

Terms of Service Agreement

These Terms of Service set forth the conditions upon which Data Send UK provides its proprietary file transmission service. Your compliance with this Agreement is expressed by ticking the box "GDPR consent - I have read and agree to the terms of service", every time you use the service, at which point you agree to be bound by this Terms of Service Agreement. Data Send UK reserves the right to make revisions to the Terms of Service and by continuing to use the service you agree to be automatically bound by the revised Terms of Service.

Description of Services

The services provide the user with the ability to send a file (a "User File") to one or more recipients with a valid email address. The files are stored on a Data Send UK server and the recipient receives an email with a link allowing them to download the file from the server. Data Send UK without limitation may revise and change its service options which include, the maximum file size a user can store and send the maximum number of days that a file is stored on the server and the number of times a file can be downloaded.

Protection of Personal Data

The parties acknowledge that, for the purposes of this Agreement: -

- 1: Clients and their associated users – would generally be classed as "Controller"
- 2: Data Send UK – would be classed as "Processor" during the term of the file storage period only.

The parties acknowledge that the factual arrangement between them dictates the classification of each party as either a Controller or Processor under Applicable Data Protection Law. Notwithstanding the foregoing, the parties acknowledge that:

- where Personal Data is not accessible or likely to be accessible by Data Send UK, Data Send UK will not be a Processor.
- each party shall comply with its obligations set out in the Data Protection Specification. (Article 28, GDPR)

To the extent that Data Send UK's performance of its obligations under the Agreement involves the Processing of Personal Data on your behalf, while it is stored on its servers, you shall also ensure as the 'Controller' to meet your own GDPR obligation requirements including: -

- you are not subject to any prohibition or restriction which would prevent or restrict you from disclosing or transferring such Personal Data to Data Send UK, as required under the Agreement; and
- you have lawful grounds for transferring such Personal Data, including (if applicable) the consent of the individual to whom such Personal Data relates (and that such consent shall be valid under Applicable Data Protection Law).

Where under Applicable Data Protection Law (including without limitation Article 82 of the GDPR and any applicable Law where you and Data Send UK may incur joint and several liability as Controller and Processor with any other person) Data Send UK incurs any costs liability damages claims or expenses (other than for damage caused by Processing only where it has not complied with obligations of applicable DPA Regulation specifically directed to Data Processors or where it has acted outside or contrary to your lawful instructions under the Agreement), you shall indemnify Data Send UK on demand against all such costs liability damages claims or expenses, save for such liability as corresponds directly to Data Send UK's part of the responsibility for the damage caused by Data Send UK's breach of the obligations of Applicable Data Protection Law or the Agreement.

The client user acknowledges and agrees that Data Send UK shall not be responsible for any transfers of Personal Data outside the UK Economic Area, which occur when Users access the service through a web browser from a country, or territory outside the UK Economic Area.

Processing of Personal Data

Each party role defined as Client/User ('controller') & Data Send UK ('processor') warrants that it shall:

- maintain such records in relation to the nature of the processing of the Personal Data as may be required under applicable Data Protection Laws, and, on request, make those records available to any supervisory authority or government authority.
- the Client acknowledges that Data Send UK only hold the transfer records for the 7 day storage period, and this is the only type of record processing held on your data. It is the responsibility of the "Client User" to make sure they have exported these records from within the application in time or kept a copy of the transfer audit notification emails and download notification emails that have been sent to them.
- by using the service, the Client understands that Data Send UK will only process the data in accordance with what is required to provide a secure file transfer service. The data is not required to be accessed by Data Send UK under normal day to day operation, but if the need arises Data Send UK will not physically access any stored data without the Clients permission in advance and must be confirmed in writing, which includes by email. In the event that Data Send UK is under a legal obligation to Process the Personal Data for some other reason, it shall inform the Client prior to such processing, except to the extent prohibited by law.

Duty of confidence

- Data Send UK maintains a commitment to confidentiality at all times. As part of our ISO27001 certification requirements, the appropriate agreements are in place between our designated internal staff, assigned workers including any temporary workers and also our Data Centre partners with regards to confidentiality, which also includes restricted access on an approved permission basis. All access is documented and controlled by our designated Information Security Manager.
- on request, Data Send UK will co-operate with any supervisory authority or government authority in relation to the processing of Personal Data pursuant to this Agreement.

Appropriate security measures

ICO Guidance Statement - *Adherence to an approved code of conduct or certification scheme may be used as a way of demonstrating compliance with security obligations.*

- Data Send UK is certified to the ISO27001:2017 (information security standard) This certification is recognised globally as one of the top certifications for security standards. As part of this certification the appropriate security measures to provide our service have to be in place and evidence provided. This ensures Data Send UK meets the following GDPR requirements.
 - data encryption in transit and while stored
 - advanced network monitoring and intrusion detection systems
 - regular data backup, intervals based on hourly for the secure file transfer service
 - processes in place to regularly test the effectiveness of all measures
- in the event of a "Security Breach" notify all parties as required under the Applicable Data Protection Law and will provide co-operation, as may reasonably be required in relation to any complaint, notice, communication or request which is notified to the Client.

Using sub-processors

- Data Send UK will not engage another processor (a sub-processor) without notifying the Client prior to making any intended changes. This is to allow the Client to decide if they have any objections to the changes in order to continue using the service provided.

Data subjects' rights

- Data Send UK will respond to any request (SAR) from a Client to remove/delete any currently stored personally identifying information in a timely manner in accordance with applicable Data Protection Law. Confirmation of this is provided in writing, which includes by email, from our Information Security Manager.

Assisting the Client (controller)

Taking into account the nature of the processing by Data Send UK and the information available, Data Send UK will assist the controller in meeting its obligations to:

- keep personal data secure
- notify personal data breaches to the ICO
- notify personal data breaches to the client

End of contract provisions

- the nature of the Data Send UK file transfer service means that the stored data is securely deleted every 7 days and is overwritten continuously. The storage drives are replaced at regular intervals and at this point securely wiped using dedicated software such as "killdisk"
- while data is still available on our network, at the controller's choice, Data Send UK will delete a file(s) or return to the controller all the personal data it has available.
- when data is deleted any copies are also deleted from the backups at the next run interval.

Audits and inspections

- Data Send UK is audited annually by the British Assessment Bureau (the 3rd party auditor) Extensive record keeping and internal company policies covering all aspects of information security, such as - risk assessments, human resources, internal training, internal audits, business continuity, are in place and implemented as part of the requirements of this certification. Evidence of compliance to these policies and standards can be provided when requested under a non-disclosure agreement (NDA) and include: -
 - Certification certificates
 - ISO27001 Statement of Applicability
 - Business Management System / Policy
 - Penetration / security test reports

International Clients

You acknowledge and agree that if you are a business located in a territory outside the UK Economic Area, it is your responsibility to ensure compliance with Applicable Data Protection Law (or equivalent) in relation to transfers of your personal data from Data Send UK to you.

Business Continuity

Data Send UK warrants that it has and will undertake to maintain a business continuity plan for its operations that is consistent with the international standards ISO 27001:2017. While Data Send UK takes all steps provided in the Agreement to protect your data, this does not constitute an absolute guarantee that a third party will not try to access, interrupt, delete or compromise your data. You are therefore responsible for determining the ultimate safety and integrity and backup of your data.

Consequential Losses

Data Send UK is not in a position to assess any consequential loss which the Client may suffer as a result of any failure of the Services, or any other default on the part of Data Send UK and it would be impractical and uneconomic for Data Send UK to insure against such liability. Accordingly, it is the responsibility of the "Client User" to properly assess any consequential loss that it and/or its clients may suffer and to obtain and maintain adequate insurance in relation to such losses. The Client shall

also ensure that it has adequate insurance cover in relation to any loss or damage which may be caused to Data Send UK and/or its clients through the negligence or default of the Client, its employees, agents, or equipment. The Client shall, as and when requested, provide Data Send UK with such evidence as Data Send UK may require in relation to the Client's insurance.

Indemnity

The Client agrees to indemnify and keep Data Send UK and its directors, partners and employees fully indemnified from and against all actions, demands, costs (on a full indemnity basis), losses, penalties, damages, liability, claims and expenses (including but not limited to legal fees) whatsoever incurred by it or them and arising from any of the following:

- (i) the Client's breach of this Agreement or its negligence or other act, omission or default;
- (ii) the operation or break down of any equipment or software
- (iii) the Client's use or misuse of the Services
- (iv) the Client infringing (whether innocently or knowingly) any third party rights (including without limit IPRs).

Limitation of Liability

In no event will Data Send UK be liable to you or to any third party for damages of any kind out of or in connection with the use of its services.

Warranty Disclaimer

The Client acknowledges that the allocation of risk in this Agreement reflects the price paid for the Services. Data Send UK makes no warranty that the service will be available on an uninterrupted or error free basis. If any exclusion or limit of liability in this Agreement is held to be invalid and Data Send UK becomes liable for loss or damage that may lawfully be limited then such liability shall be limited to the amount paid by the Client for the Services.

Neither Data Send UK nor anyone else who has been involved in the creation, production or supply of the Services, Hardware or Software shall be liable to the Client or any other person for any loss in contract, tort (including negligence or breach of statutory duty) or otherwise howsoever and whatever the cause thereof by reason of or in connection with this Agreement or the Services, Hardware or Software for any: (i) economic loss of any kind whatsoever, or (ii) loss of profit, data, business contracts, revenues or anticipated savings, or (iii) damage to the Client's reputation or goodwill, or (iv) loss resulting from any claim made by any third party, or (v) special, indirect or consequential loss or damage of any nature whatsoever, and the Client shall indemnify Data Send UK from and against any claim which may be made against Data Send UK in respect thereof.

You acknowledge and agree that Data Send UK will not be held responsible for any loss of data or damage to any computer system as a result of the use of its service.

Copyright and Data Ownership

Data Send UK claim no intellectual property rights over the data you upload to the Service. Your uploaded materials remain yours. Data Send UK does not pre-screen uploaded data, but Data Send UK has the right (but not the obligation) in its sole discretion to refuse or remove any data that is available via the Service.

The look and feel of the Service, as well as software code written to create the Service, is copyrightable material owned by Data Send UK and its partners, and all rights are reserved. You may not duplicate, copy, or reuse any portion of any material comprising the Service except according to the terms of this Agreement without express written permission from Data Send UK and its partners.

Responsibility

The Client has sole responsibility for all User Files stored on Data Send UK servers by using the service. You acknowledge and agree that Data Send UK will not be responsible for any failure of the service, for the deletion of a User File stored on the servers, or for any corruption or loss of any data, information, or content.

FUA - Fair Usage Agreement

There are no restrictions on how many files you can send. However, Data Send UK reserves the right to contact its users directly if any are seen to be using excessive amounts of server bandwidth.

Data Send UK will not charge you any extra fees on the first instance, but will discuss your usage requirements with you in more detail for the continued use of the service.

Data Send UK reserves the right to suspend your account if the issue cannot be resolved. The purpose of this FUA is to stop abuse of the system and to ensure that all our users experience the same level of service.

Breach of FUA

If in the unlikely event that your account has been suspended due to a breach of this FUA, that has not been resolved through communication between both parties, then any fees already paid to Data Send UK for its service will not be refunded.

Cancellation

You may cancel the service with Data Send UK at any time subject to the following conditions.

Monthly Billing - Pay as you go (applies to the Business Plus service only)

If you have chosen to pay monthly then in affect you have chosen a **pay as you go service**. The minimum service period is one month from the date your account is made active and no refunds can be given. At the end of the monthly period it is then up to you to renew your service or not. Your account will become inactive until we receive your next payment.

Quarterly or Annual Billing Options

30 day notice must be given by sending an email with your details to **cancel@datasend.co.uk**

2: An administration charge of £10.00 will apply for the Business Plus and £20 for Business Branded accounts. The remaining balance will then be refunded.

The minimum service period is 3 months on the Business Branded Account option.

Copyright Policy

Data Send UK respects the intellectual property rights of others and expects its users to do the same. The unauthorised copying, modification, distribution, public display, or public performance of copyrighted work is an infringement of the copyright holder's rights. You must have permission from the copyright holder in order to use the service.

Breach of Copyright Policy

If a user is in breach of this "Copyright Policy" then Data Send UK will contact the user directly to discuss the problem and remove all offending files from its servers immediately without notice. Data Send UK will suspend the users account if the problem persists.

Trademarks

Data Send UK, the Data Send logo and all other information appearing on the services are owned by Data Send UK.

Prohibitions - Things you must not do

Upload or transmit as part of a User File or otherwise any data, text, graphics, content, or material that: (i) is false or misleading; (ii) is defamatory; (iii) invades another's privacy; (iv) is obscene, pornographic, or offensive; (v) promotes bigotry, racism, hatred, or harm against any individual or group; (vi) infringes another's rights, including any intellectual property rights; or (vii) violates, or encourages any conduct that would violate, any applicable law or regulation or would give rise to civil liability;

Send copyrighted material without the owner's consent;

Attempt to disrupt the access of any user, host or network by spamming, overloading or trying to send a virus;

Attempt to breach any of the security authentication measures;

Data Send UK may involve and cooperate with law enforcement authorities in prosecuting users who violate these Terms of Service.

Privacy Policy

This Privacy Policy also forms part of our "Terms of Service Agreement"

At Data Send UK, we strive to develop innovative services to better serve our clients. We recognise that privacy is an important issue, so we design and operate our services with the protection of your privacy in mind. This Privacy Policy outlines the types of personal information we gather when you use our web site, as well as some of the steps we take to safeguard it.

Information Collected

The following principles apply to the personally identifying information we may ask for on our website, by email or by telephone, when making an enquiry or during an on-line purchase, that you provide to us with your consent. "Personally identifying information" is information that individually identifies you, such as your name, physical address or email address.

The Use of Cookies

The Privacy and Electronic Communications Regulations (PECR) sit alongside the Data Protection Act and the GDPR. They give people specific privacy rights in relation to electronic communications. When visiting our website or when using our services, we only use strictly necessary cookies.

These types of cookies include: -

- a user login, session cookie, these are required to be able to use our service.
- on our main website, we also use a cookie to store the contents of your shopping cart for your convenience when placing an order on-line.

These cookies are only valid during the session and are not used for any other purpose. We also do not collect or share data for analytics or marketing purposes when using our website or any of our on-line services.

Information sharing

We do not rent, sell or distribute in any way, personally identifying information to other companies, individuals or any 3rd party. We only store customer/client personal information for internal business administration use. We restrict access to your personally identifying information to appointed Data Send UK staff only, who may need to know this information in order to operate, develop or improve our business administration and services.

Giving consent while using the website

By contacting us via our on-line website forms or making an on-line purchase, you are asked for your contact details which will include your name and address details. We have made the request prominent and separated it from our privacy policy and terms and conditions of service, on all forms and during the checkout process. You indicate your acceptance by checking the box where indicated and can only continue by doing so.

Giving consent while using the Data Send UK services.

When using any of our on-line services, you (the "Client User") give consent for Data Send UK to handle the data at the time of each file transfer or on when entering a Data Room. This consent applies not only to any personally identifying information you may be transferring or uploading but to all types of data. We have made the request prominent and separated it from our privacy policy and terms and conditions of service. You indicate your acceptance by checking the box where indicated or by clicking on accept. You can only continue with the service by doing so.

How we handle your data when using our services

Your data is encrypted during transit via Secure Socket Layer (SSL)/Transport Layer Security (TLS) and also while stored on our network using the AES encryption standard. Data Send UK and its partners are all ISO27001 certified. This means all access is strictly controlled and monitored by the data controller within our organisation, and is consistent with this international standard **ISO27001:2017**

Withdrawing consent

You can withdraw your consent very easily, simply contact us directly by: -

- 1: Email to admin@datasend.co.uk
- 2: Telephone on +44 (0)20 3239 5226

We will remove any personally identifying information we may have. We will act on your instruction immediately and delete such information and also provide confirmation of doing so. You can also request the same personally identifying information be removed when cancelling any of our services. When you cancel your service any stored data files are also removed that are associated with your account. We will communicate with you throughout this process.

Secure On-line Payments

During checkout you are using a secure SSL encrypted connection, so you can enter your details and payment information securely. Each transaction is encrypted with SSL (Secure Socket Layer). We do not store any credit card details on our servers or networks. Payments are securely managed to the highest industry regulations by our payment gateway provider, Payflow/PayPal. You can be confident that your credit or debit card details are as safe and secure as possible.

Agreement

These Terms of Service are the exclusive agreement between Data Send UK and the "Client and their associated users" regarding the use of its services.