



## Powernet Business Wireless Terms and Conditions

**Please read this Agreement carefully before using your Wireless Service. By using the Service you agree to be bound by these terms and conditions.**

**IF YOU DO NOT WANT TO ACCEPT THESE TERMS AND CONDITIONS, DO NOT USE YOUR WIRELESS DEVICE.** You may cancel your Service if you inform us in writing or by calling us at 1-866-221-5427 and returning to us in unused condition any wireless device you received from us within thirty (30) days of delivery. Please see below Section 7.d., Returns.

This is an agreement (“Agreement”) for wireless telecommunications services and related services and/or features (“Service”) between you and PNG Telecommunications, Inc. d/b/a Powernet (“Powernet”). The words “we”, “us”, or “our” refers to Powernet. You represent that you are at least eighteen (18) years of age and have the legal capacity to accept this Agreement on behalf of your business entity. This Agreement explains the terms and conditions upon which we agree to provide you Service or products and you agree to accept any Service or products provided by us. More specific information about your Service is provided in your individual service order(s) (“Service Order(s)"). It is your responsibility to fully read the Service Order(s) prior to using the Service.

1. **Changes to the Agreement. We may make changes to this Agreement, Service Order(s), Calling Plan or Service at any time upon thirty (30) days written notice to you.** If you use the Service after the effective date of the changes as stated in the notice, then you have accepted the new terms, rates and conditions of the Service. If you do not accept the changes, then do not use the Service after the effective date and inform us in writing or call us at 1-866-221-5427 to cancel your Service. Any cancellation of your service may result in fees, charges, and penalties as outlined in this Agreement and any applicable Service Order.
2. **Activating your Service.** Prior to activating your Service, we may check your credit and verify your identity. Your wireless Service is subject to credit approval prior to activating your Service and continuing credit approval while you are using our Service. You agree to provide us with accurate billing information, including your business name, business address, telephone number(s), and information for individual users of our wireless devices at your business. You must report any changes to this information to us within thirty (30) days of any change. You may be required to make a prepayment on your account if your credit has not been established to our satisfaction or if your credit or payment history becomes unsatisfactory to us. If you fail to provide the requested prepayment within two (2) business days of our request, you will be deemed in breach of your obligations under this Agreement, which shall entitle Powernet to suspend or terminate your Service immediately and without notice pursuant to Section 10.
3. **Charges and Rates for Service.**
  - a. **Calling Plan charges. You agree to pay the monthly access charges, airtime charges, long distance charges, roaming fees, data charges, SMS charges, MMS charges, taxes, surcharges and any other applicable fees for Services you used.** Your rates and charges are based on the Calling Plan, Data Plan, Texting Plan and/or Bundling Plan (collectively “Calling Plan”) that you choose and are detailed in your Service Order. Read your Calling Plan and Service Order carefully. Your Calling Plan describes your monthly access charge, the number of minutes included in your airtime monthly allowance, the number of megabytes included for data, the number of messages included for SMS, and the rate per minute for additional minutes, the rate per megabyte for additional data usage, the rate per message for additional SMS and MMS usage, long distance and roaming fees. You are considered to be roaming and subject to a roaming charge whenever a call you make or receive, a SMS or MMS message you send or receive, or data service you use, is carried by another carrier. Your Calling Plan may have different rates for weekdays and nights. **Any calls made between the hours of 9:00 p.m. and 6:00 a.m. on any Monday through Thursday are considered night or offpeak minutes. Any calls made between the hours of 9:00 p.m. Friday through 6:00 a.m. Monday are considered weekend minutes or offpeak minutes. These times are based on time of day at the cell site or switch providing your service. All other calls are considered to be using peak minutes. We charge airtime for most calls, including toll free and operator assisted calls. International calls are not included in any Calling Plan. All international calls will incur airtime charges and international per minute fees.** For international calling rates, contact us at 1-866-221-5427. **You agree to pay for all additional**

**airtime charges, roaming fees, long distance fees, international calling fees, SMS charges, MMS charges, Data charges and other fees that are not included in your Calling Plan. All rates are subject to periodic changes at the discretion of Powernet. Any such changes will be reflected in your Service Order(s).**

- b. **Voice and Data Plans.** A voice plan is required on all voice-capable Devices, unless specifically noted otherwise in the terms governing your plan. An eligible tiered pricing data plan is required for certain Devices, including iPhones and other designated Smartphones. Eligible voice and tiered pricing data plans cover voice and data usage in the U.S. and do not cover international voice and data usage and charges. If it is determined that you are using a voice-capable Device without a voice plan, or that you are using an iPhone or designated Smartphone without an eligible voice and tiered pricing data plan, we reserve the right to switch you to the required plan or plans and bill you the appropriate monthly fees. In the case of the tiered data plan, you will be placed on the data plan which provides you with the greatest monthly data usage allowance. If you do determine that you do not require that much data usage in a month, you may request a lower data tier at a lower monthly recurring fee.
- c. **Voicemail.** Unless you subscribe to an Unlimited Voice Plan or are an upstate New York customer subscribing to Enhanced Voicemail, airtime charges apply to calls to your voicemail service, including calls where the caller does not leave a message, because the call has been completed, calls to listen to, send, reply to, or forward messages or to perform other activities with your voicemail service, including calls forwarding from other phones to your voicemail service. You are solely responsible for establishing and maintaining security passwords to protect against unauthorized use of your voicemail service. For information as to the number of voicemail messages you can store, when voicemail messages will be deleted, and other voicemail features, see <https://www.att.com/partnerexchange/support/contractDocLibrary.jsp>. We reserve the right to change the number of voicemails you can store, the length you can store voicemail messages, when we delete voicemail messages, and other voicemail features without notice. We may deactivate your voicemail service if you do not initialize it within a reasonable period after activation. We will reactivate the service upon your request. For information about accessing and using your voicemail internationally, please see the above website.
- d. **Voicemail-To-Text (VMTT).** We are not responsible, nor liable for: 1) errors in the conversion of or its inability to transcribe voicemail messages to text/email; 2) lost or misdirected messages; or 3) content that is unlawful, harmful, threatening, abusive, obscene, tortious, or otherwise objectionable. We do not filter, edit or control voice, text, or email messages, or guarantee the security of messages. We can interrupt, restrict or terminate VMTT without notice, if your use of VMTT adversely impacts our network, for example that could occur from abnormal calling patterns or unusually large number of repeated calls and messages; or if your use is otherwise abusive, fraudulent, or does not comply with the law. You are solely responsible for and will comply with all applicable laws as to the content of any text messages or emails you receive from VMTT that you forward or include in a reply to any other person. You authorize Powernet or a third party working on Powernet's behalf to listen to, and transcribe all or part of a voicemail message and to convert such voicemail message into text/email, and to use voicemail messages and transcriptions to enhance, train, and improve our speech recognition and transcription services, software, and equipment. Charges for VMTT include the conversion of the voicemail message and the text message sent to your wireless device. Additional charges, however, may apply to receiving email on your wireless device from VMTT, as well as, replying to or forwarding VMTT messages via SMS (text) or email, depending on your plan. SMS (text messaging) blocking is incompatible with VMTT. If you do not have a texting plan, we add a texting pay per use feature when you add VMTT with text delivery. If you are traveling outside the U.S. coverage area, you will incur international data charges for emails received from VMTT, as well as, charges for emails you respond to or forward from VMTT, unless you have an international calling data plan and the usage falls within the plan's usage limits. Transcription times cannot be guaranteed. Customers purchasing email delivery are responsible for providing a correct email address and updating the email address when changes to the email account are made. If you choose SMS (text) delivery, VMTT only converts the first 480 characters of a voicemail message into text and you will receive up to three text messages of transcribed text. The transcription, therefore, may not include the entire voicemail message with SMS delivery. Adding VMTT will create a new voicemail box and all messages and greetings will be deleted from your current voicemail box.
- e. **Unlimited Voice Services.** Unlimited Voice Services are provided primarily for live dialog between two individuals. If your use of Unlimited Voice Services for conference calling or call forwarding exceeds 750 minutes per month, we may, at our option, terminate your Service or change your plan to one with no unlimited usage components. Unlimited Voice Services may not be used for monitoring services, data transmissions, transmission or broadcasts, transmission of recorded material(s), or other connection which don't consist of uninterrupted live dialog between two individuals. If we find that you're using an Unlimited Voice Service offering for other than live dialog between two individuals, we may, at our option, terminate your Service or change your plan to one with no

unlimited usage components. We will provide notice that we intend to take any of the above actions, and you may terminate Unlimited Voice Services.

- f. **Rollover® Minutes.** If applicable to your plan, Rollover Minutes accumulate and expire through 12 rolling billing periods. Bill Period 1 (activation) unused Anytime Minutes will not carry over. Bill Period 2 unused Anytime Minutes will begin to carry over. Rollover Minutes accumulated starting with Bill Period 2 will expire each bill period as they reach a 12-bill-period age. Rollover Minutes will also expire immediately upon default or if customer changes to a non-Rollover plan. If you change plans any accumulated Rollover Minutes in excess of your new plan included Anytime Minutes will expire. Rollover Minutes are not redeemable for cash or credit and are not transferrable.
- g. **Mobile To Mobile Minutes.** If applicable to your plan, Mobile to Mobile Minutes may be used when directly dialing or receiving calls from any other applicable Powernet wireless phone number from within your calling area. Mobile to Mobile Minutes may not be used for interconnection to other networks. Calls to your voicemail and return calls from voicemail are not included.
- h. **Voice Dial Services.** Regular airtime charges apply. Mobile to Mobile Minutes do not apply. Calls to 911, 411, 611, 711 and international dialing cannot be completed with VoiceDial Services. Caller ID cannot be blocked. Caller ID will be delivered on calls, even if you have permanently blocked your name and number. For complete terms and conditions, see [att.com/voicedial](http://att.com/voicedial).
- i. **Messaging and Data.** Data overage charges are automatically applied. Standard messaging and data rates apply for all devices. 4G Device owners understand that they will incur data charges. 3G phone service is required in some areas where access to 4G network is unavailable. Messages are limited to 160 characters per message. Premium text and picture/video messages are charged at their standard rate as provided by the applicable Service Order(s). Standard rates apply to all incoming messages when in the U.S. Different, non-standard per message charges apply to international messages sent from the U.S. Text, Instant, Picture, and Video messages are charged when sent or received, whether read or unread, solicited or unsolicited. You are charged for each part of messages that are delivered to you in multiple parts. Powernet does not guarantee the delivery of messages. Text, Instant, Picture, and Video messages, including downloaded content, not delivered within seven (7) days will be deleted. We reserve the right to change this delivery period as needed without notification. Additional information and details can be found at [att.com/messages](http://att.com/messages).
- j. **Data Plans.** Some features, including streaming video and music, require a data plan, as do all 4G devices. **You agree to pay for any data used for these services. Data usage occurs whenever your device is connected to the AT&T Network and is engaged in any data transmission, including but not limited to: (i) sending or receiving emails, documents or other content; (ii) accessing websites; (iii) or downloading and using applications.** We may provide wireless data and messaging Services, including but not limited to, features that may be used with Data Services and wireless content and applications (“Data Services”). The absolute capacity of the wireless data network is limited, consequently Data Services may only be used for permitted activities. Pricing and data allowances for Data Services are device dependent and based on the capabilities and capacity of each Device. For Data Services with a monthly megabyte (MB) or gigabyte (GB) allowance, once you exceed your monthly data allowance you will be automatically charged for overage as specified in the applicable rate plan. All data allowances, including overages, must be used in the billing period in which the allowance is provided. Unused data allowances will not roll over to subsequent billing periods. These data plans are designed for use with only one of the following distinct Device types: (1) Smartphones, (2) basic and Quick Messaging phones, (3) tablets, (4) LaptopConnect cards, and (5) stand-alone Mobile Hotspot devices. A data plan designated for one type of device may not be used with another type of device. For example, a data plan designated for use with a basic phone or a Smartphone may not be used with a LaptopConnect card, tablet, or standalone Mobile Hotspot device, by tethering devices together, by SIM card transfer, or any other means. A data tethering plan, however, may be purchased for an additional fee to enable tethering on a compatible device. An Activation Fee will apply for each data line. **POWERNET RESERVES THE RIGHT TO TERMINATE YOUR DATA SERVICES WITH OR WITHOUT CAUSE, INCLUDING WITHOUT LIMITATION, UPON EXPIRATION OR TERMINATION OF YOUR MRA.**
- k. **Messaging Unlimited with Mobile to Any Mobile Calling Feature.** Available only with select Nation and BusinessTalk plans and can be discontinued at any time. Messaging Unlimited Plan required. Mobile to Any Mobile minutes only apply when you directly dial another U.S. mobile number or directly receive a call from another U.S. mobile phone number from within your calling area in the U.S., Puerto Rico, or U.S.V.I. Calls made through Voice Connect, calls to directory assistance, and calls to voicemail and return calls from voicemail are not included. Only

numbers included in the wireless number database that we use will be treated as a call to a mobile number or a call received from a mobile number. So for example, Type 1 numbers belonging to other carriers and not included in the industry wireless LNP database, and numbers for which ports to wireless service have not yet been completed, will not be treated as a call to a mobile number or a call received from a mobile number. Also calls made to and calls received from mobile toll-free numbers, mobile chat lines, mobile directly assistance, calling applications, numbers for call routing and call forwarding services, and machine to machine numbers are not included.

- l. **Mobile Email.** Requires e-mail account with compatible Internet service provider and a downloaded or preloaded e-mail application for the wireless device. Access and use of Mobile Email is billed by total volume of data sent and received (in kilobytes) in accordance with your data plan. E-mail attachments cannot be sent, downloaded read, or forwarded on the mobile device. Only a paper clip icon appears indicating an attachment. You must view attachments from your PC. Upgrades to the application may be required in order to continue to use the Service. Wireless data usage charges will apply for downloading the application and any upgrades.
- m. **Mobile Video.** Compatible Device and eligible data plan required. Service is not available outside AT&T's Mobile Broadband and 4G coverage area. Premium content is charged at stated monthly subscription rates or at stated pay per view rates. Content rotates and is subject to withdraw. Mobile Video is for individual use, not for resale, commercial purposes or public broadcast. Content can only be displayed on the Device screen. No content may be captured, downloaded, forwarded, duplicated, stored, or transmitted. The content owner reserves and owns all content rights. All trademarks, service marks, logos, and copyrights not owned by Powernet are the property of their owners. Some Mobile Video content is intended for mature audiences and may be inappropriate for younger viewers. Parental guidance suggested. Use Parental Controls to restrict access to mature content. Content may be provided by independent providers, and Powernet is not responsible for their content. Providers may collect certain information from your use for tracking and managing content usage.
- n. **Additional features and Service charges.** Additional features or Services such as time, weather, operator or directory assistance, call dialing, calling card use, call forwarding, data calls, automatic call delivery, voice mail, and text messaging, including premium SMS messaging, may have additional charges. Messaging, Text, picture, video, and instant messages must be sent to and/or received from within the coverage area. Mobile to mobile calling applies to direct calls to and from U.S. mobile numbers only. International and roaming calls not included. **You agree to pay any such additional charges at our then current rates. Unless required by your device, features may be cancelled at any time and are subject to change.**
- o. **Business Applications.** Additional charges and device restrictions may apply for access to corporate email/intranet sites and business applications. **Powernet cannot guarantee security if you access your company email or information from your device. It is your responsibility to ensure your use complies with your company's internal IT and security procedures.**
- p. **International Services.** International rates apply for calls made and messages sent from the U.S., Puerto Rico, and U.S.V.I. to another country. Calling or messaging to some countries may not be available. Calls to wireless numbers and numbers for special services may cost more than calls to wireline numbers. If you call an overseas wireline number and the call is forwarded to a wireless number, you will be charged for a call terminated to a wireless number. **International Long Distance** calling rates are charged per minute and apply throughout the same footprint in which your airtime package minutes apply. Additional charges apply for premium messages, including picture and video messaging. **International Roaming:** A compatible device is required for international roaming. Some plans allow for the ability to make and receive calls while roaming internationally. International roaming rates vary by country and apply for all calls placed or received while outside the U.S., Puerto Rico, and U.S.V.I. Please consult [att.com/global](http://att.com/global) for a list of currently available countries and carriers. All countries may not be available for roaming. All carriers within available countries may not be available on certain plans or packages. Availability, quality of coverage, and services while roaming are not guaranteed. Charges for international roaming may be applied if the device is taken out of the US even if no services are intentionally used. Billing for international roaming usage may be delayed up to three billing cycles due to reporting between carriers. Taxes are additional. You may request that features and calling ability is blocked while traveling internationally by calling us at 1-866-221-5427. **International Data:** International data rates apply to all data usage outside the U.S., Puerto Rico, and U.S.V.I., including accessing cloud-based services to upload/download/stream content. Many devices transmit and receive data messages, including Visual Voicemail, without user intervention and can generate unexpected charges when powered "on" outside the U.S., Puerto Rico, and U.S.V.I. You are responsible for all such charges. **Cruise Shio Roaming:** Additional charges and rates apply for all calls placed, messages sent, or data used while on the ship.

- q. **Taxes and Surcharges.** You agree to pay all charges for federal, state, and, where applicable, local taxes we bill you. These may change from time to time without notice to you. You also agree to pay any surcharges, access fees, governmental fees and similar fees such as fees for Universal Service and other Regulatory and Administrative fees that we bill you. We set these charges and they are not taxes. We may change these charges at any time or add additional types of these charges.

#### 4. **Billing.**

- a. **Bill Cycle.** You will be billed monthly, generally beginning when your Service began. Billing cycles may change from time to time without notice. Monthly access charges, fees and taxes are usually invoiced one billing cycle in advance. Other charges such as any airtime charges or any other chargeable time are generally invoiced soon after they are incurred. In some instances they may be applied against your airtime allowance in a subsequent billing cycle. Unused airtime minutes cannot be carried forward or credited on the next monthly bill.
- b. **First Bill.** Your first bill, among other things, may contain the following:
  - i. The price of your equipment and, if applicable, accessory purchase;
  - ii. The sales tax amount from your equipment and accessory purchase;
  - iii. The monthly access fee for the next bill cycle and possibly a prorated amount for the current month.
- c. **Chargeable time.** Your chargeable time starts when you first press "Send" or the call connects to the system. Chargeable time stops when your call disconnects from the system, which will be shortly after you press "End" or the call is otherwise terminated. Partial minutes of use are rounded up to the next minute. Charges will be based on the location of the site receiving and transmitting the call, not the location of the subscriber.
- d. **Payment.** You agree to pay all access, usage, and similar charges and surcharges we bill you, even if you were not the user of your wireless phone and did not authorize its use. Payment is due in full in U.S. dollars by the due date as stated on your bill. If you agree to pay your bill by an automatic withdrawal from a banking institution or credit account, we may request payment from the account for the full invoice amount without additional authorization from you. An additional fee may be imposed for certain methods of payment. If we do not receive your payment in full by the due date, we may charge you a late fee of the lesser of one and one half percent (1 ½%) per month or the maximum fee allowed by law of the unpaid balance. We may charge you a fee up to the maximum allowed by your state if a payment is denied by a financial institution. Restrictive endorsements or statements on checks accepted by Powernet will not be binding upon Powernet.
- e. **Nonpayment and suspension and reactivation charges.** If your bill is not paid in full by the due date, we may immediately and without notice suspend or terminate your Service pursuant to Section 10. If your Service is terminated and later reactivated, we may charge a reactivation fee.
- f. **Disputed charges.** Please contact us at 1-866-221-5427 if you believe that you have been charged incorrectly. You shall submit all disputes to us within thirty (30) days of the date of the invoice in question. If you do not submit your dispute before the end of the thirty (30) day period, then you shall be deemed to have waived the right to dispute the invoice. Customer will submit all disputes via a written statement containing reasonably sufficient detail together with supporting documentation. Both parties will use good faith efforts to resolve the dispute within thirty (30) days from the Due Date of the invoice in question. If, at the end of the thirty (30) day period, the dispute is not resolved, the parties agree to resolve the dispute in the appropriate court of Hamilton County, Ohio. .
- g. **Adjustments.** Powernet may make billing adjustments for Wireless Services for one hundred and eighty (180) days after the date of the invoice for Wireless Services provided by Powernet or for the lessor of one hundred and eighty (180) days or any period allowed by law, government rule or regulation, or contract.

#### 5. **Use of Service.**

- a. **No abuse.** You agree not to use our Service, and any applicable hardware or software, in an abusive, unlawful or fraudulent manner. You may not resell or lease Services to anyone. You are responsible for all use of our Services and charges incurred by your wireless device including but not limited to the use by children or minors. If we suspect that you are using the Service in an abusive, unlawful or fraudulent manner, or in a manner that has an adverse impact on Powernet's network, operations or customers, we may immediately and without notice suspend or terminate your Service pursuant to Section 10. Abusive use shall also include if your use of unlimited airtime

minutes in any one month is unreasonably excessive. Such abuse will allow Powernet to either to move your account to another plan, charge you an additional monthly recurring charge or terminate your service without notice.

- b. **Lost or stolen devices.** If your wireless device is lost or stolen, call us immediately at 1-866-221-5427. You are responsible for all charges incurred before you notify us of the loss or theft. You agree to cooperate with any and all investigations regarding the loss or theft.
- c. **Intellectual Property:** All trademarks, service marks, and trade names used on or in connection with your Services are the property of their respective owners.
- d. **Caller ID Blocking:** Caller ID blocking is not available when using Data Services, and your wireless number is transmitted to internet sites you visit. You may receive unsolicited messages from third parties as a result of visiting internet sites, and a per-message charge may apply whether the message is read or unread, solicited or unsolicited.
- e. **Privacy:** Powernet, in connection with AT&T, collects information about the approximate location of your Device in relation to AT&T cell towers and the Global Positioning System (GPS). AT&T uses that information, as well as other usage and performance information also obtained from their network and your Device to provide you with wireless voice and data services, and to maintain and improve the network and quality of your wireless experience. We may also use location information to create aggregate data from which your personally identifiable information has been removed or obscured. Such aggregate data may be used for a variety of purposes such as scientific and marketing research and services such as vehicle traffic volume monitoring. It is your responsibility to notify users on your account that we may collect and use location information from Devices. Third-parties, including downloaded applications may also use location data. For additional information see [att.com/privacy](http://att.com/privacy).
- f. **Intended Use of Wireless Data Service.** Our wireless data network is a shared resources, which AT&T manages for the benefit of all its customers so that they can enjoy s consistent, high-quality mobile broadband experience and a broad range of mobile Internet services, applications, and content. However, certain activities and uses of the network by an individual customer or small group of customers can negatively impact the use and enjoyment of the network by others. Therefore, certain activities and uses of our wireless data service are permitted and others are prohibited. **Permitted Activities.** Our wireless data services are intended to be used for the following permitted activities: (i) web browsing; (ii) emails, and (iii) intranet access if permitted by your rate plan (for example, access to corporate intranets, email, and individual productivity applications like customer relationship management, sales force, and field service automation); (iv) uploading and downloading applications and content to and from the Internet or third-party application stores; and (v) using application and content without excessively contributing to network congestion. **You agree to use our wireless data services only for these permitted activities. Prohibited Activities.** Our wireless data services are NOT intended to be used in any manner which has any of the following effects and such use is prohibited if it: (i) conflicts with applicable law; (ii) hinders other customers' access to the wireless network; (iii) compromises network security or capacity; (iv) excessively and disproportionately contributes to network congestions; (v) adversely impacts network service levels or legitimate data flows; (vi) degrades network performance; (vii) causes harm to the network or other customers; (viii) is resold contrary to AT&T's Partner Exchange program either alone or as part of any other good or service; (ix) tethers a wireless device to a computing device (including but not limited to a computer, Smartphone, eBook or eReader, media player, laptop, or other devices with similar functions) through use of connection kits, applications, devices or accessories (using wired or wireless technology) and you have not subscribed to a specific data plan designated for this purpose; or (x) there is a specific data plan required for a particular use and you have not subscribed to that plan.
- g. **Specifically Prohibited Uses of Wireless Service.** Wireless data service may NOT be used in any manner that defeats, obstructs, or penetrates, or attempts to defeat, obstruct or penetrate the security measures of our wireless network or systems, or another entity's network or systems; that accesses, or attempts to access without authority, the accounts of others; or that adversely affects the ability of other people or systems to use either our wireless services or other parties' Internet-based resources. For example, this includes, but is not limited to, malicious software or "malware" that is designed, intentionally or unintentionally, to infiltrate a network or computer system such as spyware, worms, Trojan horses, rootkits, and/or crimeware; "denial of service" attacks against a network host or individual user; and "spam" or unsolicited commercial or bulk email (or activities that have the effect of facilitating unsolicited commercial email or unsolicited bulk email). Wireless data services may NOT be used in any manner that has the effect of excessively contributing to network congestion, hindering other customers' access to the network, or degrading network performance by maintaining a sustained and continuous wireless data service connection or active wireless Internet connection. For example, this includes, but is not limited to, server devices or host computer applications such a continuous Web camera posts or broadcasts, automatic data feeds, or automated machine-to-machine connections; "auto-responders," "cancel-bots" or similar automated or manual routines that

generate excessive amounts of traffic or that disrupt user groups or email use by others, use of the service as a substitute or backup for private lines or full-time or dedicated data connections; peer-to-peer file sharing services; and software or other devices that maintain continuous active Internet connections when a connection would otherwise be idle or any “keep alive” functions, unless they adhere to Powernet data retry requirements, as may be modified from time to time. Finally, our wireless data services may NOT be used with high bandwidth applications, services, and content that is not optimized to work with our wireless data services and, therefore, disproportionately and excessively contribute to network congestion. This includes, but is not limited to, redirecting television signals for viewing on computing devices, web broadcasting, and/or the operation of servers, telemetry devices, or supervisory control and data acquisition devices, unless they meet Powernet’s wireless data services optimization requirements. **You agree not to use our wireless data services for any of these prohibited activities. You agree that we have the right to take any and all actions necessary to enforce Section 5 of this Agreement if you use our wireless data services in any manner that is prohibited, including, but not limited to: (a) modifying, without advance notice, the permitted and prohibited activities, and the optimization requirements for your wireless data services; (b) engaging in any reasonable network management practice to enhance customer services, to reduce network congestion, to adapt to advances and changes in technology, and/or to respond to the availability of wireless bandwidth and spectrum; (c) reducing your data throughput speeds at any time or place if your data usage exceeds an applicable, identified usage threshold during any billing cycle. We will provide you with advance notice of the usage threshold applicable to your data plan, or any changes to the applicable usage threshold either by bill insert, email, text message or other appropriate means; (d) using reasonable methods to monitor and collect customer usage information to better optimize the operation of the network. Details concerning the information that we collect about customers, and how it uses and protects that information are addressed in the AT&T Privacy Policy at [att.com/privacy](http://att.com/privacy); (e) migration from an unlimited data plan, if you are an unlimited data plan customer, to a tiered data plan and bill you the appropriate monthly fees. We will provide you with notice of this change at least on billing cycle in advance either by a bill insert, email, text message, or other appropriate means; (f) interrupting, suspending, cancelling or terminating your wireless data services without advance notice.**

6. **Coverage and Speed.** Mobile broadband coverage is not available everywhere, nor can we guarantee you will receive coverage at all times, or without interruptions or delays. 4G speeds delivered by LTE or HSPA+ with enhanced backhaul is not available everywhere and requires compatible device and data plan. Actual network speeds depend upon device characteristics, network, network availability, coverage levels, and other factors. Actual coverage and quality of Service may be affected by conditions beyond our control including but not limited to network problems, software, signal strength, your equipment, structures (including buildings in which you may be located), terrain, foliage, and atmospheric and geographic conditions. Continuation of Wireless Service is contingent upon the availability of the provision of Wireless Service by third parties. You can view coverage maps at [wireless.att.com/coverageviewer](http://wireless.att.com/coverageviewer).

## 7. **Equipment.**

- a. **Pricing.** Equipment is provided to Customer at Powernet’s current pricing and is subject to availability.
- b. **Shipping.** Equipment will be shipped to the address designated at the time of the order. Title and risk of loss pass to Customer and acceptance occurs upon receipt of the Equipment by Customer or Customer’s agent at the address designated on Customer’s order. Powernet may charge Customer for shipping.
- c. **Package Shipping Damage or Evidence of Tampering.** If you find damage or tampering to your package after accepting delivery and the damage or tampering was not obvious at the time of delivery, you must report this to us by calling us at 1-866-221-5427 within forty-eight (48) hours of accepting delivery in order to return the package.
- d. **Returns.** You may terminate your Service and return your Powernet provided wireless device or accessory for any reason for a refund within thirty (30) days of delivery of your wireless device or accessory. You remain obligated to pay the pro-rated monthly access and usage charges, all fees, taxes and surcharges that were incurred prior to the termination date. In order to cancel your service and return your wireless device for a refund you must cancel within thirty (30) days of delivery of your wireless device by calling us at 1-866-221-5427 for return authorization and return instructions. You must then immediately return the wireless device as instructed by us in the original box with the original packing slip, tray and all of the parts included. The wireless device, equipment and box must be in like new condition with no more than thirty (30) minutes of use. Any wireless device or equipment subjected to neglect, misuse, water damage, or wear and tear may not be returned for credit. Unless the wireless device is returned in this manner and within the time frame required, a full refund will not be given to you. For information regarding return



of your product, call us at 1-866-221-5427. **A restocking fee for all returned devices applies.**

- e. **Defective equipment.** Wireless devices that become defective during the manufacturer's warranty period after purchase may be returned to the manufacturer for repair or replacement. Wireless devices subjected to neglect, misuse, or water damage may not be returned under the manufacturer's warranty. It is in the manufacturer's sole discretion whether or not to replace or repair your wireless device. If the wireless device is replaced, it may be replaced with a refurbished wireless device. Powernet purchased accessories may only be returned as defective if the accessories are defective immediately out of the box and returned within fourteen (14) days of purchase from Powernet. For information regarding return of your product or more specific information about returned products, call us at 1-866-221-5427.
- f. **Equipment not provided by Powernet.** Customer may not use equipment provided by a third party.
- g. **Equipment Modifications.** If Customer on its own or through a third party, adds, changes, integrates or uses hardware or software to or with the Equipment ("Modifications"), then Powernet shall not be responsible for defects, malfunctions, repair, replacement or claims resulting from such Modifications. Customer may be responsible for any increased usage and charges resulting from such Modifications. Customer shall defend, indemnify and hold harmless Powernet from and against any and all losses and damages claimed by a third party in any action or proceeding against Powernet arising from any Modifications or from Customer's illegal or unauthorized use of the Wireless Service or Equipment.
- h. **Export Restrictions:** Certain international destinations are subject to trade sanctions, embargos and restrictions under U.S. law and import licensing under foreign laws. As of May 1, 2009, the U.S. had embargoes or export restrictions with five countries, including Syria and Sudan, which may require an export license for your wireless device. See <http://www.treas.gov/offices/enforcement/ofac/programs/> and <http://www.bis.doc.gov> for specific information. You are solely responsible for complying with U.S. Export Control laws and regulations, and the import laws and regulations of foreign countries when traveling internationally with your device.
- i. **Software:** The pre-installed/embedded software, interfaces, documentation, data, and content provided on any Device purchased and designed for use exclusively on Powernet's system as may be updated, downloaded, or replaced by feature enhancements, software updates, system restore software or data generated or provided subsequently by Powernet ("Software") is licensed and not sold to you and is only available for use on your Device. Your use of Software shall comply with its intended purposes as determined by Powernet, all applicable laws, and Section 5(a) of this Agreement.

## 8. **Limitation of Liability.**

- a. **Wireless devices and accessories.** We are not responsible for any defects or for the acts or omissions of the manufacturer. We will pass all manufacturer's warranties on your devices and accessories directly to you. Your device may not accept Service from any other provider.
- b. **Local Number Porting.** You may elect to port an existing Telephone Number ("TN") to Powernet for use with the Wireless Service. Powernet will support all valid requests and will cooperate with you to port any TNs in accordance with Powernet's standard operating procedures. You hereby represent and warrant to Powernet that you have all necessary rights and authority necessary to port any TNs and you hereby agree to indemnify, defend, and hold harmless Powernet, its Affiliates, and their officers, directors, employees and agents from and against any third party claim related to or arising out of any porting.

9. **Limitation of Liability; Disclaimer of Warranties. IN THE EVENT OF ANY BREACH OF THIS AGREEMENT OR ANY FAILURE OF THE WIRELESS SERVICES OR EQUIPMENT WHATSOEVER, NEITHER POWERNET NOR ANY OF POWERNET'S SUPPLIERS SHALL BE LIABLE TO YOU OR TO ANY THIRD PARTY FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, SPECIAL, ACTUAL, INCIDENTAL, PUNITIVE OR ANY OTHER DAMAGES, OR FOR ANY LOST PROFITS OF ANY KIND OR NATURE WHATSOEVER, CAUSED DIRECTLY OR INDIRECTLY BY THE EQUIPMENT, USE OF THE EQUIPMENT BY YOU, THE MANUFACTURER OF THE EQUIPMENT, ANY REPAIR OR WIRELESS SERVICE OF THE EQUIPMENT BY CUSTOMER OR A THIRD PARTY, ANY MODIFICATIONS OR BY ANY INTERRUPTION OF WIRELESS SERVICE OR LOSS OF USE OF THE EQUIPMENT, EVEN IF POWERNET OR THE SUPPLIER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL POWERNET OR ITS VENDORS BE LIABLE FOR LOSSES, DAMAGES, CLAIMS OR EXPENSES OF ANY KIND ARISING OUT OF THE USE, ATTEMPTED USE,**



**OR INABILITY TO ACCESS LIFE SUPPORT OR MONITORING SYSTEMS OR DEVICES, 911 OR E911, OR OTHER EMERGENCY CALL OR SERVICE. POWERNET MAKES NO WARRANTY WITH RESPECT TO THE WIRELESS SERVICE, EQUIPMENT OR THE WIRELESS SERVICE OR EQUIPMENT'S PERFORMANCE UNDER THIS AGREEMENT. POWERNET DISCLAIMS ALL WARRANTIES WHETHER EXPRESS OR IMPLIED INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE CONCERNING YOUR SERVICES OR WIRELESS DEVICE. WE DO NOT PROMISE ERROR-FREE OR UNINTERRUPTED SERVICES AND YOU AGREE TO HOLD US HARMLESS FOR ALL SUCH PROBLEMS. WE DO NOT AUTHORIZE YOU TO MAKE ANY WARRANTIES ON OUR BEHALF. NO WARRANTY IS MADE OR PASSED ON WITH RESPECT TO ANY THIRD PARTY WIRELESS SERVICE OR EQUIPMENT. WITH RESPECT TO THE EQUIPMENT, CUSTOMER PURCHASES THE EQUIPMENT "AS IS." EQUIPMENT SHALL BE SUBJECT TO ANY WARRANTIES PROVIDED TO CUSTOMER BY THE EQUIPMENT MANUFACTURER. MODIFICATIONS MAY VOID OR OTHERWISE LIMIT ANY WARRANTY APPLICABLE TO THE EQUIPMENT.**

- a. **Limitations.** We are not liable for any damages arising out of or in connection with any
    - i. Act or omission by you, another person or company;
    - ii. Failing to provide Services or problems with your Services or wireless device;
    - iii. Accidents or any health-related claims allegedly arising from the use of the devices or any wireless device; or
    - iv. Failure or interruption in attempting to access emergency services from your wireless device.
  - b. **Force Majeure.** Powernet shall not be liable, nor shall any credit allowance or other remedy be extended, for any failure of performance or equipment due to causes beyond Powernet's reasonable control.
  - c. **Damages.** If we are found to be liable to you for damages, you agree that any such damages shall not exceed the pro-rated monthly recurring charge for your Services during the affected period.
10. **Termination of Service.** We may terminate your Service as described in Sections 5(a) and 4(e) in this Agreement immediately and without notice to you (i.e. if we suspect fraud, abuse or unlawful activity or nonpayment of charges when due). We may terminate your Service and/or suspend your Service for any other breach of this Agreement or for any other business or governmental reason with notice to you. You may terminate your Service at any time with prior notice to us. To notify us of your termination, please call us at 1-866-221-5427. If any Service is terminated before the end of your current billing cycle, for any reason, we will prorate the monthly access and usage charges to the date of termination.
11. **Enhancement of Wireless Service.** Customer shall obtain Powernet's prior approval and written agreement before it may install, deploy or use any regeneration equipment or similar mechanism to originate, amplify, enhance, retransmit or regenerate Wireless Service. Powernet may terminate Service or this Agreement and pursue all remedies available to Powernet for any violation of this section.
12. **Third Party Applications.** Powernet is not responsible for content or applications provided by independently owned and operated content providers. Third-party content providers may impose additional charges. You are responsible for all charges incurred for use of third party applications or content.
13. **Indemnification.** You will defend, indemnify and hold harmless Powernet and its respective officers, directors, employees, suppliers, contractors and agents against and from any loss, debt, liability, damage, obligation, claim, demand, judgment or settlement including without limitation, attorneys' fees and all reasonable costs and expenses of litigation arising out of, resulting from or based upon any complaint, claim, action, proceeding or suit to the extent that such claim is from or in any way connected with any claims from Customer's use of the Wireless Services or Equipment including any unauthorized or illegal provision or use by Customer or someone else using the Wireless Service with Customer's Equipment, or any violation of this Agreement by you.
14. **Notices.** All notices to be sent to you pursuant to this Agreement shall be in writing and sent by electronic mail ("email") to the email address associated with your account (if available), and/or US mail or private courier. Any email notice shall be deemed delivered when sent. Notices sent via U.S. mail or courier shall be deemed delivered two (2) days after the date sent.
15. **Performance Metrics.** Powernet may, from time to time, collect information and data from you regarding your satisfaction with Powernet Customer Service and your wireless device(s). You are required to respond to all such requests for data and information within fifteen (15) days.

16. **Customer Proprietary Network Information.** Powernet may disclose Customer Proprietary Network Information to any agent of Customer to initiate or provide Services and bill or collect for the Services.
17. **Waiver and Amendment.** The failure of Powernet to enforce any provision hereof on one or more occasions shall not constitute the permanent waiver of such provision.
18. **Choice of Law.** This Agreement shall, in all respects, be governed by and construed and enforced in accordance with the laws of the State of Ohio, without respect to the state's conflict of laws provisions. You acknowledge and agree that any action to enforce or interpret the terms of this Agreement or relating to the Services to be provided by Powernet shall be instituted and maintained only in Hamilton County, Ohio. You hereby consent to the jurisdiction and venue of such court and waive any objection to such jurisdiction and venue. If Powernet sends Customer's account to an outside collection agency or institutes collection proceedings against Customer, Powernet has the right to charge Customer for any collection fees.
19. **Survival.** No termination of this Agreement shall affect the rights or obligations of either party with respect to payment or with respect to other provisions of this Agreement that, by their sense and context, are intended to survive termination of this Agreement, including without limitation, indemnification, limitation of liability, governing law and forum selection.
20. **Severability.** If any term or provision of this Agreement shall, to any extent, be determined to be invalid or unenforceable by a court or body of competent jurisdiction, then the provision shall be deemed modified to the minimum extent necessary to be valid.
21. **Assignment.** Powernet may assign its rights and duties at any time to any party without notice to you. You may not assign this Agreement without the prior written consent of Powernet.
22. **Costs and Attorneys' Fees.** If a proceeding is brought for the enforcement of this Agreement or because of any alleged or actual dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement or the Services, the prevailing party shall be entitled to recover reasonable attorney's fees and other reasonable costs and expenses incurred in such action or proceeding in addition to any other relief to which such party may be entitled.