

American Messaging Customer Agreement

We're American Messaging Services, LLC., the "Carrier". We provide paging and messaging services to you, the "Customer".

- 1. Services to be Performed by Carrier:** Carrier and/or its affiliates shall provide services and may provide equipment to Customer subject to the terms and conditions of this Agreement and Paging Plans, and all applicable federal, state and local laws, rules and regulations.
- 2. Term: THIS AGREEMENT STARTS WHEN CUSTOMER ACCEPTS.** Customer accepts when Customer gives Carrier written or electronic signature. Except as explicitly permitted by this Agreement, Customer must maintain service with Carrier for Customer's minimum term plus any additional time required by any promotions accepted by Customer ("Term"). Upon expiration of the initial Term, this Agreement shall continue on a month-to-month basis until terminated by either party upon thirty (30) days written notice.
- 3. Pricing:** Equipment and services provided under this Agreement shall be provided in accordance with the Renewal form and pricing currently listed on Customer's account. Carrier reserves the right to increase pricing equal to the consumer price index of the preceding year, one time per Calendar year, without notice. Optional offerings may be referenced in this agreement and/or may be offered to Customer and all such offerings shall be governed by this Agreement and by the terms provided to customer that are associated with such offerings. The optional offerings include but are not limited to: Pager Replacement Program, Automatic Payment Plan, Pager Exchange Program, and Employee Pager Program.
- 4. Billing and Payments:** Customer will be billed according to Customer's billing cycle, and Customer's bill will reflect the rates in effect under the applicable price plan at the time charges are incurred, plus any other charges that apply. Any unused call/packet counts from one month may not be transferred to another. Call/packet counts may not be aggregated as between wireless devices on the same account. Payment is due fifteen (15) days from the date of invoice. Customer waives any billing errors if Customer does not notify Carrier of such errors in writing within sixty (60) days from date of the invoice containing such error. If Customer defaults, Carrier may: (a) require Customer to return all Carrier owned equipment to Carrier, and/or (b) be entitled to a judgment against customer. A LATE FEE PAYMENT OF THE GREATER OF UP TO ONE AND ONE-HALF PERCENT (1.5%) PER MONTH (18 PERCENT ANNUALLY) OR ONE DOLLAR AND 50 CENTS (\$1.50) PER ACCOUNT APPLIES TO BALANCES THAT REMAIN UNPAID. HOWEVER, IF THIS LATE FEE EXCEEDS THAT ALLOWED BY APPLICABLE LAW, THEN THE MAXIMUM FEE ALLOWED BY LAW SHALL APPLY. (In California, customers will be charged at 1.5%.) Customer shall pay all reasonable costs of collection, including payment of attorneys' fees and court costs. These remedies shall be cumulative and in addition to any other remedies Carrier has at law or in equity. If service is interrupted due to non-payment, and Carrier reactivates Customer account, Customer will be required to pay a reconnection fee.
- 5. Wireless Equipment:** Customer bears the risk of loss or damage to wireless equipment, whether leased or purchased, once received. If Customer has purchased the equipment the same shall be deemed accepted within fifteen (15) days of receipt or when the equipment is activated and provided with service, whichever occurs earlier. Acceptance of the equipment shall be deemed a complete discharge of Carrier's obligations as it concerns the purchased equipment. However, Customer shall have thirty days from the date the equipment is received to discover alleged defects in such equipment and to return the equipment to Carrier for a replacement of similar type. Leased equipment remains the property of Carrier. If this Agreement is terminated, Customer will return all leased wireless equipment and accessories provided under this Agreement in reasonably good condition or reimburse Carrier at current retail rates for similar equipment and/or accessories. Lease charges will continue to accrue until all wireless equipment is returned or paid for by Customer.
- 6. Relationship of the Parties:** Both parties agree and understand that the services performed under this Agreement are performed by Carrier as an independent contractor and not as an employee of the Customer.
- 7. Limitation of Liability:** Carrier shall not be liable to Customer, its employees, agents, or any third party for injuries to persons or property arising from Customer's use of the services, the wireless equipment or related equipment, or for any defect in the services or equipment. Furthermore, Carrier shall not be liable for the installation, repair or maintenance of the services or equipment by any parties who are not employees of Carrier, or subcontractors of Carrier. Carrier's performance hereunder shall be excused if affected by equipment failure, acts of God, strikes, severe weather conditions, fire, riots, war, earthquakes, equipment or facility shortage or any other event or causes beyond Carrier's reasonable control. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES, HOWEVER CAUSED, WHICH ARE INCURRED BY THE OTHER PARTY AND WHICH ARISE OUT OF ANY ACT OR FAILURE TO ACT RELATING TO THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE CLAIM OR POTENTIAL CLAIM OR OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL CARRIER BE LIABLE FOR LOSSES, DAMAGES, OR CLAIMS ARISING OUT OF THE USE OR ATTEMPTED USE OF EMERGENCY SERVICES, NOR SHALL CARRIER BE LIABLE FOR THE INABILITY TO ACCESS EMERGENCY SERVICE.

8. INFORMATION REGARDING WARRANTIES: Carrier agrees to assign to Customer any of the manufacturers' consumer warranties received by Carrier and intended for the end user with respect to the wireless equipment. CUSTOMER ACKNOWLEDGES THAT CARRIER IS NOT THE MANUFACTURER OF THE WIRELESS EQUIPMENT AND CUSTOMER AGREES THAT CARRIER HAS NOT MADE AND MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, DIRECTLY OR INDIRECTLY, EXPRESS OR IMPLIED, AS TO THE SUITABILITY, DURABILITY, FITNESS FOR USE, MERCHANTABILITY, CONDITION OR QUALITY OF THE WIRELESS EQUIPMENT. WITH RESPECT TO CARRIER, CUSTOMER PURCHASES OR LEASES THE WIRELESS EQUIPMENT "AS IS". CARRIER SHALL NOT BE LIABLE TO CUSTOMER FOR ANY LOSS, DAMAGE OR EXPENSE OF ANY KIND OR NATURE CAUSED DIRECTLY OR INDIRECTLY BY THE WIRELESS EQUIPMENT, OR BY ANY INTERRUPTION OF SERVICE OR LOSS OF USE OF THE WIRELESS EQUIPMENT, OR FOR ANY LOSS OF BUSINESS OR DAMAGE WHATSOEVER AND HOWSOEVER CAUSED UNLESS LOSS OR DAMAGE IS DIRECTLY CAUSED BY CARRIER'S WILLFUL MISCONDUCT. CUSTOMER ACKNOWLEDGES THAT DISSATISFACTION WITH THE WIRELESS EQUIPMENT WILL NOT RELIEVE CUSTOMER OF ANY OBLIGATION UNDER THIS AGREEMENT. NOT WITHSTANDING THE ABOVE, CUSTOMER MAY RETURN THE EQUIPMENT PER THE TERMS OF SECTION 5 HEREIN.

9. Intellectual Property: Carrier shall have no liability for violation of any patent, copyright, trademark or trade secret or for violation of any license or franchise arising out of or resulting from (a) the use of the services or wireless equipment in combination with any other product or service not supplied by Carrier, or (b) modification of the services or wireless equipment by, or on behalf of Customer.

10. Indemnity: Each party agrees to be responsible for any personal injury or property damage caused by negligent acts or negligent omissions by or through itself or its agents, employees and contracted servants and each party further agrees to defend itself and themselves and pay any judgments and costs arising out of such negligent acts or negligent omissions, and nothing in this Agreement shall impute or transfer any such responsibility from one to the other.

11. Confidential Information: Customer shall hold in strictest confidence information provided to it by Carrier that is marked confidential or proprietary ("Confidential Information") for the Term of this Agreement and for a period of two years following the expiration or termination of this Agreement. Customer acknowledges that Carrier would suffer irreparable damage in the event of any material breach of these provisions. Accordingly, in such event, Carrier would be entitled to obtain preliminary and final injunctive relief, as well as any other applicable remedies at law or in equity as the result of a breach or threatened breach of this section.

12. Termination: Customer has the option to terminate this agreement during the first 30 days of service without penalty. A non-breaching party may terminate this Agreement if the other party commits a material breach of any term or condition of this Agreement and fails to cure such breach within a thirty (30) day period after receiving notice of such breach. Except as provided above, if Customer has less than ten (10) wireless devices in service and terminates service to any wireless devices within the Term of this Agreement or Carrier terminates Customer's service for good cause, then Customer shall pay \$75.00 per unit to Carrier for each such termination as an early termination fee. If Customer has ten (10) or more wireless devices in service and at any time terminates service on twenty (20) percent of the contracted units in service, then Customer shall pay Carrier the monthly fee for each terminated device multiplied times the number of months remaining in the Term of this Agreement. Furthermore, if Carrier determines that Customer is misusing the equipment or service in a manner that negatively impacts Carrier's network, then Carrier may terminate and/or suspend service without notice to Customer.

13. Availability of Service: Messaging and paging services use radio transmissions, so Carrier cannot provide service when Customer's wireless equipment is not in range of one of our transmission sites, or a transmission site of another company that has agreed to carry Carrier's service, or if there is not sufficient network capacity available at the moment. Also, there are places, particularly in remote areas, with no service at all. Weather, topography, buildings, Customer's wireless equipment, and other conditions Carrier does not control may also cause missed pages or other problems.

14. Response Procedure: If service is unavailable in Carrier's service area for more than twenty-four (24) continuous hours due to Carrier's fault, Carrier will give Customer a pro rata daily credit for the period Customer is without service. To receive such credit, Customer must notify Carrier in writing within thirty (30) days after the first bill is received for the period during which the interruption started.

15. Assignment: Carrier may assign, in whole or in part, its rights or duties under this Agreement to any assignee. Customer may not assign this Agreement without the prior written consent of Carrier, which shall not be unreasonably withheld. Subject to these restrictions, this Agreement shall apply to, inure to the benefit of, and be binding upon the successors and assignees of the respective parties.

16. Notices: All notices required or permitted to be given hereunder shall be in writing and shall be valid and sufficient if dispatched by (a) registered or certified mail, postage prepaid, in any Post Office in the United States; (b) hand delivery; (c) overnight courier; or (d) facsimile transmission upon confirmation of receipt by the recipient.

If to Carrier:

Contract Support Group
American Messaging Services, LLC.
1720 Lakepointe Drive, Suite 100
Lewisville, TX 75057

If to Customer:

To the billing address of record maintained by Carrier.

17. Severability: Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. If any provision of this Agreement shall be held by a court of competent jurisdiction or by a duly appointed arbitrator to be invalid or unenforceable under applicable law, such provision shall be ineffective only to the extent of its invalidity or unenforceability, and the remainder of such provision and the remaining provisions of this Agreement shall remain in full force and effect.

18. Wireless Number And/Or Internet Address: Carrier will assign one wireless telephone number (also referred to as an "access number", "pager number", or "wireless number"), cap code and/or Internet address, if applicable, to each unit in service. Customer agrees that it does not have any property right or ownership in the wireless number, cap code or Internet address or in the personal identification number ("PIN(s)") the Customer or Carrier may establish. Carrier may change the Customer's wireless number if Carrier determines it is necessary to comply with regulatory and/or commercial requirements, however, Carrier shall not arbitrarily change Customer's wireless number and in the event of change Carrier shall specifically advise Customer of the reason for such change.

19. Charges.

19.1. Charges: Customer is required to pay a monthly service charge, and charges for shipping of equipment, messages, packets and/or pages over the monthly limit, and charges for network administration, activation, suspension, reconnection, termination and exchanges, if applicable, as well as fees related to optional offerings referenced in section 3 above, and Carrier's regulatory and/or governmental costs.

19.2. Tax: If any federal, state or local government tax, fee, duty, or surcharge (collectively referred to as a "Tax") is required by applicable law to be collected from Customer by Carrier, then (a) Carrier shall bill Customer for such Tax, (b) Customer shall timely remit such Tax to Carrier, and (c) Carrier shall, where applicable, remit such collected Tax to the appropriate taxing authority. If Carrier does not collect a Tax because Customer has provided Carrier with evidence of exemption, and if such as an exemption is later determined to be inadequate, then, as between Carrier and Customer, Customer shall be liable for such uncollected Tax and for all interest, penalties and additions to Tax which are determined to be due with respect to such uncollected Tax.

20. Authority: The parties hereby represent that they have full power and authority to enter into and perform this Agreement and know of no contracts, agreements, promises or undertakings that would prevent the full execution and performance of this Agreement.

21. Reservation of Rights: Either party's waiver of any of its remedies for a breach by the other party shall not operate to waive any other remedies available to it, nor shall such waiver operate to waive rights to any remedies for a future breach, whether of a like or different character.

22. Dispute Resolution And Mandatory Arbitration: INSTEAD OF SUING IN COURT, BOTH PARTIES AGREE TO SETTLE ALL DISPUTES (EXCEPT CERTAIN SMALL CLAIMS) ONLY BY ARBITRATION. THE RULES IN ARBITRATION ARE DIFFERENT. THERE IS NO JUDGE OR JURY, AND REVIEW IS LIMITED, BUT AN ARBITRATOR CAN AWARD THE SAME DAMAGES AND RELIEF, AND MUST HONOR THE SAME LIMITATIONS IN THIS AGREEMENT, AS A COURT WOULD. TO THE FULLEST EXTENT PERMITTED BY LAW WE EACH AGREE THAT:

22.1. THE FEDERAL ARBITRATION ACT APPLIES TO THIS AGREEMENT. ANY CONTROVERSY OR CLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR ANY PRIOR AGREEMENT FOR WIRELESS SERVICE WITH CARRIER OR ANY OF ITS AFFILIATES OR PREDECESSORS IN INTEREST, OR ANY PRODUCT OR SERVICE PROVIDED UNDER OR IN CONNECTION WITH THIS AGREEMENT OR SUCH A PRIOR AGREEMENT, OR ANY ADVERTISING FOR SUCH PRODUCTS OR SERVICES, WILL BE SETTLED BY ONE OR MORE NEUTRAL ARBITRATORS ON AN INDIVIDUAL BASIS BEFORE THE AMERICAN ARBITRATION ASSOCIATION ("AAA") OR BETTER BUSINESS BUREAU ("BBB") AS DESCRIBED BELOW. (IF CUSTOMER'S LOCAL SMALL CLAIMS COURT OFFERS ARBITRATION, CUSTOMER MAY ALSO USE THAT PROCESS FOR ANY DISPUTE THAT QUALIFIES.) THIS DOES NOT CHANGE CUSTOMER'S SUBSTANTIVE RIGHTS, JUST THE POTENTIAL FORUMS FOR RESOLVING DISPUTES. IN ADDITION, CUSTOMER CAN STILL BRING ANY ISSUES CUSTOMER MAY HAVE TO THE ATTENTION OF APPROPRIATE FEDERAL, STATE, OR LOCAL GOVERNMENT AGENCIES AND THEY CAN STILL, IF THE LAW ALLOWS, SEEK RELIEF AGAINST CARRIER ON CUSTOMER'S BEHALF.

22.2. FOR CLAIMS OVER \$10,000, THE AAA'S WIRELESS INDUSTRY ARBITRATION ("WIA") RULES WILL APPLY. FOR CLAIMS BETWEEN \$2,500 AND \$10,000, THE AAA'S ARBITRATION RULES FOR THE RESOLUTION OF CONSUMER-RELATED DISPUTES (THE "CONSUMER RULES"), WHICH INCLUDE A SMALL CLAIMS COURT OPTION, WILL APPLY. FOR CLAIMS UNDER \$2,500, THE COMPLAINING PARTY CAN CHOOSE EITHER THE CONSUMER RULES OR THE BBB'S RULES FOR BINDING ARBITRATION. AN ARBITRATOR MAY, UNDER ANY OF THESE RULES, REQUIRE EACH PARTY TO EXCHANGE RELEVANT EVIDENCE IN ADVANCE. IN LARGE/COMPLEX CASES UNDER THE WIA RULES, THE ARBITRATORS MUST APPLY THE FEDERAL RULES OF EVIDENCE AND THE LOSER MAY HAVE THE AWARD REVIEWED BY A PANEL OF THREE (3) NEW ARBITRATORS.

22.3. CUSTOMER CAN OBTAIN RULES AND FEE INFORMATION FROM THE AAA (www.adr.org), THE BBB (www.bbb.org) OR FROM CARRIER. IF CUSTOMER CANNOT PAY THE REQUIRED ARBITRATION FEES, IF ANY, THERE ARE FEE WAIVER PROGRAMS. EVEN IF CUSTOMER DOES NOT QUALIFY FOR A FEE WAIVER, CARRIER WILL PAY ALL BUT \$100 OF ANY COMBINED FEES CUSTOMER WOULD BE REQUIRED TO PAY FOR FILING AND A FIRST DAY OF ARBITRATION IF CUSTOMER COMPLETES CARRIER'S MEDIATION PROGRAM. MEDIATION IS A PROCESS FOR MUTUALLY RESOLVING DISPUTES. A MEDIATOR CAN HELP PARTIES REACH AGREEMENT, BUT DOES NOT DECIDE THEIR ISSUES. IN CARRIER'S MEDIATION PROGRAM, CARRIER WILL ASSIGN SOMEONE (WHO MAY BE FROM CARRIER'S COMPANY) NOT DIRECTLY INVOLVED IN THE DISPUTE TO MEDIATE. THAT PERSON WILL HAVE ALL THE RIGHTS AND PROTECTIONS OF A MEDIATOR. NOTHING SAID IN THE MEDIATION CAN BE USED IN A LATER ARBITRATION OR LAWSUIT. COMPLETING THE MEDIATION PROGRAM MEANS PARTICIPATING IN GOOD FAITH IN AT LEAST ONE TELEPHONIC MEDIATION SESSION. CUSTOMER CAN CONTACT CARRIER AT www.Americanmessaging.net OR THROUGH CUSTOMER SERVICE TO FIND OUT MORE.

22.4. ONLY AN ARBITRATOR CAN DECIDE WHETHER AN ISSUE IS ARBITRABLE. AN ARBITRATOR CAN ALLOCATE THE FEES AND COSTS OF ARBITRATION IN AN AWARD. IF AN APPLICABLE STATUTE PROVIDES FOR AN AWARD OF ATTORNEY'S FEES, AN ARBITRATOR CAN AWARD THEM, TOO.

22.5. IF FOR SOME REASON THESE ARBITRATION REQUIREMENTS DON'T APPLY, EACH PARTY WAIVES ANY TRIAL BY JURY.

23. Entire Agreement: This Agreement contains the full and complete understanding between the parties, supersedes all prior agreements and understandings, whether written or oral pertaining to the services and cannot be modified except by a written instrument signed by both parties.

24. Governing Law: Except as provided below, this Agreement shall be governed by the laws of the State of Delaware regardless of any conflicts of laws or rules that would require the application of the laws of another jurisdiction. Disputes requiring arbitration shall be resolved in the State of Delaware.

25. Execution of Agreement: This Agreement may be executed in several counterparts, a copy of which shall be considered an original for all purposes whatsoever.