

T-MOBILE TERMS AND CONDITIONS

is an agreement between you and T-Mobile USA, Inc and its affiliates (together "T-Mobile," "We" or "Us") for communication services and related services and features (the "Service"), and for the purchase and use of wireless devices, Smart Cards, and/or radio or other equipment, including additional or replacement equipment, for use with the Service ("Unit").

1. **Agreements Governing Use of Service.** These T-Mobile Terms and Conditions ("Terms and Conditions"), the T-Mobile Service Agreement you agreed to, and the terms and conditions related to use of any other T-Mobile service (together, the "Agreement"), govern the use of the Service and your Unit. These Terms and Conditions supersede all earlier versions and, among other provisions, impose an early cancellation fee (see paragraph 7) and **require mandatory arbitration of disputes** (see paragraph 3). If there is a conflict, between the Agreement and the T-Mobile Terms and Conditions sent with your Unit, the Agreement shall prevail. Please read them carefully before activating Service with Us.

2. **Acceptance of Agreement by Activation.** BY USING/ACTIVATING SERVICE WITH US YOU AGREE TO BE BOUND BY THE AGREEMENT. If you do not agree to the terms of the Agreement, do not use the Service. Instead, cancel Service and return your Unit as provided in paragraph 18. You must activate Service within thirty (30) days after purchase of your Unit (unless you return your Unit as provided in paragraph 18). If you fail to so activate, you will not be able to return your Unit and We will bill you monthly Service charges at the rate in your Service Agreement and you will be deemed to have accepted the Agreement.

3. **Mandatory Arbitration; Dispute Resolution.** ANY CLAIM OR DISPUTE BETWEEN YOU AND US ARISING UNDER OR IN ANY WAY RELATED TO OR CONCERNING THE AGREEMENT, AND/OR OUR PROVISION TO YOU OF GOODS, SERVICE, OR UNITS SHALL BE SUBMITTED TO FINAL, BINDING ARBITRATION WITH THE AMERICAN ARBITRATION ASSOCIATION ("AAA") PURSUANT TO ITS PUBLISHED WIRELESS INDUSTRY ARBITRATION RULES, INCORPORATED HEREIN BY THIS REFERENCE AND AVAILABLE BY CALLING THE AAA AT 800-778-7879 OR VISITING ITS WEB SITE AT <http://www.adr.org>. Any arbitration proceeding shall be subject to the choice of law provision in paragraph 22. Notice of an arbitration commenced by you must be served on our registered agent. No party may act as a representative of other claimants or potential claimants in any dispute, and two or more individuals' disputes may not be consolidated or otherwise determined in one proceeding. An arbitrator may not award relief in excess of or inconsistent with the provisions of the Agreement, order consolidation or arbitration on a classwide basis, or award lost profits, punitive, incidental, or consequential damages or any other damages other than the prevailing party's direct damages, except that the arbitrator may order injunctive or declaratory relief pursuant to applicable law. All administrative expenses of an arbitration will be equally divided between you and Us, except if the claim is less than \$1000, you will be obligated to pay only \$25. If the claim is less than \$25, We will pay all administrative expenses. Each party agrees to pay the fees and costs of its own counsel, experts, and witnesses at the arbitration. Subject to the foregoing limitations on consolidated or classwide proceedings, you agree, however, that if you fail to timely pay amounts due, We may assign you account for collection and the collection agency may pursue such claims in court limited strictly to the collection of the past due debt and any interest or cost of collection permitted by law or the Agreement.

YOU ACKNOWLEDGE AND AGREE THAT THIS ARBITRATION PROVISION CONSTITUTES A WAIVER OF ANY RIGHT TO LOST PROFITS, PUNITIVE, SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR TREBLE DAMAGES ("DISCLAIMED DAMAGES"), A JURY TRIAL OR PARTICIPATION AS A PLAINTIFF OR AS A CLASS MEMBER IN A CLASS ACTION. IF FOR ANY REASON THIS ARBITRATION CLAUSE IS DEEMED INAPPLICABLE OR INVALID, YOU AND WE BOTH WAIVE ANY CLAIMS TO RECOVER DISCLAIMED DAMAGES AND ANY RIGHT TO PURSUE, OR PARTICIPATE AS A PLAINTIFF OR AS A CLASS MEMBER IN, CLAIMS ON A CLASSWIDE, CONSOLIDATED, OR REPRESENTATIVE BASIS.

4. **Changes to Terms of Use.** We may modify the Agreement and/or increase the charges for Service (even if you have paid for Service in advance) at any time, upon notice to you. You may, upon receipt of such notice, terminate Service without incurring the cancellation fee (if any) by following the termination instructions forth in the notice. Failure to terminate Service according to such instructions within fourteen (14) days after the date of the notice shall mean that you agree to such modification and/or increase, and you must pay Us any additional charges even if you paid for Service in advance. You acknowledge that no T-Mobile employee, dealer or other agent is authorized to make any representation or warranty with respect to the Agreement, the Service or the Unit, or to waive or alter any provisions of the Agreement.

5. **Service Availability.** Service is available to your Unit only when it is within the range of our system or of an operator with which We have an applicable roaming agreement. Coverage maps you may have viewed are only estimates; actual service coverage and quality may vary. There are gaps in Service within the estimated service areas shown on coverage maps. Service is subject to unavailability, including emergency situations, transmission limits, network problems or limitations, your equipment, problems associated with interconnecting carriers, buildings, tunnels, signal strength and atmospheric or topographical conditions, and may be interrupted, dropped, refused, limited, or curtailed. We may impose credit, usage or Service limits, suspend Service, or block certain categories of calls (e.g., international, country, 900, 976) in our sole discretion to protect users or our business. Service shall not be transferred to another market except at our discretion, and We may impose transfer fees and limit the markets available for transfers. We are not liable for any Service limits, failures or outages, including without limitation, the failure of a 9-1-1 emergency call to be connected or completed (see paragraph 15). Location services, including 9-1-1 location services may not be available in your area and are subject to the Service limitations in this paragraph 5.

6. **Use of Service.** You agree not to resell any aspect of the Service, whether for profit or otherwise. You agree not to modify the Unit or use the Service or your Unit for any fraudulent, unlawful, harassing or abusive purpose, or in such a way as to create damage or risk to our business, reputation, employees, subscribers, facilities, third parties or to the public generally. You agree that you will not use the Service or your Unit to send any harassing, threatening, obscene, or unsolicited commercial text, e-mail or other messages. You have no proprietary or ownership rights to a specific telephone number, IP address, or e-mail address assigned to you or your Unit (collectively and individually, "Number"). We may change your Number at any time. You may not assign the Number to any other Unit. You shall not program any other Number into your Unit. You agree that We may contact you through your Unit or by e-mail to notify you of changes to or information about your account, the Service, or the Agreement. We may deactivate or suspend Service to any Number without prior notice to you if We suspect any unlawful or fraudulent use of the Number. You agree to reasonably cooperate with Us in investigating suspected unlawful or fraudulent use.

7. **Term; Termination of Service.** The Agreement begins on the date Service is activated (or is otherwise deemed to have been accepted as provided in paragraph 2) and will continue until terminated by you or Us in the manner provided in the Agreement. Notwithstanding termination you will be liable for payment of any amounts due or other obligations incurred before or upon termination, whether the Agreement is ended by you or Us. If you select a plan with a fixed term longer than one month (such as an annual plan or promotional plan), the term of Service shall continue for the number of full months applicable to the term selected (the "Fixed Term"). Service for plans without a Fixed Term may be terminated by you by providing thirty (30) days notice to Us. At the expiration of a Fixed Term, the Agreement will continue on a month to month basis unless We terminate Service for any reason upon three (3) days notice other than for breach (in which case We may terminate without prior notice), or unless you terminate Service for any reason by providing thirty (30) days notice to Us. If you breach the Agreement or attempt to terminate Service prior to the end of the Fixed Term, you agree to pay Us, as a reasonable estimate of our damages and in addition to other amounts owed, a \$200 cancellation fee per Number (which you agree may be deducted from your deposit, or automatically billed to your account). In addition, We may keep any amounts prepaid by you sufficient to cover any accrued charges and fees related to the Service you have used.

8. **Use of Unit With Other Providers.** You acknowledge that the Unit is not compatible with and will not work with the services provided by other wireless carriers (except when you are on our Service and roaming). You may buy equipment from Us, or from someone else. T-Mobile Internet/T-Zone service may not be available in all roaming markets.

Default; Termination. You will be in default under the Agreement if you do not pay any sum when due, breach the Agreement or any other agreement between you and Us, become the subject of any proceeding under the Bankruptcy Code or become insolvent. In any such case, you shall remain responsible for payment

of all charges and fees (including any early termina... fee) due to Us under the Agreement (including any ... charges after a Bankruptcy filing), which charges will be immediately due and payable. We have the right to discontinue Service and/or terminate the Agreement without prior notice if you default under the Agreement. If We agree to renew Service to you after discontinuing Service, you agree to pay reactivation charges. Our remedies hereunder are not exclusive but are in addition to all other remedies provided by law.

10. **Modifying Your Account.** Unless you have selected a special promotional rate plan, are a SmartAccess subscriber, or accepted promotional Unit pricing, you may, after verbal or written notice to Us and payment of any transfer fee assessed by Us, change to another rate plan. A modification to your account will not change the Fixed Term, unless you agree to a new Fixed Term as part of such modification. If We allow you to temporarily suspend your account, the Fixed Term will be extended by the length of the temporary suspension.

11. **Deposits.** We may require a deposit in which you grant Us a security interest to secure your payment of all amounts when due. Unless prohibited by law, deposits received by Us may be commingled with other funds, and will not earn interest. The amount of your deposit may be increased by Us in our discretion at any time upon notice to you. You may either provide Us with the increased deposit or terminate Service within seven (7) days following the date of such notice, and in the latter case any cancellation fee will be waived. A deposit may not be used to pay any amounts owed to Us (unless used to pay a final invoice) or to delay payment. You must promptly pay your bills even if you have given Us a deposit. If Service is terminated for any reason, any deposit will be applied to pay any of your charges and fees then or thereafter due. Any remaining deposit or other credit balance will be returned without interest (to the extent allowed by law) to you following termination at your address in our billing records. Unless otherwise prohibited by law (a) any balances of \$5 or less will not be returned but will automatically remain our property, and (b) if the Postal Service is unable to deliver the funds to you and returns them to Us, title to such funds shall be conclusively deemed to be ours, and you shall have no right to them.

12. **Billing and Payment of Charges.** You authorize T-Mobile to verify your creditworthiness from time to time with a credit reporting agency. You agree to pay in full each month all charges for Service under the Agreement, including regular monthly Service and Usage charges, and other charges or purchases billed to your account. Usage charges may include, without limitation, charges for calls, messages, and data that are processed through your Unit or through any Number assigned to or authorized by you, toll charges, long distance charges, additional or differently-calculated charges assessed by another service provider for calls, messages and data that are sent from or received by your Unit when you are outside our local calling area ("roaming" charges), any applicable landline access charges (directory assistance, etc.), and additional services or features which you use. You will be charged for Service and other features, based on a thirty day month, on a monthly billing cycle basis. Unused minutes or other allocated Services (e.g., text messages, data transmission) from any rate plans or features do not carry over to the next billing cycle. We may change your billing cycle at any time. Billing of roaming charges and minutes of use or Services may be delayed or applied against included minutes or Services in a subsequent billing cycle, which may cause you to exceed your allocated minutes or Services in a particular billing cycle. Any fraction of a minute used is rounded up and charged, or deducted from any allocated minutes, as a full minute; calls are measured from the time the Network begins to process the call (before the phone rings or the call is answered) through its termination of the call. For each call there may be additional charges including without limit: (a) airtime; (b) toll charges; (c) roaming; (d) Taxes, (e) features (such as web access, text messages, calling card use and voicemail) and services (such as operator or directory assistance). You will be charged for more than one call for certain features consisting of multiple inbound or outbound calls (such as call forwarding, call waiting and conference calling). Any Taxes as defined in paragraph 13 will be added to your charges as provided in paragraph 13. You agree not to rely on indicators on your Unit, such as the roaming and call time indicators, which may be inaccurate. If We have agreed that you may pay for charges with a credit card, We will charge the credit card, when We bill for the charges, for all amounts or other obligations incurred before termination. You also authorize Us to charge your credit card at or after termination of Service to pay what you then owe (including, but not limited to, payment of any cancellation fee). If you have not authorized charges to be made to a credit card, or if you revoke such authorization, or if for any reason your credit card issuer does not pay Us, We must receive payment from you on or before the due date, or We may suspend or terminate your Service without prior notice. Except as prohibited by law, charges, less disputed amounts, must be paid by the date shown on the monthly invoice. You agree that (a) time is of the essence; (b) it would be impractical to fix the exact amount of our damages if you fail to pay promptly; and (c) in the event We do not receive your payment by the due date shown on your monthly invoice, your payment is past due and you shall pay Us default interest of the lower of 1.5% per month (or any portion thereof) of any past due amount until paid, or the highest amount permitted by law.

If you believe your bill contains any incorrect charges (including Taxes), you must notify Us of such disputed charges within sixty (60) days from the date of the first bill that contains the disputed charges or you waive your right to dispute those charges. Please contact Customer Care at (800) 937-8997 or 611 from your T-Mobile phone so that we can adjust your account. If you accept a credit to resolve an issue, you agree the issue is resolved. We may require you to describe the dispute in writing. Any written communications concerning disputed amounts owed must be sent to: T-Mobile Consumer Relations, 1201 Menaul Blvd., Albuquerque, NM 87107. If it is determined that you owe some or all of the amount in dispute, that amount will be added to any current charges and must be paid by the date shown on the monthly invoice. If We accept late or partial payments or payments marked "Paid in Full" or similar notations, it will not waive any of our rights hereunder to collect all amounts that you owe Us nor will it constitute an accord and satisfaction. We may charge you a returned check fee of \$20 or such amount as may be permitted by law for any check returned for insufficient funds. If your Unit is lost or stolen (the "Lost or Stolen Unit") and (1) you immediately notify Us that your Unit has been lost or stolen, and (2) you notify Us to immediately deactivate the Lost or Stolen Unit, and (3) if the Unit was stolen, within fourteen (14) days, you provide Us with a copy of the filed police report, you will not be held liable for any unauthorized airtime charges incurred on the Lost or Stolen Unit. You must fulfill the remainder of your Fixed Term by purchasing and activating a replacement Unit, or you will be subject to the \$200 cancellation fee per Number.

13. **Taxes.** Any applicable sales, use, excise, public utility or other taxes, fees or regulatory costs, including without limitation E911-related fees or costs, or charges imposed on you or Us as a result of providing the Service or your Unit ("Taxes") will be added to your charges as permitted or required by law. If you are exempt from payment of any Taxes, you may provide Us with an original Tax Exempt Document. Tax exemption will only apply to Taxes incurred after the date We receive the Tax Exempt Document (you cannot receive credit for any Taxes already paid by you). You represent that the address you have provided to Us for billing purposes is either your residential or business street address. The address you provide, which must be within our licensed Service area, is used to bill certain Taxes. In some cases this address may indicate that you live in one local jurisdiction when you actually live in another. This could result in an incorrect charge for certain Taxes. Some states impose a tax based on the retail price or cost of our product instead of the discounted price.

14. **Disclaimer of Warranties.** EXCEPT AS TO ANY WRITTEN LIMITED WARRANTY THAT MAY BE PROVIDED, ALL SERVICES AND UNITS ARE PROVIDED ON AN "AS IS" AND "WITH ALL FAULTS" BASIS, AND WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF TITLE, MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE. YOU ASSUME ALL RESPONSIBILITY AND RISK FOR USE OF THE SERVICE OR UNIT. WE DO NOT AUTHORIZE ANYONE TO MAKE A WARRANTY OF ANY KIND ON OUR BEHALF AND YOU SHOULD NOT RELY ON ANY SUCH STATEMENT. ANY STATEMENTS MADE IN PACKAGING, MANUALS OR OTHER DOCUMENTS, OR BY ANY OF OUR AGENTS (EXCEPT AS TO ANY WRITTEN LIMITED WARRANTY THAT MAY BE PROVIDED), ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY AND NOT AS WARRANTIES BY US OF ANY KIND. NEITHER T-MOBILE NOR ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, DEALERS, SUPPLIERS, PARENTS, SUBSIDIARIES OR AFFILIATES ("T-MOBILE AFFILIATES") WARRANT THAT THE INFORMATION, PRODUCTS, PROCESSES, AND/OR SERVICES AVAILABLE THROUGH THE SERVICE OR UNIT WILL BE UNINTERRUPTED, ACCURATE, COMPLETE, USEFUL, FUNCTIONAL OR ERROR FREE. IF YOU RECEIVED A WRITTEN "T-MOBILE LIMITED WARRANTY" WITH YOUR UNIT, IT IS THE ONLY WARRANTY MADE BY US WITH RESPECT TO THE UNIT. Some states do not allow the disclaimer of implied warranties, so the above exclusion may not apply to you in whole or in part.

15. **Limitation of Liability.** We shall not be liable for any deficiency in performance caused in whole or in part by act or omission of an underlying carrier or service provider, dealer, equipment or facility failure, Unit failure, network problems, lack of coverage or network capacity, equipment or facility upgrade or modification, acts of God, strikes, fire, terrorism, war, riot, emergency, government actions, equipment or facility shortage or relocation, or causes beyond our reasonable control, including without limitation the failure of an incoming or outgoing call, including a 9-1-1 emergency call, to be connected or completed or for the

availability of location services, including 9-1-1 location services. EVEN IF T-MOBILE OR ANY OF THE T-MOBILE AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF DAMAGES, THEY WILL NOT BE LIABLE TO YOU OR ANY OF YOUR EMPLOYEES, AGENTS, CUSTOMERS OR ANY THIRD PARTIES OR ANY DAMAGES ARISING FROM USE OF THE SERVICE OR ANY UNIT, INCLUDING WITHOUT LIMITATION: DISCLAIMED DAMAGES OR LOSS OF PRIVACY DAMAGES; PERSONAL INJURY OR PROPERTY DAMAGES; OR ANY DAMAGES WHATSOEVER RESULTING FROM INTERRUPTION OR FAILURE OF SERVICE, LOST PROFITS, LOSS OF BUSINESS, LOSS OF DATA, COST OF REPLACEMENT PRODUCTS AND SERVICES, SUSPENSION, TERMINATION, OR THE INABILITY TO USE THE SERVICE, THE CONTENT OF ANY DATA TRANSMISSION, COMMUNICATION OR MESSAGE TRANSMITTED TO OR RECEIVED BY YOUR UNIT, OR LOSSES RESULTING FROM ANY GOODS OR SERVICE PURCHASED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH THE SERVICE. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR OTHER MODIFICATIONS OF OR LIMITATIONS TO CERTAIN REMEDIES, SO THE ABOVE EXCLUSION OR LIMITATION MAY NOT APPLY TO YOU, IN WHOLE OR IN PART.

THE MAXIMUM AGGREGATE LIABILITY OF T-MOBILE AND ANY T-MOBILE AFFILIATES TO YOU, AND THE EXCLUSIVE REMEDY AVAILABLE IN CONNECTION WITH THE AGREEMENT FOR ANY AND ALL DAMAGES, INJURY, LOSSES ARISING FROM ANY AND ALL CLAIMS AND/OR CAUSES OF ACTION RELATED TO THE SERVICE OR UNIT, SHALL BE TO RECOVER THE PRORATED MONTHLY OR OTHER CHARGES TO YOU FOR THE APPLICABLE SERVICE OR UNIT. THE EXISTENCE OF MULTIPLE CLAIMS OR SUITS UNDER OR RELATED TO THIS AGREEMENT WILL NOT ENLARGE OR EXTEND THE LIMITATION OF MONEY DAMAGES. YOU AGREE THAT INCLUSION OF THIS PARAGRAPH WAS A MATERIAL CONSIDERATION FOR T-MOBILE TO ENTER THE AGREEMENT.

THE LIMITATIONS SET FORTH IN THE PRECEDING TWO PARAGRAPHS ARE INDEPENDENT OF EACH OTHER AND BOTH THE LIMITATION OF DAMAGES AND LIMITATION OF REMEDY SET FORTH ABOVE WILL SURVIVE ANY FAILURE OF THE ESSENTIAL PURPOSE OF ANY OR ALL PARTS OF THE LIMITED REMEDY SET FORTH IN THE PARAGRAPH IMMEDIATELY ABOVE.

16. **Indemnification.** You agree to defend, indemnify and hold Us, any underlying carrier, and the T-Mobile Affiliates harmless from and against any and all claims, demands, actions, liabilities, costs or damages arising out of your use of the Service or a Unit or your violation of the Agreement. You further agree to pay our reasonable attorneys' and expert witnesses' fees and costs arising from any actions or claims hereunder and those incurred in establishing the applicability of this paragraph.

17. **Privacy.** Wireless systems use radio channels to transmit voice and data communications over a complex network. Privacy cannot be guaranteed, and We shall not be liable to you for any lack of privacy you experience while using your Unit or the Service. We have the right to intercept and disclose any transmissions over or using our facilities, and to provide subscriber billing, account, or calling records, and related information under certain circumstances (e.g., in response to lawful process, orders, subpoenas, or warrants, or to protect our rights or property). Your caller identification, (e.g. your name and number) may be displayed on the equipment or bill of the person receiving your call. Please consult the T-Mobile privacy policy for information on the use and disclosure of information.

18. **Cancellation and Return Policy.** You may cancel Service without paying any applicable cancellation fee if within the Return Period (defined below) you: (a) contact Us to cancel Service and (b) return the Like New Unit (defined below) you purchased from Us or our authorized agents (if any) with proof of purchase to the place of purchase. The "Return Period" is the earlier of fourteen (14) calendar days from Service activation, or thirty (30) calendar days from the Unit's purchase date if not activated. Only Like New Units returned with proof of purchase to the place of purchase within the Return Period are eligible for a refund of the purchase price. A "Like New Unit" is a Unit purchased from Us or our authorized agents in its original packaging with all original contents, undamaged and in good working condition as determined by Us in our sole discretion. You may be required to pay a restocking fee. Even if you cancel Service and/or return your Unit as provided herein, you must pay all Service and usage charges incurred prior to cancellation or return and any subsequent penalties or assessments.

19. **Assignment.** We may assign in whole or in part our rights or duties under the Agreement without prior notice to you and upon such assignment We shall be released from all liability hereunder. You may assign the Agreement only with our prior written consent. Subject to this restriction, the Agreement shall inure to the benefit of and be binding upon the heirs, successors, subcontractors, and assigns of the respective parties.

20. **Notices.** Written notices to you shall be considered given and received by you on the third day after the date deposited in the U.S. Mail addressed to you at your address in our billing records or immediately upon delivery using electronic means such as e-mail or text messaging. Written notice to Us shall be considered given when received by our registered agent.

21. **Severability.** If any provision of these Terms and Conditions is held to be inapplicable or unenforceable in your state, including any limitations in paragraphs 3, 14 or 15, then such provision shall be construed, as nearly as possible, to reflect the intentions of the parties with the other provisions remaining in full force and effect, and the balance of the provisions shall remain unaffected and in full force and effect, unless our obligations hereunder are materially impaired, in which event We reserve the right to terminate the Agreement.

22. **Governing Law; Venue and Statute of Limitations.** The Agreement, its validity, construction and performance, shall be governed by the laws of the state associated with your Number. Arbitration proceedings or any actions to enforce an arbitral award shall be in the state where your Service is principally provided. In no event shall any arbitration be commenced outside the U.S., nor shall any law outside the U.S. be applied. Except as otherwise provided in the Agreement, and unless prohibited by law, any controversy, claim or dispute must be brought by you within one (1) year of the date you are entitled to assert any such claim.

23. **Entire Agreement.** The Agreement represents the final and entire agreement between you and Us regarding the Service and the Unit. Except as otherwise provided in the Agreement, no prior or subsequent handwritten, typed, or oral change to the Agreement will be valid unless We accept it in writing. Our failure at any time to require strict performance by you or any other Subscribers of any of the provisions herein shall not waive or reduce our right to thereafter require strict compliance with any provisions of the Agreement. Electronic images of the Agreement shall be considered originals.

24. **Signing Authority; Authorized User.** You acknowledge that you are of legal age, have received a true copy of the Agreement and have read and clearly understand the terms of the Agreement and, if activating on behalf of a corporation or other entity, are fully authorized to legally bind such entity. You acknowledge that you are responsible for all charges incurred by any person you authorize to access your account, or to use your Unit or the Service.

25. **Survival.** The following provisions, and any other provisions which may reasonably be construed as surviving, and the rights and obligations of the parties thereunder, shall survive any termination of the Agreement for any reason: paragraphs 3, 5, 7, 9, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, the Prepaid section below, and the terms and conditions related to your use of other T-Mobile services.

Prepaid Customers: If you purchase prepaid Service of any kind, these Terms and Conditions apply to you except as follows. When purchasing prepaid Service, you are responsible for prepaying all charges for using the Service. The balance in your prepaid account is reduced by the charges attributable to your use of the Service. You must keep a positive balance in your prepaid account to continue using the Service. The prepaid Service you purchase will expire within a certain time period. The expiration period will be disclosed in the materials you receive at the time of your purchase of prepaid Service. If you have any questions regarding the expiration date, the balance remaining on your prepaid Service, or any other questions regarding your prepaid Service, please contact Customer Care. Prior to expiration, you may extend the expiration period by purchasing additional prepaid Service. If you permit your account to expire, you will lose the use of your Number. You will not receive a monthly invoice or activity record for use of prepaid Service. Prepaid Service is non-refundable, and no refunds or other compensation will be given for lost or stolen prepaid cards or coupons. Unused prepaid account balances become our property upon expiration or termination of the Service purchased, and will not be refunded, notwithstanding a modification as provided under paragraph 4. Any applicable Taxes will be included in your

Prepaid charges.

SmartAccess Customers. If you are a SmartAccess customer these Terms and Conditions apply and in addition, this paragraph applies. SmartAccess is subject to credit eligibility, in our discretion. We may suspend Service to any Number without prior notice to you if your account balance exceeds your spending limit or you are late with a payment (whether or not you exceed your spending limit). If We suspended Service because your account balance exceeded your spending limit, We will reinstate Service after you make a payment that reduces your account balance below \$100 and if your account is not in arrears. If We suspended Service because you were late with a payment, We will reinstate Service if you pay the entire balance owing on your account. You will be liable for all charges for Service under the Agreement, including regular monthly Service and Usage charges, and other charges or purchases billed to your account, whether or not you reinstate Service. SmartAccess Customers shall only be eligible for select rate plans and may not change their rate plans to non-Smart Access rate plans. Smart Access activation fees are non-refundable unless you: (a) purchased the Unit and Service directly from a T-Mobile store, t-mobile.com or through 800-TMOBILE and (b) cancel Service and return the Unit in accordance with paragraph 18.

Internet Service Customers: If you use T-Mobile Internet Service or T-Zone service or related services, features or Units ("Internet Service"), the following Internet Service Terms and Conditions also apply. In the event of any conflict between the preceding Terms and Conditions and the following Internet Service Terms and Conditions, the Internet Service Terms and Conditions shall govern.

1. Acceptance of Terms. By activating or using your Internet Service, you agree to be bound by these Internet Service Terms and Conditions.

2. Changes to Terms of Use. We reserve the right to change the Internet Service Terms and Conditions in our sole discretion from time to time. If we change them, we will post a notice on www.t-mobile.com for 10 days after the date of each change, which can be viewed by clicking on "Check for Changes to our Internet Service Terms and Conditions." We will also note that we have made such a change in the T-Mobile "Terms of Use" page available via your Unit. You agree to check for changes to the Internet Service Terms and Conditions frequently by checking the "Terms of Use" page via your Unit, and by checking the www.t-mobile.com website. Your continued use of the Internet Service following notice or posting of any changes to the Internet Service Terms and Conditions means you have accepted those changes.

3. Fees/Payment/Termination of Service. T-Mobile offers the Internet Service as a supplement or a stand alone to its wireless voice services. If you have a voice and Internet Service plan, T-Mobile may terminate your Internet Service subscription upon suspension or cancellation of your voice-calling plan. Subscribers who enroll in prepaid calling plans with T-Mobile are not eligible to subscribe to the Internet Service.

You agree to pay a monthly charge for the Internet Service. You will receive an allotment of megabytes with your Internet Service, or voice plan minutes may be decremented for the time you use the Internet Service. Monthly megabyte allotments, unused voice plan minutes or other allocated services from any rate plans or features do not carry over from month to month. You understand that if you exceed your allotment of megabytes or voice minutes under your rate plan, you will pay the per-megabyte or per minute fees set forth in the rate applicable to the T-Mobile service plan you have selected. Megabytes or voice plan minutes will be deducted from the data plan allotment associated with your Internet Service for, without limitation, browsing the wireless Internet, reviewing or scrolling through information (including account information), synchronization between software or Units, and reading and responding to e-mail. Any fraction of a megabyte of usage will be rounded up and charged, or deducted from any allocated megabytes, to the next two (2) kilobytes (rates may vary if you are roaming outside of our network). If your Unit is used to access the Internet Service, you will be obligated to pay all charges arising from such use of your Unit. You will be charged for all data sent through our network, regardless of whether your Unit actually receives the information. Compression may impact the total amount billed to your account. The amount of data you may store is limited, and you may be charged for storage of data that exceeds such limitation. In some cases our network will resend data packets to ensure complete delivery; you will be billed for these resent packets. When available, roaming rates apply when downloading or sending data outside of our network. See t-mobile.com or call Customer Care at (800) 937-8997 or 611 from your Unit to get more information about the fees and charges associated with use of the Internet Service, sending and receiving text messages, and (if applicable) use of your voice-calling plan.

If you terminate service or if T-Mobile suspends or terminates your service, T-Mobile may in its discretion delete all user data, including e-mail, calendar entries, and all other personalized data without notifying you. If you change to another T-Mobile plan (including another Internet plan) that does not include the same type of services you previously received, information associated with previous services not provided under your new plan will be deleted immediately. Once T-Mobile deletes the information, it cannot be restored.

4 Availability of the Internet Service. A SIM card and/or other devices will be required to enable Internet Service to operate. If you do not have a voice-calling plan, or choose to have separate SIM cards for your voice-calling and data plans, you will need to activate the SIM card included with your wireless data compatible Unit by using a personal computer and following the activation process described in the product packaging. The availability and performance of the Internet Service is subject to all memory, storage and other limitations in the Unit. The availability or content of certain Internet Service features may be changed without notice. The Internet Service is available only for some T-Mobile service plans. It may not be available in some T-Mobile markets outside the United States.

Because of coverage and technology limitations, weather and other factors, wireless information may not be accessible to you at all times and you may lose access to your data connection while you are actively using the Internet Service. We are not responsible for messages or pages that you may lose or that become misdirected because of interruptions or performance issues with the Internet Service or wireless communications networks more generally. If you lose your connection to the Internet Service, you may be required to reconnect using a dial-up connection in certain areas where GPRS coverage is unavailable. If you establish a dial-up connection where GPRS coverage is unavailable, your voice plan minutes will be decremented for the time you use the Internet Service or, if you do not have a voice plan and establish a dial-up connection, you will be charged for each minute of usage. Dial-up connections are billed in full minute increments from the time the wireless network begins to process the connection (before the call rings or is answered) through its termination of the connection; any fraction of a minute used is rounded up and charged, or deducted from any allocated minutes, as a full minute. Call T-Mobile at (800) 937-8997 or 611 from your phone or visit our website at www.t-mobile.com for availability and equipment compatibility information.

5 Accessible Content. Depending on your Unit and method of accessing the Internet Service, significantly less information may be available on the wireless Internet. Many Internet sites may not be accessible, and you may receive an error message while trying to access a site. T-Mobile reserves the right to block information from certain domains to protect you from unsolicited information, transmission or distribution of illegal content, or to protect the T-Mobile network. However, we assume no obligation to block such information. Therefore, e-mail messages and other content may be deleted before delivery. The Internet Service can support some external POP3-based, third-party e-mail providers. T-Mobile does not, however, provide any technical support and is not responsible for obtaining or maintaining such access to external e-mail providers. Network speed is no indication of the speed at which your Unit sends or receives data. Actual network speed will vary based on Unit configuration, compression and network congestion. The accuracy and timeliness of the data is not guaranteed; delays or omissions may occur.

6. Consent to Monitoring and Disclosure. T-Mobile has no obligation to monitor the information or content that is available or transmitted to you through the Internet Service. However, T-Mobile may monitor these materials periodically to (1) comply with any applicable laws, regulations or other governmental orders; and (2) operate the Internet Service properly or to protect itself and its users. T-Mobile reserves the right to delete, reject or eliminate in whole or in part any information available or transmitted through the Internet Service that, in T-Mobile's sole discretion, is in violation of these terms and conditions or is otherwise inappropriate or unacceptable.

Content Disclaimer: Cautions and Restrictions. T-Mobile is a wireless Internet service provider. It does not control, nor is it in any way liable for, data or content that you access or receive via the Internet Service. T-Mobile is not a publisher of third-party content that can be accessed through the Internet Service. T-

T-Mobile is not responsible for the number of text messages and alerts that you send or receive via the Internet Service. T-Mobile is not responsible for any opinions, advice, statements, services or other information provided by third parties and accessible through the Internet Service. You are responsible for evaluating such content. You are responsible for paying all fees and charges from third party vendors whose sites, products or services you access, buy or use via the Internet Service. T-Mobile does not guarantee the accuracy, completeness or usefulness of information that is obtained through the Internet Service, and delays or omissions may occur. Inclusion in the Internet Service of any hypertext link or other reference to any products, services or information of any third party does not constitute or imply any endorsement, sponsorship or recommendation by T-Mobile. The Internet Service is not intended to provide tax, legal, investing or other advice. Reproduction, retransmission, dissemination, or sale of the Internet Service or content is prohibited.

Your mobile phone number is transmitted to any site you visit while using the Internet Service. If you choose to use the Internet Service to access websites or content provided by third parties or purchase products from third parties, then your subscriber identification (including your mobile phone number and handset identification number) may be available to the third-party provider. The way third parties handle and use your personal identification and information related to the use of their services is governed by their policies and T-Mobile has no responsibility for their policies, or third parties' compliance with them.

1. Acceptable Use Policy. You agree to comply with this Acceptable Use Policy when using the Service, Unit or the T-Mobile website. Unacceptable uses include, but are not limited to:

- 1) Intentionally or unintentionally violating any applicable law or regulation;
- 2) Harming or attempting to harm minors in any way;
- 3) Posting or transmitting any content that you do not have the right to post or transmit under any law, contractual duty or fiduciary relationship;
- 4) Posting or transmitting any content that infringes a third party's trademark, patent, trade secret, copyright, publicity, or privacy right;
- 5) Posting or transmitting any content that is unlawful, untrue (including incomplete, false or inaccurate biographical information), stalking, harassing, libelous, defamatory, abusive, tortious, threatening, obscene, hateful, abusive, harmful (including but not limited to viruses, corrupted files, or any other similar software or programs) or otherwise objectionable;
- 6) Attempting to collect or store personal data about third parties without their knowledge or consent;
- 7) Deleting, tampering with or revising any material posted by any other person or entity;
- 8) Accessing, tampering with or using non-public areas of the Service, Unit or T-Mobile website or T-Mobile's computer systems and network;
- 9) Attempting to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without proper authorization;
- 10) Attempting to access or search the Service or T-Mobile website with any engine, software, tool, agent, device or mechanism other than the software and/or search agents provided by T-Mobile or other generally available third party web browser (such as Microsoft Internet Explorer or Netscape Navigator);
- 11) Sending unsolicited email, including without limitation, promotions or advertisements for products or services, "pyramid schemes", "spam", "chain mail" or "junk mail";
- 12) Forging any IP packet header or any part of the header information in any email or newsgroup posting, or in any way using the Service, Unit or T-Mobile website to send altered, deceptive or false source-identifying information in violation of state, national and foreign law;
- 13) Attempting to decipher, decompile, disassemble or reverse engineering any of the software comprising or in any way making up a part of the Service, Unit or T-Mobile website;
- 14) Interfering or attempting to interfere with the access of any user, host or network, including without limitation, sending a "virus" to the Service, Unit or T-Mobile website, overloading, "flooding," "spamming," "crashing," or "mailbombing" the Service, Unit or the T-Mobile website; or
- 15) impersonating or misrepresenting your affiliation with any person or entity.

Violations of any of the above, including intellectual property infringement and breaches in security, will be investigated by us and, where appropriate, T-Mobile may institute legal action, or cooperate with law enforcement authorities in bringing legal proceedings, against users who violate the Acceptable Use Policy.

1. Digital Millennium Copyright Act ("DMCA") Notice. In operating the Internet Service, T-Mobile may act as a "services provider" (as defined in the DMCA) and offer services as online provider of materials and links to third party site wireless websites. As a result, third party materials that are not owned or controlled by T-Mobile may be transmitted, stored, accessed or otherwise made available using the Internet Service. If you believe any material available via the Internet Service infringes a copyright, you should notify T-Mobile using the notice procedure for claimed infringement under the DMCA. T-Mobile will respond expeditiously to remove or disable access to the material claimed to be infringing and will follow the procedures specified in the DMCA to resolve the claim between the notifying party and the alleged infringer who provided the applicable content. The T-Mobile designated agent (i.e., proper party for notice) to whom you should address infringement notices under the DMCA is Corporation Services Company, 1010 Union Ave. SE, Olympia, WA 98501.

2. Other Terms. As a reminder, these T-Mobile Internet Service Terms and Conditions, as well as the T-Mobile Terms and Conditions and your T-Mobile Service Agreement, each of which is incorporated herein by reference, are part of your legal agreement with T-Mobile.