

355 Data Systems, LLC. Terms Of Service

355 Data Systems, LLC. provides web hosting services to subscribers. The following terms of service are designed to provide the highest level of service available.

Content

All services provided by 355 Data Systems, LLC. are to be used for lawful purposes only. Transmission, storage, or presentation of any information, data or material in violation of any United States Federal, State or Local law is prohibited. This includes, but is not limited to: copyrighted material, material we judge to be threatening or obscene, material that jeopardizes national security, or material protected by trade secret or other laws. The subscriber agrees to indemnify and hold harmless 355 Data Systems, LLC., from any claims resulting from the subscriber's use of 355 Data Systems, LLC.'s services which damages the subscriber or any other party.

Examples of prohibited content or links include (but are not limited to):

- IRC Software
- Pirated software
- Hacking sites, programs or archives
- Warez Sites
- Distribution of music files or any other material in which the account holder does not own the copyright.

355 Data Systems, LLC. will be the sole arbiter as to what constitutes a violation of this provision.

Content that does not meet these standards will be removed without prior notice to the subscriber.

Housing of any of the following files is considered a violation of the terms of service:

IRC - We currently do not allow IRC, Egg Drops, BNC, or IRC bots to be operated on our servers or network. Files with references to IRC or any likeness thereof are prohibited.

Proxies - We do not allow proxy servers of any kind, whether for personal or business use. Files with references to any proxy or likeness thereof are prohibited.

PortScanning - We do not allow any kind of port scanning to be done on or from our servers or network.

Commercial Advertising - Email -

Spamming, i.e. the sending of unsolicited email, from any server provided by 355 Data Systems, LLC. or any server located on the network provided by 355 Data Systems, LLC. is STRICTLY prohibited. 355 Data Systems, LLC. will be the sole arbiter as to what constitutes a violation of this provision. This also includes Opt-in Opt-out mail programs and mail that either directly or indirectly references a domain contained within an account at 355 Data Systems, LLC.

Running Unconfirmed Mailing Lists. Subscribing email addresses to any mailing list without the express and verifiable permission of the email address owner is prohibited. All mailing lists run by 355 Data Systems, LLC. customers must be Closed-loop ("Confirmed Opt-in"). The subscription confirmation message received from each address owner must be kept on file for the duration of the existence of the mailing list. Purchasing, selling, or utilizing lists of email addresses from 3rd parties for mailing to or from any 355 Data Systems, LLC.-hosted domain, or referencing any 355 Data Systems, LLC. account is prohibited.

Advertising, transmitting, or otherwise making available any software, program, product, or service that is designed to violate this AUP or the AUP of any other Internet Service Provider, which includes, but is not limited to, the facilitation of the means to send Unsolicited Bulk Email, initiation of pinging, flooding, mail-bombing, text-bombing, unsolicited bulk text messaging or denial of service attacks is prohibited. Email address cultivating, or any unauthorized collecting of email addresses without prior notification of the email address owner is strictly prohibited.

Operating an account on behalf of, or in connection with, or reselling any service to, persons or firms listed in the Spamhaus Register of Known Spam Operations (ROKSO) database at www.spamhaus.org is prohibited.

All commercial email marketing companies must adhere to the Controlling the Assault of Non-Solicited Pornography And Marketing (CAN-SPAM) Act of 2003. In addition such companies are prohibited the sending of bulk mail from "disposable domain names" with whois privacy protection.

Advertising & Promotions Limitations

In the following scenarios 355 Data Systems, LLC. clients are prohibited from advertising, promoting or making claims related to services which are hosted upon infrastructure provided by 355 Data Systems, LLC.. This limitation includes what is allowed to be stated on your website, to customers, in promotions and in advertising materials. This limitation applies to claims by the client which relate to services provided by 355 Data Systems, LLC.

Claims related to DDOS Mitigation or any related service including, but not limited to, proxy protection, denial of service protection, denial of service mitigation or ddos or dos services.

Any illegal or unlawful activity

Any services intended to defraud, scam, defame, coerce or entice others into an unlawful activities.

Server Abuse - Any attempts to undermine or cause harm to a server provided by 355 Data Systems, LLC. or subscriber of 355 Data Systems, LLC. is strictly prohibited including, but not limited to:

- Logging into a server or account that you are not authorized to access
- Accessing data or taking any action to obtain services not intended for you or your use
- Attempting to probe, scan or test the vulnerability of any system, subsystem or network
- Tampering, hacking, modifying, or otherwise corrupting or breaching security or authentication measures without proper authorization
- Transmitting material that contains viruses, Trojan horses, worms, time bombs, cancelbots or other computer programming routines or engines with the intent or effect of damaging, destroying, disrupting or otherwise impairing a computer's functionality or the operation of the System
- Interfering with, intercepting or expropriating any system, data or information
- Interfering with service to any user, host or network including, without limitation, by means of overloading, "flooding," "mailbombing," or "crashing" any computer system
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You will be held responsible for all actions performed by your account whether it be done by you or by others.

All sub-networks provided by 355 Data Systems, LLC. and all dedicated servers must adhere to the above policies.

Password Security and Account Authorization

355 Data Systems, LLC. provides customers flexibility over their own passwords, account access and authorization procedures. Customers are responsible for selecting the appropriate authentication procedures and selecting the proper information which will be used to authenticate the account. It is the responsibility of the customer to protect the information used to authenticate their account. Account access, password security and server security are the responsibility of the customer. 355 Data Systems, LLC. will not be liable for any damages, direct or indirect, that result from unauthorized account access, password compromise or hacking.

If 355 Data Systems, LLC. has reason to believe that a clients password has been compromised we will notify the client and may temporarily disable the login and/or account until the password is changed.

Technical Support

355 Data Systems, LLC.'s technical support is strictly limited to the direct customer of 355 Data Systems, LLC. and not to in-direct client. For example, a client of the 355 Data Systems, LLC. Customer is not entitled to Support from 355 Data Systems, LLC. It is the obligation of the 355 Data Systems, LLC. customer to ensure compliance with this policy.

Best Effort Support

355 Data Systems, LLC. will, when possible as a courtesy to its customers, provide Best Effort support on products, applications and 3rd party software that is not explicitly covered. Best Effort support means that when possible 355 Data Systems, LLC. will provide their best effort to help support our customers. Best Effort Support is not guaranteed and may vary dramatically. No warranties or guarantees are provided on Best Effort Support.

355 Data Systems, LLC. provides Bundled Bandwidth Packages for Internet Data Transfer

When purchasing a Bundled Bandwidth Package your outgoing bandwidth transfer will be used to calculate your bandwidth usage. Incoming data transfer will not be counted towards your bundled bandwidth usage. If your actual data transfer usage exceeds the amount of your bandwidth package you will be charged a bandwidth overage fee in addition to your Bundled Bandwidth Charge. Incoming data transfer is currently free.

CDN (Content Delivery Network) Bandwidth and Overage Fees

When choosing to use our Content Delivery Network (CDN) to accelerate your website - as well as images/videos/etc on that website - you are responsible for all bandwidth costs associated with delivery of your content over the public internet. This responsibility includes bandwidth costs incurred due to piracy. 355 Data Systems, LLC. makes options readily available that can prevent overage charges caused by "hot-linking." When using a CDN, all assets are assigned a CDN URL. There are individuals, or 3rd party sites, that target these asset URLs and serve them without the site owner's permission. We strongly recommend that you take steps to protect yourself, your content, and your invoice from hot-linking. Due to the range of customer preferences, 355 Data Systems, LLC. does not enable hot-linking protection measures by default. It is recommended that you take measures to protect yourself such as:

- Constantly monitor bandwidth utilization and verify alerts containing information on abnormal CDN bandwidth usage
- Implement proactive measures to make accessing your site's source code more difficult

Resource Limits

By default website hosting account levels include soft resource limitations. A soft resource limitation allows the account to exceed the resource limitation when necessary to prevent disruption in service. Examples of resource limitations may include but are not limited to disk space usage or bandwidth usage. When the resource usage for the current account level is exceeded the account will be migrated to the next higher account level in which the usage is not exceeded and the customer will be notified. The account will remain at the migrated account level until the resource overage no longer exists and the customer informs 355 Data Systems, LLC. of their desire to be moved to a lower account level.

At the request of the customer, hard limits may be added to the account which prevent over usage of resources.

By default email hosting accounts include hard resource limitations. At the request of the customer these limits may be changed to soft limits.

Dedicated Server Support

Basic support and maintenance of dedicated servers is provided at the discretion of 355 Data Systems, LLC., Inc. In the case of erroneous instances or support issues extending beyond what we determine to be within the realm of reasonable assistance, support is priced as follows:

\$60/hour

Scheduled Maintenance and Downtime

355 Data Systems, LLC. will use its commercially reasonable efforts to provide services 24 hours a day, seven days a week. Subscriber acknowledges that from time to time the services may be inaccessible or inoperable for various reasons, including periodic maintenance procedures or upgrades ("Scheduled Downtime"); or service malfunctions, and causes beyond 355 Data Systems, LLC.'s control or which are not reasonably foreseeable by 355 Data Systems, LLC., including the interruption or failure of telecommunications or digital transmission links, hostile network attacks, network congestion or other failures. 355 Data Systems, LLC. will use commercially reasonable efforts to minimize disruption, inaccessibility and/or inoperability of its web servers. 355 Data Systems, LLC. has no responsibility for downtime resulting from a user's actions.

Refunds

Refunds will be posted for FULL months only. Notice of cancellation must be given before the month in question begins. Setup fee is NON refundable. \$14.95 will be deducted from the money refunded if the user's domain was registered via 355 Data Systems, LLC.

Any violation of 355 Data Systems, LLC.'s Terms of Service Agreement shall result in no refund.

Account Setup, Termination, and Billing:

Billing dates are recurring on the day the account was opened.

Check Orders:

Accounts for subscribers who wish to pay by check will be setup when the check is received by 355 Data Systems, LLC.

Returned Check Fee and Credit Card Charge Backs:

A returned check penalty fee of \$25 will be charged to any customer's account for any check dishonored by their financial institution. This fee will be waived if the check was returned in error, provided that supporting documentation is submitted. The returned check and penalty fee must be paid immediately in order to guarantee that services will remain online and available. If a customer or anyone paying on the customer's behalf has written two or more returned checks, check cashing privileges will be revoked. If a returned check was used to pay for more than one customer's account, each account will be assessed the \$25 returned check fee. Payments made by a returned check are reversed from the customer account, leaving the balance due and payable immediately. Outstanding balances are subject

to the unpaid fees and delinquent accounts policy and may result in server suspension or account termination. If the account is terminated all information within the account will be deleted.

A credit card charge back fee of \$50 will be charged to any customer's account for any charge back received by their financial institution. The original charge amount and penalty fee must be paid immediately in order to guarantee that services will remain online and available. This fee will be waived and credit card payment privileges reinstated if the chargeback resulted in error, provided that supporting documentation is submitted. If a credit card was used to pay for more than one customer account resulting in multiple chargebacks, each account will be assessed the \$50 fee. Chargebacks received are reversed from the customer's account, leaving the balance due and payable immediately. Outstanding balances are subject to the unpaid fees and delinquent accounts policy and may result in server suspension or account termination. If the account is terminated all information within the account will be deleted.

If a customer or anyone paying on the customer's behalf has used a credit card to pay for services ending in 2 or more chargebacks credit card payment privileges will be revoked (full payment will be due via money order or wire transfer).

EVENT OF DEFAULT BY CUSTOMER (Disabling of accounts due to overdue payment). If the CUSTOMER fails to pay an invoice within 14 days of the date of that invoice, 355 Data Systems, LLC. reserves the right to disconnect service without further warning. If services are disconnected for non payment, customer must pay all past due charges up to the day of service disconnection in order to reconnect service. If your account has been disabled for non payment, you may be charged a reconnection fee of up to \$50 in order to re-enable your account. 355 Data Systems, LLC. reserves the right to deny access to, and/or, destroy customer data stored on the server or account disconnected for non payment.

355 Data Systems, LLC.'S REMEDY UPON DEFAULT; TERMINATION. In addition to all rights and remedies granted to 355 Data Systems, LLC. in this Terms of Service (including, but not limited to, the right to charge and collect Late Charges), upon the occurrence of an Event of Default, 355 Data Systems, LLC. shall have the right (a) to cease providing the Services to Customer without notice to Customer, (b) upon not less than one (1) business days written notice to Customer, to terminate the Hosting Services, all at Customer's cost and expense. Upon such termination, Customer agrees to and shall immediately pay to 355 Data Systems, LLC. all Fees and other amounts due and owing for Services provided through and including the effective date of termination.

Cancellation Procedure: Valid proof of account ownership will be required to terminate an account. This includes, but is not limited to, the billing password or an account passphrase created by customers. Non-secure information, such as the contact email address or account billing address, is not sufficient as a security verification. The month-to-month agreement for services is automatically renewed in perpetuity subject to written cancellation or email sent to support@355ds.com (email subject to valid proof of account ownership). 355 Data Systems, LLC. is not able to schedule cancellation requests. The customer is responsible for any fees incurred for services provided to the customer if no formal cancellation request is submitted.

355 Data Systems, LLC. reserves the right to deny access to, and/or, destroy customer data following the cancellation of the account.

Data Loss - Backup Courtesy Services for Customers

Services such as backup are provided as a courtesy to the subscriber. It is the sole responsibility of the subscriber to maintain the subscriber's own backup of any data. 355 Data Systems, LLC., Inc. is not responsible for lost data for any reason.

Microsoft Software License Policy.

Microsoft, as well as 355 Data Systems, LLC. company policy, does not allow mixing of Microsoft license ownership. For an example, a customer cannot use a Windows Server license provided with service in conjunction with their own customer license of MSSQL or any other Microsoft Product. In some instances, we can allow the customer to supply all Microsoft licensed products, including the OS. However, all licenses must be provided by the customer and may not be mixed with other licensed Microsoft products.

Limitation of Damages or Liability

355 DATA SYSTEMS, LLC. SHALL NOT BE LIABLE TO CUSTOMER FOR HARM CAUSED BY OR RELATED TO CUSTOMER'S SERVICES OR INABILITY TO UTILIZE THE SERVICES UNLESS CAUSED BY WILLFUL MISCONDUCT. 355 DATA SYSTEMS, LLC. SHALL NOT BE LIABLE TO THE CUSTOMER FOR LOST PROFITS, INDIRECT, SPECIAL OR INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES. NOTWITHSTANDING ANYTHING ELSE IN THIS TERMS OF SERVICE AGREEMENT, THE MAXIMUM AGGREGATE LIABILITY OF 355 DATA SYSTEMS, LLC. AND ANY OF ITS EMPLOYEES, AGENTS OR AFFILIATES, UNDER ANY THEORY OF LAW SHOULD NOT EXCEED THE AMOUNT OF FEES IT HAS COLLECTED ON THE ACCOUNT DURING THE CURRENT SUBSCRIPTION PERIOD. EXCEPT AS OTHERWISE PROVIDED IN THIS TERMS OF SERVICE AGREEMENT, 355 DATA SYSTEMS, LLC. PROVIDES ALL PRODUCTS AND SERVICES "AS IS", WITHOUT WARRANTY OR ANY KIND, WHETHER EXPRESS, OR IMPLIED AND DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY OF FITNESS FOR A PARTICULAR PURPOSE. CUSTOMER SHALL BE SOLELY RESPONSIBLE FOR THE SELECTION, USE, AND SUITABILITY OF ANY PRODUCT AND SERVICE AND 355 DATA SYSTEMS, LLC. SHALL HAVE NO LIABILITY ASSOCIATED WITH THE FORGOING.

General

Terms Of Service are subject to change without any prior notification.

These Terms of Service are a legally binding contract between the subscriber and 355 Data Systems, LLC. By opening an account, or by the use of any service provided by 355 Data Systems, LLC., the subscriber agrees to the above-stated terms.

Anything not listed in the Terms of Service is open to interpretation and change by 355 Data Systems, LLC. administrators without prior notice.

All prices, are nonrefundable and nonnegotiable.

Any violation of these Terms of Service will result in termination of the account. 355 Data Systems, LLC., Inc. maintains the right to terminate accounts without prior notification.

In the case that a customer is terminated for violating one or more of the 355 Data Systems, LLC. Terms of Service, 355 Data Systems, LLC. reserves the right to deny access to, and/or, destroy customer data stored on the offending server or account. 355 Data Systems, LLC. may at its own discretion allow access to a terminated account. If 355 Data Systems, LLC. agrees to provide access to an account which has been terminated due to a Terms of Service violation, the customer will be subject to a one-time charge of \$500 or more to cover the cost of hard drives, cloning, processing and shipping.

Dispute Resolution

Any dispute between 355 Data Systems, LLC. and a subscriber shall be determined by arbitration conducted by the American Arbitration Association pursuant to its commercial arbitration rules. The arbitrator shall decide any dispute in accordance with Mississippi law, without the application of choice of law principles. Each party shall bear its own expenses and legal fees for the arbitration. The arbitration shall be conducted in Union County, Mississippi, unless both parties agree in writing to a different location. The arbitration award is enforceable as a judgment of any court having proper jurisdiction.

Indemnification

Customer agrees to indemnify and hold harmless 355 Data Systems, LLC., its subsidiaries, their affiliates and each of their respective directors, officers, employees, shareholders and agents (each an "Indemnified Party") against any losses, claims, damages, liabilities, penalties, actions, proceedings, judgments, or any and all costs thereof (collectively, "Losses") to which an Indemnified Party may become subject and which Losses arise out of, or relate to the Agreement, Customer's use of the Products and Services, breach of any confidentiality obligation or any alleged infringement of any trademark, copyright, patent or other intellectual property right and will reimburse an Indemnified Party for all legal and other expenses, including reasonable attorneys' fees incurred by such Indemnified Party, in connection with investigating, defending, or settling any Loss, whether or not in connection with pending or threatened litigation in which such Indemnified Party is a party.

Remote Hands Service

355 Data Systems, LLC. may from time to time, at the request of the CUSTOMER, be enlisted to perform server administration tasks on CUSTOMER hardware. This service shall be referred to as "Remote Hands". Customer agrees to indemnify and hold harmless 355 Data Systems, LLC., its subsidiaries, their affiliates and each of their respective directors, officers, employees, shareholders and agents (each an "Indemnified Party") against any incidental damages caused to CUSTOMER hardware in the performance of 355 Data Systems, LLC. remote hands administration.