



FIRSTDIGITAL

ACCEPTABLE USE POLICY

Welcome to FirstDigital Telecom, LLC (herein after referred to as “we,” “us,” “our,” “Company,” or “FirstDigital”). Please read this carefully. As a customer (herein referred to as “Customer,” or “You,”) of our Service, you are agreeing to this Acceptable Use Policy (“AUP”) when you visit and interact with sites sponsored by FirstDigital, or if your service agreement or the nature of your use of FirstDigital Services makes this AUP applicable. We reserve the right, at our discretion, to update or revise this policy, any other policy or statement on our websites. Please check back periodically to review any changes to this policy. FirstDigital and Customer may be referred to herein as a “Party” and together, “Parties,” as appropriate. Customer hereby acknowledges that Customer has read, and is familiar with, this AUP and hereby acknowledges that any violation of the AUP by Customer shall entitle FirstDigital to terminate or suspend the Services provided hereunder to Customer.

1. PROHIBITED ACTIVITIES

If you have a Service Agreement or Hosted Services Agreement with us, this policy is used in conjunction with those terms. Because we offer many different specialized Services, additional product and service terms or product requirements will also apply. Those terms will be available as part of your Service or Hosted Service Agreement(s) with us and will govern those Services. Where there is a conflict between your Service or Hosted Service Agreement and this AUP as to governing law or warranties and disclaimers, your Service or Hosted Service Agreement will control.

You must use our Services in accordance with the terms of this policy and in accordance with all applicable laws and regulations. Use of FirstDigital’s website or Services for any purpose that is unlawful or in any manner which could damage, disable, overburden or impair the operation of our website, our Network or Services, or in any other way negatively impacts FirstDigital is strictly prohibited. Customers shall comply with the CAN-SPAM Act (15 U.S.C. 7701, et seq.).

1.1 General Prohibitions: It shall be a violation of this AUP to use our Internet service in any way that is unlawful, harmful to or interferes with use of our network or systems, or the network of any other provider, violates the policies of any network accessed through our Internet service, interferes with the use and enjoyment of services received by others, infringes intellectual property rights, results in the publication of threatening material, or constitutes Spam/E-mail/Usenet abuse, a security risk or a violation of privacy.

1.2 Intellectual Property Rights: FirstDigital's Internet services shall not be used to host, publish, submit/receive, upload/download, post, use, copy or otherwise reproduce, transmit, re-transmit, distribute or store any content/material or to engage in any activity that infringes on copyrights and laws protecting patents, trademarks, trade secrets or other proprietary information, misappropriate or otherwise violates the intellectual property rights or privacy or publicity rights of FirstDigital or any individual, group or

entity, including but not limited to rights protected by any intellectual property right.

If you use a domain name in connection with any of FirstDigital Telecom systems and Services, you must not use that domain name in violation of the trademark, service mark, or other rights of any third party.

1.3 Child Pornography: FirstDigital has zero tolerance for and its Internet services shall not be used to host, publish, submit/receive, upload/download, post, use, copy or otherwise reproduce, transmit, re-transmit, distribute or store child pornography. If FirstDigital receives a complaint of child pornography regarding your use of FirstDigital's Internet services and child pornography is apparent in the complaint, we will terminate your Internet service immediately. Further, we will report the complaint, any images received with the complaint, your subscriber information, including your screen name or user identification, your location, your IP address, and the date, time and time zone that the images were transmitted to the National Center for Missing and Exploited Children and to any applicable law enforcement agency.

1.4 Network Management: To preserve the integrity of our network, we implement reasonable network management practices to ensure that all customers have an enjoyable experience using the Internet. Specifically, you may not:

1.4.1 Attempt to use or gain unauthorized access to data, accounts, hosts, servers, systems or networks of others, nor relay communications through any third party servers without the owner's authorization.

1.4.2 Probe, scan or test the vulnerability of our system or Network without our prior consent.

1.4.3 Interfere with the Services or another's use of Services in any way.

1.4.4 Use any forged, false or misleading number identity, email header, invalid or non-existent domain names in email or postings nor employ techniques to hide, obscure or counterfeit the source of e-mail or other posting.

1.4.5 Collect or use information without the consent of the owner or use email addresses, screen names or other identifiers without the consent of the person identified.

1.4.6 Engage in conduct that is likely to result in retaliation against our website, Network or Services, employees, officers or other agents of FirstDigital, for example by engaging in behavior that results in any server being the target of a denial of service attack (DoS), IP address blacklisting or other similar acts.

1.4.7 Configure your use of Services in a manner that prevents 911 from operating properly.

1.4.8 Resell services that are not available for resale, Customers shall not, under any circumstances, resell, retail, repackage for sale, distribute or wholesale the services described in the Service Agreement by itself or in conjunction with any other services provided by the Customer.

1.4.9 Use the services in a manner to avoid switched access charges.

1.5 Detection of Compromised or Misconfigured Equipment: If FirstDigital detects

Customer's equipment has been infected by a virus, bot or other malicious software or we detect misconfigured equipment (such as a DNS server that is acting as an open relay) FirstDigital will attempt to contact the Customer to resolve the issue. Customer will temporarily be disconnected from the network if the issue is impacting other customers on the network or if the customer is non-responsive (within eight (8) business hours) to our requests for resolution, then they will be permanently disconnected.

1.6 Hacking and Attacks: Hacking or attacking is prohibited using FirstDigital's Internet services. Hacking is any unauthorized attempt to monitor access or modify computer system information or interference with normal system operations, whether this involves FirstDigital equipment or any computer system or network that is accessed through our service. Attacking is any interference with Internet service to any user, host or network, including mail bombing, ping flooding, broadcast attempts or any attempt to overload a system to interrupt service. Additionally, you may not use our Services to upload, post or otherwise distribute or facilitate distribution of any Content that:

- 1.6.1** Violates the intellectual property rights of any third party.
- 1.6.2** Is illegal, obscene, threatening, harassing, defamatory, libelous, deceptive, fraudulent, malicious, infringing, tortious, or invasive of another's privacy.
- 1.6.3** Is unlawful, threatening, abusive, harassing, libelous, defamatory, obscene, deceptive, fraudulent, invasive of another's privacy, discriminatory or tortious.
- 1.6.4** Negligently, recklessly, knowingly, or intentionally transmitting any material that contains viruses, time bombs, trojan horses, worms, malware, spyware, or any other programs that may be harmful or dangerous.
- 1.6.5** Victimized, harasses, degrades, or intimidates an individual or group of individuals on the basis of religion, gender, sexual orientation, race, ethnicity, age, disability or any other reason.
- 1.6.6** Intentionally contains viruses, corrupted files, or any other similar software or programs that may damage our Networks or operation of other's computers.
- 1.6.7** Has a negative effect on our business, Network or Service delivery including, without limitation, overloading servers, causing any portion of our network to be blocked by other network providers, generating unresolved third-party complaints or complaints which, in our discretion, impose an unreasonable administrative burden on the company.
- 1.6.8** Constitutes unsolicited, duplicative or unauthorized e-mail (commercial or otherwise).
- 1.6.9** Violates any U.S. or foreign law regarding the transmission of technical data or software exported through the Services.

FirstDigital reserves the right to take all legal and technical steps available to prevent the foregoing activities from being conducted using the Services, including the right, without prior notice, to monitor content and traffic patterns, perform vulnerability tests on systems residing on our IP address space, or to quarantine servers or Customer accounts if circumstances require. Such testing may include, but is not limited to, testing of mail and Internet servers or proxy servers for unrestricted third party relaying. We will use commercial reasonable efforts to ensure that such

testing will not adversely affect Services or compromise service performance or the security of the networks. Customer may be required to correct any system vulnerability upon notification and/or suspend or terminate operations of a known compromised system.

Any failure by us to enforce this policy in every instance in which it might have application does not amount to a waiver of our rights.

2. Content

FirstDigital takes no responsibility for any material created or accessible on or through the Network and Services. You may not use the Services to download, publish, distribute, or otherwise copy or use any Content in any manner protected by copyright law unless you have been expressly authorized by the owner of the copyright to copy the work in that manner; or you are otherwise permitted by established copyright law to use, distribute or copy the work in any manner. FirstDigital is not obligated to monitor or exercise any editorial control over such material, but reserves the right to do so. In the event that FirstDigital becomes aware that any such material may violate this AUP and/or exposes FirstDigital to civil or criminal liability, FirstDigital reserves the right to block access to such material and suspend or terminate any Customers creating, storing or disseminating such material. Customers shall not use the FirstDigital Telecom Services to transmit, distribute or store material that is inappropriate, as reasonably determined by FirstDigital, or material that is indecent, obscene, pornographic (including child pornography), defamatory, or libelous, threatening, abusive, hateful, or excessively violent. FirstDigital further reserves the right to cooperate with legal authorities and third parties in the investigation of alleged wrongdoing, including disclosing the identity of the Customers that FirstDigital deems responsible for the wrongdoing.

3. Passwords

You are solely responsible for maintaining the confidentiality of your account I.D. and passwords. Customers should not provide their login and password for use by others outside of their immediate business or household. You must notify us immediately if your account I.D. and/or password have been lost, stolen, or otherwise compromised. Simultaneous use of our service by multiple users with a single login and password is not allowed. Reselling or sharing, in whole or in part, access to your Internet account or Internet connectivity without our expressed written consent is prohibited.

4. Intellectual Property Rights

Our web site design, text, graphics and the selection and arrangement thereof are the copyrighted work of FirstDigital Telecom, LLC and its subsidiaries. If any pages, information or content is copied, it may only be copied for non-commercial uses and FirstDigital shall, in any event, retain all copyright and other proprietary interests therein.

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displayed or made accessible on any of our sites.

You may not use this site or any of our Services in any manner that would infringe, violate, dilute or misappropriate any such rights, with respect to any material, which you may access, receive or make available through this site or any Services.

Except for material we may license or make available to you as part of a Service, we do not claim ownership, control or custody of any of the information, materials and/or Content you submit to our sites or which you transmit or make available via the Services. However, by submitting or posting such content on areas of the Services that are accessible by the public or other users with whom you consent to share Content, you grant us a worldwide, royalty-free, non-exclusive license to use, distribute, reproduce, modify, adapt, publish, translate, publicly perform and publicly display such Content on the Service solely for the purpose for which such Content was submitted or made available to effect your Services.

5. Privacy

Any information transmitted through the Internet, including information about you, can be intercepted by unwanted third parties. There is no guarantee that you or FirstDigital can prevent this. We provide certain security measures to reduce the risk that information about you is intercepted by others.

In an effort to protect your privacy, we:

- 5.1** Use security techniques designated to prevent unauthorized access of information about you.
- 5.2** Will honor your requests to remove your name from e-mail solicitation lists.
- 5.3** Do not collect personally identifiable information about you unless you provide it to us.
- 5.4** Do not sell the names and addresses of our customers, or visitors to our sites, to others without providing information of that disclosure when the personally identifiable information is collected.
- 5.5** Do not provide customer information to other companies with which we do business without an understanding that they will respect your privacy.

6. Third Party Rules; Usenet

Customers may have access through FirstDigital Telecom systems and Services to search engines, subscription Web services, chat areas, bulletin boards, Web pages, USENET, or other services that promulgate rules, guidelines or agreements to govern their use. Customers must adhere to any such rules, guidelines, or agreements.

Customers who post messages to Usenet newsgroups are responsible for becoming familiar with any written charter or FAQ governing use of such newsgroups and complying therewith. Regardless of such policies, Customers may not (a) post the same message, or a series of similar messages, to one or more newsgroups (excessive cross posting or multiple posting, also known as "Usenet spam"), (b) cancel or supersede posts not originally posted by such Customers, unless such Customer does so in the course of his/her duties as an official newsgroup moderator, (c) post any message with forged packet header information, or (d) post messages that are excessive and/or intended to annoy or harass others, including, without limitation, chain letters.

7. Suspension; Termination

Any Customer which, FirstDigital determines to have violated any element of this AUP may be subject to a suspension or termination of service, and if FirstDigital deems it necessary, immediate suspension or termination of such Customer's service without notice. FirstDigital may take such further action as FirstDigital determines to be appropriate under the circumstances to eliminate or preclude repeat violations, and FirstDigital shall not be liable for any damages of any nature suffered by any Customer, or any third party.

8. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Utah without reference to its principles of conflict of laws. Customer and FirstDigital both hereby irrevocably agree that any suit brought by either Party arising out of or relating to this Agreement shall be brought in the State of Utah, Salt Lake County, Salt Lake City, and Customer and FirstDigital both hereby submit to the personal jurisdiction of such court.