

TERMS & CONDITIONS OF USE

These Terms & Conditions of Use (these “**Terms**”) apply to your use of the products, services, content and software we make available through or in connection with our websites (collectively referred to herein as the “**Services**”). Jivox Corporation and its subsidiaries and affiliate corporations, successors, and assigns are collectively referred to herein as “Jivox”, “we”, “us” or “our.” Users of the Services are referred to herein as “Users”, “you” or “your.”

By accessing the Services, you agree to be bound by these Terms, which together with any orders, constitute your agreement with Jivox. If you do not agree with these Terms, you may not use the Services. If you are accessing and using the Services on behalf of a company or other entity that has entered into a separate services agreement with Jivox, such access and use will be governed solely by the terms and conditions of such separate services agreement.

We may amend these Terms at any time by posting the modified Terms on the Services. The modifications shall be effective upon such posting (unless a later date is specified in the posting, in which case that date shall be the effective date of the modifications). You agree to review these Terms periodically so that you are aware of any modifications. Your continued use of the Services after such modifications constitutes your acknowledgment of, and agreement to be bound by, the amended Terms.

A. SERVICES DESCRIPTION.

Services. The Services include the development and delivery of advertisements, web content, and/or email content (hereafter referred to as “Jivox Authorized Digital Content”) to digital platforms, which may include creative services, advertisement production services, campaign set up and data integration services, as well as data, reporting and analytics services and other services related to the delivery of advertisements Jivox Authorized Digital Content to digital platforms. We may update, upgrade or otherwise modify the Services at any time with or without notice. We reserve the right to suspend or terminate your use of the Services at any time for any reason.

Fees. Some Services are offered at no charge. Other Services may have a charge associated with their use, which you will be informed of and must agree to prior to your order and use of such Services. If you elect to receive Services for which fees are payable, you will also be responsible for paying any associated sales, use, value added or other taxes (excluding taxes based on Jivox's net income).

B. USE OF THE SERVICES.

Registration. You are required to keep all information provided during your registration current. We reserve the right to revoke your particular username or password, or to require you to choose another username or password. You are responsible for maintaining the confidentiality of your password and for restricting access to your computer or other device. You are responsible for

your use of the Services and for all activities that occur under your username. You may not access or use the Services unless you are at least 18 years old.

License. Provided you are in compliance with these Terms, Jivox hereby grants you a non-exclusive, non-transferable, limited license, without right of sublicense, to access and use the Services. You agree that if you use the Services to create advertisements, your use will comply with the Jivox Advertising Guidelines, available at <https://www.jivox.com/advertiserguidelines/>, which may change from time to time. You also agree that all advertisements you create through the use of the Services may only be distributed through the Services, and in this regard, you agree not to download or extract assets (e.g. videos, images, etc) from the Services for use outside of the Services.

Content. You are responsible for all content you submit to the Services, directly or indirectly. You represent and warrant that such content will be true and complete and that you have all rights necessary to submit such content to the Services, and that the display, distribution and other use of such content by us will not violate the rights of any third party. You hereby grant us the non-exclusive, worldwide, royalty-free, perpetual, irrevocable, sub-licensable, transferable license to use, reproduce, modify, create derivative works of and distribute the content you submit to the Services in connection with the operation of the Services. We reserve the right, in our sole discretion, to remove, move or otherwise restrict any content submitted to the Services, at any time and for any or no reason, with or without notice. In using the Services, you may access content submitted or otherwise made available by other users. We do not pre-screen, edit or review content submitted to the Services. By using the Services, you agree to bear all risks associated with the use of any content on the Services and any reliance on the accuracy, completeness, or usefulness of such content.

Prohibited Conduct. By using the Services you agree to: (a) refrain from violating applicable federal, state and international laws; (b) refrain from using the Services to send unsolicited e-mails, bulk mail, spam or other materials to other users of the Services or any other individual; (c) refrain from using the Services to harass, threaten, stalk or abuse other users of the Services; (d) refrain from interfering with others' use of the Services; (e) refrain from using the Services to invade the privacy of others, or to collect or use an individual's personal and private information or to gain or attempt to gain unauthorized access to other computer systems via the Services; (f) refrain from using the Services to create a false identity or to impersonate another person; and (g) refrain from using the Services to advertise Internet sites or products of services which are competitive to those offered by Jivox. We reserve the right, in our sole discretion, to suspend or terminate your right to use the Services, if you violate the aforementioned rules of conduct or engage in other conduct we deem offensive

C. PRIVACY

Please see our Privacy Policy, available at <https://www.jivox.com/privacy/>, which also governs your use of the Services and is hereby incorporated into these Terms. Any update to the Privacy Policy page will constitute an automatic update to these terms.

If you use the Services to create an API client or other code any part of which targets or directs itself to children (as defined under applicable law(s) including the U.S. Children's Online Privacy (“**COPPA**”) and E.U. General Data Protection Regulation (“**GDPR**”)) (referred to herein as a “**Child-Directed API Client**”), you and your Child-Directed API Client must: (a) ensure that your Child-Directed API Client, including its access to and use of any digital platform, including without limitation Facebook, Google and YouTube, is compliant with COPPA, GDPR, and any other applicable laws or regulations at all times; (b) not use personalized ads (including remarketing) to target past or current activity by any user of your Child-Directed API Client; and (c) otherwise comply with any notice, restricted use and other policies established by a digital platform with respect to the Child-Directed API Client, including without limitation those of Facebook available at <https://developers.facebook.com/docs/plugins/restrictions/> and those of YouTube available at <https://developers.google.com/youtube/terms/previews/developer-policies-preview>.

D. CONFIDENTIALITY.

“Confidential Information” means all written or oral information, in tangible or intangible (including electronic) form, disclosed or made available by or on behalf of either you or us (the “**Disclosing Party**”) to the other (the “**Receiving Party**“), related to the operations of the Disclosing Party or a third party or that the Disclosing Party otherwise considers confidential or proprietary, and that has been identified as confidential or that by the nature of the circumstances surrounding disclosure would be reasonably understood to be confidential. The Receiving Party agrees that all items of Confidential Information are proprietary to the Disclosing Party or such third party, as applicable, and will remain the sole property of the Disclosing Party or such third party. The Receiving Party further agrees to retain in confidence, not to disclose to third parties, and not to use except as necessary in connection with performance hereunder all Confidential Information of the Disclosing Party. Confidential Information will not include information that: (a) is or becomes publicly available or enters the public domain through no fault of the Receiving Party; (b) is rightfully communicated to the Receiving Party by persons not bound by confidentiality obligations with respect thereto; (c) is already in the Receiving Party’s possession free of any confidentiality obligations with respect thereto at the time of disclosure; or (d) is independently developed by the Receiving Party without any use of or by persons who have access to the Disclosing Party’s Confidential Information. Notwithstanding the foregoing, the Receiving Party may disclose Confidential Information to the limited extent required in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law.

E. PROPRIETARY RIGHTS.

The Services and all content included in the Services and originating with us, including but not limited to website and application design, text, photographs, graphics, sound, software and the arrangement of all content on the Services, is the property of Jivox or its licensors, and is protected by United States and international copyright and other applicable law. All rights to such content are reserved to their respective copyright owners. Except as expressly authorized by these Terms or any guidelines or instructions that we include in the Services, you may not reproduce, modify, copy, create derivative works of, sell or distribute any portion of the

Services, use of the Services or access to the Services. You may not reverse engineer, reverse assemble, decompile or otherwise attempt to determine or derive the source code of the Services or any portion thereof. “Jivox” and all related logos, graphics and icons are our service marks or trademarks. All other trademarks, service marks, product names and company names or logos that appear on the Services are the property of their respective owners, and their presence on the Services does not represent an endorsement of the Services. Some of the software or services made available through the Services may be subject to additional third party or open source licensing terms and disclosures, including those linked to or set forth in the Services.

F. WARRANTY DISCLAIMER

YOUR USE OF THE SERVICES IS AT YOUR SOLE RISK. THE SERVICES ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS. WE DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. WE MAKE NO WARRANTY THAT: (a) THE SERVICES WILL MEET YOUR REQUIREMENTS; (b) THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE; (c) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES WILL BE ACCURATE OR RELIABLE; OR (d) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICES WILL MEET YOUR EXPECTATIONS.

G. LIMITATION OF LIABILITY

IN NO EVENT SHALL JIVOX BE LIABLE TO YOU FOR ANY INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, REGARDLESS OF THE NATURE OF THE CLAIM OR THEORY OF LIABILITY, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, ARISING FROM ANY SOURCE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL THE AGGREGATE LIABILITY OF JIVOX ARISING OUT OF OR RELATING TO THIS AGREEMENT EXCEED THE GREATER OF \$500 OR THE FEES PAID OR PAYABLE TO JIVOX UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. THESE LIMITATIONS ARE INTENDED TO APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THIS AGREEMENT HAVE BEEN BREACHED OR HAVE PROVEN INEFFECTIVE. You acknowledge and agree that the disclaimers, exclusions and limitations of liability set forth in these Terms form an essential basis of our agreement, and that, absent these disclaimers, exclusions and limitations of liability, the terms of our agreement, including, the economic terms, would be substantially different.

H. INDEMNITY

To the fullest extent permitted by law, you agree to indemnify, hold harmless and defend Jivox from and against any losses, penalties, sanctions, liabilities, costs (including reasonable attorneys' fees) or damages resulting from any claim by any third party arising from your use of the Services, any content you provide to the Services or your breach of these Terms.

I. GENERAL

Disclosures and Notices; Electronic Signature Consent. By registering for the Services, you agree that such registration constitutes your electronic signature, and you consent to electronic provision of all disclosures and notices from us (“**Notices**”), including those required by applicable law. You also agree that your electronic consent will have the same legal effect as a physical signature. You agree that we can provide Notices regarding the Services to you through the Services, or by mailing Notices to the email or physical addresses identified in your account. Notices may include notifications about your account, changes to the Services, or other information we are required to provide to you. You also agree that electronic delivery of a Notice has the same legal effect as if we provided you with a physical copy. We will consider a Notice to have been received by you within 24 hours of the time a Notice is either posted to the Services or emailed to you. You authorize us to provide Notices to you via text message to allow us to verify your control over your account (such as through two-step verification), and to provide you with other critical information about your account. Standard text or data charges may apply to such Notices.

Procedure For Making Claims Of Copyright Infringement. We may, in appropriate circumstances and in our discretion, disable or terminate the accounts of users who may be 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 Copyright Agent with the following information: (a) an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright or other intellectual property interest; (b) identification of the copyrighted work or other intellectual property that you claim has been infringed; (c) identification of the material that you claim is infringing and its location on the Services; (d) your address, telephone number, and email address; (e) 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 (f) a statement by you that the above information in your Notice is accurate and, under penalty of perjury, that you are the copyright or intellectual property owner or authorized to act on the copyright or intellectual property owner's behalf. Our Copyright Agent for Notice of claims of copyright or other intellectual property infringement can be reached as follows: By mail: Copyright Agent, Jivox Corporation, 1810 Gateway Drive, San Mateo, CA 94404; By email: copyright@jivox.com.

No Agency. Nothing in these Terms will be construed to create any agency, partnership, or joint venture between you and Jivox, and neither you nor Jivox will represent itself as an agent or legal representative of the other.

Compliance with Laws. The Services are of U.S. origin. You agree to adhere to all applicable state, federal, local and international laws and treaties in all jurisdictions in which you use the Services, including, without limitation, all end-user, end-use and destination restrictions issued

by U.S. and other governments and the U.S. Export Administration Act and its associated regulations. For clarity, you, and not Jivox, shall be responsible for ensuring that your use of the Services does not constitute a criminal offense, give rise to civil liability or otherwise violate any applicable law, regulation or ordinance, including, without limitation, U.S. law, regarding the transmission of copyrighted, trademarked content or personally-identifiable information or controlled technical data.

Choice of Law and Forum. These Terms, your use of the Services and the relationship between you and us, and any disputes, claims or causes of action related to the foregoing, shall be governed and interpreted in accordance with the laws of the State of California, without regard to its conflict of laws provisions. In addition, you and we agree that the sole jurisdiction to enforce or construe these Terms shall lie in the County of San Francisco, State of California, and you and we hereby generally and unconditionally submit to and accept such jurisdiction.

Statute of Limitations. Regardless of any statute or law to the contrary, any claim or cause of action by you arising out of or related to these Terms or the use of the Services must be filed within one year after such claim or cause of action arose or be forever barred.

Assignment. These Terms, including without limitation any rights or obligations provided for herein, may not be assigned, delegated or otherwise transferred by you. Any assignment, delegation or transfer attempted to be made in violation of these Terms shall be null and void.

Entire Agreement. In the absence of any other agreement, These these Terms represent the entire agreement between you and us with regard to their subject matter., they supersede all prior agreements and representations, and tThey may not be modified except by us in writing (including modifications by us to this page). In the event of any conflict between these Terms and any instructions, or guidelines or limitations included in the Services, these the Terms stated in the Master Service agreement or other equivalent representation shall control.

Waiver and Severability. Our failure to exercise or enforce any right or provision of these Terms shall not constitute a waiver of such right or provision by us. Any provision of these Terms which is held invalid or unenforceable in any jurisdiction will, as to that jurisdiction, be ineffective only to the extent of such invalidity or unenforceability and without rendering invalid or unenforceable the remaining provisions of these Terms or affecting the validity or enforceability of any of the provisions of these Terms in any other jurisdiction, and the court or tribunal so holding will be empowered to substitute, to the extent enforceable, provisions similar to said provision, or other provisions, so as to provide to the parties the benefits intended by said provision to the fullest extent permitted by applicable law. If any provision of these Terms is so broad as to be unenforceable, the provision will be interpreted to be only so broad as is enforceable.