

TERMS OF USE

This Terms of Use (this “Agreement”) applies to the SparkPost.com service and any other messaging services (the “Services”) offered by Message Systems, Inc., a Delaware corporation (“we” or “us”), to any individual, business entity, and/or user (“you”) through the website SparkPost.com or any other website or mobile applications (collectively, the “Site”) that link to this Agreement. The effective date of this Agreement (the “Effective Date”) will be the earlier of the date you place an Order or access the Services.

1. Definitions. The terms used in the Agreement will have the definitions provided in the Agreement.

2. Eligibility; Acceptance.

2.1. Eligibility. To use the Services, you must: (i) be at least 18 year old and legally able to enter into contracts; (ii) agree to and comply with this Agreement; and (iii) complete an Order.

2.2. Acceptance of Agreement and Policies. All use of the Services is subject to: (i) this Agreement; (ii) the Message Systems Privacy Policy as made available and updated from time to time at sparkpost.com/policies (the “Privacy Policy”); (iii) the Message Systems Messaging Policy as made available and updated from time to time at sparkpost.com/policies (the “Messaging Policy”, and together with the Privacy Policy, the “Policies”); and (iv) any Order you have placed. The terms of this Agreement and the Policies can be accepted by either: (i) executing the Order process; (ii) clicking to accept and agree to this Agreement, where this option is made available to You by Us; or (iii) actually using the Services. The Policies and any Orders are incorporated into and deemed a part of this Agreement. PLEASE CAREFULLY READ THIS AGREEMENT. BY SUBMITTING AN ORDER OR BY ACCESSING OR USING THE SERVICES, YOU AGREE THAT YOU HAVE READ AND AGREE TO BE BOUND BY THIS AGREEMENT AND MEET ALL OF THE ELIGIBILITY REQUIREMENTS IN THIS AGREEMENT. IF YOU DO NOT AGREE TO THIS AGREEMENT, OR DO NOT MEET ALL OF THE ELIGIBILITY REQUIREMENTS IN THIS AGREEMENT, WE DO NOT GRANT YOU PERMISSION TO, AND YOU MUST NOT ACCESS OR USE THE SITE OR THE SERVICES.

3. Orders. To use the Services, You must first complete an order either by completing an automated order process found on the Site, or by completing a custom order executed by You and Us (each, an “Order”). An Order is required for use of any free aspects of the Services, test instances, trials (such free, test or trial subscription, a “Limited Subscription”) and paid Services. In connection with any Order, you must provide Us with true, complete and up-to-date contact

information and provide payment as specified in the applicable Order. If the terms of an Order conflict with the terms of this Agreement or any of the Policies, the specific terms of the Order govern with respect to the use of the Services specified in the applicable Order only.

4. Access. All access to and use of the Services, including for the sake of clarity the Site and any Limited Subscription, is subject to the terms of this Agreement. After you have completed an Order or have otherwise registered for use of any Services, We may grant you a unique account (an "Account"). In connection with the Account, You may be provided with one or more unique user identification numbers/identities and passwords (each, an "Account ID"). Each Account ID is personal in nature and may be used only by You or, if You are an organization, only by designated employees within Your organization or contractors who are contractually required to comply with the terms of this Agreement (such individual, as applicable, the "User" of the Account). You are solely responsible for all use of the Services by each User and for compliance by each User with the terms of this Agreement. You will ensure the security and confidentiality of each Account ID and will notify Us immediately if any Account ID is lost, stolen or otherwise compromised. You acknowledge that You are fully responsible for all costs, fees (including but not limited to attorneys and professional fees), liabilities and damages incurred through use of each Account ID and that any Services ordered or transactions completed through any Account or under any Account ID will be deemed to have been lawfully completed by You. In no event will We be liable for the foregoing obligations or the failure by You to fulfill such obligations.

5. Term. This Agreement is effective beginning on the Effective Date and will continue for the period specified in the Order (the "Initial Term"). In the case of a Limited Subscription, this Agreement and all of Your rights to use the Services will expire at the end of the Term unless You complete another Order or unless We earlier terminate such Term in our sole discretion. In the case of a paid subscription, the Term, including all associated payment obligations, will automatically renew for successive periods equal in length to the initial term (each, a "Renewal Term", and together with the Initial Term, the "Term"), unless either party sends the other written notice of your intent not to renew the Term not later than thirty (30) days prior to the end of the current Term. In the case of paid subscriptions for more than one (1) year, the Renewal Term length will each be one (1) year.

6. Modifications.

6.1. To this Agreement. We may modify this Agreement and any of the Policies at any time by posting the revised version on the Site or sending you a copy of

the modified document through other reasonable means. Your continued use of the Services will be considered acceptance of any such modification, which shall apply retroactively to the inception of Your use of the Site or Services, unless such change states otherwise. All modifications to this Agreement or any of the Policies will be effective immediately upon posting, unless otherwise noted by Us.

6.2. To the Services. We have the right to modify the Services in any way. When circumstances warrant, we may endeavor to provide you with reasonable notice and an explanation of such changes, but are under no obligation to do so. Your continued use of the Services will be considered acceptance of any such modification.

7. Downtime and Maintenance. You acknowledge that We are entitled, without any liability, to suspend access to any or all of the Services at any time: (i) to perform scheduled or unscheduled maintenance, modifications or upgrades; (ii) due to hardware failures, power outages, failures of third-party providers or because of interruptions of any other kind; (iii) to mitigate the effects of or prevent any attack or threat to the Services or any other network or systems on which the Services rely; (iv) as necessary in Our sole discretion because the Services are or may violate any law or regulation or as might be required for other legal or regulatory reasons (collectively, "Approved Service Suspensions"). We have no obligation to provide you notice of the cause of any particular Approved Service Suspension. We will attempt to notify You in advance of any scheduled Approved Service Suspension, but other than as may be expressly stated in this Agreement, We will have no liability for any damages, losses (including loss of data or profits), liabilities or any other consequences incurred as a result of a Approved Service Suspension or any failure to provide notice thereof.

8. Payment Terms.

8.1. Fees. You agree to pay Us all fees in accordance with the applicable Order. If the Order does not specify any invoicing terms, all fees will be invoiced annually in advance. Unless some other date is specified on the Order, You agree to pay Us the amount set forth on any invoice submitted in accordance therewith within thirty (30) days after receipt thereof. If you have specified credit card payment, then you authorize Us or our applicable processing agent to charge the credit card on account for all fees specified hereunder. We may change our rates prospectively for any Renewal Term by posting the new rates on the Site, or by providing you advance notice through any other reasonable means. We may charge You interest on any overdue fees at a rate of 1.5% per month or, if such rate of interest is unlawful, the maximum rate of interest permitted by law. You will reimburse Us for all reasonable costs and expenses

(including reasonable attorneys' fees) incurred in collecting any overdue amounts. All fees are non-cancelable and non refundable.

8.2. Taxes. You shall be responsible for all applicable taxes, however designated, incurred in connection with this Agreement, including but not limited to federal, state, or local sales or use taxes, value-added taxes, excises, and other taxes or duties which may now or hereafter be levied on the services provided hereunder or on payments made under this Agreement (the "Taxes"). We will generally calculate and assess Taxes in good faith in connection with the Order process. However, if at any time We are required by a taxing authority to pay any Taxes not previously collected from You, You will promptly submit such Taxes (including applicable penalties and interest, if any) to Us upon receipt of reasonable notice.

9. Content; Feedback.

9.1. Our Content. Unless otherwise noted within the Services, all software, documentation, scripts, images, videos, data, templates, information, and other content found on or within the Services ("Our Content") is owned by Us and all Intellectual Property Rights contained therein, or that are derivatives thereof, are retained by Us.

9.2. Your Content. In connection with your use of the Services, You may enter, store or otherwise use data, information, contact lists, email addresses, PII (as defined in the Privacy Policy), and other content provided by You or any of Your Users in connection with the Services ("Your Content"). You grant Us all necessary rights and licenses in and to Your Content as necessary for Us to provide the Services under this Agreement. You represent and warrant that none of Your Content violates this Agreement and that You have all necessary right, title, interest and consent necessary to allow Us to use Your Content for the purposes for which You provide Your Content to Us, including, without limitation, the delivery of any and all email or other digital messages. As between You and Us, You retain all rights and all responsibilities in and to Your Content and do not convey any interest therein to Us other than as provided in the Privacy Policy and the licenses set forth herein. You will maintain an adequate back-up of all Your Content and We will not be responsible or liable for any deletion, correction, destruction, damage, loss or failure to store or back-up any of Your Content. We may take remedial action if any of Your Content violates this Agreement, provided that We are under no obligation to review any of Your Content for accuracy, completeness or potential liability.

9.3. Feedback. You may provide Us with periodic information about Your use of the Services and with respect to any problems, including, the nature and frequency of problems, encountered with use of the Services and any resolutions

arrived at for those problems. You may also, at Your reasonable discretion, communicate to Us any suggested modifications, changes, or enhancements of the Services and in this respect, You represent that nothing that is so communicated constitutes Your proprietary or Confidential Information and You disclaim all rights in the information so communicated to Us. In connection therewith, You agree to provide Us with reasonable assistance with enforcing Our rights at Our expense. Any enforcement of Our rights, however, shall remain within Our sole discretion, including, whether and how to proceed with any enforcement activity, and any failure to proceed with any enforcement activity shall not be deemed a waiver of Our rights to do so later.

10. Confidentiality. During the Term and for three (3) years after any expiration or termination hereof (or in the case of information that is a trade secret, until such information is no longer a trade secret), each party (each party considered a "Receiving Party" as well as a "Disclosing Party") will retain in confidence, and will not use for its own benefit, all non-public information disclosed by or relating to the other party that is designated as confidential or that, given the nature of the information or the circumstances surrounding its disclosure, reasonably should be considered as confidential ("Confidential Information"). Confidential Information includes, without limitation, all non-public information relating to each party's technology, customers, business plans, marketing activities, employees, finances and other business affairs, but excludes information that: (i) was rightfully in the Receiving Party's possession, without any obligation to hold it in confidence, before receipt from the Disclosing Party; (ii) is or becomes a matter of public knowledge through no fault of the Receiving Party; (iii) is received by the Receiving Party from a third party who has the lawful right, without any duty of confidentiality, to disclose the information; (iv) is independently developed by the Receiving Party without use of or reference to the Confidential Information of the Disclosing Party; or (v) is disclosed by the Receiving Party with the Disclosing Party's prior written approval. For the avoidance of doubt: (i) this Agreement, all Orders, any pricing information, the Services, the Site, Our Content and any Confidential Information of our affiliates and subcontractors is Our Confidential Information; and (ii) Your Content is Your Confidential Information. Each party will protect all Confidential Information from disclosure to any third party (except to such party's employees, contractors and agents who have a need to know) by using the same degree of care that it uses to prevent the unauthorized disclosure of its own confidential information of a like nature, but in no event less than a reasonable degree of care. Notwithstanding the foregoing, either party may disclose Confidential Information without the other party's consent to the extent such disclosure is required by law, rule, regulation or government or court order, provided that the receiving party first provides prompt written notice of such required disclosure to the Disclosing Party to

enable the disclosing party to seek a protective order or otherwise prevent or restrict such disclosure. Notwithstanding anything in this Section or this Agreement to the contrary, You agree that We may use any of Your Confidential Information in accordance with the Privacy Policy.

11. Restrictions. Your use of the Services will not extend beyond the scope of this Agreement. Specifically, You will not (and will not directly or indirectly assist any third party or person to): (i) copy, reproduce, transmit, distribute, publish, display, modify, alter, sell, resell, lend, loan, lease, assign, license, sublicense, or transfer any or all of Your rights under this Agreement; (ii) access or use the Services except as explicitly provided in this Agreement; (iii) use the Services in violation of any law, including without limitation, the U.S. CAN-SPAM Act or any other similar law or regulation; (iv) use automated scripts to collect information from or otherwise interact with the Service; (v) use the Services to harass or intimidate any person or entity; (vi) reverse engineer, decompile, reverse compile, disassemble, reconstruct, translate, or create any derivative work of the Service or any part thereof; (vii) attempt to circumvent any technological protection measures which are in place to restrict access to any portion of the Services; (viii) erase or remove any proprietary or intellectual property notice contained in the Service; or (ix) use or permit use of the Services for or by any person or entity other than Your employees and agents, who are each bound to treat the Services as Our Confidential Information (as defined below) and to otherwise comply with the terms of this Agreement.

12. Ownership. You acknowledge and agree that except for the limited use rights expressly provided in this Agreement, as between You and Us, We own and retain all rights, title, and interest, including, but not limited to, all Intellectual Property Rights in and to the Service, the Site and all software and other technology utilized to provide such services and all derivatives thereof (whether or not derived from suggestions, input or comments from You). No such rights are conveyed to You through this Agreement. You agree not to challenge the validity or ownership of Intellectual Property Rights in and to the Service or any part thereof or any of Our associated rights. As used herein, "Intellectual Property Rights" means: all rights of the following types, which may exist or be created under the laws of any jurisdiction in the world: (i) rights associated with works of authorship, including exclusive exploitation rights, copyrights, moral rights, and mask works; (ii) trademark and trade name rights and similar rights; (iii) trade secret rights; (iv) patents and industrial property rights; (v) other proprietary rights in Intellectual Property of every kind and nature; and (vi) all registrations, renewals, extensions, continuations, divisions, or reissues of, and applications for, any of the rights referred to in clauses (i) through (vi) above. As used herein "Intellectual Property" means and includes all algorithms, application

programming interfaces, apparatuses, software, circuit designs and assemblies, databases and data collections, diagrams, formulae, inventions (whether or not patentable), know-how, logos, marks (including brand names, product names, logos, and slogans), methods, network configurations and architectures, net lists, photomasks, processes, proprietary information, protocols, schematics, specifications, Software code (in any form including source code and executable or object code), subroutines, test results, test vectors, user interfaces, techniques, URLs, web sites, works of authorship, and other forms of technology (whether or not embodied in any tangible form and including all tangible embodiments of the foregoing such as instruction manuals, laboratory notebooks, prototypes, samples, studies, and summaries).

13. Warranties.

13.1. By You. You hereby represent, warrant, and covenant that: (i) You have the legal right and authority to enter into this Agreement, and, if You are accepting this Agreement on behalf of a company or other entity, to bind the company or other entity to the terms of this Agreement; (ii) You have the legal right and authority to perform Your obligations under this Agreement and to grant the rights and licenses described in this Agreement; (iii) Your Content, and any other data, information or content You provide to Us in connection with this Agreement and Your access to the Site and use of the Services, is correct and current, and does not constitute defamation, violate a third party's privacy, publicity or other personal rights, and will not violate applicable law or a third party's contractual rights; (iv) this Agreement will constitute Your legal, valid, and binding obligation, enforceable against You in accordance with its terms; and (iv) no consent, approval or authorization of, or exemption by, or filing with, any governmental authority or third party is required to be obtained by You in connection with the execution, delivery and performance by it of this Agreement or the taking of any other action contemplated hereby, which has not been obtained.

13.2. By Us. Except in the case of a Limited Subscription, We represent and warrant that we will use commercially reasonable efforts to provide the Services in accordance with this Agreement. Our sole obligation and Your sole and exclusive remedy with respect to any failure by Us to perform in accordance with the warranty in the preceding sentence will be for Us to take commercially reasonable efforts to re-perform the affected Services or refund the fees paid or payable for the duration of the failure.

14. Disclaimer. EXCEPT AS PROVIDED IN SECTION

13.2, WE DISCLAIM ALL WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED

WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND ANY OTHER WARRANTY IMPLIED BY APPLICABLE LAW. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 13.2, THE SITE, THE SERVICE (AND ANY AND ALL CONTENT OF ANY KIND PROVIDED BY US IN CONNECTION WITH THE SERVICES OR THIS AGREEMENT) IS PROVIDED "AS IS", "AS AVAILABLE" AND WITHOUT WARRANTY AND ANY USE OF THE SERVICES BY YOU IS ENTIRELY AT YOUR OWN RISK. IF YOU MAKE ANY CHANGES OR MODIFICATIONS TO THE SERVICE (OR ANY CONTENT OF ANY KIND PROVIDED BY US IN CONNECTION WITH THE SERVICES OR THIS AGREEMENT), THE WARRANTIES IN SECTION 13.2 WILL BE NULL AND VOID. IF ANY PART OF THIS SECTION IS DETERMINED TO BE UNENFORCEABLE, THEN ALL EXPRESS AND IMPLIED WARRANTIES WILL BE LIMITED IN DURATION FOR A PERIOD OF THIRTY (30) DAYS AFTER THE EFFECTIVE DATE, AND NO WARRANTIES OR CONDITIONS WILL APPLY AFTER THAT PERIOD.

15. Indemnification. You agree to defend, indemnify, and hold harmless Us, our affiliates and each of our stockholders, successors, officers, directors, employees, and agents, from and against any and all actions, proceedings, claims, judgments, liabilities, losses, and damages and related fees and expenses (including reasonable attorneys' fees) arising out of or relating to: (i) Your Content; (ii) Your breach of this Agreement; (iii) the violation of rules, generally recognized industry best practices, regulations or laws with respect to any content or rights, including, but not limited to, obscenity, defamation, publicity, information security, and privacy; or (iv) Your negligence or willful misconduct. We will promptly provide You with notice of any such claim and will have the right to participate in the defense of any such claim.

16. Limitation of Liability. OUR CUMULATIVE LIABILITY TO YOU FOR ALL CLAIMS ARISING FROM OR RELATING TO THIS AGREEMENT OR THE SERVICES, WHETHER IN CONTRACT, TORT, OR OTHERWISE, WILL NOT EXCEED THE TOTAL AMOUNT OF ALL FEES PAID TO US BY YOU ON ACCOUNT OF SERVICES USED DURING THE THREE MONTH PERIOD IMMEDIATELY PRIOR TO THE DATE UPON WHICH ANY SUCH LIABILITY ARISES (AND IF NO SUCH FEES HAVE BEEN PAID, THEN \$100). IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, LOSSES, COSTS OR EXPENSES OF ANY KIND, HOWEVER CAUSED AND WHETHER BASED IN CONTRACT, TORT OR ANY OTHER THEORY OF LIABILITY, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, LOSSES, COSTS OR EXPENSES. THE LIMITATION OF LIABILITY AND EXCLUSION OF CERTAIN DAMAGES WILL

APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THIS AGREEMENT HAVE BEEN BREACHED OR HAVE BEEN DETERMINED BY A COURT OF COMPETENT JURISDICTION TO BE INVALID, VOID OR UNENFORCEABLE. MOREOVER, THE PARTIES AGREE THAT THE LIMITATIONS IN THIS SECTION ARE A BARGAINED-FOR EXCHANGE AND A MATERIAL CONDITION AND PREMISE OF THIS AGREEMENT.

17. Termination and Suspension. We will have the right to suspend and/or terminate this Agreement in our sole discretion in accordance with this Section.

17.1. Suspension. We will have the right to immediately suspend Your Account, in whole or in part without prior notice, for any reason and/or time that is reasonable under the circumstances. During such suspension period: (i) You and all of Your User's access to Your Account and the Services will be suspended; (ii) if You are in breach of this Agreement, all fees, charges and all other of Your obligations pursuant to this Agreement will continue to accrue and all payments will be made in accordance with your Order and this Agreement; and (iii) unless we deem Your Account and/or any of Your Content to be potentially harmful in any way or potentially in violation of any applicable law, We will maintain your Account and not take action to intentionally delete or remove any or Your Content stored on or within the Service.

17.2. Termination. Unless earlier terminated in accordance with this Section, this Agreement will continue in full force and effect through the end of the Term. We will have the right to terminate this Agreement: (i) for any or no reason upon notice to you during any free or trial access to the Services; or (ii) upon any breach by You of the terms of this Agreement that remains uncured ten (10) days after We have provided you written notice of such breach; however, in the case of Your violation of the Messaging Policy, We may terminate this Agreement immediately upon notice to you, without the obligation to allow You an opportunity to cure. Upon termination or expiration of this Agreement for any reason: (i) all rights, licenses and subscriptions granted to You under this Agreement will immediately terminate; (ii) You and all of your Users will immediately cease all use of and access to Your Account and the Services; (iii) all fees then owed by You will become immediately due and payable; (iv) You will immediately either return to Us or, at Our discretion, destroy all of the following that is in Your possession: (A) Our Content; (B) Our Confidential Information; (C) Account IDs; and (v) We may delete any of Your Content stored and/or in process in the Site, the Services or otherwise by Us within ten (10) business days after the effective date of expiration or termination. The following sections: 2 (Acceptance of Agreement and Policies); 8 (Payment Terms); 9 (Content); 10 (Confidentiality); 11 (Restrictions); 12 (Ownership); 14 (Disclaimer); 15

(Indemnification); 16 (Limitation of Liability); and 18 through 32, will survive any expiration or termination of this Agreement.

18. **Linked Sites.** The Services and the Site through which the Services are provided may contain links to third party websites not under Our control. As such, We are not responsible for the content on or the policies regarding use and privacy of any such website. If You access any such website, You do so at your own risk.

19. **Export Control.** You agree not to export, re-export or import the Services to any country in contravention of any applicable law.

20. **U.S. Federal Government Use.** When the Service is licensed for use in the performance of a U.S. Government prime contract or subcontract, the Services and any software incorporated therein is designated as a "commercial item" (as defined in 48 C.F.R. 2.101), consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212. The Services and technical data is licensed only under the commercial terms herein and is subject to the provisions of Subpart 12.2 of the Federal Acquisition Regulations and other applicable acquisition regulations and are provided to the U.S. Government only as a commercial item.

21. **Notice.** Any notice required for or permitted by this Agreement will be in writing and will be delivered as follows with notice deemed given as indicated: (i) by personal delivery when delivered personally, (ii) by overnight courier upon written verification of receipt, (iii) by telecopy or facsimile transmission when confirmed by telecopier or facsimile transmission report, or (iv) by certified or registered mail, return receipt requested, upon verification of receipt.

21.1. **To Us.** Notices made by You to Us: legal@messagesystems.com; with a copy first class mail to: Contracts Administrator, 9130 Guilford Rd., Columbia MD 21046

21.2. **To You.** Notices made by Us under this Agreement that affect customers generally will be posted on the Site. Notices made by Us for You or Your Account specifically (e.g., notices of breach and/or suspension) will be provided to You via the email address provided to Us in Your registration for the Services or in any updated email address You provide to Us in accordance with standard account information update procedures We may provide from time to time. It is Your responsibility to keep Your email address current and You will be deemed to have received any email sent to any such email address, upon Our sending of the email, whether or not You actually receive the email.

22. **Assignment.** Each and all of the provisions hereof will be binding on and inure to the benefit of the parties hereto and their respective heirs, executors,

administrators, successors, and permitted assigns. You may not assign this Agreement, in whole or in part, without Our prior written consent and We may terminate this agreement immediately in our sole discretion if You have attempted to assign this Agreement contrary to this Section. A merger involving You or change in control event involving You, including, by operation of law, will qualify as an assignment for the purposes of this section. We may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of Our rights or obligations under this Agreement.

23. Governing Law; Disputes. This Agreement is governed by the laws of the State of Maryland, excluding conflict of laws provisions and excluding (i) the 1980 United Nations Convention on Contracts for the International Sale of Goods, and (ii) the Uniform Commercial Code of the State of Maryland or any other state that could otherwise apply to this Agreement. The parties agree that any right to a jury trial is hereby waived and that any disputes arising out of this Agreement will be resolved by binding arbitration in Baltimore, Maryland in accordance with the rules of the American Arbitration Association.

24. Force Majeure. In the event either party is unable to carry out its material obligations under this Agreement (except for the payment of money) by reason of "force majeure" (defined below) those obligations will be suspended during the continuance of the force majeure, provided that the party relying on this Section takes all reasonable action to remedy the effect of the force majeure as quickly as practicable. Force majeure will include: strikes, shortages, riots, insurrection, fires, flood, storm, explosions, earthquakes, telecommunications outages, acts of God, war, terrorism, governmental action, or any other cause that is beyond the reasonable control of such party.

25. Waiver. No waiver of any term or condition of this Agreement will be construed as a waiver of any other term or condition. Waiver of any default under this Agreement will not be construed as a waiver of any other default. No waiver of any provision in this Agreement or any right or remedy hereunder will be effective, unless in writing and signed by the party against whom such waiver is sought to be enforced. There will be no waiver even if there is a delay in exercising or a partial exercising of any right or remedy under this Agreement.

26. Injunctive Relief. You acknowledge that any unauthorized use of the Services, breach of the confidentiality or intellectual property provisions of this Agreement may cause irreparable harm to US, the extent of which would be difficult to ascertain. Accordingly, You agree that, in addition to any other remedies to which We may be legally entitled, We will have the right to seek injunctive relief in the event of such a breach.

27. Publicity. You agree that We may use Your name and logo in customer lists (both in print and on the Site) and in connection with other reasonable marketing activities related to the Services.

28. Headings. The section headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or extent of such paragraph, or in any way affect such agreements.

29. Prohibition on Competitive Use. We provide the Site, the Services and Our Content to You, subject to this Agreement, only for non-competitive use. For the avoidance of doubt, You will not use, access or otherwise view or interact with the Site, the Services, Our Content or any of the information or content therein to directly or indirectly establish, maintain, or otherwise provide a competing service or software solution to the Service.

30. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, such provision will be changed and interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed by law and the remaining provisions of this Agreement will remain in full force and effect.

31. Relationship. The performance by Us of Our duties and obligations under this Agreement will be that of an independent contractor, and nothing in this Agreement will create or imply an agency relationship between Us and You, nor will the Agreement be deemed to constitute a joint venture or partnership between You and Us.

32. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter found within this Agreement. This Agreement supersedes, and the terms of this Agreement govern, any other prior or collateral agreements with respect to the subject matter hereof. You acknowledge that in entering into this Agreement You have not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty other than as expressly set forth in this Agreement. No alteration, amendment, waiver, cancelation or any other change in any term or condition of this Agreement will be valid or binding except in accordance with the terms of this Agreement.

ver.1.1 November 2014