

Opelika Power Services (OPS)

Acceptable Use Policy

Opelika Power Services (OPS) has created this Acceptable Use Policy (AUP) to encourage responsible practice and use of OPS's network, systems, services, web sites and products by OPS's customers and other users of the OPS's services. This AUP applies to all related services ("Services") delivered by the telecommunications division of Opelika Power Services, an enterprise fund of the City of Opelika, Alabama. By using OPS service, Users consent to be bound by the terms of this AUP. This AUP is non-exclusive. OPS reserves the right to make changes upon its discretion at any time. All modifications will be effective when posted. Any use of service after the posted modifications shall constitute acceptance of such modification.

General Conduct

OPS's fiber optic network and the Services may be used only for lawful purposes. OPS is not responsible for the content of any websites linked to or accessible by the Services; links are provided as Internet navigation tools only. Users may not use the network or Services in order to transmit, distribute or store material (a) in violation of any applicable law; (b) in a manner that will infringe the copyright, trademark, trade secret or other intellectual property rights of others or the privacy, publicity or other personal rights of others; (c) that is obscene, threatening, abusive or hateful or contains a virus, worm, Trojan horse, or other harmful component; (d) that contains fraudulent offers for goods or services, or any advertising or promotional materials that contain false, deceptive or misleading statements, claims or representations or (e) that may expose OPS to criminal or civil liability. Users are prohibited from assisting any other person in violating any part of the AUP. OPS reserves the right to disconnect service for failure of compliance with this policy. Any violation of the AUP may result in prosecution under state and/or federal law and/or termination of service.

Internet Services

OPS reserves the right in its sole discretion to enforce bandwidth allotments depending upon your level of usage and the level of Service(s) purchased. If you have exceeded the appropriate level of Internet usage in any given month, OPS will notify you by phone or in writing. You agree to pay additional charges upon notice from OPS. For residential and small business customers, Acceptable Use shall mean usage up to ten (10) times the average for your specific customer classification.

Resale of Services

The resale of OPS products and services is strictly prohibited unless specifically permitted with written documentation. Customers are not permitted to distribute OPS service outside their household.

Commercial Services

OPS provides residential service (including email addresses and web space) for non-commercial use only. Customers with residential accounts who wish to run mail or web servers may be required to upgrade to a commercial account

Responsibility of Users and Content

OPS does not assume any responsibility, control, oversight, ownership, or other interest in the e-mail messages, websites, content or other electronic data (in any form) of its Users, whether or not such electronic information is stored in, contained on or transmitted over property, equipment or facilities of OPS. Users are and shall remain solely responsible for such electronic information. OPS is not obligated to monitor any editorial control over this material, but reserves the right to do so. In the event that OPS becomes aware any material violates this AUP and/or exposes OPS to criminal or civil liability, OPS reserves the right to block access to such material and suspend or terminate any User creating, storing or

disseminating such material. OPS reserves the right to cooperate with authorities in any investigations of alleged wrongdoing.

E-Mail

Users may not send unsolicited e-mail messages including, without limitation, bulk commercial advertising or informational announcements ("spam") in a way that could be reasonably expected to adversely impact the Services, including, without limitation, using an e-mail account on OPS's Network to send spam, or using the service of another provider to send spam or to promote a site hosted on or connected to the Services. In addition, Users may not use the Services in order to (a) send e-mail messages which are excessive and/or intended to harass others, (b) continue to send e-mail messages to a recipient that has indicated that he/she does not wish to receive them, (c) send e-mail with forged packet header information, (d) send malicious e-mail, including, without limitation, "mail bombing," (e) send e-mail messages in a manner that violates the use policies of any other internet service provider, or (f) use an e-mail box exclusively as a storage space for data. OPS reserves the right in its sole discretion to enforce email storage caps depending upon your level of usage and the level of Services(s) purchased. If you have exceeded the appropriate level of email storage, OPS will notify you by phone or in writing, and you agree to reduce the amount of email storage or to enforce storage caps.

Forum Posts and Blogs

Users who post messages to internet forums or who blog are responsible for becoming familiar and complying with any terms and conditions or other requirements governing use of such forums or blogs. Regardless of such policies, Users may not (a) post the same message, or a series of similar messages, to one or more forum or newsgroup (excessive cross-posting, multiple-posting, or spamming), (b) cancel or supersede posts not originally posted by such User, unless such User does so in the course of his/her duties as an official moderator, (c) post any message with forged packet header information, or (d) post messages that are excessive and/or intended to annoy or harass others, including, without limitation, chain letters.

Notice and Procedure For Making Claims of Copyright Infringement

Under the Digital Millennium Copyright Act ("DMCA"), enacted in 1998, copyright holders are provided recourse against violations of their rights by online services or violations on the Internet. If you believe that any material on the OPS websites has infringed your copyrighted material or that OPS is the hosting service provider and should be notified of a potential copyright infringement, please follow the procedure set forth below to make your claim. This procedure should only be used for making claims of copyright infringement.

This information does not take the place of advice from your legal counsel. OPS is providing this information to you and your Users for informational purposes only.

Rejection/Removal

OPS reserves the right to reject or remove any material residing on or transmitted to or through the Services that OPS, in its sole discretion, believes to be unacceptable or in violation of the law, this AUP, and/or the Terms and Conditions. OPS may immediately remove content if OPS believe such content is unlawful, violates the AUP and/or Terms and Conditions, or such removal is done pursuant to the Digital Millennium Copyright Act. Upon OPS's request, Users shall terminate service to any third party user or agent who, in OPS's sole discretion, has violated the AUP, Terms and Conditions, or applicable law or regulations.

Notification Of Claimed Copyright Infringement

If you believe that a Web page hosted by OPS is violating your rights under U.S. copyright law, you may file a complaint of such claimed infringement with the OPS designated agent as described below:

Contact:

DMCA Agent by mail at OPS Director
Attn: Copyright Claims
P.O. Box 2168
Opelika, Alabama 36803

or by fax: (334) 705-5148

DMCA Complaints must be in writing and contain the following information

1. A physical or electronic signature of a person authorized to act on behalf of the copyright owner of an exclusive right that is allegedly infringed;
2. Identification of the copyrighted work claimed to have been infringed;
3. Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit OPS to locate the material;
4. Information reasonably sufficient to permit OPS to contact the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which the complaining party may be contacted;
5. A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law;
6. A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

You should be aware that complainants who make false claims or misrepresentations concerning copyright infringement may be liable for damages under the DMCA.

Counter-Notification in Response to Claim of Copyright Infringement

If a notice of copyright infringement has been wrongly filed against you and you would like to submit a counter-notice, please forward your counter-notice to OPS's designated agent at the address noted above. This process will invoke a dispute between you and the complaining party. Your counter-notification must be in writing and contain the following information:

1. A physical or electronic signature of an authorized person;
2. Identification of the material that was removed or access to which was disabled and the location at which material appeared before it was removed or access to it was disabled;
3. A statement under penalty of perjury that the alleged infringer has a good faith belief that the material was removed or disabled as a result of mistake or misidentification;
4. Your name, address, and telephone number, and a statement that you consent to the jurisdiction of the federal district court for the federal district in which you are located and that you will accept service of process from the complainant

You should be aware that substantial penalties under U.S. law apply for a false counter-notice filed in response to a notice of copyright infringement

System and Network Security

Users are prohibited from violating or attempting to violate the security of OPS, including, without limitation, (a) accessing data not intended for such User logging into a server or account which such User is not authorized to access; (b) attempting to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without proper authorization; (c) attempting to interfere with, disrupt or disable service to any user, host or network, including, without limitation, via means of

overloading, flooding, mail bombing or crashing; (d) forging any packet header or any part of the header information in any e-mail or newsgroup posting; (e) taking any action in order to obtain services to which such User is not entitled or (f) impersonating OPS personnel. Violations of system or network security may result in civil or criminal liability. OPS may investigate occurrences that may involve such violations, and OPS may involve and cooperate with law enforcement authorities in prosecuting Users who are alleged to be involved in such violations.

OPS is not responsible for any antivirus and firewall protection for the customers' end systems. OPS may provide limited antivirus scanning of email through its email servers but does not guarantee virus-free email and will not be held liable for viruses, Trojan horse programs, or any other malicious programs or scripts received by users.

Suspension or Termination

Any User which OPS determines, in its sole discretion, to have violated any element of this Acceptable Use Policy shall receive a written warning, and may be subject at OPS's discretion to a temporary suspension of service pending such User's agreement in writing to refrain from any further violations; provided that OPS may immediately suspend or terminate such User's service without issuing such a warning if OPS, in its sole discretion deems such action necessary. If OPS determines that a User has committed a second violation of any element of this Acceptable Use Policy, such User shall be subject to immediate suspension or termination of service without further notice, and OPS may take such further action as OPS determines to be appropriate under the circumstances to eliminate or preclude such violation. OPS shall not be liable for any damages of any nature suffered by any customer, User, or any third party resulting in whole or in part from OPS's exercise of its rights under this Policy.

Service Monitoring

OPS has no obligation to monitor the services, but may do so and disclose information regarding the use of the services for any reason if OPS, in its sole discretion, believes that it is reasonable to do so, including to satisfy laws, regulations, or other governmental or legal requirements or requests; to operate the services properly, or to protect itself and its subscribers.

OPS reserves the right to monitor the network and services by means including but not limited to: (a) port scans, (b) server transaction logs, (c) bandwidth utilization, (c) server resource utilization and/or (d) access and firewall violations.

OPS reserves the right to block ports, addresses, subnets, or networks of any offending services or entities in the interest of maintaining network stability. Such blocks will be on an as needed basis and will be removed when appropriate action has been taken by those controlling the offending network(s).

Privacy

Any User interacting with our site and providing OPS with name, address, telephone number, e-mail address, domain name or URL or any other personally identifiable information permits OPS to use such information for commercial purposes of its own, including contacting Users about products and services which may be of interest. All information concerning users of OPS shall be kept in accordance with OPS's then-applicable Privacy Policy and the requirements of applicable law.

No Waiver/Severability

Any failure of OPS to enforce this Policy shall not be construed as a waiver of any right to do so at any time. If any portion of this Policy is held invalid or unenforceable, that portion will be construed consistent with applicable law, and any remaining portions will remain in full force and effect.

Disclaimer of Warranties and Limitation of Liability

Limitation of liability. You assume total responsibility for use of the services and the internet and access the same at your own risk. Ops exercises no control over and has no responsibility whatsoever for the content accessible or actions taken on the internet and ops expressly disclaims any responsibility for such content or actions. Ops shall not be liable to you for any direct, incidental, indirect, special, or consequential damages of any kind including but not limited to any loss of use, loss of business, loss of profit, loss of information or data, or interrupted communications, arising out of or related to this terms of service. Under no circumstances will ops be liable to you or any third parties for an amount greater than the total amount of service fees paid by you during a six month period.

Disclaimer of warranties. The services are provided on an "as is" and "as available" basis. Ops makes no warranty of any kind, written or oral, statutory, express or implied, including any warranty of merchantability, infringement, or fitness for a particular purpose. OPS does not warrant that the services will be uninterrupted, error-free, or free of viruses or other harmful components.

Indemnification

You agree to indemnify, defend, and hold harmless OPS, and its subsidiaries, affiliates, officers, employees, agents, suppliers, or other partners from any and all third party claims, liabilities, costs, and expenses, including reasonable attorneys fees, arising from your use of the Services, your violation of this Agreement, or your violation of any rights of another.

Miscellaneous

This Agreement and the AUP constitute the entire agreement between you and OPS with respect to your use of the Services. OPS may assign this Agreement and your rights and obligations under this Agreement, in whole or in part, at any time without notice to you. You may not assign this Agreement without OPS's prior written consent. OPS's failure to insist upon or enforce strict performance of any provision of this Agreement shall not be construed as a waiver of any provision or rights. If any provision of this Agreement is held to be unenforceable, the unenforceable provision shall be construed as nearly as possible to reflect the original intent of the parties and the remaining provisions shall remain in full force and effect.

Complaint Response Procedures

OPS's dedication to customer service means that OPS takes seriously and responds to all complaints about its subscribers' use of the Internet. This means complaints by both OPS service subscribers and complaints by other Internet users. OPS believes that its customers should be able to enjoy full use of the Internet without interference by persons who use the Internet in an improper or unlawful manner. OPS will respond to any complaint that involves online activities that are Prohibited Activities under the OPS's Policies. OPS will follow the Complaint Response Procedures described below to respond to complaints from Users and others about OPS service Users. Under these procedures, Internet users -- including OPS service Users -- are responsible for monitoring use of the Internet by others. OPS will issue warnings to its Users, suspend subscribers' accounts and even cancel accounts when it learns of continuing improper activities.

Complaints may be submitted in any of the following forms:

- by e-mail at usecomplaints@myops.net
- by fax to (334) 705-5148; or
- by mail to P.O. Box 2168, Opelika, Alabama 36803

If you register a complaint with the OPS Customer Service Department, you should submit the following information:

1. The email address or IP address of the OPS service User involved, and if possible, any other information about the User, such as his or her name and address;

2. A detailed description of the activities involved.
3. If possible, the specific category or categories of Prohibited Activity you believe is involved in the activities;
4. The dates the activities took place, e.g., the date information was posted.