

SpireTech Hosting & Data Center Acceptable Use and Terms of Service Policy (the “TOS”)

The following terms, described below, along with the Master Service Agreement (the “MSA” v1.1 <https://www.spiretech.com/msa-v1-1>) will apply and govern the provision of SpireTech Hosting & Data Services.

SPAM Policy:

The transmission of illegal or prohibited advertising or other content through electronic mail or other means is not allowed. The use of SpireTech accounts or services for unsolicited mass mailings or postings that do not conform to the requirements of the CAN-SPAM Act by any customer will cause that customer's services to be terminated immediately and without warning, and the customer will be held legally responsible for the damages to SpireTech, both monetary and reputational. The use of any other service to make such a mailing or posting, with any reference to SpireTech services (including but not limited to mailboxes, internet access accounts, auto-responders, and Web pages), shall also be grounds for account termination as described above.

Billing:

- Charges may be pro-rated for partial months of service.
- Refunds on Annual Service Contracts will not be offered when a yearly pre-paid discounted service has been chosen.
- There is a \$50.00 fee charged for all returned checks.
- Payment is due prior to the beginning of each service period. Your bill will be provided to you before the 10th of each month. Full payment is expected within 20 days of the billing date.
- If payment is not received on time we will make an effort to contact you. However, SpireTech reserves the right to suspend your access with or without notice until payment is received in full.
- If you cannot make a full payment within the billing period, please contact a SpireTech representative to make other arrangements.
- If there are any discrepancies with your bill you must bring them to the attention of the billing department within 30 days of the due date of the bill. No adjustments shall be made after that time.

Credit Card Payments:

Credit Card payments are automatically charged to your credit on or about the 20th of each month, or when due.

Cancellation Policy:

SpireTech may cancel accounts at any time after providing notice to Account Holder(s). Account Holder(s) may cancel their account at any time, unless otherwise contracted with SpireTech, but refunds will not be given for unused service. Cancellations are accepted by phone, email, or SpireTech's online portal.

Cancellations are not effective and valid until acknowledged by SpireTech in writing.

When you have questions:

E-mail is the best way to receive the fastest answers to any questions or concerns you may have.

If you have any questions about your bill, you can contact SpireTech via E-mail using the address printed on your bill, or alternatively by phone at 503-222-3086 during business hours. Support questions should be directed to our support staff using the contact form on our website.

Further Terms of SpireTech Services:

1. BY COMPLETING THE ACCOUNT SIGNUP PROCESS AND/OR USING SPIRETECH SERVICES, YOU AGREE TO BE LEGALLY BOUND AND TO ABIDE BY OUR TERMS OF SERVICES, AND IT WILL SERVE AS IF YOU HAD SIGNED THIS

AGREEMENT. If you do not wish to be bound by our TOS, you may not continue to use SPIRETECH Services. In such a case, you should immediately terminate your account and are prohibited from using SPIRETECH Services.

2. SpireTech may modify the MSA and/or the TOS at any time and in any manner. Any modification is effective immediately upon either a posting on the SPIRETECH Services website, and/or distributing by electronic mail or conventional mail. If any modification to the TOS is unacceptable, you may immediately terminate your Account. YOUR CONTINUED USE OF THE SPIRETECH SERVICES FOLLOWING MODIFICATION TO THE TOS OR MSA SHALL BE CONCLUSIVELY DEEMED AS ACCEPTANCE OF SUCH MODIFICATION.
3. Connect Charges. Account Holder is responsible for all charges (e.g., Software, equipment and internet services) associated with connecting to the SPIRETECH Services.
4. Equipment. Account Holder is responsible for obtaining or providing all software and hardware necessary to obtain access to SPIRETECH Services. In the event that customer equipment is located on SpireTech's premises, the equipment may be permanently removed by the customer only upon 30-days notice, and only after all payments owed to SPIRETECH by the customer have been paid in full. All equipment brought into or removed from SPIRETECH premises must be authorized and logged by SPIRETECH staff.
5. Registration. ACCOUNT HOLDER CERTIFIES TO SPIRETECH THAT THE ACCOUNT HOLDER IS AT LEAST EIGHTEEN (18) YEARS OF AGE OR THAT THE ACCOUNT HOLDER IS A LEGALLY VALID, CURRENTLY REGISTERED, CORPORATION. IF THE ACCOUNT HOLDER IS A CORPORATION THE ACCOUNT HOLDER CERTIFIES THAT ALL USERS OF THE ACCOUNT SHALL BE OVER THE AGE OF EIGHTEEN (18). A minor's parent or legal guardian may authorize a minor's use of Account Holder's account under adult supervision, however the Account Holder agrees to assume any and all liabilities resulting from minor's use. THE ACCOUNT HOLDER AGREES TO PROVIDE SPIRETECH WITH ACCURATE, COMPLETE, AND UPDATED INFORMATION REQUIRED BY THE REGISTRATION TO THE SPIRETECH SERVICES ("Account Holder Registration Data"), including Account Holder's legal name, address, telephone number(s), and applicable payment data (i.e., credit card number and expiration date or checking account information). Account Holder agrees to notify SpireTech within thirty (30) days of any changes in the Account Holder Registration Data. Failure to comply fully with this provision may result in immediate suspension or termination of your right to use the SPIRETECH Services. SpireTech may, at its discretion, enter into special billing arrangements with employers and other entities.
6. Accounts/Charges/Payment.
 - a. Accounts. The TOS applies to all accounts associated with Account Holder. Each Account Holder is responsible for all activities and charges resulting from use of Account Holder's Account(s) by any person, and for ensuring full compliance with the TOS by all users of his/her Account(s). SPIRETECH Account(s) may not be transferred without prior written approval from SpireTech, subject to any limits established by SpireTech.
 - b. Passwords. Upon your enrollment as an Account Holder, you will be given a unique password. Account Holder is responsible for maintaining the confidentiality of his/her password and is liable for any harm resulting from disclosing or allowing disclosure of any password. In the event of a breach of security, Account Holder will remain liable for any unauthorized use of the SPIRETECH Service until Account Holder notifies SpireTech by calling 1-503-222-3086. SPIRETECH will attempt to the best of its ability to notify Account Holders of the need to change their password if there is a breach in security from unauthorized "hacking" into the system.
 - c. Payment. Current rates for using the SPIRETECH Service may be obtained by calling SPIRETECH Inc. at 1-503-222-3086. All payments are due in advance by the first day of the month. If SpireTech does not receive the full amount of Account Holder's SPIRETECH Service account balance within thirty (30) days of invoice date, an additional 1.5% (or the highest amount allowed by law, whichever is lower) per month late charge will be added to Account Holder's bill and shall be due and payable. Account Holder shall also be liable for all attorney and collection fees arising from SpireTech's efforts to collect any unpaid balance of Account Holder's Account(s). Accounts which are overdue may be terminated without notice.

7. On-line Conduct. Any conduct by an Account Holder that in SpireTech's discretion restricts or inhibits any other Account Holder from using or enjoying the SPIRETECH Service will not be permitted. Account Holder agrees to use the SPIRETECH Service only for lawful purposes. Account Holder is prohibited from posting to or transmitting through the SPIRETECH Service any unlawful, harmful, threatening, abusive, harassing, defamatory, vulgar, obscene, profane, hateful, racially, ethnically or otherwise objectionable material of any kind, including, but not limited to, any material which encourages conduct that would constitute a criminal offense, give rise to civil liability or otherwise violate any applicable local, state, national or international law. Account holder agrees to indemnify and hold SpireTech harmless for any violation of the terms of this agreement.
8. Content.
 - a. Proprietary Rights. Account Holder acknowledges that the SPIRETECH Service contains information, software, photos, video, graphics, music, sounds or other material (collectively, "Content") that are protected by copyrights, trademarks, trade secrets or other proprietary rights, and that these rights are valid and protected in all forms, media and technologies existing now or hereinafter developed. All Content is copyrighted as a collective work under the US Copyright laws. Account Holder may not modify, publish, transmit, participate in the transfer or sale, creation of derivative works, or in any way exploit, any of the Content, in whole or in part. If no specific restrictions are displayed, Account Holder may make copies of portions of the Content, including copyrighted material, trademarks, or other proprietary materials, provided that the copies are made only for Account Holder's personal use and that Account Holder maintains any notices contained in the Content such as all copyright notices, trademark legends or other proprietary rights notices. Except as provided in the preceding sentence or as permitted by the fair use privilege under the US copyright laws (see e.g. 17 U.S.C. Section 107), You may not upload, post, reproduce, or distribute Content protected by copyright, or other proprietary right, without obtaining permission of the copyright owner. Use of any software Content shall be governed by the software license agreement accompanying such software.
 - b. Distribution/Uploading of Third Party Content. Account Holder may upload to the software files or otherwise distribute on the SPIRETECH Service only Content that is not subject to any copyright or other proprietary rights protection (collectively, "Public Domain Content"), or Content in which the author has given express authorization for on-line distribution. Any copyrighted Content submitted with the consent of a copyright owner should contain a phrase such as "Copyright owned by [name of the owner]; Used by Permission." The unauthorized submission of copyrighted or other proprietary Content constitutes a breach of the TOS and could subject You to criminal prosecution as well as personal liability for damages in a civil suit. The Account Holder, You, not SpireTech or its independent contractors, are liable for any damage resulting from any infringement of copyrights, proprietary rights, or any other harm arising from such submission. Subject to this grant, the owner of Content placed on the SPIRETECH Service retains any and all rights which may exist in such Content.
 - c. Export. The US export control laws regulate the export and re-export of technology originating in the United States. This includes the electronic transmission of information and software to foreign countries and to certain foreign nationals. Account Holder agrees to abide by these laws -- including but not limited to the Export Administration Act, the Arms Export Control Act and their implementing regulations -- and not to transfer, by electronic transmission or otherwise, any Content derived from the SPIRETECH Service to either a foreign national or a foreign destination without first obtaining any required government authorization. Account Holder further agrees not to upload to the SPIRETECH Service any data or software that cannot be exported without prior written government authorization, including, but not limited to, certain types of encryption software. This assurance and commitment shall survive termination of the Agreement. In addition, because the US export control laws currently prohibit nationals of Cuba, Iran, Libya, North Korea and Syria from gaining access to certain Content on the SPIRETECH Service, nationals of these countries currently may not legally access the SPIRETECH Service at this time.

- d. Benefit of Provisions. The foregoing provisions of this section 8 are for the benefit of SpireTech and its independent third-party information providers ("Information Providers"), merchants ("Merchants") and licensors ("Licensors"), and each shall have the right to assert and enforce such provisions directly on their own behalf.
9. Third Party Content. SpireTech is a distributor (and not a publisher) of Content supplied by third parties and Account Holders. Accordingly, SpireTech has no more editorial control over such Content than does a public library, bookstore, or newsstand. Any opinions, advice, statements, services, offers, or other information or Content expressed or made available by third parties, including Information Providers, Merchants (as defined herein), Account Holders, or any other user of the SPIRETECH Service, are those of the respective author(s) or distributor(s) and not of SpireTech. SPIRETECH, INC. DOES NOT GUARANTEE THE ACCURACY, COMPLETENESS, OR USEFULNESS OF ANY CONTENT, NOR ITS MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. (Refer to the Section further below for the complete provisions governing limitation of liabilities and disclaimers of warranty.) In many instances, the Content available through the SPIRETECH Service represents the opinions and judgments of the respective Information Provider, Account Holder, or other user not under contract with SpireTech. SpireTech neither endorses nor is responsible for the accuracy or reliability of any opinion, advice or statement made on the SPIRETECH Service by anyone other than authorized SpireTech employee spokespersons while acting in their official capacities. Under no circumstances will SpireTech be liable for any loss or damage caused by reliance on information obtained through the SPIRETECH Service.
10. Retention of Files. Account Holder is responsible for retention of all files, information data and other materials as may be necessary for reconstruction of any files, information material or messages lost or misprocessed by SpireTech.
11. Lawful Purposes. SPIRETECH's Service is provided only for lawful purposes. Account Holders are prohibited from posting to or transmitting through the SPIRETECH Service any unlawful, harmful, threatening, abusive, harassing, defamatory, vulgar, obscene, profane, hateful, or offensive material.
12. SpireTech's Rights. SpireTech may electronically monitor services and uses for adherence to the TOS and may disclose any Content, records or electronic communication of any kind (i) to satisfy any law, regulation or authorized governmental request, (ii) if such disclosure is important to operate the SPIRETECH Service, or (iii) to protect the rights or property of SpireTech, its Account Holders, or other Information Providers or Merchants. SpireTech reserves the right to prohibit conduct, communication, or Content that violates any applicable law. Notwithstanding the foregoing, neither SpireTech nor its Information Providers have the practical ability to restrict conduct, communication or Content which might violate its TOS prior to transmission on the SPIRETECH Service, nor can they ensure prompt editing or removal of questionable Content after on-line distribution. SpireTech shall not assume liability for any action or inaction with respect to conduct, communication or Content on the SPIRETECH Service. SpireTech will not intentionally monitor or disclose any private electronic communication unless permitted or required by law. SpireTech may terminate immediately without notice any Account Holder who misuses or fails to abide by the TOS, including, without limitation, E-Mail, colocation, or hosting.
13. **LIMITATION OF LIABILITY AND DISCLAIMER OF WARRANTY**
- a. ACCOUNT HOLDER EXPRESSLY AGREES THAT USE OF THE SPIRETECH SERVICE IS AT ACCOUNT HOLDER'S SOLE RISK. NEITHER SPIRETECH, ITS EMPLOYEES, AFFILIATES, AGENTS, THIRD-PARTY INFORMATION PROVIDERS, MERCHANTS, LICENSORS OR THE LIKE, WARRANT THAT THE SPIRETECH SERVICE WILL BE UNINTERRUPTED OR ERROR FREE; NOR DO THEY MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SPIRETECH SERVICE, OR AS TO THE ACCURACY, RELIABILITY OR CONTENT OF ANY INFORMATION, SERVICE, OR MERCHANDISE PROVIDED THROUGH THE SPIRETECH SERVICE.
- b. THE SPIRETECH SERVICE IS PROVIDED ON AN "AS IS," "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF TITLE OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OTHER THAN

THOSE WARRANTIES WHICH ARE IMPLIED BY AND INCAPABLE OF EXCLUSION, RESTRICTION OR MODIFICATION UNDER THE LAWS APPLICABLE TO THIS AGREEMENT. NO ORAL ADVICE OR WRITTEN INFORMATION GIVEN BY SPIRETECH, INC., ITS EMPLOYEES, AGENTS (INCLUDING ACCOUNT HOLDER REPRESENTATIVES OR GUIDES), THIRD-PARTY INFORMATION PROVIDERS, MERCHANTS, LICENSORS OR THE LIKE, SHALL CREATE A WARRANTY; NOR SHALL ACCOUNT HOLDER RELY ON ANY SUCH INFORMATION OR ADVICE.

- c. UNDER NO CIRCUMSTANCES, INCLUDING NEGLIGENCE, SHALL SPIRETECH, OR ANYONE ELSE INVOLVED IN CREATING, PRODUCING OR DISTRIBUTING THE SPIRETECH SERVICES, BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES THAT RESULT FROM THE USE OF OR INABILITY TO USE THE SPIRETECH SERVICE INCLUDING, BUT NOT LIMITED TO, RELIANCE BY A ACCOUNT HOLDER ON ANY INFORMATION OBTAINED ON THE SPIRETECH SERVICE; OR THAT RESULT FROM MISTAKES, OMISSIONS, INTERRUPTIONS, DELETION OF FILES OR E- MAIL, ERRORS, DEFECTS, VIRUSES, DELAYS IN OPERATION, OR TRANSMISSION, OR ANY FAILURE OF PERFORMANCE, WHETHER OR NOT LIMITED TO ACTS OF GOD, COMMUNICATIONS FAILURE, THEFT, DESTRUCTION OR UNAUTHORIZED ACCESS TO SPIRETECH'S RECORDS, PROGRAMS OR SERVICES.
- d. NOTWITHSTANDING THE FOREGOING, IN NO EVENT SHALL THE TOTAL LIABILITY OF SPIRETECH, OR ITS EMPLOYEES, AFFILIATES, AGENTS, THIRD- PARTY INFORMATION PROVIDERS, MERCHANTS OR LICENSORS, FOR ALL DAMAGES, LOSSES AND CAUSES OF ACTION WHETHER IN CONTRACT, TORT, INCLUDING NEGLIGENCE, OR OTHERWISE, EITHER JOINTLY OR SEVERALLY, EXCEED THE AGGREGATE DOLLAR AMOUNT PAID BY ACCOUNT HOLDER TO SPIRETECH IN THE TWELVE (12) MONTHS PRIOR TO THE CLAIMED INJURY OR DAMAGE. The foregoing limitations of liability and damages are considerations in establishing the price of SpireTech's service. The foregoing provisions of this Section 13 are for the benefit of SpireTech, its employees, directors, affiliates, agents, Information Providers, Merchants and Licensors, and each shall have the right to assert and enforce the provisions directly on their own behalf. This is the complete statement of the Agreement between the parties on the subject matter, and supersedes all other prior understandings, purchase orders, agreements, and arrangements. This Agreement shall be governed by the Laws of the State of Oregon. Exclusive jurisdiction and venue for all matters in this agreement shall be in courts located Multnomah County, Oregon and you consent to such jurisdiction and venue.