

## TERMS OF SERVICE

This policy represents the Agreement is between **POPCORN IT** and the person/persons who use our any products or services. Please read carefully to ensure you understand our terms before purchasing any of our products or services.

**POPCORN IT** reserves the exclusive right to change, amend or revise any portion of this TOS policy at any time, with or without written notice to our customers. If you have a question about how a certain type of information is handled, please e-mail us at: [support@popcorn-it.com](mailto:support@popcorn-it.com).

### Services

**POPCORN IT** agrees to provide the services stated for the price agreed at any given time. We do not mis-lead customers with hidden costs unlike many other web hosting companies.

### Terms

All customers are responsible for monitoring their storage space and bandwidth transfer each month. Customers who go over the limit of their account will be sent an email with the option to either upgrade their account or reduce store and or storage. If customers continue to go over we will do everything possible to fix the problem. We do hold to right to ban accounts for continuous problems. If customers sign up for an account and cancel it within the first month they will still be charged for the full first month.

### Payment, Renewal, Cancellations

#### *Payment Obligations:*

Full payment is required in advance before hosting service is established. **POPCORN IT** sends out invoices that are due every pay period. You are given fifteen (15) days to fully pay the invoice.

You warrant and represent that the information you supply in the Order Form (or other information that **POPCORN IT** may require) is accurate and truthful. All payment-due notices will be sent by e-mail. No bills or invoices will be sent by postal mail or fax. If payment was not received by the due-date, your account will be suspended. It is the clients responsibility to ensure that payment is made to **POPCORN IT** prior to the renewal date and although **POPCORN IT** sends renewal notices to our customers prior to their renewal date, because of the ability for a customer to change their contact email addresses without notifying *popcorn IT*, the customer is ultimately responsible for remembering their renewal date and to make sure payment is made upon the renewal. Failure to keep an account in good standing and/or service renewals paid for will result in service deactivation until the account and or service renewal is paid for in full.

#### *Renewals:*

It is the obligation of the **POPCORN IT** customer to know when their account comes up for renewal and if their intention is to non-renew their account they must contact within 5 business days prior to their account's renewal date to ensure that **POPCORN IT** billing department receives the cancellation request well in advance of the renewal date so that they can stop any renewal charges. **POPCORN IT** clients receive email notification 15 days prior to the renewal date of their account informing them that their renewal date is approaching. It is the customer's responsibility to ensure that **POPCORN IT** has a valid email address for which we can send out renewal notices to our clients. If **POPCORN IT** does not receive a cancellation request prior to the customer's renewal we will renew the clients' account on the renewal date and we will apply the appropriate charges. Accounts will be automatically renewed under the same time and fee structure as the plan that the client signed up for (unless plan changes were made or upgraded between the time when the client signed up & their renewal date). The 30 day money back guarantee applies only to the start date of the clients' service with **POPCORN IT** and does not apply to renewals of service.

Late Fees (Only for Domain Renewal):

For domain renewal, client must need to contact with us for domain renewal before expire date, that he/she wants to renew it via any media. But if client contact with us after expire of a domain name then a fine of 3000/= BDT need to pay for next 15days of expire. And after 15days 7,500/= BDT will be the fine for next 15 days. *Note: that fine amount may vary depending on dollar rate in Bangladesh.*

### **Cancellation & Refunds:**

Should you become dissatisfied with our services( in terms of hosting down time and not get proper support from us ) within the first 30 days of your account activation, **POPCORN IT** will refund your hosting fee subject to the money back guarantee terms listed in this agreement. Refunds are not available for customers after the 30 days of account activation. You may however cancel your account at any time in order to make sure that your account is not renewed. You will need to contact customer service and verify information before cancellation takes place. You will be charged in full for the entire month in which you cancelled your account. Accounts which have negative balances will be sent to collections and all services will be terminated, including domain registrations. Refunds are never available for domain registrations. Domain Names transferred to our service incur an additional year of registration and therefore are considered a domain registration. Domain registration fees are 1000/=BDT/yr. Domain names of customers which leave our hosting service will be refunded the package price total less the domain registration fee if the customer leaves **POPCORN IT** hosting service within the 30 day money back guarantee.

In addition refunds are not available for additional services which you may purchase at **POPCORN IT** for instance an additional domain name we may purchase for a client is not refundable and a dedicated IP which we may setup for a client for a charge is not refundable.

Web site files are the responsibility of the **POPCORN IT** customer and should a **POPCORN IT** customer decide to cancel their service it is the customer's responsibility to make sure that they have backed up & downloaded the web site files and any emails from the **POPCORN IT** server prior to requesting that **POPCORN IT** cancels their account. Once the cancellation request has been submitted to **POPCORN IT** a cancellation of the web site hosting service may occur any time after the request is received by **POPCORN IT** and when a cancellation request is completed the client's hosting account with **POPCORN IT** and their web site files are permanently removed from the **POPCORN IT** servers. Therefore again it is the client's obligation to ensure that they have downloaded their web site files and any emails from the server prior to their cancellation request.

### **Server Abuse**

Any attempt to undermine or cause harm to a server or customer of **POPCORN IT** is strictly prohibited.

**POPCORN IT** will strongly react to any use or attempted use of an Internet account or computer without the owner's authorization. Such attempts include "Internet spamming" (tricking other people into releasing their passwords), password theft, security hole scanning, etc.

Any unauthorized use of accounts or computers by YOU, whether or not the attacked account or computer belongs to *popcorn IT*, will result in action against YOU. Possible actions include warnings, account suspension or cancelation, as well as civil or criminal legal action, depending on the seriousness of the attack.

**IMPORTANT NOTE** – **POPCORN IT** has the right to discontinue service, or deny access to anyone who violates our policies or the terms and conditions shown below **WITHOUT WARNING** or **PRIOR NOTICE**. No refunds of fees paid will be made if account termination is due to violation of the terms outlined below.

YOU may not run IRC, bots or clients on shared servers. Unacceptable uses also include, but are **NOT** limited to: Bulk emailing, unsolicited emailing, newsgroup spamming, upload scripts (Rapidleach), pornographic content, illegal content, copyright infringement, trademark infringement, warez sites (including links to/from), cracks, software serial numbers, proxy-relaying, link farming (the act of or by use of scripts), link grinding, link-only sites, spamdexing, FFA (Free-For-All) and/or anything else determined by **POPCORN IT** to be unacceptable use of our services including abuse of server resources.

WEB APPLICATIONS and WEB ACCESSIBLE SCRIPTS – All web applications that are out-of-date and actively being exploited will be shut down immediately without prior notice. YOU are responsible for and should evaluate YOUR web-based applications and scripts on a regular basis to ensure their security and orderliness.

Shared hosting accounts may also be terminated if it includes the following content or have links to the following content: Providing material that is grossly offensive to the Web community including blatant expressions of bigotry, racism, hatred, or profanity; promoting or providing instructional information about illegal activities; promoting physical harm or injury against any group or individual; displaying material containing obscene nudity or pornographic material (not applicable to managed dedicated servers); displaying material that exploits children under 18-years of age; acts of copyright infringement including offering pirated computer programs or links to such programs; information used to circumvent manufacturer-installed copy-protect devices, including serial or registration numbers for software programs, or any type of cracker utilities.

### Disk Space Abuse

**POPCORN IT** will be the sole arbiter as to what constitutes a violation of this provision. You are responsible for monitoring your disk space usage. If you need extra disk space contact one of our staff and they will be happy to help out. You can also upgrade your hosting plan from inside your **POPCORN IT** client account.

### Bandwidth Abuse

The intention of **POPCORN IT** is to provide a large bandwidth to transfer web documents, and not an offside storage area for electronic files. If YOU violate this condition, YOU will be notified and given 48 hours to remedy the problem. Failure to do so will result in YOU being billed for the overages.

Traffic will go unmonitored until YOU reach the amount of quota allocated to YOUR specific PLAN. **POPCORN IT** will be the sole arbiter as to what constitutes a violation of this provision.

### Acceptable Usage Policy

Customers agree to use our services under the Acceptable Usage Policy which is here by incorporated with this agreement. Customers agree that **POPCORN IT** hold the right to change their AUP at any time to meet web hosting standards and laws. Amendments to the AUP are effective on the earlier of **POPCORN IT** notice to Customer that an amendment has been made, or the first day of any Renewal Term that begins subsequent to the amendment. Customer agrees to cooperate with **POPCORN IT** reasonable investigation of any suspected violation of the AUP. In the event of a dispute between **POPCORN IT** and Customer regarding the interpretation of the AUP, **POPCORN IT** commercially reasonable interpretation of the AUP shall govern.

### Customer Information

Customer represents and warrants to **POPCORN IT** that the information he, she or it has provided and will provide to **POPCORN IT** for purposes of establishing and maintaining the service is accurate. If Customer is an individual, Customer represents and warrants to **POPCORN IT** that he or she is at least 18 years of age. **POPCORN IT** may rely on the instructions of the person listed as the Primary Customer Contact on the Order with regard to Customer's account until Customer has provided a written notice changing the Primary Customer Contract.

### Unsolicited Email & Spamming

Unsolicited commercial advertisements ("SPAM") are not allowed in e-mail, and will likely result in account cancellation. **POPCORN IT** takes a zero-tolerance approach to SPAM originating from its servers or for spam advertising of domains hosted within our network. If found, YOUR account may be deleted.

The following activities are not allowed: SPAM, which includes, but is not limited to, bulk mailing of commercial advertising, informational announcements, charity requests, petitions for signatures, and political or religious tracts

(such messages may only be sent to those who have explicitly requested it from your domain); Forging, altering or removing electronic mail headers – any domain sending stealth spam will be terminated without warning and without refund. Sending numerous copies of the same or substantially similar message with the intent to disrupt a server or account (“mail bombing”); Spamming Newsgroups: Commercial advertisements are unwelcome in most Usenet discussion groups and on most e-mail mailing lists. Inappropriate posting may result in account cancelation. See the newsgroup or mailing list’s charter for whether advertising is allowed or not. Sending a message to many different off-topic newsgroups, is particularly unethical and will be treated as such; Mail may not be used to harass or intimidate others. Harassment, whether through language, frequency of messages, or size of messages, is prohibited. Sending a single unwelcome message may be considered harassment. If a recipient asks to stop receiving e-mail, YOU must not send that person any further messages.

*NOTE – If YOU use the services of another provider to promote a website hosted by or through **POPCORN IT** (“spam-advertising”), then the provisions of the above policy shall apply as if the SPAM were sent through our servers.*

### 99.9% Service Level Agreement "SLA"

**POPCORN IT** offers its clients a 99.9% network uptime guarantee for customer satisfaction purposes and also to ensure that your business is running problem free. **POPCORN IT** will try to maintain maximum uptime. **POPCORN IT** is not responsible for any downtime caused by the client.

### Technical Support Boundaries

**POPCORN IT** provides technical support for YOU that encompasses within our area of expertise only. Such expertise includes assistance, troubleshooting, and debugging of our cPanel control panel interface, servers within our immediate responsibility and any other hosting related issues.

Unlike many hosting companies we do our best to help with scripts, templates and programming languages. However, under no circumstances is **POPCORN IT** obligated to help YOU in the installations of new application modules, templates and/or programming languages, nor in providing assistance for any errors produced by any applications that have been modified by you previously.

### Back Up Copy

Customer agrees to maintain a current copy of all content hosted by **POPCORN IT** notwithstanding any agreement by **POPCORN IT** to provide backup services.

### Request for Restore Of Hosting Package

During any service term, customer may request up to one free restore for any reason of choice. If a customer should need to request a restore after this a \$5 onetime fee will be enforced.

### Copyright Files

All files stored on **POPCORN IT**'s servers must be legally-owned and be accompanied with a valid license and/or copyright. This include and is not limiting to MP3, AVI, MID, MIDI, MPG, MPEG, MOV, EXE, ISO. Should we discover any unlicensed and/or illegal files within your account, the files will be subjected to deletion.

### Unlimited Features

What do you mean by "unlimited disk space and bandwidth/data transfer"

We do not set limits on the disk space and bandwidth (data transfer) that we provide in plans that are marked "Unlimited". We want you to have the resources available to you to build a great online presence.

Even though we want you to succeed, we need to ensure that we're providing all of our customers with optimum service. As such we do require all of our customers to be fully compliant with our Excessive Resource User Policy/Terms of Service and utilize disk space and bandwidth related to normal operation of a personal or small business web site.

If a customer's hosting account is found to have violated the client content, excessive resource user policy and/or is storing files for archiving purposes, the contents will be removed and while we make best effort to contact customers beforehand, can occur without notice.

### **Transfer domain away from POPCORN IT**

**POPCORN IT** reserves all rights, without limitation, to reject the domain name transfer request for the following reasons, but not limited to:

- No response from the Registered Name Holder or Administrative Contact
- Domain name in Registrar Lock Status and there is no request from Registered Name Holder or Administrative Contact for the status change
- Domain name registration period time will be expiring in less than 60 days or other constraints, other than during the first 60 days of initial registration or during the first 60 days after a registrar transfer

YOU agree and acknowledge that the failure or success of a domain name transfer will be his/her sole responsibility, and **POPCORN IT** will not be held liable for the failure of a domain name transfer for any reason.

Domain registrations are non-refundable. Please do not purchase the domain name until you are certain that it is exactly what you would like to buy.

### **Promotional Rates & Special Offers**

**POPCORN IT** may offer subsequent promotional rates or special offers, the terms of which may or may not be more favourable than the terms and conditions for your services. Any such promotions or modifications shall not affect your obligations under this Agreement. Promotional fees may be subject to additional terms and conditions which, to the extent they conflict with the terms of this Agreement, shall govern. Different promotional fees and special offers may not be combined together.

We have various special promotions that include a domain name. The cost of this domain name is usually covered by the first month payment. As a result of this our promotions are not refundable and are not covered by our 30-day money back guarantee.

### **DISCLAIMER OF WARRANTIES**

**POPCORN IT** DOES NOT WARRANT OR REPRESENT THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR COMPLETELY SECURE. TO THE EXTENT PERMITTED BY APPLICABLE LAW **POPCORN IT** DISCLAIMS ANY AND ALL WARRANTIES INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT. TO THE EXTENT PERMITTED BY APPLICABLE LAW, ALL SERVICES ARE PROVIDED ON AN "AS IS" BASIS.

### **LIMITATION OF DAMAGES**

NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY LOST PROFITS, OR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE LOSS OR DAMAGE OF ANY KIND, OR FOR DAMAGES THAT COULD HAVE BEEN AVOIDED BY THE USE OF REASONABLE DILIGENCE, ARISING IN CONNECTION WITH THE AGREEMENT, EVEN IF THE PARTY HAS BEEN ADVISED OR SHOULD BE AWARE OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANYTHING ELSE IN THE AGREEMENT TO THE CONTRARY, THE MAXIMUM AGGREGATE LIABILITY OF **POPCORN IT**

AND ANY OF ITS EMPLOYEES, AGENTS OR AFFILIATES, UNDER ANY THEORY OF LAW (INCLUDING BREACH OF CONTRACT, TORT, STRICT LIABILITY, AND INFRINGEMENT) SHALL BE A PAYMENT OF MONEY NOT TO EXCEED THE AMOUNT PAYABLE BY CUSTOMER FOR THREE MONTHS OF SERVICE.

#### CHOICE OF LAW

**This Agreement shall be interpreted under the laws of Bangladesh without regard to any conflict of laws provisions. Any action between the parties to this agreement for the breach of this agreement or any action or claim in any way relating thereto shall be venued in the Superior Court of Bangladesh. The parties to this agreement hereby consent to jurisdiction in that court and agree to accept service by mail and hereby waive any defense of any kind related to jurisdiction or venue.**

#### Miscellaneous

Each party acknowledges and agrees that the other party retains exclusive ownership and rights in its trademarks, service marks, trade secrets, inventions, copyrights, and other intellectual property. Neither party may use the other party's name or trade mark without the other party's prior written consent. The parties intend for their relationship to be that of independent contractors and not a partnership, joint venture, or employer/employee. Neither party will represent itself to be agent of the other. Each party acknowledges that it has no power or authority to bind the other on any agreement and that it will not represent to any person that it has such power or authority. This Agreement may be amended only by a formal written agreement signed by both parties. The terms on Customer's purchase order or other business forms are not binding on **POPCORN IT** unless they are expressly incorporated into a formal written agreement signed by both parties. A party's failure or delay in enforcing any provision of the Agreement will not be deemed a waiver of that party's rights with respect to that provision or any other provision of the Agreement. A party's waiver of any of its right under the Agreement is not a waiver of any of its other rights with respect to a prior, contemporaneous or future occurrence, whether similar in nature or not. The captions in the Agreement are not part of the Agreement, but are for the convenience of the parties. The following provisions will survive expiration or termination of the Agreement: Fees, indemnity obligations, provisions limiting liability and disclaiming warranties, provisions regarding ownership of intellectual property, these miscellaneous provisions, and other provisions that by their nature are intended to survive termination of the Agreement. There are no third party beneficiaries to the Agreement. Neither insurers nor the customers of resellers are third party beneficiaries to the Agreement. Customer may not transfer the Agreement without **POPCORN IT's** prior written consent. **POPCORN IT's** approval for assignment is contingent on the assignee meeting **POPCORN IT's** credit approval criteria. **POPCORN IT** may assign the Agreement in whole or in part.

#### Amendments

These Terms and Policies may be amended in any respect at any time by **POPCORN IT** upon the posting of the amended Terms and Policies on the terms of use section of the Service. Your continued use of the Service will be deemed consent to any such amended Terms and Policies. If you do not wish to continue to use the Service as a result of any such amended Terms and Policies, you may provide notice of your wish to terminate your use of the Service to **POPCORN IT**.

**POPCORN IT reserves the right to change, edit, or update the policies contained in this document, along with the content on our website at any time for any reason without notice.**

 I agree