

Westnet Contact Details

Westnet Pty Ltd ABN: 50 086 416 908 Sales: 13 19 60
Level 7, 152 St George's Tce, Perth, 6000 Support: 1300 786 068
GPO Box C121 Perth 6839 Web: <http://www.westnet.com.au>

Terms and Conditions

The Website is operated by Westnet Pty Ltd ("Westnet"). Customer access to and use of the Westnet website and Services are strictly subject to the terms and conditions of this agreement.

All access to and use of Westnet and its services by the Customer is subject to the terms and conditions contained herein and the Westnet Privacy Statement. Prior to using or acquiring services from Westnet, the Customer must agree to the terms and conditions contained herein. Receipt of any services from Westnet under this, or any other agreement between the Customer and Westnet, will constitute evidence that the Customer has read, understood and agrees to be bound by the terms and conditions of this agreement.

The terms and conditions of this agreement shall form part of any other agreements between the Customer and Westnet as varied from time to time, including for the provision of computer and network services for Internet access.

1. Definitions and Interpretations

1.1 Definitions

- (a) "Account" refers to the Internet service account and or any other account created for the Customer by Westnet.
- (b) "Customer" refers to the person or entity applying to receive Service(s) - minors are specifically excluded unless they have prior written consent of their parents or guardians and Westnet.
- (c) "Service(s)" refers to the Internet access service and any and all other services provided by Westnet to the Customer from time to time.
- (d) "Website" means www.westnet.com.au

1.2 All notices must be in writing sent by post, email, facsimile or hand delivery. The postal addresses and facsimile numbers of Westnet and the Customer appear on this application form.

1.3 This agreement commences on the date it is executed by the Customer.

1.4 This agreement shall be interpreted and enforced according to the laws of Western Australia.

1.5 Headings in this agreement are for convenience and do not affect its interpretation.

1.6 Where the terms of this agreement are inconsistent with the provisions of the Fair Trading Act of Western Australia, those terms shall be excluded from this agreement.

1.7 Any and all implied warranties, terms and conditions shall, except where otherwise provided by statute, be excluded from the agreement.

1.8 If any part of this agreement becomes unenforceable, that part shall be separated from this agreement so that all other parts remain effective.

2. Customer Responsibilities

2.1 The Customer agrees to use the Website and the Service in accordance with this agreement and any additional agreement to receive specific Services from Westnet.

2.2 The Customer understands that:

- (a) Transmission or storage of data is not necessarily secure or confidential and that the Customer transmits or stores data at the Customer's own risk;

(b) Materials available on the Internet may be unsuitable for minors and the Customer must take all reasonable steps to ensure that minors do not access unsuitable materials on the Internet;

(c) Unauthorised use, access to, or modification of, data is a criminal offence; and

(d) Westnet is entitled to remove any content in a personal web space that:

- (i) Does not adhere to any law or regulation or the rules of the IIA (Internet Industry Association of Australia); or
- (ii) Offends Westnet standards and policies,

Without notice to the Customer.

This may include content which is excessively violent or sexual in nature or involves children or animals or which is otherwise contrary to any law or social standard. The issue as to whether any content is compliant with the above shall be determined by Westnet at its sole discretion.

2.3 The Customer agrees that it will:

- (a) Provide all computer and telecommunication hardware and software required to support the Account, and shall properly acquire, configure and operate such hardware and software;
- (b) Be personally liable for the actions of any other persons who are allowed, either deliberately, through negligence or otherwise, to gain access to the Internet through the Customer's account;
- (c) Abide by all "Acceptable Use Policies", rules, regulations and security provisions of all networks and computer systems to which the Customer gains access while using the Service;
- (d) Be liable under State and Federal Law if a minor gains access to inappropriate material through the use of the Customer's account; and

* Indemnify and keep indemnified Westnet in respect of any loss or damage, suit or proceeding against Westnet by any person in respect to the use of the Customer's account, including, but not limited to, transmission of an illegal, fraudulent, copyrighted or defamatory material;

* If accessing Westnet services on behalf of another person, appropriately authorized to do so;

* Represent and warrant at the commencement and at all times during the term of this agreement, that all information the Customer has provided to Westnet is true and correct and current; and

* Be responsible for checking the Westnet website for Westnet Customer accounts. Westnet is not required to notify the Customer when a new bill is made available on the Website.

* Be responsible for regularly checking the primary Westnet email account for correspondence from Westnet.

2.4 The Customer agrees that it will not:

- * Utilise an account for any fraudulent or criminal activities, including, but not limited to, transmission of copyrighted materials, illegal, threatening, and obscene or libelous material, or any instructions which, if implemented, might cause damage or injury to any person or property;
- * Not breach the security or integrity of any Westnet equipment, or use the Westnet equipment, network or resources to launch an attack on the property of any other organization;
- * Engage in activities which are regarded as abuse or misuse of Westnet resources, including but not limited to sending spam or unsolicited commercial email. What constitutes "abuse" or "misuse" is determined by Westnet in its sole discretion;
- * Post to or transmit to or via the Website any content that interferes with, interrupts, harasses, threatens, menaces, inhibits or offends any other person;
- * Seek to change, amend, cancel, alter, assign or otherwise deal with the Customer account without the prior written consent of Westnet; or
- * Knowingly transmit any virus, spam or other disabling feature to or via the Website or the Internet, or otherwise in connection with its receipt of the Services.

2.5 Where the Customer is a body corporate, the directors jointly and severally accept any liabilities arising from the agreement.

2.6 The Customer agrees that receipt of the Service is exclusive, confidential and cannot be transferred, assigned and or licensed without the prior written consent of Westnet. A breach of this sub-section will include disclosure of a Customer password, negligently leaving a connected terminal unattended, and/or sharing access with any other party. Sharing a connection via corporate or residential Local Area Network (LAN), within a single premise, is acceptable provided the Customer is responsible for all users on that connection. Westnet takes no responsibility for the level of performance of the Service beyond the gateway computer.

3. Provision of Service

3.1 Westnet may in its sole discretion:

- (a) Deny access to any potential or existing Customer; and/or
- (b) Examine, modify, delay, restrict access to and or delete any data stored or passing through the Westnet network or any Westnet computer.

To maintain the quality of service, Westnet will prioritise real-time usage or services which are time sensitive over usage that is not. This will only occur where overall member usage affects the network performance.

3.2 Each Customer is provided with one email account consisting of an email address and a mailbox. Westnet will, upon written request from a Customer, make available up to five (5) additional email accounts to each Customer. If an email account is not accessed for a period of six months or more, Westnet reserves the right to recover a mailbox and it associated emails from the email account. The email address associated with the recovered mailbox will remain reserved for the customer under this circumstance. Emails associated with recovered mailbox cannot be retrieved.

3.3 The maximum volume of email permitted to be stored in each mailbox will be subject to limits set by Westnet. If delivery of correspondence to a mailbox will result in its quota being exceeded, the delivery will fail. A message indicating the delivery failure may be sent to its sender. The Customer may purchase additional mailbox space from Westnet.

3.4 The Customer accepts that any advice provided by Westnet employees or contractors is provided in good faith. The Customer agrees that it will not act or rely on any such advice unless it is done at the sole risk of the Customer. The Customer agrees to indemnify Westnet and its employees and contractors in full against any damage or loss howsoever arising or resulting from the Customer acting upon such advice.

3.5 Any software provided by Westnet to the Customer will be used by the Customer at the Customer's own risk. The Customer agrees that it will not hold Westnet or any of its employees or contractors liable for any loss or damage whatsoever arising resulting from the use by the Customer of software provided by Westnet.

3.6 The parties agree that the extent of any loss or damage suffered by the Customer under this agreement cannot be properly ascertained. As a genuine pre-estimate of loss or damage under this agreement, the parties agree that the liability of Westnet for any breach of this agreement is, if capable of limitation, limited to the cost to Westnet for supplying the Service or for re-supplying the Service over the relevant period.

3.7 Subscription to the Service entitles the Customer to use the facilities except where an exclusion or restriction has been made or requested. Any non-use by the Customer of the Services will not absolve the Customer from any responsibilities under this agreement, including the obligation to pay service fees and all and any further costs of collection incurred by Westnet.

3.8 Westnet may assign any of its rights under this agreement at any time and without notice to the Customer.

4. Payment Terms

4.1 All Customer accounts must be paid by credit card or direct debit.

4.2 The Customer agrees that:

- (a) All monies paid to Westnet are non-refundable and periodic service fees are payable in advance;
- (b) Any Customer "plan fees" will continue to be incurred past a renewal date unless Westnet has been provided with sufficient prior notice in writing by the Customer. Cancellations must be advised in writing to the Westnet Customer Relations Team 10 calendar days prior to the end of any billing period;
- (c) "Plan fees" will continue to accrue during any period of disconnection or suspension of the Service where such disconnection or suspension is the result of non-payment or late payment of monies due;
- (d) Westnet may terminate any Customer account for any reason on 7 calendar days notice.
- (e) Westnet may at any time schedule periods of planned interruption to the Service. Westnet will endeavour to provide at least 24 hours notice to the Customer for any interruption to the Service for maintenance, changes or improvements to the Service.

4.3 The Customer is responsible for all recurring fixed and cumulative charges for the account. If the Customer is less than 18 years of age, the parent or guardian signing this agreement shall be responsible for all charges related to the minor Customer's account.

4.4 Where any amounts due to Westnet by the Customer remain overdue for more than one calendar month, Westnet may consider this as a repudiation of this agreement by the Customer. In such an event, Westnet is entitled to terminate this agreement and cancel the Service without further notice to the Customer. Any sums paid to prior to the date of cancellation will be non-refundable and any monies outstanding or otherwise owing by the Customer to Westnet shall immediately become owing and interest shall be payable.

4.5 By supplying Westnet with credit card and or debit card details the Customer hereby authorises Westnet to debit the relevant credit card and or debit card with valid charges when due.

4.6 Westnet reserves the right to suspend or terminate Customer access to the Services upon non-payment or rejection of any credit card or debit card charges.

4.7 Cheques may be subject to reasonable collection and legal fees, as well as interest allowed by state law.

4.8 Westnet will accept documentation to change your direct debit / credit card details from your new banking institute.

5. Caller ID

- 5.1 Westnet may use information obtained through the Caller ID, Calling Number Display or 'CND' Service to enhance the way it deals with its customers.
- 5.2 The only information obtained by Westnet when the Customer connects to an Internet Access Server is the Customer's telephone number and the time and duration of the call.
- 5.3 Westnet uses CND for the following activities: fraud prevention, control of access to Customers' accounts, billing, ensuring and supporting the accuracy of Westnet billing records and for internal management purposes, including call routing.
- 5.4 Westnet receives CND information regardless of whether it has been blocked on that number. Westnet will not disclose Customer confidential information to any third party unless required to do so by law.

6. General

- 6.1 Neither party shall be responsible for delays or failures in performance resulting from acts beyond its control, such as acts of God, acts of war, epidemics, civil insurrection, riot, power outages, fire, earthquakes and other disasters.
- 6.2 The terms and conditions of this agreement supersede any previous agreement or statement of terms and conditions between Westnet and the Customer.
- 6.3 By receiving the Services the Customer agrees that it has read, understand and accepts the provisions of this agreement.
- 6.4 The Customer acknowledges that Westnet may make and store records of personal information required to establish the Customer's identity, and records of the Customer's credit worthiness, credit standing, credit history, or credit capacity ('Personal Information'). The Customer acknowledges that Personal Information may be disclosed to a credit reporting agency. The Customer acknowledges that this information may be used to notify credit providers of any credit default committed by the Customer against Westnet.
- 6.5 Westnet may amend this agreement from time to time.
- 6.6 It is the responsibility of the Customer to review the Westnet website periodically to ascertain whether the provisions of this agreement have changed. Any amendments to this agreement will become effective from the date they are posted on the Website. The Customer agrees that if it continues to use the Service after this time it will be deemed to have agreed to be bound by all amendments. Notwithstanding, Westnet will provide customers with at least twenty one (21) days notice by email, should amendments result in a significant detrimental impact of a relevant service. Customers in a contract may terminate 42 days from date the notice was sent without incurring cancellation fees. Usage charges do not apply.
- 6.7 If any of the provisions in this agreement are declared invalid or unenforceable, it will be struck out and the remaining terms will remain in force.
- 6.8 If Westnet does not act in relation to a breach of this agreement by the Customer, Westnet does not waive its right to act with respect to subsequent or similar breaches.
- 6.9 This agreement is governed by the law in force in the State of Western Australia, and the parties irrevocably submit to the non-exclusive jurisdiction of the courts of Western Australia and courts of appeal from them for determining any dispute concerning this agreement.