

# *Mobilcom*

## *Terms and Conditions*

1. **Governing Law; Jurisdiction:** The parties agree that Pennsylvania law shall control and consent to the sole jurisdiction of the Courts of Crawford County, PA for resolution of any disputes.

2. **Entire Agreement:** This Agreement constitutes the entire contract between the parties and may only be modified or amended in writing. It is understood and agreed by and between the parties hereto, that if there is any conflict between this contract and Customer's purchase order, or any other document, this Agreement will govern, whether such purchase order or other document is prior or subsequent to this Agreement.

If any provision of this Agreement shall be held invalid, the remainder of this Agreement shall not be affected thereby.

3. **Limited Warranty; Exclusions and Disclaimers:** Unless otherwise specified in a separate Scope of Work, Mobilcom warrants all equipment and installation services rendered related to new equipment purchases (equipment and services are hereinafter collectively called the "Work") against defects in materials and labor for a period of twelve (12) months (the "Warranty Period") from the date of substantial completion of the installation; provided, however, that in the event Mobilcom only provides services unrelated to new equipment purchase, such as a repair of existing customer owned equipment, the Warranty Period shall be limited in a length of sixty (60) days. In addition, no warranty is made as to, and there is specifically excluded from the warranty, any and all expendable supplies, equipment and parts, or any portions of the Work which have been misused, abused, not used in the manner intended, neglected, or damaged by an act of God. Any defect in the Work during the Warranty Period will be repaired or replaced at the option of Mobilcom. Any shipping charges in connection with a repair or replacement shall be the responsibility of Customer. The repair or replacement of defective Work shall constitute Customer's sole remedy against Mobilcom. For purposes of this Section, "the date of substantial completion" shall mean the earlier of (a) the date on which Customer takes possession of or commences use of the Work, or (b) the date of written acceptance of the Work by Customer. This limited warranty applies only to Customer and may not be assigned or transferred to any other person. **ANY AND ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE DISCLAIMED. IN NO EVENT SHALL MOBILCOM BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES FOR LOST PROFITS, LOST SALES, INJURY TO PERSON OR PROPERTY, PUNITIVE PURPOSES OR ANY OTHER CAUSE AS A RESULT OF A DEFECT IN LABOR, EQUIPMENT OR OTHER SUPPLIES OR MATERIALS AND/OR SERVICES PROVIDED WITH RESPECT TO ANY ITEM FURNISHED UNDER THIS AGREEMENT, OTHER THAN DAMAGES CAUSED BY MOBILCOM'S SOLE GROSS NEGLIGENCE.** Any work, repair, alteration or modifications of the Work and/or Equipment that is performed by anyone other than a Mobilcom representative shall void any and all warranties. In the event that Mobilcom is found liable for personal injury or property loss or damage caused by the sole gross negligence of Mobilcom, or in the event a court of proper jurisdiction determines the limitations on warranties or standard of care contained herein are inapplicable, Customer specifically agrees that the aggregate liability of Mobilcom under or with respect to this Agreement, the Work to be supplied or performed under this Agreement, and any warranty provided pursuant to this Agreement, shall in no event exceed the purchase price paid by Customer to Mobilcom for the Work or defective portion thereof.

4. **Customer Specified Work:** Customer acknowledges that Customer has selected, accepted and approved the Scope of Work after considering and balancing the levels of protection afforded by various types of systems and services available to it and the related costs of them. Neither Mobilcom nor any person engaged by Mobilcom to perform any portion of the Work shall be construed to be an insurer of the person or property of Customer, its employees, agents, contractors, assigns, bailors, customers, invitees or any other person at Customer owned locations. The Price and Payment Terms are based solely on the cost and value of Mobilcom providing the Work and are unrelated to the value of property of Customer or others located at the Customer owned locations. **MOBILCOM MAKES NO GUARANTEE OR WARRANTY OF ANY KIND THAT THE WORK (INCLUDING ANY MATERIALS AND EQUIPMENT SUPPLIED AS PART OF THE WORK) WILL AVERT OR PREVENT OCCURRENCES OR CONSEQUENCES THEREFROM WHICH THE WORK MAY BE DESIGNED TO DETECT OR AVERT.**

5. **Statute of Limitations.** Notwithstanding any other applicable statute of limitations pursuant to State or Federal law, the parties specifically agree that no suit or action shall be brought against Mobilcom more than one (1) year after the accrual of the cause of action for it.

6. **Indemnification/Defense/Hold Harmless.** **IN THE EVENT ANY PERSON, NOT A PARTY TO THIS AGREEMENT, SHALL MAKE ANY CLAIM OR FILE ANY LAWSUIT AGAINST MOBILCOM FOR DAMAGES OR INJURIES ARISING OUT OF OR RELATED TO FAILURE OF ITS EQUIPMENT OR SERVICE IN ANY RESPECT, UNLESS SUCH DAMAGES OR INJURIES ARE DUE TO MOBILCOM'S SOLE GROSS NEGLIGENCE, CUSTOMER AGREES TO INDEMNIFY, DEFEND AND HOLD MOBILCOM HARMLESS FROM ANY AND ALL SUCH CLAIMS AND LAWSUITS, INCLUDING THE PAYMENT OF ALL DAMAGES, COSTS AND ATTORNEYS FEES.**

7. **Force Majeure.** Mobilcom shall have no liability, and Customer (for itself and its employees, agents, bailors, invitees and any other person claiming by, through or under Customer) specifically waives any claims of liability against Mobilcom, for failure of Mobilcom to cause the completion of the Work or for interruption or delay in provision of the Work due to strikes or other labor disturbances, riots, civil unrest, floods, earthquakes, fires, acts of God, interruption of utility services, transportation delays, failure of Customer to perform its obligations under this Agreement, or any other causes beyond the control of Mobilcom.