

## **IMPERIAL COUNTY TRANSPORTATION COMMISSION**

### **Terms of Use**

#### **Wireless Internet Access**

Free wireless Internet access (Wi-Fi) is now available to IMPERIAL COUNTY TRANSPORTATION COMMISSION ("ICTC") IMPERIAL VALLEY TRANSIT ("IVT") customers while riding the bus. This service will be available to riders with a Wi-Fi enabled laptop computer, PDA or other mobile wireless device. Buses equipped with Wi-Fi will be identified by a sign on the bus with the above WiFi symbol.

By using this Wi-Fi service, you are agreeing to and will be bound by the terms, conditions, and policies set forth in this Terms of Use. If you do not agree with any of these terms, please do not use ICTC's Wi-Fi. This Terms of Use (the "Agreement") is a contract between you, ICTC, and ICTC's wireless carrier ("Carrier"), which is providing you network access to and use of wireless high-speed Internet access services (the Wi-Fi service and internet access/network usage are collectively referred to as the "Services"). When you access ICTC's Wi-Fi service, you acknowledge that you have read, understand, and agree to be bound by this Agreement. This Agreement applies to any electronic transmission sent, received, posted, accessed or stored via any of the Carrier's networks. The effective date of this Agreement is the earlier of: (i) the date you affirmatively accept this Agreement; or (ii) the date on which you access ICTC's Wi-Fi service. This Agreement is subject to modification at any time. By continuing to use the Services after any such modifications, you accept and agree to any and all such modifications.

The Services are being offered as a convenience and free service. The availability, reliability, uptime and speed of the Services are not guaranteed by the Carrier or ICTC. Carrier and ICTC reserve the right at all times to withdraw the Services, change the specifications of use of the Services, passwords, or security information necessary to access the Services. ICTC and the Carrier are not able to provide technical assistance to you and there is no guarantee that you will be able to make a wireless connection. If you need assistance, contact the manufacturer of your Access Device or software or an IT professional. Please do not ask bus drivers for assistance with your wireless connection. ICTC and the Carrier are not responsible for any changes you make to your Access Device's settings.

ICTC and the Carrier have no control over information and material accessible on the Internet and are not responsible for content or accuracy. You acknowledge that you may receive or be exposed to content, goods or services which you consider to be improper, inaccurate, misleading, defamatory, obscene or otherwise offensive. You agree that ICTC and the Carrier are not liable for any action or inaction with respect to any such content accessible through the Services. Wi-Fi is not secure. Wireless internet communications are not private, nor are they confidential. Use of Wi-Fi for the transmission of confidential, sensitive, personal, or financial information is not recommended. Data can be intercepted when transmitted between your Access Device and ICTC's Wi-Fi. ICTC and the Carrier are not responsible for intercepted or compromised data or any consequences thereof. By using the Services, you assume all risks associated with the use of the Services, including but not limited to, any risk to your Access Device, software or data of being damaged by any virus, software, or any other file, data or code which might be transmitted or activated due to use of the Services. ICTC encourages all users to adhere to good security practices.

You agree to be responsible for and to bear all risk and consequences for (1) the accuracy, completeness, reliability and/or usefulness of any content available through the Services and (2) any transmission you send, receive, post, access, or store via the Services or the Carrier's networks, including the content of any communication. ICTC and the Carrier do not undertake the security of any data you send through the Services and it is your responsibility to secure such data. ICTC and the Carrier provide no guarantee and make no representation that the Services will be available at all times at the Location.

By using the Services, you agree that you will not use the Services for any unlawful purpose or in violation of any applicable law or regulation. Transmitting, distributing, or storing any material that violates any applicable law is prohibited. You may not violate the security of the Services or the Carrier's Network in any way. Such violations may result in criminal or civil liability. The Carrier and/or ICTC may cooperate with law enforcement where criminal or unauthorized activity is suspected. By using, sending, receiving, posting, accessing, or storing any electronic transmission via the Services or the Carrier's Networks, you agree to cooperate, as well, in any such investigation. ICTC or the Carrier may be required to disclose data related to the use of the Services in response to a subpoena, court order, or as otherwise required by law.

ICTC and the Carrier disclaim any liability for unauthorized security breaches. ICTC and the Carrier are not responsible for any damage caused to hardware or software due to electric surges, security issues or consequences caused by viruses or hacking. All wireless access users are individually responsible for maintaining up-to-date anti-virus, anti-malware, and firewall protection or other appropriate security measures on their Access Devices. You agree to hold ICTC, Imperial County, and the Carrier harmless from any loss, damage, claims, or liability arising from any illegal activity in which you may engage or any information, communications, or sites, you may access, send or receive, whether appropriate or inappropriate, while using the Services.

You have read ICTC's "Terms of Use of Wireless Internet Access" and you agree to comply with all the terms and conditions. You shall defend, indemnify and hold ICTC, Imperial County, and the Carrier, and their officers, directors, stockholders, employees, agents, successors and assigns harmless from and against, and shall promptly reimburse them for, any and all losses, claims, damages, settlements, costs, and liabilities of any nature whatsoever (including reasonable attorneys' fees) to which any of them may become subject arising out of, based upon, as a result of, or in any way connected with, your use of the Services or any breach of this Agreement.

THE CARRIER AND ICTC MAKE AND YOU RECEIVE NO WARRANTY EXPRESS OR IMPLIED IN CONNECTION WITH THE SERVICES, AND ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY EXCLUDED. ANY CONTENT OR INFORMATION ACCESSED BY OR PROVIDED TO YOU THROUGH THE SERVICES OR CARRIER'S NETWORKS OR WEBSITE IS PROVIDED "AS IS," "WITH ALL FAULTS," AND "AS AVAILABLE." THE CARRIER AND ICTC SHALL HAVE NO LIABILITY WITH RESPECT TO THEIR OBLIGATIONS UNDER THIS AGREEMENT FOR ANY DAMAGES THAT ARISE FROM THE USE OF THE SERVICES. THIS IS A COMPREHENSIVE LIMITATION OF LIABILITY THAT APPLIES TO ALL DAMAGES OF ANY KIND. FOR EXAMPLE, COMPENSATORY, SPECIAL, DIRECT, INDIRECT, OR CONSEQUENTIAL DAMAGES, LOSS OF DATA, INCOME OR PROFIT, LOSS OF OR DAMAGE TO PROPERTY AND CLAIMS OF THIRD PARTIES, EVEN IF THE CARRIER OR ICTC HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

THE CARRIER AND ICTC'S LIABILITY TO YOU UNDER THIS AGREEMENT, AND YOUR EXCLUSIVE REMEDY FOR ANY LOSS, DAMAGE OR INJURY, REGARDLESS OF THE NATURE THEREOF AND SPECIFICALLY INCLUDING INDEMNITY, BREACH OF CONTRACT, NEGLIGENCE, TORT, AND WARRANTY CLAIMS SHALL NOT EXCEED, AND SHALL BE LIMITED TO, \$100. BECAUSE SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF CERTAIN CATEGORIES OF DAMAGES OR IMPLIED WARRANTIES, THE ABOVE LIMITATION MAY NOT APPLY TO YOU. IN SUCH STATES, THE LIABILITY OF CARRIER AND ICTC IS LIMITED TO THE FULLEST EXTENT PERMITTED BY SUCH STATE LAW.

**The Services are not intended or designed for and cannot be used for making 911, E911 or similar emergency calls. If you attempt to use the Services to make a 911, E911 or emergency call, emergency service providers will not be able to identify or locate you or your telephone number and you may not be connected to the appropriate emergency services provider. ICTC and the Carrier are not responsible for and disclaims any liability or damages related to or resulting from any attempt to use the Services for 911 calls, E911 calls or similar emergency call purposes.**

The Carrier automatically receives certain types of information whenever you use the Services. The Carrier may collect information about your Access Device and online activities. The Carrier may use systems or tools to follow your use of the Services, including using cookies, web beacons and other tracking mechanisms. The Carrier may share information that is anonymized or in an aggregated form that does not directly identify you.

The Carrier and/or ICTC have the right, but are not obligated, to strictly enforce this Agreement through self-help, active investigation, litigation and prosecution. ICTC and the Carrier reserve the right to act immediately and without notice to restrict, suspend or terminate the Services, if they reasonably determine that your conduct may: (1) expose ICTC or the Carrier to sanctions, prosecution, civil action or other liability; (2) cause harm to or interfere with the integrity or normal operations of the Services or the Carrier's network or networks with which the Carrier is interconnected; (3) interfere with another customer's use of the Services; (4) violate any applicable law, rule or regulation; (5) otherwise present an imminent risk of harm to the Carrier or its customers; or (6) violate any of the terms and conditions of this Agreement. This Agreement constitutes the entire agreement between you, ICTC and the Carrier with respect to the subject matter hereof. This Agreement shall be construed under the laws of the State of California and is made and entered into in Imperial County, California. All disputes relating to this Agreement or the Services shall be brought in a court of competent jurisdiction within said County.