

**Hi-Plains Broadband Ltd.**  
**Terms of Service**

*Last updated: August 7, 2020*

These Terms of Service (this “Agreement”) sets out the terms and conditions on which we will provide you our Internet access service (the “Service”). For the purposes of this Agreement, “you” means the subscriber to the Service, and “we” or “us” means Hi-Plains Broadband Ltd. (“Hi-Plains”).

This Agreement is an agreement between you and Hi-Plains regarding your subscription for the Service and the use of any equipment provided by us to you for providing the Service (the “Equipment”). By signing up to receive the Service, and in using the Service, you agree to abide by this Agreement. This Agreement also incorporates and includes our privacy policy found, end user license agreement and open internet policy found at: <https://www.hiplains.co/legal> together with this Agreement, the “Customer Agreements”).

In the future, we may change the Customer Agreements. We will notify you of material adverse changes by e-mail to the e-mail address linked to your account with us, by posting notice online at [www.hiplains.co](https://www.hiplains.co), or by mailing to your billing address. Your continued use of the Service after notice of any change will be considered your acknowledgement and acceptance of the change. The most current versions of the Customer Agreements are posted at: <https://www.hiplains.co/legal>

**PLEASE BE AWARE THAT THIS AGREEMENT INCLUDES A BINDING ARBITRATION PROVISION, WHICH INCLUDES A WAIVER OF CLASS ACTIONS AND PROVISIONS FOR OPTING OUT OF ARBITRATION.**

**We will provide you the Service and customer care during the period of time that you are a subscriber.**

The Service provides you access to the Internet. Your subscription to the Service begins once the Service is activated and continues until the Service is terminated, as described below. We refer to the period of time that you receive Service as the “Service Term.” During the Service Term, you get the Equipment, on-going use of the Service itself, and tech support for your use of the Service in accordance with the Customer Agreements and your Service Package (defined below). Hi-Plains may be providing this Service as part of a market trial. The Service may be changed or cancelled as part of this trial at any time and without notice, including for reasons outside of our control.

**We will provide the Equipment for your use with the Service.**

The Service includes your use of the Equipment, which must be used to access the Service and is subject to our end user license agreement found at: <https://www.hiplains.co/legal> We have a team of professional installers who will install the Equipment at your property at which the Service will be provided (the “Premises”). In order to install the Equipment, we must have access to the Premises. You agree to allow us, including our employees, agents, and contractors, to enter the Premises as necessary at a time agreeable to you for us to install, configure, maintain, inspect, repair, and, upon termination, remove the Equipment and the Service. You warrant that you have the authority to grant us access to the Premises. We will be respectful of your Premises and try our best to not cause any cosmetic or other damages to the property. We will handle repairs to your Premises to the extent that the damages are attributable to our negligently performed work.

The Equipment must be maintained and returned in the state in which it was provided to you. You bear the risk of loss, theft, destruction, or damage to the Equipment from any cause, regardless of whether or not the Equipment is covered by our insurance. No loss of or damage to the Equipment or any part of the Equipment relieves you of any of your obligations under this Agreement. The Equipment must be returned upon termination of this Agreement. If, for any reason, you fail to return the Equipment to us upon the termination of the Service, you agree that Hi-Plains may charge you for the cost of the Equipment.

**You are responsible for the use of the Service and keeping your account information secure.**

When you order the Service, you will create an account with us. You must be of legal age to order the Service and create an account. When you complete the sign-up process, you accept this Agreement on behalf of all persons who use the Service through your account. You are solely responsible for ensuring that all other users of the Service through your account understand and comply with the terms and conditions of this Agreement.

Your account can be accessed through the username and password you provide, and it will contain important contact information where we will send you information about the Service, including usage information, account payment information, and other important notices and communications. You are responsible for creating and maintaining a secure password. You must provide accurate, current, and complete information to Hi-Plains when you create your account, and you must keep this information up-to-date at all times. You are responsible for keeping your account information secure. Do not permit or enable any use of your account or password by any person who is not a member of your household. You are responsible for the use of the Service, whether by a member of your household or an unauthorized third-party.

**The Service is for use by you and your guests at the Service location.**

You agree that only you and your authorized guests at the Premises will use the Service. You will not use the Equipment at any time at an address other than the Premises without Hi-Plains' prior written consent. You agree not to resell or permit another person to resell the Service in whole or in part.

**We will bill you monthly, and you agree to pay in full for the Service.**

The Service is provided to you at the then-current rates quoted to you during the ordering process at the time you ordered the Service (the "Fees"). Hi-Plains current rates, packages, and Internet speeds can be found at: <https://www.hiplain.co> ("Service Packages"). You agree to pay us in advance in full for each month of the Service Contract (as defined below). You will make the first payment when the Service has been activated. We will then automatically charge you on or about the first of every following month until the Service is terminated, as described below.

You must notify us of any disputed payments within 60 days of the charge appearing on your credit card or bank account statement, or such longer period of time as may be required by applicable law. After such date, you waive all disputes and claims for which you have not provided us notice. Your obligation to pay for the Service continues even if the Service is unavailable or its quality is degraded, except in the case of certain service outages described below. Any late payments that you make will first be applied to offset amounts you owe to us. If you fail to pay the full amount due for any charges then we, at our sole discretion in accordance with and subject to applicable law, may suspend or disconnect the Service

without a reduction in the amounts you owe us. In order to resume the Service, we may require you to pay the past due charges in full together with any fees, charges, and assessments we have imposed, including any applicable reconnection fee.

**We may charge you fees, charges, and assessments for late or non-payment.**

We do not extend credit to our subscribers. We may bill you fees, charges, and assessments related to late or non-payment for the Service. These fees, charges, and assessments are liquidated damages intended to be a reasonable advance estimate of our costs resulting from your late or non-payment because we cannot know in advance the actual costs that we may incur as a result of your failure to pay. If we incur collection or other legal costs as a result of non-payment, you agree to pay us for the total past due amount and the costs of collection. These costs include, but are not limited to, any collection agency's fees, reasonable attorneys' fees, and arbitration or court costs upon judgment.

**You authorize us to charge the credit or debit card number you provided for your monthly Service.**

When you provide a credit or debit card number or other payment information to us to pay for the Service, you authorize us to charge that credit card or debit card or other account information for all amounts payable by you for ongoing charges until you notify us in writing that you are withdrawing this authorization or until you have paid all amounts you owe us under this Agreement. If we do not receive payment from your card issuer or its agents, you agree to pay all amounts due upon demand. We may charge fees for all debit, bank card, or credit card charge-backs. If you would like to know the current charge-back fees we may charge, please contact us as described below. We reserve the right to change our charge-back fees. Do not attempt to place an order or make a payment to us with an expired, false, or unauthorized credit or debit card. We reserve the right to terminate your account immediately without notice upon the rejection of any credit or debit card charges, or non-payment by your financial institution.

**Depending on the Service Package that you have chosen, you may be receiving certain products or services from third parties.**

Certain of our Service Packages include bundled offerings that provide you with the Service and certain third party products or services made available by third party service providers for a single, bundled rate ("Third Party Products or Services"). As a convenience to you, we may from time to time act as an intermediary that accepts payment for such Third Party Products or Services on behalf of such third party product or service provider. Notwithstanding anything to the contrary contained in a Customer Agreement, Third Party Products or Services are not under our control, and we are not responsible for any Third Party Products or Services. Your use of Third Party Products or Services are at your own risk, and you should apply a suitable level of caution and discretion in doing so. If your Service Package includes Third Party Products or Services, the applicable third party's terms and policies apply with respect to such Third Party Product or Service. Before agreeing to a Service Package that includes any Third Party Products or Services, you should read and review the terms and conditions that apply with respect to such Third Party Products or Services.

You hereby release and forever discharge Hi-Plains (and our officers, employees, agents, successors, and assigns) from, and hereby waive and relinquish, each and every past, present and future dispute, claim, controversy, demand, right, obligation, liability, action and cause of action of every kind and nature (including personal injuries, death, and property damage), that has arisen or arises directly or indirectly

out of, or that relates directly or indirectly to, your interactions with Third Party Products or Services and the acts or omissions of third party product or service providers.

**If we fail to provide the Service to you, unless for reasons out of our control, you can get a refund.**

We do our best to provide reliable Service. However, sometimes things happen outside of our control. Unless otherwise required by law, if there is a complete failure of the Service for 24 consecutive hours or more, excluding any interruption that is scheduled or due to a power outage, inclement weather, or any other event of Force Majeure, as such term is defined below, you are entitled, upon request, as your sole and exclusive remedy, to a prorated credit of monthly recurring charges for affected Service for the period that such failure continues beyond 24 hours. Unless otherwise specifically provided by law, you must request credit for Service interruptions within 30 days.

**We employ limited network management techniques to provide the best possible service to all customers.**

Our open internet policy can be found at: <https://www.hiplains.co/legal> explains in detail our neutral management of our network. We do not prioritize any content, application, or service. We do not block access to any legal content, application, or service. We do not cap the amount of data you may use. We do not inspect and collect the contents of the data packets that transit through our network. We do not throttle specific content, applications, and services. We do not prohibit you from attaching non-harmful devices to your connection. We may take minor steps to manage our network. Despite our efforts, we cannot guarantee any particular amount of bandwidth on the Service or that any speed or throughput of your connection will be available at all times. The speed of the Service will vary depending upon a number of factors, including your computer system(s) and associated equipment, Internet traffic, and other factors such as system capacity limitations, governmental actions, events beyond Hi-Plains' control, and system failures, modifications, upgrades, and repairs. Accordingly, we cannot guarantee that the Service will meet your requirements or expectations or will be uninterrupted, timely, secure, or error free.

**As a subscriber of the Service, you agree to the terms of use listed below.**

You agree not to use or permit any other person to use the Service, directly or indirectly, for any purpose that is unlawful, tortious, abusive, or otherwise breaches the terms of this Agreement, including, but not limited to:

- the transmission of software viruses or other harmful computer code, files or programs, or circumventing, disabling or otherwise interfering with security-related features of the Service or Equipment;
- the collection or harvesting of any third party's personally identifiable information without authorization from such individual or the invasion of the privacy or other rights of any third party;
- the removal, alteration, or obscuring of any copyright, trademark or other startup messages or proprietary notices from the Equipment or Service;
- any activity or use of the Service which violates system or network security or integrity are prohibited and may result in criminal and civil liability;

- the unauthorized access to or use of data, systems, or networks, including any attempt to probe, scan, or test the vulnerability of a system or network, or to breach security or authentication measures without express authorization of the owner of the system or network;
- any unauthorized monitoring of data or traffic on any network or system without express authorization of the owner or network;
- interfering with Internet service to any user, host, or network, including but not limited to mail bombing, flooding, or denial of service attacks;
- modifying or tampering with any hardware, software, or configuration provided by Hi-Plains;
- reselling or otherwise redistributing the Service; disrupting, degrading, or otherwise adversely affecting Hi-Plains' network, the Equipment, or other equipment owned by Hi-Plains or other Hi-Plains customers;
- transmitting unsolicited bulk or commercial messages, commonly known as 'spam,' distributing in any way information, software, or other material obtained through the Service or otherwise that is protected by copyright or other proprietary right, without obtaining any required permission of the owner;
- hosting public servers of any kind or using static IPv4 IP addresses; and using the Service in a manner that substantially affects our ability to provide Internet service to our other customers.

**There are risks involved in using the Internet. While we strive to make our network secure, we recommend you take steps to protect your devices and information.**

When you use the Service to access the Internet or any other online network or service, there are certain risks that may enable other Internet users to gain access to or use of your equipment and information.

You should take all appropriate security measures when using the Service. You assume sole responsibility for your equipment when you use it in conjunction with the Service, and for providing and configuring any 'firewall' or security measures to prevent damage from viruses, malware, or other similar malicious items. You are solely responsible for the effectiveness of these blocking and filtering technologies. We do not warrant that others will be unable to gain access to your computer(s) and/or data, nor do we warrant that your data or files will be free from computer viruses or other harmful components, even if you utilize blocking and filtering technologies. We have no responsibility and assume no liability for the protections you may employ nor for any damages that may arise from accessing the Internet.

**You are agreeing to an initial 36-month service contract.**

The Service is offered to you with an initial 36-month Service commitment (the "Service Contract"). You agree to maintain the Service for the entire Service Contract. If you or us terminate the Service before the end of the Service Contract, you will be required to pay an early-termination charge equal to 100% of the monthly Fees multiplied by the number of months remaining in your Service Contract (the "Early Termination Charge"). For purposes of this Section, moving outside of our service territory or changing your internet service provider is considered termination of the Service. The Early-Termination Charge is not a penalty. Rather, it is an offset or recovery of our costs related to early termination and the discounted pricing that we can offer because of the Service Contract. We may waive the early-termination charge if you move or upgrade Service in our sole discretion. After the Service Contract, Service will continue month-to-month until terminated by you or by Hi-Plains.

**We each have a right to terminate the Service.**

You may terminate this Agreement and your use of the Service at any time and for any reason by contacting customer care through your account. You will be responsible for paying any outstanding amounts owed on your account through the date of termination including, if applicable, the Early Termination Charge.

We may terminate this Agreement, your password, your account, and/or your use of the Service, without notice and for any reason, including, without limitation, if you fail to pay any charges when due or if we believe you or someone using your account has violated this Agreement. Hi-Plains may, but is not obligated to, send notice of any violations to you before termination. When an account with us has been terminated or suspended, the reactivation of the old account or the acquisition of a new account will only be allowed by the express approval of Hi-Plains and is subject to applicable charges.

If the Service is terminated by you or Hi-Plains on any day other than the last day of your applicable billing cycle, your payment for that month of the Service will not be prorated or refunded and your Service will continue to be available through the end of the applicable billing cycle.

**You will return the Equipment to us upon the termination of the Service.**

Upon termination of the Service, you agree to (1) arrange for Hi-Plains (including a Hi-Plains employee, agent, or contractor) to collect the Equipment or (2) return the Equipment to us in accordance with the instructions below within 15 days of the date that the Service is deactivated. You may return the Equipment to us using the United States Post Office or any nationally recognized overnight carrier (for example FedEx or UPS) and sent 'Collect on Delivery' (C.O.D.) to:

*Hi-Plains Broadband Ltd.  
17601 US Highway 34  
Fort Morgan, CO 80701*

If you fail to return or arrange for our collection of the Equipment, then you agree that we may charge your credit or debit card for the cost of the Equipment and, in that event, you are not obligated to return the Equipment to us.

**WE DISCLAIM ALL WARRANTIES.**

YOU EXPRESSLY AGREE AND UNDERSTAND THAT YOUR USE OF THE SERVICE AND THE EQUIPMENT IS AT YOUR SOLE RISK. THEY ARE PROVIDED ON AN 'AS IS' AND 'AS AVAILABLE' BASIS WITHOUT WARRANTIES OR GUARANTIES OF ANY KIND. HI-PLAINS AND OUR EMPLOYEES EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF TITLE MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES IMPLIED BY A COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES, AND ACCORDINGLY THIS MAY NOT APPLY TO YOU DEPENDING ON YOUR LOCATION.

**There is a limitation to our liability to you under this Agreement.**

THIS LIMITATION OF LIABILITY APPLIES TO ANY ACTS, OMISSIONS, AND NEGLIGENCE OF HI-PLAINS AND ITS THIRD-PARTY SERVICE PROVIDERS, AGENTS AND SUPPLIERS, AND EACH OF THEIR RESPECTIVE OFFICERS, EMPLOYEES, AGENTS, CONTRACTORS, AND REPRESENTATIVES.

UNDER NO CIRCUMSTANCES WILL HI-PLAINS BE LIABLE TO YOU FOR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE SERVICE OR ANY ACTS OR OMISSIONS ASSOCIATED WITH THE SERVICE, INCLUDING ANY ACTS OR OMISSIONS BY THIRD-PARTY SERVICE PROVIDERS, AGENTS, OR SUBCONTRACTORS OF HI-PLAINS, OR RELATING TO ANY SERVICES FURNISHED, WHETHER SUCH CLAIM IS BASED ON BREACH OF WARRANTY, CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, AND REGARDLESS OF THE CAUSES OF SUCH LOSS OR DAMAGES OR WHETHER ANY OTHER REMEDY PROVIDED IN THIS AGREEMENT FAILS. OUR ENTIRE LIABILITY AND YOUR EXCLUSIVE REMEDY WITH RESPECT TO THE USE OF THE SERVICES OR ANY BREACH BY US OF ANY OBLIGATION WE MAY HAVE UNDER THIS AGREEMENT OR APPLICABLE LAW, IS YOUR ABILITY TO TERMINATE THE SERVICE OR TO OBTAIN THE REPLACEMENT OR REPAIR OF ANY DEFECTIVE EQUIPMENT PROVIDED BY US. IN NO EVENT WILL OUR LIABILITY TO YOU FOR ANY CLAIM ARISING OUT OF THIS AGREEMENT EXCEED THE AMOUNT PAID BY YOU DURING THE PRECEDING 6 MONTH PERIOD.

SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OF CERTAIN LIABILITIES, AND ACCORDINGLY THIS MAY NOT APPLY TO YOU DEPENDING ON YOUR LOCATION.

**You agree to indemnify Hi-Plains.**

Except as otherwise expressly set forth in this Agreement, you agree to defend, indemnify, and hold us harmless from claims or damages relating to or arising out of your breach of this Agreement or your and your users' use of the Service or any Equipment, including but not limited to any claims or damages arising out of (1) postings made using the Service, including for defamation, copyright, trademark, or other proprietary right infringement or otherwise or (2) third-party claims caused by your violation of the Customer Agreements or other Hi-Plains policies. You agree that we are not responsible for any third-party claims against us that arise from your use of the Service or the Equipment. Further, you agree to reimburse us for all costs and expenses related to the defense of any such claims.

**We may make changes to the Service. We will notify you in advance of any material adverse changes.**

Subject to applicable law, any express exceptions that we agree to in writing when you subscribe to the Service, and the monthly Fees and the target Internet speeds agreed to by each of us during your Service Contract, we may, at any time and periodically:

- Institute new or increase or otherwise change existing fees and charges for the Service;
- Modify, supplement, or replace the terms, policies, practices, and procedures relevant to the Service;
- Make changes affecting Equipment or our or our licensed software;
- Institute new or change the existing features, functions, characteristics, and specifications of the Service, including by instituting or changing limits and restrictions that affect Service features and functions, such as changing upstream or downstream speed, limiting usage of bandwidth or other resources, or imposing additional charges if limits are exceeded; and changing the

number, kinds, or parameters of included features or services, such as the amount of bandwidth that may be used in a given level of Internet access service;

- Make any other change relating to any Service contemplated or not expressly prohibited by this Agreement or applicable law.

We will give you advance notice of any such changes that materially and adversely affect your rights or obligations under this Agreement by e-mail to the e-mail address you provide to us, by posting notice online at Hi-Plains.com, or by a mailing to your billing address.

Your continued use of the Service after the effective date and following notice of any such change will be deemed your acceptance of that change.

#### **We may communicate with you by e-mail.**

We will provide you with notices consistent with applicable law. We may send any required or desired notice under the Customer Agreements to your physical address of record by hand delivery, U.S. postal service, or overnight courier. Alternatively, we may send notice by e-mail to the e-mail address you provide to us. We may also provide notice by posting information on our website. You agree that any one of the foregoing will constitute sufficient notice. You agree to regularly check your mail, e-mail, and all postings on our website and bear the risk of failing to do so.

#### **We protect our own and others' intellectual property rights.**

You acknowledge that use of the Service does not give you any ownership or other rights in any Internet/on-line addresses provided to you, including, but not limited to, Internet Protocol (IP) addresses, e-mail addresses, and Web addresses. We may modify or change these addresses at any time without notice and without compensation to you for these changes. Upon termination of your Service account, we reserve the right to delete or remove permanently any or all addresses associated with your account.

You will not use, or allow others to use, the Service to send or receive, or otherwise use any information which infringes the patents, trademarks, copyrights, trade secrets, or proprietary rights of any other person or entity. This includes, but is not limited to, digitization of music, movies, photographs, or other copyrighted materials or software. You must obtain appropriate authorization from the appropriate persons or entities prior to sending, receiving, or using copyrighted materials. We assume no responsibility, and you assume all risks, regarding the determination of whether any material is in the public domain or may otherwise be used by you in the way that you intend to use it. Hi-Plains reserves the right in our sole discretion to suspend or terminate the accounts of repeat copyright infringers.

#### **YOU AGREE TO BINDING ARBITRATION AND WAIVER OF JURY TRIAL**

*PLEASE READ THIS SECTION CAREFULLY. IT REQUIRES RESOLUTION OF DISPUTES THROUGH ARBITRATION INSTEAD OF COURT TRIALS AND CLASS ACTIONS. ARBITRATION IS FINAL AND BINDING AND SUBJECT TO ONLY VERY LIMITED REVIEW BY A COURT.*

1. **Purpose.** If you have a Dispute (as defined below) with Hi-Plains that cannot be resolved, you or we may elect to arbitrate that Dispute in accordance with the terms of this provision rather than litigate the Dispute in court. Arbitration means you will have a fair hearing before a neutral

arbitrator instead of in a court by a judge or jury. Proceeding in arbitration may also result in limited discovery. An arbitration award is subject to limited review by a court.

- 2. Definitions.** The term “Dispute” means any dispute, claim, or controversy between you and Hi-Plains regarding any aspect of your relationship with us, whether based in contract, statute, regulation, ordinance, tort (including, but not limited to, fraud, misrepresentation, fraudulent inducement, negligence, or any other intentional tort), or any other legal or equitable theory, and includes the validity, enforceability, or scope of this arbitration provision. For purposes of this Agreement, “Dispute” is to be given the broadest possible meaning that will be enforced.
- 3. Right to Opt Out.** IF YOU DO NOT WISH TO BE BOUND BY THIS ARBITRATION PROVISION, YOU MUST NOTIFY HI-PLAINS IN WRITING WITHIN 30 DAYS FROM THE DATE THAT YOU AGREE TO THIS AGREEMENT. YOUR WRITTEN NOTIFICATION TO HI-PLAINS MUST INCLUDE YOUR NAME, ADDRESS, AND HI-PLAINS ACCOUNT NUMBER AS WELL AS A CLEAR STATEMENT THAT YOU DO NOT WISH TO RESOLVE DISPUTES WITH HI-PLAINS THROUGH ARBITRATION. YOUR DECISION TO OPT OUT OF THIS ARBITRATION PROVISION WILL HAVE NO ADVERSE EFFECT ON YOUR RELATIONSHIP WITH US OR THE DELIVERY OF SERVICES TO YOU BY US. IF YOU HAVE PREVIOUSLY NOTIFIED US OF YOUR DECISION TO OPT OUT OF ARBITRATION, YOU DO NOT NEED TO DO SO AGAIN.
- 4. Restrictions:**

  - a. TO THE EXTENT PERMITTED BY APPLICABLE LAW AND REGARDLESS OF ANY STATUTE OR OTHER LAW TO THE CONTRARY, YOU MUST CONTACT US WITHIN 1 YEAR OF THE DATE OF THE OCCURRENCE OF THE EVENT OR FACTS GIVING RISE TO A DISPUTE (EXCEPT FOR BILLING DISPUTES WHICH ARE SUBJECT TO ANOTHER SECTION OF THIS AGREEMENT), OR YOU WAIVE THE RIGHT TO PURSUE ANY CLAIM BASED UPON SUCH EVENT, FACTS, OR DISPUTE.
  - b. ALL PARTIES TO THE ARBITRATION MUST BE INDIVIDUALLY NAMED. THERE SHALL BE NO RIGHT OR AUTHORITY FOR ANY CLAIMS TO BE ARBITRATED OR LITIGATED ON A CLASS ACTION OR CONSOLIDATED BASIS OR ON BASES INVOLVING CLAIMS BROUGHT IN A PURPORTED REPRESENTATIVE CAPACITY ON BEHALF OF THE GENERAL PUBLIC (SUCH AS A PRIVATE ATTORNEY GENERAL), OTHER SUBSCRIBERS, OR OTHER PERSONS SIMILARLY SITUATED UNLESS THE STATUTE UNDER WHICH YOU ARE SUING PROVIDES OTHERWISE.
  - c. ALL PARTIES WAIVE ANY CLAIM TO INDIRECT, CONSEQUENTIAL, PUNITIVE, EXEMPLARY, OR MULTIPLIED DAMAGES ARISING FROM OR OUT OF ANY DISPUTE WITH HI-PLAINS UNLESS THE STATUTE UNDER WHICH THEY ARE SUING PROVIDES OTHERWISE.
- 5. Procedures.** The arbitration will be administered by the American Arbitration Association in accordance with the Consumer Arbitration Rules then in effect, except as modified by this Section. The Federal Arbitration Act will govern the interpretation and enforcement of this section. The arbitrator will have exclusive authority to resolve any dispute relating to arbitrability and/or enforceability of this arbitration provision, including any unconscionability challenge or any other challenge that the arbitration provision or the Customer Agreements are void, voidable or otherwise invalid. The arbitrator will be empowered to grant whatever relief would be available in court under law or in equity. Any award of the arbitrator(s) will be final

and binding on each of the parties and may be entered as a judgment in any court of competent jurisdiction.

6. **Severability.** If any clause within this arbitration provision is found to be illegal or unenforceable, that clause will be severed from this arbitration provision, and the remainder of this provision will be given full force and effect. If the class action and class arbitration waiver is found to be illegal or unenforceable, the entire arbitration provision will be unenforceable, and the Dispute will be decided by a court. In the event this entire provision is determined to be illegal or unenforceable for any reason, or if a claim is brought in a Dispute that is found to be excluded from the scope of this arbitration provision, YOU AND HI-PLAINS EACH HEREBY AGREE TO WAIVE, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY TRIAL BY JURY.
7. **Survival.** This arbitration provision will survive the termination of the Service and your account with Hi-Plains.

**We are not liable for any delay or failure of performance of the Service due to a Force Majeure event.**

We will not be liable to you for any delay or failure of performance of the Service or Equipment due to causes beyond our control, including, but not limited to 'acts of God', fire, flood, explosion, or other catastrophes; any law, order, regulation, direction, action, or request of the United States government or of any other government, including state and local governments having or claiming jurisdiction over Hi-Plains, or of any department, agency, commission, bureau, corporation, or other instrumentality of any one or more of these federal, state, or local governments or of any military authority; preemption of existing service in compliance with national emergencies, acts of terrorism, insurrections, riots, wars, unavailability of rights-of-way, material shortages, strikes, lockouts, or work stoppages. For the purposes of this Agreement, we refer to any of these events as an event of "Force Majeure."

**This Agreement contains all of the terms and conditions that relate to our relationship. The terms of this Agreement are governed by Colorado law. You may not assign this Agreement to a third party.**

**Entire Agreement.** This Agreement and the other Customer Agreements incorporated by reference herein constitute the entire agreement and understanding between you and Hi-Plains with respect to the subject matter of this Agreement and the other Customer Agreements, and supersede and nullify all prior written or verbal understandings, promises, agreements, or undertakings with respect to the Service. If any term or condition of a Customer Agreement shall be adjudicated or determined as invalid or unenforceable by a court, tribunal, or arbitrator with appropriate jurisdiction over the subject matter, the remainder of such Customer Agreement with respect to such claim shall not be affected and shall remain valid and enforceable to the fullest extent permitted by law. Hi-Plains does not waive any provision or right if it fails to insist upon or enforce strict performance of any provision of a Customer Agreement. Neither the course of conduct between you and us, nor trade practice, shall act to modify any provision of a Customer Agreement.

**Governing Law.** The Customer Agreements will be governed by the laws of the state of Colorado without giving effect to any conflict of laws provisions.

**Assignment.** The Customer Agreements and the Service and Equipment furnished under the Customer Agreements may not be assigned by you. You agree to notify us immediately of any changes of

ownership or occupancy of the Premises. We may freely assign our rights and obligations under the Customer Agreements with or without notice to you.

**You may contact us by phone, e-mail, or mail.**

For any inquiries or notices required in connection with the Customer Agreements, you may contact us as follows:

**By phone:**

+1-970-473-0200

**By e-mail:**

Customercare@hiplains.co

**By mail:**

Hi-Plains Broadband  
17601 US Highway 34  
Fort Morgan, CO 80701