

Clipper City Digital Messaging Terms & Conditions

Effective Date: November 01, 2020

This SMS message program is a service of Clipper City Digital. By providing your cell phone number, you agree to receive recurring automated promotional and personalized marketing text messages (e.g., SMS/MMS cart reminders, sale notices, etc) from Clipper City Digital. These messages include text messages that may be sent using an automatic telephone dialing system, to the mobile telephone number you provided when signing up or any other number that you designate. You give Clipper City Digital permission to send text messages to the enrolled cell phone number through your wireless phone carrier, unless and until you end permission per these Terms & Conditions. Consent to receive automated marketing text messages is not a condition of any purchase. **Message & data rates may apply.**

Message frequency may vary. Clipper City Digital reserves the right to alter the frequency of messages sent at any time, so as to increase or decrease the total number of sent messages. Clipper City Digital also reserves the right to change the short code or phone number from which messages are sent and we will notify you if we do so.

Not all mobile devices or handsets may be supported and our messages may not be deliverable in all areas. Clipper City Digital, its service providers and the mobile carriers supported by the program are not liable for delayed or undelivered messages.

By enrolling in the Clipper City Digital messaging program, you also agree to these messaging terms & conditions ("**Messaging Terms**"), our Clipper City Digital Terms of Use and Clipper City Digital Privacy Policy.

Cancellation

Text the keyword STOP, STOPALL, END, CANCEL, UNSUBSCRIBE or QUIT to the telephone number, long code, or short code that sends you our initial confirmation message to cancel. After texting STOP, STOPALL, END, CANCEL, UNSUBSCRIBE or QUIT to the telephone number, long code, or short code that sends you our initial confirmation message you will receive one additional message confirming that your request has been processed. If you change your preferences, it may take up to 48 hours for it to take effect. You acknowledge that our text message platform may not recognize and respond to unsubscribe requests that do not include the STOP, STOPALL, END, CANCEL, UNSUBSCRIBE or QUIT keyword commands and agree that Clipper City Digital and its service providers will have no liability for failing to honor such requests. If you unsubscribe from one of our text message programs, you may continue to receive text messages from Clipper City Digital through any other programs you have joined until you separately unsubscribe from those programs.

Help or Support

Text the keyword HELP to the telephone number, long code, or short code that sends you our initial confirmation message to receive a text with information on how to unsubscribe.

No Warranty

TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW, YOU ACKNOWLEDGE AND AGREE THAT THE MESSAGING PROGRAM IS PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS WITHOUT WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED.

Limitation of Liability

TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW, YOU AGREE THAT IN NO EVENT SHALL EITHER OF Clipper City Digital OR ANY PARTY ACTING ON BEHALF OF Clipper City Digital BE LIABLE FOR: (A) ANY CLAIMS, PROCEEDINGS, LIABILITIES, OBLIGATIONS, DAMAGES, LOSSES OR COSTS IN AN AGGREGATE AMOUNT EXCEEDING THE GREATER OF THE AMOUNT YOU PAID TO Clipper City Digital HEREUNDER OR \$100.00; OR (B) ANY DIRECT, INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE OR ANY OTHER DAMAGES. YOU AGREE EVEN IF Clipper City Digital HAS BEEN TOLD OF POSSIBLE DAMAGE OR LOSS ARISING OR RESULTING FROM OR IN ANY WAY RELATING TO YOUR USE OF THE Clipper City Digital MESSAGING PROGRAM. Clipper City Digital AND ITS REPRESENTATIVES ARE NOT LIABLE FOR THE ACTS OR OMISSIONS OF THIRD PARTIES, INCLUDING BUT NOT LIMITED TO DELAYS OR NON-DELIVERY IN THE TRANSMISSION OF MESSAGES.

Indemnity

To the maximum extent allowed by applicable law, you agree to indemnify, defend and hold harmless Clipper City Digital, its directors, officers, employees, servants, agents, representatives, independent contractors and affiliates from and against any and all claims, damages, liabilities, actions, causes of action, costs, expenses, including reasonable attorneys' fees, judgments or penalties of any kind or nature arising from or in relation to the these Messaging Terms or your receipt of text messages from Clipper City Digital or its service providers.

Dispute Resolution

1. **General.** Any dispute or claim arising out of or in any way related to these Messaging Terms or your receipt of text messages from Clipper City Digital or its service providers whether based in contract, tort, statute, fraud, misrepresentation, or any other legal theory, and regardless of when a dispute or claim arises will be resolved by binding arbitration. YOU UNDERSTAND AND AGREE THAT, BY AGREEING TO THESE MESSAGING TERMS, YOU AND Clipper City Digital ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION AND THAT THESE MESSAGING TERMS SHALL BE SUBJECT TO AND GOVERNED BY ARBITRATION.
2. **Exceptions.** Notwithstanding subsection (a) above, nothing in these Messaging Terms will be deemed to waive, preclude, or otherwise limit the right of you or Clipper City Digital to: (i) bring an individual action in small claims court; (ii) pursue an enforcement action through the applicable federal, state, or local agency if that action is available; (iii) seek injunctive relief in aid of arbitration from a court of competent jurisdiction; or (iv) file suit in a court of law to address an intellectual property infringement claim.
3. **Arbitrator.** Any arbitration between you and Clipper City Digital will be governed by the JAMS, under the Optional Expedited Arbitration Procedures then in effect for JAMS, except as provided herein. JAMS may be contacted at www.jamsadr.com. The arbitrator has exclusive authority to resolve any dispute relating to the interpretation, applicability, or enforceability of this binding arbitration agreement.

4. **No Class Actions.** YOU AND Clipper City Digital AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN AN INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. Further, unless both you and Clipper City Digital agree otherwise in a signed writing, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding. You agree that, by agreeing to these Messaging Terms, you and Clipper City Digital are each waiving the right to a trial by jury or to participate in a class action, collective action, private attorney general action, or other representative proceeding of any kind.
5. **No Class Actions.** YOU AND **Clipper City Digital** AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN AN INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. Further, unless both you and **Clipper City Digital** agree otherwise in a signed writing, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding.
6. **Modifications to this Arbitration Provision.** Notwithstanding anything to the contrary in these Messaging Terms, if Clipper City Digital makes any future change to this arbitration provision, you may reject the change by sending us written notice within 30 days of the change to Clipper City Digital's contact information provided in the "Contact Us" section below, in which case this arbitration provision, as in effect immediately prior to the changes you rejected, will continue to govern any disputes between you and Clipper City Digital.
7. **Enforceability.** If any provision of these Messaging Terms is found to be unenforceable, the applicable provision shall be deemed stricken and the remainder of these Messaging Terms shall remain in full force and effect.

Changes to the Messaging Terms

We reserve the right to change these Messaging Terms or cancel the messaging program at any time. By using and accepting messages from Clipper City Digital after we make changes to the Messaging Terms, you are accepting the Messaging Terms with those changes. Please check these Messaging Terms regularly.

Entire Agreement/Severability

These Messaging Terms, together with any amendments and any additional agreements you may enter into with us in connection herewith, will constitute the entire agreement between you and Clipper City Digital concerning the Messaging Program.

Contact

Please contact us with any inquiries or concerns at julie.spence@clippercacitydigital.com or write to us at: 4 Middle Street, Suite 205, Newburyport, MA 01950.