

Optimum Mobile Trade-In Program

Terms and Conditions

optimum.
mobile

asurion

ASURION TRADE-IN PROGRAM TERMS AND CONDITIONS

THIS TRADE-IN PROGRAM ("PROGRAM") IS GOVERNED BY THESE TERMS AND CONDITIONS. PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY SO YOU KNOW YOUR RIGHTS AND OBLIGATIONS IN THIS PROGRAM. BY TRADING IN YOUR DEVICE UNDER THIS PROGRAM, YOU ACCEPT THESE TERMS AND CONDITIONS. THESE TERMS AND CONDITIONS MAY BE AMENDED AT ANY TIME EFFECTIVE WHEN THE NEW TERMS AND CONDITIONS ARE POSTED ON OUR WEBSITE.

- 1. PROGRAM DESCRIPTION.** Under this Program, We may ask if You would like to sell Your Device to Us. If You accept Our Offer Price for Your Device and meet all other conditions for this Program, We will Credit You that amount. You are not obligated to trade in Your Device or to accept Our offer.
- 2. DEFINITIONS.**
 - A. Credit – An amount equal to the Offer Price or Revalued Offer Price that will be earned and applied as a credit towards Your Wireless Provider account balance in 36 monthly installments starting within 2 billing cycles, **provided that the earning and application of those credits for each month is conditioned on you maintaining service in good standing during each such month.** The Credit may include any Promotional Credit paid by Optimum Mobile in addition to the Offer Price or Revalued Offer Price.
 - B. Device – Your electronic device that You would like Us to purchase under these Program T&Cs.
 - C. Eligibility Requirements – The conditions that a Device must satisfy for You to receive Credit.
 - D. Offer Price – for online trade-in transactions the estimated amount or range of amounts We are willing to provide You for Your Device which is subject to change upon physical inspection at Asurion's sole discretion; for trade-in transactions at the retail locations the final amount We are willing to provide You for Your Device after physical inspection at Our sole discretion
 - E. Revalued Offer Price – for online trade-in transactions the amount We are willing to provide You for Your Device after physical inspection which is lower or higher than the Offer Price.
 - F. Offer Price Expiration Date – 21 days after You first receive Your Offer Price from Us for online trade-in transactions.
 - G. Program T&Cs – These Terms & Conditions of this Program.
 - H. Promotional Credit – Any credit provided to You above and beyond the Offer Price or Revalued Offer Price that will be earned and applied as a credit towards Your Wireless Provider account balance in 36 monthly installments within 2 billing cycles, **provided that the earning and application of those credits for each month is conditioned on you maintaining service in good standing during each such month.**
 - I. We, Us, Our – Wireless Customer Solutions, Inc., and its authorized retailers, affiliates, directors, officers, agents, employees, contractors, subcontractors, or representatives.
 - J. Wireless Provider – Optimum Mobile.
 - K. You, Your, Customer – You as the individual who agrees to these Terms & Conditions.
- 3. PRIVACY.** By trading in Your Device under this Program, You consent to the collection, use and disclosure of Your information as set forth in Our Privacy Policy, which is available at <https://www.asurion.com/privacy-notice/> ("Privacy Policy"). The Privacy Policy explains Our collection, use and disclosure of information related to or derived from Your use of this Program. Please read the Privacy Policy carefully and completely. The Privacy Policy is incorporated by reference into this Agreement. Because We cannot guarantee the security of Your personal information, You acknowledge and agree that You provide it to Us at Your own risk. If You know or suspect that the passwords associated with or stored on Your Device have been available to or accessed by anyone as a result of Your participation in this Program, You should immediately change or reset those passwords.
- 4. ELIGIBILITY.** You must be a new or current Wireless Provider subscriber with service in good standing to be eligible for this Program.
- 5. LIMITATIONS.**
 - A. We will only accept Devices surrendered in person at an eligible retail location in the United States or shipped from physical addresses in the United States. We may not be able to accept or return Devices received from outside the United States.
 - B. You may only trade in one Device for each new line of service or existing line of service for which You are purchasing a new device.
 - C. Devices upon which an IMEI cannot be readily found are not eligible as trade in Devices.
 - D. Devices that are contaminated or suspected of contamination by biological agents, chemicals, or other substances not integral to new equipment or that are not associated with normal household or office environments are not eligible for the Trade-in Program unless first decontaminated subject to Asurion discretion.
- 6. REQUIREMENTS.** Your Device must meet this Program's Eligibility Requirements to receive an Offer Price. We determine this based on Your responses to the eligibility questions. If You choose to sell Your Device to Us, a representative will record Your responses to the eligibility questions during your call or at the retail location. You may also provide answers online without a representative involved.

7. TASKS BEFORE SURRENDERING YOUR DEVICE.

- A. You are solely responsible for making sure all data and personal information is removed from Your Device before You surrender or ship it to Us. You should remove SIM and memory cards, passwords, email data, contacts, pictures, calendars, and any other data or personal information on Your Device.
- B. You must also make sure that any services related to Your Device are deactivated. You are responsible for any charges Your Device incurs until such services are deactivated, even if You have already surrendered Your Device.
- C. You must remove all locks and passwords to Your Device. These include any codes that may prevent the refurbishment or sale of Your Device. Failure to remove all locks and passwords may result in Your Device being ineligible or revalued as described in Section 11 below.

8. SURRENDERING YOUR DEVICE.

For trade-in transactions at a retail location: if You satisfy eligibility requirements, accept Our Offer Price and surrender Your Device at a retail location, you will be credited in an amount equal to the Offer Price.

For online trade-in transactions, If You accept Our Offer Price, We will evaluate Your Device upon receipt to ensure You satisfy all Eligibility Requirements and that Your Device matches Your description. Please note that Your Offer Price is only an estimate and is subject to this evaluation and Our discretion. If We do not contact you with a Revalued Offer Price as described in Section 11 below and you meet all other Eligibility Requirements in Our discretion, You will receive Credit for Your Device. **We are not responsible for lost, damaged, or stolen Devices prior to arrival, including damage, theft, or loss during shipping.**

9. BY SURRENDERING YOUR DEVICE:

- A. **YOU AGREE THAT WE NOW OWN YOUR DEVICE;**
- B. **YOU AGREE TO THESE PROGRAM T&Cs; AND**
- C. **WE ARE NOT OBLIGATED TO RETURN YOUR DEVICE FOR ANY REASON (EXCEPT AS EXPLAINED IN SECTION 11 BELOW).**

10. SHIPPING YOUR DEVICE. For online trade-in transactions, after completing the initial required steps, We will provide instructions on how to ship Your Device to Us. You should properly package Your Device to avoid damage during shipping.

11. REVALUING YOUR DEVICE. For online trade-in transactions, if You accept Our Offer Price You must ship Your Device and We must receive Your Device by the Offer Price Expiration Date. If We do not receive Your Device by the Offer Price Expiration Date, or if the model, capacity, carrier or condition of Your Device received is different than You indicated online, at a retail location or by phone, We will revalue Your Device and Offer Price ("Revalued Offer Price"). If Your Device is revalued to a lower amount, You will be contacted by Us and informed of the Revalued Offer Price. You will have 14 days to cancel the transaction and request that Your Device be returned. If You do not respond within 14 days of when We first contact You, You will be deemed to have accepted the Revalued Offer Price and Your Device will be processed for trade-in at the Revalued Offer Price.

12. REPRESENTATIONS & WARRANTIES. You represent and warrant that:

- A. You are at least 18 years old;
- B. You are the sole and rightful owner of Your Device;
- C. You have the full power and authority to trade in Your Device and agree to these Program T&Cs;
- D. Your Device is not counterfeit, stolen, or involved in any kind of crime or fraud;
- E. You have truthfully, accurately, and completely answered all eligibility questions related to this Program; and
- F. Your agreement to trade in Your Device and to these Program T&Cs does not violate any law, statute, or regulation nor infringe on any third party's proprietary rights, including, but not limited to, copyrights, trademarks, patents, and domain names.
- G. **DISCLAIMER OF WARRANTIES.** THE FOLLOWING DISCLAIMER SHALL APPLY TO YOU TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. YOU ACKNOWLEDGE AND AGREE THAT THE SERVICES ARE PROVIDED ON AN "AS-IS" AND "AS AVAILABLE" BASIS, AND THAT YOUR USE OF OR RELIANCE ON EITHER IS AT YOUR SOLE RISK AND DISCRETION. WE HEREBY DISCLAIM ANY AND ALL REPRESENTATIONS, WARRANTIES AND GUARANTIES REGARDING THE SERVICES, WHETHER EXPRESS, IMPLIED OR STATUTORY, AND INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. FURTHERMORE, WE MAKE NO WARRANTY THAT (A) THE SERVICES WILL MEET YOUR REQUIREMENTS; (B) THE SERVICES WILL BE AVAILABLE, TIMELY, CURRENT, ACCURATE, RELIABLE, COMPLETE, SECURE OR ERROR-FREE; (C) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION OR OTHER MATERIAL ACCESSED OR OBTAINED BY YOU THROUGH THE SERVICES WILL BE AS REPRESENTED OR MEET YOUR EXPECTATIONS; OR (D) ANY ERRORS IN THE SERVICES WILL BE CORRECTED. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM US OR THE SERVICES SHALL CREATE ANY REPRESENTATION, WARRANTY OR GUARANTY. FURTHERMORE, YOU ACKNOWLEDGE AND AGREE THAT WE HAVE NO OBLIGATION TO SUPPORT OR MAINTAIN THE SERVICES. YOU ACKNOWLEDGE AND AGREE THAT WE MIGHT NOT BE ABLE TO OFFER THE SERVICES AT ALL, IN THE ABSENCE OF THE FOREGOING DISCLAIMERS AND LIMITATIONS. IN THE EVENT OF ANY FAILURE OF THE SERVICES TO CONFORM TO ANY APPLICABLE WARRANTY, YOU MAY NOTIFY US, AND WE WILL, AS

YOUR SOLE AND EXCLUSIVE REMEDY, USE COMMERCIALY REASONABLE EFFORTS TO SATISFY THE WARRANTY. WE WILL HAVE NO OTHER WARRANTY OBLIGATION WHATSOEVER WITH RESPECT TO THE SERVICES, AND ANY OTHER CLAIMS, LOSSES, LIABILITIES, DAMAGES, COSTS OR EXPENSES ATTRIBUTABLE TO ANY FAILURE TO CONFORM TO ANY WARRANTY WILL BE YOUR SOLE RESPONSIBILITY.

- 13. COMPLIANCE WITH LAW.** You agree that We have the right to take steps We reasonably believe are necessary to enforce or verify compliance with these Program T&Cs or federal, state, or local laws, regulations, and ordinances, including, but not limited to, disclosing any information about You or Your Device to law enforcement, government officials, or a third party without liability or notice to You.
- 14. LIMITATION OF LIABILITY.** THE FOLLOWING LIMITATIONS SHALL APPLY TO YOU TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. UNDER NO CIRCUMSTANCES SHALL WE BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES ARISING OUT OF, FROM, OR RELATED TO THIS PROGRAM, WHETHER OR NOT THE DAMAGES WERE FORESEEABLE AND WHETHER OR NOT WE WERE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES INCLUDING, WITHOUT LIMITATION, DAMAGES CAUSED BY THIRD-PARTIES, DAMAGES FOR LOSS OF PROFITS OR REVENUES, LOSS, MISUSE OR DISCLOSURE OF DATA OR CONFIDENTIAL INFORMATION, BUSINESS INTERRUPTION, LOSS OF PRIVACY, CORRUPTION OR LOSS OF DATA, FAILURE TO RECEIVE OR BACKUP YOUR DATA (OR ARCHIVED DATA) OR ANY OTHER PECUNIARY LOSS WHATSOEVER ARISING OUT OF OR IN ANY WAY RELATED TO THIS PROGRAM. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, OUR AGGREGATE LIABILITY TO YOU (WHETHER BASED IN CONTRACT, NEGLIGENCE, STRICT LIABILITY, STATUTE, OR OTHER THEORY OF LIABILITY) SHALL NOT EXCEED \$100. THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.
- 15. INDEMNIFICATION.** You agree to indemnify, defend, and hold Us harmless from any claim, proceeding, loss, damage, liability or expense of any kind arising out of or in connection with the following: (a) Your use or misuse of this Program; (b) Your alleged or actual breach of these Program T&Cs; (c) Your alleged or actual violation of any applicable rule, law or regulation; (d) Your negligence or willful misconduct; or (e) Your alleged or actual violation of the intellectual property or other rights of Us or third parties. We reserve the right, at Your expense, to assume the exclusive defense and control of any matter which You are required to indemnify, and You agree to cooperate in that defense.
- 16. CLAIM LIMITATION.** Unless otherwise allowed by applicable law, any claim related to this Program must be brought within one year of the events giving rise to the claim. Failure to assert any such claim during that one-year period results in the claim being forever waived and barred.
- 17. ARBITRATION AGREEMENT.** Most of Your concerns about the Services can be addressed by contacting Us at termsofuse@asurion.com. For any dispute with Us, You agree to first contact Us and attempt to resolve the dispute informally.
- A. **YOU AND WE AGREE TO RESOLVE ANY DISPUTES THROUGH BINDING ARBITRATION OR SMALL CLAIMS COURT INSTEAD OF THROUGH COURTS OF GENERAL JURISDICTION. YOU AND WE AGREE THAT ANY ARBITRATION WILL TAKE PLACE ON AN INDIVIDUAL BASIS ONLY. YOU AND WE AGREE TO WAIVE ALL RIGHTS TO A JURY TRIAL OR TO PARTICIPATE IN CLASS ACTIONS OR OTHER REPRESENTATIVE PROCEEDINGS.** This Arbitration Agreement ("ARB") shall survive the termination of these Program T&Cs and is governed by the Federal Arbitration Act. This ARB shall be interpreted broadly, and it includes any dispute You have with Us that arises out of or relates in any way to Your relationship with Us or this Program, whether based in contract, tort, statute, fraud, misrepresentation or otherwise. However, this ARB does not preclude You from bringing an individual action against Us in small claims court or from informing any federal, state or local agencies of Your dispute. Such agencies may be able to seek relief on Your behalf.
- B. To initiate arbitration, send a written Notice of Claim by certified mail to: Legal Department, P.O. Box 110656, Nashville, TN 37122-0656. The Notice must describe the dispute and the relief sought. If We do not resolve the dispute within 60 days of receipt of the Notice, You may start an arbitration with the American Arbitration Association ("AAA"). You may contact the AAA and obtain a free copy of the rules and forms necessary to start an arbitration proceeding at www.adr.org or 1-800-778-7879. We will reimburse You for a filing fee paid to the AAA, and if You are unable to pay a filing fee, We will pay it if You send a written request by certified mail to the Legal Department.
- C. The arbitration shall be administered by the AAA in accordance with the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes ("Rules") in effect at the time the arbitration is started and as modified by this ARB. The arbitrator is bound by the terms of this ARB and shall decide all issues, with the exception that issues relating to the enforceability of this ARB may be decided by a court. If Your dispute is for \$10,000 or less, You may conduct the arbitration by submitting documents to the arbitrator or by telephone. If Your dispute is for more than \$10,000, Your right to hearings will be determined by the Rules. Unless otherwise agreed, any hearings will take place in the county/parish of Your mailing address. We will pay all filing, administration and arbitrator fees for any arbitration, unless Your dispute is found by the arbitrator to have been frivolous or brought for an improper purpose under Federal Rule of Civil Procedure 11(b). In that case, the Rules govern payment of such fees.
- D. The arbitrator shall issue a decision including the facts and law upon which his/her decision is based. If the arbitrator finds in Your favor and issues a damages award that is greater than the value of the last settlement offer made by Us, or if We made no settlement offer, and the arbitrator awards You any damages, We will: (1) pay You the amount of the award or \$2,500, whichever is greater; and (2) pay Your attorney, if any, the attorney's fees and expenses reasonably incurred in the arbitration. While the right to the attorney's fees and expenses discussed above is in addition to any right You may have under applicable law, neither You nor Your attorney may recover duplicate awards of attorney's fees and expenses. We hereby waive any right We may have under applicable law to recover attorney's fees and expenses from You if We prevail in the arbitration.
- E. If You seek declaratory or injunctive relief, that relief can be awarded only to the extent necessary to provide You relief. **YOU AND WE AGREE THAT EACH PARTY MAY BRING CLAIMS AGAINST EACH OTHER ONLY IN AN INDIVIDUAL CAPACITY AND NOT IN A PURPORTED**

CLASS ACTION, CLASS ARBITRATION, OR OTHER REPRESENTATIVE PROCEEDING. Unless You and We agree otherwise, the arbitrator may not consolidate Your dispute with the dispute of any other person and may not preside over any form of representative or class proceeding. If this specific provision of this ARB is found to be unenforceable, then the entirety of this ARB is null and void.

18. CLASS ACTION WAIVER. Any Claim arising out of or post cancellation or termination of this Program T&Cs must be brought in the parties' individual capacity, and not as a plaintiff or class member in any purported class, class arbitration, collective, representative, multiple plaintiff, or similar basis ("Class Action"), and the parties expressly waive any ability to maintain any Class Action in any forum whatsoever. The arbitrator shall not have authority to combine or aggregate similar claims or conduct any Class Action. Nor shall the arbitrator have authority to make an award to any person or entity not a party to the arbitration. Any claim that all or part of this Class Action Waiver is unenforceable, unconscionable, void, or voidable may be determined only in a court of competent jurisdiction and not by an arbitrator. The parties agree that this Section shall expressly survive cancellation or termination of the Program T&Cs. **THE PARTIES UNDERSTAND THAT THEY WOULD HAVE HAD A RIGHT TO LITIGATE THROUGH A COURT AND TO HAVE A JUDGE OR JURY DECIDE THEIR CASE AND TO BE PARTY TO A CLASS OR REPRESENTATIVE ACTION, HOWEVER, THEY UNDERSTAND AND CHOOSE TO HAVE ANY CLAIMS DECIDED INDIVIDUALLY, THROUGH ARBITRATION.** If this specific provision of this ARB is found to be unenforceable, then the entirety of this ARB is null and void.

19. ENTIRE AGREEMENT & GOVERNING LAW. These Program T&Cs and any rights or licenses granted hereunder may not be transferred or assigned by You, but may be transferred or assigned by Us, without restriction. Any attempted transfer or assignment in violation of this provision is null and void. These Program T&Cs and the documents incorporated by reference are the entire agreement regarding this Program and supersede any prior or contemporaneous agreements. These Program T&Cs and Your relationship with Us shall be governed by and construed under the laws of the United States of America and the State of Tennessee, without regard to conflicts of law provisions. Application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded. These Program T&Cs may be amended at any time effective when the new Program T&Cs are posted on Our website.

20. NOTICE. All notices or requests related to these Program T&Cs will be in writing and sent by email, text messages, facsimile, or mail to the addresses You provided. Notices will be deemed received when sent.

21. COMMUNICATIONS. You agree to receive electronic communications, including emails, voice calls, and text messages, from Us related to this Program ("Core Communications"). You cannot opt out of receiving those Core Communications unless permitted by applicable law. You also agree to receive electronic communications from Us related to Your Device and the features available thereon, as well as Your use of that device ("Non-Core Communications"), and You can opt out of receiving those Non-Core Communications by following the "unsubscribe" instructions included in them. You agree that You are solely responsible for any charges or fees associated with Core and Non-Core Communications unless prohibited by applicable law. Standard text messaging and telephone charges applied by Your cell phone carrier may apply. We may monitor or record interactions, with Your express permission, for Our business purposes, such as quality assurance, training, and to protect Our rights and the rights of others.

22. PERFORMANCE. The failure of any party to require performance by another party of any part of these Program T&Cs will not affect the right of any party to require full performance at any time thereafter.

23. SEVERABILITY AND WAIVER. If any provision of these Program T&Cs is found to be invalid or unenforceable, that provision should be modified to the extent possible to make it valid or enforceable without losing its intent and purpose. If no such modification is possible, the provision should be severed from these Program T&Cs. Any failure to enforce a right or provision of these Program T&Cs shall not be deemed a waiver of that right or provision.

24. APPLICABILITY. These Program T&Cs may supplement other terms and conditions, including offers or service agreements You may have with Us (collectively "Our Agreements"). If these Program T&Cs conflict with the terms and conditions of any other of Our Agreements, those terms and conditions, not these Program T&Cs, will apply.

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