

# Terms of Use

[For those selling website creation and hosting through the likes of a multisite installation. Delete this comment. Check all square bracketed text and comments in terms below. Amend as required. Delete square brackets and drafting comments. These terms should only be taken as a starting point. You may wish to consult a lawyer who is qualified in your jurisdiction on the possible application of specific laws.]

## Agreement to terms

Welcome. These Terms set some basic ground rules for the use of our service. These small notes in grey provide quick snapshots of sections or clauses but are not part of the legal terms.

1. Welcome to *[insert name of service]* (our **Service**), a website creation and hosting service operated by *[insert full legal name of your organisation]* (**we, our, us**). It is our pleasure to have you with us. We are a company in trade registered in *[insert country or state of registration, e.g., England and Wales]* under company number *[insert company number]* and with our registered office at *[insert registered office address]*. Our main trading address is *[insert main trading address]*. Our *[insert sales tax acronym that applies in your place of business, e.g., VAT (England), GST (New Zealand), etc]* number is *[insert sales tax number]*. *[The content of the business details to be included here will depend on how you've structured your business (e.g., company versus sole trader) and the legal requirements in your country. This paragraph provides an example of what are understood to be English law requirements]*
2. We provide:
  - (a) registered users (**Customers**) with the ability to create their own *[insert type of website if relevant]* websites (**Sites**) [and to access other features and services depending on the plan to which the Customer subscribes] *[this portion in square brackets may or may not be relevant; it depends on whether you have multiple plans with different options]*, as further described on our website from time to time; and
  - (b) non-registered users (the **Public**) with the ability to access this website and Customer websites that we host.
3. When we use the terms **you** and **your**, we're referring to our Customers and to members of the Public who access this website or any Site.
4. By viewing and using our Service, you are agreeing to be bound by these Terms of Use (**Terms**). If you don't like these Terms or don't want to be bound, you can't use our Service.
5. We may change these Terms and our privacy policy at any time and will provide you with notice of the change, whether on this website or by email. You accept that notice of a change on this website will be deemed to be notice to you. Continued use of our Service after any such changes constitutes your agreement to those changes.

## Terms with special meaning

Some words or phrases in these Terms have special meanings. Where that's the case, they have capital letters and, when first defined, are in bold. Some are defined in particular clauses. A couple are defined below.

6. When we use the term:

**Consumer**, we mean an individual acting for purposes which are wholly or mainly outside that individual's trade, business, craft or profession;

**Fees**, we mean the charges set out in our pricing plans or promotions or otherwise agreed with us, that you need to pay if you wish to obtain and continue to enjoy our premium Service offerings, as well as any additional charges payable as described in our pricing plans or on our website if you exceed the storage or usage allowances for your selected plan;

**Intellectual Property Rights**, we mean all intellectual property rights wherever in the world, whether registered or unregistered, including any application or right of application for such rights (and the "intellectual property rights" referred to above include copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade names, trade marks, service marks, passing off rights, unfair competition rights and rights in designs); and

**Use Licence**, we mean a non-exclusive, worldwide, royalty free, perpetual and irrevocable licence to store, copy, optimise, publish and otherwise use Customer Content, for the purposes of providing or promoting our Service, fulfilling our obligations under these Terms and exercising our rights under these Terms.

7. When we refer to agreeing to or permitting something "in writing", that includes by electronic means such as email or via online support.

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## Becoming a Customer

To become a Customer and get your own Site, you need to register and comply with a few formalities.

8. To create and maintain a Site [and to obtain online support], you need to be a Customer and to pay all applicable Fees.
9. Unless we agree otherwise, you must be at least [16] years old to become a Customer.
10. If you register to become a Customer, you will be asked to create a username and password. You need your username and password to access the dashboard for the Site you will create and maintain. It is through the dashboard that you select the look and feel for your Site and add content to your Site.
11. You are responsible for selecting a secret and strong password and for maintaining the security of your username and password.
12. You need to provide your full name, a valid email address and any other information we request to complete the registration process and you need to keep these details up to date. Fictitious entries are not permitted.

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## [Consumer rights

*[This "Consumer rights" section is included to enable compliance with the Consumer Rights Directive (2011/83/EU), as implemented in the United Kingdom in June 2014 by the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013, that applies when 'traders' sell goods or services to 'consumers' through a variety of means, including online. Similar laws will (or should) exist in all other European member states. If your business is based in one of these countries, you should include this section (amended as required to suit your requirements and circumstances and after seeking your own legal advice where required). If not, you may delete it (you may still need to check whether similar laws exist in your own countries.) Note also that the Directive / Regulations have other requirements that are relevant to the design of your service (such as how to describe your checkout / pay now buttons). If you are in one of these countries, it is advisable to read them thoroughly.]*

These provisions confer special cancellation and refund rights on consumers, given that we are based in a European member state and therefore subject to the requirements of the Consumer Rights Directive (2011/83/EU) as implemented in the laws of our country. They do not apply to commercial customers.

13. Clauses 14-17 apply to you if you're a Customer who is also a Consumer (as defined above). For Consumers, they prevail over any other clause in these terms that is inconsistent with them. These clauses 14-17 do not apply to commercial customers.
14. You have a right to cancel your agreement with us for the purchase of our services within 14 days after the day on which you signed up for a paid plan or subscription (the **Cancellation Period**). You

do not need to give us any reason. To cancel your agreement, all you need to do is inform us of your wish to cancel. You can inform us by completing the Consumer Cancellation Form at [to be inserted] [make sure the form follows the requirements of Part B of Schedule 3 of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 <http://www.legislation.gov.uk/uksi/2013/3134/contents/made>] or by emailing us at [insert email address]. We will acknowledge your cancellation by return email. To benefit from the reimbursement provisions below, it is sufficient for you to send your communication concerning your exercise of the right to cancel before the Cancellation Period has expired.

15. If you cancel your agreement in accordance with clause 14, we will reimburse all or some of the Fees you paid us in relation to the relevant plan or subscription when agreeing to these Terms and purchasing a subscription, as further described in clause 17 below. Reimbursement will be made within 14 days after the day on which we were informed of your decision to cancel your subscription.
16. In agreeing to these Terms and signing up to a paid plan or subscription, you acknowledge and agree that you are making an express request for supply of our services before the end of the Cancellation Period (as you are able to generate a Site and use our Service immediately upon payment).
17. [Either:] [You acknowledge that the amount of reimbursement you are entitled to under clause 15 depends on when, during the Cancellation Period, you cancel your subscription. If you cancel it on the same day (in our timezone) as the date of purchase, you are entitled to full reimbursement. For each day after the day of subscription, your reimbursement will be reduced by 1/N times the value of your paid up subscription, where N equals the number of days of the subscription period you selected (for this purpose, all months are treated as having 30 days). So, for example, if you signed up to a month subscription that cost [\$30] and you cancelled your subscription on the day after the day of purchase, your reimbursement would be reduced by 1/30 times [\$30]. If you cancelled on the 14th day after the day of purchase, your reimbursement would be reduced by 14/30 times [\$30].] [Or:] [You acknowledge that we may make a deduction from the amount of reimbursement you are entitled to under clause 15, for the period you received the Service, that is proportionate to the duration of service provided relative to the plan or subscription period for which you have paid.] [Note that both alternative options in this clause assume that you wish to be entitled to reduce the value of reimbursement by reference to the period of initial service prior to cancellation. An alternative approach would simply be to give all customers a 15 or 30 day money back guarantee if they wish to cancel for whatever reason. If this approach were adopted, alternative drafting would be required. It would still be important for UK service providers to comply with relevant requirements of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 and for service providers in other European member states to comply with equivalent rules / regulations / laws in their member states.]

## Customer content

It's important, for both you as a Customer and us as your service provider, that you only use content on your Site that you're allowed to use, that you respect other people's rights, that you comply with applicable laws and that we're protected where you don't do these things. You retain ownership of your content but you allow us to use it to provide our Service.

18. Clauses 19-25 apply to Customers. They deal with content that Customers upload or otherwise add, or allow to be uploaded or added, to any area of our Service.
19. You promise to us, now and in the future, that you do and will have all the rights you need to upload or otherwise add content to:
  - (a) your Site; or
  - (b) any other Site, blog or posting area on our Service to which you add content.We call this content **Customer Content**. Customer Content might include text, photographs, illustrations, design elements, code, audio files or video files.
20. You also promise that you will not, in connection with the use of your Site or any other area or feature of our Service:

- (a) breach any laws or legally binding codes (including privacy, data protection and anti-spam laws);
  - (b) infringe any person's Intellectual Property Rights or other legal rights (such as privacy or personality rights where they exist); or
  - (c) do anything else that gives someone a right of action against us or you or any third party, in each case in any jurisdiction and under any applicable law.
21. You are responsible for the consequences of your Site containing content that you allow other people to add to your Site. We do not review that content before it is published.
22. If we are so instructed by a licensor or supplier of any third party content (e.g., Customer Content that you don't own or content added by Site users that they don't own), we may give written notice to you to cease using that licensor's or supplier's content and you agree to comply with it. The notice may require you to delete the content.
23. If we believe or suspect that you have breached any of clauses 19-22 we may:
- (a) suspend, amend or delete the relevant Customer Content or other content; and/or
  - (b) suspend your access to our Service while we look into the matter.
24. If you have chosen to password protect your Site or portions of it, we will not openly publish any Customer Content or other content that you have password protected.
25. We do not claim ownership of Customer Content but, except as stated in this clause, you grant us a Use Licence. We appreciate that you may not be able to grant this Use Licence for stock media that you don't own but are licensed to use. Where that is the case, you will ensure that the licence you have to use that media permits reproduction on our Service. If it does not, you must not add that media (or, if it is already on the Service, you must remove it promptly).
26. We will not sell Customer Content to any third party [and we will not publish it on any other platform without your consent]. [*You may or may not wish to include the limiting phrase in square brackets*]

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## Content added by any member of the Public

If you're a member of the Public, you also need to be careful when adding content to any part of our Service. As with Customers, you retain ownership of your content but you allow us to use it to provide our Service.

27. Clauses 28-29 apply to any member of the Public that adds any content to this website or any Site, blog or other posting area on our Service (we call these **Posting Areas**).
28. You promise that you have all the rights you need to add content to any Posting Area and that you will not do anything that, under clause 20, we do not allow.
29. We do not claim ownership of your content but you grant us a non-exclusive, worldwide, royalty free, perpetual and irrevocable licence to store, copy, optimise, publish and otherwise use the content you upload or otherwise add to any Posting Area, for the purposes of providing or promoting our Service, fulfilling our obligations under these Terms and exercising our rights under these Terms.

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## Our Intellectual Property Rights

You're only allowed to use our Intellectual Property Rights if we permit you to do so.

30. Except for Customer Content and content added by members of the Public, we or our licensors are the owners of the Intellectual Property Rights in all materials on and comprising this Service.
31. You may not use our Intellectual Property Rights and materials unless:
- (a) you are authorised to do so under these Terms; or

- (b) in relation to particular materials, you are authorised to do so by statements that accompany those materials; or
- (c) we provide consent to you in writing.

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## Fees and account upgrades and downgrades

You need to pay our Fees when due. They are charged monthly in advance. We may revise our Fees. You can change plans when we allow you to do so. We don't issue refunds. We may charge interest on late payments.

- 32. You must pay all applicable Fees for our services (monthly or yearly in advance) [*amend payment periods as required*] and in the manner we specify which is by using [Paypal or credit card]. [*Amend payment mechanisms as applicable to your service*] Fees are subject to change on 30 days' notice, with revised Fees applying from the date of the end of your currently paid-up period. Such notice may be provided at any time by our posting the changes to our Service.
- 33. All Fees are exclusive of all taxes, levies or duties imposed by taxing authorities or law, and you shall be responsible for payment of all such taxes, levies or duties that may be payable in your jurisdiction.  
  
*[Depending on how you structure your fees, this clause may or may not be appropriate. For example, if you were to include all relevant taxes, such as sales tax, within your fees (which will often be the case), then it may be appropriate to delete this clause. For a service with target audiences in multiple countries or regions, this is a significant financial question on which it may be desirable to seek tax advice. Note also that, if you're a business based in the UK and you're supplying online services to consumers, the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 will apply. Under Schedule 2 of those Regulations, you need to provide consumers with "the total price of the ... services inclusive of taxes, or where the nature of the ... services is such that the price cannot reasonably be calculated in advance, the manner in which the price is to be calculated". Because these Regulations implement parts of the Consumer Rights Directive (2011/83/EU), similar provisions are likely to be found in the laws of other EU member states.]*
- 34. If you are registering for a new paid plan or are upgrading from a free plan to a paid plan, you will need to pay the applicable Fees before obtaining the features of the paid plan you select. If you upgrade from one paid plan to another paid plan, you agree that we may charge your credit card for the increased amount from the time you upgrade. [*Consider whether this clause matches the plans and payment methods you will have in place*]
- 35. Our Fees are charged in advance on a [monthly, quarterly or annual basis] [*amend the payment options to reflect the plans you're offering*]. There will be no refunds or credits for partial periods of service, no upgrade/downgrade refunds and no refunds for periods during which you elect not to use our Service. Your subscription to our Service will renew automatically for the same period you have selected unless you cancel your account [at least 3 days] [*you may or may not wish to include the 3 day statement*] before the end of the then current period. [If you change your billing cycle (e.g., from a monthly plan to an annual plan), the change will take effect at the end of your then currently paid up period.] [*This sentence won't be relevant if you only offer one payment cycle*]
- 36. [You acknowledge that downgrading your account may cause a loss of data, features or the capacity of your account. We do not accept any liability for such loss. We suggest that, before downgrading, you review the features and any capacity limits of the account type to which you propose to downgrade and, where relevant, delete and/or backup data as you may require.] [*This clause might be relevant to scenarios where you are offering multiple different account types / plans. If not relevant, it can be deleted.*]
- 37. If you don't pay Fees owing to us when due, we may require you and you agree, to pay on demand, default interest on any amount you owe us at 10% per annum calculated on a daily basis, from the date when payment was due until the date you make payment. We also reserve the right to suspend or terminate your account if you fail to pay or are late in the payment of applicable Fees and/or interest. You acknowledge and accept that this may result in a loss of data.

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## Indemnity

You need to protect us from costs and claims we incur from your breach of these Terms or from content you allow others to post.

38. You will indemnify us and our directors, officers, employees and agents, and keep us and them indemnified, against all liabilities, damages, losses, costs and expenses (including legal expenses) that we suffer or incur as a result of any breach by you of any of these Terms or as a result of publication on our Service of content that you allow other people to add to your Site.

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## Cancellation and termination

You're responsible for cancelling your account. When you cancel, your content becomes inaccessible and we may delete it. We may suspend or terminate your account for certain reasons.

39. If you're a Customer, you are responsible for properly cancelling your account. You can cancel your account at any time by contacting Support at *[insert email address]* or by using any other account termination method described on this website from time to time. Your account will not be cancelled until you receive an acknowledgement of receipt from us (we seek to process cancellation requests as soon as possible). *[Depending on how you propose to manage account cancellation, you may need to modify this clause]*
40. When your account is cancelled, you will not have further access to your Customer Content and we may delete it. Once deleted, your Customer Content cannot be recovered. It is, therefore, your responsibility to export any Customer Content or other content within your account and Site(s) that you wish to retain before cancelling your account. If you need assistance with this, please contact Support at *[insert email address]* [or read our support documentation at *[insert URL]*]. *[Check which parts of this clause are relevant to your service offering]*
41. If you cancel your account before the end of your current paid up period, your cancellation will take effect *[at the end of the relevant period and you will not be charged again]* [or] *[immediately and you will not be charged again. [Select one of the two options that suits your processes and delete the other]*
42. We may suspend your access to our Service or your Site, or terminate your account, in each case with or without notice, if you breach any of these terms or if we need to do so for security reasons.
43. We also reserve the right to suspend or terminate our Service, or any part of it, as well as the right to refuse service to anyone, for any reason at any time.
44. You will not be entitled to any refund of Fees already paid upon suspension or termination of your account.

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## Agreement to privacy policy

You agree to our privacy policy.

45. Our treatment of your personal information is described in our privacy policy *[link "privacy policy" to the page containing the policy]*. In agreeing to these Terms or using our Service, you will be taken to have read and agreed to the terms of that privacy policy.

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## Disclaimer and exclusion of warranties and liability

This means we don't promise the Service will always work flawlessly. We won't be liable for the consequences of a range of actions concerning our Service or content or other material on it.

46. You acknowledge that our Service is provided on an "as is" and "as available" basis. To the maximum extent permitted by law, all warranties and representations in relation to our Service, whether express or implied, are excluded. Without limiting that statement, you acknowledge that we do not warrant or represent that our Service will operate without interruption or will be error-free.
47. To the maximum extent permitted by law, we disclaim and exclude, and you understand and agree that we will not be liable for, any direct, indirect, incidental, special, consequential, exemplary, punitive or other damages, losses, expenses or costs of any kind and on any legal basis (including negligence), including but not limited to any and all damages for loss of profits, goodwill, use, data or other intangible losses (even if we have been advised of the possibility of such damages), resulting from: (a) your use of our Service or any Customer Content (whether your own or others') or any other content on or linked to from our Service or your inability to use our Service; (b) unauthorised access to or alteration of your Customer Content or any other content; (c) the inclusion of any virus or malware in any Customer Content or other content or materials posted to our Service or any part of it; (d) the statements or conduct of any third party on our Service; (e) loss of data or information; or (f) any other matter relating to our Service or its use.

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## [Promotion and affiliate links

*[Some or all of this section may not be relevant to your service. Amend or delete as required]*

We may promote our Service and earn money from advertising and affiliates.

48. You agree that we may:
  - (a) include a credit or attribution statement in the footer of your Site with a link back to this website (if we do, you are not allowed to remove it without our consent);
  - (b) display advertisements on your Site unless your paid plan states there will be no advertisements; and
  - (c) use affiliate links in or for your Site in accordance with our Affiliate Linking Policy (as updated from time to time). *[If you do propose to use affiliate links, it would be desirable to have an Affiliates Policy that provides transparency as to what you're doing and how you do it. This clause expects one and it would, therefore, need to be drafted.]*

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## General terms

These are a bunch of general legal terms that lawyers reckon we need to include. They protect our position and set out the law that governs these Terms and the place in which disputes will be heard (not that we think we'll have any).

49. You promise and represent to us that you have the legal right and authority to enter into these Terms and perform your obligations under them.
50. You must not:
  - (a) modify, adapt or hack our Service or attempt to do any of these things;
  - (b) frame, embed or otherwise re-publish or re-distribute our Service (or any part of it) in another website or application, or by any other means, unless authorised by us in writing; or

- (c) use our branding assets (such as but not limited to our logo) except as expressly authorised by us, either in writing to you or through, for example, a published trade mark or similar usage policy.
51. You promise:
- (a) not to upload or transmit to or from our Service any content that is obscene, pornographic, defamatory, threatening, invasive of privacy or that is otherwise, in our opinion, injurious or objectionable, including any worms or viruses or any code of a destructive nature; and
  - (b) to comply with any usage policies or other guidelines posted to our Service from time to time.
52. We do not review Customer Content and other content added to our Service. Your publication or use of it is at your own risk.
53. Abuse of any kind of any of our customers or staff may, at our discretion, result in immediate account termination, without refund of any Fees already paid.
54. We do not allow you to sub-license, assign or resell any of your rights or permissions to use our Service. We may assign or transfer our rights under these Terms or novate our agreement under them with you to another party.
55. Our failure to exercise or enforce any right or provision of these Terms shall not constitute a waiver of such right or provision.
56. Unless otherwise expressly agreed in writing, these Terms constitute the entire agreement between you and us.
57. If any provision of these Terms or its application to any person or circumstances is held to be illegal or unenforceable:
- (a) that provision will continue to apply, to the maximum extent permitted by law, to other persons or circumstances not affected by the illegality or unenforceability;
  - (b) the illegal or unenforceable provision will be deemed to be amended to reflect the original intention as nearly as possible in accordance with applicable law in respect of those persons or circumstances giving rise to the illegality or unenforceability; and
  - (c) the remainder of these terms of use shall continue in full force and effect.
58. These Terms and your use of our Service are governed by *[insert the country or state whose laws you wish to apply to and govern the use of your service; this will usually be the law of the country or (in Federal systems) state of your place of business]* law. Without limiting our ability to secure interim relief in any jurisdiction, you agree to submit to the exclusive jurisdiction of *[insert the same country or state as above; if you're in a large state, you may wish to designate the courts of your own city]* courts in relation to any dispute concerning these Terms, their formation or your use of our Service. *[Sometimes businesses prefer disputes to be subject to mandatory mediation and/or final arbitration. If this is your business' preference, you will need to include a clause that is customised to your country and preferred process]*

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## Enquiries or complaints

It's important to us that you let us know if you have any concerns or need support. We're here to help.

59. If you have any enquiries or complaints, please contact Support at *[insert email address]* [or call us on *[insert phone number]* during *[insert your country or state]* business hours]. *[You may or may not wish to include telephone-based support. Amend this clause as required.]*

**Changelog** *[make this a link to a page that contains the dates and summaries of changes to these Terms over time, or set out summaries of such changes below this heading (I suggest in a different typeface, such as Courier, to distinguish the change log content from the terms themselves)]*