FRESHMAIL TRIAL ACCOUNT TERMS OF USE

FreshMail is an innovative company committed to providing the highest standard of service. The Trial Account Terms of Use (hereinafter also referred to as ‘Trial Terms of Use’) have been created for you and are meant to clearly define the use of FreshMail services for purposes directly related to business, professional or statutory activities during the free Trial Period. The nature of FreshMail services is such that they are not intended for consumers.

Before you use the FreshMail Portal in any way, please read the full Trial Account Terms of Use.

These Terms of Use are for you, so FreshMail wants them to be as clear as possible. For easy reading and navigation, the Trial Terms of Use are broken down into sections, each provided with a commentary. Remember that the breakdown into sections is indicative only and no section shall be interpreted separately from all other sections of these Trial Terms of Use.

If you have any questions or concerns about the content of these Trial Terms of Use, feel free to contact us. You can find our contact details at the end of this document (Section 85).

**Keeping things organised for you – definition of terms**

1. FreshMail likes to keep things organised. That is why we’ve put together a short list of definitions used in these Trial Terms of Use.

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| API | This is a simple integration that allows you to effectively combine and integrate any application with your FreshMail account. Detailed guidelines for using the API can be found here. |  |
| Group Email Address | A single email address, e.g. office@domain.pl, used for the distribution of emails to other email addresses. |   |
| Pricing | The FreshMail App is not free, and the payment criteria and pricing of individual services have been established in the Pricing. The information contained in the Pricing will be useful if you decide to conclude a Contract with FreshMail for a paid use of the FreshMail App after the Trial Period. |  |
| Documentation | After logging in to the FreshMail Portal, you can download any of the available files. FreshMail calls them Documentation for short. Documentation includes materials to help you use the FreshMail App, or reports you can generate with the App. |   |
| Personal data | This means any personal data of the Subscribers or other third parties as defined in the GDPR and which you import to the FreshMail App or which you generate in the FreshMail App while using FreshMail services. |   |
| FreshMail | That’s us. FreshMail is a limited liability company with its registered office in Kraków, entered into the commercial register of the National Court Register (KRS) by the District Court of Kraków-Śródmieście in Kraków, 11th Commercial Division of the KRS, under KRS number: 0000497051. |   |
| Campaign | Campaigns are the primary task of the FreshMail App. A Campaign is a single mass delivery of one marketing email or text message, based on a single template. A single message is also considered to be a Campaign. |   |
| Account | It’s yours and yours alone. After logging in to the FreshMail Portal, you will have a personalised profile generated for you to use the FreshMail App functionalities and resources. |   |
| Trial Account | This is an Account that you set up for a trial period of 14 days (‘Trial Period’), and therefore you do not pay any fees to FreshMail during the Trial Period. Your Trial Account lets you create mailing lists with a maximum total of 100,000 Subscribers, expressed as the number of unique email addresses or phone numbers. You can send a maximum of 5,000 messages during the Trial Period. Moreover, during the Trial Period you can publish a maximum of 3 Landing Pages using the FreshMail App. The Trial Account is missing some features of the FreshMail App and access to technical support is limited. |  |
| Moderation | The Campaigns and the Landing Page are subject to moderation by FreshMail before delivery or publishing. FreshMail reserves the right to verify the compliance of the content with the Terms of Use, the Anti-Spam Policy, and good email marketing practice. |   |
| Landing Page | A simple website which you can create in the FreshMail App, mainly with a view to obtaining Personal Data of your Subscribers. The Landing Page content is created and managed by you according to the Terms of Use. The Trial Account lets you publish a maximum of 3 Landing Pages. |  |
| Subscribers | You send your Campaigns to them. These are the individuals the email addresses and/or phone numbers you import to the FreshMail App. Remember that the number of Subscribers in your Account is the sum of the numbers of email addresses in all your Subscriber Lists, even if individual email addresses or phone numbers are repeated in these Lists. |   |
| Anti-Spam Policy | FreshMail wants all use of the FreshMail App to be in compliance with mandatory provisions of law and generally accepted Internet practices. Therefore, FreshMail has created the Anti-Spam Policy, which brings together all the foregoing regulations and rules. If you wish to read the Anti-Spam Policy, click [here](http://freshmail.pl/polityka-antyspamowa/). |   |
| Privacy Policy | FreshMail is committed to protecting your privacy. That is why we have created the Privacy Policy. It is a set of practices and rules according to which we process your Personal Data. If you wish to read the Privacy Policy, click [here](http://freshmail.pl/polityka-prywatnosci/). |   |
| FreshMail App | This is where you import the databases of email addresses or phone numbers of the Subscribers and send your Campaigns through it. The FreshMail App lets you use other functionalities which are detailed here. The FreshMail App is an online application accessed at app.freshmail.com and provided as Software as a Service (SaaS). You do not have to install it on your computer. |   |
| Report | Would you like to know how many Subscribers have received your Campaign? The Report functionality lets you view the statistical data of your Campaigns. |   |
| Trial Terms of Use | This is what you are reading right now. It is a FreshMail policy document in which FreshMail has defined the terms of your free trial use of the FreshMail Portal and App. |   |
| Terms of Use | It is a FreshMail policy document in which FreshMail has defined the terms of your paid use of the FreshMail Portal and App. You’ll find it here. |   |
| GDPR | (General Data Protection Regulation) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC. You can read it [here](http://eur-lex.europa.eu/legal-content/PL/TXT/?uri=OJ:L:2016:119:TOC). |   |
| Portal | This is how you access your Account and use the FreshMail App. It is a website available at freshmail.pl. |   |
| Spamtrap | An address which was created and published on the Internet intentionally or transformed from an email address that had not been used for at least 2 years. A Spamtrap detects instances of sending email messages to the email addresses which exist in databases created illegally or not in compliance with good email marketing practices (examples: read Sections 2.ii and 2.iii of the Anti-Spam Policy). The presence of Spamtraps on your Subscriber List can also mean poor maintenance of the Subscriber database. |   |
| Content | Any graphic, text and audio-visual elements that you upload to the FreshMail App during any Campaign, in a Landing Page, in Webinars or in transactional emails. You are solely responsible for their compliance with the law. |  |
| Contract | By signing up to the FreshMail Portal, you enter into a non-exclusive licence agreement, using means of distance communication, for a period of 14 days, on the provisions specified in the Trial Account Terms of Use. |   |
| Copyright Act | This is the Polish Copyright and Related Rights Act (Polish: “Ustawa o prawie autorskim i prawach pokrewnych”) of 4 February 1994 (with the consolidated text in Dz.U. Journal of Laws of 2006 No. 90, item 631, as amended). |   |
| E-Services Act | This is the Polish Electronic Services Act (Polish: “Ustawa o świadczeniu usług drogą elektroniczną”) of 18 July 2002 (with the consolidated text in Dz.U. Journal of Laws of 2013, item 1422). |   |
| Webinar  | This is an additional function of the FreshMail App, which allows you to organise online conferences up to a certain number of participants. The available Webinar options are outlined in the Price List.  |  |
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Unless otherwise stated in these Trial Terms of Use, the terms listed above in capital letters shall always have the foregoing definitions.

**What is the FreshMail App and how do I use it during the Trial Period?**

1. FreshMail provides email marketing services through the FreshMail Portal. These services are provided by supplying you with the tools and functionalities of the FreshMail App.
2. During the Trial Period, you can send a maximum of 5,000 messages using the FreshMail App, with a maximum total of 100,000 email addresses included in your Subscriber Lists.
3. You can use other functionalities available in the FreshMail App, such as:
	1. sms marketing – during the Trial Period, this service has the same restrictions as those listed in Section 3 of the Trial Terms of Use and relating to email marketing,
	2. transactional emails – this option is available only after concluding an additional agreement with FreshMail and only if you have paid access to the FreshMail App (after the Trial Period). You will find more information on this topic in the Terms of Use.
	3. Webinars - during the Trial Period, you can organized Webinars with a maximum of 5 participants; the full version is available only if you have paid access to the Program (after the Trial Period) and you purchase the full (paid) version of the functionality;
	4. Landing Pages – the Trial Account lets you publish a maximum of 3 Landing Pages.
4. By signing up to the FreshMail Portal and by accepting the Trial Terms of Use, you conclude the Contract with FreshMail. Under the Contract, FreshMail provides you with a free and non-exclusive license to use the FreshMail App for a period of 14 days, with a single individual login (an email address), at one time and at one workstation. You can create access credentials on your Account for other users. Note, however, that you are solely liable for how your FreshMail Account is used, especially for any act in violation of the Contract, the Terms of Use, or the Anti-Spam Policy. You can use the FreshMail App and Documentation you download from the FreshMail Portal for your purposes only and as regulated by the Contract.

6. Under the Contract concluded, you are entitled to a license for the FreshMail App in the fields of exploitation specified in Articles 74 and 75 of the Copyright Act; however, you shall not:

(i) permanently or temporarily duplicate the FreshMail App in whole or part with any means or in any form;

(ii) translate, adapt, modify the layout or otherwise change the FreshMail App;

(iii) make backup copies of the FreshMail App;

(iv) duplicate the source code or translate its form as construed under Article 74(4)(1 and 2) of the Copyright Act.

The license granted to you enables unobstructed sending of Campaigns and use of other functionalities available in the FreshMail App on the principles described in Section 4 of the Trial Terms of Use.

7. The license granted to you and its related rights to use the FreshMail Portal, Documentation and App will expire when the Contract is terminated, expires or is withdrawn from.

**Everyone’s been through this – Signing up**

8. To use the FreshMail App, create an email account or use an email account you already have.

9. To sign up for FreshMail and use the FreshMail Portal and App, you need a terminal with Internet connectivity. The terminal must have a software application installed for browsing Internet resources (web browser). The web browser must accept cookie files and have JavaScript support enabled.

10. If you already have an email account and your terminal meets the foregoing criteria, the next step is to sign up for FreshMail. Without signing up, you cannot access any functionalities of the FreshMail App. The Sign-up Form is available at freshmail.pl. You will need to fill it with your real personal data:

(i) your first name;

(ii) your email address;

(iii) your phone number.

You will also need to set up and confirm a password for your Account. Your password should be very secure and include at least 8 characters: different letters and digits or special characters. The FreshMail App will verify your password and tell you if it meets the criteria.

11. Remember that the FreshMail App is operated on the Internet. That is why all information and documents related to the FreshMail Portal and the use of the FreshMail App will be sent to you over the Internet only. If you wish to stay up to date with all the innovations in email marketing, such as new functionalities added to the FreshMail App or the latest marketing trends, do not forget to give your consent to the processing of your personal data for marketing purposes by FreshMail, which includes direct marketing, especially for the transmission of FreshMail’s commercial information to you.

12. You are signed up once you have clicked Create Account or another on-screen button to create the Account, filled in the Sign-up Form and confirmed the entry. This will create your Trial Account, which will provide you with only selected functionalities of the FreshMail App. If you are interested in accessing all the current functionalities of the App, read the Terms of Use related to paid accounts, available here.

13. Remember that the email address you have signed up with is your login to the FreshMail App and you need it to sign in for the first time. You can always request a change of your login by contacting the FreshMail Customer Support.

**What can I upload to the FreshMail App?**

14. By now, you should have a very good understanding of Article 10 of the E-Services Act and Articles 4(7) and 6(1) of GDPR. To manage your email and sms marketing, you can upload email addresses and phone numbers owned by Subscribers who have been verified as having granted you their consent to receive commercial information by electronic channels of communication. To use other functionalities of the FreshMail App (e.g. transactional emails, webinar), you need to secure a correct legal basis for the processing of Personal Data. To do this, you must become a Personal Data Controller as construed under GDPR (or act as a Personal Data Processor for and on behalf of the Personal Data Controller). This, in turn, requires you to conclude a personal data processing outsourcing agreement with FreshMail. You can find more details about what you can upload to the FreshMail App in the [Anti-Spam Policy](http://freshmail.pl/polityka-antyspamowa/).

15. If you do not know Article 10 of the E-Services Act, read it here.

16. If you do not know Article 4(7) of GDPR, read it here.

17. When creating a Landing Page or Webinar, you can upload any graphical and text Content to the FreshMail App. Note that you are solely liable for the Content uploaded by you. Read more in Sections 54 to 57 of the Terms of Use about Moderation and the ‘notice and take down’ procedure.

18. Note that you are solely and fully liable for the data and Content you upload to the FreshMail App. You shall indemnify and hold FreshMail harmless from any liability for the data you have uploaded to the FreshMail App. FreshMail has set up a default limit of 100 (one hundred) Subscriber Lists. If you need more lists, contact the FreshMail Customer Support.

19. FreshMail has the right to verify all email addresses imported to its System and will use dedicated IT tools to verify if any risks may arise from your sending of Campaigns to toxic (potentially dangerous) email addresses. If any such risk is found during the verification, such a Campaign will not be sent by FreshMail. If a large number of toxic email addresses is found on any Subscriber List, FreshMail may suspend the sending of the Campaign to the entire Subscriber List concerned or block your Account according to Sections 58-59 of the Trial Terms of Use.

**How do I send my first Campaign?**

20. The FreshMail App has been designed for easy and intuitive use by everyone eligible. FreshMail enables you to design your Campaign from scratch or by applying predefined solutions. If you need any help, read FreshMail’s ‘How to plan an email campaign’. You can find it [here](http://freshmail.pl/przewodnik/jak-planowac-kampanie-email-marketingowa-dla-zielonych/od-czego-zaczac/). Remember that it is you who creates your Campaigns and their content. FreshMail only provides you with the right tools to so.

21. You can find the results of each sent Campaign in the Report, which is updated on an ongoing basis. The Report is where FreshMail logs all activity of your Subscribers for six months from the day your Campaign is sent. The Subscriber activity after the six-month period will not be listed in the Report.

22. The photographs featured in the templates from the FreshMail Template Library are indicative only, and you should not use them in any actual Campaign.

**Payments**

23. By signing up, you receive free access to the Trial Account, which is missing some features of the FreshMail App.

24. The Trial Account lets you store a maximum total of 100,000 (one hundred thousand) addresses or phone numbers of Subscribers, but you must remember that is the total sum of all email addresses and phone numbers from all your Subscriber Lists, even if these addresses or numbers are repeated in the Subscriber Lists. You can send a maximum of 5,000 9five thousand) messages from your Trial Account. If any of the above limits are exceeded, the option of sending Campaigns from your Trial Account will be blocked, and the FreshMail App will inform you of the need to purchase a paid plan.

25. Any data entered when the subscription form is blocked – with the subscription form being published on your website and linked to the Subscriber List in the FreshMail App – will not be saved. However, you do not have to worry – make the payment according to the Pricing available [here](http://freshmail.pl/cennik/), and the block will be lifted automatically once the payment is credited. You will then obtain access to the Account and all the current functionalities of the App.

26. The terms of using a paid account can be found in the Terms of Use here. When it comes to sending Campaigns, you can choose a payment plan that is right for you: ‘Pay as you go’ or ‘Unlimited’. Other functionalities of the App are paid for separately, in compliance with the Terms of Use. The payment forms accepted by FreshMail are specified in the General Terms of Use of Contracts, see [here](http://materialy.freshmail.pl/promocja/Ogolne_Warunki_Umow_FreshMail.pdf) and the Pricing, see [here](http://freshmail.pl/cennik/).

**By using the FreshMail Portal and App, you warrant and represent the following:**

27. You will be fully and solely liable for every Campaign you send and every Landing Page published with your Account, and every Webinar organised using your Account, and for their Content. Every Campaign and every Landing Page and every Webinar you create are your liability only, and you need to mind your liability for all users for whom you have created additional access credentials to your Account.

28. You will not use any Accounts of other users or share your Account with anyone other than the users you have authorised to use the FreshMail App and process the Personal Data featured in the FreshMail App.

29. You will not resale or otherwise dispose of your Account to any third party. Remember that you can always sign up for more than one Account. However, if you attempt to circumvent the Terms of Use, the Privacy Policy and/or the Anti-Spam Policy with any of your Accounts, FreshMail has the right to block all these Accounts and terminate your Contract.

30. You will not use the Account, the FreshMail Portal, the FreshMail App or the Documentation for purposes other than required to perform your Contract.

31. You will protect FreshMail’s intellectual property rights and trade secrets.

32. You have read, understood and accepted to comply with the prevailing regulations of law and FreshMail’s Terms of Use, Privacy Policy and Anti-Spam Policy.

33. You will keep confidential all information obtained in relation to the Contract, especially the provisions of the Contract unless made public by FreshMail.

34. You will notify FreshMail in seven (7) days of each change of your contact email address. Your contact email address is the email address you have used to sign up. You can change it in your Account Settings → Contact. Note that your contact email address is NOT your login. To change your login, contact the FreshMail Customer Support [here](http://freshmail.pl/kontakt/);

35. You will assist FreshMail in processing every claim or complaint filed by any of your Subscribers or third parties against any of your Campaigns, Landing Pages, Webinars or other breaches of FreshMail’s Terms of Use, Privacy Policy or Anti-Spam Policy.

36. You agree that you use the FreshMail Portal and App voluntarily.

37. All the data you have provided to sign up for FreshMail is true.

38. All Personal Data, Content and other information which you may upload to the FreshMail App will be uploaded in compliance with FreshMail’s Anti-Spam Policy and the prevailing regulations of law, and no upload will infringe on any rights of any natural person or organisation.

39. You are a Personal Data Controller of the Personal Data processed in the FreshMail App according to GDPR, or you are a Personal Data Processor, an entity which processes Personal Data under a personal data processing outsourcing agreement concluded with a third party or third parties.

40. The Content you upload to the FreshMail App shall not violate the prevailing regulations of law and third-party rights.

**FreshMail warrants and represents the following:**

1. FreshMail will keep confidential all the databases you upload to the FreshMail App.
2. FreshMail will advise you of every actual or suspected violation of your trade secrets or the prevailing regulations of law which occur or might have occurred during the discharge of the Contract.
3. If you have agreed to, FreshMail will notify you of novel solutions created in relation to the FreshMail Portal and/or App. Note that you will receive these notifications only if you have agreed to receive electronic commercial information (see Section 11 of the Terms of Use).

**Privacy Policy – to protect the secrets entrusted to us**

1. When you do business with FreshMail, you and FreshMail are like connected vessels. This means that you and FreshMail must protect every information entrusted to one another. By concluding the Contract, you warrant and represent that together with FreshMail, you will protect all information exchanged between you and FreshMail. The Terms of Use of information security are established in the Privacy Policy, which you can read [here](http://freshmail.pl/polityka-prywatnosci/).
2. Your compliance with the Privacy Policy is not always mandatory. If you are required to disclose any information under the prevailing regulations of law, you must comply with all obligations arising therefrom.
3. If you allow FreshMail in prior by email or letter to do so, FreshMail may use your Campaigns and/or Landing Pages and their delivery results in part or whole as case studies for industry meetings, conferences, published papers or research work. Remember: if we ask for this permission, a “No” is also a good answer.
4. FreshMail continues to improve its Portal and App and strives to improve the effectiveness of your Campaigns. That is why FreshMail can use the statistical data generated from your Campaigns for statistical analysis and research, and the statistical data includes:

(i) number;

(ii) frequency;

(iii) effectiveness;

and FreshMail can publish the results of its statistical analysis and research of your statistical data at industry meetings and conferences and in published papers or research work. FreshMail warrants and represents that no use of your statistical data will enable any identification of you or your Subscribers.

1. If you are satisfied with the services provided by FreshMail, let us boast about it! FreshMail may ask for your consent to publish information about FreshMail’s business with you, including by publishing your logo on FreshMail’s website. Remember: if we ask for this permission, a “No” is also a good answer.

**Outsourcing of personal data processing**

49. When you create an Account in the FreshMail App, a document titled ‘Personal Data Processing Outsourcing Agreement’ is generated for you to sign, which is obligatory.

50. Note that you are a Personal Data Controller (or, as applicable, you act as a Personal Data Processor on behalf of a Personal Data Controller) and you are required to conclude an agreement with FreshMail to specify the extent and purposes of outsourcing of personal data processing by FreshMail. You can do this in one of four ways:

(i) Click the ‘Accept the Agreement’ button below the Personal Data Processing Outsourcing Agreement generated in the FreshMail App, which is equivalent to signing the Agreement electronically.

(ii) Download, print, sign by hand, scan and upload the Personal Data Processing Outsourcing Agreement back to the FreshMail App.

(iii) Download, print, sign by hand, and send the Personal Data Processing Outsourcing Agreement by mail to the corporate headquarters of FreshMail.

(iv) Conclude a separate non-exclusive license agreement on paper and with the Personal Data Processing Outsourcing Agreement as its attachment.

51. Unless you conclude the Personal Data Processing Outsourcing Agreement with FreshMail, FreshMail may block:

(i) you from uploading any database to your Account (also when uploading via any Landing Page or other services provided by third parties); AND

(ii) block you from sending any Campaign;

(iii) block you from publishing any Landing Page you may create

(iv) organising Webinars.

52. FreshMail is outsourced for and manages the processing of Personal Data on your behalf and on your request in connection with your use of the FreshMail App during the Trial Period.

53. You can download Personal Data from the FreshMail App (if any Personal Data has been uploaded and potentially modified to and in the FreshMail App) into a CSV (comma-separated values) file. The CSV file will include the Personal Data of your Subscribers uploaded to the FreshMail App and the contents of the additional fields stored in the FreshMail App. This way FreshMail discharges its obligation imposed by Article 20(1) of GDPR.

**Moderation**

54. Prior to sending, each Campaign is moderated by FreshMail for compliance with the highest standards of mass delivery of email and mobile text communications. The FreshMail Customer Support screens each Campaign for compliance with FreshMail’s Terms of Use, Anti-Spam Policy and Privacy Policy; this includes checking that a resignation link is included in the Campaign. If no resignation link is provided in the Campaign, the Campaign is prevented from being sent. FreshMail may also suspend any Campaign from sending if it features any offensive, illegal or immoral content, or the Campaign is otherwise in violation of FreshMail’s Terms of Use, Anti-Spam Policy and/or Privacy Policy. If your Campaign is suspended, you are not entitled to a refund of any payment already made to FreshMail.

55. Landing Pages are moderated not unlike Campaigns, see Section 54 of the Trial Terms of Use, although no Landing Page is required to feature the resignation link.

56. Moderation by FreshMail does not release you from your liability for the content and management of your Campaigns and Landing Pages.

57. Aside from Moderation, FreshMail has the right to remove certain Content which you may have uploaded to the FreshMail App; this applies especially to the content published on Landing Pages and reported beyond any doubt by any third party or officials to be in violation of anyone’s rights and/or the prevailing regulations of law.

**Account and sending block**

58. FreshMail may temporarily block your Account if:

(i) you have not signed into your Account for more than 30 (thirty) days. If your Account is blocked and you attempt to sign into the Account, FreshMail will send you an activation email message with a link you need to click to remove the block.

(ii) you are in actual or reasonably suspected breach of the Trial Terms of Use, the Privacy Policy, the Anti-spam Policy and/or the prevailing regulations of law. If your Account is blocked because of this, the Account will be unblocked once you have provided reasonable and necessary clarification of the actual or suspected breach. Nevertheless, FreshMail may continue to block your Account despite your clarification if FreshMail deems that the breach was committed to use any functionality of the FreshMail App against their intended use.

(iii) you are in breach of the provisions on the correct use of the FreshMail App, as specified in point 60 of the Terms of Use;

(iv) you have failed to pay for the use of the FreshMail App for at least 30 (thirty) days from the due payment date.

59. If FreshMail discovers a Campaign or a Landing Page which has been sent or published, or a Webinar which has been sent, published or organised respectively against FreshMail’s Anti-Spam Policy or the prevailing regulations of law, or Spamtraps are found by FreshMail on any Subscriber List you have (including abuse@domain email addresses and/or postmaster@domain email addresses), FreshMail can permanently block you from sending any Campaigns to the Subscribers on the List.

**Provisions on the correct use of the FreshMail App**

60. The correct use of the FreshMail App ensures superior standards and efficiency for thousands of our customers. It is therefore important to adhere to the provisions on the correct use of the FreshMail App in such a way that it is equally satisfactory for all its users. In consequence, some instances of the customer’s use of the FreshMail App may be considered a misuse, despite the fact that the customer has bought FreshMail’s services under the “Unlimited” plan. This is in compliance with the provisions of Polish law, according to which you cannot make use of your right which would be contrary to the socio-economic purpose of this right or with the principles of social coexistence.

61. We have defined certain misuse parameters to ensure that the excessive use of certain features does not have a negative impact on the use of the FreshMail App by other customers or on the effectiveness of their campaigns. We define misuse as, in particular, a situation where a customer uses the FreshMail App in a manner with goes beyond standard use, causing a significant overload of our systems, which has a negative impact on the use of the FreshMail App by other customers. In such a situation, we will inform the customer and give them instructions on how to use the FreshMail App in the correct manner.

62. If the customer continues to misuse the FreshMail App, FreshMail reserves the right to suspend or block their Account. Each such case shall be considered by us individually and at our discretion. In the above-mentioned cases, the customer is not entitled to demand reimbursement of any amounts paid to FreshMail.

**Termination of the Contract**

63. You may terminate the Contract at any time by sending FreshMail a notice of termination by email or letter. Your notice of termination will be effective upon the expiry of the 7-day notice period.

64. FreshMail may terminate the Contract with you at any time, without disclosing the reason of the termination to you, with immediate effect, and without any liability on the part of FreshMail for the termination.

65. FreshMail may terminate the Contract with you with immediate effect when any of the following occurs:

(i) you are or have been in breach of the Trial Terms of Use, the Privacy Policy and/or the Anti-Spam Policy;

(ii) you are or have been in violation of the prevailing regulations of law;

(iii) you have failed to conclude a Personal Data Processing Outsourcing Agreement with FreshMail;

(iv) you have cancelled an order for Personal Data processing outsourced from FreshMail;

(v) you have requested the removal of your own Personal Data in whole or in any part which renders FreshMail unable to perform the Contract, or you have objected to the processing of your Personal Data by FreshMail.

66. Remember that upon the expiry of the Trial Period (14 days), you have 30 (thirty) days to purchase a paid licence to use the FreshMail App. During this period, you will only have access to the ‘Payments’ tab in your Account. After the expiry of the specific period of time, FreshMail will delete all databases you have uploaded to the FreshMail App without notice. Once your databases have been deleted, you can only recover the data as provided for in Section 67 of the Trial Terms of Use.

**Deleting your Account**

67. Due to FreshMail’s commitment to provide superior Personal Data protection standards to your Subscribers, the FreshMail Portal allows you to delete your Account and all the data collected in the Account, which includes your Subscriber Lists, Contents, sent Campaign reports, autoresponders, draft unsent Campaigns and draft autoresponders, and all contact and invoicing data which you have submitted to FreshMail. Your Account will be deleted according to the criteria established in these Trial Terms of Use.

68. If you decide to terminate your relationship with FreshMail before the end of the 14-day Trial Period, you may delete your Account on your own with the Delete Account feature in your Account Settings. This will delete your Account and all its data.

69. Moreover, FreshMail shall have the right to delete your Account if any of the following circumstances occur:

(i) the 14-day Trial Period has ended and you have not opted to purchase a paid licence to use the App within 30 days after the end of the Trial Period;

(ii) the Contract has expired or has been terminated for any reason.

70. Your Account can be restored in 180 days after it is deleted. This will require a manual intervention by FreshMail programmers and this service costs PLN 500.

71. Seven days before the end of the Trial Period, FreshMail will send you a reminder of the upcoming expiry date of the Contract. You should then decide whether you wish to switch to a paid licence to use the FreshMail App. If you do not do so, FreshMail will delete your Account and any databases imported into the App 30 days after the end of the Trial Period. Once your databases have been deleted, you can only recover the data as provided for in Section 67 of the Trial Terms of Use.

72. On your request, FreshMail will issue a Certificate of Personal Data Destruction for the Personal Data which have been uploaded to the FreshMail App via your Account if the Personal Data is to be destroyed.

73. The deletion of your Account will not revoke your consent to receive electronic marketing communication from FreshMail or revoke your consent for processing your Personal Data by FreshMail for electronic marketing communication.

**Additional services**

74. FreshMail is enjoying a dynamic growth and continues to implement new solutions. FreshMail enables you to send transactional emails. If you wish to use FreshMail’s full transactional email service, contact the FreshMail Sales Department [here](http://freshmail.pl/kontakt/), to conclude the relevant agreement. If you only want to test the functionality of the transactional email service, you can send a maximum of 25 transactional emails every day without any additional agreement.

75. FreshMail may, upon your request, generate individual reports with a summary of your Subscribers’ data. An extra fee will apply for this service. The service fee will depend on the workload required from FreshMail to deliver your order. Contact the FreshMail Customer Support for more details.

76. FreshMail provides other extra services managed by third-party providers, which are subject to separate terms of use. You can purchase these services if you are using the paid version of the FreshMail App. In this case, you will find the appropriate terms of use after logging in to the Portal.

**Amendments**

77. From time to time, FreshMail may:

(i) establish new fees for the use of extra services featured int the FreshMail Portal and/or in the FreshMail App. No such extra fees will affect the sending of your Campaigns.

(ii) amend the Trial Terms of Use, the Anti-Spam Policy, the Privacy Policy and the Pricing.

78. Every amendment to the Trial Terms of Use and the Terms of Use will be notified to you at least ten (10) days in advance in an email sent to the email address which you have submitted while signing up or in a pop-up message which you will see once you sign into the FreshMail App.

79. Each amendment or modification becomes effective on the date specified in the notice for you.

80. All amendments to the Anti-Spam Policy and the Privacy Policy will be posted at freshmail.pl in the Anti-Spam Policy and Privacy Policy tabs. Each amendment posted in either tab becomes effective immediately when made. Please make sure to frequently read the Anti-Spam Policy and the Privacy Policy.

**Liability**

81. The FreshMail App is just a tool you use. This is why you warrant and represent that you accept the following:

(i) FreshMail shall not be liable for any damage, including and not limited to loss of profits, or loss of data and/or information as a consequence of: failure to deliver certain data or information to the Subscribers or delivery of the data or information to other recipients than originally intended, delay in delivery, and/or interruption in operation of the FreshMail App or Services, unless proven to be solely attributable to FreshMail;

(ii) FreshMail shall not be liable for any unlawful use of the FreshMail App;

(iii) FreshMail’s limit of liability to you is the monthly (1 month) net payment made by you to FreshMail according to the Pricing for paid accounts as part of the ‘Unlimited’ package, assuming that you would have the same sized database as you have actually imported to the Trial Account;

(iv) You are solely liable for every database and Content you upload to the FreshMail App, and this includes your liability to FreshMail.

**Processing of personal data**

82. FreshMail also processes various Personal Data, some of which is most precious to you – as it is your Personal Data.

83. Learn more in the Privacy Policy.

**Final provisions**

84. FreshMail strives for excellence in everything it does. FreshMail continuously improves and develops its Portal and App for you. This is why FreshMail may, from time to time, launch a new version of FreshMail Services.

85. Unless anything in the foregoing provisions of these Terms of Use prohibits it, you may submit all your warranties and representations:

(i) by email to pomoc@freshmail.pl;

(ii) by letter to:

FreshMail sp. z o.o.

29 Listopada 155 C, Kraków

FreshMail’s warranties and representations will be submitted to either of the following which you have provided while signing up:

(i) by email to pomoc@freshmail.pl;

(ii) your mailing address.

86. The prevailing regulations of law of the Republic of Poland shall apply outside the Trial Terms of Use.

87. Any disputes which may occur between FreshMail and you shall be settled in the court of jurisdiction over FreshMail.

88. This version of the Trial Terms of Use is effective from 29 July 2020.