

## TERMS AND CONDITIONS

**1. GENERAL** - By signing the Agreement, Customer acknowledges that it has read and agrees to be bound by these Terms and Conditions ("Terms and Conditions") with respect to the purchase of the services identified in the Proposal ("Services"). These Terms and Conditions, together with the Proposal, Point Guard Service Protection Plan Terms and Conditions, and Customer Service Agreement (hereinafter collectively referred to as the "Agreement"), will constitute the entire agreement, taking precedence over and superseding all other communications, whether written or oral, with respect to the Agreement, between Customer and Point Broadband, LLC ("PBB"). Except as otherwise provided herein, the Agreement may be modified only by a written amendment signed by both Customer and PBB.

**2. TEXT ALERTS** - PBB Account Alerts text messaging ("Alerts") offered by PBB and its affiliates (collectively, "PBB") are available only to subscribers of PBB services; not all carriers support PBB's text alert service. In order to use the Alerts, Customer may be required to provide information about himself/herself (such as account identification, phone number(s), and contact details) to verify status as the account holder or authorized person on the PBB account. By providing his/her mobile phone number(s) to PBB, Customer provide us with his/her express consent to receive text message (Short Messaging Service "SMS" and Multimedia Messaging Service "MMS") alerts at that number and (i) acknowledge and represent to us that he/she is the authorized user of the mobile phone(s) that he/she links to our text message service or have been granted permission by the authorized user of the mobile phone(s) to enroll such mobile phone(s) in the service; (ii) Customer grants PBB express permission to send text messages to that (those) mobile phone(s) through his/her wireless phone carrier unless and until such permission is revoked in accordance with these terms and conditions; (iii) Customer's receipt of SMS and MMS messages from PBB ("PBB alerts") is NOT a violation of state or federal rules including, but not limited to, the Telephone Consumer Protection Act (TCPA) or Controlling the Assault of Non-Solicited Pornography and Marketing (CAN-SPAM) Act; (iv) Customer understand that his/her wireless carrier may charge him/her additional message and data fees for receipt of our text messages; and (v) by granting such permission to PBB Customer is hereby requesting to receive such messages in spite of the fact that his/her number may otherwise be on the federal, or a state's, do not call list and Customer agrees, to the maximum extent permitted by law, that such text messages shall not be in violation of such do not call list(s).

*Types of Alerts:* Informational and emergency text message alerts may be activated on Customer's account automatically, he/she may receive enrollment confirmation message, or both. These messages allow us to inform him/her about planned and unplanned service outages in his/her area, appointment reminders, as well as remind him/her about important account information (invoice availability, balance due and payment due dates, payment confirmations, and other issues). If Customer does not wish to receive such alerts, he/she must notify PBB. We may also inform Customer about the ability to specifically register (opt in) for special promotions that we are offering through text messages. We will not send Customer advertisements or promotions by text messages without asking him/her to indicate such a preference first in writing, including through an electronic means. Indication of such a preference is not necessary for receipt of emergency and informational text messages.

*Stopping Alerts:* Text alerts can be cancelled at any time by texting "STOP" from Customer's mobile phone in response to a text message from PBB, or texting "STOP" to 90622. Customer agrees that his/her prior express consent to receive text alerts shall continue indefinitely unless and until he/she cancels his/her prior express consent through the means mentioned in this paragraph. Other methods or means attempted to revoke Customer's prior express consent may cause unnecessary delay or be ineffective and Customer hereby releases PBB from any liability related to his/her efforts to revoke his/her prior express consent by methods or means other than texting STOP (without spaces or other words) to 90622. If revoking his/her consent by texting "STOP" to 90622 (or in response to a PBB Alert), Customer's text message should contain only the word STOP without any additional words, spaces, or characters either before or after the word STOP. PBB will reasonably endeavor to comply with other text (email or phone) communications in which Customer indicates a clear and unmistakable intent to revoke his/her prior permission; however, Customer (a) understands that text messages to 90622 go to an automated number that is not monitored by a human, and the ability to interpret Customer's intent is severely restricted and, therefore, (b) Customer hereby release PBB from any liability for his/her efforts to revoke permission via a text message that does not strictly comply with the terms stated in the first sentence of this paragraph. Furthermore, by activating text alerts, Customer hereby grants PBB express permission (without qualification) to respond to his/her cancellation request whether that request came through a telephone call with a PBB employee, or by texting "STOP" with a confirmatory text message in return that will (i) confirm receipt of Customer's cancellation request as well as (ii) indicate that he/she will no longer receive text alerts from PBB. Furthermore, Customer agrees that PBB will reasonably endeavor to send him/her the aforementioned confirmatory cancellation text message in a timely manner.

However, Customer hereby releases PBB from any liability related to a confirmatory text message or the timeliness in which you receive one.

*Get Help or Support:* To get help or answers to questions, visit our website at [www.point-broadband.com](http://www.point-broadband.com), text the word HELP without additional characters to 90622 for assistance with PBB Alerts (Customer must be registered for PBB Alerts for proper HELP by text), or call 844-407-6468.

*Cost of Alerts:* PBB does not charge to send Customer text alerts. However, depending on the plan Customer subscribes to with his/her wireless carrier, message and data rates may be applied by his/her mobile carrier. Check plan for details.

*Message Frequency:* Message frequency will be at least monthly, but ultimately depends on the type of alerts Customer chooses to have sent to his/her mobile phone, the manner in which he/she conducts account activities, as well as the number of planned or unplanned maintenance events scheduled in his/her area. Customer can typically expect 3 - 6 messages per month from PBB Alerts.

**3. POINT GUARD** - A optional service protection plan offered to most residential customers - commercial customers not eligible - who subscribe to PBB Services and are not in a delinquent payment status or otherwise in breach of any applicable service term or condition for any of Customer's PBB Services. The Service Protection Plan may be cancelled at any time; however, if the Service Protection Plan is cancelled within 60 days of a chargeable in-home service visit, Customer will be charged for the service visit. Covered items are as described in the Point Guard Service Protection Plan Terms and Conditions. If any terms of the Point Guard Service Protection Plan Terms and Conditions conflict with these Terms and Conditions of Service, then these Terms and Conditions of Service apply.

**4. 911 EMERGENCY SERVICES** - There can be a greater possibility of network congestion and/or reduced speed in the routing of a 911 Dialing call made utilizing Equipment as compared to traditional 911 dialing over traditional public telephone networks. Internet-only 911 Dialing is different than traditional 911 service and is generally referred to as enhanced 911 or E911. E911 service is subject to availability within Customer's calling jurisdiction. If Customer does not have access to basic 911 or E911, his/her 911 call will be sent to the national emergency call center. Customer authorizes PBB to disclose his/her name and address to third-parties involved with providing 911 emergency services to Customer, including but, not limited to, call routers, call centers, and local emergency centers. PBB DOES NOT HAVE ANY CONTROL OVER WHETHER, OR THE MANNER IN WHICH, CALLS USING OUR 911 DIALING SERVICES ARE ANSWERED OR ADDRESSED BY ANY EMERGENCY RESPONSE CENTER. PBB DISCLAIMS ALL RESPONSIBILITY FOR THE ABILITY ANY OF THE EQUIPMENT TO CONNECT TO AN EMERGENCY RESPONSE CENTER, THE CONDUCT OF THE EMERGENCY RESPONSE CENTER, AND THE NATIONAL EMERGENCY CALLING CENTER. PBB RELIES ON THIRD PARTIES TO ASSIST US IN ROUTING 911 CALLS TO EMERGENCY RESPONSE CENTERS AND TO A NATIONAL EMERGENCY CALLING CENTER. PBB DISCLAIMS ANY AND ALL LIABILITY OR RESPONSIBILITY IN THE EVENT SUCH THIRD PARTY DATA USED TO ROUTE CALLS IS INCORRECT OR YIELDS AN ERRONEOUS RESULT. PBB DOES NOT HAVE ANY CONTROL OVER EMERGENCY ALERTS, OR THE INTERNET CONNECTION OR MOBILE TELEPHONE CARRIER SERVICES UTILIZED BY CUSTOMER.

**5. NO OTHER WARRANTIES OR GUARANTEE** - EXCEPT FOR THOSE WARRANTIES EXPRESSLY SET FORTH HEREIN, THE SERVICES, EQUIPMENT, POINT GUARD, AND ALERTS ARE PROVIDED ON AN "AS IS" BASIS, "WITH ALL FAULTS," AND "AS AVAILABLE," WITHOUT ANY WARRANTIES WHATSOEVER, EITHER EXPRESS OR IMPLIED - INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT, TO THE FULLEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW, AND CUSTOMER ACKNOWLEDGES THAT IT HAS NOT RELIED, OR BASED ITS DECISION TO ACCEPT THE AGREEMENT, ON ANY WARRANTIES OF PBB NOT EXPRESSLY SET FORTH HEREIN. PBB, its parents, subsidiaries, affiliates, officers, agents, employees, partners, and licensors make no warranty that (a) the services will meet Customer's requirements; (b) the services will be uninterrupted, complete, accurate, timely, secure, virus-free, or error-free; or (c) the results that may be obtained from the use of the services will be accurate or reliable. PBB Alerts use wireless service provider networks to deliver SMS and/or MMS (text) service; however, PBB does not operate the wireless networks. PBB is not liable for the availability (or lack thereof) of wireless network coverage, the failure of the wireless networks to complete a transaction, deliver an Alert or message, or otherwise interfere with the timeliness or transmission of SMS and/or MMS or the Alerts. PBB disclaims any responsibility for any wireless service used to access the Alerts. PBB Alerts are available to customers based in the United States. Customer understands and acknowledges that Alerts are not intended to be accessed from outside of the United States. In addition, because PBB does not operate or control the wireless networks used to access the Alerts, we cannot guarantee the privacy or security of wireless data transmissions. Customer should check with his/her wireless service provider for information about its privacy and security practices. PBB is not responsible for incomplete, lost, late, or misdirected messages, including (but not limited to) undelivered messages resulting from any form of filtering by Customer's mobile carrier or service provider.

**6. PAYMENT TERMS** – Customer shall be invoiced for Services on date of install/service. Payment shall be due within 10 days of invoice receipt. The invoice date shall be the same day – as the original date of install - of the month every month thereafter. All payments shall be paid by Customer in United States (“U.S.”) Dollars and sent to PBB, 1791 O.G. Skinner Drive, Suite A, West Point, Georgia 31833. Customer will be responsible for paying all applicable taxes and will defend and indemnify PBB from and against all sales, use, personal property, or other taxes (including any penalties, fines or interest thereon) as a result of the Agreement, except to the extent such taxes are based upon revenue earned by PBB and are imposed on PBB by any federal, state or local government or taxing authority with respect to the Agreement.

**7. INDEMNIFICATION AND LIMITATION OF LIABILITY** - Except as provided in the section titled Dispute Resolution, with respect to arbitration proceedings between Customer and PBB, Customer agrees to indemnify, hold harmless, release, and fully discharge PBB, its subsidiaries, business units, affiliates, parent companies, its predecessors and successors and its respective officers, directors, executives, managers, members, managing members, employees, agents, legal counsel, shareholders, trustees, joint venturers, partners, successors and assigns, past and present, from and against all costs, losses, claims, actions, proceedings, demands, liabilities, and suits of any kind or nature, including reasonable attorney’s fees and costs which arise out of, or relate to, or are attributable to, all act or omission by PBB or Customer, including receipt of or failure to receive Alerts, any negligent or intentional acts, emergency, services, and any act not authorized under the terms of the Agreement. In addition, Customer agrees that it will not assert any claim against PBB, its subsidiaries, business units, affiliates, parent companies, past and present, its predecessors and successors and its respective officers, directors, executives, managers, members, managing members, employees, agents, legal counsel, shareholders, trustees, joint venturers, partners, successors and assigns, past and present, in any court of law based upon or related to the Services, Equipment, Alerts, and/or Agreement. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN AND WITHOUT LIMITING THE FOREGOING, IN NO EVENT WILL PBB BE LIABLE TO CUSTOMER FOR ANY PURELY ECONOMIC LOSSES, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, USE, INCOME, BUSINESS OPPORTUNITIES OR CUSTOMER GOODWILL, OR FOR ANY ANTICIPATORY, SPECIAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, INCIDENTAL, DIRECT, INDIRECT, OR ANY OTHER DAMAGES RESULTING FROM OR ARISING OUT OF THE AGREEMENT.

**8. NO IMPLIED WAIVERS** - The waiver, modification, or failure to insist on strict performance of the terms, conditions, and provisions contained in the Agreement by PBB will not void, waive or modify any of the other terms, conditions, and provisions of the Agreement, nor will it be construed as a waiver or relinquishment of PBB’s right to enforce and demand subsequent performance of the same.

**9. NOTICES** - Any notices required to be given hereunder will be in writing and will be deemed effectively delivered: (i) when delivered personally; (ii) one (1) business day after being deposited with a nationally recognized overnight courier service; or; (iv) four (4) business days after being deposited in the U.S. Mail (First Class) with postage prepaid. Notices for Customer will be delivered to the address listed for Customer on the Sales Agreement. Notices for PBB will be delivered to Point Broadband, LLC, Attention: Customer Services, 1791 O.G. Skinner Drive, Suite A, West Point, Georgia, 31833.

**10. BINDING ARBITRATION** - ANY CLAIM, DISPUTE, OR CONTROVERSY (WHETHER IN CONTRACT, TORT, OR OTHERWISE, WHETHER PREEXISTING, PRESENT OR FUTURE, AND INCLUDING STATUTORY, CONSUMER PROTECTION, COMMON LAW, INTENTIONAL TORT AND EQUITABLE CLAIMS), BETWEEN PBB AND CUSTOMER ARISING FROM OR RELATING TO THE AGREEMENT, ITS INTERPRETATION, OR A BREACH, OR THE VALIDITY THEREOF, OR THE RELATIONSHIP THAT RESULTS FROM THE AGREEMENT (INCLUDING, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, RELATIONSHIPS WITH THIRD PARTIES WHO ARE NOT SIGNATORIES TO THE AGREEMENT) WILL BE RESOLVED EXCLUSIVELY AND FINALLY BY BINDING ARBITRATION ADMINISTERED BY THE AMERICAN ARBITRATION ASSOCIATION (“AAA”) IN ACCORDANCE WITH ITS COMMERCIAL ARBITRATION RULES THEN IN EFFECT. THE ARBITRATION PROCEEDINGS WILL BE HELD IN LEE COUNTY IN THE STATE OF ALABAMA, AND SHALL BE GOVERNED BY THE LAWS OF THE U.S. AND THE STATE OF ALABAMA. IN THE EVENT OF ANY INCONSISTENCY OR CONFLICT BETWEEN THE AAA COMMERCIAL ARBITRATION RULES AND THE AGREEMENT, THE AGREEMENT WILL CONTROL. THE ARBITRATION WILL BE LIMITED SOLELY TO THE DISPUTE OR CONTROVERSY BETWEEN CUSTOMER AND PBB, AND ANY AWARD OF THE ARBITRATOR SHALL BE FINAL AND BINDING AND MAY BE ENTERED AS A JUDGMENT IN ANY COURT OF COMPETENT JURISDICTION.

**11. CLASS ACTION WAIVER** - THIS AGREEMENT AFFECTS YOUR ABILITY TO PARTICIPATE IN CLASS, COLLECTIVE, OR REPRESENTATIVE PROCEEDINGS. Disputes, controversies, or claims between PBB and Customer arising from or relating to the Agreement, its interpretation, or a breach, or the validity thereof, or the relationship that results from the Agreement (including, to the fullest extent permitted by applicable law, relationships with third parties who are no signatories to the Agreement) may not be brought as a plaintiff, member, or claimant in any purported class, collective, or representative basis, or private attorney general action but must be brought only in your individual capacity to be arbitrated as described in the Section titled “Arbitration.” There will be no right or authority for any dispute to be brought, heard, or arbitrated as a class, collective, representative proceeding, or private attorney general action, or as a member in any purported class, collective, representative proceeding, or private attorney general action (“Class Action Waiver”); the arbitrator’s authority to resolve and make written awards is limited to disputes,

controversies, or claims between PBB and Customer alone. Notwithstanding any other provision of this Agreement or the AAA Rules, disputes regarding the validity, enforceability, or breach of the Class Action Waiver shall be decided by a court of competent jurisdiction and not by an arbitrator. In any case in which (1) the dispute, controversy, or claim is filed as a class, collective, representative proceeding, or private attorney general action and (2) a court of competent jurisdiction finds all or part of the Class Action Waiver unenforceable, the class, collective, representative proceeding, and/or private attorney general action to that extent must be litigated in a court of competent jurisdiction, but the portion of the Class Action Waiver that is enforceable shall be enforced in arbitration. However, PBB may lawfully seek enforcement of this Agreement and the Class Action Waiver under the Federal Arbitration Act and seek dismissal of such class, collective, representative proceeding, or private attorney general action. The Class Action Waiver shall be severable in any case in which the dispute, controversy, or claim is filed as an individual action and severance is necessary to ensure that the individual action proceeds in arbitration.

**12. GOVERNING LAW** - The Agreement will be governed by and interpreted under the laws of the U.S. and the State of Alabama. However, notwithstanding this Section, the prior arbitration agreement set forth herein shall be governed by the Federal Arbitration Act. Except for arbitration, the mandatory, exclusive jurisdiction and venue for any suit, action, or proceeding between Customer and PBB – including those brought for the purpose of enforcing any arbitration award, will lie solely and exclusively in the U.S. Federal courts in the Middle District of Alabama, Eastern Division or, when appropriate, in the State Circuit Court in and for Lee County, Alabama.

**13. WAIVER OF JURY TRIAL** - CUSTOMER HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY CONTROLLING LAW, ALL RIGHT TO TRIAL BY JURY OF ANY DISPUTE, CLAIM, OR CAUSE OF ACTION BASED UPON, ARISING OUT OF, RELATING TO, OR CONCERNING THE AGREEMENT, THE TRANSACTION(S) CONTEMPLATED HEREIN, OR ANY RELATIONSHIP BETWEEN THE PARTIES, IN ANY ACTION, PROCEEDING OR LITIGATION OF ANY TYPE BROUGHT AGAINST PBB, WHETHER WITH RESPECT TO CONTRACT, TORT, STATUTORY, REGULATORY OR OTHER TYPES OF RIGHTS OR CLAIMS. CUSTOMER HERETO AGREES, THEREFORE, THAT SHOULD IT BRING AGAINST PBB ANY CLAIM OR CAUSE OF ACTION NOT SUBJECT TO SECTION TITLED DISPUTE RESOLUTION, HEREIN, SUCH CLAIM OR CAUSE OF ACTION SHALL BE TRIED BY A JUDGE WITHOUT A JURY. WITHOUT LIMITING THE FOREGOING, CUSTOMER FURTHER AGREES THAT TO THE FULLEST EXTENT PERMITTED BY CONTROLLING LAW, ITS RESPECTIVE RIGHT TO A TRIAL BY JURY IS HEREBY WAIVED AS TO ANY ACTION, CLAIM, COUNTERCLAIM OR OTHER PROCEEDING WHICH SEEKS, IN WHOLE OR IN PART, TO CHALLENGE THE VALIDITY OR ENFORCEABILITY OF THE AGREEMENT OR ANY PROVISION HEREOF. THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THE AGREEMENT.

**14. BINDING EFFECT AND TRANSFER OF RIGHTS, INTERESTS AND OBLIGATIONS** - The Agreement is binding on Customer and Customer’s respective heirs, successors, and assigns. Customer may not transfer, assign, delegate or otherwise dispose of the Agreement, or any of its rights, interests or obligations arising under, or as a result of, the Agreement without PBB’s prior written consent. PBB may, at any time, transfer, assign, delegate, and subcontract or otherwise dispose of the Agreement, or any of its rights, interest or obligations arising under, or as a result of, the Agreement without Customer’s prior written consent.

**15. SEVERABILITY** - If any term, condition, or provision of the Agreement is determined by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such term, condition or provision will, to the extent required, be severed from the remaining terms, conditions and provisions which will, to the fullest extent permitted by law, continue to be valid and in full force and effect.

**16. HEADINGS** - The headings contained in these Terms and Conditions are for reference purposes only and will not affect in any way the meaning or interpretation of these Terms and Conditions. When a reference is made in these Terms and Conditions to a Section, such reference will be to a Section of these Terms and Conditions, unless otherwise indicated.

**17. COUNTERPARTS** - The Agreement may be executed in one (1) or more counterparts, each of which shall be an original. Any such counterpart, to the extent delivered by facsimile, or by .pdf, .tif, .gif, .jpeg, or similar attachment to an electronic mail message, shall be treated in all manner and respects as an original executed counterpart, and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person.

**18. STATUTE OF LIMITATIONS WAIVER** - EXCEPT AS SPECIFICALLY PROHIBITED BY LAW, CUSTOMER AGREES THAT ANY DISPUTE, CLAIM, OR CONTROVERSY ARISING OUT OF, RELATING TO, OR CONCERNING THE AGREEMENT OR THE PARTIES’ RELATIONSHIP MUST BE COMMENCED UNDER THE SECTION TITLED “DISPUTE RESOLUTION” NO MORE THAN SIX (6) MONTHS AFTER THE DATE OF THE ALLEGED DISPUTE, CLAIM, OR CONTROVERSY. CUSTOMER HEREBY WAIVES ANY STATUTE OF LIMITATION TO THE CONTRARY.

**19. TERMINATION** – PBB reserves the right, in its sole discretion, to cancel or suspend its Services, Equipment, and/or Alerts, in whole or in part, for any reason, with or without notice to Customer.

**20. CHANGES IN TERMS** - PBB reserves the right to change these Terms and Conditions and/or cancel Point Guard or Alerts at any time. Please check these Terms and Conditions on a regular basis for changes. Customer’s continued use and acceptance of the Terms and Conditions after changes are posted will mean that he/she accepts the Terms and Conditions as modified by the posted changes.