

Dial Up
Hosting
Design



E-mail
Consulting
Support

579 West Palmer Street
Franklin, NC 28734

Telephone: 828-349-9541
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IP Services Contract

7/6/2001

Customer: _____
Contact: _____
Address: _____
City: _____ **State** _____ **Zip** _____
Phone: _____
Fax: _____
E-mail: _____

Service Type:

Bandwidth: 56K 128K 256K 384K 512K 1M
Term: Month to Month 1 Year 2 Year 3 Year

Setup Fee: _____ (One time only)
Local Loop: _____ Monthly recurring
Port Charge: _____ Monthly recurring
Equipment: _____

Notes:

Smoky Mountain Internet Services, Inc. (SMNET) will provide IP Internet Access Services for _____ (CLIENT), according to the rates quoted on page 1.

The quoted charges are applicable to each location that requires access.

Installation charges are to the customer DEMARK. Any inside wiring that is necessary is an additional charge.

SMNET will provide IP Internet Access Services to CLIENT according to our Terms of Service and Acceptable Use Policy which can be found at <http://www.smnet.net/aup.html>.

This contract is subject to and made part of the attached General Terms and Conditions on pages 3 and 4.

The SMNET setup fee and first month's recurring fees are required to activate service and will be invoiced upon customers acceptance of this agreement.

Charges for equipment shall be invoiced upon shipment.

Service is invoiced monthly in advance, and may be cancelled only by 30 days advance written notice.

This contract will remain in effect for _____ from date of signing and will be automatically renewed unless customer provides written notice of cancellation at least 30 days prior to the expiration of this agreement²

General Terms and Conditions

1. Smoky Mountain Internet Services, Inc. (SMNET) exercises no control over, and accepts no responsibility for, the content of the information passing through SMNET's host computers, network hubs and points of presence (the SMNET Network) SMNET (a) MAKES NO WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, FOR THE SERVICES AND EQUIPMENT IT IS PROVIDING, AND (b) DISCLAIMS ANY WARRANTY OF TITLE, MERCHANTABILITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE. Use of any information obtained via the SMNET Network is at Customer's own risk. SMNET specifically denies any responsibility for the accuracy or quality on information obtained through its services. SMNET shall not be liable for any delay or failure in performance due to Force Majeure, which shall include without limitation acts of God, earthquake, labor disputes, changes in law, regulation or government policy, riots, warfare, epidemics, acts of omissions of vendors or suppliers, equipment failures, transportation difficulties, or other occurrences which are beyond SMNET's reasonable control.

2. All use of the SMNET Network and the service must comply with the then-current version of the SMNET Acceptable Use Policy ("Policy") which is made a part of this Agreement and is available at the following URL: <http://www.smnet.net/aup.html>. SMNET reserves the right to amend the Policy from time to time, effective upon posting of the revised Policy at the URL or other notice to Customer. SMNET reserves the right to suspend the service or terminate this Agreement effective upon notice for a violation of the Policy. Customer agrees to indemnify and hold harmless SMNET from any losses, damage, costs or expenses resulting from any third party claim or allegation ("Claim") arising out of or relating to use of the service, including any Claim which, if true, would constitute a violation of the Policy.

3. NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES THAT RESULT FROM CUSTOMER'S OR CUSTOMER'S USERS' USE OF THE SMNET NETWORK AND THE SERVICE INCLUDING, WITHOUT LIMITATION, ANY SUCH DAMAGES FOR LOSS OF DATA RESULTING FROM DELAYS, NON-DELIVERIES, MISDELIVERIES OR SERVICE INTERRUPTIONS.

4. Networks assigned from an SMNET net-block are non-portable. Network space allocated by SMNET must be returned to SMNET in the event Customer discontinues service.

5. Payment is due 15 days after date of invoice. Accounts are in default if payment is not received within 15 days after date of invoice. If payment is returned to SMNET unpaid Customer is immediately in default and subject to a returned check charge of up to \$25.00 from SMNET. Accounts unpaid 60 days after date of invoice may have service interrupted or terminated. Such interruption does not relieve Customer of the obligation to pay the Monthly Fee. Only a written request to terminate Customer's service relieves Customer of the obligation to pay the Monthly Fee. Accounts in default are subject to an interest charge on the outstanding balance of the lesser of 1/5% per month or the maximum rate permitted by law. Customer agrees to pay SMNET its reasonable expenses, including attorney and collection agency fees incurred in enforcing its rights under this Agreement. Prices are exclusive of any taxes which may be levied or assessed upon the Equipment or services provided hereunder. Any such taxes shall be paid by Customers. If Customer is exempt from otherwise applicable taxes, Customer must submit its tax identification number and exemption certificate at the same time it submits this Agreement

6. Billing for SMNET service will commence when an SMNET hub and a functioning telephone circuit are prepared to route IP packets to Customer's site. The Start up Charge is invoiced upon acceptance of the Agreement by SMNET. Charges for Equipment shall be invoiced upon shipment. Service is invoiced monthly and quarterly in advance, and may be canceled only by 30 days' advance written notice. In the event of early cancellation of a Term Commitment, Customer will be required to pay 75% of SMNET's standard Monthly Fee for each month remaining in the Term Commitment. SMNET reserves the right to change the rates by notifying Customers 60 days in advance of the effective date of the change.

7. Neither party may use the other party's name, trademarks, tradenames or other proprietary identifying symbols without the prior written approval of the other party. Neither party may assign or transfer any of its rights or obligations under this Agreement without the express, prior written consent of the other party; provided, that either party may assign or transfer this Agreement to any affiliate of such party upon advance written notice to the other party. No failure on the part of either party to exercise, and no delay in exercising, any right or remedy hereunder shall operate as a waiver thereof nor shall any single or partial exercise of any right or remedy hereunder preclude any other or further exercise thereof of the exercise of any other right or remedy granted hereby or by law.

8. This agreement supersedes all previous representations, understandings or agreements and shall prevail notwithstanding any variance with terms and conditions of any order submitted. Acceptance of the Agreement by SMNET may be subject, in SMNET's absolute discretion, to satisfactory completion of a credit check. Activation of service shall indicate SMNET's acceptance of the Agreement. Use of the SMNET Network constitutes acceptance of the Agreement.

AGREED AND ACCEPTED BY CUSTOMER:

Signature: _____	Company: _____
Printed Name: _____	Address: _____
Title: _____	City, State, Zip: _____
E-mail: _____	Phone: _____
Date: _____	Fax: _____

For Smoky Mountain Internet:

Signature: _____

Printed Name: _____

Title: _____

Date: _____