

## Fireclay Tile Mobile Device Stipend Agreement

**Name:**

**Department:**

**2023 Stipend Levels:** Moderate: \$30/month or High: \$75/month

*\*Rates go into effect 01/01/2023 and will be paid during the next payroll cycle*

### Policy Summary

Employees who hold positions that include the need for a cell phone or use of their personally-owned cellphone may receive a cell phone stipend to compensate for business-related costs incurred when using their individually-owned cell phones. The stipend will be considered a non-taxable fringe benefit to the employee. The level of cash subsidy (stipend) will be determined by a person's job duties as it relates to cell phone use and access. The Company will review and set the amounts to be provided for stipends and reimbursement on an annual basis. For more information, read the complete Cell Phone Stipend Policy.

### Employee Responsibilities

Recipients of a cell phone stipend have the following responsibilities:

- Purchase cellular phone service and equipment and assume responsibility for vendor terms and conditions. The employee is responsible for plan choices, calling areas, service features, termination clauses, and paying all charges associated with the cellular service and device.
- Select a service provider, plan, and features that meet the requirements of the job and the level of service that the stipend is intended to cover; and ensure the carrier selected has service in required usage areas, such as at the office and/or at home as required by the department/company.
- Maintain an active service contract for the duration of the stipend.
- Promptly report any cell phone number or plan changes, as well as if a phone is stolen or missing.
- Comply with all Federal and State data maintenance and protection laws (e.g., FERPA, records retention requirements), as well as all Company policies, including those pertaining to data security, acceptable computing use, and email.
- Delete all Company data from the cell phone when employment with the Company is severed, except when required to maintain the data in compliance with a litigation hold notice.

### Employee Certification

By signing below, I certify that I have read, understand, and agree to the Cell Phone Stipend Policy and my responsibilities under the policy. I further certify that the above stipend will be used toward expenses that I incur for cell phone usage for business purposes. I understand that Fireclay Tile, Inc. is not responsible for the business use of my personal cellular device.

Employee Signature / Date:

Company Signature / Date:

## **CELL PHONE REIMBURSABLE POLICY/CELL PHONE STIPEND**

### **Background**

Fireclay Tile recognizes that the performance of certain job responsibilities may be enhanced by or may require the use of a cellular (cell) phone, smartphone, tablet or another mobile computing device, hereafter referred to collectively as "cell phones", unless indicated (see definitions below). The IRS considers these devices to be "listed property." As such, IRS regulations (IRS Section 274(d)4) require detailed record keeping including (a) the amount of the expense, (b) the time and place of the call, and (c) the business purpose for the call. The IRS can declare that all undocumented use of a cell phone is personal and should be taxed as wages, even if the majority of the calls are for business purposes.

In order to comply with IRS rules regarding the taxable nature of cell phone usage by employees, as of April 1, 2011. Fireclay will begin issuing a Stipend for those employees who hold positions where the duties of that position require the use of a cell phone or mobile device. This Stipend is meant to off-set the overall costs of the mobile device ownership, not cover those costs in full. The benefits of such an approach includes: 1) a call log is not required; 2) monthly reporting is not required; 3) a single phone may be used for both personal and business purposes. The Stipend is not considered taxable income to the employee.

### **Policy**

Employees who hold positions that include the need for a mobile device (see eligibility criteria below) may receive a Stipend to compensate for business-related costs incurred when using their individually-owned cell phones. Fireclay Tile will not own mobile devices for the use of individual employees.

### **Definitions**

Smartphone – A mobile phone that does include features such as internet connection, WiFi, e-mail access, applications and a web browser.

### **Eligibility Requirements**

Employees whose job duties include the frequent need for a mobile device may receive extra compensation, in the form of a monthly Stipend, to cover business-related costs. An employee is eligible for a stipend if at least one of the following criteria is met:

- The job function of the employee requires considerable time outside of his/her assigned office or work area and it is important to the Company that s/he is accessible during those times;

- The job function of the employee requires him/her to be accessible outside of scheduled or normal working hours;
- The job function of the employee requires him/her to have wireless data and internet access; and/or
- The employee is designated as a “first responder” to customer project related lead or calls from management.

An employee who occasionally requires a mobile device for business purposes is not eligible for a stipend; however, s/he may submit a record of these expenses for reimbursement not to exceed \$30.

### Stipend Plan

If an employee meets the eligibility requirements for a mobile device, as outlined above, a Stipend may be requested using the **Mobile Device Stipend Agreement** form. The request may be made any time during the fiscal year.

Once approved, the Stipend amount will be added to the employee’s regular pay. As per IRS guidelines, any amount added for equipment or service will be identified as a non-taxable fringe benefit.

*This Stipend does not constitute an increase to base pay, and will not be included in the calculation of percentage increases to base pay due to annual raises, job upgrades, bonuses, benefits based on a percentage of salary, etc.*

The Stipend will be paid as a flat rate per month, based on the selected service(s) and usage level(s) outlined below. As a Stipend, Fireclay will pay only the agreed upon amount, even if monthly costs exceed that amount. A new request form must be submitted if the Stipend amount needs to be changed because of documented business purposes.

The Stipend and equipment allowance are neither permanent nor guaranteed. Fireclay reserves the right to remove a participant from this plan and/or cancel the plan if there is insufficient budget to meet the plan costs.

### Stipend Options

The amount of the Stipend will be determined based on the business contact required of the employee’s position and the minutes/texts/data needed for the employee to perform his or her job responsibilities (see *Oversight, Approval, & Funding* section below). Cell phones and Tablets are subsidized at a flat rate regardless of the amount of usage. A tiered model based on the current market rates\* is used for Smartphones. The current market generally requires voice, text and data when a user subscribes to a Smartphone. Each tier is defined by the upper limit of usage per month of *any combination of service(s)* that is for required work-related purposes.

- Moderate: \$30/month, defined as 30% or less of all phone, text, and data usage for an average month are for work-related issues, then the “Moderate” tier would be appropriate.
- High: \$75/month, defined as more than 30% of all texts, phone and data usage are for work-related purposes, the “High” tier would suffice

The Stipend amount shall be selected by the department head and should cover all reasonable and appropriate business use, and may comprise one or more services each with its own usage level. The stipend amount will not exceed the monthly charge for the use of the device (eg – if a promotion causes the monthly fee to be \$35 even for a “high” user, then the stipend will be \$30). If asked to produce a bill to show the amount paid to their carrier, the employee will provide it at a summary level.

- *The Stipend rates will be evaluated, and if appropriate, adjusted annually to align to current market rates.*

### **Equipment Allowance**

Fireclay will assist with paying the net purchase cost of a cell phone or mobile device up to once every 2 years for any High use employee, as defined above. This allowance is taxable income to the employee. Employees must show a bill or purchase receipt for their mobile in order to receive this allowance. The mobile device will belong to the employee, not the Company; the employee can choose a mobile device with more features and pay the difference if he/she chooses. The Company will not pay for activation fees or insurance.

Directors and Officers may approve as many mobile device purchases per employee as deemed appropriate as per the eligibility requirements.

Allowance amounts differ based on type of device:

- Smartphone: Up to \$300

### **Oversight, Approval, & Funding**

Department heads/Managers are responsible for identifying employees who hold positions that include the need for a mobile device. Each department is strongly encouraged to review whether a mobile device is necessary, and to select alternative means of communication -e.g., landlines, mobile phone, etc - when such alternatives would provide adequate and less costly service to the Company.

The department head is responsible for overseeing employee mobile device needs and assessing each employee’s continued need of a mobile device for business purposes. The need for a Stipend should be reviewed annually, to determine if existing stipends should be continued as-is, changed, or discontinued.

Stipends are funded by the department submitting the request.

## Oversight, Approval, & Funding

Individual departments and department heads are responsible for identifying employees who hold positions that include the need for a mobile device. Each department is strongly encouraged to review whether a mobile device is necessary, and to select alternative means of communication -e.g., land-lines, pagers, and mobile radios - when such alternatives would provide adequate and less costly service to the Company.

The department head is responsible for assessing each employee's continued need of a mobile device for business purposes. The need for a Stipend should be reviewed annually, to determine if existing stipends should be continued as-is, changed, or discontinued.

## Employee Rights & Responsibilities

The employee is responsible for purchasing a mobile device and establishing a service contract with the provider of his/her choice. The contract is in the name of the employee, who is solely responsible for all payments to the service provider. The employee purchases service and equipment; determines plan choices, service levels, calling areas, service and features; and accepts termination clauses and payment terms.

Because the mobile device is owned, the employee may use the phone for both business and personal purposes, as needed. The employee may, at his or her own expense, add extra services or equipment features, as desired. If there are problems with service, the staff member is expected to work directly with the carrier for resolution. Support from the Company's Information Technology (OIT) is limited to documentation provided for connecting a personally-owned mobile device to Company-provided services, including email, calendar, and contacts.

An employee receiving a Stipend must be able to show, if requested by his/her supervisor, a copy of the monthly access plan charges and business related use to determine if the amount of Fireclay compensation is appropriate. If the employee terminates the wireless contract at any point, s/he must notify his/her supervisor within 5 business days to terminate the Stipend.

Fireclay Tile does not accept any liability for claims, charges or disputes between the service provider and the employee. Use of the mobile device in any manner contrary to local, state, or federal laws will constitute misuse, and will result in immediate termination of the Stipend.

Devices covered by this policy are used in part to conduct Company business and/or to create, receive, send, or store Company data and/or education records of students. As a result, information contained on devices covered by this policy are also subject to Federal and State data maintenance and protection laws (e.g., FERPA, records retention requirements), as well as all Company policies, including those pertaining to data security, acceptable computing use, and email. An employee receiving a Company Stipend must comply with Federal, State, and Company requirements, and assist the Company in providing access to information about or contained on the mobile device covered by this policy in response to requests for such data or information by third parties as required by Federal and/or State law.

Any mobile device that has data capabilities must be secured based on current Company security standards including password protection and encryption. If a device with data capabilities is stolen or missing, it must be reported to the employee's supervisor, the wireless device service provider, and to OIT as soon as possible.

Employees are expected to delete all Company data from the device when their employment with the Company is severed, except when required to maintain that data in compliance with a litigation hold notice.

### Reimbursement for Business Calls

If an employee's job duties do not meet the criteria for a mobile device, the employee is not eligible for a Stipend. Such employees may request reimbursement for the actual extra expenses of business use on their mobile devices. Reimbursement for per-minute "air time" charges for voice service is limited to the total overage charge shown on the invoice; expenses for minutes included in the plan will not be reimbursed. Similarly, reimbursements for data overages apply to the total overages shown on the invoice for that section. The individual should make personal payment to the provider, and then should submit a request for reimbursement using the Company's reimbursable expense report. Reimbursement documentation should identify the business and submit to AP for reimbursement after obtaining his/her manager's signature for approval purposes.

### Cancellation

Any Stipend agreement will be immediately canceled if an employee receiving a cell phone Stipend terminates employment with the Company. Any such Stipend will also be canceled if an employee changes job positions that does not require the use of a cell phone. In case of a change in job positions and a different Cell Phone Stipend Tier, a new *Cell Phone Stipend Agreement* must be submitted to the People Office to establish the continued business need for a cell phone.

If, prior to the end of the cell phone contract, a personal decision by the employee, employee misconduct, or misuse of the phone results in the need to end or change the cell phone contract, the employee will bear the cost of any fees associated with that change or cancellation. EXAMPLE: The employee quits, and no longer wants to retain the current cell phone contract for personal purposes.

If, prior to the end of the cell phone contract period, a department decision (unrelated to employee misconduct) results in the need to end or change the cell phone contract, the department will bear the cost of any fees associated with that change or cancellation. The original billing statement indicating the early termination charge billed must be submitted in order to be reimbursed in these circumstances. EXAMPLE: The employee's supervisor has changed the employee's duties, and the Stipend is no longer needed. The employee does not want to retain the current cell phone contract for personal purposes.

