

**LIGHTWAVE BROADBAND LLC
DbA LIGHTWAVE WIRELESS
SERVICE AGREEMENT FOR
WIRELESS HIGH SPEED INTERNET SERVICE**

The Lightwave Wireless Service Agreement between you and Lightwave Wireless collectively consists of the following documents: the Installation Agreement, the Customer Agreement, the Acceptable Use Policy, and the Privacy Policy as found below.

Please read this Agreement prior to accessing the Service. All users of this Service must abide by this Agreement. By using the Service, you agree to abide by, and require others using the Service via your account to abide by the terms of this Agreement. You should consult this document regularly to ensure that your activities conform to the most recent version.

IF YOU DO NOT AGREE TO ABIDE BY THE TERMS OF THIS AGREEMENT AS FOUND HEREIN, YOU SHOULD IMMEDIATELY STOP THE USE OF THE SERVICE AND NOTIFY THE LIGHTWAVE BILLING DEPARTMENT SO THAT YOUR ACCOUNT MAY BE CLOSED.



**LIGHTWAVE WIRELESS
SERVICE AGREEMENT
TABLE OF CONTENTS**

INSTALLATION AGREEMENT	2
CUSTOMER AGREEMENT	4
ACCEPTABLE USE POLICY	12
PRIVACY POLICY	15

**LIGHTWAVE WIRELESS
WIRELESS HIGH SPEED INTERNET SERVICE
INSTALLATION AGREEMENT**



CUSTOMER INFORMATION:

Name: _____ Invoicing Email: _____
Physical Address : _____ Phone(s): _____
City/State/Zip: _____ Access Point: _____
Installation Date: _____ Referred By: _____

DURATION OF AGREEMENT: Month-to-Month

RESIDENTIAL SERVICE LEVELS are BURSTABLE up to stated speeds but fluctuate depending on wireless conditions. Customer please *initial* level of choice:

- | | |
|---|--|
| ____Level 1: \$35.00 per month, burstable speeds
Download Speed: up to 1.5mbps
Upload Speed: up to 1.5mbps | ____Level 5: \$85.00 per month, burstable speeds
Download Speed: up to 30.0mbps
Upload Speed: up to 10.0mbps |
| ____Level 2: \$55.00 per month, burstable speeds
Download Speed: up to 8.0mbps
Upload Speed: up to 8.0mbps | ____Level 6: \$90.00 per month, burstable speeds
Download Speed: up to 40.0mbps
Upload Speed: up to 10.0mbps |
| ____Level 3: \$65.00 per month, burstable speeds
Download Speed: up to 15.0mbps
Upload Speed: up to 8.0mbps | ____Level 7: \$120.00 per month, burstable speeds
Download Speed: up to 50.0mbps
Upload Speed: up to 15.0mbps |
| ____Level 4: \$75.00 per month, burstable speeds
Download Speed: up to 20.0mbps
Upload Speed: up to 10.0mbps | ____Special Offer: \$45.00 per month, burstable
Max Burst Download Speed to 35.0mbps
Max Burst Upload Speed to 15.0mbps |

PLUS \$95 INSTALLATION FEE

INSTALLATION NOTES: Installation includes equipment, CAT5e Ethernet cable of 50 feet, and general activation, programming of Customer's unit into the primary server. If Customer requires any additional installation preparation, requirements, equipment, programming, or Ethernet cable length greater than 50 feet, etc., there may be additional charges in labor and/or equipment. These additional charges will be discussed in advance with Customer and must be written below and approved by Customer's signature before installation can proceed. **NOTE: LIGHTWAVE'S High-Speed Internet Service requires a clear line of sight to LIGHTWAVE'S Access Point.** Please consider this when landscaping or building on your property.

INSTALLATION REQUESTS AND SPECIAL REQUIREMENTS: _____

MODIFICATIONS OF AGREEMENT: _____

ADDITIONAL SERVICE EQUIPMENT REQUIRED: _____

COST OF ADDITIONAL SERVICE EQUIPMENT: \$ _____

CUSTOMER SIGNATURE _____ **DATE** _____

ONE MONTH FREE TRIAL PERIOD: YOUR TRIAL PERIOD ENDS ON _____.
All residential customers, excluding business customers, are entitled to a One Month Free Trial Period commencing on the Installation date and concluding on the same date of the following month. Cancellation during the Trial Period will result in no charges. All cancellations must be received by LIGHTWAVE prior to the end of the Trial Period. **At the end of the Trial Period, payment becomes due for the Installation Fee, the Final Month's Service, and any Additional Equipment Costs.** Balance due will be subject to a service charge if not paid within fourteen (14) days of due date.

FINAL MONTH'S SERVICE FEE:	\$ _____
INSTALLATION FEE:	\$ _____
\$15 OFF MONTHLY FOR ONE YEAR: (Not available with Special Offer)	\$ _____
ADDITIONAL EQUIPMENT COSTS:	\$ _____
<u>TOTAL FIRST PAYMENT</u>	\$ _____

**UNLESS YOU CANCEL THIS AGREEMENT, YOUR TOTAL FIRST PAYMENT OF
\$ _____ BECOMES DUE ON _____.
LIGHTWAVE REQUESTS PAYMENT WITHIN 14 DAYS OF DUE DATE.**

PLEASE MAIL CHECKS TO:

**Lightwave Broadband LLC
P.O. Box 3008
Valley Center, California 92082**

**TO PAY BY CREDIT CARD, CONTACT OUR BILLING DEPARTMENT.
FOR BILLING QUESTIONS CALL: 760-749-3995, EXT. 3, BILLING.**

IF AT ANY TIME YOU SHOULD CHOOSE TO CANCEL OUR SERVICE, PLEASE MAIL A WRITTEN CANCELANATION NOTICE TO THE ADDRESS ABOVE AND PROVIDE A DATE AND TIME FOR LIGHTWAVE TO REMOVE ITS EQUIPMENT. IF THE EQUIPMENT IS NOT RETURNED IN GOOD CONDITION, YOU WILL BE CHARGED FOR REASONABLE REPLACEMENT COSTS. _____ (initial)

**BY SIGNING THIS AGREEMENT, I ACKNOWLEDGE THAT I HAVE READ, UNDERSTAND, AND AGREE TO ABIDE BY THE TERMS OF THE LIGHTWAVE BROADBAND SERVICE AGREEMENT WHICH INCLUDES THIS INSTALLATION AGREEMENT PLUS THE CUSTOMER AGREEMENT, THE PRIVACY POLICY, AND THE ACCEPTABLE USE POLICY AS POSTED ON OUR WEBSITE AT:
<https://www.lightwavebroadband.net/support/white-papers/>**

CUSTOMER'S SIGNATURE: _____ DATE: _____

INSTALLER'S SIGNATURE: _____ DATE: _____

A NOTE TO OUR CUSTOMERS: LIGHTWAVE WIRELESS INSTALLERS ARE NOT LICENSED BY THE STATE OF CALIFORNIA'S CONTRACTOR LICENSING BOARD.

CUSTOMER AGREEMENT WITH LIGHTWAVE WIRELESS FOR HIGH SPEED INTERNET SERVICE

1. AGREEMENT

The documents consisting of the Customer Agreement, Installation Agreement, Acceptable Use Policy, and Privacy Policy collectively make up the Lightwave Wireless Service Agreement [the Agreement] between you [the Customer] and Lightwave Broadband LLC dba Lightwave Wireless [Lightwave] to provide you with High Speed Internet Service [the Service]. By establishing an account or using the Service or equipment, you agree to abide by this Agreement and to use the Service in compliance with the entire and current Service Agreement as posted on the Lightwave Wireless website: <https://www.lightwavebroadband.net/support/white-papers/>

Lightwave reserves the right to modify the terms of this Agreement and may discontinue or revise any or all other aspects of the Service in its sole discretion at any time by posting changes on the Lightwave Wireless website at: <https://www.lightwavebroadband.net/support/white-papers/> Your continued use of the Service after changes are posted constitutes your acceptance of this Agreement as modified by the posted changes. The updated, online version of this Agreement shall supersede any prior version of this Agreement that may have been included in any software or related materials provided by Lightwave Wireless. This Agreement should be read in conjunction with our Acceptable Use Policy, the Privacy Policy, the Installation Agreement, the Customer Agreement, and other applicable policies, terms, and conditions.

IF YOU DO NOT AGREE TO ABIDE BY THE TERMS OF THIS AGREEMENT, AS FOUND HEREIN AND ON OUR WEBSITE, YOU SHOULD IMMEDIATELY STOP THE USE OF THE SERVICE AND NOTIFY OUR BILLING DEPARTMENT SO THAT YOUR ACCOUNT MAY BE CLOSED.

2. TERM OF AGREEMENT / TRANSFER OF SUBSCRIPTION

The term of this Agreement is month-to-month, beginning on the ending date of your Trial Period, as stated on your Installation Agreement, and continuing to the same date of the following calendar month. Lightwave reserves the right to change the Service fees upon 30 days notice. Fee changes will be posted on our website. Fee information may be obtained by calling the Billing Department at 760-749-3995.

Your Installation Agreement is personal to you, you agree not to assign, transfer, share, resell, or sublicense your rights as a customer unless specifically allowed by this Agreement. Landlords are not permitted to sell or to share the Service with their tenants without written authorization from Lightwave. You agree that you are solely responsible and liable for any and all breaches of the terms and conditions of this Agreement, whether such breach results from your use of the Service or by another using your computer or Service. You agree to contact Lightwave immediately upon the occurrence of any change in the status of your account (e.g., change in individuals authorized to use your account) for the purpose of updating your account information. Your executed Installation Agreement entitles you to use the Service.

3. THE SERVICE

The Service consists of Wireless Internet access to Customer's location inclusive with the high speed Internet service equipment [the Equipment] required for use of the Service. Lightwave retains ownership of the Equipment. Customers must provide a wireless router of their choice to enable Wi-Fi connectivity. Although Lightwave may as a courtesy configure Customer's router upon installation, Lightwave will not provide maintenance for Customer's router or of Customer's Internal Network. Lightwave does not claim expertise in Internal Networking.

To ensure fair and equal Internet access for all Customers, Lightwave maintains a running fair access policy which applies to all Service

Levels. In most cases, Lightwave does not limit data usage. Should Customer's usage become excessive to the extent that the connection quality of other Lightwave customers is adversely affected as determined by Lightwave, Lightwave may take any action that in its discretion it deems appropriate, including requesting that Customer upgrade to a higher Service Level.

Customer acknowledges that the speed of the Service can vary depending upon external interference levels and other factors which are beyond the control of Lightwave. Lightwave provides the Service on a "best efforts" standard. Lightwave cannot guarantee upload or download speeds, latency, or packet loss on its network. Eligibility for the higher Service Levels varies by location.

4. MAINTENANCE WINDOW

Lightwave's regular maintenance window is between the hours of 11:00pm and 4:00am Pacific Standard Time. Other maintenance will take place after notice to Customer via telephone or email except for Emergency maintenance which will take place as time permits.

5. NETWORK DOWNTIME

If network downtime occurs due to malfunction of Lightwave's network, affected Customers are eligible for a credit for each day of disruption. Network downtime is defined as an outage to Lightwave's network exceeding ten (10) minutes between the hours of 6am and 10pm.

Exceptions:

Customers will not receive any credit in connection with any network failure or deficiency that is caused by or associated with:

- a) Circumstances beyond Lightwave's control including but not limited to: acts of any governmental body, sabotage, war, terrorism, weather, fire, flood, strike, prolonged interruptions to the power grid, frequency interference, radar, cyber attacks, unavailability of or interruption or delay in telecommunica-

tions or third party services, failure to obtain supplies, hardware or materials needed to maintain Lightwave's network.

- b) Failure of Lightwave's backbone network to the Internet.
- c) Scheduled maintenance or emergency maintenance.
- d) DNS issues outside the direct control of Lightwave Broadband.
- e) Failure of Customer owned equipment, network, internal wiring, power source, or computers.
- f) Customer acts or omissions, including without limitation, any negligence, willful misconduct or use of Lightwave's equipment, network or services in breach of Lightwave's Acceptable Use Policy, Customer Agreement, or Service Agreement.

6. CANCELTION

If Customer becomes dissatisfied with the Service or any related terms, conditions, rules, policies, guidelines, or practices of Lightwave, Customer's sole remedy is to email a written notice of cancelation to Lightwave, discontinue using the Service, and pay any account fees that apply. Lightwave retains ownership of the Equipment and will promptly remove this Equipment upon cancelation. Customer agrees that s/he will not attempt to remove the Equipment.

Lightwave entitles its residential Customers to a Trial Period of one (1) month commencing on the Installation date and concluding on the same date of the following month. Cancelation by Customer within the Trial Period will not result in any charges to Customer.

To cancel the Service you must mail Lightwave a letter of cancelation. Cancelation will be effective upon receipt by Lightwave of the written notice.

Lightwave may suspend or terminate the Agreement, your account, or your use of the Service for any reason at any time, including, and without limitation, if Lightwave in its sole

and complete discretion, believes that you have violated any of the terms or conditions of the Agreement or if you fail to pay any fees when due. Should Lightwave find cause to terminate your Service, a termination notice will be provided to you by email, U.S. Mail, or personal service to the address you provided for the Service.

All notices to you shall be deemed effective on the fourth (4th) day following the date mailed or on the date emailed. Sections 1, 2, 6, 8, 10, 12, 13, 14, 15 and 16 of this Customer Agreement shall survive termination of the Agreement.

7. MINIMUM CONDITIONS FOR RECEIPT OF THE SERVICE

- You must be at least 18 years old.
- Your computer must have a 10 Base T or 10/100 port (RJ4S)

8. PAYMENT POLICY

Customer is responsible for all fees to Customer's account. Customer agrees to be responsible for any and all fees, charges, damages and costs that you or anyone using your account incurs. Customer agrees to pay all monthly fees and installation charges including, but not limited to, customer service fees, late fees, returned check fees, and door collection fees.

Lightwave will invoice its Customers monthly by email at the end of the usage period. Fees for the Service are payable by check or credit card each month. Lightwave is not responsible for any charges or expenses incurred by Customer, such as account overdrafts or exceeding credit card limits, which may result from fees billed by Lightwave. Payment by check is due within fourteen (14) days of the invoice date. Customer agrees to provide Lightwave with accurate billing information including legal name, address, telephone number, and credit card number (when applicable) and will immediately report to Lightwave any changes to this

information. Questions regarding Service fees should be directed to Lightwave's Billing Department at 760-749-3995.

All fees are considered valid unless disputed in writing within sixty (60) days of the billing date. Adjustments will not be made for fees that are more than 60 days old.

Service to delinquent accounts may be suspended or terminated at Lightwave's sole and absolute discretion; however, fees will continue to accrue until the account is closed by Customer. Lightwave may bill an additional charge to reinstate a suspended account.

9. SPAM

Lightwave may immediately terminate any account that it determines, in its sole discretion, is transmitting or is otherwise connected with any "spam" or other unsolicited bulk email. In addition, if actual damages cannot be reasonably calculated, Customer agrees to pay Lightwave liquidated damages of five dollars (U.S. \$5.00) for each piece of "spam" or unsolicited bulk email transmitted from or otherwise connected with Customer's account. Otherwise, Customer agrees to pay Lightwave's actual damages to the extent such actual damages can be reasonably calculated. Lightwave reserves the right to block, reject, or remove what it considers to be "spam" or other unsolicited bulk email from the Service and Lightwave shall have no liability for blocking any email considered to be "spam."

10. INSTALLATION / EQUIPMENT

Lightwave Broadband retains ownership of the Equipment. Customer retains ownership of any router provided by Customer. High Speed Internet Service Equipment is highly sophisticated and must be installed professionally. The antenna is subject to stringent installation requirements. Customer authorizes Lightwave or its technician(s) to install the necessary Equipment required for the Service on the premises [the Premises] specified by Customer at the time of installation and customer agrees not make any adjustments or

modifications to the Lightwave Service Equipment.

The installation, use, inspection, maintenance, repair, and removal of the Equipment may result in service outage or potential damage to your computer. Customer is solely responsible for backing up all existing computer files. Lightwave and its employees, agents, contractors, and representatives shall have no liability whatsoever for any damage to or loss or destruction of any of Customer's hardware, software, files, data, or peripherals.

Customer acknowledges and agrees that the Service is provided on a fixed-location basis. If Customer moves to another location, the Service will need to be repositioned at Customer's new location. This may result in substantial interruption of the Service and will result in fees associated with a new installation.

Customer will not remove any Lightwave owned Equipment from the Premises or connect the Equipment to any outlet other than the outlet to which the Equipment was initially connected by the Lightwave technician. Lightwave may relocate the Equipment for Customer within the Premises at Customer's request for an additional charge. Customer will not connect any equipment, other than Equipment authorized by Lightwave, to the cable modem outlet. Customer understands that failure to comply with this restriction may cause damage to the Lightwave network and subject Customer to liability for damages and/or criminal prosecution. Customer may not alter, modify or tamper with the Equipment or the Service, or permit any other person to do that which is not authorized by Lightwave.

Lightwave will make its best efforts to provide the Service. Because of the complex nature of wireless high speed Internet services and the underlying infrastructure, it may not be possible to provide the Service to everyone. In its sole and absolute discretion, Lightwave may cancel the installation process will notify Customer of

its intent to cancel as soon as commercially possible. Customer acknowledges that it may take three (3) or more days to determine if Lightwave is able to provide the Service. Lightwave shall have no responsibility whatsoever for claims arising out of its failure or refusal to complete the installation or provide the Service.

11. MONITORING THE SERVICE / LINKS

Lightwave has no obligation to monitor Customer's Service and will not do so. Lightwave reserves the right to disclose Customer's information if Lightwave has a good faith belief that it is necessary to: (1) comply with the law; (2) protect Lightwave's rights or property or those of others; (3) respond to fraud, abuse or unauthorized reception; (4) enforce Lightwave's standards and policies; or (5) act in an emergency to protect Customer's safety or that of another. Lightwave may also transfer Customer's information as a part of a sale, merger, or transfer of business operations. Please see our Privacy Policy and Acceptable Use Policy. Lightwave may immediately remove Customer's material or information, in whole or in part from Lightwave's servers, which Lightwave in its sole and absolute discretion, determines to infringe another's property rights or to violate our Acceptable Use Policy or Privacy Policy.

During the use of the Service, Customer may encounter various types of links that enable the visiting of websites operated or owned by third parties [Third Party Site(s)] and which links are provided by Third Party Sites as a convenience. Third Party Sites are not under the control or ownership of Lightwave. The inclusion of any link to a Third Party Site is not (i) an endorsement by Lightwave of the Third Party Site, (ii) an acknowledgement of any affiliation with its operators or owners, or (iii) a warranty of any type regarding any information or offer on the Third Party Site. Customer's use of any Third Party Site is governed by the various legal agreements and policies posted at that Website.

12. WARRANTIES / DISCLAIMERS / LIMITATION OF LIABILITY

Lightwave Equipment is subject to third party warranties which will be passed through Lightwave to Customer at no additional charge. Lightwave will comply with all reasonable requirements to effect the pass-through of the warranty to its Customers. At its sole option, Lightwave may replace defective Equipment. The warranty does not cover defects resulting from use contrary to specifications or instructions, acts outside of Lightwave's control, or repair or modification by anyone other than Lightwave or its technician(s). Lightwave reserves the right to modify this warranty at anytime. The foregoing limitation applies to the acts and omissions of Lightwave, its members, officers, employees, agents, contractors, or representatives which, but for these acts and/or omissions, would give rise to a cause of action against Lightwave in this Agreement, tort or any legal doctrine. Customer's sole and exclusive remedies under this Agreement are as expressly set out in this Agreement. Any warranty gives Customer specific legal rights; Customer may also have rights which vary from State to State.

Customer expressly agrees that Lightwave is not responsible or liable for any content, act or omission of any third party including, without limitation, any threatening, defamatory, obscene, offensive, or illegal conduct, or any infringement of another's rights including, without limitation, privacy and intellectual property rights, and Customer hereby releases Lightwave for any such claims based on the activities of third parties.

The Service is provided to Customer "as is" without warranty of any kind. Neither Lightwave, nor its affiliates, nor any of its suppliers or licensors, employees or agents warrant that installation, Lightwave's compliance with special customer installation requests, or the Service will be uninterrupted or error free or free from viruses or other harmful malicious agents even if anti-virus mechanisms are deployed. Lightwave does not warrant that any data or any files sent by or to Customer will

be transmitted in uncorrupted form or within a reasonable period of time. All representations and warranties of any kind express or implied, including without limitation, any warranties of title, noninfringement, fitness for a particular purpose and merchantability are hereby excluded and disclaimed. Lightwave and its employees, representatives and agents are not liable for any costs or damages arising directly or indirectly from the installation, Lightwave's compliance with customer installation requests or use of the licensed software, the Service (including e-mail), Equipment furnished by Lightwave, or Lightwave's provision of technical service and support for the Service; even if such damage results from the negligence or gross negligence of a Lightwave installer, technician, or customer service representative, including any indirect, incidental, consequential, exemplary, special, or punitive damages, regardless of whether or not Lightwave has been advised of the possibility of such damages. In any event, Lightwave's cumulative liability to Customer for any and all claims relating to the use of the Service shall not exceed the total amount of Service fees paid during the immediately preceding month. Customer hereby releases Lightwave from any and all obligations, liabilities, and claims in excess of this limitation. Lightwave is also not liable for any costs or damages arising from or related to Customer's breach of this Agreement. Customer's sole and exclusive remedies under this Agreement are as expressly set forth herein. Some states do not allow the exclusion or limitation of implied warranties, so the above exclusions or limitations may not apply to you.

13. INDEMNIFICATION

Customer agrees to indemnify and hold Lightwave, its parents, subsidiaries, members, affiliates, officers and employees, harmless from any claim, demand, or damage, including costs and reasonable attorneys' fees, asserted by Lightwave or any third party due to or arising out of Customer's use of or conduct on the Service. Lightwave will notify Customer within a

reasonable period of time of any third party claim for which Lightwave seeks indemnification and will afford Customer the opportunity to participate in the defense of such claim, provided that Customer's participation will not be conducted in a manner prejudicial to Lightwave's interests, as reasonably determined by Lightwave.

14. JURISDICTION

Under California Civil Code Section 1789.3, Customers who are residents of California are entitled to the following specific consumer rights information: the Complaint Assistance Unit of the Division of Consumer Services of the Department of Consumer Affairs may be contacted in writing at 1020 N Street, #501. Sacramento, CA 95814 or by telephone at 1-916-445-1254.

This Agreement is governed by California law without regard to conflict of law provisions. The federal and state courts located in San Diego, California alone have jurisdiction over all disputes arising out of or related to this Agreement and the Service. You consent to the personal jurisdiction of such courts sitting in San Diego, California with respect to such matters or otherwise between you and Lightwave, and you waive your rights to removal or consent to removal.

15. MISCELLANEOUS

The Lightwave Service Agreement, consisting of the Customer Agreement, Installation Agreement, Acceptable Use Policy, and Privacy Policy, as posted on our website at: <http://www.lightwavewireless.net> constitutes the entire Agreement and understanding between the parties with respect to Customer's use of the Service and supersedes and replaces any and all prior written or oral agreements. In the event that any portion of this Agreement is held to be unenforceable, the unenforceable portion shall be construed in accordance with applicable law as nearly as possible to reflect the original intentions of the parties and the remainder of its provisions shall remain in full force and effect.

Nothing contained in this Agreement shall be construed to limit Lightwave's rights and remedies available at law or in equity. Lightwave's failure to insist upon or enforce strict performance of any provision of this Agreement shall not be construed as a waiver of any provision or right. Neither the course of conduct between the parties nor trade practice shall act to modify any provision of this Agreement. This Agreement may not be assigned or transferred by Customer. This Agreement is freely assignable by Lightwave to third parties.

Lightwave may revise, amend, or modify the agreement at any time and in any manner. Notice of any revision, amendment, or modification will be posted on Lightwave's website and/or in our various publications and mailings to Customer.

16. ADDITIONAL TERMS AND CONDITIONS

YOUR USE AND ACTIVATION OF THE SERVICE SHALL CONSTITUTE AN ACCEPTANCE OF THE TERMS BELOW. IF YOU DO NOT ACCEPT THE TERMS AND CONDITIONS, DO NOT ACTIVATE THE LIGHTWAVE SERVICE.

Lightwave will provide Wireless High Speed Internet Service [the Service] to You, the Customer, upon request, on the following terms and conditions. You will be bound by the Lightwave High Speed Internet Service Agreement, which collectively includes the Installation Agreement, Customer Agreement, Acceptable Use Policy, and Privacy Policy as posted on our website at the following URL: <http://www.lightwavewireless.net>.

- A. Lightwave's Obligations:**
1. Install in a workmanlike manner, the Lightwave necessary Equipment and materials.
 2. Maintain Lightwave Equipment in accordance with reasonable industry standards and applicable regulations.

3. These obligations do not include responsibility for loss of stored content on any devices or for any damage to your devices as a result of pin defects or alignment.

B. Customer's Obligations:

1. Pay all installation, service or other fees upon receipt of Lightwave's invoice. Fees are determined according to Customer's Installation Agreement as signed at the time of installation. If Customer or Lightwave terminates Service, Lightwave may transfer outstanding balances for the Service provided under this Agreement to other accounts Customer may have with Lightwave.
2. If Customer fails to make timely payment, Lightwave may suspend or terminate the Service, remove Lightwave Equipment and impose late fees and collection trip fees, if applicable. Late fees and collection trip fees will not exceed the maximum amount permitted by law.
3. Provide Lightwave's employees and representatives with a safe working environment.
4. Assume complete responsibility for improper use, damage or loss of any Equipment furnished by Lightwave.
5. Allow Lightwave access into your Premises to install, maintain, or repair, upgrade (if any), and remove Lightwave Equipment. Lightwave personnel have identification which Customer may request and examine. If Customer is not home at the time of a service call, Customer authorizes any other adult resident or guest to grant Lightwave access to Customer's Premises.
6. Any attempted assignment or transfer of the Service is a breach of this Agreement.
7. If Customer does not own the Premises, Customer represents that s/he has obtained permission from the owner to install Lightwave's Equipment (including, without limitation, Equipment attached to the outside of the Premises), and Customer will indemnify

Lightwave from all claims of the owner in connection with the installation and provision of the Service.

C. Equipment: All Lightwave Equipment and imbedded Software [Equipment] provided to Customer by Lightwave or its agent will remain the property of Lightwave. Lightwave shall have the unrestricted right, but not the obligation, to install or modify the software in any of the Equipment. It is a material breach for Customer to copy, duplicate, reverse engineer or in any way tamper with or interfere with any Software provided to Customer by Lightwave. Customer also agrees:

1. To use the Equipment only for receiving Services ordered from or through Lightwave.
2. To promptly allow Lightwave to pick up the Equipment immediately upon termination of the Service. Equipment shall be in good condition and without any encumbrances, except for ordinary wear and tear resulting from proper use.

If Customer does not allow Lightwave the opportunity to promptly obtain its Equipment, [Unreturned Equipment], or if it is damaged or encumbered, the damages Lightwave will incur will be difficult to ascertain. Therefore, Customer agrees to pay, and Lightwave may charge Customer's account, a liquidated damages amount equal to Lightwave's reasonable estimates of the replacement costs and incidental costs that Lightwave incurs; provided, however, that such amount will not exceed the maximum amount permitted by law [the Unreturned Equipment Charge]. This provision shall survive the termination or expiration of this Agreement.

D. LIMITATION OF WARRANTIES AND LIABILITY: LIGHTWAVE, ITS PARENTS, AFFILIATES, SUBSIDIARIES, EMPLOYEES, REPRESENTATIVES, SUCCESSORS AND ASSIGNS, AND AGENTS, COLLECTIVELY AND INDIVIDUALLY [LIGHTWAVE], MAKE NO WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AS TO THE

EQUIPMENT FURNISHED TO YOU AND/OR SERVICES PROVIDED. LIGHTWAVE SHALL NOT BE LIABLE FOR DAMAGES FOR FAILURE TO FURNISH, OR THE DEGRADATION OR INTERRUPTION OF ANY SERVICES, FOR ANY LOST DATA OR CONTENT, IDENTITY THEFT, FILES OR SOFTWARE DAMAGE, REGARDLESS OF CAUSE. LIGHTWAVE SHALL NOT BE LIABLE FOR DAMAGE TO PROPERTY OR FOR INJURY TO ANY PERSON ARISING FROM THE INSTALLATION, MAINTENANCE OR REMOVAL OF EQUIPMENT, SOFTWARE, WIRING OR THE PROVISION OF SERVICES. NOR SHALL LIGHTWAVE BE LIABLE FOR FAILURE TO PROVIDE SERVICE IF THE CAUSE IS DUE TO THE ACT OF AN UNAFFILIATED THIRD PARTY. YOU HEREBY INDEMNIFY AND HOLD HARMLESS LIGHTWAVE FROM ANY CLAIMS, ACTIONS, PROCEEDINGS, DAMAGES AND LIABILITIES, INCLUDING ATTORNEYS' FEES, ARISING OUT OF (i) SUCH DAMAGE OR INJURY RESULTING FROM ANY CLAIM THAT YOUR USE OF THE SERVICE INFRINGES ON THE PATENT, COPYRIGHT, TRADEMARK OR OTHER INTELLECTUAL PROPERTY RIGHT OF ANY THIRD PARTY, (ii) ANY BREACH OR ALLEGED BREACH BY YOU OF THIS AGREEMENT; OR INJURY TO PERSON OR PROPERTY RESULTING FROM YOUR GROSS NEGLIGENCE. UNDER NO CIRCUMSTANCES WILL LIGHTWAVE BE LIABLE FOR ANY INCIDENTAL, INDIRECT, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES. LIGHTWAVE'S MAXIMUM TOTAL LIABILITY TO YOU ARISING UNDER THIS AGREEMENT SHALL BE LIMITED TO THE AMOUNT ACTUALLY PAID BY YOU FOR THE PRIOR MONTH OF SERVICE.

E. **Breach of Agreement:** If Customer breaches this Agreement, or any other agreement referenced herein, Lightwave has the right to terminate this Agreement and retrieve its Equipment. Lightwave's failure to require Customer's strict performance of any term of this Agreement shall not be a waiver of Lightwave's right to require strict performance of any term or condition herein.

F. **Entire Agreement:** This Agreement, any applicable tariffs and other agreements specifically referenced herein, constitute the entire Agreement between Lightwave and

Customer for the Services and Equipment. The invalidity or unenforceability of any term of this Agreement shall not affect the validity or enforceability of any other provision.

LIGHTWAVE WIRELESS ACCEPTABLE USE POLICY

As a provider of Internet access and other Internet related services, Lightwave Wireless [Lightwave] offers its Customers the means to acquire and disseminate a wealth of public, private, commercial and non-commercial information. Lightwave has developed this Acceptable Use Policy [AUP] which supplements and explains certain terms of each Customer's respective Agreements with Lightwave and sets forth certain Customer rights and obligations which govern the use Lightwave's services. Lightwave reserves the right to revise, amend, or modify this AUP at any time and in any manner. Any revision, amendment, or modification will be posted at: www.lightwavebroadband.net.

Please read this policy prior to accessing the Service. All users of the Service must abide by this AUP. Your violation of this AUP may result in the immediate suspension or termination of either your access to the Service and/or your Lightwave account. This AUP should be read in conjunction with our Installation Agreement, Customer Agreement, Privacy Policy, and other applicable policies.

By using the Service, you agree to abide by, and require others using the Service via your account to abide by the terms of this AUP. You should consult this document regularly to ensure that your activities conform to the most recent version. **IF YOU DO NOT AGREE TO ABIDE BY THESE TERMS, YOU SHOULD IMMEDIATELY STOP THE USE OF THE SERVICE AND NOTIFY THE LIGHTWAVE BILLING DEPARTMENT SO THAT YOUR ACCOUNT MAY BE CLOSED.**

Lightwave cannot monitor, verify, warrant, or vouch for the accuracy and quality of the information that Customers may acquire through the Internet, with the exception of its proprietary websites. Customers must exercise their best judgment in relying on information obtained from the Internet and also should be aware that some material posted to the Internet is sexually explicit or otherwise offensive. Because Lightwave cannot monitor or censor the Internet and will not attempt to do so, Lightwave cannot accept any responsibility for injury to its Customers that results from inaccurate, unsuitable, offensive, or illegal Internet communications.

Because the Internet is neither more nor less secure than other means of communication including mail, facsimile, and voice telephone service, all of which can be intercepted and otherwise compromised, Lightwave recommends that its Customers assume that all of their on-line communications are not secure. Lightwave assumes no responsibility for the security of information transmitted through Lightwave's facilities.

Lightwave will not intentionally monitor private electronic mail messages sent or received by its Customers unless required to do so by law, governmental authority, or when public safety is at stake. Lightwave may however, monitor its service electronically to determine that its facilities are operating satisfactorily. Also, Lightwave may disclose information, including but not limited to, information concerning a Customer, a transmission made using Lightwave network, or a website, in order to comply with a court order, subpoena, summons, discovery request, warrant, statute, regulation, or governmental request. Lightwave may disclose Customer information or information transmitted over its network where necessary to protect Lightwave and others from harm or where such disclosure is necessary to the proper operation of the system.

The following are prohibited activities and if Customer engages in any of them, then such action will be a violation of this AUP and Customer will be in breach of its Agreement with Lightwave:

- a. Spamming: Lightwave may immediately terminate any account that it determines, in its sole discretion, is transmitting or is otherwise connected with any "spam" or other unsolicited bulk email. In addition, if actual damages cannot be reasonably calculated, Customer agrees to pay Lightwave liquidated damages of five dollars (U.S. \$5.00) for each piece of "spam" or unsolicited bulk email transmitted from or otherwise connected with Customer's account. Otherwise, Customer agrees to pay Lightwave's actual damages to the extent such actual damages can be reasonably calculated. Lightwave reserves the right to block, reject, or remove what it considers in its sole discretion to be "spam" or other unsolicited bulk email from the Service and Lightwave shall have no liability for blocking any email considered to be "spam."
- b. Intellectual Property Violation: Engaging in any activity that infringes or misappropriates the intellectual property rights of others, including copyrights, trademarks, service marks, trade secrets, software piracy, and patents held by individuals, corporations, or other entities and also, engaging in activity that violates privacy, publicity, or other personal rights of others. Lightwave is required by law to remove or block access to Customer content upon receipt of a proper notice of copyright infringement. Lightwave reserves the right to terminate the privileges of Customers who commit repeat violations of copyright laws.
- c. Materials Harmful to Minors: Using Lightwave's network to advertise, transmit, store, post, display, or otherwise make available illegal pornography or material that is harmful to minors. Lightwave is required by law to notify law enforcement agencies when it becomes aware of the presence of child pornography on or being transmitted through Lightwave's network.
- d. Defamatory or Abusive Language: Using Lightwave's network as a means to transmit or post defamatory, harassing, abusive messages or language which threatens bodily harm or destruction of property, or inappropriate language directed to minors.
- e. Forging or Impersonating of Headers: Forging or misrepresenting message headers, whether in whole or in part, to mask the originator of the message.
- f. Illegal or Unauthorized Access to Other Computers or Networks: Accessing or collecting illegally or without authorization computers, accounts, or networks belonging to another party, or attempting to penetrate security measures of another individual's system (often known as "hacking"). Also, any activity that might be used as a precursor to an attempted system penetration (i.e., port scan, stealth scan, or other information gathering activity).
- g. Reselling the Services: Reselling the services is not permitted.
- h. Distribution of Internet Viruses, Worms, Trojan Horses, or Other Destructive Activities: Distributing information regarding the creation of and/or sending internet viruses, worms, Trojan Horses, phishing, flooding, mailbombing, unsolicited commercial email or bulk mail, or denial of service attacks. Also, activities that disrupt the use of or interfere with the ability of others to effectively use the network or any connected network, system, service, or equipment. It is Customer's responsibility to ensure that their network is configured in a secure manner. A user may not, through action or inaction, allow others to use their network for illegal or inappropriate activities.
- i. Facilitating a Violation of this AUP: Advertising, transmitting, or otherwise making available any software, program, product, or service that is designed to violate this AUP, which includes the

facilitation of means to spam, initiation of pinging, flooding, mailbombing, denial of service attacks, piracy of software.

- j. Export Control Violations: Exporting encryption software over the Internet or otherwise, to points outside the United States.
- k. Usenet Groups: Posting to newsgroups with content that violates this AUP. Lightwave reserves the right not to accept such postings when it has actual knowledge that the content violates this AUP. The continued posting of off-topic articles is prohibited. Commercial advertisements are off-topic in most newsgroups, especially regional groups not specifically named for such. The presence of such articles in a group is not indicative of the group's "intended" use. Please familiarize yourself with basic Usenet netiquette before posting to a newsgroup. Lightwave considers "multiposting" to 10 or more groups within a two week sliding window to be excessive. Lightwave servers currently limit the number of allowable "cross-posts" to 9. Lightwave may not cancel messages other than its own messages. Customer may cancel posts forged in that Customer's name. Lightwave may cancel any postings which violate this AUP.
- l. Excessive Use: High volume use by Customer is prohibited without Lightwave authorization. The Service is intended for periodic, active use of email, newsgroups, file transfers, Internet chat, games, and browsing the World Wide Web. It is not designed for excessive uploading and downloading. If a Customer engages in excessive use which affects the bandwidth or speed of other customers, Lightwave maintains the right, in its sole discretion, to take any action necessary following any extended period of excessive use, as determined by Lightwave.
- m. Hosting Websites: Hosting Websites is not allowed on this network without written permission from Lightwave.
- n. Hacking: Accessing any of Lightwave's equipment, computers or network to read, alter, or modify configuration or firmware.
- o. Other Illegal Activities: Engaging in activities that are determined to be illegal, including fraudulent offers to sell or buy products, items, or services and advertising, transmitting, or otherwise making available ponzi schemes, pyramid schemes, fraudulently charging credit cards, and pirating software.
- p. Other Activities: Engaging in activities, whether lawful or unlawful, that Lightwave determines to be harmful to its Customers, operations, reputation, good will or customer relations.

When Lightwave becomes aware of any of the described prohibited activities or activities that violate any law, it may take any action to *immediately* stop such activity including, but not limited to, terminating service, issuing written and/or verbal warnings, removing information, shutting down a website, implementing screening software designed to block offending transmissions, suspending or denying access to the Internet, or take any other action it deems appropriate. Customers are encouraged to provide Lightwave with all available information regarding a suspected violation of this AUP.

LIGHTWAVE WIRELESS PRIVACY POLICY

We value your privacy and would like your experience on the Internet to be as secure and as rewarding as possible. We want you to enjoy the Internet's unending variety of information, tools and opportunities with complete confidence. In keeping with our firm commitment to your privacy and security, Lightwave Wireless [Lightwave] has designed this Privacy Policy. Lightwave reserves the unilateral right to amend these terms at will.

Lightwave keeps only the personal information needed to provide our services, treats it as private, and uses it only for what we offer you, does not sell it to others, works to keep it secure and destroys it when no longer needed. We will tell you in advance of any exceptions and give you the right to say no.

We cannot cover here every situation that affects your personal information, but we have included those we believe you are most interested in. You can also learn more about your privacy rights through the Federal Trade Commission, <http://www.ftc.gov>, and from the Federal Communications Commission at: <http://www.fcc.gov>.

Information We Collect

Personally Identifiable Information – In providing our services, we sometimes ask for personal information (“your information”). We will never, however, ask you to send personal information to us by unsecured email. This information may include names, addresses, telephone numbers, premium services you select, demographics, user IDs, passwords, PINs, email addresses and communications records. We maintain information concerning subjects like credit, billing, payment, security deposits, maintenance, repair, equipment and services. We may also collect information about your video equipment, computer hardware and software, modems, routers, settings and preferences to aid in customer support. Our policy is to collect only the personal information needed to provide the services we offer with the quality you deserve. We take reasonable steps to keep that information secure and retain it only as long as needed for business purposes or the law requires. We take reasonable precautions to identify you or your authorized representative when we receive an inquiry on your account. We

sometimes collect personal information for special reasons, such as for research, in surveys, or when

registering at our web sites. If so, we will tell you first how we will use it, and you may choose not to participate. When we offer new services to you, we will tell you what information we need and how we may use it.

Internet Services – Like most Internet service providers, we automatically collect Internet Protocol [IP] addresses, (which is an identifier given to your computer while online), bandwidth used, connection performance, browsers used, and connection dates and times. We keep these records for about six months. We keep messages you send or receive only in your Lightwave High Speed Internet folders. We do not store information on websites you visit.

Use and Sharing

Use Policy – We consider your information confidential, and use it only in providing such things as sales, installation, operations, administration, advertising, marketing, support, network management, maintenance, customer care, communications with you, and billing and collection. We may also use or share it in dealing with fraud and unauthorized use of our services.

We use and share aggregate information about usage by groups of customers for a variety of purposes. Aggregate information does not identify individual customers. We may use aggregate and demographic information in association with yours to better offer our products and services to you.

Sharing Policy – It is our policy not to disclose your information to others outside of Lightwave our affiliates, vendors and business partners without your prior consent. You can ask us to note your account with a special flag as added assurance of this promise. You can also notify us if you prefer not to receive marketing contacts. Simply write to the address on your bill or contact us online.

Special Exceptions – We reserve the right to disclose your information if we have a good faith belief it is necessary to: (1) comply with the law; (2) protect our rights or property or those of others; (3)

respond to fraud, abuse or unauthorized reception; (4) enforce our standards and policies; or (5) act in an emergency to protect your safety or that of another. We may also transfer your information as a part of a sale or transfer of business operations.

Outside Parties – We sometimes uses affiliates, vendors or partners in providing our services and may provide your information for such purposes. We require that outside parties maintain at least the same level of confidentiality that we maintain and prohibit them from using your information for any other purpose. In addition, any use by the vendor may not exceed that needed to provide its service. We do not share your information with other third parties without your consent. If you become a customer of a third party directly, you should review its privacy policy, as it may differ from ours.

Retention Policy – We retain personal customer information as long as you are a customer or until no longer needed for business, tax or legal purposes.

Internet Services – We do not read any of your online communications, unless you send them to us. We do automatically scan incoming and outgoing email messages to filter out likely spam, harmful messages, viruses, spyware and related problems that could harm your equipment, the network or others.

Internet Security

Taking Proper Precautions – Maintaining the security of your personal computer is an important way to protect your privacy and to help us protect our network and customers. You must follow our policies and maintain your antivirus software, firewall, wireless network security and your operating system to prevent harm and potential theft of data. You should regularly back up your computer to preserve your files, including messages you want to keep, and change your login password regularly. We may take protective action related to your service or contact you directly from time-to-time to help with security. Always be sure whom you are dealing with before clicking on an Internet link or giving personal information. We encourage you to visit the website of the Federal Trade Commission [FTC] at <http://www.ftc.gov> for tips on protecting yourself. When communications enter the Internet, it is possible for outside parties to access them. Since we cannot control web sites or services operated by third parties, you should review their terms of service and privacy policies.

Spam – We try to block outgoing spam using a variety of methods. Spamming is prohibited on the Lightwave network. You can help prevent spam by not allowing unauthorized access to your computer. We suggest that you remain up-to-date on ways to combat spam.

Cookies and Web Beacons – Third parties that place ads on our websites may use “cookies” to collect anonymous information about your visit to our website and to manage your preferences while there. A cookie does not give any other personal information about you. It can, however, be read by the website that placed it to note information about your visit, such as your type of browser, operating system and IP address. A cookie also helps to recognize you when you log in as a registered user or as a repeat visitor. You can control the cookies your computer accepts through the settings on your web browser or by deleting them from your files. Doing so, however, may limit the personalization available to you. Web beacons or clear GIFs are a type of computer code sometimes placed by advertisers on a webpage. As with cookies, you can use your browser settings to control web beacons. We use cookies to tailor our site by remembering you and any options you select. We may share non-personal information obtained from cookies with vendors, advertisers and others.

Law Enforcement and Legal Requests

Information Disclosure – We may receive legal requests for customer information from government and law enforcement personnel. We may also receive discovery requests in civil cases. In all such cases, we cooperate by providing the information required by law. We do not volunteer customer information or give access to customer communications to law enforcement or others, except in the “Special Exceptions” section detailed above or if we have a good faith belief that an emergency involving an immediate danger of death or serious physical injury requires disclosure. Many criminal subpoenas require that we not disclose or notify you of the request. Due to this fact and the volume of requests we receive, we do not assume any duty to notify you of receipt of any legal requests.

Internet Information – Information concerning your Internet access may be subpoenaed by the government or by others. Files shared over “peer-to-peer” services often include your IP Address, and you could be identified in this way if we receive a lawful subpoena. Law enforcement can obtain details about

your Internet access and the content of communications through a court order or similar authority.

Security Information

We are aware of the many instances of data security breaches and continue to work on new ways to protect your information. For our most sensitive databases, we use encrypted formats within controlled and secure environments that have restricted access. Although we work to ensure the integrity and security of our network and computer systems, we cannot guarantee that our security measures will prevent unauthorized access.

Children's Privacy

Children should always get permission from a parent or guardian before sending personal information over the Internet. The websites provided by Lightwave are not directed at, or intended for use by, children under the age of 13. We do not knowingly allow anyone under the age of 18 to subscribe to a service that incurs a charge. If you believe your child may have provided us with personal information, you can contact us at the address on your bill and we will delete the information. You can find more information about protecting children's privacy by clicking on <http://www.ftc.gov>.

Child Pornography

The law requires us to report any evidence concerning child pornography we learn of. We work closely with the National Center for Missing and Exploited Children and other groups to eliminate child pornography on the Internet.

Customer Access to Information

You may check the accuracy of personal information in your account by contacting a Customer Care representative. You may also personally examine your information and advise us of any errors you believe we should correct, upon prior request and at your own cost, during business hours at the office listed on your bill.

Your Enforcement Rights

You can enforce your legal privacy rights concerning our collection, use and sharing of your personally

identifiable information. Among your remedies is the right to seek damages under 47 U.S.C. 551.

Other Terms and Changes in Policy

The documents consisting of the Customer Agreement, Installation Agreement, Acceptable Use Policy, and Privacy Policy collectively compose the Lightwave Broadband Service Agreement between you and Lightwave Wireless. Changes in our service offerings or the law may cause us to make changes to this Privacy Policy and other policies and agreements from time to time. We will post any changes to our Privacy Policy along with the effective date of the changes at: <http://www.lightwavebroadband.net>.

