

This Acceptable Use Policy (“AUP”) governs high speed Internet, IP/Ethernet, IP video and/or other data, video, or voice communications service (“Service”) provided to you by Estherville Communications, LLC of Estherville, Iowa (together with any subsidiaries or affiliates providing your Service, hereafter “we” “us” or “Company”) and includes the following terms and provisions as the same may be amended or modified from time to time as provided herein. The terms and provisions of this AUP are without limitation of any rights to suspend or terminate Service that Company otherwise possesses under your Service Contract, our Standard Terms and Conditions of Service, our Service Specific Terms and Conditions or applicable law.

**1. Applicability.** This AUP applies to you as a customer and to any other person, authorized or unauthorized, using your Service (each such person, a “User”). For purposes of this AUP, your use includes, and you are responsible for, the use of all Users who access Service through your account. It is your responsibility to take precautions to limit access to Service to approved Users. If you are a contract customer, this AUP is incorporated into your Service Contract. For non-contract customers, by establishing a Service account and using Service, you agree to be bound by this AUP.

**2. Compliance Required.** Pursuant to your Service Contract (if you are a contract customer) or by establishing a Service account and using Service (if you are a non-contract customer), all customers have agreed to and must comply with this AUP. Company reserves the right to terminate or suspend Service immediately or to otherwise disconnect, remove, block, filter or restrict your use of Service if Company determines, in its sole discretion, that such use is illegal or violates this AUP. Company will cooperate with legal authorities and/or third parties in the investigation of any suspected or alleged crime or civil wrong. If Company believes that you have used Service for an unlawful or abusive purpose, Company may forward the relevant communication and other information, including your identity, to the appropriate authorities for investigation and prosecution. You hereby consent to Company’s forwarding of any such communications and information to these authorities. In addition, Company may provide information in response to law enforcement requests, lawful government requests, subpoenas, court orders, to protect its rights and property and in the case where failure to disclose the information may lead to imminent harm to you or others. Company also reserves the right to take action on abuse which is not specifically named in this AUP at the sole discretion of Company.

**3. Prohibited Uses and Activities.** This AUP identifies certain uses and activities that Company considers to be unlawful or abusive and therefore strictly prohibited. The examples listed herein are non-exclusive and are provided solely for guidance to customers. Company, at its sole discretion, reserves the right to discontinue Service for any unlawful or impermissible use. In the event of uncertainty as to whether any contemplated use or activity is permitted, please contact your sales representative for assistance. In addition to any other illegal or abusive uses or activities, the following constitute violations of this AUP:

**a. Unlawful Use:** Using Service in any manner that violates local, state or federal law, including without limitation using Service to transmit any material (by email, facsimile, or otherwise) whose transmission is unlawful under any local, state or federal law applicable to such transmission.

**b. Copyright or Trademark Infringement:** Using Service to transmit any material (by email, file sharing software, direct download, FTP sites or otherwise) that infringes any copyright, trademark, patent, trade secret, or other proprietary rights of Company or any third party, including, but not limited to, the unauthorized copying of copyrighted material, the digitization and distribution of photographs from magazines, books, or other copyrighted sources, the digitization and distribution of copyrighted video or music, and the unauthorized transmittal of copyrighted software. You may not rebroadcast, transmit, or perform video programming service, charge admission for its viewing, or transmit or distribute running accounts of it.

**c. Violation of the Digital Millennium Copyright Act (DMCA):** Using Service to circumvent any technological measures used by copyright owners to protect their works or using Service to produce or disseminate technology primarily designed or produced to circumvent DMCA protections, that have only limited commercially significant purpose or use other than to circumvent; or that are marketed for use in circumventing DMCA protections. For additional information concerning your rights and responsibilities in

connection with reporting or responding to claims of copyright infringement, see Reporting Claims of Copyright Infringement, below.

**d. Harm to Minors:** Using Service to harm, or attempt to harm, minors in any way; including but not limited to activities involving child pornography or the sexual exploitation of children.

**e. Threats:** Using Service to transmit any material (by email or otherwise) that illegally threatens or encourages bodily harm or destruction of property.

**f. Harassment and Cyberbullying:** Using Service to transmit any material (by email or otherwise) that unlawfully harasses another.

**g. Fraudulent Activity:** Using Service 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”, unregistered sales of securities, securities fraud and “chain letters.”

**h. Forgery or Impersonation:** Adding, removing or modifying identifying network, message or article header information in an effort to deceive or mislead is prohibited. Attempting to impersonate any person by using forged headers or other identifying information is prohibited.

**i. Unsolicited Commercial/Unsolicited Bulk Communications:** Using Service to transmit any unsolicited commercial or bulk email, faxes or other communications in violation of applicable federal or state law. Activities that have the effect of facilitating illegal, unsolicited commercial or bulk email, faxes or other communications are prohibited. Using deliberately misleading headers in emails sent to multiple parties is prohibited.

**j. Intentional Network Disruptions and Abusive Activity:** Using Service for any activity that adversely affects the ability of other people or systems to use Service. This specifically but without limitation includes excessive consumption of network or system resources whether intentional or unintentional. This also includes “denial of service” (DoS) attacks against another network host or individual user. Interference with or disruption of other network users, network services or network equipment is prohibited. The transmission of viruses, malware, or engaging in “mail bombing,” “chat flooding,” cybersquatting, and similar unlawful behavior is also prohibited. Attempting to circumvent user authentication or security of any host, network, or account on Company’s systems or the Internet at large (“cracking”). This includes scanning or probing ports without the consent of the owner of the machine being scanned.

**k. Unauthorized Access:** Using Service to access, or to attempt to access without authority, the accounts of others, or to penetrate, or attempt to penetrate, security measures of Company’s or a third party’s computer software or hardware, electronic communications system, or telecommunications system, whether or not the intrusion results in disruption of Service or the corruption or loss of data.

**l. Collection of Personal Data:** Using Service to collect, or attempt to collect, personal information about third parties without their knowledge or consent in violation of applicable state or federal law.

**4. Reporting Claims of Copyright Infringement.** We take claims of copyright infringement seriously. We will respond to notices of alleged copyright infringement that comply with applicable law. If you believe a User of this service has infringed your copyright, you may report the alleged violation by submitting notification to our Copyright Agent that satisfies the requirements of the DMCA (designated below).

Upon Company’s receipt of a satisfactory notice of claimed infringement for these works, Company will respond expeditiously to either directly or indirectly (i) remove the allegedly infringing work(s) stored on the service (ii) disable access to the work(s) and/or (iii) suspend or terminate service to subscribers who have been identified as repeat infringers in accordance with our internal policies and procedures. Company will also notify the affected customer or user of the service of the removal or disabling of access to the work(s) and of our policies and procedures relating to suspension or termination of repeat infringers.

In accordance with the Online Copyright Infringement Liability Limitation Act of the Digital Millennium Copyright Act (17 U.S.C. § 512) (“DMCA”), the notice (the “DMCA Notice”) must include substantially the following:

- Your physical or electronic signature.
- Identification of the copyrighted work you believe to have been infringed or, if the claim involves multiple works, a representative list of such works.
- Identification of the material you believe to be infringing in a sufficiently precise manner to allow us to locate that material.
- Adequate information by which we can contact you (including your name, postal address, telephone number and, if available, e-mail address).
- A statement that you have a good faith belief that use of the copyrighted material is not authorized by the copyright owner, its agent or the law.
- A statement that the information in the written notice is accurate.
- A statement, under penalty of perjury, that you are authorized to act on behalf of the copyright owner.

Our designated Copyright Agent to receive DMCA Notices is:

Estherville Communications  
Attn: President  
PO Box 200  
Sioux Center, IA 51250  
Phone: 712-722-3451  
Email: [copyright@esthervillecommunications.com](mailto:copyright@esthervillecommunications.com)

If you fail to comply with all of the requirements of Section 512(c)(3) of the DMCA, your DMCA Notice may not be effective.

Copyright owners may use their own notification of claimed infringement form that satisfies the requirements of Section 512(c)(3) of the U.S. Copyright Act. Under the DMCA, anyone who knowingly makes misrepresentations regarding alleged copyright infringement may be liable to Company, the alleged infringer, and the affected copyright owner for any damages (including costs and fees) incurred in connection with the removal, blocking, or replacement of allegedly infringing material under Section 512(f) of the DMCA.

#### Counter-Notification Procedures

If you believe that material you placed on the service was removed or access to it was disabled by mistake or misidentification, you may file a counter-notification with us (a "**Counter-Notice**") by submitting written notification to our Copyright Agent (identified above). Pursuant to the DMCA, the Counter-Notice must include substantially the following:

- Your physical or electronic signature.
- An identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access disabled.
- Adequate information by which we can contact you (including your name, postal address, telephone number and, if available, e-mail address).
- A statement under penalty of perjury by you that you have a good faith belief that the material identified above was removed or disabled as a result of a mistake or misidentification of the material to be removed or disabled.
- A statement that you will consent to the jurisdiction of the Federal District Court for Iowa and that you will accept service from the person (or an agent of that person) who provided the DMCA Notice.

Upon receipt of a Counter Notice, Company shall promptly provide the complaining party with a copy of the Counter-Notice and inform the party we will replace the removed material or cease disabling access to it within 10 business days. The DMCA allows us to restore the removed content no less than 10, but not more than 14 business days after receipt of the Counter-Notice, if the party filing the original DMCA Notice does not file a court action against you.

Please be aware that if you knowingly materially misrepresent that material or activity was removed or disabled by mistake or misidentification, you may be held liable for damages (including costs and attorneys' fees) under Section 512(f) of the DMCA.

5. **Network Management Practices.** Your use of our services and network is subject to our Network Management Policy. Our current Network Management Policy, including specific management practices, service descriptions and terms of service can be found at: <https://esthervillecommunications.com/terms-conditions-policies/>.
6. **Content.** You will be responsible for any and all liability that may arise out of the content transmitted by you. You shall assure that your use of Service and content comply at all times with all applicable laws, regulations and written and electronic instructions for use. Company reserves the right to disconnect or suspend your Service and remove your content from Service if Company determines, in its sole and absolute discretion, that such use or content does not conform with any applicable law, the requirements set forth in this AUP or interferes with Company's ability to provide Service to you or others. Company's action or inaction under this Section will not constitute any review, waiver or approval of your usage or content.
7. **Service Monitoring.** Company is under no obligation to monitor a customer's usage, bandwidth, transmissions and/or content of Service. However, Company may monitor the usage, bandwidth, transmissions and content of Service periodically to (a) comply with any necessary laws, regulations or other governmental requests, (b) operate Service properly or to protect itself, its network and its customers and subscribers, or (c) resolve or investigate service outages or service performance issues. Company reserves the right to modify, reject or eliminate any information residing on or transmitted to its server that it, in its sole discretion, believes is unacceptable or in violation of this AUP or any other terms and provisions applicable to Service.
8. **Domain Name Service.** Keeping registry information updated and accurate is the responsibility of the domain holder and not Company. Acceptable use of the domain name service does NOT include falsifying or omitting valid domain contact information, including the administrative, technical, zone, and billing contacts. Such usage will result in termination of Service.
9. **Web/FTP Sites.** Acceptable use of Company's web/FTP space does NOT include: distribution of illegal pornographic or otherwise indecent or offending materials, distribution of restricted software or materials in violation of copyrights or distribution licenses, or any other illegal activity prohibited by this AUP.
10. **Theft of Service.** You must notify Company immediately if you become aware at any time that your Service is being stolen, fraudulently used or otherwise being used in an unauthorized manner. When you provide such notification, you must provide your account number and a detailed description of the circumstances of the theft, fraudulent or abusive use of Service. Failure to do so in a timely manner may result in the disconnection of your Service, additional charges to you, and civil or criminal liability. Until such time as Company receives notice of the theft, fraudulent use or abusive use, you will be liable for all stolen, fraudulent or abusive use of Service. Company reserves all of its rights at law and otherwise to proceed against anyone who uses Service illegally or improperly.
11. **Indemnification.** By signing your Service Contract (for contract customers) and/or by activating or using Service (for non-contract customers), you agree to use Service only for authorized, lawful purposes in accordance with this AUP, your Service Contract, our Standard Terms and Conditions of Service and/or our Service Catalogs, as applicable. In addition to being subject to other remedies, liabilities and obligations under law or applicable agreements, you shall defend, indemnify, and hold Company harmless from any claims, damages, losses, or expenses (including without limitation attorneys' fees and legal costs) incurred in connection with all claims, suits, judgments and causes of action for damages arising from the breach by you or your Users of any provision of this AUP.
12. **Termination of Service.** Company has the right to terminate access to or use of Service as provided in this AUP, your Service Contract, our Standard Terms and Conditions of Service and/or our Service Specific Terms and Conditions as applicable. Access to and use of Service is subject to strict compliance with law and applicable agreements.
13. **Modifications.** Company may modify the terms and conditions of this AUP in a commercially reasonable manner from time to time and shall provide you notice of such changes by publication on our website, bill message or other commercially reasonable notice. You may, within fourteen (14) days of your receipt of notice of any such change, cancel your Service; provided that, if you are a contract customer, any otherwise applicable ETF will be waived if the communicated change would materially adversely impact your rights under your Service Contract. If

you elect not to cancel your Service or Service Contract within 14 days and continue to use Service after receiving notice of such changes, your continued use of Service will be in accordance with this AUP as amended.

**14. Survival.** The provisions of this AUP that by their sense and context are intended to survive the discontinuance or disconnection of your use of Service shall survive such discontinuance or disconnection.

**15. Governing Law.** This AUP and the relationship between you and Company shall be governed by and construed in accordance with the substantive laws of the State of Iowa, without regard to the principles of conflict of law.

**16. No Waiver of Rights.** Company's failure to exercise or enforce any right under or provision of this AUP shall not constitute a waiver of such right or provision.

**17. Severability.** If any part or provision of this AUP is legally declared invalid or unenforceable, that part or provision will be construed consistent with applicable law as nearly as possible, and the remaining parts and provisions will remain in full force and effect. Such invalidity or non-enforceability will not invalidate or render unenforceable any other part or provision of this AUP.

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