

## **BLUEWAVE COMMUNICATIONS INTERNET SERVICE AGREEMENT**

**Read This Internet Service Agreement Carefully Before Using Our Internet Services.**

### **1. INTRODUCTION.**

BLUEWAVE COMMUNICATIONS provides its Internet services, as they may exist from time to time ("Services"), to users who pay a monthly service fee to subscribe to the Services ("Subscribers") as well as to those who access some of our Services but do not have accounts ("Visitors"). By establishing an account or using the Services, you agree to be bound by this Agreement and to use the Services in compliance with this Agreement, our Acceptable Use Policy, other policies, and email services TOS.

If you do not agree to the terms and conditions of this Agreement, our Acceptable Use Policy, other policies, and email services TOS including any future revisions, you may not use the Services and if you are a current Subscriber, you must terminate your use of the Services under Section 10.

BLUEWAVE COMMUNICATIONS owns the computers and other equipment that make up its Internet network (the "BLUEWAVE COMMUNICATIONS Network"). BLUEWAVE COMMUNICATIONS does not authorize the use of the BLUEWAVE COMMUNICATIONS Network to transmit any material (by email, uploading, posting, or otherwise) into, out of, or through the BLUEWAVE COMMUNICATIONS Network.

### **2. SUBSCRIPTION REQUIREMENTS.**

Subscribers must be at least 18 years old. Local access dial-up numbers may not be available in all areas. You are solely responsible for determining if use of a particular dial-up number will cause you to incur long-distance, toll, or other charges. BLUEWAVE COMMUNICATIONS is not responsible for any long-distance, toll or other telecommunications charges you incur. Toll-free (800 #), international, and simultaneous login access costs are extra. Current prices for BLUEWAVE COMMUNICATIONS' Services are posted throughout our website at <http://www.BluewaveNC.net>. These rates may also be obtained by calling 910-446-9283 (WAVE). BLUEWAVE COMMUNICATIONS reserves the right to change prices and institute new fees at any time upon 30 days prior notice.

High Speed Data Service (HSD)

(a) Speeds and Network Management. I understand that each level of the HSD is limited to the maximum speeds for sending and receiving data as set forth in the price list. I acknowledge that the actual speeds may vary due to a number of factors, including my equipment capabilities, content and applications, technical and system management tool properties, as well as Internet congestion. I agree that BLUEWAVE COMMUNICATIONS may change the speed levels and associated pricing. If I continue to use the HSD after a change I am accepting the new speed. BLUEWAVE COMMUNICATIONS may use various means to ensure that its service operates in the most efficient manner possible. I also agree that BLUEWAVE COMMUNICATIONS has rights to monitor usage patterns to efficiently manage its network and the provision of services. BLUEWAVE COMMUNICATIONS may take whatever measures determined appropriate if my usage of the HSD Service does not comply. Also, BLUEWAVE COMMUNICATIONS will use appropriate tools and methods to efficiently manage its network to ensure a quality service.

### **3. PAYMENT OBLIGATIONS OF A SUBSCRIBER.**

(a) Subscribers must (i) provide BLUEWAVE COMMUNICATIONS with accurate and complete billing information including legal name, address, telephone number, and credit card/billing

information, and (ii) report to BLUEWAVE COMMUNICATIONS all changes to this information within thirty (30) days of the change. Subscribers are responsible for any charges to their account.

(b) Subscribers having questions regarding charges to an account, should contact BLUEWAVE COMMUNICATIONS's Customer Service Department at 843-369-RACE (7223). All charges are considered valid unless disputed in writing within sixty (60) days of the billing date. Adjustments will not be made for charges that are more than 60 days old.

(c) Charges are billed to Subscribers' credit cards or debit cards, as applicable, each month for the basic service and any additional usage or services. BLUEWAVE COMMUNICATIONS is not responsible for any charges or expenses (e.g for overdrawn accounts, exceeding credit card limits, etc.) resulting from charges billed by BLUEWAVE COMMUNICATIONS.

(d) If paying by check, payments are due within 30 days after the month in which the charges are incurred.

(e) If you pay for Services through a prepayment plan, automatic billing described above shall only apply to the charges not paid for through the prepayment plan.

(f) If you purchase Services through a reseller who in turns pays BLUEWAVE COMMUNICATIONS, the reseller must pay all amounts owing for your account. If the reseller fails to pay BLUEWAVE COMMUNICATIONS any amounts due whether or not you have paid the reseller your account will be subject to suspension or cancellation until you or the reseller has paid all amounts due.

(g) Delinquent accounts may be suspended or canceled at BLUEWAVE COMMUNICATIONS' sole discretion; however, charges will continue to accrue until the account is canceled. BLUEWAVE COMMUNICATIONS may bill an additional charge to reinstate a suspended account.

#### 4. SUBSCRIBER'S ACCOUNT, PASSWORD, AND SECURITY.

Upon registration, Subscribers receive a username, password, and account designation. You and members of your household or business, if you have purchased a business account, are the only authorized users of your BLUEWAVE COMMUNICATIONS account and must comply with this Agreement, our Acceptable Use Policy, other policies, and email services TOS. You must keep your password confidential so that no one else may access the Services through your account. You must notify BLUEWAVE COMMUNICATIONS immediately upon discovering any unauthorized use of your account.

Subscribers agree not to use any automatic method to avoid inactivity disconnect or to otherwise maintain a connection unless actively using it. Subscribers agree not to provide any public information services over a dial-up connection.

BLUEWAVE COMMUNICATIONS may change its POP numbers at any time. BLUEWAVE COMMUNICATIONS reserves the right to direct Subscribers to use certain numbers to access the Service or to restrict use of specific access numbers. Usernames, passwords and email addresses are BLUEWAVE COMMUNICATIONS' property and BLUEWAVE COMMUNICATIONS may alter or replace them at any time. In addition, BLUEWAVE COMMUNICATIONS holds any subscriber utilizing email through a BLUEWAVE COMMUNICATIONS email account to these Terms and Conditions: email services TOS.

#### 5. MONITORING THE SERVICES.

BLUEWAVE COMMUNICATIONS has no obligation to monitor the Services, but may do so and disclose information regarding use of the Services for any reason if BLUEWAVE COMMUNICATIONS, in its sole discretion, believes that it is reasonable to do so, including to: satisfy laws, regulations, or governmental or legal requests; operate the Services properly; or protect

itself and its Subscribers. Please see our Privacy Policy. BLUEWAVE COMMUNICATIONS may immediately remove your material or information from BLUEWAVE COMMUNICATIONS's servers, in whole or in part, which BLUEWAVE COMMUNICATIONS, in its sole and absolute discretion, determines to infringe another's property rights or to violate our Acceptable Use Policy.

#### 6. DISCLAIMER OF WARRANTIES and LIMITATION OF LIABILITY.

EXCEPT FOR CERTAIN PRODUCTS AND SERVICES SPECIFICALLY IDENTIFIED AS BEING OFFERED BY BLUEWAVE COMMUNICATIONS, BLUEWAVE COMMUNICATIONS DOES NOT CONTROL ANY MATERIALS, INFORMATION, PRODUCTS, OR SERVICES ON THE INTERNET. THE INTERNET CONTAINS UNEDITED MATERIALS, SOME OF WHICH ARE SEXUALLY EXPLICIT OR MAY BE OFFENSIVE TO YOU. BLUEWAVE COMMUNICATIONS HAS NO CONTROL OVER AND ACCEPTS NO RESPONSIBILITY FOR SUCH MATERIALS. YOU ASSUME FULL RESPONSIBILITY AND RISK FOR USE OF THE SERVICES AND THE INTERNET AND ARE SOLELY RESPONSIBLE FOR EVALUATING THE ACCURACY, COMPLETENESS, AND USEFULNESS OF ALL SERVICES, PRODUCTS, AND OTHER INFORMATION, AND THE QUALITY AND MERCHANTABILITY OF ALL MERCHANDISE PROVIDED THROUGH THE SERVICE OR THE INTERNET. THE SERVICES ARE PROVIDED ON AN AS IS AND AS AVAILABLE BASIS. BLUEWAVE COMMUNICATIONS DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. BLUEWAVE COMMUNICATIONS MAKES NO EXPRESS WARRANTIES AND WAIVES ALL IMPLIED WARRANTIES INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF TITLE, NONINFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE REGARDING ANY MERCHANDISE, INFORMATION OR SERVICE PROVIDED THROUGH BLUEWAVE COMMUNICATIONS OR THE INTERNET GENERALLY. NO ADVICE OR INFORMATION GIVEN BY BLUEWAVE COMMUNICATIONS OR ITS REPRESENTATIVES SHALL CREATE A WARRANTY. BLUEWAVE COMMUNICATIONS AND ITS EMPLOYEES ARE NOT LIABLE FOR ANY COSTS OR DAMAGES ARISING DIRECTLY OR INDIRECTLY FROM YOUR USE OF THE SERVICES OR THE INTERNET INCLUDING ANY INDIRECT, INCIDENTAL, EXEMPLARY, MULTIPLE, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES. IN ANY EVENT, BLUEWAVE COMMUNICATIONS'S CUMULATIVE LIABILITY TO ANY SUBSCRIBER FOR ANY AND ALL CLAIMS RELATING TO THE USE OF THE SERVICES SHALL NOT EXCEED THE TOTAL AMOUNT OF SERVICE FEES PAID DURING A ONE YEAR PERIOD.

#### 7. SOFTWARE LICENSE.

BLUEWAVE COMMUNICATIONS grants to each Subscriber a limited, non-exclusive, non-transferable and non-assignable license to install and use the BLUEWAVE COMMUNICATIONS access software (including software from third-party vendors that BLUEWAVE COMMUNICATIONS distributes; in object code format), its associated documentation, and any updates thereto ("Licensed Programs") in order to access and utilize the Services. Each Subscriber agrees to use the Licensed Programs solely in conjunction with the Services and for no other purpose. BLUEWAVE COMMUNICATIONS may modify the Licensed Programs at any time, for any reason, and without providing notice of such modification to a Subscriber. The Licensed Programs constitute confidential and proprietary information of BLUEWAVE COMMUNICATIONS and BLUEWAVE COMMUNICATIONS' licensors and embody trade secrets and intellectual property protected under United States copyright laws, other laws, and international treaty provisions. All right, title, and interest in and to the Licensed Program, including associated intellectual property rights, are and shall remain with BLUEWAVE COMMUNICATIONS and BLUEWAVE

COMMUNICATIONS' licensors. Subscriber shall not translate, decompile, reverse engineer, distribute, remarket, or otherwise dispose of the Licensed Programs or any part thereof. BLUEWAVE COMMUNICATIONS Technical Support is provided to current customers on a 24 hour, 7 days a week basis. This Technical Support will include assistance to ensure proper delivery of high speed internet connectivity to the customer premise. Additional support for third party services, software, and applications will not be provided however, directions on how to receive support from these third party entities may be provided.

You may not download, use, or otherwise export or re-export the Licensed Programs or any underlying information or technology except in full compliance with all United States and other applicable laws and regulations. By installing or downloading the Software, you represent and warrant that you are not located in, under the control of or a national or resident of any country on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Deny Orders. Contractor/manufacturer is BLUEWAVE COMMUNICATIONS, 3480 Highway 701 North, Conway S.C. 29528.

#### 8. WEB SITE USAGE.

Our site on the World Wide Web with its home page in the domain BluewaveNC.net or any other site operated by BLUEWAVE COMMUNICATIONS (the "Web site") is a complimentary information service offered by BLUEWAVE COMMUNICATIONS at no charge to users.

We may provide links on the Web site to other Web sites which are not under our control. In general, any Web site which has an address (or URL) which does not contain BluewaveNC.net is such a Web site. These links are provided for convenience only and are not intended as an endorsement by BLUEWAVE COMMUNICATIONS of the organization or individual operating the Web site or a warranty of any type regarding the Web site or the information on the Web site.

You may provide a hypertext link to our Web site on another Web site, provided that: (a) the link must be clearly marked "BLUEWAVE COMMUNICATIONS", (b) the link must "point" to the URL "http://www.BluewaveNC.net" and not to any other pages within the Web site, (c) the appearance, position and other aspects of the link may not be such as to damage or dilute the goodwill associated with our name and trademark(s), (d) the appearance, position and other aspects of the link may not create the false appearance that an entity is associated with or sponsored by BLUEWAVE COMMUNICATIONS, (e) the link, when activated by a user, must display this Web site full-screen and not within a "frame" on the linked Web site, and (f) BLUEWAVE COMMUNICATIONS may, in its sole discretion, revoke consent to link to our web site at any time. All other hypertext links to the Web site must be approved in writing by BLUEWAVE COMMUNICATIONS.

Some portions of the Web site are made available for the free exchange of ideas by participants and are not regularly monitored nor moderated by BLUEWAVE COMMUNICATIONS. BLUEWAVE COMMUNICATIONS assumes no responsibility and makes no warranty that it will undertake to screen or remove such material. You agree to hold BLUEWAVE COMMUNICATIONS harmless from all claims based upon the materials posted by others. Also, in exchange for availing yourself of the opportunity to upload or provide information to this site and any associated chat rooms or discussion areas, you will indemnify BLUEWAVE COMMUNICATIONS from any claims made by third parties regarding the material that you provide. Personal information posted by you to the Web site is posted at your own risk. BLUEWAVE COMMUNICATIONS will have no liability arising from use of that information. You shall not use the Web site to distribute or publish any advertising of goods or services, solicitations for funds, or other commercial messages. You agree that you will

not post, upload or otherwise introduce a virus or other harmful code onto the Web site. Your posting of material on the Web site or providing material to BLUEWAVE COMMUNICATIONS to use on the Web site will be deemed to be a grant by you to BLUEWAVE COMMUNICATIONS of a license to the material to include the material on the Web site and to reproduce, publish, distribute, perform, display, and transmit the material and to prepare derivative works as may be reasonably necessary to do so, and you waive all rights of attribution and integrity with respect to the material.

#### 9. TERM OF AGREEMENT.

Continued use of the Services constitutes acceptance of this Agreement and any future versions. If you are dissatisfied with the Services or any related terms, conditions, rules, policies, guidelines, or practices, your sole and exclusive remedy is to discontinue using the Services and, if you are a Subscriber, to terminate your account.

#### 10. TERMINATION.

You may terminate your account at any time and for any reason by providing notice of intent to terminate to BLUEWAVE COMMUNICATIONS by: registered or certified mail, return receipt requested addressed to BLUEWAVE COMMUNICATIONS, Customer Service, PO Box 1820, Conway, SC 29528-1820; or telephone calls directed to Customer Service at 910-446-9283 (WAVE). Email termination of your basic Internet access account will not be accepted. To terminate Web Hosting and/or Business Services, you must call (843) 365-7873. Your termination will only be complete upon your receipt of a cancellation confirmation number from BLUEWAVE COMMUNICATIONS. Charges to your account will stop accruing the day BLUEWAVE COMMUNICATIONS provides you with a cancellation confirmation number. Based on your billing cycle, charges accrued prior to your termination may apply after you receive a cancellation confirmation. Email cancellation requests will not be accepted. If your account included space on BLUEWAVE COMMUNICATIONS' servers, anything stored on this space will be deleted upon termination.

Without prior notice, BLUEWAVE COMMUNICATIONS may terminate this Agreement, your password, your account, or your use of the Services, for any reason, including, without limitation, if BLUEWAVE COMMUNICATIONS, in its sole discretion, believes you have violated this Agreement, our Acceptable Use Policy, or any of the applicable user policies, or if you fail to pay any charges when due. BLUEWAVE COMMUNICATIONS may provide termination notice to you by: email addressed to your email account or by US Mail or courier service to the address you provided for the Services. All notices to you shall be deemed effective on the first (1st) calendar day following the date of electronic mailing or on the fourth (4th) calendar day following the date of first-class mailing or deposit with a commercial courier service. Sections 3, 4, 6, and 11 of this Agreement shall survive termination of this Agreement.

#### 11. JURISDICTION.

This Agreement is governed by South Carolina law without regard to conflict of law provisions. The federal and state courts located in South Carolina alone have jurisdiction over all disputes arising out of or related to this Agreement and the Services. You consent to the personal jurisdiction of such courts sitting in South Carolina with respect to such matters or otherwise between you and BLUEWAVE COMMUNICATIONS, and waive your rights to removal or consent to removal.

#### 12. MISCELLANEOUS.

This Agreement, the Acceptable Use Policy, the Privacy Policy, and BLUEWAVE COMMUNICATIONS' other user policies, posted on BLUEWAVE COMMUNICATIONS' Web

site and email services TOS constitute the entire agreement between you and BLUEWAVE COMMUNICATIONS with respect to your use of the Services. BLUEWAVE COMMUNICATIONS may revise, amend, or modify this Agreement, the Acceptable Use Policy and any other user policies and agreements, at any time and in any manner. Notice of any revision, amendment, or modification will be posted on BLUEWAVE COMMUNICATIONS' Web site (<http://www.Bluewave NC.net>) and/or on Subscriber's start pages and/or by email and/or in our various publications and mailings to Subscribers.

BLUEWAVE COMMUNICATIONS

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