

Service Agreement
La Cañada Wireless Association
Effective April 26, 2004

This Agreement is made by and between the La Cañada Wireless Association (LCWA), a nonprofit association incorporated under the laws of the State of New Mexico, and the individual or entity (Member) designated on the Membership Agreement.
General Agreement.

You and the LCWA agree that our primary mutual objective under this Agreement is to provide Internet access to you by means of shared facilities designed, acquired, housed and maintained by the members of the LCWA, including yourself, acting as unpaid volunteers for all members' mutual benefit.

The General Agreement notwithstanding the details of this agreement are as follows:

LCWA agrees:

1. To provide operational, technical, and administrative mechanisms to ensure fair and open communications between Member and the Internet, as well as among members, without discrimination as to network origin or data route, type, or content.
2. To regulate Member's network usage only to the extent necessary to provide a reliable network in a rural setting at reasonably low cost.
3. To promote the greater connectivity of LCWA and community networks.
4. To provide Member with 30 days notice by email of changes to LCWA's fees and policies.

Member Agrees:

1. To pay the membership and connection fees set by the LCWA Board of Directors.
2. To provide time and expertise, to the extent practical, should it be needed, to assist the LCWA in meeting its goals.
3. Member has received a copy of and accepts the Bylaws of the LCWA.

Service Periods. The Start of Services begins on the day your endpoint transceiver successfully communicates, in the opinions of the Member and the Technical Group, with one of the LCWA's access points. The service ends the last day of the month in which service began and shall automatically renew for successive monthly terms unless otherwise cancelled.

Connections. Your immediate connection to the wireless network is between an endpoint transceiver, which you provide at your site, and an access point transceiver, which may be provided by another Member of LCWA. Depending on the location of the nearest access point, you may be required to purchase additional equipment to support your connection. This equipment may be located at a different physical location from your residence. Other access points in the network, and their corresponding endpoint transceivers, may differ considerably from yours. Your residence may also be a relay station that allows others in the LCWA to have broadband access. You may need to purchase the equipment that will enable you to make use of LCWA services. The list of equipment, their estimated costs, and suggested vendors are available on the LCWA web site. The Technical Group may revise the list from time to time.

Limitations. The LCWA's distribution network shall be generally planned, installed, and maintained by the members of the LCWA acting as unpaid volunteers. Distribution nodes such as access points, relay points and routers shall be generally located at and in the homes of members. Therefore, the availability of Service is highly dependent on volunteers: In the absence of qualified volunteers, whether due to vacations, happenstance, or dispositions of individuals, outages may not be timely repaired; and equipment relocation due to loss of equipment sites may cause extended or permanent loss of Service to you. Degradation of established Service may be caused by obstruction of the transmission path between your site and the access point, a clear line of sight between access point and endpoint being necessary for reliable communication. Extended, permanent or temporary suspension of Service may result from termination of Internet access by the LCWA's access provider.

Rates. Rates are determined by the LCWA membership, posted on the LCWA web site, and are subject to change. Members are not required to have Internet access through the LCWA. LCWA shall notify you at least thirty days before any change (increase or decrease) in prices. In the event of a price increase, you may terminate Services and incur no termination charges by notifying the LCWA in writing at least fourteen days before the effective date of the increase. Otherwise, you are responsible for payment of fees for the Service Period at the new prices.

Payment Charges. You agree to pay all charges incurred, including all applicable sales and use taxes as well as duties or levies. You are responsible for payment of each Service Period whether or not Service is continuously provided throughout the Period unless Internet access is generally unavailable at your wireless access point for 10 consecutive days. You shall receive credit for the full interval during which Service is unavailable. Should Service be terminated before the end of a month for which prepayment has been made, the LCWA shall refund an amount corresponding to Service Period not received less charges for unanticipated Services received.

Billing Cycle. The monthly service fee is payable on or before the fifteenth of the month prior to the Service month. Payments are credited from the account due date, not from the date the payment is received. A grace period of fifteen days from the due date is given for accounts. A late charge of \$10 may be charged if payment is not received by the end of the grace period. After thirty days without payment, the Directors may vote to suspend your membership. At the beginning of your first Service Period you will receive an invoice covering the remainder of your first month of Services, and if fewer than seven days remain in the month ending, you will receive an additional invoice for the month following. The amounts stated on both invoices are payable in fifteen days.

Invoicing. All invoicing is done by email. Approximately 15 days prior to the beginning of each month, the LCWA shall deliver an invoice to you covering anticipated Services for the month beginning and charges for unanticipated Services for the month ending. The invoice identifies the due date, the amount and the address to send payments to.

Nonpayment. The LCWA is made up of your neighbors and friends and does not maintain cash reserves to cover costs incurred when members do not pay on time. Non-payment and/or untimely payment will not only reflect badly on your standing with your fellow LCWA members, but will lead to financial hardship for the organization. The LCWA Board may take remedial action as they determine necessary as set forth in this document and in LCWA Bylaws, up to and including termination of services.

Ownership, Maintenance and Replacement of Equipment. You agree to provide, at your own expense, all necessary preparations required to comply with LCWA's installation and maintenance specifications for your site, including but not restricted to purchase, installation, and maintenance of antennas, antenna cables, grounding provisions, endpoint transceiver, and any other equipment at or extending from your site related to the use of Service.

Protection of Your Site, Equipment, Data and Service. You accept all responsibility for the installation and maintenance of any external antennas in compliance with local electrical and building codes and in a manner that will minimize lightning damage to any structure or equipment to which antennas or antenna cables are attached, even if members of the LCWA provided volunteer assistance with installation of your equipment. You provide, at your expense, adequate insurance covering antennas, antenna cables, and equipment connected to external antennas, and structures which might be affected by lightning strikes on external antennas. You arrange backup Internet access, at your expense, via a service provider if you depend on Internet access. You provide any software or equipment that you may need, at your expense, to protect data and software at your site against unauthorized access, theft or damage via the LCWA's network.

The LCWA's Acceptable Use Policy. Acceptable Use Policy (AUP) is determined by the LCWA and is subject to change. The LCWA shall notify you at least thirty days before any change in the AUP, whereupon you may terminate services and incur no termination liability by providing the LCWA with a termination request in writing at least fourteen days before the effective date of the change. You agree to abide by the current AUP and to not use Services

1. In violation of the law or in aid of any unlawful act;
2. To access, alter, or destroy any information of another by any fraudulent means or device, or to attempt to do so;
3. To interfere with or disrupt other network users, network services or network equipment, whether intentionally or not; or
4. Cause the LCWA to be in violation of contracts with its providers of network services.

You agree to be solely responsible for the content of any transmissions over the Internet by yourself and any third party who uses your facilities other than a member of the LCWA who has signed an independent agreement with the LCWA to comply with the AUP.

Relays at Your Site. If you provide a wireless relay or access point at your site for inclusion in the wireless network managed by the LCWA for the mutual benefit of its members, you agree to power all LCWA provided equipment. LCWA agrees to provide and maintain the equipment necessary to implement the relay or access point. You further agree to provide LCWA reasonable and timely access to the equipment.

Propagation of Services to Others. You agree to provide access only to members of your business or household, and your guests in that household.

Warranties. The LCWA disclaims all express and implied warranties, including the warranties of merchantability and fitness for any particular purpose.

Obsolescence of Equipment. The LCWA may from time to time upgrade its Service to comply with Internet standards or to improve the performance, availability, maintainability or coverage of its network. You agree that, beyond reasonable planning for orderly migration, the LCWA shall not be liable to you should any such upgrades cause your equipment to become obsolescent or obsolete, require modification or alteration, or otherwise affect the performance of equipment.

Control of Equipment. You agree that the LCWA may accept network management traps from your transceiver, and perform exclusive network management of your transceiver including but not limited to upgrading of endpoint firmware and disabling your transceiver if the LCWA determines that operation endpoint is disruptive to the network. Similarly, if you provide a wireless relay or access point at your site, you also agree that the LCWA may exclusively manage

your relay or access point.

Limitation of Liability. The LCWA shall not be liable, either in contract or in tort, for damage to you out of your use or inability to use Services or products provided hereunder. The LCWA shall not be liable for unauthorized access to your transmission facilities or your premise equipment; or for unauthorized access to or alteration, theft or destruction of your data files, programs, procedures or information through accident, fraudulent means or devices, or any other method, even should such access occur as a result of the LCWA's negligence. Your sole remedy for non-performance of Services under this Agreement shall be repair or replacement of Services. You waive all other rights and remedies at law or in equity. In no event shall the LCWA or its officers, agents, or members be liable under any circumstances for any other damage including lost profits, loss of data, or special, indirect, incidental, exemplary, or consequential damages, for any cause whatsoever, regardless of the form of action, even if the LCWA has been advised of the possibility of such damages to you.

The above [limitation of liability] tariff language (and any and all language which appears in this tariff addressing liability of the Company or its Customers) does not constitute a determination by the New Mexico Public Regulation Commission that a limitation of liability imposed by the Company should be upheld in a court of law. Acceptance for filing by the Commission recognizes that it is a court's responsibility to adjudicate negligence and any direct, indirect and consequential damage claims. (Findings of Fact, Conclusions of Law and Order, SCC Docket No, 96-129-TC, Para 56, May 30, 1997)."

Default. If you default, the LCWA may terminate Service and retake possession of Service Equipment (before, during or after action to recover sums hereunder), retain all payments made hereunder, and recover charges and cost that you owe as well as any other damages the LCWA may have sustained because of your default. "Default" shall mean that you have become subject to a voluntary or involuntary bankruptcy, insolvency, reorganization or liquidation proceeding; make an assignment for the benefit of creditors; admit in writing your inability to pay debts when due; or fail within ten (10) days after written notice to remedy any breach of this Agreement.

Interruption of Service. The LCWA may interrupt Service immediately after an attempt to notify you by telephone in any event where the LCWA has determined that you are in breach of the Acceptable Use Policy (AUP). Services shall be timely reinstated after the LCWA determines that the condition has been remedied.

Indemnities. You agree to indemnify the LCWA, its officers and its directors and hold such persons harmless from and against all loss, liability, damage and expense, including reasonable counsel fees, caused by:

1. Acts or omissions of you or your household, officers, employees, agents, contractors or volunteer assistants that arise out of or are caused by the construction, installation, maintenance, presence, use or removal of systems, antennas, terminal equipment or software that are or have been connected to the LCWA Services and that result in claims and demands for damages to property or for injury or death to persons including payments made under any Worker's Compensation Law or under any plan for employee disability or death benefits;
2. Claims for libel, slander, invasion of privacy or infringement of copyright, and invasion or alteration of private records or data arising from any information, data or message transmitted over the network from your facilities, and
3. Claims for infringement of patents arising from the use of equipment, software, apparatus and systems not provided by the LCWA in connection with Services.

The provisions of this Part shall remain in force for three years after your final Service Period.

General.

1. You shall not assign or transfer your Membership without the prior written consent of the LCWA.
2. The LCWA shall not be responsible for performance of its obligations hereunder if such performance was delayed or hindered by the unavailability or unwillingness of volunteer members to perform necessary duties.
3. You are responsible for assessing your own need for property, casualty, and liability insurance against all risks including but not limited to: lightning damage or injuries associated with installation and maintenance of your equipment. You shall bear the risk of loss to your equipment and agree to not make any claims against others for any such property loss.
4. This Agreement shall be governed by the laws of the State of New Mexico.
5. Should any part, section or other portion of the Agreement be found invalid, the balance of the provisions shall remain unaffected and shall be enforceable.
6. This Service Agreement together with the current Bylaws constitutes the entire agreement between the parties. The parties hereby specifically advise each other that any representations inconsistent with the terms and conditions contained herein made by any officer, agent or employee are wholly unauthorized and are specifically repudiated.