

SMS Management & Technology Ltd (SMS) General Conditions of Use

These terms and conditions, together with the SMS Privacy Policy and any additional terms, conditions, notices and disclaimers displayed elsewhere on the SMS Network ("Conditions") govern your use of and access to the SMS Network.

We may change all or part of the Conditions at any time. If we do, the new Conditions will be posted on the SMS Network. Your subsequent or continued use of the SMS Network will constitute your acceptance of any changes. If you object to any changes to the Conditions, your only remedy is to immediately discontinue your use of the SMS Network.

These terms and conditions of use were last updated on March 2010.

The SMS Network

While we use reasonable endeavours to ensure that the SMS Network is available continuously, we do not make any representations or warranties that your access will be uninterrupted, timely, secure or error free. Your access to the SMS Network may be suspended without notice in the case of system failure, maintenance or repair or any reason beyond our control.

Except as expressly provided otherwise in the Conditions, we reserve the right to change or discontinue any website, feature or service (or part thereof) on the SMS Network at any time.

Except as expressly provided otherwise in the Conditions, we reserve the right to change the pricing for any chargeable service or feature on the SMS Network at any time without providing notice to you.

Membership

To access or use certain parts of the SMS Network, you may be required to register as a member of the SMS Network and/or a particular website that forms part of the SMS Network. Generally, registration is free.

When registering as a member, you must provide us with accurate, complete and up-to-date registration information, as requested. It is your responsibility to inform us of any changes to your registration information.

You must not register as a member multiple times.

You must not impersonate or create a membership for any person other than yourself.

We may at any time request a form of identification to verify your identity.

You must ensure the security and confidentiality of your membership details, including any username and/or password assigned to you. You are wholly responsible for all activities which occur under your membership details

(including unauthorised use of your credit card). You must notify us immediately if you become aware of any unauthorised use of your membership details. You must not permit your membership details to be used by or transferred to any other person.

We reserve the right to, in our sole discretion, suspend or terminate your membership or access to all or any part of the SMS Network, including if we believe you are abusing the services in any way, have breached the Conditions or are no longer an active member.

Your conduct

You must not:

- (a) use the SMS Network in breach of any applicable laws or regulations;
- (b) use the SMS Network (or Material obtained from the SMS Network):

- to transmit (or authorise the transmission of) "junk mail," "chain letters," unsolicited emails, instant messaging, "spimming," or "spamming";
- to impersonate any person or entity;
- to solicit money, passwords or personal information from any person;
- to harm, abuse, harass, stalk, threaten or otherwise offend others; or
- for any unlawful purpose;

(c) use the SMS Network to upload, post, transmit or otherwise make available (or attempt to upload, post, transmit or otherwise make available) any Material that:

- is not your original work, or which in any way violates or infringes (or could reasonably be expected to violate or infringe) the intellectual property or other rights of another person;
- contains, promotes, or provides information about unlawful activities or conduct;
- is, or could reasonably be expected to be, defamatory, obscene, offensive, threatening, abusive, pornographic, vulgar, profane, indecent or otherwise unlawful, including Material that racially or religiously vilifies, incites violence or hatred, or is likely to offend, insult or humiliate others based on race, religion, ethnicity, gender, age, sexual orientation or any physical or mental disability;
- exploits another person in any manner;
- contains nudity, excessive violence, or sexual acts or references;
- includes an image or personal information of another person or persons unless you have their consent;
- poses or creates a privacy or security risk to any person;
- you know or suspect (or ought reasonably to have known or suspected) to be false, misleading or deceptive;
- contains large amounts of untargeted, unwanted or repetitive content;
- contains restricted or password only access pages, or hidden content;

- contains viruses, or other computer codes, files or programs designed to interrupt, limit or destroy the functionality of other computer software or hardware;
- advertises, promotes or solicits any goods or services or commercial activities (except where expressly permitted or authorised by us); or
- contains financial, legal, medical or other professional advice;

(d) interfere with, disrupt, or create an undue burden on the SMS Network;

(e) use any robot, spider, or other device or process to retrieve, index, or in any way reproduce, modify or circumvent the navigational structure, security or presentation of the SMS Network;

(f) use the SMS Network with the assistance of any automated scripting tool or software;

(g) frame or mirror any part of the SMS Network without our prior written authorisation;

(h) use code or other devices containing any reference to the SMS Network to direct other persons to any other web page;

(i) except to the extent permitted by law, modify, adapt, sublicense, translate, sell, reverse engineer, decipher, decompile or otherwise disassemble any portion of the SMS Network or cause any other person to do so; or

(j) delete any attributions or legal or proprietary notices on the SMS Network.

Your Material

By uploading, transmitting, posting or otherwise making available any Material via the SMS Network, you:

(a) grant us a non-exclusive, worldwide, royalty-free, perpetual, licence to use, reproduce, edit and exploit the Material in any form and for any purpose;

(b) except where expressly stated otherwise, also grant each user of the SMS Network a non-exclusive, worldwide, royalty-free, perpetual, licence to use, reproduce, edit and exploit the Material in any form for any purpose, subject to the Conditions;

(c) warrant that you have the right to grant the abovementioned licences;

(d) warrant that the Material does not breach the Conditions; and

(e) unconditionally waive all moral rights (as defined by the Copyright Act 1968) which you may have in respect of the Material.

We reserve the right (but have no obligation) to:

review, modify, reformat, reject or remove any Material which you upload, post, transmit or otherwise make available (or attempt to upload, post, transmit or otherwise make available) that, in our opinion, violates the Conditions or otherwise has the potential to harm, endanger or violate the rights of any person; and monitor use of the SMS Network, and store or disclose any information that we collect, including in order to investigate compliance with the Conditions or for the purposes of any police investigation or governmental request.

We are not responsible for, and accept no liability with respect to, any Material uploaded, posted, transmitted or otherwise made available on the SMS Network by any person other than us. For the avoidance of doubt, we will not be taken to have uploaded, posted, transmitted or otherwise made Material available on the SMS Network simply by facilitating others to post, transmit or other make Material available. Furthermore, we do not endorse any opinion, advice or statement made by any person other than us.

Notifying us

If you think that the SMS Network has been accessed or used by another user in breach of the Conditions, please email us at support@smsmt.com. We'll consider whether there are grounds for taking any action, but you won't necessarily be contacted as to our decision.

In particular, if you wish to send us a copyright infringement notification, you will need to identify the Material(s) that you believe infringe(s) your copyright, identify each copyright protected work in which you own the rights and which you believe has been infringed, identify how each copyright protected work has been or is being infringed and include your contact information. You will need to sign the notice and send it to support@smsmt.com.

Intellectual Property

Except where expressly provided otherwise in the Conditions, you do not have any right, title or interest in or to any proprietary rights relating to the SMS Network.

The SMS Network contains Material that is protected by copyright, trade mark and other laws. Except where expressly provided otherwise in the Conditions, you may reproduce and display the Material on the SMS Network for your own personal, non-commercial use only. Except for the temporary copy held in your computer's cache and a single permanent copy for your personal reference, the material may not otherwise be used, stored, reproduced, published, altered or transmitted in any form or by any means in whole or part without our prior written approval or the written approval of our licensor.

In particular, you may not use any Material on the SMS Network to establish, maintain or provide, or assist in establishing, maintaining or providing your own publications, Internet site or other means of distribution.

Nothing displayed on the SMS Network should be construed as granting any right of use in relation to any logo, masthead or trade mark displayed on the SMS Network without the express written consent of the relevant owner.

Third party websites, advertising and activities

We may feature or display links and pointers to websites operated by third parties on the SMS Network. Such websites do not form part of the SMS Network and are not under our control. We do not accept any responsibility in connection with any such website. If you link to any such websites, you leave the SMS Network entirely at your own risk.

You must not link to the SMS Network from any other website (or otherwise authorise any other person to link from a third party website to the SMS Network) without our prior written consent.

The SMS Network may feature or display third party advertising. By featuring or displaying such advertising, we do not in any way represent that we recommend or endorse the relevant advertiser, its products or services.

If you contact a third party using functionality provided on the SMS Network, including via e-mail, we do not accept any responsibility for any communications or transactions between you and the relevant third party.

From time to time, we may promote, advertise, or sponsor functions, events, offers, competitions or other activities that may be conducted offline and may be conducted by third parties. These activities may be subject to separate terms and conditions. You participate in any such activities entirely at your own risk. We do not accept any responsibility in connection with your participation in activities conducted by any third party.

Disclaimer

You use the SMS Network at your sole risk.

Except where expressly stated otherwise, Material on the SMS Network is provided as general information only. It is not intended as advice and must not be relied upon as such. You should make your own inquiries and take independent advice tailored to your specific circumstances prior to making any decisions.

We do not make any representation or warranty that any Material on the SMS Network will be reliable, accurate or complete, nor do we accept any responsibility arising in any way from errors or omissions.

We will not be liable for loss resulting from any action or decision by you in reliance on the Material on the SMS Network, nor any interruption, delay in

operation or transmission, virus, communications failure, Internet access difficulties, or malfunction in equipment or software.

You acknowledge that we are not responsible for, and accept no liability in relation to, any other users' use of, access to or conduct in connection with the SMS Network in any circumstance.

Limitation of liability

You use the SMS Network at your sole risk.

To the extent permitted by law, we exclude all conditions and warranties relating to your use of the SMS Network that are not expressly set out in the Conditions.

To the extent that our liability for breach of any implied warranty or condition cannot be excluded by law, our liability will be limited, at our option, to:

(a) in the case of services supplied or offered by us:

- the re-supply of those services; or
- the payment of the cost of having those services re-supplied; and

(b) in the case of goods supplied or offered by us:

- the replacement of the goods or the supply of equivalent goods;
- the repair of the goods;
- the payment of the cost of having the goods replaced; or
- the payment of the cost of having the goods repaired.

In relation to any express warranty or condition set out in the Conditions in connection with goods or services supplied or offered by us via the SMS Network, our liability to you will be limited to the amount(s) paid by you (if any) in respect of those goods or services.

In no circumstances will we be liable to you for any indirect, incidental, special and/or consequential losses or damages (including loss of profits, revenue, production, goodwill, data or opportunity) of whatever nature howsoever arising in connection with the SMS Network.

Indemnity

You agree to fully indemnify and hold us harmless against any expenses, costs, loss (including consequential loss) or damage that we may suffer or incur as a result of or in connection with your use of, access to or conduct in connection with the SMS Network, including any breach by you of the Conditions.

GST

Unless stated to be otherwise, charges referred to for any goods or services supplied (or offered for supply) via the SMS Network are stated inclusive of GST. Where GST applies to any supply made to you, we will deduct the applicable GST and issue you with a Tax Invoice. GST means the Australian goods and services tax charged under A New Tax System (Goods and Services Tax) Act 1999 ("Act"). Tax Invoice means tax invoice as defined by the Act.

Severability

If any provision of the Conditions is deemed invalid by a court of competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of the Conditions, which shall remain in full force and effect.

No waiver

No waiver of any term of the Conditions shall be deemed a further or continuing waiver of such term or any other term. Any failure to assert any right under the Conditions shall not constitute a waiver of such right.

Affirmation regarding age

By using the SMS Network, you affirm that you are 18 years or over or otherwise possess legal parental or guardian consent.

Applicable law

These Conditions shall be construed in accordance with and governed by the laws of Victoria, Australia. You consent to the exclusive jurisdiction of the courts in Victorian Courts to determine any matter or dispute which arises under the Conditions.

Definitions

In these terms and conditions:

"Conditions" means these terms and conditions, together with the SMS Privacy Policy and any additional terms, conditions, notices and disclaimers displayed elsewhere on the SMS Network.

"SMS Network" means all of the websites that we own and/or operate from time to time, regardless of how those websites are accessed by users (including via the Internet, mobile phone or any other device). For a list of the websites that currently form part of SMS Network, visit www.SMS.com.au.

"Material" means text, illustrations, photos, audio, video, any combination of these or other material.

"Us", "we" or "our" means SMS Management & Technology Ltd (ACN 009 558 865) and/or its related bodies corporate.