Terms of Use for SubAccount Users
How Can You Use Our Application

March 25, 2019

SimplyCast Interactive Marketing Limited
400-73 Tacoma Drive, Dartmouth, Nova Scotia, Canada
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Terms of Use
Last updated: February 28, 2018

Thank you for using SimplyCast.com

This Guide summarizes our terms of use policy. Users may refer to Terms of Use for full details. In the event of discrepancies between this guide and the Terms of Use, the latter will prevail.

SimplyCast Interactive Marketing Ltd. (“We”, “Our”, or “SimplyCast”) provides multiple communications, data collection, and customer management tools that may be available from time to time, including but not limited to fax, SMS, and voice applications (the “Products”) via our website http://www.simplycast.com or http://app.simplycast.com (the “Website” or “Platform”). All customers or representatives of another entity that are our customer and/or entities that create an Account, as defined herein, (the “User”) are bound by these Terms and related documents (our Privacy Policy, our Anti-Spam, the SMS Shortcode Terms & Conditions, and Restricted Content Policy, collectively the “Agreements”).

1. General Terms of Use

1. The Terms may be amended at any time. Any amendment will become effective upon notice to the User, either by email or by posting it on the Website. If you do not agree to any amendments, you must stop your use of the Website and terminate your Account.

2. Eligibility

In order to create an Account, you must

1. Be at least eighteen (18) years old

2. Be able to enter into legally binding contracts under applicable law

3. Complete the registration process provided via the Website or prescribed by the administrator.

4. Provide true, complete, and current contact information
5. Agree to these Terms

3. Additional Users

Users may purchase the ability to add additional users that have access to the Account (the “Additional Users”). Additional Users may have restricted permission to access some applications or tools, as determined by the User, which acts as the administrator for the Account.

1. Term

The term of these Terms and the Agreements begins when a SimplyCast account has been created and continues so long as you use any portion of the SimplyCast Services or have a paid subscription.

2. Closure of your Account and Cancelations

You or SimplyCast may terminate these Terms at any time and for any reason by giving notice to the other party. SimplyCast may suspend or terminate your access to the Account at any time, with or without cause. Suspension or termination of access to an Account will also disable the functionality of all products and services.

1. Acceptable forms of notice to SimplyCast.

To ensure that closure of your Account is processed correctly, you or your administrator must provide notice to SimplyCast via any interface we have provided in the subscription management tools in your Account. Alternatively, notice delivered to support@simplycast.com will be considered effective upon Our receipt of your email containing at a minimum, your name, contact information (including valid phone number), and the ID of the Account being canceled. SimplyCast shall have no liability for fees paid on Accounts that were not properly canceled in accordance with these Terms.

2. Termination for violation of this Agreement.

If SimplyCast chooses to terminate the Terms or the Agreements as a result of an action that We believe is a breach of these Terms or any part of any Agreement, we shall have no liability to you to provide any access to the Account, data from the Account, or a refund for any outstanding monetary balance associated with your Account.
3. **Account and Password Access Information**

You are solely responsible to keep your Account login and password information confidential, including the usernames and passwords of any Additional Users. You shall be solely liable for any activity that occurs under your Account via the primary login information or via any Additional User login information.

In all cases you agree to notify your administrator immediately of any unauthorized use of your Account or any other breach of security or by contacting the SimplyCast Data Protection and Privacy Officer at dataprotection@simplycast.com or by calling 1-866-323-6572.

4. **Fees, Payments and Refunds**

Please refer to our Terms of Use if you are responsible for payment of fees.

Users may consult with their administrator on following aspects of their account that may affect service.

1. **Delivery**
   a. All messages your Account attempts to send must be prepaid.
   b. Insufficient credit on your Account may delay delivery of your messages until payment is received.

2. **Overages**
   a. Your Account may be allowed to exceed the number of pre-paid credit or contacts selected on a per application basis at the discretion of SimplyCast.

5. **Refunds**

Please refer our Terms of Use if applicable.

6. **Use of account Credits**

Some SimplyCast Services make use of credit, which is expressed either in the form of pure “credits” where 1 application credit is deducted for each message from that application sent; or in the form of USD amounts. Credit is purchased for use in individual applications only, and may not be transferred between applications.

Please refer to our Terms of Use for details if you are using any of the following applications for tracking usage and billing purposes:

1. SMS
2. Fax
3. Voice

7. Use of Contacts

Some applications track the number of contacts used in their application processes. SimplyCast, in its sole discretion, makes the determination of how many contacts have been used by a given application. Contact limits are present on a per application level.

1. A contact is an object added to the contact manager system, and identified by an internally granted SimplyCast contact “ID”. No other factor determines the uniqueness of a contact.
2. An application will identify a contact as used as soon as it has processed its ID.
3. Contact use resets at each billing period.

8. Use of contacts in Email

The email application offers contact based plans, where unlimited email messages may be sent to a limited number of contacts. The following additional terms apply to these plans.

1. SimplyCast reserves the right to limit the use of the application if an Account is sending, in SimplyCast's sole determination, higher than normal volumes of messages. In this event we may, at our discretion:
   1. limit the number of messages your Account can send;
   2. require modification of your Subscription to better accommodate your usage; or
   3. terminate your Account.

9. Use of contacts in SimplyCast 360

The SimplyCast 360 product and SimplyCast 360 System (collectively, "SimplyCast 360") allows contacts to flow freely between decisions and action nodes. As soon as a contact interacts with SimplyCast 360 it will be counted as used. The following additional terms apply to Users who use SimplyCast 360:

1. SimplyCast 360 grants the ability to have a contact move through a 360 project flow.
2. SimplyCast 360 provides the ability to send unlimited email transactional messages triggered via the 360 systems.

3. Your Account must have sufficient credit or contacts of the appropriate type to make use of any other Products that are triggered by SimplyCast 360.

10. Use of the Website or the Products

1. Who May use and No Resale

The Website and the Products shall be used for your personal or internal business (which includes civic or charitable) purposes only. You shall not use the SimplyCast Services for timesharing or service-bureau purposes or otherwise for the benefit of a third party. Unless you are an authorized reseller of the Products, you may not display, copy, reproduce, or distribute any portion of the SimplyCast Products.

2. Compliance with Laws.

The SimplyCast Services shall only be used for lawful purposes and you shall use the SimplyCast Services only in compliance with the Terms and the Agreements, the CAN-SPAM Act and regulations thereunder and all other applicable U.S., state, local and international laws in your jurisdiction.

3. Restrictions on Use

We prohibit the use of the SimplyCast Services for any purpose listed in our Anti-Spam & Restricted Content policy, and for any use prohibited by Applicable Laws.

11. You further agree to comply with the following in connection with your use of the SimplyCast Services:

1. You may not access or use the SimplyCast Services in a way that uses technology or other means to access, index, re-render, frame, mirror, truncate, add to, inject, filter or link to the Website or the Products that is not authorized by Us (including by removing, disabling, bypassing, or circumventing any content protection or access control mechanisms intended to prevent the unauthorized use, download, linking, framing, reproduction, access to, or distribution of the Website or the Products).

2. You may not use any deep-link, page-scrape, robot, crawl, index, spider, offline reader, click spam, macro programs, internet agent, or other automatic device, program,
algorithm or methodology which do the same things, to use, access, copy, index, acquire information, generate impressions or clicks, input information, store information, search, generate searches, or monitor any portion of the SimplyCast Services for any unauthorized purpose.

3. You may not use the SimplyCast Services in a way that, to be determined in Our sole discretion, damages, disables, overburdens, impairs, or gains unauthorized access to the SimplyCast Services, including SimplyCast’s servers, computer network, or User Accounts.

4. You may not use the SimplyCast Services in a way that removes, modifies, disables, blocks, obscures or otherwise impairs any advertising in connection with the Website or the Products.

5. You may not copy, display, distribute, download, license, modify, publish, re-post, reproduce, reuse, sell, transmit, use to create a derivative work, or otherwise use any content of the SimplyCast Services without Our express written permission.

6. You shall not interfere with or disrupt the Website or any related SimplyCast websites or servers or networks connected to the SimplyCast Services.

7. You shall not restrict or inhibit any other User from enjoying and using the SimplyCast Services.

8. You shall not defame, abuse, harass, stalk, threaten, or otherwise violate the legal rights of others, including but not limited to Users, and generally agree not to use the SimplyCast Services for illegal purposes.

9. You shall not transmit files that contain viruses, corrupted files, or any other similar software, programs or malicious code that may damage or adversely affect the SimplyCast Services, Our software, hardware, telecommunications equipment, or the operation of another person’s computer.

10. You shall not use the SimplyCast Services in violation of the Applicable Laws or third party rights (including third party terms of service), and shall not use the SimplyCast Services for hosting content (for example, images and documents) that infringes on the intellectual property rights of any person or entity, including but not limited to Users.
11. You shall not set up multiple Accounts for any individual or organization in order to send substantially similar content unless you are part of a franchise, as determined by SimplyCast in its sole discretion.

12. You may only use Our templates, any images We provide, or any other features or functionality of the Products with the Products themselves (for example, you may not take an image or template and use it on your website). This restriction also applies to customized templates prepared by Our professional services group.

13. You shall not use documents and images hosted by Us on servers controlled by Us for any purpose whatsoever other than in connection with the Products. If you own the document or image, you can use it outside of the Products so long as it is not hosted by Us.

14. You shall not include any incentives (for example, coupons, discounts or awards) in any messages you send by means of the SimplyCast Services that encourage a recipient to forward the message to another recipient, other than as expressly encouraged and permitted within the applicable Product.

12. **Content and Contact Ownership, Copyright & Trademark**

1. Content: We do not claim ownership of content you submit or make available for inclusion on the Website and accepts no responsibility for any content that you upload, post, email, transmit or otherwise make available via the Website.

Any reproduction of the SIMPLYCAST.COM trademark and/or the SIMPLYCAST.COM trademark and design, without the explicit permission of SimplyCast, is strictly prohibited.

2. Feedback: All feedback, comments, and suggestions for improving the SimplyCast Services that you provide to Us, and any contributions you make to the Website by posting content and communicating with other Users via post or forms that may be available on the Website from time to time, will be Our exclusive property.

3. Your information: You may provide information about yourself or your employer (such as name, contact information, or other registration information) to Us and We may collect information about your use of the SimplyCast Services. We may use this information in accordance with our Privacy Policy and relevant “just-in-time” notices, if any, provided at the point of information collection or use.
4. Your Contacts and Content

We acknowledge your ownership rights in any information that you provide to Us in connection with your use of the SimplyCast Services, such as contact lists (including email addresses and phone numbers of your subscribers) and content (including business content) (the “Customer Information”). We will never sell or rent your Customer Information to anyone without your permission, and will never use your Customer Information for any purpose other than providing Our products and services.

5. You are solely responsible for the accuracy, quality, integrity, legality, reliability and appropriateness of all Customer Information, and you are responsible for maintaining, securing and storing all Customer Information. You represent and warrant that you own or have secured all rights and interest in and to the Customer Information required for Us to use the Customer Information.

6. Backups

To the extent permitted by Applicable Laws, we may make and preserve copies of all Customer Information as necessary to provide the SimplyCast Products and for internal back-up and other legal or regulatory purposes.

7. Monitoring and Removal of Messages and Content

We may block any messages or campaigns, remove any content, or prohibit any use of the Website or the Products that we believe may be in violation of these Terms. You further understand and agree that We and any applicable third party who supports, posts, publishes, or distributes your promotions, or business content also has the right to reformat, edit, monitor, reject, block or remove any of your promotions, or business content at any time.

8. Inclusion of the SimplyCast logo.

By using the SimplyCast Services you authorize Us to insert images, hyperlinks, and text that reference our brand and any trademark owned by SimplyCast into your messaging and hosted pages. You understand that you must purchase a specified level of subscription to have these removed.

14. Limitations on Use

You understand that not all messages or campaigns sent through use of the SimplyCast
Services will be received by or will be capable of being viewed by their intended recipients. Delivery of messages by means of the SimplyCast Services may involve transmissions over various networks, and that the messages could be reformatted or otherwise revised to conform to the formatting or technical requirements of such networks. You also understand and agree that messages exceeding maximum character limitations may be truncated, abbreviated, reduced or otherwise abruptly cut short.

15. Support and Assistance

We may from time to time provide you with marketing advice and other coaching, template design, frequently asked questions and tips on best practice. Such assistance and information is provided as a convenience to you and are not intended to constitute legal advice.

16. Submissions

Any suggestions, business information, ideas, concepts or inventions or content you submit to Us through the Website are non-confidential and automatically grants Us a non-exclusive, royalty-free right to sublicense, to use, reproduce, create derivative works from, modify, publish, edit, translate, distribute, perform and display in any manner.

17. Initial restrictions on account usage

To help prevent abuse of the Website and any portion of the SimplyCast Services, we may initially restrict a User’s ability to immediately use a purchase. Once we are satisfied that a User is compliant with these Terms, these restrictions may be lifted.

18. Location of Data

SimplyCast operates multiple data centers globally.

All account information, project contents, contact information, and backups of that information are stored in our servers physically located within the United States of America for accounts accessed via http://app.simplycast.com.

Under GDPR, users can request that personal information related to them be exported in open format so it can be transmitted to another system or controller.
19. Access to, and Retention and Destruction of Data

You are fully responsible for all data in your Account. SimplyCast shall not be liable for any loss of data caused by you taking action to delete, remove, hide, archive, change, or otherwise interact with any part of the SimplyCast Services. SimplyCast makes backups of all system and User data but does not guarantee or warrant that any data can be restored to your Account. Data in an Account is subject to the following rules and limitations for access.

1. Contact Manager and SimplyCast Sonar Products.
   1. Free Users of the contact manager and SimplyCast sonar products will have access to view the full details of only the most recent 30 days of reporting data collected by these products.
      1. Full detail reporting data will be retained for 90 days, and will become accessible automatically if an appropriate subscription is purchased.
      2. Aggregate reporting data will be available to free users for up to 90 days.
   2. Paid Users of the contact manager and SimplyCast sonar products will have access to full detail data for the greater of 90 days, or as specified by your Subscription.
      3. Aggregate reporting data will be available to paid Accounts for the greater of 2 years or as specified by your Subscription.

2. General Reporting data.
   1. Full detail reporting data is available to free Accounts for 30 days.
   2. Full detail reporting data is available to paid Accounts for the greater of 90 days or as specified by your Subscription.
   3. Aggregate reporting data is available to all Accounts for up to 2 years.

3. Inactive Accounts.

Inactive accounts are Accounts where a User is not paying or have prepaid a
subscription fee, has no remaining pay-as-you-go credit that has been purchased, and has not been accessed, as determined by SimplyCast in Our sole discretion, within the past 90 days. We reserve the right to remove all data contained within Inactive accounts from Our system without liability for any losses or damages associated with the removal of data from inactive Accounts.

4. Removal of Data on Request

Accounts in good standing compliant with Terms may request that User uploaded data be completely removed from the Website or any of our systems. This would include only content hosted within your Account, projects, and customer data uploaded to the contact manager. If you require deletion of data, we reserve the right to collect a non-refundable service fee to be determined at the time of the request and collected in advance of completing the deletion.

5. Third Party Services

SimplyCast may make use of some third party services that provide connectivity to other telecommunication systems. In all cases, only the required transmission information is ever given to a third party, and only for the express purpose of completing delivery of a message.

6. Payment Collection by You

If you use the Products to collect payments (including registration for events, donations or products or services), you are responsible for the collection and administration of such payments. You may elect to process payments through any payment processing service (a “Payment Processing Service”) that We make available for your use (for example, PayPal®), but your use of such service is subject to such Payment Processing Service’s applicable terms and conditions of use. We do not hold your funds or those of your subscribers, customers, participants, event registrants or donors at any time. You are solely responsible for your use of a Payment Processing Service and SimplyCast accepts no liability associated with your use of same.

7. Modifications to Service

SimplyCast reserves the right to, at any time, modify or discontinue any portion of the SimplyCast Services with or without notice and without liability to you or to any third party.
8. Additional terms for Agencies

If you have purchased the “agency package” you will be considered an “authorized reseller” for the purpose of these Terms. Please refer to our Terms of Use if applicable.

20. GDPR Compliance

For the purposes of the E.U. GDPR, you agree that SimplyCast is solely a data processor for the contact data that you upload to the service, and that you have the consent and/or other legal basis to do so where required by this or any other applicable law.

Please refer to our Terms of Use for details.

21. Miscellaneous

Please refer to Terms of Use for full details.

No Rights in Software: You will not:

1. Directly or indirectly, reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code, object code, or underlying structure, ideas, or algorithms.
2. Remove any proprietary notices or labels from the SimplyCast Services.
3. Modify, translate, or create derivative works based on the SimplyCast Services or any software.
4. Copy, distribute, pledge, assign, or otherwise transfer or encumber rights to the SimplyCast Services.

22. Lifetime Plan

Please refer to our Terms of Use for details if applicable.

23. Governing Law

This contract will be governed by the provincial laws of Nova Scotia and the federal laws applicable therein.

24. DISCLAIMER OF WARRANTIES

Full details are provided in our Terms of Use.

YOU EXPRESSLY UNDERSTAND AND AGREE THAT:
(a) YOUR USE OF THE SIMPLYCAST SERVICES IS AT YOUR SOLE RISK;
(b) SIMPLYCAST MAKES NO WARRANTY THAT (i) SERVICES WILL MEET YOUR REQUIREMENTS, (ii) WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (iii) THE RESULTS WILL BE ACCURATE OR RELIABLE, (iv) THE QUALITY WILL MEET YOUR EXPECTATIONS, AND (v) ANY ERRORS IN THE SOFTWARE OR ANY PART WILL BE CORRECTED;
(c) ANY MATERIAL DOWNLOADED IS DONE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT MAY RESULT.
(d) NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THESE TERMS.

WE DO NOT ENDORSE AND ARE NOT RESPONSIBLE FOR (a) THE ACCURACY OR RELIABILITY OF ANY THIRD PARTY CONTENT, OPINION, ADVICE OR STATEMENT; OR (b) ANY EVENT HOSTED, DONATION SOLICITED, THE RESULTS OF ANY SURVEY, OR ANY PRODUCT OR SERVICE PURCHASED OR OTHERWISE OBTAINED FROM ANY THIRD PARTY.