

outerHOST Terms of Service

Revision 8

Modified on 18 June 2004

This document sets forth the principles, guidelines and policies of outerHOST ("Company") business operations that govern the use of our services by the customer ("Customer"). The Purpose of the Company's Terms of Service Policy ("TOS") is to comply with all federal, state, and local laws coupled with protecting the network security, network availability, physical security, Customer privacy, and other factors affecting the services provided by the Company. The Company reserves the right to impose reasonable rules and regulations regarding the use of its services provided to all Customers and such rules and regulations are subject to change. Such rules and regulations are located on the Internet at <http://www.outerhost.com/webpages/tos.asp>. The TOS is not an all-inclusive, exhaustive list and the Company reserves the right to modify the TOS at any time as needed, effective upon the posting of the modified TOS without notification to the Customer. Acceptance and execution of the TOS binds all parties to the Company's TOS at the time the TOS is executed and modified from time to time. Any violation of the TOS may result in the suspension or termination of your account or such other action as the Company deems appropriate. No credits will be issued for any interruption in service resulting from policy violations.

Violation of any section of the TOS is strictly prohibited and will result in the immediate termination or suspension of the services you receive from the Company.

The Company provides web hosting to a large number of clients. We have a responsibility to protect each client and provide the best services available. We reserve the right to deny service to any individual or company that we judge to break the policies listed below. The following guidelines have been established to insure this intent is met.

Content: All services provided by the Company may be used for lawful purposes only. Transmission, storage, or presentation of any information, data or material in violation of any United States Federal, State or City law is prohibited. This includes, but is not limited to: copyrighted material, material we judge to be threatening or obscene, or material protected by trade secrets and other statutes. The Company is not responsible for any claims resulting from the use of our service. This is also true for sites that promote any illegal activity or content that may be damaging to Company servers and/or any other server connected to the Internet. Links, and storage of such materials are prohibited. This includes, but is not limited to adult sites (both legal/illegal), warez/pirated software/material, serial numbers, and hacker programs/archives.

MP3, music, and video file sharing: Any media content that is publicly available to the internet is strictly prohibited unless written consent from the material's copyright holder is granted to the owner of the website permitting the site owner to store these files on our servers. Fines for this violation can be up to \$1000 per unlawful document. Any privately available material protected and available to only few people with passwords that are strictly withheld by the site owner are acceptable. We monitor inbound and outbound traffic to and from Company servers and if we judge excessive downloads of any privately available media file, the corresponding file will be removed from public view until the Customer is contacted and appropriate action has been taken. If we observe any file publicly available on our servers without the copyright owner's permission, the illegal use of the file will be reported to the copyright holder and the web site will be halted until further notice. **If the Customer is the copyright holder, the Customer can freely publish any media content they wish on our servers as long as the media is not deemed by the Company to contradict the policies stated in this document, the Customer can therefore publish the document.**

Running Processes: We allow third-party programs to run in process (referring to the Microsoft Windows Server Operating Systems) by opening a support ticket in the orbitNET customer interface and requesting the program. The Company reserves the right to deny the installation of any program that we deem to be potentially harmful in any way. The installation of these programs is decided on a one to one basis and an extra charge may be incurred based on system resources used and operational maintenance needed.

IRC and P2P Software: We currently DO NOT allow any IRC (Internet Relay Chat) software, IRC bouncers, IRC bots, egg drops, chat servers, P2P (peer-to-peer) file sharing software such as Kazaa, Napster, eDonkey, Overnet, etc... or similar software to be operated on our servers.

Accessing Other Systems: We do not allow illegal or unauthorized access to other computers or networks belonging to another party or to Company servers, or attempts to penetrate security measures of another individual's system or one of Company's servers (often known as "hacking"). We also do not allow any activity that might be used as a precursor to an attempted system penetration (including, but not limited to: port scanning, stealth scanning, or other relevant information gathering activities). This policy also applies to situations in which the individual attempting to penetrate security measures (the "hacker") and/or his computer are unaware that they could possibly be attempting to penetrate security measures.

Violations of system or network security are strictly prohibited, and may result in criminal and civil liability. The Company investigates all incidents involving such violations and will cooperate with law enforcement if a criminal violation is suspected.

Examples of system or network security violations include, without limitation, the following:

1. Introduction of malicious programs into the network(s) or server(s) (example: viruses, worms, Trojan Horses and other programs intended to inflict harm).
2. Causing or attempting to cause security breaches or disruptions of Internet communication and/or connectivity. Such activities include, but are not limited to, accessing data of which the Customer is not an intended recipient or logging into a server or account that the Customer is not expressly authorized to access. For purposes of this section, "disruption" includes, but is not limited to port scans, flood pings, email-bombing, packet spoofing, IP spoofing and forged routing information.
3. Executing any form of network activity that will intercept data not intended for the individual attempting to access the information.
 4. Circumventing user authentication or security of any host, network or account.
5. Interfering with or denying service to any user other than the Customer or his employees (example: denial of service attack or distributed denial of service attack).
6. Using any program script/command, or sending messages of any kind, designed to interfere with or to disable, a user's terminal session, via any means, locally or via the Internet.
7. Failing to comply with the Company's procedure relating to the activities of Customers on the Company's premises. Violators of the policy are responsible, without limitations, for the cost of labor to correct all damage done to the operation of the network and business operations supported by the network. Such labor is categorized as "emergency security breach recovery" and is currently charged at \$495 USD per hour. Network interference by any Customers that may cause or is currently causing network interference with another Customer will be disconnected immediately. No service credits will be issued to Customers disconnected for network violations and/or interference.

Unsolicited Commercial Email (UCE or SPAM): Spamming, or the sending of unsolicited email, commonly known as "junk mail", FROM the Company's server or using an email address that is operated by a Company server without the Company's AND Customer's written permission is STRICTLY prohibited and will qualify your service for immediate deactivation with no refund. The Company will be the sole arbiter as to what constitutes a violation of this provision. Additionally claims investigated by the Company about SPAM from any of our users, will be fined and billed for such work. The fee for such an instance if you are found to be at fault can be up to \$750 per incident. If SPAM is sent to a mail account maintained by a Company server, this is NOT a violation of this rule. If you do not want SPAM in your inbox, you can download SPAM filtering software on your computer. To report illegal use of our mail servers, please forward the SPAM message to outerhost@outerhost.com.

Server Abuse: Any attempts to undermine or cause harm to any Company server, customer of the Company and/or their computer(s) is strictly prohibited. The Company holds no responsibility for the use of our clients' accounts. Any site using what we deem to be using excessive CPU power or any resources that cause strain to other sites or computers may also be terminated.

Data Transfer: If your account's monthly data transfer usage is close to and/or above what the Company's policy for your web hosting service (defined in your web hosting "plan"), you may choose to purchase additional data transfer. We will work with the Customer to keep their sites alive and fast

at all times. Your web service can be terminated if the Company decides such action should be necessary.

Billing: The first payment is due within 7 days of the signup date. Subsequent payments are due by the date specified in the "Payment Terms" area of that invoice.

Late payments are given a 10-day grace period after the payment due date, at the end of that grace period, if payment has not been received, your service will be temporarily de-activated. Unpaid bills past the 10 day grace period will result of your account and data on our servers to be deleted from the server without a refund of any kind. This is a diagram of the payment timeline.



Cancellation: Cancellation can be made via email to outerhost@outerhost.com. Please notice you must give at least 10 days notice before cancellation if you do not want to pay a \$225.00 cancellation fee, all fees paid for a Company's Services and Products up to the notice of cancellation are non-refundable. This includes fees for domain registration.

Refusal of Service: The Company reserves the right to refuse, cancel, or suspend service at our sole discretion.

IN NO EVENT WILL THE COMPANY BE LIABLE FOR ANY DAMAGES, INCLUDING, WITHOUT LIMITATION, DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES ARISING OUT OF THE USE OF OR INABILITY TO USE THE COMPANY'S SERVICES OR PRODUCTS OR ANY CONTENT THEREON. THIS DISCLAIMER APPLIES, WITHOUT LIMITATION, TO ANY DAMAGES OR INJURY, WHETHER FOR BREACH OF CONTRACT, TORT, OR OTHERWISE, CAUSED BY ANY FAILURE OF PERFORMANCE; ERROR; OMISSION; INTERRUPTION; DELETION; DEFECT; DELAY IN OPERATION OR TRANSMISSION; COMPUTER VIRUS; FILE CORRUPTION; COMMUNICATION-LINE FAILURE; NETWORK OR SYSTEM OUTAGE; OR THEFT, DESTRUCTION, UNAUTHORIZED ACCESS TO, ALTERATION OF, OR USE OF ANY RECORD.

These terms may be modified at any time and without notice. All users previous and new are always subject to the newest terms posted at all times.