

# NEXTEL™ Subscriber Agreement: Customer Order

Order No. \_\_\_\_\_

Account No. | | | | | | | | | |

I authorize Nextel to run my credit report: \_\_\_\_\_ (initial) Date \_\_\_\_\_ Credit App. # \_\_\_\_\_ Score \_\_\_\_\_ Deposit Amount/Unit: \$ \_\_\_\_\_

Account Name \_\_\_\_\_ Phone (\_\_\_\_) \_\_\_\_\_

Billing Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Email (Optional) \_\_\_\_\_ Nextel may contact you regarding new offerings or promotions

Shipping Address ( Same as above): \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Password \_\_\_\_\_  New  Existing  Upgrade

Individual  Business  Major  Corporate  Strategic  Government

SSN/Tax ID \_\_\_\_\_  Tax Exempt (attach certificate)

Driver Lic. # \_\_\_\_\_ State \_\_\_\_\_ Exp. Date \_\_\_\_\_

Authorized Contact \_\_\_\_\_ Phone (\_\_\_\_) \_\_\_\_\_

Authorized Contact \_\_\_\_\_ Phone (\_\_\_\_) \_\_\_\_\_

Authorized Contact \_\_\_\_\_ Phone (\_\_\_\_) \_\_\_\_\_

Qty.	Equipment	Equipment ID No.	Alias	Extended Price	Rate Plan or Service	Term # months	Services*							NPA/NXX or Phone No.	Monthly Total
							C	DC	NDC	NOL	DP	NG	P		
				\$										\$	
				\$										\$	
				\$										\$	
				\$										\$	
				\$										\$	
				\$										\$	
				\$										\$	

Additional Order pages attached \_\_\_\_\_ Adjustment \$ \_\_\_\_\_

**Services\*:** NDC: Nationwide DC™ NG: Number Guard  
 C: Cellular NOL: Nextel Online P: Wireless Local  
 DC: Direct Connect™ DP: Direct Protect Number Portability\*\*

Credit Deposit (# Units \_\_\_\_ ) \$ \_\_\_\_\_

Account Set-Up Fee \$ \_\_\_\_\_

Shipping Charge \$ \_\_\_\_\_

**Total One-Time Charge (Taxes Excluded)** \$ \_\_\_\_\_

Infrastructure Fee \$ 1.99

Nextel Service Plan (# Units \_\_\_\_ ) \$ \_\_\_\_\_

Call Detail ( \_\_\_\_ units @ \$1.49 per unit) \$ \_\_\_\_\_

Federal Programs and Surcharges \$ Varies

**Estimated Total Monthly Recurring Charge (Taxes Excluded)** \$ \_\_\_\_\_

**Point of Sale One-Time Charge: \$** \_\_\_\_\_ Payment Type \_\_\_\_\_ No. \_\_\_\_\_

Credit Card:  MasterCard  Visa  AmEx  Discover  Diners

Name on Card \_\_\_\_\_ Card/Bank No. \_\_\_\_\_

Account No. \_\_\_\_\_ Expiration Date \_\_\_\_\_

Equipment PO # \_\_\_\_\_ Service PO # \_\_\_\_\_

For any deposit or payment made by check, Customer expressly authorizes Company to electronically debit customer's account for the amount of the check. The use of check for payment represents Customer's acceptance of this provision of this Agreement. For any deposit or payment made by credit or debit card, Customer expressly authorizes Company to charge or debit customer's account provided above.

I have verified that the signer of this document is the same person whose driver's license has been presented Agent Code \_\_\_\_\_

**Sales Assoc. Signature** \_\_\_\_\_ Sales Assoc. Name (print) \_\_\_\_\_

Sales Manager/AR Name \_\_\_\_\_ Phone No. \_\_\_\_\_

**THIS AGREEMENT** consists of the Customer Expectations Checklist, General Terms and Conditions, Plan Information, and this Customer Order. By signing below, the undersigned represents that: (1) he or she is at least 18 years of age and is legally competent to enter into this Agreement; (2) has received a true copy of the Agreement and has read and clearly understands the terms and conditions of the Agreement, including changes to terms or charges; limitations of liability and disclaimers of warranties as permitted by law; arbitration of disputes, early termination fees, and other important provisions; (3) if acting on behalf of an entity, he or she is fully authorized to legally bind the entity; and (4) if acting on behalf of a corporation, the execution of this Agreement has been authorized by all necessary corporate actions. The undersigned agrees to pay all charges if the entity or corporations listed under "Account Name" denies responsibility. The undersigned represents that all information provided herein is true and accurate.

**Customer Signature** \_\_\_\_\_

**Customer Name (print)** \_\_\_\_\_

Date \_\_\_\_\_

**Comments** \_\_\_\_\_

**Direct Protect**

If you subscribe to the Direct Protect program, you acknowledge that the equipment listed here is in your possession and in good working order, you have received, read, and understood the terms and conditions under which the insurance is offered as outlined in the insurance brochure. Customer acknowledges that the insurance protection is offered by The Signal, that Nextel acts only as a billing agent for The Signal and that any claims regarding the insurance or its administrator shall be directed to The Signal.

All failure to affirmatively accept Direct Protect shall be deemed denial of coverage by customer. Activation of Direct Protect coverage after the initial sale and delivery of equipment may be subject to a 30 day delay in coverage effective date.

Initial: \_\_\_\_\_  
 Accept: \_\_\_\_\_  
 Decline: \_\_\_\_\_

**Nextel Service Plan (NSP)**

I agree to enroll my entire account on the Nextel Service Plan. I have read and understood the terms and conditions of the NSP program. I understand the program will remain in effect as long as my equipment is active on the Nextel system, or I provide written notice to Company at the address shown on my bill to discontinue my enrollment in NSP.

Initial: \_\_\_\_\_  
 Accept: \_\_\_\_\_  
 Decline: \_\_\_\_\_

**Service Term**

If no box is checked, default is two-year term. Cancellation fee of \$200 each unit will be charged for cancellation within the service term.

2-Year Term  
 1-Year Term  
 No Term

Initial: \_\_\_\_\_  
 Accept: \_\_\_\_\_

**Wireless Number Portability:** *Wireless telephone numbers (except Direct Connect numbers) can be moved to other carriers. A fee of \$25 per number applies.*

To ensure that we validate your intent to change carriers, we will protect your telephone numbers with Wireless Number Portability Verification. If you want Wireless Number Portability Verification added to your account, initial here.

Initial: \_\_\_\_\_  
 Accept: \_\_\_\_\_  
 Decline: \_\_\_\_\_

**Number Ported From Another Carrier\*\***

I authorize Nextel to port my designated phone numbers from another carrier.

Desired Date/Time \_\_\_\_\_  
 Authorization Name \_\_\_\_\_  
 Carrier \_\_\_\_\_  
 Prev. Acct No. \_\_\_\_\_  
 Prev. Acct Password/PIN \_\_\_\_\_  
 Prev. Billing Name \_\_\_\_\_  
 Prev. Address \_\_\_\_\_

Initial: \_\_\_\_\_  
 Accept: \_\_\_\_\_

**Recurring Direct Debit Program**

I have been informed that I may request enrollment in Nextel's Recurring Direct Debit program by calling 888-566-6111 and speaking to a representative to activate automated payments from my credit card/ checking account.

Initial: \_\_\_\_\_

*In consideration of the sums and the mutual covenants and conditions hereinafter set forth, the parties agree as follows:*

**1. USE OF SERVICE** – Customer will have accepted and be bound by this Agreement if Customer (1) provides Nextel with a written or electronic signature; (2) otherwise indicates electronically that Customer accepts; or (3) activates Service through the Equipment. Customer agrees that it shall comply with all applicable laws, including without limitation all Federal Communications Commission rules and regulations. Customer will not use the Service for any unlawful purpose.

**Customer will not use the Service in aircraft or in motor vehicles where prohibited by law, ordinance or regulation, as applicable. Customer acknowledges and agrees that all future purchases of Company Services and Equipment by customer shall be governed by the terms and conditions contained herein unless Customer and Company enter into a subsequent Subscriber Agreement. Company may change this Agreement at any time. Any changes are effective when Company provides Customer with written notice stating the effective date of the change(s). If Customer elects to use the Services or make any payment to Company on or after the effective date of the changes, Customer is deemed to have accepted the change(s). If Customer does not accept the changes, Customer may terminate Services as of the effective date by sending written notice to Company at the address shown on Customer's bill. If Services are terminated before the end of the current billing cycle, (i) no credit or refund will be provided for unused airtime; and (ii) any monthly recurring charge will not be prorated to the date of termination.**

**2. TERM** – The Service Term of this Agreement shall be specified on the Subscriber Agreement and shall commence as of the date hereof. Thereafter, unless Customer or Company terminates this Agreement as provided for herein, this Agreement shall automatically renew on a month-to-month basis. Notice of termination by customer shall be made only in writing to Company at the address shown on Customer's bill. Company reserves the right not to renew this Agreement at any time prior to the conclusion of the Service Term or any renewal term. Except for a Customer termination in response to Company changes in accordance with Section 1 above, a \$200 cancellation fee per unit will be charged to Customer for cancellation within the Service Term, if a one or two year Service Term is selected on the Subscriber Agreement. If Company permits Customer to suspend Service to Customer's account(s) for a temporary period, Company may extend the term of this Agreement by the length of the temporary suspension. If Customer changes rate plans during the Service Term of this Agreement, or upgrades Equipment at any time, then Customer may be required to start a new Service Term of up to 24 months as of the date of the change or upgrade and may be subject to a transfer fee.

**3. CREDIT APPLICATION** – This Agreement shall be contingent upon Company's approval of Customer's credit application. Company may require Customer to update its credit application or information from time to time. Customer warrants and represents that all information furnished on the credit application is current, complete, accurate, and true. If Company subsequently determines that any statements made on the credit application are false, incomplete or inaccurate, Company may declare Customer to be in default under this Agreement and may exercise any remedies it has under this Agreement at law or in equity. Customer understands that Company will rely upon the credit information provided by Customer, including but not limited to Customer's social security number or tax identification number, and other confidential and personal financial and credit information requested by Company and supplied by Customer, in making a decision to provide Services. Customer consents to Company's requests for and verification of Customer's bank references and Company's performance of a credit history check utilizing standard commercial credit reference services in connection with Company's review of the Customer's creditworthiness. Customer acknowledges that Company may provide payment history and other billing/charge information to a credit reporting agency for inclusion in Customer's records maintained by such credit reporting agency. Customer understands that a security deposit or limitation on the amount of charges Customer may incur with respect to any Number may be required.

**4. EQUIPMENT AND INSTALLATION** – If the sale is for cash only, title to the Equipment shall be transferred to Customer upon receipt by Company of a cashier's or certified check or other equally secure form of payment in the amount set forth on the front of this Agreement. Company shall not be liable to Customer for delays in delivery or unavailability of Equipment or any part thereof or for the cancellation of any orders of Equipment by the manufacturer. Customer, at its option, may have the Equipment installed by Company at the rate specified on the front of this Agreement. If Customer purchases the Equipment on credit, installations, repairs, and removal of Equipment must be performed by a party authorized by Company. Company shall not be liable for any damage to Customer's

vehicle(s) or Equipment which may result from installation of Equipment by any person who is not employed by Company. Customer shall not modify, disassemble, de-install or alter the Equipment in any manner whatsoever, except in accordance with the User Guide accompanying the Equipment.

**5. CUSTOMER RADIO EQUIPMENT** – Company is not responsible for the installation, operation, quality of transmission, or, unless separate maintenance arrangements have been made between Company and Customer, maintenance of the Equipment. Any change in Service or Equipment may require additional programming or Equipment or changes to assigned codes or numbers which may require programming fees. Company reserves the right to change or remove assigned codes and/or numbers when such change is reasonably necessary in the conduct of its business. Customer does not have any proprietary interest in such codes or numbers. Although Federal and state laws may make it illegal for third parties to listen in on service, complete privacy cannot be guaranteed. Company shall not be liable to Customer or to any third party for any eavesdropping or interception of communications from Company's System.

**6. NEXTEL WIRELESS WEB SERVICES** – Nextel Wireless Web Services, consisting of certain applications such as email, data, information and other wireless internet services (the "Applications") are part of the Services that can be obtained through Company. Certain Applications offered by Company or authorized third parties may be compatible with the Equipment and/or the Service offered by Company. Customer acknowledges and agrees that there is no guarantee or assurance that the Applications are compatible, or will continue to be compatible, with Company's System or any of its Equipment or Service offerings. Such compatibility or approval from Company of compatibility shall not be construed as an endorsement of a particular Application or a commitment on the part of Company that Application(s) will continue to be compatible with the System, Equipment or Service for any period of time. Company reserves the right, in its sole discretion, to disable or discontinue any Application for any reason. Use of Nextel Wireless Web Services requires a wireless internet compatible phone, and is subject to any storage, memory or other Equipment limitation. Only certain internet sites may be accessed, and certain Nextel Wireless Web Services may not be available in all Company Service areas. Nextel Online "Gold" Services are those Internet and data Services offered in conjunction with a Service plan using the suffix "Gold"; e.g., Packetstream Gold. Company may charge an activation fee for each IP address for these Services. These services may be used only with mobile clients for Internet/intranet access and Internet e-mail via a standard HTML browser (e.g., Netscape® Navigator or Communicator, Microsoft® Internet Explorer, etc.). It may also be used with software for proxy applications, for dispatch applications, for POP3 email access, and for other use specifically approved by Nextel. These Internet and data Services may not be substituted for a private line or frame relay connection, or be used for streaming data feeds. Company reserves the right to deny service, without notice, to any Customer whose usage adversely impacts Company's network, systems or other subscribers' use of Services.

**7. APPLICATION CUSTOMER CARE AND SUPPORT** – Customer acknowledges and agrees that in most cases, the developer of an Application is responsible for providing customer care and Application support to all Customers using the Application. In the event Customer contacts Company customer care with a problem concerning the use of an Application, Customer may be referred to the Application developer's customer care, and Company shall have no obligation to support such Application.

**8. CONTENT; COMMUNICATIONS WITH OTHERS; INTELLECTUAL PROPERTY RIGHTS** – Company is not a publisher of third party content that Customer may from time to time access through Nextel Online Services; therefore Company is not responsible for the content provided by such third parties, including but not limited to statements, opinions, graphics, photos, music, services and other information ("Content"), and accessed by Customer through Nextel Online Services. Nor is Company responsible for the actions of third parties arising from a Customer's contact with such third parties via Nextel Online Services, whether such contact is facilitated through Customer's own initiative or via an embedded link on the Equipment. Company gives no guarantee or assurance as to the currency, accuracy, completeness or utility of Content obtained through Nextel Online Services. Company, Content providers and others have proprietary interests in certain Content. Customer shall not, nor permit others, to reproduce, broadcast, distribute, sell, publish, commercially exploit or otherwise disseminate such Content in any manner without the prior written consent of Company, Content providers, or others with proprietary interests in such Content, as applicable.

**9. DEPOSITS** – Customer shall provide Company with a deposit towards the purchase of the Equipment in the amount set forth on the front of this agreement. Company also has the right, exercisable

in its sole discretion at any time or from time to time, to require Customer to make a deposit to guarantee payment of sums due hereunder, including Service charges. Unless otherwise required by law, deposits may be mixed with other funds and will not earn interest. Customer hereby grants Company, as applicable, a security interest in such deposits, to secure the payment of all sums due hereunder as well as the performance of all other payment obligations Customer may have to the Company whether now existing or hereafter arising. Upon termination of Service or such other time as required by law, Company shall apply the deposit against any outstanding Service charges of Customer or any other amount owed to the Company. Any remaining deposit balance will be released to the Customer at the Customer's last known address within approximately 90 days (or such shorter period as may be required by law). In all cases, Customer agrees that any remaining balance will be retained by Company in the event the postal service is unable to deliver the funds to the Customer at the latest address known to Company. Company reserves the right to interrupt Services if Service appears to have excessive charges, payments are delinquent, any unusual calling patterns are observed on Customer's account, or during public safety emergencies. Company may interrupt Service to protect Customer or Company as the Company determines in its sole discretion, but in no event shall the Company be liable to the Customer or to any third party by reason of interrupting or failing to cause an interruption of Service.

**10. RATES, CHARGES, AND PAYMENT** – The price established for Service is set forth in the current Company rate plan(s) selected by Customer. Company shall issue invoices for Service. Airtime and long distance charges shall be invoiced in arrears. Customer is responsible to pay Company, on a timely basis, for charges for Service as set forth on the front of this Agreement, and any modifications thereto. If Customer elects to pay using a Company-approved credit card or debit card and Customer wishes to pay all amounts in this manner on a recurring basis, Customer hereby authorizes Company to charge the credit cards or debit cards specified by Customer from time to time on a recurring basis for all charges incurred on the Company Account Numbers set forth on Customer's invoice. Customer (i) expressly authorizes Company to charge Customer's designated credit card or debit card account number(s) for all fees and charges incurred; and (ii) reauthorizes Company to charge such account number each time services are used. Customer shall promptly notify Company of any changes to the credit card or bank account used for payment. Enrollment is for the duration of this Agreement unless cancelled earlier by either party with thirty (30) days advance written notice to the other party. Customer acknowledges that chargeable time for telephone calls and Nextel Direct Connect call transmissions originated by a unit begin when a connection is established with Company facilities. A new Nextel Direct Connect call is initiated by a call participant if that participant responds more than six (6) seconds after the other party finishes its Nextel Direct Connect transmission. Customer accepts responsibility for Airtime charges from incoming telephone calls to its mobile unit from the time that Customer responds to the call. Direct Connect, Group Connect, Nationwide Direct Connect and International Direct Connect charges are calculated by multiplying the minutes of use, number of participants, and applicable rate, to be paid by the initiator. Customer may be assessed long distance charges (including international calling) or other charges for "toll-free" calls to 800, 866, 877, 888 and other toll-free numbers. Customer also may be charged for the use of special Services such as 411 services or call-forwarding. If Customer disputes any Service charges, Customer must pay the entire amount set forth in the invoice by the due date and submit a written explanation within forty five (45) days from the date on the invoice. If Company determines that an error was made on Customer's invoice, Company shall credit Customer's account in the amount of the error. If Customer does not pay the amount in dispute, Company may exercise any remedies it may have under this Agreement for non-payment of Service charges. Company reserves the right to modify any and all elements of the Service charges at any time and each such modification shall be effective immediately upon the Company's communication thereof to Customer, unless the Company's communication indicates a later effective date with respect to such modification. Customer shall be responsible for paying amounts due as agreed to in this Agreement. If Customer does not make all payments when they are due, such failure shall be a default under this Agreement and Company shall be entitled to exercise any remedies it may have under this Agreement or at law or in equity. If Customer accepts delivery of the Equipment, the Customer may not return the Equipment or receive a refund or any amounts paid.

**11. NONPAYMENT/BREACH** – A LATE PAYMENT CHARGE OF 5% OF THE UNPAID MONTHLY CHARGES MAY BE APPLIED TO CUSTOMER'S ACCOUNT EACH MONTH FOR UP TO THREE MONTHS ON ALL ACCRUED CHARGES IF FULL PAYMENT FOR ALL ACCRUED CHARGES IS NOT RECEIVED WITHIN 15 DAYS OF THE DUE DATE. THE LATE PAYMENT CHARGE IS FOR COSTS RELATED TO THE NON-TIMELY

## TERMS AND CONDITIONS

PAYMENT AND SHALL NOT BE DEEMED AN INTEREST PAYMENT. IF IN ANY STATE, THE 5% LATE PAYMENT CHARGE EXCEEDS THE AMOUNT THAT MAY BE LEGALLY CHARGED, THEN THE LATE PAYMENT CHARGE SHALL BE DEEMED TO BE THE HIGHEST AMOUNT ALLOWED UNDER THE APPLICABLE LAW. A charge of \$39.95 (or the maximum amount permitted by law) will be made by Company for any check or negotiable instrument tendered by Customer and returned unpaid by a financial institution for any reason. Company may demand payment by money order, cashier's check, or similarly secure form of payment, at Company's discretion at any time or from time to time. If Company obtains the services of a collection or repossession agency or an attorney to assist Company in remedying Customer's breach of this Agreement, including but not limited to the nonpayment for charges hereunder, Customer shall be liable for this expense.

**General** – Nextel may limit, suspend or terminate Customer's Service or this Agreement at any time and without providing notice to Customer if: (1) Customer fails to pay any charges (including, without limitation, any charges assessed on behalf of third parties) when due under this Agreement; (2) Customer behaves in an abusive, derogatory, or otherwise unreasonable manner to any Nextel employee, representative or agent; (3) Nextel has reason to believe that Customer's Service is being used in a fraudulent manner or for an illegal purpose (such as unusual activity levels or calling patterns); (4) Customer's Service is being used in a way that adversely affects other Customers' Service or Nextel's business operations; (5) Customer provides Credit Information that is false, inaccurate, dated or cannot be verified or Customer becomes insolvent or subject to any proceeding under the Bankruptcy Code or similar laws; (6) Nextel discovers that Customer is underage or does not otherwise possess the capacity or the authorization to enter into this Agreement; (7) Customer's use of the Service or Equipment exceeds limitations or violates any restrictions placed on Customer's account or otherwise breaches this Agreement; or (8) Nextel, in its sole discretion, believes action is required to protect its interests or the interests of Customer or its other customers. NEXTEL SHALL NOT BE LIABLE TO CUSTOMER OR TO ANY OTHER PARTY FOR EXERCISING OR FAILING TO EXERCISE ITS RIGHTS UNDER THIS SECTION TO LIMIT, SUSPEND OR TERMINATE SERVICE OR THE AGREEMENT. If Customer's Service is subject to fraudulent use, Customer shall immediately notify Nextel's Customer Care department, provide Nextel with any documentation and information that it requests and otherwise cooperate with Nextel in the investigation of such incident. If Nextel terminates Service to Customer, and Service is not reconnected within thirty (30) calendar days, all amounts owed to Nextel (including any damages for early termination) shall become immediately due and payable.

**Reactivation** – Nextel may, but is not required to, reactivate Service to Customer after Service has been suspended or terminated in accordance with the previous subsection. Before Service may be reactivated, Customer must pay to Nextel all past due amounts plus a reconnection charge equal to \$25.00 per Number, plus applicable taxes. Nextel may modify the terms of Service before reactivating Service to Customer and may require Customer to provide Nextel with an initial Deposit or an additional Deposit.

**12. RISK OF LOSS; INSURANCE** – Upon Customer's acceptance of delivery of the Equipment, all risk of loss, damage, theft, or destruction to the Equipment shall be borne by the Customer. No such loss, damage, theft, or destruction of the Equipment, in whole or part, shall impair the obligations of Customer hereunder, including, without limitation, responsibility for the payment of Service Charges due hereunder.

**13. PROPERTY DAMAGE INSURANCE** – If Customer selects Direct Protect insurance protection, Customer acknowledges that insurance protection is offered by The Signal Telecommunications Insurance Services ("Signal"), not Company, and that any request for information or claims regarding the insurance shall be directed to Signal at 1-888-352-9182. Customer acknowledges having received a summary of coverage, including deductible information, which is also available by calling Signal.

**14. TAXES, FEES, SURCHARGES & ASSESSMENTS** – Customer is responsible for all federal, state, and local taxes, fees, surcharges, and other assessments (collectively, "charges") that are imposed on telecommunications services, other services, and equipment or that are measured by gross receipts from the sale of telecommunication services and/or equipment. Such charges shall include, but are not limited to: excise taxes; sales and transaction taxes; utility taxes; regulatory fees and assessments; universal service assessments, and telephone relay service (TRS) assessments. Customer shall be responsible for such charges regardless of whether the charge is imposed upon the sale of equipment or services, upon Customer, or upon Company. If any such charge is determined to be applicable and has not been paid by Customer before Customer accepts delivery of equipment, Customer shall pay Company the full amount of any such charge no later than ten (10) days after receipt of the invoice.

**15. COVERAGE AREA** – Local Dispatch (Direct Connect), cellular

calling, Nextel Wireless Web Services, and respective coverage areas for these Services are subject to change at any time at the sole discretion of Company.

**16. LIMITATION AND CONDITION OF LIABILITY; INDEMNITY** – Company does not assume and shall have no liability under the Agreement for (i) failure to deliver the Equipment within a specified time period; (ii) availability and delays in delivery of the Equipment, or (iii) damage caused to the Equipment due directly or indirectly to causes beyond the control of Company, including, but not limited to acts of God, acts of the public enemy, acts of the government, acts or failure to act of the Customer, its agents, employees or subcontractors, fires, floods, epidemics, quarantine restrictions, corrosive substances in the air or other hazardous environmental conditions, strikes, freight embargoes, inability to obtain materials or services, commotion, terrorism, war, unusually severe weather conditions or default of Company's subcontractors whether or not due to any such causes; (iv) the use of Nextel Online Services, including but not limited to the accuracy or utility of any information acquired from the Internet through Nextel Online Services; or Internet Services, Content or Applications whether or not supported by Company; or (v) any action Company takes in its sole discretion to protect Company's network, systems, and the rights or property of Company, its subscribers, or others from "hacking," "spamming," "viruses" or other acts of third parties that Company believes adversely impact its network or systems. WITHOUT LIMITING THE FOREGOING, THE COMPANY'S SOLE LIABILITY FOR SERVICE DISRUPTION, WHETHER CAUSED BY THE NEGLIGENCE OF THE COMPANY OR OTHERWISE, IS LIMITED TO A CREDIT ALLOWANCE NOT EXCEEDING AN AMOUNT EQUAL TO THE PROPORTIONATE CHARGE TO THE CUSTOMER FOR THE PERIOD OF SERVICE DISRUPTION. EXCEPT AS OTHERWISE SET FORTH IN THE PRECEDING SENTENCE, IN NO EVENT IS THE COMPANY LIABLE FOR ACTUAL, CONSEQUENTIAL, INCIDENTAL, SPECIAL OR OTHER INDIRECT DAMAGES CAUSED BY ITS NEGLIGENCE OR OTHERWISE, NOR FOR ECONOMIC LOSS, PERSONAL INJURIES OR PROPERTY DAMAGES SUSTAINED BY THE CUSTOMER OR ANY THIRD PARTIES. Customer agrees to indemnify, defend, and hold Company harmless from any Customer violations of FCC rules and regulations or Customer violation of any statutes, ordinances or laws of any local, state, or federal public authority.

**17. COMPLETE AGREEMENT/SEVERABILITY/WAIVER** – This Agreement sets forth all of the agreements between the parties concerning the Service and purchase of the Equipment, and there are no oral or written agreements between them other than as set forth in this Agreement. Except for changes made by Company in accordance with Section 1 above, no amendment or addition to this Agreement shall be binding upon Company unless it is in writing and signed by both parties (and, in the case of the Company, by an officer of the Company). Company shall not be bound by the terms and conditions in Customer's purchase order or elsewhere, unless expressly agreed to in writing by an officer of the Company. This Agreement becomes effective when accepted by the Company. Should any provision of this Agreement be illegal or in contravention of the law, such provision shall be considered null and void but the remainder of this Agreement shall not be affected thereby. The failure of Company, at any time to require the performance by Customer of the provisions of this Agreement shall not affect in any way the right to require such performances at any later time nor shall the waiver by Company of a breach of any provision hereof be taken or held to be a waiver of compliance with or breach of any other provision or a continuing waiver of such provision.

**18. ASSIGNMENT/RESALE/GOVERNING LAW** – This Agreement may be freely assigned by Company to any successor of it or any other firm or entity capable of performing its obligations hereunder, and upon any such assignment, Company shall be released from all obligations to Customer. Customer may not assign this Agreement, or resell the services which are subject to this Agreement without prior written consent of Company. Subject to the restrictions contained herein, this Agreement shall bind and inure to the benefit of the successors and permitted assigns of the parties hereto. This Agreement shall be governed by the laws of the State or Commonwealth in which this Agreement is executed by the Company.

**19. NOTICE REGARDING USE OF SERVICE FOR 911 OR OTHER EMERGENCY CALLS** – (a) The Service provided hereunder does not interact with 911 and other emergency services in the same manner as landline telephone service. Depending on Customer's location and the circumstances and conditions of a particular call, the Service provided hereunder may not be able to identify Customer's telephone number and/or location to emergency services, and Customer may not always be connected to the appropriate emergency services provider. Company is deploying wireless Enhanced 911 ("E911") service to help public safety authorities locate Customers and other users of the Service who make 911 calls. However, E911 is not available in all areas, and even in those areas where it is implemented, inherent limitations in this advanced wireless technology prevent it from being 100% reliable. Accordingly, Company agrees to provide Customer

with E911 service where available, and Customer acknowledges that E911 service is not available in all areas and is not completely reliable. (b) Customer hereby consents to Company's disclosure of Customer information, including but not limited to Customer name, address, telephone number, and location, to governmental and quasi-governmental institutions such as emergency service providers and law enforcement agencies, where Company deems it necessary to respond to an exigent circumstance.

**20. NO WARRANTY (SERVICE)** – COMPANY MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE TO CUSTOMER IN CONNECTION WITH ITS USE OF THE SERVICE. IN NO EVENT SHALL COMPANY BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL OR OTHER INDIRECT DAMAGES TO THE FULL EXTENT THE SAME MAY BE DISCLAIMED BY LAW. CUSTOMER ACKNOWLEDGES THAT SERVICE INTERRUPTIONS WILL OCCUR FROM TIME TO TIME, AND AGREES TO HOLD COMPANY HARMLESS FOR ALL SUCH INTERRUPTIONS.

**21. NO WARRANTY (EQUIPMENT)** – COMPANY MAKES NO WARRANTIES OR REPRESENTATIONS OF ANY KIND, STATUTORY, EXPRESS OR IMPLIED, TO CUSTOMER OR TO ANY OTHER PURCHASER OF THIS EQUIPMENT. WITHOUT LIMITING THE FOREGOING, COMPANY SPECIFICALLY MAKES NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. CUSTOMER HEREBY WAIVES, AS AGAINST COMPANY, ALL OTHER WARRANTIES, GUARANTEES, CONDITIONS, OR LIABILITIES, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE. IN NO EVENT SHALL COMPANY BE LIABLE FOR CONSEQUENTIAL, SPECIAL, OR INCIDENTAL DAMAGES, WHETHER OR NOT OCCASIONED BY COMPANY NEGLIGENCE AND INCLUDING, WITHOUT LIMITATION, LIABILITY FOR ANY LOSS OR DAMAGE RESULTING FROM THE INTERRUPTION OR FAILURE IN THE OPERATION OF ANY EQUIPMENT SOLD OR OTHERWISE PROVIDED HEREUNDER. THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION CONTAINED HEREIN. CUSTOMER ASSUMES THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF THE EQUIPMENT. UNLESS OTHERWISE AGREED BY COMPANY, IF THE EQUIPMENT PROVES DEFECTIVE, THE COSTS OF ALL NECESSARY SERVICING AND REPAIR WILL BE BORNE BY CUSTOMER.

**22. NETWORK SECURITY, INTEGRITY, AND OPTIMIZATION** – Company may take any and all action it deems necessary or reasonable to (i) protect its network and systems, or the rights of Company, Company's subscribers or others; (ii) optimize or improve its network or systems; or (iii) improve its products and services. Such action may include, without limitation, employing methods, technologies, or procedures to filter or block messages sent through Company's network or systems. Accordingly, Company may, in its sole and absolute discretion, at any time, filter "spam", without regard to any customer preference solicited by Customer or exercised by Customer. Company shall not be liable to Customer or to any third party for blocking messages sent through Company's network or systems.

**23. CUSTOMER INFORMATION** – Company may in its sole discretion access, use, and disclose to third parties, any information (whether personally identifying information, or "customer proprietary network information," within the meaning of 47 U.S.C. § 222 and its implementing regulations) it collects, possesses or develops about Customer (i) to provide any product or service that Customer purchases, or accesses through or uses on the Equipment; (ii) to conduct marketing activities in accordance with applicable law, and Company's privacy policy, as described below; (iii) to provision a number portability request, either through Company or a new service provider; (iv) to comply with the law; or (v) to respond to emergencies. Customer acknowledges that (i) Company posts a privacy policy on its website that explains its policies with respect to the collection, access, use, and disclosure of personal customer information gathered on its website; (ii) Company may revise such policy at any time; and (iii) the most recent version of such policy shall at any time serve as the effective privacy policy, regardless of the date on which Customer entered into this Agreement.

**24. COMMERCIAL LOCATION BASED SERVICES** – If Customer purchases any commercial location based service for use through Company's network or Equipment, Customer shall clearly, conspicuously, and regularly notify all its users that location information (i.e., the geographic coordinates of the Equipment) may be accessed, used, or disclosed to provide the location based service and that, as a result, Customer or someone other than the user of the Equipment may be able to identify the geographic coordinates of the Equipment. CUSTOMER AGREES TO INDEMNIFY AND HOLD COMPANY HARMLESS AGAINST ANY AND ALL CLAIMS, DEMANDS, ACTIONS, OR CAUSES OF ACTION (INCLUDING ALL ACTIONS BY THIRD PARTIES) ARISING OUT OF A BREACH OF THE OBLIGATIONS ENUMERATED IN THIS SECTION 24 OF THE AGREEMENT.