

Acceptable Use Policy & Terms of Service

By using DeadlyServers (DeadlyServers, our, us or we) products and services, you (you, your or Customer) agree to comply with our policies. We expect you to have a basic knowledge of how the Internet functions, the types of uses that are generally acceptable, and the types of uses that are to be avoided. Common sense is the best guide as to what is considered acceptable use. This Acceptable Use Policy (this AUP) is incorporated by this reference into each Master Service Agreement and/or Service Order. Your use of our products and services is subject to your acceptance and compliance with this AUP. YOU HEREBY REPRESENT AND WARRANT THAT YOU HAVE READ, UNDERSTOOD AND ACCEPTED THE TERMS OF THIS AUP. We reserve the right to amend or modify this AUP from time to time, and your use of our products and services. We will post changes to the AUP on the legal page of our website at <https://www.deadlyservers.com/tos>, which posting will constitute your acceptance of any such amendments or modifications. You are responsible for complying with this AUP and for violations attributable to your customers and users, whether authorized or not by you or by us. You must take all reasonable steps to ensure that your customers and users comply with this AUP. WE EXPRESSLY DISCLAIM ANY LIABILITY FOR THE DATA AND CONTENT TRANSMITTED THROUGH OR TEMPORARILY OR PERMANENTLY STORED ON OUR NETWORK OR ANY SERVER AND FOR THE ACTIONS OR OMISSION OF USERS.

INTERPRETATION

The provisions of this AUP are intended as guidelines and are not meant to be exhaustive. Generally, conduct that violates law, regulation, or the accepted norms of the Internet community, whether or not expressly mentioned in this AUP, are prohibited. We reserve the right at all times to prohibit activities that damage our or our affiliates commercial reputation and goodwill. We will be the sole and final arbiter as to what constitutes a violation of our policies.

ILLEGAL USE

Our products and services may be used only for lawful purposes per US law.

COMMUNICATIONS

Communications with or submitted to DeadlyServers including but not limited to emails, support tickets, chats, and voice conversations are the exclusive property of DeadlyServers and are not to be copied, shared, or otherwise reproduced without prior explicit written permission from DeadlyServers. Foul, explicit, rude, or abusive language will not be tolerated and may result in immediate account termination without refund. Threats of physical violence shall be grounds for immediate termination of services without refund. Threats or discussion in private or public of taking legal action against DeadlyServers or it's founders may result in immediate termination of all services at our sole discretion. We love working with our customers if there is an issue with your account please let us know directly so that we can assist you.

SPAMMING

You may not:

send unsolicited bulk messages over the Internet (spamming);

create fake weblog or weblogs which are intended or reasonably likely to promote the authors affiliated websites or to increase the search engine rankings of associated sites (splogs); or

send spam to weblog sites or automatically post random comments or promotions for commercial services to weblogs (spamming blogs).

All users must comply with all relevant legislation and regulations on bulk and commercial e-mail, including but not limited to the CAN-SPAM Act of 2003. Users may not send mass unsolicited e-mail, which is email that is sent to recipients who have not opted-in to mailings from the user. Users who send mass mailings must maintain complete and accurate records of all consents and opt-ins and provide such records to DeadlyServers upon its request. If a user cannot provide positive and verifiable proof of such consents and opt-ins, we will consider the mass mailing to be unsolicited. Users are prohibited from operating mailing lists, listservs, or mailing services that do not target an audience that has voluntarily signed up for e-mail information using an opt-in process or that has made their e-mail addresses available to a user for distribution of information. Users who operate mailing lists must maintain complete and accurate records of all consents and opt-in elections and provide such records to DeadlyServers upon its request. If a user cannot provide positive and verifiable proof of such consents and opt-in elections, we will consider the list mailing to be unsolicited. Any user-maintained mailing list must also allow any party on the list to remove itself automatically and permanently. Other prohibited activities include, without limitation, the following:

use of our network for the receipt of replies to unsolicited mass e-mail;

forgery of e-mail headers (spoofing);

spamming via third-party proxy, aggregation of proxy lists, or installation of proxy mailing software;

configuration of a mail server to accept and process third-party messages for sending without user identification and authentication;

hosting web pages advertised within spam e-mail sent from another network (spamvertising);

hosting web pages or providing services that support spam;

any other unsolicited bulk messages, postings, or transmissions through media such as weblog posts, IRC/chat room messages, guestbook entries, HTTP referrer log entries, usenet posts, pop-up messages, instant messages, or SMS messages; and

instructing others in any activity prohibited by this AUP.

If you or any user that is your customer use our products or services in a manner that causes us or our affiliates or customers to be blacklisted or blocked, we reserve the right to (i) suspend permanently or terminate your DeadlyServers services and/or (ii) suspend permanently or terminate your access to the DeadlyServers services. Operating our products or services on behalf of, or in connection with, or reselling any service to persons or firms listed in the Spamhaus Register of Known Spam Operations

database at <http://www.spamhaus.org> shall constitute a violation of this AUP. If, as a result of your actions, our mail servers or IP address ranges are placed on black hole lists or other mail filtering software systems, we shall charge you \$300 upfront and \$150 per hour thereafter for any necessary remedial actions.

Other Mail Sending

You may send regular amounts of email (less than 300 emails per day) in connection to your business from your server which is directly related to websites hosted on that server but you may not use an DeadlyServers server to act as a mailing server for websites not hosted at DeadlyServers. For example allowed usage might be forum reply notifications, eCommerce purchase notifications, email back and forth between humans at your business and your clients, etc. Examples of disallowed sending would be any emailing in excess of 300 emails per day, or emails regarding a website or product that is not hosted at DeadlyServers. Email marketing services, email sending services, email list management services, and other mass mail service providers are strictly prohibited from operating any service, even unrelated services, on our network.

Pricing, Quotes, & Offers Subject To Change Without Notice

Offers, quotes, and other pricing information provided is provided on “at current time” basis. A variety of factors affect our ability to deliver a product or service at a certain price including but not limited to; hardware stock, vendor stock, staff availability, and network capacity. If at any time we deem that we are no longer able to offer a product or service at a quoted price we may withdraw that offer at any time. If a client has made payment for a product or service at a certain price and we then decide to retract that offer after payment has been received we will issue a refund of the monies received for that particular item or service.

CONSEQUENCES OF VIOLATIONS

When we become aware of a violation or an alleged violation of this AUP, we will initiate an investigation. During the investigation we may restrict Customers access in order to prevent further possible unauthorized activity. Depending on the severity of the violation, we may, in our sole discretion, restrict, suspend, or terminate Customers account and/or pursue other civil remedies. If such violation is a criminal offense, we will notify the appropriate law enforcement department of such violation. We reserve the right to disclose information relating to you and your use of our products and services, if such information is disclosed in connection with an investigation or in order to prevent the death of or bodily harm to any individual, as determined by us in our sole discretion. We do not issue service credits for any product or service incurred through service disablement resulting from policy violations and we will not be in default for so disabling any such services. You shall be liable for all costs and expenses incurred by us resulting from an investigation of your prohibited use of our products and services. You will cooperate and comply with any investigation regarding this AUP or the use of our products or services, including, without limitation, the following: discovery orders, subpoenas, freeze orders, search warrants, information requests, wire taps, electronic intercepts and surveillance, preservation requests, and any other order from a court, government entity or regulatory agency. We

may enforce this AUP, with or without notice to you, by any action we deem reasonable, in our sole discretion. In addition to the remedial provisions provided elsewhere in this AUP, we may:

disable access to a your content that violates this AUP;

suspend or terminate your a access to our products and services ;

remove DNS records from Servers;

block mail or any other network service;

effect IP address null routing (and also charge a monthly fee or one time fee for maintaining the null route); and/or

take legal action against you to enforce compliance with this AUP.

Abuse fees of \$300 per hour (minimum billing increment is 1 hour) may be billed to your account at DeadlyServers discretion for time spent handling any investigation or abuse reports. Abuse fees are due in full within 12 hours and must be paid before any suspended service may be reactivated, suspended services may also be charged a reactivation fee of \$200. Failure to pay abuse fees by the due date or failure to respond to abuse tickets promptly may result in suspension or termination of all services within the account. Terminated services will not be reactivated. Before reactivating suspended services we may require prepayments for the next billing period and for any currently open invoice to be settled immediately.

SETUP TIME

Servers deploy within 24 hours for approved accounts. If your order is projected to take longer than our average deployment time you will be contacted; we strive to always deploy your server as soon as possible. No refund will be provided for servers that are cancelled while waiting for deployment.

INVOICING

To keep our costs and prices low our billing system and service suspension system is largely automated. Services are prepaid, and failure to make payment will result in account (all services) suspension. For your convenience we offer a card on file option so that your payments will never be late. We also offer an option to keep a deposit on your account which we will apply to overdue invoices before suspension, to keep your services online during unexpected periods away from your computer resulting in an inability to pay on time. We do not guarantee delivery of invoice notification emails, so please be sure to set a calendar reminder, setup a subscription, or login and check the portal regularly. Our invoicing process works as such:

Client signs up for product, invoices, client pays (has the option to setup a subscription or pay for one period only), order is setup shortly after payment is received.

14 days before the service expires an invoice for the next period is generated in the portal and a courtesy email is sent.

3 days before the payment is due an invoice reminder email is sent.

When the invoice is 1 minute overdue services are eligible for suspension.

Overdue notice is sent when 24 hours past due.

Overdue notice is emailed when 48 hours past due.

Late fee is applied when 48 hours past due.

Overdue notice is sent when 72 hours past due.

FIRMWARE UPDATES

Customers may not update the firmware or change the firmware on the hardware rented to them by DeadlyServers. If the hardware in use requires a firmware update please request assistance from DeadlyServers in a support ticket. Incorrectly applied firmware updates by the customer can make the hardware unusable, in such cases the customer will be billed for the cost of a new replacement plus costs incurred for shipping, taxes, and installation. Our hardware SLA will not apply when outages are caused by the customer applying firmware updates without permission from DeadlyServers.

OPERATING SYSTEM INSTALLATION

Loading of the operating systems listed on the order form in the default configuration will be completed free of charge before deploying your server. Other operating systems may be requested but it is not guaranteed that we will be able to install them. Refunds will not be made if we are unable to load a custom requested operating system or are unable to meet custom partition requests.

SUPPORT

System software support is only provided for fully managed server customers. Absolutely no software support is provided for unmanaged server customers, unmanaged clients can certainly submit support requests relating to replacing failed hardware. Our unmanaged products are intended for expert system administrators, or those who have their own system administrators already employed. Unmanaged customers facing hardware outages will be dealt with on a best effort basis during business hours, however immediate response and assistance can be received with the use of a critical priority ticket. Our SLA is applicable only to issues where a customer has opened a critical priority ticket. Managed customers critical priority tickets for managed clients are free of charge for dealing with any hardware or website outages. Additional works not covered by an existing contract will be billed at \$125/hour.

RDNS

RDNS can be set via support ticket free of charge for IPv4. We do not offer RDNS for our IPv6.

BANDWIDTH & OVERAGES

Bandwidth allocations on all services are counted as IN+OUT. If you exceed your bandwidth allocation your port may be capped to 10mbit/second for the rest of the billing period, or you may purchase additional transfer by contacting sales. We reserve the right to reduce a client's port speed if the client is expected to exceed their allowance. This cap will remain in place until the client provides a deposit for estimated overages or upgrades their bandwidth plan so that their expected usage will not incur any overages.

ACCOUNT OWNERSHIP

Accounts opened with a company name are for official use by the mentioned company only, and you confirm that you are authorized to make purchases for and on behalf of the company, and that the company has authorized use of and will pay for Inceros services. Accounts may not be loaned, transferred, or sold to third parties. To transfer a server or service to a third party you must contact Incero to arrange the transfer of the service into a new account.

PAYMENTS

Invoices are sent seven (14) or more days before the invoice is due, payment must be received in full by 11PM CST on the invoice due date. Failure to make payment on time may result in late fees being assessed to each past due invoice and suspension of all services in the account. Any account with an invoice that is five (5) or more days past due may be treated as an abandoned account and all services may be suspended or permanently terminated at the sole discretion of DeadlyServers, no refunds for any prepaid services will be due. Account or service suspension or termination does not eliminate debts to DeadlyServers. DeadlyServers reserves the right to demand payment by means of a certified cashiers check or wire transfer when an account has, or has had, any past due invoices, or suspicious payments (at the sole discretion of DeadlyServers).

PAYMENT METHODS

Our pricing includes a cost saving for paying by self service methods (card), this reduces our need for billing staff completely. As such you may pay your invoices at www.deadlyservers.com by either: credit or debit card one time payment or credit or debit card kept on file. Payments by check/wire/ach can be made for semi annual or annual payments. DeadlyServers may refund any payment method, at any time, that it finds to be high risk, fraudulent, or suspicious, at the sole discretion of DeadlyServers, DeadlyServers may then demand payment by wire, check, or ACH.

BILLING PERIOD

Billing period change requests will be considered on a case by case basis, at DeadlyServers sole discretion. We reserve the right to refuse any billing period change request without reason. If you sign up on our monthly rate and then at a later date wish to submit a change request for a quarterly or other prepaid billing period you must give us at least 10 days notice via the support portal before your next

due date. Failure to provide notice will result in your current billing period staying in effect for one more period, and the change, if accepted by management, will take effect on the next period after that.

PAYMENT CHARGE BACKS & BILLING DISPUTES

Raising a billing dispute with our payment processors or charging back a payment made to DeadlyServers will place your DeadlyServers account in bad standing. We reserve the right to immediately terminate all services without refund for accounts in bad standing. Termination of services does not remove payment obligations, and court or collections processes may begin to recover funds owed to DeadlyServers.

CANCELLATIONS

For servers or clusters totaling over \$1K/mo; you may cancel your server by providing us with at least 10 days cancellation notice via a ticket in the support portal (<https://www.deadlyservers.com>). If you fail to provide notice 10 days before the end of your billing period you agree to be billed for 1 more period. Cancellations of services are effective immediately. If 60 days notice is provided then a date can be set for your machine to come offline.

For servers or clusters totaling under \$1K/mo; you may cancel without notice by opening a ticket in the support portal (<https://www.deadlyservers.com>).

Services may be terminated for non payment of invoices, but this will not cancel the debt to DeadlyServers. We reserve the right to immediately suspend all services in your account when a cancellation request is submitted while there are any unpaid invoices in the account, we may also make the outstanding invoices due immediately, services will be restored when outstanding debts have been paid. We reserve the right to immediately change product pricing for remaining services when any other service is cancelled. No refunds will be provided for any prepaid service(s).

SPECIAL OFFERS & DISCOUNT PRICING

Special offer pricing may be limited to 1 per customer, or new customers only, decided on a per case basis. Special offer/discounted servers may not be used to replace existing services. Cancelling of any server will result in promotion pricing being removed from all servers ordered on special offer/discount, regular pricing for all servers will be applied.