

TERMS OF USE



1. Overview

This agreement applies to all of the websites on which it is posted including ContactWireless.com, SelectPath.com, TxtPage.com, TxtAlert.com, Confirmtext.com, BulkTextMsg.com, and Txt-Link.comContact.com (collectively “Contact Sites”). Use and access to the Contact Sites (including any rebranded or white label version of the Contact Sites), and the text message, hosted telemarketing, and voice broadcast services described below (the “Services”), are subject to these terms and conditions of use (the “Terms”) as well as our Privacy Policy and Anti-Spam Policy located at: www.contactwireless.com/legal/tou , www.Contactwireless.com/legal/pp and www.Contactwireless.com/legal/asp.

We reserve the right to change these Terms from time to time. Any updates to these Terms shall be posted on this website. You acknowledge your responsibility to review these Terms from time to time and to be aware of any such changes. By continuing to use any of the Contact Sites or Services after we post any such changes, you accept these Terms, as modified. By accessing one of the Contact Sites or our Services, you accept these Terms and certify that you have reviewed these Terms and are the age of 18. IF YOU DO NOT INTEND ON USING THE SERVICES IN ACCORDANCE WITH THESE TERMS, DO NOT UTILIZE THE SERVICES PROVIDED BY CONTACT.

2. The Services

Services described on the Contact Sites may or may not be available in all cities in the US. You agree to use the Contact Services in accordance with all applicable guidelines as well as all state and federal laws that the Services are subject to.

The Services consist of one or more of the following: a web-based interface, access to incoming telephone number, Direct Inward Dialing Numbers (“DIDs”), messaging applications, text broadcast applications, data transmission, data access, and data storage, as well as software maintenance and upgrades and customer support, that enable you to send text messages to recipients designated by you (collectively, the “Services”). We transmit messages initiated by you or sent to you by others through different routes, and the level of reliability and support for special features varies according to the route. You are responsible for obtaining and maintaining all computer hardware, software and communications equipment needed to access the Services, and for paying all access charges (e.g., ISP, telecommunications) incurred while using the Services.

Contact only provides that the Services are processed correctly and further transmitted by Contact to the applicable network. Contact is not responsible for the final delivery of any communication initiated through Contact’s Services, as this is out of our control and is the responsibility of downstream communications carriers.

Contact transmits and receives text messages and voice broadcasts via other major telecommunications companies and mobile network operators, and thus Contact’s influence over the timing of the transmission of your messages and broadcasts is within the technical constraints imposed upon Contact. While Contact shall use commercially reasonable efforts to transmit your messages and broadcasts to the applicable network for final delivery to your designated recipients as fast as possible, we cannot commit to, and do not guarantee, a specific maximum delivery time. Such times depend on various network and system-related factors among the various entities involved in the transportation of your messages and broadcasts across the public switched telephone network and/or Internet. You should know that communications carriers assign text messages and voice broadcasts with a default lifetime and any message or broadcast that cannot be delivered successfully within the lifetime assigned to it will be discarded by the communications carrier without any notice. Contact is not liable for any loss incurred by the failure of a message or broadcast to be delivered, and you acknowledge that damages for financial or other loss resulting from delivery failure cannot be claimed from Contact for any such non-deliveries. Furthermore, you agree that message and broadcast contents are deemed to have zero value.

3. Usage Policy

You represent and warrant that the owners of the phone numbers you initiate messages to through the Contact services have consented or otherwise opted-in to the receipt of such messages and broadcasts as required by any applicable law or regulation. You agree that you will include clear opt-out/unsubscribe information on your messages or broadcasts when required to do so by any applicable law or regulation and otherwise adhere to the Consumer Best Practices Guidelines promulgated by the Mobile Marketing Association, if applicable to your messages.

You agree to familiarize yourself with and abide by all applicable local, state, and national laws and regulations and are solely responsible for all acts or omissions that occur under your account, including without limitation the content of the messages and broadcasts that you create and initiate through the Contact Services. Without limiting the foregoing, you agree to familiarize yourself with the legalities of any messages, calls, broadcasts, and campaigns transmitted through the Contact Services by visiting the following websites:

- Federal Trade Commission, <http://www.ftc.gov>
- Federal Communications Commission, <http://www.fcc.gov>
- DoNotCall Registry Info, <http://www.donotcall.gov>

The Telephone Consumer Protection Act ("TCPA"), the Federal Trade Commission, the Federal Communications Commission, the DNC list registry rules (<http://www.donotcall.gov>) and various state laws, rules and regulations place restrictions on certain types of phone calls and text messages. Contact is in no way attempting to interpret any laws, rules, or regulations. This information is provided merely as a courtesy and is not intended to replace your responsibility to familiarize yourself with and abide by the legal requirements pertaining to your messages, broadcasts and campaigns prior to using the Contact Sites or Services. You are ultimately responsible to make your own informed decisions regarding your messages, broadcasts, and campaigns.

You shall schedule text message campaigns responsibly and in a manner that is courteous to the recipients pursuant to local, state, and national, calling time rules and regulations. You are solely responsible for obtaining any rights or licenses to any data, including without limitation web links, for inclusion in any outbound messages, broadcasts, and campaigns. If you are unfamiliar or unclear on the legalities of any message, broadcast or campaign, you should consult with your attorney prior to your use of the Contact Sites or Services.

You accept that the Services are provided for professional use only, and you agree that your use of the Contact Sites or Services shall not include:

- Sending unsolicited marketing messages or broadcasts (i.e. spam);
- Sending any calls to life-line services, such as hospitals, fire, police, 911 or utility-related telephone numbers;
- Using strings of numbers as it is unlawful to engage two or more lines of a multi-line business;
- Harvesting, or otherwise collecting information about others, without their consent;
- Misleading others as to the identity of the sender of your messages or broadcasts, by creating a false identity, impersonating the identity of someone/something else or by providing contact details that do not belong to you;
- Transmitting, associating or publishing any unlawful, racist, harassing, libelous, abusive, threatening, demeaning, immoral, harmful, vulgar, obscene, pornographic or otherwise objectionable material of any kind;
- Transmitting any material that may infringe upon the intellectual property rights of third parties including trademarks, copyrights or other rights of publicity;
- Transmitting any material that contains viruses, trojan horses, worms, time bombs, cancel-bots or any other harmful/deleterious programs;

- Interfering with, or disrupting, networks connected to the Services or violating the regulations, policies or procedures of such networks;
- Attempting to gain unauthorized access to the Services, other accounts, computer systems or networks connected to the Services, through password mining or any other means;
- Interfering with another's use and enjoyment of the Services or Contact Sites; or
- Engaging in any other activity that Contact believes could subject it to criminal liability or civil penalty/judgment.

You agree that Contact is, under no circumstances, responsible for the contents and/or accuracy of your messages or broadcasts and Contact will only transmit them on a basis of good faith that you use the Services in accordance with these Terms. Contact will not be liable for any misuse of the Services by you. Contact is not responsible for the views and opinions contained in any of your messages or broadcasts.

Customer will not purposely route calls to high cost non-RBOC (Regional Bell Operating Company) areas for origination or termination of telecommunications traffic on the Contact system. Calls may be monitored and reported upon each billing cycle to ensure sound traffic patterns. Excessive routing of high-cost calls will be addressed to customer by Contact and fines may be assessed to recover excess charges from Contact VoIP termination companies.

4. Content Submission / Discussion Areas

You agree that any information or materials that you or individuals acting on your behalf provide to Contact (other than information required for your use of the Services as contemplated herein) will not be considered confidential or proprietary. By providing any such information or materials to Contact (other than information required for your use of the Services as contemplated herein), you grant to Contact an unrestricted, irrevocable, worldwide, royalty-free, perpetual license to use, reproduce, display, publicly perform, transmit, make derivative works of, and distribute such information and materials, and you further agree that Contact is free to use any ideas, concepts or know-how that you or individuals acting on your behalf provide to Contact. In connection with such information and materials, you warrant and represent to Contact that you have all rights, title and interests necessary to provide such content to Contact, and that your provision of the content to Contact shall not infringe any third party's proprietary or personal rights, including but not limited to any trademark, copyright, patent, or trade secret.

5. Username / Password

As part of the registration process you will need a username and/or password. You shall provide Contact with accurate, complete, and regularly updated member profile information. You agree to notify Contact of any known or suspected unauthorized use(s) of your user account, or any known or suspected breach of security, including loss, theft, or unauthorized disclosure of your username or password. You shall be responsible for maintaining the confidentiality of your password. Any fraudulent, abusive, or otherwise illegal activity may be grounds for termination of your user account, in Contact's sole discretion, and you may be reported to appropriate law-enforcement agencies.

6. Newsletter and Communication Concerning the Contact Services

By providing your contact information, Contact reserves the right to contact you via calls, email or text messages to provide you information about your account and/or the Contact Services requested by you.

7. Intellectual Property

You are permitted to access the Contact Sites, the Services, and any content provided by Contact (which may include text, images, hosted software, sound files, video or other content, and may be provided via the Contact Sites or otherwise) solely for the purpose of receiving information about Contact's business and products,

purchasing and utilizing the Services, communicating with Contact, or otherwise as stated on the Contact Sites. Contact hereby grants a worldwide, fully paid-up, perpetual, non-exclusive, non-transferable license to you to use the Contact Sites and Services solely for the purpose of operating the Contact Sites and using the Services.

We may have copyrights, trademarks, patents, trade secrets, or other intellectual property rights covering subject matter in the Services, including the web pages that are part of the Services and the Contact Sites. Except as expressly provided in these Terms, the availability of the Services and the Contact Sites does not give you any license to these patents, trademarks, copyrights, or other intellectual property. All copyrights, trademarks, patents, trade secrets and other intellectual proprietary rights contained in the Contact Sites are the sole property of Contact or its licensors, each of whom reserves all rights with regard to such materials. You acknowledge and agree that you may not copy, reproduce, retransmit, modify, alter, create any derivative works, reverse engineer, decompile, or disassemble any portion of the Services or Contact Sites, including any proprietary communications protocol used by the Services or the Contact Sites without the express written permission of Contact. All other trademarks or trade names are the property of their respective owners, and such material may not be copied, downloaded, redistributed, modified or otherwise exploited, in whole or in part, without the permission of the owner.

8. Data Protection & Privacy

In order to ensure your compliance with these Terms and to ensure that Contact complies with national laws and repair or maintenance of the services, we may, from time to time, randomly check the messages and broadcasts that you send. Nonetheless, we are committed to maintaining the privacy of your information, pursuant to our Privacy Policy.

9. Payments

Your use of the Services is contingent on your paying for such use (whether paid in advance, as provided, or other terms), in the amounts and using the method agreed to by Contact. Your payment for the Services shall be deemed completed when Contact receives the full amount of payment owed for such Services. You are responsible to pay for any message or broadcast you attempt to send to any number, regardless of whether the message is actually received by the intended recipient. As Contact is dependent on other entities for the delivery of your messages and broadcasts, our price may require adjustment in order to account for costs that are not in our control. Accordingly, we may adjust our prices from time to time without prior notice.

Contact cannot readily or accurately ascertain your location when you request to use the Services. Unless otherwise specified, you agree that your use of the Services occurs in New Mexico and is subject to any applicable New Mexico taxes. To the extent that you are responsible for any additional taxes or fees beyond those collected by Contact, you agree that you will pay them when due to any applicable taxing authority

As between you and Contact, you are responsible for all charges related to the services used. In the event underpayment or non-payment by customer under these Terms, Contact shall be entitled to immediately proceed with collection remedies and shall be entitled to recover any and all costs, fees, and expenses of such collection efforts, including but not limited to: collection agencies, court costs, filing and service of process fees, attorneys' fees incurred from counsel of Contact's choosing, or any other costs, fees, and expenses incurred in the pursuit of collection on all customer accounts and receivables due and payable under these Terms.

10. Telephone Numbers (Long Codes)

You understand that Contact owns the service line number (telephone number / long code) provided as part of this service and that the number provided is exempt from the FCC number portability requirements and no portability is available. Contact reserves the right to change telephone numbers assigned to customer's service line, or cancel the service provided at any time.

11. No Warranty; Limitation of Liability

Contact reserves the right to modify, suspend, or discontinue the offering of any of the Contact Sites or Services at any time for any reason without prior notice. Further, while Contact utilizes electronic and physical security to reduce the risk of improper access to or manipulation of data during transmission and storage, it cannot guarantee the security or integrity of the data and shall have no liability for breaches of security or integrity or third-party interception in transit, nor for any damage which may result to your computer or other property by your use of the Contact Sites or Services.

You acknowledge that text messages from the a carriers cell site to the end users device are transmitted unencrypted and that eavesdropping of communications by third parties is possible.

Contact shall use commercially reasonable efforts to make access to the Services available through the required access protocols, but makes no warranty or guarantee that (i) the Services will be available at any particular time; or (ii) you will be able to access the Services at any particular time or from any particular location. Contact will not be liable for any act or omission of any other company or companies furnishing a portion of the Services (including, without limitation communications carriers or ISPs), or from any act or omission of a third party, including those vendors participating in Contact offerings made to you, or for equipment that it does not furnish, or for damages that result from the operation of customer-provided systems, equipment, facilities or services that are interconnected with the Service.

NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, THE CONTACT SITES AND SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE," WITHOUT ANY WARRANTIES OR CONDITIONS WHATSOEVER, EXPRESSED OR IMPLIED. NOTWITHSTANDING THE FOREGOING OR ANY STATEMENT TO THE CONTRARY CONTAINED IN THESE TERMS, CONTACT DOES NOT WARRANT THAT THE USE OF THE CONTACT SITES OR SERVICES WILL BE UNINTERRUPTED OR ERROR FREE, INCLUDING, BUT NOT LIMITED TO ANY INTERRUPTIONS TO THE SERVICES CAUSED BY THE INTENTIONAL AND/OR MALICIOUS ACTS OF THIRD PARTIES (E.G., "HACKING") NOR SHALL CONTACT BE RESPONSIBLE FOR ANY DATA LOSS OR LOSS OF ANY INFORMATION IN YOUR ACCOUNT, REGARDLESS OF THE CAUSE. FURTHERMORE, CONTACT MAKES NO REPRESENTATIONS OR WARRANTIES AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES OR THAT THE CONTACT SITES OR SERVICES WILL MEET ANY OF YOUR SPECIFIC REQUIREMENTS OTHER THAN AS MAY BE EXPRESSLY SET FORTH IN THESE TERMS. CONTACT MAKES NO REPRESENTATIONS OR WARRANTIES AND HEREBY DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES OF ANY KIND, WHETHER EXPRESS, STATUTORY OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THE SERVICES, INCLUDING WITHOUT LIMITATION ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, RELIABILITY, COMPLETENESS, OR TIMELINESS OF THE MATERIAL, SERVICE, SOFTWARE, TEXT, GRAPHICS OR LINKS, AND ALL WARRANTIES IMPLIED FROM ANY COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE. CONTACT SHALL NOT BE LIABLE TO YOU OR TO ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, ANY DAMAGES ARISING FROM LOSS OF USE OR LOST BUSINESS, LOSS OF OPPORTUNITY, LOSS OF REVENUE, LOSS OF ACTUAL OR ANTICIPATED PROFITS, LOSS OF DAMAGE TO OR CORRUPTION OF DATA OR LOSS OF GOODWILL), OR FOR ANY COST OF PROCUREMENT OF SUBSTITUTE SERVICES ARISING IN CONNECTION WITH THESE TERMS, WHETHER IN AN ACTION IN CONTRACT, TORT, STRICT LIABILITY OR NEGLIGENCE, OR OTHER ACTIONS, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IF YOUR USE OF THE CONTACT SITES OR SERVICES RESULTS IN THE NEED FOR SERVICING OR REPLACING EQUIPMENT, SOFTWARE, OR DATA, CONTACT IS NOT RESPONSIBLE FOR THOSE COSTS. CONTACT'S TOTAL LIABILITY ARISING OUT OF YOUR USE OF THE CONTACT SITES OR SERVICES FOR DIRECT DAMAGES SHALL NOT, IN THE AGGREGATE, EXCEED AN AMOUNT EQUAL TO THE MONTHLY TRANSACTION FEE PAID BY YOU TO CONTACT HEREUNDER.

12. User Warranties; Indemnification

You warrant and represent to Contact that you have all necessary rights, power, and authority to agree to these Terms and perform your obligations hereunder, and nothing contained in these Terms or in the performance of such obligations will place you in breach of any other contract or obligation. You further warrant and represent

that you are and shall at all times remain in full compliance with all applicable laws, rules and regulations with regard to your use of the Contact Sites and Services, including without limitation the Telephone Consumer Protection Act, the Telemarketing Sales Rule, the CAN-SPAM Act (Controlling the Assault of Non-Solicited Pornography and Marketing Act) of 2003, and all other laws and regulations concerning privacy, telemarketing, and Internet marketing.

You agree to indemnify and hold harmless Contact and its affiliates and each of their respective officers, directors, shareholders, employees, agents, contractors, representatives, content providers and service providers, from and against any and all losses, claims, obligations, liabilities, damages, settlements, costs and expenses (including, but not limited to, consequential damages, incidental damages, special damages, disbursements and attorneys' fees, including attorneys' fees incurred from counsel selected by Contact in its sole discretion) arising from or relating to any actual or threatened claim, suit, action, proceeding, governmental investigation or enforcement action based upon or arising out of: (i) your breach of the above warranties; or (ii) any use by you, or an account or computer owned by you, of the Contact Sites or Services. You agree to cooperate as fully as reasonably required in the defense of any claim, suit, action, proceeding, governmental investigation or enforcement action, but we reserve the right, at your expense, to assume the exclusive defense and control of any matter in which you are a named party and that is otherwise subject to indemnification by you. You acknowledge and agree to be held liable for any and all damages caused to Contact by you as a direct result of a violation of local, state, national or international laws and regulations, including but are not limited to those damages that may arise from your fraudulent, intentional or unintentional harm, disability, unauthorized use of, or destruction to any and all equipment, licensing and/or services provided by Contact to you.

13. Termination, Cancellation and/or Suspension by Contact

If at any time you breach these Terms, we may elect to suspend, terminate, and/or cancel your use of the Services and/or recover any damages from you arising from the event(s) giving rise to the suspension, termination, or cancellation. We reserve the right to suspend the Services at any stage for any reason we may deem necessary to continue to provide our Services in a way that may be hindered by your status as being our client, your financial status or the content of the messages or broadcasts originating from you.

Upon any such termination, cancellation, and/or suspension, you are still responsible for any obligations then accrued. Your obligation to pay all amounts accrued and owed by you shall continue even after any suspension or cancellation of your access to the Services (in whole or in part). Upon termination, for any reason, you agree to immediately cease using the Services and Contact shall have no obligation to you after any termination or cancellation of these Terms.

The provisions regarding ownership, payments, warranties, and indemnifications will survive any suspension, termination, or cancellation of your use of the Services or Contact Sites.

14. Termination by the User

You are free to terminate or cancel your use of the Services at any time, unless other terms have been agreed to by Both Parties. Notwithstanding the foregoing, unless due to a breach solely by Contact that it fails to cure within thirty (30) days of its receipt of your notice, in no event shall Contact be obligated to refund to you the reasonable value of any unused portion of the services previously purchased by you.

15. Security Rules

You are prohibited from violating or attempting to violate the security of the Contact Sites and Services and from using the Contact Sites and Services to violate the security of other websites by any method, including, without limitation: (a) accessing data not intended for you or logging into a server or account which you are not authorized to access; (b) attempting to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without proper authorization; (c) attempting to interfere with service to any user of the

Contact Sites or Services, host or network, including, without limitation, via means of submitting a virus to the Contact Sites, overloading, "flooding," "spamming," "mailbombing," or "crashing"; (d) sending unsolicited e-mail, including promotions and/or advertising of products or services; or (e) forging any Contact packet header or any part of the header information in any e-mail, instant message, text message or newsgroup posting. Violations of system or network security may result in civil or criminal liability. Contact may investigate violations of these Terms, and may involve and cooperate with law enforcement authorities in prosecuting users of the Contact Sites who are involved in such violations.

16. Force Majeure

Contact shall not be liable for any failure or delay in performing its obligations hereunder, which such failure or delay is caused by fire, flood, earthquake, elements of nature or acts of God, acts of war, insurrection, terrorism, strike, failure or downtime of any telecommunications line and/or unavailability of any telecommunications or Internet facilities, power failure, governmental restrictions, any court order, compliance with any law, regulation, or order of any governmental authority, or any other cause beyond the reasonable control of Contact. In addition, Contact shall be so excused in the event it is unable to acquire from its usual sources, and on terms it deems to be reasonable, any material necessary for the performance of the Services.

17. Choice of Law and Jurisdiction

These Terms shall be governed by and construed in accordance with the laws of the State of New Mexico notwithstanding its laws governing conflicts of laws. Contact may seek injunctive relief in any court having jurisdiction over the parties to enjoin or prevent any action you take or threaten to take in violation of the Terms of this agreement.

These Terms are only those stated herein, which shall constitute the complete agreement between the parties. No terms and conditions stated in or attached to your communications to Contact are applicable to these Terms in any way and are not to be considered your exceptions to the provisions of these Terms.

18. Miscellaneous

The failure of either party to exercise in any respect any right provided for herein will not be deemed a waiver of any further rights hereunder. If any provision of these Terms is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that these Terms will otherwise remain in full force and effect and enforceable.

All notices required hereunder shall be in writing and will be deemed to have been duly given when received. Contact may give notice to you by means of a general notice on the Contact Sites or Services, electronic mail to your e-mail address on record in Contact's account information, or by written communication sent by personal delivery, fax, overnight courier, or certified or registered mail to your address on record in Contact's account information.