



# **ORDER FOR DATA COMMUNICATIONS TERMS AND CONDITIONS**

1. This agreement (the "AGREEMENT") between Accel Net, Inc. ("ACCEL NET") a Washington State Corporation and the customer (the "CUSTOMER") as listed on the Order for Data Communications, is for the purpose of providing an Internet access service (the "CONNECTION") by ACCEL NET to the CUSTOMER. The CUSTOMER by affixing his signature and date to the AGREEMENT agrees to all the terms contained in the Order for Data Communications, the Terms and Conditions contained herein and ACCEL NET's Acceptable Use Policy (the "AUP") which when all three (3) documents are taken together becomes the binding AGREEMENT which both parties have mutually entered into. This AGREEMENT in part or in whole may only be modified by a written instrument signed by the party against which the modification is being enforced.

2. ACCEL NET shall provide the CUSTOMER a CONNECTION to the Internet from ACCEL NET's managed radio network according to the terms contained in the AGREEMENT. The CUSTOMER shall pay to ACCEL NET the monthly recurring charges as listed in the AGREEMENT per month every month in advance during the term hereof plus a one-time non-refundable setup fee as also listed in the AGREEMENT, both of which shall be due initially upon the CUSTOMER execution hereof or the activation of service whichever is later. The CUSTOMER shall be entitled to use the CONNECTION to transfer data to and from the Internet. ACCEL NET may at any time throttle the connection to a speed that does not impair or degrade the network. If CUSTOMER continues to impair or degrade the connection then CUSTOMER will be forced into the next level of service or disconnection. The CUSTOMER may select at any time to increase the maximum bandwidth amount by executing an amended AGREEMENT with ACCEL NET. The amended AGREEMENT will replace the original AGREEMENT and will take effect on the date such amended AGREEMENT is signed, delivered and agreed to by ACCEL NET. The amended AGREEMENT may change the initial term of service or its expiration date. Any changes to the expiration date will require a new executed Order for Communications.

3. The CUSTOMER will be invoiced monthly in advance for all amounts due and owing to ACCEL NET for services rendered under the terms of this AGREEMENT. All payments are due and payable upon receipt of invoice and no later than 30 days after the date of such invoice. Late payments made after the 30 day grace period will be subject to late fees of \$20.00 per month.

Returned checks are subject to a \$50 returned check fee. The CUSTOMER may be disconnected if payment is not received within 45 days of the date of such invoices and a reconnection fee of \$50 may be assessed. It is also agreed that in the event an invoice is over 60 days late it will be sent to collections and all collection fees will be added to the balance owed to ACCEL NET.

4. The CUSTOMER agrees to provide an Ethernet Router of sufficient bandwidth to support the CONNECTION and which is capable of providing SNMP MIB2 compliant information for read only purposes and ICMP ec requests from its WAN port to ACCEL NET's automated management and monitoring equipment. If the customer does not choose to provide such a router, then ACCEL NET may provide one at an additional cost to the CUSTOMER which shall be listed in the AGREEMENT or separate invoice and payable at the time specified in section 2 above.
5. This AGREEMENT shall commence on the date the CONNECTION is activated by ACCEL NET and released for use by the CUSTOMER (the "ACTIVATION DATE") and shall remain in force for the full term as listed in the AGREEMENT. The ACTIVATION DATE cannot be changed or delayed by the customer for any reason without prior written permission from ACCEL NET. This AGREEMENT shall automatically renew on One year terms unless terminated in writing by either party at least 30 days prior to the EXPIRATION. ACCEL NET reserves the right to change its rates for the renewal term by notifying the CUSTOMER at least 30 days in advance of the EXPIRATION.
6. The CUSTOMER understands that setup fees are non-refundable if the radio link is operable for at least 14 days following the ACTIVATION DATE. Setup fees are only refundable if the radio link is not operational according to the requirements contained in the AGREEMENT within 14 days after the ACTIVATION DATE. If The CUSTOMER terminates this AGREEMENT anytime after the 14 day period immediately following the ACTIVATION DATE, but before EXPIRATION, the CUSTOMER shall pay a lump sum equal to the charges of the remainder of the then current term of the AGREEMENT. If ACCEL NET terminates the CUSTOMER CONNECTION for any violation of any provision of the AGREEMENT, the CUSTOMER shall have a 72-hour period during which the CUSTOMER must fix the problem(s) associated with the violation or pay, immediately, a lump sum equal to the charges for the remainder of the then current term of the AGREEMENT.
7. This AGREEMENT does not include any other incidental or additional charges such as additional network equipment, wiring or additional services or installation charges, additional IP addresses or other charges not expressly listed in this AGREEMENT. Additional work ordered by the CUSTOMER but not contained in this AGREEMENT will be covered by a separate work order and invoice.
8. The radio antenna, support mast, power supply, hub/switch, cable and any other equipment or material supplied by ACCEL NET to accomplish the installation of the CONNECTION are the property of ACCEL NET, and shall be returned to ACCEL NET, in useable condition, within 5 days of the CONNECTION termination. The CUSTOMER shall allow ACCEL NET employees to immediately remove the hardware and material from the CUSTOMER premises and CUSTOMER building upon notice of such action by ACCEL NET.
9. ACCEL NET reserves the right to deny service to any CUSTOMER who impairs, damages or degrades the CONNECTION for any reason, intentional or otherwise, as the Radio Frequency (the "RF") bandwidth for this type of CONNECTION is shared with other ACCEL NET customers who may be adversely affected. CONNECTION impairment may occur because of excessive data transfers, uncontrolled packet storms, viruses, CUSTOMER created RF interference or any other such cause whether intentional or otherwise. ACCEL NET shall have the right to take any preventive measures it deems necessary to protect its network from such degradations including but not necessarily, temporary interruption of service. If possible, the CUSTOMER may receive a warning and have 24-hours from such warning to rectify the situation. At that time or any time sooner at the sole discretion of ACCEL NET, the CUSTOMER may be permanently throttled to a lower data transfer rate, disconnected or be required to permanently change their CONNECTION to a different unlicensed frequency, licensed frequency or a



dedicated (non-shared) radio service.

10. ACCEL NET makes no warrantee, expressed or implied, including, but not limited to, those of merchantability or fitness for a particular purpose. This includes loss of data resulting from delays, non-deliveries, miss-deliveries or service interruptions however caused. Use of any information obtained by ACCEL NET's network is at the CUSTOMER's own risk. ACCEL NET specifically disclaims any responsibility for the accuracy or quality of information obtained through the CONNECTION.
11. ACCEL NET endeavors to provide continuous and uninterrupted service. Routine maintenance and periodic system repairs, upgrades and reconfigurations, uncontrolled RF interference, public emergency or necessity, force majeure, vandalism, wind damage, water ingress, restrictions imposed by law, acts of God, labor disputes and other situations, including mechanical, electrical or electronic breakdowns may result in temporary impairment or interruption of service. As a result, ACCEL NET does not guarantee continuous or uninterrupted service and reserves the right from time to time to temporarily reduce or suspend service without notice. The CUSTOMER shall indemnify and hold ACCEL NET and its directors, officers, employees, and agents harmless from any and all obligations, charges, claims, disputes, liabilities, costs and fees incurred as the result of interruptions or omissions of service.
12. If the CONNECTION degrades for any reason after the 14 day period immediately following activation of service, the CUSTOMER may require extra hardware and setup at that time to remedy the degraded CONNECTION. ACCEL NET shall not be held liable for this situation and/or any additional charges for such remedy work nor will the CUSTOMER be entitled to any type of refund. However if the CONNECTION is completely interrupted with no customer traffic flowing in either direction at any speed due exclusively to equipment or hardware failure of ACCEL NET's network for a continuous 5 day period, the CUSTOMER has the option to declare this AGREEMENT in default and all subsequent obligations under the terms of this AGREEMENT shall become null and void with no refund of past payments or liability for lost revenue or damages on the part of ACCEL NET.
13. The CUSTOMER hereby acknowledges that the Internet is not owned, operated, managed by, or in any way affiliated with or by ACCEL NET or any of its affiliates, and that it is a separate network of computers and hardware independent of ACCEL NET. The Internet speed of the CUSTOMER CONNECTION may be subject to delays caused by the Internet itself and in no way is ACCEL NET responsible for the day-to-day performance of the Internet. The CUSTOMER's use of the Internet is solely at the CUSTOMER's own risk. ACCEL NET exercises no control whatsoever over the content of the information passing through its network.
14. The service provided under this AGREEMENT is for the sole use of the CUSTOMER, their employees, and their associates at the place of business or place of residence indicated on this AGREEMENT and is not available for resale, reassignment, transfer or use by any other party other than the one for which it is assigned to under the terms of this AGREEMENT.
15. The CUSTOMER shall indemnify ACCEL NET, its affiliates, officers, directors, licensees, and licensors of any and all claims and expenses, including, without limitation, reasonable attorney's fees arising from CUSTOMER breach of any provision of this AGREEMENT.
16. This AGREEMENT is deemed to be entered into within the State of Washington. The parties agree that any dispute arising under this AGREEMENT shall have its venue in King County, Washington and any such dispute shall be governed by and constructed in accordance with the laws of the State of Washington.
17. ACCEL NET may assign this AGREEMENT without the CUSTOMER's prior consent and all of ACCEL NET'S rights, title, and interest herein shall inure to the benefit of such assignee, its successors and assigns. This AGREEMENT shall not be assignable by the CUSTOMER except with the written consent of ACCEL NET. Subject to the foregoing, this AGREEMENT shall be binding upon and inure to the benefit of the parties hereto



and their respective successors and assigns.

18. Neither party shall disclose any of the terms and conditions of this AGREEMENT without prior written consent of the other, provided, however, ACCEL NET may refer to the CUSTOMER as its customer with permission granted by the CUSTOMER in any of its sales or marketing materials.
19. Any notice required to be given hereunder shall be in writing and shall be deemed to have been delivered when deposited in the United States mail, registered or certified mail, return receipt requested with adequate postage affixed and addressed to the persons set forth in the signature block hereto or to such other address as either party may provide to the other in accordance with the provisions hereof. A copy of any notice to ACCEL NET shall be sent to:

**Accel Net, Inc.**  
**1414 127<sup>th</sup> Place NE, Suite 103**  
**Bellevue, WA 98005**



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MISSION CRITICAL BUSINESS-CLASS INTERNET SERVICE  
SEATTLE, WA  
[WWW.ACCELNET.NET](http://WWW.ACCELNET.NET)