

# Terms & Conditions for Merchants

Welcome to TextTreat.com. The following terms and conditions (the "Agreement") form a binding agreement between you and TextTreat.com. Please review the following terms carefully. By using TextTreat.com (the "Site"), you are agreeing to these terms, as well as our Privacy Policy, and all of these terms will govern your use of the Site and our Services. If you do not agree to these terms, you must not use the services provided by TextTreat.com. The term "you" refers to the person accessing or using the Site, or the company or organization on whose behalf that person accesses the Site or our Services.

## Our Services

TextTreat.com is an online website that is publicly available for people to purchase and send electronic gift certificates ("TextTreats") via text messaging (SMS/MMS) for goods and/services offered by local area merchants (the "Services"). The use of the Services described is subject to your acceptance of the terms and conditions of this Agreement and successfully completing the registration process by signing up for a TextTreat Merchant Account. The communication method for the Services include, but are not limited, web-based browser technologies and cell phone text messaging (SMS/MMS).

### *How It Works for Merchants*

#### *Getting Listed as a Participating Local Business*

In order for you to be listed as a participating local business and to be able to redeem TextTreats sent by consumers, you will be required to create a TextTreat Merchant Account. An account is required so we can collect information about your business in order to list you as a participating local business, verify the validity of your business, and to provide you with easy access to view, track, and redeem TextTreat transactions and modify your profile preferences.

After creating a merchant account, TextTreat.com LLC will conduct a business verification check on your business to ensure the validity of your business and the information provided by you. Our process includes the following verifications:

- Business registration with the Secretary of State for the state of your formation,
- Business listing on the local telephone directory,
- Other business information with business information directories.

After we verify your business information, your business will be added to the list of participating local businesses and be available for consumers to choose in purchasing TextTreats.

### Redeeming TextTreats from Customers

Upon a customer purchasing a TextTreat for your business, you will be able to view the newly issued TextTreat transaction and all other TextTreat transactions associated with your business when you log into your account on [www.TextTreat.com](http://www.TextTreat.com) on the link to Merchants.

In order to redeem a TextTreat presented to you by a TextTreat recipient, please review our Redemption Process document.

In general terms, the following additional terms apply:

- The expiration date for TextTreats is one year from the date of purchase,
- No cash back will be issued for partial redemption of a TextTreat,
- Neither TextTreat.com nor the Merchant is responsible for lost or stolen TextTreats,
- TextTreat codes are one-time use only.

Merchants are fully responsible for any and all injuries, illnesses, damages, claims, liabilities and costs suffered by or in respect of a customer, caused in whole or in part by the Merchant or its products and services, as well as for any unclaimed property liability arising from unredeemed or partially redeemed Vouchers.

### Getting Paid for the TextTreat

Upon a TextTreat being purchased for your local business, TextTreat.com LLC will make payment directly to your business within 10 business days from the date a TextTreat is redeemed. The amount of payment will be the value of the TextTreat less a service fee.

## **Availability of Services**

You acknowledge that there may be interruptions in service or events that are beyond our control. While we use reasonable efforts to keep the Site accessible, the Site may be unavailable from time to time for any reason including, without limitation, routine maintenance. You understand and acknowledge that due to circumstances both within and outside of our control Site access may be interrupted, suspended or terminated. You acknowledge that delivery of SMS/MMS messages is not guaranteed. You acknowledge that the Services may differ depending on the Carrier with whom you maintain an account and that Carrier's ability to support the Services. TextTreat.com is not responsible for the act or omission of any Carrier, any limitations imposed by such Carrier, or such Carrier's ability or inability to support the Services. In the event your Carrier fails to deliver any communication from/to TextTreat.com, due to, but not limited to, mobile network failure or non-compatibility of your phone model with the Services, you acknowledge and agree that TextTreat.com shall not be liable for any loss and/or damage. In addition, TextTreat.com will not be liable for any error by you in using the Services, including submission of an order to an incorrect cell phone number.

## **Modification of Services**

TextTreat.com reserves the right to modify, or discontinue, the Services, its features, and/or this Agreement as we deem necessary. If we make changes that materially affect your use of the Site or our Services we will notify you by sending you an e-mail to the e-mail address that is registered with your account and/or by posting notice of the change on the Site. Any changes to the terms and conditions will be effective upon the earlier of our sending of an e-mail notice to you and/or our posting of notice of the changes on our Site. If you object to any changes, your recourse will be to cease using the Services. Continued use of the Services will constitute acceptance of the new terms and conditions.

## **Termination of Services**

TextTreat.com retains the right at our sole discretion to deny service, or access to the Site to anyone or an account, at any time and for any reason.

## **Disclaimer of Warranty**

YOU EXPRESSLY AGREE THAT USE OF THIS SITE AND ITS SERVICES IS AT YOUR SOLE RISK. NEITHER TEXTTREAT.COM, ITS SUBSIDIARIES AFFILIATES NOR ANY OF THEIR RESPECTIVE EMPLOYEES, AGENTS, MERCHANTS, THIRD-PARTY CONTENT PROVIDERS OR LICENSORS, OR ANY OF THEIR OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS, WARRANT THAT USE OF THE SITE AND/OR SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DO THEY MAKE ANY WARRANTY AS TO (I) THE RESULTS THAT MAY BE OBTAINED FROM USE OF THIS SITE, OR (II) THE ACCURACY, RELIABILITY OR CONTENT OF ANY SERVICES PROVIDED THROUGH THIS SITE. THE SITE IS MADE ACCESSIBLE ON AN "AS IS" AND "AS AVAILABLE" BASIS. TEXTTREAT.COM HEREBY DISCLAIMS ANY AND ALL REPRESENTATIONS, WARRANTIES AND CONDITIONS, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THOSE OF TITLE NONINFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE.

## **Limitation of Liability**

IN NO EVENT SHALL TEXTTREAT.COM , ITS SUBSIDIARIES, AFFILIATES NOR ANY OF THEIR RESPECTIVE EMPLOYEES, AGENTS, MERCHANTS, PARTNERS, THIRD-PARTY CONTENT PROVIDERS OR LICENSORS, OR ANY OF THEIR OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS, BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES ARISING OUT OF OR RELATED TO YOUR USE OF THE SITE, THE CONTENT, STATEMENTS (AS

DEFINED BELOW) AND OTHER INFORMATION CONTAINED THEREIN OR THESE TERMS OF USE. IN NO EVENT WILL TEXTTREAT.COM'S LIABILITY IN CONNECTION WITH A GIFT CERTIFICATE EXCEED THE AMOUNTS PAID FOR SUCH GIFT CERTIFICATE. THE AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT SHALL NOT EXCEED ONE HUNDRED DOLLARS (\$100).

## **Indemnity**

You agree to defend, indemnify and hold harmless TextTreat.com, its parent company, officers, directors, employees and agents, from and against any and all claims, damages, obligations, losses, liabilities, costs or debt, and expenses (including but not limited to reasonable attorney's fees) arising from: (i) your use of and access to TextTreat.com; (ii) your violation of any terms of this Agreement; (iii) your violation of any third party right, including without limitation any copyright, property, or privacy right; (iv) any information you (or anyone accessing the Services using your password) submit or transmit through the Site; or (v) any claim that any Content submitted by you causes damage to a third party.

## **Intellectual Property**

You acknowledge and agree that we and our licensors retain ownership of all intellectual property rights of any kind related to the Site and Services, including applicable copyrights, trademarks and other proprietary rights. We are not granting any license to you under any of those intellectual property rights by virtue of this Agreement, except for the limited right to use the Site and Services in accordance with this Agreement. "TextTreat.com" is our trademark. Other product and company names that are mentioned on the Site or provided as part of the Services may be trademarks of their respective owners. We reserve all rights that are not expressly granted to you in this Agreement.

## **Choice of Law**

Any disputes arising out of or related to these Terms of Use and/or any Use by you of the Site or Services shall be governed by the internal laws of the State of Maryland,