



## Terms of Service

### 1. Agreement

This is an agreement between S&P Communications (hereinafter called "HighSpeedTexas") and you (hereinafter called "Customer") to provide HighSpeedTexas Internet Service ("the Service"). By establishing an account or using the Services or equipment, Customer agrees to be bound by this Agreement and to use the Service in compliance with S&P Communications Acceptable Use Policy.

### 2. Term

The term of the lease shall commence on the first day of the month following the date the Service is available for use and shall continue until the end of the agreed upon term. The initial term of this agreement shall be the greater of ninety (90) days or the term set down in the Service Contract signed by Customer upon installation. This Agreement will automatically renew for subsequent ninety (90) day terms after the end of the initial term unless Customer notifies HighSpeedTexas, in writing, at least thirty (30) days in advance of the expiration of the current term that Customer intends to cancel the Service. In the event of damage or destruction of the tower or loss by HighSpeedTexas of the right to continue use of the antenna site, HighSpeedTexas shall have the right to relocate the antenna system. However, should HighSpeedTexas be unable to provide a suitable substitute antenna site, this agreement shall automatically terminate. HighSpeedTexas reserves the right to change the price of the Service at any time with sixty (60) days notice. In the event of such changes, Customer may cancel this agreement upon the effective date of the rate change with thirty (30) days notice. Current rates may be obtained from the website <http://www.highspeedtexas.com> or by calling (210) 892-4478.

### 3. Service Performance

The Service can vary depending on location, signal quality, Internet traffic, CPU speed, operating system configuration and other factors beyond the control of HighSpeedTexas. HighSpeedTexas provides the service on a "best effort" basis and does not guarantee throughput speeds or latency levels. HighSpeedTexas shall provide the Customer a service connection in accordance with the pricing and terms described on the Order Form. A service connection is deemed established when the customer is able to access services. HighSpeedTexas and Customer acknowledge that if the service connection cannot be established at time of installation, the contract agreement is not in effect.

### 4. Equipment

With exception of equipment specifically sold to customer and accompanied by a bill of sale or invoice stating such sale, HighSpeedTexas retains ownership of all equipment provided to customer as part of the Service. If the Customer is not the owner of the premises, Customer MUST secure the owners permission in writing that we may install such equipment as necessary and that we may remove said equipment at the termination of service (a usable example letter can be found at <http://www.highspeedtexas.com/ARW.doc>). Upon cancellation, Customer agrees that HighSpeedTexas or its representatives have the right to collect such equipment during normal business hours (8:00AM-5:00PM Monday-Friday). If these times are not acceptable or special arrangements are required, it is Customer's responsibility to contact HighSpeedTexas at (210) 892-4478 within two (2) business days of cancellation to arrange for removal of equipment. Failing to arrange for or refusal to allow removal of equipment will result in billing and collections to recover then entire retail cost of equivalent new equipment as it stands on the day of cancellation.

### 5. Roof Rights and Roof Access

When service provided is described as "wireless", Customer acknowledges that in order to



provide the service, HighSpeedTexas must install an antenna on the roof of the installation location. In addition, HighSpeedTexas must run cable between the antenna and the installation demarc. The Customer is responsible for securing use of the roof as well as right of way between the antenna and the Customer's premises. Customer is also responsible for providing 24-hour access to the roof and the right of way for the purposes of network repair, maintenance, upgrades, and additions. In cases where Customer has ownership of the roof of roof tights, the Customer grants the right to service other roofs, building, or customer from the installation location roof for the life of this Agreement and/or service, whichever is longer.

If and when Customer terminates service, if HighSpeedTexas is providing services to other roofs, building, or customer from the installation location roof, the former customer if herby deemed to have granted the rights to continue use of the installation roof at the then current market rates and to service other roofs, building or customer from the installation location roof for the life of this Agreement and/or service, whichever is longer.

#### **6. Equipment Maintenance and Environment**

HighSpeedTexas may from time to time require access to the equipment used in providing Service to replace, repair or perform maintenance on equipment. Customer is required to provide access to equipment during normal business hours. Customer is responsible for providing all access, rights-of-way, power, and environment conditions necessary for proper installation, operation and support of equipment associated with Service.

#### **7. Installation Waiver of Liability**

Customer agrees that HighSpeedTexas and its representatives shall not be held liable for damage incurred during the installation, repair, maintenance, or removal of any equipment or software associated with Service.

#### **8. Voice Services**

Customer acknowledges and agrees that the routing and functionality of the 911 Service may be different than those provided through traditional 911 services, depending on location. Customer further acknowledges and agrees that 911 Services will not be available to the Customer and HighSpeedTexas shall have no liability to Customer or any third party for failure to provide 911 Services to the Customer in the event of (i) assignment of voice service to a different location than the installation address; (ii) outage, degradation or other disruption of power at customer installation location; (iii) outage, degradation or other disruption of the customer broadband Internet connection; or (iv) disconnection of customer service. This document serves as a written acknowledgement of such limitations. It also further serves as a release of HighSpeedTexas and all underlying providers for any and all claims arising out of the failure of 911 Service. Customer shall advise, in writing, all end users of Voice Services of such limitations and shall provide HighSpeedTexas of all such notices and a certification that notices have gone to all end users.

#### **9. Cancellation**

If Customer is dissatisfied with the Service or any related terms, conditions, rules, policies guidelines, or practices, the Customer's sole remedy is to discontinue using the Service, cancel Customer account, and pay any cancellation fees that apply. Termination of the Service does not release Customer from liability for charges due under this Agreement. To cancel the Service Customer must call (210) 892-4478 or write to HighSpeedTexas at 6712 Randolph Blvd, San Antonio, TX 78233. Cancellation will be effective at the end of the current billing period in which notice of cancellation is received. Upon cancellation, email service will be terminated and all data and files stored on HighSpeedTexas services will be deleted. HighSpeedTexas may terminate this Agreement, Customer password, Customer account, or Customer use of the Services for any reason, including, without limitation, if HighSpeedTexas, in its sole discretion, believes Customer has violated this Agreement, HighSpeedTexas' Acceptable Use Policies, or if Customer fails to pay any charges when due. Termination notice will be by email or US Mail to the address



Customer has provided for the Service. All notices to Customer shall be deemed effective on the first (1st) day following the date of the email or on the fourth (4th) day following the date of the mailing. Sections 1, 4, 5, 6, 7, 8, 10, 11, and 12 of this Agreement shall survive termination of this Agreement.

#### **10. Payment**

Payment is due as specified on the monthly invoice, any failure to pay when due may result in suspension or disconnection of service. A service fee of \$25.00 will be required to reestablish suspended service. Customer is responsible for any charges to Customer account. Questions regarding charges to an account should be directed to HighSpeedTexas Customer Service Department at (210) 892-4478. All charges are considered valid unless disputed in writing within sixty (60) days of the billing date. Adjustments will not be made for charges that are more than 60 days old. Payments not received within 30 days are subject to a late payment charge equal to 1.5% per month.

#### **11. Service Monitoring**

HighSpeedTexas has no obligation to monitor the Services, but may do so and disclose information regarding use of the Services for any reason if HighSpeedTexas, in its sole discretion, believes that it is reasonable to do so, including to: satisfy laws, regulations, or governmental or legal requests; operate the Service properly; or to protect itself and its subscribers. HighSpeedTexas may immediately remove Customer material or information from HighSpeedTexas' servers, in whole or in part, which HighSpeedTexas, in its sole and absolute discretion, determines to infringe another's property rights or to violate our Acceptable Use Policy.

#### **12. Disclaimer**

THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. HighSpeedTexas DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR-FREE OR FREE OF VIRUSES, OR OTHER HARMFUL COMPONENTS. HighSpeedTexas MAKES NO EXPRESS WARRANTIES AND WAIVES ALL IMPLIED WARRANTIES INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE REGARDING ANY MERCHANDISE, INFORMATION OR SERVICE PROVIDED THROUGH HighSpeedTexas OR THE INTERNET GENERALLY. NO ADVICE OR INFORMATION GIVEN BY HighSpeedTexas OR ITS REPRESENTATIVES SHALL CREATE A WARRANTY. HighSpeedTexas AND ITS EMPLOYEES, OFFICERS AND DIRECTORS ARE NOT LIABLE FOR ANY COSTS OR DAMAGES ARISING DIRECTLY OR INDIRECTLY FROM CUSTOMER USE OF THE SERVICES OR THE INTERNET INCLUDING ANY INDIRECT, INCIDENTAL, EXEMPLARY, MULTIPLE, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES.

#### **13. Indemnification**

Customer agrees to indemnify, defend and hold harmless HighSpeedTexas Internet Services, its officers, directors, employees, agents, licensors, suppliers and any third party information providers to the Service from and against all losses, expenses, damages and costs, including reasonable attorneys' fees, resulting from any violation of our Acceptable Use Policy by Customer. Each of these individuals or entities shall have the right to assert and enforce the provisions directly against Customer on its own behalf.

#### **14. Jurisdiction**

This Agreement is governed by and interpreted in accordance with the laws of the State of Texas and any applicable Federal laws. The courts of the City of San Antonio, County of Bexar, State of Texas shall have exclusive jurisdiction with respect to any proceeding in connection with this Agreement.

#### **15. Other Conditions**



(a) Except as above set forth, HighSpeedTexas shall not be liable for damages in connection with the supplying of the equipment or the furnishing of any services hereunder. In no event shall HighSpeedTexas be liable for indirect, consequential, or special damages. (b) This agreement shall bind Customer, Customer representatives, successors and assigns, and Customer shall not assign its rights or duties under this agreement or any interest in the equipment without the consent in writing of HighSpeedTexas or assignees. HighSpeedTexas may assign its rights and duties under this agreement or assessing or sell its interest in the equipment in whole or in part without notice; and HighSpeedTexas assignee or purchaser shall have all rights, powers, privileges and remedies of HighSpeedTexas hereunder, and Customer obligation hereunder shall not be subject to any defense, offset or counter claim available to Customer against HighSpeedTexas. (c) Any provision in this agreement that may be invalid or illegal in any state shall fall by itself, but shall in no way be held to invalidate any of the remaining provisions otherwise not invalid or illegal.

#### **16. Miscellaneous**

This Agreement, the Acceptable Use Policy, and HighSpeedTexas' other agreements and policies posted on HighSpeedTexas' website constitute the entire agreement between Customer and HighSpeedTexas with respect to Customer use of the Service. HighSpeedTexas may revise, amend or modify the Agreements at any time and in any manner. Notice of any revision, amendment, or modification will be posted on HighSpeedTexas' website <http://www.highspeedtexas.com> and/or by email and/or our various publications and mailings to Customer. Any revisions, amendments or modifications must be made in writing and authorized by HighSpeedTexas' General Manager. No changes to our Agreements and policies may be made without written and signed authorization from HighSpeedTexas' General Manager. Customer use of our Service constitutes Customer's continued acceptance of our Agreements and policies. If any provision of our Agreements and policies are found to be unenforceable or invalid, the remaining provisions shall be enforceable and valid to the greatest extent permitted by law.

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