

Kinsta Ltd. Terms of Service

By registering for an account at Kinsta.com with your email address you are agreeing to the Terms of Service and all other clauses listed herein. If you do not wish to accept these terms you can simply deactivate your account and not continue using it.

The Effective Date of these Terms of Service is the date at which you sign up for an account through our online form.

Entire Agreement

These Terms of Service together with our Privacy Policy (<https://kinsta.com/legal/privacy-policy>), SLA (<https://kinsta.com/legal/service-level-agreement/>), Acceptable Use Policy (<https://kinsta.com/legal/acceptable-use-policy/>), and Data Processing Addendum (<https://kinsta.com/legal/data-privacy-addendum/>) (collectively, the "Agreement") constitute the entire Contract and understanding of the parties. Any changes or modifications to these Terms of Service of Contract thereto are agreed to by the both parties upon renewal of services.

Recitals

WHEREAS, Kinsta Ltd ("Host") operates hardware and software for hosting websites, and has substantial knowledge, experience and expertise in management and maintenance of websites

WHEREAS, Client desires to engage Kinsta Ltd, and Kinsta Ltd desires to be engaged by Client to provide Hosting Services subject to the terms and conditions set forth below

WHEREAS, the parties acknowledge that the Internet is neither owned nor controlled by any one entity; therefore, Kinsta Ltd can make no guarantee that any Client shall be able to access Kinsta Ltd's server at any given time.

Kinsta Ltd represents that it shall make every good faith effort to ensure that its server is available as widely as possible and with as little service interruption as possible.

NOW, THEREFORE, for and in consideration of the mutual covenants, agreements and payment of the fees contained herein, Client and Kinsta Ltd agree as follows:

HOSTING SERVICES Kinsta Ltd agrees to provide the Client with access to hardware and software for website hosting and other related hosting services (the "Services" or "Hosting

Services"). Kinsta Ltd shall provide the Hosting Services so that the website is accessible to third parties.

Termination

Kinsta Ltd shall have the right to terminate this Terms of Service with an immediate effect in writing to the Client if any of the following events occur.

- Client fails to make any payment when it becomes due,
- Client is in breach of any of its obligations under this Agreement,
- A liquidator is appointed over the Client or any of its assets,
- Client enters or proposes to enter into any arrangements with its creditors, including voluntary arrangements,
- Client passes a resolution for winding up (other than for the purpose of reconstruction), or a court makes an order to that effect,
- Client makes written or verbal comments, to or about Kinsta or any Kinsta customer, employee, or representative, that are demeaning, harassing, hurtful, abusive, derogatory, insulting, false, misleading, or otherwise objectionable.

These Terms of Service may be terminated by either party, without cause, at any time, by giving the other party 14 days written notice. Kinsta Ltd will accept termination by support ticket submitted on the Client dashboard (MyKinsta). Any rights to terminate this Terms of Service shall be without prejudice to any other accrued rights and save as set out, no refunds will be made.

Financial arrangements

Client shall pay by valid payment method for Hosting Services provided by Kinsta at the time of signing up at the fee set forth on the Host's website. Client's monthly payments for the Hosting Services, depending on the plan selected by Client, shall be automatically charged to the valid payment method provided by Client at the time of purchase each month.

If Client does not pay the fees by the Due Date, Kinsta Ltd may suspend Client's ability to use the Services, and may terminate this Terms of Service.

1. Client agrees that all charges and fees associated with an account are their sole responsibility.
2. Client expressly agrees that Kinsta charges VAT (Value-Added Tax) for sales to EU residents and EU based companies.
3. Billing will stop at end of term during which the service is cancelled.

4. At the end of the contract term, the contract will automatically renew for the original contract length indefinitely until cancelled in writing or via email.
5. Violations of Kinsta's Terms of Service may, at Kinsta's discretion, result in immediate and permanent disablement without refund.
6. Disputed charges ("chargebacks") associated with any Kinsta Ltd account may, at Kinsta's discretion, result in immediate and permanent disablement. Kinsta Ltd expressly reserves the right to change the fees charged hereunder for the Hosting Services with advance notice to the Client. If Client does not agree to any such pricing change, it may cancel the Hosting Services any time, but no refund will be payable from any fees already paid.

Taxes

Kinsta Ltd shall not be liable for any taxes or other fees to be paid in accordance with or related to purchases made from Client or Kinsta Hosting's server. Client agrees to take full responsibility for all taxes and fees of any nature associated with such products sold.

Material products

1. Client will provide Kinsta Ltd with material and data in a condition that is "server-ready", which is in a form requiring no additional manipulation on the part of Kinsta Ltd. Kinsta Ltd shall make no effort to validate this information for content, correctness or usability.
2. Use of Kinsta Ltd's service requires a certain level of knowledge in the use of Internet languages, protocols, and software. This level of knowledge varies depending on the anticipated use and desired content of Client's webspace by the Client.
3. Web Publishing: requires knowledge of HTML, properly locating and linking documents, FTPing Webspace contents, Graphics, text, Sound, image mapping, etc.
4. Client acknowledges that Kinsta Ltd retains full log data in regards to analytics for 30 days.
5. Kinsta Ltd will exercise no control whatsoever over the content of the information passing through the network, provided that it adheres to all other conditions set forth below:

Client agrees to not use the Service to:

1. upload, post, email, transmit or otherwise make available any Content that is unlawful, harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libellous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable;
2. harm minors in any way;

3. impersonate any person or entity, including, but not limited to, a Kinsta official, forum leader, guide or host, or falsely state or otherwise misrepresent your affiliation with a person or entity;
4. forge headers or otherwise manipulate identifiers in order to disguise the origin of any Content transmitted through the Service;
5. upload, post, email, transmit or otherwise make available any Content that Client does not have a right to make available under any law or under contractual or fiduciary relationships (such as inside information, proprietary and confidential information learned or disclosed as part of employment relationships or under nondisclosure agreements);
6. upload, post, email, transmit or otherwise make available any Content that infringes any patent, trademark, trade secret, copyright or other intellectual or proprietary rights (“Rights”) of any party;
7. upload, post, email, transmit or otherwise make available any unsolicited or unauthorized advertising or promotional materials, except in those areas (such as shopping) that are designated for such purpose; in no event, however, is junk mail, spam, chain letters, pyramid or Ponzi schemes, or the like allowed;
8. upload, post, email, transmit or otherwise make available any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;
9. disrupt the normal flow of dialogue, cause a screen to “scroll” faster than other users of the Service are able to type, or otherwise act in a manner that negatively affects other users’ ability to engage in real time exchanges;
10. interfere with or disrupt the Service or servers or networks connected to the Service, or disobey any requirements, procedures, policies or regulations of networks connected to the Service;
11. intentionally or unintentionally violate any applicable local, state, national or international law, any rules of any national or other securities exchange, and any regulations having the force of law;
12. provide material support or resources (or conceal or disguise the nature, location, source, or ownership of material support or resources) to any organization(s) designated by the United States government as a foreign terrorist organization pursuant to section 219 of the Immigration and Nationality Act;
13. Kinsta Ltd reserves the right to police its network to verify compliance with all agreed upon Terms.
14. The Client agrees to cooperate in any reasonable investigations into their adherence to all agreed upon Terms. Failure to cooperate is grounds for immediate disablement of all accounts/service plans.
15. Kinsta Ltd reserves the right to disconnect any website or server deemed to present a security threat to Kinsta Ltd’s clients, servers, or network.
16. The opening of multiple accounts or service plans in order to bypass any restrictions or overage charges set forth by Kinsta Ltd is grounds for termination of all services.

17. Kinsta Ltd makes no warranties or representations of any kind, whether expressed or implied for the service it is providing. Kinsta Ltd also disclaims any warranty of merchantability or fitness for a particular purpose and will not be responsible for any damages that may be suffered by the Client, including loss of data resulting from delays, non-deliveries or service interruptions by any cause or errors or omissions of the Client. Use of any information obtained by way of Kinsta Ltd is at the Client's own risk, and Kinsta Ltd specifically denies any responsibility for the accuracy or quality of information obtained through its services. Connection speed represents the speed of a connection to and do not represent guarantees of available end to end bandwidth. Kinsta Ltd expressly limits its damages to the Client for any non-accessibility time or other downtime to the pro-rata monthly charge during the system unavailability.
18. Kinsta Ltd specifically denies any responsibilities for any damages arising as a consequence of such unavailability. In the event that this material is not "server-ready", Kinsta Ltd may, at its option and at any time, reject this material, including but not limited to after it has been put on Kinsta Ltd's server. Kinsta Ltd agrees to notify Client immediately of its refusal of the material and afford Client the opportunity to amend or modify the material to satisfy the needs and/or requirements of Kinsta Ltd. If the Client fails to modify the material, as directed by Kinsta Ltd, within a reasonable period of time, which shall be determined between the parties themselves, the contract shall be deemed to be terminated.
19. Certain aspects of the Services may be in beta form as designated by Kinsta Ltd ("Beta Services"). In addition to the disclaimers of warranty set out in this Terms of Service, the Beta Services are provided on an as-is basis with the express understanding that they may not have been tested, have faults, and may not be as secure as other elements of the Services. Any SLA, indemnity, representation or warranty that Kinsta Ltd provides herein does not apply to the Beta Services. Kinsta Ltd reserves the right to terminate the Beta Services at any time, even if Client has relied on them as a material inducement to enter into this Terms of Service. Kinsta Ltd makes no guarantee that Beta Services will be put into production.

Mandatory removal of malware, viruses, and malicious code

Hosting malware, viruses, or other malicious code ("malicious code") in connection with the Services, either intentionally or unintentionally, is strictly prohibited. In addition to any other remedies available to Kinsta, intentionally hosting malicious code in connection with the Services shall be cause for immediate termination of the Client's account and deletion of the malicious code.

Clients who unintentionally host malicious code in connection with the Services shall cooperate with Kinsta to promptly remove the malicious code.

If malicious code is found on a client's account or otherwise on the Services and is determined to have been migrated to Kinsta unintentionally as part of a website migration performed by the

Client, the Client shall be afforded the opportunity to promptly remove the malicious code. If the Client fails to promptly remove the malicious code as directed by Kinsta, the malicious code shall be removed by Kinsta and a \$100 malware removal fee shall be charged to Client and paid through Client's default payment method (including auto payment).

Trademarks, copyrights, and licensing

Client warrants that it has the right to use the trademarks and copyrights applicable to all content and/or products being made available through the Client's account.

Client warrants that all code and software uploaded or used in connection with the Services is used and/or distributed in ways that are consistent with all applicable licensing, trademarks, and copyrights that apply to that code and software.

Intellectual property rights

Client shall obtain any and all necessary consents and clearances to enable lawful use to be made of all and any intellectual property rights through the Services, including without limitation, clearance and/or consents in respect of Client's proposed domain name or content on Client's website.

Hardware, equipment, and software

The Client is responsible for and must provide all telephone, computer, hardware and software equipment and services necessary to access Kinsta Ltd. Kinsta Ltd makes no representations, warranties or assurances that the Client's equipment will be compatible with the Kinsta Ltd service.

Limited liability

Client expressly agrees that use of Kinsta Ltd's server is at Client's sole risk. Neither Kinsta Ltd, its employees, affiliates, agents, third party information providers, merchants, licensors or the like, warrant that Kinsta Ltd's server service will not be interrupted or error free; nor do they make any warranty as to the results that may be obtained from the use of the server service or as to the accuracy, reliability or content of any information service or merchandise contained in or provided through the Kinsta Ltd server service, unless otherwise expressly stated in this contract.

Under no circumstances, including negligence, shall Kinsta Ltd, its offices, agents or anyone else involved in creating, producing or distributing Kinsta Ltd's server service be liable for any direct, indirect, incidental, special or consequential damages that result from the use of or inability to use the Kinsta Ltd server service; or that results from mistakes, omissions, interruptions, deletion of files, errors, defects, delays in operation, or transmission or any failure of performance, whether or not limited to acts of God, communication failure, theft, destruction or unauthorized access to Kinsta Ltd's records, programs or services. Client hereby acknowledges that this paragraph shall apply to all content on Kinsta Ltd's server service.

In any event no claim shall be brought unless Client has notified Kinsta Ltd of the claim within one year of its arising.

In no event shall Kinsta Ltd be liable to you for any loss of business, contracts, profits or anticipated savings or for any other indirect or consequential or economic loss whatsoever.

Security

In case Kinsta Ltd determines a security breach that has compromised a Client's account, Kinsta Ltd agrees to notify the Client as soon as reasonably possible but only after they have investigated the breach and fulfilled their legal obligations under applicable law. Client agrees to the same notification obligations should they determine that there has been a breach.

Indemnification

Client agrees that it shall defend, indemnify, save and hold Kinsta Ltd harmless from any and all demands, liabilities, losses, costs and claims, including reasonable legal fees, ("Liabilities") asserted against Kinsta Ltd, its agents, its clients, servants officers and employees, that may arise or result from any service provided or performed or agreed to be performed or any product sold by Clients, its agents, employees or assigns. Client agrees to defend, indemnify and hold harmless Kinsta Ltd against Liabilities arising out of:

- any injury to person or property caused by any products sold or otherwise distributed in connection with Kinsta Ltd's server by Client;
- any material supplied by Client infringing or allegedly infringing on the proprietary rights of a third party;
- copyright infringement by Client;
- any defective product which Client sold on Kinsta Ltd's server.

Adult content

Because the Internet is a global communication tool, and we have clients from nearly every country in the world it is difficult to dictate what is considered “adult material.” However, it is not our function to discriminate against those who choose to utilize adult content or adult related material. This being said, there are still several reasons why Kinsta Ltd has been forced to create its no adult sites policy for its virtual server users.

What does Kinsta Ltd consider “Adult Material”? Examples of adult material include, without limitation, the following:

1. Any site whose revenue is gained in part or whole from its adult content.
2. Photos or videos showing frontal nudity on either men or women for non-scientific or non-artistic purposes.
3. Hyperlinks to adult sites, including but not limited to sites who violate these policies.
4. Sites that have discussion boards and share information that is ‘adult’ in nature.
5. Sites that sell or promote ‘adult’ material, including but not limited to adult toys.

File sharing applications

All accounts in Kinsta Ltd are strictly prohibited in publishing or distributing in any way links or files that are related to files that are provided through file sharing service. Whether lawful or unlawful, Kinsta Ltd reserves the right to determine what is harmful to its Clients, operations or reputation.

Revisions and errata

The materials appearing on Kinsta Ltd’s website could include technical, typographical, or photographic errors. Kinsta Ltd does not warrant that any of the materials on its website are accurate, complete, or current. Kinsta Ltd may make changes to the materials contained on its website at any time without notice. Kinsta Ltd does not, however, make any commitment to update the materials.

Links

Kinsta Ltd has not reviewed all of the sites linked to its Internet website and is not responsible for the contents of any such linked site. The inclusion of any link does not imply endorsement by Kinsta Ltd of the site. Use of any such linked website is at the user’s own risk.

Site terms of use modifications

Kinsta Ltd may revise these Terms of Service for its website at any time without notice. By using this website you are agreeing to be bound by the then current version of these Terms of Service. Except as expressly provided herein, this Terms of Service, including any other contracts incorporated by reference, may only be amended as agreed by the parties in a written amendment (including by a click-to-accept that is accepted by Client or Authorized User).

The parties further agree that upgrades (e.g. moving up a service plan level), downgrades (e.g. moving down a service plan level), and additional services may be agreed via electronic communication that is acknowledged by authorized representatives for both parties. If one party fails to exercise, or delays exercising, any right, remedy or power set out in this Terms of Service, this shall not operate as a waiver of that right, remedy or power, whether under this Terms of Service or at law or equity.

Force majeure

Except for the payment of fees by Client, if the performance of any part of this Terms of Service by either Party is prevented, hindered, delayed or otherwise made impracticable by reason of any flood, riot, fire, judicial or governmental action, labour disputes, act of God or any other causes beyond the control of either party, that party shall be excused from such to the extent that it is prevented, hindered or delayed by such causes.

Governing law

This Terms of Service shall be governed by and construed in accordance with the laws of England and Wales and both parties hereby submit to the non-exclusive jurisdiction of these courts.

Contract revisions

Revisions to this Terms of Service will be applicable to previous Contracts Revisions will be considered agreed to by the Client on renewal of service as specified in Section – Financial Arrangements.

Transfer

Client may not transfer this Terms of Service without the written consent of Kinsta Ltd.