

Quantcast Choice Terms of Service

Last Updated: October 8, 2021

These Quantcast Choice Terms of Service, including the attached Quantcast Choice Processing Terms (collectively, this “**Agreement**”), describe the terms and conditions on which Quantcast makes Quantcast Choice (the “**Solution**”) available to Customer.

BY USING THE SOLUTION, CUSTOMER IS AGREEING TO BE BOUND BY THIS AGREEMENT. IF CUSTOMER IS ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, CUSTOMER REPRESENTS THAT CUSTOMER HAS THE AUTHORITY TO BIND SUCH ENTITY, IN WHICH CASE THE TERM “**CUSTOMER**” WILL REFER TO SUCH ENTITY (OR, IF SUCH ENTITY IS ACTING AS AN AUTHORIZED THIRD PARTY, THEN THE TERM “**CUSTOMER**” WILL REFER TO SUCH ENTITY, THE AUTHORIZING PARTY(IES), OR BOTH, AS APPLICABLE). QUANTCAST MAY MODIFY THIS AGREEMENT FROM TIME TO TIME; CONTINUED USE 30 DAYS AFTER NOTIFICATION WILL CONSTITUTE ACCEPTANCE (SEE SECTION 6). PLEASE READ THIS AGREEMENT CAREFULLY.

1. Certain Definitions.

“**Applicable Privacy Laws**” means the GDPR and the CCPA.

“**IAB Privacy Frameworks**” means the IAB Europe Transparency and Consent Framework and the IAB CCPA Compliance Framework.

“**CCPA**” means Title 1.81.5 of the California Civil Code.

“**EU GDPR**” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC.

“**UK GDPR**” means the EU GDPR as amended and incorporated into UK law under the UK European Union (Withdrawal) Act 2018, if in force.

“**GDPR**” means, as applicable: (a) the EU GDPR; and/or (b) the UK GDPR.

“**Choice Tag**” means the particular JavaScript code or SDK provided to Customer by Quantcast and embeddable on web pages or apps for implementation of the Solution, together with any fixes, updates, and upgrades provided to Customer.

“**Choice Signal**” means the indication as to whether a website visitor or app user (i.e., end user) has (a) been informed of; (b) provided, withheld, or withdrawn consent to; (c) objected or removed objections to; or (d) otherwise opted in or out of the processing of Personal Information for some or all purposes by some or all third parties in accordance with IAB Privacy Frameworks.

“**Personal Information**” has the same meaning as “personal data” or “personal information” under Applicable Privacy Laws.

2. Quantcast Transparency and Consent Management Platform.

a. **Solution.** Quantcast will provide Customer with the Choice Tag and Quantcast Choice Technical Guide in order for Customer to implement the Solution. The Solution comprises the Quantcast Choice Basic Services, the Quantcast Choice Additional Services, and the Quantcast Measure Component:

(i). “**Quantcast Choice Basic Services**” means the applicable services listed here as Quantcast Choice Basic Services, as updated from time to time.

(ii). “**Quantcast Choice Additional Services**” means the applicable services, if any, listed here as Quantcast Choice Additional Services, as updated from time to time.

(iii). “**Quantcast Measure Component**” means the applicable services listed at /products/measure-audience-insights/, as updated from time to time. By using the Solution, Customer additionally agrees to be bound by, and to comply with, the Quantcast Measure and Q for Publishers Terms of Service found at /legal/measure-terms-service/ (the “**Measure Terms**”), and, solely for purposes of the Measure Terms, the Solution shall collectively be deemed to be a component of the Services (as defined in the Measure Terms).

b. Quantcast Obligations and Representations. Quantcast agrees, represents, and warrants to Customer that the Solution is compatible and compliant with the IAB Privacy Frameworks.

c. Customer's Obligations and Representations. Customer agrees, represents and warrants to Quantcast that Customer: (i) has all rights, approvals, and consents necessary to implement the Solution on webpages, apps, or other digital applications; (ii) will implement the Choice Tag only as described in the Quantcast Choice Technical Guide provided by Quantcast and the terms and conditions of this Agreement and update the Choice Tag when Quantcast notifies Customer of any fixes, updates, and upgrades; (iii) will not interfere or attempt to interfere with the operational features of the Solution; (iv) will not delete, or in any manner alter, the copyright, trademark, or other proprietary rights notices appearing on the Solution; and (v) will not modify, reverse engineer, download, host on Customer's own servers, disassemble, decompile, license, or sublicense the Solution to any third parties or otherwise use the Solution, including the Quantcast Choice Technical Guide or other corresponding instruction manuals and documentation, to develop or assist in developing a product or service competitive with the Solution.

3. Indemnity. Customer agrees to defend, indemnify, and hold Quantcast harmless from any judgments, damages, loss, liability, fines, or costs (including reasonable attorneys' fees) resulting from Customer's breach of a term of this Agreement or Customer's use of the Solution if not in compliance with the terms of the Agreement. Quantcast will have no obligation or liability hereunder where the claim results from any combination with, addition to, or modification of the Choice Tag. Where pursuant to Article 82(4) of the GDPR, Quantcast is found to be liable for the entire damage arising from a breach or breaches of the GDPR relating to activities under this Agreement, in order to ensure effective compensation of one or more individuals, then Customer shall indemnify Quantcast for all claims, demands, loss, damages, or expenses (including reasonable attorneys' fees) relating to any breaches of GDPR for which Customer is wholly or partly responsible. All compensation paid to a data subject pursuant to Article 82(4) of the GDPR by Quantcast which is wholly or partly attributable to GDPR breaches by Customer shall be repaid pursuant to this indemnity and Article 82(5) immediately on receipt of a written request from Quantcast pursuant to this Section 3.

4. Warranty Disclaimer. The Solution provided "as is" without warranty or condition of any kind, either express or implied. Without limiting the foregoing, Quantcast explicitly disclaims any warranties of merchantability, fitness for a particular purpose, quiet enjoyment, or non-infringement. Quantcast assumes no liability on behalf of Customer, any of Customer's third party vendors, or any other entities for acting or not acting on Choice Signals, or if Customer or any of Customer's third party vendors or any other entities bypass or otherwise interfere with the technical restrictions included in the Solution as provided by Quantcast. Quantcast makes no warranty that the Solution, including the Choice Tag, will (a) be available on an uninterrupted, secure, or error-free basis, (b) not cause any latency or processing delays, or (c) meets any legal requirements around consent or data protection. Quantcast assumes no liability for Customer's reliance on the Solution. The foregoing exclusions and disclaimers are an essential part of this Agreement and formed a basis for enabling Quantcast to offer the Solution to Customer. Some jurisdictions do not allow exclusion of certain warranties so this disclaimer may not apply to Customer in full.

5. Termination. Unless otherwise terminated as set forth herein, this Agreement will remain in full force and effect while Customer uses the Solution. Customer may terminate this Agreement by removing the Choice Tag from Customer's websites or apps, as applicable, or notifying Quantcast of Customer's termination of this Agreement at any time in writing. Quantcast may terminate access to the Solution or terminate this Agreement at any time, for any reason or no reason and without any liability to Customer. Quantcast will not be liable to Customer or any third party for termination of this Agreement. Notwithstanding the above, Sections 3 and 7 to 10 will survive termination.

6. Modification of the Agreement. Quantcast reserves the right, in its sole discretion, to modify or discontinue the Solution without notice. Quantcast may also modify this Agreement from time to time. If the modified Agreement is not acceptable to Customer, Customer may terminate Customer's account within 30 days by following the procedure in Section 5. Use of the Solution, after 30 days, will constitute Customer's acceptance thereof.

7. Limitation on Liability. IN NO EVENT WILL QUANTCAST BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY CONSEQUENTIAL LOSS, EXEMPLARY DAMAGE, INCIDENTAL LOSS, SPECIAL DAMAGE OR LOSS, LOST PROFIT, OR PUNITIVE DAMAGES ARISING FROM CUSTOMER'S USE OF THE SOLUTION, EVEN IF QUANTCAST HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THESE LIMITATIONS FORMED A BASIS FOR ENABLING QUANTCAST TO OFFER THE SOLUTION TO CUSTOMER. THIS PARAGRAPH WILL APPLY REGARDLESS OF ANY FAILURE OF THE EXCLUSIVE REMEDY PROVIDED IN THE FOLLOWING

PARAGRAPH. EXCEPT WITH REGARD TO LIABILITY STEMMING FROM DEATH OR PERSONAL INJURY RESULTING FROM QUANTCAST'S NEGLIGENCE, OR QUANTCAST'S FRAUD, NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, QUANTCAST'S LIABILITY TO CUSTOMER FOR ANY CAUSE WHATSOEVER AND REGARDLESS OF THE FORM OF THE ACTION WILL AT ALL TIMES BE LIMITED TO TWO HUNDRED FIFTY DOLLARS (U.S. \$250.00).

8. Notices. All notices or other communications to Quantcast from Customer will be deemed given only when received by hand delivery, electronic mail, or prepaid first class mail, at the address below or any other address provided by Quantcast to Customer for these purposes, with attention to the Legal Department.

Persons in the United States, please contact: Quantcast Corp. 795 Folsom Street San Francisco, CA 94107 Attn: Legal Department Email: contact@quantcast.com

Persons outside of the United States, please contact: Quantcast International Limited Beaux Lane House Lower Mercer Street, 1st Floor Dublin 2, Ireland Attn: Legal Department Email: contact.dublin@quantcast.com

9. Miscellaneous. This Agreement constitutes the entire Agreement between the parties with respect to the Solution and supersedes all previous and contemporaneous agreements, proposals, and communications, written or oral, between Quantcast and Customer with respect thereto. Any waiver by either party of any violation of this Agreement will not be deemed to waive any further or future violation of the same or any other provision. If any parts or provisions of this Agreement are held to be unenforceable, then Customer and Quantcast agree that such parts or provisions will be given maximum permissible force and effect and the remainder of the Agreement will be fully enforceable. Customer and Quantcast agree that there are no third party beneficiaries of any promises, obligations, or representations made by Quantcast. Either party may assign its rights, data, and duties, under this Agreement in their entirety in connection with a sale of all (or substantially all) of its assets relating to this Agreement, a merger, or a reorganization. Nothing in this Agreement will constitute a partnership or joint venture between Customer and Quantcast. This Agreement is drafted in the English language. Any translation into another language is provided for convenience only. In the event of any inconsistency between the English language version and any translation, the English language version shall prevail.

10. Contracting Party; Choice of Law and Venue. If Customer resides in the United States, this Agreement is between Customer and Quantcast Corporation (a Delaware corporation), this Agreement and any dispute relating to this Agreement will be governed by the laws of California, and Customer and Quantcast Corporation consent and agree that jurisdiction, proper venue, and the most convenient forum for all claims, actions, and proceedings of any kind relating to this Agreement will be exclusively in courts located in San Francisco, California. If Customer resides outside of the United States, this Agreement is between Customer and Quantcast International Limited (an Irish limited liability company), this Agreement and any dispute relating to this Agreement will be governed by the laws of Ireland, and Customer and Quantcast International Limited consent and agree that jurisdiction, proper venue, and the most convenient forum for all claims, actions, and proceedings of any kind relating to this Agreement will be exclusively in courts located in Dublin, Ireland. References in this Agreement to "Quantcast", "us", "we," and "our" mean either Quantcast Corporation or Quantcast International Limited, as appropriate.