

## Bitwise Internet Access Service Agreement

**1. General:** This Agreement is made by and between BITWISE a Michigan company with a headquarters address at 410 West Flint Street, Davison, MI and Customer ("Customer"). This Agreement shall be effective on the date that it is executed by BITWISE following Customer's execution ("Effective Date"). This Agreement sets forth the terms and conditions pursuant to which BITWISE shall provide the "Service" (as hereinafter defined) to Customer. As used herein, "Service" shall refer to BITWISE WIRELESS Internet access ("wireless Internet access") Service which shall consist of high speed access to BITWISE Internet Protocol ("IP") network, which access shall be provided via a wireless connection between BITWISE and the Customer's wireless Internet access point. The Service shall provide connectivity, via BITWISE IP network, between a Customer location and the Internet and/or a local area network ("LAN")

**2. Rates and Charges:** Payment. Customer agrees to pay all applicable rates and charges set by BITWISE that is set forth and incorporated by reference of set monthly charges and onetime charges. In addition to such rates and charges, Customer shall be responsible for any and all fees and taxes, if any, which may be imposed by any Internet registration authority, in connection with the registration and maintenance of Customer's domain name (s) or Internet addresses, if any. Billing for the recurring component of the Service shall be monthly in advance. Payment for the non-recurring component of the Service, including initial set-up and installation fees, shall be payable upon execution. Charges shall be due upon Customer's receipt of invoice and payable within thirty (30) days of such date. Any amount not paid within such period shall bear interest at the lesser of (i) the rate of 1½% per month, or (ii) the highest rate permitted by applicable law. If Customer disputes any portion of an invoice, Customer shall timely pay the full invoiced amount and provide BITWISE, within thirty (30) days of payment, a written statement supporting Customer's position regarding the dispute. BITWISE shall determine in its good faith business judgment whether such invoiced items were erroneous, and shall issue a credit to Customer if it so determines. BITWISE reserves the right to change or modify the rates and charges for the Service, or eliminate or modify certain components of the Service, upon not less than forty-five (45) days advance written notice BITWISE notice to Customer. In the event of such a modification or elimination with respect to the Service Customer will pay all sales and use taxes, as well as duties or levies, arising in connection with the Service. Customer's execution of this Agreement signifies Customer's acceptance of BITWISE initial and continuing credit review and approval. BITWISE reserves the right to withhold implementation of service pending completion of BITWISE credit review and BITWISE may condition initiation of service on its receipt of a deposit or such other means to establish reasonable assurance of payment. Failure to pay for any service within 30 days of invoice date will result in cancellation of service.

**3. Term and Termination:** (a) This Agreement shall be effective upon the Effective Date and continue until the expiration (or termination (its "Term") shall commence on the date upon which, with respect to the Service ordered, the Service is made available for use by Customer, and continue on a month-to-month basis and may be terminated by either party by giving written notice at least thirty (30) days prior thereto but in the absence of such notice, If BITWISE has suspended the Service, BITWISE shall require a reconnection fee of \$25.00 in order to resume Service. Termination shall not relieve Customer of its obligation to pay all fees for Service accrued and owing up to and including the date of termination or otherwise payable pursuant to Section 3(a) above, nor shall it preclude BITWISE from pursuing any other remedies available to it, at law or in equity. (b) In the event a law or regulatory action prohibits, substantially impairs or makes impractical the provision of Service under this Agreement, as determined by BITWISE, BITWISE may, at its option and without liability, terminate this Agreement or modify the Service or the terms and conditions of this Agreement in order to conform to such action ("Regulatory Modification"); provided, however, that BITWISE shall provide thirty (30) days written notice prior to Customer of any such Regulatory Modification, unless BITWISE determines, in its good faith business judgment, that it is necessary to reduce the foregoing notice period. Use by Customer of the Service after implementation of a Regulatory Modification shall constitute acceptance by Customer of such changes. Cancellation due to move will still result in payment of installation charges which may have been waived due to contract signing. Any unpaid installation due to contract signing will become due upon early termination of service.

**4. Rights and Obligations of Customer:** Customer represents that (a) it has full right and authority to enter into this Agreement; (b) it will not use the Service in any manner which is in violation of any law or governmental regulation, (c) the "Customer Data" (as hereinafter defined) will not violate or infringe the rights of others, including, without limitation, any patent, copyright, trademark, trade dress, trade secret, privacy, publicity, or other personal or proprietary right; (d) the Customer Data will not include indecent or obscene material or constitute a defamation or libel of BITWISE or any third party and will not result in the obligation of BITWISE to make payment of any third party licensing fees; and (e) it will comply with all relevant export and encryption laws and regulations of the United States. For purposes of this Section 4, "Customer Data" shall mean the text, data, images, sounds, photographs, illustrations, graphics, programs, code and other materials transmitted through the Service

**5. Equipment or Software Not Provided By BITWISE:** Customer shall be solely responsible for the installation, operation, maintenance, use and compatibility of equipment or software not provided by BITWISE and shall have no responsibility or liability in connection therewith. In the event that equipment or software not provided by BITWISE impairs Customer's use of any Service: (a) Customer shall nonetheless be liable for payment for all Service provided by BITWISE; and (b) any service specifications or service levels generally applicable to the Service shall not apply. Customer shall cooperate with BITWISE in setting the initial configuration for its equipment's interface with the Service and comply with BITWISE instructions in connection therewith.

**6. Equipment Provided By BITWISE:** BITWISE shall provide each customer with necessary equipment to connect to BITWISE "IP" network. All hardware and or equipment installed at customer site is entirely the property of BITWISE, customer shall in no way in any manor try to obtain equipment for personal use or any other use other than in connection with BITWISE network. At the end of or termination of Customer agreement equipment will be returned to BITWISE in complete working condition at BITWISE discretion or pay a value equal to retail price of equipment at time of disconnect. All equipment will be disconnected and picked upon a scheduled visit by BITWISE of a BITWISE technician.

**7. Rights and Obligations of BITWISE:** (a) BITWISE, at its sole discretion, may secure domain names and assign Internet address space (subject to reasonable availability) for the benefit of Customer during the Term, and BITWISE will route those addresses on BITWISE network; it being understood and agreed that neither Customer nor any of its "Users" shall have the right to route these addresses. Customer understands and agrees that it shall have no ownership interest in any IP address which BITWISE WIRELESS obtains on Customer's behalf and that BITWISE shall retain ownership of all such IP addresses, and upon termination of the Agreement, Customer's access to and utilization of such IP addresses shall terminate. (b) Customer agrees that it is solely responsible for assessing its own computer and transmission network needs and the results to be obtained there from and BITWISE exercises no control what so ever over the merchandise, information and services offered or accessible on the Internet. BITWISE shall use commercially reasonable efforts to (i) monitor its network and its interconnection to other networks and (ii) maintain its network, including interconnections, in an operational state (except during scheduled maintenance). CUSTOMER ASSUMES TOTAL RESPONSIBILITY FOR CUSTOMER'S USE AND USERS' USE OF THE SERVICE, SOFTWARE OR EQUIPMENT PROVIDED BY BITWISE, IF ANY, AND THE INTERNET. CUSTOMER UNDERSTANDS AND AGREES FURTHER THAT THE INTERNET (1) CONTAINS MATERIALS SOME OF WHICH ARE SEXUALLY EXPLICIT OR MAY BE OFFENSIVE AND (2) IS ACCESSIBLE BY PERSONS WHO MAY ATTEMPT TO BREACH THE SECURITY OF BITWISE WIRELESS' S AND/OR CUSTOMER' S NETWORK. BITWISE HAS NO CONTROL OVER AND EXPRESSLY DISCLAIMS ANY LIABILITY OR RESPONSIBILITY WHATSOEVER FOR SUCH MATERIALS OR ACTIONS AND CUSTOMER AND CUSTOMER' S USERS ACCESSES THE SERVICE AT CUSTOMER' S OWN RISK. EXCEPT AS SPECIFICALLY SET FORTH HEREIN OR IN THE ADDENDUM, THE SERVICE AND RELATED SOFTWARE AND/OR EQUIPMENT PROVIDED BY BITWISE, IF ANY, ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, NONINFRINGEMENT OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NO ADVICE OR INFORMATION GIVEN BY BITWISE, ITS AFFILIATES OR ITS CONTRACTORS OR THEIR RESPECTIVE EMPLOYEES SHALL CREATE A WARRANTY. Some states do not allow the limitation of implied warranty, and therefore certain provisions may not apply to customers located in those states.

**8. Limitation of Liability:** TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL BITWISE WIRELESS, ITS AFFILIATES OR AGENTS BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OR LOST OR IMPUTED PROFITS OR ROYALTIES, LOST DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES ARISING FROM OR RELATED TO THE SERVICE OR THIS AGREEMENT WHETHER FOR, AMONG OTHER THINGS, BREACH OF WARRANTY OR ANY OBLIGATION ARISING THEREFROM, AND WHETHER LIABILITY IS ASSERTED IN, AMONG OTHER THINGS, CONTRACT OR (INCLUDING BUT NOT LIMITED TO NEGLIGENCE AND STRICT PRODUCT LIABILITY) WHETHER OR NOT BITWISE HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH LOSS OR DAMAGE. BITWISE LIABILITY HEREUNDER SHALL IN NO EVENT EXCEED AN AMOUNT EQUAL TO THE AVERAGE MONTHLY RECURRING CHARGE PAID BY CUSTOMER FOR THE SERVICE, SUCH AVERAGE MONTHLY CHARGE TO BE CALCULATED BASED UPON THE PERIOD COMMENCING ON THE EFFECTIVE DATE AND CONCLUDING ON THE DATE A CLAIM IS MADE. CUSTOMER HEREBY WAIVES ANY CLAIM THAT THESE EXCLUSIONS DEPRIVE IT OF AN ADEQUATE REMEDY OR CAUSE THIS AGREEMENT TO FAIL OF ITS ESSENTIAL PURPOSE. The foregoing sets forth Customer's exclusive remedy for breach of this Agreement by BITWISE. Some states do not allow the exclusion of incidental or consequential damages, and therefore certain provisions hereof may not apply to customers located in those states. The provisions

of this Section 8 allocate the risks between BITWISE and Customer and BITWISE pricing reflects the allocation of risk and limitation of liability specified herein.

**9. Indemnity:** Customer agrees to defend, indemnify and hold BITWISE and its affiliates harmless from any and all liabilities, costs and expenses, including reasonable attorneys' fees, related to or arising from: (a) any breach of this Agreement by Customer or Users; (b) the use of the Service or the Internet or the placement or transmission of any information, software or other materials on the Internet by Customer or Users, including but not limited to any Customer Data; (c) acts or omissions of Customer, Customer's agents or Contractors in connection with, among other things, the installation, maintenance, presence, use or removal of equipment or software not Provided by BITWISE connected or to be connected to the Service; and (d) claims for infringement of any third party proprietary right, including copyright, patent, trade secret and trademark rights, arising from the use of any services, equipment and software not provided by BITWISE.

**10. Non-Solicitation of Employees:** Customer shall not, during the Term of this Agreement and for a period of one (1) years thereafter, directly or indirectly solicit, employ, offer to employ, nor engage as a consultant, any employee of BITWISE with whom Customer had contact pursuant to this Agreement, without the prior written consent of BITWISE.

**11. Non-Disclosure:** Except with respect to information in the public domain or which is legally required to be disclosed, Customer shall not disclose any of the terms and conditions of this Agreement to any third party during the Term and for a period of twelve (12) months thereafter.

**12. Assignment/general usage:** Customer shall not assign this Agreement or, resell the right to use the Service without the prior written consent of BITWISE Internet access, utilization is not metered or governed but we reserve the right to either suggest an upgrade of service (more bandwidth, Point-to-Point) if the bandwidth exceeds normal customer utilization patterns or termination of service if service is utilized in an inappropriate manner. An example of an inappropriate usage of service would be:

\* Reselling of bandwidth.

\* Sharing pirated intellectual property.

\* Utilization of services in a manner not in agreement with federal or state statutes.

\* Excessive bandwidth usage

\*Sharing connection with neighbors or others outside address service is assigned to.

\*Sharing Unlimited Access accounts with anyone other than an immediate family member, or re-selling service without express written consent from BITWISE, or offering any public information service, such as running a web server or FTP server, is prohibited. Using programs to defeat system timers limiting inactivity is prohibited.

**13. Interference and down time:** Your computer must meet the minimum system requirements - Wireless bandwidth speeds are not guaranteed and may experience changes due to atmospheric conditions and other factors out of the control of BITWISE - Wireless connections may not work in some locations due to obstructions - Wireless connections may experience periodic interference and down time due to atmospheric conditions and other factors out of the control of BITWISE.

**14. Roof Mounted Equipment:** Customer agrees to not hold Bitwise liable for any damage which may occur overtime due to wear, weather, wind, fading, acts of GOD/Nature or other issues that may damage roof from base mount over time or during installation. Bitwise installers will caulk screws after installation is complete but can't guarantee roof will be 100% leak proof. Bitwise can in no way guarantee the roof to look the same after installation is complete or when and if base is removed.

**15. Miscellaneous:** \*\*\* By using BITWISE Internet access service, you agree with all of the terms and conditions of this service agreement listed above, you also understand that these terms and conditions may change at any time and that it's your responsibly to currently check for any changes. \*\*\*