

## TOPPS LLC TERMS AND CONDITIONS OF PURCHASE

1. **TERMS AND CONDITIONS:** These Terms and Conditions of Purchase (these "Terms") are the only terms which govern the sale of the Personal Emergency Response System Transmitter (the "Transmitter") and provision of the personal emergency response system services (the "Services") by TOPPS LLC, an Indiana limited liability company ("TOPPS") to the buyer identified in the Purchase Order ("Buyer"). The accompanying Purchase Order and these Terms (collectively, the "Contract") comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. Buyer accepts and agrees to be bound by, and abide by, these Terms by purchasing the Transmitter and Services.
2. **TERM; RENEWAL:** The term shall be month to month unless otherwise agreed to by Buyer and TOPPS (the "Initial Term"). Upon expiration of the Initial Term, the Services shall continue thereafter on a month to month basis (each a "Renewal Term" and together with the Initial Term, the "Term") unless Buyer provides written notice to TOPPS of its intent to not renew via certified mail to PO Box 517, Winchester, IN 47394, return receipt requested, at least 30 days prior to the then current expiration date.
3. **TERMINATION:** Buyer may terminate the Contract, with or without cause, at any time prior to midnight of the 3rd business day after the date of purchase ("Purchase Date") or within such other time as state statute specifies ("Grace Period"). If Buyer terminates the Contract within the Grace Period, Buyer shall return the Transmitter and any other equipment purchased by Buyer and TOPPS will refund to Buyer any amounts paid for the Transmitter and related equipment and any advance payment for Services not yet rendered. **NO REFUNDS OF TERMS PAID IN FULL WILL BE GRANTED AFTER THE GRACE PERIOD.** If Buyer terminates this Contract prior to expiration of the Term, TOPPS may, at its discretion, invoice Buyer an early contract termination fee of the number of months remaining on the Term multiplied by the then-current monthly rate being paid by Buyer. Upon termination of the Contract by Buyer, TOPPS shall be permitted to immediately discontinue such Services.
4. **PAYMENT; PRICING:** Buyer shall pay any fees associated with the Transmitter and first month of Services on the Purchase Date. Thereafter, fees for the Services shall be paid monthly on the seventh day of the month following the date of the Purchase Date, commencing on the second month following the Purchase Date. In addition to any other remedies, which TOPPS does not waive, Buyer shall pay interest on all late payments at the lesser of the rate of 2.5% per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Buyer shall be responsible for all costs and expenses, including but not limited to, collection fees and reasonable attorney's fees for the collection of any overdue amount due TOPPS. Buyer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with TOPPS. TOPPS shall be permitted to increase the fees for the Services by an amount not to exceed nine percent per annum at any time following the twelve month anniversary of the Purchase Date for any Buyer on a month to month Term with written notice to Buyer. Buyer agrees to be liable for and pay to TOPPS any excise, sales, property, or other tax, telephone line charges, and any increases thereof, which may be imposed upon TOPPS because of this Contract. Should TOPPS be required by existing or hereafter enacted law to perform any service or furnish any material not specifically covered by the terms of this Contract Buyer agrees to pay TOPPS for such service or material.
6. **ACKNOWLEDGEMENTS OF BUYER:** Buyer acknowledges and agrees that: (a) the Transmitter must be charged daily to ensure proper operation, and that said charging is the sole and exclusive responsibility of Buyer; (b) signals which are transmitted over telephone lines, cellular networks, the internet, or other modes of communication pass through communication networks wholly beyond the control of TOPPS and are not maintained by TOPPS; (c) the Transmitter relies for its functionality on Global System for Mobiles ("GSM") cell service and GPS satellite information, and that (1) the Transmitter may not operate properly if GSM signal is too weak in the area where an emergency occurs, which could result in no emergency signal being sent; and (2) GPS satellite signal must be available and the Transmitter must have been properly initialized for the Transmitter to transmit an accurate location; (d) Buyer understands and assumes the risks of the aforementioned inherent limitations of the Transmitter and the Services and waives any claim, defense, damages, suit, or cause of action based in whole or in part thereon; and (e) TOPPS provides no response to a personal emergency response system signal except notification to the appropriate party, and that the provisions of these Terms exculpating and limiting TOPPS's liability are fully applicable to the Transmitter and Services. Buyer agrees to furnish TOPPS with a written list of names and telephone numbers of those persons Buyer wishes to receive notification of emergency conditions together with make, model and color of vehicle, license plate number and a list of all medication, allergies and medical conditions subscriber wishes to be available to all personal emergency response personnel and medical personnel. All changes and revisions shall be supplied by Buyer to TOPPS in writing. TOPPS may, without prior notice, suspend or terminate the Services, in designee communication center's sole discretion, in event of Buyer's default under these Terms or in event designee communication center facility or communication network is nonoperational or Buyer's system is sending excessive communication. TOPPS or its designee is authorized to record all telephone conversations and shall own such recordings.
7. **BUYER'S CARE OF TRANSMITTER:** Buyer agrees not to tamper with, or otherwise interfere with, the Transmitter or the Services. The Transmitter shall remain in the same home/primary location as first initialized unless prior written notice is provided to TOPPS. TOPPS and Buyer agree that the Transmitter will be in the exclusive possession and control of the Buyer, and it is the Buyer's sole responsibility to test the operation of the Transmitter and to notify TOPPS if it is in need of repair or replacement. It is recommended by TOPPS that the Buyer test the Transmitter when the Transmitter is first received.
8. **NO REPRESENTATIONS AND WARRANTIES:** TOPPS makes no representation or warranties as it relates to the Transmitter or Services, and hereby disclaims any warranty of merchantability or fitness for any particular use. Specifically, TOPPS does not represent nor warrant that the Transmitter or Services will prevent any loss, damage or injury to person or property, or that the Transmitter and Services will in all cases provide the protection for which it is installed or intended. Buyer acknowledges that TOPPS is not an insurer, and that Buyer assumes all risk for loss or injury to Buyer's property or end user person. TOPPS hereby agrees to pass through any warranties of third-parties related to the Transmitter or Services, to the extent permissible.
9. **INDEMNITY:** Buyer shall indemnify and hold harmless TOPPS, its employees, agents and subcontractors, from and against all claims, lawsuits, including those brought by third parties, including reasonable attorneys' fees, and losses asserted against and alleged to be caused by TOPPS' performance, negligent performance or failure to perform its obligations under the Contract.
10. **BUYER DEFAULT:** The parties agree that due to the nature of the Services, the payments to be made by Buyer for the Term are an integral part of TOPPS' anticipated profits, and in the event of Buyer's breach of this Contract it would be difficult if not impossible to reasonably estimate TOPPS' actual damages. Therefore, in the event of Buyer's default of this Contract, Buyer shall pay to TOPPS 80% of the balance due for the Term as liquidated damages, and TOPPS shall be permitted to terminate all Services under this agreement without relieving Buyer of any obligation herein.
11. **LIMITATION OF LIABILITY:** IN NO EVENT SHALL TOPPS BE LIABLE TO BUYER OR ANYONE CLAIMING UNDER BUYER FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGES, WHETHER ARISING IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), OR STRICT LIABILITY. IN NO EVENT SHALL TOPPS' AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THESE TERMS AND ANY PURCHASE ORDER, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED AN AMOUNT EQUAL TO THE GREATER OF (A) SIX (6) TIMES THE MONTHLY PAYMENT PAID BY THE BUYER TO TOPPS AT THE TIME SUCH LIABILITY IS FIXED OR (B) \$250.00. TOPPS SHALL NOT BE LIABLE FOR ANY DAMAGE OR LOSS SUSTAINED BY BUYER AS A RESULT OF DELAY IN INITIALIZATION, EQUIPMENT FAILURE, OR FOR INTERRUPTION OF SERVICE DUE TO ELECTRIC FAILURE, LACK OF AVAILABILITY OF CELLULAR OR GPS SIGNAL, STRIKES, WALK-OUTS, WAR, ACTS OF GOD, OR OTHER CAUSES, INCLUDING THE NEGLIGENCE OF TOPPS. Buyer on its behalf and of any insurance carrier waives any right of subrogation Buyer's insurance carrier may otherwise have against TOPPS or TOPPS' subcontractors arising out of this agreement or the relation of the parties hereto. Any action by Buyer against TOPPS must be commenced within one year of the accrual of the cause of action or shall be barred.
12. **FALSE ALARMS/PERMIT FEES:** Buyer is responsible for all alarm permits and permit fees, agrees to file for and maintain any permits required by applicable law and indemnify or reimburse TOPPS for any fines relating to permits or false alarms. TOPPS shall have no liability for permit fees, false alarms, false alarm fines, police or fire response fees, any damage to personal or real property or personal injury caused by police or fire department response to alarm, whether false alarm or otherwise, or the refusal of the police or fire department to respond. In the event of termination of police or fire response by the municipal police or fire department this Contract shall nevertheless remain in full force and Buyer shall remain liable for all payments provided for herein. Should TOPPS be required by existing or hereinafter enacted law to perform any service or furnish any material not specifically covered by the terms of this Contract, Buyer agrees to pay TOPPS for such service or material.
13. **SUBCONTRACTING OF SERVICES:** Buyer agrees that TOPPS is authorized and permitted to subcontract any services to be provided by TOPPS to third parties who may be independent of TOPPS, and that TOPPS shall not be liable for any loss, damage or injury sustained by Buyer by reason of any other cause whatsoever caused by the negligence of third parties. Buyer acknowledges that this Contract, and particularly those paragraphs relating to TOPPS' disclaimer of warranties, exemption from liability, even for its negligence, limitation of liability and indemnification, inure to the benefit of and are applicable to any assignees, subcontractors and communication centers of TOPPS.
14. **ATTORNEYS' FEES:** With respect to any dispute arising out of or relating to this Contract, or any breach thereof, the prevailing party will be entitled to recover its costs and expenses, including reasonable attorneys' fees, incurred in connection with any such dispute.
15. **INTELLECTUAL PROPERTY.** Buyer acknowledges that the Transmitter contains proprietary software, hardware, and trade secrets. All such rights are reserved by their respective owners, including all intellectual property rights, in the embedded software and hardware. Buyer agrees that it will not (a) use, or cause or permit any other person or entity to use, the Transmitter or associated materials to design, build, market, or sell any similar or substitute product or service, or (b) cause, perform, or permit (i) the copying, decompilation, disassembly, or other reverse engineering of the Transmitter, (ii) the transferring or purported resale or sublicensing of any Transmitter or materials, or (iii) the removal, delivery, or exportation of any such materials outside the United States.
16. **PRIVACY:** Buyer understands that the Transmitter has the ability to track Buyer's whereabouts at any time, and grants permission to TOPPS to receive, process, and communicate to third parties such information as necessary or convenient in providing the Services. Buyer waives, and agrees to indemnify TOPPS against, any and all claims of invasion of privacy, intrusion, public disclosure of private facts, false light, and/or any other civil or criminal claim or charge against TOPPS or its affiliates or vendors arising in whole or in part from the transmission of location information. Any medical or other personal information provided by Buyer or end user to TOPPS may be disclosed by TOPPS to any personal emergency response personnel or medical personnel requesting same. Buyer represents and warrants that any user of the Transmitter and Services is aware of, and has consented to, the terms of this section.
17. **MISCELLANEOUS:** In the event of a conflict between these Terms and any purchase order or other document, these Terms will control. All transactions between TOPPS and Buyer shall be governed by and construed in accordance with the laws of the State of Indiana, without regard to any conflicts of law principles. Any action or proceeding involving any dispute, claim or controversy relating to or arising from the Contract or such transactions shall be commenced exclusively in the federal or state courts located within Marion County, Indiana, and the Buyer consents to the exclusive jurisdiction of such courts and waives any objection to such jurisdiction. **BUYER KNOWINGLY WAIVES THE RIGHT TO A TRIAL BY JURY WITH REGARD TO ANY DISPUTE ARISING**

FROM THE CONTRACT. Buyer may not assign either its rights or obligations under the Contract without the prior written consent of the TOPPS, and any attempted assignment without such consent shall be void. TOPPS shall have the right to assign the Contract without the prior written consent of Buyer. The waiver by TOPPS of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any other provision of this agreement or of any future breach of the provision so waived. No modification of these Terms shall be binding on the Seller unless made in writing in accordance with the terms of these Terms. If any term or provision of the Contract is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of the Contract or invalidate or render unenforceable such term or provision in any other jurisdiction. These Terms and accompanying purchase order are for the sole benefit of the Buyer and TOPPS and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.

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