

**CITY WiFi WEST PALM BEACH INTERNET  
ACCESS SERVICE AGREEMENT  
TERMS AND CONDITIONS**

These terms and conditions are incorporated into, and a part of, the City WiFi West Palm Beach Internet Access Service Agreement (the "Agreement") entered into by you ("Customer", "You", or "User(s)"), for You and others that make use of your the web accessing device and by the City WiFi West Palm Beach. City WiFi West Palm Beach and You are the Parties to the Agreement, and are subject to these Terms and Conditions. City WiFi West Palm Beach owns and maintains a computer and WiFi communications network (the "City WiFi West Palm Beach Network"), which it makes available for use by citizens in the City of West Palm Beach providers of the City WiFi West Palm Beach WiFi Service.

**1. Acceptance of this Agreement.** By signing the Agreement, by clicking "I Accept" at the end of the electronic version of the Agreement or by utilizing the City WiFi West Palm Beach WiFi Service, You acknowledge that You have read and understand this Agreement and You accept the Agreement (together with all of the policies attached hereto) and agree to abide by its terms and conditions as they may be amended by City WiFi West Palm Beach from time to time, in its sole discretion. If You do not accept the Agreement, You may not and should not utilize the City WiFi West Palm Beach WiFi Service. Please take the time to read the Agreement carefully. **The terms and conditions of the Agreement may be amended by City WiFi West Palm Beach from time to time, in its sole discretion, by posting such changes at <http://www.wpb.org/wifi> (the "City WiFi West Palm Beach Internet Site"). Use of the City WiFi West Palm Beach WiFi Service by You after a change to these terms and conditions has been so posted and noticed by City WiFi West Palm Beach shall constitute acceptance by You of such changed terms. If You do not wish to accept such changes, your sole and exclusive remedy is to refrain from using the City WiFi West Palm Beach WiFi Service that City WiFi West Palm Beach is providing to You under this Agreement.**

**2. The City WiFi West Palm Beach WiFi Service, Installation and Access.**

(a) **City WiFi West Palm Beach WiFi Service.** Subject to and in accordance with the terms and conditions of the Agreement, City WiFi West Palm Beach will provide You WiFi service. The City WiFi West Palm Beach WiFi Service is a wireless Web browsing service, which services may be offered by third parties or City WiFi West Palm Beach for free. Your web browsing device needs to be equipped with an IEEE 802.11b, or IEEE 802.11g network interface. City WiFi West Palm Beach may offer multiple City WiFi West Palm Beach WiFi Service products that consist of varying features and restrictions, including but not limited to different speeds or traffic consumption allowances. Product features and restrictions are subject to change at any time, with or without notice to You, at City WiFi West Palm Beach's sole discretion.

(b) **Premium Content.**

(c) **Access.** You agree that City WiFi West Palm Beach is not liable for files, data or other information that may be lost on your computer system during the access process, and You agree to hold City WiFi West Palm Beach harmless in the event that any file, data or other information is lost. You understand and agree that City WiFi West Palm Beach will not restore or reconfigure your computer system at any time.

(e) **Traffic Consumption Allowances.** City WiFi West Palm Beach has the right to monitor, measure and report bandwidth consumption by You. City WiFi West Palm Beach reserves the right, in its sole discretion, to establish, modify and/or enforce consumption allowances at any time now or in the future, with or without notice to You, and to apply a surcharge for excess usage subsequent to notice of changes in bandwidth consumption allowances.

### **3. Support and Maintenance of the City WiFi West Palm Beach WiFi Service.**

City WiFi West Palm Beach may use commercially reasonable efforts to provide customer support for use of the City WiFi West Palm Beach WiFi Service solely on the Equipment described in Section 2 of this Agreement. **CITY WIFI WEST PALM BEACH DOES NOT GUARANTEE THAT CUSTOMER SUPPORT WILL BE AVAILABLE OR THAT CITY WIFI WEST PALM BEACH WILL MAKE THE CITY WIFI WEST PALM BEACH WIFI SERVICE WORK ON YOUR COMPUTER SYSTEM OR RESOLVE ALL PROBLEMS IN CONNECTION THEREWITH.** Support may be available on a commercially reasonable basis via telephone, e-mail or the City WiFi West Palm Beach Internet Site. Telephone numbers for such customer support are posted on the City WiFi West Palm Beach Internet Site and are included in the "Contact City WiFi West Palm Beach" section of this Agreement.

City WiFi West Palm Beach does not undertake to correct or repair, and shall have no responsibility for, software, hardware or equipment that it does not supply, and makes no guarantee that it will be able to fix your software, hardware or equipment even if supplied by City WiFi West Palm Beach. City WiFi West Palm Beach will use commercially reasonable efforts, such as network management, traffic analysis, operational procedures and policies, that endeavor to provide appropriate bandwidth for as many customers as possible. **YOU UNDERSTAND AND AGREE THAT CITY WIFI WEST PALM BEACH DOES NOT GUARANTEE THAT ANY PARTICULAR AMOUNT OF BANDWIDTH ON THE CITY WIFI WEST PALM BEACH NETWORK OR ANY SPEED OF THROUGHPUT OF YOUR CONNECTION TO THE CITY WIFI WEST PALM BEACH NETWORK WILL BE AVAILABLE TO YOU.** You understand and agree that the speed of the City WiFi West Palm Beach WiFi Service provided to You will vary depending upon a number of factors, including your computer system and associated equipment, Internet traffic and associated equipment, and other factors. You understand and agree that the City WiFi West Palm Beach WiFi Service may be temporarily limited, interrupted or curtailed due to system capacity limitations; governmental actions; force majeure; events beyond City WiFi West Palm Beach's control; or temporary equipment or systems failures or modifications, upgrades, maintenance, repairs or similar activities required or appropriate in connection with the delivery or improvement of the City WiFi West Palm Beach WiFi Service.

**4. Integrity of the City WiFi West Palm Beach Network.** The City WiFi West Palm Beach Network, and its various computers, wires, communications devices and other components are the property of City WiFi West Palm Beach. You understand and acknowledge that the City WiFi West Palm Beach Network is a shared network. In its sole discretion and with or without notice to You, City WiFi West Palm Beach reserves the right to take any action regarding any improper or other use of the City WiFi West Palm Beach Network needed to prevent or minimize harm to the City WiFi West Palm Beach Network or prevent or minimize disruption of the performance of the City WiFi West Palm Beach WiFi Service for other users. Such action may include, without limitation, suspension or termination of access by You to the City WiFi West Palm Beach WiFi Service.

### **5. Your Obligations.**

(a) **Responsibility for use.** You agree that You are responsible for the conduct of anyone who uses the City WiFi West Palm Beach WiFi Service using your computer system and for ensuring that anyone who does use your City WiFi West Palm Beach WiFi Service uses it in accordance with the terms and conditions of this Agreement.

(b) **Your Online Conduct and Use of the City WiFi West Palm Beach WiFi Service.** As a condition of this Agreement, You agree to use the City WiFi West Palm Beach WiFi Service in accordance with the terms and conditions of this Agreement and the City WiFi West Palm Beach Internet Acceptable Use Policy (the "Use Policy"), which is Attachment A to this Agreement and is incorporated herein by reference. You understand that City WiFi West Palm Beach has the right to enforce these terms and conditions and the Use Policy in its sole discretion, as the same may be amended by City WiFi West Palm Beach from time to time. In the event of a violation by You, City WiFi West Palm Beach may, singly or in any combination, issue a warning for the violation, suspend or terminate your City WiFi West Palm Beach WiFi Service without the obligation to notify You prior to taking any such actions. City WiFi West Palm Beach reserves the right, but has no obligation, to monitor compliance with and investigate violations of this Agreement and the Use Policy, including but not limited to monitoring bandwidth, usage and publicly posted content, gathering information from You and other users, performing audits of the City WiFi West Palm Beach Network, including scanning equipment connected to the City WiFi West Palm Beach Network for common security issues, identifying and categorizing the type of traffic being

sent and received by You, and examining material on City WiFi West Palm Beach's servers and the City WiFi West Palm Beach Network. You agree that City WiFi West Palm Beach shall not be liable to You for any of its actions taken to enforce this Agreement, including the Use Policy. If You are found to be in violation of the Agreement or the Use Policy, City WiFi West Palm Beach may, in its sole discretion, permanently disconnect your service. You may appeal such action by writing to City WiFi West Palm Beach at the following address:

City Attorney  
City of West Palm Beach  
200 2<sup>nd</sup> Street  
West Palm Beach, FL 33401

(c) **Use by minors** . You represent and warrant to City WiFi West Palm Beach that You are at least eighteen (18) years of age, and You agree that City WiFi West Palm Beach may rely on that representation. However, City WiFi West Palm Beach wishes to express additional cautions in connection with any use of this City WiFi West Palm Beach WiFi Service that You allow to be made available to minors using your computer systems, your passwords, name or user names. You agree that You are responsible for such use, and City WiFi West Palm Beach strongly recommends that any use of the City WiFi West Palm Beach WiFi Service by a minor be conducted only under the supervision of a responsible adult.

(e) **Responsibility for security of your credit card and other information that You provide on the Internet.** From time to time You may decide to access third-party Internet sites or order products or services from third parties when You access the Internet. City WiFi West Palm Beach recommends that You use only secure Internet sites when making your credit card and any other information about yourself available to others on the Internet. You agree that You are solely responsible for the security of your credit card and similar information from unwanted charges or use. You agree to hold City WiFi West Palm Beach, its agents and affiliates, harmless in the event that your credit cards, bank account numbers, social security number, your identity, or any of your personal information is compromised or utilized by a third party.

(f) **Theft of Service.** You understand and agree that City WiFi West Palm Beach may monitor the City WiFi West Palm Beach Network for any such theft of service, and if such activity is discovered, City WiFi West Palm Beach may pursue, in its sole discretion, all available remedies, including, without limitation, charging for the entire period of such use, and/or termination of service to You.

(g) **Assignment or sharing of City WiFi West Palm Beach WiFi Service.** You agree that You shall not use the City WiFi West Palm Beach WiFi Service as an Internet service information provider ("ISP"). You agree that You shall not resell, share, give away, redistribute, sublicense or otherwise distribute the City WiFi West Palm Beach WiFi Service or any portion thereof to any third party in any manner without the prior written consent of City WiFi West Palm Beach. For example, but without limitation, You may not provide Internet access to others through your connection, host shell accounts, provide e-mail or news services to others, or send or store a news feed.

(h) **Use of a dynamic IP address.** You understand and agree that the City WiFi West Palm Beach WiFi Service is provided using one (1) dynamically-assigned public IP address for each customer. You understand and agree that City WiFi West Palm Beach may monitor the City WiFi West Palm Beach Network for the unauthorized use of static IP addresses and/or multiple dynamically assigned IP addresses, and if such activity is discovered, City WiFi West Palm Beach may pursue, in its sole discretion, all available remedies, including, without limitation, charging for the entire period of such use, and/or termination of the City WiFi West Palm Beach WiFi Service to You.

(i) **Local networking.** City WiFi West Palm Beach will support the connection of the City WiFi West Palm Beach WiFi Service to a single computer. City WiFi West Palm Beach does not support the setup, configurations and equipment maintenance of devices, including multifunction devices, that may contain a switch, router, firewall, etc., that allow for the connection of multiple computers. You agree that You shall not operate a server of any type that provides services to other users, or for your own use over the City WiFi West Palm Beach WiFi Service. You understand and agree that City WiFi West Palm Beach has the right to monitor the City WiFi West Palm Beach Network and, to the extent necessary, your computer system to ensure that You are not providing any services via your connection. You understand and agree that City WiFi West Palm Beach has the right to take any measures it

deems necessary in its sole discretion to prevent the use of the City WiFi West Palm Beach WiFi Internet Service for uses other than those prescribed in this Agreement.

## **6. Your Warranties, Representations and Indemnifications.**

(a) **Warranties and Representations.** You warrant and represent that: You are at least eighteen (18) years of age; You will use the City WiFi West Palm Beach WiFi Service only in accordance with this Agreement; You will take reasonable measures to protect your personal information and restrict the use of the City WiFi West Palm Beach WiFi Internet Service only to those only with your expressed consent.

(b) **Indemnification.** You agree to indemnify and hold harmless City WiFi West Palm Beach (its affiliates, subsidiaries, shareholders, officers, directors, employees, contractors, agents, Premium Content Providers and their representatives) (together "City WiFi West Palm Beach Indemnified Entities") against any cost, claim, liability or expense any of the City WiFi West Palm Beach Indemnified Entities incurs as a result of or arising out of or related in any way to your use of the City WiFi West Palm Beach WiFi Service. In the event of any claim, which, if true, would be subject to indemnification hereunder, City WiFi West Palm Beach or the affected City WiFi West Palm Beach Indemnified Parties shall notify You and You agree to cooperate in their defense at your sole cost. As part of your indemnification obligations, You agree to reimburse City WiFi West Palm Beach for any costs it incurs that, directly or indirectly, arise or result from City WiFi West Palm Beach's provision of the City WiFi West Palm Beach WiFi Service to You and your use of the City WiFi West Palm Beach WiFi Service, including but not limited to, complaint fees or investigation expenses incurred by, or charged by any third party to, City WiFi West Palm Beach.

## **7. Equipment Ownership.**

You understand and agree that other than your laptop, palm device, and/or 802.11X interface card all equipment is the property of City WiFi West Palm Beach. You agree that You will use reasonable care to avoid damaging the Equipment, and agree not to alter, modify, sell, license, lease, assign, encumber, relocate, move or tamper with it. You agree that City WiFi West Palm Beach has the right to monitor, secure, upgrade or downgrade the Equipment.

**8. Privacy and Personal Information.** You agree to accept the conditions set forth in City WiFi West Palm Beach's Privacy Policy, which is Attachment B to this Agreement and is incorporated herein by reference. The City WiFi West Palm Beach Privacy Policy sets forth the manner in which City WiFi West Palm Beach is authorized to utilize information about You.

## **9. Disclaimers and Limitation of City WiFi West Palm Beach's Liability.**

**(a) YOU UNDERSTAND AND AGREE THAT THE CITY WIFI WEST PALM BEACH WIFI SERVICE AND EQUIPMENT PROVIDED BY CITY WIFI WEST PALM BEACH ARE NOT GUARANTEED TO BE ERROR FREE, UNINTERRUPTED, SECURE OR ALWAYS AVAILABLE OR AVAILABLE WITH SUFFICIENT CAPACITY. YOU UNDERSTAND AND AGREE THAT THE USE OF THE CITY WIFI WEST PALM BEACH WIFI SERVICE, THE INTERNET, AND ANY SOFTWARE OR EQUIPMENT PROVIDED BY CITY WIFI WEST PALM BEACH IS AT YOUR SOLE RISK. YOU UNDERSTAND AND AGREE THAT ANY AND ALL CITY WIFI WEST PALM BEACH SERVICES AND PRODUCTS ARE PROVIDED "AS IS, AS AVAILABLE, AND WITH ALL FAULTS" WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION, WARRANTIES OF TITLE, NONINFRINGEMENT, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, OTHER THAN WARRANTIES THAT CANNOT LEGALLY BE EXCLUDED. CITY WIFI WEST PALM BEACH MAKES NO WARRANTY THAT THE CITY WIFI WEST PALM BEACH WIFI SERVICE WILL WORK ON YOUR COMPUTER SYSTEM. YOU UNDERSTAND AND AGREE THAT CITY WIFI WEST PALM BEACH HAS NO RESPONSIBILITY FOR DAMAGE OR DESTRUCTION TO YOUR COMPUTER SYSTEM, OR THE DATA, FILES OR INFORMATION STORED ON YOUR COMPUTER SYSTEM. YOU UNDERSTAND AND AGREE THAT CITY WIFI WEST PALM BEACH HAS NO RESPONSIBILITY FOR ANY THIRD-PARTY CONTENT, DATA, INFORMATION, PROGRAMS OR OTHER MATERIAL THAT YOU MAY USE OR ACCESS USING THE CITY WIFI WEST PALM BEACH WIFI SERVICE. YOU UNDERSTAND AND AGREE**

**THAT IT IS SOLELY YOUR RESPONSIBILITY TO EVALUATE THE ACCURACY, COMPLETENESS AND USEFULNESS OF ALL OPINIONS, ADVICE, SERVICES, MERCHANDISE AND OTHER INFORMATION PROVIDED THROUGH THE CITY WIFI WEST PALM BEACH WIFI SERVICE OR ON THE INTERNET.**

**10. Unauthorized Access, Viruses and Spyware, and Third-Party Services, Products and Content.**

(a) **Unauthorized Access.** The City WiFi West Palm Beach Network is a shared network and is used by many users to access a variety of services. Neither the City WiFi West Palm Beach Network nor the Internet provides security against unauthorized access. Others may access or monitor your activity and conduct while You are using the City WiFi West Palm Beach WiFi Service. City WiFi West Palm Beach is not responsible for any unauthorized access to the data, files, transmissions, communications sent to or from You or for unauthorized access to your computer. City WiFi West Palm Beach does not warrant any security system it may employ, either hardware or software, for the purpose of preventing unauthorized access to your computer. Any security systems employed by City WiFi West Palm Beach maintain only a minimal level of protection. City WiFi West Palm Beach is not responsible for damages resulting from the use of any such security system. You understand and agree that You are solely responsible for the security of any computer or other device(s) with which You connect to the City WiFi West Palm Beach WiFi Service, and any data, programs or information stored on such devices. You are responsible for taking measures to ensure the security of your computer system(s) to prevent unauthorized access to it by others

(b) **Viruses and Spyware.** You understand and agree that City WiFi West Palm Beach is not responsible for any Virus or spyware that gains access to your computer over the City WiFi West Palm Beach Network or any damage resulting therefrom. You are solely responsible for taking measures to prevent infection of your computer from Viruses and spyware, including installing and maintaining up-to-date anti-virus and anti-spyware software on your computer. In the event that your computer becomes infected with any Virus that, in City WiFi West Palm Beach's sole discretion, may harm the City WiFi West Palm Beach Network or disrupt the performance of City WiFi West Palm Beach WiFi Service for other users, City WiFi West Palm Beach may immediately suspend or terminate access by You to the City WiFi West Palm Beach Network with or without notice to You.

(c) You understand and acknowledge that some third party services may contain material that may be deemed to be profane, indecent, disturbing, abusive, or offensive and may contain other material You may find problematic. YOU UNDERSTAND AND AGREE THAT NEITHER CITY WIFI WEST PALM BEACH NOR SPONSORS ARE RESPONSIBLE FOR ANY SUCH CONTENT.

(d) Third-party services, products and content provided by others. You understand and agree that while City WiFi West Palm Beach supplies access to the Internet, it is not responsible for the services or products offered by others on the Internet, nor is City WiFi West Palm Beach the publisher of any information on the Internet that is provided by others, including, without limitation, other users on bulletin boards, in chat rooms and similar venues. City WiFi West Palm Beach makes no commitment to review, monitor or filter and does not endorse or otherwise vouch for any service, product, information, programs, data, or content sent, accessed, offered or advertised over the Internet or otherwise made available to You by any individual, information provider, or on-line service or content provider (other than City WiFi West Palm Beach). Such content may include profane, obscene, indecent, disturbing, illegal, abusive, infringing, offensive or other material You may find problematic. YOU UNDERSTAND AND AGREE THAT CITY WIFI WEST PALM BEACH IS NOT RESPONSIBLE FOR ANY SUCH CONTENT.

**11. Contact City WiFi West Palm Beach.**

(a) **General Information.** If You have a question or need general information about City WiFi West Palm Beach or its services, please contact City WiFi West Palm Beach at <http://www.wpb.org/wifi/feedack.php>

(b) **Customer Support and Service.** For customer service and support, please contact City WiFi West Palm Beach at <http://www.wpb.org/wifi/feedack.php>.

**12. Pricing Information.** Current rates for City WiFi West Palm Beach WiFi Service are free of charge. City WiFi West Palm Beach reserves the right to change or add fees, surcharges or monthly charges at any time upon thirty (30) days prior notice.

### 13. Term and Termination.

(a) **Termination by City WiFi West Palm Beach.** In its sole discretion, City WiFi West Palm Beach reserves to itself all rights it has under federal, state and local laws, to suspend or terminate this Agreement and to disconnect the City WiFi West Palm Beach WiFi Service, in whole or in part, at any time, with or without cause and with no obligation of prior notice to You. City WiFi West Palm Beach reserves to itself the right to pursue all legal remedies available to it, in its sole discretion.

(b) **Your files.**

**14. Governing Law.** This Agreement shall be governed by the laws of the United States of America and the State of Florida.

**15. Disputes.** If You have a complaint regarding any aspect of your City WiFi West Palm Beach WiFi Service, City WiFi West Palm Beach encourages You to first contact City WiFi West Palm Beach's Customer Service Department at <http://www.wpb.org/wifi/feedack.php>

### 16. Miscellaneous.

(a) **Entire Agreement.** This Agreement is your entire agreement with City WiFi West Palm Beach and is not intended to confer and does not confer any rights or remedies upon any person or entity other than the Parties to this Agreement and the City WiFi West Palm Beach Indemnified Parties. If any part of this Agreement is held invalid or unenforceable, that portion shall be construed in a manner consistent with applicable law to reflect, as nearly as possible, the original intentions of the Parties and the remaining portions shall remain in full force and effect. This Agreement sets forth the entire understanding and agreement of the Parties concerning the subject matter hereof and supersedes all prior or contemporaneous understandings or agreements related thereto.

(b) **Assignment.** This Agreement and your rights and obligations under this Agreement may not be assigned by You in whole or in part without City WiFi West Palm Beach's prior written consent.

(c) **Limitation of Information.** CITY WIFI WEST PALM BEACH SHALL HAVE NO OBLIGATION TO MAKE ANY SPECIFIC INFORMATION, DATA, SERVICE, PROGRAMS, NEWSGROUPS OR OTHER MATERIAL AVAILABLE THROUGH THE CITY WIFI WEST PALM BEACH WIFI SERVICE AND MAY BLOCK ANY SUCH MATERIAL IN ITS SOLE DISCRETION.

(d) **Use Policy and Privacy Policy.** City WiFi West Palm Beach's Use Policy and City WiFi West Palm Beach's Privacy Policy are integral parts of this Agreement and are incorporated herein.

(e) **City WiFi West Palm Beach's Remedies and Waiver.** Wherever a remedy is expressly provided to City WiFi West Palm Beach hereunder, such remedy is intended to add rather than to restrict all of City WiFi West Palm Beach's remedies in law and equity. In the event of a breach of this Agreement by You, City WiFi West Palm Beach reserves to itself the right to pursue all legal remedies available to it against You, in its sole discretion. If City WiFi West Palm Beach fails, at any time, to enforce any right or remedy available to it under this Agreement, such failure shall not be construed to be a waiver of City WiFi West Palm Beach's rights or remedies. Any waiver of City WiFi West Palm Beach's legal right shall be effective only if expressly agreed to in writing by City WiFi West Palm Beach.

(f) **Force Majeure.** City WiFi West Palm Beach shall be excused from performance hereunder, and shall not be liable for damages or otherwise, if and to the extent that City WiFi West Palm Beach is unable to perform due to any act, event, cause or condition that is beyond its reasonable control, including but not limited to accidents, acts of God, acts of any government, failure of third-party communications networks, war, terrorist activity, industrial or labor disputes, fire, flood, explosion, civil disorder, power failure, equipment failure, acts of civil or military authorities, theft, vandalism, misuse, insurrection, inability to obtain the necessary supplies, and the like. City WiFi West Palm Beach will not notify You of the occurrence of any such event.

## Attachment A

### City WiFi West Palm Beach Internet Acceptable Use Policy

In utilizing the City WiFi West Palm Beach WiFi Service, you ("You") hereby agree to comply with the terms and conditions of the City WiFi West Palm Beach WiFi Internet Access Service Agreement (the "Agreement"), including its terms and conditions, this City WiFi West Palm Beach Internet Acceptable Use Policy (the "Use Policy"), and other attachments to the Agreement, as they may be modified from time to time by City WiFi West Palm Beach, in its sole discretion. In the event of any inconsistency or conflict between this Use Policy and the Agreement, the provisions of this Use Policy shall govern. You agree that the Use Policy governs to your conduct, as well as the conduct of members of your household and any other persons who You or members of your household authorize to use the City WiFi West Palm Beach WiFi Service ("Users").

#### 1. General.

This Use Policy is intended to help enhance the use of the Internet generally, and the City WiFi West Palm Beach Network specifically, by preventing unacceptable uses thereof. City WiFi West Palm Beach supports the free flow of information and ideas over the Internet and City WiFi West Palm Beach does not exercise editorial control over the content of any website, e-mail, instant messages, news group, or other material created or accessible over or through the City WiFi West Palm Beach WiFi Service, except for certain proprietary websites. However, in accordance with the Agreement, City WiFi West Palm Beach may remove any materials that, in City WiFi West Palm Beach's sole discretion, it believes may be illegal, may subject City WiFi West Palm Beach to liability or may violate this Use Policy. City WiFi West Palm Beach may cooperate with legal authorities and/or third parties in the investigation of any suspected or alleged crime or civil wrong. Any violation of this Use Policy by You may result in the suspension or termination of the City WiFi West Palm Beach WiFi Service to You.

#### 2. Generally Prohibited Conduct.

**You agree not to use, or allow Users to use, the City WiFi West Palm Beach WiFi Service, the City WiFi West Palm Beach Network, the Equipment:**

(a) for any activity that violates any international, federal, state, agency, or local law or regulation or any person's rights, including, without limitation, by posting or transmitting child pornography or obscene material, by exporting software or technical information in violation of U.S. export control laws, or by accessing, using, copying, modifying, transmitting or downloading material in violation of the U.S. Copyright laws;

(b) for any fraudulent activity, including, without limitation, making fraudulent offers to sell or buy products or services, or advancing any type of financial scam, including but not limited to "pyramid schemes" or "Ponzi schemes";

(c) to post or transmit any information or material that: infringes any person's copyright, trademark, trade secret, patent or other proprietary rights; is defamatory, libelous, offensive, threatening, abusive, pornographic, sexually explicit, profane, or otherwise is unacceptable or inappropriate in City WiFi West Palm Beach's sole discretion; constitutes or encourages conduct that constitutes a criminal offense, gives rise to civil liability or otherwise violates the law; contains a Virus or other harmful component; or is false;

(d) to achieve or attempt to achieve, or assist others in achieving or attempting to achieve, any unauthorized access to any computer, cable or telecommunications system, network, software, data, information, or any other proprietary material, or to breach or attempt to breach the security of another user, or to distribute or use tools designed to compromise the security of any system or network. This includes port scanning, port probes, and direct connection attempts to a service or system not owned, controlled or expressly permitted to be accessed by You;

**(e)** to improperly interfere with, inhibit, degrade or restrict the use and operation of the City WiFi West Palm Beach WiFi Service by others or City WiFi West Palm Beach's ability to deliver the City WiFi West Palm Beach WiFi Service to users and to monitor the City WiFi West Palm Beach Network, including, without limitation, by:

(i) sending excessive data transfers that exceed consumption limits that are now in place or may be established in the future for the package or tier of service to which You subscribe;

(ii) interrupting or interfering with the equipment, access, servers or City WiFi West Palm Beach WiFi Service used by other users;

(iii) disrupting the City WiFi West Palm Beach Network;

(iv) failing to comply with any bandwidth, data storage, IP address or other use limitations imposed on your use of the City WiFi West Palm Beach WiFi Service;

(v) transmitting or disseminating any virus or feature harmful to the operation of any system, equipment, service or software;

**(f)** to send to a minor or obtain for any minor, or obtain access for any minor to, any material that is harmful to minors;

**(g)** to run a server of any type in connection with the City WiFi West Palm Beach WiFi Service, or to provide network or host services to others via the City WiFi West Palm Beach Network. Prohibited uses include, without limitation, running servers for PPP, FTP, HTTP, DNS, POP, SMTP, NNTP, Proxy (any variety), DHCP, IRC, TELNET, TFTP, SNMP and multi-user interactive forums, and remapping of ports for the purpose of operating a server on the City WiFi West Palm Beach Network;

**(h)** to allow, enable, aid or assist, through action or inaction, directly or indirectly, any third party to use your computer system, the City WiFi West Palm Beach WiFi Service or the City WiFi West Palm Beach Network for illegal actions, actions that violate the Agreement and/or the Use Policy, or other actions deemed unacceptable or inappropriate in City WiFi West Palm Beach's sole discretion, including but not limited to sending, forwarding or relaying unsolicited commercial email or bulk e-mail;

**(i)** to permit your computer system, through action or inaction, directly or indirectly, to be configured in such a way that gives a third party the capability to use the City WiFi West Palm Beach WiFi Service and/or the City WiFi West Palm Beach Network for illegal actions, actions that violate the Agreement and/or the Use Policy, or other actions deemed unacceptable or inappropriate in City WiFi West Palm Beach's sole discretion, including but not limited to sending, forwarding or relaying unsolicited commercial e-mail or bulk e-mail; or

### **3. Use of E-Mail.**

**You agree not to use, or allow Users to use, the City WiFi West Palm Beach WiFi Service, the City WiFi West Palm Beach Network, the Equipment or any Software:**

**(a)** to send bulk e-mail, whether of a personal or commercial nature, including, without limitation, bulk mailings of commercial advertising, informational announcements, charity requests, political or religious messages, and petitions for signatures, other than to those who have requested such e-mails via a confirmed opt-in subscription process maintained by You;

(b) to send e-mail or other messages to someone who has indicated that he or she does not want to receive messages from You;

(c) to collect or receive responses from unsolicited e-mail messages (even if such e-mail was sent from accounts on other Internet service providers or e-mail services) that violate the Agreement or this Use Policy or the terms of use under the other Internet service provider or email service from which it was sent;

(d) to conduct "mail bombings" (i.e., to send more than ten copies of the same or substantially similar message, or very large messages or files, with the intent of disrupting a server or account);

(e) to send or forward chain letters (whether or not the recipient requests it);

(f) to harvest e-mail addresses or personal information of other City WiFi West Palm Beach users or the users of any other network;

(g) to use any City WiFi West Palm Beach WiFi Internet Service subscriber's computer as a mail relay or another Internet site's server to relay mail without the express permission of the owner of that Internet site;

(h) to reveal to others your e-mail password or your user name or reveal the e-mail password or user name of other users of the City WiFi West Palm Beach WiFi Service;

(i) to forge, alter or remove any e-mail header; or

(j) to send e-mail that does not originate from the City WiFi West Palm Beach Network but attempts to direct recipients via a link or otherwise to an Internet site on the City WiFi West Palm Beach Network.

You understand and acknowledge that use of the City WiFi West Palm Beach Network in connection with the transmission of unsolicited commercial e-mail or bulk e-mail, including the transmission of counterfeit e-mail, may result in civil and/or criminal penalties against the sender, including those provided by the Controlling the Assault of Non-Solicited Pornography and Marketing ("CAN-SPAM") Act of 2003 (15 U.S.C. Â§ 7701 et seq.), the Computer Fraud and Abuse Act (18 U.S.C. Â§ 1030 et seq.), the Lanham Act (15 U.S.C. Â§ 1125), the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C.Â§ 1961 et seq.), state trespass laws, and other state and federal criminal and/or civil laws.

#### **4. Use of Newsgroups or Channels.**

When using the City WiFi West Palm Beach WiFi Service, the Equipment or the Software and using a Newsgroup, Channel or other public bulletin board ("Newsgroup"), You agree not to, or allow Users to:

(a) post messages that do not comply with or are not permitted by the Newsgroup's terms of use, written charters, FAQ or similar instructions or guidelines ("Newsgroup Guidelines"), or that otherwise violate the Newsgroup Guidelines;

(b) post or cross -post the same or substantially similar messages to more than eight (8) Newsgroups;

(c) forge, alter or remove header information;

(d) circumvent the approval process for posting to a moderated Newsgroup;

(e) "flood", "newsbomb" or disrupt users of Newsgroups by posting a large number of messages to a Newsgroup with the intent to hinder normal discussion, cancel messages of others (except as an authorized moderator), or send excessive quantities of data to a Newsgroup;

(f) post binary files to Newsgroups that do not expressly permit them; or

(g) download any Newsgroup in bulk. (City WiFi West Palm Beach's Usenet news service included with your account is provided for interactive use by the subscriber using a commonly available NNTP program such as Microsoft Outlook Express. Non-interactive clients must not download Usenet articles in bulk.)

#### **5. Use of Relay Chat Room, Chat Rooms, Bulletin Boards, Discussion Groups and Similar Interactive Programs.**

When You or Users participate in chat rooms, bulletin boards, discussion groups or other interactive sections of the Internet ("Chat Rooms"), You agree not to, or allow Users to:

(a) participate in Chat Rooms from which You or Users have been banned, or in a manner that violates the applicable acceptable use policy for that server or Chat Room;

(b) flood or scroll such Chat Rooms (sending messages or material in quick succession with the intent to disrupt use of such Chat Rooms by others);

(c) use "bots" or "clones" on computers or other devices when using the City WiFi West Palm Beach WiFi Service (for example, You or Users may not participate in Chat Rooms using an automated program unless You or Users are actually physically present at your computer);

(d) manipulate any Chat Room server to harass or disconnect other Internet users or to gain privileges to which You (or Users) are not entitled;

(e) send Chat Room messages to recipients who have indicated their desire not to receive such messages; or

(f) forge, alter or hide your identity (other than by using a nickname from which City WiFi West Palm Beach may, if necessary, determine your real name).

## **6. Criminal or Civil Liability.**

Violations of this Use Policy may result in criminal or civil liability or both. City WiFi West Palm Beach will investigate incidents involving violations of this Use Policy and will cooperate with law enforcement agencies if a criminal violation is suspected. Indirect or attempted violations of this Use Policy, and actual or attempted violations by a third party on behalf of an City WiFi West Palm Beach subscriber or a subscriber's end user, shall be considered violations of this Use Policy by such subscriber or end user.

## **7. Other Service Providers' Acceptable Use Policies.**

City WiFi West Palm Beach obtains services from and relies upon many other entities to provide the City WiFi West Palm Beach WiFi Internet Access Service to You. City WiFi West Palm Beach must strictly comply with the rules of all other entities that You may access through the use of the City WiFi West Palm Beach WiFi Internet Access Service. In such instances where those entities' policies are more restrictive than the Agreement or City WiFi West Palm Beach's Use Policy, City WiFi West Palm Beach will communicate those restrictions to You and revise the Agreement or Use Policy or both, accordingly. Therefore, You agree to and shall abide by the acceptable use policies of such other entities.

## **8. Personal Use of the Web.**

### **(a) Infringement with Intellectual Property Rights.**

If You use material that is subject to another party's intellectual property rights, You must obtain authorization from that party prior to using such materials. By using the Personal Web Space, You represent and warrant that You are the author and copyright owner and/or authorized licensee with respect to any hosted content and You further represent and warrant that no hosted content violates the trademark, copyright, domain name or intellectual property rights of any third party. City WiFi West Palm Beach reserves the right to suspend or terminate your account if, in City WiFi West Palm Beach's sole discretion, You violate this Use Agreement or any law or regulation, e.g., the Digital Millennium Copyright Act of 1998, or a court order.

### **(b) Other Activities.**

Whether lawful or unlawful, City WiFi West Palm Beach reserves the right to determine what is harmful to its customers, operations or reputation, including any activities that restrict or inhibit any other user from using and enjoying the City WiFi West Palm Beach WiFi Service or the Internet. City WiFi West Palm Beach reserves the right, in its sole discretion, to disconnect service immediately upon detection of activities deemed harmful to the City WiFi West Palm Beach Network or City WiFi West Palm Beach's customers, affiliates or agents.

## **Attachment B**

## **CITY WIFI WEST PALM BEACH WIFI SERVICE PRIVACY POLICY AND PRIVACY NOTICE**

### **1. Commitment to Confidentiality**

City WiFi West Palm Beach ("We") strives to honor the confidentiality of its customers. We want You to have

confidence in your use of the Internet. This City WiFi West Palm Beach Privacy Policy and City WiFi West Palm Beach WiFi Service Internet Access Privacy Notice ("Privacy Policy") is designed to explain our commitment to your privacy and our monitoring activities. Independent contractors and agents of City WiFi West Palm Beach that are acting on behalf of City WiFi West Palm Beach in providing the City WiFi West Palm Beach WiFi Service are also bound by this Privacy Policy.

## **2. Customer Surveys**

From time to time, City WiFi West Palm Beach may take customer surveys. We may contact You as part of a customer survey. Participation in customer surveys is purely voluntary, but we welcome and encourage You to respond to these surveys. Personal information gained in these responses will be held in confidence.

## **3. Right To Monitor Communications and Disclose Information**

It is generally City WiFi West Palm Beach's policy not to share personal information about You. However, City WiFi West Palm Beach has the right to monitor the City WiFi West Palm Beach WiFi Service. In addition, City WiFi West Palm Beach may disclose personal information about You and/or your account at its sole discretion under the circumstances described below. You expressly grant City WiFi West Palm Beach permission to disclose personal information in response to, among others: (a) an administrative, grand jury or trial subpoena; (b) a civil investigative demand issued by a government entity; or (c) a Federal or State search warrant or court order:

### **(a) Mandatory Disclosure to Government Entities**

Under the USA PATRIOT Act of 2001 ("Patriot Act"), a governmental entity may require us to disclose certain information concerning your Internet service(s) without advance notice to You. If we receive a subpoena, we may be required to disclose to the government the following records: your name and address; records of your Internet sessions (including session times and duration); how long You have subscribed to our service(s) (including start date and the type(s) of service(s) utilized; your telephone number or other subscriber account identifying number(s), including any Internet or network address(es) assigned to You by our network; and the means and source of your payment(s) (including any credit card or bank account number)). In addition, if we receive a Federal or State search warrant or court order, we may be required to disclose to law enforcement agencies the content of, and other records relating to, e-mail messages (including attachments to e-mail messages and records relating to your e-mail and Internet use), without advance notice to You.

Please also note that law enforcement agencies may, by Federal or State court order, and without notice to You, obtain the right to install a device that monitors your Internet and e-mail use.

### **(b) Voluntary Disclosure to Government Entities**

The Patriot Act also allows City WiFi West Palm Beach to voluntarily disclose certain information to law enforcement agencies and governmental entities in circumstances of immediate danger. If we reasonably believe that an emergency involving immediate danger of death or serious physical injury to any person requires disclosure of the information without delay, where permitted by law, we may voluntarily disclose to law enforcement agencies, without advance notice to You, the contents of your cable Internet subscriber communications. The Patriot Act, under certain conditions, also allows the government, at our request, to intercept the communications of a computer trespasser, without obtaining a court order or search warrant. Finally, we also may disclose to law enforcement agencies the contents of your Internet communications that were inadvertently obtained and appear to pertain to the commission of crime. These new procedures set forth in the Patriot Act do not apply to records revealing your selection of video programming. As before, a governmental entity may obtain records revealing your selection of video programming only if it offers clear and convincing evidence to a court that such records are material to a criminal case and if You are given the opportunity to appear to contest the evidence.

### **(c) Other Disclosures**

City WiFi West Palm Beach may also disclose personal information about You and/or your usage at its sole discretion in order to comply with the Digital Millennium Copyright Act or any other laws, to enforce the Use Policy, to protect the integrity of the City WiFi West Palm Beach Network, or to protect our customers. In such circumstances, City WiFi West Palm Beach may disclose your personal information to private individuals or to

government entities.

## **5. Collection and Use of Technical Information**

When You use interactive WiFi Internet services, City WiFi West Palm Beach may gather technical data about your use of the City WiFi West Palm Beach WiFi Service. We use the technical information to understand customer interests, to enhance the value of the City WiFi West Palm Beach WiFi Service and to customize the City WiFi West Palm Beach WiFi Service based upon customer interests.

## **6. Third Parties**

Some third parties might acquire information about You when You use or visit their websites or services via the City WiFi West Palm Beach WiFi Service. City WiFi West Palm Beach does not undertake to monitor, and may not be capable of monitoring, the collection, use or disclosure of such information.

## **7. Communications regarding this Privacy Policy**

If You have any questions concerning this Privacy Policy, You may contact <http://www.wpb.org/wifi> or <http://www.wpb.org/wifi>.

## **10. Revisions to the Privacy Policy**

City WiFi West Palm Beach reserves the right to update or modify this Privacy Policy at any time. Modifications to this Privacy Policy may be given by posting such changes to City WiFi West Palm Beach's websites at <http://www.wpb.org/wifi>, by e-mail, or by postal mail.

## **Important Information for Wireless Products**

It is your responsibility to secure your wireless networking connection. Keep the following points in mind whenever setting up or using your wireless network.

### **1. Performance.**

The actual performance of your wireless network depends on a number of factors, including:

- In an Infrastructure environment, your distance from the access point. As you get farther away, the transmission speed will decrease.
- Structural interference. The shape of your building or structure, the type of construction, and the building materials used may have an adverse impact on signal quality and speed.
- The placement and orientation of the wireless devices.

### **2. Interference.**

Any device operating in the 2.4 GHz spectrum may cause network interference with an 802.11b wireless device. Some devices that may prove troublesome include 2.4 GHz cordless phones, microwave ovens, adjacent public hotspots, and neighboring 802.11b wireless LANs.

## CITY WIFI WEST PALM BEACH WIFI INTERNET ACCESS SERVICE AGREEMENT

This City WiFi West Palm Beach WiFi Internet Access Service Agreement, including the attached Terms and Conditions and other attachments hereto (the "Agreement"), sets forth the terms and conditions under which City WiFi West Palm Beach ("City WiFi West Palm Beach") will provide WiFi Internet Access Service to you. This Agreement is entered by you ("Customer", "You", or "User") for You and members of your household and by City WiFi West Palm Beach for itself and its subsidiaries and affiliates that provide the WiFi Internet Access Service (the "City WiFi West Palm Beach WiFi Service").

The attached Agreement Terms and Conditions, and other attachments hereto, which are incorporated herein, explain important details concerning the City WiFi West Palm Beach WiFi Service provided by City WiFi West Palm Beach and your obligations in order to obtain and keep City WiFi West Palm Beach WiFi Service. The following topics, among others, are explained in the attached Agreement Terms and Conditions and other attachments:

- City WiFi West Palm Beach may amend this Agreement, including the attached Terms and Conditions and other attachments hereto, at any time by posting revisions on the City WiFi West Palm Beach Internet Site.
- City WiFi West Palm Beach does not guarantee the availability of any particular bandwidth or feasibility of use of City WiFi West Palm Beach WiFi Service for a particular purpose.
- You may not use City WiFi West Palm Beach WiFi Service to operate a customer-based server of any type.
- You are responsible for the security of your own computer system.
- City WiFi West Palm Beach is not responsible for any bugs, viruses, Trojan Horses, worms, spyware or other damaging software You encounter when You access the Internet using City WiFi West Palm Beach WiFi Service.
- Any equipment supplied by City WiFi West Palm Beach under this Agreement is the property of City WiFi West Palm Beach.
- You agree to indemnify and hold harmless City WiFi West Palm Beach against any cost, claim, liability or expense arising from or related to your use of City WiFi West Palm Beach WiFi Service.
- You have certain protections under U.S. law as outlined in City WiFi West Palm Beach's Privacy Policy.
- Florida State law governs the attached Agreement.
- You agree to binding arbitration to settle any dispute that You have with respect to the City WiFi West Palm Beach WiFi Service or this Agreement.

By entering the <http://www.wpb.org/wifi> website and using the "CITYWIFI\_PUBLIC", you acknowledge that you have read, fully understand, and agree to this Agreement, including the attached and incorporated Terms and Conditions and other attachments hereto.