



NERDENVY
SOLUTIONS
Terms of Service

Please read these terms before your purchase.

This Web Hosting Agreement (this "Agreement") is between NerdEnvy Solutions formed under the laws of the State of Maine (NerdEnvy Solutions) and the person (individual or legal person) whose signs NerdEnvy Solutions service order and set up form (the "Order") incorporating this Agreement by reference ("Customer"). This Agreement governs Customer's use of NerdEnvy Solutions Web hosting service.

1. Services.

Subject to the terms of this Agreement, and contingent on Customer's satisfaction of NerdEnvy Solutions credit approval requirements, NerdEnvy Solutions agrees to provide the web hosting services described in the Order for the fees stated in the Order.

2. Term.

The initial service term of the Agreement shall begin on the date that NerdEnvy Solutions generates an e-mail message to Customer announcing the activation of the Customer's account (the "Service Commencement Date") and shall continue for the number of months stated in the Order (the "Initial Term"). Upon expiration of the Initial Term, this Agreement shall automatically renew for up to three successive renewal terms of the same length as the Initial Term (each a "Renewal Term") unless NerdEnvy Solutions or Customer provides the other with written notice of non-renewal at least thirty (30) days prior to the expiration of the Initial Term or then-current Renewal Term, as applicable. The Initial Term and any Renewal Term may be referred to collectively in this Agreement as the "Term."

3. Payments (VPS and Reseller Hosting).

o **(a) Recurring Fees.**

Renewal notices are emailed two days before the actual renew date in your account. If you have a credit card on file your card will automatically be charged on the day your renewal notice is sent. (i.e. Your renew date is May 22nd, your invoice will be sent on May 20th and your card on file will be charged May 20th) If your billing method is PayPal you will need to manually pay your invoice every month. Service will be made inactive on accounts that are not paid by the due date at 12 PM EST. An account means all hosting services provided to you. NerdEnvy Solutions reserves the right to revoke this grace period if a pattern of late payment is observed or if your payment method is listed as other. All orders made with a credit card are expected to work on the monthly renewal

date each month. If the card declines then the customer is subject to a \$5 one time fee on top of the monthly renewal price. Any accounts made inactive for non-payment is subject to a \$10.00 late payment fee.

- **(b) Credit/Debit card and your Address on File**

When an order is placed with a credit/debit card, your card is stored on file and will automatically be charged every month on the date your renewal notice is sent (two days before your actual renewal date). **For security purposes your address on file with us must match the address of your credit/debit card. If this address does not match, our payment gateway will not accept the transaction.** If you have a credit card on file and the transaction is declined due to the address this transaction might show up as a pending charge but will not be processed through. If you have a debit card on file and the transaction is declined due to the address your bank will pull the money out of your account but this money will be refunded back to your account by your bank. It is recommended to always store a credit card on file instead of a debit card.

- **(c) Non-Recurring Fees.**

All customers exceeding their bandwidth allowance will be sent invoices due upon receipt each month. All customers are responsible for monitoring transfer or bandwidth usage each month. Bandwidth overages are charged at \$1.00 per each GB used over the allowed limit of the package. Customers have the option before their bandwidth billing cycle ends to upgrade per our a la carte upgrade option. Once your plan is upgraded you can not request a downgrade of the same plan for at least one month.

- **(d) Taxes.**

At NerdEnvy Solutions request Customer shall remit to NerdEnvy Solutions all sales, VAT or similar tax imposed on the provision of the services (but not in the nature of an income tax on NerdEnvy Solutions, regardless of whether NerdEnvy Solutions fails to collect the tax at the time the related services are provided.

- **(e) 30 Day Money Back Guarantee**

All new NerdEnvy Solutions Customers are eligible for a 30 day no hassle money back guarantee on all hosting packages excluding Dedicated Servers. A new customer is one who has never purchased a hosting package from NerdEnvy Solutions in the past. Also if a customer purchases a 2nd, 3rd, etc. hosting package and wishes to cancel this particular package they are not eligible for a refund. Domain purchases are not eligible for a refund. If you exceed your bandwidth limit within the first 30 days of service you are not eligible for the 30 day money back guarantee.

4. Cancellation and Early Termination (VPS and Reseller Hosting)

Customer acknowledges that the amount of the fee for the service is based on Customer's agreement to pay the fee for the entire Initial Term, or Renewal Term, as applicable. In the event NerdEnvy Solutions terminates the Agreement for Customer's breach of the Agreement in accordance with Section 9 (Termination), or Customer terminates the service other than in accordance with Section 9 (Termination) for NerdEnvy Solutions breach, the unpaid fees for each billing cycle remaining in the Initial Term or then-current Renewal Term, as applicable, are due on the business day following termination of the Agreement. Customer also acknowledges that a minimum of 7 days cancellation notice or downgrade of current package prior to the following renewal term must be given in writing to NerdEnvy Solutions or the Customer will be responsible for full payment of the following term. The cancellation request will be subject to the following guidelines:

- Cancellation request must be submitted to the billing department
- Cancellation request must be submitted from the main email address on file with NerdEnvy Solutions
- Cancellation request must contain the main IP address (VPS account) or main domain (shared/reseller account) of the hosting plan you wish to cancel

5. Payments (Dedicated Servers)

We do not offer a 30 day money back guarantee on Dedicated Servers.

Renewal notices are emailed 10 days before the actual renew date in your account. If you have a credit card on file your card will automatically be charged 3 days before your renewal date. (ie. Your renew date is May 20th, your invoice will be sent on May 10th and your card on file will be charged May 17th) If your billing method is PayPal you will need to manually pay your invoice every month by the due date at 12 PM EST.

All renewals made with a credit card are expected to work on the day your card is charged. If the card declines then the customer is subject to a \$5 one time fee on top of the monthly renewal price.

In the event you fail to pay your invoice by the due date, we reserve the right to suspend your entire account and a late fee of \$25 applies. An account is defined as all services being used by the customer such as VPS hosting, etc. If your invoice is still not paid by the 3rd day from the due date on the invoice, we reserve the right to terminate your service entirely and reformat your server.

6. Cancellation and Early Termination (Dedicated Servers)

Customer acknowledges that a minimum of 14 days cancellation notice prior to the following renewal term must be given in writing to NerdEnvy Solutions or the Customer will be responsible for full payment of the following term. The cancellation request will be subject to the following guidelines:

- Cancellation request must be submitted to the billing department
- Cancellation request must be submitted from the main email address on file with NerdEnvy Solutions
- Cancellation request must contain the main IP address of the server you wish to cancel

7. Law/AUP.

Customer agrees to use the service in compliance with applicable law and NerdEnvy Solutions Acceptable Use Policy posted at [aup.html](#) (the "AUP"), which is hereby incorporated by reference in this Agreement. Customer agrees that NerdEnvy Solutions may, in its reasonable commercial judgment consistent with industry standards, amend the AUP from time to time to further detail or describe reasonable restrictions and conditions on Customer's use of the Services. Amendments to the AUP are effective on the earlier of NerdEnvy Solutions 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 NerdEnvy Solutions reasonable investigation of any suspected violation of the AUP. In the event of a dispute between NerdEnvy Solutions and Customer regarding the interpretation of the AUP, NerdEnvy Solutions commercially reasonable interpretation of the AUP shall govern.

8. Customer Information.

Customer represents and warrants to NerdEnvy Solutions that the information he, she or it has provided and will provide to NerdEnvy Solutions for purposes of establishing and maintaining the service is accurate. If Customer is an individual, Customer represents and warrants to NerdEnvy Solutions that he or she is at least 18 years of age. NerdEnvy Solutions 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.

9. Indemnification.

Customer agrees to indemnify and hold harmless NerdEnvy Solutions, NerdEnvy Solutions affiliates, and each of their respective officers, directors, agents, and employees from and against any and all claims, demands, liabilities, obligations, losses, damages, penalties, fines, punitive damages, amounts in interest, expenses and disbursements of any kind and nature whatsoever (including reasonable attorney's fees) brought by a third party under any theory of legal liability arising out of or related to the actual or alleged use of Customer's services in violation of applicable law or the AUP by Customer or any person using Customer's log on information, regardless of whether such person has been authorized to use the services by Customer.

10. Disclaimer of Warranties.

KNOWNHOST DOES NOT WARRANT OR REPRESENT THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR COMPLETELY SECURE. TO THE EXTENT PERMITTED BY APPLICABLE LAW KNOWNHOST 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.

11. 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 KNOWHOST 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.

12. Suspension/Termination.

o (a) Suspension of Service.

Customer agrees that NerdEnvy Solutions may suspend services to Customer without notice and without liability if: (i) NerdEnvy Solutions reasonably believes that the services are being used in violation of the AUP; (ii) Customer fails to cooperate with any reasonable investigation of any suspected violation of the AUP; (iii) NerdEnvy Solutions reasonably believes that the suspension of service is necessary to protect its network or its other customers, or (iv) as requested by a law enforcement or regulatory agency. Customer shall pay NerdEnvy Solutions reasonable reinstatement fee if service is reinstated following a suspension of service under this subsection.

o (b) Termination.

The Agreement may be terminated by Customer prior to the expiration of the Initial Term or any Renewal Term without further notice and without liability if NerdEnvy Solutions fails in a material way to provide the service in accordance with the terms of the Agreement and does not cure the failure within ten (10) days of Customer's written notice describing the failure in reasonable detail. The Agreement may be terminated by NerdEnvy Solutions prior to the expiration of the Initial Term or any Renewal Term without further notice and without liability as follows: (i) upon five (5) days' notice if Customer is overdue on the payment of any amount due under the Agreement; (ii) Customer materially violates any other provision of the Agreement, including the AUP, and fails to cure the violation within thirty (30) days of a written notice from NerdEnvy Solutions describing the violation in reasonable detail; (iii) upon one (1) days' notice if Customer's Service is used in violation of a material term of the AUP more than once, or (iv) upon one (1) days' notice if Customer violates Section 5 (Customer Information) of this Agreement. Either party may terminate this agreement upon five (5) days advance notice if the other party admits insolvency, makes an assignment for the benefit of its creditors, files for bankruptcy or similar protection, is unable to pay debts as they become due, has a trustee or receiver appointed over all or a substantial portion of its assets, or

enters into an agreement for the extension or readjustment of all or substantially all of its obligations.

13. Resource Usage

- **NerdEnvy Solutions Customers may not initiate the following (below), if any customer does**
- **NerdEnvy Solutions may terminate the account with no refund. Depending on the situation there will/won't be warnings sent.**
- a) Use 25% or more of system CPU resources for longer than 90 seconds. There are numerous activities that could cause such problems; these include: CGI scripts, FTP, PHP, HTTP, etc.
- b) Use of any kind of distributed computing software, including but not limited to SETI@home, Node Zero and Folding@home
- c) Run any type of interactive real-time chat applications that require server resources. Remotely-hosted services are fully allowed (applies to shared/reseller hosting only).
- d) Run stand-alone, unattended server-side processes at any point in time on the server. This includes any and all daemons (applies to shared/reseller hosting only).
- e) Run any software that interfaces with an IRC (Internet Relay Chat) network.
- f) Run any file sharing, bit torrent or other P2P network services, client or server software.
- g) Run any gaming servers such as counter-strike, half-life, battlefield 1492, etc.

14. Bandwidth Usage

You are allocated a monthly bandwidth allowance. This allowance varies depending on the hosting package you purchase. Should your account pass the allocated amount we reserve the right to suspend the account until the start of the next allocation, suspend the account until more bandwidth is purchased at an additional fee, suspend the account until you upgrade to a higher level of package, terminate the account and/or charge you an additional fee for the overages. Unused transfer in one month cannot be carried over to the next month. If you exceed your bandwidth limit within the first 30 days of service you are not eligible for the 30 day money back guarantee and you are responsible to pay for any overage.

15. Domains

NerdEnvy Solutions is not a domain registrar. We are a reseller for Enom so all NerdEnvy Solutions customers who purchase a domain or transfer a domain to us are bound by the terms and conditions set forth by Enom. You can only purchase a domain from NerdEnvy Solutions or transfer a domain to NerdEnvy Solutions at the time when you are purchasing a hosting package. Domain purchases as well as domain transfers are billed at \$10.95/year. You have the option to add privacy protection to your domain at \$7.00/year. You will receive notice from NerdEnvy Solutions once your domain is up for renewal. If you do not renew your domain by the expiration date you run the risk of losing your domain.

16. Requests for Customer Information.

Customer agrees that NerdEnvy Solutions may, without notice to Customer, (i) report to the appropriate authorities any conduct by Customer or any of Customer's customers or end users that NerdEnvy Solutions believes violates applicable law, and (ii) provide any information that it has about Customer or any of its customers or end users in response to a formal or informal request from a law enforcement or regulatory agency or in response to a formal request in a civil action that on its face meets the requirements for such a request.

17. Back Up Copy.

Customer agrees to maintain a current copy of all content hosted by NerdEnvy Solutions notwithstanding any agreement by NerdEnvy Solutions to provide back up services.

18. Request for Rebuild/Restore of Hosting Package

During any service term, customer may request up to two free rebuilds for a control panel change and one free rebuild/restore for any reason of choice. If a customer should need to request a rebuild/restore after this a \$5 one-time fee will be enforced.

19. Changes to NerdEnvy Solutions Network.

Upgrades and other changes in NerdEnvy Solutions network, including, but not limited to changes in its software, hardware, and service providers, may affect the display or operation of Customer's hosted content and/or applications. NerdEnvy Solutions reserves the right to change its network in its commercially reasonable discretion, and NerdEnvy Solutions not be liable for any resulting harm to Customer.

20. Notices.

Notices to NerdEnvy Solutions under the Agreement shall be given via electronic mail to the e-mail address posted for customer support on <http://www.nerdenvy.com/billing>. Notices to Customer shall be given via electronic mail to the individual listed as the Primary Customer Contact on the Order. Notices are deemed received on the day transmitted, or if that day is not a business day, on the first business day following the day delivered. Customer may change his, her or its notice address by a notice given in accordance with this Section.

21. Force Majeure.

NerdEnvy Solutions shall not be in default of any obligation under the Agreement if the failure to perform the obligation is due to any event beyond NerdEnvy Solutions control, including, without limitation, significant failure of a portion of the power grid, significant failure of the Internet, natural disaster, war, riot, insurrection, epidemic, strikes or other organized labor action, terrorist activity, or other events of a magnitude or type for which precautions are not generally taken in the industry.

22. Governing Law/Disputes.

The Agreement shall be governed by the laws of the State of Virginia, exclusive of its choice of law principles, and the laws of the United States of America, as applicable. The Agreement shall not be governed by the United Nations Convention on the International Sale of Goods.

EXCLUSIVE VENUE FOR ALL DISPUTES ARISING OUT OF OR RELATING TO THE AGREEMENT SHALL BE THE STATE AND FEDERAL COURTS IN FAIRFAX COUNTY, KNOWNHOST, AND EACH PARTY AGREES NOT TO DISPUTE SUCH PERSONAL JURISDICTION AND WAIVES ALL OBJECTIONS THERETO.

23. 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 NerdEnvy Solutions 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 NerdEnvy Solutions prior written consent. NerdEnvy Solutions approval for assignment is contingent on the assignee meeting NerdEnvy Solutions credit approval criteria. NerdEnvy Solutions may assign the Agreement in whole or in part.

This Agreement together with the Order and AUP constitutes the complete and exclusive agreement between the parties regarding its subject matter and supersedes and replace any prior understanding or communication, written or oral.

I agree to abide with these policies and understand if they are broken, my hosting account may be suspended or deleted.

Signature _____

Date _____