

1. Acceptance of Agreement.

By using any portion of the website at <openvpn.net> (the "OpenVPN site") or any content on or downloadable from the OpenVPN site ("content"), you agree to these terms of use (this "Agreement"). If you are not willing to accept this agreement, you must not use the OpenVPN site or any content.

"we", "us" and "our" refer to OpenVPN Inc., a Delaware corporation.

"you" and "your" refer to each user of the OpenVPN site. If you are using the OpenVPN site on behalf of a legal entity, then (a) you, as an individual, warrant that you have authority to bind that entity to this agreement and (b) "you" and "your" also refer to that entity.

This agreement constitutes the entire and only agreement between us and you and supersedes all prior or contemporaneous agreements with respect to the subject matter of this agreement.

Our <u>General Data Protection Addendum</u> ("DPA") forms an integral part of these Terms of Service and is incorporated herein.

The latest version of this agreement will be posted on the OpenVPN site.

Request a signed DPA by emailing <u>sales@openvpn.net</u>. Provide legal representative name and email address.

2. Terms Governing OpenVPN Software and Services

"Software and services agreements" means the terms and conditions set forth in, and in any agreements referenced by, the remainder of this section 2. In the event of a conflict between the software and services agreements and this agreement, the software and services agreements will govern.

3. OpenVPN Software Licenses

OpenVPN Inc. Provides its OpenVPN software under licensing designed to meet the needs of any size business, enterprise, distributor, system integrator, or opensource project.

OpenVPN® Access Server Software

OpenVPN Access Server is the enterprise version of OpenVPN software. Access Server is a full featured secure network tunneling VPN software solution that integrates OpenVPN server capabilities, enterprise management capabilities, simplified OpenVPN connect UI, and OpenVPN client software packages that accommodate Windows, Mac, Linux, Android, and iOS environments. OpenVPN Access Server supports a wide range of configurations, including secure and granular remote access to internal network and/ or private cloud network resources and applications with fine-grained access control. OpenVPN Access Server Enterprise Software licensing is governed by OpenVPN End User License Agreement ("EULA"). before using OpenVPN Access Server Enterprise Software please review the End User License Agreement.

OpenVPN® Cloud Service

OpenVPN Cloud is a service offered by OpenVPN Inc. That provides a fully hosted VPN service that allows users access to all VPN capabilities without the need to host an actual server. All usage on OpenVPN Cloud is governed by the <u>OpenVPN Cloud End User Agreement ("EULA")</u>. Before using OpenVPN Cloud, please review this agreement — by accepting these terms of service you also accept the terms of the OpenVPN Cloud Agreement.

OpenVPN® Open-Source Community Software

• OpenVPN 2 open-source software license is governed by GNU General Public License version 2 (GPLv2). • OpenVPN 3 open-source software license is governed by GNU Affero General Public License (AGPL).

Commercial Use and Compliance Disclaimer

Determining commercial or non-commercial use of OpenVPN® Community Open-Source Software depends on the specifics of the software project and the intentions of the user. Some use cases may be challenging to categorize as commercial or noncommercial. OpenVPN Inc. does not give legal advice. If there exists any doubt as to your use or intended use of our software, please consult a professional legal resource familiar with software licensing and the GPL (General Public License).

OpenVPN inc. Is the worldwide exclusive commercial licensor of OpenVPN Software.

4. OpenVPN Intellectual Property

We, or in certain instances our licensors, own all content and all intellectual property rights therein, including without limitation all copyrights. The copying, redistribution, use or publication by you of any content, except as allowed by section 4, below, is strictly prohibited.

OpenVPN® is a registered trademark of OpenVPN Inc. the GPLv2 is the license that defines the terms of use for OpenVPN® Community Software and does not govern the legal use of the OpenVPN trademark name and use of our logos—these are restricted by USA copyright and trademark laws and OpenVPN policies.

Please read the OpenVPN trademark, copyrights, and logo use guidelines located at the end of this terms of use.

5. Limited License: Conditions of Use

You are granted a non-exclusive, non-transferable, revocable license (a) to make non-commercial use of the OpenVPN site and content and (b) to print out, and to make non-commercial use of, portions of the OpenVPN site and content to the minimum extent required to exercise the rights set forth in clause (a), above. You may not make the OpenVPN site or the content, or any portion or any copy thereof, available to any third party. No part of the OpenVPN site or the content, or any copy thereof in any medium, may be used by you in any litigation or arbitration matter whatsoever under any circumstances.

6. Restrictions and Prohibitions on Use

You may not (a) copy, print (except for the express limited purpose permitted by section 4 above), republish, display, distribute, transmit, sell, rent, lease, loan or otherwise make available in any form or by any means all or any portion of the OpenVPN site or any content; (b) use the OpenVPN site or content to develop, or as a component of, any information, storage and retrieval system, database, information base, or similar resource (in any media now existing or hereafter developed), that is offered for commercial distribution of any kind, including through sale, license, lease, rental, subscription, or any other commercial distribution mechanism; (c) create compilations or derivative works of any content; (d) use any content in any manner that infringes, misappropriates of violates any intellectual property right or any other right of us or any third party; (e) remove, change or obscure any copyright notice or other proprietary notice or terms of use contained in the OpenVPN site or any content; (f) make any portion of the OpenVPN site available through any timesharing system, service bureau, the internet or any other technology now existing or developed in the future; (q) remove, decompile, disassemble or reverse engineer any OpenVPN site software or use any network monitoring or discovery software to determine the OpenVPN site architecture; (h) use any automatic or manual process to harvest information from the OpenVPN site; (I) use the OpenVPN site for the purpose of gathering information for or transmitting (1) unsolicited commercial email; (2) email that makes use of headers, invalid or nonexistent domain names, or other means of deceptive addressing; or (3) unsolicited telephone calls or facsimile transmissions:

- 6. Restrictions and Prohibitions on Use (continued)
- (j) use the OpenVPN site or any content in a manner that violates any state or federal law; or (k) export or re-export the OpenVPN site any content or any portion thereof in violation of the export control laws or regulations of the United States of America.

To the extent that there is any conflict between clause (a), (b) or (c) in the preceding paragraph and any provision of a license agreement pertaining to any OpenVPN® software, the license agreement will govern.

7. Forms, Agreements & Documents

We may make available through the OpenVPN site or through third-party websites sample and actual forms, checklists, business documents and legal documents (collectively, "documents"). All documents are provided on a non-exclusive basis solely for your personal, one-time non-commercial use, without any right to relicense, sublicense, distribute, assign, or transfer such rights. Documents are provided for a charge and without any representations or warranties, express or implied, as to their suitability, legal effect, completeness, accuracy, and/or appropriateness. The documents are provided "as is", "as available", and with "all faults", and we and any provider of the documents disclaim any warranties, including but not limited to the warranties of merchantability and fitness for a particular purpose. The documents may be inappropriate for your circumstances. Furthermore, state laws may require different or additional provisions to ensure the desired result.

7. Forms, Agreements & Documents (continued)

You should consult with legal counsel to determine the appropriate legal or business documents necessary for your transactions, as the documents are only samples and may not be applicable to a particular situation. Some documents are public domain forms or available from public records.

8. No Legal Advice or Attorney-Client Relationship

Information contained on or made available through the OpenVPN site is not intended to and does not constitute legal advice, recommendations, mediation or counseling under any circumstance and no attorney-client relationship is formed. We do not warrant or guarantee the accurateness, completeness, adequacy, or currency of the information contained in or linked to the OpenVPN site. Your use of information on the OpenVPN site or materials linked to the OpenVPN site is entirely at your own risk. We are not a law firm and the OpenVPN site is not a lawyer referral service.

9. Linking to the OpenVPN Website

You may provide links to the OpenVPN site, provided (a) that you do not remove or obscure, by framing or otherwise, advertisements, the copyright notice, or other notices on the OpenVPN site, (b) your OpenVPN site does not engage in illegal or pornographic activities, and (c) you discontinue providing links to the OpenVPN site immediately upon request by us.

10. Advertisers

The OpenVPN site may contain advertising and sponsorships. Advertisers and sponsors are responsible for ensuring that material submitted for inclusion on the OpenVPN site is accurate and complies with applicable laws. We are not responsible for the illegality or any error, inaccuracy or problem in the advertiser's or sponsor's materials.

11. Registration

Certain sections of, or offerings from, the OpenVPN site may require you to register for an account ("Account"). Registration may be required for full functionality of certain product services and for purposes of account product support correspondence. If registration is requested, you agree to provide us with accurate, complete registration information about yourself such as your name, email address, and a valid form of payment, and you may also provide optional information about yourself on a voluntary basis. Account information, and our use and disclosure thereof, is subject to the OpenVPN Privacy Policy and General Data Processing Agreement. Your registration must be done using your real name and accurate information. Each registration is for your personal use only and not on behalf of any other person or entity. We do not permit (a) any other person using the registered sections under your name; or (b) access through a single name being made available to multiple users on a network. You are responsible for preventing such unauthorized use.

12. Errors, Corrections, and Changes

We do not represent or warrant that the OpenVPN site will be error-free, free of viruses or other harmful components, or that defects will be corrected. We do not represent or warrant that the content will be correct, accurate, timely or otherwise reliable. We may make changes to the features, functionality, or content of the OpenVPN site at any time. We reserve the right in our sole discretion to edit or delete any content.

13. Third-Party Content

Third-party content may appear on the OpenVPN site or may be accessible via links from the OpenVPN site. We are not responsible for and assume no liability for any mistakes, misstatements of law, defamation, omissions, falsehood, obscenity, pornography or profanity in the statements, opinions, representations, or any other form of third-party content on the OpenVPN site or elsewhere. You understand that the information and opinions in the third-party content represent solely the thoughts of the author and is neither endorsed by nor does it necessarily reflect our beliefs or opinions.

14. Unlawful Activity

We reserve the right to investigate complaints or reported violations of this agreement and to take any action we deem appropriate, including but not limited to reporting any suspected unlawful activity to law enforcement officials, regulators, or other third parties and disclosing any information necessary or appropriate to such persons or entities relating to your profile, email addresses, usage history, posted materials, IP addresses and traffic information.

15. Indemnification

You agree to indemnify, defend, and hold us and our partners, agents, officers, directors, employees, subcontractors, successors, assigns, third party suppliers of information and documents, attorneys, advertisers, product and service providers, and affiliates (collectively, "Affiliated parties") harmless from any liability, loss, claim and expense, including reasonable attorney's fees, related to your violation of this agreement or use of the OpenVPN site.

16. Assignment.

OpenVPN may assign its rights and obligations hereunder to any person or entity that succeeds to all or substantially all of OpenVPN's business or that aspect of OpenVPN's business in which you are principally involved. You may not assign any rights and obligations under this agreement without the prior written consent of OpenVPN.

17. Disclaimer

The OpenVPN site and content are provided "As-is," "As available," with "all faults", and all warranties, express or implied, are disclaimed (including but not limited to the disclaimer of any implied warranties of merchantability and fitness for a particular purpose). The OpenVPN site and content may contain bugs, errors, problems, or other limitations. We and our affiliated parties have no liability whatsoever for your use of any information or service, except as provided in section 17(b) in particular, but not as a limitation thereof, we and our affiliated parties are not liable for any indirect, special, incidental or consequential damages (including damages for loss of business, loss of profits, litigation, or the like), whether based on breach of contract, breach of warranty, tort (including negligence), product liability or otherwise, even if advised of the possibility of such damages. The negation and limitation of damages set forth above are fundamental elements of the basis of the bargain between us and you. The OpenVPN site and content would not be provided without such limitations. No advice or information, whether oral or written, obtained by you from us through the OpenVPN site or any content or otherwise shall create any warranty, representation or guarantee not expressly stated in this agreement.

All responsibility or liability for any damages caused by viruses contained within the electronic file containing a form or document is disclaimed.

18. Limitation of Liability

- (a) we and any affiliated party shall not be liable for any loss, injury, claim, liability, or damage of any kind resulting in any way from (I) any errors in or omissions from the OpenVPN site or any content, (ii) the unavailability or interruption of the OpenVPN site or any features thereof or any content, (iii) your use of the OpenVPN site or content, or (iv) any delay or failure in performance beyond our control.
- (b) the aggregate liability of us and the affiliated parties in connection with any claim arising out of or relating to the OpenVPN site and/or the content shall not exceed \$100 US dollars and that amount shall be in lieu of all other remedies which you may have against us and any affiliated party.

19. Use of Information

We reserve the right, and you authorize us, to the use and assignment of all information regarding OpenVPN site uses by you and all information provided by you in any manner consistent with our privacy policy. All remarks, suggestions, ideas, graphics, or other information communicated by you to us (collectively, a "Submission") will forever be our property. We will not be required to treat any submission as confidential and will not be liable for any ideas (including without limitation, product, service or advertising ideas) and will not incur any liability as a result of any similarities that may appear in our future products, services or operations.

19. Use of Information (continued)

Without limitation, we will have exclusive ownership of all present and future existing rights to the submission of every kind and nature everywhere. We will be entitled to use the submission for any commercial or other purpose whatsoever, without compensation to you or any other person sending the submission. You acknowledge that you are responsible for whatever material you submit, and you, not us, have full responsibility for the message, including its legality, reliability, appropriateness, originality, and copyright.

20. Third-Party Services

We may allow access to or advertise certain third-party product or service providers ("Merchants") from which you may purchase certain goods or services. You understand that we do not operate or control the products or services offered by merchants. Merchants are responsible for all aspects of order processing, fulfillment, billing, and customer service. We are not a party to the transactions entered into between you and merchants. You agree that use of or purchase from such merchants is at your sole risk and is without warranties of any kind by us, expressed, implied or otherwise including warranties of title, fitness for purpose, merchantability, or non-infringement. Under no circumstances are we liable for any damages arising from the transactions between you and merchants or for any information appearing on merchant OpenVPN sites or any other OpenVPN site linked to our OpenVPN site.

Your Data Protection Rights Under the General Data Protection Regulation (GDPR)

If you are a resident of the EEA, you have the following data protection rights:

- If you wish to access, correct, update, or request deletion of your personal information, you can do so at any time by emailing privacy@openvpn.net.
- To exercise your rights to delete your personal data under the GDPR, you can request account deactivation and deletion by contacting OpenVPN support.
- In addition, you can object to the processing of your personal data, ask us to restrict the processing of your personal data, or request portability of your personal data. Again, you can exercise these rights by emailing privacy@openvpn.net.
- You have the right to opt-out of marketing communications we send you at any time. You can exercise this right by clicking on the "unsubscribe" or "opt-out" link in the marketing emails we send you. To opt-out of other forms of marketing, please contact us by emailing <u>privacy@openvpn.net</u>.
- Similarly, if we have collected and process your personal data with your consent, then you can withdraw your consent at any time. Withdrawing your consent will not affect the lawfulness of any processing we conducted prior to your withdrawal, nor will it affect the processing of your personal data conducted in reliance on lawful processing grounds other than consent.
- You have the right to complain to a data protection authority about our collection and use of your personal data. For more information, please contact your local data protection authority.

We respond to all requests we receive from individuals wishing to exercise their data protection rights in accordance with applicable data protection laws.

International Data Transfers

With respect to Personal Data of Data Subjects located in the EEA, Switzerland, or the United Kingdom that Customer transfers to OpenVPN or permits OpenVPN to access, the parties agree that by executing the DPA they also execute the Standard Contractual Clauses, which will be incorporated by reference and form an integral part of the DPA. The parties agree that, with respect to the elements of the Standard Contractual Clauses that require the parties' input, Schedules 1-3 contain all the relevant information.

OpenVPN currently utilizes Standard Contractual Clauses in connection with transfers of data from the EEA to the US insofar as the EU-US Privacy Shield is deemed invalidated and other means are not yet in place. Please also refer to our GDPR information in our Privacy Policy section FAQ and <u>General Data Processing</u> Agreement for more information about data transfers.

21. Third-Party Merchant Policies (continued)

All rules, policies (including privacy policies) and operating procedures of merchants will apply to you while on any merchant OpenVPN sites. We are not responsible for information provided by you to merchants. We and the merchants are independent contractors and neither party has authority to make any representations or commitments on behalf of the other.

22. Privacy Policy

We have developed a policy to address and respect your internet privacy concerns. we encourage you to read our <u>privacy policy</u> before browsing or using any of our websites to understand our information gathering, use and privacy practices. The privacy policy is part of this agreement, and we reserve the right to make changes at any time.

23. Payments

You represent and warrant that if you are purchasing something from us or from merchants that (I) any credit information you supply is true and complete, (ii) charges incurred by you will be honored by your credit card company, and (iii) you will pay the charges incurred by you at the posted prices, including any applicable taxes.

24. Securities laws

The OpenVPN site may include statements concerning our operations, prospects, strategies, financial condition, future economic performance and demand for our products or services, as well as our intentions, plans and objectives (particularly with respect to product and service offerings), that are forward-looking statements. These statements are based upon several assumptions and estimates which are subject to significant uncertainties, many of which are beyond our control. When used on our OpenVPN site, words like "Anticipates," "Expects," "Believes," "Estimates," "Seeks," "Plans," "Intends," "Will" and similar expressions are intended to identify forward-looking statements designed to fall within securities law safe harbors for forward-looking statements. The OpenVPN site and the information contained herein does not constitute an offer or a solicitation of an offer for sale of any securities. None of the information contained herein is intended to be, and shall not be deemed to be, incorporated into any of our securities-related filings or documents.

25. Links to Other Web Sites

The OpenVPN site contains links to third-party websites. We are not responsible for the content, accuracy or opinions expressed in such websites, and such websites are not investigated, monitored, or checked for accuracy or completeness by us. Inclusion of any linked website on the OpenVPN site does not imply approval or endorsement of the linked website by us. If you decide to leave the OpenVPN site and access these third-party websites, you do so at your own risk.

26. Information and Press Releases

The OpenVPN site contains information and press releases about us. We disclaim any duty or obligation to update this information or any press releases.

Information about companies other than ours contained in the press release or otherwise, should not be relied upon as being provided or endorsed by us.

27. Legal Compliance

You agree to comply with all applicable domestic and international laws, statutes, ordinances, and regulations regarding your use of the OpenVPN site and the content.

28. Identification

OpenVPN may use your name and logo in client listings. OpenVPN may issue a press release announcing the relationship contemplated hereby, subject to your approval which shall not be unreasonably withheld or delayed.

29. Refund and Return Policy

If you wish to cancel your subscription to an OpenVPN product for any reason, we will refund the purchase price you paid for the product if you make your refund request to us within 30 days of the date of purchase. We will not provide refunds for cancellations or returns of products on renewed subscriptions or for refunds requested more than 30 days after the date of purchase other than in cases where we determine that the product is defective, in which case we will refund the balance of the purchase price attributable to the remainder of the subscription. Refunds for Standard Non-Subscription License Key(s) also called Fixed License Key(s) "fixed" license keys will only be permitted if the license key(s) have not been activated on a server. Refund requests must be made to us in writing by email directed to sales@openvpn.net explaining the reason for the refund request and, in the case of any refund due to a defective product, a description of the defect. Refunds on products are subject to the condition that you return the product to us in substantially the same condition as you purchased it. We will promptly respond to refund requests and use commercially reasonable efforts to do so within 30 days of the date the request was made. Please note that certain products and services mentioned on our OpenVPN site are sold by third parties or are linked to third-party websites. We have no responsibility or liability for those products or services and you will need to obtain refunds for purchases of those products and services from the provider directly. You may obtain additional information concerning our refund and return policy, including our mailing address, by contacting us at sales@openvpn.net.

30. Miscellaneous

This agreement shall be treated as though it were executed and performed in San Francisco, California, and shall be governed by and construed in accordance with the laws of the state of California (without regard to conflict of law principles). Any cause of action by you with respect to the OpenVPN site (and/or any information, documents, products, or services related thereto) must be instituted within one (1) vear after the cause of action arose or be forever waived and barred. All actions shall be subject to the limitations set forth in section 16 and section 17. The language in this agreement shall be interpreted as to its fair meaning and not strictly for or against any party. This agreement and all incorporated agreements and your information may be automatically assigned by us in our sole discretion to a third party in the event of an acquisition, sale, or merger. Should any part of this agreement be held invalid or unenforceable, that portion shall be construed consistent with applicable law and the remaining portions shall remain in full force and effect. To the extent that anything in or associated with the OpenVPN site is in conflict or inconsistent with this agreement, this agreement shall take precedence. Our failure to enforce any provision of this agreement shall not be deemed a waiver of such provision nor of the right to enforce such provision. Our rights under this agreement shall survive any termination of this agreement

30.1 Consent to Electronic Communications

By using the Websites and/or Services, you consent to receiving certain electronic communications from us as further described in our Privacy Policy. Please read our Privacy Policy to learn more about our electronic communications practices. You agree that any notices, agreements, disclosures, or other communications that we send to you electronically will satisfy any legal communication requirements, including that those communications be in writing.

31. Arbitration

Any legal controversy or legal claim arising out of or relating to this agreement or our services, excluding legal action taken by us to collect or recover damages for, or obtain any injunction relating to, OpenVPN site operations, intellectual property, and our services, shall be settled solely by binding arbitration in accordance with the commercial arbitration rules of jams. Any such controversy or claim shall be arbitrated on an individual basis and shall not be consolidated in any arbitration with any claim or controversy of any other party. The arbitration shall be conducted in Pleasanton, California, and judgment on the arbitration award may be entered into any court having jurisdiction thereof. Either you or we may seek any interim or preliminary relief from a court of competent jurisdiction in Pleasanton, California necessary to protect the rights or property of you and us pending the completion of arbitration. Each party shall bear one-half of the arbitration fees and costs incurred.

32. OpenVPN Trademark, Copyrights, and Logo Use

How to use graphic logo versions of OpenVPN trademarks:

- Obtain approval prior to use from OpenVPN Inc.
- Include the registered trademark symbol ® in all uses of OpenVPN name.

The use of the OpenVPN name and logos are protected by USA trademark and Copyright Laws. Your business and product communications must include the appropriate copyright or trademark ® symbol and a disclaimer stating that OpenVPN is a registered trademark of OpenVPN Inc. Not doing so, would confuse and lead consumers to infer an affiliation with OpenVPN and OpenVPN Inc. Exception; media writers, blogs, if simply referring to the OpenVPN trademarked name in a purely descriptive manner to support their opinions do not have to include the copyright symbols within the text of the articles or postings.

Proper Use of Trademarks and Symbols:

Correct: OpenVPN®

Incorrect: OpenVPN

Required statement:

© 2002-2023 OpenVPN Inc. OpenVPN is a registered trademark of OpenVPN Inc.

The above required statement must always appear as complete sentences and must appear on the copyright page and the page of the material in which OpenVPN® is mentioned.

32. OpenVPN Trademark, Copyrights, and Logo Use (continued)

No OpenVPN trademark or logo may be used in a way that is likely to imply that the user, its products, or its services are endorsed by, sponsored, or affiliated with OpenVPN, without written permission from OpenVPN Inc.

OpenVPN Community Software Distribution and Copyrights

You must always comply with any version of the GNU General Public License applicable to any copyright or copyrightable work released by OpenVPN Inc. Redistribution and use in source and binary forms, with or without modification, are permitted provided that the following conditions are met:

- Redistributions of source code must retain our copyright notice and the disclaimer as listed below.
- Redistributions in binary form must reproduce our copyright notice and disclaimer in the documentation and/or other materials provided with the distribution.
- Neither the name OpenVPN nor the names of its contributors may be used to endorse or promote products derived from this software without specific prior written permission.

Third Party Licensors

Some OpenVPN products may include technology components governed by the GPL license. You may only use these GPL components in accordance with the GPL license agreement.

32. OpenVPN Trademark, Copyrights, and Logo Use (continued)

Reservation of Rights

OpenVPN Inc. is the owner of all right, title, and interest in the OpenVPN brand and logos. No person or entity may reproduce or use (or authorize the reproduction or use of) the OpenVPN brands and logos in any manner other than expressly authorized by OpenVPN Inc. Unauthorized use of OpenVPN brands and logos is strictly prohibited.

OpenVPN Inc. may, at its sole discretion, modify the OpenVPN brands and logos at any time. To assure compliance and quality of control, OpenVPN Inc. may request that you provide samples of any marketing, advertising, or other material that includes the OpenVPN brands and logos.

Disclaimer

These guidelines are not intended to serve as legal advice. Should you have questions regarding your legal rights or duties, please consult your own attorney. Should you have further questions regarding OpenVPN Inc. Trademark, Copyrights, and Logo Use Guidelines, please contact us at sales@openvpn.net

Subject line: Official OpenVPN Trademark Use Request