

Terms of Service

These Terms of Service (the "Agreement") is an agreement between the person (such person, the "User," "you" or "your") visiting, browsing, accessing, downloading, installing or otherwise using the Services (as defined below) and Hashtag Applications, LLC ("Hashtag," "our" or "we", and Hashtag and User together, the "Parties" and each, a "Party"), is entered into on the date User first uses any part of the Services (the "Effective Date") and terminated as provided herein.

BY USING THE SERVICES, YOU ACKNOWLEDGE THAT YOU HAVE READ, ACCEPT AND AGREE TO BE BOUND BY AND COMPLY WITH THE TERMS AND CONDITIONS SET FORTH IN THIS AGREEMENT, AS AMENDED FROM TIME TO TIME. IF YOU DO NOT ACCEPT AND AGREE TO BE BOUND BY THIS AGREEMENT, YOU SHALL IMMEDIATELY CEASE ANY FURTHER USE OF THE SERVICES.

1. SERVICES

- a. The services allow you to send and receive SMS text messages, including notifications, alerts, reminders, confirmations, SMS marketing campaigns and use e-mail to SMS service (the "Services"). The Services are provided via the Bell Text applications uploaded on the tablet provided to you. Additionally, we will provide software maintenance and upgrades (from time to time) that enable you to send SMS text messages to recipients designated by you.
- b. We may update, make additions to, or modify the Services from time to time, and may change the content or functionality of the Services at any time. Any such changes, updates, additions or modifications will be subject to this Agreement. We make no representations, warranties or guarantees, whether express or implied that the content provided through the Services is accurate, complete or up to date.

2. USE OF SERVICES

- a. Subject to the terms and conditions of this Agreement, we grant you a limited, non-exclusive, non-transferable, revocable right to use the Services.
- b. When accessing and using the Services, you represent and warrant that:
 - i. You have registered with Hashtag as a User;
 - ii. You have the legal capacity and authorization to enter into this Agreement;
 - iii. All information supplied by you is true, accurate, current and complete and you will keep the information accurate and up-to-date;
 - iv. You are responsible for and will safeguard your log-in credentials, including your log-in password and you will supervise and be completely responsible for any use of the Services with these log-in credentials, including by any and all of your authorized

users. You must treat user identification code, password and any other security information as confidential. You must not disclose it to any third party. If you know or suspect that anyone other than you, knows your user identification code or password, you must promptly notify us;

- v. You have read, understood, and agreed to this Agreement.
- c. We reserve the right, in our sole discretion, to decline or refuse access to the Services at any time and for any reason, including, but not limited to, your breach of the terms of this Agreement.
- d. We have the right to disable any user identification code or password, at any time, if in our reasonable opinion, you have failed to comply with any of the provisions of this Agreement.
- e. It is your sole responsibility to ensure that your use of the Services complies with all applicable laws. We will not be responsible and/or liable in the event of your non-compliance.
- f. You are also responsible for ensuring that all persons who access the Services through your internet connection are aware of the terms of this Agreement, and that they comply with them.

3. USER RESPONSIBILITIES

- a. By using the Services, you acknowledge and agree that you are solely responsible for:
 - i. Payment of the fee for all requested Services in full;
 - ii. Abiding by the terms of this Agreement and ensuring that all of your authorized users abide by the terms of this Agreement; and
 - iii. For all Content (as defined below) that you generate or make available while using the Services as described below.
- b. Further, by using the Services you agree you will not:
 - i. Disassemble, reverse engineer, decompile, otherwise attempt to derive source code from the Services or do anything that might bypass or circumvent measures employed to prevent or limit access to any part of the Services;
 - ii. Transmit Content that you do not own or do not have the right to publish or distribute;
 - iii. Send Content as a commercial message without the required prior opt-in and a clear opt-out mechanism;

- iv. Create fictitious businesses or persons or impersonate others (or imply that you are affiliated with other businesses that are not affiliated with you);
- v. Gather and use information, such as other users' names, email addresses, and telephone numbers available through the Services to transmit any unsolicited advertising, junk mail, spam, or unsolicited text messages;
- vi. Import or incorporate (into any contact list, message, social campaign) or upload as part of Content any of the following information: social security numbers, credit card numbers, passwords, or security credentials;
- vii. Upload, post, email, transmit, or otherwise make available any material that contains software viruses or any other computer code, files, or programs designed to interrupt, destroy, or limit the functionality of any computer software or hardware or telecommunications equipment;
- viii. Interfere with or disrupt (or attempt to interfere with or disrupt) the Services or the servers or networks connected to the Services, or disobey any requirements, procedures, policies, or regulations of networks connected to the Services; or
- ix. Use the Services for any unauthorized purpose or in violation of applicable law.

4. REPRESENTATIONS AND WARRANTIES

Each Party represents and warrants to the other that: (a) it has full power and authority to execute, enter into and perform its obligations under this Agreement; (b) this Agreement is a legal, valid and binding obligation enforceable in accordance with its terms; (c) it will not act or omit to act in any way which would materially interfere with or prohibit the performance of any of its obligations hereunder; and (d) no approval or consent of any other party is necessary in connection with the execution and performance of this Agreement, unless otherwise obtained.

5. CONSENTS; COMPLIANCE WITH LAWS

- a. You may not use the Services to send any unsolicited messages (commonly known as spam). By using the Services, you certify that each phone number owner has explicitly given you permission, either previously or through our Services, to be contacted for marketing and/or communication purposes. If you will be using the Services for advertising or marketing purposes, you further certify that you have obtained "prior express written consent" under TCPA rules, 47 C.F.R. 64.1200(f)(8), from each of the people you are contacting to do so and have otherwise satisfied your obligations under the TCPA. Violation of this Section will be cause for immediate termination of your account. All mobile messages must conform to the latest available best-practice guidelines published by the Mobile Marketing Association, which you must review before using the

Services. You further agree to periodically, in compliance with all regulations, remind end users how to opt out of receiving text messages by replying "STOP".

- b. **IMPORTANT for mobile keywords:** In addition to disclosures necessary to comply with the TCPA, you must include opt-in disclosures required by applicable law in all of your promotional materials in all media: website, printed material, digital and event promotions, broadcasts, and any other material promoting your mobile keyword. TCPA and Cellular Telephone Industries Association ("CTIA") strictly prohibit omission of opt-in disclosures in whole or in part.
- c. If you use the Services to conduct contests or sweepstakes (such as "text-to-win"), you agree that you will be solely responsible for ensuring that the sweepstakes or contest complies with all applicable laws. Further, you are solely responsible for compiling and administering the sweepstakes or contest rules. You acknowledge that messages are distributed via third-party mobile network providers and, therefore, Hashtag cannot control certain factors relating to message delivery. You acknowledge that, depending on the recipient's mobile provider service, it may not be possible to transmit the message to the recipient successfully. Hashtag does not claim or guarantee availability or performance of the Services, and Hashtag hereby disclaims any liability for transmission delays or message failures.
- d. You acknowledge and agree that Hashtag is not acting as a Business Associate (as defined under HIPAA) and has made no representations that the Services are designed or intended to secure Protected Health Information (PHI) as defined under HIPAA. It is your obligation to not create, receive, transmit or process PHI with the Services. If you use the Services to create, receive, transmit or process PHI, it is your responsibility to determine if a reportable breach under HIPAA has occurred. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, as amended and supplemented.
- e. You understand that Hashtag does not and cannot control the data you transmit through your use of the Services, and you will be solely responsible for compliance with all laws related to the data you transmit to your end users through the Services. You remain responsible for complying with all applicable law and regulations, including TCPA and the CTIA Short Code Monitoring Handbook, and Hashtag will not be responsible for assessing your compliance with such laws and regulations. Further, you acknowledge that Hashtag will have no obligation to enforce TCPA consent or to audit your compliance with such laws and regulations.

6. CONTENT

- a. For purposes of this Agreement, "Content" is defined all materials you display on or through the Services including without limitation, text, graphics, news articles, charts, presentations, user communications, photographs, images and illustrations, and other materials. You are responsible for the Content that you post, upload, or otherwise submit through the Services and the consequences of posting or publishing it. Except for the license you grant below to us, you retain

all rights in and to your Content. By submitting Content, you grant Hashtag a perpetual, irrevocable, nonexclusive, royalty-free, worldwide, fully-paid, and sub-licensable license to use, copy, process, reproduce, modify, adapt, publish, transmit, translate, create derivative works from, distribute, publicly perform and display your Content (including all related intellectual property rights).

- b. By submitting Content, you also affirm, represent, and warrant that you own or have the necessary licenses, rights, consents, and permissions to use and to authorize Hashtag to make available your Content in the manner contemplated by the Services. Hashtag has no obligation to screen, edit, or monitor Content. Hashtag may access, preserve, and disclose your account information and Content if required to do so by law or if we, in good faith, believe that such access, preservation, or disclosure is reasonably necessary to (i) comply with legal process; (ii) enforce the terms of this Agreement; (iii) respond to claims that any Content violates the rights of third-parties; (iv) respond to your requests for customer service; or (v) protect the rights, property, or personal safety of Hashtag, its users and the public.
- c. You will not transmit any Content which, in our sole opinion or that of any applicable regulatory bodies or mobile carriers, may be defamatory, discriminatory, obscene, lewd, offensive, threatening, abusive, harassing, harmful, hateful, or which may contain any pornography, religious or racial slurs or may threaten or encourage bodily harm or the like, or which may violate any person's rights regardless of whether such Content is accessed, transmitted, propagated, distributed, created, or stored in a public or private context.

7. INTELLECTUAL PROPERTY

All trademarks, brands, and service marks used in conjunction with the Services by Hashtag are the property of Hashtag. Hashtag is the owner of the Services and the text, graphics, images, photographs, videos, logos, slogans, and other content contained therein and all intellectual property rights, including copyright and database rights therein. You may not publish, distribute, extract, or reproduce any such content in any form, except as it relates to the personal use of the Services. You may not use, copy, adapt, modify, prepare derivative works based upon, distribute, license, sell, transfer, publicly display, publicly perform, transmit, stream, broadcast, or otherwise exploit the Services, except as expressly permitted in this Agreement.

8. DATA USE AND PRIVACY

Please refer to our Privacy Policy for information about how we collect, use, and disclose information about you and your customers, including the account registration information you provide.

9. DISCLAIMER AND LIMITATION OF LIABILITY

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL HASHTAG, ITS SUBSIDIARIES, AGENTS OR AFFILIATES, BE LIABLE FOR ANY DIRECT, INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL DAMAGES, BUSINESS INTERRUPTION OR ANY DAMAGES WHATSOEVER INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF USE, DATA, SALES, BUSINESS, GOODWILL, REPUTATION, REVENUE, PROFITS OR ANTICIPATED SAVINGS, ARISING OUT OF OR IN ANY WAY

CONNECTED WITH THE USE OR PERFORMANCE OF THE SERVICES, WITH THE DELAY OR INABILITY TO USE THE SERVICES, THE PROVISION OF OR FAILURE TO PROVIDE THE SERVICES, OR FOR ANY INFORMATION OR OTHER CONTENT OBTAINED THROUGH OR OTHERWISE ARISING OUT OF THE USE OF THE SERVICES. IF YOU ARE DISSATISFIED WITH THE SERVICES, OR WITH ANY OF THESE TERMS, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USING THE SERVICES.

Subject to the foregoing, the total liability of Hashtag to you in respect of all losses arising under or in connection with your use of the Services, whether in contract, tort (including negligence), breach of statutory duty or otherwise, shall in no circumstance exceed amounts paid by you to Hashtag in connection with your use of the Services.

10. INDEMNIFICATION

You agree to defend and indemnify Hashtag, its subsidiaries and affiliates and their employees, officers, directors, contractors, agents, from and against any claims, causes of action, demands, recoveries, losses, damages, fines, penalties or other costs or expenses of any kind or nature, including but not limited to reasonable legal and accounting fees, that arise from or relate to (a) your use or misuse of the Services, (b) access to or use of the Services through your account, (c) infringement by you, or any third party using your account, of any intellectual property or other right of any person or entity, (d) your violation of the terms of this Agreement, (e) any actual or alleged breach or violation of applicable law by you, including without limitation, the TCPA and HIPAA, or (f) any of your Content, products, services, messages, or other communications to your customers, prospective customers, employees, or users. The terms of this Section shall survive the termination of this Agreement for any reason.

11. TERMINATION

- a. The term of this Agreement begins on the Effective Date and ends on the date it is terminated under this Section 11 (the "Term"). You may terminate your account at any time by contacting us. If you choose to terminate your account, termination will be immediate and you will no longer be able to use your account.
- b. Hashtag may at any time, suspend, disable, or terminate your access to or use of the Services (i) if you violate or breach any provision of this Agreement (or have acted in a manner which shows that you do not intend to, or are unable to comply with the provisions of these Terms) or fail to make any payments to Hashtag when due; (ii) if Hashtag in its sole discretion believes it is required to do so by law; or (iii) immediately upon notice, to the e-mail address provided by you as part of your account information. We also reserve the right to terminate any inactive account.
- c. Hashtag will not be liable to you or to any third party for the suspension or termination of your access or use of the Services (including the forfeiture of any pre-paid amounts). Upon any termination or suspension, Hashtag will have no obligation to maintain any information that was stored in our database related to your account or to forward any information to you (or to any third party). Any suspension or termination will not affect your obligations to Hashtag under this Agreement.

12. GENERAL

- a. Notices. Notices sent to either Party will be effective when delivered in person or one day after being sent by overnight courier, or five days after being sent by first class mail postage prepaid to the official contact designated by the Party to whom a notice is being given. Notices must be in writing and sent: (i) if to Hashtag, to the following address:

4301 Oak Circle, Suite 7, Boca Raton FL 33431
Attention: Hashtag Applications, LLC

and (ii) if to User, to the current postal or e-mail address that Hashtag has on file with respect to User. Hashtag may change its contact information by posting the new contact information on the Website or by giving notice thereof to User. User is solely responsible for keeping its contact information on file with Hashtag current at all times during the Term.

- b. Assignment. User will not assign this Agreement to any third party without Hashtag's prior written consent. Hashtag may assign this Agreement or any rights under this Agreement to any third party without User's consent. Any assignment in violation of this Section will be void. This Agreement will inure to the benefit of and be binding upon the Parties, their permitted successors and permitted assigns.
- c. Choice of Law. This Agreement and any action related thereto will be governed by and construed in accordance with the substantive laws of the State of Florida and the federal laws of United States applicable therein, without regard to conflicts of law principles. The Parties will initiate any lawsuits in connection with this Agreement in West Palm Beach, Florida. This choice of jurisdiction does not prevent Hashtag from seeking injunctive relief with respect to a violation of intellectual property rights in any appropriate jurisdiction.
- d. Export Restrictions. User will comply with all export laws and regulations that may apply to its access to or use of the Services.
- e. Construction. The terms "include" and "including" mean, respectively, "include without limitation" and "including without limitation." The headings of sections of this Agreement are for reference purposes only and have no substantive effect.
- f. Force Majeure. Neither Party will be liable for delays caused by any event or circumstances beyond Hashtag's reasonable control, including acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labour problems (other than those involving Hashtag's employees), Internet service failures or delays, or the unavailability or modification by third parties of telecommunications or hosting infrastructure or third party websites.
- g. Severability. Any provision of this Agreement found by a tribunal or court of competent jurisdiction to be illegal or unenforceable will be severed from this Agreement and all other provisions of this Agreement will remain in full force and effect.

- h. Waiver. A waiver of any provision of this Agreement must be in writing and a waiver in one instance will not preclude enforcement of such provision on other occasions.
- i. Independent Contractors. Hashtag's relationship to User is that of an independent contractor, and neither Party is an agent or partner of the other. Neither Party will have, and will not represent to any third party that it has, any authority to act on behalf of the other Party.
- j. Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement and supersedes all prior or contemporaneous agreements, representations or other communications, whether written or oral.
- k. Amendments. Hashtag may amend, supplement, modify, or terminate this Agreement from time to time by updating this document. Any such changes will be effective immediately. In the event User does not agree to any such changes, User will have to stop using the Services.
- l. Technical Safeguards. Hashtag maintains commercially reasonable technical, physical and administrative safeguards to protect against unauthorized destruction, loss, alteration or disclosure of the User data that are consistent with industry standards.

Last updated: December 9, 2018