

## NitroText.com, LLC User Agreement

NitroText.com, LLC provides certain websites, including those available at the domain name NitroText.com and certain services made available to registered users of the NitroText.com sites. NitroText.com, LLC will be referred to as NitroText.com, We, Us or Our and the user will be referred to as You, Your, User or Customer. This Agreement is the legal agreement between You and NitroText.com and governs your use of the services. Please read this Agreement carefully. By subscribing to or using NitroText.com's services You accept and agree to the terms and conditions of this Agreement. If you are unwilling to accept this agreement, do not subscribe to or use the Services.

- 1. Registration.** To register for the services, You may be required to complete and submit a registration form. As part of this registration process, You agree:
  - i.** To provide certain limited information about yourself and the Contracting Party ("Customer");
  - ii.** To maintain and update this information as required by NitroText.com to keep it current, complete and accurate;
  - iii.** That You are not under the age of 18 years of age and you are legally able to enter into contracts.

If NitroText.com discovers any of your registration information is inaccurate, incomplete or not current, or if NitroText.com determines that You are not the appropriate subscriber or user of the service, NitroText.com may terminate all rights to access, receive, use and license the service immediately and without prior notice.

- 2. Conduct, content and messages.** You are solely responsible for the content of any messages. You agree to:
  - i.** Comply with all applicable laws, rules and regulations, including local, state, national and international laws, rules and regulations (including without limitation those governing account collection, export control, consumer protection, unfair competition, anti-discrimination or false advertising);
  - ii.** Not post, distribute, or otherwise make available or transmit any software or computer files that contain a virus, Trojan horse, worm or other harmful or destructive component;
  - iii.** Not use this service for any illegal purposes;
  - iv.** Not use this service to infringe any third party's copyright, patent, trademark, trade secret, other proprietary rights or rights of publicity or privacy;
  - v.** Not transmit any unlawful, harassing, libelous, defamatory, racist, indecent, abusive, violent, threatening, intimidating, harmful, vulgar, obscene, offensive or otherwise objectionable material of any kind or nature;
  - vi.** Not transmit "SPAM" or software otherwise designed to disrupt functionally of any computer software, hardware or telecommunication equipment.

You agree that You are responsible for all actions and inactions of your employees, agents and consultants and will use commercially reasonable efforts to monitor your employees, agents and consultants.

- 3. Transmission.** You acknowledge that the use of the Service may involve companies other than NitroText.com and the Content and Messages may not be private in certain circumstances and may be changed by those other companies to conform and adapt to their requirements and devices. NitroText.com assumes no liability for timeliness, deletions, duplications, mis-delivery or failure to store any Content, Message or Transaction.
- 4. Password and Security.** You must use your email address as your user name and choose a password for access to your account. You should choose a password that is different from the user name and password to your computer. You agree to safeguard all passwords. You are solely responsible if you do not maintain the confidentiality of your passwords and account information. Furthermore, You are solely responsible for any and all activity that occurs in your account.
  - i.** You agree to immediately notify NitroText.com of any unauthorized use of your account or any breach of security known to You, including that your account information has been stolen or otherwise compromised;
  - ii.** Access to the service and use of the password protected aspects of the service is restricted to authorized users only;
  - iii.** NitroText.com is not liable for any loss incurred by You, resulting from another's use of your password or account information, either with or without your knowledge. You may be held liable for losses incurred by NitroText.com or another party due to another's use of your password or account information, either with or without your knowledge;
  - iv.** You agree not to access or use someone else's account at any time, without the express permission of the account holder;
  - v.** NitroText.com will not request the user's name and password or Windows user name and password at any time. To keep the service secure, You should keep all user names and passwords confidential.
- 5. End User License Agreement.** These end user license terms grant a right and license allowing You to use the Software and associated Service (together, the "Licensed Programs") under certain restrictions, terms and conditions (the "License Agreement"). You agree to be bound by this License Agreement by your registration for and use of the Service.
  - i.** The Licensed Programs are made available solely for your use and only according to the License Agreement. Any reproduction, resale or redistribution of the Licensed Programs that is not in accordance with this License Agreement is expressly prohibited, and may result in severe civil and criminal penalties. Violators may be prosecuted to the maximum extent possible;
  - ii.** NitroText.com is not transferring title to the Licensed Programs to You;
  - iii.** The Licensed Programs may not be transferred by You to any third party;
  - iv.** You acknowledge that the Licensed Programs are proprietary to NitroText.com and are protected by copyrights, trademarks, service marks, patents and/or other proprietary rights and laws;

- v. You may not remove any proprietary notices or labels from Licensed Programs.
- vi. You may not alter, modify, redistribute, sell, auction, decompile, reverse engineer, disassemble or otherwise reduce the Licensed Program to a human-readable form;
- vii. You may not reproduce, distribute or create derivative works based on the Licensed Programs without the express written authorization from NitroText.com;
- viii. You may not rent, lease, grant a security interest in or otherwise transfer rights to the Licensed Programs.
- ix. All rights not expressly granted in this License Agreement are reserved to NitroText.com.
- x. ALL CONTENT ON THE WEB SITES AND COMPUTER PROGRAMS ASSOCIATED WITH THE SERVICE IS PROTECTED BY COPYRIGHT AND OTHER INTELLECTUAL PROPERTY LAWS. EXCEPT AS SPECIFICALLY PERMITTED HEREIN, NO PORTION OF THE INFORMATION OR CONTENT ON SUCH SITES MAY BE REPRODUCED IN ANY FORM, OR BY ANY MEANS, WITHOUT THE PRIOR WRITTEN CONSENT OF NITROTEXT.COM. THE CUSTOMER AND ANY VISITOR OR USER ARE NOT PERMITTED TO MODIFY , DISTRIBUTE, PUBLISH, TRANSMIT OR CREATE DERIVATIVE WORKS OF ANY MATERIAL FOUND ON SUCH WEBSITES FOR ANY PUBLIC OR COMMERCIAL PURPOSE.

**6. Disclaimer of Warranties.** NitroText.com has attempted to provide accurate information with regard to the Service. NitroText.com assumes no responsibility for the accuracy or inaccuracy of any information provided. NitroText.com may change the Service at any time without notice. Mention of non-NitroText.com products or services is for information purposes only and constitutes neither an endorsement nor a recommendation. The use of this service is at the Customer's risk.

ALL INFORMATION, DOCUMENTATION AND SERVICES PROVIDED BY NITROTEXT.COM ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, ACCURACY OF DATA OR NON-INFRINGEMENT, OR ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. TO THE MAXIMUM EXTENT PERMITTED BY LAW, NITROTEXT.COM EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, CONDITIONS, REPRESENTATIONS, AND GUARANTEES WITH RESPECT TO THE SERVICES, WHETHER EXPRESSED OR IMPLIED, ARISING BY LAW, CUSTOM, PRIOR ORAL OR WRITTEN STATEMENTS, OR OTHERWISE. NITROTEXT.COM MAKES NO WARRANTY THAT THE SERVICES WILL MEET YOUR REQUIREMENTS OR THAT THE SERVICES WILL BE UNINTERRUPTED, TIMELY OR ERROR FREE, NOR DOES NITROTEXT.COM MAKE ANY

WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE OR ANY OTHER INFORMATION OBTAINED THROUGH THE SERVICE. NO REPRESENTATIONS OR WARRANTIES OF ANY KIND ARE MADE BY NITROTEXT.COM WITH REGARDS TO ANY SERVICE PROVIDED BY ANY WIRELESS CARRIER OR THIRD PARTY NECESSARY FOR SUPPORTING THE NETWORK. NITROTEXT.COM EXPRESSLY DISCLAIMS ANY LIABILITY WITH RESPECT TO ANY ACT OR OMISSION OF ANY CUSTOMER, ANY CARRIER, ANY THIRD PARTY SUPPORT PROVIDER, AND ANY USER.

- 7. Limitation of Liability.** You acknowledge that NitroText.com is not a carrier nor does it maintain any wireless infrastructure. The Service and any other services provided by any carrier, which are provided by means of the Internet, are provided “as is”, “where is” and “when available”. NitroText.com is not responsible for providing the ability to route certain message requests from You to the Carrier and is not responsible for the Carrier or any pass-through agent’s actions and/or ability to effectuate Your request. NitroText.com is therefore not responsible for the availability of any Carrier, the availability and/or performance of the Internet, or the availability and/or performance of any third party provider required to effectuate any Services. NitroText.com is also not responsible for any damages or costs You suffer or incur as a result of any instructions given, actions taken or omissions made by the You. IN NO EVENT WILL NITROTEXT.COM’S LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE FEES PAID TO NITROTEXT.COM BY YOU DURING THE THREE (3) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT WHICH GAVE RISE TO SUCH A CLAIM, INCLUDING, WITHOUT LIMITATION, ANY CLAIM FOR LOST PROFITS, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR SPECIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, UNDER ANY CAUSE OF ACTION OR THEORY OF LIABILITY (INCLUDING NEGLIGENCE), AND WHETHER OR NOT NITROTEXT.COM HAS BEEN ADVISED BY YOU OR ANY THIRD PARTY OF THE POSSIBILITY OF SUCH DAMAGE. THESE LIMITATIONS WILL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. MULTIPLE CLAIMS WILL NOT EXPAND THE LIMITATIONS SET FORTH HEREUNDER. Notwithstanding the above, the limitations set forth above shall be enforceable to the maximum extent allowed by applicable law.
- 8. Indemnification.** You agree to indemnify, defend and hold harmless NitroText.com, its past, present, and future officers, directors, agents and employees, from and against any and all third party claims, and associated losses, demands, liabilities, damages, cost and expenses (including reasonable attorneys’ fees), to the extent arising out of or relating to (i) the breach of this agreement by You, (ii) the sale or use of any product or services sold by You or (iii) claims brought or damages suffered by any Carrier, NitroText.com, NitroText.com’s

customers, or prospective customers of Yours relating to You or your agents' misuse and/or abuse of the services.

- 9. Indemnification of parties through whom content is passed.** In addition to the indemnification set forth above (as outlined in section 8), You agree to indemnify, defend and hold harmless any and all aggregators, carriers, NitroText.com and their respective affiliates, though whom content is passed, as well as their respective past, present and future officers, directors, agents and employees, from and against any and all third party claims, and associated losses, demands, liabilities, damages, costs and expenses (including reasonable attorneys' fees), incurred by reason of any claim, demand, lawsuit or action initiated by any third party to the extent based on or relating to any allegation that all or any part of the content provided by You, a message transmission by the Subscriber to You, or Your use of any Services violates any local, state or federal law, rule, or regulation, the Content Standards and/or the MMA ([www.mmagobal.com](http://www.mmagobal.com)) Guidelines.

**10. Fee and Renewals**

- i.** Monthly subscription service is by credit card only. All payments must be in US Dollars. Monthly subscription service fees will be by pre-authorized credit card charge and Your subscription will automatically renew each calendar month unless You or NitroText.com give 30 day written notice of non-renewal. The automatic renewal date will be the same date every month as the initial registration date. In the event the registration is the 29<sup>th</sup>, 30<sup>th</sup> or 31<sup>st</sup> of the month the renewal date will be the first of the month.
  - a)** Based on the monthly plan selected, the account will be loaded with the selected amount of messages upon credit card approval;
  - b)** Un-used messages from the prior month will not be carried over, credited or refunded;
  - c)** Additional messages can be purchased online at the per message rate published on the web site;
  - d)** Plans can be raised or lowered on the renewal date only.
- ii.** Pre-paid subscription service is by credit card only. All payments must be in US Dollars. The annual maintenance fee will be by pre-authorized credit card charge and Your subscription will automatically renew each year unless You or NitroText.com give 30 days prior written notice of non-renewal.
  - a)** Based on the pre-paid plan selected, the account will be loaded with the selected amount of messages upon credit card approval;
  - b)** Messages will be forfeited on the next annual maintenance renewal date if not renewed.
  - c)** Additional messages can be purchased online at the rate published on the described web site.
- iii.** Government Purchase Orders are accepted and must include the number of messages purchased and the annual maintenance fee.

- iv. In the event You cancel the credit card provided to NitroText.com or the card is otherwise terminated or credit is not available, You must immediately provide NitroText.com with a new valid credit card number.
  - v. You agree to be responsible for and pay any sales, personal property, use, VAT, excise, withholding, or any other taxes that may be imposed, based on the use of this service under this Agreement, excluding taxes based on NitroText.com's net income which are payable by NitroText.com.
  - vi. NitroText.com reserves the right to discontinue or modify any coupons, credits and special promotional offers at its discretion.
- 11. Message Balance.** The balance of available messages will be reduced for each message sent to a mobile device (MT) and each message received from a mobile device (MO). Preview messages used to verify the cellular telephone number with the carrier will not reduce the balance of available messages. International messages are based on a multiplier for each message based on the country of the device. Multipliers are subject to periodic change.
- 12. NitroText.com (NitroText.Com) Marketing efforts.** NitroText.com through its own marketing efforts will collect and maintain cellular telephone numbers, email addresses, first and last name and industry specific information in a NitroText.com Database. Specific industries will include but not be limited to the Golf, Tennis, Travel and Leisure industries. If You are in good standing (account not delinquent) on the pre-paid plan or government purchase orders You will have unlimited access to the NitroText.com database to send messages. Your balance will be reduced for each message sent from the NitroText.com Database. You cannot download, alter or update any information in the NitroText.com database.
- 13. Your Database.** If You are in good standing You will be able to maintain cellular telephone numbers, email addresses, first and last name and industry specific information in Your database. NitroText.com will backup Your Database with a third party internet backup service. The Data will be removed and deleted from the servers 60 days after NitroText.com is notified to terminate the service or the account becomes delinquent. You cannot download the Database or any information from it for any reason or access via a third party product without the express written consent of NitroText.com.
- 14. Force Majeure.** NitroText.com shall be excused for the period of any delay in the performance of any of its obligations when prevented from doing so by any cause or event beyond its control including, but not limited to, a strike or labor dispute, power failure, internet failure or disruption, communication failure, government requirement, inability or failure of third parties to provide services, restriction or law, fire or other casualty, war or other civil disorder, sabotage, and acts of god.
- 15. THIS SERVICE IS NOT TO BE USED FOR HIGH RISK ACTIVITIES OR EMERGENCY NOTIFICATION.** The services are not fault-tolerant and are not designed, manufactured or intended for use or resale as or with on-line control equipment in hazardous environments requiring fail-safe performance, such as in the operation of nuclear facilities, aircraft navigation, communication systems, air traffic control, direct life support, weapon systems or any emergency notification scenario in which the failure of the service could lead directly to

death, personal injury or severe physical or environmental damages. Accordingly, NitroText.com and its suppliers specifically disclaim any express or implied warranty of fitness for High Risk Activities and Emergency Notification.

- 16. Technical Support.** NitroText.com's email support is free and available from 9:00AM to 5:00 PM Eastern Standard Time (EST), Monday thru Friday excluding holidays. NitroText.com telephone support is for emergency use only.
- 17. Billing Disputes.** If there is any dispute associated with billing, You shall make payment in accordance with the billing invoice as submitted to You or by the pre-authorized credit card charge. You shall have the right to dispute any amount so invoiced and paid and must notify NitroText.com in writing of its dispute within sixty (60) calendar days of the receipt of such invoice or the pre-authorized credit card charge or the dispute shall be waived. A notification of disputed charges plus any documentation supporting Your claim shall be sent to NitroText.com in electronic form or at the postal address:1845 University Drive, Coral Springs, Florida 33071.
- 18. Governing Law and Jurisdiction.** This Agreement and any action related thereto shall be governed by and interpreted in accordance with the laws of the State of Florida without regard to or application of its conflict of laws provisions. The exclusive venue and jurisdiction for any dispute, claim, cause of action, legal proceeding, or litigation arising in connection with this Agreement or the Services shall be solely in Broward County, Florida circuit or county court and You consent to such venue and jurisdiction and waive any objection as to inconvenient forum. In the event You have accepted this agreement on behalf of a United States federal government entity that is legally unable to accept the controlling law, venue or jurisdiction provisions above then those provisions will not apply but instead, this Agreement and any action related thereto shall be governed by the laws of the United States of America (without reference to conflict of laws) and, in the absence of federal law and to the fullest extent permitted by federal law, the laws of the State of Florida govern (excluding choice of law). Except as otherwise required by law, any cause of action or claim must be commenced within one year after it arose or such cause of action or claim is barred.
- 19. Captions.** The captions contained in this Agreement are inserted for convenience of reference only and shall not, in any way, affect the meaning or interpretation of this Agreement.
- 20. Entire Agreement.** This Agreement, including any future modifications and the policies and fees for services as set forth from time to time at the NitroText.com website constitutes the entire Agreement between You and NitroText.com. If any part of this Agreement is legally declared invalid or unenforceable, the remaining provisions shall remain in full force and effect. The failure of NitroText.com to enforce any provision of this Agreement shall not be deemed a waiver of such provision. A waiver by NitroText.com of any breach of or failure to comply with any provision of this Agreement shall not be construed as a continuing waiver of such provision or a waiver of any other breach of or failure to comply with any other provision of this Agreement. All determinations and exercises of rights by NitroText.com will be accomplished in NitroText.com's sole and absolute discretion. This Agreement does not create any third party beneficiary rights.

Only provisions of this Agreement which, by their context, are intended to survive termination or expiration shall survive termination or expiration. You may not assign or transfer this Agreement or any portion of it. NitroText.com may freely assign all or any portion of this Agreement with or without notice and You agree to make subsequent payments if and as directed.