

RIVERWALK INTERNET SERVICE AGREEMENT

This Agreement is your contract for RIVERWALK Internet Service.

1. Introduction.

- 1.1. **Terms of Service.** This Agreement governs the terms and conditions under which The Riverwalk Homeowners Association ("RWHO"), with the assistance of certain vendors ("Vendors"), provides you ("you"), Internet access service. By using the RWHO Internet Service, you acknowledge and agree to the terms and conditions of this Agreement ("Terms").

Every time you use RWHO Internet Service, you are agreeing to RWHO's Terms.

2. **Changes in Terms.** RWHO may change the Terms on not less than ten days' written notice by email or by United States mail. Your use of RWHO Internet Service after the effective date of any change in the Terms shall constitute your acceptance of and agreement to such change.
3. **Attended Use Required.** Although RWHO provides 24-hour access to RWHO Internet Service, you shall not allow your computer to remain connected to the Internet unless
1. someone is attending the computer and actively using RWHO Internet Service. Unattended, inactive connections to the Internet cause network congestion and may cause delays for others; accordingly, RWHO reserves the right to disconnect your computer from the Internet if it detects a prolonged period of inactivity. This paragraph does not apply to Cable Service.
4. **Content.** As used in this Agreement, "Content" means the information, software, graphics, photographs, video, speech, sounds, music, and other material and services communicated through RWHO Internet Service.
- 4.1. **No Liability.** RWHO makes no representations, warranties, or promises as to, and you must bear the risk of relying on, the accuracy, completeness, or usefulness of any Content. As a matter of policy, RWHO does not screen or filter any Content and has no obligation to monitor Content. Accordingly, neither RWHO nor any of its Vendors shall have any liability whatsoever for any action or inaction by RWHO or any of its Vendors with respect to Content.
 - 4.2. **Third Party Conditions of Use.** Content is provided by persons and entities not under the control of RWHO, and such other Internet service providers have their own terms and conditions of use. Violation of any of those terms of use may subject you to termination of RWHO Internet Service.
 - 4.3. **Content Rights.** RWHO and its Vendors reserve the right (but shall have no obligation) to monitor Content and to remove Content that RWHO or any of the Vendors deems unacceptable, undesirable, or in violation of this Agreement. RWHO and its Vendors reserve the right to disclose any Content and to identify the responsible customer as may be required by law, or to operate RWHO Internet Service properly, or to protect itself or its other subscribers.
 - 4.4. **Parental Guidance.** Content may include material inappropriate for minors; RWHO recommends that you guide your minors' use of the RWHO Internet Service directly and/or consider using commercially-available tools that enable you to restrict access to certain Internet areas and other features of the RWHO Internet Service that may be inappropriate for minors, at your sole cost and risk. RWHO makes no warranties with respect to such tools.
5. **Appropriate Use.** RWHO reserves the right to terminate your RWHO Internet Service immediately without notice if, in RWHO's sole discretion, you do not use RWHO Internet Service in an appropriate and lawful manner. You shall not use and shall not allow others to use RWHO Internet Service, directly or indirectly, to:
- 5.1. Post, transmit, or promote any Content that defames or libels RWHO or any other person, or that is unlawful, harmful, threatening, abusive, harassing, defamatory, vulgar,
 - 1.1. indecent, obscene, sexually explicit, hateful, or racially, ethnically, or otherwise objectionable or offensive; or
 - 5.2. Upload, post, publish, transmit, reproduce, or distribute in any way, information, software, or other material that is protected by copyright or other proprietary right, or derivative works with respect thereto, without obtaining permission of the copyright owner or right holder or access any computer, software, data, or any confidential, copyright-protected, or patent-protected material of any other person, without the knowledge and consent of such person; or

- 5.3. Disrupt the normal flow of dialogue in a chat room or on a message board or otherwise act in a manner that negatively affects any other person; or
- 5.4. Impersonate any person or entity, or communicate under a false name or a name you are not entitled or authorized to use; or
- 5.5. Post or transmit chain letter or pyramid schemes; or
- 5.6. Post or transmit any unsolicited advertising, promotional materials, or other forms of solicitation to other persons, except in those areas that are expressly designated for such a purpose, or collect the screen name of any other RWHOA subscriber without permission; or
- 5.7. Post or transmit any communication or solicitation designed or intended to obtain password, account, or private financial information from any other person; or
- 5.8. Violate any operating rule, policy, or guideline of any other Internet service provider; or
- 5.9. Violate any applicable local, state, national, international, or foreign law, including but not limited to any rule or regulation having the force of law and including but not limited to export and encryption laws and regulations of the United States; or
- 5.10. Copy, distribute, or sublicense any software provided by RWHOA or violate the terms under which it was provided to you, except that you may make one copy of each software program for back-up or archival purposes only; or
- 5.11. Restrict, inhibit, or otherwise interfere with the ability of any other person to use or enjoy RWHOA Internet Service.

Your use of RWHOA Internet Service and the Internet is solely at your own risk.

6. **Security.** Because the Internet is a resource shared among many users, there is a risk that you could be subject to a variety of security breaches, including but not limited to eavesdropping, denial of service attacks, and receipt of corrupted files or viruses. This means that other people may be able to access, monitor, and/or alter your files, data, or **1.** other traffic sent or received using RWHOA Internet Service, or negatively affect your ability to use the service, or both. Any information sent by you over RWHOA Internet Service is sent at your sole risk, and RWHOA shall have no liability whatsoever for any claims, losses, actions, damages, suits, or proceedings arising out of or otherwise related to such actions.
7. **Limited Warranty.** RWHOA shall use commercially reasonable efforts to provide you high quality RWHOA Internet Service, but RWHOA does not guarantee that you will be able to access the RWHOA Internet Service at a particular speed, time, or location or that RWHOA will have adequate capacity for the RWHOA Internet Service as a whole or for particular purposes. Interruptions in RWHOA Internet Service may occur due to scheduled maintenance or failure of hardware or software, as well as acts of God. RWHOA does not warrant that any data or files sent by or to you will be transmitted in uncorrupted form. All representations, warranties, endorsements and conditions of any kind, express or implied, including, without limitation, fitness for a particular purpose, merchantability, and those arising from a course of dealing or usage of trade, are hereby excluded. RWHOA shall give you at least 48-hours' advance notice by email of scheduled maintenance that could interrupt all or some of RWHOA Internet Service.
8. **Transactions.** RWHOA does not endorse, warrant, or guarantee any product or service offered through RWHOA Internet Service and shall not be a party to or in any way monitor any transaction between you and third-party providers of products or services.
9. **Limitation of Liability.** The following limitations apply to the acts, omissions, negligence, and gross negligence of RWHOA, its officers, employees, agents, contractors, or representatives, which acts, omissions, negligence, or gross negligence, but for this provision, would give rise to a cause of action against RWHOA in contract, tort, or any other legal doctrine. Your sole and exclusive remedies under this Agreement are as expressly set out in this Agreement.

- 9.1. **Service.** RWHOA shall not be liable to you or anyone else for any special, indirect, or consequential damages, including without limitation loss of anticipated profits or other economic loss, personal injuries, or property damage arising out of interruptions, errors, or defects, in installation, provision, termination, maintenance, repair, or restoration, of RWHOA Internet Service, however caused, or for damage to, loss of, or destruction of, any software, files, or data (collectively, a "Loss"). RWHOA's liability for direct damages for a Loss caused by the ordinary negligence of RWHOA shall not exceed the amount you paid for the affected service for the period of time it was affected. RWHOA's liability for any direct damages for a Loss caused by the gross negligence on the part of the Company shall be limited to \$2,500. RWHOA shall not be liable for any Loss due to causes beyond its control.
- 9.2. **Software.** RWHOA shall not be liable to you or anyone else for any special, indirect, or consequential damages, including without limitation loss of anticipated profits or other economic loss, personal injuries, or property damage, for any faulty software that may
 - 1.1. be provided by RWHOA. RWHOA's entire liability to you for defects in software provided by RWHOA, and your exclusive remedy, shall be limited to replacement of the software.
- 9.3. **Intellectual Property Rights.** RWHOA shall not be liable to you or anyone else for any losses, claims, damages, expenses, liabilities, or costs (including legal fees) resulting directly or indirectly out of, or otherwise arising in connection with, any allegation, claim, suit, or other proceeding based upon a claim that your use of RWHOA's Internet Service or use by a third party infringes the copyright, patent, trademark, trade secret, confidentiality, privacy, or other industrial or intellectual property rights, proprietary rights, or contractual rights of any third party.
10. **Indemnification.** You agree that upon request by RWHOA you will defend, indemnify, and hold harmless RWHOA, its officers, directors, agents, employees, and Vendors, from all claims, liabilities, and expenses, including attorneys' fees, that arise from your breach of this Agreement, including without limitation:
 - 10.1. Any breach of this Agreement by you or anyone you permit to use your RWHOA Internet Service ("Users");
 - 10.2. Your or any Users' use of RWHOA Internet Service or the Internet for the placement or transmission of any information, software, or other materials on the Internet;
 - 10.3. Your acts or omissions or those of your agents or contractors in connection with, among other things, the installation, maintenance, presence, use, or removal of equipment or software not provided by RWHOA connected or to be connected to RWHOA Internet Service; and
 - 10.4. Claims for infringement of any third party proprietary right, including copyright, patent, trade secret, and trademark rights, arising from the use of any services, equipment, or software not provided by RWHOA.

RWHOA reserves the right, at its own expense, to assume the exclusive defense and control of any matter for which RWHOA is entitled to indemnification hereunder.

11. **Termination.**
 - 11.1 **Involuntary Termination for Misuse or Nonpayment.** In the event RWHOA exercises its right to terminate RWHOA Internet Service to you in accordance with the provisions of this Agreement, it may terminate RWHOA Internet Service with immediate effect without prior notice.
12. **Entire Agreement.** This Agreement contains and refers to the entire agreement of the parties relating to the rights granted and obligations assumed in this Agreement. Any oral representations or modifications concerning this Agreement shall be of no force and effect unless contained in a subsequent written modification signed by both parties to this Agreement or unless modified pursuant to Section 2.
13. **Headings.** The headings in this Agreement are for convenience of reference only and shall not be given any effect in the interpretation of this Agreement.
14. **No Waiver.** No course of dealing or failure of either party to enforce strictly any right, term, or condition of this Agreement shall be deemed or construed as a waiver of such right, term, or condition.
15. **Severability.** If any provision of this Agreement is held by a court or regulatory agency of competent jurisdiction to be invalid, void, or unenforceable, the rest of the Agreement shall remain in full force and effect.

THE RWHOA INTERNET SERVICE ADDENDUM

16. **Cable Service.** This Addendum modifies and expands The RWHOA Internet Service Agreement and governs the terms and conditions under which RWHOA provides Cable Internet access service to its customers ("RWHOA Cable Internet Service"). By making use of RWHOA Cable Internet Service, you agree to the terms and conditions of The RWHOA Internet Service Agreement as modified by this Addendum. For subscribers to RWHOA Cable Internet Service, "this Agreement," as used in the Internet Service Agreement and in this Addendum, means said agreement as supplemented and modified by this Addendum. Exhibit B to this Agreement is incomplete as posted online. When RWHOA delivers a completed paper copy of Exhibit B to you that completed document is hereby made a part hereof.
17. **Changes in Terms.** RWHOA may change the provisions of this Addendum at any time. Your use of RWHOA Cable Internet Service after the effective date of any change in this Addendum shall constitute your acceptance of and agreement to such change.
18. **Attended Use Not Required.** The provisions of Section 4 of The RWHOA Internet Service Agreement do not apply to you as a RWHOA Cable Internet Service subscriber.
19. **Equipment.**
 - 19.1 **Minimum System Requirements.** In order to run RWHOA Cable Internet Service, your computer must meet the minimum specifications set forth in Exhibit A at the end of this Addendum. In addition, successful installation requires that you have your original copy of your operating system software on CD-Rom, diskette, or other medium. You represent and warrant that you meet these requirements.
 - 19.2 **Cable Modem.** You must connect a Cable modem to your computer in order to use the RWHOA Cable Internet Service.
 - 19.3 **Cable Router.** If you intend to provide shared access over a local area network with RWHOA Cable Internet Service, a Cable router must be installed.
 - 19.4 **Equipment Compatibility.** You shall be solely responsible for the installation, operation, maintenance, use, and compatibility (with RWHOA Cable Internet Service) of your computer system and related equipment and any Cable-related equipment or
 - 1.1. software not provided by RWHOA. In the event that your equipment or software not provided by RWHOA impairs your use of RWHOA Cable Internet Service, (i) you shall nonetheless be liable for payment of all RWHOA Cable Internet Service charges; and (ii) RWHOA shall not be responsible for meeting any service specifications or performance levels generally applicable to the RWHOA Cable Internet Service.
 - 19.5 **Equipment Furnished by RWHOA; Limited Warranty.** RWHOA shall not be responsible for the ongoing operation of the Cable modem or other equipment furnished by RWHOA, and RWHOA shall have no obligation to maintain such equipment, nor any obligation to secure maintenance services on your behalf. All equipment purchased from RWHOA is subject to the terms and conditions set forth in the manufacturer's warranty or end-user license packaged with such equipment. RWHOA makes no representations or warranties, express or implied, regarding such equipment.
20. **RWHOA Cable Service Availability.**
 - 20.1 **Geographic Availability.** You acknowledge that RWHOA Cable Service may not be available. Due to the nature of the Cable service technology, RWHOA reserves the right to terminate this Agreement without liability to you if RWHOA at any time is not able to provide, repair, or maintain RWHOA Cable Internet Service to your premises; provided, however, that RWHOA shall refund any pre-paid charges for the RWHOA Cable Internet Service that it terminates.
 - 20.2 **Circuit Speed.** All speeds referenced, verbally or written, are based on sync rate and are "best effort", and may vary and are not guaranteed.

Limited Warranty.

- 21.1. The actual transmission speeds you experience using RWHOAs Cable Internet Service may vary from the transmission speeds that you might expect, due to such factors as the length and gauge of the telecommunications line serving your premises and other operational characteristics of the facilities and equipment used for the RWHOAs Cable Internet Service. Speed also depends on the bottlenecks experienced upon the wider network architecture of the Internet itself. For these reasons, RWHOAs does not guarantee that you will experience any particular performance level (throughput speed).
 - 21.2. However, RWHOAs shall make every commercially reasonable effort to deliver to you the highest possible quality of Cable service.
 - 21.3. This limited warranty does not apply (i) to issues involving your computer or software; (ii) if your equipment has been subjected to unusual physical or electrical stress, misuse, neglect, accident, or abuse, or damaged by any other external cause; or (iii) any person other than RWHOAs or its contractor has installed the RWHOAs Cable Internet Service and related equipment.
 - 21.4. This limited warranty shall be in lieu of all other express or implied warranties, including without limitation, warranties of merchantability and fitness for a particular purpose.
22. **Activation at Fixed-location.** RWHOAs Cable Internet Service requires a technical activation. RWHOAs shall, at a time mutually agreed, install the necessary equipment on the exterior of your premises and shall test the circuit at the telephone jack you intend to use for RWHOAs Cable Internet Service. The service may not be moved to different premises. Transferring the service to a different place within a location may require further activation work by RWHOAs or its agents, contractors, or representatives, at additional cost. If you change locations, you shall notify RWHOAs, pursuant to the provisions of Section 12 of this Agreement, to terminate your service.
23. **Installation By RWHOAs.**
- 23.1. **Back-Up Requirements.** The installation, use, inspection, maintenance, repair, and removal of the Cable equipment may result in service outage or potential damage to your computer. You are solely responsible for backing-up all existing computer files by copying them to another storage medium prior to installation of the Cable equipment, and prior to any inspection, maintenance, repair, or removal of the Cable equipment.
 - 23.2. If you request RWHOAs to install RWHOAs Cable Internet Service, you authorize RWHOAs to enter your premises at a mutually agreed time, open
 - 1.1. your computer, install hardware and software, re-boot the system, test the service, and perform similar functions necessary for a successful installation. As part of the installation process for the Cable software, as when most software is installed on a computer, system files on your computer, such as INI, BAT, SYS, and DLL files, may be modified or deleted. RWHOAs does not represent, warrant, nor covenant that such modifications or deletions will not disrupt the normal operations of your computer.
 - 23.3. **Limitation of Liability.** RWHOAs and its employees, agents, contractors, and representatives shall have no liability whatsoever for any (i) damage to or loss or destruction of your software, files, or data arising out of installation by RWHOAs; or (ii) damage to your computer or peripheral equipment caused by RWHOAs in the course of installation, other than the cost to repair or replace such hardware; or (iii) disruption of your normal telephone service during the installation process; or (iv) impacts upon or loss of any computer or software vendor warranty relating to the opening of your computer in the course of installation.
24. **Installation By You or Others.** RWHOAs does not represent, warrant, or covenant that installation by you or a third party chosen by you will enable you to successfully access, operate, or use RWHOAs Cable Internet service.
25. **Appropriate Use.** RWHOAs reserves the right to terminate your RWHOAs Cable Internet Service immediately without notice if, in RWHOAs's sole discretion, you do not use RWHOAs Cable Internet Service in an appropriate and lawful manner. You agree not to use or to allow others to use RWHOAs Cable Internet Service, directly or indirectly, to:
- 25.1. Violate any of the provisions of Section 6 of this Agreement; or
 - 25.2. Disrupt, abuse, or cause degradation of service in the RWHOAs's backbone network nodes or network services or the network nodes of other RWHOAs.net users; or
 - 25.3. Resell the RWHOAs Cable Internet Service, or bandwidth, or use the service for operation of an Internet service provider business or for any other business enterprise in competition with RWHOAs; or

- 25.4.Redistribute your residential RWHO Cable Internet Service to anyone not a member of your household.
- 25.5.Access any computer, software, data, or any confidential, copyright-protected, or patent-protected material of any other person, without the knowledge and consent of such person.

If you engage in any of these activities, RWHO may immediately terminate your RWIIOA Cable internet Service. This Section 25 shall not in any way limit RWHO's rights of termination pursuant to Section 11 of this Agreement.

26. **Security.**

- 26.1.**Firewall, Anti-virus Recommended.** It is your responsibility to safeguard your computer system, through appropriate means (e.g., using commercially available software or hardware) from theft, unauthorized use, or system corruption. If you fail to secure your system properly and that causes any detriment to the network, RWHO may immediately terminate your RWHO Cable Internet Service. RWHO HIGHLY recommends that you purchase and install a commercial firewall package and anti-virus package. RWHO shall have no liability whatsoever for any claims, losses, actions, damages, suits, or proceedings resulting from or arising out of or otherwise relating to your failure to safeguard the security of your system, software, and data.
- 26.2.**FTP/HTTP Server Setup.** Certain applications that you may use will, by their nature, permit other Internet users to gain access to your computer. These applications include, for example, your use of your computer as a server to allow others to download files using FTP or to access content you placed on a Web site using HTTP. You are permitted to run such applications for your personal use and within the limitations of Sections 6 and 27 of this Agreement, provided that you take the appropriate security measures and you assume all risk of security breaches such as those described in Section 28.1 above. RWHO shall have no liability whatsoever for any claims, losses, actions, damages, suits, or proceedings resulting from or arising out of or otherwise relating to your use of such applications, including, without limitation, damages resulting from other Internet users' having access to your computer.

27. **Limitation of Liability for Equipment.**

- 27.1.RWHO shall not be liable for any direct, special, indirect, or consequential damages, including without limitation loss of anticipated profits or other economic loss, personal injuries, or property damage, for defective equipment provided by RWHO.
- 27.2>Your sole remedy in the event of any defective equipment shall be to seek redress from the manufacturer in accordance with the terms and conditions set forth in such manufacturer's warranty or end-user license packaged with such equipment. Do not ship defective equipment to RWHO. Any equipment RWHO delivers to you hereunder may have additional restrictions on its use required by the manufacturer. You are solely responsible for adhering to any and all such restrictions and requirements.

- 28. **Internet Protocol Address.** You shall have no ownership interest in any Internet Protocol address provided by RWHO. RWHO shall retain ownership of all such addresses and, upon termination of this Agreement, you shall no longer have access to or use of any such address.

Unit Number

Email Address

HFC MAC ID

Phone #:

Print Name

Date

Signature