

Focal Transfer Terms of service May 2018

Focal Transfer is the easiest and nicest way for photographers to send photos and files to their clients. We offer a free service ("Focal Transfer Regular") as well as a Premium subscription service ("Focal Transfer Premium"), including additional features and functionalities (together: the "Services").

The Services are provided to you, the user of the Services, by Focal Transfer which is a trading name for KeyAGENT Ltd, with its main office at 3 Loughborough Street, London, SE11 5RB, registered Registered in England and Wales under Number 07144564.

1. Applicability

1.1 By using the Services you accept these Terms in full and agree that these Terms are reasonable. If you disagree with these Terms in full or in part, or disagree that they are reasonable, then you must not use the Services.

1.2 Focal Transfer can amend the Terms of Use from time to time. Focal Transfer recommends that you review the Terms of Service from time to time and take note of any changes. By continuing to use the Services you accept any change made to the Terms of Service.

1.3 These Terms of Service supersede any and all prior oral and written quotations, terms, communications, agreements and understandings between you and Focal Transfer.

1.4 Clause 2 regards the use of Focal Transfer Regular only. Clauses 3, 4 and 5 regard the use of WeTransfer Plus.

2. Focal Transfer

2.1 Focal Transfer is free from registration and charge.

2.2 If you use Focal Transfer, we will show you full-page wallpaper ads from advertisers and artists selected by us.

2.3 Focal Transfer provides the possibility to transfer digital files and share content up to a maximum total capacity. You can find the current limitations of the Focal Transfer website.

2.4 Uploaded files are stored and available to download on Focal Transfer's servers for a limited period of time and will expire automatically after. You will be notified of the expiration date in the

confirmation email sent to you. Each transfer can be sent to a limited number of email addresses per transfer. Each email is sent separately to each individual recipient.

2.5 After the expiry period mentioned in clause 2.4, Focal Transfer will permanently delete the uploaded files. These files will not be available nor retrievable anymore.

3. Confidentiality

3.1 Any file transfer between you and recipients is treated confidentially. Focal Transfer does not provide any public search function, catalogue or listing to find transfers that would be available. As a Premium user you can search your own transfers.

3.2 Focal Transfer will not look into your transfer or files, unless this is necessary and in line with our Privacy & Cookie Statement, for instance to provide you with (technical) support on your request or if we are by law obliged to do so.

3.3 You acknowledge that download links can be forwarded and - whoever is passed on or has access to a download link can download the files contained in that transfer. Focal Transfer Plus offers the option to protect transfers with a password, which is only stored encrypted and not accessible for anyone. It's the responsibility of the uploader to share said password.

4. Ownership and operation

4.1 Focal Transfer does not claim any ownership of the contents of the files you transfer through our Services. You are fully and solely responsible and accountable for the files you transfer through our Services.

4.2 By using our Services you guarantee that you have, for each file (including wallpapers), all required permissions, including from copyright and other intellectual property rights holders, to distribute, transfer, store and/or make available online as part of our Services.

4.3 Focal Transfer is not liable to you or any third party for any damages arising out of the content shared by you and the use, reuse, or adaptation of background wallpapers chosen independently by you, including but not limited to, copyright protected works and/or trademarks.

5 Intellectual Property

5.1

All intellectual property rights and/or similar rights to the (content and design of the) Focal Transfer website, including the software, wallpapers, photography, graphic design, typography, portraits and logos, as well as trademarks, copyrights and trade names featured on wallpapers used within the Services, are vested in Focal Transfer or its licensors.

5.2

A large number of the wallpapers, including photography, graphic design, typography, portraits and logos, as well as trademarks and tradenames featured on wallpapers used within the Services, are the intellectual property of their respective rights holder.

5.3

You are not allowed to copy, reproduce, make available online to the public, sell or reuse anything from the Focal Transfer website, including the wallpapers in any way without the permission of the rights holder. Focal Transfer is not responsible or liable for the contents of wallpapers, in-ad links to external websites or the contents, products or services offered on external websites. You accept that all use outside the Focal Transfer website is at your own risk.

6 Restrictions

6.1 Focal Transfer respects your rights and expects that you respect those of Focal Transfer, its artists, advertisers and third parties. This includes respecting the right to privacy, corporate intelligence and business secrets and intellectual property rights, such as trademarks, copyrights, trade names and logos. You agree not to use the Services to commit or promote, enable or facilitate unlawful or criminal acts or violations of these Terms of Service or facilitate or promote others to do so.

6.2

As a condition to make use of the Services you agree not to transfer, distribute or store any files or use any wallpapers that:

- feature child pornography;
- are obscene, defamatory, libellous, slanderous, profane, indecent or unlawful,
- promote racism, violence or hatred;
- are factually inaccurate, false, misleading or deceptive;
- you don't have the right to copy and/or transfer;

- infringe, violate or misappropriate intellectual property rights, privacy rights, including data protection rights, and/or any other kind of rights;
- infringe on or violate any applicable law or regulation;
- constitute 'hate speech', whether directed at an individual or a group, and whether based upon the race, sex, creed, national origin, religious affiliation, sexual orientation or language of such individual or group, and/or;
- facilitate or promote gambling, or the sale or use of liquor, tobacco products or illicit drugs.

6.3

In addition, you agree not to:

- impersonate or falsely pretend affiliation with any person or entity;
- access any non-public areas of the WeTransfer website or Services;
- send viruses, worms, malware, junk mail, spam, chain letters, phishing mails, unsolicited promotions or advertisements of any kind and for any purpose;
- attempt to probe, scan, compromise or test the vulnerability of the WeTransfer website or Services or any related service, system or network or breach any security or authentication, unless you do so in accordance with our Responsible Disclosure Policy.

7 Breach of terms

7.1

Focal Transfer reserves the right to investigate, provide to third parties, (temporarily) block and/or remove from its servers, without warning, any transfers, files, wallpapers and/or accounts or to block anyone from accessing any part of the Focal Transfer website or Services, when Focal Transfer ascertains, at their own discretion or after receiving substantiated and valid complaints, that you violate these Terms of Service or act in violation of any applicable law or regulation. Focal Transfer reserves the right to spot check accounts, transfer and files.

7.2

When a wallpaper or personal Premium profile is used in violation of these Terms of Service and/or any applicable law or regulation, Focal Transfer reserves the right to investigate and/or remove, without warning, any wallpapers you display on your Focal Transfer Premium account or

Focal Transfer Premium personal profile channel, or block anyone from accessing your Focal Transfer Premium account or Focal Transfer Premium personal profile.

8 Availability of Services and warranties

8.1

Focal Transfer cannot promise that the Services will be available uninterrupted, secure or on an error free basis. If an error occurs with the App, you should report it to info@Focal Transfer.com and Focal Transfer will attempt to correct the error. Your access to the Services may be occasionally restricted to allow for repairs, maintenance or the introduction of new facilities, services or content. Focal Transfer will attempt to restore access as soon as is reasonably possible.

8.2

The Services are provided without any representations or warranties, express or implied and Focal Transfer makes no representations or warranties in relation to the Services or the information and materials provided in the Services. Focal Transfer does not warrant that the information on the website is complete, true, accurate or non-misleading; or that the Services will be constantly available or available at all.

9 Indemnity and liability

9.1

You will defend, indemnify and hold harmless Focal Transfer, including its employees and affiliates, from and against any claims, incidents, liabilities, procedures, damages, losses and expenses, including reasonable legal and accounting fees, arising out of or in any way connected with your access to or use of the Services or your violation of these Terms of Service, including any third party claims that files submitted to the Services by you or through your account infringe or violate any third party rights.

9.2

Focal Transfer is not liable for any damage or personal injury resulting from any use of the Focal Transfer website or Services. The limitation of liability referred to in this clause shall not apply if the liability for damage is caused by intent or gross negligence on the part of Focal Transfer. In the event Focal Transfer is liable for damage under mandatory law, Focal Transfer's aggregate liability to you for any and all claims arising out of or in connection with the use of the Services will in no event exceed one hundred euro (€100) per incident.

10 Privacy Policy

10.1

When using the Services, Focal Transfer may ask you to provide certain personally identifiable information ("Personal Information") that can be used to contact or identify you. Personally identifiable information may include, but is not limited to: your name; information about your use of the Service; information that you provide for the purpose of registering with the Service or subscribing to its Services; information about transfer made using the Services; or any other information that you provide to Focal Transfer.

10.2

Focal Transfer will take reasonable technical and organisational precautions to prevent the loss, misuse or alteration of your Personal Information.

10.3

Focal Transfer will store Personal Information on its secure servers.

10.4

The security of your Personal Information is important to Focal Transfer but no method of transmission over the internet or other method of electronic storage is 100% secure. While Focal Transfer strives to use commercially acceptable means to protect your Personal Information, its absolute security cannot be guaranteed.

10.5

Focal Transfer is not responsible for the privacy policies or practices of any third Parties, including those sites that the website contains links to.

11 Log Data

11.1

Like many site operators, Focal Transfer collects information that your browser sends whenever you visit the website ("Log Data"). This Log Data may include information such as your computer's Internet Protocol ("IP") address, browser type, browser version, the pages of the App that you visit, the time and date of your visit, the time spent on those pages and other statistics.

11.2

In addition, Focal Transfer may use third Party services such as Google Analytics. Google Analytics is a web analysis service provided by Google. Google utilizes the data collected to track and examine the use of www.FocalTransfer.com, to prepare reports on its activities and share them with other Google services. Google may use the data collected to contextualize and personalize the ads of its own advertising network. Personal data collected: Cookie and Usage Data. Place of processing: USA. Find Google's privacy policy [here](#).

12 Using Personal Information

12.1

Focal Transfer may use your Personal Information to administer the website; personalise the website for you; enable your access to and use of the Services; publish information about you on the website; send to you products that you purchase; supply to you services that you purchase;

send to you statements and invoices; collect payments from you; and send you marketing communications.

12.2

Where Focal Transfer discloses your Personal Information to its agents or sub-contractors the agent or sub-contractor in question will be required to use that Personal Information in accordance with terms equivalent to those of this Privacy Policy.

12.3

In addition to the disclosures reasonably necessary for the purposes identified in these Terms, Focal Transfer may disclose your Personal Information to the extent that it is required to do so by law, in connection with any legal proceedings or prospective legal proceedings, and in order to establish, exercise or defend its legal rights.

12.4

Personal Information that Focal Transfer collects may be stored and processed in and transferred internationally to enable the use of the information in accordance with this Privacy Policy. By using the Services you agree to such cross-border transfers of Personal Information.

13 Cookies

13.1 Cookies are files with small amount of data, which may include an anonymous unique identifier. Cookies are sent to your browser from a website and stored on your computer's hard drive.

13.2

Like many sites, this website uses Cookies to collect information. You can instruct your browser to refuse all Cookies or to indicate when a Cookie is being sent. However, if you do not accept Cookies, you may not be able to use some portions or services of the website.

14 General

14.1

These Terms will be subject to the laws of England and Wales and the courts of England and Wales are the only place where disputes or claims relating to or connected with these Terms may be decided.

14.2

Accessing the Services from territories where its contents are illegal or unlawful is prohibited. If you choose to access the Services from such a location, you do so on your own initiative and are responsible for compliance with local laws. Focal Transfer will accept no liability for issues arising from access or use of the Services.

14.3

In the event that one or more of the provisions of these Terms is found to be unlawful, invalid or otherwise unenforceable, that / those provision(s) shall be deemed severed from the remainder of these Terms. The remainder of these Terms shall be valid and enforceable.

14.4

No Party to this Agreement shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, internet service provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question.

14.5

You may not assign any of your rights or obligations under these Terms. Focal Transfer may assign these Terms or any of its rights and obligations to any company owned by, or which is an affiliate or subsidiary of Focal Transfer, or to anybody acquiring Focal Transfer's business or its assets.