

Terms of Service

VERSION 1.4

Last Amended: 01/05/2023

1. Important Definitions

- i. "Customer" and/or "You" means the individual or entity who ordered services from PS Digital.
- ii. "Us" and/or "We" and/or "Our" means PS Digital, a registered business name of PS Digital Pty Ltd (ABN 41 645 964 021).
- iii. "Service" and/or "Services" means any product(s) or services the customer has ordered from us. This terms of service applies to all web design, web hosting, domain, marketing, graphic design and related services products, such as, but not limited to, those services available to order from our website.
- iv. "Server Partner" means the organisation whom which provides us with our server(s). This information is available upon request.

2. Acceptance

- i. By accessing, ordering and/or using this service, the customer accepts and agree to be bound by the terms and provision of this agreement. In addition, when using these particular services, you shall be subject to any posted guidelines or rules applicable to such services. Any participation in this service will constitute acceptance of this agreement. If you do not agree to abide by the above, please do not use this service.
- ii. The Customer acknowledges that they are solely responsible for ensuring that all Service(s) are in full compliance with this policy, and that they are solely responsible for the files and applications (including web scripts) that have been uploaded and executed.

3. Availability of Services

- i. Whilst we will endeavour to provide continuous availability of all service(s) to the customer, we will not be liable for any service interruptions or downtime. Guaranteed uptime does not form part of our agreement with you.
- ii. Scheduled maintenance will be performed at a time deemed suitable by us, and we will provide the customer with prior notice should it require the service(s) to be offline for greater than thirty (30) minutes, with at least two (2) days notice by email.
- iii. Unscheduled maintenance will be performed as required by us or our hosting supplier as required. When services are affected for more than thirty (30) minutes, we will endeavour to provide notice by email.

4. Customer General Warranties and Undertaking

- i. The Customer warrants that any information supplied to us is true and correct
 - ii. The Customer warrants that at the time of entering into this agreement they are not relying on
 - iii. any representation made by PS Digital, its staff, agents or affiliates, which has not been expressly stated in this agreement.
 - iv. The Customer agrees that they are solely responsible for dealing with cases of unauthorised third parties accessing their Account and/or Service(s). These matters should be referred to the Australian Federal Police for investigation as soon as possible.
5. PS Digital General Warranties and Undertaking
- i. We shall not be liable to the Customer for harm caused by or related to the Customer's Service(s) or inability to utilise the Service(s) unless caused by gross negligence or willful misconduct.
 - ii. We shall not be liable to the Customer for lost profits, direct or indirect, special or incidental, consequential or punitive; or damages of any kind whether or not they were known or should have been known.
 - iii. Notwithstanding anything else in this agreement, the maximum aggregate liability that PS Digital, any of its employees, agents or affiliates, under any theory of law, shall not exceed a payment in excess of the amount paid by the Customer for the Service in question for the six months prior to the occurrence of the event(s) giving rise to the claim.
 - iv. PS Digital does not warrant that:
 - i. Any Service(s) provided will be uninterrupted or error free;
 - ii. The Service(s) will meet your requirements, other than as expressly set out in this agreement;
 - iii. The Service(s) will not be subjected to external hacking attempts, viruses, worms, denial of service attacks, or other persons gaining unauthorised access to the Service(s) or any PS Digital system.
 - v. PS Digital 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.
 - vi. In no event will PS Digital be liable to the Customer for any loss of business, contracts, profits or anticipated savings or for any other indirect or consequential or economic loss whatsoever.
 - vii. Third party services engaged by the client through cPanel or Wordpress including but not limited to SEO and web design tools are done so at the Customer(s) own undertaking. PS Digital does not provide any express or implied warranty on the quality of their product(s) nor the outcomes expected and is under no obligation to extend support for externally managed or purchased products.

6. Accounts and Billing

- i. The Customer agrees to a month to month contract term for Service(s) unless otherwise stated in the Service offering (eg. domain names, SSL certificates, special service(s) with an agreed term), or otherwise agreed in writing. The month to month contract for Service(s) is automatically renewed each month in perpetuity subject to cancellation by the Customer.
- ii. Monthly Service(s) are established as part thereof, signifying the beginning of a new month demotes commitment till the end of that monthly period.
- iii. In relation to fees for Service(s):
 - i. Fees for Service(s) ordered by the Customer shall begin on the date of the initial order and shall be renew on the anniversary date of the next month, and the chosen billing cycle in advance. This may be monthly, quarterly, semi-annually or annually. ii. The anniversary date of the original invoice will serve as the due date for future billings including one-time fees, upgrades, additional services, cancellations and service credits, unless the Service(s) only allows annual or biennial billing cycles (eg. domain name registrations, SSL certificates).
- iii. Fees are due in advance of the billing cycle and will be invoiced to the Customer fourteen (14) days prior to the due date.
- iv. Fees for one-off Service(s) including, but not limited to, dedicated IP addresses and SSL certificates are due within seven (7) days of the invoice being issued, however the order will not become active until the invoice has been fully paid.
- v. All published prices are exclusive of any government taxes and charges unless otherwise noted, including GST.
- vi. Any unpaid invoices must be paid in full before new Service(s) will be provisioned.
- vii. Failure to pay any fees may result in the account being referred to an external collection agency, which may include interest (calculated daily) and collection costs.
- viii. Service(s) with unpaid invoices that are more than seven (7) days past the due date will be automatically suspended with a fee of 14% of the original total amount of invoice or \$10.00AUD (whichever is higher) will be added to the invoice, with full payment for all outstanding invoices required before the Service(s) can be reactivated.
- ix. Services with unpaid invoices that are not paid in full within thirty (30) days of the due date will be automatically terminated. All data will be irrevocably deleted with no opportunity to download prior to termination. Restoration of terminated Service(s) is subject to PS Digital's Terms of Service.
- x. Payment methods:

- i. Credit or Debit Card payments are handled by Stripe and none of your personal credit card information is stored on our servers. A secure token is used between us and Stripe to store and identify your payment information. We reserve the right to charge a fee for payments made by credit or debit card.
- ii. On request, payment can be made by EFT transfer directly to our bank account.
- iii. We do not accept any other form of payment.

7. Refunds

- i. PS Digital does not offer "change of mind" refunds once a service has been ordered and/or provisioned.
- ii. The Customer will not be entitled to a refund if any of our Terms, Policies and Agreements have been breached by the Customer.
- iii. All other refunds will be processed at the sole discretion of PS Digital, in-line with the Australian Competition & Consumer Commission's published policies and guidelines. More information can be found at <http://www.accc.gov.au/consumers/consumer-rights-guarantees>.
- iv. Refunds will be handled by Stripe or EFT Bank Transfer and can take up to seven (7) business days to process.

8. Cancellation

- i. The Customer can request cancellation of their Account or any Service(s) for any reason by emailing billing@psdigital.com.au or by logging in to their account and submitting a cancellation request. For security reasons, we will not accept cancellation requests by any other method.
- ii. The customer agrees to provide four (4) weeks notice of termination of Service(s). This date will be calculated from the same working day if the cancellation request is received during business hours, or the following business day when the request is received outside of business hours.
- iii. The Customer agrees to pay any outstanding invoices upon cancellation of their Service(s), and understands that any fixed term service(s) must be fully paid for any remaining unpaid billing cycles.

9. Suspension and Termination of Service(s)

- i. PS Digital may suspend or terminate the service(s) if:
 - i. The Customer is found to be in breach of any policy including but not limited to the Terms of Services, Acceptable Use Policy or any applicable Registrant Agreement;
 - ii. The Customer has become insolvent or bankrupt;
 - iii. The Customer has unpaid invoices.

- i. Unpaid invoices for individual services may result in the suspension or termination of all other services the customer holds, including hosting and domains.
- ii. PS Digital may decide at its sole discretion to advise a Customer that their Account and/or Service(s) will be terminated by giving fourteen (14) days written notice, or with immediate effect following a serious breach of these terms and conditions.
- iii. If a Customer's Account is closed for any reason, or any Service(s) suspended or terminated, the Customer must pay all outstanding invoices by the due dates.
- iv. If a web hosting, email hosting or VPS Service is suspended or terminated for any reason, PS Digital is under no obligation to provide the Customer with a copy of any data associated with the Service(s). PS Digital may provide the customer with a backup of the data, if it is available, for a fee of \$240.

10. Data Management

- i. It is the Customer's sole responsibility to maintain regular offsite backups of their data. The Customer will not hold PS Digital liable for incomplete, out of date or corrupt data recovered from backups and archives.
- ii. For shared web hosting, and email hosting Service(s), PS Digital makes every reasonable effort to backup and archive the Customer's data on a regular basis for the sole purpose of disaster recovery.
- iii. In the event of hard disk failure or data corruption of a shared web hosting or email hosting server, PS Digital will restore data from the last known verified archive. If backup and archived data appears to be corrupt, the Customer should be prepared to upload all their data to their Service(s) from their own copy or an off-site backup; and re-create all mailboxes, databases, FTP accounts, et cetera.
- iv. PS Digital is under no obligation to maintain a backup of the Customer's data following the suspension or cancellation of the Service for any reason.
- v. PS Digital holds no responsibility for any issues which arise during the use of third party services which occur as a result of failed upgrade attempts by the Customer are outside the control of PS Digital.

11. Governing Law

- i. The Customer agrees to abide by all local, state and federal laws pursuant to the Service(s) delivered by PS Digital.
- ii. The Customer agrees that these and all PS Digital Terms, Policies and Agreements are governed by the laws of Western Australia, Australia, and agrees to the exclusive jurisdiction of the Courts of that state.

12. Changes

- i. We may amend our Terms of Service at any time. Changes to this agreement will become effective upon their publication to our website.
- ii. Continued use of the Service(s) constitutes acceptance of the amended terms. If you do not wish to accept the amended terms, you may request cancellation of your Services) in-line with our cancellation policy found within our Terms of Service.

If you have any questions regarding this agreement, please contact billing@psdigital.com.au.