

BITNETS Service Agreement

Terms and Conditions

Definitions

"We" refers to BITNETS Inc. (hereinafter referred to as BITNETS), its directors, employees and affiliates.

"Service" refers to the services provided by BITNETS and subscribed to by you and may include, but is not limited to, Hosting and Consulting services.

"You" refers to the person or organization that uses or subscribes to the Service provided by BITNETS. If the Service is re-sold, "You" refers to both the end-user and the reseller, jointly and severally.

General

The Service provided by BITNETS to you is subject to the Terms and Conditions set out in this document. You undertake to ensure unqualified acceptance of these Terms and Conditions by the end-user, if you are a reseller. Your use or re-sale of the Service confirms your unqualified acceptance of all of the Terms and Conditions set out in this document.

We have the right to change or modify at any time, the Terms and Conditions applicable to your use of the Services, or any part thereof, or to impose new conditions, including, but not limited to, adding fees and charges for use. Such changes, modifications, additions or deletions shall be effective immediately upon notice by us, which may be given by any means including, but not limited to, posting on our website, or by electronic or postal mail. Your use of the Services after such notice shall be deemed to confirm your acceptance of such changes, modifications or additions.

Services are provided on the basis of, and are subject to, service, facility and equipment availability. We reserve the right to not provide one or more Services where necessary facilities, equipment or services are not available for any reason whatsoever.

Transfers and Resale

The Service provided by BITNETS to you is not transferable. If you are an existing reseller enrolled in our partner program, you may re-sell the Service if such re-sale is approved by BITNETS on a case-by-case basis.

Term and Termination

The Service is for an initial term as agreed between us and shall automatically renew for a similar term at the end of the initial Term unless terminated by either of us in accordance with these Terms and Conditions.

Only a written request to terminate the Service may relieve you of your obligation to pay the renewal charges, provided such notice is given at least one month in advance of the expiry of the period of service that has been paid for. Cancellation will take effect only when the receipt of the cancellation request is confirmed by BITNETS, and on expiry of the current period of service.

There are no refunds for partial terms, non-use or inability to use the Service. All setup fees are non-refundable once setup has been completed.

We reserve the right to terminate any Service to you immediately and without notice for cause in the event that you breach this Agreement. We may, at our sole discretion, suspend your service in lieu of terminating this Agreement while we investigate the alleged breach of this Agreement.

Files, information and mail in your account will be preserved for 14 days if we have to suspend your service due to non-payment. If the payment in full is not received after 14 days, all files, information and mail under the account may be deleted. If you wish to use the Service again, you must re-apply as a new customer, and pay the required setup and registration fees.

You agree that BITNETS has the right to delete all data, files or other information that is stored in your account if either BITNETS or you terminate the account for any reason.

Your Responsibilities

You are responsible for paying all charges necessary to use and access the Service. We will recognize only you as the person authorized to accept, utilize, manage, modify or terminate the Service. You are responsible for providing up-to-date payment information.

Internet Service

All user names associated with the Internet Service shall remain our property and we may, at any time at our sole discretion, require you to change your user name.

The Service is subject to the provisions of the Acceptable Use Policy.

Remedial Actions for Internet Abuse

We consider the above practices to constitute abuse of both our Internet Service and of the recipients of such unsolicited mailings or postings who often bear the expense. We reserve the right to define, in our sole discretion, conduct that violates the above provisions and guidelines and to deny access at any time to users who breach the above rules or cause other abuses that are disruptive to our subscribers. We reserve the right to implement and take legal and technical steps to prevent unsolicited bulk e-mail or other unauthorized e-mail from entering, utilizing or remaining within our proprietary computers and computer network. If we receive complaints from third parties against you for spamming, sending unsolicited mass e-mailings or any other form of Internet abuse, we reserve the right to charge you with an administrative fee for such complaints received by us. Nothing contained in this policy shall be construed to limit our actions or remedies in any way with respect to any of the foregoing activities. We reserve the right to take any and all additional actions we may deem appropriate with respect to such activities, including, without limitation, all rights and remedies available to us at law or in equity. Our failure to enforce these policies in every instance does not amount to a waiver of any of our rights. We will have the right to immediately terminate the account without limiting any other recourse we may wish to pursue against you in respect of Service abuse.

Warning about Offensive Materials

YOU ACKNOWLEDGE THAT THE INTERNET CONTAINS UNEDITED MATERIALS, SOME OF WHICH YOU MAY DEEM OFFENSIVE. WE BEAR NO RESPONSIBILITY WHATSOEVER FOR NEITHER THE EXISTENCE OF SUCH MATERIALS NOR FOR ACCESS TO ANY SUCH MATERIALS WHICH MAY BE MADE USING OUR SERVICE.

Monitoring and Filtering

BITNETS exercises no control whatsoever over the content of the information passing through the Service. The secure e-mail hosting service might include anti-virus, content filtering and anti-spam technology for detecting potentially malicious and undesirable content in incoming Internet e-mail and is subject to the limitations of the various component services, both as individual services and as a collective system. The dedicated server secure e-mail hosting might additionally include content control based on your filtering criteria. We have no obligation to monitor our Internet Service.

Despite the foregoing, you agree that we have the right to monitor our Internet Service electronically from time to time, to disclose any information as necessary to satisfy any law, regulation, or other governmental request, to operate our Services properly, or to protect ourselves or our subscribers. We will not intentionally monitor (except for the purposes of testing or security protection) or disclose any private electronic e-mail message unless required by law. We reserve the right to refuse to post or to remove any information or materials in whole or in part, to refuse access to web sites that, in our sole discretion, are unacceptable, undesirable, or otherwise in violation of these Terms and Conditions and/or applicable law.

BITNETS does not guarantee that the secure e-mail hosting service will detect and remove all viruses, worms and Trojans. The service merely deletes attachments that may be found to be harmful or potentially harmful. The risk is determined by examining the file type and scanning for virus code, including use of heuristics. Please be aware that legitimate attachments will be deleted by the use of this service, if they are found to be of a certain file type or are incorrectly detected as potentially harmful by the virus scanner with or without the use of heuristics. We further do not guarantee that restricted content as defined by your filtering criteria (dedicated server secure e-mail hosting only) will not pass through.

BITNETS does not guarantee that the anti-spam measures will be 100% effective at blocking or identifying spam, or that legitimate mail will not incorrectly be blocked or identified as spam. The service uses a combination of information obtained from trusted third parties such as DNS-based black lists, IP ranges of countries or ISPs in the third party's opinion known to be accurate, our own best faith belief of certain IP addresses and domains being repeat offenders, several RFC violations typical of spammers and above all Bayesian filtering. Most of the technological measures are aimed at blocking spam, while Bayesian filtering merely identifies spam that has made it past the other filters and lets you deal with it as you deem fit.

You agree to not hold BITNETS, its directors and employees liable for and indemnify and save BITNETS, its directors and employees harmless against all, including but not limited to, third party claims, loss, damages, including but not limited to special, incidental, punitive, indirect, consequential or other damages whatsoever (including, but not limited to, damages for loss of profits, data or confidential or other information, for business interruption, for personal injury, for loss of privacy, for failure to meet any duty including of good faith or of reasonable care, for negligence, and for any other pecuniary or other loss whatsoever), expenses and mental agony arising from your subscription, use or inability to use the Service, even if BITNETS has been advised of the possibility of such damages.

Invoices and Payment Terms

Invoices are due on the date specified on the invoice. Your service may be interrupted if invoices are not paid in full within 7 days from the due date. Such interruption does not relieve you from the obligation to pay the outstanding balance. You will be charged a fee of \$25 for late payment if payment is not received in full by the due date. Interest will accrue on unpaid amounts after the due date at the rate of 2% per month, or such other rate as we may determine from time to

time. If your state, province or country law does not allow an interest rate of 2% per month, the maximum allowable rate for your state, province or country will be charged. Should your financial institution reject a payment for any reason, you will be charged a fee of \$25.00. You must bring invoice inquiries and disputes to our attention within 7 days of the invoice date and failure to do so will be deemed an admission that the entire contents of the invoice are accurate.

If payment is by credit card, you authorize BITNETS to charge the credit card enlisted for those charges for services that may accrue from time to time, or for any past due balances, in order to bring the account to current status. Credit card payments will be billed and charged automatically, and BITNETS may charge the amount payable to the provided card at any time. Credit card payments may be subject to a surcharge.

Service Interruption

We may suspend the Service at any time for any duration of time, without penalty or liability to ourselves, where necessary. You agree that it may be necessary for us to suspend our Service for technical reasons or to maintain our network, equipment or facilities. We shall not bear any liability whatsoever for: (i) any such suspensions of Service; (ii) the termination of Service pursuant to these Terms and Conditions; (iii) suspension or termination of Service due to your non-payment of amounts or deposits due; (iv) suspension or termination of Service due to your unlawful or improper use of facilities or Service by you; (v) your inability to access any Services; or (vi) suspension or termination of the Service for any other reason at our sole discretion.

Limitation on Remedies

Your exclusive remedy is to submit a written request to terminate the Service. Except for any refund elected by BITNETS, YOU ARE NOT ENTITLED TO ANY DAMAGES, INCLUDING BUT NOT LIMITED TO SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT, CONSEQUENTIAL OR OTHER DAMAGES WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS OR CONFIDENTIAL OR OTHER INFORMATION, FOR BUSINESS INTERRUPTION, FOR PERSONAL INJURY, FOR LOSS OF PRIVACY, FOR FAILURE TO MEET ANY DUTY INCLUDING OF GOOD FAITH OR OF REASONABLE CARE, FOR NEGLIGENCE, AND FOR ANY OTHER PECUNIARY OR OTHER LOSS WHATSOEVER) ARISING OUT OF OR IN ANY WAY RELATED TO THE USE OF OR INABILITY TO USE THE SERVICE, THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT OR OTHER SERVICES, INFORMATION, AND RELATED CONTENT THROUGH THE SERVICE OR OTHERWISE ARISING OUT OF THE USE OF THE SERVICE, OR OTHERWISE UNDER OR IN CONNECTION WITH ANY PROVISION OF THIS AGREEMENT, EVEN IN THE EVENT OF THE FAULT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR BREACH OF CONTRACT, EVEN IF BITNETS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

Warranty

BITNETS makes no warranties of any kind, whether expressed or implied, for the Service provided. BITNETS also disclaims to the maximum extent permitted by applicable law any warranty of merchantability, fitness for a particular purpose and your ability or lack thereof to utilize any of our services. BITNETS will not be responsible for any damage suffered. This includes loss of data resulting from delays, non-deliveries, misdeliveries, or service interruptions caused, due to the nature of providing internetworking services or due to your errors or omissions. While we make every effort to keep our systems available at all times, we are unable to guarantee uptime. Use of any information obtained via the service is at your own risk. BITNETS specifically denies any responsibility for the accuracy or quality of information obtained through its services.

Limitation of Liability

LIMITED LIABILITY. ANY LIABILITY, INCLUDING WITHOUT LIMITATION ANY LIABILITY FOR DAMAGES, INCLUDING BUT NOT LIMITED TO SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT, CONSEQUENTIAL OR OTHER DAMAGES WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS OR CONFIDENTIAL OR OTHER INFORMATION, FOR BUSINESS INTERRUPTION, FOR PERSONAL INJURY, FOR LOSS OF PRIVACY, FOR FAILURE TO MEET ANY DUTY INCLUDING OF GOOD FAITH OR OF REASONABLE CARE, FOR NEGLIGENCE, AND FOR ANY OTHER PECUNIARY OR OTHER LOSS WHATSOEVER) CAUSED OR ALLEGEDLY CAUSED BY ANY FAILURE OF PERFORMANCE, ERROR, OMISSION, INTERRUPTION, DELETION, DEFECT, DELAY IN OPERATION OR TRANSMISSION, NETWORK CONGESTION, COMMUNICATIONS LINE FAILURE, THEFT OR DESTRUCTION OF OR UNAUTHORIZED ACCESS TO, ALTERATION OF, OR USE OF RECORDS, WHETHER FOR BREACH OF CONTRACT, TORTUOUS BEHAVIOR, NEGLIGENCE, OR UNDER ANY OTHER CAUSE OF ACTION, SHALL BE STRICTLY LIMITED TO THE AMOUNT PAID BY OR ON YOUR BEHALF FOR THE SERVICE PRO-RATED TO THE CHARGES FOR THE CURRENT MONTH OR IN FULL, WHICHEVER IS LOWER.

Your Indemnification of BITNETS

You agree to indemnify and save harmless BITNETS, its directors and employees against all claims, loss, consequential or other damages, liability and expenses that we and/or they may suffer or incur, directly or indirectly, arising out of, resulting from or in connection with your use of the Service which damages you or any other parties. Indemnification includes, but is not limited to, claims by third parties, the violation by you of the Agreement in force from time to time, and legal fees, disbursements and all other reasonable costs incurred by us in connection with any legal, collection or other proceedings brought by us against you related to enforcing this Agreement.

Relationship

The relationship between us constitutes that of independent contractors. You do not possess, nor are you able to distinguish yourself as having, any authority to act for or create any obligation of, or make any representation on behalf of or in our name. You shall not use, in any manner or circumstance whatsoever, trademarks, trade names, logos or designs owned or licensed by us.

Force Majeure

Neither of us shall be liable for any delay, interruption or failure in the performance of our obligations if caused by acts of God, declared or undeclared war, fire, flood, storm, slide, earthquake, power failure, the inability to obtain equipment, supplies or other facilities that are not caused by a failure to pay, labour disputes, or other similar events beyond the control of the party affected that may prevent or delay such performance. If any such act or event occurs or is likely to occur, the party affected shall promptly notify the other, giving the particulars of the event. The party so affected shall use reasonable efforts to eliminate or remedy the event.

Unenforceable Provisions

If any part of these Terms and Conditions is found to be illegal, invalid or unenforceable under applicable law, such part shall be ineffective to the extent of such illegal, invalid or unenforceable part only, without in any way affecting the legality, validity and enforceability of the remaining parts of these Terms and Conditions.

Governing Law

The rights and obligations of the parties pursuant to these Terms and Conditions are governed by, and shall be construed in accordance with the laws of the Province of Alberta, and the Federal laws of Canada applicable in said Province. The Service originates in Canada and is primarily directed to residents of Canada.

You may be subject to other local, provincial and national laws. You hereby irrevocably submit to the exclusive jurisdiction of the Courts of the Province of Alberta for any dispute arising under or relating to this Agreement and waive your right to institute legal proceedings in any other jurisdiction. We shall be entitled to institute legal proceedings in connection with any matter arising under this Agreement in any jurisdiction where you reside, do business or have assets.

Waiver

No waiver of any of the provisions of these Terms and Conditions at any time shall be deemed to constitute a waiver of any other provision nor shall such a waiver constitute a modification or continuing waiver unless otherwise expressly provided in writing duly executed by the party to be bound thereby.

Entire Agreement

These Terms and Conditions represent the complete Agreement and understanding between us with respect to the Service and supersede any previous representations, understandings or other written or oral agreement and shall prevail notwithstanding any variance with terms and conditions of any order submitted.

Signature: _____

Name: _____

Date: _____

Place: _____