

# Filestack Service Terms

These Filestack Service Terms (these “Service Terms”) are between Filestack, Inc., (“Filestack”) and the person who submits an Order for Filestack’s services on the Filestack Site or who signs an Order that incorporates these terms by reference to the URL where they are posted (“you”).

Capitalized words in these Service Terms have special meanings as stated in the section where they are first used, or as defined in [Section 9 \(Definitions\)](#).

Filestack may modify these Services Terms at any time, but modifications are not effective for Orders that are in place prior to the modification until the Order renews or you add new services to your account. See the [Section 8.22 \(Changes to Online Service Terms\)](#).

If you have any questions about these Services Terms, please contact us:

[Contact Sales](#)

## 1. SUBSCRIPTION SERVICES

1.1 Services. Filestack agrees to provide the Services for the Term on the terms and conditions, and subject to restrictions, stated in the Order and these Service Terms. Filestack makes the following commitments:

- The Services include those features that are part of the Filestack plan identified in your Order. Filestack’s descriptions of its standard plans are published on the Filestack website or customer portal. If you purchase a custom/non-standard plan, the feature set will be stated in the Order.
- Filestack will use commercially reasonable efforts to make the Services available to you 24 hours per day, 7 days per week, year-round, excluding unavailability due to reasonable maintenance.
- For all plans, Filestack will provide support by giving you access to its online support documentation, and by responding via chat and ticket to your requests during its standard support hours, currently Monday at 9:00 a.m. to Friday at 6:00 p.m., United States Central time, excluding federal public holidays in the United States and other Filestack announced support holidays.

1.2 File Uploader/API. The File Uploader and API(s) are licensed to you on a non-exclusive basis for your use solely in connection with the Services as permitted by the Agreement, and subject to all of the restrictions, terms and conditions stated in the Agreement. Your license continues for the Term of the Agreement. You may copy the File Uploader and related documentation only as reasonably incident to your permitted use of the Services. The license may not be assigned or transferred except as part of an assignment of the Agreement that is permitted by these Terms of Service. Your license is worldwide, subject to export restrictions stated in the

Agreement and applicable export laws. Filestack may terminate your license in accordance with the termination provisions applicable to the Agreement stated below.

1.3 Phone Support and SLAs. Unless expressly included as part of your plan or expressly stated in your Order for custom Services, the Services do not include phone support or any service level commitments around response times or availability. If you would like phone support and an SLA, you may upgrade your plan on the customer portal or by contacting sales@filestack.com.

1.4 Fraud Check. Filestack may refuse to provide Services if you fail its fraud check. If you fail the fraud check after your account has been provisioned, Filestack will close your account, and refund any pre-paid fees.

1.5 Conditions and Restrictions. Filestack provides the Services, File Uploader, any API, and all related documentation and technology (the "Filestack Technology") subject to the following conditions and restrictions:

1.5.1 API Key Use for Single Domain/App Only. You may not use your API key for more than a single domain or mobile application unless Filestack has given written permission.

1.5.2 No Benchmarking. You may not publish any benchmarking or other performance analysis of the Filestack Technology.

1.5.3 No Reverse Engineering. You may not reverse engineer or attempt to discover any underlying algorithm or method embodied by Filestack Technology except to the extent applicable law permits such activity notwithstanding this limitation, and then on thirty (30) days advance written notice to Filestack.

1.5.4 No Resale of Services. You may use the Filestack Technology as part of a revenue-generating application service that includes your own application, but you may not resell the Filestack Technology on a stand-alone basis. You may not permit anyone other than your personnel to have access to your Services account or the administrative features of your Services.

1.5.5 End User Terms. If you authorize the use of the Filestack Technology by persons other than your own personnel, you must require those users to agree to legally binding terms that meet the requirements of [Section 7 \(End User Terms\)](#) below.

1.5.6 Medical Devices/High Risk Use. You may not use the Filestack Technology, or permit any other person to use the Filestack Technology in any situation where failure or fault of the Filestack Technology could lead to death or serious bodily injury of any person, or to physical or environmental damage. For example, you may not

use the Filestack Technology as a component of or to operate any medical device or in connection with any aircraft or other mode of human transportation, or nuclear or chemical facilities.

1.5.7 Modifications. You may not modify or create derivative works of the Service except as expressly permitted by [Section 8.1](#) (*Look and Feel*).

1.5.8 Competing Services. You may not access the Filestack Technology for the purpose of creating a competing service.

1.6 Demonstration/Free Trial. Demonstration features on the Site and free trial services are not “Services” under this Agreement, and are provided AS IS, without any warranties or representations whatsoever. Filestack has no obligation to provide support for any demonstration feature or free trial services. Any support that is provided is provided on an AS IS and AS AVAILABLE basis, and Filestack has no liability for any harm or damage arising out of or in connection with your use of a demonstration or free trial service. Filestack may terminate any demonstration or free trial services and delete your files and related information at any time.

1.7 Beta Services. Filestack may invite you to test “Beta” services at no charge. Beta services will be designated as test, beta, pilot, limited release, developer preview, non-production, evaluation or with a similar description. Beta services are for evaluation purposes and not for production use, are not considered “Services” under this Agreement, are not supported, and may be subject to additional terms. Filestack may terminate a Beta service at any time, for any or no reason. Filestack may discontinue Beta Services at any time in its sole discretion and may never make the Beta Services generally available. If a generally available version is released, there may not be an automatic update path from the Beta version to the generally available version. If not earlier terminated, any Beta services trial period will expire on the date that the Beta service is released on a generally available basis. Beta Services are provided AS IS, and Filestack has no liability for any harm or damage arising out of or in connection with a Beta Service.

1.8 Third Party Services. If you purchase AWS S3 storage directly from Filestack, your use of the storage is subject to the AWS terms at <https://s3-us-west-2.amazonaws.com/legal-reseller/AWS+Reseller+Customer+License+Terms.pdf>. If you purchase CDN services directly from Filestack, your use of the CDN services is subject to the conditions, restrictions, disclaimers and limitations stated in the Fastly terms at <https://www.fastly.com/terms>. As between you and Filestack, all third party services are provided AS IS, and Filestack makes no representation or warranty whatsoever regarding any third party service that you purchase through Filestack.

1.9 Filestack URLs. The Filestack URL returned by the Service on file upload is not intended to survive indefinitely. Filestack will use commercially reasonable efforts to maintain these placeholder URLs for a reasonable period of time.

1.10 Integration Features. Filestack may provide integration features that enable you to interact with your third party service providers such as Dropbox, Google, Facebook, and Instagram. Filestack does not endorse or recommend any service for which it offers an integration feature. You acknowledge that Filestack's integration features may be unavailable or may not work properly if the service provider's API is unavailable or if the service provider modifies its API or services in a way that impacts the Filestack integration feature. Filestack will use commercially reasonable efforts to modify its integration features to maintain compatibility with service provider's APIs and services, but may discontinue an integration feature without liability to you if there is a change in the service that creates an unreasonable cost or operational burden to Filestack. Your obligations under the Agreement, for fees and otherwise, are not conditioned on the continued availability of any integration features. Your use of the third party service is subject to the legal agreement between you and the third party. You should review the third party's legal terms and privacy policies before using their services.

## **2. YOUR CONTENT**

The content that you or your users transmit, modify, or store using the Services is "Your Content." As between you and Filestack, you own and retain ownership and all rights in Your Content and Filestack may use Your Content only for the purpose of providing the Services and exercising its legal rights and remedies in connection with the Agreement. For clarity, "Your Content" does not include: (i) system generated data about your use of the Services ("System Data") provided that the System Data is not identifiable to you or any user, or (ii) any numerical or financial data about your users that is collected and maintained in aggregate anonymous form ("Anonymous Statistical Data"). You acknowledge that Filestack owns and retains ownership rights in the System Data and Anonymous Statistical Data and may use, transfer, and commercially exploit the System Data and Anonymous Statistical Data for any purpose whatsoever.

## **3. FEES AND PAYMENTS**

3.1 Payment Account. Unless you have made other arrangements with Filestack, you must authorize and maintain a current valid means for Filestack to collect its fees for the Services via payment card, PayPal, or ACH at all times during the Term.

3.2 Billing Cycle. Fees are charged on a monthly basis unless otherwise stated in the Order. Your “billing cycle” begins on your Services activation date and continues for one month. For example, if your Services are activated on January 15, your first billing cycle will begin on January 15th and end on February 14, and your billing cycles will continue from the 15th of each month to the 14th of the following month for the Term of your Order. If your service activation date is the 29th, 30th or 31st day of a month, your billing cycle will end on the last day of the calendar month that has fewer days than your service activation month. For example, if your service activation date is January 31st, your billing cycles will end on February 28, March 31, April 30, etc.

3.3 Fees. The fees for the Services are stated in your Order, either directly or by reference to a plan description on the Filestack site or customer portal. Filestack may not increase the fees during your initial term, but may increase its fees for any renewal term by giving you notice of the increase at least thirty (30) days prior to the first day of the first billing cycle or the renewal term. If you exceed any account limits applicable to your Services plan, Filestack will charge you overages at its then-current published overage rates, except if you have free plan, Filestack will not charge you but may block your Service until the start of the next billing cycle. Fees are stated and must be paid in United States Dollars.

3.4 Sales Tax. The stated fees do not include any sales, use, VAT or like taxes (“Sales Tax”). You must pay any applicable Sales Tax that is properly invoiced by Filestack.

3.5 Invoices. Filestack may invoice the fees on or before the following times: (i) for one-time fees (such as set up fees), the day you submit the Order that includes the fee, and (ii) for monthly fees, monthly in advance. Filestack may invoice any applicable Sales Tax with the invoice for the related Service, or separately. If your Order includes a monthly fee that is stated as a “minimum,” Filestack may invoice the minimum on or after the first day of your billing cycle, and invoice any amount by which your usage based fee exceeds the minimum on or after the last day of your billing cycle.

3.6 Payments. Unless you have made other arrangements, Filestack may charge your payment card or account on the date of invoice. Filestack may suspend or terminate your Services or the Order if its charge to your payment card or account is rejected or not timely paid for any reason. Filestack may charge interest on overdue amounts at the lesser of 1.2% per month or the highest non-usurious amount permitted by applicable law. If Filestack takes legal action to collect an overdue amount, you must also pay Filestack’s reasonable costs of collection, such as attorney fees and court costs. If Filestack suspends your account for late payment, you must pay Filestack’s reasonable reinstatement fee, not to exceed the minimum or base fee of your Plan.

3.7 Plan Changes. If you have purchased a Filestack plan, you may upgrade your plan at any time by placing an upgrade Order. Generally, changes to your plan are effective starting with the billing cycle that follows the change. For upgrades, Filestack may give you the benefit of additional features prior to the next billing cycle, but you will be charged the fees applicable to your old plan for the remainder of the billing cycle. If you downgrade or cancel your Services, Filestack may continue your existing plan features and fees until your next billing cycle, or may change your plan to the lower tier or terminate your Services prior to the end of the billing cycle, at its election.

3.8 General. Fees are non-refundable, even if you do not use the Services. If your Order is for an initial term of longer than one month, and the Order is terminated prior to the end of the initial term then, unless the termination was by Filestack for convenience, or by you for Filestack's breach, you must pay an early termination fee equal to the fees for the remaining part of the initial term.

## **4. YOUR OBLIGATIONS**

4.1 Fees. You must pay your fees when due as described above. You must not use or attempt to use the Services in a way that undermines Filestack's ability to correctly calculate its fees.

4.2 Your Security Obligations. You must use reasonable security precautions in connection with your use of the Services, such as requiring your personnel and users to establish reasonably secure passwords and using commercially reasonable efforts to protect your systems and data from malware. You may not interfere, or attempt to interfere, with any encryption features of the Services. You must use signatures and policies to prevent unauthorized access and use of Services as described in <https://www.filestack.com/docs/security/policies>. You agree that you are responsible under the Agreement for any action taken using your account credentials, even if the action was not authorized by you.

4.3 Authorized Users. You authorize Filestack to act on the instructions of a user who authenticates using the account credentials you have established. You are solely responsible for maintaining the user permissions and authentication credentials for your account. You may not authorize anyone to use the administrative features of your Services account other than your employees and individual contractors under your direct supervision.

4.4 Acceptable Use. You may not use the Services or permit your users to use the Services in violation of the AWS Acceptable Use Policy at <https://aws.amazon.com/aup/>, or in connection with any illegal or abusive activities, as determined by Filestack in its reasonable discretion.

4.5 Backups. You must create a backup of Your Content at reasonable intervals and retain that backup in a secure location.

4.6 Compliance with Law. You must use the Services in compliance with applicable law, including export laws as further detailed in [Section 7.9](#) (*Export Compliance*).

4.7 Representations and Warranties. You represent and warrant to Filestack as of the effective date of each Order and on an ongoing basis that: (i) the information you submit about yourself and your activities to establish a Services account with Filestack and place an Order is true, correct, and complete, (ii) you have not been the target of any legal or regulatory investigations or proceedings in connection with your business activities, (iii) Your Content was collected in accordance with applicable law, and that you have all necessary rights and authority to use and process Your Content as contemplated by the Agreement, including any required consents from individuals under applicable privacy laws, and (iv) each third party service provider with whom you interface using the Filestack API has given you any permissions or licenses that may be required for the interface.

## **5. TERM, TERMINATION, SUSPENSION**

5.1 Term. Unless otherwise stated in your Order, the initial term of each Order begins on Order submission and continues until the end of your first billing cycle (one month from your Services activation date). On expiration of the initial term, the Order renews for consecutive renewal terms of one month each (or any longer period described in the Order), unless either you or Filestack gives a notice of non-renewal on or before the last day of the initial term or then current renewal term, as applicable.

5.2 Termination. Either party may terminate an Order, or the Agreement, on written notice if the other party is in material violation of any term of an Order or these Service Terms, provided that if the violation is curable the terminating party must first give the other party a written notice describing the violation in reasonable detail and at least ten (10) days to cure the violation. You may terminate an Order at any time for convenience effective as of the last day of your billing cycle by giving notice on or before the last day of the billing cycle, subject to your obligation to pay any applicable early termination fee as described above in *Fees and Payments/General*. Filestack may terminate an Order at any time for convenience on thirty (30) days advance written notice. Filestack may terminate an Order and the Agreement at any time on summary written notice if you or your personnel are abusive to Filestack personnel.

5.3 Suspension. Filestack may suspend your access to the Services and Your Content during any period that you are in material breach of the Agreement or your access to

the Services or Your Content creates a material security vulnerability. Filestack will give you at least two (2) business days' advance notice of the suspension, unless the suspension is made under emergency circumstances. Filestack will reinstate your access to the Services when the grounds for suspension are cured unless Filestack has already terminated the Agreement as described in this Section.

5.4 Surviving Provisions. The following sections survive expiration or termination of the Agreement: Fees and Payment, Confidentiality, Indemnification, Limitation of Liability, Term and Termination, Suspension, Governing Law, Disputes, Notices, General, and any other terms that by their nature are intended to survive expiration or termination.

5.5 Return of Your Content. You are responsible for exporting Your Content from the Services prior to expiration of the Agreement. If Filestack terminates your Services for breach, Filestack will retain Your Content for at least 15 days from the effective date of termination. If you wish to export Your Content following a termination for breach, Filestack will either, at its option, enable short term access to the Services at a scheduled time so that you may export Your Content, or export Your Content using its standard export tools. Filestack has no obligation to retain Your Content after the 15-day period and may destroy Your Content.

## **6. REMEDIES, DISCLAIMERS, INDEMNIFICATION, LIMITATIONS**

6.1 Warranty/SLA. Filestack's Services warranties are stated in [Section 1](#). If you purchase an enterprise plan, the Order may include additional warranties or a Service Level Agreement ("SLA").

6.2 SLA/Warranty Remedies.

6.2.1 SLA. If your Order includes an SLA with credit remedies, the credits are the sole and exclusive remedy for failure to meet the service commitments for which the credits are provided.

6.2.2 Warranty. If the Services fail to meet a warranty stated in the Agreement other than an SLA, Filestack will attempt to cure the failure or if it is unable to cure the failure through commercially reasonable efforts it will refund the fees paid for the billing cycle during which the failure occurred. However, to be eligible for a warranty remedy under this section, you must give a written notice describing the failure no later than ten (10) days following the end of the billing cycle and cooperate with Filestack's reasonable efforts to cure the failure. The remedies stated in this Section are your sole and exclusive remedy for Filestack's warranty breach.



6.3 No Other Warranty. Except as expressly stated in the Agreement, the Services are provided AS IS. Filestack disclaims any implied warranties, such as a warranty of merchantability, fitness for a particular purpose, and non-infringement, and any representation or warranty that may arise through a course of dealing. You acknowledge that the use of the Service may not be uninterrupted, error free, or completely secure. If applicable law requires Filestack to make a warranty notwithstanding this disclaimer, then the warranty is made for a period of thirty (30) days from the date that it is deemed to have been made, and your sole and exclusive remedy for a breach of the warranty is a refund of fees paid for the Services covered by the warranty. You represent that you have not relied on any representation or warranty other than those stated in the Agreement.

6.4 Indemnification. You agree that if a third party asserts a legal claim against Filestack or any of its officers, members, managers, employees, staff, personnel, agents, licensors or suppliers (the "Filestack Persons") arising from your violation of these Services Terms or any Order, including your breach of a representation or warranty, or if your customer or end user asserts a legal claim against any of the Filestack Persons on any basis other than the gross negligence or misconduct of a Filestack person, you will pay all reasonable costs of defending the claim, including reasonable attorney fees, and any damages awarded to the third party or paid to the third party by Filestack as a reasonable settlement. You agree that Filestack may control the defense of the claim at its option, or may require you to defend the claim directly. If Filestack elects to control the defense of the claim, you will reimburse Filestack for its reasonable defense costs and expenses as incurred.

6.5 Limitation of Liability. In the event you have a legal claim against any of the Filestack Persons, you agree that the maximum total amount of money you can recover from any or all of them cannot exceed the amount of fees you have paid or that are payable for Service for the six (6) months prior to the date the claim arose, unless the legal claim is based on a Filestack Person's intentional misconduct or is for personal injury or death resulting from the negligence, recklessness or intentional misconduct of a Filestack Person. In addition, you agree that in no event are you entitled to recover any lost revenue, lost profits, damages for lost data, or any indirect or consequential loss or damages or any kind.

6.6 General. You acknowledge that Filestack has set its fees and entered into the Order in reliance on the limitations of remedies and liability stated in these Terms, and that these limitations reflect an agreed allocation of risk between you and Filestack. The limitations stated in this Section shall apply to any liability arising from any cause of action whatsoever, whether in contract, tort, commercial code, strict liability or otherwise, even if a limited remedy fails of its essential purpose. If these

limitations as written are not permitted by applicable law, they shall apply to the extent permitted by applicable law.

## 7. END USER TERMS

If you use the Services as part of an application service that you provide to persons other than your own personnel, then you must have a written agreement in place with those customers/users that includes terms at least as protective of Filestack as those stated in [Section 1.4 \(Conditions, Restrictions\)](#); [1.7 \(Third Party Services\)](#); [4.2 \(Your Security Obligations\)](#); [4.4 \(Acceptable Use\)](#); [4.5 \(Backups\)](#); [4.6 \(Compliance with Law\)](#); [4.7 \(iii\) \(Representations and Warranties, as to Content\)](#); [8.2 \(Rights in Technology/Intellectual Property\)](#) and [8.10 \(Export Compliance\)](#).

## 8. GENERAL TERMS

8.1 Look and Feel. If your plan or your Order permit modifications to the File Uploader, you may modify the color, and the look and feel of the File Uploader to conform to your application interface, provided that you do one of the following: (i) include the text “Uses Filestack” with a link back to <https://www.filestack.com/>; (ii) include the Filestack badge at <https://www.filestack.com/partner/> with a link back to <https://www.filestack.com/>, or (iii) place the Filestack logo anywhere within the File Uploader where it is visible to the user above the fold.

8.2 Rights in Technology/Intellectual Property. You may not copy any part of the Services or mirror the Services on any site or system, except that you may download and print copies of Documentation for the Services as reasonably necessary for your permitted use of the Services, provided that you use the Documentation in the exact form published, retain all branding and proprietary notices, and do not transfer the Documentation to any other person. You may not remove any proprietary notices displayed on the Documentation or other Services materials. Except for rights expressly granted in this Agreement, Filestack retains all right, title and interest in and to its Services, technology, and information and all related intellectual property rights. No rights in intellectual property may arise by implication or estoppel.

8.3 Feedback. You hereby license to Filestack any feedback or suggestions that you provide regarding the Services or Filestack’s other existing or proposed products or services on a perpetual, irrevocable, royalty free, worldwide, unconditional, fully sublicensable and transferable basis, including the right to make, have made, use, sell, offer to sell, import, copy, display, perform, modify, distribute in modified or unmodified form, and commercialize any intellectual property, without accounting to you. You agree that you will not assert, or authorize, assist, or encourage any third party to assert, against Filestack or any of its affiliates, vendors, business partners, or

licensors, any patent infringement or other intellectual property infringement claim regarding the Service or any our other products or services that you use.

8.4 Confidential Information. Any non-public information that you learn about Filestack or its Services as part of the relationship contemplated by these Services Terms is Filestack's Confidential Information. Your Content is your Confidential Information. Each of us agrees not to use or disclose the other's Confidential Information except for the purpose of providing or using the Services, as applicable, or to exercise legal rights in connection with an Order. Each of us agrees to use reasonable care to protect the confidentiality of the other's Confidential Information and to return or destroy the other's Confidential Information on request, except as necessary for reasonable and customary business record-keeping purposes. Each of us is responsible for a breach of this Section by any person to whom it has disclosed the other's Confidential Information. Notwithstanding the foregoing, Filestack may disclose your Confidential Information in response to a subpoena or request from law enforcement.

8.5 Governing Law. The Order and these Services Terms are governed by and should be interpreted under the laws of the State of Texas, and the United States of America, as applicable, without giving effect to any conflicts of law principles that would require the application of the law of a different jurisdiction. The parties expressly and irrevocably disclaim and waive the application of the United Nations Convention on Contracts for the International Sale of Good and the Uniform Computer Information Act.

8.6 Notices. Your notices must be submitted via ticket on the customer portal, and copied by electronic mail to support@Filestack.com. Filestack's notices to you must be given to your primary account contact at the email address in the Filestack portal. If you send a notice of breach of the Agreement, a legal dispute, a legal claim, or other legal matter, you must copy your notice to legalnotice@filestack.com, and must also send your notice via first class United States mail to Filestack's physical address appearing on its Site on the day the notice is transmitted electronically. Filestack's legal notices to you must be copied via first class United States mail to your physical notice address, or if your physical address is outside of the United States, via a reputable and established international priority mail service on the date the notice is transmitted electronically. Notices are deemed given, received and effective as of the time transmitted by electronic mail, or if that time does not fall on a business day, as of the beginning of the first business day following the time transmitted. Notices must be given in the English language. A party may change its address for notice by giving notice in the manner stated in this Section.

8.7 Arbitration. Except for certain requests for injunctive relief as described below, each of you and Filestack agree that any dispute related to the Services, an Order or

these Services Terms shall be submitted to binding arbitration in San Antonio, Texas. The arbitration shall be conducted by one arbitrator in accordance with the commercial arbitration rules of the American Arbitration Association (“AAA”). The arbitration will be conducted in person unless each of party agrees to a telephonic or written submissions procedure. The arbitrator shall issue a reasoned award with findings of fact and conclusions of law. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction. Either party may bring an action in any court of competent jurisdiction to compel arbitration under this Agreement, or to enforce or vacate an arbitration award. Each party waives any right to a trial by jury, and agrees that disputes will be resolved through arbitration. No claim subject to this provision may be brought as a class or collective action, nor may you assert such a claim as a member of a class or collective action that is brought by another claimant. Each party agrees not bring a claim related to the Services or the subject matter of an Order or these Services Terms more than two years after the time that the claim accrued. Except as may be required by law, neither a party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both parties.

8.8 Informal Dispute Resolution. Each party agrees that it will not file a lawsuit or other legal action in connection with the Services, any Order, or these Services Terms, unless it has first given the other party written notice of the dispute, and attempted to resolve the dispute through good faith negotiation.

8.9 Injunctive Relief. Notwithstanding anything in this Agreement to the contrary, this Agreement does not prohibit, condition or delays a party’s right to seek injunctive relief in any court of competent jurisdiction to address the other party’s infringement or misappropriation of its intellectual property, or the other party’s breach of its confidentiality obligations under this Agreement.

8.10 Export Compliance. You may not permit users to access or use the Services in a U.S.-embargoed country or in violation of any U.S. export law or regulation, or in a manner that causes Filestack to be in violation of U.S. export laws, even if the use is permitted the laws applicable to you or your users. For example, you may not authorize any person to use the Services that is on the list of Specially Designated Nationals and Blocked Persons issued by the U.S. Treasury Department’s Office of Foreign Asset Control (OFAC) or who is located in or is a national of any country that is embargoed under United States export laws; and you may not use or permit the use of the Services to process or store any data that is subject to the International Traffic in Arms Regulations maintained by the U.S. Department of State, or permit the use of the Services by any person who you know or have reason to know will utilize them in the design, development or production of nuclear, chemical or biological weapons, or rocket systems, space launch vehicles, or sounding rockets, or

unmanned air vehicle systems. Each party represents that it is not on any restricted persons list maintained by the U.S., Canada, or any member of the European Union.

8.11 Anti-Corruption. Each party represents that it has not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from the other's employees or agents in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction. If either party learns of any violation of the above restriction, it will promptly notify the other party.

8.12 Force Majeure. Except for your payment obligations, neither party is in violation of the Agreement if the failure to perform is due to an event beyond that party's reasonable control, such as a significant failure of the power grid or Internet, denial of service attacks, natural disaster, war, riot, insurrection, epidemic, strikes or other organized labor action, terrorism, or other acts or events for which precautions are not generally taken in the industry.

8.13 Assignment. Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the other party's prior written consent (not to be unreasonably withheld); provided, however, either party may assign this Agreement in its entirety (including all Orders), without the other party's consent to its affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns.

8.14 Publicity. Filestack may identify you in its marketing and sales materials, and may include your Marks in an appropriate area of its website and marketing materials, provided that it does not state or imply that you endorse the Filestack Services. We will use and display your Marks in accordance with your trademark usage guidelines communicated to us. Any goodwill accruing from Filestack's use of your Marks shall accrue to you.

8.15 Relationship of the Parties. The parties are independent contractors. Neither party is the agent of the other, and neither party is authorized to make any representations, contract, or commitment on behalf of the other. The use of the words "partner" or "partnership" in this Agreement or otherwise refers only to a business relationship, and does not create or reflect any legal partnership, joint venture, or other fiduciary or other special relationship between the persons described as partners. The parties do not agree to any exclusivity in regards to the subject matter of this Agreement and each party is free to contract with third parties, including competitors of the other party, for transactions of the type covered by this Agreement in any market, worldwide.

8.16 Interpretations. (i) In calculating any period of time under this Agreement, the day of the act, event or default from which the designated period of time begins to run is not be included. (ii) The term “person” refers to any legal person, and may mean a natural person (individual), a legally created person (such as an entity, trustee, or executor), or an entity (such as a corporation, partnership, or limited liability company). (iii) The word “personnel” refers to a person’s employees and individual contractors who are under the person’s direct supervision. (iv) The word “affiliate” refers to an individual or entity that controls, is controlled by, or is under common control with the person referred to, where control means ownership of the majority of voting interests of an entity or the right to control the policies of the entity by means of a controlling number of seats on the entity’s governing body. (v) The use of the word “including” should be read to mean “including, without limitation.” (vi) All references to monetary amounts mean United States Dollars. (vii) The term “parties,” either in lower- or upper-case form, refers to the signatories to this Agreement. (viii) For notice purposes, the words “business day,” “business hours,” or the like means Monday – Friday, 9:00 a.m. – 5:00 p.m., United States Central Time, excluding federal public holidays in the United States. (ix) A reference to “day” shall mean a calendar day, unless expressly designated as a “business” day. (x) All software and other technology provided for your use is licensed and not sold; any references to a sale or purchase of software or other technology means the sale or purchase of a subscription. (xi) Any requirement in this Agreement that a statement be written, in writing, or a like requirement is satisfied by an email or other digital form of writing unless expressly stated otherwise. (xii) Nouns stated in the singular imply the plural as indicated by the context, and pronouns that are gender specific refer to either gender. (xiii) The Section captions in this Agreement are for convenience only; they are not part of this Agreement and may not be used to interpret the terms of this Agreement.

8.17 Third-Party Beneficiaries. There are no other third-party beneficiaries under this Agreement.

8.18 Severability. In the event one or more of the terms of this Agreement are adjudicated invalid, illegal, or unenforceable, the adjudicating body may either interpret this Agreement as if such terms had not been included, or may reform such terms to the limited extent necessary to make them valid, legal or enforceable, consistent with the economic and legal incentives underlying the Agreement.

8.19 Changes to the Services. You agree that your purchases are not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by Filestack regarding future functionality or features. You acknowledge that Filestack may modify or suspend any of its Services offerings at any time. If a modification or suspension materially and adversely affects

your use of the Services, you may terminate the Agreement by giving written notice of the change no later than 30 days following the date of the change and receive a refund of any prepaid fees as your sole and exclusive remedy.

8.20 General Representations. Each party represents that it has validly entered into this Agreement and has the legal power to do so.

8.21 Representation by Individual Submitting the Order. If an individual submits an Order, the individual represents that: (i) if the individual submits the Order on his or her own behalf (including as a sole proprietor), the individual is old enough to enter into contracts and otherwise has the legal capacity to enter into contracts under applicable law; or (ii) if the individual submits the Order on behalf of a company or other legal entity, the individual has the legal power and authority to bind that entity to the Order and these Service Terms.

8.22 Changes to Online Service Terms. Filestack may amend these Services Terms at any time in its sole discretion. Any amendment will become effective as to your Order on the first renewal of the Order that follows the publication of the amendment by at least thirty (30) days. If the amendment materially and adversely impacts your use of the Services, you may terminate the Agreement by giving written notice no later than thirty (30) days following the date the amendment is published and receive a refund of prepaid fees for unused Services as your sole and exclusive remedy.

8.23 Entire Agreement and Order of Precedence. This Agreement is the entire agreement between you and Filestack regarding your use of Services and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of these Service Terms or an Order will be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted. The parties agree that any preprinted term or condition stated in any business form is void. In the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (1) the applicable Order, (2) these Services Terms, and (3) the Documentation. Your use of the Services, both during any free use period and your Subscription Term, is subject to all of the terms, conditions, and restrictions stated in your Order and these Service Terms, and any restrictions stated on a page on the Site that is part of your Order.

## **9. DEFINITIONS**

Capitalized terms have the meaning stated below or in the section where they are first used.

- Agreement refers collectively to your Order(s) and these Terms of Service.
- Documentation means Filestack's user and administration guides, FAQ's, Whitepapers and other materials designed to explain the use of the Services, but not including any marketing materials or publicity.
- Mark means trademarks and service marks, such as trade names, logos, and similar indicia.
- Order means either of the following that have been signed or submitted by you, and accepted by Filestack: (i) an order form provided to you by Filestack for your signature, or (ii) a web form that you submit on the Site.
- Services means Filestack's file uploading, editing, distribution, and other file management services identified on an Order.
- Site means [www.filestack.com](http://www.filestack.com), or any other website operated by Filestack for the purpose of offering or providing Services, including any subdomains.
- Term means the initial term and any renewal terms, collectively.
- System Data has the meaning given in the Section captioned *Your Content*.
- Your Content has the meaning given in Section captioned *Your Content*.