

## RECITALS

**WHEREAS**, the City has established a Wi-Fi Internet connection service (the “Service”) at and on certain park properties within the City, said service having the capability to display certain approved advertising that is not defamatory, obscene, politically partisan, or otherwise inappropriate or objectionable for the general public to view; and

**WHEREAS**, Advertiser wishes to place advertising on the Service on and in accordance with the terms agreed upon herein;

**NOW, THEREFORE**, in for the amounts set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the City agrees to allow Advertiser to place advertising on the Service under the terms and conditions as follow:

### SECTION 1

#### RATES

1.1 Rates for advertising on the Service shall be as follows:

**Rates shall be listed on the fee schedule located at [www.kennesawwifi.net](http://www.kennesawwifi.net) or by contacting WiFi at [wifi@kennesaw-ga.gov](mailto:wifi@kennesaw-ga.gov). The City may change rates subject to a thirty (30) day notice.**

### SECTION 2

#### INTENDED PURPOSE

2.1 It is the City’s intent to provide the Service as a convenience for its citizens and visitors and to allow only that advertising on the Service that promotes the economic welfare, tourism, and industry of the City. The City does not intend the Service to be a traditional, designated, or limited public forum. It is not the City’s intent to open up access to any specified group of users. Rather, it is the City’s intent to limit advertising on the Service to those that meet the intended purpose as determined on a case-by-case, ad hoc basis. Furthermore, in the exercise of the City’s police power to protect and promote the general health, safety, and welfare of its citizens and visitors, no advertising will be allowed that contains any profane, obscene, defamatory, or fraudulent material.

### SECTION 3

#### WARRANTIES AND REPRESENTATIONS

3.1 Advertiser hereby warrants and represents that no statement, claim, information, or representation in any advertisement placed on the Service contains any untrue, misleading, fraudulent, illegal, or defamatory material wording or language or any material that violates any copyright, trademark, or other intellectual property right. Advertiser hereby agrees to indemnify and hold harmless the City for any claim or cause of action arising out of any of Advertiser's advertising that is placed on the Service.

3.2 The City makes no warranties or representations regarding the effectiveness of the Service or any advertising placed on the Service. The City makes no warranties or representations regarding usage of or traffic on the Service by any third parties. Advertiser is solely responsible for evaluating and determining whether to place advertising on the Service, assuming that the City determines that such advertising meets the intended purpose of the Service as provided in Section 2 above.

## **SECTION 4**

### **USER AGREEMENT**

4.1 Advertiser hereby acknowledges and agrees that any and all users of the Service will be bound by the provisions of that certain User Agreement that is posted on the Service and that is located at [http://kennesawwifi.net/user\\_agreement.pdf](http://kennesawwifi.net/user_agreement.pdf). Advertiser further acknowledges and agrees that Advertiser shall be bound by the provisions of said User Agreement as they pertain to the Advertiser.

## **SECTION 5**

### **TECHNICAL SPECIFICATIONS**

5.1 It shall be the sole responsibility of Advertiser to create and submit ads to the City for their approval. The City accepts ads in the following formats: JPG, GIF and PNG.

Standard packages require ads that are 180 width x 150 height.

Premium packages require ads that are 630 width x 80 height.

Standard ads may contain animations or rotations provided that rotations or animations are not longer than 15 seconds

Premium ads may contain animations or rotations provided that rotations or animations are not longer than 5 seconds.

Ads will link to website addressed provided by Advertiser in the online application.

If animations or other embedded code is used, ads should be compatible with Mozilla, Firefox, Safari, and Internet Explorer on both Mac and PC.

## **SECTION 6**

### **RIGHT TO TERMINATE SERVICE**

6.1 The City reserves the right to terminate the Service or any advertising on the Service at any time when the City determines, in its sole discretion, that the Service and/or any advertising on the Service no longer conforms to the intended purpose as stated in Section 2 above or when the Service or any advertising on the service no longer promotes the general health, safety, and welfare of the citizens of the City. In the event the City to elects to terminate the Service or any advertising on the Service, Advertiser's sole remedy shall be the refunding of any amounts previously paid for advertising time on the Service that has not been provided as of the date and time of said termination.

## SECTION 7

### NOTICES AND MISCELLANEOUS

7.1 All notices, requests, demands and other communications that are required or may be given under this agreement must be in writing, via electronic communication with read receipt enabled to the address provided on the application, or per a service announcement published on <http://www.kennesawwifi.net/service.php> and will be deemed to have been duly given if delivered or mailed, by certified or registered mail, return receipt requested, to the following locations:

City of Kennesaw  
2529 J.O. Stephenson Ave  
Kennesaw, GA. 30144  
Attention: Steve Kennedy

7.2 Miscellaneous.

7.2.1 Further Cooperation.

The parties shall deliver or cause to be delivered to each other, at such other times and places as shall be reasonably agreed on, such additional instruments as any party may reasonably request for the purpose of carrying out this agreement. The parties shall cooperate on and after the effective date in furnishing information, evidence, testimony and other assistance in connection with any actions, proceedings, arrangements or disputes of any nature with respect to matters pertaining to this agreement and documentation incident and related hereto.

7.2.2 Governing Law, Jurisdiction, and Venue. This agreement, and all transactions contemplated by it, are governed, construed and enforced in accordance with the laws of the State of Georgia. For any dispute not otherwise resolved pursuant to Section 8, venue shall be in the courts of Cobb County, Georgia and the parties waive any and all objections to venue or jurisdiction therein.

7.2.3 Time of the Essence. Time is of the essence in the performance of the agreements and covenants contained in this agreement.

7.2.4 Entire Agreement. This agreement constitutes the entire agreement and supersedes all prior agreements and understandings, oral or written, between the parties with respect to the subject matter of this agreement.

7.2.5 Survival. There are no agreements, warranties, or representations, express or implied, except those expressly set forth in this agreement. All agreements, representations, and warranties contained in this agreement shall apply as of the Closing date and shall survive the Closing of this agreement.

7.2.6 Assignment. This agreement shall not be assignable by Advertiser without the written consent of the other party. Subject to this provision, this agreement shall be binding on and inure to the benefit of the successors and assigns of the parties.

7.2.7 No Third Party Beneficiary. Except as otherwise expressly provided herein, nothing in this agreement is intended to, or shall be deemed or construed to create any rights or remedies in any third party.

**WHEREFORE the parties have executed this agreement by using the SUBMIT button below**