

Aviva IQ Terms of Use

Last Modified: November 16, 2016

This Terms of Use agreement (“Terms”) is a legal agreement between you and Aviva Consulting Group, LLC. (“Aviva IQ”, “we”, “us”, or “our”) providing among other things, the terms and conditions for your use of the website accessible at avivaiq.com These Terms govern your access to and use of our websites and associated services (collectively, the “Services”), so please carefully read them before using the Services.

By checking the corresponding box, you agree to be bound by these Terms. If you are using the Services on behalf of an organization, you are agreeing to these Terms for that organization and promising that you have the authority to bind that organization to these Terms. In that case, “you” and “your” will refer to that organization.

Accounts and Registration

To access most features of the Services, you must register and create an account. When you create an account, you may be required to provide us with some information about yourself, such as the entity, organization or company you represent, the property you wish to rent (“Listing”), your email address or other contact information. You agree that the information you provide to us is accurate and that you will keep it accurate and up-to-date at all times. You accept responsibility for all activities that occur under your account. If you have reason to believe that your account is no longer secure, then you must immediately notify us at info@avivaiq.com.

Your Account Data

In using our Services, you will provide us with private account information, and you hereby give us permission to send automated messages on your behalf.

User Content

Certain features of the Services may permit users to link, sync, import or upload content to the Services, including but not limited to photographs, messages, reviews, and other data and text (“**User Content**”) and to make such User Content available to third parties who may wish to rent your property (“Guests”). For example, when creating an automated message, you may use the “Import Saved Messages from Airbnb” feature to create automated messages for Guests to view.

When you ask us to provide your User Content to other users (for example, transmitting an automated message to a Guest) you hereby grant us certain rights so that we can fulfill your request. You hereby grant us a perpetual, worldwide, non-exclusive, royalty-free, fully paid, transferable, sub-licensable (to any tier), irrevocable license to host, copy, transfer, display, perform, modify for display, and distribute your User Content, for the purpose of operating the Services and providing your User Content to other users as you choose.

You also hereby grant each Guest a perpetual, worldwide, non-exclusive, royalty-free, fully paid, transferable, sub-licensable (to any tier), irrevocable license to exploit User Content in such automated messages in any manner the Guest chooses.

You are solely responsible for your User Content. By uploading User Content, you affirm, represent, and warrant that:

- a. you are the creator and owner of the User Content, or have the necessary rights, consents, and permissions to authorize Aviva IQ and users of the Service to exercise the licenses you have granted in these terms; and
- b. your User Content, and the use of your User Content as contemplated by these Terms, does not and will not: (i) infringe, violate, or misappropriate any third-party right, including any copyright, trademark, patent, trade secret, moral right, privacy right, right of publicity, or any other intellectual property or proprietary right; (ii) slander, defame, libel, or invade the right of privacy, publicity or other property rights of any other person; or (iii) cause Aviva IQ to violate any law or regulation.

We are under no obligation to edit or control User Content that you or other users upload, and will not be in any way responsible or liable for User Content. Aviva IQ may, however, at any time and without prior notice, screen, remove, edit, or block any User Content that in our sole judgment violates these Terms or is otherwise objectionable. You understand that when using the Service you will be exposed to User Content uploaded by other users, and you acknowledge that User Content may be inaccurate, offensive, indecent, or objectionable. You understand that Aviva IQ does not vet the User Content in any way and cannot and does not make any claims regarding it, including but not limited to claims as to its accuracy or authenticity. You hereby waive any legal or equitable right or remedy you have or may have against Aviva IQ with respect to User Content. We expressly disclaim any and all liability in connection with User Content. If Aviva IQ is notified that User Content allegedly does not conform to these Terms, we may investigate the allegation and determine in our sole discretion whether to remove the User Content, which we reserve the right to do at any time and without notice.

Prohibited Conduct.

YOU AGREE NOT TO:

1. use the Services except for its intended purpose;
2. use the Services for any illegal purpose or in violation of any local, state, national, or international law;
3. violate, or encourage others to violate, any right of a third party, including by infringing or misappropriating any third party intellectual property right or their right to privacy;

4. post, upload, or distribute any User Content or other content that is unlawful, defamatory, libelous, inaccurate, or that a reasonable person could deem to be objectionable, profane, indecent, pornographic, harassing, threatening, embarrassing, hateful, or otherwise inappropriate;
5. interfere with security-related features of the Services;
6. interfere with the operation of the Services or any user's enjoyment of the Service, including by: (a) uploading or otherwise disseminating any virus, adware, spyware, worm, or other malicious code; (b) making any unsolicited offer or advertisement to another user of the Service; (c) attempting to collect personal information about another user or third party without consent; or (d) interfering with or disrupting any network, equipment, or server connected to or used to provide the Services, or violating any regulation, policy, or procedure of any such network, equipment, or server;
7. perform any fraudulent activity including impersonating any person or entity, claiming a false affiliation, or accessing any other Services account besides your own without permission;
8. use the Services in violation of these Terms;
9. sell or otherwise transfer the access granted under these Terms or any right or ability to view, access, or use any User Content; or
10. attempt to do any of the acts described in this Section, or assist or permit any person in engaging in any of the acts described in this Section.

Your Privacy

We will handle your information in accordance with our [Privacy Policy](#). How we collect and use your information generally is also explained in our [Privacy Policy](#).

Your Listing

We are not responsible for the success of your Listing. However, it is in our best interest for you to succeed. The automated messages we send to your Guests reflect our best attempt to send at your desired message wording at the desired send time for each message. You are always able to change any of the automated message content and/or message send times, and you are welcome to stop using the Services at any time.

Your Responsibilities

You, and not Aviva IQ, are responsible for maintaining records that might be relevant for operating your business.

Account Security

You are responsible for safeguarding the password that you use to access the Services. You must immediately notify Aviva IQ of any unauthorized use of your account. You acknowledge that if you wish to protect your transmission of data to Aviva IQ, it is your responsibility to use a secure encrypted connection to communicate.

Acceptable Use Policy

You will not, and will not attempt to, misuse the Services. Abuse of the service will result in your account being suspended.

Termination

You are free to stop using our Services any time. We reserve the right to suspend or end the Services at any time, with or without cause, and with or without notice. For example, we may suspend or terminate your use of the Services if you are not complying with these Terms, or use the Services in any way that would cause us legal liability or disrupt others' use of the Services. If we suspend or terminate your use, we will try to let you know in advance, although there may be some cases (for example, repeatedly or flagrantly violating these Terms, or if we are subject to a court order) where we may suspend your use of the Services immediately.

Aviva IQ is Available “AS-IS”

THE SERVICES ARE PROVIDED “AS IS”, AT YOUR OWN RISK, WITHOUT EXPRESS OR IMPLIED WARRANTY OR CONDITION OF ANY KIND INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS.

Eligibility

By agreeing to these Terms, you represent and warrant to us that: (a) you are at least 18 years of age; (b) you have not previously been suspended or removed from the Services; and (c) your registration and your use of the Service shall be in compliance with all applicable laws and regulations. If you are using the Service on behalf of an entity, organization, or company, you represent and warrant that you have the authority to bind that organization to these Terms and you agree, on behalf of such organization, to be bound by these Terms. You may not access the Services if you are a direct competitor of Aviva IQ, except with our prior written consent. In addition, you may not access the Services for purposes of monitoring its availability, performance or functionality, or for any other benchmarking or competitive purposes.

Charges

The Service is currently provided to you free of charge, but we reserve the right to start charging, and if we do, you will be notified of those charges. If we offer additional

features in the future that require payment of fees, those fees will be clearly identified as part of being able to access the relevant Services. If you do not accept those fees, you will not be able to access those Services. Where we do charge fees for any part of the Services, we may vary those fees at any point in the future (for the relevant Services from that point) and will make any fee increases clear to you before accessing the relevant Services.

Feedback

If you choose to provide input and suggestions regarding problems with or proposed modifications or improvements to the Services, or your experiences with the Services or with other users of the Services (collectively, "**Feedback**"), then you hereby grant Aviva IQ a perpetual, irrevocable, non-exclusive, fully-paid, royalty-free right to disclose and exploit the Feedback in any manner and for any purpose, including to improve the Services and create other products and services.

Nature of Relationship

The relationship between you and Aviva IQ is that of independent contractors. Nothing in these Terms shall be construed as making either party the partner, joint venturer, agent, legal representative, employer, or employee of the other. Neither party shall have, or hold itself out to any third party as having, any authority to make any statements, representations, or commitments of any kind, or to take any action, that shall be binding upon the other, except as provided for herein or authorized in writing by the party to be bound. Aviva IQ provides certain online features and services (such as automated messages) as part of the Services. You expressly acknowledge that you are not an employee of Aviva IQ, and that you are not entitled to any benefits of employment with Aviva IQ, including but not limited to unemployment benefits. You expressly acknowledge that you are responsible for filing and paying your own taxes.

Limitation of Liability

TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL AVIVA IQ, ITS AFFILIATES, OFFICERS, EMPLOYEES, AGENTS, SUPPLIERS OR LICENSORS BE LIABLE FOR (A) ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL (INCLUDING LOSS OF USE, DATA, BUSINESS, OR PROFITS) DAMAGES, REGARDLESS OF LEGAL THEORY, WHETHER OR NOT AVIVA IQ HAS BEEN WARNED OF THE POSSIBILITY OF SUCH DAMAGES, AND EVEN IF A REMEDY FAILS OF ITS ESSENTIAL PURPOSE; (B) AGGREGATE LIABILITY FOR ALL CLAIMS RELATING TO THE SERVICES MORE THAN THE GREATER OF \$100 OR THE AMOUNTS PAID BY YOU TO AVIVA IQ FOR THE PAST THREE MONTHS OF THE SERVICES IN QUESTION. Some states such as New Jersey do not allow certain damages limitations so this paragraph may not apply to you.

Indemnification

You agree to indemnify, defend, and hold Aviva IQ and its officers, directors, employees, affiliates, agents, licensors, and suppliers, harmless from and against all losses, expenses, damages and costs, including reasonable legal and accounting fees, arising out of or in any way connected with (a) any violation by you of the terms and conditions of this Agreement; (b) your use or misuse of this Web Site; or (c) any infringement by you of the copyright or intellectual property rights of any third party.

Choice of law; Arbitration

These Terms are subject to the laws of the State of California as apply to contracts entered into and performed in California between California residents, and without regard to conflicts of law principles. All disputes arising hereunder shall be resolved by binding arbitration before a single arbitrator located in San Francisco, California, according to the Commercial Dispute Resolution rules of the American Arbitration Association.

Modifications

We may revise these Terms from time to time and the most current version will always be posted on our website. By continuing to access or use the Services after revisions become effective, you agree to be bound by the revised Terms. If you do not agree to the new terms, please stop using the Services.

Miscellaneous Legal Terms

SUBJECT TO THE SECTION ENTITLED "CHOICE OF LAW; ARBITRATION," ALL CLAIMS ARISING OUT OF OR RELATING TO THESE TERMS OR THE SERVICES MUST BE LITIGATED EXCLUSIVELY IN THE FEDERAL OR STATE COURTS OF SAN FRANCISCO COUNTY, CALIFORNIA, AND BOTH PARTIES HEREBY CONSENT TO VENUE AND PERSONAL JURISDICTION THERE. These Terms constitute the entire and exclusive agreement between you and Aviva IQ with respect to the Services, and supersede and replace any other agreements, terms and conditions applicable to the Services. These Terms create no third party beneficiary rights. Aviva IQ's failure to enforce a provision is not a waiver of its right to do so later. If a provision is found unenforceable the remaining provisions of the Agreement will remain in full effect and an enforceable term will be substituted reflecting our intent as closely as possible.