

# Terms of Service

## General Terms of Service

All services provided by MarketinGROW may be used for lawful purposes only. Transmission, storage or presentation of any information, data or material in violation of any Canadian federal or provincial law is prohibited. This includes, but is not limited to copyrighted material, any material we judge to be threatening or obscene, or material protected by trade secret and other statutes. The subscriber agrees to indemnify and hold harmless MARKETINGROW from any claims resulting from the use of MARKETINGROW's services which damage the subscriber or any other party. Prohibited are content or links to websites that promote illegal activity or present content that may be damaging to MARKETINGROW's web and mail servers or any other server on the Internet.

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

- pornographic content
- racially motivated content
- counterfeit and/or pirated content
- hacker programs or archives
- Warez websites

IF YOUR ACCOUNT IS FOUND TO CONTAIN ILLEGAL ACTIVITY, ILLEGAL MP3 FILES, PIRATED SOFTWARE, HACKER PROGRAMS, WAREZ PROGRAMS, OR ANY OTHER ILLEGAL FILES, YOUR ACCOUNT WILL BE TERMINATED IMMEDIATELY, WITHOUT NOTICE, AND A CANCELLATION FEE WILL APPLY. ADDITIONALLY, MARKETINGROW WILL NOTIFY THE APPROPRIATE LEGISLATIVE AUTHORITIES OF YOUR ACTIONS.

### Traffic Usage

All account subscriptions feature an unlimited traffic (bandwidth) allowance subject to a [fair use policy](#). MARKETINGROW monitors all accounts and may adjust the bandwidth limit to accommodate your usage. At our sole discretion, MARKETINGROW will consult with you to remedy any issues that cause unfair use causing an inordinate amount of bandwidth by your account. In extreme cases, MARKETINGROW, in agreement with you, may find it necessary to invoice your account for each gigabyte of bandwidth deemed to exceed a fair use amount.

### Server Abuse

Any attempt to undermine or cause harm to a server or another customer of MARKETINGROW is prohibited. Should you violate the Terms of Services outlined within, your account will be canceled without compensation.

### Refusal of Service

We reserve the right to refuse, cancel or suspend service, at our sole discretion.

### 14 Day Free Trial Period

We offer a 14-day trial period at no charge, and you do not need to provide a credit card.

Not later than the 30<sup>th</sup> day from the initial creation of your website by MARKETINGROW, you must cancel our service or agree to subscribe and begin to pay for the services provided by MARKETINGROW at the then prevailing subscription rate and one time set up fee.

During this period, we will develop a fully functioning website for you, without obligation to subscribe however there are various scenarios as to how the 14-day trial can be conducted.

### **If you do not own a domain name:**

- We will develop a website using a domain name owned and managed by MarketinGROW that may or may not bear any relationship to you, your firm's name or MARKETINGROW
- You would maintain your existing email services
- An "Under Construction" page will be put in place so you can work directly with your Design Team Manager tweaking the appearance and adding content until you are satisfied that the site presents the image you are seeking
- Once you are ready, the construction page will be removed, and you will have a functioning website you can direct anyone to

### **At the end of 14 days**

- You may cancel and owe nothing
- You may subscribe using a new domain name
  - MARKETINGROW will register and pay for a new domain name
    - You will be the domain name owner
    - MARKETINGROW will be the administrative, technical and billing contact
  - You can maintain your existing email service (i.e., Gmail)
- or
  - We will create up to 5 domain-based email accounts for your office using your new domain name
    - Eg: your.name@your\_domain\_name.com
- You are under no obligation to continue any services with MarketinGROW at the conclusion of your 14-Day Free Trial. Should you choose to subscribe to our services at the end of the 14-Day Free Trial, you agree to provide credit card details or arrange for direct payment of a subscription fee. Further, you acknowledge that you will be charged a \$90 setup fee and that it will be processed on your initial payment. You also acknowledge that all of the prices listed anywhere on this website do not include applicable taxes.

### **If you already own a domain name**

- We would build a website using your domain name on our servers and assist you with pointing your domain name to our servers
  - any website that you had previously may be deleted and not recoverable
- At the end of 14 days
  - You may cancel and owe nothing

- All files associated with our website design will be removed from our web server after 60 days
- We will instruct you on how to point your domain name back to your servers
- Your former website will not be replaced by MARKETINGROW
- You may initiate and pay for your subscription
  - MARKETINGROW will transfer your domain name to the MARKETINGROW registrar and assume responsibility for its management
  - Your website will be live and online

## Cancellation

While we would regret your decision to cancel your subscription, we shall not ask any questions regarding your decision. You are under no contractual obligation to MarketinGROW for any of our services. Subject to our refund policy below, you may cancel at any time.

Cancellation **AFTER** the first 12 months of a **PAID** subscription

- All content related to your domain will be backed up and subsequently deleted from our servers
- it is your responsibility to ensure that all Email held on our servers has been downloaded to your local computer for permanent storage
- We will email you a copy of the database record and associated web files
  - All licensed and proprietary component software that we use in the building your website, and related data, will be removed prior to forwarding the website content to you
  - Licensed component software includes, but is not limited to:
    - Website forms
    - Blogs
    - Security
    - Email communications
    - Web Editors
- We will work with you to transfer your domain name to another domain name registrar
- We will not assist in recreating your website on a new server outside of MARKETINGROW's control

Cancellation **BEFORE** the first 12 months of a **PAID** subscription

- All content related to your domain including email held on our servers will be deleted from our servers
- Should you wish to retain ownership of your domain, we will process a one-time fee of \$25 plus HST and then work with you to transfer your domain name to another domain name registrar

## Refunds:

There is no pro-rata refund for accounts canceled once the subscription has commenced. Your account remains active for the duration of the currently paid term.

## Account Renewal

Accounts are automatically renewed, so there is no action needed on your part if you wish to continue your subscription.

Accounts whose payments are not approved or otherwise dishonored may be given a minimum 48-hour grace period, at the sole discretion of MarketinGROW before being deactivated. A deactivated account will discontinue all website and email services. MarketinGROW shall not be held liable for email that may become lost or not received due to the delinquency or deactivation of your account

## Account Deactivation

Deactivated subscriptions that wish to renew after expiration may be subject to a reactivation fee of \$150 in addition to the subscription fee

## Limitation of Liability

MARKETINGGROW shall not be responsible for any claimed damages, including incidental and consequential damages, which may arise from MARKETINGGROW servers going off-line or being unavailable for any reason whatsoever. Furthermore, MARKETINGGROW shall not be responsible for any claimed damages, including incidental or consequential damages, resulting from the corruption or deletion of any web site from one of MARKETINGGROW's servers. All damages shall be limited to the immediate termination of service and pro-rata refund.

## Violations

Violations of these Acceptable Use Policies should be referred to MARKETINGGROW's Administration Department. All complaints will be investigated promptly. Failure to follow any term or condition will be grounds for immediate account deactivation.

## Disclaimer

MARKETINGGROW cannot be held liable for system down time, crashes or data loss. We cannot be held liable for any predicated estimate of profits which a client would have gained if their site were functioning. Certain services provided by MARKETINGGROW are contracted thus certain equipment, routing, software and programming used by MARKETINGGROW are not directly owned or written by MARKETINGGROW. Moreover, MARKETINGGROW holds no responsibility for the use of our clients' accounts. Failure to comply with any terms or conditions will result in the automatic deactivation of the account in question. We reserve the right to remove any account, without advance notice for any reason without restitution as MARKETINGGROW sees fit.

## Account Activation

By activating your account with MARKETINGGROW, you agree to the above policies and disclaimer. Upon requesting activation of an account, you are required to accept these policies, guidelines, and disclaimer.

NOTICE: If you sign up for an account and fail to comply with these terms, no refunds will be given. We will, however, advise you by e-mail prior to taking any action to provide you with an opportunity to correct the problem.

## Server Uptime Guarantee

MARKETINGGROW guarantees 99% service (HTTP, FTP, pop, IMAP, SMTP) uptime on all plans. Should we fail to deliver this for any given calendar month, your account will be credited a pro-rated amount for the duration of excessive downtime.

## **Access**

You may not share any password or access to any area of the Website granted to you by MARKETINGGROW with any other person except your designated alternate. You must inform by email who you appoint as an alternate.

You must keep your username and password and any other information needed to log-in to the website confidential and secure. MARKETINGGROW is not responsible for any unauthorized access to your account or profile by other Website visitors and any ramifications of such access. However, under confirmed unauthorized use circumstances, MARKETINGGROW may take reasonable efforts with reasonable speed, to disable, lock or otherwise address your situation. In the event that you would like to report a breach, please contact your Design Team Manager with the term "Account Breach Notice" in the subject line.

## **Change**

MARKETINGGROW reserves the right to amend any or all of the above policies, guidelines, and disclaimer without notification. We also retain the right to increase any pricing and make changes to our account plans without notification.

## **Acceptable Use Policy (AUP)**

As a provider of website hosting and other Internet-related services, MARKETINGGROW offers its customer (also known as "Subscribers") and their customers and users the means to acquire and disseminate a wealth of public, private, commercial and non-commercial information. MARKETINGGROW respects that the Internet provides a forum for free and open discussion and dissemination of information. However, when there are competing interests at issue, MARKETINGGROW reserves the right to take certain preventive or corrective actions. In order to protect these competing interests, MARKETINGGROW has developed an Acceptable Use Policy ("AUP"), which supplements and explains certain terms of each customer's respective service agreement, and is intended as a guide to the customer's rights and obligations when using MARKETINGGROW's services. This AUP may be revised from time to time. One important aspect of the Internet is that no one party owns or controls it. This fact accounts for much of the Internet's openness and value, but it also places a high premium on the judgment and responsibility of those who use it, both in the information they acquire and, in the information, they disseminate to others. When subscribers obtain information through the Internet, they must keep in mind that MARKETINGGROW cannot monitor, verify, warrant or vouch for the accuracy and quality of the information they acquire. For this reason, the subscriber must exercise his or her own best judgment in relying on information obtained from the Internet, and also should be aware that some material posted to the Internet may be offensive. Because MARKETINGGROW cannot monitor or censor the Internet, and will not attempt to do so, MARKETINGGROW cannot accept any responsibility for injury to its subscribers resulting from inaccurate, unsuitable, offensive or illegal Internet communications.

When subscribers disseminate information from the Internet, they must keep in mind that MARKETINGGROW does not review, edit, censor or take responsibility for any

information its subscribers may create. When users place information on the Internet, they have the same liability as other authors for copyright infringement, defamation, and other harmful speech. Also, because the information created is carried over MARKETINGROW's network and may reach a large number of people, including both subscribers and non-subscribers of MARKETINGROW, subscribers' postings to the Internet may affect other subscribers and may affect MARKETINGROW's goodwill, business, reputation or operations. For these reasons, subscribers violate MARKETINGROW policy and the Service Agreement when they, their customers, affiliates or subsidiaries engage in the following prohibited activities:

- **Spamming:** Sending unsolicited bulk and/or commercial information over the Internet. It is not only harmful because of its negative impact on consumer attitudes toward MARKETINGROW, but also because it can overload MARKETINGROW's network and disrupt service to MARKETINGROW's subscribers. Maintaining an open SMTP relay is prohibited. When a complaint is received, MARKETINGROW will investigate and shut down the account that is Spamming. A \$500 charge for violating this policy will be charged to the person initiating the SPAM. Furthermore, MARKETINGROW reserves the right to prosecute for this violation. A \$1.00 charge will be assessed PER EMAIL sent should MARKETINGROW choose to pursue and prosecute.
- **Audio/Video Streaming:** Audio/Video Streaming is not hosting friendly. As such, MARKETINGROW does not allow any streaming of audio or video content. Offending accounts will be suspended without noticed or terminated.
- **Adult-Oriented Content:** MARKETINGROW does not allow adult content and will suspend/terminate any offending account.

## **File Policy**

MARKETINGROW and your website service is not to be used for file hosting and distribution - as such, customers may not host any files larger than 10MB in size that is observed to be available for the sole purpose of download. Such files include but are not limited to .iso, audio/video files or .exe files. If you are unsure whether your file is against this policy, please e-mail MARKETINGROW Support.

The following terms of service are not exhaustive. There may be other issues not covered by this document that MARKETINGROW may have to take action on at the time of infringement. Your usage of our services cannot contain or undertake:

- **Obscene Speech or Materials:** Using MARKETINGROW's network to advertise, transmit, store, post, display, or otherwise make available child pornography or obscene speech or material is prohibited. MARKETINGROW is required by law to notify law enforcement agencies when it becomes aware of the presence of child pornography on or being transmitted through its network.
- **Defamatory or Abusive Language:** Using MARKETINGROW's network as a means to transmit or post negative, defamatory, harassing, abusive or threatening language is strictly prohibited
- **Forging of Headers:** Forging or misrepresenting message headers, whether in whole or in part, to mask the originator of the message
- **Illegal or Unauthorized Access to Other Computers or Networks:** Accessing, illegally or without authorization, computers, accounts or networks belonging to another party, or attempting to penetrate security measures of another individual's

system (often known as "hacking"). Also, any activity that may be used as a precursor to an attempted system penetration (i.e., port scan, stealth scan or other information-gathering activity).

- Distribution of Internet Viruses, Worms, Trojan Horses or Other Destructive Activities: Distributing information regarding the creation of and sending Internet viruses, worms, Trojan horses, pinging, flooding, mail bombing or denial of service attacks. Also, activities that disrupt the use of or interfere with the ability of others to effectively use the network or any connected network, system, service or equipment.
- Facilitation of a Violation of this AUP: Advertising, transmitting or otherwise making available any software, program, product or service that is designed to violate this AUP, which includes the facilitation of the means to spam, initiation of pinging, flooding, mail-bombing, denial of service attacks and piracy of software.
- Export Control Violations: Exporting encryption software over the Internet or otherwise, to points outside Canada or the United States.
- Usenet Groups: MARKETINGROW reserves the right not to accept postings from newsgroups where we have actual knowledge that the content of the newsgroup violates the AUP.
- Other Illegal Activities: Engaging in activities that are determined to be illegal, including, but not limited to, advertising, transmitting or otherwise making available Ponzi schemes, pyramid schemes, fraudulently charging credit cards and pirating software.
- Other Activities: Engaging in activities, whether lawful or unlawful, that MARKETINGROW determines to be harmful to its subscribers, operations, reputation, goodwill or customer relations.
- Hosted material that you do not own the rights to. This material may include but is not limited to images or documents. MARKETINGROW will not be held liable to any party for files that are deemed not to be legally licensed for use by you.
- We typically do not limit our client's email space on our servers, but in order to balance the space on our servers, under a fair use policy, we reserve the right to limit the total mail stored.

As we have pointed out, the responsibility for avoiding harmful activities just described rests primarily with the subscriber. MARKETINGROW will not monitor the communications of its subscribers to ensure that they comply with MARKETINGROW's policy or applicable law. However, when MARKETINGROW becomes aware of harmful activities, it may take any action to stop the harmful activity including, but not limited to removal of information, shutting down a web site, implementing screening software designed to block offending transmissions, denying access to the Internet or any other action deemed appropriate by MARKETINGROW.

MARKETINGROW does not nor will they monitor private electronic mail messages sent or received by its subscribers, unless required to do so by law, governmental authority or when public safety is at stake. MARKETINGROW may monitor the amount of bandwidth used by POP email on our servers in order to proactively manage the efficient operation of said servers. Also, MARKETINGROW may disclose information, including but not limited to, information concerning a subscriber, a transmission made using our network, or a website, in order to comply with a court order, subpoena,

summons, discovery request, warrant, statute, regulation or governmental request. MARKETINGROW assumes no obligation to inform the subscriber that subscriber information has been provided and, in some cases, may be prohibited by law from giving such notice. Finally, MARKETINGROW may disclose subscriber information or information transmitted over its network where necessary to protect MARKETINGROW and others from harm or where such disclosure is necessary, to the proper operation of the system. MARKETINGROW will never sell information to other services or outside companies.

Finally, MARKETINGROW wishes to emphasize that, in accepting the Service Agreement, subscribers indemnify MARKETINGROW for any violation of the Service Agreement, law or MARKETINGROW policy resulting in a loss to MARKETINGROW or the bringing of any claim against MARKETINGROW by any third party. This means that, if MARKETINGROW is sued because of a subscriber's or customer of a subscriber's activity, the subscriber will be responsible for payment of any damages awarded against MARKETINGROW, plus costs and reasonable legal fees.

We hope this AUP is helpful in clarifying the obligations of Internet users, including MARKETINGROW and its subscribers, as responsible members of the Internet. Any complaints about a subscriber's violation of this AUP should be sent to the [MARKETINGROW Support](#)

## **Fair Use Policy**

Our hosted website subscription plans employ a server storage and fair use policy as follows:

### **Server Storage**

- Server space on your account has an upper limit of 3 Gigabytes of data
- Data includes:
  - all files related to your website including, all software required to render your website online
  - all email data as stored on our servers
  - all other data that MARKETINGROW deems necessary for the ongoing management and security of your account

### **Email Accounts**

- You may have as many email accounts as is practical for your use
- Total email storage is limited to the total server space for your account, less the space required by the data to present and secure your actual website as described above under Server Storage

### **Bandwidth**

Bandwidth is unlimited as long as:

- it is used as an integral part of your website
- you are not intentionally abusing the service by using excessive bandwidth
- you are not violating our terms and conditions
- you are not impeding our capability to provide other users within our subscription service

We intend that, as long as all subscribers are fair, you should not have to worry about bandwidth limits. If, however, you are distributing large files or streaming video or



hosting torrents or similar, then we must take steps to see that you cease doing so. Should you wish to discuss options outside of this policy, [please contact us](#).

### **Third Party Add-On Software and Programming Code**

MARKETINGGROW will from time to time, provide, install and maintain Components, Modules, and Plugins developed specifically for use in the WordPress CMS. In general, MARKETINGGROW will not charge you for the use or maintenance of such software. As MARKETINGGROW will generally use the software within other MARKETINGGROW subscribers' websites. MARKETINGGROW does not grant you an exclusive license to any of the Components, Modules, Plugins or software used in your website.

If you as a subscriber request the installation of any software or programming code that MARKETINGGROW finds to be compatible with your website, at its sole discretion, MARKETINGGROW may charge you for the purchase, installation, and maintenance of such software. You agree that MARKETINGGROW cannot be held responsible for the performance of such requested software or programming code. MARKETINGGROW reserves the right to remove such software or programming code without warning or compensation if found to be detrimental to the ongoing performance and security of MARKETINGGROW's web servers.

Updated April 18, 2020