

DATA ALLOWANCE POLICY – ORIGINAL PLANS



WildBlue Data Allowance Policy – Original Plans

Our goal is to give each of our customers the fastest service at the lowest price. To ensure that all WildBlue customers have equitable access to the network and that heavy usage by a small number of customers does not negatively impact the network performance for all customers, the WildBlue service utilizes a data allowance policy (the “Policy”). This Policy explains what happens when you use the maximum amount of data included in your service plan. WildBlue Internet access is not guaranteed and is subject to this Policy.

We have set a rolling 30-day limit on each customer’s data usage, called a Usage Threshold. As shown in the table below, each WildBlue service plan has different Usage Thresholds. Each day, we measure your upload and download data usage to determine if your usage, as aggregated over the previous 30 days, exceeds either the upload or download Usage Threshold for your service plan. You can view your usage at <https://admin.trueband.net>.

If your usage total reaches 100% or more of either your upload or download Usage Threshold, we will alert you of this fact. If at any time your usage total exceeds one of your Usage Thresholds, we will reduce your WildBlue access speeds, typically to 128 kbps downstream and 128 kbps upstream and you may experience a loss of connectivity during peak usage periods. Once your speeds have been reduced, you must decrease your usage below 70% of each Usage Threshold. Once you have reduced your usage to this level, your access speeds will be restored to the original speed levels within 24 hours.

The table below shows the Usage Thresholds for each service plan.

	WildBlue Original Plans		
	Value Pak	Select Pak	Pro & Pro Plus Pak
Upload Threshold (MB) ¹	2,300	3,000	5,000
Download Threshold (MB) ²	7,500	12,000	17,000

¹ Upload Threshold is the volume of data that can be uploaded during the previous 30 days before the Data Allowance Policy may restrict the user’s speeds.

² Download Threshold is the volume of data that can be downloaded during the previous 30 days before the Data Allowance Policy may restrict the user’s speeds.

This Policy contains important information about your use of the WildBlue service and your relationship with WildBlue. If you do not agree with this Policy, you are not permitted to use the WildBlue service and must terminate your account immediately, subject to the terms of your Customer Agreement. For additional information about permitted uses of the WildBlue service see our Acceptable Use Policy at <http://www.wildblue.com/legal/acceptable-use-policy/>. For information about our network management practices please see our Network Management Policy at <http://www.wildblue.com/legal/network-management-policy/>.

WildBlue may revise this Policy from time to time upon notice by posting a new version of this document on wildblue.com, wildblue.net or any successor URL(s). All revised copies of the Policy are effective immediately upon posting. Questions regarding this Policy can be directed to WildBlue via WBLegal@ViaSat.com.

Please note: This policy was previously known as the Fair Access Policy. The name of the policy and some of the language was updated to be consistent with other WildBlue policies. No changes have been made to your usage thresholds, the way we measure your data usage or the restrictions imposed for exceeding your usage thresholds.

(Version 1.5 Last Updated October 21, 2011)

DATA ALLOWANCE POLICY – NEW BROADBAND PLANS



WildBlue Data Allowance Policy – New Broadband Plans

Our goal is to give each of our customers the fastest service at the lowest price. To ensure that all WildBlue customers have equitable access to the network and that heavy usage by a small number of customers does not negatively impact the network performance for all customers, the WildBlue service utilizes a data allowance Policy (the “Policy”). This policy explains what happens when you use the maximum amount of data included in your plan. WildBlue Internet access is not guaranteed and is subject to this Policy.

We have several New Broadband plans available, each of which has a different monthly data allowance. We measure your data usage on a monthly basis and reset it to zero on the same day each month. Starting on the first day of your monthly measurement period, all uploaded and downloaded data transmitted using your WildBlue account counts toward your data allowance. Your monthly measurement period is based on the day of the month that your account was first activated. You can view your data usage compared with your monthly data allowance at <https://admin.trueband.net>.

If your data usage reaches 100% or more of your monthly data allowance, we will alert you of this fact. If at any time your data usage exceeds the data allowance, WildBlue may severely slow, restrict, and/or suspend your service, or certain uses of your service, until the end of your monthly measurement period. WildBlue may offer you the option of purchasing additional increments of data to use during the remainder of your measurement period. At the end of each monthly measurement period, your data usage resets to zero. Any unused data or additional purchased increments of data do not carry over to the next month.

The table below shows the data allowance for each data plan.

New Broadband Plans

	Plan 1	Plan 2	Plan 3
Data Allowance (GB) [1]	10	15	25

¹The data allowance is the volume of data that can be uploaded and downloaded during your measurement period.

²If you are a Recovery Act Program subscriber, your data allowance shall be as stated in the Recovery Act Addendum to your Customer Agreement.

This Policy contains important information about your use of the WildBlue service and your relationship with WildBlue. If you do not agree with this Policy, you are not permitted to use the WildBlue service and must terminate your account immediately, subject to the terms of your Customer Agreement. For additional information about permitted uses of the WildBlue service see our Acceptable Use Policy at <http://www.wildblue.com/legal/acceptable-use-policy/>. For information about our network management practices please see our Network Management Policy at <http://www.wildblue.com/legal/network-management-policy/>.

WildBlue may revise this Policy from time to time upon notice by posting a new version of this document on wildblue.com, wildblue.net or any successor URL(s). All revised copies of the Policy are effective immediately upon posting. Questions regarding this Policy can be directed to WildBlue via legal@wildblue.net.

(Version 1.2 Last Updated October 13, 2011)

Acceptable Use Policy (“AUP”)

WildBlue High-Speed Internet Acceptable Use Policy

THESE TERMS AND CONDITIONS STATE IMPORTANT REQUIREMENTS REGARDING YOUR USE OF WILDBLUE’S INTERNET ACCESS SERVICE AND YOUR RELATIONSHIP WITH WILDBLUE. 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

WildBlue may revise this Acceptable Use Policy (the "Policy") from time to time without notice by posting a new version of this document on wildblue.com, wildblue.net or any successor URL(s). All revised copies of the Policy are effective immediately upon posting. Accordingly, customers and users of the WildBlue High-Speed Internet Service should regularly visit these web sites and review this Policy to ensure that their activities conform to the most recent version. In the event of a conflict between any subscriber or customer agreement and this Policy, the terms of this Policy will govern. Questions regarding this Policy and complaints of violations of it by WildBlue customers and users can be directed to WildBlue via “Help” email obtainable at wildblue.net.

It is WildBlue's intent to provide our customers with the best satellite Internet service possible. In order to accomplish this task, we have adopted this Acceptable Use Policy (the "AUP" or "Policy"). This Policy outlines acceptable use of the WildBlue High-Speed Internet access service (the "Service"), as well as permissible and prohibited conduct for using the Service to access the Internet. This Policy, including its customer use restrictions, is in addition to the restrictions contained in the WildBlue High-Speed Internet Customer Agreement (the "Customer Agreement"). All capitalized terms used in this AUP that are not defined here have the meanings given to them in the Customer Agreement.

It is the responsibility of all WildBlue High-Speed Internet customers and all others who have access to WildBlue's network ("customer," "you," or "your"), to comply with this AUP and all WildBlue policies. As a Service customer, it is your responsibility to secure your computer equipment so that it is not subject to external threats such as viruses, spam, and other methods of intrusion. Failure to comply with these or any other WildBlue policies could result in the suspension or termination of your Service. If you do not agree to comply with all of these policies including the AUP, you must immediately stop use of the Service and notify WildBlue so that your account may be closed.

Note: WildBlue reserves the right to immediately terminate the Service and the Customer Agreement if you engage in any of the prohibited activities listed in this AUP or if you use the WildBlue Equipment or Service in a way which is contrary to any WildBlue policies or any of WildBlue's suppliers' policies. You must strictly adhere to any policy set forth by another service provider accessed through the Service.

Prohibited Uses and Activities

Prohibited uses include, but are not limited to, using the Service, Customer Equipment, or the WildBlue Equipment to:

- (i) undertake or accomplish any unlawful purpose. This includes, but is not limited to, posting, storing, transmitting or disseminating information, data or material which is libelous, obscene, unlawful, threatening, defamatory, or which infringes the intellectual property rights of any person or entity, or which in any way constitutes or encourages conduct that would constitute a criminal offense, give rise to civil liability, or otherwise violate any local, state, federal or international law, order or regulation;
- (ii) post, store, send, transmit, or disseminate any information or material which a reasonable person could deem to be objectionable, offensive, indecent, pornographic, harassing, threatening, embarrassing, distressing, vulgar, hateful, racially or ethnically offensive, or otherwise inappropriate, regardless of whether this material or its dissemination is unlawful;
- (iii) access any other person's computer or computer system, software, or data without their knowledge and consent; breach the security of another user; or attempt to circumvent the user authentication or security of any host, network, or account. This includes, but is not limited to, accessing data not intended for you, logging into or making use of a

server or account you are not expressly authorized to access, or probing the security of other hosts, networks, or accounts;

(iv) use or distribute tools designed or used for compromising security, such as password guessing programs, decoders, password gatherers, analyzers, cracking tools, packet sniffers, encryption circumvention devices, or Trojan Horse programs. Network probing or port scanning tools are only permitted when used in conjunction with a residential home network, or if explicitly authorized by the destination host and/or network. Unauthorized port scanning, for any reason, is strictly prohibited;

(v) upload, post, publish, transmit, reproduce, create derivative works of, or distribute in any way information, software or other material obtained through the Service or otherwise that is protected by copyright or other proprietary right, without obtaining permission of the owner;

(vi) copy, distribute, or sublicense any software provided in connection with the Service by WildBlue or any third party, except that you may make one copy of each software program for back-up purposes only;

(vii) restrict, inhibit, or otherwise interfere with the ability of any other person, regardless of intent, purpose or knowledge, to use or enjoy the Service, including, without limitation, posting or transmitting any information or software which contains a worm, virus, or other harmful feature, or generating levels of traffic sufficient to impede others' ability to send or retrieve information;

(viii) restrict, inhibit, interfere with, or otherwise disrupt or cause a performance degradation, regardless of intent, purpose or knowledge, to the Service or any WildBlue (or WildBlue supplier) host, server, backbone network, node or service, or otherwise cause a performance degradation to any WildBlue (or WildBlue supplier) facilities used to deliver the Service;

(ix) resell the Service or otherwise make available to anyone outside the Premises the ability to use the Service (i.e. wi-fi, or other methods of networking), in whole or in part, directly or indirectly, or on a bundled or unbundled basis. The Service is for personal and non-commercial use only and you agree not to use the Service for operation as an Internet service provider or for any business enterprise or purpose, or as an end-point on a non-WildBlue local area network or wide area network;

(x) connect multiple computers behind the cable modem to set up a LAN (Local Area Network) that in any manner would result in a violation of the terms of this Policy or an applicable Service plan;

(xi) transmit unsolicited bulk or commercial messages or "spam." This includes, but is not limited to, unsolicited advertising, promotional materials or other solicitation material, bulk mailing of commercial advertising, chain mail, informational announcements, charity requests, and petitions for signatures;

(xii) send numerous copies of the same or substantially similar messages, empty messages, or messages which contain no substantive content, or send very large messages or files to a recipient that disrupts a server, account, newsgroup, or chat service;

(xiii) distribute programs that remove locks or time-outs built into software (cracks);

(xiv) run programs, equipment, or servers from the Premises that provide network content or any other services to anyone outside of your Premises LAN (Local Area Network), also commonly referred to as public services or servers. Examples of prohibited services and servers include, but are not limited to, e-mail, Web hosting, file sharing, and proxy services and servers;

(xv) initiate, perpetuate, or in any way participate in any pyramid or other illegal soliciting scheme;

(xvi) participate in the collection of e-mail addresses, screen names, or other identifiers of others (without their prior consent), a practice sometimes known as spidering or harvesting, or participate in the use of software (including "spyware") designed to facilitate this activity;

(xvii) collect responses from unsolicited messages;

(xviii) impersonate any person or entity, engage in sender address falsification, forge anyone else's digital or manual signature, forge any TCP/IP packet header (or any part of the header information in an email or a newsgroup posting) or gain access to any account or computer resource not belonging to you (e.g., "spoofing") or otherwise hack, crack into, monitor, access, use, probe, or scan without authorization any system, network, data, traffic or security authentication measure or perform any other similar fraudulent activity;

(xix) service, alter, modify, or tamper with the WildBlue Equipment or Service or permit any other person to do the

same who is not authorized by WildBlue;

(xx) connect the WildBlue Equipment to any computer outside of your Premises;

(xxi) collect, or attempt to collect, personal information about third parties without their consent;

(xxii) interfere with computer networking or telecommunications service to any user, host or network, including, without limitation, denial of service attacks, flooding of a network, overloading a service, improper seizing and abuse of operator privileges and attempts to "crash" a host; and

(xxiii) violate the rules, regulations, or policies applicable to any network, server, computer database, or Web site that you access.

Security

You are responsible for any misuse of the Service, even if the misuse was committed by a friend, family member, or guest with access to your Service account. Therefore, you must take steps to ensure that others do not use your account to gain unauthorized access to the Service by, for example, strictly maintaining the confidentiality of your Service login and password. In all cases, you are solely responsible for the security of any device you choose to connect to the Service, including any data stored or shared on that device. Account functions such as verifying and maintaining the account, options and settings, must be performed by a person at least 18 years of age, without exception. WildBlue recommends against enabling file or printer sharing of any sort unless you do so in strict compliance with all security recommendations and features provided by WildBlue and the manufacturer of the applicable file or printer sharing devices. Any files or devices you choose to make available for shared access on a home LAN, for example, should be protected with a strong password or as otherwise appropriate.

Inappropriate Content and Transmissions

WildBlue reserves the right, but not the obligation, to refuse to transmit or post and to remove or block any information or materials, in whole or in part, that it, in its sole discretion, deems to be offensive, indecent, or otherwise inappropriate, regardless of whether this material or its dissemination is unlawful. Neither WildBlue nor any of its affiliates, suppliers, or agents have any obligation to monitor transmissions or postings (including, but not limited to, e-mail, newsgroup, and instant message transmissions as well as materials available on the Personal Web Pages and Online Storage features) made on the Service. However, WildBlue and its affiliates, suppliers, and agents have the right to monitor these transmissions and postings from time to time for violations of this Policy and to disclose, block, or remove them in accordance with the Subscriber Agreement and any other applicable agreements and policies.

Electronic Mail

The Service may not be used to send unsolicited bulk or commercial messages and may not be used to collect responses from unsolicited e-mail sent from accounts on other Internet hosts or e-mail services that violate this Policy or the acceptable use policy of any other Internet service provider. Moreover, unsolicited e-mail may not direct the recipient to any Web site or other resource that uses the Service. Activities that have the effect of facilitating unsolicited commercial e-mail or unsolicited bulk e-mail, whether or not the e-mail is commercial in nature, are prohibited. Forging, altering, or removing electronic mail headers is prohibited. You may not reference WildBlue or the WildBlue network (e.g. by including "Organization: WildBlue" in the header or by listing an IP address that belongs to WildBlue or the WildBlue network) in any unsolicited e-mail even if that e-mail is not sent through the WildBlue network or Service.

WildBlue is not responsible for forwarding e-mail sent to any account that has been suspended or terminated. This e-mail will be returned to the sender, ignored, deleted, or stored temporarily at WildBlue's sole discretion. In the event that WildBlue believes in its sole discretion that any subscriber name, account name, or e-mail address (collectively, an "identifier") on the Service may be used for, or is being used for, any misleading, fraudulent, or other improper or illegal purpose, WildBlue (i) reserves the right to block access to and prevent the use of any such identifier and (ii) may at any time require any customer to change his or her identifier. In addition, WildBlue may at any time reserve any identifiers on the Service for WildBlue's own purposes.

Newsgroups

Messages posted to newsgroups must comply with the written charters or FAQs for those newsgroups as well as any other terms and conditions applicable to any particular newsgroups or provider of newsgroups. Advertisements, solicitations, or other commercial messages should be posted only in those newsgroups whose charters or FAQs explicitly permit them. You are responsible for determining the policies of a given newsgroup before posting to it. WildBlue reserves the right to discontinue access to any newsgroup at any time for any reason. WildBlue permits

users of the Service to download a maximum of one gigabyte (1GB) of newsgroup content in any one month, unless users are subject to a Service plan that permits downloading more newsgroup content.

Instant Messages

Users alone are responsible for the contents of their instant messages and the consequences of any instant messages. WildBlue assumes no responsibility for the timeliness, mis-delivery, deletion or failure to store instant messages.

Personal Web Page and File Storage

As part of the Service, WildBlue provides you with access to personal Web pages and storage space through the Personal Web Pages and Online Storage features (collectively, the "Personal Web Features"). You are solely responsible for any information that you or others publish or store on the Personal Web Features. You must ensure that the intended recipient of any content made available through the Personal Web Features is appropriate. For example, you must take appropriate precautions to prevent minors from receiving or accessing inappropriate content. WildBlue reserves the right to remove, block, or refuse to post or store any information or materials, in whole or in part, that it, in its sole discretion, deem to be offensive, indecent, or otherwise inappropriate regardless of whether this material or its dissemination is unlawful. This includes, but is not limited to: obscene material; defamatory, fraudulent or deceptive statements; threatening, intimidating or harassing statements, or material that violates the privacy rights or property rights of others (copyrights or trademarks, for example). For purposes of this Policy, "material" refers to all forms of communications including narrative descriptions, graphics (including photographs, illustrations, images, drawings, logos), executable programs and scripts, video recordings, and audio recordings. WildBlue may remove or block content contained on your Personal Web Features and terminate your Personal Web Features and/or your use of the Service if we determine that you have violated the terms of this Policy.

Network, Bandwidth, Data Storage and Other Limitations

You must comply with all current bandwidth, data storage, and other limitations on the Service established by WildBlue and its suppliers. In addition, you may only access and use the Service with a dynamic Internet Protocol ("IP") address that adheres to the dynamic host configuration protocol ("DHCP"). You may not access or use the Service with a static IP address or using any protocol other than DHCP unless you are subject to a Service plan that expressly permits otherwise.

You must ensure that your activity (including, but not limited to, use made by you or others of any Personal Web Features) does not improperly restrict, inhibit, or degrade any other user's use of the Service, nor represent (in the sole judgment of WildBlue) an unusually large burden on the network. In addition, you must ensure that your activities do not improperly restrict, inhibit, disrupt, degrade or impede WildBlue's ability to deliver the Service and monitor the Service, backbone, network nodes, and/or other network Services.

Copyright Infringement

WildBlue is committed to complying with U.S. copyright and related laws, and requires all customers and users of the Service to comply with these laws. Accordingly, you may not store any material or content on, or disseminate any material or content over, the Service (or any part of the Service) in any manner that constitutes an infringement of third party intellectual property rights, including rights granted by U.S. copyright law. Owners of copyrighted works who believe that their rights under U.S. copyright law have been infringed may take advantage of certain provisions of the Digital Millennium Copyright Act of 1998 (the "DMCA") to report alleged infringements. It is WildBlue's policy in accordance with the DMCA and other applicable laws to reserve the right to terminate the Service provided to any customer or user who is either found to infringe third party copyright or other intellectual property rights, including repeat infringers, or who WildBlue believes in its sole discretion is infringing these rights. WildBlue may terminate the Service at any time with or without notice for any affected customer or user.

Copyright owners may report alleged infringements of their works that are stored on the Service or the Personal Web Features by sending WildBlue's authorized agent a notification of claimed infringement that satisfies the requirements of the DMCA. Upon WildBlue's receipt of a satisfactory notice of claimed infringement for these works, WildBlue will respond expeditiously to either directly or indirectly (i) remove the allegedly infringing work(s) stored on the Service or the Personal Web Features or (ii) disable access to the work(s). WildBlue will also notify the affected customer or user of the Service of the removal or disabling of access to the work(s). If the affected customer or user believes in good faith that the allegedly infringing works have been removed or blocked by mistake or misidentification, then that person may send a counter notification to WildBlue. Upon WildBlue's receipt of a counter notification that satisfies the requirements of DMCA, WildBlue will provide a copy of the counter notification to the person who sent the original notification of claimed infringement and will follow the

DMCA's procedures with respect to a received counter notification. In all events, you expressly agree that WildBlue will not be a party to any disputes or lawsuits regarding alleged copyright infringement.

Copyright owners may send WildBlue a notification of claimed infringement to report alleged infringements of their works to:

Legal Department
WildBlue Communications
349 Inverness Drive South
Englewood, CO 80112 U.S.A.
Fax: (720) 493-6010
E-mail: legal@wildbluecorp.com

[Notification of Claimed Infringement](#)

This form is an Adobe Acrobat PDF document. You can download a [Free Acrobat Reader](#).

Copyright owners may view and print a notification of claimed infringement form (see above) format. Complete the form and return it to WildBlue. WildBlue doesn't require that you use this form, and copyright owners may use their own notification of claimed infringement form that satisfies the requirements of Section 512(c)(3) of the U.S. Copyright Act. Under the DMCA anyone who knowingly makes misrepresentations regarding alleged copyright infringement may be liable to WildBlue, the alleged infringer, and the affected copyright owner for any damages incurred in connection with the removal, blocking, or replacement of allegedly infringing material.

If a notification of claimed infringement has been filed against you, you can file a counter notification with WildBlue's designated agent using the contact information shown above. All counter notifications must satisfy the requirements of Section 512(c)(3) of the U.S. Copyright Act.

WildBlue does not routinely monitor the activity of Service accounts for violation of this AUP. However, in our efforts to promote good citizenship within the Internet community, we will respond appropriately if we become aware of inappropriate use of our Service. Although WildBlue has no obligation to monitor the Service and/or the network, WildBlue and its suppliers reserve the right at any time to monitor bandwidth, usage, transmissions, and content from time to time to operate the Service; to identify violations of this Policy; and/or to protect the network, the Service and WildBlue users.

WildBlue prefers to advise customers of inappropriate behavior and any necessary corrective action. However, if the Service is used in a way that WildBlue or its suppliers, in their sole discretion, believe violate this AUP, WildBlue or its suppliers may take any responsive actions they deem appropriate. These actions include, but are not limited to, temporary or permanent removal of content, cancellation of newsgroup posts, filtering of Internet transmissions, and the immediate suspension or termination of all or any portion of the Service. Neither WildBlue nor its affiliates, suppliers, or agents will have any liability for any these responsive actions. These actions are not WildBlue's exclusive remedies and WildBlue may take any other legal or technical action it deems appropriate.

WildBlue reserves the right to investigate suspected violations of this AUP, including the gathering of information from the user or users involved and the complaining party, if any, and examination of material on WildBlue's servers and network. During an investigation, WildBlue may suspend the account or accounts involved and/or remove or block material that potentially violates this Policy. You expressly authorize WildBlue and its suppliers to cooperate with (i) law enforcement authorities in the investigation of suspected legal violations, and (ii) and system administrators at other Internet service providers or other network or computing facilities in order to enforce this Policy. This cooperation may include WildBlue providing available personally identifiable information about you to law enforcement or system administrators, including, but not limited to, username, subscriber name, and other account information. Upon termination of your account, WildBlue is authorized to delete any files, programs, data and e-mail messages associated with your account.

The failure of WildBlue or its suppliers to enforce this AUP, for whatever reason, shall not be construed as a waiver of any right to do so at any time. You agree that if any portion of this Policy is held invalid or unenforceable, that portion will be construed consistent with applicable law as nearly as possible, and the remaining portions will remain in full force and effect.

The provisions of this Policy are not meant to be exhaustive. Generally, conduct that violates law, regulation, or the accepted norms and ethics of the Internet community or the community at large, whether or not expressly mentioned

in this Policy, is prohibited. We reserve the right at all times to prohibit activities that damage our commercial reputation and goodwill or affect the quality of our services or our ability to provide services.

You shall comply with all applicable local, state, national and international laws and regulations, including those related to data privacy, international communications, and exportation of 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 WildBlue if you become subject to any such order.

You agree to indemnify, defend and hold harmless WildBlue and its affiliates, suppliers, and agents against all claims and expenses (including reasonable attorney fees) resulting from you engaging in any of the prohibited activities listed in this AUP or resulting from your violation of the AUP or of any other posted WildBlue policy related to the Service. Your indemnification will survive any termination of the Subscriber Agreement.

WARRANTIES AND LIMITATION OF LIABILITY

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 WILDBLUE (BUT ONLY IF SUCH WARRANTY IS INCLUDED WITH SUCH EQUIPMENT), WILDBLUE (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 WILDBLUE OR ITS REPRESENTATIVES SHALL CREATE A WARRANTY. USE OF WILDBLUE TECHNICAL SUPPORT IS AT YOUR OWN RISK AND IS NOT WARRANTED.

WILDBLUE DOES NOT WARRANT OR GUARANTEE THAT SERVICE CAN BE PROVISIONED TO YOUR LOCATION OR THAT PROVISIONING WILL OCCUR ACCORDING TO A SPECIFIED SCHEDULE, EVEN IF WILDBLUE HAS ACCEPTED YOUR ORDER FOR SERVICE. THE PROVISIONING OF SERVICE IS SUBJECT TO SATELLITE AVAILABILITY AND OTHER FACTORS, INCLUDING YOUR COMPUTER/DEVICE CONFIGURATION AND CAPABILITIES, AMONG OTHER FACTORS.

WILDBLUE DOES NOT WARRANT THAT THE SERVICE OR EQUIPMENT PROVIDED BY WILDBLUE 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. WILDBLUE 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. WILDBLUE MAKES NO WARRANTY REGARDING ANY TRANSACTIONS EXECUTED USING THE SERVICE OR THE INTERNET. WILDBLUE 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.

IN NO EVENT SHALL WILDBLUE (OR ITS OFFICERS, EMPLOYEES, PARENT, SUBSIDIARIES, OR AFFILIATES), ITS THIRD PARTY LICENSORS, PROVIDERS OR SUPPLIERS 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 WILDBLUE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH CLAIM OR DAMAGES, OR (B) ANY CLAIMS AGAINST YOU BY ANY OTHER PARTY.

ALL LIMITATIONS AND DISCLAIMERS STATED IN THIS PARAGRAPH ALSO APPLY TO WILDBLUE'S THIRD PARTY LICENSORS, PROVIDERS AND SUPPLIERS, AS THIRD PARTY BENEFICIARIES OF THIS AGREEMENT.

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

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.

WILDBLUE 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.)

Internet Provisions

WildBlue does not endorse or in any way vouch for the accuracy, completeness, truthfulness or reliability of any service, opinion, advice, communication, information or other content on or made available through the Service. None of such content should be construed or understood to constitute or reflect the views or approval of WildBlue Communications, Inc. or any of its subsidiaries or affiliates. We do not recommend that such content be relied on for reaching important decisions or conclusions without appropriate verification and, as appropriate, professional advice.

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Access and Upgrades

Finally, please note that WildBlue may automatically check the version of the Customer Equipment and WildBlue software you are running and may provide upgrades to the system that will be automatically downloaded to your Customer Equipment. In addition, WildBlue may check the health and status of your system to ensure that the configuration of your computer is optimized for use with the Service. You hereby authorize all such access and upgrades.

Mandatory Customer Agreement Provisions

Permitted Use And Restrictions On Use.

1.1 Software License. Subject to the terms and conditions of this Agreement, WildBlue grants to you a personal, non-exclusive, non-assignable and nontransferable license to use and display the software provided by or on behalf of WildBlue (including any updates) only for the purpose of accessing the Service ("Software") in accordance with this Agreement. Unauthorized copying of the Software, including software that has been modified, merged or included with the Software, or the written materials associated therewith is expressly forbidden. You may not sublicense, assign, or transfer this license or the Software except as permitted in writing by WildBlue. Any attempt to sublicense, assign or transfer any of the rights, duties or obligations under this license is void and may result in termination of this Agreement and the license. You agree that you shall not copy or duplicate or permit anyone else to copy or duplicate, any part of the Software, or create or attempt to create, or permit others to create or attempt to create, by reverse engineering or otherwise, the source programs or any part thereof from the object programs or from other information made available under this Agreement.

1.2 Restrictions On Use Of The Service. NRTC and WildBlue reserve the right to terminate immediately the Service and this Agreement if you or any user under your account knowingly or otherwise engage in any prohibited activity or if you use the NRTC Equipment or Service in a way which is contrary to any NRTC policy or any policy of a NRTC supplier. You must strictly adhere to any policy set forth by another service provider accessed through the Service. You agree to comply with NRTC's Acceptable Use Policy and Data Access Policy attached to this agreement (both may be updated from time to time) and both of which are incorporated into and made a part of this Agreement.

1.3 Fair Access Policy. If your usage exceeds the limits set forth in the Data Access Policy applicable to your plan, NRTC may reduce the bandwidth available to you in accordance with the Data Access Policy. Continued violation of the Data Access Policy is a breach of this Agreement and will result in the termination of this Agreement. Internet access is not guaranteed.

1.4 Prohibition on Resale. Reselling the Service or otherwise making the Service available to anyone other than the members of your household (e.g. via wi-fi, or any other method), in whole or in part, directly or indirectly, whether monetary compensation is received or not, and whether on a bundled or unbundled basis is prohibited. The Service is for your personal, household use only and you agree not to use the Service for operation as an Internet service provider or for any purpose that makes Service available to any person unaffiliated with you or a computer not under your control, or as an end-point on a non-WildBlue local area network or wide area network. In addition, other prohibited activities include connecting multiple computers behind the satellite modem to set up a LAN (Local Area Network) that in any manner would result in a violation of the terms of the Acceptable Use Policy, Data Access Policy or terms of any other policy or plan, or running programs, equipment, or servers from your residence that provide network content or any other services to anyone outside of your premises.

1.5 Security. **You agree to take reasonable measures to protect the security of computers capable of accessing the Service through your account, including maintaining at your cost an up-to-date version of anti-virus and/or firewall software to protect your computer from malicious code, programs or other internal components (such as a computer virus, computer worm, computer time bomb or similar component). You expressly agree that if your computer becomes infected and causes any of the prohibited activities listed in the Acceptable Use Policy, NRTC may immediately suspend your Service until such time as your computer is sufficiently protected to prevent further prohibited activities. You will be fully liable for all monthly fees and other charges under this Agreement during any period of suspension. In all cases, you are solely responsible for the security of any device you choose to connect to the Service, including any data stored or shared on that device.**

2. Warranties and Limitations of Liability.

2.1 DISCLAIMER OF WARRANTIES. YOU EXPRESSLY AGREE THAT USE OF THE SERVICE IS AT YOUR SOLE RISK. NEITHER NRTC, WILDBLUE NOR ANY OF WILDBLUE OR NRTC' AFFILIATES, SUBSIDIARIES, WHOLESALERS, DEALERS, RETAILERS, DISTRIBUTORS, AGENTS, EMPLOYEES, SUPPLIERS, LICENSORS OR THIRD PARTY CONTENT PROVIDERS ("PARTNERS") WARRANT THAT THE SERVICE WILL BE UNINTERRUPTED OR ERROR FREE; NOR DO WILDBLUE, NRTC NOR ANY OF THE PARTNERS MAKE ANY WARRANTY AS TO THE RESULTS TO BE OBTAINED FROM USE OF THE SERVICE, INCLUDING ANY MINIMUM UPLOAD OR DOWNLOAD SPEEDS. WE SHALL HAVE NO LIABILITY WHATSOEVER FOR ANY DAMAGE TO OR LOSS OR DESTRUCTION OF ANY HARDWARE, SOFTWARE, FILES OR DATA RESULTING FROM, OR FROM ANY ATTEMPT TO REMOVE, ANY COMPUTER VIRUS OR OTHER HARMFUL FEATURE.

2.2 LIMITATION OF LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER NRTC, WILDBLUE NOR ANY OF THE PARTNERS SHALL BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING OUT OF USE OF THE SERVICE OR INABILITY TO USE THE SERVICE OR OUT OF ANY BREACH OF ANY REPRESENTATION OR WARRANTY. WITHOUT IN ANY WAY LIMITING THE FOREGOING, IF FOR ANY REASON, BY OPERATION OF LAW OR OTHERWISE, ANY PORTION OF THE FOREGOING LIMITATION OF LIABILITY SHALL BE VOIDED, THEN IN SUCH EVENT WILDBLUE AND NRTC'S MAXIMUM, SOLE, AND EXCLUSIVE LIABILITY AND THE LIABILITY OF THE PARTNERS SHALL BE LIMITED TO GENERAL MONEY DAMAGES IN AN AMOUNT NOT TO EXCEED THE TOTAL AMOUNT ACTUALLY PAID TO NRTC BY YOU FOR SERVICE DURING AND FOR A PERIOD OF TIME COMMENCING UPON THE OCCURRENCE OF SUCH ERROR, DEFECT OR FAILURE AND CEASING UPON THE DISCOVERY OF SUCH, IN WHOLE OR IN PART; PROVIDED, HOWEVER, THAT IN NO EVENT SHALL SUCH PERIOD OF TIME EXCEED THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE WHICH SUCH ERROR, DEFECT OR FAILURE IS FIRST DISCOVERED IN WHOLE OR IN PART.