

NMSurf
High Speed Internet Access Service
Acceptable Use Policy & Copyright Notice

Important Note: NMSurf, may revise this Acceptable Use Policy from time to time without notice by editing the information on this page. Accordingly, users of the NMSurf residential services should consult this page regularly to ensure that their activities conform to the most recent version. In the event of a conflict between any subscriber agreement and this policy, the terms of this policy will govern. Questions regarding this policy can be directed to info@nmsurf.com. Complaints of violations of this policy by NMSurf users can be directed to info@nmsurf.com. Visit <http://www.nmsurf.com/pdf/networkmanagementpolicy.pdf> to review NMSurf's Network Management Disclosure Statement.

INTRODUCTION

NMSurf, provides a variety of Internet services to residences and businesses (the "Services"). NMSurf residential service allows subscribers to connect to the Internet through a high-speed Internet access connection. The Services use resources that are shared with many other customers and each user benefits by being able to share these resources. However, as with any resource, the benefits provided must be balanced with duties and responsibilities so that all users can rely on them for a productive experience. Use of the Services therefore is subject to the rules and guidelines set forth below. Each customer of NMSurf is responsible for ensuring that the use of all Services provided to such customer complies with this Acceptable Use Policy (the "Policy"). ANY USER WHO DOES NOT AGREE TO BE BOUND BY THESE TERMS SHOULD IMMEDIATELY STOP USE OF THE SERVICES AND NOTIFY THE NMSURF CUSTOMER SERVICE DEPARTMENT SO THAT THE USER'S ACCOUNT MAY BE CLOSED.

I. PROHIBITED USES AND ACTIVITIES

You may use your account for communications, research, public relations, education, and entertainment. This statement describes certain uses which are consistent with the purposes of the Internet. It is not intended to exhaustively list all such possible uses or abuses. We expect our subscribers to respect the culture and civility of communications and discourse on or through the Internet. We expect our subscribers to maintain respect for privacy, legal issues, and courtesy to other Internet users and network resources.

In general, the Policy prohibits uses and activities involving the Service that are illegal, infringe the rights of others, interfere with or diminish the use and enjoyment of the Service by others, or impede NMSurf from providing the Service or operating its business. These prohibited uses and activities include, but are not limited to, using the Services, customer-provided equipment, or NMSurf provided equipment, either individually or in combination with one another, to:

Conduct and information restrictions

undertake or accomplish any unlawful purpose;

post, store, send, transmit, or disseminate any information or material which is harassing, threatening, or intimidating;

upload, post, publish, transmit, reproduce, or in any other way infringe copyrights of third parties
transmit unsolicited bulk or commercial messages commonly known as "spam;"

collect responses from unsolicited bulk messages;

send very large numbers of copies of the same or substantially similar messages, empty messages, or messages which contain no substantive content, or send very large messages or files that disrupts a server, account, newsgroup, or chat service;

collect very large numbers of e-mail addresses, screen names, or other identifiers of others (without their prior consent), a practice sometimes known as spidering or harvesting, or participate in the use of software (including "spyware") designed to facilitate this activity;

falsify, alter, or remove message headers with an intent to deceive;

falsify references to NMSurf or its network, by name or other identifier, in messages;

impersonate any person or entity, engage in sender address falsification, forge anyone else's digital or manual signature, or perform any other similar fraudulent activity (for example, "phishing");

violate the rules, regulations, or policies applicable to any network, server, computer database, or Web site that you access;

Technical restrictions

access any other person's computer or computer system, network, software, or data without his or her knowledge and consent; breach the security of another user or system; or attempt to circumvent the user authentication or security of any host, network, or account. This includes, but is not limited to, accessing data not intended for you, logging into or making use of a server or account you are not expressly authorized to access, or probing the security of other hosts, networks, or accounts without express permission to do so;

use or distribute tools or devices designed or used for compromising security, such as password guessing programs, decoders, password gatherers, unauthorized keystroke loggers, analyzers, cracking tools, packet sniffers, encryption circumvention devices, or Trojan Horse programs. Unauthorized port scanning is strictly prohibited;

distribute programs that make unauthorized changes to software (cracks);

use or run dedicated, stand-alone equipment or servers from the Premises that provide network content or any other services to anyone outside of your Premises local area network ("Premises LAN"), also commonly referred to as public services or servers. Examples of prohibited equipment and servers include, but are not limited to, e-mail, Web hosting, file sharing, and proxy services and servers;

use or run programs from the Premises that provide network content or any other services to anyone outside of your Premises LAN, except for personal and non-commercial residential use;

service, alter, modify, or tamper with Plant Telephone Company Inc. Equipment or Service or permit any other person to do the same who is not authorized by Plant Telephone Company Inc.;

Network and Usage Restrictions

restrict, inhibit, or otherwise interfere with the ability of any other person, regardless of intent, purpose or knowledge, to use or enjoy the Service, including, without limitation, posting or transmitting any information or software which contains a worm, virus, or other harmful feature, or generating levels of traffic sufficient to impede others' ability to use, send, or retrieve information;

restrict, inhibit, interfere with, or otherwise disrupt or cause a performance degradation, regardless of intent, purpose or knowledge, to the Service or any NMSurf (or NMSurf supplier) host, server, backbone network, node or service, or otherwise cause a performance degradation to any NMSurf (or NMSurf supplier) facilities used to deliver the Service;

resell the Service or otherwise make available to anyone outside the Premises the ability to use the Service (for example, through Wi-Fi or other methods of networking), in whole or in part, directly or indirectly. The Service is for personal and non-commercial residential use only and you agree not to use the Service for operation as an Internet service provider or for any business enterprise or purpose (whether or not for profit);

connect NMSurf Equipment to any computer outside of your Premises;

interfere with computer networking or telecommunications service to any user, host or network, including, without limitation, denial of service attacks, flooding of a network, overloading a service, improper seizing and abusing operator privileges, and attempts to "crash" a host;

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

engage in Excessive Use, as defined below.

We define excessive use as any transfer of data, voice, video, etc... to be over 1.25 Terabyte in one month for all plans up-to 25Mbps, 1.5 Terabyte in one month for all 50Mbps plans, and 2.0 Terabyte in one month for all 100Mbps plans. If you have been sent at least two notifications that you have excessive use, we will start billing you \$10 for every 50GB of excessive use not to exceed \$100. Prior to billing you, and when you are at or above the excessive use limits, we will turn down your speeds to 1Mbps until you acknowledge to us that you agree to the excessive use charges.

II. CUSTOMER CONDUCT AND FEATURES OF THE SERVICE

What are your obligations under this Policy?

You are responsible for any misuse of the Services that you have contracted for, even if the inappropriate activity was committed by a friend, family member, guest, employee or customer with access to your account. Therefore, you should take steps to ensure that others do not gain unauthorized access to the Services and ensure that users you have authorized do not engage in any unauthorized activities listed in but not limited to the “Prohibited Uses and Activities” identified above.

You are solely responsible for the security of any device you choose to connect to the Services, including any data stored on that device. In particular, NMSurf recommends against enabling file or printer sharing of any sort. NMSurf recommends that any files or services you do choose to make available for remote access be protected with a strong password, personal firewall or as otherwise appropriate.

How Does NMSurf address inappropriate content and transmissions?

There may be content on the Internet or otherwise available through the Services which may be offensive to some individuals, or which may not be in compliance with all federal, state and local laws, regulations and other rules. For example, it is possible to obtain access to content which is pornographic or offensive, particularly to children. NMSurf does not assume any responsibility for the content contained on the Internet or otherwise available through the Services. You must assume the risk of accessing content through the Service and NMSurf shall not have any liability for any claims, losses, actions, damages, suits or proceedings arising out of or otherwise relating to access to such content. Parents may want to use a program capable of restricting access to sexually explicit material on the Internet. Content questions or complaints should be addressed to the content provider. You are solely responsible for any information which you publish on the web or other Internet services. You must ensure that the recipient of the content is appropriate. For example, you must take appropriate precautions to prevent minors from receiving inappropriate content. NMSurf reserves the right to refuse to post or to remove any information or materials, in whole or in part, that it, in its sole discretion, deems to be offensive, indecent, or otherwise inappropriate regardless of whether such material or its dissemination is unlawful. NMSurf does not have any obligation to monitor transmissions made on the Services. However, Plant Telephone Company Inc. does have the right to monitor such transmissions from time to time and to disclose the same in accordance with your subscriber agreement. By using the Services to reproduce, publish, display, transmit and distribute content, a user is warranting that the content complies with this Policy and authorizing NMSurf to reproduce, publish, display, transmit and distribute such content as necessary for NMSurf to deliver the content in a timely manner.

What requirements apply to Electronic Mail?

The Services may not be used to or distribute e-mail or other forms of communications in violation of the "Prohibited Uses and Activities" described above. This includes, but is not limited to, bulk mailing of commercial advertising, informational announcements, charity requests, petitions for signatures and political or religious messages. Such messages may only be sent to those who have explicitly requested them. The Services may not be used to send

messages to any individual who has indicated that he/she does not wish to receive messages from you. The Services may not be used to collect responses from unsolicited email sent from accounts on other Internet hosts or email services which violates this Policy or the acceptable use policy of any other Internet service provider. Moreover, unsolicited email may not direct the recipient to any web site or other resource which uses the Services. You may not create a username or email address that, in the sole judgment of NMSurf is pornographic, patently offensive or misleading. You may not reference the NMSurf network (e.g., by including "Organization: NMSurf " in the header or by listing an IP address that belongs to the NMSurf. (network) in any unsolicited email even if that email is not sent through the NMSurf network. In the event that NMSurf believes in its sole discretion that any subscriber name, account name, or e-mail address (collectively, an "identifier") on the Service may be used for, or is being used for, any misleading, fraudulent, or other improper or illegal purpose, NMSurf (i) reserves the right to block access to and prevent the use of any of these identifiers, and (ii) may at any time require any customer to change his or her identifier. NMSurf may at any time reserve any identifiers on the Service for NMSurf's own purposes NMSurf is not responsible for the forwarding of email sent to any account which has been suspended or terminated. Such email will be returned to sender, ignored, deleted, or stored temporarily at NMSurf's sole discretion. NMSurf is not responsible for deleting or forwarding any e-mail sent to the wrong e-mail address by you or by someone else trying to send e-mail to you. In addition, NMSurf may suspend or delete a NMSurf email address after three (3) months of inactivity or other evidence of non-use.

What requirements apply to instant, video, and audio messages?

Each user is responsible for the contents of his or her instant, video, and audio messages and the consequences of any of these messages. NMSurf assumes no responsibility for the timeliness, mis-delivery or deletion of, or any failure to store, these messages. In the event that a Service account is terminated for any reason, all instant, video, and audio messages associated with that account (and any secondary accounts) will be permanently deleted as well.

III. NETWORK MANAGEMENT AND LIMITATIONS ON BANDWIDTH CONSUMPTION AND DATA STORAGE

Please see our [ISP Transparency Statement here](#) which includes an updated Network Management Policy.

IV. VIOLATION OF THIS ACCEPTABLE USE POLICY

What happens if you violate this policy?

NMSurf reserves the right to suspend without notice or terminate the Service and your Subscriber Agreement if you violate the terms of this Policy or the Subscriber Agreement.

How does NMSurf enforce this Policy?

NMSurf does not routinely monitor the activity of accounts for violation of this Policy. However, in our efforts to comply with applicable law and promote good citizenship within the

Internet community, we will respond appropriately if we become aware of inappropriate use of our Services. If we receive notice under the Digital Millennium Copyright Act, 17 U.S.C. sec. 512, that you have allegedly infringed the intellectual property rights of a third party, we retain the right to take down or disable access to the allegedly infringing material. In complying with applicable law in this area, it is our policy, in appropriate circumstances, to terminate the accounts of subscribers who repeatedly infringe the intellectual property rights of third parties. We also will take such other action as appropriate under the circumstances to preserve our rights. Although NMSurf has no obligation to monitor the Services and/or the network, NMSurf reserves the right to monitor bandwidth, usage, and content from time to time to operate the Services; to identify violations of this Policy; and/or to protect the network and NMSurf users. NMSurf prefers to advise customers of inappropriate behavior and any necessary corrective action. However, if the Services are used in a way which NMSurf, in its sole but reasonable discretion, believes violate this Policy, NMSurf may take any responsive actions it deems appropriate. Such actions include, but are not limited to, temporary or permanent removal of content, cancellation of newsgroup posts, filtering of Internet transmissions, and the immediate suspension or termination of all or any portion of the Services. NMSurf will not have any liability for any such responsive actions. The above described actions are not NMSurf exclusive remedies and NMSurf may take any other legal or technical action it deems appropriate. NMSurf reserves the right to investigate suspected violations of this Policy, including the gathering of information from the user or users involved and the complaining party, if any, and examination of material on NMSurf servers and network. During an investigation, NMSurf may suspend the account or accounts involved and/or remove material which potentially violates this Policy. You hereby authorize NMSurf to cooperate with (i) law enforcement authorities in the investigation of suspected criminal violations, and (ii) and system administrators at other Internet service providers or other network or computing facilities in order to enforce this Policy. Such cooperation may include NMSurf providing the username, IP address, or other identifying information about a subscriber. Upon termination of an account, NMSurf is authorized to delete any user ID, files, programs, data and email messages associated with such account. The failure of NMSurf to enforce this Policy, for whatever reason, shall not be construed as a waiver of any right to do so at any time. You agree that, if any portion of this Policy is held invalid or unenforceable, that portion will be construed consistent with applicable law as nearly as possible, and the remaining portions will remain in full force and effect. This Policy shall be exclusively governed by, and construed in accordance with, the laws of the State of New Mexico.

V. MISCELLANEOUS PROVISIONS

Modems

NMSurf provides the wireless router at an additional charge to the customer. Customers are not required to use the company provided router and may attach any other router to our network. DSL and Cable modem routers are not compatible with NMSurf network.

Communication

NMSurf may choose to communicate with you regarding these policies using a variety of methods including but not limited to email to your NMSurf email address, Facebook, or messages on your monthly bill.

Limitations of Liability

NMSurf will make reasonable efforts to provide customer with uninterrupted and error-free service. Nonetheless, there are numerous factors that could affect the Service. Temporary interruptions of the Service may occur as normal events in the provision of the Service. NMSurf reserves the right to interrupt the Service usually between the hours of 12:01 AM to 6:00 AM (MST or Local) for maintenance purposes. Also understand that NMSurf has no control over the networks, facilities or services of third parties and that delays and disruptions involving them are completely beyond NMSurf control. As to NMSurf's own equipment and software, failure may occur without warning due to causes ranging from our own errors to malicious attack. If you have requirements that substantially exceed the average consumer's bandwidth use or if continuous Internet access is the basis of your livelihood, you should purchase an alternate, backup connection. While NMSurf employs virus and spam checking software, the speed of new virus and spam creation is such that NMSurf does not represent or warrant that traffic on its network will be virus or spam free. In light of that, your use of the Service is at your own risk and the Service is provided without warranty or guarantee of any kind either expressed or implied, including warranties of merchantability and fitness for a particular purpose. Without limiting the foregoing, NMSurf will not be liable for any interruptions in service or failure to perform or partial performance that results in corrupted transmissions and will not be responsible for consequential damages of any sort. In any event, NMSurf's liability to you for all potential claims will not exceed the total amount of service fees paid during the preceding three months. As to consumer customers, some states do not allow the exclusion or limitation of implied warranties, so the above exclusions or limitations may not apply to you. Nothing in this Agreement gives you any interest, title or license in the user ID, electronic mail address or IP address that is used in conjunction with the Service.

VI. COPYRIGHT INFRINGEMENT

NMSurf is committed to complying with U.S. copyright and related laws, and requires all customers and users of the Service to comply with these laws. Accordingly, you may not store any material or content on, or disseminate any material or content over, the Service (or any part of the Service) in any manner that constitutes an infringement of third party intellectual property rights, including rights granted by U.S. copyright law. Owners of copyrighted works who believe that their rights under U.S. copyright law have been infringed may take advantage of certain provisions of the Digital Millennium Copyright Act of 1998 (the "DMCA") to report alleged infringements. It is NMSurf's policy in accordance with the DMCA and other applicable laws to reserve the right to terminate the Service provided to any customer or user who is either found to infringe third party copyright or other intellectual property rights, including repeat infringers, or who Plant believes in its sole discretion is infringing these rights. Plant may terminate the Service at any time with or without notice for any affected customer or user. Copyright owners may report alleged infringements of their works that are stored on the Service or the Personal

Web Features by sending NMSurf 's authorized agent a notification of claimed infringement that satisfies the requirements of the DMCA. Upon NMSurf 's receipt of a satisfactory notice of claimed infringement for these works, NMSurf will respond expeditiously to either directly or indirectly (i) remove the allegedly infringing work(s) stored on the Service or the Personal Web Features or (ii) disable access to the work(s). NMSurf will also notify the affected customer or user of the Service of the removal or disabling of access to the work(s). If the affected customer or user believes in good faith that the allegedly infringing works have been removed or blocked by mistake or misidentification, then that person may send a counter notification to NMSurf. Upon NMSurf 's receipt of a counter notification that satisfies the requirements of DMCA, NMSurf will provide a copy of the counter notification to the person who sent the original notification of claimed infringement and will follow the DMCA's procedures with respect to a received counter notification. In all events, you expressly agree that NMSurf will not be a party to any disputes or lawsuits regarding alleged copyright infringement.

VII. DESIGNATION OF AGENT TO RECEIVE NOTIFICATION OF CLAIMED INFRINGEMENT

Full Legal Name of Service Provider:
NMSurf, Inc.

Alternative Name(s) of Service Provider:
NMSurf

Address of Service Provider:

P. O. Box 23120
Santa Fe, NM 87508-3120

Agent Designated to Receive Notification of Claimed Infringement:

Albert Catanach

Full Address of Designated Agent to which Notification Should be Sent:

1308 Apache Ave.
Santa Fe, NM 87508

Telephone Number of Designated Agent:
505-986-1669

E-Mail Address of Designated Agent:
info@nmsurf.com

Printed Name and Title:
Albert Catanach, President & CEO