

Terms of Service

1. Your Acceptance

- A. By using and/or visiting this website (collectively, including all content and functionality available through the smokefree.com domain name, the "Live Outside the Pack", or "Website"), you signify your agreement to (1) these terms and conditions (the "Terms of Service"), (2) Smoke Free's privacy notice, found at <http://www.liveoutsidethepack.com/pdf/> and incorporated here by reference, and (3) Smoke Free's Community Guidelines, found at <http://www.liveoutsidethepack.com/pdf/> and also incorporated here by reference. If you do not agree to any of these terms, the Smoke Free privacy notice, or the Community Guidelines, please do not use the Smoke Free Website.
- B. Although we may attempt to notify you when major changes are made to these Terms of Service, you should periodically review the most up-to-date version http://www.liveoutsidethepack.com/pdf/Terms_of_Service.pdf. Smoke Free may, in its sole discretion, modify or revise these Terms of Service and policies at any time, and you agree to be bound by such modifications or revisions. Nothing in this Agreement shall be deemed to confer any third-party rights or benefits.

2. Smoke Free Website

- A. These Terms of Service apply to all users of the Smoke Free Website, including users who are also contributors of photographic and/or video content, information, and other materials or services on the Website. The Smoke Free Website includes all aspects of Smoke Free, including but not limited to all products, software and services offered via the website and other applications.
- B. The Smoke Free Website may contain links to third party websites that are not owned or controlled by Smoke Free. Smoke Free has no control over, and assumes no responsibility for, the content, privacy policies, or practices of any third party websites. In addition, Smoke Free will not and cannot censor or edit the content of any third-party site. By using the Website, you expressly relieve Smoke Free from any and all liability arising from your use of any third-party website.
- C. Accordingly, we encourage you to be aware when you leave the Smoke Free Website and to read the terms and conditions and privacy policy of each other website that you visit.

3. Smoke Free Accounts

- A. In order to access some features of the Website, you will have to create a Smoke Free account. You may never use another's account without permission. When creating your account, you must provide accurate and complete information. You are solely responsible for the activity that occurs on your account, and you must keep your account password secure. You must notify Smoke Free immediately of any breach of security or unauthorized use of your account.
- B. Although Smoke Free will not be liable for your losses caused by any unauthorized use of your account, you may be liable for the losses of Smoke Free or others due to such unauthorized use.

4. General Use of the Website—Permissions and Restrictions

Smoke Free hereby grants you permission to access and use the Website as set forth in these Terms of Service, provided that:

- A. You agree not to distribute in any medium any part of the Website, including but not limited to User Submissions (defined below), without Smoke Free's prior written authorization.
- B. You agree not to alter or modify any part of the Website or any of its related technologies.
- C. You agree not to access User Submissions (defined below) or Smoke Free Content through any technology or means other than the pages of the Website itself or other explicitly authorized means Smoke Free may designate.
- D. You agree not to use the Website for any commercial use, without the prior written authorization of Smoke Free. Prohibited commercial uses include any of the following actions taken without Smoke Free's express approval:
 - sale of access to the Website or its related services on another website;

- use of the Website or its related services for the primary purpose of gaining advertising or subscription revenue;
- the sale of advertising, on the Smoke Free website or any third-party website, targeted to the content of specific User Submissions or Smoke Free content;
- and any use of the Website or its related services that Smoke Free finds, in its sole discretion, to use Smoke Free's resources or User Submissions with the effect of competing with or displacing the market for Smoke Free, Smoke Free content, or its User Submissions.

Prohibited commercial uses do not include:

- uploading an original photographs or video to Smoke Free,
- any use that Smoke Free expressly authorizes in writing.

If you use the Smoke Free Uploader, you agree that it may automatically download and install updates from time to time from Smoke Free. These updates are designed to improve, enhance and further develop the Uploader and may take the form of bug fixes, enhanced functions, new software modules and completely new versions. You agree to receive such updates (and permit Smoke Free to deliver these to you) as part of your use of the Uploader.

You agree not to use or launch any automated system, including without limitation, "robots," "spiders," or "offline readers," that accesses the Website in a manner that sends more request messages to the Smoke Free servers in a given period of time than a human can reasonably produce in the same period by using a conventional on-line web browser. Notwithstanding the foregoing, Smoke Free grants the operators of public search engines permission to use spiders to copy materials from the site for the sole purpose of and solely to the extent necessary for creating publicly available searchable indices of the materials, but not caches or archives of such materials. Smoke Free reserves the right to revoke these exceptions either generally or in specific cases. You agree not to collect or harvest any personally identifiable information, including account names, from the Website, nor to use the communication systems provided by the Website (e.g. comments, email) for any commercial solicitation purposes. You agree not to solicit, for commercial purposes, any users of the Website with respect to their User Submissions.

In your use of the website, you will otherwise comply with the terms and conditions of these Terms of Service, Smoke Free Community Guidelines, and all applicable local, national, and international laws and regulations.

Smoke Free reserves the right to discontinue any aspect of the Smoke Free Website at any time.

5. Your Use of Content on the Site

In addition to the general restrictions above, the following restrictions and conditions apply specifically to your use of content on the Smoke Free Website.

- A. The content on the Smoke Free Website, except all User Submissions (as defined below), including without limitation, the text, software, scripts, graphics, photos, sounds, music, videos, interactive features and the like ("Content") and the trademarks, service marks and logos contained therein ("Marks"), are owned by or licensed to Smoke Free and The University of Texas at El Paso ("UTEP"), subject to copyright and other intellectual property rights under the law. Content on the Website is provided to you AS IS for your information and personal use only and may not be downloaded, copied, reproduced, distributed, transmitted, broadcast, displayed, sold, licensed, or otherwise exploited for any other purposes whatsoever without the prior written consent of the respective owners. Smoke Free and UTEP reserve all rights not expressly granted in and to the Website and the Content.
- B. You may access User Submissions for your information and personal use solely as intended through the provided functionality of the Smoke Free Website. You shall not copy or download any User Submission unless you see a "download" or similar link displayed by Smoke Free on the Smoke Free Website for that User Submission.
- C. User Comments are made available to you for your information and personal use solely as intended through the normal functionality of the Smoke Free Website. User Comments are made available "as is", and may not be used, copied, reproduced, distributed, transmitted, broadcast, displayed, sold, licensed, downloaded, or otherwise exploited in any manner not intended by the normal functionality of the Smoke Free Website or otherwise as prohibited under this Agreement.

- D. You may access Smoke Free Content, User Submissions and other content only as permitted under this Agreement. Smoke Free and UTEP reserve all rights not expressly granted in and to the Smoke Free Content and the Smoke Free Website.
- E. You agree to not engage in the use, copying, or distribution of any of the Content other than expressly permitted herein, including any use, copying, or distribution of User Submissions of third parties obtained through the Website for any commercial purposes.
- F. You agree not to circumvent, disable or otherwise interfere with security-related features of the Smoke Free Website or features that prevent or restrict use or copying of any Content or enforce limitations on use of the Smoke Free Website or the Content therein.
- G. You understand that when using the Smoke Free Website, you will be exposed to User Submissions from a variety of sources, and that Smoke Free and UTEP are not responsible for the accuracy, usefulness, safety, or intellectual property rights of or relating to such User Submissions. You further understand and acknowledge that you may be exposed to User Submissions that are inaccurate, offensive, indecent, or objectionable, and you agree to waive, and hereby do waive, any legal or equitable rights or remedies you have or may have against Smoke Free and/or UTEP with respect thereto, and agree to indemnify and hold Smoke Free, its Owners/Operators, UTEP, the Paso del Norte Health Foundation and their governing board, officers, employees, and representatives affiliates, and/or licensors from liability, harmless to the fullest extent allowed by law regarding all matters related to your use of the site.

6. Your User Submissions and Conduct

- A. As a Smoke Free account holder you may submit photographic content ("User Pictures") video content ("User Videos") and textual content ("User Comments"). User Pictures, User Videos and User Comments are collectively referred to as "User Submissions." You understand that whether or not such User Submissions are published, Smoke Free does not guarantee any confidentiality with respect to any User Submissions.
- B. You shall be solely responsible for your own User Submissions and the consequences of posting or publishing them. In connection with User Submissions, you affirm, represent, and/or warrant that: you own or have the necessary licenses, rights, consents, and permissions to use and authorize Smoke Free to use all patent, trademark, trade secret, copyright or other proprietary rights in and to any and all User Submissions to enable inclusion and use of the User Submissions in the manner contemplated by the Website and these Terms of Service.
- C. For clarity, you retain all of your ownership rights in your User Submissions. However, by submitting User Submissions to Smoke Free, you hereby grant Smoke Free and UTEP a worldwide, non-exclusive, royalty-free, sublicenseable and transferable license to use, reproduce, distribute, prepare derivative works of, display, and perform the User Submissions in connection with the Smoke Free Website and UTEP's (and its successors' and affiliates') programs and other business, including without limitation for promoting and redistributing part or all of the Smoke Free Website (and derivative works thereof) in any media formats and through any media channels. You also hereby grant each user of the Smoke Free Website a non-exclusive license to access your User Submissions through the Website, and to use, reproduce, distribute, display and perform such User Submissions as permitted through the functionality of the Website and under these Terms of Service. The above licenses granted by you in User Videos terminate within a commercially reasonable time after you remove or delete your User Videos or User Photographs from the Smoke Free Website. You understand and agree, however, that Smoke Free and UTEP may retain, distribute, or perform, server copies of User Submissions that have been removed or deleted. The above licenses granted by you in User Submissions are perpetual and irrevocable.
- D. In connection with User Submissions, you further agree that you will not submit material that is copyrighted, protected by trade secret or otherwise subject to third party proprietary rights, including privacy and publicity rights, unless you are the owner of such rights or have permission from their rightful owner to post the material and to grant Smoke Free and UTEP all of the license rights granted herein.
- E. You further agree that you will not, in connection with User Submissions, submit material that is contrary to the Smoke Free Community Guidelines, found at <http://www.liveoutsidethepack.com/pdf/>, which may be updated from time to time, or contrary to applicable local, national, and international laws and regulations.
- F. Neither Smoke Free, UTEP nor The Paso del Norte Health Foundation endorse any User Submission or any opinion, recommendation, or advice expressed therein, and Smoke Free, UTEP and The Paso del Norte Health Foundation expressly disclaims any and all liability in connection with User

Submissions. Smoke Free and UTEP do not permit copyright infringing activities and infringement of intellectual property rights on its Website, and Smoke Free and/or UTEP will remove all Content and User Submissions if properly notified that such Content or User Submission infringes on another's intellectual property rights. Smoke Free and/or UTEP reserve the right to remove Content and User Submissions without prior notice.

7. Account Termination Policy

- A. Smoke Free will terminate a User's access to its Website if they have not duly received and verified the appropriate consent and release forms.
- B. Smoke Free and UTEP will terminate a User's access to its Website if, under appropriate circumstances, they are determined to be a repeat infringer.
- C. Smoke Free and UTEP reserve the right to decide whether Content or a User Submission is appropriate and complies with these Terms of Service for violations other than copyright infringement, such as, but not limited to, pornography, obscene or defamatory material, or excessive length. Smoke Free and/or UTEP may remove such User Submissions and/or terminate a User's access for uploading such material in violation of these Terms of Service at any time, without prior notice and at its sole discretion.
- D. Smoke Free and/or UTEP reserve the right to terminate an account and eliminate access thereto, at their sole discretion without the need for prior notice to the User.

8. Warranty Disclaimer

YOU AGREE THAT YOUR USE OF THE SMOKE FREE WEBSITE SHALL BE AT YOUR SOLE RISK. TO THE FULLEST EXTENT PERMITTED BY LAW, SMOKE FREE, UTEP AND ITS GOVERNING BOARD, OFFICERS, EMPLOYEES AND REPRESENTATIVES, THE PASO DEL NORTE HEALTH FOUNDATION AND THEIR OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, IN CONNECTION WITH THE WEBSITE AND YOUR USE THEREOF. SMOKE FREE AND/OR UTEP MAKE NO WARRANTIES OR REPRESENTATIONS ABOUT THE ACCURACY OR COMPLETENESS OF THIS SITE'S CONTENT OR THE CONTENT OF ANY SITES LINKED TO THIS SITE AND ASSUMES NO LIABILITY OR RESPONSIBILITY FOR ANY (I) ERRORS, MISTAKES, OR INACCURACIES OF CONTENT, (II) PERSONAL INJURY OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, RESULTING FROM YOUR ACCESS TO AND USE OF OUR WEBSITE, (III) ANY UNAUTHORIZED ACCESS TO OR USE OF OUR SECURE SERVERS AND/OR ANY AND ALL PERSONAL INFORMATION AND/OR FINANCIAL INFORMATION STORED THEREIN, (IV) ANY INTERRUPTION OR CESSATION OF TRANSMISSION TO OR FROM OUR WEBSITE, (V) ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE WHICH MAY BE TRANSMITTED TO OR THROUGH OUR WEBSITE BY ANY THIRD PARTY, AND/OR (VI) ANY ERRORS OR OMISSIONS IN ANY CONTENT OR FOR ANY LOSS OR DAMAGE OF ANY KIND INCURRED AS A RESULT OF THE USE OF ANY CONTENT POSTED, EMAILED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE VIA THE SMOKE FREE WEBSITE. SMOKE FREE DOES NOT WARRANT, ENDORSE, GUARANTEE, OR ASSUME RESPONSIBILITY FOR ANY PRODUCT OR SERVICE ADVERTISED OR OFFERED BY A THIRD PARTY THROUGH THE SMOKE FREE WEBSITE OR ANY HYPERLINKED WEBSITE OR FEATURED IN ANY BANNER OR OTHER ADVERTISING, AND SMOKE FREE WILL NOT BE A PARTY TO OR IN ANY WAY BE RESPONSIBLE FOR MONITORING ANY TRANSACTION BETWEEN YOU AND THIRD-PARTY PROVIDERS OF PRODUCTS OR SERVICES. AS WITH THE PURCHASE OF A PRODUCT OR SERVICE THROUGH ANY MEDIUM OR IN ANY ENVIRONMENT, YOU SHOULD USE YOUR BEST JUDGMENT AND EXERCISE CAUTION WHERE APPROPRIATE.

9. Limitation of Liability

IN NO EVENT SHALL SMOKE FREE, UTEP AND ITS GOVERNING BOARD, OFFICERS, EMPLOYEES AND REPRESENTATIVES, THE PASO DEL NORTE HEALTH FOUNDATION THEIR OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS, BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES WHATSOEVER RESULTING FROM ANY (I) ERRORS, MISTAKES, OR INACCURACIES OF CONTENT, (II) PERSONAL INJURY OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, RESULTING FROM YOUR ACCESS TO AND USE OF OUR WEBSITE, (III) ANY UNAUTHORIZED ACCESS TO OR USE OF OUR SECURE SERVERS AND/OR ANY AND ALL PERSONAL INFORMATION AND/OR FINANCIAL INFORMATION STORED THEREIN, (IV) ANY INTERRUPTION OR

CESSATION OF TRANSMISSION TO OR FROM OUR WEBSITE, (IV) ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE, WHICH MAY BE TRANSMITTED TO OR THROUGH OUR WEBSITE BY ANY THIRD PARTY, AND/OR (V) ANY ERRORS OR OMISSIONS IN ANY CONTENT OR FOR ANY LOSS OR DAMAGE OF ANY KIND INCURRED AS A RESULT OF YOUR USE OF ANY CONTENT POSTED, EMAILED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE VIA THE SMOKE FREE WEBSITE, WHETHER BASED ON WARRANTY, CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT THE COMPANY IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW IN THE APPLICABLE JURISDICTION.

YOU SPECIFICALLY ACKNOWLEDGE THAT SMOKE FREE SHALL NOT BE LIABLE FOR USER SUBMISSIONS OR THE DEFAMATORY, OFFENSIVE, OR ILLEGAL CONDUCT OF ANY THIRD PARTY AND THAT THE RISK OF HARM OR DAMAGE FROM THE FOREGOING RESTS ENTIRELY WITH YOU.

The Website is controlled and offered by Smoke Free from its facilities in the United States of America. Smoke Free makes no representations that the Smoke Free Website is appropriate or available for use in other locations. Those who access or use the Smoke Free Website from other jurisdictions do so at their own volition and are responsible for compliance with local law.

10. Indemnity

You agree to defend, indemnify and hold harmless Smoke Free, its parent corporation, UTEP and its Governing Board, Officers, employees and representatives as well as the Paso del Norte Health Foundation and their respective 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 attorney's fees) arising from: (i) your use of and access to the Smoke Free Website; (ii) your violation of any term of these Terms of Service; (iii) your violation of any third party right, including without limitation any copyright, property, or privacy right; or (iv) any claim that one of your User Submissions caused damage to a third party. This defense and indemnification obligation will survive these Terms of Service and your use of the Smoke Free Website.

11. Ability to Accept Terms of Service

You affirm that you are either more than 18 years of age, or an emancipated minor, or possess legal parental or guardian consent, and are fully able and competent to enter into the terms, conditions, obligations, affirmations, representations, and warranties set forth in these Terms of Service, and to abide by and comply with these Terms of Service. In any case, you affirm that you are over the age of 10, as the Smoke Free Website is not intended for children under 10. If you are under 10 years of age, then please do not use the Smoke Free Website. There are lots of other great web sites for you. Talk to your parents about what sites are appropriate for you.

12. Assignment

These Terms of Service, and any rights and licenses granted hereunder, may not be transferred or assigned by you, but may be assigned by Smoke Free without restriction.

13. General

You agree that: (i) the Smoke Free Website shall be deemed solely based in Texas; and (ii) the Smoke Free Website shall be deemed a passive website that does not give rise to personal jurisdiction over Smoke Free and/or UTEP, either specific or general, in jurisdictions other than Texas. These Terms of Service shall be governed by the internal substantive laws of the State of Texas, without respect to its conflict of laws principles. Any claim or dispute between you and/or Smoke Free and/or UTEP that arises in whole or in part from your use of the Smoke Free Website shall be decided exclusively by a court of competent jurisdiction located in El Paso County, Texas. These Terms of Service, together with the Privacy Notice at <http://www.liveoutsidethepack.com/pdf/> and any other legal notices published by Smoke Free on the Website, shall constitute the entire agreement between you and Smoke Free and

UTEP concerning the Smoke Free Website. If any provision of these Terms of Service is deemed invalid by a court of competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of these Terms of Service, which shall remain in full force and effect. No waiver of any term of this these Terms of Service shall be deemed a further or continuing waiver of such term or any other term, and Smoke Free and/or UTEP's failure to assert any right or provision under these Terms of Service shall not constitute a waiver of such right or provision. Smoke Free and/or UTEP reserve the right to amend these Terms of Service at any time and without notice, and it is your responsibility to review these Terms of Service for any changes. Your use of the Smoke Free Website following any amendment of these Terms of Service will signify your assent to and acceptance of its revised terms. YOU AND SMOKE FREE AND/OR UTEP AGREE THAT ANY CAUSE OF ACTION ARISING OUT OF OR RELATED TO THE SMOKE FREE WEBSITE MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES. OTHERWISE, SUCH CAUSE OF ACTION IS PERMANENTLY BARRED.

USER AGREEMENT AND PARENTAL CONSENT

Form to be filled out and signed by parents should be attached or included as part of these terms