

# StartMail Terms of Service

## STARTMAIL TERMS OF SERVICE

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### WELCOME TO StartMail!

Thank you for your interest in the StartMail Service. The StartMail Service is designed to maximize your privacy and keep you in control of your personal data. We at StartMail care about your rights. We assume that you do too. Therefore, please take a moment to read our Terms of Service carefully. We have done our utmost to make them as easy to read as possible and to provide you with all the information you need.

The StartMail Service is offered by StartMail B.V. ("StartMail"), a company established under Dutch law with its registered office in the city of Zeist at Boulevard 11, postal code 3707 BK, The Netherlands.

These Terms of Service apply at all times during the use of the StartMail Service.

### Definitions (1)

At the end of this document you will find the definitions of the words in this agreement that begin with a capital letter.

### Our Agreement

In order to create your Account you will be asked to accept these Terms of Service and our Privacy Policy. Your acceptance is required to conclude an Agreement with us to become a User of the StartMail Service. In addition, merely using the StartMail Service shall also constitute your consent to these Terms of Service and our Privacy Policy.

Therefore, these Terms of Service at all times govern the use of the StartMail Service and form an integral part of the Agreement between StartMail and each User.

We advise you to save a copy of these Terms of Service locally or print them.

Any terms and conditions or exceptions put forward by you will not form part of the Agreement, unless we have explicitly accepted them in writing.

### Signing up for your StartMail Account

During the sign up process you will be asked to register an e-mail address, e.g. user@startmail.com, and a password for your Account. If the e-mail address you have chosen is not available, you must choose another e-mail address, which is available. Your password must meet the safety requirements as indicated in the sign up process.

The name which you provide for your Account does not necessarily have to be your real name, but you explicitly accept all responsibility and full liability for any damages, claims or other consequences that may arise as a result of signing up under a fictitious or pseudonymous name.

In order to complete the sign up process you must complete all mandatory fields on the form. Once your order has been successfully submitted, you will be given access to your Account when you log in with the e-mail address and password you have chosen. In case of a Personal Account, access will be granted once payment has been made for the applicable period of use.

After signing up, you may change your password at any time by using the available option in your Account Settings. You can only access the Settings feature while you are logged into your Account.

### Confirmation and communication about your StartMail Account

Once you have successfully signed up, we will send an automatic welcome message to the inbox of your new StartMail Account, confirming that you have become an authorized User of the StartMail Service, pursuant to the Agreement concluded between you, the User, and us, StartMail.

In addition, the welcome message will also contain a PDF file attachment containing the complete contents of the Agreement, as stored and/or archived by StartMail.

Whenever we have an important message for you concerning your Account, for example a reminder about payment in order to avoid the expiration of your Account, we will send a message to your StartMail inbox. We may also suggest you to set a recovery e-mail address or provide you a recovery code to be able to help you recover your Account if you ever lose your password.

We may also provide additional information services, but only after you have opted-in for them. You may opt out whenever you like by clicking the unsubscribe hyperlink in the message, or sending an email to support@startmail.com with the subject of "Unsubscribe" and a note of the email address that you wish to remove from the list.

### **Promotional Companion Accounts**

With each Personal Account, we may offer one or more 'Companion Accounts', which are Free Accounts that Personal Users can distribute to their friends by means of forwarding an e-mail containing a unique sign up link. The e-mail containing the sign up link, may contain specific terms and conditions which shall apply to Companion Accounts, and Companion Accounts may comprise certain restrictions and limitations compared with Personal Accounts.

### **Free Accounts for evaluation purposes**

StartMail may provide you the option to try the StartMail Service for free, for a limited time period. Unless specified otherwise by StartMail, the Free Account for evaluation purposes shall be valid for seven (7) days. During this time, you may change your Free Account to a Personal Account at any time, by paying the applicable fee. If you have not changed your Free Account to a Personal Account within the applicable evaluation period, your Account will expire and its content will be deleted after a period of quarantine as specified in the section 'expiration and renewal' below. The Agreement may contain specific terms and conditions which shall apply to Free Accounts.

### **Duration**

Unless otherwise stated in the Agreement, the Agreement is valid for an indefinite period. For the terms and conditions for termination, please review the relevant sections below.

### **Cooling off period**

Within the sign up process, by agreeing to these Terms of Service you also agree to receive the StartMail Service right after signing up, and therefore no cooling off period shall apply. The cooling off period is a legal right for consumers in Europe, to cancel an agreement concluded online, if certain criteria are met. If the consumer agrees to receive the service immediately, no cooling off period will apply.

### **Authorized access**

The StartMail Service may only be used by authorized Users, who provide Login Details. You agree and understand that you are responsible for maintaining the confidentiality of your Login Details, and that it is your responsibility to remember them.

StartMail uses secure hashing methods in accordance with industry best practices, in order to store key material safely. StartMail supplies additional details about its hashing methods and other security measures in its security white papers. In order to keep up with technological developments, StartMail may decide at any moment to update its security practices and white papers.

StartMail may assume that someone logging onto the StartMail Service using the Login Details actually is the User. After access has been obtained to the StartMail Service through the User's Login Details, the User bears the full responsibility and risk for all subsequent activities undertaken in the StartMail Service (including the Account).

In the event of any known or suspected misuse or compromise of the Login Details, the User must notify StartMail immediately at abuse@startmail.com so that the latter can take action.

If StartMail becomes aware that the User's Login Details have been divulged to unauthorized third parties, StartMail will try to notify the User and take suitable action.

If you have provided us with a Recovery E-mail Address or opted to receive a Recovery Code, you have the ability to set a new password in the event you have lost your current password and are unable to log into the StartMail Service.

WARNING: IF YOU FORGET YOUR PASSWORD AND HAVE NOT SUPPLIED US WITH A RECOVERY E-MAIL ADDRESS AND HAVE NOT OPTED TO RECEIVE A RECOVERY CODE, THERE IS NO WAY WE CAN ENABLE YOU TO REGAIN ACCESS TO YOUR ACCOUNT. THIS IS AN INTENTIONAL SECURITY FEATURE AND NOT A BUG. StartMail CANNOT BE HELD LIABLE FOR ANY DAMAGES OR LOSSES ARISING OUT OF YOUR LOSS OF OR FAILURE TO REMEMBER YOUR PASSWORD.

Please read our security white papers for more information about our security measures.

### **Terms of use**

We have designed the StartMail Service around the principle that your e-mail is your business and nobody else's, including ours. The privacy that we provide to you through the StartMail Service does not place you above the law, and it must not be abused. You are prohibited from using the StartMail Service to break the law or violate anyone's legal rights.

Activities that are absolutely not tolerated by StartMail include the sending of Spam, the purchase or sale of stolen goods, making threats to person or property, possession or distribution of child pornography, and fraud.

StartMail may immediately terminate the Agreement and delete the Account in the event of a violation of the Terms of Use. This applies equally to Free Accounts and to Personal Accounts. In the event of such termination, StartMail will notify the User by means of the Recovery E-mail Address, if one was previously set.

### **Measures against Spam and excessive outgoing e-mails**

Sending Spam through the StartMail Service is prohibited. In order to block Spam and to mitigate the risk that StartMail could be blacklisted by other e-mail providers or their spam filters, which may cause severe adverse effects for all Users of the StartMail Service, we limit the number of messages that can be sent during a given time period. Consequently, if you send too many messages in a short time, your outgoing messages may be blocked, even if your messages are not unsolicited and do not strictly qualify as Spam, as defined in the definitions section below. When your outgoing messages are blocked for this reason, you will be informed via a warning message.

If we find that you are sending excessive amounts of messages often or regularly, compromising the ability of other Users to enjoy the StartMail Service fully, we may suspend or terminate your Account, after we have issued at least one warning to you.

In order to safeguard the effectiveness of our measures against Spam and excessive outgoing messages, we cannot provide full details of the measures we employ, nor the exact limitations caused by these measures.

Our measures against Spam and excessive outgoing messages should not affect normal, average use of the StartMail Service. If you experience that your legitimate (and not excessive) e-mails are not being sent or received properly, or that our anti-Spam measures may otherwise impair your legitimate use of the StartMail Service, please inform us as soon as possible through [spam@startmail.com](mailto:spam@startmail.com). Please include as much technical information as possible indicating that the problems are due to our systems and are not caused by other links in the Internet communication chain which are beyond our control.

### **Compliance with legitimate requests by authorities**

While we respect and try to protect your privacy to the best of our abilities, your use of StartMail does not place you above the law. But neither do we place authorities above the law. If we receive a request by Dutch judicial authorities to hand over information about one of our Users, we will have our lawyers check the validity of the request and determine whether we are obliged to comply. We will NOT comply with such requests unless we are convinced that the request is legally valid and we believe it is undeniably our legal obligation to comply.

We will not comply with requests from any authorities other than Dutch authorities. If we receive a request from any foreign government, we will refuse to comply and will instead refer the requestor to place a formal request to the Dutch authorities for mutual assistance.

StartMail will never cooperate with any voluntary surveillance programs. Under the strong current laws that protect the right to privacy in Europe, European governments cannot legally force service providers like StartMail to implement a blanket spying program on their users. Should that ever change, we will use all methods at our disposal to resist.

### **Requests by private third parties**

We will not comply with any requests from private third parties to provide information about our Users, unless we would receive a valid Dutch court order to such effect.

### **Support Center**

The User can report disruptions and ask questions in the manner indicated by StartMail on the Website. StartMail will try to respond to such questions properly and within a reasonable term, but cannot offer any guarantees in this respect.

Information regarding the use of the StartMail Service is provided to the User through the Support Center on the Website. The User is expected to read the information available there first, before submitting a question via [support@startmail.com](mailto:support@startmail.com).

### **Updates**

StartMail may modify the software of the StartMail Service as the occasion arises in order to improve functionality and rectify errors. These changes may be made without prior notice to you. Because the StartMail Service is offered to multiple Users, it is not possible to omit a modification for a single User. StartMail is not liable for compensation for any loss incurred as a result of the modification of the StartMail Service.

### **Availability and maintenance**

We strive to provide uninterrupted and optimal availability of the StartMail Service, but we do not offer any guarantees thereof, unless otherwise agreed by means of a Service Level Agreement concluded to that effect. StartMail reserves the right to deactivate the StartMail Service temporarily for maintenance, modification or improvement of the Service and the web servers of StartMail. StartMail will attempt to ensure that temporary deactivation of StartMail Service causes as little disruption as possible to Users.

Under no circumstances will StartMail be liable to pay any compensation for any damage sustained by the User due to the Service being deactivated for maintenance purposes.

### **Backup**

Multiple Backups are made daily of all Accounts, with a maximum interval of one hour between each backup. StartMail determines the execution time of the backups. Data stored in backup form is retained for no longer than three days.

In addition to relying on our backup measures, you may choose to also store your own local copies of your data, or not. If your Account is terminated in accordance with these Terms of Service, we may permanently delete your data from our servers. We have no obligation to return data to you after the Agreement between you and us is terminated.

### **Data extraction**

Personal Users are enabled to retrieve and store their full inbox, or parts thereof, locally via IMAP.

### **Security**

StartMail uses extended validation SSL certificates to securely transmit data and communications on the Website and via the StartMail Service. Please read our security white papers for more detailed information about our security measures.

### **Personal details**

StartMail processes personal details solely in accordance with the Privacy Policy, which can be found at: [www.startmail.com/privacy](http://www.startmail.com/privacy).

### **Personal Account: prices and payment**

To use the Personal StartMail Service, a Personal User must first pay StartMail the applicable fee indicated in the Agreement. Paying the fee up front gives the User the right to access and use the Personal StartMail Service for the time period indicated in the Agreement. For example: the Agreement states that the Personal User shall pay a certain amount per year. The Personal User must pay this amount up front and shall then receive access to the Personal StartMail Service for one (1) year, starting from the moment on which StartMail receives payment.

All prices stated by StartMail are inclusive of applicable turnover tax (VAT) and other levies imposed by the government.

### **EXCLUSION OF WARRANTIES**

StartMail PROVIDES THE StartMail Service AND THE WEBSITE “AS IS” AND “AS AVAILABLE”, WITHOUT ANY WARRANTY OF ANY KIND. TO THE EXTENT PERMITTED BY APPLICABLE LAW, StartMail DISCLAIMS ANY IMPLIED WARRANTIES OR REPRESENTATIONS. StartMail EXPRESSLY DOES NOT REPRESENT OR WARRANT THAT THE StartMail Service WILL MEET YOUR REQUIREMENTS, WILL BE AVAILABLE, UNINTERRUPTED, SECURE OR ERROR-FREE, OR THAT DEFECTS IN THE SOFTWARE WILL BE CORRECTED.

### **LIMITATION OF LIABILITY**

UNDER NO CIRCUMSTANCES IS StartMail LIABLE FOR ANY INDIRECT DAMAGE SUSTAINED BY THE USER OR THIRD PARTIES, INCLUDING CONSEQUENTIAL DAMAGE, LOSS OF TURNOVER, AND IMMATERIAL DAMAGE.

THE LIABILITY OF StartMail AGAINST THE USER, ON WHATEVER GROUND (INCLUDING FAILURE TO COMPLY WITH A WARRANTY OBLIGATION), SHALL BE LIMITED TO THE SUBSCRIPTION FEES PAID BY THE USER, UP TO A MAXIMUM OF 500.00 (FIVE HUNDRED EURO), EXCLUDING VAT, WHEREBY A SERIES OF CONNECTED EVENTS SHALL BE CONSIDERED A SINGLE EVENT.

THE USER INDEMNIFIES StartMail AGAINST ANY AND ALL CLAIMS BROUGHT BY THIRD PARTIES ON ANY GROUND WHATSOEVER IN RESPECT OF COMPENSATION OF DAMAGE, COSTS OR INTEREST IN CONNECTION WITH THIS AGREEMENT AND/OR THE USER'S USE OF THE Start-Mail Service.

THE PRECEDING SUBSECTIONS OF THIS ARTICLE DO NOT APPLY IF AND INsofar AS AN INTENTIONAL ACT OR OMISSION OR WILFUL RECKLESSNESS ON THE PART OF THE MANAGEMENT OF StartMail CAUSED THE DAMAGE IN QUESTION.

### **Force Majeure**

StartMail will not be obliged to comply with any obligation towards the User if it is prevented from doing so as a result of a circumstance over which it has no control.

In the event of such a situation involving Force Majeure – which in any event includes disruptions in the telecommunications infrastructure, Internet, domestic disturbances, mobilization, war, traffic congestion, strikes, lockouts, import and export restrictions, business interruptions, supply delays, fire, flood and breaches by suppliers on whom StartMail is dependent in the performance of an Agreement – the performance of the Agreement may be suspended without that leading to any obligation to pay compensation.

If a situation involving Force Majeure prevents compliance for longer than two months, either Party will be entitled to terminate the Agreement immediately without that giving rise to any obligation to pay compensation.

### **Intellectual property rights**

StartMail (or its licensors) retain all legal right, title and interest in and to the StartMail Service and the StartMail Website. This includes any intellectual property right subsisting in the StartMail Service, the Website and any part thereof. You acknowledge these rights and agree to respect them at all times. The e-mail messages which Users may send using the StartMail Service (including header, body text and attachments) are not the property of StartMail, nor does StartMail claim any right thereto, or accept any responsibility towards the content thereof.

The Agreement grants the User a personal, worldwide, non-assignable and non-exclusive right to use the StartMail Service. Unless otherwise agreed by means of a separate agreement, “use” shall not mean to reproduce, duplicate, copy, sell, trade or resell.

### **Amendments to the Terms of Service**

StartMail reserves the right to make minor amendments to the Terms of Service at any time without notice to the Users.

Amendments to the Terms of Service shall also apply in respect of Agreements that have already been concluded.

The most current version of the Terms of Service can be reviewed on the 'Sign up' page, or you can download the PDF by clicking on the 'Download PDF' button on that page.

Users will be notified of any Amendments to the Terms of Service which StartMail considers of material impact on the Users' rights under the Agreement, at least 30 days before the amendment will take effect.

Only Personal Users have the right to refuse material amendments to the Terms of Service. Such refusal must be communicated to StartMail, by e-mail through support@startmail.com, before the date on which the amendments take effect. In such case, the Agreement will remain in effect unamended until terminated.

### **Termination by the User**

Any User can terminate the Agreement by clicking a button or link within the StartMail Website containing "Terminate Account" or words of a similar nature and meaning, or by sending an email to support@startmail.com requesting the termination of your email account. A User may terminate the Agreement in this way at any time and without stating any reasons or grounds for doing so.

Terminating the Agreement does not constitute or create the right to ask for repayment or refund of (all or part of) the subscription fee for the period during which the Agreement would otherwise have remained valid.

When an Agreement is terminated by a User, all data contained in the Account, including all e-mails, is immediately deleted permanently. Only the backup will remain for the maximum retention period of three days, as described in the Backup section above. The User has no right to obtain or gain access to data stored in this temporary backup after termination.

### **Expiration and renewal: Free Accounts**

Free Accounts are valid for the period specified in the Agreement. Before expiration of the Account, StartMail will provide multiple messages by e-mail (including the Recovery E-mail Address, if provided by the User), in order to remind the user of the upcoming expiration of the Free Account, and of the option of upgrading to a Personal Account.

After the expiration of the Free Account, the User may be able to log into the Account, but will no longer be able to receive or send emails. For Free Accounts with a validity of seven (7) days, a quarantine period of seven (7) days following the expiration shall apply, during which the Account can be reactivated as a Personal Account upon payment of the applicable fee. For Free Accounts with a longer validity than seven (7) days, a quarantine period of six (6) months shall apply.

If the User does not upgrade the Account during the quarantine period, the Agreement will be deemed fully terminated and the Account and all email messages and other data it contains will be deleted.

### **Expiration and renewal: Personal Accounts**

When the payment term for a Personal Account expires, the Account will be put in quarantine state. If the User pays the applicable fee within six (6) months after expiration, the Account will be reinstated.

Before expiration of the Personal Account, StartMail will provide multiple messages by e-mail (including the Recovery E-mail Address, if provided by the User), in order to remind the User of the upcoming expiration of the Personal Account, and of the option of providing payment to maintain the use of the Account.

If the User does not pay the required fee within six (6) months after the start of the quarantine period, the Agreement will be deemed fully terminated and the Account will be deleted.

### **Consequences of termination**

When an Agreement is fully terminated, all data contained in the Account, including all e-mails, is immediately deleted permanently. Only the backup will remain for the maximum retention period of three days, as described in the Backup section above. StartMail has no obligation to restore an Account from such backups on request of the User once the Account has been terminated.

### **Final provisions**

The Agreement shall be governed by Dutch law, without regard to any conflict of law provisions contained in Dutch law.

The court of the Hague, the Netherlands, shall have exclusive jurisdiction to settle disputes relating to the Agreement which cannot be settled amicably, except if Dutch imperative law should provide otherwise.

In the event that StartMail requires urgent legal measures or relief against a User and the court chosen above cannot provide this, StartMail may submit an application to any other court in any other jurisdiction.

Changes in management or legal form will not affect the Agreement.

**Partial nullity:** in the event that one or more of the provisions of this Agreement and/or the Terms of Service should be nullified, the remaining provisions of this Agreement and/or the Terms of Service shall remain in full force. In this case, the Parties shall agree on (a) new provision(s) to replace the nullified provisions, having regard to the purpose and purport of the original Agreement and/or Terms of Service as far as possible.

If StartMail does not exercise or enforce a legal right or remedy which is available to StartMail under the Agreement and applicable law, this will not constitute a formal waiver and StartMail will still be entitled to such rights or remedies.

## **Definitions (2)**

**Account:** the User's personal email boxes, contacts and settings associated with one StartMail e-mail address.

**Free Account:** any Account which is made available to the User without the need of payment by the User.

**Personal Account:** any Account which is made available to the User in exchange for payment of money. Personal Accounts may have more functionalities or features than Free Accounts.

**Companion Account:** a Free Account which a Personal User can distribute to a friend by means of forwarding an e-mail containing a unique sign up link.

**Agreement:** any agreement that is concluded between StartMail and the User that is subject to these Terms of Service.

**Login Details:** the details, such as e-mail address and password, which must be entered to gain access to the StartMail Service.

**Party:** a party to the Agreement, either StartMail or the User.

**Privacy Policy:** the document describing Startmail's privacy practices, which can be found at: [www.startmail.com/privacy](http://www.startmail.com/privacy).

**Recovery Code:** a code securely generated by StartMail which can be used by the User to access an Account when the password for the Account has been lost.

**Recovery E-mail Address:** an alternative e-mail address meant to receive the Login Details in the event of loss, and to provide an alternative means for StartMail to communicate with the User in the event the Account is not usable or accessible.

**Settings:** the menu accessible in the StartMail Service, providing certain options to Users.

**Spam:** unsolicited e-mail messages for commercial or charitable purposes for which the receiver has not "opted in," meaning the receiver has not given his prior (informed) consent to receiving such messages from the sender. "Spam" in these Terms of Service should be understood in context of the legal provisions within the applicable jurisdiction(s) regarding unsolicited electronic messages.

**StartMail:** StartMail B.V., having its registered office at Boulevard 11, 3707BK in Zeist and registered at the Dutch Chamber of Commerce under no. 341111280. StartMail is also what "we", "us" and "our" refer to in this document.

**StartMail Service:** the service of making the StartMail e-mail application available to the Users via the Internet. The StartMail Service exists in the form of either the Free StartMail Service or the Personal StartMail Service.

**Support Center:** the section of the Website that provides detailed information about the StartMail Service.

**Terms of Service:** the terms and conditions contained in this document.

**User:** a natural person or legal entity that concludes an Agreement with StartMail in order to use the StartMail Service. A User is also referred to by the word “you” in this document, since we assume that those who take the time to read these Terms of Service are Users or will shortly become Users. Distinction must also be made between Free Users, relating to Users of the Free StartMail Service and Personal Users, relating to Users of the Personal StartMail Service.

**Website:** startmail.com and all its sub-domains.

**Contact us**

If you have any questions, complaints or comments regarding our Terms of Service, please write to us using the contact details stated on our contact page [legal@startmail.com](mailto:legal@startmail.com). For any questions, complaints or comments regarding our StartMail Service, please refer to our Support Center.