

## **ACCEPTABLE USE POLICY FOR BROADBAND INTERNET ACCESS SERVICES**

LMK Communications, LLC (“LMK”) has adopted this Acceptable Use Policy (“AUP”) to outline the acceptable use of LMK’s Broadband Internet Access Service (“Broadband Service”). This AUP is in addition to any restrictions contained in the LMK service agreement for Internet service (the “Agreement”).

You, the customer, must comply with this AUP. Your failure to do so could result in the suspension or termination of your Broadband Service account. If you do not agree to comply with this AUP, you must immediately stop all use of the Broadband Service and notify LMK so that we can close your account.

LMK may revise this AUP from time to time and will have the latest version posted on our website at [www.networkclarity.com](http://www.networkclarity.com). LMK will use reasonable efforts to make customers aware of any changes to this AUP, which may include sending email announcements or posting additional information on our website. Revised versions of this AUP are effective immediately upon posting. Accordingly, customers of the LMK Broadband Internet Service should read any LMK announcements they receive, regularly visit our website and review this AUP to ensure that their activities conform to the most recent version. You can send questions regarding this AUP to, and report violations of it to your customer service representative.

### **I. Prohibited Uses and Activities**

- In general, this AUP prohibits uses and activities involving the Broadband Service that are illegal, infringe the rights of others, or interfere with or diminish the use and enjoyment of the Broadband Service by others. Specifically the following uses and activities are prohibited. The Broadband Service may not be used to engage in any conduct that interferes with LMK’s ability to provide service to others, including the use of excessive bandwidth.
- The Broadband Service may not be used in a manner that interferes with LMK's efficient operation of its facilities, the provision of services or the ability of others to utilize the Broadband Service in a reasonable manner. LMK may use various tools and techniques to protect the security and integrity of its networks, which may include detecting malicious traffic patterns, preventing the distribution of viruses or other malicious code, and such other tools and techniques as LMK may from time to time determine appropriate.

- The Broadband Service may not be used to breach or attempt to breach the security, the computer, the software or the data of any person or entity, including LMK, to circumvent the user authentication features or security of any host, network or account, to use or distribute tools designed to compromise security, or to interfere with another's use of the Broadband Service through the posting or transmitting of a virus or other harmful item to deliberately overload or flood that entity's system.
- In using the Broadband Service, you may not use an IP address or client ID not assigned to you, forge any TCP/IP packet header or any part of the header information in an e-mail or newsgroup posting or probe, scan or test the vulnerability of any system or network by the use of sniffers, SNMP tools or any other method.
- The Broadband Service may not be used for any unlawful purpose, including to post or transmit content that violates child pornography statutes or contains graphic visual depictions of sexual acts or sexually explicit conduct involving children, or other depictions of children, the primary appeal of which is prurient.
- The Broadband Service may not be used to upload, post, transmit or otherwise make available any materials or content that violate or infringe on the rights or dignity of others. These include, but are not limited to, materials infringing or compromising intellectual property rights or the ability to maintain trade secrets and other personal information as private; the ability to avoid hate speech; threats of physical violence; harassing conduct; sexually oriented material that is offensive or inappropriate; and unsolicited bulk e-mail. To review LMK's copyright repeat infringer and DMCA notice and takedown policies, please see "Copyright and Digital Millennium Copyright Act Requirements" below.
- The Broadband Service may not be used to engage in or foster any consumer fraud such as illegal gambling, "Make Money Fast" schemes, chain letters, Pyramid, or other investment schemes, or to make or encourage people to accept fraudulent offers by e-mail, USENET or other means, of products, items or services, originating from your account, or through a third party which implicates your account or to post or transmit off-topic or commercial messages on bulletin boards.

- You may not engage in any of the above activities using the service of another provider, while channeling such activities through your Broadband Service account or using your account as a mail drop for responses.

## **II. Customer Conduct**

### **A. Customer Obligations**

In addition to being responsible for your own compliance with this AUP, you are also responsible for any use or misuse of the Broadband Service that violates this AUP. In all cases, you are solely responsible for the security of any device you choose to connect to the Broadband Service, including any data stored or shared on that device. It is also your responsibility to secure the Customer Equipment and any other Premises equipment or programs not provided by LMK that connects to the Broadband Service from external threats such as viruses, spam, bot nets and other methods of intrusion.

### **B. LMK's Rights**

LMK reserves the right to refuse to transmit or post, and to remove or block, any information or materials, in whole or in part, that it, in its sole discretion, deems to be in violation of Sections I or II of this AUP, or otherwise harmful to LMK's network or customers using the Broadband Service, regardless of whether this material or its dissemination is lawful so long as it violates this AUP. Neither LMK nor any of its affiliates, suppliers or agents have any obligation to monitor transmissions or postings (including, but not limited to, email, file transfer, blog, newsgroup and instant message transmissions) made on the Broadband Service. However, LMK and its affiliates, suppliers and agents have the right to monitor these transmissions and postings from time to time for violations of this AUP and to disclose, block or remove them in accordance with this AUP, the Agreement and applicable law.

## **III. Network Management and Limitations on Data Consumption**

LMK uses reasonable network management practices that are consistent with industry standards. LMK uses tools and technologies that are minimally intrusive and guided by industry experience. If LMK didn't manage its network, its customers would be subject to the negative effects of spam, viruses, security attacks, network congestion, and other risks and degradations of service. By engaging in responsible network management, including enforcement of this AUP, LMK can deliver the best possible broadband

Internet experience to all of its customers. For more information, please refer to LMK's Internet Transparency Policy.

#### **IV. Violation of this AUP**

LMK reserves the right to immediately suspend or terminate your Broadband Service account and terminate the Agreement if you violate the terms of this AUP or the Agreement.

LMK does not routinely monitor the activity of individual Broadband Service accounts for violations of this AUP, except for determining aggregate data consumption in connection with the data consumption provisions of this AUP. However, in the company's efforts to promote good citizenship within the Internet community, it will respond appropriately if it becomes aware of inappropriate use of the Broadband Service. LMK has no obligation to monitor the Broadband Service and/or the network. However, LMK and its suppliers reserve the right at any time to monitor bandwidth, usage, transmissions and content in order to, among other things, operate the Broadband Service, identify violations of this AUP, and/or protect the network, the Broadband Service and LMK users.

LMK prefers to inform customers of inappropriate activities and give them a reasonable period of time in which to take corrective action. However, if the Broadband Service is used in a way that LMK or its suppliers, in their sole discretion, believe violates this AUP, LMK or its suppliers may take any responsive actions they deem appropriate under the circumstances with or without notice. These actions include, but are not limited to, temporary or permanent removal of content, cancellation of newsgroup posts, filtering of Internet transmissions, and the immediate suspension or termination of all or any portion of the Broadband Service (including but not limited to newsgroups). Neither LMK nor its affiliates, suppliers or agents will have any liability for any of these responsive actions. These actions are not LMK's exclusive remedies, and LMK may take any other legal or technical actions it deems appropriate, with or without notice.

LMK reserves the right to investigate suspected violations of this AUP, including the gathering of information from the user or users involved and the complaining party, if any, and examination of material on LMK's servers and network. During an investigation, LMK may suspend the account or accounts involved and/or remove or block material that potentially violates this AUP. You expressly authorize and consent to LMK and its suppliers cooperating with (i) law enforcement authorities in the investigation of suspected legal violations, and (ii) and system administrators at other

Internet service providers or other network or computing facilities in order to enforce this AUP. Upon termination of your Broadband Service account, LMK is authorized to delete any files, programs, data, email and other messages associated with your account (and any secondary accounts).

The failure of LMK or its suppliers to enforce this AUP, for whatever reason, shall not be construed as a waiver of any right to do so at any time. You agree that if any portion of this AUP is held invalid or unenforceable, that portion will be construed consistent with applicable law as early as possible, and the remaining portions will remain in full force and effect. You agree to indemnify, defend and hold harmless LMK and its affiliates, suppliers and agents against all claims and expenses (including reasonable attorney fees) resulting from any violation of this AUP. Your indemnification will survive any termination of the Agreement.

## **V. Redress and Governing Law**

### **A. Governing Law/Resolution of Disputes — Arbitration**

Any dispute or claim between you, the Customer, and LMK arising out of or relating to the service provided in connection with this Acceptable Use Policy or the Agreement shall be resolved by arbitration (“Arbitration”), unless otherwise specified in Customer’s Agreement. To the extent that there is a conflict regarding this Arbitration provision, the Customer’s Agreement 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 the 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.

### **B. Governing Law/Resolution of Disputes — Governing Law**

The Agreement and the relationship between you and LMK shall be governed by the laws of the state of North Carolina 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 Arbitration provision herein, you and LMK agree to submit to the personal and exclusive jurisdiction of the courts located within the state of North Carolina and waive any objection as to venue or inconvenient forum. The failure of LMK to exercise or enforce any right or provision of this AUP or the Agreement shall not constitute a waiver of such right or provision. If any provision of this AUP or 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 this AUP or 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, this AUP or the Agreement must be filed within one (1) year after such claim or cause of action arose or be forever barred.

## **VI. Copyright and Digital Millennium Copyright Act Requirements**

LMK is committed to complying with U.S. copyright and related laws, and requires all customers and users of the Broadband Service to comply with these laws. Accordingly, you may not store any material or content on, or disseminate any material or content over, the Broadband Service (or any part of the Broadband Service) in any manner that constitutes an infringement of third-party intellectual property rights, including rights granted by U.S. copyright law. Owners of copyrighted works who believe that their rights under U.S. copyright law have been infringed may take advantage of certain provisions of the Digital Millennium Copyright Act of 1998 (the "DMCA") to report alleged infringements. It is LMK's policy in accordance with the DMCA and other applicable laws to reserve the right to terminate the Broadband Service provided to any customer or user who is either found to infringe third-party copyright or other intellectual property rights, including repeat infringers, or who LMK, in its sole discretion, believes is infringing these rights. LMK may terminate the Broadband Service at any time with or without notice for any affected customer or user.

### Repeat Infringer Policy

In accordance with the DMCA, LMK's policy is to terminate, in appropriate circumstances, the LMK Broadband Service of any customer who is a repeat infringer. If you believe that in connection with the LMK Broadband Service, an LMK customer has engaged in repeated infringement that includes your copyrighted materials, please provide our designated copyright agent (see below for more details) with information

sufficient to show that the subscriber is a repeat copyright infringer and that appropriate circumstances exist for LMK's termination of such customer.

## Reservation of Rights

These policies do not affect any other rights that LMK may have under law or contract, and all such rights are expressly reserved by LMK.

## DMCA Notices and Counter-Notices

The DMCA provides recourse for copyright owners who believe that that material appearing on the Internet infringes their rights under U.S. copyright law. Specifically, if you believe in good faith that material infringing your rights resides on the LMK Broadband Service by reason of storage at the direction of any user, or that such infringing material is at an online location that is referred or linked to via an information location tool (such as a directory, index, reference, pointer or hypertext) made available as part of the LMK Broadband Service, you (or your agent) may send to LMK a notice requesting that LMK remove the material or block access to it. If you believe in good faith that someone has wrongly submitted to us a notice of copyright infringement against you, the DMCA permits you to send to us a counter-notice. Notices and counter-notices should be sent to LMK's designated copyright agent (see below), and must meet the following requirements:

- A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;
- Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site;
- Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit LMK to locate the material;
- Information reasonably sufficient to permit LMK to contact the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which the complaining party may be contacted;
- A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and

- A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

#### Designated Copyright Agent

DMCA notices and counter-notices, and repeat infringer information, should be delivered in writing to LMK's designated copyright agent:

Jennifer Halsing  
LMK Communications, LLC  
9650 Strickland Rd #103-143  
copyright@networkclarity.com  
Fax: 919-841-4535

Our designated copyright agent can be reached at 919-841-4534, however, as noted, notices, counter-notices and repeat infringer information should be delivered in writing, not by phone.