

# HAREWAVES WIRELESS INC.

## Internet Access Terms

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ City/Town \_\_\_\_\_

Postal Code: \_\_\_\_\_ Installation Date: \_\_\_\_\_

Installer: \_\_\_\_\_ User Signature: \_\_\_\_\_

Email Address \_\_\_\_\_

Revised: Feb 2015

### Terms of Service and changes to Terms of Service

1. Harewaves will provide the user named above with access to Harewaves' High-Speed Internet Service according to the following Terms and Conditions. Use of any of the Harewaves' Services by the user will constitute acceptance of the following Terms and Conditions. In this agreement, the use of "you" will refer to the user.
2. Harewaves may change at any time, these Terms and Conditions (including any charges for any other aspect of Service, as well as any term or provision of the Service Agreement) upon reasonable notice to you. If you do not accept these changes your sole remedy is to immediately terminate the Harewaves' Services by sending notice pursuant to paragraphs 19 through 26.
3. You agree that notice of any change in these Terms and Conditions will be given by posting on the Harewaves' website and no separate notice will be sent by ordinary mail. Harewaves may also notify you by electronic mail message at your user address. You are responsible to monitor the Harewaves' web site to keep informed of the current Terms and Conditions. Harewaves recognizes that you may not access the web site every day; therefore, all changes will not take effect until 10 days after the change has been posted on the Harewaves website.
4. In addition to these Terms, Harewaves has also adopted an Acceptable Use Policy (AUP), which governs your use of the Harewaves Service and may, in fact, limit your use of the Harewaves Service. A copy of the AUP may be viewed at [www.harewaves.net](http://www.harewaves.net). The terms of the AUP may also change from time to time and you are responsible to monitor for most current terms, which are posted on the Harewaves website.
5. At any time you may request a printed copy of the current Harewaves' Internet Access terms and/or the Harewaves' AUP.

### Permitted use of the Harewaves Service

6. You agree to use the Equipment and the Harewaves' Services only as permitted by law and following Harewaves' Policies. These policies include but are not limited to the Harewaves' Acceptable Use Policy, the Harewaves' Spam Policy, and Harewaves' Privacy Policy. A current version of the policies will be posted on the Harewaves' website.

### Charges for Harewaves Service including Additional Charges

7. Harewaves will charge monthly in advance for the Harewaves Service commencing on the 1<sup>st</sup> day of each and every month after installation until you, or Harewaves, terminate the Harewaves Service.

### Service, Allowances and Additional Charges

8. The Harewaves' Services are a means of access and connection to the Internet provided to customers via wireless radio and your computer provided to you dependent upon your specific use agreement.
9. If your use exceeds the monthly allowance as outlined in the customer's specific use agreement, you will be subject to an additional charge. The 2015 additional monthly charge is currently \$5.00 per 1 GB of downstream/upstream data transfer, subject to any changes in rates. An up to date list of current charges and rates will be posted on the Harewaves' website.

### Equipment Provided by Harewaves

10. Harewaves will provide a wireless radio, initial connectivity to the Internet and technical assistance in configuring TCP/IP software (collectively the "Equipment") as part of the monthly connection fee. If you ask Harewaves to return and reconfigure the equipment for initial connectivity to the Internet, and/or configure TCP/IP software, Harewaves may charge a reinstatement fee.
11. You are responsible for any additional equipment (i.e. Ethernet cards, routers etc.) required to obtain the Harewaves' Service. Harewaves may sell this additional equipment as a retail item, but is considered customer owned equipment and will be the sole responsibility of the customer.

### Access to User's Premises

12. You authorize Harewaves, its servants, agents, employees, contractors and representatives to enter your premises in order to install, maintain, inspect, repair or remove the Equipment. Access to your premises will be at a mutually convenient time to Harewaves and you.
13. For rented, leased or other property not owned by you, is your responsibility to obtain written permission from the owner before the Harewaves installation can commence.

### Prohibited Use of the Harewaves Service

14. You agree not to use any Harewaves' Equipment or Services, and you further agree not to permit or allow use of any Harewaves' Equipment or Service, directly or indirectly to:
  - (a) Invade another person's privacy; post, transmit, distribute or disseminate content which is unlawful, threatening, abusive, libelous slanderous, defamatory or otherwise offensive or objectionable; post, transmit or disseminate objectionable information including without limitation any transmissions consisting or encourage conduct that would constitute a criminal offense or give rise to civil liability or otherwise violate any municipal, federal or international law, order or regulation;
  - (b) Alter, modify, tamper with, or relocate the Equipment and /or services without prior notification to Harewaves in order to permit Harewaves to relocate the Equipment for you within your premises;
  - (c) Restrict, inhibit or otherwise interfere with the ability of any other person to use or enjoy the Equipment, Services or the Internet, including without limitation, posting or transmitting of any information or software which contains a virus, lock, key, bomb worm, Trojan horse or other harmful or debilitation feature; or generating levels of traffic sufficient to impede others ability to send or retrieve information; (e.g. ping flooding another user's IP address);
  - (d) Disrupt Harewaves' backbone network nodes or network services;
  - (e) Use the Equipment or Services in a way which is contrary to the Harewaves' spamming policy posted on the Harewaves' Web Site ([www.harewaves.net](http://www.harewaves.net));
  - (f) Run World Wide Web, FTP or any other servers from your premises without first obtaining written permission from Harewaves;
  - (g) Resell or share Harewaves Internet Services and/or resell or share Internet services using Harewaves' primary service.

### Large Usage Programs

15. Programs such as NAPSTER, Kazaa, LimeWire, Bit Torrent, and other file-sharing programs effectively turn your PC into a server and may greatly increase upstream and downstream traffic from and to your computer. Netflix, YouTube, Shomi, Cineplex, Roku, iTunes, Apple T.V. and Crackle are also bandwidth intensive applications and use of these programs may cause you to exceed your traffic allowances resulting in additional charges. Overuse of these programs may also constitute abuse of Harewaves' Services and lead to termination of the aforementioned services.

### Change of Residence

16. If you move to a new address within the geographical area served by Harewaves, you must notify Harewaves of the change in address. Failure to notify Harewaves of any change in address may result in the immediate termination of this agreement and/or suspension of your services.

### Harewaves' Rights

17. Harewaves has no obligation to monitor Harewaves' Services content. However, you acknowledge and agree that Harewaves has the right to periodically monitor content electronically and to disclose any information as necessary to satisfy any law, regulation or other governmental requirement, to operate Harewaves' Services properly, or to protect itself or Harewaves' subscribers. Harewaves reserves the right to refuse to post, or the remove any information or material, in whole or in part, that, in its sole discretion, are unacceptable, undesirable, or in violation of these Terms.

### Harewaves' Retention of Rights

18. Nothing in these Terms shall be construed to limit Harewaves' recourse against any user for any act or omission against you in connection with Harewaves' Services in breach of these terms, at law, and/or the usage of policies set by Harewaves from time to time.

### **Suspension, Term, Termination Rights and Obligations**

19. The term of this agreement shall be for a period of one year and begin on the effective date of this agreement.
20. Unless stated otherwise by Harewaves, this agreement shall renew automatically on the anniversary of the signing of this agreement and continue to renew yearly.
21. Either party may terminate Harewaves' Services at any time upon providing the other party with notice of termination. Such Notice may be verbal, but written notice is advised. Termination shall occur upon the day such notice is given.
22. Harewaves, may in its sole discretion, and from time to time, suspend Internet access services for routine repair or maintenance work. Harewaves will give as much notice as reasonably practicable to the Customer, in the circumstances.
23. Harewaves, may also in its sole discretion, immediately suspend, restrict, or block all of any part of the Harewaves' Services immediately where:
  - (a) The Customer fails to pay an amount when due hereunder;
  - (b) You misuse or abuse or permit others to misuse or abuse the services for purposes that are contrary to law or the terms of any of Harewaves' policies;
  - (c) You fail to perform or are in breach of any of the other material obligation, term or condition set forth in this Agreement.
24. Despite the above, Harewaves will not provide you with notice of a proposed restrictions, block, or suspension, where:
  - (a) Immediate action is required to protect Harewaves' facilities, rental equipment or network.
  - (b) Extraordinary circumstances exist, or that there is an abnormal risk of loss involved in delaying the suspension or termination.
25. You also agree, as the user, that upon termination of Harewaves' Services you will remain responsible to pay any charges due and payable as of the date of termination. Such charges will include any additional charges pursuant to paragraph 9 of these terms and such current charges as are posted on the Harewaves' website as at the date of termination.
26. You further agree that upon termination of Harewaves' Services, you will be responsible to return all Harewaves' Equipment, the failure to do so, will result in additional charges for equipment use until the equipment is disconnected and returned to Harewaves.

### **No Warranty**

27. Any equipment and services are provided by Harewaves "AS IS" and "AS AVAILABLE" without warranties, representations or conditions of any kind, expressed or implied, whether statutory or otherwise, including but not limited to:
  - 1) The availability, accessibility, coverage, operation, performance, privacy, or uninterrupted use of the equipment or services
  - 2) That any data or files sent by, or to you will be transmitted in uncorrupted form, error free or within a reasonable period of time
  - 3) Any warranties of title or non-infringement and any implied representations;
  - 4) Implied warranties of merchantability, quality or fitness for a particular purpose;
  - 5) Warranties arising out of the course of dealing or usage of trade.

### **Back-up Requirements**

28. The installation, use, inspection, maintenance, repair and removal of the Equipment may result in service outages or potential damage to your Computer. You agree to back-up all existing computer files by copying them to another storage medium prior to installation of the Equipment. Harewaves shall have no liability whatsoever for any damage to, loss of, or destruction of your software, files or data.

### **Ownership/Damages Re: Equipment**

29. All Equipment, (except that purchased and paid for in full by you), will at all times remain the property of Harewaves. You may not sell, transfer, lease or assign any interest in, mortgage or encumber all or any part of the Equipment to any third party. You shall pay for the full retail cost of the repair or replacement of any lost, stolen, unreturned, damaged (including acts of God), mortgaged, sold, transferred, leased, encumbered or assigned Equipment or part thereof, together with any costs incurred by Harewaves in obtaining or attempting to obtain possession of any such Equipment, plus applicable taxes. You hereby authorize Harewaves to charge you're VISA, MasterCard, other credit card or payment method authorized by you for all outstanding Service and Equipment charges due to Harewaves.

### **Internet Security**

30. You are responsible for your own computer's security. It is your responsibility to maintain adequate virus, firewall, and any other applicable software. You will be liable for any damage caused to Harewaves' Equipment or Services that result from inadequate security software.
31. You acknowledge and understand that there are certain inherent risks when using a network (i.e. unauthorized access to your account or service by other users). Harewaves shall not be liable for any claims or damages in relation to networking, even if the networking application or service is provided, installed, maintained, or supported by Harewaves.
32. You also acknowledge and understand that there is content on the Internet that may be offensive to some users, or which may not be in compliance with local laws, regulations or rules. Harewaves assumes no responsibility for, and exercises no control over the content contained on the Internet and other on-line Services, Harewaves does not censor the legality or acceptability of such content. All content accessed through Harewaves' Services are accessed and used by you at your sole risk.

### **Limitation of Liability**

33. Harewaves is not liable to you or to any third party for:
  - (a) Any direct, indirect, incidental, special, punitive or consequential losses or damages, including loss of profits, loss of earnings, loss of use, loss of business opportunities and personal injuries (including death), resulting directly or indirectly out of, or otherwise arising in connection with, the use of Harewaves' Services by you or any other user of the Equipment or Harewaves' Services, including, without limitation, any damage resulting from or arising out of your reliance on or use of the Equipment or Harewaves' Services, or the mistakes, omissions, interruptions, deletion of files, errors, defects, delays in operation, transmission, or any failure of performance of the Equipment or Harewaves' Services; and
  - (b) Any losses, claims, damages, expenses, liabilities or costs (including legal fees) resulting directly or indirectly out of, or otherwise arising in connection with, any allegation, claim, damage suit or other proceeding based upon a contention that the use of the Equipment or Harewaves' Services by you or a third party infringes the copyright, patent, trademark, trade secret, confidentiality, privacy, or other industrial or intellectual property rights or contractual rights of any third party.
34. This limitation applies to all acts, omission, or gross negligence of Harewaves, its officers, employees, agents, contractors or representatives, which, but for this provision, would give rise to a cause of action against Harewaves in contract, tort or any legal doctrine.
35. Your sole and exclusive remedies are as expressly set out in these Terms.
36. In the event of any breach by Harewaves, its affiliates or its agents, including any breach of fundamental term or negligence, your exclusive remedy is to receive from Harewaves, its affiliates or its agents, payment for actual and direct damages to a maximum amount of equal to the fees paid by the Customer to Harewaves in the past three months.
37. This Section shall survive the termination and expiry of this agreement.

### **Force Majeure**

38. Neither you nor Harewaves shall be liable to the other party for any delay or failure to perform its obligations, as outlined in this agreement (other than an obligations to pay monies when due), due to strikes, labour disputes, inability to obtain labour, utilities or services, riots, storms, floods, explosions, terrorism, fire, act of God or any other cause or causes similar thereto which are beyond the reasonable control of the parties. Both you and Harewaves shall use their best/most reasonable efforts during the Term of the Agreement to minimize the effects of any force majeure upon the performance of their respective obligations under this Agreement.

### **Arbitration**

39. Any and all disputes, claims or controversies arising out of or in any way connected with this Agreement, its performance, breach, enforcement, existence or validity, any failure of the parties to reach agreement with respect to matters provided for in this Agreement and all matters of dispute relating to the rights and obligations of the parties, which cannot be amicably resolved, will be referred to private and confidential binding arbitration governed by Alberta law pursuant to *Arbitration Act* R.S.A. 2000, c. A-43 as amended, replaced or re-enacted from time to time.
40. The Arbitrator shall be a person who has experience in the information technology field in Canada and is independent of either Party.
41. The costs of the Arbitration shall be born by the Customer.

### **General**

42. These Terms and Conditions shall be exclusively governed by and construed in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein.
43. These Terms and Conditions supersede all prior or collateral written or oral representations or agreements related thereto.
44. In the event, any portion of these Terms and Conditions are found to be unenforceable by a court of competent jurisdiction, the unenforceable portion shall be severed, and the remaining provisions shall continue in full force and effect and shall be construed as nearly as possible to reflect the original intentions of the party. Harewaves' failure to insist upon or enforce strict performance of any provisions of these Terms shall not be construed as waiver of any provision or right.
45. You acknowledge that you have been advised and read this agreement in its entirety, fully understand the Terms and Conditions and agree to abide by the Terms and Conditions of this agreement and any other agreement referenced herein.

### **How to Contact Harewaves**

46. For any inquiries or notices required in connection with these Terms, you may contact Harewaves by email at support@harewaves.net; by telephone at 403-746-0096, or by mail to the attention of Marketing Manager.
47. For Current Service terms and charges please visit the Harewaves website at [www.harewaves.net](http://www.harewaves.net).

Initial\_\_\_\_\_