



SAMPLE RESELLER/TNPP AGREEMENT

This Major Account Wireless Agreement (“Agreement”), dated _____, between American Messaging Services, LLC, located at 1720 Lakepointe Drive Suite 100 Lewisville, Texas 75057 and YOUR COMPANY NAME,, (hereinafter “Reseller”), a (Place type of Company here) Corporation, located at _____ for the provision of wireless services by American Messaging Services, LLC and the agreement of Reseller to purchase these services from American Messaging Services, LLC.

WHEREAS, Reseller wishes American Messaging Services, LLC to provide wireless communications equipment and wireless service to Reseller’s customers in American Messaging Services, LLC’ service areas.

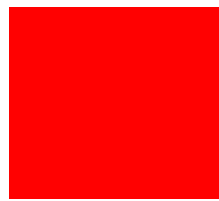
NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. **Definitions:** When used in this Agreement the following terms shall have the following meanings as specified below:
 - 1.1 **Affiliate.** Any person, partnership, joint venture, corporation, or other form of enterprise, domestic or foreign, including, but not limited to, parents or subsidiaries, which directly or indirectly Control, are Controlled by, or are under common Control with, a party to this Agreement.
 - 1.2 **Authorized Contact.** An individual who is designated and granted authority to act on behalf of Reseller for any and all matters contemplated by the parties’ Agreement to include access to the account, ability to purchase equipment, add lines of service, cancel service, and make changes to the account that financially bind the Reseller.
 - 1.3 **Carrier.** An entity (other than American Messaging Services, LLC) licensed by the FCC to offer wireless services.
 - 1.4 **Control.** The possession, directly or indirectly, of the power to direct, or cause the direction of, the management and operating policies of the entity in respect of which the determination is being made, through the ownership of voting securities [at least fifty percent (50%) of its voting securities or the maximum allowed by law], contract, voting trust, or otherwise.
 - 1.5 **End User.** The ultimate user of services provided by or through American Messaging Services, LLC, whose account is set up in Reseller’s name and for which Reseller bears payment responsibility. Each cap code is deemed to be a separate End User.
 - 1.6 **Equipment.** Paging devices used by End User in conjunction with or in order to utilize the services provided hereunder.
 - 1.7 **Facilities.** The equipment maintained, expanded, modified or replaced by American Messaging Services, LLC or a Carrier with whom American Messaging Services, LLC or its Affiliates have agreements for the provision of services to Resellers.

2. **Services to be Performed by American Messaging Services, LLC:** American Messaging Services, LLC shall provide services and may provide equipment to Reseller and through Reseller End Users subject to the terms and conditions of this Agreement and all applicable federal, state and local laws, rules and regulations.

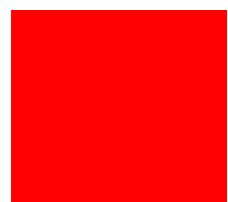
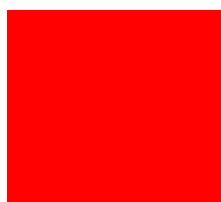
3. **Term and Termination:**
 - 3.1 **Term:** This Agreement shall be for an initial term of Two (2) years from the date this Agreement is executed by both parties of this Agreement (“Commencement Date”). Thereafter, the Term of the Agreement shall be automatically renewed on a month-to-month basis unless terminated upon thirty (30) days prior written notice.
 - 3.2 American Messaging Services, LLC has the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days prior written notice to Reseller.
 - 3.3 In order to avoid harm or inconvenience to the End Users upon termination of this Agreement, if Reseller defaults or breaches this Agreement, after notice and opportunity to cure, American Messaging Services, LLC may contact the End Users to notify them that the Agreement will terminate and provide them an opportunity to arrange for continued service through American Messaging Services, LLC.

4. **Reseller’s Commitment:**
 - 4.1 Reseller shall act in all respects on its own account and shall be solely responsible for all aspects of its business including, but not limited to, establishing its retail rate plans, any credit verification, deposits, billing, collection, consolidation, rebilling, Reseller billing complaints, Equipment procurement and related issues, Reseller service, toll/long distance calls and bad debts.
 - 4.2 Reseller agrees that billings will be paid by Reseller for End Users. Reseller agrees to pay all undisputed amounts in any and all invoices presented by American Messaging Services, LLC. The validity of any such invoices shall be reasonably determined by American Messaging Services, LLC and Reseller according to American Messaging Services, LLC’ records.





- 4.3 Reseller shall use its best efforts to utilize American Messaging Services, LLC' automated customer service tools, such as its IVR system and web-based "My Paging Account" application, in connection with the services provided under this Agreement.
- 4.4 Terms of payment for End Users shall be net 15 days from the date of the invoice sent to Reseller at the address set forth in the first paragraph of the Agreement. Payment shall be considered made when payment is actually received by American Messaging Services, LLC. Amounts due, not received on or before the due date shall incur, to the extent permitted by applicable law, a late payment fee of up to one and one-half percent (1 ½%) per month (eighteen percent (18%) annually) on unpaid balances.
- 4.5 In its performance of this Agreement, Reseller shall comply with all applicable laws, orders, rules and regulations of federal, state or local governments, including without limitation all consumer protection laws, laws governing the use of trade secrets and other proprietary information, and laws applicable to Reseller as an employer of labor, all tariffs, and any governmental rules and procedures relating to the sale of wireless services or the sale, lease, installation, warranty service or repair of Equipment. Reseller shall, at its sole expense, secure and maintain in full force and effect all licenses, approvals, certifications, and permits required of Reseller and its employees for its performance hereunder.
- 4.6 Reseller represents and warrants that no service performed by Reseller pursuant to this Agreement shall be provided, directed, controlled, supervised, or managed, and no End User information relating to any such service shall be stored, at, in, or through a site located outside of the United States; Reseller further represents, warrants and covenants that it will not use, or allow the use, outside of the United States of any user identifications and passwords assigned to it for access to End User information.
5. **Shipping, Title, Risk of Loss, Acceptance:** Equipment shall be shipped F.O.B. American Messaging Services, LLC' warehouse via standard transportation to the address specified on Reseller's purchase order within ten (10) business days of receipt of purchase order based on Equipment availability. Title and risk of loss shall pass to Reseller upon shipment to Reseller's designated shipping destination. Acceptance shall occur within thirty (30) business days after Reseller's receipt of such Equipment. If Reseller accepts the Equipment tendered under this Agreement, such acceptance shall be deemed a complete discharge of all of American Messaging Services, LLC' obligations, and after such acceptance Reseller shall have no remedy against American Messaging Services, LLC nor the right to revoke such acceptance for any reason; provided however, that if Reseller or its End Users within the thirty (30) business day period prior to acceptance find the Equipment defective then Reseller or its End Users shall return such Equipment and upon its return American Messaging Services, LLC shall repair or replace the Equipment, or, if repair or replacement is not feasible, will refund to Reseller or End User the fees for the Equipment. It is expressly understood that American Messaging Services, LLC, or its Affiliates, may, but is in no way obligated to, sell Equipment to Reseller for resale. In the event that Reseller purchases any Equipment from American Messaging Services, LLC, the terms and conditions of such purchases shall be governed by the provisions of the American Messaging Services, LLC purchase order.
6. **No Warranties:** American Messaging Services, LLC agrees to assign to Reseller any of the manufacturers' consumer warranties received by American Messaging Services, LLC and intended for the End User with respect to the Equipment. RESELLER ACKNOWLEDGES THAT AMERICAN MESSAGING SERVICES, LLC IS NOT THE MANUFACTURER OF ANY OF THE EQUIPMENT, AND RESELLER AGREES THAT, TO THE EXTENT PERMITTED BY LAW, AMERICAN MESSAGING SERVICES, LLC HAS 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 ANY OF THE EQUIPMENT. RESELLER RECEIVES THE EQUIPMENT FROM AMERICAN MESSAGING SERVICES, LLC "AS IS." AMERICAN MESSAGING SERVICES, LLC SHALL NOT BE LIABLE TO RESELLER FOR ANY LOSS, DAMAGE OR EXPENSE OF ANY KIND OR NATURE CAUSED DIRECTLY OR INDIRECTLY BY EQUIPMENT OR BY THE USER OR MANUFACTURER THEREOF, OR BY ANY REPAIR, SERVICE OR ADJUSTMENT THERETO OR BY ANY INTERRUPTION OF SERVICE OR LOSS OF USE THEREOF, OR FOR ANY LOSS OF BUSINESS OR DAMAGE WHATSOEVER AND HOWSOEVER CAUSED. RESELLER ACKNOWLEDGES THAT DISSATISFACTION WITH THE EQUIPMENT WILL NOT RELIEVE RESELLER OF ANY OBLIGATION UNDER THIS AGREEMENT. NEITHER AMERICAN MESSAGING SERVICES, LLC NOR ITS AFFILIATES MAKE ANY WARRANTIES, EITHER EXPRESSED OR IMPLIED, CONCERNING THE FACILITIES, SYSTEMS, OR THE SERVICES PROVIDED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE. THIS SECTION SHALL APPLY TO RESELLER AND ANY OF RESELLER'S END USERS. Reseller expressly acknowledges that American Messaging Services, LLC shall have no liability for any failure, defects, malfunctions or errors in the Facilities, Systems, or for the provision of services hereunder to Reseller or its End Users.
7. **Indemnity.** American Messaging Services, LLC shall not be liable for, and Reseller hereby indemnifies and holds harmless American Messaging Services, LLC From, any and all damages, claims, actions, losses, and other expenses (including reasonable attorneys' fees) ("Losses") that may arise out of: (i) any action brought by an End User of Reseller in connection with Reseller's provision of the wireless services or Reseller's End User contract, (ii) any breach or violation of this Agreement by Reseller, (iii) any breach of any of the representations made by Reseller in this Agreement, (iv) Reseller's violation of laws, orders, rules and regulations of federal, state or local governments; or (v) any act or omission of Reseller in connection with Reseller's use or resale of services pursuant to this Agreement. The rights of American Messaging Services,





LLC under this Section 7 are independent of, and in addition to, such rights and remedies as American Messaging Services, LLC may have at law or in equity or otherwise, including the right to seek specific performance, rescission, or restitution.

8. **Intellectual Property:** American Messaging Services, LLC 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 Equipment in combination with any other product or service not supplied by American Messaging Services, LLC, or (b) modification of the services or Equipment by, or on behalf of, Reseller or End User, if Reseller knew or should have known of such modification by such End User.
9. **Availability of Service:** Reseller acknowledges that messaging and paging services use radio transmissions, so American Messaging Services, LLC cannot provide service when either Reseller's or End User's Equipment is not in range of one of American Messaging Services, LLC's transmission sites, or a transmission site of another company that has agreed to carry American Messaging Services, LLC's service, or if there is not sufficient network capacity available at the moment. The parties recognize that unusual concentrations of paging usage may occur in certain locations. American Messaging Services, LLC shall incur no liability for its inability to provide adequate services hereunder if such liability is due to a lack of network capacity which results from the aforesaid usage concentration, and nothing herein shall require American Messaging Services, LLC to expend any capital to ensure capacity for Reseller's or its End Users' use of services. Also, there are places, particularly in remote areas, with no service at all. Weather, topography, buildings, End User's Equipment, and other conditions American Messaging Services, LLC does not control may also cause missed pages or other problems.
10. **Limitation of Liability:** American Messaging Services, LLC shall not be liable to Reseller, its employees, agents, or any third party for injuries to persons or property arising from Reseller or End User's use of the services, the Equipment or related equipment, or for any defect in the services or equipment. Furthermore, American Messaging Services, LLC shall not be liable for the installation, repair or maintenance of the services or equipment by any parties who are not employees of American Messaging Services, LLC, or subcontractors of American Messaging Services, LLC. American Messaging Services, LLC'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 American Messaging Services, LLC's reasonable control.

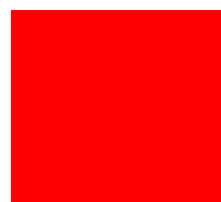
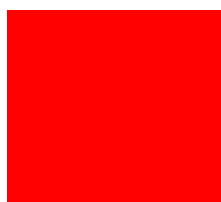
IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES, HOWEVER CAUSED, WHICH ARE INCURRED BY THE OTHER PARTY AND WHICH ARISE OUT OF ANY ACT OR FAILURE TO ACT RELATING TO THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE CLAIM OR POTENTIAL CLAIM OR OF THE POSSIBILITY OF SUCH DAMAGES.

IN NO EVENT SHALL AMERICAN MESSAGING SERVICES, LLC BE LIABLE FOR LOSSES, DAMAGES, OR CLAIMS ARISING OUT OF RESELLER'S USE OR ATTEMPTED USE OF EMERGENCY SERVICES, NOR SHALL AMERICAN MESSAGING SERVICES, LLC BE LIABLE FOR RESELLER'S INABILITY TO ACCESS EMERGENCY SERVICE.

11. **Assignment:** Neither party shall assign its rights or delegate its duties under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld, delayed or conditioned. Notwithstanding the foregoing, American Messaging Services, LLC may assign this Agreement, without Reseller's consent, to (i) any parent, subsidiary or Affiliate entity, (ii) to a successor in interest of all or substantially all of the assets, stock or business of a party to which this Agreement pertains, or (iii) any partnership or entity resulting from that certain U.S. Wireless Alliance Agreement between American Messaging Services, LLC. Any attempted assignment or delegation in contravention of this section shall be void and of no effect, and shall be considered a material default of this Agreement. Subject to the provisions of this section, this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns, if any, of the parties hereto.
12. **End User Service Agreement.** Reseller may, but is not required to, prior to the commencement of marketing the wireless services, provide its form of End User contract, if any, to American Messaging Services, LLC for its review. American Messaging Services, LLC's review shall be limited to ascertaining whether the proprietary and legal interests of American Messaging Services, LLC are adequately protected in such contract and to review the use of any protected American Messaging Services, LLC mark to the extent prior written consent was provided to use any American Messaging Services, LLC mark. Reseller shall not use any American Messaging Services, LLC mark in its End User agreements without the prior written consent of American Messaging Services, LLC. Reseller shall delete all price information from such contract prior to submitting it to American Messaging Services, LLC for review. Reseller shall include the following language or substantially similar language in its End User agreements:

“(End User) shall acquire no proprietary interest in the Number assigned by (Reseller) for its use.

The supplier of wireless services to (Reseller) shall have no liability whatsoever for (End User's) losses, claims or damages for any cause whatsoever, including but not limited to any failure or disruption of wireless services provided hereunder, regardless of the form of action, whether in contract or in tort or otherwise. (End User) shall not be deemed a third-party beneficiary of any contract between (Reseller) and (Reseller's) supplier.”





13. **Equipment Compatibility.** Reseller shall ensure that any Equipment utilized by itself or its End Users in connection with the wireless service and each End User’s use thereof shall at all times comply with the requirements outlined in this Section. American Messaging Services, LLC shall have no liability for Reseller’s Equipment or Reseller’s failure to maintain or meet such compatibility or requirements. Under no circumstances shall American Messaging Services, LLC be responsible for or obligated to make any changes to its equipment, operations, Facilities, or systems to accommodate Reseller or any End User.

Reseller’s Equipment shall have a Type Acceptance Certificate from the FCC, pursuant to Part 15 of Title 47 of the United States Code of Federal Regulations.

14. **Confidential Information:** Each party agrees that information concerning the other party’s business (including that of all corporate affiliates and subcontractors) is "Confidential Information" and shall be maintained in confidence and not disclosed, used or duplicated. Confidential Information may include, without limitation, terms and conditions of this agreement, financial information, pricing information, information related to mergers or acquisitions, software, software documentation, and information concerning business plans or business strategy. Each party may use Confidential Information of the other only in connection with performance under this Agreement. The parties shall not copy Confidential Information or disclose Confidential Information to persons who do not need Confidential Information in order to perform under this Agreement.

However, the transmission of data of any kind across carrier’s network and/or interrelated networks and/or communications conduits shall not be deemed an inappropriate disclosure of confidential information, and American Messaging Services, LLC shall not be required to give notice to Reseller of investigatory techniques and/or inquiries employed by federal, state, and/or local law enforcement agencies that are receiving American Messaging Services, LLC’ assistance.

These obligations do not apply to Confidential Information which: a) As shown by reasonably documented proof, was in the other’s possession prior to receipt from the disclosing party; or b) As shown by reasonably documented proof, was received by one party in good faith from a third party not subject to a confidential obligation to the other party; or c) Now is or later becomes publicly known through no breach of confidential obligation by the receiving party; or d) Is disclosed to a third party by the source without a similar non-disclosure restriction; or e) Was developed by the receiving party without the developing person(s) having access to any of the Confidential Information received from the other party; or f) Is authorized in writing by the disclosing party to be released or is designated in writing by that party as no longer being confidential or proprietary.

15. **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.

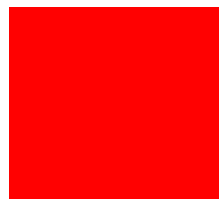
If to American Messaging Services, LLC:
 American Messaging Services, LLC
 1720 Lakepointe Drive, Suite 100
 Lewisville, TX 75057

If to Reseller, to the billing address of record
 maintained by American Messaging Services, LLC:

16. **Taxes:** If any federal, state or local government tax, fee, duty, surcharge (including but not limited to any universal service fund surcharge), or other tax-like charge (including but not limited to a customary surcharge intended to allow American Messaging Services, LLC to recover a tax or other governmental expense which it incurs) (collectively referred to as a “Tax”) is required or permitted by applicable law to be collected from a End User by American Messaging Services, LLC, then (a) American Messaging Services, LLC shall bill Reseller for Tax which is attributable to End Users, (b) Reseller shall timely remit such Tax to American Messaging Services, LLC, and (c) American Messaging Services, LLC shall, where applicable, remit such collected Tax to the appropriate taxing authority.

17. **Resolution of Disputes/Arbitration:** The parties agree to attempt to settle any dispute arising out of this Agreement through consultation and negotiation in good faith and in the spirit of mutual cooperation. Accordingly, if the parties have a dispute, the parties agree to meet to try to resolve the dispute within fourteen (14) days after one party delivers a written request for a meeting to the other party. If after such meeting, the parties have not succeeded in negotiating a resolution of the dispute within a reasonable time, then either party may commence arbitration as provided herein by delivering a written demand for arbitration to the other party.

If either party commences arbitration in the manner described above, the dispute will be subject to expedited, binding arbitration before one (1) independent arbitrator familiar with the wireless telecommunications industry. Such arbitration shall be held in New York City, New York pursuant to the Wireless Industry Arbitration (“WIA” – The WIA is a part of the AAA that arbitrates matters specifically with the wireless industry.) rules in effect at the time of the dispute, as modified by this Agreement and administered by the American Arbitration Association (“AAA”). The arbitrator shall be selected by the joint agreement of the parties, but if they do not so agree within fourteen (14) days after the date of the notice referred to above, the selection shall be made by AAA pursuant to the AAA Rules. Any award rendered by the arbitrator shall be conclusive and binding upon the parties hereto; provided, however, that any such award shall be accompanied by a written opinion of the arbitrator giving the reasons for the award. The arbitrator shall have the authority to require the submission (at hearing or otherwise) of such documents, information, testimony, and other items as the arbitrator may deem necessary to





make a fair and reasonable decision. The findings of the arbitrator may not change the express terms of this Agreement and shall be consistent with the arbitrator's understanding of the findings a court of proper jurisdiction would make in applying the applicable law to the facts underlying the dispute. This provision for arbitration shall be specifically enforceable by the parties and the decision of the arbitrator in accordance herewith shall be final and binding and there shall be no right of appeal therefrom. No arbitrator has authority to award relief in excess of what this Agreement provides. Each party shall pay its own expenses of arbitration and the expense of the arbitrator shall be shared equally; provided, however, that if in the opinion of the arbitrator any party's delay in the arbitration process was unreasonable, the arbitrator may assess, as part of the award, all or any part of the arbitration expenses of the other party (including reasonable attorneys' fees) and of the arbitrator against the party causing such unreasonable delay. In no event whatsoever shall such an arbitration award include an award of punitive damages and the parties hereby waive the right to recover punitive damages. To the extent allowed by law, all applicable statutes of limitation and defenses based upon the passage of time shall be tolled while the procedures specified in this Section 18 are pending. The parties will take such actions, if any, required to effectuate such tolling. The parties will not be prohibited from seeking injunctive relief to preserve the status quo pending resolution under this provision. The arbitration shall be governed by the United States Arbitration Act, 9 USC §§1-16, as amended. In the event of any conflict between the United States Arbitration Act, 9 USC §§1-16, as amended and the procedures of the AAA (WIA Arbitration Rules), then the AAA procedures shall govern.

ALL DISCUSSIONS AND DOCUMENTS PREPARED PURSUANT TO ANY ATTEMPT TO RESOLVE A DISPUTE UNDER THIS PROVISION ARE CONFIDENTIAL AND FOR SETTLEMENT PURPOSES ONLY AND SHALL NOT BE ADMITTED IN ANY COURT OR OTHER FORUM AS AN ADMISSION OR OTHERWISE AGAINST A PARTY FOR ANY PURPOSE INCLUDING THE APPLICABILITY OF FEDERAL AND STATE COURT RULES.

THE ARBITRATOR SHALL NOT AWARD ANY PARTY PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, AND EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT TO SEEK SUCH DAMAGES.

18. **Waiver of Jury Trial:** If for any reason the provisions of this Agreement requiring arbitration are declared unenforceable, void, or voidable, or if any action or judicial proceeding is permitted other than as contemplated by these provisions, each party waives any right it may have to trial by jury and consents to the bringing of such action in New York, NY.
19. **Company Marks:** Reseller hereby acknowledges that the American Messaging Services, LLC name, logo, trademarks, and service marks ("American Messaging Services, LLC marks") are the sole property of American Messaging Services, LLC and/or its Affiliates, and are good, valid, and enforceable in law and equity. Reseller shall not challenge or assist in challenging the validity of registrations thereof, or engage in any activities or commit any acts, directly or indirectly, which may contest, dispute or otherwise impair such right, title and interest of American Messaging Services, LLC or its Affiliates therein. Reseller shall neither acquire, nor claim any right, title or interest in or to American Messaging Services, LLC marks. Reseller acknowledges and agrees that it has no right, title or interest in any of American Messaging Services, LLC marks.
- a) Reseller shall not use any of the American Messaging Services, LLC marks as part of its corporate, trade or business names. Any use of the American Messaging Services, LLC marks by Reseller shall be a violation of this Agreement and shall constitute an infringement of such American Messaging Services, LLC marks.
 - b) Reseller shall not use American Messaging Services, LLC' marks in any advertising, sales promotion, press releases or other publicity matters. Reseller shall not use any language from which American Messaging Services, LLC' marks may be inferred or implied. The only permission granted to Reseller to use American Messaging Services, LLC' name is limited to circumstances where such use is necessary to respond to a specific End User's or a prospective End User's request for information regarding the Facilities on which the service is provided. The approved language is as follows: Service provided on the American Messaging Services, LLC network.
 - c) Upon termination or expiration of this Agreement, Reseller shall have no right to continue any use of American Messaging Services, LLC marks, to the extent it was expressly granted permission to do so hereunder.
 - d) Reseller shall fully indemnify and hold harmless American Messaging Services, LLC from any and all claims, losses, damages or other expenses (including reasonable attorney's fees) that arise or result from Reseller's unauthorized use of American Messaging Services, LLC' marks.
 - e) The failure of Reseller to carry out any obligation under this Section shall constitute immediate and irreparable injury to American Messaging Services, LLC not compensable in money damages and shall warrant preliminary and other injunctive and equitable relief upon a showing satisfactory to the court to which an application for relief may be made of the failure to carry out such obligation.
 - f) Reseller's breach of this Section shall be deemed a default under this Agreement and, in the event of such default and in addition to any and all other of American Messaging Services, LLC' rights of termination hereunder, American Messaging Services, LLC may terminate this Agreement upon thirty (30) days prior written notice (unless the default cured by Reseller during such thirty (30) day period).





20. **Reseller Personnel.** Personnel employed or contracted by Reseller to perform services for Reseller are not employees of American Messaging Services, LLC, and Reseller assumes full responsibility for their acts, daily direction and control. Reseller shall provide adequate staff to receive, investigate and verify any complaints from its End Users relating to the use of the services, and will report any trouble with the American Messaging Services, LLC services to American Messaging Services, LLC only after Reseller has reasonably verified that any difficulties are not caused by Equipment or conditions within the control of Reseller. All personnel of Reseller shall be at the sole expense of Reseller, and Reseller shall be solely responsible for any and all employment benefits and withholding issues including, but not limited to, worker's compensation, disability benefits, unemployment insurance or withholding income taxes and social security for said personnel.
21. **Independent Contractor:** Neither party nor its officers and directors and its associated personnel and employees shall be deemed to be agents or employees of the other party, it being understood that both parties are independent contractors for all purposes and at all times.
22. **Insurance.** Reseller shall at all times during the term of this Agreement, at Reseller's sole expense, be insured under a comprehensive liability insurance policy against claims for bodily and personal injury, death and property damage caused by or occurring in conjunction with the operation of Reseller's business. Such insurance coverage shall be maintained under one or more policies of insurance from a recognized insurance company qualified to do business within the territory that Reseller does business, providing in the aggregate a minimum liability protection of One Million Dollars (\$1,000,000) per occurrence for property damage or bodily and personal injury or death. Further, Reseller shall name American Messaging Services, LLC as an additional insured on such policies. Reseller shall furnish American Messaging Services, LLC with certificate(s) of insurance, on or before execution of this Agreement, and upon reasonable request thereafter as American Messaging Services, LLC deems necessary.
23. **Reservation of Rights:** Either party's waiver of any of its remedies for a breach by the other party is without prejudice and shall not operate to waive any other remedies which shall have available to it, nor shall such waiver operate to waive the other party's rights to any remedies for a future breach, whether of a like or different character.
24. **Headings:** All headings of the articles of this Agreement are inserted for convenience only and shall not affect any construction or interpretations of this Agreement.
25. **Entire Agreement:** This Agreement, and its attachments constitute the entire Agreement between American Messaging Services, LLC and Reseller with respect to the subject matter hereof and shall not be amended or modified without specific written provision to that effect, signed by both parties. No oral statement of any person whomsoever shall, in any manner or degree, modify or otherwise affect the terms and provisions of this Agreement. The Agreement consists of the following documents:

Reseller Agreement
Exhibit A
Exhibit B
26. **Authority:** The Parties hereby represent that they have full power and authority to enter into and perform this Agreement and the Parties know of no contracts, agreements, promises or undertakings which would prevent the full execution and performance of this Agreement. Reseller will ensure that only authorized personnel can request changes to new and existing End User lines of service and upgrades.
27. **Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

