

Terms & Conditions

Last updated: December 2024

Moosend Terms of Service

Thank you for using the Moosend Services (as defined below), a SaaS email marketing and automation platform that allows users to create, launch and manage online email campaigns and contact lists. To be eligible to register for a Moosend account and use the Services you must review and accept these Moosend Terms of Service below, including the [Moosend Data Processing Addendum](#) ("**Moosend DPA**"), and [Moosend Messaging Policy](#) which are both incorporated herein by reference (collectively, these "**Terms**" or this "**Agreement**"), by clicking on the "Register" box or other mechanism provided (such date on which you clicked acceptance, the "**Effective Date**").

PLEASE CAREFULLY READ THE TERMS BELOW. BY ACCEPTING THESE TERMS OR USING THE SERVICES, YOU AGREE TO THESE TERMS WITH THE MOOSEND ENTITY INDICATED BELOW ("**MOOSEND**"). IF YOU DO NOT AGREE TO THESE TERMS, THEN DO NOT CLICK "REGISTER," AND YOU MAY NOT ACCESS OR USE THE SERVICES. IN THE CASE OF AN INDIVIDUAL ACCEPTING THESE TERMS ON YOUR OWN BEHALF, ALL REFERENCES TO "YOU", "YOUR", AND "CUSTOMER" WILL REFER TO YOU AND YOUR EMPLOYEES, CONTRACTORS AND AGENTS AND YOU AGREE TO THESE TERMS, AND IN THE CASE OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND YOUR COMPANY, AGENCY, OR OTHER INSTITUTION TO THESE TERMS, AND ALL REFERENCES TO "YOU", "YOUR", AND "CUSTOMER" WILL REFER TO THAT ENTITY OR ORGANIZATION.

CHANGES TO THE TERMS

- With the exception of the Moosend DPA which is governed by its terms, Moosend may revise these Terms from time to time at its sole discretion if legal, economic or technical conditions change, and will do so by posting on this website. If Moosend does revise these Terms, the revised Terms will supersede prior versions. Unless stated otherwise by Moosend, such revisions will be effective upon the effective date indicated at the top of these Terms. Moosend will provide you with advance notice of any Material Changes to these Terms, with such notice to be provided via the account portal and/or an email to the email address Moosend has on file, where you will have a 30-day right to object. For any other changes to these Terms, Moosend will update the effective date at the top of these Terms. Your continued use of the Services following any amendment to these Terms will constitute your acceptance of those amendments (for sake of clarity, if you opt to discontinue using the Services due to any such changes to the Terms, any amounts you may have pre-paid for the Services but did not use will not be refunded). In the case of Moosend providing you with advance notice of Material Changes, if you object to such amendments in a due and timely manner, the Terms remain unchanged, where Moosend then has the right to terminate the Agreement with a notice period of 30 days, if it is not reasonable for Moosend to adhere to the prior version of the Terms, and Moosend will refund a pro-rata portion of any pre-paid fees applicable to any subscription term or any unused credits, as applicable. "**Material Changes**" means changes to the Terms that place new or different significant obligations on Customer or that materially decrease the level of functionality, support or performance of the Services.

- Additionally, Moosend may from time-to-time restructure, amend and/or depreciate the Services or aspects or features thereof at its sole discretion.

****NOTE THAT MOOSEND DOES NOT PROVIDE WARRANTIES OR INDEMNITIES FOR THE SERVICES, AND THESE TERMS LIMIT MOOSEND'S LIABILITY TO YOU.**

1. USE RIGHTS; RESTRICTIONS ON USE.

(a) Moosend shall make the Services available to you subject to these Terms. Subject to compliance with these Terms, Moosend grants you a non-exclusive, non-transferable, non-assignable, non-sublicensable right to access the Services in compliance with applicable laws, in accordance with the Documentation, and solely during the applicable subscription term.

(b) Except as may be set out herein, You will not make the Services available to anyone other than Customer or its users, or use the Services for the benefit of anyone other than You and Your Affiliates, unless expressly stated otherwise in this Agreement. Your use of the Services is subject to your (and your users') compliance with the [Moosend DPA](#) and [Moosend Messaging Policy](#). Except as expressly stated in this Agreement, no other third

party has any rights under this Agreement. Moosend and its licensors retain all right, title and interest in the Services and any Documentation. Except as specifically authorized under this Agreement, or by applicable law, you will not: (i) modify, disclose, disassemble, decompress, reverse compile, reverse assemble, reverse engineer, or translate the Services, or otherwise attempt to create or derive the source code underlying the Services; (ii) sell, resell, license, sublicense, distribute, make available, rent or lease the Services, or include the Services in a service bureau or outsourcing offering; or (iii) create any derivative works of the Services. Additionally, You acknowledge and agree that Moosend provides no guarantee that HTML messages sent using the Services will display properly on all recipients' email programs, as HTML is generated differently by the various HTML generation tools available (Moosend does recommend the W3C HTML standards to achieve best results).

2. REGISTRATION PROCESS & CUSTOMER RESPONSIBILITIES.

(a) To register to use the Services, you will be asked to create an account. As part of the account creation process, you will be requested to provide an email address, username and password. You must provide true, accurate, current and complete information as requested during the registration process, and you are responsible for keeping that information true, accurate, current and complete after you create your account.

(b) You will be responsible for all use of the Services and Documentation under your account, whether authorized or unauthorized by you. For sake of clarity, this includes responsibility for all costs of Services obtained under your account.

(c) You will be solely responsible for maintaining the security and confidentiality of your account username, password and files, and you must use commercially reasonable efforts to prevent unauthorized access to or use of the Services and Documentation. In case of any such unauthorized access or use you shall promptly notify the Moosend Support team.

(d) You will be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services, including as set forth in the Documentation. You will be solely responsible for your failure to maintain such equipment, software and services.

(e) You will be solely responsible for all acts, omissions and activities of your employees and agents including their compliance with these Terms.

(f) You will not use the Services in any manner that violates the [Moosend Messaging Policy](#) or any applicable law or regulation.

3. AUTHORISATION TO THIRD PARTIES

Moosend may allow you to provide access to certain elements of the Services to your End Customers by way of checking the "account access to client" box in your Moosend account setting. In such cases, such authorisation will be subject to the provisions of Appendix 1 to these Terms (in addition to the [Moosend DPA](#) and [Moosend Messaging Policy](#))

4. PROPRIETARY RIGHTS.

As between the parties, Moosend and its licensors retain all right, title and interest in the Services and any applicable Documentation.

5. FREE TRIAL.

If Customer registers on this website for a free trial, Moosend will make that portion of the Services available on a trial basis free of charge until the earlier of (a) the end of the 30-day free trial period for which Customer registered to use the Services, (b) the start date of any Purchased Service subscriptions ordered by Customer or (c) termination by Moosend at its sole discretion. ANY DATA CUSTOMER ENTERS INTO THE SERVICES DURING CUSTOMER'S FREE TRIAL WILL BE PERMANENTLY LOST UNLESS CUSTOMER PURCHASES A SUBSCRIPTION TO THE SAME SERVICES AS THOSE COVERED BY THE TRIAL.

6. PURCHASED SERVICES.

(a) Purchased Services are purchased either as subscriptions or a pre-paid "pay-as-you-go" model as set forth in Moosend's pricing plan ("**Pricing Plan**"). If a subscription plan is chosen, Moosend will invoice you in accordance with your chosen Pricing Plan based on the number of subscribers you have in your mailing list in accordance with the Pricing Plan then in effect. If a pay-as-you-go plan is chosen, you purchase credits against a certain fee and each email sent within the framework of the provision of the Services will reduce the number of credits in your account by one (1) credit. You can buy as many credits as you wish at any time, and credits

never expire unless otherwise indicated. The Pricing Plan may be amended by Moosend at its sole discretion at any time. It is your responsibility to check the Pricing Plan for any such updates.

(b) You agree to pay the subscription fees or other fees applicable to your Purchased Services. Your payment obligations are non-cancelable, fees paid are non-refundable, and quantities purchased cannot be decreased during a relevant subscription term.

(c) Payments must be made by a valid credit card (or debit card). You will provide Moosend, or a third-party payment provider acting on Moosend's behalf, with valid and updated credit card information, including providing complete and accurate billing and contact information to Moosend and notifying Moosend of any changes to such information. You authorize Moosend to charge such credit card for all Purchased Services listed in the Order Form for the initial subscription term and any renewal subscription term(s) as set forth in the "Term of Purchased Services" section below. Such charges shall be made in advance annually, monthly or in accordance with any different billing frequency as set forth in the Purchased Services.

(d) If you fail to make any amounts due by you, Moosend may suspend or terminate your account without notice to you. Moosend will have no liability for any damages, liability, losses (including without limitation any loss of data or profits) or any other consequences that you may incur in connection with any suspension of your account pursuant to this section. Moosend may charge a fee to renew an account that has been de-activated (terminated) due to non-payment or untimely payment.

(e) Moosend's fees are exclusive of any taxes, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction whatsoever (collectively, "**Taxes**"). Where required Moosend will list applicable Taxes as separate line items that are added to the fees. You are responsible for paying all Taxes associated with the Purchased Services. Taxes do not include any taxes on the net income of Moosend or any of its Affiliates.

7. DISCLAIMERS OF WARRANTIES & AVAILABILITY.

MOOSEND FURNISHES THE SERVICES ON AN AS-IS, AS-AVAILABLE BASIS TO THE FULLEST EXTENT PERMITTED BY LAW. MOOSEND HEREBY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SERVICES. WITHOUT LIMITING THE FOREGOING, MOOSEND DOES NOT WARRANT THAT THE SERVICES WILL BE ERROR-FREE, ACCURATE, MEET ANY SPECIFIED SERVICE LEVEL OR OPERATE WITHOUT DOWNTIME OR INTERRUPTIONS. TO THE EXTENT THAT ANY OF THE FOREGOING DISCLAIMERS CONFLICTS WITH APPLICABLE LAW, THE SCOPE AND DURATION OF ANY APPLICABLE WARRANTY WILL BE THE MINIMUM PERMITTED UNDER SUCH APPLICABLE LAW.

8. LIMITATION OF LIABILITY.

TO THE FULLEST EXTENT PERMITTED BY LAW, UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, WHETHER IN CONTRACT OR TORT, INCLUDING NEGLIGENCE, OR OTHERWISE, WILL MOOSEND OR ITS AFFILIATES BE LIABLE TO YOU FOR ANY (i) INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO LOST PROFITS, LOST SALES OR BUSINESS, LOSS OF GOODWILL, LOSS OF DATA, AND BUSINESS INTERRUPTION EVEN IF MOOSEND HAS BEEN ADVISED OF, KNOWS OF, OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES OR (ii) DIRECT DAMAGES, COSTS OR LIABILITIES IN EXCESS OF THE AMOUNTS PAID BY YOU DURING THE TWELVE (12) MONTHS PRECEDING THE INCIDENT OR CLAIM. WITHOUT LIMITING THE FOREGOING, MOOSEND WILL HAVE NO LIABILITY OF ANY TYPE WITH RESPECT TO: (X) THE SERVICES DURING ANY FREE TRIAL PERIOD; (Y) FEATURES OR FUNCTIONALITY OF THE SERVICES MARKED AS "BETA" IN THE MOOSEND WEBSITE AND/OR THE DOCUMENTATION; OR (Z) ERRORS AND CONSEQUENCES ARISING FROM USE OF THE GEN AI FUNCTIONALITY, UNLESS ANY SUCH EXCLUSION OF LIABILITY IS NOT ENFORCEABLE UNDER APPLICABLE LAW, IN WHICH CASE MOOSEND'S LIABILITY WITH RESPECT TO EACH OF THE FOREGOING SHALL NOT EXCEED €1000. YOU ACKNOWLEDGE THAT THE FOREGOING PROVISIONS ALLOCATE THE RISK UNDER THIS AGREEMENT AND THE PARTIES HAVE RELIED ON THE LIMITATIONS SET FORTH HEREIN IN DETERMINING WHETHER TO ENTER INTO THIS AGREEMENT, AND THAT, IN THE ABSENCE OF THESE LIMITATIONS, THE TERMS OF THIS AGREEMENT WOULD BE SUBSTANTIALLY DIFFERENT.

9. THIRD PARTY TECHNOLOGY.

Any implementation of Third Party Technology, including any exchange of data between the Third Party Technology and the Services, is your sole responsibility. Moosend makes no warranties as to the Third Party

Technology or its integration or compatibility with the Services, and Moosend is not responsible for any disclosure, modification or deletion of Customer Data caused by the Third Party Technology. "**Third Party Technology**" means any third party applications or services provided by you or a third party for integration or use with the Services.

10. CUSTOMER DATA; USAGE DATA; FEEDBACK; PRIVACY.

(a) Privacy. Moosend will manage, process and store all Customer Data in accordance with the Moosend DPA and the [Privacy Policy](#).

(b) Customer Data. Moosend is not responsible for the quality and integrity of the Customer Data. You represent and warrant that none of the Customer Data violates this Agreement and that you either own or have obtained all necessary right, title, interest and consent necessary to allow Moosend to use Customer Data for the purposes of fulfilling its obligations under this Agreement. You grant to Moosend a non-exclusive and non-transferable right and license during the applicable subscription term to copy, store, process, transmit, and otherwise use the Customer Data solely as necessary and appropriate for Moosend to fulfil its obligations under this Agreement and in accordance with applicable laws and Moosend DPA. For the avoidance of doubt, the Moosend DPA shall govern all processing of Personal Data performed by Moosend under the Agreement in its capacity as Data Processor.

(c) Restricted Data. You understand and agree that the Customer Data should not include any Restricted Data without our prior written consent, where "**Restricted Data**" means financial records, credit card data, personal health information, "special classes of data" (as defined by the GDPR), "protected classification characteristics" (under CCPA and US federal laws) or similar information under other comparable laws or regulations.

(d) Usage Data. You understand and agree that Moosend has the right to collect or access data as a result of your use of the Services, but specifically excluding Customer Data examples includes login frequency or durations, feature or functionality usage, number of campaigns, open rates, and page views. ("**Usage Data**"). Moosend will use the Usage Data (i) in order to provide the Services to you and (ii) for its internal purposes to improve the Services, provided that any such use will not disclose the identity of Customer or its End Customer. As between the parties, Moosend owns all right, title and interest in and to the Usage Data.

(e) Feedback. You may choose to provide to Moosend ideas, proposals, improvements and other suggestions about the Services ("**Feedback**"). You grant Moosend a royalty-free, worldwide, transferable, sublicensable, irrevocable, perpetual license to use the Feedback for the development of Moosend products and services, without restriction and without any compensation due to you.

(f) Security. Moosend will maintain sufficient and appropriate technical and organisational measures to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services as further set out in the Moosend DPA.

(g) Data retention, deletion and retrieval. Moosend will retain the Customer Data stored in its systems for three (3) months following expiration or termination of this Agreement (the "**Retrieval Period**"). During this period, Moosend will assist with any reasonable request from Customer to retrieve the Customer Data including requests to:

- i) return a complete copy of all Personal Data to Customer and within a commercially reasonable time, by secure file transfer in such format as is reasonably notified by Customer to Moosend, or
- ii) delete and procure the deletion of all other copies of Personal Data processed by Moosend or any subprocessor, provided that Moosend may retain a copy of data insofar as it may be necessary to comply with any applicable law.

If this Agreement is terminated for Customer's breach, (A) such assistance will be provided at Customer's cost and (B) Customer acknowledges that Moosend (acting reasonably) shall not be responsible where it is not able to assist as a result of the nature of Customer's breach.

Notwithstanding the foregoing, the Retrieval Period may be extended by Moosend, at its sole discretion, by up to 6 months.

11. CONFIDENTIALITY.

Each party will hold the Confidential Information received from the other party in confidence and will not, directly or indirectly, disclose it to any other person or entity except to the receiving party's and its Affiliates' employees, independent contractors, officers attorneys, financial advisors, auditors, attorneys and other representative s who have (i) a need to know, (ii) been notified that such information is Confidential Information,

and (iii) entered into binding confidentiality obligations no less protective of the disclosing party's than this Agreement. Each party agrees to exercise due care in protecting Confidential Information from unauthorized use and disclosure. Each party will promptly notify the other party upon learning of any misappropriation or misuse of Confidential Information disclosed hereunder. Notwithstanding the foregoing, the receiving party will be permitted to disclose Confidential Information of the disclosing party pursuant to any statutory or regulatory authority or court order, provided that the receiving party provides the disclosing party prompt prior notice (to the extent legally permitted to do so), and the scope of such disclosure is limited to the extent possible.

12. GENERATIVE AI FUNCTIONALITY

You acknowledge and agree that generative AI services, features or functions may be made available as part of the Services ("Gen AI Functionality"), which includes certain functionalities enabled through third-party vendors. Moosend acknowledges that Customer may have its own internal policies regarding the use of generative AI technology in its business, which may encompass the use of Gen AI Functionality. You may therefore choose to use such Gen AI Functionality at your own discretion. Where you use any Gen AI Functionality, the Gen AI Additional Terms in Appendix 3 shall also apply.

13. LINKED SITES.

The Services may contain links to websites or resources, owned or operated under the supervision of third parties other than Moosend ("**Linked Sites**"), and Moosend does not control and is not responsible for the operation, content, privacy policies or the security of such Linked Sites. Visiting and accessing Linked Sites occurs at your own responsibility and risk, without any involvement from, or liability of, Moosend. You are responsible for reading and complying with the privacy statements and terms of use posted on any and all Linked Sites. Moosend does not endorse, make any warranties and is not responsible for any data, software or other content and products or services available from Linked Sites. You acknowledge and agree that Moosend shall not be held liable, directly or indirectly, for any damage or loss relating to the use of or reliance upon such data, software or other content on any Linked Sites. Where the Services refer through "links" or "hyperlinks" to Linked Sites, the owners and/or operators of Linked Sites bear full (civil and criminal) responsibility for the security, legitimacy and validity of their site content, to the exclusion of any liability of Moosend.

14. EXPORT COMPLIANCE.

You acknowledge that the Services may be subject to export control laws and economic sanctions regulations of the United States and other jurisdictions. These laws include restrictions on destinations, users and end use. You shall not access, use or transfer the Services or any part of the Services in violation of such laws and sanctions programs. You represent and warrant that you are not, and you are not acting on behalf of, (i) any person who is a citizen, national, or resident of, or any entity registered in, or any person or entity who is controlled by the government of, any country to which the United States or any other government has prohibited export or other transactions, or (ii) any person or entity listed on any U.S. government denied-party or exclusion list (e.g., the Department of Commerce's List of Denied Persons, Entity, or Unverified List, and the Treasury Department's List of Specially Designated Nationals and Consolidated Sanctions List) or denied persons or entities list maintained by any other government, and you further warrant that you will immediately discontinue use of the Services if you become placed on any such list or under the control of or an agent for any entity placed on such a list. You will not permit any End Customer to access or use the Services in any U.S.-embargoed country or region or in violation of any U.S. or other applicable export law or regulation. Any breach of the foregoing will be considered a material breach incapable of remedy and Moosend may, at its sole discretion, immediately terminate your access and use of the Services without notice in the event of an actual or threatened breach of this Section 13 (Export Compliance).

15. SYSTEM REQUIREMENTS.

Without limiting the disclaimers set forth in Section 7 above:

(a) You acknowledge that a modern browser and a reliable Internet connection are required to use the Services. Modern browsers include the latest versions of Firefox, Safari, Edge or Google Chrome 9+. The Services were designed solely for use on these recommended browsers, thus the Services may work in a limited manner on other web browsers or earlier versions of these recommended browsers.

(b) Whilst every reasonable effort is made to ensure all the file attachments available to download directly from or via the Services are virus-free, Moosend strongly recommends using up-to-date, industry standard anti-virus software when browsing and downloading files from any web site. Moosend cannot guarantee that any file or program available for download and/or execution from or via the Services is free from viruses or other

conditions which could damage or interfere with data, hardware or software with which it might be used. You assume all risk of use of all programs and files associated with the Services, and you release Moosend entirely of all responsibility for any consequences of its use.

16. SUPPORT.

You may contact Moosend with any questions or queries regarding the Services as set forth here: <https://moosend.com/contact-us/support/>. Moosend will use its best efforts to respond to such queries within two business days.

17. TERM/TERMINATION.

(a) Term of Agreement. The term of this Agreement commences on the Effective Date and continues until your account is terminated as set forth below.

(b) Term of Purchased Services. The term of the Purchased Services shall be as specified as part of the Purchased Services. Except as otherwise specified therein, subscriptions will automatically renew for additional periods equal to the expiring subscription term or one year (whichever is shorter), unless either party gives the other written notice (email acceptable) at least 60 days before the end of the relevant subscription term.

(c) Termination and Suspension. In addition to the suspension/termination rights for failure to pay set forth in the "Purchased Services" section above, Moosend may terminate or suspend your account (and access to the Services) in the event you commit any material breach of these Terms and fail to remedy that breach, to the extent capable of remedy, within five (5) days after notice of that breach. Moosend may also terminate or suspend your account (and access to the Services) immediately for cause if: (i) you violate (or give Moosend reason to believe you have violated) the [Moosend Messaging Policy](#) (ii) Moosend determines, in its sole discretion, that providing the Services is prohibited by law, or has become impractical or unfeasible for any legal or regulatory reason to provide the Services; or (iii) subject to applicable law, upon your liquidation, commencement of dissolution proceedings, disposal of your assets or change of control, a failure to continue business, assignment for the benefit of creditors, or if you become the subject of bankruptcy or similar proceeding. If Moosend suspends your account, Moosend will make a reasonable effort to notify you. You acknowledge that no refund be provided in the event of any suspension or termination of your account. Notwithstanding anything to the contrary in the foregoing, in the case of a free trial, Moosend may terminate your account and access to the Services at any time at its sole discretion.

(d) Termination and Suspension (Free Trials). As set forth above in these Terms, Moosend may suspend or terminate a free trial at any time in its sole discretion.

(e) Inactivity. If you do not log into your account for more than 365 days, Moosend may classify the account as inactive. You will then have 30 days to activate your inactive account, otherwise it will be terminated by Moosend.

(f) Survival. Upon termination of this Agreement, the license and access rights applicable to the Services, and all right and obligations, will immediately terminate, except that any terms or conditions that by their nature are intended to survive will survive termination, including without limitation Restrictions on Use and terms and conditions relating to proprietary rights and confidentiality, disclaimers, limitations of liability, termination and the General provisions below.

18. PUBLICITY.

You agree that Moosend and its Affiliates may refer to your name and trademarks in Moosend's and its Affiliate's marketing materials and website, but Moosend will not use your name or trademarks in any other publicity (e.g, customer references, press release, case studies, etc.) without your prior written consent (email sufficient).

19. GENERAL.

(a) This Agreement constitutes the entire agreement between you and Moosend regarding its subject matter, and supersedes all prior or contemporaneous agreements, proposals, understandings, sales materials and communications, whether written or oral. No oral or written information or advice given by Moosend, its agents or employees will create a warranty. Amendments or modifications to this Agreement may be made solely in accordance with the "Amendments to the Terms and Services" section at the beginning of these Terms.

(b) If any provision of this Agreement is adjudicated to be unenforceable, such provision shall be deemed changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions shall continue in full force and effect.

(c) All waivers must be in writing and signed by authorized representatives of the parties. Any waiver, failure or delay by either party to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

(d) No agency, partnership, joint venture, or employment is created as a result of these Terms and the provision of the Services, and you do not have any authority of any kind to bind Moosend in any respect whatsoever.

(e) Neither party may assign the Agreement, by operation of law or otherwise, in whole or in part, without the other party's prior written consent, except that either party may assign this Agreement without consent to a successor (whether by merger, sale of assets, sale of stock, or otherwise), and Moosend may assign or transfer this Agreement to an Affiliate. In addition, you agree that Moosend may have any of its obligations performed through an Affiliate of Moosend, provided that Moosend will remain responsible for its obligations hereunder and will be liable for such Affiliate's performance as if it were Moosend. Any attempted assignment, delegation or transfer in violation hereof will be void and of no force or effect. Subject to the foregoing, this Agreement will be binding on the parties and their successors and assigns.

(f) Except for any payment obligations under this Agreement, neither party will be in default or otherwise liable for any delay or failure to perform if such delay or failure arises by any event beyond its reasonable control, including, but not limited to, work stoppages, acts of war or terrorism, civil or military disturbances, or nuclear or natural catastrophes; provided the non-performing party provides prompt notice to the other party, and such failure or delay could not have been prevented by reasonable precautions. In such event, the non-performing or delayed party will be excused from further performance for as long as such circumstances prevail and such non-performing or delayed party continues to use its best efforts to recommence performance or observance whenever and to whatever extent possible without delay.

(g) Except as otherwise set forth in this Agreement, notices to you will be sent to your email or other address as set forth in your account information. Notices to Moosend must be sent to Moosend Ltd., 4th Floor International House, 1 St. Katharine's Way, London E1W 1UN, United Kingdom, Attn: Legal Department, either via personal delivery, certified mail, return receipt requested, or by overnight delivery, with a copy to legalnotice@sitecore.com.

(h) If you have any issues with the Services or Moosend you must first try and resolve the issue through Moosend customer support. If Moosend Ltd. is the contracting entity (see definition of "Moosend" below), this Agreement will be governed by English law without regard or reference to its principles of conflicts of laws, and each party hereby submits to the exclusive jurisdiction of the English courts. If Sitecore USA, Inc. is the contracting entity (see definition of "Moosend" below), this Agreement will be governed by the laws of the State of California except as to its principles of conflicts of laws, and the parties hereby (a) submit to the exclusive jurisdiction of the federal court for the Northern District of California located in San Francisco, California (or, if the federal court does not have jurisdiction over the action, then in the appropriate California state court located in San Francisco County, California) for the purpose of any action arising out of or relating to the Agreement brought by any party hereto, and (b) irrevocably waive, and agree not to assert by way of motion, defense, or otherwise, in any such action, any claim that it is not subject personally to the jurisdiction of the above-named courts, that it is exempt or immune from attachment or execution, that the action is brought in an inconvenient forum, that the venue of the action is improper, or that the Agreement may not be enforced in or by any of the above-named courts. The United Nations Convention on Contracts for the International Sale of Goods (April, 11th 1980) is not applicable to this Agreement.

(i) Compliance with Laws. You shall comply with the applicable laws relating to your activities pursuant to these Terms. Moosend will provide the Services in accordance with laws applicable to the provision of the Services.

(j) Subcontracting. You shall not subcontract any of your obligations under this Agreement.

20. ADDITIONAL DEFINED TERMS.

The following terms, when used in this Agreement, will have the following meanings:

"Affiliate" means any entity that from time to time directly or indirectly controls, is controlled by, or is under common control with the referenced entity. An entity will be deemed to control another entity if such individual or entity owns, directly or indirectly, fifty percent (50%) or more of the voting stock of the second entity or has the power to elect or remove a majority of the members of the board of directors, trustees, or comparable governing body of such second entity.

"Confidential Information" means all information disclosed by either party to the other party and either (a) marked or designated as "confidential" or "proprietary" at the time of disclosure or (b) disclosed in

circumstances under which a reasonable person would understand it is to be treated as confidential, but where "Confidential Information" specifically excludes any information that (i) is or becomes a matter of public knowledge through no fault of the receiving party, (ii) was rightfully in the receiving party's possession free of any obligation of confidence, (iii) was rightfully disclosed to the receiving party by a third party without restriction as to use or disclosure, or (iv) is independently developed by the receiving party without use of or reference to disclosing party's Confidential Information.

"Customer Data" means any data and other information including Personal Data made available to Moosend by the Customer through use of the Services and for the purpose of performing the Services.

"Documentation" means the printed and digital instructions, on-line help files, technical documentation and user manuals made available by Moosend for the Services.

"End Customer" means any user of the Services that has been granted access by Customer that uses the Services.

"Gen AI Inputs" means all content or information submitted through use of the Gen AI Functionality by or on behalf of Customer.

"Gen AI Outputs" mean all content or other results generated by or on behalf of the Customer through use of the Gen AI Functionality.

"Moosend Services" or "Services" means the SaaS-based Moosend products that are (a) ordered by Customer in the website's online purchasing portal and provided by Moosend, (b) provided to Customer free of charge under a free trial or (c) used by you or your End Customers including any Moosend Technology used by Moosend to provide the Services.

"Moosend Technology" means any software, tools, hardware, products, user interfaces, and other technology used by Moosend to provide the Services.

"Moosend" means Moosend Ltd. of 410 Eastbourne Terrace, London, United Kingdom, W2 6LG United Kingdom if you are located in Europe, the UK, Middle East, Australia, New Zealand, Africa or Asia, or Sitecore USA, Inc. of 44 Montgomery Street, Suite 3340, San Francisco, CA, 94104, USA if you are located in the Americas.

"Personal Data" means any information used to describe an individual or protected person, including "personal information" or other analogous provisions under applicable laws.

"Privacy Policy" means the privacy policy which governs situation where Moosend acts as a Data Controller of Personal Data and which is available at [Sitecore Privacy Policy | Sitecore](#).

"Purchased Services" means Services that Customer purchases on this website as part of its online purchasing portal, as distinguished from those provided pursuant to a free trial.

APPENDIX 1 AUTHORISATION TO THIRD PARTIES

(A) If you provide Services to End Customers you shall ensure that you have a valid written agreement with each End Customer for the provision of Services (the "End Customer Terms" and that the End Customer Terms adequately protect Moosend. This may be accomplished either by (i) ensuring the End Customer accepts the online Moosend Terms of Service in their totality as part of the End Customer Terms, or (ii) where the End Customer Terms contain terms and conditions protecting Moosend and its Affiliates that are substantially similar to those in the Moosend Terms of Service (the "End Customer Terms"). The provisions of this Appendix 1 sets out the minimum conditions under which Customers may provide access to the Services to its End Customers. The Customer acknowledges and agrees that any claim arising from an End Customer's use of the Services under End Customer Terms will be against the Customer alone and that the End Customer does not have any right to make direct claims against Moosend.

(B) You agree to not enter into any End Customer Terms that attempts to bind Moosend to any additional terms and conditions, including without limitation any modification, to Moosend's detriment, of Moosend's limitation of liability as set out in the Moosend Terms of Service. You will comply with the provisions of part (A) herein and indemnify and hold Moosend harmless against any and all actions, claims, demands for any damage or loss (including legal fees) arising out of or in connection with any differences in obligations under the End Customer Terms when compared with the Moosend Terms of Service.

(C) You will immediately notify Moosend if you become aware of an End Customer violating the provisions of this Appendix 1 and will take all reasonable directions from Moosend in order to address these violations. Moosend reserves the right, by providing electronic notice to you, to immediately suspend or terminate the Services, if Moosend determines that you or the End Customer has breached these Terms, including for sake of clarity the [Moosend DPA](#) and [Moosend Messaging Policy](#).

APPENDIX 2 – MOOSEND PARTNER PROGRAM TERMS

To be eligible to register for a Moosend Partner Program (as described herein) and use the Services you must review and accept these Partner Program terms below, including the [Moosend Terms of Service](#), [Moosend DPA](#) and [Moosend Messaging Policy](#) which are incorporated herein by reference (collectively, this "Agreement"), by clicking on the "Submit" box or other mechanism provided (such date on which you clicked acceptance, the "Effective Date").

PLEASE CAREFULLY READ THE TERMS BELOW. THIS AGREEMENT GOVERNS YOUR PARTICIPATION IN THE PARTNER PROGRAM AND IS AN AGREEMENT WITH THE MOOSEND ENTITY INDICATED IN THE TERMS OF SERVICE ("MOOSEND"). IF YOU DO NOT AGREE TO THESE TERMS, THEN DO NOT CLICK "REGISTER," AND YOU MAY NOT ACCESS OR USE THE SERVICES. BY SUBMITTING YOUR PARTNER APPLICATION, COMPLETING THE REGISTRATION PROCESS TO BECOME A MOOSEND PARTNER, AND/OR PARTICIPATING IN THE PARTNER PROGRAM USING THE SERVICE YOU REPRESENT THAT (1) YOU HAVE READ, UNDERSTAND, AND AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT, AND (2) YOU HAVE THE AUTHORITY TO ENTER INTO THIS AGREEMENT ON BEHALF OF THE ENTITY YOU REPRESENT AND THAT IS PARTICIPATING IN THE MOOSEND PARTNER PROGRAM, AND TO BIND THAT ENTITY TO THIS AGREEMENT.

1 DEFINITIONS.

The defined terms used but not defined in this Agreement have the meanings given to those terms in the Moosend Terms of Service.

2 PARTNER PROGRAM ACCEPTANCE

2.1 Acceptance. You must complete and submit a Partner Program application to become a Partner. Moosend will review your application and notify you whether you have been accepted to participate in the Partner Program via email.

2.2 Account. Upon acceptance, you agree to create an account ("Account") and complete any enrolment criteria. In registering an Account, you agree to (a) provide true, accurate, current and complete information as prompted by the registration form (the "Registration Data"); and (b) maintain and promptly update the Registration Data to keep it true, accurate, current and complete. Any Registration Data submitted related to Partner's email contact information must be a named user and cannot be a generic email address (e.g. info@agency.com). You are responsible for compliance with the provisions of this Agreement by you and for all activities that occur under your Account. You may not share your Account or password with anyone, and you agree to (c) notify Moosend immediately of any unauthorized use of your password or any other breach of security. If you provide any information that is untrue, inaccurate, not current or incomplete, or Moosend has reasonable grounds to suspect that any information you provide is untrue, inaccurate, not current or incomplete, Moosend has the right to suspend or terminate your Account and refuse any and all current or future participation in the Partner Program. You agree not to create an Account using a false identity or information, or on behalf of someone other than yourself.

2.3 Partner shall at all times be bound by an obligation of cooperation and assistance and will maintain accurate records of its compliance with the Agreement including details of any sub-accounts and will promptly provide these records to Moosend upon request.

3 DESCRIPTION AND CONDITIONS OF SERVICES

3.1 Once accepted into the Partner Program, you will be listed in the Moosend Partner's directory.

3.2 Partner shall and shall ensure its affiliates, employees or representatives (a) conduct its business under this Agreement in a manner that reflects favourably upon Moosend, and Moosend's goodwill and reputation; (b) not engage in illegal, deceptive, misleading, or unethical trade practices; and (c) use the Services in a manner that is compliant with all applicable laws and regulations.

3.3 Moosend does not charge an additional fee for entry into the Partner Program. Any discounts will be discussed between you and the relevant Moosend Sales Representative.

3.4 Marketing Documentation. During the term of this Agreement, Moosend may make available to Partner certain Documentation.

3.5 Ownership. As between Partner and Moosend, Moosend and its licensors retain all right, title and interest in the Services and any applicable Documentation. There are no implied licenses under this Agreement.

3.6 Relationship of the Parties. Notwithstanding the use of the word “partner” in the title of this Agreement, neither Party is, nor shall be deemed to be creating a partnership, joint venture, agency, employee or legal representative of the other Party for any purpose. Neither Party shall be entitled to enter into any contracts in the name of or on behalf of the other Party.

If you have any questions or concerns about what has been stated in this Agreement, please contact us at <https://moosend.com/contact-us/support/>.

APPENDIX 3 – GEN AI ADDITIONAL TERMS

1 GEN AI FUNCTIONALITY

The terms and conditions of this Appendix 3 apply where you use Gen AI Functionality.

2 OWNERSHIP AND USE OF GEN AI INPUTS AND OUTPUTS

2.1 You acknowledge that all Gen AI Inputs and Gen AI Outputs are considered Customer Data.

2.2 Gen AI Functionality may include features which are powered by AI models operated by a third party, in which case such third-party AI providers may use Gen AI Inputs and Gen AI Outputs for providing and maintaining the Gen AI Functionality, but Moosend contractually restricts their use for training or improving AI models beyond what is necessary to provide and maintain the Gen AI Functionality.

2.3 Third-party providers are considered subprocessors of Customer Data submitted to the relevant Gen AI Functionality under the terms governing the processing of Customer Data (including personal data) contained at Section 10 above.

3 RESPONSIBILITIES FOR GEN AI INPUTS AND OUTPUTS

3.1 You acknowledge and agree that:

- (i) The accuracy of Gen AI Outputs depends on source content quality and results may be inaccurate, incomplete, unexpected, or unfaithful to the provided source content, or may contain biases;
- (ii) The Gen AI Functionality may produce Gen AI Outputs that could inadvertently infringe upon third party intellectual property rights, where you are solely responsible for compliance with all applicable intellectual property laws and regulations;
- (iii) You are solely responsible for the accuracy and quality of any Gen AI Inputs and verifying the accuracy of Gen AI Outputs as well as any decision, action or omitted action based on any Gen AI Outputs;
- (iv) Third parties may submit information or materials that generate results that are identical or similar to the Gen AI Outputs (“Third Party Gen AI Outputs”), and Customer has no right, title, or interest in or to any Third Party Gen AI Outputs.
- (v) Moosend’s obligations regarding data retrieval and destruction of Gen AI Inputs and Gen AI Outputs only apply where they are retained by Moosend.
- (vi) To the maximum extent permitted by law and notwithstanding anything to the contrary in the Agreement, Moosend does not provide any representation, warranty, indemnification, or other commitment of any kind regarding any Gen AI Functionality (including, without limitation, in relation to the accuracy, reliability, or completeness of the Gen AI Outputs) and shall have no liability for any loss or damage caused by the use of or reliance on any Gen AI Outputs;
- (vii) Moosend may suspend access to Gen AI Functionality at its sole discretion, including in the case where third-party providers suspend service; and
- (viii) Customer must ensure that its utilization of the Gen AI Functionality complies with all relevant national, federal, state, local, or international laws and regulations.

4 PROHIBITED USES

4.1 In addition to any other prohibited uses of the Services set forth in this Agreement, Customer is expressly prohibited from utilizing the Gen AI Functionality in any of the following ways:

- (i) Beyond its intended purpose as outlined in this Agreement.
- (ii) For activities classified as high-risk under the Regulation of the European Parliament and of the Council Laying Down Harmonized Rules on Artificial Intelligence (Artificial Intelligence Act);
- (iii) To exploit, harm, or attempt to exploit or harm minors or defame, disparage or harass others;
- (iv) To generate or disseminate (1) demonstrably false content with the intention of causing harm to others or (2) personally identifiable information or which could be used to harm an individual;
- (v) For fully automated decision-making processes that negatively affect an individual's legal rights or create or modify binding, enforceable obligations;
- (vi) For discriminatory purposes based on (1) online or offline social behavior or known or predicted personal or personality characteristics or (2) against individuals or groups based on legally protected characteristics or categories;
- (vii) To exploit vulnerabilities of specific groups of individuals based on their age, social, physical, or mental characteristics, resulting in physical or psychological harm to them or others;

- (viii) To provide medical advice or interpretation of medical results;
- (ix) To generate or disseminate information for use in legal, law enforcement, immigration, or asylum proceedings, such as predicting potential fraud or criminal activity, through means like text profiling or drawing causal relationships between document assertions, or through indiscriminate and arbitrarily targeted use;
- (x) To upload or intentionally create outputs or materials that infringe upon intellectual property or other proprietary rights of any party; and
- (xi) To form the sole basis for any financial or business decisions, actions, or omissions.

5 THIRD-PARTY VENDOR TERMS

5.1 Customer shall ensure that it uses the GenAI Functionality in compliance with (and shall not breach any of the usage rights, limitations and restrictions set out in) the following third-party vendor terms and conditions:

Microsoft: <https://www.microsoft.com/licensing/terms/productoffering/MicrosoftAzure/MCA> which may be updated by Microsoft from time to time.