

## **Terms Of Services (“TOS”)**

Ourhelpdesk™ provides Internet Presence services to a global market of customers. As such, we have certain legal and ethical responsibilities consisting with the use of our servers and equipment involved in providing these services. To meet our legal and ethical responsibilities to our customers and to ensure each of our customers receives the quality of service that is being paid for, we have to maintain several policies. All customers are obligated to read, agree to, and keep up-to-date on each of our policies. By obtaining and continuing to use our service, you are agreeing to all of our policies. Please be aware that these policies may change at any time without notice. If you have any questions, comments, or concerns with any of our policies, please contact us. We are happy to explain the reasons for any of our policies because these policies are in place to ensure a quality service for your site and the rest of the sites on our servers. In summary, the following are **STRICTLY NOT PERMITTED** on our shared servers:

- SPAM/UCE, IRC Bots
- Abuse of Scripts or System Resources
- Pornography or sex-related merchandising
- Warez, Hacking/Cracking, MP3 files (including links to/from)
- Hate/Illegal content or files

Please read our policies carefully.

## **Acceptable Use Policy (“AUP”)**

Ourhelpdesk™ is dedicated to providing an all-round top quality service. The terms and conditions which follow are necessary to ensure that we may continue to provide the best possible service to all of our customers whilst at the same time satisfying our legal and ethical responsibilities.

Failure to follow any term or condition will be grounds for immediate account deactivation without notice. Ourhelpdesk™ will be the sole arbiter as to what constitutes a violation of any of these provisions. **Customer understands that prior to joining our services, they must agree to this policy.**

Activity which results in the suspension or deactivation of an account will result in a forfeiture of all fees paid. Complaints made regarding abuses of an account will be investigated and if found guilty will be grounds for immediate suspension.

**To report suspected abuses or any violations of these policies, please contact [support@ourhelpdesk.net](mailto:support@ourhelpdesk.net).**

### **Sites We Do Not Host**

We do not permit the hosting of excessive Anime, Manga, Movies, MP3, Torrents and File Download sites whose "main/primary" purpose is for storage/archival and distribution on our shared servers. Such sites will be removed.

### **Illegal Usage**

Ourhelpdesk™ servers may be used for lawful purposes only. Transmission, storage, or distribution of any information, data or material in violation of any applicable law or regulation is prohibited. This includes, but is not limited to: copyrighted material, trademark, trade secret or other intellectual property right used without proper authorisation, and material that is obscene, defamatory, constitutes an illegal threat, or violates export control laws. Examples of non-acceptable content or links: Pirated software, Hackers programs or archives, Warez sites, MP3, and IRC bots. Subscribers to our services agrees to indemnify and hold us harmless from any claims resulting from the use of the service that damages the subscriber or any other party.

Ourhelpdesk™ will be the sole arbiter as to what constitutes a violation of this provision.

### **Adult Content**

Due to special system and network requirements of adult oriented sites, pornography and sex-related merchandising are prohibited on our shared servers. This includes sites that may infer sexual content, or links to adult content elsewhere. This is also true for sites that promote any illegal activity or content that may be damaging to our servers or any other server on the Internet. Links to such materials are also prohibited.

### **Security**

Violations of system or network security are prohibited, and may result in criminal and civil liability. Examples

include, but are not limited to the following: Unauthorised access, use, probe, or scan of a systems security or authentication measures, data or traffic. Interference with service to any user, host or network including, without limitation, mail bombing, flooding, deliberate attempts to overload a system and broadcast attacks. Forging of any TCP-IP packet header or any part of the header information in an email or a newsgroup posting.

### **Shared Server Resources**

Any website that uses an unreasonable high amount of shared server resources (such as, but not limited to, CPU time, memory usage, and network resources) will be given an option of either paying extra (which depends on the resource needed) or reducing the resource used to an acceptable level. Ourhelpdesk™ shall be the sole arbiter of what is considered to be a high server usage level.

### **CGI/PHP and other scripts**

Sharing script with domains not hosted by Ourhelpdesk™ is not allowed. Any scripts deemed to be adversely affecting the server performance or the network integrity will be shut down without prior notice. See **Script Usage Policy** for more details.

### **Background Running Programs and Cron Jobs**

Ourhelpdesk™ does not allow background Daemons such as IRC bots; eggdrop; BitchX; XiRCON; and any other program that interferes with normal server operation on our shared servers. Cron jobs are allowed through cpanel when available and subject to the same resource consumption rules as other scripts.

### **IRC**

Ourhelpdesk™ does not allow IRC or IRC bots to be operated on our shared servers.

### **Backups**

Ourhelpdesk™ performs weekly backups on all servers to ensure critical files are never lost. However are however, NOT responsible for lost data, time, income or any other resource due to faulty or non-existent backups.

### **Client Responsibility**

The client is responsible for all activity originating from the account. The client is responsible for securing their username/password. The client assumes responsibility for all material on their site that may be put on by a third party (such as the usage of Free For All links pages). Use of Ourhelpdesk™'s service requires a certain level of knowledge in the use of Internet languages, protocols, and software. This level of knowledge varies depending on the anticipated use and desired content of the web space by the client. The following examples are offered: Web Publishing: requires knowledge of HTML, properly locating and linking documents, FTPing Web contents, Graphics, text, sound, image mapping, etc. FrontPage web publishing: knowledge of the FrontPage tools as well as Telnet and FTP understanding and capability. CGI-Scripts: requires a knowledge of the UNIX environment, TAR & GUNZIP commands, Perl, CShell scripts, permissions, etc. Mail: a use of mail clients to receive and send mail, etc. The client agrees that he or she has the necessary knowledge to create and maintain their web space. Client agrees that it is not the responsibility of Ourhelpdesk™ to provide this knowledge or support outside matter specific to Ourhelpdesk™ servers.

### **UCE (Unsolicited Commerce Email), aka. SPAM**

Spamming, or the sending of mass unsolicited email, from or through a Ourhelpdesk™ server or using an email address that is maintained on a Ourhelpdesk™ machine is STRICTLY prohibited. Ourhelpdesk™ will be the sole arbiter as to what constitutes a violation of this provision. If you engage in any of the foregoing activities using the service of another ISP or IPP, but channelling activities through a Ourhelpdesk™ server as a maildrop for responses, you are in violation. Violators will be assessed a minimum of \$200.00 fine and will face an immediate suspension. See **SPAM/UCE Policy** for more details.

### **Server abuse**

Any attempts to undermine or cause harm to a Ourhelpdesk™ server or customer of Ourhelpdesk™ is strictly prohibited.

Any sub-networks of Ourhelpdesk™ and dedicated servers must adhere to the above policies. The failure to meet or follow any of the above guidelines are grounds for account deactivation. We reserve the right to remove any account without prior notice.

### **Software Distribution**

ourhelpdesk.net's shared Web Hosting accounts are not to be used for the purposes of distributing software

and multimedia products. If you wish to distribute software and/or multimedia files, please contact sales@ourhelpdesk.net for special arrangement.

### **Multimedia Files**

Multimedia files are defined as any graphics, audio, and video files. Ourhelpdesk™ Shared Hosting accounts are not to be used for the purposes of distributing and storing unusual amount of multimedia files. Any website whose disk space usage for storing the multimedia files exceed 70% of its total usage, either in terms of total size or number of files, will be deemed to be using unusual amount of multimedia files.

### **Domain Names**

Ourhelpdesk™ will take necessary steps to register domain names on behalf of the client when requested. However, clients are responsible for renewing their domain names. Ourhelpdesk™ does not take responsibility for failing to renew domain names. If your domain name was registered through Ourhelpdesk™, you must check and take appropriate actions to renew a domain that is about to expire.

We will make every effort to register, transfer and/or renew your requested domain name. This is not a guarantee that your requested domain name is available for registration, transfer and/or renewal. Your domain name may go unregistered, untransferred and/or renewed, due to circumstances beyond our control, such as registry, software and other problems or outages, and will not be grounds for compensation of financial loss.

An order for domain name registration, transfer and/or renewal, does not guarantee domain name registration, transfer and/or renewal. Domain names will not be registered, transferred and/or renewed until payment is received. If requested domain name is paid for, to us and subsequently not registered, transferred and/or renewed, the domain registration fee will be refunded.

If we register domain names on your behalf and you refute the entire charge or if we must issue a full refund, your domain name will be forfeited and your domain name becomes the property of Ourhelpdesk™. This also applies to any special promotional offers whereby a domain name is included as part of a promotional offer. Note, this only applies to domain names we register on your behalf.

### **Database**

Any database stored on ourhelpdesk.net shared servers shall be limited in size to 20% of the total disk space allotted for a particular domain.

### **Actions Taken by Ourhelpdesk™**

The failure by a customer to meet or follow any of the above policies/terms is grounds for account deactivation. Ourhelpdesk™ will be the sole arbiter as to what constitutes a violation of the AUP. Ourhelpdesk™ reserves the right to remove any account without prior notice.

When Ourhelpdesk™ becomes aware of an alleged violation of its AUP, Ourhelpdesk™ will initiate an investigation. During the investigation, Ourhelpdesk™ may restrict a customer's access in order to prevent further potentially unauthorised activity. Depending on the severity of the violation, Ourhelpdesk™ may, at its sole discretion, restrict, suspend, or terminate a customer's web hosting account and/or pursue other civil remedies. If such violation is a criminal offence, Ourhelpdesk™ will notify the appropriate law enforcement authorities of such violation.

Ourhelpdesk™ does not issue credits for outages incurred through service disablement resulting from AUP violations.

Ourhelpdesk™ customers agree to indemnify and hold harmless Ourhelpdesk™ from any claims resulting from the use of our services that damages them or any other party. The Ourhelpdesk™ service is provided on an as-is, as-available basis without warranties of any kind, either express or implied, including, but not limited to, warranties of merchantability, fitness for a particular purpose or non-infringement. Ourhelpdesk™ expressly disclaims any representation or warranty that the Ourhelpdesk™ service will be error-free, secure or uninterrupted. No oral advice or written information given by Ourhelpdesk™, its employees, licensors or the like, will create a warranty; nor may you rely on any such information or advice. Ourhelpdesk™ and its partners and suppliers will not be liable for any cost or damage arising either directly or indirectly from any transaction or use of the service.

### **Governing Law**

Customer understands that for all disputes, with regard to any of Ourhelpdesk™ services or any term listed in this policy, the only jurisdiction that shall be used in determining liability is the court situated in Denmark. If

Ourhelpdesk™ is obligated to go to court, rather than arbitration, to enforce any of its rights, or to collect any fees, you agree to reimburse Ourhelpdesk™ for its legal fees, costs and disbursements if Ourhelpdesk™ is successful. You agree that the Courts of Denmark are the agreed and appropriate forums for any such suit, and consent to service of process by registered mail or overnight courier with proof of delivery.

### **Severability**

If any term or provision of this Agreement is found to be unenforceable for any reason, this Agreement shall remain in full force and effect and shall be fully enforceable on its remaining terms and conditions.

### **Modification**

Ourhelpdesk™ reserves the right to add, delete, or modify any provision of this Policy at any time without notice.

### **Refusal Of Service**

We reserve the right to refuse, cancel, or suspend service at our sole discretion.

## **Payments And Cancellations**

All payments are due prior to the beginning of your billing period. For each successive period, your contract is renewed automatically unless we are notified otherwise. Billing period is determined by the billing option you chose at the time of ordering. Your billing period also applies to any additional items and services ordered after the initial activation of you account. For payment, we accept Paypal, MasterCard, Visa or American Express.

### **Late Payments**

Failure to remit payment for services on the monthly anniversary date will result in a 5% late fee (minimum \$5USD). If full payment has not been received within five (5) consecutive days, including the anniversary date, termination of public access to Customer services. Failure to remit payment for services within one month days, including the anniversary date, may result in cancellation and deletion of the account and all date and backups.

### **Refunds & Disputes**

All services rendered by Ourhelpdesk™ are non-refundable. This includes, but is not limited to: setup fees, one time fees, monthly service fees, upgrade fees, additional service fees, administrative fees, and late fees. Customers seeking to resolve billing errors are instructed to open a ticket in the client area. Customer agrees not to chargeback any credit card payments for services rendered. Any chargeback of payment for services rendered will result in an additional charge of \$150 and will be subject to collection by an authorised collection agency. Customer is responsible for any fees and costs (including, but not limited to, reasonable attorneys. fees, court costs and collection agency fees) incurred by Ourhelpdesk™ in enforcing collection.

### **To Cancel your account**

Request for cancellation must be received through the client area. You will receive an automatic confirmation upon successfully receiving the cancellation. Cancellations over the telephone and informal email are not accepted.

Setup fees, when applicable, are non-refundable. You are obligated to pay for your account even if you do not use it. Because we have provided you with usernames, passwords, DNS entries, and an IP address, you have the ability to use your account. The fact that you do not do so is irrelevant - you are still obligated to pay for the account. Even an unused account uses valuable system resources that could be used for other customers. If you have a past-due balance on your account at the time the account is closed (either by your request or due to non-payment), the remaining balance must be paid within 30 days of when the account is closed. If we do not receive payment on the remaining balance in that time, we will begin efforts to collect any fees owed. We apply a \$20.00 collection fee to cover our costs in attempting to collect your debt. If our internal collection efforts fail, we reserve the right to turn the account over to a 3rd-party (either collections agency or attorney) for further action. We also reserve the right to report your unpaid balance to credit reporting agencies.

If client disputes justified charges by provider on his credit card, provider has the right to charge a \$50 administration fee and immediately discontinue service.

## **Spam/UCE Policy**

To reach its goal of providing the best business class web hosting services to our users, Ourhelpdesk™ offers users a full range of commercial hosting services. Abuse of these services is considered a violation of our Terms of Service/AUP. One of the most serious abuses is using your account to send unsolicited commercial e-mail, otherwise known as "spam." The following are examples of spam and are blatantly contrary to our TOS/AUP.

### **Inappropriate E-Mail Activities:**

- **Commercial e-mail:** Defined as sending unsolicited commercial e-mails. This is prohibited. You are not permitted to use your Ourhelpdesk™ account or e-mail alias/account of your Virtual Server to send unsolicited commercial e-mail. Using an e-mail address hosted anywhere on Ourhelpdesk™ servers to collect responses from unsolicited commercial e-mail is prohibited. This includes using a throw-away, free e-mail account to promote your Ourhelpdesk™ account and redirectors for the same account.
- **Mail Bombing:** Defined as sending large volumes of unsolicited e-mail to individuals from your Ourhelpdesk™ account. This is strictly prohibited.
- **Harassment:** Defined as sending threatening or harassing e-mail after being requested to stop, is prohibited. Extremely threatening or harassing e-mail never is allowed.

### **Fine/Penalties:**

Should you violate Ourhelpdesk™'s SPAM Policies, **you WILL be charged \$200 per hour for the time it takes us to "clean-up" your SPAM.** This shall include but not be limited to the time required to answer e-mail from angry recipients of your SPAM and/or repair of a damaged server due to the "Mail Bombing" or other actions of the angry recipients in retaliation of your SPAM. **You will also be charged \$20 per gigabyte of data transfer that your SPAM incurred,** including bandwidth used by answers to or complaints about your SPAM. We will invoice this amount and should it not be paid, we will take legal action against you in court, and/or we will contact a collection agency to recover the funds. Please note also that it is now considered a crime to send UCE (unsolicited commercial e-mail) as it falls into the category of "junk faxes." Ourhelpdesk™ will turn over all names and personal information to the proper local, state, federal, and international officials of any person who violates this policy.

We take a very dim view of SPAM. It is one of the most annoying things encountered on the Internet. Any Ourhelpdesk™ client found to be spamming will have his/her **account terminated immediately** - no questions asked (we will investigate the report thoroughly before terminating any account). There is no warning or second chance. If we find that you have violated our Acceptable Usage Policy, we will report you and the incident to the proper local, state and federal authorities and will prosecute you to the full extent of the law.

We are not attempting to censor, nor are we attempting to curtail the business of our customers. But as a whole, spamming hurts our members and us more than it helps the one spammer. Do yourself, and us, a favor: **PLEASE DON'T DO IT.**

If you know of any Ourhelpdesk™ client that is or might be violating this policy, please send a message or, if possible, forward the SPAM or UCE in full (including headers) to **support@ourhelpdesk.net**.

## **Script Usage Policy**

Ourhelpdesk™ provides our clients with Web Hosting accounts that permit the use of scripts and other executable programs. Because scripts consume much more system resources than standard HTML pages, certain restrictions must be made governing the use of such "active content" systems. We regret that in many cases we are unable to determine what specific script or application is causing the system resource over-run. Under most circumstances, we are able to pin-point it to the offending account on the system. The following rules apply to all "active content" files as listed above:

- The script must use low system resources. Scripts that consume a large amount of our RAM or processor will be subject to immediate suspension until the owner can be notified and an alternative solution is reached.
- Each user account may not use more than 20% of system resources at any given time. If an account is consistently using 20% or greater system resources, the account holder will be warned and if no action is taken on behalf of the account holder the account may be suspended.

- The scripts may not interact with any server configuration or hardware. Accounts running these scripts are subject to immediate account termination without refund.
- The script can not be used or referenced from any other site not hosted by Ourhelpdesk™.
- The script must execute in a timely fashion. Any script that uses the processor for more than a few milliseconds is subject to removal.
- Any script that appears to be designed specifically to attack or otherwise maliciously affect the server is completely unacceptable, and if such scripts are found in your account the account will be terminated immediately and your actions will be reported to the proper local, state, and federal authorities and legal action will be taken to prosecute the account holder to the fullest extent of the law by Ourhelpdesk™.
- Scripts must be kept secure.

Any accounts with scripts found in violation of these policies are subject to future scrutiny of all scripts by our System Administrators. If a script is found to be harmful to the system, it will be killed immediately and the account locked down until the account owners have been contacted. Malicious scripts are subject to immediate account termination without refund of any pre-paid monies.

### **What happens if I violate this policy?**

All accounts that are found to using excessive amounts of system resources will receive an email warning from Ourhelpdesk™. This warning will inform you that there is too much CGI running and it will provide options for reducing the usage or upgrading your account. If you do not reduce the usage within 24 hours of the email being sent, your account will be suspended.

### **Bandwidth Usage**

Ourhelpdesk™'s bandwidth policy is simple! You are allotted a portion of bandwidth per month to do with as you please. You can use this bandwidth for anything you want besides things not permitted as outline in the Acceptable Usage Policy. If you go over your allotted amount of bandwidth in a given month, your account will not be suspended or terminated but you will be expected to pay for the additional bandwidth.

Ourhelpdesk™ provides a bandwidth estimate figure in your control panel. This is an estimate and is provided from the server level. Actual account bandwidth usage is measured for billing purposes at the port level. This policy exists because many users offer files for download via FTP which is not otherwise measured by the server directly at this time. Please note that because the bandwidth is monitored at the port, any and all traffic for your Web Site is tracked including, but not limited to: FTP uploads and downloads, mail sending and retrieval, normal Web traffic, etc. Everything that is pushed from our server to a third-party's machine is considered bandwidth and will be measured.

We have designed this policy because many users find that hosts offer "unlimited" bandwidth only to find out that it has a very real bandwidth limit. Further, they place restrictions on what you can use the bandwidth for (i.e. no image galleries because they are a large source of bandwidth consumption). We tell you up-front how much bandwidth you are allocated each month and you have the full amount to use.

It is important to note that many sites don't use more than 1 GB of bandwidth. Your site has to be very popular or very graphic intensive to use more than 1 GB. If you are unsure of your bandwidth usage prior to moving your site to Ourhelpdesk™, contact us. We would be happy to review your current site statistics with you to help you choose the right package.

### **Privacy**

Privacy for our customers is extremely important to Ourhelpdesk™. We strongly believe in individual's rights to privacy and that personal information is not a commodity and should not be treated as one. At all times we will never share your personal information with any third parties without your permission.

Your email addresses are not for sale or trade and are strictly guarded. Our Acceptable Usage Policy prohibits our customers from sending unsolicited bulk commercial email (aka "spam") using our services. If it is brought to our attention that one of our customers is violating this policy, we take steps to stop them and ensure it doesn't happen again. We also do everything within our power to keep non-customers from using our email servers for spam.

All client information such as email, phone numbers, addresses, etc is used only for internal purposes. This

contact information is used to get in touch with you when necessary and for announcements and our monthly newsletter. Financial information that is collected is used to bill you for products and services.

## **Copyright Violations**

Ourhelpdesk™ servers may be used for lawful purposes only. Transmission, storage, or distribution of any information, data or material in violation of any applicable law or regulation is prohibited. This includes, but is not limited to: copyrighted material, trademark, trade secret or other intellectual property right used without proper authorization, and material that is obscene, defamatory, constitutes an illegal threat, or violates export control laws.

## **How to report Copyright Violations:**

The Digital Millennium Copyright Act ("DMCA") sets forth the requirements for valid copyright infringement notification. If you would like to notify Ourhelpdesk™ of an infringement of your copyright, the DMCA requires that you:

1. Send your notification to
2. Ourhelpdesk™ email address: support@ourhelpdesk.net.
  - a) Include in your notification the following information
  - b) A physical or electronic signature of the copyright owner or a person authorized to act on the copyright owner's behalf (the "Claimant")
  - c) Identification of the copyrighted work(s) claimed to have been infringed
  - d) Identification of the material claimed to infringe the copyright(s), and enough information for Ourhelpdesk™ to locate it
  - e) The Claimant's name, address, and telephone number(s)
  - f) A statement that the Claimant has a good faith belief that use of the disputed material is not authorised by the copyright owner or his agent
  - g) A statement, under penalty of perjury, that the information in the notification of copyright infringement is accurate and that the Claimant is authorised to act on behalf of the copyright owner.