

## Acceptable Use Policy

This document is incorporated by reference into the underlying agreement ("Agreement") that you read, understand, sign and eventually forward to US. For purposes of this document, "WE" or "US" means Intercom Online, Inc. (referred to as INTERCOM in the Agreement) and "YOU" shall mean you the client, who is referred to as CLIENT in the Agreement.

As an Internet service provider ("ISP"), WE offer YOU the means to acquire and disseminate a wealth of public, private, commercial and non-commercial information. WE also want YOU to be fully informed of YOUR rights and obligations in connection with YOUR use of the Internet. This Acceptable Use Policy, is intended as a self-explanatory guide to those rights and obligations. In exercising YOUR rights and obligations, please note that you must also exercise:

### **A. JUDGMENT**

1. YOU must exercise your best judgment in relying on information obtained from the Internet, and should also be aware that some material posted to the Internet is sexually explicit or otherwise offensive. Since WE cannot and will not monitor and censor the Internet. WE cannot accept any responsibility for injury to YOU that results from inaccurate, unsuitable or offensive Internet communications.

2. When YOU disseminate information through the Internet, YOU must also keep in mind that WE do not review, edit, censor or take responsibility for any information YOU may create. This places on YOU what is, for most, an unknown responsibility. Also, because the information YOU create is carried over our facilities and may reach a large number of people, including both YOU and third parties; postings to the Internet may affect other subscribers and may harm our goodwill, business reputation and operations. For these reasons, YOU are in breach of our policy and the Agreement when YOU, YOUR affiliates or subsidiaries engage in the following activities, without limitation:

a. Spamming -- Unsolicited, commercial mass e-mailing (known as "spamming") is a strongly disfavored practice among Internet users and Internet service providers. It is particularly harmful not only because of its negative impact on consumer attitudes toward US, but also because it can overload our equipment and disrupt service to our subscribers.

b. Copyright Violation – Infringement or contributory infringement of copyrights held by individuals and corporations or other entities can result in civil and criminal liability for the infringer, and can involve the ISP in litigation and possible loss of reputation. Infringing or contributory infringement is expressly forbidden. Further, in accordance with the Disclaimer provision of the Agreement, you recognize that we are a safe harbor under Section 512 of the Copyright Act and therefore immune from any allegedly infringing activity on YOUR part.

c. Distribution and/or Transmission of Obscene or Indecent Speech or Materials -- Violation of indecency and obscenity laws can result in criminal penalties. YOU expressly indemnify us from any such penalties in the event that YOUR Internet activity violates any statute whatsoever.

d. Defamation -- Defamatory speech distributed over the Internet can result in civil liability for the defamer and litigation against the ISP whose facilities were used to distribute the defamatory material. Transmitting any defamatory speech over our network is expressly forbidden and effectuates a material breach of our Agreement.

e. Illegal/Unauthorized Access to Other Computers or Networks -- The illegal or unauthorized accessing (often known as "hacking") of computers or networks carries potential civil and criminal penalties under both federal laws and the laws of most states. YOU are expressly forbidden from engaging in any such activity under our Agreement. Violation of this provision shall effectuate a material breach of our Agreement.

f. Distribution of Internet Viruses, Worms, Trojan Horses and Other Destructive Activity-- Distribution of Internet viruses, worms, Trojan horses and other destructive activities, such as hacking, can result in serious civil and/or criminal liability under federal and state law. YOU are expressly forbidden from engaging in any such activity under our Agreement. Violation of this provision shall effectuate a material breach of our Agreement.

g. Export Control Violations -- The law limits the ability of persons to export encryption software, over the Internet or otherwise, to points outside the United States. YOU are expressly forbidden from engaging in any such illegal activity under our Agreement. Violation of this provision shall effectuate a material breach of our Agreement.

h. Other Activities, whether lawful or unlawful, that WE determine to be harmful to our subscribers, operations or reputation, including any activities that restrict or inhibit any other user from using and enjoying the service or the Internet are also expressly forbidden under the terms of our Agreement. Violation of this provision shall effectuate a material breach of our Agreement.

## **B. Responsibility**

1. As we have pointed out, the responsibility for avoiding the harmful activities just described rests solely with the YOU. WE will not, as an ordinary practice, monitor YOUR communications to ensure that they comply with our policy or applicable law. When WE become aware of harmful communications, however, WE may take any of a variety of actions. WE may remove information that violates our policies, implement screening software designed to block offending transmissions, or take any other action WE deem appropriate, including suspension of services to YOU, termination of a YOUR contract with US, filing suit against YOU for breach of contract and for engaging in practices contrary to the YOUR contract with US.

2. WE are also aware that many of our clients are, themselves, providers of Internet services, and that information reaching our facilities may have been originated by YOUR customers or other third parties. WE do not require YOU to monitor or censor transmissions created by YOUR customers. At the same time, those of YOUR customers who knowingly transmit materials that violate law or our policy are, themselves, in violation of our policy. Similarly, WE anticipate that those of YOU who offer Internet services will cooperate with US in any corrective action that WE deem necessary, in order to correct and prevent the transmission of material that is harmful to US or to YOU. Failure to cooperate with such corrective and preventive measures is a violation of our policy and shall result in breach of our Agreement.

## **C. Care**

1. WE are also concerned with the privacy of on-line communications. In general, the Internet is neither more nor less secure than other common communications media, including mail, facsimile and voice telephone service, all of which can be intercepted and otherwise compromised. As a matter of prudence, however, WE urge YOU to assume that all of YOUR on-line communications are insecure and therefore encourage you to safeguard your electronic communications.

2. WE cannot take any responsibility for the security of communications transmitted over our facilities. WE will comply fully, however, with all applicable laws concerning the privacy of YOUR on-line communications. In particular, WE will not intentionally monitor or disclose any private electronic mail messages sent or received by YOU unless required to do so by law. WE may, however, monitor our service electronically to determine that our facilities are operating satisfactorily. Also, WE may be required to disclose information transmitted through our facilities in order to comply with court orders, statutes, regulations or any governmental requests. Finally, WE may disclose information transmitted over our facilities, where necessary, to protect US and YOU from harm, or where such disclosure is necessary to the proper operation of the system.

3. WE expect that those of YOU who provide Internet services to others will comply fully with all applicable laws concerning the privacy of on-line communications. YOUR failure to comply with those

laws will violate our policy and effectuate a material breach of the underlying Agreement between YOU and US.

**If it comes to our attention that YOUR activities or transmissions violate our Acceptable Use Policy, WE may suspend service to YOU without prior notification and without liability or penalty under the Agreement between YOU and US. In such a case, YOU shall continue to be liable to US for all payment obligations accruing prior to and during any period of suspended service, for the duration of this Agreement. YOU agree to indemnify and hold US harmless from liability for any losses YOU or third parties may incur during any period of suspended service. YOU agree to indemnify, exonerate, and hold US harmless and our agents and employees and directors from and against any and all civil, administrative, equitable, and/or criminal penalties, losses, costs, attorney's fees, or liabilities arising directly or indirectly from such unauthorized activities or transmissions by YOU or YOUR users of information, data or messages over our network including, without limitation, claims for libel, slander, invasion of privacy, misappropriation, infringement or contributory infringement of copyright, patent or trademark, and invasion or alteration of private records or data, and interruption, denial, or impairment of service. YOU shall indemnify and hold us and our employees and directors harmless from liability caused by the conduct, negligence or omission of YOUR officers, directors, employees, business partners, users, customers, agents, vendors, or YOUR contractors, which result in claims, penalties, causes of action, or demands for damages, be they damages to property, injury or death to persons, payments made under any Worker's Compensation Law or under any plan for employee disability or death benefits, and any claim or loss directly suffered by US arising from the failure of any piece of YOUR equipment installed within our facilities, including without limitation, failures resulting in fire, electrical, heat, or water damage resulting from such failure, even when such equipment is installed with the permission of or assistance of US. The provisions of this Acceptable Use Policy in whole and in part, shall survive for 3 (three) years after the expiration or termination of the Agreement between YOU and US and any surviving provisions thereof. YOU are hereby put on notice that communications and mail traveling across interconnecting networks and those located on our network may not be secure and may be subject to interception, loss, delay, misdirection or the like. As such, WE do not guarantee the privacy, security, stability, authenticity, or availability of any electronic mail or other Internet communications.**

