

## Terms of Service

767 Media T/A seven67.com, including, divisions, contractors, third parties and suppliers, (collectively "767 Media T/A seven67.com", "we", "us" or "our") welcomes You ("You" or "Your") to [www.seven67.com](http://www.seven67.com) (the "Website"). These terms and conditions of service (collectively, with 767 Media T/A seven67.com's Data Processing Agreement under the European General Data Protection Regulation (GDPR), located [www.seven67.com/docs/dpa.pdf](http://www.seven67.com/docs/dpa.pdf), the "Terms of Service" or "Agreement") govern Your use of the Website and the services, features, and all software applications operated by 767 Media T/A seven67.com (together with the Website, the "Services").

Please read these Terms of Service carefully before using the Services. These Terms of Service apply to all users of the Services. If You are using the Services on behalf of an entity, organization, or company, You represent and warrant that You have the authority to bind such organization to these Terms of Service and You agree to be bound by these Terms of Service on behalf of such organization. Agreeing to use the Services by clicking "Sign up" or by obtaining access to any of the 767 Media T/A seven67.com software applications constitutes Your acceptance and agreement to be bound by these Terms of Service.

These Terms of Service provide that any dispute, controversy, proceedings or claim of whatever nature arising out of or in any way relating to this Agreement or its formation, shall be governed by and construed in accordance with the laws of England and Wales. You agree to the exclusive jurisdiction of the courts of England and Wales for the purpose of hearing and determining any suit, action or proceedings and/or settling any disputes arising out of or in connection with this Agreement.

If any provision or provisions of these Terms of Service shall be held to be invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full force and effect.

767 Media T/A seven67.com reserves the right, at any time and from time to time, to amend or to modify these Terms of Service without prior notice to You, provided that if any such alterations constitute a material change to these Terms of Service, 767 Media T/A seven67.com will notify You by email. Amendments and modifications shall take effect immediately when posted on the Website. By continuing to access or use the Services after any such amendments or modifications, You agree to be bound by such amended or modified Terms of Service.

767 Media T/A seven67.com provides a sophisticated bulk SMS solution and will receive and deliver SMS messages sent to and from cellular telephones, on Your behalf. You will provide the mobile phone numbers and content of messages to 767 Media T/A seven67.com. A message receipt, if applicable, shall be provided by 767 Media T/A seven67.com.

### 1. Prices

767 Media T/A Seven67.com shall be entitled to charge the fees as indicated in the 767 Media T/A Seven67.com portal to which You shall be given a unique username and password to access. Pricing may be changed due to various market related changes (e.g. changes out of 767 Media T/A Seven67.com control. All fee changes will be communicated via email, in person or via telephone).

### 2. Method of Payment & Balance

Once you have opened an account with us, you may purchase non-refundable credits at any time by contacting your account manager, following which your account will be credited with the corresponding number of credits through charging your designated payment method. Subject to amendments, and unless otherwise agreed in writing by us, you can only pay for Credits in advance using a debit card, credit card or via bank transfer. You warrant that any information supplied as part of the payment process is accurate and pertains to you and any credit card, debit card or equivalent method of payment provided belongs to you or you are authorised to use such payment method. You agree to indemnify us against any loss we may suffer resulting from incorrect payment information provided or resulting from your use of a payment method that you are not authorised to use. The number of credits you will use up for using any part of the service, which are displayed on our site and can be confirmed by contacting your account manager, may vary from time to time. For example, if 1 credits enables you to send 1 SMS of 160 characters or less, if

you want to send an SMS that contains 161 characters, this will use 2 of Your Credits. If you login to your account, you will be able to tell how many pre-paid credits are available to you, subject to us having a reasonable amount of time to update your account from the time you purchase or use credits. credits used and not paid for in advance shall be payable immediately upon notification and in any case immediately upon receipt of our invoice. We shall endeavour to inform you when you have used your pre-paid credits, but are under no obligation to do so and shall not be liable for any consequences of not doing so. You are liable to pay 767 Media T/A Seven67.com the fees and charges as indicated in the 767 Media T/A Seven67.com portal for the number of messages sent in accordance with the 767 Media T/A Seven67.com server count. 767 Media T/A Seven67.com is not responsible for Your encoding errors, which lead to messages forcing into concatenated mode and resulting in multiple submissions per message. Virtual numbers, opt-out URLs and shortcodes will be charged monthly or quarterly in advance. URL shortening will be charged on a per message basis as indicated in the 767 Media T/A Seven67.com portal in accordance with the 767 Media T/A Seven67.com server count.

Payment is prepayment or post payment, by debit card, credit card or Bank Transfer.

### **3. Invoiced Credits and Credit Arrangements**

At our sole discretion, we may offer credits to you on account. You shall pay to us fees for the credits used at the rates previously agreed by your account manager or as otherwise set out in our invoices, which will be issued to you from time to time. You shall pay each of our invoices, in full within 7 days of the date of the invoice. If payment or part payment of an invoice is delayed we shall be entitled to charge you interest at a rate of 6% per annum above the Bank of England base rate from time to time on any sums that you owe to us; and sums due to us by you may be set off against the value of any credits which you have already paid for (those credits will be withdrawn from your account) and/or any sums of money payable by us to you under any other agreement between seven67.com and any other member of our group and you; and we shall be entitled to recover our reasonable costs of recovering the amounts owed to us to include but not limited to; management time spent collecting the debt, debt recovery agency fees and legal fees; and we shall be entitled to terminate or suspend your account and the service with immediate effect. Notwithstanding the provisions of this, we reserve the right to withdraw any credits arrangement with you at any time with or without cause at which time all sums due to us for unpaid credits shall become payable immediately on demand.

### **4. Security and Access**

767 Media T/A seven67.com agrees to allow You to use the platform and API solely to utilise 767 Media T/A seven67.com's Services. You will comply with all reasonable directions of 767 Media T/A seven67.com when accessing the Services. You are responsible for the security of usernames, passwords and login details that 767 Media T/A seven67.com provides to You and shall not disclose them to a third person without notifying 767 Media T/A seven67.com. You must not use, or permit others to use the Services to send prohibited content and or to circulate or send any unauthorised marketing, publicity or advertising material to any person.

### **5. Refunds**

No refunds are made except refunds covering the value of credits not yet expired in the event that 767 Media T/A seven67.com's Services become unavailable (terminated or blocked) or degraded in quality, provided that such degradation or termination was not the result of complaints and/or actions by mobile network carriers related to the nature of messages submitted by You, and You were not in breach of any terms incorporated herein. In the event that 767 Media T/A seven67.com's Services become unavailable, 767 Media T/A seven67.com will have 4 weeks to find a solution of comparable quality before a refund becomes due and payable.

### **6. Prohibited Content**

Content prohibited by International laws or the local law of the recipient is not permitted.

### **7. Commercial Advertising and SPAM policy**

You shall only send solicited content and promotional messages when using 767 Media T/A seven67.com Services. You shall only send messages to recipients who have opted in to receive messages. If You breach the obligations herein provided, 767 Media T/A seven67.com reserves the right to suspend the Services provided to You accordingly, without refund.

You undertake that You will not knowingly use the Services for any illegal, immoral, or improper purposes or in any other manner which contravenes any third-party rights, any laws or requirements of a Regulator in the appropriate jurisdiction, or in any way which is indecent or offensive or in any way that could be considered as spamming and undertake not to allow any third-party to do so.

You shall keep 767 Media T/A seven67.com indemnified in the event that 767 Media T/A seven67.com is penalised or claims, demands, actions or administrative proceedings that have been brought against 767 Media T/A seven67.com due to non-compliance of the clause stated herein. As an illustration, in the event that 767 Media T/A seven67.com is penalised or claims, demands, actions or administrative proceedings have been brought upon by other regulatory bodies as well as the mobile operators of the specified countries, including but not limited to delivery of unsolicited SMS, then 767 Media T/A seven67.com have the right to claim from You all amount paid as penalties and/or claim all costs and expenses accrued to answer such claims, demands, actions or administrative and legal proceedings.

## 8. Indemnity and Warranties

For the purposes of this clause 7, "**Data Protection Legislation**" means (i) the Data Protection Act 1998 ("**DPA**") until 25 May 2018; (ii) in substitution for the DPA from 25 May 2018, the General Data Protection Regulation ((EU) 2016/679) ("**GDPR**") unless and until the GDPR is no longer directly applicable in the UK, Guernsey and/or any other relevant jurisdiction in the European Union, together with any national implementing laws, regulations and secondary legislation as amended or updated from time to time in the UK, Guernsey and/or any other relevant jurisdiction in the European Union; and (iii) any successor legislation to the GDPR and the DPA.

You are fully responsible for the content submitted through 767 Media T/A seven67.com's systems, its nature, timing and other specifics nature. You warrant that all content You submit through 767 Media T/A seven67.com's systems (including but not limited to SMS sent via 767 Media T/A seven67.com's bulk SMS solution): (i) is sent only to recipients who have provided consent to receive the content in line with the Data Protection Legislation, where such consent is required; and (ii) contains a link or similar to enable the recipient to unsubscribe from further communications from You, as required by the Data Protection Legislation, and You warrant that You will comply with any unsubscribe request received.

You agree to indemnify and keep 767 Media T/A seven67.com harmless of any claims, monetary or otherwise, and/or damage compensation awards by or in favour of:

- the subscribers receiving Your messages
  - network operators originating or terminating Your messages
  - copyright owners or any other private individuals, organisations or businesses that may have received, passed through, processed or otherwise had any relation to messages originated from any devices or systems with Your IP addresses / IP address ranges or account name
- including but not limited to any losses, costs, damage or expenses incurred by 767 Media T/A seven67.com as a result of the content submitted by You (including but not limited to fines imposed on 767 Media T/A seven67.com pursuant to the Data Protection Legislation) and any breach of the warranties set out above in this clause 7.

767 Media T/A seven67.com warrants that:

- services will be performed with the necessary care and skill
- it will process Your confidential information solely in connection with the Services and shall not process and use it for any other purpose whatsoever
- it has state of the art security measures against unauthorized access to Your confidential information
- it uses reasonable endeavours to ensure policies and procedures are in place to meet relevant data protection regulation and best practice

## 9. Breach of Terms

If You breach any of the above terms and conditions or any signed addendum, Your account may be temporarily suspended or restricted, without 767 Media T/A seven67.com giving You prior notice. Repeated violations will lead to permanent disconnection (termination) of Your accounts and service with us, without recourse, refund or obligations on 767 Media T/A seven67.com's part.

## 10. Confidentiality and Data Protection

For the purposes of this clause, “personal data” and “processed” shall have the meanings set out in the Data Protection Legislation (defined in clause 7 above).

767 Media T/A seven67.com and You shall treat all material and information, as confidential and shall not disclose such confidential information to a third party without a prior written consent of the other party. 767 Media T/A seven67.com agrees to keep all Your data, messages and mobile numbers strictly confidential at all times and never share them with any other party for any reason, whatsoever, unless required by law or agreed to with You in writing. To enable 767 Media T/A seven67.com to respond to queries received from You or a supervisory authority about campaigns, 767 Media T/A seven67.com shall retain any personal data relating to message logs and contact lists, as follows:

### Message logs:

Following the end of a campaign pursuant to which 767 Media T/A seven67.com has received and delivered SMS messages on Your behalf, which it has processed in order to provide the services, 767 Media T/A seven67.com shall retain message logs for a period of 6 months.

### Contact lists:

Contact lists that have not been used by You, shall be retained by 767 Media T/A seven67.com for a period of 18 months before being deleted.

You shall be able to access the personal data via 767 Media T/A seven67.com’s portal relating to:

- message logs for the first 3 months, following the end of a campaign, after which the message logs shall be archived by 767 Media T/A seven67.com for an additional 3 months and only available to You upon written request. Following the end of the 6 month period, 767 Media T/A seven67.com will delete the message logs, unless otherwise requested by You
- contact lists that have not been used, for the first 12 months, after which the contact lists shall be archived by 767 Media T/A seven67.com for an additional 6 months and only available to You upon written request. Following the end of the 18 month period, 767 Media T/A seven67.com will delete the contact lists, unless otherwise requested by You. If You wish for 767 Media T/A seven67.com to retain the personal data for a longer period than described above, 767 Media T/A seven67.com and You shall agree whether such retention would comply with the Data Protection Legislation and, if so, the period of time for which 767 Media T/A seven67.com shall retain: (i) message logs and customer history; and (ii) contact lists, will be determined.

767 Media T/A seven67.com may encrypt personal data following written request from You and shall agree in writing in advance additional fees payable by You to 767 Media T/A seven67.com for encryption.

## 11. Intellectual property rights

Notwithstanding the foregoing, all trade and service marks, inventions, patents, copyrights, registered designs, design rights, and all other intellectual property rights as existing prior to this Agreement shall, be and remain in the ownership of the relevant party. Except as expressly stated otherwise in this Agreement, nothing herein shall confer or be deemed to confer on either party expressly, implied or otherwise, any rights or licenses in the intellectual property of the other.

## 12. Limitation of Liability

767 Media T/A seven67.com shall not be liable for:

- any indirect, incidental, consequential, special or exemplary damages arising from the subject matter of this Agreement
- any loss of data, business, profits or goodwill and costs of procurement of substitute goods or services, even if 767 Media T/A seven67.com has been aware or advised of the possibility of such damages
- any losses incurred by You due to the non-delivery of message or delivery receipts for any reason, whatsoever
- any loss (to the extent permitted by the law) or damage suffered or incurred, directly or indirectly, as a result of reliance upon the delivery of the sms message or delivery receipts.