

Elehost Web Hosting Contract Agreement

Preamble:

1. Elehost Web Design Inc. is formally contracted by The Customer to host the Customer's web site on the Internet at a rate specified on sign up in Canadian funds plus applicable taxes. Payment will be made in advance on a prepayment basis; quarterly, semi-annually, or annually in the form of cheque, money order, VISA, MasterCard or AMEX charge payable to Elehost Web Design Inc.
2. All services provided by Elehost will be determined by the hosting package selected by the Customer. These services shall be as outlined in the Elehost Web Design Inc.'s web page, as well as in it's brochure, and is subject to change at any time without notice.
3. The Customer will be notified by email prior to any server upgrades or disruptions (causing a loss of web page access) if it is foreseen that they will be longer than 60 minutes, unforeseen disasters not pertaining. In the event of an unforeseen disaster, the Customer will be notified after the fact of any downtime lasting more than 60 minutes. Elehost is not responsible for any business lost.
4. All conditions and policies stipulated in the following pages apply to the Customer, and any failure of the policies can result in the immediate termination of web hosting services. These conditions are subject to change without notice; please refer to our web site for recent updates. It is the sole responsibility of the Customer to ensure violations of the policies or conditions do not occur.

I, the Customer, agree to all the terms, policies and rules including but not limited to the terms and conditions in the attached pages.

Signed: _____

Print: _____

Elehost Web Design Inc., agrees to host the Customer's web site until written request is received to terminate services or the contract is terminated by Elehost.

Terms, Conditions and Acceptable Use Policy

Use of the words Elehost or Elephanthost in the following document refers specifically to Elehost Web Design Inc. Elehost provides Web page hosting, Design, Marketing, Domain Registration and Development services. All personnel at Elehost honour their legal and ethical responsibility consistent with the use of its server and equipment involved in these services.

Elehost's general policy is to act as a provider of Internet presence. Elehost has specific ethical concerns regarding the use of its computers as detailed below. Elehost reserves the right to suspend or cancel a Customer's access to any or all services provided by Elehost if it makes the decision that the web site has been inappropriately used.

Any use of any services provided by Elehost constitutes acceptance by the Customer of these terms and conditions. This contract will remain valid and binding up to and including the date which Elehost receives written request for termination of services.

Elehost will not be responsible for any programming changes or other work to a Customer's web site and are not responsible for making our servers compatible with the Customer's web site or other programs. The Customer will be solely responsible for uploading and making their web site operational on Elehost's servers unless the Customer contracts Elehost to make modifications at our posted hourly programming rates.

1) Specific Unacceptable Use Policies

a) Server abuse

Any attempt to undermine or cause harm to a server, or Customer, is strictly prohibited.

b) Unauthorized use and illegal activities prohibited by Elehost:

The use, or attempted use of an Internet account or computer without the owner's authorization. Such attempts include "Internet scamming" (tricking other people into releasing their passwords), password robbery, security hole scanning etc.

Any unauthorized use of accounts or computers by an Elehost Customer, whether or not the attacked account or computer belongs to Elehost, will result in action against the attacker. Possible actions include, account suspension, cancellation, civil or criminal legal action, and any other legal means of recourse depending on the seriousness of the attack.

c) All CMS and programming based websites (i.e PHP, ASPX, etc..) **must** be maintained with the necessary security patches to keep the site, visitors and server secure. Failure to update the site for critical or high security patches in a timely manner is a violation of Elehost's acceptable use policy and could result in either;

- an immediate suspension of hosting services with the site taken off-line until the site is updated by the client to secure the website code;
- or Elehost will perform the updates on behalf of the client and bill for the time it takes to implement the updates necessary to patch the critical or high security issues

d) To maintain the integrity of our service the following limitations apply:

Elehost will be the sole arbiter as to what constitutes a violation of this provision:

- No commercial advertisements with bulk e-mail and all clients must follow Canada's Anti-Spam Law (CASL) with any communication.
- Unsolicited commercial advertisements are not allowed in e-mail, and may result in account suspension or cancellation.
- Commercial advertisements are not welcome in most Usenet discussion groups and on most e-mail mailing lists. Commercial advertisements shall be limited to anything not relating to the Customer as stipulated in the contract and does not pertain to web pages. Inappropriate posting may result in account suspension or cancellation. See the newsgroup or mailing list's charter for whether advertising is allowed or not. "Spamming," or sending a message to many different off-topic newsgroups, is particularly unethical and will be treated as such.
- Sending a message, especially an advertisement, to more than nine or ten recipients, is by itself spamming unless the individuals have specifically requested to be added to a mailing list on that topic. E-mail is a person-to-person medium, not a broadcast medium.

d) Other Limitations:

- We do not allow clients to install their own chat rooms, without approval from the Elehost Support Team.
- We may allow programs to run continually in the background. These are considered on a one-to-one basis and an extra charge will be incurred based on system resources used and operational maintenance needed.
- We do not allow IRC or IRC bots to be operated on our servers.

e) Traffic and/or Storage

Elehost's hosting packages are allotted a set amount of bandwidth and disk storage. Should the Customers web site go beyond these limits, an additional monthly charge will be levied based on our monthly data transfer and/or disk storage rate. The intention of Elehost is to provide a large space to serve web documents, not an off-site storage area for electronic files. All (95%) of your web pages (html) must be 'linked' with files (.GIF, .JPEG, etc.) stored on Elehost's servers. Web sites that are found to contain either/or no html documents, a large number of unlinked files are subject to warning, suspension or cancellation at the discretion of Elehost management. Any Customer who exceeds Elehost's Package limits in abusing either space/site transfer will be notified and given five (5) days to remedy the problem. If the problem is not resolved within the allotted five (5) day period, the client will be billed for over usage or upgraded to a larger package, whichever is cheaper.

2) Payment Policies

i) Elehost does not charge setup fees for standard hosting features. All accounts are set up on a pre-pay basis. Domain registration performed through Elehost for .com, .net, .org, .info, and .biz addresses is free provided that your site is hosted with Elehost. There will however be a CDN\$30.00 plus GST charge from Elehost for the registration of the domain name for each year the domain is used, with a minimum period of one (1) year (a.k.a. the Internic fee). Domains registered with a .CA extension will cost \$39/year plus GST. The domain registration service is provided by Tucows Inc., an ICANN and CIRA accredited domain registrar. Domains must be renewed on or before the date of expiry to avoid deletion from the DNS records. The expiry date of your domain does not change regardless of the date of renewal. Domain registration fees may change at any time without notice.

ii) All pricing is guaranteed for the term of pre-payment. The Customer is responsible for all money owed on the account from the time it was established to the time that the Customer notifies Elehost in writing for a request for termination of services. All Prices are in Canadian Currency unless otherwise stated.

iii) All accounts will either be paid quarterly semi-annually or annually for hosting services. All Payments are to be made to Elehost Web Design Inc. in the form of cheque, money order, VISA, MasterCard or AMEX charge in Canadian funds unless otherwise stipulated. Payments made for one year will be eligible for a ten (10) percent discount. This discount will not be applied to any refund issued as a result of cancellation of the account if the cancellation occurs before the pre-pay term has expired (see section 3 (ii)). The yearly pre-payment discount does not apply to the Entry level hosting package. Payments made by cheque or money order will be charged a late payment fee of five (5) dollars if payment is received more than five (5) days past the invoice date.

iv) Any payment received late may not be eligible for any discounts that were assumed or agreed upon as determined by the sole discretion of Elehost. This includes but is not limited to reseller and annual pre payment discounts. Any payment received more than fifteen (15) days late WILL forfeit any discounts assumed or agreed upon **without exception**. This forfeiture will be reflected on the subsequent renewal invoice to the Customer.

v) Accounts will automatically renew at the end of the pre-pay period and invoicing will be sent via electronic mail only. **No invoices will be sent by fax or standard mail** unless otherwise requested.

vi) Late payments may result in your site being temporarily disabled without notice. If you site is disabled, it will not be re-activated until payment has been received. There will be a reactivation charge of ten (10) dollars if this occurs. It is the Customers responsibility to ensure that they have made payment and that Elehost has received that payment.

vii) All prices are quoted in Canadian Funds, unless otherwise noted.

3) Cancellation

- i) Elehost reserves the right to cancel service at any time and the Customer agrees not to hold Elehost responsible for any damages as a result of termination. All fees paid in advance of cancellation will be pro-rated and paid by Elehost if Elehost institutes it's right of cancellation.
Any violation of policies, which results in extra costs, will be billed to the Customer (i.e. Transfer, space etc.). Any termination by the Customer of a contract not fulfilled will result in a pro rated refund amount as determined by the sole discretion of Elehost. The customer is required to request this refund in writing within thirty (30) days of the written cancellation notice. Accounts not paid within 30 days of the renewal invoice will be disconnected and deleted from the server.
- ii) Any termination by a customer after the minimum three (3) months, of a site that has been discounted for annual prepayment or any other promotion that is time dependent will forfeit the discounts applied or given and this will be reflected in the refund payment made by Elehost.
- iii) If cancellation is a result of a breach of this contract, including but not limited to violating the lawful purpose, no refund shall be issued for any reason.

4) Lawful Purpose

Elehost reserves the right to refuse service to anyone. Customers may only use Elehost server(s) for lawful purposes. Transmission of any material in violation of any International, Federal, Provincial or Local regulation is prohibited. This includes, but is not limited to copyrighted material, material legally judged to be threatening or obscene, and material protected by trade secrets. Elehost expressly forbids anyone from using Elehost servers for the propagation, distribution, housing, processing, storing, or otherwise handling in any way lewd, obscene, or pornographic material, or any other material which we deem to be objectionable, including, but not limited to, pornography, satanic and hate related materials, slanderous, illegal, offensive **and any and all materials of an adult nature**. The designation of any materials as such described above is left entirely to the discretion of Elehost and its management. If Elehost deems the site to be in contradiction to its own morals, obligations and/or lawful purpose, a minimum fine of \$500 will be charged to the Customer's credit card and service will be terminated with or without prior notice.

5) Indemnification

- i) Customer agrees that it shall defend, indemnify, save and hold Elehost harmless from any and all demands, liabilities, losses, costs and claims, including reasonable attorney's fees asserted against Elehost, its agents, its customers, officers and employees, that may arise or result from any service provided or performed or agreed to be performed or any product sold by the Customer, it's agents, employees or assigns. Customer agrees to defend, indemnify, save and hold Elehost Harmless from any harm caused by the loss or disruption of service including but not limited to downtime, and missing or lost email. Customer agrees to defend, indemnify, save and hold Elehost harmless against liabilities arising out of; (1) any injury to person or property caused by any products sold or otherwise distributed in connection with Elehost's servers; (2) any material supplied by the Customer infringing or allegedly

infringing on the proprietary rights of a third party; (3) copyright infringement (4) trademark infringement and (5) any defective products sold to a user from Elehost's server.

ii) The laws of the Province of Ontario and the Federal laws of Canada applicable shall govern this agreement. Elehost and the Customer agree to attorn to the jurisdiction of the courts of Ontario located in Metropolitan Toronto.

6) Transferability

Should Elehost be acquired, taken over or merged with another company, the new entity will be deemed to have taken over all responsibilities of Elehost with regards to this contract, with the contract remaining in full force and effect.

7) Disclaimer

i) **Elehost will not be responsible for any damages a business may suffer.** Elehost makes no warranties of any kind; expressed or implied, for services it provides. Elehost disclaims any warranty or merchantability or fitness for a particular purpose; this includes, but is not limited to, loss of data or email resulting from delays, non-deliveries, wrong delivery, and any and all service interruptions caused by Elehost and its employees. Elehost will not be responsible for providing computer equipment to the Customer for any purpose whatsoever. Elehost reserves the right to revise its policies terms and conditions at any time, and from time to time.

ii) Failure to perform or follow any term or condition will be grounds for immediate account deactivation.