

Social Samurai Terms of Use

New Media Retailer (NMR) is a service that provides assistance to small to medium sized business in using new media , including web, email and social tools, to promote their business. The application known as Samurai is a management device that allows you to make changes to your profile, promotional data and other information to release content via the media channels mentioned above to your Internet consumers.

Terms of Use:

The following terms and conditions govern all use of the Social Samurai website application and all content, services and products available at or through Samurai, including, but not limited to, Samurai Manager (<http://manager.newmediaretailer.com>) and Samurai Affiliate (<http://affiliate.newmediaretailer.com>) applications. These and other sub-applications within the New Media Retailer.com domain, taken together, will be known as Samurai.

Samurai is owned and operated by Socom Media, LLC. dba New Media Retailer.com ("NMR"). Samurai is offered subject to your acceptance without modification of all terms and conditions contained herein and all other operating rules, policies (including, without limitation, the [Social Samurai Privacy Policy](#)) and procedures (including standard and program service agreements) that may be published from time to time on the NMR website by NMR (collectively, the "Agreement").

Please read this Agreement carefully before accessing or using Samurai. By accessing or using any part of this system, you agree to become bound by the terms and conditions of this agreement. If you do not agree to all the terms and conditions of this agreement, then you may not access Samurai or use any services. If these terms and conditions are considered an offer by NMR, acceptance is expressly limited to these terms. Samurai is available only to individuals who are at least 13 years old.

1. Your Samurai account.

If you provide content via Samurai that is disseminated as a part of NMR's service to you, you are entirely responsible for all activities you engage during your time in the system. You must not describe or assign content in Samurai in a misleading or unlawful manner, including in a manner intended to trade on the name or reputation of others, and NMR may change or remove any content that it considers inappropriate or unlawful, or otherwise likely to cause NMR liability. You must immediately notify NMR of any unauthorized uses of your account or any other breaches of security. NMR will not be liable for any acts or omissions by you, including any damages of any kind incurred as a result of such acts or omissions.

2. Responsibility of Contributors.

If you post material to Samurai, post links on Samurai, or otherwise make (or allow any third party to make) material available by means of your NMR provided website, email content or social media account via Samurai (any such material, "Content"), you are entirely responsible for the content of, and any harm resulting from, that Content. That is the case regardless of whether the Content in question constitutes text, graphics, an audio file, or computer software. By making Content available, you represent and warrant that:

- the downloading, copying and use of the Content will not infringe the proprietary rights, including but not limited to the copyright, patent, trademark or trade secret rights, of any third party;
- if your employer has rights to intellectual property you create, you have either (i) received permission from your employer to post or make available the Content, including but not limited to any software, or (ii) secured from your employer a waiver to all rights in or to the Content;
- you have fully complied with any third-party licenses relating to the Content, and have done all things necessary to successfully pass through to end users any required terms;
- the Content does not contain or install any viruses, worms, malware, Trojan horses or other harmful or destructive content;
- the Content is not spam, is not machine- or randomly-generated, and does not contain unethical or unwanted commercial content designed to drive traffic to third party sites or boost the search engine rankings of third party sites, or to further unlawful acts (such as phishing) or mislead recipients as to the source of the material (such as spoofing);
- the Content is not pornographic, does not contain threats or incite violence towards individuals or entities, and does not violate the privacy or publicity rights of any third party;
- Samurai is not getting used to push unsolicited Content via unwanted electronic messages such as spam links on newsgroups, email lists, other blogs and web sites, and similar unsolicited promotional methods;
- the Content is not named in a manner that misleads your visitors into thinking that you are another person or company; and
- you have, in the case of Content that includes computer code, accurately categorized and/or described the type, nature, uses and effects of the materials, whether requested to do so by NMR or otherwise.

By submitting Content to NMR for inclusion on your NMR provided website, email marketing or social media accounts, you grant NMR a world-wide, royalty-free, and non-exclusive license to reproduce, modify, adapt and publish the Content solely for the purpose of displaying, distributing and promoting your established media resources. If you delete Content, NMR will use reasonable efforts to remove it from Samurai and associated media resources, but you acknowledge that caching or references to the Content may not be rendered immediately unavailable.

Without limiting any of those representations or warranties, NMR has the right (though not the obligation) to, in NMR's sole discretion (i) refuse or remove any content that, in NMR's reasonable opinion, violates any NMR policy or is in any way harmful or objectionable, or (ii) terminate or deny access to and use of Samurai to any individual or entity for any reason, in NMR's sole discretion. NMR will have no obligation to provide a refund of any amounts previously paid.

3. Payment Terms and Renewal.

The use of Samurai and the ability to update or manage Content in the system is, at this time, free to current NMR customers. Non-NMR customers do not have the right or ability to use Samurai for any purpose. Payments for services rendered by NMR are subject to agreements established in the Sign Up Today form, Program Prospectus and NMR Standard Service Agreement. Use of Samurai is a value-added service that is currently free for NMR customers, but NMR reserves the right to review and alter pricing for products and services, including the use of Samurai, as NMR see fit.

4. Responsibility of Website Visitors.

By posting Content to your media services via Samurai, you take full responsibility for that Content. By operating Samurai, NMR does not represent or imply that it endorses the material there posted, or that it believes such material to be accurate, useful or non-harmful. In addition, NMR disclaims responsibility for:

- content that bares technical inaccuracies, typographical mistakes, and other errors
- content that is offensive, indecent, or otherwise objectionable
- content that violates the privacy or publicity rights, or infringes the intellectual property and other proprietary rights, of third parties, or the downloading, copying or use of which is subject to additional terms and conditions, stated or unstated
- harm resulting in the use of content posted via Samurai

Further, outside end users, your customers or general Internet users will review content posted via Samurai. NMR has not reviewed, and cannot review, all of the material posted in response to Samurai posted content. NMR disclaims responsibility for the content posted by these end user groups.

5. Copyright Infringement.

As NMR asks others to respect its intellectual property rights, it respects the intellectual property rights of others. Any violation of copyright reported to NMR that is present as a result of content posted by you through Samurai can result in immediate removal of said content, a full investigation and possible termination of contract with NMR.

6. Intellectual Property.

This Agreement does not transfer from NMR to you any NMR or third party intellectual property, and all right, title and interest in and to such property will remain (as between the parties) solely with NMR. NMR, Socom Media, newmediaretailer.com, the NMR logo, the Social Samurai logo, and all other trademarks, service marks, graphics and logos used in connection with Socom Media, LLC, NMR, or Samurai are solely the property of NMR or NMR's licensors. Other trademarks, service marks, graphics and logos used in connection with Samurai may be the trademarks of other third parties. Your use of Samurai grants you no right or license to reproduce or otherwise use any NMR or third-party trademarks.

7. Advertisements.

Samurai is an ad free zone with the exception of specific messages or notices from your vendors, program affiliates or NMR. We do reserve the right to modify this policy at any time, at our discretion effective immediately.

8. Changes.

NMR reserves the right, at its sole discretion, to modify or replace any part of this Agreement. It is your responsibility to check this Agreement periodically for changes. Your continued use of or access to Samurai following the posting of any changes to this Agreement constitutes acceptance of those changes. NMR may also, in the future, offer new services and/or features through Samurai (including, the release of new tools and resources). Such new features and/or services shall be subject to the terms and conditions of this Agreement.

9. Termination.

NMR may terminate your access to all or any part of Samurai at any time, with or without cause, with or without notice, effective immediately. If you wish to terminate this Agreement or your NMR account, please contact NMR customer service and discontinue use of Samurai. All provisions of this Agreement which by their nature should survive termination shall survive termination, including, without limitation, ownership provisions, warranty disclaimers, indemnity and limitations of liability.

10. Disclaimer of Warranties.

Samurai, its resources and tools are provided "as is". NMR and its suppliers and licensors hereby disclaim all warranties of any kind, express or implied, including, without limitation, the warranties of merchantability, fitness for a particular purpose and non-infringement. Neither NMR nor its suppliers and licensors, makes any warranty that Samurai will be error free or that access thereto will be continuous or uninterrupted. You use Samurai at your own risk to deliver content to your various media services.

11. Limitation of Liability.

In no event will NMR, or its suppliers or licensors, be liable with respect to any subject matter of this agreement under any contract, negligence, strict liability or other legal or equitable theory for: (i) any special, incidental or consequential damages; (ii) the cost of procurement or substitute products or services; (iii) for interruption of use or loss or corruption of data; or (iv) for any amounts that exceed the fees paid by you to NMR under this agreement during the twelve (12) month period prior to the cause of action. NMR shall have no liability for any failure or delay due to matters beyond their reasonable control. The foregoing shall not apply to the extent prohibited by applicable law.

12. General Representation and Warranty.

You represent and warrant that (i) your use of Samurai will be in strict accordance with the [Social Samurai Privacy Policy](#), with this Agreement, with your NMR Service Agreement and with all applicable laws and regulations (including without limitation any local laws or regulations in your country, state, city, or other governmental area, regarding online conduct and acceptable content, and including all applicable laws regarding the transmission of technical data exported from the United States or the country in which you reside) and (ii) your use of Samurai will not infringe or misappropriate the intellectual property rights of any third party.

13. Indemnification.

You agree to indemnify and hold harmless NMR, its contractors, and its licensors, and their respective directors, officers, employees and agents from and against any and all claims and expenses, including attorneys' fees, arising out of your use of Samurai, including but not limited to your violation of this Agreement.

14. Miscellaneous.

This Agreement constitutes the entire agreement between NMR and you concerning the subject matter hereof, and they may only be modified by a written amendment signed by an authorized executive of NMR, or by the posting by NMR of a revised version. Except to the extent applicable law, if any, provides otherwise, this Agreement, any access to or use of Samurai will be governed by the laws of the state of New York, U.S.A., excluding its conflict of law provisions, and the proper venue for any disputes arising out of or relating to any of the same will be the state and federal courts located in Chenango County, New York. The prevailing party in any action or proceeding to enforce this Agreement shall be entitled to costs and attorneys' fees. If any part of this Agreement is held invalid or unenforceable, that part will be

construed to reflect the parties' original intent, and the remaining portions will remain in full force and effect. A waiver by either party of any term or condition of this Agreement or any breach thereof, in any one instance, will not waive such term or condition or any subsequent breach thereof. You may assign your rights under this Agreement to any party that consents to, and agrees to be bound by, its terms and conditions; NMR may assign its rights under this Agreement without condition. This Agreement will be binding upon and will inure to the benefit of the parties, their successors and permitted assigns.