

## General Terms & Conditions of Service

*Effective February 22, 2023*

Thanks for choosing MobileX. Please read these General Terms & Conditions of Service (the “Terms”), our policies (including our privacy policy), and other information which may be found on our website or app, which describe your relationship with MobileX, including your agreement with us to use arbitration, instead of lawsuits, to resolve any disputes between us. The Terms constitute an agreement between you and MobileX and, by accessing or using MobileX Services, you agree to the Terms.

### Who We Are Talking About

When we say “we,” “us,” “our,” or “MobileX,” we mean Mobile X Global, Inc. (“MobileX”). When we say “you,” “your,” “customer,” and “user,” we mean a MobileX account holder or someone who uses our Devices or Services. “Device,” means any phone, tablet, mobile broadband device, or any other product or accessory we provide or sell, or that is active on your account with us. “Service(s)” mean(s) MobileX-branded offers, options, wireless services, payment services, applications, programs, products, software, or Devices on your account with us, as well as any other product or service we offer or provide to you that references these General Terms & Conditions of Service.

### Your Service Agreement with MobileX

These Terms are part of your service agreement (the “Agreement”) with us and are the contract under which we provide you Services under terms and conditions that you accept. Your Agreement with us includes (i) these Terms, (ii) our Terms of Use located on our website at <https://www.myMobileX.com/Terms-of-Use>, (iii) our Privacy Policy located at <https://www.myMobileX.com/privacy-policy>, (iv) the terms of purchases of services or pricing options that you choose as set forth in the information and materials we provide or refer you to during your sign-up process, (v) any confirmation materials and invoices that we may provide to you, and (vi) any other supplemental terms and conditions that we provide or otherwise make available to you. In the event of a conflict between these Terms and any other materials that make up the Agreement, these Terms shall govern to the extent necessary to resolve the conflict.

**Please read these Terms carefully.** They cover important information about our Services; your phone, handset, device, SIM card, embedded SIM (“eSIM”), or other equipment or third-party device used with our Service (“Device”); and any access and usage charges, taxes, fees, assessments, and other charges we bill you or that were accepted or processed through your Device (“Charges”). These Terms include terms regarding service plan changes, limitations of liability, privacy and resolution of disputes by arbitration instead of in court. THESE TERMS CONTAIN A MANDATORY ARBITRATION PROVISION WITH A CLASS WAIVER, A REPRESENTATIVE ACTION WAIVER, AND A JURY WAIVER PROVISION.

**Content of Your Service Agreement.** When you accept the Agreement, you are agreeing to our business policies, practices, and procedures (“Policies”), including our Privacy Policy. To read more, go here: <https://www.myMobileX.com/privacy-policy>. We may change our Policies at any time, so please check our Policies for updates.

**Accepting the Agreement.** You must have the legal capacity to accept the Agreement. By accepting the Agreement, you confirm your legal capacity to do so. You accept the Agreement when you:

- Agree in writing or by electronic signature or by telling us you accept by email, over the phone, online or in the app; or
- Activate, use, or attempt to use, the Services; or
- Pay for the Services; or
- Open any package from us or start any program that says you are accepting the Agreement by doing so.

If you don't want to accept the Agreement, don't do any of these things.

**How We Will Contact You; Getting in Touch with Us.** Except as the Agreement specifically provides otherwise, you must contact us by calling or writing us as instructed in the MobileX app or online at [hello@mymobilex.com](mailto:hello@mymobilex.com). We will contact you through one or more of the following: in communications regarding your payment, correspondence to your last known payment address, emails sent to any email address you've provided us, by calling you on your Device or any other phone number you've provided us, by voice message on your Device or any other phone number you've provided us, by SMS or text message on your Device, or through your MobileX app.

**Changes to the Agreement.** We may change prices or any other term of your Service or this Agreement at any time. If you use your Service after the change takes effect, you are accepting the change. If at any point certain rates or services are no longer supported or available, MobileX will notify you and give you notice of the change(s) to your rates or services. We will provide you notice of any material changes in a manner consistent with this Agreement. If you continue to access or use our Services or increase your account balance on or after the effective date of a change, you accept the change. Do not access or use our Services after the effective date of a change if you decide to reject the change and terminate Service. If you decide to terminate Service in response to a change to the Agreement, you will be entitled to a refund only for amounts you have already paid for any unused data; you won't receive a credit or refund for any other unused Services.

**Activating Service.** To activate Service, you must both activate your account and establish an appropriate account balance to pay for pay-per-use charges and applicable subscription charges. To establish an account balance, pay a subscription charge, or make any other appropriate payments, follow the instructions provided in the app or at [myMobileX.com](http://myMobileX.com).

**Suspension or Termination of Services.** We can, without notice, suspend or terminate any Service at any time for any reason. For example, we can suspend or terminate any Service for: (a) late payment; (b) interfering with our operations; (c) harassing/threatening/abusing/offending or being excessively impolite to our employees or agents; (d) using/suspicion of using Services in a way that violates or is inconsistent with the Agreement and Policies (including, without limitation, using excessive amounts of minutes or data as determined by MobileX in its sole discretion) or adversely affects any of our other customers, reputation, network, property, or Services; (e) breaching, failing to follow, or abusing the Agreement or Policies; (f) providing false, inaccurate, dated, or unverifiable information, including identification or credit information; (g) becoming insolvent or bankrupt; (h) modifying a Device from its manufacturer specifications (for example, rooting the Device); (i) failing to use our Services or maintain an active Device; (j) reselling or attempting to resell the Services or (k) if we believe the suspension or termination protects our interests, any customer's interests, or our network.

**Changing Your Services.** We want you to be happy with your MobileX Services. If you want to change your Services, you should go to the app or [myMobileX.com](http://myMobileX.com), and you can typically change Services immediately. Some changes may be conditioned on payment of certain charges. Some changes to Services may not be effective right away. We will not credit or refund any subscription or other charges as a result of a change in Services.

**How to Terminate Services.** If you want to cancel your Service with MobileX, you can terminate Services in the MobileX app or by calling us and requesting that we deactivate all Services, or by porting your number to another carrier. You are responsible for all charges incurred or paid for prior to deactivating your Service. If Services are terminated before the end of your invoicing cycle, we will issue you a refund for the amount you paid for any unused data, but we will not otherwise prorate charges to the date of termination and you won't receive a credit or refund for any other unused Services.

**How We Protect Your Privacy.** We care deeply about your privacy, and we want you to understand how we treat your data. As we provide telecommunications products and Services to you (the account holder) and as you use the Services, we develop information about the quantity, technical configuration, type, location, and destination of telecommunications products and Services you use, as well as some other

information associated with your payment, some of which is considered Customer Proprietary Network Information (“CPNI”) under federal law. Under federal law, you have the right, and we have a duty, to protect the confidentiality of your CPNI. Please take a moment to review our Privacy Policy, available at <https://www.myMobileX.com/Privacy-Policy>.

- **Keeping Your Account Secure.** Your PIN, passwords, and other account credentials are specific to you and are yours to protect. Anyone who has access to this information, has access to your account. You (the account holder) may be required to password-protect your account information by establishing a personal identification number (“PIN”). You may also be required to set a backup security question and answer for use in the event you forget your PIN. MobileX may treat anyone who presents your credentials as you or as an authorized user. We may disclose your account information or make changes to your Services based on a request by someone with your account credentials.
- **Information on Your Device.** Your Device contains sensitive, personal information. MobileX is not responsible for any information on your Device, including sensitive or personal information. We recommend that you safeguard any sensitive or personal information when your Device is out of your possession or control. In the event you submit your Device to us, you agree that our employees, contractors, or vendors may access all the information on your Device. If you exchange, return, or recycle your Device through us, we typically attempt to erase any data on your Device, but you must remove all data from your Device before you provide it to us.

**Use of Your Device, Number, and Email Address.** We don’t manufacture any Device that you use with our Services, including the Devices we provide. That means we aren’t responsible for any defects, acts, omissions, or other problems with your Device. Check with your manufacturer to determine whether there are any warranties on your Device. Device performance may vary based on Device specifications (for example, a Device’s software, memory, and storage), and Device performance may impact access to our Services. Except for any legal right you may have to port/transfer your phone number to another carrier, you have no—and cannot gain any (for example, through publication, use, etc.)—proprietary, ownership, or other rights to any phone number, identification number, email address, or other identifier we assign to you, your Device, or your account. We’ll notify you if we decide to change or reassign them. We do not guarantee that any port or transfer of your phone number will be successful. Your MobileX phone may have been programmed with restrictions that prevent another carrier’s SIM card from being inserted into your phone’s SIM slot for use on a different network. Please contact us at [xpertcare@mymobilex.com](mailto:xpertcare@mymobilex.com) if you need assistance unlocking your phone.

**Bringing Your Own Device.** MobileX allows you to bring a Device that you already own to be activated on the MobileX network. When you activate a Device that was designed to be used on a network other than the MobileX network, not all of your services may work, or they may not work correctly. Just as with any other device, if you bring your own Device to be activated on the MobileX network, MobileX is not responsible for your Device, including whether your Device works correctly.

**Apps You Download.** When you download or use certain applications, programs, Devices, and services, you may be required to accept terms specific to those items. Generally, the terms will come from the app developer, software licensor, etc., which may be MobileX or someone else. Any terms for third party apps are between you and the third party. Additional terms for bundled Services may either modify or replace certain provisions in these Terms, including terms relating to activation, invoicing, payment, and disputing charges. When you use these items, you are agreeing that they may access, collect, use, or disclose your personal information and that MobileX may disclose your information—including location information—to a third party.

**Where and How Your Device Will Work.** Your signal, and your specific network coverage, will depend on the radio transmissions your Device can pick up. Coverage isn’t available everywhere, is not guaranteed, and is subject to change without notice. Service speeds are not guaranteed, and depend on factors such as your Device, your location, structures, buildings, weather, geography, topography, server speeds of the websites you access, network problems, network or internet congestion, software, signal

strength, actions of third parties, etc. Services that rely on location information, such as E9-1-1 and GPS navigation, depend on your Device's ability to acquire satellite signals (typically not available indoors) and network coverage. While your Device is receiving a software update, you may be unable to use your Device in any manner, including to call 9-1-1, until the software update is complete.

**Using Data Services.** Our data Services and your Device may allow you to access the internet, email, text, take pictures and video, download and play games, video, music, graphics, sound, applications and other materials ("Content") or send Content elsewhere. We have no control over the Content you access on your Device. Content may be: (1) unsuitable for children/minors; (2) unreliable or inaccurate; or (3) offensive, indecent, or objectionable. You're solely responsible for evaluating the Content accessed by you or anyone through your Device or Services. We strongly recommend that you monitor data usage by children/minors under your supervision. Content from third parties may also harm your Device or its software. We are not responsible for any Content or any damage caused by any Content you access through your Services, load on your Device, or request that our representatives access or load on your Device. Content stored on a Device or transmitted over our network may be deleted, modified, or damaged. You may not be able to make or receive voice calls while using data Services. Content provided by our vendors or third parties may be cancelled or terminated at any time without notice to you, and you may not receive a refund for any unused portion of the Content.

**Prohibited Applications and Uses.** Our data services are designed for use with your MobileX Device for reasonable and non-continuous internet access such as web surfing and non-continuous downloading, streaming, gaming and other personal internet access services. You can't use our data Services: (1) with server devices or host computer applications or other systems that drive continuous, heavy traffic or data sessions or automatically consume unreasonable amounts of network capacity; (2) as a substitute or backup for private lines or frame relay connections; (3) for automated machine to machine connections or purposes that are designed for unattended use, or (4) for any other unintended use as we determine in our sole discretion. You may tether your MobileX Device to other lawful devices for use of your Device as a hotspot (for example, 4G or 5G Hotspots, wireless routers, Data Link, etc.). You also can't use our data services in a manner that is unlawful, infringes on intellectual property rights, or harms or unduly interferes with the use of MobileX's network or systems. Our data services may not be used to disrupt email use by others using automated or manual routines, including, but not limited to "auto-responders" or cancel bots or other similar routines; to transmit or facilitate any unsolicited or unauthorized advertising, telemarketing, promotional materials, "junk mail," unsolicited commercial or bulk email, or fax; or for activities adversely affecting the ability of other people or systems to use either MobileX's wireless services or other parties' internet-based resources, including, but not limited to, "denial of service" attacks against another network host or individual user. We may limit, suspend, constrain, or terminate your Service for use that violates these Terms or for any heavy, continuous data usage or usage that adversely impacts our network's performance, hinders access to our network, or that we determine is necessary to protect our network from harm or degradation.

MobileX data services are intended to be used for web surfing, sending and receiving email, photographs and other similar messaging activities, and the non-continuous streaming of videos, downloading or uploading of files or online gaming. You are not permitted to use your device or services in any way that may result in continuous call session connectivity, including the use of unlimited minute and unlimited data MobileX Service plans ("Unlimited Plans") for continuous voice calls. MobileX reserves the right to periodically review usage levels to ensure that you are not using our Services in violation of MobileX's acceptable use policy and, if such an abuse or violation is discovered, to terminate or adjust your pricing as MobileX deems appropriate in its sole and absolute discretion. In addition, to ensure the activities of some users do not impair the ability of our customers to have access to reliable services, MobileX prohibits use of our Services in a manner that is illegal, harms or unduly interferes with MobileX's network or systems, poses a security risk, or is otherwise prohibited by our Terms.

**Our Payment Relationship.** Now that you are a MobileX customer, we want you to understand how we do things, especially how we get your Service set up and what your payment will include.

- **Your Account Balance.** To keep your account active and avoid service interruption, you must maintain a positive account balance at all times. Account balances are not transferable, redeemable for cash, or refundable, except as specified in our Terms. Charges for Services (and applicable fees, surcharges and taxes) and any purchases of merchandise are deducted from your account balance unless paid for with a credit card or debit card account, as available. See the detailed plan or other information we provide or refer you to during the sales transaction (also available at [myMobileX.com](http://myMobileX.com)) for the account status rules that apply to your Service.
- **Establishing or Replenishing Your Account Balance.** Information on how you can establish and maintain an account balance will be provided at activation and is also available in the app, at [myMobileX.com](http://myMobileX.com) or through MobileX Xpert Care. A processing fee may apply to certain payment methods. Some service plans may provide for automatic account balance replenishment through, for example, automatic billing to a credit card or debit card or automatic debit from an eligible account with a financial institution. Payment through these methods may be subject to limitations, including, but not limited to, the number of times an account may be debited or charged in a particular time period, the amount that may be debited or charged from an account, or other limitations imposed by us or the financial institution that holds the account.
- **Failure to Maintain an Account Balance.** Your Service will be interrupted if you fail to maintain a positive account balance or timely pay applicable subscription charges for each effective period. When your Service is interrupted, you will have a specified period of time to make payment(s) on your account. If you do not make such payments within this time period, your account will be cancelled. If your account is cancelled, you may lose any phone number, identification number, or email address associated with your account.
- **Other Fees.** Certain transactions may be subject to a charge (for example, convenience payment, changing phone numbers, handset upgrades, etc.). We will tell you if any fees apply to your requested transaction.
- **Authorizing Other Users.** You are responsible for any changes to your Services made by a person you authorize, including adding or removing Services or features to your account, receiving notices and disclosures on your behalf, or purchasing Devices for use with our Services, all of which may result in additional charges, and are considered modifications to this Agreement.

### How We Calculate Your Charges

- **Voice Calls:** For charges based on the amount of time used, we round up partial minutes to the next full minute. You are charged for connected calls, including calls to voice mail. Calls begin when you push a button or graphic to initiate the call or when the call connects to the network and they end when you hang up or end the call, or the network connection breaks. Calls may be subject to maximum duration and automatically terminated if exceeded.
- **Data:** Data is measured in bytes and are rounded up to kilobytes (KB) at the end of or during a data session. Data usage may be presented on your invoice as kilobytes, megabytes, or gigabytes. You are charged for all data directed to your Device's internet address, including sessions that support your Device functions (including any applications you have downloaded on your Device), as well as data sessions you did not initiate. Data charges may be rounded to the next cent. Data estimates are not reliable predictors of actual data usage.
- **Additional Fees.** Depending on your Services, charges for additional services may include operator and directory assistance, voicemail, call forwarding, international calling, roaming, texts, and internet access.

- **Surcharges.** You agree to pay all surcharges that MobileX collects (“Surcharges”), including, but not limited to, a Federal Universal Service Charge (and, if applicable, a State Universal Service Charge) to recover charges imposed on us by the government to support universal service. Surcharges are Mobile X charges, not taxes or fees imposed on consumers by governments. We collect Surcharges from you because we are required to pay these amounts pursuant to various Federal, state and local government programs. We will provide detail about any Surcharges on your invoice, and we may change them at any time. Information on Surcharges is provided during the sales transaction and is available on our website or app.
- **Taxes.** You agree to pay all federal, state, and local taxes, fees, and other assessments that we collect and remit to the government. These charges are subject to change from time to time without advance notice. We will provide detail about any taxes on your invoice. Information on taxes is also provided during the sales transaction and is available on our website or app.

**Using Credit Cards.** We accept credit cards, and we may keep your credit card information on file. If you provide your credit or debit card information to us at any time, you authorize us to charge your cards until we collect any delinquent amounts you owe us. MobileX may obtain updated information from card networks, issuers or other third-party sources.

**Disputing Charges.** You agree to dispute within 30 days any charges on your invoice that you challenge, by contacting us as described in our communications about your payment. Please remember to pay all undisputed charges on or before your payment’s due date.

**Software License for The Software on Your Device.** MobileX grants you a non-exclusive and non-transferable license or sublicense to use software in accordance with the applicable software licensing terms. No rights are granted to source code. You cannot use any software on behalf of third parties or for time share or service bureau activities and cannot reverse engineer, decompile, modify, or enhance any software. MobileX may block or terminate your use of any software if you fail to comply with applicable licensing terms. MobileX may revoke this license at any time.

**Location-Enabled Services.** Our networks generally know the location of your Device when it is outdoors and/or turned on. By using various technologies to locate your Device, we can provide enhanced emergency 9-1-1 services and optional location-enabled services provided by us or a third party. Network coverage or environmental factors (such as structures, buildings, weather, geography, landscape, and topography) can significantly impact the ability to access your Device’s location information and the use of location-enabled services. You agree that any authorized user may access, use, or authorize MobileX or third-party location-enabled applications through the Services. You understand that your use of any location-enabled applications is subject to the application’s terms and policies, including its privacy policy. If you activate location-enabled services for Devices used by other authorized users, you agree to inform the authorized user(s) of the terms of use for location-enabled applications and that the Device may be located.

**Calling 9-1-1 Or Other Emergency Numbers On Your Device.** Public safety officials advise that when making 9-1-1 or other emergency calls, you should always be prepared to provide your location information. Depending on a number of factors (for example, whether your Device is GPS-enabled, where you are, whether local emergency service providers have upgraded their equipment, etc.), 9-1-1 operators may not know your phone number, your location, or the location of your Device. Sometimes, an emergency call may be routed to a state patrol dispatcher or alternative location set by local emergency service providers. Enhanced 9-1-1 service (“E9-1-1”)—where enabled by local emergency authorities—uses GPS technology to provide location information. Even when available, however, E9-1-1 does not always provide accurate location information. If your Device is indoors or for some other reason cannot acquire a satellite signal, you may not be located. Some Devices have a safety feature that prevents use of the keypad after dialing 9-1-1—you should follow voice prompts when interacting with emergency service providers employing interactive voice response systems to screen calls.

**If Your Device Is Lost Or Stolen.** Notify us immediately if your Device is lost or stolen because you may be responsible for usage charges before you notify us of the alleged loss or theft. You agree to cooperate if we choose to investigate the matter (provide facts, sworn statements, etc.).

**Warranty Disclaimer.** YOU USE THE SERVICES AT YOUR OWN RISK. THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITH ALL FAULTS, ERRORS, AND DEFECTS. UNLESS EXPRESSLY PROVIDED IN WRITING OTHERWISE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, OUR COMPANY AND ITS OFFICERS, EMPLOYEES, DIRECTORS, SHAREHOLDERS, PARENTS, SUBSIDIARIES, AFFILIATES, AGENTS, AND LICENSORS ("AFFILIATES") DISCLAIM ALL WARRANTIES, CONDITIONS, AND REPRESENTATIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING THOSE RELATED TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT AND THOSE ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE. WE DON'T PROMISE UNINTERRUPTED OR ERROR-FREE SERVICES AND DON'T AUTHORIZE ANYONE TO MAKE WARRANTIES ON OUR BEHALF.

IN PARTICULAR, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, OUR COMPANY AND ITS AFFILIATES MAKE NO REPRESENTATIONS OR WARRANTIES ABOUT THE ACCURACY OR COMPLETENESS OF CONTENT AVAILABLE ON OR THROUGH THE SERVICES, OR THE CONTENT OF ANY WEBSITES OR ONLINE SERVICES LINKED TO OR INTEGRATED WITH THE SERVICES. OUR COMPANY AND ITS AFFILIATES WILL HAVE NO LIABILITY FOR ANY: (A) ERRORS, MISTAKES, OR INACCURACIES OF CONTENT; (B) PERSONAL INJURY OR PROPERTY DAMAGE RESULTING FROM YOUR ACCESS TO OR USE OF THE SERVICES; (C) ANY UNAUTHORIZED ACCESS TO OR USE OF OUR SERVERS OR OF ANY PERSONAL INFORMATION OR USER DATA; (D) ANY INTERRUPTION OF TRANSMISSION TO OR FROM THE SERVICES; (E) ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE WHICH MAY BE TRANSMITTED ON OR THROUGH THE SERVICES BY ANY THIRD PARTY; OR (F) ANY LOSS OR DAMAGE OF ANY KIND INCURRED AS A RESULT OF THE USE OF ANY CONTENT POSTED OR SHARED THROUGH THE SERVICES.

YOU UNDERSTAND AND AGREE THAT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ANY MATERIAL OR INFORMATION DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICES IS DONE AT YOUR OWN RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE ARISING FROM DOING SO. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM US OR THROUGH THE SERVICES WILL CREATE ANY WARRANTY NOT EXPRESSLY MADE.

**MobileX is Not Responsible for Certain Problems.** You agree that neither we nor any third party involved in providing Services are responsible for any damages, delay, interruption or other failure to perform resulting from: (a) providing or failing to provide Services, including, but not limited to, deficiencies or problems with a Device or network coverage (for example, dropped, blocked, interrupted Services, etc.); (b) traffic or other accidents, or any health-related claims relating to our Services; (c) an interruption or failure in accessing or attempting to access emergency services from a Device, including through 9-1-1, Enhanced 9-1-1 or otherwise; (d) interrupted, failed, or inaccurate location information services; (e) information or communication that is blocked by a spam filter; (f) damage to your Device or any computer or equipment connected to your Device, or damage to or loss of any information stored on your Device, computer, or equipment, from your use of the Services or from viruses, worms, or downloads of malicious content, materials, data, text, images, video, or audio; or (g) things beyond our reasonable control, including acts of God (for example, weather-related phenomena, fire, earthquake, hurricane, etc.), riot, strike, war, terrorism, or government orders or acts.

**Limitation of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, OUR TOTAL CUMULATIVE LIABILITY TO YOU OR ANY THIRD PARTY UNDER THESE TERMS, FROM ALL CAUSES OF ACTION AND ALL THEORIES OF LIABILITY, WILL BE LIMITED TO AND WILL NOT EXCEED THE FEES YOU HAVE ACTUALLY PAID US DURING THE SIX (6) MONTHS PRECEDING THE CLAIM GIVING RISE TO SUCH LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY

APPLICABLE LAW, IN NO EVENT WILL WE BE LIABLE TO YOU OR TO ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES (INCLUDING FOR LOSS OF PROFITS, REVENUE, OR DATA) OR FOR THE COST OF OBTAINING SUBSTITUTE PRODUCTS OR SERVICES ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OR PROVIDING OR FAILING TO PROVIDE SERVICES IN CONNECTION WITH A DEVICE, HOWEVER CAUSED, WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED UPON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, AND WHETHER OR NOT WE'VE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. [Back to top](#)

## **DISPUTE RESOLUTION AND ARBITRATION**

PLEASE READ THIS CAREFULLY; IT AFFECTS YOUR RIGHTS

**Resolving Disputes.** We want you to be happy with your MobileX Services. If, for some reason, we cannot resolve your concern to your satisfaction through our Xpert Care, you and MobileX each agree to try to resolve those disputes in good faith after you provide written notice of the dispute as set forth below. If we cannot resolve the dispute, you and we agree that we will resolve any disputes between us (including any disputes between you and a third-party agent of ours) through binding and final arbitration instead of through court proceedings. You and we hereby waive any right to a jury trial of any Claim (defined below).

### **Mandatory Arbitration and Waiver of Class Action**

All controversies, claims, counterclaims, or other disputes between you and us or you and a third-party agent of ours (each a "**Claim**") shall be submitted for binding arbitration in accordance with the Rules of the American Arbitration Association ("**AAA Rules**"). The arbitration will be heard and determined by a single arbitrator. The arbitrator's decision in any such arbitration will be final and binding upon the parties and may be enforced in any court of competent jurisdiction. You and we agree that the arbitration proceedings will be kept confidential and that the existence of the proceeding and any element of it (including, without limitation, any pleadings, briefs or other documents submitted or exchanged and any testimony or other oral submissions and awards) will not be disclosed beyond the arbitration proceedings, except as may lawfully be required in judicial proceedings relating to the arbitration, by applicable disclosure rules and regulations of securities regulatory authorities or other governmental agencies, or as specifically permitted by state law. The Federal Arbitration Act and federal arbitration law apply to this agreement. However, the Arbitrator, and not any federal, state, or local court or agency, shall have the exclusive authority to resolve any dispute relating to the interpretation, applicability, enforceability, or formation of this Agreement including, but not limited to, a claim that all or any part of this Agreement is void or voidable.

If you demonstrate that the costs of arbitration will be prohibitive as compared to the costs of litigation, we will pay as much of the administrative costs and arbitrator's fees required for the arbitration as the arbitrator deems necessary to prevent the cost of the arbitration from being prohibitive. In the final award, the arbitrator may apportion the costs of arbitration and the compensation of the arbitrator among the parties in such amounts as the arbitrator deems appropriate.

This arbitration agreement does not preclude either party from seeking action by federal, state, or local government agencies. You and we also have the right to bring qualifying claims in small claims court. In addition, you and we retain the right to apply to any court of competent jurisdiction for provisional relief, including pre-arbitral attachments or preliminary injunctions, and any such request shall not be deemed incompatible with these Terms, nor a waiver of the right to have disputes submitted to arbitration as provided in these Terms.

Neither you nor we may act as a class representative or private attorney general, nor participate as a member of a class of claimants, with respect to any Claim. Claims may not be arbitrated on a class or representative basis. The arbitrator can decide only your and/or our individual Claims. The arbitrator may not consolidate or join the claims of other persons or parties who may be similarly situated. The

arbitrator may award in the arbitration the same damages or other relief available under applicable law, including injunctive and declaratory relief, as if the action were brought in court on an individual basis. Notwithstanding anything to the contrary in the foregoing or herein, the arbitrator may not issue a “public injunction” and any such “public injunction” may be awarded only by a federal or state court. If either party seeks a “public injunction,” all other claims and prayers for relief must be adjudicated in arbitration first and any prayer or claim for a “public injunction” in federal or state court stayed until the arbitration is completed, after which the federal or state court can adjudicate the party’s claim or prayer for “public injunctive relief.” In doing so, the federal or state court is bound under principles of claim or issue preclusion by the decision of the arbitrator.

If any provision of this Section is found to be invalid or unenforceable, then that specific provision shall be of no force and effect and shall be severed, but the remainder of this Section shall continue in full force and effect. No waiver of any provision of this Section of the Terms will be effective or enforceable unless recorded in a writing signed by the party waiving such a right or requirement. Such a waiver shall not waive or affect any other portion of these Terms. This Section of the Terms will survive the termination of your relationship with us.

**THIS SECTION LIMITS CERTAIN RIGHTS, INCLUDING THE RIGHT TO MAINTAIN A COURT ACTION, THE RIGHT TO A JURY TRIAL, THE RIGHT TO PARTICIPATE IN ANY FORM OF CLASS OR REPRESENTATIVE CLAIM, THE RIGHT TO ENGAGE IN DISCOVERY EXCEPT AS PROVIDED IN AAA RULES, AND THE RIGHT TO CERTAIN REMEDIES AND FORMS OF RELIEF. OTHER RIGHTS THAT YOU OR WE WOULD HAVE IN COURT ALSO MAY NOT BE AVAILABLE IN ARBITRATION.**

**If Someone Sues MobileX Based on Something You Actually Caused.** You agree to indemnify, defend, and hold MobileX and our subsidiaries, affiliates, parent companies, vendors, suppliers, and licensors harmless from any claims arising out of or relating to your actions, including, but not limited to, your use of the Service and any information you submit, post, transmit, or make available via the Service; failing to provide appropriate notices regarding location-enabled services; failure to safeguard your passwords or other account information; or violating this Agreement or any policy referenced in this Agreement, any applicable law or regulation, or the rights of any third party.

**Other Terms.** Subject to federal law or unless this Agreement specifically provides otherwise, this Agreement is governed solely by the laws of the state encompassing the payment address of the Device, without regard to the conflicts of law rules of that state that would result in the application of the laws of another jurisdiction. The failure by us to enforce any right or provision of this Agreement will not prevent us from enforcing such right or provision in the future. If any provision of this Agreement is found to be unlawful or unenforceable, then that provision will be deemed severable from this Agreement and will not affect the enforceability of any other provisions. This Agreement isn’t for the benefit of any third party except our corporate parents, affiliates, subsidiaries, agents, and predecessors and successors in interest. You can’t assign the Agreement or any of your rights or duties under it unless we agree to the assignment. We may assign our rights and obligations under this Agreement, including in connection with a merger, acquisition, sale of assets or equity, or by operation of law, without notice. You cannot in any manner resell the Services to another party. This Agreement and the documents it incorporates make up the entire agreement between us and replaces all prior written or spoken agreements—you can’t rely on any contradictory documents or statements by sales or service representatives. The rights, obligations, and commitments in this Agreement that, by their nature, would logically continue beyond the termination of Services (for example, those relating to payment, 9-1-1, dispute resolution, no class action, no jury trial) survive termination of Services.

## **CHANGES TO THIS AGREEMENT**

From time to time, we may change these Terms. If we change these Terms, we will give you notice by posting the revised Terms on the Site. Those changes will go into effect on the Revision Date shown in the revised Terms. By continuing to use the Site or Services, you are agreeing to the revised Terms.

**PLEASE CHECK THE APP FREQUENTLY FOR ANY CHANGES TO THESE TERMS.**