



Enterprise Customer Agreement General Terms and Conditions

1. **Rogers Facilities.** The Services will be provided to Customer and the Employees using Rogers' applicable wireless transmission facilities (the "**Rogers Facilities**") within the area that Rogers provides the Services (which area may be enlarged or reduced in scope from time to time by Rogers in its sole discretion). The Customer acknowledges that the geographic areas within which Rogers provides different Services may vary. Requests for changes to the quantity or type of Services ordered by the Customer, whether oral or in writing remain subject to the terms and conditions of this Agreement. Customer acknowledges and agrees that Rogers reserves the right in its discretion and without notice to Customer, from time to time to make changes in any aspect of the Rogers Facilities.

In addition to Rogers' rights set forth in section 13 below, Rogers shall have the right to suspend all or part of the Services or access to the Services immediately if Rogers reasonably suspects or determines that there is a malfunction, abuse, incorrect configuration or use of the Devices, the Customer's System (as defined below), the Services, the Third Party Services (as defined below) or the Rogers Facilities. Customer agrees that, to maintain or improve service, or for other business reasons, Rogers may at its sole discretion modify or temporarily restrict or suspend all or part of the Services without notice.

Customer acknowledges that the Services are subject to transmission limitations caused by atmospheric or topographical conditions or equipment failures beyond the reasonable control of Rogers. The Services may be temporarily refused, interrupted or curtailed due to governmental regulations or orders, system capacity limitations or equipment modifications, upgrades, reallocations, repairs, maintenance and similar activities necessary for the proper operation of the Services.

2. **Fees.** Customer agrees to pay all fees and charges specified in this Agreement and relating thereto, including, but not limited to, applicable Charges (as defined below) in advance of or on the established due dates and to pay late payment charges at the rate set forth on the reverse-side of Customer's invoices, as same may be amended from time to time, on any overdue amounts. Acceptance of late or partial payments (even if marked "Paid in Full") shall not waive any of Rogers' rights to collect the full amount due under this Agreement.
3. **Customer's Obligations.** In addition to the Customer's other obligations set forth in this Agreement, the Customer agrees and covenants:
 - a) that the Customer and its Corporately Paid Employees will not use the Services for an illegal purpose, including but not limited to, violating the law, making annoying or offensive calls or messages, or interfering with Rogers' services to other customers;
 - b) that the Customer and its Corporately Paid Employees will not resell, transfer or share any of the Services;
 - c) that the Customer and its Corporately Paid Employees will not reproduce, change or tamper with the Identifiers on the Devices or to allow anyone else to do so. For the purposes of this Agreement "**Identifier**" means the applicable electronic serial number (ESN), mobile identification number (MIN), International Mobile Equipment Identity (IMEI) number, International Mobile Subscriber Identity (IMSI) number and/or the Subscriber Identity Module (SIM) number, as the case may be;
 - d) that the Customer and its Corporately Paid Employees will use only Rogers approved Devices and other hardware with the Services and will not use any SIM in a Device or other hardware which has not been approved by Rogers.
 - e) that for each Request for Service, the Customer agrees to represent and warrant that each Employee named therein is a full-time employee of the Customer.
 - f) at any time upon Rogers' request, to provide proof of each Employee's full-time employment. Rogers reserves the right to conduct an independent review of all activations by requesting proof of employment to verify such full-time employment. If it is determined that one or more "Employees" are not in fact full-time employees of the Customer then these 'employee' accounts will be transferred to a basic plan, as determined by Rogers, and the Customer shall be responsible for the cost of the review.
 - g) the Customer agrees to co-operate with Rogers in Rogers' efforts to market wireless products and services to the Customer's employees. In addition, the Customer shall bring these General Terms and Conditions and the Wireless Services User Guide to the attention of its Corporately Paid Employees.
4. **Payments/Invoices.** Rogers will bill the Customer for the Services provided to the Customer and Corporately Paid Employees in accordance with this Agreement. Rogers charges monthly service fees each month in advance and all monthly recurring costs

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may be prorated. Rogers may bill customer up to one year from the date particular charges were incurred. The Customer agrees to pay Rogers all amounts set forth in each invoice by the applicable due date (collectively, the "**Charges**") including, without limitation:

- a) the cost of all local and long distance calls, character and data usage charges, and charges for messages and other Services made or sent from or received on the Devices including any charges relating to access to the services of other telephone companies or telecommunication carriers;
 - b) the monthly and other fees for using the Services, Devices and other equipment described in this Agreement including, without limitation, system access fees, as same may be amended from time to time;
 - c) fees for roaming services provided in those areas served by other wireless mobile operators with whom Rogers has roaming arrangements;
 - d) deposit(s), the price of software, Devices, other equipment and accessories (if any), shipping and handling and any other fees, charges or costs that arise out of this Agreement; and
 - e) all applicable taxes and similar charges relating to the foregoing, as same may be amended from time to time.
5. **Early Cancellation Fees.** For each Corporately Paid Employee Line which is deactivated prior to the end of the Line Term, for such Line Customer will pay an Early Cancellation Fee ("ECF"). The ECF is the greater of (i) \$100 per Line or (ii) \$20 per month remaining in the Line Term, to a maximum of \$400 (plus applicable taxes), and applies for each Line that is deactivated. The transfer of a telephone number to another telecommunications service provider constitutes a deactivation.

The parties acknowledge and agree that the Early Cancellation Fees are payable by the Customer as a genuine pre-estimate of liquidated damages and not as a penalty.

6. **Credit Limit.** Rogers may assign a credit limit to Customer's accounts at any time. The Services may be suspended at any time to any and all of Customer's accounts if the balance, including unbilled usage and pending charges, fees and adjustments, exceeds this limit. Rogers also reserves the right to change Customer's credit limit at any time. Notice will be given for any assignment of or change to the credit amount limit.
7. **Deposit.** Rogers may require a deposit from Customer at any time. Any deposit will be credited to Customer's account after at least twelve (12) consecutive months in good standing on all of Customer's accounts with Rogers. Customer will not earn any interest on any deposits held by Rogers. If this Agreement is cancelled, Rogers will apply the deposit against the outstanding balance on Customer's account. If Customer or its end users incur significant long distance charges or present an abnormal risk to Rogers, Rogers may require an interim payment before Customer's normal billing date. In such a case, Rogers will consider Customer's payment past due three (3) days after the due date or after Rogers demands payment, whichever is later. If, after Rogers notifies Customer, the risk of loss substantially increases, or Rogers believes Customer has no intention of paying the amount owed, Rogers can request immediate payment of Customer's entire account.
8. **Identifiers.** Customer and its end users do not own and shall have no property right in any device Identifiers or the phone numbers and/or Internet Protocol (IP) addresses assigned to Customer and its end users in connection with the Services and Rogers may change such phone numbers, IP addresses and device identifiers at such time or times as Rogers, in its sole discretion, considers necessary without any liability. Rogers does not assume liability for any risks associated with the change of phone numbers, IP addresses or device identifiers. The Customer acknowledges and agrees that dynamic IP addresses may be used with respect to the Devices which IP addresses shall change whenever a Device is disconnected from and then reconnected to the Rogers Facilities.
9. **Third Party Applications and Other Services.** As between Rogers and the Customer, Customer shall have total responsibility for its purchase and/or use of any applications, software, content, data query functions and other services produced, manufactured or performed by third parties for installation on the Devices and/or for use in connection with the Services together with any maintenance and support relating thereto (collectively, "**Third Party Services**"), whether offered by such third parties, Rogers or a separate third party. The parties acknowledge that in certain instances where Third Party Services are offered, directly or indirectly, by Rogers may invoice Customer with respect to such Third Party Services.

Rogers shall have no responsibility hereunder to correct or fix any problems or errors relating to or caused by the installation, configuration, modification or use of any Third Party Services or any components thereof and the installation and/or use of Third Party Services shall be at the sole risk of the Customer.

10. **The Customer's System.** Where Customer is purchasing Services which require additional equipment, software and/or services, Customer acknowledges and agrees that it shall be Customer's sole responsibility to purchase, install, configure and maintain, at Customer's cost, (i) all required equipment, software and services, including interconnections and network configurations (the "**Customer's System**") to enable Customer to purchase and receive the Services; and (ii) any additional equipment, software, services, enhancements or upgrades ("**Upgrades**") that become available for use with the Services. Rogers shall have no responsibility hereunder to correct or fix any problems or errors relating to or caused by the installation, configuration or modification of the Customer's System or any components thereof.
11. **Privacy of Communications.** Rogers makes no representation, warranty or covenant that Customer's use of the Services will be entirely secure and private. Customer acknowledges that it may be possible for third parties to monitor communications while

Customer uses the Services. Customer assumes full responsibility for the establishment of appropriate security measures to control access to its equipment and to the information transmitted by Customer. In addition, Customer acknowledges and agrees that Customer is solely responsible for taking the necessary precautions to protect its networks and systems, and all software, data and files stored on or otherwise forming part of its network and the Customer's System, against unauthorized access by its employees or any third party, and that such responsibility includes, without limitation, protection against unauthorized access through the Services. Rogers will not be liable for any claims, losses, actions, damages, suits or proceedings whatsoever resulting from, arising out of or otherwise relating to Customer's failure to take appropriate precautions to protect its networks and systems and all software, data and files stored on or otherwise forming part of its network and systems, against unauthorized access by its employees or any third party or any other breach of customer's security or privacy.

12. **Unauthorized Usage.** Customer shall be responsible for the payment of all charges, costs, damages, losses and liabilities suffered by Rogers in respect of any of Rogers Facilities as a direct or indirect result of the unauthorized use, misuse, or abuse by Customer or any of its employees, agents or representatives of the Devices, the Customer's System, the Services, the Third Party Services, the Rogers Facilities and/or any software used in connection therewith.
13. **Suspension/Reactivation/Return Cheques.** Rogers may cancel or suspend any or all of the Services without notice if (a) Customer does not pay any amount owing to Rogers when due; (b) Customer does not provide or maintain a deposit as required by this Agreement; (c) Customer does not maintain Services usage within the prescribed credit limit; (d) Customer does not follow this Agreement, as same may be revised by Rogers; (e) Rogers suspects that one or more of the Lines is the subject of fraud or unlawful or improper use; (f) Customer gives Rogers false or misleading information; (g) Customer uses the Services or the Rogers Facilities fraudulently, unlawfully or improperly or in a way that adversely affects Rogers' operation or the use of services by other customers; or (h) Customer fraudulently or improperly seeks to avoid payment to Rogers. If Rogers suspends or cancels the Services, (i) Customer must still pay any amount owing to Rogers; and (ii) Rogers may also suspend or cancel without notice Customer's Services under any other agreement or account that Customer has with Rogers. If Customer has prepaid its account the amount paid will be forfeit.

During temporary suspension of the Services, the monthly fees still apply. If Rogers suspends or terminates the Services for non-payment or excessive balance, including unbilled usage and pending charges, fees and adjustments, Rogers shall have the right to charge the Customer a fee for the reactivation or restoral of the Services. Reactivation of the Services will result in a reactivation charge payable by Customer as established by Rogers. Service-restoration charges may be waived if the applicable Device is lost or stolen. Payments for the Services which are returned by banks or credit card companies for insufficient funds will result in a charge to Customer of \$25.00 or such higher amount as is charged by the applicable bank(s) relating to such returned payment.

14. **Indemnification.** Customer shall defend and indemnify Rogers, its parents, successors, affiliates and agents from any claims, damages, losses or expenses (including without limitation legal fees and costs) incurred by Rogers in connection with all claims, suits, judgements, and causes of action (i) for infringement of patents or other proprietary rights arising from combining with or using any device, system or service in connection with Rogers Facilities; (ii) for libel, slander, defamation or infringement of copyright or other proprietary right with respect to material transmitted by Customer over the Rogers Facilities; or (iii) injury, death or property damage arising in connection with the presence, use or non-use of the Services or the Devices.
15. **Limitation of Liability.**

(a) **EXCEPT AS MAY BE PROVIDED IN SUBSECTION 15(B), BELOW, ROGERS, ITS DIRECTORS, OFFICERS, CONTRACTORS OR AGENTS (IT BEING ACKNOWLEDGED BY CUSTOMER THAT FOR THE PURPOSES OF THIS SECTION ONLY, ROGERS IS CONTRACTING AS AGENT ON BEHALF OF ITS DIRECTORS, OFFICERS, EMPLOYEES, CONTRACTORS OR AGENTS) SHALL NOT BE LIABLE TO CUSTOMER, ANY END USER OR ANY OTHER PERSON (EXCEPT FOR PHYSICAL INJURIES AS A RESULT OF ROGERS' NEGLIGENCE) FOR (I) ANY DAMAGES OR LOSSES INCLUDING, WITHOUT LIMITATION, PROPERTY DAMAGE, LOSS OF DATA, LOSSES RESULTING FROM A THIRD PARTY'S UNAUTHORISED ACCESS TO DATA, LOSS OF PROFIT, LOSS OF EARNINGS, FINANCIAL LOSS, LOSS OF BUSINESS OPPORTUNITY, PERSONAL INJURY, DEATH OR ANY OTHER DAMAGE OR LOSS HOWEVER CAUSED, RESULTING DIRECTLY OR INDIRECTLY IN CONNECTION WITH THE TERMS AND CONDITIONS HEREIN AND THE SERVICES, DEVICES, OTHER EQUIPMENT, THIRD PARTY SERVICES, THE ROGERS FACILITIES OR THE CUSTOMER'S SYSTEM, INCLUDING ANY ROAMING CALLS OR FROM THE USE OF THE ROGERS FACILITIES BY OTHER TELECOMMUNICATIONS CARRIERS; (II) ANY ACTS OR OMISSIONS OF A TELECOMMUNICATIONS CARRIER WHOSE FACILITIES ARE USED TO ESTABLISH CONNECTIONS TO POINTS THAT ROGERS DOES NOT SERVE; (III) DEFAMATION OR COPYRIGHT INFRINGEMENT THAT RESULTS FROM MATERIAL TRANSMITTED OR RECEIVED OVER THE ROGERS FACILITIES; OR (IV) INFRINGEMENTS OF PATENTS ARISING FROM COMBINING OR USING CUSTOMER'S OWN FACILITIES WITH THE ROGERS FACILITIES. THESE LIMITS APPLY TO ANY ACT OR OMISSION OF ROGERS, ROGERS' EMPLOYEES, OR AGENTS, WHICH WOULD OTHERWISE BE A CAUSE OF ACTION IN CONTRACT, TORT OR ANY OTHER DOCTRINE OF LAW.**

(b) **Limits on Rogers Liability for Emergency Services Provided on a Mandatory Basis**

This subsection 15(b) applies only to the provision of emergency services on a mandatory basis. For the purposes of this subsection "Customer" means the Customer and its end users.

In respect of the provision of emergency services on a mandatory basis, Rogers is not liable for:

- (i) libel, slander, defamation or the infringement of copyright arising from material or messages transmitted over Rogers' network from Customer's property or premises or recorded by Customer's equipment or Rogers' equipment;
- (ii) damages arising out of Customer's act, default, neglect or omission in the use or operation of equipment provided by Rogers;
- (iii) damages arising out of the transmission of material or messages over Rogers' network on Customer's behalf which is in any way unlawful;
- (iv) any act, omission or negligence of other companies or telecommunications systems when their facilities are used in establishing connections to or from Customer's facilities and equipment.

Furthermore, except in cases where negligence on Rogers part results in physical injury, death or damage to Customer's property or premises, Rogers' liability for negligence related to the provision of emergency services on a mandatory basis is limited to the greater of \$20 and three times the amount (if any) Customer would otherwise be entitled to receive as a refund for the provision of defective service under this Agreement. However, Rogers' liability is not limited by this subsection 15(b) in cases of deliberate fault, gross negligence or anti-competitive conduct on Rogers' part or in cases of breach of contract where the breach results from Rogers' gross negligence.

16. **No Warranty.** CUSTOMER ACKNOWLEDGES AND AGREES THAT THE SERVICES AND ALL DEVICES, OTHER EQUIPMENT AND THIRD PARTY SERVICES ARE PROVIDED BY ROGERS "AS IS" AND "AS AVAILABLE" AND, TO THE EXTENT PERMITTED BY LAW, WITHOUT WARRANTY BY ROGERS OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, INFRINGEMENT, OR THOSE ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ROGERS SHALL HAVE NO LIABILITY WHATSOEVER TO CUSTOMER FOR: (I) ANY INTERRUPTIONS OR DISRUPTIONS OF THE SERVICES, THE INTERNET OR THE THIRD PARTY SERVICES OR ANY OTHER DAMAGES SUFFERED BY CUSTOMER WHICH ARE CAUSED BY DIRECTLY OR INDIRECTLY BY ANY FAILURES OF THE DEVICES, OTHER EQUIPMENT, THE SERVICES, THE ROGERS FACILITIES, THE INTERNET OR THE THIRD PARTY SERVICES; (II) ANY POWER FAILURES; (III) ANY ACTS OR OMISSIONS OF CUSTOMER OR ITS OFFICERS, EMPLOYEES, AGENTS OR CONTRACTORS INCLUDING, WITHOUT LIMITATION, DEFAMATION OR COPYRIGHT INFRINGEMENT; (IV) ANY DISRUPTION OF ANY PART OF THE EQUIPMENT USED TO PROVIDE THE SERVICES BY PARTIES OTHER THAN ROGERS; (V) ANY INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS ARISING FROM OR IN CONNECTION WITH CUSTOMER'S USE OF THE DEVICES, OTHER EQUIPMENT, THE SERVICES OR THE THIRD PARTY SERVICES; (VI) ANY EVENT OF FORCE MAJEURE, AS DEFINED IN SECTION 26 OF THIS AGREEMENT; OR (VII) ANY SUSPENSION OR TERMINATION OF THE SERVICES.

FURTHER, TO THE EXTENT PERMITTED BY LAW, ROGERS DOES NOT WARRANT THE PERFORMANCE, AVAILABILITY, UNINTERRUPTED USE OF OR OPERATION OF THE INTERNET OR CUSTOMER'S CONNECTION TO THE INTERNET. ROGERS DOES NOT WARRANT THAT ANY DATA OR FILES SENT BY OR TO CUSTOMER (WHETHER BY E-MAIL OR OTHERWISE) WILL BE TRANSMITTED, TRANSMITTED IN UNCORRUPTED FORM, OR TRANSMITTED WITHIN A REASONABLE PERIOD OF TIME.

17. **Confidentiality of Customer Information.**

- (a) Customer hereby authorizes Rogers to obtain information about the credit history of Customer and acknowledges that Rogers may provide information to credit bureaus about Customer's credit experience with Rogers.
- (b) Unless Customer provides express consent or disclosure is pursuant to a legal power, all information regarding Customer kept by Rogers, other than customer's name, address and listed telephone number, is confidential and may not be disclosed by Rogers to anyone other than:
 - (i) Customer;
 - (ii) a person who, in Rogers' reasonable judgment, is seeking the information as Customer's agent;
 - (iii) another telephone company, provided the information is required for the efficient and cost-effective provision of telephone service and disclosure is made on a confidential basis with the information to be used only for that purpose;
 - (iv) a company involved in supplying Customer with telephone or telephone directory related services, provided the information is required for that purpose and disclosure is made on a confidential basis with the information to be used only for that purpose;
 - (v) an agent retained by Rogers in the collection of Customer's account or to perform other administrative functions for us, provided the information is required for and used only for that purpose;
 - (vi) a law enforcement agency whenever Rogers has reasonable grounds to believe that Customer has knowingly supplied Rogers with false or misleading information or are otherwise involved in unlawful activities directed against Rogers;
 - (vii) an agent retained by Rogers to evaluate Customer's creditworthiness, provided the information is required for and is to be used only for that purpose;
 - (viii) a public authority or agent of a public authority, if in Rogers' reasonable judgment, it appears that

there is imminent danger to life or property which could be avoided or minimized by disclosure of the information.

Express consent may be taken to be given by Customer where Customer provides:

- (i) written consent;
 - (ii) oral confirmation by an independent third party;
 - (iii) electronic confirmation through the use of a toll-free number; or
 - (iv) electronic confirmation via the Internet.
- (c) Customer's account information may, from time to time, be disclosed to other members of the Rogers Communications organization and to Rogers' agents and authorized dealers in order to service Customer's account, to respond to Customer's and end users' questions and to promote additional products and services offered by Rogers that may interest Customer and its end users. If Customer or an end user does not wish to be marketed by related Rogers companies please advise, in writing, Rogers Wireless Customer Care at one of the following addresses: 333 Bloor Street E., Toronto, Ontario M4W 1G9 or 6315 Cote de Liesse, St. Laurent, Quebec, H4T 1E5.
- (d) In addition, Rogers may use e-mail, short text messages, telemarketing and direct mail to inform Customer and its end users about products and services from Rogers and related Rogers companies that Rogers' feels may interest Customer and/or end users. If Customer or its end users does not wish to receive these types of communications, Customer or end users, as the case may be, may go to www.rogers.com/wirelesspermission to complete a form to inform Rogers of such preferences.
- (e) Upon request, Customer may inspect any of Rogers' records relating to Customer's information.
18. **Lost and Stolen Equipment.** The Customer shall notify Rogers immediately if a Device or related SIM card, if any, of the Customer or a Corporately Paid Employee is lost, stolen, or destroyed. The Customer will be required to replace the Device or SIM card and shall be responsible to pay Rogers for all charges up to the time of notification. If the Device or SIM is not replaced, the Customer will pay Rogers any applicable Early Cancellation Fees relating thereto.
19. **Early Termination.** Notwithstanding any other provision herein, this Agreement may be terminated immediately and at any time by Rogers:
- (a) without any liability to Customer whatsoever, if any changes in any applicable law, regulation, requirement, rule, ruling, guideline, policy or directive prohibits or adversely affects Rogers ability to provide the Services or to fulfill its obligations hereunder, or if a notice from a government agency or department indicates Rogers is not permitted to provide any portion or all of the Services to be provided or to operate all or any portion of the Rogers Facilities; or
 - (b) without any liability to Customer whatsoever, if Customer materially breaches a term of this Agreement and fails to cure such breach within ten (10) days after receipt by Customer of written notice of such breach; for greater certainty: a material breach on the part of the Customer shall include, without limitation: (A) fraudulent or other improper use of the Services or the Devices by Customer or any of its employees, agents or representatives or contractors; and (B) consistent late or non-payment by Customer of undisputed amounts owing to Rogers; or
 - (c) without any liability to Customer whatsoever, if Rogers decides to cease offering the Services; or
 - (d) without any liability to Customer whatsoever, if the Customer or the Employees use the Services or facilities in any way that adversely affects Rogers' operations or the use of Rogers' services by other customers; or
 - (e) without any liability to Customer whatsoever, if proceedings are commenced for the liquidation, dissolution, winding-up or suspension of operations of the Customer; or
 - (f) without any liability to Customer whatsoever, if the Customer becomes bankrupt or insolvent, makes any assignment for the benefit of creditors, makes any proposal under applicable bankruptcy legislation, seeks relief under any bankruptcy, insolvency or analogous law, is adjudged bankrupt, files a petition or proposal to take advantage of any act of insolvency, consents to or acquiesces in the appointment of a trustee, receiver of other person with similar powers over itself or all or substantially all of its assets or commences any proceeding seeking reorganization or arrangement or consents to or acquiesces in such proceedings; or
 - (g) without any liability to Customer whatsoever, upon ninety (90) days written notice to Customer at any time following the initial two year period, at Rogers sole discretion.

20. **Survival of Obligations.** The provisions of Sections 2, 5, 9, 11, 14, 15, 16, 21 and 26 of these General Terms and Conditions shall survive termination or expiration of this Agreement.
21. **Arbitration.** Any claim, dispute or controversy (whether in contract or tort, pursuant to statute or regulation, or otherwise, and whether pre-existing, present or future) arising out of or relating to: (a) this Agreement; (b) the services or equipment provided to Customer by Rogers; (c) oral or written statements, or advertisements or promotions relating to this Agreement or to the services or equipment; or (d) the relationships that result from this Agreement (collectively the "**Claim**") will be determined by arbitration to the exclusion of the courts. Customer agrees to waive any right Customer may have to commence or participate in any class action against Rogers related to any Claim and, where applicable, Customer also agrees to opt out of any class proceedings against Rogers. Please give notices of any claims to: Legal Department, 333 Bloor Street East, Toronto, Ontario M4W 1G9. Arbitration will be conducted by one arbitrator pursuant to the laws and rules relating to commercial arbitration in the province in which Customer resides that are in effect on the date of the notice.
22. **Data Usage.** Data usage rates may vary from those stated as a result of rounding rules including, without limitation, rounding up to the nearest cent and rounding for minimum message length. Transmission Control Protocol/Internet Protocol overhead characters shall be added to all data transmissions which characters shall be included in the calculation of kilobytes used. Unless otherwise specifically agreed to in writing by the parties, there shall be no pooling of kilobytes between Devices. For the purposes of aggregating monthly data usage Rogers may, at its discretion, aggregate prior to and/or subsequent to rating and rounding certain data transmissions. Customer will be charged for all data usage sent through Rogers' network regardless of whether the Devices actually receive the information. Compression may impact the total amount billed to Customer's account. Rogers' network may resend data packets to ensure complete delivery and Customer will be billed for these resent packets. Customer agrees that to the extent there is any dispute as to the amount of data transmitted to and from a Device in a particular period of time then the amount of data transmitted as determined by Rogers' billing system shall govern. Without limiting the generality of the foregoing, Customer agrees that Customer will not and will cause its end users to not use any Device or other feature of the Services to, directly or indirectly:
- a) invade another person's privacy; unlawfully use, possess, post, transmit or disseminate obscene, profane or pornographic material; post, transmit, distribute or disseminate content that is unlawful, threatening, abusive, libelous, slanderous, defamatory or otherwise offensive or objectionable; unlawfully promote or incite hatred; or post, transmit or disseminate objectionable information, including, without limitation, any transmissions constituting or encouraging conduct that would constitute a criminal offense, give rise to civil liability, or otherwise violate any municipal, provincial, federal or international law, order or regulation;
 - b) access any computer, software, data, or any confidential, copyright protected or patent protected material of any other person, without the knowledge and consent of such person, nor use any tools designed to facilitate such access, such as "packet sniffers";
 - c) upload, post, publish, deface, modify, transmit, reproduce, or distribute in any way, information, software or other material that is protected by copyright, or other proprietary right, or related derivative works, without obtaining permission of the copyright owner or rightholder;
 - d) copy, distribute or sublicense any software Rogers provides or makes available to Customer or its end users;
 - e) alter, modify or tamper with any Device or other feature of the Services;
 - f) restrict, inhibit or otherwise interfere with the ability of any other person to use or enjoy the Internet, any Device or other feature of the Services, or create an unusually large burden on the Rogers Facilities, including, without limitation: posting or transmitting any information or software that contains a virus, lock, key, bomb, worm, trojan horse or other harmful or debilitating feature; distributing mass or unsolicited e-mail; or otherwise generating levels of traffic sufficient to impede others' ability to send or retrieve information;
 - g) disrupt any backbone network nodes or network service used by Rogers, or otherwise restrict, inhibit, disrupt, or impede Rogers' ability to monitor or deliver any data or other feature of the Services;
 - h) interfere with computer networking or telecommunications service to or from any Internet user, host or network, including but not limited to denial of service attacks, overloading a service, improper seizure or abuse of operator privileges ("hacking") or attempting to "crash" a host;
 - i) resell any Device or other feature of the Services, or use any Device or other feature of the Services for anything other than Customer's own business purposes. Without limiting the foregoing, Customer agrees that Customer and end users will not use the Services to provide any Device, Internet access or any other feature of the Services to any third party;
 - j) port scan any computer or any other person, without the knowledge and consent of such person, nor use any tools designed to facilitate such scans.

In addition to Rogers' termination rights set out elsewhere in this Agreement, Rogers may terminate this Agreement if Customer or its end users engage in one or more of the above prohibited activities. Additionally, Rogers reserves the right to charge Customer for any direct or indirect costs incurred by Rogers or its affiliates, in connection with Customer's or its end users' breach of any provision of this section of this Agreement, including costs incurred to enforce Customer's and end users' compliance with it.

23. **Data Monitoring.** (a) Rogers has no obligation to monitor content or Customer's and end users' use of Rogers' network. However, Customer agrees that Rogers has the right to monitor and investigate content and Customer's and end users' use of Rogers' network electronically from time to time and to disclose any information as necessary to: satisfy any law, regulation or other governmental request or to assist in the pursuit of any legal action against Customer or end users; operate the Service(s) properly; ensure or enforce compliance with this Agreement; or protect Rogers or Rogers' customers.

24. **Content.** Customer acknowledges and agrees that there is some content accessible through the Services that may be offensive to Customer or an end user, or that may not be in compliance with applicable law. For example, it is possible to obtain access to content that is pornographic, obscene, or otherwise inappropriate or offensive, particularly for children. Rogers assumes no responsibility for and exercise no control over the content contained accessible through the Services. Customer agrees that all content that Customer and end users access using the Services is accessed and used by Customer and end users at their own risk, and that Rogers will not be liable for any claims, losses, actions, damages, suits or proceedings arising out of or otherwise relating to Customer's and/or end users access to such content.
25. **Notice.** All notices given under this Agreement shall be in writing and shall be deemed to have been duly delivered, effective upon receipt if faxed or hand delivered, or effective three business days after being deposited, postage prepaid, return receipt requested, in the mail and sent to the following addresses or facsimile numbers:

If to Customer at the address or facsimile number set forth at the top of this Agreement.

If to Rogers at Rogers Wireless Partnership, One Mount Pleasant Road, Toronto, ON M4Y 2Y5, Attention: VP, National Sales, Facsimile: (416) 935-7505;
with a copy to: Attention: Legal Department, Facsimile: (416) 935-7627

Any party may at any time give notice in writing to the other party of any change of address of the party giving such notice and from and after the giving of such notice the address therein specified shall be deemed to be the address of such party for the giving of notices hereunder.

26. **General.** (a) **Entire Agreement.** This Agreement constitutes the entire understanding between the parties with respect to the subject matter of this Agreement and there are no representations, warranties, covenants, agreements or collateral understandings, oral or otherwise, expressed or implied, affecting this instrument which are not expressly set forth herein. (b) **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario. (c) **Waiver of Default.** Waiver by either party of any default by the other party shall not be deemed a continuing waiver of such default or a waiver of any other default. (d) **Severability.** If a provision of this Agreement, shall be invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the entire agreement, but rather the entire agreement shall be construed as if not containing the particular invalid or unenforceable provision or provisions. (e) **Language.** The parties hereto have required that this Agreement and all documents or notices resulting therefrom or ancillary thereto be drawn up in the English language. Les parties aux présentes ont demandé que ce contrat et tous les documents ou avis en résultant ou y étant assujettis soient rédigés en langue anglaise. (f) **Force Majeure.** Other than with respect to the payment of Charges and other amounts to Rogers, in no event shall either party have any liability for failure to comply with this Agreement, if such failure results from the occurrence of any contingency beyond the reasonable control of the party including, without limitation, strike or other labour disturbance, riot, theft, flood, lightning, storm, any act of God, power failure, war, national emergency, interference by any government or governmental agency, embargo, seizure, or enactment of any law, statute, ordinance, rule, or regulation. (g) **No Third Party Beneficiaries.** Except as otherwise specifically stated in this Agreement, the provisions of this Agreement are for the benefit of the parties hereto and not for any other person. (h) **Prevailing Terms.** The terms and conditions of any order form, purchase order or invoice shall incorporate only the terms and conditions of this Agreement and the terms and conditions contained in this Agreement shall supercede any conflicting terms and conditions contained in any such order form, purchase order or invoice. (i) **Headings/Gender.** The headings of all articles or sections herein are inserted for convenience of reference only and shall not affect the construction or interpretation hereof. Except where the context otherwise indicates, words importing the singular number only shall include the plural, and vice versa, and words importing the masculine gender shall include the feminine gender. (j) **Binding.** This Agreement shall be binding on the Parties and their respective legal successors and permitted assigns.
27. **Amendment.** Rogers may amend, add or remove portions of these General Terms and Conditions at any time and from time to time without notice and the then current version shall be posted at the following website: www.rogers.com/corporateterms