

## Hay Communications Terms and Conditions of Cellular Service

Thank you for selecting Hay Communications Co-operative Limited (HCCL) as your wireless service provider. The following terms and conditions of service (the "Terms of Service") are needed for legal reasons and are part of your service agreement (the "Agreement") that governs your relationship with HCCL. The Agreement is binding on you and HCCL for each Device and for the Services you receive from HCCL.

### Definitions:

#### Early Termination Fees (or ETF): may apply if:

- HCCL or you terminate the Services and/or this Agreement, before completing a Committed Service Period,
- you do not activate the Device within 45 days of its purchase date.

The ETF is the greater of (i) \$100.00 or (ii) \$20.00 per month remaining in the Committed Service Period on termination up to a maximum of \$400.00. Other Early Termination Fees may apply to special offers or promotions, and will be notified to you at or before the time you subscribe to the offer or promotion. The ETF is a genuine pre-estimate of damages HCCL will incur due to the early termination of the Services and not a penalty.

**Change Fee:** The fee that you may be liable to pay HCCL if you change your Services from the plan that you originally committed to at the time of activation of the Services. The Change Fee is set at \$50 and is a genuine pre-estimate of damages HCCL will incur due to the change and not a penalty.

**Committed Service Period:** (A) The period of 30 days, 12 months, 24 months, 36 months, or any other period offered by HCCL and selected by you during which you choose to commit to receive Service for a Device, starting on the date Service for that Device is activated; and (B) for a data feature or plan, the period of 12 months starting on the date the data plan or feature is activated.

Share plan contracts: Primary phone is subject to a renewed contract for the same length of additional handset contracts.

**Data Early Termination Fee (or DETF):** The fee you must pay HCCL if you activate a data feature or plan in addition to a voice plan and become entitled to additional promotions, discounts or rebates associated with the data feature or plan, and you cancel such data plan or feature before completing the relevant Committed Service Period. The DETF is \$99.00. and is a genuine pre-estimate of damages HCCL will incur due to the early termination of the data feature or plan and not a penalty.

**Devices:** Any wireless communication device, including a mobile phone, camera or video phone, data device, handheld computer or other communicator, and any replacements or upgrades of these, that are purchased from HCCL and connected to the Network Services.

**9-1-1 Service:** Any emergency services that HCCL are required to provide. A monthly fee of 50¢ will be charged to your account.

**Long Distance Charges:** The charges you must pay for establishing long distance connections with your Device, including charges for foreign taxes HCCL must pay in providing for long distance services provided to you.

**Roaming Charges:** The charges you must pay when the communication made with your Device is routed to another provider's network, including foreign taxes HCCL must pay in providing roaming services to you. This may apply only for a call originating in the United States.

**Service or Services:** The wireless voice, data and other services provided by or through HCCL, including monthly access, system access, local plans, airtime, data network access, data usage, 911 Services, 411 services, voicemail, call display, conference calling, other features, long distance and roaming services, text, picture, video or other multimedia messaging, content, downloads, applications, browser usage, Wi Fi hotspot usage, other usage, wireless payment and other transactions, number transfers, data support, client care, activation, programming, changes (such as account transfer or change to other rate plans), upgrades and administration (such as for NSF cheques and reinstatement after suspension and collection efforts) and re-connection.

**Term:** The period starting on the date Service is activated for a Device and ending on the termination of this Agreement.

### • Services.

Services are available in HCCL's and its roaming partners' coverage areas on compatible devices where technology permits. To maintain or improve the Services, or for other business reasons, HCCL and its roaming partners may make changes to the Services, network or other facilities (including changes in and replacement of technology). HCCL and its roaming partners may enlarge, reduce or change their coverage areas at their discretion, and HCCL may change or terminate its roaming partner relationships at its discretion, without notice. Neither HCCL nor its roaming partners will be liable for any changes in your ability to use the Services or the Device, including compatibility issues with any Device, as a result of such changes. If you roam in a roaming partner's coverage area you are also subject to the terms and conditions of the roaming partner including any limitation or exclusion of liability. When you request access to or downloads of content or applications, HCCL also provides you data transport services (for which additional data charges are payable at HCCL's then current standard rates) and roaming and long distance services (for which Roaming Charges and Long Distance charges are payable) as required to access the content or applications. HCCL may charge you for having a client care representative complete a transaction which can be completed over the telephone, online or through other automated means available to you. You will be advised in advance before you incur these client care charges.

### • Pricing.

HCCL will not increase your basic monthly voice plan charge or out-of-bundle airtime charge during any Committed Service Period, as long as you remain qualified to receive your chosen plan and Services throughout the Committed Service Period. If at any time you no longer qualify to receive a plan or the Services at the fees offered to you then HCCL may transfer you to a comparable Service and plan, at the appropriate fees and charges for which you then qualify, and you accept same. During the Term, HCCL may increase other fees and charge additional fees, after giving you 30 days advance notice. Any promotional and upgrade offers are offered at our discretion for limited periods of time.

### • Protection of Your Privacy.

HCCL will protect your personal information in accordance with the HCCL's Customer Privacy Policy. To view our full Policy and Code, please visit legal notices at [www.hay.net](http://www.hay.net).

### • Sharing of Information.

Your account information may be used by Hay Communications in order to service your account, respond to your questions and promote additional products and services offered by Hay Communications that may interest you. If you do not wish to receive additional offers or information from Hay Communications, please contact HCCL at the address set out below.

### • Credit Information.

You also consent to:

- HCCL collecting information about your credit history from your HCCL account, credit grantor or credit reporting agency and maintaining and using information about your credit history, to activate your Service and assist in collecting amounts owed by you, and disclosing your HCCL credit history to other credit grantors and credit reporting agencies, and
- If you are a client of another of the HCCL Companies, to receiving one bill for the Service and the services of the other HCCL Companies if and when such billing consolidation is available.

### • Your Telephone Number and Identifiers.

You do not own the telephone number or other identifiers (account number, PIN number, e-mail address, IP address, web page address, access code etc.) that are provided or assigned to you. HCCL reserves the right to change or remove identifiers at any time upon notice to you and will not be liable for any costs, damages or losses associated with this change.

### • Transferring Your Number to HCCL. (Available Soon)

If you request to transfer a phone number that is currently assigned to you from your existing service provider to HCCL, HCCL shall make the "transfer-in" request to your existing service provider on your behalf provided that you have the right to make the request. You represent and warrant that you have the right to make the request and you authorize HCCL to make the transfer-in request to the other service provider on your behalf and to share your name, telephone, number, address and other personal information relevant to the transfer request with the other service provider. You agree to complete and sign a request form if necessary. You cannot transfer the services of the other service provider, including any features, applications or content, IP address, or any device to HCCL. You are responsible to pay all amounts owing on your account with the other service provider, including early termination charges if applicable.

- **Transferring Your Number to Another Service Provider.**

Provided that your assigned account and phone number are active, then, in connection with the termination of Services with respect to a Device, HCCL shall forthwith process a "transfer-out" request for the wireless phone number assigned to you that is made on your behalf by, and received by HCCL from, your new chosen service provider. Any Early Termination Fee and/or Data Early Termination Fee applicable to the termination of the Services will apply. You shall pay the monthly charges applicable for the 30 days after the transfer is requested, in lieu of the 30 days advance notice required under Section 24 of these Terms of Service. You cannot transfer the Services, including any features, applications or content, IP address, or any Device to your new service provider. HCCL may be required to contact you in connection with a transfer-out request for the purposes of making any adjustments to your rate plan, account, invoicing or services that are required as a result of the transfer-out request or termination of the Services, and you consent to such contact.

HCCL is not responsible for any interruption, disruption or disconnection of services associated with the telephone number which is the subject of a transfer request.

- **Warranty & Return Policy.**

The performance, quality, or suitability of your Device and any accessories or other equipment provided to you in connection with the Service is subject to the manufacturers' warranties and the specifications of HCCL for the Device and such equipment. Your remedy for failure of a Device to meet any applicable warranty is specified in the manufacturer's warranty.

HCCL DOES NOT WARRANT OR GUARANTEE THAT THE DEVICE, EQUIPMENT OR SERVICES WILL OPERATE ERROR-FREE OR WITHOUT FAILURE OR INTERRUPTION. HCCL DOES NOT WARRANT OR GUARANTEE THE PRIVACY OR SECURITY OF ANY COMMUNICATIONS WHILE YOU ARE USING THE SERVICES, EQUIPMENT OR THE DEVICE. HCCL DISCLAIMS ANY OTHER REPRESENTATIONS, WARRANTIES AND CONDITIONS, EXPRESS, IMPLIED OR STATUTORY, EXCEPT TO THE EXTENT THAT THIS DISCLAIMER IS EXPRESSLY PROHIBITED BY ANY LAW TO WHICH HCCL IS SUBJECT.

- **Satisfaction Guarantee.**

If you are not completely satisfied with your Services, you may terminate by cancelling your Service and returning your Equipment within 15 days of its purchase date or 15 minutes of use of the handset, whichever occurs first, to the original point of purchase. A refund will be issued for equipment in "like new" condition with all components, manuals, and original packaging. You are responsible for the payment of the monthly package service charge, 911 emergency service fee, and for any airtime, long distance, data transfer, roaming and any other charges you have incurred.

- **Updates.**

To ensure continuity of the Services, the integrity of HCCL's network, for proper maintenance of your Device and the Services, or to comply with manufacturers' warranties, HCCL may update the software, features and settings on your Device. You agree to and shall permit HCCL to make such upgrades and changes as necessary without notice.

- **Credit and Spending Limit.**

HCCL may impose a credit and spending limit on your account at any time. The Services may be suspended at any time if your balance, including unbilled usage and pending charges and adjustments, exceeds this limit. Notwithstanding such limit or suspension, you are obligated to pay HCCL any amounts owing in excess of such limit. HCCL may also change your limit at any time. HCCL will give you advance notice if HCCL imposes or changes a credit and spending limit. If HCCL suspend the Services, you must pay down your account to an amount below your limit before HCCL will re-start the Services. HCCL may charge an administrative fee to re-start the Services. This credit and spending limit will be imposed, at HCCL's discretion, as an alternative to any required security deposit, but HCCL is not obligated to impose it.

- **Security Deposit.**

Should your credit rating or usage charges warrant, HCCL may require a refundable security deposit from you at any time during the Term. After 1 year of timely and consistent payments of your account in full, your security deposit may be applied to your account. **HCCL may set off against** the security deposit, if any, outstanding amounts, fees and charges owed by you to HCCL.

- **Payments – Post Paid Accounts**

You agree to pay all applicable fees, charges and taxes relating to the Services and the Device(s). If you are a Prepaid client please see "Prepaid Service" paragraph below. Charges will commence on the date of the initial activation of the Services or the Equipment, whichever is earlier (the "Activation Date"). Postpaid plan minutes do not rollover to the next month. Billing is done in one minute increments from connection of call to termination.

HCCL will bill you monthly. HCCL may, however, charge up to six months from the date the charge was incurred.

Your monthly charges will include your monthly fees applicable to your plan (including any data plan) (if you subscribe to a post-paid plan) and all applicable taxes, and your invoice will include charges and fees and applicable taxes for other Services provided to you at HCCL's then current standard rates (except as otherwise specified in your Agreement). Long Distance Charges and Roaming Charges may apply to use of the mobile browser and other data applications. When roaming off HCCL's facilities you will be responsible for all applicable charges and will be subject to the limitations or conditions of service for the service provider of such roaming services.

HCCL reserves the right to require immediate payment in full of amounts, whether billed or not, that are inconsistent with your normal usage pattern.

You are liable for all charges to your account. Charges to your account are due and payable in full on the 21<sup>st</sup> of each month. If you are paying by mail or through a financial institution, please allow adequate time for your payment to reach HCCL prior to the required date.

If a payment of an amount due is not received by the 21<sup>st</sup> of the month, it will be subject to a late payment charge of 1.25% from the date of the first invoice on which the delinquent amount appears until the date HCCL receives such amount in full. You agree that HCCL can charge any unpaid and outstanding amounts, including late payment charges, on your account to your credit card, bank account or any other payment method pre-authorized by you for payment of charges.

Administrative charges may be levied for administration or account processing activities in connection with your account, including as a result of the following:

- Collection efforts due to non payment or having a balance over your credit limit, including unbilled usage and pending charges, fees and adjustments;
- Return or rejected payments;
- Change of an identifier (example: telephone number change); and
- The restoral of service.

Any questions or discrepancies regarding charges must be reported within 90 days of the date of the bill. Failure to notify HCCL within this time period will constitute your acceptance of such charges.

Unless otherwise set out in the materials, if you agreed to subscribe to one of the plans or Services during the Committed Service Period, you may be subject to the Early Termination Fee for each service.

- **Payments - Prepaid Service.**

Prepaid clients are also subject to this Agreement, which shall be in effect on a month-to-month basis until your Services are terminated or your Device is deactivated due to inactivity as provided for below. You will not receive a monthly bill or any call or usage detail records. Billing is done in one minute increments from connection of call to termination.

Charges will be deducted from your prepaid account:

- immediately for usage and pay-per-use Services, and
- Every month for recurring features and services, such as the monthly 9-1-1 fee of 50¢

If your account remains at \$0 for 120 days or such other period, HCCL may notify you that your Services and Device will be deactivated. If you wish to reactivate, a re-activation fee may apply and you may be assigned a new phone number.

Features and Services may be cancelled or suspended if a negative account balance occurs. Certain prepaid features you subscribe to require a positive balance in your prepaid account to remain active.

If you use an automatic top-up program to top up your prepaid account, funds may take up to 48 hours to be deposited in your account. The top-up amount will include an amount to clear any negative balance.

- **Transferring Responsibility.**

You may not transfer your account or Services to anyone else without HCCL's prior consent. You must contact the office as set out below and a transfer service fee (change fee) may be charged. HCCL may transfer all or part of this Agreement including any rights in accounts receivable at any time without prior notice or consent.

- **Loss or Theft.**

It is your responsibility to notify HCCL immediately if your device is lost, stolen or destroyed. You are responsible for all fees and charges up to the extent of the remaining value of the airtime purchased and activated in relation to the lost or stolen Device. If you wish to maintain the phone number of your lost, stolen or destroyed Device, you must advise HCCL immediately.

- **Use of Service.**

You are responsible to safeguard your Device, and for the use of your Device and the Services by you and any other persons, except as provided under Section 17 above. You shall not use or allow others to use the Service or your Device if such use:

- is for, or results in, any illegal, abusive, annoying or offensive activities, including making available offensive content, the commission or encouragement of a criminal offence, stalking, harassment, spamming, disrupting or interfering with the Internet, any network, computers or other devices, transmission of a virus or other harmful component, defamation, intellectual property infringement, or interference with other clients' service;
- consumes excessive network capacity in HCCL's reasonable opinion, or causes our network, or our ability to provide services to others, to be adversely affected;
- is for multi-media streaming, voice over internet protocol or any other application which uses excessive network capacity that is not made available to you by HCCL;
- is to operate an email, web, news, chat or other service.

You shall not threaten, abuse or harass any HCCL employee or representative. You shall not commit, attempt to commit, or allow others to commit or attempt to commit, any fraud against HCCL including fraudulently obtaining Services or Devices, or transforming outbound communications into incoming communications or otherwise fraudulently avoiding applicable charges, and shall not otherwise abuse flat rate or unlimited use plans, or allow others to do so. You shall not resell, transfer, distribute, share or exploit for commercial purposes any Service or engage in or allow any alteration, copying, reproduction of or tampering with electronic serial numbers or other identification, signaling or transmission functions or components of your Device. In addition, you must follow all other service regulations issued or adopted by HCCL. HCCL may immediately suspend or terminate all or part of your Services and this Agreement if you breach any of these "Use of Service" provisions.

- **Indemnity.**

You are responsible for and will indemnify HCCL for all damages, losses, expenses and any action, claim or judgment which may be made against HCCL by anyone in connection with the use of your Device, the Service or your violation of this Agreement.

- **Licenses.**

You grant HCCL and our suppliers a world-wide, royalty-free, unrestricted license to use, copy, adapt, transmit, display and perform, distribute and create compilations and derivative works from, any and all user content you elect to post in connection with the Service, solely as required for HCCL to provide you the Service and no other purpose. You acknowledge that HCCL may store your user content on our or our suppliers' facilities for the purposes of you accessing such content, or others that you wish to have access such content, but that if such content is not accessed within a certain period of time (not less than 30 days from the last access unless HCCL tell you otherwise) or if your Services terminate, HCCL may delete such content without notice to you. If you upgrade or replace a Device, content including pictures, contacts, music, screensavers, games and ringtones may not be capable of being transferred to the other Device.

By enabling or activating any aspect of the Services, including applications, transactions, downloads, games or other content, you agree to abide by any written end-user license, warranty and other terms and conditions that are made available in connection with the use of such aspects of the Services.

- **Changes to this Agreement and the Service.**

At any time you may contact HCCL to change your rate plan and other Services. HCCL may charge you the Change Fee if you reduce, upgrade or otherwise change your Service from the plan and features for which you originally committed at the outset of the Committed Service Period. You agree that this Agreement and any fees, charges or other obligations and any features, options, or other aspects of the Services, may be modified, discontinued or terminated by HCCL except as otherwise specified in this Agreement. HCCL will notify you by providing 30 days advance notice of any change that affects you. Nothing in this Agreement shall be construed as obligating you to accept receipt of the Services after any change is made to this Agreement, the Services or otherwise; however, your sole remedy in the event of such a change shall be termination of the Services including the payment of any ETF or DETF that may apply, upon providing 30 days advance written notice. Should you continue to receive the Services after such change is effective, you expressly agree that no additional written agreement or express acknowledgement shall be required to accept such change and, unless otherwise prohibited by law, you specifically waive any and all statutory requirements for notice and express acceptance of such changes except for those provided in this paragraph. You agree that you cannot change this Agreement and that no oral or written statement or representation of any sales agent, representative or employee of HCCL made to you can change this Agreement.

- **Ending your Agreement and Services.**

You may contact HCCL at the numbers provided below to terminate all or part of the Services with respect to a Device, subject to the following:

- You may cancel a feature or option. You will be billed the remainder of any applicable monthly charge and any Early Termination Fees applicable to such feature or option in connection with any special offers or promotions.
- If you are a prepaid client, you may cancel your Services and this Agreement on 30 days advance notice. There is no ETF or DETF. Any balance remaining in your account on termination is non-refundable.
- If you are on a monthly post-paid plan, you may cancel your Services and this Agreement on 30 days advance notice. You must pay all applicable Early Termination Fees and Data Early Termination Fees.
- If you cancel a data feature or plan before the end of the applicable Committed Service Period, you must pay the DETF.
- HCCL may contact you to end your Agreement and the Services by providing you 30 days advance written notice, or at any time without notice if you do not pay any amount owing when due, including a required deposit, or you otherwise breach any term of this Agreement. You must pay all applicable Early Termination Fees and Data Early Termination Fees if HCCL ends your Agreement and the Services as a result of non-payment or other breach of the Agreement.

- Upon termination of the Services and this Agreement, you must pay in full all charges that are due including any ETF, DETF, late payment fees and any outstanding payments, fees and charges owing under this Agreement. This obligation survives termination of this Agreement. HCCL will provide a refund of the amount of any credits which remain outstanding (after netting out any amounts payable by you) upon the termination of this Agreement.
- You must contact HCCL to cancel any direct debit and credit card authorizations relating to your account.
- **LIMITS ON OUR LIABILITY.**  
EXCEPT FOR NON-COMPLIANCE WITH APPLICABLE WARRANTIES OR CONDITIONS (IN WHICH CASE OUR ENTIRE RESPONSIBILITY IS SET OUT IN SECTION 10 ("WARRANTY AND RETURN POLICY"), PHYSICAL INJURIES OR DEATH, DAMAGE TO PROPERTY CAUSED BY OUR GROSS NEGLIGENCE, OR OUR BREACH OF SECTION 4 ("PROTECTION OF YOUR PRIVACY"), HCCL IS NOT LIABLE TO YOU OR ANYONE USING YOUR DEVICE OR THE SERVICES OR ANY THIRD PARTIES INCLUDING FOR THE FOLLOWING:
- DEFECTS, FAILURES OR INTERRUPTIONS IN SERVICE, INCLUDING TRANSMISSION;
- ANY DAMAGES, LOSS OF PROFITS, LOSS OF PROPERTY, LOSS OF EARNINGS, LOSS OF BUSINESS OPPORTUNITIES, OR ANY OTHER LOSS, HOWEVER CAUSED, INCLUDING FROM USE OF THE SERVICES OR YOUR DEVICE;
- ANY CONTENT TRANSMITTED ON OR RECORDED BY OUR FACILITIES OR OUR SUPPLIER'S, INCLUDING CONTENT THAT MAY BE ILLEGAL, DANGEROUS, DEFAMATORY, OFFENSIVE OR ANNOYING OR WHICH MAY INFRINGE UPON OTHERS' INTELLECTUAL PROPERTY, PRIVACY OR OTHER RIGHTS, OR ANY CONTENT, APPLICATION OR SERVICES PROVIDED TO YOU BY A THIRD PARTY FOR USE WITH YOUR DEVICE OR THE SERVICES, EVEN IF HCCL BILLED YOU FOR SUCH CONTENT, APPLICATION OR SERVICES ON BEHALF OF SUCH THIRD PARTY;
- ANY VIOLATION BY YOU OF THE AGREEMENT, YOUR NEGLIGENCE, OR ACTS OR OMISSIONS IN CONNECTION WITH THE SERVICES, OR YOUR DEVICE; AND/ OR
- LOSS, THEFT, DAMAGE TO OR UNAUTHORIZED USE OF THE SERVICES, YOUR DEVICE, ANY EQUIPMENT, ANY HCCL PREPAID CARDS, VOUCHERS, COLLATERAL, ELECTRONIC RECEIPTS OR THE 2 DIGIT PERSONAL IDENTIFICATION NUMBER;

The following applies when HCCL provide 9-1-1 services.

- our liability is not limited by the limitations set out below in cases of our deliberate fault, gross negligence or anti-competitive conduct or in cases of breach of contract where the breach results from our gross negligence;.
- except in cases where our negligence results in physical injury, death or damage to your property or premises, our liability for negligence related to our provision of 9-1-1 services is limited to the greater of \$20 and three times the amount you would otherwise be entitled to receive as a refund for the provision of defective service under this agreement;
- in addition, in respect of our provision of 9-1-1 services, HCCL are not liable for:
  - libel, slander, defamation or the infringement of copyright arising from material or messages transmitted over our telecommunications network from your property or premises or recorded by your device or your or our equipment;
  - damages arising out of your acts, default, neglect or omission in the use or operation of the device or equipment HCCL have provided to you; and
  - any act, omission or negligence of other companies or telecommunications systems when facilities of such other companies or telecommunications systems are used in establishing connections to or from your facilities and device and equipment.

- **Notices.**

HCCL may use e-mail, text messages, telemarketing, phone, direct mail, voice mail or any other method which provides reasonable notice to you, to send you notices and changes under this Agreement and to inform you about products and services from HCCL and related HCCL companies that HCCL think will interest you. You agree to give HCCL prompt notice of any change of name, address, telephone number or other contact information. All client care issues should be addressed to the telephone numbers or address listed below. You must contact HCCL at the phone numbers provided below in order to terminate your Services or this Agreement.

- **General.**

HCCL is a federally-regulated undertaking and as such, this Agreement, including all matters relating to its validity, construction, performance and enforcement, shall be governed by applicable federal laws and regulations of Canada, and only those provincial laws and regulations applicable to it in the province in which the address you provided HCCL is located. These terms and conditions are subject to amendment, modification or termination if required by such laws or regulations. If any provision in this Agreement is declared to be invalid or in conflict with any such law or regulation, that provision may be deleted or modified, without affecting the validity of the other provisions. In the event and to the extent of any conflict or inconsistency among or between this Agreement and any other documentation made available to you in connection with the Services or your Device, the terms and conditions of this Agreement shall prevail. This Agreement does not grant any personal or real property rights in the Service. You agree that this Agreement shall be written in the English language. If you are a business, corporation or other entity, then you and the individual user of the Services and the Device shall be jointly responsible for all obligations in this Agreement, individually and together. You represent and warrant that you are of legal age to enter into an agreement of this kind.

## 27. TO CONTACT Hay Communications Cooperative Limited

By Telephone: 519-236-4333 or 1888-831-4333

In Person:  
72863 Blind Line,  
Zurich, ON  
(9:00 a.m. - 4:30 p.m.) EST

By Email:  
[hay@hay.net](mailto:hay@hay.net)

By Mail:  
P.O. Box 99  
Zurich, ON  
NOM 2T0