



Wireless Broadband Internet Services—Residential Terms and Conditions

Revision of 2015-05-20

In consideration of the sums and mutual covenants and conditions hereinafter set forth, the parties agree as follows:

- 1. USE OF SERVICE:** By executing this Agreement, Subscriber acknowledges his compliance with all FCC rules and regulations. Subscriber agrees to use the Service in accordance with the terms of the Acceptable Use Policy. Subscriber will not use the Service in aircraft or in motor vehicles where prohibited by law, ordinance or regulation, as applicable. Grand Avenue Broadband (“Provider”) may change this Agreement at any time. Any changes are effective when the Provider provides the Subscriber with written or electronic notice stating the effective date of the changes. If Subscriber elects to use the Services or make payment to the Provider on or after the effective date of any change(s) materially affecting Subscriber's account, Subscriber is deemed to have accepted the change(s). If Subscriber does not accept such changes, the Subscriber may terminate Services as of the effective date by sending written notice to the Provider at PO Box 400, Morristown, Arizona 85342-0400. If Services are terminated before the end of the current billing cycle, no credit or refund will be provided for unused Services.
- 2. TERM:** The Service Term of this Agreement shall be specified on the Application for Service Form. Thereafter, unless the Subscriber terminates this Agreement as provided for herein, this Agreement shall automatically renew on a month-to-month basis. Notice of termination by Subscriber shall be made only in writing to the Provider at PO Box 400, Morristown AZ 85342-0400. The Provider reserves the right to terminate this Agreement for nonpayment, Loss of Access under Section 15 below, or any other noncompliance with or violation of these Terms and Conditions and/or Acceptable Use Policy, at any time prior to the conclusion of the Service Term or any renewal term. Except for a Subscriber termination in response to Provider changes to the Terms and Conditions affecting Subscriber in accordance with Section 1 above, or involuntary termination due to Loss of Access under Section 15 below, a cancellation fee of the lesser of \$500 or the total subscription fees due for the remainder of the Service term will be charged to the Subscriber for cancellation within the Service term.
- 3. HIATUSES AND SEASONAL AGREEMENTS:** For additional consideration, Subscriber may request a “Seasonal Agreement,” under which Subscriber will be charged a reduced rate for hiatus periods of a minimum of one month’s duration during which Subscriber is away from the service area and is not using the service. Service Term of an account on season hiatus will be extended by three-quarters the length of the hiatus period(s). For non-seasonal agreements, the Subscriber may request temporary suspension of service for a period not to exceed four months with the consent of the Provider. The Service Term of such a suspended account will be extended by the entire length of the temporary suspension.
- 4. EQUIPMENT AND INSTALLATION:** All equipment required to provide Provider’s Internet Services shall remain the property of the Provider. The Subscriber will be required to pay up to \$350 for loss, damage, or failure to return said Equipment. The Subscriber will have the Equipment installed by the Provider at the rate specified on the Application for Service. Provider shall not be liable for any damage to the Subscriber’s premises or Equipment which may result from installation, removal, modification, or maintenance of Equipment by any person who is not employed or contracted by the Provider. The Provider reserves the right to change or remove assigned codes and or numbers in its Equipment when such change is reasonably necessary to the provision of Service. The Subscriber retains no proprietary interest in such codes or numbers. The Provider reserves the right to include relay capability in its installed Equipment for the purpose of providing Service to unrelated Subscribers. Inclusion of this relay capability in no way affects Subscriber's service levels, rates, charges, or payment responsibilities.
- 5. INTERNET SERVICES:** Provider’s Services, consisting of certain applications such as e-mail, website hosting, and other host related Services (the “Applications”) are part of the Services that can be obtained through the Provider. Certain Applications offered by the Provider or authorized third parties may be compatible with the equipment and or the Service offered by the Provider. Such compatibility or approval from the Provider of compatibility shall not be construed as an endorsement of a particular Application or a commitment on the part of the Provider that Applications will continue to be compatible with the system, Equipment or Services for any period of time. The Provider reserves the right, in its sole discretion, to disable or discontinue any Application for any reason. Provider’s Internet Services require a device capable of operating on a network and subject to any storage, memory or other Equipment limitations. Provider retains the right to

disable, discontinue, or impose a limit on the network resources consumed by third-party applications and/or services as required according to Provider's sole judgment to protect the integrity, security, or performance of the network.

6. APPLICATION CUSTOMER CARE AND SUPPORT: Subscriber acknowledges and agrees that in most cases, the developer of an Application is responsible for providing customer care and support to all Subscribers using the Application. In the event that Subscriber contacts Provider with a problem concerning the use of the Application, the Subscriber may be referred to the Application developer's Customer Service and Provider will have no obligation to support such Application(s).
7. CONTENT AND INTELLECTUAL PROPERTY RIGHTS: The Provider is not a publisher of third party content. Therefore, the Provider is not responsible for the content provided by such third parties, including, but not limited to statements, opinions, graphics, photos, music, services and other information ("Content") and accessed by the Subscriber through Provider's Internet Services. The Subscriber shall not, nor permit others, to reproduce, broadcast, distribute, sell, publish, commercially exploit or otherwise disseminate such Content in any manner without the prior written consent of the Provider, Content providers, or others with proprietary interests in such Content as applicable. Repeated violation of intellectual property rights may result in termination of Provider services to Subscriber.
8. INSTALLATION FEES / DEPOSITS: The Subscriber shall pay an Installation Fee, as specified on the Application for Service. Installation fees are not refundable once the Subscriber has accepted the Installation work, witnessed by Subscriber's signature or initials to that effect on the Application for Service. For large or unusual specialized configurations of Equipment, the Subscriber may be required to provide the Provider with a deposit towards the Installation of the Equipment. The Provider reserves the right to interrupt Services if the Service appears to have excessive bandwidth use, if payments are delinquent or any unusual patterns are observed on the Subscriber's account, or during public safety emergencies. Such interruption may be done to protect the Subscriber or the Provider, as the Provider determines in its sole discretion, but in no event shall the Provider be liable to the Subscriber or any third party, by reason of interrupting or failing to cause an interruption of Service.
9. RATES, CHARGES, AND PAYMENT: The price established for Service is set forth in the current Provider rate plan(s) selected by the Subscriber. The Provider shall issue invoices for Service monthly. Monthly Access charges shall be invoiced in advance. The Subscriber is responsible to pay the Provider, within the terms specified, for charges for Service. If the Subscriber elects to pay using a Provider approved credit or debit card, the Subscriber hereby authorizes the Provider to charge the credit or debit card specified by the Subscriber on a recurring monthly basis for all charges incurred on the Subscriber's invoice. The Subscriber (1) expressly authorizes the Provider to charge Subscriber's designated credit or debit card number(s) for all fees and charges incurred; and (2) reauthorizes the Provider to charge such account number(s) each time services are used. The Subscriber shall promptly notify the Provider of any changes to the credit or debit card or bank account used for payment. The Provider reserves the right to modify any and all elements of the Service charges at any time, and each such modification shall be effective immediately upon the Provider's communication thereof to the Subscriber. If the parties have agreed that payments are to be made in installments, or on credit, as indicated on the Application for Service, the Subscriber shall be responsible for paying the amounts due as agreed to in this Agreement. If the Subscriber does not make all payments when they are due, such failure shall be default under this Agreement and the Provider shall be entitled to exercise any remedies it may have under this Agreement or at Law or in equity.
10. ASSIGNMENT / RESALE / GOVERNING LAW: This Agreement may be freely assigned by the Provider to any successor of it or any other firm or entity capable of performing its obligations hereunder, and upon any such assignment, the Provider shall be released from all obligations to the Subscriber. The Subscriber may not assign this Agreement or resell the services, which are subject to this Agreement without prior written consent of the Provider. Subject to the restrictions contained herein, this Agreement shall bind and inure to the benefit of the successors and permitted assigns of the parties hereto. This Agreement shall be governed by the laws of the State of Arizona.
11. NONPAYMENT / BREACH: A late payment charge of 1.5% (or the maximum interest rate permitted by law) per month may be applied to the Subscriber's account if monthly invoices or other fees are not paid by the due date. The late payment charge is applied to the total unpaid balance due and outstanding. The late payment charge is for costs related to the non-timely payment and shall not be deemed an interest payment. A charge of \$25.00 will be made by the Provider for any check or negotiable instrument tendered by the Subscriber and returned unpaid by a financial institution for any reason. The Provider will accept payment by credit card, Provider or personal check, or similarly secure form of payment, on a once a month billing cycle. If the Provider obtains the services of a collection or repossession agency or an attorney to assist the Provider, in remedying the Subscriber's breach of this Agreement, including but not limited to the nonpayment for charges hereunder, the Subscriber shall be liable for this expense. The Subscriber understands that in the event of nonpayment of charges or any other breach of the terms and conditions of this Agreement, in addition to any other remedies the Provider may have, the Provider may temporarily or permanently terminate Service to the Subscriber. If the

Equipment is abandoned, the Provider will take possession of the Equipment, at any time wherever the same may be without legal process and without being responsible for loss and damage.

12. **RISK OF LOSS / INSURANCE:** Upon the Subscriber's acceptance of delivery of the Equipment, all risk of loss, damage, theft, or destruction to the Equipment shall be borne by the Subscriber. No such loss, damage, theft, or destruction of the Equipment, in whole or part shall impair the obligations of the Subscriber hereunder, including, without limitation, responsibility for the payment of Service Charges due hereunder.
13. **TAXES, FEES, SURCHARGES & ASSESSMENTS:** Subscriber must pay all federal, state, and local taxes, fees, surcharges and other assessments (collectively, "Charges") that are imposed on transactions subject to this Agreement. As of the date of this Agreement, in the State of Arizona, and federally, there are no taxes on Internet Service Providers using unlicensed bands. Subscriber will be responsible for such charges if legislation is changed, at which time, the Subscriber will receive a written notice of the change in their payment amount thirty (30) days prior to its enforcement. If changes are made and taxes are necessary to enforce, a Subscriber may claim an exemption from any such Charge. The Subscriber must provide the Provider with valid and properly executed documentation of such exemption before such exemption shall become effective.
14. **COVERAGE AREA:** As the Provider builds the network, respective coverage areas for these Services are subject to change at any time at the sole discretion of the Provider.
15. **LOSS OF ACCESS:** On occasion, distance, terrain, or other considerations may require Provider to route service to Subscriber via equipment installed at the sites of other subscriber(s), such that discontinuation of service to that subscriber(s) will affect Provider's ability to continue service to Subscriber. Provider will inform Subscriber at the time of execution of Service Agreement if Subscriber is subject to this situation, or at any future time at which Subscriber becomes subject to this situation. Service agreements terminated involuntarily through Loss of Access are not subject to a termination fee as described in Section 2 above.
16. **LIMITATION AND CONDITION OF LIABILITY; INDEMNITY:** The Provider does not assume and shall have no liability under the Agreement for (i) failure to deliver the Equipment within a specified time period, (ii) availability and delays in delivery of the Equipment, or (iii) damage caused to the Equipment due directly or indirectly to causes beyond the control of the Provider, including, but not limited to acts of God, acts of the public enemy, acts of the government, acts or failure to act of the Subscriber, its agents, employees or subcontractors, fires, floods, epidemics, quarantine restrictions, corrosive substances in the air or other hazardous environmental conditions, strikes, freight embargoes, inability to obtain materials or services, commotion, war, unusually severe weather conditions or default of the Provider's subcontractors whether or not due to any such causes; or (iv) the use of Provider's Internet Services, including but not limited to the accuracy or utility of any information acquired from the Internet through Provider's Internet Services; or Internet Services, Content or Applications whether or not supported by the Provider. The Provider reserves the right to shut down its network at any time, without notice, to stop the progress of any harmful viruses which have the potential of harming the Subscriber's Equipment or software. **WITHOUT LIMITING THE FOREGOING, THE PROVIDER'S SOLE LIABILITY FOR SERVICE DISRUPTION, WHETHER CAUSED BY THE NEGLIGENCE OF THE PROVIDER OR OTHERWISE, IS LIMITED TO A CREDIT ALLOWANCE NOT EXCEEDING AN AMOUNT EQUAL TO THE PROPORTIONATE CHARGE TO THE SUBSCRIBER FOR THE PERIOD OF SERVICE DISRUPTION. EXCEPT AS OTHERWISE SET FORTH IN THE PRECEDING SENTENCE, IN NO EVENT IS THE PROVIDER LIABLE FOR ACTUAL, CONSEQUENTIAL, INCIDENTAL, SPECIAL OR OTHER INDIRECT DAMAGES CAUSED BY ITS NEGLIGENCE OR OTHERWISE, NOR FOR ECONOMIC LOSS, PERSONAL INJURIES OR PROPERTY DAMAGES SUSTAINED BY THE SUBSCRIBER OR ANY THIRD PARTIES.** The Subscriber agrees to indemnify, defend, and hold the Provider harmless from any Subscriber violations of FCC rules and regulations or Subscriber violations of any statutes, ordinances or laws of any local, state, or federal public authority.
17. **COMPLETE AGREEMENT / SEVERABILITY /WAIVER:** This Agreement sets forth all of the agreements between the parties concerning the Service and Installation of the Equipment, and there are no oral or written agreements between them other than as set forth in this Agreement Except for changes made by the Provider in accordance with Section 1 above no amendment or addition to this Agreement shall be binding upon the Provider unless it is in writing and signed by both parties (and, in the case of the Provider, by an officer of the Provider).
18. **NO WARRANTY (SERVICE): PROVIDER MAKES NO WARRANTIES EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE TO THE SUBSCRIBER IN CONNECTION WITH ITS USE OF THE SERVICE. IN NO EVENT SHALL THE PROVIDER BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL OR OTHER INDIRECT DAMAGES TO THE FULL EXTENT THE SAME MAY BE DISCLAIMED BY LAW. THE SUBSCRIBER ACKNOWLEDGES THAT SERVICE INTERRUPTIONS WILL OCCUR FROM, TIME TO TIME, AND AGREES TO HOLD THE PROVIDER HARMLESS FOR ALL SUCH INTERRUPTIONS.**

19. WARRANTY (EQUIPMENT): PROVIDER WARRANTIES TO KEEP SUBSCRIBER EQUIPMENT OPERATIONAL. THE SUBSCRIBER HEREBY WAIVES, AS AGAINST THE PROVIDER, ALL OTHER WARRANTIES, GUARANTEES, CONDITIONS, OR LIABILITIES, EXPRESSED OR IMPLIED, ARISING BY LAW OR OTHERWISE, IN NO EVENT SHALL PROVIDER BE LIABLE FOR CONSEQUENTIAL, SPECIAL, OR INCIDENTAL DAMAGES, WHETHER OR NOT OCCASIONED BY PROVIDER NEGLIGENCE AND INCLUDING, WITHOUT LIMITATION, LIABILITY FOR ANY LOSS OR DAMAGE RESULTING FROM THE INTERRUPTION OR FAILURE IN THE OPERATION OF ANY EQUIPMENT SOLD OR OTHERWISE PROVIDED HEREUNDER. THERE ARE NO WARRANTIES, WHICH EXTEND BEYOND THE DESCRIPTION CONTAINED WITHIN.

Revision history:

2009-02-15: Changed termination fee from a flat \$500 to the lesser of \$500 or the sum of monthly fees remaining on contract.

2009-10-01: Provider may inform Subscriber of changes via electronic as well as written notice. Clarified the effect of seasonal agreements on service term.

2011-01-11: Administrative language reflecting change of name to Grand Avenue Broadband.

2011-01-23: Clarified that changes do not automatically apply to existing accounts unless direct notice is given to the Subscriber. Specified postal address to which notifications must be sent to Provider, as some Subscribers receive billing notices from a payment processor. More clearly identified the seasonal agreement language by title. Added "Loss of Access" section, which does not affect or apply to any existing Subscriber account.

2015-02-19: Globally replaced term "Customer" with "Subscriber." Reduced the maximum liability for lost, damaged, or unreturned equipment. Added language covering customer-sited relay equipment.

2015-05-20: Clarified Provider's right to impose limitations on network resources consumed by third-party applications and services such as streaming or peer-to-peer services.