

TERMS OF SERVICE - HIGH DESERT AIR

Enduser Terms of Service

HIGH DESERT AIR ("HIGH DESERT AIR") agrees to provide you ("User") with those services ("Service") set forth on the Application subject to User's compliance with the terms and conditions below.

PLEASE READ THIS AGREEMENT CAREFULLY BEFORE ACCESSING THE SERVICE. BY ACCESSING THE SERVICE, YOU AGREE TO BE BOUND BY THE TERMS AND CONDITIONS BELOW. IF YOU DO NOT WISH TO BE BOUND BY THESE TERMS AND CONDITIONS, YOU MAY NOT ACCESS OR USE THE SERVICE.

Warranty Disclaimer

THE FOREGOING WARRANTIES SET FORTH ARE EXCLUSIVE AND NO OTHER WARRANTY IS EXPRESSED OR IMPLIED.

HIGH DESERT AIR exercises no control whatsoever over the content of the information passing through HIGH DESERT AIR's system. Use of any information obtained via HIGH DESERT AIR is at User's risk. Neither HIGH DESERT AIR nor any of its affiliates, its licensors, its contractors or their respective employees warrant that the Service will be uninterrupted or error free; nor does HIGH DESERT AIR make any warranty as to the results from use of the Service.

THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, NON-INFRINGEMENT, IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE. NO ADVICE OR INFORMATION GIVEN BY HIGH DESERT AIR, ITS AFFILIATES, ITS LICENSORS, ITS CONTRACTORS OR THEIR RESPECTIVE EMPLOYEES SHALL CREATE A WARRANTY. NEITHER HIGH DESERT AIR NOR ITS AFFILIATES, ITS LICENSORS, ITS CONTRACTORS OR THEIR RESPECTIVE EMPLOYEES WARRANTS THAT THE SERVICE WILL BE UNINTERRUPTED OR ERROR FREE OR THAT ANY INFORMATION, SOFTWARE OR OTHER MATERIAL ACCESSIBLE ON THE SERVICE IS FREE OF VIRUSES, CANCELBOTS, WORMS, TROJAN HORSES OR OTHER HARMFUL COMPONENTS.

Limitation of Liability

UNDER NO CIRCUMSTANCES SHALL HIGH DESERT AIR, ITS AFFILIATES, ITS LICENSORS, ITS CONTRACTORS OR THEIR RESPECTIVE EMPLOYEES BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES THAT RESULT IN ANY WAY FROM USER'S USE OF OR INABILITY TO USE THE SERVICE OR TO ACCESS THE INTERNET OR ANY PART THEREOF, OR USER'S RELIANCE ON OR USE OF INFORMATION, SERVICES OR MERCHANDISE PROVIDED ON OR THROUGH THE SERVICE, OR THAT RESULT FROM MISTAKES, OMISSIONS, INTERRUPTIONS, DELETION OF FILES, ERRORS, DEFECTS, DELAYS IN OPERATION OR TRANSMISSION, ANY FAILURE OF PERFORMANCE, COMPUTER VIRUS, COMMUNICATION LINE FAILURE, THEFT OR DESTRUCTION OR UNAUTHORIZED ACCESS TO ALTERATION OF OR USE OF USER'S ACCOUNT, WHETHER FOR BREACH OF CONTRACT, NEGLIGENCE OR UNDER ANY OTHER CAUSE OF ACTION. IN THE EVENT HIGH DESERT AIR IS FOUND LIABLE UNDER ANY CIRCUMSTANCE UNDER THE TERMS OF THIS AGREEMENT, HIGH DESERT AIR'S LIABILITY SHALL BE LIMITED TO THE UNUSED BALANCE OF USER'S SUBSCRIPTION PAYMENT PRO-RATED TO REFLECT THE CURRENT TERM.

If User is dissatisfied with the Service or with any terms, conditions, rules, policies, guidelines or practices of HIGH DESERT AIR in operating the Service, User's sole and exclusive remedy is to discontinue using the Service.

Indemnification

Notwithstanding anything to the contrary herein contained, User agrees to indemnify and hold HIGH DESERT AIR, its affiliates, its licensors, its contractors or their respective employees harmless against any and all liability, loss, claim, judgment, damage and expense including without limitation attorney's fees and cost of litigation) incurred or suffered by HIGH DESERT AIR, its licensors, its affiliates, its contractors, or their respective employees as the result of any and all use of User's account whether authorized or not authorized or as a result of the negligence, willful misconduct, or breach of any of the terms of this Agreement by User, including but not limited to claims, liabilities, losses, damage, judgment and expense which arise out of alleged injury or death of any person or damage to property of every kind and description. User shall promptly notify HIGH DESERT AIR in writing of any claim of which it is obligated under this indemnity. User shall have the right to assume the defense of any such claim. User and HIGH DESERT AIR shall confer as to and agree on the legal counsel(s) to be selected in any such defense.

Age Limit

User represents to HIGH DESERT AIR that he or she is 18 years of age or older. User understands that certain materials available from Service provided under the terms of this Agreement may not be suitable for individuals under the age of 18.

Sexually Explicit Materials

User understands that the Internet contains unedited materials some of which are sexually explicit or may be offensive. User accesses such materials at his or her own risk. HIGH DESERT AIR has no control over and accepts no responsibility whatsoever for such materials.

Prohibited Uses

User may not:

(1) send unsolicited email, (known as 'spam') to anyone residing on our servers or through our servers, or when dialed into the network. The following types of email sent constitute as spam:

Forged email To/From address other than from the actual sender or to the actual recipient.

Message subject not related to the email body.

Email not requested by the recipient.

emails sent in bulk by sender.

mail bombs.

The sending of SPAM entails a \$500 clean-up fee and service termination, with no possibility of refund. In addition to this, you will void the privacy policy set forth by HIGH DESERT AIR and HIGH DESERT AIR will provide, as per request, all crucial customer details to any persons or organizations whom file a complaint as a direct result of bulk email receipt. As a direct result of sending unsolicited email (SPAM), these companies may opt to file criminal and civil lawsuits on any persons or companies participating in the submission of unsolicited bulk email.

(2) restrict or inhibit any other user from using and enjoying the Internet;

(3) post or transmit any unlawful, threatening, abusive, libelous, defamatory, obscene, pornographic, profane, or otherwise objectionable information of any kind, including without limitation any transmissions constituting or encouraging conduct that would constitute a criminal offense, give rise to civil liability, or otherwise violate any local, state, national or international law, including without limitation the U.S. export control laws and regulations;

(4) post on webspace any sexually explicit materials or materials that may be offensive.

(5) post or transmit any information or software which contains a virus, cancelbot, trojan horse, worm or other harmful component;

(6) post, publish, transmit, reproduce, distribute or in any way exploit any information, software or other material obtained through the Service for commercial purposes (other than as expressly permitted by the provider of such information, software or other material);

(7) upload, post, publish, transmit, reproduce, or distribute in any way, information, software or other material obtained through the Service which is protected by copyright, or other proprietary right, or derivative works with respect thereto, without obtaining permission of the copyright owner or rightholder;

(8) upload, post, publish, transmit, reproduce, transmit or distribute in any way any component of the Service itself or derivative works with respect thereto;

(9) send unsolicited advertising or promotional materials to other network users;

(10) allow users to run Maillist, Listserv or any form of auto-responds from User's account;

(11) run or activate processes while User is not logged in;

(12) violate the security of any computer network, crack passwords or security encryption codes, transfer or store illegal material including that deemed threatening or obscene, or engage in any kind or illegal activity; attempt to defeat any idle timer or system tool intended to enforce the part-time and personal nature of User's connection, including the use of pingbots and other methods of avoiding timing disconnection. (See section titled "LIMITATIONS OF DIAL-UP SERVICES"); or

(13) violate any of the rules, regulations and policies of those networks and computer systems accessed via User's account.

HIGH DESERT AIR has no obligation to monitor the Service. However, User agrees that HIGH DESERT AIR has the right to monitor the Service electronically from time to time and to disclose any information as may be necessary to satisfy any law, regulation or other governmental request, to operate the Service properly, or to protect itself or its subscribers. HIGH DESERT AIR will not intentionally monitor or disclose any private E-mail message unless required by law. HIGH DESERT AIR reserves the right to refuse to post or to remove any information or materials, in whole or in part, that, in its sole and absolute discretion, are unacceptable, undesirable, or in violation of this Agreement. HIGH DESERT AIR reserves the right to suspend access to the Service for User's account. The account's suspension may be rescinded within the sole and absolute discretion of HIGH DESERT AIR following payment of a reconnection charge, to be determined by HIGH DESERT AIR in its sole and absolute discretion.

Messaging

User agrees to limit their use of the HIGH DESERT AIR service, specifically regarding the use of HIGH DESERT AIR's electronic (email) services, to the following restrictions:

Unauthorized Use of Relay Servers

User agrees that any unauthorized use of any email server located throughout the Internet for the purposes of relaying or distributing messages is prohibited.

Fraudulent Addressing

User agrees that the purposeful distribution of any email message where the return address, originator's address, or any other identifiable aspect of the message has been purposefully altered, is prohibited. User may not purposefully misrepresent the origination information of any email messages sent while using the HIGH DESERT AIR service.

Fraudulent Content

User agrees to be held responsible for the distribution of fraudulent materials.

VIOLATION OF ANY OF THESE TERMS WILL RESULT IN IMMEDIATE TERMINATION OF SERVICES. FURTHERMORE, VIOLATION OF ANY OF THESE TERMS, RELATING TO THE TERMS DESCRIBED WITHIN THIS "MESSAGING" SECTION OF THIS DOCUMENT, WILL RESULT IN THE IMMEDIATE PENALTY OF \$200. HIGH DESERT AIR RESERVES THE RIGHT TO CHARGE USER'S CREDIT CARD, IF ON FILE FOR USE IN PAYMENT OF HIGH DESERT AIR SERVICES, A ONE-TIME FEE OF \$200 PER VIOLATION OF THESE TERMS. IN THE EVENT USER PRE-PAYS FOR THEIR HIGH DESERT AIR SERVICE VIA CASH, CHECK, OR MEANS OTHER THAN CREDIT CARD, HIGH DESERT AIR RESERVES THE RIGHT TO INVOICE AND HOLD USER RESPONSIBLE FOR THE ONE-TIME FEE OF \$200 PER VIOLATION OF THESE TERMS. USER ALSO AGREES TO THE IMMEDIATE TERMINATION OF HIGH DESERT AIR SERVICES FOR VIOLATION OF ANY OF THESE TERMS.

Restricted Content

You agree not to post any of the following restricted contents: Illegal, Abusive or Unethical Activities include, but are not limited to, pornography, obscenity, nudity, violations of privacy, hacking, computer virus, gambling, or promotion of gambling, and any harassing or harmful materials or uses, as determined by us. You agree to indemnify and hold us harmless from any claim resulting from your publications or use of Illegal, Abusive or Unethical materials.

Limitation of Dial-Up Services

Although HIGH DESERT AIR advertises "Unlimited Access" in regards to some of its Dial-Up services, there are several limitations applied. The sole purpose of these limitations are intended to limit the amount of unnecessary use of HIGH DESERT AIR services by any such User, which restricts overall HIGH DESERT AIR system availability for other such Users. These limitations apply only to Dial-Up access services offered by HIGH DESERT AIR.

Idle Timeout

User agrees to have their online session automatically terminated after ten (10) minutes of consecutive inactivity. Inactivity is defined as less than 500 bytes of data transferred between User's modem and the HIGH DESERT AIR service.

Multiple, Concurrent Online Sessions

User agrees to maintain no more than one (1) concurrent online session for each account purchased.

Terms of Payment

A credit card User agrees to allow "HIGH DESERT AIR" to bill his or her card on each successive billing date without obtaining User's permission after the initial charge. A credit card User shall notify HIGH DESERT AIR of any changes in credit card number or expiration date. If the card is not honored for any reason, HIGH DESERT AIR will attempt to notify the card holder by using the telephone information given at sign-up or by E-mail. HIGH DESERT AIR will call the card holder, and if alternative billing has not been established, the account will be terminated. Restoring the account will be subject to a setup fee of \$25.00.

If payment is by check, payment due dates are indicated on User's invoice. Dishonored checks are subject to a collection fee to be determined by HIGH DESERT AIR in its sole and absolute discretion and User's account may be suspended until the account is current. If payment is not received, service will be terminated and a setup fee of \$25.00 will be added to charges for additional Service.

HIGH DESERT AIR maintains the right to terminate Service for any unpaid subscriptions. Accounts in default are subject to an interest charge of 2.5% per month on the outstanding balance. Termination of Service shall not relieve User from the obligation to satisfy outstanding invoices. In the event HIGH DESERT AIR utilizes an attorney to collect any unpaid amounts, User shall be responsible for the payment of all of HIGH DESERT AIR's attorneys' fees and costs in the collection of these sums.

HIGH DESERT AIR reserves the right to change prices at any time without prior notice to its customers or the public. Price changes will not be retroactive for existing customers, regardless of the length of their existing service subscription.

Right to Cancel

HIGH DESERT AIR reserves the right to cancel Service for any reason without prior notice. Pre-paid service is non-refundable. HIGH DESERT AIR will not refund any shipping, handling or installation fees. Cancellations after the first of the month will be charged for that month.

User must notify HIGH DESERT AIR via telephone or in writing to cancel Service. Cancellations shall not be honored by electronic mail. Fees for any setup, shipping and handling, and monthly service charges placed by HIGH DESERT AIR are non-refundable.

No Confidentiality

Information transmitted through HIGH DESERT AIR and through the Internet in general is not confidential. HIGH DESERT AIR can not and shall not guarantee privacy or protection of any User. HIGH DESERT AIR reserves the right to monitor any User's transmissions when deemed necessary for providing proper service and/or to protect the rights and property of HIGH DESERT AIR.

Customer Information

Unless required by court order, subpoena or other legal request, or upon the advice of counsel, HIGH DESERT AIR may publish User's name and other consumer information in one or more directories which may be accessed by other Internet users. In addition, unless User notifies HIGH DESERT AIR to the contrary as provided above, HIGH DESERT AIR may make such information available to third parties from time to time. User understands further that merchants on the Internet may have access to such information and may make it available to third parties in accordance with their normal practices unless User notifies those merchants directly that User does not wish such information to be made available.

Non-transferable

The right to use the Service is not transferable. Accounts are for User's use only. User shall be responsible for the confidentiality of User's password. Loaning User's account to others, connecting a system used by multiple persons, group use of user log-ins, and consuming more than one connection are explicitly prohibited. If User has multiple accounts, then User shall be limited to one log-in session per system account at any time. Violation of those terms shall constitute theft of Service and may be prosecuted under civil and criminal law.

Purchases on the Service

If User wishes to make purchases on the Service, User may be asked by the merchant or information or service provider from whom User is making the purchase to supply certain information, including credit card or other payment mechanism information. User agrees that all information User may provide any merchant or information or service provider on the Service for purposes of making purchases shall be accurate, complete

and current. The merchants and information and service providers offering merchandise, information and services on the Service set their own prices and may change prices or institute new prices at any time. User agrees to pay all charges incurred by users of User's account and credit card or other payment mechanism at the prices in effect when such charges are incurred. User shall also be responsible for paying any applicable taxes relating to purchases on the Service.

No System Backup

HIGH DESERT AIR does not and will not perform system backups on any User's E-mail account(s). HIGH DESERT AIR shall not be held responsible for any lost E-mail data, email attachments, or any E-mail message contents, regardless of the reasoning for data loss or system causes. Except as otherwise set forth herein, HIGH DESERT AIR will not provide historical data, to any party for any reason, regarding any system or Internet activity.

HIGH DESERT AIR shall not be held responsible for any lost web data, web files, or any website contents, regardless of the reasoning for data loss or system causes. Except as otherwise set forth herein, HIGH DESERT AIR will not provide historical data, to any party for any reason, regarding any system or Internet activity.

Failure to Comply With Terms and Conditions

HIGH DESERT AIR may deny User access to all or part of the Service without notice if User engages in any conduct or activities that HIGH DESERT AIR in its sole discretion believes violates any of the terms and conditions in this Agreement. If HIGH DESERT AIR denies User access to the Service because of such a violation, User shall not have the right (1) to access through HIGH DESERT AIR any materials stored on the Internet, (2) to obtain any credit(s) otherwise due to User, and such credit(s) shall be forfeited, (3) to access third party services, merchandise or information on the Internet through HIGH DESERT AIR, and HIGH DESERT AIR shall have no responsibility to notify any third-party providers of services, merchandise or information nor any responsibility for any consequences resulting from lack of notification.

Miscellaneous

User agrees to remain signed into the network only when actually making use of same, and to disconnect when idle for significant periods of time (more than 10 minutes). User authorizes HIGH DESERT AIR to enforce these restrictions by appropriate software and network measures, automated and manual.

User agrees to notify HIGH DESERT AIR if User moves or otherwise changes his or her mailing address or phone number, and to list a truthful name, postal address and telephone number on the forms User supplies to HIGH DESERT AIR.

In the event that any portion of this Agreement is held to be unenforceable, the unenforceable portion shall be construed in accordance with applicable law as nearly as possible to reflect the original intentions of the parties and the remainder of the provisions shall remain in full force and effect.

HIGH DESERT AIR's failure to insist upon or enforce strict performance of any provisions of this Agreement shall not be construed as a waiver of any provision or right. Neither the course of conduct between parties nor trade practice shall act to modify any provision of this Agreement.

HIGH DESERT AIR may modify this Agreement from time to time by placing a notice of such modification on our website, and User's continued use of the Service following notice of such modification shall be deemed to be User's acceptance of any such modification. It is User's responsibility to check this online area regularly to determine whether this Agreement has been modified. If User does not agree to any modification of this Agreement, User must immediately stop using the Service.

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to its conflicts of law provisions. Any cause of action User may have with respect to the Service must be commenced within one (1) year after the claim or cause of action arises or such claim or cause of action is barred.

HIGH DESERT AIR shall not be liable or deemed to be in default for any delay or failure in performance under this Agreement or interruption of service resulting directly or indirectly from acts of God, civil or military authority, acts of public enemy, war, riots, civil disturbances, insurrections, accidents, fire, explosions, earthquakes, floods, the elements, strikes, labor disputes, shortages of suitable parts, materials, labor or transportation or any cause beyond the reasonable control of HIGH DESERT AIR.

Venue for litigation of any dispute, controversy, or claim arising out of, in connection with, or in relation to this Agreement, or the breach thereof, naming HIGH DESERT AIR as the defendant, shall be proper only in the Harney County Circuit Court for the State of Oregon.

In any action between HIGH DESERT AIR and User to enforce any of the terms of this Agreement, HIGH DESERT AIR shall be entitled to recover expenses, including reasonable attorney's fees.

This Agreement constitutes the entire agreement between User and HIGH DESERT AIR with respect to the Service.

Privacy Policy

HIGH DESERT AIR is the sole owner of information collected from our web site and customers. We will not sell, rent, or trade any personal information to any outside companies, individuals, or entities. HIGH DESERT AIR collects information from various sources on our web site, and from our customers.

Customer Signup

During account creation, HIGH DESERT AIR collects personally identifiable information from our customers. This information is used to maintain contact with our customers, and for billing purposes. At various times, HIGH DESERT AIR may request our Customers to provide a response to surveys which will include various questions including demographic information and questions regarding our service. This information is used to enhance our services and to analyze trends such as the average age of our customers, concentrated location points, and many other trends valuable to understanding our customer's needs.

Log Files

HIGH DESERT AIR makes use of information passed to our servers while you are browsing our web site. This information includes your IP Address, Remote Host, and the path you take through our web site. Our marketing staff uses this information to analyze trends of visitors to our web site. This method does not include any personally identifiable information.

Links

There are various points on our web site which link to other divisions of our company, HIGH DESERT AIR. The same privacy policy applies no matter which of our web sites you are visiting.

User Signature

Date

User Mailing Address: _____

User Telephone: _____