

TextMe Terms and Conditions

TextMe Inc is a company providing a range communication services and products for mobile communication devices. In the rest of this document, TextMe Inc, its subsidiaries if any, will be designated as « TextMe», « We » or « Us » as the case may be.

All users of the TextMe products and services are subject to the following Terms and Conditions (thereafter « T&C »).

Please take time to read and familiarize yourself with those T&C as it will apply to your access and use of TextMe content, products and services and constitute a binding agreement between you and TextMe.

By clicking the « SignUp » button you (a) represent to Us that you are not a person barred from using TextMe services in the United States nor in any relevant jurisdiction for you and (b) agree with those T&C and TextMe Privacy Policy included for reference in those T&C and (c) become bound by those T&C.

TextMe may revise and update these T&C at any time and without notice by posting the new T&C on TextMe website. The version of the T&C posted on the TextMe website supersede any prior T&C.

Your continued use of TextMe content, products and services means that you accept the revised T&C. If you do not agree with the revised T&C, your sole remedy is to discontinue the use of TextMe content, products and services and you commit to us to uninstall any TextMe content, product or service that may be operating on any of your devices.

General limitations

TextMe hereby grants you a non-transferable, non-exclusive license for the access and use of TextMe contents, products and services. You acknowledge the use of this license is subject to limitations listed in the T&C and that if you do not comply with any of those limitations, TextMe can terminate the license without notice, at no cost to TextMe and without TextMe being liable to you.

You agree that TextMe does not replace your fixed or wireless phone and that TextMe products and services may be limited, suspended or restricted by geography, volume, duration or any criteria decided by TextMe at our sole discretion and without liability to you. You acknowledge that access to voice transmission networks is not provided by TextMe.

You agree that TextMe contents, products and services cannot be relied upon for emergency messages and calls and that it is your sole responsibility to subscribe to such emergency messages or call services as the case may be.

You may receive one phone number attributed to you by TextMe for the use of TextMe contents, products and services. You agree to comply with any United States law or

regulation and any law or regulation you may be subject to in the use of the phone number allocated to you by TextMe. You acknowledge and agree that the phone number, which TextMe may attribute to you, is not portable, to the extent legally possible, and you cannot ask for portability from TextMe or any of TextMe partner.

TextMe may reclaim this phone number and discontinue its availability to you without liability if you fail to use TextMe products and services for duration of more than 72 consecutive hours. Furthermore, in the event of termination of this T&C, TextMe will reclaim without notice and at no cost to TextMe the phone number attributed to you.

Limitations of use

You agree you will use TextMe contents, products and services only for yourself and for lawful non-commercial purposes and in compliance with any relevant law applicable to you.

You agree not to use any automatic device to access TextMe products and services nor use any device or software to access TextMe contents, products and services that may impair the proper usage of TextMe contents, products and services

You will not use the TextMe contents, products and services to do any of the following:

- (a) Transmission of any communication, content or messages that are obscene, violent, harassing, indecent, fraudulent, defamatory or violate any legal third party rights such as, but not limited to, copyrights, rights of privacy or rights of publicity;
- (b) Operate TextMe products and services under a false identity or by impersonating any person or third party entity;
- (c) Generate and distribute bulk mail, spam, chain linked messages or any similar content;
- (d) Generate, upload or transmit any kind of file containing a virus or any data having for effect to impair, limit, or affect the usage of TextMe products and services or any third party product or services;
- (e) Advocate illegal activities and more generally discuss an intent to commit illegal activities;
- (f) Engage into activities leading to, or intending to (a) data collection on other TextMe users, without their consent, or TextMe partners without their consent and more generally any data stored within TextMe storage units and not made available to you by TextMe during the normal use of our products and services (b) deny, disrupt or impair the usage of TextMe contents, products and services by other TextMe users than yourself (c) intercept content generated or transmitted to or from TextMe users and not destined to you;
- (g) Generate, download, upload or transmit any kind of advertisement or solicitations of commercial activities;
- (h) Generate, download, upload or transmit any data, file or software which cannot be generated, downloaded, uploaded or transmitted within the United States or any relevant jurisdiction for your usage of the TextMe products and services.

In addition, you will not access nor use TextMe products or services to do any of the

following:

- (i) Copy, distribute, transfer in any manner, including but not limited to translating, decompiling or disassembling the source code for TextMe contents, products or services;
- (j) Circumvent security features or usage rules of TextMe contents, products or services;
- (k) Copy or alter any of the TextMe or TextMe partners' designs, notices, logos or any proprietary rights displayed or used in the context of TextMe contents, products and services.

You acknowledge that TextMe products and services will not support short code numbers and/or reverse billing services.

Use of TextMe products and services

You acknowledge you are solely responsible for any content you generate, download, upload or transmit and in particular, you are solely responsible for any of its characteristics including but not limited to its legality, appropriateness and integrity.

By generating, downloading, uploading or transmitting any content on TextMe products and services you acknowledge that you have full legal and moral rights to use this content within TextMe products and services and you grant to TextMe the right to use this content in any manner TextMe chooses.

Any opinion in any content generated, uploaded, downloaded or transmitted by you on TextMe products and services is solely your own and under your sole responsibility. You acknowledge TextMe cannot be held liable for any opinion generated, uploaded, downloaded or transmitted by you on TextMe products and services.

TextMe reserves the right to remove at no liability to you, any content posted on TextMe products and services at TextMe sole discretion. You also acknowledge that TextMe does not have any liability or responsibility to anyone for failing to remove any content from its product and services.

You consent to allow TextMe to associate personal information such as contact names, aliases or any other unique identification tag with phone numbers, emails, or any unique identification tag from your device for messages you send and receive, provided that TextMe will not use such information for any other purpose. You consent to the disclosure of any such information to legal authorities under a validly-issued subpoena.

Short Message Service (SMS), Multimedia Message Service (MMS) volume limitations

In certain countries, TextMe products and services may enable TextMe users to send and receive SMS and MMS at no charge to TextMe users.

TextMe users acknowledge and agree that in case of excessive use of either SMS or

MMS, TextMe may (a) notify the user of the excessive use, and (b) unilaterally suspend temporarily or indefinitely TextMe product and services at no cost to TextMe and without TextMe being liable for the suspension or (c) propose to charge for the SMS and MMS at a price to be decided by TextMe at the time.

Excessive use of SMS or MMS is defined as (a) sending more than a total of five hundreds SMS or MMS per twenty four hours period or (b) an excess of more than one hundred SMS or MMS sent by user compared to SMS or MMS received by the same user over a period of thirty days.

Right to charge

TextMe reserves the right to charge for its products and services at its sole discretion and at no liability to you. TextMe commits to let you know at the time of purchase any modification to TextMe pricing policy and will offer you the possibility to opt out of the relevant TextMe products or services.

Right to advertise

You acknowledge and agree with TextMe policy to provide you with advertisement either directly or via its partnership with advertisement providers, such as ad networks, to be displayed on any device you use to access and operate the TextMe products and services.

You acknowledge and agree that TextMe cannot be held liable for any characteristic of the advertisement displayed by TextMe or TextMe partners on any of your devices used to access and operate TextMe products and services including accuracy, appropriateness or compliance with any rule and regulation you may be subject to.

Should you subscribe to any TextMe product with a “lifetime no ad” or “no ad” feature, TextMe right to advertise will lapse during your personal usage of the said TextMe product to which you have subscribed. You acknowledge TextMe right to advertise will remain unchanged on any TextMe products without the “lifetime no ad” or “no ad” feature to which you have subscribed.

Right to deliver and send commercial messages

You agree to receive commercial messages from TextMe or any third party chosen by TextMe (thereafter TextMe Commercial partners) on any device you use to access and operate TextMe products and services and which may be based on characteristics derived from information explicitly or implicitly provided by you, such as your location, to TextMe and which will be treated according to our Privacy Policy.

Commercial messages are messages sent on your TextMe phone number, account or email address for commercial purposes for TextMe or TextMe Commercial partners' products and services. Commercial messages sent by TextMe or TextMe Commercial partners to your email address will include a one click opt-out option.

Right to terminate

TextMe reserves the right, without any liability to you, to terminate all or part of the services provided by TextMe to you.

Your failure to comply with the provisions of these T&C may result in the termination of your access to TextMe products and services and may expose you to civil and/or criminal liability.

Copyright, trademark and TextMe proprietary information

The contents, products and services provided by TextMe (including but not limited to all data, software, IP, design, image, audio, video, business process) and the “TextMe” name, logo and trademark are the ownership of TextMe and are protected by international laws.

You can only use the content of the product and services provided by TextMe for purposes directly related to your role as a customer, current or prospective of TextMe products and services.

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You may not copy, display, modify, or store any content of TextMe products and services except in the course of your normal usage as a customer, current or prospective, of TextMe products and services. In particular you may not copy, display, modify, or store any content of TextMe products and services for commercial purposes. You acknowledge that the use of TextMe product and services does not grant any title or property rights on any or part of TextMe product and services.

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YOU AGREE THAT TEXTME HAS NO RESPONSIBILITY AND CANNOT BE HELD

LIABLE FOR FAILING TO STORE, FAILING TO TRANSMIT, DELETING OR FAILING TO DELETE ANY INFORMATION GENERATED, DOWNLOADED, UPLOADED OR TRANSMITTED ON TEXTME PRODUCTS AND SERVICES.

YOU AGREE THAT NO ADVICE IN ANY FORMAT WHATSOEVER PROVIDED BY TEXTME EMPLOYEES WILL CREATE ANY WARRANTY TO YOU.

NEITHER COMPANY NOR ITS OFFICERS, EMPLOYEES OR AFFILIATES MAY BE HELD LIABLE WITHER IN CONTRACT, WARRANTY, TORT, OR ANY OTHER FORM OF LIABILITY FOR ANY CLAIM, DAMAGE, OR LOSS, ARISING FROM OR RELATING TO ALL SUCH CONTENT, PRODUCTS OR SERVICES.

IN NO SITUATION TEXTME, ITS OFFICERS, EMPLOYEES AND AFFILIATES OR ITS PARTNERS WILL BE LIABLE FOR ANY TYPE OF DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS, LOSS OF DATA, ANY INTANGIBLE LOSS LIKE EMOTIONAL DISTRESS, ARISING IN CONNECTION WITH YOUR USE OR YOUR FAILURE TO USE THE CONTENTS, PRODUCTS, AND SERVICES OF TEXTME OR ANY LINKED SITE.

IN NO EVENT WILL THE COLLECTIVE LIABILITY OF TEXTME AND ITS SUBSIDIARIES, AFFILIATES, LICENSORS, SERVICE PROVIDERS, CONTENT PROVIDERS, EMPLOYEES, AGENTS, OFFICERS, AND DIRECTORS TO ANY PARTY (REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, OR OTHERWISE) EXCEED THE AMOUNT YOU HAVE PAID TO TEXTME FOR THE APPLICABLE CONTENTS, PRODUCTS OR SERVICES OUT OF WHICH LIABILITY AROSE.

TO THE EXTENT THAT IN ANY RELEVANT JURISDICTION ANY OF THE ABOVE TEXTME DISCLAIMERS OR LIMITATIONS OF LIABILITY ARE NOT PERMITTED, YOU ACKNOWLEDGE AND AGREE THAT TEXTME LIABILITY WILL BE LIMITED TO THE LOWEST AMOUNT AND SCOPE LEGALLY PERMISSIBLE IN THE RELEVANT JURISDICTION.

Indemnification

You agree to indemnify and hold harmless, TextMe, its directors, officers and employees, partners and third party providers from any breach of these T&C. You agree that TextMe, its directors, officers and employees, partners and third party providers will have no liability to you in the context of such breach and you agree to indemnify any and all resulting loss, damages and more generally any cost related to such breach incurred by them.

Third party interfacing

TextMe products and services may interface with third party products and services. TextMe makes no representation or warranty as to the reliability, security, or performance of any of those third party services. TextMe does not endorse any of the contents, products or services made available by those third parties and you

acknowledge TextMe cannot not be held liable for use, or failure to use, said contents, products or services.

Your use of such third party contents, products or services is subject to the relevant terms and conditions to be entered into with each of those third parties. In the event action is needed to ensure continuity of those said third party services, it is your sole responsibility to conduct those actions and you acknowledge TextMe cannot be held liable for failure to conduct those actions.

Rate plans

TextMe is not responsible for text messaging rates charged by mobile operators/carriers and incurred by recipients for receiving or sending messages from or to TextMe users. TextMe is also not responsible for data or wifi charges incurred when accessing TextMe products and services.

Privacy policy

TextMe use of information generated, downloaded, uploaded or transmitted on its products and services is described in the Privacy Policy, which is the subject of a separate document and is incorporated in the T&C for reference.

Compliance and applicable law

TextMe Inc is incorporated in the State of Delaware and operates under the laws of the United States. TextMe makes no representation its products and services can be used outside the United States, it is your responsibility to assess whether you can use our contents, products or services in any relevant jurisdiction and you agree to comply with the export and import laws and regulations of the United States and other applicable countries.

The laws of California shall govern those T&C and you agree to submit to the jurisdiction of California courts. Any cause of action you may have with respect to TextMe contents, products or services must be commenced within one (1) year after the claim or cause of action arises or such claim or cause of action is barred.

If any part of these T&C is unenforceable, the unenforceable part shall be construed to reflect, as nearly as possible, the original intentions of the parties. The other provisions of these T&C shall remain in full force and effect.

TextMe's failure to insist upon or enforce strict performance of any provision of these T&C shall not constitute a waiver of the provision. Neither a course of dealing or conduct between you and TextMe nor any trade practices shall be deemed to modify these T&C.

You agree that no joint venture, partnership, employment, or agency relationship exists between you and the Company as a result of this agreement or use of TextMe content,

product or services. A printed version of this agreement and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to this agreement to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form. Notwithstanding the foregoing, any additional terms and conditions on this site will govern the items to which they pertain. The Company may revise these T&C at any time by updating this posting.

These T&C were last updated on December 5, 2011.

Comments and suggestions

Any comments regarding this T&C should be directed to contact@go-text.me.