

## EMBARQ™ PREPAID WIRELESS CONSUMER TERMS AND CONDITIONS

These terms and conditions (“Agreement”) govern EMBARQ’s provision and your use of EMBARQ™ Prepaid Wireless services, phones, and devices (collectively, “Services”). By purchasing Services from EMBARQ, you agree to be bound by the terms set forth below.

### 1. Agreement; Term and Termination

- 1.1 General.** This Agreement describes the terms on which we agree to provide, and you agree to accept, any prepaid wireless service or product we make available to you, including your Services. You accept this Agreement when you do any of the following: (a) provide your written or electronic signature; (b) accept through an oral or electronic statement; (c) attempt to or in any way use any of the Services; (d) pay for any Services; or (e) open any materials or package that says you are accepting when you open it. The Agreement includes the terms in this document together with the terms associated with the Services you select (as described in our marketing materials, e.g., service plan brochures, or on our website at [www.embarq.com](http://www.embarq.com)). You should carefully read all terms in the Agreement, including among other terms, a MANDATORY ARBITRATION of disputes provision. You represent that you are of sufficient legal age to enter into this Agreement. In the event of conflict among terms in any materials, the terms and conditions posted to [www.embarq.com](http://www.embarq.com) control. In this document, we use the words "we," "us," "our" or "EMBARQ" to refer to Embarq Communications, Inc., any entities under common control with or controlling Embarq Communications, Inc., and any affiliates doing business as EMBARQ.
- 1.2 Changes to the Agreement.** We may change the Agreement at any time with notice. Any changes to the Agreement are effective when we publish them. If you use our Services or make any payment to us on or after the effective date of the changes, you accept the changes. If we change a material term of the Agreement and that change has a material adverse effect on you, you may terminate your Service by letting it expire and not adding new funds. You understand and agree that taxes, fees, surcharges, Universal Service fees, and other charges imposed by the government or based on government calculations may increase or decrease on a monthly or quarterly basis, and that this paragraph does not apply to any increases in those charges.
- 1.3 Activating Service.** Before we activate your Services, we may request sufficient verification of your status as a customer of other EMBARQ™ products and services, and verify your identity in our sole discretion.
- 1.4 Termination of Services.** Consistent with this Agreement: (a) we may terminate Services at any time with notice to you and, in certain instances, without notice; and (b) you may terminate Services at any time by calling customer service at 1-866-221-0711 or by letting your Service expire without adding additional funds. If you terminate your Services with funds in your Service account, you will forfeit those funds.

### 2. Provision of Services

- 2.1 EMBARQ™ Network Coverage.** Network coverage is not available everywhere. EMBARQ™ Prepaid Wireless network services are provided on the Nationwide Sprint PCS Network\* (“Network”). See the mapping information at [www.embarq.com](http://www.embarq.com) or an EMBARQ representative for approximate outdoor coverage. ***All coverage maps are high level representations and there are gaps in coverage within areas shown as covered on the maps. We do not guarantee you will receive coverage at all times, or without interruptions or delays (e.g., dropped calls, blocked calls, etc.) in the coverage areas we identify.*** Actual coverage and quality of Services may be affected by conditions within or beyond our control, including Network problems, software, signal strength,

Customer's equipment, structures (including building where Customer may be located), atmospheric, geographic, or topographic conditions.

## 2.2. **EMBARQ™ Prepaid Wireless Pay As You Go.**

**A. Using Services.** You will not use our Services in an unlawful, fraudulent, or abusive manner. You will not resell or lease Services to anyone. We are not responsible for any opinions, advice, statements, services applications or other information provided by third parties and accessible through our various Services. Neither EMBARQ nor its vendors or licensors guarantees the accuracy, completeness or usefulness of information that is obtained through these Services. You are responsible for evaluating all content. ***You are also responsible for any use of our Services through any wireless device on your account including, but not limited to, use by children or minors. We strongly recommend that you closely monitor any such usage.***

**B. Changes to Services.** Changes to Services will generally be effective upon your acceptance of such changes or on your monthly Service anniversary date. Certain changes may be conditioned upon you adding additional funds to your Service account.

**C. Basic Services.** All device usage, including incoming and outgoing calls, incurs charges. On a call that crosses time periods, minutes are deducted or charged based on the call start time. Services do not operate in any roaming territories outside the Network, including any domestic or international roaming calls or international long distance calls outside of the North American Dialing Pattern (NADP).

**D. Service Account Value Requirements.** All Service accounts must maintain a minimum of \$2.00 at all times. The maximum amount allowable in a Service account is \$300. While you may add funds to your Service account at any time, the minimum you may add in any single instance is \$15, and a maximum of \$150 in any single instance. Any funds added to your Service account cannot be refunded for any reason, but such funds may be transferred to another active EMBARQ™ Prepaid Wireless Service account. If your Service account balance drops below \$2.00, your Service account will expire. You have a 30-consecutive-day grace period to add funds to your Service account to maintain the Service account and your phone number. After completion of that 30 day period, if funds have not been added to the Service account raising it above the \$2.00 minimum, your Service account will be canceled, any remaining balance in your account will be forfeited, and you will lose your phone number.

**E. Wireless Devices, Numbers, and Addresses.** We did not manufacture your wireless device and we are not responsible for any defects or for the acts or omissions of the manufacturer. The only warranties on your device are any limited warranties extended by the manufacturer directly to you or passed on to you through us. Your device may not accept Services directly from any other carrier. You do not have any rights to any number, addresses or other identifier we may assign to your device or account; you may not modify, change or transfer any of these except as we allow or as allowed for by law.

**F. Lost or Stolen Equipment; Fraud.** If your wireless device is lost or stolen, please notify us immediately by calling 1-866-221-0711. ***You are responsible for all charges incurred before you notify us of the loss or theft.*** You will cooperate reasonably with us in investigating suspected unlawful or fraudulent use. We may require that you provide evidence of the loss or theft (e.g., a police report or affidavit). You also will immediately notify our customer service at 1-866-221-0711 regarding any suspected fraudulent use of our Services. You will fully cooperate with us in the investigation of the incident. We will attempt to contact you before interrupting Services in the case of suspected fraud.

**G. EMBARQ™ Prepaid Wireless 30-Day Satisfaction Guarantee.** We will refund the purchase price of your phone (excluding taxes) and any remaining funds in your Service account if, within 30 days of purchase, you (1) return your complete, undamaged EMBARQ™ Prepaid Wireless device (including battery) with the original proof of purchase to the EMBARQ retail store where the Services were originally purchased or, if your device was purchased through an EMBARQ call center, shipped back to EMBARQ in a return kit available to you by calling 1-866-221-0711, (2) request deactivation of your Service, and (3) have used fewer than 30 minutes of Service available on your account. We will refund any balance in your Service account with a credit on your EMBARQ account, or, if you do not have an EMBARQ account, the refund will be via cash, check or credit card based on original payment method and purchase location. All handset purchases that were originally paid by cash will be refunded with cash at the EMBARQ retail store where you purchased the handset. All handset purchases that were originally paid by check will be refunded by check within 15 business days of the return. All handset refunds for merchandise purchased with a credit card will be refunded to the same credit card account. Credit card must be present at time of refund. We will charge you a \$25 fee per device for failing to return the original device packaging that contained the wireless device or for failing to include any components that were in the original packaging (device charger, headset, etc.) that were included with the device at the point of sale. All returns must be in like-new condition (no cracks, scratches, etc.). EMBARQ has the final decision, in its sole discretion, whether the item(s) may be returned or exchanged. If equipment is exchanged, it must be completed within 30 days, and the exchange becomes the final sale and no further exchanges are permitted. EMBARQ may use reconditioned phones for warranty exchanges. You may return accessory-only purchases to us (a) within 30 days of purchase with the original proof of purchase if the accessory package is opened and undamaged, and (b) 12 months from the date of purchase with the original proof of purchase if the accessory package is unopened and undamaged.

**H. Messaging.** You may incur charges in accessing, sending or receiving messages on your device. We may impose limits on the number of voicemail, text, email or other messages that can be retained through your Service account. Indicators of messages on your wireless device, including mailbox icons, may not always provide an up to date indication of new messages and you may at times need to manually reset or clear your mailbox indicator. Legitimate messages may be interrupted by software aimed at prevention of SPAM or similar messages. When using this portion of the Service, it is possible that your wireless phone number, mobile device number, or other account information may be transmitted over the internet. We have no responsibility or liability related to the distribution of this information when you use this portion of the Service.

**2.3 EMBARQ™ Prepaid Wireless Monthly Plans.** In addition to the provisions under this section, all service descriptions in Section 2.2 apply to EMBARQ™ Prepaid Wireless Monthly Plans. Upon payment of the monthly charge for any EMBARQ™ Prepaid Wireless Monthly Plan, you will receive the number of minutes associated with that plan. Unused minutes on EMBARQ™ Prepaid Wireless Monthly Plans do not carry forward. The additional services listed below may be added to an EMBARQ™ Prepaid Wireless Monthly Plan for an additional monthly recurring charge.

**A. EMBARQ™ Wireless Internet.** EMBARQ™ Wireless Internet requires an EMBARQ™ Wireless Internet-capable device, and is not available while roaming off the Network. You will not receive voice calls while using EMBARQ™ Wireless Internet. Unused bytes of data do not carry forward. EMBARQ™ Wireless Internet is not available for use with server devices or host computer applications, other systems that drive continuous heavy traffic or data sessions, or as substitutes for private lines or frame relay connections. EMBARQ™ Wireless Internet also is not available: (a) with any other device used in connection with a computer or PDA - including devices, smart devices or

other devices used with connection kits or similar device-to-computer/PDA accessories; and (b) with Bluetooth-capable devices or other wireless technology used as a modem in connection with other devices. We may terminate EMBARQ™ Wireless Internet without notice for any misuse. We are not responsible for any opinions, advice, statements, services applications or other information provided by third parties and accessible through EMBARQ™ Wireless Internet. EMBARQ has no responsibility, obligation, or liability related to the lack of security you may experience due to your use of the internet or any personal information you or any authorized or unauthorized user of the Services share through your use of EMBARQ™ Wireless Internet. You may have access to certain games, ringtones, screen savers and other items ("Premium Services") that are available for an additional charge. Charges for Premium Services purchased will be deducted from funds in your Service account, provided funds are available in the Service Account at time of purchase. All Premium Services are priced separately. We provide no warranties and make no representations or claims with regard to Premium Services. Subject to the terms of the content purchased, we may delete premium and non-premium items downloaded to any storage areas we may provide, including any pictures, games, and other content. We may limit the amount of Premium Services you may purchase in a specific timeframe (month, week, day, or other time period). Credits for Premium Services do not carry forward and are not available for use with all Services. Estimates of data usage will vary from actual use.

### 3. Charges and Payment

- 3.1 Taxes and Surcharges.** We charge you for taxes, fees and other charges levied by or remitted directly to federal, state, local or foreign governments including, without limitation, sales, gross receipts, Universal Service Fund ("USF"), use, and excise taxes, and wireless pooling and wireless number portability fees, and state and federally-required E911 fees. We also charge certain cost-recovery charges that are not taxes or governmental-required charges. All taxes, fees, and other charges are subject to change and may vary by market. Our prices do not include these taxes, fees, surcharges, cost recovery charges of \$0.55, and local surcharges of up to 15% in certain areas but in most instances less than 2%. Call 1-866-221-0711 for the up to date amount of the USF charge and information on cost recovery charges. We also charge you for surcharges that we collect and keep to pay for the costs of complying with government programs such as number pooling and portability, and enhanced 911 service; these charges are not the taxes nor government imposed assessments.
- 3.2 Charges.** You may access your Service account information and balance of remaining funds at our website ([www.embarq.com/prepaid](http://www.embarq.com/prepaid)) or by calling 6-1-1-TALK from your prepaid wireless device or 1-877-441-1024 from any phone. You are responsible for all charges associated with any wireless device activated on your Service account, regardless of who used the device. You will be assessed charges based on the terms of your Services including, without limitation, monthly recurring charges and charges based on actual usage (e.g., charges for long distance, roaming, call forwarding, 411, etc.). You may be charged additional fees for certain methods of payment and for payments denied by a financial institution. Acceptance of payments (even if marked "paid in full") does not waive our right to collect all amounts that you owe us.
- 3.3 Payment.** You may add funds to your Service account automatically by registering your credit or debit card with us, by purchasing an ePIN at an EMBARQ™ Store, by going to [embarq.com/prepaid](http://embarq.com/prepaid) or by calling 6-1-1-TALK from your prepaid wireless device. To automatically have funds added to your EMBARQ™ Prepaid Wireless Monthly Plan or EMBARQ™ Prepaid Wireless Pay as You Go Service account, you can opt for an automatic low balance recharge. With this option, you select the Service account balance between \$5-\$25 that will trigger the automatic recharge from the credit or debit card you provide us. You also select the recharge amount, from \$15 to \$150 per single instance.

Credit or debit cards may be registered with EMBARQ at time of original purchase or anytime by calling 1-866-221-0711. If you have selected an EMBARQ™ Prepaid Wireless Monthly Plan, you may also automatically add funds to your Service account on the prepaid monthly Service anniversary. The amount of funds added to the Service account will equal the monthly recurring charge of the selected EMBARQ™ Prepaid Wireless Monthly Plan. Funds added automatically via a credit or debit card will be available immediately after the transaction. If there are insufficient funds in your account at any time, Services will be suspended until a sufficient amount of additional funds are added.

- 3.4 ePINS.** ePINS allow you to purchase a stored-value Personal Identification Number (“PIN”) which can be used to apply funds to any Service account at a later time using the unique PIN. ePINS can only be purchased through EMBARQ™ Stores. ePINS are not tied to a specific mobile number or account. ePINS that are not redeemed within one year of purchase will expire. Lost or stolen ePINS cannot be refunded. An ePIN sale may be voided if a) you return to the store where you purchased the ePIN and request the void within 24 hours of purchase, and b) the ePIN has not been applied to a Service account.
- 3.5 Disputed Charges.** Disputes concerning any charges must be raised within 60 days of the date of the charge. You accept all charges not disputed in this time period. You may dispute charges by calling Customer Care at 1-866-221-0711 or by returning to the retail store where you purchased your Services.
- 3.6 Voice Charges.** Airtime and other time based usage charges are calculated from the time your device first initiates contact with a network until that network connection is broken or dropped, whether or not you were actually successful in connecting to the intended destination. But you will not be charged for voice calls that ring and do not pick up, or if you get a busy signal. For voice calls received by your device, you are charged from the time shortly before the phone starts ringing until the call is terminated. You are charged for an entire voice call based on the time period in which the call is initiated. Voice usage is incurred in one-minute increments. Partial minutes of use are rounded up to the next minute. A call will count against your allotment of anytime minutes for the entire duration of call initiated during your anytime minutes Service period.
- 3.7 EMBARQ™ Wireless Internet Charges.** EMBARQ™ Wireless Internet includes unlimited internet access, unless otherwise noted. If unlimited internet access is not included, data usage is measured in bytes, not in minutes. Data usage is rounded up to the next whole kilobyte. Usage charges will be rounded up to the next full cent. Rounding up occurs at the end of each separate session or each clock hour (at the top of each hour), if the session spans more than 1 clock hour, then charged to you based on the terms of your Services. Depending on your Services, usage may be charged against an allowance or on a fixed price per kilobyte. In certain instances, you may not know that your session has not ended. As long as your device is connected to the Network, you will incur data usage charges. This includes, but is not limited to, the amount of data associated with the particular information or item (e.g. game, ringer, email, etc.), additional data used in accessing, transporting and routing this information or item on the Network, data from partial or interrupted downloads, re-sent data, and data associated with unsuccessful attempts to reach websites or use applications. Based on these and a number of other factors (e.g., the specific application, Network performance, etc.), data used and charged to you will vary widely, even for the same activity. Estimates of data usage - for example, the size of downloadable files - will not be accurate or a reliable predictor of actual usage. Your Service Account details at [embarq.com/prepaid](http://embarq.com/prepaid) will not separately identify the number of kilobytes attributable to your use of specific sites, sessions or services.
- 3.8 Shipping Fees.** As applicable, we will directly ship devices and accessories (if accessories are ordered at the same time as the devices) to you for a standard two-day air

ship rate. Products to those location(s) specified in your order, and title and risk of loss to the devices and accessories pass to you upon arrival at your specified location(s). If you order accessories separately from devices, we will ship the accessories to you via standard ground shipping. Additional shipping charges may apply to bulk shipments.

#### 4. **Limitations and Dispute Resolution**

- 4.1 TTY Access; Caller ID.** A TTY device (also known as TDD or Text Telephone) is a telecommunications device that allows people who are deaf or hard of hearing, or who have speech or language disabilities, to communicate by telephone. TTY doesn't work with all devices. If you have a TTY-capable device, it may not function effectively, or at all, when attempting 911 calls and should not be relied on for such calls. Caller identification information may not be available for all incoming calls.
- 4.2 Telephone Numbers and Portability.** We will comply with any FCC-issued regulations that require us to allow you to retain your assigned telephone number(s) upon switching wireless service to another carrier. We will support porting out to another wireless provider, but not porting into the Services.
- 4.3 Disclaimer of Warranties.** WE MAKE NO REPRESENTATIONS OF WARRANTIES, EXPRESS OR IMPLIED, INCLUDING (TO THE EXTENT ALLOWED BY LAW) ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE CONCERNING YOUR SERVICES OR WIRELESS DEVICE. WE DO NOT PROMISE UNINTERRUPTED OR ERROR-FREE SERVICES AND YOU WILL HOLD US HARMLESS FOR ALL SUCH PROBLEMS.
- 4.4 Limitation of Liability.** Neither we nor our vendors, suppliers or licensors are liable for any damages arising out of or in connection with any: (a) act or omission by you, or another person or company; (b) providing or failing to provide Services, including deficiencies or problems with your wireless device, the Network coverage or Services (e.g., dropped, blocked, interrupted calls/messages, etc.); (c) traffic or other accidents, or any health-related claims allegedly arising from the use of Services, any wireless devices or related accessories; (d) content or information accessed while using our Services, such as through the internet; (e) interruption or failure in accessing or attempting to access emergency services from your phone, including through 911, E911 or otherwise; or (f) events due to factors beyond our control, including acts of God (including, without limitation, weather-related phenomena, fire or earthquake), war, riot, strike, or orders of governmental authority. *In the event we are found to be responsible to you for monetary damages relating to the Services (including wireless devices), you agree that any such damages will not exceed the pro-rated monthly recurring charge for your Services during the affected period.*
- 4.5 NO CONSEQUENTIAL OR OTHER DAMAGES.** UNDER NO CIRCUMSTANCES ARE WE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR SPECIAL DAMAGES OF ANY NATURE WHATSOEVER ARISING OUT OF OR IN CONNECTION WITH PROVIDING OR FAILING TO PROVIDE SERVICES, PHONES OR OTHER EQUIPMENT USED IN CONNECTION WITH THE SERVICES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOSS OF BUSINESS, OR COST OF REPLACEMENT PRODUCTS AND SERVICES. THIS SECTION SURVIVES TERMINATION OF THIS AGREEMENT.
- 4.6 MANDATORY ARBITRATION OF DISPUTES.** INSTEAD OF SUING IN COURT, YOU AND EMBARQ AGREE TO ARBITRATE ANY AND ALL CLAIMS, CONTROVERSIES OR DISPUTES OF ANY KIND ("CLAIMS") AGAINST EACH OTHER. THIS INCLUDES BUT IS NOT LIMITED TO CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT, AS WELL AS CLAIMS ARISING OUT OF

OR RELATING TO EMBARQ'S SERVICES, BILLING OR ADVERTISING, OR ARISING OUT OF OR RELATING TO PHONES/EQUIPMENT YOU OR EMBARQ MAY USE IN CONNECTION WITH EMBARQ'S SERVICES. THE REQUIREMENT TO ARBITRATE APPLIES EVEN IF A CLAIM ARISES AFTER YOUR SERVICES HAVE TERMINATED; APPLIES TO ALL CLAIMS YOU MAY BRING AGAINST EMBARQ'S EMPLOYEES, AGENTS, AFFILIATES OR OTHER REPRESENTATIVES; AND APPLIES TO ALL CLAIMS THAT EMBARQ MAY BRING AGAINST YOU. THE FEDERAL ARBITRATION ACT, NOT STATE LAW, APPLIES TO THIS AGREEMENT AND ITS PROVISIONS AND, GOVERNS ALL QUESTIONS OF WHETHER A CLAIM IS SUBJECT TO ARBITRATION. THIS PROVISION DOES NOT PREVENT EITHER YOU OR EMBARQ FROM BRINGING APPROPRIATE CLAIMS IN A SMALL CLAIMS COURT HAVING VALID JURISDICTION, OR BEFORE THE FEDERAL COMMUNICATIONS COMMISSION OR A STATE PUBLIC UTILITIES COMMISSION.

YOU AND EMBARQ FURTHER AGREE THAT NEITHER EMBARQ NOR YOU WILL JOIN ANY CLAIM WITH A CLAIM OR CLAIMS OF ANY OTHER PERSON(S) OR ENTITY(IES), WHETHER IN A LAWSUIT, ARBITRATION, OR ANY OTHER PROCEEDING. YOU AND EMBARQ AGREE THAT NO CLAIMS WILL BE ASSERTED IN ANY REPRESENTATIVE CAPACITY ON BEHALF OF ANYONE ELSE, THAT NO CLAIMS WILL BE RESOLVED ON A CLASS-WIDE OR COLLECTIVE BASIS, THAT NO ARBITRATOR OR ARBITRATION FORUM WILL HAVE JURISDICTION TO ACCEPT OR DETERMINE ANY CLAIMS ON A CLASS-WIDE OR COLLECTIVE BASIS, AND THAT NO RULES FOR CLASS-WIDE OR COLLECTIVE ARBITRATION WILL APPLY. THIS PARAGRAPH AND EACH OF ITS PROVISIONS ARE INTEGRAL TO, AND NOT SEVERABLE FROM, THIS SECTION ON MANDATORY ARBITRATION OF DISPUTES.

A single arbitrator engaged in the practice of law will conduct the arbitration. The arbitration will be filed with and the arbitrator will be selected according to the rules of either JAMS or the National Arbitration Forum ("NAF"), or, alternatively, as we may mutually agree. We agree to act in good faith in selecting an arbitrator. Except as expressly provided in the preceding paragraph, the arbitration will be conducted by and under the then-applicable rules of JAMS or NAF, wherever the arbitration is filed or, if the arbitrator is chosen by mutual agreement of the parties, the then-applicable rules of JAMS will apply unless the parties agree otherwise. All expedited procedures prescribed by the applicable rules will apply. We agree to pay our respective arbitration costs, except as otherwise required by rules of JAMS or NAF, as applicable, but the arbitrator can apportion these costs as appropriate. The arbitrator's decision and award is final and binding, and judgment on the award may be entered in any court with jurisdiction.

IF FOR ANY REASON, THE ABOVE PROVISIONS ON ARBITRATION ARE HELD UNENFORCEABLE OR ARE FOUND NOT TO APPLY TO A CLAIM, YOU AND EMBARQ AGREE TO WAIVE TRIAL BY JURY. If any party files a judicial or administrative action asserting a claim that is subject to arbitration and another party successfully stays such action or compels arbitration, the party filing that action must pay the other party's costs and expenses incurred in seeking such stay or compelling arbitration, including attorneys' fees.

Except as expressly provided above, if any portion of this Mandatory Arbitration of Disputes section is determined to be invalid or unenforceable, the remainder of the section remains in full force and effect.

- 4.7 Miscellaneous.** You may notify us by calling us at 1-866-221-0711, or use that number to get our current address for written notice. We may send you notice to your last known address in our invoicing records, or by calling leaving you a voice message or text

message on your wireless device or home phone. Properly addressed written notice is effective three days after deposit in the U.S. mail, postage prepaid. This Agreement is governed by and must be construed under federal law and the laws of the State of Kansas, without regard to choice of law principles. If either of us waives or fails to enforce any requirement under this Agreement in any one instance, that waiver does not waive our right to later enforce that requirement. If any part of this Agreement is held invalid or unenforceable, the rest of this Agreement remains in full force and effect. Section headings are for descriptive, non-interpretive purposes only. You may not assign this Agreement to any other person or entity without our prior written approval. This Agreement (including any referenced documents and attachments) makes up the entire agreement between us and replaces all prior written or spoken agreements.

\*Sprint is a trademark of Sprint Nextel.