

Terms and Conditions

The following text contains **Live Personality's** terms and conditions that govern the use of company products and services, including but not limited to web actors / website spokesperson, websites, flash banners, video email, web-commercials, voice-over services, etc.(collectively known as "products/services") as outlined below. Please note that all prices are in U.S. dollars, sales are final, there are no refunds, and end user's purchase of company products/services constitutes a binding acceptance of this agreement.

Privacy Policy -Personal information is defined as information about the end user that can be used to personally identify him/her. This can include end user's name, address, email address, phone or fax numbers, credit card information, and any other information that is not publicly available. The end user is required to share personal information when he/she requests information about our products/services, updates, electronic information, or purchases products/services. The company will only disclose your personal information with your consent to third parties who work on behalf of the company to provide products/services requested by you.

End User Prohibited Uses - Under this agreement end user is not granted a license to any hardware or software, and is directly and indirectly prohibited to: interfere with the products/services by using programs, technology, and/or viruses designed to disrupt or damage any software/code or hardware; create derivative works from and/or modify products/services by reverse engineering, decompiling or disassembling code, technology, etc. used to provide products/services; remove any proprietary notices or labels from the products/services or any software/code, modify, translate, or create derivative works based on the products/services or any software/code; or copy, distribute, pledge, assign, or otherwise transfer or encumber rights to the products/services or any software/code; use spiders or other devices, code, technology, and/or process, etc. to monitor the activity on, copy information, code, technology etc. from our products/services, materials, websites, etc., except in the operation or use of an internet "search engine", website analytics or like technology that is approved to be used by company with purchased products/services; imply or state end user is an employee/representative, business partner, etc. of the company or impersonates any employee or representative of the company; use meta tags, search terms/words, key terms/words, or any terms/words similar to that contain company's name or trademarks; engage in any activity that interferes with company or any other user's ability to use or promote the company's products/services; or aid, collaborate, and/or instigate a third-party in engaging in any activity prohibited by this agreement.(h) infringe the company's copyright, trademark, patent, trade secret, right of privacy, right of publicity and/or other legal rights of any third-party. The products/services shall be used for end user's internal business (which includes civic or charitable) purposes only and end user shall not use the products/services or any software/code for any other purposes than it was originally intended. End user acknowledges and agrees that the products/services and the company names and logos and all related product and service names, design marks and slogans, are the property of the company or its affiliates or suppliers (collectively known as "marks"). End user is not authorized to use any of the marks in any advertising, publicity or any other commercial manner without the prior written consent of the company. End user's use of the products/services confers no title or ownership in the products/services, the software/code or the marks and is not a sale of any rights in the products/services, the software/code or the marks. All ownership rights remain in the company's or its third-party suppliers, as the case may be. End user represents, covenants, and warrants that he/she will use the products/services only in compliance with the agreement and all applicable laws (including but not limited to policies and laws related to spamming, privacy, obscenity, or defamation). End user agrees he/she will not access or otherwise use third-party mailing lists in connection with preparing or distributing unsolicited email to any third-party. End user hereby agrees to indemnify and hold harmless company against any damages, losses, liabilities, settlements, and expenses (including without limitation costs and reasonable attorneys' fees) in connection with any claim or action that arises from an alleged violation of the foregoing or otherwise arising from or relating to End user's use of the products/services. Although company has no obligation to monitor the content provided by End user or his/her use of the products/services, the company may do so and may remove any such content or prohibit any use of the products/services it believes may be (or is alleged to be) in violation of the foregoing. The products/services may only be used for lawful purposes. Transmission or solicitation of any material that violates United States federal, state or other laws that may apply in this jurisdiction or End user's local area is prohibited. This may include material that is obscene, threatening, harassing, libelous, or in any way a violation of intellectual property laws or a third-party's intellectual property rights. End user may not remove or export from the United States or allow the export or re-export of the products/services or any direct product thereof, including technical data, in violation of any restrictions, laws, or regulations of the United States or any other applicable Country. If end user is using the products/services in any country in the European community, the prohibition against modifying, translating, reverse engineering, decompiling, disassembling or creating derivative works based on the services or the software does not affect end user's rights under any legislation implementing the Council Directive 91/250/EEC of 14 May 1991 on the legal protection of computer programs. End User acknowledges that Company reserves the right, at its discretion, to not engage or work with companies and individuals that offer objectionable or offensive content which includes but is not limited to adult entertainment, racism, terrorism, or violence. End User acknowledges that his/her purchased data/content including but not limited to Videos, Images, Files, etc.(collectively known as "purchased data/content") may not appear in mediums and/or promotional content related to adult entertainment, racism, terrorism, or violence, nor does the Company have to provide video services for the promotion of adult entertainment, racism, terrorism, or violence regardless if End User provides his/her own talent for this purpose. End User acknowledges that if Company finds that End User has violated this agreement by placing purchased data/content on mediums and/or promotional content related to adult entertainment, racism, terrorism, or violence that the End User's hosting services for all purchased data/content will also be terminated without refund.

License to Use Company Products/Services - Company exclusively and solely owns all intellectual property and other rights, copyrights, certain technology, and interests of the company products/services except as expressly provided for in this Agreement. Intellectual property/technology, etc. owned by company cannot be duplicated or resold to a third-party without prior written consent by company. Furthermore, only the products/services offered by company to end user may only be used for the purpose intended. End user will not acquire any right to use any of the company products/services other than expressly outlined in this agreement, and company grants end user a limited revocable license to access and use company products/services for its intended purposes, subject to end user's compliance with this agreement. This license does not include the right to collect or use information contained on any of the company products/services materials for purposes prohibited by company. Company reserves the right to revoke the license granted to the end user, if end user collects or uses any of the company products/services in a manner that exceeds this license or breaches this agreement in any way, with the exception of a sale or transfer of the website created for end user to a new company website owner, a fee of \$5,000 U.S. dollars will become due and payable to company for each individual violation of this agreement within 30 days of said individual violation. All web actor videos can be hosted on Company's server/host, however the End User does have the option to transfer his/her web actor video flv file to his/her server/host of his/her choice. Company and all of its third-party suppliers expressly disclaims any responsibility for continued maintenance or repairs to websites that end user accepts delivery of and chooses to place on his/her own FTP or server/host, or his/her choice of third-party FTP or server/host. Any repairs or maintenance performed by company will be billed at a rate quoted by company to end user for all other incidents as requested by End User.

General Rules and License of FTP and CMS Service(s)- Company offers FTP and CMS service(s) at company's discretion that allows end user to upload data/content to share with company and/or to modify end user and end user's clients' products/services when applicable. End user may only upload and use data/content with the company's expressed written permission and instruction, in addition to the terms of this agreement. Company reserves the right, in its sole discretion, to decide whether data/content end user uploads is satisfactory for use with company products/services. Company also reserves the right to deny permission to use and/or demand the discontinuation of use of such data/content that is uploaded with or without express written permission of company, and reserves the right to discontinue the end user's use of products/services if end user refuses to remove and/or discontinue the use of such data/content that company denies permission to use, and for violating and breaching the terms of this agreement at any time without refund and notice.

Licensing of End User Data/Content - End user will retain ownership of the data/content that he/she uploads and hereby grants the company and all third-parties of company a royalty-free, worldwide, transferable, nonexclusive, sublicense and right to use such data/content, in all media existing now or created in the future used by company and all third-parties of company, as company deems necessary for purposes of producing end user and/or end user's clients' products/services.

Disclaimers, Exclusions, Guarantees, and Warranties - Use of the products/services and any reliance by end user upon the products/services, including any action taken by end user because of such use or reliance, is at end user's sole risk. End user acknowledges the many variables which can affect the delivery and functionality of their FLV at any time including but not limited to their internet service provider, download speed of the End User's internet package, computer processing speed, browser limitations, web code present on site, and other programs/applications being loaded or running in the background of their computer at the same time of which the Company assumes no liability. End User also acknowledges that the overlay function of the Web Actor Video Demo (aka URL Grabber) may not work with sites that are entirely built in flash or that have flash components built into the site. End User further acknowledges that the FLV and SWF files for the Web Actor Videos must be installed by his/her flash developer for the Web Actor Videos purchased to work properly on his/her flash based site. As the Company, Live Personality also reserves the right to withdraw and terminate any web actor order request to produce and deliver said products or services at anytime and for any reason. End user acknowledges that by placing his/her order and paying for services he/she agrees to the Company's Terms and Conditions, that all prices are based in US dollars, that all prices, and terms and conditions, are subject to change without notice, and that all sales are final. Company does not guarantee that the products/services will be uninterrupted or error free; nor does it make any warranty as to the results that may be obtained from its products/services. The products/services are provided "as is" and Company disclaims all warranties, expressed or implied, including, but not limited to, implied warranties of merchantability, fitness for a particular purpose and non-infringement. End user's sole and exclusive remedy for any failure or non-performance of the products/services shall be for Company to use commercially reasonable efforts to adjust or repair the products/services only when Company did not fulfill the end user's complete, specific, and explicit instructions regarding his/her purchase of products/services. End User acknowledges, understands, and agrees that each actor has his/her own distinct delivery style that is displayed on his/her video demo. End user also agrees that the cost to produce said video(s) is for a one-time video shoot with actor of their choice in our studio and upon completion and delivery of said video, should End User request that changes be made to their existing web actor video which would require that the video be re-shot in our studio for any reason (ex: changes to script, tone of actor voice, clothing modifications, and all others), End User agrees that the cost will be equal to that which was originally paid and viewed as a new video production. Should the new video length exceed the original purchase parameters, the difference in such rate will immediately become due and payable prior to fulfillment of said order. Live Personality customarily allows 4000MBs of bandwidth usage per month - per video based on average use. Additional bandwidth usage past those parameters is billed at \$0.003/MB. Factors that affect bandwidth usage include the number of unique page views to your website and the number of individual pages said video will be displayed, etc. However, should we determine that you will greatly exceed those parameters we alternatively provide the option to host the FLV file on your own server to avoid any additional bandwidth issues or charges. End User's who choose to host their FLV on Live Personality's own server are required to setup automated recurring billing with a CC on file to cover such costs on a monthly basis. However, End User's can host said FLV file-video on their own server to again avoid such charges. We require any previous bandwidth charges that carry a balance be paid in full prior to the release and transfer of your FLV hosting from our server to your own. The Company's products/services are sold 'as is' without warranty or guarantee or refund of any kind. Also, by purchasing products/services end user agrees to use Company's flash player that contains a link back to Company's website. End user has the option of having the flash player link removed for an additional cost as quoted by the Company. End User should also be aware that placing said video script directly over any link (links) will make said links non-functioning or clickable and Company suggests that placement of web actor video should be in an area that will not interfere with normal navigation. In addition, Live Personality provides no guarantee of the functionality for any video-FLV called from the same server on multiple pages and in doing so the End User does so at their own risk. This applies to not only FLV's hosted from Live Personality's own select servers but from the End User's server as well. Live Personality also retains the right to refuse hosting of End User's FLV or require the removal of hosting End User's FLV from Live Personality's own servers as deemed necessary for any reason, at anytime, including but not limited to the following: (excessive bandwidth usage from End User's hosted video which we determine has or will negatively affect the functionality of End User's own FLV or other End Users' FLV's hosted on our server; misuse of an FLV's application; etc) The User also acknowledges that Company reserves the right, at its discretion, to not engage or work with companies and individuals that offer objectionable or offensive content which includes but is not limited to adult entertainment, racism, terrorism, or violence. End User acknowledges that his/her purchased data/content including but not limited to Videos, Images, Files, etc.(collectively known as "purchased data/content") may not appear in mediums and/or promotional content related to adult entertainment, racism, terrorism, or violence, nor does the Company have to provide video services for the promotion of adult entertainment, racism, terrorism, or violence regardless if End User provides his/her own talent for this purpose. End User acknowledges that if Company finds that End User has violated this agreement by placing purchased data/content on mediums and/or promotional content related to adult entertainment, racism, terrorism, or violence that the End User's hosting services for all purchased data/content also be terminated without refund.

Refund Policy - Once the product/service is delivered company provides end user a 7-day (calendar days) evaluation period. During this evaluation period, the end user is encouraged to fully evaluate and ensure the delivered product is fully functional. During this evaluation period company will use commercially reasonable efforts to adjust or repair the products/services at no cost to end user only when the company did not fulfill the end user's complete, specific, and explicit instructions regarding his/her purchase of products/services. The company's products/services are sold 'as is' without warranty or guarantee or refund of any kind. All sales are final.

Universal Spam Policy-Spamming, or sending unsolicited email, using an email address, Domain/URL that is maintained on a server used by Company or directing traffic to a web page or website that is hosted on Company's server or that contains any reference to Company is strictly prohibited. Company will be the sole arbiter as to what constitutes a violation of this provision. This action will result in an immediate termination of End User's Account (whether it derive from a Website purchase, or Video Landing Page purchase, Web Actor Video purchase, or any other purchase not listed specifically in these Terms and Conditions including the applicable hosting services) and End User will not be issued a refund and will not be issued any data from his/her terminated Account. Furthermore, anyone found violating the Universal Spam Policy (and FTC and FCC CAN-SPAM Act) will be billed at a rate of \$100.00 USD per hour for service disruptions caused by such violator until the service is restored, and will also have his/her account and hosting services terminated without refund. End User understands and acknowledges that if he/she is found to be guilty of Spamming his/her Account will be terminated without refund as stated above, and he/she will not only be in violation of the Company's Terms and Conditions but he/she will also be in violation of the Federal Trade Commission and Federal Communications Commission CAN-SPAM Act and that he/she will be subject to legal action not only from the Company but also from the FTC and FCC. The following are some examples of

Spamming that constitute a violation of the Company's Terms of Conditions and the Company's Universal Spam Policy: (1) Trolling Forums, (2) Using the Company's computer systems to facilitate the transmission of unsolicited or unauthorized material, including any promotional materials, Domains/URLs, "junk mail," "chain letters," "pyramid schemes," or any other form of unauthorized solicitation that you may upload, post, email, transmit, or otherwise make available, (3) Using "robots" or otherwise harvesting other's email addresses from the Company's site for purposes of sending unsolicited or unauthorized material, (4) Uploading, posting, emailing, or transmitting the same message, Domain/URL, or post multiple times, (5) Disrupting the normal flow of dialogue, or causing the screen to "scroll" faster than other users of the service are able to type, or otherwise acting in a manner that negatively affects other users' ability to engage in real-time exchanges. Violations of our Terms of Service or this Universal Spam Policy may result in legal action against you and the termination, without notice, of End User's Account and/or anything associated with it, including, but not limited to, email accounts, posts and profiles, and viral links used by client videos and video players. Nothing in this policy is intended to grant any right to transmit email or messages to or through the Company's computer systems. The Company does not waive any rights by the failure to enforce this policy in every instance in which it might apply. Any unauthorized use of the Company's computer systems is a violation of the Company's Terms of Service, Universal Spam Policy, and certain federal and state laws in which such violations may subject the sender and his/her agents to civil and criminal penalties. Please report violations of this Universal Spam Policy to the Company immediately. Company may update this Universal Spam Policy without notice. End User may address his/her questions or suggestions to the Webmaster. End User is required to review the FTC Rules/FCC Enforcement section listed on the Federal Communications Commissions' website regarding FCC Consumer Facts about CAN-SPAM by visiting the following website <http://www.fcc.gov/cgb/consumerfacts/canspam.html>, and the Federal Trade Commission's website <http://www.ftc.gov/bcp/online/pubs/buspubs/canspam.shtml>, which outlines the CAN-SPAM Act requirements for commercial emailers before sending out any form of communication to promote his/her business.

End User's Communication With Company - When end user uses any form of communication he/she hereby grants the company the permission to use such communication for company's sales, marketing, and other promotional purposes stemming from said communication. End user agrees that the company has no obligation to keep any communication confidential, and end user will not bring a claim against company based on "moral rights" or the likes of stemming from such Communication.

Indemnification of Company and Limited Liability - To the maximum extent permitted by law, under no circumstances and under no legal theory, tort, contract, or otherwise, shall company or any of its underlying service providers, business partners, information providers, (collectively known as "company and associates") be liable to end user or any other person for any money damages, whether direct, indirect, special, incidental, cover, reliance or consequential damages, even if company shall have been informed of the possibility of such damages, even for any claim by any other party. In the event that notwithstanding the foregoing, the company is found liable to end user for damages from any cause whatsoever, and regardless of the form of the action (whether in contract, tort-including negligence-product liability or otherwise), the liability of the company to end user will be limited to the amount he/she paid for the products/services he/she purchased. Some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so this limitation and exclusion may not apply to all end users.

Limitation of Liability and Disclaimer - End user warrants an understanding, as required consideration, that the company disclaims all liability for the product or damages resulting from use or installation or reliance upon products/services for any reason. End user alone accepts full responsibility for allowing others to use these products/services. End user understands that company disclaims liability for any information contained in sales or promotional materials or the products/services itself that is unintentionally misleading or incorrect that might cause damage to end user. End user expressly waives any and all claims for consequential, speculative, and unforeseeable damages resulting from the purchase or use of these products/services or from subsequent contact with company or third-parties. End user expressly agrees that no matter what may happen because of his/her purchase of these products/services, or no matter what damage may be allegedly or actually caused by the use of these products/services, or no matter the harm or damage that may result directly or indirectly from the purchase of these products/services, for any reason whatsoever, that the absolute maximum extent of company's liability shall be an amount no greater than the purchase price of the products/services. End user agrees that the seller's total liability, even for erroneous product content that causes damage to the end user, shall be limited to the purchase price paid for the products/services. End user agrees and understands that, company, specifically but not exclusively, disclaims liability for all damage to end user's person or business by using these products/services including but not limited to harm to end user's and end user's clients' computer hardware or software from worms, viruses, or other defects in the product or computer codes that cause harm. Company disclaims liability for end user's interaction with other visitors or members of the website. End user understands that some states do not allow limitation of liability.

Final Acceptance - End User acknowledges that Company reserves the right, at its discretion, to not engage or work with companies and individuals that offer objectionable or offensive content which includes but is not limited to adult entertainment, racism, terrorism, or violence. By taking the affirmative step of purchasing any of the company products/services as outlined and defined in this agreement and/or by submitting said order form online, you, the end user do attest that you have fully read, understand, and legally accept all the terms and conditions of this agreement, and warrant to the company that said affirmative submission acceptance via purchase of products/services shall be deemed to be the same as if you had affixed your signature to this agreement.

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