

Feedzon Cloud Services Agreement

Version 1.4. Last Updated 09 November, 2016

THE FEEDZON TERMS OF SERVICE (THIS "AGREEMENT") CONTAINS THE TERMS AND CONDITIONS THAT GOVERN YOUR ACCESS TO, AND USE OF THE SERVICE (AS DEFINED BELOW) AND IS A BINDING AGREEMENT BETWEEN FEEDZON LIMITED, ("FEEDZON," "WE," "US," OR "OUR") AND YOU OR THE ENTITY YOU REPRESENT (THE "CUSTOMER", "YOU" OR "YOUR"). IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THE TERMS AND CONDITIONS OF THIS AGREEMENT AND, IN SUCH EVENT, "THE CUSTOMER", "YOU" OR "YOUR" AS USED IN THIS AGREEMENT SHALL REFER TO SUCH ENTITY.

YOU UNDERSTAND AND AGREE TO FOLLOW AND BE BOUND BY THE TERMS OF THIS AGREEMENT, THE ACCEPTABLE USE POLICY (AUP) AND THE PRIVACY POLICY WHEN YOU CLICK AN "I ACCEPT" BUTTON OR CHECK BOX PRESENTED WITH THESE TERMS OR WHEN YOU START USING ANY OF THE SERVICES, WHICHEVER IS THE EARLIEST DATE (THE "EFFECTIVE DATE"). SUBJECT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, DURING THE TERM OF THIS AGREEMENT, FEEDZON WILL PROVIDE TO THE CUSTOMER ACCESS TO THE SERVICES DESCRIBED IN THE RESPECTIVE SERVICE DETAIL PAGES ON THE FEEDZON WEBSITE.

Definitions

- "Service" or "Services" refers to cloud computing services delivered by Feedzon;
- "Acceptable Use Policy" means the document currently available on our website and updated from time to time describing or policy on the usage of the Services: <http://www.feedzon.com/about>;
- "Website" means our main website or any affiliated site, under our domain [feedzon.com](http://www.feedzon.com);
- "End User" means any individual or entity that directly or indirectly accesses or uses your products, services or data, delivered on top of the Services provided by us;
- "Service Level Agreement" or "SLA" means all service level agreements that we offer with respect to the Services and post on our website, updated from time to time: <http://www.feedzon.com/about>;
- "Suggestions" means all suggested improvements to the Services that you send us, through our blogs, forums, websites, ticketing system or support lines. All intellectual property associated with the "Suggestions" rests exclusively with Feedzon;
- "Additional Policies" means those policies that the customer will agree to pursuant to acceptance of the Service.

1. Service

1.1. To access the Services you must create an account associated with a valid email address. Under this account you may choose which Services you will use. You take full responsibility for all activities that occur under your account, undertaken by you, your employees or any third party contracted by you. We are not responsible for any unauthorised access to your account. You must contact us in case you believe that any unauthorised third party has used your account.

1.2. We provide support without charge through information available on our website, such as the Services specification pages, frequently asked questions, blogs and forums. We also provide a ticketing system through which you can submit queries to our support staff. For customers receiving additional support via telephone, this service will be provided free of charge but we are not responsible for your telephone call charges.

2. Changes

2.1. Feedzon is always evolving so some or all of our Services may change over time. You agree that we may create, change, including price (including subscriptions or quantity of credits required for a Service), features, and service levels, which benefits or restrictions apply to different account types or discontinue any of the Services from time to time. We will notify you of any changes, creation or discontinuation of any Services at any time by posting a revised version at the websites listed herein and/or of the Agreement at <http://www.feedzon.com/about>. We will endeavour to provide you with reasonable prior notice, by email and by posting on the website, about any material changes or discontinuation of Services. Unless otherwise set forth in the Agreement or in our change of terms notice, the revised terms shall be effective not less than 30 days after posting.

2.2. It is your responsibility to check the websites listed herein regularly for changes to this Agreement, the Acceptable Use Policy and the Privacy Policy, as applicable. If you disagree with any modifications to any of these agreements or policies, your sole and exclusive remedy shall be to terminate the receipt of Services in accordance with Section 7.

3. Security, Confidentiality and Privacy

3.1. We will implement reasonable and appropriate measures to help secure your data against accidental or unlawful loss, access or disclosure in relation to the use of our Services. Your email address, physical address and other personal information are stored in one of the strongest available encrypted formats.

3.2. HTTPS (256-bit SSL) is used for all data communications with the Services. Data submitted to the Services via email is unencrypted and is not secure. You acknowledge and agree that once any unencrypted data passes onto the Internet, it is not secure and is open to unscrupulous use. We cannot accept responsibility or liability for any data or information that becomes available by such means and we recommend the use of the encrypted HTTPS GET or POST method for transfer of sensitive data or information.

3.3. Unless otherwise specified by you in your account settings, all your data submitted to or returned by the Services is immediately deleted from our servers following processing. We retain only sufficient data required for our management and billing systems.

3.4. Some Feedzon services are processed completely on Feedzon servers (“Internally”) and others use third-party providers (“Externally”), requiring transmission of your data to and from their servers. Although we cannot guarantee the availability of the services of third-party providers, our selection of third-party providers has been made with the intention to maintain the maximum security and privacy throughout provision of the Services. Where possible we have selected third party providers whose agreements have a similar intention to our own. To identify which Services are processed internally or externally, please see the website Services pages. If you do not agree to your data being transmitted externally for a specific Service, do not use that Service. Where you use a Service that is processed externally, you agree that we may transmit and retrieve your data to/from the external service provider.

3.5. Feedzon has physical servers located in various countries. In order to comply with *The USA Patriot Act*, *The Canadian Freedom of Information and Protection of Privacy Amendment Act* and similar acts worldwide, we intend to introduce an option whereby you will be able to identify in your account settings in which country or countries you permit your data to be processed. This option only applies to data processed Internally and specifically excludes data processed Externally. Where applied, such a selection may result in slower operation at peak times, so we recommend that you only use this option where mandatory.

3.6. Each party acknowledges that it will have access to certain confidential information of the other party. Each party agrees that it will not use in any way, for its own account or the account of any third party, except as expressly permitted by this Agreement, nor disclose to any third party (except as required by law or to that party’s attorneys, accountants and other advisors as reasonably necessary to carry out the purposes of this Agreement), any of the other party's Confidential Information and will take reasonable precautions to protect the confidentiality of such information.

3.7. You agree to allow us to pass on your details where necessary for the purpose of credit checking and setting up a continuous payment authority.

3.8. We reserve the right to and you permit us to publish the names and logos of our customers in our marketing material, free of any copyright or trademark restrictions.

3.9. Information will not be deemed Confidential Information hereunder if such information: (i) is or becomes known without restriction to the receiving party from a source other than one having an obligation of confidentiality to the disclosing party; (ii) becomes generally publicly known or otherwise ceases to be secret or confidential, except through a breach of this Agreement by the receiving party; or (iii) is independently developed by the receiving party without reference to the Confidential Information.

4. Your responsibilities

- 4.1. You are the only entity responsible for the creation, development, operation, maintenance and use of your applications and websites that will use the Services.
- 4.2. You must comply with our Acceptable Use Policy and the Law.
- 4.3. You are responsible for any claims from third parties related to your data or use of the Services.
- 4.4. You are responsible for properly choosing, configuring and using the Services and defining your own policies to ensure the Services are only used according to this Agreement.
- 4.5. You are responsible for end users' use of the Services and data supplied to the Services and you will ensure that all end users do not put at risk your compliance with the obligations under this Agreement.
- 4.6. You are responsible for identifying and authenticating all end users, for approving access by such users to the Services, for controlling against unauthorised access by users, and for maintaining the confidentiality of API keys, usernames, passwords and all account information.
- 4.7. The Services are not intended for use in the operation of nuclear facilities, aircraft navigation, air traffic control systems, hazardous situations, life support machines or other equipment in which the failure of the Services or delay in provision of the Services could lead to death, personal injury, or physical or environmental damage. You agree that it is your responsibility to ensure safe use of the Services.
- 4.8. You are responsible for providing support to your end users (if any).
- 4.9. You agree and acknowledge that you have not relied on the future availability of any of the Services in entering into the obligations under this Agreement; however, the preceding does not relieve us of our obligation during the lifetime of this Agreement to deliver the Services as per the terms of this Agreement.
- 4.10. You are at least 18 years of age and have the legal capacity to enter into this Agreement.
- 4.11. If you registering for the Services as an entity or organisation, you are duly authorised to do so.
- 4.12. The individual clicking "I Accept" on this Agreement and completing the registration for the Services meets the requirements of section 4 above and is an authorised representative of customer, and the customer's employees, officers, representatives and other agents accessing the Services are duly authorised to access the Services and to legally bind the customer to this Agreement and all transactions conducted under the customer's account.

5. Subscription, Fees, Payments & Cancellation

5.1. To use the Services you will require a subscription. Subscriptions are charged monthly in advance and remain active until cancelled. You agree to pay the current prevailing price at the time of purchase for any product or service. See the website for the features available with each type of subscription.

5.2. Each Service requires its own subscription, so you may have multiple subscriptions for different services, for various amounts and with various renewal dates.

5.3. Credits for Services that work on a 'credit usage' basis which will automatically be deducted from your account balance immediately upon use. At the time of writing this includes the OCR, Translate and Address Services. You can view a detailed history of your Service usage by logging into your account on our website.

5.4. Subscriptions for the Calendar, OCR and Translate services are valid for one month from purchase.

5.5. Subscriptions for UK Address and UK Store Locator services are valid for a period of 12 months from purchase.

5.6. When you take out a subscription, you agree that your payment details will be stored by our PCI DSS Compliant payment provider (using a token system) and that we may charge the recurring charges to your account on a monthly basis.

5.7. Subscriptions will be charged on the "monthiversary" (the same date of each month) of the date on which the subscription was purchased, except where the monthiversary is the 29th, 30th or 31st of the month, in which case you will be charged on 28th of each month.

5.8. By agreeing to these terms, you are providing us with a Continuous Payment Authority ("CPA") to charge your account according to your recurring billing cycle.

5.9. Should your recurring payment for a subscription fail (for example it is declined or your card has expired), we will send an email each day for three days to the email address associated with your account. If you wish to continue using the Service, you should respond to this email at the earliest opportunity by logging into your account on our website and updating your payment details, on receipt of which we will attempt to charge the payment again. If your account is not updated with new payment details, then the subscription will be cancelled automatically and the service will no longer be available to you.

5.10. Once a subscription has been successfully charged to your card, refunds are not available, whether or not you have used the service.

5.11. You can cancel any subscription at any time by logging into your account on our website and clicking the 'Cancel' button in the 'Auto Renew' column of the subscription page.

5.12. We reserve the right to change the subscription fees for any Service at any time. Changes to fees will be effective at a date determined by us, provided we post the information on our website with at least 30 days advance notice. We will also send an email to the email address associated with your account.

5.13. Fees for any new Service or new feature of a Service will be effective and applicable when posted on our website, unless we expressly state otherwise in a notice.

5.14. Charges will be displayed on your card or bank account as “Feedzon” or “Feedzon Web Services”.

5.15. We will contact you by email at the email address associated with your account with reference to your account and billing. Email communications will include invoices, low credit notifications and warnings regarding declined transaction charges, amongst others.

5.16. All fees payable by you are exclusive of applicable taxes and duties, including VAT and applicable sales tax. You will provide us any information we reasonably request to determine whether we are required to collect VAT from you, including your VAT identification number.

5.17. We will send a VAT (tax) invoice for each charge, to the email address associated with your account.

6. Suspension of Service

6.1. We may suspend your Service, partially or in full, immediately upon notice to you if we determine: (a) you or your end users are in breach of this Agreement or the Acceptable Use Policy (AUP); (b) you are delayed for 14 or more days on the payment of any applicable fees. (c) you or an end user’s use of the Service poses (i) a security risk to us or any third party, (ii) may adversely impact the Service or the systems on which the Services operate or the data of any other customer or (iii) may subject us or any third party to liability;

6.2. If we suspend your right to use any portion or all of the Service: (a) you will not be entitled to any service credits under any Service Level Agreement for the period of suspension; (b) you remain responsible for all fees and charges you have incurred until the date of suspension and for all fees and changes of any Service you still use that we might not have suspended. (c) we will not cancel your account or change any of your settings, except if the suspension lasts for more than 30 days and you have not resolved the reasons that led to the suspension in that time.

7. Term and Termination

7.1. The term of this Agreement will commence on the Effective Date and will remain in effect until terminated by you or us, according to 7.2. and 7.3.

7.2. Termination for Convenience: (a) You may terminate this Agreement at any time and for any reason by logging into your account on our website and cancelling all your

subscriptions; (b) We may terminate this Agreement at any time and for any reason by providing you 90 days advance notice.

7.3. Termination for Cause: (a) Either party may terminate this Agreement for cause upon 30 days advance notice to the other party if there is any material default or breach of this Agreement by the other party, unless the defaulting party has cured the material default or breach within the 30 day notice period. (b) We may also terminate this Agreement immediately upon notice to you if we believe providing the Services could create a substantial economic, technical or security risk for us or in order to comply with the law or requests of governmental entities or if the provision of any of the Services has become impractical for any legal or regulatory reason.

7.4. You remain responsible for all fees you have incurred until the date of termination. Your failure to timely pay all fees as they become due shall constitute a material breach of this Agreement. If your account is terminated for non-payment, all outstanding invoices as well as the remainder of all monthly Fees for the remaining term of the Agreement will be immediately due and payable upon the termination date as and for liquidated damages, and not as a penalty. You will not have access to your account and any remaining credits will be voided on the date of termination and therefore you must complete all transactions that you require prior to the date of termination.

7.5. Any additional assistance from us after the termination date is subject to mutual agreement. Feedzon may also endeavour to provide you unique post-suspension or post-termination assistance, but Feedzon shall be under no obligation to do so. The customer's right to take advantage of any such assistance, whether generally made available with respect to the Services or made available uniquely to the customer shall be conditional upon the customer's acceptance of and compliance with any fees and terms Feedzon may specify for such assistance.

7.6. Either party may terminate this Agreement upon written notice to the other party if such other party becomes the subject of a petition in bankruptcy or any proceeding relating to insolvency, receivership, or liquidation for the benefit of creditors. Your notice should be promptly sent to: Feedzon Termination Notification, Feedzon Limited, Unit F Penfold Trading Estate, Imperial Way, Watford, Hertfordshire WD24 4YY, England.

7.7. Upon termination, any credits remaining on your account will be voided.

7.8 We reserve the right to charge interest at the maximum rate permitted by law for any fees due for a period of more than 30 days. We reserve the right to use a third party for collection of all debts.

7.9. Provisions that survive termination or expiration of this Agreement are those relating to limitation of liability, infringement, indemnity, payment and others that by their nature are intended to survive.

8. Proprietary Rights

8.1. You represent and warrant to us that you or your licensors own all right, title, and interest in and to your data that you process using the Services.

8.2. We will not deliberately disclose your data, unless requested by the applicable governmental laws, regulatory bodies or court orders.

8.3. We, or our licensors, own and reserve all right, title, and interest in and to the Services. We grant you a limited, revocable, non-exclusive, non-sub licensable, non-transferrable license to use the Services during its Term. Some content or applications or access to specific Services may be provided to you under an additional license, in which case both licenses will govern your use of those Services.

8.4. We may provide you with access to download certain Sample Programs or Sample Code ("Samples") for use with the Services. If we do not specify Separate Terms for such Samples, you shall have a non-transferable, non-exclusive, non-assignable, limited right to use such Samples solely to facilitate your access to, operation of, and/or use of the Services, subject to the terms of this Agreement. The Samples are provided on an "AS IS" basis and without express or implied warranties or representations of any kind as to accuracy, completeness, or otherwise. We do not guarantee that the Samples will be provided error-free. Your right to use such Samples will terminate upon the termination of this Agreement, the end of the Services associated with the Samples, or the date on which the license to use the Samples ends if a separate licence was provided.

8.5. If you provide any suggestions to us, we will own all right, title, and interest in and to the suggestions without restriction.

8.6. You understand and agrees that as part of the Services, you may voluntarily participate in one or more email discussions, public discussion forums or blogs with other users or employees of Feedzon. You understand and agree that all information supplied as part of any such discussions shall be deemed non-confidential and not subject to the terms of Section 3. You shall be solely responsible for determining whether to disclose or share any information on the foregoing forums and upon such disclosure or sharing, you hereby grant Feedzon a non-exclusive, royalty-free, worldwide license to disseminate and sublicense other users of such forums to use such information as part of the Services. Feedzon hereby grants you a non-exclusive, royalty-free, and worldwide license to use information supplied as part of the forums solely in connection with the use of the Services. You hereby release Feedzon from any and all liability in connection with information posted on the forums and acknowledges and agree that all information received by you is provided by Feedzon and other customers exclusively on an "AS IS" basis and without express or implied warranties or representations of any kind as to accuracy, completeness, or otherwise. All content supplied, posted or received, as part of a forum shall at all times be subject to the terms of the Acceptable Use Policy (AUP).

9. Indemnity

9.1. You will defend, indemnify, and hold harmless Feedzon (including its officers, employees, agents, contractors, representatives, suppliers, subsidiaries, parents, and affiliated companies) from any claims, damages, losses, liabilities, costs, and expenses (including reasonable legal fees) by any of your customers or users, or any other third party, arising out of or related to your use of, misuse of, or failure to use the Services, including without limitation: (i) alleged Customer conduct that would breach this Agreement, including alleged infringement of intellectual property or privacy rights and other Acceptable Use Policy violations; (ii) security breaches or other alleged faults in the Service, including without limitation faults listed in the Service Level Agreement and faults leading to the release or exposure of personally identifiable information or other private data (whether such data belongs to you, to one of your customers, or to other third parties); and (iii) any action taken by us as part of an investigation into a suspected violation of this Agreement or as a result of its conclusion that a violation has occurred.

10. Warranties

10.1. Each party warrants that it has full capacity and authority, and all necessary licenses, permits and consents to enter into and perform this Agreement.

10.2. The Services shall be provided in compliance with applicable laws and regulations.

10.3. We do not guarantee that (a) the Services will be provided error-free or uninterrupted, or that we will correct all services errors, (b) the services will operate in combination with your data or your websites or applications, and (c) the services will meet your requirements, specifications or expectations. You acknowledge that we do not control the transfer of data over communications facilities, including the internet, and that the Services may be subject to limitations, delays, and other problems inherent in the use of such communications facilities. We are not responsible for any delays, delivery failures, or other damage resulting from such problems. We are not responsible for any issues related to the performance, operation or security of the Services that arise from your data, your applications or third party content. We do not make any representation or warranty regarding the reliability, accuracy, completeness, correctness, or usefulness of third party content or externally provided services, and disclaim all liabilities therein.

10.4. Save as expressly set out in this Agreement, all conditions, warranties and representation, express or implied, statutory or otherwise (including the fitness of the Services for a particular purpose) are hereby excluded.

11. Liability

11.1. You shall indemnify and keep us indemnified against any and all costs, claims, losses, liabilities, proceedings and expenses (including legal fees) which are brought or threatened against us by any person, arising out of or in connection with your use of the Services or breach of this Agreement.

11.2. Nothing in this Agreement shall exclude or limit either party's liability for fraud or fraudulent misrepresentation and any other matter for which liability cannot be excluded or limited as a matter of law.

11.3. We shall not be liable to you for any indirect, special or consequential loss of damage or loss of profits, business opportunities, revenue, anticipated savings; wasted expenditure, goodwill or for any loss or corruption or destruction of data.

11.4. Subject to clauses above, our total aggregate liability in contract, tort or otherwise (including negligence) howsoever arising out of or in connection with this Agreement shall in respect of any one or more incidents not exceed the total fees received by us from you in the calendar year in which the incident giving rise to the liability occurs.

11.5. No action, regardless of form, arising out of or relating to this Agreement may be brought by either party more than two years after the incident giving rise to such action.

11.6. The parties expressly agree that if any limitation or provision contained or expressly referred to in this clause is held to be invalid under any applicable statute or rule of law, it shall, to that extent, be deemed omitted. If any party becomes liable for loss or damage, which would otherwise have been excluded, that liability shall be subject to the other limitations and provisions set out in this clause.

12. Modifications to the Agreement

12.1. We may modify this Agreement and any Policies at any time by posting a revised version on our website or by otherwise notifying you to the email address associated with your account. The modified terms will become effective upon posting or, if we notify you by email, as stated in the email message. By continuing to use the Services after the effective date of any modifications to this Agreement, you agree to be bound by the modified terms. It is your responsibility to check our website regularly for modifications to this Agreement or the Additional Policies. The date on which this Agreement was revised is listed at the top of this Agreement. If you disagree with any modifications to this Agreement, your sole and exclusive remedy shall be to terminate the receipt of Services in accordance with Section 7.

13. Force Majeure

13.1. Neither party to this Agreement shall be liable to the other for any delay or non-performance of its obligations under this Agreement to the extent that such delay or non-performance is due to a Force Majeure event (any cause beyond our reasonable control, including acts of God, labour disputes or other industrial disturbances, systemic electrical, telecommunications, or other utility failures, earthquake, storms or other elements of nature, blockages, embargoes, riots, acts or orders of government, acts of terrorism, or war). You may not rely on a Force Majeure event for any delay or non-performance of any obligation to pay for the fees related to the Services provided under this Agreement.

13.2. Either party may, during the continuance of any Force Majeure Event, terminate this Agreement by written notice to the other party if a Force Majeure Event occurs that affects all or a substantial part of the Services and which continues for more than 15 days.

14. Miscellaneous

14.1. This Agreement does not create any third party beneficiary rights in any individual or entity that is not a party to this Agreement.

14.2. We may provide any notice to you under this Agreement by posting information on our website or by sending you a message to the email address associated with your account. Notices will become effective upon posting or, if we notify you by email, as stated in the email message. It is your responsibility to keep your account updated with a valid email address. You will be deemed to have received any email sent to the email address associated with your account when we send the email, whether or not you actually receive and/or read the email.

14.3. To give us notice under this Agreement you must contact us by sending an email to billing@feedzon.com. Your sending of an email is not a guarantee that we have received it and you should therefore contact us again if you have not received a reply from us within 7 days.

14.4. All communications and notices to be made or given pursuant to this Agreement must be in the English language.

14.5. If any provision of this Agreement (or part of a provision) is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of this Agreement.

14.6. This Agreement is personal to you and accordingly you shall not assign, or grant any security interest over, any of its rights or obligations under this Agreement without our prior written agreement. We retain the right, on providing notice to you, to assign this Agreement in part or whole to any company or third party.

14.7. You agree that this Agreement is the complete agreement for the Services and supersedes all prior or contemporaneous agreements or representations, written or oral, regarding such Services.

14.8. This Agreement is subject to the laws of England and Wales and both parties hereby submit to the exclusive jurisdiction of the English Courts.