

Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of Petition of the Cellular Telephone )  
& Internet Association for an Expedited )  
Declaratory Ruling Confirming That: (1) Early )  
Termination Fees in Wireless Contracts Are )  
“Rates Charged” for Commercial Mobile Services )  
Within the Meaning of Section 332(c)(3)(A) of )  
The Communications Act and FCC Precedent; And )  
(2) Any Application of State Law by a Court or )  
Other Tribunal to Invalidate, Modify, or Condition )  
The Use or Enforcement of ETFs, Based, in )  
Whole or in Part, Upon an Assessment of the )  
Reasonableness, Fairness, or Cost-basis of the )  
ETF, or to Prohibit the Use or Enforcement of ETFs )  
As Unlawful “Liquidated Damages” or Penalties )  
Constitutes Prohibited Rate Regulation and Is )  
Therefore Preempted by Section 332(c)(3)(A) )  
\_\_\_\_\_ )

WT Docket No. 05-194

**REPLY COMMENTS OF VERIZON WIRELESS**

In its initial comments in this proceeding, Verizon Wireless urged the Commission to take unequivocal action to declare that early termination fees (“ETFs”) in mobile telephone service contracts are part of the commercial mobile service providers’ “rates” and “rate structures,” as requested by CTIA in its Petition for Declaratory Ruling. CTIA is rebutting the specific legal arguments raised in opposition to its Petition, and Verizon Wireless supports CTIA’s reply. Rather than duplicating CTIA’s responses, Verizon Wireless replies to a few comments that demonstrate starkly why ETFs are mobile service rates and/or part of rate structures, and why CTIA’s Petition must therefore be granted.

**I. CONSUMERS HAVE SUBSTANTIAL CHOICES AVAILABLE BETWEEN NON-TERM AND TERM WIRELESS SERVICE PLANS.**

In its initial comments, Verizon Wireless explained that wireless service providers offer service through a variety of rate plans made up of multiple rate components, including ETFs, which are designed to compensate carriers for the ongoing costs of providing wireless services, for the costs they incur in acquiring and retaining customers, and to earn a profit from the business of providing mobile telephone services. Given the high upfront costs for acquiring new customers, and the preference of U.S. consumers to spread costs over time, most wireless carriers offer service contracts of one- or two-year terms with ETFs. These term plans enable carriers to reduce upfront costs while having some assurance of recovering the upfront and other costs over the length of the customer relation. Term contracts with lower upfront costs thereby attract subscribers in a highly competitive market and also enable consumers to acquire services at rates that might otherwise be prohibitive.

The National Association of State Utility Consumer Advocates (“NASUCA”) incorrectly asserts that “Most of the largest CMRS carriers will provide service only if the customer signs a one- or two-year service contract.” (NASUCA Comments, at 28.) It suggests that consumers have no choice in wireless phone service but to commit to a term contract with an ETF, and for that reason, the Commission should allow states to regulate whether, when and how ETFs should be enforced.

In fact, wireless carriers offer a variety of term and non-term service plans, with and without ETFs. Attached as Exhibit A, for example, is a chart showing the availability of multiple wireless service plans *without* ETFs or term commitments, including plans offered directly by, or indirectly over the network of, Verizon Wireless,

Cingular Wireless, Sprint PCS, and Nextel. Consumers do have choices, contrary to NASUCA's claim.

However, as the carriers offering such plans note, consumers generally incur higher upfront costs and higher service rates by choosing non-term service plans without ETFs.<sup>1</sup> Many consumers thus prefer to subscribe to term contracts with ETFs, which generally feature lower rates for service and phones and also spread out the costs for subscribers.<sup>2</sup> The popularity of term contracts with ETFs illustrates that consumers find it reasonable to commit to a term contract with the economic benefits provided by the rate structures of those contracts. NASUCA's suggestion that consumers choose service contracts with ETFs because they must is simply wrong.

## **II. AARP'S MOBILE PHONE SERVICE DEMONSTRATES WHY ETFS ARE RATES WITHIN THE MEANING OF SECTION 332(C)(3)(A).**

AARP is another proponent of state regulation of ETFs. In its Comments (at 3), AARP takes the position that "ETFs are not 'rates' within the meaning of § 332(c)(3) because they are not charges for commercial mobile services." And, it claims: "ETFs like those at issue in the cases cited by CTIA are not 'rates' because they are not associated with an element of service nor designed to recover the cost of service." (AARP Comments, at 10.)

AARP in fact provides an excellent example of why ETFs actually *are* "associated with an element of service" and must be deemed rates or rate structures. In direct contradiction to its legal arguments, AARP offers its members discounted mobile

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<sup>1</sup> See *Cingular Comments*, at 11; *Nextel Comments*, at 6; *T-Mobile Comments*, at 6.

<sup>2</sup> See, e.g., *Nextel Comments*, at 5 ("Nextel has found that most consumers prefer service agreements with ETFs because they allow customers to receive a service plan at the lowest price"). See generally Jerry A. Hausman, "Mobile Telephone," *Handbook of Telecommunications Economics*, M. Cave et al. eds. (2002), at 577 ("Mobile companies' consumer research in the U.S. and Australia demonstrates that consumers are most price sensitive to the up front costs of the price of handsets and monthly rental").

phone service through plans that use ETFs for purchase of a term contract as an integral part of the rate structure.<sup>3</sup>

AARP “Wirefly Wireless” phone service, provided through Liberty Wireless (see Exhibit B), offers AARP members three service plans. Two service plans include no contract and no ETF. The third requires a one-year contract with an ETF of \$150.00 if a subscriber wants to terminate service earlier, and in exchange, members receive a 10% monthly discount off standard service charges. In other words, AARP members can choose between non-term service plans and higher prices or lower prices with a one-year contractual commitment and an ETF.

As CTIA and other carriers have established in this proceeding, one reason for plans with ETFs is for a carrier to ensure a long-term revenue stream from the subscriber in exchange for offering the customer lower upfront costs for service rates and/or other subsidies, exactly the type of rate structures offered by AARP through Wirefly Wireless.

### **III. EARLY TERMINATION FEES CANNOT BE INVALIDATED SIMPLY TO CURE POST HOC DISSATISFACTION WITH A CUSTOMER’S SERVICE PLAN.**

Several consumer groups urged the Commission to reject CTIA’s Petition, and to allow a patchwork of state litigation to determine the reasonableness and enforceability of wireless ETFs. These parties rely in part on personal stories of subscribers who have faced the choice of terminating their wireless contract and paying an ETF or maintaining wireless service that they no longer wanted.<sup>4</sup> These personal stories do not address directly the legal issue raised by CTIA’s Petition of whether ETFs are mobile telephone rates or rate structures within the meaning of Section 332(c)(3)(A) of the

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<sup>3</sup> AARP also criticizes ETFs as “anti-competitive,” a position that is undermined by AARP’s own wireless service offering that includes an ETF as discussed in the text. *See AARP Comments*, at 25.

<sup>4</sup> *See Comments of Utility Consumers Action Network* (filed Aug. 5, 2005) (“UCAN”).

Communications Act. Rather, they are designed to suggest that consumers are treated unfairly because they are held to contracts with payment structures that include ETFs as a component of the rates charged, and, therefore, the Commission must allow state court litigation to adjudicate the reasonableness of, and potentially invalidate, ETFs.

Divorced from the context in which contracts with ETFs are offered, any charge for a personally undesired service can be presented as unreasonable. These personal stories focus on the *post hoc* impact to the subscriber of paying an ETF, and completely ignore the upfront benefits received from term contracts with an ETF. As Verizon Wireless explained in its initial comments (at 10-12, 13-15), wireless carriers use term contracts with ETFs as a means of providing consumers with more plan choices, plans with lower up-front costs, plans with more features and capabilities, and plans with opportunities to purchase increasingly-sophisticated phones at lower prices.<sup>5</sup> Recovering portions of the costs to subsidize these plans as well as ongoing business costs and profit through ETFs from customers who choose to terminate their contracts is a reasonable, standard business practice.

The two personal stories in UCAN's Comments identified as coming from Verizon Wireless customers do not undercut this analysis. One of the Verizon Wireless anecdotes indicated that a subscriber (UCAN Comments, § II(9)) allegedly desired to switch from Verizon Wireless. According to UCAN, he ported his wireless phone number to another carrier during the term of his Verizon Wireless contract, which he did not expressly cancel, and then was surprised to have an ETF charged. Obviously, the customer terminated his Verizon Wireless service contract -- he could receive wireless

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<sup>5</sup> See also *Cingular Comments*, at 6, 11; *Dobson Communications Comments*, at 2-3; *Nextel Comments*, at 4-7; *T-Mobile Comments*, at 4-7; *U.S. Cellular Comments*, at 3-4.

service only through one provider at his wireless number -- and was therefore subject to the ETF to which he had contractually agreed.<sup>6</sup> Verizon Wireless cannot charge for monthly phone service to a number ported to another carrier. Moreover, this subscriber's suggestion that he could pay the rest of his monthly service charges and avoid the ETF would be a unilateral, and unenforceable, revision to the contract that he signed with Verizon Wireless. But, as the Commission has expressly approved, after a subscriber has ported its number to another carrier, the prior carrier can collect the ETF and other unfulfilled obligations associated with the terminated contract.<sup>7</sup>

According to UCAN (Comments, § II(10)), another Verizon Wireless subscriber signed a contract with Verizon Wireless, expecting to transmit international text messages on the same terms as domestic text messages. Based on the information in UCAN's description, this subscriber was familiar with the fact that, for most carriers, there is a rate differential between domestic and international telecommunications services. The subscriber subsequently objected to being charged such differential for text messages to the Philippines, and desired to terminate her contract without paying the ETF. As noted by UCAN, Verizon Wireless employees worked within the contract parameters to give this subscriber a credit on one month of text message charges plus a

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<sup>6</sup> The current Verizon Wireless customer agreement provides: "Except as explicitly permitted by this agreement, you're agreeing to maintain service with us for your minimum term. . . . After that, you'll become a month-to-month customer under this agreement. **YOU MUST PAY US UP TO \$175 PER WIRELESS PHONE NUMBER AS AN EARLY TERMINATION FEE IF YOU CHOOSE TO END YOUR SERVICE BEFORE BECOMING A MONTH-TO-MONTH CUSTOMER, OR IF WE TERMINATE IT EARLY FOR GOOD CAUSE.**" "Customer Agreement" at [www.verizonwireless.com](http://www.verizonwireless.com) (emphasis in contract).

<sup>7</sup> See *Telephone Number Portability*, 18 FCC Rcd 20971, 20976 (2003) ("Although we prevent carriers from imposing restrictions on porting beyond necessary customer validation procedures, this does not in any way invalidate provisions in carrier contracts pertaining to minimum contract terms, early termination fees, credit requirements, or other similar provisions.").

\$50.00 credit on future charges.<sup>8</sup> However, by only reporting the customer's complaint, UCAN takes this incident out of the context surrounding the use of ETFs.

UCAN does not explain what this subscriber was paying for services before signing up with Verizon Wireless, what phone and/or plan choices were available to her in addition to Verizon Wireless, whether any less expensive rate alternatives existed for an equivalent phone plan with international text messaging, and whether the ETF was a factor in her choice of plan. Thus, UCAN ignores completely the decisions that consumers face upfront in choosing a wireless service plan, and why ETFs are a component of the rates and rate structure for Verizon Wireless and numerous other wireless carriers.

At bottom, UCAN's subscriber stories are designed to suggest that enforcement of ETFs produces unfair results, and it is necessary to allow state court litigation by subscribers to absolve the subscribers from the charges for terminating their contracts. That is, of course, precisely the wrong perspective on ETFs, because, as the Commission and courts have recognized, consumers *benefit* from ETFs *prior* to signing a contract through the choice of plans and equipment available to them and during the contract by being able to spread the economic obligations of the rate structure over a prolonged period rather than upfront.<sup>9</sup>

Enforcement of ETFs for termination of a wireless contract ensures that the benefits of lower prices for term contracts continue, even as subscribers, such as the two

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<sup>8</sup> In addition to these informal procedures, Verizon Wireless subscribers have other courses of action available to them if they believe the carrier has not performed in accordance with their agreement. The Customer Service Agreement provides for no cost, or low cost, dispute resolution through mediation or arbitration. See "Customer Agreement," at [www.verizonwireless.com](http://www.verizonwireless.com) (July 10, 2005).

<sup>9</sup> See, e.g., *Ryder Communications, Inc. v. AT&T Corp.*, 18 FCC Rcd 13603, 13617 (2003); *MCI Telecomms. Corp. v. FCC*, 822 F.2d 80, 86 (D.C. Cir. 1987).

highlighted in UCAN's comments, switch to another carrier. If the Commission were to find that ETFs are not part of wireless service rate structures, then it would in effect allow state courts and state PSCs to invalidate ETFs, based on varying notions of fairness and reasonableness, radically changing the economics of wireless subscriptions. Term contracts would become less feasible, and perhaps impossible, and wireless service agreements would likely move toward models closer in structure to pre-pay plans, with higher phone costs up-front, higher calling rates, and substantially higher-rates for the phones and plans with additional features that are currently being introduced into the marketplace. Without ETFs, the prevailing economic model will be for carriers to require consumers to pay more upfront because there would be less, or no, contractually committed revenue stream toward recovery of the costs of providing service to subscribers.<sup>10</sup>

#### **IV. CONCLUSION**

CTIA and Verizon Wireless have detailed the numerous instances of litigation throughout the U.S. in which plaintiffs are challenging the use of ETFs, as unconscionable charges or unlawful "liquidated damages." This litigation is essentially attempting to regulate the use of ETFs out of existence, which would deprive consumers of the benefits and choices made possible by term contracts with ETFs, as discussed above.

These state court litigations involve inquiries into the reasonableness of wireless phone rates and rate structures, and so, such litigation regarding ETFs clearly violates

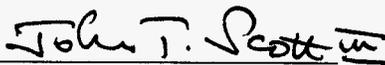
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<sup>10</sup> See *Nextel Comments*, at 5; *Verizon Wireless Comments*, at 5-6, 10-12; see also *U.S. Cellular Comments*, at 4 ("A successful attack on ETFs will have the inevitable effect of raising rates, as carriers will have to find alternate means of protecting themselves from wrongful termination of contractual service arrangements.").

Congress' ban on state rate regulation for commercial mobile services in Section 332(c)(3)(A) of the Communications Act. Because plaintiffs are seeking invalidation of ETFs, ETF litigation has the potential to frustrate Congress' and the Commission's national regulatory framework for wireless rates. By confirming that ETFs are wireless rates and/or rate structures in response to CTIA's Petition, and preempting these state courts from ruling on the legitimacy of ETFs, the Commission will help effectuate Congress' vision of a national wireless market that ensures substantial choices among mobile services for all U.S. consumers.

Accordingly, for the reasons set forth in the CTIA's Petition and the comments in support from Verizon Wireless and other wireless carriers, the Commission should declare that: (1) ETFs are rates and rate structures within the meaning of Section 332(c)(3)(A); (2) the state law claims, whether common law or statutory, currently raised against ETFs seek to regulate rates under the statute; and (3) the state law claims are therefore expressly preempted by Section 332(c)(3)(A).

Respectfully submitted,



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August 25, 2005

# **EXHIBIT A**

**AVAILABLE MOBILE PHONE CALLING PLANS WITH  
NO TERM CONTRACT AND NO ETF<sup>1</sup>**

<b>Carrier/ Plan Name</b>	<b>Advertised Pre-Pay Service Plans</b>	<b>Calling Features</b>	<b>Advertised Phone Price Range</b>	<b>Geographic Availability</b>
Boost Mobile Pay as You Go (Nextel)	Per minute pre-pay plan; 10 cents/min off-peak; 20 cents/min peak	\$1.50/day for PTT; 10 cents/txt msg sent; 25 cents/media msg sent or received; 20 cents/day web access	\$59.99 to \$499.99 with service plan	National
Cingular GoPhone (Pay as You Go)	Per minute pre-pay plan; 10 cents/min with \$1 day access, or 25 cents/min flat rate	Unlimited mobile to mobile; 5 cents/ txt or media msg sent or received; 1 cents/KB web access	\$29.99 to \$149.99 with service plan	National
Cingular GoPhone (Pick Your Plan)	Multiple monthly pre-pay plans:  \$29.99 + up to 200 min @ 15 cents/min  \$39.99 + up to 300 min @ 13.3 cents/min	Inc: 1000 off-peak min	\$29.99 to \$149.99 with service plan	National

<sup>1</sup> Derived from information available on Internet; minimum minute or dollar amount balances may be required with certain plans to maintain service, otherwise additional fees may apply; additional charges or fees may apply for service as imposed by the various carriers.

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Exhibit A

	<p>\$49.99 + up to 400 min @ 12.5 cents/min</p> <p>\$69.99 + up to 650 min @ 10.8 cents/min</p>	<p>Inc: Unlimited off-peak</p> <p>Inc: Unlimited off-peak and unlimited mobile to mobile</p> <p>For all: 10 cents/txt or media msg sent or received; 1 cents/ KB web access</p>		
Liberty Wireless	<p>Monthly pre-pay plans</p> <p>\$29.99/month</p> <p>\$44.99/month</p> <p>\$99.99/month</p>	<p>Including roaming and long distance</p> <p>300 minutes; 10 cents per minute flat rate</p> <p>800 minutes; 45 cents/min overage</p> <p>2000 minutes; 45 cents/min overage</p>	Free to \$79.99	National
Net10 Wireless	Per minute pre-pay plan	10 cents per minute; 5 cents/txt msg.	\$29.99 to \$89.99 with service plan	National
T-Mobile To Go	Per minute pre-pay plan	20 to 33 cents per minute; 10 cents per txt msg.; \$35 activation fee	\$89.99 to \$249.99 with service plan	National

August 23, 2005  
Exhibit A

TracFone	Per minute, monthly and yearly pre-pay plans	10 to 50 cents per minute depending on length of service plan; roaming uses double airtime units	Free to \$129.99 with service plan purchase discounts	National
Venture Mobile Freedom (PCS)	Pre-pay monthly access fee from \$18.99 to \$199.99 for bulk minutes	10 to 25 cents per minute depending on service plan; unlimited off-peak; 20 cents/min overage; 8 cents/min txt. msg; 69 cents/min web access; \$19.95 activation fee	\$49.99 to \$124.99 with service plan purchase discounts	National
Venture Mobile Horizon	Pre-pay monthly access fee from \$30 to \$220 for bulk minutes	5 to 15 cents per minute depending on service plan; 3000 off-peak minutes included; 15 or 40 cents/min overage; 17 cents/min txt msg; 67 cents/min web access; \$19.95 activation fee	\$65 to \$150 with service plan purchase discounts	National

<p>Verizon Wireless EasyPay</p>	<p>Monthly pre-pay plans:  \$50/month w/ up to 350 min. (14 cents/min overage)  \$70/month w/ up to 700 min. (10 cents/min overage)</p>	<p>Including: unlimited IN calling; unlimited off-peak; unlimited long distance; 99 cents/min roaming; 10 cents/txt msg. sent or received; \$35 activation fee</p>	<p>\$89.99 to \$149.99</p>	<p>National</p>
<p>Verizon Wireless INpulse</p>	<p>Pre-pay plan</p>	<p>10 cents per minute in region; 69 cents per minute roaming; 99 cents daily access fee; unlimited in-network and night calls; 5 cents per txt msg. sent and received; \$35 activation fee</p>	<p>\$119.99 to \$209.99 with service plan purchase discounts</p>	<p>National</p>
<p>Virgin Mobile Pay As You Go</p>	<p>Pre-pay plans:  Minute2Minute  Day2Day  Month2Month</p>	<p>Up to 150 min/month; 25 cents first 10 min; then 10 cents/minute  Up to 150-500 min/month; 10 cents per min; 35 cents daily access fee  Up to 300 min/month; \$29.99</p>	<p>\$39.99 to \$99.99 with service plan purchase discounts</p>	<p>National</p>

		10 cents/txt msg. sent		
Boost Mobile Premium Plan (Nextel)	Monthly pre-paid \$49.99 for 150 minutes	15 cents/min overage; plan includes: unlimited PTT, unlimited off-peak, unlimited txt msg, unlimited web access; 25 cents/media msg sent or received	\$59.99 to \$499.99 with service plan	Regional
Cricket	Monthly pre-pay plans: \$30.00 (local only) \$35.00 (to enable more features) \$40.00 (unlimited local and U.S. long distance) \$45.00 (unlimited local, U.S. long distance and txt/media msg.)	\$25 activation fee  Add \$5 for unlimited U.S. long distance  Add \$5 for unlimited txt msg.	\$54.99 to \$259.99 with service plan	Regional
Cricket Jump	Per minute pre-pay plan	10 cents/minute flat rate for local and long distance (exc. Alaska); 10 cents/txt msg. sent; \$25 activation fee	\$54.99 to \$259.99 with service plan	Regional
Metro PCS	Monthly pre-pay plans \$30.00 (local only)		\$99 to 249 with service plan	Regional

	<p>\$35.00 (to enable more features)</p> <p>\$40.00 (unlimited local and U.S. long distance)</p> <p>\$45.00 (unlimited local, U.S. long distance and txt/media msg.)</p>	<p>Add \$5 for unlimited txt/media msg.</p> <p>Add \$5 for unlimited txt/media msg.</p>		
U.S. Cellular TalkTracker	<p>TrackerPack: Multiple monthly pre-pay plans from \$40 to \$100 with 400 to 1000 minutes included</p> <p>TrackerFlex: Flat rate pre-paid plan</p>	<p>Including unlimited incoming local calls; 40 cents/min overage; add \$5 for unlimited off-peak</p> <p>35 cents/min peak; 10 cents/min off-peak; 10 cents/min in-network</p> <p>\$30 activation fee</p>	\$70 with service plan purchase	Regional

# **EXHIBIT B**



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## Wirefly Wireless

URL: [http://www.aarp.org/aarp\\_benefits/offer\\_phone/wirefly\\_wireless.html](http://www.aarp.org/aarp_benefits/offer_phone/wirefly_wireless.html)

### Wirefly Wireless Powered by InPhonic NEW Member Benefit!

You asked, we listened: AARP members' **most requested benefit**, wireless phones and services, is now available!

Introducing **Wirefly Wireless** Powered by InPhonic, your online headquarters for wireless phones, plans and information with discounts available **exclusively to AARP members!**

Wirefly Wireless provides AARP members access to more than 300 wireless plans across more than 40 carriers nationwide. Wirefly Wireless includes exclusive offers on phones and accessories as well as discounts on cellular plans.

In addition, AARP provides education, information and advocacy on the wireless industry designed to help you navigate to complex world of cellular phones.

To simplify these challenges, AARP has developed a comprehensive wireless resource center:

- **First Time Buyers:** This “cell phone 101” lesson will tell you everything you need to know about wireless phones and plans from ringtones to roaming.
- **Why Buy Online?:** At AARP, we understand that selecting the right wireless phone and carrier can be challenging. That's why AARP selected Wirefly Wireless as our AARP Privileges wireless provider. Wirefly Wireless offers extensive choices in wireless services and equipment through their relationships with more than 40 different cell phone carriers. Learn about the advantages for AARP members here.
- **Wireless Number Portability:** Learn how you can purchase a phone and plan and keep the cell phone *number* you already have!

It is AARP's goal to provide you with the best value in cellular phones and plans—that's why in addition to our **special Introductory Offers**, as well as free handsets and headsets, we've also negotiated other features exclusively for AARP members.

### Benefits of the Wirefly Wireless program include:

- Access to clear and accurate coverage maps
- Option to terminate your plan within 30 days of purchase provided you have used fewer than 100 minutes on your phone
- Access to wireless education information that will help you make an informed, smart decision about the wireless plan and phone for you
- Opportunity to select from hundreds of plans and dozens of wireless carriers

The Wirefly Wireless Introductory Offers exclusively for AARP are as follows:

**Liberty Wireless Introductory Offers Exclusively for AARP Members\*:**

***Liberty Wireless Safety & Security Plan***

- No contract
- Free long distance
- Free nationwide roaming
- No binding arbitration
- \$30 activation fee waived
- Free car charger
- Free headset
- Easy-to-read bills
- [More information](#)

***Liberty Wireless No Contract Plan***

- No Contract
- 5% monthly discount off standard charges—annual savings of \$23.99!
- Free long distance
- Free nationwide roaming
- No binding arbitration
- Free car charger
- Free headset
- Easy-to-read bills
- [More information](#)

***Liberty Wireless One-Year Plan***

- One-year contract
- 10% monthly discount off of standard charges—annual savings of \$47.98
- Free long distance
- Free nationwide roaming
- No binding arbitration
- Free car charger
- Free headset
- Easy-to-read bills
- AARP-negotiated exclusive reduced fee for early contract termination
- [More information](#)

It's easy to sign up for Wirefly Wireless—just enter your ZIP code to find the ideal plan for you. To order, visit [www.wirefly.com/aarp](http://www.wirefly.com/aarp), or to speak with a representative, please call 1-800-523-4844.

The Wirefly Wireless program provides you with more than just discount cell phone service. In addition to great low prices, AARP has negotiated special features and benefits that are **available exclusively to AARP members**. The following table compares basic wireless programs to the exceptional benefits AARP has negotiated for you.

These benefits are available to you only when you purchase through Wirefly Wireless online at [wirefly.com/aarp](http://wirefly.com/aarp) or by calling 1-800-523-4844.

AARP Wirefly Wireless	Other National Plans
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One-year contract or less on Selected Introductory Offers	Two-year contract
FREE handsets available for selected Introductory Offers	Handsets aren't always free
FREE accessories if you are subscribing to any of the Introductory Offers	Accessories aren't always free
No roaming fees or in-network charges on any of the Liberty Introductory Offers	May incur roaming charges in addition to monthly service and usage fees
Free nationwide long distance if you subscribe to the Liberty Introductory Offers	Long distance charges may apply

AARP is working to improve consumer protections for wireless services for all customers. Sign up for AARP's [network of citizen advocates](#) and we'll keep you up-to-date on this and a host of key issues that affect people 50 and over.

\*Offers available to new Liberty Wireless customers. Offers cannot be combined with any other offer.

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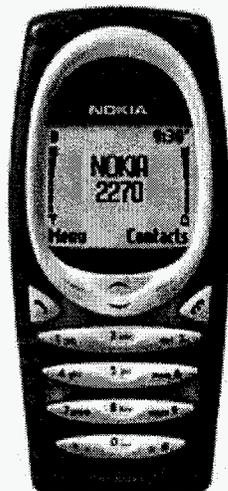


Exclusively for AARP Members



Why Buy Online | First Time Buyers | Number Portability | [Click Here to C](#)

[Your Offer for Washington, DC](#) [Click here if this is not your location](#)



Phone details



**Nokia 2270 from Liberty Wireless**

- 10% Off Monthly Rate Plan
- Free Nationwide Long Distance & Roaming
- 1000 Minutes Per Month
- No Credit Check

Limited time offer! We've combined the hot new Nokia 2270 wireless phone with one of the best rate plans from Liberty Wireless. Get a great low rate and plenty of minutes with the AARP 1,000 Anytime w/1YR Contract plan.

**Pricing Information**

	Nokia 2270	\$49.99
	<b>Total Cost</b>	<b>\$49.99</b>

**Bonus - FREE Car Charger**



**BONUS—FREE Car Charger  
...worth \$25!**

**Rate Plan Info**

**AARP 1,000 Anytime w/1YR Contract  
\$44.99 per month\***

**Included Features:**

- 1000 Plan Minutes
- No Credit Check
- Unlimited Night & Weekend Minutes
- Free Nationwide Roaming and Long Distance
- Access to service anywhere on the Sprint Nationwide PCS Network
- Voice Mail
- Online Account Management



Terms & Conditions

- Caller ID
- Call Waiting
- 3-Way Calling

Offer expires on 10/31/2005.

\* This will be billed to your home address at a later date.

**YES! Switch my old cell phone number to my new Liberty Wireless phone!**

IMPORTANT: DO NOT CANCEL SERVICE WITH YOUR CURRENT PROVIDER until after you have received your new phone and your number has been moved to your new Liberty Wireless account.

[Frequently asked questions about porting your phone number.](#)

**Customer Information** Please enter your address as it appears on your credit card or bank statement.

First Name:

Middle Initial (Optional):

Last Name:

Please use your full legal name.

Address 1:

Address 2 (Optional):

City State Zip: Washington DC 20009

[Edit your 'Area of Primary Use' What is this?](#)

Email Address:

Confirm Email:

Daytime Phone:

Home Phone:

Birthdate:  Month  Day  Year

[View Age Requirement](#)

**Shipping Information**

- Select shipping:
- Standard (2nd Business Day) - \$0.00
  - Express (Next Business Day) - \$14.99

**Payment Information** [Why do you need my credit card info?](#)

Payment Type:  Select Type



Credit Card Number:

Debit Card Payment

Credit Expiration:  Month  /  Year

Amex Verification

Card Verification #:  On the back of the card, locate the final 3 digit number



**Wireless Terms and Services**

I have read and agree to the [Liberty Wireless Wireless Terms and Conditions](#)

**Submit Order**



[Site Security](#) | [Privacy Policy](#)

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## ADDITIONAL DETAILS

**CLOSE X**[Click here to print this window](#) ►**Liberty Wireless™ WIRELESS AGREEMENT - TERMS AND CONDITIONS**

Get the most out of your wireless service by knowing the parameters of your Agreement with us. PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY. They govern the relationship between you and Liberty Wireless and explain our respective legal rights concerning all aspects of our relationship, including:

- Billing and charges
- Starting and ending service
- Privacy and confidentiality
- Early termination fees (for customers on annual contracts)
- Limitations of liability and warranty
- Resolution of disputes by arbitration instead of court trials and class actions

**GENERAL TERMS AND CONDITIONS FOR WIRELESS SERVICE**

THIS IS AN AGREEMENT BETWEEN YOU AND STARNUMBER, INC. (FOR PURPOSES OF THIS AGREEMENT, "LIBERTY WIRELESS"). PLEASE READ THIS AGREEMENT CAREFULLY and keep a copy for your records. Your reference and acceptance of these terms online, or in the event You apply for service other than through the Internet, You break the seal on the LIBERTY product packaging, You use the cellular telephone, are each deemed as Your agreement and acceptance to these terms and conditions to subscribe to LIBERTY service. If you are selecting a plan with an annual contract You agree that You are at least 18 years old, legally able to abide by the terms and conditions of this Agreement, and that You agree to do so. If You are selecting a plan without a contract, You agree that you are able to abide by the applicable terms and conditions of this Agreement and that You agree to do so. Your use of this service indicates your acceptance of this agreement. These terms may be subject to change from time to time by LIBERTY, please visit [www.libertywireless.com](http://www.libertywireless.com) to view the most recent terms and conditions governing Your use of the LIBERTY service.

This Agreement for Commercial Mobile Radio Service ("CMRS") is entered into LIBERTY WIRELESS and its affiliates and the subscriber ("You" or "Your"), and will become effective when LIBERTY approves your request for CMRS and activates your access number (the "Effective Date"). You agree and acknowledge that LIBERTY may refuse to accept this Agreement if LIBERTY determines that You may be unable to perform, in whole or in part, your obligations hereunder. This Agreement incorporates by reference and You agree to abide by the service order connected to this document ("Service Order") other information about features, airtime rates and other charges provided to You today, and any information on those subjects subsequently posted on the web site. You also consent to LIBERTY seeking to verify information provided in Your Order to determine Your eligibility for LIBERTY Service, and to LIBERTY requesting or using subsequent consumer reports in connection with an update, renewal, or extension of credit. LIBERTY may use the services of an independent credit bureau to determine Your eligibility. Upon request, LIBERTY will provide You with the names and addresses of the credit bureaus that provide the reports and that were used in determining your eligibility for service.

**1. PRICE:** In consideration of Your consents and promises under this Agreement, LIBERTY will provide You with CMRS at the access and airtime rates identified in the order page. LIBERTY will not increase Your Plan access and airtime rates without providing 30 days written notice to You, however, LIBERTY reserves the right to change from time to time and without notice other fees, rates, and charges associated with its provision of CMRS (including features) as well as to pass through any governmentally established costs, charges, fees, or taxes, (whether assessed on You, LIBERTY, or its underlying carrier), as well as any new, existing or increased charge assessed by an underlying carrier. The optional features and other services You have initially selected are indicated on Your order information. You may be charged a service fee to activate any new features in Your account. This includes charges associated with incomplete or partial calls. LIBERTY Service is provided through agreements with Sprint\* under which Sprint\* provides access to its wireless network to LIBERTY subscribers but Sprint\* is not responsible for service, quality, billing, customer care, warranty, maintenance, or other aspects of subscriber service. Bill presentment is via email link to website and all payments must be authorized through a major credit card unless other payment arrangements are authorized by LIBERTY. The following services may not be covered by the rate plan bundle: 411 calls, operator calls, call forwarding, SMS text messaging as well as others not mentioned here. These services will be charged and billed at the current LIBERTY airtime rates in effect in addition to any additional applicable. Sprint\* provides the recordation of Your wireless calls and certain related charges to LIBERTY. During any renewal term, the plan airtime rates and long distance rates in effect at the time Your Agreement is renewed will apply.

**2. MINIMUM SERVICE TERM:** IF INDICATED BY THE SERVICE PLAN YOU SELECTED, YOU AGREE TO SUBSCRIBE TO THE CMRS SERVICE PLAN SELECTED FOR ONE YEAR FROM THE EFFECTIVE DATE OF THIS AGREEMENT ("Base Term"). This Agreement and LIBERTY's provision of CMRS is subject to the provisions of any applicable federal or

state tariffs. Any conflict between the terms of this Agreement and any tariff will be resolved in favor of this Agreement.

**3. EARLY TERMINATION; APPLICABLE CHARGES:** You may terminate service at any time by notifying LIBERTY in writing to the addresses specified on the LIBERTY website, subject to termination charges provided for in this Section. You remain liable for payment of all outstanding charges for the period that the service was rendered and the manufacturer's suggested retail price for the telephone. If You breach any provision of this Agreement, upon written notice to Your address, LIBERTY may immediately interrupt or terminate service without liability at its discretion. LIBERTY may restore such interrupted or terminated service following correction of the violation and payment of any amounts due, including restoration charges, processing fees as well as the next month's payment. LIBERTY may terminate service immediately without notice and liability if it is used in a manner that will adversely affect service to other LIBERTY customers or customers of the underlying carrier, or if fraud by customer or third parties is suspected, or if Your use violates any law or regulation. You agree that if You terminate this Agreement for any reason, or if LIBERTY terminates this Agreement for nonpayment, or any other reason based on Your use of the service (as opposed to LIBERTY's own convenience) before the end of the term of this Agreement, then You will pay an early termination charge of \$150 for each mobile phone affected. All replenished minutes remaining in the customers account at the time of early termination will be applied toward all applicable charges due at the time of early termination. Fixed monthly minutes shall be lost forever and not applied.

**4. MONTH-TO-MONTH RENEWALS, POST-MINIMUM-TERM TERMINATION:** If You do not terminate service at the end of the Base Term, You will continue to receive service on a month-to-month basis with the same terms and conditions as set forth in this Agreement. Either party may terminate the month-to-month extension of service by giving 10 days written notification to the other. LIBERTY may terminate this Agreement at the end of any term, or at other times as permitted by this Agreement. Even after this Agreement is terminated, LIBERTY may withhold release of your LIBERTY equipment's Electronic Serial Number until LIBERTY has been paid in full. Fixed monthly minutes shall be lost forever and not applied.

**5. CMRS LONG DISTANCE:** You have selected LIBERTY to provide your CMRS long distance Service on calls that originate on Network. Long distance Service will be provided at the Rates indicated in the Fee Schedule or any subsequent Supplemental Terms. LIBERTY restricts international calls. **6. MOBILE IDENTIFICATION NUMBERS; CONTACT AUTHORIZATION:** Each cellular phone must have a unique Mobile Identification Number ("MIN"), which is assigned by LIBERTY and which may be changed at LIBERTY's discretion at any time. You have no title, right or other proprietary interest in any MIN. At its discretion, LIBERTY may also change the underlying carrier of Your CMRS at any time. If You change the phone to which service is provided, You may be subject to a \$25.00 charge for LIBERTY to change the electronic serial number in Your account. You hereby authorize LIBERTY to telephone the MIN provided for your use, and/or another contact number You provide, to discuss any billing, payment, and customer service issues related to your usage hereunder. Additionally, You hereby authorize LIBERTY to contact you via SMS to your LIBERTY handset and email to the address You provide, to discuss billing, payment, and customer service issues related to your usage hereunder.

**7. LIMITATION OF LIABILITY:**

- a) IN NO EVENT WILL LIBERTY'S LIABILITY FOR LOSS OR DAMAGES ARISING OUT OF MISTAKES, OMISSIONS, DELAYS, ERRORS OR DEFECTS IN THE SERVICE EXCEED AN AMOUNT EQUAL TO THE PORTION OF THE FIXED MONTHLY CHARGE TO YOU FOR THE SERVICES RELATING TO THE PERIOD OF SERVICE DURING WHICH THE SERVICE PROBLEMS OCCURRED.
- b) IN NO EVENT WILL LIBERTY OR THE UNDERLYING CARRIER BE LIABLE TO YOU FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL DAMAGES OR LOST PROFITS ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE PERFORMANCE OR BREACH THEREOF.
- c) IN NO EVENT WILL LIBERTY BE LIABLE TO YOU OR OTHER PERSONS: (i) FOR ANY ACT OR OMISSION OF THE UNDERLYING CARRIER OR OTHER NON-LIBERTY PROVIDER OF FACILITIES; (ii) FOR INTERRUPTIONS OR DELAYS IN TRANSMISSION, ERRORS OR DEFECTS IN TRANSMISSION, OR FAILURE TO TRANSMIT WHEN SUCH PROBLEMS ARE CAUSED BY ACTS OF GOD, FIRE, WAR, RIOTS, GOVERNMENT AUTHORITIES OR BY OTHER CAUSES BEYOND LIBERTY'S CONTROL; OR (iii) FOR PERSONAL INJURY OR PROPERTY DAMAGE ARISING OUT OF THE USE OF YOUR CMRS UNLESS CAUSED BY LIBERTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.
- d) IN NO EVENT WILL LIBERTY BE LIABLE TO YOU OR ANY OTHER PERSONS FOR ANY INTERCEPTION OF SERVICE PROVIDED UNDER THIS AGREEMENT.
- e) IN NO EVENT WILL LIBERTY BE LIABLE TO YOU FOR ANY ACCIDENTS OR INCIDENTS WHICH RESULT FROM THE PRESENCE OF CMRS EQUIPMENT OR ITS USE BY YOU OR ANY OTHER PERSON. YOU SHALL INDEMNIFY LIBERTY FOR AND AGAINST CLAIMS FOR SUCH EVENTS. THE USE OF CMRS IN A MOVING VEHICLE MAY BE PROHIBITED OR RESTRICTED IN SOME AREAS. IT IS YOUR RESPONSIBILITY TO CONFORM TO ALL SUCH LAWS OR REGULATIONS AND YOU SHALL INDEMNIFY LIBERTY FOR AND AGAINST ANY CLAIMS ARISING FROM SUCH UNLAWFUL USE. THIS INDEMNITY WILL SURVIVE THE TERMINATION OF THIS AGREEMENT.
- f) IN NO EVENT WILL LIBERTY'S LIABILITY FOR DAMAGES RELATING TO OR ARISING OUT OF THE USE OF YOUR CMRS EQUIPMENT PROVIDED BY LIBERTY, REGARDLESS OF THE FORM OF THE ACTION, EXCEED THE PRICE PAID BY YOU TO LIBERTY FOR THE CMRS EQUIPMENT GIVING RISE TO THE ACTION: THIS LIMITATION DOES NOT APPLY TO PERSONAL INJURY, INCLUDING DEATH, CAUSED BY THE WILLFUL MISCONDUCT OF LIBERTY.
- g) YOU UNDERSTAND AND AGREE THAT YOU HAVE NO CONTRACTUAL RELATIONSHIP WHATSOEVER WITH

LIBERTY'S UNDERLYING CMRS CARRIER AND THAT YOU ARE NOT A THIRD PARTY BENEFICIARY OF ANY AGREEMENT BETWEEN LIBERTY AND AN UNDERLYING CARRIER. IN ADDITION, YOU UNDERSTAND AND AGREE THAT LIBERTY'S UNDERLYING CARRIER HAS NO LEGAL, EQUITABLE, OR OTHER LIABILITY OF ANY KIND TO YOU.

h) IN ANY EVENT, REGARDLESS OF THE FORM OF THE ACTION, WHETHER FOR BREACH OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY IN TORT OR OTHERWISE, YOUR EXCLUSIVE REMEDY AND THE TOTAL LIABILITY OF LIBERTY AND THE UNDERLYING CARRIER ARISING IN ANY WAY IN CONNECTION WITH THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY FAILURE OR DISRUPTION OF SERVICE PROVIDED HEREUNDER, IS LIMITED TO PAYMENT OF DAMAGES IN ANY AMOUNT EQUAL TO THE PORTION OF THE FIXED MONTHLY CHARGE TO YOU FOR THE SERVICES RELATING TO THE PERIOD OF SERVICE DURING WHICH SAID DAMAGES OCCUR.

i) YOU SHALL INDEMNIFY AND HOLD HARMLESS LIBERTY AND THE UNDERLYING CARRIER SUPPLYING CMRS SERVICES TO LIBERTY AND THEIR RESPECTIVE OFFICERS, EMPLOYEES, AND AGENTS AGAINST ANY AND ALL CLAIMS, INCLUDING WITHOUT LIMITATION CLAIMS FOR PROPERTY DAMAGE, PERSONAL INJURY OR DEATH, ARISING IN ANY WAY DIRECTLY OR INDIRECTLY IN CONNECTION WITH THIS AGREEMENT OR THE USE, FAILURE TO USE, OR INABILITY TO USE THE MOBILE IDENTIFICATION NUMBER EXCEPT WHERE THE CLAIMS ARE CAUSED BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF LIBERTY OR THE UNDERLYING CARRIER. THE INDEMNIFICATION OBLIGATIONS OF THIS SECTION 6 WILL SURVIVE THE TERMINATION OF THIS AGREEMENT.

j) YOU MAY NOT BRING AN ACTION RELATED TO THIS AGREEMENT LATER THAN ONE YEAR AFTER THE CAUSE OF ACTION HAS OCCURRED.

**8. FEDERAL EQUAL CREDIT OPPORTUNITY ACT:** LIBERTY complies with the Federal Equal Credit Opportunity Act which prohibits creditors from discriminating against an applicant on the basis of race, color, religion, national origin, sex, marital status, age (with certain limited exceptions), status as a recipient of public assistance, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal Agency that administers compliance with this law is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

**9. BILLING AND PAYMENT OF CHARGES:** You are responsible for payment of all charges due under this Agreement, including any activation charge, access charges and optional feature fees, usage-based charges, including local airtime, directory assistance, land line, local toll, other charges associated with calls originated by or billed to your MIN; as well as all taxes, surcharges and other governmentally-established costs (regardless of on whom these costs are initially assessed) relating to LIBERTY's provision of CMRS to You. Payment not received by the due date will result in temporary or permanent suspension of service. If Your CMRS equipment unit is lost or stolen, You are responsible for all calls made and received before LIBERTY receives notice from You that the unit is lost or stolen by calling 1- 888-919-7692 and receiving a Lost or Stolen Notice ("LSN Notice"). If Your service is suspended or terminated, You may be required to pay a restoration charge before Your service will be restored. You hereby authorize LIBERTY to telephone the MIN provided for your use, and/or another contact number You provide, to discuss any billing, payment, and customer service issues related to your usage hereunder. Additionally, You hereby authorize LIBERTY to contact you via SMS to your LIBERTY handset and email to the address You provide, to discuss billing, payment, and customer service issues related to your usage hereunder.

By Your acceptance of this Agreement You will be participating at Your discretion in either of our "Credit Card Auto-Pay Program" or "Auto Debit/ACH Program" or through a direct cash payment. You agree to the following terms and conditions:

a) In the event you do not provide a direct cash payment, each month LIBERTY will automatically charge Your credit card or Your checking/ACH account indicated in the request for service for charges incurred. Monthly access fees and applicable taxes will be billed in advance each month and all other charges for services in excess of allotted plan minutes and services will be automatically replenished at per your rate plan in selected bundled replenishment amounts of \$20.00, \$40.00 or \$60.00 increments selected by You. Each of Your LIBERTY monthly bills will be presented online which can be accessed via an email link provided directly to You each month. This online bill will have a message printed on the first page of the statement that reads, "Charges to be billed to credit card." At any time during the billing period when the balance available in your regular account reaches less than \$5.00 or 15 minutes, You will automatically:

b) Be provided the opportunity to purchase additional minutes that can be used when the monthly minimum is completely consumed. This balance can be carried forward for up to 365 days, at which time it expires and must be replenished.

c) This same process will occur each time thereafter when Your account balance falls below \$5.00 or 15 minutes.

Following the first automatic account replenishment (when YOU fall below the required value) in accordance to the LIBERTY terms and conditions, YOU will be able to control both the value and frequency of additional replenishment during that given month; provided, however, in no event should the replenishment be in amounts less than \$10.

d) By Your participation in "Auto Debit/ACH Program" You understand that you must abide by the rules and regulations of the particular type of account that You selected for the Program. In addition, You understand that You are obligated to keep a sufficient balance in Your account equal to Your monthly payment. You understand that if there are insufficient funds in your designated account to make required payments You will be required to make payment through an alternate Program. If payment is not made due to the temporary suspension of the Program service, cancellation or closure of the account or because there are insufficient collected funds in Your account, You are required to make payment in another manner. Further, You understand that changes to your required payments, due to changes in pricing or program selection,

will be automatically adjusted and the adjusted amount will be deducted from Your account. Your participation shall continue until either party to this agreement gives notification. However, LIBERTY has the right to cancel this service should You fail to maintain sufficient funds in Your account.

e) In the event that the replenishment process is unsuccessful for any reason, for example, failure to provide a cash payment or failure of the credit card charge, the phone will be suspended when the value falls below \$5.00 or 15 minutes, and will remain suspended until new value is added.

f) If a unit stays in suspend mode for more than 10 calendar days following the end of the bill cycle, then it may be considered an early termination. For service plans that have an annual contract, the \$150.00 fee will be due and payable. Failure to re-activate within 30 days may result in the mobile number being lost to the user. g) If after such termination is processed You wish to re-activate the same handset then a re-activation fee and a one time restore fee may be required along with the next service month's access fee.

h) LIBERTY has the right to refuse service to a customer or to remove a customer from the service if LIBERTY is notified of problems with the credit card account such as: the credit limit is exceeded; the credit card is reported lost, stolen or expired; or card authorization is denied for any reason.

i) Your credit card account may be debited up to 7 business days before Your due date to allow for processing.

j) Your bill cycle information will be furnished upon first use. All bills will be presented online. LIBERTY reserves the right to change or require specific methods of payment in the future.

**10. USE OF SERVICE:** The service is furnished for Your use for any lawful purpose. You agree not to use the service for any unlawful, unauthorized or abusive purpose or in any way that damages LIBERTY's property or others' property, or interferes with, harms or disrupts LIBERTY's or the underlying carrier's system or other operators' systems or other users. You will comply with all 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 agree to indemnify and save harmless LIBERTY and the underlying carrier against claims for libel, slander, or infringement of copyright from material transmitted by You or from your CMRS equipment unit through LIBERTY's CMRS service and against claims for infringement of patents arising from combining or using Your equipment or system with LIBERTY's CMRS or the facilities of the underlying carrier.

**11. GOVERNING LAW/SUBPOENAS:** This Agreement, including all matters relating to the validity, construction, performance and enforcement thereof, is governed by the laws of the State of Delaware without giving reference to its principles of conflicts of laws. Any part of this Agreement that is legally determined to be unenforceable will be considered deleted and the remainder of the Agreement will remain in force. You understand that LIBERTY may provide to a court or other authorized third party any records related to Your LIBERTY CMRS, without notice to You, in response to a subpoena or other legal means compelling their production.

**12. ARBITRATION:** Any dispute arising out of this Agreement must be settled by binding arbitration in accordance with the J.A.M.S/ENDISPUTE Arbitration Rules and Procedures, as amended by this Agreement. The arbitration will be conducted in Washington, D.C. The costs of arbitration, including the fees and expenses of the arbitrator, will be shared equally by the parties. Each party will bear the cost of preparing and presenting its case. The parties agree that this provision and the arbitrator's authority to grant relief are subject to the United States Arbitration Act, 9 U.S.C. 1-16 et seq. ("USAA"), the provisions of this Agreement, and the ABA-AAA Code of Ethics for Arbitrators in Commercial Disputes. The parties agree that the Arbitrator has no power or authority to make awards or issue orders of any kind except as expressly permitted by this Agreement, and in no event does the Arbitrator have the authority to make any award providing for special, punitive or exemplary damages. In addition, the arbitrator has no authority to make awards for lost profits or damages for lost economic opportunities. The arbitrator's decision must follow the plain meaning of the relevant documents, and will be final and binding. The award may be confirmed and enforced in any court of competent jurisdiction. All post-award proceedings are governed by the USAA.

**13. DISCLAIMER OF WARRANTY:** SERVICE IS SUBJECT TO TRANSMISSION LIMITATION, REDUCTION IN TRANSMISSION SPEED, OR INTERRUPTION CAUSED BY WEATHER, YOUR EQUIPMENT, TERRAIN, OBSTRUCTIONS SUCH AS TREES OR BUILDINGS, OR OTHER CONDITIONS. SERVICE MAY BE LIMITED IN SOME AREAS WHERE COVERAGE IS NOT AVAILABLE OR MAY BE TEMPORARILY LIMITED OR INTERRUPTED DUE TO SYSTEM CAPACITY LIMITATIONS, SYSTEM REPAIRS OR MODIFICATIONS, OR IN RESPONSE TO SUSPECTED FRAUD, ABUSE, MISUSE OF THE NETWORK, HACKING OR MALICIOUS VIRUSES, INTERRUPTION MAY ALSO RESULT FROM NONPAYMENT OF CHARGES BY YOU. WE MAY BLOCK ACCESS TO CERTAIN CATEGORIES OF NUMBER (E.G. 976, 900 AND CERTAIN INTERNATIONAL DESTINATIONS) IF, IN OUR SOLE DISCRETION, LIBERTY EXPERIENCES EXCESSIVE BILLING, COLLECTION, FRAUD PROBLEMS OR OTHER MISUSE OF THE NETWORK. LIBERTY WIRELESS EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, GUARANTEES, AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR INTENDED USE, RELATING TO ITS PROVISION OF CMRS OR WITH RESPECT TO ANY CMRS EQUIPMENT PROVIDED OR USED IN CONNECTION WITH LIBERTY'S PROVISION OF CMRS OR THIS AGREEMENT. THE ONLY REPRESENTATIONS AND WARRANTIES APPLICABLE TO CUSTOMER'S CMRS EQUIPMENT ARE THOSE PROVIDED, IF ANY, BY THE MANUFACTURER. LIBERTY DOES NOT WARRANT THAT ANY ITEM PROVIDED

UNDER THIS AGREEMENT IS FREE FROM ANY THIRD PARTY CLAIMS OF INFRINGEMENT OF ANY PATENT OR OTHER PROPRIETARY RIGHTS.

14. **ASSIGNMENT:** LIBERTY reserves the right to assign this Agreement to any affiliated entity or successor in interest without notice to You and to any other entity with 30 days notice.

15. **YOUR RIGHT TO CANCEL:** You may cancel your service at any time during the month, but there will be no pro-ration of unused service and if prior to expiration of Initial Base Term You will be subject to those early termination fees outlined above.

16. **PHONE MAKE AND MODEL:** All wireless phones (including brand and model) mentioned in any Liberty marketing materials including but not restricted to Web pages and print, may vary at anytime according to availability and at the discretion of LIBERTY.

17. **RETURN OF CELLULAR PHONE AND EQUIPMENT:** The LIBERTY return policy for all equipment received through LIBERTY will be subject to the return policy, which was included with your original invoice within the shipping box (i.e. 30 days or 30 minutes: refer to invoice). LIBERTY customers are required to return the cell phone to LIBERTY in undamaged and working condition. LIBERTY will not reimburse its customers who do not return their phone. Such customers will be charged the original purchase price including activation fees, processing fees, airtime, shipping, taxes and all other applicable charges. Wireless Cellular phones and equipment purchased through someone other than LIBERTY are subject to their respective return policies and are not the responsibility of LIBERTY.

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\*Sprint provides access to its wireless network to Liberty Wireless subscribers but is not responsible for service, quality, billing, customer care, warranty, maintenance, or other aspects of subscriber service.

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