

VIVIAL DIGITAL PRODUCTS TERMS AND CONDITIONS

These Terms and Conditions, the Order and any applicable Service Schedule(s), each as further defined below, and any other forms authorized by us which by their terms are intended to be incorporated into these Terms and Conditions, as may be updated by us from time to time, constitute the entire agreement ("**Agreement**") between you and us concerning all matters relating hereto, and supersede any prior discussions, agreement, course of dealing or understandings between you and us relating to the Service. These Terms and Conditions and all Service Schedules are also available at www.vivial.net/legal. We may change these Terms and Conditions at any time without notice, and any changes will be included in the Agreement, as applicable. Please check the Terms and Conditions for changes periodically. Your continued use of the Services after the Terms and Conditions have been changed constitutes Your acceptance of such changes. **PLEASE NOTE: This Agreement, including all Services in your Order, shall automatically renew without any additional notice to you, unless cancelled by you in the manner set forth below. This Agreement contains performance disclaimers, Advertiser warranties, Advertiser indemnity obligations, venue limitations, and limitations on liability. Our liability in connection with any Service shall be limited to amounts actually paid by you for such Service. You are responsible for reviewing all terms contained in this Agreement.**

1. Definitions. For purposes of the Agreement: (a) "**you**" and "**your**" refer to you, the "Advertiser," and/or the person or entity identified by the "Account Name" as identified on any Order, and encompasses each user accessing the Services by means of a valid account established by you, including, if you are a corporation or other similar legal entity, all of your employees and personnel (collectively, "Your Users"); (b) "**Vivial**" means Vivial Media LLC and its subsidiaries, affiliates, successors and assigns; (c) "**we**," "**us**," and "**our**" refers to any provider of service(s), as determined by Vivial and referenced on your Order, and Vivial; (d) "**Order**" means any order submitted by you requesting Service(s); (e) "**Advertising**" means all content, including Customer Content, and any content you direct us to create or publish, or that we develop or procure for you, in any form or media, including in each case all tangible and intangible works of any kind (including, without limitation, text, graphics, artwork, maps, photographs, layouts, fonts, recordings, source code, object code, web sites, e-mail, links, video, audio, metadata, keywords or other materials); (f) "**Customer Content**" means all content you provide to us or that you upload, post, transfer to, or otherwise cause to be displayed publicly through or as a result of any of our Services of any nature, form, or format; (g) "**Service(s)**" means any service(s) which we may provide to you, including, without limitation, any services related to digital Advertising, including, without limitation, any website development service and any internet-related service; and (h) "**Service Schedule**" means any addenda, amendment, exhibit, schedule or supplemental form related to the Order and outlining additional terms and conditions related to a specific Service(s) and which by their terms are intended to be incorporated into these Terms and Conditions. All other capitalized terms shall have the meanings set forth below, or in any part of the Agreement.

2. Your Order. If you (i) sign the Order (physically, electronically or otherwise); or (ii) provide a recorded verbal authorization to place the Order, you make a firm offer to us in which you shall be deemed to have: (a) read and understood these Terms and Conditions and agree to be legally bound by them and any update thereto during the Term; (b) acknowledged that the individual signing the Order or providing the verbal authorization represents and warrants that he or she is authorized to bind you to this Agreement; and (c) agreed to pay for the Service(s) as described in the Order. Rates quoted for the Service(s) are only for the specific items shown in the Order and rates for any other item (including any renewal) will be those in effect at the time of its publication or renewal.

3. No Obligation To Publish or Provide Service(s). We may choose not to provide any Service(s). We will be bound by the Order only if and when we provide the Service(s) (but only as to the Service(s) actually provided, and not as to any Service(s) listed on the Order but not provided). If we choose not to provide any Service(s) or reject any Order, in whole or in part, we will refund any money you paid for rejected portions of the Order and will have no further obligation to you.

4. Term. The "**Term**" (including any "**Initial Term**," "**Renewal Term**" or other term, regardless of name) of each Service shall be as set forth in the Order and is subject to automatic renewal as described herein, unless otherwise expressly specified in the Order. For any Service(s), the Term may begin as early as the day that we begin work to fulfill your Order. Any upgrade or substitution of Service(s) we agree to with you will start on the agreed date and extend for the new term of the upgraded or substitution Service(s).

5. Automatic Renewal. IT IS YOUR EXPRESS INTENTION IN ENTERING INTO THIS AGREEMENT THAT THE TERM FOR ANY SERVICE(S) SHALL AUTOMATICALLY RENEW UNLESS CANCELLED BY YOU IN THE MANNER SET FORTH BELOW. Such "Renewal Term" shall be, unless otherwise specified in the Order, on a month-to-month basis following the Initial Term. The applicable Renewal Term shall be deemed a new "Term" and shall be automatically renewed at the end of each Term again unless cancelled by you in the manner set forth below. If we do not receive the written notice contemplated by this Section and we elect to renew, in our sole discretion, such renewal may be at our then-prevailing monthly rates and charges for any Renewal Term. You must notify us in writing of your intent not to renew at least thirty (30) days prior to the expiration of the then-current Term. It is your responsibility to obtain the deadline for cancelling the renewal of any particular Service by contacting Vivial, as set out herein. We may send you notice of renewal containing any change in rates, but are not required to do so. We reserve the right not to renew your Service(s) or Order or any portion thereof. We reserve the right, prior to commencement of any Renewal Term, to eliminate or modify any standards, specifications,

products, headings, or policies (including, without limitation, as to placement of Advertising) relating to the Service(s).

6. Termination of Service(s). Digital Service(s) may be terminated by you prior to the expiration of the Initial Term with thirty (30) days written notice, unless otherwise agreed in writing, only so long as: (i) you are not in breach of any term or condition of the Agreement, including, without limitation, payment; (ii) you pay all outstanding amounts owed as of the date such termination becomes effective; and (iii) you pay a "**Cancellation Fee**" equal to the lesser of: (a) three times the monthly recurring charge for the terminated Service; or (b) all charges owed for the remainder of the then-current Term for the terminated Service. You may terminate Service(s) after the Initial Term only as set forth in Section 5.

7. Payment. We may require payment of a set-up fee for certain Services, as indicated on your Order. Set-up fees are non-refundable. We may require advance payment in full or in part prior to providing a particular Service or may, at our discretion, require a deposit as a condition to any continuation of Service, which deposit we may utilize as payment for any amount not paid when due. You authorize us to review your credit history and we may require completion of a credit application to determine whether advance payment is required. Some Service(s) will require advance payment regardless of your credit history. In addition to the right to require partial or full payment in advance as a condition of providing Service(s), we may charge a reasonable fee for requests that exceed our customary services, including, for example, excessive content changes or non-standard billing requests such as paper invoicing.

You acknowledge and agree that we are authorized to act on payment instructions received by you. By giving us your banking, credit card, debit card or other financial information, you authorize us to initiate debits against your financial account(s) or charge your credit card for amounts authorized by you, whether periodic or one-time payments. For recurring payment by credit card or ACH in which the "Monthly Total" due pursuant your Order will be paid on a recurring basis, you understand that the payment may vary and that you must have funds available to make the full payment. If a scheduled payment is rejected for any reason, you will be responsible for any applicable fees. If a convenience fee is added to the transaction, you understand that the convenience fee will be included in the total payment amount. You understand that convenience fees may vary based on the payment amount. This authorization will remain in force until all amounts owed to us under this or any other agreement you have with us are satisfied or you revoke your authorization in writing.

Billing for digital Services, with the exception of SEO and Social Media Management, begins when products go live. Billing for SEO and Social Media Marketing begins when work to fulfill the Services commences. We will bill you in advance for the next month of Service(s), with the exception of any variable charges, which we will bill after accrued at the rates set forth in your Advertising Order. Due to the timing of your current billing cycle, and any new Service(s) billed, in addition to your full monthly charge, a prorated amount may also appear on your next billing statement. You agree to pay all charges due, plus any applicable taxes, fees or surcharges, upon receipt of our invoice. You agree not to include any limiting endorsement on a check or other form of payment. We may cash a check containing a limiting endorsement without affecting your obligations or our rights. Unless otherwise stated in the Order, payment obligations commence immediately upon commencement of the applicable Term. Payments on your account, including the application of any credits or adjustments, may be applied against the oldest open balance on your account.

A late payment administrative charge of \$25.00 per month may be applied monthly and at any time, including after any late balance is paid, for any balance you owe that remains unpaid as of thirty (30) days following the date of our invoice. Interest at the rate of 1 ½% (\$2.00 minimum) per month may also be applied at any time, including after any late balance is paid, for any balance you owe that remains unpaid as of thirty (30) days following the date of our invoice. Any payment returned or rejected by your bank or institution for whatever reason may be subject to a service charge in accordance with our then-current policies. In the event that an ACH transaction payment is returned for insufficient funds, you authorize us to electronically debit your bank account for the original amount of the transaction, as well as any returned item fees, up to the maximum amount allowed by law. You also agree to pay any reasonable costs of collection, attorneys' fees, and expenses that we may incur in collecting or attempting to collect any unpaid amount. If more than one party places the Order, all will be jointly and severally liable for all amounts owed.

If you do not pay any amount owed by the due date, fail to meet any other obligation of the Agreement or make any representation or warranty that is or becomes untrue, we may, at our option and in addition to other rights and remedies, suspend, terminate or discontinue any Service(s) and declare the entire amount due for the Term payable in full immediately. We may disclose information concerning you or your account to third parties, such as credit reporting agencies, and may request and act upon information received from them. You hereby authorize those third parties to provide such information to us.

8. Bundled Pricing. For Service(s) included at no charge as part of a bundled offering with any charged Service(s), should such charged Service(s), or any component thereof, be cancelled or terminated by you prior to the end of the Initial Term applicable to the charged Service(s), standard rates shall apply for all remaining no charge Service(s) as of the effective date of termination of the impacted charged Service(s) and continuing through the remainder of the Initial Term applicable to such charged Service(s).

9. Publication and Advertising Content. You are solely responsible for all Advertising and will produce and deliver all Advertising in accordance with our then-current

guidelines, procedures, and technical requirements, which we may change from time to time. If you fail to comply, we may cancel or suspend any Service(s) or Advertising. Because of the massive volume of internet data, we expressly disclaim any obligation to monitor internet content, including, without limitation, website content. We reserve the continuing right, but shall not be obligated, to monitor, reject, revise, discontinue, or take down, in whole or in part, any Customer Content or to refuse to provide any Service(s) and to require you to edit or modify the same, for any reason, including but not limited to, your failure to conform to our editorial standards and specifications, and those of any Service Providers, and you agree that we shall have no liability for doing so. Our editorial standards and specifications include, but are not limited to prohibiting content that is, as determined in our sole discretion: false, inaccurate, or misleading; abusive; harassing; threatening; promoting violence, discrimination, or other illegal activity; tortious; defamatory; vulgar; pornographic; sexually explicit; obscene; profane; offensive; libelous; invasive of another's privacy; hateful; racially, ethnically, or otherwise objectionable; in violation of or infringing or potentially in violation of or infringing another's intellectual property rights; harmful or potentially harmful to users, such as any material that contains content designed to interrupt, destroy, invade, intercept, expropriate, or limit the system, data, property, or functionality of any computer software or hardware or telecommunications equipment of any kind; in violation of any local, state, national, or international civil or criminal laws, rules and/or regulations; and/or is otherwise in violation of public interest standards. You agree that you will not violate our editorial standards and specifications in providing Customer Content and you shall remain liable for all Services irrespective of any rejection, revision, discontinuance, or take down of Customer Content for violation of our editorial standards and specifications. We further reserve the right to make changes to Customer Content and Advertising or advertising media (including without limitation changes to content, layout, format, medium, scope, coverage area, publishing cycle or number of copies printed), and to determine all categories or locations that it will appear in respecting any electronic directories or listings, all without any notice to you.

We do not guarantee: (i) any specific display advertising heading specifications or the position of Advertising under any heading, category, link or other location; (ii) the position or rank of any Advertising; (iii) that any Advertising or listing will appear at any particular URL or within any particular search engine; (iv) that a specific number of people will access or view any Advertising; or (v) the results of any Advertising. Any claim for failure to meet any of the above shall not be the basis for claim or adjustment to any amount owed by you. We make no guarantee that the color in any Advertising can be exactly duplicated from a photograph, logo, or other material provided. You acknowledge that your published Advertising may be of a lower quality than, or otherwise differ from, the original Advertising copy or from any copy, proof or layout sheet supplied by us, in clarity, color, focus, size or other features. It is your responsibility to review all Advertising prior to our deadlines.

10. Arbitration and Class Action Waiver. ANY DISPUTE ARISING OUT OF OR RELATING TO ANY SERVICE(S) (OTHER THAN CLAIMS WE MAY HAVE TO COLLECT AMOUNTS YOU OWE US) SHALL BE SETTLED BY BINDING ARBITRATION IN ACCORDANCE WITH THE FEDERAL ARBITRATION ACT AND SHALL BE ADMINISTERED BY THE AMERICAN ARBITRATION ASSOCIATION UNDER ITS THEN-PREVAILING COMMERCIAL RULES AND SHALL BE CONDUCTED IN MONTGOMERY COUNTY, OHIO. EACH PARTY SHALL BEAR THE COST OF PREPARING AND PROSECUTING ITS CASE. THE ARBITRATOR SHALL HAVE NO POWER OR AUTHORITY TO ALTER OR MODIFY THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THE LIMITATIONS OF LIABILITY SET FORTH HEREIN. ALL CLAIMS MUST BE ARBITRATED INDIVIDUALLY, AND THERE WILL BE NO CONSOLIDATION OR CLASS TREATMENT OF ANY CLAIMS. THIS PARAGRAPH IS SUBJECT TO THE UNITED STATES ARBITRATION ACT. THE ARBITRATOR SHALL APPLY THE SUBSTANTIVE LAW OF OHIO AND SHALL LIMIT ANY REMEDIES TO THOSE PROVIDED IN THIS AGREEMENT. YOU AGREE NOT TO PARTICIPATE IN A CLASS ACTION OR CLASS-WIDE ARBITRATION FOR ANY CLAIMS COVERED BY THIS AGREEMENT TO ARBITRATE, AND YOU HEREBY ACKNOWLEDGE AND AGREE THAT YOU ARE GIVING UP YOUR RIGHT TO PARTICIPATE AS A CLASS REPRESENTATIVE OR CLASS MEMBER ON ANY CLASS CLAIM YOU MAY HAVE AGAINST US, INCLUDING, WITHOUT LIMITATION, ANY RIGHT TO CLASS ARBITRATION OR ANY CONSOLIDATION OF INDIVIDUAL ARBITRATIONS.

11. Limitation of Liability. UNLESS OTHERWISE AGREED IN WRITING, FOR GOOD AND VALUABLE CONSIDERATION, INCLUDING, WITHOUT LIMITATION, THE PRICING AND OFFERINGS BY US AS PART OF THE AGREEMENT, THE RECEIPT OF WHICH YOU ACKNOWLEDGE, YOU AGREE THAT ANY LIABILITY WHICH WE MAY HAVE DUE TO ERRORS OR OMISSIONS IN THE SERVICE(S), THE DELIVERY OF SERVICE(S) OR OTHER CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, YOUR ORDER, SHALL NOT EXCEED THE AMOUNT OF CHARGES INCURRED FOR THE AFFECTED SERVICE(S) FROM THE TIME WE ARE NOTIFIED OF ANY ISSUE UNTIL ITS CORRECTION AND IN NO EVENT SHALL EXCEED THE TOTAL CHARGES FOR THE RELEVANT ORDER. ANY SUCH LIABILITY SHALL BE DISCHARGED BY ABATEMENT OF ALL CHARGES INCURRED FOR ANY COMPLETE OMISSION, OR BY REDUCTION OF THE

APPLICABLE CHARGES IN PROPORTION TO ANY REDUCTION OF THE VALUE OF THE SERVICE(S) (AS DETERMINED SOLELY BY US) DUE TO ERROR OR OMISSION. NEITHER PARTY SHALL BE LIABLE FOR ANY DAMAGES FOR LOST PROFITS, LOST REVENUES, LOSS OF GOODWILL, LOSS OF ANTICIPATED SAVINGS, LOSS OF DATA OR COST OF PURCHASING REPLACEMENT SERVICES, OR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES ARISING OUT OF OR RELATED TO THE PERFORMANCE OR FAILURE TO PERFORM UNDER THIS AGREEMENT OR ANY ORDER AND THE AGREEMENT OR ANY PORTION THEREOF. THIS LIMITATION OF LIABILITY APPLIES TO US, ANY AUTHORIZED SALES AGENT(S) OR OTHER REPRESENTATIVES, ANY SERVICE PROVIDERS, ANY INVOLVED TELEPHONE COMPANY AND ANY AFFILIATES, DIRECTORS OFFICERS AND EMPLOYEES OF SUCH PARTY(IES). ANY LIABILITY DUE TO ERRORS, OMISSIONS, OR OTHER CLAIMS RELATING TO ANY FREE SERVICE IS LIMITED TO, AND OUR OBLIGATIONS WILL BE DISCHARGED BY, CORRECTION OF THE ERROR OR OMISSION.

APPLICABLE TO ADVERTISERS IN AK, AL, AND WI ONLY: PRIOR TO ENTERING INTO AN AGREEMENT WITH US, YOU MAY CALL 1-800-362-3594 TO REQUEST THAT OUR POTENTIAL LIABILITY BE DIFFERENT THAN SET FORTH HEREIN. ANY SUCH CHANGE MAY REQUIRE ADDITIONAL CHARGES AND WILL BE BINDING ONLY UPON EXECUTION OF A WRITTEN AMENDMENT SIGNED BY OUR AUTHORIZED REPRESENTATIVE.

12. Listing and Content Modification and Publication. By ordering the Service(s), you are authorizing us to modify information about your business on third-party maps, apps, GPS systems, social networks, directories, search engines and/or other sites, directories and platforms with content and other information (including, without limitation, information vital to customers contacting you such as your phone number, address, name, etc.) on your behalf without any prior notice to you. You are also representing to us that you have all rights to cause us to make such modifications. You may be required by certain Service Providers (for example, Facebook) to agree to such Service Provider's terms and conditions or other policies regarding use of such Service Provider's sites. In such event, you hereby agree to comply with (and to ensure that all location data and other Customer Content complies with) all such terms. It is your responsibility to review potential or actual Service Providers' terms and conditions. Upon any actual or alleged failure to comply, in addition to its other rights and remedies, we and any Service Provider will have the right to immediately suspend all or part of the Service(s).

13. Intellectual Property Rights and Permissions. All Advertising will be our sole and exclusive property, except for: (i) Customer Content and (ii) "Third-Party Content," which means content we license from a third party. You acknowledge that Third-Party Content and/or content created solely by us may not be exclusive to your Advertising or Service(s). You grant us a perpetual, royalty-free, worldwide, unrestricted, sub-licensable, non-exclusive right and license to: (i) use, copy, record, modify, display, publish and distribute Customer Content in any form or media, in connection with any Service(s) or Advertising; and (ii) grant third parties the right, sublicense and authority to exercise all or any of the rights afforded to us under the Agreement, all on such terms as we deem appropriate. Use of Third-Party Content is subject to all terms and conditions imposed by the provider of such content. Except as expressly set forth in the Agreement, you agree that: (i) you will have no rights in any Advertising; (ii) you have no right to use any Advertising except in connection with the Order; and (iii) you do not have the right to allow others to use any Advertising. If the Advertising contains links, you hereby grant us and our sublicensees a perpetual, royalty-free, worldwide, unrestricted, sub-licensable, non-exclusive right and license to establish such links and to link users of the Advertising to the website(s) designated in any Advertising and to cause such links to open new browser windows and publish the websites designated by such links within such window.

You are solely responsible to register and protect any copyrights or other intellectual property rights you have in any Customer Content. As to any Advertising that we create for you, whether in whole or in part, or any derivative work that we create from the Advertising, you acknowledge that we are the author and sole owner thereof and irrevocably assign to us any independently copyrightable contribution which you might have made to such Advertising. You further acknowledge that we retain all right, title and interest, including, without limitation, the copyright, in such Advertising and that the Advertising does not constitute a joint work. You must obtain our prior written consent to reproduce the Advertising, to have it reproduced by others, or to otherwise use our name, marks or the Advertising in any way.

You (i) grant us permission to collect information related to the usage and/or effectiveness of any Advertising or Service(s) and agree we own all such information; and (ii) agree that we may use the foregoing for any legal purpose. You agree that we may use information collected for internal research, development, investigation, and other purposes, including, without limitation, to improve our Service(s) to other and all customers. You agree that you have no right, title, ownership, interest in, or intellectual property in any such improvements. You agree that we may also use information collected in our advertising and promotional materials and for other marketing purposes. We may associate such information with an advertiser's name, such as your name, and/or aggregate it with similar

information pertaining to other advertisers. Such materials may incorporate any or all of the Advertising (which may include Customer Content).

We grant to You, subject to the terms of Your Agreement, an individual, personal, limited, non-sub-licensable, non-exclusive, non-transferable and revocable right during the Term to use the Services. You (and, if You are a corporation or other similar legal entity, Your Users) shall not, directly or indirectly: (i) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code or underlying ideas or algorithms of any Services; (ii) modify, translate or create derivative works based on any Services; (iii) rent, lease, distribute, sell, resell, assign, display, host, outsource, disclose or otherwise commercially exploit or otherwise transfer rights to the Services, or make any Services available to any third party; (iv) use any Services available for timesharing or service bureau purposes or otherwise for the benefit of a third party; (v) remove any proprietary notices or labels on any Services; or (vi) copy, reproduce, post or transmit any Services in any form or by any means, including, without limitation, electronic, mechanical, photocopying, recording or other means. You (and, if You are a corporation or other similar legal entity, Your Users) will make every reasonable effort to prevent unauthorized third parties from accessing any Services. Upon termination of Your Agreement for any reason, You (and, if You are a corporation or other similar legal entity, Your Users) will cease to use or have access to the Services. For clarity, nothing in Your Agreement or otherwise shall effect a sale of the Services (or any part thereof), and You shall not acquire hereunder any right, title, or interest in any Services (or any part thereof), except the right to use them in accordance with Your Agreement. Other than those rights expressly granted herein, we grant to You no other rights to any Services, express or implied, and we reserve all rights in the Services. If You directly or indirectly violate any of the foregoing prohibitions, then we may immediately suspend our performance obligations hereunder and/or terminate Your Agreement without liability or further obligation of us thereafter.

You acknowledge that us, our Service Providers and our and their licensors retain exclusive ownership throughout the world of the Services, any portions or copies thereof, and all rights therein, including, without limitation, any suggestions, enhancement requests, feedback, recommendation or other information provided by You or any other party relating to the Services. The Services provided to You and all information, documents and materials on our and our Service Providers' websites are protected by trademark, copyright or other intellectual property laws and international treaty provisions. All of the websites, corporate names, service marks, trademarks, trade names, logos and domain names of us and our third party providers (collectively "Marks") are and will at all times remain the exclusive property of such parties.

You acknowledge and agree that the Services may be incorporated into, and may incorporate itself, software and other technology owned and controlled by third parties. We and our Service Providers may incorporate such third party software or technology to: (i) add new or additional functionality; or (ii) improve the technical performance of the Services. Any such third party software or technology that is incorporated in the Services falls under the scope of Your Agreement.

14. Warranties. You represent and warrant that: (i) you have all required rights and authorizations, and are prepared, to sell all products and/or services in any Advertising; (ii) you have the right to use all copyrights, trademarks, service marks, trade names, logos, artwork, likenesses and other intellectual property in your Customer Content and to use and/or direct us to use all links and URLs in any Advertising, and hereby authorize us to do the same; (iii) you are the author of all Customer Content and have the sole responsibility to register and protect the same, or you are authorized by the author of all Customer Content to reproduce, to prepare derivative works of, and to distribute copies of such, and hereby authorize us to do the same; (iv) the Advertising, publication of the Advertising, and your use of the Service(s), including, without limitation, use of all Customer Content, will not infringe any trademark, trade name, service mark, copyright, right to publicity, right of privacy, patent or other intellectual property right of a third party, nor will it constitute false, deceptive or unfair advertising or disparagement under applicable law; (v) the Advertising complies with all federal, state and local laws, rules and regulations, including, without limitation, licensing requirements, contest rules, and administrative and professional rules and regulations; (vi) you have all professional licenses, degrees or specialties appearing in the Advertising and the Advertising complies with the regulations of your business or profession; (vii) all statements and information provided to us or contained in any Advertising are truthful, accurate and not misleading; (viii) any Advertising published pursuant to the Order is for your own account, is intended for your own business use, and is not for resale or any other use; and (ix) you will not use any Service(s) to send mass, unsolicited email or spam to third parties or engage in any illegal, tortious or abusive activity. You acknowledge and agree that you have sole responsibility for the content of the Advertising and that you will comply with all applicable laws, rules, and regulations in accepting and fulfilling orders, honoring any special offers, and conducting any contest or drawing.

15. Indemnification. YOU AGREE TO INDEMNIFY, DEFEND AND HOLD US, OUR AUTHORIZED SALES AGENTS OR OTHER REPRESENTATIVES, ANY TELEPHONE COMPANY ON WHOSE BEHALF WE PUBLISH DIRECTORIES, ANY SERVICE PROVIDER, AND ANY AFFILIATES, DIRECTORS, OFFICERS AND EMPLOYEES OF SUCH PARTY(IES) HARMLESS FROM AND AGAINST ANY LIABILITY OR COSTS,

INCLUDING, WITHOUT LIMITATION, ATTORNEY'S FEES AND EXPENSES, WHETHER BETWEEN THE PARTIES, AS A RESULT OF CLAIMS OR DEMANDS OF THIRD PARTIES, OR OTHERWISE, ARISING OUT OF OR RELATING TO: (I) ANY BREACH OF YOUR REPRESENTATIONS, WARRANTIES, AND COVENANTS IN THE AGREEMENT; (II) ANY ACT, OMISSION OR FAULT OF YOU OR YOUR EMPLOYEES, AGENTS OR CONTRACTORS IN CONNECTION WITH THE AGREEMENT; (III) ANY CLAIM THAT THE ADVERTISING, CUSTOMER CONTENT, OR OTHER INFORMATION PROVIDED BY YOU, OR INSTRUCTIONS TO US BY YOU IN CONNECTION WITH ANY SERVICE(S), OR YOUR USE OF ANY SERVICE(S) VIOLATES ANY APPLICABLE RULE, REGULATION OR LAW (INCLUDING, WITHOUT LIMITATION, FALSE ADVERTISING OR DEFAMATION) OR INFRINGES UPON A PATENT, COPYRIGHT, TRADEMARK, TRADE SECRET OR OTHER INTELLECTUAL PROPERTY OR PROPRIETARY RIGHT OF ANY THIRD PARTY; (IV) YOUR COLLECTION OR USE OF ANY INFORMATION OBTAINED THROUGH ANY ADVERTISING OR SERVICE(S); (V) ANY VIRUSES OR OTHER HARMFUL CODE CONTAINED IN THE ADVERTISING OR OTHERWISE INCLUDED BY YOU IN CONNECTION WITH ANY ORDER; OR (VI) ANY BREACH OF THE AGREEMENT.

16. Disconnects. If you terminate any URL, website, or other form of media service associated with any Advertising, you shall remain liable for all charges hereunder and we reserve the right to require immediate payment of all sums due for such Service(s) for the remainder of the Term. Disconnection, modification or transfer of any URL, website, or other form of media initiated by you and associated with any Service(s), may result in termination of the impacted Service(s). You assume the risk of such result.

17. Proofs. We do not guarantee you will receive a proof of your Advertising. If you are provided with a proof of any Advertising, we reserve the right to require you to timely return the proof to us, signed with your approval or corrections. Failure to return any proof may, at our option, result in cancellation of any Advertising or Service(s). We will not be responsible for errors resulting from any modified proof returned to us after any deadline we may impose. You understand that a proof is not a condition of sale.

18. Disclaimers. EXCEPT AS EXPRESSLY STATED HEREIN, ALL SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. WE AND ANY SERVICE PROVIDER MAKE NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT OR FITNESS FOR A PARTICULAR USE. WE DO NOT WARRANT THAT THE FUNCTION OF ANY COMMUNICATIONS NETWORK WILL BE UNINTERRUPTED OR ERROR FREE OR THAT THERE WILL BE NO DEFECTS IN THE NETWORK(S) OF OUR SERVICE PROVIDERS, WHICH MAY CHANGE WITHOUT NOTICE TO YOU.

19. Notices and Communications. Any writing or notice required by the Agreement shall be in writing and transmitted by certified mail, overnight courier or electronic mail (proof of transmission and receipt shall be required) as follows: if to you, to the street address or e-mail address shown on the Order; if to us, to Vivial Media LLC, Attn: Customer Service, 3100 Research Blvd., Suite 250, Dayton, Ohio 45420 or via email to customer.relations@vivial.net. If the contact number you supply is a mobile number, you consent to receive text messages from Vivial unless and until you opt out. Message and data rates may apply. Our Privacy Policy can be found at <https://vivial.net/privacy-policy/>. If you do not agree, please let us know in writing. Your refusal to receive text messages will not have any effect on our provision of Services to you.

20. Copyright Complaints. To report an alleged copyright violation, you may send a notice that complies with the Digital Millennium Copyright Act ("DMCA") to the notice address above. For more information about the DMCA please visit <http://copyright.gov>. If we learn of a violation, either by or against you, we may, in our sole discretion, take any of the following actions: (i) issue a warning; (ii) suspend or terminate Service(s); (iii) impose additional fees or charges; (iv) remove the offending content; or (v) take any other action we deem reasonable and allowed by law. We reserve the right to cooperate with any third-party investigations of alleged illegal or improper activity related to the Service(s) or any Advertising and to monitor any Advertising or Service(s) using network facilities, including efforts to prevent the introduction of viruses or other hostile code or to ensure compliance with laws and our guidelines, procedures and technical requirements.

21. Customer Service Questions; Claims. Please visit our website at www.vivial.net/legal for Customer Service contact information, to request applicable Service Schedules and for other information relating to your Order, including copies of the Terms and Conditions, any applicable Service Schedules, our Privacy Policy and our Acceptable Use Policy. **ANY CLAIM OR CAUSE OF ACTION YOU MAY HAVE RELATING TO ANY ORDER MUST BE MADE IN WRITING IN ACCORDANCE WITH SECTION 19 ABOVE WITHIN SIXTY (60) DAYS OF THE DATE THE CLAIM AROSE, WITHOUT REGARD TO THE DATE OF ANY ACTUAL DISCOVERY BY YOU; YOU ARE RESPONSIBLE FOR MONITORING YOUR ADVERTISING AND SERVICES. IF A CLAIM IS NOT TIMELY AND PROPERLY MADE WITHIN SIXTY (60) DAYS, YOU AGREE THAT SUCH CLAIM OR CAUSE OF ACTION HAS BEEN WAIVED BY YOU.**

22. **Miscellaneous.** You agree that we may use third parties to provision any Order (“**Service Providers**”). Any terms and conditions between you and the Service Provider are not enforceable by you against us. We do not guarantee the identity of the Service Providers used to fulfill your Order. We may assign any or all of our rights and obligations under the Agreement. You may not assign any of your rights or obligations under the Agreement without our prior written consent; provided, however, that such consent shall not be required in connection with the sale of all your assets or shares of capital stock or other ownership interests so long as such purchaser expressly agrees in writing to fulfill all obligations of the Agreement and you provide written notice of such sale to us. In the event of any assignment allowed by the preceding sentence: (i) the Agreement shall be binding upon your assignee and (ii) both you and your assignee shall be jointly and severally liable for the timely performance of all obligations of the Agreement. We shall have the right, in our sole discretion, to assign our rights and obligations under the Agreement. If any provision of this Agreement shall be invalid or unenforceable: (i) the remaining provisions of the Agreement shall not be affected by such invalid or unenforceable provision; (ii) the Agreement shall be construed as if not containing the particular invalid or unenforceable provision or provisions; (iii) in lieu of such invalid or unenforceable provision, there shall be added automatically as part of the Agreement a provision as similar to such invalid or unenforceable provision as may be valid, legal and enforceable; and (iv) our rights shall be construed and enforced accordingly. We shall not be held responsible for any delay or failure in performance of any part of the Agreement to the extent that such delay or failure is caused by fire, flood, explosion, war, embargo, government requirement, terrorist act, civil or military authority, act of God, or other similar causes beyond our reasonable control (“**Condition(s)**”). If any Condition occurs, we shall give notice to you and we may elect to:

(i) terminate the Agreement or any part thereof as to Service(s) not already received or

(ii) suspend the Agreement or any part thereof for the duration of the Condition and resume performance once the Condition ceases with an option to extend the relevant Term up to the length of time the Condition endured. Option (ii) above shall be deemed selected unless we inform you otherwise in writing within thirty (30) days following the occurrence of the Condition. You understand and agree that:

(i) we do not approve or endorse any product or service by publishing any Advertising;

(ii) we do not make any representation that we approve or endorse any product or service;

(iii) we may publish any advertising of any other person or entity; and (iv) we do not approve or endorse any person or company we have referred you to for creative, design, or other services. When and where available, you consent to conducting business with us electronically and we may accept your Order by electronic signature or instruction, including, without limitation, recorded oral acceptance, in accordance with our approved format. You are solely responsible for maintaining and ensuring the security of any and all passwords obtained. All hosting environments and network connections are unsecured unless otherwise indicated by us in writing. You agree that you will honor the prices or discount percentages quoted in any Advertising. You are encouraged to include expiration dates as circulation periods can change. Our sales representatives are not authorized to modify or amend these terms and conditions. The Agreement does not create any partnership, joint venture, employee, franchisee, agency or other similar relationship between you and us. We will not lose any of our rights under this Agreement even if we do not enforce a right or delay in enforcing a right. The rights, obligations and remedies of you and us as specified under the Agreement shall be governed and enforced in all respects in accordance with the laws of the State of Ohio. You agree that your telephone conversations with us may be monitored and/or recorded.

23. **Long Code Messaging.** The following terms and conditions apply to any long code messaging (“**LCM**”) Services in addition to all other terms and conditions of the Agreement.

(i) LCM Services may only be used for lawful, proper and appropriate purposes.

(ii) Use of LCM Services will permit you to utilize a long code (“**Code**”) from us as part of our marketing platform wherein we provide LCM Services. We may, upon fourteen (14) business days’ prior written notice, reclaim any Code that has not been used to pass traffic within the immediately preceding one hundred twenty (120) day period.

(iii) SMS is a Short Message Service and, for purposes herein, “**SMS**” is intended to include MMS services where available and/or applicable. “**MMS**” means Multimedia Messaging Service, which is a standard way to send messages that include multimedia content and are supported as an extension of the core SMS capabilities. SMS does not provide any audio and/or voice capabilities and/or features.

(iv) Use of LCM Services will allow you to send and receive, where available and/or applicable, SMS messages, in connection with the Code. You are solely responsible for any SMS messages sent or received, where available and/or applicable, by you and Your Users utilizing the LCM Services.

(v) You represent and warrant to us and our Service Providers that you and Your Users: (i) will comply with all Applicable Law and Industry Standards; and (ii) your use of the Services will not (A) violate or infringe any rights of either us, our Service Providers or

any third party, and/or (B) defame, invade the privacy or publicity of, or violate any third party; and (iii) will not use the Services in or for the facilitation of any discriminatory or illegal activity.

(vi) You may not (i) use or otherwise enable any Code provided by us or our Service Providers at any time in connection with any SMS message and/or other form of traffic, other than for the uses permitted under the Agreement and by and through our LCM Services platform, or (ii) establish and/or operate peer-to-peer relationships with any third party(ies) with respect to any Code provided by us or our Service Providers at any time. For clarity, “peer-to-peer relationships” mean direct network interconnection arrangements that permit you and any applicable third party to exchange traffic associated with any Code provided by us and our Service Providers directly to each other without utilizing our and our Service Provider’s network with respect to such traffic. Notwithstanding the foregoing, you will be responsible for all liability arising from your and Your Users’ acts and omissions in establishing and/or operating such peer-to-peer relationships, and will defend, indemnify and hold harmless us and our Service Providers from and against any and all third party claims in relation to such acts and omissions.

(vii) You may not use any Code that you obtain from us to route messages over any other provider’s network.

(viii) SMS limits the maximum number of SMS messages you may transmit measured on a per second basis to one (1) SMS message sent/received in aggregate per second per Code.

(ix) We rate SMS messages for billing purposes on a per SMS message.

(x) In addition to any other rights or remedies that we and our Service Providers may have under any applicable circumstances, we, in our sole and unfettered discretion, may block any SMS messaging traffic we deem to be in violation of your Agreement and/or any policies, agreements, arrangements and/or practices of or between us and any carriers and/or other Service Providers. We and our Service Providers do not guarantee removal from any applicable black-listed status. We and our Service Providers may block at any time any SMS messages deemed by us or our Service Providers in our and their sole and unfettered discretion to jeopardize the integrity of our and our Service Provider’s networks (including, without limitation, due to any action taken and/or threatened by any third party Carrier and/or other service provider); any such blockage will be without prejudice to any other right or remedy that we or our Service Providers may have due to any such SMS messages pursuant to Your Agreement or otherwise. You acknowledge and agree that SMS messages to or from you may be blocked by carriers or other service providers for reasons known or unknown to us or our Service Providers; we are under no obligation to investigate or remedy any such blockage for you. We do not guarantee delivery, regardless of the reason, of any SMS messages; you will indemnify and hold us and our Service Providers harmless with respect to any and all damages or losses that you and/or any third party sustains due to any SMS messages being delivered incorrectly or not at all.

(xi) You, at your sole cost, are responsible for providing all equipment (including proxy servers), software, facilities and IP connectivity necessary for your use of Our Services. You will have the sole responsibility to input, validate and maintain accurate information with respect to your SMS recipients; you will furthermore be solely responsible for any and all support of and for your SMS recipients as it relates to SMS. You are responsible for maintaining continuous availability to receive SMS messages from us via IP connectivity.

(xii) You will not participate in or assist in any fraudulent usage, in any form or by any means, either by You and/or Your Users of any Services. If You suspect, know of, or should have known of any fraudulent usage, then you will immediately stop all fraudulent usage and notify us. You acknowledge, understand and agree that we do not provide, are not required to provide, and do not warrant, any fraud prevention. You are solely responsible for all risks, expenses and liabilities arising from or relating to fraudulent usage by you and/or Your Users, or any other person or entity directly or indirectly utilizing your Code for SMS.

(xiii) You shall fully comply with any and all Applicable Laws, in each case as such actions, approvals and/or laws and regulations apply or relate to the utilization of SMS by You and Your Users, including, without limitation, those related to data privacy. You will be solely responsible for compliance by You (and by Your Users) with any applicable carrier requirements, content standards and Industry Standards applicable to any utilization of SMS by You and Your Users. We reserve the right to take any action necessary for us to comply with any applicable industry standards. You agree to comply with, and You shall be solely responsible for compliance, by You and Your Users, with all “opt-in” and “opt-out” requirements for sending and receiving messages (including the content contained therein) under Applicable Law, applicable content standards, any applicable carrier requirements, and the Industry Standards. Without limiting the foregoing, You, for Yourself and Your Users, agree to provide notice and receive appropriate affirmative written consents from all mobile end users prior to using the LCM Services to transmit messages to such end users’ mobile device, including, without limitation, receiving end user written consent to transmit Marketing Messages.

(xiv) From time to time, we may provide information to you related to compliance with Applicable Laws and/or Industry Standards. You acknowledge and agree that (a) such

information is based solely upon our experiences in providing Services generally and is not legal advice. (b) we do not represent or warrant the accuracy or completeness of such information, and (c) your use of, or reliance upon, such information or any errors therein or omissions therefrom will not in any way relieve you of your obligations hereunder or create any liability for us or any Service Provider to you and/or any of Your Users relating thereto or resulting therefrom.

(xv) We and/or our Service Providers may from time to time interrupt or otherwise impact the Services for maintenance. We and our Service Providers will use commercially reasonable efforts to perform such maintenance in a manner that will not unreasonably interrupt the Services. We and our Service Providers reserve the right to interrupt Services at any time without notice, including, without limitation, to correct, replace or repair network conditions which are likely to cause a service error, and which require immediate correction.

(xvi) We have no support obligations or if we provide support, such support will be subject to additional fees in the event of any need for support arising due to (a) you or Your agents; (b) your equipment or network; (c) third parties that are not our service providers; (d) force majeure events; (e) scheduled maintenance; (f) emergency maintenance; and/or (g) services or equipment not owned or controlled by us or our Service Providers.

(xvii) You agree and acknowledge that we have no obligation to retain your data and that your data may be irretrievably deleted after thirty (30) days following the termination of LCM Services.

(xviii) We and our Service Providers have no relationship with or obligation to any of your customers or any other person or entity with which you communicate using the LCM Services, none of whom is a third party beneficiary of the Agreement.

(xix) **YOU ACKNOWLEDGE, UNDERSTAND AND AGREE THAT SMS DOES NOT CONSTITUTE "INTERCONNECTED VOIP SERVICE" AS DEFINED WITHIN 47 C.F.R. PART 9 AND, YOU WILL NOT CONFIGURE SMS IN ANY WAY THAT WOULD CONSTITUTE "INTERCONNECTED VOIP SERVICE" AS DEFINED WITHIN 47 C.F.R. PART 9. THEREFORE, NO E911 SERVICE OR BASIC 911 SERVICE WILL BE PROVIDED BY US OR OUR SERVICE PROVIDERS TO YOU, YOUR CUSTOMERS, SUBSCRIBERS, OR ANY PERSON OR ENTITY PURSUANT TO THESE SERVICES, AND/OR BY SMS CONTEMPLATED BY THESE SERVICES. YOU ACKNOWLEDGE, UNDERSTAND AND AGREE THAT WE AND OUR SERVICE PROVIDERS HAVE NO INTENT TO AND WILL NOT PROVIDE E911 SERVICE OR BASIC 911 SERVICE. YOU WILL NOT REPRESENT IN ANY WAY OR THROUGH ANY MEANS TO ANY OF YOUR CUSTOMERS, SUBSCRIBERS, OR ANY PERSON OR ENTITY THAT WE OR OUR SERVICE PROVIDERS PROVIDE ANY 911 / E911 SERVICE PURSUANT TO THESE LCM SERVICES OR THE SMS CONTEMPLATED BY THESE SERVICES. YOU REPRESENT AND WARRANT TO US AND OUR SERVICE PROVIDERS THAT, IF YOU ARE AT ANY TIME REQUIRED TO PROVIDE ANY 911 / E911 SERVICES DUE TO ANY TELECOMMUNICATIONS RELATED SERVICES YOU SELL OR PROVIDE TO YOUR CUSTOMERS, SUBSCRIBERS, OR ANY PERSON OR ENTITY AT ANY TIME THAT ARE, IN WHOLE OR IN PART, ENABLED BY THE SMS CONTEMPLATED BY THESE TERMS OF USE, THEN YOU WILL ENSURE THAT 911 / E911 SERVICES ARE FULLY PROVIDED IN COMPLIANCE WITH SUCH 47 C.F.R. PART 9.**

(xx) **FOR THE AVOIDANCE OF DOUBT, YOU UNDERSTAND AND AGREE THAT YOU SHALL INDEMNIFY, DEFEND AND HOLD US, OUR SERVICE PROVIDERS, OUR AUTHORIZED SALES AGENTS OR OTHER REPRESENTATIVES, AND ANY AFFILIATES, DIRECTORS, OFFICERS AND EMPLOYEES OF SUCH PARTY(IES), HARMLESS FROM AND AGAINST ANY CLAIMS, LIABILITY, COSTS OR DAMAGES, INCLUDING, WITHOUT LIMITATION, ATTORNEY'S FEES AND EXPENSES, WHETHER BETWEEN THE PARTIES, AS A RESULT OF CLAIMS OR DEMANDS OF THIRD PARTIES, OR OTHERWISE, ARISING OUT OF, RESULTING FROM OR RELATING TO: (A) ANY BREACH OF YOUR REPRESENTATIONS, WARRANTIES, AND COVENANTS IN THIS SECTION 23; (B) ANY ACT, OMISSION OR FAULT OF YOU, YOUR USERS OR YOUR EMPLOYEES, AGENTS OR CONTRACTORS IN CONNECTION WITH THIS SECTION 23; (C) ANY CLAIM THAT YOUR USE OF THE LCM SERVICES VIOLATES ANY APPLICABLE RULE, REGULATION OR LAW (INCLUDING, WITHOUT LIMITATION, THE TELEPHONE CONSUMER PROTECTION ACT) OR INFRINGES UPON A PATENT, COPYRIGHT, TRADEMARK, TRADE SECRET OR OTHER INTELLECTUAL PROPERTY OR PROPRIETARY RIGHT OF ANY THIRD PARTY; AND (D) YOUR COLLECTION OR USE OF ANY INFORMATION OBTAINED THROUGH OR AS A RESULT OF THE LCM SERVICES.**

(xxi) Definitions.

"Applicable Law" means all applicable international, national, federal, state and local laws, rules, regulations, directives, statements, and codes of practice, including any export/import laws, relating to any or all countries. Applicable Law includes, without limitation, U.S. CAN-SPAM Act, the U.S. Telephone Consumer Protection Act and any rules promulgated by any regulator or Carrier.

"Carrier" means providers of wireless messaging services via wireless telecommunications networks, including without limitation, those Carriers with which we maintain connectivity (including via third party service entities that provide network connectivity services for SMS delivery to and from Carriers).

"Industry Standards" means collectively, as applicable, the standards established by the Carriers and/or associations of Carriers and/or Mobile O/S Providers, or otherwise as related to LCM, including SMS and MMS, and any additions, deletions or changes to such standards that are announced from time to time.

"Marketing Messages" means any message that advertises the commercial availability or quality of any property, goods, or services which is transmitted to any person.

"911/E911" means functionality that allows end users to contact emergency services.

Eff. April 25, 2019