

# MESQUITONET HIGH-SPEED RESIDENTIAL INTERNET SERVICE AGREEMENT

## I. INTRODUCTION.

This Agreement is made this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_ between MesquitoNet Internet (hereafter "MesquitoNet" or the "Company") and you as customer designated at the foot of this Agreement (hereafter the "Customer") \_ The goal of MesquitoNet is to provide you Internet access by means of shared facilities to all its customers.

All MesquitoNet Internet customers and all others who use the service must comply with the terms of this Agreement. Your failure to do so may result in the suspension or cancellation of the Service.. If you do not agree with the terms of this Agreement, immediately stop the use of any and all MesquitoNet services and notify MesquitoNet so that it can close your account. Use of any MesquitoNet services constitutes an agreement to abide by the terms of this Agreement.

MesquitoNet provides its Customers an Internet connection, (hereafter the "Service"). This terms and conditions of this Agreement are intended to provide protection for our Customers, , while also allowing MesquitoNet to fairly share its network to all its Customers.

**II. CUSTOMER OBLIGATIONS.** Customers establishing an account with MesquitoNet must be at least 18 years old. Customers must (i) provide the Company with accurate and complete billing information including legal name, address, telephone number, and (ii) report to the Company all changes to this information within 30 days of the change. Customers are responsible for all charges to their account ( (See "Payment Policy" below).

**III. EQUIPMENT.** The Customer authorizes MesquitoNet or its contractors to install the necessary hardware required for Service at the premises specified by the Customer. The Customer's premise equipment, hereafter referred to as "CPE" is provided by MesquitoNet for use by the Customer for the purposes of using the Service. The monthly subscription fee includes the use of this CPE at no extra charge as long as the account is in good standing. The CPE and related power supplies and other supplied materials remain the property of MesquitoNet. Improper use or handling of the CPE, or in the event that the CPE is lost or stolen may result in additional charges for replacement including but not limited to equipment costs and labor costs which will be the responsibility of the Customer. To pay

**IV. CUSTOMER EQUIPMENT.** MesquitoNet assumes no responsibility for the condition, maintenance, repair or support any of Customer's equipment . MesquitoNet is not liable for any damages to the Customer's computer(s) or other equipment.

**V. INSTALLATION.** Installation shall be completed by MesquitoNet at Customer's premises by connection to the Customer's computer. Basic installation shall include mounting of equipment and , routing of up to 100 feet of network cable by the most direct path to, and connection to one (1) of Customer's computers. Fees for any installation necessitating additional work, materials or cable will be estimated by MesquitoNet at the time of installation and shall be billed to Customer Installation costs are non-refundable.

MesquitoNet shall not be liable for any alterations to Customer's premises which are not the direct result of neglect on the installer's behalf or after 12 months from the date of installation.

**VI. MAINTENANCE.** The Customer agrees that only MesquitoNet or its authorized contractors shall perform any maintenance on the CPE. This may be by remote and/or on-site network management of including, but not limited to, upgrading firmware and disabling of your transceiver if MesquitoNet determines that its operation is disruptive to the network or you are in violation of these terms and conditions of this Agreement. Access to the configuration interfaces, including web based and command-line configuration is prohibited except when performed by a MesquitoNet or authorized

contractor. . Any other entity that accesses the configuration of the CPE may require that the CPE be re-provisioned by MesquitoNet at the Customer's expense.

**VII. CONNECTIONS.** Your immediate connection to the wireless network is between an endpoint transceiver, which MesquitoNet will provide at your site, and an access point transceiver which may be provided by another Customer. Your connection may be shared by other Customers; your residence may not only have broadband access to the Internet but may also be a relay station that allows others in the neighborhood area to have broadband access.

**VIII. LINE OF SIGHT OR OBSTRUCTIONS.** The technology of wireless Internet communications is dependant on the amount of obstruction between the Customer's Premises and the MesquitoNet access points. MesquitoNet will make a reasonable effort to provide the Customer will the best Service possible. Unfortunately, some locations could experience changes in service due to the growth of trees or the construction of buildings. If the Customer experiences problems related to Line of Sight or obstruction issues, MesquitoNet will make reasonable efforts to relocate or realign the Customer's antenna. MesquitoNet cannot prevent Line of Sight problems, and therefore cannot guarantee service or be liable for any loss of Service.

**IX. LIMITATIONS OF SERVICE.** Distribution nodes such as access points, relay points and routers shall be generally located at and in the homes of Customers. Therefore, the availability of Services is highly dependent on volunteers: Service may be disrupted if a qualified volunteer is absent, whether due to vacations, happenstance, or dispositions of individuals. Outages may not be timely repaired; and equipment relocation due to loss of equipment sites may cause extended or permanent loss of Services to you. Degradation of established Services may be caused by obstruction of the transmission path between your site and the access point, a clear line of sight between access point and endpoint being necessary for reliable Service.. Also, Extended or permanent suspension of Services may result from termination of Internet access by the Company's access provider. Your sole remedy for non-performance of Services under this Agreement shall be repair or replacement of Services. CUSTOMER ACKNOWLEDGES THAT SERVICE INTERRUPTIONS MAY OCCUR FROM TIME TO TIME, AND AGREES TO HOLD COMPANY HARMLESS FOR ALL SUCH INTERRUPTIONS

**X. LIMITATION OF LIABILITY.** Under no circumstances shall MesquitoNet, its employees, agents or contractors be liable for any damages or costs, directly or indirectly, arising from your use or inability to use the Services. This includes incidental, special, consequential or exemplary damages, including but not limited to, damages for loss of profits, goodwill, use, data or other intangible losses. This limitation also applies whether the alleged liability is based on contract, tort, negligence, strict liability or any other basis, even if MesquitoNet has been advised of the possibility of such damages or should such damages occur as a result of MesquitoNet's negligence. Where MesquitoNet can be held liable, liability is limited to monthly fees.

. BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, MesquitoNet's LIABILITY IN SUCH JURISDICTIONS SHALL BE LIMITED TO THE EXTENT PERMITTED BY LAW.

**XI. INDEMNIFICATION.** You agree to indemnify the Company, its employees, agents and contractors and hold such persons harmless from and against all loss, liability, damage and expense, including reasonable attorney's fees, caused by:

A. Acts or omissions of you or your household or business, officers, employees, agents, contractors or volunteer assistants that arise out of or are caused by the construction, installation, maintenance, presence, use or removal of systems, antennas, terminal equipment or software that are or have been connected to the Company Services and that result in claims and demands for damages to property or for injury or death to persons including payments made under any Worker's Compensation Law or under any plan for employee's disability or death benefits;

B. Claims for libel, slander, invasion of privacy or infringement of copyright, and invasion or alteration of private records or data arising from any information, data or message transmitted over the network from your facilities, and

C. Claims for infringement of patents arising from the use of equipment, software, apparatus and systems not provided by the Company in connection with Services.

The provisions of this Part shall remain in force for three years after your final Service Period.

## **XII. DISCLAIMER OF WARRANTIES**

EXCEPT FOR CERTAIN PRODUCTS AND SERVICE SPECIFICALLY IDENTIFIED AS BEING OFFERED BY MesquitoNet, MesquitoNet DOES NOT CONTROL ANY MATERIALS, INFORMATION, PRODUCTS, OR SERVICE ON THE INTERNET. THE INTERNET CONTAINS UNEDITED MATERIALS, SOME OF WHICH ARE SEXUALLY EXPLICIT OR MAY BE OFFENSIVE TO YOU. MesquitoNet HAS NO CONTROL OVER AND ACCEPTS NO RESPONSIBILITY FOR SUCH MATERIALS. YOU ASSUME FULL RESPONSIBILITY AND RISK FOR USE OF THE SERVICE AND THE INTERNET AND ARE SOLELY RESPONSIBLE FOR EVALUATING THE ACCURACY, COMPLETENESS, AND USEFULNESS OF ALL SERVICE, PRODUCTS, AND OTHER INFORMATION, AND THE QUALITY AND MERCHANTABILITY OF ALL MERCHANDISE PROVIDED THROUGH THE SERVICE OR THE INTERNET. THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. MesquitoNet DOES NOT WARRANT THAT THE SERVICE WILL BE UNINTERRUPTED, ERROR-FREE OR FREE OF VIRUSES, OR OTHER HARMFUL COMPONENTS. MesquitoNet MAKES NO EXPRESS WARRANTIES AND WAIVES ALL IMPLIED WARRANTIES INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE REGARDING ANY MERCHANDISE, INFORMATION OR SERVICE PROVIDED THROUGH MesquitoNet OR THE INTERNET GENERALLY. NO ADVICE OR INFORMATION GIVEN BY MesquitoNet OR ITS REPRESENTATIVES SHALL CREATE A WARRANTY.

**NO WARRANTY (EQUIPMENT)** - COMPANY IS NOT THE MANUFACTURER OF ANY EQUIPMENT. STATEMENTS BY THE COMPANY OR ITS REPRESENTATIVES REGARDING ANY EQUIPMENT SHOULD NOT BE INTERPRETED AS A WARRANTY BY COMPANY.

**XIII. CANCELLATION AND REFUND POLICY.** A Customer wishing to cancel Service must submit a signed notice requesting the Service to be discontinued. , Customer must return in good condition any equipment provided by MesquitoNet which was not purchased.. Customers are required to provide access to MesquitoNet owned equipment for removal following discontinuation of Service. Customers will be charged for all equipment and wiring in the amount of no less than \$150.00 for failure to enable the removal and return of MesquitoNet owned equipment. The Customer will be responsible for monthly fees until the conditions for canceling Service are completed. If the Customer has prepaid for more than one month in advance and cancels the Service, MesquitoNet shall refund any and all full month fees not used at the time of cancellation on a pro-rata basis (i.e. any discounted rates shall be forfeited on early cancellations). Any Services canceled on or after their due date will not receive refunds of money for that month's fees. MesquitoNet will not refund any "set-up" or "installation" fees

**XIV. SERVICE DISRUPTION.** MesquitoNet does not guarantee uninterrupted access to the Internet. MesquitoNet will not be responsible for any disruption of Internet connectivity due to power outages, backbone supplier faults, equipment malfunctions, or any natural disaster. MesquitoNet will make a "best effort" to correct any disruptions but does not warrant for any loss of service time, transmission errors, connectivity or quality of service.

**XV. SERVICE UTILIZATION.** MesquitoNet continually monitors the amount of bandwidth consumed

by the Customers. Customer activities which usually consume large amounts of bandwidth include but are not limited to streaming video, peer to peer software, online gaming, and programs or servers which provide services to others via the Customer's Service. When excessive consumption of bandwidth by a Customer prevents other Customers fair access to the MesquitoNet Service, MesquitoNet reserves the right to take necessary steps to correct this problem. These steps include, but are not limited to, limiting bandwidth, disabling communication protocols, charging extra service fees and discontinuing service.

**XVI. PAYMENT POLICY.** You agree to pay all charges incurred, including all applicable sales and use taxes as well as duties or levies. You are responsible for payment of each Service Period whether or not Services are continuously provided throughout the Period unless Internet access is generally unavailable at your wireless access point for 10 consecutive days. You will receive a quarterly invoice for Internet Service at your email address of record. These invoices can be paid with cash, check, credit card, or PayPal account. Any Customer not paying by the due date may be subject to suspension of their account and access to the Internet. Any Customer not paying within 30 days of the due date may be subject to cancellation of services.

The Company shall notify you in writing at least thirty days before any change in fees. In the event of a fee increase, you may terminate Services and incur no termination charges by notifying the Company in writing at least fourteen days before the effective date of the increase. Otherwise, you are responsible for payment of fees for the Service Period at the new prices. No Termination Fee will be charged for a termination of service with a month-to-month service commitment; provided, however, that there is no proration of the fixed monthly charge if Service is terminated on other than the last day of your billing cycle.

**XVII. TERMINATION AND UNACCEPTABLE USE.** MesquitoNet may immediately terminate or reduce Service to the Customer upon any single or multiple incident of the following conditions: 1) failure to pay subscription fees; 2) interfering with or disrupting Internet services, equipment or other users on the MesquitoNet network; 3) propagation of computer viruses; 4) unauthorized entry into another person's or organization's computer, information or communication devices; 5) Unsolicited E-mailing also known as "spamming", please see spamming definitions below; 6) Any violation of Local, State, and Federal law; or 7.) Storage and/or transfer of any copyrighted software or files without written permission from the owner of such copyrighted software or files. MesquitoNet may terminate Customer Service for other reasons upon 5-day e-mail notice. MesquitoNet may refuse service to anyone.

**XVIII. SERVICE SHARING.** Customer shall use the Service for Internet access for computers located within the installed premises of Service only. Customer shall not lease or sublease or provide Internet access to others through the use of the Service or otherwise without the express consent of MesquitoNet. If at any point MesquitoNet discovers that the Customer is "SHARING" or "DISTRIBUTING" their Service or network connection to others outside the Premises, without the express permission of MesquitoNet, the Customer's Service will be terminated immediately.

The Service can not be used for:

- use dedicated, stand-alone equipment or servers from the Premises that provide content or services to anyone outside of the Premises.
- use programs from the Premises that provide content or services to anyone outside of your premises.
- use of encryption technologies to mask the presence of servers or server software.

**XIX. PASSWORDS.** The Customer is responsible for their individual passwords and login "usernames" and shall not intentionally give their password, or disclose any encryption keys used by MesquitoNet to anyone. MesquitoNet may terminate or change the password of any account which has been or may be compromised.

**XX. SPAMMING.** Spamming is the sending of unsolicited e-mail to any other Internet user in the world. MesquitoNet does NOT tolerate any type of spamming regardless if the spam e-mail messages

were relayed through our mail servers or not. This also includes using a return e-mail address of a domain name owned or hosted by MesquitoNet. The Service of Customers that violate the spamming policies will be disconnected immediately without prior notice from MesquitoNet. MesquitoNet is not responsible for lost e-mail during or after the cancellation of the Service. No refunds for termination of services will be given due to spamming.

**XXI. GENERAL.**

A. You shall not assign or transfer your membership without the prior written consent of the Company.

B. The Company shall not be responsible for performance of its obligations hereunder where delayed or hindered by the unavailability or unwillingness of Customers to perform necessary duties.

C. Any legal action arising out of the Agreement shall be brought before the appropriate court in the Monterey County, State of California within one year of the occurrence or it s deemed waived

D. You are responsible for assessing your own need for property, casualty, and liability insurance against all risks including but not limited to: lightning damage or injuries associated with installation and maintenance of your equipment- You shall bear the risk of loss to your equipment and agree to not make any claims against others for any such property loss.

E. This Agreement shall be governed by the laws of the State of California

F. Should any part. section or other portion of the Agreement be found invalid by a court o fproper by a court of proper jurisdiction, the balance of the provisions shall remain in affect and shall be enforceable.

G. If any action or proceeding is instituted to enforce the terms of their Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs and expenses, in addition to any other relief to which he or she may be awarded.

H.. This Agreement constitutes the entire agreement between the parties and supersedes any and all other agreements, either oral or in writing. MesquitoNet may modify this Agreement at any time with the terms and conditions currently in effect by written notice to its Customers and on the MesquitoNet web site at [www.mesquitonet.com](http://www.mesquitonet.com).

**ACKNOWLEDGEMENT.** I acknowledge that I have read and understand this agreement and the terms and conditions. I agree to be bound thereby.

The undersigned, agrees to the terms and conditions, and Service pursuant to this Agreement

I understand that my monthly Access Fee charge will commence for the month following my first access to the Company's Network and is payable under the terms shown in the Agreement.

\_\_\_\_\_  
Signature Date

Address: \_\_\_\_\_  
( Street, City, State & Zip Code)

Phone Number: \_\_\_\_\_ Email Address: \_\_\_\_\_