



## Terms and Conditions use of Platform

This Use of the Platform Terms and Conditions is intended to explain our obligations as a service provider and Your obligations as a customer. Please read them carefully.

These Terms are binding on any use of the Service and apply to You from the time that Elastic Ads provides You with access to the Service.

The Elastic Ads Service will evolve over time based on user feedback. This Use of the Platform Terms and Conditions is not intended to answer every question or address every issue raised by the use of the Elastic Ads Service. Elastic Ads reserves the right to change these Terms at any time, effective upon the posting of modified Terms and Elastic Ads will make every effort to communicate these changes to You via email or notification via the Website. It is likely the Terms will change over time. It is Your obligation to ensure that You have read, understood and agree to the most recent Terms available on the Website.

By registering to use the Service you acknowledge that You have read and understood these Terms and have the authority to act on behalf of any person for whom You are using the Service. You are deemed to have agreed to these Terms on behalf of any entity for whom you use the Service.

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This Use of the Platform Terms and Conditions was last updated on September, 2019.

### Definitions

1) Agreement: means this Use of the Platform Terms and Conditions is in accordance with the Elastic Ads tracking platform.

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2.) Qualified Lead Definition (Qualified Leads): Qualified Leads are prospects who meet Elastic Ads's screening criteria as described in the Insertion Order and who provide their complete contact data. PUBLISHER will be paid on a delivered per lead basis defined as when a user agrees through a pre-approved opt-in method to be contacted. In the case of any dispute between the parties as to the number of Qualified Leads, Elastic Ads's numbers will control.

3.) Data means any data inputted by You

4.) Intellectual Property Right: means any patent, trademark, service mark, copyright, moral right, right in a design, know-how and any other intellectual or industrial property rights, anywhere in the world whether or not registered.

5.) Service: means the online marketing and advertising campaign management services made available (as may be changed or updated from time to time by Elastic Ads) via the Website.

6)Website: means the Internet site at the domain panel.elasticads.io or any other site operated by Elastic Ads

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8) Subscriber: means the person who registers to use the Service, and, where the context permits, includes any entity on whose behalf that person registers to use the Service. This may include but not limited to affiliate, publisher, and advertiser user types.

9) You: means the Subscriber. “Your” has a corresponding meaning.

10) Account: means the account which contains Data used by You, the Subscriber, on the Website.

### **Use of Software**

Elastic Ads grants You the right to access and use the Service via the Website with the particular user roles available to You according to Your subscription type. This right is non-exclusive, non-transferable, and limited by and subject to this Agreement.

### **Your Obligations**

#### **General obligations:**

1.) Agreement: means this Use of the Platform Terms and Conditions is in accordance with the Elastic Ads tracking platform.

2) As a condition of these Terms, when accessing and using the Services, You must:

- not attempt to undermine the security or integrity of Elastic Ads’s computing systems or networks or, where the Services are hosted by a third party, that third party’s computing systems and networks;

- not use, or misuse, the Services in any way which may impair the functionality of the Services or Website, or other systems used to deliver the Services or impair the ability of any other user to use the Services or Website;

- not attempt to gain unauthorized access to any materials other than those to which You have been given express permission to access or to the computer system on which the Services are hosted;

- not transmit, or input into the Website, any: files that may damage any other person’s computing devices or software, content that may be offensive, or material or Data in violation of any law (including Data or other material protected by copyright or trade secrets which You do not have the right to use); and

- not attempt to modify, copy, adapt, reproduce, disassemble, decompile or reverse engineer any computer programs used to deliver the Services or to operate the Website except as is strictly necessary to use either of them for normal operation.

3) As a condition of these Terms, if personal data in the sense of the EU Regulation 2016/679 (“GDPR”) is concerned, You must:

- comply with the GDPR requirements regarding consent; more specifically

- You must have obtained consent\* from the data subjects for processing their Data into the Website.

- \* For the avoidance of doubt; consent means any freely given, specific, informed and unambiguous indication of the data subjects wishes, by a statement or by a clear

affirmative action, signifies agreement to the processing of personal data relating to him or her.

**Usage Limitations:**

1.) Use of the Service and importing any Data into your Account is entirely at your own risk for which Elastic Ads shall not be liable or responsible in any shape or manner including the loss and/ or destruction of such Data.

**Communication Conditions:**

1) As a condition of these Terms, if You use any communication tools available through the Website (such as any forum, chat room or message center), You agree only to use such communication tools for lawful and legitimate purposes. You must not use any such communication tool for posting or disseminating any material unrelated to the use of the Services, including (but not limited to): offers of goods or services for sale, unsolicited commercial e-mail, files that may damage any other person's computing devices or software, content that may be offensive to any other users of the Services or the Website, or material in violation of any law (including material that is protected by copyright or trade secrets which You do not have the right to use).

2) When You make any communication on the Website, You represent that You are permitted to make such communication. Elastic Ads is under no obligation to ensure that the communications on the Website are legitimate or that they are related only to the use of the Services. As with any other web-based forum, You must exercise caution when using the communication tools available on the Website. However, Elastic Ads does reserve the right to remove any communication at any time in its sole discretion.

**Indemnity**

You indemnify Elastic Ads against: all claims, costs, damage and loss arising from Your breach of any of these Terms or any obligation You may have to Elastic Ads.

**Confidentiality and Privacy****Confidentiality:**

Unless the relevant party has the prior written consent of the other or unless required to do so by law:

Each party will preserve the confidentiality of all Confidential Information of the other obtained in connection with these Terms. Neither party will, without the prior written consent of the other, disclose or make any Confidential Information available to any person, or use the same for its own benefit, other than as contemplated by these Terms. Each party's obligations under this clause will survive termination of these Terms. These clauses shall not apply to any information which: 1. is or becomes public knowledge other than by a breach of this clause;

2. is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;

3. is in the possession of the receiving party without restriction in relation to disclosure before the date of receipt from the disclosing party; or

4. is independently developed without access to the Confidential Information.

**Privacy:** Elastic Ads maintains a privacy policy that sets out the parties' obligations in respect of personal information. You should read that Terms at the below [PRIVACY](#)

POLICY and You will be taken to have accepted that policy when You accept these Terms.

### **Intellectual Property**

General Title to, and all Intellectual Property Rights in the Services, the Website and any documentation relating to the Services remain the property of Elastic Ads (or its licensors).

Ownership of Data Title to, and all Intellectual Property Rights in, the Data remain Your property. You grant Elastic Ads a licence to use, copy, transmit, store, and back-up Your information and Data for the purposes of enabling You to access and use the Services and for any other purpose related to provision of services to You.

Backup of Data You must maintain copies of all Data inputted into the Service.

Elastic Ads adheres to its best practice policies and procedures to prevent data loss, including a daily system data back-up regime, but does not make any guarantees that there will be no loss of Data. Elastic Ads expressly excludes liability for any loss of Data no matter how caused.

Third-party applications and your data If You enable third-party applications for use in conjunction with the Services, You acknowledge that Elastic Ads may allow the providers of those third-party applications to access Your Data as required for the interoperation of such third-party applications with the Services. Elastic Ads shall not be responsible for any disclosure, modification or deletion of Your Data resulting from any such access by third-party application providers.

### **Warranties and Acknowledgements**

Authority: You warrant that where You have the authority to agree to these Terms as you registered to use the Service, or if you have registered on behalf of another person that You have the authority to agree to these Terms on behalf of that person and agree that by registering to use the Service You bind the person on whose behalf You act to the performance of any and all obligations that You become subject to by virtue of these Terms, without limiting Your own personal obligations under these Terms.

Acknowledgement: You acknowledge that You are authorized to use the Services and the Website and to access the information and Data that You input into the Website, including any information or Data input into the Website by any person you have authorized to use the Service. You are also authorized to access the processed information and Data that is made available to You through Your use of the Website and the Services (whether that information and Data is Your own or that of anyone else). Elastic Ads has no responsibility to any person other than You and nothing in this Agreement confers, or purports to confer, a benefit on any person other than You. If You use the Services or access the Website on behalf of or for the benefit of anyone other than yourself (whether a body corporate or otherwise) you agree that:

1. You are responsible for ensuring that You have the right to do so;
2. You are responsible for authorizing any person who is given access to information or Data, and you agree that Elastic Ads has no obligation to provide any person access to such information or Data without Your authorization and may refer any requests for information to You to address; and
3. You will indemnify Elastic Ads against any claims or loss relating to: ○ Elastic Ads's refusal to provide any person access to Your information or Data in

accordance with these Terms, ○ Elastic Ads's making available information or Data to any person with Your authorization.

The provision of, access to, and use of, the Services is on an "as is " basis and at Your own risk.

Elastic Ads does not warrant that the use of the Service will be uninterrupted or error free. Among other things, the operation and availability of the systems used for accessing the Service, including public telephone services, computer networks and the Internet, can be unpredictable and may from time to time interfere with or prevent access to the Services. Elastic Ads is not in any way responsible for any such interference or prevention of Your access or use of the Services.

It is Your sole responsibility to determine that the Services meet the needs of Your business and are suitable for the purposes for which they are used

It is Your responsibility to check that storage of and access to your Data via the Software and the Website will comply with laws applicable to you (including any laws requiring you to retain records).

No warranties: Elastic Ads gives no warranty about the Services. Without limiting the foregoing, Elastic Ads does not warrant that the Services will meet Your requirements or that it will be suitable for any particular purpose. To avoid doubt, all implied conditions or warranties are excluded in so far as is permitted by law, including (without limitation) warranties of merchantability, fitness for purpose, title and non-infringement

Consumer guarantees: You warrant and represent that You are acquiring the right to access and use the Services for the purposes of a business and that, to the maximum extent permitted by law, any statutory consumer guarantees or legislation intended to protect non-business consumers in any jurisdiction does not apply to the supply of the Services, the Website or these Terms.

Limitation of Liability: To the maximum extent permitted by law, Elastic Ads excludes all liability and responsibility to You (or any other person) in contract, tort (including negligence), or otherwise, for any loss (including loss of information, Data, profits and savings) or damage resulting, directly or indirectly, from any use of, or reliance on, the Service or Website.

If You are not satisfied with the Service, Your sole and exclusive remedy is to terminate these Terms by terminating your account

## **Termination**

**Breach If you breach any of these Terms, Elastic Ads may take any or all of the following actions, at its sole discretion:**

1. Terminate this Agreement and Your use of the Services and the Website;
- 2) Suspend for any definite or indefinite period of time, Your use of the Services and the Website;
- 3) Suspend or terminate access to all or any Data

### **Accrued Rights**

Termination of these Terms are without prejudice to any rights and obligations of the parties accrued up to and including the date of termination. On termination of this Agreement You will:

- 1) remain liable for any accrued charges and amounts which become due for payment before or after termination; and
- 2) immediately cease to use the Services and the Website.

## **General**

### **Entire agreement:**

These Terms, together with the Elastic Ads Publisher Terms and Conditions, Elastic Ads Privacy Policy, and the terms of any other notices or instructions given to You under this Use of the Platform Terms and Conditions, supersede and extinguish all prior agreements, representations (whether oral or written), and understandings and constitute the entire agreement between You and Elastic Ads relating to the Services and the other matters dealt with in these Terms

### **Waiver:**

If either party waives any breach of these Terms, this will not constitute a waiver of any other breach. No waiver will be effective unless made in writing.

### **Delays:**

Neither party will be liable for any delay or failure in performance of its obligations under these Terms if the delay or failure is due to any cause outside its reasonable control. This clause does not apply to any obligation to pay money

### **No Assignment**

You may not assign or transfer any rights to any other person without Elastic Ads's prior written consent.

### **Governing Law and Dispute Resolution:**

If any dispute arises in connection out of the existence, validity, construction, performance and termination of this Agreement which cannot be amicably resolved, such dispute shall be solely and finally settled as follows:

US Residents: Disputes with US residents shall be governed by and be construed according to the laws of the State of California, without reference to conflict of laws principles and shall be exclusively resolved in the competent court in Los Angeles. EACH PARTY HEREBY IRREVOCABLY WAIVES, TO THE FULLEST LAWFUL EXTENT, ALL RIGHT TO TRIAL BY JURY IN ANY PROCEEDING RELATING TO THIS AGREEMENT. To the extent permitted by law, you agree that you will not bring, join or participate in any class action lawsuit as to any claim, dispute or controversy that you may have against Elastic Ads and its employees, officers, directors, members, representatives and/or assigns. You agree to the entry of injunctive relief to stop such a lawsuit or to remove you as a participant in the suit. You agree to pay the attorney's fees and court costs that Elastic Ads incurs in seeking such relief. This preventing you from bringing, joining or participating in class action lawsuits: (i) does not constitute a waiver of any of your rights and remedies to pursue a claim individually and not as a class action in binding arbitration as provided above; and (ii) is an independent agreement.

All other Jurisdictions: Disputes with Publishers which are not residents of the US, shall be governed by and be construed according to the laws of the Netherlands, without reference to conflict of laws principles shall be exclusively resolved in the competent court of Amsterdam The Netherlands. All legal proceedings shall be conducted in English.

**Severability:**

If any part or provision of these Terms are invalid, unenforceable or in conflict with the law, that part or provision is replaced with a provision which, as far as possible, accomplishes the original purpose of that part or provision. The remainder of this Agreement will be binding on the parties.

**Notices:**

Any notice given under these Terms by either party to the other must be in writing by email and will be deemed to have been given on transmission. Notices to Elastic Ads must be sent to [platform@elasticads.io](mailto:platform@elasticads.io) or to any other email address notified by email to You by Elastic Ads. Notices to You will be sent to the email address which You provided when setting up Your access to the Service.

**Rights of Third Parties:**

A person who is not a party to these Terms has no right to benefit under or to enforce any term of these Terms.

**Privacy Policy**

At Elastic Ads, we take privacy very seriously. We've updated our Privacy Policy to ensure that we communicate to You, in the clearest way possible, how we treat personal information. We encourage You to read this Policy carefully. It will help You make informed decisions about sharing Your personal information with us.

The defined terms in this Privacy Policy have the same meaning as our Use of the Platform Terms and Conditions located above, which You should read together with this Policy. By accessing our Website and using our Service, You consent to the terms of this Policy and agree to be bound by it and our Use of the Platform Terms and Conditions.

**Elastic Ads collects Your personal information**

Elastic Ads is a provider of powerful media buying software that's simple, smart, and secure and gives marketers and advertisers real-time visibility and control of a business' advertising campaigns.

The Service involves the storage of Data about a company or individual. That Data can include personal information. "Personal information" is information about an identifiable individual, and may include information such as the individual's name, email address, and telephone number.

Elastic Ads may collect personal information directly from You when You:

- register to use the Service,
- use the Service,
- post to the Elastic Ads Community forum or on our blog,
- contact the Elastic Ads support team, and
- visit our Website

You can always choose not to provide Your personal information to Elastic Ads, but it may mean that we are unable to provide You with the Service.

Elastic Ads may receive personal information from You about others

Through Your use of the Service, Elastic Ads may also collect information from You about someone else. If You provide Elastic Ads with personal information about someone else, You must ensure that You are authorized to disclose that information to Elastic Ads and that, without Elastic Ads taking any further steps required by

applicable data protection or privacy laws, Elastic Ads may collect, use and disclose such information for the purposes described in this Policy. This means that You must take reasonable steps to ensure the individual concerned is aware of and/or consents to the various matters detailed in this Policy, including the fact that their personal information is being collected, the purposes for which that information is being collected, the intended recipients of that information, the individual's right to obtain access to that information, Elastic Ads's identity, and how to contact Elastic Ads. Where requested to do so by Elastic Ads, You must also assist Elastic Ads with any requests by the individual to access or update the personal information You have collected from them and entered into the Service.

### **Elastic Ads collects, holds, and uses Your personal information for limited purposes**

Elastic Ads collects Your personal information so that we can provide You with the Service and any related services You may request. In doing so, Elastic Ads may use the personal information we have collected from You for purposes related to the Services including to:

- verify Your identity,
- administer the Service,
- notify You of new or changed services offered in relation to the Service,
- carry out marketing or training relating to the Service,
- assist with the resolution of technical support issues or other issues relating to the Service,
- comply with laws and regulations in applicable jurisdictions, and
- communicate with You.

By using the Service, You consent to Your personal information being collected, held and used in this way and for any other use You authorize. Elastic Ads will only use Your personal information for the purposes described in this Policy or with Your express permission. It is Your responsibility to keep Your password to the Service safe. You should notify us as soon as possible if You become aware of any misuse of Your password, and immediately change your password within the Service.

### **Elastic Ads can aggregate Your non-personally identifiable data**

By using the Service, You agree that Elastic Ads can access, aggregate and use non-personally identifiable data Elastic Ads has collected from You. This data will in no way identify You or any other individual. Elastic Ads may use this aggregated non-personally identifiable data to:

- assist us to better understand how our customers are using the Service,
- provide our customers with further information regarding the uses and benefits of the Service,
- enhance small business productivity, including by creating useful business insights from that aggregated data and allowing You to benchmark Your business' performance against that aggregated data, and
- otherwise to improve the Service. Elastic Ads holds your personal information on servers located around the world, serviced primarily by Amazon Web Services ("AWS") and Microsoft Corporation (MSFT) and collectively known as "Servers", and Your personal information will be routed through, and stored on, those servers as part of the Service. All Data, including personal and non-personal information, that is entered into the Service by You, or automatically imported on Your instruction, is transferred to Elastic Ads's servers as a function of transmission across the Internet.



By using the Service, You consent to Your personal information being transferred to our servers as set out in this Policy. Our Servers comply with relevant aspects of the United States and European Union Safe Harbor Framework, and has certified that it adheres to relevant Safe Harbor Privacy Principles. If the location of our servers change in the future, we will update this Policy. You should review our Policy regularly to keep informed of any updates. By providing Your personal information to Elastic Ads, You consent to Elastic Ads storing Your personal information on servers anywhere in the world where we host our Data. While Your personal information will be stored on servers located around the world, it will remain within Elastic Ads's effective control at all times. The server host's role is limited to providing a hosting and storage service to Elastic Ads, and we've taken steps to ensure that our server hosts do not have access to, and use the necessary level of protection for, Your personal information. If You do not want Your personal information to be transferred to a server, You should not provide Elastic Ads with Your personal information or use the Service.

### **Elastic Ads takes steps to protect your personal information**

Elastic Ads is committed to protecting the security of Your personal information and we take all reasonable precautions to protect it from unauthorized access, modification or disclosure. Your personal information is stored on secure servers that have SSL Certificates issued by leading certificate authorities, and all Data transferred between You and the Service is encrypted. However, the Internet is not in itself a secure environment and we cannot give an absolute assurance that Your information will be secure at all times. Transmission of personal information over the Internet is at Your own risk and You should only enter, or instruct the entering of, personal information to the Service within a secure environment. We will advise You at the first reasonable opportunity upon discovering or being advised of a security breach where Your personal information is lost, stolen, accessed, used, disclosed, copied, modified, or disposed of by any unauthorized persons or in any unauthorized manner.

### **Elastic Ads only discloses Your Personal Information in limited circumstances**

Elastic Ads will only disclose the personal information You have provided to us to entities outside the Elastic Ads group of companies if it is necessary and appropriate to facilitate the purpose for which Your personal information was collected pursuant to this Policy, including the provision of the Service. Elastic Ads will not otherwise disclose Your personal information to a third party unless You have provided Your express consent. However, You should be aware that Elastic Ads may be required to disclose Your personal information without Your consent in order to comply with any court orders, subpoenas, or other legal process or investigation including by tax authorities, if such disclosure is required by law. Where possible and appropriate, we will notify You if we are required by law to disclose Your personal information. The third parties who host our servers do not control, and are not permitted to access or use Your personal information except for the limited purpose of storing the information.

### **Elastic Ads uses cookies**

In providing the Service, Elastic Ads utilizes "cookies". A cookie is a small text file that is stored on Your computer for record-keeping purposes. A cookie does not identify You personally or contain any other information about You but it does identify

Your computer. We and some of our affiliates and third-party service providers may use a combination of “persistent cookies” (cookies that remain on Your hard drive for an extended period of time) and “session ID cookies” (cookies that expire when You close Your browser) on the Website to, for example, track overall site usage, and track and report on Your use and interaction with ad impressions and ad services. You can set your browser to notify You when You receive a cookie so that You will have an opportunity to either accept or reject it in each instance. However, You should note that refusing cookies may have a negative impact on the functionality and usability of the Website.

#### **You can opt-out of any email communications**

Elastic Ads sends billing information, product information, Service updates and Service notifications to You via email. Our emails will contain clear and obvious instructions describing how You can choose to be removed from any mailing list not essential to the Service. Elastic Ads will remove You at Your request.

#### **You are responsible for transfer of Your data to third-party applications**

The Service may allow You, the Subscriber within the relevant subscription to the Service to transfer Data, including Your personal information, electronically to and from third-party applications. Elastic Ads has no control over, and takes no responsibility for, the privacy practices or content of these applications. You are responsible for checking the privacy policy of any such applications so that You can be informed of how they will handle personal information.

#### **Elastic Ads has a privacy complaints process**

If You wish to complain about how we have handled Your personal information, please provide our Privacy Officer with full details of Your complaint and any supporting documentation:

- by e-mail at [platform@elasticads.io](mailto:platform@elasticads.io) Our Privacy Officer will endeavour to:
- provide an initial response to Your query or complaint within 10 business days, and
- investigate and attempt to resolve Your query or complaint within 30 business days or such longer period as is necessary and notified to you by our Privacy Officer.

This Policy may be updated from time to time

Elastic Ads reserves the right to change this policy at any time, and any amended policy is effective upon posting to this Website. Elastic Ads will make every effort to communicate any significant changes to You via email or notification via the Service. Your continued use of the Service will be deemed acceptance of any amended policy.

This Privacy Policy was last updated on September, 2019.