

# SEBASTIAN ACCEPTABLE USE POLICY

Effective Date: September 1, 2014

## ***READ THIS ACCEPTABLE USE POLICY CAREFULLY BEFORE USING THE SEBASTIAN INTERNET SERVICE***

### **1. INTRODUCTION.**

1.1 Sebastian provides a variety of Internet services (the "Services") to its customers (the "Subscribers"). The Services use resources that are shared with many other users throughout the Internet. Each Subscriber benefits by being able to share resources and communicate with other users through the Services. However, as with any community, the benefits and privileges of the Services must be balanced with duties and responsibilities so that all users can have a productive experience. This Acceptable Use Policy ("AUP") is designed to help protect Sebastian, Subscribers, and the Internet community in general from irresponsible or, in some cases, illegal or otherwise objectionable activities. By using the Services, Subscribers consent to be bound by the terms of this AUP. This AUP should be read in conjunction with the applicable Residential or Business Service Agreement, Website Privacy Policy, and other applicable policies, all of which are incorporated herein. Each Subscriber, and those who access some of the Services through a Subscriber's account but do not have accounts ("Visitors"), is responsible for ensuring that the use of all Services complies with this AUP.

1.2 **Violation of any term of this AUP may result in the immediate suspension or termination of either your access to the Services or Sebastian Internet account.**

2. **UPDATING THIS AGREEMENT.** Sebastian may revise, amend, or modify this AUP from time to time. Notice of any revision, amendment, or modification will be posted on Sebastian's website, and/or on your start pages and/or by email and/or in mailings to your primary Sebastian email account and will be effective on the date noted in the posting. This Agreement may not be amended or modified by you except by means of a written document signed by both you and an authorized representative of Sebastian. By continuing to use the Services after the amendments are effective, you accept and agree to abide by them.

3. **VIOLATIONS OF SEBASTIAN'S ACCEPTABLE USE POLICY.** The following is a non-exclusive list of actions that Sebastian considers to be inappropriate and thus prohibited, and discussed in further detail following this Section. The examples identified in this list are provided as examples only for your guidance. If you are unsure whether any contemplated use or action is permitted, please contact Sebastian.

3.1 Using the Services for any activity that violates any local, state, federal or international law, order or regulation.

3.2 Using the Services to transmit, distribute, store or access any material (by e-mail, publishing, uploading, posting or otherwise) which is inappropriate, profane,

- obscene, indecent, pornographic, libelous, harassing, constitutes a threat or encourages bodily harm or destruction of property, or otherwise objectionable or unlawful.
- 3.3 Using the Services to transmit, distribute, store or access any material (by e-mail, publishing, uploading, posting, or otherwise) that infringes copyright, trademark, patent, trade secret, or other proprietary rights of any third party. You assume all risks regarding the determination of whether material is in the public domain.
  - 3.4 Using the Services to make fraudulent offers to buy or sell products, items, or services, or to advance any type of financial/soliciting scams including, but not limited to, "pyramid schemes," "Ponzi schemes," "mail bombing," and "chain letters."
  - 3.5 Using the Services to harm or attempt to harm a minor, including, but not limited to, hosting, possessing, distributing, or transmitting child pornography or other material that is unlawful.
  - 3.6 Any fraudulent activities, including impersonating any person or entity or forging anyone else's digital or manual signature.
  - 3.7 Disrupting or interfering with the Services in any way, including through the uploading of files which contain viruses, worms, "Trojan horses," or other software or programs that may be damaging to the Services or another user's computer.
  - 3.8 Using the Services to transmit, or to facilitate the transmission of, any unsolicited commercial e-mail or unsolicited bulk e-mail.
  - 3.9 Using the Services to access, or to attempt to access, the accounts of others, or to penetrate, or attempt to penetrate, security measures of Sebastian's or another entity's computer software or hardware, electronic communications system, or telecommunications system, whether or not the intrusion results in the corruption or loss of data.
  - 3.10 Using the Services to collect, or attempt to collect, personal information about third parties without their knowledge or consent.
  - 3.11 Reselling the Services without Sebastian's authorization.
  - 3.12 Using the Services for any activity that adversely affects the ability of other people or systems to use the Services or the Internet.
  - 3.13 Using the Services for excessive posting or cross-posting of the same or substantially similar messages, or binary files to newsgroups not specifically named for that purpose, or flooding or disruption of Usenet newsgroups.
  - 3.14 Using the Services to perform chat "flooding", maintaining more than two simultaneous chat discussions, using the Services to connect to chat servers or channels from which they have been previously banned, or forging, altering, or obscuring your identity while participating in chat sessions.

- 3.15 Using the Services to post any content that holds Sebastian (including its affiliates), employees or shareholders up to public scorn or ridicule or would in any way damage or impair Sebastian's reputation or goodwill.

#### **4. SECURITY.**

- 4.1 The Services may not be used to breach the security of another user or to attempt to gain access to any other person's computer, software or data, without the knowledge and consent of such person. The Services also may not be used in any 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 networks. Use or distribution of tools designed for compromising security, such as password guessing programs, cracking tools, packet sniffers or network probing tools, is similarly prohibited.
- 4.2 You may not attempt to disrupt the Services. The Services also may not be used to interfere with computer networking or telecommunications services to any user, host or network, including, without limitation, denial of service attacks, flooding of a network, overloading a service, improper seizing and abuse of operator privileges and attempts to "crash" a host. The transmission or dissemination of any information or software that contains a virus or other harmful feature also is prohibited. You are solely responsible for the security of any device you choose to connect to the Services, including any data stored on that device.

#### **5. INAPPROPRIATE CONTENT.**

- 5.1 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 local laws, regulations and other rules. For example, it is possible to obtain access to content that is pornographic or offensive, particularly for children. Sebastian cannot 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 Services, and Sebastian 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.
- 5.2 You are solely responsible for any information that is transmitted from your IP address or your account on the web, other Internet services, or that you publish on the web or other Internet services. You must ensure that the content is only made available to appropriate recipients. Sebastian has no obligation to monitor transmissions made on the Services. SEBASTIAN reserves the right to monitor any Subscriber's transmissions. Sebastian may remove, or refuse to post, any information or materials, in whole or in part, that SEBASTIAN, in its sole discretion, deems to be offensive, indecent, or otherwise inappropriate regardless of whether such material or its dissemination is unlawful.

- 5.3 By using the Services to reproduce, publish, display, transmit and distribute content, a Subscriber is warranting that the content complies with this AUP, and authorizing Sebastian to reproduce, publish, display, transmit and distribute such content as necessary for Sebastian to deliver the content in a timely manner.

## 6. **ELECTRONIC MAIL.**

- 6.1 The Services may not be used to send unsolicited bulk or commercial messages. This includes, but is not limited to, bulk mailing of commercial advertising, informational announcements, charity requests, petitions for signatures and political or religious messages.
- 6.2 You may not reference Sebastian (e.g. by including "Organization: Sebastian" in the header or by listing an IP address that belongs to Sebastian) in any unsolicited email even if that email is not sent through the Services.
- 6.3 "Mail bombing" is prohibited. That is, you may not send numerous copies of the same or substantially similar messages, nor may you send very large messages or files to a recipient with the intent to disrupt a server or account. The propagation of chain letters is similarly prohibited, whether or not the recipient wishes to receive such mailings.
- 6.4 Sebastian is not responsible for the forwarding of email sent to any account that has been suspended or terminated. Such email will be returned to sender, ignored, deleted, or stored temporarily at Sebastian's sole discretion.

## 7. **INTERNET RELAY CHAT.**

- 7.1 The Services may be used to participate in "chat" discussions. These discussions may be hosted by Sebastian servers, by third party servers, or may not involve any servers at all. In all cases, Sebastian does not normally monitor the contents of the discussions and is not liable for the contents of any communications made via Internet chat.
- 7.2 The Services may not be used to perform chat "flooding." Flooding is defined as deliberately repeating actions in quick succession in order to fill the screens of other Internet users with text.
- 7.3 Any computer or other device connected through the Services may not maintain more than two simultaneous chat connections. This includes the use of automated programs, such as "bots" or "clones". Automated programs may not be used when the account holder is not physically present at the device.
- 7.4 The Services may not be used to send messages which disrupt another Internet user's equipment, including software, hardware, and user display.
- 7.5 A Subscriber may not use the Services to connect to chat servers or channels from which they have been previously banned or indicated non-receipt.
- 7.6 The Services may not be used to continue to send chat messages to an Internet user who has indicated their desire to not receive such messages.

- 7.7 Forging, altering, or obscuring your identity (other than using a nickname from which Sebastian could, if necessary, determine your real name) while participating in chat sessions is forbidden.

## **8. BANDWIDTH, DATA STORAGE AND OTHER LIMITATIONS.**

- 8.1 You must comply with then-current bandwidth, data storage and other limitations on the Services. Subscribers must ensure that their activity does not improperly restrict, inhibit, or degrade any other Subscriber's use of the Services, nor represent (in the sole judgment of Sebastian) an unusually large burden on the network itself. In addition, Subscribers must ensure that their activity does not improperly restrict, inhibit, disrupt, degrade or impede Sebastian's ability to deliver the Services and monitor the Services, backbone, network nodes, and/or other network services.
- 8.2 Certain applications that you may use will, by their nature, permit other Internet users to gain access to your computer. These applications include, for example, your use of your computer as a server to allow others to download files using FTP or to access content you placed on a Web site using HTTP. You are permitted to run such applications for your personal use and within the limitations of this Agreement, provided that you take the appropriate security measures and you assume all risk of security breaches such as those described above. Sebastian shall have no liability whatsoever for any claims, losses, actions, damages, suits, or proceedings resulting from or arising out of or otherwise relating to your use of such applications, including, without limitation, damages resulting from other Internet users' having access to your computer.

## **9. SUSPENSION; TERMINATION.**

- 9.1 Sebastian takes no responsibility for any material created or accessible through the Services. Sebastian is not obligated to monitor or exercise editorial control over such material for violation of this AUP, but reserves the right to do so. In the event that Sebastian becomes aware that any such material may violate this AUP or expose Sebastian to civil or criminal liability, Sebastian reserves the right to block access to such material and suspend or terminate any Subscriber creating, storing or disseminating such material. Sebastian further reserves the right to cooperate with legal authorities and third parties in the investigation of alleged wrongdoing, including disclosing the identity of the Subscriber that Sebastian deems responsible for the wrongdoing.
- 9.2 Any Subscriber that Sebastian determines to have violated any element of this AUP may be subject to a suspension or termination of service, and if Sebastian deems it necessary, immediate suspension or termination of such Subscriber's service without notice. Sebastian may take such further action as it determines to be appropriate under the circumstances to eliminate or preclude repeat violations. Sebastian shall not be liable for any damages of any nature suffered by any Subscriber, user, or any third party resulting in whole or in part from Sebastian's exercise of its rights under this AUP. The above-described actions are not Sebastian's exclusive remedies and Sebastian may take any other legal or technical action it deems appropriate.

10. **ENTIRE AGREEMENT.** This AUP contains and refers to the entire agreement of the parties relating to the rights granted and obligations assumed in this AUP. Any oral representations or modifications concerning this AUP shall be of no force and effect unless contained in a subsequent written modification signed by both parties to this AUP or unless modified pursuant to Section 2.
11. **HEADINGS.** The headings in this Agreement are for convenience of reference only and shall not be given any effect in the interpretation of this AUP.
12. **NO WAIVER.** No course of dealing or failure of either party to enforce strictly any right, term, or condition of this AUP shall be deemed or construed as a waiver of such right, term, or condition.
13. **JURISDICTION.** This AUP is governed by California law without regard to conflict of law provisions.
14. **SEVERABILITY.** If any provision of this AUP is held by a court or regulatory agency of competent jurisdiction to be invalid, void, or unenforceable, the rest of the AUP shall remain in full force and effect.