

This document outlines the Terms of Agreement for *Web Hosting Services* provided by OfficeSmarts, and describes the terms and conditions that apply to your use of these services. By utilizing the web hosting services provided by OfficeSmarts, you are agreeing to the terms of this agreement. The CLIENT is responsible for notifying OfficeSmarts immediately to terminate their hosting account if not in agreement with these terms.

1. Account Activation

All accounts are set up on a pre-payment basis. To activate an account, the CLIENT agrees to pay OfficeSmarts either six (6) months or twelve (12) months of *Web Hosting Services* in advance, plus a one-time set up fee. Service fees and hosting packages are guaranteed only for the length of term pre-purchased, and any changes to them will be applicable upon renewal of the new hosting term.

2. Account Cancellation/Termination

This Agreement may be cancelled or terminated at any time by EITHER PARTY with 30 days written notice, with any outstanding balances settled. Any termination of this Agreement shall not relieve the CLIENT of any obligations to pay fees and costs accrued prior to the termination date and any amounts owed by the CLIENT to OfficeSmarts as provided in this Agreement.

3. Account Renewal

This Agreement will automatically renew for a successive six (6) month or twelve (12) month term unless cancelled in writing by the CLIENT at least 30 days prior to end of the previous hosting term.

4. Use of Service

The use of our *Web Hosting Services* has a monthly data transfer and bandwidth limit as outlined on our web site (www.officesmarts.ca/web/hosting.htm), and is for the exclusive use of the CLIENT. The resale of our services, even for free, is not permitted without the express written consent of OfficeSmarts.

5. Lawful Use

The CLIENT agrees to conduct their activity for lawful purposes only. The CLIENT shall not conduct or solicit any activity deemed illegal, or conduct any activity that infringes on the rights of OfficeSmarts or any other third party.

6. Restrictive Use

The following are restrictive uses of our *Web Hosting Services*:

- The CLIENT shall not attempt to undermine or cause harm in any way to the server.
- The CLIENT shall not attempt to gain access to an Internet account or computer without the owner's express permission.
- The CLIENT shall not engage in unauthorized distribution or copying of copyrighted software.
- The CLIENT shall not engage in unsolicited commercial advertisements by way of email, known as "spamming".
- The CLIENT shall not post content or other materials to the Internet that consists of the following:
 - Bigotry, racism, hatred, or profanity.
 - Promotion or provision of instructional information about illegal activities.

- Promotion of physical harm or injury against any individual, group or organization.
- Obscene nudity or pornographic material.
- Exploitation of children under the age of 18 years.
- Copyright infringement including, but not limited to, pirated computer programs or links to such programs, information used to circumvent copyright protected devices or software.

OfficeSmarts reserves the right to immediately terminate service to any customer who is in violation of any of the above restrictions, without liability, refund or compensation.

7. Network Security

The CLIENT shall not attempt to circumvent user authentication or security of any host, network or account. This includes, but is not limited to, accessing data not intended for the customer, logging on to a server or account the customer is not expressly authorized to access, password cracking, or probing the security of other networks in search of weaknesses.

The CLIENT shall not attempt to interfere or deny service to any host, network or account. This includes, but is not limited to, flooding, mail bombing, or other deliberate attempts to overload or crash a host or network.

OfficeSmarts reserves the right to disable any script that affects normal server operation, or that can be considered potentially harmful.

8. Network Interruption

It is understood that the nature of the Internet may from time to time cause certain aspects of your *Web Hosting Services* not to be accessible. The CLIENT understands that external forces typically cause these service interruptions. While every effort will be made to ensure these interruptions are minimal, OfficeSmarts cannot guarantee continuous service.

9. Data Backup

It is the responsibility of the CLIENT to maintain a full backup of their web site and any related files stored on the server. OfficeSmarts performs a server wide backup of all data and email weekly, however, we cannot guarantee your information can be restored completely in the event of a disruption. If it has been determined that lost data is through no fault of OfficeSmarts, we reserve the right to charge additional fees for retrieving files from the backup as determined at the time.

10. Domain Name Registration

If the CLIENT has requested a domain name to be purchased on their behalf, the CLIENT agrees to pay OfficeSmarts for the purchase of that domain within thirty (30) days of that registration. This will apply to new registrations, subsequent renewals of that registration or transfers. All fees are non-refundable even if the domain name has been suspended, cancelled or transferred prior to the end of the registration term.

In the event of non-payment for the purchase of a domain name, the CLIENT agrees and acknowledges that the domain name registration shall be transferred to OfficeSmarts as the paying entity for that registration, and that we reserve all rights regarding that domain name including, without limitation, the right to make the domain available to other interested parties.

11. Payment Terms:

Payment terms on all hosting accounts are Net 15 days. A 2% surcharge will apply monthly on any overdue accounts after thirty (30) days from the invoice due date.

In the event that the CLIENT fails to pay in advance for the services provided or any delinquency exists in the CLIENT's account, OfficeSmarts reserves the right to terminate this agreement and discontinue service to the CLIENT without further notice and without liability.

If payment has not been received within sixty (60) days from the due date, OfficeSmarts reserves the right to remove all files from the server and turn over the account to a collection agency for collection.

12. Limitation of Liability

OfficeSmarts gives no warranty, either expressed or implied, with respect to the services to be provided under this Agreement, save only to use its best efforts to ensure continued and effective *Web Hosting Services* to the CLIENT. The liability of OfficeSmarts shall not, in any event and under any circumstances, exceed a pro-rated portion of the monthly charge applicable to any period for which OfficeSmarts' system is unavailable, and then only if due to some willful or negligent act or omission on the part of OfficeSmarts, its personnel or sub-contractors.

13. Indemnification

The CLIENT shall indemnify and hold OfficeSmarts harmless against all claims, judgments, awards, costs, expenses, damages and liabilities (including reasonable attorney fees) of every kind that may arise against OfficeSmarts directly or indirectly in connection with the CLIENT's dealing with any third parties.

14. Governing Law

This Agreement shall be governed solely by the laws of the Province of Manitoba, Canada. Any action under or relating to this Agreement shall be brought solely in the Province of Manitoba, and each party hereby submits to the personal jurisdiction of the Courts of Manitoba.

15. Severability

In the event that any provision of the Agreement shall be held to be invalid or unenforceable, the remaining provisions of this Agreement shall remain in full force.

16. Assignment

Neither party shall assign its interests in this Agreement without the prior, written consent of the other. Any purported assignment shall be void and without effect.

17. Entire Agreement

This Agreement represents the entire agreement of the parties and supersedes all previous agreements, proposals or representations, written or oral agreements. No modification to this Agreement shall be valid except by a writing signed by both parties. Any purported waiver of any rights hereunder shall only be valid if given in writing.