



Acceptable Use Policy for Internet Services

Ballantyne Broadband Partners, LLC d.b.a. Optical Communities (“OC”) has adopted this Acceptable Use Policy (“AUP”) that is intended to enhance the use of the Internet by preventing unacceptable use. All users of OC’s broadband, high-speed Internet, and web based services (the “Services” or “Internet Service”), those who use our Services without having an account (“Visitors”), as well as those who pay a monthly service charge to subscribe to the Services (“Customers”), collectively “Users” or “you”, must comply with this AUP. This AUP is intended to advance OC’s goal of providing reliable and high quality service to its Users.

1. APPLICABILITY

This document is an agreement that governs the use of services provided by OC by subscribing to the Internet service or using our Services without having an account. You, the Customer, and/or you, the Visitor, agree to the terms of this AUP. You are responsible for any violation of this AUP or misuse of the service through the use of your account, even if the misuse was conducted by a third party or other end user with access to your account. It is your responsibility to secure your computer(s), network and/or any device connected to the service so that such misuse is prevented. **ANY USER WHO DOES NOT AGREE TO BE BOUND BY THIS POLICY SHOULD IMMEDIATELY STOP USE OF THE SERVICES AND NOTIFY OPTICAL COMMUNITIES SO THAT THE USER'S ACCOUNT AND OR ACCESS TO THE SERVICES MAY BE CLOSED.**

2. REVISIONS TO POLICY

Optical Communities may revise this acceptable use policy from time to time by posting such revision on Opticalcommunities.com or any successor URL. Any revision of this AUP is effective immediately upon such posting. As such, you should regularly visit opticalcommunities.com and review the posted AUP. In the event of a conflict between any Customer or Customer Agreement and this AUP, the terms of this AUP will govern.

3. VIOLATIONS

Optical Communities reserves the right to investigate violations of this policy, including the gathering of information from the Customer or Visitors involved and the complaining party, if any, and the examination of material on OC’s servers and network. OC prefers to advise users of policy violations and any necessary corrective action but, if OC, in its sole discretion, determines that a user has violated the policy, OC or its suppliers will take any responsive action that is deemed appropriate without prior notification, which may include, but is not limited to, a warning, suspension of privileges or termination of your services. During an investigation, OC may suspend the account or accounts involved and/or remove or block material that potentially violates this AUP. OC reserves the right to immediately terminate your account without notice to OC’s sole discretion if you or others who use your account violate this AUP. OC also reserves the right to immediately remove any material or information from OC’s websites that violate this policy for any reason whatsoever at our sole discretion and with prior notice. You explicitly authorize OC and its suppliers to cooperate with (i) system administrators at other Internet service providers or other network or computing facilities, and (ii) law enforcement authorities in the investigation of suspected legal violations in order to enforce this AUP.

OC may refer potential violations of laws to the proper authorities, may cooperate in the investigation of any suspected criminal or civil wrong, and will cooperate with authorities when required to do so by law, subpoena, or when the public safety is at stake. This cooperation may include OC 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. OC 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. OC 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. OC assumes no obligation to inform you that your information has been provided to law enforcement authorities and, in some cases, may be prohibited by law from providing such notice. Upon termination of your account, OC is authorized to delete any files, programs, data and e-mail messages associated with your account. OC or its affiliates, suppliers or agents, shall not be liable for any damages or any nature suffered by you or any other customer, user, or third party resulting in whole or in part from OC's exercise of its rights under this policy. These actions are not OC's exclusive remedies and OC may take any other legal or technical action it deems appropriate. The failure of OC 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 AUP 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 OC 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 OC policy related to the Services. Your indemnification will survive any termination of the Customer or Customer Agreement.

4. BUSINESS RELATED USE

If you are a commercial customer or user of the Services, you must notify OC if you connect an email server to the Services, and the email server must be connected via a static IP. The remaining content of this paragraph 4 shall not apply to commercial customers or users, except to the extent that your subscription expressly addresses such use.

The remaining content of this paragraph 4 is applicable to the Services provided for personal and family use within a single residential household. You agree that you will not use, nor allow others to use, the Services to operate any type of business or commercial enterprise or to use the Services as an Internet service provider. You may not establish a web page using a server located at your home. You agree that you will not use, nor allow others to use, your home computer as a Web Server, FTP Server, file server email server or game server or to run any other server applications. You will not resell or redistribute, or allow others to resell or redistribute, access to the Services in any manner, including by wireless means. It is strongly recommended that any wireless devices behind the OC router be encrypted for use only within your single residential household.

5. NO ILLEGAL ACTIVITY/TORTIOUS CONDUCT OR FRAUDULENT USE

The Service may be used only for lawful purposes. Transmission or distribution of any material in violation of any applicable law or regulation is prohibited. Any activity or use of the Service that violates system or network security or integrity are prohibited and may result in criminal and civil liability. Violations under this section (which may be addressed in more detail in other sections of this AUP) include, without limitation, the following:

- a) Transmitting or distributing material protected by copyright, trademark, trade secret, or other intellectual property rights used without proper authorization.
- b) Transmitting or distributing material that is obscene, illegal, defamatory, libelous, fraudulent, deceptive, indecent, constitutes an illegal threat, or violates export control laws. For example,

- exporting encryption software over the internet or otherwise, to points outside the United States, is prohibited.
- c) Using the Services to impersonate a person or entity.
 - d) Intentionally spreading viruses.
 - e) Using the Services for unauthorized access to or use of data, systems, or networks, including any attempt to probe, scan, or test the vulnerability of a system or network, relay communication through a resource, or to breach security or authentication measures without express authorization of the owner of the system or network.
 - f) Using the Services for unauthorized monitoring of data or traffic on any network or system without express authorization of the owner or network.
 - g) Interfering with service to any user, host, or network, including but not limited to: mail bombing, flooding, or denial of service attacks.
 - h) Forging the header of any transmitted information packet, email, or Usenet posting.
 - i) Modifying or tampering with any hardware, software, or configuration provided by OC including but not limited to: closets or rooms where OC's equipment is present, structured wiring enclosures, routers, switches, modems, Analog Terminal Adapters ("ATA") and ATA configuration files.
 - j) Reselling or otherwise redistributing the Services.
 - k) Disrupting any aspect of the Services through any means.
 - l) Assuming or assigning an OC IP address that was not allocated to the user by OC or its network.
 - m) Using the Services for distribution of advertisement delivery software unless: (i) the user affirmatively consents to the download and installation of such software based on a clear and conspicuous notice of the nature of the software, and (ii) the software is easily removable by use of standard tools for such purpose included on major operating systems (such as Microsoft's "add/remove" tool).
 - n) Using the Services to distribute software that covertly gathers information about a user or covertly transmits information about the user.
 - o) Collecting or using email addresses, screen names or other identifiers without the consent of the person identified (including, without limitation, phishing, Internet scamming, password robbery, spidering, and/or harvesting).
 - p) Engaging in the transmission of pirated software.
 - q) Conducting or participating in illegal gambling or soliciting of illegal pyramid schemes.
 - r) Threatening, harassing, abusing, or intimidating others.

6. NO INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS

Optical Communities respects the intellectual property rights of third parties and is committed to complying with all U.S. copyright and related laws. As a User, you may not store, distribute or otherwise disseminate any material or content in any manner that constitutes an infringement of third party intellectual property rights, including without limitation patents, trademarks, copyrights, trade secrets or proprietary rights of any other person or entity. This includes, but is not limited to digitized music, movies, books, photographs, art or other copyrighted materials or software. Optical Communities complies with the Online Copyright Infringement Liability Limitation Act of 1998, 17 U.S.C. § 512 ("Act").

Owners of copyrighted works who believe that their rights may take advantage of certain provisions of the Act to report alleged infringements. As required by the Act, and other applicable laws, OC has adopted a policy to terminate or suspend services to Users who OC reasonably believes, in its sole discretion, to be infringing third-party copyright or other intellectual property rights, including repeat infringers, or who OC believes in its sole discretion is infringing such rights. OC may terminate the Service at any time with or without notice for any such User.

OC will notify the affected User of the Services of the removal or disabling of access to the work(s). Copyright owners may send OC a notification of claimed infringement to report alleged infringements of their works on or over the Services to:

Vice President – IP Infringement
Optical Communities
9789 Charlotte Hwy
Suite 400 #206
Fort Mill, SC 29707
E-mail: abuseclaims@opticalcommunities.com

Copyright owners may use their own notification of claimed infringement form that satisfies the requirements of Section 512(c)(3) of the U.S. Copyright Act. Under the Act, anyone who knowingly makes misrepresentations regarding alleged copyright infringement may be liable to OC, the alleged infringer, and the affected copyright owner for any damages incurred in connection with the removal, blocking, or replacement of allegedly infringing material

This policy is in addition to and does not affect or modify any other rights that OC may have under law or contract. OC accommodates and does not interfere with standard technical measures to identify and protect copyrighted works, subject to the limitations of the Act.

7. NO THREATS OR HARASSMENT

You agree that you will not use, nor allow others to use, the Services to transmit any material that threatens or encourages bodily harm or destruction of property or which harasses, abuses, defames or invades the privacy of any other person or entity.

8. NO HARM TO AND PROTECTION OF MINORS

You agree that you will not use, nor allow others to use, the Services to harm or attempt to harm a minor, including but not limited to using the Services to send pornographic, obscene or profane materials, or violating the Children’s Online Privacy Protection Act.

9. NO “SPAMMING”

You agree that you will not use, nor allow others to use, the Services to send materials in a manner inconsistent with federal and state laws, including without limitation the CAN-SPAM Act of 2003 (15 U.S.C. §§ 7701-7713 and 18 U.S.C. § 1037). Violation of these laws is a violation of this AUP, and OC reserves the right to seek damages and other available relief from you and/or any third party, as applicable. These materials include without limitation mass or bulk e-mail, numerous copies of the same or substantially similar messages, empty messages, or messages which contain no substantive content. We reserve the right, in our sole discretion, (a) to determine whether such postings or transmissions constitute an advertisement, promotional material or any other form of solicitation in violation of such laws, and (b) to route all outbound consumer email through OC’s designated servers to limit potential SPAM generated by virus infected computers. These actions allow OC to be recognized as a responsible provider of email services to the Services Provider community.

10. NO “HACKING”

You agree that you will not use, nor allow others to use, the Services to access the accounts of others or to attempt to penetrate security measures of the Services or access any other person's computer or computer system, software, or data without their knowledge and consent (“hacking”) or to cause a disruption of service to other on-line users. You agree that you will not use, nor allow others to use, tools designed for

compromising network security, such as password guessing programs, cracking tools, packet sniffers or network probing tools.

11. NO SYSTEM DISRUPTION

You agree that you will not use, nor allow others to use, the Services to disrupt OC's network or computer equipment owned by other OC customers. You also agree that you will not use, nor allow others to use, the Services to disrupt other Internet service providers or services, including but not limited to by e-mail bombing or the use of mass mailing programs.

12. NO IMPERSONATION OR FORGERY

You agree that you will not, nor allow others to, impersonate another user, falsify one's user name, age or identity in e-mail or in any post or transmission to any newsgroup or mailing list or other similar groups or lists. You agree that you will not, nor allow others to, forge any message header of any electronic transmission, originating or passing through the Services.

13. NO ABUSE OF NEWSGROUPS OR INTERNET CHAT ROOMS

Users may not SPAM newsgroups or chat rooms and must comply with the written charters, FAQs, rules, or terms of service for those forums the user chooses to participate. Users are responsible for determining the policies of a given group/room before posting to it. Additionally, Users are not permitted to: (i) cross-post the same or substantially similar message excessively; (ii) post binary files to non-binary groups; and/or (iii) flood or disrupt a group

14. NO EXCESSIVE BANDWIDTH USAGE

The Services are for residential use and only within the limits (or thresholds) that Optical Communities considers reasonable for the Customers service level or tier. Residential service usage for Customers subscribing to or receiving as their amenity the Standard (or Bulk) service or tier shall not exceed 500 Gigabytes ("GB") of data per month. Usage for Customers subscribing to any upgraded Internet tier shall not exceed 1000 GB of data per month. OC reserves the right to revise or implement additional usage limits at any time.

It is a violation of this Policy to use the Services in excess of these limits. In these cases, OC may, in its sole discretion, notify you of excessive usage and:

- (i) request that you subscribe to a higher tier of the Services for use at higher data consumption patterns that align with your usage history;
- (ii) charge you a fee for excessive bandwidth usage as follows:
 - a. \$15.00 fee for exceeding initial bandwidth usage threshold for the service level or tier you are subscribing to;
 - b. \$10.00 fee for each 50GB over initial bandwidth threshold for the service level you are subscribing to;
- (iii) request that you employ corrective or self-limiting actions to comply with this provision;
- (iv) suspend or terminate the User's account and/or access to the Services.

OC's determination of the data consumption for Services accounts is final. OC may use tools and techniques as it determines appropriate in order to efficiently manage its network and to ensure a quality user experience for its customers.

You shall ensure that your use of use of the Services does not restrict, inhibit, interfere with, or degrade any other User's use of the Services, nor represent (in the sole judgment of Optical Communities) an overly large burden on the network. In addition, you shall ensure that your use of the Services does not restrict,

inhibit, interfere with, disrupt, degrade, or impede OC's ability to deliver and provide the Services and monitor the Services, backbone, backbone infrastructure, and/or other network services. You further acknowledge that each level of OC's High Speed Internet Service has limits on the maximum speed at which you may send and receive data at any time, as set forth in the price list for your apartment home community that can be found on www.opticalcommunities.com or either the Internet Service Agreement (the "Service Agreement"). You understand that the actual speeds you may experience at any time will vary based on a number of factors, including, but not limited to, the capabilities of your equipment, Internet congestion, technical properties of the websites, content and applications that you access.

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

15. NO "VIRUSES"

You agree that you will not use, nor allow others to use, the Services to restrict, inhibit, or otherwise interfere with the ability of any other person to use or enjoy the Services or the Internet, regardless of intent, purpose or knowledge, including, without limitation, by posting or transmitting any information or software which contain computer "viruses," worms, "Trojan horses" or other harmful software programs and that you will use your best efforts to prevent the unintentional transmission of such viruses.

16. EMAIL ACCESS & DELIVERY

Optical Communities 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. OC is also not responsible for forwarding e-mail sent to any account that has been suspended or terminated. In the event that OC believes in its sole discretion that any e-mail address on the Services may be used for, or is being used for, any misleading, fraudulent, or other improper or illegal purpose, OC reserves the right to block access to and prevent the use of any of the email address. In the event that a Service account is terminated for any reason, all e-mail associated with that account (and any secondary accounts) will be permanently deleted within 30 days or the termination date.

17. VIDEO MESSAGES AND INSTANT MESSAGES

Users of the Services alone are responsible for the contents of their video messages and instant messages and the consequences of any such messages. OC assumes no responsibility for the timeliness, misdelivery, deletion or failure to store instant messages or video messages.

18. OPTICAL COMMUNITIES MONITORING

Optical Communities may not, as an ordinary practice, proactively or routinely monitor the activity of your Service account for violations of this AUP and/or the law, though it reserves the right to do so. If OC is alerted to violations or potential violations of this AUP, however, OC will take whatever measures it deems necessary and appropriate to stop or prevent those violations. OC's failure 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 any portion of this AUP held invalid or unenforceable will as much as possible be construed consistent with the intent and applicable law; the remaining portions of this AUP will remain in full force and effect. OC reserves the right at any time to monitor bandwidth, usage, transmissions, and/or content on the Services from time to time; to seek or identify violations of this AUP; and/or to protect the network, the Services and Users.

19. USER RESPONSIBILITY

You are responsible for following the AUP. You are also responsible for the actions of others who may use your account. Users are solely responsible for the security and misuse of any device that is connected to the Services, regardless of whether the misuse was committed by the User or a third party with access to the User's Service account. OC recommends that Users implement appropriate measures to secure their systems and these measures may include installation of firewalls, antivirus protection with regular updates, regularly checking for and applying security patches for software and operating systems, and general security conscience use of the Services. Further, the speed at which a User connects to the Internet is dependent upon many factors, including a User's hardware and software and the activities in which the user is engaging. OC does not guarantee or warrant any particular speed of Internet connection.

20. CONTACT INFORMATION

Contact information for Notices. Unless otherwise agreed in writing signed by OC and you, any notification that OC sends to you pursuant to this AUP may be in writing to your address of record, or via Email to the Email address on file with OC. Notification of changes to this AUP may be made at any time by posting a revised AUP on OC's website. You must respond in a timely manner to complaints concerning misuse of the Services obtained from OC. Failure to responsibly manage the use of the services obtained from OC may be cause for termination of Service(s) to you and, depending upon the terms under which you acquired your services, could lead to the imposition of early termination fees.

Contact for Reporting Abuse. Any party seeking to report a violation of this AUP may contact Optical Communities via Email at abuseclaims@opticalcommunities.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.