

Microsoft Advertising Agreement

IF YOUR PRINCIPAL PLACE OF BUSINESS IS IN THE UNITED STATES OF AMERICA ("UNITED STATES"), PLEASE READ THE BINDING ARBITRATION AGREEMENT AND CLASS ACTION WAIVER (SECTION 12). IT AFFECTS HOW DISPUTES ARE RESOLVED.

This Microsoft Advertising Agreement ("**Agreement**") is between the individual or entity named in your Microsoft Advertising account ("**Company**", "**you**" or "**your**") and the Microsoft entity identified in Section 17 ("**Microsoft**", "**we**", "**us**", or "**our**") regarding Microsoft Advertising ("**Microsoft Advertising**") (see <https://about.ads.microsoft.com> and any successor links ("**Microsoft Advertising Site**")). For the avoidance of doubt, the Microsoft ad technology services (see <https://about.ads.microsoft.com/en#ad-technology>) are not covered by the terms of this Agreement. You accept this Agreement by signing up for or placing an order for Microsoft Advertising, or continuing to use Microsoft Advertising after being notified of a change to this Agreement. In addition to these terms, this Agreement consists of any "**Insertion Orders**" (an order you place with us for advertising), our then-current rules and requirements for Microsoft Advertising on the Microsoft Advertising Site, our policies available at <http://go.microsoft.com/fwlink?LinkId=398341> (collectively, "**Microsoft Advertising Policies**"), and, if your principal place of business is in the United States, the Arbitration Agreement and Class Action Waiver. **If Company is using Microsoft Advertising to place advertisements on behalf of another entity (an "Advertiser"), Company represents and warrants that it is authorized to act on behalf of the Advertiser and has bound the Advertiser to the Agreement and all references to Company in these Terms will also apply to such Advertiser. If Company has not bound an Advertiser to this Agreement, Company will be responsible for performing any obligation, including any contractual or non-contractual disputes and claims of any nature, the Advertiser would otherwise have had under this Agreement. Microsoft may share Advertiser-specific information with Company and Advertiser as part of the Microsoft Advertising service.**

Section 1. Microsoft Advertising. Your use of Microsoft Advertising is subject to all of the terms of this Agreement. You are solely responsible for the security and use of your account, including login criteria, campaign management by third parties, your keywords and targeting decisions, the destinations to which your ad campaigns direct users, and the products and services advertised on those destinations. We may change Microsoft Advertising at any time to add, remove, or modify (a) Microsoft Advertising features; or (b) the network of participating websites on which ads and search results are published. (More information on our partners is available at <https://help.ads.microsoft.com/apex/index/3/en-us/52031>.) Microsoft Advertising is an advertising platform on which Company authorizes Microsoft and its partners to use automated tools to format ads. Microsoft and its partners may also make available to Company certain products and/or optional features, such as Microsoft's Clarity service (<https://clarity.microsoft.com/terms>), to assist Company with the selection or generation of ads, which may be subject to Company's agreement to additional terms and conditions that apply specifically to such products and/or features (e.g., through an online

click-through agreement or notice in the UI). Company is not required to authorize use of these optional features and, as applicable, may opt-in or opt-out of using these features. However, if you use these features, then you will be solely responsible for the ads. You may choose to use preview, beta, or other pre-release features of the Microsoft Advertising services ("**previews**") that we may make available. Previews may contain features that are unsupported and not fully tested. If you provide Microsoft feedback about its services including previews ("**submission**"), you grant Microsoft and its partners rights to use the submission for our own internal purposes, including to improve or promote our services.

Section 2. Content Usage and Moderation. You authorize us to (a) reproduce, publicly perform, publicly display, and transmit your advertising materials and feed data provided to us in connection with this Agreement ("**Content**") and certain other information relating to your use of Microsoft Advertising on products, web sites, applications, software, or services developed, owned or operated by Microsoft or distributed by Microsoft's partners ("**Microsoft Offerings**"), (b) reformat, edit, modify, aggregate, and create derivative works of Content for display on Microsoft Offerings, and (c) disclose or make otherwise available Content and other information relating to your use of Microsoft Advertising as required by applicable law, or judicial or other governmental or regulatory order. For clarity, Content does not include Company Data (defined below). We reserve the right to review and restrict your Content to the extent we deem necessary, including as required by law. More information on our content review and moderation process is available in the Microsoft Advertising Policies.

Section 3. Prohibitions. You will not, directly or indirectly: (a) access or use Microsoft Advertising or provide Content to us for Microsoft Advertising that in any way violates applicable law or this Agreement; (b) generate automated, fraudulent, or otherwise invalid impressions, inquiries, clicks, or conversions; (c) use any automated means or form of scraping or data extraction to access, query, or otherwise collect, copy, reproduce, distribute, publicly perform, or publicly display advertising-related information from Microsoft Advertising; (d) attempt to interfere with the operation of Microsoft Advertising; (e) reverse engineer any aspect of Microsoft Advertising or do anything that might discover or reveal source code, or bypass or circumvent measures employed to prevent or limit access to any part of Microsoft Advertising; or (f) access or use Microsoft Advertising or provide Content to us for Microsoft Advertising that contains, distributes or results in the delivery of any form of virus or malware or any malicious software code. Enforcement of this Section 3 is solely at Microsoft's discretion, and failure to enforce this section in some instances does not constitute a waiver of our right to enforce it in other instances.

Section 4. Payments. You will pay all charges incurred in connection with your account using the method and form of payment you select. For more information on your billing and payment options, please visit <https://help.ads.microsoft.com/apex/index/3/en/n5014>. You must dispute charges within 60 (sixty) days following the date on which such charge was posted to your account. Neither of us is liable for any taxes the other is obligated to pay. You

will pay any sales, value added, stamp, or similar taxes that are permitted to be collected under applicable law. Microsoft will not collect any taxes covered by a valid exemption certificate that you provide to us. If any taxes are required to be withheld on payments you make to us, you may deduct and pay them to the taxing authority. You will deliver to us an official receipt for those withholdings and other documents reasonably requested in order to claim a foreign tax credit or refund and will use reasonable efforts to ensure that any taxes are minimized to the extent possible under applicable law. If you select prepayment as your billing option, any such prepayment shall be treated as inclusive of any value added tax, as applicable.

Section 5. No Warranties; Limitation of Liability. We make no representations about the quality or availability of Microsoft Advertising or anything else and exclude all warranties and guarantees (express, implied, statutory, or otherwise, including those of merchantability, fitness for a particular purpose, non-infringement, and workmanlike effort) to the greatest extent allowed under applicable law. You access and use Microsoft Advertising entirely at your own risk. All aspects of our performance and services are "as is," "with all faults," and "as available." To the greatest extent allowed under applicable law, neither party is liable for any special, incidental, consequential, exemplary, punitive, or other indirect damages related to this Agreement (including for loss of data or profits), foreseeable or not, regardless of the theory of liability. The maximum, aggregate liability of either party to the other, and all third parties: (a) for all claims related to this Agreement is limited to \$5,000 USD; and (b) subject to the foregoing clause (a), for any given claim is the amount paid by you to us under this Agreement for the ad campaign from which that claim arose. Nothing in this Section 5 applies to (y) your payment obligations or Section 6; or (z) either party's liability from fraud or gross negligence.

Section 6. Indemnity. You will defend and indemnify us (and our directors, officers, employees, affiliates, and agents) from and against all claims, demands, suits, or other assertions of rights by any third party (including, if you are a Company entering into this Agreement on behalf of an Advertiser, the Advertiser), and all resulting judgments, settlements, and expenses (including attorneys' fees and costs), that arise out of or relate to Content, your use of Microsoft Advertising, or your breach of any term of this Agreement.

Section 7. Term and Limitation of Remedies. This Agreement begins when you accept it and continues until terminated immediately on written notice pursuant to Section 11 of this Agreement. Either party may terminate this Agreement, and your participation in Microsoft Advertising, at any time, for any or no reason, immediately on written notice. Sections 2, 4 through 15, as well as your warranty in the preamble, survive termination.

Section 8. Microsoft Advertising User Data. As between you and us, we own and control all information we collect from users in connection with our advertising services, including

user information collected from Microsoft online properties, apps, and other technology like our tags, pixels, or other unique tracking codes ("**Microsoft Advertising User Data**"). Microsoft uses such Microsoft Advertising User Data for the purposes of delivering Microsoft Advertising, including, where applicable, retargeting and conversions. You understand and acknowledge that Microsoft uses Microsoft Advertising User Data for its own purposes, including to improve its services. In addition, Microsoft may use Microsoft Advertising User Data for purposes related to reporting and performance analysis. We do not share Personal Data (defined below) that may be contained in Microsoft Advertising User Data collected as a result of your use of Microsoft Advertising with other advertisers or third parties in any form that identifies individuals personally. To the extent such Microsoft Advertising User Data is also Personal Data, we collect, use, and disclose such data as described in the Microsoft Privacy Statement available at <https://www.microsoft.com/en-us/privacy/privacystatement>.

Section 9. Your Privacy and Data Obligations.

- a. You will maintain a prominent link to an online privacy policy on each destination to which your ad campaigns direct Microsoft Advertising users, and you will ensure that each policy complies with this Agreement and any and all applicable privacy laws, regulations, guidelines and industry standards, including but not limited to U.S. federal and state data protection laws, the EU General Data Protection Regulation (Regulation (EU) 2016/679), ePrivacy Directive (Directive 2002/58/EC), and all other equivalent laws and regulations in any relevant jurisdiction relating to Personal Data and privacy ("**Data Privacy Law(s)**"). If you use the Universal Event Tracking (UET) feature (see <https://help.ads.microsoft.com/apex/index/3/en-us/53056>) or otherwise disclose Personal Data to Microsoft, you will disclose in such online privacy policy (and to the extent you maintain one, your cookie policy) the fact that Microsoft collects or receives Personal Data from users or you to provide Microsoft Advertising, and provide a link to the Microsoft Privacy Statement: <https://www.microsoft.com/en-us/privacy/privacystatement>.
- b. If your use of Microsoft Advertising products and services involves processing the Personal Data, including Sensitive Personal Data, of data subjects, you are responsible for processing such Personal Data as required by and in the manner dictated by Data Privacy Laws and the applicable Microsoft Advertising Policies. For example, in the European Economic Area and United Kingdom or other jurisdictions where Data Privacy Laws require consent as a lawful basis for processing Personal Data and/or for activating the UET tag, you must obtain consent in the manner dictated by applicable Data Privacy Laws before activating the UET tag on your properties and/or disclosing any Personal Data to Microsoft. You must not utilize Microsoft Advertising to process Sensitive Personal Data in violation of Data Privacy Laws or this Agreement including the Microsoft Advertising Policies.

- c. **"Personal Data"** means any information relating to an identified or identifiable natural person and where it is applicable, an identifiable, existing juristic person; an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person. **"Sensitive Personal Data"** means Personal Data that includes or reveal any of the following: racial or ethnic origin; religious beliefs; past, present or future mental or physical health status (including but not limited to protected health information under the U.S. Health Insurance Portability and Accountability Act); sex life; sexual orientation; political opinions; citizenship or immigration status; genetic data; processing of biometric data for the purposes of uniquely identifying an individual; government identifiers; Personal Data collected from a known child; and/or any other meaning given to the term "sensitive data" or "special categories" of personal data or other local equivalent.
- d. **Company Data.** Some features of Microsoft Advertising give you the option to use Company Data to enable more focused targeting or remarketing to your customers. If you elect to use these features, the Company Data that you provide to Microsoft in connection with these features will only be used to provide these services to you or as otherwise permitted by law. To the extent Company Data includes Personal Data, Microsoft Advertising will comply with the applicable obligations under Data Privacy Laws and provide the same level of privacy protection required of "businesses" under the California Consumer Privacy Act (as amended, the **"CCPA"**). Microsoft Advertising certifies that it understands the restrictions of, and its obligations under, this Section 9(d) and will notify you if we can no longer comply with our obligations. Upon reasonable written notice, we will take reasonable and appropriate steps to make available information to demonstrate our compliance with applicable provisions of the CCPA in accordance with this Agreement or as we otherwise determine and if you discover unauthorized use of such Personal Data by us, we will take reasonable and appropriate steps to work with you to remediate such allegedly unauthorized use, if necessary. **"Company Data"** means information or data and other content, in any form or medium, that is collected, uploaded, or otherwise received, directly or indirectly, from Company by or through Microsoft Advertising, other than Content. For the avoidance of doubt, Company Data does not include information, data, or other content that is derived from (a) analyzing or processing Company Data; (b) Company's use of Microsoft Advertising; or (c) Microsoft Advertising User Data. You hereby irrevocably grant all such rights and permissions in or relating to Company Data to Microsoft: (i) as are necessary or useful for Microsoft to provide Microsoft Advertising, exercise its rights, and provide others services pursuant to this Agreement; and (ii) for

use, solely in anonymized form, to improve, maintain, and support Microsoft's products, services, and internal business operations.

- e. **Data Requirements.** Company represents and warrants that Company, its affiliates, and its employees or contractors who use Microsoft Advertising (collectively, "**Counterparty**") is not a "covered person" within the meaning of 28 C.F.R. § 202.211. Company will inform Microsoft promptly if any Counterparty becomes, or anticipates it will become, a "covered person" within the meaning of 28 C.F.R. § 202.211. Company shall ensure that with respect to any "government-related data" or "bulk U.S. sensitive personal data" to which Microsoft provides the Counterparty "access", the Counterparty shall not engage in any "covered data transaction" involving "data brokerage" of such data, all within the meaning of 28 C.F.R. part 202.

Section 10. Changes. We may make non-material changes to the Agreement at any time without advance notice, but we will provide at least 15 (fifteen) days' prior notice of any material changes to the Agreement. All changes will apply prospectively, and using Microsoft Advertising after the changes become effective means you accept the changes. If you don't accept the changes, you must stop using Microsoft Advertising. We may change the Microsoft Advertising Policies at any time, without notice to you and with prospective effect.

Section 11. Notices. We may send you notices via the email address you gave us. Notices emailed to you are deemed given when sent. We will notify you of changes to the [Microsoft Advertising Agreement](#) or [Microsoft Advertising Policies](#) by posting the change to the terms on the Microsoft Advertising Site. If you want to notify us, you must send first class mail to Microsoft at the following address:

Attn: Microsoft Advertising Legal and Corporate Affairs
Microsoft Corporation
One Microsoft Way
Redmond, WA 98052 USA

Section 12. Binding Arbitration Agreement and Class Action Waiver if Your Principal Place of Business is in the United States. We hope we never have a dispute, but if we do, you and we agree to try for 60 days to work it out informally. If we can't, you and we agree to binding individual arbitration before the American Arbitration Association ("AAA") under the Federal Arbitration Act, and not to sue in court in front of a judge or jury. Instead, a neutral arbitrator will decide. Class action lawsuits, class-wide arbitrations, private attorney-general actions, and any other proceeding where someone acts in a representative capacity aren't allowed. Nor is combining individual proceedings without the consent of all parties.

The complete Arbitration Agreement and Class Action Waiver contains more terms and is at <https://about.ads.microsoft.com/en-us/resources/policies/class-action-waiver-and-binding-arbitration>. You and we agree to it. Please read it.

Section 13. Dispute Resolution if Your Principal Place of Business is in the European Economic Area or the United Kingdom (UK). If we have a dispute, you and we may (but are not required to) try for 60 days to work it out informally, including pursuant to the process set forth for disputes arising under the Microsoft Advertising Policies. If we can't, you and we may agree to refer the dispute to the Centre for Effective Dispute Resolution, which will nominate a mediator (if a mediator is available and willing to serve), or you and we may agree to select another mediator we jointly agree to use. If a mediator is engaged, you and we each agree to bear a reasonable proportion of the mediation's costs; if you and we can't agree on the proportion, the mediator will decide.

Section 14. Dispute Resolution if Your Principal Place of Business is in India. Any issue or claim arising out of or in connection with this Agreement shall be referred to and finally resolved by arbitration in accordance with the Indian Arbitration Act, 1996. The arbitration shall be conducted in accordance with the procedure laid down in the Rules of the Singapore International Arbitration Centre ("**SIAC**"), the curial law of arbitration, which rules are deemed to be incorporated by reference into this Agreement. The Tribunal shall consist of one arbitrator to be appointed by the Chairman of SIAC. The language of the arbitration shall be English, and the seat and venue of the arbitration shall be New Delhi. The decision of the arbitrator shall be final, binding and incontestable and may be used as a basis for judgment thereon in India or elsewhere.

Section 15. Governing Law and Place to Resolve Disputes.

If your principal place of business is in the United States or Canada, the laws of the State or Province of your principal place of business govern this Agreement, and any non-contractual obligations arising out of or relating to it, claims for its breach, your use of Microsoft Advertising, Insertion Orders, your advertising, its price, your purchase transaction, or billing regardless of conflict of laws principles, except that the Federal Arbitration Act governs everything relating to arbitration.

If your principal place of business is in Europe, the Middle East, or Africa ("EMEA"), the laws of Ireland govern this Agreement and any non-contractual obligations arising out of or relating to it, claims for its breach, your use of Microsoft Advertising, Insertion Orders, your advertising, its price, your purchase transaction, or billing regardless of conflict of laws principles.

If your principal place of business is in India, the laws of New Delhi, India govern this Agreement and any non-contractual obligations arising out of or relating to it, claims for its breach, your use of Microsoft Advertising, Insertion Orders, your advertising, its price, your

purchase transaction, or billing regardless of conflict of laws principles. To the fullest extent permitted by applicable law, the parties waive their right to any form of appeal or other similar recourse to a court of law.

If your principal place of business is outside the United States, Canada, EMEA and India, Nevada State, USA law governs this Agreement and any non-contractual obligations arising out of or relating to it, claims for its breach, your use of Microsoft Advertising, Insertion Orders, your advertising, its price, your purchase transaction, or billing, regardless of conflict of laws principles.

Place to Resolve Disputes. If we ever have a dispute that becomes a court case arising out of or relating to this Agreement or any non-contractual obligations arising out of or relating to it, claims for its breach your use of Microsoft Advertising, Insertion Orders, your advertising, its price, your purchase transaction, or billing, **the exclusive forum will be in the courts of (a) Ireland, if your principal place of business is in EMEA; or (b) New Delhi, India if your principal place of business is in India; or (c) Ontario, Canada, if your principal place of business is in Canada; or (d) a state or federal court in King County, Washington, USA if your principal place of business is anywhere else.** You waive any objection to proceedings in such courts on the grounds of venue or on the grounds that proceedings have been brought in an inconvenient forum.

Section 16. General. Each party is an independent contractor to the other and has no authority to act on behalf of or bind the other, and this Agreement does not create another relationship (e.g., employment, partnership, agency, or franchise). Failure to enforce any part of this Agreement is not a waiver; only written waivers are effective. You will not assign this Agreement either in whole or part without our consent, and any assignment in violation of this Section 16 is null and void. Subject to the foregoing, this Agreement will bind and benefit the parties' successors and lawful assigns. If a court or arbitrator holds that we can't enforce a part of this Agreement as written, we may replace those terms with similar terms to the extent enforceable under the relevant law, but the rest of this Agreement won't change. Section h of the Binding Arbitration Agreement and Class Action Waiver says what happens if parts of Section 12 above (Binding Arbitration Agreement and Class Action Waiver) are found illegal or unenforceable; Section h of the Binding Arbitration Agreement and Class Action Waiver prevails over this Section 16 if inconsistent with it and if your principal place of business is in the United States. All rights and remedies under this Agreement are cumulative. This Agreement is the parties' entire agreement on this subject, merges all prior and contemporaneous communications, and supersedes all prior agreements between the parties regarding this subject.

Section 17. Microsoft Entity. "Microsoft" means Microsoft Online, Inc. (6880 Sierra Center Parkway, Reno, NV 89511 USA) unless your principal place of business is in (a) India in which case "Microsoft" means Microsoft Corporation (India) Private Limited (Level 10, Tower C,

Epitome, Building No. 5, DLF Cyber City, Phase 3, Gurugram 122002 – Haryana, India), (b) Brazil in which case “Microsoft” means Microsoft do Brasil Importação e Comércio de Software e Video Games Ltda., enrolled with the CNPJ under No. 04.712.500/0001-07 (Av. Presidente Juscelino Kubitschek 1909, Torre Sul, 18 Andar, conj. 181 – Vila Nova Conceição, CEP: 04543-907 São Paulo/SP Brasil), (c) EMEA or Asia-Pacific excluding mainland China and Taiwan (“APAC”) in which case “Microsoft” means Microsoft Ireland Operations Limited (One Microsoft Place, South County Business Park, Leopardstown, Dublin, Ireland 18, D18 P521), or (d) Taiwan in which case “Microsoft” means Microsoft Taiwan Corporation (18F, No. 68 Sec. 5, Zhongxiao E. Rd, Xinyi District, Taipei City, 11065, Taiwan).

See the [change log](#) for information on updates that have been made to the Microsoft Advertising Agreement.