



American Fiber Systems Acceptable Use Policy

Revision 2.0: January 22, 2004

1 General Terms

American Fiber Systems, Inc.'s (AFS) Acceptable Use Policies ("Policies") set forth below defines acceptable practices while using any of AFS' services that provide access to the Internet (the "Internet Access Service"). By using the Internet Access Service, you acknowledge that you and users that have gained access to the Internet Access Service through your account (collectively "User[s]"), have read, understood, and agree to abide by the Policies. You are responsible for violations of these Policies by any User. While it is not our intent to control or monitor your on-line experience or the content of your on-line communications, we may edit or remove content that we deem to be in violation of the Policies or that we otherwise deem harmful or offensive. The Policies apply to all aspects of the Internet Access Service, including e-mail, USENET postings, chatting, and browsing.

You are entirely responsible for maintaining the confidentiality of your password and account information, as well as the security of your network. You agree to indemnify, defend, and hold AFS, its subsidiaries, affiliates, officers, directors, employees, agents, licensors, consultants, suppliers, and any third party Web site providers harmless from and against all claims, demands, actions, liabilities, losses, expenses, damages, and costs, including actual attorneys' fees, resulting from your violation of this Policy, misuse or abuse of the Internet Access Service, or your infringement, or infringement by any other user of your account, of any intellectual property or other right of any person or entity. You will cooperate as fully as reasonably required in AFS' defense of any claim. AFS reserves the right, at its own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you and you shall not in any event settle any matter without the written consent of AFS. You agree immediately to notify AFS of any unauthorized use of your account or any other breach of security known to you.

2 Rights of AFS

If Users engage in conduct while using the Internet Access Service that is in violation of the Policies or is otherwise illegal or improper, we reserve the right to suspend and possibly terminate the Internet Access Service or the User's access to the Internet Access Service. In most cases, we will attempt to notify you of any activity in violation of the Policies and request that the User cease such activity; however, in cases where the viability of the AFS network is threatened or cases involving UCE/SPAM, mail relaying, alteration of your source IP address information, denial of service attacks, illegal activities, harassment or copyright infringement, we reserve the right to suspend your Internet Access Service or the User's access to the Internet Access Service without notification. In addition, we may take any other appropriate action, legal or otherwise, against a User for violations of the Policies, which may include termination of the Internet Access Service. AFS does not make any promise, nor does AFS have any obligation, to monitor or police activity occurring via the Internet Access Service and will have no liability to any party, including you, for any violation of the Policies.

3 Conformance With Policies of Other ISPs

In situations where data communications are carried across networks of other Internet Service Providers (ISPs), users of the AFS Network must also conform to the applicable acceptable use policies of such other ISPs.

4 Configuration

All Users of the AFS Network are responsible for configuring their own systems to provide the maximum possible accountability. AFS shall not be liable for any damage caused by such system configurations regardless of whether such configurations have been authorized or requested by AFS. For example, Users should ensure there are clear "path" lines in news headers so that the originator of a post may be identified. Users should also configure their Mail Transport Agents (MTA) to authenticate (by look-up on the name or similar procedures) any system that connects to perform a mail exchange, and should generally present header data as clearly possible. As another example, Users should maintain logs of dynamically assigned IP addresses.

5 Resellers and Downstream Internet Access Service Providers

Some Users may be customers of Internet Service Providers (ISPs) that receive Internet connectivity through AFS. Such ISPs (also known as resellers or downstream service providers) are responsible for informing their customers of this Acceptable Use Policy and for enforcing its restrictions with regard to their customers' actions. Complaints about customers of any such reseller or downstream service provider shall be forwarded to such reseller or downstream service provider for resolution. If at any time AFS determines that such reseller or downstream service provider is not taking appropriate action in accordance with this Acceptable Use Policy, AFS shall work with such reseller or downstream service provider to review their policies and enforcement procedures. If the reseller or downstream service provider continues to fail to take appropriate action, AFS will take such further action, as it deems appropriate, up to and including termination proceedings. Violations of this Acceptable Use Policy by a customer or end-user of a reseller or downstream



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service provider shall be considered violations of this Acceptable Use Policy by such reseller or downstream service provider.

6 Unauthorized Access/Interference

A User may not attempt to gain unauthorized access to, or attempt to interfere with or compromise the normal functioning, operation, or security of any network, system, computing facility, equipment, data, or information. A User may not use the Internet Access Service to engage in any activities that may interfere with the ability of others to access or use the Internet Access Service or the Internet. A User may not use the Internet Access Service to monitor any data, information, or communications on any network or system without authorization. A User may not attempt to gain unauthorized access to the user accounts or passwords of other users.

Users of the AFS Network are responsible for educating themselves and configuring their systems with at least basic security. Should systems at a User's site be violated, the User is responsible for reporting the violation and then fixing the exploited system. For instance, should a site be abused to distribute unlicensed software due to a poorly configured FTP (File Transfer Protocol) Server, the User is responsible for re-configuring the system to stop the abuse.

Users are prohibited from intentionally or negligently injecting false data into the Internet, for instance in the form of bad routing information (including but not limited to the announcing of networks owned by someone else or reserved by the Internet Assigned Numbers Authority) or incorrect DNS information.

7 UCE/Spamming/Mailbombing

A User may not use the Internet Access Service to transmit excessive volumes of unsolicited commercial e-mail messages or deliberately send excessively large attachments to one recipient. Any unsolicited commercial e-mail messages or a series of unsolicited commercial e-mail messages or large attachments sent to one recipient constitutes Unsolicited Commercial E-mail "UCE" and is prohibited. In addition, "spamming" or "mailbombing" is also prohibited. Use of the service of another provider to send UCE, spam or mailbombs, to promote a site hosted on or connected to the AFS network, is similarly prohibited. Likewise, you may not use the Internet Access Service to collect responses from mass unsolicited e-mail messages.

8 Spoofing/Fraud

A User may not attempt to send e-mail messages or transmit any electronic communications using a name or address of someone other than the User for purposes of deception. Any attempt to impersonate someone else by altering a source IP address information or by using forged headers or other identifying information is prohibited. Any attempt to fraudulently conceal, forge, or otherwise falsify a User's identity in connection with use of the Internet Access Service is prohibited.

9 E-Mail Relay

Any use of another party's electronic mail server to relay e-mail without express permission from such other party is prohibited.

10 USENET Postings

All postings to USENET groups must comply with that group's charter and other policies. Users are prohibited from cross posting to unrelated news groups or to any news groups where the post does not meet that group's charter. Continued posting of off-topic messages, including commercial messages (unless specifically invited by charter), is prohibited. Disrupting newsgroups with materials, postings, or activities that are (as determined by AFS in its sole discretion) frivolous, unlawful, obscene, threatening, abusive, libelous, hateful, excessive, or repetitious, is prohibited unless such materials or activities are expressly allowed or encouraged under the newsgroup's name, FAQ, or charter.

11 Illegal Activity

Users agree to use the Internet Access Service only for lawful purposes. Use of the Internet Access Service for transmission, distribution, retrieval, or storage of any information, data, or other material in violation of any applicable law or regulation (including, where applicable any tariff or treaty) is prohibited. This includes, without limitation, the use or transmission of any data or material protected by copyright, trademark, trade secret, patent, or other intellectual property right without proper authorization and the transmission of any material that constitutes an illegal threat, violates export control laws, or is obscene, defamatory, or otherwise unlawful. In those instances involving child pornography, AFS complies with all applicable Federal or State laws including providing notice to the National Center for the Missing and Exploited Children or other designated agencies.



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12 Other Prohibited Activities

The following activities are also prohibited:

- Attempting to intercept, redirect, or otherwise interfere with communications intended for others.
- Intentionally transmitting files containing a computer virus or corrupted data.
- Resale of AFS' services or products, unless expressly authorized in a separate written agreement with AFS.
- Harassment, whether through language, frequency, or size of messages.
- Furnishing false or incorrect data to AFS on written or online applications, contracts, or other materials or information provided to AFS, including fraudulent use of credit card numbers or "bill to" telephone numbers.
- Attempting to circumvent or alter the processes or procedures to measure time, bandwidth utilization, or other methods to document use of AFS' products and services
- Any other inappropriate activity or abuse of the Internet Access Service (as determined by AFS in its sole discretion), whether or not specifically listed in these Policies, may result in suspension or termination of the User's access to and use of the Internet Access Service.

13 Cooperation with Investigations

AFS will cooperate with appropriate law enforcement agencies and other parties involved in investigating claims of illegal or inappropriate activity. AFS reserves the right to disclose customer information to the extent required in connection with any investigation.

14 Privacy

AFS makes no guarantee regarding, and assumes no liability for, the security and integrity of any data or information a User transmits via the Internet Access Service or over the Internet, including any data or information transmitted via any server designated as "secure."

15 Modifications

AFS reserves the right to modify this Acceptable Use Policy at any time without notice. In most cases we will attempt to notify you, our Customer, of any such modifications either via e-mail or by posting a revised copy of the Policies on our Web site.

16 Mail Server Filters

The use of AFS' network and services to send unsolicited or illegal email through external third party servers is prohibited. You are responsible for ensuring that all persons accessing or using the services comply with the Acceptable Use Policy.

17 Limitation of Liability

AFS SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, LOSS OF BUSINESS OR BUSINESS OPPORTUNITY, LOSS OF USE, ETC., OR THE COST OF PURCHASING REPLACEMENT INTERNET ACCESS SERVICE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. AFS SHALL NOT BE LIABLE FOR ANY DIRECT OR ACTUAL DAMAGES, EXCEPT TO THE EXTENT SPECIFIED IN A WRITTEN OR ELECTRONIC AGREEMENT ENTERED INTO BETWEEN AFS AND ITS CUSTOMER.

18 Contacting AFS

If you need to report an abuse or if you have any comments or questions regarding this policy, please send an e-mail to AFS at: AFS_Use_Policy_Questions@americanfibersystems.com.