



STAGECOACH WIRELESS
TERMS OF SERVICE



THESE TERMS AND CONDITIONS STATE IMPORTANT REQUIREMENTS REGARDING YOUR USE OF STAGECOACH WIRELESS'S INTERNET ACCESS SERVICE AND YOUR RELATIONSHIP WITH STAGECOACH WIRELESS. YOU SHOULD READ THEM CAREFULLY AS THEY CONTAIN IMPORTANT INFORMATION REGARDING YOUR RIGHTS AND OURS. IF YOU DO NOT AGREE TO THESE TERMS AND CONDITIONS, YOU MAY NOT USE THE SERVICE AND YOU MUST TERMINATE YOUR SERVICE IMMEDIATELY.

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1. TERMS OF SERVICE

These Terms of Service (the "Agreement") are entered into by and between the subscriber ("you", "your" or "Subscriber") and Stagecoach Wireless ("Stagecoach Wireless", "us" or "we"). You are deemed to have accepted this Agreement upon the earlier of: (a) your submission of an online or mailed-in order; (b) your signing of the Service sign-up form; or (c) your use of the Service (see Paragraph 2.) we provide beyond 30 days following setup and installation. This Agreement is made up of the terms below, plus the Acceptable Use Policy, Privacy Policy, all Attachments to this Agreement, and the other policies and materials specifically referred to in these Terms of Service, all of which are incorporated herein by reference. The Agreement and related policies are also set forth on the Stagecoach Wireless website (http://www.stagecoach-wireless.com) ("Website") and can be found under the Policies sub-section of the Resource Center section. The Agreement sets forth the terms and conditions under which you agree to use the Service, and under which Stagecoach Wireless agrees to provide the Service to you. You may also receive a paper copy of this Agreement either by telephoning Stagecoach Wireless at 1-408 656-6297 or by writing to us at Stagecoach Wireless, 21900 Stagecoach Rd, Los Gatos, CA 95033, Attention: Customer Service.

2. DEFINITION OF SERVICE

For purposes of this Agreement, the term "Service" shall mean the Stagecoach Wireless Internet Access Service, including all Software (as defined in Paragraph 8. below), Equipment, technical support, Usenet newsgroups, email and other features, products and services provided by Stagecoach Wireless under the pricing plan that you have selected. For purposes of this Agreement, "Equipment" shall mean the transmitter, router and/or other equipment provided by Stagecoach Wireless for use with your Service. The Service may be referred to as, "WIFI", "WIFI" Service, or "Stagecoach Wireless Internet Access Service".

3. AUTHORIZED USER, USE, AND RESPONSIBILITIES.

3.1 You acknowledge that you are 18 years of age or older, and you agree that you have the legal authority to enter into this Agreement and affirm that the information you supply to us is correct and complete. You understand that Stagecoach Wireless relies on the information you supply and that providing false or incorrect information may result in Service provisioning or delivery delays or the suspension or termination of your Service. You agree to promptly notify Stagecoach Wireless whenever your personal or billing information changes (including for example, your name, address, and telephone number).

3.2 You agree that you are responsible for all use on your account, including any secondary accounts or sub-accounts registered to your primary account. You understand this means that you accept full liability and responsibility for the actions of anyone who uses the Service via your account, or any secondary accounts, with or without your permission. You also agree to use the Service only within the United States.

3.3 If you subscribe to WIFI Service:

You may not resell the WIFI Service, use it for high volume purposes, or engage in similar activities that constitute resale (commercial or non-commercial), as determined solely by Stagecoach Wireless.

You may connect multiple computers/devices within a single home or office location to your WIFI transmitter and/or router to access the Service, but only through a single WIFI account and a single IP address obtained from Stagecoach Wireless.

You may not use the WIFI Service to host any type of server personal or commercial in nature.

3.4 Stagecoach Wireless reserves the right to audit connections electronically to enforce these or any other provision of the Agreement.



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4. PRIVACY POLICY

Stagecoach Wireless will treat your personal information in accordance with its current Privacy Policy, subject to change from time to time, which is posted on the Website under the Policies sub-section of the Resource Center section. You agree to the terms of the Privacy Policy, which describes Stagecoach Wireless's use and disclosure of information about your account and your use of the Service.

5. ACCEPTABLE USE POLICY

You agree to comply with the terms of the Acceptable Use Policy, which is attached hereto as ATTACHMENT A and which also may be found posted on the Website under the Policies sub-section of the Resource Center section.

6. REVISIONS

We may revise the terms and conditions of this Agreement from time to time (including any of the policies which may be applicable to usage of the Service) by posting such revisions to the Website at the Resource Center section under Announcements. You agree to visit these pages periodically to be aware of and review any such revisions. Increases to pricing shall be effective thirty (30) days after posting; revisions to any other terms and conditions shall be effective upon posting. By continuing to use the Service after revisions are in effect, you accept and agree to the revisions and to abide by them. If you do not agree to the revision(s), you must terminate your Service immediately.

7. AVAILABILITY OF SERVICE

7.1 The Service you select may not be available in all areas, may not be available at the rates, speeds, or bandwidth generally marketed. For WIFI Subscribers, we will qualify your connection for WIFI at the maximum connection rate available to your location based on our standard connection qualification procedures, unless you have selected a level of service with a lower maximum connection rate. All Services are provided on an AS IS basis and throughput speeds, connection rate access to Usenet newsgroups and availability of your Service are not guaranteed, as set forth in Paragraph 13.

7.2 Stagecoach Wireless or its suppliers may, at any time, without notice or liability, restrict the use of the Service or limit its time of availability in order to perform maintenance activities and to maintain session control.

8. SOFTWARE LICENSES AND THIRD PARTY SERVICES

8.1 In connection with our provision of the Service, we may provide to you, via download, CD, other media, or other delivery method, the use of certain software which is owned by Stagecoach Wireless or its third party licensors, providers and suppliers, and which may be provided free or for a fee, including client and/or network security software ("Software"). We reserve the right to update or change the Software from time to time and you agree to cooperate in performing such steps as may be necessary to install any updates or upgrades to the Software. You may use the Software only as part of or for use with the Service and for no other purpose.

8.2 The Software may be accompanied by an end user license agreement from Stagecoach Wireless or a third party. Your use of the Software is governed by the terms of that license agreement and by this Agreement, where applicable. You may not install or use any Software that is accompanied by or includes an end user license agreement unless you first agree to the terms and conditions of the end user license agreement.

8.3 With regard to any Software which is not accompanied by an end user license agreement, you are hereby granted a revocable, non-exclusive, non-transferable license by Stagecoach Wireless or its third party licensors, providers or suppliers, to use the Software (and any corrections, updates and upgrades). You may not make any copies of the Software. You agree that the Software is the confidential information of Stagecoach Wireless or its third party licensors, providers or suppliers, which you shall not disclose to others or use except as expressly permitted herein. The Software contains copyrighted material, trade secrets, patents, and proprietary information owned by Stagecoach Wireless or its third party licensors, providers, or suppliers. You may not de-compile, reverse engineer, disassemble, attempt to discover any source code or underlying ideas or algorithms of the Software, otherwise reduce the Software to a human readable form, modify, rent, lease, loan, use for timesharing or service bureau purposes, reproduce, sublicense or distribute copies of the Software, or otherwise transfer the Software to any third party. You may not remove or alter any trademark, trade name, copyright or other proprietary notices, legends, symbols, or labels appearing on or in copies of the Software. You are not granted any title or rights of ownership in the Software. You acknowledge that this license is not a sale of intellectual property and that Stagecoach Wireless or its third party licensors, providers or suppliers continue to own all right, title and interest, including but not limited to all copyright, patent, trademark, trade secret, and moral rights, to the Software and related documentation, as well as any corrections, updates and upgrades. The Software may be used in the United States only, and any export of the Software is strictly prohibited.

8.4 We provide technical assistance and support for the Software in accordance with our policies. Unless otherwise provided in such policies, Stagecoach Wireless does not provide technical assistance or support for any third party Software. Technical assistance or support with regard to third party software provided by the Software supplier is solely provided in accordance with such third party's policies or other terms.

8.5 Your license to use the Software shall remain in full force and effect unless and until terminated by Stagecoach Wireless, its third party licensors, providers or suppliers, or until your Service is terminated. Upon termination of your Service for any reason, you must cease all use of the Software and immediately delete the Software from your computer.

8.6 Other Third Party Agreements: If you subscribe to or otherwise use any third party services offered by or through Stagecoach Wireless, your use of any such services is subject to the terms of services of such third party service provider. You agree to comply with such provider's terms of service and that the third party provider is solely responsible for delivery of its service(s) to you and your use of them. Third party services include, but are not limited to, portal, music, gaming, storage and photography services that Stagecoach Wireless may elect to make available from time to time. Violation of such third party provider's terms of service may, in Stagecoach Wireless's sole discretion, result in the termination of your Service.

9. TERM AND TERMINATION

9.1 Effective Date and Term

This Agreement goes into effect upon your acceptance of this Agreement as set forth in Paragraph 1. and shall continue, subject to the terms of this Paragraph 9. , until terminated by either party as permitted by this Agreement. Payment for your WIFI Service is due before or on the date provisioning of your WIFI Service is complete and ready for use ("Service Ready Date").

9.2 Money Back Guarantee

Stagecoach Wireless provides a thirty (30) day money back guarantee as follows:

For WIFI Service Subscribers, your thirty (30) day money-back guarantee begins upon your Service Ready Date. During this thirty (30) day period you may cancel the WIFI Service and receive a full refund of all Service charges paid as well as any one-time charges, except Equipment charges, paid to Stagecoach Wireless.

9.3 Termination of Service

9.3.1 Month-to-Month Accounts

If you are a month-to-month WIFI Service customer, either you or Stagecoach Wireless may terminate this Agreement without cause by giving notice to the other in accordance with the notice provision set forth at Paragraph 15. below. Termination by you will be effective upon your notice to Stagecoach Wireless. Activation or set-up fees paid at the initiation of your WIFI Service, if any, are not refundable, except during the thirty (30) day money-back guarantee period. Additionally, if you terminate this Agreement prior to the end of the first year of service and you received Equipment at no charge from Stagecoach Wireless, you will be required to return the Equipment to Stagecoach Wireless; failure to do so will result in an additional charge. We will provide you with a pre-paid mailing label and instructions for the return of your Equipment. Termination by Stagecoach Wireless shall be effective thirty (30) days after the date of notice to you, except as otherwise provided in this Agreement. In the event of termination by Stagecoach Wireless, for any reason, you will be required to pay the remaining balance of the charges applicable to your Service through the effective date of termination.

9.3.2 WIFI Subscribers with Annual Service Contracts



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The term for WIFI Service customers with an annual service commitment is for twelve (12) consecutive months beginning with the Service Ready Date (the "Initial Term"), and continuing thereafter on a month-to-month basis until terminated by either party as permitted by this Agreement. IN THE EVENT THAT YOU TERMINATE YOUR WIFI SERVICE AFTER THE FIRST THIRTY (30) DAYS OF SERVICE BUT BEFORE COMPLETING THE FIRST NINE (9) MONTHS OF THE INITIAL TERM, THEN YOU AGREE TO PAY STAGECOACH WIRELESS UPON DISCONTINUANCE OF THE SERVICE A TERMINATION FEE IN THE AMOUNT OF ONE HUNDRED DOLLARS (\$100) (THE "TERMINATION FEE"). In the event you terminate your WIFI Service after the first (30) days of Service but before completing the first nine (9) months of the Initial Term because of a service-related problem that Stagecoach Wireless has not cured or because you have moved to a new address at which Stagecoach Wireless's WIFI Service is not available, you are not subject to a termination fee ("termination fee waiver"). For the foregoing termination fee waiver to apply, at least one of the reasons for the waiver stated above must have occurred before termination and you must report that reason for termination to Stagecoach Wireless at the time of termination. If you terminate your Service after the ninth month and before the end of the Initial Term, or after the Initial Term has expired, you will be responsible for the balance of charges for the month in which your termination is effective. Additionally, if you terminate this Agreement prior to the end of the first year of Service and you received Equipment at no charge from Stagecoach Wireless, you will be required to return the Equipment to Stagecoach Wireless; failure to do so will result in an additional equipment charge. We will provide you with a pre-paid mailing label and instructions for the return of your Equipment.

9.3.3 Termination and/or Suspension by Stagecoach Wireless

If, in the sole discretion of Stagecoach Wireless: (a) you are in breach of any of the terms of this Agreement (including but not limited to all policies regarding abuse and acceptable use of the Service); (b) your use of the Service is prohibited by law or is disruptive to, adversely impacts or causes a malfunction to the Service, Stagecoach Wireless's network, or the use and enjoyment of other users; or (c) Stagecoach Wireless receives an order from a court to terminate your Service; or (d) if Stagecoach Wireless for any reason ceases to offer the Service, then Stagecoach Wireless at its sole election may terminate or suspend your Service immediately without notice. For termination in accordance with this Paragraph 9.3.3, you shall be liable for the applicable fees and/or Equipment charges set forth in Paragraphs 9.2, 9.3.1, or 9.3.2, (depending on which fees or charges are applicable).

9.4 Terminated Account

Stagecoach Wireless, in its sole discretion, may refuse to accept your application for renewal or re-subscription following a termination or suspension of your use of the Service. If your Service is terminated for any reason, you agree to pay a reconnection fee if the Service is reactivated.

9.5 Regulatory Compliance

In the event there is a ruling, regulation, or order issued by a judicial, legislative or regulatory body that causes Stagecoach Wireless to believe that this Agreement may be in conflict with such rules, regulations, and orders, Stagecoach Wireless may terminate or modify your Service and/or this Agreement immediately without notice.

9.6 Deletion of Data upon Termination

You agree that if your Service is terminated for any reason, Stagecoach Wireless has the right to immediately delete all data, files, and other information stored in or for your account without further notice to you.

10. PRICING AND PAYMENT

10.1 Prices and Fees

Stagecoach Wireless fees and charges for the Service(s) you select are supplied to you during the ordering and sign-up process unless otherwise provided for in this Agreement. You agree to pay the charges applicable to your selected Service plan, as well as any, applicable taxes and other charges including but not limited to activation fees, installation fees, termination fees, equipment charges, other nonrecurring charges, and set-up fees before or on the Service Ready Date. You also agree to pay any additional charges or fees applied to your billing account for any reason, including but not limited to, interest, and charges due to insufficient credit or insufficient funds. Set up fees, activation fees, installation fees, other non-recurring fees, and equipment charges, if applicable, will be included in your first bill. Monthly recurring charges will be billed one month in advance; usage charges will be billed in arrears, if applicable. Stagecoach Wireless or its agent will bill you directly. Stagecoach Wireless does not accept credit and/or debit cards for payment of any charges or fees.

10.2 Discontinuation of Service for Nonpayment

Service to you may be denied or discontinued without notice at any time in the event you fail to make payment when due.

10.3 Late Fees

If any portion of your bill is not paid by the due date, Stagecoach Wireless may charge you a late fee on unpaid balances and may also terminate or suspend your Service without notice. The late fee will be the lesser of one and one-half percent (1.5 %) per month, or the highest rate permitted by law. In the event Stagecoach Wireless utilizes a collection agency or resorts to legal action to recover monies due, you agree to reimburse us for all expenses incurred to recover such monies, including attorneys' fees.

10.4 You are limited to taking advantage of no more than one special pricing promotion during any twelve-month period.

10.5 You have the option to change your Service(s) at any time by notifying us, provided that you qualify for and comply with any requirements of that Service.

10.6 The waiver of any fees or charges lies solely in the discretion of Stagecoach Wireless.

11. MANAGEMENT OF YOUR DATA AND COMPUTER

11.1 System Management and Service Performance

You are solely responsible for obtaining, installing, configuring, and maintaining suitable equipment and software, including any necessary system or software upgrades, patches or other fixes, which are or may become necessary to access the Service and to operate your computer. You understand that WIFI bandwidth is provided on a per-connection basis, and that the speed and bandwidth available to each computer or device connected to the network will vary depending upon the number, types and configuration of computers or devices using the Service and the type of use (e.g., streaming media or downloading larger files, etc.), network or Internet congestion, and/or the condition of the wiring inside your location, among other factors.

11.2 Data Management and Responsibility

You are responsible for management of your information, including but not limited to back-up and restoration of data (for example, address book and calendaring information), erasing data from disk space you control and changing data on or settings for your modem and/or router. Stagecoach Wireless is not responsible for the loss of your data or for the back up or restoration of your data regardless of whether this data is maintained on our servers or your computer or server.

11.3 Your Security

You are responsible for development and maintenance of any security procedures you deem appropriate, such as logon security and encryption of data and password on your transmitter and/or router and firewalls, to protect your information. We are not responsible in the event that any party changes the information on your account, including without limitation, your username, password, or security information. We are not responsible for backup and restoration of your information. WE STRONGLY RECOMMEND THE USE (AND APPROPRIATE UPDATING) OF COMMERCIAL ANTI-VIRUS AND FIREWALL SOFTWARE.

11.4 Stagecoach Wireless Network

For the purposes of backup and maintenance, we may use, copy, display, store, transmit, translate, rearrange, reformat, view and distribute your information to multiple Stagecoach Wireless servers. We do not guarantee that these procedures will prevent the loss of, alteration of, or the improper access to, your information.

11.5 Monitor of Network Performance

Stagecoach Wireless automatically measures and monitors network performance and the performance of your Internet connection and our network as part of this process. We also will access and record information about your computer's profile and settings and the installation of software we provide in order to provide customized technical support. No adjustments to your computer settings will be made without your permission. We do not share information collected for the purpose of network or computer performance monitoring or for providing customized technical support outside of Stagecoach Wireless or its authorized vendors, contractors and agents. You hereby consent



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to Stagecoach Wireless's monitoring of your Internet connection and network performance, and the access to and adjustment of your computer settings, as set forth above, as they relate to the Service or other services which we may offer from time to time.

12. LIMITATIONS ON USE OF THE SERVICE

12.1 You agree that your use of the Service and the Internet, without limitation, is your sole responsibility, is solely at your own risk, and is subject to all applicable local, state, national and international laws and regulations.

12.2 You agree that the Internet is not owned, operated or managed by, or in any way affiliated with Stagecoach Wireless and Stagecoach Wireless is not responsible and has no control over the information or materials accessible via the Internet through use of the Service. You further agree that Stagecoach Wireless does not own or control all of the various facilities and communications lines through which access may be provided, nor does Stagecoach Wireless guarantee access to or through websites, servers or other facilities on the Internet, whether or not such facilities are owned or controlled by Stagecoach Wireless. Stagecoach Wireless cannot and does not guarantee that the Service will provide Internet access that meets your needs.

12.3 You agree and acknowledge that through your use of the Service, you may have access to information, which may be sexually explicit, obscene or offensive, or otherwise unsuitable or objectionable, especially for children under the age of eighteen (18) years old. You agree to supervise usage of the Service by any minors who use your account to access the Service. Stagecoach Wireless is not responsible for access by any users, you, or minors, to objectionable or offensive information or data. STAGECOACH WIRELESS STRONGLY RECOMMENDS THE USE OF COMMERCIALY AVAILABLE CONTENT FILTERING SOFTWARE.

12.4 You agree that Stagecoach Wireless cannot and does not guarantee or warrant that data available for downloading through the Service will be free of defects, infection or viruses, worms, Trojan horses or other code that manifest contaminating, malicious or destructive properties. You are responsible for implementing adequate procedures to satisfy your particular requirements for accuracy of data input and output and for maintaining a means external to the Service for the reconstruction of any lost data.

12.5 You agree that the Internet is not a secure network and that third parties may be able to intercept, access, use, or corrupt the information you transmit or receive over the Internet. Stagecoach Wireless is not responsible for invalid destinations, transmission errors, or corruption or security of your data.

12.6 You are not authorized to use any Stagecoach Wireless name or mark as a hypertext link to any Stagecoach Wireless Web site or in any advertising, publicity or in any other commercial manner without the prior written consent of Stagecoach Wireless. You understand that your ability to link to a Web site through the Service does not, in any way, represent or imply Stagecoach Wireless's approval of, or its determination of the quality of that product or service, and that links are provided for your convenience only. The links provided through the Service are maintained by their respective organizations, which are solely responsible for their content.

13. WARRANTIES AND LIMITATION OF LIABILITY

13.1 YOU ACKNOWLEDGE AND AGREE THAT THE SERVICE SUPPLIED HEREUNDER IS PROVIDED ON AN "AS IS" OR "AS AVAILABLE" BASIS, WITH ALL FAULTS. EXCEPT AS OTHERWISE SPECIFICALLY SET FORTH IN THIS AGREEMENT AND AS OTHERWISE SPECIFICALLY SET FORTH IN ANY MANUFACTURER WARRANTY FOR ANY EQUIPMENT PROVIDED BY STAGECOACH WIRELESS (BUT ONLY IF SUCH WARRANTY IS INCLUDED WITH SUCH EQUIPMENT), STAGECOACH WIRELESS (AND ITS OFFICERS, EMPLOYEES, PARENT, SUBSIDIARIES, AND AFFILIATES), ITS THIRD PARTY LICENSORS, PROVIDERS AND SUPPLIERS, INCLUDING GLOBAL SERVICE PROVIDERS (GSPS), DISCLAIM ANY AND ALL WARRANTIES FOR THE SERVICE, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, NON-INFRINGEMENT, NON-INTERFERENCE, TITLE, COMPATIBILITY OF COMPUTER SYSTEMS, INTEGRATION, AND THOSE ARISING FROM COURSE OF DEALING, COURSE OF TRADE, OR ARISING UNDER STATUTE. NO ADVICE OR INFORMATION GIVEN BY STAGECOACH WIRELESS OR ITS REPRESENTATIVES SHALL CREATE A WARRANTY. USE OF STAGECOACH WIRELESS TECHNICAL SUPPORT IS AT YOUR OWN RISK AND IS NOT WARRANTED.

13.2 STAGECOACH WIRELESS DOES NOT WARRANT OR GUARANTEE THAT WIFI SERVICE CAN BE PROVISIONED TO YOUR LOCATION, OR THAT PROVISIONING WILL OCCUR ACCORDING TO A SPECIFIED SCHEDULE, EVEN IF STAGECOACH WIRELESS HAS ACCEPTED YOUR ORDER FOR WIFI SERVICE. THE PROVISIONING OF WIFI SERVICE IS SUBJECT TO AVAILABILITY AND OTHER FACTORS, INCLUDING WITHOUT LIMITATION, WIFI SIGNAL RANGE, THE POSITIONING OF YOUR WIFI TRANSMITTER AND ANTENNA INSIDE YOUR LOCATION, AND YOUR COMPUTER/DEVICE CONFIGURATION AND CAPABILITIES, AMONG OTHER FACTORS. IN THE EVENT YOUR CONNECTION IS NOT PROVISIONED FOR ANY REASON, NEITHER YOU NOR STAGECOACH WIRELESS SHALL HAVE ANY DUTIES OR OBLIGATIONS UNDER THIS AGREEMENT (OTHER THAN YOUR OBLIGATION TO RETURN ANY STAGECOACH WIRELESS-PROVIDED EQUIPMENT, PURSUANT TO PARAGRAPH 9. ABOVE).

13.3 STAGECOACH WIRELESS DOES NOT WARRANT THAT THE SERVICE OR EQUIPMENT PROVIDED BY STAGECOACH WIRELESS WILL PERFORM AT A PARTICULAR SPEED, BANDWIDTH OR DATA THROUGHPUT RATE, OR WILL BE UNINTERRUPTED, ERROR-FREE, SECURE, OR FREE OF VIRUSES, WORMS, OR THE LIKE. STAGECOACH WIRELESS SHALL NOT BE LIABLE FOR LOSS OF YOUR DATA, OR IF CHANGES IN OPERATION, PROCEDURES, OR SERVICES REQUIRE MODIFICATION OR ALTERATION OF YOUR EQUIPMENT, RENDER THE SAME OBSOLETE OR OTHERWISE AFFECT ITS PERFORMANCE. STAGECOACH WIRELESS MAKES NO WARRANTY REGARDING ANY TRANSACTIONS EXECUTED USING THE SERVICE OR THE INTERNET. STAGECOACH WIRELESS MAKES NO WARRANTY REGARDING THE CONTENT AND INFORMATION ACCESSED BY USING THE SERVICE OR ANY LINKS DISPLAYED. YOU EXPRESSLY ASSUME ALL RISK AND RESPONSIBILITY FOR USE OF THE SERVICE AND THE INTERNET GENERALLY. DO NOT USE THE SERVICE IN ANY HIGH RISK ACTIVITIES WHERE DAMAGE OR INJURY TO PERSON, PROPERTY, ENVIRONMENT, OR BUSINESS MAY RESULT IF AN ERROR OCCURS.

13.4 IN NO EVENT SHALL STAGECOACH WIRELESS (OR ITS OFFICERS, EMPLOYEES, PARENT, SUBSIDIARIES, OR AFFILIATES), ITS THIRD PARTY LICENSORS, PROVIDERS OR SUPPLIERS, INCLUDING GSPS, BE LIABLE FOR: (A) ANY DIRECT, INDIRECT, SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES, INCLUDING WITHOUT LIMITATION, LOST PROFITS OR LOSS OF REVENUE OR DAMAGE TO DATA ARISING OUT OF THE USE, PARTIAL USE OR INABILITY TO USE THE SERVICE, REGARDLESS OF THE TYPE OF CLAIM OR THE NATURE OF THE CAUSE OF ACTION, INCLUDING WITHOUT LIMITATION, THOSE ARISING UNDER CONTRACT, TORT, NEGLIGENCE OR STRICT LIABILITY, EVEN IF STAGECOACH WIRELESS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH CLAIM OR DAMAGES, OR (B) ANY CLAIMS AGAINST YOU BY ANY OTHER PARTY.

13.5 ALL LIMITATIONS AND DISCLAIMERS STATED IN THIS PARAGRAPH 13. ALSO APPLY TO STAGECOACH WIRELESS'S THIRD PARTY LICENSORS, PROVIDERS AND SUPPLIERS, INCLUDING GSPS, AS THIRD PARTY BENEFICIARIES OF THIS AGREEMENT.

13.6 ANY RIGHTS OR LIMITS STATED HEREIN ARE THE MAXIMUM FOR WHICH STAGECOACH WIRELESS (AND ITS OFFICERS, EMPLOYEES, PARENT, SUBSIDIARIES, AND AFFILIATES), STAGECOACH WIRELESS'S THIRD PARTY LICENSORS, PROVIDERS AND SUPPLIERS, INCLUDING GSPS, ARE COLLECTIVELY RESPONSIBLE.

13.7 THE REMEDIES EXPRESSLY SET FORTH IN THIS AGREEMENT ARE YOUR SOLE AND EXCLUSIVE REMEDIES. YOU MAY HAVE ADDITIONAL RIGHTS UNDER CERTAIN LAWS (SUCH AS CONSUMER LAWS), WHICH DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, OR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY, OUR EXCLUSIONS OR LIMITATIONS MAY NOT APPLY TO YOU.

13.8 STAGECOACH WIRELESS RESERVES THE RIGHT TO PURSUE ANY AND ALL LEGAL AND EQUITABLE CLAIMS AGAINST YOU PERTAINING TO YOUR USE OR MISUSE OF THE SERVICE OR FOR YOUR BREACH OF THE AGREEMENT (INCLUDING ANY POLICIES RELATING TO THE SERVICE.)



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14. INDEMNIFICATION

You agree to defend, indemnify and hold harmless Stagecoach Wireless from and against all liabilities, costs and expenses, including reasonable attorney's fees, related to or arising from: (a) any violation of applicable laws, regulations or this Agreement by you (or any parties who use your account, with or without your permission, to access the Service); (b) the use of the Service or the Internet or the placement or transmission of any message, information, software or other materials on the Internet by you (or any parties who use your account, with or without your permission, to access the Service); (c) negligent acts, errors, or omissions by you (or any parties who use your account, with or without your permission, to access the Service); (d) injuries to or death of any person and for damages to or loss of any property, which may in any way arise out of or result from or in connection with this Agreement, except to the extent that such liabilities arise from the active negligence or willful misconduct of the other party; or (e) claims for infringement of any intellectual property rights arising from the use of the Service, Software, or the Internet.

15. NOTICES

15.1 Notices required under this Agreement by you shall be provided to the Customer Service Department in accordance with the methods set forth under the Resource Center on the Website in the Contact Us Section. Notices by Stagecoach Wireless to you shall be deemed given: (a) when sent to your email address, or (b) when deposited in the United States mail addressed to you at last-known address or (c) when hand delivered to your home, as applicable. Notice of changes to this Agreement and these Terms of Service will be deemed given upon posting to the pages on the Website as set forth in Paragraph 6. REVISIONS above.

15.2 With regard to electronic communications, you and Stagecoach Wireless further agree that: (a) the name and e-mail address of a sender, contained in an electronic communication ("email"), is legally sufficient to verify the sender's identity and the authenticity of the communication; (b) an email sent containing your name establishes you as its originator and has the same effect as a document with your written signature on it; and (c) an email or any computer printout of it, is a valid proof of the validity of the original content of the electronic communication.

16. GENERAL PROVISIONS

16.1 All obligations of the parties under this Agreement, which, by their nature, would continue beyond the termination, cancellation or expiration of this Agreement, including by way of illustration and not limitation, those clauses relating to Software Licenses, Warranties and Limitation of Liability, and Indemnification, shall survive such termination, cancellation or expiration.

16.2 Stagecoach Wireless will not be liable for delays, damages or failures in performance due to causes beyond its reasonable control, including, but not limited to, acts of a governmental body, acts of God, acts of third parties, fires, floods, strikes or other labor-related disputes, of other things we do not control, or an inability to obtain necessary equipment or services.

16.3 You agree not to assign or otherwise transfer, this Agreement in whole or in part, including the Software or your rights or obligations under it. Any attempt to do so shall be void. We may assign all or any part of this Agreement without notice and you agree to make all subsequent payments as directed.

16.4 You and Stagecoach Wireless agree that the substantive laws of the State of California, without reference to its principles of conflicts of laws, will be applied to govern, construe and enforce all of the rights and duties of the parties arising from or relating in any way to the subject matter of this Agreement. YOU AND STAGECOACH WIRELESS CONSENT TO THE EXCLUSIVE PERSONAL JURISDICTION OF AND VENUE IN A COURT LOCATED IN SANTA CRUZ COUNTY, CALIFORNIA FOR ANY SUITS OR CAUSES OF ACTION CONNECTED IN ANY WAY, DIRECTLY OR INDIRECTLY, TO THE SUBJECT MATTER OF THIS AGREEMENT OR TO THE SERVICE. Except as otherwise required by law, including California laws relating to consumer transactions, any cause of action or claim you may have with respect to the Service must be commenced within one (1) year after the claim or cause of action arises or such claim or cause of action is barred.

16.5 Use, duplication or disclosure by any Government entity is subject to restrictions set forth, as applicable, in subparagraphs (a) through (d) of the Commercial Computer-Restricted Rights clause at FAR 52.227-19, FAR 12.212, DFARS 227.7202, or in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause of DFARS 252.227-7013, and in similar clauses in the NASA FAR Supplement. Contractor/manufacturer is Stagecoach Wireless or its licensors and suppliers. The use of Software and documentation is further restricted in accordance with the terms of this Agreement.

16.6 In the event of a conflict between this Agreement and any applicable tariff, the tariff shall prevail. We reserve the right to modify the Service to reflect any change in any applicable tariff or underlying network service or component affecting the Service.

16.7 Stagecoach Wireless's failure at any time to insist upon strict compliance with any of the provisions of this Agreement in any instance shall not be construed to be a waiver of such terms in the future. If any provision of this Agreement is determined to be invalid, illegal or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby, and the unenforceable portion shall be construed as nearly as possible to reflect the original intentions of the parties.

16.8 This Agreement, including all Attachments and all other policies posted on the Website, which are fully incorporated into this Agreement either by attachment or by reference, constitutes the entire agreement between you and Stagecoach Wireless with respect to the subject matter hereto and supersedes any and all prior or contemporaneous agreements whether written or oral. Any changes by you to this Agreement, or any additional or different terms in your purchase orders, acknowledgements or other documents, written or electronic, are void.



STAGECOACH WIRELESS
TERMS OF SERVICE



ATTACHMENT A:

ACCEPTABLE USE POLICY

1. This is Stagecoach Wireless's policy on the acceptable use of the Service. It is designed to help protect the Service, Stagecoach Wireless's customers and the Internet community, from irresponsible or illegal activities.
2. Stagecoach Wireless reserves the right to deny Service to you, or immediately to terminate your Service for material breach, if your use of the Service or your use of an alias or the aliases of additional users on your account, whether explicitly or implicitly, and in the sole discretion of Stagecoach Wireless: (a) is obscene, indecent, pornographic, sadistic, cruel or racist in nature, or of a sexually explicit or graphic nature; (b) espouses, promotes or incites bigotry, hatred or racism; (c) might be legally actionable for any reason, (d) is objectionable for any reason, or (e) in any manner violates the terms of this Acceptable Use Policy.
3. You may NOT use the Service as follows: (a) for any unlawful, improper or illegal purpose or activity; (b) to post or transmit information or communications that, whether explicitly stated, implied, or suggested through use of symbols, are obscene, indecent, pornographic, sadistic, cruel, or racist in content, or of a sexually explicit or graphic nature; or which espouses, promotes or incites bigotry, hatred or racism; or which might be legally actionable for any reason; (c) to access or attempt to access the accounts of others, to spoof or attempt to spoof the URL or DNS or IP addresses of Stagecoach Wireless or any other entity, or to attempt to penetrate or penetrate security measures of Stagecoach Wireless or other entities' systems ("hacking") whether or not the intrusion results in corruption or loss of data; (d) to bombard individuals or newsgroups with unwanted communications, data or information, or other similar activities, including but not limited to "spamming", "flaming" or denial or distributed denial of service attacks; (e) to transmit unsolicited voluminous emails (for example, spamming) or to intercept, interfere with or redirect email intended for third parties using the Service; (f) to introduce viruses, worms, harmful code and/or Trojan horses on the Internet; (g) to post information on newsgroups which is not in the topic area or charter (e.g. off-topic posting) of the newsgroup; (h) to interfere with another person's usage or enjoyment of the Internet or this Service; (i) to post or transmit information or communications that are defamatory, fraudulent, obscene or deceptive, including but not limited to scams such as "make-money-fast" schemes or "pyramid/chain" letters; (j) to damage the name or reputation of Stagecoach Wireless, its parent, affiliates and subsidiaries, or any third parties; (k) to transmit confidential or proprietary information, except solely at your own risk; (l) to violate Stagecoach Wireless's or any third party's copyright, trademark, proprietary or other intellectual property rights, including trade secret rights; (m) to use more than one IP address obtained from Stagecoach Wireless; (n) to generate excessive amounts (as determined by Stagecoach Wireless in its sole discretion) of Internet traffic, or to disrupt net user groups or email use by others; (o) to engage in activities designed to or having the effect of degrading or denying Service to Stagecoach Wireless users or others (including activities that compromise a server, router, circuit, software or other Internet component); (p) to use any name or mark of Stagecoach Wireless, its parent, affiliates or subsidiaries, as a hypertext link to any Web site or in any advertising publicity or other commercial manner; (q) to use the Service to operate a server in a manner that interferes with the network or other users' use of the Service; (r) to use the Service or the Internet in a manner intended to threaten, harass, intimidate; (s) to cause the screen to "scroll" faster than other subscribers or users are able to type to it, or any action that has a similar disruptive effect, on or through the Service; (t) to use the Service to disrupt the normal flow of online dialogue, (u) to use the Service to violate any operating rule, policy or guideline of any other online services provider or interactive service; (v) to attempt to subvert or to aid third parties to subvert, the security of any computer facility or system connected to the Internet; (w) to impersonate any Stagecoach Wireless employee or official or other person or use a false name while using the Service or implying an association with Stagecoach Wireless; (x) to install "auto-responders," "cancel-bots" or similar automated or manual routines which generate excessive amounts of net traffic, or disrupt net user groups or email use by others; (y) to make false or unverified complaints against any Stagecoach Wireless subscriber, or otherwise abusing any of Stagecoach Wireless's complaint response procedures; (z) to use software or any other device that would allow your account to stay logged on while you are not actively using the Service, unless you are a WIFI customer; (aa) to export software or any information in violation of US export laws; (bb) to use the Service in contravention of the limitations of the pricing plan you have chosen; (cc) for WIFI customers who use static IP address, to use an IP address other than the one assigned by Stagecoach Wireless or (dd) for customer who have been assigned a dynamic IP address to use such IP address to circumvent the changing of IP addresses assigned by the Service.
4. Copyright Infringement/Repeat Infringer Policy. Stagecoach Wireless respects the intellectual property rights of third parties, including those granted under the US copyright laws, and the interests of its subscribers and content providers on the Internet. You may not store material of any type or in any format on, or disseminate such material over, Stagecoach Wireless's systems or servers in any manner that constitutes an infringement of third party intellectual property rights, including rights granted under the US copyright laws. In accordance with the Digital Millennium Copyright Act (DMCA) and other applicable law, it is the policy of Stagecoach Wireless to terminate, in appropriate circumstances, the Service provided to any subscriber or account holder who is deemed to infringe third party intellectual property rights, including repeat infringers. Appropriate circumstances may exist where (i) a Subscriber or account holder has been found by a court of competent jurisdiction to have infringed the copyrights of a third party on two or more occasions, i.e., a repeat infringer, (ii) where a valid, effective and uncontested notice has been provided to Stagecoach Wireless alleging facts which are a violation by the Subscriber or account holder of Stagecoach Wireless's Copyright Policy prohibiting infringing activity involving Stagecoach Wireless systems or servers, or (iii) in other cases of repeated flagrant abuse of access to the Internet (e.g., willful commercial piracy or malicious attempts to destroy the value of copyrighted works). In addition, Stagecoach Wireless expressly reserves the right to terminate or suspend the Service of any Subscriber or account holder if Stagecoach Wireless, in its sole judgment, believes that circumstances relating to the infringement of third party intellectual property rights warrant such action. These policies are in addition to and do not affect or modify any other rights Stagecoach Wireless may have under law or contract. If you believe that copyrighted material has been used in violation of this policy or otherwise been made available on the Service in a manner that is not authorized by the copyright owner, its agent or the law, please follow the instructions for contacting Stagecoach Wireless's designated Copyright Agent as set forth in Stagecoach Wireless's Copyright Policy located at <http://www.stagecoach-wireless.com/copy.html>.
5. You shall comply with all applicable local, state, national and international laws and regulations, including those related to data privacy, international communications, and exportation or technical or personal data. You represent that you are not a specifically designated individual or entity under any US embargo or otherwise the subject, either directly or indirectly (by affiliation, or any other connection with another party) to any order issued by any agency of the US Government limiting, barring, revoking or denying, in whole or in part your US export privileges. You agree to notify Stagecoach Wireless if you become subject to any such order.
6. You shall not delete any proprietary designations, legal notices or other identifiers belonging to third parties from any information obtained or sent using the Service and shall not impersonate any person or use a false name while using the Service. You agree to obtain all required permissions if you use the Service to receive, upload, download, display, distribute, or execute Software or perform other works protected by intellectual property laws including copyright, trademark, trade secret and patent laws. You agree to cooperate with Stagecoach Wireless and provide requested information in connection with all security and use matters. You agree to notify Stagecoach Wireless promptly if you suspect unauthorized use of the Service. You remain liable for unauthorized use until your notification to Stagecoach Wireless at security@stagecoach-wireless.com. You agree that your name and other identifying information may be placed in our user directory.
7. Stagecoach Wireless reserves the right to cooperate with legal authorities and/or injured third parties in the investigation of any suspected crime or civil wrong. Such cooperation may include, but not be limited to, provision of account or user information or email as well as monitoring of the Stagecoach Wireless network.
8. Stagecoach Wireless may, but is not required to, monitor your compliance, or the compliance of other subscribers, with the terms, conditions or policies of this Agreement.