



StoneBridge Wireless
Service Agreement

This Agreement ("Service Agreement") is made and entered into by and between StoneBridge Wireless, Inc., ("StoneBridge"), a Minnesota corporation, and ("Subscriber/Company"). For good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

- 1. StoneBridge shall provide the Internet access and related services set forth below (the "Services") at the Premises, as hereinafter defined and set forth below, subject to the accompanying Terms and Conditions, attached hereto and incorporated herein.

Service Plan: Burst-able speed up to kbps

Payment: Company shall pay, at time of installation: Installation or Activation Charge, Pro-rated first months of services and one month in advance, plus applicable taxes and city franchise fees as appropriate.

Additional notation: Up to 10 e-mail accounts & 1 Static IP Address are included at no charge. Website Hosting is an additional \$20 per month with a one time \$50 transfer charge.

Totals: Non-recurring Charges: \$ Activation; Monthly Recurring Charges \$

Installation Address: ("Premises")

- 2. Setup Charges. Installation or activation costs, appropriate taxes and 1 month in advance service charges are due and payable as noted above upon execution of this Service Agreement. Service charges for the month of installation will be prorated and added to the first invoice.
3. The initial term of this Agreement ("Initial Term") shall expire thirty six (36) months from commencement of the activation of the Services. The term shall automatically renew for additional, successive one (1) year terms (each, a "Renewal Term") at the expiration of the Initial Term and at each anniversary thereof, unless either party provides the other notice to the contrary at least thirty (30) days prior to the expiration of the then current term, in which case this Agreement will terminate as of the expiration of the then current term.
4. The User/Company Billing address for purposes of Section 5 of the attached Terms and Conditions is as follows:

Three horizontal lines for address input.

Telephone Number
Facsimile Number
Attention
Billing Email
SBW Sales Rep STS Network Services

In Witness Whereof, StoneBridge and the Company have executed this Agreement as follows:

StoneBridge Wireless Inc.

"Company/Subscriber"

By: Signature: Stephen C. Gowdy, Its President, Date:

Signature: Name (Printed): Title: Date:

## Terms and Conditions Internet Access Agreement

1. **Scope.** StoneBridge shall provide the Services designated on the signature page of this Agreement at the Premises, subject to the following terms and conditions.
2. **Equipment.**
  - (a) StoneBridge will install and provide such equipment ("Equipment") as is reasonably necessary to utilize the Services at the Premises. Notwithstanding the foregoing, the Company (i) shall be solely responsible for obtaining the necessary approvals of landlords and/or others for the installation of and access to the Equipment, and (ii) StoneBridge at its discretion and without notice can use the Company's roof top for relay purposes to additional subscribers and (iii) StoneBridge's obligation to install the Equipment and provide Services shall be contingent on the Company obtaining such approvals in a form satisfactory to StoneBridge. Title to the Equipment shall remain in StoneBridge.
  - (b) StoneBridge shall repair or replace defective Equipment at no charge to the Company; provided that StoneBridge shall not be responsible for the cost of repair or replacement of Equipment due to intentional damage, misuse or abuse. Subject to the foregoing, the Company shall have full responsibility for, and shall pay StoneBridge its then current replacement cost of Equipment that is lost, damaged for any reason including, but not limited to electrical surges, static build up or lighting, following the installation.
3. **Pricing.** The Company shall pay StoneBridge for the Services in accordance with the totals set forth on page one of the Agreement. StoneBridge reserves the right to modify the fees and charges set forth in the Agreement; provided, however, that (i) StoneBridge may not increase such fees and charges until expiration of the Initial Term, and (ii) StoneBridge may increase such fees and charges only upon at least (30) days advance notice to the Company.
4. **Billing.** (a) StoneBridge shall invoice the Company on a monthly basis via email for all fees and charges accruing hereunder. Such fees and charges shall be due and payable within thirty (30) days following the date of StoneBridge's invoice. Any balance not paid by such due date shall bear interest from and after the invoice date at the lesser of one and one-half percent (1 ½%) per month or the maximum rate allowed by law, whichever is less. All sales, use and other such governmentally imposed or authorized taxes, fees, surcharges and/or assessments relating to this Agreement shall be paid by the Company. Delinquent accounts are subject to remedies including interruption or termination of services. Company shall be responsible for any collection costs, including attorneys' fees, in the event that StoneBridge initiates collection efforts against Company. There is a \$3.00 per month charge to be billed by mailed invoice.
  - (b) In the event of any disruptions of or to StoneBridge's Internet access networks that prevent the Company's ability to utilize the Services, StoneBridge shall issue a credit(s) against charges otherwise payable by the Company. In the event the parties are unable to agree as to the amount of such credit(s), the amount of the credit(s) shall be an amount computed by multiplying the monthly recurring charges imposed on the Company by a fraction, the numerator of which shall be the total number of hours of interruption and the denominator of which shall be 720 hours.
5. **Notice.** Any notice or other communication herein required or permitted to be given shall be in writing and may be personally served, faxed or sent by a recognized overnight courier or United States mail, and shall be deemed to have been received when (a) delivered in person or received by fax, (b) one (1) business day after delivery to the office of such overnight courier service, or (c) three (3) business days after depositing the notice in the United States mail with postage prepaid and properly addressed to the other party, at the following respective addresses:

To StoneBridge: StoneBridge Wireless, Inc.  
9719 Valley View Road  
Eden Prairie, MN 55344  
Attention: Director of Operations

To Company: See address specified on the signature page

Or to such other address or addresses as either party may from time to time designate as to itself by like notice.
6. **Representations and Warranties.** The Company represents and warrants that (a) it is duly organized, validly existing and in good standing under the laws of the state of its organization; (b) it has all requisite power and authority to enter into this Agreement and to perform its obligations under the terms of this Agreement; (c) this Agreement has been duly authorized, executed and delivered and constitutes a valid and binding obligation of such party enforceable in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, moratorium and other laws of general application affecting the enforcement of creditors' rights; and (d) the execution, delivery and performance of and compliance with this Agreement does not and will not conflict with, constitute a default under, nor result in any violation of (i) its certificate of incorporation, bylaws or other such governing documents, (ii) any term or provision of any mortgage, indenture, contract, agreement, instrument, judgement or decree, or (iii) any order, statute, rule or regulation applicable to such party, which violation would have a material adverse effect on its business or properties.

7. **Disclaimer of Warranties and Limitations of Liabilities.** EXCEPT AS OTHERWISE EXPRESSLY SET FORTH HEREIN, STONEBRIDGE MAKES NO WARRANTIES, EXPRESS OR IMPLIED, CONCERNING THE SERVICES, THE EQUIPMENT OR THE NETWORKS THROUGH WHICH THE SERVICES ARE PROVIDED, AND HEREBY EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE. Subject to Section 4(b) above, StoneBridge shall not be liable to the Company or any other person for any loss, injury or damage, of whatever kind or nature, resulting from or arising out of any mistakes, errors, omissions, delays or interruptions in the receipt, transmission or storage of any messages, signals or other information in connection with use of the Services and/or use of StoneBridge's Internet access networks. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, IN NO EVENT SHALL STONEBRIDGE BE LIABLE TO THE COMPANY OR ANY OTHER PERSON FOR PUNITIVE, INDIRECT, INCIDENTAL, OR SPECIAL DAMAGES, LOST PROFITS, LOST SAVINGS OR ANY OTHER FORM OF CONSEQUENTIAL DAMAGES, REGARDLESS OF THE FORM OF ACTION, EVEN IF STONEBRIDGE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER RESULTING FROM BREACH OF ITS OBLIGATIONS UNDER THIS AGREEMENT OR OTHERWISE.
8. **Term and Termination.**
- (a) The Initial Term and Renewal Terms shall be as designated on page 1 of this Agreement.
  - (b) This Agreement may be terminated (i) as set forth in Section 3 of page 1 of the Agreement, (ii) by the non-defaulting party upon a Default and the failure of the defaulting party to cure the Default within thirty (30) days following receipt of notice of the Default, and (iii) by the Company at its own discretion, upon at least thirty (30) days advance notice to StoneBridge. In the event this Agreement is terminated by StoneBridge due to the Default of the Company or by the Company at its own discretion, the Company shall pay to StoneBridge, in addition to any other amounts due and owing to StoneBridge, a lump sum fee equal to fifty percent (50%) of the balance of the aggregate monthly recurring service charges StoneBridge would have been entitled to during the then Initial Term or Renewal Term had the Agreement not been terminated. As used herein, the term "Default" shall mean (A) the failure by a party to perform in any material respect any of its obligations under this Agreement; or (B) a party's insolvency, assignment for the benefit of creditors, appointment or sufferance of appointment of a trustee, receiver or similar officer, or any voluntary or involuntary proceeding seeking reorganization, rehabilitation, liquidation or similar relief under bankruptcy, insolvency or similar debtor-relief statutes.
  - (c) Upon any termination of this Agreement, each party shall be released from all obligations and liabilities to the other occurring or arising after the date of such termination, except with respect to those obligations which by their nature are designed to survive termination; provided that no such termination will relieve the Company from any amount due and owing hereunder or either party from any liability arising from any breach of this Agreement.
  - (d) The agreement may be terminated at the time of relocation, with no default penalty applied, if the company relocates its entire business to a new location where StoneBridge Wireless, Inc. cannot provide Broadband Wireless Access.
9. **Assignment/Governing Law.** This Agreement may be freely assigned by StoneBridge to any successor of it or any other firm or entity capable of performing its obligations hereunder, whereupon StoneBridge shall be released from all obligations to the Company. Customer may not assign this Agreement without the prior written consent of StoneBridge. Subject to the restrictions contained herein, this Agreement shall bind and inure to the benefit of the successors and assigns of the parties hereto. This Agreement shall be governed by the laws of the State of Minnesota.
10. **Miscellaneous.** (a) If any provision of this Agreement shall be held to be invalid or unenforceable, such provision will be enforced to the maximum extent permissible so as to effect the intent of the parties, and the validity and enforceability of the remaining provisions shall not in any way be affected or impaired thereby; (b) no delay or failure by either party to enforce any right under this Agreement will be deemed a waiver of that or any other right; (c) if any action shall be brought on account of any breach of or to enforce or interpret this Agreement, the prevailing party shall be entitled to recover from the other, as part of the prevailing party's costs, reasonable attorney's fees; (d) this Agreement may be executed in one (1) or more counterparts, each of which will be deemed an original, but which collectively will constitute one and the same instrument; (e) Stonebridge will not be liable for any non-performance under this Agreement due to causes beyond its reasonable control that cannot be reasonably avoided or overcome; (f) the headings and captions used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement; (g) if additional technical support is needed where the service is not usable due to customer equipment or customer responsibility, StoneBridge at its discretion can support those requests and additional ad hoc services on an hourly basis billed at \$75.00 per hour and \$125.00 per hour for ad hoc network services with a one hour minimum, portal to portal; (h) transfer rates over 5 Gigabytes per month shall be charged at StoneBridge Wireless, Inc. discretion \$50.00 per additional Gigabyte per month, additional \$50.00 pricing waived if noted above that a server is allowed on the network; (i) this Agreement, including all exhibits and documents directly referenced and any addendum's attached hereto, constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes and replaces all prior or contemporaneous understandings or agreements, written or oral, regarding such subject matter, and (j) no amendment to or modification of this Agreement will be binding unless in writing and signed by a duly authorized representative of both parties.