

## **INDUSTRY I-NET TERMS AND CONDITIONS BROADBAND INTERNET SERVICES**

When you, the Customer, purchase Industry I-Net Broadband Service (individually referred to as "Service" ), you agree to these Terms and Conditions of Service located at Industry I-Net's website: [www.industryinet.com/](http://www.industryinet.com/),\* and incorporated herein by reference. Other restrictions, terms and conditions for the individual services may also apply.

The Service is available to residential, small/home business and large business customers in selected areas. For purposes of these Terms and Conditions of Service, small/home business is defined as single line. All Industry I-Net accounts must be current at enrollment for a Service and the Customer must maintain a good payment history to keep the Service. You will incur penalty charges in the event of disconnection for non-payment.

\* Terms and Conditions of Service are also available in paper form upon written request to Industry I-Net.

These Terms and Conditions of Service, any additional Terms, Policies, or Tariffs for the individual services and the rates for services as provided to you upon request, constitute the entire agreement ("Agreement") between you as the Customer, and Industry I-Net for the purchase of the Service from Industry I-Net. This Agreement is binding upon you, the Customer, and governs your use of Industry I-Net's services, superseding any prior agreements between you and Industry I-Net and any and all prior or contemporaneous statements, understandings, writings, commitments, or representations concerning its subject matter. No amendment to this Agreement shall be binding upon Industry I-Net unless and until posted.

### **Other Terms and Policies Incorporated Herein By Reference**

These Terms and Conditions of Service include, and incorporate herein by reference, all additional Terms, Policies and Tariffs for each of the individual services offered by Industry I-Net.

### **Fees and Charges**

You agree to pay all charges and fees associated with the use of the services offered by Industry I-Net, which charges may include, without limitation, monthly service fees, charges for the use of Industry I-Net's equipment, installation charges, charges for service calls and other charges. Industry I-Net shall have the right to change the amount of fees and charges from time to time at its discretion and upon reasonable advance notice. Monthly service, equipment and other fees shall be payable monthly in advance. Installation and other charges will be billed according to our then current billing policies. Your Industry I-Net invoice may also contain charges for other services provided by us or our subsidiaries or affiliates. If we receive partial payment of any such invoices, we will apply such payment in the amounts and proportions to the outstanding charges as we determine. Our acceptance of any partial payment by you does not mean that we waive our rights to collect the full balance owed to us.

### **Taxes**

You are responsible for, and shall pay, any applicable federal, state, provincial, municipal, local or other governmental sales, use, excise, value-added, personal property, public utility or other taxes, fees or

charges now in force or enacted in the future, that arise from or as a result of your subscription or use or payment for the service. Such amounts are in addition to payment for the service. If you are exempt from payment of such taxes, you shall provide Industry I-Net with an original certificate that satisfies the applicable legal requirement attesting to tax-exempt status. Tax exemption will only apply from and after the date Industry I-Net receives such certificate.

#### Termination/Discontinuance of Service

Industry I-Net reserves the right to suspend or discontinue providing its services generally, or to terminate your service, at any time in its sole discretion. If Industry I-Net discontinues providing its services generally, or terminates your service in its discretion without a stated reason, you will only be responsible for charges accrued through the date of termination, including a pro-rated portion of the final month's charges. If your service is terminated for any stated reason, including without limitation violation of your Agreement, including these Terms and Conditions, or because of any improper use of the service (such as, but not limited to, your attempts to disrupt or misuse the service or your acts or omissions that violate any acceptable use policy of Industry I-Net or of a third party provider to which the company is subject), you will be responsible for the full month's charges to the end of the current term, including without limitation unbilled charges, disconnect fees, and equipment charges as set forth herein these Terms and Conditions, all of which immediately become due and payable. Other fees may also apply.

#### Disconnect Fees

In addition, labor charges and/or service order charges may be incurred if any onpremises or central office work is performed to restore any of the services offered by Industry I-Net where such services are disconnected for non-payment, as defined below:

A. The customer may incur labor and/or service charges if Industry I-Net performs onpremise or central office work to restore any of the services offered by the company due to customer moving or changing their location.

B. The customer may incur labor and/or service charges if Industry I-Net performs onpremise or central office work to restore any services due to disconnection as a result of non-payment. The reconnection fee for services is \$50.00.

C. The customer may incur labor and/or services charges if an Industry I-Net technician is required to come out on a trouble call and the customer does not have the inside wire maintenance plan and if the trouble is not found in Industry I-Net equipment.

If you terminate a service prior to the end of a calendar month, you will be responsible for the pro-rated month's charges, as well as any other applicable fees, including without limitation unbilled charges, disconnect fees, and equipment charges, all of which immediately become due and payable. Expiration of the term or termination of the service does not excuse the Customer from paying all unpaid, accrued charges due in relation to the Agreement. Failure to pay the full price in any calendar month is grounds for automatic termination of the service and other fees and penalties may apply.

#### Prohibited Uses

You agree to use the services only for lawful purposes. This means that you agree not to use them for transmitting or receiving any communication or material of any kind when in Industry I-Net's sole judgment the transmission, receipt or possession of such communication or material (i) would

constitute a criminal offense, give rise to a civil liability, or otherwise violate any applicable local, state, national or international law or (ii) encourages conduct that would constitute a criminal offense, give rise to a civil liability, or otherwise violate any applicable local, state, national or international law. The company reserves the right to terminate your service immediately and without advance notice if the company, in its sole discretion, believes that you have violated the above restrictions, leaving you responsible for the pro-rated charges at the time of termination, including without limitation unbilled charges, all of which immediately become due and payable. You are liable for any and all use of the service by yourself and by any person making use of the service provided to you, and agree to indemnify and hold harmless the company against any and all liability for any such use.

If Industry I-Net, in its sole discretion believes that you have violated the above restrictions, the company may forward the objectionable material, as well as your communications with Industry I-Net and your personally identifiable information to the appropriate authorities for investigation and prosecution and you hereby consent to such forwarding.

#### Limitation of Liability

Industry I-Net shall not be liable for any delay or failure to provide the service, at any time or from time to time, or any interruption or degradation of voice quality that is caused by any of the following:

- 1.) act or omission of an underlying carrier, service provider, vendor or other third party;
- 2.) equipment, network or facility failure;
- 3.) equipment, network or facility upgrade or modification;
- 4.) force majeure events such as (but not limited to) acts of god; strikes; fire; war; riot; government actions;
- 5.) equipment, network or facility shortage;
- 6.) equipment or facility relocation;
- 7.) service, equipment, network or facility failure caused by the loss of power to Customer;
- 8.) act or omission of Customer or any person using the Industry I-Net's service(s) provided to Customer; or
- 9.) any other cause that is beyond Industry I-Net's control, including without limitation a failure of or defect in any device, the failure of an incoming or outgoing communication, the inability of communications to be connected or completed, or degradation of voice quality.

Industry I-Net's aggregate liability for (i) any failure or mistake; (ii) any claim with respect to Industry I-Net's performance or nonperformance hereunder or (iii) any Industry I-Net act or omission in connection with the subject matter hereof shall in no event exceed service charges with respect to the affected time period.

#### Disclaimer of Damages

IN NO EVENT SHALL INDUSTRY I-NET, ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES OR AGENTS OR ANY OTHER SERVICE PROVIDER WHO FURNISHES SERVICES TO CUSTOMER IN CONNECTION WITH THIS AGREEMENT OR THE SERVICE BE LIABLE FOR ANY DIRECT, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, OR FOR ANY OTHER DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF DATA, LOSS OF REVENUE OR PROFITS. THE LIMITATIONS SET FORTH HEREIN APPLY TO CLAIMS FOUNDED IN BREACH OF CONTRACT, BREACH OF WARRANTY, PRODUCT LIABILITY, TORT AND ANY AND ALL OTHER THEORIES OF LIABILITY AND APPLY

WHETHER OR NOT INDUSTRY I-NET WAS INFORMED OF THE LIKELIHOOD OF ANY PARTICULAR TYPE OF DAMAGES.

#### Indemnification

Customer agrees to defend, indemnify, and hold harmless Industry I-Net, its officers, directors, employees, affiliates and agents and any other service provider who furnishes services to Customer in connection with this Agreement or the Service, from any and all claims, losses, damages, fines, penalties, costs and expenses (including, without limitation, reasonable attorney's fees) by, or on behalf of, Customer or any third party or user of Customer's Service, relating to this Agreement, or the services being provided by Industry I-Net. This paragraph shall survive termination of this Agreement.

#### No Warranties on Service

INDUSTRY I-NET MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS OF ANY OF THE SERVICES FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT OR ANY WARRANTY ARISING BY USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE OR ANY WARRANTY THAT ANY OF THE SERVICES WILL MEET CUSTOMER'S REQUIREMENTS. WITHOUT LIMITING THE FOREGOING, INDUSTRY I-NET DOES NOT WARRANT THAT ANY OF INDUSTRY I-NET'S SERVICES WILL BE WITHOUT FAILURE, DELAY, INTERRUPTION, ERROR, DEGRADATION OF VOICE QUALITY OR LOSS OF CONTENT, DATA OR INFORMATION. NEITHER INDUSTRY I-NET NOR ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES OR AGENTS OR ANY OTHER SERVICE PROVIDER OR VENDOR WHO FURNISHES SERVICES OR PRODUCTS TO CUSTOMER IN CONNECTION WITH THIS AGREEMENT OR ANY INDUSTRY I-NET SERVICE WILL BE LIABLE FOR UNAUTHORIZED ACCESS TO INDUSTRY I-NET'S OR CUSTOMER'S TRANSMISSION FACILITIES OR PREMISES EQUIPMENT OR FOR UNAUTHORIZED ACCESS TO, OR ALTERATION, THEFT OR DESTRUCTION OF, CUSTOMER'S DATA FILES, PROGRAMS, PROCEDURES OR INFORMATION THROUGH ACCIDENT, FRAUDULENT MEANS OR DEVICES OR ANY OTHER METHOD, REGARDLESS OF WHETHER SUCH DAMAGE OCCURS AS A RESULT OF INDUSTRY I-NET'S OR ITS SERVICE PROVIDER'S OR VENDORS' NEGLIGENCE. STATEMENTS AND DESCRIPTIONS CONCERNING THE SERVICE OR DEVICE, IF ANY, BY INDUSTRY I-NET'S AGENTS OR INSTALLERS ARE INFORMATIONAL AND ARE NOT GIVEN AS A WARRANTY OF ANY KIND.

#### No Third Party Beneficiaries

No provision of this Agreement provides any person or entity not a party to this Agreement with any remedy, claim, liability, reimbursement, or cause of action or creates any other third party beneficiary rights.

#### Content

You are liable for any and all liability that may arise out of the content transmitted by or to you or Users using the services. You shall assure that your or Users' use of the services and content will at all times comply with all applicable laws, regulations and written and electronic instructions for use. Industry I-Net reserves the right to terminate or suspend affected services, and/or remove your or Users' content from the services, if Industry I-Net determines that such use or content does not conform with the requirements set forth in this Agreement or interferes with Industry I-Net's ability to provide services to you or others or receives notice from anyone that your or Users' use or Content may violate any laws or regulations. Industry I-Net's actions or inaction under this paragraph shall not constitute review or approval of your or Users' use or content.

You will indemnify and hold Industry I-Net harmless against any and all liability arising from the content transmitted by or to you or to Users using the services. For purposes of this paragraph, the term "User" means any person, whether authorized or unauthorized, using the service provided to you.

#### Governing Law / Resolution of Disputes - Mandatory Arbitration

Any dispute or claim between you, the Customer, and Industry I-Net arising out of or relating to the service provided in connection with these General Terms and Conditions shall be resolved by arbitration ("Mandatory Arbitration"), unless otherwise specified in Customer's Acceptable Use Policy or Terms and Conditions. To the extent that there is a conflict regarding this Mandatory Arbitration provision, the Customer's individual Service Contract supersedes the Terms and Policies of the individual services. The arbitrator's decision shall follow the plain meaning of the relevant documents, and shall be final and binding. The parties agree that no arbitrator has the authority to: (i) award relief in excess of what this Agreement provides; or (ii) award punitive or exemplary damages. Judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. All claims shall be arbitrated individually and Customer will not bring, or join any class action of any kind in court or in arbitration or seek to consolidate or bring previously consolidated claims in arbitration. CUSTOMER ACKNOWLEDGES THAT THIS ARBITRATION PROVISION CONSTITUTES A WAIVER OF ANY RIGHT TO A JURY TRIAL.

#### Governing Law / Resolution of Disputes - Governing Law

The Agreement and the relationship between you and Industry I-Net shall be governed by the laws of the State of Texas without regard to its conflict of law provisions. To the extent court action is initiated to enforce an arbitration award or for any other reason consistent with the Mandatory Arbitration provision herein, you and Industry I-Net agree to submit to the personal and exclusive jurisdiction of the courts located within the state of Texas and waive any objection as to venue or inconvenient forum. The failure of Industry I-Net to exercise or enforce any right or provision of the Agreement shall not constitute a waiver of such right or provision. If any provision of the Agreement is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of the Agreement remain in full force and effect. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the service or the Agreement must be filed within one (1) year after such claim or cause of action arose or be forever barred.

#### Severability

If any part of this Agreement is legally declared invalid or unenforceable, all other parts of this Agreement are still valid and enforceable. Such invalidity or non-enforceability will not invalidate or render unenforceable any other portion of this Agreement.

#### Privacy

Industry I-Net utilizes, in whole or in part, the public Internet and third party networks to transmit communications. Industry I-Net is not liable for any lack of privacy which may be experienced with regard to the service. Please refer to our Privacy Policy applicable to you at [www.industryinet.com/](http://www.industryinet.com/) for additional information.