

OA Contact Terms of Service

1. Overview

OA Contact is providing customers (“Customer” or “you”) with access to its telephone messaging services made available on oacontact.com (the “Services”), subject to the conditions of these Terms of Service (“Agreement” or “Terms”). Any new features, changes, updates or improvements of the Services, and any new OA Contact Services made available and used by you, shall be subject to the terms of this Agreement unless explicitly stated otherwise in writing.

To become eligible to use OA Contact Services, you must review and accept this Agreement by clicking on the “I Accept” button presented with this Agreement, or any other mechanism provided. We reserve the right to change the terms of the Agreement from time to time. Any updates to these Terms shall be communicated to you. You acknowledge your responsibility to review the Agreement from time to time and to be aware of any such changes. By continuing to use the Services after any such changes, you accept this Agreement, as modified.

PLEASE READ THIS AGREEMENT IN FULL BEFORE USING THE SERVICES. YOUR USE OF THE SERVICES SHALL CONSTITUTE YOUR BINDING ACCEPTANCE OF ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO ALL OF THE TERMS IN THIS AGREEMENT, YOU MUST IMMEDIATELY CEASE ALL USE OF THE SERVICES. CONTINUED USE WILL CONSTITUTE YOUR BINDING ACCEPTANCE OF ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT.

2. Definitions

All capitalized terms shall have the meanings ascribed to them in this Section 2 or elsewhere in this Agreement.

“**Acceptable Use Policy**” or “**AUP**” means the OA Contact policy describing actions that are prohibited and conduct that is required when any party uses the Services offered by OA Contact, which policy is located <https://www.OA Contact.com/properusage> and is incorporated into this Agreement by reference.

“**Affiliate**” means, with respect to either you or OA Contact, any Person that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such party. For purposes of this Agreement, the word “Control,” when used with respect to any specified Person, means the power to direct the management and policies of such Person, directly or indirectly, or ownership of at least 50 percent (50%) of the voting securities of such Person.

“**Applicable Law**” means any law, regulation, rule, or order, of any government authority applicable to you, your business, your End User, or the subject matter of this Agreement, including, but not limited to, the following United States statutes and any regulations relating thereto: the Telephone Consumer Protection Act (“TCPA”), the Telephone Consumer Fraud & Abuse Prevention Act, the Controlling the Assault of Non-Solicited Pornography and Marketing (“CAN-SPAM”) Act, and the Children’s Online Privacy Protection Act (“COPPA”).

“**Connectivity**” means a transmission connection to the OA Contact Network. The application protocol layer may be either Short Message Peer-to-Peer (SMPP), Multi-Media Messaging Service protocol MM4, or any of the programming languages supported by OA Contact.

“**Content**” means any and all information, data, text, software, music, sound, photographs, graphics, video, messages, goods, products, services or other materials that you make available to OA Contact.

“**Customer**” means you, the individual accepting the terms of this Agreement, or the entity you represent, as applicable.

“Customer Application” means a software application that interfaces with the OA Contact Services and includes any services (web-based or other services) made available by Customer through that application.

“Customer Data” means any data and other information made available to OA Contact through the use of the OA Contact Service under this Agreement, including Message records and other Content made available to OA Contact.

“OA Contact API” means any Application Programming Interface provided by OA Contact to establish Connectivity to the OA Contact Messaging Gateway for transmitting and receiving Messages, receiving message delivery receipts, or other service-related access.

“OA Contact Messaging Gateway” means any technical interface used or operated by OA Contact or its Affiliates to establish Connectivity directly with a Company Gateway, or any Network Operator Gateway for the purpose of receiving Messages from, or transmitting Messages to, a Company Gateway, or a Network Operator Gateway.

“OA Contact Network” means the network owned or operated by OA Contact and its Affiliates to provide any Services, including without limitation (a) all technology, equipment, and other plant, hardware, software and applications owned or licensed by OA Contact and its Affiliates that is used to provide any Services and any all replacements, updates, enhancements, customizations, revisions, modifications, and future releases relating thereto, (b) the **OA Contact Messaging Gateway** and (c) any and all intellectual property rights of OA Contact and its Affiliates in the foregoing.

“End User” means an end user of a Customer Application.

“Inappropriate Content” means any Content that (i) violates Applicable Law, (ii) is unsolicited, including without limitation, spam or other unsolicited commercial or other advertising material or otherwise violates the AUP; (iii) violates any authoritative industry guidelines, or violates any Network Operator requirements, conditions, or codes of practice.

“Message(s)” means voice telephone calls, prerecorded or artificial voice telephone calls, multi-media message(s) (MMS), short message service messages (SMS), e-mail or electronic messages of any kind.

“Network Operator” means any mobile network operator, wireless service provider, wireless carrier, cellular company, third party operator or user of a communications network to and from which OA Contact can transmit and receive Messages.

“Network Operator Gateway” means the technical interface used or operated by a Network Operator to establish Connectivity directly with the OA Contact Messaging Gateway, for the purpose of receiving Messages from, or transmitting Messages to, the OA Contact Messaging Gateway.

“Person” means any natural person, corporation, partnership, limited liability company or other entity.

“Rate Schedule” means the schedule of fees incorporated into this Agreement and which details the credit packages and plans Customer agrees to pay for Customer’s use of the Services, as selected by Customer through the OA Contact Pricing Page or otherwise.

“Registration Data” means all the information required to be provided to OA Contact as prompted by the Service registration form.

“Services” means any service or services expressly provided to you by OA Contact pursuant to this Agreement, through OA Contact.com and/or through an OA Contact API.

3. Use of the Services

You will be solely responsible for all use (whether authorized or not) of the Services under your account, including for the quality and integrity of Customer Data and each Customer Application. If you are providing a Customer Application to an End User, you will ensure that you have a written agreement with each End User (“End User Agreement”) that enables OA Contact to use all Customer Data as necessary to provide the Services and that protects the rights, and limits the liability, of OA Contact to the same extent as the terms of this Agreement. The End User Agreement must include terms concerning restrictions on use no less restrictive than contained in this Agreement, and OA Contact makes no warranties and shall have no liability to Customer’s End User. OA Contact agrees that, subject to the foregoing requirements, the End User Agreement need not specifically refer to OA Contact. Customer will promptly notify OA Contact if it becomes aware of any breach of the terms

of the End User Agreement that may affect OA Contact. Customer will take all reasonable precautions to prevent unauthorized access to or use of the Services and notify OA Contact promptly of any such unauthorized access or use. Notwithstanding the foregoing, Customer remains fully liable for any use of the Services from your account.

The Services may or may not be available in all countries or regions of the world, may be available under different trademarks in different countries and, where applicable, may be approved or cleared by a government regulatory body for sale or use with different indications and restrictions in different countries. You agree, and shall require your End Users to agree, to use the Services in accordance with all applicable guidelines as well as all state, federal and international laws that the Services are subject to.

OA Contact transmits Messages initiated by you or your End Users, or sent to the Customer Application by others, through different routes, and the level of reliability and support for special features varies according to the route. You are responsible for obtaining and maintaining all computer hardware, software and communications equipment needed to access and use the Services, and for paying all access charges (e.g., ISP, telecommunications) incurred while using the Services. OA Contact is not responsible for the final delivery of any communication initiated by you or your End Users through the Services, as this is out of our control and is the responsibility of downstream communications carriers.

OA Contact transmits and receives Messages via other major communications carriers and Network Operators, and thus our influence over the timing of the transmission of your Messages is within the technical constraints imposed upon OA Contact. While OA Contact shall use commercially reasonable efforts to transmit your Messages to the applicable network for final delivery to your designated recipients as fast as practicable under the circumstances, we cannot commit to, and do not guarantee, a specific maximum delivery time. Such times depend on various network and system-related factors among the various entities involved in the transmission of your Messages across the public switched telephone network and/or Internet. You should know that communications carriers assign messages

with a default lifetime and any Message that cannot be delivered successfully within the lifetime assigned to it will be discarded by the communications carrier without any notice. OA Contact is not liable for any loss incurred by the failure of a Message to be delivered, and you acknowledge that damages for financial or other loss resulting from delivery failure cannot be claimed from OA Contact for any such non-deliveries. Furthermore, you agree that the Content of any Message transmitted over the OA Contact Network has zero value.

4. Restrictions on Inappropriate Content

You represent and warrant that the owners of the phone numbers you or your End Users initiate Messages to through the Services have consented or otherwise opted-in to the receipt of such Messages as required by any Applicable Law, and all Messages initiated from your account will comply with the AUP. You and/or your End Users agree to include clear opt-out/unsubscribe information on any Messages when required to do so by any Applicable Law and otherwise adhere to the Consumer Best Practices Guidelines promulgated by the Mobile Marketing Association, if applicable to your or your End User's Messages. You further agree that any individuals requesting "Do-Not-Call" ("DNC") status shall immediately be placed on your or your End User's DNC accounts list and you further agree that neither you nor your End User will initiate any subsequent Messages to any individuals after they request DNC status.

You agree to familiarize yourself with and abide by all applicable local, state, national and international laws and regulations and are solely responsible for all acts or omissions that occur under your account, including, without limitation, the content of the Messages that you or your End Users create and initiate through the Services. Without limiting the foregoing, you agree to familiarize yourself with, and abide by, the legal requirements applicable to any Messages transmitted through the Services by visiting the following websites:

- Federal Trade Commission, <http://www.ftc.gov>
- Federal Communications Commission, <http://www.fcc.gov>
- DoNotCall Registry Info, <http://www.donotcall.gov>

The Telephone Consumer Protection Act (“TCPA”), the Federal Trade Commission, the Federal Communications Commission, the DNC list registry rules (<http://www.donotcall.gov>) and various state laws, rules and regulations place restrictions on certain types of phone calls and SMS or MMS messages. OA Contact is in no way attempting to interpret any laws, rules, or regulations. This information is provided merely as a courtesy and is not intended to replace your and/or your End User’s responsibility to become familiar with and abide by the legal requirements pertaining to any Messages prior to using the Services. You and your End Users are ultimately responsible to make your own informed decisions regarding your Messages.

You shall schedule your Messages responsibly and in a manner that is courteous to the recipients pursuant to local, state, national, and international calling time rules and regulations. You are solely responsible for obtaining any rights or licenses to any data, including, without limitation, sound files, pictures or videos, for inclusion in any outbound messages. If you are unfamiliar or unclear on the legalities of any message that you intend to initiate through the Services, you must consult with your attorney prior to your use of the OA Contact Sites or Services.

You accept that the Services are provided for professional use only, and you agree that your or your End Users’ use of the Services shall conform in all respects to the AUP. OA Contact shall have the right not to accept, transmit or deliver any Message that OA Contact or any Network Operator reasonably believes, exercising reasonable discretion based on industry experience, contains Inappropriate Content or that is, or could reasonably become, the subject of any legal, regulatory, or other governmental proceeding or process, including without limitation any law enforcement, proceeding, process, or inquiry.

You and/or your End Users agree to provide legally required contact information in any outbound Message when and where required by any Applicable Law. You further agree that OA Contact is, under no circumstances, responsible for the contents and/or accuracy of any Messages and OA Contact will only transmit them on a basis of good faith that you and/or your End Users use the Services in accordance with this Agreement and Applicable Law.

You and/or your End Users are solely responsible for providing the content of all Messages transmitted through the Services. OA Contact will not be liable for any misuse of the Services by you and/or your End Users.

5. Registration Obligations

In consideration of your use of the Services, you agree to: (a) provide true, accurate, current and complete Registration Data and (b) maintain and promptly update the Registration Data to keep it true, accurate, current and complete. If you provide any information that is untrue, inaccurate, not current, incomplete, or OA Contact has reasonable grounds to suspect that such information is untrue, inaccurate, not current, or incomplete, OA Contact has the right to suspend or terminate your account and refuse any and all current or future use of the Services (or any portion thereof).

You agree to notify OA Contact of any known or suspected unauthorized use(s) of your user account, or any known or suspected breach of security, including loss, theft, or unauthorized disclosure of your username or password. You shall be responsible for maintaining the confidentiality of your password. Any fraudulent, abusive, or otherwise illegal activity may be grounds for termination of your user account, in our sole discretion, and you may be reported to appropriate law enforcement agencies.

6. Payments

Your use of and access to the Services is contingent on your paying for such usage, and Customer agrees to pay the usage fees set forth in the Rate Schedule in the amounts and using the methods indicated in the Rate Schedule. You are responsible to pay for any Message you transmit across the OA Contact Network, regardless of whether the message is received by the intended recipient.

OA Contact cannot readily or accurately ascertain your location when you request to use the Services. You therefore agree that your use of the Services occurs in Florida and is subject to any applicable Florida taxes. To the extent that you are responsible for any additional

taxes or fees beyond those collected by OA Contact, you agree that you will pay them when due to any applicable taxing authority, including any interest or penalties assessed.

OA Contact shall not be responsible for any errors or transmission failures with regard to the charging and collection of funds from your indicated payment method, nor for any actions taken by the provider of the payment method you choose (which could include refusal to authorize the charge). In addition to these Terms, any payments made by you may be subject to the agreement between you and the provider of the payment method.

As between you and OA Contact, you are responsible for all charges related to purchases made using your account and payment method, whether you authorized such purchases or not. In the event of non-payment by customer under these Terms, OA Contact shall be entitled to immediately proceed with collection remedies and shall be entitled to recover any and all costs, fees, and expenses of such collection efforts, including but not limited to: collection agencies, court costs, filing and service of process fees, attorneys' fees incurred from counsel of our choosing, or any other costs, fees, and expenses incurred in the pursuit of collection on all customer accounts and receivables due and payable under these Terms.

7. Intellectual Property

We may have copyrights, trademarks, patents, trade secrets, or other intellectual property rights covering subject matter in the Services. Except as expressly provided in this Agreement, the availability of the Services does not give you any license to these patents, trademarks, copyrights, or other intellectual property. All copyrights, trademarks, patents, trade secrets and other intellectual proprietary rights contained in the Services are the sole property of OA Contact or its licensors, each of whom reserves all rights with regard to such materials. You acknowledge and agree that you may not copy, reproduce, retransmit, modify, alter, create any derivative works, reverse engineer, decompile, or disassemble any portion of the Services, including any proprietary communications protocol used by the Services without the express written permission of OA Contact. All other trademarks or trade names are the property of their respective owners, and such material may not be

copied, downloaded, redistributed, modified or otherwise exploited, in whole or in part, without the permission of the owner.

As between you and us, you or your licensors own all right, title, and interest in and to your Content. Except as provided in this Section, OA Contact obtains no rights under this Agreement from you or your licensors to your Content, including any related intellectual property rights. You consent to our use of your Content to provide the Services to you and any End Users. We may disclose your Content to provide the Services to you or any End Users or to comply with any request of a governmental or regulatory body (including subpoenas or court orders).

8. Data Protection & Privacy

To assist us in verifying that your and/or your End Users' use of the Services complies with Applicable Law, we may, from time to time, randomly check the messages that you and/or your End Users initiate and transmit over the OA Contact Network. Notwithstanding the foregoing, you will remain solely responsible for all use of the Services under your account. Nonetheless, we are committed to maintaining the privacy of your information, pursuant to our Privacy Policy, located at <https://www.OA Contact.com/privacypolicy>. Except as otherwise required for your use of the Services as contemplated herein, OA Contact does not want you to, and you should not, send any confidential or proprietary information to OA Contact via the Services.

9. No Warranty; Limitation of Liability

OA Contact reserves the right to modify, suspend, or discontinue the offering of any of the Services at any time for any reason without prior notice. Further, while OA Contact utilizes electronic and physical security to reduce the risk of improper access to or manipulation of Customer Data during transmission and storage, it cannot guarantee the security or integrity of the data and shall have no liability for breaches of security or integrity or third-party interception in transit, nor for any damage which may result to your computer or other property by your use of the Services.

You acknowledge that your Messages may be transmitted unencrypted and that eavesdropping of communications by third parties is possible. OA Contact recommends that you ensure sensitive and valuable information is communicated by a protected and/or encrypted method.

OA Contact shall use commercially reasonable efforts to make access to the Services available through the required access protocols but makes no warranty or guarantee that (i) the Services will be available at any particular time; or (ii) you will be able to access the Services at any particular time or from any particular location. OA Contact will not be liable for any act or omission of any other company or companies furnishing a portion of the Services (including, without limitation other communications carriers or ISPs), or from any act or omission of a third party, including those vendors participating in OA Contact offerings made to you, or for equipment that it does not furnish, or for damages that result from the operation of customer-provided systems, equipment, facilities or services that are interconnected with the Service.

NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, THE SERVICES ARE PROVIDED “AS IS” AND “AS AVAILABLE,” WITHOUT ANY WARRANTIES OR CONDITIONS WHATSOEVER, EXPRESSED OR IMPLIED.

NOTWITHSTANDING THE FOREGOING OR ANY STATEMENT TO THE CONTRARY CONTAINED IN THESE TERMS, OA CONTACT DOES NOT WARRANT THAT THE USE OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE, INCLUDING, BUT NOT LIMITED TO ANY INTERRUPTIONS TO THE SERVICES CAUSED BY THE INTENTIONAL AND/OR MALICIOUS ACTS OF THIRD PARTIES (E.G., “HACKING”) NOR SHALL OA CONTACT BE RESPONSIBLE FOR ANY DATA LOSS OR LOSS OF ANY INFORMATION IN YOUR ACCOUNT, REGARDLESS OF THE CAUSE. FURTHERMORE, OA CONTACT MAKES NO REPRESENTATIONS OR WARRANTIES AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES OR THAT THE SERVICES WILL MEET ANY OF YOUR SPECIFIC REQUIREMENTS OTHER THAN AS MAY BE EXPRESSLY SET FORTH IN THESE

TERMS. OA CONTACT MAKES NO REPRESENTATIONS OR WARRANTIES AND HEREBY DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES OF ANY KIND, WHETHER EXPRESS, STATUTORY OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THE SERVICES, INCLUDING WITHOUT LIMITATION ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, RELIABILITY, COMPLETENESS, OR TIMELINESS OF THE MATERIAL, SERVICE, SOFTWARE, TEXT, GRAPHICS OR LINKS, AND ALL WARRANTIES IMPLIED FROM ANY COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE. OA CONTACT SHALL NOT BE LIABLE TO YOU OR TO ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, ANY DAMAGES ARISING FROM LOSS OF USE OR LOST BUSINESS, LOSS OF OPPORTUNITY, LOSS OF REVENUE, LOSS OF ACTUAL OR ANTICIPATED PROFITS, LOSS OF DAMAGE TO OR CORRUPTION OF DATA OR LOSS OF GOODWILL), OR FOR ANY COST OF PROCUREMENT OF SUBSTITUTE SERVICES ARISING IN CONNECTION WITH THESE TERMS, WHETHER IN AN ACTION IN CONTRACT, TORT, STRICT LIABILITY OR NEGLIGENCE, OR OTHER ACTIONS, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IF YOUR USE OF THE SERVICES RESULTS IN THE NEED FOR SERVICING OR REPLACING EQUIPMENT, SOFTWARE, OR DATA, OA CONTACT IS NOT RESPONSIBLE FOR THOSE COSTS. OA CONTACT'S TOTAL LIABILITY ARISING OUT OF YOUR USE OF THE SERVICES OR OTHERWISE ARISING OUT OF OUR RELATIONSHIP GOVERNED BY THIS AGREEMENT SHALL NOT, IN THE AGGREGATE, EXCEED AN AMOUNT EQUAL TO THE MONTHLY FEES PAID BY YOU TO OA CONTACT HEREUNDER.

10. User Warranties; Indemnification

You warrant and represent to OA Contact that you have all necessary rights, power, and authority to agree to this Agreement and perform your obligations hereunder, and nothing

contained in this Agreement or in the performance of such obligations will place you in breach of any other contract or obligation. You further warrant and represent that you and/or your End Users are and shall at all times remain in full compliance with all Applicable Laws, rules and regulations with regard to your use of the OA Contact Sites and Services, including without limitation the Telephone Consumer Protection Act, the Telemarketing Sales Rule, the CAN-SPAM Act, and all other laws and regulations concerning privacy, telemarketing, and Internet marketing.

You agree to indemnify and hold harmless OA Contact and its Affiliates and each of their respective officers, directors, shareholders, employees, agents, contractors, representatives, content providers and service providers, from and against any and all losses, claims, obligations, liabilities, damages, settlements, costs and expenses (including, but not limited to, consequential damages, incidental damages, special damages, disbursements and attorneys' fees, including attorneys' fees incurred from counsel selected by OA Contact in its sole discretion) arising from or relating to any actual or threatened claim, suit, action, proceeding, governmental investigation or enforcement action based upon or arising out of: (i) your breach or alleged breach of the this Agreement; or (ii) any use by you, or an account or computer owned by you, of the Services. You agree to cooperate as fully as reasonably required in the defense of any claim, suit, action, proceeding, governmental investigation or enforcement action. You acknowledge and agree to be held liable for any and all damages caused to OA Contact by you as a direct result of a violation of local, state, national or international laws and regulations, including but not limited to those damages that may arise from your fraudulent, intentional or unintentional harm, disability, unauthorized use of, or destruction to any and all equipment, licensing and/or services provided by OA Contact to you.

11. Termination, Cancellation and/or Suspension by OA Contact

If at any time you breach, or are suspected of breaching, this Agreement, we may elect to suspend, terminate, and/or cancel your use of the Services and/or recover any damages from you arising from the event(s) giving rise to the suspension, termination, or cancellation. We

reserve the right to suspend the Services at any stage for any reason we may deem necessary to continue to provide our Services in a way that may be hindered by your status as being our customer, your financial status or the content of the Messages originating from you or your End Users.

Upon any such termination, cancellation, and/or suspension, you are still responsible for any obligations then accrued. Your obligation to pay all amounts accrued and owed by you shall continue even after any suspension or cancellation of your access to the Services (in whole or in part). Upon termination, for any reason, you agree to immediately cease using the Services and OA Contact shall have no obligation to you after any termination or cancellation of these Terms. Should such a termination take place when you still have a positive balance in your account, you shall receive back, at our discretion, a fair monetary value of such balance, save any expenses that may be incurred by OA Contact, including, without limitation, for payment of transfer duties, legal costs, third-party costs, or penalties.

The provisions regarding ownership, payments, warranties, and indemnifications will survive any suspension, termination, or cancellation of your use of the Services.

12. Termination by the Customer

You are free to terminate or cancel your use of the Services at any time, and for any reason. Notwithstanding the foregoing, unless due to a breach solely by OA Contact that it fails to cure within thirty (30) days of its receipt of your notice, in no event shall OA Contact be obligated to refund to you the reasonable value of any unused balance previously prepaid by you.

The provisions regarding ownership, payments, warranties, and indemnifications will survive any suspension, termination, or cancellation of your use of the Services.

13. Security Rules

You are prohibited from violating or attempting to violate the security of the Services and from using the Services to violate the security of other websites, the OA Contact Network or

the network of any Network Operator, by any method, including, without limitation: (a) accessing data not intended for you or logging into a server or account which you are not authorized to access; (b) attempting to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without proper authorization; (c) attempting to interfere with service to any user of the Services, host or network, including, without limitation, via means of submitting a virus to the OA Contact Network, overloading, “flooding,” “spamming,” “mailbombing,” or “crashing”; (d) sending unsolicited e-mail, including promotions and/or advertising of products or services; or (e) forging any OA Contact packet header or any part of the header information in any e-mail, instant message, text message or newsgroup posting. Violations of system or network security may result in civil or criminal liability. OA Contact may investigate violations of these Terms and may involve and cooperate with law enforcement authorities in prosecuting users of the Services who are involved in such violations.

14. Force Majeure

OA Contact shall not be liable for any failure or delay in performing its obligations hereunder, which such failure or delay is caused by fire, flood, earthquake, elements of nature or acts of God, acts of war, insurrection, terrorism, strike, failure or downtime of any telecommunications line and/or unavailability of any telecommunications or Internet facilities, power failure, governmental restrictions, any court order, compliance with any law, regulation, or order of any governmental authority, or any other cause beyond the reasonable control of OA Contact. In addition, OA Contact shall be so excused in the event it is unable to acquire from its usual sources, and on terms it deems to be reasonable, any material necessary for the performance of the Services.

15. Choice of Law and Jurisdiction

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida notwithstanding its laws governing conflicts of laws. Except as hereinafter provided, any dispute arising under this Agreement shall be settled and determined by

binding arbitration in Jupiter, Florida in accordance with the provisions of the Federal Arbitration Act, 9. U.S.C. §§1-16, as amended (the “Federal Arbitration Act”), to the exclusion of state laws inconsistent therewith. The terms of the Commercial Arbitration Rules of the American Arbitration Association (the “Rules”) then in effect shall apply except to the extent they conflict with the express provisions of this paragraph. A single independent arbitrator shall conduct the arbitration. The parties shall endeavor to select the independent arbitrator by mutual agreement. If such agreement cannot be reached within thirty (30) days after a dispute has arisen which is to be decided by arbitration, the selection of the arbitrator shall be made in accordance with the Rules as then in effect. The arbitrator shall be a member of a state bar engaged in the practice of law in the United States or a retired member of a state or the federal judiciary in the United States. The award of the arbitrator shall be based on the evidence admitted and the substantive law of the State of Florida (subject to any applicable preemption or supersedence by U.S. federal substantive law) and shall contain an award for each issue and counterclaim. The award shall be made within thirty (30) days following the close of the final hearing and the filing of any post-hearing briefs authorized by the arbitrator, and such award shall set forth in writing the factual findings and legal reasoning for such award. The arbitrator may, in his/her discretion, award to any party specific performance or injunctive relief (the foregoing is not intended to limit OA Contact’ access to the courts to the extent provided below). The arbitrator may not change, modify, or alter any express condition, term, or provision of these Terms or the extent the scope of their authority is expressly limited. Except as provided in the Federal Arbitration Act, the arbitration award will be final and binding upon the parties and no appeal of any kind may be taken. Judgment may be entered thereon in any court having jurisdiction thereof. Each party shall be entitled to inspect and obtain a copy of non-privileged relevant documents in the possession or control of the other party. All such discovery shall be in accordance with procedures approved by the arbitrator. Unless otherwise provided in the award, each party shall bear its own costs of discovery. The statute of limitations applicable under Florida law to the commencement of a lawsuit shall apply to the commencement of arbitration hereunder.

Anything in the foregoing paragraph to the contrary notwithstanding, OA Contact may seek injunctive relief in any court having jurisdiction over the parties to enjoin or prevent any action you take or threaten to take in violation of this Agreement.

These Terms are only those stated herein, which shall constitute the complete agreement between the parties. No terms and conditions stated in or attached to your communications to OA Contact are applicable to this Agreement in any way and are not to be considered your exceptions to the provisions of this Agreement.

16. Miscellaneous

The failure of either party to exercise in any respect any right provided for herein will not be deemed a waiver of any further rights hereunder. If any provision of these Terms is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. No agency, partnership, joint venture, or employment is created as a result of this Agreement, and you do not have any authority of any kind to bind OA Contact in any respect whatsoever. In any action or proceeding to enforce rights under this Agreement, OA Contact will be entitled to recover costs and attorneys' fees if it substantially prevails.

All notices required hereunder shall be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested. OA Contact may give notice to you by means of a general notice on the OA Contact.com website, electronic mail to your e-mail address on record in OA Contact' account information, or by written communication sent by personal delivery, fax, overnight courier, or certified or registered mail to your address on record in OA Contact' account information.

Last updated January 6, 2022.