

Terms Of Hosted Services

Kulani Solutions

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THE SERVICES WE PROVIDE

In exchange for the fees you pay in advance, we will host your website on one or more of our servers, so long as you abide by the terms and conditions that are set out on this page, and in any other agreements that relate to the services we may provide to you. We will provide the services according to the specifications listed for the hosting package you select during the signup process. For clarity, on this page, the term "services" refers to the web hosting services that we will provide to you and, if you are an Affiliate, the services we provide to you in connection with that program. The term "KULANI" or "us" or "we" refers to Kulani Solutions.

PERMISSION TO HOST YOUR CONTENT

For us to host your website, it is necessary for you to upload your content to our servers. When you do this uploading, you are creating one or more copies of your content on our system. By purchasing hosting services from us, you acknowledge that these copies are being made, and give us the permission (a license) to maintain these copies and make them available to users of the Internet. You are solely responsible for providing all of the content and other data that make up your website.

PERSONAL INFORMATION

When you place an order for our services, your personal information, including your credit card information, is transmitted via the use of Secure Socket Layer technology, the industry standard for encrypting sensitive information. We take your privacy very seriously, and as such, will not sell your personal information to third party (other than a company that may purchase Kulani Solutions, and will take reasonable steps to keep it from being disclosed to any third party.

BACKUPS

We encourage you to perform your own backups on a periodic basis

Because the Services permit Users to electronically transmit or upload content directly to the User Web site, User shall be fully responsible for uploading all content to the User Web site and supplementing, modifying and updating the User Web site, including all back-ups.

- Kulani Solutions shall not be responsible for any damages to the User Content, the User Web site or other damages or any malfunctions or service interruptions caused by any failure of the User Content or any aspect of the User Web site.
- User is solely responsible for making back-up copies of the User Web site and User Content.
- Kulani Solutions does not maintain backup copies of User Web sites or e-mail. Kulani Solutions cannot guarantee that the contents of a Web site will never be deleted or corrupted, or that a back-up of a Web site will always be available. Users should always copy all content of a Web site to a local computer and Kulani Solutions strongly suggest that Users make an additional copy (on tape, CD, external hard drives, another desktop, or elsewhere) to ensure the availability of the files.

ACCEPTABLE USE/ILLEGAL ACTIVITY

Kulani Solutions strives to maintain a high-level of service, and a lot of customers depend on our high standards of quality. As such, we will not provide services to those that are using our services for:

- Hacking, which includes, for example penetrating or attempting to access, without authorization, another computer or network. Port scans, stealth scans, and fraudulent credit card "phishing" techniques are also prohibited.
- Hosting of files or other data that infringes on another's copyright or other intellectual property rights.
- Spamming, or sending of bulk unsolicited email. We maintain a strict policy on spamming, which includes the sending of unauthorized commercial messages by use of our services, or by maintaining an open SMTP connection. We reserve the right to refuse or terminate service based on reasonable indications that you are engaged in spamming of any sort.
- Uploading or linking to any content that violates another's right of publicity or privacy.
- Distributing hate speech, or any other content that is obscene, abusing, which could be considered libelous and defamatory.
- Hosting, storing, or distributing child pornography. If any such content is found and brought to our attention, the proper law enforcement agencies will be notified.
- Hosting large amounts of data not specifically tied ("linked") to your hosting account. Kulani Solutions encourages users looking for file storage/backup solutions to seek other services that specialize in this.

CONTENT

All services provided by Kulani Solutions may only be used for lawful purposes.

The customer agrees to indemnify and hold harmless Kulani Solutions 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 music, books, photographs, or any other copyrighted work. The offer of sale of any counterfeit merchandise of a trademark holder will result in the immediate termination of your account. If you believe that your copyright or trademark is being infringed upon, please email us on info@kulani.net with the information required.

EXAMPLES OF UNACCEPTABLE MATERIAL ON ALL SHARED SERVERS INCLUDE:

IRC Bots, Proxy Scripts / Anonymizers, Pirated Software / Warez, image, filedump, mirror, or banner-ad services (similar to rapidshare, photobucket, or commercial banner ad rotation), affiliate servers, topsites, commercial audio streaming (more than one or two streams), Escrow, High-Yield Interest Programs (HYIP) or related sites, Investment sites (FOREX, egold exchange), sale of any controlled substance without prior proof of appropriate permit(s), AutoSurf sites, Bank Debentures, Bank

Debenture Trading Programs, Prime Banks Programs, lottery sites, muds / rpg's, hate sites, hacker focused sites/archives/programs, or sites promoting illegal activities, IP Scanners, Brute Force Programs, Mail Bombers and Spam Scripts. Forums and or websites that distribute or link to warez content are prohibited.

Offering video and/or audio streaming or downloads, MP3 Files, Games and shareware is also not permitted on any Kulani Solutions server.

Using a shared account as a backup/storage device is not permitted, with the exception of one cPanel backup of the same account.

EXAMPLES OF UNACCEPTABLE MATERIAL ON DEDICATED SERVERS INCLUDE:

Pirated Software / Warez, Escrow, High-Yield Interest Programs (HYIP) or related sites, Investment sites (FOREX, egold exchange), sale of any controlled substance without prior proof of appropriate permit(s), AutoSurf sites, Bank Debentures, Bank Debenture Trading Programs, Prime Banks Programs, lottery sites, hate sites, hacker focused sites/archives/programs, or sites promoting illegal activities, IP Scanners, Brute Force Programs, Mail Bombers and Spam Scripts. Forums and or websites that distribute or link to warez content are prohibited.

Kulani Solutions services, including all related equipment, networks and network devices are provided only for authorized customer use. Kulani Solutions systems may be monitored for all lawful purposes, including ensuring 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 Kulani Solutions system(s) constitutes consent to monitoring for these purposes.

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 support email and will have a response within 48 hours.

If in doubt regarding the acceptability of your site or service, please contact us by sending an email to info@kulani.net and we will be happy to assist you. 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.

ZERO TOLERANCE SPAM POLICY

We take a zero tolerance stance against sending of unsolicited e-mail, bulk emailing, and spam. "Safe lists" and "double opt-in" will be treated as spam. Any user who sends out spam will have their account terminated with or without notice. Sites advertised via SPAM (Spamadvertised) may not be hosted on our servers. This provision includes, but is not limited to SPAM sent via fax, email, instant messaging, or usenet/newsgroups. No organization or entity listed in the ROKSO may be hosted on our servers. Any account which results in our IP space being blacklisted will be immediately suspended and/or terminated. Kulani Solutions reserves the right to require changes or disable as necessary any web site, account, database, or other component that does not comply with its established policies, or to make any such modifications in an emergency at its sole discretion. Kulani Solutions reserves the right to charge the holder of the account used to send any unsolicited e-mail a clean up fee. This cost of the clean up fee is entirely at the discretion of Kulani Solutions.

WHEN THE SERVICES WILL BE AVAILABLE

We will attempt to provide the services 24 hours a day, 7 days a week for as long as you have paid for them. Sometimes, however, for a number of reasons, the services may be unavailable to you. You must recognize and acknowledge that due to the nature of web hosting technology, occasional unavailability of the services cannot be avoided. Sometimes there are equipment malfunctions. At other times we undertake periodic maintenance procedures or repairs. Still other times, there are causes beyond our control like power failures, interruption or failure of telecommunication or digital transmission links, hostile network attacks, network traffic and other occurrences. We have not promised to provide you with uninterrupted service.

GUARANTEE

As we explain in this paragraph, we offer you a 60 day Money-Back Guarantee on all hosting plans. And here is how our cancellation policy works. It is very simple. If you cancel your account we will provide you with a full refund for the remainder of your term, excluding any setup fees that were charged when you signed up, and excluding domain registration fees, this only applies if you cancel within the 60 day period.

Please note: Any account upgrades to hosting services such as additional domain registration, Priority Support, Ads, Domain Privacy, Private SSL certificates, Search Engine Submission, Upgrades and Shell Access are non-refundable. Kulani Solutions also reserves the right to cancel your account with 72 hours notice should an event occur in which proper evidence exists that a customer was exceptionally rude or vulgar in communications with our staff.

SERVICE SUPPORT

Kulani Solutions' technical resources will assist clients on the servers or services hosted by Kulani Solutions whether at the clients' premises or at Kulani's data centres as per the SLA signed by both the client and Kulani Solutions

Clients that do not have any signed SLA's with Kulani Solutions will fall under the 24 hour response time where a call should be logged between 8:00am and 05:00pm and 48 hour turn around time where services will be provided, these services may include but not limited to cPanel configuration and updates, website updates, hosted solutions, server maintenance and updates, service connections and disconnections and any other changes or updates within the servers or services provided by Kulani.

Support will only be given by logging a call via Kulani Solutions' Help Desk on <http://support.kulani.net> or by sending an email to support@kulani.net. Calling Kulani Solutions' national number **086 101 7410** might delay response time as calls may not be monitored at all times and Kulani Solutions will not be responsible for any loss of time, data or corruption as the recommended method is by email and the help desk system provided above.

JOINING KULANI SOLUTIONS

When you sign up, your Kulani Solutions account will be enabled with auto renewal, which means that when your renewal date arrives, your hosting plan and domain will be renewed. When it is time for renewal, the credit or debit card you have on file with us will also be charged. If you wish to not have this happen, and you would not like to renew your account, you must cancel 30 days prior to your renewal date. If you have any questions as to when your renewal date is, simply send a mail to accounts@kulani.net and enquire, or give us a call. If you fail to cancel 30 days prior to renewal, your account will be renewed for a new term, so please be sure to contact us if you do not want to renew. Your account renew dates are always available at any time.

If more than 4 days pass from the date on which any invoice for the hosting services is due to you and we have not received payment in full, we will suspend your account and add charges to your account, which means that your data, files and website will become in-active and cannot be accessed until payment is received. Your account will be activated again once we have received the payment in full within 24 hours.

If, however, 60 days pass from the date on which your account is suspended and you have not made payment in full, Kulani Solutions shall have the right to delete all data you have uploaded to the servers. To summarize, if you get 60 days behind in making payments, your data will be deleted. You hereby acknowledge that this is Kulani Solutions's policy when it comes to data retention, and waive all rights in and to your data in these situations.

THESE TERMS OF SERVICE MAY CHANGE

Due to our evolving business, and the changing nature of the web hosting industry, these terms of service may change. We will post the changes on our website, and your continued use of the service means you accept the changes we have made.

INDEMNIFICATION

If Kulani Solutions is sued or threatened with a lawsuit from a third party because of something you do with the services, or as an affiliate you agree to pick up the tab if Kulani Solutions is found liable

or pays to settle the dispute. In legal terms, this is called "indemnification." Not only do you agree to reimburse Kulani Solutions for what it pays to satisfy a judgment or settle a case, you also agree to pay Kulani Solutions' reasonable attorney's fees and all other costs Kulani Solutions incurs in defending itself.

DISCLAIMER OF WARRANTIES

You may have noticed that up to this point these terms of service have been kind of easy to read and understand. But this section, dealing in the disclaimer of warranties, has to retain its legalese style. KULANI SOLUTIONS EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. KULANI SOLUTIONS MAKES NO WARRANTY THAT ITS SERVICES WILL MEET YOUR REQUIREMENTS, OR THAT THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR FREE, OR THAT DEFECTS WILL BE CORRECTED. KULANI SOLUTIONS DOES NOT WARRANT, NOR MAKE ANY REPRESENTATIONS REGARDING THE USE, OR RESULTS OF, ANY OF THE SERVICES IT PROVIDES, IN TERMS OF THEIR CORRECTNESS, ACCURACY, RELIABILITY, OR OTHERWISE. SOME JURISDICTIONS DO NOT ALLOW THE DISCLAIMER OF IMPLIED WARRANTIES, IN WHICH EVENT THAT FOREGOING DISCLAIMER MAY NOT APPLY TO YOU.

LIMITATION OF LIABILITY

Here is another section that has to retain its legalese. Simply stated, what this section is saying is that if something goes wrong, Kulani Solutions cannot be held liable for it. IN NO EVENT SHALL Kulani Solutions BE LIABLE TO YOU OR ANY OTHER PERSON FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING LOSS OF PROFIT OR GOODWILL, FOR ANY MATTER, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF WARRANTIES, EITHER EXPRESS OR IMPLIED, ANY BREACH OF THIS AGREEMENT OR ITS INCORPORATED AGREEMENTS AND POLICIES, YOUR INABILITY TO USE THE SOFTWARE OR SERVICES, YOUR LOSS OF DATA OR FILES OR OTHERWISE, EVEN IF Kulani Solutions HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. Some states may not allow such a broad exclusion or limitation on liability for damages as contained in these terms of services. In those states, our liability is limited to the full extent permitted by law. You agree that in no event shall our maximum aggregate liability exceed the total amount paid by you for the services in dispute purchased from us, or, in the event of liability of Kulani Solutions.

By using Kulani Solutions you agree to the above terms of service.