

ENCOMPASS POSA DISTRIBUTOR AGREEMENT

Encompass Communications
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New Distributor
 Change to Info
 Add on Product

POSA Reporting Site: <https://posa.ecllc.com/reports>

Distributor Legal Name:		Contact Person:	
Mailing Address:		City:	State: Zip:
Phone: ()	Fax: ()	Federal Tax ID:	
E-Mail Address: (Required for Web Reporting)		Password: (Required for Web Reporting, 5 to 10 characters)	

Attach DISTRIBUTOR PRODUCT FORM which is a part of this agreement.

Ship Products and Marketing Materials to: _____ Distributor; _____ Retail Locations.

The difference between Distributor Margins indicated on the DISTRIBUTOR PRODUCT FORM and Margins on Retailer Agreements submitted by Distributor will be dispersed on Fridays, at least 72 hours after collection of funds from Retailer.

A limited number of Terminals are available for demonstration purposes on a "first come, first served" basis. A terminal delivered to Distributor which remains non-producing and not returned to Encompass Communications, LLC for more than thirty (30) days will result in a \$50 per thirty (30) day period Terminal Inactivity Fee to the Distributor. Terminals and software can be purchased through Encompass at the going price or some existing terminals can have the software downloaded for \$50.

AUTHORIZATION FOR AUTOMATIC TRANSFER OF FUNDS

Distributor hereby authorizes Encompass Communications, LLC ("Provider") to initiate and/or transmit automatic credit and/or debit entries to the Account and Depository identified in the attached voided check (hereinafter "Distributor's Account"). Said authority includes, but is not limited to, the initiation and transmission of such entries, requests or orders as may be necessary to credit Distributor's Account with any commissions, margins, fees or other amounts payable by Provider to Distributor or to charge Distributor's Account for any amounts owing to Provider by Distributor under the terms of this Encompass Prepaid Services Distributor Agreement, including, but not limited to, to initiate and transmit such entries, requests or orders as may be necessary to reverse or adjust any entries made in error or by mistake, and to initiate, transmit or suspend such entries, requests or orders as may be necessary to grant or effect or revoke conditional credit with respect to any entry or group of entries. Encompass Communications, LLC abides by the NACHA Rules governing these transactions. The below signatory, as the primary owner of the Distributor, shall obligate the Distributor formal entity (if any) and shall also serve as an absolute personal and continuing guaranty of the signing individual for all liability of Distributor hereunder. This guaranty binds the individual and his/her successors, assigns, estate, representatives and heirs. Provider may pursue this guaranty before, or concurrent with, pursuit of a claim for recovery against Distributor.

MUST ATTACH PRE-PRINTED VOIDED BUSINESS CHECK

Your signature acknowledges that you are authorized to execute this Agreement and have read and understand all information contained herein, the terms and conditions on the reverse side of this Agreement, and any addenda, amendments and/or attachments, all of which are part of this Agreement.

Signature

Date

Print Name

Title

REVERSE SIDE HAS ADDITIONAL TERMS AND CONDITIONS WHICH ARE PART OF THIS AGREEMENT

ENCOMPASS POSA DISTRIBUTOR AGREEMENT

TERMS AND CONDITIONS

The Following Encompass Prepaid Services Distributor Agreement ("Agreement") by and between Encompass Communications, LLC ("Provider") and "Distributor" governs the resale of Providers prepaid products and services to Retailers by Distributor.

INVESTIGATIVE CONSUMER REPORT: An investigative or Consumer Report may be made in connection with this application. Distributor authorizes Provider or any credit bureau or any credit reporting agency employed by Provider or any agents of Provider to investigate any references given or any other statements or data obtained from Distributor or of the undersigned principal, for the purpose of this application and this Agreement.

For good consideration, the parties agree as follows:

1.Provider will, after acceptance of a PREPAID SERVICES RETAILER AGREEMENT presented by distributor: (a) provide Retailer with prepaid products and services; (b) furnish network, debit systems and provisioning necessary to provide the service to consumers; (c) "deactivate" prepaid products, when required, in certain circumstances including, but not limited to, cases of possible fraud, lost shipments, non-return of sold product or technical problems; and (d) collect funds from Retailer through automatic withdrawal of funds and periodically disperse to Distributor amounts provided for in this Agreement through automatic fund transfers.

2.Distributor will: (a) sell the prepaid services supplied by Provider to Retailers in accordance with pricing guidelines indicated in attached Schedule A; (b) represent the product in a factual and accurate manner; (c) verify, note and immediately report any discrepancy between the product type sold by Retailer and those actually shipped to Retailer, or, any discrepancy reported by consumers; (d) ensure that marketing material and all applicable product is set up and prominently displayed at all times in Retailer location according to current "Encompass Marketing Guidelines" using displays and signs provided or in a manner which will be functionally equivalent or better approved in writing in advance by Provider; (e) help with the collection of any outstanding amount owed by Retailer to Provider and with the recovery of equipment, product and marketing materials should this become necessary. Further, Distributor agrees to be responsible for payment of any amounts owed to Provider by Retailers presented by Distributor that remain uncollected for over thirty (30) days; and (f) remit to Provider a \$50 per month Terminal Inactivity Fee for each Provider owned terminal which is essentially non-productive for thirty (30) consecutive days.

This Agreement is also subject to the following terms and conditions:

The provisioning of prepaid services is subject to the technical and economic limitations of Provider and/or its affiliates. Provider shall retain the right to alter, modify or withdraw its prepaid services and Retailer program and any time, without prior notice to Distributor. Provider reserves the right to limit the total number of transactions and total retail value of those transactions that may be activated within a 24-hour period. Distributor will be advised of this limitation. Provider also reserves the right to request financial statements and other financial information on a reasonable basis from Distributor at its sole discretion.

MARGIN PAYMENTS AND INVOICES RENDERED: All margin payments and invoices for services used, activated or dispensed, will be paid by direct ACH credit/debit to Distributor's checking account identified on the attached pre-printed business check according to the terms specified in the Encompass Prepaid Services Distributor Agreement. Encompass Communications, LLC abides by the NACHA Rules governing these transactions. In the event the ACH credit/debit is returned for lack of sufficient funds, or a change in the account without proper notification to Provider, the Distributor will be assessed a \$20.00 fee. Distributor agrees to notify Provider in writing of any change to the business checking account used for ACH debits at least five (5) business days prior to the scheduled ACH credit/debit. All notices hereunder shall be effective upon personal delivery, by confirmed fax delivery, or two (2) business days after deposit in the United States Postal Service postage prepaid by certified mail, return receipt requested to the notice address of the party's states herein. Margins, fees and expenses include all amounts identified on this and other Agreements between Provider

and Distributor and shipping costs for prepaid products and marketing materials shipped to Distributor. If there are not sufficient available funds in the account to cover a debit, Distributor agrees to pay Provider the amount of the deficiency on demand in immediately available funds. Billing amounts not timely received by Provider shall accrue interest at the rate of (i) eighteen percent (18%) per annum; and (ii) the highest rate allowed by applicable law. If the rate referenced above exceeds the maximum rate allowed by applicable law, the interest rate made herein shall be the maximum rate allowed by applicable law. Interest shall accrue if Provider does not receive payment within fifteen (15) days of the invoice date.

LENGTH OF AGREEMENT: This Agreement shall be effective on the date accepted by Provider. The Agreement may be terminated at any time by either party with a thirty (30) day written notice to the other party. Provider shall have the absolute right to immediately terminate this Agreement and require Distributor to return unsold product, equipment and marketing material in the event: (a) of any misrepresentation by Distributor concerning Provider, to any Retailer or prospective Consumer, (b) Distributor violates any of the terms or conditions of this Agreement, or (c) Provider in good faith becomes insecure in continuing to do business with Distributor. In the event of non-payment by Distributor of any fees or expenses required herein, Provider shall be entitled to the recovery of all attorneys' fees and costs related to the pursuit of such payment.

INDEMNITY AND HOLD HARMLESS AGREEMENT: Distributor agrees to indemnify, defend and hold harmless Provider and its agents, employees, officers, directors, members, successors and assigns from any and all suits, actions, or claims of any type, character or description (including necessarily related costs and expenses and reasonable attorneys' fees) brought or made for or on account of any injuries or damages received or sustained by any person or persons or property, arising out of or occasioned by Distributor's negligence or malfeasance.

VENUE: The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of Texas. It is agreed that any disagreement between the parties of this contract that requires resolution through judicial proceedings must be litigated in Gregg County, Texas. It is the obligation of each party to give timely, written notice to the other party of any change of address.

CONFIDENTIALITY: Distributor agrees not to disclose and not to use the Confidential Information. The "Confidential Information" includes the terms and conditions of this Agreement and any financial, marketing, technology, business, personnel or other similar information of Provider, which is not in the public domain.

ENTIRE AGREEMENT: This Agreement constitutes the full and complete agreement between the parties with respect to the subject matter hereof and there are no representations or conditions not stated herein. This Agreement may not be amended or modified except in writing signed by authorized representatives of Provider and Distributor.

SEVERABLE PROVISIONS: The provisions of this Agreement are severable, and if any one or more provisions is determined to be illegal, indefinite, invalid or otherwise unenforceable, in whole or in part, the remaining provisions of this Agreement, and any partially unenforceable provisions to the extent enforceable in the pertinent jurisdiction, shall continue in full force and effect and shall be binding and enforceable on the parties.

LIMITATION OF LIABILITY: Under no circumstances shall Provider be liable for special, incidental, consequential or punitive damages, whether or not Provider receives notice of any such damages and whether or not such damages could have been foreseen.

This Agreement becomes effective on the date accepted by Provider.