

*Users of Medina Electric Cooperative, Inc.'s Dialup  
And Satellite Internet*

**Acceptable Use Policy**

**BY USING THE INTERNET ACCESS OFFERED BY YOUR MEDINA ELECTRIC COOPERATIVE, INC. (heretofore referred to as MEDINA ELECTRIC COOPERATIVE, INC.) OR OPENING THIS PACKAGE, YOU ARE CONSENTING TO BE BOUND BY THIS AGREEMENT. IF YOU DO NOT AGREE TO ALL THE TERMS OF THIS AGREEMENT, DO NOT USE INTERNET ACCESS OFFERED BY YOUR MEDINA ELECTRIC COOPERATIVE, INC. OR RETURN THE PRODUCT TO THE PLACE OF PURCHASE FOR A REFUND.**

**THE SOFTWARE AND DOCUMENTATION ARE PROVIDED FOR USE ONLY (I) WITH THE INTERNET ACCESS SERVICE INITIALLY OFFERED BY MEDINA ELECTRIC COOPERATIVE, INC. IN CONJUNCTION WITH THE DISTRIBUTION OF THE SOFTWARE AND DOCUMENTATION AND (II) IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT. NO RIGHT OR LICENSE IS GRANTED TO USE THE SOFTWARE OR DOCUMENTATION WITH ANY OTHER INTERNET ACCESS.**

GRANT *Medina Electric Cooperative, Inc.* hereby grants non-exclusive, non-transferable, limited license to access the Internet through *Medina Electric Cooperative, Inc.*'s network and a non-exclusive license to use its accompanying software product and accompanying documentation on the following terms:

**You may:**

Use the Software only with the Internet service initially offered by *Medina Electric Cooperative, Inc.* in conjunction with the distribution of the Software and Documentation of *Medina Electric Cooperative, Inc.*'s Internet Services, with which it is bundled; use the Software on any single computer; use the Software on a second computer so long as the first and second computers are not used simultaneously; or copy the Software for archival purposes, provided any copy contains all the original Software's proprietary notices.

**You may not:**

Use the Software or Documentation in conjunction with any Internet access or other network service, other than *Medina Electric Cooperative, Inc.*'s Internet Services permit individuals outside your household to use the Software except under the terms above; modify, translate, reverse engineer, decompile, disassemble (except to the extent applicable laws specifically prohibit such restriction), or create derivative works based on the Software

or documentation; copy the Software or Documentation (except for back-up purposes); rent, lease, transfer or otherwise transfer rights to the Software or Documentation; or remove any proprietary notices or labels on the Software or Documentation.

### **TITLE**

Title, ownership rights and intellectual property rights in and to the Software and Documentation will remain with *Medina Electric Cooperative, Inc.* and/or its suppliers. The copyright laws of the United States and international copyright treaties protect the Software. Title, ownership rights and intellectual property rights in and to the content accessed through the Software or through *Medina Electric Cooperative, Inc.*'s Internet Services are the property of the applicable content owner and may be protected by applicable copyright or other law. This license gives you no rights to such content. You retain any rights you may have in data posted by you to the Internet.

### **NO ASSIGNMENT**

The benefits or rights conferred by this agreement are non-transferable and non-assignable. The connectivity provided is expressly limited to you. Resale or use of this connection by another person or persons is prohibited.

### **DEFINITION OF SERVICES**

Single Dial-up Internet Services provide Internet access to one user on one computer for a single dial-up session includes Residential Basic Service, Business Single Dial-up Service, and other single dial-up services that may be provided from time to time. Internet Services provide Internet access to one or more users on one or more computers for single or multiple through satellite connections.

### **CHARGES**

A valid credit card may be required to open an account for Single Dial-up or WildBlue® Internet Services. A completed Internet Services Application is required for Multiple User Internet Services.

You agree to pay *Medina Electric Cooperative, Inc.* all charges relating to use of your account(s). Single Dial-up Internet Service charges will be according to rates and prices published online at the time of use. Charges for WildBlue® Internet Services will be as stated in the Internet Services Application or as otherwise agreed in writing by the parties. Charges for other services, such as promotional offerings and other services to be offered from time to time, will be according to prices published at the time.

For non-members payments made by credit card, debit card or bank draft for your account will be billed on the 2<sup>nd</sup> working day of each month. Payments will be processed on the twentieth (20) calendar day of the month.

*Medina Electric Cooperative, Inc.* will charge \$25 for all returned checks and for bank drafts declined by your bank, and your account will be subject to immediate suspension. *Medina Electric Cooperative, Inc.* *Medina Electric Cooperative, Inc.* may at any time charge your credit card any amount past due or any balance due at the time of notification to *Medina Electric Cooperative, Inc.* of a denied bank draft, declined debit card, or check returned for non-sufficient funds. If you default, you are liable for any and all attorney fees, court costs and collection agency fees or commissions if *Medina Electric Cooperative, Inc.* has to employ these methods in order to collect debts owed to *Medina Electric Cooperative, Inc.* under this Agreement. Accounts cancelled due to non-payment will be reported to a credit reporting agency.

You agree to pay a fine of \$500 for flagrant disregard of *Medina Electric Cooperative, Inc.*'s Allowable Use Policy as contained in this Agreement. It is at *Medina Electric Cooperative, Inc.*'s sole discretion what constitutes flagrant disregard of allowable use.

#### **OTHER CHARGES**

You are responsible for any local or long distance phone charges accrued in connecting to *Medina Electric Cooperative, Inc.* *Medina Electric Cooperative, Inc.* is not responsible for any phone charges unintentionally incurred by any subscriber for any reason. You also are responsible for providing all equipment, including computer hardware and software, used in connecting to *Medina Electric Cooperative, Inc.*

#### **LIMITATION OF LIABILITY**

*Medina Electric Cooperative, Inc.* exercises no control whatsoever over the content of the information accessed through *Medina Electric Cooperative, Inc.* Internet Services. *Medina Electric Cooperative, Inc.*'s Internet Services are provided on an "as is, as available" basis, without warranty of any kind, expressed or implied, including, but not limited to, the warranties of performance, merchantability and fitness for a particular purpose. *Medina Electric Cooperative, Inc.* and/or contributors will have no liability whatsoever to you for any claim(s) relating in any way to (i) your inability or failure to perform research or related work or to work properly or completely, or (ii) any lost profits or consequential, exemplary, incidental, indirect or special damages relating in whole or in part to your rights hereunder or use of, or inability to use, *Medina Electric Cooperative, Inc.*'s Internet Services. *Medina Electric Cooperative, Inc.* will not be responsible for any damage suffered by you, including, but not limited to, loss of data resulting from delays, non-deliveries, mis-deliveries or service interruptions caused by its own negligence or your errors or omissions. Use of any information obtained via *Medina Electric Cooperative, Inc.*'s Internet Services is at your sole risk. *Medina Electric Cooperative, Inc.* specifically disclaims any responsibility for the accuracy or quality of information obtained through *Medina Electric Cooperative, Inc.*'s Internet Services.

Under no circumstances and under no legal theory, tort, contract or otherwise, will *Medina Electric Cooperative, Inc.* or its suppliers or resellers be liable to you or any other person for any indirect, special, incidental or consequential damages of any character including, without limitation, damages for loss of goodwill, work stoppage, computer failure or malfunction, or any and all other commercial damages or losses, or for any damages in excess of *Medina Electric Cooperative, Inc.*'s list price for a license to the Software and Documentation, even if *Medina Electric Cooperative, Inc.* will have been informed of the possibility of such damages, or for any claim by any other party. This limitation of liability will not apply to liability for death or personal injury to the extent applicable law prohibits such limitation. Furthermore, some states do not allow the exclusion or limitation of incidental or consequential damages, so this limitation and exclusion may not apply to you.

### **ALLOWABLE USE**

Medina Electric Cooperative, Inc. will publish its Customer Agreement, including the ***Allowable Use Policy***, on its web site. These policies may be revised from time to time. You agree to abide by *Medina Electric Cooperative, Inc.*'s policies concerning use of *Medina Electric Cooperative, Inc.*'s Internet Services as published on line at the time of use.

*Medina Electric Cooperative, Inc.*'s Internet Services may only be used for lawful purposes. Transmission of any material in violation of any federal or state statute or regulation is prohibited. This includes, but is not limited to, copyrighted material, material legally judged to be threatening or obscene, or material protected by trade secret. You agree to indemnify and hold harmless *Medina Electric Cooperative, Inc.* from any claims resulting from your use of *Medina Electric Cooperative, Inc.*'s Internet Services.

Commercial advertisements are unwelcome in most Usenet discussion groups and on most e-mail mailing lists. Inappropriate posting may result in account suspension or cancellation. See the newsgroup or mailing list's charter for whether advertising is allowed or not. "Spamming," or sending a message to many different off-topic newsgroups, is not allowed. Sending a message, especially an advertisement, to more than five recipients, is considered by itself spamming unless the individuals have specifically requested to be added to a mailing list on that topic. E-mail is a person-to-person medium, not a broadcast medium. Unsolicited advertisements via e-mail, or via discussion groups whose charter does not explicitly allow advertisements, are not allowable.

Violations of *Medina Electric Cooperative, Inc.*'s Customer Agreement and allowable use policies will result in account suspension or cancellation and fines as states in Charges and Billing.

## **UNLIMITED USAGE**

*Medina Electric Cooperative, Inc.* offers unlimited usage to Single Dial-up Internet Services customers. "Unlimited usage" does not mean "unlimited access." Unlimited dial-up accounts have no hourly charges when the account holder is wholly and exclusively engaged in personal, interactive Internet use. Personal, interactive use is approximated by *Medina Electric Cooperative, Inc.* at 320 hours. Accounts may not be used for automated, unsupervised use of the Internet or simultaneous connections by multiple people. Accounts may not be kept connected with a keep-alive of any sort, such as setting an e-mail program to check mail periodically unattended. *Medina Electric Cooperative, Inc.* may disconnect dial-up connections after extended periods of inactivity or unauthorized use.

## **RESPONSIBILITY FOR ACCOUNT USE**

You are responsible for all use of your account(s) and confidentiality of password(s). *Medina Electric Cooperative, Inc.* will suspend or change access upon notification that your password has been stolen, lost or otherwise possibly compromised. *Medina Electric Cooperative, Inc.* is not responsible for your personal files residing online on *Medina Electric Cooperative, Inc.* owned and controlled computers. You will be responsible for independent backup of your data stored online. You will be responsible for all access to and use of *Medina Electric Cooperative, Inc.*'s Internet Services by your personnel or by means of your equipment, whether or not you have knowledge of or authorize such access or use.

If the subscriber is less than 18 years of age, the application must be signed and these terms agreed to by a parent or legal guardian, who is responsible for all charges related to the use of subscriber's account(s).

## **UNAUTHORIZED USE OF ACCOUNT**

*Medina Electric Cooperative, Inc.* will strongly react to any use or attempted use of an Internet account or computer without the owner's authorization. Such attempts include "social engineering" (tricking other people into releasing their passwords), password cracking, security hole scanning, denial-of-service attacks (ping-flooding, sending packets with an illegal packet size, UDP flooding, half-open TCP connection flooding, etc.) and the like.

Harassment or abusive use of e-mail and other Internet services are not allowed. *Medina Electric Cooperative, Inc.* will handle incidents of harassment on a case-by-case basis, consulting with all parties involved. Any unauthorized use of accounts or computers by a *Medina Electric Cooperative, Inc.* customer, whether or not the attacked account or computer belongs to *Medina Electric Cooperative, Inc.*, will result in action against the attacker. Possible actions include warnings, account suspension or cancellation, and legal action, according to the seriousness of the attack.

## **LIMITATIONS ON RESOURCE USAGE**

*Medina Electric Cooperative, Inc.* reserves the right to impose limits on the total amount of disk space and other resources available for your use on *Medina Electric Cooperative, Inc.* operated computers. E-mail accounts for dial-up account users are subject to a limit of 2MB. *Medina Electric Cooperative, Inc.* reserves the right to delete, without notice, personal e-mail files that have not been accessed for more than one month. Disk space for storage of web pages is available in amounts specific to each Internet service package. Use of excess space will be charged on a monthly basis according to rates and prices published online at the time of use. *Medina Electric Cooperative, Inc.* reserves the right to remove files that exceed allowed limits.

## **E-MAIL PRIVACY**

Electronic mail passes through multiple mail servers on the Internet as it passes from source to destination. Privacy can never be guaranteed from every possible mail server; therefore, users seeking total privacy should use some encryption scheme to render messages unreadable by eavesdroppers. With regards to *Medina Electric Cooperative, Inc.*'s mail servers, *Medina Electric Cooperative, Inc.* places a high value on privacy and will only examine users' mail when absolutely required, for example when troubleshooting e-mail delivery problems or being presented with a search warrant for the information.

## **ILLEGAL MATERIAL**

*Medina Electric Cooperative, Inc.* bears certain legal liabilities for the use of its computer network and equipment. As such, *Medina Electric Cooperative, Inc.* prohibits any and all use of *Medina Electric Cooperative, Inc.*'s network for illegal purposes. When presented with a search warrant, *Medina Electric Cooperative, Inc.* is obligated to release any information named therein, and will cooperate with authorities in any criminal investigation of inappropriate Internet usage.

However, *Medina Electric Cooperative, Inc.* recognizes that the legal status of the Internet has not yet been resolved satisfactorily, either through legislation or court precedent. Therefore, *Medina Electric Cooperative, Inc.* must make certain decisions regarding the illegality of various specific actions. Among the actions *Medina Electric Cooperative, Inc.* considers illegal and therefore will not allow on its network are: unauthorized distribution of copyrighted material; exploitation of minors; and unauthorized use of computer resources. *Medina Electric Cooperative, Inc.* believes the First Amendment rights of free speech, freedom of the press and freedom of association apply to the Internet to the same degree as they do to print media and that any attempt to infringe upon those rights is void of legitimacy.

## **WEB SERVICE**

*Medina Electric Cooperative, Inc.* provides personal web space to dial-up customers. *Medina Electric Cooperative, Inc.* includes web service in its

enhanced packages and hosts commercial web pages for a fee. In all cases, the web pages reside on *Medina Electric Cooperative, Inc.*'s computer equipment, giving *Medina Electric Cooperative, Inc.* some ethical responsibility for the content of such pages. *Medina Electric Cooperative, Inc.* will handle potentially inappropriate web pages on a case-by-case basis. Examples of inappropriate information include downloadable virus code and obscene materials.

Personal web space provided under any Residential Service may not be used for purposes that can be deemed as an attempt to sell a product or service. Only web space provided under non-Residential Services account may be used for commercial activity.

Domain name service is available as an optional service. You are responsible for domain name registration with InterNIC and for any fees charged by InterNIC.

*Medina Electric Cooperative, Inc.* grants you non-exclusive, non-transferable, limited license to store documents on a *Medina Electric Cooperative, Inc.* Internet World Wide Web server, and to use the server at burst bandwidth speeds up to *Medina Electric Cooperative, Inc.*'s full capacity. *Medina Electric Cooperative, Inc.* will bill for usage in accordance with rate and prices published online at the time of use.

#### **TERM AND TERMINATION**

This agreement will become effective on the date the service application is entered into *Medina Electric Cooperative, Inc.*'s system (no later than the end of one business day after receipt of application). *Medina Electric Cooperative, Inc.*, at its sole discretion, may terminate this agreement immediately or suspend your access to the service upon any breach of this Agreement by you.

You are responsible for notifying *Medina Electric Cooperative, Inc.* of your wish to terminate your account if desired. Charges will continue to accrue until your notification to *Medina Electric Cooperative, Inc.* of account termination, or until your account is cancelled due to non-payment as stated in "Charges and Billing." If your account is cancelled due to non-payment, you will be in default and subject to any and all late fees and collection fees payable by you under this Agreement.

Licenses granted hereunder will terminate automatically if you fail to comply with the limitations described herein. Upon termination, you must destroy all copies of the Software and Documentation.

## **EXPORT CONTROLS**

None of the Software or underlying information or technology may be downloaded or otherwise exported or re-exported into (or to a national or resident of) Cuba, Iraq, Libya, North Korea, Yugoslavia, Iran, Syria or any country to which the United States has embargoed goods; or to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Denial Orders. By downloading or using the Software, you are agreeing to the foregoing and are representing and warranting that you are not located in, under the control of, or a national or resident of any such country or on any such list.

In addition, if the licensed Software is identified as a not-for-export product (for example, on the box, media or on the installation process), then the following applies: except for export to Canada for use in Canada by Canadian citizens, the Software and any underlying technology may not be exported outside the United States or to any foreign entity or "foreign person" as defined by U.S. Government regulations, including without limitation, anyone who is not a citizen, national or lawful permanent resident of the United States. By downloading or using the Software, you are agreeing to the foregoing and are warranting that you are not a "foreign person" or under the control of a foreign person.

## **EFFECT OF AGREEMENT**

This Agreement (which will include the current and future Schedules hereto) represents the complete agreement concerning this license between the parties and supersedes all prior agreements and representations between them.

## **MODIFICATION OF TERMS AND CHARGES**

*Medina Electric Cooperative, Inc.* reserves the right to change rates or otherwise modify provisions of this Agreement by notifying you at least thirty (30) days before the effective date of the change, by written or online notice. Your use of *Medina Electric Cooperative, Inc.*'s Internet Services after such notice will constitute your acceptance of the modifications to this agreement.

## **FORCE MAJEURE**

*Medina Electric Cooperative, Inc.*'s performance hereunder is subject to interruption and delay due to causes beyond its reasonable control such as acts of God, acts of any government, war or other hostility, civil disorder, the elements, fire, explosion, power failure, equipment failure, industrial or labor disputes, inability to obtain necessary supplies and the like.

## **SEVERABILITY**

If any provision of this Agreement is held to be unenforceable for any reason, such provision will be reformed only to the extent necessary to make it enforceable, and all other provisions are unaffected.

**NOTICES**

Except as otherwise provided herein, all notices hereunder will be given in writing as follows:

*MEDINA ELECTRIC COOPERATIVE, INC.  
PO Box 370  
Hondo, TX*

**GOVERNING LAW**

This Agreement will be governed by and construed under the laws of the state of Texas except as governed by Federal law. The application of the United Nations Convention of Contracts for the International Sale of Goods is expressly included. All disputes will be settled in Texas courts.

**WAIVER**

Failure of any party to enforce any provision of this Agreement will not constitute or be construed as a waiver of such provision or of the right to enforce such provision.

**U.S. GOVERNMENT RESTRICTED RIGHTS**

Use, duplication or disclosure of Software and Documentation by the Government is subject to restrictions set forth in subparagraphs (a) through (d) of the Commercial Computer-Restricted Rights clause at FAR 52.227-19 when applicable, or in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013, or at 252.211-7015, and in similar clauses in the NASA FAR Supplement.

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