

GENERAL TERMS AND CONDITIONS 1 OCTOBER 2013

[Contact](#)

The following General Terms and Conditions (hereinafter referred to as "General Terms") and the [Specific Terms and Conditions](#) (hereinafter referred to as "Specific Terms"), hereinafter together referred to as "General and Specific Terms", constitute a legal agreement and are applicable to the content and Services supplied via Short Messaging Service (hereafter referred to as "SMS service") as well as to the services supplied via the internet, this website or a wapsite ("the Sites") and/or via other means of mobile content delivery by the [Provider](#) or its affiliates (hereafter referred to as "Provider", "we", "us", "our"), unless otherwise agreed in writing. PLEASE SEE THE [SPECIFIC TERMS AND CONDITIONS THAT APPLY FOR YOUR COUNTRY HERE](#). Both uses of the SMS service and of the internet (including the use of the Sites) are collectively referred to as the "Service" or "Services". Provider is permitted to amend these General and Specific Terms at any time. Therefore, read these pages regularly. In the event of use or consumption of certain content and Services, in addition to the General and Specific Terms any rules of play, rules of contest, sales promotion conditions, guidelines or provisions applying to these content and Services and made known beforehand will also apply (hereafter referred to as "Additional Provisions"). The Additional Provisions are considered as inserted here and are an integral part of these General Terms. In case of any discrepancy between these General Terms and the Additional Provisions, the latter shall prevail. These General Terms also incorporate and include Provider's [Privacy Policy](#) and Copyright Policy. In the free welcome message from Provider you will find the URL (Uniform Resource Locator) of the Sites on which the General and Specific Terms have been posted. You and/or the bill payer accept that they have been given an opportunity to read and accept the General and Specific Terms before using the Service. **ACCEPTANCE OF THE SMS CONTENT AND SERVICES AND USE OF THE SITES CONSTITUTE ACCEPTANCE OF THESE GENERAL AND SPECIFIC TERMS, THE COPYRIGHT POLICY AND THE PRIVACY POLICY.** If you do not agree, do not use the content and Services.

1. DESCRIPTION OF THE PROVIDER

By means of the Services, Provider supplies its users access to a network of on-line and wireless applications, including, but not limited to news or information, e-mail, chat services, jokes, horoscopes, games, ring tones, wallpapers, fun sounds, real tones and videos. The Service may also include access to content and Services of independent third parties. The General and Specific Terms and Additional Provisions are also applicable to any expansion or improvement of the present Services. The Service (or any part thereof) can be amended at any time temporarily or permanently or terminated by Provider. You agree that Provider is not liable towards a third party or you as user if the Service is amended, terminated or suspended.

2. ACCESS TO THE SERVICE, AVAILABILITY AND AGE RESTRICTION; YOUR RESPONSIBILITIES

In order to use the Service you (1) must at least have reached the age as described in the [Specific Terms](#) and authorized wireless account holder and/or have bill payer's permission to sign-up for and use the service on his behalf and (2) agree on behalf of the bill payer and yourself to be bound by these General and Specific Terms. When you sign-up for and/or use the Service you acknowledge and confirm that you have read and accepted the General and Specific Terms and that you comply with the terms that apply in your situation, as specified above. The Service is provided "as is" and "as available" at the time of use or consumption and Provider does not accept any liability or provide any guarantees if personal settings, information or messages are not saved (on time), are deleted or incorrectly delivered. In order to use the SMS service you must have the necessary mobile communication means. Some wireless applications are only available for a select number of mobile phones. This is an issue with the handset manufacturers, hence out of the control of Provider. In addition, **YOU MUST HAVE A MOBILE COMMUNICATIONS SUBSCRIPTION WITH A PARTICIPATING CARRIER OR OTHERWISE HAVE ACCESS TO A MOBILE COMMUNICATIONS NETWORK FOR WHICH PROVIDER MAKES THE SERVICE AVAILABLE AS WELL AS ANY CARRIER SERVICES NECESSARY TO DOWNLOAD CONTENT, AND PAY ANY (CARRIER) SERVICE FEES ASSOCIATED WITH ANY SUCH ACCESS. YOU MUST HAVE A WORKING INTERNET CONNECTION INSTALLED ON YOUR MOBILE PHONE (WAP, GPRS). FOR INSTRUCTIONS, PLEASE CHECK YOUR CARRIER'S WEBSITE.** You are responsible for making sure that you have the devices needed to effect the connection, including a mobile telephone or personal computer or any other devices that may be necessary. You are responsible for ensuring that your equipment and/or software do not disturb or interfere with Provider's operations. Any equipment or software causing interference shall be immediately disconnected from the Service and Provider shall have the right to immediately terminate or suspend the Service. If any upgrade in or to the Service requires changes in your equipment or software, you must effect these changes at your own expense. Access to the Service can be provided by delivering to you downloadable content of the category you subscribed to (e.g. by delivering a wallpaper) or by enabling you to download the content (e.g. by delivering a wap-push link or a PIN for download of the content on dedicated Sites or by providing access to the content (e.g. by enabling MSISDN (mobile station intergrated services digital network number) for the content). The fees shall become due irrespective of whether or not you actually download any content; the consideration for the fees shall solely be the provision of the right to download, receive and/or access downloadable mobile (entertainment) content.

3. FEES

For the SMS service you must be registered as an account holder and charges of the SMS service will be billed on your wireless phone bill or deducted from your balance. Separate wireless provider text message fees apply. In the free welcome message from Provider you will find information about the fees to be paid to Provider and the frequency of the Service. All fees, including fees for existing subscription contracts, are subject to change upon notice from Provider. Provider will provide you with reasonable notice of such change. If you do not accept the new fees (which will be applicable on a prospective basis only), you may cancel your subscription and/or your account effective immediately upon termination. In the event of invoices from a third party the payment conditions of this third party will apply to these invoices. You will pay or reimburse to Provider all national and local or other taxes (excluding taxes based on the net profit of Provider) including but not limited to sales transaction taxes, occupancy-related property tax and tax on games of chance or any levies imposed in lieu thereof, which taxes are based on the costs due for the use of the Service, regardless of whether those taxes are levied either now or in the future by international, European, national or local authorities or by any other body or bodies authorised to levy taxes.

4. CODE OF CONDUCT

You agree to use the Service in accordance with the following Code of Conduct: a. you will keep all information provided to you through the Service as private and confidential and will not give such information to anyone without the permission of Provider or the person who provided it to you; b. you will not use the Service to engage in any form of harassment or offensive behaviour, including but not limited to the posting of communications, pictures or recordings which contain libellous, slanderous, abusive or defamatory statements, or racist, pornographic, obscene, or offensive language or images; c. you will not use the Service to infringe the privacy rights, property rights, or any other rights of Provider or any person; d. you will not post messages, pictures or recordings or use the Service in any way which violates, plagiarizes or infringes upon the rights of Provider or any third party, including but not limited to any copyright or privacy or other personal or proprietary rights, or is fraudulent or otherwise unlawful or violates any law; e. you will not use the Service to promote any solicitation for funds, advertising or solicitation for goods or services; f. you will not post or transmit in any manner any contact information including, but not limited to, telephone numbers, postal addresses, e-mail addresses, web sites, or full names through your publicly posted information; g. you will not reproduce, copy, sell, resell or use the Service, in whole or in part; and h. you will not use the Service for commercial purposes; i. you will not use the Service to send unsolicited e-mail messages, including, without limitation, bulk commercial advertising or informational announcements ("Spam"). In addition, you will not use the Service to (a) send e-mail messages which are excessive and/or intended to harass or annoy others, (b) continue to send e-mail messages to Provider or a recipient that has indicated that it/he/she does not wish to receive them, (c) send e-mail with deceptive or misleading header information, (d) send malicious e-mail, including, without limitation, "mailbombing", or (e) send or receive e-mail messages in a manner that violates the use policies of any internet service provider; j. Provider, at its sole discretion, reserves the right to terminate or suspend your use of the Service for any violation of these prohibitions.

5. REGISTRATION OBLIGATION

In order to guarantee safe use of the Service, as well as payment of the applicable fees, you will guarantee that at all times: (a) the personal information (hereinafter to be referred to as the "Registered Information") provided on the registration form is correct and complete. If Provider, in its sole discretion, believes that the Registered Information is not accurate or complete, Provider is entitled to suspend or terminate your account and to withhold both current and future use of the Service, or any component of it. You are responsible for maintaining the secrecy of any passwords and/or accounts issued to you by Provider, and you are fully liable for all actions carried out involving the use of your password or account. You undertake at the end of each session to close your account (by closing your browser) and to contact Provider if you notice or suspect that unauthorized use has been made of your password or account, or that security or protection of the Registered Information is no longer guaranteed for any other reason. Provider may provide you with access to some Services without you registering as a user, such as sign-up via your mobile phone for the SMS service. In each such case your identification is based on means of identification that we deem appropriate, such as your mobile telephone number. In each case you will receive a free welcome message from Provider. We ask you to check and store this message on your mobile phone.

6. PRIVACY POLICY AND PROCESSING DATA

Provider attaches great value to the privacy of its users. To this end we have drawn up a separate [Privacy Policy](#) which is an integral part of the General and Specific Terms and Additional Provisions of Provider. You acknowledge that Provider may collect and process "personal information", "financial information" or "demographic and usage information" ("the Information",) in connection with the Service. We may pass on the Information to your carrier and/or gateway service provider to secure collection of fees and such Information collected by Provider may be stored and processed in the country in which Provider or its agents maintain facilities. By using the Service, you consent to any such transfer of Information outside of your country. By using the Service of the Provider you agree to this [Privacy Policy](#), the [Copyright Policy](#) and the General and Specific Terms. If you cannot agree to this, then please do not use our Service. We reserve the right to amend, extend or limit this [Privacy Policy](#), the [Copyright Policy](#) and the General and Specific Terms at any time. Unless explicitly determined otherwise, the General and Specific Terms, the [Copyright Policy](#) and the [Privacy Policy](#) apply to all existing and new applications with which the current Service is extended or improved. Therefore, read these pages regularly.

7. INDEMNIFICATION

You agree to indemnify, defend and hold harmless Provider and its parents, members, subsidiaries, affiliates, service providers, contractors, agents, licensors, officers, directors, shareholders, and employees from and against any and all claims, lawsuits, demands, actions or other proceedings brought against it by any third party due to, arising out of or related to your (i) use of the Service, the content, the downloads, Software and Sites, including without limitation, your downloads from the Site, (ii) violation of these General and Specific Terms or (iii) violation of any law, regulation or third party rights. You shall pay any and all costs, damages and expenses, including, without limitation, reasonable attorneys' fees and costs awarded against or otherwise incurred by Provider in connection with or arising from any such claim, lawsuit, action, demand or other proceeding.

8. USE, STORAGE, MONITORING AND REMOVAL OF INFORMATION

We reserve the right to monitor all advertisements, text messages, public postings and messages to ensure that they conform to the content guidelines which may be applicable from time to time. While we do not and cannot review every message sent by users of the Service, and are not responsible for any content of these messages, we reserve the right, but are not obligated, to delete or move content including without limitation profiles, public postings and (text) messages, that we, in our sole discretion, deem to violate these General and Specific Terms or any applicable content guidelines, or to be otherwise unacceptable. You shall remain solely responsible for the content of profiles, public postings and (text) messages you may record to the Service or send to other users of the Service. If you think a posting on the Site(s) infringes on your copyright, please see our [Copyright Policy](#) here. All text messages are screened and explicit adult content will be removed, unless otherwise stated. Inappropriate users will be prohibited from participation. Provider is entitled to close accounts which have not been active for a long period of time. You agree that Provider is not liable or responsible if data delivered or sent by or through the Service is not saved or erroneously deleted.

9. CANCELLATION AND TERMINATION

Provider allows the user the possibility to interrupt the flow of information received via the SMS service. We offer you information on the Sites that correspond with the Service and/or via the SMS service. Also, in the free welcome message from Provider you will find information on how to cancel the Service. Generally, information received via the SMS service can be interrupted by sending an SMS message starting with the keyword, i.e. your entry code, followed by a space and then the word STOP, or such other data as may be designated on the Sites. You can send this message to the abbreviated number (the short code) you used for entry. For example you can send the message ZOO STOP (to stop the ZOO service) to the applicable short code and cancellation shall become effective immediately upon receipt of termination request. See for more details the [Specific Terms](#), the landing page of the Site and/or click the flag for your country. In addition, an e-mail can be sent to the mail address, as communicated to you on the Sites and/or through our Services or the telephone number, as described in the [Specific Terms](#), can be called. In this case, cancellation shall become effective within 48 hours upon receipt of termination request. Charges may still appear on your mobile phone bill the following month as carriers bill retrospectively. At its own discretion, Provider may, without prior notice to you, suspend or terminate use of the Service by you and destroy and remove Registered Information within the Service for any reason. You agree that Provider may erase or deactivate your account and all information connected with it as well as any lists or files contained by it without delay, and/or deny you further access to the Service.

10. TRANSACTIONS WITH ADVERTISERS AND/OR SPONSORS

We may use advertisers and promoters to help offset the costs of our Services. As a condition to using these Services, you agree that we may display advertisements and other promotions on our Sites and deliver advertisements and promotions by the SMS service or otherwise in connection with our Services. You also agree that you will not attempt to block or otherwise interfere with such advertisements or promotions. **SOME JURISDICTIONS DO NOT ALLOW US TO SEND TEXT MESSAGES ADVERTISEMENTS WITHOUT YOUR EXPRESS CONSENT, SO THE FOREGOING MAY NOT APPLY TO YOU.** We will not share your personal details with third parties without your consent. The inclusion of any advertising or promotion on our Sites or in our Services does not constitute any endorsement by Provider of such content, product, service or company. We try to ensure that any advertisements or promotion is appropriate for our users. You have a right to ask us at anytime not to contact you by way of direct marketing. Provider shall not be a party to, or in any way responsible for, any transaction concerning products or services made available from such third parties or for any content or information presented in connection with any products or services of third parties. You agree that provider is not liable for any damage of any nature whatever that may be the result of such transactions.

11. INTELLECTUAL PROPERTY RIGHTS

You are aware and agree that the content and software used in connection with the Service, hereinafter to be referred to as the Software, contain confidential information that is protected by valid and applicable intellectual property rights. Except as otherwise set forth herein, all right, title and interest in and to any intellectual property, proprietary rights or other rights related to intangible property which are used, developed, comprising, embodied in, or practiced in connection with any of the Service ("Intellectual Property Rights") are owned by Provider or its licensors, and you agree to make no claim of interest in or ownership of any such Intellectual Property Rights. You acknowledge that no title to the Intellectual Property Rights is transferred to you, and that you do not obtain any rights, express or implied, in the Service, other than the rights expressly granted in these General and Specific Terms. "Intellectual Property Rights" means any and all rights under patent law, copyright law, trade secret law, trademark law, and any and all other proprietary rights, and any and all applications, renewals, extensions and restorations thereof, now or hereafter in force and effect worldwide. You acknowledge that all marks that appear throughout the Software and Sites belong to Provider, or the respective owners of such marks, and are protected by domestic and international trademark and copyright laws. Any use of any of the marks appearing throughout the Software and Sites without the express written consent of Provider or the owner of the mark, as appropriate, is strictly prohibited. "Blinkc" is a trademark of Provider. Further you are aware of and agree that data in advertisements from advertisers and/or sponsors or information provided to you via the Service is subject to copyright, trademarks, brand names, patents or other property rights and laws. You guarantee that you will not amend, rent, rent out, lend, lease, borrow, loan, sell, distribute, create or generate content or products partially or entirely derived from the Service or the Software except in the event that Provider has given you explicit written permission to do so. Provider hereby grants you, and you hereby accept, a personal, limited, non-transferable, non-exclusive, revocable and non-assignable license and permission to install the Software and download the content, to use the working code of its Software to use the Service on a designated compatible mobile device solely for your own personal non-commercial use and to use the Software and the Sites solely in accordance with these General and Specific Terms, as long as you do not copy, alter or amend any Software, source codes or content, reproduce, modify, perform, transfer, distribute, sell, resell, create a derived product or content from those, reverse engineer or reverse assembly those, or otherwise attempt to find a source code (nor allow third parties to do so), use or make available the Software and content except as expressly provided in these General and Specific Terms and provided you do not sell any rights related to the content, the Software and the Intellectual Property Rights, code those, issue sub-licences for those, encumber those with security rights or otherwise transfer those. You guarantee that you will not amend the content, the Software and Intellectual Property Rights in any way or use amended versions of the Software and Intellectual Property Rights, including (but not limited to) in order to gain unauthorised access to the Service. You guarantee that you will only use the interface provided by the Provider in order to access the Service. Provider herewith grants permission to make only one copy of the Information on the equipment you use for gaining access to the Service and to use and display the copy of the Registered Information made on that equipment for private purposes.

12. NO WARRANTY

PROVIDER, ITS DIRECTORS, OFFICERS, EMPLOYEES, SUPPLIERS AND AGENTS (THE "PROVIDER PARTIES") DISCLAIM ANY RESPONSIBILITY FOR ANY HARM RESULTING FROM YOUR USE OF THE SERVICE, THE CONTENT, THIS SOFTWARE AND SITES. YOU EXPRESSLY UNDERSTAND AND AGREE THAT:

- THE SERVICE, THE CONTENT, THE SOFTWARE AND SITES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITH NO WARRANTIES WHATSOEVER. THE PROVIDER PARTIES EXPRESSLY DISCLAIM TO THE FULLEST EXTENT PERMITTED BY LAW ALL WARRANTIES, EITHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE SERVICE, THE CONTENT, SOFTWARE AND SITES, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT OF PROPRIETARY RIGHTS;
- THE PROVIDER PARTIES DISCLAIM ANY WARRANTIES REGARDING THE SECURITY, RELIABILITY, TIMELINESS, AND PERFORMANCE OF THE SERVICE, THE CONTENT, SOFTWARE AND SITES. THE PROVIDER PARTIES DO NOT WARRANT THAT THE SERVICE, THE CONTENT, SOFTWARE AND SITES WILL MEET YOUR REQUIREMENTS OR THAT THE OPERATION OF THE SERVICE, THE CONTENT, THE SOFTWARE AND SITES WILL BE UNINTERRUPTED AND ERROR FREE;
- NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM US OR THROUGH OUR SERVICES SHALL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN. YOU MAY NOT RELY ON ANY SUCH INFORMATION OR ADVICE;
- YOU UNDERSTAND AND AGREE THAT YOU DOWNLOAD AND/OR USE THE SERVICE THE CONTENT, SOFTWARE AND SITES AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGES TO YOUR COMPUTER SYSTEM, MOBILE PHONE OR LOSS OF DATA THAT RESULT FROM THE DOWNLOAD OR USE OF THE CONTENT, THIS SOFTWARE AND SITES;
- WITH REGARD TO THE CHAT SERVICES: THE MOBILE CONTENT SERVICE, I.E. SMS SERVICES, ARE FOR ENTERTAINMENT PURPOSES ONLY; IMAGES OF PERSONS SHOWN ON TELEVISION, ON THE SITES AND/OR ON MOBILE TELEPHONES ARE FOR ILLUSTRATIVE PURPOSES ONLY. THESE ARE NOT THE ACTUAL PEOPLE THAT PROVIDE THE SERVICES TO YOU.

13. LIMITATION OF LIABILITY

UNDER NO CIRCUMSTANCES, INCLUDING NEGLIGENCE, SHALL THE PROVIDER PARTIES BE LIABLE TO YOU OR A THIRD PARTY FOR ANY DAMAGES, INCLUDING, WITHOUT LIMITATION, DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, THIRD PARTY OR CONSEQUENTIAL (INCLUDING DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION AND THE LIKE) ARISING OUT OF YOUR USE, MISUSE OR INABILITY TO USE THE SERVICE, THE CONTENT, SOFTWARE AND SITES, EVEN IF PROVIDER'S AUTHORIZED REPRESENTATIVE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES (INCLUDING DAMAGES INCURRED BY THIRD PARTIES). SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE FOREGOING LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU. IN NO EVENT SHALL THE PROVIDER PARTIES' TOTAL LIABILITY TO YOU FOR ALL DAMAGES, LOSSES AND CAUSES OF ACTION (WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE) EXCEED THE AMOUNT PAID BY YOU TO REGISTER FOR THE SERVICE, THE CONTENT, THE SOFTWARE AND SITES.

14. GENERAL INFORMATION

These General and Specific Terms replace all previous agreements between you and Provider. If you use additional services, material or software from third parties, additional general terms and conditions may be applicable to you. National laws from your country or state of residence are applicable to the relationship between you and Provider, regardless of provisions of applicable international law. You and Provider hereby waive any right to jury trial with respect to any action brought in connection with these General and Specific Terms. The application of the United Nations Convention of Contracts for the International Sale of Goods is expressly excluded. Disputes will be submitted to final and binding arbitration under the rules of the arbitration association in your country. Any failure by Provider to exercise or invoke certain rights or stipulations laid down in these General and Specific Terms in no way constitutes a waiver or renunciation of those rights or stipulations. In the event any provision of these General and Specific Terms is determined to be invalid or unenforceable by a court of competent jurisdiction or appointed arbitrator, such determination shall in no way affect the validity or enforceability of Service

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