



Revised: 30 March 2009

# Mobile Satellite Services and Equipment Terms & Conditions

## Australia, China, Hong Kong & New Zealand

The following terms and conditions ("Terms and Conditions") apply to end-users ("Customer(s)") using mobile satellite services, including but not limited to Inmarsat®, Iridium®, MarineSat/LandSat®, GlobalStar®, HughesNet™, and AmosConnect™ services ("Services") and/or associated equipment ("Equipment") provided by Stratos Wireless, Inc. and/or Xantic Sales B.V. (collectively, "Stratos").

### 1. PROVISION OF SERVICES AND EQUIPMENT BY STRATOS

- (A) These Terms and Conditions, a Stratos approved Subscriber Application and Services Agreement ("Subscriber Application") and/or Customer's written acceptance of a Stratos quotation, when taken together, will govern the provision by Stratos of Services and/or Equipment to Customer. If Customer procures goods or services under these Terms and Conditions that are ordinarily acquired for personal, domestic or household use, certain non-excludable terms and conditions or warranties may be implied into these Terms and Conditions by legislation, including the Trade Practices Act 1974 (Aust) and the Consumer Guarantees Act 1993 (NZ). Except as provided in these Terms and Conditions, there are no other oral or implied agreements, warranties or understandings, and from time to time, Stratos may, at its sole discretion, add, delete or modify the portfolio of Services and/or Equipment made available to Customer under these Terms and Conditions.
- (B) In the absence of a quotation signed by Customer, Customer's verbal instruction or issuance to Stratos of a purchase order, work order, work ticket or other form of written order on Customer's standard form (collectively "Purchase Order(s)") will constitute Customer's acceptance of a Stratos quotation. All future orders for Services and/or Equipment will be governed by these Terms and Conditions, unless otherwise agreed. Future orders will be subject to Stratos' acceptance, which may be withheld for any reason or for no reason.
- (C) Customer is responsible for notifying Stratos, in writing, of any requirement to permanently deactivate or temporarily suspend Services. Such permanent deactivation or temporary suspension of Services will be effective only after Stratos' receipt of Customer's written request and Stratos' acknowledgement of receipt of Customer's written request. All such requests must be in writing and sent to: (Fax): +1-709-724-5309 or (Email): [cancellations@stratosglobal.com](mailto:cancellations@stratosglobal.com). Notwithstanding the foregoing, permanent deactivation or temporary suspension of Inmarsat BGAN, FleetBroadband, SwiftBroadband, and Inmarsat Satellite Phone services must be completed by Customer through the Stratos Dashboard. There will be no pro-rata refunds for deactivation or suspension. Customer will remain liable for all charges including, but not limited to, airtime and monthly access fees up to and including the last day of the billing period in which Stratos acknowledges receipt of Customer's written request for permanent deactivation or temporary suspension of Services as well as any applicable early termination fees.

### 2. ORDERING SERVICES AND EQUIPMENT

Orders may be submitted to Stratos either through a Stratos authorised dealer or by calling Stratos directly at the following telephone number:

- For Worldwide calls: +1-709-748-4233.

Customer is required to complete all applicable paperwork for the Services or Equipment to be provided by Stratos.



BEYOND THE HORIZON®

### 3. CUSTOMER PURCHASE ORDERS

If Customer issues a purchase order to Stratos for Services or Equipment, such purchase order will be treated as an administrative document only and will not add to, delete from, or change any of these Terms and Conditions. Customer agrees to waive any future challenge to the enforceability of any purchase order on the basis that such purchase order was made and or confirmed by electronic means.

### 4. BILLING & PAYMENT

- (A) **Services.** Stratos will bill and Customer will pay Stratos for the Services provided by Stratos and for all applicable government, federal, state, provincial, local, and other taxes, fees and duties or other charges and amounts, including but not limited to value added or withholding taxes which may be levied upon the Services. Customer will pay Stratos, in addition to the charges, an amount equal to the GST payable by Stratos in respect to any supply made under these Terms and Conditions (as defined in A New Tax System (Goods and Services Tax) Act 1999 (Aust) and/or the Goods and Services Act 1985 (NZ) (as applicable).
- (B) **Equipment.** Invoices for Equipment will be sent on or after the date of shipment and will include all applicable government, federal, state, provincial, local, and other taxes, fees and duties or other charges and amounts, including but not limited to value added or withholding taxes that may be levied upon the Equipment.
- (C) **Payment terms.**
- (i) Customer will pay all invoices within twenty-one (21) days of the date of invoice, and in accordance with the instructions as stated on the invoice.
  - (ii) Amounts not paid within twenty-one (21) days will be subject to an interest charge of the lesser of, (i) one and one-half percent (1.5%) per month, or (ii) the highest rate permitted by law.
  - (iii) Customer will pay for any and all collection or litigation expenses, including reasonable legal fees, incurred by Stratos in collecting any late payments or late payment fees.
  - (iv) All payments will be made in U.S. currency.
- (D) Stratos may require Customer to provide a third party guarantee, deposit, letter of credit, or other form of security deemed necessary by Stratos, in its sole discretion, to provide adequate assurance of payment. The provision of such third party guarantee, deposit, letter of credit, or other form of security does not relieve Customer of its payment obligations specified herein.
- (E) All charges will be in accordance with Stratos' then current charges or the quotation as provided to Customer for the applicable Service and/or Equipment. Stratos reserves the right to revise such charges from time to time.
- (F) Customer acknowledges that if it uses the service of another service provider with Stratos as the Accounting Authority, it will pay to Stratos the amount charged by that service provider plus a fifteen percent (15%) administrative fee for processing the charges.
- (G) Customer acknowledges its responsibility to provide and pay for all equipment and services required to connect Customer- provided equipment to the Services or Equipment.
- (H) Customer must pay all undisputed amounts when due. If any portion is in dispute, Customer must, within thirty (30) days of the invoice date containing such disputed amount, give notice to Stratos of the amount it disputes ("Disputed Amount") and include in such notice the specific details and reasons for disputing each item. For avoidance of doubt, claims of unauthorized use, fraudulent use or any other misuse will not constitute a valid basis for dispute of an invoice. If the Disputed Amount is resolved in favour of Stratos, Customer must pay the Disputed Amount with appropriate late charges, if applicable, upon final determination of such dispute. Stratos will issue credits against amounts owing on subsequent invoices upon resolution of any disputed amounts in favour of Customer. An invoice is deemed to be accepted by Customer if no written notice of dispute is provided before the date the payment is due.
- (I) **Liability for Data Usage.** Customer shall be fully liable for payment for any and all voice and data charges accrued through the use of Customer's Equipment. It is Customer's sole obligation and responsibility to ensure that all Equipment and associated computer hardware and software are properly configured with respect to the Services being used and that only authorized users are permitted access to the Equipment.



**(J) Invoicing Policies.**

- (i) **Minimum Invoice Amounts.** Each monthly invoice requires a minimum total of \$24.95 USD, or equivalent. If Customer's total airtime and services charges (exclusive of taxes and governmental fees) for each invoice month do not meet or exceed \$24.95 USD, the invoice total will be increased to \$24.95 USD. If Customer's total airtime and services charges for one invoice month meet or exceed \$24.95 USD, Customer will be charged only for those costs. If Customer's invoice is issued in a currency other than US dollars, the Minimum Billing per Invoice is as follows: CND \$29.95; AUD \$29.95; EUR €19.95; GBP £9.95; SDR 19.95.
- (ii) **Paper Invoice Fee.** An administrative fee of \$4.95 USD per month, or equivalent, is charged by Stratos for the issuance of paper invoices. To avoid this fee, Customer may elect to receive electronic invoices, in PDF format, each month. Invoices in electronic format are available by email and online via Stratos e-Invoicing. Stratos e-Invoicing also allows Customers to pay invoices directly online by credit card. In the case of invoices issued in a currency other than US dollars, the Paper Invoice Fee is as follows: CND \$5.75; AUD \$6.25; EUR €3.75; GBP £2.50; SDR 3.25.

- (K) **Pricing Plans.** Certain Inmarsat services, including BGAN, Swift Broadband, and Fleet Broadband, may be sold under pricing plans, some of which may require minimum service term commitments. Accordingly, termination of a service plan that specifies a minimum service term prior to the expiration of the minimum service term will result in Customer being liable to pay Stratos the applicable termination charge as specified in the particular service plan. For the avoidance of doubt, Customer herein acknowledges that the assessment of a termination charge is reasonable and is not a penalty, but rather constitutes liquidated damages for the loss of a bargain.

**5. SALE OF EQUIPMENT**

- (A) **Delivery/Freight Charges/Risk of Loss:** Risk of loss in the Equipment will transfer upon delivery to Customer and delivery will take place when Equipment is shipped to Customer by Stratos. Customer will pay any costs incurred by Stratos to ship the Equipment to Customer's designated location, unless otherwise agreed upon by the parties prior to shipment. Any additional delivery terms for Equipment will be mutually agreed to by Stratos and Customer. Stratos will use commercially reasonable efforts to comply with the delivery terms requested by Customer. In no event will Stratos have any liability in connection with any shipment, nor will the carrier be deemed to be an agent of Stratos.
- (B) **Partial Shipments:** Customer agrees to accept partial shipments unless otherwise specified in advance, particularly in cases where the Equipment is temporarily out of stock. In the event that ordered Equipment is not available, Stratos will maintain a backorder list compiled by date. As backordered Equipment is received from the Supplier, Stratos will fill orders based on age of order. Customer is responsible for shipping charges for each partial shipment.
- (C) **Title:** Title to Equipment purchased by Customer will transfer from Stratos to Customer upon Stratos' receipt of the full sale price and any applicable taxes, fees, freight, and other charges. Customer will pay any GST levied on the importation of the Equipment into Australia or New Zealand (as applicable) unless such GST is determined by the Australian Taxation Office ("ATO") or the New Zealand Inland Revenue, which is relevant to be payable by Stratos in which case Customer will reimburse Stratos for any such GST for which Stratos is not entitled to an input tax credit. Customer will also pay any duties levied on the importation of the Equipment into Australia or New Zealand (as applicable). Until such time, Stratos will have a lien on the Equipment. Customer will keep Equipment that is subject to Stratos lien, free from any liens, claims or encumbrances and will execute all such documents as may be reasonably required by Stratos to evidence or perfect its security interest.
- (D) **Inspection & Acceptance:** Customer may inspect or test the Equipment that has been tendered for acceptance. Customer may require repair or replacement of nonconforming Equipment at no increase in price. Customer must exercise the post-acceptance rights provided by this Article, (i) within thirty (30) days after a defect is discovered or should have been discovered, and (ii) before any substantial change occurs in the condition of the defective item, unless the change is due to the defect in the item.
- (E) **Warranty:**



- (i) Stratos warrants that new Equipment delivered to Customer will be free from defects in workmanship and material for a period of one (1) year/(365 days) from date of delivery. All refurbished or used Equipment or accessories sold hereunder will be free from defects in workmanship and material for a period of thirty (30) days from date of delivery. All repairs covered by such warranty will be performed at no charge to Customer. For any repairs requested after the warranty period, Stratos will provide a quote for such repairs and if the quote is accepted and the work authorized by Customer, the repairs will be performed at Customer's expense. Stratos does not exclude any non-excludable remedies under the Trade Practices Act 1974 (Aust), Customer Guarantees Act 1993 (NZ) or similar legislation except, in the case of New Zealand, where Customer is procuring goods and services, or holds itself out as procuring goods or services, for business purposes, in which case, the Consumer Guarantees Act 1993 (NZ) will not apply. Subject to these Terms and Conditions, in the event of a warranty claim, Stratos will, at its sole option: (a) repair the Equipment so that it performs set forth above, (b) replace the nonconforming Equipment with Equipment which performs as set forth above, or (c) if Stratos determines that neither of the foregoing is commercially reasonable upon return of the Equipment to Stratos, refund all sums paid by Customer to Stratos with respect to the nonconforming Equipment. Subject to these Terms and Conditions, the foregoing Equipment warranty is Customer's sole remedy in the event of a warranty claim.
- (ii) All warranties offered by Stratos are a "back-to-base" warranty, such that Customer will bear the transportation cost of returning any nonconforming or defective Equipment to Stratos' designated premises and also the transportation cost of returning the Equipment following a repair from Stratos' designated premises to Customer's premises. If Customer requires a Stratos technician to travel to Customer's location to perform warranty services, Customer is responsible for all costs associated with the travel including, but not limited to, transportation costs, living expenses, etc. Stratos will provide a written estimate of travel costs upon request.
- (iii) The foregoing warranty does not extend to Equipment which is altered, improperly installed by a third party or which fails or is damaged after delivery due to accident, act of God, shipment or handling, or due to storage, operation, use, or maintenance in a manner or environment which does not conform to the Equipment manufacturer's instructions or specifications provided by Stratos at the time of delivery to Customer.
- (iv) Subject to Article 5(C) above, Stratos warrants that title to all Equipment delivered to Customer under these Terms and Conditions will be free and clear of all liens, encumbrances, security interests, or other claims.
- (F) **Refunds/Restocking Fees:** There will be no refunds for used Equipment returned to Stratos. If Customer returns unused equipment to Stratos in its original package, in its original condition, and within thirty (30) days of delivery, Stratos will refund to Customer eighty five percent (85%) of the purchase price, the remaining fifteen percent (15%) of the purchase price representing a restocking fee. Customer will bear all shipment and insurance costs related to such return shipment. All Equipment returned to Stratos must have a Stratos-issued Returned Merchandise Authorization ("RMA") number prominently displayed on the packaging and must be returned to the Stratos facility as directed by Stratos. An RMA number may be obtained by calling Stratos' Customer Care at 1-800-563-2255 within North America, 1-709-748-4226 Internationally, or by email at support@stratosglobal.com. Equipment returned without an RMA number will be returned to Customer at Customer's expense. Stratos does not exclude any right Customer may have to a refund under the Consumer Guarantees Act 1993 (Z) or similar legislation except, in the case of New Zealand, where Customer is procuring goods or services, or holds itself out as procuring goods or services, for business purposes, in which case the Consumer Guarantees Act 1993 (NZ) will not apply.
- (G) **Security Interest:**
- (i) Customer acknowledges that the terms of the Personal Property Securities Act 1999 (NZ) ("PPSA") will apply to all Equipment supplied in New Zealand and grants Stratos a security interest in all Equipment supplied by Stratos to Customer from time to time and agrees: (a) to do all such things and execute all such documents as may be required to ensure that Stratos obtains and maintains a perfected first ranking security interest in the Equipment; (b) that Stratos may register a financing statement on the Personal Property Securities Register to perfect its security interest as an unpaid supplier of Equipment delivered, or to be delivered, to the Customer; (c) to indemnify Stratos for any costs incurred by Stratos in registering the financing statement and the enforcing or attempting to enforce its rights under these Terms and Conditions and its security interest in the Equipment; (d) to waive the right to receive a copy of any verification statement under section 148 of the PPSA; (e) and that it has no rights under sections 114(1)(a), 116, 117(1)(c), 119, 120(2), 121, 125, 129, 131, 132, 133 and 134 of the PPSA.
- (ii) Customer agrees not to change its name (including the name under which it is known or under which it



trades) without notifying Stratos in writing of Customer's intention to change its name at least 14 business days prior to doing so.

## 6. OPERATIONS CENTER

Stratos operates an International Customer Care and Operations Center which is staffed 24 hours per day, 7 days per week, which may be contacted at the following telephone number:

- For All Customers - Worldwide calls: +1-709-748-4226

The Operations Center provides Customers with operator assistance, operator intercept, mobile terminal commissioning, technical trouble shooting, and general customer assistance services.

## 7. OPERATING PROCEDURES

Customers will follow the procedures ("Procedures") established by the entities that supply the Services and Equipment to Stratos ("Suppliers") and such Procedures may be provided to Customer upon reasonable request to Stratos. Customer acknowledges that the Procedures may be modified from time to time by Suppliers. Stratos will not be liable for Customer's use of the Services or Equipment in a manner inconsistent with the Procedures provided by Suppliers.

## 8. SERVICE SPECIFIC TERMS AND CONDITIONS

### Inmarsat Services:

#### (i) Identification Numbers

Unless specifically directed by a Customer, Customer will be assigned a unique identification number for each Unit used by Customer, which is also referred to as an Inmarsat Mobile Number ("IMN"). Customer will have no property right in the identification numbers assigned in connection with the Service and Stratos may change such numbers at such time or times as Stratos, in its sole discretion, considers necessary without any liability whatsoever.

#### (ii) Stratos' Nera Inmarsat mini-M Terminals

All Nera Inmarsat mini-M terminals distributed by Stratos within North America and for use exclusively on ID013 will include software configured to use Stratos' land earth stations (ID 013) and SIM Cards. All Nera Inmarsat mini-M terminals distributed by Stratos outside of North America to be used on Stratos' land earth station (ID 002) will not include this software. To change these default settings, the terminal must be returned to Stratos for software replacement. Customer is responsible for all charges related to the software replacement.

#### (iii) Terminal Usage

Inmarsat terminals and Services may not be used in the United States unless the Customer has indicated on its Subscriber Application that the Services will be used exclusively in the United States under Stratos' licenses.

## 9. SERVICE AVAILABILITY

THE SERVICES ARE PROVIDED ON AN "ON-DEMAND" BASIS AND ARE SUBJECT TO THE AVAILABILITY OF CAPACITY ON THE APPLICABLE SATELLITE NETWORK. SERVICES MAY BE TEMPORARILY UNAVAILABLE OR LIMITED BECAUSE OF CAPACITY LIMITATIONS, NETWORK EQUIPMENT FAILURES, DISTRESS OR ANY OTHER EMERGENCY PRE-EMPTION AS REQUIRED BY STRATOS OR A SUPPLIER OR MAY BE TEMPORARILY INTERRUPTED OR CURTAILED DUE TO MODIFICATIONS, UPGRADES, REPAIRS OR SIMILAR ACTIVITIES OF A SUPPLIER. STRATOS HAS NO LIABILITY FOR UNAVAILABILITY OR MALFUNCTION OF SUPPLIERS' NETWORKS.

## 10. CONDITIONS OF OTHER CONTRACTS

The obligations of Stratos and the terms of service and sale under these Terms and Conditions are subject to the terms of the agreements under which Stratos purchases the Services and Equipment from Suppliers (each an "Other Contract"). To the extent fulfillment of any obligation under these Terms and Conditions is not permissible or possible under an Other Contract, the Other Contract will prevail and such obligation will be suspended or modified to the extent required by the Other Contract. Stratos represents and warrants that it is not presently aware of any material respect in which these Terms and Conditions are inconsistent with an Other Contract.



## 11. SOFTWARE LICENSE AND INTELLECTUAL PROPERTY

- (A) Effective upon delivery, Stratos herein grants to Customer a fully paid, non-exclusive, non-sublicensable and non-transferable license and/or sublicense to use the software provided with the Equipment, including, such software associated with "StratosOne™", "StratosNet®", "AmosConnect™", "AmosMail™", or any other third party software (the "Software"), for as long as Customer is entitled to use the Equipment. Customer may use the Software only in machine-readable, object code form. Third party software may be subject to additional terms and conditions described in the applicable third party software user documentation, and to the extent that those terms conflict with these Terms and Conditions, the third party terms will control. Customer may use the Software only for internal purposes and only in connection with the Equipment and Services provided by Stratos. Customer may not assign, transfer, pledge, rent, share, copy or sublicense any of the Software. Customer may not reverse engineer, decompile or otherwise attempt to discover the source code of the Software.
- (B) Other than as specifically set forth in this Article, no licenses or any rights of any kind under any patent, copyright and rights to create derivative works, trademark, trade secret, service mark, mask works or other form of intellectual property (collectively "Intellectual Property Rights") are granted by either Party or are to be implied by these Terms and Conditions or arisen by estoppel.

## 12. USE OF SERVICES AND EQUIPMENT

- (A) Customer will use the Services only in accordance with applicable U.S. and foreign rules, laws and regulations. Customer is solely responsible for determining and complying with the licensing requirements in any jurisdiction in which it is operating the Equipment. Customer will be liable for all use or misuse of the Services and/or Equipment hereunder, irrespective of whether such use or misuse was authorized, fraudulent or otherwise. Customer will not resell or rent the Services or Equipment. Customers will not use the Services or Equipment in an abusive or fraudulent manner, including, but not limited to the following:
- (i) accessing or attempting to access Services by using an unauthorised device or by tampering with or altering Equipment;
  - (ii) obtaining or attempting to obtain permission to use Services or Equipment by providing false or misleading information;
  - (iii) obtaining Services or Equipment without having the intent to pay charges incurred;
  - (iv) intentionally interfering with or causing disruption in the provision of Services or Equipment to other Customers;
  - (v) using Services or Equipment to further criminal activity;
  - (vi) using Services or Equipment to make obscene or illegal communications, to impersonate another person with fraudulent or malicious intent or to call another person so frequently or at such times of day or in any other manner with the intended effect of annoying, threatening or harassing such other persons; or
  - (vii) using Services or Equipment in a manner that interferes unreasonably with the use of services or equipment by one or more other Stratos customers.
- (B) Stratos reserves the right to terminate use of the Services of any Customer engaging in abusive or fraudulent use of the Services or Equipment purchased from Stratos.

## 13. DEFAULT AND TERMINATION OF SERVICES

- (A) The occurrence or happening of any one or more of the following events will constitute an event of default if not remedied within ten (10) days after notice from Stratos:
- (i) use of the Services or Equipment in any manner or for any purpose contrary to law (see Article 19);
  - (ii) abuse or fraudulent use of the Services and/or Equipment (see Article 12);
  - (iii) failure to make any payments due as invoiced;
  - (iv) discovery by Stratos that any representation or warranty made by Customer in any document furnished by Customer to Stratos is incorrect;
  - (v) breach or violation of any of these Terms and Conditions by Customer; or
  - (vi) commencement of any proceeding, whether voluntarily or involuntarily, relating to Customer under any law relating to insolvency, bankruptcy or the protection of creditors' rights generally.
- (B) Subject to Article 12, in the event of default, Stratos may, at Stratos' sole option and without in any way



limiting any other rights and remedies it may have, suspend or terminate Customer's Service without notice. Stratos will bill Customer and Customer will pay Stratos, in accordance with Article 4, for all outstanding charges accrued up to and outstanding on the date of such termination. In all such cases, Stratos will incur no liability whatsoever. Customer will be liable for all costs and expenses incurred by Stratos due to default by a Customer, including but not limited to legal costs.

- (C) Stratos, may, with no liability whatsoever, suspend or terminate Services and/or Equipment if lawfully ordered to cease operation of such Services and/or Equipment by a state or federal court of law, or any other lawful federal, state or local governmental authority. If at any time during the term of these Terms and Conditions any equipment, facilities, or property used by Stratos or its Suppliers to provide the Services and/or Equipment are taken for a public or quasi-public purpose by a lawful power or authority under the exercise of condemnation or eminent domain, Stratos will have the right, upon written notice to Customer, to terminate the Services and/or Equipment affected by the taking.
- (D) Stratos may also terminate Services in the event that an Other Contract for purchase of Services and/or Equipment expires or is terminated, provided that termination of the Services will only be with respect to the Services or Equipment provided pursuant to that Other Contract.
- (E) The rights of termination, restriction or suspension set forth in this Article are in addition to any other remedies available to Stratos under these Terms and Conditions, or at law or in equity.

#### **14. DISCLAIMER OF WARRANTY**

Stratos may provide Customer with access to certain account management tools ("Tools"), either directly or through Stratos' website. Such Tools may include, but are not limited to, "Quicksort", "StratosAccess™", "StratosGateway™", "AmosConnect Online" and "Dashboard". These Tools are provided to help Customers track their accounts and/or service usage. HOWEVER, USE OF THESE TOOLS ARE AT THE CUSTOMER'S OWN RISK, AND STRATOS MAKES NO REPRESENTATION OR WARRANTY AS TO THE BENEFITS OF THE TOOLS OR THE ACCURACY OF ANY INFORMATION GENERATED THEREBY. TO THE FULLEST EXTENT ALLOWABLE BY LAW AND SUBJECT TO THESE TERMS AND CONDITIONS, STRATOS DISCLAIMS ANY AND ALL LIABILITY ARISING OUT OF OR RELATED TO THE USE OF THESE TOOLS AND INFORMATION, REGARDLESS OF THE BASIS OF THE CLAIM (INCLUDING BUT NOT LIMITED TO NEGLIGENCE).

#### **15. INDEMNITY AND LIMITATION OF LIABILITY**

- (A) NOTHING IN THESE TERMS AND CONDITIONS WILL LIMIT OR EXCLUDE EITHER PARTY'S LIABILITY TO THE OTHER FOR PERSONAL INJURY OR DEATH CAUSED BY ITS NEGLIGENCE.
- (B) STRATOS DOES NOT UNDERTAKE TO TRANSMIT MESSAGES, BUT OFFERS THE USE OF ITS FACILITIES TO CUSTOMERS FOR THE TRANSMISSION OF TELECOMMUNICATION SERVICES.
- (C) CUSTOMER AGREES TO RELEASE, PROTECT, INDEMNIFY, DEFEND AND HOLD HARMLESS STRATOS AND STRATOS' AFFILIATES, DIRECTORS, OFFICERS, AGENTS, EMPLOYEES ("STRATOS GROUP"), ASSIGNS AND SUPPLIERS FROM AND AGAINST ANY AND ALL LIABILITY, CLAIMS, ACTIONS, LOSSES, DAMAGES, DEMANDS, SUITS, (INCLUDING DAMAGE TO PROPERTY AND PERSONAL INJURY) AND EXPENSES (INCLUDING LOSSES FROM SETTLEMENT AND REASONABLE COURTS COSTS AND ATTORNEY'S FEES) ARISING OUT OF OR RELATING IN ANY WAY OR ALLEGED TO BE CAUSED BY:
  - (I) CUSTOMER'S USE OR MISUSE OF THE EQUIPMENT AND/OR SERVICES; AND/OR
  - (II) FAILURE OR LIMITATIONS OF ANY EMERGENCY DISTRESS FEATURES ASSOCIATED WITH THE EQUIPMENT AND/OR SERVICES (INCLUDING BUT NOT LIMITED TO, GLOBAL MARITIME DISTRESS AND SAFETY SERVICES (GMDSS) FEATURES; AND/OR
  - (III) INSTALLATION, MAINTENANCE AND/OR REMOVAL OF SUCH EQUIPMENT AND/OR SERVICES PROVIDED BY STRATOS AND/OR ITS SUBCONTRACTORS; AND/OR
  - (IV) CUSTOMER'S BREACH OF THESE TERMS AND CONDITIONS, EXCEPT TO THE EXTENT SUCH CLAIMS ARE BASED UPON THE GROSS NEGLIGENCE OR WILFUL MISCONDUCT OF STRATOS; AND/OR



- (V) ANY CLAIMS OR ACTIONS FOR LIBEL, DEFAMATION, SLANDER, INVASION OF PRIVACY, PATENT, COPYRIGHT OR TRADEMARK INFRINGEMENT, OR THE VIOLATION OF ANY THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS, ARISING IN CONNECTION WITH THE USE OR MISUSE OF THE SERVICES AND/OR EQUIPMENT; AND/OR
- (VI) ANY CLAIM OR ACTION FOR PATENT INFRINGEMENT RESULTING FROM CUSTOMER'S USE (OR USE BY ANY OF ITS AFFILIATES) OF THE EQUIPMENT AND/OR SERVICES IN COMBINATION WITH THE EQUIPMENT, HARDWARE, SOFTWARE, SYSTEMS, CABLING, FACILITIES OR SERVICES NOT PROVIDED HEREUNDER BY STRATOS.
- (D) EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THESE TERMS AND CONDITIONS, THE TOTAL, AGGREGATE LIABILITY OF STRATOS TO CUSTOMER FOR ANY AND ALL CLAIMS WHATSOEVER RELATED TO THE EQUIPMENT AND/OR SERVICES OR THESE TERMS AND CONDITIONS FOR DAMAGES TO CUSTOMER (OR TO ANY AFFILIATE OF CUSTOMER) FOR ANY CLAIMS WHATSOEVER, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, HOWSOEVER ARISING WILL BE LIMITED TO DAMAGES ACTUALLY PROVEN AS DIRECTLY ATTRIBUTABLE TO STRATOS, AND FURTHER LIMITED TO AN AMOUNT EQUAL TO THE LAST THREE (3) MONTHS OF PAYMENTS MADE BY CUSTOMER TO STRATOS UNDER THESE TERMS AND CONDITIONS PRECEDING THE DATE OF ANY CLAIM MADE AGAINST STRATOS.
- (E) TO THE EXTENT PERMITTED BY THE RELEVANT LAW, NEITHER STRATOS GROUP NOR ANY OF ITS SUPPLIERS AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES, INSURERS, SUBSIDIARIES AND AFFILIATED (INCLUDING PARENT) COMPANIES, AND THEIR EMPLOYEES, REPRESENTATIVES, OFFICERS AND DIRECTORS, WILL BE LIABLE ON ANY BASIS WHATSOEVER FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, RELIANCE, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING BUT NOT LIMITED TO LOSS OF REVENUE OR PROFIT, LOSS ARISING FROM OR ATTRIBUTABLE TO FAILURE TO REALIZE ANTICIPATED SAVINGS, OR LOSS OF PRODUCTION, EQUIPMENT OR DATA) EVEN IF A PARTY KNEW OR HAS BEEN ADVISED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES, IN CONNECTION WITH (I) THE PROVISION OR FAILURE TO PROVIDE THE EQUIPMENT AND/OR SERVICES, FOR ANY REASON WHATSOEVER AND HOWSOEVER ARISING, OR (II) ANY UNAVAILABILITY, DELAY, INTERRUPTION, DISRUPTION OR DEGRADATION IN OR OF THE SPACE SEGMENT OR OF ANY TELECOMMUNICATIONS CARRIED ON THE SPACE SEGMENT OR SERVICE OUTAGE OR DEGRADATION IN SUPPLIERS' NETWORKS DUE TO SATELLITE MALFUNCTION, OR (III) THE SUSPENSION BY STRATOS OR STRATOS' SUPPLIERS OF THE MOBILE EARTH STATION'S AUTHORIZATION TO USE SERVICES PROVIDED BY STRATOS OR STRATOS' SUPPLIERS, DUE TO ANY CAUSES WHATSOEVER. STRATOS' LIABILITY IN CONTRACT, TORT OR OTHERWISE, INCLUDING ANY LIABILITY FOR NEGLIGENCE, HOWSOEVER ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF STRATOS' OBLIGATIONS UNDER THESE TERMS AND CONDITIONS WILL BE LIMITED TO THE REMEDIES PROVIDED HEREIN.
- (F) SUBJECT TO ARTICLES 1(A), 5(E), 15(E)(II), 15(E)(III) AND 15(G), STRATOS (I) EXCLUDES ALL CONDITIONS AND WARRANTIES IMPLIED IN THESE TERMS AND CONDITIONS AND (II) LIMITS IT LIABILITY FOR BREACH OF ANY CONDITION OR WARRANTY THAT IT CANNOT EXCLUDE TO THE GREATER OF (AT STRATOS' OPTION) REPAIRING OR REPLACING GOODS OR PAYING FOR THE COST OF HAVING THOSE GOODS REPAIRED OR REPLACED AND RESUPPLYING THE SERVICES AND/OR EQUIPMENT OR PAING THE COST OF HAVING THE SERVICES OR EQUIPMENT RESUPPLIED TO CUSTOMER.
- (G) THIS ARTICLE DOES NOT EXCLUDE OR MODIFY ANY CONDITIONS OR WARRANTY IMPLIED INTO, or RIGHTS THAT APPLY IN RESPECT OF, THESE TERMS AND CONDITIONS OR ANY CONTRACT BY ANY LAW (INCLUDING THE TRADE PRACTICES ACT 1974 (AUST)) WHERE TO DO SO WOULD CONTRAVENE THAT LAW OR CAUSE ANY PART OF THIS ARTICLE TO BE VOID.
- (H) EACH PROVISION OF THIS ARTICLE 15 IS TO BE CONSTRUED AS A SEPARATE PROVISION APPLYING AND SURVIVING EVEN IF ONE OR MORE OF THE OTHER PROVISIONS OF THIS ARTICLE IS HELD INAPPLICABLE OR UNREASONABLE.

## **16. CONFIDENTIAL INFORMATION / PRIVACY AND DATA PROTECTION**

- (A) Unless Customer consents in writing, or disclosure is made pursuant to a legal proceeding, Stratos will keep confidential all information or data furnished by Customer or otherwise acquired by Stratos through performance. Such information will not be released by Stratos to anyone other than: (i) Customer; (ii) a



person who in the reasonable judgement of Stratos is acting as an agent of Customer; (iii) to the commissioning entity or supplier or another telecommunications carrier provided that the information is to be used for the provision of Services and disclosure is made on a confidential basis with the information to be used solely for that purpose; (iv) an agent retained by Stratos to collect outstanding balances owed to Stratos by Customer; or (v) to a law enforcement agency whenever Stratos has reasonable grounds to believe that Customer has knowingly supplied Stratos with false or misleading information or is otherwise involved in unlawful activities. Customer's data will be held and/or transferred in strict accordance with the applicable data protection laws and Stratos' registration and Customer consent.

- (B) Each party will comply fully with all applicable privacy and data protection laws and regulations, and will provide such assistance to the other party as is reasonably necessary to assist the other party in complying with such laws and regulations. Customer will indemnify Stratos against claims by third parties resulting from inadequate breach or inadequate observance of the provisions of this Article 16 (B).

## 17. INDEPENDENT CONTRACTOR

These Terms and Conditions do not create any partnership, joint venture, agency or employee/employer relationship of any kind between Stratos and Customer. Stratos is an independent contractor with respect to performance under these Terms and Conditions; all persons employed by each party are, and will remain, the employees and agents of that party and are not, and will not become, the employees or agents of the other party. It is expressly understood that neither party's employees may participate in or receive any benefits from the other party's employee benefit plans.

## 18. NOTICES

All notices, requests, demands and other communications hereunder will be effective upon delivery. Such notices will be in writing and will be sent by facsimile, email, nationally recognised overnight courier or delivered in person, addressed as set forth below. Stratos may, at any time, amend the below addresses for notice upon written notice to Customer..

### For Customer Service

Stratos Wireless, Inc.  
34 Glencoe Drive  
Donovans Business Park  
Mount Pearl, Newfoundland, Canada A1N 4S8  
Attention: Customer Service  
Tel: +1-709-748-4226  
Fax: +1-709-748-4320  
E-mail: support@stratosglobal.com

### For Contract, Legal & Demand Notices

Stratos Wireless, Inc.  
6550 Rock Spring Drive, Suite 650  
Bethesda, Maryland 20817 USA  
Attention: Contracts and Legal Department  
Tel: +1-301-214-8800  
Fax: +1-301-214-8801  
E-mail: contracts.legal@stratosglobal.com

### For Billing Inquiries

Stratos Wireless, Inc.  
34 Glencoe Drive  
Donovans Business Park  
Mount Pearl, Newfoundland, Canada A1N 4S8  
Attention: Billing  
Tel: +1-709-748-4280  
Fax: +1-709-748-4300  
Email: billingcs@stratosglobal.com

If to Customer: To the address as set forth on the Subscriber Application and Services Agreement or accepted quotation.

## 19. GOVERNING LAW / RULES & REGULATIONS

- (A) These Terms and Conditions will be governed by and construed in accordance with the laws of England and Wales and Customer irrevocably agrees that the English courts will have exclusive jurisdiction in relation to any proceedings arising out of or in relation to the Terms and Conditions initiated by Customer. Notwithstanding the foregoing, Stratos will be entitled to initiate any proceedings arising out of or in relation



to these Terms and Conditions in any court having jurisdiction.

- (B) Customer will not use the Services for any purpose contrary to law. Customer agrees to abide by all of the current regulations in effect in countries where the Services or Equipment may be used, including licensing requirements. Both Stratos and Customer will fully abide by all applicable laws, rules and regulations, including but not limited to all applicable anti-bribery or anti-corruption laws. Stratos will not pay any commissions, fees or grant any rebates to any employee or officer of Customer, nor favor any employee or officer of Customer with gifts or entertainment of other than nominal value, nor enter into business arrangements with any employee or officer of Customer, other than as a representative of Customer, without the prior written approval of Customer.
- (C) Customer agrees to strictly adhere to the requirements and restrictions of the U.S. export and embargo laws and regulations, and any similar laws and regulations of other countries as applicable, in respect of the Services and/or Equipment to ensure the Services and/or Equipment is not transferred in violation of such laws and to obtain any required export/import licenses or authorisations. Customer agrees to obtain, at Customer's sole expense, all necessary licenses, approvals, permits, consents and governmental authorizations that may be required for Customer's use of the Services and Equipment. The use of Stratos Services and Equipment is expressly prohibited: (i) within the territory of Cuba, Iran, and any other countries where such use is prohibited under U.S. or other applicable law; and (ii) by any nationals of Cuba, Iran, or any other countries where such use is prohibited under U.S. or other applicable law. The use in Sudan of Equipment provided by Stratos is also prohibited.
- (D) Stratos will not be held responsible for any operational restrictions, customs, license or permit fees required for operation of the Network Services in the destination country. In addition, Stratos will have no responsibility for fines associated with terminal seizure nor for legal ramifications of using Equipment in countries where it is prohibited. Customers are advised to contact the embassy or trade office of the destination country prior to entry into that country.

## 20. ASSIGNMENT

Stratos may, without the consent of Customer, (a) assign its right to receive payment hereunder to a third party and (b) assign its rights and obligations hereunder to a corporation, partnership or other business enterprise in which Stratos has directly or indirectly, an ownership interest. These Terms and Conditions will enure to the benefit of, and will be binding on Customers' and Stratos' respective successors and permitted assigns.

## 21. FORCE MAJEURE

Stratos will not be liable for any failure of performance hereunder due to causes beyond its reasonable control ("Force Majeure"), including, without limitation, acts of God, fire, explosion, satellite failure, vandalism, cable cut, storm or other catastrophes, national emergency, insurrections, riots, wars or strikes, lock-outs, usually severe weather, epidemics, earthquakes, floods, work stoppages or other labour disputes, or any law, order, regulation, direction, action or request of any government or authority or instrumentality thereof, or delay in delivery of Equipment, to the extent such delay is beyond the reasonable control of Stratos or Customer and other delays incurred for reasons beyond Stratos' reasonable control, which, by the exercise of reasonable diligence, they are unable to prevent or avoid. Stratos' obligation to perform will be suspended for the duration of a period of Force Majeure and will resume as soon as reasonably possible, upon the cessation of the event of Force Majeure.

## 22. WAIVER OF COMPLIANCE

The waiver or the failure of Stratos to enforce any of the provisions of these Terms and Conditions or to exercise any right or privilege hereunder, will not be construed as a waiver of any subsequent breach or default of a similar nature, or as a waiver of any provisions, rights or privileges hereunder.

## 23. ENTIRE AGREEMENT

These Terms and Conditions constitute the entire agreement between Stratos and Customer relating to the subject matter hereof and supersede all prior agreements between the Parties with respect to such subject matter. Except as provided in these Terms and Condition, there are no other oral or implied agreements, warranties or understandings between Stratos and Customer with respect to such subject matter.



## **24. SEVERABILITY**

If any provision of these Terms and Conditions will be declared invalid, illegal or unenforceable by a court or regulatory agency of competent jurisdiction, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired thereby. In the event that any such provision will be declared invalid, illegal or unenforceable due to its scope, breadth or duration, then it will be modified to the scope, breadth or duration permitted by law and will continue to be fully enforceable as so modified.

## **25. SURVIVABILITY**

All provisions which would naturally survive the expiration or termination of these Terms and Conditions will so survive, including but not limited to the Articles entitled "Billing and Payment", "Sale of Equipment", "Use of Services and Equipment", "Default and Termination of Services", "Indemnity and Limitation of Liability", "Confidential Information/Privacy and Data Protection", and "Governing Law/ Rules and Regulations"

## **26. EFFECTIVE DATE**

The Terms and Conditions are effective as of 20 August 2007, and will remain in effect unless modified, revoked or terminated by Stratos. Notwithstanding the foregoing, these Terms and Conditions will continue to govern the provision by Stratos and use by Customer of the Services and/or Equipment, unless otherwise amended and agreed upon in writing by the parties.

