

TERMS AND CONDITIONS FOR PALM WEBOS SERVICES

1. (+) **Binding agreement; Modifications**

Please read these terms and conditions ("Terms") carefully as they create a binding agreement between Palm, Inc. ("Palm") and you regarding the Palm webOS services ("Services") you register for through this device ("Device"). By clicking "Accept" or registering for or using the Services, you consent to these Terms. If you do not agree to the Terms, and if you are the original purchaser, you may return this Device within the return period of the Palm store or the Palm authorized distributor where you purchased this Device for a refund subject to the applicable return policy, and you should click "Decline" and not register for or use the Services.

Palm reserves the right, at its sole discretion and at any time, to add, remove, or modify any Services. Back-up and restore, remote diagnostics, and any other Services offered under these Terms are each offered by Palm subject to your acceptance of these Terms and any other terms that may be incorporated by reference herein or otherwise presented to you prior to your use of the Services.

Palm reserves the right to modify these Terms at its sole discretion at any time. Any such modification will be effective upon Palm's sending notice to you by email, text message, or postal mail. Your continued use of the Services after such notice will constitute your binding acceptance of the Terms as revised.

Some Services may be subject to different or additional terms (including fees) presented to you through a separate click-through or other type of agreement or notice prior to your use of such Services.

You are not eligible to register for or use the Services if you are under 18 years of age or if you are a minor under applicable legislation in your country. If you are under 18 years of age or if you are otherwise considered a minor in your country, you must obtain the consent of a parent or legal guardian in order to register for or use the Services.

2. (+) **Requirements for use; Third party fees; Software updates**

The Services require wireless service, a data plan, and Internet access from a third party. You are solely responsible for obtaining such connectivity and any equipment necessary to access the Services, including but not limited to payment of third party fees associated with connectivity, roaming, text messages, e-mails, or other information sent through the Services. Because the Services are designed to support extensive data use, it is strongly recommended that you subscribe to an unlimited version data plan if available.

You agree that Palm may need to change or update the software on the Device ("**Software**"), and you agree that Palm may install or implement any such changes or updates through over-the-air Software updates or downloads provided to you via text messaging or other form of communication. All such Software changes and updates are subject to the Palm Software License Agreement provided with the Device, which is hereby incorporated by reference. The Services may also include certain communications from Palm, such as administrative messages and service announcements. If you do not have an unlimited version data plan, you may incur additional charges from your wireless service provider in connection with your use of the Services, including without limitation for any Software changes and updates.

3. (+) **Registration**

To register for and use the Services, you will need to supply your email address and password. You agree that you are responsible for maintaining the confidentiality and security of your password, account number, and all related information. Further, you agree that you are solely responsible for all activities that occur under or are associated with your password or account number. If you become aware of any breach of confidentiality or security associated with your password or account number, you agree to notify Palm immediately and take reasonable steps to prevent such use from continuing.

You agree to provide current, complete, and accurate information requested during the registration process and in the course of using the Services ("**Registration Data**"). You further agree to maintain and promptly update the Registration Data as applicable. Although providing current, complete, and accurate Registration Data is important for optimizing your use of the Services, failure to complete and submit product registration does not diminish any warranty rights that you may have for the Device.

4. (+) **Data, Information and Privacy**

The Services automatically send Palm various types of information, which may include the wireless phone number associated with your Device. To back up your Device information, the Services regularly send us your contacts, calendar, account credentials and settings, and preferences. During automatic remote diagnostics, your Device sends us its device ID and other related information to help us diagnose any Device issues and troubleshoot.

You agree that Palm and its subsidiaries, affiliates, suppliers, and agents (collectively, "**Affiliates**") may collect, store, access, disclose, transmit, process, and otherwise use your Registration Data, account or Device information, content, and technical data for Palm and its Affiliates to provide you with the Services, address your requests, provide technical support, process any transactions for your account, and otherwise in accordance with Palm's privacy policy, which is hereby incorporated by reference. Palm may also provide or enable certain Services through your Device that rely upon location information. In order to provide such Services, Palm and its Affiliates may collect, store, access, disclose, transmit, process, and otherwise use your location data (including real time geographic information) in accordance with Palm's privacy policy.

You also agree that Palm has the right, without liability to you, to disclose any information, including but not limited to your Registration Data and other information, to law enforcement authorities or government officials, to the extent Palm believes is reasonably necessary or appropriate.

5. (+) **Third party offerings**

The Services may also provide access to or links to separate third-party products or services, websites, mobile sites, or other resources ("**Third Party Offerings**"). Such Third Party Offerings are not part of the Services. If you access or use any

Third Party Offerings through the Services, any transactions you conduct with respect to such Third Party Offerings are subject to any agreements you enter into with such third parties. You agree that Palm is not responsible for the availability of such Third Party Offerings, and does not endorse and is not responsible or liable for any content, advertising, products, or other materials available from such Third Party Offerings. You further agree that Palm will not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such Third Party Offerings.

6. (+) **Feedback; Content**

By submitting any information or materials through the applicable Services website (the "**Website**") or otherwise, such as feedback, reviews, comments, suggestions, or the like to Palm related to your use of the Services, Device or Software (collectively, together with all related intellectual property rights, the "**Feedback**"), you agree that Palm may, in its sole discretion and at any time, use the Feedback you provide in any way, and you hereby grant Palm a perpetual, worldwide, fully transferable and sub-licensable, irrevocable, royalty-free license to make, use, sell, market, reproduce, create derivative works of, distribute, perform, and display the Feedback in any manner and for any purpose.

In connection with the Services and Website, you agree not to (a) post, publish or transmit any text, graphics, or material that: (i) is false or misleading; (ii) is defamatory; (iii) invades another's privacy; (iv) is obscene, pornographic, or offensive; (v) promotes bigotry, racism, hatred or harm against any individual or group; (vi) infringes on another's rights, including but not limited to any intellectual property rights; or (vii) violates, or encourages any conduct that would violate any applicable law or regulation or would give rise to civil liability; (b) access, tamper with, or use non-public areas of the Website, Palm's computer systems, or the technical delivery systems of the Services; (c) attempt to probe, scan, or test the vulnerability of any system or network or breach, or override or circumvent any security or authentication measures; (d) send unsolicited email, junk mail, "spam", or chain letters; (e) forge any TCP/IP packet header or any part of the header information in any email or posting, or in any way use the Website, Device, or Services to send altered, deceptive or false source-identifying information; (f) interfere with, or attempt to interfere with, the access of any user, host or network; or (g) impersonate or misrepresent your affiliation with any person or entity.

7. (+) **Suspension or termination of your account**

You agree that Palm, at its sole discretion and at any time, may immediately suspend or terminate your access to the Services with or without notice as Palm deems reasonably necessary or appropriate. Palm may, upon such termination, deactivate or delete your account and any related data, information and files, and bar any further access to such data, information and files.

You acknowledge that Palm has no obligation to monitor your access to or use of the Website or Services but has the right to do so to ensure your compliance with these Terms, or to comply with applicable law or the order or requirement of a court, administrative agency or other governmental body. Palm may involve and cooperate with law enforcement authorities in prosecuting users who violate these Terms.

8. (+) **Disclaimer of warranties**

You agree that, to the maximum extent permitted by applicable law, your use of the Services, Device and Software is at your own risk. Palm will have no responsibility for any harm to any Device or computer system, any loss of data, or any other harm that results from your access to or use of the Services, Device or Software. PALM DOES NOT GUARANTEE, REPRESENT, OR WARRANT THAT YOUR USE OF THE SERVICES, DEVICE OR SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE. PALM ASSUMES NO RESPONSIBILITY FOR THE DELETION OR NON-DELETION OF DATA, LOSS OF DATA, MIS-TRANSFER OR FAILURE TO TRANSFER DATA, USER COMMUNICATIONS, OR PERSONALIZATION SETTINGS IN CONNECTION WITH THE SERVICES, DEVICE OR SOFTWARE. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES AND SOFTWARE ARE PROVIDED "AS IS" AND "AS AVAILABLE" FOR YOUR USE WITHOUT WARRANTIES OR CONDITIONS, EITHER EXPRESS, IMPLIED OR STATUTORY. WITHOUT LIMITING THE FOREGOING, PALM EXPRESSLY DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, QUIET ENJOYMENT OR NON-INFRINGEMENT. IF YOU ARE DEALING AS A CONSUMER IN THE EUROPEAN ECONOMIC AREA OR SWITZERLAND, THIS SECTION DOES NOT AFFECT YOUR STATUTORY RIGHTS.

THE LAWS OF CERTAIN STATES AND JURISDICTIONS DO NOT ALLOW THE DISCLAIMER OF IMPLIED WARRANTIES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE DISCLAIMERS MAY NOT APPLY TO YOU, AND YOU MIGHT HAVE ADDITIONAL RIGHTS THAT VARY FROM STATE TO STATE OR JURISDICTION TO JURISDICTION.

The Device is subject to the Palm Limited Warranty provided with the Device, which is hereby incorporated by reference.

9. (+) **Limitation of liability**

IN NO EVENT WILL PALM BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS, DAMAGES ARISING FROM YOUR USE OF OR INABILITY TO USE THE SERVICES, DEVICE OR SOFTWARE, OR ANY FAILURE TO PROVIDE THE SERVICES OR SOFTWARE, EVEN IF PALM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, PALM'S LIABILITY TO YOU FOR ANY CAUSE WHATSOEVER AND REGARDLESS OF THE FORM OF THE ACTION, WILL AT ALL TIMES BE LIMITED TO THE AMOUNT PAID, IF ANY, BY YOU TO PALM FOR THE SERVICES OR USD 50 (\$50), WHICHEVER IS GREATER.

THE LAWS OF CERTAIN STATES AND JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL DAMAGES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE EXCLUSIONS AND LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MIGHT HAVE ADDITIONAL RIGHTS THAT VARY FROM STATE TO STATE OR JURISDICTION TO JURISDICTION.

10. (+) **Other important legal notices**

THESE TERMS WILL BE GOVERNED BY THE LAWS OF THE STATE OF CALIFORNIA, AND BY THE FEDERAL LAWS OF THE UNITED STATES OF AMERICA, EXCLUDING THEIR CONFLICT OF LAWS PROVISIONS. You consent to the exclusive jurisdiction and venue of the Superior Court of Santa Clara County for state claims and the Northern District of California for federal claims in all disputes arising out of or relating to the Services, Device or Software. The United Nations Convention on Contracts for the International Sale of Goods (1980) is hereby excluded in its entirety from application to this Agreement. If you are dealing as a consumer in the European Economic Area or Switzerland, these Terms will be governed by the laws of the country in which you purchased the Device. These Terms, including any other terms that may be incorporated by reference herein or otherwise presented to you prior to your use of the Services, constitute the entire agreement between you and Palm governing the subject matter hereof, superseding any prior agreements between you and Palm with respect thereto. If any part of these Terms is held invalid or unenforceable, that portion will be construed in a manner consistent with applicable law to reflect, as nearly as possible, the original intentions of the parties, and the remaining portions will remain in full force and effect. The failure to exercise or enforce any right or provision of these Terms will not constitute a waiver of such right or provision. You are responsible for compliance with applicable local laws. These Terms are personal to you, and you may not transfer, assign, or delegate these Terms to anyone without the express written permission of Palm. Any attempt by you to assign, transfer, or delegate these Terms without the express written permission of Palm will be null and void.

11. (+) **FOR CONSUMERS IN THE EUROPEAN ECONOMIC AREA OR SWITZERLAND**

You consent to the transfer of your information (including without limitation Registration Data) to the United States and other countries for processing by Palm and its Affiliates in accordance with Palm's Privacy Policy.

12. (+) **Contact information**

For any questions concerning these Terms, please contact us in writing at terms@palm.com or Palm, Inc., 950 W. Maude Ave., MS 14R10, Sunnyvale, CA 94085 or by telephone at (408) 617-7000.

Under California Civil Code Section 1789.3, California users are entitled to the following specific consumer rights notice: the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs may be contacted in writing at 1625 North Market Blvd., Sacramento, CA 95834, or by telephone at (916) 445-1254 or (800) 952-5210.

I have read and understand these Terms. By clicking "Accept" or using the Services, I consent to these Terms.

[Accept]

[Decline]