



## **SMS Text Messaging Terms & Conditions**

Please read these SMS/Text Messaging Terms & Conditions carefully. By completing the SMS/Text Messaging Opt-In Form, you expressly consent to receive non-marketing and marketing text messages from 1-800-PLUMBER +AIR "AGENCY", including text messages made with an Auto dialer, at the mobile phone number(s) you provide.

You may opt-out of these communications at any time by replying STOP to any text message from AGENCY or by otherwise contacting the AGENCY as indicated below. You can receive help at any time by replying HELP to any text message from the AGENCY or by otherwise contacting AGENCY as indicated below. Consent to receive non-marketing or marketing text messages is not required to purchase any products or services from the AGENCY. Messaging and data rates may apply. By completing the SMS text Messaging Opt-In Form, you also accept and agree to be bound by these SMS Text Messaging Terms & Conditions and any other applicable terms and agreements related to your use of AGENCY services.

## **Program Description**

AGENCY offers its text messaging program whereby AGENCY, and any applicable service providers, will text message you to provide you with information concerning your account activity with AGENCY and other AGENCY products, services, and promotions (all of the foregoing the "AGENCY Program"). AGENCY and its service providers may, from time to time, use standard or an automatic telephone dialing system ("Auto dialer") to deliver text messages to you under the AGENCY Program. You agree that you will not use the AGENCY Program for any illegal or unlawful purposes. No coverage may be bound or amended via text message or the AGENCY Program.

## **Message Frequency**

Under the AGENCY Program, the number of AGENCY text messages that you receive may vary depending upon your account activity and your communication with AGENCY.

## **Cost**

AGENCY does not impose a separate fee for sending AGENCY text messages under the AGENCY Program. However, standard message and data rates may apply to each text message sent or received in connection with the AGENCY Program, as provided in your mobile telephone service rate plan. Please contact your mobile telephone carrier for pricing plans and information.

## **Supported Carriers; Interruption**

The AGENCY Program should be available through your equipment or mobile device when the equipment or device is within the operating range of your wireless service provider. The AGENCY Program may not be available on all equipment/mobile devices, or through all wireless carriers, and not all functionalities of the AGENCY Program are available on all equipment/mobile devices, or through all wireless carriers. AGENCY may, from time to time, in its discretion and without notice to you, limit the carriers that support the AGENCY Program. Certain other carriers may not support the AGENCY Program.

Delivery of information and content to your equipment/mobile device may fail due to a variety of circumstances or conditions. The AGENCY Program is subject to transmission limitation or interruption. You understand and acknowledge that mobile network services are outside of AGENCY's control, and AGENCY is not responsible or liable for issues arising therefrom, or the failure thereof, including, without limitation, technical, hardware, software, electronic, network, telephone or other communications malfunctions, errors or failures of any kind, errors in transmission, traffic congestion, lost or unavailable network connections, telephone connections, wireless phone connections, website, Internet, or ISP availability, unauthorized human intervention, traffic congestion, incomplete or inaccurate capture of entry information (regardless of cause) or failed, incomplete, garbled, jumbled or delayed transmissions which may limit or restrict your ability to receive or send a message, including any injury or damage to your or any other person's equipment/wireless device relating to or resulting from participating in or using the AGENCY Program. If the AGENCY Program is not available within your intended location, you agree that your sole remedy is to cease using the AGENCY Program.

### **How to Opt-In**

To opt-in to receive text messages from AGENCY under the AGENCY Program, complete the SMS/Text Messaging Opt-In Form and submit it to AGENCY. AGENCY will then send you a text message asking you to confirm your enrollment in the AGENCY Program.

### **How to Opt-Out**

To STOP receiving text messages from AGENCY, text STOP to the ten-digit long code from which the text messages are being sent. You will then receive confirmation of your opt-out of the AGENCY text-messaging program. You may also opt out by providing written notice to the AGENCY at 2947 Broadway St., Ste 200, Pearland, TX, 77581 or by emailing 1-800-PLUMBER +AIR at [marketing@1800plumber.com](mailto:marketing@1800plumber.com), or calling AGENCY at 281-766-8535.

### **Your Mobile Telephone Number**

You represent that you are the account holder for the mobile telephone number(s) that you provide or that you have the account holder's permission to enter the mobile telephone number(s) that you provide and that you will not initiate messages to the mobile phone of any other person or entity. You agree to maintain accurate, complete, and up-to date information with AGENCY regarding your use of the AGENCY Program, including, without limitation, notifying AGENCY in writing immediately if you change, or cease being the regular user of, your mobile telephone number. You agree to indemnify AGENCY in full for all claims, expenses, damages, and costs, including reasonable attorneys' fees, related to or caused in whole or in part by your failure to notify AGENCY if you change your telephone number, or cease being the regular user of, including, but not limited to, all claims, expenses, damages, and costs related to or arising under the Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq.

### **Privacy**

The Agency's Privacy Policy is available on our website at <https://1800plumber.com/privacy>.

### **Support/Help**

To request more information, text HELP to the ten-digit long code from which the text messages are being sent. You may also receive assistance by providing written notice to AGENCY at

2947 Broadway St., Ste 200, Pearland, TX, 77581 or by emailing 1-800-PLUMBER +AIR at marketing@1800plumber.com, or calling AGENCY at 281-766-8535.

### **Eligibility**

To receive AGENCY text messages or enroll in the AGENCY Program, you must be a resident of the United States, eighteen (18) years of age or older, authorized to enroll the mobile phone number in the AGENCY Program, and authorized to incur any mobile message or data charges incurred by participating. AGENCY reserves the right to require you to prove the foregoing to participate in the AGENCY Program.

### **Changes to this SMS/Text Messaging Terms & Conditions**

AGENCY may revise, modify, or amend these 1-800PLUMBER +AIR SMS/Text Messaging Terms & Conditions at any time. Any such revision, modification, or amendment shall take effect when it is posted to AGENCY website. You agree to review these AGENCY SMS/Text Messaging Terms & Conditions periodically to ensure that you are aware of any changes. Your continued consent to receive 1-800PLUMBER +AIR text messages will indicate your acceptance of those changes.

### **Amendment; Termination of Text Messaging**

1-800PLUMBER +AIR may suspend or terminate your receipt of 1-800PLUMBER +AIR text messages if 1-800PLUMBER +AIR believes you are in breach of these 1-800PLUMBER +AIR SMS/Text Messaging Terms & Conditions. Your receipt of 1-800PLUMBER +AIR text messages is also subject to termination in the event that your mobile telephone service terminates or lapses. 1-800PLUMBER +AIR reserves the right to modify or discontinue, temporarily or permanently, all or any part of 1-800PLUMBER +AIR text messages and the 1-800PLUMBER +AIR Program, for any reason, with or without notice to you.

### **Release: No Warranties; Limitation of Liability**

By participating in the AGENCY Program, you agree to release and hold harmless AGENCY and its representatives, agents, successors, assigns, employees, officers and directors, from any and all liability, for loss, harm, damage, injury, attorneys' fees, cost or expense whatsoever including without limitation, property damage, personal injury and death that may occur in connection with the AGENCY, or your use thereof, and for any claims, matters, or disputes based on violation of law or infringement or violation of any rights of any person or entity, including, without limitation, violation of publicity rights, defamation, or invasion of privacy.

THE AGENCY PROGRAM IS PROVIDED AS IS, WHERE IS AND WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, EXPRESS, IMPLIED, WRITTEN, ORAL OR ARISING UNDER CUSTOM OR TRADE. AGENCY DISCLAIMS ALL WARRANTIES, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSES AND NON-INFRINGEMENT.

In no event shall AGENCY be liable to you, or to any third party, for any losses or damages whatsoever arising out of or resulting from the AGENCY Program, or your use thereof, regardless of the theory of recovery, including, without limitation, direct, indirect, consequential, incidental or special damages, lost profits, punitive damages, attorney's fees or any damages arising out of or resulting from a statutory or

regulatory violation, negligence, gross negligence, strict liability, tortious conduct, willful misconduct or fraud, breach of contract, or breach of warranty. To the extent this damage waiver is contrary to applicable law, your or any third party's maximum recovery for any losses or damages whatsoever arising out of or resulting from the AGENCY Program, or your use thereof, regardless of the theory of recovery, is \$10.00.

### **Arbitration/Class Action Waiver**

ALL DISPUTES, MATTERS, OR CLAIMS BETWEEN YOU AND AGENCY ARISING OUT OF OR RELATING IN ANY WAY TO THESE SMS/TEXT MESSAGING TERMS & CONDITIONS, ANY TEXT MESSAGES BETWEEN YOU AND AGENCY OR ANYONE ACTING ON YOUR OR AGENCY'S BEHALF, OR THE AGENCY PROGRAM, REGARDLESS OF THE THEORY OF LIABILITY OR RECOVERY, MUST BE RESOLVED SOLELY BY ARBITRATION CONDUCTED EXPEDITIOUSLY IN ACCORDANCE WITH THE AMERICAN ARBITRATION ASSOCIATION CONSUMER ARBITRATION RULES ("AAA RULES") BY A SOLE ARBITRATOR SELECTED BY THE PARTIES TO THE DISPUTE FROM THE NATIONAL OR STATE OF IOWA PANEL OF ARBITRATORS. ALL DISPUTES, MATTERS, OR CLAIMS BETWEEN YOU AND AGENCY INCLUDES, WITHOUT LIMITATION, ANY ACTUAL OR ALLEGED STATUTORY OR REGULATORY VIOLATION, EQUITABLE CLAIM, NEGLIGENCE, GROSS NEGLIGENCE, STRICT LIABILITY, TORTIOUS CONDUCT, WILLFUL MISCONDUCT OR FRAUD, BREACH OF CONTRACT, BREACH OF WARRANTY, AS WELL AS ALL DISPUTES, MATTERS, OR CLAIMS ARISING OUT OF OR RELATING IN ANY WAY TO THE ARBITRATION/CLASS ACTION WAIVER PROVISION OR THE RELEASE: NO WARRANTIES; LIMITATION OF LIABILITY PROVISION.

This agreement to arbitrate is intended to be broadly interpreted, and expressly includes disputes, matters, or claims brought under the Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq., or any other statute, regulation, or legal or equitable theory. THIS PROVISION MUST CONSTRUED IN ACCORDANCE WITH, AND THE ARBITRATION MUST BE GOVERNED BY, THE FEDERAL ARBITRATION ACT (9 U.S.C. § One et seq.). ANY JUDGMENT UPON THE DECISION RENDERED BY THE ANY COURT HAVING JURISDICTION MAY ENTER ARBITRATOR. UNLESS OTHERWISE REQUIRED BY LAW, THE ARBITRATOR IS PROHIBITED FROM AWARDING DAMAGES IN EXCESS OF THE LIMITATIONS SET FORTH IN THESE SMS/TEXT MESSAGING TERMS & CONDITIONS.

EITHER PARTY TO THIS AGREEMENT MAY COMMENCE ARBITRATION PROCEEDINGS BY DELIVERING TO THE OTHER PARTY A WRITTEN NOTICE IN ACCORDANCE WITH THE AAA RULES. ANY ARBITRATION HEARING SHALL BE HELD IN THE STATE OF IOWA, UNLESS THE PARTIES TO THE DISPUTE AGREE OTHERWISE. ANY JUDGMENT RENDERED BY ARBITRATION SHALL BE FINAL AND BINDING ON THE PARTIES, AND MAY BE ENTERED IN ANY COURT OF COMPETENT JURISDICTION. NOTWITHSTANDING ANY AAA RULES TO THE CONTRARY, THE AWARD OF THE ARBITRATOR MUST BE MADE NO LATER THAN THREE (3) MONTHS FOLLOWING THE DATE ON WHICH THE ARBITRATOR IS APPOINTED, UNLESS THE ISSUE IS THE SUBJECT OF LITIGATION BROUGHT BY A THIRD PARTY AND THE ARBITRATOR DEEMS IT APPROPRIATE TO DEFER ITS AWARD UNTIL THE LITIGATION IS RESOLVED.

The resolution of any claims, matters, or disputes must proceed solely on an individual basis without the right for any claims, matters, or disputes to proceed on a class action or collective basis or on bases involving claims, matters, or disputes brought in a purported representative capacity on behalf of others. The arbitrator's authority to resolve and make written awards is limited to claims, matters, and disputes between you and AGENCY alone. Claims, matters, or disputes may not be joined or consolidated unless agreed to in writing by all parties. No arbitration award or decision will have any preclusive effect as to issues, claims, matters, or disputes with anyone who is not a named party to the arbitration.

### **Attorney Fees**

In the event of any claim, matter, or dispute between you and AGENCY arising out of or relating in any way to these SMS/Text Messaging Terms & Conditions, any text messages between you and agency or anyone acting on your or AGENCY's behalf, or the AGENCY Program, AGENCY, if it prevails, must be awarded all costs of bringing or defending the claim, matter, or dispute, including, without limitation, reasonable attorneys' fees and the ordinary costs and expenses incurred in resolving the claim, matter, or dispute, including, without limitation, all arbitration related fees and expenses.

### **Applicable Law**

The law of the State of Texas including its statutes of limitations and without reference to any conflict of laws principles, shall be applied to any claim, matter, or dispute between the parties or when governing, constraining, or enforcing these SMS/Text Messaging Terms & Conditions, the AGENCY Program, or any text messages between you and AGENCY or anyone acting on your or AGENCY's behalf, or any of the rights, duties, or obligations of the parties arising from or relating in any way to the subject matter of these Terms & Conditions.

### **Contact Us**

If you have questions regarding these SMS/Text Messaging Terms & Conditions, you may reach us at 2947 Broadway St., Ste 200, Pearland, TX, 77581, or by emailing 1-800-PLUMBER +AIR at [marketing@1800plumber.com](mailto:marketing@1800plumber.com), or calling AGENCY at 281-766-8535.