

The following EarthLink Mobile™ Supplemental Terms and Conditions (“**Mobile T&C’s**”) are in addition to the Agreement For Service Terms and Conditions or Master Service Agreement entered into between EarthLink (“**EarthLink**”) and the Customer identified below relating to Customer’s purchase of voice, data and/or Internet services from EarthLink (“**Agreement**”). The parties agree to amend and/or supplement the Agreement as set forth herein. For purposes of this Mobile T&C’s, “EarthLink” means EarthLink, LLC and its related entities that is/are certified to provide the Service(s) in the applicable state(s). Except to the extent set forth herein, or in any other agreement mutually agreed to between the parties, all of the terms and conditions set forth in the Agreement shall remain in full force and effect. Capitalized terms used herein but not otherwise defined shall have the same meaning assigned to such terms in the Agreement. In the event of any conflict between the terms set forth in this Mobile T&C’s and the Agreement, and any other agreement executed between the parties, the terms of this Mobile T&C’s shall prevail.

1. **Usage Plans.** Any EarthLink Mobile™ Plan (“**Mobile Plan**”) selected by Customer shall be part of the Agreement. Customer’s Mobile Plan includes Customer’s monthly service allowances and features, the coverage areas in which those allowances and features may be used, and the recurring access and pay-per-use charges associated with those allowances and features, as set forth in the documentation provided to Customer. Customer may change its Mobile Plan at any time during the Term. International calling will be blocked on the mobile device and will only be activated upon request by an authorized representative of Customer.
 - (i) Customer’s connectivity charges may vary depending on the calling plan selected, time, location, network area, number dialed and services used. Additional charges will also apply upon Customer’s use or activation of additional features, multiple simultaneous calls for certain services (including call-waiting, call-forwarding, or 3-way calling), and for excessive, illegal or improper mobile data usage (as more fully described in the Acceptable Use Policy). If Customer uses its mobile device outside the rate area as set forth in Customer’s Plan, or access another company’s mobile network for any reason, Customer will be responsible for any charges incurred, including long distance, toll, and roaming charges. Airtime and other measured usage charges are billed in full-minute or such other increments as EarthLink determines, and EarthLink may round up any such usage charge to the next minute in billing those increments.
 - (ii) If Customer gives its personal account validation information to a third party, such third party may access and make changes to Customer’s account.
 - (iii) Customer may request to switch to another rate plan, and if EarthLink authorizes the change, a transfer fee may apply and the new rates will become effective upon next billing cycle. Changes may require Customer’s agreement to a new Service Term (if Customer selects a promotional rate plan or special mobile device pricing) or new terms and conditions.
 - (iv) Customer may be charged for data sent or received (including, without limitation, “free” software downloads, messaging, unsolicited information and advertisements), regardless of whether the data is requested, actually or completely delivered, received or stored. In some cases data packets will be resent to ensure complete delivery; Customer may be billed for these resent packets. Customer understands that mobile data Service connection (and billing) starts at the time Customer logs on to the Service and does not end until Customer properly logs off and the network terminates the connection (after log off). If Customer (a) does not properly log off, (b) leaves the coverage area during a session, or (c) loses Customer’s connection for any reason, then billing will not terminate until at least several minutes after Customer loses Customer’s connection and Customer will be charged for this period. If Customer exceeds any applicable allotment of minutes or megabytes (“**Mb**”) under Customer’s rate plan, Customer will pay the per minute and/or per-Mb overage fees applicable to Customer’s rate plan.
 - (v) UNUSED MINUTES, MB’S, OR OTHER ALLOCATED SERVICES FROM ANY RATE PLANS OR FEATURES DO NOT CARRY OVER TO SUBSEQUENT BILLING CYCLES. ALL MINUTES OF USE ARE BILLED IN FULL MINUTE INCREMENTS; ALL MB’S OF USE ARE BILLED IN FULL MB INCREMENTS; ANY FRACTION OF A MINUTE OR MB OF USAGE IS ROUNDED UP AND CHARGED, OR DEDUCTED FROM ANY ALLOCATED MINUTES OR MB’S, AS A FULL MINUTE OR MEGABYTE ON A PER SESSION BASIS. ANY TAXES, ASSESSMENTS, FEES, COSTS OR CHARGES IMPOSED ON US OR CUSTOMER AS A RESULT OF PROVIDING THE SERVICE WILL BE ADDED TO CUSTOMER’S CHARGES AND ARE SUBJECT TO CHANGE OR INCREASE AT ANY TIME WITHOUT NOTICE.

2. Data Plans and Features.

- (i) **Permitted Uses.** The Data Plans or Features are for individual use only and Customer may not offer them for resale or as a shared resource. Customer may use EarthLink Data Plans and Features for accessing the Internet and for such uses as: (a) Internet browsing; (b) e-mail; (c) intranet access (including accessing corporate intranets, e-mail and individual productivity applications made available by Customer); (d) occasional uploading, downloading and streaming of audio and video files; and (e) Voice over Internet Protocol (VoIP).
- (ii) **Prohibited Uses.** Customer may not use EarthLink Data Plans and Features for illegal purposes or purposes that infringe upon others' intellectual property rights, or in a manner that interferes with other users' service, interferes with the network's ability to fairly allocate capacity among users, or that otherwise degrades service quality for other users. Examples of prohibited usage include but are not limited to: (i) server devices or host computer applications, including continuous Web camera posts or broadcasts, automatic data feeds, automated machine-to-machine connections, or peer-to-peer (P2P) file-sharing applications that are broadcast to multiple servers or recipients such that they could enable "bots" or similar routines (as set forth in more detail in (iii) below) or otherwise denigrate network capacity or functionality; (ii) as a substitute or backup for private lines or dedicated data connections; (iii) "auto-responders," "cancel-bots," or similar automated or manual routines that generate amounts of net traffic that could disrupt net user groups or e-mail use by others; (iv) generating "spam" or unsolicited commercial or bulk e-mail (or activities that facilitate the dissemination of such e-mail); (v) any activity that adversely affects the ability of other users or systems to use either EarthLink services or the Internet-based resources of others, including the generation or dissemination of viruses, malware, or "denial of service" attacks; (vi) accessing, or attempting to access without authority, the information, accounts or devices of others, or to penetrate, or attempt to penetrate, EarthLink's or another entity's network or systems; or (vii) running software or other devices that maintain continuous active Internet connections when a computer's connection would otherwise be idle, or "keep alive" functions, unless they adhere to EarthLink's requirements for such usage, which may be changed from time to time. By way of example only, Customer may not use a Data Plan or Feature for web broadcasting, or for the operation of servers, telemetry devices and/or Supervisory Control and Data Acquisition devices. If Customer's usage on a Data Plan or Feature that does not include a specific monthly Megabyte allowance or is not billed on a pay-as-you-use basis, the plan is limited to 1Gb during the billing cycle and is deemed to be in a manner similar to those described in these terms and conditions. Usage in excess of the 1Gb will, at EarthLink's option, be subject to overage charges and, during any billing period, EarthLink reserves the right to deny, disconnect, modify, and/or terminate service, without notice, to anyone believed to be using the service in any manner prohibited.

3. **Service Limitations.** Customer's mobile device operates as a radio and Service is only available when Customer's mobile device is within range of an antenna providing Service. Coverage maps only approximate the EarthLink wireless coverage area outdoors; actual service area, coverage, and quality may vary and change without notice. There may be gaps in Service within the estimated coverage areas shown on coverage maps. Even within a coverage area, a number of factors, such as: network changes, emergencies, traffic volume, transmission limits, service outages, technical limitations, signal strength, Customer's equipment, interconnecting carriers, terrain, structures, weather and other conditions (without limit) may interfere with actual service, quality, and availability. Calls may be interrupted, dropped, refused, or limited. Coverage maps may depict coverage in areas where networks are operated by EarthLink affiliates and roaming partners; such coverage may change without notice. EarthLink is not responsible for those networks and some Services are not available on third-party networks or while roaming. Data transmitted over wireless devices may not be secure and may be intercepted by others unless Customer takes appropriate security measures. EarthLink may impose credit, usage, or other limits to Service, cancel or suspend Service, or block certain types of calls, messages, or sessions (such as international, 900, or 976 calls) at its discretion. EarthLink may suspend Service without notice if Customer exceeds any credit limit. Service may not be transferred to another market except at EarthLink's discretion, and EarthLink may charge transfer fees. The supplier of Services to EarthLink shall have no liability whatsoever for Customer's losses, claims or damages for any cause whatsoever, including but not limited to any failure or disruption of Services provided hereunder, regardless of the form of action, whether in contract or in tort or otherwise. Customer shall not be deemed a third-party beneficiary of any contract between EarthLink and EarthLink's supplier.

4. **Mobile Devices.** Customer will pay shipping charges based on the number of devices shipped to a single location. Customer's mobile devices must comply with FCC regulations and be compatible with EarthLink's supplier's network and Customer's Mobile Plan. At times EarthLink may change Customer's mobile device's software, applications or

programming remotely and without notice. This could affect data stored on the mobile device, the way the mobile device is programmed, or the way the mobile device is to be used. EarthLink in no way guarantees that Customer's mobile device will be capable of being reprogrammed for use with another wireless carrier network after the service programming code is entered or that another wireless carrier will accept Customer's mobile device for use on its network. Customer may be eligible to replace its mobile device during the term of their agreement contingent upon the following:

- (i) Customer must pay an In-term Upgrade charge. The amount is determined based on the current length of Service that Customer has been active to the number of months remaining under the current agreement.
 - Months 1 – 12: \$300
 - Months 13 – 24: \$200
 - Months 25 – 36: \$100
 - (ii) Customer must execute a new minimum 24-month term agreement with the new device. All device, service, and shipping fees will apply.
5. **Lost, Stolen or Damaged Devices.** If Customer's mobile device is lost or stolen, Customer shall notify EarthLink immediately for Customer's own protection, so that EarthLink can temporarily suspend Customer's Service to prevent further usage. Customer may dispute charges to Customer's phone after such loss but before Customer reported it to EarthLink, and EarthLink may investigate Customer's account activity. Customer does not have to pay the charges properly disputed while the account is investigated. If a mobile device is lost, damaged, stolen or otherwise inoperable, EarthLink will replace the equipment with the same or currently offered compatible devices at no cost to Customer other than the deductible, with the following stipulations:
 - (i) Customer subscribes to the Device Insurance Plan at the time the Agreement was executed
 - \$100 deductible per incident.
 - Up to two (2) replacements per MDN per year.
 - Activation fees do not apply to replacement activation.
 - Customer will return damaged devices pursuant to the instructions provided by EarthLink. If the damaged device is not returned within ten (10) days of receipt of the replacement device by Customer, Customer will be charged the full retail value of the replacement device instead of the deductible.
 - (ii) If the Customer does not subscribe to the Device Insurance Plan, the customer is required to continue paying the device monthly recurring charge until the end of the initial contracted term. Customer may select a new device and execute a new agreement for services.
6. **30 Day Guaranty.** If, within the first 30 days of Service, Customer experiences service outages or coverage issues, Customer may terminate its Mobile Service and receive a refund of the amount Customer paid at the time of purchase for the mobile device and fees related to the Service, if any, but does not include a refund of any activation charges, voice minutes, shipping, taxes or handling fees. To receive a refund, Customer must contact Customer Care Representative at (855) EL-Care-1 (email notifications will not be accepted) to terminate Service. Customer Care will provide Customer with a return authorization number ("RMA Number") and instructions on how and where to return Customer's equipment. Equipment received without an RMA Number will not be accepted. EarthLink will terminate Customer's Service and credit Customer's account accordingly. Please note that in order to receive a refund, Customer must return the entire mobile device Kit to the address given to Customer by EarthLink within ten (10) days of terminating Customer's Service. The Kit includes the original packaging for the mobile device, the mobile device itself undamaged and in working condition, the charger, the battery, USB cables or cords, holsters, CD-ROMs, instruction booklets, and/or any other materials included with the mobile device in the original packaging. If Customer fails to return Customer's mobile device Kit within ten (10) days of terminating Customer's Service, Customer will be charged the full retail cost of the Mobile device Kit minus any amount that Customer originally paid for the mobile device. If the mobile device is found not to be in its original condition, EarthLink may charge Customer to restore it to that original condition. Voice minutes will be billed on a pro-rata basis. Customer is responsible for shipping the mobile device back to EarthLink at Customer's expense.
7. **Early Termination Fee.** Customer may terminate Service by contacting a Customer Care Representative at (855) ELCare-1 (email notifications will not be accepted). Service will be terminated within 2 business days. If Customer

terminates its Mobile Service after the first 30 days of Service but before the expiration of Customer's current term, Customer will be charged the following early termination fee:

- Months 2-12: \$300;
- Months 13-24: \$200;
- Months 25-36: \$100.

Customer is responsible for all charges including voice minutes, and taxes until termination, but will not be charged any additional fees for the remainder of the Term.