

77we, LLC SMS Service Agreement

WHEREAS, 77we, LLC provides SMS, text, opt-in, advertising service (“Service”). (“Users”), choose one or more specific, 3-12 character long, keywords to advertise to their (“Customers”). Customers must opt-in to the Users service by sending a text message with a Users’ keyword to our shared short code, 84642, provided by Wild West Mobile, LLC.

WHEREAS, it is the responsibility of Users to include the automatic Opt-in message, which is to be sent to all new Customers when they opt-in to the Service. This message will include the following opt-out part: “Rply STOP to opt-out. Help: Rply HELP. Msg&Data Rts May Apply”.

WHEREAS, this Agreement sets forth the Standard Terms and Conditions that apply to the use of 77we, LLC’s SMS Services.

ARTICLE 1: USER ELIGIBILITY

1.01 You represent and warrant that you are the person or company legally responsible for all use of this account, and are at least 18 years of age. You agree to provide 77we, LLC with your full legal name, postal address, email address and telephone number for our records, and you have a continued obligation to keep this information current. You also agree that you are an authorized user of the listed PayPal email account, and of any credit card information you supply to us, and you understand and agree that we have an obligation to fully investigate any possible fraudulent online check or credit card use. You understand that you must keep your username and password confidential and must not circumvent, or attempt to circumvent, our user authentication systems.

ARTICLE 2: CONTENTS OF MESSAGES

2.01 You are responsible for the contents of your text messages and the consequences thereof. You further agree not to use 77we SMS Marketing to send any text messages that are not based in customer opt-in or material that are unlawful, harassing, libelous, abusive, threatening, harmful, vulgar, obscene or may otherwise constitute a criminal offense, give rise to civil liability or otherwise objectionable material of any kind or nature or that encourages conduct that could constitute a criminal offense, give rise to civil liability or otherwise violate any applicable local, state, national or international law, regulation or court order. 77we, LLC reserves the right to terminate your account without prior notice if 77we, LLC becomes aware of and determines, in its sole discretion, that you are violating any of the foregoing guidelines.

ARTICLE 3: UNLAWFUL OR PROHIBITED USE

3.01 As a condition of your use of the Mobile SMS Marketing Service you warrant to 77we, LLC that you will not use the Mobile SMS Marketing Service for any unlawful purpose.

ARTICLE 4: PRICING

4.01 Service and text message fees are displayed on <http://77we.com/premiumsms.html>. All fees are payable in advance and on a monthly basis. All fees are subject to change without warning or notification.

ARTICLE 5: TERM

5.01 The terms of this Agreement are only year to year, and will automatically renew in terms every month unless cancelled 30 days prior the end of the previous year.

ARTICLE 6: TERMS OF PAYMENT

6.01 You agree to pay 77we, LLC the appropriate payment for the services received from 77we, LLC, in advance for the time period during which such services are provided. You agree to provide 77we, LLC with current billing and contact information and authorize 77we, LLC to bill all account and related charges to the credit card or online checking information on file.

(PayPal?)

(A) Cancellation. You further agree that until and unless you notify 77we, LLC in writing only, with delivery confirmation, of your desire to cancel any or all services received, and you complete the cancellation process, those services will be paid in full at the time of cancellation. You agree that prepayments will be billed and charged automatically, that 77we, LLC may apply the amount due to the provided card at any time.

6.02 Pay by Credit Card. If your credit card is denied for any reason on the first attempt, we will automatically attempt to resubmit your card on or around the 7th, 14th, 25th and last day of the month. A credit card resubmission fee of \$10.00 will be charged against the account for every time we attempt resubmission. Should the card be denied a second time, we may terminate the account, and the resubmission fees will need to be paid before the account can be reactivated. All files within the account may be deleted on termination. You may notify us in advance of your next billing cycle your desire to provide for alternative payment arrangements.

6.03 Pay by PayPal If paying through PayPal, you agree to keep your email/paypal account current and agree to pay all fees. An administrative fee of \$10.00 per instance will be applied on the 7th, 14th, 25th and the last day of the month after the payment falls due. If after the first month, should payment continues to be late, 77we, LLC. may choose to terminate the account at any time and has the right to collect all accumulated fees. 77we, LLC reserves the right to change prices at any time. It is the responsibility of the customer to maintain accurate billing information with 77we, LLC. This may include updated credit card information, banking information, email address and billing address.

ARTICLE 7: ZERO TOLERANCE SPAM POLICY

7.01 77we, LLC takes a zero tolerance stance against sending of unsolicited text messages, commonly known as spam. Any user who sends out spam will have their account terminated without notice, and will be billed at a rate of \$100.00 for each recipient to whom the message was sent, regardless of whether the messages were sent from our server, or from another server advertising our short code. All commercial text messages must comply with all applicable federal, state or local laws. 77we, LLC reserves the right to require changes or disable as necessary any website, account, database, or other component that does not comply with this policy, at its sole discretion. 77we, LLC also reserves the right to make any such modifications in an emergency at our sole discretion.

(A) 77we, LLC will not be liable for any damages incurred related to spam.

(B) In the event of litigation, it is the responsibility of each party to bear its own attorneys' fees and costs throughout the entire process of any proceeding in accordance with Article 17.

ARTICLE 8: MONITORING OF SERVICE

8.01 You agree that 77we,LLC and our affiliate Wild West Mobile has the right to monitor the service electronically at any time and to disclose any information as necessary to satisfy the law, or to protect itself or its subscribers. 77we,LLC reserves the right to refuse to post or to remove any information or materials, in whole or in part, that, in its sole discretion, are unacceptable, undesirable, or in violation of this agreement. 77we ,LLC also reserves the right to refuse refunds in cases where 77we,LLC believes abuse has taken place. 77we,LLC reserves the right to monitor any and all communications through or with our facilities. You agree that 77we ,LLC is not considered a "secure communications medium" for the purposes of the ECPA, and that no expectation of privacy is afforded in the event that such service is monitored and/or disclosed.

ARTICLE 9: SHARING OF ACCOUNT SPACE & RESALE RESTRICTIONS

9.01 You represent and warrant that the account you purchase is purchased either for yourself or the company you affiliate or are employed with. You agree that as a User, you are solely responsible for all use of the account. You also understand that the Mobile SMS Marketing short code, 84642 is shared with several clients.

ARTICLE 10: REFUND POLICY

10.01 If you are not satisfied with our service, you can email us and receive a full refund for the full amount of your monthly keyword plan within 30 days after you purchased the account. There will be no refund for the used messages sent. There will be no refunds for the cost of marketing material used to promote the 84642 short code and your keywords.

ARTICLE 11: TERMINATION

11.01 77we, LLC may terminate this agreement and your access to any or all 77we, LLC related services at any time, with or without cause, with a 30-day notice. 77we , LLC shall have no responsibility to notify any third-party providers of services, merchandise, or information, nor any responsibility for any consequences resulting from such discontinuance or lack of notification. Anyone determined by 77we, LLC to have violated these Terms of Service may be barred from receiving any services from 77we, LLC without refund, as agreed in Article 10. Any outstanding amount due on the account will still be payable as scheduled.

(A) You may terminate this Agreement by e-mailing the support department at 77we, LLC, support@77we.com, stating you would like to terminate your monthly account.

(B) If you should choose to terminate your account before the end of the monthly period, you accept that you will be required to pay the plan setup fee and the value of the services until the end of the monthly term in accordance with the equivalent rates.

ARTICLE 12: RELATIONSHIP OF THE PARTIES

12.01 Nothing contained in this Agreement shall be construed as creating any agency, legal representative, partnership, or other form of joint enterprise between the parties. Neither party shall have authority to contract for or bind the other in any manner whatsoever.

ARTICLE 13: DISCLAIMER OF WARRANTIES/LIMITATION OF LIABILITY

13.01 THE 77we,LLC MOBILE SMS MARKETING SERVICE PROVIDED IS PROVIDED ON AN "AS IS," "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. 77we, EXPRESSLY DISCLAIMS ANY REPRESENTATION OR WARRANTY THAT THE 77we , LLC MOBILE SMS MARKETING SERVICE WILL BE ERROR-FREE, TIMELY, SECURE OR UNINTERRUPTED. NO ORAL ADVICE OR WRITTEN INFORMATION GIVEN BY NETCOM CONSULTING, INC., ITS EMPLOYEES, LICENSORS OR AGENTS WILL CREATE A WARRANTY; NOR MAY YOU RELY ON ANY SUCH INFORMATION OR ADVICE.

13.02 UNDER NO CIRCUMSTANCES WILL 77we,LLC OR ITS AFFILIATES BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES THAT RESULT FROM THE USE OF OR INABILITY TO USE THE 77we, LLC's MOBILE SMS MARKETING SERVICE, INCLUDING BUT NOT LIMITED TO RELIANCE ON ANY INFORMATION OBTAINED ON THE 77we, LLC's MOBILE SMS MARKETING SERVICE; OR THAT RESULT FROM MISTAKES, OMISSIONS, INTERRUPTIONS, DELETION OF FILES OR E-MAIL, LOSS OF OR DAMAGE TO DATA, ERRORS, DEFECTS, VIRUSES, DELAYS IN OPERATION OR TRANSMISSION, OR ANY FAILURE OF PERFORMANCE, WHETHER OR NOT LIMITED TO ACTS OF GOD, COMMUNICATION FAILURE, THEFT, DESTRUCTION OR UNAUTHORIZED ACCESS TO NETCOM CONSULTING, INC. RECORDS, PROGRAMS OR SERVICES. YOU HEREBY ACKNOWLEDGE THAT THIS PROVISION WILL APPLY WHETHER OR NOT 77we, LLC IS GIVEN NOTICE OF THE POSSIBILITY OF SUCH DAMAGES AND THAT THIS PROVISION WILL APPLY TO ALL SERVICES AVAILABLE FROM 77we, LLC AND ITS AFFILIATES.

13.03 UNDER NO CIRCUMSTANCES, UNDER THE TERMS OF THIS AGREEMENT, SHALL DAMAGES INCLUDE LOSS OF BUSINESS, OR LOSS OF PROFITS, WHETHER BASED ON BREACH OF AGREEMENT, BREACH OF WARRANTY, PRODUCT LIABILITY, OR OTHERWISE, TO ANY PARTY IN PRIVY TO THIS AGREEMENT, OR ANY THIRD PARTY NOT SO SITUATED.

13.04 THE TERMS OF THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT FOR WHATEVER REASON.

ARTICLE 14: COPYRIGHT AND TRADEMARKS

14.01 All contents of the 77we, LLC are proprietary to 77we, LLC are and/or its suppliers and are protected under Copyright. All rights are reserved. 77we , LLC are reserves any rights not expressly granted herein. The Customer acknowledges that he/she/it does not presently know the special skills, techniques or business policies, nor does the Customer have business forms or access to the Company's body of knowledge, and as such, such information is deemed confidential and a trade secret, as such term is defined within the meaning of the New Jersey Statutes, inter alia, entitling Company to all protections available under both New Jersey and Federal law.

ARTICLE 15: FORCE MAJEURE

15.01 If by reason of failures of telecommunications or internet service providers, labor disputes, riots, inability to obtain labor or materials, earthquake, fire or other action of the elements, accidents, governmental restrictions or other causes beyond the control of 77we , LLC, 77we, LLC is unable to perform in whole or in part its obligations as set forth in this Agreement, then 77we, LLC shall be relieved of those obligations to the extent it is so unable to perform and such inability to perform shall not make 77we, LLC liable to the Customer or other third parties.

ARTICLE 16: GOVERNING LAW

16.01 New Jersey law shall govern this Agreement, and any dispute arising from the relationship between the parties to this Agreement, excluding any laws that direct the application of another jurisdiction's laws. In any litigation, or other proceeding by which one party either seeks to enforce its rights under this Agreement (whether in contract, tort, or both), or seeks a declaration of any rights or obligations under this Agreement, each party shall be responsible for their respective attorneys' fees and costs, as stated in Article 17. The parties consent to the exclusive jurisdiction and venue of the courts of the State of New Jersey or to any Federal Court located within the State of New Jersey.

ARTICLE 17: ATTORNEYS' FEES AND COSTS

17.01 Any legal controversy or legal claim arising out of or relating to this Agreement or our services, which results in litigation, shall result in each party being solely responsible for its respective attorneys' fees and costs throughout the entire process of any and all proceedings.

ARTICLE 18: SEVERABILITY AND SURVIVABILITY

18.01 Severability. If any provisions of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid or enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.

18.02 Survivability. The terms of this Agreement apply to those obligations that survive any cancellation, termination, or rescission, namely – warranty, indemnification, liability and limits thereon, rights and obligations upon and following termination and assignment.

ARTICLE 19: INDEMNIFICATION

19.01 You agree to defend, indemnify and hold harmless 77we , LLC against any and all claims, losses, penalties, causes of action, damages, liability, costs, expenses (including but not limited to attorneys' fees and costs) or claims caused by or resulting indirectly from your use of the service, without limitation or exception, including your violation of any third-party's rights, (including, without limitation, infringement of any copy right trademark, service mark, trade secrets, right of privacy or publicity or any other third party right). The terms of this section shall survive the termination of your relationship with 77we, LLC.

ARTICLE 20: REMEDY

20.01 Customer agrees that his/her/its sole and exclusive remedy to any issues relating to the 77we, LLC SMS Moblie Marketing Service is to discontinue using the Service.

ARTICLE 21: ASSIGNMENT

21.01 In the event of a merger or consolidation of 77we, LLC., the surviving or new corporation and any subsidiaries are similarly subject to the rights and obligations of this Agreement.

ARTICLE 22: ENTIRE AGREEMENT

22.01 This Agreement constitutes the complete and exclusive statement of the Agreement between the parties regarding the products and services provided hereunder, and supersedes any prior Agreements between the parties with respect thereto.

ARTICLE 23: WAIVER

23.01 The failure of 77we, LLC to enforce a provision of this Agreement shall not be construed as a waiver or limitation of 77we, LLC 's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

ARTICLE 24: MODIFICATION OF TERMS

24.01 77we, LLC reserves the right to modify this policy at any time and without advance notice, effective upon making the modified provisions available on the 77we, LLC, website: www.77wemarketing.com. You are responsible for regularly reviewing these documents. Continued use of the 77we, LLC Services after any such changes shall constitute your consent to such changes. 77we, LLC does not and will not assume any obligation to notify you of any changes to the Terms of Service.