

Constant Contact API Terms and Conditions

CONSTANT CONTACT API LICENSE AGREEMENT

This is a legal agreement (Agreement) between the undersigned (You or Developer) and Constant Contact, Inc. (Constant Contact), for use of certain of Constant Contact's Application Programming Interfaces (APIs) that enable Developers to provide additional functionality for users of Constant Contact products or to integrate access to certain Constant Contact products into Developer's product offerings.

1. Creating Offerings and Enabling User Access to Constant Contact Products.

1.1 Offering Integration. During the term of this Agreement, Developer may use the APIs to provide capabilities or integrations which leverage one or more the Constant Contact products available at constantcontact.com (the Constant Contact Products) into additional functionality, products, websites and/or services which are offered by Developer (the Offerings), subject to the terms and conditions of this Agreement. Constant Contact will make available to Developer the Constant Contact API and any corresponding reference materials made available by Constant Contact from time to time, as may be amended or revised by Constant Contact from time to time (the Constant Contact API Documentation) for use for such purposes during the term of this Agreement.

1.2 User Terms and Conditions. Developer agrees and acknowledges that users of the Offerings (Users) must be Constant Contact account holders for a Constant Contact Product in order to access and use such Constant Contact Product through the Offerings. Developer further agrees and acknowledges that all Users' access and use of the Constant Contact Products is subject in all respects to the terms and conditions of use provided by Constant Contact on its web page, as may be modified by Constant Contact in its sole discretion from time to time (the User Terms and Conditions). The current User Terms and Conditions are at

<http://www.constantcontact.com/uidocs/CCSiteOwnerAgreement.jsp>. Developer hereby agrees to either (i) require all Users of the Offerings to agree to the User Terms and Conditions prior to permitting such users to access the Constant Contact Products through the Offerings or (ii) only provide access to Constant Contact Products in a manner that requires users to register with Constant Contact individually and accept the User Terms and Conditions. Developer further agrees that, to the extent Developer uses the Constant Contact Products on its own behalf or on behalf of its customers, Developer's use shall be subject to the User Terms and Conditions in all respects.

1.3 Developer's Right to Offerings. Developer represents, warrants and covenants that Developer has and will at all times maintain the right to provide all Offerings provided by Developer hereunder.

1.4 Privacy Policy; Customer Accounts. Developer warrants that, in its operation of the Offerings, it will maintain and comply with a privacy policy at least as stringent as the Constant Contact Privacy Policy as such Constant Contact Privacy Policy may be amended from time to time. The current Constant Contact Privacy Policy is available at http://www.constantcontact.com/privacy_guarantee.jsp. Further, if Developer has any

login, subscriber or other account information relating to a user's account with Constant Contact, Developer shall only use such information for the purposes expressly authorized by the applicable user.

1.5 Notification of Offering. Developer agrees that it shall notify the Constant Contact API coordinator (api_coordinator@constantcontact.com) when it commences each Offering using the APIs and upon its cessation of use of such Offering.

1.6 Developer Information. Developer shall provide Constant Contact with contact information and provide Constant Contact with permission to share that contact information with any user of the Developer Offering. Developer shall update the contact information as needed such that Constant Contact always has current contact information for the Offering.

1.7 Support. Developer agrees to provide support for their Offerings. Developer agrees and acknowledges that Constant Contact has no support obligations for Developer Offering.

2. License to Constant Contact APIs.

2.1 License. Constant Contact hereby grants to Developer a restricted, non-exclusive, non-transferable, limited license to use and integrate the APIs into Developer's Offering for the sole purpose of developing the integration to the Offering and allowing access to the Constant Contact Products via the Offering. Once integrated into the Offering, access to the APIs may then be distributed to Developer's customers, as an integrated part of the Offering.

2.2 Restrictions. You may not access the APIs if you are a competitor of Constant Contact, except with Constant Contact's prior written consent. Except as expressly provided herein, Developer has no other right to install, integrate, use, reproduce, sublicense or distribute APIs. Developer shall not modify, reverse engineer, decompile, or otherwise alter or attempt to gain access to the APIs or the Constant Contact Products in a manner not in accordance with this Agreement. Developer shall not use or enable its customers to use the APIs for the purposes of testing or comparison of Constant Contact Products or for any purpose competitive with Constant Contact Products.

2.3 Developer's Responsibilities. Developer shall be solely responsible for, and shall indemnify, defend and hold harmless Constant Contact against, any third party claims arising from the Offering. Developer shall implement the APIs in accordance with the Constant Contact API Documentation. Developer shall not perform bulk operations with APIs which are designed for single contact operations (such as the API_AddSiteVisitor and API_UnsubscribeSiteVisitor). Developer shall not perform single contact operations with APIs which are designed for performing bulk operations. Developer shall ensure that all Offerings which access the Constant Contact Products will comply with all applicable laws and regulations. Developer agrees that it may use the APIs to add or update only subscribers that have been obtained by the User using permission-based

standards pursuant to which the subscriber has agreed to receive electronic mail communications from the Offering User. Address information from purchased lists, distribution lists, newsgroups or spam email address lists is not considered permission-based for any purpose under this Agreement.

2.4 Ownership; No Other Licenses. The APIs contained in the Offering shall remain the sole and exclusive intellectual property of Constant Contact and Developer shall reasonably assist Constant Contact in protecting such ownership. No other licenses or rights in any of Constant Contact's intellectual property rights are granted hereunder. For example and without limitation, no rights are granted to use Constant Contact's logos or trademarks.

2.4.1 Logo and Brand Usage. This agreement does not grant Developer any rights to the use of the Constant Contact trademarks, brands and logos except that Developer may textually refer to the Constant Contact Products for the purposes of describing the Offering.

2.5 Right to Developer's Ideas, Logo and Name. Developer hereby grants to Constant Contact a non-exclusive, royalty-free, irrevocable, perpetual license to use any ideas that Constant Contact learns from observing Developer's Offerings or other use of the APIs, except that no rights are granted to Constant Contact in any patents or patent applications owned by Developer or any third party now or in the future. Further, Developer hereby grants to Constant Contact the right to use Developer's name and logo for the purpose of disclosing that Developer is providing Offerings using the APIs and for promotion of the availability of the APIs.

2.6 Security. Developer agrees to protect the security and confidentiality of any credentials and API keys disclosed by Constant Contact hereunder.

2.7 Disclaimer. USE OF THE APIS AND ANY RELIANCE BY DEVELOPER UPON THE APIS, INCLUDING ANY ACTION TAKEN BY DEVELOPER BECAUSE OF SUCH USE OR RELIANCE, IS AT DEVELOPER'S SOLE RISK. CONSTANT CONTACT DOES NOT WARRANT THAT THE APIS WILL BE CORRECT OR THAT CONSTANT CONTACT PRODUCTS WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES CONSTANT CONTACT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE APIS OR CONSTANT CONTACT PRODUCTS. CONSTANT CONTACT MAY MODIFY OR TERMINATE OR RESTRICT ACCESS TO THE APIS AT ANY TIME WITHOUT NOTICE. THE APIS AND CONSTANT CONTACT PRODUCTS ARE PROVIDED "AS IS" AND CONSTANT CONTACT DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT.

3. Non-Exclusivity. Developer acknowledges that Developer's right to use and demonstrate the Constant Contact Products hereunder is non-exclusive, and that Constant

Contact reserves the right to sell and distribute any of its services to any customers in the world, and to appoint any third party to do so, without giving Developer notice thereof and without incurring any liability to Developer therefore. Constant Contact reserves the right to develop and extend its products and capabilities without regard to whether those products compete with or invalidate any Developer Offering. Unless otherwise mutually agreed by the Parties, including but not limited to the terms of our standard business partner agreement, Constant Contact may contact directly any User for the purpose of marketing and selling the Constant Contact Products. Unless otherwise mutually agreed by the Parties, including but not limited to the terms of our standard business partner agreement, in the event that such User elects to purchase the Constant Contact Products, Constant Contact shall have no obligation to Developer with respect to such transaction.

4. Limitation of Liability. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, TORT, CONTRACT, OR OTHERWISE, SHALL CONSTANT CONTACT OR ANY OF ITS UNDERLYING SERVICE PROVIDERS, BUSINESS PARTNERS, INFORMATION PROVIDERS, ACCOUNT PROVIDERS, LICENSORS, OFFICERS, DIRECTORS, EMPLOYEES, DISTRIBUTORS OR AGENTS (COLLECTIVELY REFERRED TO FOR PURPOSES OF THIS SECTION AS "CONSTANT CONTACT") BE LIABLE TO DEVELOPER OR ANY OTHER PERSON FOR ANY MONEY DAMAGES, WHETHER DIRECT, INDIRECT, SPECIAL, INCIDENTAL, COVER, RELIANCE OR CONSEQUENTIAL DAMAGES, EVEN IF CONSTANT CONTACT SHALL HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY ANY OTHER PARTY. IN THE EVENT THAT, NOTWITHSTANDING THE FOREGOING, CONSTANT CONTACT IS FOUND LIABLE TO YOU FOR DAMAGES FROM ANY CAUSE WHATSOEVER, AND REGARDLESS OF THE FORM OF THE ACTION (WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE), THE MAXIMUM AGGREGATE LIABILITY OF CONSTANT CONTACT TO YOU ARISING IN CONNECTION WITH THIS AGREEMENT SHALL BE LIMITED TO \$100.

5. Term; Termination; Surviving Obligations and Limitations. Developer may terminate this Agreement at any time by ceasing to provide Offerings and sending a confirmatory e-mail to the Constant Contact API Coordinator (api_coordinator@constantcontact.com). Constant Contact may terminate this Agreement and/or disable Developer's ability to provide Offerings via the APIs, in each case at any time with or without cause, and with or without notice. Constant Contact shall have no liability to you or any third party because of such termination or action. The following provisions shall survive expiration or termination of this Agreement: Sections 4 (Limitation of Liability), 5 (Surviving Obligations and Limitations) and 7 (Miscellaneous).

6. Restricted Persons; Export of Products or Technical Data Developer hereby warrant that Developer is not a Restricted Person. For purposes of this Agreement, Developer is a Restricted Person if Developer or any officer, director, or controlling shareholder of Developer is (1) a national of or an entity existing under the laws of Cuba, Iran, Sudan,

Syria, or any other country with which U.S. persons are prohibited from engaging in transactions, as may be determined from time to time by the U.S. Treasury Department; (2) designated as a Specially Designated National or institution of primary money laundering concern by the U.S. Treasury Department; (3) listed on the Denied Persons List or Entity List by the U.S. Commerce Department; (4) engaged in nuclear, missile, chemical or biological weapons activities to which U.S. persons may not contribute without a U.S. Government license; or (5) owned, controlled, or acting on behalf of a Restricted Person. If you become a Restricted Person during the term of this Agreement, you shall notify Constant Contact (legal@constantcontact.com) within twenty-four (24) hours, and Constant Contact shall have the right to terminate any further obligations to Developer, effective immediately and with no further liability to you, but without prejudice to your outstanding obligations to Constant Contact. You agree that you shall not utilize the Products to conduct or facilitate any transaction with any Restricted Person, except as may be expressly authorized in advance in writing by the U.S. Government. You may not remove or export from the United States or allow the export or re-export of the Products, or any direct product thereof, including technical data, in violation of any restrictions, laws, or regulations of the United States or any other applicable country.

7. Miscellaneous

7.1 Assignment. Developer may not assign or otherwise transfer this Agreement or any interest or right hereunder or delegate the performance of any of Developer's obligations hereunder to any third party without the prior written consent of Constant Contact. Such consent shall not be unreasonably withheld or delayed. Any such attempted assignment, transfer or delegation without Constant Contact's prior written consent, will be deemed null and void and result in the immediate termination of this Agreement without necessity of notice.

7.2 Governing Law; Venue. The Agreement shall be governed by the laws of the Commonwealth of Massachusetts, USA without regard to its choice or law or conflict of laws provisions. All legal actions in connection with the Agreement shall be brought in the state or federal courts located in Boston, Massachusetts.

7.3 Entire Agreement. Constant Contact and you agree that this Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications, and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein. No delay or omission by either party in exercising any right or remedy under this Agreement or existing at law or equity shall be considered a waiver of such right or remedy.

7.4 Notices. Any notices given under this Agreement shall be in writing and deemed to have been sufficiently given when delivered by hand or sent by facsimile transmission (which is acknowledged by the recipient), overnight courier or by certified or registered

mail, postage and other charges prepaid to the addresses for each party listed below. The date of mailing any written notice will be deemed the date on which such notice is given unless otherwise specified in the notice.

7.5 Status as Independent Contractor. The relationship between Constant Contact and Developer is that of licensor to licensee and nothing herein contained shall be deemed to establish or otherwise to create a relationship of principal and agent, partners, fiduciaries, or joint venturers between Constant Contact and Developer. Developer represents that it is an independent contractor who will not be deemed an agent of Constant Contact for any purpose whatsoever and neither Developer nor any of Developer's agents or employees will have any right or authority to assume or create any obligation of any kind, whether express or implied, on behalf of Constant Contact. This Agreement is not a franchise agreement and does not create a franchise relationship between the parties and if any provision of this Agreement is deemed to create a franchise between the parties, then those provisions shall be deemed void and will automatically terminate as if such provision had been deemed unenforceable by a court.

7.6 Equitable Relief. Developer agrees that any violation or threatened violation of this Agreement may cause irreparable injury to Constant Contact, entitling Constant Contact to obtain injunctive or other equitable relief in addition to all legal remedies.

7.7 Costs and Attorneys' Fees. In any action or proceeding to enforce rights under the Agreement, the prevailing party will be entitled to recover its costs and attorneys' fees.

7.8 Severability. If any provision of the Agreement 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.