

Honeywell OneLink™ Services Agreement



Aviation Information Services Services Agreement

The undersigned Subscriber and Honeywell, agree to the following provisions covering Subscriber's use of Honeywell Aviation Information Services ("Services") defined

and applicable based on the applicable Annex(es) attached to this Agreement.

1. Definitions

Agreement: This Agreement and each of its Annexes
Equipment: Parts and information supplied by Honeywell for access and/or operations of the Services, including but not limited to SIM cards, DAT tapes, information contained on SIM cards, operating instructions and manuals. Equipment does not include Handsets, antenna's, docking stations, pagers, aircraft LRUs, or any equipment procured under separate agreement or purchase order.
Product: Handsets, Pagers, LRU's and any products that require Services to be operational.

2. Responsibilities of the Parties

Honeywell will provide the Subscriber with instructions and Equipment, and other information, as Honeywell deems appropriate, in order to implement Service. Subscribers may be assigned a system password. The Subscriber is solely responsible for all charges incurred for each password and for maintaining password security. If a password becomes subject to being used without authorization, Subscriber shall not be liable for any cost or charge against such a password after Honeywell's receipt of such written notice from Subscriber of unauthorized password use.

Honeywell will provide timely notification of any changes to Service which Honeywell deems to be significant. Subscriber agrees to comply with the financial obligations as stated in Articles 6, 7 and 8 of this Agreement and the Annex(es). If Subscriber fails to fulfill these obligations, Honeywell reserves the right to deny access to Service for Subscriber and/or terminate this Service Agreement with ten (10) days notice.

3. Term and Termination of Service

The initial term of this Service Agreement will be one (1) year from the date of signature ("Effective Date"). Either party may terminate service hereunder, within the initial term, on ninety (90) days prior written notice. No refunds will be given for cancellations of prepaid services. After the initial term of service, this Service Agreement will automatically renew for successive extension terms of one (1) year unless either party provides written notice of discontinuance to the other party within ninety (90) days prior to the renewal date. Subscriber will be responsible for payment of all usage charges incurred for Service up to the date of termination. No refunds will be given for early cancellation of prepaid Services.

No modification or addition to this Agreement shall be effective unless agreed to in writing and signed by an authorized representative of Subscriber and Honeywell if applicable. Service may be immediately discontinued in the event of any misuse, illegal use or fraudulent use of Service or the Equipment, or if Honeywell determines, in its sole judgment, that the Subscriber has used or permitted the use of Services for foul or profane expressions or to impersonate another person with fraudulent or malicious intent or in such a way as to annoy, abuse, threaten or harass any person. Subscriber will be responsible to and shall indemnify Honeywell for any charges, expenses or losses incurred as a result of misuse, illegal use or fraudulent use of Service or any Equipment.

4. Protection of Information

Subscriber and Honeywell hereby agree to protect any confidential information disclosed to the other party for purposes of initiating Service, or created as a result of the execution (providing) of Service, with the same degree of care it uses to protect its own confidential information, and agree not to disclose such information to any third party except as required to initiate, maintain, or terminate Service.

Any information designated as confidential in accordance with this Agreement shall not be deemed confidential

Honeywell OneLink™ Services Agreement

and is excluded from the protection of this Agreement when the receiving party can establish:

- a. It is known to receiving party prior to receipt from the disclosing party; or
- b. It is or becomes known to the receiving party independent of the confidential information of the transmitting Party, or
- c. It is or becomes publicly known through no wrongful act of the receiving Party, or
- d. It is rightfully obtained by the receiving Party from a third party without restriction and without breach of this Agreement, or
- e. It is released by the transmitting Party to anyone without similar restriction for the purposes of this Agreement, this Agreement and its content, including but not limited to the terms, conditions, and pricing schedules, shall be deemed to be proprietary and shall not be disclosed by either Party to any third party, without prior written permission of both of the Parties.

5. License of Proprietary Data

All Equipment and any information supplied by Honeywell for access and/or operation of the Services, including but not limited to information contained on SIM cards, DAT tapes, operating programs and supporting materials is Honeywell's property. Honeywell grants to Subscriber a nonexclusive, nontransferable license to use the Equipment and information only as set forth in this Agreement or an Annex attached hereto. Subscriber agrees not to disclose or make available to any third party any of the Equipment or other information pertaining to this Agreement which is proprietary to Honeywell without obtaining Honeywell's prior written consent. Under no circumstances may Subscriber or any other person acting by or through Subscriber, copy or transmit Equipment or information received from Honeywell except with Honeywell's prior written consent. Honeywell may, in its sole discretion, grant exception to these conditions, when requested in writing by Subscriber. If the Equipment or information is lost or stolen, Subscriber shall immediately notify Honeywell. Subscriber shall not be liable for any cost or charge incurred after forty-eight (48) hours of receipt of such notice by Honeywell.

6. Use of Service

Services, Equipment and information received under this Agreement, regardless of form, shall not be sold, leased, licensed, commercially exploited or otherwise transferred by Subscriber. All charges, and other amounts due for Services provided under this Agreement; whether authorized or not, will be the responsibility of Subscriber. Subscriber agrees not to re-sell or re-bill the Services to any other individual or entity without the prior written consent of Honeywell.

7. Service Charges

Service Charges are set forth in the Annex (es). Honeywell may modify any of its charges on thirty (30) days prior written notice. All amounts that Subscriber owes Honeywell under this Agreement shall be due and payable according to the terms of this Agreement. Subscriber is prohibited from and shall not set off such amounts or any portion thereof, whether or not liquidated, against sums which Subscriber asserts are due it, its parent affiliates, subsidiaries or other divisions or units under other transactions with Honeywell, its parents, affiliates, subsidiaries or other divisions or units. Honeywell's charges are exclusive of taxes, duties and other governmental fees including but not limited to Federal, State, Municipal excise, sales or use taxes or import duties upon the sale and furnishing of the Services. All such present or future applicable taxes or duties on the sale of Services due hereunder shall be paid by the Subscriber. Accordingly, Honeywell reserves the right to revise its price after the execution of this Agreement between the parties to include any and all taxes or duties that may become due hereunder and Honeywell may invoice Subscriber for said additional amounts. Charges will be invoiced to Subscriber on a monthly basis, unless otherwise stated in an effective Annex and mutually agreed to. Customer must notify Honeywell of a change in their billing address and contact information; failure to do so does not remove the customer's obligation to pay for services. Payment must be sent to the address identified on the Honeywell invoice. Alternatively, arrangements for credit card charge billing can be made for Service with Honeywell Aviation Information Services. Until such arrangements are finalized, payments must be sent to the address notated on the Honeywell invoice.

Honeywell OneLink™ Services Agreement

All communications related to the Subscriber's monthly Billing Statement should be directed by the Subscriber to:

Honeywell Cabin Services Attn: Manager, Account Services
21111 N. 19th Ave M/S I33B3Phoenix, Arizona 85027

Telephone: +1.602.436.0095 Facsimile: +1.602.822.7502

8. Other Charges

If Subscriber requires engineering or systems integration in conjunction with Service, Honeywell may, at its option, provide such service to Subscriber (subject to availability of personnel) on a time and materials basis at Honeywell's then-current rates including administrative charges.

9. Invoicing

All charges from Honeywell are in US Dollars and must be paid in US Dollars. Invoice terms are NET 30 days unless otherwise specified. Honeywell reserves the right to modify or withdraw credit terms at any time without notice and to require guarantees, security or payment in advance of the amount of credit involved. In the event payments are not made in a timely manner, Honeywell may in its sole discretion and at its sole election, in addition to all other remedies provided at law, do any of the following without prior notice: (1) declare Subscriber's performance in breach and terminate this Agreement for default; (2) either suspend or discontinue the provision of services under this Agreement until delinquent payments are made; (3) provide services under this Agreement on a cash in advance basis even after the delinquency is cured; (4) charge interest on the delinquency at a rate of one and one-half percent of any outstanding balance per month or the maximum rate permitted by law, if lower, for each month or part thereof of delinquency in payment plus applicable storage charges or inventory carrying charges; or (5) recover all cost of collection including, but not limited to, collection expenses, court costs and reasonable attorney's fees.

10. Excusable Delay

Honeywell shall be excused from delays in delivery and performance or other contractual obligations under this Agreement caused by acts or omissions that are beyond the reasonable control and without the fault or negligence of Honeywell including but not limited to Government embargoes, blockades, seizure or frees of assets, delays or refusals to grant an export license or the suspension or revocations thereof, or any other acts of any Government, fires, floods, severe weather conditions, or any other acts of God, quarantines, labor strikes or lockouts, riots, strife, insurrection, civil disobedience, war, material shortages or delays in deliveries to Honeywell by third parties and/or service providers. If the excusable delay circumstances extend for six months, either party may, at its option, terminate this Agreement without penalty or liability and without being deemed in default or in breach thereof.

11. Sale or Transfer

In the event of sale or transfer of an aircraft or Product which utilizes Honeywell Aviation Information Services defined in this Agreement, Subscriber agrees to notify Honeywell of the transaction and is responsible for all charges incurred prior to such notification. Such transactions constitute a subscription cancellation by Subscriber, thus final termination must be in writing.

12. Service Provider Liability

Subscriber acknowledges that Honeywell may obtain elements of Service from service providers pursuant to contracts or tariffs which may contain limitations or disclaimers of liability on behalf of the service suppliers, and further understands that such conditions of service may change from time to time. Subscriber agrees to accept and be subject to such disclaimers and/or limitations of liability, and to pass same on to its employees, Subscribers, and passengers. Honeywell will not be responsible or liable for a failure to inform Subscriber of any specific disclaimer or limitation of liability, but will, upon Subscriber's written request, use reasonable efforts to inform Subscriber of any such disclaimers or limitations of liability then in force. Subscriber agrees and understands that it has no recourse, whatsoever, against any such service provider.

Honeywell OneLink™ Services Agreement

13. Disclaimer of Warranties

THE PARTIES AGREE THAT THE SERVICES ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND; THAT THEY CONTAIN INFORMATION FURNISHED BY OTHERS WHO ARE NOT UNDER THE CONTROL OF HONEYWELL; AND THAT THEY ARE ACCORDINGLY FURNISHED WITHOUT ANY WARRANTY, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

14. Limitation of Liability

NEITHER HONEYWELL NOR ITS SERVICE PROVIDER ASSUMES ANY RESPONSIBILITY FOR THE ACCURACY, COMPLETENESS, SUITABILITY OR TIMELINESS OF ANY AND ALL AIR-GROUND/GROUND-AIR/AIR-AIR/GROUND-GROUND COMMUNICATIONS OR CONTENT, FROM WHATEVER SOURCE. RESPONSIBILITY FOR USING OR RELYING UPON SAME; LIES EXCLUSIVELY WITH THE SUBSCRIBER.

EXCEPT AS HEREINAFTER PROVIDED, HONEYWELL AND ITS SERVICE PROVIDER SHALL NOT BE SUBJECT TO DIRECT OR INDIRECT LIABILITY FOR ANY DAMAGES WHICH THE SUBSCRIBER OR SERVICE PROVIDER MAY SUFFER AS A RESULT OF ANY FAILURE OR DELAY BY HONEYWELL IN RENDERING THE SERVICE.

IN THE EVENT THAT INFORMATION FURNISHED BY THE SUBSCRIBER HEREUNDER IS LOST, DESTROYED OR DAMAGED DUE TO THE NEGLIGENCE OF HONEYWELL OR HONEYWELL'S SERVICE PROVIDER THE SUBSCRIBER'S SOLE REMEDY SHALL BE THE REPAIR OR REPLACEMENT BY HONEYWELL OF SUCH LOST, DESTROYED OR DAMAGED INFORMATION, PROVIDED, HOWEVER, THAT SUCH REPAIR OR RESTORATION CAN REASONABLY BE PERFORMED BY HONEYWELL AND, PROVIDED, FURTHER, THAT SUBSCRIBER FURNISHES HONEYWELL WITH ALL SOURCE DATA, IN MACHINE-READABLE FORM, NECESSARY FOR SUCH REPAIR OR RESTORATION.

IN NO EVENT SHALL HONEYWELL OR ITS SERVICE PROVIDER BE LIABLE TO SUBSCRIBER FOR ANY SPECIAL, INDIRECT, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL AND/OR PUNITIVE DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOST BUSINESS REVENUES, OR FAILURE TO REALIZE EXPECTED SAVINGS, FOR ANY CAUSES OF ACTION RELATING TO A BREACH OF THIS AGREEMENT.

15. Indemnification

Subscriber hereby agrees to indemnify and hold Honeywell, its service provider and their employees, directors, officers and agents harmless from and against any and all claims, demands, liabilities, losses, costs, damages and expenses of any nature whatsoever (including, without limitation attorney's fees and expenses) claimed from or asserted against Honeywell by any person or persons as a result of or in connection with any loss or damage to property or injury or death of any person whomsoever consequent upon or arising from or out of (a) the performance, nonperformance or partial or imperfect performance of the Service or Equipment hereunder by Honeywell or its service provider or their employees, agents or suppliers, or (b) the use by Subscriber of the Service or Equipment, whether or not arising in tort or occasioned in whole or in part by the negligence of Honeywell.

16. Title and Risk of Loss

Subscriber assumes all risk of loss and damage to Equipment, if any, supplied as part of this Agreement, including any loss or damage resulting from mishandling or abuse, while such Equipment is in Subscriber's possession or in transit if returned to Honeywell. All rights, title and interest in such Equipment shall remain with Honeywell or Honeywell's service provider at all times.

17. Changes and Enhancements

Honeywell, in its sole discretion, reserves the right to add to, modify or otherwise improve the Services without notice to or consent of Subscriber and without incurring any obligation to update, modify or replace Equipment

Honeywell OneLink™ Services Agreement

previously delivered except as may be provided herein.

18. Notices

All notices or questions regarding contract issues with this Agreement, including Subscriber notification regarding change of ownership, will be in the English language and will be by facsimile or postal mail to the contact points below. The contact information below may be amended through similar notice as necessary.

Honeywell Cabin Services

Subscriber Name:

Attn: Contracts Management

Mailing Address:

21111 North 19th Avenue, M/S I33B3

Phoenix, AZ 85027

Fax:

Fax: +1.602.822.7502

E-mail:

19. Export

Unless otherwise agreed, Subscriber shall be responsible for compliance with the export control laws and regulations of the U.S. Government, and when required by such laws and regulations shall obtain validated export and re-export licenses required for the Services and Equipment and information delivered under this Agreement. Honeywell shall not be liable to Subscriber for any failure to provide Services or Equipment and information as a result of any following U.S. Government actions: (1) refusal to grant export or re-export license; (2) cancellation of export or re-export license; or (3) any subsequent interpretation of U.S. export laws and regulations, after the date of this Agreement, that limits or has a material adverse effect on the cost of Honeywell's performance on this Agreement.

20. Miscellaneous

This agreement will be governed by, and construed in accordance with, the laws of the State of Arizona, USA, exclusive of any choice of law provisions. Honeywell and Subscriber expressly agree to exclude from this Agreement the Uniform Commercial Code as adopted in the State of Arizona and the United Nations Convention on Contracts for the International Sale of Goods, 1980, and any successors thereto. Should any provision of this Agreement be declared illegal, invalid or unenforceable, for any reason, it shall be severed from this Agreement without affecting the legality or enforceability of the remainder. Honeywell's remedies set forth herein are not exclusive and are in addition to any other remedies available, none of which shall be deemed waived by virtue of Honeywell's exercise of any other remedy.

The parties shall make every effort to reach an amicable settlement of any dispute arising in connection with this Agreement. If the parties are unable to reach an amicable settlement, then the matter shall be finally settled by arbitration in Phoenix, Arizona, U.S.A. in accordance with the substantive laws of Arizona by one or more arbitrators. This Agreement binds and inures to the benefit of Honeywell, its successors and assigns. Subscriber may not assign, transfer or otherwise dispose of this Agreement or any interest herein without Honeywell's prior written consent, which consent shall not be unreasonably withheld. Notwithstanding any termination of the Agreement, the Parties obligations with respect to, Clause 4, Proprietary Information, Clause 10, Excusable Delay, Clause 12, Warranty Disclaimer, Clause 13, Limitation of Liability, Clause 19 Miscellaneous shall survive any such termination and shall bind the Parties, their successors, their permitted assigns, and their legal representatives. In the event of a conflict or inconsistency between of the terms of the following documents, the following order of precedence shall control:

Annexes to this Agreement and Service Agreement for Honeywell Aviation Information Services

Honeywell Cabin Services – 21111 N. 19th Ave., Phoenix, AZ 85027
Phone: 602-436-0095 Fax: 602-822-7502 email: cabin.services@honeywell.com