

VICTORYTEXT TERMS AND CONDITIONS

By making a payment and/or signing up for our service you agree to the following terms and conditions:

WITNESSETH:

WHEREAS, Victory Enterprises, Inc. provides VictoryText opt-in based text message advertising service ('Service'). Customers opt-in to the service by sending a text message with a customer specific 3-12 character long keyword to short code provided by VictoryText.

WHEREAS, an automatic confirmation message is sent to new clients when they opt-in to Service. This message will include the following opt-out part:

Opt-out: txt STOP to 41513. Help: txt HELP to 41513. Mx 7 msgs/wk. Other rates apply. For example: Get 50% off your next meal with this message at XXXXX. One time offer. Opt-out: txt STOP to 41513. Help: txt HELP to 41513. Mx 7 msgs/wk. Other rates apply.

WHEREAS, this Agreement sets forth the Standard Terms and Conditions that apply to the use of VictoryText Services.

DEFINITIONS OF TERMS USED HEREIN:

(A) 'Very Competitive Price' (fourth 'whereas' clause) will be determined by Company according to the current rate of fair market value.

ARTICLE 1: USER ELIGIBILITY

1.01 You represent and warrant that you are the person legally responsible for all use of this account, and are at least 18 years of age. You agree to provide VictoryText with your full legal name, postal address and telephone number for our records, and you have a continued obligation to keep this information current. You also agree that you are an authorized user of any credit card or check that you supply to us, and you understand and agree that we have an obligation to fully investigate any possible fraudulent online check or credit card use.

ARTICLE 2: CONTENTS OF MESSAGES

2.01 You are responsible for the contents of your text messages and the consequences thereof. You further agree not to use VictoryText to send any text messages that are not based in customer opt-in or material that are unlawful, harassing, libelous, abusive, threatening, harmful, vulgar, obscene or may otherwise constitute a criminal offense, give rise to civil liability or otherwise objectionable material of any kind or nature or that encourages conduct that could constitute a criminal offense, give rise to civil liability or otherwise violate any applicable local, state, national or international law, regulation or court order. VictoryText reserves the right to terminate your account without prior notice if VictoryText becomes aware of and determines, in its sole discretion, that you are violating any of the foregoing guidelines.

ARTICLE 3: UNLAWFUL OR PROHIBITED USE

3.01 As a condition of your use of the VictoryText Service you warrant to VictoryText that you will not use the VictoryText Service for any unlawful purpose.

ARTICLE 4: PRICING

4.01 Service and text message fees are displayed on the various product pages on VictoryText.com. All fees are payable in advance. Marketing text messages are charged separately to Customer in advance. All fees are subject to change without a warning.

ARTICLE 5: TERM

5.01 The term of this Agreement is month to month. After the initial term this Agreement will automatically renew in terms of one month unless cancelled 30 days prior the end of the ongoing term.

ARTICLE 6: TERMS OF PAYMENT

6.01 You agree to pay VictoryText the appropriate payment for the services received from VictoryText, in advance for the time period during which such services are provided. You agree to provide VictoryText with current billing and contact information and authorize VictoryText to bill all account and related charges to the credit card or online checking information on file.

(A) Cancellation. You further agree that until and unless you notify VictoryText in writing only, with delivery confirmation, of your desire to cancel any or all services received, and you complete the cancellation process, those services will be paid in full at the time of cancellation. You agree that prepayments will be billed and charged automatically, that VictoryText may apply the amount due to the provided card at any time.

6.02 Pay by Credit Card. If your credit card is denied for any reason on the first attempt, we will automatically attempt to resubmit your card on or around the 7th, 14th, 25th and last day of the month. A credit card resubmission fee of \$10.00 will be charged against the account for every time we attempt resubmission. Should the card be denied a second time, we may terminate the account, and the resubmission fees will need to be paid before the account can be reactivated. All files within the account may be deleted on termination. You may notify us in advance of your next billing cycle your desire to provide for alternative payment arrangements.

ARTICLE 7: ZERO TOLERANCE SPAM POLICY

7.01 VictoryText takes a zero tolerance stance against sending of unsolicited text messages, commonly known as spam. Any user who sends out spam will have their account terminated without notice, and will be billed at a rate of \$100.00 for each recipient to whom the message was sent, regardless of whether the messages were sent from our server, or from another server advertising our short code. All commercial text messages must comply with all applicable federal, state or local laws. VictoryText reserves the right to require changes or disable as necessary any website, account, database, or other component that does not comply with this policy, at its sole discretion. VictoryText also reserves the right to make any such modifications in an emergency at our sole discretion.

(A) VictoryText will not be liable for any damages incurred related to spam.

(B) In the event of litigation, it is the responsibility of each party to bear its own attorneys' fees and costs throughout the entire process of any proceeding in accordance with Article 17.

ARTICLE 8: MONITORING OF SERVICE

8.01 You agree that VictoryText has the right to monitor the service electronically at any time and to disclose any information as necessary to satisfy the law, or to protect itself or its subscribers. VictoryText reserves the right to refuse to post or to remove any information or materials, in whole or in part, that, in its sole discretion, are unacceptable, undesirable, or in violation of this agreement. VictoryText also reserves the right to refuse refunds in cases where VictoryText believes abuse has taken place. VictoryText reserves the right to monitor any and all communications through or with our facilities. You agree that VictoryText is not considered a 'secure communications medium' for the purposes of the ECPA, and that no expectation of privacy is afforded in the event that such service is monitored and/or disclosed.

ARTICLE 9: SHARING OF ACCOUNT SPACE & RESALE RESTRICTIONS

9.01 You represent and warrant that the account you purchase is purchased either for yourself or on behalf of a client if you are a reseller. You agree that as a reseller, you are the individual solely responsible for all use of the account. You also understand that the VictoryText short code of 41513 is shared with several clients.

ARTICLE 10: REFUND POLICY

10.01 If you are not satisfied with our service, you can email us and receive a full refund for your service plan within 30 days after you purchased the account. You will not be refunded for text message usage.

ARTICLE 11: TERMINATION

11.01 VictoryText may terminate this agreement and your access to any or all VictoryText related services at any time, with or without cause, with a 30-day notice. VictoryText shall have no responsibility to notify any third-party providers of services, merchandise, or information, nor any responsibility for any consequences resulting from such discontinuance or lack of notification. Anyone determined by VictoryText to have violated these Terms of Service may be barred from receiving any services from VictoryText without refund, as agreed in Article 10. Any outstanding amount due on the account will still be payable as scheduled.

(A) You may terminate this Agreement by e-mailing the support department at VictoryText, who will then provide you with a form that must be completed and returned before your account can be cancelled.

(B) If you should choose to terminate your account before the end of the commitment period, you accept that you will be required to pay the plan setup fee and the value of the services until the end of the ongoing term in accordance with the equivalent rates.

ARTICLE 12: RELATIONSHIP OF THE PARTIES

12.01 Nothing contained in this Agreement shall be construed as creating any agency, legal representative, partnership, or other form of joint enterprise between the parties. Neither party shall have authority to contract for or bind the other in any manner whatsoever.

ARTICLE 13: DISCLAIMER OF WARRANTIES/LIMITATION OF LIABILITY

13.01 THE VICTORYTEXT SERVICE PROVIDED IS PROVIDED ON AN 'AS IS,' 'AS AVAILABLE' BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. VICTORYTEXT EXPRESSLY DISCLAIMS ANY REPRESENTATION OR WARRANTY THAT THE VICTORYTEXT SERVICE WILL BE ERROR-FREE, TIMELY, SECURE OR UNINTERRUPTED. NO ORAL ADVICE OR WRITTEN INFORMATION GIVEN BY VICTORYTEXT, ITS EMPLOYEES, LICENSORS OR AGENTS WILL CREATE A WARRANTY; NOR MAY YOU RELY ON ANY SUCH INFORMATION OR ADVICE.

13.02 UNDER NO CIRCUMSTANCES WILL VICTORYTEXT, OR ITS AFFILIATES BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES THAT RESULT FROM THE USE OF OR INABILITY TO USE THE VICTORYTEXT SERVICE, INCLUDING BUT NOT LIMITED TO RELIANCE ON ANY INFORMATION OBTAINED ON THE VICTORYTEXT SERVICE; OR THAT RESULT FROM MISTAKES, OMISSIONS, INTERRUPTIONS, DELETION OF FILES OR E-MAIL, LOSS OF OR DAMAGE TO DATA, ERRORS, DEFECTS, VIRUSES, DELAYS IN OPERATION OR TRANSMISSION, OR ANY FAILURE OF PERFORMANCE, WHETHER OR NOT LIMITED TO ACTS OF GOD, COMMUNICATION FAILURE, THEFT, DESTRUCTION OR UNAUTHORIZED ACCESS TO VICTORYTEXT RECORDS, PROGRAMS OR SERVICES. YOU HEREBY ACKNOWLEDGE THAT THIS PROVISION WILL APPLY WHETHER OR NOT VICTORYTEXT IS GIVEN NOTICE OF THE POSSIBILITY OF SUCH DAMAGES AND THAT THIS PROVISION WILL APPLY TO ALL SERVICES AVAILABLE FROM VICTORYTEXT AND ITS AFFILIATES.

13.03 UNDER NO CIRCUMSTANCES, UNDER THE TERMS OF THIS AGREEMENT, SHALL DAMAGES INCLUDE LOSS OF BUSINESS, OR LOSS OF PROFITS, WHETHER BASED ON BREACH OF AGREEMENT, BREACH OF WARRANTY, PRODUCT LIABILITY, OR OTHERWISE, TO ANY PARTY IN PRIVY TO THIS AGREEMENT, OR ANY THIRD PARTY NOT SO SITUATED.

13.04 THE TERMS OF THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT FOR WHATEVER REASON.

ARTICLE 14: FORCE MAJEURE

14.01 If by reason of failures of telecommunications or internet service providers, labor disputes, riots, inability to obtain labor or materials, earthquake, fire or other action of the elements, accidents, governmental restrictions or other causes beyond the control of VictoryText, VictoryText is unable to perform in whole or in part its obligations as set forth in this Agreement, then VictoryText shall be relieved of those obligations to the extent it is so unable to perform and such inability to perform shall not make VictoryText liable to the Customer or other third parties.

ARTICLE 15: GOVERNING LAW

15.01 Iowa law shall govern this Agreement, and any dispute arising from the relationship between the parties to this Agreement, excluding any laws that direct the application of another jurisdiction's laws. In any litigation, or other proceeding by which one party either seeks to enforce its rights under this Agreement (whether in contract, tort, or both), or seeks a declaration of any rights or obligations under this Agreement, each party shall be responsible for their respective attorneys' fees and costs, as stated in Article 16. The parties consent to the exclusive jurisdiction and venue of the courts of the State of Iowa or to any Federal Court located within the State of Iowa.

ARTICLE 16: ATTORNEYS' FEES AND COSTS

16.01 Any legal controversy or legal claim arising out of or relating to this Agreement or our services, which results in litigation, shall result in each party being solely responsible for its respective attorneys' fees and costs throughout the entire process of any and all proceedings.

ARTICLE 17: SEVERABILITY AND SURVIVABILITY

17.01 Severability. If any provisions of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid or enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.

17.02 Survivability. The terms of this Agreement apply to those obligations that survive any cancellation, termination, or rescission, namely - warranty, indemnification, liability and limits thereon, rights and obligations upon and following termination and assignment.

ARTICLE 18: INDEMNIFICATION

18.01 You agree to defend, indemnify and hold harmless VictoryText against any and all claims, losses, penalties, causes of action, damages, liability, costs, expenses (including but not limited to attorneys' fees and costs) or claims caused by or resulting indirectly from your use of the service, without limitation or exception, including your violation of any third-party's rights, (including, without limitation, infringement of any copy right trademark, service mark, trade secrets, right of privacy or publicity or any other third party right). The terms of this section shall survive the termination of your relationship with VictoryText

ARTICLE 19: REMEDY

19.01 Customer agrees that his/her/its sole and exclusive remedy to any issues relating to the VictoryText. Service is to discontinue using the Service.

ARTICLE 20: ASSIGNMENT

20.01 In the event of a merger or consolidation of either party, the surviving or new entity and any subsidiaries are similarly subject to the rights and obligations of this Agreement.

ARTICLE 21: ENTIRE AGREEMENT

21.01 This Agreement constitutes the complete and exclusive statement of the Agreement

between the parties regarding the products and services provided hereunder, and supercedes any prior Agreements between the parties with respect thereto.

ARTICLE 22: WAIVER

22.01 The failure of VictoryText to enforce a provision of this Agreement shall not be construed as a waiver or limitation of VictoryText's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

ARTICLE 23: MODIFICATION OF TERMS

23.01 VictoryText reserves the right to modify this policy at any time and without advance notice, effective upon making the modified provisions available on the VictoryText Website. You are responsible for regularly reviewing these documents. Continued use of the VictoryText Services after any such changes shall constitute your consent to such changes. VictoryText does not and will not assume any obligation to notify you of any changes to the Terms of Service.