

# Wild Blue Customer Agreement

## Welcome to WildBlue!

Thank you for giving us the opportunity to provide you affordable, reliable high-speed Internet access. We look forward to you becoming a new WildBlue customer.

## Customer Agreement

This Agreement describes the terms and conditions between you and Clark Electric Appliance and Satellite, Inc. ("Clark Electric," "Us" or "We") applicable to WildBlue's Service. Please read this Agreement carefully since it contains important contract rights and obligations between you and Clark Electric Appliance and Satellite, Inc, as well as important limitations on those rights. If you would like to contact us, you may call 866-279-6544 or write to:

**Clark Electric Appliance and Satellite, Inc**

**P.O. Box 220**

**Greenwood, WI 54437**

**Minimum Service Commitment.** If you terminate service prior to the expiration of the Minimum Service Term of 24 months, you will owe (and your credit card, debit card, or bank account may be charged) the Termination Fee as described below. You may not downgrade your service plan to a lower service package until 30 days after activation of your WildBlue Service.

**Term and Renewal.** The term of this Agreement commences on the date your Service is activated and continues for the duration of 24 months unless terminated earlier by you or Clark Electric in accordance with this Agreement. After the Minimum Service Term expires, the term of this Agreement will automatically renew on a month-to-month basis, unless you have agreed to a new Minimum Service Term under a program offered by Clark Electric ("Renewal Program Term").

**Equipment.** New customers must lease the equipment designated by WildBlue ("Equipment") from Clark Electric or an authorized distributor of WildBlue in order to receive the Service. Only a WildBlue-authorized installer may install the WildBlue Equipment in your residence.

**Fair Access Policy.** Use of the WildBlue service is subject to data transmission thresholds measured on a 30-day rolling basis. A "threshold" is the amount of data that can be uploaded or downloaded in a 30-day period before your upload and download speeds will be reduced. The thresholds are:

	Value Pak	Select Pak	Pro Pak
Upload Threshold (MB)	2,300	3,000	5,000
Download Threshold (MB)	7,500	12,000	17,000

**Termination Fees.** If you cancel the Service before completion of the Minimum Service Term or Extension Term, the Termination Fee is \$250.00.

**Return of Equipment.** WildBlue is not obligated to de-install, the WildBlue Equipment. If you fail to return leased Equipment within 30 days after termination of the Agreement, additional charges will apply as specified in the Lease Addendum.

**This Agreement has 6 pages and also incorporates WildBlue's [Fair Access Policy](#) and [Acceptable Use Policy](#), and the terms of your service plan. If you leased your Equipment, your Agreement also includes the Leasing Addendum at the end of this document. You acknowledge that you have received, read, understand and agree to be bound by all of the terms and conditions set forth on each of the pages of these documents.**

**If you did not receive Sections 1 through 8 of this Agreement and the Lease Addendum,**

**DO NOT SIGN THIS AGREEMENT.**

## Customer Information

Customer Signature: \_\_\_\_\_

Date \_\_\_\_\_

Print Customer Name: \_\_\_\_\_

Street Address: \_\_\_\_\_

# Wild Blue Customer Agreement

## Terms and Conditions

### 1. The Service.

**1.1 Description.** The Service consists of a satellite-based Internet access service as further described in this Agreement (the "Service"). Service is in available locations in the contiguous U.S. with an unobstructed view of the southern sky and its usage is subject to WildBlue's Fair Access and Acceptable Use Policies. **Please note the following limitations applicable to use of the Service: VOIP services do not work over the WildBlue network. Online gaming activities may experience performance degradation over the network, including latency effects. VPN applications may not perform, or may perform poorly, over the WildBlue network and are not recommended.**

**1.2 Minimum System Requirements.** Your computer must meet certain minimum requirements to receive the Service as set forth on our website, [www.wildblue.com/about/Wildblue/qaa.jsp#1.6](http://www.wildblue.com/about/Wildblue/qaa.jsp#1.6). It is your responsibility, at your expense, to obtain, maintain, and operate suitable and fully compatible computer equipment required to access the Service. You are also responsible for all telephone charges incurred in connection with using the Service, if you access the Internet using our dial-up Internet access service.

### 2. Who May Use The Service? - Responsibility And Supervision.

**2.1 Age and Account Set-Up.** You represent that the Service will be installed and used solely in your residence and not in any commercial, retail or other business location (other than a home office in your residence). You represent that you are at least 18 years of age. You agree that you are responsible for obtaining installation services for the WildBlue Equipment from a WildBlue-authorized installer and for verifying and maintaining the account, options, settings and other parameters under which the Service is used, including (without limitation) all related passwords and user identification information.

**2.2 Multiple Use of Account.** Only computers physically located in your residence and your family members who permanently reside in your household may receive the Service under a single billing account. Your "household" is limited to the single address where you reside and where the Service is installed. It does not include adjacent apartments, residences, offices or any type of space not physically associated with your address. Any use of the Services other than as specified above constitutes an unlawful and unauthorized use of the Service and a material breach of this Agreement, regardless of whether you receive any compensation for such use, and may result in the immediate termination of the Services and the imposition of the Termination Fee, without prejudice to any rights and remedies available to WildBlue under this Agreement, at law and at equity.

**2.3 Installation of Equipment.** You represent that there are no legal, contractual or similar restrictions on the installation of the WildBlue Equipment in location(s) you have authorized. It is your responsibility to ensure compliance with all applicable building codes, zoning ordinances, homeowners' association rules, covenants, conditions, and restrictions related to services provided under this Agreement, to pay any fees or other charges, and obtain any permits or authorizations necessary for services provided under this agreement (collectively "Legal Requirements"). You are solely responsible for any fines or similar charges for service in violation of any applicable Legal Requirements. You acknowledge and agree that WildBlue or our designated service provider will be required to access your premises or system and to install and maintain the WildBlue Equipment, including the antenna and its components, necessary for you to receive the Service inside and outside your home. This will include attaching a satellite modem to your computer, installing software on your computer and configuring your computer for optimized performance of the Service. By signing this Agreement, scheduling a service or installation visit, and permitting us or our service provider to enter your home, you are authorizing WildBlue or our service provider to perform all of the above actions. **NEITHER WILDBLUE NOR OUR SERVICE PROVIDER SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY LOSSES RESULTING FROM INSTALLATION, REPAIR OR OTHER SERVICES, INCLUDING WITHOUT LIMITATION, DAMAGE TO YOUR PREMISES, LOSS OF SOFTWARE, DATA OR OTHER INFORMATION FROM YOUR COMPUTER.** You are responsible for backing up the data on your computer and we highly recommend that you do so prior to permitting access to us or one of our designated service providers. This limitation does not apply to any damages arising from the gross negligence or willful misconduct of any installation or maintenance service provider. Timeframes for installation, if any, are not guaranteed and may vary depending on the types of services requested and other factors.

**2.4 Subscriber Responsibility.** You agree that you are responsible for all access to and use of the Service through your account or password(s) and for any fees incurred for Service, or for software or other merchandise purchased through the Service, or any other expenses incurred in accordance with the terms of this Agreement. You acknowledge that you are aware that areas accessible on or through the Service may contain material that is unsuitable for minors (persons under 18 years of age). You agree to supervise usage of the Service by minors who use the Service through your account. You ratify and confirm any obligations a minor using your account incurs or assumes and any promises or permissions such minor makes or gives. You acknowledge that an owner's manual or similar material was provided to you at the time of installation of your WildBlue Equipment and that you have read and understand the manual and all product warnings contained in the manual.

### 3. Fees and Payment.

#### 3.1 Fees, Taxes and Other Charges.

**(a) Commencement And Duration Of Monthly Fees.** You acknowledge that (subject to any exceptions granted by us) a monthly fee payable in advance will apply for each and every month (or portion of a month) that you are a subscriber, beginning with the date your Service is activated. Your account will continue until you cancel the account in accordance with the method or methods specified by us (unless otherwise terminated in accordance with this Agreement). As stated above, you may cancel your account at any time, subject to payment of the Termination Fees, if applicable. The monthly fees shall cease to apply for any months after the billing month in which you cancel or terminate your account in accordance with these terms and conditions.

**(b) Billing and Charges.** You agree to pay, in accordance with the provisions of the billing option you selected, any registration, activation or monthly fees, ISP service charges, minimum charges and other amounts charged to or incurred by you, or by users of your account, at the rates in effect at the start of the billing period in which those amounts are charged or incurred. You agree to pay all applicable taxes related to your use of the Service, provision of services, software or hardware or the use of the Service by users of your account. Information on charges and surcharges (if any) that are to be paid to us and are incurred by you or by users of your account will be made available to you on the WildBlue website or sent to the email address you provide to us, and you agree that this is sufficient notice for all purposes as to charges incurred and paid or to be paid to us. Additional terms relating to pricing, billing, and payment which are an integral part of this Agreement are contained in your service plan and set forth on the WildBlue website: [www.wildblue.com/forYourHome/index.jsp](http://www.wildblue.com/forYourHome/index.jsp) (please enter your zip code) and are incorporated into this Agreement. WildBlue reserves the right to correct and charge under-billed amounts for a period of 90 days after the incorrect statement was issued. Payment of the outstanding balance is due in full each month.

**(c) Administrative Fees.** If we do not receive your payment by its due date, your payment is returned or your account has been suspended, you may be charged administrative fees. You acknowledge that these fees are not an interest or finance charge and are reasonably related to the actual expenses we incur due to non-payment. If we do not receive your full payment by its due date, we may charge you administrative late or nonpayment fees as follows:

**For plans with a 24 Month Minimum Service Term or a Renewal Program Term:** For late payments and suspended accounts, the fee is equal to the lesser of (i) \$5.00 per month; and (ii) the maximum amount permitted under applicable law. Such charge shall apply monthly until all delinquent amounts are paid in full. If your EFT or credit card payment fails to be honored by your bank or other financial institution, we may charge you a collection fee equal to the lesser of (i) \$15.00; and (ii) the maximum amount permitted under applicable law.

**3.2 Payment Authorization.** Except where additional methods of payment are specifically required or permitted under applicable law or regulation or as otherwise agreed to by WildBlue from time to time, you agree that Clark Electric Appliance and Satellite, Inc. can charge your credit card or debit card ("Card Payment"), or initiate an electronic funds transfer out of your bank account ("EFT Payment") for payment of all Service fees, the Termination Fee or any other amounts payable under this Agreement. Additionally, you agree that Clark Electric Appliance and Satellite, Inc. will bill your monthly Service fee and lease fee (if applicable) in advance, and such fees will automatically be collected through either a Card Payment or EFT Payment. With respect to such charges the following authorization applies: You authorize automatic Card Payments or EFT Payments by Clark Electric Appliance and Satellite, Inc. You agree that the charges described above will be billed to the credit or debit card provided by you when you applied for the Service until such time as you may authorize recurring EFT Payments. You must provide current, complete, and accurate information for your billing account, and promptly update any changes (such as a change in billing address, credit card number, credit card expiration date, bank account number) and contact email address. Changes to such information can be made by calling Clark Electric Appliance and Satellite, Inc. If you fail to provide us with any of the foregoing information, you agree that Clark Electric Appliance and Satellite, Inc. may continue charging you for any service provided under your account. In addition to administrative fees that you may owe, if we are unable to process your credit or debit card at any time or we otherwise do not receive electronic payment from you by its due date, your account may be immediately suspended and you will remain responsible for all amounts payable by you to us. If we do not receive your payment before your next statement is issued, your account may be terminated due to your default or nonpayment and such termination may result in a Termination Fee owed by you. Your card issuer agreement governs use of your credit or debit card payment in connection with this Service and you must refer to that agreement with respect to your rights and liabilities as a cardholder. If we do not receive payment from your credit or debit card issuer or its agent, you agree to pay us all amounts due upon demand by us. You agree that Clark Electric Appliance and Satellite, Inc. will not be responsible for any expenses that you may incur resulting from overdrawing your bank account or exceeding your credit limit as a result of an automatic charge made under this Agreement. Credit card payment is not required for residents of States where payment by credit cards may not be made mandatory.

**3.3 Disputes and Partial Payments.** If you think a charge is incorrect or you need more information on any charges applied to your account, you should contact our billing department. You must contact us within 45 days of receiving the statement on which the error or problem appeared. Clark Electric Appliance and Satellite, Inc. will make available to you a statement for each billing cycle showing payments, credit purchases and other charges. Clark Electric Appliance and Satellite, Inc. will not pay you interest on any overcharged amounts later refunded or credited to you. We may, but are not required to, accept partial payments from you. If partial payments are made, they will be applied to amounts owed by you starting with the oldest outstanding statement. If you send us checks or money orders marked "payment in full" or otherwise labeled with a similar restrictive endorsement, we can, but are not required to, accept them, without losing any of our rights to collect all amounts owed by you under this Agreement. If we choose to use any collection agency or attorney to collect money that you owe us or to assert any other right that we may have against you, you agree to pay the reasonable costs of collection or other action including, but not limited to, the costs of a collection agency, reasonable attorney's fees, and court costs.

**3.4 Reactivation.** To reactivate suspended Service, you must bring your account up to date through the month of reactivation by making payment in full of any outstanding balance, fees and other applicable charges. In addition, we may require a deposit before reactivating your Service. The amount of the deposit will not exceed one year of monthly fees. Amounts deposited by you will appear on your statement as a credit, and service charges and other fees will be invoiced as described above. If you fail to pay any amount on a subsequent bill, the unpaid amount will be deducted each billing cycle from the credit amount. Credit amounts shall not earn or accrue interest.

**3.5 Credit Inquiries and Reporting.** You authorize us to make inquiries and to receive information about your credit experience from others, including credit reporting agencies, enter this information in your file and disclose this information concerning you to appropriate third parties for reasonable business purposes. In the case of late payment or non-payment for any of the Services ordered by you or any other charges, you understand and agree that we may report such late payment or non-payment to the appropriate credit reporting agencies.

### 4. Modifications, Rights of Cancellation or Suspension.

**4.1 Modification of this Agreement.** Upon notice published over the Service, we may at any time (and from time to time) modify this Agreement, including, without limitation, our pricing and billing terms. We may, but are not required to, notify you by e-mail, online via one or more of the websites within the Service or other electronic notice. If you do not agree to such changes or additions, then you must terminate this Agreement in accordance with Section 4.3 and stop using the Service prior to the effective date of such modifications. Your continued use of the Service after the effective date of such modifications constitutes your acceptance of such modifications. If a change results in an increase of the monthly fee by more than 25%, however, you may terminate your Service, without incurring any Termination Fee, by calling us within 30 days after the first statement reflecting such changes is issued.

**4.2 Modification of the Service.** We may discontinue, add to or revise any or all aspects of the Service in our sole discretion and without notice, including access to support services, publications and any other products or services ancillary to the Service. In particular, we reserve the right at our sole discretion to modify, supplement, delete, discontinue or remove any software, file, publications, information, communication or other content provided to you by WildBlue or its vendors in connection with the Service. If we undertake any of these changes, we may, but are not required to, notify you by e-mail, online via one or more of the websites within the Service or other electronic notice. If you do not agree to such changes, then you must cancel your subscription and stop using the Service prior to the effective date of such changes. Your use of the Service after the effective date of such changes or additions constitutes your acceptance of such changes. In addition, we may take any action consistent with our Acceptable Use and Fair Access Policies, including actions to (a) prevent bulk e-mailing from entering or leaving any e-mail account or the network e-mail system, (b) delete e-mail messages if your e-mail account has not been accessed by you within a time established by us from time to time, in our sole discretion, (c) instruct our system not to process e-mail or instant messages due to space limitations, (d) make available to third parties information relating to WildBlue or its subscribers, (e) withdraw, change, suspend or discontinue any functionality or feature of the Service, (f) delete attachments to e-mail due to potentially harmful materials included within such attachment, and (g) limit access to the Service to prevent abusive consumption and ensure fair access for all subscribers.

**4.3 Termination by Subscriber.** Subject to your payment of the Termination Fee and the monthly fees for the full billing cycle in which termination occurred, you may immediately terminate this Agreement at any time upon written or telephone notice to us. Please allow five business days from the date of receipt for processing written requests to terminate. For clarification, Clark Electric Appliance and Satellite, Inc. does not accept notices of termination via e-mail or chat. You must terminate this Agreement in accordance with its terms: failure to do so may delay or prevent us from knowing that a termination was intended. You will continue to be liable under this Agreement for all fees and charges until such time as the Agreement has been properly terminated or we have acknowledged such termination in writing or by e-mail. In addition, you will be responsible for the return of the leased Equipment to Clark Electric Appliance and Satellite, Inc. in accordance with your obligations under the Lease Addendum.

# Wild Blue Customer Agreement

**4.4 Termination or Suspension by WildBlue.** We may immediately terminate your Service and this Agreement if you or a user of your account breaches this Agreement. We reserve the right in our sole discretion to terminate your account and this Agreement at any time or to suspend (with or without notice) or terminate access to or use of the Service, in whole or in part.

**4.5 Post-Termination or Suspension Obligations.** Notwithstanding any cancellation or termination of this Agreement or any of your accounts, nor any suspension or termination of access to or use of the Service, you will remain responsible for all payment and other obligations under this Agreement, including the obligation to pay all charges that may be due as a result of or in connection with such cancellation, termination or suspension. Your payment and other obligations under this Agreement are not suspended or affected by a suspension of access to or use of the Service, in whole or in part, due to a violation (actual, threatened, or alleged) of this Agreement or of any law or legal obligation by you or any user of your account.

## 5. Permitted Use And Restrictions On Use.

**5.1 Software License.** Subject to the terms 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") on any machine(s) on which you are the primary user or which you authorize to use. 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 by WildBlue 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.

**5.2 Restrictions On Use Of The Service.** You agree to comply with WildBlue's Acceptable Use and Fair Access Policies located at [www.wildblue.com/legal/acceptable\\_use\\_policy.jsp](http://www.wildblue.com/legal/acceptable_use_policy.jsp) and [www.wildblue.com/legal/fair.jsp](http://www.wildblue.com/legal/fair.jsp), both of which are incorporated into and made a part of this Agreement. WildBlue reserves the right to immediately terminate the Service and this Agreement if you knowingly or otherwise engage in any prohibited activity or if you use the WildBlue Equipment or Service in a way which is contrary to these policies. Please note that if you use WildBlue's email and other web application services, these services are provided through Google and are subject to Google's terms and conditions. You do not own, nor have any rights other than those expressly granted to you, to a particular IP address, even if you have ordered a static IP address.

**5.3 Fair Access Policy.** If your usage exceeds the limits set forth in the Fair Access Policy, we may reduce the bandwidth available to you on a temporary basis. Continued violation of the Fair Access Policy is a breach of this Agreement by you. WildBlue Internet access is not guaranteed. The terms of this policy apply to all service plans, including Value, Select and Pro and any other service plan that WildBlue offers from time to time.

**5.4 Prohibition on Resale.** Reselling the Service or otherwise making the Service available to anyone outside your residence (e.g. via wi-fi, or any other method), in whole or in part, directly or indirectly, or on a bundled or unbundled basis is prohibited. 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. 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, Fair 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. You may not connect the WildBlue Equipment to any computer outside of your residence.

**5.5 No Unauthorized Use of WildBlue Equipment or Software.** You are strictly prohibited from servicing, altering, modifying, or tampering with the WildBlue Equipment, Software or Service or permit any other person to do the same who is not authorized by WildBlue. You may not copy, distribute, sublicense, decompile or reverse engineer any of the Software.

**5.6 Compliance with Laws.** You agree to comply with all applicable laws, rules and regulations in connection with the Service, your use of the Service and this Agreement.

**5.7 Security.** You agree to take reasonable measures to protect the security of your computer, 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, WildBlue 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.

**5.8 Responsibility of Subscriber.** 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 login and password. You are considered the registered recipient of the Services until we receive such notice, and you will be liable for any charges or fees incurred by the use of your WildBlue Equipment by anyone else up to the time that we receive your notice, unless otherwise provided by applicable law. You may not assign or transfer your Service without our written consent. If you do, we may deactivate your Service. If your WildBlue Equipment is stolen or otherwise removed from your premises without your authorization you must notify Clark Electric Appliance and Satellite, Inc. immediately, or else you will be liable for payment for unauthorized use of the Service or WildBlue Equipment.

**6. WildBlue Equipment.** If you purchased your Equipment, the terms of sale applicable to the WildBlue Equipment are governed by your purchase agreement or other documents evidencing such sale and, if applicable, WildBlue's limited warranty (available at [www.wildblue.com/legal/limited\\_warranty.jsp](http://www.wildblue.com/legal/limited_warranty.jsp)) and service plan, if any. In addition, WildBlue Equipment contains software and/or other intellectual property subject to a license agreement(s) ("License Agreement") provided with the WildBlue Equipment. Any breach of the License Agreement constitutes a breach of this Agreement.

## 7. Warranties and Limitations of Liability.

### 7.1 DISCLAIMER OF WARRANTIES.

YOU EXPRESSLY AGREE THAT USE OF THE SERVICE IS AT YOUR SOLE RISK. NEITHER WILDBLUE NOR ANY OF WILDBLUE'S WHOLESALERS, DEALERS, DISTRIBUTORS, AGENTS, EMPLOYEES, SUPPLIERS, LICENSORS OR THIRD PARTY CONTENT PROVIDERS ("WILDBLUE'S PARTNERS") WARRANT THAT THE SERVICE WILL BE UNINTERRUPTED OR ERROR FREE; NOR DO WILDBLUE NOR ANY OF WILDBLUE'S PARTNERS MAKE ANY WARRANTY AS TO THE RESULTS TO BE OBTAINED FROM USE OF THE SERVICE, INCLUDING ANY MINIMUM UPLOAD OR DOWNLOAD SPEEDS. THE SERVICE IS DISTRIBUTED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE OR IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY OR COMPLETENESS OF INFORMATIONAL CONTENT, NON-INFRINGEMENT OR OTHERWISE, EXCEPT THE FOREGOING SHALL NOT APPLY IN STATES WHERE IT IS PROHIBITED. WILDBLUE EXPRESSLY DISCLAIMS ANY REPRESENTATION OR WARRANTY THAT THE SERVICE WILL BE ERROR FREE, SECURE OR UNINTERRUPTED OR OPERATES AT ANY MINIMUM SPEED. NO ORAL ADVICE OR WRITTEN INFORMATION GIVEN BY WILDBLUE OR ANY OF WILDBLUE'S PARTNERS SHALL CREATE A WARRANTY; NOR SHALL YOU RELY ON ANY SUCH INFORMATION OR ADVICE. BECAUSE WILDBLUE PROVIDES SUBSCRIBERS WITH ELECTRONIC ACCESS TO THE CONTENT AVAILABLE ON THE INTERNET, WE CANNOT AND DO NOT WARRANT THE ACCURACY OF ANY OF THE INFORMATION YOU OBTAIN THROUGH THE SERVICE. 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. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU TO THE EXTENT SUCH EXCLUSION IS NOT ALLOWED BY APPLICABLE LAW. THE LIMITED WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU ALSO MAY HAVE OTHER RIGHTS THAT VARY BY JURISDICTION.

### 7.2 LIMITATION OF LIABILITY.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER WILDBLUE NOR ANY OF WILDBLUE'S 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'S MAXIMUM, SOLE, AND EXCLUSIVE LIABILITY AND THE LIABILITY OF WILDBLUE'S PARTNERS SHALL BE LIMITED TO GENERAL MONEY DAMAGES IN AN AMOUNT NOT TO EXCEED THE TOTAL AMOUNT ACTUALLY PAID TO WILDBLUE 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.

**7.3 Applicability and Exceptions.** The foregoing exclusions or limitations of liability apply regardless of any allegation or finding that a remedy failed of its essential purpose, regardless of the form of action or theory of liability (including, without limitation, negligence) and even if WildBlue or others were advised or aware of the possibility or likelihood of such damages or liability. The foregoing shall not apply in states where such exclusions are prohibited. In addition, these exclusions and limitations do not apply to your purchase of your WildBlue Equipment, which is governed by your purchase agreement or other documents evidencing such sale and if applicable, WildBlue's limited warranty (available at [www.wildblue.com/legal/limited\\_warranty.jsp](http://www.wildblue.com/legal/limited_warranty.jsp)) and service plan, if any.

**7.4 Service Interruptions.** Service may be interrupted from time to time for a variety of reasons, including thunderstorms at your home or at your assigned gateway location. Weather conditions at your assigned gateway may be different than the weather at your home. We are not responsible for any interruptions of Service that occur due to acts of God (including weather), power failure or any other cause beyond our reasonable control. However, because we value our subscribers, for an interruption of a significant length of time that is within our reasonable control, upon your request we may provide what we reasonably determine to be a fair and equitable adjustment to your account to make up for the Service interruption. THIS WILL BE YOUR SOLE REMEDY AND OUR SOLE DUTY IN SUCH CASES. You acknowledge and agree that the Service is not intended to be, and should not be used as, your primary or "life-line" telecommunications service.

**7.5 Indemnity.** You agree to indemnify, defend and hold us harmless against all claims, liability, damages, costs and expenses, including but not limited to reasonable attorneys fees, arising out of or related to any and all use of your account. This includes, without limitation, responsibility for all consequences of your (or that of any user of your account) violation of this Agreement or placement on or over, or retrieval from or through, the Service of any software, file, information, communication or other content and all costs incurred by us in enforcing this Agreement against you.

**7.6 Third Party Beneficiaries.** The provisions of this Section 10 are for the benefit of us and our respective contractors, information or content providers, service providers, licensors, employees and agents; and each shall have the right to assert and enforce such provisions directly on its own behalf. Other than as expressly stated in this Agreement, this Agreement shall not be deemed to create any rights in third parties.

## 8. General

**8.1 Limits on Transfers.** Unless otherwise agreed in writing, your right to use the Service, or to designate other users of your account, is not transferable and is subject to any limits established by ourselves, or by your credit card company or other billing institution, as applicable.

**8.2 Applicable Law.** This Agreement is made in the State of Wisconsin. This Agreement and all of the parties' respective rights and duties including, without limitation, claims for violation of state consumer protection laws, unfair competition laws, and any claims in tort shall be governed by and construed in accordance with the laws of the Applicable State, in the United States, excluding conflicts of laws provisions.

**8.3 Dispute Resolution.** To expedite resolution of problems and control the cost of disputes, you and WildBlue agree that any legal or equitable claim relating to this Agreement, any addendum, or your Service (referred to as a "Claim") will be resolved as follows: We will first try to resolve any Claim informally. Accordingly, neither of us may start a formal proceeding (except for Claims described in this section) for at least 60 days after one of us notifies the other of a Claim in writing. You will send your notice to the address on the first page of this Agreement to the attention of the Consumer Affairs Manager, and we will send our notice to your billing address. Notwithstanding the foregoing: (i) any Claim based on Section 1(i) above, and (ii) any dispute involving a violation of the Communications Act of 1934, 47 U.S.C. §§ 605, the Digital Millennium Copyright Act, 17 U.S.C. § 1201, the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510-2521, or any other statement or law governing theft of service, may be decided only by a court of competent jurisdiction. Any action to enforce or construe the provisions of this Agreement shall be brought exclusively in the state or federal courts in Wisconsin, and the Parties hereby consent to the jurisdiction of these courts and agree that venue is proper in such courts. There shall be no class action lawsuit pursuant to this Agreement. Any cause of action brought by you, or by users of your account, with respect to the Service or this Agreement must be instituted within one year after the claim or cause of action has arisen or be barred. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement and it is acknowledged that this is a services contract and not a contract for the sale of goods.

**8.4 Notices, Disclosures and Other Communications.** Where notification by us is contemplated by or related to this Agreement, notice may be made by any reasonable means, including, but not limited to, e-mail or publication over the Service. A printed version of this Agreement and of any notice given in electronic form by us shall be admissible in judicial and administrative proceedings relating to or based upon this Agreement to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form. You must promptly notify us on any change in your credit card information, e-mail or postal address by calling Clark Electric Appliance and Satellite, Inc.

**8.5 Construction and Delegation.** Neither the course of conduct between parties nor trade practice shall act to modify the provisions of this Agreement. We may authorize or allow our contractors and other third parties to provide to services necessary or related to making the Service available and to perform obligations and exercise our rights under this Agreement, and we may collect payment on their behalf, if applicable. The provisions of any Sections of this Agreement, which by their nature should continue, shall survive any termination of this Agreement.

**8.6 Miscellaneous.** If any term of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or unenforceable, it shall be construed in such a way as to eliminate the offending aspects while still giving as much effect as possible to the intentions of such term. If this cannot be done and the entire term is invalid, illegal or unenforceable and cannot be so repaired, then the term shall be considered to be stricken from this Agreement as if it had not been included from the beginning. In any such case, the balance of this Agreement shall remain in effect in accordance with its remaining terms notwithstanding such invalid, illegal or unenforceable term. We may enforce or decline to enforce any or all of the terms of this Agreement in our sole discretion. In no event shall we be required to explain, comment on, suffer liability for or forfeit any right or discretion based on its enforcement, non-enforcement or consistency of enforcement of these terms. Captions used in this document are for convenience only and shall not be considered a part of this Agreement or be used to construe its terms or meaning.

## Wild Blue Customer Agreement

**8.7 Assignment Of Account.** We may sell, assign, pledge or transfer this Agreement, the lease addendum, your account or an interest in your account to a third party without notice to you. In the absence of a notice of such sale or transfer, you must continue to make all required payments to us in accordance with your statement.

**8.8 Entire Agreement.** This Agreement, as well as the additional online documents specifically incorporated as a part of this Agreement, constitutes the entire and only agreement with respect to its subject matter between you and ourselves, applicable also to all users of your account. This Agreement supersedes all representations, proposals, inducements, assurances, promises, agreements and other communications with respect to its subject matter except as expressly set forth in this document.

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### Lease Addendum

**This Lease Addendum is between you and Clark Electric Appliance and Satellite, Inc. and is separate and different from any other commitment you may have made with WildBlue and is fully enforceable under these terms.**

**A. Applicable Documents and Terms.** If you leased Equipment from Clark Electric Appliance and Satellite, Inc., the terms and conditions of this Lease Addendum, the Customer Agreement and the pricing terms of the lease promotion apply to you. Unless otherwise specified in your Customer Agreement: (i) the leased Equipment shall at all times remain the sole and exclusive property of Clark Electric Appliance and Satellite, Inc and we will have the right, in our sole discretion, to provide or replace leased Equipment with new or reconditioned Equipment and to remove, or require the return of, such Equipment upon cancellation or disconnection of your Services for any reason

**B. Ownership by WildBlue.** No leased Equipment provided to you by Clark Electric Appliance and Satellite, Inc. shall be deemed fixtures or part of your realty. Our ownership of such Equipment may be displayed by notice contained on it. You shall have no right to pledge, sell, mortgage, otherwise encumber, give away, remove, relocate, alter or tamper with the Equipment (or any notice of our ownership thereon) at any time. Any reinstallation, return, or change in the location of the Equipment shall be performed by us at our service rates in effect at the time of such service. We reserve the right to make such filings as may be determined to be necessary by us in our sole discretion to evidence our ownership rights in the Equipment, and you agree to execute any and all documents as may be so determined to be necessary for us to make such filings. You are responsible for preventing the loss or destruction of leased the Equipment and we recommend that your Equipment be covered by your homeowners, renters or other insurance policy.

**C. Return of Equipment.** If you cease to be Clark Electric Appliance and Satellite, Inc customer for any reason (whether voluntarily or involuntarily) or if you decide to disconnect/cancel/terminate your service, you must call Clark Electric Appliance and Satellite, Inc within seven days after the termination of your WildBlue Service, to make arrangements for Clark Electric Appliance and Satellite, Inc to de-install your Equipment at our standard rates request. You acknowledge that the Equipment must be returned to Clark Electric Appliance and Satellite, Inc in good working order, normal wear and tear accepted. If all of the Equipment is not received by us within **30 days** after the termination of your WildBlue Services or is damaged when it is returned to us, you agree to pay us the sum of **\$125 for your satellite modem and \$125 for your transceiver integrated assembly**. This fee represents compensation for a portion of the expenses incurred by Clark Electric Appliance and Satellite, Inc in establishing your account and providing you the Equipment for your use. Additionally, you agree that we may charge any amounts due for unreturned Equipment using the payment method on file with Clark Electric Appliance and Satellite, Inc (Card Payment or EFT Payment). With respect to such charges the following authorization applies: You authorize automatic Card Payments or EFT Payments by Clark Electric Appliance and Satellite, Inc. to pay for any unreturned Equipment.

**D. Repair/Replacement.** During your Minimum Service Term, Clark Electric Appliance and Satellite, Inc will repair or replace defective Equipment returned to Clark Electric Appliance and Satellite, Inc designated address. For the first 90 days after activation of your Service, coverage includes any applicable labor charges for service calls. After the first 90 days, a \$15.00 shipping charge applies to Equipment replacement by mail, and a \$75.00 in-home trip service charge applies. You shall notify us promptly of any defect in, damage to, or accident involving your leased Equipment. All maintenance and repair of Equipment shall be performed by us or our designee(s). Clark Electric Appliance and Satellite, Inc may charge you for any repairs that are necessitated by any damage to, or misuse of, the Equipment.

**E. Disclaimer.** CLARK ELECTRIC APPLIANCE AND SATELLITE, INC PROVIDES YOU THE WILDBLUE EQUIPMENT AS IS, AND MAKES NO WARRANTY, EITHER EXPRESSED OR IMPLIED, REGARDING THE EQUIPMENT PROVIDED TO YOU. EQUIPMENT MAY BE NEW OR REFURBISHED. ALL SUCH WARRANTIES INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE EXPRESSLY EXCLUDED. CLARK ELECTRIC APPLIANCE AND SATELLITE, INC IS NOT RESPONSIBLE FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES RELATING TO THE EQUIPMENT PROVIDED TO YOU. If the WildBlue Equipment you have leased from us does not operate, contact Clark Electric Appliance and Satellite, Inc at 1-866-279-6544.

**F. Customer Authorization.** Customer further authorizes Clark Electric Appliance and Satellite, Inc to report any payment defaults to credit reporting agencies. Customer acknowledges and agrees that Clark Electric Appliance and Satellite, Inc is not extending credit and that the unreturned Equipment fees are not interest, a credit service fee or a finance charge. If your Equipment is stolen or otherwise removed from your premises without your authorization, you must notify us by telephone or in writing immediately, but in any event not more than three business days after such removal to avoid liability for payment for unauthorized use of your Equipment. You will not be liable for unauthorized use that occurs after we have received your notification.

Last Updated: 08/24/2008