

## **ColusaNET, Inc. Internet Service Agreement**

PLEASE READ THE TERMS AND CONDITIONS CAREFULLY.

BY USING THESE SERVICES, (i) YOU ACKNOWLEDGE THAT YOU ARE AN ADULT (18 YEARS OR OLDER) AND (ii) YOU HAVE READ AND UNDERSTAND THE TERMS AND CONDITIONS AND AGREE TO BE BOUND BY THE TERMS AND CONDITIONS IN EFFECT AND AS UPDATED BY ColusaNET FROM TIME TO TIME. IN ADDITION, BY PLACING AN ORDER FOR THE SERVICES, YOU ACKNOWLEDGE THAT ColusaNET WILL COMMENCE PROCESSING SUCH ORDER AND WILL INCUR EXPENSES AND OBLIGATIONS IMMEDIATELY.

IF YOU DO NOT AGREE TO BE BOUND BY THE TERMS AND CONDITIONS, YOU MAY NOT USE THE SERVICES AND SHOULD CANCEL YOUR ORDER. IF YOU DO NOT AGREE TO BE BOUND BY THE TERMS AND CONDITIONS, ColusaNET IS UNDER NO OBLIGATION TO PROVIDE YOU WITH THE SERVICES.

THE TERMS AND CONDITIONS ARE SUBJECT TO REVISION FROM TIME TO TIME. THE LATEST VERSION OF THE TERMS AND CONDITIONS MAY BE FOUND AT <http://www.colusanet.com>.

### **Terms and Conditions**

**USERNAME:**

1. **Definitions:** This Services Order Confirmation and Acknowledgment of Terms and Conditions ("Agreement") shall serve as confirmation of your service order with ColusaNET, Inc., a California corporation ("ColusaNET") and your acceptance of such order, including acceptance of all of the terms and conditions ("Terms and Conditions") set forth below, shall authorize ColusaNET to provide you with the Services (as defined below) for the period agreed to by you ("Customer") upon placing an order for Services.

2. **Service:** You agree to purchase Internet access and/or network access services ("Services") from ColusaNET. All equipment provided by ColusaNET shall remain the sole property of ColusaNET. You agree to provide adequate safeguards to protect the equipment installed by ColusaNET, and you agree to return said equipment to ColusaNET in working condition should you no longer receive services from ColusaNET. You are responsible for obtaining and maintaining any additional equipment needed to access, connect to, or use the Services. You shall be responsible for ensuring that such equipment is compatible with the Services.

**a. Reselling:** Services provided by ColusaNET are for the sole use of you, the Customer, and not for resale or sharing with anyone in any way without the prior written consent of ColusaNET, which may be given at its sole discretion. You agree that the number of network devices that receive Service under this agreement is limited to the number of devices to which you pay Connection fees to ColusaNET Inc. If it is discovered by ColusaNET that Services are being resold or shared with any other entity other than you the Customer, or that the number of network devices has been misrepresented, whether by omission or deliberately, ColusaNET may, at its sole discretion, increase the fees associated with the Services, or terminate the Services, and should either event occur you agree to be responsible for the original value of this Agreement plus any and all additional charges.

3. **Term of Agreement:** This Agreement has an initial term of  (the Initial Term) and will continue on a month-to-month basis thereafter. After the Initial Term, either party may terminate this Agreement upon thirty (30) days written notice. The Initial Term begins the day your Service is successfully installed and tested and deemed fully operational by ColusaNET, as recorded in its database. If ColusaNET cannot successfully deliver the Service, this contract is implicitly terminated without penalty or cost. **CUSTOMER INITIAL**

4. **Rates and Payment Terms:** The rates for Service (“Rates”) are set forth in the attached Rate Schedule. The Rates will be in effect for the Initial Term, and may be changed by ColusaNET at any time by giving you written or e-mailed notice of the new Rates at least thirty (30) days before their effective date. In addition to the Rates, ColusaNET will bill you for all federal, state, county, and local taxes, surcharges, fees, and universal service contribution charges should they apply. Charges for the Services will begin when the Services are installed. Payments for Services will be made through monthly charges to your credit card, unless you have been approved for monthly invoicing. If approved for monthly invoicing, your payment is due by the due date specified on the invoice and you agree to pay any and all late fees if your payment is not received by the due date. You may pre-pay by check or money order if you prefer not to pay via credit card or monthly billing, but a credit card number may be required to secure your account with ColusaNET. You agree to keep ColusaNET informed of any changes in your credit card information and/or billing address.

4 (a) **Late Payment** Payment is due at or before the close of business on the due date specified on the invoice in question. You agree to pay any associated late fees that may be added to account, and that those late fees are then part of the original invoice amount. Late fees may be as high as 20%. You agree and understand that any promotional or special pricing will be null and void if your account isn’t paid by the due date, and that the monthly rate may increase upon the occurrence of a late payment. You agree that this contract will then be based upon the new monthly rate, and any special pricing mentioned in this contract is nullified.

5. **Default and Remedies:** You will be considered in Default of the Agreement if 1) payment for any Service has not been made within five (5) days after we have sent you a notice via e-mail that such payment is overdue and 2) for any other breach of this Agreement that is not remedied within ten (10) days after notice of such breach, or for any breach of the Acceptable Use Policy. If you are in default of this Agreement, we may terminate all Services under this Agreement without further notice to you and you will be charged an early termination fee. **The early termination fee is \$220.00 plus the Application Fee indicated on the signature page of this agreement. Additional fees may apply if all ColusaNET owned equipment is not in satisfactory working condition upon removal from customer premises.**

CUSTOMER INITIAL

6. **Termination:** You agree to notify us in writing of your intention to terminate this Agreement no less than 45 days prior to intended termination date to avoid additional monthly charges. Termination of this agreement before the passing of the Initial Period will result in additional charges as set forth in the Agreement.

CUSTOMER INITIAL

7. **Limited Warranty – Internet Service:** We warrant that, subject to the limitations set forth below, the Internet service will operate in accordance with the terms of this Agreement.

7.1 **NO 911 SERVICE.** You are hereby notified that Internet Service provides only point-to-point packet data communication services, and does not provide 911, E911, or other emergency, operator or ancillary services that are usually available through local telephone services.

7.2 **Quality of Service:** You understand and acknowledge that the actual transmission speeds may vary from quoted speeds due to such factors as the line-of-sight (LOS), distance to transceiver, server loads on the Internet, network congestion and other operational characteristics of the facilities and equipment used in the provision of Internet Service. It is possible that there may be other management practices that can also affect speed. We reserve the right to terminate this Agreement without liability if we are not able to provide, repair or maintain Internet Services to your premises. We will use reasonable efforts to provide installation, repair and maintenance of Internet services.

7.3 **Limitations:** The limited warranty shall not apply if: 1) Your equipment has been subjected to unusual physical or electrical stress, misuse, neglect, accident or abuse, or damaged by any other internal or external causes; 2) The Internet Service or related equipment has been installed, repaired or altered by any one other than our technical support or its subcontractors or affiliates, without prior written approval; or 3) the Internet Service or related equipment is used in violation of applicable law or in violation of instruction furnished by ColusaNET, if any. No equipment may be added to, or removed from the equipment as installed and furnished by ColusaNET.

7.4 **Warranties** The foregoing limited warranties shall be in lieu of and shall exclude all other expressed or implied warranties, including without limitation, warranties of merchantability, and fitness for a particular use or purpose.

8. **Use of Services:** Customer agrees not to use the Services in a manner prohibited by any federal or state law or regulation. Customer further agrees to adhere to ColusaNET's Acceptable Use Policy ("AUP") as set forth on ColusaNET's web site at <http://www.colusanet.com>. Transmission of any material in violation of federal or state law or regulation, including, but not limited to any copyrighted material, material protected by a trade secret or material or messages that are unlawful, harassing, libelous, abusive, threatening, harmful, vulgar, obscene or otherwise objectionable in any manner or nature or that encourages conduct that could constitute a criminal offense, give rise to civil liability or otherwise violate any applicable local, state, national or international law or regulation, is prohibited.

8.1 **Tampering:** Customer agrees that no other devices are to be connected to the ColusaNET network without our consent. Severe consequences and damage can occur if routers or other networking devices are inadvertently and/or incorrectly connected to the ColusaNET network, and Customer agrees that all costs associated with such damage are the sole responsibility of the Customer.

9. **Restrictions:** You agree not to resell or share any of the Internet services provided under this Agreement. This Agreement and the services it provides are for use only by the parties entering into the Agreement or their immediate assigns.

#### 10. **Limitation of Liability:**

10.1 ANY LIABILITY OF ColusaNET ARISING UNDER THIS AGREEMENT SHALL BE LIMITED TO DIRECT, OBJECTIVELY MEASURABLE DAMAGES AND NEITHER PARTY SHALL HAVE ANY LIABILITY FOR ANY INDIRECT OR SPECULATIVE DAMAGES (INCLUDING, WITHOUT LIMITING THE FOREGOING, CONSEQUENTIAL, INCIDENTAL AND SPECIAL DAMAGES, LOSS OF USE, BUSINESS INTERRUPTIONS, AND LOSS OF PROFITS) IRRESPECTIVE OF WHETHER THE PARTY HAS ADVANCE NOTICE OF THE POSSIBILITY OF ANY SUCH DAMAGES.

10.2 NOTWITHSTANDING THE FOREGOING, COLUSANET 's TOTAL LIABILITY UNDER THIS AGREEMENT REGARDLESS OF THE FORM OF ACTION (WHETHER IN CONTRACT, TORT, STRICT LIABILITY, FAILURE OF ESSENTIAL PURPOSE OR OTHERWISE) SHALL NOT EXCEED THE AMOUNT OF THE AGREEMENT LESS THE BALANCE OF THE AGREEMENT.

10.3 YOU ACKNOWLEDGE THAT THESE LIMITATIONS ON POTENTIAL LIABILITIES WERE AN ESSENTIAL ELEMENT IN SETTING THE PRICES FOR SERVICE UNDER THIS AGREEMENT.

11. **Force Majeure:** We will not be responsible for any failure to perform any obligation or provide any Services under the Agreement because of any Act of God or nature, strikes, work stoppage, equipment or facilities shortages, network outages, governmental acts, directives or abuse, war, riot or civil commotion, or any other force beyond our immediate and reasonable control.

12. **Entire Agreement; Amendments in Writing; Severability:** This Agreement, which includes all Attachments and Schedules referenced herein, if any, constitutes the entire Agreement between us concerning the subject matter hereof and supersedes any prior agreements, representations, statements, negotiations, understandings, proposals or undertakings, oral or written, with respect to the subject matter expressly set forth herein. Any changes to this Agreement, or any amendment or supplement to the Agreement must be in writing and signed by ColusaNET to be enforceable. If any provision of this Agreement shall be held to be illegal, invalid or unenforceable, each party agrees that such provision shall be enforced to the maximum extent permissible so as to effect the original intent of the parties, and the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby.

13. **Arbitration:** Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. A single arbitrator who has special knowledge of the industry or technology involved in the dispute shall hold the arbitration in Chico, Sacramento, or Yuba City.

14. **Faxed Copies:** You may sign this Agreement and fax it to us to initiate the Initial Term and the subsequent provisioning of Service. You agree to mail the signed originals to ColusaNET Inc. within 10 days to avoid delays in the installation of the Service.

15. **Application Fee: \$79.95 (Waived unless this service request is cancelled and/or you default under this agreement) Minimum charge will be \$50.00**

16. Payment Schedule for: \_\_\_\_\_  
(Username)

<b>Installation Charge</b>	<b>No Contract</b> <input type="checkbox"/> \$449.95	<b>1 Year</b> <input type="checkbox"/> \$349.95	<b>2 Years</b> <input type="checkbox"/> \$249.95	<b>3 Years</b> <input type="checkbox"/> \$149.95
----------------------------	---------------------------------------------------------	----------------------------------------------------	-----------------------------------------------------	-----------------------------------------------------

<b>Monthly Payment</b>	<b>Residential (No VPN)</b> 10 gb/month Symmetrical <input type="checkbox"/> \$49.95	<b>SOHO/light VPN</b> 30 gb/month Symmetrical <input type="checkbox"/> \$99.95	<b>SME/Heavy VPN</b> 60 Gb/month Symmetrical <input type="checkbox"/> \$149.95
------------------------	-----------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------

Other \_\_\_\_\_

Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ St. \_\_\_\_\_ ZIP \_\_\_\_\_

Phone: \_\_\_\_\_

Credit Card #: \_\_\_\_\_ Expiration: \_\_\_\_\_

Security Code \_\_\_\_\_

Signature: