

TERMS AND CONDITIONS

The terms and conditions stated herein are part of the Sales and Service Agreement and, if applicable, are in addition to any additional terms stated in any Special Offering (as defined elsewhere herein) (collectively, the "Agreement") and shall govern the relationship between the customer (the "Subscriber") and Arch Wireless Operating Company, Inc. ("Arch") with respect to the subject matter hereof. **IF YOU DO NOT ACCEPT THE TERMS AND CONDITIONS OF THIS AGREEMENT, PLEASE RETURN YOUR COMMUNICATION DEVICE(S) WITHIN FOURTEEN DAYS OF YOUR RECEIPT THEREOF. UPON THE EARLIER OF YOUR USE OF THE SERVICES (AS DEFINED BELOW) OR THE EXPIRATION OF THE FOURTEEN-DAY PERIOD, SUBSCRIBER AGREES TO BE BOUND HEREBY.**

Services: Subject to the terms and conditions stated herein, Arch shall provide services consistent with the normal and reasonable standards of the wireless messaging industry (the "Services"). Service may include telecommunications services or facilities supplied by other carriers or other third parties and selected by Arch at its sole option and discretion. Notwithstanding the foregoing, Arch shall be responsible for billing, customer service and Service related issues. In the event that Service is interrupted, Subscriber's sole remedy shall be the pro rata adjustment to the fixed monthly charges for Service of the affected Device (an "Adjustment"). Notwithstanding the foregoing, an Adjustment shall only be made (i) for interruptions of more than 36 consecutive hours in duration and (ii) from the time Arch receives written notice of such interruption until the termination of such interruption. No Adjustment shall be made if the interruption is caused by (i) Subscriber or any person using Subscriber's Device, including, among other things, (a) failure to comply with the Device's operating instructions or (b) any breach hereunder, (ii) any act or event beyond the reasonable control of Arch (a force majeure event), (iii) activities reasonably necessary or appropriate for the proper or improved operations of Arch or (iv) signal or coverage limitations. Subscriber shall not use Services for any unlawful purpose (including, without limitation, violation of any applicable law, regulation or ordinance) or in a manner that reasonably could adversely affect Arch service to others.

Warranty Disclaimer: THE LIMITED WARRANTIES AND THE REMEDIES CONTAINED HEREIN ARE THE EXCLUSIVE WARRANTIES AND REMEDIES OFFERED BY ARCH. ARCH MAKES NO OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, CONCERNING THE SERVICE OR DEVICE OR ARCH'S FACILITIES, NETWORK OR SYSTEM, OR THE CONTENT, CONFIDENTIALITY OR ACCURACY OF ANY INFORMATION TRANSMITTED VIA ARCH'S FACILITIES, NETWORK OR SYSTEM, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE, WHICH ARCH SPECIFICALLY DISCLAIMS. IF A MANUFACTURER HAS INCLUDED ANY WARRANTIES WITH THE DEVICE, THE MANUFACTURER SHALL BE SOLELY RESPONSIBLE FOR SUCH OBLIGATIONS AND SUBSCRIBER AGREES TO SEEK ANY REMEDIES SOLELY AGAINST SUCH MANUFACTURER.

Limitation on Liability: NOTWITHSTANDING ANY PROVISION TO THE CONTRARY CONTAINED HEREIN, NEITHER ARCH NOR ITS SUPPLIERS SHALL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL LOSS OR DAMAGES OF ANY DESCRIPTION, REGARDLESS OF THE CAUSE THEREFOR.

Indemnity: Other than as specifically provided to the contrary elsewhere herein, Subscriber hereby indemnifies and holds Arch harmless from any and all claims, actions, proceedings, expenses, damages and liabilities (including reasonable attorneys' fees) (each, a "Claim") arising out of the use or operation of the Device or the Services, or any act or omission of the Subscriber or its employees or agents, or incurred by Arch in exercising any of its rights or remedies hereunder or enforcing any of the terms, conditions or provisions hereof, including, without limitation, any Claim arising out of any exposure to or arising from RF emissions, if any.

The Device: Arch agrees to sell the Device and any accessories (the "Purchased Device"), or lease the Device and any accessories (the "Leased Device") to Subscriber on the terms and

conditions stated in this Agreement. Each the Purchased Device and the Leased Device is a "Device", which shall include one-way receiving and/or two-way receiving and transmitting devices. The Device may be encrypted with a password to prevent theft, misuse, inventory control and certain contract protections.

Leased Device: Title in Leased Device remains with Arch. Subscriber agrees to maintain the Leased Device(s) in good operating condition and appearance, free from any liens or encumbrances. Subscriber agrees to return Leased Device to Arch in its original condition, ordinary wear and tear excepted, upon the expiration or termination of this Agreement. In the event the Leased Device is not returned in its original condition, ordinary wear and tear excepted, Subscriber shall be charged for the necessary repairs or if the Leased Device is damaged beyond commercially reasonable repair, Subscriber shall be charged the purchase price of the Leased Device. In the event the Leased Device needs repairs during the Term (as defined below), and the Leased Device is not damaged beyond commercially reasonable repairs, Arch shall send a replacement Leased Device, Subscriber shall deliver the damaged Leased Device to Arch and Subscriber shall be responsible for all shipping costs associated therewith. In the event the Leased Device needs repairs, and the Leased Device is damaged beyond commercially reasonable repairs, and Subscriber has not purchased Protection (as defined below), Arch shall send a replacement Leased Device, Subscriber shall be billed for the purchase price of such replacement Leased Device and Subscriber shall be responsible for all shipping costs associated therewith. In the event the Leased Device needs repairs and the Leased Device is damaged beyond commercially reasonable repairs and Subscriber has purchased Protection, Arch shall send a replacement Leased Device, Subscriber shall be billed for the applicable Deductibles (as defined below) and Subscriber shall be responsible for all shipping costs associated therewith. **Arch is under no obligation to repair or return the original Leased Device.**

Purchased Device: Title in Purchased Device passes to Subscriber upon payment in full of the purchase price. Arch offers no warranty with the Purchased Device. In the event the Purchased Device has defects or faulty workmanship, Subscriber shall contact the manufacturer pursuant to the manufacturer's warranty, if any. Under certain circumstances, Subscribers may purchase Devices pursuant to special arrangements with Arch whereby Subscriber shall make Automatic Payments (as defined below), in equal amounts, over a specified period (the "Purchase Period") of time ("Auto Pay Devices"). In the case of an Auto Pay Device, in the event of early termination prior to the expiration of the Purchase Period, Subscriber shall, among other things, pay the outstanding purchase price (the "Outstanding Purchase Price") due thereon. Under certain circumstances, Subscribers may purchase Devices pursuant to special arrangements with Arch whereby Subscriber shall make payments in equal amounts, over the Purchase Period ("Time Purchase Devices"). In the case of a Time Purchase Device, in the event of early termination prior to the expiration of the Purchase Period, Subscriber shall, among other things, pay the outstanding balance (the "Outstanding Balance") due thereon.

Maintenance and Protection: Subscribers using Leased Devices may elect to purchase loss protection ("Protection"). Subscribers using Purchased Devices may elect to purchase maintenance protection ("Maintenance") and, under certain circumstances, if available, Subscribers using Purchased Devices may elect to purchase maintenance and loss protection ("Coverage"). Subscriber shall be responsible for all applicable deductibles (the "Deductible"), as in effect from time to time, on Maintenance, Protection and/or Coverage (collectively, "Care"). In the case of two-way Devices, Subscriber shall be responsible for the equipment swap fees (the "Swap Fees"), which shall be charged to Subscriber each time a two-way Device is exchanged by Arch. Care may not be available on all Devices. Consult Arch for the applicability of Care for the Leased Device and the Purchased and for applicable Deductibles and details relating to the Care program. Except as otherwise provided herein, and in accordance with Subscriber's payment of Deductibles and applicable Swap Fees, in the case of (i) Protection, if the Leased Device is (a) malfunctioning, Arch shall, at its option, replace the Leased Device or perform repairs thereto and (b) lost, stolen or damaged beyond commercially reasonable repair, Arch shall provide Subscriber with a replacement Leased Device, (ii) Maintenance, Arch's sole obligation, at its option, is to

replace, or perform minor repairs to, a malfunctioning Purchased Device and (iii) Coverage, if the Purchased Device is (a) malfunctioning, Arch shall, at its option, replace the Purchased Device or perform repairs thereto and (b) lost, stolen or damaged beyond commercially reasonable repair, Arch shall provide Subscriber with a replacement Purchased Device. Arch shall not provide services under the Care program unless Subscriber (i) pays all Deductibles and applicable Swap Fees, (ii) is current on all payments, (iii) pays for shipping and handling, (iv) if applicable, furnishes an affidavit of loss in a form satisfactory to Arch and (v) exhausts all remedies under manufacturer's warranty, if any. Care shall be void if the Device is damaged due to misuse, tampering or repairs or modifications not authorized by Arch. Subscriber shall be responsible for all costs associated with batteries and the Device's housing, clip and battery cover, whether or not Subscriber has purchased Protection, Maintenance and/or Coverage. **Arch is under no obligation to repair or return the original Device.** Arch reserves the right at its sole discretion, (i) not to offer Care to Subscriber or (ii) to terminate Subscriber's Care upon not less than five (5) days notice, provided Arch shall issue a pro rata credit for the terminated period. Arch shall not, however, issue any credit for any portion of Care in the event that the term of this Agreement expires or terminates prior to the Care period. Care is void for any Device provided to another person.

Repair Delivery of Device: Unless the parties have made alternate return arrangements, Subscriber shall return the Device using packaging with ample padding to prevent damage in transit and shall prepay all shipping costs. If the returned Device is missing parts or is not in the condition it was provided to Subscriber, ordinary wear and tear excepted, Subscriber shall be responsible for the cost of the missing parts or for cost of returning the Device to its original condition.

Term: The initial term of this Agreement shall commence on the date that the Device is activated and shall continue for the period set forth elsewhere herein (the "Initial Term"). Upon the expiration of the Initial Term, this Agreement shall remain in full force and effect provided that either party may terminate this Agreement in accordance with the terms set forth elsewhere herein. The Initial Term, together with any extensions shall be referred to as the "Term." Notwithstanding anything to contrary contained elsewhere herein, in the event a Device is, or Devices are, added to an account hereunder, the Term of the Agreement with respect to such additional Device, or Devices, shall not be shorter than the length of the Initial Term.

Termination: Subscriber's failure to pay an invoice in full within 15 days of the date specified on the invoice shall be deemed past due and a material breach of this Agreement. In such event, without prior written notice by Arch: (i) Service may be temporarily interrupted or terminated (ii) a reconnection charge of up to \$25 per Device may be charged to Subscriber's account; (iii) late charges shall accrue at the rate of 1.5% per month (or fraction thereof), or the highest lawful rate, if lower; (iv) Arch may apply Subscriber's deposit, if any, against the unpaid balance, (v) Arch may require an additional deposit to continue Service; and (vi) Subscriber agrees to pay all collection costs and reasonable legal fees incurred by Arch as a result of Subscriber's late payment or non-payment. In addition to disconnection and/or reconnection charges, if any, Subscriber shall pay the Outstanding Purchase Price and/or the Outstanding Balance, as applicable. If Subscriber, in good faith disputes any portion of the invoice, Subscriber shall, nonetheless make payment in full of the invoice and Subscriber shall notify Arch of such dispute, in writing with supporting documentation, within 15 days of receipt of the invoice. The parties shall use commercially reasonable efforts to resolve any dispute. In the event the dispute is resolved in Subscriber's favor, Arch shall issue a credit to Subscriber's account. In the event the parties are unable to resolve the dispute, the dispute shall be resolved as provided elsewhere herein. In the event of the occurrence of a material breach (other than a breach arising out of or relating to a payment failure) that remains uncorrected for more than 15 days after written notice describing the breach from the non-breaching party, the non-breaching party shall have the right to declare a default hereunder. In the event the non-breaching party declares a default, in addition to the other remedies specified herein, and subject to the limitations specified herein, the non-breaching party

may pursue any and all remedies available to it at law and equity, including termination of this Agreement.

Cancellation: Subscriber's use of Services is at Subscriber's discretion. In the event Subscriber elects not to use Services, or Subscriber elects to cancel Services prior to the expiration of the Initial Term, Subscriber shall nonetheless be obligated to pay all recurring charges and outstanding balances through the end of the Initial Term plus an account disconnection fee (the "Account Disconnect Fee") as well as the Outstanding Purchase Price and/or the Outstanding Balance, as applicable. Upon the expiration of the Initial Term, Subscriber may terminate this Agreement by providing Arch with not less than thirty (30) days written notice of Subscriber's desire to so terminate, provided Subscriber submits payment of all outstanding Charges (including without limitation any Outstanding Purchase Price and/or Outstanding Balance, as applicable) through the cancellation date with such written notice. Subscriber shall state in the written cancellation notice, the date on which Subscriber desires the Services to terminate, provided such date is not less than thirty (30) days from the date of receipt of such notice by Arch. Arch reserves the right to terminate this Agreement upon not less than thirty (30) days' notice to Subscriber. In the event Arch so terminates this Agreement, Subscriber shall pay all Outstanding Purchase Prices and/or Outstanding Balances, as applicable. In no event shall any prepayments for Service and/or the Device be refunded or returned. **In the event Subscriber desires to cancel prior to the expiration of the Initial Term and Subscriber has agreed to make payments by Automatic Payments, Subscriber's credit card and/or checking account shall be billed for the balance of the Initial Term.**

E-Mail Addresses, Telephone and Personal Identification Numbers: Arch shall assign e-mail address, telephone and personal identification numbers (the "Numbers"), as applicable, in its sole discretion. Subscriber shall not acquire any proprietary interest in any specific Number assigned. Arch does not guarantee the assignment of any particular Number, prefix, or exchange and reserves the right to assign, designate, reassign or change Numbers as reasonably necessary in the conduct of its business. Arch hereby grants the use of a Number on a revocable basis; no rights shall accrue to Subscriber relating to such Number even if Subscriber has made all required payments.

Deposit: A deposit may be required for Service or the Device(s). Arch may apply the deposit in its discretion against amounts owed and unpaid during the Term and upon termination of this Agreement. To the extent that Arch applies all or any part of the deposit, Arch may require Subscriber to provide Arch with an additional deposit. Interest will not be paid on the deposit unless required by law.

Charges: "Charges" for Service and Device(s) shall be set forth on the invoice. Charges shall be in accordance with Arch's applicable charges in effect from time to time, which Arch may change without prior notice. Charges may include charges for shipping, activation or connection, and programming. Arch may require the payment of certain Charges upon execution of this Agreement ("Initial Charges"). Additional charges may apply for overcalls and changes to Service or Device(s). Charges, other than overcall charges, shall be payable in advance. Arch reserves the right to pass on to Subscriber, in addition to the Service and Device Charges, contributions Arch is required to make pursuant to any tax, levy or surcharge, local and federal Universal Service Fund charges or similar charges. Subscriber shall pay, in addition to any Charges described above, any assessment, duty, tax, or similar charge imposed by any local, state or federal government or governmental agency with respect to Service or the Device. **In the event of rebates, special offers or promotional offerings (collectively, "Special Offers"), the initial charges shall remain in effect until the termination of the Special Offers and Arch shall have the right, without further notice, to implement the then-current charges.**

Payment Methods: Payments may be made by automatic withdrawal from Subscriber's checking account (other than the deposit, if any, and the Initial Charges) or by credit card (collectively, "Automatic Payments") by providing the appropriate information to Arch. Subscriber's election to

use Automatic Payments authorizes Arch to seek payment from Subscriber's credit card issuer or bank, as applicable, for the full amount of the Charges. By electing Automatic Payment, Subscriber (i) acknowledges receipt of Service for the total Charges set forth on each invoice and, as applicable, (ii) as the cardholder, agrees to perform the obligations pursuant to Subscriber's agreement with the credit card issuer. After the expiration of the Initial Term, Subscriber may cancel Automatic Payments for future Charges by providing Arch with not less than thirty (30) days written notice, provided Subscriber of Auto Pay Devices shall pay the Outstanding Purchase Price due thereon prior to canceling Automatic Payments. Subscribers using Automatic Payments are solely responsible for the maintenance of appropriate balances in their checking accounts and credit availability in their credit card accounts, including, without limitation, the valid non-expiration of their credit cards. **ARCH, IN ITS SOLE DISCRETION AND WITHOUT PRIOR NOTICE TO SUBSCRIBER, RESERVES THE RIGHT TO CHARGE ANY AMOUNTS DUE HEREIN BY SUBSCRIBER AGAINST SUBSCRIBER'S CREDIT CARD AND/OR CHECKING ACCOUNT. BY ACCEPTING SERVICE, SUBSCRIBER HEREBY AUTHORIZES ARCH TO MAKE SUCH CHARGES AGAINST SUBSCRIBER'S CREDIT CARD AND/OR CHECKING ACCOUNT.**

Credit Information: Subscriber consents to Arch's disclosure of credit information to consumer reporting agencies, credit bureaus, or private credit reporting associations. Subscriber warrants that all information furnished to Arch was, at the time of application for credit and delivery of the Device, true and correct, and acknowledges any inaccuracy shall entitle Arch to suspend Service and Subscriber shall be responsible for payment of the all Charges through the date thereof and any disconnection and/or reconnect fees, including without limitation the Account Disconnect Fee, plus in the case of the (i) Leased Devices, Subscriber shall return the Device to Arch, (ii) Auto Pay Devices, Subscriber shall make payment of the Outstanding Purchase Price and (iii) Time Purchase Devices, Subscriber shall make payment of the Outstanding Balance.

Miscellaneous: Subscriber warrants that the person entering into this Agreement is authorized to do so. This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements, written or oral, and may not be amended except in writing and signed by an authorized representative of each party. Subscriber may not assign this Agreement without Arch's prior written consent. In the event of any conflict between the terms stated herein and any Special Offer, the terms of the Special Offer shall supersede the terms stated herein. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be resolved by arbitration administered by J.A.M.S./Endispute in Boston, Massachusetts in accordance with its commercial arbitration rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Each arbitration pursuant to this Agreement shall be limited to an action between the parties to this Agreement. There shall be no consolidation or class action of any arbitration action involving parties to this Agreement with any arbitration or other action between Arch and any other person. The parties expressly waive all rights to a jury trial. Subscriber expressly waives any and all claims for attorneys' fees. The laws of the Commonwealth of Massachusetts shall govern this Agreement. If any provision hereof is held to be invalid or unenforceable by any arbitrator or any appeals court of competent jurisdiction after the arbitrator's decision thereof, such holding shall not invalidate or render unenforceable any other provision of this Agreement. To be effective, any notice must be served by registered or certified U.S. mail or by any regular delivery service that provides receipt and evidence of delivery. Notice shall be deemed delivered two (2) days after the date of registration or certification with the U.S. mail or on the date of actual delivery if served by any other method. Notices sent to Arch should be sent to P.O. Box 169005, Irving, TX 75016-9005, Attn: TNC2002. This Agreement shall not be effective or binding until (a) executed by Arch (b) Arch's activation of Service or (c) by the transmittal of an invoice.