

## HDISS SERVICE AGREEMENT

This Agreement is between High Desert Internet Services (HDISS) and \_\_\_\_\_r. This Agreement sets forth the terms and conditions under which HDISS shall provide Internet Access Services (hereinafter Service or Services) to the Customer.

### SECTION I

#### Terms of the Service

- A. HDISS reserves the right to refuse service to anyone.
- B. Questions regarding this agreement must be in writing via an email to: [billing@hdiss.net](mailto:billing@hdiss.net)
- C. HDISS requires payment on date of installation for labor charge plus prorated monthly charge from date of install to next billing date.
- D. Termination of Service: Two (2) weeks notice is required and all equipment must be recovered before monthly billing will be stopped and a final bill will be issued.

HDISS! Reserves the right to update and change, from time to time, these Additional Terms and all documents incorporated by reference. You can always find the most recent version of these Terms at <http://www.hdiss.net>. and the most recent versions of the HDISS! Terms of Service at the URL listed above.

#### 1. Reasonable Use Policy

- A. HDISS has established data transfer limits on each of its Service Levels, that can be obtained by emailing our office staff at info@hdiss.net.
- B. Exceeding the data transfer limits set by HDISS will result in surcharges equivalent to 1 US Dollar per gigaByte over the limit in a monthly billing cycle.

## 2. Billing and Collections

A. For all charges, including installation charges and taxes, if applicable, HDISS will:  
Send Customer an invoice, or bill the Customer's credit card.

a1. For all delinquent accounts, HDISS reserves the right to run Credit Card on file for past due balances.

The antenna, radio, power supply and injector remain the property of High Desert Internet Services and we reserve the right to remove our equipment from the outside of customer premise at any time deemed necessary.

The first invoice for Service will include:

(1) the pro-rated charges for the remainder of the current month, (2) the installation charge and any materials purchased.

Invoices are due and payable in full upon receipt and are past due 20 days after received.

Late payments must be approved by HDISS or forfeiture of services will occur.

## 3. Interruptions of Service

a. Customer understands and agrees that temporary interruptions may occur due to normal and reasonable events in the provision of the Service. HDISS agrees to exercise reasonable care to prevent such occurrences. Customer further understands and agrees that HDISS has

no control over third party networks Customer may access in the use of the Service, and therefore, delays and disruption of other network transmissions are completely beyond the control of HDISS.

b. The Use of P2P applications on the High Desert Network are Strictly Prohibited. Any user causing interruptions in the High Desert Network as a result of using P2P Applications will have their service shut off and possible full Termination may result with NO refunds or proration.

### Limitation of Liability

A. HDISS shall make reasonable efforts to provide continuous, uninterrupted, expedient, and error-free Service to Customer. In no event shall HDISS be liable to Customer or any other person for any special, incidental, consequential, or punitive damages of any kind, including without limitation, loss of profits, and loss of income or cost of replacement services.

B. HDISS MAKES NO WARRANTY REGARDING ANY TRANSACTIONS EXECUTED THROUGH THE SERVICE, AND CUSTOMER UNDERSTANDS AND AGREES THAT SUCH TRANSACTIONS ARE CONDUCTED ENTIRELY AT CUSTOMER'S OWN RISK. EMAIL SERVICE IS LIMITED TO HDISS CUSTOMERS ONLY. ALL EMAIL PROCESSED BY THE HDISS EMAIL SERVER MUST BE DOWNLOADED TO A DESKTOP APPLICATION (i.e. Outlook Express). HDISS MAKES NO WARRANTY REGARDING ANY EMAIL TRANSACTIONS PROCESS BY THE HDISS EMAIL SERVER. OR MAKES ANY GUARANTEES REGARDING EMAILS RETAINED ON THE HDISS EMAIL SERVER.

### Cancellation and Termination

1. If Customer fails to pay any charge when due, including but not limited to installation charges or taxes, and such condition continues unheeded from the date written notice is given, or if Customer fails to perform or observe any other material term or condition of this Agreement, or if Customer provides false or inaccurate information which is required for the

provision of the Service or that which is necessary to allow HDISS to bill Customer for the Service, and such condition continues unheeded for ten days from the date written notice is given, Customer shall be in default and HDISS may terminate this Agreement. Upon such termination by HDISS, Customer shall be liable for any applicable charges.

2. If HDISS believes you have acted inconsistently with the spirit or letter of the TOS or these any additional terms, your HDISS account will be suspended or cancelled immediately and all the information contained within it will immediately become inaccessible. HDISS! May, but has no duty to, immediately terminate the Service if HDISS!, in its sole discretion, concludes that you have provided false information in connection with your account. HDISS! accepts no liability for information that is deleted due to termination.

3. Two (2) weeks notice and full recovery of all equipment required before monthly charges will be stopped and a final bill will be sent.

4. Upon termination of your Service, for whatever reason, you must return all equipment, undamaged, within five(5) calendar days to HDISS. If equipment is not returned, or is returned damaged, you will be charged for the value of the equipment

3. Modification of Terms and Conditions

This Agreement may be amended by mutual agreement of the parties at anytime during the Agreement. No amendment of this Agreement shall be valid unless in writing and duly executed by both parties.

4. Use Limitations

A. Nothing contained in this Agreement may be construed to convey to Customer any interest, title, or license in the user ID, electronic mail address,

Universal Resource Locator or domain name used by Customer in connection with the Service.

B. HDISS reserves the right to suspend or terminate Service to the Customer, or suspend or terminate any user ID, electronic mail address, Universal Resource Locator or domain name used by Customer in the event it is used in a manner which (i) constitutes violation of any law, regulation or tariff (including, without limitation, copyright and intellectual property laws); (ii) is defamatory, fraudulent, obscene or deceptive; (iii) is intended to threaten, harass or intimidate; (iv) tends to damage the name or reputation of HDISS.

C. Customer understands and agrees that any attempt to break security, or to access an account which does not belong to Customer, shall be considered a material breach of this Agreement, and such breach may result in suspension or termination of the Service. Customer further agrees to immediately notify HDISS of (i) any unauthorized use of Customers account and/or (ii) any breach, or attempted breach, of security known to Customer.

## 5. Customer Responsibilities

A. Unless specified in an accepted Service Order, which is executed pursuant to this Agreement, Customer is solely responsible for provisioning, configuration and maintenance of all customer premises equipment (hardware and software), including, without limitation, TCP/IP routers, CSU/DSU line interface units, primary domain name servers, electronic mail servers, Netnews servers and firewall or proxy servers. HDISS shall not be responsible for delays in the provision of Service resulting from incompatibility of such equipment, or resulting from improper provisioning, configuration or maintenance of such equipment.

## 6. General

A. If any portion of this Agreement is found to be invalid or unenforceable, the parties agree that the remaining portions shall remain in effect. The parties further agree that in the event such invalid or unenforceable portion is an essential part of this Agreement, they will immediately begin negotiations for a replacement.

B. Notices and other communications shall be transmitted in writing by U.S. Mail postage prepaid and shall be effective four days after the mailing date. To HDISS: Billing Office PO Box 62228, Sunnyvale, CA 94088-2228. To Customer: As set forth below, or as indicated in the Service Order.

#### EQUIPMENT ASSOCIATED WITH HDISS SERVICE

A. Title to Equipment provided by HDISS under this Agreement shall not pass to the Customer. Equipment provided by HDISS under this Agreement shall be the sole owner of HDISS. In the event of supplied equipment failure, HDISS will repair or replace the defective equipment.

B. In the event of loss of Equipment, provided to Customer under this Agreement, the replacement cost will be passed to the customer. (Approximately \$500.00 wholesale value)

C. HDISS retains the right to enter customers property to recover HDISS owned equipment.

#### INSTALLATION OF EQUIPMENT

A. In the event HDISS provides on-site installation of Equipment provided pursuant to this Agreement, Customer shall provide reasonable access to Customers premises, and adequate communications facilities and

work space, to enable HDISS to perform its obligations under this Agreement. Customer shall make premises free from all hazardous material (e.g. asbestos) and dangerous conditions prior to performance of work by HDISS.

B. This Service Agreement is in FULL effect upon completion of installation.

C. Upon and after termination of service, the customer is responsible for any alterations of the structure for the purpose of providing the service to the customer.

#### MAINTENANCE OF EQUIPMENT

A. If HDISS dispatches to the Customers site and is not able to perform Maintenance Services on Equipment provided pursuant to this Agreement due to lack of access or other acts or omissions on the part of the Customer, HDISS will bill and the Customer will reimburse HDISS at current time and material rates.

B. If HDISS dispatches to the Customers site to perform Maintenance Services on Equipment provided pursuant to this Agreement and the trouble is not found or the trouble is isolated to Equipment not covered by this Agreement, HDISS will bill the Customer at current time and material rates.

#### Disclaimers, Limitations of Liability and Indemnity

A. HDISS IS NOT RESPONSIBLE FOR PROVIDING SECURITY SYSTEMS OR FIREWALLS FOR CUSTOMERS WEB SITE, AND SHALL NOT BE LIABLE IN ANY WAY FOR ANY DIRECT OR CONSEQUENTIAL LOSS, DAMAGE, EXPENSE, COST, OR CLAIM WHATSOEVER IN THE EVENT CUSTOMERS WEB SITE IS MODIFIED, TAMPERED WITH, BLOCKED, OR OTHERWISE AFFECTED BY ANY ACTION OF ANY THIRD PARTY USERS OF THE SITE OR BY THIRD PARTY ACCESS TO THE SITE OR BY REASON OF ITS CONNECTION TO THE INTERNET.

B. Customers web site will be maintained on a server deemed adequate for purposes of access to it by third parties. Customer acknowledges that the server on which its site will be maintained may also be used to maintain the sites of the other customers of HDISS, and that such shared use may affect the speed of access, downloading speed, and capacity for simultaneous access to Customers site. HDISS SHALL IN NO EVENT BE LIABLE FOR ANY DIRECT OR CONSEQUENTIAL LOSS, DAMAGE, EXPENSE, COST, OR CLAIM WHATSOEVER RESULTING FROM DELAYS IN ACCESS, BLOCKAGE, DOWNTIME, OR OTHER SERVICE PROBLEMS CAUSED BY USE OF THE SITE IN EXCESS OF THAT SPECIFIED BY THE CUSTOMER.

C. HDISS shall have the right, but not the obligation, to terminate all access to the site without prior notice in the event HDISS determines that the site contains material which is in violation of the Use Limitations of this Agreement or HDISS Acceptable Use Policy (located at <http://www.hdiss.net>) HDISS SHALL IN NO EVENT BE LIABLE FOR ANY DIRECT OR CONSEQUENTIAL LOSS, DAMAGE, EXPENSE, COST, OR CLAIM WHATSOEVER RESULTING FROM THE UPLOADING OF CONTENT OR MATERIAL TO THE WEB SITE BY CUSTOMER OR BY ANY THIRD PARTY.

D. Customer agrees to indemnify and save HDISS harmless from all claims, losses, expenses, suits and attorneys fees (collectively Liabilities) for damages to or loss of any property and for liability, or loss resulting for the assessment of any taxes, penalties, interest, additions to tax, surcharges or other charges (including reasonable attorney fees), which may in any way arise out of or result from or in connection with this Agreement. Customers use of the Bandwidth Service, except to the extent those liabilities arise from the active negligence or willful misconduct of the other. Customer further agrees to indemnify and save HDISS harmless from all claims, losses, taxes, fees, liens, expenses, suits and attorneys fees (collectively Tax Liabilities) resulting from or in connection with



Customers delay or failure to pay and tax, fee or assessment, or Customers failure to file any tax return or other tax information, as required by law.

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