

Bloom Broadband Agreement for Residential Internet Service

Agreement for Residential Internet Service

This Agreement for Residential Internet Service (the "Agreement") sets forth the terms and conditions under which Bloom Broadband Internet Service (the "Service") will be provided to you ("you," "your," or "Customer") by the operating company that owns and/or operates the cable television system in your area ("Bloom", "Bloom Broadband", "we", "us", or "our"). For the purpose of this Agreement, "affiliate" means any entity that controls, is controlled by or is under common control with Bloom.

We may change the terms and conditions of this Agreement, in our sole discretion and at any time. Unless this Agreement or applicable law specifies otherwise, we will give you thirty (30) days prior notice of any significant change to this Agreement. If you find the change unacceptable, you have the right to cancel your Service. However, if you continue to use Service after the end of the notice period (the "Effective Date") of the change, you will be considered to have accepted the changes. You may not modify this Agreement by making any typed, handwritten, or any other changes to it for any purpose.

General Terms and Conditions

1. Acceptance of this agreement

You have accepted this Agreement and are bound by its terms if you use, or your account is used to access, the Service.

2. Charges and Fees

a. Charges, Fees, and Taxes You Must Pay.

You agree to pay all charges associated with the Service, including, but not limited to, activation charges, monthly service charges, applicable taxes and fees (however designated), reconnection fees, and late fees. You will be responsible for paying any government imposed fees and taxes that become applicable retroactively. We will provide you with notice and an effective date of any change in our prices or fees, unless the change in price is related to a change in governmental or quasi-governmental taxes, fees, or assessments, in which case we may elect not to provide notice except where required by applicable law.

b. Your Payment Terms.

Service is provided to you on a month-to-month basis. Your monthly payments are due, in advance, on the first of the month with your rent payment. Your first month's service charges may include pro-rated charges from the date you first begin receiving Service, as well as monthly recurring charges for the next month and charges for non-recurring services you have received.

We do not waive our rights to collect the full balance owed to us by accepting partial payment. We will apply the partial payment to the outstanding charges in the amounts and proportions that we determine.

c. Third-Party Charges that are your responsibility

You acknowledge that you may incur charges with third-party service providers such as accessing on-line services, and purchasing or subscribing to other offerings via the Internet that are separate and apart from the amounts charged by us. You are solely responsible for all such charges including all applicable taxes. In addition, you are solely responsible for protecting the security of credit card and other personal information provided to others in connection with such transactions.

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- d. Our Remedies if you pay late or fail to pay
 - i. Late, Partial or Non-Payment: You may be billed fees and charges related to late, partial or non-payments if for any reason (a) Bloom does not receive payment for the Service by the payment due date or (b) you pay less than the full amount due for the Service.
 - ii. Fees Not Considered Interest or Penalties: Bloom does not expect that you will fail to pay for the Service on a timely basis, and we do not extend credit to customers. Any fees or charges due to late payment or non-payment are liquidated damages intended to be a reasonable estimate of our costs resulting from late payments and non-payments.
 - iii. Collection Costs: If we use a collection agency or attorney to collect money owed by you, you agree to pay the reasonable costs of collection. These costs include, but are not limited to any collection agency's fees, reasonable attorneys' fees, and arbitration or court costs.
 - iv. Suspension / Disconnect: If you fail to pay the full amount due for the Service then Bloom, in its sole discretion may suspend or disconnect the Service.
- e. Reconnection/Reactivation Fees and Related Charges.

If you resume the Service after any suspension or disconnection, we may require you to pay a reconnection or reactivation fee. These fees are in addition to all past due charges and other fees.
- f. Your Responsibilities Concerning Billing Questions.

If you intend to dispute a charge or request a billing credit, you must contact Bloom in writing within thirty (30) days of the payment due date. You waive any disputes or credits that you do not report within thirty (30) days.
- 3. Changes To Service

We have the right to discontinue or change our Service, Bloom Equipment and rates or charges, at any time, with or without notice. We also may add to, delete or otherwise change features or offerings contained in the Service, including, but not limited to, content, functionality, Customer Equipment requirements, speed and upstream and downstream rate limitations. If we do give you notice, it may be provided as a letter, email, newsletter or other communication permitted under applicable law. If you find a change in the Service unacceptable, you have the right to cancel your Service. However, if you continue to use, or your account is used to access, the Service after the change, this will constitute your acceptance of the change.
- 4. Access to your premises and Customer Equipment
 - a. Premises

You agree to allow us and our agents the right to enter the property at which the Service will be provided (the "Premises") at reasonable and mutually agreed to times, for the purposes of maintaining, inspecting, replacing and removing the Service. You warrant that you have the authority to give us access to the Premises.
 - b. Customer Equipment

Customer Equipment means software, hardware or services that you elect to use in connection with the Service. You agree to allow us and our agents the right to send software and /or "downloads" to the Customer Equipment and install, configure, maintain, inspect and upgrade the Customer Equipment. You warrant you are either the owner of the Customer Equipment or that you have the authority to give us access to the Customer Equipment. If you are not the owner of the Customer Equipment, you are responsible for obtaining any necessary approval from the owner to allow us and our agents access to the Customer Equipment to perform the activities specified above. This paragraph does not obligate us to perform any of the above specified activities.

5. Maintenance and ownership of equipment

a. Bloom Equipment.

You agree that all Bloom Equipment belongs to us or other third parties and you have no claim to such equipment. Bloom Equipment means all new or reconditioned equipment installed or provided to you by us or our agents, including, but not limited to cabling or wiring, cable modems, and any other hardware excluding equipment purchased by you. You agree to use Bloom Equipment only for the Service pursuant to this Agreement. We may remove or change the Bloom Equipment at our discretion at any time the Service is active or following the termination of your Service. You agree that our addition or removal of or change to the Bloom Equipment may interrupt your Service. You may not sell, lease, abandon, or give away the Bloom Equipment, or permit any other provider to use the Bloom Equipment. You agree that you will not allow anyone other than Bloom or its agents to service the Bloom Equipment. You will be directly responsible for loss, repair, replacement and other costs, damages, fees and charges if you do not return the Bloom Equipment to us in an undamaged condition.

- i. The charge for replacing a Modem is \$150.00.

b. Customer Equipment

i. Responsibility:

Bloom has no responsibility for the operation or support, maintenance or repair of any Customer Equipment including, but not limited to, Customer Equipment, third-party hardware or software, "home networks", or to any equipment to which Bloom or a third party has sent software or "downloads".

ii. Non-Recommended Configurations:

Customer Equipment that does not meet Bloom's minimum technical or other specifications constitutes a "Non-Recommended Configuration". Neither Bloom nor any of its affiliates, suppliers or agents warrant that a non-recommended configuration will enable you to successfully install, access, operate, or use the Service. You acknowledge that any such installation, access, operation or use could cause Customer Equipment to fail to operate or cause damage to Customer Equipment, you, your premises or Bloom Equipment. Neither Bloom nor any of its affiliates, suppliers or agents shall have any liability whatsoever for any such failure or damage. Bloom reserves the right to deny you customer support for the Service and/or terminate Service if you use a Non-Recommended Configuration.

iii. No Unauthorized Devices or Tampering:

You agree not to attach or assist any person to attach, any unauthorized device to our cable network or the Service. If you make or assist any person to make any unauthorized connection or modification to the Service or any other part of our cable network, we may terminate your Service and recover such damages as may result from your actions.

You also agree that you will not attach anything to a cable outlet, Inside Wiring or Customer Equipment, whether installed by you or us, which singly or together impairs the integrity of our cable network or degrades our cable network's signal quality or strength or creates signal leakage.

You also agree that we may recover damages from you for tampering with any Bloom Equipment or any other part of our cable network or for receiving unauthorized Service. You agree that it would be difficult, if not impossible, to

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calculate precisely the lost revenue resulting from your receipt of unauthorized Service or the tampering with Bloom Equipment or our cable network. You therefore agree to pay us as liquidated damages, the sum of \$500.00 per device used to receive the unauthorized Service in addition to our cost to replace any altered, damaged, or unreturned Bloom Equipment or other equipment owned by Bloom, including any incidental costs. The unauthorized reception of the Service may also result in criminal fines and/or imprisonment.

c. Required Use of Bloom-Provided Equipment

For residential locations where Internet service is delivered through an Ethernet handoff, customers and residents are required to connect and use the Bloom Broadband-provided gateway, router, or other designated network equipment as the primary device for accessing the Internet service. Customers may connect their own routers, wireless access points, switches, or other networking equipment only downstream of the Bloom-provided equipment. Use of unauthorized equipment in place of the Bloom-provided equipment may impair service performance, prevent proper service delivery, limit technical support capabilities, and interfere with network management and security functions. Bloom Broadband reserves the right to deny support, suspend, or terminate service if a customer fails to use the required Bloom-provided equipment or otherwise violates this requirement.

- d. Inside Wiring – You may install additional cable wiring and splitters (“Inside Wiring”) to the existing wall jacks located within the Premises, provided it does not interfere with the normal operations of our cable network. Inside Wiring does not include the cable wiring or any splitters or connectors within the walls of the Premises, nor does it include the existing wall jacks located within the Premises. **You may not penetrate any wall, ceiling, floor, cabinet, door or any other part of the Premises by any means including, but not limited to, drilling, cutting or boring.** If you have us install Inside Wiring, we will charge you for that service. Regardless of who installed it, we consider the Inside Wiring your property. Accordingly, you are responsible for the repair and maintenance of the Inside Wiring, unless you and Bloom have agreed otherwise in writing.

6. Use of Service

You agree that the Service will be used only for personal, residential, non-commercial purposes by you and other residents living with you at the same address. You acknowledge that you are accepting this Agreement on behalf of all persons who use the Service using your account and that you shall have sole responsibility for ensuring that all other users understand and comply with the terms and conditions of this Agreement and any applicable Bloom policies including, but not limited to, acceptable use and privacy policies. You further acknowledge and agree that you shall be solely responsible for any transactions, including, without limitation, purchases made through or in connection with the Service.

You agree and represent that you will not resell or permit another to resell the Service in whole or in part. You will not use or permit another to use the Service, directly or indirectly, for any unlawful purpose, including, but not limited to, in violation of any posted Bloom policy applicable to the Service. Use of the Service for transmission, communications or storage of any information, data or material in violation of any U.S. federal, state or local regulation or law is prohibited.

The Acceptable Use Policy (“AUP”) is located at www.bloombroadband.com (or an alternative website if we so notify you) and is incorporated herein by reference and made a part of this Agreement. Notwithstanding anything to the contrary in this Agreement, you acknowledge and

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agree that the terms of the AUP and other policies may be put into effect or revised from time to time with or without notice by posting a new version of the AUP at the location set forth above. You and other users of the service should consult the AUP regularly and conform to the most recent version.

7. Assignability

This Agreement and the Service furnished hereunder may not be assigned by you. You agree to notify us immediately of any changes of occupancy of the Premises. We may freely assign our rights and obligations under this Agreement with or without notice to you.

8. Termination of This Agreement

a. Term

This Agreement will be in effect from the time that the Service is activated until (1) it is terminated as provided for by this Agreement or by any addendum to this Agreement or (2) it is replaced by a revised Agreement. Charges begin the day your order for the Service is entered into our authorization system.

b. Termination by You.

You may terminate this Agreement for any reason at any time by notifying Bloom in one of three ways: (1) send a written notice to the postal address of your leasing office; (2) visit your community leasing office and complete the Internet Service termination procedures; (3) complete the move-out procedures at your community leasing office. Termination will be effective upon the earlier of (1) The day notice is received, or (2) the day you move out of your apartment. Charges for the Service will accrue up to and including the day that (a) this Agreement has been terminated, (b) the Service has been disconnected, and (c) all Bloom Equipment has been returned. We will refund all prepaid monthly service fees charged for Service after the date of termination (less any outstanding amounts due Bloom for the Service, Bloom Equipment, or other applicable fees and charges).

c. Suspension and Termination by Bloom

Under the conditions listed below, Bloom reserves the right to act immediately and without notice to terminate or suspend the Service and/or remove from the Service any information transmitted by or to any authorized users (e.g., email). Bloom may take these actions if it: (1) determines that your use of the Service does not conform with the requirements set forth in this Agreement, (2) determines that your use of the Service interferes with Bloom's ability to provide the Service to you or others, (3) reasonably believes that your use of the Service may violate any laws, regulations, or written and electronic instructions for use, or (4) reasonably believes that your use of the Service interferes with or endangers the health and/or safety of our personnel or third parties. Bloom's action or inaction under this Section shall not constitute review or approval of your or any other users' use of the Service or information transmitted by or to you or users.

d. Your Obligations upon termination

You agree that upon termination of this Agreement you will do the following:

- i. You will immediately cease all use of the Service; and
- ii. You will pay in full for your use of the Service up to the date that this Agreement has been terminated;
- iii. Within five (5) days of the date on which Service is disconnected, you will return all Bloom Equipment to us at your community leasing office or to our designee in working order, normal wear and tear excepted. Otherwise, you will be charged the retail price for a new replacement. Upon our request you will permit us and our employees, agents, contractors and representatives to access the Premises during regular business hours to remove all Bloom Equipment.

9. LIMITED WARRANTY

The Service is provided "AS IS", without warranty of any kind, either express or implied. Neither Bloom nor its affiliates, officers, directors, employees, suppliers, agents, or contractors warrant the service will meet your requirements, provide uninterrupted use, or operate as required, without delay, without error, or that any communications will be transmitted in uncorrupted form. All representations and warranties of any kind, express or implied, including, but not limited to, any warranties of performance, noninfringement, fitness for a particular purpose, or merchantability, are hereby disclaimed and excluded unless otherwise prohibited or restricted by applicable law.

10. LIMITED WARRANTY – MODEM

In the event you purchase a modem from Bloom in conjunction with the Service, Bloom provides a limited six (6) month warranty against any defect in materials or workmanship of the modem purchased directly from Bloom. This limited warranty shall supersede any and all manufacturer

warranties. In the event there is a problem with the modem that cannot be corrected either over the telephone or onsite, Bloom will replace the equipment with either a new or refurbished unit at Bloom's option. In addition, Bloom does not guarantee that the replacement equipment will be the same make or model as the originally purchased equipment. This warranty expressly excludes defects in the modem caused by acts of nature, such as, but not limited to, lightning damage; damage from misuse or neglect; water damage; loss of programming or data; or installation.

11. LIMITATION OF BLOOMS LIABILITY

a. Application

The limitations of liability set forth in this Section apply to any acts, omissions, and negligence of Bloom and its underlying third-party service providers, agents and suppliers (and their respective officers, directors, employees, agents, contractors or representatives) which, but for that provision, would give rise to a cause of action in contract, tort or under any other legal doctrine.

b. Customer Equipment

Customer Equipment may be damaged or suffer Service outages as a result of the installation, self-installation, use, inspection, maintenance, updating, repair, and removal of Bloom Equipment, Customer Equipment and/or the Service. Except for gross negligence or willful misconduct, neither Bloom nor its affiliates, officers, directors, employees, suppliers, agents, or contractors shall have any liability whatsoever for any damage, loss, or destruction to the Customer Equipment. In the event of gross negligence or willful misconduct by Bloom, our affiliates, suppliers, officers, directors, employees, agents, or contractors, we shall pay at our sole discretion for the repair or replacement of the damaged customer equipment up to a maximum of \$500.00. This shall be your sole and exclusive remedy relating to such activity.

You understand that your computer or other devices may need to be opened, updated, accessed or used either by you or by us or our agents, in connection with the installation, updating or repair of the Service. The opening, accessing or use of your computer, or other devices used in connection with the Service may void warranties provided by the computer or other device manufacturer or other parties relating to the computer's or device's hardware or software. Neither Bloom nor its affiliates, officers, directors, employees, suppliers, agents, or contractors, shall have any liability whatsoever as the result of the voiding of any such warranties.

c. Other Services or Equipment

By accepting this Agreement, you waive all claims against Bloom for interference, disruption, or incompatibility between the Bloom Equipment or the Service and any other service, systems, or equipment. In the event of such interference, disruption, or incompatibility between the Bloom Equipment or the Service and any other service, systems, or equipment, your sole remedy shall be to terminate the Service in accordance with Section 8.

d. Software

When you use certain features of the Service, you may require special software, and/or applications. Bloom makes no representation or warranty that any software, application or other file installed on Customer Equipment, downloaded to Customer Equipment, or available through the Internet does not contain a virus or other harmful feature. It is your sole responsibility to take appropriate precautions to protect any Customer Equipment from damage to its software, files, and data as a result of any such virus or other harmful feature. We may, but are not required to, terminate all or any portion of the Service if a virus or other harmful feature or software is found to be present on your Customer

Equipment. We are not required to provide you with any assistance in removal of viruses or other software. Neither Bloom nor its affiliates, officers, directors, employees, suppliers, agents, or contractors shall have any liability whatsoever for any damage to or loss of any hardware, software, files, or data resulting from a virus, any other harmful feature, or from any attempt to remove it.

In addition, as part of any installation process for software and other components of the Service, system files on your Customer Equipment may be modified. Bloom does not represent, warrant or covenant that these modifications will not disrupt the normal operations of any Customer Equipment including without limitation your computer(s), or cause the loss of files. For these and other reasons, you acknowledge and understand the importance of backing up all files to another storage mechanism. You understand and accept the risks if you do not back up files neither Bloom nor its affiliates, officers, directors, employees, suppliers, agents, or contractors shall have any liability whatsoever for any damage to or loss of any software, files or data.

e. Disruption of Service

The Service is not fail-safe and is not designed or intended for use in situations requiring fail-safe performance or in which an error or interruption in the Service could lead to severe injury to business, persons, property, or environment ("High Risk Activities"). These High Risk Activities may include, without limitation, vital business, or personal communications, or activities where absolutely accurate data or information is required. You expressly assume the risks of any damages resulting from High Risk Activities. We shall not be liable for any inconvenience, loss, liability, or damage resulting from any interruption of the Service, directly or indirectly caused by, or proximately resulting from, any circumstances beyond our control, including, but not limited to, causes attributable to you or your property; inability to obtain access to the Premises; failure of any cable signal at the transmitter; failure of a communications satellite; loss of use of poles, or other utility facilities; strike; labor dispute; riot or insurrection; war; explosion; malicious mischief; fire, flood, lightning, earthquake, wind, ice, extreme weather conditions, or other acts of God; failure or reduction of power; or any court order, law, act or order of government restricting or prohibiting the operation or delivery of the Service. In all other cases of an interruption of the Service, you shall be entitled upon a written request made within **sixty (60) days of such interruption**, to a pro rata credit for any Service interruption exceeding twenty-four consecutive hours after such interruption is reported to us. Such credit shall not exceed the fixed monthly charges for the month of such Service interruption and excludes all nonrecurring charges, one-time charges, regulatory fees and surcharges, taxes and other governmental and quasi-governmental fees. Except and unless specifically prohibited by law, such credit shall be your sole and exclusive remedy for an interruption of service. Any credits provided by Bloom are at our sole discretion and in no event shall constitute or be construed as a course of conduct by Bloom.

f. Third Parties

Notwithstanding anything to the contrary in this Agreement, you acknowledge and understand that we may use third parties to provide components of the Service, including without limitation, their services, equipment, infrastructure, or content. Bloom is not responsible for the performance (or non-performance) of third-party services, equipment, infrastructure, or content, whether or not they constitute components of the Service. Bloom shall not be bound by any undertaking, representation or warranty made by an agent, or employee of Bloom or of our underlying third-party providers and suppliers in connection with the installation, maintenance, or provision of the Service, if that undertaking, representation, or warranty is inconsistent with the terms of this Agreement.

In addition, you understand that you will have access to the services and content of third parties through the Service, including without limitation that of content providers (whether or not accessible directly from the Service). Bloom is not responsible for any services, equipment, infrastructure, and content that are not provided by us (even if they are components of the Service), and we shall have no liability with respect to such services, equipment, infrastructure, and content. You should address questions or concerns relating to such services, equipment, infrastructure, and content to the providers of such services, equipment, infrastructure, and content. We do not endorse or warrant any third-party products, services, or content that are distributed or advertised over the Service.

g. Damages

Except as specifically provided in this Agreement neither Bloom nor its affiliates, officers, directors, employees, suppliers, agents, or contractors shall under any circumstances or under any legal theory (including, but not limited to, Tort or Contract) have any liability to you or to any other person or entity for the following losses, damages, or costs:

- i. Any direct, indirect, incidental, special, treble, punitive, exemplary, or consequential losses or damages (including, but not limited to, loss of earnings, loss of profits, loss of business opportunities, personal injuries, or death) that results directly or indirectly from or in connection with (a) your reliance on or use of the Service or (b) the installation, self-installation, maintenance, failure, or removal of the Service (including, but not limited to, any mistakes, omissions, interruptions, computer or other hardware or software breach, failures or malfunctions, deletion or corruption of files, work stoppage, errors, defects, delays in operation, delays in transmission, or failure of performance of the Service, or the Customer Equipment or any other mistakes, omissions, email, or other information or data); or
- ii. Any losses, claims, damages, expenses, liabilities, legal fees, or other costs that result directly or indirectly from or in connection with any allegation, claim, suit, or other proceeding based upon a contention that the use of the Service by you or any other person or entity infringes upon the contractual rights, privacy, confidentiality, copyright, patent, trademark, trade secret, or other intellectual property rights of any third party.

h. Responsibility for Content

You acknowledge that there is some content and material on the Internet or otherwise available through the Service that may be offensive to some individuals, may be unsuitable for children, may be threatening, may violate federal, state or local laws, rules or regulations, or may violate your protected rights or those of others. We assume no responsibility for this content or material. Anyone who accesses such content and material does so at his or her own risk. Neither Bloom nor its affiliates, officers, directors, employees, suppliers, agents, or contractors shall have any liability whatsoever for any claims, losses, actions, damages, suits or proceedings arising out of or otherwise relating to such actions or access to such content or material by you or others. Questions or complaints regarding content or material should be addressed to the content or material provider. You acknowledge that software programs are commercially available that claim to be able to restrict access to sexually explicit or other objectionable material on the Internet. We make no representation or warranty regarding the effectiveness of such programs.

i. Eavesdropping

The public Internet is used by numerous persons or entities including, without limitation, other subscribers to the Service. As is the case with all shared networks like the public

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Internet, there is a risk that you could be subject to “eavesdropping.” This means that other persons or entities may be able to access and/or monitor your use of the Service. If you post, store, transmit, or disseminate any sensitive or confidential information, you do so at your sole risk. Neither Bloom nor its affiliates, officers, directors, employees, suppliers, contractors, or agents shall have any liability whatsoever for any claims, losses, actions, damages, suits, or proceedings arising out of or otherwise relating to such actions by you. You acknowledge that software programs are commercially available that claim to be capable of encryption or anonymization. We make no representation or warranty regarding the effectiveness of these programs.

j. System Security

You acknowledge that when using the Service there are certain applications such as FTP (File Transfer Protocol) or HTTP (Hyper Text Transfer Protocol) that may be used by other persons or entities to gain access to Customer's Equipment. You are solely responsible for the security of the Customer Equipment or any other equipment you choose to use in connection with the Service, including without limitation any data stored on such equipment. Neither Bloom nor its affiliates, officers, directors, employees, suppliers or agents shall have any liability whatsoever for any claims, losses, actions, damages, suits, or proceedings arising out of or otherwise relating to the use of such applications by you, or the access by others to the Customer Equipment or other equipment of yours.

k. Customer's Sole Remedies.

Your sole and exclusive remedies under this Agreement are as expressly set forth in this Agreement. Certain of the above limitations may not apply if your state does not allow the exclusion or limitation of implied warranties or does not allow the limitation or exclusion of incidental or consequential damages. In those states, the liability of Bloom and its employees, affiliates, suppliers, agents, and contractors is limited to the maximum extent permitted by law.

l. Survival of Limitations.

All representations, warranties, indemnifications, and limitations of liability contained in this Agreement shall survive the termination of this Agreement; any other obligations of the parties hereunder shall also survive, if they relate to the period before termination or if, by their terms, they would be expected to survive such termination.

m. Wireless Experience.

You understand that your wireless connections and use of wireless routers may be subject to greater fluctuations in speed and latency and may be adversely affected by interference, congestion, distance, and other outside factors.

12. Indemnification and Liability of Customer

You agree that you shall be responsible for and shall defend, indemnify, and hold harmless Bloom and its officers, directors, employees, parent companies, subsidiaries, affiliates, suppliers, agents and contractors and shall reimburse us for any damages, losses or expenses (including without limitation, reasonable attorneys' fees and costs) incurred by us in connection with any claims, demand, suits, judgments, and causes of action arising out of (a) Your use of the Service; or (b) violation or infringement of contractual rights, privacy, confidentiality, copyright, patent, trademark, trade secret, or other intellectual property and proprietary rights arising from your use of the Service or any unauthorized apparatus or system; or (c) Your breach of any provision of this Agreement.

Bloom will notify you within a commercially reasonable period of time of any third party claim for which Bloom seeks indemnification and will afford you the opportunity to participate in the defense of such claim, provided that your participation will not be conducted in a manner prejudicial to Bloom's interests, as reasonably determined by Bloom.

13. General

a. Entire Agreement

This Agreement and any other documents incorporated by reference constitute the entire agreement and understanding between you and Bloom with respect to the subject matter of this Agreement, and replace any and all prior written or verbal agreements. If 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. Bloom does not waive any provision or right if it fails to insist upon or enforce strict performance of any provision of this Agreement. Neither the course of conduct between you and Bloom nor trade practice shall act to modify any provision of this Agreement.

b. Additional Representations and Warranties

In addition to representations and warranties you make elsewhere in this Agreement, you also represent and warrant that:

i. Age

You are at least 18 years of age.

ii. Customer Information

During the term of this Agreement, you have provided and will provide to Bloom information that is accurate, complete and current, including without limitation your legal name, address, and telephone number(s). You agree to notify us promptly, in accordance with the terms of this Agreement, if there is any change in the information that you have provided to us. Failure to provide and maintain accurate information is a breach of this Agreement.

c. Governing Law

This Agreement shall be governed by, and construed in accordance with, the laws of the state in which the Service is provided to you ("Your State"), without regard to conflict of law principles. You agree that the state courts of Your State shall have sole and exclusive jurisdiction, and the county in which the Service is provided to you ("Your County") shall be the proper venue, of any claim or controversy regarding this Agreement or its subject matter, including without limitation, claims for breach of contract, breach of warranty, statutory violation, negligence or other tort. You agree that the exclusive jurisdiction (personal and, as allowed, subject matter) and venue for any claim or controversy relating to this Agreement including without limitation, claims for breach of contract, breach of warranty, statutory violation, negligence or other tort shall be a federal or state court in Your County and in Your State and you hereby consent to such jurisdiction and venue.

d. Jury Trial Waiver

You and Bloom expressly and knowingly waive the right to trial by jury. This means that a Judge rather than a Jury will decide disputes between you and Bloom.

e. No Rights or Remedies for Third Parties.

This Agreement is not intended to give and does not give any rights or remedies to any person other than you and Bloom.

f. Force Majeure.

Neither you nor Bloom shall be liable for any failure of performance hereunder due to causes beyond its reasonable control, including but not limited to acts of nature, fire, explosion, vandalism, cable cuts, storms, or other similar catastrophes; any law, order, regulation, direction, action or request of the United States government, or of any other government, including state and local governments having jurisdiction over either You or Bloom, or of any department, agency, commission, court, bureau, corporation or other

instrumentality of any one or more of said governments, or of any civil or military authority; national emergencies; insurrections, riots, wars, or strikes, lockouts, work stoppages or other labor disputes or difficulties. Notwithstanding anything to the contrary set forth herein, You agree that payment obligations for the Service shall be absolute and not subject to delay due to any event of force majeure.

g. Information provided to Third Parties.

Bloom is not responsible for any information provided by you to third parties. You assume all privacy, security, and other risks associated with providing any information, including personally identifiable information, to third parties via the Service.

h. Facilities Allocation

Bloom reserves the right to determine, in its discretion, and on an ongoing basis, the nature and extent of its facilities allocated to support the Service, including, but not limited to, the amount of bandwidth to be utilized and delivered in conjunction with the Service.

i. Protection of Bloom's Information and Marks.

All Service information, documents, and materials on our websites are protected by trademark, copyright or other intellectual property laws, and international treaty provisions. All websites, corporate names, service marks, trademarks, trade names, logos, and domain names (collectively "marks") of Bloom and its affiliates are and shall remain the exclusive property of Bloom. Nothing in this Agreement shall grant you the right or license to use any of the marks.

j. Revocable License

The Service and Bloom Equipment, including, but not limited to, any firmware or software embedded in the Bloom Equipment or used to provide the Service, are protected by trademark, copyright, patent and/or other intellectual property laws and international treaty provisions. You are granted a revocable license to use such firmware and software in object code form (without making any modification thereto) strictly in accordance with this Agreement. You acknowledge and understand that you are not granted any other license to use the firmware or software embedded in the Bloom Equipment or used to provide the Service. You expressly agree that you will use the Bloom Equipment exclusively in connection with the Service. You shall not take any action nor allow anyone else to take any action that will reverse compile, disassemble, reverse engineer, or otherwise attempt to derive the source code from the binary code of the firmware or software.

k. End User Licenses.

You agree to comply with the terms and conditions of all end user license agreements accompanying any software or plug-ins to such software distributed or used in connection with the Service as these agreements may be amended from time to time. All such agreements are incorporated in this Agreement by reference. When this Agreement terminates, all end user licenses also terminate; you agree to destroy at that time all versions and copies of all software received by you in connection with the Service.

l. Export Laws.

You expressly agree to comply with all applicable export and re-export laws, including, but not limited to, the Export Administration Act, the Arms Export Control Act, and their implementing regulations. You further expressly agree not to use the Service in any way that violates any provision of such laws or their implementing regulations.

m. Ownership of Addresses

You acknowledge that use of the Service does not give you any ownership or other rights in any Internet/on-line addresses provided to you, including, but not limited to, Internet Protocol ("IP") addresses, email addresses, and Web addresses. We may modify or

change these addresses at any time without notice and shall in no way be required to compensate you for these changes. Upon termination of your account, we reserve the right permanently to delete or remove any or all addresses associated with the account.

n. Authorization

Bloom does not claim any ownership of any material that you publish, transmit or distribute using the Service. By using the Service to publish, transmit, or distribute material or content, you (1) warrant that the material or content complies with the provisions of this Agreement, (2) consent to and authorize Bloom, its agents, suppliers, and affiliates to reproduce, publish, distribute, and display the content worldwide and (3) warrant that you have the right to provide this authorization. You acknowledge that material posted or transmitted using the Service may be copied, republished or distributed by third parties, and you agree to indemnify, defend, and hold harmless Bloom, its agents, suppliers, and affiliates for any harm resulting from these actions.

o. Copyright

Title and intellectual property rights to the Service are owned by Bloom, its agents, suppliers, or affiliates or their licensors or otherwise by the owners of such material and are protected by copyright laws and treaties. You may not copy, redistribute, resell, or publish any part of the Service without any required express prior written consent from Bloom or other owner of such material.

p. Material Downloaded through the Service

In addition to any content that may be provided by us, you may access material through the Service that is not owned by Bloom. Specific terms and conditions may apply to your use of any content or material made available through the Service that is not owned by Bloom. You should read those terms and conditions to learn how they apply to you and your use of any non-Bloom content.

q. Retention of Rights

Nothing contained in this Agreement shall be construed to limit Bloom's rights and remedies available at law or in equity. Upon termination of this Agreement for any reason, Bloom and its suppliers reserve the right to delete all your data, files, electronic messages or other Customer information that is stored on Bloom's or its suppliers' servers or systems. In addition, you may forfeit your account user name and all email, IP and Web space addresses. We shall have no liability whatsoever as the result of the loss of any such data, names, or addresses.

14. Notice Method For Changes To This Agreement

We will provide you notice of changes to this Agreement consistent with applicable law. The notice may be provided as a letter, by email, or by other permitted communication. If you find the change unacceptable, you have the right to cancel your Service. However, if you continue to receive Service after the change, we will consider this your acceptance of the change.

Bloom may deliver any required or desired notice to you in any of the following ways, as determined in our sole discretion: (1) by posting it on www.bloombroadband.com or another website about which you have been notified, (2) by sending notice via first class U.S. postal mail or overnight mail to your Premises; (3) by sending notice to the email address on Bloom's account records, or (4) by hand delivery. You agree that any one of the foregoing will constitute sufficient notice and you waive any claims that these forms of notice are insufficient or ineffective. Because we may from time to time notify you about important information regarding the Service and this Agreement by these methods, you agree to regularly check your postal mail, email and all postings at www.bloombroadband.net or on another website about which you have been notified or you bear the risk of failing to do so.