

OPMarketing Terms of Service

The use of services from OPMarketing.com, LLC [hereafter referred to as "OPMarketing"] constitutes agreement to these terms.

Account Setup / Email on file

We will setup your account after we have received payment and we and/or our payment partner(s) have screened the order(s) in case of fraud. It is your responsibility to provide us with an email address which is not @ 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 or up to date at all times. It is your responsibility to ensure that the contact information for your domain account and your actual domain name(s) is correct and up-to-date. OPMarketing is not responsible for a lapsed registration due to outdated contact information being associated with the domain. If you need to verify or change this information, you should contact us at info@opmarketing.com. Providing false contact information of any kind may result in the termination of your account.

Ownership

The credit card holder or owner of the PayPal e-mail address which is utilized for payment on the account is designated as the authorized owner of the account.

Transfers

Our transfers team will make every effort to help you move your site to us. However, transfers are provided as a courtesy service, and we can not make guarantees regarding the availability, possibility, or time required to complete an account transfer. Each hosting company is configured differently, and some hosting platforms save data in an incompatible or proprietary format, which may make it extremely difficult if not impossible to migrate some or all account data. We will try our best, but in some cases we may be unable to assist you in a transfer of data from an old post. The included transfer services are available for 30 days from your sign up date. Transfers outside of the 30 day period will incur a charge; please contact a member of the transfers department with specific details to receive a price quote.

Third Party Providers

All transactions with third party providers are solely between the visitor and the individual provider. OPMarketing is not the agent, representative, trustee or fiduciary of you or the third party provider in any transaction. Some products provided by OPMarketing are

provided under license with vendors, and the use of any such third party products will be governed by the applicable license agreement, if any, with such third party. All discounts, promotions and special third party offers may be subject to additional restrictions and limitations by the third party provider. All transactions with third party providers are subject to the terms and conditions under which the provider agrees with you to provide the goods or services. You should confirm the terms of any purchase and/or use of goods or services with the specific provider with whom you are dealing. We do not make any representations or warranties regarding, and are not liable for, the quality, availability, or timeliness of goods or services provided by a third party provider. You undertake all transactions with these providers at your own risk. We do not warrant the accuracy or completeness of any information regarding third party providers.

Content

All services provided by OPMarketing may only be used for lawful purposes. The laws of the State of Florida, the State of Texas, and the United States of America apply. The customer agrees to indemnify and hold harmless OPMarketing from any claims resulting from the use of our services. Use of our services to infringe upon any copyright or trademark is prohibited. This includes but is not limited to unauthorized copying of any of our content, included but not limited to pictures, presentations, videos, graphics, posters, brochures, apps, or any other copyrighted and published work. The offer of sale of any counterfeit merchandise of a trademark holder will result in the immediate termination of your account. Any account found to be in violation of another's copyright will be expeditiously removed, or access to the material disabled. Any account found to be in repeated violation of copyright laws will be suspended and/or terminated from our hosting. If you believe that your copyright or trademark is being infringed upon, please email us at privacy@opmarketing.com. If the request is of a licensing issue, we may require further documentation.

OPMarketing services, including all related equipment, networks and network devices are provided only for authorized customer use. OPMarketing systems may be monitored for all lawful purposes, including to ensure that use is authorized, for management of the system, to facilitate protection against unauthorized access, and to verify security procedures, survivability, and operational security. During monitoring, information may be examined, recorded, copied and used for authorized purposes. Use of OPMarketing system(s) constitutes consent to monitoring for these purposes.

Any account found connecting to a third party network or system without authorization from the third party is subject to suspension. Access to networks or systems outside of your direct control must be with expressed written consent from the third party. OPMarketing may, at its discretion, request and require documentation to prove access to a third party

network or system is authorized.

We reserve the right to refuse service to anyone. Any material that, in our judgment, is obscene, threatening, illegal, or violates our terms of service in any manner may be removed from our servers (or otherwise disabled), with or without notice.

Failure to respond to email from our abuse department within 48 hours may result in the suspension or termination of your services. All abuse issues must be dealt with via email and will have a response within 48 hours.

Sites hosted on OPMarketing's service(s) are regulated only by U.S. law. Given this fact, and pursuant to Section 230(c) of the Communications Decency Act, we do not remove allegedly defamatory material from domains hosted on our service(s). The only exception to this rule is if the material has been found to be defamatory by a court, as evidenced by a court order. OPMarketing is not in a position to investigate and validate or invalidate the veracity of individual defamation claims, which is why we rely on the legal system and courts to determine whether or not material is indeed considered defamatory. In any case in which a court order indicates material is defamatory, libelous, or slanderous in nature; we will disable access to the material. Similarly, in any case in which a US Court has placed an injunction against specified content or material; we will comply and remove or disable access to the material in question. Potential harm to minors is strictly forbidden, including but not limited to child pornography or content perceived to be child pornography (Lolita): Any site found to host child pornography or linking to child pornography will be suspended immediately without notice. Direct customers: Your services will be terminated with or without notice. Violations will be reported to the appropriate law enforcement agency.

It is your responsibility to ensure that scripts/programs installed under your account are secure and permissions of directories are set properly, regardless of installation method. When at all possible, set permissions on most directories to 755 or as restrictive as possible. Users are ultimately responsible for all actions taken under their account. This includes the compromise of credentials such as user name and password. It is required that you use a secure password. If a weak password is used, your account may be suspended until you agree to use a more secure password.

Payment Information

You agree to supply appropriate payment for the services received from OPMarketing, in advance of the time period during which such services are provided. Subject to all applicable laws, rules, and regulations, all payments will apply to the oldest invoice(s) in your billing account. You agree that until and unless you notify OPMarketing of your desire to cancel any or all services received, those services will be billed on a recurring basis.

Cancellations must be done in writing. Once we receive your cancellation and have confirmed all necessary information with you via e-mail, we will inform you in writing (typically email) that your account has been canceled. If you do not hear back from us within 48 hours after submitting your cancellation, please contact us immediately via Phone. We require that cancellation of service is done in writing to (a) confirm your identity, (b) confirm in writing you are prepared for all files to be removed, and (c) document the request. This process reduces the likelihood of mistakes, fraudulent/malicious requests, and ensures you are aware that the files and account may be removed immediately after a cancellation request is processed.

As a client of OPMarketing, it is your responsibility to ensure that your payment information is up to date, and that all invoices are paid on time. You agree that until and unless you notify OPMarketing of your desire to cancel any or all services received (by the proper means listed in the appropriate section of the Terms of Service), those services will be billed on a recurring basis, unless otherwise stated in writing by OPMarketing.

OPMarketing reserves the right to bill your credit card or billing information on file with us. OPMarketing provides a 10 day grace period from the time the invoice is generated and when it must be paid. Any invoice that is outstanding for 10 days and not paid will result in a 5% late fee and/or an account suspension until account balance has been paid in full. The 5% late fee is applied in addition to whatever else is owed to OPMarketing for services rendered. Access to the account will not be restored until payment has been received. OPMarketing reserves the right to change the monthly payment amount and any other charges at anytime.

Backups and Data Loss

Your use of this service is at your sole risk. Our backup service runs once a week, overwrites any of our previous backups made, and only one week of backups are kept. This service is provided to you as a courtesy. OPMarketing is not responsible for files and/or data residing on your account. You agree to take full responsibility for files and data transferred and to maintain all appropriate backup of files and data stored on our designated server company.

Cancellations and Refunds

OPMarketing reserves the right to cancel, suspend, or otherwise restrict access to the account at any time with or without notice. Exchange rate fluctuations for international payments are constant and unavoidable. All refunds are processed in U.S. dollars, and will reflect the exchange rate in effect on the date of the refund. All refunds are subject to this fluctuation and OPMarketing is not responsible for any change in exchange rates between

time of payment and time of refund. Customers may cancel at any time via a [Cancellation form](#). OPMarketing gives you an unconditional 45 day money back guarantee on managed shared hosting, and reseller solutions for any customer who paid the first invoice with a credit card or with Paypal. Cancellations requested after the initial 45 days will go into effect on the renewal date for that particular hosting package. Unless specifically requested, the account will remain active until the period expires. If the account is eligible, any request for a refund outside of the initial 45 day period will be given on a prorated basis with any previous extended term discount withheld. Refunds are to be determined once the account has been canceled. Payments older than 60 days may require a refund via PayPal or mailed check due to our merchant account policies and procedures. The following methods of payments are non-refundable, and refunds will be posted as credit to the hosting account:

- Bank Wire Transfers
- Western Union Payments
- Checks
- Money orders

There are no refunds on dedicated servers, administrative fees, and install fees for custom software. Refund requests for .com, .net., and .org domain names (made within the 45 day money-back guarantee period) will have the common market value subtracted for those tld's. Any ccTLD's domain name purchases are non-refundable. Please note that domain refunds will only be considered if they were ordered in conjunction with a hosting package. Eligibility of said refunds will be determined at the time of cancellation.

Only first-time accounts are eligible for a refund. For example, if you've had an account with us before, canceled and signed up again, you will not be eligible for a refund or if you have opened a second account with us.

Violations of the Terms of Service will waive the refund policy.

Resource Usage

User may not:

- 1) Use 25% or more of system resources for longer than 90 seconds. There are numerous activities that could cause such problems; these include: CGI scripts, FTP, PHP, HTTP, etc.
- 2) Run stand-alone, unattended server-side processes at any point in time on the server. This includes any and all daemons, such as IRCD.
- 3) Run any type of web spider or indexer (including Google Cash / AdSpy) on shared servers.
- 4) Run any software that interfaces with an IRC (Internet Relay Chat) network.
- 5) Run any bit torrent application, tracker, or client. You may link to legal torrents off-site, but may not host or store them on our shared servers.

- 6) Participate in any file-sharing/peer-to-peer activities
- 7) Run any gaming servers such as counter-strike, half-life, battlefield1942, etc
- 8) Run cron entries with intervals of less than 15 minutes.
- 9) Run any MySQL queries longer than 15 seconds. MySQL tables should be indexed appropriately.
- 10) When using PHP include functions for including a local file, include the local file rather than the URL. Instead of `include("http://yourdomain.com/include.php")` use `include("include.php")`
- 11) To help reduce usage, do not force html to handle server-side code (like php and shtml).
- 12) Only use https protocol when necessary; encrypting and decrypting communications is noticeably more CPU-intensive than unencrypted communications.

INODES

The use of more than 250,000 inodes on any shared account may potentially result in a warning first, and if no action is taken future suspension. Accounts found to be exceeding the 100,000 inode limit will automatically be removed from our backup system to avoid over-usage, however databases will still be backed up. Every file (a webpage, image file, email, etc) on your account uses up 1 inode. Sites that slightly exceed our inode limits are unlikely to be suspended; however, accounts that constantly create and delete large numbers of files on a regular basis, have hundreds of thousands of files, or cause file system damage may be flagged for review and/or suspension. The primary cause of excessive inodes seems to be due to users leaving their catchall address enabled, but never checking their primary account mailbox. Over time, tens of thousands of messages (or more) build up, eventually pushing the account past our inode limit. To disable your default mailbox, login to cPanel and choose "Mail", then "Default Address", "Set Default Address", and then type in: `:fail: No such user here.`

Backup Limit

Any shared account using more than 20 gigs of disk space will be removed from our off site weekly backup with the exception of Databases continuing to be backed up. All data will continue to be mirrored to a secondary drive which helps protect against data loss in the event of a drive failure.

Bandwidth Usage

You are allocated a monthly bandwidth allowance. This allowance varies depending on the hosting package you purchase. Should your account pass the allocated amount we reserve the right to suspend the account until the start of the next allocation, suspend the account until more bandwidth is purchased at an additional fee, suspend the account until you

upgrade to a higher level of package, terminate the account and/or charge you an additional fee for the overages. Unused transfer in one month cannot be carried over to the next month.

Money back Guarantee

On dedicated servers no full refund will be honored -- the 45 day money back guarantee does not apply. We reserve the right to refund a prorated amount or no refund at all. Each of OPMarketing's managed shared, VPS, and reseller servers carry a 45 day unconditional money back guarantee on them. If you are not completely satisfied with our services within the first 45 days of your service, you will be given a full refund of the contract amount. Remember, this is only for monthly shared or reseller packages and does not apply to dedicated servers, administrative fees, install fees for custom software, or domain name purchases. OPMarketing will not activate new orders or activate new packages for customers who have an outstanding balance with OPMarketing. For a new order to be setup or a new package to be activated, you must have a balance of \$0.00, unless otherwise stated by OPMarketing in writing.

Uptime Guarantee

If your shared / reseller server has a physical downtime that is not within the 99.9% uptime you may receive one month of credit on your account. Approval of the credit is at the discretion of OPmarketing dependent upon justification provided. Third party monitoring service reports may not be used for justification due to a variety of factors including the monitor's network capacity/transit availability. The uptime of the server is defined as the reported uptime from the operating system and the Apache Web Server which may differ from the uptime reported by other individual services. To request a credit, please contact OPMarketing with justification. All requests must be made in writing via email. Uptime guarantees only apply to shared / reseller solutions. Dedicated servers are covered by a network guarantee in which the credit is prorated for the amount of time the server is down which is not related to our uptime guarantee.

Dedicated Servers

OPMarketing reserves the right to reset the password on a dedicated server if the password on file is not current so that we may do security audits as required by our datacenter. It is the responsibility of the client to ensure that there is a valid email address and current root password on file for their dedicated server on file to prevent downtime from forced password resets. OPMarketing reserves the right to audit servers as needed and to perform administrative actions at the request of our datacenter. Dedicated servers are NOT backed up by us and it is the responsibility of the client to maintain backups or have a solution for this. You may purchase an additional hard drive and maintain backups

to it as the simplest solution. Please contact info@opmarketing.com if you wish to obtain a secondary hard drive. It is your responsibility to maintain backups.

Price Change

The amount you pay for hosting may increase from the date of purchase. We reserve the right to change prices listed on OPMarketing.com, and the right to increase the amount of resources given to plans at any time.

Discounts

Discounts are reserved for first-time accounts *or first-time customers* only. If you have signed up using a particular domain, you may not resign up for that domain using another discount at a later date. Any account found in violation of these policies will be reviewed by our sales department and the appropriate invoices will be added to the account. Discount abuse will not be tolerated and may result in the suspension or termination of the account. Discounts are only valid towards the initial purchase, and do not affect the renewal or recurring price.

Indemnification

Customer agrees that it shall defend, indemnify, save and hold OPMarketing harmless from any and all demands, liabilities, losses, costs and claims, including reasonable attorney's fees asserted against OPMarketing, its agents, its customers, officers and employees, that may arise or result from any service provided or performed or agreed to be performed or any product sold by customer, its agents, employees or assigns. Customer agrees to defend, indemnify and hold harmless OPMarketing against liabilities arising out of; (1) any injury to person or property caused by any products sold or otherwise distributed in connection with OPMarketing; (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 customers from OPMarketing's server.

Arbitration By using any OPMarketing services, you agree to submit to binding arbitration. If any disputes or claims arise against OPMarketing or its subsidiaries, such disputes will be handled by an arbitrator of OPMarketing's choice. An arbitrator from the American Arbitration Association or the National Arbitration Forum will be selected in the state of Texas. Arbitrators shall be attorneys or retired judges and shall be selected pursuant to the applicable rules. All decisions rendered by the arbitrator will be binding and final. The arbitrator's award is final and binding on all parties. The Federal Arbitration Act, and not any state arbitration law, governs all arbitration under this Arbitration Clause. You are also responsible for any and all costs related to such arbitration.

Disclaimer

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

Disclosure to law enforcement

OPMarketing may disclose any subscriber information to law enforcement agencies without further consent or notification to the subscriber upon lawful request from such agencies. We will cooperate fully with law enforcement agencies.

Changes to the TOS

OPMarketing reserves the right to revise its policies at any time without notice.