

Service Agreement Terms and Conditions

THIS AGREEMENT is entered into between Granite State Long Distance, Inc. a New Hampshire corporation doing business as Granite State Internet ("GSInet"), and the person or entity who makes use of GSInet's Internet services and/or products ("Customer") and is subject to acceptance by GSInet. Customer's acceptance is limited to the terms and conditions of this offer. No additions or subtractions by Customer are acceptable unless and until expressly and mutually agreed upon in writing.

- I. **PROVISION OF SERVICE.** GSInet shall provide and Customer shall accept Internet Service (all Internet related services provided by GSInet offered herein and hereinafter defined as "Service" or "Internet Service") at the applicable rates and charges, subject to the terms and conditions specified in this Agreement. GSInet shall provide Customer with an access account ID(s) and access phone number(s) by which Customer may use GSInet's Service. Customer shall not have any proprietary right to the access account ID(s) and access phone numbers(s) provided to it by GSInet. Except as otherwise agreed by GSInet in writing, GSInet reserves the right to revise, in its sole discretion, the rates, terms, and conditions of its Agreement with Customer. Customer agrees to pay for Service pursuant to such revised rates, terms, and conditions, unless Customer terminates this Agreement in accordance with the terms and conditions of this Agreement. GSInet reserves the right to assign, designate or change access account ID(s) and access phone number(s) when, in its sole discretion, such assignment designation or change is reasonable or necessary in the conduct of its business. Service is subject to transmission limitations caused by atmospheric, topographical and any other like conditions. Additionally, Service may be temporarily refused, limited, interrupted or curtailed due to government, regulations or orders, system capacity limitations, limitations imposed by an underlying communications carrier, or because equipment modifications, upgrades, repairs or reallocations or other similar activities necessary or proper for the operation or improvement of GSInet's Internet system
- II. **CUSTOMER SERVICE REQUESTS.** Applications, including activation, a change or discontinuance of Service, will be accepted only from Customer by telephone, in writing via facsimile transmission, in writing via US mail or electronically.
- III. **LIMITATION OF GSINET'S LIABILITY.**
 - A. Customer understands that alternative and competing Internet communications carriers are available to Customer; occasional interruption or irregularities in the Service may occur; any potential harm from interruptions or irregularities in the service is speculative in nature; GSInet cannot offer the service at rates which reflect its value to each customer; and GSInet assumes no responsibility other than that contained in this Agreement. Accordingly, Customer agrees that except as limited by law, GSInet's sole liability for loss or damage arising out of mistakes, omissions, interruptions, delays, errors, or defects in the Service or transmission of Service provided by GSInet or any underlying communications carrier, or for losses or damages arising out of the failure of GSInet or any underlying communications carrier to maintain proper standards of maintenance and operation shall be as follows:
 - i. A credit allowance as described in subsection 4 (a) (iii) below, will be made at Customer's request in the form of a pro-rata adjustment of the fixed monthly charges billed to Customer. Fixed monthly charges are the monthly charges for access and optional features per access account ID, all as described in the schedule of rates and charges in effect at the time of interruption.
 - ii. Such credit allowance will be based upon the period of the time during which such mistakes, omissions, delays, errors or defects in the Service or its transmission caused interruptions in the rendering of the Service. Any such period of time an interruption occurs will be measured from the time it is reported to GSInet. In the event Customer is affected by such interruption for a period of less than 24 hours, no such adjustment shall be made. When an interruption exceeds 24 hours, the length of the interruption will be measured in 24-hour days. A fraction of a day consisting of less than 12 hours will not be credited, but a period of 12 hours or more will be considered an additional day.
 - iii. The credit allowance will be computed by dividing the length of the Service interruption by a standard 30-day month and then multiplying the result by GSInet's fixed monthly charges for each interrupted access account ID. In no case will the credit exceed the fixed monthly charges.
 - iv. A credit allowance will not be given for mistakes, omissions, interruptions, delays, errors or defects, or curtailments in the Service caused by the negligence or willful act of Customer or other parties, or mistakes, omissions interruptions, delays, errors, or defects caused by failure of equipment or service not provided by GSInet.
 - v. The Service furnished by GSInet, in addition to the limitations set forth preceding, is also subject to the

**Service Agreement
Terms and Conditions**

following limitation: the liability of GSInet for loss or damages arising out of mistakes, omissions, interruptions, delays, errors or defects in the service, its transmission or failures or defects in facilities of the underlying communications carrier, occurring in the course of furnishing Service and not caused by the negligence of the authorized user, or the underlying communications carrier in failing to maintain proper standards of maintenance and operation and to exercise reasonable supervision, shall in no event exceed an amount equivalent to the proportionate fixed monthly charge to the authorized user for service during the period of time in which such mistakes, omissions, interruptions, delays, errors, or defects in service, its transmission, or failures or defects in facilities furnished by GSInet or the underlying communications carrier occurred.

- B. GSInet shall in no event be liable for Service or equipment interruptions or delays in transmission, errors or defects in Service or equipment, when caused by acts of God, fire, war, riots, government authorities, default of supplier, or other causes beyond GSInet's or any underlying communications carrier's control.
- C. Customer acknowledges that Internet systems use public access facilities to transmit voice and data communications and that the service may not be completely private. GSInet is not liable to Customer for any claims, loss, damages or cost that may result from lack of privacy on the system.
- D. Customer acknowledges that Internet systems may carry material which may be considered abusive, profane or sexually offensive and that GSInet is not liable to Customer for any claims, loss, damages or cost which may result from such material.
- E. Customer hereby agrees to indemnify and save GSInet harmless against claims for libel, slander, or infringement or copyright from the material in any form over its facilities by Customer or those using Customer's equipment; against claims for infringement of patents arising from combining or using apparatus or systems of Customer with the facilities of GSInet or any communications carrier; and against all other claims arising out of any act or omission of Customer in connection with the facilities or service provided by GSInet.

IV. **DISCLAIMER OF WARRANTIES AND LIMITATION OF REMEDIES.**

- A. CUSTOMER ACKNOWLEDGES AND AGREES THAT GSINET IS NOT THE MANUFACTURER OF EQUIPMENT AND INTERNET PACKAGE SOFTWARE, AND GSINET HEREBY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, DIRECT OR INDIRECT, EXPRESS OR IMPLIED, WRITTEN OR ORAL, IN CONNECTION WITH THE EQUIPMENT OR SERVICE OR INTERNET PACKAGE SOFTWARE (WHETHER PURCHASED OR LEASED BY CUSTOMER FROM GSINET OR ANOTHER), INCLUDING BUT NOT LIMITED TO ANY AND ALL EXPRESS AND IMPLIED WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE. GSINET, TO THE EXTENT PERMITTED BY LAW, ASSIGNS TO CUSTOMER ANY AND ALL MANUFACTURERS' WARRANTIES RELATING TO EQUIPMENT OR INTERNET PACKAGE SOFTWARE PURCHASED BY CUSTOMER, AND CUSTOMER ACKNOWLEDGES RECEIPT OF ANY AND ALL SUCH MANUFACTURERS' WARRANTIES.**
- B. CUSTOMER ACKNOWLEDGES AND AGREES THAT ITS SOLE AND EXCLUSIVE REMEDY IN CONNECTION WITH ANY DEFECTS IN THE EQUIPMENT OR SOFTWARE, INCLUDING MANUFACTURE OR DESIGN, SHALL BE AGAINST THE MANUFACTURER OF THE EQUIPMENT OR SOFTWARE UNDER THE MANUFACTURER'S WARRANTIES AND THAT GSINET SHALL HAVE NO LIABILITY TO CUSTOMER IN ANY EVENT FOR ANY LOSS, DAMAGE, INJURY, OR EXPENSE OF ANY KIND OR NATURE RELATED DIRECTLY OR INDIRECTLY TO ANY EQUIPMENT OR SOFTWARE OR SERVICE PROVIDED HEREUNDER. WITHOUT LIMITING THE ABOVE, GSINET SHALL HAVE NO LIABILITY OR OBLIGATION TO CUSTOMER, IN EITHER CONTRACT OR TORT, FOR SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND INCURRED BY CUSTOMER, SUCH AS, BUT NOT LIMITED TO, CLAIMS OR DAMAGES FOR PERSONAL INJURY, WRONGFUL DEATH, LOSS OF USE, LOSS OF ANTICIPATED PROFITS, OR OTHER INCIDENTAL OR CONSEQUENTIAL DAMAGES OR ECONOMIC LOSSES OF ANY KIND INCURRED BY CUSTOMER DIRECTLY OR INDIRECTLY RESULTING FROM OR RELATED TO ANY EQUIPMENT OR SERVICE OR SOFTWARE DESCRIBED HEREUNDER, WHETHER OR NOT CAUSED BY GSINET'S NEGLIGENCE, TO THE FULL EXTENT SAME MAY BE DISCLAIMED BY LAW. ANY REFERENCES TO EQUIPMENT OR SOFTWARE IN THIS PARAGRAPH SHALL BE DEEMED TO APPLY TO ALL EQUIPMENT OR SOFTWARE PURCHASED BY CUSTOMER OR LEASED BY CUSTOMER FROM GSINET OR ANOTHER LESSOR. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR**

**Service Agreement
Terms and Conditions**

CONSEQUENTIAL DAMAGES SO THE ABOVE EXCLUSION MAY NOT APPLY. YOU MAY ALSO HAVE OTHER LEGAL RIGHTS WHICH VARY FROM STATE TO STATE.

- V. INDEMNIFICATION AND RELEASE. Customer agrees to release, defend, indemnify and hold harmless GSInet, its officers and employees, to the full extent permitted by law from and against any and all claims, damages, liabilities and expenses, including legal and attorney fees, of any nature arising directly or indirectly out of this Agreement, including, without limitation, claims for personal injury or wrongful death to Customer or users of the equipment, products or services provided by GSInet or used in conjunction with such equipment, products or services provided by GSInet and arising out of the manufacture, purchase, operation, condition, maintenance, installation, return or use of the equipment or service, or arising by operation of law, whether the claim is based in whole or in part on negligent acts or omissions of GSInet, its agents or employees.
- VI. OPERATING RULES. These Operating Rules are provided to make on-line information usage and communications a positive and secure experience for subscribers.
- A. Customer warrants Customer is at least 18 years old.
- B. Customer warrants that, to the best of Customer's knowledge, all information provided to GSInet is accurate.
- C. CONTENT AND USE OF SERVICE.
- i. Customer agrees not to publish, on or over the Internet, content which violates or infringes upon the rights of any other or which would be abusive, profane or offensive to an average person. If GSInet is challenged by any third party regarding the suitability of Customer's content, GSInet may at GSInet's sole discretion delete Customer's content from the Service.
- ii. Customer agrees not to send unsolicited electronic mail to more than twenty-five (25) e-mail addresses or more than ten (10) newsgroups, forums, or other similar groups or lists without GSInet's explicit written permission for each instance of communication. GSInet reserves the right, where feasible, to implement technical mechanisms which block multiple postings before they are forwarded.
- iii. Customer agrees not to engage in any of the foregoing activities using the service of another provider, but channeling such activities through a GSInet account or remailer, or using a GSInet account as a maildrop for responses.
- iv. Customer agrees not to use the Service to conduct any business or activity, or to solicit the performance of any activity, which is prohibited by law.
- v. The Service is furnished for Customer's own use and may not be resold by Customer to third parties.
- D. Violation of, or engaging in, one or more of these practices will result in termination of the offender's account and/or access to GSInet services.
- E. Nothing contained in this policy shall be construed to limit GSInet's actions or remedies in any way with respect to any of the foregoing activities. GSInet reserves the right to take any and all additional actions it may deem appropriate with respect to such activities, including without limitation taking action to recover the costs and expenses of identifying offenders and removing them from the GSInet service, and levying cancellation charges to cover GSInet's costs.
- F. In addition, GSInet reserves at all times all rights and remedies available to it with respect to such activities at law or in equity.
- VII. RATES AND CHARGES. Unless otherwise agreed by GSInet, Customer will be billed in arrears for monthly access base rate charges, extended connect time, bandwidth and disk use charges. Unless otherwise agreed by GSInet, Customer will be charged a minimum of one minute of connect time for each connected call. Chargeable connect time is measured from the time of channel seizure to channel termination for connected calls and billed in one (1) hour increments.
- A. Payment is due to GSInet upon receipt of monthly invoice.
- B. Customer shall be responsible for payment of charges for all services furnished by GSInet, including without limitation, Service establishment fees, Service connection charges and charges for enhanced features, sales and use taxes, other taxes required by law, fees or other extraction imposed by or for any municipal or other political authority against GSInet. Rates and charges shall be based on prices in effect at the time Service is furnished.
- C. Payments received after the due date shall incur a late payment charge of 1.2% per month on the unpaid balance for each month or fraction thereof that such balance shall remain unpaid or, if less, the highest rate of interest allowed by law.
- D. In the event that Customer's equipment is lost, stolen or otherwise absent from Customer's possession and control, Customer shall nonetheless be liable for all use and other charges attributable to the Internet access

**Service Agreement
Terms and Conditions**

account ID until such time as GSInet is notified of the loss, theft, or other occurrence.

- E. When payment for Service or equipment is made by check, draft, credit card account or other negotiable instrument, a charge may be made by GSInet for each time such item is returned unpaid to GSInet for any reason except to the extent limited by law.
- F. Unless otherwise agreed by GSInet, Customer shall be responsible for all outstanding charges for service rendered and shall be responsible for all charges through the end of the billing cycle within which termination occurs, without proration of any such charge.

VIII. DEFAULT AND WAIVER.

- A. In the event that Customer shall default in the payment when due of any sum due hereunder, or in the event of any default or breach of the terms and/or conditions of this Agreement, or if any proceeding in bankruptcy, receivership or insolvency or petition for receivership shall be instituted by or against Customer, GSInet, at its option, may:
 - i. Proceed by appropriate court action or actions to enforce performance by Customer of the applicable covenants and terms of this Agreement or to recover damages for the breach thereof; and/or
 - ii. Terminate this Agreement, whereupon all rights and interests of Customer shall terminate and Customer shall remain liable for all Services provided.
- B. Customer shall pay to GSInet on demand any and all past due amounts which GSInet may sustain by reason of such default or breach by Customer, together with all other charges as provided by this Agreement, reasonable attorney's fees incurred by GSInet in connection with such breach or default by Customer and all other costs and expenses incurred by GSInet in collecting such amounts. All amounts shall be payable by Customer without set off or deduction of any kind.
- C. The remedies provided in favor of GSInet in the event of default shall not be deemed to be exclusive but shall be in addition to all other remedies in its favor existing at law.
- D. No failure on the part of GSInet to exercise any right or remedy arising directly or indirectly under this Agreement shall operate as a waiver of any right or remedy it may have nor shall an exercise of any right or remedy by GSInet preclude any other right or remedy GSInet may have.

IX. ASSIGNMENTS. Neither this Agreement nor Customer's rights hereunder shall be assignable by Customer except with GSInet's prior written consent. The conditions hereof shall bind any permitted successors and assigns of Customer.

X. ENTIRE AGREEMENT; AMENDMENTS; EFFECTIVENESS; GOVERNING LAW. Customer acknowledges that this Agreement, together with any amendments, supplements or update transmitted to Customer by electronic mail and made available on GSInet's web page, contains the entire agreement between the parties relating to the services and/or equipment described in this Agreement and that GSInet and its employees have not made orally or in writing any representations, warranties or agreements inconsistent with the terms of this Agreement. No modification, change or alteration of any of the terms of this Agreement shall be valid unless (i) made by GSInet and transmitted by electronic mail and posted on GSInet's web page not less than 30 days prior to the effective date of such amendment or (ii) made in writing and signed by GSInet and Customer except as otherwise proved herein. In the event that GSInet provides notice by electronic mail of its intention to amend this Agreement, Customer shall be entitled to cancel this Agreement as of the proposed effective date of such amendment. If Customer does not cancel, then such amendment shall become effective, and this Agreement shall continue in effect as so amended. This Agreement supersedes all prior agreements and understandings, both oral and written, with respect to the subject matter hereof. Customer agrees to notify GSInet within 30 days of any change of Customer's address. This Agreement shall be governed by, construed and enforced in accordance with the laws of the state of New Hampshire. **USE OF THE SERVICE AFTER RECEIPT OF THIS AGREEMENT CONSTITUTES THE AGREEMENT OF CUSTOMER THAT THIS AGREEMENT SHALL SUPERSEDE ALL PRIOR AGREEMENTS. GSNET AND CUSTOMER SHALL HONOR ALL PAST OBLIGATIONS UNDER AGREEMENTS IN EFFECT PRIOR TO THE EFFECTIVENESS OF THIS AGREEMENT.**

XI. SEVERABLE PROVISIONS. If any part of this Agreement is contrary to or prohibited by or deemed invalid under applicable laws and regulations of any applicable jurisdiction, the remaining provisions and parts thereof shall remain and be construed in full force and effect to the extent permitted by law.

XII. RENEWAL AND TERMINATION. Unless Customer or GSInet terminates this Agreement as provided herein, and except as otherwise agreed, upon completion of any initial term of this Agreement, this Agreement shall renew on a month-to-month basis. Notice of Customer's intent to terminate this Agreement shall be made to

**Service Agreement
Terms and Conditions**

GSInet at PO Box 87, Weare, NH 03281-0087, via fax at (603) 529-1022 or via phone at (603) 529-9916. GSInet reserves the right not to renew this Agreement at any time prior to the conclusion of the initial or any renewal term by giving Customer notice of same.