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BY ACTIVATING OR USING OUR SERVICE, YOU AGREE TO BE BOUND BY THESE TERMS AND CONDITIONS ("T&Cs"). PLEASE READ THESE T&Cs CAREFULLY. THEY AFFECT YOUR LEGAL RIGHTS BY, AMONG OTHER THINGS, REQUIRING MANDATORY ARBITRATION OF DISPUTES. IF YOU DO NOT AGREE TO THESE T&Cs, DO NOT ACTIVATE OR USE THE SERVICE OR YOUR WIRELESS PHONE, DEVICE, SMART CARD, OR OTHER EQUIPMENT

These T&Cs and your Service Agreement (if any) constitute your agreement with Tripfones and its affiliates (collectively referred to as, "Tripfones", "we", or "us") for any wireless services and other telecommunications services that we provide you, any applications, phones, or products that you purchase or obtain from us or use with the Service ("Products"), and any applications or services that you purchase, obtain, or use that are provided through or with the Service, or billed to your Tripfones account ("Third-Party Services") (Tripfones Services and Third-Party Service together, the "Service"). These T&Cs supersede all prior versions or agreements. The T&Cs, your Service Agreement, and the rate plan information together are referred to as the "Agreement". You acknowledge that no employee, dealer, or other agent is authorized to make any representation or warranty (other than as described in the Agreement or our current materials) with respect to the Agreement, Service, Products, or rate plans and offerings, or to waive or modify any terms or provisions of the Agreement.

Warranties and Limitations of Liability:

INFORMATION IN THIS SITE IS PROVIDED "AS IS" WITHOUT ANY EXPRESS OR IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON INFRINGEMENT. Tripfones SHALL NOT BE LIABLE TO ANY PARTY FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, OR OTHER DAMAGES FOR USE OF THIS SITE OR OTHER HYPERLINKED SITES.

1. No Warranties by Tripfones:

TRIPFONES MAKES NO EXPRESS REPRESENTATIONS OR WARRANTIES ABOUT ITS SERVICES AND DISCLAIMS ANY IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF TITLE OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. TRIPFONES

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DOES NOT AUTHORIZE ANYONE TO MAKE A WARRANTY OF ANY KIND ON ITS BEHALF AND USER MAY NOT RELY ON ANY STATEMENT OF WARRANTY.

TRIPFONES IS NOT THE MANUFACTURER OF THE PRODUCTS OR DIRECT PROVIDER OF THE SERVICES AND THE ONLY WARRANTY APPLICABLE TO THE PRODUCTS USED IN CONNECTION WITH THE SERVICES IS THAT PROVIDED BY THE PRODUCT MANUFACTURERS AND THE ONLY WARRANTY APPLICABLE TO THE SERVICES PROVIDED IS THAT OF THE SERVICE PROVIDER. THIS SECTION SURVIVES TERMINATION OF THIS AGREEMENT.

2. Shipping and Billing to US Addresses Only; Product Availability:

Tripfones does not process orders to foreign shipping or billing addresses or for use in certain foreign countries. Tripfones tries to give service availability information on this Internet site, but sometimes services are unexpectedly unavailable.

3. Acceptance of Agreement:

You accept this Agreement by: (a) activating or using the Service; or (b) signing, orally or electronically accepting the Agreement, whichever occurs first.

4. MANDATORY ARBITRATION:

TO RESOLVE DISPUTES/CLASS ACTION WAIVER AND JURY TRIAL WAIVER ARBITRATION. PLEASE READ THIS PROVISION CAREFULLY. IT MEANS THAT, EXCEPT AS NOTED BELOW, YOU AND WE WILL ARBITRATE OUR DISPUTES. ANY CLAIM OR DISPUTE BETWEEN YOU AND US IN ANY WAY RELATED TO OR CONCERNING THE AGREEMENT, OR THE PROVISION OF SERVICES OR PRODUCTS TO YOU, INCLUDING ANY BILLING DISPUTES ("CLAIM"), SHALL BE SUBMITTED TO FINAL, BINDING ARBITRATION BEFORE THE AMERICAN ARBITRATION ASSOCIATION ("AAA").

This agreement to arbitrate also requires you to arbitrate claims against other parties relating to Services or Products provided or billed to you, including suppliers of Services and Products and our retail dealers, if you also assert Claims against us in the same proceeding. You and we acknowledge that the Agreement affects interstate commerce and that the Federal Arbitration Act and federal arbitration law apply to arbitration under the Agreement.

PRIOR TO INSTITUTING ARBITRATION, YOU AGREE TO PROVIDE US WITH AN OPPORTUNITY TO RESOLVE YOUR CLAIM BY SENDING A WRITTEN DESCRIPTION OF YOUR CLAIM TO US AT TRIPFONES, LLC, CUSTOMER RELATIONS, 236 WEST 40TH STREET, 3TH FLOOR, NEW YORK, NY 10018 AND NEGOTIATING WITH US IN GOOD FAITH REGARDING YOUR CLAIM. IF WE ARE NOT ABLE TO RESOLVE YOUR CLAIM WITHIN 30 DAYS OF RECEIPT OF YOUR NOTICE, THEN YOU OR WE, INSTEAD OF SUING IN COURT, MAY INITIATE ARBITRATION PROCEEDINGS WITH THE AAA.

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YOU MUST SERVE OUR REGISTERED AGENT (SEE SEC. 16) IN ORDER TO BEGIN AN ARBITRATION. ARBITRATION WILL BE CONDUCTED UNDER THE AAA'S PUBLISHED WIRELESS INDUSTRY ARBITRATION RULES AND SUPPLEMENTAL PROCEDURES FOR CONSUMER-RELATED DISPUTES, WHICH ARE AVAILABLE BY CALLING THE AAA AT 1-800-778-7879 OR VISITING ITS WEB SITE AT www.adr.org.

The AAA has a fee schedule for arbitration. You will pay your share of the arbitrator's fees and administrative expenses ("Fees and Expenses") as set forth by the AAA. You and we agree to pay our own other fees, costs, and expenses, including those for any attorneys, experts, and witnesses. An arbitrator may only award as much and the type of relief as a court with jurisdiction in the place of arbitration that is consistent with law and this Agreement. An arbitrator may issue injunctive or declaratory relief but only applying to you and us and not to any other customer or third party. As a limited exception to the agreement to arbitrate, you and we agree that: (a) you may take Claims to small claims court, if your Claims qualify for hearing by such court; and (b) if you fail to timely pay amounts due, we may assign your account for collection, and the collection agency may pursue in court claims limited strictly to the collection of the past due debt and any interest or cost of collection permitted by law or the Agreement.

5. CLASS ACTION WAIVER.

WHETHER IN COURT, SMALL CLAIMS COURT, OR ARBITRATION YOU AND WE MAY ONLY BRING CLAIMS AGAINST EACH OTHER IN AN INDIVIDUAL CAPACITY AND NOT AS A CLASS REPRESENTATIVE OR A CLASS MEMBER IN A CLASS OR REPRESENTATIVE ACTION. NOTWITHSTANDING ANYTHING TO THE CONTRARY, IF A COURT OR ARBITRATOR DETERMINES IN A CLAIM BETWEEN YOU AND US THAT YOUR WAIVER OF ANY ABILITY TO PARTICIPATE IN CLASS OR REPRESENTATIVE ACTIONS IS UNENFORCEABLE UNDER APPLICABLE LAW, THE ARBITRATION AGREEMENT WILL NOT APPLY, AND YOU AND WE AGREE THAT SUCH CLAIMS WILL BE RESOLVED BY A COURT OF APPROPRIATE JURISDICTION, OTHER THAN A SMALL CLAIMS COURT.

6. JURY TRIAL WAIVER.

WHETHER ANY CLAIM IS IN ARBITRATION OR IN COURT YOU AND WE WAIVE ANY RIGHT TO JURY TRIAL INVOLVING ANY CLAIMS OR DISPUTES BETWEEN YOU AND US.

7. Limitations Period.

Any arbitration or legal action with respect to any and all claims or causes of action related to or arising out of this Agreement must be brought within two years after the cause of action arises, or within the applicable statutory period of time, whichever is shorter. This limitations period does not apply to any given cause of action when the statutory limitations period for that cause of action cannot be waived, restricted or otherwise limited by you.

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8. Service Availability and Limits

a. Availability/Interruption. Service is available to your Device when it is within the operating range of the GSM network in the countries for which we provide service, and may be available outside of that area in other participating carrier service areas. Service is subject to transmission limitation or interruption caused by weather, terrain, obstructions such as trees or buildings, and other conditions. Service may be limited in some areas where coverage is not available or may be temporarily limited or interrupted due to network capacity limitations and network repairs or modifications or to combat potential fraud. GSM wireless features require a compatible GSM 850/1900 dual, tri, or quad band phone, are only available in the GSM features area, and may require local telephone company support and message sender access to computer and modem. All features or Service offerings may not be available, depending on location.

b. Use of Service/Device/Number. Reproduction, retransmission, dissemination or resale of Service is prohibited without prior written contractual arrangements from Tripfones and any required regulatory approvals. When using equipment not provided by us, you are responsible for ensuring that it is compatible with our Service and meets federal standards. You are responsible for the purchase and maintenance of any additional hardware, software and/or Internet access from your PC required to use the Service. You consent to receiving advertising, alerts and other broadcast messages from Tripfones or our authorized agents. You have no ownership rights to the Number, SIMS Card, any IP address, any e-mail address or any other identifier provisioned by us, our agents or the manufacturer of your Device to be used with the Service, and you agree we may change any such Number, IP address, e-mail address or any other identifier at any time with or without prior notice to you.

c. Unauthorized Usage. You agree not to use the SIMS Card, Device or Service for any unlawful, unauthorized or abusive purpose or in any way that damages our property or others' property, or interferes with, harms or disrupts our system or other operators' systems or other users. You will comply with all applicable laws while using the Service and you will not transmit any communication or data that would violate any laws, court order, or regulation or would likely be offensive to the recipient. You are responsible for all content you transmit using the Service. You may not use, or attempt to use, the Service, the network, the SIMS Card, the Device or your Phone for any fraudulent, unlawful, improper, harassing, excessive, harmful, or abusive purpose ("Improper Uses"), or so as to adversely or negatively impact our customers, employees, business, ability to provide quality service, reputation, or network, or any other person. We may determine on a case-by-case basis what constitutes Improper Uses. Improper Uses include, without limit: (a) using an automatic dialer or program; (b) sending unsolicited messages or calls; (c) attempting to interfere with the access of any user, host, or network; (d) identity theft; (e) attempting to decipher, decompile, or reverse engineer any software; (f) posting or transmitting unlawful, infringing, or objectionable content as determined by us; (g) probing, or attempting to tamper with or harm our systems, network, or customers; or (h) reselling or attempting to resell any aspect of the Service, whether for profit or otherwise. If we suspect a violation of this provision, we may: (i)

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begin legal action; (ii) suspend or terminate Service immediately and without prior notice; (iii) suspend or terminate service provided to you under any other agreement with us; and (iv) cooperate with law enforcement in prosecuting offenders. You agree to cooperate with us in investigating suspected violations. We may terminate your Service or change your rate plan at any time, with notice, if we determine, in our sole discretion, that your use of the Service is excessive, unusually burdensome, or unprofitable to us. You have no proprietary or ownership rights to a specific wireless telephone number ("Number"), IP address, or e-mail address assigned to you or your Phone; we may change them at any time. You may not program any other Number into your Phone. We may charge you to change your Number.

You may not install any amplifiers, enhancers, repeaters or other devices that modify, disrupt or interfere in any way with the radio frequency licensed to us to provide Service. If your Sims Card, Device, user name or password is stolen or Service is fraudulently used, you must immediately notify us and provide us with such documentation and information as we may request (including affidavits and police reports). Until you notify us, you will remain responsible for all charges. We have the right to interrupt or restrict Service to your Number, without notice to you, if we suspect fraudulent, illegal, or abusive activity. You agree to cooperate with us in any fraud investigation and to use any fraud prevention measures we prescribe. Failure to provide reasonable cooperation may result in your liability for all fraudulent usage.

d. Release of Information. You consent to our release of information about you when we believe release is appropriate to comply with the law (e.g. a lawful subpoena, E911 information); to enforce or apply our customer agreements; to initiate, render, bill and collect for Services; to protect our rights or property; to protect users of those Services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to, such Services; or if we reasonably believe that an emergency involving danger of death or serious physical injury to any person requires timely disclosure of communications or justifies disclosure of records. You are deemed to have reviewed and consented to our Privacy Policy posted on our website at www.Tripfones.com

e. Your Rights to End This Agreement. You may terminate your Service at any time by notifying us of your intention to terminate Service. There is no penalty or termination fee.

9. CHARGES / PAYMENTS / DEFAULT

a. Generally, You are responsible for paying all charges, including but not limited to: airtime, access, features, voice mail access, data usage, text messages (both inbound and outbound), downloadable content, alerts, roaming, long distance, directory and operator assistance charges, charges for other goods and services and shipping/handling fees. You will be billed at airtime or roaming rates pursuant to the rates as set forth by us and subject to change (please refer to rate chart) Applicable international wireless long distance charges will be charged for calls placed from your wireless phone. A long distance provider chosen by Tripfones will provide your long distance. For all calls, the length of the call will be measured during the time that you are connected

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to our system, which is approximately from the time you press "Send" or other key to begin a call until approximately the time you press "End," or other key to terminate the call. Airtime usage on each call is deducted in full minute increments, with partial minutes of use rounded up to the next full minute. Call waiting, 3-way calling, call forwarding, and voicemail will incur applicable airtime or roaming and wireless long distance charges. You will be charged for any check or electronic bank draft returned for non-payment. Please note you may be charged a higher rate for calls made off-network. Please refer to your rate card for details.

b. Account Balance. All charges incurred will be deducted automatically from your account. Any amounts loaded into your account after the trial period are not transferable or refundable. You should take reasonable efforts to safeguard your Devices (including your phone), and SIMS Card. In some instances you may be able to complete a call when the billing functionality is interrupted. When this occurs you will not receive correct balance information. All calls, however, will be deducted from your account and the balance updated when the billing functionality is operable. You are responsible for all data usage sent through our network and associated with the Device and SIMS Card, regardless of whether the Device or SIMS Card actually receives the information.

You agree to timely pay in full, each month, N30, all charges and fees associated with the Service, including without limit, monthly recurring Service charges, charges described in this Agreement, airtime, roaming, long distance, toll, toll free, landline access, messages (whether read or unread, solicited or unsolicited), images, sounds, data, features (such as Web access, text messages, and voicemail), calling services (such as operator or directory assistance and calling card use), additional or optional services that you use or are processed through your Device, SIMS Card, Phone (or Number, IP address, or e-mail address assigned to or authorized by you), and you remain liable for payment even if a third party agrees to pay your charges. You will be charged for more than one call when you use certain features resulting in multiple inbound or outbound calls (such as call forwarding, call waiting, voicemail retrieval, and conference calling). Except to the extent prohibited by law, billing of roaming charges and minutes or Services used may be delayed or applied against included minutes or Services in subsequent billing cycles, which may cause you to exceed your included minutes or Services in a particular billing cycle. Roaming and other call rating (such as time of call) depend on the location of the network equipment providing Service for a particular call and not the location of the Device, SIMS Card or Phone. For billing purposes, you agree not to rely on indicators on your Phone (such as roaming and call time), which may be inaccurate.

PARTIAL MINUTES OF AIRTIME USAGE ARE ROUNDED UP AND CHARGED, OR DEDUCTED FROM ANY INCLUDED MINUTES, AS FULL MINUTES; AIRTIME USAGE IS MEASURED FROM THE TIME THE NETWORK BEGINS TO PROCESS THE CALL (BEFORE THE PHONE RINGS OR THE CALL IS ANSWERED) THROUGH ITS TERMINATION OF THE CALL (AFTER YOU HANG UP). FOR BILLING PURPOSES, THE TIME OR DAY (SUCH AS NIGHTS AND WEEKENDS) OF AN ENTIRE CALL IS DETERMINED BY THE TIME THE CALL STARTS. UNLESS OTHERWISE SPECIFIED

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IN YOUR RATE PLAN MATERIALS, WEEKENDS ARE MIDNIGHT FRIDAY TO MIDNIGHT SUNDAY. NIGHTS ARE 9:00 P.M. TO 6:59 A.M.

Incorrect Charges. If you believe your bill contains an incorrect charge, you have 60 days from the date of the first bill that contains the charge to notify us or you waive any right to dispute the charge. To notify us, please contact Customer Care at Tripfones.com or 1-888-676-2646. We may require you to describe the dispute in writing. Any written communications concerning charges must be sent to the Tripfones, LLC, Customer Relations, 236 West 40th street, 3ed Floor, New York, NY 10018. If you accept a credit to resolve an issue, you agree the issue is fully resolved. If Customer Care does not resolve your dispute and you still wish to pursue the matter, follow the dispute resolution process described above. For your payment to be deemed received by us and your account to be timely credited, you must provide with your payment information sufficient to identify you and your account (your account number). If we accept late or partial payments or payments with limiting notations, it will not waive any of our rights to collect all amounts that you owe us and it will not be an accord and satisfaction.

If we agree to an alternate payment plan, we may confirm it in any manner, including by electronic means. If your financial institution dishonors or returns for insufficient funds your check or credit card, it is a breach of this Agreement and we may (a) charge you a fee of \$25.00 or such amount as may be permitted by law, (b) stop accepting checks, credit card or other similar payment methods from you, and (c) immediately suspend or cancel your Service. We may use a collection agency and charge you for their fees billed to us for trying to collect what you owe us. **Late Fees.** You agree to pay 1.5% or \$35.00 per month (or portion of a month), whichever is greater, on any past due balances until paid, subject to the highest amount permitted by law. Except to the extent prohibited by law, this late fee may be charged regardless of any disputes you may have raised regarding your invoiced charges.

c. **Use of Service/Rates.** Your Service rates and other charges and conditions for each Number or Device, SIMS Card and/or Phone are described in the "Literature" (the user guide and other printed materials provided by us either in the Starter Kit you received when submitting your Device for use with the Service or in the packaging of the Device and/or SIMS Card you purchased to be used with the Service) you received, each of which is a part of this Agreement. You can place domestic and international calls from certain designated international locations to the United States and other international locations. The per minute rates are based on the originating and terminating locations. International rates vary and are subject to change. Call Customer Service or visit www.Tripfones.com for international rates and available countries. You cannot use the Service to place calls to 811, 900, 976 or 1010 numbers; or to place operator-assisted calls such as third-party-billed, and collect calls. Rates for calls to directory assistance are posted on the our website. You will be billed at domestic rates for 800, 888, 877, and 866 number calls. You are responsible for all taxes and surcharges associated with your use of the Service. Other than calls to 911, you can only make and receive calls when your account has a positive balance.

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d. Default/Termination. If you breach any representation to us or (fail to perform any of the promises you made in the Agreement) you will be in default and we may, without notice to you, suspend Service and/or terminate this Agreement, in addition to all other remedies available to us.

e. Account Information. Any person able to provide your Number and account password is authorized by you to make changes to your account. You consent to disclosure of any information about you to any person as permitted by law if any Device or SIMS Card programmed with your Number calls an emergency service number such as 911 or, if we reasonably believe that an emergency involving danger of death or serious physical injury to any person requires timely disclosure of communications or justifies disclosure of records.

f. CPNI Consent. Under federal law, you have a right, and we have a duty, to protect the confidentiality of information about the amount, type, and destination of your wireless service usage (CPNI). This consent survives the termination of your Service and is valid until you remove it.

g. Credit Checking. You authorize us to verify your creditworthiness with a credit-reporting agency at any time. You will be charged for Service and other features on a monthly billing cycle basis and we may change your billing cycle at any time.

10. Taxes & Fees/Regulatory and Administrative Fees. We bill you for taxes, fees, and other charges (such as sales, use, excise, public utility and other taxes) levied by or remitted to domestic or foreign governments or authorities and imposed on you or us as a result of providing the Service or your Device, SIMS Card or Phone ("Taxes & Fees"). Any tax exemption only applies after the date we receive from you acceptable documentation. We will determine, in our discretion, the type and amount of the Taxes & Fees to be billed. These Taxes & Fees may change at any time without notice. We may also bill you for regulatory and administrative fees to recover our costs of complying with certain regulatory mandates (in our discretion) and Universal Service Fees ("USF") or similarly imposed charges (the amount or method of calculation of these fees may change at any time without notice to you) except to the extent prohibited by law. Regulatory and administrative fees and USF are not taxes or government required charges. We may impose regulatory and administrative fees whether or not all or some services are used, or available to you, or in your location. We are required to use the residential or business street address you provided us to determine certain Taxes & Fees. If you give us an address (such as a P.O. Box) that is not a recognized street address, does not identify the taxing jurisdictions applicable to the address or does not reflect the service area associated with your Number, you may be assigned a default location for Taxes & Fees calculation, which may result in a higher or lower charge for certain Taxes & Fees and you have 60 days from the date of the first bill that contains disputed Taxes & Fees to notify us or you waive your right to dispute those Taxes & Fees.

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11. Disclaimer of Warranties. WE MAKE NO EXPRESS WARRANTY REGARDING THE SERVICE PROVIDED BY US OR ANY SERVICES PROVIDED BY ANY THIRD PARTIES, AND DISCLAIM ANY IMPLIED WARRANTY, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. WE DO NOT AUTHORIZE ANYONE TO MAKE ANY WARRANTY ON OUR BEHALF AND YOU SHOULD NOT RELY ON ANY SUCH STATEMENT. ALL SERVICES, PRODUCTS AND THIRD-PARTY SERVICES AND PRODUCTS ARE PROVIDED "AS IS", "WITH ALL FAULTS", AND WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMIT, WARRANTIES OF TITLE, MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED. YOU ASSUME ALL RESPONSIBILITY AND RISK FOR USE OF THE SERVICE OR PRODUCTS. WE AND OUR OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, DEALERS, SUPPLIERS, PARENTS, SUBSIDIARIES OR AFFILIATES ("Tripfones AFFILIATES") DO NOT WARRANT THAT THE INFORMATION, SOFTWARE, PRODUCTS, PROCESSES, OR SERVICES WILL BE UNINTERRUPTED, ACCURATE, COMPLETE, USEFUL, FUNCTIONAL, BUG OR ERROR FREE. THIS PARAGRAPH SHALL SURVIVE TERMINATION OF THIS AGREEMENT.

12. Limitation of Liability. We are not liable to you, other users of your Device or Phone or third parties for any deficiency in performance or quality, caused in whole or in part by an act or omission of by us or an underlying carrier or service provider, web site, messaging community, dealer, equipment or facility failure, Phone failure or unavailability, discontinuation of Service, or Phones, network problems, lack of coverage or network capacity, equipment or facility upgrade or modification, delay or failure of number portability, acts of God, strikes, fire, terrorism, war, riot, emergency, government actions, equipment or facility shortage or relocation, the failure of an incoming or outgoing call, including 9-1-1 emergency, priority access, or secured service call, to be connected or completed or for the functionality of location services, including 9-1-1 location services, priority access, or secured call or alert service, or causes beyond our reasonable control.

EVEN IF TRIPFONES HAS BEEN ADVISED OF THE POSSIBILITY OF DAMAGES, TRIPFONES AND ITS AFFILIATES AND THIRD PARTY PROVIDERS WILL NOT BE LIABLE TO YOU OR ANY OF YOUR EMPLOYEES, AGENTS, CUSTOMERS OR ANY THIRD PARTIES FOR ANY DAMAGES ARISING FROM USE OF THE SERVICE, DEVICE OR ANY PHONE, INCLUDING WITHOUT LIMITATION: PUNITIVE, EXEMPLARY, INCIDENTAL, TREBLE, SPECIAL, OR CONSEQUENTIAL DAMAGES; LOSS OF PRIVACY OR SECURITY DAMAGES; PERSONAL INJURY OR PROPERTY DAMAGES; COPYRIGHT, TRADEMARK, PATENT, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY DAMAGES; OR ANY DAMAGES WHATSOEVER ARISING FROM INTERRUPTION OR FAILURE OF SERVICE, LISTING ERRORS, LOST PROFITS, LOSS OF BUSINESS, LOSS OF DATA, LOSS DUE TO UNAUTHORIZED ACCESS OR DUE TO VIRUSES OR OTHER HARMFUL COMPONENTS, COST OF REPLACEMENT PRODUCTS AND SERVICES, SUSPENSION, TERMINATION, OR THE INABILITY TO USE THE SERVICE OR ANY

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PRODUCT, THE CONTENT OF ANY DATA TRANSMISSION, COMMUNICATION, OR MESSAGE TRANSMITTED TO OR RECEIVED BY YOUR DEVICE OR PHONE (WHETHER READ OR UNREAD, SOLICITED OR UNSOLICITED), OR LOSSES RESULTING FROM ANY PRODUCTS, GOODS, OR SERVICE PURCHASED, MESSAGES RECEIVED, OR TRANSACTIONS ENTERED INTO THROUGH THE SERVICE. IF THE STATE LAW APPLICABLE TO YOUR CLAIMS DOES NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR OTHER MODIFICATIONS OF OR LIMITATIONS TO CERTAIN REMEDIES, THE RELEVANT PORTIONS OF THE ABOVE EXCLUSION OR LIMITATION WILL NOT APPLY TO YOU. THIS IS A COMPREHENSIVE LIMITATION OF LIABILITY THAT APPLIES TO ALL DAMAGES OF ANY KIND, INCLUDING COMPENSATORY, DIRECT, INDIRECT OR CONSEQUENTIAL DAMAGES, LOSS OF DATA, INCOME, OR PROFIT, LOSS OF OR DAMAGE TO PROPERTY, AND CLAIMS OF THIRD PARTIES.

THE MAXIMUM AGGREGATE LIABILITY OF Tripfones AND ITS AFFILIATES AND THIRD PARTY PROVIDERS TO YOU, AND THE EXCLUSIVE REMEDY AVAILABLE IN CONNECTION WITH THE AGREEMENT FOR ANY AND ALL DAMAGES, INJURY OR LOSSES ARISING FROM ANY AND ALL CLAIMS OR CAUSES OF ACTION RELATED TO SERVICES OR PHONES, SHALL BE A REFUND OR REBATE OF THE PRORATED MONTHLY OR OTHER CHARGES YOU PAID OR OWE US FOR THE APPLICABLE SERVICE, DEVICE OR PHONE. THE EXISTENCE OF MULTIPLE CLAIMS OR SUITS UNDER OR RELATED TO THIS AGREEMENT WILL NOT ENLARGE OR EXTEND THE LIMITATION OF MONEY DAMAGES. EXCEPT TO THE EXTENT PROHIBITED BY LAW, ALL CLAIMS MUST BE BROUGHT WITHIN 2 YEARS OF THE DATE THE CLAIM ARISES.

13. Indemnification. You agree to defend, indemnify, and hold Tripfones, its Affiliates, third party service providers and any roaming or network partner harmless from any and all claims, demands, actions, liabilities, costs, or damages arising out of your use of the Service or Products, any legal disclosures we make relating to your Service or Product, or your breach of this Agreement. You further agree to pay our reasonable attorneys' and expert witnesses' fees and costs in enforcing this Agreement through appeals and/or arising from any actions or claims by third parties and those incurred in establishing whether this Sec. 11 applies. THIS PARAGRAPH SHALL SURVIVE TERMINATION OF THIS AGREEMENT.

14. Privacy. Wireless systems use radios to transmit communications over a complex network. We do not guarantee that your communications using the Service or Products will be private or secure, and we are not liable to you for any lack of privacy or security you may experience. You are responsible for taking precautions and providing security measures best suited for your situation and intended use of the Service. We may (but are not required to) monitor, intercept, and disclose your transmissions, location or communications and may disclose your billing, account, calling records, or other information, in good faith reliance on legal process, if required by law or to protect our rights, business, network or customers. We may locate you through our network. Your

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caller identification (such as your name and Number) even if unlisted may be displayed to others (for example, on the equipment or bill of the person receiving your call or any Internet site you visit.) We may list your name, address, and Number in a published directory with your consent. The way third parties handle and use your personal information is governed by their policies and we are not responsible for their policies, or their compliance with them.

15. Lost or Stolen Phone. If your Device, Phone or SIMS Card is lost or stolen ("Lost Phone") you will be liable for unauthorized airtime charges incurred on the Lost Phone until you: (a) notify us; (b) ask us to deactivate the Lost Phone; and (c) provide within 14 days any documentation we request, including a police report.

16. Number Portability. You may be able to transfer your Number to another wireless carrier or to bring your number to us. For information about Number Portability, please contact Customer Care at 1-888-676-2646. You may not transfer your Number if your account has been cancelled or suspended. You remain liable for charges incurred resulting from your Service with us or service with your former carrier, including cancellation fees.

17. Assignment. We may assign all or part of our rights or duties under the Agreement without such assignment being considered a change to the Agreement and without notice to you, except to the extent provided by law. We are then released from all liability. You may not assign the Agreement without our prior written consent. Subject to these restrictions, the Agreement will bind the heirs, successors, subcontractors, and assigns of the respective parties, who will receive its benefits.

18. Notices/Customer Communications. We may send you written notice, which may be on or included with your bill, which is considered given and received by you on the third day after the date deposited in the US Mail to your address in our billing records. You agree we may also notify and communicate with you, or respond to your inquiries electronically through your Device, Phone or otherwise, such as by e-mail, voicemail, or text messaging, which is considered given and received immediately upon transmission. Written notice to us is considered given when received by our registered agent addressed as follows: Tripfones, LLC, Attention Registered Agent, 236 west 40th, 3ed Floor, New York, NY 10018.

19. Digital Millennium Copyright Act ("DMCA") Notice. To the extent in providing Service we may act as a "services provider" (as defined by DMCA) and offer services as online provider of materials and links to third-party sites. As a result, third-party materials that we do not own or control may be transmitted, stored, accessed, or made available using the Service. If you believe material available via the Service infringes a copyright, notify us using the notice procedure under the DMCA. We will respond expeditiously to remove or disable access to such material and will follow the procedures specified in the DMCA to resolve the claim. Our designated agent to whom you must address infringement notices under the DMCA is Tripfones, LLC, Attention DMCA Department, 236 West 40th Street, 3ed Floor, New York, NY 10018.

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20. **Survivability.** Except to the extent expressly set forth herein, all terms and conditions of these T&Cs are independent of each other and if any provision of these T&Cs is held to be inapplicable or unenforceable, then (a) that term or provision shall be construed, as nearly as possible, to reflect the intentions of the parties with the other terms or provisions remaining in full force and effect, (b) the T&Cs will not fail their essential purpose, and (c) the balance of the T&Cs remain unaffected and in full force and effect, unless our obligations are materially impaired, in which event we have the right to terminate the Agreement except that all provisions stating they survive termination shall survive said termination. You and we will continue to be bound by any other provisions or rights and obligations that may reasonably be construed as surviving.

21. **Entire Agreement/Applicable Law/Venue/Miscellaneous.** This Agreement represents the final and entire agreement between you and us regarding the Service and Products. Electronic images of the Agreement will be considered originals. You acknowledge that you have not relied on any other representations not specifically included in this Agreement. If we do not enforce our rights under any of the provisions of the Agreement, we may still require strict compliance in the future. You represent that you are of legal age and have the legal capacity to enter into this Agreement. If you are contracting on behalf of a company, you represent that you are authorized to enter into this Agreement and you shall be the personal guarantor of on behalf of the company you represent and you further agree to be personally liable for all accounts if you are not so authorized. This Agreement is governed by the Federal Arbitration Agreement, applicable federal law, and the laws of the State of New York. The exclusive jurisdiction and venue for any action shall be the State and County of New York. Arbitration proceedings or any actions to enforce an arbitration award must be in the state and county of New York.