

## STANDARD TERMS & CONDITIONS

### 1. Access

Client agrees to provide OpDecision reasonable access to Client's mobile (cellular/wireless) billing and device reporting, in order that Services may be performed as set forth in the Agreement. In the event that said access is not provided as requested, Client is aware that delivery and effectiveness of Services may be jeopardized and that additional charges may be incurred.

### 2. Security & Usage

Client understands that OpDecision, its parent company and its Underlying Service Providers cannot guaranty the security of any transmissions and will not be liable for any lack of security relating to the use of the Services. Notwithstanding the foregoing, OpDecision agrees to use no less than a reasonable degree of care, including relevant industry-standard practices, to protect the security of any Client transmissions while providing Services to Client.

The Services are for Client's use only and Client may not resell the Services or confidential know-how to any other party.

### 3. Late Charges

Amounts not paid when due may accrue interest at a rate of 1.5% per month or the highest amount permitted by applicable law, whichever is less.

### 4. Disconnects

Client may request OpDecision to handle Client-approved disconnects, either as the authorized biller (Client must provide signed documentation) or assisting Client with carrier-specific information and/or conference calls with the carrier. Client understands that all costs required and risks to effectuate such disconnection shall be borne by the Client unless same resulted from OpDecision's gross negligence or unless OpDecision is otherwise responsible for these costs under a fully executed agreement.

### 5. Warranty Exclusion

Except as expressly stated in this Agreement, OpDecision makes no warranties or representations, express or implied, either in fact or by operation of law, and specifically disclaims any warranties of merchantability or fitness for a particular purpose applicable to the services.

### 6. Limitation of Liability

NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY SPECIAL, PUNITIVE, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY LOSSES OR DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF BUSINESS, LOSS OF USE, LOSS OF REVENUE, LOSS OF PROFITS, LOSS OF CLIENTS, LOSS OF GOODWILL OR COST OF REPLACEMENT FACILITIES OR SERVICES, ARISING IN ANY MANNER FROM A FULLY EXECUTED SERVICES AGREEMENT AND/OR THE PERFORMANCE OR NONPERFORMANCE OF OBLIGATIONS THEREUNDER.

OpDecision does not establish carrier rates and does not warrant that carrier rates will remain in effect for any period of time. Additionally, To the maximum extent permitted by law, Client's recovery against OpDecision under any circumstance shall not exceed the fees paid by Client to OpDecision pursuant to a fully executed Agreement. This limitation shall apply regardless of the cause of action or legal theory asserted.

### 7. Indemnification and Hold Harmless

Each party will defend and indemnify the other party, and each of their respective officers, employees, agents, parent company, subsidiaries and affiliates, against any liabilities and reasonably related costs (including legal fees) incurred in connection with any third party claims for property damage, personal injury or death arising from or in connection with a fully executed Services Agreement to the extent said claims arise from the party's gross negligence or willful misconduct. This indemnity shall survive the termination of any Master Services Agreement ("MSA"), Addendums and/or Service Order Forms ("SOF").

Additionally, Client will defend and indemnify OpDecision, and its respective officers, employees, agents, parent company, subsidiaries and affiliates, against any liabilities and reasonably related costs (including legal fees) incurred in connection with any claim by an end user of the Services, it being understood that Client, and not OpDecision, is fully responsible for any such claims.

Except as is specifically set forth herein, Client agrees to hold OpDecision harmless of and from any and all liability to Client concerning any increase in rates imposed by any carrier or any failure to secure greater savings from a program that is not recommended or implemented and any resultant loss in savings to Client. Client acknowledges and agrees that any changes made by Client to Client's account may affect Client's savings. Client shall hold OpDecision harmless of and from any claims and or liability resulting from a change requested by Client without prior approval by OpDecision. Client further agrees that any increase or reduction in savings resulting from such changes shall not reduce or eliminate the fees due OpDecision as provided in a fully executed Agreement.

### 8. Default

A party is in default of a Services Agreement if it breaches said Agreement, its Addendums or any SOF and fails to cure such breach as follows:

- a. after written notice and a five (5) day cure period in the event of any failure to pay an amount due hereunder, or
- b. after written notice and a thirty (30) day cure period in the event of any other breach.

If Client is in default of a Services Agreement, all Charges accrued under said Agreement will be due and payable and OpDecision may, in addition to all other available remedies, discontinue any current Services or service plan.

If OpDecision is in default of a Services Agreement, only the Charges accrued by Client as of the date of default will be due and payable to OpDecision.

## 9. Termination

Unless otherwise specified in a fully executed Services Agreement, after completion of the initial Service Term, either party may terminate at any time with sixty (60) days' written notice. Upon default, the non-defaulting party may terminate said Agreement, its Addendums and/or an affected SOF by written notice, per Section 8 herein.

If OpDecision Terminates for Cause, OpDecision will have no further liability or obligation under the Services Agreement, nor any Addendum or accompanying SOF.

If Client terminates any Managed Services (other than for OpDecision's default) prior to the completion of the initial Service Term, Client shall pay OpDecision an Early Termination Fee equal to the MRC of the initial contract value times the number of months remaining under contract for that site.

The parties acknowledge that the ETF is a genuine estimate of the actual damages to OpDecision for Client's early termination of a Service and is not a penalty. In no event shall Client be entitled to any refund of already paid Service Charges if this Agreement, its Addendums or any SOF is terminated, except for a termination based on OpDecision's default, as defined herein.

## 10. Confidentiality

If the parties entered into a confidentiality or non-disclosure agreement ("NDA") in anticipation of an Agreement, such NDA is incorporated herein and shall apply instead of this Section.

Otherwise, the parties acknowledge that they have or will exchange certain confidential information expressly designated or which should reasonably be known as "confidential" ("Confidential Information") and each party agrees that neither party will (a) use the other party's Confidential Information except for the purpose(s) for which it is disclosed, (b) reverse engineer or disclose all or any part of any Savings Proposals, including to any parent company, affiliates or subsidiaries, and (c) disclose the other party's Confidential Information to any third party except (i) under an identical confidentiality restriction to the receiving party's employees or contractors who have a need to know Confidential Information in connection with the purposes for which it is disclosed or (ii) when compelled by a court or other government agency (with as much advance notice to the disclosing party as reasonably possible).

OpDecision acknowledges that it may receive certain of Client's information that constitutes "Client Proprietary Network Information" or "Client Proprietary Information" under applicable law, and OpDecision agrees that it will hold all such information in compliance with applicable law.

## 11. Unauthorized Use Of OpDecision Savings Proposals

- a. Client agrees that any Savings Proposals provided are the proprietary property of OpDecision.
- b. If Client implements any recommendation(s) that are not authorized by OpDecision, within twelve (12) months after receipt of a Savings Proposal, Client shall compensate OpDecision the sum of the first four months of savings set forth in the Savings Proposal for the unapproved recommendation(s). Such amount shall be due and payable immediately upon implementation of the unapproved recommendation(s).
- c. If such information is used by any parent company, affiliate, or subsidiary of Client to reduce costs, the fees outlined herein and in Addendum A for all savings achieved will be due and payable to OpDecision.
- d. Upon written request, Client agrees to provide OpDecision Client's wireless/cellular invoices for up to twelve (12) months following the receipt of any Savings Proposal, for verification purposes.

## 12. Client Changes to Wireless/Cellular Plan

Client has the right to make changes to its Wireless/Cellular plan or account at any time with or without OpDecision's review and recommendation. Client acknowledges that any changes it makes to its Wireless/Cellular plan or account other than those provided in the Savings Proposal may adversely affect savings projected by OpDecision. Client shall hold OpDecision harmless from any claims and liability resulting from such changes. Client further agrees that any increase or reduction in savings resulting from such changes shall not reduce or eliminate the fees due OpDecision as provided herein.

## 13. Other Terms

### Force Majeure

Neither party shall be responsible for any loss, harm, damage, or failure to comply with any obligation hereunder resulting from circumstances beyond its reasonable control (commonly referred to as *force majeure* events) including, but not limited to fire, flood, war, strikes, cable cuts, acts of terrorism, explosions, loss of power, governmental restrictions, acts of third parties, or "acts of God." In addition, Client will not be obligated to pay for the Services during periods of *force majeure*, and either party may terminate an affected SOF upon notice to the other if a *force majeure* event continues uninterrupted for a period of thirty (30) days or longer.

### Subcontracting

OpDecision may subcontract work to be performed under their Agreements, Addendums and SOFs but shall retain responsibility for the work.

Assignment

Neither party may assign its rights and obligations, whether by operation of law or otherwise, without the prior written consent of the other party, not to be unreasonably withheld.

Publicity

Without the prior written consent of the other Party, neither Party will (i) publicly use the name, logo or other identifying marks of the other Party, or (ii) issue or permit the issuance of any press release or other public statement regarding any Agreement or the Parties' relationship.

Governing Law

Unless otherwise stated in a fully executed Services Agreement, the rights of the parties thereunder shall be governed by and construed in accordance with the laws of the State of Delaware, exclusive of conflict or choice of law rules.

Dispute Resolution

Any dispute arising hereunder shall be resolved by binding arbitration in the State of New Jersey before a single arbitrator utilizing the American Arbitration Association's expedited Commercial Arbitration Procedure, with the prevailing party having the ability to collect attorney's fees in the discretion of the arbitrator. Client hereby waives the right to pursue any action in Court and the right to trial by jury.

Notification

It is understood and agreed that OpDecision shall not be deemed to be in breach of a Services Agreement unless the Client gives written notice to OpDecision of any alleged breach, with a 30-day opportunity for OpDecision to cure such breach, as described herein in Section 8. In the event the alleged breach is cured within this time frame, there shall be no default under this Agreement.

Any notices, requests, consents and other communication shall be in writing and shall be deemed to have been delivered on the date (a) personally delivered, (b) mailed, postage prepaid, by certified mail with return receipt requested, or (c) faxed and confirmed. All communications to OpDecision under this section shall be as follows:

OpDecision  
1700 Union Avenue, Suite B  
Baltimore, MD 21211  
Attn: Legal Dept.

Entire Agreement

Any fully executed Agreement, along with these terms and conditions, constitutes the entire agreement between the parties and supersedes all prior or contemporaneous oral and written agreements, commitments, or understandings with respect to the matters provided for therein. Said Agreements, including Addendums and SOFs, may not be modified except by a writing signed by both parties. In the event that any of the provisions are held to be invalid or unenforceable, in whole or in part, all other provisions will nevertheless continue to be valid and enforceable with the invalid or unenforceable parts severed from the remainder. The waiver by either party of a breach, default, delay or omission of any of the provisions by the other party will not be construed as a waiver of any subsequent breach of the same or other provisions.