



Fusion Media Software Solutions Ltd

General Terms & Conditions as of 1st January 2016

These General Terms & Conditions and the Service Specific Terms & Conditions, the Acceptable Use Policy and any information relating to the Service/Package purchased from FmssLtd forms the Agreement between Us.

By signing up for the Services You warrant that You are at least 18 years old, and legally capable of entering into a binding contract; or acting with the express permission and using the payment details of a person or organization who in turn is agreeing to be bound by the terms of this contract.

You acknowledge and accept that Your use of the Services must be in accordance with the Acceptable Use Policy which can be viewed at <http://www.fmssltd.co.uk/terms/acceptable-use-policy>

By nature of transfer/registering a domain name to set up a web hosting FmssLtd account, you hereby accept these Terms & Conditions.

1. Definitions

1. "Agreement" means any agreement to which these terms & conditions are incorporated.
2. "FmssLtd" means Fusion Media Software Solutions Ltd and any associated group companies with registered office at 10 Oliver Close, company number .
3. "Package" means a collection of Services.
4. "Pay As You Go" means FmssLtd no minimum term commitment monthly payment option.
5. "Prices" means the Prices for the Services set out in order form or as otherwise notified to You.
6. "Services" means the Services to be provided by FmssLtd.
7. "You/Your" means the person or company who purchases Services from FmssLtd.

2. Duration and Renewal of Services

1. Services for which payment is required on a monthly rolling contract, easy in easy out terms.
2. When Entering into a contract as a consumer (not in the course of conducting business) the Consumer Protection (Distance Selling) Regulations 2000 allow you to cancel the Contract at any time within seven working days, beginning on the day after you receive written/verbal confirmation of our acceptance of your order. However, by placing your order for the Services, you agree to us commencing supply of those Services before the seven working days cooling off period has expired. As a result, you will not have the right to cancel the Contract under the Consumer Protection (Distance Selling) Regulations 2000.

3. Cancellations

1. When entering into a contract as a consumer (not in the course of conducting business) the Consumer Contracts (Information, Cancellation and Additional Charges) Regulation 2013 ("the regulations) allow you to cancel the Contract at any time within 14 days, beginning on the day after you receive written confirmation of our acceptance of your order. However, by placing your order for the Services, you agree to us commencing supply of those Services before the 14 days cooling off period has expired. As a result, you will not have the right to cancel the Contract under the Consumer Contracts (Information, Cancellation and Additional Charges) Regulation 2013.
2. For the avoidance of doubt, any use of the Services and/or any Package in the course of conducting business shall give rise to you being a non-consumer and the

provisions of this Agreement affecting the statutory consumer protection you would otherwise be afforded as a consumer shall not apply.

3. Unless specifically stated to the contrary in the details of the Service and/or Package You purchase, or agreed by FmssLtd in writing prior to purchase, Services are not available on a trial basis. It is Your responsibility to ensure that the Services you purchase are suitable for your technical requirements.

4. You are entitled to cancel the services by contacting FmssLtd' giving no more than 30 days notice prior to the expiry of your rolling contract term. Once FmssLtd accept your cancellation request you will be provided with written confirmation of cancellation requests will not be deemed to have been received and accepted until we have issued our written confirmation to you.

5. FmssLtd reserves the right to cancel and/or suspend Your Service at any time without notice if You breach these General Terms & Conditions, Acceptable Use Policy, Domain Name Terms, Domain Name after use Policy.

4. Refunds

1. Charges due are on a pre-pay basis (together with account set-up fees, where applicable), non-refundable.

2. In the event that FmssLtd cancels Your Service for reasons other than Your breach of contract, You will be entitled to a pro rata refund based upon the remaining period of Your current contract term.

3. If You contravene Your Agreement with FmssLtd, a refund will not be issued in the event of a cancellation.

4. Domain credits are non-refundable as they enable the purchase of domain names at discounted Prices, based on an up-front commitment.

5. Credit notes can only be used for payment (or partial payment) of Your Service, and are non-refundable.

5. Payment

1. All Services and Packages must be paid for one month in advance in accordance with the specific provisions of that Service or Package.

2. Payment will be due on the basis of the Service and/or Package You have selected on a day that is suitable to you

3. You will be invoiced automatically for the next pre-paid period on the basis of your current payment plan at the expiry of the current pre-paid period unless You have cancelled the Services in accordance with clause 3.1. Payment of the Price will be taken via the payment method specified by you and will be non-refundable. In cases of failed payment, the invoice will become due and payable to FmssLtd in its entirety.

4. FmssLtd reserves the right to change the Prices and/or nature of its Services by giving You written notice of those changes. Notice of changes to Prices and/or Services will be given by e-mail to the e-mail address held in Your FmssLtd Account. If You have already purchased a particular Service then the change in the Price or nature of that Service will only become effective when the Service reaches the end of its current term. You will be charged the new Price when the Service is automatically renewed at the end of the current term.

5. All payments must be made in UK pounds sterling, inclusive of applicable taxes.

6. You warrant that You are authorised to make payment on the account you disclose to FmssLtd. In the event that You are not the named card holder, You acknowledge that You and the party who is the named card holder both accept FmssLtd' Terms & Conditions and are jointly and severally liable for the payment of all Prices for which payment will be taken from the payment card. You will indemnify and hold FmssLtd harmless in the event that the cardholder or issuer declines any transaction for payments to FmssLtd, including all of FmssLtd costs in administering Your non-payment and obtaining payment of those Prices due.

7. FmssLtd reserves the right to suspend all Services until payment is received in full and all outstanding debt is cleared. Any non-payment of a recurring invoice may be subject to a £20 administration charge. You are responsible for all money owed on the account from the time it was established until FmssLtd accepts Your cancellation request. You are responsible for any additional costs incurred by FmssLtd in the collection of outstanding debt.

8. Payments processed by PayPal are subject to PayPal's terms and conditions of Service, and FmssLtd makes no representations or warranties with respect to those Services.

9. No bills or invoices will be sent by regular mail. All invoices will be sent directly to You via email shortly after the purchase or automated renewal transaction is completed.

10. If You fail to pay all Prices due, FmssLtd reserves the right to interrupt, suspend or cancel the Services to You. Such interruption, suspension or cancellation does not relieve You from paying all contractually obligated invoices to FmssLtd.

11. Please refer to FmssLtd Service Specific Terms & Conditions including, but not limited to, the Domain Name terms of Service for Domain Name for specific payment policies.

12. Any unused Credit notes on Your Account will be taken in payment of Your Service. Where the value of the unused Credit note is less than the total payment due, the remainder of the balance will be taken from the current payment method on Your account.

13. Any costs presented to FmssLtd that have been generated by your website will be passed on for payment to you within 14 days, and a revise of your hosting plan costs should be entered into by both parties.

6. Chargebacks

1. If You withdraw any payments made via a bank, credit card or PayPal account (a "chargeback") FmssLtd will either defend such chargebacks directly with the card issuer, or take appropriate steps to recover the original monies from You in addition to an administration fee of £20+VAT for each inappropriate chargeback raised.

2. If a chargeback is made, FmssLtd reserves the right to immediately interrupt, suspend or cancel all services within your Account. Such interruption, suspension or cancellation does not relieve You from paying all contractually obligated invoices to FmssLtd.

7. Appropriate Service use

1. FmssLtd reserves the right to refuse Service and/or access to its servers and/or Services to anyone.

2. FmssLtd does not allow any content which breaches our Acceptable Use Policy to be stored on its hosters servers. FmssLtd reserves the right to remove content from the Services or suspend the Services immediately where it reasonably suspects such content breaches the Acceptable Use Policy.

3. FmssLtd shall notify You if it becomes aware of any allegation that You breach the Acceptable Use Policy.

4. Refusal of Service based on the content being contrary to our Acceptable Use Policy is entirely at the discretion of FmssLtd.

5. FmssLtd reserves the right to move Your data to a different server with no prior notice.

6. You shall indemnify FmssLtd against all damages, losses and expenses arising as a result of any action or claim that the data, content and/or any other material breaches the Acceptable Use Policy.

7. In the event that FmssLtd removes data or content from the Services and/or suspends Your site pursuant to clause 7.2, and later reinstates such content and/or resumes the Services, You shall indemnify FmssLtd against all damages, losses and expenses arising as a result of any action or claim that such content and/or data and/or the Services Your site breaches the Acceptable Use Policy.

8. Scheduled maintenance

1. To guarantee optimal performance on the servers, it is necessary for FmssLtd to perform routine maintenance. Such maintenance often requires taking FmssLtd Services off-line, typically performed during off-peak hours. FmssLtd will give You advance notice of maintenance requiring the Services to be taken off-line whenever possible by publishing notice on the FmssLtd website.

9. Support

1. We will endeavour to provide a continuous high quality service. If You experience problems with Your Service, You should consult FmssLtd support website

and search for a resolution to Your problem in FmssLtd Knowledge Base. You will also find FmssLtd business hours support contact details on FmssLtd support website at www.fmssltd.co.uk

2. Please note we may require suspension of some of FmssLtd Services for short scheduled periods to carry out maintenance or repair to FmssLtd Services. Information concerning scheduled downtime is available on the FmssLtd support website, as are details of any interruptions to FmssLtd Services.

10. Reselling of Services

1. No reseller of services allowed, but FmssLtd will offer you a commission payment if you refer someone to us.

2. FmssLtd accept no liability to you or any third parties for losses arising from the Reselling of services as detailed in 10.1.

3. FmssLtd reserve the right to suspend access to the automated management facilities of the Reseller account including the API (Application Programming Interface) if a customer's use is deemed to be affecting the platform for which FmssLtd delivers the Services.

11. Database Usage

1. If You exceed the limits on FmssLtd database products (MS SQL and MySQL) then we will automatically charge You for the additional space You use at FmssLtd current Prices. For example if You have a 150MB database and 200MB is in use at any point during a month then we will charge for the extra 50MB in that month.

12. Data

1. All data created or stored by You within FmssLtd' applications and servers are Your property. FmssLtd shall allow access to such data by only authorised FmssLtd personnel. FmssLtd makes no claim of ownership of any web server content, email content, or any other type of data contained within the accountholder's server space or within applications on FmssLtd' servers.

2. FmssLtd maintains backups of its servers and infrastructure pursuant to its own archiving and business continuity procedures. In the event of loss of or damage to your data relating to actions made by You or on Your behalf you will not be given access to any data stored as part of these procedures.

3. In the event of loss of or damage to your data relating to a failure in FmssLtd systems or servers, FmssLtd will make reasonable commercial efforts to assist you in the restoration of your data, however You accept full responsibility for maintaining adequate backup copies of all your data.

4. You shall indemnify FmssLtd against all damages, losses and expenses arising as a result of any action or claim that the content or data of Your site or content or data accessed from or published as part of the Services infringes the intellectual property rights of a third party.

13. Uploads via scripting languages

1. We limit uploads made via scripting languages - including PHP, ASP and ASP.NET. Uploads made using PHP are limited to 20MB per file.

14. Passwords

1. It is the account owner's responsibility to keep his/her password(s) confidential, and to change the password on a regular basis. FmssLtd is not responsible for any data losses or security issues due to stolen passwords or any passwords that You have intentionally or accidentally disclosed to any third party. FmssLtd recommends that You use passwords that contain numbers and symbols in order to prevent unauthorized users from guessing commonly-used choices (i.e. "12345", "password", etc.). Visit <http://www.fmssltd.co.uk/hints-tips-articles-using-your-it-equipment/change-password-seven-tips-to-creating-a-secure-password> for hints & tips on creating a secure password.

2. You accept full responsibility for any purchases or modifications made within your control panel by You or by third parties using your account password.

15. Your personal details

1. You warrant that the contact information that you provide to us on establishment of your account is correct, and that You accept responsibility for keeping this information up to date at all times. You agree that we may suspend access to your account and the Services if we reasonably believe that the information you have supplied is inaccurate.

2. Please note that whilst Your email is primarily used for billing purposes, FmssLtd reserves the right to email You information about its product offerings. You can unsubscribe from marketing communications within Your FmssLtd control panel.

3. FmssLtd will not provide any of Your personal information to other companies or individuals without Your permission unless required to do so by law. However, FmssLtd may need to provide Your name and delivery address to third parties that FmssLtd may use for the purposes of delivering specific Services to You (e.g. customer support). For more information about how FmssLtd will collect and use Your personal information please read FmssLtd' privacy policy.

16. FmssLtd Disclaimers and Warranties

1. FmssLtd does not back up your data/website and whilst every attempt would be made in the unlikely event of any corruption or hardware failure, FmssLtd cannot guarantee to be able to replace lost data. This includes loss of data resulting from delays, non-deliveries, wrong delivery, and any and all Service interruptions caused by FmssLtd.

2. FmssLtd makes no warranties or representations that any Service will be uninterrupted or error-free. You accept all Services provided hereunder "as is" without warranty of any kind.

3. So far as permitted by law and particularly in respect of non-consumers, all implied conditions, warranties and terms (whether express or implied by statute, common law, custom or otherwise) including, but not limited to, those relating to the exercise of reasonable care and skill, fitness for purpose and satisfactory quality (where applicable) are hereby excluded in relation to each of the Services to be provided hereunder to the fullest extent permitted by law.

4. For the avoidance of doubt, any use of the Services and/or any Package in the course of conducting business shall give rise to you being a non-consumer and the provisions of this Agreement affecting the statutory consumer protection you would otherwise be afforded as a consumer shall not apply.

17. Liability

1. FmssLtd shall not be liable for any loss or damage of whatsoever nature suffered by You arising out of or in connection with any breach of this Agreement by You or any act, misrepresentation, error or omission made by You or on Your behalf.

2. FmssLtd will not be liable for any indirect loss, consequential loss, loss of profit, revenue, data or goodwill howsoever arising suffered by You or for any wasted management time or failure to make anticipated savings or liability You incur to any third party arising in any way in connection with this Agreement or otherwise whether or not such loss has been discussed by the parties pre-contract or for any account for profit, costs or expenses arising from such damage or loss.

3. No matter how many claims are made and whatever the basis of such claims, FmssLtd' maximum aggregate liability to You under or in connection with this Agreement in respect of any direct loss (or any other loss to the extent that such loss is not excluded by other provisions in this Agreement) whether such claim arises in contract or in tort shall not exceed a sum equal to the fees paid by You for the Services in relation to which Your claim arises during the 12 month period prior to such claim.

4. None of the clauses herein shall apply so as to restrict liability for death or personal injury resulting from the negligence of FmssLtd, its employees or its sub-contractors.

5. FmssLtd shall not be liable for any interruptions to the Services or outages arising directly or indirectly from:-

- a. interruptions to the flow of data to or from the internet;
- b. changes, updates or repairs to the network or software which it uses as a platform to provide the Services;
- c. the effects of the failure or interruption of Services provided by third parties;
- d. factors outside of FmssLtd' reasonable control;

- e. Your actions or omissions (including, without limitation, breach of Your obligations set out in the Agreement) or those of any third parties;
- f. problems with Your equipment and/or third party equipment;
- g. interruptions to the Services requested by You.

18. Force Majeure

1. FmssLtd shall not be responsible for any failure to provide any Services or perform any obligation under the Agreement because of any act of God, strike, lock-outs or other industrial disputes (whether involving the workforce of FmssLtd (or any other party) or compliance with any law of governmental or any other order, rule, regulation or direction, accident, fire, flood, storm or default of suppliers, work stoppage, war, riot or civil commotion, equipment or facilities shortages which are being experienced by providers of telecommunication Services generally, or other similar force beyond its reasonable control.

19. Non-Waiver

1. The failure of FmssLtd to require Your performance of any provision shall not affect the full right to require such performance at any time thereafter; nor shall the waiver by FmssLtd of a breach of any provision hereof be taken or held to be a waiver of the provision itself.

20. Survival

1. The provisions, terms, conditions representations, warranties, covenants, and obligations contained in or imposed by this Agreement which by their performance after the termination of this Agreement, shall be and remain enforceable notwithstanding termination of the Agreement for any reason. However, neither party shall be liable to other for damages of any sort resulting solely from terminating this Agreement in accordance with its terms but each party shall be liable for any damage from any breach by it of this Agreement.

21. Notice

1. You agree that any notice or communications required or permitted to be delivered under this Agreement by FmssLtd to You shall be deemed to have been given if delivered by e-mail, in accordance with the contact information You have provided.

22. Governing Law

1. Except as otherwise set forth in the Domain Dispute Policy, Your rights and obligations and all contemplated by this Agreement shall be governed by English law and You submit to the exclusive jurisdiction of the English Courts. You must abide by EU law regarding websites.

23. Legal Fees

1. If any legal action or proceeding, including arbitration, relating to the performance or the enforcement of any provision of this Agreement is brought by any party to this Agreement, the prevailing party shall be entitled to recover reasonable legal fees, expert witness fees, costs and disbursements, in addition to any other relief to which the prevailing party may be entitled.

24. Assignment

1. You shall not assign, sub-license or transfer Your rights or obligations under this Agreement to any third party without the prior written consent of FmssLtd. However, in the event that FmssLtd consents to such an assignment, sub-license or transfer, then this Agreement shall ensure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.

25. Entire Agreement

1. This Agreement constitutes the entire Agreement between the parties and agreements are representations or warranties, express or implied, statutory or otherwise and no agreements collateral here to than as expressly set or referred to herein. This Agreement supersedes any prior agreements, representations, statements, negotiations, understandings, proposals or undertakings, oral or written, with respect to the subject matter expressly set forth herein.

26. Amendment in Writing

1. We may update or amend these General Terms and Conditions, the Service Specific Terms & Conditions including any technical specification relating to the Services and/or Package, the Acceptable Use Policy, Privacy Policy and any

information relating to the Services/Package from time to time to comply with law or to meet our changing business requirements. We will give You prior notice of any changes to the Agreement and You can choose to cancel the Services without penalty before the new terms affect you. Display of the modified terms and conditions shall be deemed to be notice to you. You also agree to review the terms and conditions regularly to ensure you are aware of any modifications.

27. Further Assurances

1. The parties shall execute such further and other documents and instruments and take such further and other actions as may be necessary to carry out and give full effect to the transactions contemplated by this Agreement.

28. Relationship of the Parties

1. Nothing in this Agreement shall be construed as creating an agency relationship, partnership or joint venture between the parties.

29. No Third Party Beneficiaries

1. This Agreement does not provide and shall not be constructed to provide any third parties, with any remedy, claim, cause of action or privilege.

30. Severability

1. In the event that any provision of this Agreement shall be unenforceable or invalid under any applicable law or be so held by applicable court decision, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole. FmssLtd will amend or replace such provision with one that is valid and enforceable and which achieves, to the extent possible, the original objectives and intent of FmssLtd as reflected in the original provision.

Please note: by signing up for any of our services you agree to be bound by all FmssLtd terms and conditions.