

## DISH PROTECT PLATINUM TECH ADVISOR TERMS OF SERVICE

DISH PROTECT PLATINUM TECH ADVISOR (THE “SERVICES”) ALLOWS YOU AND THE MEMBERS OF YOUR HOUSEHOLD WHO ARE DISH CUSTOMERS TO ACCESS TECHNICAL SUPPORT SERVICES FOR ALL THE DEVICES IN YOUR IMMEDIATE HOUSEHOLD THAT CAN CONNECT TO YOUR WIRELESS NETWORK. THE SERVICES ARE PROVIDED TO YOU SOLELY BY ASURION. YOUR ACCESS TO AND USE OF THE SERVICES IS SUBJECT TO THE FOLLOWING DISH PROTECT PLATINUM TECH ADVISOR TERMS OF SERVICE (“TOS”), INCLUDING ITS MANDATORY ARBITRATION AND CLASS ACTION WAIVER PROVISIONS AND ITS LIMITATION OF LIABILITY PROVISIONS. THE TOS IS A LEGAL CONTRACT BETWEEN YOU AND ASURION, AND YOU SHOULD READ THE TOS CAREFULLY AND COMPLETELY BEFORE ACCESSING OR USING THE SERVICES. IF YOU DO NOT AGREE WITH ANY OF THE PROVISIONS OF THE TOS, DO NOT ACCESS OR USE THE SERVICES.

**1. Definitions.** In the TOS: (a) “Asurion,” “We,” “Us” and “Our” mean Asurion Services Warranty, Inc. and its parents, subsidiaries, branches, affiliates, agents, contractors, employees, successors and assigns; (b) “You” and “Your” mean an individual who accesses or uses the Services, as well as any person or entity represented by that individual; and (c) “Supported Devices” means all the devices within Your immediate household that can connect to Your wireless network, with the exception of the equipment provided and supported by DISH and other limitations to the Services set forth in Section 3 below.

**2. Availability of Services.** The Services are available only for Your Supported Devices. To use the Services, a member of Your immediate household must be a DISH customer, You must pay any fees or charges associated with the Services, and You must provide information identifying a member of Your household as a DISH customer to Us when seeking service. You may be able to access the Services via telephone at 877-841-4183 or via the DISH Protect Tech Advisor mobile application’s “Click-to-Call” and “Click-to-Chat” features.

**3. Scope of the Services.** The Services only include (a) technical support for the use of Supported Devices and the operating systems and software applications either thereon or intended to be used thereon; and (b) technical support for the use of the Supported Devices with other devices and services manufactured to be compatible with the Supported Devices or intended to be connected thereto. The Services do not include, among other things, (a) assistance with third-party software or services that are not related to Your Supported Devices; (b) assistance with network coverage issues for mobile devices, such as dropped calls/data interruptions; (c) over-the-air updates to operating systems, firmware, or other software; (d) diagnostic support not related to Your Supported Devices; (e) modification of Original Equipment Manufacturer (“OEM”) software; (f) installation of third-party software or OEM drivers not supported by Your Supported Devices; (g) home or wireless router/modem or network setup; (h) setup, support or repair of devices other than Your Supported Devices; (i) installation of non-sanctioned applications; or (j) data migration from device to device.

**4. Commercially Reasonable Efforts.** We will use commercially reasonable efforts to provide You with the Services. This means that if We are unable to resolve the issue related to Your Supported Devices after making commercially reasonable efforts, We have the right and sole discretion to refuse to take further efforts to do so. Additionally, in some instances, We may have limited information from vendors, manufacturers, and developers, and We may not have the ability to obtain the proprietary or other information required to resolve Your issue. Some technical problems that You encounter when using Your Supported Devices may be the result of software or hardware errors not yet resolved by the vendors, manufacturers or developers of that software or hardware, in which case We may not be able to resolve Your issue.

**5. Representations and Authorizations.** When seeking service, You represent that You are the named account holder or an authorized user on the account, and that you are the owner of any software on the Supported Devices or any devices connected to the Supported Devices. We reserve the right to refuse to provide You with service if We determine that You are not the named account holder or an authorized user on the account. When seeking service, You (a) expressly consent to technical support personnel remotely accessing the Supported Devices and the data thereon through use of software or other means; and (b) authorize Us to effect changes to the Supported Devices, to the extent necessary and acknowledge and agree that such changes may be permanent and irreversible.

**6. Remote Access.** To receive the Services, You may be required to download and/or run certain software applications (“Software”) on Your Supported Devices and/or on any device connected to or used in connection with Your Supported Devices. The Software may include remote access tools that allow Us to remotely access Your Supported Devices and any device connected thereto, as well as the contents thereon. You agree to comply with the terms and conditions applicable to the Software and, in the event of a conflict between those terms and conditions and the TOS, the Software-specific terms and conditions control, but only with regard to the Software itself. You are prohibited from and agree not to alter or copy the Software or any other materials provided to You as a result of Your use of the Services.

**7. Back-up.** It is Your responsibility to back-up the software and data that is stored on Your Supported Devices or devices connected to or used in connection with Your Supported Devices, and We are not responsible for any loss, alteration, or corruption of any software or data. We may decline to provide service to You if We determine that You have not taken appropriate back-up measures.

**8. Privacy Policy & Passwords.** Our Privacy Policy is available [here](#) and explains Our policies with respect to the collection, use and disclosure of information related to or derived from Your use of the Services. Please read it carefully and completely. It is incorporated by reference into the TOS, and by using the Services, You consent to the collection, use and disclosure of Your information as set forth in that Policy. If You know or suspect that the passwords associated with or stored on Your Supported Devices have been available to or accessed by anyone as a result of Your use of the Services, You should immediately change or reset those passwords.

**9. Costs and Data Usage Charges.** In some circumstances, You may need to purchase additional equipment or software to receive the full benefit of the Services, and You may incur data usage charges when using the Services. In those circumstances, You are fully and solely responsible for the cost of any such equipment or software and the payment of any such charges.

**10. Termination or Change of the Services.** We reserve the right to suspend or terminate Your use of the Services at any time and for any reason, including for abuse, excessive usage, or failure to pay any fees or charges associated with the Services. We also reserve the right to change the scope or extent of the Services at any time and for any reason, or to terminate the Services in their entirety at any time for any reason. Any refund of fees or charges associated with the Services that We may agree to pay in such circumstances will be limited to the fees You paid in the prior month for the Services.

**11. 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 OR IN CONNECTION WITH YOUR ACCESS OR USE OF OR INABILITY TO ACCESS OR USE THE SERVICES, WHETHER OR NOT THE DAMAGES WERE FORESEEABLE AND WHETHER OR NOT WE WERE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS OR REVENUES, FAILURE TO TRANSMIT OR RECEIVE ANY DATA, 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 THE SERVICES. 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 THE AMOUNT OF THE FEES PAID BY YOU FOR THE SERVICES OR \$100.00, WHICHEVER IS GREATER. THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

**12. 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 THE SERVICES IS AT YOUR SOLE RISK AND DISCRETION. ASURION HEREBY DISCLAIMS 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, ASURION MAKES 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. ARBITRATION AGREEMENT.** Most of Your concerns about the Services can be addressed by contacting Us at [termsofuse@asurion.com](mailto:termsofuse@asurion.com). For any dispute with Asurion, You agree to first contact us and attempt to resolve the dispute with us informally. In the event We cannot resolve any dispute with You, **YOU AND WE AGREE TO RESOLVE THOSE DISPUTES THROUGH BINDING ARBITRATION OR SMALL CLAIMS COURT INSTEAD OF THROUGH COURTS OF GENERAL JURISDICTION. YOU AND WE AGREE TO WAIVE OUR RIGHTS TO A TRIAL BY JURY AND TO PARTICIPATE IN CLASS ACTIONS OR OTHER REPRESENTATIVE PROCEEDINGS.**

(a) This Arbitration Agreement (“A.A.”) shall survive the termination of the TOS and is governed by the Federal Arbitration Act. This A.A. 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 Asurion or the Services, whether based in contract, tort, statute, fraud, misrepresentation or otherwise. However, this A.A. 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 30 days of receipt of the Notice, You may start an arbitration with the American Arbitration Association (“AAA”). You can contact the AAA and obtain a free copy of the rules and forms necessary to start an arbitration proceeding at [www.adr.org](http://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 Us a written request.

(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 A.A. The arbitrator is bound by the terms of this A.A. and shall decide all issues, with the exception that issues relating to the enforceability of this A.A. may be decided by a court. If Your dispute is for \$25,000 or less, the arbitration will be conducted by submitting documents to the arbitrator, unless You request an in-person or telephonic hearing or the arbitrator decides that a hearing is necessary. If Your dispute is for more than \$25,000, the right to a hearing 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 Our last settlement offer 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 the attorney's fees and expenses, if any, You reasonably incurred in the arbitration. While that right to fees and expenses is in addition to any right You may have under applicable law, You may not recover duplicate awards of 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 another person's dispute and may not preside over any form of representative proceeding. If this specific provision A.A. is found to be unenforceable, then the entirety of this A.A. is null and void.

**14. CLAIM LIMITATION.** Unless otherwise allowed by applicable law, any claim related to the Services shall 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.

**15. THIRD-PARTY CONTENT.** The Services may expose You to content, websites, products and services created or provided by parties other than Asurion ("Third-Party Content"). We do not review, endorse or assume any responsibility for Third-Party Content and shall have no liability to You for access to or use of Third-Party Content. You access or use Third-Party Content at Your own risk and discretion, and You understand that the TOS and Our Privacy Policy do not apply to that content.

**16. INTELLECTUAL PROPERTY RIGHTS.** You agree that all copyrights, patents, trademarks, trade secrets and other intellectual property or proprietary rights associated with the Services are the exclusive property of Asurion, and all such rights not expressly granted to You in the TOS are hereby reserved and retained by Us. If You submit comments or ideas about the Services, including ways to improve the Services or other of Our products or services ("Ideas"), You agree that Your submission is gratuitous, unsolicited and without restriction. It does not place Us under any fiduciary or other obligation, and We are free to use the Ideas without compensation to You and/or to disclose the Ideas to anyone on a non-confidential basis. You further acknowledge that Asurion does not, by acceptance of Your submission, waive any rights to use similar or related ideas previously known to Us, or developed by Our employees or obtained from sources other than You.

**17. 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 the Services; (b) Your alleged or actual breach of the TOS; (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 third parties. Asurion reserves 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.

**18. ASSIGNMENT.** The TOS and any rights or licenses granted hereunder may not be transferred or assigned by You, but may be transferred or assigned by Asurion, without restriction. Any attempted transfer or assignment in violation of this provision is null and void.

**19. SEVERABILITY & WAIVER.** If any term of the TOS is found to be invalid or unenforceable, that term 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 term should be severed from the TOS. Any failure to enforce a right or term of the TOS shall not be deemed a waiver of that right or term.

**20. ENTIRE AGREEMENT & GOVERNING LAW.** This TOS and the documents incorporated by reference constitute the entire agreement with respect to the Services and supersede any prior or contemporaneous agreements. The TOS and Your relationship with Asurion shall be governed by and construed in accordance with the laws of the State of Tennessee, without regard to conflicts of law provisions. The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded.

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