

# **Terms of Service**

Where the content states: "We" includes Hosting Collections or any party acting on Hosting Collections's implicit instructions. "You" includes the person purchasing the services or any party acting on the customer's instructions. "Member" includes the purchaser of services or any party acting on the purchaser's instructions. "The Registrant" includes the person applying for a domain name or any party acting on the Registrant's instructions. "The Registry" refers to the relevant domain names Registry. "Server" means the computer server equipment in connection with the provision of the Services. "Web Site" means the area on the Server allocated by us to you for use by you as a site on the Internet. "TOS" includes this agreement. Hosting Collections reserves the right to modify this policy at any time, effective immediately upon posting of the modification to this URL: <http://www.hostingcollections.com/tos.php> In consideration of the mutual covenants herein, the parties agree to the following, which shall apply during the term of this agreement:

## **1. Domain Name Registration**

1.1 We make no representation that the domain name you wish to register is capable of being registered by or for you or that it will be registered in your name. You should therefore not assume registration of your requested domain name(s) until you have been notified that it has or they have been registered. Any action taken by you before such notification is at your risk.

1.2 The registration and use of your domain name is subject to the terms and conditions of use applied by the relevant naming authority; you shall ensure that you are aware of those terms and conditions and that you comply with them. You shall have no right to bring any claim against us in respect of refusal to register a domain name. Any administration charge paid by you to us shall be non-refundable notwithstanding refusal by the naming authority to register your desired name.

1.3 We shall have no liability in respect of the use by you of any domain name; any dispute between you and any other person must be resolved between the parties concerned in such dispute. If any such dispute arises, we shall be entitled, at our discretion and without giving any reason, to withhold, suspend or cancel the domain name. We shall also be entitled to make representations to the relevant naming authority but will not be obliged to take part in any such dispute.

1.4 We shall not release any domain to another provider unless full payment for that domain has been received by us.

## **2. Web Site Hosting And Email**

2.1 We make no representation and give no warranty as to the accuracy or quality of information received by any person via the Server and we shall have no liability for any loss or damage to any data stored on the Server.

2.2 You shall effect and maintain adequate insurance coverage in respect of any loss or damage to data stored on the Server.

2.3 You represent, undertake and warrant to us that you will use the Web Site allocated to you only for lawful purposes. In particular, you represent, warrant and undertake to us that:

2.3.1 you will not use the Server in any manner which infringes any law or regulation or which infringes the rights of any third part; nor will you authorize or permit any other person to do so.

2.3.2 you will not post, link to or transmit:

(a) any material which is unlawful, threatening, abusive, malicious, defamatory, obscene, illegal, blasphemous, profane or otherwise objectionable as determined by Hosting Collections in any way.

(b) any material containing a virus or other hostile computer program.

(c) any material which constitutes, or encourages the commission of a criminal offence, or which infringes any patent, trade mark, design right, copyright or any other intellectual property right or similar rights of any person which may subsist under the laws of any jurisdiction.

(d) Examples of other unacceptable material / Forbidden content on all Shared, Reseller and VPS services include but not limited to:

- \* Game Servers (If causing high load and abusing the CPU)
- \* IRC Scripts/Bots
- \* Proxy Scripts/Anonymizers
- \* Pirated Software/Warez
- \* AutoSurf/PTC/PTS/PPC sites
- \* IP Scanners
- \* Bruteforce Programs/Scripts/Applications
- \* Mail Bombers/Spam Scripts
- \* File Dump/Mirror Scripts (similar to rapidshare)
- \* Commercial Audio Streaming (more than one or two streams)
- \* Escrow/Bank Debentures
- \* High-Yield Interest Programs (HYIP) or Related Sites
- \* Sale of any controlled substance without prior proof of appropriate permit(s)
- \* Prime Banks Programs
- \* MUDs/RPGs/PBBGs
- \* Hacker focused sites/archives/programs
- \* Sites promoting illegal activities

- \* Forums and/or websites that distribute or link to warez/pirated/illegal content
- \* Bank Debentures/Bank Debenture Trading Programs
- \* Fraudulent Sites (Including, but not limited to sites listed at aa419.org & escrow-fraud.com)
- \* Warez, Underage Adult, or Copyrighted MP3 content.

2.3.3 You will not send spam email, whether opt-in or otherwise, from our network. Nor will you promote a site hosted on our network using spam email. Spammers are held responsible for a \$50 clean up fee per IP.

2.3.4 You will not employ programs which consume excessive system resources including, but not limited to, processor cycles and memory.

2.3.5 If you surpass your allotted disk/bandwidth usage as set forth in your purchased plan, you agree to purchase the excess in blocks as set forth in our "plans" section. Such payment to be immediate and non-disputable.

2.4 We reserve the right to remove any material which we deem inappropriate from your web site without notice.

2.5 You shall keep secure any identification, password and other confidential information relating to your account and shall notify us immediately of any known or suspected unauthorized use of your account or breach of security, including loss, theft, or unauthorized disclosure of your password or other security information.

2.6 You shall observe the procedures which we may from time to time prescribe and shall make no use of the Server which is detrimental to our other customers.

2.7 Members utilizing free hosting shall exclude themselves from promotions offered and afforded to paying Members.

2.7.1 Members utilizing free hosting shall display a banner as supplied by Hosting Collections.

2.8 You shall procure that all mail is sent in accordance with applicable legislation (including data protection legislation) and in a secure manner.

2.8.1 Sending unsolicited mail messages, including, without limitation, commercial advertising and informational announcements, is expressly prohibited. A Member shall not use another site's mail server to relay mail without the express permission of the site.

2.8.2 It is contrary to Hosting Collections policy for Members to use our servers to effect or participate in any of the following activities:

- . To send spam e-mailings; whether unsolicited, opt-in, or otherwise.

. To engage in any of the foregoing activities using the service of another provider, but channeling such activities through a Hosting Collections provided server, or using a Hosting Collections provided server as a mail drop for responses.

. To falsify user information provided to Hosting Collections or to other users of the service in connection with use of a Hosting Collections services.

## 2.9 Consequences of Violation:

2.9.1 When Hosting Collections becomes aware of an alleged violation of its TOS / Acceptable Use Policy, Hosting Collections will initiate an investigation. During the investigation Hosting Collections may restrict Member's access in order to prevent further possible unauthorized activity. Depending on the severity of the violation, Hosting Collections may, at its sole discretion, restrict, suspend, or terminate Member's account and/or pursue other civil remedies. If such violation is a criminal offense, Hosting Collections will notify the appropriate law enforcement department of such violation.

2.9.2 You shall be held liable for any and all costs incurred by Hosting Collections as a result of your violation of these terms and conditions. This is including, but is not limited to, attorney fees and costs resulting from Postmaster responses to complaints from and the cleanup of unsolicited commercial mailings and/or unauthorized bulk mailings and/or news server violations. Hosting Collections's current hourly rate for Postmaster responses to complaints and cleanup of unsolicited commercial mailings and/or unauthorized bulk mailings and/or news server violations is US \$100 per hour, with a minimum one (1) hour charge, plus US \$1 for each bulk-email or Usenet message sent, plus US \$10 per complaint received. Server maintenance fees of \$85 per hour.

2.9.3 Hosting Collections does not issue service credits for any outages incurred through service disablement resulting from Policy violations.

2.10 Any access to other networks connected to Hosting Collections must comply with the rules appropriate for those other networks

2.11 While we will use every reasonable endeavor to ensure the integrity and security of the Server, we do not guarantee that the Server will be free from unauthorized users or hackers and we shall be under no liability for non-receipt or misrouting of email or for any other failure of email.

2.12 You may cancel the Services at any time by sending requesting cancellation of services to [sales@hostingcollections.com](mailto:sales@hostingcollections.com) .

2.13 Hosting Collections reserves the right to terminate service at any time. If an account is terminated for a policy violation there will be no refund.

## **3. Service Availability**

3.1 Hosting Collections shall use our reasonable endeavors to make available to you at all times the Server and the Services but we shall not, in any event, be liable for interruptions of Service or down-time of the Server.

3.2 Hosting Collections shall have the right to suspend the Services at any time and for any reason, generally without notice, but if such suspension lasts or is expected to last for more than 7 days you will be notified of the reason. As a reseller or sub-client, it is your responsibility to take care of backup for sites that may be yours or ones under you. We also reserve the right to disallow services/hosting to any client as we feel necessary and hold no liability. Also please note that we do not offer any sort of compensation on our network uptime guarantee.

3.3 The Services provided to you here under and your account with us cannot be transferred or used by anyone other than you. No more than one log-in session under any one account may be used at any time by you. If you have multiple accounts, you are limited to one login session per system account at any time; user programs may be run only during log-in sessions. If your account is found to have been transferred to another party, or shows other activity in breach of this sub clause, we shall have the right to cancel the account and terminate the Services and/or this Agreement immediately.

#### **4. Payments & Billing**

4.1 All charges payable by you for the Services shall be in accordance with the scale of charges and rates published from time to time by us on our web site and shall be due and payable in advance of our service provision. We reserve the right to change pricing at any time although all pricing is guaranteed for the period of pre payment.

4.2 Payment is due each anniversary month, quarter or year following the date the Services were established until closure notice is given. If you choose to pay by credit or debit card you authorize Hosting Collections to debit your account renewal fees from your card.

4.3 e-checks are not accepted by Hosting Collections and all payments must be made directly through provided payment gateways.

4.4 Without prejudice to our other rights and remedies under this Agreement, if any sum payable is not paid on or before the due date, we shall be entitled forthwith to suspend the provision of Services to you.

4.5 It is your responsibility to track your payment dates and invoices / bills. There maybe instances an invoice or multiple invoice does not get created automatically by the billing system though it is still your responsibility to remind us once you understand you have not been billed for a product that you are or have been using.

4.5.1 Even if you have not noticed that you were not billed for a product you were using you still accept without any objection that the debt belongs to you and that you will pay your invoice as soon as it gets created.

4.5.2 You understand that Hosting Collections does not offer any free products nor is sponsoring charity for the services you use thus you hereby accept / announce / declare that even if an invoice was not created for x amount of months no matter for what reason what so ever for any product you use, you will not claim that the product was granted or given for free or sponsored just because you have/had not received an invoice for a product for x amount of months / payment terms you actively or passively use.

## **5. Termination**

5.1 If you fail to pay any sums due to us as they fall due, we may suspend the Services and/or terminate this Agreement forthwith without notice to you.

5.2 If you break any of these terms and conditions we may suspend the Services and/or terminate this Agreement forthwith without notice to you.

5.3 If you are a company and you go into insolvent liquidation or suffer the appointment of an administrator or administrative receiver or enter into a voluntary arrangement with your creditors, we shall be entitled to suspend the Services and/or terminate this Agreement forthwith without notice to you.

5.4 No refunds will be made for Services suspended in accordance with 5.1, 5.2 and 5.3.

5.5 We reserve the right to suspend the Services and/or terminate this Agreement at any time. In the event of this You will be entitled pro rata refund based upon the remaining period of membership.

5.6 You may cancel the Services at any time by sending requesting cancellation of services to [sales@hostingcollections.com](mailto:sales@hostingcollections.com) .

5.7 During the first 45 days of Services, You are entitled to a refund of fees paid with the exclusion of VPS services, domain name registration, dedicated server, data transfer fees, and excessive support requests should you decide to cancel the Services for just cause. Hosting Collections shall be the sole arbitrator as to the validity of your claim of just cause. And will subtract the aforementioned fees from any monies due you.

5.7.1 Only for Shared and Reseller services, during the 45 days of service you are entitled to a full, no questions asked refund excluding as set forth in sections 5.6, 5.7, 5.7.2, 5.7.3, and 12.5; as well as exclusions listed in section 2 above. For the remaining time your refund will be prorated and factored at the full discretion of Hosting Collections.

5.7.2 Partner Plans (Resellers) are eligible for above refund minus usage fees; if such use has been deemed excessive at the discretion of Hosting Collections. Such accounts are often more resource intensive than standard shared hosting accounts and, therefore, do not qualify under our standard 45 day guarantee details.

5.7.3 You will not be entitled to a refund on these basis if you have previously had an account with Hosting Collections under any plan or service.

5.7.4 Allow 30 (thirty) days for refund payments to process. If you have not received refund within this time allotment; please contact us.

5.8 Where payment has been made by credit or debit card, any refund will only be issued to the same credit or debit card.

5.9 On termination of this Agreement or suspension of the Services we shall be entitled immediately to block your Web Site and to remove all data located on it.

## **6. Indemnity**

6.1 You shall indemnify us and keep us indemnified and hold us harmless from and against any breach by you of these terms of business and any claim brought against us by a third party resulting from the provision of Services by us to you and your use of the Services and the Server including, without limitation, all claims, actions, proceedings, losses, liabilities, damages, costs, expenses (including reasonable legal costs and expenses), howsoever suffered or incurred by us in consequences of your breach or non-observance of this Agreement.

## **7. Limitation Of Liability**

7.1 All conditions, terms, representations and warranties relating to the Services supplied under this Agreement, whether imposed by statute or operation of law or otherwise, that are not expressly stated in these terms and conditions including, without limitation, the implied warranty of satisfactory quality and fitness for a particular purpose are hereby excluded, subject always to sub clause.

7.2 Nothing in these terms and conditions shall exclude our liability for death or personal injury resulting from our negligence.

7.3 Our total aggregate liability to you for any claim in contract, tort, negligence or otherwise arising out of or in connection with the provision of the Services shall be limited to the charges paid by you in respect of the Services which are the subject of any such claim.

7.4 In any event no claim shall be brought unless you have notified us of the claim within one year of it arising.

7.5 In no event shall we be liable to you for any loss of business, contracts, profits or anticipated savings or for any other indirect or consequential or economic loss whatsoever.

7.6 You are responsible for monitoring Bandwidth and Disk space usage of your site. This is easily done from your Control Panel. If you go over the amount indicated in your current plan; you will assessed a surcharge as set forth in our pricing structure.

## **8. Notices**

8.1 Any notice to be given by either party to the other may be sent by either email, fax or recorded delivery to the address of the other party as appearing in this Agreement or ancillary application forms or such other address as such party may from time to time have communicated to the other in writing, and if sent by email shall unless the contrary is proved be deemed to be received on the day it was sent or if sent by fax shall be deemed to be served on receipt of an error free transmission report, or if sent by recorded delivery shall be deemed to be served two days following the date of posting.

## **9. Support**

9.1 On our site you will find links to all the information to get your web site up and running. All information pertaining to your account should have been included in the Welcome Letter you received when we created your account. If you did not receive a welcome letter email, please contact our Support Team. There are several reasons an email may not reach you; first and foremost is if the domain you have contracted services for is the same domain your welcome email was sent to.

9.2 The support feature of our service at present time consists of our Support System solving server related problems only.

9.2.1 If you require support for your scripting, there are several online tutorials available we can help you find. You may purchase our technicians' services at the rate of \$80 per hour, with an hour minimum billed. We reserve the right to wave this fee at any time.

9.3 Support can only be addressed in English through our Support System.

9.4 All Support requests are to be processed through our Support System. Any other request for support, except as noted in Section 9. will be considered a breach of our TOS.

## **10. Law**

10.1 This Agreement shall be governed by and construed in accordance with United States law and the laws governing the state of Michigan. You hereby submit to the non-exclusive jurisdiction of the U.S. courts.

## **11. Headings**

11.1 Headings are included in this Agreement for convenience only and shall not affect the construction or interpretation of this Agreement.

## **12. Torturous Conduct**

12.1 No one shall post defamatory, scandalous, or private information about a person without their consent, intentionally inflicting emotional distress, or violating trademarks, copyrights, or other intellectual property rights.

12.2 Any abuse towards any Hosting Collections employee will not be tolerated. You are expected to request and respond to support and other issues in a professional manner. When emailing Hosting Collections or utilizing the Ticket Desk Support System, refrain from using caps, exclamation points, and other forms of written yelling. Any cursing, yelling, or further intentional disruptive behavior aimed at Hosting Collections or it's employees shall be considered a violation of this TOS.

12.3 Any threat; whether verbally, orally, written, or delivered by second parties directed towards Hosting Collections or any of its employees, partners, equipment, and concerns shall be construed as a violation of this TOS.

12.4 Any conduct viewed as violating this section shall be considered a violation of this TOS. Hosting Collections will be the sole arbitrator in regards to what is deemed a violation.

12.5 No refunds shall be given when the contents of this section necessitates removal of the account.

### **13. Cancellation of Services**

13.1 You may cancel the Services at any time by logging into your client area (for verification) and requesting cancellation of services.

### **14. Entire Agreement**

14.1 These terms and conditions together with any documents expressly referred to in them, contain the entire Agreement between us relating to the subject matter covered and supersede any previous Agreements, arrangements, undertakings or proposals, written or oral: between us in relation to such matters. No oral explanation or oral information given by any party shall alter the interpretation of these terms and conditions. In agreeing to these terms and conditions, you have not relied on any representation other than those expressly stated in these terms and conditions and you agree that you shall have no remedy in respect of any misrepresentation which has not been made expressly in this Agreement.

14.2 Hosting Collections reserves the right to amend these TOS at any time.

14.3 It is your responsibility to check these Terms of Service on occasion for any such amendments.

### **15. Freedom to use these Terms**

15.1 Hosting Collections releases rights to this document text to the reader, free of encumbrance. Except as noted in this section (15.3).

15.2 In no form can you hold Hosting Collections responsible for any and all actions arising out of your use of these terms as your own.

15.3 If you choose to use these terms as your own, this section (15) must remain intact of content; save for our name. You agree to let others use these terms as a guide.

15.4 Our release of this text material in no way assigns rights of any images viewed herein.

## **16. VPS & Dedicated Servers**

16.1 VPS & Dedicated servers has NO money back guarantee what so ever.

16.2 VPS services are unmanaged except if FULL management + cPanel/WHM is bought and utilized.

16.3 All VPS do not come with any money back guarantee no matter if you claim unused or used. Please understand setting up server's take's time and money. Hosting Collections is not responsible for any data lost or hardware failer or back ups on any VPS this is your duty to ensure that you are backing up your data and your client's. All TOS apply to VPS client's aswell. The reseller/VPS customer is liable and responsible for all actions of their account and subaccounts created by the reseller/VPS customer. As the reseller/VPS customer you agree to accept all responsibility and liability for your actions and the actions of your subusers either directly or indirectly. Terms of Service violations as a result of a subuser account being exploited with or without knowledge will be the responsibility of the reseller/VPS account holder. The reseller & VPS account holder agrees to actively monitor their subaccounts to ensure all subaccounts and their own account are abiding by all of Hosting Collections's policies and Terms Of Service. The legal liability and legal responsibility of the subaccounts of the reseller/VPS belongs to the reseller/VPS customer

## **17. Free Hosting**

17.1 It is absolutely forbidden to host an a website that offers free web hosting on any Hosting Collections web server. Account owners found to be in voilation of this rule will be warned and told to take the site down. If the formentioned account offers such services again, his account all accounts under him will be immediately suspended and remain so for the rest of eternity. The term "free" can and will be used liberally in describing said services. For example, sites selling hosting for \$0.01 sites selling hosting for \$1.00 a year would fit into the free category. Hosting Collections reserves the right to make judgements on its sole discretion about which sites are providing "free hosting".

## **18. Data Loss and Backups**

18.1 The client is responsible for keeping a copy of their most current web site files as backup on a remote system (not on Hosting Collections servers). Hosting Collections is not responsible for any lost files, information, or data. Hardware is mechanical and by nature mechanical hardware is prone to failure. If so subscribed, Daily and Weekly Backups are performed on a best effort basis, should an event occur where our backup script was unable to complete the backup and the server.s hard drive fails, we hold no responsibility. Please make sure you have off-site backups! We do our best, but sometimes things may go wrong!

19. Renewal and Billing Schedule

- . Client has Seven (7) days to remit payment to Hosting Collections after first email notification to the billing contact of an upcoming renewal. Accounts receive notification of an upcoming renewal 7 days prior to the due date as well as the day prior to the due date.
- . The 7 days advance notice serves as your grace period, if payment is not received by the due date, your account is considered to be in default and at risk of service interruption.
- . Payment must be received or services are not rendered.
- . Should you need an extension, please contact the billing department PRIOR to the due date. We are very understanding and lenient, but we must receive communication from the client.
- . If you know you will be away on vacation, business or otherwise unable to communicate with us or remit payment, ensure that you notify us prior to being unreachable or make the payment(s) in advance.
- . If payment is not received BY THE DUE DATE, expect service interruption.
- . Any interrupted service will incur a \$25 re-connection penalty.
- . Returned or bounced checks will incur a \$35 processing and handling penalty in addition to the bank assessed NSF fee's.
- . Hosting Collections reserves the right to change prices at any time on month to month services. Month to month means you are not locked into a contract and terms may change for the new upcoming month. You do have an option to enter into a term contract should you so wish.
- . All monetary transactions will occur in \$ US dollars.

## **21. Shared Services and Reseller Accounts**

21.1 All rules within TOS of Hosting Collections applies to our Shared services as well as Reseller accounts. In addition:

21.2 All website owners are responsible for updating their website scripts to the latest version at all times and they MUST update so.

21.2.2 All website owners are responsible to apply any security patch released by their script provider at all times and they MUST do so.

21.2.3 All Resellers are fully responsible to enforce and make sure the script uploading and maintaining criteria explained in section (21.) MUST be met at all times.

21.3 Failing to meet the script maintaining criteria will eventually result in website or account suspension which will lead to a website or account termination within 72 hours.

## **22. Disclaimer**

. Hosting Collections is not responsible for any damages to any client's business. Hosting Collections makes no warranties or guarantees of any kind, expressed or implied for services that we provide. Use of Hosting Collections's service is at the client's sole risk.

. Hosting Collections does not guarantee that our services will be uninterrupted or error free. Hosting Collections will provide every effort in good faith to ensure that its services are available to as many Internet users as possible with minimal service interruptions.

. In no circumstance will Hosting Collections be liable for any claims resulting from the use or inability to use Hosting Collections's services - including, but not limited to, service interruptions, client errors, Internet connectivity problems, miscommunications, unauthorized access to Hosting Collections servers, ARIN problems, DNS caching, Internet bandwidth congestion, power failures, vandalism, and natural disasters.