



777 Summer Street
Suite 502
Stamford, CT 06901
Tele: 203-653-2762
Fax: 203-653-2767

Dear Subscriber:

In the following pages you will find a 18-page document consisting of two agreements that need to be signed and returned to us in order to subscribe to the Wireless Ported Numbers file. The first agreement is from IMS and the second is from NeuStar, the custodian of the data. Please review the terms on both agreements before you sign and submit them to us. Please allow up to 2 days for the processing of your order. If you have questions or concerns about these documents, please email us at etechsupport@ims-dm.com, call 203-653-2762 or go to <http://ims-dm.com/techsupport.php>

Thank You,



Wireless - Ported Numbers

INTERACTIVE MARKETING SOLUTIONS

SUBSCRIPTION/PURCHASE AGREEMENT

Interactive Marketing Solutions ("IMS") and Licensors of data used by IMS List Management Services (hereinafter collectively known as the "Company") agree to provide products and services subject to the terms and conditions stated herein unless otherwise agreed to in writing by the Company. Acceptance or use of one or more products or services (hereinafter named "IMS List Management Services") offered by the Company in any form to the Customer (Subscriber) constitutes the Subscriber's full acceptance of, and agreement with, the terms and conditions stated herein.

List Management Service Terms and Conditions

- Subscriber agrees that its use of IMS List Management Services, is strictly for the purpose of suppressing consumers from contact lists and the Company authorizes its use for no other purposes unless specifically stated in this agreement. Subscriber understands that the IMS List Management Services are intended exclusively for its use and it shall not disseminate, sublet, resell, or republish them in any manner whatsoever. Subscriber agrees by its acceptance below that its use of IMS List Management Services will be solely for the authorized purposes specified in this agreement and may not use the Data as a factor in establishing an individual's creditworthiness or eligibility for (i) credit or insurance, or (ii) employment. Organizations subsequently identifying themselves as Service Providers are also permitted to use the product(s) to remove individuals from lists owned or licensed by its clients and to enhance client data with the following exceptions:
 - For the Ported Number product, service organizations may scrub client lists and remove matching ported numbers, **however, the client must be a subscriber to the Ported Number service.**
 - For Recently Recorded Deceased File (RRDF) product, service organizations may use this file to scrub client lists and remove matching individuals, **however, each client must be a subscriber to the RRDF.**

Subscriber agrees that unauthorized use of IMS List Management Services might cause irreparable harm to the direct marketing industry. Any unauthorized use of this service or use for an unauthorized purpose may subject Subscriber to appropriate recourse to be determined by the Company, including but not limited to (1) suspension of the services provided under this agreement, (2) notifying the Federal Trade Commission or applicable legislative authority, (3) the Company's seeking injunctive or equitable remedies, or (4) the Company's seeking monetary damages or sanctions.

Use of IMS List Management Service does not relieve Subscriber from complying with any applicable federal, state or foreign law governing unsolicited commercial communications. Many states have enacted some type of legislation governing solicited and unsolicited commercial communications. The requirements of these laws vary and participating merchants are strongly encouraged to comply with all applicable legal requirements.

Subscriber agrees that: (a) It is Subscriber's RESPONSIBILITY to ascertain and comply with any and all Federal, State and Local laws and statutes, including those that pertain to Do-Not-Call laws and regulations; (b) By signing or accepting this agreement it agrees to hold the Company harmless from all liabilities, damages, losses, claims, costs, and expenses (including reasonable attorneys' fees) arising from Subscriber's failure to abide by all applicable Federal, State and local laws and statutes.

The Company and its Data Providers shall not be responsible for, or incur any liability as a result of, delays or failures in the performance of IMS List Management Services in the event of any act or occurrence beyond the Company's reasonable control.

Subscriber agrees to protect its password and will not disclose the password to an unauthorized individual. Subscriber will promptly notify the Company if Subscriber's password is lost, stolen or otherwise compromised.

If Subscriber is not satisfied with IMS List Management Services, the Company will refund the purchase price within thirty (30) days of the signing of this agreement. See the below for any exceptions.

Subscriber acknowledges that information and/or programs originating from or through the Company and delivered to Subscriber may be less than 100% error free and is furnished "AS IS," WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE WARRANTIES OF CORRECTNESS, COMPLETENESS, CURRENTNESS, PERFORMANCE, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE.

SUBSCRIBER AGREES THAT THE COMPANY AND ITS DATA PROVIDERS SHALL NOT BE LIABLE TO SUBSCRIBER FOR ANY LOSS OR INJURY ARISING OUT OF OR CAUSED, IN WHOLE OR IN PART, BY THE COMPANY'S OR ITS DATA PROVIDER'S NEGLIGENT ACTS OR OMISSIONS IN PROCURING, COMPILING, COLLECTING, PROCESSING, COMMUNICATING OR DELIVERING IMS LIST MANAGEMENT SERVICE, DIRECTLY OR INDIRECTLY. THE COMPANY'S AND ITS DATA PROVIDER'S

SOLE LIABILITY AND SUBSCRIBER'S SOLE REMEDY REGARDLESS OF THE FORM OF LEGAL ACTION SUBSCRIBER MAY TAKE, WHETHER IN TORT OR CONTRACT, SHALL NOT EXCEED THE REFUND OF THE AMOUNTS, IF ANY, SUBSCRIBER HAS PAID. SUBSCRIBER AGREES THAT THE COMPANY AND ITS DATA PROVIDERS SHALL NOT BE LIABLE FOR LOST PROFITS OR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS PARAGRAPH STATES THE COMPANY'S AND ITS DATA PROVIDER'S ENTIRE LIABILITY AND SUBSCRIBER'S SOLE REMEDY FOR ANY BREACH HEREUNDER.

Subscriber shall indemnify, defend and hold the Company and its Data Suppliers harmless from and against any and all claims, demands, judgments, liability, damages, losses, costs, and expenses (including reasonable attorneys' fees) arising from Subscriber's use of IMS List Management Services provided by the Company. Company shall give the Subscriber prompt written notice of any claim of which it has knowledge, and shall provide Subscriber with the assistance, information and authority necessary to perform Subscriber's obligations under this section.

Subscriber understands that the Company reserves the right to modify or discontinue its IMS List Management Services at any time. The Terms and Conditions hereunder may be amended from time to time by agreement of the parties, and the Company may add further restrictions at its sole discretion. Subscriber shall strictly comply with all restrictions and requirements now or hereafter imposed and made known to the subscriber.

Subscriber shall be responsible for accepting and responding to any communication initiated by a consumer ("Consumer Inquiries") arising out of Subscriber's use of the Data. No reference to COMPANY or the Data Owners in written or oral communication to a consumer or in scripts used by Subscriber in responding to Consumer Inquiries shall be made without Company's and the Data Owner's prior written approval.

During the terms of this agreement, Subscriber will receive e-mail concerning the status of the subscription.

The terms and conditions contained herein will be governed by, and construed, in accordance with the laws of the State of New York, which are intended to supersede any choice of laws or rules which might otherwise be applicable.

Notes and Exceptions:

- A. For Ported Number file Subscribers only:
 - The Ported Number Wireless-to-Landline file, used appropriately, may add numbers to a calling list.
 - May be used to identify cellular telephone number to be called manually.
 - **All sales are final; no refunds are permitted.**
 - A separate agreement must be executed for each computer/server used to host the files.
 - Payments to NEUSTAR are included in the IMS subscription price. IMS will remit all payments to NEUSTAR on behalf of the subscriber.
 - If the Ported Number data is provided to a service organization for list scrubbing or any other purpose, the service organization must be acting as an agent of the subscriber.
- B. For Wireless Block file Subscribers only:
 - May be used to identify cellular telephone number to be called manually.
- C. For Recently Recorded Deceased File (RRDF) subscribers only:
 - **EACH MONTHLY FILE MAY BE USED FOR NO MORE THAN 45 DAYS AND IN NO EVENT MAY A SUBSCRIBER USE THE DATA FOR MORE THAN ONE (1) YEAR FROM THE ORIGINAL OR RENEWAL SUBSCRIPTION DATE.** Active subscribers will receive a replacement file the beginning of each month.
 - The distributed data file will be adjusted monthly to contain the deceased data recorded during the previous 12 months.
 - **All sales are final; no refunds are permitted.**
 - The distributed data is not intended to be representative of, or include, all Deaths occurring during any period.
- D. For State and Federal Prison File (SFPP) subscribers only:
 - The distributed data **may not** contain **all** State and Federal Prisons.

I understand, agree and accept to the above terms and Conditions.

Authorized Signature: _____ Name (Printed): _____

Title: _____ Email: **(REQUIRED)**: _____

Company Name: _____ Telephone No: _____

Street Address: _____ Fax No: _____

City/State/Zip: _____

Annual Subscription for Daily download access to the Wireless – Ported Numbers File:

Choose One:

End User Service Provider **\$1,345** **Download**

Please describe your products or services here: _____

American Express Master Card VISA Check enclosed

Cardholder or Authorized signature

Printed Name of Authorized Cardholder

Credit Card number

Expiration date

**Make Checks Payable To:
Interactive Marketing Solutions
777 Summer Street
Stamford, CT 06901
Fax Credit Card Payment To:
Fax: 203-653-2767**



NEUSTAR END USER AGREEMENT

INTERMODAL PORTED TN IDENTIFICATION SERVICE AGREEMENT

This Intermodal Ported TN Identification Service Agreement ("**Agreement**") is entered into this _____ day of _____, 200____ (the "**Effective Date**") by and between NeuStar, Inc., a Delaware corporation with a principal place of business at 46000 Center Oak Plaza, Sterling, VA, 20166 USA, ("**NeuStar**") and _____ ("**Customer**"), with a principal place of business at _____ (individually a "**Party**" and collectively the "**Parties**").

Explanatory Statements

A. The United States Federal Communications Commission (the "**FCC**") has by order implementing the Telephone Consumer Protection Act of 1991 (the "**TCPA**") adopted rules, including those set forth in 47 C.F.R. Sect. 64.1200, (together with the TCPA, the "**TCPA Rules**"), prohibiting the initiation of telephone calls (other than a call made for emergency purposes or made with the prior express consent of the called party) using automatic telephone dialing systems or an artificial or prerecorded voice to telephone numbers assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call (referred to herein as "**TCPA Prohibited Conduct**").

B. NeuStar operates as the Number Portability Administration Center (NPAC) Administrator under agreements (the "**Master Agreements**") with the North American Portability Management, LLC (the "**NAPM**").

C. Customer desires to receive certain NPAC data, as further defined below, from NeuStar as the NPAC Administrator for the sole purposes of either

1. avoid engaging in TCPA Prohibited Conduct by verifying whether TNs are assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call; or
2. disclosing, selling, assigning, leasing or otherwise providing the TN Ports to a third party that itself qualifies as a "Customer" under an Intermodal Ported TN Identification Services Agreement for the sole purpose of avoiding TCPA Prohibited Conduct by verifying whether TNs are assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call.

C. NeuStar desires to provide to Customer certain NPAC data in accordance with this Agreement and under authority of NeuStar's Master Agreements with the NAPM.

Terms and Conditions

1. DEFINITIONS. Capitalized terms and phrases used in this Agreement shall have the meanings set forth herein. Terms that are not defined herein are defined in the context in which they are used and have the meanings there stated.

2. INCORPORATION. The Explanatory Statements set forth above are hereby incorporated herein by reference.

3. SERVICES. NeuStar shall provide an intermodal ported telephone identification service (the "**Service**") to Customer in accordance with this Agreement. The Service shall consist of NeuStar making available, as the NPAC Administrator, two (2) files consisting of lists of intermodal ports of telephone numbers ("**TNs**") since November 24, 2003, segregated between wireline to wireless ports and wireless to wireline ports ("**Intermodal Ports**") for each of the of the seven (7) regions of the NPAC. The data elements of such Intermodal Ports shall consist exclusively of TNs, and no other data elements. NeuStar shall update the files on a daily basis. NeuStar shall provide the Service on a password secure Web/FTP site for downloading by Customer. Customer may not under any circumstance have direct access to the NPAC or any other data elements not expressly set forth herein.

4. PERMITTED USES.

4.1. Conditions. Customer acknowledges and agrees that any rights it may have under this Agreement are subject to, among other provisions, and without limitation, NeuStar's ability to continue providing Intermodal Ports as part of the Service, as set forth in Section 7.5 (Special Suspension and/or Termination). Customer further acknowledges that any rights it may have hereunder are subject to and conditioned upon, among other provisions, and without limitation, on Customer's representations and warranties under Section 11.1 (Customer) and strict adherence to Customer's obligations with respect to permitted uses under this Article 4 (Permitted Uses), the restrictions set forth in Article 5 (Restrictions), the qualification requirements under Article 6 (Qualification), and payment under Article 8 (Compensation). Moreover, Customer acknowledges and agrees that its receipt and use of the Intermodal Ports as part of the Service hereunder is subject to, and conditioned upon, among other provisions, and without limitation, the express disclaimers concerning the sufficiency and adequacy of the Service in complying with the TCPA, as set forth in Section 11.2 (Disclaimers).

4.2. Customer Use. Subject to the Restrictions set forth in Article 5 (Restrictions), the qualifications under Article 6 (Qualification) Customer may, except as provided in Section 4.3 (Limited Resale) use the Service for the sole purposes of avoiding TCPA Prohibited Conduct (as defined in the Explanatory Statements above) by verifying whether TNs are assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call.

4.3. Limited Resale. Customer may disclose, sell, assign, lease or otherwise provide (a "**Limited Resale Right**") to a third party the Intermodal Ports, as set forth in Article 3 (Services), to permit such third party itself to avoid engaging in TCPA Prohibited Conduct by verifying whether TNs are assigned to a paging service, cellular telephone service,

specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call; provided, however, that such third party (referred to as a "**Second Tier Customer**") itself qualifies as a "Customer" and has executed an Intermodal Ported TN Identification Service Agreement with NeuStar. Any Limited Resale Right under this Section 4.3 is contingent upon Customer executing a written agreement with all its Second Tier Customers, which agreement shall include terms and conditions no less restrictive than those set forth in this Agreement. In no event may a Second Tier Customer exercise, or a Customer allow a Second Tier Customer to exercise, the Limited Resale Right of this Section 4.3.

5. RESTRICTIONS.

5.1. Confidentiality & Ownership. The Intermodal Ports, and any information provided from the NPAC or as part of the Service, shall remain the Confidential Information and exclusive property of its respective owners.

5.2. Prohibited Actions. Customer and any Second Tier Customer are absolutely prohibited, subject to damages and injunctive relief, from (a) disclosing, selling, assigning, leasing or otherwise providing to any third party, except as expressly set forth in Section 4.3, the Intermodal Ports, including to a local service management system or other third party or public database, or (b) commercially exploiting the Intermodal Ports in any way, including by way of example and not limitation, for resale or marketing purposes.

5.3. Compliance with Laws. Customer and any Second Tier Customer shall comply with all applicable laws, orders and regulations applicable to this Agreement, including those applicable to the NPAC Administrator, the NPAC, the NAPM, and the Intermodal Ports.

6. QUALIFICATION.

6.1. Application. In order to qualify as a Customer, an applicant is first required to complete an application in which the applicant identifies the data it is requesting, the intended use of the Intermodal Ports to be received through the Service, and, if applicable, all Second Tier Customers to whom applicant intends to disclose, sell, assign, lease or otherwise provide the requested data. An applicant may execute an Intermodal Ported TN Identification Service Agreement only if NeuStar determines, based upon a good-faith, reasonable interpretation of the information provided by such applicant, that the applicant qualifies as a "Customer" under an Intermodal Ported TN Identification Service Agreement and such applicant is otherwise not already a Second Tier Customer and no Second Tier Limited Customer identified in its application is already itself a direct "Customer" under an Intermodal Ported TN Identification Service Agreement. If NeuStar cannot confirm whether an applicant qualifies as a "Customer" for purposes of an Intermodal Ported TN Identification Service Agreement, NeuStar may refer such application to the NAPM for its decision before entering into an the Intermodal Ported TN ID Service Agreement with such applicant, which decision shall be binding.

6.2. Continued Qualification Process. Upon the anniversary date of the execution of this Agreement, Customer shall certify to NeuStar the following: (a) that it is in full compliance with the terms and conditions of this Agreement, (b) that it intends in the upcoming year to continue to comply with the terms and conditions of this Agreement and (c) if it is providing

Intermodal Ports to Second Tier Customers, (1) that all such Second Tier Customers have agreed to use the User Data only to avoid engaging in TCPA Prohibited Conduct by verifying whether TNs are assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call and (2) either that the identity of those Second Tier Customers has not changed since the later of the original execution of this Agreement or the last preceding certification, or listing the additions and deletions to that list of Second Tier Customers.

6.3. Process. NeuStar may establish any reasonable application process under Section 6.1 (Application) or qualification process under Section 6.2 (Continued Qualification Process), including without limitation an online process.

7. TERM & TERMINATION.

7.1. Term. This Agreement shall commence on the Effective Date and shall continue for twelve (12) months thereafter (the "**Term**"), unless otherwise earlier terminated in accordance with this Agreement. In order to receive the Service after the expiration of the Term, Customer shall apply for and execute a new Intermodal Ported TN Identification Service Agreement.

7.2. Default Termination. In the event that Customer commits a material breach of any obligation hereunder, NeuStar may, by giving written notice to Customer, immediately suspend or terminate this Agreement. For the purposes of this Section, and by way of example and not limitation, the following shall be considered a material breach of an obligation under this Agreement:

- (a) any representation or warranty made by Customer which was or turns out to be incorrect in any respect;
- (b) non-payment by Customer;
- (c) failure by Customer to comply with its obligations under Article 4 (Permitted Uses) or the restrictions in Article 5 (Restrictions);
- (d) failure by Customer to incorporate terms and conditions no less restrictive than those set forth herein in agreements with Second Tier Customers; and
- (e) failure by Customer to deliver an accurate certification to NeuStar in accordance with Article 6 (Qualification), or if NeuStar determines, by reason of the certification or otherwise, that Customer no longer qualifies as a "Customer".

The foregoing notwithstanding, NeuStar may pursue any legal remedies it may have under applicable law or principles of equity relating to such breach and subject to the terms of this Section.

7.3. Convenience Termination. Customer may terminate this Agreement for its convenience, upon sixty (60) days prior written notice.

7.4. Insolvency. Either Party may immediately terminate this Agreement if the other Party (a) becomes or is declared insolvent or bankrupt; (c) is the subject of any proceeding related to its liquidation or insolvency (whether voluntarily or involuntarily) which is not dismissed within ninety (90) Days; or (d) makes an assignment for the benefit of creditors.

7.5. Special Suspension and/or Termination. Customer hereby acknowledges and agrees that any rights NeuStar may have to provide the Service, and any rights Customer may have to receive the Service, including the Intermodal Ports, under this Agreement are subject to continued authority to do so under NeuStar's Master Agreements with the NAPM, and any applicable laws, rules, orders and regulations. Therefore, NeuStar may suspend and/or terminate the Service and/or this Agreement without notice, and without liability of any kind, if required to do so under the Master Agreements or in accordance with applicable law, rule, order, or regulation. A suspension or termination by NeuStar of this Agreement under this Section 7.5 may, but is not required to, be accompanied by an offer to execute an Intermodal Ported TN Identification Service Agreement containing new terms and conditions that comply with the Master Agreements and any applicable laws, rules and regulations.

7.6. Effect. Termination or expiration refers to the termination of the Parties' respective commitments and obligations from and after the date of such termination or expiration, but does not relieve the Parties of their payment and other obligations incurred prior to the date of termination or expiration. Customer is not entitled to a refund of any unused portion of any payments made to NeuStar for the Service if this Agreement is terminated by Customer under Section 7.3 (Convenience Termination) or by NeuStar under Section 7.2 (Default Termination) or if the Service and/or the Agreement is suspended by NeuStar under Section 7.5 (Special Suspension and/or Termination).

8. COMPENSATION.

8.1. Payment. Customer shall pay to NeuStar, by way of pre-payment, the amounts set forth in and in accordance with Schedule 1 to this Agreement. If NeuStar finds it necessary to render an invoice to Customer hereunder for any reason, payment thereunder shall be due and payable no later than thirty (30) days after the date of the invoice. Any amounts not paid when due shall be assessed interest at a monthly rate equal to one and one half percent (1.5%) or the maximum rate allowed by law, whichever is less, from the date the payment was due. If NeuStar commences legal proceedings to collect any payment due to it hereunder, Customer shall be responsible for and pay all reasonable attorney's fees, court costs and other reasonable collection expenses incurred by NeuStar.

8.2. Taxes. Unless specifically set forth in an invoice, all charges to Customer are calculated exclusive of any applicable federal, state or local use, excise, value-added, gross receipts, sales and privilege taxes, duties, universal service assessments or similar liabilities (other than general income or property taxes imposed on NeuStar) associated with the Service, whether charged to NeuStar, its suppliers or affiliates, customers or end user.

9. INTELLECTUAL PROPERTY. No right, including by way of license, title or interest, in intellectual property of any kind shall be deemed to have been granted by NeuStar to Customer, except as otherwise expressly authorized herein.

10. CONFIDENTIALITY.

10.1. Confidential Information. Customer Party acknowledges that as part of the Service it is receiving or otherwise has access to confidential or proprietary information ("**Confidential Information**") of NeuStar or third parties. Confidential Information shall mean all information, disclosed in any form, which (a) concerns the operations, plans, know-how, trade secrets, business affairs, personnel, customers or suppliers of NeuStar or any third party; (b) Customer knows or might reasonably expect is regarded by NeuStar or a third party as Confidential Information; (c) is designated as confidential, restricted, proprietary, or with similar designation; (d) concerns any of the terms or conditions or other facts with respect to this Agreement; and (e) the Service and any data provided by NeuStar from the NPAC, including the TN Ports.

10.2. Exclusions. Confidential Information excludes any information that can be demonstrated (a) at the time of disclosure, was in the public domain or in the possession of the receiving party; (b) after disclosure, is published or otherwise becomes part of the public domain through no fault of the receiving party; (c) was received after disclosure from a third party who had a lawful right to disclose such information to the receiving party without any obligation to restrict its further use or disclosure; (d) was independently developed by the receiving party without reference to Confidential Information of the disclosing party; or (e) was required to be disclosed to satisfy a legal requirement of a competent government body.

10.3. Obligations. Confidential Information shall remain the property of its owner. Customer shall use at least the same degree of care, but in any event no less than a reasonable degree of care, to prevent unauthorized disclosure of Confidential Information as it employs to avoid unauthorized disclosure of its own Confidential Information of a similar nature. In the event of any disclosure or loss of, or inability to account for, any Confidential Information, Customer shall promptly, and at its own expense notify NeuStar in writing, and take such actions as may be necessary and cooperate in all reasonable respects to minimize the violation and any damage resulting therefrom. If Customer receives a request to disclose Confidential Information, it shall immediately upon receiving such request, and to the extent that it may legally do so, advise NeuStar promptly and prior to making such disclosure in order that NeuStar, the NAPM, or the third party owner of such Confidential Information may interpose an objection to such disclosure, take action to assure confidential handling of the Confidential Information, or take such other action as it deems appropriate to protect the Confidential Information.

10.4. Publicity. Customer shall not identify, either expressly or by implication, NeuStar or use any of their trade names, trademarks, service marks, or other proprietary marks in any advertising, sales presentation, news releases, advertising, or other promotional or marketing materials without NeuStar's prior written consent.

11. REPRESENTATIONS, WARRANTIES & DISCLAIMERS.

11.1. Customer. Customer represents and warrants that:

(a) it has submitted a complete, accurate and truthful application to NeuStar for qualifying as

a "Customer" under this Agreement;

(b) it intends to, and will, receive the TN Ports for the sole purposes of either:

(i) avoid engaging in TCPA Prohibited Conduct by verifying whether TNs are assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call; or

(ii) disclosing, selling, assigning, leasing or otherwise providing the TN Ports to a third party that itself qualifies as a "Customer" under an Intermodal Ported TN Identification Services Agreement for the sole purpose of avoiding TCPA Prohibited Conduct by verifying whether TNs are assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call;

(c) it will only exercise the Limited Resale Right under Section 4.3 with respect to Second Tier Customers who have themselves executed an Intermodal Ported TN Identification Service Agreement with NeuStar, and with whom Customer has entered into written agreements containing terms and conditions no less restrictive than those set forth herein;

11.2. Disclaimers.

(a) EXCEPT AS OTHERWISE SPECIFICALLY SET FORTH HEREIN, ALL SERVICES PROVIDED HEREUNDER, INCLUDING THE TN PORTS AND ANY OTHER INFORMATION OR DATA FROM THE NPAC, ARE PROVIDED "AS IS" AND "AS AVAILABLE", AND NEITHER NEUSTAR NOR ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR ASSIGNS MAKE ANY REPRESENTATIONS OR WARRANTIES TO CUSTOMER OR TO ANY OTHER THIRD PARTY INCLUDING, WITHOUT LIMITATION, ITS OWN CUSTOMERS, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BY WAY OF EXAMPLE AND NOT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, TITLE AND NONINFRINGEMENT RELATING TO ANYTHING PROVIDED OR USED OR DESCRIBED HEREUNDER, ALL OF WHICH ARE HEREBY EXPRESSLY EXCLUDED AND DISCLAIMED.

(b) NEITHER NEUSTAR NOR ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR ASSIGNS MAKE ANY REPRESENTATIONS OR WARRANTIES TO CUSTOMER OR TO ANY OTHER THIRD PARTY WITH RESPECT TO THE SUFFICIENCY OR ADEQUACY OF THE TN PORTS, OR ANY OTHER INFORMATION OR DATA PROVIDED TO CUSTOMER, WHETHER OR NOT PART OF THE SERVICE, IN COMPLYING WITH THE TCPA, ALL OF WHICH ARE HEREBY EXPRESSLY EXCLUDED AND DISCLAIMED.

12. LIABILITY.

12.1. Disclaimer of Indirect Damages. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, IN NO EVENT SHALL NEUSTAR, ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR ASSIGNS BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, PUNITIVE, SPECIAL, EXEMPLARY OR OTHER

INDIRECT DAMAGES, INCLUDING, BY WAY OF EXAMPLE AND NOT LIMITATION, CLAIMS OF LOSS OF BUSINESS, PROFITS, USE, DATA, OR OTHER ECONOMIC ADVANTAGE, AND ANY FINES OR OTHER LOSSES IMPOSED BY ANY GOVERNMENTAL AUTHORITY, WHETHER STATE OR FEDERAL, INCLUDING WITHOUT LIMITATION THE U.S. FEDERAL COMMUNICATIONS COMMISSION, FOR FAILURE TO COMPLY WITH ANY LAW, RULE, ORDER OR REGULATION CONCERNING THE TCPA OR THE TCPA RULES, WHETHER SUCH CLAIM IS CHOATE OR INCHOATE, WHETHER BY STATUTE, IN TORT, OR IN CONTRACT, INCURRED BY CUSTOMER, INCLUDING SUCH CUSTOMER'S OWN CUSTOMERS (E.G., SECOND TIER CUSTOMERS), END USERS OR CONTRACTORS, EVEN IF NEUSTAR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

12.2. Direct Damages. NEUSTAR'S AGGREGATE LIABILITY HEREUNDER SHALL BE LIMITED TO THE LESSER OF (i) ACTUAL DIRECT DAMAGES, AND (ii) THE AMOUNTS ACTUALLY PAID TO NEUSTAR BY CUSTOMER IN CONNECTION WITH THE SERVICE OVER THE PRECEDING SIX (6) MONTHS, OF THE CURRENT TERM OR RENEWAL TERM, FROM THE TIME THE EVENT RESULTING IN LIABILITY OCCURS.

12.3. Force Majeure. Neither Party shall be liable for any loss or damage resulting from any cause beyond its reasonable control (a "**Force Majeure Event**") including an "act of God", insurrection or civil disorder, war or military operations, national or local emergency, acts or omissions of government, highway authority or other competent authority, compliance with any statutory obligation or executive order, industrial disputes of any kind (whether or not involving either Party's employees), fire, lightning, explosion, flood, subsidence, weather of exceptional severity, or any similar act or omission beyond the reasonable control of any Party. Upon the occurrence of a Force Majeure Event and to the extent such occurrence interferes with a Party's performance under this Agreement, each Party shall be excused from performance of its obligations during the period of such interference, provided that such Party uses all reasonable commercial efforts to avoid or remove such causes of nonperformance.

13. INDEMNIFICATION.

13.1. Obligations. Customer shall indemnify, defend and hold harmless NeuStar, its affiliates and their respective officers, directors, employees, shareholders, and members from and against any losses, claims, penalties, fines, judgments, damages, forfeitures, liabilities or expenses (including reasonable attorney's fees, expert witness fees, expenses and costs of settlement) (collectively, "**Losses**") or threatened Losses arising out of, relating to, incurred in connection with, or based upon: (a) any breach by Customer of its obligations, warranties and representations set forth in this Agreement.

13.2. Procedure. Upon receiving notice of any third party claim covered by the indemnity obligations set forth in this Article, NeuStar shall promptly notify Customer. The right of indemnification hereunder shall not be adversely affected by a failure to give such notice, unless and only to the extent that the Customer is materially prejudiced thereby. Customer may assume control of the defense of any such claim; however, NeuStar may, at its own cost and expense, participate through its attorneys or otherwise, in such investigation, trial and defense of such claim and any appeal arising therefrom. Customer shall not settle any such

claim without NeuStar's prior written consent, which consent shall not be unreasonably withheld or delayed, unless such settlement is solely for monetary damages for which NeuStar is fully indemnified therefor under this Agreement. If Customer does not assume full control over the defense of a claim pursuant to this Section, then Customer may participate in such investigation, defense or trial, at its sole cost and expense, and NeuStar shall have the right to defend or settle such claim in such manner as it may deem appropriate, solely at the cost and expense of Customer.

14. GENERAL.

14.1. Assignment. Customer may not assign or otherwise transfer all or any portion of its rights or obligations under this Agreement without prior written consent of NeuStar, which consent shall not be unreasonably conditioned, withheld or delayed. Any assignment or transfer in violation of this Section shall be void and have no effect.

14.2. Notices. Any notices, requests, demands, and determinations under this Agreement (other than routine operational communications), shall be in writing and shall be deemed duly given (a) when delivered by hand, (b) one (1) business day after being transmitted via an express, overnight courier with a reliable system for tracking delivery, delivery costs paid (c) when sent by confirmed facsimile with a copy delivered by another means specified in this Section, or (d) on the day an authorized employee of the receiving party accepts receipt in writing, when mailed by United States mail, registered or certified mail, return receipt requested, postage prepaid, to the address listed on the first page of this Agreement. A Party may from time to time change its address or designee for notice purposes by giving the other prior written notice of the new address or designee and the date upon which it will become effective.

14.3. Counterparts. This Agreement may be executed in counterparts, all of which taken together shall constitute one single agreement between the Parties.

14.4. Relationship of Parties. The Parties are independent contractors, bound to each other only as provided for herein. Neither Party has the authority to bind, act on behalf of or represent the other. Except as expressly set forth in this Agreement, nothing in this Agreement creates a relationship of partnership, employer and employee, principal and agent, master and servant, or franchisor and franchisee.

14.5. Severability and Modification. If any provision of this Agreement is held invalid or unenforceable, then the remaining provision of this Agreement shall become null and void and be of no further force or effect. If by rule, regulation, order, opinion or decision of the Federal Communications Commission or any other regulatory body having jurisdiction or delegated authority with respect to the subject matter of this Agreement, this Agreement is required to be rescinded or is declared ineffective or void in whole or in part, whether temporarily, permanently or ab initio, immediately upon such determination and without any requirement on any Party to appeal, protest or otherwise seek clarification of such determination, this Agreement shall be rescinded and of no further force or effect.

14.6. Consents and Approval. Except where expressly provided as being in the sole discretion of a Party, where agreement, approval, acceptance, consent, or similar action by

either Party is required under this Agreement, such action shall not be unreasonably delayed, conditioned or withheld. An approval or consent given by a Party under this Agreement shall not relieve the other Party from responsibility for complying with the requirements of this Agreement, nor shall it be construed as a waiver of any rights under this Agreement, except as and to the extent otherwise expressly provided in such approval or consent.

14.7. Waiver of Default. No waiver or discharge hereof shall be valid unless in writing and signed by an authorized representative of the Party against which such amendment, waiver, or discharge is sought to be enforced. A delay or omission by either Party hereto to exercise any right or power under this Agreement shall not be construed to be a waiver thereof. A waiver by either of the Parties of any of the covenants to be performed by the other or any breach thereof shall not be construed to be a waiver of any succeeding breach thereof or of any other covenant.

14.8. Cumulative Remedies. Except as otherwise expressly provided, all remedies provided for in this Agreement shall be cumulative and in addition to and not in lieu of any other remedies available to either Party at law, in equity or otherwise.

14.9. Survival. Any provision of this Agreement which contemplates performance or observance subsequent to any termination or expiration (in whole or in part) shall survive any such termination or expiration (in whole or in part, as applicable) and continue in full force and effect.

14.10. Third Party Beneficiaries. This Agreement shall not be deemed to create any rights in third parties, or to create any obligations of a Party to any such third parties, or to give any right to either Party to enforce this Agreement on behalf of a third party, except that the North American Portability Management, LLC shall be considered a third party beneficiary.

14.11. Governing Law & Venue. This Agreement and performance under them shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, without regard to its choice of law principles or the U.N Convention on Contracts for the International Sale of Goods. The Parties hereby expressly opt-out from the applicability of any State's version of the Uniform Computer Information Transactions Act ("**UCITA**"). The Parties hereby submit to the exclusive jurisdiction of the State and Federal courts of the Commonwealth of Virginia.

14.12. Waiver of Jury Trial. To the extent applicable, the Parties each waive any right they may have to a trial by jury in any legal proceeding arising from or related to this Agreement.

14.13. Entire Agreement. This Agreement constitute the entire agreement between the Parties with respect to the subject matter in this Agreement, and supersede all prior agreements, whether written or oral, with respect to the subject matter contained therein. This Agreement may be modified only by a written instrument executed by both Parties.



**SCHEDULE 1
TO
INTERMODAL PORTED TN IDENTIFICATION SERVICE AGREEMENT**

Pricing

As set forth in the Intermodal Ported TN Identification Service Agreement (“**Agreement**”) between Customer and Neustar, Customer hereby agrees to pay Neustar in accordance with this Schedule 1 (Pricing).

1. Definitions

Unless otherwise provided in the Agreement, the following terms and phrases are defined as set forth immediately below.

An “**affiliate**” means, with respect to a specified entity, any other entity that, directly or indirectly, controls, is under common control with, or is controlled by such specified entity, whereby “control” and its derivatives means legal, beneficial or equitable ownership, directly or indirectly, of more than fifty percent (50%) of the outstanding voting capital stock (or other ownership interest, if not a corporation) of an entity, or actual managerial or operational control over such an entity.

A “**Customer**” refers to the entity having executed an Intermodal Ported TN Identification Agreement with Neustar. A Customer may be a Direct Customer, Reseller Customer or a Second Tier Customer.

A “**database**” refers to a single aggregation of data records or files containing the Intermodal Ports that make up the Service. By way of clarification, the use of multiple applications to access the data provided as part of the Service as a single database does not necessarily constitute “multiple” databases.

A “**Direct Customer**” is a Customer having executed an Intermodal Ported TN Identification Service Agreement who uses the files containing the Intermodal Ports **for it** to avoid engaging in conduct prohibited by the TCPA.

A “**Reseller Customer**” is a Customer having executed an Intermodal Ported TN Identification Service Agreement that discloses, sells, assigns, leases or otherwise provides to a third party the Intermodal Ports, or any part thereof, in accordance with Section 4.3 (Limited Resale Right) of the Agreement, so that such third party **can itself** avoid engaging in conduct prohibited by the TCPA. A Reseller Customer may not provide any part of the data comprising the Service to a third party unless that third party is a Second Tier Customer (as defined below).

A “**Second Tier Customer**” is a Customer having executed an Intermodal Ported TN Identification Service Agreement that receives Intermodal Ports, or any part thereof, from a Reseller Customer having executed an Intermodal Ported TN Identification Service Agreement, in accordance with Section 4.3 (Limited Resale Right) of the Agreement, so that Customer **can itself** avoid engaging in conduct prohibited by the TCPA. A Second Tier Customer is also known as a “subaccount” of a Reseller Customer.

2. Subscriptions

Neustar’s right to provide the Service is conditioned upon each Customer, whether a Direct Customer, Reseller Customer, or Second Tier Customer, executing a separate Intermodal Ported TN Identification Service Agreement with Neustar - there are no exceptions. If a Reseller Customer, then Customer may be afforded access to a portal containing sub-account (i.e., its Second Tier Customer) information for the purpose of managing such sub-account subscriptions. However, nothing herein, including the grant of such access, provides Reseller Customer with the right to consent, on behalf of its Second Tier Customer, to the terms and conditions of an Intermodal Ported TN Identification Service Agreement. In its sole discretion, Neustar may accept a written document executed by a Second Tier Customer that clearly evidences that such Second Tier Customer has appointed Reseller Customer as its agent for that purpose in accordance with applicable State agency law.

Rights to the Service are limited to the Customer, and do not extend to Customer’s affiliates, except as otherwise expressly set forth herein. Therefore, and subject to definitions Section 1 above and the clarifications in Section 5 below, if a Customer’s affiliate desires access to the Intermodal Ports, each affiliate must qualify for the Service and execute a separate Intermodal Ported TN Identification Service Agreement. A separate subscription applies to **each database** provisioned by the Customer. A separate subscription (and fees) is required to provision data from the Service to additional databases.



3. Fees

(a) Direct Customer

In exchange for the limited right to obtain Service directly from Neustar, a Direct Customer shall pay to Neustar a non-refundable fee per database provisioned equal to One Thousand Four Hundred Dollars (US\$1,400) for a one (1) year subscription term to the Service (a “**Direct Subscription Fee**”).

(b) Reseller Customer

In exchange for the limited right to disclose, sell, assign or lease the Intermodal Ports, or any part thereof, that constitutes the Service received from Neustar, a Reseller Customer shall pay to Neustar both a non-refundable annual fee per database provisioned equal to One Thousand Four Hundred Dollars (US\$1,400) for each one (1) year subscription term (a “**Resale Subscription Fee**”) and Nine Hundred Dollars (US\$900) per one (1) year subscription term for each Second Tier Customer (defined above), to whom Reseller Customer discloses, sells, assigns, or leases the Intermodal Ports, or any part thereof in accordance with the Agreement (a “**Second Tier Subscription Fee**”). Reseller Customer (and not the Second Tier Customer) is responsible for payment of each of the aforementioned fees.

(c) Second Tier Customer

A Second Tier Customer has the right to receive the Service (e.g., the Intermodal Ports) from a Reseller Customer **only** if it has executed an Intermodal Ported TN Identification Service Agreement. . A Second Tier Customer is not responsible for the Second Tier Subscription Fee (based on the number of Second Tier Customer that such Reseller Customer supports) due and owing hereunder by a Reseller Customer, although such Second Tier Customer may be subject to a payment obligation to the Reseller Customer under the written agreement between such parties

(d) Liquidated Damages

In the event that Customer commits a material breach of any obligation under the Agreement, Customer shall pay to Neustar as liquidated damages an amount equal to five (5) times the fees applicable for the then current one (1) year subscription fee for each instance of a violation of the Agreement.

4. Conversion of Second Tier Customer to Direct Customer

In the event a Reseller Customer's Intermodal Ported TN Identification Service Agreement expires or is otherwise terminated, the Second Tier Customer serviced by that Reseller Customer may upon written notice to Neustar elect one of the following with respect to the remaining Term of the Second Tier Customer:

- i. Second Tier Customer may elect to become a subaccount of another Reseller Customer. However, the Second Tier Customer shall be liable to the Reseller Customer for any and all fees that the new Reseller Customer may require.
- ii. Second Tier Customer may elect to become a Direct Customer. However, as a condition for becoming a Direct Customer, the Second Tier Customer shall pay to Neustar the Direct Subscription Fee set forth above for the entire Term minus the amount of the Resale Subscription Fee that the Reseller Customer actually paid to Neustar with respect to the Direct Customer (i.e., as a sub-account subscription) prior to converting to a Direct Customer.

5. Clarifications

(a) Applications and Databases

If a Customer (a) provisions data from the Service to a single database and (b) allows multiple entities to access the data from the Service in such a database, then such Customer is a Reseller Customer, and its customers receiving the Service (including the data elements comprising the Service) from such Customer are Second Tier Customers, as these terms are defined above.

(b) List Scrubbers

Some Customers scrub lists for other parties (commonly known as “list scrubbers”). The status of such list scrubbers depends, among other things, on who is **actually using** the list of Intermodal Ports **to avoid violating the TCPA**.



(i) List Scrubber as Direct Customer and Other Party Not Affected

If the list scrubber manipulates another party's list of telephone numbers and the list scrubber **initiates phone calls** to the telephone numbers on the other party's list (i.e., the list scrubber **is** in a position of violating the TCPA), then the list scrubber is either a Direct Customer or Second Tier Customer (if obtaining data from a Reseller Customer) for purposes of this Schedule and the Agreement.

(ii) List Scrubber as Reseller Customer and Other Party as Direct Customer

If the list scrubber manipulates another party's list of telephone numbers and the list scrubber **does not initiate phone calls** to the telephone numbers on the other party's list (i.e., the list scrubber **is not** in a position of violating the TCPA, but the other party may violate the TCPA), then the list scrubber is a Reseller Customer and the other party is a Second Tier Customer for purposes of this Schedule and the Agreement.

(iii) Third Party as Direct Customer and List Scrubber as Agent

If the list scrubber manipulates another party's list of telephone numbers and the list scrubber **does not initiate phone calls** to the telephone numbers on the other party's list (i.e., the list scrubber **is not** in a position of violating the TCPA, but the other party may violate the TCPA), then provided the other party appoints in writing the list scrubber as its agent for the purpose of outsourcing the list scrubbing function that the other party would have performed, then the list scrubber is either a Direct Customer or Second Tier Customer (if obtaining data from a Reseller Customer) and the third party is likewise a Direct Customer for purposes of this Schedule and the Agreement.

In either situation (i) or (iii) above, if the list scrubber merely discloses to its own customer the results of **telephone calls it actually makes** on behalf of its own customer (e.g., to generate leads, develop survey results, obtain applications for products/services, etc...), including the associated telephone numbers for those results, then the list scrubber is still just either a Direct Customer or Second Tier Customer (if obtaining data from a Reseller Customer), and not a Reseller Customer.

With respect to situation (c) above, a form letter of agency is supplied hereunder as an attachment.

(c) Wholly-Owned Subsidiaries

A Customer that is a holding company may scrub wireless telephone numbers from lists it receives from its affiliate without implicating a resale only if such affiliate is a wholly-owned subsidiary (100% owned) of Customer and the scrubbing does not otherwise entail a disclosure of the Intermodal Ports list. In such a circumstance, the Customer (e.g., the holding company) is deemed a Direct Customer, and not a Reseller Customer, and the affiliated subsidiary is not deemed a Second Tier Customer as defined above.

(d) Reseller Customers and Second Tier Customers

In providing the Service, both Neustar and each Reseller Customer will necessarily have executed agreements with common customers of each. That is, Neustar is required to enter into agreements with both the Reseller Customer's own customer (i.e., the Second Tier Customer) and Reseller Customer is required to enter into its own agreement with the Second Tier Customer.

Because Neustar is required to enter into an agreement with the Second Tier Customer, Neustar cannot recognize a Reseller Customer's execution of such an agreement on behalf of the Second Tier Customer **unless** the Second Tier Customer provides Neustar with a written letter of agency executed by the Second Tier Customer specifically appointing Reseller Customer as its agent for the purpose of executing the agreement.

(e) Unauthorized Access and Use

Access to, use of, and resale of the such data is permitted **only** in accordance with Article 4 of the Agreement, as further restricted in Articles 5, 6, 10, and 11, as well as this Schedule.

In accordance with the requirements of the Agreement, a Customer may not provide any part of the Service (including the Intermodal Ports) to a third party **unless and until**



- (i) Customer registers with Neustar as a Reseller Customer;
- (ii) such third party executes, as a Second Tier Customer, an Intermodal Ported TN Identification Service Agreement with Neustar;
- (iii) Reseller Customer identifies such third party as its Second Tier Customer; and
- (iv) Reseller Customer pays to Neustar all applicable fees set forth in Section 3(b) above (e.g., the Reseller Subscription Fee and the Second Tier Subscription Fee).

As provided in Section 5.1 of the Agreement, the data provided as part of the Service is Confidential Information to and the exclusive property of the United States telecommunications carriers that provided that data to the regional Number Portability Administration Centers administered by Neustar. Therefore, Neustar does not, and cannot, make any representations or warranties concerning such data.

Failure to comply fully with the Agreement may result in **suspension and/or termination** of the Service and/or the Agreement in accordance with Article 7 of the Agreement, subject additionally to the third party beneficiary rights (afforded under Section 14.10 of the Agreement) to the North American Portability Management LLC, the entity recognized by the U.S. Federal Communications Commission to represent the interests of the telecommunications service providers that own and provided the Intermodal Ports.

6. Audit Rights

During the term of the Agreement and for one (1) year thereafter, Neustar may upon fourteen (14) calendar days' prior written notice to Customer, Neustar may (not more than twice in any calendar year) itself perform or cause a reputable third party auditor to audit, at the expense of Neustar, Customer's access, receipt, use and disclosure of the Service and/or Intermodal Ports for the sole purpose of confirming compliance with the terms and conditions of the Agreement, including this Schedule 1 (Pricing). As part of any such audit, Customer shall, subject to reasonable security, confidentiality restrictions, and mutually-acceptable scheduling requirements, provide to Neustar and its designees prompt and reasonable access to: (a) relevant Customer's staff, and (b) such books, records, supporting documentation, and systems specifically relating to Customer's access, receipt, use and disclosure of the Service and/or Intermodal Ports.



**Attachment
To
Intermodal Ported TN Identification Service Agreement
Schedule 1**

Agency Agreement

Customer, as an entity having executed an Intermodal Ported TN Identification Service Agreement with Neustar, Inc., hereby appoints Interactive Marketing Solutions, Corp (IMS) as its agent for the sole purpose of executing this agreement, and Agent hereby accepts such appointment as Agent to Customer. This limited authorization set forth hereunder is revocable at any time upon written notification to Neustar and IMS.

APPROVAL

Customer: _____
(Company)

By: _____
(Signature)

Printed Name: _____

Title: _____

Date: _____