About SMS and Terms and Conditions

Please PRINT, fill in the details then FAX to us on
In Australia 03 9645 8609
International +61 3 9645 8609

SMS is a message service. Until now, used to send messages from one mobile phone to another. We have now enhanced Clickpos to include SMS. This means you have the power to use Clickpos to contact your staff, and keep customer loyalty, by notifying on new products, contract expiry and even birthday greetings. This feature is only available to Clickpos members using Clickpos Online system.

Benefits of system

Cheapest form of advertising
Instant communication to staff

Customer Loyalty

Instantly advertise new products to customers by selecting combination of Carrier, Phone, Plan
Birthday Greetings
Plan expiry notification
By postal Code range

SMS TERMS AND CONDITIONS

SMS SP = SMS Service Provider

This is the SMS SP ("us, SMS SP "), Standard Agreement between the Applicant ("you") and SMS SP for the Supply of its SMS ("the Service"). These articles apply to you as a user of the Service. The aim of this document is to ensure that you know both your rights and obligations when using the Service as well as our rights and obligations.

1. **Application and Variation of these Terms**

   These terms and conditions are the terms on which we provide the Service to you. These terms constitute the agreement in its entirety and supersede any prior agreements. We may modify these terms as applying to any agreement, the pricing structure for any Service, or the terms of the operation by general notice on a page of the Internet referred to on our web site. Any use of the Service after that publication will constitute an acceptance by you of that modification.

   Any changes, modifications or amendments to these terms and conditions, the merchant will be notified in writing via e-mail. Any use of the service after notice of the changes, modifications or amendments, constitutes acceptance of the terms and conditions.

2. **The Service**
    1. Your logon name and password will provide you with access to the SMS SP SMS administration area (which is used by you to access user details and configure various features of your service). We will provide you with the facilities to securely store and retrieve user details providing access to your SMS SP SMS service.
    2. No Bulk upload data will be stored by or kept by us.
3. **Payment & Term**
    1. The message blocks are prepaid and can be paid end of month. Service fee issued on Clickpos monthly invoice
    2. The term of the agreement is while you are using this service.
    3. There is no service fee for the use of SMS or Mobile Marketer.
    4. SMS SP reserves the right to amend any or all of the fees/rates as per the schedule, 14 days notice in writing by e-mail will be provided as notification of these changes whereby the new rates will automatically apply.
4. **Warranties and Liabilities**
    1. We do not warrant that:
        1. The services provided under this agreement will be uninterrupted or error free; or
        2. The services will meet your requirements, other than as expressly set out in this agreement.
    2. Except as expressly provided to the contrary in this agreement, all warranties whether express, implied, statutory or otherwise, relating in any way to the subject matter of this agreement, are excluded. Where any statute

implies in this agreement any term, and that statute avoids or prohibits provisions in a contract excluding or modifying the application of or liability under such a term, then the term will be taken to be included in this agreement. However, our liability for any breach of the term will, if permitted by that statute be limited, at our option, to the re-supply of the services, or payment of the cost of having the services supplied again.

3. You warrant that
    1. At the time of entering into this agreement you are not relying on any representation made by us which has not been stated expressly in this agreement, or on any descriptions or specifications contained in any other document, including any catalogues or publicity material which we have produced;
4. You will conduct such tests and computer virus scanning as may be necessary to ensure that data uploaded by you onto or downloaded by you from the Server does not contain any computer virus and will not, in any way, corrupt the data or systems of any person;
5. You will keep secure any passwords used to download data from the SMS SP SMS Server.
    1. You accept responsibility for all information and material issued from or to you over the Service, and indemnify us and hold us harmless against any liability in relation thereto. You also acknowledge that we do not vet or approve any information or material available through the Service and that we do not accept any liability for such information. To the full extent permitted by law you access and use such information and material at your own risk.
    2. You are solely responsible for dealing with persons who access your account, and must not refer complaints or inquiries in relation to such data to us.
    3. Except as provided in clause 4.2 we are not liable to you or any other person for:
        1. any cost, loss or liability (including loss of profit or other consequential damage) arising from our supply or failure or delay in supplying the Service;
        2. the content, context or confidentiality of any communications made using the Service.

5. Privacy, Opt In / Opt out and Spamming

1. SMS SP supports the right to privacy and the laws that support privacy in all forms, it strictly prohibits the sending of unsolicited mass SMS messages of any kind or any other e-mail forms. We will terminate the account of any member who uses "spamming" techniques to solicit referrals and who does not remove a recipient upon being requested to do so by that recipient. It is the responsibility of the Customer to adhere to all present and future Opt -In and Opt - Out regulations and policies of the country. In addition we may suspend their facility and make them ineligible for a new account.
2. Spamming is the unsolicited and unauthorised sending of SMS messages of any kind to businesses and people who do not know you personally and have not agreed to receive your messages. An important element of this annoyance is the cost to the recipient users in terms of misappropriation of Internet time and computer resources. Posting Usenet/News Group messages recruiting new members is also considered spamming. Opt-out lists are also not acceptable. Requiring somebody to specifically request removal from a mailing list to prevent solicitation will be considered SPAMMING and is a violation of our Anti-SPAM policy. The rule of thumb here is that if somebody did not specifically request the information then it is most likely SPAM. We subscribe to the latest Australian privacy regulation that relate to SMS and all other electronic mass messaging forms.

6. Suspension of Service

1. We may from time to time without notice suspend the Service or disconnect or deny your access to the Service:
    1. during any technical failure, modification or maintenance involved in the Service provided that we will use reasonable endeavours to procure the resumption of the Services as soon as reasonably practicable; or
    2. if the Customer fails to comply with any agreement (including failure to pay charges due) until the breach (if capable of remedy) is remedied, or does, or allows to be done, anything which in our opinion may have the affect of jeopardising the operation of the Service. Notwithstanding any suspension of any Service under this clause you shall remain liable for all charges due throughout the period of suspension.

7. Other Matters

1. Continuation of Service. Whilst SMS SP will use every endeavour to ensure continuation of the Services:
    1. there may be interruptions caused by hardware or software problems, unavailability of communication links because of the failure of an external party to supply goods and services to SMS SP . In such circumstances, SMS SP will use its best endeavours to fix the same as soon as possible, however will not be liable for any loss or damage arising there from and the liability of SMS SP will be to reconnect the Services as soon as practicably possible;
    2. it shall not be liable to the Applicant for any loss or damage suffered or incurred by the Applicant arising from or in relation to any alleged failure by SMS SP to meet any performance specifications or criteria where such failures arise from circumstances beyond the control of SMS SP including defects in the communication line, breach of this Agreement by the Applicant or failure of the equipment of any third party.
2. Maintenance

    In addition to ongoing maintenance, SMS SP may from time to time call defined maintenance periods of its Technical System which may result in downtime. SMS SP will use its best endeavours to provide prior notice to the Applicant of the downtime and to limit the maintenance period. The Applicant acknowledges that it has no claim against SMS SP for such downtime and that SMS SP , in a situation of emergency, may not have the opportunity to provide prior notice to the

Applicant.

3. Proprietary Software

   In providing the Services, SMS SP is using proprietary software and other know-how and the Applicant acknowledges that all rights in relation thereto remain with SMS SP , or those with whom SMS SP has appropriate commercial (including licensing) arrangements. The Applicant is not entitled to make any use of such proprietary software other than is necessary for accessing the Services and in particular is not entitled to copy or modify the software or any associated manuals or documents.

   Without derogating from the above the Applicant will not do or cause to be done anything interfering with the proprietary rights of software and other items of intellectual property and agrees that other than as provided under this Agreement the Applicant's use of software or other items of intellectual property does not create any right, title or interest therein for the Applicant.

4. Force Majeure

   If the either Party is unable, as a result of Force Majeure, to carry out their obligations under this Agreement, they shall give the other Party prompt written notice of the occurrence and particulars of the act, event or cause constituting the Force Majeure and, in so far as known, the probable extent to which it will be unable to carry out, or be delayed in carrying out its obligations and thereupon will not be required to carry out such obligations for the period provided the Party has used all possible diligence to overcome or remedy the Force Majeure as quickly as possible.

   "Force Majeure" means any act, event or cause beyond the reasonable control of the party concerned including, but not limited to, acts of God, perils of the sea, war, sabotage, riot, storm and tempest, earthquake, landslide, explosion, strike and other labour difficulties (whether or not involving employees of the party concerned) or failure of the internet or world wide web.

5. Goods and Services Taxes

   Definitions used in this subparagraph shall accord with those under the "A New Tax System (Goods and Services Tax) Act 1999" ("GST").All amounts stated in this Agreement include GST.

   Where the recipient of a Taxable Supply must pay GST with respect to the provision of a Taxable Supply under this Agreement, the provider of the Taxable Supply must provide the Recipient of the Taxable Supply with a Tax Invoice and the Recipient is not obliged to make payment of GST until a Tax Invoice has been provided.

6. Notices

   All notices required to be given under this Agreement shall be in writing or sent by prepaid registered mail marked for advice delivery and in each case addressed to the Party as particularised in the Application Form.

7. Proper Law And Jurisdiction

   The laws in force in New South Wales shall govern this Agreement and the parties submit to the non-exclusive jurisdiction of the Courts of that State and all Courts competent to hear appeals there from.

8. Confidentiality

   The customer warrants to keep absolutely confidential and private from any party not in this agreement all SMS SP SMS details, pricing, business plan and any SMS systems associated with or a part of SMS SP unless written approval to disclose such information is obtained in writing.

This agreement is specified by the service provider, not ClickPOS Pty Ltd