

Pacific Information Exchange, Inc.

1132 Bishop Street, Suite 2102 • Honolulu, HI 96813
Phone: (808) 522-9393 • Fax: (808) 546-1100 • Technical Support: (808) 522-9790

Frame Relay Service Agreement

This document is an Agreement made by and between the individual or organization, hereinafter referred to as "Customer," and Pacific Information Exchange, Inc., hereinafter referred to as "Paclnfo Net."

1.0 Service Description

- (a) Paclnfo Net shall provide access to the Internet at a maximum rate as specified on the Frame Relay Application via a dedicated Frame Relay network connection service supplied by Customer to the Paclnfo Network Operating Center at 1132 Bishop Street, Suite 700, Honolulu, Hawaii 96813. Actual data throughput is not guaranteed due to the inherent nature of the Internet and Paclnfo Net's lack of control of the connection rates of remote networks and systems and the telephone company's frame relay service.
- (b) IP addresses are available at \$2.00 per IP, per month. To accept, customer must initial here _____.
- (c) Pricing and Terms for additional services are outside of this agreement and are to be negotiated separately.

2.0 Term of the Agreement, Termination Fee

- (a) The term of this agreement shall be for a period of twelve months (12) commencing on the In-Service Date. If Customer fails to continue Service for the entire Term, Customer agrees to pay a termination fee ("Termination Fee"). The Termination Fee is equal to 75% of the monthly access fee, multiplied by the number of full months remaining in the Term. Any periods of suspension do not count toward Customer's contractual commitment. Customer acknowledges that the Termination Fee is separate from any termination fee charged by an agent of Paclnfo Net, and Customer acknowledges that Paclnfo Net has no control over the termination fee charged by agents. At the end of the term of this Agreement, Paclnfo Net will continue to provide Service to Customer under this Agreement on a month-to-month basis. Customer will also be charged the Termination Fee if Customer is disconnected for nonpayment of Customer's bill, or if Customer is disconnected due to any misuse or abuse of Service. At the end of the Term, Customer may cancel Service at any time without paying a Termination Fee.
- (b) Paclnfo Net reserves the right to modify the terms and conditions of service with notification to customer in writing or e-mail at least 30 days, if at all possible, in advance of the effective date of the change.

3.0 Rates

- (a) Customer agrees to pay the set-up fee, first month's access fee, additional optional services that have been initialed above, and taxes upon signing agreement. Thereafter, for the term of this contract, a monthly access fee, additional optional services and taxes will be due on the 1st of each month.
- (b) The rates as contained herein are intended for the sole connectivity and use of the Internet by the Customer, and do not afford the economic benefit of commercial re-selling of Internet Access. The Customer agrees to abide to the limitations as contained herein. In the event the Customer desires to procure the economic benefits of commercial re-selling, Customer will promptly notify Paclnfo Net of desired intention in writing, and refrain from initiating such activity without the express written consent of Paclnfo Net.
- (c) Set-up charges are non-refundable.

4.0 Billing/Payment Policy

- (a) All payments shall be paid in the legal currency of the United States of America. If any payment obligation is not paid in a timely manner, the customer agrees and promises to pay all costs of collections, including reasonable attorney fees, whether or not a lawsuit commences as part of the collection process.
- (b) Paclnfo Net will bill customer via e-mail.
- (c) Monthly billing schedule is available for business customers and customers paying via credit card or automatic bank draft.
- (d) Payment via check is only available for customers electing our quarterly, semi-annual, or annual service plans.
- (e) Paclnfo Net will bill Customer on the first of every month for the monthly recurring charge (plus tax).
- (f) It is our policy to pro-rate service periods to the 1st of the month.
- (g) If any of the following events of default occur, this agreement and any other obligations of the customers to Paclnfo Net, shall become due immediately, without demand or notice:
 - 1) The filing of bankruptcy proceedings involving the Customer as debtor.
 - 2) The application of appointment of a receiver for the Customer's creditors.
 - 3) The making of a general assignment for the benefit of the Customer creditors.
 - 4) The insolvency of the credit, or
 - 5) The misrepresentation by the Customer to Paclnfo Net for the purpose of obtaining or extending credit.

- (h) If determined by PacInfo Net that the account and access should be put on hold for any reason, including but not limited to non-payment of account, the Customer agrees to pay a reinstatement fee of \$160.00 to reactivate account.
- (i) Payments are due 10 days after invoice date, any charges outstanding more than 15 days after invoice date will be assessed a late payment fee of 1.5% per month.
- (j) Cancellations made within ten business days from date of signup will be eligible for a refund of the Access Fee. Setup fees and other nonrecurring charges are not refundable. Cancellations received after ten business days will be eligible for a pro rata refund based on days of service remaining under initial service period paid. Notice of cancellation must be in writing via e-mail or hard copy.

5.0 Allowance for Interruptions/Limitation of Liability

- (a) In no case shall PacInfo Net, its officers, or any of its representatives be responsible for any consequential damages or loss resulting either directly or indirectly from any activity on our system. PacInfo Net also is to be known as a "common carrier" and as such is not responsible for the content, lack of content, accuracy, or inaccuracy of any information gathered from Customer's use of this system. All information is provided as-is without regard to fitness-of-purpose.
- (b) PacInfo Net's sole liability for interruption of the services shall be:
 - 1) A credit to Customer in an amount equal to the daily pro rata monthly charge paid by Customer to PacInfo Net for the period during which services are interrupted. No credits shall be given for interruptions of less than twelve (12) hours.
 - 2) Claims for reimbursement credit shall be submitted in writing within thirty (30) calendar days of the occurrence. No credit shall be allowed for an amount of less than five dollars (\$5).
 - 3) The pro rata credit available to Customer as set forth above is Customer's sole and exclusive remedy for any interruption or disruption of service for whatever and any cause, and PacInfo Net's liability for any reason whatsoever hereunder is limited to the allowance of said pro rata credit. PacInfo Net shall not be liable for any special, incidental, consequential or punitive damages of any kind, including but not limited to loss of business opportunity or loss of profits.

6.0 Acceptable Use Policy

- (a) PacInfo Net makes no restriction on usage provided that such usage is legal under the laws and regulations of the State of Hawaii and the United States of America; and does not adversely affect PacInfo Net customers. Customer is responsible for obtaining and adhering to the Acceptable Use Policies of any network accessed through PacInfo Net services.
- (b) PacInfo Net reserves the right without notice to disconnect an account that is the source of spamming, abusive or malicious activities. There will be no refund when an account is terminated for these causes. Moreover, there will be billing rate of \$125 per hour charged to such accounts to cover staff time spent repairing subsequent damage.
- (c) Customers are forbidden from using techniques designed to cause damage to or deny access by legitimate users of computers or network components connected to the Internet. PacInfo Net reserves the right to disconnect a customer site that is the source of such activities without notice.
- (d) The content of any Internet traffic flow initiated by customer, whether flowing to or from a customer site, must not contravene local laws, insofar as they are clear on what is legal or illegal for Internet traffic. Even where local law themselves do not explicitly prohibit activity or Internet content, PacInfo Net does not permit its services to be used for activities which:
 - 1) Exploit minors
 - 2) Illegally distribute or duplicate unauthorized copyrighted or licensed material
 - 3) Harass individuals or racial/ethnic groups
 - 4) Would use PacInfo Net system in a manner that encumbers system resources to the point that usage causes interference with others' normal use of services.
 - 5) Attempt or commit unauthorized intrusion into any part of the network
 - 6) Use services provided by PacInfo Net to harass anyone in any way.
- (e) PacInfo Net reserves the right to terminate connection to the Internet, if the Acceptable Use Policy is violated.

7.0 Severability

- (a) If any provision of this agreement is held by a court of competent jurisdiction to be contrary to law, the remaining, provisions of this Agreement shall remain in full force and effect.

8.0 Jurisdiction

- (a) The laws of the State of Hawaii and the United States of America shall govern the validity, construction and performance of this Agreement.

9.0 Entire Agreement

- (a) This agreement represents the complete agreement and understanding of the parties with respect to the subject matter herein, and supersedes any other agreement or understanding, written or oral. This agreement may be modified only by a verifiable authenticated document, hard copy or electronic, signed by all parties.

By signing this document, Customer agrees to the terms and conditions of this Agreement.

Date: _____

Signature: _____

Print Name: _____

Title: _____

Company/Organization Information

| | |
|-----------------|--|
| Company Name: | |
| Address: | |
| City/State/Zip: | |
| Contact Number: | |
| Fax Number: | |
| E-Mail Address: | |