



DSLWest Terms of Service and Customer Agreement

Purpose of the Agreement

1. The purpose of this Agreement is to state the terms and conditions under which DSLWest, LLC (hereafter referred to as DSLWest) will provide service to the end user (hereafter referred to as Customer).

Services Provided

2. For all services provided DSLWest will provide e-mail and/or Instant Messenger support for operational questions, phone support for system availability problems, near continuous up-time, rapid response to any system problems, and secure, controlled access to files, programming/consulting services, and access to shared data bases. Any equipment provided by DSLWest will be considered as owned by DSLWest and returned to DSLWest within 5 business days of service cancellation, unless otherwise agreed to in writing prior to service activation or during the term of service.

Customer's Agreement

3. Customer agrees not to create or alter files other than those in their assigned directories if telnet or ftp access is provided.
4. Customer agrees not to use access for any illegal purpose.
5. Customer agrees not to send unsolicited e-mails (SPAM), from any DSLWest e-mail account.
6. Customer agrees not to use any DSLWest equipment for unsolicited e-mail delivery.
7. Customer agrees not to SPAM (regardless of delivery mechanism) on behalf of any website hosted on DSLWest servers.
8. Co-location customer agrees that any wiring or cable work will be done by DSLWest staff or under DSLWest supervision.
9. Dedicated circuit customer (including DSL, T-1 and frame-relay) agrees not to use IP addresses that were not assigned to them by DSLWest Internet.
10. Dedicated circuit customer will not resell bandwidth.
11. Dedicated circuit customer will not run any software servers that accept incoming socket connections unless expressly agreed upon with DSLWest Internet. Server software includes but is not limited to HTTP, SMTP, POP, and NNTP.
12. DSLWest will use due care and best effort in providing all services. In the event of a system failure, DSLWest will provide best effort to restore system under its control with the exception of events considered "Acts of God". DSLWest shall not be liable for any loss to Customer as a result of such system failure. The liability of DSLWest with respect to this Agreement shall in any event be limited to the total compensation for the services provided under this Agreement and shall not include any contingent liability.

Compensation

13. Customer shall pay DSLWest, compensation for services rendered, in accordance with the established rates and minimums of DSLWest in effect at the time the services are rendered.
14. Invoice Billing: An email will be sent ten working days prior to the first of the month. Payments are due on the first working day of the month.
15. Invoice Billing via postal mail: An invoice will be sent via postal mail fifteen days prior to the first of the month for accounts that require printed invoice billing. Payments are due on the first working day of the month. An additional \$5.00 processing fee will be included on the printed invoice.
16. Recurring Credit Card Billing: DSLWest will charge credit cards on the first working day of the month. A receipt will be sent via email. Recurring credit card billing will include an additional \$2.00/month processing fee.
17. The DSLWest billing system will automatically deactivate unpaid accounts at midnight on the tenth of the month. A \$25.00 re-activation fee will be applied to accounts deactivated for non-payment.
18. Interest will be charged at the rate of 1.25 percent per month on all delinquent accounts.

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19. Billing shall commence with a full month billing system when the service is activated. The next standard billing cycle shall reflect a prorated charge calculated from the activation date to the first of the month thereafter.
20. Invoice billing customers will be required to pay their first full month's invoice in advance prior to the account activation.

Term of Agreement

21. The term of this Agreement shall commence on and shall continue in full force and effect until it is terminated by 30 days' written notice from either party to the other. This applies to all services provided.

Attorney Fees and Costs

22. If any contract action is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney fees, costs, and necessary disbursements in addition to any other relief to which that party may be entitled.

Governing Law, Entirety of Agreement, and Partial Invalidity

23. This agreement shall be governed by the laws of the State of California. It constitutes the entire agreement between the parties regarding its subject matter. If any provision in this contract is held by any court to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force and effect.