



## Acceptable use policy

### Terms and Conditions

You (the "User") are accessing the Internet through a broadband connection marketed as "Internet" (the "Service") and provided by Jade Communications LLC, a Colorado LLC. Authorized use of this Service is contingent upon User's agreement to abide by Jade's Acceptable Use Policy ("AUP")—as described herein and revised from time to time at Jade's discretion, without notice—each and every time this Service is accessed. By clicking the "Agree" button or using the service, user acknowledges having read this AUP in its entirety and expressly consents to abide by the AUP and all terms and conditions provided herein. This AUP was last revised on September 23, 2013.

### Access to Service

Your access to this Service is at the sole discretion of Jade, and may be blocked, speed downgraded, suspended or terminated at any time and for any reason including, but not limited to: violations of this AUP; actions that may place increased liability on Jade; disruption of access to other users or networks; and/or violation of applicable rules, laws, statutes, codes, ordinances or regulations (collectively referred to hereinafter as "Laws").

### Acceptable Use of Service

Jade supports the free flow of information and ideas over the Internet. While Jade has no obligation to, and accepts no responsibility or liability for, monitoring usage of the Service or editing or censoring content transmitted via email, download, upload, post or otherwise through the Service, User's access to the Service is contingent upon User's legal and appropriate use of the Service. Use of the Service and any activities conducted online through the Service shall be in accordance with all applicable laws and the rights of Jade and any third party.

### Prohibited Use of Service

The following are expressly prohibited while using the Service, and each are considered a material breach of this AUP. Engaging in such acts will result in suspension and/or termination of Service.

- 1. Spamming** – sending unsolicited bulk and/or commercial messages over the Internet.
- 2. Invasion of privacy** – using the Service for activities that invade another's privacy.

- 3. Violations of intellectual property rights** – engaging in any activity that infringes or misappropriates the intellectual property rights of others, including patents, copyrights, trademarks, service marks, trade secrets or any other proprietary right of any third party.
- 4. Obscene or indecent speech or materials** – advertising, soliciting, transmitting, storing, posting, displaying or otherwise making available obscene or indecent images or materials. Jade will notify law enforcement and fully cooperate with any investigation(s) should Jade suspect or become aware of any use of the Service in connection with pedophilia, child pornography or any other illegal solicitation of minors.
- 5. Defamatory or abusive language** – transmitting, posting, uploading or otherwise making available defamatory, harassing, abusive or threatening material or language that encourages bodily harm, destruction of property or harasses another.
- 6. Forging or misrepresenting headers** – masking the originator of the message, whether in whole or in part.
- 7. Hacking** – accessing computers, accounts, equipment or networks belonging to another party without authorization or in an illegal manner; attempt to penetrate security measures of another system. This includes any activity that may be used as a precursor to an attempted system penetration including, but not limited to, port scans, stealth scans or other information gathering activity.
- 8. Distribution of Internet viruses, Trojan horses, spyware, malware or other destructive activities** – creating, distributing and/or distributing information related to the creation of Internet viruses, worms, Trojan horses, spyware, malware, ping, flooding, mail bombing or denial of Service attacks. This also includes activities that disrupt the use of or interfere with the ability of others to effectively use the Internet or any connected network, system, service or equipment.
- 9. Facilitating a violation of AUP** – advertising, transmitting or otherwise making available any software, product or service that is designed to violate this AUP including, but not limited to, facilitating the means to spam; initiating ping, flooding, mail bombing and/or denial of service attacks; and software piracy.
- 10. Export control violations** – the transfer of technology, software or other materials in violation of applicable export laws and regulations including, but not limited to, the U.S. Export Administration regulations and executive orders.
- 11. Other illegal activities** – using the Service in violation of any applicable laws including, but not limited to, advertising, transmitting or otherwise making available Ponzi schemes,

pyramid schemes, fraudulently charging credit cards, pirating software or making fraudulent offers to sell or buy products, items or services.

**12. Resale of Service** – the sale, transfer or rental of this Service to customers, clients or other third parties, either directly or as part of a service or product created for resale.

#### **Notice of violations of the AUP**

Jade requests that information pertaining to violations of this AUP be directed to: <mailto:btc@gojade.org>.

**The Digital Millennium Copyright Act of 1998** (the "DMCA") provides recourse for copyright owners who believe that material posted on Internet sites infringes their rights under U.S. copyright law. If you believe in good faith that items, information or other materials appearing on the Service infringe your copyright, you (or your agent) may send Jade a notice requesting that the item, information or material be removed, or access to it be blocked. Such requests can be directed to: <mailto:btc@gojade.org>.

#### **Disclaimer**

Jade provides this Service on the basis of the limited warranty, disclaimer and limitation of liability specified herein. User acknowledges that Jade would be forced to require a substantial fee for the Service if any of these provisions were unenforceable. Jade does not guarantee, whether express or implied, that the Service will be uninterrupted, error-free, secure, or free of viruses or other harmful applications. The Service and any products or services provided on or in connection with the Service are provided on an "as is" and "as available" basis without warranties of any kind. All warranties, conditions, representations, indemnities and guarantees with respect to the content or service and the operation, capacity, speed, functionality, qualifications or capabilities of the service, goods or personnel resources provided hereunder, whether express or implied, arising by law, custom, prior oral or written statements by Jade or otherwise—including, but not limited to, any warranty of satisfactory quality, merchantability, fitness for particular purpose, title and non-infringement—are hereby overridden, excluded and disclaimed; provided, that some jurisdictions do not allow the exclusion of certain warranties.

#### **No Consequential Damages**

Under no circumstances will Jade or its suppliers, licensors, officers, directors, employees, agents, affiliates, successors or assigns (collectively, its "Affiliates") be liable for consequential, indirect, special, punitive or incidental damages, or lost profits, whether foreseen or unforeseen, based on claims of User, its appointees or its customers—including, but not limited to, unauthorized access, damage or theft of User's system or data; claims for loss of goodwill; claims for loss of data, use of or reliance on the Service, stoppage of other work or impairment of other assets, or damage caused to equipment or programs from any

virus or other harmful application—arising out of breach or failure of express or implied warranty, breach of contract, misrepresentation, negligence, strict liability in tort or otherwise. In no event will the aggregate liability that Jade may incur in any action or proceeding exceed one hundred dollars (\$100). The limitations, exclusions and disclaimers set forth herein will not be applicable only if and to the extent that the law or a court of competent jurisdiction requires liability under applicable law beyond and despite these limitations, exclusions and disclaimers.

### **Indemnity**

User agrees to indemnify and hold harmless Jade and its affiliates from any claim, liability, loss, damage, cost or expense including, without limitation, reasonable attorney's fees arising out of or related to use of the Service, any materials downloaded or uploaded through the Service, any actions taken in connection with use of the Service, any violation of any third party's rights, any violation of any law or any breach of this AUP. This section shall not be construed to limit or exclude any other claims or remedies that Jade may assert under this AUP or by law.

### **Arbitration**

User agrees to submit any and all controversies or claims arising out of or relating to this AUP or the existence, validity, breach or termination thereof, whether during or after its term, to the American Arbitration Association ("AAA") for final disposition by compulsory arbitration under AAA's commercial arbitration rules and supplementary procedures for commercial arbitration. Any arbitration proceedings shall take place in Hays, Kansas, and the arbitrator may, at either party's request, grant injunctive relief. The arbitral award shall be the exclusive remedy of the parties for all claims, counterclaims, issues or accountings presented or plead to the arbitrator. Judgment upon the arbitral award may be entered in any court that has jurisdiction thereof. Any additional costs, fees or expenses incurred in enforcing the arbitral award shall be charged against the party that resists its enforcement. Nothing herein is intended to prevent the parties from seeking interim injunctive relief against one another.

### **Interpretation**

This AUP shall not be construed as creating a partnership, joint venture, agency relationship or franchise between the parties. This AUP shall be governed by and interpreted in accordance with Kansas law, excluding its conflict of law principles. Except as otherwise provided above, any waiver, amendment or other modification of this AUP shall not be effective unless in writing and signed by the party against whom enforcement is sought. If any provision of this AUP is held to be unenforceable, in whole or in part, such holding shall not affect the validity of the other provisions herein. Jade's performance related to this AUP, shall be subject to existing laws and legal process, and nothing contained herein shall waive or impede Jade's right to comply with law enforcement requests or requirements relating to use of this Service or information provided to or gathered by Jade with respect to such use. This AUP constitutes the complete and entire statement of all terms,

conditions and representations between User and Jade with respect to the subject matter hereof, and supersedes all prior understanding or agreements with respect to the subject matter hereof.