



Lookout

## Terms of Service

*Last Updated: July 20, 2018.*

**These Terms of Service (the “TOS” or “Agreement”) form a binding, legal agreement between Lookout, Inc. (“Lookout” or “we”) and you. By accepting this Agreement or using or accessing any Lookout Service, you acknowledge that you have read, understood and agree to be bound by all the terms and conditions of this Agreement. If you do not agree with this TOS, you are not permitted to access or use any Lookout Service(s) and must immediately stop doing so.**

**TO THOSE THAT LICENSE OR USE THE LOOKOUT SERVICES FROM WITHIN THE UNITED STATES THIS AGREEMENT INCLUDES A [BINDING ARBITRATION PROVISION](#) AND WAIVES YOUR RIGHT TO PARTICIPATE IN CLASS ACTION CLAIMS. PLEASE READ THOSE PROVISIONS CAREFULLY AS THEY AFFECT YOUR LEGAL RIGHTS.**

*These Terms of Service are effective as of July 20, 2018.*

**Introduction.** Welcome to Lookout and thank you for your interest in our products and services! This Agreement (which includes the [Acceptable Use Policy](#) and any applicable Guidelines, as defined below) governs your use of or access to any Lookout Service, so please review it carefully. You should also review our Privacy Policy which provides additional information about our collection and use of User Data which you provide us directly and that which is collected from your use of the Lookout Service. “**Lookout Service**” means any product, app, software, add-on, extension, website, online service, license code, feature, functionality, content or service that is owned, controlled or provided by Lookout, including our mobile apps (such as the Lookout Mobile Security app), Identity Protection Services, Documentation, support services and Premium Subscriptions to which may use or subscribe. Lookout Services may be distributed to you directly by Lookout or through a Lookout-authorized mobile carrier partner, app store partner, reseller, distributor or other channel partner (each, a “**Distributor**”). In either case, this Agreement governs your use of or access to the Lookout Services. All references in this Agreement to “you” or “your,” as applicable, mean the user of the Lookout Services, and each of your heirs, successors and assigns.

**1. Your Account.** You may need to create a Lookout account (“**Account**”) to place orders for or use certain Lookout Services (or some of their features). You understand that we may send notices, e-mails, statements, announcements and other account-related information to you using the information on your Account, and you hereby consent to us doing so. You represent and warrant that your Account information is accurate and complete, and you agree to keep your Account information (including any payment information) up-to-date, accurate and complete. You are responsible for the security of your Account, including for keeping any access credentials (such as user IDs, passwords and other access credentials) secure. You must not share your access credentials with any other person or entity and, in case of any security breach, you must promptly notify Lookout and change your access credentials immediately. You are solely responsible for all activities that occur on or through your Account, including any purchases. *In no event will any Lookout Entity (as defined below) be responsible for any activity, damages, liability or losses arising out of or resulting from the unauthorized use of your Account or from your failure to keep your Account information and access credentials secure, accurate and complete.*

### **2. Use Rights.**

**2.1. Your Use Rights.** Subject to the terms and conditions of this Agreement, Lookout grants you a personal, non-transferable, non-exclusive, non-sublicensable, limited, revocable license to use the Lookout Service(s) that Lookout makes accessible to you (either itself or through a Distributor), provided you use the Lookout Service solely for your personal, non-commercial use and strictly in accordance with this Agreement and any applicable Guidelines, Documentation and Usage Limits (as defined below). You may use Lookout’s mobile apps only on those mobile devices that you legally own and control, and you understand and agree that Lookout may impose Usage Limits on your use as described below.

**2.2. Premium Subscription.** Lookout may make certain Lookout Services (such as our mobile apps or premium features) available to you for a fee (each such Lookout Service, a “**Premium Subscription**”). These Premium Subscription(s) are provided to you for a monthly, annual or other subscription term specified at the time you place your order (the “**Subscription Term**”). With respect to Premium Subscriptions, the rights granted to you above: (i) are subject



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to our receipt of payment of the applicable fees (either directly from you or from the Distributor through whom you purchased the product) and (ii) end when your Subscription Term is cancelled or terminated.

2.3. **Documentation and Support.** We may provide you with access to online FAQs, information, tips and other materials to help you use Lookout Services (the “**Documentation**”, currently available [here](#)). Any additional Lookout support services (such as email or phone support) are provided at our discretion, and you understand and agree that Lookout may discontinue and/or change its support services (including by modifying support hours and communication channels) at any time without liability to you. *To the extent permitted by applicable law all Documentation and support services are provided “AS IS” without warranty of any kind. Lookout does not guarantee that errors will be resolved, that our Documentation or responses will be accurate or that responses will be timely. If you have obtained any Lookout Services from one of Lookout’s Distributors, that Distributor has no responsibility to provide you with any warranty, maintenance or support services with respect to the Lookout Services or for otherwise addressing any issue or claim with Lookout Services.*

2.4. **Usage Limits.** You understand and agree that, from time to time and without liability to you, Lookout may establish and/or modify its general practices and usage limits regarding the Lookout Services (such practices and usage limits, the “**Usage Limits**”). Usage Limits may include the features included in a Premium Subscription package, limits on the number of devices that can be associated with an Account, the number of devices where our mobile app can be installed, and storage limits. The latest Usage Limits are generally available in our Documentation or in the Lookout Service itself. These Usage Limits may vary depending on how you receive Lookout Services, so please contact Lookout’s support with any questions.

2.5. **Updates and Product Changes.** Unless otherwise specified by Lookout in writing, this Agreement will also govern any bugfixes, patches, maintenance releases, upgrades and updates to Lookout Services that Lookout develops and makes available to you (“**Updates**”), and such Updates will be considered “Lookout Services” under this Agreement. However, you understand and agree that Lookout has no obligation to provide you with Updates and that any Updates may be made available for a fee or under different or additional terms and conditions, as determined by Lookout. Lookout Services consisting of installable software (such as our mobile app) may update automatically on your device once a new version or feature is available, and you consent to such automatic Updates. We are constantly changing and improving our Lookout Services, so we reserve the right without liability to you to add or remove functionalities or features, to modify Lookout Services and to suspend or stop a Lookout Service altogether.

2.6. **General Restrictions.** You must not (and agree not to permit, induce, assist or encourage anyone else to): (i) rent, lease, sell, offer to sell, distribute, transfer or sublicense any Lookout Service; (ii) permit anyone else to use or access your Account or any Lookout Service licensed to you (including by sharing your access credentials or license keys); (iii) use any Lookout Service (or any component thereof, including any results or output derived from a Lookout Service) to power or support any other site, software, product or service, or otherwise for any other person or entity’s benefit; (iv) integrate, include or provide any Lookout Service (or any component thereof, including any results or output derived from a Lookout Service) in or as part of another site, software, product or service; (v) execute Lookout’s mobile apps in any environment (including any emulated environment) other than on personal mobile device(s) that you legally own and control; (vi) modify, alter, tamper with or create any derivative work of any Lookout Service (or any feature or component thereof), or use or access any Lookout Service to attempt to create a substitute or similar product; (vii) attempt to decipher, decompile, disassemble, reverse engineer, or otherwise obtain the source code, underlying ideas, algorithms, file formats, or non-public APIs of any component of a Lookout Service (including executable and configurable content or any data from Lookout’s security cloud service), except where permitted by law (and then only with advance notice to Lookout); (viii) without our prior written permission, perform tests on a Lookout Service, publicly disseminate test-related information about a Lookout Service, or otherwise use or access any Lookout Service as a research tool or for competitive intelligence purposes (including to verify a set of known results); (ix) make more copies of any Lookout installable software than are reasonably required to support your authorized use; (x) access or use a Lookout Service in a way that avoids incurring applicable fees or hiding usage; (xi) re-download or re-access any Lookout Services after we have terminated your license, subscription or Account; or (xii) obscure any proprietary or other notices contained in any component of the Lookout Service (including any results or output). You understand and agree that any violations of these restrictions will constitute a breach of this Agreement and a violation of Lookout’s intellectual property rights.

### 3. User Content, Data and Feedback.



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3.1. **User Content.** Some Lookout Services may allow you to post, upload or submit content to us (the “**User Content**”). As between you and Lookout, you own the User Content you post, but you hereby grant Lookout, to the maximum extent permissible under the laws of your jurisdiction, a worldwide, perpetual, non-exclusive, irrevocable, sublicenseable, royalty-free license to Use User Content in order to provide, operate, promote, and improve Lookout Services, to develop new ones and as otherwise stated in this Agreement and the [Lookout Privacy Policy](https://www.lookout.com/legal) (available at <https://www.lookout.com/legal>) (the “**Privacy Policy**”). This license will also apply to any Feedback you elect to provide to Lookout, and you understand and agree that we will have no obligation to pay or credit you for any Feedback. “**Use**” means to host, store, reproduce, publicly display, publicly perform, communicate, publish, license, distribute, share, disclose, make, have made, sell, offer to sell, practice, import, export, execute, adapt, modify, improve, make derivative works of (including by incorporating into other works), disclose and otherwise use and exploit, in any form, media, or technology now known or later developed, and to allow others to do so. “**Feedback**” means any feedback, suggestions, comments, improvements and ideas about Lookout Service(s) or what you might like to see from Lookout in the future, as well as any related code, content and materials that you provide to us.

3.2. **User Data.** When you use Lookout Services, Lookout may collect or receive data, information and code from you and/or the devices where you use the Lookout Services (the “**User Data**”). Our [Privacy Policy](#), together with this Agreement, describes our collection and Use of User Data. To the greatest extent permitted under the laws of your jurisdiction, you hereby consent to the collection and Use of User Data as described in our Privacy Policy and this Agreement.

3.3. **Responsibility for User Data and User Content.** You are solely responsible for User Content, User Data and your use of Lookout Services. We do not endorse User Content or User Data, have no obligation to monitor any User Content or User Data, and assume no responsibility whatsoever for these materials. In all cases, Lookout reserves the right to remove or disable access to any User Content or User Data without liability to you for any or no reason, including to account for changes to Lookout Services or Usage Limits or to prevent breaches of this Agreement, harm to other users, or liability to third parties. Lookout may take these actions without prior notification to you or any third party. Removal or disabling of access to these materials shall be at our sole discretion and to the extent permissible in the jurisdiction where the Lookout Services are provided, we do not promise to remove or disable access to any specific User Content or User Data. You are solely responsible for maintaining additional backup of User Content and any User Data, and Lookout is not responsible for loss or destruction of these materials.

3.4. **DMCA.** If you are the owner of content, please note that it is our policy to respect the legitimate rights of copyright and trademark owners and (in appropriate circumstances) terminate the Accounts of users who infringe the intellectual property of others, including repeat infringers. We will respond to clear notices of alleged infringement in accordance with our [DMCA Policy](#).

#### 4. Some Additional Rules.

4.1. **Legal Consent.** You may use a Lookout Service only if you can form a binding contract with Lookout and are not a person barred from receiving the Lookout Service under the laws of the United States or other applicable jurisdiction. You represent and warrant that: (i) you are either more than 18 years of age, or an emancipated minor, or possess legal parental or guardian consent and (ii) are fully able and competent, and have the legal power, capacity and authority, to enter into this Agreement and to abide by and comply with it. In any event, if you are under 16, you are not permitted to use any Lookout Service.

4.2. **Acceptable Use.** You agree to abide by our [Acceptable Use Policy](#) (available below) and represent and warrant that the User Data, User Content and your use of any Lookout Service will not: (i) violate any local, state, federal or international law, rule or regulation; (ii) harm any person or entity; (iii) infringe any person or entity’s rights (including intellectual property, privacy, publicity and other rights); or (iv) violate this Agreement. You further represent and warrant that you have all rights, releases and permissions needed to: (x) permit you to use the Lookout Services (including, where applicable, to manage multiple devices in a plan) and (y) grant us the licenses, rights and consents under this Agreement (including as provided in Section 4 above).

4.3. **Special Terms for Identity Protection Services** (Available to U.S. Residents only). Lookout Services may include features designed to help monitor and protect your identity (“**Identity Protection Services**”). *You may use the Identity Protection Services only if you are a United States resident and solely for your own personal benefit to protect against or prevent actual fraud, unauthorized transactions, claims or other liabilities.* Our [Privacy Policy](#) further describes the types of



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User Data collected by the Identity Protection Services. You understand and agree that by accepting this Agreement you are providing “written instructions” to Lookout and its service providers to exchange User Data about you with our service providers and their data suppliers and to provide you with the Identity Protection Services. You agree and hereby authorize Lookout and its service providers to provide User Data (or, if applicable, information about others you have enrolled) to third parties in order to provide the Identity Protection Services and as otherwise described in our Privacy Policy. You further authorize Lookout and its service providers to provide you with monitoring and alerts and to obtain various information and reports about you (or about others that you have enrolled) in order to provide the Identity Protection Services, including address history, name, alias and other reports. The preceding authorizations also extend to our service providers’ employees, agents, parents, subsidiaries, affiliates, contractors, and data suppliers. *The Identity Protection Services may include insurance coverage provided by a third-party. That coverage is subject to the terms, conditions and exclusions of the [Identity Fraud Reimbursement Policy](#), which may be updated from time to time. The Lookout Entities (as defined below) are not licensed insurers or insurance agents, and they will not be liable for claims, coverage or liability under the Identity Fraud Reimbursement Policy.*

4.4. **Third Party Products.** Some Lookout Services may link to, be installed on or be provided with products, apps, software, add-ons, extensions, websites, online services, features, functionality and/or content that is owned or controlled by third parties (such items, the “**Third Party Products**”). Third Party Products may be governed by terms of service, privacy policies, and other agreements between you and the provider of such products, and you agree to review and abide by such terms and policies.

4.5. **Other Service-Specific Terms.** Our Lookout Services are very diverse, so sometimes we may post or provide additional terms, conditions and guidelines (collectively, the “**Guidelines**”) applicable to a particular Lookout Service (or particular features). If you access or use such Lookout Services, those Guidelines become part of your agreement with us and are incorporated by reference into this Agreement.

## 5. Payments Terms.

5.1. **Fees.** If you place an order for a Premium Subscription, you agree to pay the applicable fees upfront for the entire Subscription Term. All fees and charges are nonrefundable and non-creditable, and there are no refunds or credits for partially used Subscription Terms.

5.2. **Billing Methods.** If you order Premium Subscription from Lookout using your credit card, we will automatically charge the applicable fees plus any applicable taxes to your credit card for the entire Subscription Term. If your credit card reaches its expiration date, your continued use of the Premium Subscription constitutes your authorization for us to continue billing that credit card and you remain responsible for any uncollected amounts. If you order any Lookout Services from a Distributor (such as from your wireless operator using carrier billing, by purchasing our mobile app using app-store billing or by purchasing a license key from a Distributor), you may make applicable payments to the Distributor subject to the terms and conditions between you and that Distributor, but your use of Lookout Services remains subject to this Agreement.

5.3. **Trials.** From time to time, we may offer trials of Premium Subscriptions for a specified period without payment or at a reduced rate (a “**Trial**”). Lookout reserves the right, in its discretion, to determine your eligibility for a Trial, and, subject to applicable laws, to withdraw or to modify a Trial at any time without prior notice and with no liability, to the greatest extent permitted under the law. *We may automatically start to charge you for the applicable Premium Subscription on the first day following the end of the Trial, unless you cancel as described in the “Automatic Renewals” section below.*

5.4. **Failure to Pay.** If you fail to timely pay any fees, if we are unable to process your payment, or if we do not receive our corresponding payment from the Distributor from whom you purchased the Premium Subscription, Lookout at its option may suspend or terminate your right to use the Premium Subscription, without liability to you. Regardless of such termination or suspension, you will be responsible for paying all past due amounts.

5.5. **Automatic Renewals.** ***To the extent not prohibited by applicable law and unless otherwise specified by us at the time you place your order Lookout Premium Subscriptions are provided on a subscription basis for the monthly, annual or other subscription term you selected. You understand and agree that your subscription is auto-recurring and will automatically renew unless auto-renew is turned off (as described below) at least twenty-four hours before the end of the current subscription term. Please note that we reserve the right to***





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***change the cost of your subscription effective on automatic renewal of your subscription, and we will notify you of any changes to the cost of your subscription before your subscription renews. When your subscription renews, your account will automatically be charged the then-applicable subscription price, and you hereby authorize us to charge the payment method on your account. Subscriptions may be managed, and auto-renewal may be turned off, by going to the Account Settings screen on your device (or through the account page on the applicable App Store) after your purchase. You may cancel your subscription during a subscription term, however there will be no refunds or credits for partial subscription terms. You agree to receive all communications electronically.***

## **6. Termination and Suspension.**

6.1. Termination and Suspension. We may terminate or suspend your Account and/or your access to the Lookout Services, without prior notice and without liability, for any or no reason, including if we determine in good faith that: (a) you have violated this Agreement, (b) you have infringed third party rights or any applicable laws, rules or regulations, (c) you are no longer actively using the Lookout Service, or (d) you have failed to pay fees owed to Lookout. These remedies are in addition to any other remedies Lookout may have at law, in equity or otherwise. We will make a reasonable attempt to notify you of any termination or suspension of your access to the Lookout Services using the information on your Account or through the Lookout Service itself. However, we reserve the right to terminate access to Lookout Services at any time, with or without notice.

6.2. Effect of Termination. You acknowledge and agree that upon suspension, termination or expiration your ability to access User Content and/or User Data will cease and that Lookout will have no obligation to store any such items or provide them to you. If we terminate your access to Lookout Service(s), your license rights shall terminate and you must: (i) immediately cease any use the applicable Lookout Service(s) and (ii) delete (or, at our request, return) any and all copies you have of the applicable Lookout Service (if any).

6.3. Survival. All terms and conditions of this Agreement will survive any suspension, termination or expiration, except for the rights granted to you under Section 3.1 (Your Use Rights).

## **7. Intellectual Property Rights.**

7.1. Lookout Technology. Notwithstanding any use of the words “purchase”, “sale” or similar terms, the Lookout Services are being licensed to you, not sold. Notwithstanding anything to the contrary herein, Lookout (or the Lookout Entities, as applicable) retain all rights, title and interest (including all intellectual property rights) in and to the Lookout Services, any content, data, results, information, analysis or output generated by or that you obtain from a Lookout Service, and any Updates, modifications or derivative works of any of the foregoing, including as may incorporate any Feedback. Lookout reserves any licenses not expressly granted herein.

7.2. Open Source. Sometimes Lookout may provide you with software, such as mobile apps, that may include components subject to a so-called “open source” software license (such components, “**Open-Source Components**”). To the extent required by the license terms covering the Open-Source Components, those license terms will apply in lieu of the license terms and restrictions of Section 3; however, the remaining sections of this Agreement, including Section 9 (Disclaimers and Limitations of Liability), will continue to apply to all components of the Lookout Services, including Open-Source Components.

## **8. Disclaimers and Limitations of Liability.**

*Please read the following provisions carefully, as they limit the liability of Lookout Entities. “**Lookout Entities**” means: (i) Lookout, its parents, subsidiaries, affiliates and related companies (collectively, the “**Lookout Companies**”); (ii) the Lookout Companies’ officers, directors, employees, agents, contractors and representatives; and (iii) the Lookout Companies’ Distributors, licensors, suppliers, service providers and data providers (including without limitation our providers of hosted services and Identity Protection Services), and their parents, subsidiaries, affiliates, related companies, officers, directors, employees, agents, contractors, representatives and data providers.*

8.1. Disclaimers. TO THE MAXIMUM EXTENT NOT PROHIBITED BY APPLICABLE LAW, EACH LOOKOUT SERVICE IS PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS, WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, AND EACH LOOKOUT ENTITY DISCLAIMS ANY AND ALL WARRANTIES (WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE), INCLUDING BUT NOT LIMITED TO WARRANTIES OF



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MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, THE LOOKOUT ENTITIES (AND EACH OF THEM) DO NOT REPRESENT, WARRANT OR GUARANTEE THAT ANY LOOKOUT SERVICE (INCLUDING ANY CONTENT, DATA, RESULTS, INFORMATION OR OUTPUT THEREIN OR OBTAINED THEREFROM): (A) WILL BE ACCURATE, COMPLETE, TIMELY, CURRENT, SECURE (INCLUDING FROM UNAUTHORIZED ACCESS), RELIABLE, UNINTERRUPTED, ERROR-FREE OR MAINTAINED WITHOUT LOSS OR (B) WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS. YOU AGREE THAT, TO THE MAXIMUM EXTENT NOT PROHIBITED BY APPLICABLE LAW, LOOKOUT AND THE OTHER LOOKOUT ENTITIES WILL NOT BE LIABLE IN WHOLE OR IN PART FOR ANY LOSS OR INJURY ARISING OUT OF OR CAUSED BY YOUR USE OF A LOOKOUT SERVICE OR THE CONTENT, DATA, RESULTS, INFORMATION OR OUTPUT THEREIN OR OBTAINED THEREFROM. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR LIMITATIONS ON APPLICABLE STATUTORY RIGHTS OF A CONSUMER, SO THE ABOVE DISCLAIMERS AND EXCLUSIONS MAY NOT APPLY TO YOU.

8.2. Limitations of Liability. TO THE MAXIMUM EXTENT NOT PROHIBITED BY APPLICABLE LAW: (A) IN NO EVENT WILL LOOKOUT OR ANY OTHER LOOKOUT ENTITY BE LIABLE FOR ANY LOSS OF USE, PROFITS OR BUSINESS; DAMAGE INVOLVING ANY DEVICE, EQUIPMENT, SYSTEM, CONTENT OR DATA (INCLUDING FOR LOSS, THEFT OR UNAUTHORIZED ACCESS TO SUCH ITEMS); COSTS OF SUBSTITUTE PRODUCTS OR SERVICES; REPUTATIONAL HARM; OR ANY INDIRECT, SPECIAL, INCIDENTAL, RELIANCE, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF ANY KIND, HOWEVER CAUSED, EVEN IF THE LOOKOUT ENTITY KNOWS OF THE POSSIBILITY OF SUCH DAMAGES AND (B) WITHOUT LIMITING THE FOREGOING, LOOKOUT'S AND THE OTHER LOOKOUT ENTITIES' TOTAL, COLLECTIVE LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT AND THE LOOKOUT SERVICES, IF ANY, SHALL NOT EXCEED IN AGGREGATE THE GREATER OF FIFTY U.S. DOLLARS (\$50 US) OR THE FEES ACTUALLY PAID BY YOU FOR THE APPLICABLE LOOKOUT SERVICE IN THE TWELVE (12) MONTHS PRECEDING THE CLAIM. MULTIPLE CLAIMS WILL NOT EXPAND THIS LIMITATION.

8.3. Third Party Products. THE LOOKOUT ENTITIES: (A) DO NOT ENDORSE, WARRANT OR SUPPORT THIRD PARTY PRODUCTS AND (B) DISCLAIM ANY RESPONSIBILITY AND LIABILITY (INCLUDING FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL AND OTHER DAMAGES OF ANY TYPE) ARISING FROM OR RELATING TO THIRD PARTY PRODUCTS OR THEIR BEHAVIOR, FEATURES OR CONTENT.

8.4. Other Terms. THE DISCLAIMERS AND LIMITATIONS OF LIABILITY IN THIS SECTION 9 APPLY IN NEW JERSEY (U.S.) BUT MAY NOT APPLY IN OTHER JURISDICTIONS TO THE EXTENT PROHIBITED BY THOSE JURISDICTION'S LAWS IN THE U.S. OR OTHERWISE. IF THOSE JURISDICTION'S LAWS ARE FOUND TO APPLY TO THIS AGREEMENT, THIS SECTION 9 SHALL APPLY ONLY TO THE MAXIMUM EXTENT NOT PROHIBITED BY SUCH APPLICABLE LAW. WARRANTIES REQUIRED UNDER APPLICABLE LAW, IF ANY, SHALL BE LIMITED TO THE SHORTEST PERIOD AND MAXIMUM EXTENT PERMITTED BY LAW. YOU ACKNOWLEDGE AND AGREE THAT THIS SECTION 9 WILL SURVIVE AND APPLY TO ANY CLAIMS, DAMAGES AND LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT AND ANY LOOKOUT SERVICES, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE), AND EVEN IF ANY LIMITED REMEDY IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

9. **Indemnity.** You agree to indemnify and hold Lookout and the Lookout Entities harmless from and against any third-party claims, proceedings and demands and related losses, costs, damages, liabilities and expenses (including defense costs and reasonable attorney's fees) arising out of or related to: (a) your use or misuse of Lookout Service(s); (b) your breach of any provision of this Agreement; or (c) your violation or alleged violation of any law or third-party right (including without limitation any intellectual property, privacy, publicity or other right). You further agree to defend Lookout and the Lookout Entities against any such claims at our request, but we have right to assume the exclusive defense and control of such claims. You must notify us of any such claims immediately and cooperate with Lookout in any defense. When you are defending a claim, Lookout may participate in the defense through counsel of our own choosing and you must not make any admissions, take positions adverse to Lookout or settle any claim without our prior written consent.

10. **Arbitration and Class Action Waiver (U.S. Residents only).** **PLEASE READ THIS SECTION CAREFULLY. IT AFFECTS YOUR LEGAL RIGHTS, INCLUDING YOUR RIGHT TO FILE A LAWSUIT IN COURT.** You and Lookout agree that this Agreement affects interstate commerce and that the Federal Arbitration Act governs the interpretation and enforcement of these arbitration provisions. This Section is intended to be interpreted broadly and governs any and all



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disputes including but not limited to claims arising out of or relating to this Agreement, any Lookout Services, and/or any aspect of the relationship between us, whether such claims are based in contract, tort, statute, fraud, misrepresentation or any other legal theory, arose before this Agreement or any prior agreement, or arose after the termination of this Agreement. The only exceptions to this mandatory arbitration provision are described in the “Exceptions” subsection below. By agreeing to this Agreement or using any Lookout Service, you agree to resolve any and all disputes with Lookout as follows:

10.1. **Initial Dispute Resolution:** Most disputes can be resolved without resorting to litigation. Before initiating an arbitration, the parties agree to use their best efforts to settle any dispute, claim, question, or disagreement directly through consultation with the Lookout support department. You can reach Lookout’s support department at support@lookout.com.

10.2. **Binding Arbitration:** If the parties do not reach an agreed-upon solution within a period of thirty (30) days from the time informal dispute resolution is initiated under the provision above, then either party may initiate binding arbitration as the sole means to resolve disputes. Specifically, all disputes (including but not limited to any claims arising out of or relating to this Agreement, any Lookout Services, and/or any aspect of the relationship between us) shall be finally settled by binding arbitration administered by JAMS in accordance with the JAMS Streamlined Arbitration Procedure Rules for claims that do not exceed \$250,000 and the JAMS Comprehensive Arbitration Rules and Procedures for claims exceeding \$250,000 in effect at the time the arbitration is initiated. The arbitrator, and not any federal, state, or local court or agency, shall have exclusive authority to resolve all disputes arising out of or relating to the interpretation, applicability, enforceability, or formation of this Agreement (including the [Privacy Policy](#)) including but not limited to any claim that all or any part of this Agreement is void or voidable, whether a claim is subject to arbitration, or the question of waiver by litigation conduct. The arbitrator shall be empowered to grant whatever relief would be available in a court under law or in equity. The arbitrator's award shall be written and shall be binding on the parties and may be entered as a judgment in any court of competent jurisdiction. To start an arbitration, you must do the following: (a) Write a Demand for Arbitration that includes a description of the claim and the amount of damages you seek to recover (you may find a copy of a Demand for Arbitration at [www.jamsadr.com](http://www.jamsadr.com)); (b) Send three copies of the Demand for Arbitration, plus the appropriate filing fee, to JAMS, Two Embarcadero Center, Suite 1500, San Francisco California 94111; and (c) Send one copy of the Demand for Arbitration to us at 1 Front St #3100, San Francisco, CA 94111, ATTN: General Counsel.

10.3. **Class-Action Waiver.** The parties further agree that the arbitration shall be conducted in their individual capacities only and not as a class action or other representative action, and the parties expressly waive their right to file a class action or seek relief on a class basis. **YOU AND LOOKOUT AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING.** The parties further agree that the JAMS Rules referenced above shall exclude any rules or procedures governing or permitting class actions. If any court or arbitrator determines that the class action waiver set forth in this paragraph is void or unenforceable for any reason or that an arbitration can proceed on a class basis, then the arbitration provisions set forth in this Arbitration and Class Action Waiver section shall be deemed null and void in their entirety and the parties shall be deemed to have not agreed to arbitrate disputes.

10.4. **Costs.** To the extent the filing fee for the arbitration exceeds the cost of filing a lawsuit, Lookout will pay the additional cost. If the arbitrator finds the arbitration to be non-frivolous, Lookout will pay the fees invoiced by JAMS, including the filing fees and arbitrator and hearing expenses they invoice. You are responsible for your own attorneys' fees unless the arbitration rules and/or applicable law provide otherwise.

10.5. **Location of Arbitration.** If you are a resident of the United States, any arbitration hearings may take place in the county where you reside at the time of filing or in another location mutually agreed by the parties. For residents outside the United States, any arbitration shall be initiated in the State of California, United States of America, and you and Lookout agree to submit to the personal jurisdiction of any federal or state court in San Francisco County, California in order to compel arbitration, to stay proceedings pending arbitration, or to confirm, modify, vacate, or enter judgment on the award entered by the arbitrator. If your claim is for \$50,000 or less, either party may choose to attend a hearing telephonically, videographically or in person. Hearings may also take place telephonically or videographically as provided for in the applicable JAMS Rules.



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10.6. Exceptions. Nothing anything to the contrary in this Arbitration and Class Action Waiver section: (a) either party may bring enforcement actions, validity determinations or other claims arising from or relating to the infringement or validity of intellectual property rights (excluding privacy or publicity rights) in any state, federal or international court or administrative agency with jurisdiction over such claims; (b) either party may seek relief in a small claims court for disputes or claims within the scope of that court's jurisdiction; and (c) if you are a resident of the European Union and are dissatisfied with the manner in which we have addressed your concerns about our privacy practices, you may address such claims as specified in our [Privacy Policy](#).

10.7. 30-Day Right to Opt Out: You have the right to opt out and not be bound by this Arbitration and Class Action Waiver section by sending (from the email address registered to your Account) written notice of your decision to opt out to [legal@lookout.com](mailto:legal@lookout.com) with the subject line, "ARBITRATION AND CLASS ACTION WAIVER OPT-OUT" and your full legal name. The notice must be sent within thirty (30) days of your first use of the Lookout Services, otherwise you shall be bound to arbitrate disputes in accordance with the terms of this mandatory arbitration provision. If you opt out of these arbitration provisions, Lookout also will not be bound by them.

10.8. Changes to This Section: If you have not opted-out of this Arbitration and Class Action Waiver section and Lookout makes any future change to this section (other than a change to our notice address), you may reject any such change within 30 days of the change by sending us written notice (from the email address registered to your Account) to [legal@lookout.com](mailto:legal@lookout.com) with the subject line "OPT OUT OF CHANGES TO ARBITRATION AND CLASS ACTION WAIVER" and your full legal name. If you opt out of changes to this section, Lookout also will not be bound by those changes, and the parties agree to arbitrate any dispute in accordance with the Arbitration and Class Action Waiver section in effect prior to such rejected change. If a court or arbitrator decides that this paragraph is not enforceable or valid, then this paragraph shall be severed from the rest of this Arbitration and Class Action Waiver section, and the court or arbitrator shall apply the first Arbitration and Class Action Waiver section in existence after you began using the Lookout Services.

10.9. Additional Terms. The parties understand that, absent this mandatory arbitration provision, they would have the right to sue in court and have a jury trial. They further understand that, in some instances, the costs of arbitration could exceed the costs of litigation and the right to discovery may be more limited in arbitration than in court. This Arbitration and Class Action Waiver section shall survive any termination of your Account, the Lookout Services or this Agreement.

## 11. General.

11.1. Governing Law and Jurisdiction. This Agreement is governed by the laws of the State of California and the United States, without regard to choice or conflict of law rules thereof. The terms of the United Nations Convention on Contracts for the Sale of Goods do not apply to this Agreement. The Uniform Computer Information Transactions Act (UCITA) shall not apply to this Agreement regardless of when or where adopted. Except for the claims specified in Section 11.6 (Exceptions) above, any claim or dispute that is not subject to arbitration must be resolved by the state or federal courts for San Francisco County, California, and the parties hereby submit to the jurisdiction of such courts and waive any jurisdictional and venue defenses otherwise available.

11.2. Entire Agreement. Lookout's [Acceptable Use Policy](#) and any applicable Guidelines are a part of and hereby incorporated into this Agreement. This Agreement (including those policies and guidelines) is the entire agreement between you and Lookout relating to the Lookout Services or any other subject matter covered by this Agreement, and it supersedes all other oral or written communications, proposals, discussions and representations with respect to Lookout Services.

11.3. Amendments. Lookout reserves the right, at its sole discretion, to modify this Agreement, at any time and without prior notice. If we modify this Agreement, we will post the modification on the Lookout website and/or provide you with notice of the modification. We will also update the "Last Updated Date" at the top of this Agreement. By continuing to access or use the Lookout Services after we have posted a modification on the Lookout Services or have otherwise provided you with notice of a modification, you are indicating that you agree to be bound by the modified Agreement. If the modified Agreement is not acceptable to you, your only recourse is to cease using the Lookout Services. Notwithstanding the foregoing, changes to Section 11 (Arbitration and Class Action Waiver) shall be governed by Section 11.8 (Changes to this Section).

11.4. Waivers. The failure of Lookout to exercise or enforce any right or provision of the Agreement shall not constitute a waiver of such right or provision. If any provision of the Agreement is found by an arbitrator court of competent





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jurisdiction to be invalid, the parties nevertheless agree that the arbitrator or court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of the Agreement remain in full force and effect.

11.5. **Assignments.** This Agreement (and any rights and licenses granted herein) may not be assigned by you, and any assignment by you is void. Lookout may assign or delegate this Agreement without restriction, including to an affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets.

11.6. **Notices.** Any notice under this Agreement must be given in writing. You agree to receive all communications, agreements, and notices that we provide in connection with any Lookout Service ("Communications") electronically, including by e-mail, text, in-app notifications, or by posting on the Lookout website or other parts of the Lookout Service. You agree that all Communications that we provide to you electronically satisfy any legal requirement that such communications be in writing. You further agree that we are not responsible for your failure to receive notices if you fail to keep your Account information accurate and complete or if you filter our Communications. Our Communications to you will be deemed given on the day we send it. Unless this Agreement, the Privacy Policy or applicable Guidelines specifically permit you to contact us through other means, you must use any notice related to this Agreement by overnight post to 1 Front St #3100, San Francisco, CA 94111, Attn: General Counsel, with a copy by email to [legal@lookout.com](mailto:legal@lookout.com), with the subject line: ATTN: GENERAL COUNSEL. Your notices will be deemed given upon our receipt of your mailing.

11.7. **Government Requests.** Lookout reserves the right to cooperate with any law enforcement or similar government inquiry as described in our [Privacy Policy](#).

11.8. **U.S. Government Use.** The Lookout Services are commercial computer software. If you are an agency, department, or other entity of the United States Government, the use, duplication, reproduction, release, modification, disclosure, or transfer of the Lookout Services, or any related documentation of any kind, including technical data and manuals, is restricted by the terms of this Agreement in accordance with Federal Acquisition Regulation 12.212 for civilian purposes and Defense Federal Acquisition Regulation Supplement 227.7202 for military purposes. The Lookout Services were developed fully at private expense. All other use is prohibited.

11.9. **Export Restrictions.** The Lookout Services are subject to export restrictions by the United States government and import restrictions by certain foreign governments, and you agree to comply with all applicable export and import laws and regulations in your access to or use of the Lookout Services. You shall not (and shall not allow any third-party to) remove or export from the United States or allow the export or re-export of any part of the Lookout Services or any direct product thereof: (a) into (or to a national or resident of) any embargoed or terrorist-supporting country; (b) to anyone on the U.S. Commerce Department's Table of Denial Orders or U.S. Treasury Department's list of Specially Designated Nationals; (c) to any country to which such export or re-export is restricted or prohibited, or as to which the United States government or any agency thereof requires an export license or other governmental approval at the time of export or re-export without first obtaining such license or approval; or (d) otherwise in violation of any export or import restrictions, laws or regulations of the United States or any foreign government, agency or authority. You represent and warrant that (i) you are not located in, under the control of, or a national or resident of any such prohibited country or on any such prohibited party list and (ii) that none of User Content or User Data is controlled under the US International Traffic in Arms Regulations. The Lookout Services may not be used for the design or development of nuclear, chemical, or biological weapons or missile technology without the prior permission of the United States government.

11.10. **Third Party Rights.** This Agreement is between you and Lookout only, not with any of our Distributors, and our Distributors are not responsible for the Lookout Services or the content thereof. However, you acknowledge and agree that Lookout Entities are intended beneficiaries of the Agreement and have the right to enforce the Agreement directly against you. Except as specified in this Section, there are no third-party beneficiaries of this Agreement.

11.11. **Severability.** If any provision of this Agreement is held to be illegal, invalid, or unenforceable, then the provision shall be performed and enforced to the maximum extent permitted by law, and the remaining provisions of this Agreement shall continue to remain in full force and effect.

11.12. **Miscellaneous.** As used herein "including" means "including without limitation" and examples are provided for clarification only and are not intended to be restrictive. Except where this Agreement expressly states that a remedy is exclusive, all remedies under this Agreement, including termination or suspension, are cumulative and not exclusive of any other rights or remedies that may be available to a party.



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## Acceptable Use Policy

*Last Update: November 15, 2016*

This document is our Acceptable Use Policy. It is part of our Terms of Service (currently available at [www.lookout.com/legal/terms](http://www.lookout.com/legal/terms)) and applies to all Lookout Services (as that term is defined in our Terms of Service). By accepting our Terms of Service or using or accessing any Lookout Service, you agree to comply with this policy. In connection with your use of any Lookout Service, you agree not to:

1. Post, use or transmit abusive messages, defamatory, libelous, false or misleading statements, hate speech, or messages that incite or threaten violence;
2. Post, use or transmit any content that is unlawful, offensive, threatening, libelous, defamatory, obscene or otherwise objectionable;
3. Harass, annoy, intimidate or threaten other users of the Lookout Services or employees, contractors or agents of Lookout or its service providers;
4. Transmit spam, chain letters, or other unsolicited email;
5. Impersonate another person, misrepresent your affiliation with another person or entity, engage in fraud, or hide or attempt to hide your identity;
6. Access any part of the Lookout Service that you are not authorized to access;
7. Access any part of the Lookout Service, or any content or data therein, through any technology or means other than those expressly provided to you by Lookout;
8. Access any part of the Lookout Service, or any content or data therein, through technologies such as “scraping tools,” “robots,” “spiders” or “offline readers,” or through any system that sends more request to Lookout’s servers than a human can reasonably produce in the same period of time;
9. Use a Lookout Service in a manner that interferes or may interfere with the normal functioning, security, integrity or operation of the Lookout Service;
10. Upload or transmit invalid data, viruses, worms, harmful code, malware, or other software agents;
11. Decipher or decrypt transmissions from any Lookout Service, circumvent or disable (or attempt to circumvent or disable) any access, authentication, copy restrictions or other feature of any Lookout Service, attempt to access or use the Lookout Services through means other than those we expressly provide to you, or otherwise attempt to compromise or violate the security of any Lookout Service or its components (including another user’s account);
12. Attempt to identify, probe, scan or test any vulnerability of any part of the Lookout Service(s) without Lookout’s signed, written authorization;
13. Attempt to modify, or gain unauthorized use of or access to, another user’s account(s), website(s), application(s), system(s), equipment or data;
14. Collect or harvest any personally identifiable information (including account names) from any other user;
15. Use any Lookout Service in violation of any applicable law or regulation, including intellectual property and privacy laws in applicable jurisdictions;
16. Post, use or transmit any content, data or materials that violate applicable laws or regulations or any third party rights (including any intellectual property, privacy or publicity rights); and/or
17. Attempt or facilitate violations of any of the foregoing.

Without limiting any other remedies available to it, Lookout may in its sole discretion suspend or terminate access to the Lookout Service for violations of this Acceptable Use Policy (as determined by Lookout), to prevent harm to other parties, or to preserve our security, availability or integrity.

## DMCA Policy

*Last Update: November 15, 2016*

Lookout respects intellectual property rights and expects its users to do the same. If you believe that your work has been copied in a way that constitutes copyright infringement, or your intellectual property rights have been otherwise violated, please provide Lookout’s Copyright Agent a notice containing the following information: (i) an electronic or physical



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signature of the person authorized to act on behalf of the owner of the copyright or other intellectual property interest that has allegedly been infringed; (ii) specific identification of each copyrighted work or other intellectual property that you claim has been infringed; (iii) identification of where the allegedly infringement material resides on the Lookout Service, (please be as detailed as possible and include an URL where applicable); (iv) contact information for the complaining party, including name, address, telephone number and email address; (v) a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law; and (vi) a statement by you that the above information in your notice is accurate and, under penalty of perjury, that you are the copyright or intellectual property owner or authorized to act on the copyright or intellectual property owner's behalf.

You may send your claims of copyright or other intellectual property infringement to Lookout's Copyright Agent: (a) by mail to Lookout – Copyright Agent, 1 Front St #3100, San Francisco, CA 94111 or (b) by email to [legal@lookout.com](mailto:legal@lookout.com), ATTN: COPYRIGHT AGENT.