

**Promptxt LLC**

**IMPORTANT NOTICE IF YOU ARE  
CONSIDERING USING OUR SERVICE**

By accessing or using this web site or the service provided through it, you agree to be bound by the following terms and conditions. You may use this service as an individual or as a business entity, corporation, partnership, limited liability corporation, etc.

1. Individual Usage.

If you are using the service as an individual, you represent that you are over the age of 18 or have parental consent to sign this agreement (the "Service Agreement" or "the Agreement"), when you agree with the statement on our web site registration form: "I AGREE TO THE TERMS OF USE."

2. Usage As A Business or Other Entity.

If you are using the service for your business or other entity, you represent that you have the authority to enter into this Agreement on behalf of your business or other entity.

3. An Enforceable Agreement.

Whether you agree individually or on behalf of an entity, you agree to all the terms of this Service Agreement. THIS IS A BINDING AGREEMENT ENFORCEABLE BY PROMPTXT LLC AGAINST YOU SHOULD YOU BREACH IT.

4. What To Do If You Do Not Wish to Enter Into an Agreement.

IF YOU DO NOT AGREE TO THE TERMS OF THIS SERVICE AGREEMENT, DO NOT INDICATE AGREEMENT WITH THE STATEMENT ON OUR WEB SITE REGISTRATION FORM: "I AGREE TO THE TERMS OF USE."

THE REGISTRATION PROCESS WILL TERMINATE. YOU WILL NOT BE GIVEN ACCESS TO THE SERVICE.

**TERMS-OF-USE AGREEMENT**

Definitions

The definitions below and any definitions used elsewhere in this Agreement are binding upon the parties.

1. The Service. The "Service" consists of a browser interface, data transmission, data access (as available) and, if applicable, data storage. The "Service" includes a web-site under the name Promptxt.com (the "Web Site").

2. You and Yours. "You" and "yours" means each user or customer accessing the Service by means of a valid account established by you. If you are entering into this Agreement on behalf of your entity, the term "you" in this Agreement means your entity and all of its directors, officers, managers, shareholders, employees, agents, members, or other personnel.

3. Unlawful Activities. "Unlawful activities" includes, but is not limited to, making direct or indirect threats of physical harm, engaging in any conspiracy of any type, violation of any federal, state or local law or ordinance, violation of any international treaty, storing, distributing or transmitting any unlawful material, or attempting to compromise the security of any networked account or site.

4. Internet Service Provider. "Internet Service Provider" or "ISP" is any entity which allows access to the internet or worldwide web.

5. Promptxt LLC Software. "Promptxt LLC Software" sends messages from certain internet browsers to short messaging service compatible devices such as certain cell phones and is proprietary.

6. The Agreement. The "Agreement" or the "Service Agreement" refers to the within electronic document which sets forth the rights of the parties in their entirety.

7. Our, Us or We. "Our", "us" or "we" refers to Promptxt LLC.

#### SPECIFIC TERMS AND CONDITIONS

##### 1. Your Responsibilities.

You are responsible for obtaining and maintaining all computer software, hardware and communications and other equipment required to use the Service.

You are responsible for paying all third-party access charges such as ISP or telecommunications incurred.

You will not, directly or indirectly, reverse engineer, decompile, disassemble or otherwise attempt to discover the source code or

underlying ideas or algorithms of the Promptxt LLC Software ("Promptxt LLC Software").

You will not modify, translate, or create derivative works based on the Promptxt LLC Software and Service unless authorised by Promptxt LLC.

You will not rent, lease, distribute, sell, resell, assign, or otherwise transfer rights to the Promptxt LLC Software and Service unless authorised by Promptxt LLC.

You will not use the Promptxt LLC Software and Service for the benefit of a third party unless authorised by Promptxt LLC.

You understand and agree that the PROMPTXT LLC Software is proprietary. You agree not to publish or disclose to third parties any evaluation of PROMPTXT LLC's Software without PROMPTXT LLC's prior written consent.

You acknowledge that PROMPTXT LLC retains exclusive ownership throughout the world of all Software, any portions or copies thereof, and all rights therein. Upon termination of this Service Agreement for any reason, you will cease to use and have access to the Software.

In addition,

- i. You will not use the Software and the Service for chain letters, junk mail or spamming in any form.
- ii. You agree not to transmit or permit anyone to transmit any unlawful, harassing, libelous, defamatory, abusive, threatening, harmful, vulgar, obscene, or otherwise objectionable material of any kind.
- iii. You will only use the Software and the Service for lawful purposes, and in compliance with all applicable laws including, without limitation, copyright, trademark, patent, intellectual property, obscenity and defamation laws, whether statutory or common-law in nature.
- iv. You will not use the Software and the Service for any unlawful activities.
- v. You agree to defend, indemnify and hold PROMPTXT LLC and its parent, affiliates and/or its or their contractors and agents harmless against any liability,

cost, loss, claim, demand or action of any kind whatsoever, including reasonably attorneys' fees, made by any third party due to or arising from your use of the Web Site, the Software and the Service in an unlawful manner or in any manner inconsistent with the restrictions and policies of this Agreement or the infringement by you of any intellectual property or other right of any person or entity.

You have additional responsibilities set forth elsewhere in this Agreement.

## 2. Our Responsibilities.

### A. What You Receive Under This Agreement.

PROMPTXT LLC grants to you an individual, personal, non-sublicensable, non-exclusive and non-transferable license or right to use our service pursuant to the terms and conditions set forth in this Agreement and as they may be modified on our Web Site.

PROMPTXT LLC does not guarantee the continuous availability of the service or of any specific feature. PROMPTXT LLC will inform you via the Web Site only of any significant changes to the Service or this Agreement.

### B. Our Privacy Policy and Confidentiality.

It is our policy to respect the privacy of our users.

We will not share, rent, sell, or trade personal account information (including e-mail addresses) identifying our customers or users to third parties.

We will not share, rent, sell, or trade data contained in your account. We, however, may use this information to contact you to insure that you are satisfied with our products and services, to learn about any ideas you may have to improve our offerings, to call your attention to additional or new offerings or services, and communicate other information.

We may send e-mail to your registered e-mail address concerning our news.

We may ask you to provide demographic or personal preference data. If you provide such data, we may use it to analyze the characteristics of our customers and visitors. We may also use the

data to customize the specific information provided to you, or tailor it to better meet your needs.

Should you provide us or our contractors or agents with additional information, including, but not limited to, feedback, data, answers, questions, comments, suggestions, plans, ideas or the like, such additional information shall be deemed to be non-confidential and we assume no obligation to protect such information from disclosure. PROMPTXT LLC shall be free to reproduce, use, disclose and distribute such information to others on an aggregate basis which does not specifically identify you without restriction, and you acknowledge that we have absolutely no liability for alleged infringement or misappropriation in connection with such information. The submission of such information to PROMPTXT LLC shall in no way prevent the purchase, manufacture or use of any products, services, plans or ideas by PROMPTXT LLC for any purpose whatever.

Our privacy policy is subject only to our obligation to comply with applicable laws and lawful government requests, to operate our business properly, and to protect our users or ourselves.

We reserve the right to contact you about your account status or changes or alterations to the service, or additional offerings or services. You may request that you not receive informational e-mail messages not related to your account activity or current use by e-mailing to [user@promptxt.com](mailto:user@promptxt.com).

PROMPTXT LLC reserves the right to change its privacy policy at any time without notice and in our sole discretion by posting the new privacy policy on the Web Site.

PROMPTXT LLC delivers messages through a variety of private and public systems. We do not guarantee the privacy of your message content or its addressing information.

The Web Site may provide links or references to third party web sites. PROMPTXT LLC, however, has no control over or responsibility for information or content available on or accessible through third party web sites, or any transactions that occur through those web sites. These terms and conditions, as well as the privacy policies and security levels governing the Web Site, may differ significantly from the terms and conditions, privacy policies and security levels of third party web sites. PROMPTXT LLC, therefore, cautions you to make certain that you understand the terms and conditions, privacy policies and security levels applicable

to third party web sites before retrieving, using, relying upon or purchasing anything via such web sites. PROMPTXT LLC will cooperate with any legitimate law enforcement agency if our messaging services are suspected of use for any unlawful or improper purpose.

Showbetter TXT Service.

Promptxt provides the electronic means of delivery of Showbetter text messages and collects subscription payments for the Showbetter TXT Service.

Promptxt accepts no responsibility for the content of Showbetter text messages and accepts no liability arising from the information and its subsequent use contained in the text messages.

Promptxt cannot guarantee delivery to subscriber's cell phones of Showbetter TXT service text messages.

Subscription fees may vary from time to time. Subscriptions are charged monthly in advance and may be cancelled at anytime without refund.

#### C. Disclaimer of Warranties.

ACCESS TO AND/OR USE OF INFORMATION, CONTENT, PRODUCTS AND/OR THE SERVICE ARE PROVIDED ON OR AVAILABLE THROUGH THE WEB SITE ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF TITLE AND NONINFRINGEMENT AND IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

SOME STATES DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES; IF YOU ARE ACCEPTING THIS AGREEMENT UNDER THE LAWS OF ONE OF THESE STATES, YOU MAY NOT USE OUR SERVICE.

NO ADVICE OR INFORMATION GIVEN BY PROMPTXT LLC, ITS PARENT, ITS AFFILIATES OR ITS CONTRACTORS OR AGENTS SHALL CREATE ANY WARRANTY.

PROMPTXT LLC DOES NOT REPRESENT OR WARRANT THAT INFORMATION, CONTENT, PRODUCTS AND/OR THE SERVICE WILL BE UNINTERRUPTED, ACCURATE, COMPLETE, USEFUL, FUNCTIONAL OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT THIS SITE OR THE SERVER THAT MAKES IT

AVAILABLE, ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

### 3. Limitation of Liability.

PROMPTXT LLC'S LIABILITY (INCLUDING, BUT NOT LIMITED TO, LIABILITY ARISING OUT OF OR IN CONNECTION WITH CONTRACT, TORT, STRICT LIABILITY, BREACH OF WARRANTY OR OTHERWISE), WILL BE LIMITED TO THE LESSER OF \$100 OR THE FEES PAID BY YOU IN THE TWO (2) MONTHS PRIOR TO THE ACT OR OMISSION THAT GAVE RISE TO THE LIABILITY.

PROMPTXT LLC SHALL NOT BE LIABLE FOR LOSS OR INACCURACY OF DATA, LOSS OF PROFITS OR REVENUE, OR INDIRECT, SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING THE COST OF ANY SUBSTITUTE PROCUREMENT), OR ANY DAMAGES WHATSOEVER RESULTING FROM AN INABILITY TO ACCESS OR USE THE WEB SITE AND/OR THE LOSS OF ANY INFORMATION OR CONTENT AVAILABLE ON OR ACCESSIBLE THROUGH THE WEB SITE, WHETHER IN AN ACTION OF CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER TORTIOUS ACTION OR LEGAL BASIS, ARISING OUT OF OR IN CONNECTION WITH THE INFORMATION OR CONTENT AVAILABLE ON OR ACCESSIBLE THROUGH THE WEB SITE, WHETHER FORESEEABLE OR NOT AND EVEN IF PROMPTXT LLC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU. IN SUCH JURISDICTIONS, OUR LIABILITY IS LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW.

ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS AT YOUR RISK. YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR NETWORK, OR LOSS OF DATA THAT RESULTS FROM USE OF THE SERVICE.

### 4. Support.

PROMPTXT LLC, or its designee, shall provide e-mail support to paid service customers on the terms contained herein and on the support section of the Web Site. It has no obligation to provide you with hard-copy documentation, upgrades, enhancements,

modifications, or other support unless there is a separate written contract to that effect. We do not guarantee that support e-mails sent to you will be received.

#### 5. Provision of Contact and Billing Information and Payment of Fees.

PROMPTXT LLC may use the billing services of a third party. Your failure to pay a bill may be considered a breach of this Agreement, and PROMPTXT LLC may terminate service as a result of your breach. You agree that in no event shall PROMPTXT LLC be liable for any action of any third-party billing company which violates any law or infringes any right you hold.

#### 6. Passwords and Security.

You will choose all applicable passwords to use in connection with the Service.

You are responsible for maintaining the confidentiality of your passwords and account.

You are entirely responsible for any and all activities that occur under your account. You shall insure that you exit from your account at the end of each session.

You shall notify PROMPTXT LLC immediately of any unauthorized use of your account.

You may not allow any third party, related or unrelated, to use your account unless authorised by Promptxt LLC.

PROMPTXT LLC cannot and will not be liable for any loss or damage arising from your failure to comply with these requirements.

#### 7. Termination.

For monthly invoiced customers this Service Agreement is a monthly agreement, automatically renewable unless either party requests change or termination.

Either party may terminate this Service Agreement by notifying the other party in writing at least thirty (30) days before the termination date.

PROMPTXT LLC, in its sole discretion, may terminate your use of the Service if you fail to comply with this Agreement.

You will pay in full for the Service up to and including the last day of the current billing cycle. To cancel the Service or change the type of service, you must contact us in writing. All such requests received prior to ten (10) days of the end of the customer billing cycle will incur no additional charges. Requests for cancelled or changed service received within ten (10) days of the end of the customer billing cycle may incur one additional month of charges.

PROMPTXT LLC will remove the data of an account after termination. PROMPTXT LLC may, but is not obligated to, delete archived data. We reserve the right to cease offering the Service to no-charge users at any time.

Upon expiration or termination, you will immediately cease all use of the Service, including the PROMPTXT LLC Software and any documentation. Termination is not an exclusive remedy. All other remedies will be available. Your payment obligation will survive termination.

If you are dissatisfied with the Service or with any of our terms and conditions, your sole and exclusive remedy is to discontinue the Service. There will be no automatic refunds of any fees paid. Each case will be dealt with on an individual basis.

#### 8. Third Party Links.

PROMPTXT LLC may provide links to other internet sites or resources. We have no control over such sites and resources. You therefore agree that PROMPTXT LLC is not responsible for the availability and content of other internet sites or resources.

You agree further that PROMPTXT LLC does not endorse and is not responsible or liable for any content, advertising, products, or other materials on or available from such sites or resources, and that they are provided to you solely for your own purposes and not for further redistribution.

You agree that PROMPTXT LLC shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such content, goods or services available on or through any such site or resource.

#### 9. Copyright and Trademark.

The information and content available on or accessible through the

Web Site is the copyrighted property of PROMPTXT LLC, its licensors, a vendor or other applicable licensor. Permission to copy and distribute such information and content is granted subject to the following: (1) the information and content is provided for personal, non-commercial use only; and (2) any copies of the information and content made by you with the permission of PROMPTXT LLC must include the appropriate copyright notice. This copyright notice is: "Copyright© 2004 PROMPTXT LLC. All rights reserved."

The PROMPTXT LLC name, trade names, trademarks and logo, and related products and service names, design marks, slogans, trademarks and trade names, are the property of PROMPTXT LLC and may not be used in any commercial manner without our prior written consent. All other names, trade names, trademarks, logos and product and service marks referenced in the Web Site are the property of their respective owners.

#### 10. Digital Millennium Copyright Act ("DMCA") Notice.

We own, protect and enforce copyrights in our own creative material and respects the copyright properties of others. We offer added value services as a "services provider" (i.e., as defined in the DMCA), including services as a web site provider and portal with links to third party web sites. As a result, materials of third parties, not owned or controlled by PROMPTXT LLC, may be transmitted, stored or otherwise made available on or accessible through the Web Site.

To the best of our knowledge, these third party materials do not infringe the copyrights of others. You should notify us promptly, however, if this is not the case. Upon receipt of a proper notice of claimed infringement under the DMCA, we will respond expeditiously to remove, or disable access to, the material claimed to be infringing and will follow the procedures specified in the DMCA to resolve the claim between the notifying party and the alleged infringer who provided the material at issue. The PROMPTXT LLC designated agent (i.e. proper party) to whom you should address such notice is: PROMPTXT LLC, Attention: DMCA Notice - Chief Executive Officer, 600 West Germantown Pike, Suite 400, Plymouth Meeting, PA 19462.

#### 11. Non-Waiver.

This Agreement is between PROMPTXT LLC and you. It is not for the benefit of any third party, whether directly or indirectly

(including any user accessing the Service by means of an account established by you). PROMPTXT LLC's failure to exercise or enforce any right or provision of these terms and conditions shall not constitute a waiver of such right or provision unless acknowledged and agreed to by PROMPTXT LLC in writing.

12. Effect of Invalidity of a Provision of This Agreement.

If any provision of this Agreement is found to be unenforceable or invalid by a court of competent jurisdiction, that provision will be construed, as nearly as possible, to reflect the intentions of the parties with the other provisions remaining in full force and effect and enforceable.

13. Non-Assignability of This Agreement.

This Agreement is not assignable, transferable or sub-licensable by you except with PROMPTXT LLC's prior written consent.

14. Law of the State of New Jersey to Control.

THIS AGREEMENT WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW JERSEY WITHOUT REGARD TO THE CONFLICT OF LAWS PROVISIONS THEREOF. YOU AND PROMPTXT LLC AGREE TO SUBMIT TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE CITY OF CAMDEN, STATE OF NEW JERSEY AND TO NO OTHER JURISDICTION.

15. One Year to Bring a Claim.

You agree that any cause of action or claim arising out of or related to your access to or use of the Web Site, the Service or this Agreement must be filed with a court or other governmental agency having jurisdiction within one (1) year after the cause of action or claim arose. Otherwise, the cause of action or claim is permanently barred. Because some jurisdictions do not permit such time bars, this limitation may not apply to you.

16. Sole Agreement of the Parties.

This Agreement is the complete and exclusive statement of the mutual understandings of the parties. It supersedes and cancels all previous or contemporaneous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement. This Agreement's terms are subject to change at any time by PROMPTXT LLC in our sole discretion without

notice to you by posting the new Agreement to the Web Site. There are no oral agreements or side agreements of any type. Neither the course of conduct between the parties nor trade practice shall act to modify any provision of this Agreement.

17. No Agency Created By This Agreement.

No agency, partnership, joint venture, or employment is created as a result of this Agreement. You do not have any authority to bind PROMPTXT LLC in any respect.

18. No Attorney's Fees or Costs Available.

In any action, complaint, administrative proceeding, informal complaint to any court or agency, federal, state, or local, to enforce rights under this Agreement, neither the prevailing nor the losing party will be entitled to recover costs and/or attorneys' fees.

19. Notices.

All notices must be in writing. A notice is deemed to have been given:

- i. When received, if personally delivered;
- ii. When receipt is electronically confirmed, if transmitted by facsimile or e-mail;
- iii. Upon receipt, if sent by next-day delivery by recognized overnight delivery service; and
- iv. Upon receipt, if sent by certified or registered mail, return receipt requested.

20. Agreement in English.

This Agreement and all related documents have been prepared in English with the consent of the parties.

21. Electronic Nature of This Agreement.

The parties acknowledge that they have met over the internet, that they have not met in person and have not had any direct telephonic contact, that this Agreement has been provided by PROMPTXT LLC to the customer over the internet and through the Web Site, that this Agreement has been executed electronically, that there is no hard or paper copy of this Agreement, that the parties consent to the manner and circumstances of the making of this Agreement,

and that said Agreement is to have the full force and effect of any Agreement prepared in writing.

## 22. United States Government, International Use and Other Matters.

You may not remove or export from the United States or allow the export or re-export of any part of the Software or applicable documentation, if any, or any direct product thereof in violation of any restrictions, laws or regulations of the United States including the Department of Commerce, the Department of Treasury Office of Foreign Assets Control, or any other United States agency or of any foreign agency or authority.

As defined in FAR § 2.101, the software and documentation licensed in this Agreement are "commercial items" and according to DFAR § 252.227-7014(a)(1) and (5) are deemed to be "commercial computer software" and "commercial computer software documentation."

PROMPTXT LLC does not represent that all information and content available on or accessible through this Web Site is appropriate for use in all geographic locations, especially some locations outside the United States, and accessing such from certain locations may be illegal and prohibited. Those who do access or use this Web Site from those locations act on their own initiative and PROMPTXT LLC is not responsible for compliance with applicable laws, rules and regulations. You will not access the foregoing where prohibited by applicable law, rule or regulation.