

Terms of Service

WE TRUST YOU. WE REALLY, REALLY TRUST YOU. WE WISH OUR COMMUNITY COULD ENJOY REPUBLIC WIRELESS ON NOTHING MORE THAN A VIRTUAL HANDSHAKE. OUR LAWYERS DID NOT LIKE THAT IDEA. WE ASKED THEM TO KEEP OUR AGREEMENT WITH YOU TO THE SIZE OF A POSTAGE STAMP. THEY DID NOT LIKE THAT IDEA EITHER. EVEN THOUGH WE DID NOT COMPLETELY WIN THE WRESTLING MATCH WITH OUR LAWYERS, WE THINK WE HAVE KEPT THEM IN CHECK - AND HAVE AMUSED OURSELVES IN THE PROCESS. KEEP READING.

THESE TERMS OF SERVICE ARE SUBJECT TO CHANGE FROM TIME TO TIME AS DETERMINED BY REPUBLIC WIRELESS, A DIVISION OF BANDWIDTH.COM, INC., IN ITS SOLE DISCRETION. MODIFIED AND/OR UPDATED VERSIONS OF THESE TERMS OF SERVICE WILL BE POSTED AT www.republicwireless.com/legal/terms.

YOU SHOULD CHECK www.republicwireless.com/legal/terms REGULARLY FOR MODIFIED AND/OR UPDATED VERSIONS OF THESE TERMS OF SERVICE.

REPUBLIC WIRELESS WILL PROVIDE YOU NOTICE OF ANY MATERIAL CHANGES TO THE SERVICES AND/OR THESE TERMS OF SERVICE. EXCEPT AS OTHERWISE DETERMINED BY REPUBLIC WIRELESS, MODIFIED AND/OR UPDATED VERSIONS OF THESE TERMS OF SERVICE WILL BE EFFECTIVE IMMEDIATELY UPON POSTING; MODIFIED AND/OR UPDATED VERSIONS OF THESE TERMS OF SERVICE WILL BE IDENTIFIED BY THE DATE, MONTH AND YEAR THEY BECOME EFFECTIVE. WE DO NOT PROMISE THAT ANY MODIFIED AND/OR UPDATED VERSIONS OF THESE TERMS OF SERVICE WILL AMUSE YOU, BUT WE WILL SEE WHAT WE (AND OUR LAWYERS) CAN DO.

DEFINITIONS:

"AAA" will have the meaning ascribed to such term in Section 22 below.

"Activation Date" means the date that Republic Wireless ships to you your Mobile Device; provided, however, if you do not select a Service Plan at the time that you initially purchase Your Mobile Device, "Activation Date" means the date that you select a Service Plan.

"AUP" means Republic Wireless' Acceptable Use Policy, which is posted at www.republicwireless.com/legal/aup, as modified by Republic Wireless from time to time in Republic Wireless' sole discretion.

"Cancellation Period" will have the meaning set forth in Section 9(g) below.

"Confirmed Port Date" means the date upon which Your pre-existing voice provider agrees to port a number(s) to Republic Wireless.

"Data Content" will have the meaning set forth in Section 19(d) below.

"Data Services" means those services listed as "Data Services" pursuant to Your Service Plan.

"Default" occurs: (i) if You fail to make any payment contemplated by these Terms of Service on or before the date two (2) business days immediately after any applicable required date; (ii) if You violate the AUP (if You behave the way Your mother would want You to behave, You should not have any problem with the AUP, but read the AUP anyway); (iii) if either Republic Wireless or You fail to perform or observe any term or obligation of these Terms of Service, including, without limitation, any document incorporated by reference into these Terms of Service, not otherwise specified in clauses (i) or (ii) above and applicable to the Services, which failure remains uncured thirty (30) calendar days after receipt of written notification from the non-defaulting party informing the defaulting party of such failure, unless these Terms of Service expressly provide that no such cure period applies under the applicable circumstances; (iv) upon the institution of bankruptcy, receivership, insolvency, reorganization or other similar proceedings, by or against You, unless such proceedings have been dismissed or discharged not later than the date thirty (30) calendar days immediately after the commencement of such proceeding; and/or (v) upon the making of an assignment for the benefit of creditors, adjudication of insolvency, or institution of any reorganization arrangement or other readjustment of debt plan, of or by You.

"Delivery Date" will mean the date that Your Mobile Device arrived at your address, as reflected on the records of our shipping carrier.

"Electronic Tools" means online access, application programming interface (API), or access by any other means, to an electronic system to access or manage Your use of the Wireless Services.

"Escalation Notice" will have the meaning ascribed to such term in Section 22 below.

"Initial Service Term" will have the meaning set forth in Section 7 below.

"Intellectual Property" means patents, pending patent applications, designs, trademarks and/or trade names (whether registered or unregistered), copyrights and related rights, database rights, know-how, trade secrets and/or confidential information, and all other intellectual property rights and similar or equivalent rights which currently exist or are recognized in the future, as well as all applications, extensions and renewals in relation to any such rights.

"International" means anywhere outside of the 48 contiguous United States, Alaska and Hawaii; for clarity, Puerto Rico, Guam and the U.S. Virgin Islands are "International." ("International" basically means anywhere You really would like to go on vacation if You had the money; put aside the dough Republic Wireless saves you and maybe you actually will get there someday!)

"Local" means inbound and/or outbound calls within a local calling area.

"Mobile Device" means any phone or any other device, accessory or other product Republic Wireless sells to You or that is active on Your account with Republic Wireless.

"Multimedia Messaging Service" or "MMS" is the multimedia communication service component of mobile communication systems that allows the exchange of multimedia content to and from mobile phone devices.

"Policies" means the business policies, practices and procedures adopted by Republic Wireless from time to time.

"Regulatory Activity" means any laws, regulations or other similar mandates (including, without limitation, any fees, surcharges or other like charges imposed or mandated) by any federal, state or other governmental agency at any time.

"Renewal Service Term" will have the meaning set forth in Section 7 below.

"Service Plan" means the plan pursuant to which Republic Wireless provides the Wireless Services to You, as described in any applicable service order form, online click-thru process, at www.republicwireless.com and/or other applicable means.

"Service Term" will have the meaning set forth in Section 7 below.

"Short Message Service" or "SMS" is the text communication service component of mobile communication systems that allows the exchange of short text messages between fixed line or mobile phone devices.

"Surcharges" are surcharges charged in connection with the Wireless Services and/or any Mobile Device(s), including, without limitation, Federal Universal Service, various regulatory charges, administrative charges, gross receipts charges and certain other taxes imposed upon Republic Wireless, or charges for the costs that we incur and pass to you.

"Unauthorized Code" means any virus, Trojan horse, worm, back door, trap door, time bomb, drop-dead device, timer, clock, counter or other limiting routine, as well as any other instructions, designs, software routines, or hardware components designed to: (a) disable, erase, or otherwise harm software, hardware, data, text or any other information stored in electronic form; (b) cause any of the foregoing with the passage of time; or (c) place a program or hardware under the positive control of a person other than an owner or licensee of the program or hardware.

"U.S. Domestic (Mobile)" means the 48 contiguous United States, plus Alaska and Hawaii; for clarity, Puerto Rico, Guam and the U.S. Virgin Islands are "International."

"Usage" means call traffic measured in units, usually in minutes, seconds or kilobytes.

"User" means a user (including You) utilizing the Wireless Services pursuant to these Terms of Service, whether or not authorized by You. (Anyone on the planet can be a "User" if they pick up your Mobile Device; do not let them; tell them to get their own - Republic Wireless will be glad to help.)

"Wireless Services" means the mobile phone service more fully described in Section 1 below made available by Republic Wireless pursuant to Your Service Plan and purchased by You from time to time.

"Your Equipment" means any internal wiring or extensions, required conduit, facilities, power or other similar infrastructure, systems, equipment, routers, software and networks used in connection with the Wireless Services, whether or not owned or controlled by You (other than the Mobile Device(s)).

1. Overview. Welcome to the Republic Wireless community! So long as You are not in default with respect to Your obligations pursuant to these Terms of Service, Republic Wireless will provide You with the Wireless Services pursuant to the terms of Your Service Plan for the Service Term. The Service Plan is part of these Terms of Service.

The Mobile Device(s) sold by Republic Wireless for use with the Wireless Services are configured to

utilize WiFi network(s), if available. However, the Mobile Device(s) will utilize radio transmissions available to the Mobile Device, if (i) unless Your Service Plan provides only for WiFi Usage, WiFi network(s) are unavailable, or (ii) a User makes a 911 call. You will ensure that the WiFi function of the Mobile Device(s) is turned on at all times that the Mobile Device is on (except when in airplane mode).

Unless Your Service Plan provides otherwise (for example, if Your Service Plan provides only for WiFi Usage), the Wireless Services provide: (a) voice service with included U.S. Domestic (Mobile) (local, intrastate and interstate) calling, but voice service does not include International, (b) Data Services, (c) Short Messaging Service, (d) regular and advanced features as determined by Republic Wireless, in its sole discretion, from time to time, and (e) other advanced features or premium features which Republic Wireless, in its sole discretion, may add or offer from time to time.

REPUBLIC WIRELESS MAY BE USED ONLY FOR LAWFUL, PROPER AND APPROPRIATE PURPOSES AND MAY NOT BE USED IN ANY WAY THAT IS ILLEGAL, IMPROPER OR INAPPROPRIATE, OR OTHERWISE FAILS TO CONFORM TO REPUBLIC WIRELESS' ACCEPTABLE USE POLICY POSTED AT www.republicwireless.com/legal/aup, WHICH IS INCORPORATED BY REFERENCE HEREIN.

REPUBLIC WIRELESS RESERVES THE RIGHT TO IMMEDIATELY TERMINATE SERVICE AND, IN ADDITION TO ANY AND ALL OTHER APPLICABLE CHARGES UNDER THESE TERMS OF SERVICE, CHARGE A MINIMUM INAPPROPRIATE USE FEE OF \$500 AND/OR CHARGE \$0.05 PER MINUTE FOR ALL CALLS MADE DURING SUCH PERIODS OF PROHIBITED USE, WHICHEVER IS HIGHER, CHARGE \$0.04 PER SMS OR MMS FOR ALL SMS' OR MMS' MADE DURING SUCH PERIODS OF PROHIBITED USE, AND CHARGE \$0.30 PER MB OF DATA CONTENT FOR USAGE DURING SUCH PERIODS OF PROHIBITED USE, AS WELL AS ALL APPLICABLE AMOUNTS DUE PURSUANT TO THESE TERMS OF SERVICE AND THE SERVICE PLAN. (WE DO NOT REALLY WANT TO CHARGE YOU THESE FEES AND DO NOT EXPECT THAT YOU WILL DO ANYTHING THAT MAKES US THINK ABOUT IT. PLEASE BEHAVE.)

THESE TERMS OF SERVICE INCLUDES A MANDATORY ARBITRATION PROVISION THAT DISALLOWS CLASS ACTIONS, A CLASS ACTION WAIVER PROVISION, AND A JURY WAIVER PROVISION.

The Wireless Services are subject to the Policies. You agree to adhere to all of Republic Wireless' Policies when using the Wireless Services. Republic Wireless' Policies are subject to change at any time with or without notice.

2. Emergency Services.

YOU ACKNOWLEDGE AND AGREE THAT 911 SERVICE FOR THE WIRELESS SERVICES IS DIFFERENT THAN FOR TRADITIONAL WIRELINE SERVICE. YOU WILL CAREFULLY REVIEW INFORMATION REGARDING 911 SERVICE PROVIDED IN ANY SUPPLEMENT TO THESE TERMS OF SERVICE ENTERED INTO FROM TIME TO TIME, INCLUDING, WITHOUT LIMITATION, THE NOTICE OF 911 AND E911 SERVICE LIMITATIONS TO WHICH YOU HAVE AGREED.

YOU WILL INFORM ALL USERS THAT 911 SERVICE FOR THE WIRELESS SERVICES IS

DIFFERENT THAN FOR TRADITIONAL WIRELINE SERVICE.

NOTWITHSTANDING ANY TERM OR CONDITION OF THESE TERMS OF SERVICE TO THE CONTRARY:

YOU ACKNOWLEDGE AND AGREE THAT, WHEN MAKING A 911 CALL USING THE WIRELESS SERVICES, USERS WILL STATE THE NATURE OF THE EMERGENCY AND PROVIDE BOTH THE USER'S LOCATION AND PHONE NUMBER SINCE THE 911 OPERATOR MAY NOT AUTOMATICALLY RECEIVE THIS INFORMATION. NEITHER REPUBLIC WIRELESS NOR BANDWIDTH.COM, INC., IS RESPONSIBLE FOR FAILURES TO CONNECT OR COMPLETE 911 CALLS OR IF INACCURATE LOCATION INFORMATION IS PROVIDED. 911 SERVICE MAY NOT BE AVAILABLE OR RELIABLE WITH THE WIRELESS SERVICES AND THE ABILITY OF USERS TO RECEIVE 911 SERVICES MAY BE IMPERFECT.

UNLIKE TRADITIONAL WIRELINE SERVICE, 911 OPERATORS MAY NOT KNOW A USER'S PHONE NUMBER OR LOCATION, DEPENDING ON A NUMBER OF FACTORS. UNDER SOME CIRCUMSTANCES, AN EMERGENCY CALL MAY BE ROUTED TO A DISPATCHER OR ALTERNATIVE LOCATION SET BY LOCAL EMERGENCY SERVICE PROVIDERS. E911 SERVICES, WHERE ENABLED, USE ASSISTED GPS TECHNOLOGY TO PROVIDE LOCATION INFORMATION. EVEN WHEN AVAILABLE, E911 SERVICES DO NOT ALWAYS PROVIDE ACCURATE LOCATION INFORMATION. IF A MOBILE DEVICE IS INDOORS OR FOR SOME OTHER REASON CANNOT ACQUIRE A SATELLITE SIGNAL, A USER MAY NOT BE LOCATED. SOME MOBILE DEVICES ALSO HAVE A SAFETY FEATURE THAT PREVENTS USE OF THE KEYPAD AFTER DIALING 911. USERS SHOULD FOLLOW VOICE PROMPTS WHEN INTERACTING WITH EMERGENCY SERVICE PROVIDERS EMPLOYING VOICE RESPONSE SYSTEMS TO SCREEN CALLS.

YOU ACKNOWLEDGE AND AGREE THAT NEITHER REPUBLIC WIRELESS (OR BANDWIDTH.COM, INC.), ITS UNDERLYING CARRIER, NOR ANY OTHER THIRD PARTIES INVOLVED IN THE ROUTING, HANDLING, DELIVERY, OR ANSWERING OF EMERGENCY SERVICES OR IN RESPONDING TO EMERGENCY CALLS, NOR THEIR OFFICERS OR EMPLOYEES, MAY BE HELD LIABLE FOR ANY ACTUAL OR ALLEGED CLAIM, DAMAGE, LOSS, FINE, PENALTY OR COST (INCLUDING, WITHOUT LIMITATION, ATTORNEYS FEES) AND YOU HEREBY WAIVE ANY AND ALL SUCH CLAIMS OR CAUSES OF ACTION, ARISING FROM OR RELATING TO THE PROVISION OF ALL TYPES OF EMERGENCY SERVICES TO YOU. YOU FURTHER AGREE AND ACKNOWLEDGE THAT YOU ARE INDEMNIFYING AND HOLDING HARMLESS REPUBLIC WIRELESS AND BANDWIDTH.COM, INC. FROM ANY ACTUAL OR ALLEGED CLAIM OR ACTION FOR ANY CALLER PLACING SUCH A CALL. YOU ACKNOWLEDGE AND AGREE THAT ANY INJURY ARISING OUT OF MISROUTED 911 CALLS, REGARDLESS OF WHETHER THE CALL WAS ROUTED BY A PUBLIC SAFETY ANSWERING POINT OR AN OFFICIAL EMERGENCY OPERATOR, IS NEITHER THE FAULT NOR LIABILITY OF REPUBLIC WIRELESS OR BANDWIDTH.COM, INC., AND YOU HOLD REPUBLIC WIRELESS AND BANDWIDTH.COM, INC., HARMLESS FROM ANY DAMAGES OR LIABILITIES. THE LIMITATIONS APPLY TO ALL CLAIMS REGARDLESS OF WHETHER THEY ARE BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, PRODUCT LIABILITY, TORT AND ANY OTHER THEORIES OF LIABILITY.

3. Service Availability. (Notice that our lawyers aren't using all caps and bold typeface anymore; read on anyway.) Notwithstanding any term or condition of the Agreement to the contrary, Republic

Wireless cannot guarantee that the Wireless Services will always function without disruptions, delay or other imperfections. The specific network coverage Users will receive will depend on Your Service Plan, Your Equipment, including, without limitation, the WiFi routers a Mobile Device can access, and/or radio transmissions a Mobile Device can pick up. Coverage is not available everywhere and service speeds are not guaranteed. Actual speeds will vary. Gaps in coverage exist within Republic Wireless' estimated coverage areas for radio transmissions, when applicable, that, along with other factors both within and beyond the control of Republic Wireless (network problems, network or internet congestion, software, signal strength, the Mobile Device, structures, buildings, weather, geography, topography, server speeds of the websites accessed, etc.), may result in dropped and blocked connections, slower service speeds, or otherwise impact the quality of service. Services that rely on location information, such as E911 and GPS navigation, depend on a Mobile Device's ability to acquire satellite signals (which typically are not available indoors) and network coverage. While a Mobile Device is receiving a software update, a User may be unable to use a Mobile Device in any manner until the software update is complete.

4. Porting Numbers. If You wish to port any existing telephone numbers from another carrier to Republic Wireless, You must complete the authorized porting process using the Electronic Tools made available to You by Republic Wireless; You agree to follow Republic Wireless' then-current Policies, as directed by Community Care. In addition to completing the authorized porting process using the Electronic Tools, Republic Wireless may also require a recent copy of Your current phone bill which contains Your billing telephone number and a record of any other telephone number(s) to be ported to Republic Wireless. Valid authorization, bill copy(ies) and/or other records may be required by Republic Wireless before Republic Wireless will initiate a port request and obtain a Confirmed Port Date. The Confirmed Port Date will be established pursuant to industry and any applicable regulatory standards; however, since the time required to port number(s) will be affected by the accuracy of information provided to Republic Wireless by You, as well as the actions of Your pre-existing voice provider, Republic Wireless makes no assurances regarding the time required to port any number(s).

5. Mobile Devices and Related Matters, Including Privacy.

(a) When You join the Republic Wireless community and we provide a Mobile Device to You, Republic Wireless offers you a limited warranty that the Mobile Device (and any included accessories) will be free from defects in material and workmanship according to the following terms: (i) the limited warranty for the product extends for thirty (30) days from the Delivery Date; (ii) the limited warranty extends only to You and is not assignable or transferable to any subsequent purchaser; (iii) this limited warranty is good only to You during the warranty period as long as it is in the United States; (iv) the external casing will be free of defects at the time of shipment and, therefore, is not covered under these limited warranty terms; and (v) You will bear the cost of shipping the Mobile Device to Republic Wireless; Republic Wireless will bear the cost of shipping the Mobile Device back to You. We told You that this is a limited warranty; this warranty does not cover (i) defects or damages resulting from use of the Mobile Device other than in a normal and customary manner; (ii) defects or damages from abnormal use, abnormal conditions, improper storage, exposure to moisture or dampness, unauthorized modifications, connections or repairs, misuse, neglect, abuse, accident, alteration, improper installation or other acts that are (frankly) not the fault of Republic Wireless; be careful out there; (iii) that Republic Wireless was not notified by You of the alleged defect or malfunction during the applicable limited warranty period; (iv) Mobile Devices which have had the serial number removed or made illegible; (v) damage resulting from the use of non-Republic Wireless approved accessories; or (vi) all plastic surfaces and other externally exposed parts that are scratched or damaged due to Your use. The manufacturer of your Mobile Device may offer an additional limited warranty.

(b) Republic Wireless will ship your Mobile Device(s) to You F.O.B. Republic Wireless' place of shipment. If You receive Mobile Device(s) that are damaged or nonfunctional upon arrival, You must notify Republic Wireless Community Care during the limited warranty period. Any Mobile Device(s) timely returned to Republic Wireless by You must be fully complete, including all original manufacturer boxes with the UPC code and packing materials, all manuals, blank warranty cards, accessories and any other documentation included with the original shipment to You. Republic Wireless will not accept Mobile Device(s) returned in used or altered condition. You are solely responsible for all costs and expenses connected to the shipment to Republic Wireless of any Mobile Device(s) shipped to Republic Wireless for return or exchange. You are responsible for all risk of loss and damage to products being shipped for return or exchange pursuant to this Section 5. If You wish to timely return a Mobile Device(s), You must use the Electronic Tools made available to You by Republic Wireless. You agree to follow Republic Wireless' then-current Policies, as directed by Community Care. Upon Republic Wireless' receipt of any product(s) returned, Republic Wireless will examine the product(s) for damage. If the Mobile Device(s) do not conform to the limited warranty above, Republic Wireless may repair, replace or refund the cost of any Mobile Device(s). Republic Wireless may choose to use functionally equivalent re-conditioned, refurbished or new units or parts. Republic Wireless will not re-install or back-up any data, applications or software that You may have added to Your Mobile Device. If Republic Wireless determines that any product(s) is(are) found to have been damaged by You, the limited warranty will not apply and, if Republic Wireless previously shipped a replacement Mobile Device to You, Republic Wireless may charge you the applicable price for the replacement Mobile Device.

(c) No other express warranty is applicable to any Mobile Device(s). (Our lawyers are at it again - all caps are back.) THE DURATION OF ANY IMPLIED WARRANTIES, INCLUDING THE IMPLIED WARRANTY OF MARKETABILITY, IS LIMITED TO THE DURATION OF THE EXPRESS WARRANTY HEREIN. REPUBLIC WIRELESS WILL NOT BE LIABLE FOR THE LOSS OF THE USE OF THE MOBILE DEVICE(S), INCONVENIENCE, LOSS OR ANY OTHER DAMAGES, DIRECT OR CONSEQUENTIAL, ARISING OUT OF THE USE OF, OR INABILITY TO USE, THE MOBILE DEVICE(S) OR FOR ANY BREACH OF ANY EXPRESS OR IMPLIED WARRANTY. Some states do not allow the exclusive limitation of incidental or consequential damages or limitations on how long an implied warranty lasts; these limitations or exclusions may not apply to You. This warranty gives you specific legal rights and You may also have other rights which vary from state to state.

(b) If any Mobile Device is lost or stolen, You will contact Republic Wireless immediately. You acknowledge and agree that, if any Mobile Device is lost or stolen, You will be responsible for Usage before You notify Republic Wireless of any alleged loss or theft. Lost and/or stolen Mobile Device(s) will not reduce or otherwise affect the Service Term and You will remain liable for any amounts due or payable with respect to any replacement Mobile Device(s) after You notify Republic Wireless of any alleged loss or theft.

(d) Each Mobile Device is designed to be activated on the network operated by Republic Wireless (and/or any other underlying carrier's network, if applicable based on Your Service Plan) and, subject to Your Service Plan, in other coverage areas Republic Wireless makes available to You. As programmed, Mobile Device(s) will not accept wireless service from another carrier. Except for any legal right You may have to port/transfer Your phone number(s) to another carrier, You have no and cannot gain any (for example, through publication, use, etc.) proprietary, ownership or other rights to any phone number, identification number, e-mail address or other identifier Republic Wireless assigns to You, Your Mobile Device(s) or Your account.

(e) If any User uses a third party application, the application may access, collect, use or disclose personal information or require Republic Wireless (or its vendors) to disclose such information, including location information (when applicable), to the application provider or other third

party(ies). If any User accesses, uses or authorizes third party applications through the Wireless Services, You authorize Republic Wireless (and its vendors) to provide information related to use of the Wireless Services or the application(s). Use of any third party applications is subject to the third party's terms and conditions and policies, including its privacy policy, if applicable.

(f) Mobile Device(s) may contain sensitive or personal information. Republic Wireless is not responsible for any information on any Mobile Device, including sensitive or personal information. If possible, Users should remove or otherwise safeguard any sensitive or personal information when any applicable Mobile Device is not in the possession or control of an authorized User, including, but not limited to, relinquishing, exchanging, returning or recycling any Mobile Device. By submitting any Mobile Device to Republic Wireless, You agree that Republic Wireless' employees, contractors or vendors may access all of the information on such Mobile Device. (Please do not give us access to more information than You would give to Your mother. We really do not want to know.)

(g) The network operated by Republic Wireless may know the location of the Mobile Device(s) when such Mobile Device is outdoors and/or turned on. Network coverage or environmental factors (such as structures, buildings, weather, geography, landscape, and topography) can significantly impact the ability to access any Mobile Device's location information and use of location-sensitive services. You understand that any User may be able to access, use or authorize Republic Wireless or third party location sensitive applications through the Wireless Services. You agree that use of such location sensitive applications is subject to the application's terms and conditions and policies, including any applicable privacy policy(ies).

(h) Republic Wireless collects personal information regarding You due to Republic Wireless' relationship with You, including network traffic data, call records, websites visited, applications and features used, Service Plans and service options chosen, mobile and device number(s) and other similar information. Republic Wireless has adopted a Privacy Policy that addresses how Republic Wireless uses, shares and protects such personal information. The Privacy Policy is posted at www.republicwireless.com/legal/privacypolicy. You consent to Republic Wireless' collection, use and sharing practices described in the Privacy Policy. You also consent to Republic Wireless' collection and use of anonymous information regarding all usage of Republic Wireless' services. Republic Wireless is not responsible for any third-party information, content, applications or services Users access, download or use on any Mobile Device or any privacy policies applicable thereto.

6. Service Activation; Support.

(a) The Activation Date will be used to determine the start of Your Service Term and billing for the Wireless Services. If a Confirmed Port Date is scheduled and You wish to change a requested Activation Date, You must communicate, in writing, the new requested date to Republic Wireless no less than two (2) business days prior to any then-scheduled Activation Date. Republic Wireless will use its commercially reasonable efforts to comply with any such requested changes to the Activation Date; Republic Wireless also may charge fees with respect to any applicable requested change(s).

(b) If You need support after the Activation Date, You must use the Electronic Tools made available to You by Republic Wireless. Unlike other communications companies, Republic Wireless actually will respond to You promptly.

7. Service Term. The "Initial Service Term" will be one (1) month from the Activation Date (the "Initial Service Term"). The Initial Service Term (and any applicable Renewal Service Term (as defined below)) will automatically renew for successive one (1) month periods thereafter (each a "Renewal Service Term") unless terminated in writing by Republic Wireless or by You at least thirty (30) days prior to the expiration of the Initial Service Term or Renewal Service Term. In addition to the automatic renewal provided in the immediately preceding sentence, the Initial Service Term or any

applicable Renewal Service Term may be otherwise amended and/or extended at any time upon the written agreement of Republic Wireless and You.

8. No Warranties.

(a) EXCEPT AS EXPRESSLY PROVIDED IN SECTION 5 ABOVE WITH RESPECT TO MOBILE DEVICE(S), THE WIRELESS SERVICES AND/OR RELATED SERVICES EACH IS PROVIDED "AS IS" AND "AS AVAILABLE" AND WITHOUT WARRANTIES OF ANY KIND EITHER EXPRESS OR IMPLIED. TO THE FULLEST EXTENT PERMISSIBLE PURSUANT TO APPLICABLE LAW, EACH OF REPUBLIC WIRELESS, ITS AFFILIATES, SUPPLIERS AND, IF APPLICABLE, RESELLERS DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR ANY WARRANTY OF NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, REPUBLIC WIRELESS, ITS AFFILIATES, SUPPLIERS AND, IF APPLICABLE, RESELLERS DO NOT WARRANT THAT REPUBLIC WIRELESS, ANY MOBILE DEVICES AND/OR RELATED SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT REPUBLIC WIRELESS WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. REPUBLIC WIRELESS DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE OR RESULTS OF THE WIRELESS SERVICES IN TERMS OF ITS CORRECTNESS, ACCURACY, RELIABILITY, UNAUTHORIZED ACCESS BY THIRD PARTIES OR OTHERWISE. YOU (AND NOT REPUBLIC WIRELESS) ASSUME THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR OR CORRECTION. YOU ACKNOWLEDGE THAT ANY DATA OR INFORMATION DOWNLOADED OR OTHERWISE OBTAINED OR ACQUIRED THROUGH THE USE OF THE WIRELESS SERVICES IS AT YOUR SOLE RISK AND DISCRETION AND REPUBLIC WIRELESS WILL NOT BE LIABLE OR RESPONSIBLE FOR ANY DAMAGE TO YOU OR YOUR PROPERTY. YOU HEREBY EXPRESSLY ASSUME THE RISK OF ITS OR ANY USER'S USE OF ANY INFORMATION TRANSMITTED VIA THE WIRELESS SERVICES. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM REPUBLIC WIRELESS OR ITS EMPLOYEES WILL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THESE TERMS OF SERVICE. APPLICABLE LAW MAY NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE FOREGOING EXCLUSION MAY NOT APPLY.

(b) REPUBLIC WIRELESS WILL HAVE NO OBLIGATION TO DEFEND OR INDEMNIFY YOU FROM OR AGAINST ANY THIRD PARTY CLAIMS ALLEGING THAT YOUR USE OF THE WIRELESS SERVICES OR THE EXERCISE OF ANY RIGHTS GRANTED HEREIN INFRINGES ON ANY INTELLECTUAL PROPERTY OF ANY THIRD PARTY. IF A CLAIM IS MADE, OR IN REPUBLIC WIRELESS' REASONABLE OPINION IS LIKELY TO BE MADE, AGAINST REPUBLIC WIRELESS, YOU, OR ANY THIRD PARTY ALLEGING THAT THE WIRELESS SERVICES OR ANY USE THEREOF INFRINGES ANY INTELLECTUAL PROPERTY OF ANY THIRD PARTY, REPUBLIC WIRELESS MAY, IN REPUBLIC WIRELESS' SOLE DISCRETION, TERMINATE THESE TERMS OF SERVICE AND ALL RIGHTS AND OBLIGATIONS PURSUANT TO THESE TERMS OF SERVICE.

(c) EXCEPT AS PROVIDED IN SECTION 6 ABOVE, REPUBLIC WIRELESS HAS NO OBLIGATION TO PROVIDE ANY SUPPORT TO YOU OR ANY USER WITH RESPECT TO THE WIRELESS SERVICES.

9. Billing and Payment; Credit Information.

(a) Republic Wireless will bill You, and You will pay, for the Wireless Services at the rates stated in Your Service Plan, as well as any other charges or amounts as described in these Terms of Service. If You change Your Service Plan to any Service Plan that includes a higher monthly charge than Your Service Plan in effect before the change, the amount due for Your changed Service Plan will be calculated based on a pro rata application of amounts previously paid in connection with Your Service Plan. If You change Your Service Plan to a plan that includes a lower monthly charge than your Service Plan in effect before the change, You will be credited as of the date of the change of Your Service Plan on a pro rata application of amounts previously paid with respect to the remaining days in Your billing cycle; You will be billed, subject to deduction for any applicable credits, the pro rata amount for any remaining days in Your billing cycle and any credits will be retained for application to subsequent billing cycle(s) as applicable. If You cancel Your Wireless Services with Republic Wireless, Your credit card will be credited promptly following Your cancellation by an amount equal to any then applicable credits as of the effective date of Your cancellation. Bills will include all applicable federal, state, and local taxes; all such taxes, and all use, sales, commercial, gross receipts, privilege, or other similar taxes, Surcharges, license fees, surcharges and miscellaneous fees, including but not limited to regulatory fees such as Universal Service Fund (together, "Taxes" "Fees" and "Surcharges"), whether or not charged to or against Republic Wireless, will be payable by You. However, if You provide proof of Your exempt status for a specific Tax, Fee or Surcharge, Republic Wireless will not charge the applicable Tax, Fee or Surcharge due to such exemption. If applicable, You will use the Electronic Tools made available to You by Republic Wireless to supply Republic Wireless a valid and properly executed tax exemption certificate(s); You agree to follow Republic Wireless' then-current Policies, as directed by Community Care. In such cases You remain responsible for, and agree to pay, any and all remaining non-exempt Taxes and Fees; tax exemption status validation is solely Your responsibility and Republic Wireless will not be obligated to consider any retroactive tax exemption. Surcharges are not taxes and Republic Wireless is not required to assess You Surcharges; Surcharges are charges Republic Wireless chooses to collect from You, are part of Republic Wireless' rates and are retained by Republic Wireless in whole or in part; the number and type of Surcharges will be available to You and may vary depending upon the location of the billing address of the Mobile Device and can change over time; Republic Wireless determines the rate for these charges and these amounts are subject to change as are the components used to calculate these amounts. Republic Wireless will commence billing pursuant to these Terms of Service on the Activation Date or any applicable change to Your Service Plan; provided, however, Republic Wireless will bill You for Your Mobile Device on the date Republic Wireless ships Your Mobile Device, if earlier than the Activation Date. The charges applicable to the Wireless Services for the calendar month immediately following the Activation Date (and any other amounts due pursuant to the Service Plan) will be billed on the Activation Date. Thereafter, the charges applicable to the Wireless Services will be billed on or about the same day each calendar month. (If You happen to get billed between the 29th and the 31st on Your first month, do not think that You are going to get a free month in February. We love You, but we have to keep the lights on too.) Any applicable Usage charges are billed after the actual calls and Usage has occurred in accordance with the terms and conditions of these Terms of Service and Your Service Plan.

(b) You agree that all payments by You will be made to Republic Wireless via credit card or debit card. Republic Wireless may change the types of cards accepted by Republic Wireless at any time in its sole discretion. You are solely responsible for the use of the account from which payment is made. If You provide an account number that Republic Wireless accepts for payment, You authorize Republic Wireless to charge all amounts You owe, then or later, to that account and to demand immediate payment from the card issuer. You also agree to pay, pursuant to the terms of Your agreement with Your card issuer, the amounts charged to such account. Each time You or Users use the

Wireless Services, You reaffirm that Republic Wireless is authorized to charge Your credit or debit card. You authorize Republic Wireless to charge purchases made online to the account supplied by You to Republic Wireless. You are solely responsible to notify Republic Wireless promptly if the card information that You previously provided to Republic Wireless is no longer accurate. You acknowledge that, if Your card is rejected, or payments are disputed, Republic Wireless may terminate these Terms of Service, the Wireless Services and/or Your Service Plan until payments are resumed and received or disputes have been finally resolved and You will remain solely responsible for all payments due if Your card is rejected. You acknowledge that Republic Wireless may not be able to distinguish between credit and debit cards. While Republic Wireless may send You messages about Your billing, Republic Wireless is not obligated to do so and may change or cease its messages at any time.

(c) If Republic Wireless terminates the Wireless Services for You due to Default, then, in addition to any other amounts then due and payable by You to Republic Wireless, You also will be obligated to pay to Republic Wireless the fees described in these Terms of Service and/or Service Plan. Upon the occurrence of a Default, Republic Wireless may immediately limit, suspend or terminate the Wireless Services for You.

(d) Republic Wireless retains the right to bill, including, without limitation, amend or correct any bill previously issued, for the Wireless Services provided pursuant to these Terms of Service, for a period of up to six (6) months, commencing from the date of the provision of the Wireless Services to You. Republic Wireless will retain such billing rights for such six (6) month period notwithstanding any prior billing to You for the same period(s) and regardless of any otherwise conflicting billing conditions in these Terms of Service. For the duration of such six (6) month period, Republic Wireless will not be deemed to have waived any rights with regard to billing for the Wireless Services provided pursuant to these Terms of Service during such period, nor will any legal or equitable doctrines apply, including estoppel or laches. (Our lawyers tell us that they know what these words mean.) Unpaid bills and/or charges may be sent to third party collection agencies.

(e) If Republic Wireless at any time limits or suspends Your use of the Wireless Services pursuant to these Terms of Service and/or Republic Wireless' Acceptable Use Policy, (i) Republic Wireless will notify You of such limitation or suspension by email or text message to Your email address(es) or phone number(s) on Republic Wireless' books and records and/or through the Electronic Tools made available to You by Republic Wireless; (ii) Republic Wireless may, in Republic Wireless' sole discretion, restore the Wireless Services to You and may condition such restoration upon satisfaction of such conditions as Republic Wireless determines necessary; (iii) Republic Wireless will not bill You for any portion of any applicable billing period during which Republic Wireless has suspended Your use of the Wireless Services pursuant to these Terms of Service and/or Republic Wireless' Acceptable Use Policy, but may bill You at Republic Wireless' customary rates applicable to any reduced Service Plan to which Republic Wireless has limited You; provided, however, the applicable Service Term will extend by a period of time equal to the period of Republic Wireless' suspension of Your use of the Wireless Services and any amounts due and payable with respect to the applicable Service Term, as extended, will remain due and payable pursuant to these Terms of Service and Your Service Plan.

(f) Republic Wireless may provide Your payment history and other account billing / charge information to any credit reporting agency or industry clearinghouse.

(g) You can cancel the Wireless Services WITHIN 30 DAYS of Your Delivery Date ("Cancellation Period"). To cancel during the Cancellation Period, You must return any applicable

Mobile Device(s) as described in Section 5(b) above and any applicable Mobile Device(s) must be in normal working order. If You do not return any applicable Mobile Device(s) during the Cancellation Period, Republic Wireless may prevent such Mobile Device(s) from working on any network, and Republic Wireless may elect not to process any attempted cancellation of the Wireless Service. If You cancel during the Cancellation Period and return any applicable Mobile Device(s) during the Cancellation Period, Republic Wireless will promptly refund to You (i) the monthly rate stated in Your Service Plan (pro rated if You have made any applicable changes to Your Service Plan during the Cancellation Period), if You previously have paid Republic Wireless, and (ii) the cost of Your Mobile Device(s) that You return to Republic Wireless; provided, however, (i) if you return any applicable Mobile Device(s) that are not fully complete, including all components and any other documentation included with the original shipment to You, or is otherwise damaged due to water or otherwise, Republic Wireless may deduct from any refund amounts as described from time to time at www.republicwireless.com/beta-30-day-guarantee; and (ii) if you return any applicable accessories that are not in their original, unopened packaging, Republic Wireless will not refund any amounts previously paid for such accessories. Under no circumstances will Republic Wireless return to You any Mobile Device(s) or accessories returned to Republic Wireless pursuant to this Section 9(g).

10. **Applicable Charges.** The charges payable by You for the Wireless Services, including, without limitation any amounts due with respect to any applicable Mobile Device(s), are as provided in Your Service Plan and these Terms of Service. Except as expressly provided in these Terms of Service or Your Service Plan, Republic Wireless may increase any applicable charges upon at least thirty (30) days' prior written notice to You. All rates and charges are subject to change immediately if there is any Regulatory Activity; Republic Wireless cannot predict what the government may do; if You believe that You can predict what the government may do, Republic Wireless recommends that You go to Las Vegas. If any Regulatory Activity occurs, Republic Wireless reserves the right, at any time with as much advance written notice as commercially reasonable and without liability to Republic Wireless, to: (i) pass through to You all, or a portion of, any charges or surcharges directly or indirectly related to such Regulatory Activity; (ii) modify the Wireless Services, charges, rates, promotions, terms and/or conditions of these Terms of Service to conform to such Regulatory Activity; or (iii) if such Regulatory Activity materially and adversely impairs the provision of the Wireless Services, as determined by Republic Wireless, terminate these Terms of Service. Republic Wireless reserves the right, at any time and with as much advance written notice as commercially reasonable and without liability to Republic Wireless, to charge a minimum inappropriate use fee of \$500 and/or \$0.05 per minute for all calls made in contravention of Your Service Plan, these Terms of Service and/or Republic Wireless' Acceptable Use Policy, whichever is higher, charge \$0.04 for all SMS' or MMS' made in contravention of Your Service Plan, these Terms of Service and/or Republic Wireless' Acceptable Use Policy, and charge \$0.30 per MB of Data Content for Usage in contravention of Your Service Plan, these Terms of Service and/or Republic Wireless' Acceptable Use Policy.

11. **Billing Disputes.** If You dispute any amounts charged to You by Republic Wireless pursuant to these Terms of Service, You will pay in full all charges billed by any applicable due date and thereafter submit written notification, within thirty (30) calendar days of the date of the disputed charges, using the Electronic Tools made available to You by Republic Wireless; You agree to follow Republic Wireless' then-current Policies, as directed by Community Care. Republic Wireless will respond to You pursuant to Republic Wireless' then-current Policies. Any dispute resolved in favor of You will be credited as appropriate to the next bill issuable by Republic Wireless pursuant to these Terms of Service. If Republic Wireless determines that any disputed amounts are correct as billed pursuant to these Terms of Service, Republic Wireless will notify You in writing that the charges have been deemed valid and legitimate, and the dispute will be considered resolved by both parties; if, for any reason, any

amount(s) remain due from You related to such dispute, then all such amounts will be due and payable immediately. Republic Wireless reserves the right to deny or delay any and all billing disputes and/or credits if Your account is in arrears or otherwise not in good standing.

12. Resumption of Service. If You request the restoration of the Wireless Services to You after a limitation, suspension or termination, Republic Wireless has the sole and absolute discretion to restore the Wireless Services to You and may condition restoration upon satisfaction of such conditions as Republic Wireless determines necessary, including, without limitation, Your execution or delivery of a new agreement, payment of all past due amounts in full, completion of Republic Wireless' credit approval process, and/or the making of advance payments.

13. Termination for Default; Effect of Termination for Default. (There are only 24 sections in these Terms of Service; You are more than half-way done reading these Terms of Service. If you count by pages, You actually passed that milestone a while back.) Republic Wireless or You may terminate these Terms of Service and, in the case of Republic Wireless, the Wireless Services provided hereunder, upon the occurrence of a Default. Any notice from You must use the Electronic Tools made available to You by Republic Wireless; You agree to follow Republic Wireless' then-current Policies, as directed by Community Care. Republic Wireless will respond to You pursuant to Republic Wireless' then-current Policies. In the event of Default by Republic Wireless, these Terms of Service and Your access to and use of the Wireless Services provided hereunder will terminate without further liability to You; provided, however, You will remain responsible for any amounts due pursuant to these Terms of Service incurred prior to such termination. In the event of Default by You, the following fees will apply, which You acknowledge and agree are customary and reasonable and do not constitute a penalty or premium: any amounts due pursuant to Your Service Plan and these Terms of Service incurred prior to such termination. If You authorize another carrier to transfer a number away from Republic Wireless, such authorization will be considered a request by You to terminate the Wireless Services associated with that number. As programmed, Mobile Device(s) will not accept wireless service from another carrier; You may not be able to utilize Your Mobile Device(s) with another carrier.

14. Requested Termination by You During Service Term; Effect of Asserted Termination by You. If You notify Republic Wireless of the termination of these Terms of Service or the disconnection of the Wireless Services in writing using the Electronic Tools made available to You by Republic Wireless upon at least thirty (30) calendar days prior notice during the Initial Service Term or during any applicable Renewal Service Term, Republic Wireless will disconnect the Wireless Services (or will cause the Wireless Services to be disconnected) as of the date of such requested termination; provided, however, (i) You retain the sole responsibility to notify Republic Wireless of any and all matters related to such request, including, without limitation, the porting of applicable telephone numbers, whether required port outs are known or unknown by You; (ii) You remain solely responsible for all amounts due pursuant to Your Service Plan and these Terms of Service, (iii) such notification will immediately constitute a Default by You as of the date of such requested termination without any applicable cure period and all amounts due pursuant to Your Service Plan and these Terms of Service will apply, whether such notification is delivered prior to or after the Activation Date or prior to or after any applicable installation. As programmed, Mobile Device(s) will not accept wireless service from another carrier; You may not be able to utilize Your Mobile Device(s) with another carrier.

15. Termination by Republic Wireless. In addition to any other right that Republic Wireless may have to limit, terminate or suspend these Terms of Service, if Republic Wireless determines, in its sole discretion, that Your ongoing use of the Wireless Services and/or the specific method or technology utilized by You place the network operated by Republic Wireless, other community members, partners

or the overall business(es) of each in jeopardy, Republic Wireless reserves the right to terminate these Terms of Service and Your access to the Wireless Services immediately and without notification. As programmed, Mobile Device(s) will not accept wireless service from another carrier; You may not be able to utilize Your Mobile Device(s) with another carrier.

16. License; Intellectual Property.

(a) Subject to Your compliance with these Terms of Service, Republic Wireless grants You a non-exclusive, non-transferable license to use the Wireless Services and any Electronic Tools solely in connection with Your use of Your Mobile Device. The Wireless Services, any Electronic Tools and/or Your Mobile Device may be incorporated into, and may incorporate itself, software and other technology owned or controlled by third parties. Any such third party software or technology incorporated falls under the scope of these Terms of Service. Any and all other third party software will be subject to Your acceptance of a license agreement with such third party.

(b) Republic Wireless and the Wireless Services each is the Intellectual Property of Republic Wireless. You will not, directly or indirectly: (i) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code or underlying ideas or algorithms of the Wireless Services, any Electronic Tools and/or Your Mobile Device; (ii) modify, translate or create derivative works based on the Wireless Services and/or any Electronic Tools; or (iii) remove any proprietary notices or labels on the Wireless Services, any Electronic Tools and/or Your Mobile Device. You will not delete or in any manner alter the copyright, trademark, and other proprietary rights notices or markings appearing on or in connection with the Wireless Services, any Electronic Tools and/or Your Mobile Device. Any third party Intellectual Property included in the Wireless Services, any Electronic Tools and/or Your Mobile Device is the property of the respective owner of such Intellectual Property and may be protected by applicable law. Nothing in these Terms of Service gives You any right or license to any trademarks and/or trade names (whether registered or unregistered), signs, logos, icons, slogans, banners, screen shots, trade dress, links or other brand features of Republic Wireless, including, without limitation "Republic Wireless" and Republic Wireless' (soon to be iconic) "Green Arch," without the prior written consent of Republic Wireless, which consent may be withheld in the sole discretion of Republic Wireless for any reason. If You from time to time provide suggestions, comments and/or other feedback to Republic Wireless with respect to Republic Wireless or the Wireless Services, Republic Wireless may, in connection with any of its products or services, freely use, copy, disclose, license, distribute and/or exploit any such suggestions, comments and/or other feedback in any manner and without any obligation or restriction based on intellectual property rights or otherwise. Republic Wireless will retain sole ownership of any such suggestions, comments and/or other feedback and You will not provide any such suggestions, comments and/or other feedback subject to any terms that would impose any obligation on Republic Wireless or any of its customers or partners.

(c) If, after termination of these Terms of Service for any reason, You continue to use Your Mobile Device for any purpose (which will not include Republic Wireless' Wireless Services), Section 16(b) above (and any other provision of these Terms of Service which by its nature survives termination) will continue to apply.

17. Limitation of Liability.

(a) IN NO EVENT WILL REPUBLIC WIRELESS BE LIABLE FOR ANY DIRECT, INDIRECT, ALLEGED, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, LOST PROFITS AND ALL BUSINESS OR

OPERATIONAL RELATED LOSSES, IF ANY) ARISING OUT OF OR RELATED TO THE WIRELESS SERVICES AND/OR PRODUCTS AND/OR SERVICES PROVIDED PURSUANT TO THESE TERMS OF SERVICE, EQUIPMENT, MOBILE DEVICES, AND/OR ANY PRODUCTS OR SERVICE PROVIDED BY THIRD PARTIES PURSUANT TO THESE TERMS OF SERVICE.

(b) REPUBLIC WIRELESS' AGGREGATE LIABILITY OF ANY KIND ARISING OUT OF OR RELATED TO THESE TERMS OF SERVICE ARE LIMITED TO SERVICE CREDITS THAT WILL NOT EXCEED THE LESSER OF (I) THE FEES ACTUALLY PAID TO REPUBLIC WIRELESS BY YOU PURSUANT TO THESE TERMS OF SERVICE DURING THE PRECEDING SIX (6) CALENDAR MONTHS, OR (II) ONE THOUSAND US DOLLARS (\$1,000.00).

18. Indemnity. You will indemnify and hold harmless Republic Wireless, Bandwidth.com, Inc., and its stockholders, directors, officers, employees, agents, licensors, representatives and affiliates from and against any and all alleged or actual losses, costs, claims, liability of any kind, damages (including to any tangible property or bodily injury to or death of any person), or expense of whatever nature, (including reasonable attorneys' fees) to or by any third party, relating to or arising from (a) the use of the Wireless Services provided to You and/or any User, whether or not You and/or any User has knowledge of or has authorized access for such use, (b) any damage to or destruction of equipment, or Mobile Devices not caused by Republic Wireless or its agents, and (c) any breach of these Terms of Service by You. You will be solely responsible for implementing any installation, configuration, and/or connection of any of Your Equipment and have the sole and exclusive responsibility for the security and integrity of Your Equipment, if any. You therefore will indemnify and hold harmless Republic Wireless and its stockholders, directors, officers, employees, agents, licensors, representatives and affiliates from and against any actual or alleged losses, costs, claims, liability of any kind, damages, or expenses or fees (including reasonable attorneys' fees) on the part of or which may be incurred by You or a third-party relating to or arising from the use or operation of Your Equipment. Your indemnification in this subsection includes any alleged or actual losses or claims in connection with unauthorized access to or use of the Wireless Services by any third-party through Your Equipment, regardless of whether such unauthorized access is unintentional, accidental, intentional or fraudulent and regardless of whether You had knowledge of such unauthorized access. In all such cases of unauthorized access through or to Your Equipment, You retain full and sole responsibility for any and all charges for the Wireless Services as otherwise provided in Your Service Plan or these Terms of Service. If Republic Wireless grants You access to the Wireless Services (or Your account) by Electronic Tools, You agree that You are fully and exclusively responsible for all information accuracy, charges, costs, transactions, and activities conducted through such Electronic Tools. You agree that You are fully and exclusively responsible to safeguard, monitor, manage, and maintain access to the Wireless Services by any Electronic Tools. You will indemnify and hold harmless Republic Wireless and its stockholders, directors, officers, employees, agents, licensors, representatives and affiliates from and against any actual or alleged losses, costs, claims, liability of any kind, damages, or expenses or fees (including reasonable attorneys' fees) on the part of or which may be incurred by You, or a third-party, relating to or arising from the use or operation of Electronic Tools, including, without limitation, any alleged or actual losses or claims in connection with unauthorized access to, use, transactions, or activity conducted through the Electronic Tools, regardless of whether such unauthorized access is unintentional, accidental, intentional, or fraudulent, and regardless of whether You had knowledge of such unauthorized access. In all such cases of unauthorized access through or to the Wireless Services by Electronic Tools, You retain full and sole responsibility for any and all charges for the Wireless Services as otherwise provided in Your Service Plan or these Terms of Service.

19. Acceptable Use Policy; Usage Limitations; Off-Network Roaming; Other Usage Matters;

Matters Related to Data Services.

(a) All use of the Wireless Services must comply with Republic Wireless' Acceptable Use Policy, which is posted at www.republicwireless.com/legal/aup, and is incorporated herein by reference. By using the Wireless Services, You agree to comply with the AUP, as modified by Republic Wireless from time to time in Republic Wireless' sole discretion. Any amendment to the AUP will be effective immediately upon the posting of the modified AUP at www.republicwireless.com/legal/aup. In addition, any SMS or MMS messages that You send (a) will not contain any material that is unlawful; (b) will not violate or infringe any copyright, patent, trademark or trade secret or right of privacy or publicity or any other personal or proprietary right of any third parties; (c) will not contain any Unauthorized Code; and (d) will not include any spamming, mail-bombing, spoofing or any fraudulent, illegal, or unauthorized use. You are solely responsible and liable for all use of the Wireless Services by any User, even if such use occurs without Your permission.

(b) Your Service Plan may include limitations on Your Usage. These limitations may take the form of throttling your cellular network data speeds to slower download and upload speeds than would otherwise be available on your cellular connection based upon your Service Plan or administering device-specific methods to restrict full access to high speed cellular data; if these limitations apply, Your Service Plan nonetheless will not change and amounts charged to you for any applicable billing period will be unaffected by these limitations. The limitations described in this Section 19(b) will not affect your Usage when WiFi is available. WiFi Only Service Plan: Except for 911 calls, You will not be able to use Your Mobile Device(s) for Usage if WiFi is not available. WiFi + Cell Talk & Text Service Plan: Includes unlimited WiFi and cellular talk and text; You will not be able to use your Mobile Device(s) to access Data Services or Data Content if WiFi is not available. WiFi + Cell + 3G Service Plan or WiFi + Cell + 4G Service Plan: Includes unlimited WiFi and cellular talk and text; cellular network data speeds may be reduced from full speeds otherwise applicable under Your Service Plan for the remainder of a billing period if your monthly cellular data Usage exceeds either (i) 5GB of cellular data Usage (excluding roaming), or (ii) 100MB of roaming cellular data Usage more than once in any six (6) month period. If, in the prior six (6) months, Your cellular data Usage has not exceeded the limitation of either clause (i) or (ii) of the preceding sentence, You will be granted an additional 5GB of cellular data Usage (excluding roaming) and an additional 100MB of roaming cellular data Usage before the foregoing speed reductions apply.

(c) In addition to those uses prohibited as illegal, improper or inappropriate pursuant to Republic Wireless' Acceptable Use Policy or otherwise, You will not (and will not permit Users to): (i) generate excessive network traffic through the continuous, unattended streaming, downloading or uploading of videos or other files or otherwise, or the operation of hosting services, each as determined by Republic Wireless in its sole discretion, (ii) maintain continuous active network connections through the use of a web camera or other machine-to-machine connections that do not involve active participation by a person; (iii) utilize excessively, as determined by Republic Wireless in its sole discretion, any community member support; (iv) utilize any Mobile Device(s) in a manner inconsistent with normal consumer usage, including, without limitation, any disassembly or modification of any Mobile Device(s) or any cabling of any Mobile Device(s) to any unaffiliated location; (v) modify any software included in any Mobile Device(s); (vi) utilize any Mobile Device(s) as a modem for computers or other equipment (or otherwise tether such Mobile Device to any such computers or other equipment), unless Republic Wireless identifies the Service Plan and/or Mobile Device provided as specifically intended for that purpose; (vii) violate or infringe any copyright, patent, trademark or trade secret or right of privacy or publicity or any other personal or proprietary right of any third parties; (viii) will not send or attempt to send any message(s) that include a virus, Trojan horse, worm, back

door, trap door, time bomb, drop-dead device, timer, clock, counter or other limiting routine, as well as any other instructions, designs, software routines, or hardware components designed to: (A) disable, erase, or otherwise harm software, hardware, data, text or any other information stored in electronic form; (B) cause any of the foregoing with the passage of time; or (C) place a program or hardware under the positive control of a person other than an owner or licensee of the program or hardware; or (ix) will not send or attempt to send any message(s) that include any spamming, mail-bombing, spoofing or any fraudulent, illegal or unauthorized use.

(d) The Mobile Device(s) allow Users to access the internet, text, pictures, video, games, graphics, music, email, applications, sound and other materials ("Data Content") or send Data Content elsewhere. Some Data Content is available from Republic Wireless or Republic Wireless' vendors, while other Data Content can be accessed from others (third party websites, games, ringers, etc.). Republic Wireless makes absolutely no guarantees about the Data Content any User accesses on any Mobile Device. Data Content may be: (i) unsuitable for children/minors; (ii) unreliable or inaccurate; or (iii) offensive, indecent or objectionable. (We know that none of this surprises You, but our lawyers still tell us we have to tell You in writing.) Users are solely responsible for evaluating the Data Content accessed by Users or anyone on Your account. Data Content from third parties may also harm Mobile Device(s) or its software. To protect the network operated by Republic Wireless, services, or for other reasons, Republic Wireless may place restrictions on accessing certain Data Content (such as certain websites, applications, etc.), impose separate charges, limit throughput or the amount of data You and/or any User can transfer, or otherwise limit or terminate the Wireless Services and/or these Terms of Service. You and/or Users may not be able to make or receive voice calls while using Data Services. Data Content provided by Republic Wireless' vendors or third parties is subject to cancellation or termination at any time without notice to You and You may not receive a refund for any unused portion of the Data Content.

(e) You will not use the Data Services: (1) with server devices or host computer applications, or other systems that drive continuous heavy traffic or data sessions; (2) as a substitute or backup for private lines or frame relay connections; or (3) for any other unintended use as Republic Wireless determines in its sole discretion. Republic Wireless may limit, suspend or constrain any heavy, continuous data usage that adversely impacts network performance or hinders access to the network operated by Republic Wireless (and/or any other underlying carrier's network). If any Data Services include web or data access, You (and Users) will not use any Mobile Device as a modem for computers or other equipment (or otherwise tether such Mobile Device to any such computers or other equipment), unless specifically identified and approved by Republic Wireless.

(f) In addition to any other rights or remedies that Republic Wireless may have pursuant to these Terms of Service, the Wireless Service may be slowed, suspended, terminated or restricted for misuse, abnormal use, interference with Republic Wireless' network or Republic Wireless' ability to provide service to other customers, or significant roaming.

(g) Except for 711 and 911, You will not be able to make other calls using 411, 511, 811 or other N11 services with the Wireless Service. Your use of 911 is subject to Section 2 above and the Notice of 911 and E911 Service Limitations.

20. **Resale Prohibition.** The Wireless Services are provided for Your use only. You may not under any circumstances resell or offer to resell the Wireless Services. Any failure by You to comply with this Section 20 will constitute a Default pursuant to these Terms of Service without any applicable cure period. In addition to any other rights or remedies that Republic Wireless may have as a result of such Default, including, without limitation, termination of these Terms of Service, You also will be liable to Republic Wireless for any additional charges and/or damages which may be incurred by Republic Wireless as a result of any unauthorized resale or offer to resell. If You resell Your Mobile Device to

anyone else and Republic Wireless then permits the re-activation of the Mobile Device, the purchaser must comply with any Policies Republic Wireless then has in effect to activate Wireless Services for the Mobile Device.

21. Third Party Beneficiaries. The parties do not intend by the execution, delivery, or performance of these Terms of Service to confer any benefit, direct or incidental, upon any person or entity not a party to these Terms of Service. All references to Your mother are for amusement only; Your mother is not a third party beneficiary of these Terms of Service.

22. Dispute Resolution Process; Governing Law. We think Republic Wireless and You will get along extraordinarily well. That being said:

(a) It is the mutual desire of the parties to promptly and fully resolve any dispute arising in connection with these Terms of Service in good faith, confidentially, and informally with minimal transaction costs; no public statement may be made by any party regarding any such dispute. If either party determines that the dispute cannot be resolved informally, then such party will initiate an escalation process by giving written notice ("Escalation Notice") to the other party. You and an authorized representative of Republic Wireless will meet in person or by conference call, together with any persons assisting them, within fifteen (15) days after delivery of the Escalation Notice. All negotiations conducted by You and an authorized representative of Republic Wireless are confidential and will be treated as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and any state rules of evidence. You and an authorized representative of Republic Wireless will conduct such additional meetings as they deem necessary to exchange relevant information, will appoint staff to engage in resolution of any disputed facts, and will attempt to resolve the dispute. Should You and an authorized representative of Republic Wireless be unable to resolve the dispute within such fifteen (15) days, or within such additional time as the parties may otherwise agree to in writing, either party may demand mediation, whereupon the parties will, in good faith, mediate the dispute no later than thirty (30) days after such demand through the services of a mutually selected mediator, the cost of whom will be borne equally by the parties, at a date and location selected by the mediator after consultation with the parties. IF THE DISPUTE IS NOT RESOLVED AFTER APPLYING THE ESCALATION PROCEDURES SET FORTH ABOVE, THE PARTIES AGREE TO WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY JUDICIAL PROCEEDING ARISING UNDER OR RELATED TO THE SUBJECT MATTER OF THESE TERMS OF SERVICE, AND AGREE TO SUBMIT ALL CONTROVERSIES, CLAIMS AND MATTERS OF DIFFERENCE TO ARBITRATION ACCORDING TO THE COMMERCIAL RULES AND PRACTICES OF THE AMERICAN ARBITRATION ASSOCIATION ("AAA"). Arbitration hereunder will occur within sixty (60) days of the date of submission before a single neutral arbitrator having significant experience in the subject matter of these Terms of Service and who will be selected in accordance with AAA rules. Arbitration proceedings will take place in Wake County, North Carolina. Discovery will be permitted, including the use of interrogatories, requests for admission and production of documents and depositions. If the amount claimed to be in dispute is less than \$500,000, all applicable expedited procedures of the AAA will apply. The arbitrator's fees and costs of the arbitration will be borne by the party against whom the award is rendered, except that if the arbitrator issues a split decision, granting partial relief to both parties, the arbitrator will equitably allocate the arbitrator's fees and other costs. Each party will pay its attorney's fees related to any dispute related to these Terms of Service. The arbitration award will be final and binding on both parties of these Terms of Service, will not be subject to any appeal and will be enforceable in any court of competent jurisdiction.

(b) ANY DISPUTE RESOLUTION PROCEEDINGS, WHETHER IN ARBITRATION OR

IN COURT, WILL BE CONDUCTED ONLY ON AN INDIVIDUAL BASIS AND NOT IN A CLASS ACTION OR REPRESENTATIVE ACTION OR AS A MEMBER IN A CLASS, CONSOLIDATED OR REPRESENTATIVE ACTION. YOU WILL NOT BE A CLASS REPRESENTATIVE, CLASS MEMBER OR OTHERWISE PARTICIPATE IN A CLASS, CONSOLIDATED OR REPRESENTATIVE PROCEEDING.

(c) These Terms of Service will be governed by, construed under and enforced in accordance with the laws of the State of North Carolina without reference to its choice of law principles or the United Nations Convention on the International Sale of Goods. In the event any party brings a civil action or initiates judicial proceedings of any kind related to these Terms of Service (except for actions to enter or collect on judgments), the parties consent to the exclusive personal jurisdiction and venue of the federal and state courts located in Wake County, North Carolina and the prevailing party will be entitled to recover its costs, including reasonable attorney's fees.

23. Notices. Any notice(s) to You pursuant to these Terms of Service, including, without limitation, any notices of material changes to these Terms of Service, will be sent to Your primary contact of record as provided by You to Republic Wireless. Notice(s) to You will be deemed to be delivered when sent via one or any combination of the following on Republic Wireless' books and records: Your email address(s) and/or posting to any Electronic Tool made available to You by Republic Wireless; Your facsimile number; and/or next-day delivery service (for example, FedEx or the United States Postal Service) to Your physical or postal address. Any notice(s) to Republic Wireless pursuant to these Terms of Service will be sent via next-day delivery service (for example, FedEx or the United States Postal Service) to Republic Wireless at 900 Main Campus Drive, Suite 500, Raleigh, NC 27606, Attention: General Counsel.

24. Miscellaneous. Congratulations! You are almost finished reading these Terms of Service. You are not relying on any affirmation of fact, description, or promise from (or purported to be from) any person or entity, nor any oral or written representation or warranty that is not expressly included in these Terms of Service. Any alterations or additions to these Terms of Service made by You by any means will not be considered part of these Terms of Service. Republic Wireless' failure to insist upon or enforce strict performance of or strict compliance with any provision of these Terms of Service will not be construed as a waiver of any provision or right; neither the course of conduct between the parties nor trade practice will act to modify any provision of these Terms of Service or any Supplement entered into from time to time pursuant to these Terms of Service. In the event of a conflict between these Terms of Service and any applicable tariff, the tariff will prevail. You may not assign these Terms of Service without Republic Wireless' prior written consent. These Terms of Service will be binding on the parties hereto and their respective personal and legal representatives, successors, and permitted assigns. If any provision of these Terms of Service is held to be invalid or unenforceable, the validity and enforceability of the remaining provisions of these Terms of Service will not be affected thereby. In the event any specified time frame or deadline denotes calendar days, it is agreed that when the last date of required action or response falls on a weekend or holiday, the action and/or deadline will automatically extend to the next business day. Agreement headings are provided for reference purposes only.

THESE TERMS OF SERVICE, TOGETHER WITH ANY ATTACHMENTS REFERENCED IN THESE TERMS OF SERVICE, INCLUDING, WITHOUT LIMITATION, THE TERMS OF ANY APPLICABLE SERVICE PLAN, THE ACCEPTABLE USE POLICY POSTED AT www.republicwireless.com/legal/aup, OR ANY OTHER ADDENDA ENTERED INTO FROM TIME TO TIME, EACH OF WHICH IS INCORPORATED HEREIN BY REFERENCE, CONSTITUTE

THE ENTIRE UNDERSTANDING BETWEEN YOU AND REPUBLIC WIRELESS WITH RESPECT TO REPUBLIC WIRELESS. YOU ARE NOT RELYING ON ANY AFFIRMATION OF FACT, DESCRIPTION, OR PROMISE FROM (OR PURPORTED TO BE FROM) ANY PERSON OR ENTITY, NOR ANY OTHER ORAL OR WRITTEN REPRESENTATION OR WARRANTY THAT IS NOT EXPRESSLY INCLUDED IN THESE TERMS OF SERVICE.

WHEN YOU ACCEPT THESE TERMS OF SERVICE, YOU ARE REPRESENTING THAT YOU ARE AT LEAST 18 YEARS OLD AND ARE LEGALLY ABLE TO ACCEPT AN AGREEMENT. IF YOU ACCEPT ON BEHALF OF ANY ORGANIZATION, YOU ARE REPRESENTING THAT YOU ARE AUTHORIZED TO BIND THAT ORGANIZATION AND, WHERE THE CONTEXT REQUIRES, "YOU" MEANS THE ORGANIZATION.