

# Terms and Conditions

Effective June 12, 2019

These Terms and Conditions (as may be amended, restated or otherwise modified, the “**Agreement**”) are made pursuant to that certain order of service (the “**Order of Service**”) by and between SkyPacket Networks Inc. (“**SkyPacket**”) and the customer listed on the Order of Service (“**you**” or the “**Customer**”). Read this Agreement carefully and completely as it sets forth your rights and obligations with respect to your use of the Services (as defined herein).

1. Scope. SkyPacket shall provide to Customer the specific services set forth on the applicable Order of Service, whether for Basic Business Service, Residential Service or any other service as made available by SkyPacket (the “**Services**”) conditioned upon Customer’s acceptance of this Agreement and the terms and conditions contained herein.

2. Equipment. Customer understands and agrees that the Service requires certain equipment to be provided by Customer (the “**Customer Equipment**”) such as a modem and personal computer with an Ethernet jack and an appropriate operating system, as well as certain equipment that will be provided by SkyPacket or its designee such as an antenna, radio, cable and power brick (“**SkyPacket Equipment**”). Customer represents that it owns the Customer Equipment or otherwise has the right to use the same in connection with the Services. It is the responsibility of Customer to provide and maintain all Customer Equipment. It is Customer’s responsibility to make sure that all Customer Equipment is working properly and to troubleshoot and resolve problems with such equipment if it is not functioning properly. Customer is provided with SkyPacket Equipment as part of Customer’s monthly subscription fees. It is the responsibility of SkyPacket to make sure that SkyPacket Equipment is working properly but SkyPacket may charge Customer for repair and replacement of SkyPacket Equipment. Customer will be charged for Service visits that are the result of Customer Equipment or misuse or damage to SkyPacket Equipment by Customer. Customer acknowledges that SkyPacket Equipment is and shall remain the property of SkyPacket regardless of where installed, and shall not be considered a fixture or an addition to Customer’s land. At any time, SkyPacket may remove or change SkyPacket Equipment in its sole discretion in connection with providing the Services. Customer shall not move, rearrange, disconnect, remove, attempt to repair, or otherwise tamper with any SkyPacket Equipment, or permit others to do so, and shall not use the SkyPacket Equipment for any purpose other than that authorized by this Agreement. Customer is responsible for damage to, or loss of, SkyPacket Equipment caused by its acts or omissions, and its noncompliance with this section, or by fire, theft, or other casualty at the Service location, unless caused by the negligence or willful misconduct of SkyPacket. Customer agrees not to take any action that would directly or indirectly impair SkyPacket’s title to the SkyPacket Equipment, or expose SkyPacket to any claim, lien, encumbrance, or legal process, except as otherwise agreed to in writing by Customer and SkyPacket. Following SkyPacket’s discontinuance of the Services, SkyPacket retains the right to remove the SkyPacket Equipment.

a. Access to Customer’s Premises. Customer, at no cost to SkyPacket, shall secure and maintain all necessary rights of access to any service location(s) (the “**Premises**”) for SkyPacket to install SkyPacket Equipment and provide the Services. In addition, Customer shall provide an adequate environmentally controlled space and such electricity as may be required for installation, operation, and maintenance of the SkyPacket Equipment used to provide the Services on the Premises. SkyPacket and its employees and authorized contractors will require free ingress and egress into and out of the Premises in connection with the provision of Services. Upon reasonable notice from SkyPacket, Customer shall provide all required access to SkyPacket and its authorized personnel. Customer authorizes SkyPacket and its employees, agents, contractors, and representatives to enter Customer’s Premises in order to install, maintain, inspect, repair and, if necessary, remove the SkyPacket Equipment. All such Services will be conducted at a time agreed upon by Customer and SkyPacket.

b. Installation. SkyPacket or its agents will install the SkyPacket Equipment, and Customer shall be billed for such installation in accordance with the applicable Order of Service. SkyPacket assumes no responsibility for any damage, personal or property, to the Premises or the Customer Equipment as a result of the installation or removal of the SkyPacket equipment. In the event Customer elects to remove or move any SkyPacket Equipment, Customer assumes all responsibility for any damage, personal or property, caused by such action.

c. Use of SkyPacket Equipment. SkyPacket grants to Customer permission to use the SkyPacket Equipment, but does not grant permission to: (a) attempt to login/reconfigure/attack the SkyPacket Equipment, (b) open SkyPacket Equipment, (c) remove any proprietary notices or labels on the SkyPacket Equipment, (d) modify, translate, reverse-engineer, de-compile, disassemble (except to the extent applicable laws specifically prohibit such restriction), or create derivative works based on the SkyPacket Equipment, or (e) rent, sell or otherwise transfer the SkyPacket Equipment.

d. Relocation of SkyPacket Equipment. Customer shall not relocate the SkyPacket Equipment from the Premises, or otherwise try to uninstall or reinstall the SkyPacket Equipment. If Customer decides to move locations, Customer shall notify SkyPacket, in accordance with the notice provisions contained herein, for additional information concerning the procedures for transferring the SkyPacket Equipment and Services to Customer's new Premises. If the Services are not available to Customer at the new Premises, then the Agreement shall terminate and Customer shall comply with the termination provisions of this Agreement. If the Services are available at the new Premises, upon request by Customer and approval by SkyPacket, SkyPacket shall, at Customer's sole expense, relocate the SkyPacket Equipment to Customer's new Premises at a time agreed upon by Customer and SkyPacket. Customer acknowledges that Customer will be billed for the removal and reinstallation of the SkyPacket equipment.

e. Replacement or Repair of SkyPacket Equipment. Customer shall be solely responsible for the cost of replacement or repair of any lost, stolen, damaged, sold, transferred, leased, encumbered, or assigned SkyPacket Equipment or part thereof, together with any incidental costs incurred by SkyPacket relating to the replacement, repair, or installation of the SkyPacket Equipment. Damage to equipment includes, but is not limited to, damages arising from an act of God, including, without exception, electrical, lightning or power surge damage.

f. No Liability for Loss of Data. The installation, use, inspection, maintenance, repair, and removal of the SkyPacket equipment may result in Service outage or potential damage to Customer's computer and other Customer Equipment. If Customer does not back up all existing computer files by copying them to another storage medium prior to such activities, Customer understands and accepts the associated risks of such a decision. SkyPacket disclaims all liability whatsoever for any damage, loss, or destruction of Customer Equipment, including loss or destruction of any software, files, or data. This includes harm resultant from any computer upgrades Customer must perform for Service eligibility, including the installation of an Ethernet Network Interface Card.

3. Service Term. The term of the Services provided hereunder shall be as specified in the applicable Order of Service (the "**Term**"). Customer and SkyPacket may enter into new Orders of Service that replace the Orders of Service, which shall be governed by the then current terms and conditions. At the end of the term of the Order of Service, SkyPacket will provide the Services to Customer on a month to month automatically renewing basis under the terms of the most recently expired Order of Service, which Customer or SkyPacket may terminate by giving notice at least thirty (30) days in advance of the termination date. Any renewal of your Services with SkyPacket is subject to the then current terms and conditions. Customer acknowledges that at the time of renewal the subscription fee may be higher or lower than the price paid for the initial term of Service.

4. Fees; Payment; Invoices.

a. Agreement to Pay. For the term chosen by Customer in the order for Service, Customer agrees to pay all SkyPacket, installation charges, maintenance fees, Service fees, and additional

fees, including applicable taxes. Customer hereby authorizes SkyPacket to charge Customer's debit or credit card, invoice customer, or use other billing options in accordance with SkyPacket's then-current billing policies for all such fees, charges and taxes. Customer agrees to pay for SkyPacket Service through the end of the term or in accordance with SkyPacket's then-current billing policies. Further, Customer hereby authorizes SkyPacket to charge Customer's debit or credit card for all fees related to termination, including equipment charges and any and all other fees related to termination to which the Customer is subject pursuant to the terms of this Agreement.

b. Service Fees. Customer agrees to pay the Service fees, plus applicable taxes, as set forth in the applicable Order of Service, as modified from time to time in accordance with the terms of this Agreement (the "**Service Fee**"). The initial Service Fee, together with applicable taxes, will be charged to Customer at the time of installation. Thereafter, the Service Fee, together with applicable taxes, will be billed to Customer on a monthly basis.

c. Installation Fee. The installation fee, any additional installation equipment required plus applicable taxes (the "**Installation Fee**"), is as set forth in the applicable Order for Service. The Installation Fee will be charged to Customer at the time of installation, or otherwise in accordance with SkyPacket's then-current billing policies.

d. Additional Fees. In addition to the Service Fee and Installation Fee, Customer shall pay the following fees (together with the Service Fee and Installation Fee, collectively, the "**Fees**") to SkyPacket:

- i. Mailing Fee: A mailing fee of \$1 will be charged for each physical mailing made to Customer.
- ii. Late Fee: A late fee equal to the maximum permitted in the jurisdiction in which Service is delivered to Customer may be added to the amount due if payment has not been received by the due date.
- iii. Dishonored Check Fee: Collection fees and all other amounts allowed by law will be charged when a check is dishonored.
- iv. Reinstatement of Service Fee: If SkyPacket agrees to reinstate Service after all amounts due on Customer's account have been paid, a reinstatement charge of \$25 will be made.
- v. Early Termination Fees for Residential Customers: Upon the termination of Service prior to the end of the current Service term, Customer will pay SkyPacket according to the following chart.

| <b>Remaining Term</b> | <b>Termination Fee</b> |
|-----------------------|------------------------|
| Less than 1 year      | \$ 50.00               |
| 1 to 2 years          | \$100.00               |
| 2 to 3 years          | \$150.00               |

- vi. Early Termination Charges for Commercial and Business Customers: Customer agrees to be responsible for all early termination charges, without exception, at the rate of the monthly recurring charge (MRC) multiplied by the balance of the contract in months or years or as agreed upon in writing between the customer and SkyPacket, its agents, or assignees.
- vii. Equipment Fee. If, upon the termination or expiration of this Agreement, Customer does not return the SkyPacket Equipment in the condition in which it was installed, subject to normal wear and tear, Customer will be subject to a \$150 Equipment Fee.

e. Third Party Charges. The Services will allow Customer to access the Internet, online services, and other information, and provides Customer access to e-mail. Customer acknowledges that Customer may incur charges while using the Services in addition to those billed by SkyPacket. For example, charges may be incurred as a result of accessing certain online services or purchasing or subscribing to certain other offerings. Customer agrees that all such charges, including all applicable taxes, are the sole responsibility of Customer.

f. Payment; Invoices. Except as otherwise indicated herein or in the applicable Order of Service, SkyPacket will invoice Customer in advance on a monthly basis for all monthly recurring Service Fees arising under the Agreement. All other charges will be billed monthly in arrears. Customer shall make payment to SkyPacket for all invoiced amounts within thirty (30) days after the date of the invoice. Any amounts not paid to SkyPacket within such period will be considered past due. Partial payment of any bill will be applied to the Customer's outstanding charges in the amounts and proportions as solely determined by SkyPacket. No acceptance of partial payment(s) by SkyPacket shall constitute a waiver of any rights to collect the full balance owed under the Agreement.

g. Taxes and Fees. Customer shall be responsible for the payment of any and all applicable local, state, and federal taxes or fees (however designated). Customer will be responsible to pay any Fees, payment obligations and taxes that become applicable retroactively.

h. Past-Due Amounts. Any undisputed payment of Fees not made when due will be subject to a reasonable late charge not to exceed the highest rate allowed by law on the unpaid invoice. If Customer's account is delinquent, SkyPacket may refer the account to a collection agency or attorney that may pursue collection of the past due amount and/or any SkyPacket Equipment that Customer fails to return in accordance with the Agreement. If SkyPacket is required to use a collection agency or attorney to collect any amount owed by Customer or any unreturned SkyPacket Equipment, Customer agrees to pay all reasonable costs of collection or other action. The remedies set forth herein are in addition to and not in limitation of any other rights and remedies available to SkyPacket under the Agreement or at law or in equity.

i. Billing Errors. Subject to applicable law, Customer must notify SkyPacket of any billing errors or other requests for credit within 60 days of the related billing. After this period, the billing will be considered to be correct.

5. Interruption of Services.

a. Notification. To the extent possible, SkyPacket will give Customer advance notice of planned interruptions of Service to Customer. Such interruptions shall not be deemed a default hereunder.

b. Refunds. Except as expressly set forth in or contemplated by this Agreement, in the case of refund for lost Services, credit will be issued only for periods of lost Service greater than twenty-four (24) continuous hours. In the event of lost Services greater than 24 continuous hours, not including lost Service due to the failure of Customer Equipment, unauthorized Customer relocation of SkyPacket equipment, through any other fault of Customer, or due to the failure of any upstream network outage, SkyPacket will prorate the refund for the lost Service time in respect to the Customer's monthly Service Fees. No refund will be given for any lost time under 24 continuous hours. Customer is not eligible for any refunds if Customer is in violation of any of the terms of this Agreement or any applicable Order of Service.

c. Repair. SkyPacket will use commercially reasonable efforts to repair or replace (at SkyPacket's option) any SkyPacket equipment damaged due to normal wear. Such repair will be at Customer's expense.

d. Providers. SkyPacket will not be held responsible for the external Internet connections provided by third parties.

6. Limited Use of Services by Customer.

a. Registration Information. In consideration of Customer's use of the Service, Customer agrees to: (a) provide true, accurate, current, and complete information as prompted by the Service's registration or member sign-up form (such information being the "**Registration Information**"); (b) maintain and promptly update the Registration Information to keep it true, accurate, and complete; and (c) refrain from using the Service for any purpose that is unlawful or prohibited by this Agreement. If Customer provides any information that is untrue, inaccurate, not current, or incomplete, or if SkyPacket has reasonable grounds to suspect that such information is untrue, inaccurate, not current, or incomplete, SkyPacket has the right to suspend or terminate Customer's account and refuse any and all current or future use of the Service (or any portion thereof).

b. Prohibited Activities and Immediate Termination of Service. Customer agrees to not use or permit others to use the Service to do any of the following and further agrees that SkyPacket may terminate Customer's Service immediately, in whole or in part, and without prior notice if it reasonably believes that any of the following are being done through Customer's Service:

- i. Illegal network activity, such as hacking, DDOS-Distributed Denial of Service attacks, and SYN flood, failure to comply with all local rules regarding online conduct and acceptable Content, and failure to comply with all applicable laws regarding the transmission of technical data exported from the United States or from the country in which Customer resides;
- ii. "spamming" or using "email relay";
- iii. (i) upload, post, email, or otherwise transmit any Content that is unlawful, harmful, threatening, abusive, harassing, tortuous, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically, or otherwise objectionable; (ii) harm minors in any way; (iii) impersonate any person or entity, including, but not limited to, a SkyPacket representative, forum leader, guide or host, or falsely state or otherwise misrepresent Customer's affiliation with a person or entity; (iv) forge headers or otherwise manipulate identifiers in order to disguise the origin of any Content transmitted through the Service; (v) upload, post, email, or otherwise transmit any Content that Customer does not have a right to transmit under any law or under any contractual or fiduciary relationships (such as inside information, proprietary and confidential information learned or disclosed as part of employment relationships or under nondisclosure agreements); (vi) upload, post, email or otherwise transmit any Content that infringes any patent, trademark, trade secret, copyright or other proprietary rights of any party; (vii) upload, post, email, or otherwise transmit any unsolicited or unauthorized advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of solicitation; (viii) upload, post, email, or otherwise transmit any material that contains software viruses or any other computer code, files, or programs designed to interrupt, destroy, or limit the functionality of any computer software or hardware or telecommunications equipment; (ix) interfere with or disrupt the Service or servers or networks connected to the Service, or disobey any requirements, procedures, policies, or regulations of networks connected to the Service; (xi) intentionally or unintentionally violate any applicable local, state, federal, or international law, including, but not limited to, regulations promulgated by the U.S. Securities and Exchange Commission, any rules of any national or other securities

- exchange, including, but not limited to, the New York Stock Exchange, the American Stock Exchange, or the Nasdaq, and any regulations having the force of law; (xii) “stalk” or otherwise harass another; or (xiii) collect or store personal data about others.
- iv. transmission or storage of any information, data, or material in violation of any U.S. federal, state, or local regulation or law. This includes, but is not limited to, posting or disseminating content which is obscene, unlawful, threatening, defamatory, or which infringes the intellectual property of any person;
  - v. post, transmit, or disseminate objectionable information, including, without limitations, any transmissions constituting or encouraging conduct that would constitute a criminal offense, give rise to civil liability, or otherwise violate any local, federal, or international law, order, or regulation;
  - vi. access any other person’s computer or software without the knowledge and consent of such person;
  - vii. upload, post, publish, transmit, reproduce, create derivative works of, or distribute in any way, information, software, or other material obtained through the Service which is protected by copyright or other proprietary right, without obtaining permission of the owner;
  - viii. alter, modify, or tamper with the SkyPacket Service or permit any other person to do the same that is not authorized by SkyPacket;
  - ix. restrict, inhibit, or otherwise interfere with the ability of any other person to use or enjoy the SkyPacket equipment or the Service, including, without limitation, posting or transmitting any information or software which contains a virus or other harmful feature; or generating levels of traffic sufficient to impede others’ ability to send or retrieve information;
  - x. inhibit or have the potential to inhibit the ability of any other person to use the Service by serving or attempting to serve faulty IP addresses to other SkyPacket customers. SkyPacket may deny Service to Customer until the problem is resolved;
  - xi. knowingly disrupt the Service;
  - xii. resell the Service or otherwise charge others to use the Service. The Service is for personal use only and Customer agrees not to use the Service for operation as an Internet Service Provider or for any other business enterprise in competition with the Service;
  - xiii. attempt to login, access, or attack any of SkyPacket’s equipment or network, including radio and network equipment;
  - xiv. assist unauthorized users to gain access to SkyPacket’s network by releasing proprietary software or other means; or
  - xv. open, tamper with or attempt to repair SkyPacket Equipment;

SkyPacket may also terminate Customer’s Service without notice if (i) SkyPacket receives an appropriate notice or request under the Digital Millennium Copyright Act, (ii) if necessary, to comply with any law, regulation, rule or judicial or regulatory order, or (iii) if Customer uses the SkyPacket Equipment or Services in a way which is contrary to any other SkyPacket policy.

Any breach of this Section 6(b) shall be deemed a material breach of this Agreement. In the event of such material breach, SkyPacket shall have the right to restrict, suspend, or terminate immediately any or all orders of Service, without liability on the part of SkyPacket, and then to notify Customer of the action that SkyPacket has taken and the reason for such action, in addition to any and all other rights and

remedies under this Agreement. This Section shall not in any way limit SkyPacket's rights of termination pursuant to this Agreement. Customer assumes the risk and agrees to indemnify and hold harmless SkyPacket against all claims and expenses (including reasonable attorney fees) resulting from Customer engaging in any of the activities listed above. This provision will survive termination of this Agreement.

c. Content.

- i. Customer understands that all information, data, text, software, music, sound, photographs, graphics, videos, messages, or other materials ("**Content**"), whether publicly posted or privately transmitted, are the sole responsibility of the person from which such Content originated. Customer is entirely responsible for all Content that Customer uploads, posts, emails, or otherwise transmits via the Service. SkyPacket does not control the Content posted via the Service and, as such, does not guarantee the accuracy, integrity, or quality of such Content. Customer understands that by using the Service, Customer may be exposed to Content that is offensive, indecent, or objectionable. SkyPacket shall have no liability whatsoever for any claims, losses, actions, damages, suits or proceedings arising out of or relating to Content, including, but not limited to, any errors or omissions in any Content, or any loss or damage of any kind incurred as a result of any Content posted, emailed, or otherwise transmitted by or to Customer via the Service.
- ii. Customer acknowledges that SkyPacket does not pre-screen Content, but that SkyPacket and its designees shall have the right (but not the obligation) in their sole discretion to refuse, restrict or move any Content that is available via the Service. Without limiting the foregoing, SkyPacket and its designees shall have the right to remove any Content that violates this Agreement or is otherwise objectionable, in SkyPacket's sole discretion.
- iii. Customer acknowledges and agrees that SkyPacket may preserve Content and may also disclose Content if required to do so by law or in the good faith belief that such preservation or disclosure is reasonably necessary to: (i) comply with legal process; (ii) enforce this Agreement; (iii) respond to claims that any Content violates the rights of third parties; or (iv) protect the rights, property, or personal safety of SkyPacket, its users, and the public.
- iv. Customer understands that the technical processing and transmission of the Service, including Customer's Content, may involve (i) transmissions over various networks; and (ii) changes to conform and adapt to technical requirements of connecting networks or devices.
- v. It is solely Customer's responsibility to evaluate the accuracy, completeness, and usefulness of all opinions, advice, Services, and other information provided through the Service. SkyPacket does not endorse or represent the reliability, accuracy, or quality of any information, goods, Services, or products displayed or advertised on the Service. Any items purchased or obtained by any Customer through the Service is done at the Customer's sole risk. Any Content related to business, finance, and/or securities matters and the like contained on the Service is provided for informational purposes only, and no content included in the Service is intended for trading or investing purposes. SkyPacket shall not be responsible or liable for the accuracy, usefulness, or availability of any

information transmitted via the Service, and shall not be responsible or liable for any trading or investment decisions made based on such information.

- vi. Customer agrees that the Service and the software may contain proprietary and confidential information that may be protected by applicable intellectual property and other laws. Customer further acknowledges and agrees that Content contained in sponsor advertisements or information presented to Customer through the Service, advertisers, or suppliers may be protected by copyrights, trademarks, Service marks, patents, or other proprietary rights and laws.

d. Dealings with Advertisers and Suppliers. Customer may enter into correspondence with or participate in promotions of advertisers and/or suppliers on the Service showing their products on the Service. Any such correspondence or promotions, including the delivery of and the payment for goods and Services, and any other terms, conditions, warranties, or representations associated with such correspondence or promotions, are solely between the corresponding user and the advertiser, and/or supplier. SkyPacket assumes no liability, obligation, or responsibility for any part of any such correspondence or promotion.

e. Links to Third-Party Sites. SkyPacket provides links to other external sites or resources. Because SkyPacket has no control over such sites and resources, Customer acknowledges and agrees that SkyPacket is not responsible for the availability of such external sites or resources, and does not endorse and is not responsible or liable for any content, advertising, products, Services or other information or materials on or available from such sites or resources. If Customer chooses to access third-party Services, Customer does so entirely at his/her own risk.

f. General Policies. Customer acknowledges that SkyPacket may establish general practices and limits concerning use of the Service, including without limitation (i) the maximum number of email messages that may be sent from or received by an account on the Service and (ii) the maximum size of any email message that may be sent from or received by an account on the Service. Customer agrees that SkyPacket has no responsibility or liability for the failure of the Service and the deletion of other Content maintained or transmitted by the Service. SkyPacket reserves the right at any time and from time to time to modify or discontinue, temporarily or permanently, the Service (or any part thereof) with or without notice.

## 7. Privacy Policy.

a. Subscriber Privacy Notice. This privacy policy ("**Privacy Policy**") contains information pertaining to Customer's privacy rights provided under federal law and inherent privacy risks of the internet. SkyPacket may, in its sole discretion, change, modify, add, or remove portions of the Privacy Policy, and the Service provided hereunder, at any time. SkyPacket will notify Customer of any such changes by posting the modified Privacy Policy on the SkyPacket Web site, or sending notice to Customer under the notice provisions provided hereunder. Customer's continued use of the Service following notice of such change shall be deemed to be Customer's acceptance of any such modification. If Customer does not agree to any such modification, Customer must immediately stop using the Service and notify SkyPacket that Customer is terminating this Agreement. If Customer does not agree to the new policies, Customer's sole remedy is to terminate this Agreement and comply with the termination provisions herein.

b. Personal Information. SkyPacket may use your Personal Information for our internal business purposes including, without limitation, billing, customer communications, providing Services, and protecting SkyPacket and its customers. SkyPacket may share your Personal Information with third parties as necessary or convenient for our internal business purposes or as required by law. SkyPacket will implement and maintain reasonable security procedures and practices that are appropriate to the nature of personal information held and are reasonably designed to help protect the information.

c. Data Concerning Customer's Use of the Service. SkyPacket has no obligation to monitor the Service, but may do so in its sole discretion. SkyPacket may disclose information regarding Customer's use of the Service if SkyPacket, in its sole discretion, believes that it is reasonable to do so, such disclosures including but not limited to disclosure to satisfy laws, regulations, or governmental or legal requests; to operate the Service properly; or to protect itself and its Customers. SkyPacket may immediately remove Customer's material or information from SkyPacket's servers, in whole or in part, when SkyPacket, in its sole and absolute discretion, determines that it infringes another's property rights or violates this Agreement. SkyPacket shall have no liability whatsoever for any claims, losses, actions, damages, suits or proceedings arising out of or relating to such use or disclosure.

d. Malware and Communication Errors. The data and information Customer sends and receives may be subject to privacy- and security- invading activities including, but not limited to, eavesdropping, electronic trespassing, "sniffing," "spamming," "nuking," "hacking," "spoofing," imposture, breaking passwords, harassment, fraud, forgery, and system contamination including use of viruses, "worms," and "Trojan" applications causing unauthorized, damaging, harmful access and/or retrieval of information and data on Customer's computer and other forms of activities that may be unlawful. Information and data may also not reach its destination or may reach an erroneous address or recipient. SkyPacket shall have no liability whatsoever for any claims, losses, actions, damages, suits or proceedings arising out of or relating to malware or communication errors.

e. Eavesdropping. SkyPacket's facilities are used by numerous Service subscribers. As a result, there is a risk that Customer could be subject to "eavesdropping." This means that other Service subscribers may be able to access and monitor Customer's use of the Service. This risk of eavesdropping exists not only with SkyPacket's facilities, but also on the Internet and other Services to which access is provided as part of the Service. Because of this risk, any sensitive or confidential information sent by Customer is sent at the Customer's sole risk, and SkyPacket shall have no liability whatsoever for any claims, losses, actions, damages, suits, or proceedings arising out of or otherwise relating to eavesdropping or similar activities.

f. Remote Access. Users outside the Premises may be able to access the Customer's computer. It is important that the Customer take appropriate steps to protect their information on the computer from being accessed by others. Customer hereby acknowledges and agrees that the Customer's use of the Service is at the Customer's own risk, and SkyPacket shall not have any liability whatsoever for any claims, losses, actions, damages, suits, or proceedings arising out of or otherwise relating to remote access.

## 8. Termination and Expiration.

a. Termination for Convenience. Notwithstanding any other term or provision in this Agreement, Customer shall have the right to terminate any Order of Service or this Agreement, in whole or part, at any time during the Term upon sixty (60) days prior notice to SkyPacket, and subject to payment to SkyPacket of all outstanding amounts due for the Services, any and all applicable Termination Charges, and the return of any and all SkyPacket Equipment. Such termination shall be effective sixty (60) days after SkyPacket's receipt of the termination notice.

b. Termination for Cause. (a) If Customer is in breach of a payment obligation, and fails to make payment in full within ten (10) days after receipt of notice of default, or has failed to make payments of all undisputed charges on or before the due date on three (3) or more occasions during any twelve (12) month period, SkyPacket may, at its option, terminate this Agreement, terminate the affected Order of Service, suspend Service under the affected Order of Service, and/or require a deposit, advance payment, or other satisfactory assurances in connection with any or all Order of Service as a condition of continuing to provide the Services. However, SkyPacket will not take any such action as a result of Customer's non-payment of a charge that is the subject of a timely billing dispute, unless the parties have reviewed the dispute and determined in good faith that the charge is correct. (b) If either party breaches any material term of this Agreement and the breach continues without remedy for thirty (30) days after

notice of default, the non-defaulting party may terminate for cause any Order of Service materially affected by the breach. (c) An Order of Service may be terminated by either party immediately upon notice if the other party has become insolvent or involved in liquidation or termination of its business, or adjudicated bankrupt, or been involved in an assignment for the benefit of its creditors. (d) Termination by either party of an Order of Service does not waive any other rights or remedies that it may have under this Agreement.

c. Effect of Expiration or Termination of the Agreement or an Order of Service. Upon the expiration or termination of an Order of Service or the Services for any reason: (i) SkyPacket may disconnect the applicable Service; (ii) SkyPacket may delete all applicable data, files, electronic messages, voicemail or other information stored on SkyPacket's servers or systems; (iii) if Customer has terminated the applicable Order of Service and/or Service prior to the expiration of the Service Term for convenience, or if SkyPacket has terminated the applicable Order of Service and/or Service prior to the expiration of the Service Term as a result of material breach by Customer, SkyPacket may assess and collect from Customer applicable Termination Charges; and (iv) Customer shall be responsible for the return of all applicable SkyPacket Equipment and (A) until such time as the SkyPacket Equipment is returned to SkyPacket, SkyPacket may continue to invoice Customer for the monthly fee applicable to such SkyPacket Equipment and (B) if any returned SkyPacket Equipment has been damaged and/or destroyed other than by SkyPacket or its agents, normal wear and tear excepted, SkyPacket may invoice Customer for the full replacement cost of the relevant SkyPacket Equipment, or in the event of minor damage to the retrieved SkyPacket Equipment, the cost of repair).

d. Regulatory and Legal Changes. The parties acknowledge that the respective rights and obligations of each party as set forth in this Agreement upon its execution are based on law and the regulatory environment as it exists on the date of execution of this Agreement. SkyPacket may, in its sole discretion, immediately terminate this Agreement, in whole or in part, in the event there is a material change in any law, rule, or regulation.

9. Disclaimer of Warranties.

a. General Disclaimer. EXCEPT AS OTHERWISE SET FORTH, THE SKYPACKET EQUIPMENT, SERVICE, AND SOFTWARE ARE PROVIDED BY SKYPACKET "AS IS" WITHOUT WARRANTY OF ANY KIND. SKYPACKET DOES NOT WARRANT UNINTERRUPTED USE OR OPERATION OF THE SKYPACKET EQUIPMENT OR SERVICE. SKYPACKET DOES NOT WARRANT THAT ANY DATA OR 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 NONINFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, OR MERCHANTABILITY ARE HEREBY EXCLUDED.

b. Specific Matters Not Warranted. CUSTOMER EXPRESSLY UNDERSTANDS AND AGREES THAT: a. SKYPACKET MAKES NO WARRANTY THAT (i) THE SERVICE OR THE SKYPACKET EQUIPMENT WILL MEET CUSTOMER'S REQUIREMENTS, (ii) THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (iii) DELETION, MISDELIVERY, OR FAILURE TO STORE OR EFFECTUATE ANY USER COMMUNICATIONS, ORDERS, LISTINGS, OR CUSTOMIZATION SETTINGS WILL NOT OCCUR AS A RESULT OF CUSTOMER'S USE OF THE SERVICE, (iv) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE WILL BE ACCURATE OR RELIABLE, AND (v) ANY ERRORS IN THE SKYPACKET EQUIPMENT, INCLUDING HARDWARE OR SOFTWARE, WILL BE CORRECTED. b. THE SERVICE MAY CONTAIN DEFECTS AND, ACCORDINGLY, CUSTOMER IS ADVISED TO SAFEGUARD IMPORTANT DATA, TO USE CAUTION, AND TO NOT RELY IN ANY WAY ON THE CORRECT FUNCTIONING OR PERFORMANCE OF THE SERVICE. c. ANY MATERIAL, PRODUCTS, OR SERVICES DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DONE AT CUSTOMER'S OWN DISCRETION AND RISK AND THAT CUSTOMER WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO CUSTOMER'S COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL. c. NO ADVICE OR INFORMATION, WHETHER ORAL OR

WRITTEN, OBTAINED BY CUSTOMER FROM SKYPACKET OR THROUGH OR FROM THE SERVICE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT.

c. Limitation of Liability. SKYPACKET OR ANY EMPLOYEE OR AGENT THEREOF, WHETHER INVOLVED IN CREATING, INSTALLING, DELIVERING, TESTING, OR USING THE SERVICE, OR OTHERWISE SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, RESULTING FROM THE USE OR THE INABILITY TO USE THE SERVICE, SERVICE OUTAGE, OR FOR COST PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES, OR RESULTING FROM ANY GOODS OR SERVICES PURCHASED OR OBTAINED, OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH THE SERVICE OR RESULTING FROM UNAUTHORIZED ACCESS TO, OR ALTERATION OF A USER'S TRANSMISSIONS OR DATA, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF REVENUE, PROFITS, BUSINESS USE, DATA, OR OTHER INTANGIBLE INFORMATION, EVEN IF SKYPACKET HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE AGGREGATE LIABILITY FOR SKYPACKET TO CUSTOMER FOR ALL CLAIMS ARISING FROM THE USE OF THE SERVICE IS LIMITED TO \$100.

d. No Warranty to Third Parties. SKYPACKET SHALL NOT BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY FOR ANY MODIFICATION, SUSPENSION, OR DISCONTINUANCE OF THE SERVICE. THIS AGREEMENT IS BETWEEN CUSTOMER AND SKYPACKET ONLY AND IS NOT FOR THE BENEFIT OF ANY THIRD PARTY. SKYPACKET HAS NO LIABILITY WHATSOEVER FOR ANY DAMAGE, LOSS, OR DESTRUCTION OF CUSTOMER EQUIPMENT, INCLUDING LOSS OR DESTRUCTION OF ANY SOFTWARE, FILES, OR DATA.

e. Exclusions and Limitations. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. TO THE DEGREE THAT SUCH WARRANTIES ARE LIMITED BY APPLICABLE LAW, THEY SHALL NOT APPLY TO CUSTOMER HEREUNDER.

10. Force Majeure. Neither party shall be liable to the other party for any delay, failure in performance, loss, or damage to the extent caused by force majeure conditions such as acts of God, fire, explosion, power blackout, cable cut, acts of regulatory or governmental agencies, unavailability of right-of-way, unavailability of services or materials upon which the Services rely, or other causes beyond the party's reasonable control, except that Customer's obligation to pay for Services provided shall not be excused. Changes in economic, business or competitive condition shall not be considered force majeure events.

11. Indemnification. Customer agrees to indemnify and hold SkyPacket, its directors, officers, employees, agents, attorneys, co-branders or other partners harmless from any claim or demand, including reasonable attorneys' fees, made by any third party due to or arising out of the Content Customer submits, posts to or otherwise transmits through the Service, Customer's use of the Service and the SkyPacket Equipment, Customer's connection to the Service, Customer's violation of this Agreement, or Customer's infringement of any intellectual property or other right of any other person or entity.

12. No Waiver. No failure by either party to enforce any rights hereunder shall constitute a waiver of such rights.

13. Compliance with Laws. Each party hereto agrees to comply with all applicable local, state and federal laws, regulations and ordinances in the performance of its respective obligations under this Agreement.

14. Governing Law; Attorney Fees. This Agreement shall be governed by and construed in accordance with the laws of the State of Maryland without regard to its conflicts of law provisions. In the event that any suit or action is instituted under or in relation to this Agreement, the prevailing party in such dispute shall be entitled to recover from the losing party all fees, costs and expenses of enforcing any right of such prevailing party, including, without limitation, reasonable attorneys' fees.

15. Customer's Account, Password, and Security. Customers receive a user name, password, and account designation upon registration. SkyPacket Customers and members of SkyPacket Customers' household or business (if a business account has been purchased) are the only authorized users of Customer's SkyPacket account and must comply with this Agreement. Customer must keep his/her

password confidential so that no one else may access the Service through the account. Customer must notify SkyPacket within 24 hours of discovering any unauthorized use of Customer's account. E-mail accounts exceeding Customer's allotted Web Space in size may block new incoming messages. User names, passwords, and e-mail addresses are SkyPacket's property and SkyPacket may alter or replace them at any time.

16. Notices. Notices to Customer will be sent to Customer's email address on file with SkyPacket or, at SkyPacket's discretion, mailed to Customer's address on file with SkyPacket. CUSTOMER IS REQUIRED TO MONITOR HIS/HER/ITS EMAIL ON A REGULAR BASIS AND PROVIDE SKYPACKET WITH PROMPT NOTICE OF ANY CHANGE TO CUSTOMER'S EMAIL ADDRESS. Customer's use of the Service following delivery of any notice to Customer from SkyPacket will be deemed to be Customer's acknowledgment and acceptance any changes to this Agreement contained in such notice. It is Customer's sole responsibility to notify SkyPacket of his/her e-mail address to use for all notices regarding this Agreement and the Service.

a. Notices to SkyPacket should be emailed to info@skypacket.net or delivered to:  
SkyPacket Networks, Inc.  
434 N Centre Street  
Cumberland, MD 21502

b. Notices and Procedure for Making Claims of Copyright Infringement. Pursuant to Title 17, United States Code, Section 512(c)(2), notifications of claimed copyright infringement should be sent to SkyPacket's Designated Agent:

David E. Kartchner  
434 N CENTRE ST STE A  
Cumberland, MD 21502-2255  
Email: dave.kartchner@skypacket.net

17. No Relationship. Nothing in this Agreement will create any joint venture, joint employer, franchisee- franchiser, employer-employee, or principal-agent relationship between SkyPacket and Customer, nor impose upon either party any obligations for any losses, debts, or other obligations incurred by the other except as expressly set forth herein.

18. No Customer Assignment. Customer shall have no right to assign or transfer this Agreement or the use of the associated SkyPacket Equipment without the express prior written consent of SkyPacket.

19. Entire Agreement. This Agreement, along with any applicable Order of Service, constitutes the entire agreement and understanding between the parties with respect to the subject matter of this Agreement and supersedes and replaces any and all prior written or verbal 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 the provisions shall remain in full force and effect. SkyPacket'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 provisions of this Agreement.

20. Headings. The section headings and sub-headings contained in this Agreement are for convenience only and have no legal or contractual effect.

21. Retention of Rights. Nothing contained in this Agreement shall be construed to limit SkyPacket's rights and remedies available at law or in equity. Subject to applicable law, SkyPacket reserves the right to delete all data, files, electronic messages, or other information that is stored on SkyPacket's servers or systems when Customer's account with SkyPacket is terminated for any reason.