

# Member Service Agreement

WHEREAS, the CO-OP is a not for profit 501c3 corporation, the purpose of which is to provide broadband networking services to member neighborhoods and communities and to engage in any lawful act or activity related to the foregoing for which corporations that are organized as not-for-profit may be organized under General Corporation Law of Colorado.

WHEREAS , the CO-OP is open to all individuals that want to promote and improve the ecosystem for the CO-OPs specifications.

WHEREAS, the individual agrees to become a Member of the CO-OP and be subject to the rights and obligations of members set forth in the CO-OP Bylaws, Membership Application and this Agreement.

- **1.0 Membership**

1.1 Subject to the terms and conditions of this Agreement and the Bylaws, Member agrees to be a Member of AU Wireless CO-OP.

1.2 The Member shall be entitled to the benefits provided by this Agreement and the Bylaws. The Member shall be entitled to participate in AU Wireless membership meetings, to receive materials disseminated to the Member, to access World Wide Web pages maintained by AU Wireless, and to the other benefits of such membership, as determined by the Board of Directors or as specified in the Bylaws.

1.3 The Member acknowledges and agrees that it and its Family Members shall be treated for all purposes as one Member, entitled to one vote on all matters upon which the Member is entitled to vote.

- **2.0 Agreement**

The Terms of Service Agreement (the "Agreement"), in its entirety, shall consist of the Membership Application, Member Service Agreement, Privacy Policy, and Net Neutrality Policy.

The Agreement between you (the "Member") and AU Wireless, INC a Colorado non-profit corporation, (the "CO-OP") sets forth the legal rights and obligations governing Members subscription to AU Wireless (the "Service"). Member shall order the Service through the Online Sign Up Form. Upon receipt of payment of Membership Fee the Agreement becomes effective. Member hereby represents and warrants that they are at least 18 years of age. CO-OP and Member hereby represent and warrant that each is authorized to enter into the Agreement and perform its obligations thereunder.

CO-OP reserves the right to change this Agreement at any time and for any reason provided that notice is given by posting the revised Agreement on its website at least thirty (30) days before the effective date of such changes and notifying all members of the change via the membership email distribution list. Continued subscription to the Service after the effective date of the changes constitutes Member acceptance of such changes.

- **3.0 Service Description**

3.1 General Description. The service provides Internet access by means of a broadband connection between Member residence and an Access Point (AP) on the CO-OP's Internet access network.

3.2 Fixed Wireless CPE. CO-OP will install antenna/modem equipment on the roof with a Cat5 Ethernet cable that runs into the home and connects to a PoE adapter that provides power and an Ethernet connection to Member router.

3.3 Router CPE. Member router must provide NAT on the WAN/Internet interface and will connect to the PoE adapter installed by the CO-OP. Member will be solely responsible for all router maintenance, management, and support. Any assistance provided by CO-OP is without warranty of any kind and in consideration for such assistance you expressly waive any and all claims against CO-OP that may arise from such assistance.

3.4 Service Demarcation. The point of demarcation ("demarc") for Service is the PoE adapter. CO-OP's responsibility for maintenance and troubleshooting ends at the demarc.

3.5 Connection Speeds. Bandwidth is delivered as a 'Best Effort' service so the speeds specified in the agreement are maximum service capability speeds, and are not guaranteed. Member agrees that actual Internet speeds obtained will vary based on a number of factors, including the capabilities of Member's devices, in-home Wi-Fi signal level or interference, performance of other interconnected Internet networks, and any network management methods employed by CO-OP.

3.6 IP Addresses. The Service will include an IPv4 address for the router WAN/Internet interface. The IPv4 address will be assigned via DHCP from a pool of private IP addresses per RFC 1918.

3.7 Maintenance. The Service may from time to time require hardware or software maintenance, which may result in temporary loss of service. Member hereby consents to such maintenance activity without notice. It is the policy of the CO-OP to provide as much notice as possible via the email group when a scheduled maintenance window will be used. From time to time, unscheduled or urgent maintenance will require a brief loss of service.

3.8 Changes to Service. CO-OP reserves the right to modify or discontinue the Service at any time, for any reason, and without liability, provided that at least thirty (30) days' notice is given to Member via telephone or email.

- **4.0 Membership Dues**

4.1 Membership Fee. Member agrees to pay CO-OP membership dues and will be invoiced for the monthly dues on the 1<sup>st</sup> day of each month.

4.2 Method of Payment. Credit Card, check and ACH/eCheck are the payment methods permitted.

4.3 Late Payment. Member will be notified after 25 days of no payment as a reminder. At 45 days past due, member will be sent a late payment notice. At 60 days past due, member will be notified via email and service may be suspended until payment is received in full.

- **5.0 Termination, Cancellation, and Refusal of Service**

5.1 Cancellation of Service by Member. Member may cancel the Service at any time or for any reason. Notice may be given via telephone or email.

5.2 Termination of Service by CO-OP. CO-OP may terminate a Member's Service and their Member Account for cause at any time without notice for any of the following reasons: (a) non-Payment for more than sixty (60) days; (b) providing false or misleading information to CO-OP; (c) violation of the Service Agreement; or (d) engaging in conduct that is abusive to CO-OPs members or property. CO-OP also reserves the right to terminate the Service at any time, for any reason, and without liability, with at least thirty (30) days notice given to Member via telephone or email.

- **6.0 Restrictions on Use**

6.1 No Resale. Member agrees not to resell or redistribute the Service.

6.2 Use by Minors. The Service is designed to appeal to a broad audience. Member is responsible to determine appropriate restrictions on use of the Service for minors under their supervision.

6.3 Network Management. CO-OP reserves the right to engage in reasonable network management practices subject to CO-OP's Net Neutrality Policy, which is incorporated by reference herein into the Agreement and is available for reference at [www.auwireless.net](http://www.auwireless.net).

6.4 Illegal Use. CO-OP reserves the right to terminate membership if member is found to be using the Service to commit illegal acts or violating applicable laws. This may include, but is not limited to, downloading illegal software, video or audio files. CO-OP will cooperate with legal requests from law enforcement or other authorized entities. This includes Digital Millennium Copyright Act (DMCA) takedown notices found to be originating from CO-OP IP address space. Per the Privacy Policy, the CO-OP will not provide any personally identifiable information unless required to do so via a subpoena or court order.

- **7.0 Data Management; Content; Tracking Cookies; Malware**

7.1 Data Management. Member is responsible for management of their data. CO-OP is not responsible for the loss, backup, or restoration of Member data.

7.2 Content. Member is responsible for all risks associated with content they send or receive via the Service. CO-OP is not responsible for any content accessed via links it provides on its websites to other websites or resources.

7.3 Tracking Cookies. Member acknowledges that accessing certain websites via the Service may result in tracking cookies being installed on Member's device. It is Member's responsibility to manage tracking cookies on their device.

7.4 Malware. The term malware encompasses all types of malicious software. Member acknowledges that using the Service and by the nature of being on the public Internet may result in malware being installed on Member's device. It is Member's responsibility to protect their device and data by installing firewall and anti-malware software.

- **8.0. Disclaimer of Warranties**

CO-OP AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUBCONTRACTORS, AND PARTNERS MAKES NO REPRESENTATION OR WARRANTIES WHETHER EXPRESS, IMPLIED OR STATUTORY, REGARDING THE SERVICE AND EXPRESSLY DISCLAIMS THE WARRANTIES OR CONDITIONS OF NONINFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR ANY PARTICULAR PURPOSE. THIS DISCLAIMER INCLUDES BUT IS NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON INFRINGEMENT OF THIRD PARTY RIGHTS.

- **9.0 Limitation of Liability**

Member expressly understands and agrees that CO-OP and its officers, directors, employees, agents, and partners are not liable for any direct, indirect, incidental, special, consequential, or exemplary damages or losses resulting from; (a) any use of the Service; (b) cost of procurement of substitute service; (c) unauthorized access or alterations of Member communications or data; (d) statements or conduct of any third party on the Service; (e) incompatibility of Member devices; (f) any failure of the service or (g) any other matter relating to the Service.

- **10.0 Force Majeure**

CO-OP shall not be liable for any damages or failures due to anything, including but not limited to: acts of God, fire, explosion, vandalism, terrorism, cable cut, major weather disturbance, national emergencies, riots, wars, labor difficulties, supplier failures, shortages, breaches, any law, order, regulation, direction, action, or request by any government, civil or military authority, or suspension of existing service in compliance with state and/or federal law, rules and regulations, or delays caused by anyone, including Member or anything.

- **11.0. Indemnification**

Member shall indemnify and hold harmless CO-OP and its directors, officers, employees, agents, stockholders, affiliates, subcontractors and customers from and against all allegations, claims, actions, suits, demands, damages, liabilities, obligations, losses, settlements, judgments, costs and expenses (including without limitation attorneys' fees and costs) which arise out of, relate to or result from any act or omission of the Member using the Service or arising from the Members misuse, illegal use, or abuse of the Service, or violation of this Agreement or applicable law.

- **12.0 Dispute Resolution**

Member agrees that all unresolved disputes and claims with CO-OP including the interpretation of any provision of this Agreement or the performance of any of the terms of this Agreement, such matter or matters in dispute shall be resolved through binding arbitration, and that any such arbitration shall be conducted on an individual basis; class arbitrations and class actions are not permitted. The arbitration shall be conducted by a single arbitrator under the Commercial Arbitration Rules of the American Arbitration Association. The Language shall be in English. The City and State of Arbitration shall be Denver Colorado. The arbitration is bound by the terms of this Agreement. The decision and award of the arbitrator shall be final, binding, and not appealable.

- **13.0 Member Privacy**

Member personal information is subject to CO-OP's Privacy Policy, which is incorporated by reference herein into the Agreement and available for reference at [www.auwireless.net](http://www.auwireless.net).

- **14.0 Severability**

Any provision found unlawful by a court or arbitrator having jurisdiction shall be deemed to be severed from the Agreement, but such severance shall have no effect on the enforceability of the remaining provisions of the Agreement.

- **15.0 No Waiver**

No waiver of any of the provisions of the Agreement shall be binding unless made in writing and signed by the waiving party. The failure of either party to insist on the strict enforcement of any provision of this Agreement shall not be deemed to constitute a waiver of the provision, and all terms and conditions shall remain in full force and effect.

- **16.0 Complete Agreement**

The Agreement, incorporating all the applicable documents referenced herein, represents the entire agreement between the parties with respect to Service, and supersedes all other prior agreements between the parties, whether written or oral.

**Updated 03/20/2017**