

## Website Legals

There are four types of “legal” documents that are commonly seen on websites. Not all are needed. What is needed will depend on what your website does. Your website:

1. will need general **Website Terms and Conditions**;
2. it may need a **Privacy Policy**;
3. it may need an **Acceptable Use Policy** – if your website permits users to upload content to it; and
4. it may need a **Terms of Sale** – if you sell items or downloads from your website.

A quick rundown of these four Website “Legal” documents is set out below, along with an indication of when each document is required; before that, though, a word of caution....

### RULE NO. 1 - DON'T “RE-USE” SOMEONE ELSE’S

Rule No. 1 in relation to website legals is that, no matter how tempting it may be, you should never “re-use” someone else’s website legals for your website. Firstly, this is because each website and business is different and what may be a reasonable set of terms for one business’s website may not be appropriate for your business. Secondly, the likelihood is that the website legals you are copying may have also been copied off someone else’s website. Thirdly, this is copyright infringement.

### WEBSITE TERMS AND CONDITIONS

Every website needs these, even if your website is merely a “brochure” site that simply informs users what you do, where you are and how to contact you. Website terms and conditions deal with matters like the reliance, if any, that may be placed on the content on your website and excludes any loss or damage anyone suffers as a result of reliance on that content. It also informs users of your IP rights, such as your trade mark rights and copyrights. There will be other terms and conditions specific to your business that need to be included in the website terms and conditions and this is why a pro-forma set of terms and conditions, or someone else’s website terms and conditions, that have had no professional legal input, are of little value and will not help protect your business on the Internet.

## PRIVACY POLICY

Privacy policies set out how your business will use the information it collects about visitors to its website or if you sell items or downloads from your website, how your business will use their personal information such as their names and contact details.

A privacy policy for the purposes of complying with the Federal Government's *Privacy Act 1988* (Cth) may not be required by your business in certain circumstances, including if your business turns over less than \$3 Million. However, if your business deals in personal information or your website collects sensitive personal information such as medical information, and information about people's political and religious affiliations it may apply. As you can see, it's complex.

Furthermore, if you do require a Privacy Policy, in order to comply with requirements under the *Privacy Act 1988* (Cth), your business will also need to comply with many other requirements of that Act so as to be able to explain in its Privacy Policy how it will use the personal information it collects from its customers and users of its website.

## ACCEPTABLE USE POLICY

If your business has a website that allows users to upload content to it then you will need an Acceptable Use Policy. A simple blogsite is an example of this. The Acceptable Use Policy sets out what kind of content users may upload and what they may not upload, and what will happen if they upload material that they are not permitted to upload. Acceptable Use Policies are generally aimed at protecting your business's website from being used as a platform for the display of obscene, defamatory and vilificatory materials, and the liability that may flow from hosting such material on your website. Accordingly, the Acceptable Use Policy will seek to emphasise that the materials posted on your business's website are not the views of your business. Your Acceptable Use Policy is also likely to contain provisions to allow the take-down of any materials posted.

## E-COMMERCE – TERMS OF SALE

If you are selling products from your website, you will need to have a set of terms of sale governing the transaction that your buyers will need to agree to upon making a purchase from your website. These will set out terms specific to your particular industry and products and deal with more pedestrian matters such as payment, delivery, returns and liability.

**Contact us today for assistance with YOUR WEBSITE LEGALS**

- **Local and National - (02) 4288 2030**
- **International - + 61 2 4288 2030**
- **info@marshallip.com.au**