

CROSSCONNECT COMMUNICATIONS

INTERNET SERVICE AGREEMENT

Please read this Internet Service Agreement carefully. It governs your use of CROSSCONNECT Internet services and Web sites (collectively the "Services"). By continued use of the Services, you agree to be bound by this Agreement. This Agreement applies whether you are a Subscriber to CROSSCONNECT Communications Internet Services or are accessing the Services as a visitor.

1. Subscription; Rates; Payment

You must be at least 18 years old to subscribe to CROSSCONNECT Communications Internet Services (the "Services"). You may subscribe to the Services by calling 1-877-599-2295. The CROSSCONNECT Communications ("CROSSCONNECT") representative will provide you with rate and fee information and, upon your subscription, will assign you a username and password to access the Services. Immediately, upon your subscription, we will begin charging you for the Services, regardless when you begin accessing the Services. No Credits will be given for any nonuse of the account. A prorated amount may be due for the final month of the Services. Please contact Technical Support for more information. We reserve the right to change the terms and conditions, including any charges associated with the use of CROSSCONNECT Communications Internet Services or discontinue certain access arrangements or Services from time to time. Posting of the updated Service Agreement will constitute notice to you of any such changes; however, CROSSCONNECT will use reasonable efforts to provide you with ten (10) days advance notice of any changes that adversely impact you. You agree that we may send to you all such notices in electronic form. We can send you electronic notices (1) to the e-mail address that you provided to us during registration or any other e-mail account you open with us, or (2) by posting the notice on the CROSSCONNECT website. The delivery of any notice from us is effective when sent by us, regardless of whether you read the notice when you receive it or whether you actually receive the delivery. Changes will be effective upon notice. You remain responsible for regularly reviewing these terms and conditions and any additional terms posted on the CROSSCONNECT website. Your continued use of the CROSSCONNECT website after the effective date of such changes constitutes your acceptance of and agreement to such changes.

Rates, charges, fees and credits are based on the Internet Service Plan and/or Bundling Plan you chose. Charges by local, toll or long distance communications service providers or any sales, use or excise taxes or any other governmentally imposed fees or charges. You are solely responsible for determining if use of a particular access number will cause you to incur long-distance, toll or other charges. We are not responsible for any long-distance, toll or other telecommunications charges you incur.

Subscribers must (i) provide CROSSCONNECT with accurate and complete billing information including legal name, address, telephone number and credit card information. and (ii) report to CROSSCONNECT all changes to this information within 30 days of the change.

You are responsible for all charges to your account. You agree not to reveal your password to other users and to indemnify and hold harmless CROSSCONNECT for any improper or illegal use of your account.

You consent to changes made to software registry by CROSSCONNECT's setup program.

If you choose to add services at a later date to your account, you authorize us to perform a credit check.

You also agree that we may send to you in electronic form your monthly billing statement ("ebill"). We may send your ebill to the e-mail address that you provided to us during registration or to any e-mail

account you open with us. If you require a paper monthly billing statement, you agree to pay to us a monthly fee.

If your Internet Service Plan/Bundling Plan qualifies for the Loyalty Reward, beginning in the fourth (4th) billing cycle you will receive a percentage credit off the Monthly Charge every month thereafter as long as your account is in good standing and you are current on your payments. We may discontinue the Loyalty Rewards Program at any time without notice to you.

2. Limitations on Use of Service; Usage Policy

You are solely responsible for usage of the Services through your account including, but not limited to, all e-mail, messages and data that you or another user creates under your username and password and you agree that CROSSCONNECT acts as a passive conduit for the transmission of such data. We do not actively monitor use of the Services under normal circumstances. Similarly, we do not exercise editorial control over the content of any Web site, e-mail transmission, message, news group, or other material created or accessible over or through the Services, except certain proprietary Web sites. Nevertheless, we may remove any materials that, in our sole discretion, may be illegal, may subject us to liability, or which may violate this Internet Service Agreement.

Services Limited to Personal Use - You may only use the Services for personal use. Using a personal account for high volume or commercial use (*e.g.* revenue generation, advertising, *etc.*) is prohibited.

Connection Limitations – CROSSCONNECT accounts are limited to one PPP login per customer at any given time. To insure the system is not abused and all customers have equal access, a connection will automatically be disconnected after 8 consecutive hours of connectivity. Specific prohibitions include, but are not limited to, running a Web server on a system connected to CROSSCONNECT, automatically checking e-mail or pinging to prevent disconnection for inactivity. We reserve the right to terminate any connection suspected to be non-interactive and to use automated methods of detecting non-interactive use.

Website Hosting – Personal Web sites may not be used to promote a business. Personal Web sites are limited to a throughput of 1MB per day. A personal Web site that exceeds this throughput will be disabled until the following day.

Message Storage and Outbound Messages – The amount of e-mail storage space for CROSSCONNECT e-mail is currently limited to 3MB, and some e-mail messages may not be processed due to space constraints or outbound message limitations.

Illegal Use – The Services may not be used to transmit any material (by e-mail, uploading, posting or otherwise) that, intentionally or unintentionally violates any applicable local, state, national or international law, or any rules or regulations promulgated thereunder.

Harm to Minors – The Services may not be used to harm, or attempt to harm minors in any way. Such use includes, but is not limited to, requesting personal or other information from a minor, including without limitation, any of the following: full name, home address, social security number, e-mail address, telephone number, picture, or the name of their school.

Threats: Harassment – The Services may not be used to transmit any material (e-mail, uploading, posting or otherwise) that harasses another or that threatens or encourages bodily harm or destruction of property.

Fraudulent Activity – The Services may not be used for making fraudulent or misleading offers to sell or buy products, items or services or to advance any type of financial deception including, without limitation, "pyramid schemes," "ponzi schemes," and "chain letters."

Forgery or Impersonation – The Services may not be used to add, remove or modify identifying network header information in an effort to deceive or mislead or to impersonate any person by using forged headers or other identifying information.

Unsolicited Commercial/Bulk E-mail –The Services may not be used to transmit or facilitate transmission of any unsolicited commercial or [bulk e-mail \(SPAM\)](#). CROSSCONNECT restricts the number of recipients on a single email message to a maximum of 50

Unauthorized Access – The Services may not be used to access or attempt to access the accounts of others, or to penetrate, or attempt to penetrate security measures of CROSSCONNECT's or another entity's computer software, hardware or electronic communications system, or telecommunications system, whether or not the intrusion results in corruption or loss of data.

Collection of Personal Data – The Services may not be used to collect, or attempt to collect, personal information about third parties without their knowledge or consent.

Resale – The Services may not be resold without written authorization of CROSSCONNECT.

Network Disruptions – The Services may not be used for any activity that adversely affects the ability of other people or systems to use the Services or the Internet. Such activities include, without limitation, attacks against another network host or individual user, interference with or disruption of other network equipment, and allowing others, actively or passively, to use the Services for illegal or inappropriate actions.

Reporting Violations of Usage Policy – We request that anyone who believes that there is a violation of the Usage Policy report the violation to CROSSCONNECT at abuse@pngusa.net.

Please provide, if available, (1) the IP address used to commit the alleged violation; (2) the date and time of the alleged violation including the time zone; (3) any evidence of the alleged violation. E-mail with full header information provides all of the above, as do syslog files.

CROSSCONNECT may, but is not obligated to take any of the following actions in response to a complaint: (1) issue written or verbal warnings; (2) suspend the violator's newsgroup privileges; (3) suspend or terminate the violator's account; (4) bill the violator for administrative costs and/or reactivation charges; or (5) bring legal action to enjoin violations and/or to collect damages, if any caused by the violation. CROSSCONNECT does not waive its right to take any of the above actions by choosing one course of action over another at any particular time. CROSSCONNECT need not take the above listed actions in any particular order but is free to take any action it deems necessary in response to the complaint.

3. Technical Support

CROSSCONNECT offers phone and e-mail-based technical support. Technical support is not offered by any other means. E-mail messages requesting technical support are answered based on priority and most messages will receive a response by the end of the next business day following receipt. Technical support is available for assistance with problems involving the process of dialing into the system and establishing an Internet connection, as well as problems concerning the sending and receiving of Internet E-Mail. Technical support is not to be used for other applications including, but not limited to, questions regarding writing, setting up, or maintaining web pages, hardware or software problems or how to use any operating system.

4. Disclaimer and Limitation of Liability

CROSSCONNECT SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. CROSSCONNECT DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR FREE OF

VIRUSES OR OTHER HARMFUL COMPONENTS. CROSSCONNECT MAKES NO EXPRESS WARRANTIES AND DISCLAIMS ALL IMPLIED WARRANTIES INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF TITLE, NONINFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE REGARDING ANY MERCHANDISE, INFORMATION OR SERVICE PROVIDED THROUGH CROSSCONNECT OR THE INTERNET GENERALLY. NO ADVICE OR INFORMATION GIVEN BY CROSSCONNECT OR ITS REPRESENTATIVES SHALL CREATE A WARRANTY. CROSSCONNECT AND ITS EMPLOYEES ARE NOT LIABLE FOR ANY COSTS OR DAMAGES ARISING DIRECTLY OR INDIRECTLY FROM YOUR USE OF THE SERVICE OR OF THE INTERNET INCLUDING ANY INDIRECT, INCIDENTAL, EXEMPLARY, MULTIPLE, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES. IN ANY EVENT, CROSSCONNECT'S CUMULATIVE LIABILITY TO ANY SUBSCRIBER OR VISITOR FOR ANY AND ALL CLAIMS RELATING TO THE USE OF THE SERVICE SHALL NOT EXCEED THE TOTAL AMOUNT OF SERVICE FEES PAID DURING A ONE YEAR PERIOD.

IN THE EVENT YOU HAVE CHOSEN HIGH SPEED SERVICE, CROSSCONNECT DOES NOT WARRANT THAT THE SERVICES WILL BE FIVE (5) TO SIX (6) TIMES FASTER. ACTUAL PERFORMANCE MAY VARY AND ALL OF THE ABOVE DISCLAIMERS APPLY AS WELL.

CROSSCONNECT DOES NOT CONTROL ANY MATERIALS, INFORMATION, PRODUCTS OR SERVICES ON THE INTERNET. THE INTERNET CONTAINS UNEDITED MATERIALS, SOME OF WHICH ARE SEXUALLY EXPLICIT OR MAY BE OFFENSIVE TO YOU. CROSSCONNECT MAY PROVIDE SOFTWARE TO ASSIST YOU IN SCREENING POTENTIALLY OFFENSIVE WEBSITES BUT DOES NOT WARRANT ITS PERFORMANCE OR EFFECTIVENESS. CROSSCONNECT HAS NO CONTROL OVER AND ACCEPTS NO RESPONSIBILITY FOR USE OF THE SERVICES. YOU ASSUME FULL RESPONSIBILITY AND RISK FOR USE OF THE SERVICES, PRODUCTS, AND OTHER INFORMATION, AND THE QUALITY AND MERCHANTABILITY OF ALL MERCHANDISE PROVIDED THROUGH THE SERVICE OR THE INTERNET.

5. Copyright Policy

CROSSCONNECT respects the intellectual property of others, and we require our Subscribers and Visitors to do the same. We may, in appropriate circumstances and at our sole discretion, terminate the passwords and accounts of users who infringe the intellectual property rights of others. Please see [CROSSCONNECT's Copyright Complaint Information](#) for details.

6. Privacy

We are committed to protecting your privacy and to providing you with a safe, secure and enjoyable experience on the Internet. CROSSCONNECT encourages you to read its [Privacy Policy](#) carefully.

7. Indemnification

You agree to indemnify CROSSCONNECT and its partners, agents, affiliates, suppliers and content providers against all claims, liability, damages, costs and expenses, including, but not limited to attorney's fees, arising out of or relating to your use of the Service.

8. Arbitration

The Parties desire to resolve disputes arising out of or relating to this Agreement without litigation. Therefore, except for action seeking a temporary restraining order or an injunction relating to the purposes of this Agreement, or suit to compel compliance with this dispute resolution process, the Parties agree to use the following alternative dispute resolution procedures as the sole remedy with respect to any controversy or claim arising out of or relating to this Agreement or its breach.

At the written request of either Party, each Party will appoint a knowledgeable representative to meet and negotiate in good faith to resolve any dispute arising out of or relating to this Agreement. The representatives shall have the discretion to determine the location, format, frequency and duration of their negotiations, and to utilize other alternative dispute resolution procedures such as mediation to assist in the negotiations. All discussions and correspondence among the representatives shall be treated as confidential information

developed for the purposes of settlement, exempt from discovery, and shall not be admissible in the arbitration described below or in any lawsuit without the agreement of the Parties.

If the negotiations do not resolve the dispute within forty-five (45) days of the initial written request, the dispute shall be submitted to binding arbitration in accordance with the rules of the American Arbitration Association ("AAA"). The parties acknowledge that this Agreement is made pursuant to a transaction in interstate commerce, and that any arbitration will be governed by the Federal Arbitration Act, 9 U.S.C. sec. 1, et seq. Any court with jurisdiction may enter judgment upon the award rendered by the arbitrator. The arbitration will be held in Hamilton County, Ohio. The Parties agree that the arbitration shall proceed *ex-parte* in the event that a Party, after being duly notified refuses to participate in the arbitration. The prevailing party shall be entitled to reasonable costs and attorney's fees.

9. Jurisdiction

This Agreement, and any dispute hereunder, will be governed by the laws of the State of Ohio. The exclusive jurisdiction for any dispute arising out of or relating to CROSSCONNECT or this Agreement shall be the state and federal courts located in Hamilton County, Ohio. You consent to the personal jurisdiction of such courts with respect to such matters or otherwise between you and CROSSCONNECT, and waive your rights to removal or consent to removal and any objections to venue.

10. Termination

Without prior notice, we may terminate your password, your account, or your use of the Services, for any reason, including, without limitation, if we, in our sole discretion, believe you have violated this Agreement or any other applicable user policies, or if you fail to pay any charges when due.

If you are dissatisfied with the Service or any related terms, conditions, rules, policies, guidelines, or practices, your sole and exclusive remedy is to discontinue using the Service and, if you are a Subscriber, to terminate your account.

You may terminate your account at any time for any reason by providing notice of intent to terminate to CROSSCONNECT by calling CROSSCONNECT's Technical Support Department at 1-877-599-2295.

11. Revisions to this Policy

We reserve the right to revise or modify this Internet Service Agreement at any time. Notice of all revisions or modifications will be posted on CROSSCONNECT's Web site. Your continued use of the Services following the issuance of any revised or modified version of this Agreement manifests your assent to be bound by this Agreement as modified or revised.