

# Shoebox Terms of Service

Last Updated: December 7, 2020

This **Shoebox Terms of Service Agreement** (the “**Agreement**” or “**Terms of Service**”) is made between IAC Newco LLC (“**Shoebox**,” “**we**,” “**us**,” or “**our**”) and you, our customer (“**you**” or “**your**”). This Agreement governs your use of Shoebox owned-and-operated websites and applications (collectively, the “**Services**”). This includes Shoebox.com and our branded applications for mobile and connected devices.

**Notice:** Section 10 of this Agreement contains a mandatory ARBITRATION AGREEMENT. By using our Services and accepting this Agreement, you (1) agree to binding arbitration of your claims before a neutral arbitrator; and (2) waive your rights to go to court, have a jury hear your case, or participate as part of a class of plaintiffs with respect to such claims.

## 1. Acceptance

By creating an account, listening to clips, making a purchase, downloading our software, or otherwise visiting or using our Services, you accept this Agreement and consent to contract with us electronically.

If you are an entity other than a natural person, the person who registers the account or otherwise uses our Services must have the authority to bind the entity. In this context, “you” means both the entity and each person who is authorized to access the account.

We may update this Agreement by posting a revised version on our website. By continuing to use our Services, you accept any revised Agreement.

This Agreement includes our [Privacy Policy](#). Please review our Privacy Policy to learn about the information we collect from you, how we use it, and with whom we share it.

## 2. Our Services

**Service License:** Subject to the terms hereof, we grant you access to our Services. This includes the right to:

- Upload and store your trading cards;
- Search trading cards stored on Shoebox;
- Review trading card specific content;

## 3. Accounts

**Registration:** To access or use some of our Services, you must create an account with us. When you create this account, you must provide accurate and up-to-date information, including a valid phone number. It is important that you maintain and promptly update your details and any other information you provide to us, to keep such information current and complete. By creating an account, you agree to receive notices from Shoebox at the email/phone number provided.

**Age Requirements:** You must be at least 16 years old or the applicable age of majority in your jurisdiction, whichever is greater, to create an account or otherwise use our Services. Individuals under the applicable age may use our Services only through a parent or legal guardian's account and with their involvement. Please have that person read this Agreement with you and consent to it before proceeding.

**Parents and Guardians:** By granting your child permission to use the Services through your account, you agree and understand that you are responsible for monitoring and supervising your child's usage. If you believe your child is using your account and does not have your permission, please contact us immediately so that we can disable access.

**Account Security:** You are responsible for all activity that occurs under your account, including unauthorized activity. You must safeguard the confidentiality of your account credentials. If you are using a computer that others have access to, you must log out of your account after each session. If you become aware of unauthorized access to your account, you must change your password and notify us immediately.

## 4. Acceptable Use Policy

We may allow you to upload, stream, submit, or publish (collectively, to "**submit**") content such as audio files, recordings, images, and text (collectively, "**content**"). You must ensure that your content, and your conduct, complies with the Acceptable Use Policy set forth in this **Section 4**. Shoebox may (but is not obligated to) monitor your account, content, and conduct, regardless of your privacy settings. Shoebox may remove or limit access or availability to any content or account that it considers in good faith to violate this Acceptable Use Policy.

### 4.1 Copyright Policy

You may only upload content that you have the right to upload and share. If you only own the rights in and to an audio recording, but not to any underlying musical works embodied in such sound recordings, then you must not post such sound recordings to Shoebox unless you have all permissions, clearances from, or are authorized by, the owner of any part of the content to do so. Copyright owners may send Shoebox a takedown notice as stated in our Copyright Policy if they believe Shoebox is hosting infringing materials. We will, in appropriate circumstances, terminate the accounts of persons who repeatedly infringe.

### 4.2 Content Restrictions

You may not submit any content that:

- Infringes any third party's copyrights or other rights (e.g., trademark, privacy rights, etc.);
- Is sexually explicit or promotes a sexual service;
- Is defamatory;
- Is harassing or abusive;
- Contains hateful or discriminatory speech;
- Promotes or supports terror or hate groups;
- Contains instructions on how to assemble explosive/incendiary devices or homemade/improvised firearms;
- Exploits or endangers minors;
- Depicts or encourages self-harm or suicide;
- Depicts (1) unlawful real-world acts of extreme violence, or (2) animal cruelty or extreme violence towards animals;
- Promotes fraudulent or dubious money-making schemes, proposes an unlawful transaction, or uses deceptive marketing practices;
- Contains false or misleading claims about (1) vaccination safety, or (2) health-related information that has a serious potential to cause public harm;
- Contains false or misleading information about voting;
- Contains conspiracy-related content where the underlying conspiracy theory makes claims that (1) suggests that a real-world tragedy did not occur, or (2) violates other content restrictions; or
- Violates any applicable law.

### **4.3 Code of Conduct**

In using our Services, you may not:

- Use an offensive screen name (e.g., explicit language) or avatar (e.g., containing nudity);
- Act in a deceptive manner or impersonate any person or organization;
- Harass or stalk any person;
- Harm or exploit minors;
- Distribute "spam" in any form or use misleading metadata;
- Collect personal information about others;
- Access another's account without permission;
- Use or export any of our services in violation of any U.S. export control laws;
- Engage in any unlawful activity; or
- Cause or encourage others to do any of the above.

### **4.4 Prohibited Technical Measures**

You will not:

- Except as authorized by law or as permitted by us: scrape, reproduce, redistribute, create derivative works from, decompile, reverse engineer, alter, archive, or disassemble any

part of our Services; or attempt to circumvent any of our security, rate-limiting, filtering, or digital rights management measures;

- Submit any malicious program, script, or code;
- Submit an unreasonable number of requests to our servers; or
- Take any other actions to manipulate, interfere with, or damage our Services.

## 4.5 Restricted Users

You may not create or maintain an account if you are a member of a terror or hate group. You may not purchase any goods or software services from us if you are (a) located in a country that is subject to a U.S. Government embargo or has been designated by the U.S. Government as a terrorist-supporting country; or (b) listed on any U.S. Government list of restricted parties.

# 5. Licenses Granted by You

As between you and Shoebox, you own and will retain ownership of all intellectual property rights in and to the content you submit. In order to allow Shoebox to host and publish your content, you grant Shoebox the permissions set forth below.

## 5.1 Your Content

By submitting content to Shoebox, you grant Shoebox permission to:

- Display trading cards you have uploaded to Shoebox to other users;
- Display your username, profile image and other relevant information to other users;

By enabling access to your content to any third party, you grant each such person permission to stream (and/or download, as applicable) your content. For the purposes of this **Section 5.1**, your content includes its title, description, tags, and other metadata.

The license period begins when you submit the content to Shoebox and ends when you or Shoebox delete it; *provided* that Shoebox may retain archival copies: (a) for a limited period of time; (b) when the content is the subject of a takedown notice or other legal claim; or (c) when Shoebox in good faith believes that it is legally obligated to do so.

## 5.2 Account Profile

You grant Shoebox permission to use your name, likeness, biography, trademarks, logos, or other identifiers used by you in your account profile for the purpose of displaying such properties to the public or the audiences you have specified. You may revoke the foregoing permission by deleting your account and providing a written request to Shoebox to delete all account information. Shoebox shall have the right to identify public profiles in its marketing and investor materials.

### **5.3 Other Content; Feedback**

Content that is not covered by the licenses set forth in **Sections 5.1**, or **5.2** shall be governed by this **Section 5.3** (e.g., text you submit in comments). You grant Shoebox a perpetual and irrevocable right and license to copy, transmit, distribute, publicly perform, and display such content through online means in connection with our Services. If you make suggestions to Shoebox on improving our products or services, Shoebox may use your suggestions without any compensation to you.

### **5.4 Scope of Licenses**

All licenses granted by you in this **Section 5**: (a) are non-exclusive, worldwide, and royalty-free; (b) include the right and license to copy, use, distribute, publicly perform, and display the licensed work for the purposes stated above; and (c) include all necessary rights and licenses to allow us to exercise our rights and perform our obligations. By granting these licenses, you waive any so-called “moral rights” that you may have. Nothing in this Agreement shall be deemed a license “condition” applicable to Shoebox; rather, any breach of a term by Shoebox hereof shall give rise to, at most, a claim for breach of contract only. All licenses granted herein are in addition to any other licenses that you may grant (e.g., a Creative Commons license).

## **6. Your Obligations**

### **6.1 Representations and Warranties**

For each piece of content that you submit to or through Shoebox, you represent and warrant that:

- You have the right to submit the content to Shoebox and grant the licenses herein;
- Shoebox will not need to obtain licenses from any third party or pay royalties to any third party with respect to the streaming or other permitted distribution of the content;
- You have obtained appropriate releases (if necessary) from all persons who appear in or contribute to the content;
- The content does not, and will not, infringe any third party's rights, including intellectual property rights, rights of publicity, moral rights, and privacy rights; and
- The content complies with this Agreement and all applicable laws.

### **6.2 Indemnification**

You will indemnify, defend, and hold harmless Shoebox and its subsidiaries, parents, and affiliates, and their and our respective directors, officers, employees, and agents, from and against all third-party complaints, demands, claims, damages, losses, costs, liabilities, and expenses, including attorney's fees, arising from or relating to: (a) the content you submit to or through the Services; and (b) allegations of actions or omissions by you that (regardless if proven) would constitute a breach of this Agreement.

## 7. Term and Termination

This Agreement begins when you first use our Services and continues so long as you use our Service or have an account with us, whichever is longer.

If you breach this Agreement, Shoebox may, at its option: (a) terminate this Agreement immediately, with or without advance written notice; (b) suspend, delete, or limit access to your account or any content within it; and (c) to the extent permitted by applicable law, retain any amounts payable to you (which you forfeit). If Shoebox deletes your account for breach, you may not re-register.

In the event of any termination or expiration, the following sections will survive: **Section 5.3** (Other Content; Feedback), **Section 6.2** (Indemnification), **Section 8** (Disclaimers), **Section 9** (Limitation of Liability), **Section 10** (Dispute Resolution/Arbitration), and **Section 11** (General Provisions).

## 8. Disclaimers

SHOEBOX PROVIDES THE SERVICES ON AN “AS IS” AND “AS AVAILABLE” BASIS. YOU USE THE SERVICES AT YOUR OWN RISK. You must provide your own device and internet access.

EXCEPT AS EXPRESSLY SET FORTH HEREIN, AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, SHOEBOX DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. Among other things, Shoebox makes no representations or warranties:

- That our Services, or any part thereof, will be available or permitted in your jurisdiction, uninterrupted or error-free, completely secure, or accessible from all devices or browsers;
- That we will host, make available, or remove any specific piece of content;
- Concerning any content submitted by or actions of our users;
- That we comply with the Health Insurance Portability and Accountability Act (HIPAA), the Gramm-Leach-Bliley Act (GLBA), or any other industry-specific privacy obligations;
- That we will continue to support any particular feature or maintain backwards compatibility with any third-party software or device; or
- Concerning any third-party websites and resources.

## 9. Limitation of Liability

TO THE EXTENT PERMITTED BY APPLICABLE LAW: (A) SHOEBOX SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES, INCLUDING DAMAGES FOR LOSS OF BUSINESS, PROFITS, GOODWILL, DATA, OR OTHER INTANGIBLE LOSSES, EVEN IF SHOEBOX

HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; AND (B) SHOEBOX'S TOTAL LIABILITY TO YOU SHALL NOT EXCEED THE AMOUNTS PAID BY YOU TO SHOEBOX OVER THE TWELVE (12) MONTHS PRECEDING YOUR CLAIM(S) OR ONE HUNDRED DOLLARS (USD \$100), WHICHEVER IS GREATER.

## **10. Dispute Resolution/Arbitration Agreement**

**Initial Dispute Resolution.** If you are dissatisfied with our Services for any reason, please [contact us](#) first so that we can try to resolve your concerns without the need for outside assistance.

**Arbitration.** The exclusive means of resolving any dispute or claim arising out of or relating to this Agreement (including any alleged breach thereof) or the Services shall be BINDING ARBITRATION administered by the American Arbitration Association. The one exception to the exclusivity of arbitration is that you have the right to bring an individual claim against Shoebox in a small-claims court of competent jurisdiction. But whether you choose arbitration or small-claims court, you may not under any circumstances commence or maintain against Shoebox or its affiliates any class action, class arbitration, or other representative action or proceeding. By using the Services or the Shoebox website or apps in any manner, you agree to the above arbitration agreement. In doing so, YOU GIVE UP YOUR RIGHT TO GO TO COURT to assert or defend any claims between you and Shoebox or its affiliates (except for matters that may be taken to small claims court). YOU ALSO GIVE UP YOUR RIGHT TO PARTICIPATE IN A CLASS ACTION OR OTHER CLASS PROCEEDING. Your rights will be determined by a NEUTRAL ARBITRATOR, NOT A JUDGE OR JURY. You are entitled to a fair hearing before the arbitrator. The arbitrator can grant any relief that a court can, but you should note that arbitration proceedings are usually simpler and more streamlined than trials and other judicial proceedings. Decisions by the arbitrator are enforceable in court and may be overturned by a court only for very limited reasons. Any proceeding to enforce this arbitration agreement, including any proceeding to confirm, modify, or vacate an arbitration award, may be commenced in any court of competent jurisdiction. In the event that this arbitration agreement is for any reason held to be unenforceable, any litigation against Shoebox (except for small-claims court actions) may be commenced only in the federal or state courts located in Kings County, New York. You hereby irrevocably consent to the jurisdiction of those courts for such purposes and you irrevocably waive any right to a trial by jury. This Agreement, and any dispute between you and Shoebox, shall be governed by the laws of the state of New York without regard to principles of conflicts of law, provided that this arbitration agreement shall be governed by the Federal Arbitration Act.

## **11. General Provisions**

**Reservation of Rights, Severability:** Shoebox reserves all rights not expressly granted herein. Shoebox's rights and remedies are cumulative. No failure or delay by Shoebox in exercising any

right will waive any further exercise of that right. If any term of this Agreement is found invalid or unenforceable by a court of competent jurisdiction, that term will be limited or severed.

**Force Majeure:** Shoebox will not be liable for any delay or failure caused by (a) acts of God/natural disasters (including hurricanes and earthquakes); (b) disease, epidemic, or pandemic; (c) terrorist attack, civil war, civil commotion or riots, armed conflict, sanctions or embargoes; (d) nuclear, chemical, or biological contamination; (e) collapse of buildings, fire, explosion, or accident; (f) labor or trade strikes; (g) interruption, loss, or malfunction of a utility, transportation, or telecommunications service; (h) any order by a government or public authority, including a quarantine, travel restriction, or other prohibition; or (i) any other circumstance not within Shoebox's reasonable control, whether or not foreseeable (each a "**force majeure event**"). In the event of a force majeure event, Shoebox shall be relieved from full performance of the contractual obligation until the event passes or no longer prevents performance.

**Relationship:** You and Shoebox are independent contractors of one another; neither party is an agent, partner, or joint venturer of the other. This Agreement binds the parties and their successors, personal representatives, and permitted assigns. You may not assign this Agreement to any person whose account has been terminated by Shoebox or who is prohibited from registering; any such assignment will be void. Except as expressly stated herein, nothing in this Agreement confers any right on any third party.

**Entire Agreement:** This Agreement constitutes the entire understanding of the parties and supersedes all prior understandings regarding the subject matter hereof and may not be modified except in accordance with **Section 1** or in a document executed by authorized representatives of Shoebox. If you have a signed agreement with Shoebox, any conflicting term of that agreement will prevail over the terms hereof, but only as to the subject matter of that agreement.

**Notices:** You must send any notices of a legal nature to us by email or at:

*IAC NewCo LLC/Shoebox  
Attn: Shoebox Legal Department  
c/o Soho Works  
10 Jay Street  
Brooklyn NY 11201  
casey@buildwithnewco.com*