

To make sure we know exactly what to expect from each other, WETRANSFER has written down under which conditions it offers its service. By creating a Channel and making use of the Services Customer agrees to be bound to this terms of service agreement, including the notice and take down policy and privacy policy, as set out (in legal speak) below.

In consideration of the conditions as set forth below, WETRANSFER and Customer agree as follows:

1. Definitions

- 1.1 In this Agreement the following definitions apply (save where the context requires otherwise):
- 1.2 Agreement: this Terms of Service Agreement, including the Notice and Take Down Policy and the Privacy Policy;
- 1.3 Channel: subdomain of wetransfer.com, named and customized with a Wallpaper by Customer, publicly accessible, featuring a File Transfer Service, as further set forth in paragraph 2 of the Agreement;
- 1.4 Customer: the party that has read, understands and agrees to this Agreement by signing the Agreement, and/or creating a Channel and/or making use of the Services;
- 1.5 Effective Date: the date whereof this Agreement is effective, in other words the date parties accept the Agreement by creating a Channel and/or using the Services;
- 1.6 File or Files: up to 2 gigabytes of data at a time for an unlimited number of times, to be send through the File Transfer Service;
- 1.7 File Transfer Service: the infrastructure and facilities provided by WETRANSFER to send Files to others and/or themselves through wetransfer.com, as further set forth in paragraph 4 of the Agreement;
- 1.8 Intellectual Property Rights: all intellectual property rights, including but not limited to, registered and unregistered copyrights and design rights patents, database rights, trademark, service mark and device mark rights and applications for any of the foregoing, together with all trade secrets and know-how, in any part of the world and for the full term thereof;
- 1.9 Notice and Take Down Policy: a policy maintained by WETRANSFER, to deal with requests for removal of unlawful online content, that is part of this Agreement;
- 1.10 Privacy Policy; a policy explaining how WETRANFER handles personal data, part of this Agreement;
- 1.11 Services: hosting of and providing functionalities for Customer's Channel, including a File Transfer Service;
- 1.12 Upload Box: the white, rectangular application featuring the File Transfer Service and the WETRANSFER logo;
- 1.13 Wallpaper: a full-page image displayed in the background of a Channel or email notification, as further set forth in paragraph 3 of the Agreement;
- 1.14 WeTransfer: WETRANSFER's own File Transfer Service, provided on and through wetransfer.com;
- 1.15 WETRANSFER: WeTransfer B.V. with its principal business office located at Nieuwe Prinsengracht 33, Amsterdam, rights holder of the trade name and trademarks of WeTransfer, owner of Wetransfer.com;
- 1.16 Wetransfer.com: the website and/or domain of WETRANSFER.

2. Channel

- 2.1 Customer is responsible for protecting the password and access to and the use of his Channel;
- 2.2 Customer determines and is accountable for the Channel, its name, subdomain and URL, as well as the URL and website a Wallpapers links to;

- 2.3 Customer guarantees that his Channel is not:
- a. obscene, defamatory, libelous, slanderous, profane, indecent or unlawful;
 - b. infringing or misappropriating third party Intellectual Property Rights and/or privacy rights or any other kind of rights;
 - c. constituting 'hate speech', whether directed at an individual or a group, and whether based upon the race, sex, creed, national origin, religious affiliation, sexual orientation or language of such individual or group;
 - d. facilitating or promotes gambling, or the sale or use of liquor, tobacco products or illicit drugs, and/or;
 - e. factually inaccurate, misleading, deceptive;
- 2.4 Customer is liable and will hold harmless WETRANSFER for any and all incidents, procedures and/or claims arising in relation to Customer's Channel and/or Wallpapers;
- 2.5 In the event that WETRANSFER finds or is notified of an unlawful Channel and/or unlawful acts through Customer's Channel, WETRANSFER can apply its Notice and Take Down Policy;
- 2.6 Notwithstanding provision 2.5, WETRANSFER reserves the right to investigate and/or remove, without warning, Customer's Channel from its servers or block anyone from accessing or using the Channel and/or File Transfer Service, when WETRANSFER finds or receives substantiated and valid complaints that Customer's Channel and/or its File Transfer Service is used in violation of any part of this Agreement, included but not limited to provision 2.3, any applicable law or regulation.

3. Wallpaper

- 3.1 Wallpapers should be uploaded in a digital format (JPG, GIF or PNG), preferably 2560 by 1600 pixels;
- 3.2 Customer determines the choice and number of Wallpapers for the Channel, with a maximum of three Wallpapers per Channel;
- 3.3 Customer chooses the Wallpaper displayed in the background of e-mails sent to users of the Channel's File Transfer Service;
- 3.4 A Wallpaper can consist of any kind of imagery, including but not limited to photography, graphic design, typography, portraits, logos, illustrations, as well as trademarks, service marks and trade names of their respective rights holders;
- 3.5 Wallpapers may not contain, advertise, promote, link or otherwise relate to, content that, WETRANSFER finds to be:
- a. obscene, defamatory, libelous, slanderous, profane, indecent or unlawful;
 - b. infringing or misappropriating third party Intellectual Property Rights and/or privacy rights or any other kind of rights;
 - c. constituting 'hate speech', whether directed at an individual or a group, and whether based upon the race, sex, creed, national origin, religious affiliation, sexual orientation or language of such individual or group;
 - d. facilitating or promotes gambling, or the sale or use of liquor, tobacco products or illicit drugs, and/or;
 - e. factually inaccurate, misleading, deceptive.
- 3.6 Customer agrees that WETRANSFER is not liable to Customer or any third party for any damages arising out of the use, reuse or adaptation of Customer's Wallpapers or any part thereof, including but not limited to, copyright protected works and/or trademarks;

- 3.7 In the event that WETRANSFER finds or is notified of unlawful Wallpapers on Customer's Channel, WETRANSFER can apply the Notice and Take Down Policy;
- 3.8 Notwithstanding provision 3.7, WETRANSFER reserves the right to investigate and/or remove, without warning, any Wallpapers from Customer's Channel, its servers or block anyone from accessing the Channel or using the Service, when WETRANSFER finds, at their own discretion, or receives substantiated and valid complaints, that a Wallpaper on Customer's Channel is used in violation of this Agreement, including but not limited to provision 3.5, any applicable law or regulation.

4. File Transfer Services

- 4.1 The terms of service for WeTransfer's own File Transfer platform on www.wetransfer.com, apply to all File Transfer within Customer's Channel. Customer has read, understands and accepts the applicability of the terms of service of WeTransfer for all File Transfer with by users within Customer's Channel, as well as the Privacy Policy and Notice and Take Down Policy;
- 4.2 WETRANSFER, upon agreement of the Channel user, installs a cookie for the period of one year for technical purposes in relation to delivery of the Services. Customer has no access to any data collected through this cookie;
- 4.3 In the event that WETRANSFER finds or is notified of unlawful File Transfers on Customer's Channel, WETRANSFER can apply its Notice and Take Down Policy;
- 4.4 Notwithstanding provision 4.3 or the Notice and Take Down Policy, WETRANSFER reserves the right to investigate and/or remove, without warning, any File from Customer's Channel, its servers or block anyone from accessing the Channel or using the Service, when WETRANSFER finds, at their own discretion, or receives substantiated and valid complaints, that the Customer's Channel is mainly used for File Transfer that is in violation of this Agreement, included but not limited to provision 4.1, any applicable law or regulation.

5. License

- 5.1 As part of its Services, WETRANSFER makes Customer's Wallpapers available online on Customer's Channel. Customer acknowledges and agrees to grant WETRANSFER the non-exclusive, worldwide, royalty free right (license), including the right for WETRANSFER to sublicense this right to third parties, to make available online Customer's choice of Wallpapers.

6. Compensation

- 6.1 For delivering the Services Customer pays WETRANSFER a compensation of \$120 per year (excluding VAT);
- 6.2 In the event that Customer resides outside the U.S., the payment intermediary selected by Customer recalculates the compensation into Customers' currency;
- 6.3 For Customer's from Europe 19% VAT is added;
- 6.4 Customer agrees to pay the compensation within thirty (30) days of each invoice;
- 6.5 In the event Customer fails to make any of the payments, WETRANSFER has the right, but is not obligated, to unilaterally terminate the Agreement, and/or to withhold all Services administered by WETRANSFER on behalf of Customer, and/or bring legal action.

7. Term and Termination

- 7.1 This Agreement commences as of the Effective Date and will extend for a period of one (1) year thereafter;
- 7.2 Customer may terminate the Agreement upon thirty (30) days written notice, including by e-mail;

- 7.3 WETRANSFER has the right, but is not obligated, to unilaterally terminate the Agreement if Customer violates any of the provisions of the Agreement, any Intellectual Property Rights, privacy rights or any other kind of rights, legislation and/or law;
- 7.4 This Agreement automatically renews from year to year, unless terminated in accordance with provision 7.2;
- 7.5 Customer agrees that, upon termination of the Channel, it's name, subdomain and URL become directly available for others to use;
- 7.6 Any File Transfer that occurs up to 4 weeks before to the termination of the Agreement and/or Channel will remain available for download for a maximum period of up to 4 weeks thereafter, unless Customer acts in violation to the Agreement, or WeTransfer finds the contents of File Transfers on the Channel to be in violation of the Agreement.

8. Indemnity and liability

- 8.1 Customer agrees to waive its right to claim compensation/damages in the event WETRANSFER refuses or removes a Wallpaper, Channel, to enable the File Transfer Service and/or to deliver the Services if Customer violates any part of the Agreement, and/or any other kind of law or regulation;
- 8.2 Customer will defend, indemnify and hold harmless WETRANSFER, including its employees and affiliates, from and against any claims, liabilities, damages, losses and expenses, including reasonable legal and accounting fees, arising out of or in any way connected to the Services or the violation of this Agreement, including any breach of Intellectual Property Rights and/or third party rights. However, this limitation of liability does not intend to exclude the liability of WETRANSFER for the intentional and/or deliberate recklessness of WETRANSFER themselves ("their own acts") and or the management of WETRANSFER;
- 8.3 In no event will WETRANSFER be liable to Customer or to any third party for any damages arising out of use of the Service or the Channel, whether based on warranty, contract, tort (including negligence) or any other legal theory and whether or not WETRANSFER has been informed of the possibility of such damage, even if any limited remedy is found to have failed its essential purpose;
- 8.4 WETRANSFER will not accept any liability for damage as a result of an attributable failure in the performance of the agreement to provide the Services, such as, but not limited to technical failure within wetransfer.com, or pursuant to tortuous or illegal acts or whatever other reason, including, but not limited to any incidental, special, consequential damage resulting from or in connection with the use of the Services or the Channel and/or the impossibility of using it insofar allowed under mandatory law (Dutch: 'dwingend recht');
- 8.5 In the event WETRANSFER is liable for damages under mandatory law, WETRANSFER's aggregate liability to Customer for any and all claims arising out of or in connection with the use of the Service will in no event exceed the compensation as mentioned in paragraph 6 and insofar collected by WETRANSFER.

9. Warranties

- 9.1 Customer represents and warrants to WETRANSFER that it has the full corporate rights, power and authority to enter into this Agreement and that Customer's execution of the Agreement does not and will not violate any other agreement to which Customer is a party or by which Customer is otherwise bound, or any applicable law;
- 9.2 Customer guarantees that the execution of this Agreement does not and will not violate any other agreement to which Customer is a party or by which Customer is otherwise bound, or any applicable law;
- 9.3 Customer will not use the Services to commit or promote, enable or facilitate unlawful or criminal acts. Customer will respect the rights of others, including privacy and Intellectual Property Rights;

- 9.4 Customer will not make use or promote use of the Services to transfer any Files to distribute Files that contain child pornography, promote racism, violence or hatred, that are false or misleading, infringes on intellectual property rights, violates privacy rights, including data protection rights, and/or infringe on or violate any applicable law or regulation;
- 9.5 Customer agrees not to impersonate or pretend affiliation with any person or entity, access any non-public area's of wetransfer.com, send viruses, worms, malware, junk mail, spam, chain letters, phishing mails, unsolicited promotions or advertisements of any kind and for any purpose, attempt to probe, scan, compromise or test the vulnerability of the Services or any related service, system or network or breach any security or authentication.

10. Non-disclosure

- 10.1 The parties acknowledge and agree that all written information, quotations, communications, agreements, including this Agreement, and understandings between Customer and WETRANSFER are strictly confidential.

11. Notice and Take Down Policy

- 11.1 Customer agrees to the Notice and Take Down Policy, including, but not limited to, its indemnifications and warranties;
- 12.1 In the event that WETRANSFER finds or is notified of a presumed unlawful Channel, Wallpaper or File Transfer activity, WETRANSFER reserves the right to follow the procedure described in the Notice and Take Down Policy.

12. Privacy Policy

- 12.1 Customer agrees to the Privacy Policy.

13. Controlling Law and Jurisdiction

- 13.1 The rights and obligations arising out of or in connection to this Agreement are construed, governed, interpreted and enforced according to the laws of the Netherlands. The exclusive jurisdiction and venue of any action with respect to any subject matter relating to this Agreement will be the courts located in Amsterdam, the Netherlands, unless stipulated otherwise by mandatory Dutch or international laws. Customer waives any objection to jurisdiction and venue in the courts of the Netherlands.

14. Miscellaneous

- 14.1 Customer guarantees that it has the full corporate rights, power and authority to enter into this Agreement;
- 14.2 This Agreement and its references constitute the entire agreement;
- 14.3 This Agreement supersedes any and all prior oral and written quotations, communications, agreements and understandings between Customer and WETRANSFER;
- 14.4 This Agreement applies in preference to and supersedes any other or prior agreements. In the occasion that this Agreement becomes partly invalid, Customer and WETRANSFER remain bound to the remainder.