

Terms of Service Agreement

MiBroadband and its subsidiaries (hereinafter "MIBB") are pleased to provide MIBB Service to you in accordance with these terms and conditions. This is a legal document which governs MIBB Service provided to subscribers for noncommercial use. Incorporated into this document in their entirety, by reference, are the MIBB Product Acceptable Use Policy at www.yourlocal.coop, MIBB installation documents and MIBB products and services pricing documents. Both the terms and conditions herein and any of the incorporated policies or documents may be changed from time to time, without notice. Subscriber's use of the MIBB Service shall be deemed an acknowledgment that Subscriber has read and agreed to this Service Agreement.

1. **Definitions:**

- a. **Subscriber:** Any person who uses the MIBB Service or who owns, rents, uses or resides at the premises at which the MIBB Service is located, irrespective of whether the person is named as the account holder.
- b. **Television, Computer:** An electronic device, including PDA's and cell phones, that can store, receive and process data and which has the minimum requirements necessary to operate the MIBB Service as outlined in the consumer informational literature provided by MIBB.
- c. **MIBB Equipment:** All MIBB Equipment owned by MIBB delivered to and installed by MIBB in Subscriber's home including but not limited to all digital TV equipment, remote controls, DSL wire, the modem (unless purchased separately), router and certain software necessary to receive MIBB Service.
- d. **Inside Wire:** Inside wire is the wire located inside the Subscriber's premises. If the Subscriber owns the premises, then Subscriber may purchase MIBB Wire Assurance for a monthly charge. If the Subscriber does not own the premises, then Subscriber warrants to MIBB that the Subscriber has the right to permit MIBB to use the wire.
- e. **Modem:** A device that converts and transmits computer data over DSL lines.
- f. **MIBB Service:** MIBB Service includes MIBB Digital TV, which is delivered by way of digital TV equipment and includes proprietary products of MIBB; Internet access, which is delivered over the DSL System or dial up connections and accessed by the Subscriber's personal computer; and PDA and/or Cell phone via a DSL modem or dial up connection. DSL is a best-effort service. Subscriber will be allocated bandwidth up to the bandwidth in the package selected.

2. **Services Provided:** The MIBB Service provides MIBB Digital TV, Internet access, and access to certain proprietary products of the MIBB Service. If you subscribe to either MIBB Internet access or MIBB Digital TV, you also may subscribe to services such as America Online and CompuServe (collectively referred to hereinafter as the "Other Services") and transact other forms of electronic commerce. Subscriber may incur charges while using the Other Services, while engaging in e-commerce, while accessing information online or when purchasing or subscribing to certain offerings of the Other Services. Subscriber agrees to pay and be solely responsible for all such charges, including applicable fees or taxes. **MIBB IS NOT RESPONSIBLE FOR ANY COPYRIGHT ISSUES THAT ARE ASSOCIATED WITH COMMERCIAL USE OF THE MIBB Service. ALL MIBB Services ARE SUBJECT TO ALL APPLICABLE COPYRIGHT LAWS.**

3. **Payment of MIBB Charges:** Subscriber agrees to pay the monthly rate and other applicable fees, charges, taxes, movie or video rental fees, special event rental fees, and reasonable collection costs, including attorney's fees for MIBB Service, as established from time to time by MIBB. Subscriber must pay all undisputed charges as itemized on the MIBB monthly invoice and notify MIBB in writing of disputed items within thirty (30) days of receipt of the invoice, or longer as provided by applicable law. Failure to make payment when due may result in termination of MIBB Service, the removal of all MIBB Equipment on the Subscriber's premises and the imposition of charges for both late payment and reasonable collection costs. Rates for the MIBB Service, MIBB Equipment, installation and all related services are subject to change in accordance with applicable law.

4. **Television, Computer Equipment:** Subscriber warrants that Subscriber's Television and Computer equipment meets the minimum requirements necessary to operate the MIBB Service as outlined in consumer informational literature provided by MIBB.

5. **Disruption of Service:** If Subscriber's MIBB Service is interrupted for more than twenty-four (24) consecutive hours and if Subscriber promptly notifies MIBB of such service interruption, MIBB may provide Subscriber with a pro-rata credit of the current prevailing monthly rate for such interruption. Subscriber agrees not to hold MIBB liable for incidental or consequential damages of any kind which might result from

any interruption of the MIBB Service.

6. **Repair of MIBB Equipment:** MIBB will install, repair and maintain the digital TV equipment, router or modem on the Subscriber's premises if it was installed by MIBB, is necessary for the provision of MIBB Service, is located on the premises upon which it was originally installed and if no more than 24 months has elapsed since the date of installation, subject to the following conditions and limitations: Subscriber agrees to connect the MIBB Equipment only to a 110 volt properly grounded electrical outlet and to provide continuous appropriate surge protection to all MIBB Equipment. Subscriber agrees not to connect, disconnect or tamper with the MIBB Equipment in any way. Subscriber agrees to pay MIBB for any cost incurred by MIBB for repair or replacement of any MIBB Equipment due to alteration or damage to, misuse of or tampering with the Equipment by the Subscriber, effective immediately upon installation of MIBB Service. MIBB may impose a service charge if a technician is dispatched to repair MIBB's Equipment due to Subscriber's alteration or damage to, misuse of or tampering with the Equipment if no fault is discovered in MIBB's system or MIBB Equipment. MIBB shall have the right to presume misuse or other improper operations or handling by Subscriber in the event Subscriber requests repair or replacement more than twice in any twelve (12)-month period, or more than three times in any twenty-four (24)-month period. MIBB shall have no obligation to fulfill any such repair or replacement request by Subscriber. Subscriber agrees to continuously insure the MIBB Equipment against loss by fire, water, theft, natural disasters, vandalism or other loss and Subscriber agrees to indemnify and hold harmless MIBB for any such loss. MIBB is not responsible for the maintenance or repair of Subscriber's Computer, Modem (if Subscriber-owned) or any related or connected Subscriber-owned equipment of whatever nature. MIBB makes no warranties with respect to the MIBB Equipment provided by MIBB or to whether MIBB Equipment is compatible with Subscriber's computer or television.
7. **Relocating Equipment:** MIBB's system is highly sophisticated and sensitive. Any "break" in the integrity of the DSL system will subject the system to "ingress" of radio signals, which will disrupt your service and may affect that of others. DSL modems are not "portable" and are not permitted to operate at any location other than the address that appears on the subscriber's account and as installed by MIBB. Accordingly, you agree that you will not relocate, move or in any way tamper with the MIBB Service. Notwithstanding the foregoing, upon receipt of a request by Subscriber, MIBB may relocate the MIBB Service for Subscriber within Subscriber's premises at a time mutually agreed to by MIBB and Subscriber, subject to applicable listed charges for such relocation. If the Subscriber moves outside of MIBB's service area, Subscriber shall notify MIBB promptly and this Agreement shall be terminated and the provisions of Section 14 shall apply to such termination. In all cases, Subscriber shall notify MIBB pursuant to Section 8 below.
8. **Contact Address:** For any inquiries or notices required in connection with this Agreement, Subscriber shall contact MIBB by writing to:
MiBroadband
PO Box 308
Harmony MN 55939
or alternatively by calling MIBB at
886-6422
9. **Subscriber Property:** MIBB assumes no liability for the condition or repair of any Subscriber owned equipment of any nature whatsoever, hardware or software. Subscriber is responsible for the repair and maintenance of all such Subscriber equipment, hardware and software.
10. **Taxes:** Subscriber agrees to pay any local, state or federal taxes imposed or levied on or with respect to the MIBB Service, the Other Services, the MIBB Equipment or installation or service charges incurred.
11. **MIBB's Rights:** MIBB has no obligation to monitor MIBB Service content. However, Subscriber acknowledges and agrees that MIBB has the right to monitor content electronically from time to time and to disclose any information as necessary to satisfy or comply with any law, regulation or other appropriate governmental request, to operate MIBB Service properly, or to protect MIBB or its Subscribers. In some geographic service areas where the Company receives certain types of federal high-cost universal service support, we may be required by the FCC to measure and collect information concerning the speed and latency of broadband services provided to randomly-selected subscribers. Pursuant to applicable FCC guidelines, any required testing would be accomplished by using existing network management systems and tools. The FCC has adopted requirements regarding when tests would begin, when exactly we may perform the tests, and the number of active subscriber locations we would be required to test. Once testing begins, test results must be reported and certified to the Universal Service Administrative Company (USAC) and State Commission on an annual basis. As it relates to randomly-selected subscribers, this required performance testing is in addition to the automatic testing we may do to measure or monitor performance and improve our service levels generally.

12. **Access to Subscriber Premises:** Subscriber warrants that Subscriber is the owner of, or tenant in, the premises and is authorized to enter into and perform this Agreement. Subscriber grants to MIBB, or its agents, the right to enter the premises for purposes of installing, connecting, disconnecting, inspecting, auditing, repairing, and removing any MIBB Equipment installed or services provided by MIBB. Subscriber agrees to hold MIBB harmless for any claim of damage due to installing, connecting, disconnecting, inspecting, auditing, repairing, and removing any MIBB Equipment installed or services provided by MIBB.
13. **Assignment or Transfer:** This Agreement and the MIBB Equipment supplied by MIBB are not assignable or otherwise transferable by Subscriber.
14. **Termination and Expiration:**
 - a. **Termination by Subscriber:** Unless otherwise terminated, this Agreement shall automatically renew on a month to month basis. Subscriber acknowledges that upon such renewal all pricing is subject to change at MIBB's sole discretion.
 - b. **Termination for Bankruptcy:** MIBB shall have the right to terminate this Agreement immediately in the event that Subscriber makes an assignment for the benefit of creditors, or a voluntary or involuntary petition is filed by or against Subscriber under any law having for its purpose the adjudication of Subscriber as bankrupt or the reorganization of Subscriber.
 - c. **Termination for Breach:** In the event of any breach of this Agreement by Subscriber, or the failure of Subscriber to abide by the rates, rules and regulations of MIBB, or if Subscriber uses the MIBB Service to violate any local, state or federal law, this Agreement may be, at MIBB's sole option, terminated and MIBB's Equipment removed. Failure of MIBB to remove such MIBB Equipment shall not be deemed abandonment thereof. Subscriber shall pay reasonable collection and/or attorney's fees to MIBB in the event MIBB finds it necessary to enforce collection or to preserve and protect its rights under this Agreement.
 - d. **Obligations Upon Termination:** The Subscriber agrees that upon termination of this Agreement:
 - i. Subject to 14(a), Subscriber will pay MIBB in full for Subscriber's use of the MIBB Equipment and MIBB Service up to the later of: 1) the effective date of termination of this Agreement 2) the date on which the MIBB Service has been disconnected. The Subscriber agrees to pay MIBB on a prorated basis for any use by the Subscriber of the MIBB Service for a part of a month;
 - ii. Subscriber will promptly return all MIBB Equipment to MIBB. In the event that Subscriber fails to return any MIBB Equipment within ten (10) days of the termination of this Agreement, Subscriber shall be liable to MIBB for the actual replacement cost of such MIBB Equipment, or be subject to a non-return fee, which fee shall be subject to change in accordance with applicable law.
15. **Renewal after Cancellation or Termination:** Subscriber acknowledges and agrees that in the event of renewal after cancellation or termination of MIBB Service, Subscriber shall be subject to the pricing, warranties and terms of MIBB as are effective at the time of such renewal and may be required to pay a security deposit.
16. **Change In MIBB Service:** The MIBB Service provided hereunder is subject to change in accordance with applicable law and policies of MIBB.
17. **Disclaimer:** MIBB assumes no liability for and exercises no control over the content contained in the Internet, MIBB Service and Other Services, including content that is/may be adult oriented, such as pornographic, obscene, gambling or otherwise inappropriate or offensive material and/or information. Questions about blocking such content should be directed to MIBB at the address and telephone number listed in this agreement. Further, MIBB shall not be responsible for any products, merchandise or prizes promoted or purchased through the use of the Internet, MIBB Service, or the Other Services.
18. **MIBB Network:** The MIBB Service utilizes a network that will allow bi-directional direct access to the Internet; i.e. Subscribers can directly access and respond to direct requests from Internet users outside the MIBB Service network. The Network is not intended to protect Subscribers from hackers gaining access to their Computer and as such, Subscribers must not rely on MIBB to provide such functions. MIBB shall have no liability whatsoever for any claims, losses, actions, damages, suits or proceedings resulting from, arising out of or otherwise relating to damage to the Subscriber, Subscriber's private information of any nature or the Subscriber's Computer, Television or other equipment resulting from the actions of any third party including, without limitation, hackers or computer viruses.
19. **Limitation of Liability:**

- a. Subscriber expressly agrees that the use of MIBB Services, software and MIBB Equipment, as well as the purchase, download, or use of any third-party product or service provided by or accessed through MIBB Service, is at Subscriber's sole risk and Subscriber acknowledges that this service and these materials are provided "as is" and "as available" for Subscriber's use, without warranties of any kind, whether express or implied. Neither MIBB nor any third-party provider of services or products makes any representations or warranties with respect to any product or service offered through the MIBB Service or the Other Services, and MIBB shall not be party to nor responsible for monitoring any transaction between Subscriber and third party providers of products or services.
 - b. Unless otherwise specifically provided in this Agreement, MIBB will not be liable to the Subscriber or to any third party for:
 - (i) any direct, indirect, incidental, special, punitive or consequential losses or damages, including loss of profits, loss of earnings, loss of business opportunities and personal injuries (including death), resulting directly or indirectly out of, or otherwise arising in connection with the use of MIBB Service by the Subscriber or any other use of the Other Services including without limitation, any damage resulting from or arising out of the Subscriber's reliance on or use of the MIBB Service or the Other Services, or the mistakes, omissions, interruptions, deletion files, errors, defects, delays in operation, transmission, or any failure of performance of the MIBB Service or the Other Services; and
 - (ii) any losses, claims, damages, expenses, liabilities or costs (including legal fees) resulting directly or indirectly out of, or otherwise arising in connection with, any allegation, claim, suit or other proceeding based upon a contention that the use of the MIBB Service or the Other Services by the Subscriber or a third party infringes the copyright, patent, trademark, trade secret, confidentiality, privacy, or other industrial or intellectual property rights or contractual rights of any third party. This limitation applies to the acts, omissions, negligence and gross negligence of MIBB, its officers, employees, agents, contractors or representatives which, but for this provision, would give rise to a cause of action against MIBB in contract, tort or any other legal doctrine.
20. **Multiple Users:** Subscriber acknowledges that by using the MIBB Service, Subscriber is agreeing to the terms and conditions of this Agreement on behalf of all persons who use the MIBB Service or the Other Services through Subscriber's Computer, Television or other equipment. Subscriber shall be responsible for ensuring that all Subscribers understand and comply with the terms and conditions of this Agreement. Subscriber acknowledges and agrees that the Subscriber is responsible and liable for any and all breaches of the terms and conditions of this Agreement.
21. **Prohibited Uses of MIBB Service:** Subscriber shall comply with all of MIBB's standards for acceptable use with respect to the MIBB Service and the Other Services and shall refrain from any and all illegal and/or inappropriate activities, including without limitation as outlined in the MIBB Product Acceptable Use Policy. The MIBB Product Acceptable Use Policy will be updated from time to time and the latest version will supersede all prior versions. Please check the website at www.yourlocal.coop for the most up to date MIBB Product Acceptable Use Policy and Terms of Service Agreements. All users of MIBB Services must fully comply with all copyright laws. In addition to the prohibitions outlined in the MIBB Product Acceptable Use Policy, Subscribers, without written approval from MIBB, may not:
- a. Run any type of server on the system. This includes but is not limited to FTP, IRC, SMTP, POP, HTTP, SOCKS, SQUID, DNS or any multi-user forums;
 - b. Register or point a domain, sub-domain, or host name to any MIBB IP address. Moreover, users may not have traffic redirected to the MIBB Service;
 - c. Resell, share, or otherwise distribute the MIBB Service or any portion thereof to any third party without the written consent of MIBB. For example, Subscriber may not provide Internet access to others through a dial up connection, wireless access or host shell accounts over the Internet, provide email or news service, or send a news feed.
 - d. Copy, distribute or sub license any software provided by MIBB, except that Subscriber may make one copy of each software program for back-up or archival purposes only;
 - e. FTP/HTTP. Subscriber should also be aware that when using the Computer to access files through means such as FTP (File Transfer Protocol) and HTTP (Hyper Text Transfer Protocol) Subscriber may open access to Subscriber's computer to other MIBB users and Internet users. If Subscriber chooses to make use of such applications for file retrieval, Subscriber should take the appropriate security measures. MIBB is not responsible in any manner whatsoever for such security.
22. **License Requirements:** Subscriber agrees to comply with all end user license requirements relative to any of the MIBB Service or Other Services which Subscriber accesses pursuant to the terms of this Agreement.

23. **Back-up Requirements:** The Subscriber agrees to back up all existing Computer files by compiling them to another storage medium prior to installation of the MIBB Equipment. MIBB shall have no liability whatsoever for any damage to or loss or destruction of any of Subscriber's software, files, data, or peripherals.
24. **Virus Protection:** Subscriber must have current/continuing virus protection at their sole cost.
25. **MIBB Shall not be Liable for:**
 - a. (i) Eavesdropping: Any information sent by the Subscriber over the MIBB Service network is sent at the Subscriber's sole risk, and MIBB shall have no liability whatsoever for any claims, losses, actions, damages, suits or proceedings arising out of or otherwise relating to such actions by the Subscriber.
(ii) Multiple Computer Connections: When Subscriber's Computer is connected to a DSL Modem, it constitutes a "local" segment. All Subscriber's Ethernet traffic on this local segment will be reflected by the DSL Modem in an unencrypted form onto the DSL network and be subject to eavesdropping, as previously described in subsection (a)(i) above.
(iii) File and Print Sharing: Subscriber understands that users outside the Subscriber's home may be able to access Subscriber's Computer. Further, some software includes capabilities that permit other users across a network such as MIBB and the Internet to gain access to the Subscriber's Computer and to the software, files and data stored on the Computer.
 - b. Any Subscriber who,
 - (i) chooses to participate in the MIBB Service using other than a single, stand-alone Computer connected to the local segment, if and when this capability is offered, or
 - (ii) chooses to enable capabilities such as file sharing, print sharing or other capabilities that allows users to gain access to Subscriber's Computer, hereby acknowledges and agrees that the Subscriber does so at the Subscriber's own risk.
 - c. Any copyright violations by Subscriber.
26. **Security:** See MIBB Product Acceptable Use Policy.
 - a. MIBB reserves the right to protect the integrity of its network and resources by any means it deems appropriate. This includes but is not limited to: port blocking, email virus scanning, denying email from certain domains, and putting limits on bandwidth and email.
 - b. Subscriber is solely responsible for any misuse of the MIBB Service or the Other Services, as well as for the security of any device you choose to connect to the MIBB Service, including any data stored on that device, all as detailed more fully in the MIBB Product Acceptable Use Policy.
27. **Inappropriate Content:** There may be content on the Internet or otherwise available through the MIBB Service or the Other Services which may be offensive to some individuals, or which may not be in compliance with all local laws, regulations and other rules. For example, it is possible to obtain access to content which is pornographic or offensive, particularly for children. Neither MIBB nor any of its distribution affiliates can assume any responsibility for the content contained on the Internet or otherwise available through the Other Services. You must assume the risk of accessing content through the MIBB Service; and neither MIBB nor any of its distribution affiliates shall have any liability for any claims, losses, actions, damages, suits or proceedings arising out of or otherwise relating to access to such content. Parents may want to use a program capable of restricting access to sexually explicit material on the Internet or television or programming rental. Content questions or complaints should be addressed to the content provider or MIBB at the address and telephone number listed in this Agreement. You are solely responsible for any information which you publish on the Web or other Internet services. You must ensure that the recipient of the content is appropriate. For example, you must take appropriate precautions to prevent minors from receiving inappropriate content. MIBB and its distribution affiliates reserve the right to refuse to post or to remove any information or materials, in whole or in part, that MIBB, in its sole discretion, deems to be offensive, indecent, or otherwise inappropriate regardless of whether such material or its dissemination is unlawful. By using the MIBB Service or the Other Services to publish, transmit or distribute content, a user is warranting that the content complies with this Agreement and authorizes MIBB and its distribution affiliates to reproduce, publish, distribute, and display such content worldwide.
28. **Electronic Mail:** Users must adhere to the MIBB email policies set forth in the MIBB Product Acceptable Use Policy. MIBB may, at its discretion, provide, offer for sale or subscription, or otherwise make available to Subscribers software or services for email filtering, antivirus scanning, and other email security solutions for the convenience of Subscribers. MIBB shall not be responsible for nor have any liability with regard to the email that users receive, nor for any lost or filtered email, nor for any failure to prevent virus delivery or infection. Subscriber agrees that Subscriber has been informed that the MIBB Service includes a filter that diverts commercial mass mailings ("spam") from user's inbox into a bulk mail folder. User will have 7 days to review any email diverted into the bulk mail folder, and to save or delete the email. Any email left in the

bulk mail folder for over 7 days will be deleted by MIBB. Subscriber has been informed in addition that Subscriber may opt out of this filtering service at any time by following the instructions in the User Guide. MIBB is not responsible for the forwarding of email sent to any account which has been suspended or terminated. Such email will either be returned to sender, ignored, deleted, or stored temporarily at MIBB's sole discretion. MIBB reserves the right to reclaim any and all email addresses from Subscribers whose service has been canceled or terminated, regardless of the reason for such cancellation or termination.

29. **Newsgroups:** See MIBB Product Acceptable Use Policy.
30. **Internet Relay Chat:** See MIBB Product Acceptable Use Policy.
31. **Violation of MIBB Product Acceptable Use Policy/Terms of Service:** MIBB does not routinely monitor the activity of accounts for violation of this Policy. However, in our efforts to promote good citizenship within the Internet community, we will respond appropriately if we become aware of inappropriate use of the MIBB Service. Neither MIBB nor any of its distribution affiliates has any obligation to monitor transmissions made on the MIBB Service or the Other Services. However, MIBB and its distribution affiliates have the right to monitor such transmissions from time to time and to disclose the same in accordance with these terms and conditions. You hereby authorize MIBB and its distribution affiliates to cooperate with (i) law enforcement authorities in the investigation of suspected criminal violations, and (ii) system administrators at other Internet service providers or other network or computing facilities in order to enforce this Agreement. Such cooperation may include MIBB providing the user name, IP address, or other identifying information. Upon termination of an account, MIBB is authorized to delete any files, programs, data and email messages associated with such account. The failure of MIBB or its distribution affiliates to enforce this Agreement, for whatever reason, shall not be construed as a waiver of any right to do so at any time. You agree that, if any portion of this Agreement is held invalid or unenforceable, that portion will be construed consistent with applicable law as nearly as possible, and the remaining portions of this Agreement will remain in full force and effect. This Agreement shall be exclusively governed by, and construed in accordance with, the laws of the State of Minnesota.
32. **Bandwidth, Data Storage and Other Limitations:** Subscriber agrees to comply with MIBB's bandwidth, data storage and other limitations of MIBB Service as established and modified by MIBB from time to time. Subscriber agrees that its activity will not improperly restrict, inhibit or degrade any other user's use of MIBB Service, nor represent (in the sole judgment of MIBB) an unusually large burden on the network itself. In addition, Subscriber agrees that its activity will not improperly restrict, inhibit, disrupt, degrade or impede MIBB's ability to deliver and monitor MIBB Service, backbone, network nodes, and/or other network services. Your email account is limited to 10 megabytes of storage space and to 90 days of storage. MIBB reserves the right to modify, delete, or otherwise correct any accounts that exceed either limitation. Subscribers will be allocated 5 megabytes of server space. All electronic information of any nature will only be stored by MIBB for a period of 90 days. To preserve email you do not want deleted, you can set your email account to ensure that your email is automatically stored on your computer's hard drive when you open it. Please check the Help section or the FAQ on your email client (e.g., Outlook Express) to find out how this can be done.
33. **Installation:** MIBB does not represent, warrant, or covenant that installation modifications, including installing network cards or similar computer equipment, and modification of computer files such as INI, BAT, SYS, DLL and other system configuration files will not disrupt the normal operations of the Subscriber's Computer. MIBB shall have no liability whatsoever for any damage resulting from the above or other file modifications.
34. **Amendment:** MIBB may, in its sole discretion, change, modify, add or remove portions of this Agreement at any time. MIBB may notify Subscriber of any such changes to this Agreement by posting notice of such changes on the MIBB Service, sending notice via email or postal mail, or posting the change at www.yourlocal.coop. The Subscriber's continued use of the MIBB Service following notice of such change, modification, or amendment shall be deemed to be the Subscriber's acceptance of any such modification. If Subscriber does not agree to any modification of this Agreement, Subscriber must immediately cease using the MIBB Service and notify MIBB that Subscriber is terminating this Agreement in accordance with Section 14 of this Agreement. Additionally, this Agreement may be superseded by an MIBB user subscription agreement subject to your approval, which shall be indicated by your use of the MIBB Service described therein.
35. **MIBB DVR:** The MIBB DVR service gives you the ability to access audio, video, and other media over which MIBB exercises no editorial or programming control ("Third Party Content"). You understand that:
 - a. MIBB does not guarantee the access to or the ability to record, display, or transfer any particular

- program;
- b. programming is not under MIBB's control;
- c. programming providers may restrict or limit the ability to record, display, view or transfer particular programs by using a variety of copy protection mechanisms;
- d. content providers may restrict or revoke access to their content at any time;
- e. MIBB is not responsible for and has no editorial control over any Third Party Content; and
- f. MIBB has no control over the distribution of such content.

You agree that MIBB will have no liability to you, or anyone else who uses your account and DVR, with regard to any Third Party Content. By using this service you agree that MIBB is not responsible for any content that is stored on any DVR and MIBB will not transfer, copy, restore or repair any content that is stored on any DVR.

36. **Third Party Content is Copyrighted:** You also understand that the Third Party Content is the copyrighted material of the third party that supplies it, is protected by U.S. copyright law and other applicable laws, and may not be reproduced, used to prepare derivative works, distributed, performed publicly or displayed publicly without the written permission of the third party that supplied it, except to the extent allowed under the "fair use" provisions of the U.S. copyright laws, other limitations on exclusive copyrights in the U.S. copyright laws, or comparable provisions of foreign laws. You hereby agree and declare that any and all Third Party Content accessed or transferred using the MIBB service is for personal, non-commercial use and that the MIBB service will not be used for Third Party Content to be copied or displayed before a public audience without authorization from the appropriate rights holder. Unauthorized copying or distribution of copyrighted works may constitute an infringement of the copyright holders' rights. MIBB reserves the right to terminate the accounts of users of any MIBB service who infringe the copyrights of others. In addition, steps intended to defeat or bypass security measures which are designed to prevent infringement of copyrighted works may be illegal under U.S. law or comparable foreign laws. MIBB reserves the right to terminate the service accounts of users who develop or use any method to defeat or bypass such security measures and to take any other necessary or appropriate action to prevent infringement of copyright holders' rights.