

WIARCOM, INC. GENERAL TERMS AND CONDITIONS OF SERVICE

The following General Terms and Conditions of Service, together with the Rate Plan and the Addendum applicable to a specific service (collectively, the "Agreement"), shall govern and control the provision of the services provided to you by WiarCom, Inc. ("WiarCom"):

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- 1. YOUR WIARCOM SERVICE AND EQUIPMENT.** The service (as defined in each Addendum, the "Service") provided by WiarCom requires the use of certain certified hardware (the "Hardware") and software (the "Software" and together with the Hardware, the "Equipment") in order to provide Service to you. Without such Equipment, the Service will not work.
- 2. RATE PLAN AND PAYMENT FOR THE SERVICE.** The Rate Plan shall govern the pricing of Service. Note that the Rate Plan may have both fixed and variable charges. The Rate Plan shall govern in the event of any conflict between these General Terms and Conditions of Service (including the applicable Addendum) and the Rate Plan. WiarCom may modify the Rate Plan in whole or in part and you agree that such modification shall control as provided in Section 4 of the applicable Addendum. You agree to pay in full for the Service within 15 days of the date of invoice (unless the law provides otherwise) in accordance with the Rate Plan. **IF YOU PROVIDE WIARCOM WITH A CREDIT OR DEBIT CARD NUMBER, YOU EXPRESSLY AUTHORIZE WIARCOM TO CHARGE THE CARD FOR ALL SERVICES AND ALL OTHER AMOUNTS UNDER THIS AGREEMENT WITHOUT FURTHER OR PRIOR NOTICE TO YOU.** You or a third party for the benefit of you, may prepay all or any part of the amount that is or may become payable for the Service. However, any such prepayments are not refundable for any reason. If a check is returned to WiarCom unpaid or dishonored, WiarCom may charge you a fee of up to \$25 per instance. **YOU MAY BE CHARGED A FIVE PERCENT (5%) FEE ON EACH PAYMENT THAT IS LATE BY MORE THAN FORTY-FIVE (45) DAYS, WITH A MINIMUM OF \$25 FOR ANY SUCH CHARGE.** If your credit or debit card provider refuses a charge, or a check bounces, WiarCom has the right to terminate or suspend your Service. WiarCom shall not be bound by any restrictive language included on checks such as "payment in full". WiarCom shall refund credit balances (other than prepayments) of less than one dollar only upon express written request.
- 3. DEPOSIT.** WiarCom may require a deposit from you to guarantee payment of charges for Service and may increase or decrease the amount of the deposit based on your current estimated monthly charges and payment history. However, a deposit is not a prepayment of charges. WiarCom has the right to apply all or part of the deposit toward any amount due and owing from you. Upon request from WiarCom, you must pay the amount necessary to maintain your deposit at the limit established by WiarCom. If WiarCom determines that a deposit is no longer necessary, or if this Agreement is terminated, WiarCom will apply the deposit first to any charges due and owing by you and then refund any remaining amount to you. No service shall be initiated until WiarCom receives such deposit.
- 4. SOFTWARE UPDATES.** The Service involves software that may require modification or changes from time to time. WiarCom shall use reasonable efforts to notify you at the e-mail address you have provided of any such changes. As a result, it is imperative that you notify WiarCom of any change of e-mail address. Any modifications or updates may also be requested at www.wiarcom.com.
- 5. YOUR RESPONSIBILITIES.** You are responsible for the installation and maintenance of the Hardware and Software and to ensure that they are in working order. You are required to register fully with WiarCom before you begin using the Service. You agree not to use the Service for any fraudulent, unlawful, or abusive purpose, or in any way that interferes with the provision of services to other WiarCom customers. You promise not to do anything that causes, or that reasonably could be determined to cause, damage to the business operations, services, reputation, employees, facilities, or service providers of WiarCom. If you do any of these things, you agree you are solely responsible for any third party claims, charges, or causes of action arising or threatened from your use of the Service, plus any expenses, resulting in whole or in part from that use or your actions. Certain information you receive through the Service belongs to WiarCom or to third parties who provide it through WiarCom. The Service may be subject to one or more copyrights, trademarks, service marks, patents, or other legal protections. You promise not to use any content you receive through WiarCom except as expressly authorized by WiarCom. You may not resell, lease or transfer the Service. You shall not resell any of the WiarCom software or firmware. You shall not copy, store, reproduce, distribute, modify, display, publish, perform, transmit, broadcast, or create derivative works from any of WiarCom software or firmware. The Equipment shall not be used in any manner which violates any applicable export control or economic sanction law or regulation of the U.S. or any other country.
- 6. BILLING DISPUTES.** If you object to any fees or charges for services billed by or through WiarCom, you must provide written notice thereof within 60 days after the fee or charge is incurred, which notice must clearly state that it relates to a dispute of fees or charges and provide details of any and all objections you have. **If you fail to object within the required 60-day period, any objection shall be deemed to have been waived.** You agree to continue paying invoices in full while awaiting resolution of any billing dispute. If you fail to continue making such payments in full, WiarCom will have the right to terminate or suspend your Service.
- 7. TAXES, FEES AND SURCHARGES.** You promise to pay all taxes, fees, and surcharges set by the government and charged to you by WiarCom. WiarCom may charge additional fees related to our costs (or the costs of our third-party service providers) to comply with government regulations. Depending on your Service, these additional charges may include items such as Federal Universal Service Charges and other charges related to governmental costs. WiarCom or its third-party service providers may also set these charges.
- 8. SERVICE USE BY OTHERS.** YOU ARE SOLELY RESPONSIBLE FOR ANY USE OF THE SERVICE. Neither WiarCom nor any third-party service provider has any obligation to inquire about the authority of anyone using your login or password.
- 9. MISUSE OF SERVICE.** WiarCom may suspend or, in its sole and unfettered discretion, terminate any or all Service without prior notice to you for any good cause. WiarCom may terminate Service if you breach any part of this Agreement, fail to pay amounts that are due to WiarCom or one of its service providers, interfere with WiarCom's efforts to provide service, interfere with WiarCom's business, or if the Service is used for illegal or improper purposes. You do not have any right to have the Service reactivated, even if you cure any of these problems. Whether to provide you service again will be within the sole discretion of WiarCom. WiarCom may also suspend the Service for network or system maintenance or improvement, network congestion, or if WiarCom suspects that the Service is being used for any purpose that would allow us to terminate it.
- 10. SERVICE TRANSFER.** The Service may not be transferred to another person without the express written consent of WiarCom.
- 11. TERMINATION BY WIARCOM.** WiarCom may suspend or terminate any or all Service on the earlier of (a) expiration or failure of your credit card or other method of payment, (b) your failure to pay the full outstanding balance of your bill, (c) any material breach of these General Terms and Conditions of Service (including any product-specific Addendum) by you, or (d) elimination of the Service. In addition, WiarCom reserves the right to terminate or suspend the Service immediately in the event you misuse the Service.
- 12. WARRANTY LIMITATION.** WIARCOM MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED AS TO THE ACCURACY, COMPLETENESS OR RELIABILITY OF ANY SERVICE. FURTHER, NEITHER WIARCOM, NOR ANY OF ITS SUPPLIERS, WIRELESS SERVICE OR OTHER SERVICE PROVIDERS, LICENSORS (INCLUDING THE QUEEN IN RIGHT OF CANADA WITH RESPECT TO WIRELESS SERVICES IN CANADA), GPS TRACKING EQUIPMENT MANUFACTURERS, DISTRIBUTORS, OR DEALERS MAKE ANY WARRANTIES, EXPRESS OR IMPLIED, ABOUT THE SERVICE OR ABOUT ANY DATA OR INFORMATION OR SERVICES PROVIDED THROUGH IT. WIARCOM MAKES NO WARRANTIES OF QUALITY, ACCURACY, TIMELINESS, COMPLETENESS, AVAILABILITY, SUITABILITY, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. ALL SUCH WARRANTIES ARE EXPRESSLY EXCLUDED BY THIS AGREEMENT.
- 13. LIMITATIONS OF LIABILITY.** UNLESS FORBIDDEN BY LAW IN A PARTICULAR INSTANCE, WIARCOM AND YOU EACH AGREE AS FOLLOWS:

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- a. WIARCOM SHALL NOT BE LIABLE TO YOU FOR (1) ANY INJURIES TO PERSONS OR PROPERTY ARISING OUT OF OR RELATING TO YOUR USE OF THE SERVICE, OR (2) ANY DAMAGES ARISING OUT OF OR RELATING TO THE INSTALLATION, REPAIR, OR MAINTENANCE OF THE EQUIPMENT.
- b. WIARCOM MAXIMUM LIABILITY TO YOU UNDER ANY THEORY (INCLUDING BUT NOT LIMITED TO FRAUD, MISREPRESENTATION, BREACH OF CONTRACT, PERSONAL INJURY, OR PRODUCT LIABILITY) IS LIMITED TO AN AMOUNT EQUAL TO THE PORTION OF THE CHARGES TO YOU FOR THE APPLICABLE SERVICES RELATING TO THE PERIOD DURING WHICH ANY FAILURE, DISRUPTION OR DEGRADATION IN SERVICES OCCUR.
- c. NEITHER PARTY MAY RECOVER (1) PUNITIVE DAMAGES, (2) TREBLE, CONSEQUENTIAL, INDIRECT, OR SPECIAL DAMAGES, OR (3) EXCEPT AS SET FORTH IN SECTION 16 BELOW, ATTORNEYS' FEES. EXCEPT AS SET FORTH IN SECTION 16 BELOW, YOU AND WE AGREE NOT TO MAKE, AND TO WAIVE TO THE FULLEST EXTENT ALLOWED BY LAW, ANY CLAIM FOR DAMAGES OTHER THAN DIRECT, COMPENSATORY DAMAGES AS LIMITED IN THIS AGREEMENT.
- d. NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT, YOU AGREE TO EXCUSE ANY NON-PERFORMANCE BY WIARCOM OR ANY WIRELESS OR OTHER THIRD-PARTY SERVICE PROVIDER CAUSED IN WHOLE OR IN PART BY AN ACT OR OMISSION OF A THIRD PARTY, OR BY ANY EQUIPMENT FAILURE, ACT OF GOD, NATURAL DISASTER, STRIKE, EQUIPMENT OR FACILITY SHORTAGE, OR OTHER CAUSES BEYOND THE CONTROL OF US OR OUR SERVICE PROVIDERS.
- e. PROPORTIONATE REFUNDS MAY BE MADE FOR SERVICE INTERRUPTIONS ONLY OF MORE THAN FORTY-EIGHT HOURS AND ONLY IF SUCH INTERRUPTION IS WITHIN THE SOLE CONTROL OF WIARCOM. NO REFUND SHALL BE MADE FOR SERVICE INTERRUPTIONS RESULTING FROM IMPROPER INSTALLATION OR MAINTENANCE OF EQUIPMENT.
- f. YOU AGREE TO ANY LIMITATIONS IMPOSED BY ANY WIRELESS OR OTHER THIRD-PARTY SERVICE PROVIDER IN THE EVENT OF ROAMING ISSUES.
- g. ALL SERVICE (INCLUDING ALL DATA AND INFORMATION PROVIDED THEREUNDER) IS PROVIDED TO YOU ON AN "AS IS" BASIS. YOU AGREE THAT NEITHER WIARCOM, NOR ANY OF ITS SUPPLIERS, WIRELESS OR OTHER THIRD-PARTY SERVICE PROVIDERS, LICENSORS (INCLUDING THE QUEEN IN RIGHT OF CANADA WITH RESPECT TO WIRELESS SERVICE IN CANADA), GPS TRACKING EQUIPMENT MANUFACTURERS, DISTRIBUTORS, OR DEALERS WHO SEND YOU DATA OR INFORMATION THROUGH THE SERVICE IS LIABLE FOR ANY ERRORS, DEFECTS, PROBLEMS, OR MISTAKES IN THAT DATA OR INFORMATION. THIS MEANS YOU CANNOT RECOVER ANY DAMAGES OF ANY KIND, INCLUDING CONSEQUENTIAL, INDIRECT, SPECIAL, OR PUNITIVE DAMAGES FOR ANY SUCH ERRORS, DEFECTS, PROBLEMS, OR MISTAKES.
- h. YOU HAVE NO CONTRACTUAL RELATIONSHIP WHATSOEVER WITH ANY OF WIARCOM'S WIRELESS OR OTHER THIRD-PARTY SERVICE PROVIDERS AND YOU ARE NOT A THIRD-PARTY BENEFICIARY OF ANY AGREEMENT BETWEEN WIARCOM AND ANY OF ITS WIRELESS OR OTHER THIRD-PARTY SERVICE PROVIDERS. NONE OF OUR WIRELESS OR OTHER THIRD-PARTY SERVICE PROVIDERS HAS ANY LEGAL, EQUITABLE, OR OTHER LIABILITY OF ANY KIND TO YOU. YOU WAIVE ANY AND ALL CLAIMS OR DEMANDS FOR SUCH LIABILITY AS A RESULT OF THE PROVISION OF THE SERVICE.

THE LIMITATIONS IN LIABILITY SET OUT ABOVE SHALL SURVIVE THIS AGREEMENT AND SHALL BE BINDING UPON YOUR HEIRS, CUSTOMERS, SUCCESSORS AND ASSIGNS. **NOTE: SOME STATES DO NOT ALLOW AN EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES OR CERTAIN OTHER DAMAGES, SO SOME OF THE LIMITATIONS ABOVE MAY NOT APPLY IN SOME SITUATIONS.**

14. **INDEMNIFICATION.** YOU AGREE THAT YOU SHALL BE RESPONSIBLE AND INDEMNIFY WIARCOM FOR ANY AMOUNT ANY PARTY CLAIMS AGAINST WIARCOM, ITS SUPPLIERS, LICENSORS, EQUIPMENT AND PARTS MANUFACTURERS, DISTRIBUTORS, OR DEALERS (OR THEIR OFFICERS, EMPLOYEES, AFFILIATES AND AGENTS) (COLLECTIVELY "INDEMNIFIED PARTIES") PLUS ANY EXPENSES, RESULTING FROM ANY CLAIM, DEMAND OR ACTION, REGARDLESS OF THE NATURE THEREOF, ALLEGING LOSS, COSTS, EXPENSES, DAMAGES, OR INJURIES (INCLUDING INJURIES RESULTING IN DEATH) ARISING OUT OF OR IN CONNECTION WITH (1) THE ACTIVITIES CONTEMPLATED BY THIS AGREEMENT, WHETHER BROUGHT BY YOU, YOUR EMPLOYEES, OR THIRD PARTIES, EVEN IF DUE TO THE SOLE NEGLIGENCE OF THE INDEMNIFIED PARTIES; (2) THE USE OR POSSESSION OF DATA OR INFORMATION PROVIDED IN CONNECTION WITH ANY SERVICE; (3) CLAIMS FOR LIBEL, SLANDER, INVASION OF PRIVACY, OR ANY PROPERTY DAMAGE, PERSONAL INJURY OR DEATH, ARISING OUT OF OR RELATED IN ANY WAY DIRECTLY OR INDIRECTLY TO THIS AGREEMENT OR ANY SERVICE; OR (4) THE USE, FAILURE TO USE, OR INABILITY TO USE ANY SERVICE, EXCEPT WHERE THE CLAIMS RESULT FROM THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE INDEMNIFIED PARTIES. IN THE EVENT YOU HAVE PROVIDED WIARCOM WITH CREDIT CARD DATA, THE TERMS AND CONDITIONS SET OUT IN THIS SECTION 14 EXTENDS TO CLAIMS, EXPENSES, LIABILITIES, OR DAMAGES ARISING OUT OF OR IN CONNECTION WITH USE OR OWNERSHIP OF THE CREDIT OR DEBIT CARD ACCOUNT OR OTHER SIMILAR PAYMENT ACCOUNT, OR FROM THE ISSUER'S REFUSAL TO PAY AMOUNTS CHARGED TO SUCH ACCOUNT.
15. **THIRD-PARTY FINANCING AND PAYMENTS.** Any agreement or arrangement entered by and between you and any third-party financing entity or WiarCom affiliate, making payments to WiarCom on behalf of you, may request suspension or termination of your services due to your default of payment in accordance with such agreement or arrangement, and WiarCom, in its sole discretion, may suspend or terminate your services upon such request. Any termination or suspension of services as set forth in Section 15 or Section 11 does not relieve you from any obligation including, but not limited to, payments to any third party financing entity.
16. **APPLICABLE LAW AND VENUE.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, notwithstanding any conflict of laws provisions. You (i) irrevocably and unconditionally consent to submit to the exclusive jurisdiction of the state and federal courts in Harris County, Texas for any litigation or dispute arising out of or relating to this Agreement, (ii) agree not to commence any litigation arising out of or relating to this Agreement except in the state or federal courts in Harris County, Texas, (iii) agree not to plead or claim that such litigation brought therein has been brought in an inconvenient forum, and (iv) agree that Harris County, Texas represents the exclusive jurisdiction for all disputes relating to this Agreement. You agree to reimburse any and all amounts (including reasonable attorney fees) that may be incurred by WiarCom (i) to enforce this provision, or (ii) for collections on your account.
17. **NOTICES.** Any written notice from you required by this Agreement will be considered given when actually received by WiarCom at its address at P.O. Box 168, Sugar Land, Texas 77487. Any written notice from WiarCom required by this Agreement will be considered given 5 days after we mail it to you at the billing address WiarCom has on file for you, or if by email, upon WiarCom's sending such message to the most recent email address on file for you. ALL NOTIFICATIONS TO YOU WILL BE GIVEN VIA EMAIL, UNLESS OTHERWISE REQUIRED BY LAW. Any oral notices must be followed by written confirmation to be effective. You agree that e-mail notifications given to you by WiarCom shall be admissible in any proceeding hereunder.
18. **HEADINGS.** The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.
19. **THIRD PARTY BENEFICIARIES.** All wireless and other third-party service providers, affiliates, suppliers, distributors and authorized dealers are intended beneficiaries of this Agreement. You agree that the Agreement shall bind you, your employees, passengers, guests, invitees or drivers of your vehicles, and others managing or responsible for your assets, each of whom you agree shall be made aware of WiarCom's rights and subject to the limitations of this Agreement.

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20. **NO FIDUCIARY RELATIONSHIP.** This Agreement does not create any fiduciary relationship between you and WiarCom, or between you and any of the wireless and other third-party service providers, Equipment suppliers, affiliates, suppliers, distributors and authorized dealers. This Agreement does not create any relationship of principal and agent, partnership, or employer and employee.
21. **ASSIGNABILITY.** This Agreement may be assigned, pledged or hypothecated, in whole or in part, by WiarCom to any affiliate or third party. You may not assign this Agreement or the rights or obligations hereunder, either voluntarily or involuntarily, whether by merger, consolidation, operation of law, or otherwise, without the express written consent of WiarCom, which consent may be withheld for any reason in the sole discretion of WiarCom.
22. **ENTIRE AGREEMENT.** The General Terms and Conditions of Service, the applicable Addendum, the Rate Plan, and any other documents incorporated herein and therein constitute the entire agreement between you and WiarCom. They supersede any and all other agreements or representations, oral or written, past or present, with respect to the subject matter hereof. If any part of this Agreement is considered invalid by a court or arbitrator, that part not found invalid shall survive and remain enforceable. Even after this Agreement has ended, its provisions will govern any disputes arising out of or relating to it (unless it's been replaced by a new agreement between us). This agreement shall be binding on your heirs and successors and on WiarCom successors or assigns. No waiver of any part of this Agreement, or of any breach of it, in any one instance will require a waiver of any other instance or breach.