

Terms and Conditions

This is the dotMailer Software Development Kit License Agreement.

1. Introduction

1.1 The DotMailer Software Development Kit (referred to in this License Agreement as the "SDK") is licensed to you subject to the terms of this License Agreement. This License Agreement forms a legally binding contract between you and the DotDigitalGroup in relation to your use of the SDK.

1.2 "the DotDigitalGroup" means DotDigitalGroup Plc., No. 1 Croydon 12-16 Addiscombe Road CR0 0XT

2. Accepting this License Agreement

2.1 In order to use the SDK, you must first agree to this License Agreement. You may not use the SDK if you do not accept this License Agreement.

2.2 You can accept this License Agreement by:

(A) clicking to accept or agree to this License Agreement, where this option is made available to you; or

(B) by actually using the SDK. In this case, you agree that use of the SDK constitutes acceptance of the Licensing Agreement from that point onwards.

2.3 You may not use the SDK and may not accept the Licensing Agreement if you are a person barred from receiving the SDK under the laws of the United Kingdom or other countries including the country in which you are resident or from which you use the SDK.

2.4 If you are agreeing to be bound by this License Agreement on behalf of your employer or other entity, you represent and warrant that you have full legal authority to bind your employer or such entity to this License Agreement. If you do not have the requisite authority, you may not accept the Licensing Agreement or use the SDK on behalf of your employer or other entity.

3. SDK License from the DotDigitalGroup

3.1 Subject to the terms of this License Agreement, the DotDigitalGroup grants you a limited, worldwide, royalty-free, non-assignable and non-exclusive license to use the SDK solely to develop applications to run on the dotMailer platform.

3.2 You agree that the DotDigitalGroup or third parties own all legal right, title and interest in and to the SDK, including any Intellectual Property Rights that subsist in the SDK. "Intellectual Property Rights"

means any and all rights under patent law, copyright law, trade secret law, trademark law, and any and all other proprietary rights. The DotDigitalGroup reserves all rights not expressly granted to you.

3.3 Except to the extent required by applicable third party licenses, you may not copy (except for backup purposes), modify, adapt, redistribute, decompile, reverse engineer, disassemble, or create derivative works of the SDK or any part of the SDK. Except to the extent required by applicable third party licenses, you may not load any part of the SDK onto a mobile handset or any other hardware device except a personal computer, combine any part of the SDK with other software, or distribute any software or device incorporating a part of the SDK.

3.4 Use, reproduction and distribution of components of the SDK licensed under an open source software license are governed solely by the terms of that open source software license and not this License Agreement.

3.5 You agree that the form and nature of the SDK that the DotDigitalGroup provides may change without prior notice to you and that future versions of the SDK may be incompatible with applications developed on previous versions of the SDK. You agree that the DotDigitalGroup may stop (permanently or temporarily) providing the SDK (or any features within the SDK) to you or to users generally at the DotDigitalGroup's sole discretion, without prior notice to you.

3.6 Nothing in this License Agreement gives you a right to use any of the DotDigitalGroup's trade names, trademarks, service marks, logos, domain names, or other distinctive brand features.

3.7 You agree that you will not remove, obscure, or alter any proprietary rights notices (including copyright and trademark notices) that may be affixed to or contained within the SDK.

4. Use and Distribution of the SDK by You

4.1 The DotDigitalGroup agrees that it obtains no right, title or interest from you (or your licensors) under this License Agreement in or to any software applications that you develop using the SDK, including any intellectual property rights that subsist in those applications.

4.2 You agree to use the SDK and write applications only for purposes that are permitted by (a) this License Agreement and (b) any applicable law, regulation or generally accepted practices or guidelines in the relevant jurisdictions (including any laws regarding the export of data or software to and from the United Kingdom or other relevant countries).

4.3 You agree that if you use the SDK to develop applications for general public users, you will protect the privacy and legal rights of those users. If the users provide you with user names, passwords, or other login information or personal information, you must make the users aware that the information will be available to your application, and you must provide legally adequate privacy notice and protection for those users. If your application stores personal or sensitive information provided by users, it must do so

securely. If the user provides your application with dotMailer Account information, your application may only use that information to access the user's dotMailer Account when, and for the limited purposes for which, the user has given you permission to do so.

4.4 You agree that you will not engage in any activity with the SDK, including the development or distribution of an application, that interferes with, disrupts, damages, or accesses in an unauthorised manner the servers, networks, or other properties or services of any third party including, but not limited to, the DotDigitalGroup or any communications carrier.

4.5 You agree that you are solely responsible for (and that the DotDigitalGroup has no responsibility to you or to any third party for) any data, content, or resources that you create, transmit or display through the dotMailer platform and/or applications for the dotMailer platform, and for the consequences of your actions (including any loss or damage which the DotDigitalGroup may suffer) by doing so.

4.6 You agree that you are solely responsible for (and that the DotDigitalGroup has no responsibility to you or to any third party for) any breach of your obligations under this License Agreement, any applicable third party contract or Terms of Service, or any applicable law or regulation, and for the consequences (including any loss or damage which the DotDigitalGroup or any third party may suffer) of any such breach.

4.7 The distribution of the file "dotMailer.Sdk.dll" with your own software is permitted under this Agreement where;

- i. you indemnify, defend, and hold harmless dotDigitalgroup from any claims, including legal fees, related to the distribution or use of your programs;
- ii. you require distributors and external end users to agree to terms that protect it at least as much as this agreement;
- iii. you add significant primary functionality to it in your programs;
- iv. you notify dotDigitalGroup by email to "integrations@dotmailer.com" of your wish to include the SDK with your own software;
- v. you do not distribute this file with malicious, deceptive or unlawful programs;
- vi. you do not use dotDigitalGroup's trademarks in your programs' names or in a way that suggests your programs come from or are endorsed by dotDigitalGroup;
- vii. you do not alter any copyright, trademark or patent notice within the SDK;
- viii. you do not rent, lease or lend this SDK;

5. Your Developer Credentials

5.1 You agree that you are responsible for maintaining the confidentiality of any developer credentials that may be issued to you by the DotDigitalGroup or which you may choose yourself and that you will be solely responsible for all applications that are developed under your developer credentials.

6. Privacy and Information

6.1 In order to continually innovate and improve the SDK, the DotDigitalGroup may collect certain usage statistics from the software including but not limited to a unique identifier, associated IP address, version number of the software and information on which tools and/or services in the SDK are being used and how they are being used.

6.2 The data collected is examined in the aggregate to improve the SDK and is maintained in accordance with the DotDigitalGroup's Privacy Policy.

7. Third Party Applications for the dotMailer Platform

7.1 If you use the SDK to run applications developed by a third party or that access data, content or resources provided by a third party, you agree that the DotDigitalGroup is not responsible for those applications, data, content, or resources. You understand that all data, content or resources which you may access through such third party applications are the sole responsibility of the person from which they originated and that the DotDigitalGroup is not liable for any loss or damage that you may experience as a result of the use or access of any of those third party applications, data, content, or resources.

7.2 You should be aware the data, content, and resources presented to you through such a third party application may be protected by intellectual property rights which are owned by the providers (or by other persons or companies on their behalf). You may not modify, rent, lease, loan, sell, distribute or create derivative works based on these data, content, or resources (either in whole or in part) unless you have been specifically given permission to do so by the relevant owners.

7.3 You acknowledge that your use of such third party applications, data, content, or resources may be subject to separate terms between you and the relevant third party. In that case, this License Agreement does not affect your legal relationship with these third parties.

8. Using dotMailer APIs

8.1 The DotDigitalGroup Data APIs

8.1.1 If you use any API to retrieve data from the DotDigitalGroup, you acknowledge that the data may be protected by intellectual property rights which are owned by the DotDigitalGroup or those parties that provide the data (or by other persons or companies on their behalf). Your use of any such API may be subject to additional Terms of Service. You may not modify, rent, lease, loan, sell, distribute or create derivative works based on this data (either in whole or in part) unless allowed by the relevant Terms of Service.

8.1.2 If you use any API to retrieve a user's data from the DotDigitalGroup, you acknowledge and agree that you shall retrieve data only with the user's explicit consent and only when, and for the limited purposes for which, the user has given you permission to do so.

9. Terminating this License Agreement

9.1 This License Agreement will continue to apply until terminated by either you or the DotDigitalGroup as set out below.

9.2 If you want to terminate this License Agreement, you may do so by ceasing your use of the SDK and any relevant developer credentials.

9.3 The DotDigitalGroup may at any time, terminate this License Agreement with you if:

(A) you have breached any provision of this License Agreement; or

(B) The DotDigitalGroup is required to do so by law; or

(C) the partner with whom the DotDigitalGroup offered certain parts of SDK (such as APIs) to you has terminated its relationship with the DotDigitalGroup or ceased to offer certain parts of the SDK to you; or

(D) The DotDigitalGroup decides to no longer providing the SDK or certain parts of the SDK to users in the country in which you are resident or from which you use the service, or the provision of the SDK or certain SDK services to you by the DotDigitalGroup is, in the DotDigitalGroup's sole discretion, no longer commercially viable.

9.4 When this License Agreement comes to an end, all of the legal rights, obligations and liabilities that you and the DotDigitalGroup have benefited from, been subject to (or which have accrued over time whilst this License Agreement has been in force) or which are expressed to continue indefinitely, shall be unaffected by this cessation, and the provisions of paragraph 14.7 shall continue to apply to such rights, obligations and liabilities indefinitely.

10. DISCLAIMER OF WARRANTIES

10.1 YOU EXPRESSLY UNDERSTAND AND AGREE THAT YOUR USE OF THE SDK IS AT YOUR SOLE RISK AND THAT THE SDK IS PROVIDED "AS IS" AND "AS AVAILABLE" WITHOUT WARRANTY OF ANY KIND FROM THE DOTDIGITALGROUP.

10.2 YOUR USE OF THE SDK AND ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SDK IS AT YOUR OWN DISCRETION AND RISK AND YOU ARE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR OTHER DEVICE OR LOSS OF DATA THAT RESULTS FROM SUCH USE.

10.3 THE DOTDIGITALGROUP FURTHER EXPRESSLY DISCLAIMS ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

11. LIMITATION OF LIABILITY

11.1 YOU EXPRESSLY UNDERSTAND AND AGREE THAT THE DOTDIGITALGROUP, ITS SUBSIDIARIES AND AFFILIATES, AND ITS LICENSORS SHALL NOT BE LIABLE TO YOU UNDER ANY THEORY OF LIABILITY FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL CONSEQUENTIAL OR EXEMPLARY DAMAGES THAT MAY BE INCURRED BY YOU, INCLUDING ANY LOSS OF DATA, WHETHER OR NOT THE DOTDIGITALGROUP OR ITS REPRESENTATIVES HAVE BEEN ADVISED OF OR SHOULD HAVE BEEN AWARE OF THE POSSIBILITY OF ANY SUCH LOSSES ARISING.

12. Indemnification

12.1 To the maximum extent permitted by law, you agree to defend, indemnify and hold harmless the DotDigitalGroup, its affiliates and their respective directors, officers, employees and agents from and against any and all claims, actions, suits or proceedings, as well as any and all losses, liabilities, damages, costs and expenses (including reasonable attorney's fees) arising out of or accruing from (a) your use of the SDK, (b) any application you develop on the SDK that infringes any copyright, trademark, trade secret, trade dress, patent or other intellectual property right of any person or defames any person or violates their rights of publicity or privacy, and (c) any non-compliance by you with this License Agreement.

13. Changes to the License Agreement

13.1 The DotDigitalGroup may make changes to the License Agreement as it distributes new versions of the SDK. When these changes are made, the DotDigitalGroup will make a new version of the License Agreement available on the website where the SDK is made available.

14. General Legal Terms

14.1 This License Agreement constitute the whole legal agreement between you and the DotDigitalGroup and govern your use of the SDK (excluding any services which the DotDigitalGroup may provide to you under a separate written agreement), and completely replace any prior agreements between you and the DotDigitalGroup in relation to the SDK.

14.2 You agree that if The DotDigitalGroup does not exercise or enforce any legal right or remedy which is contained in this License Agreement (or which the DotDigitalGroup has the benefit of under any applicable law), this will not be taken to be a formal waiver of The DotDigitalGroup's rights and that those rights or remedies will still be available to the DotDigitalGroup.

14.3 If any court of law, having the jurisdiction to decide on this matter, rules that any provision of this License Agreement is invalid, then that provision will be removed from this License Agreement without affecting the rest of this License Agreement. The remaining provisions of this License Agreement will continue to be valid and enforceable.

14.4 You acknowledge and agree that each member of the group of companies of which the DotDigitalGroup is the parent shall be third party beneficiaries to this License Agreement and that such other companies shall be entitled to directly enforce, and rely upon, any provision of this License Agreement that confers a benefit on (or rights in favor of) them. Other than this, no other person or company shall be third party beneficiaries to this License Agreement.

14.5 EXPORT RESTRICTIONS. THE SDK IS SUBJECT TO UNITED KINGDON EXPORT LAWS AND REGULATIONS. YOU MUST COMPLY WITH ALL DOMESTIC AND INTERNATIONAL EXPORT LAWS AND REGULATIONS THAT APPLY TO THE SDK. THESE LAWS INCLUDE RESTRICTIONS ON DESTINATIONS, END USERS AND END USE.

14.6 The rights granted in this License Agreement may not be assigned or transferred by either you or the DotDigitalGroup without the prior written approval of the other party. Neither you nor the DotDigitalGroup shall be permitted to delegate their responsibilities or obligations under this License Agreement without the prior written approval of the other party.

14.7 This License Agreement, and your relationship with the DotDigitalGroup under this License Agreement, shall be governed by the laws of the United Kingdom without regard to its conflict of laws

provisions. You and the DotDigitalGroup agree to submit to the exclusive jurisdiction of the courts located within the United Kingdom to resolve any legal matter arising from this License Agreement. Notwithstanding this, you agree that the DotDigitalGroup shall still be allowed to apply for injunctive remedies (or an equivalent type of urgent legal relief) in any jurisdiction.

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