



## **AGREEMENT FOR SERVICES**

THIS **AGREEMENT FOR SERVICES** is made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 200 (the "Effective Date"), by and between **CELL GHOST MEDIA, LLC**, a Florida limited liability company (the "CELL GHOST"), and \_\_\_\_\_ ("Client").

**WHEREAS**, CELL GHOST is a company in the business of providing short messaging service (SMS) Text Message marketing; and

**WHEREAS**, the Client has engaged CELL GHOST to provide certain selected Services detailed below, and the Client and CELL GHOST are willing to engage in a business relationship on the terms and conditions set forth herein beginning as of the Effective Date.

**NOW, THEREFORE**, in consideration of the premises and of the promises and agreements of the parties set forth below, and for other good and valuable consideration, the parties agree as follows:

1. **SERVICES TO BE RENDERED:**

A. As part of the compensation set forth in section 2A., CELL GHOST agrees to transmit promotional information submitted by the Client via SMS text messaging ("Text Message"), as directed and managed by the Client at the website of :[www.cellghostmedia.com](http://www.cellghostmedia.com) (the "Service").

2. **COMPENSATION TO CELL GHOST:** The Client agrees to pay CELL GHOST as follows:

A. Monthly Service Charge: Upon execution of this Agreement, Client shall pay to CELL GHOST \$80.00 per month until this Agreement is terminated.

B. Text Messaging Charges: Client shall pay for each text message sent by CELL GHOST based on the following fee schedule:

**CONTACT A CELL GHOST SALES REPRESENTATIVE TODAY !!**

C. Billing. CELL GHOST will submit monthly or more frequent statements for its Services under this Agreement. All amounts billed to the Client under this Section 2 are due and payable by the Client to CELL GHOST within thirty (30) days of the date of such invoice. Invoices that are not paid when due will incur a late charge of 12% per annum or the highest rate allowed by law, whichever is lower.

D. Price Fluctuations. CELL GHOST is dependent on other entities for the delivery of the Service, CELL GHOST may have to adjust the Text Messaging Charges set forth above in Section 2(b) due to reasons that are not in CELL GHOST'S control. Should CELL GHOST need to increase the Text Messaging Charges, CELL GHOST will notify Client via e-mail, prior to implementing such adjustments. After such contact, Client will have 14 days notice to discontinue its use of the service.

3. **TERM**: The initial term of this Agreement shall be for \_\_\_\_\_ from the Effective Date, and thereafter the term shall automatically renew for consecutive \_\_\_\_\_ terms unless either party, upon ninety (90) days written notice prior to the end of the current renewal term, informs the other party of its intention to terminate the Agreement at the end of the current term. CELL GHOST shall have the right to bill and collect for all of the Services performed by CELL GHOST until the actual date of termination.

4. **CLIENT'S OBLIGATIONS:**

A. Access. The Client agrees to obtain and maintain all computer hardware, software and communications equipment and shall be responsible for payment of all third-party access charges (e.g., ISP, telecommunications, internet) needed to access the Service.

B. Usage Policy. Client acknowledges that CELL GHOST has adopted a usage policy on the terms set forth herein.

(i) Term of Usage Policy. Client agrees to abide by all applicable local, national and international laws and regulations and is solely responsible for all acts or omissions that occur under the Client's account, including the content of the messages transmitted through CELL GHOST. Client Acknowledges that CELL GHOST may or may not pre-screen content of any Text Message, but that CELL GHOST and its designees shall have the right (but not obligation) in its sole discretion to pre-screen, refuse, or remove the content of any Text Message. Client acknowledges and accepts that the Service is provided for professional use only and Client agrees not to use it to:

**(a) Send unsolicited marketing Text Messages (i.e. spam) and ensures that Client Text Messages are only sent to individuals that have either given Client their expressed permission to be contacted on their mobile phones or with whom Client already have an established relationship with.**

(b) Harvest, or otherwise collect information about others, without their consent.

(c) Mislead others as to the identity of the sender of Client's messages, by creating a false identity, impersonating the identity of someone/something else or by providing contact details that do not belong to Client.

(d) Transmit, associate or publish any unlawful, racist, harassing, libelous, abusive, threatening, demeaning, lewd, immoral, harmful, vulgar, obscene or otherwise objectionable material of any kind.

(e) Transmit any material that may infringe upon the intellectual property rights of third parties including trademarks, copyrights or other rights of publicity.

(f) Transmit any material that contains viruses, trojan horses, worm, time bombs, cancel-bots or any other harmful/deleterious programs.

(g) Interfere with, or disrupt, networks connected to the service or violate the regulations, policies or procedures of such networks.

(h) Attempt to gain unauthorized access to the service, other accounts, computer systems or networks connected to the service, through password mining or any other means.

(i) Interfere with another's use and enjoyment of the service.

(j) Engage in any other activity that CELL GHOST believes could subject it to criminal liability or civil penalty/judgment.

**(ii) Text Message Content. Client agrees that CELL GHOST is, under no circumstances, responsible for the contents or accuracy of Client Text Messages and that CELL GHOST cannot be held responsible for the views and opinions contained in any of Client Text Messages and CELL GHOST will only transmit them on a basis of good faith. Client agrees that all Client Text Messages are factually accurate and do not contain any fraudulent or deceptive materials or material which misrepresents, ridicules or attacks an individual or group on the basis of age, color, national origin, race, religion, sex, sexual orientation or handicap.**

(iii) Termination by CELL GHOST. If at anytime Client breaches this Agreement, including the provisions herein section 4, CELL GHOST may elect to terminate this Agreement and recover any damages from Client arising from the event(s) giving rise to the termination. CELL GHOST reserves the right to terminate Client's Service at any time for any reason we may deem necessary.

Upon any such termination, Client is still responsible for any obligations then accrued. Payment and other obligations under this Agreement are not suspended, stayed, or otherwise affected by a termination of access to / or use of the Service (in whole or in part) where said termination arises from Client's failure to comply with, or violation of, the terms of this Agreement or of any law or legal obligation. Upon termination Client agrees to immediately cease using the Service and CELL GHOST shall have no obligation to Client thereafter.

5. **NO LIABILITY.** CELL GHOST MAKES NO REPRESENTATIONS, AND HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS AND IMPLIED, REGARDING CELL GHOST'S SERVICES OR ANY PORTION THEREOF, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE. Without limiting the generality of the foregoing, CELL GHOST specifically disclaims any warranty regarding: (a) the number of persons who receive the Text Message; (b) the number of persons who respond to the Text Message; (c) any benefit Client might obtain from utilizing the Service; (d) the use or the inability to use the Service; (e) the cost of procurement of substitute goods and services; (f) unauthorized access to or alteration of Client's Text Message or data; or (g) any other matter relating to the Service.

6. **DELIVERY.** CELL GHOST will take all reasonable steps to deliver Clients messages to recipients as fast as possible, we cannot commit

to, or 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 Client's messages across the **GSM** network. Furthermore, delivery reports and the originator are operator dependent features and so it is not possible for us to give 100% guarantees for their availability. CELL GHOST offers varying degrees of Text Messaging standards which dramatically increase/decrease the likelihood that they will be made available and we recommend that tests should be conducted beforehand when these features are considered to be of high importance.

Client acknowledges that as CELL GHOST sends Text Messages via major telecommunications companies and Mobile Network Operators, our influence over the transmission of Client's Text Messages is within the technical constraints imposed upon us. CELL GHOST's responsibility is therefore to ensure that the Text Messages Client sends through CELL GHOST are processed correctly and delivered to the assigned entity. CELL GHOST is not responsible for the final delivery of the Text Message, as this is out of our control and is the responsibility of the mobile telephone operator.

A Text Message submitted to, and accepted by, a Mobile Network Operator will be transferred to the recipient, provided that the recipient's mobile telephone is switched on, located within an area covered by his/her subscribed mobile network provider and that the phone's memory is not full and any Text Message delivered to the recipient mobile phone operator, without an error code, is deemed to have been delivered.

A. Failure of Delivery. Mobile Network Operators assign Text Messages with a default life time and any Text Message that cannot be delivered successfully within the life time assigned to it will be discarded by the Mobile Network Operator, without any notice. We are not liable for any loss incurred by the failure of a Text Message to be delivered and Client acknowledges that damages for financial or any other loss resulting from delivery failure cannot be claimed from CELL GHOST. Furthermore, Client agrees that Text Message contents are deemed to have zero value.

B. Text Message Not Encrypted. Client also acknowledges that Text Messages are transmitted unencrypted and that eavesdropping of mobile phone communications, including SMS delivery, by third parties is possible. We also recommend that Client ensure sensitive and valuable information is communicated by a number of communication methods.

C. **Service is As-Is and As-Available. The use of the Service and the internet is at Client's own risk and that the Service is provided "as- is" and "as- available", without any warranties or conditions whatsoever, expressed or implied.**

D. No Guaranties or Warranties. Cell Ghost will use all commercially reasonable efforts to make access to the Service available through the required access protocols, but make no warranty or guarantee that Client will

be able to access the Service at any particular time or any particular location. Without limiting the generality of the terms set forth, CELL GHOST and our affiliates, agents, content providers, service providers, and licensors:

(i) Shall in no event be liable for any inaccuracy, error or omission in, or loss, injury or damage caused in whole or in part by failures, delays or interruptions of the Service generally, and any aspect ancillary thereto;

(ii) Client agrees to indemnify CELL GHOST for any third party claims arising from such failures, delays or interruptions in connection with regard to the use of the Service.

(iii) Without in any way limiting the foregoing, CELL GHOST shall in no event have (in the aggregate) any liability whatsoever in connection with this Agreement in excess of an amount equal to two times the lowest Text Message Charges applicable on such an account and/or claim in effect for the monthly period immediately preceding the date of the first claim made.

(iv) The Service is not fault-tolerant and is not designed, manufactured or intended for use or resale as online control equipment in hazardous environments, requiring fail-safe performance, including but not limited to use in the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, direct life support machines, or weapons systems, in which the failure of our service could lead directly to death, personal injury, or severe physical or environmental damage. We therefore specifically disclaim any express or implied warranty of fitness for high risk activities including emergency notification systems.

Notwithstanding anything to the contrary contained herein, the provisions outlined above are for the benefit of CELL GHOST Inc and its affiliates, agents, content providers and service providers and each shall have the right to assert and enforce such provisions directly on its own behalf.

E. No Consequential Damages. Under no circumstances shall CELL GHOST be liable for indirect, incidental, consequential, special or exemplary damages (even if such damages are foreseeable and whether or not CELL GHOST has been advised of the possibility of such damages) arising from the performance (or non-performance) of this Agreement or any aspect of the Service provided herein.

7. **NO REPRESENTATIONS.** CELL GHOST has not made and does not hereby make any representations, guarantees or warranties whatsoever with respect to the ultimate success of the Client's Text Messages. Client agrees it shall not make and hereby waives and releases, any claim(s) that

greater results should or could have been generated by or through CELL GHOST under this Agreement.

8. **INDEMNIFICATION.** Client agrees to indemnify, hold harmless, and defend CELL GHOST Inc and its affiliates, agents, content providers and service providers, against any and all claims, liabilities, damages, fines, costs and expenses (including, but not limited to, consequential damages, incidental damages, special damages, attorneys' fees and disbursements) arising from or relating to: (i) a breach of this Agreement; (ii) the use of the Service in any manner which violates the terms of this Agreement or otherwise violates any law, rule, or regulation and/or (iii) any claims made by third parties arising from Client's use of the service, including without limitation any and regulation all third party claims arising from or related to any failure, delay or interruption to the service. Client agrees to cooperate as fully as reasonably required in the defense of any claim and CELL GHOST reserves its right, at our expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by Client.

9. **ENFORCEMENT:** Each covenant shall be construed as a covenant independent of any other covenant or provision of this Agreement or any other Agreement which CELL GHOST and Client may have, and the existence of any claim or cause of action of one party against the other, whether predicated on this Agreement or otherwise, shall not constitute a defense to the enforcement of such covenants.

10. **PRIVACY POLICY:** CELL GHOST has established the following privacy policy which Client acknowledges and accepts: CELL GHOST will not: (i) pass on, or sell information about Client or your recipients to any third party for any purpose whatsoever except for the delivery of Client's Text Messages; (ii) disclose any personal information about Client or the Client's account including its contents without your prior permission, unless we have good faith to believe that such action is necessary to: (a) conform to legal requirements or comply with legal process (b) enforce this Agreement (c) protect and defend the rights or property of CELL GHOST or (d) respond to claims of copyright or trademark infringement.

CELL GHOST will only make use of Client's email address to send information with regards to the Client's account, to notify Client of any changes/developments that may take place to the Service or to notify Client of any new services available. CELL GHOST may make use of the Client's organization's name and/or logo within a publicly viewable list of clients or in press releases. Client acknowledges that CELL GHOST stores Text Message content and activity logs for a particular length of time and that the law may require us to disclose details about your activity to law enforcement officials and other such agencies. In this regard, you hereby grant us consent to take such action.

Text Message Sending Routes. Client acknowledges that CELL GHOST provides outbound Text Messages through different routes and the level of reliability and support for special features varies according to the route

11. **MISCELLANEOUS:**

A. Entire Agreement. This Agreement shall constitute the entire agreement of the parties. It may not be changed orally, but only by agreement in writing signed by both parties.

B. Notices. Any notice required or permitted to be given under this Agreement shall be sufficient if in writing and if sent by (i) certified or registered mail, return receipt requested, (ii) hand delivery or overnight courier with proof of delivery, or (iii) facsimile transmission with confirmation of receipt, to the parties as follows:

If to CELL GHOST:  
ATTENTION:

If to Client: \_\_\_\_\_

\_\_\_\_\_

ATTENTION: \_\_\_\_\_

C. Successors and Assigns; Assignment. The rights and obligations of the parties under this Agreement shall inure to the benefit of and shall be binding upon their respective heirs, executors, administrators, and assigns. No party may assign any of its rights, obligations or interest in this Agreement without the prior written consent of all parties to this Agreement.

D. Governing Law Venue and Jurisdiction. This Agreement shall be governed by the laws of the State of Florida and venue shall lie exclusively in Hillsborough County, Florida. Client agrees to submit to the personal and exclusive jurisdiction of the Courts located within Hillsborough County, Florida.

E. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be considered an original, and all of which shall constitute but a single agreement notwithstanding that each such counterpart is executed on a different date.

G. Acknowledgement. Each party to this Agreement hereby acknowledges and confirms that he, she or it has had an opportunity to retain independent legal counsel to independently advise that part of the legal consequences of the Agreement to the party.

H. Survival. Unless otherwise expressly provided in this Agreement, all rights, obligations and other terms and conditions specifically stated in this Agreement shall survive the execution of this Agreement.

I. Severability. If any one or more of the provisions contained in this Agreement for any reason are held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

J. Force Majeure. All parties to this Agreement will be exempted, subject to reasonable notice and except for Client's monetary obligations thereunder, from these conditions as a result of force majeure (i.e. inter alia, the actions of governmental authorities or the failure of governmental authorities to take action, new or amended legislation, retirement of personnel, illness or other reduction in work capacity, death, labour market conflicts, blockades, lightning, fire, flooding, loss or destruction of data or property of material significance, restrictions on availability of fuel, shortage of transportation, goods or energy, or defects or delays in the delivery of goods or services by suppliers, defects in the public data or telephone or mobile telephone network and defects in hardware or software).

K. Waiver of Jury Trial. The parties waive any right to a jury trial.

L. Attorneys' Fees. In the event of any proceeding or litigation arising out of or relating to this Agreement, the prevailing party shall be entitled to receive its reasonable attorneys' fees, costs and expenses from the non-prevailing party incurred at trial, on appeal and/or in bankruptcy.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the day and year first set forth above but effective for all purposes as of the date set forth above.

CELL GHOST MEDIA, LLC

CLIENT:

\_\_\_\_\_  
By:  
Title:

\_\_\_\_\_  
By:  
Title: