



1. General:

- 1.1. Codero provides each of its services (each a “Codero Service”) to you under the terms set forth in certain agreements with you, each of which incorporates this Agreement by reference. Any reference to “this Agreement” shall be interpreted to mean this Agreement and any agreement in which it is incorporated. In addition, the Codero Legal Infringement Policy, Privacy Policy, Price Match Policy, and Special Discount Pricing Policy are each hereby incorporated into this Agreement by reference. Please carefully read the Agreement, the Legal Infringement Policy, the Privacy Policy, the Price Match Policy, Special Discount Pricing Policy and each agreement that is applicable to you.
- 1.2. If we provide or resell certain software or services to you, you understand and agree that you may be bound by additional terms and conditions imposed by applicable third-party resellers or licensors, which are also incorporated herein by reference.
- 1.3. Your use of the Codero Services constitutes your agreement to abide by the laws of the United States and of the state and country in which you reside, including, but not limited to, all intellectual property laws, tariff regulations, export controls, treaties, and international laws.
- 1.4. If you do not agree to abide by this Agreement, you are prohibited from using the Codero Services. This Agreement is not a complete representation of all Codero policies or the implementation of all such policies.
- 1.5. We may periodically change, modify, or update this Agreement without notice to you. Your continued use of the Codero Services after we post a changed, modified, or updated Agreement serves as your acceptance of those updated policies. Please refer to this Agreement regularly to remain updated about our current policies.
- 1.6. This Agreement was updated on or about December 1, 2011.

2. Restrictions: You agree that you will NOT use the Codero Services to:

- 2.1. Violate any applicable state or federal law and regulation, including, but not limited to, any copyright, trademark, patent, anti-piracy, or other intellectual property law or regulation, or encourage or enable others to violate any such law or regulation.
- 2.2. Transmit, distribute, post, store, link, or otherwise traffic in information, software, or materials that is offensive, abusive, inappropriate, malicious, or detrimental, including, but not limited to, those that:
 - 2.2.1. Are pornographic, obscene, fraudulent, or discriminatory, including any containing nudity, erotica, profanity, or obscenities.

- 2.2.2. Encourage, glorify, or promote illegal activity, violence, cruelty, discrimination, network marketing, or Ponzi-type schemes.
 - 2.2.3. Exploit children, facilitate phishing, hacking, or identity theft, or defame, threaten, harass any person or group, or attempt to impersonate the identity of a third party.
 - 2.2.4. Infringe upon a third party business, contractual, privacy, or fiduciary right.
 - 2.2.5. Contain malicious or applications code of any type.
 - 2.2.6. Make or facilitate any form of computer, server, or network attack or disruption.
 - 2.2.7. Compromise, disrupt, or degrade the normal and proper operation of any computer, server, or internet system, including Codero's systems.
- 2.3. Send, post, host, or enable any offensive, abusive, inappropriate, malicious, or detrimental e-mails, blog postings, or instant messages, including, but not limited to, any types of mail-bombs or SPAM ("SPAM" is defined as any type of unsolicited e-mail that does not utilize "Double Opt-In/Single Opt-Out" methodologies).
- 2.4. Use or provide open proxies or Internet Relay Chat ("IRC").

3. Acceptable Use:

- 3.1. You represent and warrant that all information that you provide to Codero to open or update your Codero account including but not limited to your name, business name, address, e-mail address, telephone number, credit card, PayPal® information, and/or ACH/Bank information ("Contact Information"), is accurate and complete. In addition, (a) you agree that you will at all times keep your Contact Information accurate, complete, and up-to-date, (b) you understand that your failure to do so may result in suspension of all of your Codero Services or termination of all of your Codero Services and this Agreement, and (c) you understand that you will be solely liable for your inability or failure to receive e-mail or other communications from us due to your failure to keep your Contact Information accurate, complete, and up-to-date.
- 3.2. By providing us with your e-mail address, you thereby agree that we may send you service-related or other notices by e-mail rather than by postal mail.
- 3.3. You agree that you will not share your account passphrase, password, security question answers, or any other confidential information about your account with any other person or persons, that you will be solely liable for any actions taken by such person or persons, and that we will not be liable for any actions taken by such person or persons.
- 3.4. If you provide us with a business name for your account, we will consider that business to be the owner of the account and may require certain change authorizations from an officer (if a corporation), authorized member (if a limited liability company), partner (if a partnership), or owner (if a sole proprietorship) of the business. If you do not provide us with a business name for your account, we will consider you to be the owner of the account and we may require certain change authorizations from you.
- 3.5. You understand and agree that (a) Codero or any applicable licensor retains all rights, title, and interest in and to any computer programming, formatting code, operating instructions, or other software used in providing the Codero Services to you ("Programming") and (b) that you will not reverse engineer, disassemble, decompile, or otherwise attempt to derive any source code of the Programming.

- 3.6. You understand and agree that we may access your server without notice to you in the event of an actual or suspected violation of this Agreement or to otherwise maintain and protect the security and reliability of our network. You also agree to keep your administrative access credentials in Serverportal.com complete and up to date.
- 3.7. You understand and agree that if you do not respond within three (3) calendar days to a Codero-generated abuse-related inquiry sent to you that, in addition to other rights we have under this Agreement or otherwise, at the end of the three (3) calendar days Codero may suspend all of your Codero Services or terminate all of your Codero Services and this Agreement without further notice or obligation to you.
- 3.8. You understand and agree that initiating a “chargeback” to your credit card, to your PayPal® account, or via ACH for Codero Services charged to you shall be a violation of this Agreement.
- 3.9. You agree to conduct yourself in a professional manner at all times when interacting with Codero employees.
- 3.10. You understand and agree that abusing Codero employees, whether by lying, cursing, yelling, threatening, or otherwise, whether over the telephone, via e-mail or chat, or when submitting on-line tickets, shall be a violation of this Agreement and may be grounds for suspension of all of your Codero Services or termination of all of your Codero Services and of this Agreement. In addition, making threats of physical violence, either against Codero, its facilities, or any of its shareholders, directors, officers, employees, contractors, or agents will be promptly reported to the authorities and will be grounds for immediate termination of this Agreement.

4. Fees and Billing:

- 4.1. You agree to pay for the applicable fee or fees for each of the Codero Services you order or select, including but not limited to all setup fees, monthly fees, quarterly fees, annual fees, usage fees, web traffic fees, late fees, hourly-rate fees, or other fees.
- 4.2. You may select monthly billing, quarterly (every three (3) months) billing, semi-annual (every six (6) months) billing, or annual billing for your account. You may qualify for advertised price discounts (“Prepayment Discounts”) if you select a quarterly, semi-annual, or annual billing for your account. We will accept payment by credit card, check, e-check, PayPal®, or wire transfer, except that (a) customers paying by check or wire transfer will be charged an additional processing fee of \$10.00 for each payment made and (b) customers paying by wire transfer will be charged a wire transfer fee of \$10.00 for each payment made.
- 4.3. Applicable setup fees and the fees due for your first service term (first month, first quarter, first six (6) months, or first year) are both due on the initial start date of your Codero Services. Codero may change the pricing for new Codero Services at any time and for existing Codero Services at the beginning of any new billing term.
- 4.4. You understand and agree that no refunds or reimbursements, in full or in part, will be paid to you at any time.
- 4.5. Each of your Codero Services will renew automatically. If you select monthly billing, each of your Codero Services will automatically renew on the one (1) month

anniversary date of the start or last renewal date of that Codero Service. If you select quarterly billing, each of your Codero Services will automatically renew on the three (3) month anniversary date of the start or last renewal date of that Codero Service. If you select semi-annual billing, each of your Codero Services will automatically renew on the six (6) month anniversary date of the start or last renewal date of that Codero Service. If you select annual billing, each of your Codero Services will automatically renew on the one (1) year anniversary date of the start or last renewal date of that Codero Service. Each monthly, quarterly, semi-annual, or yearly anniversary date shall be a "Renewal Date."

- 4.6. On the Renewal Date of each of your Codero Services, your credit card, PayPal® account, or bank account will be automatically charged for the cost of renewing the applicable Codero Service(s) through its next Renewal Date. If Codero does not have valid credit card or current PayPal® or ACH instructions/banking information on file for your account on a Renewal Date, your Codero account will be automatically charged for the cost of renewing the applicable Codero Service(s) through its next Renewal Date and you will be liable for those fees.
- 4.7. You are liable for all unpaid amounts due on your account even if Codero terminates your Codero Services or this Agreement partway through a billing term. Codero may charge your account late fees for overdue payments and Codero may charge you interest on unpaid balances at the rate of 1.5% per month or the maximum rate allowed by law. In addition, your equipment, domains, web content, or other assets may be retained by Codero as collateral for unpaid charges and penalties until such charges and penalties are paid in full. Also, Codero may use a third-party service to collect unpaid amounts and may charge you attorneys, collection, or other reasonable fees incurred to collect unpaid balances.
- 4.8. If you elect to change your payment term at a time that is not within the Conversion Window (defined below), (a) a ticket requesting the change must be submitted as a ticket at ServerPortal.com at least seven (7) days before the end of your current billing term, (b) the change will not take effect until after the end of your current billing term and (c) no Prepayment Discounts applicable to your old billing term will apply to your new billing term. For example, if you elect to change from annual billing to monthly billing (a) the change will only take effect at the end of your current annual term and (b) you will no longer receive the Prepayment Discounts applicable to annual billing.
- 4.9. If you dispute a billing charge, to avoid interruption of your Codero Services you must (a) pay the entire amount invoiced to you by its due date and (b) notify Codero about the disputed billing charge within thirty (30) days. If Codero validates your claim, your account will be credited with the validated amount.
- 4.10. You specifically understand and agree that for each (a) returned check or (b) Codero fee that you "chargeback" to your credit card, to your PayPal® account, or via ACH that will be liable to Codero (and Codero may collect from you) a "Returned Check Fee" or "Chargeback Fee," as the case may be, in the amount of \$35.00.
- 4.11. Charges for bundled Codero Services will be "unbundled" if you cancel any part of the bundle of Codero Services. For example, if you receive a free SSL certificate as part of a "bundled" package and you then cancel one or more of the "bundled" services in your selected package you will be charged at that time for the SSL certificate.

- 4.12. You understand and agree that you are responsible for any network bandwidth charges, memory over usage charges, or other overage charges you incur for using the Codero Services, even if such overages arise because your server or account is compromised or “hacked.”
- 4.13. You understand and agree that you will be automatically be assessed a charge of \$50.00 for (a) each IP address assigned to your account that, in Codero’s reasonable discretion, is blacklisted or, if your account is closed, was blacklisted, and for (b) each IP address which was blacklisted because of your action or inaction, even if it was not assigned to your account or if your account has been closed.
- 4.14. Codero will not be liable for any claim, charge, or other liability of any type related to the Codero Services after a period of one (1) year from when the specific Codero Services were provided.
- 4.15. This Section 4 is not applicable to Codero Cloud Services.

5. Term and Termination:

- 5.1. This Agreement will become effective when:
 - 5.1.1. For Codero “click-through” agreements, when you “Accept” online the agreement into which this Agreement is incorporated.
 - 5.1.2. For Codero agreements you physically sign, when you affix your signature and return the executed agreement to Codero.
 - 5.1.3. For Codero agreements you sign electronically, when the electronic signature process is complete.
- 5.2. This Agreement will remain in effect until it is cancelled or terminated under its terms. Cancellation or termination of the Agreement will automatically terminate each agreement into which it is incorporated.
- 5.3. Sections 1.2, 3.2, 3.5, 3.6, 3.8, 3.9, 4.1-4.4, 4.6-4.7, 4.9-4.14, 5.1, 5.3, 6.2, 6.3, 6.6, 7.2, 8, 9, and 10 shall survive cancellation or termination of this Agreement

6. Cancellation:

- 6.1. IF YOU WISH TO CANCEL ANY OF YOUR CODERO SERVICES (A) YOUR ACCOUNT MUST BE PAID IN FULL AND BE IN GOOD STANDING AND (B) YOU MUST CANCEL YOUR ACCOUNT BEFORE 12:00:01 A.M. CST ON YOUR RENEWAL DATE. ALL CANCELLATION INSTRUCTIONS MUST BE SUBMITTED THROUGH SERVERPORTAL.COM FOLLOWING THE “CLICK TO CANCEL” LINK ON THE SERVICE PAGE OF THE CODERO SERVICE YOU WISH TO CANCEL. BECAUSE CANCELLATIONS ARE AUTOMATED, ONLY CANCELLATIONS SUBMITTED IN THIS MANNER WILL BE ACCEPTED AND BE EFFECTIVE TO CANCEL YOUR CODERO SERVICE.
- 6.2. If you do not cancel a Codero Service before 12:00:01 a.m. on your Renewal Date your account will automatically be charged in full for the cost of renewing the Codero Service through its next Renewal Date, except that if the Codero Service had a quarterly, semi-annual, or annual billing term, you may convert the Codero Service to monthly billing until 12:00:01 a.m. CST on the seventh day after your Renewal Date (“Conversion Window”). Once you have converted to monthly billing, your account will

continue to be billed on your monthly Renewal Date at the new monthly rate until otherwise cancelled or terminated under this Agreement.

- 6.3. If you convert your Codero Service to monthly billing during the Conversion Window (a) you will lose all Prepayment Discounts but (b) you may be eligible to receive a pro-rata refund of charges you paid for the renewal term (or a credit for charges you have not yet paid), less the charges for your first monthly payment at the new monthly rate. If you do not convert your Codero Service to monthly billing during the Conversion Window, you will not be eligible to receive a refund (or a credit for charges you have not yet paid), in full or in part, for any of the amount charged to you on your Renewal Date.
- 6.4. Codero may unilaterally terminate your Codero Services and this Agreement at anytime for any reason without compensation to you upon seven (7) days written notice to you sent to the address or e-mail address you currently have on file with Codero. Also, Codero may refuse to open a new account for any person or entity.
- 6.5. Codero may, immediately and without notice or obligation to you, unilaterally suspend all of your Codero Services or terminate all of your Codero Services and this Agreement if (a) payment for Codero Services is not received by the Renewal Date of the start or last renewal date of any Codero Service or (b) we determine, in our sole discretion, that you have or it is alleged that you have otherwise violated this Agreement.
- 6.6. You understand and agree that upon cancellation or termination of your Codero Services and this Agreement that Codero has the right to immediately bar your access to your server or account and/or delete any and all content on or related to your server or account.
- 6.7. This Section 6 is not applicable to Codero Cloud Services.

7. Server Protection Plan:

- 7.1. **General:** If you (a) purchase the Codero Server Protection Plan (“SPP”) and (b) your Codero server is compromised by a third party, Codero will, at no charge to you, (a) reinstall your operating system and (b) waive any bandwidth overage charges you may have incurred due to the server compromise.
- 7.2. **Limitations:** The following limitations apply to the SPP:
 - 7.2.1. You must notify Codero that your server has been compromised by submitting a ticket at ServerPortal.com no more than fourteen (14) days after your last billing date.
 - 7.2.2. Codero must be able to confirm to its sole satisfaction that your server has been compromised.
 - 7.2.3. Codero will NOT reimburse you for any bandwidth overage charges that directly result from your own actions.
 - 7.2.4. At no time will Codero backup, recover, or reinstall any of your data or be liable for any data loss you may incur at any time.
 - 7.2.5. Codero may terminate SPP service for your account at any time if, in its sole discretion, it appears that your server has been compromised more than once.
 - 7.2.6. Codero may refuse to add the SPP service to any account for any reason.
 - 7.2.7. The SPP is not available for Codero Cloud Services.

8. Plant-A-Tree Program:

- 8.1. **General:** For each “Plant-A-Tree” package you purchase (your “Purchase Donation”) Codero will make a donation for the exact amount of your Purchase Donation to a reputable not-for-profit reforestation company (“Charity”).
- 8.2. **Limitations:** You understand and agree that:
- 8.2.1. Codero has sole discretion over which organizations qualify as Charities in the Codero “Plant-A-Tree” program.
 - 8.2.2. Codero has sole discretion over which Charity will receive your Purchase Donation.
 - 8.2.3. Codero may donate funds from your Purchase Donation to more than one Charity.
 - 8.2.4. Codero is unable to advise you of which Charity received your Purchase Donation or provide you with a receipt from that Charity.
 - 8.2.5. Codero makes no guarantee whatsoever regarding how your Purchase Donation will be used by the Charity or Charities to which it is donated.
 - 8.2.6. Codero is unable to refund to you your Purchase Donation.

9. Limitations:

- 9.1. IN NO EVENT WILL CODERO’S LIABILITY TO YOU IN THE AGGREGATE FOR ANY AND ALL BREACHES, DEFAULTS, OR CLAIM OF LIABILITY UNDER THIS AGREEMENT OR AN AGREEMENT INCORPORATED INTO THIS AGREEMENT OR FOR AN AGREEMENT INTO WHICH THIS AGREEMENT IS INCORPORATED BE EQUAL TO AN AMOUNT GREATER THAN THE FEES PAID BY YOU TO CODERO DURING THE ONE (1) CALENDAR MONTH PERIOD PRECEDING THE DATE OF THE EVENT GIVING RISE TO SUCH CLAIM OF LIABILITY.
- 9.2. IN NO EVENT WILL CODERO, ITS PARENTS, SUBSIDIARIES, AFFILIATES, SHAREHOLDERS, DIRECTORS, OFFICERS, CONTRACTORS OR EMPLOYEES BE LIABLE TO YOU UNDER ANY CIRCUMSTANCES FOR ANY THIRD PARTY, SPECIAL, EXEMPLARY, PUNITIVE, INDIRECT, MULTIPLE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, ANY LOSS OF DATA, LOSS OF USE, OR INTERRUPTION OF BUSINESS) ARISING OUT OF, OR IN CONNECTION WITH, THIS AGREEMENT OR AN AGREEMENT INCORPORATED INTO THIS AGREEMENT OR FOR AN AGREEMENT INTO WHICH THIS AGREEMENT IS INCORPORATED WHETHER BASED IN CONTRACT, WARRANTY, NEGLIGENCE OR OTHER TORT, BREACH OF ANY STATUTORY DUTY, THE FAILURE OF ANY LIMITED OR EXCLUSIVE REMEDY TO ACHIEVE ITS ESSENTIAL PURPOSE, STRICT LIABILITY, OR ANY OTHER LEGAL OR EQUITABLE GROUNDS, EVEN IF CODERO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- YOU ACKNOWLEDGE THAT THESE LIMITATIONS ARE AN ESSENTIAL ELEMENT OF THIS AGREEMENT AND WITHOUT SUCH LIMITATIONS CODERO WOULD NOT ENTER INTO THIS AGREEMENT.
- 9.3. WE DO NOT WARRANT THAT THE CODERO SERVICES WILL BE FREE OF ERRORS, BE UNINTERRUPTED, OR WILL MEET YOUR REQUIREMENTS. THE CODERO SERVICES ARE PROVIDED ON AN “AS IS” BASIS AND WE EXPRESSLY DISCLAIM ALL WARRANTIES, CONDITIONS, AND INDEMNITIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT OR ANY OTHER WARRANTY ARISING FROM THE COURSE OF PERFORMANCE OR COURSE OF DEALING. YOU UNDERSTAND AND

AGREE THAT WE WILL NOT BE LIABLE FOR ANY TEMPORARY DELAY, OUTAGE, OR INTERRUPTION OF THE CODERO SERVICES, AND YOU HAVE NOT ENTERED INTO THIS AGREEMENT IN RELIANCE UPON ANY WARRANTY OR REPRESENTATION EXCEPT THOSE SPECIFICALLY SET FORTH HEREIN. ALL CODERO SERVICES PROVIDED UNDER THIS AGREEMENT WILL BE DEEMED ACCEPTED WHEN DELIVERED.

- 9.4. YOU HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY RIGHTS YOU MAY HAVE TO A TRIAL BY JURY IN ANY LAWSUIT OR PROCEEDING RELATING TO OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH THIS AGREEMENT, WHETHER ARISING OUT OF CONTRACT, TORT OR OTHERWISE.
- 9.5. You agree to indemnify, defend by counsel reasonably accepted to Codero, and protect and hold Codero harmless from and against any and all claims, liabilities, losses, costs, damages, expenses, including consultants' and attorneys' fees and court costs, demands, causes of action, judgments, etc. directly or indirectly arising out of or related to the Codero Services.
- 9.6. Nothing in this Agreement shall be construed as creating a joint venture, partnership, agency, employment, franchise, or other relationship between you and Codero other than as set forth herein. Also, neither party to this Agreement shall have the right, power or authority to create any obligations or duty, express or implied, on behalf of the other.

10. Miscellaneous:

- 10.1. This Agreement may not be assigned by you without our express written consent. Codero may assign any or all of its rights and obligations to others at any time.
- 10.2. This Agreement is the final expression of the agreement between you and Codero regarding the Codero Services. This Agreement may not be modified or amended, nor may it be modified by custom and usage of trade or course of dealing, except by an instrument in writing and signed by you and Codero.
- 10.3. Codero's waiver of your breach of any portion of this Agreement shall not operate or be construed as its waiver of any subsequent breach of the same provision or any other portion of this Agreement and no remedy available to Codero hereunder is exclusive of any other remedy available to Codero hereunder or otherwise available at law or in equity.
- 10.4. If any provision of this Agreement or its application is held by a court of competent jurisdiction to be invalid, unenforceable, or void, the remainder of this Agreement shall remain in full force and effect enforced to fullest extent consistent with applicable law.
- 10.5. You agree that you will not solicit Codero employees as your employees or contractors. You represent and warrant that you have full power to enter into this Agreement and any agreement into which this Agreement is incorporated by reference.
- 10.6. The section headings contained herein are for reference purposes and convenience only and shall not in any way affect the meaning or interpretation of this Agreement.
- 10.7. Codero shall not be deemed to be in default of or to have breached any provision of this Agreement as a result of any delay, failure in performance or interruption of the Codero Services, resulting directly or indirectly from acts of God, acts of civil or military authority, civil disturbance, war, strikes or other labor disputes and disturbances, fire,

transportation contingencies, shortages of facilities, fuel, energy, labor or materials, or laws, regulations, acts or order of any government agency or official thereof, other catastrophes, or any other circumstances beyond our reasonable control.

- 10.8. This Agreement shall be binding on you and Codero and your or its successors and assigns, and shall be governed by the laws of the state of Kansas without giving effect to such laws' provisions regarding conflict of laws. Any action arising out of or related to this Agreement shall be brought in the Kansas state courts located in Johnson County, Kansas, USA or the Federal court located in Kansas City, Kansas, USA and each party consents to the jurisdiction and venue of these courts. Each party expressly disclaims application of the United Nations Convention on Contracts for the International Sale of Goods to this Agreement.