



## FleetCor Applicant & Informational

### Messaging Service Terms & Conditions

1. FleetCor Technologies Operating Company, LLC ("FleetCor") offers to businesses, including without limitation fleets and other applicants and customer prospects, (each a "User"), through a third party service provider, a messaging service ("Messaging Services") whereby such Users may receive certain text messages associated with or related to FleetCor's (including its affiliates and partners) products and services or a User's application for, and implementation and use of, such products and services ("Informational Messages"), including, without limitation, Marketing Messages (defined below), messages related to application/account status, account set up, card deliveries, account activity, marketing content, solicitations, promotional offers, product and service information, changes to these Terms and Conditions, and other information and messages. These Terms and Conditions apply to User's use of the Messaging Services.
2. By enrolling in the Messaging Services, User represents and warrants that User is the subscriber or regular user of the phone number that User has used to enroll in the Messaging Services, or User has the subscriber or regular user's permission to enroll such phone number.
3. By enrolling in the Messaging Services, User agrees to these Terms and Conditions as such Terms and Conditions may be amended or modified from time to time by FleetCor in its sole discretion. Continued enrollment in the Messaging Services after User has been notified of a change in the Terms and Conditions shall be deemed an acceptance of such new Terms and Conditions by User. FleetCor may notify Users of a change in the Terms and Conditions by text message to the number enrolled in the Messaging Services, by mail to an address that FleetCor has on file for User, by posting amended or modified Terms and Conditions online, or by any other means FleetCor decides to use, in its sole discretion. Amendments are effective on the date of notice or date of publication online, whichever is earlier.
4. **THESE TERMS AND CONDITIONS INCLUDE (1) A BINDING ARBITRATION PROVISION, WHICH INCLUDES A WAIVER OF USER'S RIGHT TO PURSUE CLAIMS AS CLASS ACTIONS AND A WAIVER OF USER'S RIGHT TO A JURY TRIAL; (2) A LIMITATION ON USER'S RIGHT TO BRING CLAIMS AGAINST FLEETCOR MORE THAN ONE (1) YEAR AFTER THE RELEVANT EVENTS OCCURRED (WITH THE RIGHT TO OPT OUT OF THE ONE YEAR LIMITATION). SEE SECTION 20 FOR DETAILS OF THESE PROVISIONS.**
5. User acknowledges, consents, and agrees, that User wishes to receive the Messaging Services for the telephone number provided by User through an enrollment method made available by or on behalf of FleetCor. User acknowledges and agrees that, as part of the receipt of the Messaging Services, that User consents to receive marketing information, product feature information, services solicitations, and to receive offers for products, services, or promotions from, or on behalf of, FleetCor, its affiliates, and/or partners (collectively, "Marketing Messages").
6. User (i) authorizes FleetCor, and those acting on FleetCor's behalf (including without limitation its affiliates, partners, and service providers), to contact User via text message (SMS) at the phone number that User has provided using automated dialer technology and/or other methodologies, and (ii) authorizes the delivery of Informational Messages and Marketing Messages to such phone number.



7. FleetCor may, in its sole discretion, terminate or suspend access to the Messaging Services or any portion thereof at any time and with respect to any User.
8. User is not required to provide consent or enroll in the Messaging Services as a condition of purchasing goods or services from FleetCor. **User may terminate the Messaging Services at any time by texting "STOP" to 770-582-8242 or, if applicable, by contacting customer service via the phone number on the back of User's card.** User will receive a message confirming the termination of the Messaging Services and will receive no further messages from the Messaging Services. Note that FleetCor, its partners, and affiliates may offer other text message services in which User may have enrolled and opting out of the Messaging Services does not opt User out of such other text message services. User will need to opt out of such other text messaging services using the applicable opt out methods available in conjunction with such other messaging services. Notwithstanding the foregoing, User may not revoke consent to receive emergency communications, including communications regarding system outages, and FleetCor may send User such messages at any number, and even if User has opted out of all other messaging.
9. **User may text "HELP" to 770-582-8242 for help in using the Messaging Services.**
10. If User is a cardholder with cardholder terms and conditions applicable to the use of User's card issued by or on behalf of FleetCor (or one or more of its affiliates, partners, and/or service providers), these Terms and Conditions control User's use of the Messaging Services to the extent there is a conflict with User's cardholder terms. For Users that are business customers, account administrators, or other employees of a customer of FleetCor (or FleetCor affiliate, partner, and/or service provider), these Terms and Conditions control User's use of the Messaging Services to the extent there is a conflict with the card agreement that User's company has entered into with FleetCor.
11. Eligibility. User must be a FleetCor cardholder, business customer, or an authorized account administrator or employee of a customer of FleetCor (or FleetCor affiliate, partner, and/or service provider) to access the Messaging Services.
12. Costs and Expenses. Carrier Msg and Data Rates may apply and there may be third party costs and expenses associated with using the Messaging Services. For example, User may incur charges from its internet service provider with respect to messages sent or received through the Messaging Services, or from its mobile service provider with respect to SMS text messages sent or received through the Messaging Services. FleetCor shall not be responsible for any charges incurred by User related to the use of the Messaging Services.
13. Restrictions on Use. User shall not use the Messaging Services in or for any illegal, fraudulent, unauthorized or improper manner or purpose and will only use the Messaging Services in compliance with all applicable laws, rules and regulations, including all applicable state, federal, and international Internet, data, telecommunications, telemarketing, "spam," and import/export laws and regulations, including the U.S. Export Administration Regulations.
14. Warranty Disclaimer. FLEETCOR, ITS AFFILIATES, AND PARTNERS, AND THEIR THIRD PARTY



PROVIDERS PROVIDE THE MESSAGING SERVICES "AS IS" WITH NO WARRANTIES OF ANY KIND. FLEETCOR, ITS AFFILIATES, AND PARTNERS, AND THEIR THIRD PARTY SERVICE PROVIDERS EXPRESSLY DISCLAIM ANY WARRANTY, EXPRESS OR IMPLIED, REGARDING THE MESSAGING SERVICES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR THAT THE MESSAGING SERVICES WILL BE SECURE, UNINTERRUPTED OR FREE OF ERRORS, VIRUSES OR OTHER HARMFUL COMPONENTS.

15. Limitation of Liability. UNDER NO CIRCUMSTANCES WILL FLEETCOR, ITS AFFILIATES, PARTNERS, OR THIRD PARTY SERVICE PROVIDERS, OR THEIR RESPECTIVE EMPLOYEES, OFFICERS AND DIRECTORS, BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES THAT ARISE OUT OF, RELATE TO, OR RESULT (i) FROM THE USE OR INABILITY TO USE THE MESSAGING SERVICES, INCLUDING BUT NOT LIMITED TO RELIANCE ON ANY INFORMATION OBTAINED THROUGH THE MESSAGING SERVICE, OR (ii) FROM MISTAKES, OMISSIONS, INTERRUPTIONS, DELETION OF FILES, DATA, OR EMAIL, LOSS OF OR DAMAGE TO DATA, ERRORS, DEFECTS, VIRUSES, DELAYS IN OPERATION OR TRANSMISSION, OR ANY FAILURE OF PERFORMANCE, WHETHER OR NOT FLEETCOR, ITS AFFILIATES, PARTNERS, OR THIRD PARTY SERVICE PROVIDERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
16. If User is dissatisfied with the Messaging Services or with these Terms and Conditions, User's sole and exclusive remedy is to discontinue using the Messaging Services. User acknowledges by its use of the Messaging Services and acceptance of these Terms and Conditions that use of the Messaging Services is at User's sole risk.
17. Notices to FleetCor. Notices to FleetCor required in these Terms and Conditions shall be effective upon receipt of a writing addressed to: FleetCor Legal Department, 5301 Maryland Way, Brentwood, TN 37027.
18. Indemnity. User, and with respect to FleetCor business customers and authorized business account administrators and employees, User and such FleetCor business customer, each agree to indemnify, defend and hold harmless FleetCor, its affiliates, its partners, and its third party service providers, and their respective employees, officers, directors, and agents, from and against any and all claims, liabilities, penalties, settlements, judgments, fees (including reasonable attorneys' fees) related to or arising from (i) any content that User or anyone using User's account may submit or transmit using the Messaging Services, (ii) User's use of the Messaging Services, (iii) User's violation of these Terms and Conditions, and (iv) any violation or failure by User to comply with all laws and regulations in connection with the Messaging Services.
19. SMS Text Messaging. FleetCor (and its affiliates, partners, and service providers, as applicable), through its third party provider, supports the following carriers: AT&T, Sprint, T-Mobile, Verizon Wireless, Boost, Cricket, MetroPCS, U.S. Cellular, Virgin Mobile, ACS Wireless, Appalachian Wireless, Bluegrass Cellular, Carolina West Wireless, Cellcom, C-Spire Wireless (formerly Cellsouth), Cellular One of East Central Illinois, Cincinnati Bell Wireless, Cross (dba Sprocket), Duet IP, Element Mobile, EpicTouch, GCI Communications, Golden State, Hawkeye (Chat Mobility), Hawkeye (NW Missouri Cellular), Illinois Valley Cellular, Immix (Keystone Wireless / PC Management), Inland Cellular, iWireless, Mobi PCS (Coral Wireless LLC), Mosaic, MTPCS /



Cellular One (Cellone Nation), Nex-Tech Wireless, nTelos, Panhandle Telecommunications, Peoples Wireless, Pioneer, Plateau, Revol Wireless, Rina - Custer, Rina - All West, Rina - Cambridge Telecom Coop, Rina - Eagle Valley Comm, Rina - Farmers Mutual Telephone Co, Rina - Nucla Nutria Telephone Co, Rina - Silver Star, Rina - South Central Comm, Rina - Syringa, Rina - UBET, Rina - Manti, South Canaan / CellularOne of NEPA, Thumb Cellular, Union Wireless, United, Viaero Wireless, West Central Wireless, Leaco, Nemont/Sagebrush. T-Mobile is not liable for delayed or undelivered messages.

20. Message frequency varies.

21. Our [Privacy Policy](#).

22. **Waiver of Jury Trial; Binding Arbitration.** User or FleetCor may, without the other's consent, elect mandatory, binding arbitration for any claim, dispute, or controversy between or among such parties arising from or in any way relating to these Terms and Conditions, the Informational Messages, the Marketing Messages, the Messaging Service, or the relationship of such parties, including without limitation claims regarding the application, enforceability, or interpretation of these Terms and Conditions and this arbitration provision, and no matter what legal theory such claims are based on or what remedy (damages, or injunctive or declaratory relief) such claims seek (a "Claim"). The party filing for arbitration must choose one of the following arbitration firms and follow its rules and procedures for initiating (including paying the filing fee) and pursuing arbitration before a single neutral arbitrator: American Arbitration Association, National Arbitration Forum, or JAMS. All other fees will be allocated as provided by the rules of the arbitration firm and applicable law.

**Can User assert or participate in a class action?** To accommodate the right to arbitrate, User agrees that User will neither assert, nor participate in, a class action or other representative action or proceeding related to these Terms and Conditions, the Informational Messages, the Marketing Messages, the Messaging Service or any other aspect of User's relationship with FleetCor. Claims must be brought in the name of an individual person or entity and must proceed on an individual (non-class, non-representative) basis.

**Who can be a party?** The arbitrator will not award relief for or against anyone who is not a party. If User or FleetCor requires arbitration of a Claim, neither User, FleetCor, nor any other person may pursue the Claim in arbitration as a class action, private attorney general action or other representative action, nor may such Claim be pursued on your or our behalf in any litigation in any court. Claims, including assigned Claims, of two or more persons may not be joined or consolidated in the same arbitration. However, applicants, co-applicants, authorized users on a single account and/or related accounts, or corporate affiliates are here considered as one person.

**What Claims are subject to arbitration?** All Claims relating to these Terms and Conditions, the Informational Messages, the Marketing Messages, the Messaging Service, or our relationship are subject to arbitration, including Claims regarding the application, enforceability, or interpretation of this Agreement and this arbitration provision. All Claims are subject to arbitration, no matter what legal theory they are based on or what remedy (damages, or injunctive or declaratory relief) they seek. This includes Claims based on contract, tort (including



intentional tort), fraud, agency, User or FleetCor's negligence, statutory or regulatory provisions, or any other sources of law; Claims made as counterclaims, cross-claims, third-party claims, interpleaders or otherwise; and Claims made independently or with other claims. A party who initiates a proceeding in court may elect arbitration with respect to any Claim advanced in that proceeding by any other party. Claims and remedies sought as part of a class action, private attorney general or other representative action are subject to arbitration on an individual (nonclass, non-representative) basis, and the arbitrator may award relief only on an individual (nonclass, non-representative) basis.

**Whose Claims are subject to arbitration?** Not only FleetCor's and User's, but also Claims made by or against anyone connected with FleetCor or User or claiming through FleetCor or User, such as any user of User's telephone or card account, including without limitation, an employee, agent, representative, affiliated company, predecessor or successor, heir, assignee, or trustee in bankruptcy.

**What time frame applies to Claims subject to arbitration?** Claims arising in the past, present, or future, including Claims arising before the opening of your account, are subject to arbitration.

**Broadest interpretation.** Any questions about whether Claims are subject to arbitration shall be resolved by interpreting this arbitration provision in the broadest way the law will allow it to be enforced. This arbitration provision is governed by the Federal Arbitration Act (the "FAA").

**What about Claims filed in Small Claims Court?** Claims filed in a small claims court are not subject to arbitration, so long as the matter remains in such court and advances only an individual (non-class, non-representative) Claim.

**How does a party initiate arbitration?** The party filing an arbitration must choose one of the following three arbitration firms and follow its rules and procedures for initiating and pursuing an arbitration: American Arbitration Association, JAMS, and National Arbitration Forum. Any arbitration hearing that User attends will be held at a place chosen by the arbitration firm in the same city as the U.S. District Court closest to User's then current billing address, or at some other place to which User and FleetCor agree in writing. User may obtain copies of the current rules of each of the three arbitration firms and forms and instructions for initiating arbitration by contacting them as follows: American Arbitration Association, 335 Madison Avenue, Floor 10, New York, NY 10017-4605 Web site: [www.adr.org](http://www.adr.org); JAMS, 1920 Main Street, Suite 300, Irvine, CA 92610 Web site: [www.jamsadr.com](http://www.jamsadr.com); National Arbitration Forum, P.O. Box 50191, Minneapolis, MN 55405 Web site: [www.arbitration-forum.com](http://www.arbitration-forum.com). At any time User or FleetCor may ask an appropriate court to compel arbitration of Claims, or to stay the litigation of Claims pending arbitration, even if such Claims are part of a lawsuit, unless a trial has begun or a final judgment has been entered. Even if a party fails to exercise these rights at any particular time, or in connection with any particular Claims, that party can still require arbitration at a later time or in connection with any other Claims.

**What procedures and law are applicable in arbitration?** A single, neutral arbitrator will resolve Claims. The arbitrator will be either a lawyer with at least ten years of experience or a retired or former judge, selected in accordance with the rules of the arbitration firm. The arbitration will follow procedures and rules of the arbitration firm in effect on the date the arbitration is filed



unless those procedures and rules are inconsistent with these Terms and Conditions, in which case these Terms and Conditions will prevail. Those procedures and rules may limit the discovery available to User or FleetCor. The arbitrator will take reasonable steps to protect confidential information if requested to do so by User or FleetCor. The arbitrator will apply applicable substantive law consistent with the FAA and applicable statutes of limitations, will honor claims of privilege recognized at law, and will have the power to award to a party any damages or other relief provided for under applicable law. User or FleetCor may choose to have a hearing and be represented by counsel. The arbitrator will make any award in writing and, if requested by User or FleetCor, will provide a brief statement of the reasons for the award. An award in arbitration shall determine the rights and obligations between the named parties only, and only in respect of the Claims in arbitration, and shall not have any bearing on the rights and obligations of any other person, or on the resolution of any other dispute.

**Who pays?** Whoever files the arbitration pays the initial filing fee. If FleetCor files, FleetCor pays; if User files, User pays, unless User gets a fee waiver under the applicable rules of the arbitration firm. If User has paid the initial filing fee and User prevails, FleetCor will reimburse User for that fee. All fees will be allocated as provided by the rules of the arbitration firm and applicable law. However, FleetCor will advance or reimburse User's fees if the arbitration firm or arbitrator determines there is good reason for requiring FleetCor to do so, or if User asks us and FleetCor determines there is good reason for doing so. Each party will bear the expense of that party's attorneys, experts, and witnesses, and other expenses, regardless of which party prevails, but a party may recover any or all expenses from another party if the arbitrator, applying applicable law, so determines.

**When is an arbitration award final?** The arbitrator's award is final and binding on the parties unless a party appeals it in writing to the arbitration firm within fifteen days of notice of the award. The appeal must request a new arbitration before a panel of three neutral arbitrators designated by the same arbitration firm. The panel will consider all factual and legal issues anew, follow the same rules that apply to a proceeding using a single arbitrator, and make decisions based on the vote of the majority. Costs will be allocated in the same way they are allocated for arbitration before a single arbitrator. An award by a panel is final and binding on the parties after fifteen days has passed. A final and binding award is subject to judicial review and enforcement as provided by the FAA or other applicable law.

**Survival and Severability of Terms.** This arbitration provision shall survive: (i) termination or changes in these Terms and Conditions, any account or account Agreement that User may have with FleetCor, or the relationship between User and FleetCor concerning the Messaging Service or any account; and (ii) the bankruptcy of any party. If any portion of this arbitration provision is deemed invalid or unenforceable, the remaining portions shall nevertheless remain in force. Any different agreement regarding arbitration must be agreed to in writing.

**Statute of Limitations.** User must bring any Claim against FleetCor within one (1) year after the date on which the Claim arose, unless applicable law provides that the normal statute of limitations for that claim may not be shortened by agreement. In any such jurisdictions, User must notify FleetCor in writing of the existence of User's Claim at the address set forth in Section 17 within one (1) year after the date on which the Claim arose. If User does not comply with the requirements of the two foregoing sentences, User waives, to the fullest



extent permitted by law, all rights User has to such Claim, and FleetCor will have no liability with respect to such Claim. User may opt-out of this one (1) year statute of limitations by sending a letter to FleetCor at the address set forth in Section 17, to be received by FleetCor within thirty (30) days of the date User first enrolls in the Messaging Services with FleetCor. User's notification letter to FleetCor must include User's name, address, and cell phone number, as well as a clear statement that User does not wish to be bound by a one (1) year statute of limitations. If User opts out of a new statute of limitations provision, User will continue to be bound by any older provision User did not opt out of.