

# Designate Group Service Level Agreement

This agreement documents the terms of service for web accounts and other services provided by Designate Group to the customer.

## Web accounts

1. The customer is responsible for the actions of itself and account users.
2. Any use by the customer that interferes with the server's ability to function in its primary purpose of publishing web documents is prohibited.
3. Mail abuse (including, but not limited to, mass mailing unsolicited email and email forgery) and usenet news abuse (including, but not limited to, mass cross-posting articles and posting unrelated to group topics), whether direct or indirect, whether used externally to promote a site at Designate Group or sent via Designate Group, is prohibited.
4. Use of Designate Group's facilities to provide software or lists for mass mailing unsolicited email is prohibited.
5. Use of Designate Group's facilities to commit network abuse (including, but not limited to, denial of service attacks) or otherwise compromise the security of hosts or networks is prohibited.
6. All data stored or transmitted must be legal under all applicable Australian laws. The customer is solely responsible for determining the legality of their data that is stored or transmitted.
7. Should the customer become the target of a network attack, Designate Group reserves the right to take any necessary actions (including, but not limited to, temporary suspension of the customer's account) required to return server or network operation to normal.
8. Designate Group will use its best efforts to maintain, but does not guarantee, the privacy of email, network use, and the contents of user directories.
9. Use of Designate Group services, including the storage of information, is at the customer's sole risk. Designate Group does not warrant either the results to be obtained from the service or that the service will be uninterrupted or error free. Except as may be provided otherwise by law, Designate Group's services are provided on an "as is" basis without warranties of any kind, either express or implied. Neither Designate Group nor anyone else involved in creating, producing, or delivering Designate Group services shall be liable for any direct, indirect, incidental, special or consequential damages arising out of the use of Designate Group, the inability to use Designate Group, or any breach of any warranty. In any event, where permitted by law, any liability of Designate Group shall be limited, in the case of services, to supplying the services again, or in the case of goods, by resupplying the same or similar good. The provisions of this paragraph will survive termination of this agreement.
10. The customer will indemnify and hold harmless Designate Group against any loss, damage, cost and expense which Designate Group may incur or become liable for by reason of claims or actions for libel, violation of privacy rights, plagiarism, copyright infringement, trademark or trade name infringement, domain name disputes, and claims arising in connection with data transmitted pursuant to the terms and provisions of this agreement and any claims or suits resulting from the customer's use of the service including, without limitation, the expense and cost of defending any and all such claims and actions, except where such claims result solely from the negligence of Designate Group's failure to perform its obligations under this agreement. The provisions of this paragraph shall survive termination of this agreement.
11. If Designate Group is informed of an alleged copyright or trademark infringement involving an account, Designate Group will attempt to notify the customer of those allegations and secure a response. Designate Group may, in its sole discretion, remove or terminate the account containing, on a temporary or permanent basis, materials that Designate Group believes may create, constitute, or contribute to copyright or trademark infringements. The customer expressly waives the right to assert any claims against Designate Group for any such removal or termination. To inform Designate Group of a possible infringement please send an email to [solutions@designate.com.au](mailto:solutions@designate.com.au).
12. Accounts are invoiced according to the agreed schedule in the quote and/or first invoice. Payment is due when invoiced, with an overdue date specified in the invoice. Overdue accounts may be terminated or suspended at Designate Group's discretion. Designate Group reserves the right to issue special invoices when the balance due will be more than \$200 over the base monthly service fee.
13. Designate Group may terminate service to the subscriber at any time, without notice, for violation of this agreement. Designate Group will not be liable for any damages or harm to the customer resulting from such termination.
14. The customer may terminate their account at any time. The request to terminate the account must be in writing. The customer may send a cancellation request via an email message to [solutions@designate.com.au](mailto:solutions@designate.com.au) or by.
15. Use of a Designate Group account indicates acceptance of the terms of this agreement by the customer.

## **Other services**

16. Designate Group may provide other services to the Customer. These may include, but are not limited to, design of websites, other design services, writing of software, the use of Designate Group's software and the registration of domain names.
17. Except as provided otherwise in writing, in every instance where Designate Group provides design services, or writes software copyright in the design or the software remains with Designate Group and any fee paid is for a licence to use, terminable at will.
18. Except as provided otherwise in writing, in every instance where Designate Group permits the use of Designate Group software, any fee paid is for a licence to use, terminable at will, and no proprietary interest in any IP right is transferred to Customer.
19. Designate Group may assist, or provide facilities that permit, a Customer to register a domain name. In every case, Customer agrees and undertakes that it will indemnify and hold harmless Designate Group from any and all risks that might arise from the failure of the assistance, or the use of the facilities, to work as intended, or at all. In particular, the Customer agrees and accepts that any domain registration process is subject to the terms and conditions, however described, of the domain registrar and its authorised representatives, and any breach of these is likely to have serious consequences. It is the sole obligation of Customer to become aware of the terms and conditions regarding any domain name.
20. Customer agrees that it has the sole obligation to ensure that any fees for the registration of a domain, or the renewal of a domain, are paid in due time. In particular, Customer agrees that any notice of payment due issued by Designate Group, or lack of same, does not, in any way, alter the obligation of Customer to respond to any notices or pay any fees by the due date. Customer agrees and undertakes that it will indemnify and hold harmless Designate Group from any losses incurred as a result of a failure to register, or renew registration, of a domain name.
21. This agreement shall be governed by and construed in accordance with the law of New South Wales, Australia. This agreement contains the full understanding of the parties with respect to the subject matter hereof. Any email or other correspondence with the customer, or any other document that is created by or sent by the Customer to Designate Group which is in any way inconsistent with this agreement, or which imposes additional obligations upon Designate Group is null and void.

## **Acceptable use policy**

All Designate Group co-location, dedicated server, or other internet connection customers are bound by the following Acceptable Use Policy. This document may be updated from time to time without further notice to the Customer. Please consult this site periodically for the most recent revision of this document.

### **No Customer shall:**

1. Do anything illegal or anything that adversely affects Designate Group's legal interests. The following list is non-exclusive, and should not be considered license to commit other illegal activities not specified below. All illegal activity is prohibited, and Designate Group will cooperate fully with any law enforcement officials and/or agencies investigating and/or prosecuting such activities.
2. Cracking/Hacking – attempts to access accounts or systems other than the user's own accounts or systems or an account or system that the user has been explicitly authorized to access is illegal under federal and state law.
3. Child pornography – as defined by law. This is strictly prohibited and dealt with quickly and harshly. Be warned that Australian laws in this area have extra territorial reach.
4. Gambling – Unlawful gambling activities.
5. Pyramid schemes, fraudulent activities and phishing – any activities that are unlawful according to the laws of a State or Territory.
6. Unlawful access to services – attempts to utilise services that are not contracted for is considered theft and will be dealt with as such.
7. Harassment – use of Designate Group's network to harass or threaten (in the legal sense of those terms), any other person.
8. Incitement of others – use of Designate Group's network to unlawfully harass, threaten or vilify others. Customers should seek advice from a legal practitioner if they have doubts about the legality of any activity that they undertake.
9. Do anything that threatens the integrity of Designate Group's network or the utilization of it by other persons.
10. Denial of Service (DOS) attacks – no customer will commit, or permit, a DOS attack against any Designate Group host, or any other host on the Internet. Similarly, no Designate Group customer will knowingly or negligently allow incitement of others to attack any host on the Internet.
11. Blacklists – No customer shall do anything that could get any portion of Designate Group's IP space (or the address space of a Designate Group Customer) put on blacklists such the RBL (Realtime Black List) as maintained by MAPS (<http://www.mail-abuse.com>) or other similar organisations, or perform activities that would cause portions of the Internet to block mail or refuse to route traffic to any portion of Designate Group's IP space (or the address space of a Designate Group Customer).
12. Without the prior agreement in writing of Designate Group, perform actions that cause unusual load on Designate Group servers (for example, mail servers, web servers, usenet servers, name servers, etc.) that cause slowness or denial of service to other Designate Group customers.
13. Do anything that threatens the Internet or any other network.
14. No customer shall take actions, whether intended or not, that cause any portion of the Internet, or the Internet as a whole, to become unusable to any other portion of the Internet, or the Internet as a whole.
15. No customer shall take actions, whether intended or not, that degrade the usefulness of the Internet, or any portion of the Internet, either through network degradation, flooding of usenet or email or so on.
16. Spam – No customer shall send unsolicited commercial email, unsolicited mass mailings, spam or flood usenet newsgroups, or anything of that sort. If you have questions about what is allowed and what is not, please refer to [<http://spam.abuse.net>], and/or email [solutions@designate.com.au](mailto:solutions@designate.com.au) for clarification.
17. Mail abuse (including, but not limited to, mass mailing unsolicited email and email forgery) and usenet news abuse (including, but not limited to, mass cross-posting articles and posting unrelated to group topics), whether direct or indirect, whether used externally to promote a site in Designate Group IP space or sent across the Designate Group network, is prohibited.
18. No spam may originate from Designate Group IP space.
19. No spam may advertise sites or services located on Designate Group IP space (even if the spam originates elsewhere).

20. No Designate Group Customer shall use third party mail servers to relay spam. This is considered a DOS attack on the third party and will be treated as such.
21. No Customer shall participate in pyramid schemes, email chain letters and the like.
22. A customer shall not use Designate Group's facilities to provide software or lists for mass mailing or unsolicited email.

**Furthermore, all Designate Group Customers must:**

1. Maintain the following email addresses and respond promptly to all email sent to these addresses:
  - a. abuse@yourdomain.com
  - b. postmaster@yourdomain.com
2. Maintain and enforce on their clients an AUP similar in scope and intent to this document.
3. Maintain a policy requiring proper "From" and/or "Reply-To" headers for email and usenet postings.
4. Maintain proper security on their mail server, to prevent the mail server from being used as a "spam amplifier" by third parties. Servers must restrict "email relaying." (Not applicable to customers who do not maintain a mail server.)

Designate Group reserves the right to terminate or interrupt any account in part or in full without refund for violation of this Acceptable Use Policy. In all but the most extreme or serious cases, good faith attempts will be made to resolve an issue without interruption of service. In cases where service has been terminated or interrupted, resolution will be handled on an individual case basis, at Designate Group's sole discretion.

For further explanation of any portion this document, and the terms set herein, or to determine whether your intended activities are permissible under the terms of this document, contact us at [solutions@designate.com.au](mailto:solutions@designate.com.au) or via phone at 02 9299 7711.

**Changing Info**

We strongly recommend that you limit the access to your password as much as possible. If possible do not disclose your password to anyone. Should someone with access to your password wish, all of your account information can be changed. You will be held liable for any activity that may occur as a result of you losing your password. Therefore, if you feel that your password has been compromised, you should immediately contact Designate Group to rectify the situation.

**Privacy**

By using our hosting service, you approve of the collection and use of your information by Designate Group. Designate Group's privacy policy can be found at <http://designate.com.au/privacy-policy/>.

If at any time, we change our privacy policy, we will post those changes at <http://designate.com.au/privacy-policy/>.

**DISCLAIMER**

Designate Group offers its website, hosting service and its contents for Designate Group's clients, VARs, potential clients, and potential VARs. The information within the Designate Group website is provided to simplify the communication of products and services provided by Designate Group. Any use of such material not in accordance with its intended purpose is prohibited.

The information provided is to the best of our knowledge "the most correct information available at the time." Designate Group is held not liable for all faults and without warranty of any kind. Designate Group is not responsible for any errors, nor does it guarantee the accuracy or completeness of the information.

Designate Group shall not be held liable for any damages, or any losses under any circumstances resulting from the use of information on the Designate Group website.

**SERVICE LEVEL AGREEMENT**

Designate Group will provide the web hosting services to you in accordance with the following Service Levels:

Service Criteria	Measurement and frequency of measurement	Target Service Level
Availability	SA = Uptime / (Total Time – Excused Downtime) x 100  <b>Where:</b> <b>Uptime means:</b> the time (measured in minutes) in any month during which the Service is able to be used by the Customer as intended.  <b>Total time means:</b> the time (measured in minutes) in any month.  <b>Excused Downtime means:</b> the time (measured in minutes) in any month during which the Service is not available due to any of the following: <ol style="list-style-type: none"> <li>a. Any matter or thing out of our control (eg. act of God, strike, war, terrorism, riot, explosion etc)</li> <li>b. Failure of your equipment</li> <li>c. Any Act or omission by you</li> <li>d. Planned maintenance we undertake</li> <li>e. Permitted suspension by us of the Service</li> </ol>	99.95%

**Rebates for Service Level Failure**

Service Availability Target Failure	Percentage of Monthly Service Charge credited
Less than 21 minutes per calendar month	NIL
21 minutes to less than 4 hours per calendar month (Availability < 99.95%)	20.00%
4 hours or more per calendar month (Availability < 99.5%)	50.00%