

outerHOST Internet Services

Terms of Service

Revision 16

Modified on 27 August 2008

1.1 This document sets forth the principles, guidelines and policies of Mr. Landon Gaus DBA outerHOST Internet Services' ("Company") business operations that govern the use of our services by the customer ("Customer"). The Purpose of the Company's Terms of Service Agreement ("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 at any time without Customer notification. Such rules and regulations are located on the Internet at <http://www.outerhost.com/>. 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 monetary credits will be issued for any interruption in service resulting from TOS violations.

1.2 Violation of any section of the TOS is strictly prohibited and will result in the immediate termination or suspension of the services provided by Company to the Customer.

1.3 The Company provides internet services to a large number of clients. We have a responsibility to protect the assets of 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 or any other policies that the governing body of the Company deems destructive, malicious, etc... The following guidelines have been established to ensure this intent is met.

2.1 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 law, State of Texas law, or City of Dallas 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, software allowing the illegal monitoring of any part's computer system and/or network, and hacker programs/archives. Presence of any materials that are intentionally designed to destroy or harm a computer system is a violation of the TOS agreement which will result in the immediate termination of services received by the Company with no refunds for prepaid services.

The Company also reserves the right to suspend Customer accounts based upon the interception or capture of materials that the Company deems could lead to the creation or modification of material potentially harmful to a computer system.

2.2 Copyrighted Material: The storing of any copyrighted material on a Company computer system is strictly prohibited unless written consent from the material's copyright holder is granted to the Customer permitting the Customer to store these files on our computer system and make them available to any computer system on the Internet. We have the ability to monitor ALL inbound and outbound traffic to and from the Company computer systems and if we discover such material to be present on our computer systems, appropriate law enforcement and other applicable institutions will be notified of the copyright infringement. The Company may also decide to take any actions deemed necessary at its discretion. **If the Customer is the copyright holder of the material, the Customer may freely upload any such material onto the Company computer systems as**

long as the material is not deemed by the Company to contradict the policies stated in this document.

2.3 Running Processes: We allow necessary 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 to the health and well-being of the Company's computer equipment and/or their clients 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.

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

2.5 Accessing Other Systems: We do not allow illegal or unauthorized access to other computers or networks belonging to another party or to the Company, or attempts to penetrate security measures of another individual's system or one of the 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 necessary.

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

2.5.1 Introduction of malicious programs into the network(s) or server(s) belonging to the Company or another party (example: viruses, worms, Trojan Horses and other programs intended to inflict harm).

2.5.2 Causing or attempting to cause security breaches or disruptions of 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.

2.5.3 Executing any form of network activity that will intercept data not intended for the individual attempting to access the information.

2.5.4 Circumventing user authentication or security of any host, network or account.

2.5.5 Interfering with or denying service to any Customer of the Company (example: denial of service attack or distributed denial of service attack).

2.5.6 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.

2.6 Violators of these policies 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 \$695 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 TOS violations and/or system/network interference.

2.7 Unsolicited Commercial Email (UCE, 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 in an unsolicited message is STRICTLY prohibited and will qualify your service for immediate deactivation with no refunds for service not delivered. In addition, unsolicited messages sent with the intent of advertising or promoting a product or service are strictly prohibited. The Customer is also required to provide opt-out provisions on every bulk mailing of electronic mail sent via the Company's computer systems. 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 the Customer is shown to be at fault can be up to \$750 per incident. To report illegal use of our mail servers, please forward the full headers and body of the SPAM message to spam@outerhost.com.

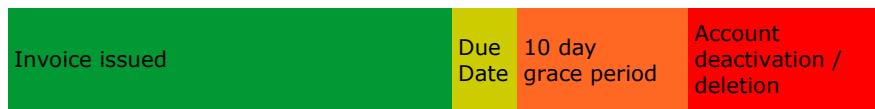
2.8 Illegal information-gathering activities The Company will not allow the storage or transmission of programs designed to gather the private information of any individual via deceitful means (often referred to as Phishing or Pharming) and the responsible party will be liable for any damages including, but not limited to, the theft, use, or redistribution of personal information without complete knowledge of the individual that owns the information. The Company will contact and cooperate with law enforcement in this event.

2.9 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.

2.10 Information Transfer through the Company networks: If your account's monthly data transfer usage surpasses the Company's restrictions designated by your web hosting "plan", you may choose to purchase additional data transfer. Refusal of the Customer to pay the extra incurred charges will result in account deactivation. We will work with the Customer to keep their sites alive and fast at all times. Your web service may be terminated if the Company decides such action should be necessary.

2.11 Customer Billing: Invoices are issued electronically by the Company on a pre-determined date. The viewing of the invoice is subject to password-based authentication by the Customer for security reasons. Failure to render payment for services detailed in any invoice due to the Customer's inability to access an invoice is still subject to the regulations and penalties contained herein. The Customer is given a 10-day grace period after the "due date" provided on any invoice to provide full payment for any unpaid services rendered by the Company. If full payment is not received after the 10-day grace period, all services the Customer is provided with by the Company are subject to suspension, termination, and/or deletion. The Company is not liable for deleted computer files and is not required to provide any refunds or to provide remittance of any subsequently recovered information.

For your convenience, we have compiled a small diagram illustrating our invoicing timeline.



2.12 Service Cancellation: Cancellation may be made at any time via email to outerhost@outerhost.com or orbitNET support ticket. Please notice the Customer must allow at least 30 days notice before the next invoicing cycle if they wish to avoid a \$225.00 cancellation fee, all fees paid to the Company up to the notice of cancellation are non-refundable. This includes fees for domain registration.

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

2.14 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.

3.1 These terms may be modified at any time by the Company without notice to the Customer. All Customers are always subject to the newest TOS posted at all times.