

Sherwood Broadband Internet Access Service Addendum



This Internet Access Service Addendum ("Addendum") shall be attached to and become a part of the Master Service Agreement ("Agreement") by and between Sherwood Broadband ("SBB") and Customer. BY EITHER (1) SUBMITTING OR EXECUTING A SERVICE ORDER FOR INTERNET ACCESS SERVICES, OR (2) USING ANY SBB INTERNET ACCESS SERVICES, CUSTOMER ACCEPTS THIS ADDENDUM AND AGREES TO THE TERMS HEREOF. For Internet Access Services to be provided by SBB, the Parties further agree as follows:

1. Description of Services. SBB will provide to Customer and Customer will procure from SBB certain Internet Access Service pursuant to the terms and conditions of this Addendum and the Agreement, including but not limited to: Access to SBB's Internet Network, or other service as more fully described on the Service Order ("Services").
2. Rates and Charges. Rates for Services will be determined on an individual case basis at the time a new Service Order is prepared.
3. Domain Name Service. Domain Name Service ("DNS") is a cornerstone capability and requirement in any use of the Internet. Domain names and DNS servers are essential to the proper function of anyone who uses or provides services via the Internet. There must be a valid Internet Domain Name attached to any network connected to the Internet. Customer must have a registered Internet Domain Name before SBB can host primary DNS for Customer's network, or provide secondary DNS for Customer's network. SBB does not register Internet Domain Names on behalf of Customer.
4. Service Reliability. While SBB strives to deliver as near to error free transmission and access Services as reasonably possible, it accepts no responsibility for failure of routes, connections, packet loss or router/server rejections that are beyond its control. SBB may from time to time purchase network access from national service providers to facilitate its own deployed backbone network. Because the information flow and network traffic changes dynamically, SBB may find it necessary to rebalance its own backbone to provide efficient routing capabilities. These changes may impact the routing paths that a Customer's information uses to enter or exit SBB's network. For these reasons, SBB does not guarantee specific network entrance or exit points.
5. Routing Ability on the Internet. Customer acknowledges and recognizes that the Internet is a world-wide interconnection of privately owned networks and as such, the ability to route or transmit or receive messages, data, and files is limited to the capabilities of the various systems and the individual policies of the network owners. SBB will maintain its own network in its sole discretion and in a fashion that SBB reasonably believes will provide the necessary bandwidth to carry Customer's contracted traffic in an efficient manner. SBB will filter non-aggregated routes at a level that is consistent with best engineering practices.
6. Rights and Obligations of Customer.
 - (a) Customer shall, at Customer's expense, undertake all necessary preparation required to comply with SBB's installation and maintenance instructions. Customer is responsible for obtaining IP addresses prior to order completion. All IP address space allocated or assigned by SBB is non-portable. Renumbering IP networks is considered a part of normal network management activities. All costs associated with all such renumbering activities, whether voluntary or involuntary, are solely the responsibility of Customer. Customer's failure to obtain IP addresses prior to the installation and testing of Services does not release Customer from its obligation to accept such Services. In addition, if SBB supplies routers or other equipment to Customer as part of SBB Services ("Equipment"), Customer shall be responsible for the costs of relocation of such Equipment once installed by SBB, and shall provide to SBB and suppliers of communications lines reasonable access to Customer's premises to maintain such Equipment or to perform any acts required by the Master Service Agreement and this Addendum.
 - (b) Customers without their own domain names shall maintain a deliverable mailbox, and agree to actively review said mailbox on a regular basis. Customers with their own domain names shall maintain separate abuse, hostmaster, and postmaster email addresses maintained and actively reviewed on a regular basis.
7. Acceptable Use Policy. Customer agrees to comply with SBB's Acceptable Use Policy (AUP) as a condition of receiving and continued eligibility for Service. The SBB AUP is attached to this Addendum as Appendix 1.
8. Equipment or Software not provided by SBB.
 - (a) Except as otherwise agreed to by the Parties, SBB shall not be responsible for the provision and installation of equipment or software not provided by SBB; nor shall SBB be responsible for the transmission or reception of information by equipment or software not provided by SBB.
 - (b) It is expressly understood that Customer shall be responsible for the use and compatibility of equipment or software not provided by SBB. In the event that Customer uses equipment or software not provided by SBB which impairs Customer's use of the Service, Customer shall nonetheless be liable for payment for the Service. Upon notice from SBB that the equipment or software not provided by SBB is causing or is likely to cause hazard, interference, or Service obstruction, Customer shall eliminate the likelihood of hazard, interference, or Service obstruction. At Customer's request, SBB may troubleshoot difficulties caused by equipment or software not provided by SBB. Customer shall pay SBB for these troubleshooting Services at current prevailing rates.
 - (c) SBB shall not be liable if changes in the Service cause Customer's equipment or hardware to become obsolete, require modification or alteration, or otherwise affect performance of Customer's equipment or hardware.
 - (d) In the event Customer provides one or more routers to interface with the Service, the following terms apply:
 - (i) SBB reserves the right to allow or reject the make, model, and software revision of Customer-provided router to be used as the gateway to the Service.
 - (ii) Customer will cooperate with SBB in setting the initial configuration for the router's interface into the Service.

9. Rights and Obligations of SBB; Disclaimer of Warranties.

(a) SBB shall operate and maintain the Service. Customer shall be responsible for maintaining its own network and routers that interface with the Service. SBB shall not be responsible for cabling that connects equipment not provided by SBB to SBB Equipment or the Service.

(b) Customer agrees that SBB Equipment may not be used for unauthorized purposes. Equipment provided by SBB to Customer is owned and controlled by SBB and such equipment will be returned to SBB upon termination of this Agreement or the applicable Service Order. Customer hereby grants to SBB the right to recover SBB Equipment from Customer's premises upon termination of this Agreement or the applicable Service Order.

(c) Customer understands that Customer, End Users, and Customer's authorized users may access the Internet through the Service. Customer understands further that, except for certain products and Services specifically offered by SBB, SBB does not operate or control the Internet in any way, and all merchandise, information, and Services offered or made available or accessible over the Internet are offered or made available or accessible by third parties who are not affiliated with SBB. Customer assumes total responsibility and risk for Customer's use and authorized users' use of the Service and the Internet. SBB MAKES NO EXPRESS OR IMPLIED WARRANTIES, REPRESENTATIONS OR ENDORSEMENTS WHATSOEVER (INCLUDING WITHOUT LIMITATION WARRANTIES OF TITLE OR NONINFRINGEMENT, OR THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE) WITH REGARD TO ANY MERCHANDISE, INFORMATION, OR SERVICE PROVIDED THROUGH THE INTERNET. SBB shall not be liable for any cost or damage arising either directly or indirectly from any such transaction. It is solely Customer's responsibility and Customer's authorized users' responsibility to evaluate the accuracy, completeness, and usefulness of all opinions, advice, services, and other information, and the quality and merchantability of all merchandise, provided through the Service or on the Internet generally.

(d) Customer understands further that the Internet contains unedited materials some of which are sexually explicit or may be offensive to some people. Customer and authorized users access such materials at their own risk. SBB has no control over and accepts no responsibility whatsoever for any such materials that Customer or its End Users may access over the Internet or at any web site.

(e) THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, NONINFRINGEMENT OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NO ADVICE OR INFORMATION GIVEN BY SBB OR ITS EMPLOYEES SHALL CREATE A WARRANTY. SBB DOES NOT WARRANT THAT THE SERVICE WILL BE UNINTERRUPTED OR ERROR FREE OR THAT ANY INFORMATION, SOFTWARE OR OTHER MATERIAL ACCESSIBLE ON THE SERVICE IS FREE OF VIRUSES, WORMS, TROJAN HORSES OR OTHER HARMFUL COMPONENTS.

(f) If Customer is dissatisfied with the Service or with any terms, conditions, rules, policies, guidelines, or practices of SBB in operating the Service, Customer's sole and exclusive remedy is to terminate the Service Order in accordance with the Master Service Agreement and discontinue using the Service.

(g) SBB has no obligation to monitor the Service. However, Customer agrees that SBB has the right to monitor the Service electronically from time to time and to disclose any information as necessary to satisfy any law, regulation, or other governmental request, to operate the Service properly, or to protect itself or its subscribers. As provided above, SBB may monitor the transmission of the Service. However, SBB will not monitor the content of any of the Service, including, but not limited to, any private electronic-mail messages, unless required by law, regulation, legal process or order of a governmental entity of competent jurisdiction. SBB reserves the right to refuse to post, or to remove, any information or materials, in whole or in part, that are in violation of this Agreement.

(h) SBB does not guarantee sequential delivery of data packets. Packet loss and latency are inherent in IP design. SBB will use reasonable efforts to maintain delivery of streaming media.

10. Failure to Comply with Agreement.

(a) SBB may deny Customer access to all or part of the Service, or may suspend Customer's access, or refuse to post, or remove, any information or materials posted or proposed to be posted by Customer or Customer's authorized users, if any conduct or activity violates any of the terms and conditions in this Addendum; provided that SBB will give Customer twenty-four (24) hours prior notice and opportunity to cure the violation prior to suspension of the Service.

(b) Notwithstanding the foregoing, in the event SBB's system integrity, including without limitation the security of user data, is threatened or SBB is served with any court or governmental order requiring suspension or termination of Service, SBB may suspend or terminate Service immediately. If SBB suspends Service due to the foregoing, Customer and Customer's authorized users shall have no right to access any materials or third party services, merchandise, or information stored on the Internet through SBB Services, and Customer shall have no right to credit(s) related to such unavailability of Service. SBB shall not be responsible for notification of the suspension to any party other than Customer.