

Hotwire Communications' High-Speed Internet Acceptable Use Policy

Terms of Use

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Important Note: Hotwire Communications ("Hotwire") may revise this Acceptable Use Policy ("AUP") from time to time without notice by posting a new version of this document on the Hotwire website at www.gethotwired.com. All revised copies of the AUP are effective immediately upon posting. Accordingly, customers and users of the Hotwire High-Speed Internet Service should regularly visit our website and review this AUP to ensure that their activities conform to the most recent version. In the event of a conflict between any subscriber or customer agreement and this AUP, the terms of this AUP will govern. Hotwire subscribers who have questions regarding this AUP can contact Hotwire at cs@hotwirecommunication.com. Copyright holders who have complaints of violations of Hotwire's AUP should direct their complaints to Hotwire at rtcopyright@hotwiremail.com.

Introduction

Hotwire Communications' Acceptable Use Policy is intended to enhance the use of the Internet by preventing unacceptable use, as defined below. All users of Hotwire's Internet services (the "Services"), those who use our Services without having an account ("Visitors"), as well as those who pay a monthly service fee to subscribe to the Services ("Members"), must comply with this AUP. We support the free-flow of information and ideas over the Internet and do not actively monitor use of the Services under normal circumstances. Similarly, we do not exercise editorial control over the content of any website, electronic mail transmission, newsgroup, or other material created or accessible over or through the Services, except for certain proprietary websites. In accordance with our Internet Service Agreement, we may, however, remove any materials that, in our sole

discretion, may be illegal, may subject us to liability, or which may violate this AUP. Hotwire may cooperate with legal authorities and/or third parties in the investigation of any suspected or alleged crime or civil wrong. Violation of this AUP may result in the suspension or termination of either access to the Services and/or access to a Hotwire account. This AUP should be read in conjunction with our Internet Service Agreement and other policies located at www.gethotwired.com.

PROHIBITED USES AND ACTIVITIES

Prohibited uses include, but are not limited to, using the Service or Equipment to:

- i. undertake or accomplish any unlawful purpose. This includes, but is not limited to, posting, storing, transmitting or disseminating information, data or material which is libelous, obscene, unlawful, threatening, defamatory, or which infringes the intellectual property rights of any person or entity, or which in any way constitutes or encourages conduct that would constitute a criminal offense, give rise to civil liability, or otherwise violate any local, state, federal or international law, order or regulation;
- ii. post, store, send, transmit, or disseminate any information or material which a reasonable person could deem to be objectionable, offensive, indecent, pornographic, harassing, threatening, embarrassing, distressing, vulgar, hateful, racially or ethnically offensive, or otherwise inappropriate, regardless of whether this material or its dissemination is unlawful;
- iii. access any other person's computer or computer system, software, or data without their knowledge and consent; breach the security of another user; or attempt to circumvent the user authentication or security of any host, network, or account. This includes, but is not limited to, accessing data not intended for you, logging into or making use of a server or account you are not expressly authorized to access, or probing the security of other hosts, networks, or accounts;
- iv. use or distribute tools designed or used for compromising security, such as password guessing programs, decoders, password gatherers, unauthorized keystroke loggers, analyzers, cracking tools, packet sniffers, encryption circumvention devices, or Trojan Horse programs. Network probing or port scanning tools are only permitted when used in conjunction with a residential home network, or if explicitly authorized by the destination host and/or network. Unauthorized port scanning, for any reason, is strictly prohibited;
- v. upload, post, publish, transmit, reproduce, create derivative works of, or distribute in any way information, software or other material obtained through the Service or otherwise that is protected by copyright or other proprietary right, without obtaining permission of the owner;
- vi. copy, distribute, or sublicense any software provided in connection with the Service by Hotwire or any third party, except that you may make one copy of each software program for back-up purposes only;
- vii. restrict, inhibit, or otherwise interfere with the ability of any other person, regardless of intent, purpose or knowledge, to use or enjoy the Service, including, without limitation, posting or transmitting any information or

- software which contains a worm, virus, or other harmful feature, or generating levels of traffic sufficient to impede others' ability to send or retrieve information;
- viii. restrict, inhibit, interfere with, or otherwise disrupt or cause a performance degradation, regardless of intent, purpose or knowledge, to the Service or any Hotwire host, server, backbone network, node or service, or otherwise cause a performance degradation to any Hotwire facility used to deliver the Service;
 - ix. resell the Service or otherwise make available to anyone outside the Premises the ability to use the Service (i.e. wi-fi, or other methods of networking), in whole or in part, directly or indirectly, or on a bundled or unbundled basis. The Service is for personal and non-commercial use only and you agree not to use the Service for operation as an Internet service provider or for any business enterprise or purpose, or as an end-point on a non-Hotwire local area network or wide area network;
 - x. connect multiple computers behind the cable modem to set up a LAN (Local Area Network) that in any manner would result in a violation of the terms of this Policy or an applicable Service plan;
 - xi. transmit unsolicited bulk or commercial messages or "spam." This includes, but is not limited to, unsolicited advertising, promotional materials or other solicitation material, bulk mailing of commercial advertising, chain mail, informational announcements, charity requests, and petitions for signatures;
 - xii. send numerous copies of the same or substantially similar messages, empty messages, or messages which contain no substantive content, or send very large messages or files to a recipient that disrupts a server, account, newsgroup, or chat service;
 - xiii. distribute programs that remove locks or time-outs built into software (cracks);
 - xiv. run programs, equipment, or servers from the Premises that provide network content or any other services to anyone outside of your Premises LAN (Local Area Network), also commonly referred to as public services or servers. Examples of prohibited services and servers include, but are not limited to, e-mail, Web hosting, file sharing, and proxy services and servers;
 - xv. initiate, perpetuate, or in any way participate in any pyramid or other illegal soliciting scheme;
 - xvi. participate in the collection of e-mail addresses, screen names, or other identifiers of others (without their prior consent), a practice sometimes known as spidering or harvesting, or participate in the use of software (including "spyware") designed to facilitate this activity;
 - xvii. collect responses from unsolicited messages;
 - xviii. impersonate any person or entity, engage in sender address falsification, forge anyone else's digital or manual signature, or perform any other similar fraudulent activity;
 - xix. service, alter, modify, or tamper with the Hotwire Equipment or Service or permit any other person to do the same who is not authorized by Hotwire;
 - xx. connect the Hotwire Equipment to any computer outside of your Premises;

- xxi. collect, or attempt to collect, personal information about third parties without their consent;
- xxii. interfere with computer networking or telecommunications service to any user, host or network, including, without limitation, denial of service attacks, flooding of a network, overloading a service, improper seizing and abuse of operator privileges and attempts to "crash" a host; and
- xxiii. violate the rules, regulations, or policies applicable to any network, server, computer database, or website that you access.

REPORTING VIOLATIONS OF HOTWIRE'S AUP

Hotwire requests that anyone who believes that there is a violation of this AUP direct the information to Hotwire Customer Service at: cs@hotwirecommunication.com.

If available, please provide the following information:

- The IP address used to commit the alleged violation;
- The date and time of the alleged violation, including time zone or offset from GMT; and
- Evidence of the alleged violation.

Email with full header information provides all of the above, as do syslog files. Other situations will require different methods of providing the above information.

Hotwire may take any one or more of the following actions in response to complaints:

- Issue written or verbal warnings;
- Suspend a Member's account;
- Terminate a Member's account;
- Bill a Member for administrative costs and/or reactivation charges; and/or
- Bring legal action to enjoin violations and/or to collect damages, if any, caused by violations.

REVISIONS TO THIS ACCEPTABLE USE POLICY

Hotwire reserves the right to revise, amend, or modify this AUP, our Internet Service Agreement, and/or other policies and agreements at any time and in any manner. Notice of any revision, amendment, or modification will be posted in accordance with the Internet Service Agreement.

INAPPROPRIATE CONTENT AND TRANSMISSIONS

Hotwire reserves the right, but not the obligation, to refuse to transmit or post and to remove or block any information or materials, in whole or in part, that it, in its sole discretion, deems to be offensive, indecent, or otherwise inappropriate, regardless of whether this material or its dissemination is unlawful. Neither Hotwire nor any of its

affiliates, suppliers, or agents have any obligation to monitor transmissions or postings (including, but not limited to, e-mail, newsgroup, and instant message transmissions as well as materials available on the Personal Web Pages and Online Storage features) made on the Service. However, Hotwire and its affiliates, suppliers, and agents have the right to monitor these transmissions and postings from time to time for violations of this Policy and to disclose, block, or remove them in accordance with the Service Agreement and any other applicable agreements and policies.

ELECTRONIC MAIL

The Service may not be used to send unsolicited bulk or commercial messages and may not be used to collect responses from unsolicited e-mail sent from accounts on other Internet hosts or e-mail services that violate this Policy or the acceptable use policy of any other Internet service provider. Moreover, unsolicited e-mail may not direct the recipient to any website or other resource that uses the Service. Activities that have the effect of facilitating unsolicited commercial e-mail or unsolicited bulk e-mail, whether or not the e-mail is commercial in nature, are prohibited. Forging, altering, or removing electronic mail headers is prohibited. You may not reference Hotwire or the Hotwire network (e.g. by including "Organization: Hotwire" in the header or by using an IP address that belongs to Hotwire or the Hotwire network) in any unsolicited e-mail even if that e-mail is not sent through the Hotwire network or Service.

Hotwire is not responsible for deleting or forwarding any e-mail sent to the wrong e-mail address by you or by someone else trying to send e-mail to you. Hotwire is also not responsible for forwarding e-mail sent to any account that has been suspended or terminated. This e-mail will be returned to the sender, ignored, deleted, or stored temporarily at Hotwire's sole discretion. In the event that Hotwire believes in its sole discretion that any subscriber name, account name, or e-mail address (collectively, an "identifier") on the Service may be used for, or is being used for, any misleading, fraudulent, or other improper or illegal purpose, Hotwire (i) reserves the right to block access to and prevent the use of any such identifier and (ii) may at any time require any customer to change his or her identifier. In addition, Hotwire may at any time reserve any identifiers on the Service for Hotwire's own purposes.

INSTANT MESSAGES AND VIDEO MESSAGES

Members and Visitors alone are responsible for the contents of their instant messages and video messages and the consequences of any such messages. Hotwire assumes no responsibility for the timeliness, mis-delivery, deletion or failure to store instant messages or video messages.

SECURITY

You are responsible for any misuse of the Service, even if the misuse was committed by a friend, family member, or guest with access to your Service account. Therefore, you must take steps to ensure that others do not use your account to gain unauthorized access to the Service by, for example, strictly maintaining the confidentiality of your Service login and password. In all cases, you are solely responsible for the security of any device you

choose to connect to the Service, including any data stored or shared on that device. Hotwire recommends against enabling file or printer sharing unless you do so in strict compliance with all security recommendations and features provided by Hotwire and the manufacturer of the applicable file or printer sharing devices. Any files or devices you choose to make available for shared access on a home LAN, for example, should be protected with a strong password or as otherwise appropriate.

NETWORK, BANDWIDTH, DATA STORAGE AND OTHER LIMITATIONS

Hotwire may provide versions of the Service with different speeds and bandwidth usage limitations, among other characteristics, subject to applicable Service plans. You shall ensure that your use of the Service does not restrict, inhibit, interfere with, or degrade any other user's use of the Service, nor represent (in the sole judgment of Hotwire) an overly large burden on the network. In addition, you shall ensure that your use of the Service does not restrict, inhibit, interfere with, disrupt, degrade, or impede Hotwire's ability to deliver and provide the Service and monitor the Service, backbone, network nodes, and/or other network services.

You further agree to comply with all Hotwire network, bandwidth, and data storage and usage limitations. You shall ensure that your bandwidth consumption using the Service does not exceed the limitations that are now in effect or may be established in the future. If your use of the Service results in the consumption of bandwidth in excess of the applicable limitations, that is a violation of this Policy. In such cases, Hotwire may, in its sole discretion, terminate or suspend your Service account or request that you subscribe to a version of the Service with higher bandwidth usage limitations if you wish to continue to use the Service at higher bandwidth consumption levels.

In addition, you may only access and use the Service with a dynamic Internet Protocol ("IP") address that adheres to the dynamic host configuration protocol ("DHCP"). You may not configure the Service or any related equipment to access or use a static IP address or use any protocol other than DHCP unless you are subject to a Service plan that expressly permits otherwise.

VIOLATION OF ACCEPTABLE USE POLICY

Hotwire does not routinely monitor the activity of Service accounts for violation of this AUP. However, in our efforts to promote good citizenship within the Internet community, we will respond appropriately if we become aware of inappropriate use of our Service. Although Hotwire has no obligation to monitor the Service and/or the network, Hotwire and its suppliers reserve the right at any time to monitor bandwidth, usage, transmissions, and content from time to time to operate the Service; to identify violations of this Policy; and/or to protect the network, the Service and Hotwire users.

Hotwire prefers to advise customers of inappropriate behavior and any necessary corrective action. However, if the Service is used in a way that Hotwire or its suppliers, in their sole discretion, believe violate this AUP, Hotwire or its suppliers may take any responsive actions they deem appropriate. These actions include, but are not limited to, temporary or permanent removal of content, cancellation of newsgroup posts, filtering of Internet transmissions, and the immediate suspension or termination of all or any portion

of the Service. Neither Hotwire nor its affiliates, suppliers or agents will have any liability for any these responsive actions. These actions are not Hotwire's exclusive remedies and Hotwire may take any other legal or technical action it deems appropriate.

Hotwire reserves the right to investigate suspected violations of this AUP, including the gathering of information from the user or users involved and the complaining party, if any, and examination of material on Hotwire's servers and network. During an investigation, Hotwire may suspend the account or accounts involved and/or remove or block material that potentially violates this Policy. You expressly authorize Hotwire and its suppliers to cooperate with (i) law enforcement authorities in the investigation of suspected legal violations, and (ii) and system administrators at other Internet service providers or other network or computing facilities in order to enforce this Policy. This cooperation may include Hotwire providing available personally identifiable information about you to law enforcement or system administrators, including, but not limited to, username, subscriber name, and other account information. Hotwire will disclose personally identifiable information about you, without consent, when required by law, in order to comply with a valid legal process such as a subpoena, court order, or search warrant. Hotwire may also use or disclose personally identifiable information about our customers without consent to protect customers, employees, or property, in emergency situations, to enforce our rights in court or elsewhere, or directly with customers, and for violations of the service's terms and conditions and policies. Upon termination of your account, Hotwire is authorized to delete any files, programs, data and e-mail messages associated with your account.

The failure of Hotwire or its suppliers to enforce this AUP, for whatever reason, shall not be construed as a waiver of any right to do so at any time. You agree that if any portion of this Policy is held invalid or unenforceable, that portion will be construed consistent with applicable law as nearly as possible, and the remaining portions will remain in full force and effect.

You agree to indemnify, defend and hold harmless Hotwire and its affiliates, suppliers, and agents against all claims and expenses (including reasonable attorney fees) resulting from you engaging in any of the prohibited activities listed in this AUP or resulting from your violation of the AUP or of any other posted Hotwire policy related to the Service. Your indemnification will survive any termination of the Subscriber Agreement.