

## **DIGITRUST ID TERMS OF SERVICE**

*Last Updated: June 15, 2018*

**BY ACCEPTING THESE TERMS OF SERVICE OR DOWNLOADING OUR SOFTWARE, YOU ACKNOWLEDGE THAT THIS IS A LEGALLY BINDING AGREEMENT BETWEEN YOU AND IAB TECHNOLOGY LABORATORY, INC. AND ITS AFFILIATES AND AGREE TO BE BOUND BY THE TERMS AND CONDITIONS HEREIN. PLEASE READ THESE TERMS OF SERVICE IN THEIR ENTIRETY. IF YOU DO NOT AGREE TO THESE TERMS OF SERVICE, DO NOT ACCESS OR USE OUR SERVICES (AS DEFINED BELOW).**

**THESE TERMS OF SERVICE CONTAIN IMPORTANT TERMS AND CONDITIONS THAT AFFECT YOU AND YOUR USE OF THE SERVICES, INCLUDING, UNLESS YOU CHOOSE TO OPT OUT, A PROVISION REGARDING BINDING ARBITRATION OF DISPUTES (OTHER THAN CERTAIN SPECIFIED INTELLECTUAL PROPERTY CLAIMS AND SMALL CLAIMS) AND A WAIVER OF CERTAIN RIGHTS TO JURY TRIALS AND/OR CLASS ACTIONS. PLEASE READ THE "DISPUTE RESOLUTION" SECTION (SECTION 9) IN ITS ENTIRETY.**

IAB Technology Laboratory, Inc. ("Tech Lab," "we," "us" or "our") is pleased to provide you access to our DigiTrust® solution as more fully described at <http://www.digitru.st/publishers/> by providing you with a JavaScript (the "JavaScript") to run on your Media (as defined below). The JavaScript: (1) provides End User's notice and consent, if so configured by you, (2) generates a standardized (randomly generated) user token and stores it with the browser client (along with a timestamp for when End User notice/consent was achieved, where necessary), and subsequently (3) allows the encrypted token and timestamp to be read and used by platforms that have become DigiTrust subscribers, but only if the End User has not opted out. These Terms of Service ("Terms") apply to your download and use of the JavaScript and its use as part of the DigiTrust solution (collectively, the "Services").

These Terms do not alter in any way the terms or conditions of any other agreement you may have with Tech Lab for products, services or otherwise. If you are using the Services on behalf of any entity, you represent and warrant that you are authorized to accept these Terms on such entity's behalf and that such entity agrees to be responsible to us if you or that entity violate these Terms. In addition, you represent and warrant that any information you provide in setting up a user account (the "User Account") to obtain the JavaScript is accurate and you acknowledge that you are responsible for updating any contact information you provide; Tech Lab is not responsible for any notice that does not reach you because of outdated contact information. As used herein "you" and "your" shall refer to you and any entity on whose behalf you are using the Services.

Tech Lab reserves the right to change or modify these Terms on a going forward basis at any time and in our sole discretion. If Tech Lab makes changes to these Terms, we will provide notice of such changes as appropriate by sending you notice at the address provided in your User Account and by posting the revised Terms at <http://www.digitru.st/publisher-terms-of-service> and updating the "Last Updated" date at the top of these Terms. Your continued use of the Services will confirm your acceptance of the revised Terms. If you do not agree to the revised Terms, you must stop using the Services. We encourage you to review the Terms from time to time to ensure you understand the terms and conditions that apply to your access to, and use of, the Services.

## 1. **DEFINITIONS.**

- 1.1. "API Service" means any application programming interface supplied by Tech Lab.
- 1.2. "DigiTrust Identifier" means any shared digital identifier generated by a JavaScript provided by Tech Lab for use on digital media, including, without limitation, the DigiTrust ID, which may be accessed through an API call utilizing the API Service.
- 1.3. "End User" means an individual who accesses Media.
- 1.4. "Media" means media (in any form) on which you have the right to exploit or enable others to exploit (whether by ownership, contract, or otherwise).
- 1.5. "Intellectual Property Rights" means all patents, copyrights, moral rights, trade secrets, trademarks, service marks, know-how, mask works, and all other intellectual and industrial property rights, whether or not registered or perfected, anywhere in the world, and all registrations, initial applications, renewals, extensions, continuations, divisions, or reissues for any of the foregoing.

## 2. **LICENSE; OBLIGATIONS; RESTRICTIONS ON USE; OWNERSHIP.**

2.1. **License.** Subject to the terms and conditions of these Terms, Tech Lab hereby grants you a limited, non-exclusive, non-transferable, revocable license to access, incorporate and run the JavaScript on your Media and serve same from your domains. You may not use the JavaScript except in connection with the Services and you may only incorporate it in Media. You are responsible for utilizing any software, hardware, or other technology required to access the Services and complying with any corresponding terms and conditions.

2.2. **Your Obligations.** In connection with your use of the Services, you shall:

- 2.2.1. comply with all applicable national, international, federal, state, and local laws, rules, and regulations and self-regulatory guidelines (collectively, the "Applicable Regulations");
- 2.2.2. establish, implement, and maintain all reasonable physical, electronic, and procedural safeguards required to comply with the Applicable Regulations; and

- 2.2.3. update the JavaScript upon the receipt of notice from Tech Lab of new releases.
- 2.3. **Restrictions.** You shall not: (i) use the Services in violation of any Applicable Regulations; (ii) modify, translate, enhance, or create derivative works of the Services or reverse assemble or disassemble, reverse engineer, decompile, or otherwise attempt to derive source code of the Services; (iii) rent, lease, lend, sell, sublicense, assign, transfer, or otherwise make the Services commercially available to any other person; (iv) remove any copyright or other proprietary notices on or in the Services; (v) access the unencrypted DigiTrust ID or transmit the unencrypted ID to any person or entity; or (vi) violate or circumvent any technological restrictions within the Services or as otherwise specified in these Terms.
- 2.4. **Privacy.** You agree to post on your website a privacy policy that complies with all Applicable Regulations and agree to comply with the terms of each such policy.
- 2.5. **Opt-Outs.** You agree that: (i) your privacy policy will provide End Users with a conspicuous link to a functional opt-out page that enables such End Users to opt out of behavioral or interest-based advertising; and (ii) you or your representative shall honor any such opt-out requests, to the extent you have proprietary software serving behavioral or interest-based advertising.
- 2.6. **Ownership.** As between the parties, Tech Lab owns and shall own all rights, title, and interest in and to the Services and all underlying Intellectual Property Rights therein. You have no rights with respect to the Services or the underlying Intellectual Property Rights other than those expressly granted hereunder. You acknowledge that DIGITRUST® is a registered trademark of Tech Lab (the “Trademark”) except in accordance with Tech Lab’s guidelines available at <http://www.digitru.st/trademark-guidelines/> or with the express, prior, written permission of Tech Lab.
3. **TERMINATION.**
- 3.1. **Termination; Suspension of the Services.** Tech Lab may terminate your access to the Services, effective immediately and with or without notice, upon a breach of the terms of this Agreement or any act by you in connection with the Services which, in Tech Lab’s sole discretion, Tech Lab determines causes reputational harm, to the Tech Lab or the DigiTrust® brand. In addition, Tech Lab may terminate your access to the Services at any time, in its sole discretion, upon the provision of fifteen (15) days prior notice to you.
- 3.2. **Effect of Expiration or Termination.** Upon expiration or termination of these Terms, all rights granted hereunder to you shall delete all JavaScript from your Media and you shall immediately cease all access to, and usage of, the Services.
- 3.3. **Survival.** The following provisions shall survive any expiration or termination of these Terms: Section 1 (Definitions), Section 2.6 (Ownership), Section 3.3 (Effect of Expiration or Termination), Section 4.1 (Disclaimer of Warranties), Section 5

(Indemnification), Section 6 (Limitation of Liability), Section 8 (Miscellaneous Provisions) and Section 9 (Dispute Resolution).

#### 4. **WARRANTIES.**

4.1. **Tech Lab Warranties.** Tech Lab represents and warrants that to the knowledge of Tech Lab: (a) the Services do not and will not contain any software disabling devices, material security flaws or harmful components; (b) the Services when used without modification and for their intended purpose, will not infringe intellectual property rights or other rights of a third party or violate any right of privacy or publicity; and (c) the Services will comply with Applicable Regulations.

4.2. **DISCLAIMER OF WARRANTIES.** EXCEPT AS PROVIDED IN SECTION 4.1, ALL SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE," AND TECH LAB MAKES NO, AND HEREBY DISCLAIMS ALL, WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE. WITHOUT LIMITING THE FOREGOING, TECH LAB MAKES NO WARRANTY OF ANY KIND THAT THE SERVICES WILL MEET SUBSCRIBER'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE.

#### 5. **INDEMNIFICATION.**

5.1. **Indemnification.** You shall indemnify, defend, and hold harmless Tech Lab, Tech Lab's affiliates and each of their respective officers, directors, members, employees, and agents from and against any damages, losses, liabilities, costs, and expenses, including reasonable attorneys' fees ("Losses"), incurred by Tech Lab in connection with any third-party claim, action, or proceeding (each, a "Claim") to the extent based on or arising from your breach of these Terms.

5.2. **Indemnification Procedure.** If Tech Lab notifies you of a Claim, you shall promptly take control of the defense and investigation of such Claim and shall employ counsel to handle and defend the same, at your sole cost and expense. Our failure to promptly inform you of a Claim will not relieve you of your obligations under this Section 5, except to the extent that you can demonstrate that you have been materially prejudiced as a result of such failure. Tech Lab may participate in and observe the proceedings at our own cost and expense with counsel of our choosing.

#### 6. **LIMITATIONS OF LIABILITY.**

6.1. **EXCLUSION OF DAMAGES.** IN NO EVENT WILL TECH LAB'S OR ANY OF ITS LICENSORS, SERVICE PROVIDERS, OR SUPPLIERS BE LIABLE IN

CONNECTION WITH THESE TERMS OR THEIR SUBJECT MATTER UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY: (i) LOSS OF SERVICES, USE, BUSINESS, REVENUE, OR PROFIT OR LOSS OF DATA OR DIMINUTION IN VALUE; OR (ii) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES, REGARDLESS OF WHETHER SUCH PERSONS WERE ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

6.2. **CAP ON MONETARY LIABILITY.** IN NO EVENT WILL THE AGGREGATE LIABILITY OF TECH LAB OR ANY OF ITS LICENSORS, SERVICE PROVIDERS, AND SUPPLIERS IN CONNECTION WITH THESE TERMS OR THEIR SUBJECT MATTER, UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE EXCEED ONE HUNDRED DOLLARS (\$100.00). THE FOREGOING LIMITATION APPLIES NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

6.3. **TIME TO BRING CLAIM.** ANY CLAIM BY YOU UNDER THESE TERMS SHALL BE BROUGHT NO LATER THAN ONE YEAR FROM THE DATE OF THE EVENTS GIVING RISE TO THE CLAIM. ANY CLAIM NOT BROUGHT BY YOU WITHIN SUCH ONE YEAR PERIOD SHALL BE BARRED.

## 7. **FORCE MAJEURE.**

7.1. **No Breach or Default.** In no event will Tech Lab be liable or responsible to you, or be deemed to have defaulted under or breached these Terms, for any failure or delay in fulfilling or performing any term of these Terms, when and to the extent such failure or delay is caused by any circumstances beyond Tech Lab's reasonable control (a "Force Majeure Event"), including acts of God, flood, fire, earthquake, explosion, war, terrorism, invasion, riot or other civil unrest, embargoes or blockades in effect on or after the Effective Date, national or regional emergency, strikes, labor stoppages or slowdowns or other industrial disturbances, passage of any law or any action taken by a governmental or public authority, including imposing an embargo, export or import restriction, quota or other restriction or prohibition or any complete or partial government shutdown, or national or regional shortage of adequate power or telecommunications or transportation.

8. **MISCELLANEOUS PROVISIONS.** The failure of Tech Lab to exercise in any respect any right provided for herein shall not be deemed a waiver of any further rights hereunder. If any provision of these Terms is found to be unenforceable or invalid, that provision shall be limited or eliminated to the minimum extent necessary so that these Terms shall otherwise remain in full force and effect and enforceable. These Terms are not assignable, transferable, or sub-licensable by you, except with Tech Lab's prior written consent. These Terms shall be governed by and construed in accordance with the laws of the State of New York without regard to the conflict of law provisions thereof.

Subject to the terms of Section 9, all claims or disputes arising out of or in connection with these Terms shall be heard exclusively by any of the federal or state courts of competent jurisdiction located in the Borough of Manhattan, New York City, New York. You agree that these Terms are the complete and exclusive statement of our mutual understanding and supersede and cancel all previous written and oral agreements, communications, and other understandings relating to the subject matter of these Terms. Any modification to these Terms must be in a writing signed by Tech Lab and you. No agency, partnership, joint venture, or employment is created as a result of these Terms, and you have no authority of any kind to bind Tech Lab in any respect whatsoever.

9. **DISPUTE RESOLUTION.**

9.1. PLEASE READ THE FOLLOWING SECTION CAREFULLY BECAUSE IT REQUIRES YOU TO SUBMIT TO BINDING ARBITRATION (JURY TRIAL WAIVER) OF ANY AND ALL DISPUTES (OTHER THAN SPECIFIED INTELLECTUAL PROPERTY CLAIMS) WITH TECH LAB AND LIMITS THE MANNER IN WHICH YOU CAN SEEK RELIEF FROM TECH LAB (NO CLASS ARBITRATIONS, CLASS ACTIONS OR REPRESENTATIVE ACTIONS OR ARBITRATIONS).

9.2. **Binding Arbitration; Disputes; Small Claims.** You and Tech Lab agree to waive any right to a jury trial, or the right to have any Dispute resolved in any court, and instead accept the use of binding arbitration (which is the referral of a Dispute (as such term is defined below) to one or more impartial persons for a final and binding determination). “Dispute” as used in this Section 9 means any dispute, cause of action, claim, or controversy arising out of or in any way related to Tech Lab, these Terms, the subject matter of these Terms, or access to and use of the Services, including but not limited to contract, personal injury, tort, warranty, statute or regulation, or other legal or equitable basis and disputes that involve third parties (such as developers of third party content), except any dispute, cause of action, claim, or controversy relating to Tech Lab’s intellectual property (such as patents, trademarks, trade dress, domain names, trade secrets, copyrights, and/or patents). You and Tech Lab empower the arbitrator with the exclusive authority to resolve any dispute relating to the interpretation, applicability or enforceability of these Terms or formation of this contract, including the arbitrability of any dispute and any claim that all or any part of these terms are void or voidable.

9.3. **No Class Arbitrations, Class Actions or Representative Actions.** You and Tech Lab agree that any Dispute is personal to you and Tech Lab, and that any Dispute shall only be resolved by an individual arbitration and shall not be brought as a class arbitration, a class action, or any other representative proceeding. Neither party agrees to class arbitration, or an arbitration where a person brings a Dispute as a representative of any other person or persons. Neither you nor Tech Lab agree that a Dispute can be brought as a class or representative action whether inside or outside of arbitration, or on behalf of any other person or persons.

9.4. **Federal Arbitration Act.** You and Tech Lab agree that these Terms affect interstate commerce and that the enforceability of Section 9 shall be governed by, construed,

and enforced, both substantively and procedurally, by the Federal Arbitration Act, 9 U.S.C. § 1 et seq. (“FAA”) to the maximum extent permitted by applicable law.

- 9.5. **Confidentiality**. The arbitrator, Tech Lab, and you shall maintain the confidentiality of any proceedings, including but not limited to, any and all information gathered, prepared, and presented for purposes of the arbitration or related to the Dispute(s) therein. The arbitrator shall have the authority to make appropriate rulings to safeguard that confidentiality, unless the law provides to the contrary.
- 9.6. **Process**. Our goal is to resolve claims fairly and quickly. Accordingly, for any Dispute that a party has against the other, the claiming party shall first contact the other party and attempt to resolve the claim informally by sending a written notice of its claim (“Notice”) to the non-claiming party. The Notice to Tech Lab must be sent by certified mail addressed to: [●] and the Notice to you must be sent by certified mail addressed to: Officer of the General Counsel, IAB Technology Laboratory, Inc., 116 East 27th Street, 7th Floor, New York, NY 10016. The Notice must (a) include the claiming party’s name, address, and the email address and/or mobile telephone number; (b) describe the nature and basis of the claim; and (c) set forth the specific relief sought. If the parties cannot reach an agreement to resolve the claim within thirty (30) days after such Notice is received, then either party may, as appropriate in accordance with this Section 9, commence an arbitration proceeding or file a claim in court. The parties agree that any Dispute must be commenced or filed within one year after such claim arose; otherwise, the Dispute is permanently barred.
- 9.7. **JAMS Arbitration**. Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in the Borough of Manhattan, New York City, New York before one arbitrator. The arbitration shall be administered by JAMS pursuant to JAMS Streamlined Arbitration Rules and Procedures.
- 9.8. **Individual Arbitration**. As limited by the FAA, these Terms, and the applicable JAMS Rules, the arbitrator will have the exclusive power and jurisdiction to make all procedural and substantive decisions concerning the Dispute; provided, however, that this power does not include the power to conduct a class arbitration or a representative action, which is prohibited by these Terms (as stated above). The arbitrator may only conduct an individual arbitration, and may not consolidate more than one person’s claims and may not preside over any form of representative or class proceeding, or any proceeding on behalf of or involving more than one person or persons.