

JagWireless Terms and Conditions

TERMS AND CONDITIONS

JagWire Enterprises, INC. DBA, JagWireless. ("JagWireless") will provide wireless Internet access and related services (the "Service") to its subscribers and any end users utilizing the Service through the party ordering the Service (collectively referred to herein as "you" or "your") in accordance with the order form signed by you (the "Order Form"), the terms and conditions set forth below (the "Terms"), JagWireless's Acceptable Use Policy and such other policies as JagWireless may adopt (collectively, "Policies"), each as they may be amended from time to time. Additional terms, restrictions, and limitations may be set forth in authorized service plan descriptions, brochures, and/or in feature or promotional materials provided to or received by you (each, a "Service Plan"), and all such terms, restrictions, and limitations are incorporated herein by reference and are binding upon you. The Order Form, Terms, Policies, and Service Plans collectively constitute your agreement (the "Agreement") with JagWireless. In the event of conflict, except as otherwise expressly stated in any of the foregoing, the Terms shall control. Current versions of JagWireless's Terms and applicable Policies can be found at www.JagWireless.com. By initiating Service, you accept the Terms, your Service Plan, and the Policies.

- 1. Service and Invoices.** You will purchase the Service as set forth in the Order Form and as supplemented by you and verified by JagWireless from time to time. JagWireless will bill you after Service commences for installation fees and a prorated fee for the first month of Service, and will bill you in advance thereafter for recurring monthly charges. All invoice terms will be payable on or before the due date set forth in the invoice. Your invoice will include applicable federal, state, and local taxes and fees. Charges for Service are contained in the Order Form, and may be modified by JagWireless with thirty (30) days written notice to you. Payments not received by the due date set forth on your invoice will be considered delinquent, and may be charged a late fee on the unpaid balance of the lesser of one and one-half percent (1-1/2%) per month or the highest rate allowed by law. Delinquent accounts are subject to immediate suspension or termination of Service at the sole discretion of JagWireless. In the event of such suspension or termination, all charges (including Early Termination Fees - Section 14) will become immediately due and owing together with any costs of collection incurred by JagWireless, including attorneys' fees, and JagWireless will be at liberty to pursue all rights and remedies it may have at law or in equity. JagWireless will attempt to notify you in advance of suspension, termination, and collection actions, but is not required to make contact prior to taking such actions. To reestablish Service suspended or terminated for delinquency, you must pay all past due amounts in full and pay a reconnection fee.
- 2. Equipment Provided.** Upon activation of your account, JagWireless will provide you with an antenna, a subscriber unit, and cabling between the antenna and your unit (collectively the "Equipment"). JagWireless may periodically replace, upgrade, repaint, or otherwise modify the Equipment, as JagWireless deems appropriate in its sole discretion. JagWireless will retain title to and ownership of the Equipment at all times, and you will return the Equipment in good working order to JagWireless upon the termination of this Agreement or upon the request of JagWireless. Failure to return the Equipment to JagWireless in good working order upon request will result in a

\$500.00 charge to you, which you acknowledge is the replacement cost of the Equipment. You are responsible for ensuring that your equipment has the minimum hardware and operating system requirements necessary to use the Equipment and Service, and JagWireless will not be responsible for any loss of use of Service or degradation in performance resulting from your use of incompatible equipment. You may not modify the Equipment in any way.

3. **Installation.** JagWireless or its authorized contractor will install the Equipment at your location (the "Premises"). By authorizing installation, you represent to JagWireless that you either own the Premises or have received permission from the owner of the Premises to make any changes to the Premises necessary to install the Equipment and receive the Service, including securing roof rights, if necessary. Further, you represent that the installation of the Equipment on the Premises will not violate any restrictions or agreements applicable to the Premises. Charges for setup and installation are contained in the Order Form. You acknowledge that the installation representative may refuse to perform any custom installation work, or may require inside or external wiring to complete Service delivery at additional hourly or other charges. In the event you fail to keep an installation appointment or the Premises are not prepared to accept installation of the Equipment and Service, JagWireless may charge you a fee to recover any costs associated with an additional installation appointment. JagWireless will not be liable for any alterations or damage to the Premises that result from the installation, use, or removal of the Equipment, including, but not limited to, holes in walls or ceilings, cable wiring, or antenna mounting brackets.
4. **JagWireless's Responsibilities.** JagWireless will provide you with wireless local loop TCP/IP connections to the JagWireless network. JagWireless's responsibility for the Subscriber component of Service ends at the JagWireless subscriber unit. JagWireless will not maintain or in any way be responsible for any software, cables, or hardware attached to the subscriber unit or in any way related or unrelated to the use of Service. JagWireless will provide customer care support from 7:00 am until 7:00 pm Central time, Monday through Friday, for performance and operational issues related to the JagWireless network. JagWireless may provide additional hours and on-call support when contractually obligated by subscriber agreements.
5. **Your Responsibilities.** You are responsible for providing access to the Premises during business hours and for the appropriate preparation and maintenance of the Premises to allow for proper installation, maintenance, and other activities of JagWireless in connection with the Equipment and Service. You will reimburse JagWireless for any loss or damage to the Equipment, reasonable wear and tear excepted. In accessing the Service, you will utilize the troubleshooting guides and user information provided by JagWireless or available on the Internet prior to contacting JagWireless customer care. JagWireless customer care will troubleshoot and support you on Service and Equipment issues pertaining to the JagWireless network and Service only, and reserves the right to determine that a problem or issue is your responsibility.
6. **Credits.** No credit or adjustment will be made for interruptions of the Service unless the interruption continues for a period of twelve (12) hours or more, measured from the time that you report the interruption to JagWireless. In

the event of an interruption of the Service that continues for a period of twelve (12) hours or more, credit allowance will be made, at your request, for an amount not to exceed the prorated monthly charges for your Service during the affected period. The credit will be available only where the interruption is in no part due to your acts or omissions whether negligent or otherwise or by interruptions caused by failure of any equipment or service not provided by JagWireless. The foregoing credit will be your sole and exclusive remedy for any interruption of the Service. In order to be eligible for any such credit, you must request the credit within sixty (60) days of the commencement of the interruption.

7. **Intended Use of the Service.** You will not use the Service in a manner prohibited by any federal, state, or local law or regulation, and will abide by JagWireless's Policies, which set forth additional rules that govern your activity in connection with the Service. Without limiting the foregoing, you may not use the Equipment or Service for any abusive purpose or in any way that damages JagWireless's property or interferes with or disrupts our network or other users. You may not attempt to circumvent user authentication or security of any host, network, or account (also known as "cracking" or "hacking"). This includes, but is not limited to, accessing data not intended for you, logging into a server or account that you are not expressly authorized to access, or probing the security of other networks. You may not attempt to interfere with service to any user, host, or network ("denial of service attacks"). This includes, but is not limited to, "flooding" of networks, deliberate attempts to overload a service, and attempts to "crash" a host. You may not use any kind of program/script/command, or send messages of any kind, designed to interfere with a user's terminal session, by any means, locally or via the Internet. The use of programs such as packet sniffers, host and/or service monitoring, and other similar programs is forbidden. JagWireless monitors all network services around the clock. JagWireless has the right but not the obligation to restrict any uses of the Equipment or Service that JagWireless believes in its sole discretion violate these Terms, any Policy, or applicable law. You are solely responsible for all content that you transmit utilizing the Equipment or the Service.
8. **Content and Materials Accessible on the Internet.** You acknowledge that there are materials and content on the Internet or otherwise accessible through the Service which may not be in compliance with all federal, state, and local laws and regulations, and which may be sexually explicit, offensive, or otherwise objectionable to you. JagWireless assumes no responsibility for and exercises no control over the content or materials contained on the Internet or that is otherwise available through the Service. You access such materials at your own risk.
9. **Illegal and Fraudulent Activity.** JagWireless will cooperate fully with investigations of possible illegal activity or violations of systems or network security at other sites, including cooperating with law enforcement authorities in the investigation of suspected criminal violations. Subscribers who violate systems or network security may incur criminal or civil liability. JagWireless may immediately suspend or terminate your Service if JagWireless suspects abuse or fraudulent use of the Service, interference with our network, or violation of this Agreement. You will cooperate with us in any fraud investigation and use any fraud prevention measures JagWireless prescribes.

Your failure to provide reasonable cooperation may result in your liability for all fraudulent usage.

10. **Privacy; Monitoring the Service.** JagWireless is under no obligation to monitor the Service, but JagWireless may do so from time to time. JagWireless may disclose any information regarding you or your use of the Service for any reason and at its sole discretion in order to satisfy applicable laws, regulations, governmental requests, or in order to operate and deliver the Service in an efficient manner, or to otherwise protect JagWireless's property or legal interests and those of its subscribers.
11. **Back Up.** You acknowledge that the installation, use, inspection, maintenance, repair, and removal of the Equipment may result in service outage or potential damage to your computer equipment and/or loss of software, files, data, or peripherals. You acknowledge that you are solely responsible for backing up all existing computer files by copying them to another storage medium prior to installation, maintenance, repair, or removal of the Equipment. Neither JagWireless nor its subcontractors will be liable for any loss of data or damage to hardware or Premises that occurs during installation of or any service performed on your computer in support of your Service.
12. **Network Address Ownership.** The IP addresses that JagWireless assigns to you are considered loaned, and not transferred or sold. Such IP addresses will revert back to JagWireless upon the termination of your Service for any reason.
13. **Credit Reporting Agencies.** You authorize us to ask consumer reporting agencies or trade references to furnish us with employment and credit information, and you consent to our rechecking and reporting personal and/or business payment and credit history. Upon receipt of adverse credit information about you at any time, JagWireless reserves the right to suspend or terminate Service to you or require a deposit for Service, at our option.
14. **Termination/Early Termination Fee.** You will maintain Service for the duration of the Initial Term (as set forth on the Order Form). After the Initial Term, Service will automatically renew for successive annual periods. You may terminate the Service at the end of the Initial Term or at any time during any renewal term by providing not less than thirty (30) days written notice to JagWireless. The termination notice must be sent to the address provided on your monthly invoice. If you terminate your Service or your Service is terminated by JagWireless for any violation of this Agreement prior to the end of the Initial Term, you will be liable for an early termination fee equal to the monthly recurring charges times the number of months remaining on the Initial Term, or such other early termination fee as may be specified on your Order Form.
15. **DISCLAIMER OF LIABILITY.** (A) THE SERVICE AND EQUIPMENT ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, NON-INFRINGEMENT, OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NEITHER JAGWIRELESS NOR IT AFFILIATES WARRANT THAT THE

SERVICE WILL BE UNINTERRUPTED OR ERROR FREE OR THAT ANY INFORMATION, SOFTWARE, OR OTHER MATERIAL ACCESSIBLE ON THE SERVICE ARE FREE FROM VIRUSES, WORMS, TROJAN HORSES, OR OTHER CODE THAT MANIFESTS CONTAMINATING OR DESTRUCTIVE PROPERTIES. YOU ARE RESPONSIBLE FOR IMPLEMENTING SUFFICIENT PROCEDURES TO SATISFY YOUR PARTICULAR REQUIREMENTS FOR THE ACCURACY OF DATA INPUT AND OUTPUT, AND FOR MAINTAINING A MEANS EXTERNAL TO THE SERVICE FOR THE RECONSTRUCTION OF ANY LOST DATA OR FILES. WITHOUT LIMITING THE FOREGOING, THE QUALITY OF THE SERVICE MAY BE AFFECTED BY CONDITIONS BEYOND OUR CONTROL, INCLUDING ATMOSPHERIC, GEOGRAPHIC, OR TOPOGRAPHIC CONDITIONS. JAGWIRELESS DOES NOT GUARANTEE THAT THERE WILL NOT BE ANY INTERRUPTIONS IN SERVICE. ALTHOUGH SECURITY MEASURES ARE EMPLOYED, JAGWIRELESS CANNOT GUARANTEE THE SECURITY OF DATA TRANSMISSION OR STORAGE.

(b) Notwithstanding anything else in this Agreement, JagWireless will not be liable or obligated under any section of this Agreement or under any contract, negligence, strict liability, or other legal or equitable theory (i) for any amounts in excess of the aggregate of the fees paid to it hereunder during the three month period immediately preceding the occurrence giving rise to liability, (ii) for any cost of procurement of substitute goods, technology, services, products, or rights, (iii) for any loss or corruption of data or delayed or interrupted use of the Service or access to the Internet, (iv) for any incidental or consequential damages or lost profits, or (v) for any lack or breaches of security of the Service or in the storage of your data or any end user's data.

16. **Complaint Resolution/Notices.** In order to resolve a complaint regarding the Service or to receive further information regarding the use of the Service, please contact JagWireless at (402) 933-2877. Written notices to you will be effective three (3) days following the date deposited in the U.S. Mail addressed to your address as kept in our files. You are responsible for notifying us of any changes in your address. Written notice to JagWireless will be effective when directed to JagWireless's Customer Care Department and received at the address listed on the back of your invoice. Your notice must specify your account number. Oral notices will be deemed effective on the date reflected in our records.
17. **Amendments.** JagWireless may amend the Terms and your Service Plan at any time upon advance written notice. If you do not agree to an amendment that is materially disadvantageous to you, you may terminate this Agreement by giving us written notice within twenty (20) days of the date we mail our notice, and you will not be charged any Early Termination Fee (if applicable). If you use the Service or make any payment to us after we mail notice of a change, and do not provide written notice to us within the specified time period, you agree to that change. JagWireless may revise any Policy at any time, and such revisions will be effective ten (10) days after posting on JagWireless's website, or providing written notice to you.
18. **Indemnification.** You will defend, indemnify, and hold JagWireless and its directors, officers, employees, agents, and shareholders and any other service provider harmless against any and all claims, losses, damages, and liabilities

sustained by JagWireless resulting from, arising out of, or connected with any breach or non-fulfillment of any representation, warranty, or covenant set forth in this Agreement or from your use of the Equipment or the Service. You also agree to pay our reasonable attorneys' and expert witness fees and costs incurred in enforcing this Agreement through any appeal. This paragraph will survive termination of this Agreement for any reason.

19. **Assignment and Successors in Interest.** All of the Terms will be binding upon, inure to the benefit of, and be enforceable by your respective successors and permitted assigns. Except as specifically stated herein, neither these Terms nor any of your or JagWireless's rights, interests, or obligations may be assigned or delegated without the prior written consent of JagWireless. Any unauthorized assignment or delegation will be null and void. Notwithstanding the foregoing, JagWireless may assign or otherwise transfer its rights and obligations to any affiliate (whether by purchase of stock or assets, merger, operation of law, or otherwise) of that portion of its business related to the subject matter hereof.
20. **Entire Agreement/Severability.** This Agreement, including the Order Form, the Terms, your Service Plan, and the Policies (each as they may be amended from time to time) together contain the entire agreement and understanding concerning the Service and Equipment and supersede all prior negotiations, proposed agreements, and all other agreements, whether electronic, written, or oral. In the event that it is determined by a court of competent jurisdiction as a part of a final non-appealable judgment that any provision of this Agreement (or part thereof) is invalid, illegal, or otherwise unenforceable, such provision will be enforced as nearly as possible in accordance with the stated intention of the parties, while the remainder of this Agreement will remain in full force and effect.
21. **ARBITRATION.** THIS AGREEMENT WILL BE GOVERNED BY AND CONSTRUED UNDER THE LAWS OF THE STATE OF NEBRASKA WITHOUT REGARD TO CHOICE OF LAW PRINCIPLES. ALL DISPUTES ARISING UNDER THIS AGREEMENT (OTHER THAN YOUR FAILURE TO MAKE PAYMENTS IN ACCORDANCE WITH SECTION 1 ABOVE) WILL BE SETTLED BY ARBITRATION USING THE COMMERCIAL RULES OF THE AMERICAN ARBITRATION ASSOCIATION THEN IN EFFECT. THE PLACE FOR ARBITRATION WILL BE THE COUNTY AND STATE IN WHICH YOU RECEIVE YOUR BILL. ONE (1) ARBITRATOR SELECTED BY MUTUAL AGREEMENT WHO HAS EXPERTISE IN THE SUBJECT MATTER HEREOF WILL CONDUCT THE ARBITRATION. YOU AND JAGWIRELESS WILL EACH BEAR YOUR OWN EXPENSES, INCLUDING ATTORNEY'S FEES, EXCEPT THAT WE WILL EQUALLY SHARE THE EXPENSES OF THE ARBITRATOR. THIS DUTY TO ARBITRATE WILL SURVIVE THE TERMINATION OF THIS AGREEMENT FOR ANY REASON. ALL CLAIMS WILL BE ARBITRATED INDIVIDUALLY AND THERE WILL BE NO CONSOLIDATION OR CLASS TREATMENT OF ANY CLAIM UNLESS PREVIOUSLY AGREED TO IN WRITING BY JAGWIRELESS.