

POLICIES AND AGREEMENTS TERMS AND CONDITIONS OF USE FOR SPECSTREAM.COM

1) GENERAL:

By using Specstream, Inc. services, you agree to use the Internet in accordance with the laws and the ethical rules established or to be set up in the future. Our Terms and Conditions of Use policy is one of zero tolerance. We reserve the right to immediately discontinue services without liability, refund or continuance of any prepaid service fees. By using Specstream services, you constitute your approval of our policy.

2) BILLING - GENERAL:

All accounts are set up on a pre-pay basis. All International clients must pay by credit card, PayPal, money order, cashiers check or wire transfer. All accounts under \$50.00/mo must also be paid by credit card. Accounts over \$50.00/mo can be paid by check, money order or credit card. Customers with accounts set up on a periodic credit card billing plan must keep credit card information current. It is the customers' responsibility to inform Specstream on changes in credit card type, e-mail address or expiration date to their credit card. Credit card accounts are billed once monthly, quarterly or yearly, depending on your billing cycle. If your credit card is declined you will have 14 days to make payment, after these 14 days, your account will be placed on hold until services are paid for. All accounts paying by check have 30 days to send in payment. If no payment has been received by the Due Date, then accounts will be placed on hold until payment is received. There is a \$1.00 credit card resubmission fee if your credit card is declined for any transaction. Specstream charges a \$25.00 return check fee on all returned checks and a \$25.00 charge per wire transfer received. All accounts issuing chargebacks against Specstream will be billed an additional \$25.00 per chargeback.

NOTE: All accounts billed to a credit card are automatically renewed unless canceled prior to the renewal date. This applies to all monthly, quarterly and yearly accounts.

3) BILLING TERMS:

After the initial thirty days of service, each customer is committed to the remaining time on the service they purchased and no refunds will be given. Specstream does not require that you finish off each term and you are free to close your account at anytime without any additional charges or fees. However, Specstream will not prorate any return for unused service. For example, if you have an account that you are paying for monthly and you decide to close it a few days after your last payment, you will not be issued any refund, whether in full or prorated. By using Specstream, you understand and agree to this billing term. You also understand that while no refund will be issued, you are always free to keep your account open for the full amount of time you have paid for.

4) CANCELLATIONS:

Almost all web hosting, VPS, E-commerce and Internet Access plans include a 30-day money back guarantee. If for any reason our services haven't exceeded your standards, please let us know within the first 30 days of account activation and we will refund the money paid for that first month of service minus Setup Fees, Activation Fees and overage charges. Setup Fees and Activation Fees are refundable only if the account order is canceled prior to activation. For web hosting contracts of 3 months or longer, the full contract amount less any set-up fees and overages will be refunded if Specstream is notified within the first 30 days following activation. No refund is available after the 30th day. Due to security concerns (such as fraudulent cancellations), all account cancellations must be done through our cancellation form via your Control Maestro Panel. E-mail requests and phone calls will not constitute acceptance of any cancellation. Refunds will be made by company check or issued back to your credit card within 30 days of receipt of cancellation.

5) CONTENT:

You will not in any way use html, java or perl code that will result unnecessary traffic nor will you install any client side applications that will result in excess traffic. The intent of Specstream is to provide space to serve web documents, not as an off-site storage area for electronic files. You will also not misrepresent the site in such a way that will result in needless traffic. Some examples of unacceptable content or links include: pirated software, hacker programs or archives, Warez sites, Spamware, Copyrighted MP3s and IRC bots. Specstream does not support; (i) sexually explicit, obscene or pornographic content (whether in text or graphics); (ii) speech or images that are offensive, profane, hateful, threatening, harmful, defamatory, libelous, harassing, discriminatory (whether based on race, ethnicity, creed, religion, gender, sexual orientation, physical disability or otherwise) or that

promote any illegal activity; and/or (iii) graphic violence. We will terminate any account that does not conform to these requirements. Specstream reserves the right to terminate any account, for any reason, without prior notice or warning.

6) E-MAIL:

You will not send out advertising e-mail, unsolicited bulk e-mail (UBE) or Spam, nor do anything that will result in excess mail traffic. You will not use your E-mail account to receive large files or programs over 10 MBs in size. Unsolicited advertising via e-mail or newsgroups is prohibited and will result in immediate account termination without compensation. Spamming, including (but not limited to) mass e-mailing, cross posting, or otherwise causing abuse to others on the Internet is prohibited and will be grounds for account termination without compensation. If you use the services of another provider to promote a web site hosted by or through Specstream, then the provisions of the above Policy shall apply as if the unsolicited e-mail were sent through our servers.

NOTE: Any accounts caught Spamming, or running Spam scripts, will be charged a \$100 clean-up fee.

7) ORDB.ORG AND SPAMCOP USE/SPAM PREVENTION:

Specstream uses two filters on all shared servers to help reduce the amount of Spam our users receive. Specstream has chosen ORDB.org, which is the Open Relay Database, and www.spamcop.net. ORDB.org is a non-profit organization which stores IP-addresses of verified open SMTP relays. These relays are, or are likely to be, used as conduits for sending unsolicited bulk email, also known as Spam. Spamcop will list any IPs that have been sending out reported Spam. If the Spam stops, the IP is released from the database after 48 hours. By using Specstream, you understand and approve of such filtering. You understand that any person attempting to e-mail you from a server in the Open Relay Database or Spamcop database will be returned to the sender. If you do not want your service subject to such filtering, then you understand you are free to host your site elsewhere.

NOTE: While the SpamCop filter is set to "ON" by default, ANY customer may request to have it turned off for their domain(s).

8) ILLEGAL ACTIVITY:

Illegal activities, to include; unauthorized distribution or copying copyrighted software, violation of US export restrictions, harassment, fraud, trafficking in obscene material, and other illegal activities will be reported to all regulatory, administrative and/or governmental authorities. Specstream reserves the right to report all such activities.

9) ACCESS:

Access to our servers is for the express purpose of setting up and managing your web site and e-mail. You are not to use the access to compile or run programs that do not directly relate to the web site. You will not view or attempt to modify files that do not belong to you. It is a crime to access any information in the non-public part of a computer regardless of damage or security of the information. Any actions construed to be negligent or malicious attack is strictly prohibited.

Under no circumstances may more than one person log in to any dial-up account at any one time. Violators will be billed as separate accounts and will be subject to immediate account termination without warning and without any refund of unused services.

10) RESOURCE USAGE:

Specstream enforces a strict policy on resource use that all accounts must abide by. In order to keep our servers running at optimal levels, any sites running a process that requires more than 8Mb of memory, more than 30 CPU seconds, or uses more than 10% of all available system resources at any time will be required to move up to a dedicated solution or be hosted elsewhere. Web sites requiring the following are also limited and may not even be allowed at all:

- **High CPU-use CGI Scripts** - CGI script sharing with domains not hosted by Specstream is not permitted. Any CGI-scripts deemed to be adversely affecting server performance or network integrity will be shut down without prior notice. If your web site has been shut down at another web host for high CGI resource use, you will certainly be shut down here as well. We will not allow a user's web site to affect the other web site owners on our servers.

- **CGI-based Chat Rooms** - Specstream does not allow customers to install their own CGI-based chat rooms. Chat rooms tend to require significant system resources and therefore cannot be permitted as an account option. Specstream does offer Java-based chat for its customers for an additional fee.
- **CGI-based Forums** - Specstream does not allow customers to install their own CGI-based Forums. YaBB and Ultimate Bulletin Board Forums tend to require significant system resources and therefore cannot be permitted. Specstream recommends vBulletin or phpBB.
- **Background Running Programs and Cron Jobs** - Specstream may allow programs to run in the background. These programs will be considered on an individual basis. Customers will not be allowed to execute a cron more than once per hour with Specstream. If you wish to run background programs please contact us so that we can arrange set-up.
- **IRC** - Specstream does not allow IRC or IRC bots to be operated on any of our servers.
- **Webcams** - Specstream does not allow web-cams to be refreshed more than once in a 5 minute period. If you require a refresh rate quicker than 5 minutes, you will need to host your site on a **Virtual Dedicated Server**.
- **Hotlinking** - Specstream does not allow hotlinking of any kind (whether hosted by Specstream or hosted elsewhere). This includes using your site to host images or content that is being used in HTML e-mails sent in bulk. Linking your images from auction sites like eBay is the only exception to this rule.

11) 99.99% NETWORK UPTIME GUARANTEE:

(1.) Coverage - This 99.99% Network Uptime Guarantee applies to any Specstream client in good financial standing with Specstream at the time of a service outage.

(2.) Service Level - Specstream endeavors to have our network available for use by any party in the world 99.99% of the time. Specstream defines network uptime as the ability to reach our datacenter's core routers. This can be verified by running trace routes.

(3.) Credits - In the event that our network is not available for more than 99.99%, Specstream will credit the following month's service fee as follows. For any client, such credit shall be retroactive and shall be as calculated below and as measured 24 hours a day in a calendar month, with the maximum credit not to exceed the monthly service charge for the affected month.

Monthly	Uptime Credit
99.98% to 97%	50%
96.9% or below	100%

In order for you to receive a credit on your account, you must request such credit within seven (7) days after you experienced the down time. You must request credit by sending an electronic mail message to the Specstream Billing Department. The body of this message must contain your account number, the dates and times of the unavailability of our network, and such other customer identification requested by Specstream. Credits will usually be applied within thirty (30) days of your credit request. Credit to your account shall be your sole and exclusive remedy in the event of an outage.

(4.) Restrictions - Credits shall not be provided to you in the event that you have any outage resulting from; (i) scheduled maintenance as posted from time to time at Specstream; (ii) circumstances beyond Specstream' reasonable control, including, without limitation, acts of any governmental body, war, insurrection, sabotage, embargo, fire, flood, strike or other labor disturbance, interruption of or delay in transportation, unavailability of interruption or delay in telecommunications or third party services, including failure of third party software or hardware or inability to obtain raw materials, supplies, or power needed for our network.

12) 99.9% SERVER UPTIME GUARANTEE:

(1.) Coverage - This 99.9% Server Uptime Guarantee applies to any Specstream client in good financial standing with Specstream at the time of a service outage.

(2.) Service Level - Specstream endeavors to have the content of your web site available for http access by any party in the world 99.9% of the time. Specstream defines server uptime as the ability to reach your server via ping. This can be verified by pinging your server's IP Address.

(3.) Credits - In the event that your web site is not available for more than 99.9%, Specstream will credit the following month's service fee as follows. For any client, such credit shall be retroactive and shall be as calculated

below and as measured 24 hours a day in a calendar month, with the maximum credit not to exceed the monthly service charge for the affected month.

Monthly	Uptime Credit
99.8% to 97%	50%
96.9% or below	100%

In order for you to receive a credit on your account, you must request such credit within seven (7) days after you experienced the down time. You must request credit by sending an electronic mail message to the Specstream Billing Department. The body of this message must contain your account number, the dates and times of the unavailability of your web site, and such other customer identification requested by Specstream. Credits will usually be applied within thirty (30) days of your credit request. Credit to your account shall be your sole and exclusive remedy in the event of an outage.

(4.) Restrictions - Credits shall not be provided to you in the event that you have any outage resulting from: (i) scheduled maintenance as posted from time to time at Specstream; (ii) your behavior or the performance or failure of your equipment, facilities or applications; (iii) circumstances beyond Specstream' reasonable control, including, without limitation, acts of any governmental body, war, insurrection, sabotage, embargo, fire, flood, strike or other labor disturbance, interruption of or delay in transportation, unavailability of interruption or delay in telecommunications or third party services, including DNS propagation, domain name registration/transfer, failure of third party software or hardware or inability to obtain raw materials, supplies, or power used in or equipment needed for provision of your web site; or (iv) a client breaking any item in Specstream Terms and Conditions of Use policy causing a machine to fail as a result. Due to the availability of full root access, all virtual private server and fully managed dedicated server customers are only guaranteed 99.99% uptime for network connectivity, not server performance.

13) TRADEMARK AND COPYRIGHTS:

You hereby agree and warrant that any material submitted for publication or use through your account(s) will not violate or infringe any copyright, trademark, patent, statutory, common law or proprietary rights of others, or contain anything libelous or harmful, and you indemnify Specstream as to the same.

The Digital Millennium Copyright Act ("DMCA") sets forth the requirements for valid copyright infringement notification. Specstream takes all allegations seriously and will investigate each notice immediately. Once Specstream receives your infringement notice, we will notify the web site owner that they will have 24 hours to either (i) take down or remove the disputed material, or (ii) provide a counter-notice. Specstream still reserves the right to remove or take down material immediately without any prior notice.

If you would like to notify Specstream of an infringement of your copyright, the DMCA requires that you:

- Send your notification to Specstream, Inc. You may use one of the following two avenues for this notification:
 1. Fax to: Specstream, Inc. , Attention: Abuse at (760) 477-1111
 2. Mail or courier to: Specstream, Inc., Attention: Abuse, 2420 Grand Ave, Suite G-2, Vista, CA 92081
- Include in your notification the following information
 1. A physical or electronic signature of the copyright owner or a person authorized to act on the copyright owner's behalf (the "Claimant")
 2. Identification of the copyrighted work(s) claimed to have been infringed.
 3. Identification of the material claimed to infringe the copyright(s), and enough information for Specstream to locate it.
 4. The Claimant's name, address, and telephone number(s).
 5. A statement that the Claimant has a good faith belief that use of the disputed material is not authorized by the copyright owner or his agent.
 6. A statement, under penalty of perjury, that the information in the notification of copyright infringement is accurate and that the Claimant is authorized to act on behalf of the copyright owner.

14) PRIVACY POLICY:

When you visit our Web site, we do NOT collect your e-mail address(es), aggregate information on what other pages on the Web you have accessed or visited, user-specific information on what pages you access or visit unless volunteered. Information volunteered by the consumer, such as survey information, online sign ups, and/or site registration will never be released. When using our services, we agree to NEVER release your e-mail addresses(es), domain names, and/or any other personal information to anyone at any time. For your privacy, we will also not reference any domain names we host.

15) BACK-UPS:

Full back-ups are made weekly, and back-ups of new/changed data made nightly. No guarantees are made of any kind, either expressed or implied, as to the integrity of these back-ups. Back-ups are made for server restoration purposes only. It is the clients' responsibility to maintain local copies of their web content and information. A "Back-Up/Restore" feature is included with each hosting plan and a client can use this tool to back up their files. If loss of data occurs due to an error of Specstream, we will attempt to recover the data for no charge to the client. If data loss occurs due to negligence of a client in securing their account or by an action of the client, Specstream will attempt to recover the data from the most recent archive for a \$25.00 fee.

16) ACTIONS TAKEN:

The failure by a customer to meet or follow any of the Terms and Conditions of Use is grounds for account termination. Specstream will be the sole arbiter as to what constitutes a violation of the Terms and Conditions of Use. Specstream reserves the right to remove any account without prior notice.

When Specstream becomes aware of an alleged violation of its Terms and Conditions of Use, we will initiate an investigation. During the investigation, Specstream may restrict a customer's access in order to prevent further potentially unauthorized activity. Depending on the severity of the violation, Specstream may, at its sole discretion, restrict, suspend, or terminate a customer's account and/or pursue other civil remedies. If such violation is a criminal offense, Specstream will notify the appropriate law enforcement authorities of such violation.

Specstream does not issue credits for outages incurred through service disablement resulting from Terms and Conditions of Use violations. Specstream does not issue refunds for accounts terminated for Terms and Conditions of Use violations.

17) WARRANTIES:

THIS SERVICE IS PROVIDED AS IS. USE IT AT YOUR OWN RISK. THERE ARE NO WARRANTIES OF ANY KIND EXPRESSED OR IMPLIED, INCLUDING WARRANTIES OF SALABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. SPECSTREAM IS NOT RESPONSIBLE FOR HARDWARE OR SOFTWARE DAMAGE, LOSS OF WAGES, OR ANY OTHER FINANCIAL OR PERSONAL LOSS RESULTING FROM THE USE OF, OR INABILITY TO USE, THIS SERVICE. NO ORAL ADVICE OR WRITTEN INFORMATION GIVEN BY SPECSTREAM, ITS EMPLOYEES, LICENSORS OR THE LIKE, WILL CREATE A WARRANTY; NOR MAY YOU RELY ON ANY SUCH INFORMATION OR ADVICE. SPECSTREAM AND ITS PARTNERS AND SUPPLIERS WILL NOT BE LIABLE FOR ANY COST OR DAMAGE ARISING EITHER DIRECTLY OR INDIRECTLY FROM ANY TRANSACTION OR USE OF THE SERVICE.

18) INDEMNIFICATION:

CUSTOMER AGREES THAT IT SHALL DEFEND, INDEMNIFY, SAVE AND HOLD SPECSTREAM HARMLESS FROM ANY AND ALL DEMANDS, LIABILITIES, LOSSES, COSTS AND CLAIMS, INCLUDING REASONABLE ATTORNEY'S FEES ASSERTED AGAINST SPECSTREAM, ITS AGENTS, ITS CUSTOMERS, OFFICERS AND EMPLOYEES, THAT MAY ARISE OR RESULT FROM ANY SERVICE PROVIDED OR PERFORMED OR AGREED TO BE PERFORMED OR ANY PRODUCT SOLD BY CUSTOMER, IT'S AGENTS, EMPLOYEES OR ASSIGNS. CUSTOMER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS SPECSTREAM AGAINST LIABILITIES ARISING OUT OF; (1) ANY INJURY TO PERSON OR PROPERTY CAUSED BY ANY PRODUCTS SOLD OR OTHERWISE DISTRIBUTED IN CONNECTION WITH SPECSTREAM' SERVER; (2) ANY MATERIAL SUPPLIED BY CUSTOMER INFRINGING OR ALLEGEDLY INFRINGING ON THE PROPRIETARY RIGHTS OF A THIRD PARTY; (3) COPYRIGHT INFRINGEMENT AND (4) ANY DEFECTIVE PRODUCTS SOLD TO CUSTOMER FROM SPECSTREAM' SERVER.

19) GOVERNING LAW:

In the event of litigation both parties agree that the Law of California shall apply and both parties consent to the jurisdiction of the state courts of San Diego, California, or in the event of diversity of citizenship, the United States

District Court for the Southern District of California. Both parties expressly waive a trial by jury.

20) CHANGES:

Specstream reserves the right to modify or otherwise amend this policy without prior notice or warning.