

Recastio, LLC Terms of Service

[Last Updated: February 5, 2019]

This Terms of Service Agreement (“Agreement”) creates a valid contract between you and Recastio, LLC (“Recastio”). Please read this Agreement carefully. This Agreement governs your access to and use of Recastio’s services, including its websites, branded pages on third party platforms (*i.e.*, social networking services), mobile and Amazon Marketplace applications, events, physical retail locations, and mobile messaging services (collectively, the “Services”), and your purchase of the Products (as defined below) sold through the Recastio Services. By using the Services and the Products, you agree, without limitation or qualification, to be bound by this Agreement.

The terms “you,” “your,” “user,” and “users,” as used herein, refer to all individuals and/or entities accessing the Recastio Services.

1. USE OF THE RECASTIO SERVICES

a. Eligibility

You must be 18 years of age or older to visit or use the Recastio Services in any manner. By visiting the Recastio Services or accepting this Agreement, you represent and warrant to Recastio that you are 18 years of age or older, and that you have the right, authority, and capacity to agree and abide by terms contained herein. You also represent and warrant to Recastio that you will use the Recastio Services in a manner consistent with any and all applicable laws and regulations.

b. Use of Recastio’s Services, Products, and Content

The content on Recastio’s Products and Services, such as information, text, images, graphics, interfaces, photographs, illustrations, audio and video clips, trademarks, trade names, service marks, logos, information obtained from Recastio’s licensors, and any other materials displayed through the Recastio Products or Services (collectively, the “Content”) is protected by copyright under both United States and foreign laws. Title to the Content remains with Recastio. Any use of the Content not expressly permitted by this Agreement is a breach of these terms and may violate copyright, trademark, and other laws. Except as stated herein, none of the Content may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means without the prior written permission of Recastio or its licensors. All rights not expressly granted herein are reserved to Recastio and its licensors. If you violate any of these terms, your permission to use the Content automatically terminates and you must immediately destroy any copies you have made of any portion of the Content. You may not, without Recastio’s written permission, “mirror” any Content contained in the Recastio Services or any other server.

You hereby represent and warrant that you will not, and will not induce any third party to use the Recastio Services in any way that: (a) harasses, abuses, stalks, threatens, defames any person, or otherwise infringes or violates the rights of any person (including but not limited to rights of publicity or other proprietary rights); (b) is unlawful, fraudulent, or deceptive; (c) uses technology or other means to access unauthorized content or non-public spaces; (d) uses any “deep-link”, “page-scrape”, “robot”, “spider”, or other automatic device, program, algorithm or methodology, or any comparable manual process, to access, acquire, copy, or monitor any portion of the Services or Content; (e) attempts to introduce viruses or any other harmful computer code, files or programs that interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment; (f) attempt to disable or circumvent any security mechanisms used by the Services or Content or otherwise attempt to gain unauthorized access to any portion of the Services or Content or any other systems or networks connected to the Site, or to any server of Recastio or its third party service providers, by hacking, password “mining”, or any other illegal means; (g) attempts to gain unauthorized access to Recastio’s user

accounts; (h) encourages conduct that would constitute a criminal offense, or that gives rise to civil liability; (i) use the Services or Content for, or in connection with, any illegal purpose, to solicit, facilitate, encourage, condone, or induce any illegal activity, or as otherwise prohibited by this Agreement or applicable laws, rules or regulation; (j) is unlawful or violates this Agreement in any manner; or (k) fails to comply with applicable third-party terms and conditions or other third-party policies.

Recastio reserves the right, in its sole discretion, to refuse, discontinue, block and/or terminate your use of, and access to, the Recastio Services and Products, or any portion thereof, at any time, for any reason or for no reason at all, without prior notice or any notice.

c. Non-Exclusive Limited License

So long as you are in compliance with this Agreement, Recastio grants a non-exclusive limited, non-transferable license to use the Recastio Services and Products. Your license is limited to the number of screens that you may display the interactive slides and slideshows, based on the package that you purchased. You may not copy, decompile, reverse engineer, disassemble, attempt to derive the source code of, modify, or create derivative works of the Services and Products, any updates, or any part thereof. More specifically, you may not alter the interactive slides in such a way as to remove Recastio's standard Content, including its name, trademark, etc. Any attempt to do so is a violation of this Agreement. If you breach this restriction, you may be subject to prosecution and damages. This Agreement will govern any upgrades provided by Recastio that replace and/or supplement the original Recastio Services and Products, unless such upgrade is accompanied by separate or updated terms of service. If you violate any of these terms, your permission to use the Content automatically terminates and you must immediately destroy any copies you have made of any portion of the Content.

d. User Submissions

Except as provided otherwise in this Agreement, Recastio does not claim ownership of any information or material a user provides to Recastio or posts, uploads, input, submits, or transmits to the Recastio Services ("Submission"). You agree that you will not make any Submission that is, in whole or in part, libelous; scandalous; inflammatory; discriminatory; defamatory; false; threatening; vulgar; obscene; pornographic; profane; abusive; harassing; invasive of another's privacy; hateful or bashing; aimed at gender, race, color, sexual orientation, national origin, religious views, or disability; in violation of local, state, national, or international law; or that infringes on, or violates, any right of any party.

By making a Submission, you agree that such Submission is non-confidential, non-proprietary, and may be disseminated or used by Recastio. If you make a Submission, you automatically grant—or warrant that the owner of such content has expressly granted—Recastio a royalty-free, perpetual, irrevocable, worldwide nonexclusive license to use, reproduce, create derivative works from, modify, publish, edit, translate, distribute, perform, and display the Submission in any media or medium, or any form, format, or forum now known or hereafter developed. Notwithstanding the foregoing, Recastio is not required to use any Submission.

You are solely responsible for your Submissions, the consequences of making a Submission, and your reliance on any Submissions. Recastio is **not responsible** for the consequences of any Submission. Recastio is not responsible for screening or monitoring Submissions made to the Recastio Services by users.

Recastio reserves the right (but is not obligated) to: (a) record the dialogue on the Recastio Services; (b) investigate an allegation that a Submission does not comply with this Agreement and determine in its sole discretion to remove or request the removal of the Submission; (c) remove Submissions which are abusive, illegal, disruptive, or outdated, or that otherwise fail to comply with this Agreement; (d) terminate a user's access to any or all parts of the Recastio Services upon any breach of these terms or the law; (e) monitor, edit, or disclose any Submission; and (f) edit or delete any Submission

posted on the Recastio Services, regardless of whether such Submission violates this Agreement. Recastio will have no liability or responsibility to users for performance or nonperformance of such activities.

e. Your Account

If you use the Recastio Services and Products, you are responsible for maintaining the security and confidentiality of your account and password and for restricting access to your computer. You agree to accept responsibility for all activities that occur under your account or password. Recastio cannot and will not be liable for any loss or damage from failure to comply with your security obligations. If you become aware of any unauthorized access to your account, you should notify customer support immediately at admin@recastio.com. Recastio reserves the right to refuse service, terminate accounts or memberships, remove or edit content, or cancel orders in its sole discretion.

f. Consent to Receive Communications

You agree that from time to time, you may receive communications from Recastio. These communications could include, but are not limited to, phone, email, and text communications. The subject of these communications could be of the nature of newsletters, special offers, reminders, updates, or notifications. You further agree that any notices, agreements, disclosures, or other communications that Recastio send to you electronically will satisfy any legal communication requirements, including that those communications be in writing.

2. TERMS OF SALE

a. The Products

Recastio sells the ability to display interactive slides and slideshows, including images, text, and advertising material and informational announcements on televisions and mobile devices (the “Products”) to end-user customers who purchase a recurring monthly plan to have the Products delivered regularly.

b. Product Pricing

The price that we will charge you for the Products may be based on a tiered pricing structure that depends on the number of the Products subscribed to each month. Pricing for the Products can be found on Recastio.com. Recastio reserves the right to change a Product’s pricing structure at any time, with appropriate notice to you. Recastio does not provide price protection or refunds in the event of promotions or price decreases.

c. Subscriptions

The Products are offered through a subscription plan (“Subscription”). This means you will be billed in advance on a recurring and periodic basis. **YOU ACKNOWLEDGE AND AGREE THAT EACH SUBSCRIPTION AUTOMATICALLY RENEWS UNLESS YOU CANCEL IT OR RECASTIO SUSPENDS OR TERMINATES IT IN ACCORDANCE WITH THIS AGREEMENT.**

d. Subscriptions and Promotions

Recastio reserves the right, in its absolute discretion, to withdraw or modify any Product, Service, Subscription, offering, or promotion at any time without prior notice and with no liability. Any and all Products, Subscriptions, offers, or promotions advertised on the Recastio Services are void where prohibited and are subject to the posting of an official rule to such offers or promotions.

e. Refunds

Refund requests must be made directly to Recastio at admin@recastio.com within thirty (30) days of the date of Subscription to Recastio. Promptly following Recastio's receipt of your request (typically within five (5) business days), Recastio will credit the amount paid for Subscription to the payment method you used to make the original purchase. Notwithstanding the foregoing, Recastio does not control when a specific credit card or payment method company processes a chargeback transaction. You are responsible for contacting your payment method company if you have questions about the status of the chargeback. We will not provide a refund for a request that is received by Recastio more than thirty (30) days after the date of original Subscription.

f. Subscription Cancellation

You may cancel your Subscription at any time from the Account Page on the Recastio website. To cancel a Subscription, click on the "Membership Setting" link at the bottom of the page, then follow instructions towards cancellation. Cancellation requests submitted in this manner must be received at least one full business day prior to your next service period to avoid being charged for that month. Cancellation requests received by Recastio through other channels may take up to five (5) business days to process. If you have any problems, please email us at admin@recastio.com. All Submissions you uploaded to Recastio Services and Products may be deleted upon the cancellation of your Subscription.

3. CONTACT WITH THIRD-PARTIES

The Recastio Services may contain hyperlinks to other websites and webpages ("Third-Party Pages"), as well as to text, graphics, videos, images, music, sounds, and information belonging to or originating from other third-parties (collectively, "Third-Party Applications"). Recastio does not investigate, monitor, or review any Third-Party Pages or Third-Party Applications to ensure their accuracy, completeness, or appropriateness. Recastio is not responsible for the Third-Party Pages or any Third-Party Applications accessed through the Recastio Services. You agree that Recastio shall have no liability with respect to any loss or damage of any kind incurred as a result of any dealings between you and any third-party, or as a result of the presence of such third-party on the Recastio Services.

The inclusion of any hyperlinks to any Third-Party Pages or Third-Party Applications on the Recastio Services does not indicate Recastio's approval or endorsement thereof. These links are provided solely as a convenience or benefit to users. Your interactions with a third-party on the Recastio Services, or based on such third-party's participation or presence on the Recastio Services, are solely between you and the third-party. Recastio makes no representations or warranties with respect to the content, ownership, or legality of any such linked Third-Party Page. If you choose to leave the Recastio Services to access any Third-Party Pages or Third-Party Applications, you do so at your own risk. You should refer to the separate terms of service, privacy policies, and other rules posted on Third-Party Pages.

4. LIABILITY AND INDEMNIFICATION

a. No Warranties

RECASTIO PROVIDES THE SERVICES AND PRODUCTS "AS IS," "WITH ALL FAULTS" AND "AS AVAILABLE," AND THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY, AND EFFORT IS WITH YOU. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, RECASTIO MAKES NO REPRESENTATIONS, WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED. RECASTIO EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES OR CONDITIONS, EXPRESS, STATUTORY AND IMPLIED, INCLUDING WITHOUT LIMITATION: (A) WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, WORKMANLIKE EFFORT, ACCURACY, TITLE, QUIET ENJOYMENT, NO ENCUMBRANCES, NO LIENS AND NON-

INFRINGEMENT; (B) WARRANTIES OR CONDITIONS ARISING THROUGH COURSE OF DEALING OR USAGE OF TRADE; AND (C) WARRANTIES OR CONDITIONS OF UNINTERRUPTED OR ERROR-FREE ACCESS OR USE. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU THROUGH THE SERVICES, PRODUCTS, OR ANY MATERIALS AVAILABLE THROUGH THE SERVICES WILL CREATE ANY WARRANTY REGARDING RECASTIO OR THE SERVICES THAT IS NOT EXPRESSIVELY STATED IN THIS AGREEMENT. YOU ASSUME ALL RISK FOR ANY DAMAGE THAT MAY RESULT FROM YOUR USE OF OR ACCESS TO THE SERVICES, PRODUCTS, YOUR DEALING WITH ANY OTHER USER, AND ANY MATERIALS, INCLUDING ALL USER AND RECASTIO MATERIALS, AVAILABLE THROUGH THE SERVICES. YOU UNDERSTAND AND AGREE THAT YOUR USE OF THE SERVICES, PRODUCTS, CONTENT, AND ANY ASSOCIATED SITES OR SERVICES, ARE AT YOUR OWN DISCRETION AND RISK, AND THAT YOU ARE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR PROPERTY (INCLUDING YOUR COMPUTER SYSTEM OR MOBILE DEVICE USED IN CONNECTION WITH THE SERVICES), OR THE LOSS OF DATA THAT RESULTS FROM THE USE OF THE SERVICES OR THE DOWNLOAD OR USE OF THOSE MATERIALS. SOME JURISDICTIONS MAY PROHIBIT A DISCLAIMER OR WARRANTIES AND YOU MAY HAVE OTHER RIGHTS THAT VARY FROM JURISDICTION TO JURISDICTION.

b. Limitation of Liability

IN NO EVENT WILL RECASTIO AND ITS AFFILIATES BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES (INCLUDING DAMAGES FOR LOSS OF PROFITS, GOODWILL, OR ANY OTHER INTANGIBLE LOSS) ARISING OUT OF, BASED ON, OR RESULTING FROM THIS AGREEMENT OR YOUR USE OR ACCESS, OR INABILITY TO USE OR ACCESS, THE SERVICES, PRODUCTS, OR ANY OF THE MATERIALS ON THE SERVICES, WHETHER BASED ON (A) BREACH OF CONTRACT, (B) BREACH OF WARRANTY, (C) NEGLIGENCE, OR (D) ANY OTHER CAUSE OF ACTION, EVEN IF RECASTIO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TO THE FULLEST EXTENT PERMISSIBLE PURSUANT TO APPLICABLE LAW, RECASTIO AND ITS AFFILIATES ASSUME NO RESPONSIBILITY FOR ANY (E) ERRORS, MISTAKES, OR INACCURACIES OF THE CONTENT OR OTHER MATERIALS, (F) PERSONAL INJURY OR PROPERTY DAMAGES, OF ANY NATURE WHATSOEVER, RESULTING FROM YOUR ACCESS TO OR USE OF THE SERVICES AND PRODUCTS, (G) ANY UNAUTHORIZED ACCESS TO OR USE OF OUR SERVERS AND/OR ANY AND ALL PERSONAL INFORMATION STORED THEREIN, (H) ANY INTERRUPTION OR CESSATION OF TRANSMISSION TO OR FROM THE SERVICES, (I) ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE THAT MAY BE TRANSMITTED TO OR THROUGH OUR SERVICES AND PRODUCTS BY ANY THIRD-PARTIES, (J) ANY ERRORS OR OMISSIONS IN ANY CONTENT OR OTHER MATERIALS OR FOR ANY LOSS OR DAMAGE INCURRED AS A RESULT OF THE USE OF ANY MATERIALS POSTED, EMAILED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE THROUGH THE SERVICES AND PRODUCTS, AND/OR (K) USER MATERIALS OR THE DEFAMATORY, OFFENSIVE, OR ILLEGAL CONDUCT OF ANY THIRD-PARTY. THE AGGREGATE LIABILITY OF RECASTIO AND ITS AFFILIATES TO YOU FOR ALL CLAIMS ARISING OUT OF OR RELATING TO THE USE OF OR INABILITY TO USE ANY PORTION OF THE SERVICES, PRODUCTS OR OTHERWISE UNDER THIS AGREEMENT, WHETHER IN CONTRACT, TORT, OR OTHERWISE IS LIMITED TO THE GREATER OF: (L) THE AMOUNT YOU HAVE PAID TO RECASTIO FOR THE SERVICES AND PRODUCTS IN THE 12 MONTHS PRIOR TO THE EVENTS OR CIRCUMSTANCES GIVING RISE TO THE CLAIMS AND (M) \$100.00. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL DAMAGES. ACCORDINGLY, THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU. EACH PROVISION OF THIS AGREEMENT THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS INTENDED TO AND DOES ALLOCATE THE RISKS BETWEEN THE PARTIES UNDER THIS AGREEMENT. THIS ALLOCATION IS AN ESSENTIAL ELEMENT OF THE AGREEMENT OF THE PARTIES. THE

LIMITATIONS IN THIS SECTION WILL APPLY EVEN IF ANY LIMITED REMEDY FAILS ITS ESSENTIAL PURPOSE.

c. Indemnification

You agree to defend, indemnify, and hold Recastio, its affiliates, licensors, suppliers, and third-party service providers, and each of their respective members, officers, employees, contractors, agents, successors, and assigns harmless from and against any claims, actions, demands, liabilities, and settlements including, without limitation, reasonable legal and accounting fees, resulting from, or alleged to result from, your use of the Recastio Services, the Products, Contents, or your violation of this Agreement. Recastio reserves the right to assume the exclusive defense and control of any matter otherwise subject to indemnification by the user, in which event the user will cooperate in asserting any available defenses.

5. ARBITRATION AND WAIVER

ANY AND ALL DISPUTES YOU OR RECASTIO HAS RELATING IN ANY WAY TO THE SERVICES, PRODUCTS, CONTENT, THIS AGREEMENT, OR YOUR RELATIONSHIP WITH RECASTIO (COLLECTIVELY, THE “CLAIMS”) WILL BE SUBMITTED TO CONFIDENTIAL ARBITRATION. Claims include, without limitation, claims based in contract, tort (including intentional tort), fraud, agency, negligence, statutory or regulatory provisions, or any other source of law. The Federal Arbitration Act and federal arbitration law apply to this Agreement.

THERE IS NO JUDGE OR JURY IN ARBITRATION, AND COURT REVIEW OF AN ARBITRATION AWARD IS LIMITED. HOWEVER, AN ARBITRATOR CAN AWARD ON AN INDIVIDUAL BASIS THE SAME DAMAGES AND RELIEF AS A COURT (INCLUDING INJUNCTIVE AND DECLARATORY RELIEF OR STATUTORY DAMAGES), AND MUST FOLLOW THE TERMS OF THIS AGREEMENT AS A COURT WOULD.

To begin an arbitration proceeding, you must send a letter requesting arbitration and describing your claim to Recastio’s email address at admin@recastio.com or to Recastio’s customer service department at 4501 Hills & Dales Rd NW, Suite 201, Canton, Ohio 44708. The arbitration will be conducted by the American Arbitration Association (“AAA”) under its rules, including AAA’s Supplementary Procedures for Consumer-Related Disputes. The AAA’s rules are available at ww.adr.org or by calling 1-800-778-7879. Payment of all filing, administration, and arbitrator fees will be governed by the AAA’s rules. You may choose to have arbitration conducted by telephone, based on written submissions, or in person in Stark County, Ohio.

YOU FURTHER AGREE THAT ANY DISPUTE RESOLUTION PROCEEDINGS WILL BE CONDUCTED ONLY ON AN INDIVIDUAL BASIS AND NOT IN A CLASS, CONSOLIDATED OR REPRESENTATIVE ACTION. IF FOR ANY REASON A CLAIM PROCEEDS IN COURT RATHER THAN IN ARBITRATION, YOU WAIVE ANY RIGHT TO A JURY TRIAL.

6. GENERAL

a. Severability

If any term or provision of this Agreement or any application thereof shall be invalid or unenforceable, the remainder of this Agreement and any other application of such term or provision shall not be affected thereby.

b. Complete Agreement

Except as expressly provided in a particular notice or disclaimer posted by or on behalf of Recastio on the Recastio Services, this Agreement constitutes the entire agreement between you and Recastio with respect to the use of the Recastio Services and Products.

c. Modification

Recastio reserves the right to update and change this Agreement and its terms hereto, without notice, by posting a new version on Recastio's website. Your continued use of the Recastio Services and Products following the posting of modified terms will be subject to the terms in effect at the time of your use. Please review these terms periodically for changes. If you object to any provision of this Agreement or any subsequent terms or become dissatisfied with the Services or Products in any way, your only recourse is to immediately terminate use of the Services and/or Products.

d. Waiver

Recastio shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing. No delay or omission on the part of Recastio in exercising any right shall operate as a waiver of such right or any other right.

e. Applicable Law

You agree that the Federal Arbitration Act, applicable federal law, and the laws of the state of Ohio, without regard to principles of conflict of laws, will govern this Agreement and any dispute of any sort that might arise between you and Recastio.

f. Interpretation

Any term defined herein in the singular form shall have a comparable meaning when used in the plural form, and vice versa. When used herein, (a) the words "hereof", "herein" and "hereunder" and words of similar import shall refer to this Agreement as a whole and not to any particular provision of this Agreement and (b) the terms "include", "includes", and "including" are not limiting and have the inclusive meaning frequently identified with the phrase "but not limited to." All words used in this Agreement shall be construed to be of such gender or number as the circumstances require. Unless the context requires otherwise, derivative forms of any term defined herein shall have a comparable meaning to that of such term. The headings in this Agreement are for convenience of reference only and shall not be deemed to alter or affect any provision of this Agreement.

g. No Third-Party Beneficiaries

This Agreement is for the benefit of, and may be enforced by the parties hereto, and their respective successors and assignees, and is not for the benefit of, and may not be enforced by, any third-party.

h. Assignment

This Agreement will be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties hereto.