

## **Terms and Conditions of Personal Communication Services (PCS)**

**Agreement:** These Terms and Conditions of Services ("Terms") apply to MCV Broadband (including Numeric Paging and Text Messaging) ("Services") provided to you by MCV Broadband or any of its affiliates (collectively, 'us', 'we', 'our' or 'MCV'). The Terms, the service and rate plan we agree to provide you ("Service Plan") and any applicable federal and local laws (collectively, 'Applicable Laws') constitute the agreement between you and us for Services ("Agreement"). In the event of any conflict between Applicable Laws, the Service Plan and/or the Terms, Applicable Laws will control over the Service Plan and the Terms. In the event of any conflict between the Service Plan and the Terms, the Service Plan (including any Term Service Plan) will control over the Terms. When you activate Services or attempt to place a call on the MCV Broadband Network or off the MCV Broadband Network when roaming (including, without limitation, '911' or similar calls), you accept this Agreement.

**Provision of Service:** Your purchase of equipment, including a phone, does not mean that we must provide Services to you. We may decide not to provide Services to you for any lawful reason. We may request that you provide us with any information we reasonably require to determine whether you qualify for Services.

**Credit Verification:** You must have and maintain credit satisfactory to us in order to receive and continue to receive Services. We will verify your credit before agreeing to provide Services to you and we may verify your credit at any time while we provide Services to you. Credit verification may include a review of credit reports that we receive from commercially available credit bureaus. We may require a guarantee of payment by an individual or entity approved by us. If at any time we determine, in our sole discretion, that payment for Services may not be made when due, we may suspend Services to your phone and require that you provide payment on account or a guarantee of payment before we resume Services to your phone.

**Changes to Agreement:** We may change this Agreement at any time (but see Service Plan). Any changes to the Terms are effective after we provide you with written notice of such changes. Changes to Applicable Laws are effective as provided in the Applicable Laws. If you use our Services or make any payment to us on or after the effective date of the changes, you accept the changes. If you do not accept the changes, you may terminate Services (but see Termination; Changes to Service Plan). For purposes of the Agreement, 'use' of Services includes maintaining the right to access the MCV Broadband Network by not terminating Services. You may not modify this Agreement; however, you may modify your Service Plan (see Termination; Changes to Service Plan).

**Service Plan:** You may be eligible for a fixed-length Service Plan ("Term Service Plan") or for a month-to-month Service Plan ("Non-Term Service Plan"). We determine in our sole discretion the Service Plan for which you qualify. We may offer non-identical Service Plans to different individuals or entities. Service and coverage under some Service Plans may be more limited than under other Service Plans. Your Service Plan sets out the charges for Services and is your Service Plan until that Service Plan is changed; you switch to a different Service Plan; or your Services terminate. Your Service Plan may require that you make a deposit, prepayment, or series of deposits or prepayments, or be subject to an account spending limit, before Services are activated or maintained.

**Changes to Service Plan:** If you are on a Non-Term Service Plan, you may change to a different Service Plan for which you qualify by contacting us. Any change is effective at the start of the next full invoicing cycle unless otherwise specified by us at the time that you place your change order, if you are on a Term Service Plan, your ability to change to another Service Plan is limited and we may require you to pay a termination fee. In addition to any other charges, such as a termination fee, we may require a service charge for the third and any subsequent Service Plan change during any 12-month period.

**Use of Services and Equipment: Availability:** You must be at least 18 years old to subscribe to our Services (other than on a Prepaid Service Plan). We may require you to provide proof of your age and identity. Services and equipment may not be used for any unlawful, fraudulent or abusive purpose, and by requesting Services, you agree that you will not use Services and equipment in any unlawful, fraudulent or abusive manner. Services are available within the operating range of the MCV Broadband Network. Coverage and quality of Services may be affected by conditions beyond our control, including atmospheric, geographic, or topographic conditions. We do not guarantee that there will be no interruptions or delays in Services. Your MCV PCS phone will not accept the services of any wireless provider other than MCV PCS (but see Roaming).

**Number:** We will assign a telephone number ("Number") to the phone or other equipment used by you on the MCV PCS Network. We may change the Number by giving you prior notice of such change. You do not own the Number. You may not (1) modify the Number we program into any phone or other equipment; (2) transfer or duplicate the Number to any phone or other equipment other than that authorized by us; or (3) transfer the Number to any other individual or entity.

**Charges:** You must pay, by the due date shown on your invoice, all charges for Services provided to the Number for each phone or other equipment that our records show have been activated by or on behalf of you, no matter who actually uses or has possession of the phone or other equipment at the time Services are provided. These charges include, but are not limited to, recurring monthly Services charges, applicable local and long-distance toll charges, usage charges, connection fees, roaming charges, directory assistance, call completion charges, charges for optional Service features you select at an extra cost, and taxes or other governmental levies. Call Detail Record (CDR) request charges are \$1.00 for 1-5 pages and \$5.00 for 6 pages or more. Charges for a call from your phone begin when you press the TALK key (or similar key) and end when the call is terminated by either-party. You are invoiced for calls to your Number from the time immediately before your phone starts ringing until the call is terminated by either party. Airtime charges are billed at a one minute minimum. Additional minutes after the first minute are billed in 6-second increments.

**Invoicing:** Invoicing cycles are approximately 30 days in length. Invoicing cycles and dates may change from time to time. Except as otherwise provided in your Service Plan, monthly recurring charges (MRC's) are invoiced in advance for the next month. Airtime is invoiced retroactively to the first minute based on your Service Plan for your total usage in your invoicing cycles. Charges for Services are ordinarily invoiced as soon as possible after the charges are accrued (unless you are receiving Services under an MCV PCS Prepaid Service Plan). We may, however, invoice you for usage occurring before the close of the invoicing cycle being invoiced.

**Payment:** If you have authorized payment for Services or equipment by credit card or by debiting a bank account, no additional notice or consent will be required before we invoice the credit card or debit the bank account for all amounts (including any late charges) due to us. You must promptly notify us of any change in your invoicing address or of the credit card or bank account used for payment. We reserve the right to require payment by money order, cashier's check or other secured form of payment. If we take action beyond invoicing you for the charges for Service or equipment to receive payment, you must pay our reasonable costs and expenses of collection (to the extent permitted by Applicable Laws), including attorneys' fees and expenses, the fees of any collection agency and court costs. If we act as an invoicing agent for a third-party service provider, payments received are first applied to amounts due and owing to us and any remaining amounts are applied to sums due and owing to the third-party service provider. We may charge an additional fee for any check or other negotiable instrument endorsed by you and returned unpaid by a financial institution for any reason.

**Late Payment Charges:** Payment is considered past due if we do not receive it by the due date shown on your invoice. Any payment for Services and equipment not made when due shall accrue late charges until paid at the rate of one and one-half percent (1.5%) per month (or at the maximum rate allowed by Applicable Laws, if less). Late charges are prorated daily for each day that payment is past due, but are compounded monthly. Acceptance of late or partial payments (even if marked 'paid in full') does not waive our right to collect all amounts that you owe us.

**Disputed Charges:** You must raise any dispute regarding any charges invoiced to you within 15 days of the date of the invoice (or within any longer period-required by Applicable Laws) or you shall be deemed to have accepted the invoice without dispute. You may notify us of any dispute by calling MCV Broadband Customer Service and by filling out a Trouble Ticket form, which shall be processed in accordance with our existing standard operating procedures. Calls to our sales or general business offices do not constitute notice of a dispute. You shall not be required to pay any properly disputed amounts while we investigate

them; however, you must pay amounts not in dispute by their due date. If disputed invoice procedures are described on the invoice, you must follow such procedures as well as the procedures outlined in this paragraph.

**Termination:** Unless you are on a Term Service Plan, you may terminate Services at any time by giving us notice and we may terminate Services at any time, with or without notice (subject to this Agreement). We may, without liability to you, deactivate any Number before you receive notice of termination (if we give you notice). Termination by either of us may be with or without cause. You must pay all charges for (1) Services provided before termination of Services and (2) equipment, regardless of who terminates Services. If you are on a Term Service Plan, (1) your ability to terminate Services before the end of the term is limited; (2) a change to another Service Plan before the end of the term may be considered a termination; and (3) you may be required to pay a termination fee as liquidated damages and not as a penalty; and (4) we may not terminate Services without notice. At and after the expiration of the term of your Term Service Plan, you may terminate Services at any time by giving us notice (subject to this Agreement). Regardless of whether you have a Non-Term or a Term Service Plan, we may terminate or suspend Services to you without liability (1) if you breach any provision of this Agreement (including if you fail to pay any charges for Services) or (2) if you fail to pay any charges due to us for equipment or otherwise. If you promptly cure the breach, we may, but are not obligated to, reactivate Services to you. Recurring charges covering the current invoicing cycle are prorated to the date of termination.

**Account Spending Limit:** If we agree to provide Services to you on an Account Spending Limit basis, we will tell you your Account Spending Limit before we activate your Services. If we require a deposit from you to establish or keep Services on an Account Spending Limit basis, we will hold the deposit as partial guarantee of payment for Services (see Deposits, below). Charges for Services accrue against your Account Spending Limit as they are incurred. We may suspend Services to your Number without prior notice to you when your account balance reaches your Account Spending Limit. Services are restored when you have paid any past due balance and pay a specified minimum amount to reduce your account balance below your Account Spending Limit. We may change this minimum amount at any time upon notice to you. You may pay any past due balance and the minimum amount by any method authorized by MCV PCS from time to time. You may call MCV PCS Customer Service for information about authorized methods of making payments. If we provide Services to you on an Account Spending Limit basis, Services and coverage may be limited in certain ways. For example, you may not be able to use your phone to make international calls or to roam. You must pay all charges for Services whether or not they exceed the amount of your Account Spending Limit.

**Deposits:** If we require a deposit from you to establish or keep Services, we will hold the deposit as partial guarantee of payment for Services. We may change the deposit amount at any time to reflect revised estimated monthly charges based upon your usage. A deposit may not be used to pay any invoice (unless it is used to pay a final invoice) or delay payment. The deposit amount, the length of time we hold the deposit and changes to the deposit amount are determined based on your credit and payment history. Security deposits may be refunded after a 6 month period of continuous good credit. We may mix deposits with our other funds. If Services are terminated for any reason, we may, without notice to you, apply your deposit toward payment of outstanding charges and any excess deposit will be returned to you at your last known address within 75 days after termination of Services. If the U.S. Postal Service cannot deliver the excess deposit to you and returns it to us, we will hold it for you for one year from the date of return and we may charge a monthly servicing fee against the deposit balance. Any excess deposit held during this 1-year period will not accrue interest for your benefit. Any portion of the excess deposit remaining after the 1-year period shall be deemed forfeited by you.

**Prepaid Service Plans-General:** You must keep a positive balance in your prepaid account in order to make or receive calls. Your prepaid account balance is reduced by charges for calls you make and receive, including local and long distance. Airtime charges for both local and long distance calls are rounded up to the next full minute and deducted from your prepaid account balance. Both incoming and outgoing calls will be charged against your account balance. When your prepaid account balance equals zero, Services will be suspended until you add money to your account. You may add money to your prepaid account by any means we agree to accept (e.g., MCV PCS Prepaid Wireless Cards). If your prepaid account balance equals zero for 45 consecutive days, you will be required to pay a reconnection fee to restore Services. If your prepaid account balance equals zero for 90 consecutive days, the account will be closed. If you wish to restore Services after your prepaid account has been closed, you will be treated as a new customer subject to then-current MCV PCS Prepaid Service Plan availability and then-current Terms; in addition, you may be charged a reactivating fee. Information about adding money to your prepaid account, fees for restoring or reactivating Services and Number availability can be obtained by calling 969-4628. Services and coverage under MCV PCS Prepaid Service Plans may be more limited than under other Service Plans. Funds in your prepaid account may be mixed with our other funds. Interest does not accrue on any funds in your prepaid account. We do not refund unused funds in your prepaid account and will not transfer unused funds to anyone else or any other MCV PCS Prepaid or non-pre-paid account.

**Prepaid Wireless Cards:** Each MCV Prepaid Wireless Card has a specific expiration date once deposited in a prepaid account. You will not be able to use the card after its expiration date. Any unused deposited amounts will not be refunded. Taxes and Other Governmental Levies; We will invoice you for all taxes, tax-like fees and other charges levied by federal or local authorities, or by any foreign government, on Services, or mandated to be paid in proportion to receipts from telecommunication services provided, or on sales of equipment (except for taxes based on our net income), if we pay these taxes or other mandated charges directly. Taxes, tax-like fees and charges due from you are your responsibility. If you claim any tax exemption, you must provide us with a valid tax-exempt document. Any tax exemption applies only from the date we receive a valid tax-exempt document.

**Roaming:** Calls made outside your Home Service Area and outside the MCV PCS Network are 'roaming' calls. Your MCV PCS phone is specifically designed and engineered to work only on the MCV PCS Network. It will work on other CDMA PCS providers' systems only when a roaming agreement is in place between MCV PCS and the other providers. If your MCV PCS Phone is a dual-mode phone, it will work on both a CDMA PCS Provider's system (in addition to the MCV PCS Network) and a wireless analog telecommunication provider's system only when roaming agreements are in place between MCV PCS and the other providers. If we do not have a roaming agreement in place, you may be able to place roaming calls 'manually' by using a valid credit card. Certain features are not available when roaming. Roaming rates may be different from the rates you pay for calls within your MCV PCS Home Service Area and on the MCV PCS Network. Roaming charges are invoiced according to the practices of the roaming service provider. When roaming, you are subject to the limitation of liability provisions and other applicable rules imposed by the roaming service provider on its own subscribers or on roamers.

**Interruption of Service:** We may give credit for a continuous interruption of service for more than 24 hours on a case-by-case basis. Interruptions caused by your negligent or willful actions or by failure of your equipment will not qualify for credit. We may provide you with an airtime credit of one minute for a call that is disconnected because of transmission limitations caused by atmospheric, geographic or topographic conditions and that you redial within one minute of disconnection. You must notify us with 24 hours of the disconnection to request credit.

**Phones and Other Equipment:** Phones and other equipment may be purchased and returned as provided in the purchase documents. We are not a manufacturer of phones or other equipment and the only warranties on the phones or other equipment are any warranties made by the manufacturers. We have no liability in connection with phones and other equipment or for any act or omission by any manufacturer.

**Lost or Stolen Equipment:** If your phone or other equipment is lost or stolen, you must notify us by calling MCV Broadband Customer Service. You are responsible for all charges for Services provided to the Number for the lost or stolen equipment before you notify us of the loss or theft. We will deactivate Services to the Number upon notification to us of any loss or theft. You may be required to provide evidence of the loss or theft (e.g., a police report or affidavit). If the equipment is later found, we may require that you exchange it for another phone or other equipment before we reactivate Services (if we do reactivate Services), as well as require you to pay a reactivation fee. We will deactivate Services to any Number without prior notice to you if we suspect any unlawful or fraudulent use of the Number. You agree to reasonably cooperate with us in investigating suspected unlawful or fraudulent use. If your phone is lost or stolen and returned to MCV, your account will be billed a \$25 finder's fee upon the return of your phone to you. The finder's fee will be paid to the individual who has returned your phone to us.

**Caller ID:** If you do not wish the Number assigned to your phone be identified by recipients of calls from your phone, you must call MCV Broadband Customer Service for information on automatic Caller ID blocking. The Number assigned to your phone can be blocked on a per-call basis by dialing ""67 + Destination Number + TALK". Caller ID delivery resumes on the next call you make. Caller ID display is dependent on receiving the information from the calling party.

**TTY Access:** A TTY (also known as TDD or Text Telephone) is a telecommunications device that allows people who are deaf or hard of hearing, or who have speech or language disabilities, to communicate by telephone.

**Pay-Per-Call Service:** We will not complete calls from Number to 900, 976 or any similar number for pay-per-call services.

**Limitation of Liability:** Except as otherwise provided in this section, our sole liability to you for any loss or damage arising out of our providing or failing to provide Services (including mistakes, omissions, interruptions, delays, errors or defects) shall not exceed (1) in cases related to a specific piece of equipment, the prorated monthly recurring charge for Service to the piece of equipment during the affected period, or (2) in cases not related to a specific piece of equipment the prorated monthly recurring charges for Service to you during the affected period. We shall not be liable for any damage arising out of or in connection with:

1. Any act or omission of any telecommunications service provider other than us;
2. Any directory listing;
3. Any dropped calls;
4. Any interruption of Services, including interruptions caused by equipment of facilities or shortages, transmission limitations or system capacity limitations;
5. Traffic or other accidents;
6. Any interruption or failure of "911" or "E911" emergency services or identification of the Number, address or name associated with any person accessing or attempting to access emergency services from your phone;
7. The installation or repair of any products or equipment by parties who are not our authorized employees or agents;
8. Events caused by factors beyond our control, including Acts of God (including, without limitation, weather-related phenomena, fires or earthquakes), war, riot, strike, or orders of governmental authority;
9. Any use of your phone or other equipment not authorized by you; or
10. You're negligent or intentional acts of omissions

UNDER NO CIRCUMSTANCES SHALL WE BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR SPECIAL DAMAGES OF ANY NATURE WHATSOEVER ARISING OUT OF OR IN CONNECTION WITH OUR PROVIDING OR FAILING TO PROVIDE SERVICES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOSS OF BUSINESS, OR COST OF REPLACEMENT PRODUCTS AND SERVICES.

This section shall survive termination of this Agreement for any reason whatsoever.

**Indemnification:** You agree to indemnify and defend us, our partners, directors, officer, employees and agents from and against any claim, action, damage, liability and/or expense arising out of or in connection with: (1) your acts or omission that occur in connection with your use of the Services or equipment used in connection with the services, and/or (2) any communications you make or receive using the Services.

This indemnification extends to and includes any reasonable attorneys' fees and costs incurred by us arising from any actions or claims to which this indemnification applies, or from any party's contesting the applicability of this provision. This section shall survive termination of this Agreement for any reason whatsoever.

**No Warranties:** WE MAKE NO EXPRESS REPRESENTATIONS OR WARRANTIES ABOUT OUR SERVICES AND DISCLAIM ANY IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF TITLE OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. WE DO NOT AUTHORIZE ANYONE TO MAKE A WARRANTY OF ANY KIND ON OUR BEHALF AND YOU MAY NOT RELY ON ANY STATEMENT OF WARRANTY AS A WARRANTY BY MCV BROADBAND. WE ARE NOT THE MANUFACTURER OF THE EQUIPMENT AND THE ONLY WARRANTY APPLICABLE TO THE EQUIPMENT USED IN CONNECTION WITH THE SERVICES IS THAT PROVIDED BY THE EQUIPMENT MANUFACTURERS. THIS SECTION SHALL SURVIVE TERMINATION OF THIS AGREEMENT FOR ANY REASON WHATSOEVER.

**Waiver of Trial by Jury:** BY ACCEPTING THIS AGREEMENT, YOU WAIVE YOUR RIGHT TO A TRIAL BY JURY OF ANY AND ALL CLAIMS OR CAUSES OF ACTION (INCLUDING COUNTERCLAIMS) RELATED TO OR ARISING OUT OF THIS AGREEMENT BROUGHT BY EITHER PARTY AGAINST THE OTHER. YOU AGREE THAT ANY CLAIM OR CAUSE OF ACTION WILL BE TRIED BY A COURT WITHOUT A JURY. THIS WAIVER APPLIES TO THIS AGREEMENT AS IT MAY BE AMENDED OR MODIFIED IN THE FUTURE.

**Notices:** You may get our current address by calling MCV Broadband Customer Service. Written notice to you is sent to your last known address in our invoicing records. Written notice is deemed delivered 3 days after deposit in the U.S. Mail, postage prepaid, and properly addressed. Unless required by this Agreement or Applicable Laws, (1) you may notify us by calling MCV Broadband Customer Service, and (2) we may notify you by leaving a message for you on your MCV Broadband PCS Phone, answering machine or with your answering service. Notice addresses may be changed by giving notice as provided in this section.

**Use of your Subscriber Information:** As we provide services to you, we develop (1) information about the quantity, technical configuration, type, destination and amount of the Services you use and (2) invoicing information (collectively, 'Subscriber Information'). We may use your Subscriber Information for purposes of marketing and selling services related to our existing Services offering to you. We will not use your Subscriber Information to market or sell telecommunications services that are not related to our existing Services offering to you without your prior consent. If you notify us in writing, we will not use your Subscriber Information for any of these purposes.

**Choice of Law:** Jurisdiction: This agreement shall be governed by and construed under the laws of Guam without regard to choice of law principles. You agree to submit to the personal jurisdiction of the courts of Guam. You agree that all claims between you and MCV Broadband related to this Agreement will be litigated individually and that you will not consolidate or seek class treatment for any claim, unless previously agreed to in writing by both of us.

**General:** If either of us does not enforce any right or remedy available under this Agreement, that failure is not a waiver of the right or remedy for any other breach or failure by the other party. Our waiver of any requirement in any one instance is not a general waiver of that requirement and does not amend this section.

**Agreement:** If any part of this Agreement is held invalid or unenforceable, that part shall be interpreted consistent with Applicable Laws as nearly as possible to reflect the original intentions of the parties and the remainder of this Agreement shall remain in full force and effect. Section headings are for descriptive purposes only and shall not be used to interpret the Agreement. You may not assign this Agreement to any other person or entity without our prior written approval. This Agreement (including any referenced documents and attachments) constitutes the entire agreement between you and us and replaces all prior

written or spoken agreements, representations, promises or understanding between you and us. The provisions of this Agreement that are contemplated to be enforceable after the termination of this Agreement survives termination of this Agreement for any reason whatsoever.

The following provisions are not generally applicable and apply only to customers whose Service Plans include those terms:

**Traveling:** If you make or receive calls outside your Home Service Area but on the MCV Broadband Network, you may be charged for Services at a 'travel' rate. Both outgoing and incoming traveling calls are priced at a flat, all-inclusive rate. Long-distance charges may not be included in the travel rate. It is not necessary to 'register' your Number when traveling outside your Home Service Area.

**Home Rate:** This service lets you make or receive calls from anywhere on the MCV Broadband Network at your Home Service Area airtime rates.