

Utility Telephone Inc., (“Utility”) has implemented this Acceptable Use Policy (“AUP”) as part of an overall effort to: (1) provide high quality, reliable service to our Customers; (2) protect the privacy and security of our Customers, systems, and networks; (3) encourage responsible use of Utility's and other ISPs' resources; and (4) comply with applicable laws and regulations.

This AUP provides a general understanding of Utility policy regarding the use of Utility services. As with any set of rules, guidelines and policies, common sense and judgment are exercised while enforcing this policy system. With this in mind, flagrant and/or repeated policy violations are viewed differently than minor infractions or actions that are unintentional and cause little, if any, harm. Protecting our Customers and our resources, providing quality service to our Customers, conforming to existing laws and preserving our reputation as a service provider are factors considered when deciding appropriate action in connection with policy violations.

This AUP describes the uses of the Utility network that are prohibited. Utility may in its sole discretion determine whether a use of the Utility network is a violation of this AUP. While it is not Utility's intent to monitor, control, or censor communications on the Utility network, when we become aware of a violation of this AUP we may take such action as we deem appropriate to address the violation, as referenced below.

This AUP applies to all Customers of Utility's services, and to all other users of the Utility network. This AUP supplements, but does not supersede, the contracts that Customers have with Utility. If such a contract restricts a use of the Utility network that is not addressed in this AUP, the contract will govern with respect to such use. “You” or “your” as used in this AUP refers to each Customer of Utility's services. “Our” or “us” refers to Utility.

By using any of the services referenced in this AUP, you agree to comply with the terms and conditions of this AUP. Utility reserves the right to change or modify the terms and conditions of this AUP at any time, effective when posted on Utility's web site at [www.utilitytelephone.com/regulatorydocuments](http://www.utilitytelephone.com/regulatorydocuments). Your use of the Services after changes to the AUP are posted shall constitute acceptance of any changed or additional terms and conditions. However, if any such changes or additions are material, you will be notified.

### DATA / INTERNET

It is our intention to allow our Customers access to everything the Internet has to offer with little or no interference except for any impact a use may have on our ability to serve our other Customers. There are certain activities considered inappropriate by the Internet community at large and that cannot be permitted under the guise of free speech. Utility does not censor or prescreen content from the Internet or any newsgroups accessed by its computer servers on behalf of our Customers. The Customer may choose what the Customer should or should not view or hear. Regardless, Utility reserves the right to determine whether material being hosted on its network is objectionable or inappropriate. If Utility deems materials to be inappropriate, Utility, in its sole discretion, may terminate a Customer's services immediately, without notice, and block all access to the Customer's website or material in question.

#### Prohibitions

**Impersonation:** You may not impersonate, or influence someone to believe you are someone you are not in any way, through forged email, news posting headers or other identifying information.

**Unfriendly Internet Activity:** You may not engage in activities that impair Utility's ability to deliver its services to its Customers.

**Privacy Violations:** You are prohibited from gaining access to or “hacking” any computer system or Customer account without the consent of its owner. This prohibition extends to the use of automated tools, the creation, distribution, or transfer of viruses, worms, or similar malicious code, or active attempts (whether successful or unsuccessful) to gain unauthorized access, but is not necessarily limited to such activities. When such activities are brought to Utility’s attention, severe remedial action may be taken, which may include the notification of and cooperation with appropriate law enforcement authorities.

**Re-sale:** Utility facilities and services are not to be used for resale. Utility facilities are not intended for the purpose of offering services for resale to third parties, and this activity is strictly prohibited unless Customer is specifically authorized pursuant to a written agreement with Utility to resell Utility services. Utility reserves the right to determine whether third party individuals or organizations are using its services. If, in Utility's sole discretion, it determines that Customer is a website hosting provider, Internet access provider, or other online service provider and is causing Utility products to be used by third parties, Utility may terminate the Customer's service immediately and block all access to the Customer's website or other service(s) in question.

**Access Facilities Abuse:** You may not maintain or attempt to maintain a permanent connection to Utility via a “non-dedicated” personal dial access account. Upon evidence of abuse, Utility will contact you via phone, fax or email. If you fail to respond within twenty-four (24) hours to a request to cease abusive activities, Utility will take appropriate action, from requesting you cease abusive activities up to and including immediate termination of your account. You may request account re-activation via a telephone call to Utility. A second violation of this policy may result in permanent removal of your account from the Utility system and any unused service fees paid in advance will be retained by Utility as a termination charge and not refunded.

**Illegal Activity:** The Utility network may not be used in connection with criminal or civil violations of local, state, federal, or international laws, regulations, or other government requirements. Such violations include theft or infringement of copyrights, trademarks, trade secrets, or other types of intellectual property; fraud; forgery; theft or misappropriation of funds, credit cards, or personal information; and threats of physical harm or harassment.

**Fraud:** Using the Services to make fraudulent offers to sell or buy products, items, or services or to advance any type of financial scam such as "pyramid schemes," "Ponzi schemes," and "chain letters" is impermissible activity and prohibited. Utility Customers are prohibited from using the Utility network to engage in any deceptive online marketing practices including, without limitation, practices that violate the United States Federal Trade Commission's guidelines for proper online marketing.

**Impermissible Storage:** The storage of any program, utility, or file on Utility's servers, the use of which would constitute a violation of this policy, is prohibited. For example, it is a violation to store hacker scripts, IRC bots, or spamming software on Utility's servers.

**Commercial email:** Utility prohibits the sending of unsolicited commercial email (“UCE”), also commonly referred to as “spam”. Using any Utility service for advertising, promoting, sending, or receiving responses to UCE is prohibited. UCE can include any of the following:

- Sending any unsolicited email that could be expected, in Utility's discretion, to provoke complaints.
- Sending more than 100 identical or substantially similar messages at one time without prior written authorization.

- Sending email with charity requests (unless the sender is a nonprofit, charitable organization), petitions for signatures, or any chain mail-related materials.
- Sending email that does not accurately identify the sender, the sender's return address, and the email address of origin.
- Collecting the responses from unsolicited email.
- Posting a single message, or messages similar in content, to more than 15 online forums or newsgroups.
- Posting messages to online forums or newsgroups that violate the rules of the forums or newsgroups.
- Repeated posting of "off-topic" articles or messages in newsgroups. This is usually a violation of the newsgroup's own AUP.
- Providing an "opt-out" link where recipients are told they may be removed from future mailings by providing information DOES NOT legitimize mailings that are otherwise considered UCE.

Utility does not support SMTP relay only. Please see the following website for additional SMTP setting information: [SMPT Setup](#). Utility no longer offers generic email account services. If you have a grandfathered account, you must check your email account at least once every six months and download your email in order to avoid deletion of your account and all email stored under this account.

Mail bombing: Sending large volumes of unsolicited email is prohibited.

Harassment: Using the Services to transmit any material (by email, uploading, posting, or otherwise) that harasses another (including threats of death or physical harm, libel, and defamation) is prohibited and a violation of this AUP. Extremely threatening or harassing email will be reported to the appropriate authorities.

Harm to Persons: Using the Services to harm or attempt to harm persons, including minors, in any way, is strictly prohibited and a violation of this AUP.

Internet Relay Chat (IRC): The use of IRC bots is prohibited, as is the violation of any acceptable use policies on IRC servers. Utility reserves the right to take any remedial action required, including account termination, if a Customer's activities result in banning from an IRC server or servers.

### Customer Responsibilities

Assumption of Responsibility: You, as a Utility Customer, assume responsibility for any and all activities originating from within your network which may impact our ability to either provide Internet service to you or as a whole. This extends to activities caused by virus infections, systems compromised or controlled by hackers, unauthorized activities undertaken by employees with or without your knowledge, etc. As a Utility Customer, you agree to cooperate in resolving any issues of abuse, inappropriate activity, or illegal activity that causes any degradation of the Internet service Utility provides. You agree to resolve any such issues brought to your attention by Utility within twenty-four (24) hours of notification from Utility. Failure to resolve any identified issues in a timely manner may result in suspension or termination of service.

### IP Address Space Allocation

Utility makes every effort to accommodate our Customers' requests for sufficient Internet Protocol (IP) address space to support the various applications used by any individual Customer. However, Utility is also committed to behaving as a responsible Internet Service Provider with a duty to make efficient use of available IP addresses. These policies are governed by the contents of Internet Engineering Task Force (IETF) Request for Comment 2050 and the more stringent requirements applied by the American Registry for Internet Numbers (ARIN). Therefore, IP address space is provided with the following requirements:

**Address Space Efficiency:** Utility Customers will make every effort to use their assigned address space in the most efficient manner possible. This may include subnetting of assigned address spaces, the use of Network Address Translation, and compliance with other relevant Requests for Comments (RFCs) as published by the IETF. Utility Customers are expected to assign IP Addresses provided as a part of Utility services only to systems that will offer services of some form to users of the Internet at large. This includes (though is not limited to) systems such as Web Servers, E-mail Servers, FTP Servers, and routers or other devices required to maintain or secure a connection to the Internet. Therefore, IP address space will be allocated according to the number of hosts meeting these criteria and applicable guidelines provided by the IETF and the ARIN.

**Prior Justification Required:** Prior to receiving any additional IP addresses, Utility Customers will be required to provide sufficient justification to Utility, demonstrating that the requested addresses are necessary and that existing address space is insufficient to meet the needs expressed after exhausting all possible conservation methods. Utility will assign the amount of IP addresses that Customers can justify for use on their equipment. We require that you submit a written justification form for any IP address space of eight (8) addresses and above. Utility Customers are required to use a minimum of 25% of assigned addresses within thirty (30) days after service installation, 50% within 90 days after service installation, and 80% of assigned addresses within one year after service installation.

**IP Address Reachability:** All assigned addresses must be reachable via the Internet to confirm that these requirements have been met. These addresses (and the devices that receive them) are required to respond to Internet Control Message Protocol (ICMP) Ping requests, as the address space provided may be subject to audits performed by Utility, ARIN, or other appropriate administrative or regulatory bodies at any time and without prior notification.

**Address Space Recovery:** All assigned IP addresses are non-assignable and will be returned to Utility upon service termination. Utility reserves the right to review address allocations at any time to confirm compliance with the above policies and request additional justification or testing capabilities from Customers in the event that these thresholds have not been met or exceeded. Utility may request or require the reduction of assigned addresses in the event that sufficient justification cannot be provided for previously approved and assigned IP address space.

**Customer Use Restrictions:** Utility provides IP address space to Customers for the sole purpose of their use within the Customer's own network. The resale, transfer, or any other form of assignment to a third party is strictly prohibited unless prior written approval by Utility is obtained.

### Excessive Bandwidth or Disk Utilization

For certain products, Utility specifies bandwidth and disk utilization limits in its account description. Exceeding these limits will incur additional charges. Bandwidth utilization is determined by the total number of bytes transferred from an account's Web and FTP space. Disk utilization is determined by the total number of bytes required to store an account's Web, FTP and Mail data.

If Utility determines an account is exceeding, or has, exceeded the disk utilization, the account owner will be notified by phone, fax or email. If the excess use continues after notification, the account owner may be asked to upgrade the service and/or modify the account activity causing the excess use. If excess disk space utilization is determined to adversely affect Utility's ability to provide service, immediate action will be taken, up to and including termination of your account. The account owner will be notified by email or other appropriate means as soon as possible.

**Cooperation with Law Enforcement:** Utility will cooperate with the appropriate legal authorities while investigating illegal activity claims and/or other matters. The claims and matters include, but are not limited to illegal transfer or use of copyrighted material and/or postings and electronic mail containing threats of violence, or illegal activity. Utility cooperates with law enforcement authorities in response to court orders and valid subpoenas. We can (and you authorize us to) disclose any information about you to law enforcement or other government officials as we, in our sole discretion, believe necessary or appropriate, in connection with any investigation of fraud, intellectual property infringements, or other activity that is illegal or may expose us to legal liability.

**Intellectual Property Theft:** It is prohibited to use the Utility network to transmit any material (by email, uploading, posting, or otherwise) that infringes any copyright, trademark, patent, trade secret, or other proprietary rights of any third party. This includes, but is not limited to, the unauthorized copying of copyrighted material, the digitization and distribution of photographs from magazines, books, or other copyrighted sources, and the unauthorized transmittal of copyrighted software through a peer-to-peer network or through any other means.

**Security:** Utility assumes no liability and makes no guarantee, either expressed or implied, for the security of any data on any server, including but not limited to any of its servers, whether or not designated as "secure servers." Utility Customers are responsible for maintaining the basic security of their systems to prevent their use by others in a manner that violates this AUP. Examples include improperly securing a mail server so that it may be used by others to distribute "spam," and improperly securing an FTP server so that it may be used by others to illegally distribute licensed software. Customers are responsible for taking corrective actions on vulnerable or exploited systems to prevent continued abuse. The Utility Network may not be used in connection with attempts—whether or not successful—to violate the security of a network, service, or other system. Examples of prohibited activities include hacking, cracking into, monitoring, or using systems without authorization; scanning ports; conducting denial of service attacks; and distributing viruses or other harmful software.

**Unintentional Harm:** With or without proper security measures in place, any network connected to the Internet can receive traffic coming from other locations on the Internet. The open nature of Internet communication is subject to abuse, and users should take measures to prevent unwanted traffic through the use of a firewall or similar security system. By having an open, unprotected network, a particular Customer may become the target of illegal hacker activity. Further, your system or network may become a location from which further attacks are launched at third-party networks or systems. While unintentional, a lack of proper security may harm other users of the Internet. Utility Communications disclaims any liability for harm to third parties as a result of insufficient security on Customer networks or systems. At all times, we recommend that you employ security measures both for your network as well as other networks that might be harmed unintentionally. In the event that a Customer network is abused by a third party and is used in harmful activity such as relaying spam, engaging in a Denial of Service attack, or relaying mail that contains harmful viruses, Utility reserves the right to temporarily suspend use of an Internet connection until the attack, spamming, or other similar harmful activity can be stopped (with or without prior Customer notification).

**Limitation of Liability for Data Security:** Utility expressly warns its Customers that no computer system should be considered safe from intrusion. Email often passes through multiple computer systems; email cannot, and should not, be considered a secure means of communication unless encrypted or coded. When encrypted, the information is only as secure as the encryption method. Therefore, although we use industry standard practices to protect your privacy, we do not promise and you should not expect that your personally identifiable information or private communications will always remain private.

**Incident Reporting, Response and Remediation:** Utility occasionally is required to investigate potential abuses brought to our attention by on-going monitoring, other ISPs, or other users of the Internet. If you have any complaints about activity that may be in violation of this AUP, you may submit them to [info@utilitytelephone.com](mailto:info@utilitytelephone.com). These notifications may or may not reflect an actual violation of this AUP. To this end, Utility will investigate the nature of the abuse reported, and reserves the right to contact any Utility Customer in the process of completing this investigation. Customers are obligated to respond within twenty-four (24) hours to any such requests for information to allow closure of such items. In the event that a violation of any of these policies is identified, Utility Customers are obligated to cease the offending activity or activities immediately. Failure to do so may result in limitations being placed on the quantity or type of traffic Utility will forward to the Internet for the affected Customer, termination of service, or other remedies deemed reasonable by Utility until the Customer has demonstrated to Utility's satisfaction that such behavior will not be repeated.

Utility reserves the right to initiate appropriate remedial action immediately upon receipt of notification of any serious or illegal activity prior to the initiation and completion of any investigation without notice to the Customer. Such action will only be taken under extreme circumstances where a significant violation of these policies is readily apparent or an on-going illegal activity has been identified. In the event that such action is required, Utility will contact any affected Customers using telephone and/or e-mail or fax information on file for investigation and remediation.

At times, computing system problems may occur. During these unlikely events, it may be necessary for Utility to examine system accounting logs and other records. Therefore, Utility reserves the right to access an account's mailbox and file space as needed to resolve system problems and to monitor accounts for system utilization, system optimization, and billing purposes.

We do advise our Customers that tools, such as Cyber Patrol or Net Nanny, are available to screen an account's access to Internet sites and/or newsgroups a Customer may consider offensive. It is the account owner's responsibility to make use of such tools if desired. Utility reserves the right to monitor accounts for system utilization, system optimization and billing purposes. Violation of any of the policies in this document may result in the immediate inactivation or termination of service; possibly without notice. If your account is terminated or inactivated, a reactivation charge and/or deposit may be required to resume service.

**Remedy for Violations:** If an account is restricted as a result of abuse, the account reactivation process can be initiated by the Customer via a telephone call to the Utility support line. Customer may be requested to remedy or modify network use to bring any activity into compliance with this AUP prior to service reactivation.

**Suspension or Removal of Violators:** In some cases, Utility may determine that a Customer must be permanently removed from the Utility network. Permanent removal of the subscriber's account from the Utility system does not relieve the violating Customer of any responsibility for payment under the terms of the Service Agreement, which may include liability for the balance of the remaining term of service. Utility

reserves the right to immediately terminate any subscriber's service if, in Utility's sole discretion, subscriber has abused access facilities.

## VOICE

### Prohibitions

Unlimited usage is not available to Customers using auto-dialing, Internet dial access applications, call back operator, call transfer release or call forwarding switching applications, VoIP local call terminations or any other extraordinary business applications.

Utility reserves the right to terminate this Agreement upon thirty (30) days notice in the event that Utility determines (in its discretion) that Customer is using a predictive dialer or other auto-dialing application, employing the service for outbound telesales applications or is otherwise abusing the Utility local and long distance calling plans, unless Customer has specifically purchased a Utility product designated for predictive dialer/call center applications.

If ten percent (10%) or more of Customer's completed calls are equal to or less than six (6) seconds in length ("Short Duration Calls") during any calendar month, Utility reserves the right to charge and Customer shall be responsible for payment of a surcharge of \$0.01 per Short Duration Call, which surcharge shall be in addition to the rates and charges for the Services and all other applicable surcharges and taxes.

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