

Acceptable Use Policy

ACCEPTABLE USE POLICY INTRODUCTION: The intent of the MCN Acceptable Use Policy (AUP) is to improve the use of MCN services by proactively preventing unacceptable use by MCN's customers. All of MCN's customers, customers of MCN's customers, or any downstream visitors of customers using MCN services must comply with this AUP. We reserve the right to remove anything that in our sole discretion violates this AUP, is illegal or may subject MCN to potential liability.

CONDUCT: You may not resell, re-provision or rent the Service, (either for a fee or without charge) or allow third parties to use the Service via wired, wireless or other means unless granted express permission to do so. Any prohibited or illegal activity that affects MCN its agents, equipment or customers is punishable to the full extent of the law, and MCN will hold the customer responsible for any damage caused by customer's actions, whether intentional or unintentional. Customers are strictly prohibited from using their account other than as outlined in this Acceptable Use Policy and will be prosecuted to the full extent of the law if they do so illegally. MCN makes no exceptions in enforcing this policy.

The law requires MCN to report any criminal activity that it becomes aware of to the appropriate authorities. It is the responsibility of the account owner to be familiar with current laws and regulations. Transmission or storage of material in violation of federal, state, or local regulations is prohibited. This includes, but is not limited to, material that is: copyrighted, judged to be threatening, compromises security or privacy, or is protected by trade secret. MCN reserves the right to remove or modify, at its discretion, any material in violation of these policies. You agree to comply with the rules and restrictions appropriate to other networks and services connected directly or indirectly to MCN services.

EMAIL: Email accounts are for personal or business correspondence only. MCN has zero tolerance for Unsolicited Broadcast Email and Unsolicited Commercial Email (UBE/UCE), commonly known as "spam", whether originating from customers, from customers' customers, or from customers that provide services which are used to support spam. Advertising, transmitting, or otherwise making available any software, program, product, or service that is designed to violate this AUP or the AUP of any other Internet Service Provider, which includes, but is not limited to, the facilitation of the means to send spam, is prohibited. Sending unsolicited email to one or more addresses regardless of how the addresses were obtained may be considered spamming and is grounds for account termination and may be in violation of California state and Federal law. To knowingly use an MCN address or any address of a domain hosted by MCN as a return address for replies to spam is similarly prohibited. You agree to not send e-mail to anyone after they have asked you to stop sending them email ("harassment").

MCN may at its discretion employ filtering techniques to block inbound email from known sources of spam and email abuse, and may also filter incoming email for known viruses.

Reporting of spam activity and possible repercussions:

MCN or third party vendors we use for spam and virus control may block traffic to and from any IP address involved in sending spam until MCN or its third party vendors are convinced that the problem is resolved and preventative measures have been implemented to prevent the violation

from recurring. Any blocking of such IP addresses shall prevent MCN customers from sending or receiving traffic to and from such IP addresses.

If MCN receives repeat complaints indicating one of our customers is sending spam, MCN may, at our sole discretion, suspend or cancel the offenders account.

Receipt of Spam: MCN does not accept unsolicited commercial email as defined by California Business and Professions Code Section 17538.45. MCN defines "spam mail" as email that is both unsolicited and bulk. Unsolicited means that the recipient has not granted verifiable permission for the message to be sent. Bulk means that the message is sent as part of a larger collection of messages, all having substantively identical content. California has several laws regarding spam email that apply not only to MCN customers, but also to anyone using MCN to deliver mail to an MCN hosted address. There are also Federal laws regulating the sending of spam

Network Abuse: Use of MCN accounts or services for orchestration of or participation in any abuse of MCN or any other network, system or service is expressly forbidden and is grounds for account termination and possible legal action. Any action which interferes with MCN or other networks or which affects the use of or access to any network is likewise expressly forbidden.

• MCN retains at all times the right to determine what constitutes network abuse. Examples include but are not limited to:

Hacking: Attempts to hack the MCN network or any other network or systems;

Port scanning: Use of port scanning software for the purpose of disrupting traffic on MCN networks;

"Cracking Software": Use of "cracking" software or techniques to extract passwords or other secure data;

Virus/Malware: Dissemination of viruses or malware ;

Blocking Conduct: Conduct which causes MCN to be blocked by another provider or which causes MCN to be placed on a "block list";

Mail bombing: Using MCN services to send high volumes of e-mail to any e-mail account for the purpose of disrupting that account;

Illegal Use: Using MCN services in a manner that violates any local, state or federal law;

Harm to others: Using MCN services to harm others, including but not limited to minors;

Fraudulent Activity: Using the service to make or participate in fraudulent activity including financial scams;

Forgery or impersonation: Adding, removing or modifying identifying network header information in an effort to deceive or mislead is prohibited. Attempting to impersonate any person by using forged headers or other identifying information is prohibited. The use of anonymous nicknames does not constitute impersonation. Using deliberately misleading headers in NNTP postings in order to avoid spam email address collectors is allowed;

Copyright or Trademark Infringement: Using MCN services to transmit any material that infringes any copyright, trademark, patent, trade secret, or other propriety rights of a third party;

Reselling the services: Reselling MCN services without prior authorization;

Network disruptions and unfriendly activity: Using MCN services for any activity which adversely affects the ability of other people or systems to use MCN's services or the Internet. This 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. It is the customer's responsibility to ensure that their network is configured in a secure manner. A customer may not, through action or inaction, allow others to use their network for illegal or inappropriate actions. A customer may not permit their network, through action or inaction, to be configured in such a way that gives a third party the capability to use their network in an illegal or inappropriate manner.

Hosted Websites Legal Conformance: MCN may provide web space for personal and business customers. Content of those sites must conform to local, state and federal ordinances. MCN reserves the right to remove content that contains explicit sexual content, or violates trademark or copyright laws, at its sole discretion. Customers must remember that MCN is fully owned and operated by the Mendocino Unified School District and that MCN must take the public's perception of the school district into account when making decision about hosted content. Mendocino Community Network customers must also comply with the acceptable use policies of our upstream providers. Recognizing the global nature of the Internet, you agree to comply with all local rules regarding online conduct and acceptable content, including, without limitation all applicable laws regarding the transmission of technical data exported from the United States or the country in which you reside.

Use of copyrighted material/Digital Millenium Copyright Act: It is MCN's policy to conform to Title II of the Digital Millennium Copyright Act (17 U.S.C. 511 et seq.), which outlines an Internet Service Provider's ("ISP") obligations if one of its customers offers infringing copy online. The statute describes "notice and take down" provisions, stating that once an ISP receives notice of the copyright infringement, it must take down the unauthorized material. Complete details on MCN's DMCA policies and instructions on how to initiate or respond to a claim of copyright infringement, including contact information for our designated agent, can be found at <http://www.mcn.org/about/dmca.html>

MCN Internet trademarks and service marks and other MCN Internet logos and product and service names are trademarks of MCN. Without MCN's prior permission, customers agree not to display or use in any manner the MCN marks.

SOFTWARE LICENSES AND THIRD PARTY SERVICES.

1. MCN may provide you, for a fee or at no charge, software for use in connection with the Service which is owned by MCN or its third party licensors, providers and suppliers ("Software"). We reserve the right periodically to update, upgrade or change the Software remotely or otherwise and to make related changes to the settings and software on your computer or Equipment, and you agree to permit such changes and access to your computer and Equipment. You may use the Software only in connection with the Service and for no other purpose.
2. Certain Software may be accompanied by an end user license agreement ("EULA") from MCN or a third party. Your use of the Software is governed by the terms of that EULA and by this Agreement, where applicable. You may not install or use any Software that is accompanied by or includes a EULA unless you first agree to the terms of the EULA.
3. For Software not accompanied by a EULA, you are hereby granted a revocable, non-exclusive, non-transferable license by MCN or its applicable third party licensor(s) to use the Software (and any corrections, updates and upgrades thereto). You may not make any copies of the Software. You agree that the Software is confidential information of MCN or its

third party licensors and that you will not disclose or use the Software except as expressly permitted herein. The Software contains copyrighted material, trade secrets, patents, and proprietary information owned by MCN or its third party licensors. 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 MCN or its third party licensors 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 to it. The Software may be used in the United States only, and any export of the Software is strictly prohibited.

4. Your license to use the Software or any Additional Services will remain in effect until terminated by MCN or its third party licensors, or until your Service is terminated. Upon termination of your Service, you must cease all use of and immediately delete the Software from your computer.

5. If you subscribe to or otherwise use any third party services offered by MCN, your use of such services is subject to the EULA of that third party provider. Violation of those terms may, in our sole discretion, result in the termination of your Service.

6. All title and intellectual property rights (including without limitation, copyrights, patents, trademarks and trade secrets) in and to the MCN Web Sites (including but not limited to, related software, images, photographs, animations, video, audio, music, text, and content), are owned by MCN, its affiliates or licensors. All title and intellectual property rights in and to the information and content which may be accessed through use of the MCN Web Sites are the property of the respective content owner and may be protected by applicable copyright or other intellectual property laws and treaties. This Agreement does not grant you any rights to use such content, nor does it grant any rights to the MCN Web Sites, other than the right to use the MCN Web Sites according to the terms of the Agreement.

Your Responsibilities Regarding Management of Your Computer and Data. Customer is 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 MCN IS NOT RESPONSIBLE FOR THE LOSS OF CUSTOMER DATA OR FOR THE BACK-UP OR RESTORATION OF CUSTOMER DATA REGARDLESS OF WHETHER THIS DATA IS MAINTAINED ON OUR SERVERS OR CUSTOMER'S DEVICE(S). CUSTOMERS SHOULD ALWAYS BACK-UP ANY IMPORTANT INFORMATION SEPARATELY FROM DATA STORED ON MCN'S OR ANY THIRD PARTY'S SERVERS.**

ACCOUNT TERMINATION BY CUSTOMER: You are responsible for notifying MCN when you wish to terminate your account service and you are responsible for all fees for services until such time as you cancel services. We expressly request that changes to DSL and domain services be done in writing. Domain changes should be sent to domain@mcn.org and DSL changes should be sent to billing@mcn.org.

You may cancel other services by sending email to us at billing@mcn.org or by calling us at

937-1444 or (800) 796-3896.

IP ADDRESS OWNERSHIP All Internet protocol (“IP”) addresses provided to customers through our services are licensed at MCN’s sole discretion, and customer has no right to continued use or any use of any IP address upon termination of the account.

DATA AND BACKUP POLICY: Customer is responsible for maintaining on their own premises backup copies of any data stored on MCN equipment. Any backups created by MCN for customer protection are done as a “best effort” service with no guarantee. MCN is not responsible for providing physical access to or copies of the software, data, or content stored on its equipment under any circumstances and is not required to provide network access (1) after any termination or suspension of customer’s account or (2) in the event of hardware failure, abuse by hackers or other third parties, or other interruption of network access not resulting from MCN’s actions. MCN will not be liable for loss of data or for breaches in system integrity.

EMAIL ATTACHMENTS: MCN does not accept e-mails attachments larger than 18 megabytes. Such messages will be rejected. E-mail messages which remain in customers out boxes and which are re-sent repeatedly resulting in continued failure can have a severe impact on the MCN network. Such users will be “gray listed” and will be prohibited from sending e-mail until they contact MCN support staff and resolve the problem.

DIALUP CONNECTION: In order to ensure that dial-up services remain available to all dial-up customers, MCN reserves the right to terminate any dial-up connection that exceeds twenty four consecutive hours duration. Dialup accounts may be shared within one household, one business or one immediate family only. Do not use other people's dialup accounts. You may not sell, lease, rent or assign a dialup internet connection or parts of the connection to any party without the express, prior, written approval of MUSD/MCN other than is described above. You are responsible for all use of your account(s) and the confidentiality of passwords. MCN will suspend access or change access to Customer's account(s) immediately upon notification by Customer that his/her password has been lost, stolen or otherwise compromised. MCN is not liable for any usage and or charges prior to MCN making the necessary account alteration. It is the customer’s responsibility to ensure that all dialup connections to MCN services are done on a local number. MCN cannot be responsible for long distance charges.

USENET: MCN customers should follow the terms of the Acceptable Use Policy provided by our third party news provider and are subject to all terms and conditions.

REPORTING VIOLATIONS OF THE MENDCINO COMMUNITY NETWORK’S AUP: MCN requests that anyone who believes that there is a violation of this AUP direct the information to us at: manager@mcn.org

If available, please provide the following information: the IP address used to commit the alleged violation and evidence of the alleged violation. Spam email should be forwarded as attachments to ensure that all header information is included. MCN will take action to ensure that complaints are addressed in an appropriate manner which may include but are not limited to:

Suspension of the offenders account;
Cancellation of the offenders account;

Suspension of specific services including but not limited to mail, newsgroup, personal web space usage, port blocking and Internet connectivity.

Enforcement and remedy: MCN will normally attempt to contact any user in violation of this Acceptable Use Policy before taking action, but depending on the circumstances or the severity of the violation action may be taken without prior notification. In this case, the user will be notified as soon as it is practicable.

MCN may interrupt or suspend services, remove any material or information in whole or in part, or terminate services, immediately and without advanced notice, in the event that: (a) our services or any related MCN equipment has been breached by hackers or other unauthorized third parties; (b) use of the Services causes a denial of service or in any other way impedes a third party's use or enjoyment of the Internet or injures the functioning of services MCN provides to other customers; or (c) continuation of the Services exposes MCN or its affiliates to liability. MCN may furthermore interrupt or suspend services or remove any material or information in whole or in part, without advanced notice, in order to investigate any of the causes or concerns listed in the previous sentence. MCN will have no liability to customers for any such interruption, suspension, or termination of services or removal of materials, even if hackers or other third party intruders are responsible, even if the customer is not at fault, and even if it is later determined that the suspected injury or violation did not occur.

Violation of any terms set forth in this Acceptable Use Policy may result in one or more of the following, at the discretion of MCN:

- Issuance of a warning;
- Temporary suspension of service;
- Billing to defray administrative costs incurred;
- Termination of your services, account or accounts;
- Legal action.

If any activities or security problems involving an MCN account or MCN customer's services cause network outages, the owner of the account or service will be billed for network down-time at MCN's discretion.

Any account owner whose account is terminated for violation of the terms set forth in this Acceptable Use Policy will be required to pay any outstanding balances due, including any and all early termination fees.

No limitation: This acceptable use policy in no way limits the rights and remedies of MCN. At its discretion, MCN may take other actions it deems necessary to protect the integrity of its or other's networks or to recover the costs of operation as pertain to identifying and removing violators of its acceptable use, privacy policy, and terms of service agreements.

Technical Support Policy: The function of MCN technical support staff is to assist customers with initial connection, Internet browser and email account setup, and FTP access if needed. Support is only available for computers running recent versions of Macintosh (OS 9 or OS X) or Windows operating systems (Windows 2000 and newer). MCN does not as a routine matter offer over-the-phone tech support for issues such as script programming, Linux use, or programming your web site. While at its discretion the support staff may sometimes assist our customers with non-connectivity or non-email issues, any such extra service is strictly "value added" service and provision of such service does not obligate MCN to continue to provide such service. MCN does not tolerate abusive language to our employees including but not limited to

profanity, personal threats, or other abusive language. Customers who engage in this type of behavior may be subject to account termination at the discretion of the MCN Business Manager.

MCN will use its best efforts to provide all services to get your computer connected to the Internet but can not be held responsible for hardware or software malfunctions or assist in servicing or repairing your equipment. In such cases, the technical support staff will gladly refer you to outside sources for assistance. MCN reserves the right to cease providing over-the-phone technical support to any customer.

Please call the MCN tech support number at 937-1444 if you need assistance in the Mendocino/Fort Bragg calling area. If you are outside the Mendocino/Fort Bragg calling area, call (800) 796-3896. Technical support can also be reached via email and we encourage you to write to support@mcn.org for assistance whenever possible

CREDIT FOR SERVICE OUTAGES: Mendocino Community Network customers shall be eligible to receive a pro-rated credit of amounts pre-paid, if any, in the event that Customer experiences a problem such that it is temporarily unable to utilize the MCN Internet backbone network and a trouble ticket has been opened as a direct result of such problem (an "outage"). Outages during Mendocino Community Network Internet maintenance periods or caused by equipment, facilities or circumstances outside the reasonable control of MCN Internet are excluded from the definition of outage.

WARRANTIES AND LIMITATION OF LIABILITY.

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 MCN (BUT ONLY IF SUCH WARRANTY IS INCLUDED WITH SUCH EQUIPMENT), MCN (AND ITS OFFICERS, EMPLOYEES, PARENT, SUBSIDIARIES, AND AFFILIATES) (COLLECTIVELY THE "MCN PARTIES"), ITS 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 MCN OR ITS REPRESENTATIVES SHALL CREATE A WARRANTY WITH RESPECT TO ADVICE PROVIDED.
2. MCN DOES NOT WARRANT OR GUARANTEE THAT SERVICE CAN BE PROVISIONED TO YOUR LOCATION, OR THAT PROVISIONING WILL OCCUR ACCORDING TO A SPECIFIED SCHEDULE, EVEN IF MCN HAS ACCEPTED YOUR ORDER FOR SERVICE. THE PROVISIONING OF SERVICE IS SUBJECT TO NETWORK AVAILABILITY, CIRCUIT AVAILABILITY, LOOP LENGTH, THE CONDITION OF YOUR TELEPHONE LINE AND WIRING INSIDE YOUR LOCATION, AND YOUR COMPUTER/DEVICE CONFIGURATION

AND CAPABILITIES, AMONG OTHER FACTORS. IN THE EVENT YOUR LINE IS NOT PROVISIONED FOR ANY REASON, NEITHER YOU NOR MCN SHALL HAVE ANY DUTIES OR OBLIGATIONS UNDER THIS AGREEMENT (OTHER THAN YOUR OBLIGATION TO RETURN ANY MCN-PROVIDED EQUIPMENT).

3. MCN DOES NOT WARRANT THAT THE SERVICE OR EQUIPMENT PROVIDED BY MCN 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. MCN 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.

4. IN NO EVENT SHALL THE MCN PARTIES OR MCN'S THIRD PARTY LICENSORS, PROVIDERS OR SUPPLIERS BE LIABLE FOR: (A) ANY 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 MCN HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH CLAIM OR DAMAGES, OR (B) ANY CLAIMS AGAINST YOU BY ANY OTHER PARTY.

5. THE LIABILITY OF THE MCN PARTIES, OR (SUBJECT TO ANY DIFFERENT LIMITATIONS OF LIABILITY IN THIRD PARTY END USER LICENSE OR OTHER AGREEMENTS) OUR 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 MCN 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.

6. ALL LIMITATIONS AND DISCLAIMERS STATED IN THIS SECTION 12 ALSO APPLY TO MCN'S THIRD PARTY LICENSORS, PROVIDERS AND SUPPLIERS, AS THIRD PARTY BENEFICIARIES OF THIS AGREEMENT.

7. 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.

POLICY REVISION: We reserve the right, at our sole discretion, to update, amend or revise this policy, any other policy or statement on any MCN Internet website (<http://www.mcn.org>), and any product offerings or programs described on MCN Internet website. Please check back periodically to review any changes to this policy.

