

1 Terms of Use of the ShineeMail Service

Through ShineeMail (the "Services") Shine Marketing UK Limited ("Shine Marketing") provides web site operators and other individuals a variety of tools and resources to collect visitor e-mail addresses and to create, launch, and manage online e-mail campaigns.

This service may not be used for the sending of unsolicited e-mail (sometimes called "spam"). See our Anti-Spam Policy. The following are the terms and conditions for use of the Services.

1.1 Services and Support

- a. The Services are provided subject to this Agreement, as it may be amended by Shine Marketing, and any guidelines, rules or operating policies that Shine Marketing may establish and post from time to time (the "Agreement"). By posting updated versions of the Agreement at the Shine Marketing web site, or otherwise providing notice to you, Shine Marketing may modify the terms of the Agreement and may discontinue or revise any or all other aspects of the Services at its sole discretion. All such changes shall become effective upon posting of the revised Agreement on the Service.
- b. The Services are available only to persons who can form legally binding contracts under applicable law. Without limiting the foregoing, the Services are not available to individuals under the age of 18. If you do not qualify, please do not use the Services.
- c. The Services enable corporate web sites, small business web sites, and community sites to sign up web site visitors, collect and retrieve visitor sign-up data, and develop and execute e-mail communications with visitors and other targeted prospects.
- d. All email delivery prices are subject to change at any time. All fees paid to Shine Marketing for The Service are non-refundable, unless an account is terminated by Shine Marketing for a reason other than violation of the Anti-Spam Policy. Payment for Services will be made by a valid credit card accepted by Shine Marketing, unless other payment arrangements have been made between you and an authorized Shine Marketing representative. You hereby authorize Shine Marketing to charge your credit card for such amounts according to your service usage. Fees are payable in British Pounds. If

Shine Marketing is for any reason unable to effect automatic payment via your credit card, you will be notified via e-mail.



- e. For all accounts, Shine Marketing may charge an account re-activation fee should an account need to be re-activated by customer after an account has become de-activated due to non-payment or an untimely authorization for payment.

- f. You will provide true, accurate, current, and complete information about yourself as requested in the registration form. As part of the registration process, you will identify an e-mail address and password for your Shine Marketing account. You are responsible for maintaining the security of your account, passwords, and files, and for all uses of your account and of the Services in your name. Shine Marketing reserves the right to refuse registration of, or cancel, accounts it deems inappropriate.

- g. It is understood that Shine Marketing makes no guarantee that HTML messages will be rendered properly on all recipients' e-mail programs, due to the wide variety of HTML generation tools available. Shine Marketing makes every attempt to make sure that all e-mail messages sent through our servers follow e-mail standards, but we cannot guarantee that messages will look consistent across all e-mail platforms due to the number of different HTML composition tools available. For example, if you use Microsoft Word to generate HTML e-mail messages, it is expected that recipients of your message using a non-Microsoft e-mail application may have difficulty reading your message. For best results Shine Marketing recommends, but does not guarantee, the use of HTML editors that generate HTML that adheres to W3C standards.

1.2 Restrictions and Responsibilities

- a. This is an Agreement for Services, and you are not granted a license to any software by this Agreement. You will not, directly or indirectly: reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code, object code, or underlying structure, ideas, or algorithms of, or found at or through the Services or any software, documentation, or data related to the Services ("Software"); remove any proprietary notices or labels from the Services or any Software, modify,

translate, or create derivative works based on the Services or any Software; or copy, distribute, pledge, assign, or otherwise transfer or encumber rights to the Services or any Software. The Services shall be used for your internal business (which includes civic or charitable) purposes only and you shall not use the Services or any Software for timesharing or service bureau purposes or otherwise for the benefit of a third party. If you are using the Services in any country in the European Community, the prohibition against modifying, translating, reverse engineering, decompiling, disassembling or creating derivative works based on the Services or the Software does not affect your rights under any legislation implementing the E.C. Council Directive on the Legal Protection of Computer Programs.

- b. You acknowledge and agree that the Services and the Shine Marketing company names and logos and all related product and service names, design marks and slogans, are the property of Shine Marketing or its affiliates or suppliers (collectively, the "Marks"). You are not authorized to use any of the Marks in any advertising, publicity or any other commercial manner without the prior written consent of Shine Marketing. Your use of the Services confers no title or ownership in the Service, the Software or the Marks and is not a sale of any rights in the Service, the Software or the Marks. All ownership rights remain in Shine Marketing or its third party suppliers, as the case may be.

- c. You represent, covenant, and warrant that you will use the Services only in compliance with the Agreement and all applicable laws (including but not limited to policies and laws related to spamming, privacy, obscenity, or defamation). You agree you will not access or otherwise use third party mailing lists in connection with preparing or distributing unsolicited e-mail to any third party. You hereby agree to indemnify and hold harmless Shine Marketing against any damages, losses, liabilities, settlements, and expenses (including without limitation costs and reasonable attorneys' fees) in connection with any claim or action that arises from an alleged violation of the foregoing or otherwise arising from or relating to your use of the Services. Although Shine Marketing has no obligation to monitor the content provided by you or your use of the Services, Shine Marketing may do so and may remove any such content or prohibit any use of the Services it believes may be (or is alleged to be) in violation of the foregoing.

- a. The Services may only be used for lawful purposes. Transmission or solicitation of any material that violates Canadian federal, state or other laws that may apply in your

local area is prohibited. This may include material that is obscene, threatening, harassing, libelous, or in any way a violation of intellectual property laws or a third party's intellectual property rights.

- b. In using the varied features of the Services, you may provide information (such as name, contact information, or other registration information) to Shine Marketing. Shine Marketing may use this information and any technical information about your use of the Services to tailor its presentations to you, facilitate your movement through the Service, or communicate separately with you.
- c. Shine Marketing will not use any of your subscriber lists or any other customer information for any other purposes than those intended with the service. Your customer information will not be shared with any other parties. In addition, Shine Marketing will not use your customer information for the purpose of sending unsolicited commercial e-mail.
- d. You will adopt and maintain the Privacy Policy, which may be modified by Shine Marketing from time to time.
- e. You may not use Shine Marketing to distribute illegal contests, pyramid schemes, chain letters, or multi-level marketing campaigns.
- f. You may not use Shine Marketing to send email campaigns that link to or display nudity, obscene content, gambling related content, pharmaceutical related content, illegal software, viruses, or to distribute any other content that we deem inappropriate.

1.3 Termination

- a. You may terminate this Agreement at any time by sending an e-mail message to info@shine-marketing.co.uk. Correspondence must include your first name, last name, and ShineeMail username. No refunds will be issued if you terminate this agreement.
- b. Shine Marketing may terminate this Agreement or the Services at any time with or without cause, and with or without notice.

Shine Marketing shall have no liability to you or any third party because of such termination. If Shine Marketing terminates this agreement because you violated the Anti-Spam policy, no refund will be issued.

- c. Shine Marketing may delete any of your archived data within 30 days after the date of termination. All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, ownership, warranty disclaimers and limitations of liability.
- d. If you do not log into your account for more than 120 days, the account will become inactive. When an account is classified (at Shine Marketing's sole discretion) as inactive, Shine Marketing will flag that account as inactive. INACTIVE ACCOUNTS HAVE 30 DAYS TO BECOME ACTIVE OR THE ACCOUNT AND ITS DATA, INCLUDING SUBSCRIBER SIGNUPS, MAY BE PERMANENTLY REMOVED FROM THE SHINE MARKETING DATABASE.

1.4 Warranty Disclaimer; Remedies

- a. USE OF THE SERVICES AND ANY RELIANCE BY YOU UPON THE SERVICES, INCLUDING ANY ACTION TAKEN BY YOU BECAUSE OF SUCH USE OR RELIANCE, IS AT YOUR SOLE RISK. SHINE MARKETING DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. THE SERVICES ARE PROVIDED "AS IS" AND NE DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT.
- b. Your sole and exclusive remedy for any failure or nonperformance of the Services shall be for Ne to use commercially reasonable efforts to adjust or repair the Services.

1.5 5. Limitation of Liability

- a. TO THE MAXIMUM EXTENT PERMITTED BY LAW, UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, TORT, CONTRACT, OR OTHERWISE, SHALL NE OR ANY OF

ITS UNDERLYING SERVICE PROVIDERS, BUSINESS PARTNERS, INFORMATION PROVIDERS, ACCOUNT PROVIDERS, LICENSORS, EMPLOYEES, DISTRIBUTORS OR AGENTS (COLLECTIVELY REFERRED TO FOR PURPOSES OF THIS SECTION AS "NE ") BE LIABLE TO YOU OR ANY OTHER PERSON FOR ANY MONEY DAMAGES, WHETHER DIRECT, INDIRECT, SPECIAL, INCIDENTAL, COVER, RELIANCE OR CONSEQUENTIAL DAMAGES, EVEN IF NE SHALL HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY ANY OTHER PARTY. IN THE EVENT THAT NOTWITHSTANDING THE FOREGOING, NE IS FOUND LIABLE TO YOU FOR DAMAGES FROM ANY CAUSE WHATSOEVER, AND REGARDLESS OF THE FORM OF THE ACTION (WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE), THE LIABILITY OF SHINE MARKETING TO YOU WILL BE LIMITED TO THE AMOUNT YOU PAID FOR THE SERVICE. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THIS LIMITATION AND EXCLUSION MAY NOT APPLY TO YOU.

1.6 6. Export of Services or Technical Data

- b. You may not remove or export from the UK or allow the export or re-export of the Services, or any direct product thereof, including technical data, in violation of any restrictions, laws, or regulations of the UK or any other applicable country.

1.7 Miscellaneous

- c. If any provision of the Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable.
- a. Shine Marketing and you agree that the Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications, and other understandings relating to the subject matter of the Agreement, and that all waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein. No delay or omission by either party in exercising any right or remedy under this Agreement or existing at law or equity shall be considered a waiver of such right or remedy.

- b. No agency, partnership, joint venture, or employment is created as a result of the Agreement, and you do not have any authority of any kind to bind Shine Marketing in any respect whatsoever.
- c. In any action or proceeding to enforce rights under the Agreement, the prevailing party will be entitled to recover its costs and attorneys' fees.
- d. The Agreement shall be governed by the laws of Canada without regard to its choice or law or conflict of laws provisions. All legal actions in connection with the Agreement shall be brought in the state or federal courts located in Montreal, Quebec, Canada.

1.8 System Requirements

- a. It is understood that in order to use ShineeMail, a Windows PC with Internet Explorer 4.0 or higher must be used. Additionally, a stable connection to the Internet is required. ShineeMail may work in a limited manner on Macintosh, Unix, and other platforms, but there is no guarantee of functionality on non-Windows platforms. Additionally, ShineeMail may work in a limited manner on a non-Internet Explorer web browser (such as Netscape Navigator), but there is no guarantee of full functionality on web browsers other than Microsoft's Internet Explorer.

1.9 Compliance rules for sending e-mail

- a. All ShineeMail customers must follow the rules of the Data Protection Act and the United States federal CAN-SPAM act and Shine Marketing's Anti-Spam policy when sending e-mail through the service. Accordingly, we require the following of e-mail messages sent through the ShineeMail system:

* All e-mails must contain a one-click unsubscribe link. ShineMail scans every campaign for the existence of an unsubscribe link. If an unsubscribe link is not detected, the user is informed and is recommended to include an unsubscribe link before continuing.

* All e-mails must contain non-Internet contact information of the sender, such as your company's address, or your company's phone number.

* All e-mails must state the reason the recipient is receiving the message. For example, "You are receiving this message from ABC Company because you signed up for our e-mail list at www.abc.com."

These 3 guidelines will help ensure that ShineeMail maintains its reputation and white-listing status with a number of major ISPs and whitelisting programs. If at any time your campaign is flagged as SPAM by an AOL recipient, Shine Marketing reserves the right to cancel your account without notice.

1.10 Email and Permission Practices

- b. Every email message sent in connection with the Services must contain an "unsubscribe" link or other mechanism that allows subscribers to remove themselves from your mailing list. Each such link must remain operational for a period of thirty (30) days after the date on which you send the message, and must be in form and substance satisfactory to Shine Marketing. You acknowledge and agree that you will not remove, disable or attempt to remove or disable either link.
- c. You agree to import, access or otherwise use only permission-based lists (note: purchased lists may not be used; please contact Shine Marketing if you have questions).
- d. You cannot mail to distribution lists, newsgroups, or spam email addresses.
- e. You are responsible for monitoring, correcting, processing unsubscribe requests within 10 days, and updating the email addresses to which messages are sent through your ShineeMail account.
- f. Emails that you send through the Service may generate abuse complaints from recipients. As a matter of privacy, Shine Marketing cannot share with you the email addresses of those who complain about your email campaign. You are responsible for ensuring that your email campaigns do not generate a number of abuse complaints in excess of industry norms. Shine Marketing, in its sole discretion, shall determine whether your level of abuse complaints is within industry norms, and its determination shall be final, binding and conclusive for all purposes under this Agreement.



- g. Shine Marketing, at its own discretion, may immediately disable your access without refund to the Services if Shine Marketing believes in its sole discretion that you have violated any of the email and permission practices listed above, or the Shine Marketing Anti-Spam Policy.