

## **Acceptable Use Policy**

### **Introduction**

This acceptable use policy (the "Policy") defines acceptable practices for the use of services (the "Service") from Alpheus Communications, LLC, Alpheus Data Services, L.L.C., and/or their affiliates (including direct and indirect subsidiaries and parents) (collectively, "Alpheus"). By using the Service, you acknowledge that you and users that have gained access to the Service through your account (collectively, "Users") are responsible for compliance with the Policy. You are responsible for violations of this Policy by any User that accesses the Services through your account. While it is not our intent to control or monitor online experience or the content of online communications, we may, in our sole discretion, edit or remove content that we deem to be in violation of the Policy or that we otherwise deem unlawful, harmful or offensive. The Policy applies to all aspects of the Service. The "Alpheus Network" includes, without limitation, Alpheus' constructed or leased transmission network, including all equipment, systems, facilities, services and products incorporated or used in such transmission network.

This Policy is designed to assist in protecting the Alpheus Network, the Service, our Users and the Internet community as a whole from improper and/or illegal activity over the Internet. In situations where data communications are carried across networks of other Internet Service Providers ("ISPs"), Users of the Alpheus Network must also conform to the applicable acceptable use policies of such other ISPs.

### **Rights of Alpheus**

#### **Suspension or Termination of Service/Other Rights and Remedies**

If Users engage in conduct while using the Service that violates the Policy, or is otherwise illegal or improper, Alpheus reserves the right to suspend and/or terminate the Service or the User's access to the Service. Alpheus will generally attempt to notify you of any activity in violation of the Policy and request that the User cease such activity; however, in cases where the operation of the Alpheus Network is threatened or cases involving unsolicited commercial email/SPAM, mail relaying, alteration of your source IP address information, denial of service attacks, illegal activities, suspected fraud in connection with the use of Service, harassment, copyright or other intellectual property infringement or other actions or activities we deem in our sole discretion to threaten liability or harm to Alpheus, the Alpheus Network, or any of our suppliers or other users of our services, we reserve the right, in our sole discretion, to suspend or terminate your Service or the User's access to the Service without notification. In addition, nothing herein shall be construed to limit our actions, rights, or remedies with respect to any such activities, and we may take any other appropriate action against a User for violations of the Policy. We do not make any promise, nor do we have any obligation, to monitor or police activity occurring using the Service and will have no liability to any party, including you, for any violation of the Policy.

Alpheus considers each of the practices listed above and under "Prohibited Uses" herein to constitute abuse of the Service in violation of this Policy. In addition to suspension or termination of the Service or any other right reserved by Alpheus herein, with respect to any violation of this Policy, Alpheus may, in its sole discretion, charge, and you will pay, an administrative fee equal to the greater of: (1) \$100 per complaint or notice received; (2) \$100 per violation of the Policy; or (3) any amount (whether unit-based or in aggregate) set by applicable law for which User and/or Alpheus may be liable to pay based upon the complaint or notice in question. In addition to any obligations that may apply under a particular service agreement, you agree to indemnify, defend, and hold Alpheus and its officers, directors, owners, agents, representatives, licensors, and suppliers harmless from and against any and all liabilities, costs, damages, expenses (including attorneys' fees), causes of action, suits, allegations, or other claims (collectively, "Claims") resulting from your or your Users' violation of this Policy. You will cooperate as reasonably required in Alpheus' defense of any Claim. We reserve the right, at our 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 express written consent of Alpheus.

### **Cooperation with Investigations**

Alpheus will cooperate with appropriate law enforcement agencies and other parties involved in investigating claims of illegal or inappropriate activity. Alpheus reserves the right to disclose customer information to the extent authorized by federal or state law, to protect and defend its rights and property, to enforce the terms and conditions applicable to the Service, or to act to protect the interests of other users and network providers. In those instances involving child pornography, Alpheus complies with all applicable federal and state laws including providing notice to the National Center for the Missing and Exploited Children or other designated agencies.

### **Modifications to Policy**

Alpheus reserves the right to modify this Policy at any time without notice. We will attempt to notify our customer of any such modifications either via e-mail or by posting a revised version of the Policy on our Web site. It is your responsibility to check the Web site periodically for updates to this Policy, and you are responsible for compliance with any and all posted guidelines or codes relating to use of the Service.

### **Filters**

We reserve the right to install and use, or to have you install and use, any appropriate devices to prevent violations of this Policy, including devices designed to filter or terminate access to the Service. Users are hereby notified that parental control protections are available that may assist Users in limiting access to material that is harmful to minors. Information identifying current providers of such protections can be made available upon request.

### **Prohibited Uses**

#### **Illegal Activity**

You and your Users are responsible for abiding by all applicable local, state, national, and international laws and regulations in relation to use of the Service. The Service shall not be used for any unlawful activities or in connection with any criminal or civil violation and the Services shall in all cases be used in compliance with applicable law. Use of the 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.

#### **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 portion of the Alpheus Network or other networks accessible through the Service. A User may not use the Service to engage in any activities that may interfere with the ability of others to access or use the Service or the Internet. A User may not use the 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, passwords, or private communications of other Users.

#### **Unsolicited Commercial Email/Spamming/Mailbombing**

A User may not use the Service to transmit 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 is prohibited. In addition, "spamming" or "mailbombing" is prohibited. Use of the service of another provider to send unsolicited commercial email, spam or mailbombs, to promote and/or connect to a site hosted on or connected to the Alpheus Network, is similarly prohibited. Likewise, a User may not use the Service to collect responses from mass unsolicited e-mail messages. The Service shall also not be used for other kinds of deceptive or fraudulent marketing offers or communications, including without limitation any "chain letters" or "pyramid schemes."

### **Spoofing/Fraud**

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.

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 Service is prohibited.

### **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) is prohibited. Disrupting newsgroups with materials, postings or activities that are (as determined by Alpheus in its sole discretion) frivolous, unlawful, obscene, threatening, abusive, libelous, hateful, excessive or repetitious, unless such materials or activities are expressly allowed or encouraged under the newsgroup's name, FAQ or charter.

### **Other Activities or Examples**

The following activities are also prohibited:

- Intentionally transmitting files containing a computer virus, corrupted data, "Trojan Horses," "time bombs," or other harmful or deleterious programs.
- If we have specified bandwidth limitations for your User account, use of the Service shall not be in excess of those limitations. If a User is accessing the Service via a dial-up connection, we may terminate the User session if the User is connected for more than 7 days in order to protect Alpheus Network resources and maintain Service availability for others.
- Attempting to circumvent or alter the processes or procedures to measure time, bandwidth utilization, or other methods to document use of Alpheus' services.
- Advertising, transmitting, or otherwise making available any software, program, product, or service that is designed to violate this AUP, which includes the facilitation of the means to deliver unsolicited commercial email.
- Any activity that disrupts, degrades, harms or threatens to harm the Alpheus Network or the Service.
- Use of the Service to support activities that defame, harass, abuse, stalk, threaten or otherwise violate the legal rights of others.
- Harvesting or other collection of third party information, including e-mail addresses, without their consent.
- Any use of another party's electronic mail server to relay email without express permission from such other party is prohibited.
- Any other inappropriate activity or abuse of the Service (as determined by us in our sole discretion), whether or not specifically listed in this Policy.

This listing of prohibited activities is not exhaustive and Alpheus reserves the right to determine that any conduct that is or could be harmful to the Alpheus Network, Alpheus' customers or Internet users is in violation of this Policy and to exercise any or all of the remedies contained in this Policy.

### **Complaints**

Alpheus receives complaints directly from Internet Users, through Internet organizations and through other parties. Alpheus shall not be required to determine the validity of complaints received before taking action under this AUP, nor shall it be required to provide notification to you or your Users of any action taken in response to a complaint. A complaint from the recipient of commercial email, whether received

directly or through an anti-spamming organization, shall be evidence that the message was unsolicited. Alpheus has no obligation to forward the complaint to the User or to identify the complaining parties.

### **Responsibilities of Users**

Users are entirely responsible for maintaining the confidentiality of password and account information, as well as the security of their network. You agree immediately to notify Alpheus of any unauthorized use of your account or any other breach of security known to you. If you become aware of any violation of this Policy by any person, including Users that have accessed the Service through your account, you are required to notify us. You are aware that some areas of the Internet may contain material that is unsuitable for minors and, where possible, you and your Users agree to supervise usage by minors that you or your Users permit to use the Service.

You agree that your Users shall be subject to terms of service and policies that are substantially similar to and no less stringent than this Policy. Although we may notify you of complaints received by us regarding an alleged violation of this Policy, we accept and are under no obligation to do so, and we reserve the right to take such action as we deem necessary in our sole discretion to remedy or otherwise respond to any complaint with or without notice. When notice is provided to you, you agree to promptly investigate all such complaints and take all necessary actions to remedy any violations of this Policy, including but not limited to the prompt termination of accounts that are engaging in activity in violation of this Policy. We may inform the complainant that you are investigating the complaint and may provide the complainant with the necessary information to contact you directly to resolve the complaint. You shall identify a representative for the purposes of receiving such communications.

Should you become aware independently (by notice from a third party or otherwise) of any activity that would constitute a violation of this Policy, you agree to notify Alpheus and to undertake such an investigation. You and other Users agree to cooperate with any investigations by Alpheus of incidents or alleged violations of this Policy, including the provision of information necessary to support such investigations.

### **Impending Security Event Notification**

Security of a User's network and systems is the sole responsibility of the User. All Users of the Alpheus Network are responsible for notifying Alpheus immediately if they become aware of an impending event that may negatively affect the Alpheus Network. This includes extortion threats that involve threat of "denial of service" attacks, unauthorized access, or other security events.

### **Configuration**

Users are responsible for all services utilized via the Service and connection to the Alpheus Network, including any support services or equipment used in connection with such use. All Users of the Alpheus Network are responsible for configuring their own networks and systems to provide the maximum possible accountability. Alpheus shall not be liable for any damage caused by such system configurations regardless of whether such configurations have been authorized or requested by Alpheus. 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 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. Users of the Alpheus Network are responsible for educating themselves and configuring their systems with proper 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.

### **Internet: Privacy/Use of Links**

Because the Internet is an inherently open and insecure means of communication, any data or information a User transmits over the Internet may be susceptible to interception and alteration. We make

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

Any links available on the Internet may permit Users to visit third party sites. These sites are not under the control of Alpheus, and Alpheus is not responsible for their contents or any further links contained therein. Any dealings with third parties via the Service are solely between the User and such third party. Alpheus shall not be responsible or liable for any part of such dealings.

### **Claims of Copyright Infringement**

Please [click here](#) for information relating to the Interim Designation of Agent to Receive Notification of Claimed Infringement pursuant to the Digital Millennium Copyright Act, 17 U.S.C., Section 512(c). Notifications with respect to claims of infringement should be sent to the designated agent and must include the following:

- A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
- Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site. Similarly for other types of infringing materials, a list of such materials.
- Identification of the material that is claimed to be infringing or to be the subject of infringing activity, and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit Alpheus to locate the material.
- Information reasonably sufficient to permit Alpheus to contact the complainant, such as address, telephone number, and/or electronic mail address.
- A statement that the complainant has a good faith belief that use of the material in the manner complained of is not authorized by the copyright or other proprietary right owner, its agent, or the law.
- A statement that the information in the notification is accurate, and under penalty of perjury, that the complainant is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

### **Additional Terms and Conditions**

The use of the Alpheus Network by a customer of Alpheus is subject to the terms and conditions of any agreements entered into by such customer and Alpheus. This Policy is incorporated into such agreements by reference.

### **Complaints and Contact Information**

Any complaints regarding prohibited use or abuse of the Alpheus Network, including violations of this Policy, should be sent to Alpheus. Please include all applicable information that will assist Alpheus in investigating the complaint, including all applicable headers of forwarded messages. Sites experiencing live attacks from Alpheus customers should call into our Network Operation Center (telephone (866) 374-6662) to submit a complaint as quickly as possible. Describe the urgency of the situation should you need immediate attention. For any reports of abuse, please send an email to our abuse account at [Emailus@logix.com](mailto:Emailus@logix.com). If you are unsure whether any contemplated use or action is permitted, please submit questions or comments to Alpheus at 2950 N Loop West, 8th Floor, Houston, TX 77092, Attention: Contract Administration.