

## Zirkel Wireless' Internet Service Agreement (ISA) Read This ISA Carefully Before Using Our Internet Services.

### 1. INTRODUCTION.

Zirkel Wireless, LLC ("Zirkel Wireless") provides its Internet services, as they may exist from time to time, to users who pay a monthly service fee to subscribe to the services ("Customers") as well as to those who access some of our Services but do not have accounts ("Visitors"). By establishing an account or by using the Services, you agree to be bound by this Agreement and to use the Services in compliance with this Agreement and our Acceptable Use Policy.

If you do not agree to the terms and conditions of this Agreement, including any future revisions, you may not use the Services and if you are a current Customer, you must terminate your use of the Services under Section 10.

### 2. SUBSCRIPTION REQUIREMENTS.

Members must be at least 18 years old. Our radio signal may not be available in all areas. A representative of Zirkel Wireless will determine if your location can receive our radio signal and what equipment is required.

Current prices for various services offered by Zirkel Wireless are posted on our website at [www.zirkelwireless.com](http://www.zirkelwireless.com). These rates may also be obtained by calling 970-871-0854. Zirkel Wireless reserves the right to change prices and institute new fees at anytime upon 30 days prior notice.

Customer must purchase an equipment package in order to connect to our network. Equipment prices are posted at [www.zirkelwireless.com](http://www.zirkelwireless.com). Prices can also be obtained by phone. Equipment charges may vary depending on customer location or other constraints including line-of-site issues or customer networking issues.

### 3. PAYMENT OBLIGATIONS OF A MEMBER.

#### (a) Customers must:

Provide Zirkel Wireless with accurate and complete billing information including legal name, address, telephone number, and credit card/billing information, and Report to Zirkel Wireless all changes to this information within 30 days of the change. Customers are responsible for all charges to their account.

(b) Customers having questions regarding charges to an account should contact Zirkel Wireless at 970-871-0854. All charges are considered valid unless disputed in writing within 60 days of the billing date. Adjustments will not be made for charges that are more than 60 days old.

(c) Charges for the appropriate service are billed to Customers credit cards or debit cards on the 1<sup>st</sup> of the month for the current months service. Service is billed in full calendar month increments. The only exception is the customer's very first month of service, which will be pro-rated. Notifications to change service or temporarily discontinue service must be received in writing or by email before 12:00am on the 1<sup>st</sup> of the month. No refunds will be given for partial months of service.

Zirkel Wireless is not responsible for any charges or expenses (e.g for overdrawn accounts, exceeding credit card limits, etc.) resulting from charges billed by Zirkel Wireless.

(d) For businesses that are paying by check, payments are due within 30 days after the invoice date.

(e) Prepayments of six months or more are eligible for a 10% savings on the latest posted service rates. Some restrictions apply and this discount may not be valid with promotional offers.

(f) Delinquent accounts may be suspended or terminated at the sole discretion of Zirkel Wireless. Zirkel Wireless may bill an additional charge to reinstate a suspended account.

#### 4. MEMBER'S ACCOUNT, PASSWORD, AND SECURITY.

You and members of your household or business (if you have purchased a business account) are the only authorized users of your Zirkel Wireless account and must comply with this agreement. You must keep your password confidential so that no one else may access the services through your account. You must notify Zirkel Wireless immediately upon discovering any unauthorized use of your account.

Zirkel Wireless may change its antenna sites, which may require repositioning of some customer antennas. Zirkel Wireless will make reasonable efforts to ensure all customers can receive the new signals.

#### 5. MONITORING THE SERVICES.

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

#### 6. DISCLAIMER OF WARRANTIES and LIMITATION OF LIABILITY.

EXCEPT FOR CERTAIN PRODUCTS AND SERVICES SPECIFICALLY IDENTIFIED AS BEING OFFERED BY ZIRKEL WIRELESS, ZIRKEL WIRELESS DOES NOT CONTROL ANY MATERIALS, INFORMATION, PRODUCTS, OR SERVICES ON THE INTERNET. THE INTERNET CONTAINS UNEDITED MATERIALS, SOME OF WHICH ARE SEXUALLY EXPLICIT OR MAY BE OFFENSIVE TO YOU. ZIRKEL WIRELESS HAS NO CONTROL OVER AND ACCEPTS NO RESPONSIBILITY FOR SUCH MATERIALS. YOU ASSUME FULL RESPONSIBILITY AND RISK FOR USE OF THE SERVICES AND THE INTERNET AND ARE SOLELY RESPONSIBLE FOR EVALUATING THE ACCURACY, COMPLETENESS, AND USEFULNESS OF ALL SERVICES, PRODUCTS, AND OTHER INFORMATION, AND THE QUALITY AND MERCHANTABILITY OF ALL MERCHANDISE PROVIDED THROUGH THE SERVICE OR THE INTERNET.

THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. ZIRKEL WIRELESS DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. ZIRKEL WIRELESS MAKES NO EXPRESS WARRANTIES AND WAIVES ALL IMPLIED WARRANTIES INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF TITLE, NONINFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE REGARDING ANY MERCHANDISE, INFORMATION OR SERVICE PROVIDED THROUGH ZIRKEL WIRELESS OR THE INTERNET GENERALLY. NO ADVICE OR INFORMATION GIVEN BY ZIRKEL WIRELESS OR ITS REPRESENTATIVES SHALL CREATE A WARRANTY. ZIRKEL WIRELESS AND ITS EMPLOYEES ARE NOT LIABLE FOR ANY COSTS OR DAMAGES ARISING DIRECTLY OR INDIRECTLY FROM YOUR USE OF THE SERVICES OR THE INTERNET INCLUDING ANY INDIRECT, INCIDENTAL, EXEMPLARY, MULTIPLE, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES. IN ANY EVENT, ZIRKEL WIRELESS' CUMULATIVE LIABILITY TO ANY MEMBER FOR ANY AND ALL CLAIMS RELATING TO THE USE OF THE SERVICES SHALL NOT EXCEED THE TOTAL AMOUNT OF SERVICE FEES PAID DURING A TWO MONTH PERIOD.

## 7. WEB SITE USAGE.

Our site on the World Wide Web with the domain "zirkelwireless.com" has some complimentary information services offered by Zirkel Wireless at no charge to users. We may provide links on the Web site to other Web sites, which are not under our control. In general, any Web site (or URL) that does not contain "zirkelwireless.com" is such a web site. These links are provided for convenience only and are not intended as an endorsement by Zirkel Wireless of the organization or individual operating the Web site or a warranty of any type regarding the Web site or the information on the Web site.

You may provide a hypertext link to our Web site on another Web site, provided that:

- (a) the link must be clearly marked " Zirkel Wireless ",
- (b) the link must "point" to the URL "zirkelwireless.com" and not to any other pages within the Web site,
- (c) the appearance, position and other aspects of the link may not be such as to damage or dilute the goodwill associated with our name and trademark(s),
- (d) the appearance, position and other aspects of the link may not create the false appearance that an entity is associated with or sponsored by Zirkel Wireless,
- (e) the link, when activated by a user, must display this Web site full-screen and not within a "frame" on the linked Web site, and

(f) Zirkel Wireless may, in its sole discretion, revoke consent to link to our website at any time. All other hypertext links to the Web site must be approved in writing by Zirkel Wireless.

Some portions of the Web site are made available for the free exchange of ideas by participants and are not regularly monitored nor moderated by Zirkel Wireless. Zirkel Wireless assumes no responsibility and makes no warranty that it will undertake to screen or remove such material. You agree to hold Zirkel Wireless harmless from all claims based upon the materials posted by others. Also, in exchange for availing yourself of the opportunity to upload or provide information to this site and any associated chat rooms or discussion areas, you will indemnify Zirkel Wireless from any claims made by third parties regarding the material that you provide. Personal information posted by you to the Web site is posted at your own risk. Zirkel Wireless will have no liability arising from use of that information. You shall not use the Web site to distribute or publish any advertising of goods or services, solicitations for funds, or other commercial messages. You agree that you will not post, upload or otherwise introduce a virus or other harmful code onto the Web site.

Your posting of material on the Web site or providing material to Zirkel Wireless to use on the Web site will be deemed to be a grant by you to Zirkel Wireless of a license to the material to include the material on the Web site and to reproduce, publish, distribute, perform, display, and transmit the material and to prepare derivative works as may be reasonably necessary to do so, and you waive all rights of attribution and integrity with respect to the material.

#### 8. TERM OF AGREEMENT.

The term of this agreement begins on the date your order for service is submitted until the end of the month in which Zirkel Wireless receives notice in writing or via the “my account” feature on zirkelwireless.com stating that the customer wishes to terminate all services. The term will remain in effect if the customer decides to maintain an email account. Continued use of the Services constitutes acceptance of this Agreement and any future versions. If you are dissatisfied with the Services or any related terms, conditions, rules, policies, guidelines, or practices, your sole and exclusive remedy is to discontinue using the Services and, if you are a customer, to terminate your account.

#### 9. TERMINATION.

Zirkel Wireless does not require an annual contract for services. All services are provided on a month-to-month basis and no refunds will be made for partial months used. You may terminate your account at any time and for any reason by providing notice of intent to terminate to Zirkel Wireless by: registered or certified mail, return receipt requested addressed to:

Zirkel Wireless, LLC  
1625 Mid Valley Dr. #1, Suite 129  
Steamboat Springs, CO 80487

You may also terminate service via email or on our website. Your request for termination will not be valid until acknowledged by a Zirkel Wireless representative. Phone terminations may not be accepted. To avoid additional charges to your account, you must notify Zirkel Wireless of your intent to terminate service before the 1<sup>st</sup> of the month. Unless requested otherwise, Service will be discontinued on the last day of the billing cycle, which will be the “termination date”. If your account included space on Zirkel Wireless’ servers, anything stored on this space will be deleted upon termination

Without prior notice, Zirkel Wireless may terminate this Agreement, your password, your account, or your use of the Services, for any reason, including, without limitation, if Zirkel Wireless, in its sole discretion, believes you have violated this Agreement, our Acceptable Use Policy, or any of the applicable user policies, or if you fail to pay any charges when due. Zirkel Wireless may provide termination notice to you by: email addressed to your email account or by US Mail or courier service to the address you provided for the Services.

#### 10. JURISDICTION.

This Agreement is governed by Colorado law without regard to conflict of law provisions. The federal and state courts located in Colorado alone have jurisdiction over all disputes arising out of or related to this Agreement and the Services. You consent to the personal jurisdiction of such courts sitting in Colorado with respect to such matters or otherwise between you and Zirkel Wireless, and waive your rights to removal or consent to removal.

#### 11. MISCELLANEOUS.

This Agreement, the Acceptable Use Policy, and Zirkel Wireless other user policies posted on Zirkel Wireless’ Web site constitute the entire agreement between you and Zirkel Wireless with respect to your use of the Services.

Zirkel Wireless may revise, amend, or modify this Agreement, the Acceptable Use Policy and any other user policies and agreements, at any time and in any manner. Notice of any revision, amendment, or modification will be posted on Zirkel Wireless’ Web site (<http://www.zirkelwireless.com>) or may be sent by email and/or in other publications and mailings to Customers.

Revision 07/20/09