

## General Terms and Conditions Applicable to all Customer Contracts

Your contract with Evolve Cellular includes, but is not limited to, the terms of your service plan (including those outlined below and set forth in any services guide and any other materials that may be provided to customer) and the most recent Evolve Cellular General Terms and Conditions of Service Applicable to all Customer Contracts ("T&C") provided herein, along with the most recent Evolve Cellular Acceptable Use Policy, Privacy Policy and other related legal materials (all together constituting the "Agreement"). Carefully read all parts of your Agreement with Evolve Cellular including the Arbitration Provisions.

### General Terms and Conditions of Service

1. **Basic Definitions.** In this document: (1) "we," "us," "our," and "Evolve Cellular" mean Evolve Cellular Inc., who is providing the products and Services; (2) "you," "your," "customer," "subscriber", and "user" mean an account holder or user with us; (3) "Device" means any phone we sell to you, or is active on your account with us; and (4) "Service" means Evolve Cellular-branded offers, rate plans, options, wireless services, billing services, applications we provide to you (but excluding third-party applications you may choose to download), programs, products, or Devices on your account with us. "Service(s)" also includes any other product or service that we offer or provide to you that reference these ("T&C").

2. **The Subscriber Agreement.** Your Subscriber Agreement is provided to you prior to or at activation. The T&C herein are part of your Subscriber Agreement and constitute a contract under which we provide you Service(s) under terms and conditions that you accept. This contract contains a Mandatory Arbitration Provision and a Jury Waiver Provision. In addition to these T&C, there are several parts that make up the Subscriber Agreement, which include, but are not limited to, the following: (i) the Subscriber Agreement (contract) or transaction materials that you sign or accept; (ii) the plan(s) that you chose as set forth in our written services and/or transaction materials that we may provide or refer you to during the sales transaction (if your service plan is not specifically set forth in any printed materials, the requirements and terms set forth in the current written services and transaction materials apply, excluding the monthly charge and number of voice minutes or amount of data included in your service plan); (iii) any confirmation materials and invoices that we may provide to you; (iv) the terms set forth in the coverage map brochures as they become available; and (v) Evolve Cellular's policies posted on our website at [www.evolvecellular.com](http://www.evolvecellular.com). Collectively, all these documents together are referred to herein as the agreement ("Agreement"). It is important that you carefully read all of the terms of the Agreement.

### 3. Term of Service.

(a) **Minimum Term.** If you agree to maintain Service for a minimum term ("Term") as selected by you when entering into the contract, then the term of this Agreement shall commence on the applicable Billing Commencement Date specified in Section 8(e) and shall continue thereafter until terminated as provided for in this Agreement. Service is provided on a month to month basis unless you agreed to a specified Term (such as at the time you placed your order or bought Purchased Equipment), in which case you agree to maintain and pay for your Service for the duration of the specified Term.

(b) **Termination By You.** You may terminate any line of Service before its Term ends by calling us during normal business hours; however, you may be responsible for an early termination fee (as described herein in Section 27 - Term Commitments & Early Termination Fees). Your liability for Service-related charges will continue until such notice is received and verified by Evolve Cellular.

(c) **Suspension and termination by Evolve Cellular.** We may suspend your Services or terminate this Agreement for any reason and at any time unless a notice period is specifically noted elsewhere in the Agreement. If we suspend Service or terminate this Agreement for a reason other than your violation of this Agreement, all applicable fees and charges will accrue until the date of suspension or termination, but we will refund all prepaid monthly service fees charged for Services after the date of termination (less any outstanding amounts due Evolve Cellular for the Services, affiliate services, equipment, or other applicable fees and charges). You understand and acknowledge that all Evolve Cellular Voice Services, including 911/E911, will be disabled because of termination of your account.

(d) **Your obligations upon termination.** You agree that upon termination of this Agreement you will (i) immediately cease use of the Services and (ii) pay in full for your use of the Services up to the later of the effective date of termination of this Agreement or the date on which the Services are disconnected within 10 days after termination of the Agreement.

(e) **Reconnection.** If Evolve Cellular suspends or terminates a Service for nonpayment or other violation of this Agreement, you will be required, in addition to payment of all overdue balances and other applicable charges, to pay a up to a \$36 reconnect charge. Reactivation of Services is subject to the terms of this Agreement, applicable law and our credit policies.

(f) **Deletion of Customer information.** Evolve Cellular and its service providers reserve the right both during the term of this Agreement and upon its termination to delete your voicemail, data, files, or other user information that is stored on Evolve Cellular's or its service providers' servers or systems, in accordance with our storage policies. You understand and acknowledge that we shall have no liability whatsoever as a result of the loss or removal of any such voicemail, data, files, or other user information.

(g) **Reimbursement of Equipment Subsidy for Early Termination.** Evolve Cellular may provide discounted equipment to you in exchange for your agreement to subscribe to a Service for a specified Term. In such event, YOU UNDERSTAND AND AGREE THAT YOUR SERVICE PLAN PRICING, EQUIPMENT PRICING AND/OR PROMOTIONAL OFFER WAS BASED ON YOUR AGREEMENT TO CONTINUE SERVICE FOR A SPECIFIED TERM AS DEFINED IN SECTION 3(a). If prior to the expiration of your Term, you terminate that Service for any reason, including moving outside of Evolve Cellular's service area, or your Service is terminated by Evolve Cellular for any violation of this Agreement, you agree to pay to Evolve Cellular an early termination charge that reimburses Evolve Cellular for this subsidy, as determined reasonably by Evolve Cellular. See Section 27 for details on the early termination fee that applies to this subsidy.

4. **Availability of Offers.** All offers, including plans and customizable/upgrade options are being made available from 6/1/2016 through 12/31/2016. We reserve the right to cancel offers early or extend offers without notice. Offers may be subject to credit approval. Offers may not be available everywhere, combinable with other promotions/options, or available to business customers.

5. **Account Spending Limit ("ASL") May Apply.** An ASL is a temporary or permanent limit (typically based on credit history, payment history, or to prevent fraud) that we place on the amount of unpaid charges you can accumulate on your account, regardless of when payment on those charges is due. If they apply, the amount will be specified in your Subscriber Agreement or by subsequent notice to you by Evolve Cellular. We reserve the right to determine which charges count toward an ASL. If you have an ASL, we may suspend your Services without prior notice if your account balance reaches the ASL, even if your account is not past due. We may impose or increase an ASL at any time with notice. An ASL is for our benefit only and should not be relied on by

you to manage usage. ASL accounts are subject to a fee of \$4.99/mo. per account. The fee will be waived when the account includes recurring automatic payments through a credit or debit card or direct withdrawal from your checking account. Monthly Service plan charges accrue even if your Service is turned off for exceeding your spending limit or for non-payment.

**6. Installation Fees and Deposits.** Installation fees, if applicable, for each level of Service and Deposits on Services are payable in advance, at the time of, or prior to, activation or installation of the Services at your service location. We may at any time require a deposit as a guarantee of payment for you to establish or maintain Service ("Deposit"). By providing us a Deposit, you grant us a security interest for all current or future amounts owed to us. We may change the Deposit at any time with notice. You cannot use a Deposit to make or delay payments unless authorized by Evolve Cellular. The Deposit, the length of time we hold the Deposit, and changes to the Deposit are determined based on your credit history, payment history, and other factors. Unless prohibited by law, we may mix Deposits with our other funds and it won't earn interest, and we reserve the right to return the Deposit as a credit on your invoice at anytime. If your Services are terminated for any reason, we may keep and apply your Deposit against any outstanding charges. We will send any remaining portion of the Deposit to your last known address within 90 days after your final invoice. If the refund is returned to us, we will forward it on to the appropriate state authorities to the extent required by law.

**7. Invoicing Methods.** A \$2.00/month per account fee will apply if you choose to receive a paper invoice. To avoid this fee, you can elect to receive Evolve Cellular's invoice via e-mail. You will initially be able to make this selection as part of your Subscription Agreement, but may request a change in invoice method by calling Evolve Cellular at 512-777-7700 and completing any necessary Evolve Cellular paperwork to affect this change or sending a request via email to [billing@evolvecellular.com](mailto:billing@evolvecellular.com).

## **8. Billing and Payment.**

(a) **Charges.** Unless you have entered into an extended term for service, you agree to pay all charges associated with the Services, and that these charges are subject to change at any time. These charges may include but not be limited to installation charges, activation charges, monthly service charges, overage charges, charges for service calls, and other charges. The current applicable charges and fees for Evolve Cellular's Services are available by calling Evolve Cellular customer service at 512-777-7700. Monthly charges exclude (i) taxes and (ii) Evolve Cellular Surcharges [incl. USF charge (varies quarterly), cost recovery and administrative fees, and state/local fees by area (e.g., in some areas up to 18%)]. Evolve Cellular Surcharges are not taxes or government-required charges and are subject to change.

(b) **Taxes and Fees.** You agree to pay any and all applicable federal, state, and local taxes (however designated) levied upon us in connection with the sale, installation, use, or provision of the Services, and also surcharges that we charge in connection with governmental or quasi-governmental fees or programs, such as universal service fees, 911/E911 surcharges, telecommunications relay service surcharges, state cost-recovery fees, right-of-way fees, etc.

(c) **Activation Fees.** An activation fee of up to \$36 may apply to new activations, certain Service plan changes or upgrades of phones or Devices.

(d) **Billing Commencement Date.** The fees and charges for the Services begin to accrue on the Billing Commencement Date as defined below. If Evolve Cellular installs or activates your Services, the Billing Commencement Date is the day of installation or activation. The "Billing Commencement Date" is the earlier of (i) the day you install, or pick up any equipment from an Evolve Cellular office or employee, or (ii) one (1) day after we receive notification that shipment of your equipment has been received by you.

(e) **Invoicing.** If Service(s) is activated during a billing cycle, monthly recurring charges from the activation date will be pro-rated based on the actual number of days in the billing cycle the Service(s) is provided. An invoice for this pro-rated period will be invoiced to customer shortly after your Service(s) is activated. Non-recurring charges (e.g., equipment purchases, activation fees, etc.) will be billed prior to customer taking possession of the equipment. Invoices for monthly recurring services will be due and payable within 25 days from the invoice date on your bill ("Due Date"). Overage charges for Data and/or Voice Services will be billed in arrears.

(f) **Payment by Credit Card.** If payment by credit card is made available by Evolve Cellular and you provide a credit card number to us, you thereby authorize us to charge that credit card for all amounts payable by you to Evolve Cellular as specified in this Agreement. You also authorize us to continue such charges until you notify Evolve Cellular in writing that you are withdrawing this authorization or until you have paid all charges under this Agreement. If Evolve Cellular does not receive payment from your credit card issuer or its agents, you agree to pay all amounts due upon demand by us, including a \$15 fee for payment charge return. It is your responsibility to notify Evolve Cellular of any changes to your credit card information we have on file.

(g) **Pay-by-Phone Fee.** Each time that you choose to pay by phone through an Evolve Cellular customer service representative, you agree to pay up to a \$3.00 fee per transaction. There is no additional fee for payments that are made (i) through the Evolve Cellular's online billing portal, which is available on our website at [www.evolvecellular.com](http://www.evolvecellular.com), or (ii) at Evolve Cellular's corporate office.

(h) **Late Fees.** You agree to pay a \$5.00 late fee in addition to all other applicable charges if you do not pay the full balance due on your account by the Due Date on your invoice.

(i) **Billing Errors.** Subject to applicable law, you must notify us of any billing errors or other requests for refund within 60 days of the date on the bill.

(j) **Credit Inquiries and Information.** We agree to provide you Services on the condition that you have and maintain satisfactory credit according to our standards and policies. You authorize Evolve Cellular to make inquiries and to receive information about your credit experience from others, to enter this information in your file, and to disclose this information concerning you to appropriate third parties for reasonable business purposes. You agree to provide information that we may request or complete any applications that we may provide you to facilitate our review. We rely on the credit information you furnish, credit bureau reports or other data available from commercial credit reference services, and other information (such as payment history with us) to determine whether to provide or continue to provide you Services. The Services we offer you can vary based on your credit history. We may at any time, based on your credit history, withdraw or change Services or place limits or conditions on the use of our Services. You agree to provide us updated credit information upon request. We may provide your payment history and other account billing/charge information to any credit reporting agency or industry clearinghouse.

(k) **Returned Checks, Nonpayment, Collection.** If check payment is made available, you agree that Evolve Cellular may, if available, electronically debit your account for both the face amount of your check, and a returned check fee of \$30, if your check is returned unpaid. In the event of nonpayment, Evolve Cellular reserves the right to suspend or disconnect your Services at any time, with or without notice. You agree that if Evolve Cellular incurs collection or other legal costs as a result of nonpayment, you will be liable for the total past due amount and any returned check fees, but also for collection and attorneys' fees as well as court costs

upon judgment. Further, in order to resume Services, you must pay the past due charges in full in addition to a reconnect fee and, at Evolve Cellular's discretion, up to one month's service charges in advance.

(l) **Notification of Changes.** We may change the fees and charges for the Services from time to time at our discretion. Unless this Agreement specifies otherwise, we will give you 30 days notice of any modification to this Agreement. Evolve Cellular may, in its sole discretion, change, add to, or remove portions of the Services (including but not limited to features and equipment requirements) at any time without notice. If you continue to use the Services after any modification of this Agreement or the Services, you shall be deemed to have accepted the modification. If you do not agree to any modifications, you must notify Evolve Cellular prior to the date the modifications are to become effective that you are terminating your Services and this Agreement. You will then be entitled to a refund of any portion of any recurring monthly service fee for the Services that have been paid by you in advance for a period subsequent to the effective date of your requested termination (less any outstanding amounts due for equipment or other applicable fees and charges). You will be responsible to pay any fees, payment obligations, and taxes that become applicable retroactively.

9. **Billing Information, Number Changes, Misc.** Detailed data billing information is available for all customers by requesting such information. Additional fees may apply for phone number changes. Our Services will only work with Evolve Cellular approved Devices. Not all Services are available with all Devices. We may block network access or refuse activation for devices that are incompatible with our network or for any reason that protects our customers' or network's interests including, but not limited to, devices that are lost, stolen or terminated for nonpayment of service. Monthly service charges are not refunded or prorated if Service is terminated or modified before your billing cycle ends. All voice and data usage, including incoming/outgoing calls, incurs charges unless specified otherwise. Except where specified, included plan minutes are not good for off-network roaming calls should roaming be made available under a specified service plan. Except where specified, included data monthly allowed usage are not good for off-network data roaming should data roaming be made available under a specified service plan. Rates for International roaming for voice and data services, if made available under a specified Service plan, are additional and will vary. On calls that cross time periods, minutes are generally deducted or charged based on the call start time. Unused monthly plan minutes do not carry forward. Partial minutes of use are rounded up to the next whole minute.

10. **Use of Service Limitations.** Our Service plans, customer Devices, Services and features are not for resale and are intended for reasonable and non-continuous use by an account holder using a Device on Evolve Cellular's network or on a roaming partner of Evolve Cellular should roaming be made available. You agree and represent that you are buying the Services for your own personal use only and that you will not resell or permit another to resell the Services. You agree to ensure that the Service(s) are used in a legal and appropriate manner.

11. **Prohibited Network Uses.** Visit the [www.evolvecellular.com](http://www.evolvecellular.com) website to view our Acceptable Use Policy which is incorporated herein as part of the T&C.

12. **Unlimited Use Plans.** If you subscribe to rate plans, Services or features that are described as unlimited, if available, you should be aware that such "unlimited" plans are subject to these Evolve Cellular Prohibited Network Uses.

13. **GPS Navigation:** Environment may limit GPS location information. The user's authorization is required for Evolve Cellular to share location and other needed enabling information with third parties. It is the responsibility of the user to notify device users that location can be identified while using GPS applications.

14. **Location Based Services.** Environment may limit location-based service information. Location Based Services require an account holder's authorization for Evolve Cellular to share location and other needed enabling information with third parties. It is the responsibility of the account holder to notify device users that location can be identified while using location based service applications. GPS and Location based 911 is mandatory when technically available.

15. **Data.** The amount of data transmitted over our network is measured in kilobytes (KB), megabytes (MB) or gigabytes (GB). Unless specified otherwise, 1,024KB equals 1MB and 1,024MB equal 1GB. Usage is calculated on a per KB, MB or GB (depending on your plan) basis and is rounded up to the next whole KB, MB or GB at which time we deduct accumulated usage from your plan, or assess overage or casual usage charges. You are responsible for all data activity from and to your device, regardless of who initiates the activity. Estimates of data usage will vary from actual use. Your invoice will not separately identify the number of KB, MB or GB attributable to your use of specific sites, sessions or services used. Premium content, if made available, (games, ringtones, music tracks, etc.) are priced separately. Services are not available for use in connection with server devices or host computer applications, other systems that drive continuous heavy traffic or data sessions, or as substitutes for private lines or frame relay connections. Except with Phone-as-Modem add-on, you may not use a phone (including a Bluetooth phone) as a modem in connection with a computer, PDA, or similar device. We reserve the right to deny or terminate service without notice for any misuse or any use that adversely affects network performance. Availability of downloadable or streaming content is subject to change, including but not limited to television channels and radio stations.

16. **Third-Party Content.** Evolve Cellular allows customers to purchase mobile content on a per item or monthly basis from Evolve Cellular, when available in the future, and from other entities. Subscribers are responsible for all billed content, including content purchased by others authorized to use devices on the account. Usage can be restricted by use of account blocking tools or similar features. Blocking tools or similar features are available at no cost. Deleting third-party applications from your device alone may not stop the billing of monthly recurring charges.

17. **Off-network Roaming.** The primary use of your Device must be for domestic purposes within the Evolve Cellular network. Domestic means use in the 50 United States and U.S. Territories (except Guam). Off-net Roaming is not currently available for Evolve Cellular service plans.

18. **International Long Distance, Messaging and Data.** Devices must be activated for international service, if available, to enable international long-distance calls, messaging or data including to Mexico and Guam. For verification purposes, you may be required to provide additional information and activation of a plan may take approximately 1 to 3 days. Verification for account spending limit customers may take up to 30 days. Rates, mobile termination fees and available countries are available upon request. International rates are subject to change without notice and require a deposit.

19. **Per-call charges.** Voice Plans do not include certain call types that will be charged by Evolve Cellular on a per-call basis (e.g., operator services, 411, etc.).

20. **Rounding of fractional charges.** If the computed charge for a voice call includes a fraction of a cent, the fraction is rounded up to the nearest whole cent. If the computed charge for taxes or surcharges includes a fraction of a cent, the fraction is rounded up to the nearest whole cent.

21. **Tiering.** The Services are offered on a tiered basis:

(a) **Data Tiering and Overage.** For Data Services provided by Evolve Cellular, each tier includes an allotment of bandwidth consumption (“Data Plan Allotment”) that you may use during each billing cycle at no additional charge. You agree that you will pay for additional bandwidth consumed beyond the Data Plan Allotment at the rates listed in your Subscriber Agreement. Unused bandwidth from your Data Plan Allotment expires at the end of your billing cycle and does not carry over to subsequent billing cycles. It is your responsibility to monitor and manage your bandwidth usage, which you may check by calling 512-777-7700. You must report any anomalous traffic to Evolve Cellular within 5 days. If such traffic is reported promptly and resulted from circumstances outside your control, such as a computer virus, spam attack, or a denial of service attack, Evolve Cellular may, at its discretion, confirm the source of the problem and deduct the bandwidth from your usage statistic. You also agree that Evolve Cellular may use technical means, including but not limited to suspending or reducing the speed of your Services, to ensure quality of service to other customers or for other good cause, and that Evolve Cellular may at its option move you to a higher tier of Services (which may result in higher monthly charges). You further agree that Evolve Cellular has the right to monitor your usage patterns to facilitate the provision of the Services and to ensure your compliance with this Agreement and any additional terms of use found at [www.evolvecellular.com](http://www.evolvecellular.com). Evolve Cellular may take such steps as it determines appropriate in the event that your usage of the Services does not comply with this Agreement or any additional terms of use found at [www.evolvecellular.com](http://www.evolvecellular.com).

(b) **Voice Tiering and Overage.** For Voice Services provided by Evolve Cellular, each tier includes an allotment of minutes of usage consumed (“Voice Plan Allotment”) that you may use during each billing cycle at no additional charge. You agree that you will pay for additional minutes of usage consumed beyond the Voice Plan Allotment at the rates listed in your Subscriber Agreement. Unused minutes from your Voice Plan Allotment expires at the end of your billing cycle and does not carry over to subsequent billing cycles. It is your responsibility to monitor and manage your voice minutes of usage, which you may check by calling 512-777-7700.

(c) **Tiering Pricing Subject to Change.** You agree that Evolve Cellular may change the tiers and rates described in Section 21(a) and (b) and other applicable limits or terms of any tiers by amending the prices, aspects and features of the Service set forth at [www.evolvecellular.com](http://www.evolvecellular.com). Your continued use of the Service will constitute acceptance of any new and revised limits and terms.

**22. Service Speeds and Availability.** You understand and agree that the actual throughput rate you may experience at any time will vary based on numerous factors including, but not limited to, weather, the specific location you are trying to use Evolve Cellular’s Services, Evolve Cellular network congestion, the time of day at which the Service is used, and the website servers you access. In addition, Evolve Cellular’s cellular Data and cellular Voice Services are provided over radio frequencies and are available only within the operating range and limitations of radio equipment. Radio signals are subject to inherent limitations, including but not limited to blockage from the horizon or intervening terrain, structures or heavy foliage, and the effects of excess distance, multipath distortion, radio or electronic interference, and other natural or man-made conditions, as well as the availability of electrical power and interconnection with telephone and data networks. You acknowledge that Data and Voice Services are not available in all areas and that even within the Evolve Cellular network coverage area the availability, quality, signal strength, access to a reliable WiFi hotspot, and network speeds may vary, may be lower than advertised and may be insufficient for use of the Service. You agree that any unavailability or impairment of these Services is not a basis for a demand for a refund or credit or any claim against Evolve Cellular. You agree to provide Evolve Cellular with the address of where you primarily intend to use a wireless service, which will be used to determine the availability of coverage, and the address to which invoices should be sent (if different), and to promptly notify Evolve Cellular of any changes to either such address. You agree to

cooperate with Evolve Cellular in connection with any remote or on-site service level verification or troubleshooting.

23. **Monitoring.** Evolve Cellular shall have the right, but not the obligation, to monitor the content of the Services, including chat rooms, bulletin boards and forums, in order to determine compliance with this Agreement and any operating rules established by Evolve Cellular. Evolve Cellular shall have the right in its sole discretion to edit, refuse to post or remove any material submitted to or posted on the Service. Without limiting the foregoing, Evolve Cellular shall have the right to remove any material that Evolve Cellular, in its sole discretion, finds to be in violation of the provisions hereof or any operating rules established by Evolve Cellular hereafter, or otherwise to be objectionable (including indecent or obscene words or material; obstructive or disruptive communications; epithets and the like). Under no circumstances, however, does Evolve Cellular undertake any obligation to review or determine the acceptability or accuracy of any Customer postings.

24. **Wireless Network Management.** Evolve Cellular uses network management technology in our wireless network to improve available network capacity to benefit the greatest number of users. The network management technology will optimize streaming video, flash video and peer to peer file sharing applications bandwidth to reduce possible network congestion during peak traffic times.

25. **Our Policies.** Services are subject to our business policies, practices, and procedures ("Policies"). You agree to adhere to all of our Policies made available on our website at [www.evolvecellular.com](http://www.evolvecellular.com) when you use our Services. Our Policies are subject to change at any time with or without notice.

26. **Agreement Acceptance.** You must have the legal capacity to accept the Agreement. You accept the Agreement when you do any of the following: (a) accept the Agreement through any printed, oral, or electronic statement, including, if available, on the web by electronically marking that you have reviewed and accepted; (b) attempt to or in any way use the Services; (c) pay for the Services; or (d) open any package or start any program that says you are accepting the Agreement when doing so. If you don't want to accept the Agreement, don't do any of the preceding things.

27. **Term Commitments & Early Termination Fees.** Many of the Services (e.g., Device discounts) that we offer may require you to maintain certain Services with us for a minimum term, usually 1 or 2 years ("Term Commitment") as specified in the Subscriber contract. You will be charged an Early Termination Fee ("ETF") for each line of Service that you terminate early (i.e., prior to satisfying the Term Commitment) or for each line of Service that we terminate early for good reason (for example, violating the payment or other terms of the Agreement).

If you terminate a Term commitment early, you will be assessed an ETF. The ETF is prorated and calculated by taking the months remaining on your Agreement times the equivalent monthly recurring price for the Service being terminated early. Payment of the ETF does not satisfy other obligations owed to us, including Term commitments with other lines or service charges.

28. **When You Don't Have To Pay An Early Termination Fee.** You aren't responsible for paying an ETF when terminating Services are: (a) provided on a month-to-month basis; (b) on a subscription basis with no Term Commitment; (c) consistent with our published trial period return policy if applicable; or (d) in response to a materially adverse change that we make to the Agreement as described directly below.

29. **Our Right To Change The Agreement & Your Related Rights.** We may change any part of the Agreement at any time, including, but not limited to, rates, charges, how we calculate charges, discounts, coverage, technologies used to provide Services, or your terms of Service. We will provide you notice of material changes



—and we may provide you notice of non-material changes — in a manner consistent with the notice provisions in this Agreement. If a change we make to the Agreement is material and has a material adverse effect on Services under your Term Commitment, you may terminate each line of Service materially affected without incurring an ETF only if you: (a) call us within 30 days after the effective date of the change; and (b) specifically advise us that you wish to cancel Services because of a material change to the Agreement that we have made. If you do not cancel Service within 30 days of the change, an ETF will apply if you terminate Services before the end of any applicable Term Commitment.

**30. Our Right To Suspend Or Terminate Services.** We can, without notice, suspend or terminate any Service at any time for any reason. For example, we can suspend or terminate any Service for the following: (a) late payment; (b) exceeding a reasonable amount of usage; (c) harassing/threatening/abusing/offending our employees or agents; (d) providing false or inaccurate information; (e) interfering with our operations; (f) using (or our suspicion of your using) Services in any manner restricted by or inconsistent with the Agreement and Policies; (g) breaching, failing to follow, or abusing the Agreement or Policies; (h) providing false, inaccurate, dated, or unverifiable identification or credit information or becoming insolvent or bankrupt; (i) modifying a Device from its manufacturer specifications (for example, rooting the device); (j) failing to use our Services for an extended period of time; (k) failing to maintain an active Device in connection with our Services; (l) if we believe the action protects our interests, any customer's interests, or our networks; or (m) violating Evolve Cellular's Acceptable Use Policy. Visit [www.evolvecellular.com](http://www.evolvecellular.com) for additional details.

**31. Service Restrictions.** You cannot use our Service(s): (a) in a way that could cause damage or adversely affect any of our other customers or our reputation, networks, property, or Services; or (b) in any way prohibited by the terms of our Services, the Agreement, or our Policies. You cannot in any manner resell the Services to another party. For additional restrictions on the use of our Services, see our Acceptable Use Policy, which is available on our website, and the detailed plan or other information on Services that we provide or refer you to during the sales transaction.

**32. Your Device, Number & E-mail Address; Caller ID.** We don't manufacture any Device that we might sell to you or that is associated with our Services, and we aren't responsible for any defects, acts, or omissions of the manufacturer. **The only warranties on your Device are the limited warranties given to you by the manufacturer directly or that we pass through. Device performance may vary based on device specifications (for example, a device's software, memory, and storage), and device performance may impact access to all of our Services.** Your Device is designed to be activated on our network and in other coverage areas that we may make available to you. As programmed, it will not accept wireless service from another carrier. Except for any legal right you may have to port/transfer your phone number to another carrier, you have no—and cannot gain any (for example, through publication, use, etc.)—proprietary, ownership, or other rights to any phone number, identification number, e-mail address, or other identifier that we assign to you, your Device, or your account. We will notify you if we decide to change or reassign them.

**33. Porting/Transferring Phone Numbers.** If we make number porting available, we do not guarantee that number transfers to or from us will be successful. If you authorize another carrier to transfer a number away from us, then that is considered a request by you to us to terminate the Service(s) associated with that number. You are responsible for all charges billed or incurred prior to deactivation and for any applicable Early Termination Fees.

**34. Coverage; Where Your Device Will Work; Service Speeds.** Our coverage maps, if available, will be posted on our website. The specific network coverage you get will depend on the radio transmissions and/or your access to a reliable WiFi hotspot your Device can pick up and Service(s) you have chosen. When available and posted on our website, our coverage maps will provide only a high level estimate of our coverage areas when

using Services outdoors under optimal conditions. Coverage is not available everywhere and varies by Service - call us at 512-777-7700 for additional details. Coverage and Service speeds are not guaranteed. Coverage is subject to change without notice. Service speeds may depend on the Service purchased. Actual speeds will vary. Estimating wireless coverage, signal strength, and Service speed is not an exact science. There are gaps in coverage within our estimated coverage areas that—along with other factors both within and beyond our control (for example, network problems, network or internet congestion, software, signal strength, your Device, structures, buildings, weather, geography, topography, server speeds of the websites you access, actions of third parties, etc.)—may result in dropped and blocked connections, slower Service speeds, or otherwise impact the quality of Service. Services that rely on location information, such as E911 and GPS navigation, depend on your Device's ability to acquire satellite signals (typically not available indoors) and network coverage. If your Device is receiving a software update, you may be unable to use your Device in any manner until the software update is complete.

### **35. Limitations of 911/E911 Dialing and Other Emergency Calls.**

(a) **Limitations.** Voice Services includes the ability to place calls to emergency dispatch operators by dialing “911” (“911/E911”) that may differ from 911/E911 functions furnished by traditional telephone service providers. As such, the 911/E911 Services may have certain limitations. **CAREFULLY READ THE INFORMATION BELOW. YOU ACKNOWLEDGE AND ACCEPT ANY LIMITATIONS ON 911/E911. YOU AGREE TO CONVEY THESE LIMITATIONS TO ALL PERSONS WHO MAY HAVE OCCASION TO PLACE CALLS OVER THE SERVICES.** If you have any questions about 911/E911, call Evolve Cellular customer service at 512-777-7700.

(b) **911 or Other Emergency Calls.** Public safety officials advise that when making 911 or other emergency calls, you should always be prepared to provide your location information. Unlike traditional wireline phones, depending on a number of factors (for example, whether your Device is GPS enabled, where you are, whether local emergency service providers have upgraded their equipment, etc.), 911 operators may not know your phone number, your location, or the location of your Device. In certain circumstances, an emergency call may be routed to a state patrol dispatcher or alternative location set by local emergency service providers. Enhanced 911 service (“E911”)—where enabled by local emergency authorities—uses GPS technology to provide location information. Even when available, however, E911 does not always provide accurate location information. If your Device is indoors or for some other reason cannot acquire a satellite signal, you may not be located. Some Devices have a safety feature that prevents use of the keypad after dialing 911—you should follow voice prompts when interacting with emergency service providers employing interactive voice response systems to screen calls.

(c) **Correct Address.** In order for your 911/E911 calls to be properly directed to emergency services, Evolve Cellular must have your correct service address. If you move the Service(s) or desire to use the Service(s) via mobile data without Evolve Cellular’s approval, 911/E911 calls may be directed to the wrong emergency authority, may transmit the wrong address, or the Services (including 911/E911) may fail altogether. Therefore, you must call Evolve Cellular customer service at 512-777-7700 at least 5 days before you move the Service(s) to a new address or before you request mobile use. All changes in service address require Evolve Cellular’s prior approval. **YOU UNDERSTAND AND ACKNOWLEDGE THAT EVOLVE CELLULAR WILL NEED SEVERAL BUSINESS DAYS TO UPDATE YOUR SERVICE ADDRESS OR TO IMPLEMENT GPS BASED MOBILE 911 IN THE E911 SYSTEM SO THAT YOUR 911/E911 CALLS CAN BE PROPERLY DIRECTED.** If you are moving to an address that is no longer in Evolve Cellular’s network coverage area then this constitutes an early termination event and ETF may apply.

(d) **Network Congestion or Failures.** Calls, including calls to 911/E911, may not be completed if there is a problem with network facilities, including network congestion, network or network equipment failure, or another technical problem.

(e) **Limitation of Liability.** YOU ACKNOWLEDGE AND AGREE THAT THE EVOLVE CELLULAR PARTIES AND THEIR SERVICE PROVIDERS WILL NOT BE LIABLE FOR ANY SERVICE OUTAGE, INABILITY TO DIAL 911 USING THE SERVICES, OR INABILITY TO ACCESS EMERGENCY SERVICE PERSONNEL. YOU AGREE TO DEFEND, INDEMNIFY, AND HOLD HARMLESS THE EVOLVE CELLULAR PARTIES AND THEIR SERVICE PROVIDERS, FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, FINES, PENALTIES, COSTS, AND EXPENSES (INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEY FEES) BY, OR ON BEHALF OF, YOU OR ANY THIRD PARTY OR USER OF THE SERVICES RELATING TO THE FAILURE OR OUTAGE OF THE SERVICES, INCLUDING THOSE RELATED TO 911/E911 SERVICES PROVIDED TO YOU IN CONNECTION WITH THE SERVICES.

**36. If Your Device Is Lost or Stolen.** Call us immediately if your Device is lost or stolen because you may be responsible for usage charges before you notify us of the alleged loss or theft. A lost or stolen Device does not reduce or remove your Term Commitment. You will remain liable for any monthly recurring charges associated with the Service on your Device after you notify us of the alleged loss or theft. You agree to cooperate if we choose to investigate the matter (provide facts, sworn statements, etc.). We have no duty to waive any Early Termination Fees if you choose to terminate Services as a result of loss or theft of your Device.

**37. About Data Services & Content.** Our Data Services and your Device may allow you to access the internet, text, pictures, video, games, graphics, music, email, applications, sound, and other materials ("Data Content") or send Data Content elsewhere. Some Data Content is available from us or our vendors, while other Data Content can be accessed from others (for example, third party websites, games, ringtones, applications, etc.). We make absolutely no guarantees about the Data Content that you access on your Device. **Data Content may be: (1) unsuitable for children/minors; (2) unreliable or inaccurate; or (3) offensive, indecent, or objectionable. You're solely responsible for evaluating the Data Content accessed by you or anyone through your Services. We strongly recommend that you monitor data usage by children/minors.** Data Content from third parties may also harm your Device or its software. We are not responsible for any Data Content. We are not responsible for any damage caused by any Data Content that you access through your Services, that you load on your Device, or that you request that our representatives access or load on your Device. To protect our networks and Services or for other reasons, we may place restrictions on accessing certain Data Content (such as certain websites, applications, etc.); impose separate charges; limit throughput or the amount of data that you can transfer; or otherwise limit or terminate Services. If we provide you storage for Data Content that you have purchased, then we may delete the Data Content without notice or place restrictions/limits on the use of storage areas. Data Content stored on a Device, transmitted over our networks, or stored by Evolve Cellular may be deleted, modified, or damaged. You may not be able to make or receive voice calls while using data Services. Data Content provided by our vendors or third parties is subject to cancellation or termination at any time without notice to you, and you may not receive a refund for any unused portion of the Data Content.

**38. Evolve Cellular Equipment, software and marks.**

(a) **Equipment.** You agree that you will not allow equipment purchased, or approved for use by us, from Evolve Cellular ("Evolve Cellular Equipment") to be serviced by anyone other than a qualified service representative for the manufacturer of your Device. If you change residences, you must contact Evolve Cellular for information on where you have relocated to. You may not at any time permit any attachments to, alteration of, or tampering with the Devices sold to you by Evolve Cellular.

(b) **Firmware and Software Licenses.** The Services and Purchased Equipment, including any firmware or software that may be embedded in Purchased Equipment or used to provide the Services, are protected by trademark, copyright, and/or other intellectual property laws and international treaty provisions. You are granted a limited, revocable, non-exclusive, non-transferable license to use such firmware and software in object code form (without making any modification thereto) strictly in accordance with this Agreement to access the Services for your own individual use. You will not sell, resell, transfer, copy, translate, publish, create derivative works of, make any commercial use of, modify, reverse engineer, decompile, or disassemble the software. Evolve Cellular may revoke this license at any time. This license will commence upon your acceptance of the relevant Services and will terminate immediately upon the termination of the Services for any reason. Evolve Cellular and its licensors retain all rights and interests in and to any such software or firmware. You acknowledge and understand that you are not granted any other license to use the firmware or software embedded in the Purchased Equipment or used to provide the Services. You expressly agree that you will use the Purchased Equipment exclusively in connection with the Services. If provided to customer by us, you are permitted to archive the software or re-load the software disk in its original format. All such copies must contain the same copyright notices and proprietary markings as the original software. You shall not reverse compile, disassemble, or reverse engineer or otherwise attempt to derive the source code from the binary code of the firmware or software.

(c) **Export Laws.** You expressly agree to comply with all applicable export and reexport laws, including but not limited to the Export Administration Act, the Arms Export Control Act, and their implementing regulations. You further expressly agree not to use the Services in any way that violates any provision of these export and re-export laws or their implementing regulations.

(d) **Protection of Evolve Cellular's Information and Marks.** All Evolve Cellular Services information, documents, and materials on our websites are protected by trademark, copyright or other intellectual property laws, and international treaty provisions. All websites, corporate names, service marks, trademarks, trade names, logos, and domain names (collectively "marks") of Evolve Cellular are and shall remain the exclusive property of Evolve Cellular. Nothing in this Agreement shall grant you the right or license to use any of the marks.

39. **Damage to or Failure to Return Evolve Cellular Equipment.** Evolve Cellular is not responsible for Purchased Equipment that is lost, stolen, damaged, destroyed, or otherwise. We suggest that the Purchased Equipment in your possession be covered by your homeowners, renters, or other insurance.

#### 40. **Purchased Equipment.**

(a) **Equipment Purchased from Evolve Cellular.** Evolve Cellular may offer to sell equipment that you may purchase in connection with your use of the Services, such as cellular phones ("Purchased Equipment"). By purchasing the Purchased Equipment, you agree to the following terms and conditions. You agree and represent that you are purchasing Purchased Equipment solely for your own personal use of the Services and not for resale, lease or use for or on behalf of any other person or entity. Evolve Cellular shall have the unrestricted right, but not the obligation, to download and/or upgrade the software or firmware in Purchased Equipment, or to replace the Purchased Equipment with a comparable device (which does not have to be of the same model or type as the equipment that you originally purchased), at any time that Evolve Cellular, in its sole discretion, determines it is necessary or desirable. You agree to be subject to the early termination charges as described in Section 25 herein if your Service(s) is terminated prior to the end of a minimum term of service that you agreed to in connection with Evolve Cellular's subsidization, if applicable, of Purchased Equipment.

**(b) Limited Warranty for Purchased Equipment.** Evolve Cellular provides a 30-day limited warranty for any defects in materials or workmanship in Purchased Equipment if such defects adversely affect the performance of, or your ability to use, the equipment to receive the Services. This limited warranty will expire at the earlier of: (i) 30 days after the date you received the equipment from Evolve Cellular, (ii) the termination of your Service, or (iii) your violation of any of the terms of this Agreement. If your Purchased Equipment is repaired or replaced while this Limited Warranty is in effect, the repaired or replaced equipment will be warranted for the remaining warranty period covering the original Purchased Equipment. ALL IMPLIED WARRANTIES PROVIDED TO YOU UNDER APPLICABLE LAW, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE LIMITED IN DURATION TO THE PERIOD OF COVERAGE UNDER THIS LIMITED WARRANTY. THE WARRANTIES DESCRIBED ABOVE ARE THE ONLY EXPRESS WARRANTIES APPLICABLE TO PURCHASED EQUIPMENT. This warranty does not cover any cords, cabling or software embedded in, or provided in connection with the equipment; any cosmetic damage including, but not limited to, plastic surfaces or any other exposed parts that are scratched or damaged; or equipment that has had the barcode, serial number, or other identifying mark modified, removed or obliterated or which have had the case opened or the equipment seal broken. The warranty also does not cover any defects, damage or malfunctioning of the equipment resulting from neglect, abuse, misuse, accident, fire, flood, lightning or other acts of God, war, or other events beyond our reasonable control; improper use, application or testing; changing the calibration of or improper tampering with customer controls; power fluctuations or surges or improper connection with any other equipment; improper handling, operation, maintenance, transport, storage, or environmental or site conditions; unauthorized alterations or repairs, or use of unapproved parts in or with the equipment or incompatibility with other equipment; or improper or faulty installation. If your Purchased Equipment fails during the warranty period described above, Evolve Cellular will, at no charge to you, repair, replace or refund your cost for the Purchased Equipment within a reasonable time. This is your sole and exclusive remedy for such failure and the manner of remedy is at sole option of Evolve Cellular. All replaced parts and products will be deemed to be on an exchange basis and will become our property. Any repair or replacement of Purchased Equipment following the expiration of the limited warranty will be your responsibility. The above warranty will be voided if you attempt to upgrade the firmware on equipment purchased from us.

**41. Service and maintenance procedures.** In the event of a problem with your Service or Purchased Equipment, you should contact Evolve Cellular customer service at 512-777-7700. If you call outside of normal business hours, leave a complete message including your name, address, contact work and home telephone number(s) and a description of the problem. If a problem is not resolved to your satisfaction, you may write or call us with concerns or complaints. Emergency damage to the network from violent storms or very cold weather may interfere with the Services. In these circumstances, maintenance crews will be promptly dispatched to correct any emergency when practicable. Depending on the emergency situation, it may take several days to resume full service.

**42. Disclaimer of Warranties.** UNLESS EXPRESSLY PROVIDED IN WRITING OTHERWISE, WE MAKE NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING (TO THE EXTENT ALLOWED BY LAW) ANY IMPLIED WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE CONCERNING YOUR SERVICES (INCLUDING YOUR DEVICES). WE DON'T PROMISE UNINTERRUPTED OR ERROR-FREE SERVICES AND DON'T AUTHORIZE ANYONE TO MAKE WARRANTIES ON OUR BEHALF.

**43. You Agree That We Are Not Responsible For Certain Problems.** You agree that neither we nor our subsidiaries, affiliates, parent companies, vendors, suppliers, or licensors are responsible for any damages resulting from: (a) anything done or not done by someone else; (b) providing or failing to provide Services, including, but not limited to, deficiencies or problems with a Device or network coverage (for example, dropped,

blocked, interrupted Services, etc.); (c) traffic or other accidents, or any health-related claims relating to our Services; (d) Data Content or information accessed while using our Services; (e) an interruption or failure in accessing or attempting to access emergency services from a Device, including through 911, Enhanced 911 or otherwise; (f) interrupted, failed, or inaccurate location information services; (g) information or communication that is blocked by a spam filter; (h) damage to your Device or any computer or equipment connected to your Device, or damage to or loss of any information stored on your Device, computer, equipment, or Evolve Cellular storage space from your use of the Services or from viruses, worms, or downloads of malicious content, materials, data, text, images, video, or audio; or (i) things beyond our control, including acts of God or Force Majeure (for example, weather-related phenomena, fire, earthquake, hurricane, war, strikes, etc.), riot, strike, war, terrorism, or government orders or acts (i.e., force majeure events). You should implement appropriate safeguards to secure your Device, computer, or equipment and to back-up your information stored on each.

**44. You Agree Our Liability Is Limited - No Consequential Damages.** TO THE EXTENT ALLOWED BY LAW, OUR LIABILITY FOR MONETARY DAMAGES FOR ANY CLAIMS THAT YOU MAY HAVE AGAINST US IS LIMITED TO NO MORE THAN THE PROPORTIONATE AMOUNT OF THE SERVICE CHARGES ATTRIBUTABLE TO THE AFFECTED PERIOD. UNDER NO CIRCUMSTANCES ARE WE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, PUNITIVE, MULTIPLE, OR SPECIAL DAMAGES OF ANY NATURE WHATSOEVER ARISING OUT OF OR RELATED TO PROVIDING OR FAILING TO PROVIDE SERVICES IN CONNECTION WITH A DEVICE, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, LOSS OF BUSINESS, OR COST OF REPLACEMENT PRODUCTS AND SERVICES.

**45. No Trial By Jury.** TO THE EXTENT ALLOWED BY LAW, WE EACH WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY LAWSUIT, ARBITRATION, OR OTHER PROCEEDING.

**46. Indemnification:** You agree to indemnify, defend, and hold Evolve Cellular and our subsidiaries, affiliates, parent companies harmless from any claims arising out of or relating to your actions, including, but not limited to, your use of the Service and any information you submit, post, transmit, or make available via the Service; failing to provide appropriate notices regarding location-enabled services (see "Location-Enabled Services" in Section 14 herein); failure to safeguard your passwords, backup question to your shared secret question, or other account information; or violating this Agreement or any policy referenced in this Agreement or posted on our website, any applicable law or regulation, or the rights of any third party.

**47. Providing Notice To Each Other Under The Agreement.** Except as the Agreement specifically provides otherwise, you must provide us notice by calling our main number as shown on your invoice or writing to us at the address shown on your invoice. We will provide you notice through one or more of the following: on your bill, correspondence to your last known billing address, to any fax number or e-mail address you have provided us, by calling you on your Device or any other phone number you have provided us, by voice message on your Device or any other phone number you have provided us, or by text message on your Device or a cell phone number you have provided us with.

**48. Other Important Terms.** Subject to federal law or unless the Agreement specifically provides otherwise, this Agreement is governed solely by the laws of the state encompassing the billing address of the Device, without regard to the conflicts of law rules of that state. If either of us waives or doesn't enforce a requirement under this Agreement in an instance, we don't waive our right to later enforce that requirement. Except as the Agreement specifically provides otherwise, if any part of the Agreement is held invalid or unenforceable, the rest of this Agreement remains in full force and effect. This Agreement is not for the benefit of any third party except our corporate parents, affiliates, subsidiaries, agents, and predecessors and successors in interest. You cannot assign the Agreement or any of your rights or duties under it without Evolve Cellular approval. We can assign the Agreement without notice. The Agreement and the documents it incorporates make up the entire

agreement between us and replaces all prior written or spoken agreements. You cannot rely on any contradictory documents or statements by our sales or service representatives. The rights, obligations and commitments in the Agreement that, by their very nature, would logically continue beyond the termination of Services (for example, those relating to billing, payment, 911, dispute resolution, no jury trial) survive termination of Services.

#### 49. DISPUTE RESOLUTION.

(a) **We Each Agree To First Contact Each Other With Any Disputes:** We each agree to first contact each other with any Disputes (defined below) and provide a written description of the problem, relevant documents and supporting information, and the proposed resolution. We agree to contact each other as described herein in Section 47 - Providing Notice to Each Other Under The Agreement.

(b) **Instead Of Suing In Court, We Each Agree To Arbitration:** We each agree to arbitrate all Disputes between us, on an individual basis, not on a class-wide or consolidated basis. This agreement to arbitrate is intended to be broadly interpreted. In arbitration, there is no judge or jury. However, just as a court would, the arbitrator must honor the terms and limitations in the Agreement and can award damages and relief, including any attorneys' fees authorized by law. The arbitrator's decision and award is final and binding, with some exceptions under the Federal Arbitration Act ("FAA"), and judgment on the award may be entered in any court with jurisdiction.

(c) **We each also agree as follows:**

(1) **"Disputes"** are any claims or controversies against each other related in any way to or arising out of in any way our Services or the Agreement, including, but not limited to, coverage, Devices, billing services and practices, policies, contract practices (including enforceability), service claims, privacy, or advertising, even if it arises after Services have terminated. Disputes include claims that you bring against our employees, agents, affiliates, or other representatives or that we bring against you. It also includes, but is not limited to, claims related in any way to or arising out of in any way any aspect of the relationship between us, whether based in contract, tort, statute, fraud, misrepresentation, or any other legal theory.

(2) If either of us wants to initiate a claim to arbitrate a Dispute, we each agree to send written notice to the other providing a description of the Dispute, a description of previous efforts to resolve the Dispute, all relevant documents and supporting information, and the proposed resolution. Notice to you will be sent as described in herein in Section 47 - Providing Notice to Each Other Under The Agreement and notice to us will be sent to: Legal Dept., 1250 S Capital of Texas Hwy Bldg 2-235, West Lake Hills, Texas 78746. We each agree to make attempts to resolve the Dispute prior to filing a claim for arbitration. If we cannot resolve the Dispute within forty-five (45) days of receipt of the notice to arbitrate, then we each may submit the Dispute to formal arbitration.

(3) The FAA applies to this Agreement and arbitration provision. We each agree that the FAA's provisions—not state law—govern all questions of whether a Dispute is subject to arbitration.

(4) Unless we each agree otherwise, the Arbitration will be conducted by a single, neutral arbitrator and will take place in the Travis county, Texas.

(5) The arbitration will be governed and conducted by (a) a neutral third party arbitrator selected by each of us and based upon rules mutually agreed to by each of us or (b) through Judicial Arbitration and Mediation Services "JAMS." The JAMS rules, including rules about the selection of an

arbitrator, filing, administration, discovery, and arbitrator fees, will be conducted under JAMS Comprehensive Arbitration Rules & Procedures. The JAMS rules are available on its website at [www.jamsadr.com](http://www.jamsadr.com). To the extent that this "Dispute Resolution" section conflicts with JAMS's minimum standards for procedural fairness, the JAMS's rules or minimum standards for arbitration procedures in that regard will apply. However, nothing in this paragraph will require or allow us or you to arbitrate on a class-wide or consolidated basis.

(6) WE EACH AGREE THAT WE WILL ONLY PURSUE ARBITRATION ON AN INDIVIDUAL BASIS AND WILL NOT PURSUE ARBITRATION ON A CLASS-WIDE OR CONSOLIDATED BASIS. We each agree that any arbitration will be solely between you and Evolve Cellular (not brought on behalf of or together with another individual's claim). If for any reason any court or arbitrator holds that this restriction is unconscionable or unenforceable, then our agreement to arbitrate doesn't apply and the dispute must be brought in court.

(7) We each are responsible for our respective costs relating to counsel, experts, and witnesses, as well as any other costs relating to arbitration. However, you agree to pay for the arbitration administrative or filing fees, and we agree to pay the arbitrator fees. Otherwise the JAMS Comprehensive Arbitration Rules & Procedures and the JAMS Policy on Consumer Arbitrations Pursuant to Pre-Dispute Clauses, Minimum Standards of Procedural Fairness regarding costs and payment apply.

(d) **Exceptions To Our Agreement To Arbitrate Disputes:** Either of us may bring qualifying claims in small claims court. In addition, this arbitration provision does not prevent you from bringing your dispute to the attention of any federal, state, or local government agency that can, if the law allows, seek relief against us on your behalf.

50. **ORDER OF PRECEDENCE.** Without to eliminate any confusion between terms and conditions referenced in this Agreement, a Subscriber Agreement and any other Service or marketing -related documents provided to customer, the following order of precedence shall prevail (from highest priority to lowest): the applicable terms and conditions referenced in your Subscriber Agreement , the provisions contained in this Agreement, the, our pricing on our website, and the terms and conditions on any other Service or marketing material provided to you.