

WIRELESS SERVICE AGREEMENT

This is an agreement (“Agreement”) between you and Youghioghny Communications - Texas, LLC, doing business as Pocket Communications (“Pocket”, “we”, or “us”). This Agreement covers important topics such as when it begins, how long it lasts, Pocket’s rights to change this Agreement and your wireless service, limitations of liability, use of information about you, and resolution of disputes by arbitration instead of in court. If you accept this Agreement, it will apply to all of your wireless service from Pocket. PLEASE READ THIS AGREEMENT CAREFULLY.

Capacity. By accepting this Agreement, you represent that you are at least 18 years old and have the legal capacity to enter into this transaction.

Acceptance of Agreement. When you start service with Pocket or when you use the services supplied by us by placing a call on the Pocket wireless system or any other systems with which Pocket has entered into agreements to carry your calls, you have confirmed your acceptance of all of the terms and conditions of this Agreement. If you disagree with any of the terms and conditions of this Agreement, you do not have to accept it. If you do not want to accept this Agreement, do not start service and return all Pocket equipment supplied to you back to us, with the original receipt and packaging intact.

Amendment of Agreement. Pocket reserves the right to amend the terms of this Agreement and/or modify or cancel any goods or services we provide to you or those provided over our network, without prior notice, or upon notice to you in a manner which we choose that complies with legal requirements, when applicable. In the event that we make a change you do not accept, you may terminate your service with us in the manner described in the notice without a termination fee.

Goods and Services. Delivery of goods and/or services will be made to you by Pocket within a reasonable period of time. Pocket is not responsible for any loss or expense incurred by you arising from any delay(s) in the delivery of goods. If you are dissatisfied with the quality or quantity of goods or services provided by Pocket, you may apply for and receive a full refund, provided that the refund must be applied for within the applicable time period then in effect as shown on Pocket’s website at www.pocket.com and all other conditions applicable to refunds posted at that website will govern. If you do not apply for a refund within the return period permitted pursuant to this Agreement, you hereby agree and acknowledge that the quality and quantity of the goods and/or services provided by Pocket conform to the terms and conditions of this Agreement and are satisfactory to you.

No Guaranty. Please take note that Pocket does not guarantee that your service will work at all times and in all places. Services are generally available within the operating range of Pocket’s system in your area. Services are subject to interruptions due to many causes, including but not limited to transmission limitations, reductions in transmission speed, interruption caused by atmospheric and other conditions, equipment limitations, malfunctions and maintenance, obstructions such as trees or buildings or other conditions that may occur from time to time. If a

specific cause of interruption occurs that is not described in this Agreement, by accepting this Agreement you are accepting Pocket's representation that limitations and interruptions of services of other unanticipated origins may occur from time to time, even those beyond the control of Pocket. The telephones you purchase from Pocket are designed to operate on the Pocket network and those networks with which we contract to provide services. We make no representation or guarantee that the equipment will operate properly on all wireless communication networks or systems. Services may be limited in areas where coverage is not available or may be temporarily limited due to system capacity and/or limitations, system repairs and/or modifications, or in response to suspected fraud, abuse, misuse of the network, hacking or malicious viruses or violations of our acceptable use policies described elsewhere in this Agreement. Interruption or discontinuation of service may, as described in this Agreement, be caused by your non-payment(s) of charges for our wireless services.

Length of Calls. When you use your Pocket telephone for either outgoing or incoming calls or other ancillary services for which Pocket charges per minute for airtime access, the length of your call will be measured during the time that the call is connected to and/or through the Pocket system, which begins when the user begins a call by pressing the "send" or "call" button or for incoming calls approximately when the user's telephone starts ringing or in any other manner connects the telephone to the system, and does not end until the user presses the "end" button or the call is otherwise ended, such as by interruptions. No credit is given for dropped calls. All calls are measured in full-minute increments; partial minutes are rounded up to the next minute.

Payment of Taxes, Fees and Surcharges. You are responsible for paying, and Pocket is responsible for collecting, all taxes, fees and surcharges imposed by any federal, state, local government, regulatory body or us. These fees will be in addition to any fees we otherwise publish for the purchase of our goods and services.

Roaming. Your Pocket telephone is designed to work only on our network. It works on another provider's system only when a roaming agreement is in effect between Pocket and other providers. Roaming charges will apply whenever you make or receive a call using a transmission site outside your home airtime rate area, or using another company's transmission site. It is possible that your telephone may sometimes connect to and roam on another company's network even when you are near our transmission sites. By accepting this Agreement, you understand and accept that there may be extra charges (including long distance and toll charges) and higher rates for calls made or received while roaming.

Charges. By your acceptance of this Agreement, you agree that the price you pay for the equipment and related taxes as well also includes wireless telephone service (but not any ancillary service for which we require a separate charge) for the first month, which is calculated as thirty (30) days from the date we activate your equipment on our network. You are responsible to pay all charges for Pocket's services, including: 1) recurring charges for each monthly billing period in which you have, had or will have access to our services or network for any portion of that billing period; 2) optional services or bundles of services that we may offer at any time; 3) long distance or directory assistance charges as applicable; 4) adding multiple telephones to the same account if we offer such services; 5) any activation, reinstatement, reconnection, administrative, termination or other charges and third party charges that you have

authorized by accepting this Agreement; and 6) all applicable taxes, government fees and other surcharges applied to your service. Pocket reserves the right to charge an activation fee for any substitute or replacement telephone that may be added to your account.

Unless you are on a prepaid plan that Pocket may offer at our discretion, monthly service charges are billed by us in advance. Payment is due in U.S. dollars on or before the due date as stated on your bill. Your monthly service period is approximately 30 days long, and may change from time to time. You will be able to pay your Pocket bill by credit card, check, money order, debit card or with cash. We may impose restrictions or prohibitions on the use of any forms of payment at our option. We may also require you to pay us a convenience fee for some methods of payment or use of some payment locations. Pocket is not required to make any arrangements with you for extended payments for your service. It is in our sole discretion whether to do so. You must strictly comply with any requirements, payment dates or other restrictions that we may impose on you as a condition for entering into such an arrangement.

You may authorize recurring payment of your Pocket bill by credit card. To do so, you must authorize us to make automatic charges to your credit card for all amounts you may owe to us at the time the credit card account is charged. We will not have to give you any additional notice or get any additional consent from you to bill the credit card on file with us for Pocket services each month. You agree to pay the amounts we charge to your credit card issuer under the terms of your agreement with that entity. You may also pay your Pocket bill by mailing a check or money order to any Pocket authorized payment center, or over the telephone by credit card or by authorizing Pocket to receive payment from you by initiating a debit entry from your designated bank account. You may have to pay an additional service charge if you make your payments in person or over the telephone. At our sole discretion, we may require you to pay your Pocket bill in cash. The acceptance by Pocket of any payment after it is due does not constitute and may not be construed as a waiver of any of Pocket's rights under this Agreement. You may also authorize Pocket to receive automatic payments of your monthly bill by authorizing Pocket to deduct such payments from your designated payment account on or before the date such payment is due by means of a debit entry from that designated bank account. The payment debit generally occurs on or after 2 banking days from the date established for the debit to occur. You agree to have sufficient funds in your account for deduction of such debited amount. Your authorization for such debit by Pocket may be revoked by you only by providing prior written notification to Pocket allowing Pocket a reasonable time to act on it before the transaction is completed. You agree that if we are required to take action beyond billing you to collect payment, you will be required to pay our reasonable expenses and costs for such collection, which may include attorney's fees and expenses and/or the fees of any collection agency, and court costs.

You must promptly notify us of any change in your billing address or any designated credit card or bank account. If Pocket bills and collects amounts for any third party service provider, we will apply payments we receive from you first to the amounts due to Pocket. We will then allocate any payments to amounts due to such third party service providers.

We may charge you additional fees up to the maximum amount permitted by law for a check or other negotiable instrument returned unpaid by a financial institution for any reason, and/or a credit card or check payment made to your Pocket account that is disputed by the holder of the

account, the credit card issuer or bank as being fraudulent or improper.

Termination and Reinstatement of Service. If you do not pay your Pocket bill on or before the date due as stated on your bill, we may immediately suspend or terminate your service. Pocket is not required to provide you with any notification prior to suspending or terminating your service. If we accept a late or partial payment, even if you mark the payment “paid in full,” we do not waive our rights under this Agreement to immediately suspend or terminate your service if we do not agree that you have paid the full balance of any charges due to us. If you promptly pay amounts that are overdue or cure any other breach of this Agreement, we may reinstate or reconnect your service after you have paid any reinstatement, reconnection, maintenance or other fee that we have established, but we are not obligated to reinstate or reconnect your service.

Manner of Use. Your use of Pocket’s telephone and other services is intended for general consumer applications. This service is not intended for call center, tie-line, baby monitors, or other extreme high volume use. Therefore, we may suspend or terminate your service, without any liability to you and without notice to you, if you breach any portion of this Agreement or we reasonably suspect that you are using the service for any fraudulent, indecent, illegal, abusive or improper purposes. All service rules and charges will be posted at www.pocket.com.

By your acceptance of this Agreement, you acknowledge that you have no rights in or to any telephone number, e-mail address, voice mailbox or any other item assigned to you by Pocket whether you are an active, suspended, or former customer.

Cancellation and Termination. Pocket may modify or cancel any goods or services provided over our network **without** prior notice.

Pocket may terminate your service at any time at our discretion, for any reason or no reason after we give you reasonable notice.

You may terminate your service at any time by notifying an authorized Pocket customer service representative that you wish to terminate your service. There are no specific cancellation fees. However, you remain responsible to pay for all charges that you incur prior to the termination of your service. If this Agreement terminates for any reason, you will no longer be entitled to access any of our services and you will not be entitled to receive any refund of any payments you have made to us for monthly service, upgrades, enhancements, fees or for any other prepaid service.

Warranties. Pocket does not manufacture wireless telephones, related equipment or applications or provide warranties with respect to those items. Your rights with respect to your wireless telephone and any equipment or applications you purchase, including your warranty rights and your rights for remedy of any defective products are governed by any warranty that may be offered by the manufacturer. WE MAKE NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, TO THE EXTENT PERMITTED BY FEDERAL, STATE, AND LOCAL LAW, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE CONCERNING YOUR SERVICE OR YOUR WIRELESS TELEPHONE. WE CANNOT PROMISE UNINTERRUPTED OR ERROR FREE SERVICE OR THAT OUR NETWORK, PRODUCTS, AND SERVICES WILL WORK IN

ALL INSTANCES AND DO NOT AUTHORIZE ANYONE TO MAKE ANY WARRANTIES ON OUR BEHALF. THIS DISCLAIMER DOES NOT DEPRIVE YOU OF ANY WARRANTY RIGHTS YOU MAY HAVE AGAINST ANYONE ELSE.

Injuries or Property Damage. You agree that Pocket will not be liable to you, your agents or affiliates, if any, for a) any injury to person or damage to property resulting from the provision by us of our goods and services to you, and b) indirect or consequential damages, including but not limited to losses incurred by you as a result of Pocket's inability to repair your goods and/or services properly or promptly.

Damages. Unless the law prohibits it in any particular case, we each agree to limit claims for damages or other monetary relief against each other to direct damages. This limitation and waiver will apply regardless of the theory of liability, whether fraud, misrepresentation, breach of contract, personal injury, products liability, or any other theory. This means that neither of us will claim nor seek any indirect, special, consequential, treble or punitive damages from the other. You agree that we are not liable for problems caused by you or a third party, by things we do not control, such as physical obstructions to service, network congestion, weather or by any act of God. If another wireless carrier is involved in any problem (for example, when you roam), you also agree to any limitations of liability that it imposes.

Privacy. Privacy is important to us at Pocket Communications We understand that consumers really care about their privacy and want it to be protected. We are committed to safeguarding nonpublic personal information we collect about our consumers.

We treat personal information carefully and take steps to assure that it remains private. We allow only authorized employees to have access to personal information. We maintain physical, electronic and procedural security protections to safeguard the information in our records.

Except as required or permitted by law, we do not share personal information without obtaining the consumer's permission.

Release of Information. By accepting this Agreement, you agree to our release of information about you and your use of the Pocket service when we believe release is appropriate to comply with the law or in good faith reliance by us on the legal process, including, but not limited to lawful subpoenas for information, enforcement or application of this Agreement; or to initiate, render, bill and collect for our services, protect our rights to property, or to protect users of our services and other carriers from abusive or unlawful use of such services; or to facilitate or verify the appropriate collection of taxes, fees or other obligations due to a local, state or federal government.

We may also release information about you if we reasonably believe that an emergency involving the immediate danger of death or serious physical injury to any person requires disclosure of communications or justifies disclosure of records without delay. You consent to our monitoring of any communication from your wireless telephone to protect our rights or property or those of our customers, as well as for quality control and service related purposes.

You agree that your caller identification information (such as your name and wireless telephone

number, including area code) may be displayed on the equipment or service bill of the person receiving your call. You agree that your location data may be used for location based services (LBS) such as government mandated 911 emergency services or for commercial services which use LBS information and such information may be provided to others outside our company. We are not responsible for how you or others use our network or the information derived from our network by others for applications such as location based services. You agree that we are not responsible for any voice, voice messages, text messages, or other content you, we or others may send or receive across our network. You agree that we may send you notifications via voice, voice message or text message related to your services or our offerings.

ARBITRATION AND CLASS ACTIONS. IT IS IMPORTANT THAT YOU READ THE FOLLOWING SECTION CAREFULLY. THIS SECTION PROVIDES FOR RESOLUTION OF MOST DISPUTES THROUGH FINAL AND BINDING ARBITRATION INSTEAD OF IN A COURT BY A JUDGE OR JURY OR THROUGH A CLASS ACTION. THIS ARBITRATION AND PROHIBITION OF CLASS ACTION SECTION SHALL SURVIVE TERMINATION OF THIS AGREEMENT. RELIEF IN THE EVENT OF ARBITRATION IS LIMITED TO THE AMOUNTS AND TYPE OF DAMAGES YOU HAVE AGREED TO AS STATED IN THIS AGREEMENT.

The arbitration process established in this section is governed by the Federal Arbitration Act, not by state law. This provision is intended to be interpreted broadly to encompass all disputes or claims in connection with Pocket services. All such disputes or claims whether based in contract, tort, statute, fraud, misrepresentation or any other legal theory, will be resolved by binding arbitration except that you have the ability to take claims to the appropriate state or federal governmental agency, you may take claims to small claims court if they qualify for hearing by such a court, or you or we may choose to pursue claims in court if the claims relate solely to the collection of any debts you owe to us.

You must first present any claim or dispute to us to allow us an opportunity to resolve the dispute. You may request arbitration if your claim or dispute cannot be resolved within 60 days after you contact us. The arbitration of any dispute or claim shall be conducted in accordance with the American Arbitration Association (AAA) under the Wireless Industry Arbitration Rules (WIA rules), as modified by this Agreement. The WIA Rules and information about arbitration and fees are available upon request from the AAA online at www.adr.org. Unless you and we otherwise agree, any arbitration will take place in San Antonio, Texas. If we agree, the arbitration may take place by telephone. An arbitrator may award any relief or damages that a court may award, except that an arbitrator may not award relief greater than or contrary to what this Agreement provides and may not order relief on a consolidated, class wide or representative basis. You agree that you will not participate in any class action related to the goods and services governed by this Agreement. Judgment on any arbitration award may be entered in any court having proper jurisdiction. Except for restrictions on class or representative relief as stated in this section, if any portion of this arbitration clause is determined by a court to be inapplicable or invalid, then the remainder will still be given full force and effect. All administrative fees will be divided equally between the parties. In all arbitrations, each party will bear the expenses of its own counsel, experts, witness and preparation and presentation of evidence at the arbitration.

Any arbitration or legal action with respect to any and all claims or causes of action related to or arising out of this Agreement must be brought within one (1) year after the cause of action arises, or in the applicable statutory period of time, whichever is shorter. This limitations period does not apply to any cause of action when the statutory limitations period cannot be waived, restricted or otherwise limited.

Indemnification. By accepting this Agreement, you agree to defend, indemnify, and hold us, our agents and any other service provider harmless from claims or damages relating to this Agreement, your promises or statements made in it, content you store, process or transmit using the Pocket service and any other use of the wireless telephone or service unless due to our sole and gross negligence. To the maximum extent allowed by law, you also agree to pay our reasonable attorneys' fees and expert witness fees and costs incurred in enforcing this Agreement, including those incurred for any appeal. You agree that use of your telephone while operating a motor vehicle in a distracted or negligent manner may be prohibited or restricted by law in some areas. It is your responsibility to obey such laws or regulations and you will indemnify us from any claims arising from such unlawful or negligent use. This paragraph shall survive the termination of this Agreement.

Binding Effect. This Agreement will be binding and inure to the benefit of the respective heirs, representatives, successors or assigns of Pocket and you, provided however, that Pocket may assign all or part of this Agreement, without notice to you, and such assignment will not be a change in this Agreement. Pocket will then be released from all liability under this Agreement. You may not assign this Agreement without our written consent.

Notices. We may send you notices by mail or electronic means, in our sole discretion. Notices to you will be effective either three (3) days following the date deposited in the U.S. Mail or delivered to a nationally recognized courier delivery service to your address as recorded in our files, and/or immediately upon our transmission using an electronic means such as e-mail or text messaging service. You are responsible for notifying us of any change in your mailing or e-mail address. Written notice to us will be effective when directed to Pocket Communications, P. O. Box 5936, San Antonio, Texas 78201 and received by us. Your notice must contain specific information adequate to identify you in accordance with our records.

Governing Law. This Agreement shall be interpreted in accordance with the laws of the State of Texas without consideration of conflict of laws principles.

Waiver. No term or condition of this Agreement may be waived except in a writing signed by an authorized officer of Pocket. If we waive any portion of this Agreement, the waiver cannot be treated as a waiver of any other provision of this Agreement, or a waiver of our right to enforce the portion we have waived for any violation that occurs thereafter.

Severability. If any portion or provision of this Agreement is declared to be invalid or unenforceable, the remaining valid provisions of this Agreement shall not be affected and shall remain valid and enforceable to the extent permitted by law.

Entire Agreement. This Agreement and any documents to which it refers form the entire

agreement between you and Pocket Communications. This Agreement may only be amended in a writing published by us and communicated to you in accordance with the notice provisions of this Agreement. You cannot rely on any other documents or statements, oral or written, to amend or add to the terms of the provision of services to you in accordance with this Agreement, and you have no other rights with respect to this Agreement, except as may be established by operation of law.

End User License Agreement (EULA) for BREW applications, content, and services.

BY INSTALLING OR USING THIS BREW APPLICATION (“APPLICATION”) YOU ARE AGREEING TO BE BOUND BY ALL OF THE TERMS SET FORTH BELOW. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, DO NOT INSTALL OR USE THE APPLICATION.

1. **Limited License.** The developer of the Application (“Developer”) hereby grants to you a non-exclusive limited license to install the object code version of the Application on one wireless communication device and to use the Application on such device. All rights not expressly granted are reserved by the Developer. The term Application includes any software that is provided to you at the same time the Application is provided to you, or that is used in connection with the Application.
2. **Restrictions.** You agree not to reproduce, modify or distribute the Application or other software included in your wireless device (“Other Software”). Subject to applicable law, you agree not to decompile or reverse engineer the Application or the Other Software. You agree not to (i) remove any copyright or other proprietary notice from the Application or the Other Software, or (ii) sublicense or transfer the Application or the Other Software to a third party.
3. **Ownership.** You agree that the Developer and its licensors retain all right, title and interest in and to the Application and all copies of the Application, including all copyrights therein. You agree to erase an Application from your wireless device upon receipt of notice.
4. **Termination.** This Agreement shall terminate immediately, without notice, if you fail to comply with any material term of this Agreement. Upon termination you agree to immediately erase the Application from your wireless device.
5. **Disclaimer of Warranty.** THE APPLICATION IS LICENSED TO YOU “AS IS.” DEVELOPER AND ITS LICENSORS DISCLAIM ANY AND ALL WARRANTIES REGARDING THE APPLICATION, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF NON-INFRINGEMENT OF THIRD PARTY RIGHTS, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. DEVELOPER DOES NOT WARRANT THAT THE OPERATION OF THE APPLICATION WILL BE UNINTERRUPTED OR ERROR FREE. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY OR MAY BE LIMITED.
6. **Limitation of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL THE DEVELOPER OR ITS LICENSORS BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL OR INDIRECT DAMAGES OF ANY KIND ARISING OUT OF THE USE OF THE APPLICATION (INCLUDING BUT NOT LIMITED TO LOST DATA OR LOST PROFITS), EVEN IF THE DEVELOPER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL THE DEVELOPER’S LIABILITY FOR ANY CLAIM, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER THEORY OF LIABILITY, EXCEED THE FEE PAID BY YOU. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY OR MAY BE LIMITED.
7. **Export.** The Application is subject to the export control laws and regulations of the

United States and other jurisdictions. You agree to comply with all such laws and regulations.

8. Government. If you are or are acting on behalf of an agency or instrumentality of the United States Government, the Application is “commercial computer software” developed exclusively at private expense. Pursuant to FAR 12.212 or DFARS 227 7202 and their successors, as applicable, use, reproduction and disclosure of the Application is governed by the terms of this Agreement.

9. Miscellaneous. This Agreement is governed by the laws of the State of California, USA, without regard to California’s conflict of law principles. The United Nations Convention on Contracts for the Sale of International Goods does not apply to this Agreement. If any provision hereof is held illegal, invalid or unenforceable, in whole or in part, such provision shall be modified to the minimum extent necessary to make it legal, valid and enforceable, and the legality, validity and enforceability of all other provisions of this Agreement shall not be affected thereby. This Agreement constitutes the entire agreement between you and the Developer regarding its subject matter and supersedes any prior agreement, whether written or oral, relating to the subject matter of this Agreement. No modification or alteration of this Agreement will be valid except in writing signed by you and the Developer.