



Customer Agreement

610 Main Street Suite 2 - Great Barrington, MA 01230 413.528.5008

Welcome to the WiSpring Community! This Agreement ("Agreement") describes the terms and conditions between You ("You," "Your" or "Customer") and WiSpring, Inc. ("WiSpring," "We" or "Our"), a Massachusetts corporation, for the services ("Service") described herein. Please read this Agreement carefully, as it contains important contract rights and obligations between You and WiSpring. This Agreement also incorporates WiSpring's Acceptable Use Policy ("AUP"). By signing this Agreement, You acknowledge that You have received, read and agreed to be bound by all the terms and conditions set forth in this Agreement with respect to Your use of the service.

Customer information:

Customer Name: _____ Date: _____
 Customer Address: _____ Tel. Home: _____
 City: _____ State: _____ Zip: _____
 Email: _____ Tel. Other: _____

Mailing / Billing Information (if different from above):

Customer Name: _____ Tel. Home: _____
 Customer Address: _____ Tel. Other: _____
 City: _____ State: _____ Zip: _____

Price List:

One Time Setup Fee	\$
Prorated First Month Service Charge	\$
Total Due on Completion of Installation	\$
(A) Term of Service	Months
(B) Monthly Recurring Fee	\$
(C) Additional Monthly Charges	\$
(D) Other	\$
(E) Total Monthly	\$
Monthly Gigabyte Usage (\$.01 per additional MB)	25 Gigabytes
Bandwidth: Up to Down/Up	/

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Terms and Conditions

1. Service and Service Term

- 1.1. **WiSpring Service.** For purposes of this Agreement, the term Service shall mean all WiSpring Internet access service, including all software, equipment, features, products and services provided by WiSpring to the Customer. The Service consists of a terrestrial wireless based Internet access service. The Service may not be available in all locations, even if initial testing showed that Your location was qualified. The Service provided by WiSpring relies on the transmission of microwave radio waves. Radio interference may occur and affect the Service. WiSpring reserves the right to cancel this agreement and remove and/or recover its equipment with no recourse toward WiSpring if the Service is or becomes unavailable at Your location for any reason or if interference occurs and cannot be resolved. The Customer may not re-use, re-distribute, re-sell, or allow use of this Internet Service to any other person or entity. Misuse of Service may result in suspension or disconnection. WiSpring may, at any time, without notice or liability, restrict the use of the Service or limit its time of availability in order to perform maintenance activities and to maintain session control.
- 1.2. **Minimum Service Commitment.** All WiSpring service plans require either a 12-month minimum service term ("Minimum Service Term"), a 24-month Minimum Service Term or a 36-Month Minimum Service Term. If You terminate service prior to the expiration of Your chosen Minimum Service Term (see above Price List), You will owe (and Your credit card, debit card or bank account may be charged) the Termination Fee as described below.
- 1.3. **Length of Service and Renewal.** The term of this Agreement commences on the date Your Service is activated and continues for the duration of the Minimum Service Term unless terminated earlier by You or WiSpring in accordance with this Agreement. After the Minimum Service Term expires, the term of this Agreement will automatically renew on a month-to-month basis until terminated by You or WiSpring in accordance with this Agreement.
- 1.4. **Termination Fee.** If You cancel Your order before installation, You will not be charged. If You cancel the Service after the installation, but before the completion of the Minimum Service Term, You will be charged a Termination Fee equal to the lesser amount of \$400 or the number of months remaining of Your Minimum Service Term multiplied by Your monthly fee.

2. Equipment and Installation

- 2.1. **WiSpring will supply connection equipment and The Customer must supply a suitable computer to access Your connection.** Your computer must meet certain minimum requirements for operating the Service. The minimum requirements are for your computer to run an operating system that has an Ethernet interface, supports the TCP/IP protocol, has a processor 300MHz or faster, and at least 128MB or RAM. The Customer understands and agrees that the Service requires certain equipment that will be provided by WiSpring or its designee such as an antenna and its components necessary for You to receive the Service inside and outside Your premises. It is the customer's responsibility to make sure that all of the Customer's Equipment is working properly and to troubleshoot and resolve problems with such equipment if it is not functioning properly. The Customer is provided with WiSpring Equipment as part of its monthly subscriptions fees. It is the responsibility of WiSpring to make sure that WiSpring Equipment is working properly. WISPRING DOES NOT ASSUME ANY LIABILITY WHATSOEVER FOR ANY DAMAGE OR FAILURE TO CUSTOMER EQUIPMENT OR CUSTOMER'S INABILITY TO ACCESS OR USE THE SERVICE. The foregoing limitation of liability is in addition to and shall not limit any other limitation of liability set forth in the remainder of this Agreement.
- 2.2. **WiSpring alone will install and maintain WiSpring's equipment at Your house or business.** The Customer authorizes WiSpring and its employees, agents, contractors and representatives to enter Customer's premises (the "Premises") in order to install, maintain, inspect, and repair and if necessary, remove the WiSpring Equipment. The equipment installed at the Customer's site is the property of and will remain the property of WiSpring. The Customer shall not open, alter, tamper with or move the WiSpring Equipment. Access will be provided for WiSpring to the equipment at any time by appointment. All such services will be conducted at a time agreed to by Customer.
- 2.3. **What happens if the Customer must move?** The Customer shall not relocate the WiSpring Equipment as this may affect the Customer's ability to receive Service. In the event the Customer elects to remove or move any WiSpring Equipment, the Customer assumes all responsibility for any damage, personal or property, caused by such action. If the Customer decides to move locations, the Customer will contact WiSpring for additional information concerning the procedures for transferring the WiSpring Equipment and Service to the Customer's new location. If the Service is not available to Customer at their new location, then the Agreement shall terminate and the Customer shall comply with the termination provisions of this Agreement. If the Service is available at the new location, upon request by the Customer and approval by WiSpring, WiSpring may relocate the WiSpring Equipment to Customer's new location at a time agreed to with the Customer. Customer acknowledges that Customer will be billed for the removal and reinstallation of the WiSpring Equipment at WiSpring's then current hourly rates plus materials.
- 2.4. **The Customer must make sure that installation of WiSpring's equipment is permitted.** You represent that there are no legal, contractual or similar restrictions on the installation of WiSpring Equipment in location(s) You have authorized. It is Your responsibility to ensure compliance with all applicable building codes, zoning ordinances, homeowners' association rules, conditions and restrictions related to services provided in this Agreement. WiSpring or its agents will install the WiSpring Equipment. WISPRING SHALL HAVE NO LIABILITY WHATSOEVER FOR ANY LOSSES RESULTING FROM INSTALLATION, REPAIR OR OTHER SERVICES, INCLUDING WITHOUT LIMITATION, DAMAGE TO YOUR PREMISES, LOSS OF SOFTWARE, DATA OR OTHER INFORMATION FROM YOUR COMPUTER.

3. Payments and Fees

- 3.1. **Monthly service fees, initial charges, and taxes.** The Customer agrees to pay the monthly service fees as set forth in the current price list effective at the time of installation and as modified from time to time in accordance with this agreement. The Customer also agrees to pay any applicable taxes associated with the Service. You also agree to pay any activation, setup or minimum charges and other amounts incurred by You, or by users of Your account at the rates in effect at the start of the billing period in which those amounts are charged or incurred. Payment of the outstanding balance is due in full each month. The One Time Installation Fee, Additional Setup Fee, and the Prorate for 1st Month are non-refundable.

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- 3.2. **There will be an installation charge ("Setup Fee")** The installation charge, any additional installation equipment required plus applicable taxes agreed upon on the installation date as set forth in the Price List (see above), shall be paid at the time of installation or in accordance with WiSpring's then current billing policies.
- 3.3. **Late Payments.** If any payment due to WiSpring is not received by WiSpring before the next statement is issued, You may be charged a 5% late fee on unpaid balances. Service to Customer may be denied or discontinued without notice at any time in the event the Customer fails to make payment when due, Customer's credit card provider denies or discontinues providing credit to Customer for any reason or Customer fails to provide WiSpring with a new credit card expiration date before the existing one expires. In the event WiSpring utilizes a collection agency or resorts to legal action to recover monies due, Customer will be liable to WiSpring for all expenses incurred to recover such monies, including reasonable attorneys' fees.
- 3.4. **Payment Authorization.** The Customer authorizes WiSpring to charge Customer's credit card or debit card ("Card Payment"), or initiate an electronic funds transfer out of Your bank account ("EFT Payment") for payment of all Service fees, the Termination Fee or any other amounts payable under this Agreement. Additionally, You agree that WiSpring will bill Your monthly Service fee in advance, and such Service fee will automatically be collected through either a Card Payment or EFT Payment. With respect to such charges the following authorization applies: You authorize automatic Card Payments or EFT Payments by WiSpring.
- 3.5. **Billing Errors.** Subject to applicable law, Customer must notify WiSpring of any billing errors or other requests for credit within 45 days of receiving the statement on which the error or problem appeared.

4. **Modifications, Rights of Cancellation or Suspension**

- 4.1. **This Agreement may be modified at any time by WiSpring.** Upon notice published over the Service, We may at any time (and from time to time) modify this Agreement, including, without limitation, our pricing and billing terms. We may, but are not required to, notify You by e-mail, online via our website or other electronic notice. If You do not agree to such changes or additions, then You must terminate this Agreement and stop using the Service prior to the effective date of such modifications. Your continued use of the Service after the effective date of such modifications constitutes Your acceptance of such modifications.
- 4.2. **The Service may be modified by WiSpring.** We may discontinue, add to or revise any or all aspects of the Service in our sole discretion and without notice, including access to support services, publications and any other products or services ancillary to the Service. If We undertake any of these changes, We may, but are not required to, notify You by e-mail, online via our website or other electronic notice. If You do not agree to such changes or additions, then You must terminate this Agreement and stop using the Service prior to the effective date of such modifications. Your continued use of the Service after the effective date of such modifications constitutes Your acceptance of such modifications.
- 4.3. **You may terminate service.** Subject to Your payment of the Termination Fee and the fee for Services for the full billing cycle in which the termination occurred, You may terminate this Agreement and discontinue the Service upon no less than 24 hours written or telephone notice to WiSpring. All related charges and fees may be billed to Customer's credit card, debit card or electronic funds transfer out of Your bank account pursuant to Section 3.4.
- 4.4. **Upon termination, WiSpring will remove it's equipment, which must be in good condition.** The Customer is responsible for fulfilling their contractual obligations as set forth in this Agreement. Customer will permit WiSpring and its employees, agents, contractors and representatives to access Customer's premises to remove the WiSpring Equipment. The WiSpring Equipment must be unopened and in good working condition, or You will be subject to a \$500 damaged equipment fee. If the Customer does not return to WiSpring the WiSpring Equipment, You will be charged a \$500 non-returned equipment fee.
- 4.5. **WiSpring may terminate service.** WiSpring may terminate this Agreement immediately should You violate any of the terms of this Agreement. We reserve the right in Our sole discretion to terminate Your account and this Agreement at any time or to suspend (with or without notice) or terminate access to use of the Service, in whole or in part. Customer will remain responsible for all payment and other obligations under this Agreement, including the obligation to pay all charges that may be due as a result of, or in connection with, such cancellation, termination or suspension. Your payment and other obligations under this Agreement are not suspended or affected by a suspension of access to or use of the Service, in hole or in part, due to a violation (actual, threatened or alleged) of this Agreement or of any law or legal obligation by You or any user of Your account.

5. **Permitted Use, Conduct and Restrictions**

- 5.1. **The legal and acceptable uses for this Service.** WiSpring reserves the right to terminate immediately the Service and this Agreement if You knowingly or otherwise engage in any prohibited activity or if You use the WiSpring Equipment or Service in a way that is contrary to any WiSpring policy or any policy of a WiSpring supplier. You must strictly adhere to any policy set forth by another service provider accessed through the Service. You agree to comply with WiSpring's Acceptable Use Policy located at <http://wispring.com/legal/aup.pdf> and is incorporated into this Agreement by reference. You do not own, or have any rights other than those expressly granted to You to a particular IP address, even if You have ordered a static IP address.
- 5.2. **Customers may not resell WiSpring's Service.** Reselling the Service or otherwise making the Service available to anyone outside of Your residence (e.g. via WiFi, or any other method), in whole or in part, directly or indirectly, or on a bundled or unbundled basis is prohibited, unless expressly permitted by WiSpring. You agree not to use the Service for operation as an Internet service provider.
- 5.3. **No Unauthorized Use of WiSpring Equipment.** Customer is strictly prohibited from opening, tampering, servicing, altering or modifying in any way the WiSpring Equipment. Customer may not permit any other person to do the same who is not authorized by WiSpring.

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- 5.4. **The security of Your computer is Your responsibility. Also, Internet access entails some security risks.** You agree to take responsible measures to protect the security of Your computer, including maintaining at Your cost and up-to-date version of anti-virus and/or firewall software to protect Your computer from malicious code, programs or other internal components (such as a computer virus, computer worm, computer time bomb or similar component). You expressly agree that if Your computer becomes infected and causes any of the prohibited activities listed in the Acceptable Use Policy, WiSpring may immediately suspend Your Service until such time as Your computer is sufficiently protected to prevent further prohibited activities. You will be fully liable for all monthly fees and other charges under this Agreement during any period of suspension. In all cases, You are solely responsible for the security of any device You choose to connect to the Service, including any data stored or shared on that device. There is a risk that other Service customers may be able to access and monitor Your use of the Service. This risk exists not only with WiSpring's network, but also on the Internet and other services to which access is provided as part of the Service. Because of this risk, any sensitive or confidential information sent by You is sent at Your sole risk, and WiSpring shall have no liability whatsoever for any claims, losses, actions, damages, suits or proceedings arising out of or otherwise relating to such actions by You.
- 5.5. **Responsibility of The Customer.** You are responsible for any misuse of the Service, even if the misuse was committed by a friend, family member or guest with access to Your Service account.
- 5.6. **WiSpring is not responsible for any online activities or content.** It is solely Customer's responsibility to evaluate the accuracy, completeness, and usefulness of all opinions, advice, services, and other information provided through the Service. WiSpring does not endorse or represent the reliability, accuracy, or quality of any information, goods, services, or products displayed or advertised on the Service. Any items purchased or obtained by any Customer through the Service is done at the Customer's sole risk. Any Content related to business, finance, and/or securities matters and the like contained on the Service is provided for informational purposes only, and no Content included in the Service is intended for trading or investing purposes. WiSpring shall not be responsible or liable for the accuracy, usefulness, or availability of any information transmitted via the Service, and shall not be responsible or liable for any trading or investment decisions made based on such information.
- 5.7. **Links to Third-Party Sites.** WiSpring provides links to other external sites or resources. Because WiSpring has no control over such sites and resources, Customer acknowledges and agrees that WiSpring is not responsible for the availability of such external sites or resources, and WiSpring does not endorse and is not responsible or liable for any content, advertising, products, services or other information or materials on or available from such sites or resources. Customer further acknowledges and agrees that WiSpring shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use or reliance on any such content, advertising, products, services or other information or materials on or available from such sites or resources. If Customer chooses to access third-party services, Customer does so entirely at his/her own risk.

6. Unforeseen Interruption of Services

- 6.1. **Service Interruptions.** Service may be interrupted from time to time for a variety of reasons. We are not responsible for any interruptions of Service that occur due to acts of God (including weather), power failure or any other cause beyond our reasonable control. You acknowledge and agree that the Service is not intended to be, and should not be used as, Your primary "life-line" telecommunications service.
- 6.2. **Notification of Service interruptions.** In the event WiSpring is required to interrupt, either partially or fully, the Services being provided by WiSpring to You, WiSpring, to the extent possible, shall notify You as soon as it is practicable.
- 6.3. **Possible radio interference.** The equipment being installed contains a radio ("Unit") that will be radiating energy within the FCC's approved limit for the radio's frequency band. Radio interference may occur with the unit and hamper its ability to operate correctly and thus reducing the level of Service for the customer. WiSpring is not responsible for interference at the Customer's site and cannot be held responsible. Everyday devices, such as but not limited to, cell phones, cordless phones, baby monitors, WiFi equipment, microwaves ovens and other radio based devices may cause or receive interference to or from the unit. If interference does occur and cannot be resolved, WiSpring reserves the right to cancel this Agreement and remove and/or recover the equipment with no recourse toward WiSpring.
- 6.4. **WiSpring Equipment Repairs.** WiSpring will repair and/or replace at WiSpring's sole discretion, any WiSpring Equipment damaged due to normal wear. If WiSpring determines that the WiSpring Equipment was not damaged due to normal wear, You will be billed at WiSpring's then current hourly rates plus materials. WiSpring will not be responsible for the repair or replacement of any Customer Equipment or any interruption of Service due to failure of Customer Equipment.

7. Warranties and Limitations of Liability

- 7.1. **DISCLAIMER OF WARRANTIES.** CUSTOMER EXPRESSLY UNDERSTANDS AND AGREES THAT WISPRING MAKES NO WARRANTY THAT: (1) THE SERVICE OR THE WISPRING EQUIPMENT WILL MEET CUSTOMER'S REQUIREMENTS, (2) THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (3) DELETION, MIS-DELIVERY, OR FAILURE TO STORE OR EFFECTUATE ANY USER COMMUNICATIONS, ORDERS, LISTINGS, OR CUSTOMIZATION SETTINGS WILL NOT OCCUR AS A RESULT OF CUSTOMER'S USE OF THE SERVICE, (4) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE WILL BE ACCURATE OR RELIABLE, AND ANY ERRORS IN THE WISPRING EQUIPMENT, INCLUDING HARDWARE OR SOFTWARE, WILL BE CORRECTED. THE SERVICE MAY CONTAIN DEFECTS AND, ACCORDINGLY, CUSTOMER IS ADVISED TO SAFEGUARD IMPORTANT DATA, TO USE CAUTION, AND TO NOT RELY IN ANY WAY ON THE CORRECT FUNCTIONING OR PERFORMANCE OF THE SERVICE. ANY MATERIAL, PRODUCTS, OR SERVICES DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DONE AT CUSTOMER'S OWN DISCRETION AND RISK AND THE CUSTOMER WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO CUSTOMER'S COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY CUSTOMER FROM WISPRING OR THROUGH OR FROM THE SERVICE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT.

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7.2. **LIMITATION OF LIABILITY.** NEITHER WISPRING NOR ANY OF WISPRING'S AGENTS OR AFFILIATES SHALL BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING OUT OF USE OF THE SERVICE OR INABILITY TO USE THE SERVICE OR OUT OF ANY BREACH OF ANY REPRESENTATION OR WARRANTY. WITHOUT IN ANY WAY LIMITING THE FOREGOING, IF FOR ANY REASON, BY OPERATION OF LAW OR OTHERWISE, ANY PORTION OF THE FOREGOING LIMITATION OF LIABILITY SHALL BE VOIDED, THEN IN SUCH EVENT WISPRING'S MAXIMUM, SOLE, AND EXCLUSIVE LIABILITY AND THE LIABILITY OF WISPRING'S AGENTS OR AFFILIATES SHALL BE LIMITED TO GENERAL MONEY DAMAGES IN AN AMOUNT NOT TO EXCEED THE TOTAL AMOUNT ACTUALLY PAID TO WISPRING BY YOU FOR SERVICE DURING AND FOR A PERIOD OF TIME COMMENCING UPON THE OCCURRENCE OF SUCH ERROR, DEFECT OR FAILURE AND CEASING UPON THE DISCOVERY OF SUCH, IN WHOLE OR IN PART; PROVIDED, HOWEVER, THAT IN NO EVENT SHALL SUCH A PERIOD OF TIME EXCEED THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE THAT SUCH ERROR, DEFECT OR FAILURE IS FIRST DISCOVERED IN WHOLE OR IN PART.

8. **General**

8.1. **Copyright Infringement.** Notices and Procedure to Making Claims of Copyright Infringement. Pursuant to Title 17, United States Code, Section 512(c)(2), notifications of claimed copyright infringement should be sent to the Service Provider's Designated Agent. WiSpring's Notice and Procedure for Making Claims of Copyright Infringement can be found at http://wispring.com/legal/copyright_claim.pdf.

8.2. **Privacy Policy.** WiSpring's Privacy Policy is available at http://wispring.com/legal/privacy_policy.pdf and is incorporated into this Agreement by reference.

8.3. **Applicable Law.** This Agreement is made in the State of Massachusetts. This Agreement and all of the parties respective rights and duties, including, without limitation, claims for violation of state consumer protection laws, unfair competition laws, and any claims in tort shall be governed by and construed in accordance with the laws of the State of Massachusetts, in the United States, excluding conflicts of laws provisions. Any such controversy or claim shall be settled exclusively by arbitration, and administered by the American Arbitration Association under its Commercial Arbitration Rules. Any such arbitration will be held in Boston, Massachusetts or the location of the residence where the WiSpring Equipment was installed. The arbitrator will be an expert in the field of Internet services or other appropriate subject matter of the dispute. The arbitrator's award shall be final and binding and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction. Any cause of action brought by You, or by users of Your account, with respect to the Service or this Agreement must be instituted within one year after the claim or cause of action has arisen or be barred. You acknowledge that this is a services contract and not a contract for the sale of goods.

8.4. **Miscellaneous.** We may enforce or decline to enforce any or all of the terms of this Agreement in our sole discretion. In no event shall We be required to explain, comment on, suffer liability for, or forfeit any right or discretion based on its enforcement, non-enforcement or consistency of enforcement of these terms. Captions used in this document are for convenience only and shall not be considered a part of this Agreement or be used to construe its terms or meaning.

8.5. **Notices.** For any inquiries or notices required in connection with this Agreement, You should contact WiSpring in writing at:

WiSpring, Inc.
610 Main Street, Suite 2
Great Barrington, MA 01230

8.6. **Entire Agreement.** This Agreement, as well as the additional online documents specifically incorporated as a part of this Agreement, including the *WiSpring Inc. Site Survey and Installation Permission Form* constitutes the entire and only agreement with respect to its subject matter between You and WiSpring, applicable also to all users of Your account. This Agreement supersedes all representations, proposals, inducements, assurances, promises, agreements, and other communications with respect to its subject matter except as expressly set forth in this document.

BY SIGNING BELOW, I ACKNOWLEDGE THAT I HAVE READ, FULLY UNDERSTAND AND AGREE TO THE TERMS OF THIS AGREEMENT.

(CUSTOMER'S NAME)

(DATE)

(CUSTOMER'S SIGNATURE)

(DATE)