



Airtime Terms & Conditions

These Airtime Terms and Conditions and the attached order or quote form ("Quote Form") (these Terms and Conditions together with all attachments, the "Agreement") are between the Subscriber identified in the Quote Form ("Subscriber") and Bear Communications, Inc., BearCom Operating LLC and their affiliated companies ("BearCom") regarding Subscriber's subscription to and use of the Airtime two-way radio communication service (the "Airtime Service"). The term of Subscribers' subscription will begin on the Subscription Start Date and will continue for the amount of months set out in the Quote Form ("Subscription Term").

1. On or before the Subscription Start Date, the Subscriber shall pay to BearCom the first quarter's Fees. Thereafter during the Subscription Term, the Subscriber shall pay all Fees monthly in advance on or before the date specified by BearCom. All Fees are due and payable whether or not the Airtime Service is used by the Subscriber.

2. In the event that a payment shall become past due and payable, as herein provided, or in the event of any other breach of this Agreement by the Subscriber, and in the event such non-payment or other breach shall not have been cured within seven days after written notice thereof has been given by BearCom, BearCom may at its option terminate this Agreement or suspend Subscriber's access to the Airtime Services and may, where applicable, at its option, remove any of the Subscriber's facilities from BearCom's premises, whether leased or owned, in all cases without any liability on BearCom. In the event of suspension of Subscriber's access to the AirTime Service, a \$100.00 reconnect charge will become payable prior to Subscriber's reconnection to the Service. Notwithstanding the above, BearCom may pursue any other right or remedy it may have by law or under this Agreement. BearCom's rights and remedies hereunder are cumulative and not alternative and may be enforced either successively or concurrently.

3. Subscriber acknowledges that it shares the Airtime Service with other subscribers and that Subscriber's transmissions using the Airtime Service are not confidential or private and may be received by other subscribers. Subscriber will at all times make reasonable and proper use of the Airtime Service solely for the purposes of Subscriber's internal business communications, showing consideration and courtesy to other subscribers and will refrain from lengthy transmissions. Subscriber shall not make any use of the Airtime Service that degrades the performance of the Airtime Service or interferes with its use by other Subscribers. Subscriber may not use or transmit any language or any other transmission that is unlawful, foul, obscene, offensive, defamatory, libelous, threatening, vulgar, harassing, hateful, or encourages violent conduct, as determined by BearCom in its sole discretion. Subscriber's use of any such language or transmission in connection with the Airtime Service is a breach of this Agreement. Subscriber shall comply with all applicable laws, including all federal and state laws and applicable regulations and rules of the Federal Communications Commission ("FCC"). BearCom may immediately and without notice suspend Subscriber's access to the Airtime Service on Subscriber's breach of this Section.

4. The Subscriber agrees that all radio equipment employed or otherwise used by the Subscriber in connection with the Airtime Service shall comply with all applicable laws, including with the specifications determined by FCC and shall obtain all approvals required by FCC. The Subscriber further agrees that it will pay to BearCom any regulatory or other fees imposed by any governmental authority in connection with Subscriber's use of the Airtime Service, including the annual license fee determined by FCC to operate such radio equipment.

5. The Subscriber may add mobile radio units ("Units") to Subscriber's existing Units used with the Airtime Service at any time upon obtaining BearCom's written consent, and Subscriber shall pay an amount equal to the first month's Fees for each such additional Unit added at the time such Units are added. BearCom will amend the monthly Fees in accordance with the total number of units used by the Subscriber and the Subscriber shall pay the increased Fees. For clarity, such additional Units shall be subject to this Agreement.

6. (a) BearCom shall not be liable for any loss or damages whatsoever, whether direct or indirect, special or consequential: (i) due to delays, defects or any other manner or failure in transmission or the unavailability of the Airtime Services, howsoever caused; (ii) in connection with or related to Subscriber's use of the Airtime Services; or (iii) resulting from on in connection with the malfunction of BearCom's equipment or services or that can be attributed to the negligence of BearCom.



(b) BEARCOM AND ITS AFFILIATES, AND THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, OR AGENTS, SHALL NOT BE LIABLE FOR: (I) ANY COST OF COVER OR ANALOGOUS COSTS RELATED TO THE PROCUREMENT OF REPLACEMENT SERVICES; (II) ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES OF ANY KIND, HOWEVER CAUSED AND WHETHER IN CONTRACT, TORT, OR UNDER ANY OTHER THEORY OF LIABILITY; OR, (III) ANY LOSS OF BUSINESS, TRANSMISSIONS, GOODWILL, PROFITS, DATA, SALES OR REVENUE, WORK STOPPAGE, OR EQUIPMENT FAILURE OR MALFUNCTION, IN EACH CASE WHETHER OR NOT THE SUBSCRIBER HAS BEEN ADVISED OF THE POSSIBILITY OF SAME.

(c) THE MAXIMUM AGGREGATE LIABILITY OF BEARCOM UNDER THIS AGREEMENT OR OTHERWISE IN CONNECTION WITH THIS AGREEMENT OR THE AIRTIME SERVICE, WHETHER IN CONTRACT, NEGLIGENCE, TORT, OR ANY OTHER FORM OF LIABILITY, SHALL IN NO EVENT EXCEED THE FEES PAID BY SUBSCRIBER TO BEARCOM UNDER THIS AGREEMENT DURING THE THREE (3) MONTHS IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO LIABILITY. SUCH DIRECT DAMAGES SHALL BE THE FULL EXTENT OF MONETARY LIABILITY OF BEARCOM UNDER OR IN CONNECTION WITH THIS AGREEMENT AND THE AIRTIME SERVICE, REGARDLESS OF THE FORM IN WHICH ANY SUCH LEGAL OR EQUITABLE CLAIM OR ACTION MAY BE ASSERTED AGAINST BEARCOM, AND SHALL BE THE SUBSCRIBER'S SOLE MONETARY REMEDY IN CONNECTION WITH THIS AGREEMENT OR THE AIRTIME SERVICE.

(d) THE AIRTIME SERVICE IS PROVIDED "AS IS." EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, BEARCOM MAKES NO, AND ACTIVELY DISCLAIMS ANY, CONDITION, REPRESENTATION, WARRANTY, OR GUARANTEE IN CONNECTION WITH THE AIRTIME SERVICE, INCLUDING AS TO THE RELIABILITY, TIMELINESS, FITNESS FOR PURPOSE, QUALITY, SUITABILITY, TRUTH, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE AIRTIME SERVICE, THE CONTENT TRANSMITTED ON SAME, AND ANY EQUIPMENT OR ACCESSORIES PURCHASED BY SUBSCRIBER AND SOLD BY BEARCOM OR THAT ARE OTHERWISE PROVIDED BY BEARCOM. ALL OTHER CONDITIONS, REPRESENTATIONS, AND WARRANTIES REGARDING THE AIRTIME SERVICE AND SUCH EQUIPMENT AND ACCESSORIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS, OR THOSE ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE, ARE HEREBY EXPRESSLY DISCLAIMED BY BEARCOM TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. WITHOUT LIMITING THE FOREGOING, BEARCOM MAKES NO WARRANTY THAT THE AIRTIME SERVICE WILL BE ERROR FREE, WILL FUNCTION WITHOUT INTERRUPTION, OR WILL MEET ANY REQUIREMENTS OR SUBSCRIBER'S EXPECTATIONS. TO THE FULL EXTENT PERMITTED BY LAW, THE DURATION OF STATUTORILY REQUIRED WARRANTIES, IF ANY, SHALL BE LIMITED TO THE STATUTORILY REQUIRED WARRANTY PERIOD. WITHOUT LIMITING THE FOREGOING, SUBSCRIBER ACKNOWLEDGES THAT THE AIRTIME SERVICE IS NOT INTENDED FOR USE IN CONNECTION WITH ANY HIGH RISK OR STRICT LIABILITY ACTIVITY AND THAT BEARCOM MAKES NO, AND ACTIVELY DISCLAIMS ANY, CONDITION, REPRESENTATION, WARRANTY, OR GUARANTEE, AND SHALL HAVE NO LIABILITY, IN CONNECTION WITH ANY SUCH USE OF THE AIRTIME SERVICE.

7. The Subscriber will keep its Units and its equipment used in connection with the Airtime Service ("Equipment") in satisfactory operating condition and will not permit its Equipment to cause any interference (including any harmful interference). Subscriber will, when advised of any fault with its Equipment or any interference that is reasonably suspected to be caused by Subscriber's Equipment, forthwith take any and all necessary action to remedy said fault or interference, including ceasing use of the relevant Equipment. Failure of the Subscriber to keep its equipment in satisfactory operating condition or to remedy forthwith such fault or interference shall be a breach of this Agreement. BearCom may immediately and without notice suspend Subscriber's access to the Airtime Service on Subscriber's breach of this Section. Subscriber acknowledges that if its radio equipment is lost or stolen, BearCom may not be able to de-link or "kill" the missing radios. In that event, Subscriber will be required to cover the costs to reissue and reprogram the code or reissue unique IDs for the remaining radios.

8. BearCom may exclude any Equipment it deems, in its sole discretion, either incompatible with, or harmful or detrimental to the Airtime Service from use in connection with the Airtime Service.

9. This Agreement and any written addendum attached hereto, signed by the Subscriber and BearCom, constitutes the entire and only Agreement of the parties with respect to the subject matter hereof. Any change or modification of this Agreement shall not be binding on BearCom unless signed by a duly authorized official of BearCom.

10. THE SUBSCRIBER SHALL INDEMNIFY, DEFEND, AND SAVE BEARCOM AND ITS AFFILIATES, AND THEIR OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND SUB-CONTRACTORS ("BEARCOM INDEMNITEES") HARMLESS FROM AND AGAINST ANY AND ALL LOSSES, LIABILITY, THIRD-PARTY CLAIMS, , DAMAGES, AND EXPENSES BY REASON OF, ARISING OUT OF, RELATING TO, OR CONNECTED WITH, THE SUBSCRIBER'S USE OF THE AIRTIME SERVICES. IT IS EXPRESSLY AGREED THAT THIS OBLIGATION TO INDEMNIFY THE BEARCOM



INDEMNITEES SHALL SURVIVE THE TERMINATION (INCLUDING EXPIRATION) OF THIS AGREEMENT AND SHALL INCLUDE, WITHOUT LIMITATION, ANY EXPENSES OR PAYMENTS OF LIABILITIES INCURRED OR MADE BY BEARCOM BY REASON OF THE MATTERS SET FORTH HEREIN, INCLUDING LEGAL FEES.

11. No waiver of or consent to depart from the requirements of any provision of this Agreement shall be binding against BearCom unless it is in writing and is signed by BearCom. Such waiver or consent shall be effective only in the specific instance and for the specific purpose for which it has been given and shall not be deemed or constitute a waiver of any other provision (whether or not similar) nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

12. All notices required or permitted to be given hereunder shall be given in writing either by personal delivery or by prepaid registered mail to the address set out in the Quote Form. Such address may be changed from time to time by written notice thereof. All notices hereunder shall be deemed to have been received if given by mail, on the second business day following the date of mailing thereof and, if delivered, on the date of delivery.

13. Fees for the Airtime Service under this Agreement may be adjusted by BearCom as of the end of the Initial Subscription Term and at any time thereafter upon 30 days written notice.

14. Basic Maintenance coverage is as noted: in-shop maintenance is performed during normal business hours, M-F 8:30 – 5pm. Any on-site or after-hours work is billable at the then-current hourly rate. A service call fee applies outside BearCom coverage area.

15. This Agreement shall begin on the Subscription Start Date and continue until the end of the longer of: the time specified by Motorola’s subscription terms as modified from time to time by Motorola; or 24 months from the Subscription Start Date or for the Initial Subscription Term. This Agreement shall automatically renew on a month to month basis (“Term”). This Agreement may be terminated by either party at the end of the Initial Subscription Term or any Renewal Term by written notice to the other party given at least 30 days before the expiration of such period or upon receipt by the subscriber of a notice advising of an increase in service rates, upon 30 days written notice given within 10 days of such receipt. BearCom may terminate this Agreement for convenience at any time without liability on no less than sixty (60) days’ written notice to Subscriber.

16. Contract term is based on number of payments required, and any missed payments or seasonal suspensions do not count toward contract term. Early Termination Fee = Monthly Contract Rate X Number of Months remaining in Contract.

17. This Agreement shall be governed by and construed in accordance with the laws of the state of Massachusetts without regard to conflict of law provisions. The parties irrevocably consent to the exclusive jurisdiction and venue of the courts in the state of Massachusetts to consider and determine all disputes, litigation, and claims, both at law and in equity that may arise in any connection with this Agreement and waive any right which they may have to transfer or change the venue of any suit, action or proceeding.

18. Subscriber agrees to conduct business electronically, and that an electronic signature has the same validity and meaning as a handwritten signature.

19. Other Terms: Purchases of Equipment, including accessories, Rental of Equipment, and provision of Services by Subscriber from BearCom shall be subject to BearCom’s standard terms of sale, rental and service, located here: <https://bearcom.com/terms-of-sale>. As applicable, the terms of Motorola’s subscription terms are incorporated herein by reference: https://bearcom.com/media/files/MSIcustomer_terms_conditions_WAVE_TLK.pdf

Subscriber Name: _____

Date: _____

Contact Name: _____

Signature: _____