

## AGREEMENT

This Agreement is entered into by and between the person(s) identified in Section 1 of the Service Order Form (the "SOF") (hereafter, the "Customer") and CallStage, LLC, a Utah Limited Liability company (hereafter, the "Provider"). By his or her signature below, the Customer acknowledges that he or she has read, understands, and agrees to be bound by the SOF, this Agreement, and any addenda referenced in this Agreement. The enforceability of this Agreement is contingent upon processing by the Provider, and does not become a binding agreement until accepted by the Provider, through an authorized signature below.

## TERMS AND CONDITIONS

**1. Ownership of Numbers.** The Customer agrees and acknowledges that all rights to the Custom 800 Number(s) identified on the SOF or the Account Summary Form (the "ASF") (hereafter, the "Numbers") shall be solely and exclusively owned by the Provider, and no right, title, and/or interest therein is granted, licensed, transferred, conveyed implicitly or explicitly to the Customer. Additionally, the Customer acknowledges that with respect to the Numbers, the Provider, and not the Customer, shall have the exclusive right to select the long distance carrier and to change routing arrangements.

**2. Scope of the Agreement.** This Agreement governs (a) the ownership of the Numbers by the Provider and use of the Numbers by the Customer, (b) any services provided by the Provider to the Customer, including but not limited to the provision of any information, routing, billing and support services (collectively, the "Services"). Unless otherwise defined herein, terms which are defined in the SOF or ASF and used herein are as defined therein.

**3. Subscription.** The Customer hereby subscribes to the Services pursuant to the Provider's standard rates, terms and conditions of service, as posted on its internet site, [www.callstage.com](http://www.callstage.com) and agrees to pay for the Services as set forth below.

**4. Payment for Services.** Notwithstanding anything in this Agreement to the contrary, the Customer shall (i) reimburse the Provider, on a dollar-for-dollar basis, for all direct expenses actually and reasonably incurred by the Provider with respect to the provision of Services for the direct or indirect benefit of the Customer (including, but not limited to, phone number usage costs associated with the Numbers, long distance charges and toll free number charges), (ii) reimburse the Provider, on a dollar-for-dollar basis, for all federal, state and local sales, use, excise and gross receipts taxes and surcharges and any value-added or similar taxes, as applicable, imposed on the Provider in connection with the provision of Services under this Agreement and (iii) pay for the Services pursuant to the Provider's standard rates, terms and conditions of service, as posted on its internet site, [www.callstage.com](http://www.callstage.com). The Customer agrees to pay for the costs associated with the provision of the Services as set forth in (iii) above, in advance, on the first day of each calendar month at the Provider's office without notice, set-off or deduction, commencing on the date of execution of the last party to enter into this Agreement and continuing until this Agreement has been terminated as set forth herein. The Customer agrees to reimburse the Provider for the costs under (i) and (ii) above as set forth in Section 4(a) below.

a. **Invoice Amounts.** To the extent practicable, the Provider shall invoice the Customer for amounts outlined in the proposal. All items are due in advance and will be charged upon activation with the exception of the minute charges. Minute charges will be added to the following month's invoice. Billing period will be from the 1<sup>st</sup> to the 31<sup>st</sup> of each month. Payment on all accounts will be executed automatically on the credit card that has been submitted with this account and will be deducted on or near the 10<sup>th</sup> day of each month. Failure by the Provider to provide an invoice within such time period shall not relieve the Customer of his or her obligation to pay an invoice received after such date. All invoices shall reflect in reasonable detail a description of the amounts to be reimbursed, and the aggregate amount reflected on any such invoice shall be due immediately.

b. **Disputes.** In the event of a dispute as to the propriety of invoiced amounts, the Customer shall pay all undisputed amounts on each invoice, but shall be entitled to withhold payment of any amount in dispute and shall notify the Provider, within ten (10) business days from receipt of the disputed invoice, of the disputed amount and the reasons each such charge is disputed by the Customer. Failure to provide the Provider with such notice within such time period shall act as a waiver of the Customer's right to dispute invoiced amounts. The Provider shall provide the Customer with records relating to the disputed amount so as to enable the parties to resolve the dispute.

c. **Unpaid Amounts.** In the event the aggregate amount on any invoice is not disputed and is not paid within ten (10) days following the Customer's receipt of the invoice, the unpaid amount thereof shall bear interest at a rate of 12% per month until paid.

d. Client shall be responsible for all collection costs, including actual reasonable collection fees of 35% and attorney's fees.

**5. Customer Acknowledgments.** In relation to the Numbers, the Customer acknowledges the following:

a. That the Provider provides toll free service to other end users using such numbers and that calls to such numbers will only be received by the Customer if they originate in the area codes identified on the ASF (the "Service Territory");

b. That service to such numbers will be provided on the basis of "Shared Use", as defined in Section 2.2 of the OBF industry Guidelines for 800 Number Administration (hereafter, the "Guidelines"); and

c. That due to technical constraints, calls placed to any Number from cellular phones and other wireless devices may not be completed if more than 10 digits are dialed by the caller, and that if completed (whether by dialing 10 digits or more), the call may not be routed based on the telephone number of the caller, and the area code of the caller may be incorrectly identified on the call record.

d. That the Provider may, upon 90 days notice, change or add any Numbers at least 60 (sixty) days prior to the change date at no cost to the Customer.

e. That the Provider is the sole owner of the Numbers and that the Customer's only interest in and to the Numbers is by virtue of its rights under this Agreement.

f. That compliance with any state or federal law related to the recording of any conversation carried over any Numbers shall be the sole responsibility of the Customer. Furthermore, Customer acknowledges that some states require consent be obtained from both parties to a phone call before the call can be recorded. These states are often referred to as "Two Party Consent" states. In addition to its agreement to comply with all application laws in this regard, the Customer agrees to indemnify, defend and hold harmless the Provider from any and all liability of any nature whatsoever, including costs and attorney's fees, arising out of or in connection with any violation of this Section 5(f).

6. Changes. Upon receipt of a written, or electronic request from the Customer, the Provider may in its sole discretion, process changes to Service features, Service territory, ancillary services, or toll free arrangements so long as such changes are advisable in order to comply with the Customer's request. However, the Provider shall provide the Customer with written notice of such changes within 10 days following the initiation of such changes.

7. No Representation or Warranty. By offering the Services to the Customer, the Provider shall not make any representation or warranty regarding the availability for use or registration, as a trademark, of any mnemonic which corresponds, in whole or in part to the assigned Numbers, nor does the Provider make any recommendation or representation to the Customer as to whether to use or register any such mnemonic. Consequently, the Provider shall not be liable for any claim arising out of the Customer's use of any mnemonic corresponding to the assigned Numbers, from the Customer's use and/or promotion of the Numbers, or for any acts by and/or on behalf of the Customer, including, but not limited to, any claim of product liability, trademark infringement, unfair competition or the like. The Customer shall indemnify the Provider for any costs incurred as a result of any such claim, including reasonable attorneys' fees.

8. Attorney's Fees and Costs. In the event suit is brought or an attorney is retained by the Provider, to collect any moneys due hereunder, the Provider shall be entitled to recover, in addition to any other remedy, reimbursement for reasonable attorneys' fees, court costs, reasonable costs of investigation and other related expenses incurred in connection therewith.

9. Limitation of Liability. The Provider's liability for damages resulting in whole or part from or arising in connection with the furnishing of the Services hereunder, including but not limited to mistakes, omissions, interruptions, delays, errors or other defects or representations, shall not exceed an amount equal to the charge for the affected call. The Provider shall have no liability for actions or omissions of the Customer. Furthermore, the Provider shall not be liable for damages resulting from any change beyond its control to toll free dialing requirements, including implementation of 11 or 12 digit dialing. In addition, the Customer agrees and acknowledges that the Provider is able to provide the Services, in large part, based on licenses that it holds with third

parties. Should the agreements related to these licenses result in a change to the Provider's ability to utilize the licenses to provide the Services to the Customer, the parties agree that the Provider's liability resulting therefrom shall be limited as set forth in this Section 9. IN NO EVENT SHALL THE PROVIDER BE LIABLE TO THE CUSTOMER OR ANY OTHER PERSON, FIRM, OR ENTITY IN ANY RESPECT, WITHOUT LIMITATION, FOR DIRECT, INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, ACTUAL, PUNITIVE OR ANY OTHER DAMAGES OR ANY LOST PROFITS OF ANY KIND OR NATURE WHATSOEVER, ARISING OUT OF MISTAKES, ACCIDENTS, ERRORS, OMISSIONS, INTERRUPTIONS, OR DEFECTS IN TRANSMISSION, OR DELAYS, INCLUDING THOSE WHICH MAY BE CAUSED BY REGULATORY OR JUDICIAL AUTHORITIES IN CONNECTION WITH THE SERVICES TO BE PROVIDED BY THE PROVIDER OR THE OBLIGATIONS OF THE PROVIDER PURSUANT TO THIS AGREEMENT. THE PROVIDER MAKES NO WARRANTY, WHETHER EXPRESS, IMPLIED OR STATUTORY, AS TO THE DESCRIPTION, QUALITY, MERCHANTABILITY, INFRINGEMENT, COMPLETENESS OR FITNESS FOR ANY PURPOSE OF THE SERVICE PROVIDED HEREUNDER OR DESCRIBED HEREIN, OR AS TO ANY OTHER MATTER, ALL OF WHICH WARRANTIES BY THE PROVIDER ARE HEREBY EXCLUDED AND DISCLAIMED. The Provider shall not be liable for any failure of performance due to causes beyond its control, including, but not limited to, acts of god, fires, floods, or other catastrophes, national emergencies, insurrections, riots or wars, strikes, lockouts, work stoppages or other difficulties, and any law, order, regulation or other action of any governing authority or agency thereof. The Customer acknowledges that the Provider cannot guarantee availability of any numbers.

10. Without limiting the operation of Section 9, above, the Provider assumes no responsibility or liability for losses or hardships relating to any advertising or other promotion of a toll free number. The Customer is advised not to make any commitments relating to advertising prior to the activation of the Numbers and Services and receipt of written notification thereof and successful Customer testing. Expedited processing is not guaranteed. The Customer's sole remedy should the service arrangement not be processed within a specified timeframe is refund of any expedite fee. In addition, activation times for any Numbers are subject to execution of the SOF and acceptance by the Provider.

11. Termination of Agreement. The Customer or the Provider may terminate this Agreement and any addenda hereto by providing 60 (sixty) days advance written notice, or upon shorter notice if directed to do so by a court or other competent legal authority. The terms and conditions of this Agreement shall remain in effect during the sixty-day notice period. The Provider may terminate this Agreement on less than sixty days notice for (i) nonpayment of invoices, (ii) non-compliance with laws, regulations, or the Provider's rules of service, (iii) material breach by the Customer of this Agreement or any technical requirements of the Customer-serving arrangements beyond the Provider's control which impede or prevent the Provider from providing the Services, or (iv) unauthorized or fraudulent use of any Service.

12. Entire Agreement. The terms and conditions contained herein ("Terms and Conditions"), and the terms and conditions contained any addendum which is referenced on the SOF, which are attached hereto and made a part hereof by reference (hereinafter collectively "Agreement") supersede all prior oral or written understandings between the Provider and the Customer, and constitute the entire agreement between the Provider and the Customer concerning the subject

matter of this Agreement. Except as provided in paragraphs 6 and 15, this Agreement may only be amended by a written instrument properly executed by the parties hereto. If the SOF has been procured by or with the involvement of an agent or other representative of the Provider, such agent or representative has no authority to bind the Provider, and the Customer is entitled to rely only upon representations and promises made by the Provider in writing. If the Customer has previously executed a prior agreement with the Provider ("Prior Agreement") for services not affected by this Agreement, the Customer and the Provider agree that to the extent a subject is addressed herein, the terms and conditions of this Agreement shall replace, *mutatis mutandi*, the corresponding provisions, if any, of such Prior Agreements, and supersede such agreements.

13. Assignment. The Customer may not assign this Agreement and/or any addenda hereto without the prior written consent of the Provider. Any permitted assignees must consent to the terms and conditions of this Agreement. The provider may assign this Agreement and/or any addenda hereto without the prior written consent of the Customer.

14. Interpretation. This Agreement shall be interpreted so as to conform to applicable federal law and the regulations of the FCC and any applicable FCC and state tariffs. Should any part of any provision of this Agreement, including the Trademark Addendum or any other agreement, document or writing given pursuant to or in connection with this Agreement be invalid or unenforceable under applicable law, said part shall be ineffective to the extent of such invalidity only, and the remaining terms and conditions shall be interpreted so as to give the greatest effect possible thereto. The Customer agrees to abide by the provisions of the Guidelines.

15. Modification of Price Terms. The Provider reserves the right to change the rates, terms, and conditions of any Service upon 30 (thirty) days notice. Notice of such changes will be provided by mail or bill insert, and will be posted on the Provider's website referenced above.

16. Applicable Law. Excepting the conflict of laws provisions, the construction, interpretation and performance of this Agreement shall be governed by the local laws of the State of Utah, and exclusive jurisdiction shall lie with the courts of that state. This Agreement may be executed in separate counterparts, each of which shall be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. One or more counterparts of this Agreement may be delivered by facsimile copier or electronic transmission, with the intention that they shall have the same effect as an original counterpart hereof. Any obligations of the parties relating to moneys owed, limitation of liability and indemnification shall survive termination of this Agreement.

17. 800 Number Reference. Any reference herein to "800" numbers or service shall be construed as including all other toll free exchanges including, but not limited to, the 888, 877, 866 and 855 exchanges. Each party hereby confirms that it, her or she has full power and authority to enter into and perform this Agreement, that the information contained herein is true and accurate to the best of its, his or her knowledge, and that the person signing on its, her or his behalf has been properly authorized and empowered to enter into this Agreement. The waiver of any term or condition of this Agreement, or the granting of an extension of time for performance shall not constitute the permanent waiver of any term or condition of this Agreement.

18. Miscellaneous. The necessary grammatical changes required to make the provisions of this Agreement apply to either the Provider or the Customer in the plural sense where there is more than one party involved as either the Provider or the Tenant, as the case may be, and to either corporations, associations, partnerships, or individuals, males or females, shall in all instances be assumed as though in each case fully expressed. If any interest, charge, fee or other payment, or the rate thereof, herein required shall be in excess of the maximum allowed by any usury or other law, rule or regulation, such interest, charge, fee or other payment, or the rate thereof, shall be reduced to the maximum so allowed. The captions of the several Sections contained herein are for convenience only and do not define, limit, describe or construe the contents of such Sections. The parties acknowledge that they have been represented and advised or have had an adequate opportunity to be represented and advised by legal counsel in the negotiation and legal effects of this Agreement. The terms and language of this Agreement have been negotiated in depth by the parties and their counsel and shall therefore not be construed either for or against either party. No negotiations concerning, or modifications made to, prior drafts of this Agreement or memoranda thereof shall be construed to in any manner limit, reduce or impair the rights, remedies, duties and obligations of the parties under this Agreement or to restrict the meaning of any of the provisions of this Agreement or to construe any of the provisions of this Agreement in either party's favor. Nothing in this Agreement shall be construed to place the parties in the relationship of partners, joint venturers, franchiser and franchisee, or principal and agent, and the Customer shall have no power to obligate or bend the Provider in any manner whatsoever.

19. Indemnification. The Customer shall indemnify, defend and hold harmless the Provider from any and all liability of any nature whatsoever, including costs and attorney's fees, arising out of or in connection with any violation of the Provider under this Agreement and any liability from a third party for the Customer's misuse of the Services.

CallStage, LLC:

THE CUSTOMER:

By: \_\_\_\_\_  
CallStage Representative

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Printed Name

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date