

## Speechagain - Terms of Use

**Last Updated:** 11/22/2018

Please read these Terms of Use (“Terms”) carefully. These Terms set forth a legally binding agreement between you and Speechagain Inc. (“Speechagain”, “we”, or “us”), and govern your use of [www.speechagain.com](http://www.speechagain.com) or of any online service location (e.g., website, browser application) that posts a link to these Terms and your use of interactive features, widgets, plug-ins, applications, content, downloads and/or other services that we own and control and make available through our online service locations that post a link to these Terms (the “Service”). By using the Service, you acknowledge and accept these Terms, and consent to the collection, use, and sharing of your data and other activities as described in the Service’s [Privacy Policy](#).

In some instances, such as when Speechagain offers contests, sweepstakes, giveaways, and other promotions, additional or different terms and/or conditions will apply to your use of the Service or to a service or product offered via the Service (in each such instance, and collectively “Additional Terms”). If you do not wish to be bound by these Terms, and any applicable Additional Terms, do not use the Service.

These Terms are subject to change without notice. When such a change is made, we will update the “Last Updated” date at the top of this page. Your use of the Service following any such change constitutes your agreement to follow and be bound by updated Terms.

### **1. Your Use of the Service**

**A. Creating an Account on the Service.** When you register for an account on the Service, and each time you log in to the Service thereafter, you agree:

- To these Terms and consent to our collection, use, and disclosure practices, and other activities as described in the Privacy Policy;
- You will provide and keep accurate, current, and complete information about yourself;
- You are solely responsible for all activities associated with your account or carried out by a user of your account, whether or not you authorized the activity;
- You will abide by the use restrictions set out in these Terms;
- You are solely responsible for maintaining the confidentiality of your Service access credentials and you will not share your credentials with any third party;
- You will immediately notify us [here](#) if your credentials are compromised or of any unauthorized use of your account;
- You will not sell, transfer, or assign your account or any account privileges; and
- We will not be liable for any loss or damage to you or any third party arising from your failure to comply with any of the foregoing obligations.

**B. Content.** The Service may contain (i) materials and other items relating to Speechagain and its services including layout, information, databases, articles, posts, text, data, files, images, scripts, designs, graphics, instructions, illustrations, photographs, sounds, pictures, videos, advertising copy, URLs, technology, software, interactive features, and the “look and feel” of the Service such as the selection, compilation, assembly, arrangement, and enhancement of the Service; (ii) trademarks, logos, trade names, trade dress, service marks, and trade identities of various parties, including those of Speechagain; and (iii) other forms of intellectual property (all of the foregoing, collectively “Content”). All right, title, and interest in and to the Content available via the Service is the property of Speechagain, our licensors or

certain other third parties, and is protected by U.S. and international copyright, trademark, trade dress, patent and/or other intellectual property and unfair competition rights and laws to the fullest extent possible.

**C. Service Content Accuracy.** Speechagain will use reasonable efforts to include accurate and current information on the Service, but there may be occasions when information on the Service contains typographical errors, inaccuracies, or omissions that may relate to product descriptions, pricing, availability, and other matters. Speechagain reserves the right to correct any errors and to update Service information at any time. We apologize for any inconvenience such errors may cause you.

**D. Limited License.** Subject to your strict compliance with these Terms, Speechagain grants you a limited, non-exclusive, revocable, non-assignable, personal, and non-transferable license to download, display, view, use, or play the Content on a personal device, and retain one copy of the Content as it is displayed to you for your personal, non-commercial use only. The foregoing limited license does not give you any ownership of, or any other intellectual property interest in, any Content and may be immediately suspended or terminated for any reason, in Speechagain's sole discretion, and without advance notice or liability. Your unauthorized use of the Content may violate copyright, trademark, privacy, publicity, communications, and other laws, and any such use may result in your personal liability, including potential criminal liability.

**E. Restrictions.** If you are under the age of eighteen (18), then you are not permitted to use the Service or Content. You agree to comply with all local, state, federal, national, foreign, supranational, and international laws, statutes, ordinances, regulations, directives, and agreements that apply to your use of the Service and Content. You further agree that you will not: (i) use the Service or Content for any political or commercial purpose; (ii) engage in any activity in connection with the Service or Content that is unlawful, harmful, offensive, obscene, violent, threatening, harassing, abusive, or otherwise objectionable to Speechagain; (iii) harvest any information from the Service; (iv) reverse engineer or modify the Service; (v) interfere with the proper operation of or any security measure used by the Service; (vi) infringe any intellectual property or other right of any third party; (vii) use the Content in a manner that suggests an unauthorized association or is beyond the scope of the limited license granted to you; or (viii) otherwise violate these Terms.

**F. Reservation of All Rights.** All rights not expressly granted to you are reserved by Speechagain and its licensors and other third parties. No right or license may be construed, under any legal theory, by implication, estoppel, industry custom, or otherwise. Any unauthorized use of any Content or the Service for any purpose is prohibited.

## **2. Submissions**

You may be able to submit certain content to us through the Service, including in-time or prerecorded voice recordings and feedback or comments to us regarding your use of the Service ("Submissions"). You grant us a non-exclusive, unrestricted, unconditional, unlimited, worldwide, irrevocable, perpetual, transferable, and cost-free right and license to use, copy, record, distribute, reproduce, disclose, sell, re-sell, sublicense, display, publicly perform, transmit, publish, broadcast, translate, make derivative works of, and otherwise use and exploit in any manner whatsoever, all or any portion of your Submissions and derivative works thereof, for any purpose whatsoever in all formats, on or through any means or medium now known or hereafter developed, and with any technology or devices now known or hereafter developed, and to advertise, market, and promote the same. You also irrevocably consent to our use and association of your name in connection with your Submissions and derivatives thereof. You agree to waive any moral rights that you may have in any Submission, even if it is altered or changed in a manner not agreeable to you. To the extent not waivable, you irrevocably agree not to exercise such rights in a

manner that interferes with any exercise of the granted rights. You understand that you will not receive any fees, sums, consideration, or remuneration for any of the rights granted in this Section. Our receipt of your Submissions is not an admission of their novelty, priority, or originality, and it does not impair our right to contest existing or future intellectual property rights relating to your Submissions.

Each time you submit any Submission, you represent and warrant that you have confirmed the accuracy of the Submission and that:

- You are at least eighteen (18) years old;
- If a Submission, such as a voice recording, contains information about another individual, such as their voice, you have obtained their consent to create the Submission and to submit the Submission, pursuant to our [Privacy Policy](#);
- You are the sole author and owner of the intellectual property and other rights to the Submission, or you have a lawful right to submit the Submission and grant Speechagain such rights therein;
- The Submission does not and, as to Speechagain's permitted uses and exploitation set forth in these Terms, will not infringe any intellectual property or other right of any third party;
- The Submission will not violate these Terms or any applicable Additional Terms, or cause injury or harm to any person;
- You are not impersonating any other person, user, or company; and
- You will not submit Submissions that you believe may be false, fraudulent, deceptive, inaccurate, or misleading, or that misrepresent your identity or affiliation with a person or company.

### **3. Restrictions and Prohibited Uses**

You agree that, except as otherwise authorized, you will not:

#### *Site Use Restrictions*

- Use the Service for any political or commercial purpose (including, without limitation, for purposes of advertising, soliciting funds, collecting product prices, or selling products);
- Engage in any activities through or in connection with the Service that seek to attempt to or do harm to any individuals or entities or are unlawful, offensive, obscene, lewd, lascivious, violent, threatening, harassing, or abusive, or that violate any right of any third party, or are otherwise objectionable to Speechagain;
- Decompile, disassemble, reverse engineer, or attempt to reconstruct, identify, or discover any source code, underlying ideas, underlying user interface techniques, hidden text, or algorithms of the Service by any means whatsoever or modify any software (in either object code or source code) or other products, services, or processes accessible through any portion of the Service;
- Engage in any activity that interferes with a user's access to the Service or the proper operation of the Service, or otherwise causes harm to the Service, Speechagain, or other users of the Service;
- Interfere with or circumvent any security feature (including any digital rights management mechanism, device or other content protection or access control measure) or any other feature that restricts or enforces limitations on use of or access to the Service or the Content;
- Harvest or otherwise collect or store any information (including personally identifiable information about other users of the Service, without the express consent of such users);
- Attempt to gain unauthorized access to the Service, or other computer systems or networks connected to the Service;
- Use the Service to transmit information that is in any way false, fraudulent, or misleading;
- Otherwise violate these Terms;

*With respect to Content use restrictions, you will not:*

- Monitor, gather, copy, or distribute the Content (except as may be a result of standard search engine activity or use of a standard browser) on the Service by using any robot, rover, “bot”, spider, scraper, crawler, spyware, engine, device, software, extraction tool, or any other automatic device, utility, or manual process of any kind;
- Frame or utilize framing techniques to enclose any such Content (including any images, text, or page layout);
- Remove any copyright and other intellectual property notices contained in such Content;
- Copy, modify, reproduce, archive, sell, lease, rent, exchange, create derivative works from, publish by hard copy or electronic means, publicly perform, display, disseminate, distribute, broadcast, retransmit, circulate or transfer to any third party or on any third-party application or website, or otherwise use or exploit such Content in any way for any purpose except as specifically permitted by these Terms or with the prior written consent of Speechagain; or
- Insert any code or product to manipulate such Content in any way that adversely affects the Service.

Speechagain in its sole discretion and without advance notice, may immediately suspend or terminate the availability of the Service and/or Content (and any elements or features of the same), in whole or in part, for any reason and without liability.

#### **4. Third-Party Interactions**

**A. Third-Party Content and Services.** The Service may display, include, or make available content, data, information, applications, or materials from third parties or provide links to certain third-party content that is not owned, controlled, or operated by Speechagain. Any interactions, transactions, or other dealings that you engage in with any third parties found on or through the Service are solely between you and the third party.

By using the Service, you acknowledge and agree that Speechagain is not responsible for examining or evaluating the content, accuracy, completeness, timeliness, validity, copyright compliance, legality, decency, quality, or any other aspect of third-party services. You hereby agree to indemnify Speechagain against all claims, injury, and/or damages arising out of your use of any third-party service.

**B. Business Transactions.** We reserve the right to transfer any information we obtain through the Service in the event of a joint venture, partnership, merger, or other collaboration with another organization, or in the event we sell or transfer all or a portion of our business or assets (e.g., further to a reorganization, liquidation, or any other business transaction, including negotiations of such transactions).

#### **5. LIMITATION OF LIABILITY**

IN NO EVENT WILL SPEECHAGAIN, OR ITS AFFILIATES, OFFICERS, DIRECTORS, CONSULTANTS, AGENTS, AND/OR EMPLOYEES (COLLECTIVELY, “SPEECHAGAIN”), OR ANY THIRD-PARTY PROVIDER OF A SERVICE, TOOL, OR PRODUCT OFFERED THROUGH OR IN CONNECTION WITH THE SERVICE (EACH A “THIRD-PARTY PROVIDER”), BE LIABLE FOR ANY LOST PROFITS OR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES ARISING OUT OF, BASED ON, OR RESULTING FROM: (A) OUR SERVICE, (B) THESE TERMS, (C) ANY BREACH OF THESE TERMS BY YOU OR A THIRD PARTY, (D) USE OF THE SERVICES, TOOLS, OR SERVICES WE PROVIDE, OR ANY THIRD-PARTY PROVIDER PROVIDES, RELATED TO THE BUSINESS WE OPERATE ON THE SERVICE, BY YOU OR ANY THIRD PARTY, (E) YOUR FAILURE TO KEEP YOUR SERVICE ACCESS CREDENTIALS SECURE AND CONFIDENTIAL, (F) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES RESULTING FROM ANY GOODS, DATA,

INFORMATION, OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH, OR IN CONNECTION WITH, THE SERVICE, AND/OR (G) INTERACTION BETWEEN OUR SERVICE AND ANY THIRD-PARTY SERVICE, BY A TOOL OR SERVICE ON OUR SERVICE. THESE LIMITATIONS AND EXCLUSIONS APPLY WITHOUT REGARD TO WHETHER THE DAMAGES ARISE FROM (1) BREACH OF CONTRACT, (2) BREACH OF WARRANTY, (3) STRICT LIABILITY, (4) TORT, (5) NEGLIGENCE, OR (6) ANY OTHER CAUSE OF ACTION, TO THE MAXIMUM EXTENT SUCH EXCLUSION AND LIMITATIONS ARE NOT PROHIBITED BY APPLICABLE LAW.

## **6. DISCLAIMERS**

AS PERMITTED BY APPLICABLE LAW, YOUR ACCESS TO AND USE OF THE SERVICE IS AT YOUR SOLE RISK AND THE SERVICE IS PROVIDED ON AN “AS IS”, “AS AVAILABLE”, AND “WITH ALL FAULTS” BASIS. EXCEPT AS SPECIFICALLY PROVIDED HEREIN, OR AS OTHERWISE REQUIRED BY APPLICABLE LAW, SPEECHAGAIN MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, IN CONNECTION WITH OR OTHERWISE RELATED TO THE SERVICE OR, FOR ANY PRODUCTS OR SERVICES OR HYPERTEXT LINKS TO THIRD PARTIES OR FOR ANY BREACH OF SECURITY ASSOCIATED WITH THE TRANSMISSION OF SENSITIVE INFORMATION THROUGH THE SERVICE OR ANY LINKED SERVICE. FURTHER, WE EXPRESSLY DISCLAIM ANY EXPRESS OR IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, NON-INFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ACCURACY. WE DO NOT WARRANT THAT THE FUNCTIONALITY OF THE SERVICE OR ANY MATERIALS OR CONTENT CONTAINED THEREIN, WILL BE UNINTERRUPTED OR ERROR FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT THE SERVICE IS FREE OF VIRUSES, MALICIOUS SOFTWARE, OR OTHER HARMFUL COMPONENTS.

YOU ACKNOWLEDGE AND AGREE THAT ANY TRANSMISSION TO AND FROM THIS SERVICE IS NOT CONFIDENTIAL AND YOUR COMMUNICATIONS OR PERSONAL INFORMATION MAY BE READ OR INTERCEPTED BY OTHERS. YOU FURTHER ACKNOWLEDGE AND AGREE THAT BY SUBMITTING COMMUNICATIONS OR OTHER CONTENT TO US AND/OR BY POSTING INFORMATION ON THE SERVICE NO CONFIDENTIAL, FIDUCIARY, CONTRACTUALLY IMPLIED, OR OTHER RELATIONSHIP IS CREATED BETWEEN YOU AND SPEECHAGAIN OTHER THAN PURSUANT TO THESE TERMS.

## **7. Indemnification**

You agree to defend, indemnify, and hold harmless Speechagain from and against any and all claims, liabilities, damages, losses, costs, and expenses (including, reasonable attorneys’ fees and costs) arising out of or in connection with any of the following: (i) your breach or alleged breach of these Terms; (ii) your Submissions; (iii) your use of the Service; (iv) your violation of any laws, rules, regulations, codes, statutes, ordinances, or orders of any governmental or quasi-governmental authorities; (v) your violation of the rights of any third party, including any intellectual property right, publicity, confidentiality, property, or privacy right; or (vi) any misrepresentation made by you. Speechagain reserves the right to assume, at your expense, the exclusive defense and control of any matter subject to indemnification by you. You will not in any event settle any claim without the prior written consent of Speechagain and you agree to cooperate with our defense of any such claim.

## **8. Dispute Resolution**

**A. Arbitration.** Any and all disputes between you and Speechagain of any nature or arising out of any transaction or relationship, including but not limited to those related to this Service or these Terms of Use, shall be resolved by arbitration in accordance with the provisions of this Section. BY USING THE SERVICE AND AGREEING TO ARBITRATION YOU UNDERSTAND AND AGREE THAT YOU ARE WAIVING YOUR RIGHT TO SUE OR GO TO COURT TO ASSERT OR DEFEND YOUR RIGHTS. You and Speechagain expressly delegate to the arbitrator the authority to determine the arbitrability of any dispute, including the scope, applicability, validity, and enforceability of this arbitration provision.

You may begin an arbitration proceeding by sending an email to [legal@speechagain.com](mailto:legal@speechagain.com) or sending a letter requesting arbitration to:

Speechagain  
Attn: Legal  
433 Broadway  
New York, NY 10013

You agree that the arbitration shall be conducted by the American Arbitration Association (“AAA”) pursuant to its Consumer Arbitration Rules (“AAA Rules”), as modified by this Arbitration Agreement. The AAA Rules are available on the AAA’s website [www.adr.org](http://www.adr.org), or by calling the AAA at (800) 778-7879. In the event the AAA is unavailable or unwilling to hear the dispute, the parties shall agree to another arbitration provider. Payment of all filing, administration and arbitrator fees will be governed by the AAA’s applicable rules. Speechagain will reimburse those fees for claims totaling less than \$10,000. Speechagain waives its right to seek attorneys’ fees and costs in arbitration. You may choose to have the arbitration conducted by telephone, based on written submissions, or in person in the county where you live or at another mutually agreed upon location.

This Arbitration Agreement shall be governed by, and interpreted, construed, and enforced in accordance with, the Federal Arbitration Act. The terms of the Arbitration Agreement shall survive the termination of this Agreement or your use of the Service. Except as set forth above, if any portion of this Arbitration Agreement is deemed invalid or unenforceable, it will not invalidate the remaining portions of the Arbitration Agreement.

**B. Class Action Waiver.** DISPUTES WILL BE ARBITRATED ONLY ON AN INDIVIDUAL BASIS AND WILL NOT BE JOINED OR CONSOLIDATED WITH ANY OTHER ARBITRATIONS OR OTHER PROCEEDINGS THAT INVOLVE ANY CLAIM OR CONTROVERSY OF ANY OTHER PARTY. YOU AND SPEECHAGAIN 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.

## **9. Complete Agreement and Severability**

Unless otherwise specified, these Terms constitute the entire agreement between you and Speechagain. If any part of these Terms is held illegal or unenforceable, the remainder of the Terms shall be unaffected and shall continue to be fully valid, binding, and enforceable. The failure of Speechagain to act with respect to a breach by you or others does not waive Speechagain’s right to act with respect to subsequent or similar breaches. Speechagain’s failure to exercise or enforce any right or provision of these Terms shall not constitute a waiver of such right or provision.

## **10. Investigations; Cooperation with Law Enforcement**

Speechagain reserves the right to investigate and prosecute any suspected or actual violations of these Terms. Speechagain may disclose any information as necessary or appropriate to satisfy any law, regulation, legal process, or government request.

## **11. International Issues**

Speechagain controls and operates the Service from its U.S.-based offices, and Speechagain makes no representation that the Service is appropriate or available for use beyond the U.S.A. If you use the Service from other locations, you are doing so on your own initiative and are responsible for compliance with applicable local laws regarding your online conduct and acceptable content, if and to the extent local laws apply. We reserve the right to limit the availability of the Service and/or the provision of any content, program, product, service, or other feature described or available on the Service to any person, entity, geographic area, or jurisdiction, at any time and in our sole discretion, and to limit the quantities of any content, program, product, service, or other feature that we provide.

## **12. Contact Us**

Any questions regarding these Terms may be directed to:

Speechagain  
Attn: Legal  
433 Broadway  
New York, NY 10013  
[legal@speechagain.com](mailto:legal@speechagain.com)