repeatedly addressing members of our staff in a demeaning or rude manner;
 - Using profanity in any oral or written communications with our staff, by any medium of communication, including but not limited to e-mail, instant messages, chat, text messaging, fax, postal mail, telephone, voice over Internet Protocol (VoIP), or in-person communication;
 - Yelling or shouting at our staff;
 - Deliberately using all capital (uppercase) letters in any written communication to our staff;
 - Insulting our staff because of their personal characteristics, or on the basis of their race, ethnicity, national origin, sex, sexual orientation, religion, or housing or economic status; or
 - Deliberately providing false information to our staff for the purpose of harassing them or wasting their time.

30. No Free Services to Be Offered.

YOU may not use YOUR account or OUR services to offer any of the following kinds of FREE services but are not limited to:

- Free Web hosting services;
- Free e-mail services;
- Free blogging services;
- Free home pages;
- Free image hosting;

There are several reasons for these prohibitions on free services. The reasons include, but are not necessarily limited to, the following:

First, free services generally do not require any reliable means of identifying the person who registers for them. As such, it can be practically impossible to track down persons who abuse the free services.

Second we have built a solid reputation for delivering excellent service to our customers. WE cannot risk having unidentified persons damage OUR reputation.

Third, users of free services are notorious for registering for free accounts and immediately spamming or otherwise consuming very large amounts of system resources and bandwidth before their accounts are shut down. Such abusers often register for successive or multiple

accounts and cause many problems for the servers and network.

Fourth, spammers, operators of phishing and pharming scams, distributors of spyware, viruses, Trojan horses, worms, and other malware, operators of illegal Warez sites, operators of illegal or unauthorized file-swapping or archive sites, and hackers frequently abuse free online services. Allowing free services would expose OUR servers to severe abuse and could harm US and all of OUR customers.

Fifth, free services lead to various forms of abuses that may violate criminal laws or even foster terrorist activities. Because such abuses violate applicable laws as well as OUR policies, WE must prohibit them.

If YOU violate this prohibition on free services, WE may suspend or terminate YOUR account immediately, with or without notice, as WE in our sole discretion deem necessary to address the situation.

31. Customer is Responsible for All Consequences of Breach of Agreement with US.

YOU hereby agree to assume all responsibility for the Consequences of Breach or Default.

YOU hereby further agree to defend, indemnify, and hold harmless Netstyle Designs and Netstyle Designs, and the parents, subsidiaries, successors, assigns, employees and agents of Netstyle Designs and Netstyle Designs against any losses, claims, damages, liabilities, penalties, actions, proceedings or judgments (collectively, "Losses") that are or arise out of the Consequences of Breach or Default, and to reimburse an indemnified party for all legal and other expenses, including reasonable attorneys' fees incurred by such indemnified party in connection with investigating, defending, or settling any Loss whether or not in connection with pending or threatened litigation in which such indemnified party is a party.