

Terms of Service

This Terms of Service agreement (referred to as 'TOS'), is between ServerGrid and you, the customer. ServerGrid, our affiliates, agents, providers, employees and the like are referred to in this TOS as 'Company,' 'we', 'us', 'our,' and the like. You, the Customer, is referred to as 'customer', 'you', 'your', 'yours', 'user', 'their' and the like. Together we may be referred to as the "Parties."

If you do not wish to be bound by the terms and conditions of this TOS, then you should not apply for service or you should cancel the service immediately. By registering and/or using the services, you are hereby accepting and agree to abide by the terms and conditions of this TOS.

Refunds

Since we use a third-party to register domains for you and pay them at the time of registration, we cannot issue refunds for domain registrations. If you cancel your service with us, you will keep ownership of your domain name for as long as you continue to renew the domain. The Parties agree that all monies collected, regardless of the service collected for, are deemed earned at the time of collections.

Abuse

Please report all abuse to abuse@ServerGrid.com. Failure to respond to our Abuse Department in a timely manner may result in account suspension or termination. Any domain causing abuse (including adult content, spam, prohibited scripts, phishing websites, etc.) will be suspended or terminated without warning and without refund.

Adult Content

We do not allow adult content. Pornography is not allowed. Art is allowed. We get to decide the difference.

Allocation of Resources

In the event you are using too many resources, in our sole opinion, we will let you know. We will notify you via email of any problems and work with you to make sure you are not using an excessive amount of resources. In extreme cases, in our sole determination, we may suspend or terminate your account.

Dumpsite

Company does not allow for storage or backup of files on our shared servers outside the root directory of a website. If we deem this content to be inappropriate or an abuse of our storage limits, the content will be considered to be in violation of this TOS and will be removed from our servers without prior notice.

SPAM

Do not send SPAM. We have a zero tolerance policy towards SPAM. We reserve the right to investigate any alleged or actual spamming. If we determine that your account is involved in sending SPAM, we reserve the right to terminate your account and pursue civil remedies for any costs associated with the investigation. We will notify the appropriate governmental agencies if, in our sole opinion, the situation warrants notification. We also reserve the right to disable mail services in the case of SPAMMING, which may result in loss of data.

Prohibited Scripts, Applications, and the like

The following activities are not allowed and may be cause for account suspension and/or termination: Newsgroup spamming, illegal content, copyright infringement, trademark infringement, warez, cracks, software serial numbers, and/or anything else determined by Company to be unacceptable use of our services and/or resources. Additionally, the following are also prohibited:

- ☒ Unsolicited bulk or commercial messages ("spam").
- ☒ Forging, altering or removing electronic mail headers is prohibited. Any domain sending stealth spam will be suspended or terminated without warning and without refund.
- ☒ Sending numerous copies of the same or substantially similar message with the intent to disrupt a server or account ("mail bombing").
- ☒ Spamming Newsgroups: Commercial advertisements are unwelcome in most Usenet discussion groups and on most e-mail mailing lists. Inappropriate posting may result in account suspension or termination. See the newsgroup or mailing lists charter for whether advertising is allowed or not. "Spamming" or sending a message to many different off-topic newsgroups is particularly unethical and will be treated as such.

- ☒ Harassing or intimidating others whether through language, frequency of messages, or size of messages, is prohibited. Sending a single unwelcome message may be considered harassment. If a recipient asks to stop receiving e-mail, you must not send that person any further messages.
- ☒ Providing spamware (software used to send bulk email or software used to harvest email addresses) or links to sites providing spamware is strictly prohibited and subject to demand for removal or account suspension or termination.
- ☒ Hosting or permitting hosting of sites or information that is advertised by unsolicited commercial email from other networks.
- ☒ Providing material that is grossly offensive to the Web community including blatant expressions of bigotry, racism or hatred.
- ☒ Promoting or providing instructional information about illegal activities or promoting physical harm or injury against any group or individual.
- ☒ Displaying material that exploits children under 18 years of age.
- ☒ Offering pirated computer programs or links to such programs or other acts of copyright infringement. Storing or posting adult content. In other words, pornography is prohibited
- ☒ **Note:** If you use the services of another provider (including but not limited to the use of address lists obtained from a third-party vendor or provider) to promote a web site hosted by or through Company (spamvertising), then the provisions of the above Policy shall apply as if the spam were sent through our servers.
- ☒ Installing your own chat room(s).

Data Integrity

We are not responsible for any lost files, information, data, email or anything else posted or stored on our systems.

Server Resource Abuse

(This section does not apply to managed dedicated or colocation servers.) Shared server accounts are limited in use of the amount of server resources. Shared server resource abuse includes any process or service usage that affects normal shared server operation, resources or connectivity, and which causes a server to become overloaded. Shared server resources include CPU and memory usage, number of concurrent processes, number of concurrent port or database connections and total bandwidth. Possible causes of server resource abuse include, but are not limited to, the use of: CGI, Perl, Sendmail, MySQL, MSSQL, PHP, ASP, COLDFUSION, HTTP, SMTP, POP3 and FTP. If server resource abuse is detected, possible actions include, but are not limited to: disabling of the offending script or scripts, disabling of the specific service, disabling of the entire account or account suspension. If server overload is a result of server resource abuse, these actions will be taken without prior notice or warning.

Excessive Use/Overages

You will not exceed the bandwidth, storage and E-mail usage limits outlined by your particular web hosting package. If you use any bandwidth or storage space in excess of the agreed upon number of megabytes per month or if you exceed E-Mail storage and attachment size limitations, we may, in our sole discretion, assess you with additional charges or terminate your account. If we elect to take any corrective action, we will not refund any unused pre-paid fees. Your use of your account and access to it is your responsibility. You are responsible for any unauthorized access to your account resulting in bandwidth, storage and/or E-mail usage exceeding the limits outlined in your particular web hosting package specifications and resultant charges.

Copyright Violations

The Digital Millennium Copyright Act ("DMCA") sets forth the requirements for valid copyright infringement notification. If you would like to notify us of an infringement of your copyright, the DMCA requires that you send your notification to us. You may reach us at abuse@servergrid.com. Include in your notification the following information:

- A physical or electronic signature of the copyright owner or a person authorized to act on the copyright owner's behalf (the "Claimant")
- Identification of the copyrighted work(s) claimed to have been infringed
- Identification of the material claimed to infringe the copyright(s), and enough information for us to locate it

- The Claimant's name, address, and telephone number(s)
- A statement that the Claimant has a good faith belief that use of the disputed material is not authorized by the copyright owner or his agent
- A statement, under penalty of perjury, that the information in the notification of copyright infringement is accurate and that the Claimant is authorized to act on behalf of the copyright owner

Billing Policies

All monies are in US Funds. Charges begin the day you sign up for service, which may be different from the day you first upload all or part of your web site. If you sign up on the 16th of the month, then your anniversary date is the 16th of the month. If you pay annually, your anniversary date only comes around once per year. We reserve the right to suspend or terminate your account at any time when payment is not received by the anniversary due date. Your account will be assessed a \$1 fee for each declined credit/debit card attempt. Returned checks are subject to a collection fee of not less than \$25. Collected funds are considered earned at time of collection and no refunds are issued. Rates are subject to change with notice posted in this Use Policy. All charges are considered valid unless disputed in writing, via certified US Mail or reputable overnight carrier, within sixty-days of the payment receipt date. All chargebacks are invalid unless you send us a certified letter giving us at least thirty days to respond and issue the proper refund/credit, if any. If you pay annually and then cancel prior to the end of the twelve months, there is no refund. Failure to use the account does not relieve you of payment obligations. By providing us with credit/debit card information or checking account information, you agree to allow us to charge or draft the periodic fee from your account. Additionally, you grant us permission to charge your debit/credit card account or checking account for any penalties and collections fees assessed by us. Under no circumstances, will we be responsible for non-sufficient funds fees imposed by your banking institution. If you fail to pay us, then we reserve the right to suspend or terminate your service until you pay us. We will not assist you in retrieving data or with any issues. Charges will continue to accrue until you cancel your account and receive the cancellation confirmation from us. Our suspension of your account is not a cancellation of your account. Once an account is suspended or terminated, we do not guarantee that we or you will ever be able to retrieve any information relating to your web site or email. Suspension or termination does not relieve you of the responsibility and obligation for the payment of all accrued charges and any collections fees. In addition to all amounts owed, a fee of \$25 is charged to reinstate a suspended or terminated account. The taxes and surcharges may vary on a monthly basis; any variations will be reflected in your monthly charge. The current Supplier Surcharge Recovery is one dollar and ninety-three cents (\$1.93) for all clients. Texas Residents are also subject to an Internet Tax on all monthly services of eight and three-tenths percent (8.3%) after the first twenty-five dollars (\$25.00). Any account which goes into collection status will be transferred to a collection agency and incur a twenty-five dollar (\$25.00) processing fee and all other applicable fees and charges. Subscribers must pay a twenty-five dollar (\$25.00) service charge on all returned checks, disputed credit cards, and credit card chargebacks. Past due accounts will accrue a monthly charge of one and one-half percent (1.5%) of the past due balance or one dollar (\$1.00), whichever is greater.

Cancellation

You can cancel at anytime. To cancel your account, complete the form at <http://www.ServerGrid.com/cancel/>. We will process your cancellation and send you an email confirmation of the cancellation. Notwithstanding any other terms of this TOS, your account is not cancelled until you receive this email confirmation. Keep this email confirmation as your proof that the account was cancelled. No refund will be issued.

Reseller cannot cancel a reseller account until the Reseller has deleted all accounts from the hosting control panel. However, we may cancel a Reseller's account at anytime.

Any abuse of our staff will result in the immediate suspension or termination of your account and no refund will be issued. We may terminate or suspend your account at anytime for any reason without prior notice.

Information Requests

We have no obligation to monitor the Service. However, you agree that we have the right to monitor the Service manually or electronically from time to time and to disclose any information as may be necessary to satisfy any law, regulation or other governmental request. We will not intentionally monitor or disclose any private E-mail message unless requested or required by law or an entity of a governing authority. We reserve the right to refuse to post or to remove any information or materials, in whole or in part, that, in our sole and absolute discretion, are unacceptable, undesirable, or in violation of this TOS. We reserve the right to suspend access to the Service for

your account. The account's suspension or termination may be rescinded within our sole and absolute discretion.

No Confidentiality

Information transmitted through us and through the Internet in general is not confidential. We cannot and shall not guarantee privacy or protection of any User. We reserve the right to monitor any User's transmissions when deemed necessary for providing proper service and/or to protect the rights and property of Company.

Limitation of Liability

Under no circumstances shall we, our agents, our providers, or employees be liable for any damages, which result in any way from User's use or inability to use the Service or any part thereof.

This includes all direct and indirect damages, special, punitive or consequential damages that may result from busy signals, errors, delays in the service, deletion of files, viruses, theft, or alteration of a user's computer. In the event that we are found liable under any circumstance under the terms of this TOS, our liability shall be limited to the unused balance of user's subscription payment pro-rated to reflect the current term.

If you are dissatisfied with the Service or with any terms, conditions, rules, policies, guidelines or practices of ours in operating the Service, User's sole and exclusive remedy is to discontinue using the Service and to cancel their account.

Notwithstanding anything to the contrary herein contained, you agree to indemnify and hold us, our affiliates, licensees, contractors and their respective employees harmless against any and all liability, loss, claim, judgment, damage and expense including without limitation attorney's fees and cost of litigation incurred or suffered by us, our licensees, affiliates, contractors, and their respective employees as the result of any and all use of your account whether authorized or not authorized or as a result of your negligence, willful misconduct, or breach of any of the terms of this TOS, including but not limited to claims, liabilities, losses, damage, judgment and expense which arise out of alleged injury or death of any person or damage to property of every kind and description. You shall promptly notify us in writing of any claim of which it is obligated under this TOS. We shall have the right to assume the defense of any such claim. We and you shall confer as to and agree on the legal counsel(s) to be selected in any such defense. In no case, shall our liability or any penalty, fine or the like, imposed on us, by any authority, exceed the amount paid to us by you.

Customer agrees that it shall defend, indemnify, save and hold Company harmless from any and all demands, liabilities, losses, costs and claims, including reasonable attorney's fees asserted against Company, its agents, customers, officers and/or employees, that may arise or result from any service provided or performed or agreed to be performed or any products sold by customer, its agents employees or assigns. Customer agrees to defend, indemnify and hold harmless Company against liabilities arising out of: 1) any injury to personal property caused by any products sold or otherwise distributed in connection with Company's service; 2) Any material supplied by customer infringing or allegedly infringing on the proprietary rights of a third party; 3) Copyright infringement and; 4) any defective products sold to customer from Company's service.

Scope of Support

This service no longer offers support.

IP Addresses

We may allow you to use an IP Address(es), but that IP Address(es) remains our property. Under no circumstances will you take control, ownership or the like of the IP Address(es). You acknowledge that we own the IP Address(es) and we can change IP Address(es) as we, in our sole opinion, deem appropriate.

Network and Security

You are expressly forbidden to violate or attempt to violate our security. If you violate this policy, then we will investigate, and we will turn results over to the appropriate law enforcement agency. We may also allow the proper law enforcement agency to assist or conduct the investigation.

You are responsible for your account. You are responsible for the security of your username and password. You are responsible for all actions taken under your account.

When communicating with us, you give us express permission to review all aspects of your account.

Your Information

You will always provide us with truthful and accurate information, including, but not limited to: your name; your

full address; your contact phone number; your email address; and, your accurate payment information, like credit card information. It is your responsibility to provide us with an email address which is not at the domain(s) you are signing up under. If there is ever an abuse issue or we need to contact you, the primary email address on file will be used for this purpose. It is your responsibility to ensure the email address on file is current and up to date at all times.

Responsibility of Use

User shall assume all responsibility for all content distributed, accessed, or viewed while connected to or using our service. Under no circumstance shall we be held liable for your actions while you are using the service.

Miscellaneous

In the event that any portion of this TOS is held to be unenforceable, the unenforceable portion shall be construed in accordance with applicable law as nearly as possible to reflect the original intentions of the Parties and the remainder of the provisions shall remain in full force and effect. Our failure to insist upon or enforce strict performance of any provisions of this TOS shall not be construed as a waiver of any provision or right. Neither the course of conduct between the Parties nor trade practice shall act to modify any provision of this TOS. All correspondence and contents of any and all correspondence between us and you be it by newsletter, phone, email or any other method, is considered private and confidential and may not be disclosed by you to any third party for any reason whatsoever. In the event you disclose any information, in violation of this TOS, you agree to pay Company \$10,000 plus any legal fees and collections costs, if any. As the scope of damages may be difficult to quantify, the Parties agree this amount shall be appropriate. We may modify this TOS from time to time by updating this page on our website, and User's continued use of the Service shall be deemed to be User's acceptance of any such modification. It is User's responsibility to check this online area regularly to determine whether this TOS has been modified. If User does not agree to any modification of this TOS, User must immediately stop using the Service and cancel Service. Any cause of action User may have with respect to the Service must be commenced within one year after the claim or cause of action arises or such claim or cause of action is barred. We shall not be liable or deemed to be in default for any delay or failure in performance under this TOS or interruption of service resulting directly or indirectly from acts of God, civil or military authority, acts of public enemy, war, riots, civil disturbances, insurrections, accidents, fire, explosions, earthquakes, floods, the elements, strikes, labor disputes, shortages of suitable parts, materials, labor or transportation or any cause beyond our reasonable control. In any action between us and User to enforce any of the terms of this TOS, we shall be entitled to recover expenses, including reasonable attorney's fees. You agree to allow us to charge your method of payment for any penalties that may be imposed by us. You agree that all chargebacks are invalid, unless you first send us a certified letter giving us three weeks to respond to your inquiry. This TOS constitutes the entire agreement between User and us with respect to the Service. Nothing shall change this TOS except posting a revised TOS by us or a written signed document between us and you.

Disclaimer

Company will not be responsible for any damages your business may suffer. Company makes no warranties of any kind, expressed or implied for service we provide. Company disclaims any warranty or merchantability or fitness for a particular purpose. This includes loss of data resulting from delays, non-deliveries, wrong delivery, and any and all service interruptions caused by Company and/or its employees.

Failure to follow any term or condition of this TOS will be grounds for immediate termination or suspension of your account by Company without prior notification to you. Said suspension or termination shall be decided in the sole opinion of Company.

Applicable Law

This Agreement is subject to and governed by the laws of the State of Texas. Courts of competent jurisdiction in Harris County, Texas shall hear and decide any disputes.

Modification

We reserve the right to add, delete, or modify any provision of this TOS at any time with or without official notice. It is your responsibility to review this TOS on a regular basis.