

# **Terms of Service – Gorham Communications, Inc. Internet Service**

**THESE TERMS AND CONDITIONS CONTAIN IMPORTANT INFORMATION REGARDING YOUR USE OF GORHAM COMMUNICATIONS, INC. (GCI) INTERNET HIGH-SPEED INTERNET SERVICE AND YOUR RELATIONSHIP WITH GCI.**

## **PLEASE READ THEM CAREFULLY**

This Agreement is entered into between the Customer ("You", "Your", "Customer") and GCI (hereinafter referred to as "GCI"). This Agreement includes the Service Quotations ("Quotation") provided to you, GCI's Acceptable Use Policy ("AUP") as set forth at [www.gorhamtel.com](http://www.gorhamtel.com), your Service Plan as well as our Privacy Policies (collectively, "Agreement"). Your acceptance of the Terms of Service indicates your agreement to comply with GCI's Terms of Service, the specific terms of your Service plan (including the plan's duration and applicable early termination fee, if any) 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 any software GCI provides beyond thirty (30) days following delivery.

## **1. TERM AND ACCEPTANCE OF AGREEMENT; AGREEMENT TERMS GENERALLY INCLUDED.**

The term of this Agreement will be month-to-month or for such other term as offered by GCI and selected by the customer. The Term begins when you accept this Agreement and ends when either you or GCI terminates this Agreement as permitted herein.

Your acceptance of this Agreement occurs upon the earlier of: (a) your acceptance of this Agreement electronically during an online order, registration or when installing the Software or the Equipment; (b) your use of the Service; or (c) your retention of the Software or Equipment GCI provided beyond thirty (30) days. If you change Service plans, your term and monthly rate may change (depending on the plan you select), but all other provisions of this Agreement will remain in effect unless otherwise noted.

This Agreement consists of the terms below, plus (a) the specific terms of your Service plan (including the plan's pricing, duration and applicable early termination fees ("ETF")); (b) our Acceptable Use Policy (Attachment A); and (c) other policies referred to in this Agreement (including our Privacy Policy), all of which are incorporated herein by reference. This Agreement and any other current and/or future related policies are or will be posted online at [www.gorhamtel.com](http://www.gorhamtel.com).

## **2. DEFINITIONS AND CHANGES TO SERVICE.**

2.1 "Content" means content provided by GCI or its third-party licensors or suppliers and accessible on the Service, including without limitation images, photographs, animations, video, audio, music, and text in any format.

2.2 "Equipment" means the modem, router and/or other equipment provided by GCI for use with the Service.

2.3 "High-Speed Internet" ("HSI") means GCI's Internet service.

2.4 "Service" means all GCI High-Speed Internet Services and related transport services provided to you by GCI; (b) the Internet services provided by GCI which include Software, Equipment, Content, additional services (if any), technical support, email, domain name server (DNS) and related services; and (c) other products and services provided by GCI under the pricing plan applicable to your Service. The Service does not include voice telephony services.

## **3. REVISIONS TO THIS AGREEMENT.**

From time to time GCI will revise this Agreement and the policies relating to the Service. You will be provided notice of such revisions by: a) posting revisions to the GCI website; and/or b) sending an

email to your primary email address on file, and/or 3) any other such means as determined by GCI. By entering into this Agreement, you agree to visit [www.gorhamtel.com](http://www.gorhamtel.com) periodically to review any such revisions. Increases to the monthly price of the Service (excluding other charges as detailed in Sections 7.1 shall be effective thirty (30) days after notice is provided; revisions to any other terms and conditions shall be effective on the date noted in the posting and/or email. By continuing to use the Service after revisions are effective, you accept and agree to abide by all revisions made.

#### **4. AUTHORIZED USER, ACCOUNT USE, AND RESPONSIBILITIES.**

4.1 You acknowledge that you are eighteen (18) years of age or older and that you have the legal authority to enter into this Agreement. You agree promptly to notify GCI whenever your personal or billing information changes.

4.2 You are responsible for all use of your Service and account, whether by you or someone using your account with or without your permission, including all secondary or sub-accounts associated with your primary account, and to pay for all activity associated with your account. You agree to comply with all applicable laws, regulations and rules regarding your use of the Service and to only use the Service within the United States (unless otherwise permitted by this Agreement).

4.3 Restrictions on Use. If you subscribe to High-Speed Internet Service, you may connect multiple computers/devices within a single home to your modem and/or router to access the Service, but only through a single GCI-issued IP address. You also may not exceed the bandwidth usage limitations that we may establish from time to time for the Service, or use the Service to host any type of server. Violation of this section may result in bandwidth restrictions on your Service or suspension or termination of your Service.

#### **5. PRIVACY POLICY; LEGAL COMPLIANCE.**

Personal information you provide to GCI is governed by GCI's Privacy Policy, which is posted on the Website and is subject to change from time to time. GCI reserves the right to provide account and user information, including email, to third parties as required or permitted by law (such as in response to a subpoena or court order), and to cooperate with law enforcement authorities in the investigation of any criminal or civil matter. Such cooperation may include, but is not limited to, monitoring of the network consistent with applicable law.

#### **6. AVAILABILITY OF AND CHANGES TO SERVICE.**

6.1 Service and Bandwidth Availability and Speed. The Service you select may not be available in all areas or at the rates, speeds, or bandwidth generally marketed. We will provision HSI service using the maximum bandwidth rate available to your location based on our standard qualification procedures, unless you have selected a level of service with a lower maximum rate. Bandwidth is provided on a per-line (not a per-device) basis. The bandwidth available to each device connected to the network will vary depending upon the number, type and configuration of devices using the Service and the type of use (e.g., streaming media), among other factors. The speed of the Service will vary based on network or Internet congestion, your computer configuration, the condition of your telephone line and the wiring inside your location, among other factors. GCI and GCI's suppliers reserve the right, at any time, with or without prior notice to you, to restrict or suspend the Service to perform maintenance activities and to maintain session control.

6.2 Changes to your local voice telephony service. If you change your local telephone GCI or discontinue your local telephone service, GCI may in its sole discretion either terminate your Service or continue to provide High-Speed Internet Service without local GCI voice service at the then-current rates, terms and conditions applicable to your new Service plan and you agree to pay any new or higher monthly fee that may apply to your new Service plan. If we elect to terminate your Service under this Section 6.2, then we reserve the right to charge any early termination fees and to apply the Equipment return terms under Section 8.

6.3 Changes to Service or Features. We reserve the right to change any of the features, Content or applications of the Service at any time with or without notice to you. This includes the portal services we may make available as part of the Service or for an additional charge.

## **7. PRICING, CHANGES TO SERVICE PLANS AND PAYMENT.**

7.1 Prices and Fees; Billing. You agree to pay the monthly fees applicable to your Service, and to pay: a) applicable taxes, b) surcharges, c) recovery fees, d) telephone charges, e) activation fees, f) installation fees, g) set-up fees, h) equipment charges, and i) other recurring and nonrecurring charges. The taxes, fees and other charges detailed in a)-d) above may vary on a monthly basis. Surcharges and recovery fees are not taxes and are not required by law, but are set by us and may change. You also agree to pay any additional charges or fees applied to your account, including interest and charges due to insufficient credit or insufficient funds. Non-recurring charges such as set up, activation and installation fees, and equipment charges, will be included in your first bill. Monthly Service recurring charges will be billed one month in advance; any usage charges will be billed in arrears. Based on your election and subject to our approval, GCI or its agent will bill you directly, or bill your charge card or local GCI telephone bill (where available). **IF YOU ELECT TO BE BILLED ON YOUR GCI PHONE BILL, BY USING THE SERVICES YOU AGREE TO HAVE ALL SERVICE CHARGES INCLUDED ON YOUR PHONE BILL.** Billing for High-Speed Internet Services will automatically begin on the date provisioning of your High-Speed Internet Service is complete ("Service Ready Date"). We may, at our election, waive any fees or charges. If you wish to cancel your Internet Service, you may do so by calling GCI at 785-637-5300.

7.2 Discontinuation of Service for Nonpayment. We may discontinue Service if you fail to make payment when due for either telephone or Internet Service charges, or if your payment method (i.e., personal check, credit or debit card) is refused for any reason.

7.3 Late Fees. If any portion of your bill is not paid by the due date, we may charge you a late fee on unpaid balances and may also terminate or suspend your Service. If your charges are billed by your GCI local carrier, the late fee will be equal to the late payment charge that the local exchange carrier applies. Otherwise, the late fee will be the lesser of 1.5 % per month, or the highest rate permitted by law. If we use a collection agency or legal action to recover monies due, you agree to reimburse us for all expenses we incur to recover such monies, including attorneys' fees.

7.4 Pricing Plans with Minimum Terms. You agree to maintain your Service for the term that applies to the plan you have selected (a "Term Plan"). Your Term Plan begins on the later of: (a) the date you change your existing High-Speed Internet Service plan to a Term Plan; or (b) your Service Ready Date. At the end of any Term Plan, you may be given the option to select a new Term Plan. If you do not select a new Term Plan, your Service will automatically convert to a month-to-month Service plan at a monthly fee that may be higher than your current rate. If you select a new Term Plan, the terms of that plan will apply.

## **8. TERMINATION OR SUSPENSION OF SERVICE.**

### **8.1 Termination of Service.**

8.1.1 High-Speed Internet Subscribers with Month-to-Month Accounts. If you are a month-to-month High-Speed Internet Service customer, either you or GCI may terminate this Agreement at any time by giving notice to the other as set forth in this Agreement. Termination will be effective upon your notice to GCI. Activation or set-up fees paid at the initiation of your Service, if any, are not refundable.

8.1.2 Termination and/or Suspension by GCI. GCI reserves the right to change, limit, terminate, modify or temporarily or permanently cease providing the Service or any part of it with or without prior notice if you violate the terms of this Agreement. If GCI terminates your Service under this Paragraph 8.1.2, you must immediately stop using the Service and you will be responsible for the applicable fees and/or Equipment charges set forth in paragraphs 7.2, 8.1.1 and 8.1.2. If your Service is reconnected, a reconnection fee may apply.

8.2 Deletion of Data upon Termination. **YOU AGREE THAT IF YOUR SERVICE IS TERMINATED FOR ANY REASON, WE HAVE THE RIGHT TO IMMEDIATELY DELETE ALL DATA, FILES AND**

GCI Internet Terms of Service  
OTHER INFORMATION (INCLUDING EMAILS, ADDRESS BOOK AND WEB STORAGE CONTENT)  
STORED IN OR FOR YOUR ACCOUNT WITHOUT FURTHER NOTICE TO YOU.

8.3 Return of Equipment upon Termination. If your Service is terminated for any reason prior to the end of the first year of service and you received Equipment at no charge from GCI, you must return the Equipment to GCI or you will be charged for the Equipment.

## **9. MANAGEMENT OF YOUR DATA AND COMPUTER.**

9.1 Your Responsibilities Regarding Management of Your Computer and Data. You are solely responsible for obtaining, maintaining and updating all equipment and software necessary to use the Service, and for management of your information, including but not limited to back-up and restoration of your data. YOU AGREE THAT GCI IS NOT RESPONSIBLE FOR THE LOSS OF YOUR DATA OR FOR THE BACK-UP OR RESTORATION OF YOUR DATA REGARDLESS OF WHETHER THIS DATA IS MAINTAINED ON OUR SERVERS OR YOUR DEVICE(S). YOU SHOULD ALWAYS BACK-UP ANY IMPORTANT INFORMATION SEPARATELY FROM DATA STORED ON GCI'S OR ANY THIRD PARTY'S SERVERS.

9.2 Content and Data Management by GCI: We reserve the right to: (a) use, copy, display, store, transmit and reformat data transmitted over our network and to distribute such content to multiple GCI servers for back-up and maintenance purposes; and (b) block or remove any unlawful content you store on or transmit to or from any GCI server. We do not guarantee the protection of your content or data located on our servers or transmitted across our network (or other networks) against loss, alteration or improper access.

9.3 Your Responsibilities Regarding Security. You agree that you are solely responsible for maintaining the security of your computer(s) and data, including without limitation, encryption of data and protection of your User ID, password and personal and other data. WE STRONGLY RECOMMEND THE USE (AND APPROPRIATE UPDATING) OF COMMERCIAL ANTI-VIRUS, ANTI-SPYWARE AND FIREWALL SOFTWARE.

9.4 Monitoring of Network Performance by GCI. We automatically measure and monitor network performance and the performance of your Internet connection and our network. We also will access and record information about your computer and Equipment's profile and settings and the installation of software we provide. You agree to permit us to access your computer and Equipment and to monitor, adjust and record such data, profiles and settings for the purpose of providing the Service. You also consent to our monitoring of your Internet connection and network performance, and to our accessing and adjusting your computer settings, as they relate to the Service, Software, or other services, which we may offer from time to time. We do not share information collected for the purpose of network or computer performance monitoring or for providing customized technical support outside of GCI or its authorized vendors, contractors and agents.

## **10. LIMITATIONS ON USE OF THE SERVICE.**

10.1 You acknowledge and agree that GCI (a) is not responsible for invalid destinations, transmission errors, or the corruption of your data; and (b) does not guarantee your ability to access all websites, servers or other facilities or that the Service is secure or will meet your needs.

10.2 You are not authorized to use any GCI name or mark as a hypertext link to any GCI web site or in any advertising, publicity or in any other commercial manner without the prior written consent of GCI.

10.3 You agree that GCI assumes no responsibility for the accuracy, integrity, quality completeness, usefulness or value of any Content, advice or opinions contained in any emails, message boards, chat rooms or community services, or in any other public services or social networks, and that GCI does not endorse any advice or opinion contained therein, whether or not GCI provides such service(s). GCI does not monitor or control such services, although we reserve the right to do so.

10.4 You represent that when you transmit, upload, post or submit any content, images or data using the

GCI Internet Terms of Service

Service you have the legal right to do so and that your use of such data or content does not violate the copyright or trademark laws or any other third-party rights.

10.5 Websites linked to or from the Service are not reviewed, controlled, or examined by GCI and you acknowledge and agree that we are not responsible for any losses you incur or claims you may have against the owner of third party websites. The inclusion of any linked websites or content from the Service, including websites or content advertised on the Service, does not imply endorsement of them by GCI.

## 11. WARRANTIES AND LIMITATION OF LIABILITY.

11.1 YOU ACKNOWLEDGE AND AGREE THAT THE SERVICE SUPPLIED HEREUNDER IS PROVIDED ON AN "AS IS" OR "AS AVAILABLE" BASIS, WITH ALL FAULTS. EXCEPT AS OTHERWISE SPECIFICALLY SET FORTH IN THIS AGREEMENT AND AS OTHERWISE SPECIFICALLY SET FORTH IN ANY MANUFACTURER WARRANTY FOR ANY EQUIPMENT PROVIDED BY GCI (BUT ONLY IF SUCH WARRANTY IS INCLUDED WITH SUCH EQUIPMENT), GCI (AND THEIR OFFICERS, EMPLOYEES, PARENT, SUBSIDIARIES, AND AFFILIATES) (COLLECTIVELY THE "GCI PARTIES"), THEIR THIRD PARTY LICENSORS, PROVIDERS AND SUPPLIERS, DISCLAIM ANY AND ALL WARRANTIES AND CONDITIONS FOR THE SERVICE, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, NON-INFRINGEMENT, NON-INTERFERENCE, TITLE, COMPATIBILITY OF COMPUTER SYSTEMS, COMPATIBILITY OF SOFTWARE PROGRAMS, INTEGRATION, AND THOSE ARISING FROM COURSE OF DEALING, COURSE OF TRADE, OR ARISING UNDER STATUTE. ALSO, THERE IS NO WARRANTY OF WORKMANLIKE EFFORT OR LACK OF NEGLIGENCE. NO ADVICE OR INFORMATION GIVEN BY GCI OR THEIR REPRESENTATIVES SHALL CREATE A WARRANTY WITH RESPECT TO ADVICE PROVIDED.

11.2 GCI DOES NOT WARRANT THAT THE SERVICE OR EQUIPMENT PROVIDED BY GCI WILL PERFORM AT A PARTICULAR SPEED, BANDWIDTH OR DATA THROUGHPUT RATE, OR WILL BE UNINTERRUPTED, ERROR-FREE, SECURE, OR FREE OF VIRUSES, WORMS, DISABLING CODE OR CONDITIONS, OR THE LIKE. GCI SHALL NOT BE LIABLE FOR LOSS OF YOUR DATA, OR IF CHANGES IN OPERATION, PROCEDURES, OR SERVICES REQUIRE MODIFICATION OR ALTERATION OF YOUR EQUIPMENT, RENDER THE SAME OBSOLETE OR OTHERWISE AFFECT ITS PERFORMANCE.

11.3 IN NO EVENT SHALL GCI OR GCI'S THIRD PARTY LICENSORS, PROVIDERS OR SUPPLIERS BE LIABLE FOR: (A) ANY DIRECT, INDIRECT, PUNITIVE, SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES, INCLUDING WITHOUT LIMITATION, LOST PROFITS OR LOSS OF REVENUE, LOSS OF PROGRAMS OR INFORMATION OR DAMAGE TO DATA ARISING OUT OF THE USE, PARTIAL USE OR INABILITY TO USE THE SERVICE, OR RELIANCE ON OR PERFORMANCE OF THE SERVICE, REGARDLESS OF THE TYPE OF CLAIM OR THE NATURE OF THE CAUSE OF ACTION, INCLUDING WITHOUT LIMITATION, THOSE ARISING UNDER CONTRACT, TORT, NEGLIGENCE OR STRICT LIABILITY, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH CLAIM OR DAMAGES, OR (B) ANY CLAIMS AGAINST YOU BY ANY OTHER PARTY.

11.4 THE LIABILITY OF GCI, OR (SUBJECT TO ANY DIFFERENT LIMITATIONS OF LIABILITY IN THIRD PARTY END USER LICENSE OR OTHER AGREEMENTS) THIRD PARTY LICENSORS, PROVIDERS OR SUPPLIERS, FOR ALL CATEGORIES OF DAMAGES SHALL NOT EXCEED A PRO RATA CREDIT FOR THE MONTHLY FEES (EXCLUDING ALL NONRECURRING CHARGES, REGULATORY FEES, SURCHARGES, FEES AND TAXES) YOU HAVE PAID TO FOR THE SERVICE DURING THE SIX (6) MONTH PERIOD PRIOR TO WHEN SUCH CLAIM AROSE, WHICH SHALL BE YOUR SOLE AND EXCLUSIVE REMEDY REGARDLESS OF THE TYPE OF CLAIM OR NATURE OF THE CAUSE OF ACTION. THE FOREGOING LIMITATIONS SHALL APPLY TO THE FULL EXTENT PERMITTED BY LAW, AND ARE NOT INTENDED TO ASSERT ANY LIMITATIONS OR DEFENSES WHICH ARE PROHIBITED BY LAW.

11.5 ALL LIMITATIONS AND DISCLAIMERS STATED IN THIS SECTION 11 ALSO APPLY TO GCI'S THIRD PARTY LICENSORS, PROVIDERS AND SUPPLIERS, AS THIRD-PARTY BENEFICIARIES

11.6 THE REMEDIES EXPRESSLY SET FORTH IN THIS AGREEMENT ARE YOUR SOLE AND EXCLUSIVE REMEDIES. YOU MAY HAVE ADDITIONAL RIGHTS UNDER CERTAIN LAWS (SUCH AS CONSUMER LAWS), WHICH DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, OR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY, OUR EXCLUSIONS OR LIMITATIONS MAY NOT APPLY TO YOU. FOR THE SERVICE DURING THE SIX (6) MONTH PERIOD PRIOR TO WHEN SUCH CLAIM AROSE, WHICH SHALL BE YOUR SOLE AND EXCLUSIVE REMEDY REGARDLESS OF THE TYPE OF CLAIM OR NATURE OF THE CAUSE

## **12. INDEMNIFICATION.**

You agree to defend, indemnify and hold harmless GCI from and against all liabilities, costs and expenses, including reasonable attorneys' and experts' fees, related to or arising from your use of the Service (or the use of your Service by anyone else), (a) in violation of applicable laws, regulations or this Agreement; (b) to access the Internet or to transmit or post any message, information, software, images or other materials via the Internet; (c) in any manner that harms any person or results in the personal injury or death of any person or in damage to or loss of any tangible or intangible (including data) property; or (d) claims for infringement of any intellectual property rights arising from or in connection with use of the Service.

## **13. NOTICES.**

13.1 Notices required under this Agreement by you must be provided to us at the address below. Notice by GCI to you (including notice of changes to this Agreement under Section 3) shall be deemed given when: (a) transmitted to your primary email address; or (b) mailed via the US mail or hand-delivered to your address on file with us; or (c) when posted to the GCI website.

GCI Customer Service  
100 Market Street  
PO Box 235  
Gorham, Kansas 67640

13.2 If you send us an email, you agree that the User ID and/or alias contained in the email is legally sufficient to verify you as the sender and the authenticity of the communication.

## **14. GENERAL PROVISIONS.**

14.1 All obligations of the parties under this Agreement, which, by their nature, would continue beyond the termination of this Agreement, including without limitation, those relating to Limitation of Liability and Indemnification, shall survive such termination.

14.2 GCI will not be liable for delays, damages or failures in performance due to causes beyond its reasonable control, including, but not limited to, acts of a governmental body, acts of God, acts of third parties, fires, floods, strikes, work slow-downs or other labor-related activity, or an inability to obtain necessary equipment or services.

14.3 You may not assign or otherwise transfer this Agreement, or your rights or obligations under it, in whole or in part, to any other person. Any attempt to do so shall be void. We may freely assign all or any part of this Agreement with or without notice and you agree to make all subsequent payments as directed.

14.4 This Agreement shall be interpreted, construed and enforced in accordance with the laws of the state of Kansas, without reference to its choice of law rules. Except as otherwise required by law 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.

14.5 GCI's failure at any time to insist upon strict compliance with any of the provisions of this Agreement shall not be construed to be a waiver of such terms in the future. If any provision of this Agreement is determined to be invalid, illegal or unenforceable, the remaining provisions of this Agreement shall remain

GCI Internet Terms of Service

in full force and effect and the unenforceable portion shall be construed as nearly as possible to reflect the original intentions of the parties.

14.6 This Agreement, including all Policies referred to herein and posted on the Website, constitutes the entire agreement between you, GCI with respect to the subject matter hereto and supersedes any and all prior or contemporaneous agreements whether written or oral. No changes by you to this Agreement shall be effective unless agreed to in a writing signed by an authorized person at GCI.

# ATTACHMENT A

Gorham Communications, Inc. Internet Service

## ACCEPTABLE USE POLICY AND INTERNET SERVICE DISCLOSURE STATEMENT

### 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 GCI Internet AUP applies to Residential Consumer and Business customer use of Internet Service ("Services") provided by GCI ("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 GCI. 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.

## GCI Internet Acceptable Use Policy

- 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.

## 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

GCI Internet Acceptable Use Policy  
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, 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 (GCI), 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 GCI 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.
- 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 's 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

GCI Internet Acceptable Use Policy  
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 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, delay, 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.

In accordance with Title 37 C.F.R §201.38 the following entity:

Gorham Communications, Inc.,  
100 Market St, Gorham,  
KS 67640  
785-637-5303  
[www.gorhamtel.com](http://www.gorhamtel.com)

Has been identified as the designated agent and is listed in the Copyright Office's online directory of designated agents. Gorham Communications, Inc., as the designated agent, will receive all notifications of claimed infringement.

## 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.

## GCI Internet Acceptable Use Policy

Users are responsible for protecting their accounts and must take steps to ensure 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 brought to GCI's attention.
- 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.

### NETWORK MANAGEMENT PRACTICES

GCI utilizes reasonable practices to ensure the security, integrity and performance of its Internet network. These practices include but are not limited to:

1. Congestion Management – GCI measures and monitors network performance in order to ensure a consistent and high-quality Internet access service is being provided to its customers. In the event GCI identifies congestion in any part of its network, GCI will take the steps necessary to resolve such an issue. These steps include, but are not necessarily limited to, identifying unreasonably high individual customer usage and temporarily limiting available bandwidth to those customers, identifying specific types of high usage traffic and limiting available bandwidth available to those specific types of activity, and other such practices as to ensure sufficient bandwidth is available to all of GCI's customers.
2. GCI now does not limit access or bandwidth to any specific Internet applications in relation to GCI's network. However, GCI reserves the right to reasonably manage its network and may, in the future, consider such a practice. The implementation of any such application-specific limitation policy will be clearly noted in an update to this Disclosure Statement.
3. GCI provides all equipment necessary for accessing its network. If a customer wishes to attach equipment directly to GCI's Internet network, the customer shall contact GCI prior to any such attachment.
4. GCI operates secure data networks protected by industry standard firewall and password

GCI Internet Acceptable Use Policy

protection systems. Our security and privacy policies are periodically reviewed and enhanced as necessary and only authorized individuals have access to the information provided by our customers. In addition, GCI may identify spam and prevent its delivery to customer email accounts, detect malicious Internet traffic and prevent the distribution of viruses or other harmful code or content and use other tools and techniques that GCI may be required to implement to meet its goal of delivering the best possible broadband Internet experience to all its customers.

5. Specialized Services – GCI provides video services using the same facilities used for providing broadband Internet access. GCI's video services do not impact the capacity of its broadband Internet access services, nor do these video services in any other way impact the provision of non-GCI Internet or Internet-based services.

This Disclosure statement applies only to the network owned by or otherwise under the control of GCI, and/or any affiliates. GCI is not making any disclosure of any network management practice that may be employed by other network or service providers who may be involved in the customer's broadband Internet access service.

Please contact Customer Service at 785-637-5300 if you have any questions or concerns about this Acceptable Use Policy.