

Killduff Telephone Company

ACCEPTABLE USE POLICY FOR HIGH SPEED INTERNET SERVICE

This Acceptable Use Policy (“**AUP**”) governs high speed Internet service provided to you by **Killduff Telephone Company** (together with any subsidiaries or affiliates providing your service, hereafter “**Killduff Telephone Company**,” “**we**” “**us**” or “**Company**”) and includes the following terms and provisions as the same may be amended or modified from time to time as provided herein. The terms and provisions of this AUP are without limitation of any rights to suspend or terminate service that Company otherwise possesses under your Agreement or applicable law.

1. **Applicability.** This AUP applies to you as a customer and to any other person, authorized or abusive, using your service (each such person, a “**User**”). For purposes of this AUP, your use includes, and you are responsible for, the use of all Users who access service through your account. It is your responsibility to take precautions to limit access to service to approved Users.

2. **Compliance Required.** Pursuant to your Agreement, all customers have agreed to and must comply with this AUP. Company reserves the right to terminate or suspend service immediately or to otherwise disconnect, remove, block, filter or restrict your use of service if Company determines, in its sole discretion, that such use is illegal or violates this AUP. Company will cooperate with legal authorities and/or third parties in the investigation of any suspected or alleged crime or civil wrong. If Company believes that you have used service for an unlawful or abusive purpose, Company may forward the relevant communication and other information, including your identity, to the appropriate authorities for investigation and prosecution. You hereby consent to Company’s forwarding of any such communications and information to these authorities. In addition, Company may provide information in response to law enforcement requests, lawful government requests, subpoenas, court orders, to protect its rights and property and in the case where failure to disclose the information may lead to imminent harm to you or others. Company also reserves the right to take action on abuse which is not specifically named in this AUP at the sole discretion of Company. Use of the Company’s systems and network constitutes understanding and agreement of this policy.

3. **Prohibited Uses and Activities.** This AUP identifies certain uses and activities that Company considers to be unlawful or abusive and therefore strictly prohibited. The examples listed herein are non-exclusive and are provided solely for guidance to customers. Company, at its sole discretion, reserves the right to discontinue service for any unlawful use. In the event of uncertainty as to whether any contemplated use or activity is permitted, please contact a customer service representative for assistance. In addition to any other illegal or abusive uses or activities, the following constitute violations of this AUP:

a. Unlawful Use: Using service in any manner that violates local, state or federal law, including without limitation using service to transmit any material (by e-mail or otherwise) whose transmission is unlawful under any local, state or federal law applicable to such transmission.

b. Copyright or Trademark Infringement: Using service to transmit any material (by e-mail, bit torrent software, direct download, FTP sites or otherwise) that infringes any copyright, trademark, patent, trade secret, or other proprietary rights of Company or any third party, including, but not limited to, the unauthorized copying of copyrighted material, the digitization and distribution of photographs from magazines, books, or other copyrighted sources, the digitization and distribution of copyrighted video or music, and the unauthorized transmittal of copyrighted software.

c. Violation of the Digital Millennium Copyright Act (DMCA): Using service to circumvent any technological measures used by copyright owners to protect their works or using service to produce or disseminate technology primarily designed or produced to circumvent DMCA protections, that have only limited commercially significant purpose or use other than to circumvent; or that are marketed for use in circumventing DMCA protections.

d. Harm to Minors: Using service to harm, or attempt to harm, minors in any way; including but not limited to activities involving child pornography or the sexual exploitation of children.

e. Threats: Using service to transmit any material (by e-mail or otherwise) that illegally threatens or encourages bodily harm or destruction of property.

f. Harassment and Cyberbullying: Using service to transmit any material (by e-mail or otherwise) that unlawfully harasses another.

g. Fraudulent Activity: Using service to make fraudulent offers to sell or buy products, items or services, or to advance any type of financial scam such as “pyramid schemes,” “Ponzi schemes”, unregistered sales of securities, securities fraud and “chain letters.”

h. Forgery or Impersonation: Adding, removing or modifying identifying network, message or article header information in an effort to deceive or mislead is prohibited while using service. Attempting to impersonate any person by using forged headers or other identifying information is prohibited.

i. Unsolicited Commercial E-mail/Unsolicited Bulk E-mail: Using service to transmit any unsolicited commercial e-mail or unsolicited bulk e-mail. Activities that have the effect of facilitating unsolicited commercial e-mail or unsolicited bulk e-mail, whether or not that e-mail is commercial in nature, are prohibited. Using deliberately misleading headers in e-mails sent to multiple parties is prohibited.

j. Intentional Network Disruptions and Abusive Activity: Using service for any activity that adversely affects the ability of other people or systems to use service or third party Internet-based resources. This specifically but without limitation includes excessive consumption of network or system resources whether intentional or unintentional. This also includes “denial of service” (DoS) attacks against another network host or individual user. Interference with or disruption of other network users, network services or network equipment is prohibited. The transmission of viruses, malware, or engaging in “mail bombing,” “chat flooding,” cybersquatting, and similar unlawful behavior is also prohibited. Attempting to circumvent user authentication or security of any host, network, or account on Company’s systems or the Internet at large (“cracking”). This includes scanning or probing ports without the consent of the owner of the machine being scanned.

k. Unauthorized Access: Using service to access, or to attempt to access without authority, the accounts of others, or to penetrate, or attempt to penetrate, security measures of Company’s or a third party’s computer software or hardware, electronic communications system, or telecommunications system, whether or not the intrusion results in disruption of service or the corruption or loss of data.

l. Collection of Personal Data: Using service to collect, or attempt to collect, personal information about third parties without their knowledge or consent in violation of applicable state or federal law.

4. Network Management Practices. Service is available for individual customer use only and not for resale. Reselling service without Company's written authorization will be considered a violation of your Agreement and will result in termination of service. Pricing is based on contemplated usage not exceeding commercially reasonable limitations. Unlimited plans and features offered as part of any service may **ONLY** be used for normal residential or business use. During certain peak usage times, Company may limit data transfer speeds in a non-discriminatory fashion, which may slow the rate of streaming video or download speeds. Company will not unreasonably discriminate in the transmission of lawful network traffic, and will provide a reasonable description of network performance characteristics on our website. Company will not block access to lawful content or websites, applications, services, or non-harmful devices. Company will keep accurate records of your service location(s), quantities, and usage under your Agreement. Company reserves the right to immediately disconnect or modify your service if Company determines, in its sole and absolute discretion, that your use of service is, or at any time was, inconsistent with normal residential or business usage patterns or is otherwise in violation of this AUP. In the event your usage exceeds applicable usage limitations and as an alternative to disconnection of service, Company may offer you a revised Agreement including higher rates for usage of service that is deemed to be inconsistent with normal residential or business use. Company reserves the right to protect its network from harm, which may impact legitimate data flows. Company reserves the right to limit throughput or amount of data transferred, and to deny or discontinue service, without notice, to anyone it believes is using an unlimited data plan or feature in any manner prohibited herein or whose usage adversely impacts Company's network or service levels. You can access Killduff Telephone Company's website at: www.killdufftel.com. Current specific management practices and service descriptions of Killduff Telephone Company's Network Service can be found at: [{Network Management}](#). Disclosure of our service pricing can be found at <http://killdufftel.com/high-speed-dsl-internet-services/>. netINS, Inc.'s management practices and service descriptions of can be found at: [http://netins.net/acceptable use policy](http://netins.net/acceptable_use_policy). net INS, Inc. also offers a speed test site to any user or customer. It can be accessed at: <http://netins.net/speed.htm>.

5. Content. You will be liable for any and all liability that may arise out of the content transmitted by you. You shall assure that your use of service and content comply at all times with all applicable laws, regulations and written and electronic instructions for use. Company reserves the right to disconnect or suspend your service and remove your content from service if Company determines, in its sole and absolute discretion, that such use or content does not conform with any applicable law, the requirements set forth in this AUP or interferes with Company's ability to provide service to you or others. Company's action or inaction under this Section will not constitute any review, waiver or approval of your usage or content.

6. Service Monitoring. Company is under no obligation to monitor a customer's usage, bandwidth, transmissions and/or content of service. However, Company may monitor the usage, bandwidth, transmissions and content of service periodically to (i) comply with any necessary laws, regulations or other governmental requests or (ii) operate service properly or to protect itself, its network and its customers and subscribers. Company reserves the right to modify, reject or eliminate any information residing on or transmitted to its server that it, in its sole discretion, believes is unacceptable or in violation of this AUP or any other terms and provisions applicable to service.

7. Domain Name Service. Keeping registry information updated and accurate is the responsibility of the domain holder and not {COMPANY} or netINS, Inc. Acceptable use of the domain name service does NOT include falsifying or omitting valid domain contact information, including the administrative, technical, zone, and billing contacts. Such usage will result in termination of service.

8. Remote PC Support. netINS, Inc. offers a Remote Support Service for our customers whereby customers may request on-line assistance in resolving problems with their personal computers. In order to provide this service, netINS, Inc. must be able to log into the customer's personal computer to

diagnose the problem, perform such actions as netINS, Inc. believes are necessary to correct the problem, and/or recommend corrective actions to be performed by the customer or by third parties. By requesting Remote PC Support Services from netINS, Inc. customer agrees to the following:

a. netINS, Inc. shall be authorized to log in to the customer's personal computer in order to perform such actions as it deems necessary to diagnose the cause and extent of the problem; perform such actions as it believes are necessary to correct the problem; and/or recommend corrective actions to be performed by the customer or by third parties.

b. Only qualified netINS, Inc. employees will be assigned to perform Remote PC Support Services for customers.

c. Remote PC Support Services may only be provided with the customer's explicit permission and the remote session will be terminated permanently once the support issue is resolved to the customer's satisfaction.

d. Company shall not be liable to customers or third parties for any loss, costs, or damage to customer's personal computer or the contents thereof caused by or resulting from netINS's performance of Remote PC Support Services for customer, and customer shall indemnify and hold netINS, Inc. harmless therefore.

9. **Web/FTP Sites.** Acceptable use of Company's web/FTP space does NOT include: Distribution of illegal pornographic or otherwise indecent or offending materials, distribution of restricted software or materials in violation of copyrights or distribution licenses, or any other illegal activity prohibited under Paragraph 3, above.

10. **Theft of Service.** You must notify Company immediately if you become aware at any time that your service is being stolen, fraudulently used or otherwise being used in an unauthorized manner. When you provide such notification, you must provide your account number and a detailed description of the circumstances of the theft, fraudulent or abusive use of service. Failure to do so in a timely manner may result in the disconnection of your service, additional charges to you, and civil or criminal liability. Until such time as Company receives notice of the theft, fraudulent use or abusive use, you will be liable for all stolen, fraudulent or abusive use of service. Company reserves all of its rights at law and equity to proceed against anyone who uses service illegally or improperly.

11. **Indemnification.** By activating or using service, you agree to use service only for authorized, lawful purposes in accordance with this AUP and your Agreement. In addition to being subject to other remedies, liabilities and obligations under law or applicable agreements, you shall defend, indemnify, and hold Company harmless from any claims, damages, losses, or expenses (including without limitation attorneys' fees and legal costs) incurred in connection with all claims, suits, judgments and causes of action for damages arising from the breach by you or your Users of any provision of this AUP. Company shall not be liable to customers or third parties for any loss, costs, or damage to customer's personal computer or the contents thereof caused by or resulting from Company's performance of Remote PC Support Services for customer, and customer shall indemnify and hold Company harmless therefore.

12. **Termination of Service.** Company has the right to terminate access to or use of this service as provided in this AUP and your Agreement. Access to and use of service is subject to strict compliance with law and applicable agreements.

- 13. Modifications.** Company may modify the terms and conditions of this AUP in a commercially reasonable manner from time to time and shall provide you notice of such changes by publication on our website, bill message or other commercially reasonable notice. Your use of service following such notice constitutes your agreement to the modified terms and conditions.
- 14. Survival.** The provisions of this AUP that by their sense and context are intended to survive the discontinuance or disconnection of your use of service shall survive such discontinuance or disconnection.
- 15. Governing Law.** This AUP and the relationship between you and Company shall be governed by and construed in accordance with the substantive laws of the State of Iowa, without regard to the principles of conflict of law.
- 16. No Waiver of Rights.** Company's failure to exercise or enforce any right under or provision of this AUP shall not constitute a waiver of such right or provision.
- 17. Severability.** If any part or provision of this AUP is legally declared invalid or unenforceable, that part or provision will be construed consistent with applicable law as nearly as possible, and the remaining parts and provisions will remain in full force and effect. Such invalidity or non-enforceability will not invalidate or render unenforceable any other part or provision of this AUP.
- 18. Applicability to Attached Sites.** Sites directly attached to Company backbone are expected to adhere to Company acceptable use policies. The individual who signed the contract is responsible for educating site users on acceptable use policies. Violations of the AUP by directly attached sites will be referred to the account owner for resolution. The account owner will be held responsible for any violations of the AUP.
- 19. Important Customer Information.** In addition to the terms and conditions set forth in this AUP, service is subject to your Agreement, which you should read carefully before activating or using service. For additional terms and conditions of service, refer to your Agreement, or speak with a customer service representative.

IMPORTANT: BY SIGNING THE SERVICE AGREEMENT AND/OR ACTIVATING OR USING SERVICE, YOU AGREE TO COMPLY WITH ALL OF THE APPLICABLE TERMS, CONDITIONS AND PROVISIONS CONTAINED IN THE SERVICE APPLICATION, SERVICE AGREEMENT AND ANY APPLICABLE SERVICE TARIFFS, THIS ACCEPTABLE USE POLICY, THE TERMS AND CONDITIONS OF SERVICE, AND YOUR SELECTED SERVICE PLAN OR SERVICE PACKAGE. IF YOU DO NOT ACCEPT THESE TERMS AND CONDITIONS OF SERVICE, PLEASE NOTIFY US PRIOR TO INSTALLATION AND WE WILL CANCEL YOUR SERVICE.