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March 20, 2006

Ms. Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

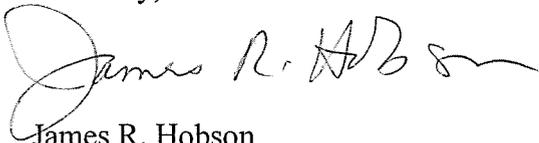
Re: Cellular early termination fees, WT Dockets 05-193, 05-194
Ex parte communication pursuant to Section 1.1206 of the Rules.

Dear Ms. Dortch:

On February 28 and March 1, 2006, representatives of Wireless Consumers Alliance (“WCA”)¹ met with several FCC offices and bureaus. The meetings were summarized in an ex parte communication in the captioned dockets dated March 1, 2006. In the course of some of the meetings, additional information was requested. The Attachment supplies that information.

The first page of the Attachment redacts Confidential Information “included pursuant to Protective Order, WT Docket Nos. 05-193 and 05-194,” and has been so footnoted. A confidential version of the Attachment, with the Confidential Information unredacted, is being submitted separately and will be labeled accordingly. Since none of the five exhibits to the Attachment contains confidential information, the exhibits accompany only this public version. Please direct any questions to the undersigned.

Sincerely,



James R. Hobson
One of the counsel for WCA, et al.

¹ WCA has participated in these proceedings on behalf of itself and Porsha Meoli, Leslie Armstrong, Sridhar Krishnan, Astrid Mendoza, Christina Nguyen, Bruce Gatton, Margaret Schwarz, Kathryn Zill, Mark Lyons, Richard Samko and Amanda Selby.

1. Yankee Group data comparing prices for postpaid and prepaid service.

The proponents of the CTIA petition, including Professor Hausman,² point to the availability of prepaid service without ETFs. This is irrelevant to the question before the Commission – whether an ETF is a “rate charged” for service or an “other term and condition.” But in addition to its irrelevance, the existence of prepaid plans does not support the arguments that CTIA and Professor Hausman advance.

CTIA and Professor Hausman argue that consumers’ choice of postpaid plans with ETFs over prepaid plans without ETFs demonstrates that consumers prefer plans with ETFs because ETFs, as this argument goes, “benefit” consumers. That argument is wrong because it does not take account of significant price differences between postpaid and prepaid service for reasons that have nothing to do with the presence or absence of an ETF.

According to the Yankee Group data for 2004, the average post-pay price for wireless telephone service in the U.S. was 8 cents per minute, compared to 35 cents per minute for prepaid service. These data are discussed at pages 122 to 125 of the Hausman deposition, which is being submitted as part of our confidential filing. As Professor Hausman conceded during his deposition, _____. In the U.K., for example, the average price for prepaid service in 2004 was the same as the average price for postpaid. This shows that the difference between prepaid and postpaid prices in the U.S. is not explained by the presence or absence of an ETF.

Obviously since prepaid service in the U.S. is priced, on average, more than four times higher than postpaid service, it is not an attractive or realistic option for most subscribers. In the U.S., prepaid service is marketed primarily to consumers who are unable to obtain postpaid service due to impaired credit. Few others would consider purchasing service at such inflated prices. The fact that most consumers in the U.S. choose postpaid plans over prepaid is largely a function of this price difference. In the U.K., where prepaid and postpaid services are comparably priced, _____³ Hausman Dep. at 128.

2. Carriers’ subscriber contracts showing that the ETF is not listed in the “rate plan” but rather is including in the “terms and conditions” in a separate document.

WCA’s August 5, 2005 Comments state at page 9 that “all of the major carriers include their ETFs in the section of their subscriber contract entitled ‘TERMS AND CONDITIONS,’ a document entirely separate from the ‘rate plan,’ which supports the conclusion that they [ETFs]

² Declaration of Jerry A. Hausman, October 19, 2005, submitted in Docket 05-194 later that month.

³ Blanks indicate confidential information redacted.

are ‘other terms and conditions’ within the meaning of § 332, rather than ‘rates charged.’” Those same comments, at page 9, footnote 7, reference the contracts of T-Mobile and AT&T Wireless, which were attached as Exhibits D and E to the WCA comments.

This separation of the ETF from the “rate plan” can also be observed by visiting any major carrier’s website. For example, <http://www.verizonwireless.com/b2c/store/controller?item=planFirst&action=viewPlanOverview> (attached as Exhibit 1, printed March 15, 2006) lists calling plans offered by Verizon wireless in the Washington, D.C. area, including the “Rate Area” and “Additional Rate Info.” There is no mention of any ETF anywhere on the page. To find reference to the ETF you must locate the “Customer Agreement” at http://www.verizonwireless.com/b2c/globalText?textName=CUSTOMER_AGREEMENT&jspName=footer/customerAgreement.jsp (attached as Exhibit 2, printed March 15, 2006). The Verizon customer agreement incorporates the calling plan, stating “YOUR CALLING PLANS BECOME PART OF THIS AGREEMENT.” The Verizon customer agreement then sets for the “conditions” of service, including the ETF: “By accepting this agreement, you’re bound by its conditions. It covers important topics such as how long it lasts, fees for early termination and late payments, [and others].”

The same structure – separation of the ETF from the rate plan – can be observed at T-Mobile’s website as well. For example, <http://www.t-mobile.com/plans/?tab=national> (attached as Exhibit 3, printed March 15, 2006), lists the “National Plans” offered by T-Mobile. There is no mention of an ETF with any of these rate plans. The page with the details of the first listed plan, the “Basic Plus,” <http://www.t-mobile.com/plans/NationalRatePlanDetails.asp?PlanID=3922> (attached as Exhibit 4, printed March 15, 2006), provides all the details of this “rate plan,” including all of the services offered with the plan, the charges for optional add-on services, and details such as pricing for long-distance calls to Mexico and Canada, availability of Wi-Fi “HotSpots,” and numerous other details. But still no mention of an ETF. To find reference to the ETF you must obtain the list of “Terms & Conditions,” which includes the \$200 ETF in section 5. A copy of the “Terms and Conditions” document in effect in 2003, at approximately the time the California ETF litigation against T-Mobile was filed, is attached hereto as Exhibit 5. The provision regarding ETFs stated:

If you breach the Agreement or attempt to terminate Service prior to the end of the Fixed Term, you agree to pay Us, as a reasonable estimate of our damages and in addition to other amounts owed, a \$200 cancellation fee per Number (which you agree may be deducted from your deposit, or automatically billed to your account).⁴

⁴ After the California lawsuits were filed, T-Mobile changed the language of its “Terms and Conditions” document in such a way as to attempt to support the defense of federal preemption that it asserted in that litigation.

3. WCA's economic argument that applying state contract law to ETFs will lead to increased price competition and lower prices for consumers.

The proponents of the CTIA petition assert that requiring ETFs to comply with state law will lead to higher prices for consumers. WCA believes the opposite is true, and that the application of state laws prohibiting arbitrary contractual penalties would lead to increased consumer choice, more intense price competition among the carriers, and ultimately to lower prices for consumers.

Based on input from numerous consumers and the advice of several economists, WCA believes that arbitrary contractual penalties, such as those imposed by some carriers' ETFs, impose a significant obstacle to consumers who may wish to change carriers to avail themselves of lower prices, better service, or both. Most economists agree that even "'small' switching costs can have a large market impact." Carl Shapiro & Hal R. Varian, *Information Rules: A Strategic Guide to the Network Economy*, at 109 (1999). "As a rule of thumb, the profits a supplier can expect to earn from a customer are equal to the total switching costs ... plus the value of other competitive advantages the supplier enjoys by virtue of having a superior product and lower costs than its rivals." *Id.* at 113. In the CMRS market, the carriers' service offerings, costs, plan prices, and other terms are similar, such that no carrier enjoys a significant advantage over its competitors in terms of lower costs or superior product quality. Thus, subscribers' switching costs become a significant factor in service pricing, and higher switching costs allow the carriers to charge higher prices for wireless service. Arbitrarily high contractual penalties for early termination drive up subscribers' switching costs substantially, allow carriers to avoid more intense price-competition, and lead to higher service prices marketwide.

WCA believes that the Commission's policy has been, and should continue to be, to promote competition in the CMRS market. One way the Commission has done that is by imposing wireless number portability (WNP), which reduced switching costs by allowing subscribers to take their phone number with them when changing carriers. State law restrictions on arbitrary contractual penalties can similarly reduce switching costs, promote more intense price competition among carriers, and ultimately will lead to more competitive service prices. This is what we have observed, for example, in the wireline long distance market, where consumers' ability to freely change between long-distance carriers without contractual penalties has caused intense price competition and much lower prices for consumers.

4. Uniform Commercial Code § 2-718(1)

The proponents of the CTIA petition have argued that CMRS carriers should not be subjected to varying state laws on the subject of liquidated damages. That argument is a red herring because the contract law of all 50 states concerning the standards for liquidated damages clauses which are lawful, on the one hand, and contractual penalties which are unlawful, on the other hand, are essentially the same all fifty states. The Uniform Commercial Code, which has

been adopted in a large number of states, and reflects ancient common law doctrine on this point, explains the standard as follows:

“Damages for breach by either party may be liquidated in the agreement at an amount which is reasonable in the light of the anticipated or actual harm caused by the breach, the difficulties of proof of loss, and the inconvenience or nonfeasibility of otherwise obtaining an adequate remedy. A term fixing unreasonably large liquidated damages is void as a penalty.” UCC § 2-718(1).

The rule is essentially the same throughout the fifty states. Allowing state courts to apply this rule – whether it is derived from the ancient common law of contracts, from that state’s version of the UCC, or from another state statute – will not lead to any significant state-to-state variation.

5. *Ball v. GTE Mobilnet of California*, 81 Cal.App.4th 529, 96 Cal.Rptr.2d 801 (2000)

The *Ball* case defined “rate” as follows:

“[T]he rate charged for wireless service includes both price and time. A rate for a service, like cellular phone service, that is sold based on the length of time that it is used necessarily includes a method of measuring that time, as well as a price for each unit of time used; in short, the length of time for which a customer is charged is an inseparable component of the rate. This accords with the pertinent definition of ‘rate’: ‘The *cost per unit* of a commodity or service [;] A charge or payment *calculated in relation to a particular sum or quantity ...* .’ (The American Heritage Dictionary (2d College Ed.1982), p. 1027, italics added.)”

Ball, 81 Cal. App.4th at 538, 96 Cal.Rptr.2d at 807.

An ETF does not fall within the *Ball* definition of a “rate.” An ETF is not a charge for a unit of service. ETFs typically are not charged at all. Rather, an ETF is imposed only if a customer seeks to terminate service. And a flat-fee ETF, such as Verizon’s \$175 or T-Mobile’s \$200, for example, is not “calculated in relation to a particular sum or quantity” of units of service.

So, according to the *Ball* definition, or any other reasonable definition of “rate,” ETFs are not “rates.”

Certificate of Service

The foregoing transmittal letter and Attachment have been sent, via e-mail attachment, to:

Monica Desai
Chief, Consumer & Governmental Affairs Bureau
Monica.Desai@fcc.gov

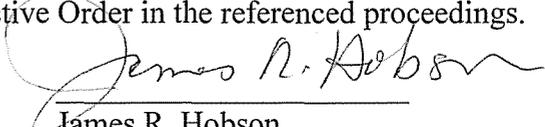
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This is the public version of Confidential Information submitted separately to the Secretary and served under seal, pursuant to Section 12d of the Protective Order in the referenced proceedings.

March 20, 2006


James R. Hobson

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America's Choicesm Call across the nation from within the America's Choice Coverage Area	America's Choice Map National Enhanced Services Map	International Roaming 69¢/minute plus pass-through of serving carrier's tolls, surcharges and taxes	\$59.99 900 Minutes Unlimited IN Calling AND Night & Weekend Home Airtime Minutes <input type="button" value="SELECT"/>
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America's Choicesm with Push to Talk National plans for both Push to Talk and voice calls.	Push to Talk Map	International Roaming 69¢/minute plus pass-through of serving carrier's tolls, surcharges and taxes	View all plans \$109.99 1350 anytime voice minutes, Unlimited IN, Unlimited nights and weekends and Unlimited Data Usage <input type="button" value="SELECT"/>
Family SharePlan® Available			View all plans \$109.99 1350 anytime voice minutes, Unlimited IN, Unlimited nights and weekends and Unlimited Data Usage <input type="button" value="SELECT"/>
PDA/Smartphone Voice & Data Choice Bundlessm A bundled package with voice allowance and unlimited wireless data usage for quick and easy remote access to email and attachments.	America's Choice Map National Enhanced Services Map	Home airtime rate after allowance \$0.25 to \$0.45	View all plans \$109.99 1350 anytime voice minutes, Unlimited IN, Unlimited nights and weekends and Unlimited Data Usage <input type="button" value="SELECT"/>
BlackBerry Voice & Data Choice Bundlessm A bundled package with voice allowance and unlimited wireless data usage for quick and easy remote access to email over your BlackBerry handheld.	America's Choice Map National Enhanced Services Map	Home airtime rate after allowance \$0.25 to \$0.45	View all plans \$109.99 1350 anytime voice minutes, Unlimited IN, Unlimited nights and weekends and Unlimited Data Usage <input type="button" value="SELECT"/>
PDA/Smartphone Check email and surf the web with your PDA or Smartphone.	Coverage Map	Voice usage in the America's Choice sm Home Airtime Rate and Coverage Area: \$0.25/minute	View all plans \$49.99 Unlimited Data Usage within NationalAccess or BroadbandAccess service area <input type="button" value="SELECT"/>
BlackBerry® Solution An Internet/Data plan for your BlackBerry device.	Coverage Map	Voice usage in the America's Choice sm Home Airtime Rate and Coverage Area: \$0.25/minute	View all plans \$49.99 Unlimited Data Usage within NationalAccess service area <input type="button" value="SELECT"/>
BroadbandAccess		Other data services (Quick 2 Net sm) at \$0.25 per minute. Roaming in Canada at \$.002/KB on the	View all plans <input type="button" value="SELECT"/>

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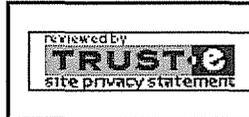
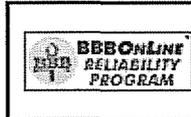
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The service and equipment offered on this Web site are subject to the terms of the Customer Agreement and price plan selected. Please read and understand it before ordering and activating. Verizon Wireless' calling areas, rates, agreement provisions, business practices, procedures and policies are subject to change as specified in the Customer Agreement. Our liability is significantly limited.

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Customer Agreement

Be sure to also review the [Customer Information Overview](#).

The following applies to our calling plans except Prepay plans, which are governed by our [Prepay Customer Agreement](#).

YOUR VERIZON WIRELESS CUSTOMER AGREEMENT

We're Verizon Wireless. Please carefully read this agreement, including the calling plan or plans you've chosen, before filing it in a safe place.

(Para una copia de este documento en español, llame al 1.800.922.0204 o visite a nuestro website a www.espanol.vzwshop.com.)

By accepting this agreement, you're bound by its conditions. It covers important topics such as how long it lasts, fees for early termination and late payments, our rights to change its conditions and your wireless service, limitations of liability, privacy, and settlement of disputes by arbitration instead of in court. If you accept this agreement, it will apply to all your wireless service from us, including all your existing calling plans and other lines in service.

Your Calling Plans

YOUR CALLING PLANS BECOME PART OF THIS AGREEMENT.

The prices you pay may depend in part on how long-the minimum term-you're agreeing in advance to do business with us. Calling plans describe these prices and your minimum term. To the extent any condition in your calling plan expressly conflicts with this agreement, the condition in your calling plan will govern. If at any time you change your service (by accepting a promotion, for example), you'll be subject to any requirements, such as a new minimum term, we set for that change.

Your Rights To Refuse Or Cancel This Agreement

THIS AGREEMENT STARTS WHEN YOU ACCEPT.

Paragraphs marked "∞" continue after it ends. You accept when you do any of the following things after an opportunity to review this agreement:

- Give us a written or electronic signature;
- Tell us orally or electronically that you accept;
- Activate your service through your wireless phone;
- Open a package that says you are accepting by opening it; or
- Use your service after making any change or addition when we've told you that the change or addition requires acceptance.

IF YOU DON'T WANT TO ACCEPT, DON'T DO ANY OF THESE THINGS. You can cancel (if you're a new customer) or go back to the conditions of your former customer agreement (if you're already a customer) without additional fees if you tell us (and return to us in good condition any wireless phone you got from us with your new service) **WITHIN 15 DAYS** of accepting. You'll still be responsible through that date for the new service and any charges associated with it.

Your Rights To Change Or End Your Service; Termination Fees; Phone Number Portability

∞ Except as explicitly permitted by this agreement, you're agreeing to maintain service with us for your minimum term. (Periods of suspension of service don't count towards 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.** (This fee applies only to the extent permitted by law. If you buy your wireless phone from an agent or third-party vendor, you should check to see if they charge a separate termination fee.) If you terminate your service as of the end of your minimum term, you won't be responsible for any remaining part of your monthly billing cycle. **Otherwise, all terminations by you during a monthly billing cycle become effective on the last day of that billing cycle.** You'll remain responsible for all fees and charges incurred until then and won't be entitled to any partial month credits or refunds. You may be able to take, or "port," your current wireless phone number to another service provider. If you request your new service provider to port a number from us, and we receive your request from that new service provider, we'll treat it as notice from you to terminate our service for that number upon successful completion of porting. After the porting is completed, you won't be able to use our service for that number. You'll remain responsible for any early termination fee, and for all fees and charges through the end of that billing cycle, just like any other termination. If you're porting a phone number to us from another company, we may not be able to provide you some services, such as 911 location services, immediately.

Our Rights To Make Changes

Your service is subject to our business policies, practices, and procedures, which we can change without notice. **UNLESS OTHERWISE PROHIBITED BY LAW, WE CAN ALSO CHANGE PRICES AND ANY OTHER CONDITIONS IN THIS AGREEMENT AT ANY TIME BY SENDING YOU WRITTEN NOTICE PRIOR TO THE BILLING PERIOD IN WHICH THE CHANGES WOULD GO INTO EFFECT. IF YOU CHOOSE TO USE YOUR SERVICE AFTER THAT POINT, YOU'RE ACCEPTING THE CHANGES. IF THE CHANGES HAVE A MATERIAL**

ADVERSE EFFECT ON YOU, HOWEVER, YOU CAN END THE AFFECTED SERVICE, WITHOUT ANY EARLY TERMINATION FEE, JUST BY CALLING US WITHIN 60 DAYS AFTER WE SEND NOTICE OF THE CHANGE.

Your Wireless Phone

Your wireless phone is any device you use to receive our wireless voice or data service. It must comply with Federal Communications Commission regulations and be compatible with our network and your calling plan. Whether you buy your wireless phone from us or someone else is entirely your choice. At times we may change your wireless phone's software, applications or programming remotely and without notice. This could affect data you've stored on, the way you've programmed, or the way you use, your wireless phone. Your wireless phone may also contain software that prevents it from being used with any other company's wireless service, even if it's no longer used to receive our service.

Your Wireless Phone Number And Caller ID

You don't have any rights in any personal identification number, email address, or identifier we assign you. (We'll tell you if we decide to change or reassign them.) The same is true of your wireless phone number, except for any right you may have to port it. Your wireless phone number and name may show up when you call someone. You can block this "Caller ID" for most calls by dialing *67 before each call, or by ordering per-line call blocking (dialing *82 to unblock) where it's available. You can't block Caller ID to some numbers, such as toll-free numbers.

How Service Works

Wireless phones use radio transmissions, so we can't provide service when your wireless phone isn't in range of one of our transmission sites, or a transmission site of another company that's agreed to carry our customers' calls, or if there isn't sufficient network capacity available at that moment. There are places, particularly in remote areas, with no service at all. Weather, topography, buildings, your wireless phone, and other conditions we don't control may also cause dropped calls or other problems.

Charges and Fees We Set

∞ You agree to pay all access, usage, and other charges and fees we bill you or that the user of your wireless phone accepted, even if you weren't the user of your wireless phone and didn't authorize its use. These include Federal Universal Service, Regulatory and Administrative Charges, and may also include other charges related to our governmental costs. We set these charges. They aren't taxes, aren't required by law, are kept by us in whole or in part, and the amounts and what's included are subject to change. You may have to pay fees to begin service or reconnect suspended service. Usage charges may vary depending on where, when, and how you call. You have a home rate and coverage area and a local calling area (which may be different). When you call from inside a local calling area to somewhere outside of it, or call from anywhere outside a local calling area, there may be toll, regional calling, or long distance charges in addition to airtime. (We provide or select the long distance service for calls on our network.) When you make a call inside your local calling area that uses a local phone company's lines (for example, a call to a typical home phone number), we may charge landline or connection fees. We charge airtime for most calls, including toll-free and operator-assisted calls. Additional features and services such as operator or directory assistance, call dialing, calling card use, Call Forwarding, data calls, automatic call delivery, voice mail, text messaging, and wireless Internet access, may have additional charges. Features such as call waiting, call forwarding, or 3-way calling involve multiple calls and multiple charges.

Taxes, Fees, And Surcharges We Don't Set

∞ You agree to pay all taxes, fees, and surcharges set by the government. We may not always give advance notice of changes to these items. If you're tax-exempt you must give us your exemption certificates and pay for any filings we make.

Roaming And Roaming Charges

You're "roaming" whenever you make or receive a call using a transmission site outside your home rate and coverage area, or using another company's transmission site. Your wireless phone may sometimes connect to and roam on another company's network even when you're within your home rate and coverage area or local calling area. There may be extra charges (including charges for long distance, tolls, or calls that don't connect) and higher rates for roaming calls, depending on your calling plan.

Your Bill

∞ Your bill is our notice to you of your fees, charges and other important information. You should read everything in your bill. We bill usage charges after calls are made or received. We bill access fees and some other charges in advance. You can view your detailed bill online. We'll also send you a streamlined bill without call detail (or a detailed bill if you request one, subject to any applicable fee). We may charge a fee for bill reprints. If you choose Internet billing (where available), you waive any right to paper bills or notices.

How We Calculate Your Bill

Your bill reflects the fees and charges in effect under your calling plan at the time they're incurred. You can dispute your bill, but only within 180 days of receiving it. You must still pay any disputed charges until the dispute is resolved. Charges may vary depending on where your wireless phone is when a call starts. If a charge depends on an amount of time used, we'll round up any fraction of a minute to the next full minute. Time starts when you first press **SEND** or the call connects to a network on outgoing calls, and when the call connects to a network (which may be before it rings) on incoming calls. Time may end several seconds after you press **END** or the call otherwise disconnects. For calls made on our network, we only bill for calls that connect (which includes calls answered by machines). Most calls you make or receive during a billing cycle are included in your bill for that cycle. Billing for airtime (including roaming) and related charges may, however, sometimes be delayed. Delayed airtime will be applied against the included airtime for the month when you actually made or received the call, even though such charges may show up on a later bill. This may result in charges higher than you'd expect in the later month.

Your Rights For Dropped Calls Or Interrupted Service

If you get disconnected by our network from a call in your home rate and coverage area, redial. If the same number answers within 5 minutes, call us within 90 days and we'll give you a 1-minute airtime credit. If service is interrupted in your home rate and coverage area for more than 24 hours in a row due to our fault, call us within 180 days and we'll give you a credit for the period of interruption. These are your only rights for dropped calls or interrupted service.

Payments, Deposits, Credit Cards, And Checks

∞ Payment is due in full as stated on your bill. IF WE DON'T RECEIVE PAYMENT IN FULL WHEN DUE, WE MAY, TO THE EXTENT PERMITTED BY THE LAW OF THE STATE OF THE BILLING ADDRESS WE HAVE ON FILE FOR YOU AT THE TIME, CHARGE YOU A LATE FEE OF UP TO 1.5 PERCENT A MONTH (18 PERCENT ANNUALLY), OR A FLAT \$5 A MONTH, WHICHEVER IS GREATER, ON UNPAID BALANCES. (IF YOU CHOOSE TO BE BILLED BY ANOTHER PARTY FOR OUR SERVICE [SUCH AS THROUGH A BILLING ARRANGEMENT WITH VERIZON COMMUNICATIONS], LATE FEES WILL BE AT THE RATE SET FORTH IN SUCH PARTY'S TARIFFS OR THE TERMS OF SUCH ARRANGEMENT, WHICH MAY BE GREATER THAN OUR LATE-FEE RATE.) WE MAY, TO THE EXTENT PERMITTED BY THE LAW OF THE STATE OF THE BILLING ADDRESS WE HAVE ON FILE FOR YOU AT THE TIME YOUR ACCOUNT IS FIRST SENT TO A COLLECTION AGENCY, ALSO CHARGE FOR ANY COLLECTION AGENCY, FEES BILLED TO US FOR COLLECTING FROM YOU. We may require an advance deposit (or an increased deposit) from you. We'll pay simple interest on any deposit at the rate the law requires. Please retain your evidence of deposit. You agree that we can apply deposits, payments, or prepayments in any order to any amounts you owe us on any account. You can't use a deposit to pay any bill unless we agree. We refund final credit balances of less than \$1 only upon request. We won't honor limiting notations you make on or with your checks. We may charge you up to \$25 for any returned check, depending on applicable law.

If Someone Steals Your Wireless Phone

If someone steals your wireless phone, notify us. If we haven't given you a courtesy suspension of service and monthly fees within the prior year, we'll give you one for 30 days, or until you replace or recover your wireless phone, whichever comes first. Until we grant any suspension, you're still responsible for all fees and charges. You'll need to provide us a sworn statement about the theft if we ask for one.

Our Rights To Limit Or End Service Or This Agreement

You agree not to resell our service to someone else without our prior written permission. You also agree your wireless phone won't be used for any other purpose that isn't allowed by this agreement or that's illegal. You agree that you won't install, deploy, or use any regeneration equipment or similar mechanism (for example, a repeater) to originate, amplify, enhance, retransmit or regenerate a transmitted RF signal. WE CAN, WITHOUT NOTICE, LIMIT, SUSPEND, OR END YOUR SERVICE OR ANY AGREEMENT WITH YOU FOR THIS OR ANY OTHER GOOD CAUSE, including, but not limited to: (a) paying late more than once in any 12 months; (b) incurring charges larger than a required deposit or billing limit (even if we haven't yet billed the charges); (c) harassing our employees or agents; (d) lying to us; (e) interfering with our operations; (f) becoming insolvent or going bankrupt; (g) breaching this agreement; (h) "spamming," or other abusive messaging or calling; (i) modifying your wireless phone from its manufacturer's specifications; (j) providing credit information we can't verify; (k) using your service in a way that adversely affects our network or other customers; or (l) allowing anyone to tamper with your wireless phone number. We can also temporarily limit your service for any operational or governmental reason.

Directory Information

∞ We don't publish directories of our customers' phone numbers. We don't provide them to third parties for listing in directories, either.

Your Privacy

∞ We have a duty under federal law to protect the confidentiality of information about the quantity, technical configuration, type, destination, and amount of your use of our service, together with similar information on your bills. (This doesn't include your name, address, and wireless phone number.) Except as provided in this agreement, we won't intentionally share personal information about you without your permission. We may use and share information about you: (a) so we can provide our goods or services; (b) so others can provide goods or services to us, or to you on our behalf; (c) so we or our affiliates can communicate with you about goods or services related to the ones you already receive (although you can call us any time if you don't want us to do this); (d) to protect ourselves; or (e) as required by law, legal process, or exigent circumstances. In addition, you've authorized us to investigate your credit history at any time and to share credit information about you with credit reporting agencies. If you ask, we'll tell you the name and address of any credit agency that gives us a credit report about you. It's illegal for unauthorized people to intercept your calls, but such interceptions can occur. For training or quality assurance, we may also monitor or record our calls with you.

Disclaimer Of Warranties

∞ WE MAKE NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE CONCERNING YOUR SERVICE OR YOUR WIRELESS PHONE. WE CAN'T PROMISE UNINTERRUPTED OR ERROR-FREE SERVICE AND DON'T AUTHORIZE ANYONE TO MAKE ANY WARRANTIES ON OUR BEHALF. THIS DOESN'T DEPRIVE YOU OF ANY WARRANTY RIGHTS YOU MAY HAVE AGAINST ANYONE ELSE.

Waivers And Limitations Of Liability

∞ UNLESS THE LAW FORBIDS IT IN ANY PARTICULAR CASE, WE EACH AGREE TO LIMIT CLAIMS FOR DAMAGES OR OTHER MONETARY RELIEF AGAINST EACH OTHER TO DIRECT DAMAGES. THIS LIMITATION AND WAIVER WILL APPLY REGARDLESS OF THE THEORY OF LIABILITY, WHETHER FRAUD, MISREPRESENTATION, BREACH OF CONTRACT, PERSONAL INJURY, PRODUCTS LIABILITY, OR ANY OTHER THEORY. THIS MEANS THAT NEITHER OF US WILL SEEK ANY INDIRECT, SPECIAL, CONSEQUENTIAL, TREBLE, OR PUNITIVE DAMAGES FROM THE OTHER. You agree we aren't liable for problems caused by you or a third party; by buildings, hills, network congestion, tunnels, weather, or other things we don't control; or by any act of God. You also agree we aren't liable for missed voice mails, or deletions of voice mails from your voice mailbox (if you have one), even if you've saved them. If another wireless carrier is involved in any problem (for example, while you roam), you also agree to any limitations of liability in its favor that it imposes.

Dispute Resolution And Mandatory Arbitration

∞ WE EACH AGREE TO SETTLE DISPUTES (EXCEPT CERTAIN SMALL CLAIMS) ONLY BY ARBITRATION. THERE'S NO JUDGE OR JURY IN ARBITRATION, AND REVIEW IS LIMITED, BUT AN ARBITRATOR CAN AWARD THE SAME DAMAGES AND RELIEF, AND MUST HONOR THE SAME LIMITATIONS IN THIS AGREEMENT, AS A COURT WOULD. IF AN APPLICABLE STATUTE

PROVIDES FOR AN AWARD OF ATTORNEY'S FEES, AN ARBITRATOR CAN AWARD THEM, TOO. WE ALSO EACH AGREE, TO THE FULLEST EXTENT PERMITTED BY LAW, THAT:

(1) THE FEDERAL ARBITRATION ACT APPLIES TO THIS AGREEMENT. EXCEPT FOR QUALIFYING SMALL CLAIMS COURT CASES, ANY CONTROVERSY OR CLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR ANY PRIOR AGREEMENT FOR WIRELESS SERVICE WITH US OR ANY OF OUR AFFILIATES OR PREDECESSORS IN INTEREST, OR ANY PRODUCT OR SERVICE PROVIDED UNDER OR IN CONNECTION WITH THIS AGREEMENT OR SUCH A PRIOR AGREEMENT, OR ANY ADVERTISING FOR SUCH PRODUCTS OR SERVICES, WILL BE SETTLED BY ONE OR MORE NEUTRAL ARBITRATORS BEFORE THE AMERICAN ARBITRATION ASSOCIATION ("AAA") OR BETTER BUSINESS BUREAU ("BBB"). YOU CAN ALSO BRING ANY ISSUES YOU MAY HAVE TO THE ATTENTION OF FEDERAL, STATE, OR LOCAL GOVERNMENT AGENCIES AND THEY CAN, IF THE LAW ALLOWS, SEEK RELIEF AGAINST US ON YOUR BEHALF.

(2) FOR CLAIMS OVER \$10,000, THE AAA'S WIRELESS INDUSTRY ARBITRATION ("WIA") RULES WILL APPLY. FOR CLAIMS OF \$10,000 OR LESS, THE COMPLAINING PARTY CAN CHOOSE EITHER THE AAA'S SUPPLEMENTARY PROCEDURES FOR CONSUMER-RELATED DISPUTES, AN INDIVIDUAL ACTION IN SMALL CLAIMS COURT, OR THE BBB'S RULES FOR BINDING ARBITRATION. EACH OF US MAY BE REQUIRED TO EXCHANGE RELEVANT EVIDENCE IN ADVANCE. IN LARGE/COMPLEX CASES UNDER THE WIA RULES, THE ARBITRATORS MUST APPLY THE FEDERAL RULES OF EVIDENCE AND THE LOSER MAY HAVE THE AWARD REVIEWED BY A PANEL OF 3 NEW ARBITRATORS.

(3) YOU CAN OBTAIN PROCEDURES, RULES, AND FEE INFORMATION FROM THE AAA (WWW.ADR.ORG), THE BBB (WWW.BBB.ORG), OR FROM US. **THIS AGREEMENT DOESN'T PERMIT CLASS ARBITRATIONS EVEN IF THOSE PROCEDURES OR RULES WOULD.** IN EXCHANGE FOR YOUR AGREEMENT TO ARBITRATE ON AN INDIVIDUAL BASIS, WE'RE PROVIDING YOU A FREE INTERNAL MEDIATION PROGRAM. MEDIATION IS A PROCESS FOR MUTUALLY RESOLVING DISPUTES. A MEDIATOR CAN HELP PARTIES REACH AGREEMENT, BUT DOESN'T DECIDE THEIR ISSUES. IN OUR MEDIATION PROGRAM, WE'LL ASSIGN SOMEONE (WHO MAY BE FROM OUR COMPANY) NOT DIRECTLY INVOLVED IN THE DISPUTE TO MEDIATE. THAT PERSON WILL HAVE ALL THE RIGHTS AND PROTECTIONS OF A MEDIATOR. NOTHING SAID IN THE MEDIATION CAN BE USED IN A LATER ARBITRATION OR LAWSUIT. CONTACT US AT WWW.VERIZONWIRELESS.COM OR THROUGH CUSTOMER SERVICE TO FIND OUT MORE.

(4) IF YOU REQUEST MEDIATION UNDER OUR PROGRAM, PARTICIPATE IN GOOD FAITH IN AT LEAST ONE TELEPHONIC MEDIATION SESSION, AND THE MEDIATION DOESN'T RESOLVE THE DISPUTES BETWEEN US, WE'LL PAY ANY FILING FEE LATER CHARGED YOU BY THE AAA OR BBB FOR ONE ARBITRATION OF THOSE DISPUTES. IF THAT ARBITRATION PROCEEDS, WE'LL ALSO PAY ANY FURTHER ADMINISTRATIVE AND ARBITRATOR FEES LATER CHARGED FOR IT AND (IF THE ARBITRATION AWARD IS APPEALABLE UNDER THIS AGREEMENT) ANY APPEAL TO A NEW 3 ARBITRATOR PANEL. WE MAY MAKE YOU A WRITTEN OFFER OF SETTLEMENT ANY TIME BEFORE ARBITRATION BEGINS. IF WE DO AND YOU DON'T RECOVER IN ARBITRATION MORE THAN 75% OF THE OFFERED AMOUNT, YOU AGREE TO REPAY US THE LESSER OF ANY FEES WE ADVANCED OR WHAT YOU WOULD HAVE PAID IN FEES AND COSTS IN COURT UNDER SIMILAR CIRCUMSTANCES.

(5) ANY ARBITRATION AWARD MADE AFTER COMPLETION OF AN ARBITRATION IS FINAL AND BINDING AND MAY BE CONFIRMED IN ANY COURT OF COMPETENT JURISDICTION. AN AWARD AND ANY JUDGMENT CONFIRMING IT ONLY APPLIES TO THE ARBITRATION IN WHICH IT WAS AWARDED AND CAN'T BE USED IN ANY OTHER CASE EXCEPT TO ENFORCE THE AWARD ITSELF.

(6) IF FOR SOME REASON THE PROHIBITION ON CLASS ARBITRATIONS SET FORTH IN SUBSECTION (3) ABOVE IS DEEMED UNENFORCEABLE, THEN THE AGREEMENT TO ARBITRATE WILL NOT APPLY. FURTHER, IF FOR ANY REASON A CLAIM PROCEEDS IN COURT RATHER THAN THROUGH ARBITRATION, WE EACH WAIVE ANY TRIAL BY JURY.

About You

⇒ You represent that you're at least 18 years old and have the legal capacity to accept this agreement. If you're ordering for a company, you're representing that you're authorized to bind it, and where the context requires, "you" means the company.

About This Agreement

⇒ A waiver of any part of this agreement in one instance isn't a waiver of any other part or any other instance. You can't assign this agreement or any of your rights or duties under it. We may assign all or part of this agreement or your debts to us without notice, and you agree to make all subsequent payments as instructed. NOTICES ARE CONSIDERED DELIVERED WHEN WE SEND THEM BY EMAIL OR FAX TO ANY EMAIL OR FAX NUMBER YOU'VE PROVIDED TO US, OR 3 DAYS AFTER MAILING TO THE MOST CURRENT BILLING ADDRESS WE HAVE ON FILE FOR YOU, IF BY US, OR TO THE CUSTOMER SERVICE ADDRESS ON YOUR MOST RECENT BILL, IF BY YOU. If any part of this agreement, including any part of its arbitration provisions, is held invalid, that part may be severed from this agreement. This agreement and the documents to which it refers form the entire agreement between us on their subjects. You can't rely on any other documents or statements on those subjects by any sales or service representatives, and you have no other rights with respect to service or this agreement, except as specifically provided by law. This agreement isn't for the benefit of any third party except our parents, affiliates, subsidiaries, agents, and predecessors and successors in interest. Except to the extent we've agreed otherwise in the provisions on late fees, collection costs and arbitration, this agreement and disputes covered by it are governed by the laws of the state encompassing the area code assigned to your wireless phone number when you accepted this agreement, without regard to the conflicts of laws rules of that state.

Last Updated 02/05/2006

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Select a Plan

Prices exclusive to T-Mobile.com and 1-877-887-4324.

How to shop

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- Step 2: Select a product
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- [Pay As You Go](#)

National plan types:

- [» Individual](#)
- [» Family](#)
- [» BlackBerry Enterprise Server](#)
- [» BlackBerry Internet E-mail](#)
- [» Sidekick Data](#)

All our national plans include:

- No nationwide long-distance or roaming charges
- A low rate for additional minutes
- Only a one-year contract required



[» See coverage map](#)

Individual plans

[top](#)

Get great value with the most minutes. National plans give you free domestic long distance and no digital roaming charges anywhere across the US. All individual plans require a one-year contract.

Plan name		Price (per month)	Whenever Minutes® (per month)	Weeknight minutes (per month)	Weekend minutes (per month)
Basic Plus	<input type="button" value="add to cart"/>	\$29.99	300 Minutes	N/A	Unlimited
Get More	<input type="button" value="add to cart"/>	\$39.99	600 Minutes	Unlimited	Unlimited
Get More 1000	<input type="button" value="add to cart"/>	\$39.99	1000 Minutes	N/A	N/A
Get More 1000 Plus	<input type="button" value="add to cart"/>	\$49.99	1000 Minutes	Unlimited	Unlimited
Get More Ultra	<input type="button" value="add to cart"/>	\$59.99	1500 Minutes	Unlimited	Unlimited
Get More Max	<input type="button" value="add to cart"/>	\$99.99	2500 Minutes	Unlimited	Unlimited
Get More Supra	<input type="button" value="add to cart"/>	\$129.99	5000 Minutes	Unlimited	Unlimited

FamilyTime® plans

[top](#)

Family matters, and so do savings! You get both with two lines, up to three more lines at just \$9.99 each, unlimited mobile-to-mobile calling, and a shared pool of Whenever Minutes®. All family plans require a one-year contract.

Plan name		Price (per month)	Whenever Minutes® (per month)	Weeknight minutes (per month)	Weekend minutes (per month)
FamilyTime Basic	<input type="button" value="add to cart"/>	\$59.99	700 Minutes	Unlimited	Unlimited
FamilyTime		\$69.99	1000 Minutes	Unlimited	Unlimited

[add to cart](#)

FamilyTime Plus	add to cart	\$99.99	2000 Minutes	Unlimited	Unlimited
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FamilyTime Ultra	add to cart	\$129.99	3000 Minutes	Unlimited	Unlimited
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BlackBerry Enterprise Server plans

[top](#)

To access corporate e-mail and synchronize your e-mail, calendar, and contacts with your desktop e-mail application, your company must have a BlackBerry Enterprise Server.** All plans have unlimited Web browsing, BlackBerry Internet E-mail, and BlackBerry Enterprise Server access.

Plan name		Price (per month)	Voice calling (per month)	Wireless data (per month)	Text/ instant messages* (per month)
BlackBerry Unlimited w/Enterprise E- mail	add to cart	\$39.98	\$0.20 per minute	Unlimited Web browsing, BlackBerry Internet E- mail, and BlackBerry Enterprise Server access	300 inbound/outbound messages; \$0.10 each additional message

BlackBerry Minutes & Mail Enterprise	add to cart	\$69.99	1000 Whenever Minutes	Unlimited Web browsing, BlackBerry Internet E- mail, and BlackBerry Enterprise Server access	Unlimited
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BlackBerry Minutes & Mail Enterprise Ultra	add to cart	\$89.99	1500 Whenever Minutes	Unlimited Web browsing, BlackBerry Internet E- mail, and BlackBerry Enterprise Server access	Unlimited
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* Text Messaging is currently available on all BlackBerry devices. Instant Messaging is currently available on the BlackBerry 7100t, 7105t, and 7290.

** Note: BlackBerry Enterprise Server software is an additional charge and must be purchased separately. To find out if your company has a BlackBerry Enterprise Server, ask your IT department.

BlackBerry Internet E-mail plans

[top](#)

Integrate up to 10 of your existing e-mail accounts and have your messages pushed right to your BlackBerry® handheld. Choose a data-only plan with unlimited e-mail and Web browsing, or choose one of our bundled Minutes & Mail plans to add tons of Whenever Minutes® to these great data features.

Plan name		Price (per month)	Voice calling (per month)	Wireless data (per month)	Text/ instant messages* (per month)
BlackBerry Unlimited	add to cart	\$29.99	\$0.20 per minute	Unlimited Web browsing & BlackBerry Internet E-	300 inbound/outbound messages; \$0.10 each additional message

mail
access

[BlackBerry
Minutes & Mail](#)

[add to cart](#)

\$59.99

1000 Whenever
Minutes

Unlimited
Web
browsing &
BlackBerry
Internet E-
mail
access

Unlimited

[BlackBerry
Minutes & Mail
Ultra](#)

[add to cart](#)

\$79.99

1500 Whenever
Minutes

Unlimited
Web
browsing &
BlackBerry
Internet E-
mail
access

Unlimited

* Text Messaging is currently available on all BlackBerry devices. Instant Messaging is currently available on the BlackBerry 7100t, 7105t, and 7290.

Sidekick® Data plan

[top](#)

Get the most from your Sidekick with unlimited e-mail, AOL® Instant Messenger™, Web browsing, and text messaging, with voice calls billed on a pay-as-you-go basis for a low per-minute rate. If you want to talk as much as you type, you can purchase a voice plan and add Sidekick Unlimited data service.

Plan name	Price (per month)	Whenever Minutes® (per month)	Data transfer (per month)	Text messaging (per month)
Sidekick Data	add to cart \$29.99	0 Minutes	Unlimited	Unlimited

T-Mobile USA: 10023 (change location)

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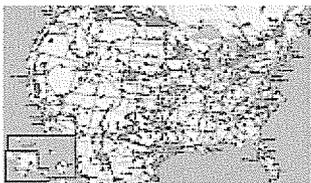
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National Rate Plans

First, select a plan to begin building your wireless package.



[>> National coverage map](#)

To use a T-Mobile product you must be in a T-Mobile coverage area. See the map to be sure you are located in a coverage area before buying or using a T-Mobile product.

Basic Plus

Great for budget-conscious customers and students and those who need a phone for light daily use and emergencies.

Please note: Prices exclusive to T-Mobile.com and valid only with new service activation.

Basic Plus plan

Price	\$29.99
Whenever minutes (per month)	300 minutes
Weekend minutes (per month)	Unlimited
Weeknight minutes (per month)	N/A
Mobile-to-mobile minutes (per month)	N/A
Additional minutes	40¢
Data Transfer (per month)	N/A

This plan includes the following services

Call Waiting and Call Hold, Caller ID, Conference Calling, Detailed Billing, Customer Care, Directory Assistance, Emergency Calls, VoiceMail with Paging

[>> See more about these services](#)

Optional Services to enhance your national rate plan (you can add these later during the package process)

BlackBerry Unlimited Add-on - Add access to BlackBerry's powerful data functionality to a voice rate plan. The BlackBerry Unlimited Add-on includes unlimited BlackBerry Web Client e-mail and Web browsing.

BlackBerry Unlimited w/Enterprise Email Add-on - Add access to BlackBerry corporate data features to a voice rate plan. BlackBerry Unlimited w/Enterprise E-mail, for use with BlackBerry Enterprise Server (BES) software, includes unlimited BES access, BlackBerry Web Client e-mail, and Web browsing.

CallerTunes - CallerTunes™ is a cool, new service that lets you choose what your callers will hear until you answer your phone. Instead of the normal, boring "ring, ring" they hear today, your callers can hear music, sound effects, or short, spoken clips.

Equipment Protection \$3.99 - Get a little peace of mind. Equipment Protection guards your device against loss, theft, or damage. Act fast; you may only sign up for Equipment Protection

within fourteen days of new service activation.

HotSpot - T-Mobile HotSpot provides unlimited high-speed wireless Internet access in public locations including Starbucks, Borders, FedEx Kinko's, and airports. HotSpot is not available on your T-Mobile phone. You must have a Wi-Fi enabled laptop or PDA to connect.

Sidekick Unlimited - With Sidekick Unlimited service, you'll enjoy unlimited e-mail, AOL® Instant Messenger™ Service (AIM®), Web browsing, and text messaging.

Unlimited Mobile-to-Mobile - With Unlimited Mobile-to-Mobile you can stay connected with your friends and family as much as you want, without running up expensive charges. Get unlimited calls to other T-Mobile customers anywhere on the Get More® network for just \$6.99 per month.

WorldClass International Service - Need to make calls while abroad? Add WorldClass service. No monthly fee. Per-minute rates apply. All phones work in Mexico. Dual or tri-band phones required elsewhere. Additional credit approval required.

Discounted long distance to Mexico - Call Mexico for only \$0.05 per minute and \$4.99 per month. Airtime and overage charges apply.

Servicio de Larga Distancia a México.
Llama a México por sólo \$0.05 el minuto por \$4.99 al mes. Se aplican cargos por tiempo aire y por excedentes.

T-MobileWeb - Search the mobile Web, find directions to the places you want to go, get local, international, and financial news, stock quotes, weather, sports, play online games, e-mail, community chat, and more, right at your fingertips anywhere you go.

Any 400 Messages - Send and receive any type of message you want, in any combination you want. Text, IM, picture, or video messages--it's up to you! Messaging Value Bundles are offered per line of service and not shared among FamilyTime (or other pooled account) customers.

Any 1000 Messages - Send and receive any type of message you want, in any combination you want. Text, IM, picture, or video messages--it's up to you! Messaging Value Bundles are offered per line of service and not shared among FamilyTime (or other pooled account) customers.

Unlimited Messages - Send and receive any type of message you want, in any combination you want. Text, IM, picture, or video messages--it's up to you! Messaging Value Bundles are offered per line of service and not shared among FamilyTime (or other pooled account) customers.

Equipment Protection \$5.99 - Get a little peace of mind. Equipment Protection guards your device against loss, theft, malfunction or damage. Act fast; you may only sign up for Equipment Protection within fourteen days of new service activation.

T-Mobile Total Internet - T-Mobile Internet with Hotspot

Discounted long distance to Canada - You're already calling your friends and associates in Canada--now you can make all the calls you want and save. For \$4.99 per month, you can make unlimited calls to Canada for just \$0.09 per minute. And at \$0.09 per minute, you can call whenever!

T-Mobile Total Internet w/ Corporate My Email - T-Mobile Total Internet w/ Corporate My Email

>> See more about these optional services

» See important information about service

T-MOBILE TERMS AND CONDITIONS

Welcome to T-Mobile. BY ACTIVATING OR USING OUR SERVICE YOU AGREE TO BE BOUND BY THE AGREEMENT. Please carefully read these Terms and Conditions ("T&C's") as they describe your Service and affect your legal rights. IF YOU DON'T AGREE WITH THESE T&C'S, DO NOT USE THE SERVICE OR YOUR UNIT. See Sec. 2 regarding your acceptance of these T&C's and Sec. 6 for our Handset Return and Cancellation policy.

This is your agreement with T-Mobile USA, Inc. and its affiliates (together "T-Mobile," "we" or "us") for: (a) communication and related services ("Service"); (b) the purchase or use of smart cards or radio or any other equipment or purchased from us, including replacement equipment, for use with the Service ("Unit") and (c) for other purchases or services (provided by us or third parties) billed to your account ("Other Services"). The Agreement begins when: (1) you sign or electronically accept the Agreement, (2) you activate or use the Service, or (3) are deemed to accept the Agreement (see Sec. 2), whichever happens first.

1. **Agreements Governing Use.** These T&C's, your Service Agreement (if any), your rate plan information and the terms and conditions for use of any other T-Mobile service (together, the "Agreement"), govern the use of the Service, your Unit and Other Services. These T&C's supersede all earlier versions and impose an EARLY CANCELLATION FEE (see Sec. 5) and require MANDATORY ARBITRATION OF DISPUTES (see Sec. 3). If these T&C's conflict with the T-Mobile Terms and Conditions you receive with your Unit, these T&C's apply. Your electronic acceptance of the Agreement or your acceptance by use of activation of Service is the same as signing the Agreement and you agree that electronic images of the Agreement will be considered originals. 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, Unit, rate plans and offerings of Other Services, or to waive or modify any terms or provisions of the Agreement.

2. **Acceptance of Agreement.** You must activate Service within 30 days after purchase of your Unit (unless returned as provided in Sec. 6). If you don't activate within 30 days, you cannot return your Unit for a refund, you are deemed to accept the Agreement, and you agree to pay monthly Service charges according to your rate plan.

3. **Mandatory Arbitration; Dispute Resolution.** YOU WILL FIRST NEGOTIATE WITH US IN GOOD FAITH TO SETTLE ANY CLAIM OR DISPUTE BEFORE YOU BRING A CLAIM TO COURT. YOU ARE NOT TO BRING TO COURT OR CONCERNING THE AGREEMENT, OR OUR PROVISION TO YOU OF GOODS, SERVICES, OR UNITS ("CLAIM"). YOU MUST SEND A WRITTEN DESCRIPTION OF YOUR CLAIM TO OUR REGISTERED AGENT (See Sec. 22). IF YOU DO NOT REACH AGREEMENT WITH US WITHIN 30 DAYS, INSTEAD OF SUING IN COURT, YOU AGREE THAT ANY CLAIM MUST BE SUBMITTED TO FINAL, BINDING ARBITRATION WITH THE AMERICAN ARBITRATION ASSOCIATION ("AAA") UNDER ITS PUBLISHED WIRELESS INDUSTRY ARBITRATION RULES, WHICH ARE A PART OF THE AGREEMENT BY THIS REFERENCE AND ARE AVAILABLE BY CALLING THE AAA'S 800-771-8139 OR VISITING ITS WEB SITE AT www.adr.org. You must serve our registered agent (See Sec. 22) with a notice of an arbitration in order to begin an arbitration. This agreement to arbitrate extends to claims that you assert against other parties, including without limit equipment manufacturers and dealers, if you also assert claims against us in the same proceeding. The Agreement involves interstate commerce and despite the choice of law provision in Sec. 25, the Federal Arbitration Act and federal arbitration law govern arbitrations under the Agreement. An arbitrator may only award as much relief as is available in the place of arbitration, limited to the same extent that a court would limit such relief and consistent with the provisions of the Agreement. An arbitrator may order injunctive or declaratory relief (so long as that injunctive or declaratory relief does not apply beyond your dealings with us) or summary judgment under applicable law. AAA has a fee schedule for arbitrations. You will pay your share of the arbitrator's fees except: (a) for claims less than \$25, we will pay all arbitrator's fees and (b) for claims between \$25 and \$1000, you will pay \$25 for the arbitrator's fee. You and we agree to pay our own other fees, costs and expenses including those for counsel, experts, and witnesses. Visit www.adr.org for more information in hardship circumstances.

Neither you nor we may be a representative of other potential claimants or a class of potential claimants in any dispute, nor may two or more individuals' disputes be consolidated or otherwise determined in one proceeding. Where the prohibition on consolidated or classwide proceedings in this Sec. 3 will continue to apply: (a) if you may take claims to small claims court, if they 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 such claims in court limited strictly to the collection of the past due debt and any interest or cost of collection permitted by law or the Agreement. YOU AND WE ACKNOWLEDGE AND AGREE THAT THIS SEC. 3 WAIVES ANY RIGHT TO A JURY TRIAL OR PARTICIPATION AS A PLAINTIFF OR AS A CLASS MEMBER IN A CLASS ACTION, IF A COURT OR ARBITRATOR DETERMINES THAT YOUR WAIVER OF YOUR ABILITY TO PURSUE CLASS OR REPRESENTATIVE CLAIMS IS UNENFORCEABLE, THE ARBITRATION AGREEMENT WILL NOT APPLY AND OUR DISPUTE WILL BE RESOLVED BY A COURT OF APPROPRIATE JURISDICTION, OTHER THAN A SMALL CLAIMS COURT. SHOULD ANY OTHER PROVISION OF THIS ARBITRATION AGREEMENT BE DEEMED UNENFORCEABLE, THAT PROVISION SHALL BE REMOVED, AND THE AGREEMENT SHALL OTHERWISE REMAIN BINDING.

4. **Changes to the Agreement or Charges.** We may change or increase the charges for Service, Other Services, or any other charges at any time. However, if we: (a) increase the charges for a Service and you would be charged a cancellation or other fee to cancel that Service, or (b) we modify a material term of our Agreement with you and the modification would be materially adverse to you, we will notify you of the increase or modification (as provided in Sec. 22) and you can cancel the affected Service without paying the cancellation or other fee (which is your only remedy) by following the cancellation instructions in the notice. If you do not cancel the Service by following the instructions in the notice, then you agree to the increase or modification, even if you paid for Service in advance. If the notice does not say how long you have to cancel, then it is within 14 days after the date of the notice. If we increase charges for Service or Other Services to which no cancellation or other fee to cancel service applies (e.g., use of directory assistance), we will notify you of the increase, but you will still be responsible for any cancellation fee applicable to any Services you may have if you cancel Service.

5. **Term; Cancellation of Service.** The Agreement applies for all Services you receive until you or we terminate it. After you terminate the Agreement, you must pay all amounts you owe us. If you select a plan with a fixed contract term longer than 1 month, the term of the Agreement continues for the number of full months selected ("Fixed Term"). After the Fixed Term, you become a month to month customer under the Agreement. We may cancel your Service for any reason upon 30 days notice (except if you breach we may cancel immediately without prior notice). You may cancel Service for any reason by providing 30 days notice to us. If you breach the Agreement or cancel Service prior to the end of a Fixed Term, you agree that the resulting actual damages to us would be impracticable or extremely difficult to determine and that you will pay us, as a reasonable estimate of our damages and in addition to other amounts owed (unless prohibited by law), a \$200 cancellation fee per Number (which may be deducted from your deposit, charged to your Card or billed to your account). In addition, we may keep any amounts prepaid by you sufficient to cover any charges and fees you owe.

6. **Handset Return and Cancellation Policy.** You may cancel Service without paying an applicable cancellation fee if within the Return Period (defined below) you: (a) contact us to cancel Service and (b) return to the place of purchase, with proof of purchase, any Unit purchased from us or our authorized dealer in connection with your activation of Service. The "Return Period" is 14 calendar days from Service activation, or 30 calendar days from the Unit's purchase date if the Unit has not been activated. Units returned with proof of purchase to the place of purchase in good working condition with original contents and packaging within the Return Period are eligible for a refund of the purchase price. You may be required to pay a restocking fee. Even if you cancel Service and/or return your Unit, you must pay all Service and other charges incurred prior to cancellation or return. You acknowledge that your initial Unit purchase may be subsidized to facilitate your subscription to the Service. If you cancel Service within the Return Period without returning the Unit or the Unit is not in good working condition, you will be charged for the difference between the full retail price of the Unit without activation (which may be more than the advertised price with Service activation) and the price you paid for the Unit.

7. **Service Availability and Limits.** Your Unit is a radio and so Service is only available when your Unit is within range of an antenna. Coverage maps are only approximations of our wireless coverage area outdoors; actual service coverage and quality may vary. There may be gaps in Service within the estimated coverage area shown on coverage maps. Even within a coverage area, factors, such as: network changes, emergencies, traffic volume, transmission limits, service outages, technical limitations, signal strength, your equipment, interconnecting carriers, terrain, structures, weather and other conditions (without limit) may interfere with actual Service, quality and availability. Calls may be interrupted, dropped, refused, limited, or curtailed. Coverage maps may include networks operated by roaming partners and affiliates. Some Services are not available on third party networks or in roaming markets. We may impose credit, usage or other limits to Service or Other Services (cancel or suspend Service or Other Services, or block certain types of calls or sessions (such as international, 900 or 976 calls) in our sole discretion. We may suspend Service without notice if you exceed any

credit limit. Service may not be transferred to another market except at our discretion, and we may charge transfer fees and limit the markets available for transfers. We are not liable for any Service limits, failures or outages, including without limitation, the failure of 9-1-1 emergency, priority access or secure service calls to be connected or completed, or the failure to accurately locate any 9-1-1 call (see Sec. 17). Location services, including 9-1-1 location services, priority access and secure service calls may not be available in your area and are subject to the Service limitations in this Sec. 7.

8. **Use of Service.** You may not resell or attempt to resell any aspect of the Service or Other Services, whether for profit or otherwise. You may not use an automatic dialer or program in connection with your Unit or the Service. Except as stated in Sec. 29, you have no proprietary or ownership rights to a specific number ("Number"), IP address, or e-mail address assigned to you or your Unit. We may change your Number, IP address or e-mail address at any time. You may request a change of Number and we may charge you a fee. You may not program any other Number into your Unit. You may not use the Service, the network, or your Unit for any fraudulent, unlawful, harassing or abusive purpose, or so as to damage or cause risk to our business, reputation, employees, subscribers, facilities, or to any person. Improper use include, without limit: a) Posting or transmitting content you do not have the right to post or transmit (such as ring tones); b) Posting or transmitting content that infringes a third party's intellectual property, publicity, privacy, or other right; c) Posting or transmitting content that is unlawful, untrue, defamatory, threatening, obscene, or otherwise objectionable as determined by us; d) Attempting to intercept or collect data about third parties without their consent; e) Tampering with material posted by any other person; f) Tampering with or using non-public areas of the Service or network; g) Attempting to probe or test the vulnerability of a system or network or to breach security or authentication measures; h) Attempting to access or search the Service or network with any software, or mechanism other than the software and/or search agents provided by us or other generally available third party browser; i) Sending unsolicited messages, including without limit, ads for goods or services, pyramid schemes or spam; j) Using the Service or Other Service to send deceptive or false source-identifying information; k) Attempting to decipher, decompile or reverse engineer any of the software comprising or in any way making up a part of the Service; l) Attempting to interfere with the access of any user, host or network, including without limit, sending a "virus" through the Service, overloading, spamming, or mailbombing the Service; or m) Impersonating or misrepresenting your affiliation with any person or entity.

If we suspect violations of any of the above, we may: a) begin legal action, b) immediately, without prior notice, terminate or limit the Agreement and the Service, c) suspend or terminate either T-Mobile agreements between us and you, and the T-Mobile service provided under those agreements, and d) pursue legal action in legal proceedings against violators. You agree to cooperate with us in investigating suspected violations.

9. **Use of Unit With Other Providers.** Your Unit may not be compatible with another wireless carrier's systems or technology (therefore, we cannot assure you that your Unit will work with the services provided by another wireless carrier. You may buy equipment from us, or from someone else, but it must be GSM/GPRS equipment that is compatible with our systems and Service and there is no guarantee that all T-Mobile features will function with that equipment.

10. **Default; Termination.** You will be in default under the Agreement if you: (a) do not pay any sum when due, (b) breach the Agreement or any other agreement between you and us, (c) become the subject of any proceeding under the Bankruptcy Code or (d) become insolvent. In all cases, you are responsible for payment of all charges and fees (including any cancellation or administrative fees) due to us under the Agreement (including any charges after a Bankruptcy filing), which charges are limited to what is payable. If you are in default, we may cancel Service and terminate the Agreement and any other agreements between us and you and the services provided under those agreements without prior notice. If we renew Service to you after discontinuing Service, you may be subject to a credit check and agree to pay reactivation charges or applicable deposits. Our remedies under the Agreement are not exclusive but are in addition to all other remedies provided by law.

11. **Changes to Your Account.** You may request a change to another rate plan, and I will authorize a change (a transfer fee may apply) that plan becomes effective as of the start of your next billing cycle. However, if you select a special promotional rate plan, or accept promotional Unit pricing, a new Fixed Term may be required. A change to your account will not automatically change the Fixed Term unless you agree to a new Fixed Term as part of that change. Smart phone customers are limited to Smart Account plans. If we allow you to temporarily suspend your account, we may extend the Fixed Term for the length of that suspension period.

12. **Deposits.** We may require an advance deposit in which you grant us a security interest to secure payment of all amounts when due. Unless prohibited by law, deposits we receive may be commingled with other funds and will not earn interest. We will notify you if we increase the amount of your deposit, which we can do in our discretion at any time. You may either (a) provide us with the increased deposit or (b) cancel Service within 7 days following the date of the notice (any cancellation fee will be waived). Deposits may not be used to pay amounts owed to us (except a final invoice) or to delay payment, but we may apply deposits to active accounts that demonstrate good payment history. You must promptly pay your bills even if you have given us a deposit. If Service is cancelled for any reason, any deposit will be applied to pay charges and fees due at or after cancellation. Any remaining deposit or other credit balance will be returned (without interest) to the extent allowed by law to you following cancellation at your address in our billing records. Unless otherwise prohibited by law we will return balances of \$5 or less only if you contact us to request that money. We will hold such money for you for 1 year (without accruing interest for your benefit), but you forfeit to us any portion of the money left after 1 year. You also forfeit any money that the U.S. Mail cannot deliver and returns to us.

13. **Billing and Charges.** You authorize us to verify your creditworthiness with a credit-reporting agency at any time you have an outstanding balance. You agree to pay in full each month all charges for Service or Other Services (whether provided by us or a third party) under the Agreement. Service charges may include, without limit, charges for calls, messages (read or unread, solicited or unsolicited), images, sounds and data that are processed through your Unit or through any Number, IP address or e-mail address assigned to or authorized by you; toll charges, long distance charges, additional or differently-calculated charges assessed by another service provider for calls, messages, images, sounds and data that are sent from or received by your Unit when you are outside our local calling area ("roaming" charges), landline access charges (directory assistance, etc.); and additional services or features that you use. Roaming and other call rating (such as time of call) depend on the location of the site transmitting the call, not on the location of the caller. Billing of roaming charges and minutes of use or Services may be delayed or applied against allocated minutes or Services in subsequent billing cycles, which may cause you to exceed your allocated minutes or Services in a particular billing cycle. You will be charged for Service and other features, on a monthly billing cycle basis. We may require payment before your due date if we are concerned about your ability to pay us. Unused minutes or other allotments (e.g., text messages, data transmission) from any rate plans or features do not carry over to subsequent billing cycles and are never forfeit. We may charge your billing cycle at any time. Partial minutes used are rounded up and charged, or deducted from any allocated minutes, as full minutes; calls and sessions are 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. For each call there may be additional charges including without limit: (a) airtime; (b) tolls; (c) roaming; (d) Taxes and Fees; (e) features (such as web access, text messages and voicemail) and (f) services (such as operator or directory assistance and calling card use). You will be charged for more than one call for certain features consisting of multiple inbound or outbound calls (such as call forwarding, call waiting, certain voicemail retrieval and conference calling). Any Taxes and Fees will be added to the charges as provided in Sec. 14. You agree not to rely for billing purposes on indicators on your Unit, such as the roaming and call time indicators, which may be inaccurate. By using our service, you agree that time is of the essence for payment. Therefore, you must pay in full by the due date (or after any grace period required by law) on your monthly invoice. If we do not receive payment in full, by the due date, your payment is past due. Unless prohibited by law, if your payment is past due, you agree we may charge you 1.5% or 3% per month (or portion of a month), whichever is greater, on any past due balances until the subject of the dispute is permitted by law. Late fees will be assessed regardless of the status of any disputes you may have with the charges on your invoice.

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 your right to a refund. Please contact Customer Care at www.t-mobile.com, (800) 937-8997 or 611 from your Unit so that we can review your account. If you accept a credit to resolve an issue, you agree the issue is fully resolved. We may require you to describe the dispute in writing. Any written communications concerning charges must be sent to: T-Mobile Consumer Relations, PO Box 37380, Albuquerque, NM 87176-7380. If we determine that you owe some or all of the amount in dispute, that amount will be added to any current charges and must be paid by the date shown on your bill. If we accept late or partial payments or payments marked "Paid in Full" similar notations, it will not waive any of our rights to collect all amounts that you owe us and it