

Agri-Valley Services, Inc. Terms of Service

Agri-Valley Services, Inc. (referred to here as AVS) agrees to furnish the Internet connectivity and related services (the Services) that are set out in the Customer Service Agreement (the Customer Agreement) to the person or entity who signs the Customer Agreement (the Subscriber). Services will be provided under the terms in the Customer Agreement and are subject to this Terms of Services (TOS); our Acceptable Use Policy (AUP) and AVS's Network Management, Performance Characteristics, and Commercial Terms Policy (the Policy). Any use of AVS Services is acceptance and agreement to AVS's TOS, AUP and the Policy, which are available online at www.agrivalleyservices.com and available in hard copy by writing to AVS's **Support Department**, PO Box 650, Pigeon, MI 48755. As the Customer Agreement states, Subscriber's agreeing to the Customer Agreement means Subscriber must comply with AVS's TOS, AUP and the Policy. If there is a conflict between the Acceptable Use Policy portion and the Terms of Service portion of this TOS and the AUP, the TOS controls. By accessing or using the Services you signify that you have read, understand and agree to be bound by these TOS and the above-referenced policies. Your continued use of the Service shall be considered acceptance to any revised TOS and related policies.

1. Availability of the Services

There is no guarantee of unlimited, un-interrupted, always-available access to the Services. Rather, the Services may be temporarily unavailable, refused, or limited for various reasons including, but not limited to, system capacity limits, transmission limits, equipment modifications, upgrades, relocations, repairs, similar activities, or due to causes outside of AVS's control.

2. Limits of AVS's Liability

a. AVS's sole liability to Subscriber (and Subscriber's authorized users) for interruptions in the Service is as follows:

(1) As its full liability, at Subscriber's request, a credit allowance may be made in the form of a pro rata adjustment of the fixed monthly charges billed for the period of time the Service was inoperative from the interruption. Any interruption is measured from the time it is reported to AVS or when AVS detects it (whichever occurs first). If Subscriber or an Authorized User is affected less than 24 hours, no adjustment is required. If an interruption lasts over 24 hours, the length of the interruption is measured in 24-hour days. A fraction of a day consisting of less than 12 hours need not be credited, while a period of 12 hours or more will be deemed an additional day. AVS has no other liability for Service interruptions.

(2) A credit will not be given where the interruption is caused by Subscriber's negligent or willful acts, or by equipment or service that AVS did not provide, or by equipment AVS did provide but which Subscriber has modified, mishandled, or abused.

(3) If Subscriber is not completely satisfied with AVS truNet internet, Subscriber may cancel service within 30 days of installation. All outdoor equipment will be removed by AVS and any indoor equipment must be returned to an AVS office within 45 days of original installation. Upon receipt of all equipment, Subscriber's contract will be terminated. Subscriber is responsible for paying for the days of internet service that were used during Subscriber's time with AVS and any activation fee paid by Subscriber will not be refunded. Subscriber's contract for internet service will be terminated and AVS will waive any default fees then accrued on Subscriber's account.

b. AVS warrants the Equipment purchased from AVS for twelve (12) months from the time of delivery to Subscriber. AVS will replace defective Equipment and does not guarantee that Equipment will be new, but Equipment will meet or exceed the functionality and technical requirements of the original Equipment. AVS will not replace Equipment that has been altered, abused or damaged by uses other than those originally intended for the Equipment. AVS's total liability will not exceed replacing the Equipment. Subscriber is responsible for the full retail price of Equipment if it needs to be replaced after the warranty period expires.

c. AVS is not liable for any act or omission in the operation of non-AVS owned facilities.

d. AVS is not liable for interruptions or delays in transmission or errors or defects in transmission when caused by an act outside of AVS's control, including without limitation by an act of God, fire, war, or riot.

e. AVS's total liability may not exceed the amount of the charges to Subscriber for the Services in the month in which the event occurred.

3. Termination of Service

a. AVS may terminate Subscriber's account at any time without further obligation without cause upon 30 days' advance notice. AVS may also terminate Subscriber's account without notice if Subscriber's account has past due amounts or upon Subscriber's violation of the TOS, AUP, or the Customer Agreement. Amounts are past due if not paid one calendar day after the due date posted on the statement or invoice. If Subscriber violates the TOS, AUP or the Customer Agreement, AVS may warn Subscriber about the violation or choose to immediately terminate any or all Subscriber's accounts and services. Subscriber agrees that AVS is not required to provide notice before terminating Subscriber's account or Services. AVS is not liable to Subscriber or an Authorized User for such termination, or from interruption of Services arising from the termination.

b. Subscriber may terminate Service at any time by notifying AVS in writing or orally. Upon Subscriber-initiated termination, Subscriber is responsible for paying all outstanding charges for the period the Service was in effect and the early termination fee set out on the Customer Agreement and the return of the Equipment. Failure to return any Equipment received from AVS or returning Equipment in a damaged condition will result in an Equipment fee that may be significant.

c. Deletion of Data. You the Subscriber agrees that if your Service is terminated for any reason, AVS has the right to immediately delete all data, files or other information (including emails and web storage content) stored in or for your account without further notice to you.

4. Certificate of Authority

If Subscriber is a firm or organization other than the signer of the Customer Agreement, then the individual who signs the Customer Agreement certifies that he or she has authority to sign on behalf of Subscriber. If signer turns out later to have no such authority, the signer personally guarantees performance of all Subscriber's obligations, including paying all monthly charges in the Customer Agreement and all court costs and reasonable attorneys' fees incurred in enforcing the Customer Agreement or the TOS and AUP.

5. Contact Information

Questions about the TOS and AUP should be directed to AVS, in writing:

- via e-mail to: Support@avci.net,
- via fax to 989-453-7393, or
- via United States mail service to:
- AVS Support Dept. Box 650, Pigeon, MI 48755.

Requests to cancel Subscriber's account must be made in writing:

- via e-mail message to: Billing@avci.net,
- via fax to 989-453-7393 or
- via mail service to: **AVS Billing Dept.**, Box 650, Pigeon, MI 48755.

6. Security

AVS does not guarantee security. Subscriber is solely responsible for maintaining the security of your account and user computers, devices and data, including without limitation, encryption of data and protection of user ID's, passwords and personal and other data. Subscriber is solely responsible for all activity on the account and for the security of the system used to access the Internet or used in any other manner associated with account. AVS strongly recommends the use and

continued updating of commercial anti-virus, anti-spyware and firewall software.

7. Technical Support

a. Basic Support. AVS may provide free, basic, technical support to a Subscriber for Internet connectivity. This concerns troubleshooting techniques via telephone conversation, emailing of written instructions, or Subscriber-approved remote access to Subscriber's computer, as well as other similar means of problem resolution. The following are AVS's guidelines when providing support:

1. Subscriber must utilize a legally-owned copy of a manufacturer-supported operating system.
2. Subscriber's computer must possess the required technical capability, as determined by AVS, to operate efficiently enough to access the Internet. Check with AVS to find out what technical capabilities are required.
3. AVS may not be able to support all operating systems available to Subscriber.
4. AVS does not support third-party software.
5. AVS does not guarantee a free solution to Subscriber's problems.

b. Advanced Support (Hardware or Software Support). Support for resolving advanced issues – not resolvable via basic support or involving hardware or software issues on the Subscriber's computer or network will be the customer's responsibility or will be referred to the AVS TechTeam, which provides a Billable Computer Repair and Support Service. Subscriber is under no obligation to utilize AVS TechTeam services. All Advanced Support services are provided pursuant to the AVS TechTeam's policies, which can be found at www.avstechteam.com

8. LIMITATION OF LIABILITY; WARRANTY.

SUBSCRIBER EXPRESSLY AGREES THAT THE USE OF AVS SERVICES IS AT SUBSCRIBER'S SOLE RISK. AVS DOES NOT WARRANT THAT ANY SERVICES OR EQUIPMENT WILL PERFORM AT A SPECIFIC SPEED, BANDWIDTH OR DATA THROUGHPUT RATE, OR WILL BE UNINTERRUPTED, ERROR-FREE SECURE, OR FREE OF VIRUSES, WORMS, DISABLING CODE OR SIMILAR CONDITIONS. AVS SHALL NOT BE LIABLE FOR LOSS OF YOUR DATA.

EXCEPT AS OTHERWISE EXPRESSLY SET FORTH HEREIN, AVS SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS FOR SUBSCRIBER USE WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, NON-INFRINGEMENT, NON-INTERFERENCE, COMPATIBILITY, AND INTEGRATION. AVS PROVIDES SERVICES ON A COMMERCIALY REASONABLE BASIS AND DOES NOT GUARANTEE THAT SUBSCRIBER WILL BE ABLE TO ACCESS OR USE THE SERVICES AT TIMES OR LOCATIONS OF SUBSCRIBER'S CHOOSING. NO ADVICE OR INFORMATION GIVEN BY AVS SHALL CREATE A WARRANTY WITH RESPECT TO ADVICE PROVIDED. SUBSCRIBER ACKNOWLEDGES AND AGREES THAT THE SOLE AND EXCLUSIVE REMEDY FOR ANY DISPUTE WITH AVS IS (1) TO STOP USING THE SERVICES AND CANCEL THE ACCOUNT, WHETHER PURSUANT TO SECTION 2(a)(3) OR OTHERWISE, OR (2) THE CREDIT STATED IN SECTION 2(a)(1) ABOVE. SUBSCRIBER ACKNOWLEDGES AND AGREES THAT AVS AND ITS AFFILIATES ARE NOT LIABLE FOR ANY ACT OR FAILURE TO ACT BY THEM REGARDING CONDUCT, COMMUNICATION, OR CONTENT SUBSCRIBER ACCESSES USING THE SERVICES. UNLESS CONTRARY TO LAW, IN NO CASE SHALL AVS OR ITS AFFILIATES BE RESPONSIBLE FOR INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING FROM SUBSCRIBER'S USE OF THE SERVICES, INCLUDING WITHOUT LIMITATION, LOST PROFITS OR LOSS OF REVENUE, LOSS OF PROGRAMS OR INFORMATION OR DAMAGE TO DATA ARISING OUT OF THE USE OR INABILITY TO USE SERVICES.

9. Indemnification

Subscriber agrees to defend, indemnify and hold harmless AVS from and against all liabilities, costs and expenses,

including reasonable attorney fees and expert fees, related to or arising from Subscribers use of the Services and/or Equipment: (i) in violation of applicable laws, regulations or the TOS; (ii) to access the Internet or to transmit or post any message, information, software, images or other materials via the Internet; (iii) in any manner that harms any person or results in the personal injury or death of any person or in damage to or loss of any tangible or intangible (including data) property; or (iv) in any manner that results in claims for infringement of any intellectual property rights.

10. Miscellaneous

a. Subscriber agrees that AVS may disclose any and all Subscriber account information to any law enforcement agent pursuant to a subpoena for the information or as otherwise authorized or required by law without further consent or notification to the Subscriber.

b. AVS expressly disclaims liability for any harm resulting from Subscriber's use of the Internet or from content Subscriber views using the Services.

c. Initial payments for Services are due as stated in the Customer Agreement. Payments for recurring charges are due as indicated on the billing statement or invoice. Accounts are considered past due on the FIRST CALENDAR DAY after the due date posted on the statement or invoice. Payments on past due accounts are subject to a \$3 late fee for each occurrence on any and all of Subscriber's past due accounts or as specified in Master Service Agreement if applicable.

d. Checks/eCheck/ACH returned for any reason are subject to a \$25 returned item fee for each occurrence. Credit cards that are declined for any reason are subject to a \$20 declination fee for each occurrence. Past due accounts may be disconnected WITHOUT PRIOR NOTICE and are subject to a \$20 reconnect fee on any and all of Subscriber's disconnected accounts. Accounts that are not paid on the due date will be subject to a late fee of \$ 5 or 1.5% of the balance. Accounts that are not collectable by AVS may be submitted to a collection agency and processed in court. Failure to pay a charge on the account will not act as the Subscriber's cancellation of the account.

e. All payments to AVS are nonrefundable. Billing disputes must be reported within 30 days of the time Subscriber learns of the dispute otherwise such dispute is waived by Subscriber. Cancellation of a prepaid service is subject to review given that AVS's services are "pay ahead," such that any refunds are at the sole discretion of AVS. Refund processing may take up to 60 days. Cancellation of Services with discounted or promotional rates forfeits the discounted and promotional rate for the entire period that the discount and promotional rate is in effect.

f. Except as to a credit due under Section 2 above, the cancellation of Subscriber's account is Subscriber's sole right and remedy regarding any dispute with AVS, whether the dispute arises out of the TOS, AUP, or the Customer Agreement; or out of Subscriber's inability to access or use the Internet; or out of the amount or type of fees, taxes, billing methods, or changes associated with the Services.

g. A waiver by AVS of any breach by Subscriber of any part of the TOS, AUP, or the Customer Agreement does not waive AVS's right to pursue remedies in the future for a breach. The TOS, AUP is governed by Michigan law. If any part of the TOS, AUP is declared invalid, that declaration does not invalidate the remainder of this Terms of Services' terms.

h. Subscriber may not transfer or assign their account without the prior written consent of AVS. AVS may assign Subscriber's account at any time without previous consent from or notice to Subscriber.

i. The TOS and AUP does not confer any rights or remedies upon any person other than the parties to Subscriber's account.

j. Any Subscriber who secures services from AVS through a special price offering who fails to make a payment when due loses the right to receive services in the future under that special price offering. Upon failing to make a payment when due, AVS will automatically adjust that Subscriber's account pricing to the regular price for the particular plan that Subscriber is receiving services under.

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