



# IMPORTANT PRODUCT INFORMATION AND GUIDE

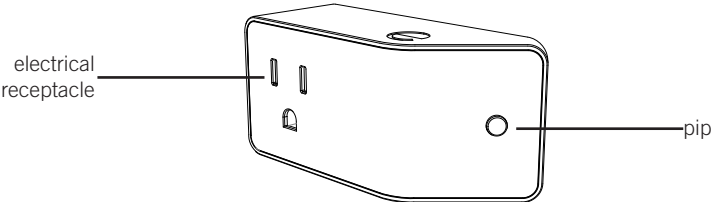


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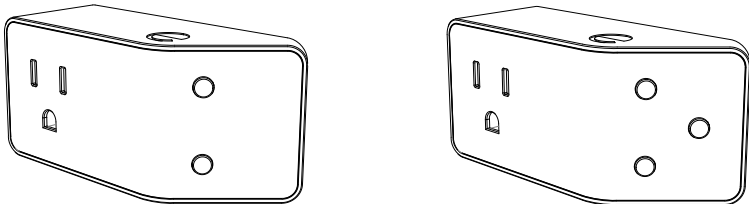
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# SENSORS

Your Evermind system includes 3 sensors. Each sensor is numbered using raised blue dots, or “pips.” While a sensor is plugged in, these pips also function as lighted indicators that the sensor is powered and able to transmit switching information to the Evermind Network. On the face of each sensor is an electrical receptacle. A grounded plug is located on the back of each sensor.



Sensor #1 contains an integrated cellular modem which connects all three sensors to the Evermind Network. NOTE: Though Sensor #1 can be used independently of Sensors #2 and #3, Sensor #1 must be plugged in and in range of the other sensors for those sensors to function.



When first plugged in, the pips on the front of each sensor will blink while establishing a connection and then glow a solid blue when connected. Sensor #1 will glow with a solid blue light when it has connected to the Evermind Network using its integrated cellular modem. Sensors #2 and #3 will glow a solid blue when they have connected to Sensor #1.

# PRODUCT SPECIFICATIONS

Electrical Rating: AC 120V 15A

## IMPORTANT SAFETY INFORMATION

Any changes or modifications not expressly approved by the party responsible for compliance could void the user's authority to operate the equipment.

This equipment complies with part 15 of the FCC Rules. Operation is subject to the following two conditions: (1) This equipment may not cause harmful interference, and (2) this equipment must accept any interference received, including interference that may cause undesired operation.

This equipment complies with the FCC RF radiation requirements for uncontrolled environments. To maintain compliance with these requirements, Sensor #1 should be installed to ensure that a minimum separation distance of 20 cm is maintained from the general population.

This equipment has been tested and found to comply with the limits for a Class B digital device, pursuant to part 15 of the FCC Rules. These limits are designed to provide reasonable protection against harmful interference in a residential installation. This equipment generates, uses and can radiate radio frequency energy and, if not installed and used in accordance with the instructions, may cause harmful interference to radio communications. However, there is no guarantee that interference will not occur in a particular installation. If this equipment does cause harmful interference to radio or television reception, which can be determined by turning the equipment off and on, the user is encouraged to try to correct the interference by one or more of the following measures:

- Reorient or relocate the receiving antenna.
- Increase the separation between the equipment and receiver.
- Connect the equipment into an outlet on a circuit different from that to which the receiver is connected.
- Consult the dealer or an experienced radio/TV technician for help.

Evermind sensors are designed for indoor use only.

## TROUBLESHOOTING

The first time Sensor #1 is plugged in, the integrated cellular modem has to register with the Evermind Network—this is called “over-the-air service provisioning” (OTASP). Sensor #1 could blink for up to four minutes before OTASP is accomplished. If Sensor #1 doesn't stop blinking after four minutes, it may be having trouble connecting to a cell tower. If Sensor #1 cannot connect to a cell tower, it will not be able to connect to the Evermind Network. The integrated cellular modem inside Sensor #1 works over a CDMA wireless network. Certain materials like masonry, brick, stone, or metal may block the wireless signal. If you're having problems connecting, try placing Sensor #1 in a different location in the residence.

When plugged in, Sensors #2 and #3 will attempt to connect to Sensor #1. While attempting to connect, these sensors may blink for up to 20 seconds before establishing a connection. If Sensor #2 or Sensor #3 continues to blink for longer than 20 seconds, please first check to make sure that Sensor #1 is plugged in, powered, and that its light is solidly lit (not blinking). After confirming that Sensor #1 is correctly installed, try placing the sensor with connection issues closer to Sensor #1, or placing the remaining sensor between Sensor #1 and the sensor experiencing connection issues (see “Using sensor relay to extend range,” below).

To extend the range of an Evermind sensor—for example in order to monitor two appliances on opposite sides of a large residence—a sensor can be placed between two sensors to create a relay connection. Plug the first appliance into Sensor #1, then plug the appliance farthest from Sensor #1 into either Sensor #2 or Sensor #3. Finally, plug the remaining sensor into a power source located approximately equidistant from Sensors #1 and the other sensor.

The Evermind system should recover from a power outage with no intervention. Nevertheless, if a monitored appliance is in an “on” state when power is restored, it is possible that Evermind will interpret the restoration of power as an “on” switching event, even though no one has switched on that appliance.

## LIMITED WARRANTY AND TERMS OF USE

THIS IS A LEGALLY BINDING AGREEMENT between you and Evermind, Inc. By ordering or using our System, you agree to all the terms and conditions of this Agreement. If you do not agree with the terms and conditions in this Agreement, you should not register on our Site or use our Services.

If you are entering into this Agreement on behalf of a company or other legal entity, you represent that you have the authority to bind such entity to these terms and conditions, in which case the terms “you” or “your” shall refer to such entity. If you do not have such authority, you should not proceed with the registration process or use our Site or Service.

Words that are capitalized have the specific meanings set forth in the “Definitions” section below.

### 1. SYSTEM AND SERVICES

1.1. **Provision of Services.** During the term of this Agreement, we will provide Services on a subscription basis in accordance with this Agreement. In order to use the Services, you are required to provide certain hardware, such as a mobile phone, personal computer, software, an Internet browser, and access to the Internet.

1.2. **Modifications of Service.** The Services may include one or more of the following: (a) the enabling of wireless transmission of data from Equipment placed throughout the User's home to a network operations center; (b) providing remote access to data collected by the Equipment via your Evermind.us account; (c) providing email, SMS and other notifications to you regarding Equipment activity or inactivity; and (d) providing periodic email updates to Users. We reserve the right to modify, add or eliminate Services from time to time without prior notice.

1.3. **Limitations.** The System is not fail-safe and is not designed or intended for use in situations requiring fail-safe performance or any use in which an error or interruption in the System or Services could lead to severe injury to business, persons, property or environment. The System is not intended to provide real-time data and should not be relied upon for emergency intervention or as a substitute for medical care.

1.4. **Not Intended as Medical Advice.** The System is not intended for diagnosis or as a substitute for medical care or patient monitoring or to provide automated treatment decisions and should not be used as a substitute for professional healthcare judgment. Force Majeure. We shall not be liable for any inconvenience, loss, liability, or damage resulting from any interruption of the System, directly or indirectly caused by, or proximately resulting from, any circumstances beyond our control, including, but not limited to, causes attributable to you or your property; failure of any third party telecommunications network; strike; labor dispute; riot or insurrection; war; explosion; malicious mischief; fire, flood, lightning, earthquake, wind, ice, extreme weather conditions or other acts of God; failure or reduction of power; or any court order, law, act or order of government restricting or prohibiting the operation or delivery of the System.

### 2. EQUIPMENT

2.1. Installation. You are responsible for installing the Equipment and activating the System in accordance with the instructions we provide. It is your responsibility to obtain and keep in effect all consents, authorizations, permits or licenses that may be required for the installation and operation of the System in the User's premises.

2.2. Electrical Power. In order to use the System, the Equipment must be plugged into an object that uses electrical power provided by independent electric companies. The electric power provided by the independent providers may have outages from time to time, and during any such outage our System will be unable to operate. We may not receive timely notice of the power outage from the independent provider. We are not obligated to provide Services during any such outages. IF THERE IS AN ELECTRICAL POWER OUTAGE, THE EQUIPMENT WILL CEASE TO OPERATE DURING THE OUTAGE, PREVENTING ANY COLLECTION OF DATA OR USE OF THE SYSTEM. NEITHER EVERMIND NOR ANY OF ITS AFFILIATES, SUPPLIERS OR AGENTS SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY FAILURE OR DAMAGE TO CUSTOMER EQUIPMENT.

2.3. Responsibility for Customer Equipment. Evermind has no responsibility for the operation or support, maintenance or repair of any equipment, software or services that you elect to use in connection with the Equipment (the "Customer Equipment"). CUSTOMER EQUIPMENT MAY BE DAMAGED OR SUFFER SERVICE OUTAGES AS A RESULT OF THE INSTALLATION, USE, INSPECTION, MAINTENANCE, REPAIR, AND REMOVAL OF EQUIPMENT. EXCEPT FOR GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER EVERMIND NOR ANY OF ITS AFFILIATES, SUPPLIERS, EMPLOYEES, AGENTS OR CONTRACTORS SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY DAMAGE, LOSS, OR DESTRUCTION TO THE CUSTOMER EQUIPMENT. IN THE EVENT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT BY EVERMIND, SUPPLIERS, EMPLOYEES, AGENTS OR CONTRACTORS, WE SHALL PAY AT OUR SOLE DISCRETION FOR THE REPAIR OR REPLACEMENT OF THE DAMAGED CUSTOMER EQUIPMENT UP TO A MAXIMUM OF \$100. THIS SHALL BE YOUR SOLE AND EXCLUSIVE REMEDY RELATING TO SUCH ACTIVITY.

2.4. Non-Recommended Configuration. You agree not to attach any unauthorized device to the Equipment or plug the Equipment into medical equipment or any equipment or hardware that does not meet the minimum technical or other specifications as may be established or modified from time to time by Evermind (a "Non-Recommended Configuration"). Evermind reserves the right to deny you customer support for the Services and/or terminate Service(s) if you use a Non-Recommended Configuration.

2.5. Third Party Carriers. The Equipment communicates via cellular data service provided by an independent carrier. The cellular data service provided by the independent carrier may fail or go off-line from time to time, and during any such outage our System will be unable to transmit and receive information. We may not receive timely notice of the communications outage from the independent carrier. We are not obligated to provide Services during any such outages. Cellular networks are regulated by federal and state agencies and changes in rules and regulations may require us to modify or terminate our Services.

2.6. Equipment Purchase. You hereby agree to subscribe to the Services as described on your Order. If you are ordering the Equipment from us, you also hereby agree to purchase the Equipment described on your Order. You authorize us to charge your credit card for (a) the subscription fees and taxes for the Services and, if applicable, (b) the purchase price and taxes for the Equipment. Unless otherwise stated in your Order, Services are provided to you on a month-to-month basis. You will generally be billed monthly, in advance, for recurring service charges and fees.

### 3. ACTIVATION, PAYMENT AND RENEWAL

3.1. Installation. The Services will not begin and we will have no obligation to process information received from the System until we have received and processed (a) a copy of this Agreement electronically signed by you, (b) your completed Order and (c) your initial payment or deposit, if required.

3.2. Subscription Fees. Our Services are offered on a subscription basis. You agree to pay the subscription fees for the original term as set forth in your Order. If your subscription is renewed, you agree to pay the then-applicable subscription fees for the renewal terms.

3.3. Automatic Payment. You authorize and agree that all amounts due to Evermind under this Agreement, including the purchase price or deposit, as applicable and all subscription fees, are to be paid by automatic credit card debit pursuant to the credit card information you provided with your Order. If your credit card payment is not honored, we may: (a) demand payment and you agree to pay the amount due; and/or (b) elect to terminate this Agreement by giving you notice. Such termination does not relieve you of your obligation

to pay for Services provided prior to such termination.

3.4. Automatic Renewal. After the original term described in your Order, the Services will automatically renew on a month-to-month basis at our then-current subscription fee rate unless terminated by you or us. We reserve the right to increase the subscription fee for any renewal term. You may cancel the Services pursuant to this Agreement if you no longer wish to pay for the Services.

3.5. Taxes; Third Party Costs. You agree to pay all sales, service, property, use, value-added or other local taxes applicable to your purchase and use of the Equipment and Services. If you or any User incurs any third party costs in connection with your use of our Services (such as utility bills), you agree that you will pay such costs and we are not responsible for payment of those amounts, whether imposed on you or us.

#### 4. CANCELLATION; TERMINATION; REFUNDS

4.1. Cancellations and Returns. You may cancel your Order and return the Equipment within ninety (90) days from the date of your Order through your Evermind.us account or by contacting customer service and returning Equipment to us, postage prepaid. If you cancel during this period, we will refund the payment you made with respect to the Equipment to your credit card upon our receipt of all Equipment in good condition (Evermind has the right to offset all damages to Equipment from any refund). There will be no refund for the Services. After the end of this cancellation and return period, all sales are final and all payments are non-refundable.

4.2. Termination. You may terminate your subscription at any time by giving us written notice through your Evermind.us account or by contacting Evermind.us customer service. We will continue to provide Services, and you will continue to be obligated to pay, through the end of the then current month. We may terminate your Service by giving you at least thirty (30) days advance written notice.

4.3. Suspension or Discontinuation of Services. We reserve the right to discontinue Services and/or terminate or suspend this Agreement immediately without notice if you fail to pay amounts when due, your payment method is denied or you or any User breaches this Agreement. You understand that we may stop or suspend Services for any of the following reasons: (a) strikes, severe weather, earthquakes or other such events beyond our control affect the operation of the System, (b) there is an interruption or unavailability of the service connecting the System and the Network, (c) you do not pay any amounts when due, (d) we are unable to provide Service because of some action or ruling by any cellular carrier, governmental authority or other third party, and (e) for any other reason as determined in good faith by us. In no event will we be liable for any damages or subject to any penalty as a result of us exercising the right to suspend or terminate of this Agreement. Your subscription shall not survive the expiration or termination of this Agreement, but all disclaimers of warranties, limitations of responsibility and liability, exclusions of damages and other remedies, and indemnification rights set forth in this Agreement shall survive its expiration or termination.

#### 5. YOUR EVERMIND.US ACCOUNT

5.1. Account Access. We will provide you the opportunity to create a password-protected online account at our Site, through which you can manage your account and change or cancel your subscriptions. You are responsible for maintaining the confidentiality of your user login, password and user codes, and you are responsible for all uses of your login, password and user codes, and any related changes, whether or not authorized by you. You are also responsible for keeping all contact information (including billing information, email addresses and telephone numbers) current and accurate.

5.2. Responsibility for Users. If you purchase our Services for use by another person (such as a parent, loved one or client), that person is considered a "User" of the Services under this Agreement. All Users of the Services are third party beneficiaries to this Agreement and are bound by all of the terms herein, including, without limitation, our disclaimer of warranties and limitation of liability. You agree that, whenever this Agreement or our rules or regulations impose any requirement or prohibition on the User, you will cause all other members of your household or business and any other person having access directly or indirectly through you to the System and Services to comply with such requirement or prohibition and will be responsible for any noncompliance by such User. You agree that you will not provide any personally identifiable information (such as last name, address or social security number) of any third party, including, without limitation, any third party User. The System is not designed for, nor intended to be used without the knowledge and consent of any User. You must notify all other persons who may use the System that they are bound by the terms and conditions of this Agreement. You must also instruct them on the proper use of the System, including any User if different than you. You or the User will use the System only in



accordance with this Agreement.

5.3. Your Account Information. You must provide complete and accurate registration and account information when you establish your Evermind.us account and when you Order any Services or Equipment. You must update this information through your Evermind.us account or by calling customer service if there are any changes to this information. You agree that we may disclose your account information to meet the requirements of any governmental agency, independent carrier, or other third party to the extent necessary for the use and operation of the System and for legal and regulatory compliance purposes.

## 6. LIMITED WARRANTY; DISCLAIMERS

6.1. Our Warranty. We hereby provide the limited warranty that the Equipment purchased by you will be free of defects for a period of either: (a) three (3) months after the date of sale or (b) so long as you have an active account in good standing for the Service, whichever period is longer. We will repair or replace any defective part without charge to you. We may use new or used parts of the similar quality and functionality and keep all replaced parts. Please note that replacement of defective parts or components is our only duty under this limited warranty. We make no other express warranty including any warranty of merchantability of the Service or System or their fitness for any special purpose. Except as expressly provided in this Agreement, the Service and System are provided "as is," with all faults, and we make no representation or warranty that the Service or System will be free from defects, that they will meet your needs, or that the Service will be uninterrupted. Our limited warranty does not include batteries and any other part that needs to be replaced due to accident, abuse, misuse, acts of god, vandalism, attempted unauthorized repairs, faulty electrical or telephone connections.

6.2. Limited Warranty Service. Please call our service department at 1-844-EVERMIND (1-844-383-7646) to initiate the service process. If the problem cannot be resolved remotely, we will send you instructions on how to obtain replacement Equipment and return the non-working Equipment to us. You are obligated to return the non-working Equipment to us within thirty (30) days. If you fail to do so, we may charge you our prevailing price for the Equipment by debiting your credit card.

6.3. Out-of-Warranty Service. At the end of the limited warranty period, if you continue your paid subscription, we will continue to repair or replace defective Equipment at no charge to you.

6.4. Limitations; Exclusions. YOU AGREE THAT THIS IS OUR ONLY WARRANTY AND WE HAVE GIVEN YOU NO OTHER WARRANTY FOR THE SYSTEM. THE SYSTEM AND SERVICES HAVE CERTAIN LIMITATIONS. BY USING OUR SERVICES AND ENTERING INTO THIS AGREEMENT, YOU ACKNOWLEDGE THAT WE DO NOT REPRESENT OR WARRANT THAT OUR SERVICES WILL PREVENT DEATH, BODILY OR PERSONAL INJURY, OR ANY OTHER INJURY OR DAMAGE TO YOU OR OTHERS WHO USE OUR SERVICES. YOU FURTHER UNDERSTAND THAT THE SYSTEM MAY FAIL TO FUNCTION PROPERLY. ALL IMPLIED WARRANTIES INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY OF THE SYSTEM OR ITS FITNESS FOR ANY SPECIAL PURPOSE ARE LIMITED IN DURATION AND DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. SOME STATES DO NOT ALLOW A LIMITATION OR EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU. THE LIMITED WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS AND YOU MAY ALSO HAVE OTHER RIGHTS THAT MAY VARY FROM STATE TO STATE.

YOU ACKNOWLEDGE AND AGREE THAT IF WE WERE TO HAVE ANY LIABILITY GREATER THAN THE AMOUNTS DESCRIBED IN THIS AGREEMENT, OUR RISK OF LIABILITY WOULD BE TOO GREAT AND WE COULD NOT PROVIDE OUR SERVICES TO YOU. YOU AGREE THAT YOU SHOULD OBTAIN ANY LIFE, MEDICAL OR DISABILITY INSURANCE FOR THE PROTECTION OF ALL USERS THE SYSTEM. YOU ALSO ACKNOWLEDGE AND AGREE THAT YOU HAVE SELECTED THE SERVICES WITH A FULL UNDERSTANDING OF THE LIMITATION OF OUR LIABILITY IN THIS AGREEMENT.

## 7. LIMITATIONS ON LIABILITY

7.1. No Indirect Damages. UNDER NO CIRCUMSTANCES SHALL WE OR OUR OFFICERS, DIRECTORS, SHAREHOLDERS, VENDORS, CONTRACTORS, EMPLOYEES OR AFFILIATES BE LIABLE TO YOU OR ANY USER, WHETHER IN CONTRACT, TORT OR OTHERWISE, FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES (EVEN IF SUCH DAMAGES ARE FORESEEABLE, AND WHETHER OR NOT EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES) ARISING FROM ANY ASPECT OF THE RELATIONSHIP PROVIDED FOR HEREIN. YOU EXPRESSLY AGREE AND ACKNOWLEDGE THAT THE

FOREGOING LIMITATIONS OF LIABILITY FORM AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES AND SHALL APPLY EVEN IF A LIMITED REMEDY FAILS OF ITS ESSENTIAL PURPOSE OR IS DEEMED UNCONSCIONABLE. NOTE: SOME STATES DO NOT ALLOW THE EXCLUSION OR THE LIMITATION OF CONSEQUENTIAL OR INCIDENTAL DAMAGES, OR SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU.

7.2. Acknowledgement. You understand that: (a) we are not an insurer of your health or personal safety or the health or personal safety of any User; (b) the amount you pay to us is based only on the value of the System and Services we provide; (c) notification systems may not always operate properly for various reasons; and (d) it is difficult to determine in advance what portion, if any, of any personal injury or death or property loss would be proximately caused by our failure to perform, our negligence, or a failure of the System or Services. Therefore, you agree that even if a court decides that our breach of this Agreement, a failure of the System or Services, or our negligence caused or allowed any harm or damage (whether personal injury, death or property loss) to you, a User or anyone in or about the premises where the System is installed, you agree that our total liability shall be limited to the greater of (i) \$500 and (ii) the amount paid by you for the Services during the preceding twelve (12) months. You further agree that this shall be the only remedy regardless of what legal theory (including without limitation, negligence, breach of contract, breach of warranty or product liability) is used to determine that we were liable for the injury or loss.

#### 8. INDEMNIFICATION

If a User, insurer or other third party requests that we indemnify, contribute or otherwise pay for any harm or damages (including personal injury, death or property loss) connected with or resulting from (a) our breach of this Agreement, (b) any failure of the System or Services or (c) our negligence or other act or omission in providing the System or Services, you agree to reimburse us upon our request for any amount a court orders us to pay or we agree to pay (including the amount of our reasonable attorneys' fees and any other losses or costs that we may pay in connection with the claim).

#### 9. PRIVACY

Your privacy is important to us. We maintain our Privacy Policy on our Site. We agree to use your personal information in accordance with our Privacy Policy, and you consent and acknowledge that your personal information may be used in accordance with our Privacy Policy. We reserve the right to store all information transmitted via our System and to use it in accordance with our Privacy Policy. We reserve the right to modify our Privacy Policy from time to time, effective upon posting the revised version on our Site. We encourage you to periodically check the Site for updates. If you disagree with anything in our Privacy Policy, you should cancel your subscription and discontinue using our Services.

#### 10. MISCELLANEOUS

10.1. Severability. If a court of competent jurisdiction finds any provision of this Agreement unlawful or unenforceable, that provision will be enforced to the maximum extent permissible so as to effect the intent of the parties, and the remainder of this Agreement will continue in full force and effect. You and Evermind intend that all restrictions on use, disclaimers of warranties, limitations of responsibility and liability, exclusions of damages or other remedies, and indemnification rights of Evermind in this Agreement shall be upheld and applied to the maximum extent permitted by law.

10.2. Entire Agreement. This Agreement (including Orders that reference this Agreement) constitutes the entire agreement between you and Evermind. By entering into this Agreement, you affirm that you are not relying on our advice, advertisements, or any other representation, promise, condition, inducement, or warranty, express or implied, from any person that is not expressly and specifically set forth in writing in this Agreement. In the event of a conflict between this Agreement and any other communication, request, agreement or order, the terms of this Agreement shall prevail.

10.3. Assignment. We reserve the right to assign this Agreement or to subcontract any of our obligations hereunder without notifying you and without obtaining your consent. You may not transfer this Agreement to someone else (including someone who purchases or rents your premises) unless we approve the transfer in writing.

10.4. Governing Law and Venue. The validity, interpretation, and performance of this Agreement shall be controlled by and construed under the laws of the State of Tennessee, as if performed wholly within the state and without giving effect to the principles of conflicts of

laws. The application of the United Nations Convention of Contracts for the International Sale of Goods is expressly excluded. Any dispute between the parties regarding this Agreement will be subject to the exclusive venue and applicable laws of the state and federal courts located in Davidson County, Tennessee.

10.5. Third Party Beneficiary. You hereby agree that each User in the household where you install the System or Services is an intended third party beneficiary of this Agreement. All Users shall be bound by the terms and conditions of this Agreement and we may enforce the terms and conditions of this Agreement that apply to Users. Contractors that we use to provide the limited warranty support or other Services are also intended third party beneficiaries of the appropriate provisions of this Agreement.

10.6. Notices. If you or we wish to give the other party written notices under this Agreement, they must be (a) in writing, (b) if to you, sent to your email address on file with us (or posted in your Evermind.us account if no email address is on file), (c) if to us, sent by overnight courier, certified or registered mail, or other reliable means (with confirmation of delivery) to our principal business address listed on our Site. Notices will be effective upon delivery.

10.7. Force Majeure. To the extent that either party's performance is prevented or delayed, either totally or in part, for reasons beyond that party's reasonable control, then that party will not be liable for not performing, so long as it resumes performance as soon as practicable after the reason delaying performance no longer exists.

## 11. DEFINITIONS

"Agreement" means this Subscription and Terms of Use Agreement and any Orders you place through our Site or your Evermind.us account.

"Customer Information" means the billing, contact and User information you provide to us for your Evermind.us account.

"Equipment" means the sensors that collect information from around the home and communicate via the Network with the Evermind.us servers, including any other hardware and all software or "downloads" to the sensors.

"Evermind", "we" or "us" means Evermind, Inc.

"Network" means the internet communications network that enables the in-home Equipment to communicate with the Evermind.us servers.

"Order" means your request to purchase Equipment and to purchase Services, whether purchased directly from the Site or through a third party reseller or sales representative.

"Services" means the remote monitoring and optional notifications services provided by Evermind under this Agreement and the proprietary Evermind software provided on a hosted or software as a service basis on the Site.

"Site" means our website located at <http://www.evermind.us/>.

"System" means the Equipment, the Network, the Services and the Evermind system that gathers information and enables you to access such information through your Evermind.us account.

"User" means you or anyone other than you that is a user of the System. If you install the System in the home of a friend, family member or client the members of that household are automatically deemed "Users" under this Agreement. If you purchase our Services for use by another person (such as a parent, loved one or client), that person is considered a "User" of the System under this Agreement. All Users of our Services are third party beneficiaries to this Agreement and are bound by all of the terms herein, such as our disclaimers and limitations of liability.

"you" means the person or entity purchasing Equipment and Services under this Agreement.

## WIRELESS SERVICE AGREEMENT

BY USING THE SYSTEM, THE USER EXPRESSLY UNDERSTANDS AND AGREES THAT IT HAS NO CONTRACTUAL RELATIONSHIP WHATSOEVER WITH THE UNDERLYING WIRELESS SERVICE PROVIDER OR ITS AFFILIATES OR CONTRACTORS AND THAT THE USER IS NOT A THIRD PARTY BENEFICIARY OF ANY AGREEMENT BETWEEN EVERMIND, INC. AND THE UNDERLYING CARRIER. IN ADDITION, THE USER ACKNOWLEDGES AND AGREES THAT THE UNDERLYING CARRIER AND ITS AFFILIATES AND CONTRACTORS SHALL HAVE NO LEGAL, EQUITABLE, OR OTHER LIABILITY OF ANY KIND TO THE USER AND THE USER HEREBY WAIVES ANY AND ALL CLAIMS OR DEMANDS THEREOF.

