



## ACCEPTABLE USE POLICY

### Terms and Conditions for Service

#### Introduction

KIT CARSON INTERNET's commitment to its customers is to provide consistent and superior customer experiences. KIT CARSON INTERNET's acceptable use policies ("Policies") set forth below define acceptable practices while using any of KIT CARSON INTERNET's services that provide access to the KIT CARSON INTERNET network (the "Service"). By using the Service, you acknowledge that you and users that have gained access to the Service through your account (collectively "Users"), 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 Service, including e-mail, USENET postings, chatting, and browsing.

You are entirely responsible for maintaining the confidentiality of your password and account information. You agree to indemnify, defend, and hold KIT CARSON INTERNET, 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 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 KIT CARSON INTERNET's defense of any claim. KIT CARSON INTERNET 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 KIT CARSON INTERNET. You agree immediately to notify KIT CARSON INTERNET of any unauthorized use of your account or any other breach of security known to you.

These Policies are designed to assist in protecting the Service, our Users, and the Internet community as a whole from improper and/or illegal activity over the Internet. Users are generally expected to behave in a reasonable fashion and to adhere to commonly accepted practices of the Internet community. For the most part, simply exercising good judgment and common sense while using the Service should enable Users to remain within the purview of acceptable conduct as further described in these Policies. The categories listed below are intended merely to serve as guidelines regarding appropriate and inappropriate conduct; the list is by no means exhaustive nor complete and should not be interpreted as such.

In the event that KIT CARSON INTERNET believes or discovers that a service subscriber has violated the policy, KIT CARSON INTERNET reserves the right to terminate or suspend service(s) without notice. Because KIT CARSON INTERNET takes the suspension or deactivation of an account seriously, KIT CARSON INTERNET may elect to send notice to user(s) of violation(s) before terminating the account. In all cases of suspension or termination of service, notification is the preferred way of responding to incidents but it is not a requirement. In the case where an account has been terminated or suspended, the reactivation of the old account or the acquiring of a new account will only be allowed by express written approval of KIT CARSON INTERNET. The account may also be held responsible for any charges associated with any installation or activation charges, whether it is for a new account or an existing suspended or terminated account. The providing of the KIT CARSON INTERNET Acceptable Use Policies does not in any way obligate KIT CARSON INTERNET to monitor or police accounts for violation. KIT CARSON INTERNET is not responsible for content and is acting only as a passive conduit. KIT CARSON INTERNET is also not liable to any party, either you or any other party, for any violations of this policy.

#### Modifications to Acceptable Use Policy

Because of the continual changes in the Internet environment, technology, legal requirements, and service offerings, KIT CARSON INTERNET reserves the right to modify the Acceptable Use Policies whenever needed without prior notification. Changes to the policies will be posted electronically online via the Service. It will be your responsibility to be aware of and understand the policies and posted modifications. Any use of the service after the posting will constitute the acceptance by the subscriber of the policy modification and or changes.

## **KIT CARSON INTERNET's Rights and Responsibilities**

KIT CARSON INTERNET RESERVES THE RIGHT TO REFUSE SERVICE TO ANYONE.

The providing of the KIT CARSON INTERNET Acceptable Use Policies does not in any way obligate KIT CARSON INTERNET to monitor or police accounts for violation. KIT CARSON INTERNET is not responsible for content and is acting only as a passive conduit. KIT CARSON INTERNET is also not liable to any party, either you or any other party, for any violations of this policy.

In providing KIT CARSON INTERNET services, KIT CARSON INTERNET has certain rights and responsibilities to you and to Federal and State legal authorities. Following is a list of some, although not all, of KIT CARSON INTERNET's rights and responsibilities. In providing service to you, KIT CARSON INTERNET employees or representative have the right and responsibility to examine operational systems, access logs or audit trails in order to resolve problems or service system errors. KIT CARSON INTERNET employees or representatives have the right and responsibility to monitor operational systems, access logs or audit trails for purposes of measuring system performance and for billing purposes. In our responsibility to the INTERNET community and/or for the protection of KIT CARSON INTERNET's services and reputation, KIT CARSON INTERNET has the right to respond accordingly, including the monitoring of accounts. KIT CARSON INTERNET has the obligation and responsibility to cooperate with appropriate legal authorities in investigating illegal activities. In instances where you or other users of KIT CARSON INTERNET's services or of the Internet have reported to law authorities the belief that your/their legal rights or privacy have been violated, KIT CARSON INTERNET will assist the appropriate law enforcement authorities to the extent possible. KIT CARSON INTERNET will not become involved in the mediation or resolution of any dispute between KIT CARSON INTERNET subscribers and/or Internet users.

KIT CARSON INTERNET will take necessary measures to provide a high level of security for the services offered. In offering the services, KIT CARSON INTERNET cannot provide any guarantee of secure service or secure servers including any data on the servers or part of the services, even if the service or servers are described as "SECURE". KIT CARSON INTERNET will also not assume any liability for the security of the services, the servers or the data.

In providing services and systems used for communication purposes, KIT CARSON INTERNET will assist to the extent possible those subscribers who notify KIT CARSON INTERNET of any e-mail or postings that they view as illegal or unsolicited. KIT CARSON INTERNET does not have the responsibility or the authority to regulate or censor the content of any newsgroup or communications passing through its services or systems. Additionally, the content of any communications sent via KIT CARSON INTERNET systems does not reflect the endorsement or approval of KIT CARSON INTERNET.

If KIT CARSON INTERNET becomes aware of inappropriate use of its services or of illegal activities engaged in by you in the use of its services, KIT CARSON INTERNET may respond accordingly, including the immediate termination of the account without notice if deemed appropriate.

## **Billing and Charges**

Monthly Dues must be paid on a timely basis to maintain User's membership privileges. Payment for the non-recurring component of the Service, including initial set-up and installation fees, shall be payable upon execution of service. Charges shall be due upon Customer's receipt of invoice and payable within thirty (30) days of such date. Any amount not paid within such period shall bear interest at the lesser of (i) the rate of one and one-half percent (1 1/2%) per month, or (ii) the highest rate permitted by applicable law. If Customer reasonably and in good faith disputes any portion of an invoice, Customer shall timely pay the full invoiced amount and provide KIT CARSON INTERNET, within thirty (30) days of payment, a written statement adequately supporting Customer's position regarding the dispute. KIT CARSON INTERNET shall determine in its good faith business judgment whether such invoiced items were erroneous, and shall issue a credit to Customer if it so determines. KIT CARSON INTERNET reserves the right to change or modify the rates and charges for the Service, or eliminate or modify certain components of the Service, upon not less than forty-five (60) days advance written notice to Customer. In the event of such a modification or elimination with respect to the Service, Customer may terminate this Agreement, without penalty, upon not less than thirty (30) days advance written notice to KIT CARSON INTERNET. Customer's execution of this Agreement signifies Customer's acceptance of KIT CARSON INTERNET 's initial and continuing credit review and approval. KIT CARSON INTERNET reserves the right to withhold implementation of Service pending completion of KIT CARSON INTERNET 's credit review and KCT may condition initiation of Service on its receipt of a deposit or such other means to establish reasonable assurance of payment.

Monthly dues charged to Credit Card AUTO-BILLING (if applicable) will continue regardless of your use unless and until you expressly cancel the auto-billing, which you may do at any time, unless bound by a specific term or agreement. To stop AUTO-BILLING from being charged to your credit card, your account must be cancelled by calling our toll-free support number (1-800-688-6780).

USER IS SOLELY RESPONSIBLE FOR ALL LOCAL AND/OR LONG DISTANCE TELEPHONE CHARGES INCURRED IN CONNECTION WITH THE USE OF KIT CARSON INTERNET SERVICES. KIT CARSON INTERNET WILL NOT REIMBURSE ANY LONG DISTANCE CHARGES YOU MAY INCUR. CHECK WITH YOUR LOCAL TELEPHONE SERVICE PROVIDER TO DETERMINE WHETHER THE ACCESS TELEPHONE NUMBERS YOU USE TO ACCESS KIT CARSON INTERNET SERVICES ARE PROVIDED AT NO CHARGE BY YOUR TELEPHONE SERVICE PROVIDER.

**Acceptable Use: Privacy and Censorship**

In using KIT CARSON INTERNET services, you will abide by the following policies concerning privacy and censorship:

1. You have the responsibility to monitor their/your accounts for access to newsgroups and Web sites that may contain offensive material.
2. You will notify KIT CARSON INTERNET of the continual receipt of e-mail that you view as illegal or that is unsolicited.
3. You must not design or provide systems used for the collection of information about others without their explicit knowledge and consent.
4. You will not misuse any electronic information collected about others.

**Acceptable Use: Copyright Infringement**

In using KIT CARSON INTERNET services, you will abide by the following policies concerning copyright infringement:

1. You will be aware of copyright law as it pertains to obtaining or transmitting information on the Internet.
2. You will take any action needed to protect their/your ownership rights for any work created for their/your own exclusive use.
3. You will obtain appropriate licenses for work other than your own that is either transmitted by you or placed on your personal web page.
4. You will only download files that can be legally distributed.
5. You will not remove or falsify the source or origin of any material in any files uploaded.

**Acceptable Use: Security**

In using KIT CARSON INTERNET services, you will abide by the following policies concerning security:

1. You will not attempt to interfere with or compromise any part of the Service's operation, the equipment making up the Service and its system, other accounts or restricted areas of the Service and its system, or in any manner affect the availability of the Services or its systems for other KIT CARSON INTERNET customers.
2. You are prohibited from trying to gain access to any account, customer data or system that you do not have authorized access to unless consent has been granted by the owner.
3. You may not attempt to compromise the security of any computing facility or assist others to compromise the security of a computing facility.
4. You may not modify or prevent the intended or proper operation of any computing facility.
5. You will protect your passwords. You will not disclose any information regarding passwords that protect Services and facilities to others. You will not attempt to discover the password of another user, nor attempt access to Services or facilities with the use of another's password.
6. You may not disclose any part of any of KIT CARSON INTERNET's or any other party's confidential information, including but not limited to any business records, files or business practices.

### **Acceptable Use: Illegal Activity**

In using KIT CARSON INTERNET Services, you will use KIT CARSON INTERNET Services for lawful purposes only and will not engage in any illegal activity. Illegal activities include activities that violate federal or state regulations and laws or the legal rights of others. Illegal activities include, but are not limited to:

The illegal transmission, illegal storage or illegal use of copyrighted material, trade secrets, confidential information or threatening material.

Postings or e-mails containing threats of violence.

Distributing or disseminating defamatory, infringing or obscene material or information.

Using KIT CARSON INTERNET's services to threaten, harass, stalk, abuse or otherwise violate the legal rights of others.

### **Acceptable Use: E-Mail**

In providing e-mail services to you, KIT CARSON INTERNET does not have the responsibility for the content or tone of any e-mail sent using KIT CARSON INTERNET's services. In using KIT CARSON INTERNET's e-mail services, you will abide by the following policies:

1. You are prohibited from sending unsolicited bulk e-mail, or from the receiving of responses from unsolicited bulk e-mail in a KIT CARSON INTERNET e-mail address. 2. You are prohibited from sending e-mail that is terroristic in nature, threatening and/or harassing.

3. You will not intercept or redirect e-mail intended for others.

4. You will not maliciously send files with either corrupted data or viruses.

5. You will not use impersonation, or use a different name or address with the intent of misleading the receiver into believing that the sender is someone other than who they are.

6. You are responsible for ensuring that any resource limitations in the use of e-mail or mailboxes are followed.

### **Acceptable Use: Internet Relay Chat (IRC)**

In providing access to IRC services, which are multi-user, multi-channel chatting networks that allow Internet users to talk (via text) to each other in real time about subjects of mutual interests, KIT CARSON INTERNET does not have the responsibility for the content or the tone of any IRC. In participating in IRCs accessed from KIT CARSON INTERNET Services, you will not violate any accepted policies on the IRC servers and will not make use of IRC bots, or any automated data that is not human generated.

### **Acceptable Use: Dial-Up Services**

In providing dial-up services for access to KIT CARSON INTERNET's Services or to the Internet, KIT CARSON INTERNET provides equipment and resources that are used on a shared basis by many subscribers. Because the equipment and facilities are limited, it is not appropriate for any subscriber to use the services in a dedicated or automated constant use application. If the excessive use by an account is such that it potentially impacts KIT CARSON INTERNET's ability to provide Services or network resources that need to be protected, the account can be terminated immediately. KIT CARSON INTERNET dial-up accounts are also subject to idle timeouts. An idle timeout is the disconnection of a session when a dial-up account is idle for a specified period of time and no interactive, human generated data appears to be received from the remote user's computer system. Automated data is not considered interactive or human generated and is also subject to idle timeout. Examples of automated data include data generated by an automatic re-dialer, script or other program that runs on the user's computer system for the purpose of avoiding inactivity disconnects.

In using dial-up services from KIT CARSON INTERNET, you will not resell any services or offer public information services over dial-up accounts (unlimited usage or otherwise), nor permit more than one log-on session to be active at one time on dial-up accounts.

### **Acceptable Use: Resource Usage**

In providing access to KIT CARSON INTERNET's Services or to the Internet, KIT CARSON INTERNET provides resources, including but not limited to bandwidth and disk space, that are used on a shared basis by many subscribers. Because the resources are limited, it is not appropriate for any subscriber to exceed their usage of these resources. If the

excessive use by an account is such that it potentially impacts KIT CARSON INTERNET's ability to provide services or that network resources need to be protected, the account can be terminated immediately. To facilitate the use of shared network resources, KIT CARSON INTERNET has resource limits for the use of the e-mail services. KIT CARSON INTERNET shall not be liable to you or parties interacting with you for any damages resulting from the actions KIT CARSON INTERNET takes to enforce the following provisions:

Total mailbox storage is limited to ten megabytes per mailbox. When a mailbox reaches a soft limit of ten megabytes of storage, a warning will be delivered to the user indicating that ten megabytes of storage is the limit before messages are not delivered and returned to the sender. When the mailbox reaches the ten megabytes of storage limit, mail will be returned to the sender with a message indicating that the receiver's mailbox is full.

#### **Acceptable Use: Content**

You are solely responsible for creating, managing, editing, reviewing, deleting and otherwise controlling the content of messages or information in connection with Service. KIT CARSON INTERNET is acting only as a passive conduit. KIT CARSON INTERNET gives you complete discretion over the content to be accessed or distributed in connection with the Service. KIT CARSON INTERNET has no obligation, and undertakes no responsibility to determine whether any such content may give rise to liability to third parties. Notwithstanding anything to the contrary herein, if KIT CARSON INTERNET believes in its sole discretion that any use by you of Service may create liability for KIT CARSON INTERNET, KIT CARSON INTERNET may take any actions, including but not limited to termination of Service, that KIT CARSON INTERNET believes are prudent to minimize KIT CARSON INTERNET's potential liability.

#### **Additional Terms and Conditions**

**LIMITATION OF LIABILITY.** KIT CARSON INTERNET SHALL NOT BE LIABLE TO YOU FOR ANY INCIDENTAL, INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND INCLUDING BUT NOT LIMITED TO ANY LOSS OF USE, LOSS OF BUSINESS, LOSS OF PROFIT, LOSS OF INFORMATION OR DATA, OR INTERRUPTED COMMUNICATIONS, ARISING OUT OF OR RELATED TO THIS AGREEMENT. UNDER NO CIRCUMSTANCES WILL KIT CARSON INTERNET BE LIABLE TO YOU OR ANY THIRD PARTIES FOR AN AMOUNT GREATER THAN THE APPLICABLE CREDIT FOR SERVICE INTERRUPTIONS.

**DISCLAIMER OF WARRANTIES.** KIT CARSON INTERNET MAKES NO WARRANTY OF ANY KIND, WRITTEN OR ORAL, STATUTORY, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. YOU UNDERSTAND AND AGREE THAT THE SERVICE IS NOT A GUARANTEE THAT VIRUSES, TROJAN HORSES, WORMS, TIME BOMBS, CANCELBOTS OR OTHER SIMILAR HARMFUL OR DELETERIOUS PROGRAMMING ROUTINES WILL NOT BE IMPORTED TO THE CUSTOMER'S NETWORK. KIT CARSON INTERNET DOES NOT GUARANTEE THAT YOUR NETWORK WILL NOT EXPERIENCE UNINTERRUPTED COMMUNICATIONS OR BREACHES IN SECURITY. DISPUTE RESOLUTION.

Other than those claims over which a regulatory agency has exclusive jurisdiction, all claims, regardless of legal theory, whenever brought and whether between you and KIT CARSON INTERNET or between one of the Parties to this policy and the employees, agents or affiliated businesses of the other Party, shall be resolved by arbitration. A single arbitrator engaged in the practice of law and knowledgeable about the subject matter of the claim shall conduct the arbitration in accordance with the then current rules of the American Arbitration Association ("AAA"). The arbitrator's decision shall be final and binding and judgment may be entered in any court having jurisdiction thereof.

Other than the determination of those claims over which a regulatory agency has exclusive jurisdiction, federal law (including the provisions of the Federal Arbitration Act, 9 U.S.C. Sections 1-16) shall govern and control with respect to any issue relating to the validity of this agreement to arbitrate and the arbitrability of the claims.

If any Party files a judicial or administrative action asserting claims subject to arbitration, and another Party successfully stays such action and/or compels arbitration of such claims, the Party filing the action shall pay the other Party's costs and expenses incurred in seeking such stay or compelling arbitration, including reasonable attorney's fees.

***You shall be deemed to have read, understood and agreed to all of the above terms and conditions of this Policy by activation of your Kit Carson Internet Access account or by your continued use of KIT CARSON INTERNET Services.***