

# ***NETWORK SERVICES AGREEMENT***

A Net ("Provider") provides Internet access and related services to users who have agreed to the terms and conditions stated below. This Network Services Agreement ("Agreement") is a legal agreement between you and Provider. It states the terms and conditions under which you may use Provider's facilities and systems and protects the efforts of Provider to develop and maintain its facilities and systems and to ensure quality of service.

PLEASE READ THE FOLLOWING TERMS AND CONDITIONS CAREFULLY. BY COMPLETING THE REGISTRATION PROCESS AND USING THE SERVICE, YOU AGREE TO BE LEGALLY BOUND AND ABIDE BY THIS AGREEMENT.

## **1. USE OF THE SYSTEM**

- a. The use of the system by user is purely permissive, and no license or periodic right of use is granted user. All information placed on the system or network is published by the user, and not by Provider. We retain the right to revoke permission at any time, in the sole discretion of Provider, without requirement of cause for revocation. Provider will not edit or exercise any prior control over content or messages placed by user on the system. User will not use the system or place a message on the system which violates any state or federal law, which is harmful or harassing to others, which disrupts normal network use and service, or which is not in the public interest.
- b. Provider does not create any information, nor does it edit information, but acts only as a conduit for information placed by the user.
- c. All information contained in Provider's system is placed there for general information and entertainment purposes.
- d. You may permit other members of your organization or household to access the service provided that each such person abides by the terms and conditions of this Agreement. By permitting others to use your account, you assume all risk and liabilities resulting from their use.
- e. If you authorize a minor to use your account, you are fully responsible for the online conduct of the minor, for controlling the minor's access to and use of the Service, and for the consequences of any misuse.

Your right to authorize others to use your account is not assignable or transferable.

- f. Resale prohibited. Resale or otherwise charging for use of any of Provider's services is strictly prohibited.

## **2. SYSTEM RULES**

- a. You agree to supply Provider with accurate and complete information and to inform Provider promptly of any change in such information.
- b. The Service and Software may only be used for lawful purposes and consistent with the rights of other users and third parties. Without limiting the foregoing, the Service and



Software shall not be used in a manner that would violate any law or infringe any copyright, trademark, trade secret, right of publicity, right of privacy, or any other right of any third party, or for the purpose of transmitting or storing material that is obscene or defamatory. Furthermore, the following uses are prohibited:

1. **Abusive, Harmful, Threatening, and Unlawful Content.** You are prohibited from posting on, or transmitting through the Service, any unlawful, harmful, threatening, abusive, harassing, defamatory, vulgar, obscene, profane, hateful, racially, ethnically or otherwise objectionable material of any kind, including without limitation any material that encourages conduct that would constitute a criminal offense, give rise to civil liability, or otherwise violate any applicable local, state, national, or international law.
2. **E-mail/Spam/Usenet Abuse.** E-mail, Spam, and Usenet abuse is prohibited on Provider's system. Examples include but are not limited to:
  - Sending unsolicited mass mailings of any nature, including but not limited to advertisements, charity requests, petitions for signatures, pyramid schemes, or chain mail related materials.
  - Sending a large number of e-mail messages, or singularly large e-mail messages, to a single address in order to flood someone's mailbox.
  - Sending bulk e-mail messages that create the potential for disruption of Provider's network and/or other networks.
  - Sending harassing e-mail, either by language, size or frequency.
  - Sending bulk e-mail messages without identifying, within the message, a reasonable means of opting out from receiving messages from the sender.
  - Forging or masking e-mail headers to obscure the true originator of the message.
  - Unauthorized use of IP addresses.
  - Posting unsolicited messages to a large number of Usenet newsgroups.
  - Attempting to cancel, supersede, or otherwise interfere with Usenet posts other than one's own.
  - Posting of articles or messages or canceling or altering messages on Usenet in a manner that violates the rules of that Usenet.
  - Forging Usenet header information to obscure the true originator of the message.
3. **Security Violations.** Provider's services may not be used to gain unauthorized access to, interfere with, or otherwise threaten or violate the security of Provider's or another's computers, networks, servers, or systems. Examples include but are not limited to:
  - Attempting to circumvent user authentication or security of any host, network, or account on Provider's systems or the Internet at large ("cracking" or "hacking").
  - Use of Provider's systems or networks in a manner that encumbers disk space, processors, bandwidth, or other system resources so as to interfere

- with others' normal use of services on Provider's or other systems or networks. This includes but is not limited to "denial of service" attacks, systems set up as web servers, gaming servers or downloading of copyrighted music and movie files with peer to peer file sharing software.
  - Intercepting, interfering with, or redirecting e-mail intended for third parties, or any other action for the unauthorized interception of data or harvesting of e-mail addresses.
  - Distributing viruses, worms, or other harmful software.
- c. Copyrighted Material. Access to works (information, music, artwork, etc.) on the Internet does not automatically mean that these can be reproduced, downloaded or reused without permission or royalty payment.

Furthermore, some copyrighted works may have been posted to the Internet without the authorization of the copyright holder. Improper or unauthorized acquisition and use of copyrighted material may expose you to legal action by the copyright holder and termination of service.

It is a violation of Acceptable Use of this network to use online access to engage in activities which violate local, state or federal statues including the Digital Millennium Copyright Act. This act specifically prohibits various activities dealing with taking and transferring copyrighted materials, such as music recordings, over the Internet network.

### 3. QUALITY OF SERVICE

- a. Provider does not warrant or represent that Provider will meet any specific requirements the user may have or that service will be error free or uninterrupted. Provider shall not be liable for any direct or indirect, incidental or consequential damages (including lost data, information or profits) sustained or incurred in connection with the use of, or inability to use Provider's service. Provider will provide advanced network facilities that will support advanced network equipment.
- b. Advertised data transfer rates reflect the expected maximum data rates attainable within our network under favorable conditions. Many external factors affect speeds, and actual data transfer rates may be lower at times.
- c. **Security of Customer Systems.** You are solely responsible for the security of any device connected to the service, including any data stored on that device. Provider recommends that you take appropriate security precautions for any systems connected to the service. We recommend the use of a firewall or other security devices to protect your equipment. You are responsible for securing any wireless (Wi-Fi) networks connected to your service. Any wireless networks left "open" to the public which Provider in its sole discretion evaluates and may be determined to contradict the terms of this agreement shall be cause for suspension of service until customer takes appropriate measures acceptable to Provider for the secure operation of the customer's wireless network.
- d. The undersigned is aware that access to topics, pictures, graphics or text pertaining to adult themes, sexual situations or nudity is possible and not restricted or controlled by Provider. The contents of some material may be unsuitable for some family members.

- e. The information provided by Provider is not a substitute for individual professional consultation. Adequate professional guidance for making personal decisions cannot be provided through an electronic format of this type. Advice on individual problems should be obtained personally from a professional. By using this service, you are agreeing that you are not seeking to establish a doctor/patient, lawyer/client, or similar relationship with Provider.

#### **4. CHANGES**

The Service, Provider's system, and this Agreement may change from time to time. Provider reserves the right, at Provider's sole discretion and without prior notice or liability, to discontinue or alter the service or any feature of the service including, without limitation, (a) restricting the time of availability, (b) restricting the availability and/or scope of the Service for certain types of computers and operating systems, (c) restricting the procedures for or amount of access or use permitted, (d) restricting or terminating any user's right to access and use the Service, and (e) changing system hardware and software. Any change is effective immediately upon a posting on the Service, electronic mail, or conventional mail. By continuing to use the Service, you accept any such changes. If any such changes are not acceptable to you, you may terminate this Agreement at any time as described in Section 10.

#### **5. CHARGES AND PAYMENT**

- a. **Service Fee; Taxes.** Provider will charge you a monthly service fee for the Service plus any applicable sales, use, value-added, personal property, or other governmental tax imposed on the Service. Current rates are available online or by telephone or e-mail to Provider's Customer Service. Rate changes are effective on the 1st day of the month immediately following publication of the rates online.
- b. **Payment.** We will send you an invoice due and payable by the 21<sup>st</sup> day of the month. A \$5.00 late charge will be added to a delinquent account to cover the additional cost of processing and mailing a delinquent notice.

Accounts that are unpaid for thirty (30) days will be suspended and may not be used; a \$25.00 Internet Reconnection fee applies to accounts that have been suspended. Files pertaining to accounts that are unpaid for sixty (60) days will be automatically purged.

#### **6. INDEMNIFICATION**

You agree to indemnify and hold Provider, its officers, directors, employees, and agents harmless from and against any claims and expenses (including reasonable attorney's fees) arising out of or related to any violation of this Agreement or use of your account.

#### **7. PRIVACY**

Electronic mail and other transmissions passing through the Service or over the Internet and through Provider's system are not secure, and Provider cannot guarantee the security or privacy of any of your information or communications.

Provider will not intentionally monitor or disclose any private electronic communications, except to the extent necessary to identify or resolve system problems or as otherwise permitted or required by law.

## **8. EDITORIAL CONTROL**

Provider reserves the right to monitor transmissions, other than private electronic communications, as necessary to provide service and otherwise to protect the rights and property of Provider. Notwithstanding the foregoing, Provider does not have the practical ability to restrict conduct, communication, or content that might violate this Agreement before transmission on the service, nor does Provider assume any liability for any action or inaction with respect to such conduct, communication, or content.

## **9. PROPRIETARY RIGHTS**

- a. Software. The Software and any accompanying documentation and written materials are the sole and exclusive property of Provider or its licensor and are protected by copyright and trade secret law and international treaties.
- b. Content. You acknowledge that the Service contains information, software, photos, video, graphics, sound, music, and other material ("Content") that are protected by copyright, trade mark, trade secret, and other intellectual property law and that the rights in such Content are valid and protected in all forms, media, and technologies that now exist or that may be developed in the future. You may not modify, publish, distribute, transmit, transfer or sell, create derivative works, or in any way exploit any of the Content, in whole or in part. Except as allowed by U.S. copyright law, you may not upload, post, reproduce, or distribute any Content protected by copyright or other proprietary rights without the permission of the copyright owner.
- c. Third Party Content and Services
  1. You may only upload or otherwise distribute via the Service Content that is not subject to any copyright or other proprietary rights protection or for which you have the owner's express authorization for such on-line distribution. The unauthorized uploading or distribution of copyrighted or other proprietary Content constitutes a breach of this Agreement, and could subject you to criminal prosecution, personal liability for any damages arising from any infringement, and to termination of this Agreement.
  2. Any opinions, advice, statements, services, offers, or other Content expressed or made available by third parties are those of the respective authors, owners, or distributors and not of Provider. In no event will Provider be liable for any loss or damage caused by a user's reliance on Content obtained through the Service.
  3. The Service may permit you to receive information and order and receive merchandise and services directly from businesses that are not owned or operated

by Provider. The purchase, payment, warranty, delivery, and any other terms concerning such information, merchandise, and services are solely between you and such businesses.

- d. Export. The U.S. export control laws regulate the export and re-export of technology originating in the United States, including the electronic transmission of information and software to foreign countries and foreign nationals. You agree to comply with these laws and not to transfer by electronic transmission or otherwise, and content derived from the Service without obtaining any required government authorization. You further agree not to upload to the Service any data or software that cannot be exported without prior written government authorization, including without limitation, certain types of encryption software.

## 10. TERMINATION

(a) For any Reason. Either you or Provider may terminate this Agreement for any reason at any time by giving the other party notice of termination. Such termination shall be effective upon receipt of notice. Termination requests from users must be received by Provider via e-mail, fax or postal service at:

[almatel@almanet.net](mailto:almatel@almanet.net);

660-674-2297 (telephone)

660-674-2613 (fax)

P.O. Box 127

102 3<sup>rd</sup> St.

Alma, MO 64001

(b) For Cause. Provider may suspend, cancel, or terminate this Agreement without notice for any conduct that Provider believes in its sole discretion violates this Agreement, interferes with other users' use of the Service, or is otherwise inappropriate.

(c) Effect of Termination. Upon termination, your license to use the Software automatically terminates, and Provider will delete all data, files, or other information stored in your account. In the event of termination, you remain bound by Sections 1 and 8 of this Agreement. Monthly service fees and any prepaid charges will not be refunded or prorated.

## 11. MISCELLANEOUS

(a) Choice of Law. This Agreement and its validity, construction, and performance shall be governed in all respects by the laws of the State of Missouri, without regard to its choice of law rules.

(b) No Waiver. Provider's failure to insist upon strict performance of any of the provisions of this Agreement shall in no way constitute a waiver of future violations of the same or any other provision.

(c) Modification. This Agreement shall not be modified in any way except by a writing signed by both parties.

(d) Severability. If any provision or portion of this Agreement shall be held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remainder of this Agreement shall not in any way be affected or impaired thereby.

(e) Survival. The provisions of this Agreement relating to confidentiality, warranties, and indemnification shall survive any termination or expiration of this Agreement.

(f) Entire Agreement. This Agreement constitutes the entire agreement of the parties with respect to its subject matter and supersedes all existing agreements and all oral, written, or other communications between them concerning its subject matter.