



Terms of Service & Use
Effective May 1, 2021

Welcome to FlexText! We make it easy for you to connect with your audience via our broad array of products and features. Be sure to give these Terms of Service & Use a thorough read, as they are a binding agreement between you, us, and any company you represent or identify as a user when you create an account. Depending on where your company and users are located (plus other factors), strict laws may apply that dictate what kind of messages you are allowed to send, whether and how recipients need to consent before you contact them, and more. We think it's smart to get professional legal advice before communicating with your audience using our services. As we detail below, you bear full responsibility for making sure you are in compliance with all applicable laws regarding the use of our services. Our overall goal is your complete satisfaction. Please contact us at (888)905-6311 or support4text@flexipsolutions.com if we can enhance your experience in any way. Cheers and happy messaging!
The Flex TextTeam

Flex Text provides its Services subject to the terms and conditions in this Terms of Service & Use ("Terms" or "Agreement"). "Services" includes our website, any Flex Text Application Program Interfaces ("API"), our software applications and related tools and technologies ("FlexIP Solutions, Inc Tools").

THE TERMS OF USE INCLUDE A CLASS ACTION WAIVER AND A WAIVER OF JURY TRIALS. IN SOME JURISDICTIONS, SUCH WAIVERS MAY BE UNENFORCEABLE. IN SUCH EVENT, THIS CLAUSE WILL HAVE NO LEGAL EFFECT, BUT THE REMAINING PROVISIONS SHALL SURVIVE.

To be eligible to register for a Flex Text Account and use FlexIP Solutions, Inc's Services, you must review and accept the terms of this Agreement by (i) visiting, reviewing, using or accessing the Flex Text website; (ii) clicking on the "I Accept" button or other mechanism provided or (iii) signing or confirming an Order Form or other agreement incorporating these terms. For purposes of this Agreement, an "Order Form" refers to the document for placing orders for access to and use of the Services and agreed to by you either in writing or by electronic acceptance submission. If you subscribe via FlexIP Solutions, Inc's online checkout, then the checkout form submitted by you and accepted by Flex Text constitutes the Order Form for purposes of this Agreement. By entering into an Order Form, you agree to be bound by these Terms and the Order Form.

PLEASE REVIEW THESE TERMS CAREFULLY AS WELL AS OUR ACCEPTABLE USE POLICY (found below) AND OUR PRIVACY POLICY (<https://www.flexipsolutions.com/legal/>). ONCE ACCEPTED, THESE TERMS BECOME A BINDING LEGAL COMMITMENT BETWEEN YOU AND FlexIP Solutions, Inc. IF YOU DO NOT AGREE TO BE BOUND BY THESE TERMS, YOU MAY NOT ACCESS OR USE FLEXIP SOLUTIONS, INC'S SERVICES.

In this Agreement, "we," "us," "our" or "FlexText" will refer to FlexIP Solutions, Inc, 150 River Rd Bldg I-1 Montville, NJ 07045 and, the terms "you," "your" and "Customer" will refer to you. If you are registering for a Flex Text Account or using FlexIP Solutions, Inc's Services on behalf of an organization, you are agreeing to these terms for that organization and representing to Flex Text that you have the authority to bind that organization to these Terms (and, in which case, the terms "you" and "your" or "Customer" will refer to that organization).

Your use of, and participation in certain Services may be subject to additional terms ("Supplemental Terms") and such Supplemental Terms. will be presented to you for your signature. If any of these Terms conflict with the Supplemental Terms, the Supplemental Terms will control with respect to such conflict.

The Services and all associated proprietary information and materials (collectively, the “Company Properties”) are protected by intellectual property laws of the United States and throughout the world. Company Properties are licensed, not sold.

1. Changes to These Terms.

THE TERMS ARE SUBJECT TO CHANGE BY FLEXIP SOLUTIONS, INC IN ITS SOLE DISCRETION AT ANY TIME. We will take reasonable steps to notify you of any material changes or modifications to these Terms by way of prominent notice on our website or the software application or by email, but you agree to review the website periodically to be aware of any changes or modifications. Your continued use of the Services will be deemed your conclusive acceptance of such changes or modifications. TO ENSURE YOU HAVE THE MOST CURRENT VERSION OF THESE TERMS, PLEASE REGULARLY CHECK THE WEBSITE.

2. Changes to Our Services.

We are always looking to innovate and make Flex Text services better. As a result, Company may at any time, without notice or liability, update the Services and Company Properties. Such updates may require you to update third-party software (e.g. your device’s operating system) from time to time in order to continue to use the Services and Company Properties.

3. Your Account(s).

In order to access and use the Company Properties, you are required to become a registered User. For purposes of the Terms, a “User” is a user of the Services who has registered an account with Company (“Account”).

As part of the Account creation process, you’ll be asked to provide your email address, a telephone number and create a password. For certain Services, we may also require your physical address. You must provide true, accurate, current and complete information about yourself during the Account creation process. You must also keep that information true, accurate, current and complete after you create your Account. You represent that you are (x) at least thirteen (13) years old; (y) of legal age to form a binding contract; and (z) not a person barred from using Company Properties under the laws of your place of residence or any other applicable jurisdiction.

If you provide any information that is untrue, inaccurate, not current or incomplete, or Flex Text has reasonable grounds to suspect that such information is untrue, inaccurate, not current or incomplete, Flex Text has the right to suspend or terminate your Account and refuse any and all current or future use of Company Properties (or any portion thereof). You agree not to create an Account using a false identity or information, or on behalf of someone other than yourself. You agree not to create an Account or use the Company Properties if you have been previously removed by Flex Text or if you have been previously banned from access to any use of any of the Company Properties.

Administrative Logins. Depending on your Services package, you may be required to create an administrative login (“Admin Login”) associated with your Account. Once an Admin Login has been created, you will be permitted to create up to the total number of additional user logins for which the applicable Service Subscription Fees have been paid (each, a “User Login”), if any. You will be solely responsible for all activities that occur under User Logins associated with your Account. User Logins may not be shared, transferred or disclosed to any individual not expressly authorized as a User.

You are solely responsible for all use (whether or not authorized) of our Services under your Account(s), including for the quality and integrity of your Customer Data and each of your applications. You are also solely responsible for all use and for all acts and omissions of anyone that has access to the Services under your Account. You agree to take all reasonable precautions to prevent unauthorized access to or use of our Services and will notify us promptly of any unauthorized access or use at support4text@flexipsolutions.com. We will not be liable for any loss or damage arising from unauthorized use of your Account.

Notwithstanding anything to the contrary herein, you acknowledge and agree that you shall have no ownership or other property interest in your Account, and you further acknowledge and agree that all rights in and to your Account are and shall forever be owned by and inure to the benefit of FlexIP Solutions, Inc.

4. Access and Use of Our Services.

You may access and use our Services, on a non-exclusive, non-transferrable (except as otherwise expressly provided herein), non-sublicensable basis, solely in strict compliance with these Terms and the Flex Text's Acceptable Use Policy ("AUP"), which may be updated from time to time, solely for your business purposes. If applicable, you may access and use the Flex Text API solely for the purpose of accessing the Services. We may limit: (i) the number of network calls that you may make via the API; (ii) the maximum file size; and (iii) the maximum Content that may be accessed, or anything else about the API and the Content it accesses that we deem appropriate, in our sole discretion. We may impose or modify these limitations without notice. We may utilize technical measures to prevent over-usage or stop usage of the API by you or any other user after any usage limitations are exceeded or suspend your access to the API with or without notice to you in the event you exceed any such limitations. There may be certain software included in the Services that is offered under an open source license and there may be provisions in the open source license associated with such software that expressly override these Terms.

Your access to and use of the Services must be in strict compliance with Applicable Law. "Applicable Law" includes all applicable laws, rules and regulations applicable to you, your business or the subject matter of this Agreement including without limitation, laws governing the use of individual information, deceptive and misleading advertising, electronic commercial communications, telemarketing and other similar laws, which include without limitation the U.S. Telephone Consumer Protection Act of 1991, U.S. Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 and the Canada Anti-SPAM Legislation, if applicable, and each as amended.

5. License to Your Content.

In order to enable Flex Text to send and deliver your messages and otherwise provide you the Services, you grant Flex Text a fully paid, royalty-free, perpetual, irrevocable, worldwide, royalty-free, non-exclusive right (including any moral rights) and license to use, distribute, reproduce, Your Content (in whole or in part) for the purposes of operating and providing the Company Properties to you. You warrant that the holder of any worldwide intellectual property right, including moral rights, in Your Content, has completely and effectively waived all such rights and validly and irrevocably granted to you the right to grant the license stated above. You agree that you, not Flex Text are responsible for all of Your Content that you make available on or in the Company Properties.

6. Company Properties.

Flex Text may use certain third-party providers to provide technologies and services to support the Services, such as spam filtering, software firewall protection technologies and hosting service providers ("Third-Party Technologies"). With the exception of the rights and licenses expressly set forth in Section 4 above, nothing in these Terms grants any right, title or interest in or to any Intellectual Property Rights in or relating to the Company Properties or Third-Party Technologies. For purposes of these Terms, "Intellectual Property Rights" means any and all registered and unregistered rights granted, applied for or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection or other intellectual property rights laws in any part of the world. All right, title and interest in and to the Company Properties and the Third-Party Technologies are and will remain with Flex Text and the respective rights holders in the Third-Party Technologies.

You will not remove, alter or obscure any copyright, trademark, service mark or other proprietary rights notices incorporated in or accompanying the Company Properties. FlexIP Solutions, Inc's stylized name and other related graphics, logos, service marks and trade names used on or in connection with the Company Properties are the trademarks of FlexIP Solutions, Inc and may not be used without our express permission. Other trademarks, service

marks and trade names that may appear on or in the Company Properties are the property of their respective owners.

7. Our Use and Storage of Customer Data.

You acknowledge that you have read Flex Text's Privacy Policy and understand that it sets forth how we will collect, store, and use your Customer Data. "Customer Data" consists of information made available to us through your use of our Services under these Terms, which includes information such as your name, contact information, billing records, call or messaging logs, and traffic routing information, as well as the content of communications sent through or integrated with our Services, such as audio recordings, and message bodies. If you do not agree to Flex Text's Privacy Policy, you must stop using our Services.

Except as may otherwise be agreed by Flex Text and you in writing, Flex Text may periodically delete your Customer Data. Further, data storage is not guaranteed by us and you agree that we will not have any liability whatsoever for any damage, liabilities, losses, or any other consequences that you may incur relating to the loss or deletion of Customer Data.

You further acknowledge and agree that we may access or disclose Customer Data, including the content of communications stored on our systems, if: (i) we believe that disclosure is reasonably necessary to comply with any Applicable Law, legal process or government request, (ii) to enforce our agreements and policies, (iii) to protect the security or integrity of our Services, (iv) to protect ourselves, our other customers, or the public from harm or illegal activities, or (v) to respond to an emergency which we believe in good faith requires us to disclose data to assist in preventing a death or serious bodily injury.

Certain Services may enable you to specify the level at which such Services restrict access to Your Content. You are solely responsible for applying the appropriate level of access to Your Content. If you do not choose, the system may default to its most permissive setting. You agree that Flex Text retains the right to create reasonable limits on Flex Text's use and storage of the Content, including Your Content, such as limits on file size, storage space, processing capacity, and similar limits described in the Services and as otherwise determined by Flex Text in its sole discretion.

8. Restrictions.

- (a) Customer shall not (i) permit any third party to access the Services except as permitted herein or in an Order Form, (ii) create derivative works based on the Services, (iii) copy, frame or mirror any part or content of the Services, other than copying or framing on Customer's own intranets or otherwise for its own internal business purposes, (iv) reverse engineer the Services, or (v) access the Services in order to (a) build a competitive website, application, product or service, or (b) copy any features, functions or graphics of the Services.
- (b) You agree not to transfer, resell, lease, license, rent, assign, reproduce, distribute, host or otherwise make available our Services to third parties or offer them on a standalone basis.
- (c) You represent and warrant that (i) you have or have procured all power and authority necessary to use and text enable those phone numbers you register or associate with your Account without the consent of any third party, (ii) you will not use the Services on a phone number that has been exchanged, rented, or purchased from a third party without the permission of the phone number owner, (iii) the phone number is not a mobile subscriber phone number, (iv) you will use the Services for legal purposes only, and (v) you agree to execute any additional documents necessary to ensure your authority to use and text enable those phone numbers.
- (d) You shall not use any metatags or other "hidden text" using FlexIP Solutions, Inc's name or trademarks.

- (e) You shall not modify, translate, adapt, merge, make derivative works of, disassemble, decompile, reverse compile or reverse engineer any part of the Company Properties except to the extent the foregoing restrictions are expressly prohibited by Applicable Law.
- (f) Except as expressly stated herein, no part of the Company Properties may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means.
- (g) You shall not remove or destroy any copyright notices or other proprietary markings contained on or in the Company Properties.
- (h) You will not bypass or breach any security device or protection measure to access or use the Services or Company Properties other than by an authorized User.
- (i) You will not input, upload, transmit or otherwise provide to or through the Services any information or materials that are unlawful or injurious, or contain, transmit or activate any virus, worm, malware or other malicious computer code.
- (j) You will not damage, destroy, disrupt, disable or impair, interfere with or otherwise impede or harm in any manner the Services or Company's provision of the Services to any third party, in whole or in part.
- (k) You will not access or use the Services or Company Properties in any manner or for any purpose that infringes, misappropriates or otherwise violates any Intellectual Property Rights of any third party or that violates any Applicable Law.
- (l) Any future release, update or other addition to the Company Properties shall be subject to the Terms. Flex Text and its third-party providers reserve all rights not granted in the Terms. Any unauthorized use of the Company Properties terminates the licenses granted by Flex Text pursuant to the Terms.

9. Unauthorized Applications.

You understand that the Company Properties are not designed, intended, authorized or warranted to be suitable for use in the following "Unauthorized Applications": life support applications, devices or systems; the operation of nuclear facilities; aircraft navigation systems; aircraft communication systems; air traffic control; direct life support machines; weapons systems; military or space equipment requiring radiation hardened components; and Enhanced 911 or the E911 emergency calling system. You warrant that you will not use the Company Properties for Unauthorized Applications.

10. Content.

10.1. Types of Content.

You acknowledge that all information, data, text, software, music, sound, photographs, graphics, video, messages, tags and/or other materials accessible through or transmitted through the Company Properties ("Content") is the sole responsibility of the party from whom such Content originated. This means that you, and not Flex Text are entirely responsible for all Content that you upload, post, e-mail, transmit or otherwise make available ("Make Available") through the Company Properties ("Your Content").

10.2. No Obligation to Pre-Screen Content.

You acknowledge that Flex Text has no obligation to pre-screen Content (including, but not limited to, Your Content), although Flex Text reserves the right in its sole discretion to pre-screen, refuse or remove any Content. By entering into the Terms, you hereby provide your irrevocable consent to such monitoring. You acknowledge and agree that

you have no expectation of privacy concerning the transmission of Your Content, including without limitation chat, text, or voice communications. In the event that Flex Text pre-screens, refuses or removes any Content, you acknowledge that Flex Text will do so for Flex Text benefit, not yours. Without limiting the foregoing, Flex Text shall have the right to remove any Content that violates the Terms or AUP or is otherwise objectionable.

11. Free Trials and Other Promotions.

Any free trial or other promotion that provides User level access to the Services must be used within the specified time of the trial. At the end of the trial period, unless specifically stated otherwise by Flex Text your subscription will automatically continue on a paid subscription basis, subject to Service Subscription Fees, unless you take action to cancel the subscription in writing prior to the expiration of the trial period. Any free trial or promotion periods have fair use considerations and therefore you are fully and exclusively responsible for charges, costs, transactions, and activities conducted through the Services which are deemed by Flex Text as exceeding typical use. As a result, you may be required to for those fees generated under your Account.

12. Necessary Equipment and Software.

You must provide all equipment, internet or mobile connectivity, and software necessary to connect to the Company Properties, including but not limited to, a mobile device that is suitable to connect with and use the Company Properties, in cases where the Services offer a mobile component. You are solely responsible for any fees, including Internet connection or mobile fees, that you incur when accessing Company Properties. We are not responsible for service failures due to network outages.

13. Export Controls.

You may not use, export, import, or transfer the Company Properties except as authorized by U.S. law, the laws of the jurisdiction in which you obtained the Company Properties, and any other Applicable Law. You must follow U.S. export and economic sanctions laws.

Our Services, including any software we may provide in connection with those Services, may be subject to applicable U.S. export control laws and economic sanctions regulations. In receiving this software or our Services, you agree to comply strictly with all domestic and international export laws and economic sanctions regulations as they apply to this software and our Services, and to the extent consistent with these Terms, to obtain any necessary license or other authorization to export, re-export, or transfer such software or other aspects of our Services. These laws include restrictions on destinations, Users, and end use. Without limitation, you may not transfer any such software or other aspect of our Service without U.S. government authorization to any entity on a U.S. government exclusion list (e.g., the Department of Commerce's List of Denied Persons, Entity, or Unverified List, and the Treasury Department's List of Specially Designated Nationals and Consolidated Sanctions List). You represent that you are not on a U.S. government exclusion list or under the control of or an agent for any entity on such a list, and you further warrant that you will immediately discontinue use of our software and Services if you become placed on any such list or under the control of or an agent for any entity placed on such a list. You represent and warrant that you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country

14. Subscription Term, Fees and Payment Terms.

14.1 Generally.

Unless otherwise noted, payment for all Subscription Service Fees are due on the due date. We reserve the right to charge interest on all undisputed late payments. Payment for undisputed amounts not received within 30 days of any given due date may be assessed interest of 1% per month, or the maximum charge permitted by law. Payment method will be as specified in your Order Form and may include credit card, ACH, wire or check. Depending on the agreed-upon payment method, you must provide Flex Text with a valid credit card (Visa, MasterCard, or any other

issuer accepted by us) (“Payment Provider”), or ACH or wire payment information. Your Payment Provider agreement governs your use of the designated credit card account, and you must refer to that agreement and not the Terms to determine your rights and liabilities. By providing Flex Text with your credit card number account and associated payment information, you agree that Flex Text is authorized to immediately charge your Account for all Service Subscription Fees due and payable to Flex Text hereunder and that no additional notice or consent is required. You agree to immediately notify Flex Text in writing of any change in your billing address or the credit card or billing information, used for payment hereunder.

14.2 Service Subscription Fees.

You will be responsible for payment of the applicable fees for any Services (each, a “Service Subscription Fee”) beginning on of the Subscription Term Start Date and at the beginning of any Renewal Term. The “Subscription Term Start Date” is the date specified in your Order Form, or if no Order Form is in effect, the date that you create or upgrade your Account and select your package and associated features and your Account has been confirmed accepted by Company. Service Subscription Fees may include an initial, one-time activation fee. Service Subscription Fees for software included in the Services include recurring monthly subscription fees. Service Subscription Fees for API may include recurring monthly minimum Service Subscription Fees, per SMS and/or per MMS message Fees, as well as recurring monthly Service Subscription Fees for each text-enabled phone number being utilized. Except as set forth in the Terms, all Service Subscription Fees are non-refundable.

14.3 Automatic Renewal.

Your “Initial Subscription Period” will be as designated in your Order Form or other Account set-up documentation, beginning on the Subscription Term Start Date and ending on the last day of the designated subscription period. Following your Initial Subscription Period, your subscription will automatically renew for successive equivalent periods (each a “Renewal Term”). You agree that your Account will be subject to this automatic renewal feature unless you cancel your subscription in accordance with the procedures set forth in Section 23 of these Terms. By subscribing, you authorize Flex Text to charge your Payment Provider or via the ACH payment method now (or after the expiration of your free trial if applicable), and again at the beginning of any subsequent Renewal Term. Upon renewal of your subscription, if Flex Text does not receive payment from your Payment Provider or via the ACH payment method, (i) you agree to pay all amounts due on your Account upon demand, and/or (ii) you agree that Flex Text may either terminate or suspend your subscription and continue to attempt to charge your Payment Provider or ACH payment method until payment is received.

14.4 Changes to Service Subscription Fees.

Company reserves the right to increase the Service Subscription Fees applicable to any Renewal Term upon at least forty-five (45) days written notice to you, with any such increase to go into effect at the beginning of the next Renewal Term.

14.5 Cancellation/Reduction in Services.

You are entering into a contract with Company for Services for the subscription period designated in the Order Form. You may elect the Company’s program to bill for the entire subscription period in advance or you can elect to receive monthly invoices for any subscription period. Payment is due upon receipt of the invoice. Voluntary reduction in the Service Subscription does not relieve your obligation to pay the remaining balance as specified in the Order Form. If you elect to cancel your subscription during the subscription period, the remaining balance of the full Service Subscription period will become immediately due and owing, and in the event payment is made via a Payment Provider or ACH payment method, the remaining outstanding Service Subscription Fee will be charged upon cancellation. If you cancel the Service Subscription, your ability to use the Services will terminate at the end of the then current subscription period and you will not be eligible for a prorated refund of any portion of the Service Subscription Fee paid for the current subscription period.

14.6 Change in Your Phone Carrier.

You must exercise caution and judgment when changing carriers. Porting your voice service from one carrier to another may break the texting route. Company has no control over this so you must check with your carrier prior to porting your number. You will remain responsible for all charges associated with your account notwithstanding a break in the texting route as a result of your change of carriers.

14.7 Taxes.

Flex Text's Service Subscription Fees are exclusive of any applicable Sales Tax, VAT taxes, and use taxes, utility user's fees, excise taxes, any other business and occupations taxes, 911 taxes, franchise fees and universal service fund fees or taxes and carrier surcharges imposed on or with respect to our Services whether these taxes are imposed directly on you or on Flex Text (collectively, the "Taxes"). If any Services, or payments for any Services, under the Terms are subject to Taxes, or in any country/jurisdiction and you have not remitted the applicable Taxes to Flex Text you will be responsible for the payment of such Taxes and any related penalties or interest to the relevant tax authority, and you will indemnify Flex Text for any liability or expense we may incur in connection with such Taxes. Upon our request, you will provide us with official receipts issued by the appropriate taxing authority, or other such evidence that you have paid all applicable Taxes. For purposes of this section, "Sales Tax" shall mean any sales or use tax, and any other tax measured by sales proceeds, that Flex Text is permitted to pass to its customers, that is the functional equivalent of a sales tax where the applicable taxing jurisdiction does not otherwise impose a sales or use tax. For purposes of this section, Taxes do not include any taxes that are imposed on or measured by the net income, property tax or payroll taxes of FlexIP Solutions, Inc.

15. Ownership and Confidentiality.

15.1 General.

As between you and Flex Text we exclusively own and reserve all right, title and interest in and to our Company Properties.

15.2 Feedback.

We welcome your feedback on our Services. But please know that by submitting suggestions or other feedback about our Services you agree that submission of any ideas, suggestions, documents, and/or proposals to Flex Text through its suggestion, feedback or similar pages ("Feedback") is at your own risk and that Flex Text has no obligations (including without limitation obligations of confidentiality) with respect to such Feedback. You represent and warrant that you have all rights necessary to submit the Feedback. You hereby grant to Flex Text a fully paid, royalty-free, perpetual, irrevocable, worldwide, non-exclusive, and fully sublicensable right and license to use, reproduce, perform, display, distribute, adapt, modify, re-format, create derivative works of, and otherwise commercially or non-commercially exploit in any manner, any and all Feedback, and to sublicense the foregoing rights, in connection with the operation and maintenance of the Company Properties. Flex Text will retain sole ownership of any such suggestions, comments and/or other feedback. You also acknowledge and agree that Flex Text may publish your Feedback in connection with your name and logo(s) on the Company Properties.

15.3 Use of Marks.

Subject to these Terms, we both grant each other the right to use and display each other's name and logo(s) (the "Licensor Marks") on our respective websites and in other promotional materials solely in connection with each of our respective activities under these Terms. All of this use of the Licensor Marks will be in accordance with the each other's applicable usage guidelines and will inure to the benefit of Licensor. The one of us using the other's Licensor Marks under this subsection will not use, register or take other action with respect to any of the Licensor Marks, except to the extent allowed in advance in writing by the one of us whose Licensor Marks are being used. In using

the Licensor Marks under this subsection, the one of us using the other's Licensor Marks will always use the then-current Licensor Marks and will not add to, delete from or modify any of Licensor Marks. The one of us using the other's Licensor Marks will not, at any time, misrepresent the relationship between us. The one using the other's Licensor Marks will not present itself as an affiliate or other legal agent of the one of us whose Licensor Marks are being used. The rights to use and display each other's Licensor Marks under this subsection will end automatically upon any expiration or termination of the parties' relationship.

15.4 "Confidential Information"

Means any information or data, regardless of whether it is in tangible form, disclosed by either party that is marked or otherwise designated as confidential or proprietary or that should otherwise be reasonably understood to be confidential given the nature of the information and the circumstances surrounding disclosure. "Confidential Information" does not include any information which: (i) is publicly available through no fault of receiving party; (ii) was properly known to receiving party, without restriction, prior to disclosure by the disclosing party; (iii) was properly disclosed to receiving party, without restriction, by another person without violation of disclosing party's rights; or (iv) is independently developed by the receiving party without use of or reference to the disclosing party's Confidential Information.

Each party agrees that it will use the Confidential Information of the other party solely in accordance with the provisions of this Agreement and it will not use, access or permit the use or access of Confidential Information of the other party except as necessary to exercise its rights or perform its obligations under and in accordance with these Terms or as expressly permitted by the disclosing party in writing. Each party agrees to exercise due care in protecting the Confidential Information from unauthorized use and disclosure. Each party may disclose the Confidential Information of the other party, in whole or in part to its employees, representatives, actual or potential investors and subcontractors who have a need to know and are legally bound to keep such information confidential consistent with the terms of this Section. Either party may disclose the Confidential Information of the other party as required by law, upon prior written notice to the other party (where allowed by law); provided that such party will use its reasonable efforts to minimize such disclosure to the extent permitted by applicable law.

15.5 Injunctive Relief.

The parties expressly acknowledge and agree that no adequate remedy exists at law for an actual or threatened breach of this Section 15 and that, in the event of an actual or threatened breach of the provisions of this Section, the non-breaching party will be entitled to seek immediate injunctive and other equitable relief, without the requirement to post bond and without waiving any other rights or remedies available to it. Each party will promptly notify the other in writing if it becomes aware of any violations of the confidentiality obligations set forth in this Section.

16. Remedies.

16.1 Violations.

If Flex Text becomes aware of any possible violations by you of the Terms, Flex Text reserves the right to investigate such violations. If, as a result of the investigation, Flex Text believes that criminal activity has occurred, Flex Text reserves the right to refer the matter to, and to cooperate with, any and all applicable legal authorities. Flex Text is entitled, except to the extent prohibited by Applicable Law, to disclose any information or materials on or in the Company Properties, including Your Content, in FlexIP Solutions, Inc's possession in connection with your use of the Company Properties, to (1) comply with Applicable Laws, legal process or governmental request; (2) enforce the Terms, (3) respond to any claims that Your Content violates the rights of third parties, (4) respond to your requests for customer service, or (5) protect the rights, property or personal safety of Flex Text its Users or the public, and all enforcement or other government officials, as Flex Text in its sole discretion believes to be necessary or appropriate.

16.2 Breach.

In the event that Flex Text determines, in its sole discretion, that you have breached any portion of the Terms, or have otherwise demonstrated conduct inappropriate for the Company Properties, Flex Text reserves the right to:

- (a) Warn you via e-mail (to any e-mail address you have provided to FlexIP Solutions, Inc) that you have violated the Terms;
- (b) Delete and/or discontinue delivery or transmission of any of Your Content provided by you or your agent(s) to Company Properties;
- (c) Discontinue your registration(s) with the any of the Company Properties;
- (d) Discontinue your subscription to any Services;
- (e) Notify and/or send Content to and fully cooperate with the proper law enforcement authorities for further action; and
- (f) Pursue any other action which Flex Text deems to be appropriate.

16.3 No Subsequent Registration.

If your registration(s) with or ability to access the Company Properties is discontinued by Flex Text due to your violation of any portion of your Order Form or the Terms or for conduct otherwise deemed inappropriate, then you agree that you will not attempt to re-register with or access the Company Properties through use of a different member name or otherwise, and you acknowledge that you will not be entitled to receive a refund for fees related to those Company Properties to which your access has been terminated. In the event that you violate the immediately preceding sentence, Flex Text reserves the right, in its sole discretion, to immediately take any or all of the actions set forth herein without any notice or warning to you.

17. Warranties and Disclaimers.

17.1 AS IS; NO WARRANTY.

WITHOUT LIMITING FLEXIP SOLUTIONS, INC'S EXPRESS WARRANTIES AND OBLIGATIONS UNDER THESE TERMS, TO THE EXTENT PERMITTED BY APPLICABLE LAW, FLEX TEXT HEREBY DISCLAIMS ANY AND ALL OTHER WARRANTIES, REPRESENTATIONS AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE AND WARRANTIES RELATED TO THIRD-PARTY EQUIPMENT, MATERIAL, SERVICES OR SOFTWARE. FLEXIP SOLUTIONS, INC'S SERVICES ARE PROVIDED "AS IS" TO THE FULLEST EXTENT PERMITTED BY LAW. TO THE EXTENT THIS DISCLAIMER CONFLICTS WITH APPLICABLE LAW, THE SCOPE AND DURATION OF ANY APPLICABLE WARRANTY WILL BE THE MINIMUM PERMITTED UNDER THAT LAW.

17.2

FLEXIP SOLUTIONS, INCMAKES NO WARRANTY, REPRESENTATION OR CONDITION THAT: (1) THE COMPANY PROPERTIES WILL MEET YOUR REQUIREMENTS; (2) YOUR USE OF THE COMPANY PROPERTIES WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE; (3) THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE COMPANY PROPERTIES WILL BE ACCURATE OR RELIABLE; OR (4) ANY ERRORS IN THE COMPANY PROPERTIES WILL BE CORRECTED. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM COMPANY OR THROUGH THE COMPANY PROPERTIES WILL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN.

17.3

THE SERVICES MAY BE SUBJECT TO DELAYS, CANCELLATIONS AND OTHER DISRUPTIONS. FLEX TEXT MAKES NO WARRANTY, REPRESENTATION OR CONDITION WITH RESPECT TO SERVICES, INCLUDING BUT NOT LIMITED TO, THE QUALITY, EFFECTIVENESS, REPUTATION AND OTHER CHARACTERISTICS OF SERVICES. CONNECTIVITY, FEATURES, OR DELIVERY CAPABILITY MAY VARY, MAY BE LIMITED, AND MAY CHANGE OVER TIME.

17.4

NO LIABILITY FOR CONDUCT OF THIRD PARTIES IS APPLICABLE. YOU ACKNOWLEDGE AND AGREE THAT NEITHER FLEX TEXT NOR ANY PERSON OR ENTITY ASSOCIATED WITH FLEXIP SOLUTIONS, IN CARE LIABLE, AND YOU AGREE NOT TO SEEK TO HOLD FLEX TEXT OR ANY PERSON OR ENTITY ASSOCIATED WITH FLEX TEXT LIABLE, FOR THE CONDUCT OF THIRD PARTIES, INCLUDING OPERATORS OF TELECOMMUNICATIONS NETWORKS AND MOBILE CARRIERS, AND THAT THE RISK OF INJURY FROM SUCH THIRD PARTIES RESTS ENTIRELY WITH YOU.

17.5

YOUR CONTENT MAY BE TRANSMITTED VIA UNENCRYPTED METHODS OVER VARIOUS THIRD-PARTY NETWORKS.

18. Indemnification.

You will defend, indemnify and hold Flex Text and its affiliates, as well as their respective officers, directors and employees, harmless against any actual or threatened claim, loss, expense, liability, proceeding, third-party discovery demand, governmental investigation or enforcement action (each a "Claim") arising out of or relating to your activities under these Terms or your acts or omissions in connection with (a) Your Content that you submit, post, transmit or make available through the Services; (b) your use of, or inability to use, the Company Properties; (c) your violation of the Terms; or (d) your violation of any Applicable Law. Flex Text will cooperate as fully as reasonably required in the defense of any Claim, at your expense. We reserve the right, at your expense, to retain separate counsel for ourselves in connection with any Claim or, if you have not responded reasonably to the applicable Claim, to assume the exclusive defense and control of any Claim in which you are a named party and that is otherwise subject to indemnification under this Section 18. You will pay all costs, reasonable attorneys' fees and any settlement amounts or damages awarded against us in connection with any Claim. You will also be liable to us for any costs and reasonable attorneys' fees we incur to successfully establish or enforce our right to indemnification under this Section. You agree that the provisions in this Section will survive any termination of your Account, the Terms or your access to the Company Properties.

19. Exclusion of Damages; Limitations of Liability.

EXCEPT FOR LIABILITY ARISING FROM VIOLATIONS OF SECTIONS 8 (RESTRICTIONS), 15 (OWNERSHIP) OR 18 (INDEMNIFICATION), UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, WHETHER IN TORT, CONTRACT, OR OTHERWISE, WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY CHARACTER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF GOODWILL, LOST PROFITS, LOST SALES OR BUSINESS, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION, LOST DATA, OR FOR ANY AND ALL OTHER DAMAGES OR LOSSES, EVEN IF SUCH PARTY HAD BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT AS DESCRIBED IN THIS SECTION 22, UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, WHETHER IN TORT, CONTRACT, OR OTHERWISE, WILL FLEX TEXT BE LIABLE TO YOU FOR ANY DIRECT DAMAGES, COSTS OR LIABILITIES IN EXCESS OF THE AMOUNTS PAID BY YOU DURING THE TWELVE (12) MONTHS PRECEDING THE INCIDENT OR CLAIM OR \$500, WHICHEVER IS GREATER.

THE LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN COMPANY AND YOU. CERTAIN JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF

CERTAIN DAMAGES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE ABOVE EXCLUSIONS OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MIGHT HAVE ADDITIONAL RIGHTS.

FLEXIP SOLUTIONS, INC'S SERVICES ARE NOT INTENDED TO SUPPORT OR CARRY EMERGENCY CALLS OR SMS MESSAGES TO ANY EMERGENCY SERVICES. NEITHER FLEX TEXT NOR ITS REPRESENTATIVES WILL BE LIABLE UNDER ANY LEGAL OR EQUITABLE THEORY FOR ANY CLAIM, DAMAGE, OR LOSS (AND CUSTOMER WILL HOLD FLEXIP SOLUTIONS, INC HARMLESS AGAINST ANY AND ALL SUCH CLAIMS, DAMAGES OR LOSSES) ARISING FROM OR RELATING TO THE INABILITY TO USE OUR SERVICES TO CONTACT EMERGENCY SERVICES.

20. Termination of Your Subscription to the Services.

20.1 Termination or Suspension of Services by Company.

In addition to termination or suspension of our Services for non-payment of the applicable Service Subscription Fees as described in Section 14, we may also, upon written notice to you, terminate or suspend your access to the Services immediately for cause if: (a) you violate (or give us reason to believe you have violated) the Flex Text AUP; (b) there is reason to believe the traffic created from your use of our Services or your use of our Services is fraudulent or negatively impacting the operating capability of our Services; (c) we determine, in our sole discretion, that providing our Services is prohibited by law, or it has become impractical or unfeasible for any legal or regulatory reason to provide our Services; or (d) subject to Applicable Law, upon your liquidation, commencement of dissolution proceedings, disposal of your assets or change of control, a failure to continue business, assignment for the benefit of creditors, or if you become the subject of bankruptcy or similar proceeding. If we suspend our Services to your account, we will make a reasonable attempt to notify you. You agree that all terminations for cause shall be made in FlexIP Solutions, Inc's sole discretion and that Flex Text shall not be liable to you or any third party for any termination of your Account.

20.2 Termination of Services by You.

If you want to cancel or terminate the Services provided by Flex Text you may do so by providing Company with at least thirty (30) days prior written notice, with such termination to take effect at the end of the then current subscription period in which the notice period concludes. Any cancellation notice must be sent to support4text@flexipsolutions.com.

20.3 Effect of Termination.

Termination of any Service includes removal of access to such Service and barring of further use of the Service. Termination of all Services includes deletion of your password keys and all related information, files and content associated with or inside your Account (or any part thereof). Upon termination of any Service, your right to use such Service will automatically terminate immediately. You understand that any termination of Services may involve deletion of Your Content associated therewith from our live databases. Flex Text will not have any liability whatsoever to you for any suspension or termination, including for deletion of Your Content.

21. International Users.

The Services are currently made available to Customers in the U.S. The Company Properties can be accessed from countries around the world and may contain references to services and content that are not available in your country. These references do not imply that Flex Text intends to announce such services or content in your country. The Company Properties are controlled and offered by Flex Text from its facilities in the United States of America. Flex Text makes no representations that the Company Properties are appropriate or available for use outside of the United States. Those who access or use Company Properties from other jurisdictions or with recipients of other countries do so at their own volition and are responsible for compliance with local law.

22. Survival.

Upon termination or expiration of these Terms, your payment obligations, the terms of this Section 25, and the terms of the following Sections will survive (i.e. still apply): Section 7 (Our Use and Storage of Customer Data), Section 8 (Restrictions), Section 15 (Ownership and Confidentiality), Section 17 (Warranties and Disclaimer), Section 18 (Indemnification), Section 19 (Exclusion of Damages; Limitation of Liability) and Section 23 (General).

23. General.

23.1 No Waiver.

FlexIP Solutions, Inc's failure to enforce at any time any provision of these Terms or our AUP does not waive our right to do so later. And, if we do expressly waive any provision of these Terms or our AUP, that does not mean it is waived for all time in the future. Any waiver must be in writing and signed by and us to be legally binding.

23.2 Assignment.

You will not assign or otherwise transfer your subscription to the Services, in whole or in part, without our prior written consent. Any attempt by you to assign, delegate, or transfer in violation of this subsection will be null and void. Subject to this subsection 23.2, these Terms and any Order Form will be binding on both you and Flex Text and each of our successors and assigns.

23.3 Relationship.

You and Flex Text are independent contractors in the performance of each and every part of these Terms. Nothing in these Terms is intended to create or shall be construed as creating an employer-employee relationship or a partnership, agency, joint venture, or franchise. You and Flex Text will be solely responsible for all of our respective employees and agents and our respective labor costs and expenses arising in connection with our respective employees and agents. Except with respect to Claims covered under Section 19, you and Flex Text will also be solely responsible for any and all claims, liabilities or damages or debts of any type that may arise on account of each of our respective activities, or those of each of our respective employees or agents, in the performance of these Terms. Neither you nor Flex Text has the authority to commit the other of us in any way and will not attempt to do so or imply that it has the right to do so.

23.4 Severability.

If any provision of these Terms is held by a court or other tribunal of competent jurisdiction to be unenforceable, that provision will be limited or eliminated to the minimum extent necessary to make it enforceable and, in any event, the rest of these Terms will continue in full force and effect.

23.5 Notices.

Where Flex Text requires that you provide an e-mail address, you are responsible for providing Flex Text with your most current e-mail address. In the event that the last e-mail address you provided to Flex Text is not valid, or for any reason is not capable of delivering to you any notices required/ permitted by the Terms, Flex Text's dispatch of the e-mail containing such notice will nonetheless constitute effective notice. You may give notice to Flex Text at the following address: FlexIP Solutions, Inc, 150 River Rd Bldg I-1 Montville, NJ 07045 or by emailing support4text@flexipsolutions.com. Any mailed notice shall be deemed given when received by Flex Text by letter delivered by nationally recognized overnight delivery service or first-class postage prepaid mail at the above address.

23.6 Entire Agreement.

Except as provided in these Terms and other documents incorporated herein by reference, these Terms supersede all prior and contemporaneous proposals, statements, sales materials or presentations and agreements, oral and written with respect to the subject matter hereof. No oral or written information or advice given by Flex Text its agents or employees will create a warranty or in any way increase the scope of the warranties in these Terms.

23.7 Release.

You hereby release Flex Text and its officers, directors and employees, and their successors from claims, demands, any and all losses, damages, rights, and actions of any kind, including personal injuries, death, and property damage, that is either directly or indirectly related to or arises from your use of the Company Properties, including but not limited to, any interactions with or conduct of other Users or third-party websites of any kind arising in connection with or as a result of the Terms or your use of the Company Properties. If you are a California resident, you hereby expressly waive any rights you may have under California Civil Code Section 1542, which states "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which, if known by him must have materially affected his settlement with the debtor."

23.8 Electronic Communications.

The communications between you and Flex Text may use electronic means. For contractual purposes you (a) consent to receive communications from Flex Text in an electronic form or through phone calls to any number associated with your Account; and (b) agree that all terms and conditions, agreements, notices, disclosures, and other communications that Flex Text provides to you electronically satisfy any legal requirement that such communications would satisfy if it were to be in writing. The foregoing does not affect your statutory rights.

23.9 Force Majeure.

No failure, delay or default in performance of any obligation of a party shall constitute an event of default or breach of these Terms to the extent that such failure to perform, delay or default arises out of a cause, existing or future, that is beyond the control and without negligence of such party, including action or inaction of governmental, civil or military authority; fire; strike, lockout or other labor dispute; flood, terrorist act; war; riot; theft; earthquake and other natural disaster. The party affected by such cause shall take all reasonable actions to minimize the consequences of any such cause.

23.10 Governing Law and Venue.

These Terms will be governed by and interpreted according to the laws of the State of New Jersey without regard to conflicts of laws and principles that would cause laws of another jurisdiction to apply. These Terms will not be governed by the United Nations Convention on Contracts for the International Sale of Goods. Any legal suit, action or proceeding arising out of or related to these Terms or our Use shall be instituted in either the state or federal courts of Morris County and we each consent to the personal jurisdiction of these courts.

23.11 Waiver of Jury Trial.

THE PARTIES HEREBY WAIVE THEIR CONSTITUTIONAL AND STATUTORY RIGHTS TO GO TO COURT AND HAVE A TRIAL IN FRONT OF A JURY

23.12 Waiver of Class or Consolidated Actions.

ALL CLAIMS AND DISPUTES WITHIN THE SCOPE OF THIS AGREEMENT MUST BE MEDIATED OR LITIGATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS BASIS, AND CLAIMS OF MORE THAN ONE CUSTOMER OR USER CANNOT BE MEDIATED OR LITIGATED JOINTLY OR CONSOLIDATED WITH THOSE OF ANY OTHER CUSTOMER OR USER.

23.13 Questions, Complaints, Claims.

If you have any questions, complaints or claims with respect to Company Properties, please contact us at: support4text@flexipsolutions.com. In accordance with California Civil Code 1789.3, you may report complaints to the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs by contacting them in writing at 1625 North Market Blvd., Suite N-112, Sacramento, CA 95834, by telephone at (800) 952-5210 or online at www.dca.ca.gov.

23.14 Limitations Period.

YOU AND FLEX TEXT AGREE THAT ANY CAUSE OF ACTION ARISING OUT OF OR RELATED TO THE TERMS, COMPANY PROPERTIES OR THE CONTENT MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES. OTHERWISE, SUCH CAUSE OF ACTION IS PERMANENTLY BARRED.