

Terms of Service – for Business Internet Service

BUSINESS HIGH-SPEED INTERNET TERMS OF SERVICE | LEGAL & REGULATORY | FAIRPOINT COMMUNICATIONS

THESE TERMS AND CONDITIONS CONTAIN IMPORTANT INFORMATION REGARDING YOUR USE OF FAIRPOINT INTERNET HIGH-SPEED INTERNET SERVICE FOR BUSINESS AND YOUR RELATIONSHIP WITH FAIRPOINT.

PLEASE READ THEM CAREFULLY

This Agreement is entered into between the Customer ("You", "Your", "Customer") and FairPoint Internet (hereinafter referred to as "FairPoint"). This Agreement includes the Service Quotations ("Quotation") provided to you, FairPoint's Acceptable Use Policy ("AUP") as set forth at www.FairPoint.com, your Service Plan as well as our Privacy Policies located at www.FairPoint.com (collectively, "Agreement"). Your acceptance of the Terms of Service indicates your agreement to comply with FairPoint's Terms of Service, the specific terms of your Service plan (including the plan's duration and applicable early termination fee) and related policies regarding your use of the Services. You agree with and are deemed to have accepted this Agreement upon the earlier of: (a) submission of your order; (b) your accepting the Terms of Service electronically or in the course of installing the Software; (c) your use of the Service; or (d) retention of the Software FairPoint provides beyond thirty (30) days following delivery.

1. **Services.** The term "Service" shall mean the (a) FairPoint business High Speed Internet access service with or without local service and related transport services ("High-Speed Internet Service" or "Service") provided to you by FairPoint; and (b) the Internet services provided by FairPoint which include FairPoint Domain Name E-Mail Service ("E-M Service"), , all Software, Content, domain name server (DNS) and related services, and such other products or services as you may subscribe to with FairPoint under the pricing plan you have selected (collectively, the "FairPoint Services"). The Service shall also include any software or hardware that FairPoint provides you in connection with the Service to which you have subscribed, and includes any sub- or secondary accounts associated with a primary account. "Content" shall mean content provided by FairPoint or its third party licensors, providers or suppliers and accessible on the Service, including without limitation images, photographs, animations, video, audio, music, and text, with the exception of content uploaded by and stored on behalf of users. High-Speed Internet Service utilizes transport service provided by your local FairPoint Communications telephone company. If you change your local telephone company, or move your local telephone service to a wireless or Internet telephone service provider we may in our discretion either immediately terminate your Service or continue to provide High-Speed Internet Service without local service at existing terms and conditions under the then-current pricing plan applicable to your Service. If your local FairPoint Communications telephone company provides transport service to your location utilizing fiber optic technologies, we may in our discretion migrate your High-Speed Internet Service to fiber optic transport technologies. In cases of such migration, FairPoint will offer to you fiber-based Internet Service for Business ("FASTSM") and we will disclose to you applicable rates and additional terms, if any, that may differ from the services provided under this Agreement.

2. **Term.** This Agreement shall be effective upon your acceptance of this Agreement, as provided above, and shall continue for twelve (12) months or twenty-four (24) months thereafter, based on the term period and the Service plan selected (the "Initial Term"). In the event you change Service plans, your monthly rate and term commitment may change (depending on the plan you select); otherwise, the terms of this Agreement will remain in effect unless otherwise provided. After the Initial Term, your Service will continue on a month-to-month basis until terminated by either party as

permitted by this Agreement. FairPoint reserves the right to terminate the Service (or any part thereof) in the event FairPoint ceases to offer the Service generally or to your location. If we cease offering the Service or any part thereof (other than as described in Section 1, above), we will give you at least thirty (30) days advance notice. Billing on your account will begin following completion of provisioning of High-Speed Internet Service.

3. Prices. Prices are guaranteed for the Initial Term of Service, subject to the provisions of this Section. For any Service offered on a month-to-month basis, FairPoint will give you at least thirty (30) calendar days prior notice of a price change in the manner set forth in Section 6(e) below. Thereafter, your continued use of the Service constitutes your acceptance of the price change. If you change your Service or your Initial Term, you agree to pay the applicable monthly fee that may apply to your new Service or Initial Term arrangement. You agree to pay all charges associated with the Service and rate plan selected, including but not limited to

- (a) applicable taxes,
- (b) surcharges,
- (c) Federal Universal Service Fund, tax and other recovery fees,
- (d) telephone charges,
- (e) activation fees,
- (f) installation fees,
- (g) setup fees,
- (h) equipment charges,
- (i) termination fees,
- (j) other non-recurring charges.

Notwithstanding the pricing guarantee set forth above, the taxes, fees and other charges detailed in this section a) - d) may vary on a monthly basis; any variation will be reflected in your overall monthly charge. The amounts and what is included in such charges are subject to change. You also agree to pay any additional charges or fees applied to your billing account for any reason, including but not limited to interest and charges due to insufficient credit or insufficient funds. Activation fees, installation fees, setup fees, equipment charges, and other non-recurring charges, if applicable, will be included in your first month's bill. Monthly recurring charges will be billed one month in advance; usage charges will be billed in arrears, if applicable. FairPoint or its agent will bill you for Internet Services directly, or bill your charge card or your local FairPoint Communications telephone bill (telephone billing available in selected areas only), as you request and as approved by FairPoint. PLEASE NOTE: IF YOU ELECT TO BE BILLED FOR YOUR SERVICE ON YOUR FAIRPOINT COMMUNICATIONS PHONE BILL, BY USING THE SERVICES YOU AGREE TO HAVE FAIRPOINT INTERNET AND FAIRPOINT COMMUNICATIONS CHARGES INCLUDED ON YOUR PHONE BILL.

4. Payment and Late Fee. FairPoint will invoice you monthly. Payment to FairPoint is due upon receipt of invoice and shall be made in U.S. currency. A payment received thirty (30) calendar days or more after the invoice date is considered past due. If your charges are billed by FairPoint, the Late Fee will be equal to the late payment charge that FairPoint applies. If your charges are not billed by FairPoint, you agree to pay interest of 1.5% for each month or part of a month (or the maximum interest allowed by law, whichever is less). FairPoint may assign unpaid delinquent charges to a collection agency for action. In the event FairPoint utilizes a collection agency or takes legal action to recover monies due, you agree to reimburse FairPoint for all expenses incurred to recover such monies (including attorney's fees). You also authorize FairPoint to conduct a credit search which FairPoint may use to determine your credit worthiness. FairPoint may cancel its order or terminate this Agreement if, in its sole opinion, the results of such credit search are deemed unacceptable.

5. No Warranties. ADVICE OR INFORMATION GIVEN BY FAIRPOINT OR ITS REPRESENTATIVES SHALL NOT CREATE A WARRANTY. USE OF FAIRPOINT TECHNICAL SUPPORT IS AT YOUR OWN RISK AND IS NOT WARRANTED. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, FAIRPOINT AND ITS THIRD PARTY LICENSORS, PROVIDERS AND SUPPLIERS DISCLAIM, WITH RESPECT TO ALL SERVICES, ANY AND ALL REPRESENTATIONS AND WARRANTIES, EXPRESS, IMPLIED OR ARISING BY COURSE OF PERFORMANCE, DEALING, CUSTOM OR TRADE USAGE, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE (EVEN IF WE KNEW OR SHOULD HAVE KNOWN SUCH PURPOSE) AND NONINFRINGEMENT. FAIRPOINT WILL PROVISION YOUR QUALIFIED LINE FOR HIGH-SPEED INTERNET SERVICE AT THE MAXIMUM LINE RATE AVAILABLE TO YOUR LOCATION BASED ON OUR STANDARD LINE QUALIFICATION PROCEDURES, UNLESS YOU HAVE SELECTED A LEVEL OF SERVICE WITH A LOWER MAXIMUM LINE RATE. YOU AGREE THAT THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. IN ADDITION, FAIRPOINT DOES NOT GUARANTEE THAT THE SERVICE CAN BE PROVISIONED TO YOUR LOCATION, OR THAT PROVISIONING WILL OCCUR ACCORDING TO A SPECIFIED SCHEDULE. THE PROVISIONING AND PERFORMANCE (SPEED) OF THE SERVICE IS SUBJECT TO CIRCUIT OR OTHER NETWORK FACILITY AVAILABILITY AND OTHER FACTORS, INCLUDING WITHOUT LIMITATION, LOOP LENGTH, THE CONDITION OF YOUR TELEPHONE LINE AND WIRING INSIDE YOUR LOCATION, COMPUTER/DEVICE CONFIGURATION AND CAPABILITIES AND NETWORK/INTERNET CONGESTION, AMONG OTHER FACTORS. IN THE EVENT YOUR LINE IS NOT PROVISIONED FOR ANY REASON, NEITHER YOU NOR FAIRPOINT SHALL HAVE ANY DUTIES OR OBLIGATIONS UNDER THIS AGREEMENT (OTHER THAN YOUR OBLIGATION TO RETURN ANY FAIRPOINT PROVIDED EQUIPMENT). FAIRPOINT DOES NOT WARRANT THAT THE SERVICE OR EQUIPMENT PROVIDED WILL MEET YOUR NEEDS, PERFORM AT A PARTICULAR SPEED, BANDWIDTH OR DATA THROUGHPUT RATE, OR WILL BE UNINTERRUPTED, ERROR-FREE, OR SECURE, OR FREE OF VIRUSES, WORMS, DISABLING CODE OR CONDITIONS, OR THE LIKE.

6. Your Responsibilities; Notices; Revisions to Terms of Service.

- (a) Your Responsibilities. You represent that you are eighteen (18) years of age or older, that you have the power and the legal authority to enter into this Agreement, and that the information you supply to FairPoint is correct and complete. You acknowledge and agree that you are solely responsible for all use of the Service (including the use of any secondary or sub- accounts associated with a primary account) and the manner in which the Service is used by you or anyone who uses the Service, with or without your permission. If you use a wireless router or similar device, you are responsible for securing your wireless network and for any use of the Service via your wireless network. You may not resell the Service to third party. You also agree to use the Service only within the United States.
- (b) Use of the Service. You understand and agree that you are responsible for the protection, storage, back-up and security of your data, software, computer network and other facilities, as well as your choice of equipment, software and online content; and all other matters related to how you access and use the Service. You acknowledge and agree that the reliability, availability and performance of data or services accessed through the Internet or other services connected or linked to the Service are beyond FairPoint's control and are not in any way warranted or supported by FairPoint. You also agree to provide FairPoint with the access and support required to allow us to implement, maintain and provide the Services. In addition, you agree that your use of the Service and the Internet is solely at your own risk and is subject to all applicable local, state, national and international laws and regulations.
- (c) Limitations on Use of the Service. You agree that FairPoint assumes no responsibility for the accuracy, integrity, quality completeness, usefulness or value of any Content, data, documents, graphics, images, information, advice, or opinion contained in

any emails, message boards, chat rooms or community services, or in any other public services, and does not endorse any advice or opinion contained therein. FairPoint does not monitor or control such services, although FairPoint reserves the right to do so. FairPoint may take any action it deems appropriate, in our sole discretion, to maintain the high quality of the Service and to protect others and itself.

By transmitting, uploading, posting or submitting any information or material using the Web site Tools, you (i) represent that such information is not confidential, secret or proprietary information belonging to someone else; and (ii) warrant that no other party has rights to the information and that your transmission, posting, uploading or submission of the information does not violate any copyright or other laws.

Any web sites linked to or from the Service are not reviewed, controlled, or examined by FairPoint and FairPoint is not responsible for the contents of any linked site or any link contained in a linked site. The inclusion of any linked sites or content from the Service, including sites or content advertised on the Service, does not imply endorsement of the linked site or content by FairPoint. Any dealings that you have with third parties, merchants or advertisers found on the Service are between you and the third party, merchant or advertiser and you acknowledge and agree that FairPoint is not liable for any loss or claim you may have against a third party, merchant or advertiser. In no event shall FairPoint be liable to anyone for any damage arising from or caused, directly or indirectly, by the creation or use of a third party's web site, or the information or material accessed through such web sites.

You further agree that in the event you type a nonexistent or unavailable Uniform Resource Locator (URL), or enter a search term, into your browser address bar, FairPoint may present you with an Advanced Web Search page containing suggested links based upon the query you entered in lieu of your receiving an NXDOMAIN or similar error message. FairPoint's provision of the Advanced Web Search page may impact applications that rely on an NXDOMAIN or similar error message and may override similar browser-based search results pages. If you would prefer not to receive Advanced Web Search pages from FairPoint, you should follow the opt-out instructions that are available by clicking on the "About the Search Results Page" link on any Advanced Web Search page.

- (d) Notices Regarding the Service. You understand and agree that from time to time FairPoint may send you information relating to the Service (including but not limited to password information), via electronic mail over the Internet to your primary FairPoint email address. You consent to FairPoint's distribution of such information to you electronically and you agree to check your FairPoint-provided email box periodically for account related information that FairPoint provides.
- (e) Revisions to Terms of Service. You understand and agree that FairPoint may revise the terms and conditions of this Agreement (including any of the policies which may be apply to use of the Service) from time to time by posting such revisions to the website at www.FairPoint.com (the "Website"). You agree to visit these web pages periodically to be aware of and review any such revisions. Revisions to the Agreement are effective upon posting to the Website. By continuing to use the Service after the date the revision(s) are posted to the Website, you accept and agree to the revisions and to abide by them. If you do not agree to the revision(s), you must terminate your Service immediately and such termination may be subject to any applicable early termination fees.

7. Indemnification. You agree to indemnify FairPoint and hold FairPoint harmless for any damages, costs, liabilities and attorneys' fees FairPoint may incur from any claim arising from your use of the Services, or the use of your Service by others, including without limitation, violation of the copyrights, trademarks or other intellectual property rights of others, your combination of the Services with other products or services not provided

by FairPoint, any modification of the Services, or any breach of this Agreement by you. In such event, you agree to conduct the defense and have control of the litigation and settlement, if any. However, you agree not to acquiesce to any judgment or enter into any settlement that adversely affects our rights or interests without FairPoint's prior written consent. FairPoint agrees to give you prompt notice of all claims and to cooperate in defending against the claim. The indemnifying party may not settle any claim under this section which includes an admission of criminal liability or the payment of a settlement amount without the prior written permission of the indemnified party. THE PARTIES DISCLAIM ANY IMPLIED WARRANTY OF NON-INFRINGEMENT, RELYING INSTEAD ON THE TERMS OF THIS SECTION.

Compliance with Laws. You agree not to use, or permit others to use, the Service in ways that (i) violate any law or applicable regulation or FairPoint's AUP or other policies, (ii) infringe the rights of others, or (iii) interfere with the users, services, or equipment and software of FairPoint's network or other networks. By way of example and not limitation, you agree not to distribute unsolicited advertising, chain letters or other unsolicited bulk electronic mail (i.e., spam); propagate computer worms, destructive programs or denial of service attacks or viruses; use a false identity; attempt to gain unauthorized entry to other computers, data or any site or network; distribute or store child pornography; distribute obscene or defamatory material over the Internet; or infringe copyrights, trademarks or other intellectual property rights. You further agree to comply with U.S. export laws concerning the transmission of technical data and other regulated materials via the Service. FairPoint reserves the right to suspend or terminate the Service (or any portion thereof) without notice in the event that your use of the Service, in FairPoint's sole judgment, violates any applicable law, regulation or ordinance, or the terms of this Agreement or FairPoint's AUP, or otherwise adversely affects or threatens any FairPoint network or service, customer or employee, or, if you are determined to be a repeat infringer under FairPoint's repeat infringement policy set forth in the AUP. FairPoint also reserves the right to provide information about your account and your use thereof to third parties as required or permitted by law.

9. Software Provided.

- (a) FairPoint may provide to you, at no cost or for a fee, software owned by FairPoint or its third party licensors, providers or suppliers in connection with the Services ("Software"). You may use the Software in object code form only, on the hardware on which it is installed, only as part of or for use with the Service and for no other purpose. The Software may be accompanied by an end user license agreement from FairPoint or a third party. Your use of the Software is governed by the terms of that license agreement and by this Agreement, where applicable. You may not install or use any Software that is accompanied by or includes an end user license agreement unless you first agree to the terms and conditions of the end user license agreement.
- (b) If the Software is not accompanied by an end user license agreement from FairPoint or a third party, you are hereby granted a personal, revocable, non-exclusive, non-transferable license by FairPoint or its third party licensors, providers or suppliers, to use the Software (and any corrections, updates and upgrades thereto), for the sole purpose of enabling you to use the Service.
- (c) You agree that the Software is the confidential information of FairPoint or its third party licensors, providers or suppliers, which you shall not disclose to others or use except as expressly permitted herein. The Software contains copyrighted material, trade secrets, patents, and proprietary information owned by FairPoint or its third party licensors, providers, or suppliers. You may not de-compile, reverse engineer, disassemble, attempt to discover any source code or underlying ideas or algorithms of the Software, otherwise reduce the Software to a human readable form, modify, rent, lease, loan, use for timesharing or service bureau purposes, reproduce, sublicense or distribute copies of the Software, or otherwise transfer the Software to any third party. You may not remove or alter any trademark, trade name, copyright or other proprietary notices, legends, symbols, or labels appearing on or in copies of the Software. You are not granted any title or rights of ownership in the Software. You acknowledge that this license is not a sale of intellectual

property and that FairPoint or its third party licensors, providers or suppliers continue to own all right, title and interest, including but not limited to all copyright, patent, trademark, trade secret, and moral rights, to the Software and related documentation, as well as any corrections, updates and upgrades. The Software may be used in the United States only, and any export of the Software is strictly prohibited. FairPoint reserves the right to update or change the Software from time to time and you agree to cooperate in performing such steps as may be necessary to install any updates or upgrades to the Software.

- (d) IF AT ANY TIME DURING THE TERM OF THIS AGREEMENT FAIRPOINT PROVIDES YOU WITH FREE OR FOR-FEE SOFTWARE OR EQUIPMENT, INCLUDING WITHOUT LIMITATION, CLIENT AND/OR NETWORK SECURITY SOFTWARE, YOU AGREE THAT YOUR SOLE RIGHT TO RECOURSE, IF ANY, INCLUDING BUT NOT LIMITED TO DAMAGES FOR FAILURE OF SUCH SOFTWARE TO PERFORM OR FOR PERSONAL INJURY OR DATA LOSS, IS AGAINST THE MANUFACTURER OF SUCH SOFTWARE OR PERIPHERAL EQUIPMENT.
- (e) FairPoint provides technical assistance and support for the Software in accordance with its policies. Unless otherwise provided, FairPoint does not provide technical assistance or support for third party Software. Technical assistance or support with regard to third party software provided by the Software supplier is provided in accordance with such third party's policies or other terms.
- (f) Your license to use the Software shall remain in full force and effect during the Initial Term and any renewal terms, unless and until it is terminated by FairPoint, its third party licensors, providers or suppliers, or until this Agreement expires or is terminated.
- (g) Other Third Party Agreements. You agree to comply with the terms of service that apply to any websites or other services you access on the Internet and agree that the third party provider of such services (and not FairPoint) is solely responsible for the delivery of its service(s) to you and your use of them. Third party services may include, but are not limited to, portal, music, video, auction, security, financial, gaming, storage and photography services, whether or not FairPoint has made such services available to you. Violation of such third party provider's terms of service may, in FairPoint's sole discretion, result in the termination of your Service. You further agree to indemnify, defend and hold FairPoint harmless from and against any claims or liabilities that may result from your use of such third party services.

10. Return of Equipment and Software. Upon termination or expiration of this Agreement, you agree to return to FairPoint all hardware (other than hardware you have purchased from us) which FairPoint has provided to you in connection with the Service, and to cease use of all the provided Software and immediately delete such Software from your computer. In the event such hardware and software is not returned to FairPoint within thirty (30) calendar days following such termination or expiration, FairPoint reserves the right to charge you, and you agree to pay, the undepreciated list price of the unreturned hardware and Software.

11. Customer Equipment; High-Speed Internet Performance; Email Security; and Backup and Maintenance.

- (a) Customer Equipment. You are solely responsible for obtaining, installing, configuring, and maintaining suitable equipment and software, including any necessary system or software updates, patches or other fixes, which are or may become necessary to access the High-Speed Internet Service, and to operate your computer. The preceding obligations apply regardless of whether FairPoint or a third party provided the software or hardware to you. Only the manufacturer's warranties included with any hardware or software provided by FairPoint shall apply. Hardware (modems, routers or other equipment) provided is new or fully inspected and tested return unit under full warranty.

- (b) High-Speed Internet Performance. You understand that High-Speed Internet bandwidth is provided on a per line basis, and that the speed and bandwidth available to each computer or device connected to the network will vary depending upon the number and types of computers or devices using the Service and the type of use (e.g. streaming media or downloading larger files) as well as based on network congestion and the speed of servers you access on the Internet, among other factors.
- (c) Email Security. FairPoint reserves the right in its sole discretion to provide the level of security it deems appropriate to safeguard its respective networks and customers, and other Internet users, against Internet threats or abuses, including without limitation, viruses, spam, phishing, identity theft and any other potentially disabling or harmful threat or abuse. These security measures may include, but are not limited to, the use of firewalls and blocklists to block potentially harmful or abusive emails or attachments, anti-spam filters, anti-virus or anti-spyware software, or blocking selected ports. Such activities may result in the blocking, filtering or non-delivery of legitimate and non-legitimate email sent to or from your email account. By using any FairPoint-provided email service, you agree that delivery and receipt of email is not guaranteed and to FairPoint's use of such Internet and email security measures FairPoint in its sole discretion deems appropriate.
- (d) FairPoint Backup and Maintenance. FairPoint may use, copy, display, store, transmit, translate, rearrange, reformat, view and distribute your information to multiple FairPoint servers. FairPoint may access, copy, block or remove any Content stored on your Service, whether pursuant to a subpoena or otherwise. FairPoint does not guarantee that these procedures will prevent the loss of, alternation of, or the improper access to, your information.

12. Termination for Default. Any party to this Agreement may terminate or cancel this Agreement if you or FairPoint fails to cure a material breach of the Agreement within thirty (30) calendar days after receiving written notice of the breach. FairPoint reserves the right, but assumes no obligation, to suspend performance immediately if you are more than thirty (30) calendar days overdue in payments or if, in FairPoint's reasonable judgment, you have violated any provision of this Agreement, including FairPoint's AUP.

13. Monitoring of System Performance. FairPoint automatically measures and monitors network performance and the performance of your Internet connection in order to improve the level of Service. We also will access and record information about your computer's settings in order to provide customized technical support and you agree to permit us to access and record such data for the purposes described in this Agreement. No adjustments to your computer settings will be made without your permission. FairPoint will not share information collected for the purpose of network or computer performance monitoring or for providing customized technical support outside of FairPoint or their authorized vendors, contractors and agents. By using the Service you consent to FairPoint's monitoring of your Internet connection and network performance, and the access to and adjustment of your computer settings, as set forth above, as they relate to the Service or other services which FairPoint may offer from time to time.

14. Government Entities. Use, duplication or disclosure by any Government entity is subject to restrictions set forth, as applicable, in subparagraphs (a) through (d) of the Commercial Computer-Restricted Rights clause at FAR 52.227-19, FAR 12.212, DFARS 227.7202, or in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause of DFARS 252.227-7013, and in similar clauses in the NASA FAR Supplement. Contractor/manufacturer is FairPoint or its third party licensors, providers and suppliers. The use of Software and documentation is further restricted in accordance with the terms of this Agreement, or any modification.

15. Resolution of Disputes.

- (a) The parties desire to resolve disputes arising out of this Agreement without litigation. Accordingly, except for action seeking a temporary restraining order or injunction related to the purposes of this Agreement, or suit to compel compliance with this dispute resolution process, which the parties agree may be filed only in a court located in the State of North Carolina, the parties agree to use the following alternative dispute resolution procedure as their sole remedy with respect to any controversy or claim arising out of or relating to this Agreement or its breach. The parties further agree that this Agreement does not permit a class arbitration, even if the procedures or rules of the American Arbitration Association (or other dispute resolution organization or body) would otherwise permit it.
- (b) At the written request of a party, each party will appoint a knowledgeable, responsible representative to meet and negotiate in good faith to resolve any dispute arising under this Agreement. The parties intend that these negotiations be conducted by non-lawyer, business representatives. The location, format, frequency, duration, and conclusion of these discussions shall be left to the discretion of the representatives. Upon agreement, the representatives may mutually agree to utilize other alternative dispute resolution procedures such as mediation to assist in the negotiations. Discussions and correspondence among the representatives for purposes of these negotiations shall be treated as confidential information developed for purposes of settlement, exempt from discovery and production, which shall not be admissible in the arbitration described below or in any lawsuit without the concurrence of all parties. Documents identified in or provided with such communications that are not prepared for purposes of the negotiations are not so exempted and may, if otherwise admissible, be admitted in evidence in the arbitration or lawsuit.
- (c) If the negotiations do not resolve the dispute within sixty (60) calendar days of the initial written request, and the amount in controversy exceeds five thousand (\$5,000.00) dollars or the jurisdictional limit for small claims court in the jurisdiction in which service is provided (whichever is less), the dispute shall be submitted to binding arbitration by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association. A party may demand such arbitration in accordance with the procedures set out in those rules. Discovery shall be controlled by the arbitrator and shall be permitted to the extent set out in this section. Each party may submit in writing to a party, and that party shall so respond, to a maximum of any combination of twenty-five (25) (none of which may have subparts) of the following: interrogatories, demands to produce documents and requests for admission. Each party is also entitled to take the oral deposition of one (1) individual representing another party. Additional discovery may be permitted upon mutual agreement of the parties. The arbitration hearing shall be commenced within sixty (60) calendar days of the demand for arbitration. The arbitration shall be held in the State of New York. The arbitrator shall control the scheduling so as to process the matter expeditiously. The parties may submit written briefs. The arbitrator shall rule on the dispute by issuing a written opinion within thirty (30) calendar days after the close of hearings. The times specified in this section may be changed upon mutual agreement of the parties or by the arbitrator upon a showing of good cause. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction.
- (d) If the negotiations do not resolve the dispute within sixty (60) calendar days of the initial written request, and the amount in controversy does not exceed five thousand (\$5,000.00) dollars or the jurisdictional limit for small claims court in the jurisdiction in which service is provided (whichever is less), the dispute may be submitted to small claims court in the jurisdiction in which service is provided for resolution in accordance with its rules and procedures.

- (e) Each party shall bear its own costs of these procedures. A party seeking discovery shall reimburse the responding party the costs of production of documents (to include reasonable search time and reproduction costs). The parties shall equally split the fees of the arbitration and the arbitrator.

16. Limitation of Liability. IN NO EVENT SHALL FAIRPOINT OR ANY OF ITS THIRD PARTY LICENSORS, PROVIDERS OR SUPPLIERS BE LIABLE TO YOU FOR (A) ANY PUNITIVE, SPECIAL, CONSEQUENTIAL, INCIDENTAL OR INDIRECT DAMAGES INCLUDING WITHOUT LIMITATION, LOST PROFITS OR LOSS OR DAMAGE TO DATA ARISING OUT OF THE USE OR INABILITY TO USE SERVICES, EVEN IF FAIRPOINT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR (B) ANY CLAIMS AGAINST YOU BY ANY THIRD PARTY.

17. Limitation of Damages. FAIRPOINT'S AGGREGATE LIABILITY TO YOU FOR ANY CAUSE OF ACTION OR CLAIM WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, ANY NON-INSTALLATION, SECURITY BREACH, FAILURE OR DISRUPTION OF SERVICES PROVIDED UNDER THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR TORT, OR OTHERWISE, SHALL BE LIMITED TO AN AMOUNT EQUIVALENT TO CHARGES PAID BY YOU UNDER THE APPLICABLE SERVICE AGREEMENT DURING THE PERIODS WHEN SUCH CLAIM AROSE. SOME JURISDICTIONS DO NOT PERMIT THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF CONSEQUENTIAL OR INCIDENTAL DAMAGES. IN THESE JURISDICTIONS OUR LIABILITY SHALL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

18. Third Party Beneficiaries. ALL LIMITATIONS AND DISCLAIMERS STATED IN THIS AGREEMENT ALSO APPLY TO FAIRPOINT'S THIRD PARTY LICENSORS, PROVIDERS AND SUPPLIERS AS THIRD PARTY BENEFICIARIES OF THIS AGREEMENT.

19. Changes or Updates to the Services. FairPoint reserves the right to make changes to the Service or any portion thereof at any time and without advance notice. If such a change materially and adversely affects your use of the Service, and FairPoint cannot reasonably mitigate the impact, then, as your sole and exclusive remedy, you may terminate the Service without further obligation.

20. IP Addresses and Domain Name Registration. Upon expiration, cancellation or termination of the Agreement or an applicable Quotation, you agree to return to FairPoint any IP addresses or address blocks assigned to you by FairPoint. If FairPoint deems it necessary, you may be required to renumber the IP addresses assigned to you by FairPoint. Where applicable, all fees associated with domain name registration and periodic maintenance of domain names are your responsibility. The registrar or FairPoint, on registrar's behalf, will bill such fees directly to you. Such fees are not included in the price of the Service. You agree to abide by the domain name registrar's terms and conditions provided to you prior to obtaining domain name service from us. Domain name registration is limited to the following extensions: .net, .com, and .org. FairPoint does not guarantee that your choice of names is or will continue to be available for use as a domain name.

21. Force Majeure. If the performance of any obligation hereunder is interfered with by reason of any circumstance beyond our reasonable control, including but not limited to acts of God, labor strikes and other labor disturbances, power surges or failures, or the act or omission of any third party, we shall be excused from such performance to the extent necessary, provided that FairPoint shall use reasonable efforts to remove such causes of nonperformance.

22. Publicity. You shall not use any trademark, trade name, trade dress or any name, picture or logo which is commonly identified with FairPoint or either of its affiliates, or from which any association with FairPoint, or either of its affiliates may be inferred or implied, in any manner without the prior written permission of the owner of such marks.

23. Applicable Law; Venue. This Agreement shall be interpreted, construed and enforced in accordance with the laws of the state of New York, without reference to its choice of law rules. Each party hereby irrevocably consents to non-exclusive personal jurisdiction and venue in the state and federal courts located in Charlotte, North Carolina, with respect to any claim arising out of or related to this Agreement. Except as otherwise required by law, including New York laws relating to consumer transactions, any cause of action or claim you may have with respect to the Service must be commenced within one (1) year after the claim or cause of action arises or such claim or cause of action is barred.

24. Miscellaneous. The terms and conditions of this Agreement supersede all previous agreements, proposals or representations related to the Service. You may not assign this Agreement without FairPoint's prior written consent. FairPoint may freely assign this Agreement. Any changes to this Agreement, or any additional or different terms in your purchase orders, acknowledgments or other documents, will not be effective unless expressly agreed to in writing by FairPoint. Any notices or demands or other communications which under the terms of this Agreement or under any statute must or may be given or made by either party shall be in writing to the respective parties as set forth herein. Notices to us shall be to the attention of the General Counsel of FairPoint. Any party may change the notice address or addressee by giving notice thereof to the other parties. Notices may be given to the address listed below by first class U.S. mail, or nationally recognized overnight express courier. Notices shall be deemed to have been given on receipt if delivered by overnight express courier or three (3) days after delivery to the United States Postal Service if mailed. If any of the terms or conditions in this agreement are properly found to be invalid or unenforceable by a government body, the remaining terms or conditions of this agreement shall not be affected by the finding and shall continue to apply as necessary to reflect the original intention of the parties. FairPoint's failure at any time to enforce any provision of this Agreement or any right or remedy available hereunder or at law or equity, or to exercise any option herein provided shall in no way be construed to be a waiver of such provision, right, remedy or option or in any other way affect the validity of this Agreement. The exercise by FairPoint of any rights, remedies or options provided hereunder or at law or equity shall not preclude or prejudice FairPoint from exercising thereafter the same or any other rights or remedies or options.

FairPoint
General Counsel
521 E. Morehead St., Suite 250
Charlotte, NC 28202

The following additional terms apply to High-Speed Internet Service with static IP and dynamic IP addresses (and bundles containing High-Speed Internet Service as a component):

25. Service Description. High-Speed Internet Service is provided to you by FairPoint and the Service provides you access to the Internet. You may connect multiple computers/devices with in a single office location to your Service router to access the High-Speed Internet Service, but only through a single account. Where available, High-Speed Internet Service customers may use their account to connect through an analog connection, but these connections will be subject to usage thresholds and additional per hour and monthly charges, depending on the Service to which you subscribe. Additional User IDs provided for customers' email boxes are not intended for use as dial-up connections. Any usage associated with additional email box User IDs will be charged the per hour rate associated with usage above the monthly allotment for analog Dial-up Service (where available). The number of mailboxes available to you depends upon the Service to which you have subscribed. Further details of the High-Speed Internet Service are set forth in the Service Description for the applicable version of the High-Speed Internet Service you have selected or as indicated on the Quotation. Service Descriptions are available from your sales representative; the Service Description is incorporated herein by reference.

26. Renewal. You may renew any High-Speed Internet Service subject to a one-year commitment under this Agreement by calling us at

1-866-984-3001 before the expiration of the Initial Term. If the Initial Term expires before it has been renewed in writing, then FairPoint may continue to provide you with such High-Speed Internet Service on a month-to-month basis, at FairPoint's then-current undiscounted list prices, until a new Term has been agreed to in writing or the Services are terminated as set forth below.

27. Service Cancellation; Money Back Guarantee; Early Termination Fees for High-Speed Internet Service. If you wish to cancel your High-Speed Internet Service, you may do so by calling FairPoint at 1-866-984-3001. High-Speed Internet Service is subject to a thirty-(30) calendar day money-back guarantee, which begins upon billing. During this thirty (30) day period you may cancel the High-Speed Internet Service and receive a full refund of all monthly charges paid as well as any one-time charges and equipment charges, if any, paid to FairPoint. If you cancel your High-Speed Internet Service within 30 calendar days, you agree to return to FairPoint all hardware which FairPoint has provided to you in connection with the High-Speed Internet Service prior to receiving a refund on said equipment charges or additional equipment charges will apply. FairPoint will provide you with a pre-paid mailing label and instructions for the return of this equipment. If you cancel after the first thirty-(30) calendar days of High-Speed Internet Service but before completing the Initial Term, you agree to (a) pay FairPoint all Service fees accrued as of the cancellation date and (b) you agree to pay a termination fee in the amount as set forth in the Service plan you have chosen ("Early Termination Fee"). Activation or set-up fees paid at the initiation of High-Speed Internet Service are not refundable. The money-back guarantee is limited to one per Customer per Service type per Service address. It is agreed that if you cancel High-Speed Internet Service, damages are difficult or impossible to ascertain; thus, the provisions of this Section are intended to establish liquidated damages in the event of cancellation and are not intended as a penalty.

28. Move/Down-grade change order activities and associated fees. There is no additional charge for up-grading the speed of your High-Speed Internet Service. Additional charges and fees may apply for any downgrade of service. Your Initial Term will not be altered as a result of such change order activity.

The following additional terms apply to FairPoint Domain Name E-Mail Service ("E-M Service") (and bundles containing such services as a component). Note that "E-M Service" is a domain name email service that is separate from the myFairPoint.net email platform. E-M Service is an additional service that FairPoint makes available as an option for certain High-Speed Internet Services. These terms apply to your E-M Service in addition to the terms and conditions that appear above.

29. Services. E-M Service provides you with business e-mail services and includes domain name services. Use of E-M Service is subject to FairPoint's email and anti-spam policies, including limitations on the number and/or size of email messages that may be sent during a given time period, or the number of recipients of a particular email. Further details of the E-M Service are set forth in the Service Description for the version of the E-M Service you have selected, which is incorporated herein by reference. E-M Service does not include Internet access or other interLATA services.

30. Renewal. You can manage your E-M Service account by logging into your E-M Service control panel at fairpointwebservices.com. Using your control panel, you can sign up for web hosting and email services, add and remove email accounts, and manage your E-M Service renewals and cancellations.

31. Billing. Fair Point will invoice you on a monthly basis, based on the average number of mailboxes in service for the previous calendar month based on the daily number of mailboxes in service (excluding E-mail accounts provided to you at no charge). 32. Email Security. The Email Security provisions in Section 11(c) apply to the E-M Service. By using the E-M Service (or any FairPoint-provided email service), you agree that email delivery and receipt is not guaranteed and to FairPoint's use of such Internet and email security measures FairPoint in its sole discretion deem appropriate.

The following additional terms apply to Personal Web Space and FairPoint Backup.

33. Personal Web Space and FairPoint Backup ("Web Space") may be made available to you as an optional feature of the Service. You are solely responsible for all Content you store on or retrieve from or attempt to store on or retrieve from Web Space. Notwithstanding any other provisions of this Agreement, in the event of a breach by you of this Agreement or the terms and conditions applicable to Web Space, FairPoint reserves the right immediately to terminate your Web Space without notice. You agree that if your Service is terminated for any reason, FairPoint has the right to immediately delete all data, files, and other content or information stored on your Web Space without further notice to you. It is your responsibility to remove or copy any content in your Web Space prior to termination or cancellation; otherwise, it may be lost. FairPoint will also delete archived data. Web Space software license(s) are good for the life of your Web Space subscription, as long as you continue to subscribe to the Service. If for any reason your Service account is cancelled, your Web Space software license(s) will also automatically terminate. You understand that FairPoint does not provide telephone technical support for Web Space.

ATTACHMENT A

ACCEPTABLE USE POLICY FAIRPOINT INTERNET

Residential Consumer and Small Business

Internet Service Acceptable Use Policy

INTRODUCTION

This Acceptable Use Policy ("AUP") is intended to help enhance the use of the Internet by preventing unacceptable use. It is not a "terms of service" or a billing guideline. Please refer to your Terms of Service for terms and conditions applicable to your Internet Service. PLEASE READ THIS POLICY CAREFULLY BEFORE ACCESSING THE SERVICE. BY ACCESSING THE SERVICE, YOU AGREE TO BE BOUND BY THIS POLICY. IF YOU DO NOT WISH TO BE BOUND BY THIS AUP, YOU MAY NOT ACCESS OR USE THE SERVICE.

This FairPoint Internet AUP applies to Residential Consumer and Small Business customer use of Internet Service ("Services") provided by FairPoint Internet ("Service Provider"). Your use of the Services indicates your acceptance of and agreement to abide by this Acceptable Use Policy. It is designed to help protect the Service, Service Provider customers and the Internet community from irresponsible or illegal activities. Service Provider may modify this AUP from time to time. In the event of any inconsistency between Service Provider Acceptable Use Policy and the terms of any service agreement, this Acceptable Use Policy shall govern and control.

GENERAL POLICY Service Provider reserves the right in its sole discretion to deny or restrict your use of the Services, or immediately to suspend or terminate your Services, if the use of your Services by you or anyone using it, in our sole discretion violates your Terms of Service or other Service Provider policies, is objectionable or unlawful, interferes with the functioning or use of the internet or Service Provider network by Service Provider or other users or violates the terms of this AUP.

ILLEGAL AND PROHIBITED USE

This section is used to address actions, content and or practices that are prohibited by law and by rules set forth by the Service Provider. Please review the sections below before using Service Provider's services or networks. The restrictions are not negotiable. Not all services provided by Service Provider are listed or mentioned but are bound by this document. Users found to engage in activities that Service Provider determines, in its sole discretion, are in violation of this AUP will have their accounts terminated. Violators may also be subject to any appropriate legal action and/or consequences. Service Provider reserves the right to cooperate with legal authorities and/or injured third parties in the investigation of any suspected illegal activity or civil wrong. Activities or use of Services considered by Service Provider to be a violation of this AUP are as follows, but are not limited to:

- to post or transmit information or communications that, whether explicitly stated, implied, or suggested through use of symbols, are obscene, indecent, pornographic, sadistic, cruel, or racist in content, or of a sexually explicit or graphic nature; or which espouses, promotes or incites bigotry, hatred, terrorism or racism; or which might be legally actionable for any reason;
- to post, transmit, download or view any material whatsoever pornographic in nature involving actual images of children or minors or digitally or otherwise artificially created or manipulated images of children or minors, or any material whatsoever that may be deemed obscene under applicable law;
- to access or attempt to access the accounts of others, to spoof or attempt to spoof the URL or DNS or IP addresses of Service Provider or any other entity, or to attempt to penetrate or penetrate security measures of Service Provider or other entities' systems ("hacking") whether or not the intrusion results in corruption or loss of data;
- to introduce viruses, worms, harmful code and/or Trojan horses on the Internet;
- to violate Service Provider or any third party's copyright, trademark, proprietary or other intellectual property rights, including trade secret rights;
- to use any name or mark of Service Provider, its parent, affiliates or subsidiaries, as a hypertext link to any Web site or in any advertising publicity or other commercial manner;
- to use the Service or the Internet in a manner intended to threaten, harass, intimidate or terrorize;
- to make false or unverified complaints against any Service Provider subscriber, or otherwise abusing any of Service Provider complaint response procedures
- Indirect or attempted violations of this AUP.
- Reselling of service provided by Service Provider.
- Services used to transmit, retransmit, distribute, post, or store any material that in the judgment of Service Provider is threatening, libelous, defamatory, or otherwise objectionable including but not limited to child pornography and advocating unlawful activity against any

persons, animals, governments or businesses. Harassment of users, employees, or of others will not be tolerated.

- Actions and/or services prohibited by federal, state and local law.
- Distribution, posting, copying or dissemination of copyrighted material including but not limited to movies and/or music.
- Inhibiting any other person's use of the service provided by Service Provider is prohibited.
- Participation in illegal gambling, lottery or other similar activities.
- Transmission of scams such as "Make Money Fast" schemes.
- Making fraudulent offers.
- The attempt to access the accounts of other or other computers and/or networks to penetrate security measures, whether or not the intrusion results in damage.

Service Provider reserves the right to limit, restrict and/or prohibit services it provides to customers, as Service Provider determines necessary. The restrictions mentioned apply to all users unless specifically documented.

EMAIL

Service Provider reserves the right to limit the file size of individual email mailboxes at its sole discretion. Individual email mailboxes found over the limit will be subject to deletion without notice. Deleted email will not be restored or saved.

Service Provider reserves the right to limit the maximum transfer limit of any one message in its sole discretion.

Service Provider reserves the right to reject or filter email based on source address and content. Examples are, but are not limited to, virus filtering and blocking open relay mail servers.

Service Provider will not make back-ups of a customer's email.

The services may not be used to transmit, retransmit, or distribute by e-mail or any other method any material that violates any condition of this AUP in the sole judgment of ISP. Activities considered by Service Provider to be a violation of this AUP are as follows, but are not limited to:

- Any unsolicited e-mail, whether commercial or otherwise, including, but not limited to, bulk mailing of commercial advertising, informational announcements, and political tracts.
- Solicited e-mail that contains material that otherwise violates this AUP or any e-mail that falsifies the address or other information; harassing e-mail, whether through language, frequency, or size of messages.
- Any e-mail "chain letters" or other "pyramid schemes."
- E-mail relayed without the express permission of that site, service, system or network.
- E-mailing the same or similar messages to one or more newsgroups (also known as "cross-posting" or "multiple posting").
- E-mail containing false or misleading statements, claims, or representations.
- Forging header information including, but not limited to, any attempt to circumvent the approval process for posting to a moderated newsgroup.

SPAM

Service Provider has a "zero tolerance" policy for SPAM. Any User of Service Provider services found to be actively distributing or engaged in the mass distribution of unsolicited emails without consent of the intended receiver may have their account(s) terminated and all future access to Service Provider's services and network revoked.

You may not use the Service or any Equipment or Software provided by Service Provider:

(a) to send e-mail of a personal, bulk or commercial nature, including, without limitation, bulk mailings of commercial advertising, informational announcements, charity requests, political or religious messages, and petitions for signatures, except to those who have requested such e-mails via a confirmed opt-in subscription process maintained by You;

(b) to send e-mail or other messages to someone who has indicated that he or she does not want to receive messages from You;

(c) to collect or receive responses from unsolicited e-mail messages (even if such e-mail was sent from accounts on other Internet service providers or e-mail services) that violate the Agreement or this Acceptable Use Policy or the terms of use under the other Internet service provider or e-mail

service from which it was sent;

(d) to conduct "mail bombings" (e.g., to send more than ten copies of the same or substantially similar message, or to send very large messages or files, with the intent of disrupting a server or account);

(e) to send or forward make-money-fast schemes or chain/pyramid letters (whether or not the recipient requests it);

(f) to harvest e-mail addresses or personal information of other Service Provider subscribers or the subscribers of any other network; or

(g) to use another Internet site's mail server to relay mail without the express permission of the owner of that Internet site.

(h) to use e-mail or the internet in violation of federal law or the rules of the Federal Communications Commission.

DIAL-UP SERVICE

Service Provider restrictions to Dial-up service are:

An account session will disconnect upon an idle timeout in excess of 10 minutes. An account session may be determined to be idle if there appears to be no interactive, human generated data received from the remote user's computer system within a prescribed amount of time. Use of "keep alive" to keep the connection active are prohibited. Maximum session time of 24 consecutive hours will be imposed on the connection. After 24 hours the session will be disconnected. The connection can be reestablished. Multiple logons are restricted. Users are only allowed to logon once with the same account. Accounts establishing concurrent connections will be disconnected. Abuses of this service may be subject to account termination.

DSL

Service Provider restrictions to DSL services are:

Multiple logons are restricted. Users are only allowed to logon once with the same account. Accounts establishing concurrent connections will be disconnected. Abuses of this service may be subject to account termination. Modifications of the DSL modem in ways other than advised by the manufacturer are restricted.

SERVING

Serving of any kind is NOT allowed without express written consent from Service Provider. Consent should be given in a separate service contract and should be producible by the customer upon request from Service Provider.

Serving constitutes:

- Email servers

- Web

- HTTP servers

- FTP servers

- IRC servers

- Other Listening IP services

UNAUTHORIZED SHARING

You agree not to allow others to use any of the services provided including, but not limited to, sharing your account user name and password, dial-up access, or broadband access via any type of networking device (router, gateway, wireless access point, etc.). You may at your own risk and responsibility permit other members of your household to access the services and utilize some networking devices approved by the provider for use within your household only. You as the account holder shall ensure that other such users are aware of and comply with these terms of use, and you agree to be held responsible for any activity or use of the services on that account, whether or not authorized by you.

COMMERCIAL USE

Re-selling Service Provider's services or offering use of Service Provider's services for adding value to a commercial entity without Service Provider's authorization is prohibited. Service Provider's services are designed for the account holder's use of the Internet and may not be used for commercial purposes without the Service Provider's explicit consent. You also agree not to use Service Provider's services for operation as an

Internet Service Provider (ISP), or for any other business enterprise including, without limitation, IP address translation or similar facilities intended to provide access, operating or allowing others to operate servers of any type, or any other device, equipment and/or software providing server-like functionality in connection with Service Provider's services, unless expressly authorized.

OTHER

Other services not specifically listed in this AUP but that are provided by Service Provider are bound by this AUP.

COMPLIANCE WITH THE AUP OF UPSTREAM PROVIDERS

The AUP of Service Provider's upstream providers also bind Service Provider users. An "upstream provider" is any company that provides Service Provider bandwidth and/or other services.

SYSTEM & NETWORK SECURITY

Violations of system or network security are prohibited and may result in criminal and civil liability. Service Provider will investigate incidents involving such violations and may involve and will cooperate with law enforcement if a criminal violation is suspected. Examples of system or network security violations include, without limitation, the following:

- port scanning, probes, data capture, denial of service, access of restricted systems.
- attempted access of systems not previously given access to.
- anything deemed "hacking" or "cracking" to the systems, network or users.
- unauthorized access to or use of data, including any attempt to circumvent user authentication or security of any host, network, or account (hacking, cracking, port scans, or flood pings).
- unauthorized monitoring of data or traffic.
- interfering with service to any user, host, system or network.
- conducting denial of service attacks.
- any attempt to disrupt service including, but not limited to, distributing or introducing viruses, worms, or other harmful software.
- creating an active full time connection on a FairPoint-provided dial-up account for Internet
- access by using artificial means, involving software, programming, or any other method.

COPYRIGHT INFRINGEMENT/REPEAT INFRINGER POLICY

Service Provider respects the intellectual property rights of third parties, including those granted under the US copyright laws, and the interests of its subscribers and content providers on the Internet. You may not store material of any type or in any format on, or disseminate such material over, Service Provider ' systems or servers in any manner that constitutes an infringement of third party intellectual property rights, including rights granted under the US copyright laws. In accordance with the Digital Millennium Copyright Act (DMCA) and other applicable law, it is the policy of Service Provider to terminate, in appropriate circumstances, the Service provided to any subscriber or account holder who is deemed to infringe third party intellectual property rights, including repeat infringers. Appropriate circumstances may exist where:

(i) a Subscriber or account holder has been found by a court of competent jurisdiction to have infringed the copyrights of a third party on two or more occasions, i.e., a repeat infringer,

(ii) where a valid, effective and uncontested notice has been provided to Service Provider alleging facts which are a violation by the Subscriber or account holder of Service Provider Copyright Policy prohibiting infringing activity involving Service Provider systems or servers, or

(iii) in other cases of repeated flagrant abuse of access to the Internet (e.g., willful commercial piracy or malicious attempts to destroy the value of copyrighted works). In addition, Service Provider expressly reserves the right to terminate or suspend the Service of any Subscriber or account holder if Service Provider, in its sole judgment, believes that circumstances relating to the infringement of third party intellectual property rights warrant such action. These policies are in addition to and do not affect or modify any other rights Service Provider may have under law or contract.

You shall comply with all applicable local, state, national and international laws and regulations, including those related to data privacy, international communications, and exportation or technical or personal data. You represent that you are not a specifically designated individual or entity under

any US embargo or otherwise the subject, either directly or indirectly (by affiliation, or any other connection with another party) to any order issued by any agency of the US Government limiting, barring, revoking or denying, in whole or in part your US export privileges. You agree to notify Service Provider if you become subject to any such order.

You shall not delete any proprietary designations, legal notices or other identifiers belonging to third parties from any information obtained or sent using the Service and shall not impersonate any person or use a false name while using the Service. You agree to obtain all required permissions if you use the Service to receive, upload, download, display, distribute, or execute Software or perform other works protected by intellectual property laws including copyright, trademark, trade secret and patent laws. You agree to cooperate with Service Provider and provide requested information in connection with all security and use matters. You agree to notify Service Provider promptly if you suspect unauthorized use of the Service or of your UserID. Service Provider reserves the right to cooperate with legal authorities and/or injured third parties in the investigation of any suspected crime or civil wrong. Such cooperation may include, but not be limited to, provision of account or user information or email as well as monitoring of the Service Provider network.

USER RESPONSIBILITY

Users need to be aware that they do not operate in a vacuum. Safe practices need to be taken by the users to protect themselves and others. Users are responsible for account passwords and should keep them safe.

Do NOT share account information.

Do NOT leave username and passwords in the open. If a user feels that the account was compromised, the username and or password should be changed at once. Do NOT "save" user names or passwords. Each should be entered at each login.

Users are responsible for protecting their own equipment. Anti-virus software and personal firewalls are not required but strongly encouraged. Users are responsible for any misuse of Service Provider services that occurs through user's account.

Users are responsible for protecting their accounts and must take steps to insure that others do not gain unauthorized access to user's account or misuse Service Provider's services.

ADMINISTRATIVE DISCRETION

Service Provider administrators, staff, and executives have sole and final discretion over all aspects of service, the network, and this AUP.

Service Provider reserves the right to terminate any account or service without cause or prior notice.

VIOLATIONS AND MONITORING

Service Provider does not intend to actively monitor the content of web sites, e-mail, news groups, or material created or accessible over its services. Service Provider reserves the right to monitor such services or any services on or within our network. Reporting Violations and complaints:

- Violations, attempted violations, and/or concerns should be addressed to abuse@fairpoint.com via Email. --When reporting anything to Service Provider please include:

- The internet protocol address used to commit the alleged violation.

- The date, time and time zone of such violation.

- Evidence of the violation, including, if applicable, full headers from emails, firewall logs, traffic dumps (example, the *.enc files generated by Network Ice's Black Ice program or "hex" dump from any other firewall or IDS system) or information pertaining to the events in question. Do not send excerpted parts of a message; sending the entire message with full headers helps prevent misunderstandings based on incomplete information or information taken out of context.

Service Provider has sole judgment and discretion on how we enforce this AUP. Guidelines as to punishment and legal action will be within the Service Provider's legal department and administrative department discretion.

REVISIONS

Changes to this AUP are considered effective immediately and it is the end user's responsibility to stay current. Service Provider can make changes to the AUP at any time without notice. Changes to this document will be available on Service Provider's web page.

Service Provider may, but is not required to, monitor your compliance, or the compliance of other subscribers, with this Acceptable Use Policy.

ATTACHMENT B

ADDITIONAL SERVICES TERMS

If you subscribe to any of the following additional services, the terms and conditions below apply to your use of the service(s) in addition to the terms of the Agreement.

1. PERSONAL WEB SPACE ("PWS") AND FAIRPOINT ONLINE BACKUP & STORAGE ("STORAGE SERVICES").

1.1. If PWS and/or Storage Services are made available as a feature of the Service, you agree that you are solely responsible for all content you store on or retrieve from such services. Additional terms and conditions applicable to Storage Services are posted on the Website and are incorporated herein by reference. You understand that we do not provide telephone technical support for PWS or Storage Services. Storage Services may be accessed from any suitable Internet connection.

1.2. If you breach this Agreement or the Storage Services terms and conditions, we reserve the right immediately to suspend or terminate your Service and/or Storage Services with or without notice. In such case, you agree that we may immediately delete all data, files, and other content stored on your Storage Services, including archived data, without further notice to you. It is your responsibility to remove or copy any content stored on the Storage Services prior to closure of your account; otherwise, it may be lost.

1.3 FairPoint reserves the right to access your PWS or Storage Service account at any time with or without prior notice to you and to disable access to or remove content which in our sole discretion is or reasonably could be deemed unlawful.

1.4 Use Requirements for Free Storage Services Accounts ("Free Account"). If you sign up for a Free Account, you must actively use the Free Account. To "actively use" your account means to upload, download, backup or restore content to your Free Account. In the event you do not use your Free Account for a period of six (6) months or more, then FairPoint reserves the right to cancel your account. We will provide notice of cancellation by email to your primary myFairPoint.net email address. If you use your Free Account within ten (10) calendar days of the date of such cancellation notice, then your account will not be cancelled. It is your responsibility to remove or copy any content in your Free Account prior to cancellation or termination; otherwise, it will be lost. FairPoint will also delete archived data.

1.5 FairPoint Backup & Sharing is provided by DigiData Corporation, which is a third party beneficiary of this Agreement capable of enforcing its terms independently from FairPoint.

2. EMAIL AND EMAIL MESSAGING SERVICE.

2.1 Email Service. Use of FairPoint email service is subject to FairPoint's email and anti-spam policies, which include important information about limitations on use of the email service such as the storage capacity and deletion of stored messages. More information is available on the Website and these email policies are incorporated herein by reference.

2.2 Email Security. FairPoint reserves the right in our sole discretion to provide the level of security we deem appropriate to safeguard our network and customers, and other Internet users, against Internet threats or abuses, including viruses, spam and phishing threats. These security measures may include, but are not limited to, the use of firewalls and blocklists to block potentially harmful or abusive emails or attachments, anti-spam filters, anti-virus and anti-spyware software, and blocking selected ports. Such activities may result in the blocking, filtering or non-delivery of legitimate and non-legitimate email sent to or from your email account. By using any FairPoint-provided email service, you agree that delivery and receipt of email is not guaranteed and to FairPoint's use of such Internet and email security measures we in our sole discretion deem appropriate.

2.3 Email Aliases. FairPoint will issue email aliases (alternate email addresses) based upon availability. You will surrender your alias by changing it or if your account is terminated for any reason and we will not forward emails addressed to that alias. If your Service is reinstated we cannot guarantee your alias will still be available to you.

3. FAIRPOINT SECURITY SUITE ("FSS"). 3.1 FSS is manufactured by Radialpoint Inc. located at 2050 Rue de Bleury, Suite 300 Montreal, Quebec, H3A 2J5. Radialpoint™ is a trademark of Radialpoint Inc. The personal jurisdiction and venue provisions in Section 15.4 shall not apply to any causes of action by or against Radialpoint Inc. under or in relation to this Agreement. Radialpoint Inc. is a third party beneficiary of this Agreement capable of enforcing its terms independently from FairPoint.

3.2 You acknowledge and consent that Radialpoint Inc.: (i) may provide non-personally identifiable usage data collected in anonymous and aggregate form ("FSS Data") to its subcontractors in North America, for analysis of the performance of FSS, including the redundancy, reliability, and disaster recovery components of the services; and (ii) may use such FSS Data (1) to improve activation flow; and/or (2) as part of trends or reports published by Radialpoint Inc.

4. FAIRPOINT GAMES ON DEMAND. FairPoint Games on Demand are manufactured by Exent Technologies, Inc., which is a third party beneficiary of this Agreement capable of enforcing its terms independently from FairPoint.

5 FAIRPOINT PREMIUM TECHNICAL SUPPORT SERVICE ("PTS").

5.1 Description of Service and Scope of Support. PTS addresses issues outside the scope of FairPoint's standard technical support. PTS will include: (a) configuration troubleshooting; (b) evaluating and attempting to correct software, operating systems and networking issues; (c) virus/spyware support; and (d) software and peripherals support for network, video and sound cards, memory, hard drives, CD/DVD reader/writers, printers, scanners and home networking equipment. All PTS services are offered in English only.

5.2 Limitations of PTS.

5.2.1 PTS will not support all software, hardware or Internet-related products, applications or features and we reserve the right to defer support issues to your equipment or software vendor. PTS does not including training on hardware or software use.

5.2.2 PTS is not intended to replace the more advanced technical support that may be available from hardware or software manufacturers

5.2.3 PTS is for incident-specific troubleshooting and problem resolution, and excludes: i) computer programming; ii) software development; iii) warranty repairs or product replacement; iv) support for Macintosh® and Windows® 95 and earlier versions of Windows; v) problems or issues arising out of any impermissible or unauthorized use or modification of a product or vi) upgrades of firmware, software, operating systems, or applications. Use of PTS does not constitute a license to use the software, applications or equipment being supported, or an upgrade thereto. You are responsible for obtaining any necessary licenses to use your software and applications.

5.2.4 In some cases, we may not be able to diagnose or resolve a problem because of complications with your computer or its configuration. PTS is offered as a "best efforts" service and without warranty except as specifically set forth in this Agreement. We reserve the right to refuse to troubleshoot software not on our list of supported products.

5.2.5 You understand and agree that technical problems may be the result of software or hardware errors not yet resolved by the product manufacturer, and that we may not have the ability to obtain the information necessary to resolve a specific technical problem.

5.3 Your Responsibilities.

5.3.1 In order for us to deliver PTS, you must first confirm that you have: a) full access (including any required licenses) to the hardware and/or software that is the basis of the problem; and (b) completed a back-up of any data, software, information or other files stored on your computer disks and/or drives that may be impacted. FairPoint is not responsible for the loss, corruption or alteration of data, software or files that may result from performance of PTS by our technicians. You also acknowledge and agree that you are the owner or authorized user of any hardware or software about which you are contacting us. PTS is only available to you and those residing at your location; PTS is not transferable.

5.3.2 You agree to cooperate with and follow instructions provided by FairPoint and acknowledge that such cooperation by you is essential to our delivery of PTS to you.

5.3.3 You hereby grant FairPoint permission to view, access and modify your computer, computer (including registry) settings and any related software or peripheral equipment, including all data, hardware and software components, in order to perform PTS.

5.3.4 You are responsible for any and all restoration and reconstruction of lost or altered files, data, or programs, and for ensuring that any information or data disclosed to FairPoint is not confidential or proprietary to you or any third party.

5.4 Support Procedures.

5.4.1 Purchase Terms. PTS can be purchased either: (a) for an unlimited number of Incidents for a term beginning on the date you order PTS and continuing for the duration of the plan you selected ("Term Plan"); or (b) on a per-Incident basis (the "Per-Incident Service Plan"). For the Per-Incident Service Plan, FairPoint will address a single Incident (as defined in Section 6.4.2 below) which shall include follow-up calls, as reasonable and necessary, regarding the Incident. Once an Incident is resolved (as set forth in Section 6.4.3, below), you may call back and obtain assistance on the same Incident for up to seventy-two (72) hours at no additional charge, after which the Incident will be considered closed. Once an Incident has been closed by FairPoint, any further calls or requests for assistance will be considered a new Incident and additional fees will apply if you subscribe to our Per-Incident Service Plan. IF YOU PURCHASE PTS UNDER A TERM PLAN AND YOUR SERVICE IS TERMINATED BY YOU (OR BY US IF YOU BREACH THIS AGREEMENT) BEFORE COMPLETING YOUR TERM, THEN, UPON TERMINATION OF YOUR SERVICE, YOU AGREE TO PAY FAIRPOINT AN EARLY TERMINATION FEE IN THE AMOUNT SET FORTH IN THE PLAN YOU HAVE CHOSEN.

5.4.2 "Incident" means a specific, discrete problem for which FairPoint will attempt to isolate its origin to a single cause. FairPoint, in its sole discretion, will determine what constitutes an Incident.

5.4.3 An Incident will be considered resolved when you receive one of the following: (a) information or advice that resolves the Incident; (b) information on how to obtain a software solution that will resolve the Incident; (c) notice that the Incident is caused by a known, unresolved issue or an incompatibility issue; (d) information that the Incident can be resolved by upgrading to a newer release of a product; (e) notice that the Incident has been identified as a hardware equipment issue; or if (f) you cannot, or elect not to, pursue the course of action we recommend.

5.4.4 Our advice to you may include steps that you will need to take before the Incident can be resolved, such as buying cables or cords, acquiring software, etc. and we will keep your service request open for future reference when you are ready to resume the process.

5.5 Third Party Warranties. Third-party equipment, software and peripheral products are covered by the warranties provided by the original

manufacturer or the seller of the product. Third party warranties may vary from product to product. It is your responsibility to consult the applicable product documentation for specific warranty information. In addition, you acknowledge that certain third party equipment or software warranties may limit or void the remedies that they offer if unauthorized persons perform support service on the equipment or software. It is your responsibility to ensure that any impact that FairPoint's delivery of PTS might have on third party warranties is acceptable to you.

5.6 Customer Specific Service. PTS is only available to you and to persons you authorize. In either case, the terms of this Agreement will apply to the PTS services we perform.

5.7 LIMITATION OF LIABILITY. FAIRPOINT'S TOTAL LIABILITY ARISING OUT OF THE PTS SERVICE, OR FROM FAIRPOINT'S NEGLIGENCE OR OTHER ACTS OR OMISSIONS, IF ANY, SHALL BE LIMITED, AT FAIRPOINT'S SOLE DISCRETION AND OPTION, (A) TO REPERFORMING THE PTS SERVICE, OR (B) AS SET FORTH IN SECTION 12 OF THE AGREEMENT; EXCEPT THAT, IN THE CASE OF PER-INCIDENT SERVICE PLANS, YOUR REMEDIES WILL BE LIMITED TO A REFUND OF THE CHARGES AND FEES PAID FOR THE PTS SERVICE GIVING RISE TO THE CLAIM, IF ANY. THE REMEDIES FOR A FAILURE OR BREACH OF SUCH LIMITED WARRANTY ARE EXCLUSIVE.

ATTACHMENT C

RESTRICTIONS ON USE AND END USER LICENSE AGREEMENT

APPLICABLE TO FAIRPOINT SECURITY SUITE ("FSS") SERVICES PROVIDED BY RADIALPOINT

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End User License Agreement

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8. EXCLUSIVE REMEDY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, LICENSEE'S SOLE REMEDY IN RELATION TO OR UNDER THIS AGREEMENT SHALL BE FOR LICENSEE TO TERMINATE THE AGREEMENT.

9. EXCLUSION OF LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, LICENSOR AND ITS AFFILIATES, AND FAIRPOINT AND ITS AFFILIATES HAVE NO LIABILITY WHATSOEVER TOWARDS LICENSEE, ITS AFFILIATES OR ANY OTHER PERSON OR ENTITY IN RELATION TO OR ARISING UNDER THIS AGREEMENT, RADIALPOINT PROPERTY, THE SOFTWARE OR THE END USER SERVICES (INCLUDING WITHOUT LIMITATION, FOR BREACH OF CONTRACT, STRICT LIABILITY, CONTRACTUAL OR EXTRA-CONTRACTUAL LIABILITY, TORT, INCLUDING NEGLIGENCE OR ANY OTHER LEGAL OR EQUITABLE THEORY), AND WHETHER IN RESPECT OF DIRECT, GENERAL, INCIDENTAL, AGGRAVATED, PUNITIVE, TREBLE, EXEMPLARY, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES, OR FOR LOST BUSINESS REVENUE, LOST PROFITS, LOST GOODWILL, FAILURE TO REALIZE EXPECTED SAVINGS, LOSS OF DATA, BUSINESS INTERRUPTION OR LOSS OF BUSINESS INFORMATION, LOSS OF BUSINESS OPPORTUNITY, EVEN IF LICENSOR OR FAIRPOINT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

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Language.

It is the express wish of the Parties hereto that this Agreement be drafted in English. Les parties ont expressément demandé que ce contrat soit rédigé en anglais.

Third-Party Beneficiary.

Notwithstanding anything herein to the contrary, FairPoint shall be a third-party beneficiary of this Agreement.