

# CallingPost Terms and Conditions & User Agreement

## User Agreement

User understands the CallingPost Messaging Service is to be used for the intended purpose of communicating with business, non-profit, and volunteer groups and SHOULD NOT be used for marketing, telemarketing, solicitation, or political purposes.

I will use CallingPost to send information calls only, and will NOT initiate any unwarranted calls for telemarketing. I will comply with all CallingPost policies and applicable law.

Further, the user understands this service shall not be used to transmit messages that contain profane language and/or other material deemed to be offensive to the recipients or CallingPost, and you agree that any use of the CallingPost Service will conform to this User Agreement.

I have written/digital consent to call, message, email, or address every number that is entered or uploaded into my account, and did not acquire or purchase them from a third-party list provider.

I understand all text message recipients must first opt-in to receive my messages from short-code '24251'. I understand that any phone/text message sent from a phone number I purchased from CallingPost, I must have digital/written consent to message them.

## Terms of Use

CallingPost Communications Inc. ("CallingPost") is providing users with access to its messaging services and website ("CallingPost Service"), subject to the terms and conditions of this User Agreement ("Terms of Use"). Any new features, changes, updates, or improvements to the current CallingPost Service, and the availability of new CallingPost services, shall be subject to the terms of this User Agreement unless explicitly stated otherwise.

For SMS messaging, users must ensure that recipients have expressly opted in to receive messages from the CallingPost short code **24251**. By opting in, recipients acknowledge and agree to the following SMS terms:

Program Description: CallingPost provides organizational, transactional, and informational text messaging services on behalf of registered CallingPost accounts.

- **Message Frequency:** Message frequency varies and depends on your group's communication needs.
- **Rates Disclosure:** Message and data rates may apply.
- **Opt-Out Instructions:** Recipients may cancel SMS messages at any time by replying **STOP** to any message. After sending **STOP**, the recipient will receive one final message confirming the opt-out.
- **Help Instructions:** For help, recipients may reply **HELP**, email **support@callingpost.com**, or call **877-665-5646**.
- **Carrier Liability Disclosure:** Carriers are not liable for delayed or undelivered messages.

## 1. YOUR ACCEPTANCE OF THIS USER AGREEMENT

Please read the User Agreement carefully before using or registering for the CallingPost Service. By using or registering for the CallingPost Service, you agree to be bound by the terms and conditions set forth. If you do not wish to be bound by these terms and

conditions, you may not access or use the CallingPost Service.

## **2. MODIFICATION OF TERMS**

We reserve the right to modify and restate the terms and conditions of the User Agreement, and modifications shall be effective immediately upon being posted on the CallingPost.com website.

Unless explicitly stated otherwise, any new features that augment or enhance the current CallingPost Service, including the release of new CallingPost properties, shall be subject to the User Agreement. You understand and agree that the CallingPost Service is provided "AS-IS" and that CallingPost assumes no responsibility for the timeliness, deletion, mis-delivery or failure to store any user communications or personalized information.

You are responsible for reviewing these terms and conditions regularly. Your continued use of the CallingPost Service shall be deemed to be your conclusive acceptance of all modifications to the User Agreement.

## **3. PRIVACY POLICY**

By using or registering for the CallingPost Service, you acknowledge that you have read and accept the CallingPost Privacy Statement. Before using or registering for the CallingPost Service, please carefully read the CallingPost Privacy Statement. You may access the Privacy Statement by visiting <http://www.callingpost.com/privacy-policy>.

## **4. BUSINESS RELATIONSHIP AND PRIOR EXPRESS CONSENT**

When using the CallingPost Service, your interaction can be classified either as Active or Passive. Active Interaction occurs when you either call into the CallingPost Service or interact with a message you have received through the CallingPost Service, such as by listening to it, or taking other actions with respect to either the message or other CallingPost Services. Passive Interaction occurs when you receive a message through the CallingPost Service but do not actively interact with the message at all. As a condition to and consideration for using the CallingPost Service, you agree that your Active Interaction with the CallingPost Service establishes a business relationship with CallingPost with respect to the phone number from which you're calling from. Using CallingPost services indicates that you have consent to call, text or email every member added or uploaded into your account and did not acquire or purchase them from a third-party list provider.

## **5. REGISTRATION INFORMATION**

You agree, as a condition of your use of the CallingPost Service, to provide CallingPost with accurate and complete information when registering for or using the CallingPost Service, and to update and maintain such information. CallingPost has the right to suspend, restrict or terminate your use of the CallingPost Service and to refuse any future use of all or portions of the CallingPost Service if CallingPost has reason to believe that you have failed to comply with these requirements.

## **6. MINIMUM AGE**

If you are under the age of fifteen, you are prohibited from using or registering for the CallingPost Service. By using or registering for the CallingPost Service, you warrant to CallingPost that you are above the age of fifteen. In addition, parents of children between the ages of 15 and 18 should be aware that the CallingPost Service is designed to appeal to a broad audience. Accordingly, as a parent or legal guardian, it is your responsibility to determine whether any portion of the CallingPost Service is inappropriate for your child.

## **7. ACCOUNT SECURITY**

When you are registered, you enter a phone number that becomes your account identifier or User Identification number (User ID), and a Personal Identification Number (PIN). You are responsible for protecting the confidentiality of your PIN and User ID, and are fully

responsible for all activities that occur under your PIN and User ID. You agree: (a) to exit from your account when you conclude each session, and (b) to immediately notify

CallingPost of any loss, compromise or unauthorized use of your PIN and User ID or any other breach of security. You may notify CallingPost by sending an e-mail to support@callingpost.com or by writing to: CallingPost Communications Inc., 4316 Washinton Rd. Evans, GA 30809. CallingPost will not be liable for any loss or damage of any kind should you fail to comply with these requirements.

#### **8. CONSENT TO RECORD YOUR VOICE INPUTS**

You agree and consent that CallingPost may record the oral or voice communications, utterances, conversations or commands ("Voice Inputs") made by you during the use of the CallingPost Service. By using the CallingPost Service, you expressly consent and grant to CallingPost the right to record and use your Voice Inputs. If you do not want your Voice Inputs recorded or used, you may not use the CallingPost Service.

#### **9. LIMITED USE**

Unless otherwise specified by CallingPost, the CallingPost Service is for your use only. You may not modify, copy, distribute, transmit, displace, perform, reproduce, publish, license, transfer, or sell any information, products or services that you access or obtain from any portion of the CallingPost Service.

#### **10. RESTRICTION AND MODIFICATION OF SERVICE**

You agree CallingPost may limit your use of the CallingPost Service, including without limitation the frequency and duration for which you may access the CallingPost Service, and that CallingPost has no responsibility or liability for any unavailability or limitation on use of the CallingPost Service. In addition, CallingPost reserves the right at any time to limit: access to, modify, change or discontinue the CallingPost Service, or any part thereof, with or without notice. You agree CallingPost shall not be liable to you or to any third party for any modification, suspension or discontinuance of the CallingPost Service. You acknowledge and agree CallingPost may establish general practices and limits, which may not be published, concerning the use of the CallingPost Service, including without limitation the maximum time that messages will be retained, the maximum number of messages that may be sent from or received by an account on the CallingPost Service, the length of message sent and the maximum number of times, and the maximum duration for which you may access the Service, in a given period of time. You agree CallingPost has no responsibility or liability for the deletion or failure to store any messages and other communications maintained or transmitted by the CallingPost Service. You acknowledge CallingPost reserves the right to terminate any inactive or dormant account(s). You agree and CallingPost reserves the right to change these general practices and limits at any time, in its sole discretion, with or without notice.

#### **11. YOUR CONDUCT**

As a condition of your use of the CallingPost Service, you agree and warrant to CallingPost that you will not use the CallingPost Service for any purpose that is unlawful or prohibited by the User Agreement. You may not use the CallingPost Service in any manner that could damage, impair, disable or overburden the CallingPost Service, interfere in any way with CallingPost's rights, interfere in any way with any other user's use and enjoyment of the CallingPost Service, or otherwise infringe on any person's rights.

Specifically, you agree and warrant to CallingPost that:

- You will follow the letter and spirit of the terms of the User Agreement and all applicable laws;

- You will not use, or attempt to use, the CallingPost Service in connection with any junk messages, spamming, advertising, or messages that are duplicative, unsolicited, or promotional in nature;
- You will not send, or attempt to send, messages to emergency lines, to any health care facility or similar establishment, to numbers assigned to radio common carrier services or to any service for which the called party is charged for the call;
- You will not transmit, or attempt to transmit, any material that may infringe the contractual, fiduciary, intellectual property rights, or other rights of third parties, including trademark, copyright or the right of publicity;
- You will not impersonate, or attempt to impersonate, any other person, falsify contact information, misrepresent a relationship with any person or entity, including misrepresenting a relationship with CallingPost, or otherwise attempt to mislead others as to the identity of the sender or the origin of a message;
- You will not use, or attempt to use, the CallingPost Service to convey any information that may be considered unlawful, harassing, libelous, abusive, threatening, obscene, hateful, offensive, harmful, vulgar, distasteful, defamatory, or invasive of another person's privacy or proprietary rights.
- You will not resell, or attempt to resell, the use of the CallingPost Service;
- You will not collect, or attempt to collect, or store information about the CallingPost Service or other users, including contact information, without their consent;
- You will not interfere, or attempt to interfere, with or disrupt connections to the CallingPost Service or violate the regulations, policies or procedures of such connections;
- You will not attempt to gain unauthorized access to the CallingPost Service, other accounts, computer systems or networks connected to the Service.

You agree and CallingPost retains the right, at its sole discretion, to determine whether or not a User's conduct is consistent with the letter and spirit of the User Agreement. CallingPost may terminate access to the CallingPost Service if a User's conduct is found to be inconsistent with this User Agreement.

## **12. RECIPIENT ACCEPTANCE OF THE CallingPost SERVICE**

When the Shared Cost messaging option is chosen CallingPost, messages sent to other parties may contain short audio advertising spots. These audio advertising spots accompany the voice message you send to other people and are played on the same call before the message you send.

As a condition of your use of the CallingPost Service, you agree and warrant to CallingPost that you will not use the CallingPost Service to contact people who may object to receiving these advertisements. In the unlikely event that this occurs, you may elect to use the No Ad messaging option that is provided by CallingPost.

## **13. NO SPAM AND CONSENT TO DAMAGES**

CallingPost records your voice messages in order to transmit them to phone numbers, email addresses, and mailing addresses you provide. CallingPost reserves the right to review these messages at any time for any reason. Particularly if we have reason to believe the messages are in violation of CallingPost business practices. CallingPost will immediately terminate any account which it believes, in its sole discretion, is transmitting or is otherwise connected with any spam or

other unsolicited messaging activities. Activities such as sending spam or other unsolicited messages can cause harm to CallingPost (and our customer base) in numerous ways including, but not limited to, damaging the CallingPost brand name, damaging our reputation for delivering relevant messages, damaging our reputation for privacy, damaging our ability to attract and retain customers, and damaging other consumer, customer and business goals, activities, or relationships. Because these and other damages are often difficult to quantify, if actual damages cannot be reasonably calculated, then you agree to pay CallingPost liquidated damages of \$3.50 (calculated as a fraction of reasonable customer acquisition costs for the Internet industry) for each piece of spam or unsolicited message transmitted from or otherwise connected with your phone number or account.

#### **14. NO RESPONSIBILITY FOR CONTENT**

As part of the CallingPost Service, CallingPost may offer users access to communications, media and commerce services. CallingPost does not guarantee the accuracy, integrity, quality or appropriateness of any messages, communications, information, data, text, music, sound, or other materials ("Content"), whether publicly posted or privately transmitted through the CallingPost Service. You acknowledge the CallingPost Service simply acts as a passive conduit for the distribution and transmission of information. You acknowledge CallingPost has no obligation to screen, preview, or monitor such Content. By using the CallingPost Service, you agree it is solely YOUR RESPONSIBILITY to evaluate the accuracy, usefulness, completeness, or appropriateness of any Content you send, receive, access, post, or otherwise transmit through the CallingPost Service, including Content that may be offensive, indecent or objectionable. Under no circumstances will CallingPost be liable in any way for any Content, including, but not limited to, for any errors or omissions in any Content, or for any loss or damage of any kind incurred as a result of the use of any Content sent, accessed, posted or otherwise transmitted via the CallingPost Service.

#### **15. DISCLOSURE**

CallingPost may make identifiable information available to our employees and third parties with whom we contract. In addition, CallingPost may provide aggregate statistics, unique identifiers, demographic, and other anonymous information about our users to advertisers, Service Providers, and other third parties. You acknowledge and agree CallingPost may make such uses of information you provide or CallingPost collects.

To prevent unauthorized access, maintain data accuracy, and ensure the use of information, CallingPost has put in place appropriate physical and electronic procedures to protect the information we collect online. However, we will not sell any information that is recorded, i.e., either auditory or data entered, by you. We safeguard the privacy of each and every member.

The CallingPost Affiliate Program will display pertinent contact information to those responsible for an affiliate's referral to CallingPost (this would be no more than 3 affiliates). Affiliates have the option of not having this information displayed.

While CallingPost is committed to protect your privacy, CallingPost does not guarantee that your private communications, contact information and other identifiable information will never be disclosed in ways not described in CallingPost's Privacy Statement. You acknowledge and agree that CallingPost may disclose any information or Content as described herein, or if required to do so by law or in the good faith belief such

disclosure is reasonably necessary to: (a) comply with the legal process; (b) respond to claims of a violation of the rights of third parties; or (c) protect the rights, property, or safety of CallingPost, its users or the public. CallingPost does not accept any responsibility for accidental or inadvertent disclosure, unauthorized access or other disclosure as required by law or described herein.

As we continue to develop our business, we might sell or buy other companies or assets. In such transactions, customer information generally is one of the transferred business assets. Also, in the unlikely event that CallingPost, or substantially all of its assets are acquired, you consent to the transfer of your information as one of the transferred assets.

You acknowledge and agree CallingPost may disclose the existence of a relationship with its customers and may use customer names and logos in such disclosure for marketing purposes.

### **SERVICE PROVIDERS**

The CallingPost Service may provide users with opportunities to be transferred or linked to third party providers of products, services, advertisements or Content ("Service Providers") that may be accessible through and operate with the CallingPost Service. CallingPost does not endorse and is not responsible or liable for any Content, data, advertising, products or services available or unavailable from, or through, such Service Providers. You further agree that should you use or rely on such Content, data, advertisement, goods or services on, available or unavailable from, or through any such Service Provider. CallingPost is not responsible or liable, indirectly or directly, for any damage or loss caused or alleged to be caused by or in connection with such use or reliance. Your dealings with, or participation in promotions of Service Providers, and any other terms, conditions, representations or warranties associated with such dealings, are between you and such Service Providers exclusively and do not involve CallingPost.

You agree CallingPost is not responsible for the accessibility or unavailability of Service Providers or for your interaction and dealings with them.

### **17. LIABILITY DISCLAIMER**

YOU AGREE THAT:

A. IF YOU USE THE CALLINGPOST SERVICE, YOU DO SO AT YOUR OWN AND SOLE RISK. THE CALLINGPOST SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. CALLINGPOST EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

CALLINGPOST COMMUNICATIONS INC. ALSO PROVIDES MESSAGING SERVICES TO EMERGENCY MANAGEMENT AGENCIES (THROUGH MESSAGE911.COM). IN THE EVENT OF A CRITICAL EMERGENCY, REGULAR CALLINGPOST MESSAGING SERVICES MAY TEMPORARILY BE PRE-EMPTED

B. CALLINGPOST DOES NOT WARRANT THAT (i) THE CALLINGPOST SERVICE WILL MEET YOUR REQUIREMENTS, (ii) THE CALLINGPOST SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (iii) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE CALLINGPOST SERVICE WILL BE ACCURATE OR RELIABLE, (iv) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE CALLINGPOST SERVICE WILL MEET YOUR EXPECTATIONS, (v) ANY INFORMATION YOU PROVIDE OR CALLINGPOST COLLECTS WILL NOT BE DISCLOSED, OR (vi) ANY ERRORS IN ANY DATA OR SOFTWARE WILL BE CORRECTED. YOU ARE ESPECIALLY ADVISED NOT TO USE OR RELY ON THE CALLINGPOST SERVICE AND INFORMATION OR ANY OTHER PROGRAM, INFORMATION OR SERVICE

WHATSOEVER RELATED THERETO FOR "CONTENT SENSITIVE" OR "MISSION CRITICAL" APPLICATIONS AND USE. "CONTENT SENSITIVE" SHALL MEAN ANY INFORMATION OR DATA YOU DO NOT WISH TO BE ACCESSIBLE TO OTHER USERS. "MISSION CRITICAL" APPLICATIONS AND USE SHALL MEAN APPLICATIONS AND USE THAT MAY RESULT IN DAMAGE.

C. IF YOU ACCESS OR TRANSMIT ANY CONTENT THROUGH THE USE OF THE CALLINGPOST SERVICE, YOU DO SO AT YOUR OWN DISCRETION AND YOUR SOLE RISK. YOU ARE SOLELY RESPONSIBLE FOR ANY LOSS OR DAMAGE TO YOU IN CONNECTION WITH SUCH ACTIONS.

D. NO DATA, INFORMATION OR ADVICE OBTAINED BY YOU IN ORAL OR WRITTEN FORM FROM CALLINGPOST OR THROUGH OR FROM THE CALLINGPOST SERVICE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED HEREIN.

#### **18. LIMITATION OF LIABILITY**

YOU EXPRESSLY AGREE THAT CALLINGPOST SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES (EVEN IF CALLINGPOST HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM: (i) THE USE OR INABILITY TO USE THE CALLINGPOST SERVICE; (ii) THE COST OF ANY SUBSTITUTE GOODS AND SERVICES PURCHASED TO REPLACE ANY GOODS OR SERVICES PURCHASED OR OBTAINED AS A RESULT OF ANY INFORMATION OBTAINED FROM OR TRANSACTIONS ENTERED INTO THROUGH OR FROM THE CALLINGPOST SERVICE; (iii) DISCLOSURE OF, UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR INFORMATION OR MESSAGES; (iv) STATEMENTS OR CONDUCT OF ANY SERVICE PROVIDERS OR OTHER THIRD PARTY ON THE CALLINGPOST SERVICE; OR (v) ANY OTHER MATTER RELATING TO THE CALLINGPOST SERVICE.

#### **19. INDEMNIFICATION**

You agree to indemnify, defend and hold harmless CallingPost, its officers, directors, owners, employees, agents, other service providers, vendors or customers from and against all losses, liabilities, expenses, damages and costs, including reasonable attorneys' fees resulting from any violation of the User Agreement by you or any harm you may cause to anyone. You agree and we reserve the right, at our own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you.

#### **20. PROPRIETARY RIGHTS**

You acknowledge and agree the CallingPost Service and any necessary software used in connection with the CallingPost Service and Service Providers contain proprietary and confidential information that are protected by applicable intellectual property and other laws. You further acknowledge and agree that Content contained in sponsor advertisements or information presented to you through the CallingPost Service or advertisers is protected by copyrights, trademarks, service marks, patents or other proprietary rights and laws. You may not, and agree not to, modify, reformat, copy, display, distribute, transmit, publish, license, create derivative works from, transfer or sell any information, products or services obtained from the CallingPost Service, except as set forth herein. CallingPost, the CallingPost logo and other CallingPost logos, product and service names may be trademarks, service marks or other intellectual property of CallingPost ("CallingPost Marks"). You agree not to display or use the CallingPost Marks in any manner without the prior permission of CallingPost.

**21. NOTICE**

You agree CallingPost may communicate any notices to you, including notices of changes to the User Agreement, through email, regular mail or by posting of those notices on the CallingPost.com website or through the CallingPost Service.

**22. ENTIRE AGREEMENT**

The User Agreement governs your use of the CallingPost Service and constitutes the entire agreement between you and CallingPost. It supersedes any prior agreements between you and CallingPost. Additional terms and conditions may apply when you use the services of Service Providers and others. These additional terms will not reduce, diminish, or eliminate any rights CallingPost possesses with respect to this User Agreement.

**23. GOVERNING LAW AND ARBITRATION**

The User Agreement and the relationship between you and CallingPost shall be governed by the laws of the State of Georgia without regard to its conflict of law provisions. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the CallingPost Service or to the terms of this User Agreement must be filed within one (1) year after such claim or cause of action arose or be forever barred. You agree to make a trial by jury. You agree to submit any dispute with CallingPost, and any question as to the arbitrability of such dispute, of such exclusively to final and binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The location of any arbitration shall be in the city of Augusta, Georgia. You agree any arbitrator shall not have the authority to award punitive damages. You agree to be bound by any ruling in such arbitration proceeding and that such ruling shall be enforceable in any court of competent jurisdiction.

**24. MISCELLANEOUS**

Any failure by CallingPost to exercise any rights or enforce any of the terms of this User Agreement shall not constitute a waiver of such rights or terms. If any portion of the User Agreement is found by an arbitrator or a court of competent jurisdiction to be invalid, the arbitrator or court should nevertheless give effect to the parties' intentions expressed herein. All other provisions of the User Agreement remain in full force and effect.