



## TERMS OF SERVICE

### 1. The Terms.

Thank you for reviewing the terms (“Terms”) for your Whole 9 Gigs membership (“Membership”). These Terms are between you and 9GB Tech, LLC and/or its affiliates or authorized third party service providers (“9GB Tech” or “us” or “we”) and govern our respective rights and obligations. These Terms, together with your purchase receipt and the applicable terms related to using 9GBTech.com, Whole 9 Gigs Terms, and any services, special pricing, promotional offers or other benefits, which may include Product Protection Benefits, provided to you in connection with the Membership, or for use of the Membership, constitute the entire agreement between you and 9GB Tech related to the Membership. For more information on this, see Section 19. By enrolling in and continuing to use the Membership, you accept these terms, conditions, limitations, and requirements. We may make changes to these Terms or terminate the Membership program. If we make material changes or terminate the program, we may notify you by email and/or post the new terms at 9GBTech.com/Whole9Gigs (on this site, navigate to the latest Whole 9 Gigs Terms of Service).

**NOTE THAT THIS IS AN AUTOMATICALLY RENEWING MEMBERSHIP. FOR MORE INFORMATION ON THIS, SEE SECTION 10. THESE TERMS INCLUDE A BINDING ARBITRATION AGREEMENT, CLASS ACTION WAIVER, AND JURY TRIAL WAIVER THAT AFFECT YOUR RIGHTS. IN ARBITRATION, THERE IS NO JUDGE OR JURY AND LESS DISCOVERY AND APPELLATE REVIEW THAN IN COURT. PLEASE CAREFULLY REVIEW SECTION 17 REGARDING DISPUTE RESOLUTION BELOW.**

### 2. Whole 9 Gigs Membership.

We will provide the Membership services, special pricing, promotional offers and other benefits (collectively “Membership Benefits”) to the person who is identified as the member of Whole 9 Gigs (“Member”, “you” or “your”) and the Member’s family living at the Member’s primary home address; any Membership Benefits that are to be received in, or delivered to, the home, will only be available at the primary home address associated with this Membership, which must be located in our service area (“Member Address”). The availability to purchase the Membership, and receive certain Membership Benefits, is limited to designated sales channels and will not be available where prohibited by law. The purchase of Membership is not currently being offered, and will not be valid, to persons residing outside of the fifty states of the United States and the District of Columbia (e.g., it is not available in Puerto Rico or for purchase by Puerto Rico residents). Section 11 below provides additional information regarding eligibility for Membership Benefits.

### 3. Here’s what the Whole 9 Gigs Membership includes:

- a) **Exclusive Member-priced offers and priority access to limited supply items.** As a Member, you will be eligible for exclusive Member-priced offers, sales, events, and have priority access to certain limited supply item events. Quantity limits may apply.
- b) **VIP Customer Support.** You will have access to a Membership support line where you will receive advice, customer service, and coordination via phone or chat by a team of specially trained resources. You will be provided with decision-making advice tailored just for you and that empowers you to get the most out of the products you own. The support line will be staffed from 9am until 9pm. Please note that calls must be made from the telephone number identified on the Member account to receive support. You can also login to 9GBTech.com to receive support.
- c) **Free basic help and support included for most of the tech in your home\*** the duration of your membership. You may update your device and inform us of those changes to keep your support. Basic support is any software troubleshooting that can be resolved in 30 minutes or less. If the problem takes longer than 30 minutes to complete you will receive discounted service.
- d) **Up to (2) two FREE tune ups per year for your PC or laptop.**
- e) **Daily discounts for services outside of this membership.**
- f) **10% off repair or installation services.** Members will receive a 10% discount on current labor prices at the time of purchase. Discounts apply solely to labor and do not apply to parts, accessories, permits, travel time or anything outside the scope of service.
- g) **FREE setup of new devices.** Enjoy free setup and support of a new device for as long as your membership is active.

#### 4. Additional Terms.

Services provided under the Whole 9 Gigs are subject to the additional terms, limitations, and exclusions below, which shall be in addition to any limitations and exclusions that are otherwise set forth in these Terms or at 9GBTech.com.

**Server support is not included** (e.g., server administration and set-up, server software applications/OS installation and support or server diagnostics and tune-ups).

- We may not be able to fix a problem if you refuse to upgrade your operating system or software.
- Hardware failure is not covered.
- We will not be able to fix or support issues caused by or related to services provided by a third party.

This Membership is not intended to provide support for product categories that 9GB Tech does not sell and/or service (e.g., home audio systems, medical devices, video equipment, servers and more), however, at our discretion, we may attempt to provide reasonable assistance to you.

For product categories that 9GB Tech sells and/or service, we will do our best to provide technical support whenever possible. However, we reserve the right to determine that the assistance you seek cannot be provided in-store or remotely via telephone or web-based chat. In these situations, if you want further assistance, we may offer you the option to schedule an in-home visit at the Member Address for an additional charge, including:

**A trip charge if applicable.** For members who reside outside of the immediate service area, which is within 10 miles of our home office, (128 West Van Buren Street, Columbia City, IN) a trip charge of no more than \$14.99 may apply. See an associate for details.

The services and support provided by this Membership are subject to any applicable descriptions for each service provided on 9GBTech.com or other written scope document applicable to a particular service, which we will make available to you upon your request.

In some limited situations, a particular service may not be available in your area.

- Any required permits to complete a job will have an additional charge.
- We reserve the right to charge additional fees at our discretion for in-home work that requires more than 90 minutes to complete.
- We reserve the right to charge a \$29.99 fee if you schedule in-home work and fail to provide access to the Member Address, cancel an appointment within (60) sixty minutes of the scheduled appointment, or miss an appointment.

SERVICES MAY BE PERFORMED, AT OUR DISCRETION, BY EITHER OUR OWN EMPLOYEES OR ONE OF OUR AUTHORIZED, INDEPENDENT THIRD PARTY CONTRACTORS. WE REQUIRE OUR THIRD PARTY CONTRACTORS TO CONDUCT A BACKGROUND CHECK ON ANY PERSON THEY HIRE WHO WOULD ENTER YOUR HOME.

## **5. How to get our help**

You may obtain help with your Membership 24 hours per day, 7 days a week, and view other member entitlements, by logging into the Member's account on 9GBTech.com and accessing Remote Chat. You can also visit our store during normal store hours or by calling us at (260) 209-4794. We will automatically identify you as a Member if you call from the telephone number associated with your Membership.

## **6. Your responsibility to back-up data**

Before we service your device or any other equipment, if applicable, it is your responsibility to (1) back-up the data, software, information, or other files stored on your hard disk drives or any other data storage device; OR have us provide that service to you; and (2) remove and/or disconnect all USB flash drives, optical discs, external hard drives, and other removable data storage devices and media from your device or other equipment that you provide to us.

### **At your request, we will:**

back-up the data on your device. Except as otherwise specified in the terms and conditions for an applicable service order, we are not responsible for damage to or loss of any software or data that was residing or recorded on your devices and/or equipment.

## **7. Your other responsibilities.**

To receive the Membership Benefits, you agree to comply with each of the terms and conditions listed below and as otherwise stated in these Terms:

- a) To receive web-based remote technical support, you will need to provide a high-speed internet connection.
- b) You will provide information about the symptoms and causes of the issues you are experiencing.
- c) You will respond to our requests for information such as the product serial number, model, version of the operating system and software installed, any peripheral devices connected or installed on the product, any error messages displayed, the actions taken before the product experienced the issue, and the steps taken to resolve the issue.
- d) The services we provide concerning your products or in your home are subject to other terms and conditions, which we will make available to you via our website or upon your request. Other terms and conditions do not form a part of these Terms and are a separate legal document.
- e) If applicable, you are responsible for dropping off and picking up your product for service at our retail store.

- f) For any in-home services, you will provide access to the Member Address (and any devices, products, or equipment requiring technical support or service) during normal business hours for us to provide support and/or services.
- g) You must provide a safe, non-threatening environment for us to provide technical support and/or services. You must always maintain an active payment method on file during Membership, as it is an automatically renewing plan. Failure to maintain an active payment method on file may result in cancellation of your Membership and loss of Member benefits, including any existing Protection Plan(s).
- h) If any building or zoning permits are necessary for any services, you are responsible for paying for and/or obtaining these permits and the cost associated with these permits.
- i) You will use the Membership Benefits solely for personal, non-business use only and, therefore, you will not resell or otherwise use, or authorize others to use, any membership Benefits as part of any sale or service that you provide to your customers or for any other commercial use. For small business IT services, please contact our customer service.

## **8. Eligibility for Membership Benefits.**

At our discretion, we may ask questions and take steps to verify that the person using the Membership Benefits is the Member or is a family member residing at the same Member Address as the Member and/or is in lawful possession of the product(s) for which that person is seeking assistance. Membership cannot be transferred. You agree only persons who have reached the age of majority may enter a Membership and accept these Terms and the terms of any Protection Plan issued on eligible products during your Membership. Membership Benefits will be valid at 9GB Tech store locations or 9GBTech.com.

**AUTOMATIC RENEWAL. THE WHOLE 9 GIGS MEMBERSHIP BEGINS ON THE DATE IT IS INITIALLY PURCHASED AND WILL CONTINUE INDEFINITELY ON EITHER A YEAR-TO-YEAR BASIS IF YOU PURCHASED A YEARLY MEMBERSHIP OR A MONTH-TO-MONTH BASIS IF YOU PURCHASED A MONTHLY MEMBERSHIP UNTIL IT IS CANCELLED. YOU AUTHORIZE US TO CHARGE YOUR DESIGNATED PAYMENT CARD AT THE BEGINNING OF EACH BILLING PERIOD FOR THE THEN-CURRENT PRICE PLUS TAX FOR THE MEMBERSHIP, SUBJECT TO US GIVING NOTICE TO YOU OF ANY PRICE CHANGES AS PER SECTION 10 BELOW. YOU MAY CANCEL YOUR MEMBERSHIP AT ANY TIME SUBJECT TO THE TERMS OF SECTION 9 BELOW.**

## **9. Cancellation; renewal; and change of terms or plan price.**

How to cancel Whole 9 Gigs Membership.

- a. You may cancel Whole 9 Gigs membership at any time by calling (260) 209-4794.
- b. You may cancel in person at any time by visiting our store.

**IF YOU CANCEL WITHIN YOUR FIRST 30 DAYS OF JOINING, YOU'LL RECEIVE A FULL REFUND. IF YOUR MEMBERSHIP IS MONTH-TO-MONTH, YOU MAY CANCEL WITHIN (7) BUSINESS DAYS TO RECEIVE A FULL REFUND OR YOU MAY CANCEL BEFORE THE NEXT BILLING CYCLE.**

#### **10. Cancellation or Suspension of the Membership by Us**

Your Membership may be cancelled by us due to the failure to maintain a necessary account as provided in Section 8, your failure to comply with or fulfill any other material obligation under these Terms as determined by us (e.g., business use, failure to maintain an active payment method on file, your fraud or material misrepresentation, or unsafe or offensive work environment/conditions), or your nonpayment of the membership fee or other amounts owed to us under the Membership ("Non-Payment Event"). If a Non-Payment Event occurs, we will:

provide the Member written notice (e.g., via the email address in your Membership profile) of the NonPayment Event. If you do not cure the Non-Payment Event, your Membership will be cancelled.

retroactively to midnight on the last day of the preceding billing period. At our sole option, we may provide additional opportunities to cure the Non-Payment Event pursuant to the notice(s) we send to you regarding the Non-Payment Event. We may also suspend performance of our obligations while a NonPayment Event exists or any other situation where you failed to pay us an amount that is due or where you failed to comply with or fulfill any other material obligation under these Terms.

#### **11. Renewals.**

AS EXPLAINED IN SECTION 7 ABOVE, YOUR MEMBERSHIP WILL CONTINUE

INDEFINITELY ON EITHER A YEAR-TO-YEAR BASIS IF YOU PURCHASED A YEARLY MEMBERSHIP

OR A MONTH-TO-MONTH BASIS IF YOU PURCHASED A MONTHLY MEMBERSHIP UNTIL

CANCELLED OR NOT RENEWED BY YOU OR US IN ACCORDANCE WITH THESE TERMS. At our discretion, we may discontinue the renewal of your Membership on at least 30 days' prior written notice or offer you a new contract. Subject to our responsibility to inform you in advance of a change in price.

provided in Section below, your designated payment card will be charged the amount of the then- current price of Whole 9 Gigs if you do not cancel your Membership prior to the applicable renewal date. g. Change of terms or plan price. We may change the price of the Membership at any time upon 30 days' notice to you. We may in our discretion change these Terms, Whole 9 Gigs account terms, or any aspect of the Membership, without notice to you. If any change to these Terms is found invalid, void, or for any reason unenforceable, that change is severable and does not affect the validity and enforceability of any remaining changes or conditions. **YOUR CONTINUED MEMBERSHIP AFTER WE CHANGE THE PRICE FOR THE MEMBERSHIP OR THESE TERMS CONSTITUTES YOUR ACCEPTANCE OF THE CHANGES. IF YOU DO NOT AGREE TO ANY CHANGES, YOU MUST CANCEL YOUR MEMBERSHIP.** Changing your Membership tier. Details on how to change your Whole 9 Gigs membership can be found on our Frequently-Asked-Questions page at [9gbtech.com/whole9gigs](https://9gbtech.com/whole9gigs).

**Notice.** We will notify you regarding your Membership (e.g., cancellations, changes in price, etc.) to the e-mail address you provided to us. It is your responsibility to contact us to update your e-mail address if necessary. We may also send you any notices to the postal address we have on file for you.

## **12. Limitations of service.**

We shall not be liable for any failure or delay in performance due to any cause beyond our control. We may refrain from providing Membership Benefits, wholly or in part, on the basis that the minimum system requirements are not met or if your technical needs or other requirements are unusual or extensive and beyond the scope of these Terms, as determined by us.

## **13. Disclaimer of warranties.**

THE MEMBERSHIP BENEFITS ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. WE MAKE NO WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. WE MAKE NO WARRANTY THAT THE MEMBERSHIP BENEFITS WILL MEET YOUR REQUIREMENTS, OR THAT THE MEMBERSHIP BENEFITS WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR FREE; NOR DO WE MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE MEMBERSHIP BENEFITS OR AS TO THE ACCURACY OR RELIABILITY OF ANY INFORMATION OBTAINED THROUGH THE MEMBERSHIP BENEFITS. YOUR USE OF THE MEMBERSHIP BENEFITS AND ANY MATERIAL AND/OR DATA DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE MEMBERSHIP BENEFITS IS DONE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER/SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF SUCH MATERIAL AND/OR DATA. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM US OR THROUGH THE MEMBERSHIP BENEFITS SHALL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES, SO SOME OF THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU.

## **14. Limitation of liability.**

TO THE MAXIMUM EXTENT PERMITTED BY LAW: (A) WE WILL UNDER NO CIRCUMSTANCES BE LIABLE TO YOU FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO COSTS OF RECOVERING, REPROGRAMMING, OR REPRODUCING ANY PROGRAM OR DATA OR THE FAILURE TO MAINTAIN THE CONFIDENTIALITY OF DATA, ANY LOSS OF BUSINESS, PROFITS, REVENUE OR ANTICIPATED SAVINGS, RESULTING FROM OUR OBLIGATIONS UNDER THESE TERMS; AND (B) OUR TOTAL LIABILITY UNDER THESE TERMS SHALL NOT EXCEED THE ORIGINAL PURCHASE PRICE OF THE MEMBERSHIP INCLUDING TAXES. THE LIMITATIONS IN THIS SECTION WILL NOT LIMIT OR EXCLUDE LIABILITY CAUSED BY OUR GROSS NEGLIGENCE, INTENTIONAL MISCONDUCT OR FRAUD.

## **15. Dispute Resolution by Binding Individual Arbitration.**

ANY DISPUTE INVOLVING YOU AND 9GB TECH, LLC OR ANY OF ITS AGENTS MUST BE RESOLVED THROUGH INDIVIDUAL ARBITRATION, EXCEPT AS FOLLOWS: • ANY DISPUTE FALLING WITHIN THE JURISDICTIONAL SCOPE AND AMOUNT OF AN APPROPRIATE SMALL CLAIMS COURT MUST BE BROUGHT IN SMALL CLAIMS COURT ON AN INDIVIDUAL BASIS; AND • ANY DISPUTE TO SEEK TO ENJOIN INFRINGEMENT OR OTHER MISUSE OF INTELLECTUAL PROPERTY RIGHTS MAY BE BROUGHT IN ANY COURT OF COMPETENT JURISDICTION. “Dispute” shall be interpreted broadly and cover any claim or controversy arising out of or relating in any way whatsoever to your relationship or interaction with 9GB Tech, LLC, its agents, and its present and future subsidiaries, affiliates, and designees. whether based in contract, tort, statute, fraud, misrepresentation, or any other legal theory. Examples of relationships or interactions giving rise to a covered claim include, without limitation: (1) your use of 9GB Tech, LLC’s websites; (2) your membership in any 9GB Tech, LLC loyalty or rewards program (e.g., Whole 9 Gigs) or subscription-based services (e.g., Whole 9 Gigs); (3) your receipt of delivery, repair or installation services or consultation services provided by 9GB Tech, LLC or its agents; (4) any communications between you and 9GB Tech, LLC; (5) application for financing; and/or (6) your purchase of products or services offered, sold, or distributed by 9GB Tech, LLC including, but not limited to, any Dispute arising from the advertising of, or the sales practices related to, such products and services. If you are a Whole 9 Gigs member, Dispute shall also include all disputes that arose before your enrollment in, and after the cancellation or termination of, the Whole 9 Gigs program, including any claims that are the subject of a purported class action litigation. BY AGREEING TO ARBITRATION, YOU UNDERSTAND AND AGREE THAT YOU ARE WAIVING YOUR RIGHT TO MAINTAIN OTHER AVAILABLE RESOLUTION PROCESSES, SUCH AS A COURT ACTION OR ADMINISTRATIVE PROCEEDING, TO SETTLE DISPUTES. THE RULES IN ARBITRATION ARE DIFFERENT. THERE IS NO JUDGE OR JURY, LESS DISCOVERY, AND LIMITED APPELLATE REVIEW. ARBITRATORS CAN AWARD THE SAME DAMAGES AND RELIEF THAT A COURT CAN AWARD. Before either Party may initiate an arbitration proceeding, you and 9GB Tech, LLC agree to engage in a good faith effort to resolve the Dispute informally for 60 days, unless that time is extended by agreement. If you intend to initiate an arbitration proceeding, you must first send a fully completed notice of your Dispute (the “Notice”) to 9GB Tech, LLC. The Notice must include your name and contact information (address, telephone number, and email address) and information sufficient to enable 9GB Tech, LLC to identify any transaction at issue. The Notice must also include a detailed description of (1) your Dispute; (2) the Version: October 2023 11 specific facts supporting your claim(s); (3) the nature and basis of the damages you claim to have suffered; and (4) a calculation and explanation of the relief sought. Your Notice shall be personally signed by you and sent to 9GB Tech, LLC. If 9GB Tech, LLC intends to initiate an arbitration proceeding, it will send a Notice to you at the contact information we have on file. If requested by 9GB Tech, LLC as part of this mandatory informal dispute resolution process, you agree to personally participate (along with your counsel, if you are represented) in a telephone conference to discuss the potential resolution of the Dispute between you and 9GB Tech, LLC. If the Dispute is not resolved within 60 days after receipt of the Notice (or the longer period agreed to by the Parties), you or 9GB Tech, LLC may proceed with individual arbitration (this informal process is a condition precedent to doing so.). If the sufficiency of a Notice or compliance with this mandatory informal dispute resolution process is at issue, it may be decided by a court at either Party’s election, and any formal dispute resolution proceeding shall be stayed pending resolution of the issue. A court shall have the authority to enforce this condition precedent, which includes the power to enjoin the filing or prosecution of a demand for arbitration.

The statute of limitations and any filing fee deadlines shall be tolled while the Parties engage in this informal process. If the Parties are not able to resolve the Dispute through the mandatory informal dispute resolution process referenced above, either Party may initiate an arbitration proceeding by sending a



demand to the American Arbitration Association (AAA) that describes the nature and basis for the claim and includes all of the information required in the Notice. The Party initiating arbitration must include as part of the demand a personally signed certification of compliance with the informal dispute resolution process. You may serve a copy of a demand on our registered agent. The arbitration will be governed by the AAA's applicable Consumer Arbitration Rules or Commercial Arbitration Rules (collectively, the "AAA Rules"), as appropriate, and as modified by these Terms, and will be administered by the AAA. The AAA Rules and the form for filing an arbitration claim are available at [www.adr.org](http://www.adr.org). If the AAA is unavailable or unwilling to administer the arbitration consistent with this Dispute Resolution section, another arbitration provider shall be selected by the Parties that will administer the arbitration consistent with it. If the Parties cannot agree on a provider, one shall be selected by a court that will administer the arbitration consistent with this Dispute Resolution section. Payment of all filing, administration and arbitrator fees will be governed by the AAA's Rules; however, 9GB Tech, LLC will consider reimbursing the consumer portion of the AAA fees upon a showing of financial hardship. The Parties shall be responsible for their own attorney's fees and costs in arbitration, unless they are authorized by law or the arbitrator determines that a claim or proceeding was frivolous or brought for an improper purpose or in bad faith (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)). The arbitrator shall apply the provisions of Federal Rule of Civil Procedure 68 after entry of the award. You may choose to have the arbitration conducted by telephone, virtually, based on written submissions, or at an in person hearing in the county where you live or at another mutually agreed upon location. 9GB Tech, LLC reserves the right to request a hearing from the arbitrator. You agree to personally appear at any in person hearing (along with your counsel if you are represented). YOU AND 9GB TECH, LLC AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS, CONSOLIDATED, PRIVATE ATTORNEY GENERAL, OR REPRESENTATIVE PROCEEDING. THIS MEANS THAT YOU MAY NOT PURPORT TO ACT ON BEHALF OF A CLASS OR ANY OTHER PERSON. The arbitrator may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim. The arbitrator may not award relief for or against anyone who is not a party to the arbitration proceeding. Further, unless both you and 9GB Tech, LLC agree otherwise, the arbitrator may not consolidate more than one person's claims and may not otherwise preside over any form of a representative or class proceeding. If a court determines that a claim for public injunctive relief may not be waived and all appeals from that decision have been exhausted, then the Parties agree that any claim for public injunctive relief shall be stayed pending arbitration of the remaining claims. If this specific paragraph is found to be unenforceable, then the entirety of this dispute resolution provision (except for the jury trial waiver) shall be null and void. This paragraph sets forth additional procedures that apply to mass arbitrations. If twenty-five (25) or more similar claims are asserted against 9GB Tech, LLC by the same or coordinated counsel or are otherwise coordinated, you understand and agree that these additional procedures apply and that the resolution of your Dispute might be delayed. Counsel for the claimants and counsel for 9GB Tech, LLC shall each select fifteen cases (per side) to proceed first in individual arbitration proceedings as part of a bellwether process. Each of these thirty (30) cases shall be assigned to a different arbitrator. The remaining cases shall not be filed or deemed filed in arbitration nor shall any AAA fees be assessed in connection with those cases until they are selected to proceed to individual arbitration proceedings as part of this bellwether process.

If the Parties are unable to resolve the remaining cases after the conclusion of the initial thirty (30) proceedings after conferring in good faith, each side shall select another fifteen (15) cases (per side) to proceed to individual arbitration proceedings as part of a second bellwether process. Each of these thirty (30) cases shall be assigned to a different arbitrator. The remaining cases shall not be filed or deemed filed in arbitration nor shall any AAA fees be assessed in connection with those cases until they are selected to

proceed to individual arbitration proceedings as part of a bellwether process. A single arbitrator shall preside over each case. Only one case may be assigned to each arbitrator as part of a bellwether process unless the Parties agree otherwise. Identical sets of arbitrators shall not be assigned to sets of bellwether proceedings. This staged process shall continue with thirty (30) cases in each set of bellwether proceedings, consistent with the parameters identified above, including that the remaining cases shall not be filed or deemed filed in arbitration nor shall any AAA fees be assessed in connection with those cases until they are selected to proceed, until all the claims included in these coordinated filings, including your case, are adjudicated, settled, or otherwise resolved. The statute of limitations and any filing fee deadlines shall be tolled for claims subject to these additional procedures that apply to mass arbitrations from the time of the first cases are selected for a bellwether process until the time your case is selected for a bellwether process, withdrawn, or otherwise resolved. You and 9GB Tech, LLC agree to engage in this process in good faith. A court shall have the authority to enforce this Version: October 2023 13 paragraph and, if necessary, to enjoin the mass filing or prosecution of arbitration demands against 9GB Tech, LLC. If for any reason a claim may proceed in court rather than in arbitration, WE EACH WAIVE ANY RIGHT TO A JURY TRIAL, UNLESS SUCH WAIVER IS UNENFORCEABLE. THIS MEANS THAT ANY CLAIM WOULD BE DECIDED BY A JUDGE, NOT A JURY. This dispute resolution provision shall be governed by the Federal Arbitration Act. It shall survive any termination or cancellation of, or your participation in, any membership programs or subscription services and your relationship with 9GB Tech, LLC. Any amendments to this dispute resolution provision shall not affect any then-active or pending arbitration proceeding.

#### **16. Applicable Law.**

THE FEDERAL ARBITRATION ACT AND APPLICABLE FEDERAL LAW (OR IN THE ABSENCE OF APPLICABLE FEDERAL LAW, THEN THE LAWS OF THE STATE OF MINNESOTA), WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAWS, WILL GOVERN THESE TERMS AND APPLY TO ANY DISPUTES OR CLAIMS BETWEEN YOU AND 9GB TECH, LLC.

#### **17. Electronic delivery.**

You agree to receive electronic delivery of the Terms at the email-address provided in the Member profile, which will be deemed delivered to you (a) when you purchased My 9GB Tech, LLC by their availability at 9GBTech.com; and (b) when sent to you via a link in the email address you provide to us. You also agree to receive electronic delivery of Protection Plans and any Membership related communications at the e-mail address provided in the Member profile.

#### **18. Communication.**

9GB Tech, LLC or any of its affiliates, subsidiaries, and their authorized independent third parties performing services on our behalf may call, text or email you to schedule, provide support or service,

update orders, follow up for feedback, and/or inform you about other products/services. Calls may be prerecorded. Calls and texts may be automated. Consent for follow up calls or texts is not a condition of purchase. Message and data rates may apply.

#### **19. Entire agreement.**

These Terms together with your purchase receipt and the applicable terms related to using 9GBTech.com, My 9GB Tech, LLC terms, and any services, special pricing, promotional offers or other benefits, including Product Protection Benefits, provided to you in connection with the Membership, or for use of the Membership, constitute the entire agreement between you and us with respect to the services and benefits to be provided to you under My 9GB Tech, LLC and will prevail over any conflicting, additional, or other terms of any marketing collateral or other document or expression. Employees and agents of 9GB Tech, LLC have NO AUTHORITY (apparent, express, implied, or otherwise) to alter or modify the terms and conditions of Whole 9 Gigs – either orally or in writing.