

# Terms of Service

## 1. General provisions

GetResponse Tecnologias Brazil Ltda, a limited liability company incorporated under the laws of the Federal Republic of Brazil, with its registered office at Rua Dr Gentil Leite Martins 336, Vila Nova Caledônia, Sao Paulo, Federal Republic of Brazil, CNPJ number 30.955.347/0001-59 (“GetResponse”, “we”, “us”) is the service provider of the GetResponse Service (“Service”). The Service is a business-to-business service only. We conclude agreements only with customers who subscribe to the Service for purposes relating directly to their trade, business or profession. These Terms of Service set the rules for the use of the Service by our Customers. By clicking the button to subscribe to the Service you (“you” or the “Customer”) accept these Terms of Service and undertake to use the Service in compliance with the provisions of this document. You should retain a copy of these Terms of Service for your records as upon your subscription they constitute a legal agreement between you and GetResponse. If you do not agree with any of the provisions of this document, you may not subscribe to and use the Service. We reserve the right to reject your subscription for any or no reason as long as it is not an unlawful reason.

## 2. Service

### General

Under the Service we provide you with:

1. an access to a web-based platform in SaaS (Software-as-a-Service) model with tools for building, managing and hosting your mailing list,
2. an ability to send emails to your mailing list hosted at GetResponse platform,
3. Landing Pages Add-on which is a tool for creating, managing and hosting your landing page and which in a standard version allows for posting one landing page with a monthly limit of 1000 visitors,
4. Customer Service,
5. additional features (add ons), if ordered and paid separately by you,
6. access to 1000 free graphics which you may use for the purpose of sending emails via GetResponse platform.

The detailed scope of Service features available to you under your Subscription Plan is provided in the pricing.

You may use the Service to send emails only to those recipients who have given you permission to add them to your mailing list and have not subsequently withdrawn such permission (“Subscribers”).

## Account

In order to use the Service and manage your email marketing campaigns you must create an individual account in the GetResponse platform (“Account”). The Account may be accessed only with the use of your login credentials. You are responsible for keeping your login credentials confidential. You are also responsible for any use of your Account, especially for any activity of your Account users (“multi-users”). Certain features of the Service enable you to specify the level at which the Service restricts access to the Account, Webinars and Content. You are solely responsible for applying the appropriate level of access.

## Free Trial

GetResponse offers a 30-day free trial version of the Service (“30-Day Free Trial”). Within the 30-Day Free Trial you may host up to 1000 Subscribers in your mailing list and the Service is rendered for 30 days. It may also be limited in other ways. You may create only one Free Trial Account. You may upgrade the 30-Day Free Trial to a paid version at any point. However accounts which have not been upgraded to a paid version within the trial period or within 60 days after the trial period ends, will be permanently disabled.

## Upgrade

You may upgrade your Subscription Plan or order an add-on at any time. If you purchase an add-on during your subscription period we will align your add-on billing cycle with your Account plan monthly cycle, so that the payment dates of your services subscriptions are in line. The first time payment for the add-on will therefore be calculated in proportion to the number of days left to the end of the monthly cycle in your Account subscription.

## Domains

In connection with the provision of the Landing Pages Add-on we give you the possibility to integrate your landing page(s) either with sub-domains provided by us or with your own domains. We recommend you verifying whether the selected domain or sub-domain name infringes third party’s rights, as we cannot and

do not make such a verification and we expressly exclude our liability in that scope. We reserve the right to block the domain or sub-domain, cancel or change the name of the sub-domain selected by you, in particular if we are ordered by a court or other public authority or are forced to do so due to the infringement or a threat to third party's or GetResponse's rights.

## Webinars

Webinar feature allows you to organize on-line conferences ("Webinars") for a certain number of participants ("Participants"). You may use this feature for conferences in which you take part as an active Participant.

When organizing a Webinar you are solely responsible for notifying all Participants that personal data and information disclosed during the conference can be transmitted to other Participants and third parties. You are also obliged to inform Participants that the use of Webinar feature is subject to these Terms of Service and Privacy Policy, especially as regards prohibited practices and technical requirements.

You are not allowed to run more than one Webinar at a time within one Account. Please bear in mind that Webinars may be unavailable in any particular location.

## Third Party Services

You may integrate certain third party services with the Service. These third party services are not provided by GetResponse. Your ability to use the third party services may be limited according to the third party's terms and conditions. When you integrate with a third party service, you authorize us to exchange any your data, whether confidential or not, with the third party service so you can take advantage of integration with GetResponse. Any links to a third party service or website that you find in the Service or on GetResponse websites are provided for convenience only and we do not control or endorse any material or information found on those third party sites.

## Beta-test Versions

From time to time GetResponse may offer a beta-test version of new features. This allows our users to try new solutions we come up with and help us better understand your needs and develop GetResponse Service accordingly. If you decide to use a feature available in beta-test version, you agree that:

1. The feature is only available for a limited period of time and can be deactivated at any time and at our sole discretion.

2. The feature is available only to the limited extent and may be modified at any time and at our sole discretion.
3. GetResponse does not warrant that feature made available in beta-test version will be included in the Service and we may resign from further development of any feature at any time and at our sole discretion.
4. You are solely responsible for consequences of using the beta-test version, in particular but not limited for impact it may have on settings of your Account, set or planned campaigns, collected data and other information, etc. Please remember that once we deactivate the beta-test version of the feature, certain processes that took place with respect to your Account, set or planned campaigns collected data and other information cannot be reversed, and GetResponse shall bear no responsibility for consequences resulting therefrom.
5. Upon the end of beta-test version period, the feature may be available for our users for a separate fee (e.g. as a paid add-on), or as a component of particular pricing options only, in which case the user interested in the feature needs to upgrade his Account to the more advanced pricing option.

### 3. Technical requirements

We assure that the Service will operate with the latest official version of Internet Explorer, Mozilla Firefox, Google Chrome and Safari web browsers. In order to use the Service it is necessary that you have a device that allows you access to the Internet, have an email and a website browser installed with plugins that allow Flash technology and with "cookies" and JavaScript enabled, as well as email. You expressly agree that the quality of a file sent, posted, streamed or otherwise published using the Service might differ from the uploaded stream, in order to conform and adapt to standards of transferring data, connecting networks, devices or requirements of the Service.

You also acknowledge that the Webinar feature will work properly if a camera and/or microphone and a headset or loudspeaker are on and not used by another application.

### 4. Use of the Service

Upon successful registration you subscribe to the Service and agree to:

1. observe these Terms of Service as well as the [GetResponse Anti-Spam Policy](#) and [Privacy Policy](#) or their amended versions and any other policy developed, published and formulated by GetResponse in connection with the Service;

2. use the Service for purposes directly related to your trade, business or profession;
3. maintain and promptly update your contact details so that they are as current, complete and accurate as possible;
4. send or stream through the Service only such materials that you have full rights to use and publish on the Internet;
5. conform to the rules relating to sending out emails, in particular, commercial emails and the processing of personal data which are in force in the country of your residence;
6. keep the secrecy of login credentials provided to you;
7. receive commercial information about the products and services of GetResponse.

If you:

1. have an establishment in the European Economic Area (EEA), or
2. offer goods or services to data subjects in the EEA, irrespective of whether a payment is required, or
3. monitor behavior of data subjects in the EEA,

you represent and warrant that in using the Service, in particular in creating lists of Contacts, sending e-mails and collecting personal data, you comply with all to personal data protection, privacy, and electronic communication regulations applicable in the EEA and its member states. In particular you are obliged to:

4. clearly inform data subjects about means and purposes of the processing of personal data, including for processing in the Service;
5. obtain and maintain express and valid consent of the data subject to transfer their data to GetResponse and to be processed in order to send them electronic communication by GetResponse on your behalf;
6. agree to indemnify and hold GetResponse harmless from any losses resulting from breach of the above warranties and obligations.

## 5. Payments

You are obliged to pay in due time all fees for the use of the Service according to the pricing option you have chosen. We offer monthly, annual and two year subscription. The current pricing offer is available at: [GetResponse Pricing](#).

Access to the Service is provided to you after we have received the subscription fee calculated on the basis of the Account plan you have chosen (pre-paid subscription).

You may pay for the Service using a credit card or PayPal (in most countries), however, please note that payment methods may vary depending on the country of the user. If you choose to pay fees with a credit card you agree to pay them in the form of a recurring payment, under which the subscription fee is deducted automatically basing on the Account plan you have chosen. The recurring payment is initiated on the first day after the expiration date of the previous subscription ("recurring payment date"). If the recurring is unsuccessful at that point, we will retry to complete the payment transaction in the following days and, if the completion of the transaction is unsuccessful, we will assume that the Service is terminated. In the event that the credit card you provided us expires or any credit card information changes or becomes out of date, in order to procure continuity and avoid Service interruptions, you authorize us to obtain or determine updated or replacement information, in particular expiration dates or credit card number and continue billing on the same terms as the previously provided credit card. We are not responsible for any fees charged by payment services providers.

We will issue an invoice for the Service within 30 days of receipt of each payment. You expressly agree to receive invoices from us by electronic means of communication. For settlement purposes it is assumed that a month has 30 days, a year has 360 days and two years have 720 days.

The number of your Subscribers is the peak number of all Subscribers within your Account - the exact number is visible in the Search Contacts tab. Please bear in mind that we monitor for the peak number of Subscribers accumulated in all your campaigns in a given month, which means that Subscribers are unique within each campaign, but not within the entire Account. As regards the Landing Pages Add-on we count the number of unique visits on a published landing page in a given month.

We reserve the right to change the fees for the Service and add-ons at any time by posting a new pricelist to [GetResponse Pricing](#). The new pricelist applies to all new Accounts and upgrades.

All fees are exclusive of taxes. Where appropriate, value added tax (VAT) or goods and services tax (GST) will be added to the payment price in accordance with currently effective rates. You agree to pay any taxes

applicable to your use of the Service. You represent that you are registered for VAT or GST purposes in your country. At our request, you will provide us with the VAT or GST registration number under which you are registered. If you are required to deduct or withhold any tax, you must pay the amount deducted or withheld as required by law and pay us an additional amount so that we receive payment in full as if there were no deduction or withholding.

## 6. Prohibited practices, content and industries

You are not allowed to use the Service in a manner that, either intentionally or unintentionally, violates any applicable local, state, national or international laws, good industry practice, these Terms of Service and our Anti-Spam Policy or any copyright or other right of a third party. This rule applies also to the Content used within the Service. To see what practices we regard as particularly abusive or illegal, please [click here](#).

There are some industries that send certain types of content resulting in a higher than normal bounce rates and abuse complaints, which may affect the deliverability of GetResponse's platform. Therefore, you understand and accept that, as far as your business practices are concerned, you are not allowed to use the Service to stream, disclose, engage, offer to sell, and promote, either directly or indirectly, any goods or services connected with such high-risk industries. To see what businesses, goods and services we specifically prohibit, please [click here](#).

You may not use any hardware or software intended to damage or interfere with the proper and timely functioning of the Service, or to surreptitiously intercept any system, data or personal information from the Service nor any website owned or controlled by GetResponse. You may not take any action that imposes unreasonable or disproportionately large load on the website network or other our service infrastructure.

We do not pre-screen or control Customer's activity related to the use of the Service. However, we reserve the right (irrespective of other rights under these Terms of Service) to refuse, remove or delete any Content (as defined in clause below), suspend email campaigns, block Customer's landing page, stop Webinars, suspend access to the Service or its part, with or without notice, at our sole discretion and subject to mandatory provisions of law, if we receive any information or have reasonable suspicion that Customer's or Participant's activity or the Content violates any provision of the law, our policies, these Terms of Service, third party's rights or is otherwise objectionable. In the aforementioned situations we are not liable for the consequences of the measures taken.

## Fair Usage Policy

Proper use of our Service gives good value and performance to thousands of our customers. However, it is necessary that you follow this minimal set of usage parameters so that GetResponse Service is uniformly good for all.

Please rest assured that tools and features available for your “unlimited” use are indeed “unlimited” if used in accordance with these rules. This means that we do not impose quantity restrictions on features such as number of sent emails, or landing pages. However, we have defined certain parameters to make sure that excessive use of certain GetResponse features will not adversely affect our other customers and their campaigns performance. These parameters are set beyond normal and considerate usage and thus, they will not affect vast majority of our customers at all.

You can be affected by these rules only if you use certain features on the Service excessively to the extent that such usage overloads our system and detrimentally affects other customers of the Service.

Should our Compliance Team determine this, we will contact you immediately to let you know that you use the Service or part thereof in an excessive manner and give you a simple advice on how to reduce your usage.

If you do not follow our advice and your usage of the Service is still excessive, we reserve the right to suspend or terminate the Service in whole or in part. Each case will be decided individually and at our sole discretion.

You accept that any measures applied by us under these rules do not entitle you to any refund for the remainder of your subscription period.

## NOTICE AND PROCEDURE FOR MAKING CLAIMS OF COPYRIGHT OR INTELLECTUAL PROPERTY INFRINGEMENT

We respect the intellectual property of others, and we ask our users to do the same. We may, in appropriate circumstances and at our discretion, disable and/or terminate the accounts of users who may be repeat infringers. If you believe that your work has been copied in a way that constitutes copyright infringement, or your intellectual property rights have been otherwise violated, please provide our Compliance Manager the following information:

1. an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright or other intellectual property interest;



2. a description of the copyrighted work or other intellectual property that you claim has been infringed;
3. a description of where the material that you claim is infringing is located on the service;
4. your address, telephone number, and email address;
5. a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law; and
6. a statement by you, made under penalty of perjury, that the above information in your Notice is accurate and that you are the copyright or intellectual property owner or authorized to act on the copyright or intellectual property owner's behalf.

Our Compliance Manager who acts as an Agent for Notice of claims of copyright or other intellectual property infringement can be reached as follows by email: [dmca@cs.getresponse.com](mailto:dmca@cs.getresponse.com).

You can also use our [contact form](#).

## 7. Content

All and any information, data, texts, graphics, logos, video, music or other materials that you post, upload, send, stream or otherwise make available using the Service, in particular on your landing page(s) or during Webinars, or that your landing page visitors or Participants upload, post or stream on your landing page(s) or during Webinars ("Content") are your sole responsibility. This includes also any links to other websites or resources or other third party services that you use. We do not claim ownership of the Content and you (or your landing page visitor/Participant) retain all right, title, and interest in and to your Content, with the exception of the materials which you take from our resources, in particular from Multimedia Studio and the collection of predesigned templates. You agree that we can present your landing page in our marketing materials, in particular case studies.

You are entitled to use materials that we render available to you solely to use the Service for its intended purpose, notwithstanding whether such materials are paid or free, customized or standard. Please note that our resources (in particular the Multimedia Studio) may include materials which are subject to third party's copyright. You acknowledge and agree that we have the right at any time and at our sole discretion to remove such materials from our resources, disable access to such materials or demand that you immediately stop using them, in particular in email campaigns and on your landing page(s) or Webinars. If you do not satisfy our demand we will be entitled to delete such materials at our sole discretion, with no liability on our side. In aforementioned situations you will not be entitled to any reimbursement of any

amount paid by you to us.

If you post, upload, send, stream or otherwise make available the Content through third parties or which belong to a third party, you are obliged to adhere to such third party's terms and conditions of service or license, irrespective of your obligations resulting from these Terms of Service.

You acknowledge and accept that we may preserve the Content and disclose it if we are required to do so by law or if it is necessary to enforce these Terms of Service, a court order or a decision of a competent public authority, respond to claims that any Content or the activity of your landing page visitor or Participants violates the law or the third party's rights.

## 8. Customer Service

We provide Customer Service via Email, Live Chat or Phone. When requesting customer service or submitting complaint, you should provide at least your account name - we do not reply or take any action based on "anonymous" support requests. Customer Service contact details are available at [GetResponse.com](https://www.getresponse.com) and within your Account under "Support" tab. Most customer service enquiries are responded within 24 hours on business days. You have the right to be advised about the processing status of your support request or complaint.

Under certain subscription plans we offer assistance of our Account Managers. The rules regarding Account Managers assistance are provided [here](#).

## 9. Cancellation

You may cancel your Account at any time. An email or phone request to cancel your Account is not considered cancellation. In order to cancel the Account please follow the instructions provided [on this webpage](#). Please note that if you cancel your Account, your subscription will be terminated with immediate effect. The GetResponse platform allows for restoring the Account (along with all data and Subscribers List) within 60 days (for Free Trial Accounts) and 90 days (for paid Accounts) from the date of its cancellation (regardless of the reasons for its cancellation). Restoration of the Account is subject to the payment of the fee for the next subscription period for the Service in the aforementioned term. We reserve the right to refuse to restore the Account without reason (in particular, if we cancelled the Account due to our termination of the agreement or suspension of the Service).

## 10. Termination

We reserve the right to terminate or suspend the Service with immediate effect and refuse any and all current or future use of the Service in the event that you violate any of the provisions of these Terms of Service. To see what activities we particularly regard as violating our Terms of Service, please [click here](#). Unless otherwise stated in these Terms of Service the amounts paid by you under these Terms of Service are non-refundable. Therefore, termination of the Service does not release you from the obligation to pay all and any fees already due as per our Refund Policy.

We reserve the right to terminate the Customer's subscription to the Service at any time without cause, with immediate effect, without incurring any liability in this respect, except that we will refund a pro rata portion of any prepaid amounts for the subscription to the Service.

Termination, suspension as well as downgrade of the Service or any of its parts or features may affect your Account, set or planned campaigns, collected data and other information, etc. Please remember that once the Service or any of its parts or features are terminated, suspended or downgraded, certain processes that took place with respect to your Account, set or planned campaigns, collected data and other information, cannot be reversed, and GetResponse shall bear no responsibility for consequences resulting therefrom.

## 11. Refund policy

**30-Day Free Trial:** this version of our Service requires no credit card for signup. This gives you a zero-risk way to try our Service for 30 days. If you decide to upgrade at any time during the 30-Day Free Trial, the free trial ends and your Account is upgraded to a Paid Account.

**Paid Account:** When you purchase a Paid Account or upgrade from a 30-Day Free Trial to a Paid Account, the GetResponse billing system charges your credit card for the initial billing period. After that, the billing system automatically renews your Account every 30 days, (every 360 days if you choose the annual plan or 720 days if two-year subscription is chosen) and charges the appropriate amount to your credit card.

**Cancellation/Termination:** if you cancel your Account or if we terminate the Service for cause as specified in Section 10 of these Terms of Service, no further amounts will be charged to your credit card. However, you are responsible for any amounts already charged to your credit card.

**Refunds:** our Service is a pay-as-you-go service. Therefore, we do not issue refunds, even if you cancel your Account immediately after your credit card is charged for the new billing period. For example, if we charge your credit card on August 10th, and you cancel your Account on August 15th, you are still responsible for

paying for the entire month (or year, if you have selected an annual plan.) No subsequent charges are applied to your credit card, but the amounts already charged are not refunded.

## 12. Privacy

Our data protection practices are set forth in our Privacy Policy that is available at:

<https://br.getresponse.com/email-marketing/informacoes-juridicas/privacidade.html> and which forms the integral part of these Terms of Service.

## 13. Copyright and Trademarks

The Service, GetResponse software, as well as the content included on the GetResponse.com website, such as text, graphics, logos, button icons, images, audio clips and software, is the property of GetResponse or its content suppliers and protected by Polish, U.S. and international copyright laws. No part of this website may be reproduced or transmitted in any form or by any means without express written consent of the authors, except as specifically provided and allowed by us.

GetResponse is a registered trademark of GetResponse in the Republic of Poland and other member states of the European Union, as well as in the United States and other countries. The trademarks may not be used in conjunction with other entities' products or services in any manner that may cause confusion among customers and potential customers, or in any manner that discredits GetResponse, its products and/or services.

## 14. Service accessibility

We do not guarantee any minimum response times or delivery times in connection with performance of the Service. We may, at our sole discretion and without liability, change or modify the features of the Service or modify or replace any provided equipment, or software used to deliver the Service, provided that this does not have a material adverse effect on the Service. We may perform scheduled or emergency maintenance (including temporary suspension of the Service if necessary) to maintain or modify the Service without previous notice given to you and without any liability on our side. However, in the event of scheduled maintenance that would last for more than one day, we will use reasonable efforts to give you at least one day's notice. Scheduled maintenance will be carried out with an aim to minimize business interruption.

We also reserve the right to modify, add or delete any documents, information, graphics or other content appearing on or in connection with the <https://www.getresponse.com> website, at any time without prior notice.

## 15. Disclaimer of Warranties. Limitation of Liability

You acknowledge that GetResponse provides the Service and the website on “AS IS” basis without warranties of any kind, either express or implied. Particularly, GetResponse disclaims any warranty of title, merchantability, non-infringement or fitness for a particular purpose.

You are solely responsible for your use of the Service and our websites, particularly for all and any Content, Webinars and email campaigns which you send through the GetResponse platform. It is your sole duty and responsibility to backup all your files and data stored on our servers and under no circumstances will we be liable for any loss or damage due to loss of your files and/or data stored on our servers.

GetResponse is not responsible for:

1. actions and omissions of third parties (including Account users and Participants), especially using the Account by a third party taking the advantage of login details obtained from you or in other circumstances beyond GetResponse's reasonable control;
2. failure of external conditions and networks which are necessary to use the Service and are beyond GetResponse's reasonable control;
3. problems of any kind with features used within test versions, in particular but not limited to beta-test versions;
4. insufficient or fluctuations of the bandwidth used by Customer or Participant which may affect Content quality.

To the maximum extent permitted by law, GetResponse, its employees, directors, officers or representatives shall not be liable for any direct, indirect, punitive, special or consequential damage or loss (even if GetResponse has been advised of the possibility of such damage), howsoever caused and irrespective of the nature of the cause of action, demand or claim by the Customer. GetResponse's entire liability, regardless of the form and cause of action, in any event is limited to the aggregate amount paid by the Customer for the Service in one month immediately preceding the date the Customer notifies GetResponse of such a claim, or in the aggregate, in respect of all claims under or related to the Services provided by GetResponse

to the Customer. The Customer hereby releases GetResponse, its employees, directors, officers and representatives from any and all obligations, liabilities and claims in excess of the aforementioned limitation.

Neither party shall be responsible for any delay or failure in performance of their obligations under these Terms of Service due to Force Majeure or other occurrences that are beyond reasonable control of the party in default or failing to fulfil their respective obligations. By Force Majeure the Parties understand an exceptional occurrence, caused by an external factor which cannot be foreseen and which could not be prevented. Force Majeure occurrences include in particular: war, natural disasters, strikes, breakdowns, DDoS attacks or other disruptions in telecommunication networks or data communication infrastructure, emergency government action and administrative measures, activities of entities that affect the provision of the Service, and whose activity is independent of the Parties.

You agree to indemnify and hold GetResponse, its employees, directors, officers, co-operators and representatives harmless from any and all claims, losses (either direct or indirect), damages, expenses, including but not limited to attorney fees basing or arising from (i) your failure (or any individual using your username details) to comply with your obligations under these Terms of Service or (ii) violation of any law, or of the rights of any third party by you, your landing page visitor or Participant, or (iii) your use of the third party services or integration of the Service with the third party services, or (iv) Participant's Content and activity. We will notify you as soon as reasonably practical of any such claim, demand or cause of action for which we will require indemnification from you.

## 16. Final Provisions

The GetResponse Anti-Spam Policy and Privacy Policy constitute an inherent part of these Terms of Service. If any provision of these Terms of Service or of any supporting document is invalid or unenforceable under the law of any government having jurisdiction, it shall not affect the legality, validity and enforceability of any other provisions hereof and such invalid or unenforceable provision will be modified to the extent necessary to render it valid and enforceable without altering its intent. GetResponse reserves the right to change any of the provision of these Terms of Service as well as any supporting documents at any time by posting the revised document on GetResponse's website and/or by sending an email to the last email address you have given to GetResponse. These Terms of Service and supporting documents shall be effective immediately with respect to any continued or new use of the Service, unless you terminate these Terms of Service within 10 (ten) days. The most current version of these Terms of Service is available at: [http://app.getresponse.com/track\\_customer.html?tid=387501](http://app.getresponse.com/track_customer.html?tid=387501). Should you wish to assign rights and obligations arising from the agreement

to a third party, this may only be possible with our prior consent. This Service shall be interpreted and construed according to, and governed by, the laws of the Federal Republic of Brasil, excluding any such laws that might direct the application of the laws of another jurisdiction. The law of the Federal Republic of Brasil and the court of local jurisdiction of GetResponse shall be the governing jurisdiction.

The Terms of Service in this version are valid from September 6, 2018.