

Terms and Conditions

By creating an account via www.diskmanconsole.net/register, you and your associated business entities hereby agree to the following terms of service.

1. Definitions

1. "Account" means the account held with James Demetrie t/a DISKMANdotNet by the Customer that is used for billing, contact information and details of Services assigned to the Customer.
2. "Customer" means the person or entity who ordered Service(s) from James Demetrie t/a DISKMANdotNet .
3. "Service", "Service(s)" or "Services" means any product(s) or service(s) the Customer has ordered from James Demetrie t/a DISKMANdotNet. This can include, but is not limited to, web site hosting, domain name registration or transfer or renewal, SSL certificates, VPS and SMS services. These product(s) and service(s) are identified in full within the "sign up" and "service provision" emails DISKMANdotNet sends to the Customer after an order has been placed. The specific details of the Services can be found by logging in to My Account or on our website.
4. "DISKMAN", "DM" or "DISKMANdotNet" means the retail operations of James Demetrie t/a DISKMANdotNet.
5. "My Account" refers to DISKMANdotNet's customer account, billing and management portal, available online at <https://www.diskmanconsole.net/myaccount>

2. Acceptance

1. The Customer signified acceptance of these Terms of Service, as well as our Privacy Policy, Acceptable Use Policy, Customer Service Policy, **Service Level Agreement** (where applicable), any applicable Registrant Agreement and **Reseller Agreement** when they submitted their order to DISKMANdotNet for an Account and/or Services and that order was accepted.

3. Term

1. The Customer agrees to a month to month or annual contract term for Services unless otherwise stated in the Service offering (eg. domain names, SSL certificates, special Services with an agreed term), or otherwise agreed upon in writing. The month to month or annual contract for Services is automatically renewed each month or year in perpetuity subject to cancellation by the Customer as per Section 13 of this agreement.
2. Monthly or annual services are established as part, thereof, signifying the beginning of a new month or year demotes commitment until the end of that monthly or annual period.

4. Service, Marketing and Promotional Emails

1. The Customer agrees to receive emails directly relating to the Service(s) provided, as well as marketing and promotional emails from DISKMANdotNet to the email address registered to

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their account. The Customer can unsubscribe from marketing and promotional emails only, by clicking on Unsubscribe within the marketing email.

2. DISKMANdotNet warrants that they will never sell or trade any email address to any third party, in accordance with the Privacy Policy.
3. If the Customer does not want to receive these emails, they are required to cancel all active Services and close their Account, in accordance with Section 13 of this policy.

5. Availability of Services

1. While DISKMANdotNet will endeavour to provide continuous availability of all Services to the Customer, DISKMANdotNet will not be liable for any Service interruptions or down time that is not covered by a Service Level Agreement.
2. Scheduled maintenance will be performed at a time which is deemed suitable by DISKMANdotNet which has the least noticeable impact on the Customer, and should it require the Services to be offline for greater than thirty (30) minutes, DISKMANdotNet will post details of the scheduled maintenance at least twenty-four (24) hours prior
3. Unscheduled maintenance will be performed as required by DISKMANdotNet, and should Services be offline for greater than thirty (30) minutes, DISKMANdotNet will post details of the maintenance and any updates until it has been completed. Details of these events can be found at <https://www.diskmanconsole.net/servicestatus> (login required).

6. Domain Name Registration and Renewal

1. The Customer acknowledges that DISKMANdotNet is an authorised reseller of Synergy Wholesale, TPP Wholesale and GoDaddy, who are both ICANN and auDA accredited registrars.
2. The Customer acknowledges that they have read and agree to any applicable Registrant Agreement before purchasing any domain name Service(s) from DISKMANdotNet.
3. The Customer acknowledges that all domain name Service(s) are non-refundable once the order for the domain name Service(s) has been accepted and processed by DISKMANdotNet.
4. DISKMANdotNet does not warrant or guarantee that a domain name registration will be approved, irrespective of whether the invoice for the domain name has been paid. The Customer should take no action in respect of the requested domain name(s) until they have been notified by DISKMANdotNet that the domain name(s) has been successfully registered and is in the Customers name.
5. The registration of the domain name and the ongoing use of the domain name are subject to the relevant naming authority's terms of service and the Customer is responsible for ensuring awareness of these terms and that they are adhered to. The Customer waives any right to make claim against DISKMANdotNet in respect to a decision made by a naming authority to refuse registration or renewal of a domain name.
6. The Customer acknowledges that DISKMANdotNet is not obligated to renew a domain name if the Customer has not confirmed to DISKMANdotNet that the domain name is to be renewed, or the invoice for renewal has not been paid in full, or it is determined that the Customer does not

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satisfy the eligibility criteria to continue holding the domain name license. In these circumstances, DISKMANDotNet will not be held liable by the Customer for any loss or damages. All renewal requests must be submitted via My Account and it is the Customer's responsibility to confirm that the renewal request has been successfully processed in full.

7. Domain name registration or renewal may be declined by DISKMANDotNet if the Customer is in breach of the Terms of Service, Acceptable Use Policy, Customer Service Policy or any applicable Registrant Agreement, or the customer has other unpaid invoices in their Account.
8. It is the Customer's responsibility to ensure that the Registrant and Technical contact information is kept up to date on every domain name. As per registry-registrar policy and agreements, DISKMANDotNet will use this information to advise the Customer of any pending expiry, renewal or transfer requests.
9. Should the Customer choose to terminate all services with DISKMANDotNet, but does not transfer a domain name to another registrar, the Customer agrees that DISKMANDotNet may contact the Customer after the Account closure to advise of any domain name expiry, renewal or transfer.

7. Limitation of Liability

1. DISKMANDOTNET shall not be liable to the Customer for harm caused by or related to the Customer's Service or inability to utilise the Service unless caused by gross negligence or wilful misconduct.
2. Neither Party shall be liable to the other 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.
3. Notwithstanding anything else in this agreement, the maximum aggregate liability that DISKMANDotNet, 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.

8. Customer General Warranties and Undertakings

1. The Customer warrants that any information supplied for the purpose of creating an Account with DISKMANDotNet, including but not limited to, first name, last name, address, telephone number and email address is true and correct, and will be kept up to date via My Account.
2. The Customer warrants that they will keep any passwords or sensitive information used with the Service in a secure location.
3. The Customer warrants that at the time of entering into this agreement they are not relying on any representation made by DISKMANDotNet which has not been expressly stated in this agreement, or on any descriptions or specifications contained in any other document produced by DISKMANDotNet.
4. The Customer warrants that all due care has been taken to ensure data integrity before it has been uploaded to DISKMANDotNet's servers. This includes an undertaking that the Customer

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will conduct the appropriate virus and malware scans on the data before it is uploaded to DISKMANDotNet's servers.

5. 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.

9. DISKMANDotNet's General Warranties and Undertakings

1. DISKMANDOTNET accepts liability for the supply of the Service to the Customer to the extent provided in this agreement.
2. DISKMANDOTNET does not warrant that:
 - The Services provided within this agreement will be uninterrupted or error free;
 - The Services will meet your requirements, other than as expressly set out in this agreement;
 - The Services will not be subjected to external hacking attempts, viruses, worms, denial of service attacks, or other persons gaining unauthorised access to the Service or internal DISKMANDotNet systems.
3. DISKMANDotNet 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.
4. No oral or written information or advice given by DISKMANDotNet or its resellers, agents, representatives or employees, to the Customer, shall create a warranty or in any way increase the scope of the express warranties hereby given, and the Customer should not rely on any such information or advice.
5. In no event will DISKMANDotNet 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.

10. Fees and Credit Management

1. In relation to fees for Services:
 - Fees for Services ordered by the Customer shall begin on the date of the initial order. This may be monthly, quarterly, semi-annually, annually, biennially or triennially.
 - The sign up date will serve as the anniversary date for all future billings including one time fees, upgrades, additional services, cancellations and service credits, unless the Service only allows annual or biennially billing cycles (eg. domain name registrations, SSL, etc).
 - Fees are due in advance of the billing cycle and will be invoiced to the Customer fourteen (14) days prior to the due date. If a credit card is stored on in the Account, it will be charged three (3) days prior to the due date to allow sufficient time for any

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potential issues (such as insufficient funds, expired cards, etc) to be rectified before the due date.

2. In relation to fees for upgrades to Services:
 - Upgrades ordered by the Customer on the billing anniversary date will be billed for a full cycle and will continue each cycle on the anniversary date, unless the Services only allows annual or biennially billing cycles (eg. domain name registrations, etc).
 - Upgrades ordered by the Customer after the billing anniversary date will be prorated to the next anniversary date at the full monthly cost. Future fees will appear as the new plan from your existing anniversary billing date.
 - Fees for upgrades will be payable within seven (7) days of the upgrade taking place. If a credit card is stored on file, it will be charged three (3) days prior to the due date, to allow sufficient time for any potential issues (such as insufficient funds, expired cards, etc) to be rectified before the due date).
 - Additional fees may be payable for upgrades where manual work is required by DISKMANdotNet to process the upgrade request.
 - In relation to fees for downgrades to Services:
 - Downgrades will be processed when the request is received by DISKMANdotNet from the Customer, unless otherwise specified in the request.
 - A credit will be issued to the Customer's Account as account credit for the difference of any prorated pre-paid amount minus the cost of the new plan prorated on the chosen cycle.
 - A \$9.95 administration fee may be charged for a downgrade request at DISKMANdotNet's sole discretion. Additional fees may be payable for downgrades where manual work is required by DISKMANdotNet to process the downgrade request.
3. Fees for one-off Services including, but not limited to, dedicated IP address, SSL certificates, SMS credits, instant data blocks and instant disk blocks, are due within seven (7) of the invoice being issued.
4. All published prices are inclusive of any government taxes (GST) and charges unless otherwise noted.
5. Any unpaid invoices in the Customer's Account must be paid in full before new Services will be provisioned.
6. 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.
7. Invoices that are more than seven (7) days past the due date may automatically incur a late payment fee of \$15.00 inc GST which will be payable on top of the invoice amount.
8. Services with unpaid invoices that are more than fourteen (14) days past the due date may be automatically suspended, and a service restoral fee of \$49.00 inc GST in addition to any outstanding fees may apply to have the service restored.
9. Services with unpaid invoices that are not paid in full within thirty (30) days of the due date will be automatically terminated.

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10. If your service is terminated, and you hold an ongoing monthly service subscription with DISKMANdotNet, the remaining amount of the contract period becomes payable immediately.

11. Refunds

1. The following Services are not eligible for a refund if the Service has been successfully provisioned by one of DISKMANdotNet's suppliers:
 - Domain names;
 - SSL certificates;
 - SMS credits;
 - Software licenses and carbon offset add-ons.
 - Custom Programming and Web Site related works
2. A full refund, minus a \$9.95 administration fee, will be provided to either account credit or returned to the original payment method, if the order was placed within forty-five (45) days of the date that the refund was requested for any of the following Services:
 - Any shared cPanel web hosting Service;
3. A pro rata refund will be provided to account credit only, minus a \$9.95 administration fee, if the refund request was made more than forty-five (45) days after the order was placed for any of the following Services:
 - Any shared cPanel web hosting Service;
4. The Customer will not be entitled to a refund if any of DISKMANdotNet's Terms, Policies and Agreements have been breached by the Customer.
5. All other refunds will be processed at the sole discretion of DISKMANdotNet Management, in-line with the Australian Competition & Consumer Commission's published policies and guidelines. More information can be found at <https://www.accc.gov.au/>

12. Suspension and Termination of Services

1. DISKMANdotNet may suspend or terminate Services if:
 - The Customer is found to be in breach of any formal policy including but not limited to the Terms of Services, Acceptable Use Policy, Customer Service Policy or any applicable Registrant Agreement;
 - The Customer has become insolvent or bankrupt;
 - The Customer has unpaid invoices as per Section 10 of this agreement.
2. DISKMANdotNet may decide at its sole discretion to advise a Customer that their Account and/or Service(s) will be terminated by giving thirty (30) days written notice, and any applicable refunds will be processed as per Section 11.5 of this agreement.
3. If a Customer's Account is closed for any reason, the Customer must pay all outstanding invoices by the due dates.
4. If a web hosting Service is suspended or terminated for any reason, DISKMANdotNet is under no obligation to provide the Customer with a copy any data associated with the Service. DISKMANDOTNET may provide the customer with a backup of the data, if it is available, for a fee

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of \$199.95 inc GST.

13. Cancellation

1. The Customer can request cancellation of their Account or any Service(s) with DISKMANdotNet for any reason by logging in to the customer's My Account and submitting a cancellation request. For security reasons, we will not accept cancellation requests by any other method.
2. Any pre-paid fees for Services past the current billing month or year will be refunded in accordance with Section 11 of this agreement once a refund request has been made by the Customer. This can only be done by submitting a Support Ticket to Accounts through the customer's My Account.
3. The Customer agrees to pay any outstanding invoices upon cancellation of their Services.
4. If the Customer requests cancellation of a Service after the invoice for the renewal of the Service has been paid, a refund will be issued in accordance with Section 11 of this agreement.

14. Data Management

1. It is the Customer's sole responsibility to maintain regular off-site backups of their data. The Customer will not hold DISKMANdotNet liable for incomplete, out of date, corrupt or otherwise incomplete data recovered from backups and archives.
2. DISKMANdotNet makes every reasonable effort to backup and archive the Customer's data on a regular basis for the purpose of disaster recovery.
3. In the event of hard disk failure or data corruption, DISKMANdotNet will restore data from the last known verified archive. If all backup and archived data appears to be corrupt, the Customer should be prepared to upload all of their data to their Service from their own copy or an off-site backup, and recreate all mailboxes, databases, FTP accounts, etc.
4. DISKMANdotNet takes automatic local system and off-site backups of all web hosting Services in the following ways and frequencies:
 - a. Daily on-site at 8am (approx) - rotated on a 7 day basis
 - b. Weekly on-site - rotated on a 4 weeks basis
 - c. Monthly on-site on 15th of each month - rotated on a 3 months basis
 - d. Daily off-site at 12am, 3am, 6am, 9am, 12pm, 3pm, 6pm and 9pm - rotated on a 3 days basis
 - e. Weekly off-site - rotated on a 4 weeks basis
 - f. Monthly off-site - rotated on a 12 month basis
5. If the Customer requires DISKMANdotNet to supply a backup of their data for any reason or purpose that is not the direct fault of DISKMANdotNet, a fee of \$199.95 inc GST per Service will be payable by the Customer before the data will be made available.

15. Changes

1. DISKMANdotNet may amend our Terms & Conditions at any time. At all times DISKMANdotNet will make available the current terms for client review and download via our website. Changes to these terms other

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than price changes will become effective upon their publication to our website, and furthermore, 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 Service(s) in-line with our documented Cancellation Policy.

2. All DISKMANdotNet Terms, Policies and Agreements are available for download from our website at any time.

16. Use of Identity

1. The Customer agrees to use the DISKMANdotNet logo, company information and related services in accordance with approved marketing guidelines.
2. DISKMANdotNet agrees not to use a Customer name, logos or information without prior written consent of the Customer, except in the case of showcasing your front end web site as a means showing what we are capable of producing to a new or current prospective customer.

17. Entire Agreement

1. These terms and conditions constitute the entire agreement between DISKMANdotNet and the Customer, and it supersedes all prior oral or written agreements, understandings and representations.

18. Governing Law

1. The Customer agrees to abide by all local, state and federal laws pursuant to the Services delivered by DISKMANdotNet.
2. The Customer agrees that these terms and conditions are governed by the laws of Victoria, Australia, and agrees to the exclusive jurisdiction of the Courts of that state.

If you have any questions about this agreement, please contact our Client Services team at clientservices@diskman.net

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