

ZA-TCdwn05

Website terms and conditions template: downloaded products; includes full product licence agreement

Terms and Conditions

These are the terms and conditions subject to which we allow you to use Our Website. By visiting or using Our Website, or signing up for our services, you agree to be

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If you violate these terms we may terminate your use of Our Website, bar you from future use of Our Website, cancel , /

We are [trade name], a company registered in [], [].

Our address is [address]

VAT Registration Number: [number]

You are: Anyone who uses Our Website

Please read this agreement and "Product Licence Terms" carefully and save it. If you do not agree with it, you

It is now agreed as follows:

1. Definitions

In this agreement, the following words shall have the following meanings,
:

"Content" means the textual, visual or aural content that is encountered as part of your experience on Our Website. It may include, among other things: text,

"Intellectual Property" means intellectual property owned by us or by any third party, of every sort, whether or not registered or registrable in any country, including intellectual property of all kinds coming into existence after today; and including, among others, patents, trade marks, unregistered marks, designs, copyrights, domain , , ,

"Our Website"	means the entire computing hardware and software installation that is or supports our website including any communication or peripheral system. It includes
"Post"	means place on or into Our Website any Content or material
"Licence"	means a licence granted by us to you in the terms of this
"Licensed Product"	means any product, material or thing offered for Licence by us on Our Website, whether or not bought by you. A reference to "Product" shall be a reference
"Service"	means any service we sell from time to time, whether or

2. Interpretation

In this agreement the following meanings apply unless :

- 2.1. a reference to a person includes a human individual, a corporate entity and any organisation
- 2.2. a reference to a person includes reference to that person's successors, legal representatives, permitted assigns and any person to whom rights and obligations are transferred or pass as a
- 2.3. the headings to the paragraphs and schedules (if any) to this agreement are inserted

- 2.4. any agreement by either party not to do or omit to do something includes an obligation not to allow some ;
- 2.5. a reference to an act or regulation includes new law of substantially the same .
- 2.6. these terms and conditions apply to all supplies of Licensed Products by us. .
- 2.7. this agreement is made only in the English language. If there is any conflict in meaning between the English language version of this agreement and any version or ,
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3. Basis of Contract

- 3.1. If you use Our Website in any way on behalf of another person you warrant that you have full authority to do so .
- 3.2. When you buy a Licensed Product, you are in fact buying a licence to use that Licensed Product. The terms of use vary from one Licensed Product to another and are contained in our “Product Licence Terms”.
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- 3.3. In entering into this contract you have not relied on any representation or .
- 3.4. [Unfortunately, we cannot guarantee that every Product advertised on Our Website is available. If at any time a Product ,
.]
- 3.5. There is no contract between us for any free service, so you do not become a client by using any free service and we are not .
- 3.6. The price of any Licensed Product or Service may be changed by us at any time. We will never change a price so as to affect the .

- 3.7. You agree that you are bound by these terms (or the latest version of them) for all future contracts with , .
- 3.8. You now agree that you commit a breach of this contract if you seek repayment of money paid to us by asking your credit card provider to credit back a payment made to us, without attempting to seek repayment from us first. In that event, you agree that you will owe us first the sum charged to us by our []
- 3.9. The Contract between us comes into existence :
- 3.9.1 when we write to you to confirm that your ;
- 3.9.2 when you download the Licensed Product .
- 3.10. We may change this agreement and / or the way we provide a Product, . :
- 3.10.1 the change will take effect when we Post it on Our Website. You are advised .
- 3.10.2 if you make any payment for Licensed Products or Services in the future, you will do so .

4. The price

- 4.1. The prices payable for the Licensed Product and Services are .
- 4.2. The price charged for any Licensed Product or Service may differ from one country to another. You may not be entitled .
- 4.3. Prices are inclusive of any applicable value added .
- 4.4. Charges for Services are fixed whenever it is reasonably possible .

- 4.5. When we do not provide fixed charges for the Service, we will charge by the hour. In that case all work done, including all letters, e-mails, faxes and telephone calls

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].

- 4.6. Estimates of charges will be provided

- 4.7. You can find our hourly charging rate, time travel rate and motor mileage rate on Our Website. Other

- 4.8. Our Services require payment in advance

Note: you can keep our charges low by providing

5. Security of your **[credit card]**

We take care to make Our Website safe

- 5.1. Card payments are not processed through pages controlled by us. We use one or more online payment service providers who will

- 5.2. If you have asked us to remember your credit card details in readiness for your next purchase or subscription, we will securely store your payment details on our systems. These details will be

6. Consumer protection: cancellation and refunds

This paragraph applies if and only if, you are a consumer as defined in the Electronic Communications and Transactions Act 2002 ("the Act"). **Please**

- 6.1. For all purposes at law, the contract between us is not made until you have agreed these terms, whether via Our Website or in hard ,

- 6.2. Whether or not you have paid any money to us at that time is neither relevant to the
- 6.3. The contract is not made automatically at the point when you have agreed to these contract terms. That is merely your offer. The contract is
- 6.4. Most customers want us to supply a Service before the expiry of the 7 day cancellation period. Our business system therefore operates on the basis that we supply a Service
- 6.5. Before we agree to supply a Service, we therefore ask that you give up your right to cancel. If you do not agree, we shall
- 6.6. So far as our Service is continuing, you may cancel it at any time before we have completely provided it. If you do, we will return to you any money paid after deduction of an appropriate amount to
- 6.7. The Act does not remove other statutory

Please note that following sub-paragraphs apply only to a Licensed Product you download

- 6.8. Most of our Products are “delivered” either by allowing you to download them or by our sending as email attachments. As a result
- 6.9. To comply with the Act, we require you to instruct us to deliver a Licensed Product to you immediately. If you do
- 6.10. By accepting [\[Ourname\]](#) terms and conditions, you now do instruct us to deliver a Licensed Product as soon as we are reasonably able

6.11. You have no right to a refund of money paid for a Licensed Product once that Product has

7. Content you Post to Our Website

You agree that you will not use or allow anyone else to use Our Website

- 7.1. be information which could promote or
- 7.2. consist in commercial audio, video
- 7.3. be illegal, obscene, offensive,
- 7.4. be sexually explicit or pornographic;
- 7.5. be likely to deceive any person or be used to impersonate any person, or to misrepresent
- 7.6. solicit passwords or personal information from anyone;
- 7.7. be used to sell
- 7.8. include anything other than words (i.e.
- 7.9. be incomplete or
- 7.10. link to any

8. Your Posting: restricted content

In connection with the restrictions set out

In addition to

- 8.1. hyperlinks,
- 8.2. keywords or words ,
- 8.3. the name,
- 8.4. inaccurate, false, or misleading information.

9. How we handle your Content

- 9.1. Our privacy policy is .
- 9.2. If you Post Content to any public area of Our .
- 9.3. Even if access to your text is behind a user registration it , .
- 9.4. We need the freedom to be able to publicise our services and your own use of them. You therefore now irrevocably grant , , , , , .
- 9.5. We will use that licence only for commercial .
- 9.6. You agree to waive of your right to be 1978 .
- 9.7. [You now irrevocably authorise us to publish , ,].
- 9.8. Posting content of any sort does not change your .

9.9. You understand that you are personally responsible for your breach of

9.10. You accept all risk and

9.11. Please notify us

9.12. [\[We do not solicit ideas or text for improvement of our Service, but if](#)

[/]].

10. Removal of offensive Content

10.1. For the avoidance of doubt,

10.2. We are under no obligation to monitor or record the activity of any customer for

10.3. If you are

10.3.1 your claim or complaint must be submitted to us in the form

10.3.2 we shall remove

10.3.3 after we receive notice of

10.3.4 we may re-

10.4. In respect of any complaint made by you or any person on your behalf,

10.5. You now agree that if any complaint is made

11. Security of Our Website

If you violate

You now agree that

11.1. modify, copy, or cause damage

11.2. link to our site in any way that would cause the appearance

11.3. download any part

11.4. collect or use

11.5. collect or use any information obtained

11.6. aggregate, copy or duplicate in any manner any of the

11.7. share with a

11.8. Despite the above ,
:

11.8.1 create a hyperlink to Our Website for the purpose of promoting
an interest common to both of us. You can do this without
specific .

, , ,
.

.

11.8.2 you may copy the text of any

.

12. Interruption to [\[Our name\]](#) service

12.1. If it is necessary for us to interrupt our service,

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12.2. You acknowledge that [\[Our](#)]

.

12.3. You agree that we are not liable

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13. Intellectual Property

13.1. We will

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13.2. Except as provided in our Product Licence Terms, you may not copy,
modify, publish, , , ,

, , , , ,

.

13.3. You may not use our name or

.

13.4. You agree that at all times you will:

13.4.1 not to cause or permit

;

13.4.2 notify us

;

13.4.3 indemnify us for any

;

13.4.4 not use any name or mark

.

14. Disclaimers and limitation of liability

14.1. The law differs from one

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14.2. All implied conditions,

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14.3. Our Website includes Content Posted by third parties. We are not responsible

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“ ”

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14.4. You are advised that Content may include technical inaccuracies or typographical

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14.5. We sell Licensed Products and Services in

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:

14.5.1 useful to you;

14.5.2 of satisfactory quality;

14.5.3 fit for a particular purpose;

14.5.4 available or , , .

14.6. Our Website contains links to other Internet websites. We have neither power nor control over any such .

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14.7. We claim no expert knowledge in any subject.

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14.8. You agree that in any circumstances when we may become liable to

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OR

14.9. Our total liability under this agreement, however it arises, shall

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14.10. We shall not be

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14.10.1 indirect or consequential loss; or

14.10.2 economic loss or other loss of turnover, ,

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14.11. This paragraph (and any other paragraph which excludes or) , , ,

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14.12. If you become aware of any breach of any term of this

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15. You Indemnify Us

You agree to indemnify us _____ ,
_____ :

15.1. your failure _____ ;

15.2. your breach of this agreement;

15.3. any Content you Post to Our Website;

15.4. any data you send _____ ;

15.5. a breach _____ ;

15.6. your failure _____ ;

15.7. any use of _____ ;

15.8. any act, neglect or _____ , _____ ,
_____ ;

15.9. a contractual claim _____ ;

15.10. and for the purpose of this paragraph you agree that the

[]

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16. Miscellaneous matters

16.1. No amendment or variation to this agreement

_____,
_____ .

16.2. If any term or provision of this agreement is at any time held by any
jurisdiction to be void, invalid or unenforceable, then it shall be treated

,

_____ . _____ ,

16.3. If you are in ,
:

16.3.1 publish all text and Content relating to the claimed breach,
;

16.3.2 terminate your
;

16.3.3 issue a claim in any court.

16.4.

16.5.

16.6. [] ,
2000
2013 .

16.7.

It shall be deemed to have been delivered:

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;
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72 ;

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- : 24

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16.8.

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16.9.

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16.10.

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Product Licence Terms

[], [],
[].

Our address is [\[address\]](#)

VAT Registration Number: [\[number\]](#)

: .

These are the agreed terms

(“ & ”)
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1. Definitions

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:
“Copy or Publish”
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“Restrictions on Use”
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,
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,
.
“Third Party Owner”
.
“Licence”

"Licensed Product"

2. Interpretation

&

3. The Licence

3.1.

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3.2.

3.3.

3.4.

3.5.

3.6.

3.7.

3.8. [

, / .]

4. Limitations and permissions on Licences

4.1.

4.2.

4.3.

4.4.

4.5.

4.6.

“ ”

4.7. You may not use a Licensed Product:

4.7.1

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4.7.2 in a context which is pornographic;

4.7.3

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4.7.4 ,

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4.7.5 /

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;

4.7.6 ,

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5. Freedom to use

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:

5.1.

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5.2.

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6. Copyright and other Intellectual Property

6.1. You agree that at all times you will:

6.1.1

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6.1.2

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6.2.

6.3.

6.3.1 immediately stop using the Licensed Product;

6.3.2

6.3.3

6.4.

[14]

6.5.

7. Assignment

7.1.

7.2.

8. Third Party Owners and additional restrictions

8.1.

8.2.

8.3.

8.4.

8.5.

9. Miscellaneous matters

9.1.

9.2.

9.3.

- 9.4. This agreement shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is hereby expressly excluded.

Explanatory Notes

Website terms and conditions template: downloaded products; includes full product licence agreement

Paragraph Specific Notes:

Drafting notes following the numbered paragraphs

1. Definitions

We know nothing about your business, so we cannot provide you with defined terms which precisely describe what you sell. Most people do not read your terms (even if they have to “tick the box”). The people who do take the trouble to read them are likely to be the sort of people who expect the same attention to detail from you as they themselves give to their purchase of your goods or services. It therefore helps you to obtain their business if your terms

..... /
.....
..... :

We use

“Licensed Product”

“Our Website”

You decide to change to

“Sarah’s drawings” or “Soccer software”

“The Jones Site” / “ ”

But if you do change the defined word, **make sure it applies to every use**

Remember too, that when a word or phrase is defined, the defined meaning, capitalised, takes precedence over the

You should first decide on the contents of the document, then return to check what definitions are needed and whether they really

2. Interpretation

Leave these items in place unless there is a good reason to edit or remove. These items are not “lawyer’s blurb”. Every item has been carefully considered in the context of this agreement and has been included for

3. Basis of contract

Technically, you are both selling services and granting a licence for use of your website, network or other service and for

It is important to make clear when the contract comes into effect. Without specifying, your website will be regarded as an offer and payment by your client as

4. The price

We have no comment

5. Security of your credit card

This paragraph is more for information than contractual commitment. We have included it here because many users

For payment you may have various alternatives like

6. Consumer protection: cancellation and refunds

If you provided the charged services then keep this paragraph. Under section 42(1) (d) of the ECT Act the cooling-off period set out in section 44

44 (1).

7. Content you Post to Our Website

This and the following four paragraphs relate directly to aspects of the interface between you and your buyers. The more they are allowed to enter data, upload, download, leave messages, and so on, the

This paragraph has two purposes: the first is the obvious and named purpose of preventing damage to your website and establishing a contractual obligation by your site users not to do

No matter what you put in this paragraph, there is no certainty that you may not be the subject of some sort of attack or other problems. However, we do think

We suggest that you edit this paragraph in line with the perceived extent of your risk. Obviously a

8. Your Posting: restricted content

This paragraph continues in the vein of the previous one. As you

9. How we handle your Content

It is a question of balance and maybe how your buyers will

This particular paragraph covers a sensitive issue. You should edit to suit the way you operate your business. You need to provide a balance between making precise promises which could trip you up

10. Removal of offensive Content

This paragraph is targeted at anyone who is aggrieved at a posting. He may or may not be one of your customers or members. By stating and following this policy you will reduce

11. Security of Our Website

There is an intentional overlap here with the paragraph on restrictions on posting. Your need for this provision also depends on

12. Interruption to Service

We have no comment

13. Intellectual Property

Few business managers appreciate just how much IP is owned by the business. There is an enormous variety of IP rights,

14. Disclaimers and limitation of liability

The law is complicated and much depends on the facts of each case. Our best advice to you is to include these disclaimers

You will see that we have also included in the provision for directors and others to have the same protection. One around such a

15. You indemnify us

We

16. Miscellaneous matters

A number of special points. We have identified each of these as

Paragraph Specific Notes:

Product Licence Terms

Notes referable to specific paragraphs

17. Definitions

We have no further comment.

18. Interpretation

We have no further comment.

19. The Licence

It is not safe

Be careful not

20. Limitations and permissions on Licences

These points are matters for

The definition of “Limitations and permissions” refers also to your

21. Freedom to use

Without these items basic requirements of a

22. Copyright and other Intellectual Property

Although you cannot prevent some person from acting maliciously or unlawfully, this paragraph is drawn to give you the

23. Assignment

Give careful thought to this. Consider the circumstances on both sides

24. Third Party Owners and additional restrictions

If you license only your own products, delete this paragraph and the reference in the definitions paragraph 1 . , .

25. Miscellaneous matters

Some specific points .

End of notes