



### Internet Services Order Form Wireless Internet Access

This request for SelectNet services is bound by the **Terms and Conditions** and the **Acceptable Use Policies** as posted on the SelectNet Web site ( <http://www.select.net/legal/usage.shtml> ) and modified from time to time, and the **Special Provisions** contained herein.

<b>Services Ordered (Pricing Schedule)</b>
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#### Fixed Wireless Service Pricing

Bandwidth <sup>1</sup>	CPE <sup>2</sup> Purchase	Monthly Internet Service Fee
<input type="checkbox"/> 384/384 kbps	FREE (Regularly \$500)	\$ 129.00
<input type="checkbox"/> 512/512 kbps	FREE (Regularly \$500)	\$ 179.00
<input type="checkbox"/> 768/768 kbps	FREE (Regularly \$500)	\$ 199.00
<input type="checkbox"/> 1.0/1.0 Mbps	FREE (Regularly \$500)	\$ 249.00
<input type="checkbox"/> 1.5/1.5 Mbps	FREE (Regularly \$500)	\$ 299.00
<input type="checkbox"/> 2.0/2.0 Mbps	FREE (Regularly \$500)	\$ 399.00
<input type="checkbox"/> 2.5/2.5 Mbps	FREE (Regularly \$500)	\$ 499.00

#### Installation Pricing (Based on Agreement Term)

Agreement Term	Price
<input type="checkbox"/> 1 Year	\$ 299
<input type="checkbox"/> 2 Year	\$ 199
<input type="checkbox"/> 3 Year	\$ 99

#### IP Address Pricing

Address Block	Monthly Fee
<input type="checkbox"/> 8 IP Addresses (5 Usable)	FREE
<input type="checkbox"/> 16 IP Addresses (5 Usable)	\$20
<input type="checkbox"/> 32 IP Addresses (5 Usable)	\$50
<input type="checkbox"/> 64 IP Addresses (5 Usable)	\$100
<input type="checkbox"/> 128 IP Addresses (5 Usable)	\$150
<input type="checkbox"/> Class "C"	\$250

1. Skyriver's service commitment is to provide an average of 80% of the rated bandwidth as tested by the Skyriver network bandwidth monitoring device and burstable to a maximum of the rated bandwidth.

*Special Notes: 1. The customer must provide an Ethernet connection to their network. For security purposes, an Ethernet router that support NAT is strongly recommended. 2. Certain additional charges will apply if the customer needs to move the service to a new location, downgrade its service, or (for unmanaged services) if the customer requires a service repair.*



**Customer Information (This is the entity contracting for services):**

Organization \_\_\_\_\_

First Name \_\_\_\_\_ Last Name \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_ E-Mail \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State/Province \_\_\_\_\_

Zip/Postal Code \_\_\_\_\_ Country \_\_\_\_\_

Technical Contact Name \_\_\_\_\_ Technical Contact Email \_\_\_\_\_

**Circuit Installation Location (this information must appear exactly as written on phone bill)**

Same as Customer Information above.

Address \_\_\_\_\_

City \_\_\_\_\_ State/Province \_\_\_\_\_

Zip/Postal Code \_\_\_\_\_ Phone \_\_\_\_\_

Technical Contact Name \_\_\_\_\_ Email \_\_\_\_\_

Has roof top access been approved? \_\_\_\_\_

Has approval for exterior installation been approved by the landlord? \_\_\_\_\_

Can subscriber see Skyriver Base Station Landmark from an office window? \_\_\_\_\_

How many stories is the building? \_\_\_\_\_

What floor is the subscriber on? \_\_\_\_\_

**Payment Information**

Initial Service Period: **1 Year**

Billing Cycle: **Monthly**

Credit Card Information:

Visa     MasterCard     AMEX

Card Number \_\_\_\_\_ Expire Date \_\_\_\_ / \_\_\_\_

Name (as on card) \_\_\_\_\_

Address: \_\_\_\_\_  
Zip: \_\_\_\_\_

***A check or credit card payment equal to the Activation Fee plus Customer Premises Equipment purchase must accompany this Application.***

- Use my credit card for Activation Fee plus CPE purchase.
- Use my credit card for subsequent billing cycles.
- Invoice me for subsequent billing cycles.

**Special Provisions for SelectNet and Skyriver Wireless Internet Service**

Customer acknowledges and understands that SelectNet Internet Services is providing wireless service through Skyriver, and customer is bound by and will comply with the following Special Provisions and SelectNet's Acceptable Use Policy for the Service (the "AUP"). The AUP may be revised from time to time, and is available for review at: [www.select.net/legal/index.shtml](http://www.select.net/legal/index.shtml) or at such other address as SelectNet may specify by posting or email notice. In the event of a conflict between the Terms and Conditions and these Special Provisions, the Special Provisions shall take precedence.

**1. DEFINITIONS**

A. "Customer", "You" or "Your" means you and your company.

B. "Service Activation Date" means the date on which all of the following connectivity criteria have been met:

(i) Equipment provided or sold by SelectNet is installed and operational at the Customer locations specified in this Sales Order.

(ii) The access line is installed and tested to the Customer locations specified in this Sales Order, and IP connectivity and routing to the Internet exists.

(iii) If Customer has a domain name, any SelectNet-supplied primary and secondary DNS servers are operational for Customer's domain.

C. "Affiliate" of a party means any entity that controls, is controlled by or is under common control with such party, and, in the case of Skyriver, it also means any entity which Skyriver has authorized to offer the Service or any part of the Service.

D. "Content" means information made available, displayed or transmitted in connection with the Service (including, without limitation, information made available by means of an HTML "hot link" hyperlink, a third party posting or similar means) including all trademarks, service marks and domain names contained therein as well as the contents of any bulletin boards or chat forums, and, all updates, upgrades, modifications and other versions of any of the foregoing.

E. "User" means anyone who uses or accesses the Service purchased by You under this Agreement.

**2. INITIAL SERVICE PERIOD, CHARGES AND BILLING**

A. The Initial Service Period starts on the Service Activation Date and continues for 12 months; provided that if You upgrade Your Service, the Initial Service Period shall continue until 12-months after the Service Activation Date of the latest; provided, further, that any IP Mail Service (e-mail service) provided hereunder is provided on a month-to-month basis. The Initial Service Period is measured from the Service Activation Date of the latest Service Bandwidth Upgrade, if any, or if no such Upgrade occurs during the term of this Agreement, then the initial Service Activation Date. After the Initial Service Period, this Agreement shall continue in effect until terminated as provided for herein.

B. Recurring billing will begin on the initial Service Activation Date at the rates set forth in the Pricing Schedule of the Order Form; provided that IP mail

service shall be provided at the prices specified in the Service Guide, which prices may be revised at any time upon 30 days' notice, which notice may be provided in writing, by email or website posting. After the Initial Service Period, SelectNet reserves the right, without notice, to apply the then available full list price for the Service and to change such prices from time to time.

C. The Service Activation Date for any services you order which are eligible for self-installation shall be the earlier of the following: (i) the date You install the Service, or (ii) seven (7) days after date when the self-installation kit is sent to You. Please see the **Service Guide** for further details.

D. You shall pay SelectNet Internet Services for Your and Users' use of the Service at the rates and charges specified in the Pricing Schedule of the Order Form, without deduction, setoff or delay for any reason. Charges are exclusive of any applicable taxes. You may be required at any time to pay a deposit if SelectNet determines that You are not creditworthy or as specified in Article 7.

E. You shall pay all shipping charges, taxes (excluding those on SelectNet's net income) and other similar charges (and any related interest and penalties) relating to the sale, transfer of ownership, installation, license, use or provision of the Service, except to the extent a valid tax exemption certificate is provided by You to SelectNet prior to the delivery of Services. Payment is due within 30 days after the date of invoice and shall refer to the invoice number. Restrictive endorsements or other statements on checks accepted by SelectNet will not apply. You shall reimburse SelectNet for all costs (including reasonable attorney fees) associated with collecting delinquent or dishonored payments. At SelectNet's option, interest charges may be added to any past due amounts at the lower of 1.5% per month or the maximum rate allowed by law.

**3. RESPONSIBILITIES OF THE PARTIES**

A. A current description of the Service is contained in the Technology Section of the Skyriver web site located at <http://www.skyrivercom.com> or such other designated location. Skyriver may from time to time change the Service as described on the Web Site.

B. You shall assure that Your and Users' use of the Service and the Content will at all times comply with all applicable laws, regulations and written and electronic instructions for use, including without limitation SelectNet's Acceptable Use Policy (the "AUP"). The

AUP may be revised from time to time and is published at [www.select.net/legal/usage.shtml](http://www.select.net/legal/usage.shtml) or at such other address as SelectNet may specify by email notice or by posting on a SelectNet website. You acknowledge that You have read the AUP. SelectNet reserves the right to terminate this Agreement, suspend the Service and/or remove Your or Users' Content from the Service if SelectNet determines that such use or Content does not comply with this Agreement or receives notice that Your or Users' use or Content may violate any laws or regulations. SelectNet's actions or inaction under this Agreement shall not constitute review or approval of Your or Users' use or Content.

C. Except for IP addresses expressly registered in Your name, all IP addresses shall remain, at all times, property of Skyriver and shall be nontransferable and You shall have no right to use such IP addresses upon termination or expiration of this Agreement. IP addresses are allocated by Skyriver to You per the Internet Registry (ARIN) guidelines following RFC 2050. Any change requested by You to these must be agreed to in this contract.

D. You understand that Skyriver will make commercially reasonable efforts to provision End User services. However, provisioning of Service is contingent upon line-of-site to Skyriver's antennas. If line-of-site is not available then Service will not be provisioned and SKYRIVER AND SELECTNET WILL HAVE NO LIABILITY WHATSOEVER FOR ANY SUCH FAILURE TO PROVISION.

E. The actual bandwidth that can be delivered on a wireless service will not be determined until the time of service installation and thus may differ from the estimate of bandwidth provided at the time of ordering the service.

F. You may not resell or otherwise make the Service available to third parties. You may not permit, by action or omission, the sharing of any mailbox, software, password or ID.

#### 4. USE OF INFORMATION

All technical or business information ("Information") furnished to You under this Agreement is the property of either SelectNet or Skyriver and (1) shall be used by You only in connection with the Service obtained under this Agreement; (2) shall not be reproduced or copied, in whole or in part, except as necessary for use as authorized under this Agreement; (3) shall together with any copies, be returned or destroyed when no longer needed or authorized for use. The foregoing restrictions shall not apply to information that: (1) is rightfully obtained by You free of any obligation to keep in confidence; (2) becomes generally known to the public through acts not attributable to You; or (3) is independently developed by You.

#### 5. SOFTWARE AND EQUIPMENT

A. If Skyriver or SelectNet provides any software to You in connection with the Service, Skyriver or SelectNet grants You a personal, non-transferable and non-exclusive license (without the right to sublicense) to use, in object code form, all software and associated written

and electronic documentation and data furnished pursuant to this Agreement (collectively, the "Software"), solely in connection with the Service and solely in accordance with applicable written and electronic documentation. You will refrain from taking any steps to reverse assemble, reverse compile or otherwise derive a source code version of the Software. You shall not copy or download the Software. The Software shall at all times remain the sole and exclusive property of Skyriver and/or SelectNet or its suppliers. You agree to comply with any additional restrictions that are provided with any Software.

B. Equipment, including associated Software, provided to You under this Agreement as part of the Service (collectively, "Equipment"), if any, will be subject to the terms, conditions and licenses set forth in the Service Guide. You, at Your own expense, will provide in a timely manner: (i) an equipment room environmentally compliant with local laws and other environmental conditions as specified by Skyriver; (ii) reasonable access to the Equipment at times specified by Skyriver; and (iii) adequate work space, heating/cooling, light, ventilation, and electrical outlets. You shall be responsible for removal of any hazardous material and correction of any hazardous condition on Your premises. Equipment shall not be removed, relocated, modified, interfered with, by You without prior written authorization from SelectNet.

C. Title to Equipment (other than Purchased Equipment as defined below) will remain with SelectNet, or its suppliers, as the case may be. You will, however, be liable for repair charges or the replacement cost of such Equipment if it is damaged or lost, unless caused by SelectNet or its agents or suppliers. You will bear all risk of loss to Equipment on Your premises.

D. Title to, and risk of loss of, Equipment, including associated Software, purchased by You under this Agreement (collectively, "Purchased Equipment"), will pass to You as of the delivery date, upon which date, SelectNet will have no further obligations of any kind (including without limitation operation and maintenance) with respect to that Purchased Equipment. Skyriver hereby assigns software licenses for Purchased Equipment to You, and You agree to be bound by the terms of those licenses. SelectNet retains a purchase money security interest in each item of Purchased Equipment until You pay for it in full; You appoint SelectNet as Your agent to sign and file a financing statement to perfect SelectNet's security interest.

E. On termination of this Agreement, You will return all Equipment (other than fully-paid for Purchased Equipment) in the same condition as originally installed, ordinary wear and tear excepted, or You will pay for restoration of the Equipment to such condition. SelectNet shall not be obligated to restore the premises to its original condition. If You do not return the Equipment to SelectNet at their specified address, then You shall be liable for its then-current market value.

**6. DISCLAIMER AND LIMITATIONS OF LIABILITY**

A. For purposes of Articles 6 and 8 and all other exclusive remedies and limitations of liability set forth in this Agreement, "SelectNet" shall be defined as including SelectNet Internet Services, a division of Pearl Technologies, Inc., a California corporation, its Affiliates, and its and their employees, directors, officers, agents, representatives, subcontractors, interconnection service providers and suppliers, together with Skyriver, its Affiliates, and its and their employees, directors, officers, agents, representatives, subcontractors, interconnection service providers and suppliers; and "You" shall be defined as You, Your Affiliates, and Your and their employees, directors, officers, agents, and representatives; and "Damages" will refer collectively to all injury, damage, liability, loss, penalty, interest and expense incurred.

B. SELECTNET'S ENTIRE LIABILITY AND YOUR EXCLUSIVE REMEDIES, FOR ANY DAMAGES CAUSED BY ANY SERVICE DEFECT OR FAILURE, OR FOR OTHER CLAIMS ARISING IN CONNECTION WITH ANY SERVICE OR PERFORMANCE OR NON-PERFORMANCE OF OBLIGATIONS UNDER THIS AGREEMENT SHALL BE:

(i) FOR BODILY INJURY OR DEATH TO ANY PERSON, NEGLIGENTLY CAUSED BY SELECTNET YOUR RIGHT TO PROVEN DIRECT DAMAGES;

(ii) FOR DEFECTS OR FAILURES OF SOFTWARE OR EQUIPMENT (INCLUDING ANY PURCHASED EQUIPMENT) ) OR ANY IP MAIL SERVICE DEFECT OF FAILURE, SELECTNET SHALL HAVE NO LIABILITY WHATSOEVER FOR DIRECT OR INDIRECT DAMAGES;

(iii) FOR INDEMNITY, THE REMEDIES SET FORTH IN ARTICLE 8;

(iv) FOR DAMAGES OTHER THAN THOSE SET FORTH ABOVE AND NOT EXCLUDED UNDER THIS AGREEMENT, SELECTNET'S LIABILITY SHALL BE LIMITED TO PROVEN DIRECT DAMAGES NOT TO EXCEED PER CLAIM (OR IN THE AGGREGATE DURING ANY 12 -MONTH PERIOD) AN AMOUNT EQUAL TO THE TOTAL NET PAYMENTS PAYABLE BY YOU FOR THE SERVICE UNDER THIS AGREEMENT DURING THE 12 MONTHS PRECEDING THE MONTH IN WHICH THE DAMAGE OCCURRED.

C. SELECTNET SHALL NOT BE LIABLE TO YOU FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, RELIANCE OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, ADVANTAGE, SAVINGS OR REVENUES OF ANY KIND OR INCREASED COST OF OPERATIONS, WHETHER OR NOT SELECTNET HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

D. SELECTNET ALSO SHALL NOT BE LIABLE FOR ANY DAMAGES ARISING OUT OF OR RELATING TO: INTEROPERABILITY, INTERACTION, ACCESS OR INTERCONNECTION PROBLEMS WITH APPLICATIONS, EQUIPMENT, SERVICES, CONTENT OR NETWORKS PROVIDED BY YOU OR THIRD PARTIES; SERVICE INTERRUPTIONS OR LOST OR

ALTERED MESSAGES OR TRANSMISSIONS; OR, UNAUTHORIZED ACCESS TO OR THEFT, ALTERATION, LOSS OR DESTRUCTION OF YOUR, USERS' OR THIRD PARTIES' APPLICATIONS, CONTENT, DATA, PROGRAMS, INFORMATION, NETWORK OR SYSTEMS.

E. SELECTNET SHALL NOT BE LIABLE FOR ANY DELAY, FAILURE IN PERFORMANCE, LOSS OR DAMAGE DUE TO: FIRE, EXPLOSION, POWER BLACKOUT, EARTHQUAKE, FLOOD, THE ELEMENTS, STRIKE, EMBARGO, LABOR DISPUTES, ACTS OF CIVIL OR MILITARY AUTHORITY, WAR, ACTS OF GOD, ACTS OR OMISSIONS OF CARRIERS OR SUPPLIERS, ACTS OF REGULATORY OR GOVERNMENTAL AGENCIES, OR OTHER CAUSES BEYOND ITS REASONABLE CONTROL, WHETHER OR NOT SIMILAR TO THE FOREGOING.

F. SELECTNET MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT OR ANY WARRANTY ARISING BY USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE. SELECTNET DOES NOT WARRANT THAT THE SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT THE SERVICE WILL MEET YOUR REQUIREMENTS OR THAT THE SERVICES WILL PREVENT UNAUTHORIZED ACCESS BY THIRD PARTIES. SELECTNET DOES NOT AUTHORIZE ANYONE TO MAKE A WARRANTY OF ANY KIND ON ITS BEHALF AND YOU SHOULD NOT RELY ON ANYONE MAKING SUCH STATEMENTS.

G. THE LIMITATIONS OF LIABILITY SET FORTH IN THIS ARTICLE 6 SHALL APPLY: (i) REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE; AND (ii) WHETHER OR NOT DAMAGES WERE FORESEEABLE. THESE LIMITATIONS OF LIABILITY SHALL SURVIVE FAILURE OF ANY EXCLUSIVE REMEDIES PROVIDED IN THIS AGREEMENT.

H. ANY IP MAIL SERVICE PROVIDED BY SELECTNET IN CONNECTION WITH THE SERVICE IS PROVIDED ON AN "AS IS" BASIS AND YOU ASSUME ALL RISK IN CONNECTION WITH YOUR AND USERS' USE THEREOF. SELECTNET SHALL NOT BE LIABLE IN ANY WAY WHATSOEVER FOR ANY DAMAGE, INCLUDING WITHOUT LIMITATION, ANY GENERAL, DIRECT OR INDIRECT LOSS, COST OR DAMAGE, THAT YOU OR ANY USER MAY INCUR IN CONNECTION WITH ITS USE OF SUCH SERVICE OR SELECTNET PROVIDING OR FAILING TO PROVIDE SUCH SERVICE TO YOU OR SUCH USER. IN NO EVENT SHALL SELECTNET BE LIABLE FOR THE PERFORMANCE OR THE FAILURE TO PERFORM OF ANY VIRUS PROTECTION PROVIDED IN CONNECTION WITH THE SERVICE.

I. This Agreement does not expressly or implicitly provide any third party (including Users) with any

remedy, claim, liability, reimbursement, cause of action or other right or privilege.

## 7. TERMINATION

A. Either party may terminate this Agreement without cause or penalty after the expiration of the Initial Service Period upon 30 days' prior written notice to the other party. You may terminate this Agreement during the Initial Service Period upon 30 days' prior written notice and the payment of the Termination Charges set forth in Section 9, "Additional Fees", in these Special Provisions.

B. You may terminate this Agreement at any time during the Initial Service Period without liability upon 30 days' prior written notice to SelectNet; provided that prior to such termination You have entered into an agreement with SelectNet to purchase a new Internet related service from SelectNet and such new agreement has a contract term and revenue commitment equal to or greater than the remaining contract term and revenue commitments of this Agreement.

C. Notwithstanding anything to the contrary contained in this Agreement, within 30 days after the initial Service Activation Date with respect to Your first site, You shall have a one time right to terminate this Agreement by giving SelectNet at least ten days written notice of termination and payment of any charges incurred as of the termination date, but without payment of any Termination Charges (as defined in Section 9, "Additional Fees", in these Special Provisions) other than charges incurred by SelectNet as a result of such termination.

D. If a party fails to perform or observe any material term or condition of this Agreement and the failure continues unremedied for 30 days after receipt of written notice, (i) the other party may terminate for cause this Agreement, or (ii) where the failure is a non-payment by You of any charge when due, SelectNet may, at its option, suspend Service, require a deposit as a condition of continuing to provide Service and/or terminate this Agreement.

E. This Agreement may be terminated immediately upon written notice by: (i) either party if the other party has violated the other party's Marks, becomes insolvent or involved in a liquidation or termination of its business, files a bankruptcy petition, has an involuntary bankruptcy petition filed against it (if not dismissed within 30 days of filing), becomes adjudicated bankrupt, or becomes involved in an assignment for the benefit of its creditors; or (ii) SelectNet or Skyriver pursuant to Section 3B or due to Your material breach of any provision of Section 4 or the software license; or (iii) Skyriver becomes insolvent or involved in a liquidation or termination of its business, files a bankruptcy petition, has an involuntary bankruptcy petition filed against it (if not dismissed within 30 days of filing), becomes adjudicated bankrupt, or becomes involved in an assignment for the benefit of its creditors.

F. You shall be responsible for payment of all charges under this Agreement incurred as of the effective date of termination. You shall also be liable to SelectNet for the Termination Charges set forth in this Section if SelectNet terminates this Agreement under Section 7D or 7E.

G. SelectNet may also terminate the Service, in whole or in part, upon thirty (30) days written notice to You if SelectNet or Skyriver decides to discontinue such Service, in whole or in part.

H. Notwithstanding anything to the contrary contained herein, either party may elect, during the Initial Service Period or at any time thereafter, to terminate the IP Mail Service provided hereunder upon 30 days' written notice to the other party.

## 8. INDEMNITY

A. SelectNet agrees to defend or settle, at its own expense, any third party claim or suit against You alleging that the Service infringes any United States patent, trademark, copyright or trade secret, except where the claim or suit arises out of or results from: Your or User's Content in connection with the Service; modifications to the Service made by or combinations of the Service with services or products provided by You or others; SelectNet's adherence to Your written requirements; or, use of the Service in violation of this Agreement. You agree to defend or settle, at Your own expense and without prejudice to SelectNet or SelectNet/Skyriver's continued provisioning of the Service to You or others, all claims or suits against SelectNet covered by the exceptions in the preceding sentence and shall immediately cease any activity which gives rise to the alleged infringement. The indemnifying party will also pay all Damages (including reasonable attorneys' fees) that by final judgment may be assessed against the indemnified party due to infringement by the indemnifying party.

B. In the event of a claim of infringement for which SelectNet is the indemnifying party under Section 8A, SelectNet may at its option either procure the right to continue using, or replace or modify, the alleged infringing Service so that the Service becomes noninfringing and substantially compliant with the requirements in this Agreement. Upon inability to reasonably perform either of the foregoing options, SelectNet may terminate this Agreement, without liability other than as stated in Section 8A.

C. SelectNet grants to You the right to permit Users to access and use the Service, provided that You shall remain solely responsible for the access and use by any User of the Service, and shall defend, indemnify and hold harmless SelectNet from and against all Damages, arising out of third party claims and regardless of the form of action, whether in contract, tort, strict liability or otherwise, concerning or relating to: any noncompliance by You or Users with any provision of this Agreement; negligent acts or omissions by You or Users; Your or Users' Content; or any Service failure, defect or outage.



## INTERNET SERVICES

SelectNet Internet Services 2788 Loker Ave Carlsbad, CA 92008 voice (760) 438-9555 fax (760) 438-1954 <http://www.select.net>

### 9. ADDITIONAL FEES

#### Termination Charges

#### Moving Fees

There is a charge of \$199 per location for re-installation of Skyriver's wireless service at a new location during standard operating hours (8:00 a.m. to 5:00 p.m. Monday through Friday, excluding Holidays).

The Termination Charge will consist of the following: (1) the Termination Charge is \$200 (or the remaining Monthly Service Fees for the Initial Service Period, whichever is less); (2) All discounts, if any, received by You; and (3) Any charges incurred by SelectNet as a result of such termination.

### END OF SPECIAL PROVISIONS

#### Authorization

I authorize **SelectNet Internet Services** to invoice me or bill my credit card as indicated above according to the services chosen on this order form. I am aware of any extra charges that may occur for early termination, extensive inside wiring, moving the circuit, or as otherwise indicated above in the Special Provisions. I have read and agree to SelectNet's **Terms and Conditions** and the **Special Provisions** above, including all **Acceptable Use Policies** as posted on SelectNet's Web site (<http://www.select.net>) and modified from time to time. I also understand that the wireless service is to be provided by Skyriver and is subject to **Skyriver's Acceptable Use Policies** and availability of service. I understand that with this signature I bind myself to all legal agreements with SelectNet and the services that they provide.

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

You should be contacted by a SelectNet representative within two (2) working days of reception of this form. If you do not hear from a representative, you may call us to confirm the order at (760) 438-9555, or email us at [sales@select.net](mailto:sales@select.net). Your circuit can not be ordered before payment is received. After your payment is confirmed, an information sheet will be faxed or e-mailed to you with information necessary for ordering your line.



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### WIRELESS SUBSCRIBER AGREEMENT TERMS & CONDITIONS

This agreement between Subscriber and SkyRiver ("Service Provider") shall be effective on the completion of a wireless Internet connection and shall remain in effect for an initial period as agreed upon between Internet Provider and Subscriber. At the end of the initial period this agreement shall automatically become month to month and may be terminated at any time by Internet Provider or Subscriber upon 30-days prior written notice of the intent to terminate service.

Subscriber acknowledges that all equipment including any equipment that is or may be deemed to be a fixture within the meaning of the applicable Uniform Commercial Code, will at all times remain the property of Skyriver Communications, Inc. Subscriber may not sell, transfer, lease, encumber, or assign any or all of the Equipment to any third party. Subscriber shall pay for the full retail cost of, or the repair or replacement cost of any lost, stolen, unreturned, damaged, sold, transferred, leased, encumbered or assigned Equipment. Subscriber is responsible for any changes to the Skyriver Communications equipment, software and configuration after Skyriver Communications completes its service set up. However, if Skyriver determines that no such abuse or misuse of Skyriver's CPE Equipment has occurred, Skyriver will repair or replace such Equipment as required to resume Services. Subscriber shall have no obligation or liability in connection with any Equipment installed by Skyriver Communications. Subscriber assumes all risks associated with copyright restrictions, trademark restrictions, confidentiality limitations, trade secrets, patent restrictions or any other intellectual property, tangible or intangible rights associated with all electronic content which is downloaded or uploaded using Skyriver Communications, Inc.'s Services. Subscriber is expressly prohibited from reselling any Services provided hereunder. Subscriber is prohibited from hosting any website dedicated to the sale or dissemination of any unlawful goods or services. The use of these Services in connection with any matter or thing, which violates any municipal, state, county, or federal law or ordinance is prohibited, and subscriber shall indemnify and hold harmless its INTERNET PROVIDER, Skyriver Communications, Inc, its officers, directors, shareholders, agents and employees from any and all claims, liabilities, damages or expenses, including attorneys fees, arising out of or resulting from the use by Subscriber of the Services provided herein.

IN NO EVENT SHALL INTERNET PROVIDER, SKYRIVER COMMUNICATIONS, INC. (COLLECTIVELY, "PROVIDER") BE LIABLE TO CUSTOMER FOR ANY DELAYS IN THE PERFORMANCE OF SERVICES HEREUNDER OR FOR ANY FAILURE TO PERFORM HEREUNDER IF SUCH DELAYS OR FAILURES ARE DUE TO STRIKES, INCLEMENT WEATHER, ACTS OF GOD, OR OTHER CAUSES BEYOND PROVIDERS REASONABLE CONTROL. PROVIDER WILL NOT BE RESPONSIBLE FOR PERFORMANCE OF ITS OBLIGATIONS HEREUNDER WHERE DELAYED OR HINDERED DUE TO WAR, RIOTS, EMBARGOS, STRIKES, OR OTHER ACTS OF ITS VENDORS AND SUPPLIERS, CONCEALED ACTS OF WORKMEN (WHETHER OF PROVIDER OR OTHERS), OR ACCIDENTS. SHOULD SUCH OCCURRENCE CONTINUE FOR MORE THAN 90 DAYS, PROVIDER OR CUSTOMER MAY CANCEL SERVICE FOR THE AFFECTED SERVICES AND/OR PRODUCTS WITH NO FURTHER LIABILITY. IN NO EVENT SHALL PROVIDER BE LIABLE FOR ANY SPECIFIC, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES BASED UPON BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, STRICT TORT OR ANY OTHER LEGAL THEORY. SUCH DAMAGES INCLUDE, BUT ARE NOT LIMITED TO, LOSS OF PROFITS, INDEMNITY, LOSS OF SAVINGS OR REVENUE, COST OF ANY SUBSTITUTE EQUIPMENT, FACILITIES OR SERVICES, DOWNTIME, THE CLAIMS OF THIRD PARTIES, AND INJURY TO PROPERTY. ANY CLAIM OR LEGAL ACTION ARISING OUT OF FAILURE, MALFUNCTION OR DEFECT IN PROVIDER'S SERVICES OR GOODS, OR ARISING FROM THIS CONTRACT IN ANY RESPECT, SHALL BE BROUGHT WITHIN A PERIOD OF ONE YEAR FOLLOWING THE OCCURRENCE OF SAID CLAIM OR SAID CLAIM SHALL BE DEEMED WAIVED. PROVIDER'S LIABILITY TO SUBSCRIBER HEREUNDER, IF ANY, SHALL IN NO EVENT, EXCEED THE TOTAL AMOUNT CUSTOMER HAS PAID TO PROVIDER HERUNDER. PROVIDER DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT AND TITLE, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE. PROVIDER DOES NOT WARRANT THAT ITS SERVICE WILL PERFORM AT A PARTICULAR SPEED, WILL BE UNINTERRUPTED, ERROR FREE, OR COMPLETELY SECURE.

It is understood that if an antenna is to be mounted on the exterior of the building that subscriber ordering such services is the authorized landlord or owner of said property and approves, permits and consents to the installation, maintenance, and removal of the Provider's antenna, wireless modem and other equipment required to receive Services.

IF THE ABOVE STATEMENT IS NOT TRUE THEN PLEASE FOLLOW THE DIRECTIONS THAT FOLLOW:

If the antenna is to be mounted on the exterior of the building your order will not be serviced until landlord permission is obtained and a **Rooftop Antenna Release Form** has been signed. It is the subscribers' responsibility to obtain any required approvals or permits to gain landlords approval as disclosed for the placement of the antenna on the Subscribers building or residence.

I have read and understand the **Terms & Conditions**:

**SIGNATURE:** \_\_\_\_\_

**PRINT NAME:** \_\_\_\_\_

**DATE:** \_\_\_\_\_





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**ROOFTOP ANTENNA RELEASE FORM  
For WIRELESS BROADBAND DATA ACCESS**

As the tenant, owner, or property manager (or other authorized signatory) of the building located at:

**ADDRESS:**

\_\_\_\_\_

Address

City

ST

ZIP

I agree that I have approval (a signed lease agreement) to install and I authorize SkyRiver to install an antenna for the sole purpose of obtaining broadband data access for my suite \_\_\_\_\_, located in the building.

I understand that the antenna equipment will not penetrate the roof membrane, or in any way impact the structural integrity. I also understand that the sole purpose of the antenna is to bring broadband data access to the above-referenced tenant's suite or apartment.

Furthermore, it is understood that the antenna equipment will be removed by the tenant in the event the tenant referenced above, moves from the building or terminates service for broadband data access with SkyRiver Communications, Inc.

Lastly, I understand that should my property manager require removal of the antenna and immediate termination of SkyRiver service after SkyRiver installation, that applicable early termination fees may apply.

**SIGNATURE:** \_\_\_\_\_

**PRINT NAME:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_