



**Move On!
Get Spot On!
Connectivity Anywhere**

Service Level Agreement

This Agreement is made by and between Spot On Networks, LLC ("SON"), and Subscriber defined below. SON provides network wireless, wired broadband, and other services ("the Services") set forth hereunder on the terms and conditions contained herein and in any exhibits or attachments hereto. Subscriber and any person using any services provided by SON hereunder accepts the terms and conditions contained in this agreement (this "Agreement") and agrees to be bound as follows:

1. DEFINITIONS:

- (a) "Subscriber" shall mean an individual, a corporation or other legal person who incurs charges for the Services for its own use or who incurs such charges on behalf of a third party, i.e., Users.
- (b) "User" shall mean a Subscriber who uses the Services or an individual, a corporation or other legal person whose charges for Services are incurred by a third party, i.e., Subscriber.

2. SERVICE:

SON will provide Subscriber and its Users access to the Services subject to conditions generally beyond the control of SON, including, without limitation, the type and condition of the equipment (personal computer, modem, etc.) of Subscriber and/or its Users.

- (a) **NETWORK AVAILABILITY:** SON guarantees that the Service will be available 99.9% as calculated on a calendar month basis. Service may be temporarily unavailable or curtailed due to planned equipment modifications, upgrades, relocations, repairs and similar activities necessary for the proper operation of the Services. Notification of planned outages will be provided to affected Subscribers and Users. Planned outages are not included in the network availability calculation. If SON does not achieve the guaranteed network availability level as calculated for a calendar month, SON will credit the User for each cumulative reported hour of unavailability one day (3.3%) of the monthly charge for the affected month.
- (b) **NETWORK LATENCY:** SON guarantees that the maximum network latency, calculated as the average round trip transmission delay is 150 milliseconds. Network latency measurements are derived from NTP requests sent between routers located within regional network hubs. If SON does not achieve the guaranteed network latency level as calculated for a calendar month, SON will credit the User 10% of the monthly charge for the affected month.

3. PRICE:

Subscriber shall pay for services as agreed to in the subscription agreement with SON.

4. PAYMENT:

Subscriber shall be billed on a monthly basis. Payment is due within fifteen (15) days of invoicing, and payment shall be deemed to have been made when received by SON.

5. CREDIT:

There shall be no credits, reductions, or setoffs against the charges for the Services unless a disruption of the Services exceeds the thresholds set forth in Section 2 hereof. Users must apply in writing to receive credits. Credits provided by SON shall not be cumulative for any single failure.

6. LIMITATION OF LIABILITY:

For purposes of this Section 6, the term "SON" shall include subcontractors of SON. SON shall not be liable for interruptions caused by failure of equipment or services not provided by SON, failure of communications, power outages, atmospheric conditions or other interruptions not within the reasonable control of SON, except to the extent that SON acts in a commercially unreasonable manner, or performance deficiencies caused by or contributed to by Subscriber, or any of its Users and/or their equipment or network. SON shall not be liable for any claim by or against Subscriber or any of its Users arising out of or related to (i) alteration, theft or destruction of any computer programs, information, data files, procedures or other property of Subscriber or any of its Users; (ii) any losses or damages Subscriber or any of its Users may suffer in connection with the use or inability to use the Services; or (iii) any data, materials or other information transmitted to or received by Subscriber or any of its Users, or the intended recipient of Subscriber or any of its Users that are lost or improperly intercepted via the Internet. SON shall not be liable if changes in operation, procedures, or services require modification or alteration of the equipment or network of Subscriber or any of its Users, which renders the same obsolete or otherwise adversely affects its performance. SON shall not be liable for any claim arising from any content accessed by, or in connection with the Services. SON shall not be liable for any incidental, special, consequential, or punitive damages including, without limitation, loss of profits, loss of business or business opportunity, loss of use, etc. SON's sole liability for actual proven damages for any cause whatsoever, including, without limitation, any failure of or disruption of the Services, regardless of the form of action, whether in contract or in tort or otherwise, shall be limited to an amount equivalent to charges payable by Subscriber under this Agreement for the Services during the period such damages occur. SON MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, WITH RESPECT TO THE SERVICES PROVIDED PURSUANT TO THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. NO REPRESENTATION OR STATEMENT MADE BY SON OR ANY OF ITS AGENTS OR EMPLOYEES, ORAL OR WRITTEN, INCLUDING, WITHOUT LIMITATION, ANY SPECIFICATIONS, DESCRIPTIONS OR STATEMENTS PROVIDED OR MADE BY SON TO SUBSCRIBER, ANY END-USER OR ANY SERVICE USER SHALL BE BINDING UPON SON AS A WARRANTY OR OTHERWISE. SON MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, WITH RESPECT TO THE CONTENT, QUALITY OR ACCURACY OF THE INFORMATION PASSING THROUGH THE SERVICE. USE OF ANY INFORMATION OBTAINED ON OR THROUGH THE SERVICE IS AT THE RISK OF SUBSCRIBER, ANY END-USER AND ANY SERVICE USER OR THE RISK OF THEIR RESPECTIVE AFFILIATES. SON SPECIFICALLY DISCLAIMS ANY RESPONSIBILITY FOR THE ACCURACY OR QUALITY OF ANY INFORMATION OBTAINED ON OR THROUGH THE SERVICE.

8. INDEMNITY:

Subscriber and its Users shall indemnify and hold harmless SON and its directors, officers, employees and agents (collectively, the "Indemnified Parties") from and against any loss, cost, claim, liability, damages, or expenses (including, without limitation, reasonable attorney's fees and disbursements) relating to or arising out of any claim by any third party in connection with the use of the Services by Subscriber, any of its Users, or any of their personnel, whether or not Subscriber or such User has knowledge of or has authorized such access or use, including, without limitation, claims for libel, slander, invasion of privacy, infringement of copyright, patent infringement (where Subscriber or User has used, connected, or combined the Service with the products or services of others), negligence, or tortious behavior. Further, Subscriber and its Users shall indemnify and hold harmless the Indemnified Parties, together with such other parties from whom SON obtains network services, from any claims resulting from the use of the Services by Subscriber or its Users that damage another party or that violate applicable law.

- 9. DEFAULT:** Upon a default hereunder by Subscriber or any of its Users, SON may, in its sole discretion, with prior notification to Subscriber, but not necessarily to any User, and without limiting its remedies or incurring any liability to Subscriber or any User, either temporarily discontinue or permanently terminate the furnishing of the Services to Subscriber or any User, as applicable. For the purposes of this Agreement, a "default" shall be the failure of Subscriber or a User, as the case may be, to comply with any term of this Agreement, including without limitation, failure to comply with the Acceptable Use Policy, Terms and Conditions and Wireless Internet Policy. In the event the equipment or network of Subscriber or any of its Users is used with the Services provided by SON in violation of any of the provisions herein, SON will notify Subscriber and the relevant Users and take such action as is necessary for the protection of the Services for use by its other customers. Subscriber and each User agree to discontinue such use of the equipment or correct the violation immediately and shall confirm in writing to SON within five (5) days that such use has ceased or that the violation has been corrected, and failure by Subscriber or such User to take such steps shall result in the disconnection by SON of Subscriber's or such User's Services, without any credit allowance, until such time as Subscriber or such User complies with the provisions hereof. SON reserves the right to charge a reconnection fee for any discontinued Service that is subsequently reconnected.

10. EQUIPMENT:

Subscriber and each of its Users shall be responsible for the proper operation and maintenance of their own equipment.

11. RESOLUTION OF DISPUTES:

- (a) The parties desire to resolve disputes arising out of this Agreement without litigation. Accordingly, except for action seeking a temporary restraining order or injunction related to the purposes of this Agreement, or suit to compel compliance with this dispute resolution process, the parties agree to use the following alternative dispute resolution procedure as their sole remedy with respect to any controversy or claim arising out of relating to this Agreement or its breach.
- (b) At the written request of a party, each party will appoint a knowledgeable, responsible representative to meet and negotiate in good faith to resolve any dispute arising under this Agreement. The location, format, frequency, duration, and conclusion of these discussions shall be left to the discretion of the representatives. Upon agreement, the representatives may utilize other alternative dispute resolution procedures such as mediation to assist in the negotiations. All negotiations conducted before or during mediation, all statements made during mediation sessions, all documents prepared specifically for mediation sessions, and all statements and decisions by the mediator shall be kept confidential and shall be treated as compromise and settlement negotiations and shall be inadmissible as evidence for any purpose in any subsequent proceeding.
- (c) If the negotiations do not resolve the dispute within 60 days of the initial written request, the dispute shall be submitted to binding arbitration by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association. A party may demand such arbitration in accordance with the procedures set out in those rules. Discovery shall be determined by mutual agreement of the parties. The arbitration hearing shall be commenced within 60 days of the demand for arbitration. The arbitration shall be held in New Haven, CT. The arbitrator shall control the scheduling so as to process the matter expeditiously. The parties may submit written briefs. The arbitrator shall rule on the dispute by issuing a written opinion within 30 days after the close of hearings. The times specified in this section may be extended upon mutual agreement of the parties or by the arbitrator upon a showing of good cause. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction.
- (d) Each party shall bear its own costs in connection with attempts to resolve any dispute up through and including arbitration. The parties shall equally split the fees of mediation, the mediator, arbitration and the arbitrator.

13. MISCELLANEOUS:

This agreement shall be governed by, construed under, and enforced in accordance with, the laws (other than the conflict of laws rules) of The State of Connecticut. In the event of a conflict between this Agreement and any applicable tariff, the tariff shall prevail. If any provision of this Agreement shall be held to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this Agreement shall not be affected thereby. This Agreement embodies the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings, whether written or oral, and all contemporaneous oral agreements and understandings relating to the subject matter hereof. This Agreement is subject to modifications by any authorized regulatory agency. SON may assign this Agreement without limitation, but Subscriber may not assign this Agreement without SON's prior written consent. This Agreement shall be binding on the parties hereto and their respective personal and legal representatives, successors, and permitted assigns.