

What's Happening Rules® Terms and Conditions

Every day we work to provide Hardware and Content that leverage voice-activated technology to deliver unparalleled convenience and service whenever you need them most. Whether you're a What's Happening User, Advertiser, or Independent Sales Ambassador, we have created the What's Happening Rules to help you make the best use our Hardware and Content while respecting your rights, our rights, and those of third parties, and complying with applicable laws and regulations. The What's Happening Rules aren't intended to address every possible situation that could arise with respect to your use, purchase, or sale of our Hardware and Content. Instead, the What's Happening Rules are broad and easily understood principles intended to guide our relationship with you when you use, purchase, or sell our Hardware and Content.

Modern business evolving as rapidly as it does, be mindful that we may change our What's Happening Rules anytime and without prior notice, with any such changes taking effect immediately upon posting. Obviously, the most current version of the What's Happening Rules always takes precedence over any prior versions. So, check back-in with us as often as you like and know that we deem your use, purchase, or sale of any of our What's Happening Hardware and Content as your agreement to our What's Happening Rules.



What's Happening Users

1. Definitions

- a. **Hardware** means any equipment we provide to you for use, purchase, and/or sale in accordance with these What's Happening Rules Terms and Conditions, regardless of whether we design, manufacture, license, distribute, or otherwise perform any other action with respect to such equipment.
- b. **Content** means any information we make available to What's Happening Users via our Hardware as well as any of our software, websites, and/or mobile applications, and includes Customer Content solely to the extent it is licensed to us pursuant to our What's Happening Rules for Advertisers.
- c. **What's Happening User** means any individual who or entity that makes use of or interacts with What's Happening Hardware and Content at any time.
- d. **Advertiser** means any individual who or entity that purchases our Hardware and/or Content for use in promoting to What's Happening Users any products and services other than What's Happening Hardware and/or Content.
- e. **Customers** means any individual and/or combination of Advertiser(s).
- f. **Independent Sales Ambassador** means any individual who or entity that enters into an Independent What's Happening Sales Ambassador Agreement with What's Happening.
- g. **What's Happening/We/Us/Our/Seller** means Bookcliff Software, LLC doing business as What's Happening.
- h. **You/your** means any What's Happening Users, Advertisers, and/or Independent What's Happening Sales Ambassadors who engage in the use, purchase, and/or sale of What's Happening Products and Services, as applicable.

2. Applicability of the What's Happening Rules for What's Happening Users

All What's Happening Users, Customers, and/or What's Happening Independent Sales Ambassadors must comply with the What's Happening Rules for What's Happening Users, and these What's Happening Rules for What's Happening Users apply to and are incorporated by reference in all What's Happening Advertising Agreements, and/or What's Happening Independent Sales Ambassador Agreements.

3. Ownership and Use of What's Happening Intellectual Property

- a. Whether you're a What's Happening User, Advertiser, and/or Independent Sales Ambassador, you acknowledge, understand, and agree that we own or use under license all text, images, audio, video, hardware, and/or software comprising What's Happening's Hardware and Content, all of which are protected by copyright, trademark, trade dress, domain name, patent, trade secret, international treaties, and/or other proprietary rights and laws of the United States and other countries (the "Proprietary Assets"). Except as otherwise indicated on our Hardware and Content, all trademarks, service marks, logos, trade dress, trade names, websites, and/or domains used in or on What's Happening Hardware and Content are our sole property (the "Brand", and together with the Proprietary Assets, "What's Happening Intellectual Property"). We proactively mark and enforce our exclusive rights in What's Happening Intellectual Property to the fullest extent of the law.

- b. Subject to your compliance with our What's Happening Rules Terms and Conditions, we grant you a limited, non-exclusive, non-transferable, non-sublicensable, and revocable license to access and use our What's Happening Intellectual Property for your personal and, with the sole exception of Customers, noncommercial use, solely as expressly permitted by these What's Happening Rules and Conditions, all applicable intellectual property laws, and any What's Happening Advertising Agreements (the "Limited License"). You are strictly prohibited from using What's Happening Intellectual Property beyond the scope of the Limited License, including but not limited to being prohibited from copying, republishing, uploading, posting, transmitting, distributing, modifying or reverse engineering our What's Happening Intellectual Property without our express written permission. You also are not granted any rights to own or use our What's Happening Intellectual Property other than as permitted by these What's Happening Rules and are similarly not granted any rights to own or use third party proprietary content on What's Happening Products and Services without the express written permission of the appropriate third-party owner. We reserve any rights not expressly granted by the foregoing.
- c. You may not rent, lease, redistribute, sell, sublicense, decompile, reverse engineer, disassemble, or otherwise reduce our Hardware and/or Content, in whole or in part, to a human-perceivable form for any purpose, including, without limitation, to build a product and/or service competitive with our Hardware and/or Content. Should you engage in any such activity, we are not responsible in any way for any damage to your What's Happening Hardware and/or Content or to the property or interests of any third parties.

4. Copyright Policy

- a. If you believe that your copyrighted work has been copied and is accessible on our Hardware or in our Content in violation of United States copyright laws, please contact our Copyright Agent at Bookcliff Software, LLC, 835 Cresthaven Drive, Fruita, Colorado 81521, with notification containing the following information required by the Digital Millennium Copyright Act, 17 U.S.C. §512 ("DMCA"):
 - i. A physical or electronic signature of a person authorized to act on behalf of the copyright owner of the work that allegedly has been infringed;
 - ii. Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works allegedly have been infringed, then a representative list of such copyrighted works;
 - iii. Identification of the material that is claimed to be infringing and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit us to locate the allegedly infringing material, e.g., the specific web page address on the Sites;
 - iv. Information reasonably sufficient to permit us to contact the party alleging infringement, including an email address;
 - v. A statement that the party alleging infringement has a good-faith belief that use of the copyrighted work in the manner complained of is not authorized by the copyright owner or its agent, or is not otherwise permitted under the law; and,
 - vi. A statement that the information in the notification is accurate, and under penalty of perjury, that the party alleging infringement is authorized to act on behalf of the copyright owner of the work that allegedly has been infringed.

NOTE:

- **The above procedure is exclusively for notifying What's Happening that your copyrighted material has been infringed. The preceding requirements are intended to comply with What's Happening's rights and obligations under the DMCA, including 17 U.S.C. §512(c), but do not constitute legal advice.**
- **It may be advisable to contact an attorney regarding your rights and obligations under the DMCA and other applicable laws. In accordance with the DMCA and other applicable law, What's Happening has adopted a policy of terminating, in appropriate circumstances, users who are deemed to be repeat infringers.**
- **What's Happening may also in its sole discretion limit access to Hardware and/or Content as well as terminate any What's Happening Users who infringe any intellectual property rights of others, whether or not there is any repeat infringement.**
- **YOU MAY BE SUBJECT TO CRIMINAL PROSECUTION UNDER FEDERAL LAW FOR PERJURY AND CIVIL PENALTIES, INCLUDING MONETARY DAMAGES, COURT COSTS, AND ATTORNEYS' FEES, FOR KNOWINGLY MISREPRESENTING THAT ONLINE MATERIAL IS INFRINGING.**

5. Compliance with Applicable Laws and Third-Party Terms

- a. What's Happening Hardware and Content is intended for use by What's Happening Users eighteen (18) years of age or older. Anyone under the age of 18 should only use What's Happening Hardware and Content with the consent and/or involvement of a parent or guardian.
- b. By using What's Happening Hardware and/or Content, you, as a What's Happening User, agree to the following:
 - i. Comply with all applicable laws in connection with your use of Hardware or Content;

- ii. Comply with the [Alexa Terms of Use](#) and the [Privacy Policies](#) by the Amazon Digital Services LLC (with its affiliates, "Amazon"), including all attachments and amendments, all terms of which are incorporated by reference;
- iii. Not use Hardware or Content if you are under the age of thirteen (13);
- iv. Not access the Hardware and/or Content using a third party's account/registration without the express consent of the account - holder and not to attempt to impersonate another user or person;
- v. Not to attempt, through any means, to gain unauthorized access to any part of the Hardware or Content and/or any service, other account, computer system, and/or network connected to any Hardware and not to otherwise use the Hardware or Content in any manner that could damage, disable, overburden, and/or impair the network(s) connected to any Hardware, and/or interfere with any other party's use and enjoyment of the Hardware or Content;
- vi. Not to advertise to, or solicit, any user, restaurant, or other business to buy or sell any products or services, or use any information obtained from the Hardware or Content in order to contact, solicit, or advertise or sell to any user, restaurant, or other business, in each case, unless specifically authorized in writing by What's Happening;
- vii. Not to deep-link or frame to the Hardware and/or Content, nor to access the Hardware and/or Content manually and/or with any robot, spider, web crawler, extraction software, automated process, and/or device or other means to scrape, copy, and/or monitor any portion of the Hardware and/or Content, unless specifically authorized in writing by What's Happening;
- viii. Not to conduct any scraping, indexing, surveying, data mining, or any other kind of systematic retrieval of data or other information from the Hardware and/or Content;
- ix. Not to create or compile, directly or indirectly, any collection, compilation, database, or directory from the Hardware and/or Content;
- x. Not to copy, publish, or redistribute any coupon or discount code or act in bad faith in an attempt to manipulate or gain an unintended commercial benefit from incentive offers accessed via the Hardware and/or Content;
- xi. Not to harass, annoy, intimidate, or threaten any What's Happening employees, contractors, or agents engaged in providing any portion of the Hardware and/or Content;
- xii. Not to engage in any criminal or tortious activity, including, without limitation, fraud, spamming (including, without limitation, by email or instant message), sending of viruses or other harmful files, copyright infringement, patent infringement, or theft of trade secrets or otherwise deleting the copyright or other proprietary rights notice from any What's Happening Intellectual Property or third-party intellectual property or from any portion of the Hardware and/or Content;
- xiii. Not to disrupt, interfere with, or otherwise harm or violate the security of the Hardware and/or Content, or any services, system resources, accounts, passwords, servers or networks connected to or accessible through the Hardware and/or Content, including, without limitation, those of our Customers; and,
- xiv. Not to use the Hardware and/or Content for any illegal purposes or in any way otherwise inconsistent with any and all applicable laws, rules, and regulations.

You agree to comply with all of the above and agree not assist or permit any person in engaging in any conduct that does not comply with the above. Further, you agree that any violation of the foregoing may be so serious and incalculable that monetary compensation may not be a sufficient or appropriate remedy, and that What's Happening will be entitled to temporary and permanent injunctive relief to prohibit such use or activity without the need to prove damages.

6. All Payments Will be Made Directly to What's Happening

All payments due to What's Happening by What's Happening Users, Customers, and/or Independent Sales Ambassadors will be made directly to What's Happening as instructed in applicable What's Happening Advertising Agreements, and/or What's Happening Independent Sales Ambassador Agreements (including any attachments and amendments to any of the foregoing). For the avoidance of doubt, What's Happening does not collect payments from Customers prior to execution of What's Happening Advertising Agreements, and/or What's Happening Independent Sales Ambassador Agreements (including any attachments and amendments to any of the foregoing).

7. Violation of the What's Happening Rules for What's Happening Users

If as a What's Happening User other than a Customer or Independent Sales Ambassador fail to comply with any provision of our What's Happening Rules for What's Happening Users, you understand and agree we have the exclusive right, at our sole discretion, to automatically terminate our relationship with you without notice, including but not limited to your use of Hardware and/or Content.

8. Termination by and of What's Happening Users Other than Customers or Independent Sales Ambassadors

a. What's Happening Users' Right to Terminate

All What's Happening Users except for those who are also Customers or Independent Sales Ambassadors may terminate their agreement with What's Happening under these What's Happening Rules for What's Happening Users by ceasing their use of Hardware and/or Content.

b. What's Happening's Right to Terminate What's Happening Users' Access to Hardware and/or Content

We reserve the right, in our sole discretion, to modify, suspend, or discontinue at any time, with or without notice, What's Happening Users' access to Hardware and/or Content (or any part thereof), including but not limited to the Hardware's features, look and feel, and functional elements and any Content. We will have no liability whatsoever on account of any change to the Hardware and/or Content or for any suspension or termination of What's Happening Users' access to or use of the Hardware and/or Content. You understand and agree to indemnify, defend, and hold harmless What's Happening and its affiliates, contractors, employees, owners, licensors, and/or suppliers from and against all claims, losses, damages, and expenses (including without limitation reasonable attorneys' fees) arising out of or in connection with your use of the Hardware and/or Content, or your violation of these What's Happening Rules for What's Happening Users.

For the avoidance of doubt, the above termination terms do not apply to Customers and/or Independent Sales Ambassadors.

9. Exclusion of Warranties

WHAT'S HAPPENING HARDWARE AND CONTENT IS PROVIDED ON AN "AS IS," "WITHOUT ANY WARRANTY," AND "WITHOUT ANY LIABILITY" BASIS. YOU BEAR ALL RISK OF USING HARDWARE AND CONTENT. WHAT'S HAPPENING DOES NOT GUARANTEE THE QUALITY, ACCURACY, COMPLETENESS, OR TIMELINESS OF THE HARDWARE AND/OR CONTENT. WHAT'S HAPPENING DOES NOT WARRANT THAT THE FUNCTIONALITY OR OPERATION OF HARDWARE WILL BE UNINTERRUPTED OR FREE FROM ERROR, THAT ANY DEFECTS IN THE HARDWARE AND/OR CONTENT WILL BE CORRECTED, OR THAT THE HARDWARE AND CONTENT AND THE SERVERS THAT MAKE THEM AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL CONDITIONS OR COMPONENTS. HARDWARE AND CONTENT MAY OCCASIONALLY BE RESTRICTED, INTERRUPTED, OR DISCONTINUED DUE TO VARIOUS CONDITIONS, INCLUDING WITHOUT LIMITATION ISSUES REGARDING DESIGN, NETWORK COVERAGE, GOVERNMENT REGULATION, AND SITUATIONS BEYOND WHAT'S HAPPENING'S CONTROL. NEITHER WHAT'S HAPPENING NOR ITS AFFILIATES, CONTRACTORS, EMPLOYEES, OWNERS, LICENSORS, AND/OR SUPPLIERS WILL HAVE ANY LIABILITY TO YOU FOR ANY LOSSES SUFFERED AS A RESULT OF THAT ARISE OUT OF OR IN CONNECTION WITH YOUR USE OF THE HARDWARE AND/OR CONTENT. TO THE MAXIMUM EXTENT PERMITTED BY LAW, WHAT'S HAPPENING EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND WITH RESPECT TO THE HARDWARE AND/OR CONTENT, INCLUDING WITHOUT LIMITATION, THOSE REGARDING AVAILABILITY, QUALITY, ACCURACY, FITNESS FOR ANY USE OR PURPOSE, COMPATIBILITY WITH ANY STANDARDS, AND NONINFRINGEMENT.

10. Limitation of Liability

TO THE FULLEST EXTENT PERMISSIBLE BY APPLICABLE LAW, IN NO EVENT WILL WHAT'S HAPPENING BE LIABLE TO YOU FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OR DAMAGES WHATSOEVER (INCLUDING PERSONAL INJURY, LOSS OF DATA, REVENUE, PROFITS, REPUTATION, USE, OR OTHER ECONOMIC ADVANTAGE), EVEN IF WHAT'S HAPPENING HAS BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, ARISING OUT OF A WARRANTY, CONTRACT, OR NEGLIGENCE ACTION THAT IN ANY MANNER ARISES OUT OF OR IN CONNECTION WITH THE USE, INABILITY TO USE, PERFORMANCE OF, OR SERVICES PROVIDED ON OR THROUGH THE HARDWARE AND/OR CONTENT. WHAT'S HAPPENING ASSUMES NO RESPONSIBILITY AND WILL NOT BE LIABLE FOR ANY DAMAGES TO, OR VIRUSES THAT MAY INFECT YOUR COMPUTER EQUIPMENT OR OTHER PROPERTY ON ACCOUNT OF YOUR ACCESS TO OR USE OF THE HARDWARE AND/OR CONTENT. WHAT'S HAPPENING ASSUMES NO RESPONSIBILITY OR LIABILITY IN ANY MANNER ARISING OUT OF OR IN CONNECTION WITH ANY HARDWARE AND/OR CONTENT, AS WELL AS ANY THIRD-PARTY WEBSITE PAGES OR ADDITIONAL WEBSITES LINKED TO OR REFERENCED IN THE CONTENT, FOR ANY ERROR, DEFAMATION, LIBEL, SLANDER, OMISSION, FALSEHOOD, OBSCENITY, PORNOGRAPHY, PROFANITY, DANGER, INACCURACY CONTAINED THEREIN, OR HARM TO PERSON OR PROPERTY CAUSED THEREBY. THESE LIMITATIONS WILL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. IN NO EVENT WILL WHAT'S HAPPENING'S TOTAL LIABILITY TO YOU FOR ALL DAMAGES, LOSSES AND CAUSES OF ACTION, WHETHER IN WARRANTY, CONTRACT, OR TORT EXCEED (A) THE AMOUNT PAID BY YOU TO WHAT'S HAPPENING, OR (B) ONE THOUSAND DOLLARS AND 00/100 (\$1,000.00), WHICHEVER IS LESS, WITH THE SOLE EXCEPTION OF WHAT'S HAPPENING INDEPENDENT SALES AMBASSADORS WHOSE DAMAGES WILL BE LIMITED TO THE AMOUNT OF COMPENSATION DEMONSTRATED TO HAVE BEEN EARNED BY THE INDEPENDENT SALES AMBASSADOR BUT NOT PAID BY WHAT'S HAPPENING. BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU. YOU AND WHAT'S HAPPENING AGREE THAT THE WARRANTY DISCLAIMERS AND LIMITATIONS OF LIABILITY IN THIS AGREEMENT ARE MATERIAL, BARGAINED-FOR BASES OF THIS AGREEMENT, AND THAT THEY HAVE BEEN TAKEN INTO ACCOUNT IN DETERMINING THE CONSIDERATION TO BE GIVEN BY EACH PARTY UNDER THIS AGREEMENT AND IN THE DECISION BY EACH PARTY TO ENTER INTO THIS AGREEMENT. YOU AND WHAT'S HAPPENING ALSO AGREE THAT THE WARRANTY DISCLAIMERS AND LIMITATIONS OF LIABILITY IN THESE TERMS OF USE ARE FAIR AND REASONABLE. IF YOU ARE DISSATISFIED WITH THE HARDWARE AND/OR CONTENT OR DO NOT AGREE TO ANY PROVISIONS OF THESE WHAT'S HAPPENING RULES, YOUR SOLE AND

EXCLUSIVE REMEDY IS TO DISCONTINUE USING THE HARDWARE AND/OR CONTENT, EXCEPT AS MAY BE OTHERWISE PROVIDED FOR IN THIS SECTION.

IMPORTANT NOTE TO NEW JERSEY CONSUMERS

IF YOU ARE A CONSUMER RESIDING IN NEW JERSEY, THE FOLLOWING PROVISIONS OF THESE TERMS OF USE DO NOT APPLY TO YOU (AND DO NOT LIMIT ANY RIGHTS THAT YOU MAY HAVE) TO THE EXTENT THAT THEY ARE UNENFORCEABLE UNDER NEW JERSEY LAW: (A) THE DISCLAIMER OF LIABILITY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES OF ANY KIND (FOR EXAMPLE, TO THE EXTENT UNENFORCEABLE UNDER THE NEW JERSEY PUNITIVE DAMAGES ACT, NEW JERSEY PRODUCTS LIABILITY ACT, NEW JERSEY UNIFORM COMMERCIAL CODE, AND NEW JERSEY CONSUMER FRAUD ACT); (B) THE LIMITATION ON LIABILITY FOR LOST PROFITS OR LOSS OR MISUSE OF ANY DATA (FOR EXAMPLE, TO THE EXTENT UNENFORCEABLE UNDER THE NEW JERSEY IDENTITY THEFT PROTECTION ACT AND NEW JERSEY CONSUMER FRAUD ACT); (C) APPLICATION OF THE LIMITATIONS OF LIABILITY TO THE RECOVERY OF DAMAGES THAT ARISE UNDER CONTRACT AND TORT, INCLUDING, WITHOUT LIMITATION, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER THEORY (FOR EXAMPLE, TO THE EXTENT SUCH DAMAGES ARE RECOVERABLE BY A CONSUMER UNDER NEW JERSEY LAW, INCLUDING, WITHOUT LIMITATION, THE NEW JERSEY PRODUCTS LIABILITY ACT); AND (D) THE NEW YORK GOVERNING LAW PROVISION (FOR EXAMPLE, TO THE EXTENT THAT YOUR RIGHTS AS A CONSUMER RESIDING IN NEW JERSEY ARE REQUIRED TO BE GOVERNED BY NEW JERSEY LAW).

11. Dispute Resolution

- a. Any dispute or claim arising from or relating to a What's Happening Advertising Agreement, and/or these What's Happening Rules will be resolved by binding arbitration administered by the American Arbitration Association (the "AAA") and in accordance with the AAA's Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes then in-effect (the "AAA Rules"). Unless you and What's Happening otherwise agree, the arbitration will be conducted in Grand Junction, Colorado.
- b. If your claim does not exceed \$10,000, then the arbitration will be conducted solely on the basis of documents you and What's Happening submit to the arbitrator, unless you request a hearing or the arbitrator determines that a hearing is necessary. If your claim exceeds \$10,000, your right to a hearing will be determined by the AAA Rules. Subject to the AAA Rules, the arbitrator will have the discretion to direct a reasonable exchange of information by the parties, consistent with the expedited nature of the arbitration.
- c. The arbitrator will be either a retired judge or an attorney licensed to practice law in the county in which the arbitration is held and will be selected by the parties from the AAA's roster of consumer dispute arbitrators. If the parties are unable to agree upon an arbitrator within seven (7) days of delivery of the Demand for Arbitration, then the AAA will appoint the arbitrator in accordance with the AAA Rules.
- d. The arbitrator will render an award within the time frame specified in the AAA Rules. The arbitrator's decision will include the essential findings and conclusions upon which the arbitrator based the award. Judgment on the arbitration award may be entered in any court having jurisdiction thereof. The arbitrator's award damages must be consistent with the terms of the "Limitation of Liability" section above as to the types and the amounts of damages for which a party may be held liable. The arbitrator may award declaratory or injunctive relief only in favor of the claimant and only to the extent necessary to provide the relief warranted by the claimant's individual claim. If you prevail in arbitration, you will be entitled to an award of attorneys' fees and expenses to the extent provided under applicable law. If What's Happening prevails in arbitration, What's Happening reserves all rights it may have to recover attorneys' fees and expenses.
- e. Your responsibility to pay any AAA filing, administrative, and arbitrator fees will be solely as set forth in the AAA Rules.
- f. You acknowledge and agree that you and What's Happening each waive the right to a trial by jury. You further acknowledge and agree that you waive your right to participate as a plaintiff or class member in any purported class action or representative proceeding against What's Happening and/or with respect to our Hardware and/or Content. Further, unless both you and What's Happening otherwise agree in writing, the arbitrator may not consolidate more than one person's claims nor otherwise preside over any form of any class or representative proceeding. If this specific paragraph is held unenforceable, then the entirety of this Dispute Resolution section will be deemed void. Except as provided in the preceding sentence, this Dispute Resolution section will survive any termination of these What's Happening Rules for What's Happening Users. You further acknowledge that any claim with respect to our Hardware and/or Content or arising under these What's Happening Rules must be brought within one year of its accrual or it will be waived.

12. Governing Law

All What's Happening Advertising Agreements, and these What's Happening Rules are governed and will be construed in accordance with the laws of the State of Colorado without regard to its conflict of laws principles.

13. Waiver and Severability

What's Happening's failure to enforce any provision of any What's Happening Advertising Agreements, What's Happening Independent Sales Ambassador Agreements, and/or these What's Happening Rules does not constitute a waiver of What's Happening's rights thereunder; and, any such waiver must be in writing. If any portion of any What's Happening Advertising Agreements, What's Happening Independent Sales Ambassador Agreements, and/or these What's Happening Rules this Agreement is found to be void, invalid, or otherwise unenforceable, then that portion will be deemed to be superseded by a valid, enforceable provision that matches the intent of the original provision as closely as possible except that in the event of unenforceability of the class action waiver, the entire arbitration agreement will be unenforceable. The remainder of the What's Happening Advertising Agreements, What's Happening Independent Sales Ambassador Agreements, and/or and these What's Happening Rules Agreement will continue to be enforceable and valid according to terms contained herein.

14. Assignability

You may not assign or transfer any What's Happening Advertising Agreements, What's Happening Independent Sales Ambassador Agreements, these What's Happening Rules (including any attachments and amendments to any of the foregoing), or any of your rights under the preceding, in whole or in part, by operation of law or otherwise, without our prior written consent. We may assign any What's Happening Advertising Agreements, What's Happening Independent Sales Ambassador Agreements, and/or these What's Happening Rules in whole or in part at any time to any individual or entity without your notice or consent. Any purported assignment by you in violation of this section will be null and void.

15. Entire Agreement

Your What's Happening Advertising Agreements, and these What's Happening Rules Agreement, together with any amendments and any additional agreements you may enter into with What's Happening in connection with Hardware and/or Content, will constitute the entire agreement between you and What's Happening concerning the Hardware and/or Content.



Advertisers

1. Uploading of Content to Hardware

What's Happening or our agents solely upload Content to our Hardware for playback in response to Prompts we develop. Should you request What's Happening or our agents to perform additional services beyond what is provided in your What's Happening Advertising Agreement, you understand and agree that the Parties will negotiate in good faith with respect to the terms, conditions, and compensation for such additional services. Any agreement for additional services will be set forth in writing and considered an addendum to your What's Happening Advertising Agreement.

2. Customer Content

To the extent you provide us with any information for use in Content ("Customer Content"), we reserve the right to review and approve any such Customer Content prior to delivery of any Advertising Services due to you under the What's Happening Advertising Agreement.

3. Prompts

You own and will retain ownership of all Customer Content, including but not limited to trademarks, service marks, slogans, artwork, written materials, drawings, photographs, graphic materials, film, music, transcriptions, or other materials that are subject to copyright, trademark, patent, or similar protection, which you provide to us for playback of Content on our Hardware. Notwithstanding the foregoing, you grant us and our agents a nonexclusive, limited, worldwide, royalty-free, revocable license to market, display, perform, copy, transmit, distribute, and promote Customer Content in connection with performing our obligations under any What's Happening Advertising Agreements.

4. Termination In Lieu of Automatic Renewal of the Term

Either Party may terminate any What's Happening Advertising Agreement by providing written notice of its intent to terminate at least thirty (30) days prior to the automatic renewal of the Term (the date of the termination notice will be referred to as the "Termination Date", and the 30-day period will be referred to as the "Termination Period"), subject to the following:

a. What's Happening Responsibilities

No later than the last day of the Termination Period, What's Happening will terminate play-back of Content and/or Prompts, and will issue you a pro-rated refund for the balance of any fees you have paid for Content and/or Prompts not yet delivered as of the Termination Date.

b. Advertiser Responsibilities

No later than the last day of the Termination Period, you will cease to use Content and/or Prompts not yet paid-in-full, and you will pay the balance of any fees owed but unpaid to What's Happening as of the Termination Date.

5. Termination Without Prior Notice or for Violation of the What's Happening Rules

If you terminate any What's Happening Advertising Agreement without proper notice as detailed in Section Four above or if we terminate the What's Happening Advertising Agreement based on your Violation of the What's Happening Rules, you understand and agree that we will suffer a substantial injury for which it is impracticable or extremely difficult for us to determine actual damages. In an effort to liquidate in advance the sum representing such damages, you agree to pay us an "Early Termination Fee" of seventy-five (75%) percent of the average of recurring fees charged to you for the twelve (12) months (or such shorter time if 12 months have not yet elapsed) preceding the termination.

6. Use of Logo

You hereby grant to What's Happening the express right to use your company or property name and logo in marketing, sales, financial, and public relations materials and other communications solely to identify you as a What's Happening customer. What's Happening hereby grants to you the express right to use the What's Happening name and logo solely to identify What's Happening as a provider of services to you. Other than as expressly stated herein, neither party shall use the other party's marks, codes, drawings or specifications without the prior written permission of the other party.

7. Amendments

With the exception of our right to amend the What's Happening Rules for What's Happening Users at any time with or without notice, any amendments to the material terms of your What's Happening Advertising Agreements must be mutually agreed to in writing by both Parties.

8. Notices

Any notices due to the Parties will be sent to the point of contact identified in the signature page of the What's Happening Advertising Agreement.

9. Fair Credit Reporting Act Authorization

By entering into any What's Happening Advertising Agreements with What's Happening, you understand and agree that What's Happening may incur certain commercial risks and accordingly authorize What's Happening and its designated agents and representatives to obtain a consumer credit report and/or a Background Report on you for purposes of verifying information given pursuant to business negotiations and/or your What's Happening Advertising Agreements, or for any other lawful purpose the federal Fair Credit Reporting Act (FCRA) permits. You further agree to assist with any such background check and/or consumer credit report with respect to providing information and/or references as requested by What's Happening. For the avoidance of doubt, the background check may contain information available in the public domain as well as interviews with individuals or entities. By entering into any What's Happening Advertising Agreements with What's Happening, you authorize all corporations, former employers, credit agencies, educational institutions, law enforcement agencies, city, state, county and federal courts and agencies, military services and persons to release all information they may have about you including but not limited to criminal and driving history.



Independent Sales Ambassadors

1. Independent Contractor Status

- a. You understand and agree we are hiring you solely as an independent contractor and not as an employee of What's Happening. Nothing contained in this Agreement will be deemed to create any association, partnership, joint venture, or relationship of principal and agent or employer and employee between the Parties or to provide either Party with the right, power of authority, whether express or implied, to create any such duty or obligation on behalf of the other Party. You also agree that you will not hold yourself out as a partner, joint venturer, co-principal or employee of What's Happening by reason of the Agreement. In the event that we are adjudicated to be a partner, joint venturer, co-principal or employer of or with you, you agree to indemnify and hold harmless What's Happening from and against any and all claims for loss, liability or damages arising therefrom.
- b. As independent contractor, you are solely responsible to pay all applicable taxes arising from payments we make to you, including, but not limited to, social security, self-employment taxes and disability insurance.
- c. Neither you nor your employees will be entitled to participate in any What's Happening plans, arrangements or distributions pertaining to any pension, stock, bonus, profit sharing or similar benefits.
- d. You further understand and agree to indemnify and hold the What's Happening harmless from any and all liability, claims, demands, or requirements imposed by federal or state law upon self-employed individuals arising from payments made to you under your Independent Sales Ambassador Agreement.
- e. You also agree to bear all expenses incurred in your sales endeavors except those for which we previously agree to pay in writing.
- f. If you operate a motor vehicle during the Term of your What's Happening Independent Sales Ambassador Agreement, you understand and agree we are not responsible for any damage or loss sustained by the use of said automobile. If you operate a motor vehicle in the performance of your What's Happening Independent Sales Ambassador Agreement, you understand and agree to maintain public liability insurance in limits not less than those required by applicable law and will promptly furnish us with documentation evidencing the same upon our request.

2. Consistent Performance of Services

a. Consistent Performance of Services

For the entirety of the Term, you agree to aggressively pursue performing the Services detailed in your What's Happening Independent Sales Ambassador Agreement in a manner consistent with best industry practices in sales procedures and customer relations, and to make regular calls on Customers to assess and support their use of and satisfaction with Hardware and/or Content, as well as to report to us on such activities as we reasonably request. You understand and agree we have the sole right to establish, alter, or amend Hardware and/or Content specifications, prices, delivery schedules and discounts, and that we will timely notify you of any and all changes.

3. Scope of Authority

- a. You understand and agree that you will not promote the sale of, or sell, Hardware and/or Content outside the Territory without our prior written consent, which we may in our sole discretion grant or deny.
- b. You understand and agree to abide by and comply with all What's Happening sales policies and operating procedures.
- c. You understand and agree that all What's Happening Advertising Agreements are subject to our review and acceptance prior to execution of any of the foregoing with a Customer or delivery of any Hardware and/or Content and that we may, in our sole discretion, reject any of the foregoing at any time for any reason.
- d. You understand and agree you will not obligate or contract on our behalf unless you have first received our specific written authority to do so from and authorized What's Happening representative. You further agree to make no representations, warranties, or commitments binding What's Happening without our prior written consent. In addition, you warrant and represent you are free to enter into your What's Happening Independent Sales Ambassador Agreement and that this does not violate any prior agreement you have made with any third parties.

4. Compensation

Within fifteen (15) days of receiving Fees paid to us by Customers under the What's Happening Advertising Agreements you submit to us that we approve and execute, we will calculate your Compensation and remit payment to you accompanied by information supporting our calculation of said Compensation.

5. Non-Assignability

You understand and agree you may not transfer, sell, or assign your What's Happening Independent Sales Ambassador Agreement to any other individual, corporation, and partnership or joint venture without our prior approval. In no event will we be bound to continue your What's Happening Independent Sales Ambassador Agreement under the same terms and conditions to your transferee, successor or majority stockholder, or in the event that you are no longer personally and actively involved in selling our Hardware and/or Content.

6. Non-Competition

Unless the Parties agree otherwise in writing, including any attachment or amendment to your What's Happening Independent Sales Ambassador Agreement, you understand and agree that during the Term of this Agreement, you will not sell, promote, or offer for sale, directly or indirectly, to Customers any product which might in any way be deemed competitive to our Hardware and/or Content and that you presently carry no products or services that are competitive with said Hardware and/or Content. Notwithstanding the foregoing, you agree to notify us in writing of all future products with the name of the manufacturer you intend to carry, competing, or otherwise, before your representation of same. This covenant is a material part of this Agreement.

10. Non-Disparagement

During the Term and thereafter, neither Party will disparage, defame, or discredit the other Party or engage in any activity which would have the effect of disparaging, defaming, or discrediting the other Party, or its members, managers, affiliates, officers, directors, employees, or agents in their respective capacities as members, affiliates, officers, directors, employees or agents, in any way. For the avoidance of doubt, nothing in this paragraph will prevent any person from making any truthful statement to the extent (i) necessary with respect to any litigation, arbitration or mediation involving this Agreement, including, but not limited to, the enforcement of the What's Happening Independent Sales Ambassador Agreement or (ii) required by law or by any court, arbitrator, mediator or administrative or legislative body (including any committee thereof) with apparent jurisdiction to order such person to disclose or make accessible such information. Each of the Parties agrees to notify the other of any statement that is required to be made as provided in the preceding sentence. Such notice will be given as much in advance of the making of such statement as is reasonably possible.

11. Termination

Either Party may terminate any What's Happening Independent Sales Ambassador Agreement by providing written notice of its intent to terminate at least thirty (30) days in advance (the date of the termination notice will be referred to as the "Termination Date", and the 30-day period will be referred to as the "Termination Period"), subject to the following:

a. What's Happening Responsibilities

No later than the last day of the Termination Period, What's Happening will issue you a payment for the balance of any Compensation due to you not yet paid as of the Termination Date.

b. Independent Sales Ambassador Responsibilities

No later than the last day of the Termination Period, you will pay us the balance of any amounts you owe us.

12. Amendments

With the exception of our right to amend the What's Happening Rules for What's Happening Users at any time with or without notice, any amendments to the material terms of your What's Happening Independent Sales Ambassador Agreements must be mutually agreed to in writing by both Parties.

13. Notices

Any notices due to the Parties will be sent to the point of contact identified in the signature page of the What's Happening Independent Sales Ambassador Agreement.

14. Fair Credit Reporting Act/Personal Background Report/Business Credit Report Authorization

By entering into any What's Happening Independent Sales Ambassador Agreements with What's Happening, you understand and agree that What's Happening may incur certain commercial risks and accordingly authorize What's Happening and its designated agents and representatives to obtain, as applicable, a consumer credit report, personal background report, and/or

business credit report on you for purposes of verifying information given pursuant to business negotiations and/or your What's Happening Independent Sales Ambassador Agreements, or for any other lawful purpose. You further agree to assist with any such consumer credit report, personal background check, and/or business credit report with respect to providing information and/or references as requested by What's Happening. For the avoidance of doubt, the consumer credit report, personal background check, and/or business credit report may contain information available in the public domain as well as interviews with individuals or entities. By entering into any What's Happening Independent Sales Ambassador Agreements with What's Happening, you authorize all corporations, former employers, credit agencies, educational institutions, law enforcement agencies, city, state, county and federal courts and agencies, military services and persons to release all information they may have about you including criminal and driving history.



Privacy Policy

This privacy policy describes how we protect your privacy and data. Before using any of our Hardware or Content, please read this policy as well as the [Alexa Terms of Use](#) and the [Privacy Policies](#) by the Amazon Digital Services LLC (with its affiliates, "Amazon"). Regarding Amazon, "Alexa" means their Alexa Voice Service which includes third party services (like our skills) and other related software. By using any of our Hardware and/or Content, you fully agree to this Privacy Policy.

1. General

Our Hardware allows you to use an Amazon Alexa-enabled device to access Content by voice Prompts. Your voice is only used to activate our Hardware to playback Content. To use our Hardware, you will have to speak commands and questions aloud to Amazon's Alexa service ("Alexa"), and you will receive responses aloud. What's Happening treats any communication via Alexa as a communication you have authorized, and we will treat any communication from us via Alexa in response to a request received from you via our Hardware as a communication to you. In other words, you are responsible for all of the interactions with our Hardware and/or Content. For example, it is possible that someone other than you could interact with our Hardware and/or Content, or that someone could overhear you interacting with our Hardware and/or Content and learn information about you. It is also possible that our Hardware and/or Amazon may record your interactions with our Hardware and/or Content. Consult Amazon to learn more about how Amazon and Alexa-enabled devices treat those interactions.

2. No Collection of Personally Identifying Information

We never collect or share Personally Identifying Information with our Hardware and/or Content. However, to improve our Hardware and/or Content we analyze automatically how often utterances are spoken and other analytics. This is done automatically by Amazon in the Amazon Developer Portal. If you choose to give permission for our service to read the address that you entered in your Hardware configuration, we may read the configured address, for the purpose of determining which cities or venues are closest, but we will not share the address information.

3. Changes

Our Hardware and/or Content, or parts of either or both, may change or be updated at any time. Further, this Privacy Policy might change. You can find a link to this policy at <https://www.bookcliffsoftware.com/home/privacy>. Your continued use of our Hardware and/or Content after changes of the Privacy Policy or the Hardware and/or Content itself will be seen as your acceptance of both.

4. California Privacy Rights

If you use our Hardware and/or Content and a California resident, California's "Shine the Light" law (California Civil Code §1798.83) permits you to request and obtain from us once a year, free of charge, information regarding our disclosure of your personal information (if any) to third parties for direct marketing purposes. If this law applies to you and you would like to make such a request, please submit your request in writing to the address provided in the Contact Us section of our website.

5. Opt-Out Rights

You may opt out of any future contacts from us or from interaction with our Hardware and/or Content at any time by refraining from using our Hardware and/or Content.