

# GENERAL TERMS & CONDITIONS



**CELLULARONE®**

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## GENERAL TERMS AND CONDITIONS

This is an Agreement between the Subscriber (jointly and/or severally when two or more apply for the Services collectively “Subscriber”) and Cellular Properties, Inc. (“Company”) for the provision of wireless digital and radio telecommunications services and transmissions, including but not limited to voice, informational text and data, internet access and other features and services available through Company’s system and any other telecommunications Carrier (“Services”).

### **SERVICES AVAILABILITY**

Services are available to the Subscriber’s wireless receiving “Unit” (any device, including Equipment, Subscriber uses to receive or utilize the Services) or Equipment only when it is within the operating range of the Company’s telecommunications system. Services are not available at all times in all places. Services are subject to transmission limitations caused by conditions including but not limited to atmospheric, software limitations in and incompatibilities with Company’s system and the software in Subscriber’s Unit, environmental, buildings, wireless blockages, tower locations, or topographical conditions. Services may be temporarily refused, limited, interrupted, or curtailed without notice, due to unavailability of frequency channels, Unit problems, problems with Company’s equipment used in the provision of the Services, governmental regulations or orders, system capacity limitation, coordination and connection with other service and telecommunications providers’ systems and Carriers, or modifications, upgrades, relocations, repairs and maintenance, acts of God, acts of terrorism, problems caused by Subscriber, our business policies, practices and procedures, and similar activities necessary or appropriate for the proper operation of the Services. There are gaps in coverage within the Services area shown on Company’s coverage maps. Company may block access to certain numbers or websites in its sole discretion and may refuse to transmit any information prior to its delivery to Subscriber. Company may change Subscriber’s Unit’s software or programming remotely and without notice, which could affect data in the unit. Services are furnished for Subscriber’s own use and not for resale. Subscriber consents to the disclosure of his name and number when Subscriber uses the Services, e.g. Caller ID. Orders for activating, changing, or termination of services and this Agreement will be accepted by the Company as requested by Subscriber and will be effective when accepted by Company. Subscriber has no proprietary or ownership or other types of rights to or interest in the Services nor any telephone number, personal identification number, e-mail address, or other identifier (except as allowed by applicable law), that Company assigns Subscriber, except as to the rights for Subscriber to port the phone number as allowed by applicable law, and Company shall have the right to change telephone number, e-mail address, personal identification number, or other identifier assignments from time to time by giving prior notice to Subscriber. Each telephone number can only appear in one Unit and for one IMEI. Company reserves the right to impose a portage fee as permitted by applicable law. Company is not responsible for the installation, operation, and quality of transmission or reception or for the maintenance of Subscriber’s Unit. Subscriber is responsible for ensuring that the Unit is technically and operationally compatible with the Company’s system and is in conformance with all applicable laws. Subscriber agrees not to use either the Unit or the Services for any unlawful or abusive purpose or in such a way as to create damage or risk to Company’s business, system, reputation, employees, facilities, third parties, to the public generally, or interfere with the Services. Subscriber accepts the Services with these limitations.

### **IMEI REGISTRATION**

The International Mobile Equipment Identity (IMEI) associated with the Unit or Equipment used by Subscriber will be registered as part of this Agreement. In the event such Unit or Equipment is traded or replaced, Company must be notified and the Unit or Equipment modified as may be required in order to continue the provisions of Services.

### **TERMS, CONDITIONS AND RATES**

**(a) THE TERMS AND CONDITIONS OF THE SERVICES PLAN SELECTED BY SUBSCRIBER ARE A PART OF THIS AGREEMENT.**

(b) The initial minimum term of this Agreement and the selected Services Plan (“plan”) will commence on the Activation Date (when Subscriber’s Unit first has access to the Services) and continue until terminated in accordance with this Agreement. Subscriber expressly agrees to maintain Services with Company for the minimum term of the selected

Plan. Subscriber agrees to pay the rates for the selected Plan and all other charges for or resulting from the Services provided under this Agreement. If Subscriber changes Services or selected Plan (e.g. by accepting a promotion), Subscriber will be subject to any Company requirements including a new minimum term. The first month's Services charge under the selected Plan, any Unit and one-time charges are payable upon Subscriber's execution of this Agreement.

### **50% OF USE IN HOME SERVICE AREA**

Customer acknowledges that a minimum of 50% of all usage, including airtime and data, must be in Company's Home Service Area as indicated by coverage maps. If Customer's usage outside of the Home Service Area exceeds 50% of the total usage volume during each of two consecutive billing cycles, Company reserves the option to cancel Customer's service. Customer will be required to return any handset for which promotional discounted pricing was charged and the \$200 early termination fee will apply.

### **PLAN TERM (LENGTH), TERMINATION AND TERMINATION FEES**

For contract plans, Subscriber may terminate a Monthly Services Plan (i.e. plans that are month to month) at any time by giving written notice to Company, which shall be effective no later than the end of the monthly billing cycle in which such notice is received. In the case of all other Services Plans, Subscriber agrees to the minimum term applicable under the selected Plan. For plans other than the Monthly Services Plans, Services will automatically continue at the end of the initial minimum term as a Monthly Services Plan, i.e. month to month. Subscriber may change to any other Plan, providing, however, that Subscriber shall remain obligated under the new Plan for the original minimum term. Should this change be made during the original Plan, Subscriber agrees if this change would have affected the cost of the Unit received from the Company under the selected Plan, Subscriber will pay any difference. Subscriber may terminate this Agreement under any Plan other than the Monthly Services Plans during the initial minimum term upon payment to Company of a maximum of \$200 as an EARLY TERMINATION FEE (as applicable for the selected Plan) for each individual service terminated as provided in the selected Plan, plus other charges authorized by this Agreement; Subscriber shall remain obligated under the terms of this Agreement for all outstanding charges on any terminated account, including cost of equipment. Company may impose a telephone number portage fee as a part of a Services Plan as permitted by applicable law. New first-time Subscriber may cancel this Agreement without payment of the early termination fee upon written notice received by Company within 30 days of the Activation Date and Subscriber returns the Unit in like-new condition in the original packaging with all accessories. If the phone has over four hours of talk time, a minimum \$25 restocking fee will apply. If the equipment is not returned, Customer will be charged for that equipment at Company's retail cost. Subscriber remains responsible for payment of all usage fees and charges, taxes and fees, and prorated access fees. For no minimum term plans, service is considered terminated if payment is not received by Company on the first day of the new billing cycle.

### **AIRTIME, ACCESS, USAGE, ROAMING, ROAMING CHARGES AND OTHER CHARGES AND FEES**

Charges may vary depending on where the wireless phone is when a call initiates or is received. Roaming occurs whenever Subscriber makes or receives a call using a transmission site outside his home rate and coverage area, or using another carrier's transmission site; and Unit may sometimes connect to and roam on another carrier's network even when Subscriber is within Company's rate and coverage area or local calling area. Each partial minute of airtime for any Services is billed as a full minute. Time starts when SEND is pressed or the call connects to the network on outgoing calls. Time may end several seconds after END is pressed or call disconnects. For calls made on the company's network, only connected calls are charged, including those answered by machines. Most calls made or received during a billing cycle will appear on that cycle's statement. Billing for airtime used and related charges while off the company's network may be delayed, i.e. with another carrier. Delayed airtime will be applied in the month received and will be charged against that month's airtime. If a call is disconnected by Company's network from a call in Company's home service area for any reason, redial. If the same number answers within 5 minutes, call 611 within 90 days for a 1-minute airtime credit. These are subscriber's only rights for dropped calls or similar interrupted services.

## **DATA USE TERMS, CONDITIONS**

Company does not have specific hard limits on data transfer with Services, but Company does not allow completely unlimited consumption of metered data usage on the telecommunications services utilized and provided by the Services. Usage that would be unreasonable or prohibited for a cellular handset includes, but is not limited to, computer tethering, server devices or host computer applications, automated machine-to-machine connections or peer-to-peer file sharing, full-time or primary data connections, “spam” or unsolicited bulk email distribution, activity that adversely affects the ability of other people or systems to use Company’s wireless services or other Internet services, accessing or attempting to penetrate security measures of Company’s or another provider’s network or system. Company monitors metered data usage and consumption patterns for all Subscribers. If Subscriber uses Services, including metered data usage, in a manner as determined by Company in its sole discretion which causes excessive metered data usage or causes network capacity issues or affects Company’s provision of Services, operation or capacity of related equipment and software, overall network performance, or other Subscriber’s Services, Company may require in its sole discretion that Subscriber cease or alter these activities and usage. Company alone decides, in its sole discretion, what constitutes an allowable use of metered data usage. If Subscriber uses the Services, including metered data usage, for unlawful purposes or in such a manner as determined by Company in its sole discretion as to damage, interfere, restrict or inhibit Company or any other person’s business or the use of the Services, Company shall have the right to deny, disconnect, modify, temporarily discontinue or terminate this Agreement or Services by Subscriber at any time.

## **RIGHTS OF COMPANY TO MAKE CHANGES**

Company may change or modify any or all Services and Plan charges and other terms and conditions for the use of the Services, the selected Plan and this Agreement, including the geographical coverage of the Services for any reason, and Company may terminate this Agreement in Company’s sole discretion for any reason, and such changes or termination shall automatically and without written amendment or prior notice become part of this Agreement unless otherwise prohibited by law. Changes that increase the price (except as noted below) of Subscriber’s selected Plan will be effective upon disclosure to Subscriber prior to the billing cycle in which the changes would go into effect. If Company increases the charges of any of the Services beyond the limits set forth in Service Plan, or materially decreases the geographical area in which Service Plan rate applies (other than a temporary decrease for repairs or maintenance), Company will disclose the change at least one billing cycle in advance (through a notice with bill or otherwise), and Subscriber may terminate this Agreement without paying any termination fee, provided notice of termination is delivered to Company within twenty-one (21) days after the first invoice reflecting the change is mailed. Termination will be effective upon Company’s actual receipt and Subscriber shall remain responsible for all charges incurred through the date of termination. Charges excluded in this right to terminate are those over which company has no control. Company may increase any applicable Federal, State or other governmental sales, use, excise, public utility or other taxes, fees and charges, plus fees or charges imposed on Company or Subscriber as a result of providing the Services or the Unit to the Subscriber without notice to Subscriber and such taxes, fees, and charges are due upon imposition by Company.

## **SUBSCRIBER REPRESENTATIONS AND AUTHORIZED USERS**

Subscriber is under no legal disability and if signing on behalf of a separate business entity is fully authorized to sign on its behalf; has read and understands the terms of this Agreement and the rates, charges, and terms of the Plan selected, including any applicable early termination fee; and acknowledges receiving a copy of this Agreement and the rates and terms of the Plan and any summary of this Agreement. This Agreement and the terms of the Plan selected by the Subscriber represent the agreement between the Company and the Subscriber and supersede all prior agreements, negotiations, and any representations and warranties, verbal or written, between the parties. Subscriber agrees that any person identified to Company as an Authorized User may upon presentation of Account password and proper identification and without Subscriber’s prior consent receive the following information on their authorized lines: current usage, current balance, rate plan and features, and contract end date. An Authorized User is any person identified to the Company but who is not obligated on this Agreement.

## **BILLING AND PAYMENT OF CHARGES**

For contract plans, Subscriber, jointly and severally, agrees to and is responsible for payment in full of all Charges as shown when due on monthly invoices for all Services furnished pursuant to this Agreement and the selected Plan, including usage charges which are in addition to monthly Services charges for Services originated or received on each Unit number assigned to Subscriber, applicable landline and wireless access charges, airtime activation, administration,

late payment charges, regulatory cost recovery and surcharges, optional feature charges, toll, collect call and directory assistance charges, roaming charges, and data charges, including GPRS, SMS, MMS, and browser internet services, any fees and charges that may be passed onto Subscriber or assessed to Subscriber by Company in its discretion, and any applicable Federal, State or other governmental unit sales, use, excise, public utility or other taxes, excise fees, federal universal service charges and regulatory charges, plus fees or charges imposed on Company as a result of providing the Services or the Unit Subscriber. Some charges and fees are billed in advance and such charges and fees are not pro-rated if Services or this Agreement are terminated on a day other than the last day of Subscriber's billing cycle. Charges and fees for some Services, including roaming calls made outside the Company's home Services area and other Services are sometimes delayed and may not appear for several billing cycles. Each balance not paid in full by the invoice due date shall incur a late payment charge equal to One and One-Half percent (1 ½%) of the total balance due or \$5, whichever is less. No grace period is provided by the Company for late payment of the charges. Acceptance by Company of checks or drafts shall not constitute a waiver of Company's right to demand payment by cash or other form of secure payment, and acceptance of late or partial payments or payments marked "Paid in Full" or similar notations shall not waive any rights of Company. Subscriber may, at the option of Company in accordance with applicable tariffs (if any), be charged check fees and other expenses as permitted by other applicable law for each check and draft or other payment method returned not paid for any reason. Inquiries about or objections to invoices must be in writing and must be received by Company no later than the due date set forth in the invoice or such other time as required by applicable law; PROVIDED, however, all amounts due Company, including disputed amounts, must be paid Company or on before the due date set forth in the invoice unless otherwise prohibited by applicable law. Company will make good faith efforts to resolve disputes in accordance with Company procedures or applicable tariffs (if any). Billing formats are selected by Company. If Subscriber's Unit is lost or stolen or another person has access to it and uses it, Subscriber will be responsible for all charges incurred on the Unit or Equipment through the date Subscriber reports the loss, theft, or unauthorized use to Company. If Subscriber's selected Plan provides a predetermined allotment of Services (e.g. predetermined amounts of airtime, megabytes, text messages), unused Services from one billing cycle do not roll over to any other billing cycle, unless specifically noted by rate Plan as Reserve minutes which expire 365 days from issue, are non-transferable, and will end as result of plan change. No minimum term plans are considered terminated if payment is not received by the first day of the billing cycle. No minutes or features are retained.

### **ADVANCE PAYMENTS AND/OR DEPOSITS**

Company may require Subscriber to make deposits or advance payments for Services, which Company may offset against any unpaid obligations of the Subscriber to Company. Interest will not be paid on advance payments or deposits unless required by law. Company may require additional advance payments or deposits upon notice to Subscriber, and failures to provide such payments or deposits are default under this Agreement.

### **COMPANY'S RIGHTS WHEN SUBSCRIBER DEFAULTS**

Should Subscriber default: in the payment when due of any sum hereunder, breach any representation herein, fail to perform any obligation at the time and in the manner specified in the Agreement or under any other agreement between Company and Subscriber, or fail to maintain or operates any Unit with damage or interference to Company business, its system and the Services, or should Subscriber be the subject of any proceeding under the Bankruptcy Code or is unable to pay any of Subscriber's debts as they become due (including but not limited to Subscriber's debt to Company), Company shall have the right to temporarily discontinue Services at any time and/or terminate at any time this Agreement or the Services. Subscriber shall remain liable for the payment of all Services charges and other charges, fees and taxes due Company under this Agreement, shall be immediately due and payable upon such discontinuation or termination. Further, Subscriber may be subject to reactivation/restoral fee of \$10 and other requirements in effect at that time if Services are subsequently recommenced. These remedies of Company are not exclusive but are in addition to all remedies provided by law. In the event of Subscriber's default, Subscriber will reimburse Company for its reasonable attorney's fees, collection fees, collection agent fees, and similar expenses incurred or paid by Company in the enforcement of any right hereunder. Subscriber shall return in good working condition to Company the Unit provided by Company not owned by Subscriber within five days of termination. Unless independently provided by Subscriber, Subscriber ownership of the Unit occurs when purchased initially at retail cost from Company or at the end of the initial minimum term of the selected Plan when discounted Unit costs were included as a part of the Plan. If Unit is not returned in good working condition, Subscriber shall pay upon demand by Company the cost of the phone or minimum \$50 charge. This may be in addition to the applicable early termination fee. If Subscriber has more than one account or Agreement with

Company, Subscriber must keep all accounts and Agreements in good standing (not in default) to maintain all Services. If one account is past due or over its limit or Subscriber is in default under any account, all accounts and Agreements in Subscriber's name (whether jointly or severally) are subject to interruption or termination and all other remedies of Company upon Subscriber's default. Company may delay or forgo enforcing any of its rights or remedies under this Agreement without losing them.

### **RISKS OF LOSS OF UNIT AND EQUIPMENT**

Subscriber shall be solely responsible for all risks of loss for the Unit or Equipment purchased hereunder or supplied by Company to Subscriber, even if lost, stolen, damaged or destroyed. Subscriber may not terminate this Agreement if the Unit or Equipment is lost, misplaced, stolen, damaged or destroyed for any reason.

### **CREDIT CARD CHARGE AUTHORIZATION FOR OVERDUE OR UNPAID ACCOUNT BALANCES**

To the extent permitted by applicable agreements and law, Subscriber hereby expressly authorized Company to charge to Subscriber's credit card account provided to Company any sums due Company under this Agreement which remain unpaid in excess of fifteen (15) days from the due date shown on the invoice for such sums, including but not limited to Charges incurred or billed or due after the discontinuance or termination of the Services for any reason. Subscriber expressly authorizes Company, through its agents, to execute and deliver in the ordinary course of business for such matters, as Subscriber's authorized agent (with no fiduciary duties to Subscriber) and as an authorized user of such credit card account for the purposes of this Agreement only, any and all documentation, instruments, slips and orders in such forms as may be required by the applicable credit card issuer to charge and collect all such sums due and owing Company. Subscriber hereby authorized Company to release and provide a copy of this Agreement and such other business records of Company relating to such sums collected pursuant to this authorization. The use of this authorization by Company shall be in Company's sole discretion, and it is not intended to be an exclusive remedy for the collection of such sums. Subscriber agrees to promptly inform Company if the credit card account provided under this Agreement is revoked or terminated for any reason.

### **CREDIT BUREAU INFORMATION**

Subscriber agrees that Company may obtain information about Subscriber from credit reporting agencies or others at any time and use it for purposes of monitoring Subscriber's credit performance, managing Subscriber's account and considering Subscriber for new offers and Plans. Subscriber expressly authorizes Company to investigate Subscriber's credit history at any time and to share credit information about Subscriber with credit reporting agencies. If Subscriber asks, Company will tell Subscriber the name and address of any credit agency that gives Company a credit report about Subscriber. For training or quality assurance, Company may also monitor or record Company's calls with Subscriber.

### **NO WARRANTIES AS TO SERVICES**

**COMPANY MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, TO THE EXTENT PERMITTED BY APPLICABLE LAW, REGARDING THE SERVICES OR ANY UNIT OR EQUIPMENT, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. COMPANY DOES NOT PROMISE UNINTERRUPTED OR ERROR FREE SERVICES.**

### **LIMITATION OF COMPANY LIABILITY AS TO SERVICES**

**TO THE EXTENT PERMITTED BY APPLICABLE LAW, COMPANY'S SOLE LIABILITY TO SUBSCRIBER FOR DAMAGES OR OTHER MONETARY RELIEF FOR MISTAKES, LACK OF PRIVACY, OMISSIONS, INTERRUPTIONS, DELAYS, ERRORS, DEFECTS OR CURTAILMENTS IN THE SERVICES COMPANY FURNISHES SUBSCRIBER IS AS FOLLOWS: COMPANY WILL MAKE A CREDIT ALLOWANCE, AT SUBSCRIBER'S REQUEST, IN THE FORM OF A PRO RATA ADJUSTMENT OF THE FIXED MONTHLY CHARGES COMPANY BILLS SUBSCRIBER. THE PRO RATA ADJUSTMENT WILL BE COMPUTED BY DIVIDING THE DURATION OF THE SERVICES INTERRUPTION (MEASURED IN 24-HOUR DAYS FROM THE TIME THE INTERRUPTION IS REPORTED TO COMPANY BY SUBSCRIBER) BY A STANDARD 30-DAY MONTH AND THEN MULTIPLYING THAT RESULT BY COMPANY'S FIXED MONTHLY CHARGE FOR EACH INTERRUPTED ACCESS NUMBER. PERIODS LESS THAN TWENTY-FOUR (24) HOURS WILL NOT BE CREDITED. ANY ADDITIONAL PERIOD OF TWELVE (12) HOURS OR MORE SHALL BE CONSIDERED AN ADDITIONAL DAY. IN NO CASE SHALL THE CREDIT EXCEED**

**THE FIXED SINGLE MONTHLY CHARGE FOR THE SELECTED PLAN. THIS IS COMPANY'S COMPLETE AND ONLY LIABILITY TO SUBSCRIBER FOR SUCH MISTAKES, OMISSIONS, INTERRUPTIONS, DELAYS, ERRORS, DEFECTS OR CURTAILMENTS. SUBSCRIBER AGREES THAT COMPANY'S LIABILITY IS LIMITED AS SET FORTH HEREIN, AND COMPANY IS NOT LIABLE FOR ANY LIABILITY OR OBLIGATION TO SUBSCRIBER FOR SPECIAL, DIRECT, INDIRECT, COMMERCIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR PUNITIVE DAMAGES OF ANY KIND INCURRED BY SUBSCRIBER, SUCH AS BUT NOT LIMITED TO CLAIMS REGARDLESS OF THEORY OF LIABILITY, INCLUDING BUT NOT LIMITED TO FRAUD, MISREPRESENTATION, BREACH OF CONTRACT, PERSONAL INJURY, PROPERTY DAMAGE, PRODUCT LIABILITY OR ANY OTHER THEORY, OR DAMAGES FOR LOSS OF USE, LOSS OF ANTICIPATED PROFITS, DIRECT, INDIRECT, SPECIAL, COMMERCIAL, PUNITIVE, OR INCIDENTAL OR CONSEQUENTIAL ECONOMIC LOSSES OF ANY KIND INCURRED BY SUBSCRIBER DIRECTLY OR INDIRECTLY RESULTING FROM OR RELATED TO ANY UNIT OR EQUIPMENT DESCRIBED HEREUNDER AND THE SERVICES PROVIDED BY COMPANY. NO CREDIT ALLOWANCE WILL BE GIVEN FOR INTERRUPTIONS CAUSED BY SUBSCRIBER'S NEGLIGENCE OR BY SUBSCRIBER'S WILLFUL ACTS, OR FOR INTERRUPTIONS CAUSED BY FAILURE OF SERVICES NOT PROVIDED BY COMPANY'S UNIT OR EQUIPMENT, INCLUDING BUT NOT LIMITED TO THE LACK OF AN ANTENNA TO RECEIVE UNIT'S OR EQUIPMENT'S SIGNAL. WHEN ROAMING ON A SYSTEM THAT IS NOT COMPANY'S, SUBSCRIBER IS SUBJECT TO THE SAME LIMITATIONS OF LIABILITY THAT THE OPERATOR OF THAT SYSTEM OR CARRIER IMPOSES UPON ITS CUSTOMERS PLUS THESE LIMITATIONS. COMPANY DISCLAIMS ALL LIABILITY FOR INTERRUPTIONS OF SERVICES ON A SYSTEM OR CARRIER THAT IS NOT COMPANY'S. IN NO EVENT SHALL COMPANY BE LIABLE FOR INTERRUPTIONS OR DELAYS IN TRANSMISSION, OR FOR ERRORS OR DEFECTS IN TRANSMISSION, OR FOR FAILURE TO TRANSMIT WHEN SUCH ARE CAUSED BY THE FOLLOWING ACTS AND OMISSIONS, INCLUDING BUT NOT LIMITED TO A CHANGE IN ANY LAW, RULE, REGULATION OR ORDINANCE; ANY NEW LAW, RULE, REGULATION OR ORDINANCE; THE REQUIREMENTS OF ANY GOVERNMENT OR GOVERNMENTAL ENTITY OR AUTHORITY; WAR, RIOT, CIVIL DISORDER, ACTS OF TERRORISM OR OTHER HOSTILITIES; HURRICANES, TYPHOONS, TORNADOES OR OTHER SEVERE WEATHER CONDITIONS; FIRE, EARTHQUAKES, FLOODS AND OTHER NATURAL DISASTERS; EPIDEMICS AND QUARANTINES; DAMAGE TO OR DESTRUCTION OF COMPANY'S FACILITIES OR THOSE OF ANY OTHER CARRIER; INTERRUPTION OF ELECTRICITY; FAILURE OF OR DELAY BY CARRIERS TO TRANSPORT OR SUPPLIERS TO FURNISH ANY ITEM; AND ANY MATTER BEYOND COMPANY'S CONTROL.**

**COMPANY IS NOT LIABLE FOR ANY CLAIMS, LOSSES, DAMAGES OR COSTS, WHICH MAY RESULT FROM LACK OF PRIVACY IN THE USE OF THE SERVICES.**

**SUBSCRIBER ALSO AGREES THAT COMPANY IS NOT LIABLE FOR MISSED CALLS, TRANSMISSIONS, VOICEMAILS OR OTHER MESSAGE AND INFORMATIONAL STORAGE SYSTEM, NOR THEIR DELETIONS (EVEN IF SAVED) FOR ANY REASON BY SUBSCRIBER OR COMPANY.**

**UNIT AND EQUIPMENT PURCHASE OR USE/LIMITATION OF LIABILITIES AND REMEDIES**

**If Subscriber purchases or received from the Company at any time during the term of this Agreement any Equipment or Unit, the following provisions shall apply.**

**(a) DISCLAIMER OF WARRANTIES. SUBSCRIBER ACKNOWLEDGES AND AGREES THAT COMPANY IS NOT THE MANUFACTURER OF UNIT OR EQUIPMENT, NOR AN AGENT OF MANUFACTURER, AND COMPANY HEREBY DISCLAIMS, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ALL REPRESENTATIONS AND WARRANTIES, DIRECT OR INDIRECT, EXPRESSED OR IMPLIED, IN CONNECTION WITH THE UNIT AND EQUIPMENT, INCLUDING BUT NOT LIMITED TO ANY AND ALL EXPRESS AND IMPLIED WARRANTIES OF MERCHANTABILITY, SUITABILITY, DURABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THERE ARE NO WARRANTIES, WHICH EXTEND BEYOND THE DESCRIPTION OF THE FACE HEREOF. THIS AGREEMENT IS THE FINAL, COMPLETE AND EXCLUSIVE AGREEMENT OF THE PARTIES WITH RESPECT TO THE PURCHASE, USE AND SALE OF THE UNIT AND EQUIPMENT BY SUBSCRIBER**

OR SUPPLIED BY COMPANY TO SUBSCRIBER.

(b) SUBSCRIBER ACKNOWLEDGES RECEIPT OF ANY AND ALL MANUFACTURER'S WARRANTIES.

(c) **LIMITATIONS OF REMEDIES. TO THE EXTENT PERMITTED BY APPLICABLE LAW: SUBSCRIBER ACKNOWLEDGES AND AGREES THAT ITS SOLE AND EXCLUSIVE REMEDY IN CONNECTION WITH ANY DEFECTS OR NON-CONFORMITIES IN THE EQUIPMENT AND UNIT SHALL BE AGAINST THE MANUFACTURER OF THE UNIT AND EQUIPMENT UNDER THE MANUFACTURER'S WARRANTIES AND THAT COMPANY SHALL HAVE NO OBLIGATION OR LIABILITY TO SUBSCRIBER FOR ANY SUCH DEFECTS OR NON-CONFORMITIES. SUBSCRIBER ACKNOWLEDGES AND AGREES THAT COMPANY SHALL HAVE NO LIABILITY TO SUBSCRIBER IN ANY EVENT FOR ANY LOSS, DAMAGE, OR EXPENSE OF ANY KIND OR NATURE RELATED DIRECTLY OR INDIRECTLY TO ANY UNIT AND EQUIPMENT PROVIDED HEREUNDER. TO THE EXTENT PERMITTED BY LAW WITHOUT LIMITING THE ABOVE, COMPANY SHALL HAVE NO LIABILITY OR OBLIGATION TO SUBSCRIBER FOR DIRECT, INDIRECT, SPECIAL, COMMERCIAL, INCIDENTAL OR CONSEQUENTIAL LOSSES OF ANY KIND OR PUNITIVE DAMAGES INCURRED BY SUBSCRIBER DIRECTLY OR INDIRECTLY RESULTING FROM OR RELATED TO ANY UNIT OR EQUIPMENT REGARDLESS OF ANY THEORY OF LIABILITY. ANY REFERENCES TO UNIT OR EQUIPMENT IN THIS PARAGRAPH SHALL BE DEEMED TO APPLY TO ALL UNITS AND EQUIPMENT PURCHASED FROM OR SUPPLIED TO THE SUBSCRIBER BY THE COMPANY.**

#### **HOLD HARMLESS AGREEMENT**

The Subscriber hereby agrees to defend, indemnify and save and hold harmless the Company and any underlying Carrier against claims for libel, slander, injurious falsehood or patent infringement, trademark, service mark, or copyright from the material transmitted in any form over or through its system and any other Carrier that provides the Services, the Unit and Equipment and through the Services by Subscriber or any person whom Subscriber allows to use the Services, the Unit and Equipment, and against claims for infringement of patents, trademarks, service marks, or copyrights arising from combining or using apparatus or systems of the Subscriber with the Company's system that provides the Unit, Equipment, and the Services of the Company or that of any other Carrier, and against all other claims arising out of any act or omission of the Subscriber in connection with the Services provided by Company or any other Carrier and the Unit. Customer is prohibited from posting on or transmitting through Services any unlawful, harmful, threatening, abusive, harassing, defamatory, vulgar, obscene, profane, hateful, racially, ethnically or otherwise objectionable materials of any kind.

#### **PRIVACY OF SERVICES**

Services are provided over a complex communications network and privacy cannot be guaranteed in the provision of Services. Company does not guaranty privacy or security of voice or data sent through the Services. Any private, sensitive or confidential information or trade secrets sent by Subscriber are sent at Subscriber's sole risk. COMPANY SHALL HAVE NO LIABILITY WHATSOEVER FOR ANY CLAIMS, LOSSES, ACTIONS, DAMAGES, SUITS OR PROCEEDINGS ARISING OUT OF OR OTHERWISE RELATING TO SUCH ACTIONS. Subscriber should be aware that when using the Services to access the Internet or any other online network or service, there are certain applications to allow other Services users and Internet users to gain access to Subscriber's computer and data and other information concerning the Subscriber. COMPANY SHALL HAVE NO LIABILITY TO SUBSCRIBER WHATSOEVER FOR ANY CLAIMS, LOSSES, ACTIONS, DAMAGES, SUITS OR PROCEEDINGS RESULTING FROM, ARISING OUT OF OR OTHERWISE RELATING TO ACCESS TO SUBSCRIBER'S DEVICE BY OTHERS.

#### **CONFIDENTIALITY OF INFORMATION**

Company has a duty under Federal law to protect the confidentiality of information about the quantity, technical configuration, type, destination and use of Services and similar information on invoices (excluding from such privacy rights your name, address and wireless phone number). Except as provided in this agreement, Company won't intentionally share personal information about Subscriber without Subscriber's permission. Company may use and share information about Subscriber (a) so Company can provide its goods and services, (b) so others can provide goods or services to Company or to Subscriber on Company's behalf, (c) so Company or its affiliates can communicate with Subscriber

about goods or Services related to ones already received (although Subscriber can call Company at any time if Subscriber does not want Company to do this), (d) to protect Company, or (e) as required by law, legal process, or exigent circumstances.

### **NO PHONE DIRECTORY LISTING PROVIDED**

Company will not provide Subscriber with a telephone directory nor will Company intentionally disclose Subscriber's wireless phone number for publication in any telephone directory.

### **CUSTOMER PROPRIETARY NETWORK INFORMATION (CPNI)**

Federal Communications Commission guidelines to protect Customer Proprietary Network Information (CPNI) require the use of a password when Subscriber contacts Company for account information, including, but not limited to, information that is specifically connected to Subscriber's service relationship with Company, and call detail information such as services provided, dates, times, locations, numbers involved, and duration of the inbound and outbound calls. If Subscriber chooses not to use the password or forgets the password, information may be disclosed if an answer can be given to a pre-determined security question. If Subscriber cannot provide the password or answer the security question, options for obtaining information will be: 1) to have a copy of Subscriber's requested information mailed to address of record, 2) Subscriber presents valid photo ID matching Subscriber's account information at a Company store, 3) a return call at the telephone number of record after giving the correct answer to the account's designated security question. The Subscriber listed as Responsible Party on account is responsible for sharing password and security question/answer with any Authorized User who is to have access to account information. Subscriber and Authorized Users are responsible for maintaining confidentiality of the password and security question answer after they are established with Company. To the extent permitted by applicable law, Company shall not be liable for disclosure of any CPNI when its disclosure is provided pursuant to the provision of the appropriate password and/or the correct answer to the security question. Only Company or Subscriber may change or modify the password or security question answer. Contact Company for the procedure to obtain a password and its modification.

### **GENERAL PROVISIONS**

This Agreement, which includes the terms of the selected Plan and Services, constitutes the complete agreement with Company and does not in any way create the relationship of principal and agent, joint venture, partner or employer and employee between Company and Subscriber. To the extent any condition in Subscriber's selected Plan or any summary of this Agreement expressly conflicts with this Agreement, this Agreement will govern. Company may assign in whole or in part its rights or duties under this Agreement without notice to Subscriber, and upon such assignment Company shall be released from all liability hereunder. Subscriber may assign this Agreement only upon the prior written consent of Company, which may be given at Company's sole discretion. Subject to this restriction, this Agreement shall apply to, inure to the benefit of, and be binding upon the heirs, successors, personal representatives, and permitted assigns of the respective parties. All notices to Subscriber shall be deemed given if deposited in the U.S. Mail, postage prepaid, or delivered to a recognized overnight delivery service, addressed to the Subscriber's address as shown on Company's records. All notices to Company shall be in writing and deemed given when actually received by the General Manager of Company at Cellular One, 28 Towne Centre, Danville, IL 61832. Should any part or portion of this Agreement be found invalid, the balance of the provisions shall remain unaffected and shall be enforceable. This Agreement, including all matters relating to the validity, construction, performance, and enforcement thereof, shall be governed by applicable Federal and Illinois State law. This Agreement is subject to amendment, modification or termination without notice as may be required or permitted by such regulations or laws. Whenever used, the singular shall include the plural, and the plural the singular, and the use of any gender shall be applicable to all genders. Time is of the essence in the performance of the Subscriber's obligations. Company's failure at any time to require strict performance by Subscriber of any of the provisions hereof shall not waive or diminish Company's right to thereafter demand strict compliance with any provisions of this Agreement.