

Airnet Domain and Web General Terms

1. Introduction

- 1.1. The terms and conditions set out below will apply to the Services and Equipment that are provided to you by Airnet. You should read these terms and conditions carefully before using Services and Equipment provided by Airnet.

2. Definitions

- 2.1. In this agreement the following words and phrases shall have the following means unless the context clearly indicates otherwise:
 - 2.1.1. "Airnet" means Airnet NZ Limited;
 - 2.1.2. "Agreement" means any written agreement between Airnet and you for the provision of Services and Equipment and shall include the Terms and Conditions.
 - 2.1.3. "Equipment" means all equipment and software provided to you by Airnet in order to provide the Services;
 - 2.1.4. Services means the internet and telecommunications services as specified in the Agreement between Airnet and yourself;
 - 2.1.5. "Terms and conditions" means the terms and conditions contained in this document; and
 - 2.1.6. "You" and "Yourself" means the customer who has entered into an Agreement with Airnet for the provision of Equipment and Services.

3. Term of Agreement

- 3.1. The term of the Agreement shall be in accordance with the contract term as specified in the Agreement between Airnet and yourself and shall continue thereafter until cancelled by either party giving one month's written notice to the other.

4. Supply of Services

- 4.1. We aim to provide you with consistently reliable and good quality service. We do not guarantee that the service we provide will be perfect. When access to any of your services is disrupted we will do our best to reinstate the service to you as soon as we can.

5. Your General Responsibilities

- 5.1. You agree that you will:
 - 5.1.1. Pay for all goods and services provided to you in accordance with payment terms for that service.
 - 5.1.2. Ensure that all of the information you give us is correct and complete and advise us of any changes to such information.
 - 5.1.3. Comply with any legal requirements concerning the use of our services.
- 5.2. Agree that, whether or not the account you have created is used, all charges incurred between the activation of your account, and the suspension or disconnection of your account will be met by you.
- 5.3. We may at our discretion request a credit report from a third party. By accepting these Terms and Conditions, you authorise us to use the information supplied for credit checking purposes only.
- 5.4. We reserve the right to refuse service to any person or entity who applies to use our service. Reasons for refusal may include but is not limited to unfavourable credit rating, notification of bankruptcy, liquidation, business closure and criminal or unfair trading practices.

6. No Warranty

- 6.1. You assume full responsibility and risk for use of the Services.
- 6.2. Airnet does not warrant that the Services will be continuous or fault free. Airnet does not warrant that any information, software or other material accessible via the Services will be free from viruses or other harmful components.
- 6.3. No verbal advice or information given by Airnet or its representative shall create a warranty.

7. Payments & Charges

- 6.4. If Airnet increases service prices or introduces chargeable services that were previously free or otherwise changes any charge for services being offered to you, Airnet will give you a minimum of ten working days written notice (one month where possible). The notice will be delivered to your billing address or to your nominated contact email address.
- 6.5. Airnet's service charges are published on the Airnet website found at www.airnet.net.nz/service_charge.php
- 6.6. You shall pay to Airnet the following payments:
 - 6.6.1. in arrears, monthly fees and charges for the services supplied to you (including GST component);
 - 6.6.2. on demand, any labour, additional services or usage fees as specified in the Agreement or any fees for changes requested by you (including GST component);
 - 6.6.3. on demand, reimbursements for any costs caused by a dishonoured cheque, or other dishonoured payment from you;
 - 6.6.4. on demand, all reasonable costs incurred for the collection of any overdue debts owed by you to Airnet; and
- 6.7. You agree to pay the payments referred to above without set-off, counterclaim or deduction.
- 6.8. Unless specified otherwise payments under 6.6.1 are due 20th of the month following, and payments under 6.6.2, 6.6.3 or 6.6.4 are due 7 days from the date of invoice.
- 6.9. Unless otherwise specified, all payments are to be made to Airnet NZ Limited.
- 6.10. Airnet may charge interest at the rate of 2% per month on any payments invoiced which remain unpaid after 30 days from the due date for payment.
- 6.11. If you transfer any service held with Airnet to another provider, all charges owing to us in respect of that service shall become immediately due and payable on the date of that transfer.

7. Electronic Addresses & Codes

- 7.1. Airnet may allocate electronic addresses or other codes to you in respect of the Services supplied. You will not have any ownership rights in those numbers, addresses and/or codes and you may not transfer them to anyone else.
- 7.2. If required by law or if it is necessary to do so for operational reasons, we may change any electronic address or code allocated to you. However, Airnet will always give you as much notice as reasonably possible of any such change.

8. Privacy / Customer Information

- 8.1. During the term of the Agreement you may supply us with personal information. We may also obtain personal information from your use of the Services. You authorise Airnet to use this personal information collected about you for the purposes of marketing its products and services to you, market research, credit control and debt collection (which includes logging overdue debts and/or liquidated damages owed to Airnet with credit reference agencies).
- 8.2. You acknowledge and agree that such personal information may be held by Airnet for such period both before and after termination or cancellation of the Agreement as Airnet in its absolute discretion considers appropriate.
- 8.3. Any personal information we collect is kept at our offices at Whakatu. You are entitled to see any personal information we hold about you (although we may charge reasonable fees for making it available) and to request that any incorrect information be corrected.

9. Liability

- 9.1. Airnet excludes all its liability to you in connection with the provision of the Services to you or failing to provide Services to you. Without limiting this, Airnet

is not liable to you (and nor are any of Airnet's officers, employees, contractors or agents liable to you):

- 9.1.1. if any communication you make is intercepted;
 - 9.1.2. if any communication you make is not properly transmitted or received;
 - 9.1.3. if any of our Services are not available at any time or are faulty;
 - 9.1.4. for any delay in commencing the provision of Services;
 - 9.1.5. if any Equipment supplied by Airnet that does not operate properly;
 - 9.1.6. if your computer becomes affected by any virus or other harmful components.
- 9.2. We are not liable to you for any fault in or non-provision of Services which is caused by an event beyond our reasonable control.
- 9.3. If you use another service provider's services during any period when Airnet's Services are not fully operational, Airnet is not liable to pay any amount you are charged by that service provider.
- 9.4. You acknowledge that no third party whose network or services that Airnet uses to supply the Services to you (nor any officer, employee, contractor or agent of such third party) is in any way liable to you in connection with the Services. This clause is intended to confer a benefit which those third parties can enforce.
- 9.5. If Airnet is held to be liable to you for any reason, then Airnet's liability to you is limited to an amount equal to Airnet's average charges to you for one month in respect of any single event or related series of events and to a maximum amount equal to our average charges to you for a three month period in any one year.

10. Mediation

- 10.1. Any dispute or difference between the parties: as to the interpretation of this Agreement; concerning anything contained in or arising out of this Agreement; as to the rights, liabilities or duties of the parties; or as to any other matter concerning the relationship of the parties in respect of this Agreement (including claims in tort as well as in contract) ("Dispute or Difference") shall be referred to informal mediation by a senior solicitor or barrister practising in the Hawkes Bay district. The mediator shall be agreed on by the parties or, failing agreement, nominated on the application of either party by the president for the time being of the Hawkes Bay District Law Society or his or her nominee. If mediation does not produce an outcome satisfactory to both parties, then either party, at the conclusion of the mediation, may refer the matter to arbitration in accordance with the arbitration clause below. If an outcome satisfactory to both parties is reached at mediation, then that outcome shall be final and binding on both parties. The costs of mediation shall be borne equally by the parties.

11. Arbitration

- 11.1. Any Dispute or Difference not resolved by mediation in accordance with the mediation clause above shall be referred to the arbitration of a single arbitrator under the Arbitration Act 1996 or any then statutory provisions relating to arbitration. The arbitrator shall be agreed on by the parties or, failing agreement, nominated on the application of either party by the president for the time being of the Hawkes Bay District Law Society or his or her nominee. Such arbitration shall be a condition precedent to the commencement of any action at law. The costs of arbitration shall be determined by the arbitrator, whose decision as to costs shall be binding on the parties.

Invoices & Notices

- 11.2. We will deliver our invoices and any other notices to the most recent address you have given us or via email as appropriate. We may assume that any such invoice or notice has been delivered five days after we have posted it or one business day after we send

an email. Please ensure that you inform us when you change your physical, postal or email address.

- 11.3. It is essential that if you change address or move premises, you must inform us of this event in writing to enable us to ensure that there is no interruption in our supply of service to you. If you do not inform us of this event we will not be able to ensure continued supply of our service to you.

12. Assignment & Delegation

- 12.1. We may assign or transfer our rights and responsibilities under this contract to someone else. We will give you written notice in advance if we intend to do this.
- 12.2. We may also subcontract the performance of any of our responsibilities under this contract to anyone else.
- 12.3. You may not assign or transfer any of your rights or responsibilities under this contract to anyone else without our prior written consent.

13. Termination or Suspension

- 13.1. Airnet may terminate or suspend services without written notice to you if:
- 13.1.1. you fail to pay any monies payable to Airnet in terms of the Agreement on the due date;
 - 13.1.2. if you breach any other term of the Agreement;
 - 13.1.3. if you use the Services in an unlawful manner; or
 - 13.1.4. if the use of your Services poses a threat to the quality or security of services to other clients.
- 13.2. Airnet may provide notice of the termination of the Agreement to you by email address to your email account, or by mail or courier service to the address of your specified site. Your notices to you shall be deemed effective immediately.
- 13.3. You have the option to terminate the Agreement by buying out the Agreement. The amount payable will be the value of the remaining part of the Agreement.

14. Rights & Responsibilities that Continue

- 14.1. The cancelling of any agreement you have with us does not affect any rights and responsibilities which are intended to continue or come into force afterwards.

15. Force Majeure

- 15.1. If Airnet is prevented from carrying out any obligation imposed upon it in terms of the Agreement by reason of any act of God, inclement weather, act of State, riot, insurrection, civil commotion, strike, sanctions, boycott, embargo or any other circumstances beyond Airnet's reasonable control, Airnet must endeavour to advise you of the existence of the circumstances and the expected duration thereof.
- 15.2. The performance of the Agreement will, to the extent that it is made impossible by such circumstances, be suspended until such circumstances cease to prevail. Airnet shall not be liable for any loss, damage, compensation or other reimbursement arising from any damage done to your equipment or network by reason of any of the matters specified in this clause.

16. Compliance with Regulations & Acceptable Use

- 16.1. You shall be solely responsible for obtaining any necessary permits under and for compliance with all legislation, regulations, by-laws or rules having the force of law in connection with your use of any services supplied by Airnet. Airnet NZ Ltd will not be held accountable or liable for any illegal activities as seen by the laws of this country or any international laws.
- 16.2. Airnet may monitor your use of the Services and any material posted, downloaded, transmitted or communicated using the Services for compliance with Airnet's Terms. Airnet may pass on any material or information it finds as a result to the relevant authority if Airnet suspects any illegal or offensive activity is involved, and you will have no claim against Airnet for this.

- 16.3. Airnet may also monitor your use of the services at anytime with regard to reasonable usage and if it deems your usage is in excess of reasonable, and/or it solely places a strain on Airnet resources or services to its existing or perspective clients, Airnet reserves the right to request an upgrade of plan, or negotiation outside of its standard plan pricing, terms and conditions.
- 16.4. Prohibited Activities
- 16.4.1. Email - You acknowledge that Airnet may establish certain limits on use of the Service at any time without limitation to any aspect of the service you are provided at no charge. You will be advised of any limits to be placed on you by e-mail to the last known e-mail address as per your account details. Your ongoing use after delivery of this notice to you constitutes your acceptance of this limit and any related charges.
- 16.4.2. Server Abuse - Any attempts to undermine or cause harm to Airnet is strictly prohibited.
- 16.4.3. Advertising - Airnet servers may not be the source, intermediary, or destination address involved in the transmission of spam, flames, or mail bombs. Your domain may not be referenced as originator, intermediary, or reply-to address in any of the above. We consider spam any mass unsolicited message in the mediums of Newsgroups and Email. If you are found to have spammed, then we may immediately, without warning, disable your services with Airnet. We reserve the right to refuse or cancel service to known spammers. Lastly, we reserve the right to determine what violates this policy.
- 16.4.4. As such, any violation will result in immediate deactivation of services without refund (if applicable).

17. Acknowledgement

- 17.1. You acknowledge that:
- 17.1.1. You are aware the internet contains unedited materials, some of which are sexually explicit or may be offensive to you and that Airnet has no control over and accepts no responsibility for such materials;
- 17.1.2. all content accessed by you through the Services is accessed and used by you at your risk and Airnet and its representatives shall not be liable for any claims losses actions damages or proceedings arising out of or otherwise relating to access to such content by you;
- 17.1.3. Airnet specifically disclaims any responsibility for the accuracy, quality and confidentiality of information obtained, transmitted or distributed through the Services.
- 17.1.4. Other entities may be able to access and/or monitor the use of your Services.
- 17.1.5. Any sensitive or confidential information (such as credit card numbers or other financial information, medical information or trade secrets) sent by you or to you is sent at your sole risk. Airnet and its representatives shall have no liability whatsoever for any claims, losses, actions, damages, suits or proceedings arising out of or otherwise relating to such actions;
- 17.1.6. You are aware that when using the Services to access the internet or any other online services, there are certain applications, such as FTP, HTTP, proxy or gateway server applications, which may be used to allow other service users and Internet users to gain access to your computer. Airnet and its representatives shall have no liability whatsoever for any claims, losses, actions, damages, suits or other proceedings resulting from, arising out of, or otherwise relating to the use of such applications by you, including, without limitation, damages resulting from others accessing your computer.

18. Terms Separately Binding

- 18.1. If, for any reason, any provisions of this contract cannot be enforced or relied on by either of us, all other terms of our contract with you remain binding.

19. More than One Person

- 19.1. You are responsible for everybody who you permit to act for you in regards to your services or interaction with Airnet. We will take reasonable care to satisfy ourselves that you have permitted those persons to act for you.

20. General

- 20.1. Airnet may be required to change these Terms and Conditions from time to time. If so, Airnet will provide you a minimum of ten working days (one month where possible) written notice. The notice will be delivered to your billing address or to your nominated contact email address. This document can be located on the Airnet website www.airnet.net.nz/terms.php
- 20.2. The Agreement supersedes all prior discussions and agreements that you may have had with Airnet for the provision of the Services and Equipment.
- 20.3. The parties agree that the Agreement may be executed in several counterparts (including copies), all of which when taken together shall constitute one single agreement between the parties.
- 20.4. The failure of either party at any time or times to require performance by the other party of any term of the Agreement shall not affect the right to enforce the same. The waiver by either party to any breach of any one or more terms contained in the Agreement shall not be construed to be a waiver of any succeeding breach of such term or any other term.
- 20.5. The Agreement shall be governed by and construed in accordance with the laws of New Zealand. Any dispute regarding the provision of the Services under the Agreement is to be determined by New Zealand courts.

Airnet Domain Registration Terms

21. Introduction

- 21.1. These terms and conditions pertain specifically to the registration of domains and shall be relevant and enforceable only if you have domains registered through Airnet.
- 21.2. These terms and conditions are in addition to the "Airnet Domain and Web Terms & Conditions – General".

22. The Registrar's Obligations

- 22.1. We (Airnet NZ Ltd) agree that we will:
 - 22.1.1. Comply with all .nz policies and accurately represent these to you;
 - 22.1.2. Disclose accurately and completely all our terms and conditions associated with your use of our services to register and maintain a domain name sought to be used by you, including price and billing information;
 - 22.1.3. Comply with your lawful directions in a diligent and timely manner regarding your .nz domain name, (for example, registration, cancellation, amendment, deletion, and associated technical support and billing);
 - 22.1.4. Arrange for correction of any error in the information in the register about any domain name registered to you when requested;
 - 22.1.5. Provide to you, or to someone we reasonably believe to be acting on your behalf, the unique authentication ID for your domain name when requested and for no charge;
 - 22.1.6. Use your personal information only as authorised by you;
 - 22.1.7. Take all reasonable steps to safeguard and protect all information about you stored in our databases and system(s);
 - 22.1.8. Comply with any order of any authority having jurisdiction regarding any domain name registered to you;
 - 22.1.9. Use our best endeavours to deal with any complaints you may have about the services we provide for you.

23. The Registrant's Obligations

- 23.1. You (the Registrant) agree that you will:
 - 23.1.1. Comply with the .nz policies. You agree that you have read and understood the current policies (The latest versions of these policies can be found on the website of the Domain Name Commission at <http://www.dnc.org.nz>);
 - 23.1.2. Make sure all information you give us is accurate and complete, keep us informed of changes to any information you give us, and that you have the authority to enter into this agreement;
 - 23.1.3. Keep the unique authentication ID for your domain name and any other security information that we give to you confidential, safe and secure;
 - 23.1.4. Satisfy yourself that your use of a domain name will not infringe anybody's intellectual property rights and protect us, and everybody we are in any business relationship with to provide services to you, from any such claim;
 - 23.1.5. Ensure that you only use our services for a lawful purpose;
 - 23.1.6. Ensure that the use of any domain name registered to you does not interfere with other users of the Internet;
 - 23.1.7. Ensure that any order of any authority having jurisdiction regarding any domain name registered to you is complied with;
 - 23.1.8. Protect us, and everybody we have a business relationship with, against any legal action taken against us because of the receipt or use of our services by you or someone you are responsible for, including reliance by us or anybody we have a business relationship with, on information supplied by you.
- 23.2. Duties of Other Persons:
 - 23.2.1. You agree to make sure everyone you are responsible for or who uses a domain name registered to you also meets the above duties.

24. Registration of a Domain Name

- 24.1. When a domain name in the .nz domain name space is registered to you, or in your name as directed by you, then you agree:
 - 24.1.1. That the following information becomes available to any member of the public:
 - Your name,
 - Your contact details and
 - The domain name, its commencement and expiry dates and addresses/details of the name servers for it, and our name.
 - 24.1.2. The domain name is registered in your name only because no other person has it according to the records of the register; and
 - 24.1.3. Neither we nor anybody else is representing anything else to anybody regarding that domain name. The entry of a domain name in the "who is" database shall not be taken as evidence of anything other than such registration; and
 - 24.1.4. That you protect us and everybody we have a business relationship with to provide services to you, from any claim arising out of the domain name being registered in your name or as you direct.

25. Register is the Record

- 25.1. For all purposes the details shown in the register shall be treated as correct and the authoritative record.

Airnet Website Hosting Terms

26. Introduction

- 26.1. These terms and conditions pertain specifically to the hosting of websites and shall be relevant and enforceable only if you have websites hosted with Airnet.
- 26.2. These terms and conditions are in addition to the "Airnet Domain and Web Terms & Conditions – General".

27. Shared Hosting Environment

- 27.1. Unless otherwise agreed, Airnet host websites in a shared hosting environment.
- 27.2. Email from Airnet's shared hosting environment is restricted so it is delivered to Airnet hosted mailboxes only.
- 27.3. If you wish to host a website with us with the ability to send email to non-Airnet based mailboxes Airnet may impose restrictions or require aspects of your site to meet standards that in its sole discretion minimise the ability for unauthorised emails or spam to be generated via your site, including but not limited to:
 - 27.3.1. The implementation of 'captcha' images on any publicly accessible forms
 - 27.3.2. The use of and Airnet based email forward for limited distribution emails
- 27.4. CGI execution on the server is also disabled.
- 27.5. It is your responsibility to confirm that the server environment offered by Airnet is suitable for the purpose of your website. Airnet will not be held liable if limitations of the server affect your ability to perform a task or utilise a technology that we do not offer.
- 27.6. Airnet performs updates to its server environment to ensure security and stability of the platform. Airnet will attempt to ensure that such upgrades do not effect compatibility of any existing system but cannot be held liable if service performance changes as a result of a commonly distributed security or stability patch to one of the standard software packages on the server (including but not limited to Apache, MySQL or PHP).

28. Plans

- 28.1. If your use of our web hosting environment exceeds the allowed levels of your web hosting package Airnet in its sole discretion may ask you to reduce your usage to within the allowed levels or to upgrade your hosting package to one that covers your usage.
- 28.2. If you decline to conform with any of the requests in 28.1 Airnet may deem your usage in breach of your agreed use of the service and exercise our rights under the Termination and Suspension guidelines set out in clause 13.

Airnet Domain and Web Terms & Conditions – Resale of Services

29. Introduction

- 29.1. These terms and conditions pertain specifically to services supplied or received under an 'Airnet Resold Services Agreement'.
- 29.2. These terms and conditions are in addition to the "Airnet Domain and Web Terms & Conditions – General".

30. Definitions

- 30.1. For the purposes of resold services
 - 30.1.1. "Service Seeker" means the company or entity that is the end recipient of a resold service.
 - 30.1.2. "Reseller" means the company or entity that has a specific reseller agreement with Airnet and authority to resell the services of Airnet under that agreement
 - 30.1.3. "Resold service" means any service provided by Airnet to the Service Seeker regardless of if this service is billed to the reseller or direct to the Service Seeker.
 - 30.1.4. "Service Agreement" or "Agreement" means an Airnet Resold Services Agreement.

31. Account Authority

- 31.1. In addition to any contact persons provided during the setup of any account for the purpose of supplying service to the Service Seeker, the Service Seeker acknowledges that any request in relation to that account or associated service by the Reseller shall be assumed to be authorised by the Service Seeker and shall be carried out as if it had been requested directly.
- 31.2. Account authority of the Reseller may be cancelled or suspended by advice in writing from the Service Seeker.
- 31.3. If the Service Seeker makes a request as in 31.2 charges for any services supplied as part of a reseller agreement may be modified to match Airnet's standard prices for those services at that time. This pricing change will be deemed an amendment to the service agreement however will not necessarily change the term of the agreement.
- 31.4. Airnet will advise the Service Seeker of any price change upon receipt of a request to exit the agreement. This pricing change must be agreed to before the request can be carried out.
- 31.5. Exit from a resold services agreement will not change your obligations under the initial contract; however changes to pricing during such process will supersede any pricing in the agreement for the remaining duration of the contract.

32. Termination or Suspension of Services

- 32.1. In addition to any terms and conditions specified in clause 13 the following additional clauses shall take effect for any services supplied in relation to a resold services agreement.
 - 32.1.1. The Reseller responsible for a resold services agreement who has not otherwise had their account authority rescinded by the Service Seeker may request Airnet to terminate or suspend any service supplied in relation to that agreement.
 - 32.1.2. Airnet shall not be liable to the Service Seeker or Reseller for any claim in relation to the suspension or termination of any service as a result of the Reseller exercising their ability under clause 32.1.1.

33. Support

- 33.1. Unless otherwise organised by Airnet, the Reseller is the first point of support for the Service Seeker in all instances.
- 33.2. If a support issue cannot be resolved by the Reseller that Reseller may seek the input or Airnet's support team or staff within the bounds of their reseller agreement.
- 33.3. For the avoidance of doubt, the Service Seeker should not be making direct contact with Airnet for support relating to resold services unless Airnet have advised the Reseller to
- 33.4. organise such contact.