

## APPOINTMENTS BOOK SMS 25 PLAN

The SMS25 plan provides your organisation with the first 125 messages each month.

### Acceptance of Terms and Conditions

I, \_\_\_\_\_ (print name), accept on behalf of the company or organisation listed below, the legal terms and conditions of this **messagemedia** Service Agreement.

<b>Company Name:</b>		<b>Date:</b>	
<b>Company Postal Address:</b>			
	<b>Post Code</b>		
<b>ABN:</b>		<b>Contact Number:</b>	
<b>Billing Contact Person and Position:</b>		<b>Facsimile Number:</b>	
<b>Email Address:</b>			

<b>Payment Method* (Circle)</b>	<b>Credit Card</b>	<b>Cheque</b>	<b>Electronic Funds Transfer</b>
<b>Credit Card Type:</b>		<b>Credit Card Expiry Date:</b>	/
<b>Credit Card Number:</b>	/	/	/
<b>Name of Cardholder:</b>			
<b>Signature of Cardholder:</b>			

<b>Customer Name:</b>		<b>Position</b>	
<b>Customer Signature:</b>		<b>Date:</b>	

\* Please note section 2.5 of application.

## **1. Introduction**

- 1.1. The parties to this legal agreement shall be: **messagemedia** and The Customer.
- 1.2. **messagemedia** Pty Ltd ("**messagemedia**") offers to provide you ("**The Customer**") with a **multiple license** for SMS messaging services subject to the following Terms and Conditions.

## **2. Fees and Charges (prices are exclusive of GST)**

- 2.1. **messagemedia** fees are as follows:
- 2.2. The account activation fee and license fee is \$49.00 (one off charge)
- 2.3. Access Fee: \$25 paid monthly in advance – includes \$25 worth of messages
- 2.4. Message Prices:
  - First 1,000 messages sent each month are 20 cents each
  - Messaging between 1,001 and 5,000 is charged 18.2 cents each.
  - Messaging between 5,001 and 25,000 is charged 16.6 cents each.
  - Messaging between 25,001 and 50,000 is charged 15.5 cents each.
  - Messaging 50,000+ is charged 14.9 cents each.
  - Delivery Reports (if activated) 10 cents each
- 2.5. **messagemedia** will invoice the Customer on a calendar month basis, and the Customer agrees that payment will be made within fourteen (14) days of invoice date, by either:
  - 2.5.1. Direct debit to credit card of customer (please complete page 1 of application)
  - 2.5.2. Payment method through Amex or Diner's Club is supported but will incur an additional 2% surcharge due to high processing costs.
  - 2.5.3. Cheque / direct transfer (additional \$5 monthly fee applies).
- 2.6. The Customer agrees that **messagemedia**'s records of usage are conclusive evidence of the Customer's order for, and use of the SMS Messaging Service. The Customer agrees to pay for every message sent using **messagemedia**'s SMS messaging service irrespective of receipt.
- 2.7. **messagemedia** may terminate access to the SMS Messaging Service without notice if any payment due from the Customer remains unpaid for a period of seven (7) days after the due date.
- 2.8. The Customer is liable for all reasonable expenses (including contingent expenses such as debt collection commission) and legal costs incurred by **messagemedia** for enforcement of obligations and recovery of moneys due from the Customer under these Terms and Conditions.
- 2.9. The Customer may cancel this contract by providing a month's notice in writing to **messagemedia**.

## **3. Service Conditions and Guarantees**

- 3.1. **messagemedia** shall keep confidential any information sent by the Customer using **messagemedia**® and **messagemedia**'s SMS Messaging Service (unless **messagemedia** is otherwise required by law to disclose such information)
- 3.2. The customer does not prevent **messagemedia** from disclosing the existence of this agreement for the purposes of marketing **messagemedia** to current and future clients.

## **4. Customer Obligations**

- 4.1. The Customer agrees to comply with any instructions concerning access to and/or use of **messagemedia**'s SMS Messaging Service that **messagemedia** may give from time to time and agrees not to do anything that may jeopardise the security or integrity of any part of **messagemedia**'s systems or platforms.
- 4.2. The Customer accepts responsibility for all aspects of their Account, including the actions of all persons in possession of the Customer's username and password.
- 4.3. The Customer indemnifies **messagemedia** from all costs, liabilities, suits, actions or claims arising or in any other way connected with the Customer's use of their **messagemedia** account, or any other person using the Customer's username and password.

- 4.4. The Customer agrees not to transmit any information or material that violates State or Federal law, or transmit any material that is in contravention to any privacy or copyright rules or any other proprietary interest.
- 4.5. The Customer agrees not to use or seek to use the Service for publishing, reproducing or advertising any message, information, symbol or other communication which is offensive or abusive or of an indecent, obscene or menacing character or for the purpose of causing annoyance, inconvenience or needless anxiety to any person, or for any unlawful purpose.
- 4.7. In accordance with the Australian Communications Industry Forum (ACIF) Industry code and the Australian SPAM Act 2003, the Customer agrees that they will not send marketing messages to any person unless:
  - the recipient has first consented to receiving the marketing message and
  - the recipient has been provided with a means to opt-out of receiving the marketing message and
  - the source of the marketing message is clear.

## **5. Property Rights**

- 5.1. The Customer agrees that **messagemedia's** software is protected by copyright and trademark and remains the property of **messagemedia** and may not be copied without prior consent in writing from **messagemedia**.
- 5.2. **messagemedia** will withdraw all SMS Messaging Services should it have reason to believe that the customer has been, or has been attempting to undermine the property rights of **messagemedia**.

## **6. Disclaimer**

- 6.1. **messagemedia** (including their affiliates, directors, officers, employees, agents, contractors, successors or assignees) will not be liable for any loss or damage caused to the Customer or anyone else howsoever arising as a result of using **messagemedia's** SMS Messaging Service. This includes but is not limited to loss or damage caused by loss or delay of message content or any loss caused by the negligence of **messagemedia**, their employees or contractors.
- 6.2. **messagemedia** does not warrant that its SMS Messaging Service will be error-free or uninterrupted, or that transmission will be instantaneous.
- 6.3. The Customer acknowledges that there has been no reliance by it on **messagemedia's** skill or judgement or written or oral representations in deciding whether **messagemedia's** SMS Messaging Service are fit for a particular purposes or meet particular criteria.
- 6.4. The Customer acknowledges that the internet is not an inherently secure system and undertakes responsibility for the protection of its information and data.
- 6.5. The Customer acknowledges that the internet may contain viruses (including other destructive programs) which may, if not eliminated, destroy parts or all of the data contained within its system, and that **messagemedia** has no control over these viruses.
- 6.6. **messagemedia** does not provide any filtering or checking of data to eliminate these viruses, and the Customer agrees to provide its own mechanism for checking its system for viruses, and to hold **messagemedia** harmless from any damage caused by viruses obtained through the Service.

## **7. Termination**

- 7.1. **messagemedia** may terminate the Customer's Account if it believes that any of these Terms and Conditions have been breached.

## **8. Legal Construction**

- 8.1. These Terms shall be governed and interpreted according to the laws of Victoria.
- 8.2. In the event that any provision of these Terms and Conditions proves to be illegal or unenforceable that provision is deemed to be omitted from this Agreement without affecting the legality of the remaining provisions. The remaining provisions of the Terms and Conditions shall continue in full force and effect.