

# RETAILER PORTAL AGREEMENT

## TERMS & CONDITIONS

PLEASE READ AND REVIEW THESE TERMS & CONDITIONS CAREFULLY BEFORE ACCESSING OR USING THE STi RETAILER PORTAL AT PORTAL.STIPREPAID.COM OR CARDS.STIPREPAID.COM (THE "PORTAL"). BY USING OR ACCESSING THE PORTAL, YOU AGREE TO BE BOUND BY THESE TERMS AND CONDITIONS, AS WELL AS ANY OTHER INFORMATION CONTAINED ON THE PORTAL (COLLECTIVELY, THE "PORTAL TERMS"). THE COMPLETION OF ANY PURCHASE TRANSACTION OR RECHARGE OF SERVICES FROM THE PORTAL WILL IMPLY YOUR FULL COMPLIANCE WITH AND ACCEPTANCE OF THESE PORTAL TERMS. IF YOU DO NOT WISH TO BE BOUND BY THE PORTAL TERMS, PLEASE DO NOT ACCESS OR USE THE PORTAL. CERETEL INC. ("CERETEL") IS THE OWNER OF THE STI PREPAID BRAND AND THE STI PINLESS PORTAL SOFTWARE. DOLLARPHONE ENTERPRISES INC. ("DOLLARPHONE") IS THE PROVIDER OF ALL TELECOMMUNICATIONS SERVICES AND LICENSES THE STI BRAND FROM CERETEL. CERETEL DISTRIBUTES DOLLARPHONE'S SERVICES THROUGH THE STI PINLESS PORTAL. CERETEL MAY MODIFY THE PORTAL TERMS, AND SUCH MODIFICATIONS SHALL BE EFFECTIVE IMMEDIATELY UPON POSTING TO THE PORTAL. YOUR CONTINUED ACCESS TO OR USE OF THE PORTAL SHALL BE DEEMED YOUR CONCLUSIVE ACCEPTANCE OF THE PORTAL TERMS AND ANY MODIFICATIONS THERETO. DOLLARPHONE MAY MAKE CHANGES TO THE PRODUCTS OR SERVICES OFFERED ON THE PORTAL AT ANY TIME WITHOUT NOTICE. YOU ACKNOWLEDGE THAT THE PORTAL TERMS ARE IN ADDITION TO ANY OTHER OBLIGATIONS YOU MAY HAVE TO CERETEL PURSUANT TO ANY AGREEMENT BETWEEN YOU AND CERETEL. ACCORDINGLY, YOU AND CERETEL AGREE TO THE FOLLOWING TERMS AND CONDITIONS:

### 1. Definitions

**1.1 "STi Prepaid Customer Activation and Recharge System"** shall mean the proprietary CereTel Inc. automated system through which a Retailer can establish and recharge a Customer Account.

**1.2 "Cards"** shall mean prepaid calling cards offered by DollarPhone and purchased by Retailer through the Portal.

**1.3 "Customer"** shall mean an end-user of a Product who purchased the Product from a Retailer.

**1.4 "Customer Account"** shall mean a prepaid balance associated with the ANI of the phone from which the Customer has elected to utilize the Service and/or purchase Products, or an unlimited fixed-term plan with an unexpired term.

**1.5 "Customer Payment"** shall mean the amount a Customer remits to a Retailer to fund or recharge a Customer Account and/or to pay for a Product.

**1.6 "Portal"** shall have the meaning set forth above, as well as any STi prepaid Retailer IVR and/or STi prepaid Retailer App that CereTel Inc. makes available to Retailers.

**1.7 “Product(s)”** shall mean the products and services offered, distributed and/or sold to Customers by Retailer via the Portal, including without limitation the Service (as defined in Section 1.9).

**1.8 “Retailer”** shall mean the person or entity that establishes a Retailer Account with CereTel Inc. or an authorized STi prepaid master distributor and thereafter sells Products to Customers.

**1.9 “Retailer Account”** shall mean a prepaid balance funded by a Retailer from which Retailer can (a) distribute the Service by transferring portions of the balance into Customer Accounts and/or (b) distribute other Products to Customers.

**1.10 “Service”** means DollarPhone’s pinless prepaid service offered through the Portal, under the brand STi Pinless licensed from CereTel, and which is a proprietary, prepaid, pin-less, telecommunication service that enables consumers to make U.S. domestic and international calls.

## **2. Retailer Obligations**

**2.1 Retailer Account.** Retailer shall establish a Retailer Account through the Portal. Retailer must provide CereTel Inc. or, where applicable, master distributor with legal first and last names, Tax ID and/or Reseller ID number, billing address, city, state, postal code, e-mail address and a mobile phone number capable of receiving SMS messages.

**2.2 Promote Products.** Retailer agrees to make the Products available and to promote the Products to Retailer customers at all Retailer locations and to collect money from Customers for purchases of the Products. Retailer shall promptly advise CereTel Inc. of the addresses of all Retailer locations and update such list within five (5) days of the addition or deletion of any such location(s). Retailer shall prominently display all POS Materials provided by CereTel Inc. in all Retailer locations in order to maximize Retailer customer’s awareness of the Products. Retailer acknowledges that the Products and POS Materials shall contain such information, as CereTel Inc., in its sole discretion, shall require, including without limitation, appropriate identification of DollarPhone as the provider of services, regulatory information and legal disclaimers. Retailer should immediately modify its use of promotional, marketing and advertising materials upon request from CereTel Inc. and immediately discontinue use of such material upon expiration or termination of this Agreement.

**2.3 CereTel Inc. Policy.** Retailer agrees to follow all applicable policies and procedures conveyed to it by CereTel Inc. Retailer further agrees to only utilize the consumer scripts, disclosures, user guide, advertising materials and other oral or written disclosure materials provided to it by CereTel Inc. when offering and distributing the Products to Customers in order to provide Customers with necessary information about the Products.

**2.4 Customers of the Service.** Retailer acknowledges that all Customers using the Service (or any other service provided by CereTel Inc. through the Portal in which a Customer creates an account with CereTel Inc. or one of its affiliates) are customers of DollarPhone and that DollarPhone is the sole party authorized to provide the Service to Customers.

**2.5 Breach or Fraud by Retailer.** Retailer will not, and shall use its best efforts to ensure that its employees or agents do not use the Portal or the Products for any unlawful, abusive or fraudulent purpose. Retailer is responsible for all acts and omissions related to its Retailer Account (including,

but not limited to, fraud, excessive chargebacks and overdrafts). Retailer shall not disparage or make false representations about the Products, DollarPhone or CereTel Inc.

**2.6 Taxes.** Retailer is responsible for all applicable taxes (including collecting sales tax), duties and fees that are levied in connection with the performance of its obligations hereunder (other than any taxes on CereTel's or DollarPhone's income) and CereTel Inc. or DollarPhone shall have no liability therefor. Retailer will provide CereTel Inc. an exemption certificate evidencing Retailer's exemption from sales tax and other applicable fees and surcharges related to sales of the Cards or Products, and will indemnify and hold harmless CereTel Inc. against any claims by taxing or other authorities related to the collection or remittance of applicable taxes and/or surcharges.

**2.7 Penalties.** CereTel Inc. shall have the right to impose one or more of the following penalties for any violation of these Portal Terms:

- a) suspend Retailer's commission payments (if any);
- b) forfeiture of any of Retailer's accrued commissions (if any);
- c) revise or change Retailer's discount and commission structure;
- d) remove Customers credited to Retailer;
- e) charge the Retailer Account for any amounts owed to CereTel Inc.; and
- f) termination of the Retailer Account.

**2.8 Activation and Deactivation.** CereTel Inc. reserves the right to deactivate Customer Accounts, Cards or Products if it determines, in its sole discretion, that Retailer or a Customer is actually or allegedly engaged in activities that are illegal or fraudulent or which may be harmful to CereTel Inc. or its affiliates, or for non-payment. Any such deactivation of Products shall not entitle any third party to any refund and all commissions paid or payable to Retailer in connection with such Customer Account shall be forfeited and/or returned by Retailer to CereTel Inc. as applicable.

**2.9 Prepaid Retailer Accounts.** For prepaid Retailer Accounts, the Admin/Transactions navigation panel on the Portal shall constitute an invoice for each Product distributed or sold to a Customer by Retailer via the Portal through the Retailer's Account, including all transactions for which the Retailer Account is decremented and for which the Retailer is entitled to a commission as applicable.

**2.10 Disputes.** Any dispute regarding amounts due and owing must be brought to CereTel Inc.'s attention at [retailsupport@ceretel.com](mailto:retailsupport@ceretel.com) within thirty (30) days of the posting of the relevant invoice entry on the Portal. CereTel Inc. reserves the right to utilize any ACH or Credit Card information a Retailer provides to satisfy any outstanding amounts due and owing, including without limitation the return of commissions.

**2.11 Access to Retailer Account.** A Retailer is responsible for any transactions that are made via its Retailer Account including by anyone Retailer authorizes to utilize its Retailer Account or by anyone who accesses its Retailer Account as a result of Retailer's failure to properly restrict access. A Retailer may restrict access to its Retailer Account in its discretion by accessing the *Admin/Users* page on the Portal. Retailer must safeguard its Portal password and provide access only to authorized personnel. CereTel Inc. may access a Retailer Account to fix, repair or maintain the account or to review any claim made by the Retailer.

**2.12 Payment of Invoices.** If a Retailer fails to pay CereTel Inc. any amount when due, then CereTel Inc. shall have the right (in addition to any other rights or remedies available under these Portal Terms or applicable law) to (a) impose any of the penalties provided for in Section 2.7, (b) to declare any unpaid balance immediately payable, (c) demand payment in cash before processing any further Customer or Retailer transactions, and/or (d) withhold commissions and apply such

amounts against the Retailer's Account balance. Net overdue amounts shall be subject to a late payment charge of up to 1.5% per month, provided that such charge shall not exceed the maximum amount permitted by law.

**2.13 Refunds for Account Balance.** A Retailer is entitled to request a refund of prepaid funds in its Retailer Account at any time, minus any amounts owed to CereTel Inc. All requests should be performed on the Portal Admin/Withdraw page. Requests will be evaluated on a case-by-case basis by CereTel Inc. Amounts will be refunded using the same payment method used by the customer directly to Retailers via ACH or Credit Card or Debit Card account on file.

**2.14 Refunds for Products.** Only certain Products are refundable, as permitted by the Portal. If the Portal does not permit a refund, CereTel Inc. is not bound to provide a refund. Contact [retailsupport@ceretel.com](mailto:retailsupport@ceretel.com) for information regarding the return policy governing any Product.

**2.15 Consent to Receive SMS and Email.** By using the Portal, Retailer consents to receive SMS text and/or email messages from CereTel Inc. and its affiliates regarding its Retailer Account and special offers. Standard message and data rates will apply. Retailer's ability to manage its Retailer Account could be limited if Retailer withdraws its consent to receive such messages.

**2.16 Purchase of Cards in the Portal.** Retailer may purchase Cards in the Portal subject to availability. Cards must be purchased on a prepayment basis (Pay Now) unless CereTel Inc. permits purchase on a net 15 or first use basis in its sole discretion. Retailer agrees to pay for the Cards in accordance with the terms selected at checkout. Cards purchased on a prepayment or net 15 basis may be returned for credit, less a 10% restocking fee, within 180 days after date of delivery and thereafter may not be returned. Cards for which CereTel Inc. has not received payment in accordance with applicable terms may be deactivated at CereTel Inc.'s sole option, with or without notice to Retailer.

### **3. CereTel Inc. Obligations**

3.1 CereTel Inc. will use commercially reasonable efforts to ensure DollarPhone provides activated Products with services. In addition, CereTel Inc. will use commercially reasonable efforts to ensure DollarPhone provides Retailer Customers who purchase the Products with customer service. THE PRODUCTS AND SERVICES PROVIDED HEREUNDER ARE BEING PROVIDED ON AN "AS IS" BASIS WITHOUT WARRANTY OF ANY KIND AND NEITHER CERETEL INC. NOR DOLLARPHONE MAKES NO WARRANTY TO RETAILER OR ANY OTHER PERSON OR ENTITY, WHETHER EXPRESS OR IMPLIED OR STATUTORY, AS TO THE DESCRIPTION, QUALITY, MERCHANTABILITY, NON-INFRINGEMENT, COMPLETENESS, OR FITNESS FOR A PARTICULAR USE OR PURPOSE, ALL SUCH WARRANTIES HEREBY BEING EXPRESSLY EXCLUDED AND DISCLAIMED.

3.2 CereTel Inc. will provide materials, in CereTel Inc.'s sole discretion, so as to enable the Retailer to offer CereTel Inc. Products to Retailer's customers at Retailer's locations.

### **4. Personal Information**

Retailer acknowledges that it will be in possession of certain proprietary and personal information of the Customers. Retailer and its employees and agents are responsible for safeguarding this personal information in a manner consistent with any and all state and federal laws governing the personal information of a Customer or any third-party recipient of the Products purchased by Customer, including any obligations imposed under any applicable state or federal privacy laws and

any rules promulgated by an agency having jurisdiction over the Retailer's activities. Similarly, Retailer shall comply with any and all corporate policies of CereTel Inc. related to the safeguarding of Customer information. In no circumstance shall Retailer facilitate access to this personal information through the Portal by anyone other than Retailer. Retailer shall not use Customer information in any manner not related to the Products. In the event that Retailer becomes aware of any unauthorized access to Customer information, Retailer shall immediately report this access to CereTel Inc. and comply with any and all state and federal laws regarding notification to a Customer regarding such unauthorized access.

## **5. Term, Payment and Termination**

5.1 This Agreement will become effective upon Retailer using or accessing the Portal and shall continue, subject to the provisions of this Agreement, for a period of one (1) year (the "Initial Term") and shall automatically renew for successive one (1) year periods (each a "Renewal Term"; the Initial Term and all Renewal Terms are collectively referred to as the "Term") unless either party provides written notice of cancellation to the other at least thirty (30) days prior to the end of the Initial Term or the renewal Term, as the case may be.

5.2 Payment will be made by Electronic Funds Transfer (EFT) through an Automated Clearing House (ACH) or Credit Card with Retailer authorizing CereTel Inc. to initiate debit and credit entries to Retailer's designated bank account(s) or credit card(s). CereTel Inc. may change such payment terms in its sole discretion based on retailer's payment and/or credit history. Retailer's authorization shall continue after termination of this Agreement until such time as Retailer's outstanding financial obligations to CereTel Inc. have been paid in full.

5.3 Termination/Expiration. CereTel Inc. may terminate this Agreement immediately without prior notice, upon the occurrence of any of the following (each a "Material Breach"): (i) Failure of Retailer to timely pay CereTel Inc. or the reversal of or denial of any ACH Transfer, Check or Credit Card payment for insufficient funds or closed account; (ii) Retailer's misrepresentation of any Product(s); (iii) Retailer ceases business operations; (iv) Retailer files or has filed against it a petition under the bankruptcy laws of the United States or makes an assignment for the benefit of creditors or any like event; (v) Retailer breaches any material provision of this Agreement and fails to cure such breach within five (5) days' notice of such breach by CereTel Inc.; or (vi) upon a determination by any governmental authority with jurisdiction over the parties that the provision of Products or services under this Agreement is contrary to existing laws, rules or regulations. Notice of termination due to a Material Breach shall be effective upon delivery to Retailer in writing.

5.4 Upon Termination or expiration of the Agreement, Retailer shall return all property of CereTel immediately and cease marketing, selling or distributing any Products.

## **6. Commissions**

**6.1 Commissions for Products.** The commission payable (if any) for each Product can be located on the Retailer's *Admin/Discounts* page on the Portal. CereTel Inc. reserves the right to change the commissions for any Product without notice and such changes shall be effective upon CereTel Inc. posting the revised commissions on the Portal. The commissions posted on the Portal supersede (i) any written agreement or other arrangement between Retailer and CereTel Inc. regarding the Products and (ii) any representations made by CereTel Inc. personnel or master distributors

regarding commissions for the Products. By selling a Product Retailer agrees to the commission for such Product posted on the Portal at the time of the sale.

**6.2 Commission Payments.** All commissions owed to Retailer shall be payable by subtracting the commissions from the amount payable by the Customer before reducing the balance of the Retailer Account for the Customer transaction. Residuals, if any, shall be paid by increasing the balance of the Retailer Account.

## **7. Trademarks and Service Marks**

Trademarks that are used or displayed on the site are owned by CereTel Inc. or by third parties other than CereTel Inc. that offer and provide products and services on or through the site. The trademarks of CereTel Inc. intellectual property may not be copied or used, in whole, partial or modified form, without the prior written permission of CereTel Inc. or, if applicable, its licensor. In addition, CereTel Inc.'s custom graphics, logos, button icons, scripts, and page headers are covered by trademark, trade dress, copyright or other proprietary right law, and may not be copied, imitated, or used, in whole, partial or modified form, without the prior written permission of CereTel Inc. Other trademarks, service marks, registered trademarks, product and service names, and company names or logos that appear on the sites are the property of their respective owners, who may or may not be affiliated with, connected to, or sponsored by CereTel Inc. Retailer may not use any meta tags or any other "hidden text" utilizing a CereTel Inc. name, trademark, or product name without CereTel Inc.'s express written consent.

## **8. Governmental Requirements and Operating Rules**

CereTel Inc. shall use commercially reasonable efforts to ensure that DollarPhone's Products and services comply with all material governmental requirements and operating rules of third party vendors or financial institutions. Retailer acknowledges that certain governmental requirements and operating rules applicable to the Retailer's sale of products may place certain obligations on the Retailer, including obtaining permits, with which Retailer agrees to comply at its sole cost and expense.

## **9. Representations & Warranties**

Retailer represents and warrants that: (a) it is duly organized and validly existing under the laws of the jurisdiction in which it was formed; (b) it has all requisite organizational power and authority to perform its obligations hereunder; (c) it will comply with all applicable federal, state and local laws, rules and regulations; (d) it will use commercially reasonable efforts to eliminate any fraudulent activity in connection with the sale of the Products or the establishment of Customer Accounts which comes to its attention and will notify CereTel Inc. of such fraudulent activity promptly; (e) it will not mischaracterize the Products or the Service or otherwise fraudulently depict or market the Products; and (f) it will not infringe any patent, copyright, trademark or other similar proprietary right of CereTel Inc. or any third party in connection with the sale and distribution of the Products.

## **10. Limitation of Liability**

10.1 CERETEL INC. OPERATES THE PORTAL TO PROVIDE RETAILER WITH ONLINE ACCESS TO STI PREPAID PRODUCTS, CARDS AND SERVICES PROVIDED BY DOLLARPHONE. CERETEL INC. MAKES NO REPRESENTATION ABOUT THE SUITABILITY OF THE INFORMATION CONTAINED ON THE PORTAL OR THE SITE. ALL SUCH INFORMATION IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED.

10.2 CERETEL INC. AND DOLLAR PHONE HEREBY DISCLAIM ALL WARRANTIES WITH REGARD TO THE PORTAL, THE CARDS, THE SITE AND THE PRODUCTS, INCLUDING ALL IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. CERETEL INC. NEITHER MAKES NOR IMPLIES A WARRANTY AS TO THE ACCURACY, COMPLETENESS, OR RELIABILITY OF THE INFORMATION PROVIDED ON THE PORTAL. CERETEL INC. DISCLAIMS ALL LIABILITY FOR TECHNICAL INACCURACIES, TYPOGRAPHICAL ERRORS, OR OTHER ERRORS OR OMISSIONS CONTAINED WITHIN THE PORTAL AND THE SITE. CERETEL INC. DOES NOT WARRANT THAT THE SITE, THE PORTAL, THE CARDS OR THE SERVER THAT MAKES IT AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, NOR THAT THE ACCESS TO THE PORTAL OR SITE WILL BE UNINTERRUPTED OR ERROR-FREE, AND CERETEL INC. ASSUMES NO RESPONSIBILITY FOR ANY AND ALL DAMAGE CAUSED THEREBY. BY PROCEEDING TO ACCESS THE SITE OR THE PORTAL, RETAILER HEREBY ASSUMES THE ENTIRE RISK OF RELYING UPON THE INFORMATION PROVIDED HEREIN.

10.3 CereTel Inc. is not liable to Retailer or to any third party for any costs, liabilities or damages arising either directly or indirectly from any cause, action or claim relating to the Portal, the Cards, the Site, the Products or any content on the Portal or Site, including without limitation any personal injury, actual, incidental, consequential, exemplary, punitive, reliance or special damages, or for any claims for loss of revenue, lost profits, lost use, data, or goodwill or for lost business opportunities of any kind or nature whatsoever. These limitations apply even if the damages were foreseeable or CereTel Inc. was told that they were possible, and these limitations apply whether the claim is based upon contract, tort, statute, fraud, misrepresentation, or any other legal or equitable theory. CereTel Inc. is not liable for any Portal failures, or the inability to use the Portal, the Cards, outages or interruptions or equipment failures or acts or omissions of third parties. CereTel Inc. will not be liable for any damages if the Retailer's access to the Portal is interrupted, or if there is a problem with the interconnection or equipment of some other party. For the purposes of this paragraph, "CereTel Inc." includes our parent companies, subsidiary companies and affiliated legal entities, and all their directors, officers, agents, licensors and employees. Notwithstanding anything in these Portal Terms to the contrary and should any provision in these Portal Terms limiting CereTel Inc.'s liability not be enforced, CereTel Inc.'s total liability to Retailer in connection with these Portal Terms shall not exceed in the aggregate the amount paid by the Retailer to CereTel Inc. for Products and Cards in the 12 month period immediately prior to the date of the event giving rise to the claim, subject to a maximum of \$100.00 in all cases.

## **11. Third Party Products and Linked Sites**

11.1 Retailer acknowledges that some of the Products available on the Portal and the Site are provided by third parties, including without limitation the DollarPhone Products and services and domestic mobile top-ups and international mobile top-ups (collectively, "Third Party Products"). The Third Party Products, as well as the telecommunication and other services underlying the Third Party Products, are provided by third party companies and operators in various countries that are not affiliated with CereTel Inc. (collectively, "Third Party Operators"). Retailer acknowledges that CereTel Inc. merely distributes the Third Party Products.

11.2 CereTel Inc. makes no representation that the Third Party Products are available for use in any particular location. CereTel Inc. reserves the right to remove or add any Third Party Products at any time without notice.

11.3 The terms of use, charges, fees, taxes, credits and expiration policies for the Third Party Products are established and provided by the Third Party Operators. CereTel Inc. shall not be liable for the acts or omissions of the Third Party Operators. CereTel Inc. will not be liable for any disruption, delay or other omissions in the telecommunication and other services underlying the Third Party Products.

11.4 All purchases of Third Party Products from the Portal or Site are final and may not be exchanged, canceled or refunded, except by the applicable Third Party Operator.

11.5 Retailer expressly acknowledges that the Third Party Products are provided “AS IS” and “AS AVAILABLE” with no warranties of any kind. CereTel Inc. does not make any warranties, claims or representations to Retailer or to any third party, whether express, implied or statutory, regarding the Third Party Products and the telecommunication services underlying them, including, without limitation, warranties or conditions of quality, performance, suitability, durability, title, non-infringement, merchantability, completeness of fitness for use for a particular purpose. All such warranties are hereby expressly excluded and disclaimed and Retailer hereby waives and releases CereTel Inc. from all such warranties of any nature.

11.6 The Portal may contain links to third party web sites (the “Linked Sites”). The Linked Sites are not under CereTel Inc.’s control and CereTel Inc. is not responsible for the content of any Linked Site, whether or not CereTel Inc. is affiliated with the sponsor of the Linked Site. Retailer is responsible for reading and following the terms of use and privacy policy of any Linked Site.

11.7 CERETEL INC. IS NOT RESPONSIBLE FOR ANY TRANSMISSION OR PRODUCTS RECEIVED FROM ANY LINKED SITE, NOR IS CERETEL INC. RESPONSIBLE IF THE LINKED SITE OR ANY PRODUCT FEATURED ON THE LINKED SITE IS NOT FUNCTIONING, IS DAMAGED OR IS UNAVAILABLE. CERETEL INC. SHALL NOT BE RESPONSIBLE FOR SLOWER ACCESS SPEEDS WHILE LINKING TO OR VISITING THIRD PARTY SITES (ACCESS SPEEDS MAY VARY). ANY DELIVERY OF AND PAYMENT FOR GOODS AND SERVICES, ANY WARRANTIES OR ANY OTHER TERMS OF USE FOR A LINKED SITE OR LINKED SITE PRODUCT, ARE STRICTLY BETWEEN RETAILER AND THE THIRD PARTY, AND CERETEL INC. IS NOT RESPONSIBLE FOR ANY TRANSACTION BETWEEN RETAILER AND A THIRD PARTY. CERETEL INC. DOES NOT GUARANTEE THAT THE LINKED SITES ARE SUITABLE FOR ALL VIEWERS, THEREFORE VIEWER DISCRETION IS ADVISED.

## **12. Indemnification**

Retailer agrees to hold CereTel Inc., its parent entities, subsidiaries and affiliates and their respective officers, directors and employees (collectively, the “Indemnified Parties”) harmless from any claims, demands, liabilities, losses, damages, judgments or expenses (including reasonable attorneys’ fees and expenses) which result from or arise in connection with (a) Retailer’s use of the Portal, (b) Retailer’s breach of these Portal Terms, (c) any claim against any of the Indemnified Parties by a third party (including any governmental or administrative agency) alleging that any marketing, business, distribution or other activity by Retailer relating to the Products or Cards involves fraud, false or misleading advertising, regulatory noncompliance, misrepresentation, theft or any illegal or deceptive conduct, (d) any improper use of CereTel Inc.’s trademark, service marks or other intellectual property or (e) violation of another person’s or entity’s rights.



### **13. Choice of Law; Waiver of Jury Trial**

These Portal Terms shall be governed by and construed in accordance with the laws of the State of Maryland without giving effect to any conflict of law principles thereof which might require the application of the law of another jurisdiction. Exclusive jurisdiction for litigation of any dispute, controversy or claim arising out of, in connection with, or in relation to this agreement, or the breach thereof, shall be only in the state or federal courts located in Maryland. Retailer consents to said jurisdiction and venue in the courts of Maryland and waives any objections as to personal jurisdiction with respect thereto. TO THE EXTENT PERMITTED BY LAW, EACH PARTY WAIVES TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM BROUGHT BY THE OTHER PARTY ON ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE PORTAL TERMS, THE RELATIONSHIP OF THE PARTIES, AND/OR ANY CLAIM OR DAMAGE RELATED THERETO.

### **14. Portal and Site Use**

14.1 RETAILER MAY ONLY USE THE PORTAL, THE SITE AND THE INFORMATION, IMAGES AND/OR OTHER CONTENT ON THE PORTAL OR SITE (COLLECTIVELY, THE "CONTENT") SOLELY FOR ITS ACTIVITIES AS AUTHORIZED HEREUNDER. CERETEL INC. RESERVES COMPLETE TITLE AND FULL INTELLECTUAL PROPERTY RIGHTS IN THE PORTAL AND THE SITE. EXCEPT AS EXPRESSLY AUTHORIZED, RETAILER MAY NOT USE, ALTER, COPY, DISTRIBUTE, TRANSMIT, OR DERIVE ANOTHER WORK FROM ANY CONTENT OBTAINED FROM THE PORTAL OR SITE. THE PORTAL, SITE AND THE CONTENT ARE PROTECTED BY U.S. AND/OR FOREIGN COPYRIGHT LAWS, AND BELONG TO CERETEL INC. OR ITS PARTNERS, AFFILIATES, CONTRIBUTORS OR THIRD PARTIES. THE COPYRIGHTS IN THE CONTENT ARE OWNED BY CERETEL INC. OR OTHER COPYRIGHT OWNERS WHO HAVE AUTHORIZED THEIR USE ON THE SITE. RETAILER MAY NOT MANIPULATE OR ALTER IN ANY WAY THE CONTENT. RETAILER IS PROHIBITED FROM USING ANY OF THE MARKS OR LOGOS APPEARING THROUGHOUT THE PORTAL OR SITE WITHOUT PERMISSION FROM THE TRADEMARK OWNER, EXCEPT AS PERMITTED BY APPLICABLE LAW.

14.2 Retailer and its employees and agents shall not upload, post, or otherwise distribute or facilitate the distribution of any content via the Portal or the Site that is unlawful, abusive, fraudulent, infringes any proprietary right of any party, constitutes unsolicited advertising or messaging, contains viruses, and/or impersonates any person or entity.

### **15. Non-Exclusive**

This Agreement shall not confer on Retailer any type of exclusive right pertaining to the Products provided hereunder.

### **16. Notices**

Any notice required to be given by Retailer to CereTel Inc. shall be deemed given upon receipt only when mailed by certified mail or by nationally recognized courier service, duly addressed and with proper postage, if in writing addressed to the party to whom notice is being given at the address below. Notice required to be given by CereTel Inc. to Retailer shall be deemed given upon receipt when mailed or sent via email or SMS message to Retailer's registered email address and/or mobile phone number.

**CereTel Inc.**

**Attn: Legal Department**

185 Admiral Cochrane Drive, Suite 115

Annapolis, MD, 21401

## **17. Confidentiality**

All information disclosed by either party to the other party pursuant to this Agreement, other than such information as may be generally available to the public or the industry ("Proprietary Information") is and will be disclosed to the other party in confidence solely for use in connection with this Agreement. Such Proprietary Information shall include, without limitation, information about the party's business activities and operations, and its technical and rate information.

## **18. Publicity**

Retailer will not, without the prior written consent of CereTel Inc., make any news release or other public statement or disclosure regarding all or any part of the Terms and Conditions, or any discussions or negotiations relating thereto.

## **19. Severability**

If any provision of this Agreement is determined by a court to be invalid or unenforceable such determination shall not affect the validity or enforceability of any other part or provision of this Agreement.

## **20. Waiver**

No waiver by either party shall be valid unless it is given in writing and signed by an authorized signer of the party granting the waiver. No waiver by any party of any provision hereof shall constitute a waiver of any other provision hereof.

## **21. Assignment**

Retailer may not assign this Agreement without the consent of CereTel Inc. This Agreement should be binding upon, and inure to the benefit of, the parties and their respective permitted successors and assigns.

## **22. Translation**

The meanings of terms, conditions and representations herein are subject to definitions and interpretations in the English language. If there is any inconsistency between a non-English version and the English version, then the English version shall govern. Any translation provided may not accurately represent the information in the original English version.