



## Monnit Cellular Gateway – 2 Year Service Agreement

By clicking "Accept" below, you will be bound to the following cellular data plan agreement ("Service Commitment," or "Agreement") for a two-year term (renewable in accordance with the Terms of Service).

### **SERVICE COMMITMENT / EARLY TERMINATION FEE**

Your Service Commitment begins on the day we activate your service. You have received a discount on your cellular gateway from us in exchange for agreeing to this Service Commitment. If we terminate your service for nonpayment or any other default before the end of the Service Commitment, or if you terminate your service for any reason other than (a) in accordance with the cancellation policy; or (b) pursuant to a change of terms, conditions or rates as set forth below, you agree to pay us with respect to each device ("Device") identifier assigned to you in relation to this Agreement, in addition to all other amounts owed, an early termination fee in the amount specified below ("Early Termination Fee"). The Early Termination Fee will be \$150 minus \$5 for each full month of your Service Commitment that you complete. The Early Termination Fee is not a penalty, but rather a charge to compensate us for your failure to satisfy the Service Commitment on which your rate plan is based. AFTER YOUR INITIAL SERVICE COMMITMENT IS MET, THIS AGREEMENT SHALL AUTOMATICALLY RENEW ON A MONTH-TO-MONTH BASIS UNTIL EITHER PARTY GIVES NOTICE PURSUANT TO THE TERMINATION PROVISION BELOW.

### **CANCELLATION PERIOD / TERMINATION**

You may terminate this Agreement within **thirty (30) days** of activating service without paying an Early Termination Fee. Termination notice can be made by email, and must be received before the 30th day of service. You will pay for the activation fee and service charges incurred for the first month. You will need to return the cellular gateway(s) purchased with this Agreement within 14 days of termination. There is a 15% restocking fee and you are responsible for shipping the gateway(s) back to Monnit. If you terminate after the 30th day but before expiration of the Agreement's Service Commitment, you will pay Monnit an Early Termination Fee for each cellular gateway associated with the service. Either party may terminate this Agreement at any time after your Service Commitment ends with thirty (30) days' notice to the other party. Monnit may terminate this Agreement at any time without notice if we cease to provide service in your area. Monnit may interrupt or terminate your service without notice for any conduct that we believe violates this Agreement or any terms and conditions of your rate plan, or if you behave in an abusive, derogatory, or similarly unreasonable manner with any of our representatives, or if we discover that you are underage, or if you fail to make all required payments when due, or if we have reasonable cause to believe that your Device is being used for an unlawful purpose or in a way that may adversely affect our service.

### **CHARGES AND DISPUTES**

You are responsible for paying all charges for or resulting from services provided under this Agreement. You will receive monthly bills that are due in full as shown thereon. YOU MUST, WITHIN 60 DAYS OF THE DATE OF THE BILL, NOTIFY US IN WRITING AT MONNIT, BILL DISPUTE, 3400 SOUTH WEST TEMPLE, SOUTH SALT LAKE, UT 84115 ("MONNIT'S ADDRESS") OF ANY DISPUTE YOU HAVE WITH RESPECT TO THE BILL, INCLUDING ANY CHARGES ON THE BILL AND ANY SERVICE WE PROVIDED FOR WHICH YOU WERE BILLED, OR YOU WILL HAVE WAIVED YOUR RIGHT TO DISPUTE THE BILL OR SUCH SERVICES AND TO BRING, OR PARTICIPATE IN, ANY LEGAL ACTION RAISING ANY SUCH DISPUTE. Charges include, without limitation, data usage, roaming, recurring monthly service, activation, administrative, and late payment charges; regulatory cost recovery and other surcharges; optional feature charges; and applicable taxes



and governmental fees, whether assessed directly upon you or upon Monnit. To determine your primary place of use ("PPU") and which jurisdiction's taxes and assessments to collect, you are required to provide us with your residential or business street address. If you do not provide us with such address, or if it falls outside our licensed service area, we may reasonably designate a PPU within the licensed service area for you. Subscriber must live and have a mailing address within the network coverage area of Monnit's cellular partners.

#### **BILLING AND PAYMENT**

You agree to pay for data services sent to and from your Device. Cellular data fees are based upon a monthly, per megabyte (MB) usage with 1MB minimum charged at the beginning of the monthly billing cycle. If data usage exceeds the (pre-paid) 1MB allowance, automatic billing will occur for the next MB at that point (and so-on). DATA TRANSPORT IS CALCULATED IN FULL-MEGABYTE INCREMENTS, AND ACTUAL TRANSPORT IS ROUNDED UP TO THE NEXT FULL-MEGABYTE INCREMENT FOR BILLING. MONNIT CALCULATES A FULL MEGABYTE OF DATA TRANSPORT FOR EVERY FRACTION OF THE LAST MEGABYTE OF DATA TRANSPORT USED DURING THE BILLING PERIOD. NETWORK OVERHEAD, SOFTWARE UPDATE REQUESTS, AND RESEND REQUESTS CAUSED BY NETWORK ERRORS CAN INCREASE MEASURED MEGABYTES. If your cellular gateway is damaged or stolen, you must contact us immediately to report the Device as damaged or stolen. You will be responsible for all data usage associated with the damaged or stolen Device through (but not after) the date you notify us that it is lost or stolen. Monnit will take into account the information provided by the customer to evaluate on an individual basis whether grounds exist for further relief. You also remain responsible for paying your monthly service fee if your service is suspended for nonpayment. We may require payment by money order, cashier's check, or a similarly secure form of payment at our discretion.

Monnit 2 Year Cellular Agreement Data Rates:

- \$10 for the first MB
- \$5 for the second MB
- \$3 for each additional MB

#### **DISHONORED PAYMENTS**

Monnit will charge \$30 or the highest amount allowed by law, whichever is less, for any check or other instrument (including credit card chargebacks) tendered and returned unpaid by a financial institution for any reason. You agree to reimburse us the fees of any collection agency, which may be based on a percentage at a maximum of 33% of the debt, and all costs and expenses, including reasonable attorneys' fees, we incur in such collection efforts.

#### **CHANGES TO TERMS AND RATES**

Monnit may change any terms, conditions, rates, fees, expenses, or charges regarding your service at any time. We will provide you with notice of such changes (other than changes to governmental fees, proportional charges for governmental mandates, roaming rates or administrative charges) either in your monthly bill or separately. You understand and agree that State and Federal Universal Service Fees and other governmentally imposed fees, whether or not assessed directly upon you, may be increased based upon the government's or our calculations, but only in accordance with the regulations associated with such governmentally imposed fees.

#### **SERVICE LIMITATIONS and LIMITATION OF LIABILITY**

Limitations of liability set forth herein govern unless they are prohibited by applicable law. Service may



be interrupted, delayed, or otherwise limited for a variety of reasons, including environmental conditions, unavailability of radio frequency channels, system capacity, priority access by National Security and Emergency Preparedness personnel in the event of a disaster or emergency, coordination with other systems, equipment modifications and repairs, and problems with the facilities of interconnecting carriers. WE DO NOT GUARANTEE YOU UNINTERRUPTED SERVICE OR COVERAGE. MONNIT MAKES NO WARRANTY, EXPRESS OR IMPLIED, OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, SUITABILITY, NON-INFRINGEMENT, OR PERFORMANCE REGARDING ANY SERVICES OR GOODS, AND IN NO EVENT SHALL MONNIT BE LIABLE, WHETHER OR NOT DUE TO ITS OWN NEGLIGENCE, for any: (a) act or omission of a third party; (b) mistakes, omissions, interruptions, errors, failures to transmit, delays, or defects in the service provided by or through us; (c) damage or injury caused by the use of service or Device, including use in a vehicle; (d) claims against you by third parties; (e) damage or injury caused by a suspension or termination of service by Monnit; or (f) damage or injury caused by failure or delay in communication. Notwithstanding the foregoing, if your service is interrupted for 24 or more continuous hours by a cause within our control, we will issue you, upon request, a credit equal to a pro-rata adjustment of the monthly service fee for the time period your service was unavailable, not to exceed the monthly service fee. Our liability to you for service failures is limited solely to the credit set forth above. Unless applicable law precludes parties from contracting to so limit liability, Monnit shall not be liable for any indirect, special, punitive, incidental or consequential losses or damages you or any third party may suffer by use of, or inability to use, service or Equipment provided by or through Monnit, including loss of business or goodwill, revenue or profits, or claims of personal injuries. To the full extent allowed by law, you hereby release, indemnify, and hold Monnit and its officers, directors, employees and agents harmless from and against any and all claims of any person or entity for damages of any nature arising in any way from or relating to, directly or indirectly, service provided by Monnit or any person's use thereof (including, but not limited to, property damage and personal injury), INCLUDING CLAIMS ARISING IN WHOLE OR IN PART FROM THE ALLEGED NEGLIGENCE OF MONNIT, or any violation by you of this Agreement. This obligation shall survive termination of your service with Monnit. Monnit is not liable to you for changes in operation, equipment, or technology that cause your Device or software to be rendered obsolete or require modification. Under no circumstance will Monnit's total liability to you, whether arising under tort, breach of contract, strict liability, breach of warranty, or otherwise, exceed the fees paid by you to Monnit in the twelve-month period preceding the date on which the cause of action arose. SOME STATES, INCLUDING THE STATE OF KANSAS, DO NOT ALLOW DISCLAIMERS OF IMPLIED WARRANTIES OR LIMITS ON REMEDIES FOR BREACH. THEREFORE, THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU. THIS AGREEMENT GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY HAVE OTHER RIGHTS WHICH VARY FROM STATE TO STATE.

#### **ACCOUNT ACCESS**

You authorize us to provide information about and to make changes to your account, including adding new service, upon the direction of any person able to provide information we deem sufficient to identify you.

#### **GOVERNING LAW**

THIS AGREEMENT AND ANY SALES THEREUNDER SHALL BE GOVERNED BY THE LAWS OF THE STATE OF UTAH. The parties agree that the courts of the State of Utah shall have exclusive jurisdiction over any claim, or dispute or controversy (whether in contract, tort or otherwise) against Monnit, its agents, employees, successors, assigns or affiliates arising out of or relating to this document, Monnit's Products advertising, or any related purchase. Customer agrees to appear in any such action and hereby consents to the jurisdiction of such court.



### **WAIVER, MODIFICATION, and SEVERABILITY**

No failure to exercise any right or provision of this Agreement will be deemed to imply or constitute a waiver of this Agreement. If any provision of this Agreement is held to be unenforceable, in whole or in part, such holding shall not affect the validity of the other provisions of this document.

### **MISCELLANEOUS**

This Agreement, the terms included in the rate documentation describing your plan and services, Monnit's Terms and Conditions, terms of service for products and services not otherwise described herein that are posted on applicable Monnit websites, and any documents expressly referred to herein or therein, make up the complete agreement between you and Monnit and supersede any and all prior agreements and understandings relating to the subject matter of this Agreement. No modification to or proposed amendment of the terms of this Agreement by Customer will be effective unless such modification or amendment specifically refers to this Agreement and is executed in writing and signed by Monnit. Monnit may assign this Agreement, but you may not assign this Agreement without our prior written consent. This Agreement is made for the benefit of Customer and Monnit, and not for the benefit of any third parties; no person or entity will be a third-party beneficiary to this Agreement. Your caller identification information (such as your name and phone number) may be displayed on the Device or bill of the person receiving your call; technical limitations may, in some circumstances, prevent you from blocking the transmission of caller identification information. You consent to the use by us or our authorized agents of regular mail, email, text messaging, facsimile or other reasonable means to contact you to advise you about our services or other matters we believe may be of interest to you. In any event, we reserve the right to contact you by any means regarding customer service-related notifications, or other such information. The original version of this Agreement is in the English language. Any discrepancy or conflicts between the English version and any other language version will be resolved with reference to and by interpreting the English version.

Inquiries or questions relative to Monnit Cellular Gateways and Cellular data usage and billing should be directed to customer service at (801) 561-5555, Fax: (801) 561-903-2008, e-mail: [info@monnit.com](mailto:info@monnit.com).

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