

Acceptable Usage Policy  
Internet Service Provider / Customer Agreement

In order to begin service, you must review the following terms and conditions governing MOKAN COMMUNICATIONS INC's Internet Access Service (Service). These terms and conditions will constitute a binding contract (Agreement) between you and MOKAN COMMUNICATIONS INC. Internet (MOKAN). They explain MOKAN's obligations to you and your obligations to MOKAN when you use the Service. You agree that your use of the Service constitutes your consent and agreement to all of the following terms and conditions.

**I) Customer Rights and Responsibilities**

- A. By completing enrollment and accepting all terms of the Agreement, you become an authorized user of the Service. Continued acceptance of this Agreement is a condition of the Service. You are responsible for complying with all of the terms and conditions of this Agreement, and with all policies and guidelines posted on the Service Website.
- B. You agree that MOKAN may: (1) revise the terms and conditions of this Agreement; (2) revise its billing rates and account surcharges; and (3) revise the services provided under this Agreement at any time. Any such revisions will be binding and effective immediately upon posting the revised Agreement on MOKAN's home page, or upon notification to you by E-mail or United States mail.
  - i) You agree to review the Agreement periodically. If any revision to this Agreement is unacceptable to you, you may terminate this Agreement at any time by contacting MOKAN through the following means: (1) E-mail to [mail@mokancomm.net](mailto:mail@mokancomm.net) or (2) U.S. mail to MOKAN Internet, 112 South Broadway Box 429, Louisburg, KS 66053-0429.
  - ii) Continued use of the Service following notice of any revision of the Agreement constitutes your acceptance of any and all such revisions.
- C. You are personally responsible for all use of the Service under your ID and/or IP address, even if someone else utilizes them. Illegal, fraudulent, or abusive use of any ID or of the Service is grounds for immediate account termination, and said activity may be referred to the appropriate law enforcement authorities. Enrolling or using any ID on the Service under a name other than your own is prohibited.
- D. You are personally responsible for keeping any and all IDs or passwords for MOKAN's services private. You must promptly inform MOKAN if you suspect any breach of security, such as loss, theft, or unauthorized disclosure or use of your ID or password. Until MOKAN is notified of a breach of security, you will remain responsible for any unauthorized use of the Service occurring under your ID, IP address, and/or password.

- i) The benefits or rights conferred by this Agreement are nontransferable and nonassignable. The connectivity provided is expressly limited to you. Resale or use of this connection by another person or persons is prohibited.
  - ii) Use or attempted use of a Service to improperly disrupt any of the MOKAN's Service accounts or the MOKAN's Service network may result in account termination and referral to enforcement authorities. Such use or attempted use includes, but is not limited to, "social engineering" (tricking other people into releasing their passwords), password cracking, security hole scanning, denial-of-service attacks, ping-flooding, sending packets with an improper packet size, UDP flooding and half-open TCP connection flooding.
- E. You agree that the Service may only be used for lawful purposes. Any transmission (whether an upload or download) outlawed by state, federal, or international law is strictly prohibited, including, but not limited to, transmission of unauthorized transactions, copyrighted materials, misappropriated trade secrets, and threatening, harassing, or obscene materials. MOKAN reserves the right (but is not obligated) to review and edit any material submitted for display or placed on the Service, excluding private E-mail messages. MOKAN may refuse to display or may remove for the Service material that MOKAN believes violates this Agreement or any policies or guidelines posted by MOKAN on the Service. MOKAN may also remove any material it deems harmful and/or offensive to other subscribers, merchants, information providers, the Service or the business interests of MOKAN. You agree to indemnify and hold harmless the MOKAN from any and all losses and liabilities arising from unlawful use of the Service. *(You may want to provide for indemnification associated with your action in response to allegations of same.)*
- i) MOKAN bears certain legal liabilities for the use of its computer network and equipment. MOKAN prohibits any and all use of its network for illegal purposes. When presented with a valid search warrant, subpoena, or similar legal document, you agree that MOKAN may be obligated to release information associated with your account and use of the Service and that MOKAN will cooperate with authorities in any criminal investigation of inappropriate Internet usage.
  - ii) Any unauthorized use of MOKAN's accounts or computers or MOKAN's customer accounts by you, whether or not the target account or computer belongs to a MOKAN Internet customer, will result in action against you. Possible actions include warnings, account suspension or cancellation, and legal action, according to the seriousness of the unauthorized use.
- F. Harassment or abusive use of E-mail and other Internet services is not allowed. MOKAN will handle incidents of harassment or abusive use on a case-by-case basis.
- i) MOKAN is subject to the provisions of the [Electronic Communications Privacy Act, 18 U.S.C. §2701 et seq.](#), which prohibits an electronic communications service MOKAN from producing the contents of electronic communications, even

pursuant to subpoena or court order, except in limited circumstances. MOKAN's e-mail servers retain e-mail for a period of approximately 0 days after the e-mail has been read and left on our servers. After that time, the e-mail is automatically deleted. Unread and sent e-mail is preserved on our system for approximately 0 days. If you delete any e-mail, that e-mail is automatically deleted hourly from MOKAN's email system. You may download e-mail to your computer. Such e-mail is not preserved on MOKAN's mail system.

- ii) MOKAN reserves the right to request a copy of the complaint and any supporting documentation to indicate how MOKAN's e-mail address is related to the pending litigation which underlies a subpoena.
  - iii) Commercial advertisements are unwelcome in most Usenet discussion groups and on most E-mailing lists. Inappropriate posting may result in account suspension or cancellation. See the newsgroup or mailing list's charter for restrictions on advertising. "Spamming," or sending a message to many different off-topic newsgroups, is not allowed. Sending a message, especially an advertisement, to more than five recipients is considered by itself spamming unless the individuals have specifically requested to be added to a mailing list on that topic. E-mail is a person-to-person medium, not a broadcast medium. Unsolicited advertisements via E-mail, or via discussion groups whose charter does not explicitly allow advertisements, are not permitted.
  - iv) Electronic mail passes through multiple mail servers on the Internet as it passes from source to destination. Privacy can never be guaranteed from every possible mail server; therefore, users seeking additional privacy should use an encryption scheme to render messages unreadable by eavesdroppers. MOKAN places a high value on privacy and will only examine users' E-mail when absolutely required; for example, when troubleshooting E-mail delivery problems or being served with a valid search warrant for the information.
- G. You are responsible for and must provide all necessary equipment to access MOKAN Internet. You are also responsible for installation of browser software and configuration of all file servers and computer systems that are to have Internet access. Software installation and configuration is solely your own responsibility.
- H. Unless stated otherwise via written, witnessed documentation, your account cannot be used for dedicated Internet access. MOKAN reserves the right to terminate your on-line connection if the connection is not active.
- I. All bills are due and payable on or before the 15<sup>th</sup> of each month to avoid termination of service.
- i) You agree to pay any monthly fees, extra time charges, and other charges incurred by you or your designated users at the rates in effect for the billing period in which those charges were incurred. You shall pay all applicable sales and use

taxes relating to utilization of MOKAN Internet. A reasonable fee or pecuniary penalty permitted by law will be charged for returned checks.

- ii) You are responsible for all toll charges, including, but not limited to, those for long-distance calls required to access MOKAN Internet.

## II) Copyright and Trademarks

A. Except for public domain material, all material contained on the Service is copyrighted. The MOKAN name and logo and all related product and service names, design marks and slogans are the trademarks, service marks or registered trademarks of MOKAN. All other products and service marks contained herein are the trademarks of their respective owners. You may not reproduce or redistribute such material, in whole or in part, in any manner, without prior consent of the copyright or trademark owner, which must be via written and witnessed documentation.

- i) You agree not to post or transmit works that are subject to another party's rights, on or through the Service, without that party's express permission. Such posting or transmitting:
  - (a) will result in termination of this Agreement; and
  - (b) may result in civil or criminal liability.

B. Federal and state law prohibit the unauthorized use of materials that are the subject of copyright, trademarks, trade secrets and other rights of third parties. Accordingly, you may be subject to liability due to uploading, downloading, or use of such materials in violation of applicable laws and regulations. Use of the Internet is solely your responsibility. To minimize potential liability, MOKAN recommends that you practice common sense and net etiquette when using the Internet. Review carefully what is posted and what is uploaded or downloaded. The rules of Internet etiquette are straightforward and useful in determining what may be posted or copied.

- i) The [Digital Millennium Copyright Act](#) clearly outlines what act(s) constitute copyright infringement, and the following link provides more information regarding copyright infringement, file sharing, and peer-to-peer technology: (<http://www.educase.edu/issues/p2p.html>). While downloading music from peer-to-peer networks seems innocent, it is illegal, and the courts have made it clear that violators will be charged accordingly.
- ii) Use, duplication or disclosure of Software and Documentation by the Government is subject to restrictions set forth in subparagraphs (a) through (d) of the [Commercial Computer-Restricted Rights clause at FAR 52.227-19](#) when applicable, or in subparagraph (c)(1)(ii) of the [Rights in Technical Data and Computer Software clause at DFARS 252.227-7013](#), or at 252.211-7015, and in similar clauses in the NASA FAR Supplement.

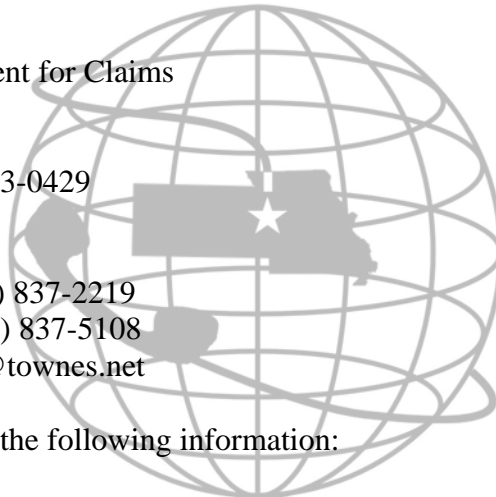
- C. MOKAN is under no obligation to monitor the information residing on or transmitted to MOKAN Internet. However, anyone using this server agrees that MOKAN may monitor its network or server contents periodically to (1) comply with any necessary laws, regulations or other governmental requests; and/or (2) to operate the server properly or to protect itself and its users. MOKAN reserves the right to modify, reject or eliminate any information residing on or transmitted to MOKAN Internet that it, in MOKAN's sole discretion, believes is unacceptable or in violation of these terms and conditions.
- D. Should any user of information on MOKAN Internet provide MOKAN with information, including but not limited to feedback, data, answers, questions, comments, suggestions, plans, ideas or the like, such information shall be deemed to be nonconfidential and MOKAN assumes no obligation to protect such information from disclosure.
- E. Pursuant to Title II of the Digital Millennium Copyright Act, all claims of copyright infringement for material that is believed to be residing on MOKAN's system or network, should be promptly sent in the form of written communication to MOKAN's Designated Agent:

Jane Prettyman - Agent for Claims  
112 S Broadway  
PO Box 429  
Louisburg, Ks. 66053-0429

Telephone No.: (913) 837-2219  
Facsimile No.: (913) 837-5108  
E-mail address: jkp@townes.net

Claims must include the following information:

- i) A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;
- ii) Identification of the copyrighted work claimed to have been infringed, or if multiple copyrighted works at a single on-line site are covered by a single notification, a representative list of such works at that site;
- iii) Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate the material;
- iv) Information reasonably sufficient to permit MOKAN Internet to contact the Complaining Party, such as an address, telephone number, and if available, an electronic mail address at which the complaining party may be contacted;



- v) A statement that the Complaining Party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and
  - vi) A statement that the information in the notification is accurate, and under penalty of perjury, that the Complaining Party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
- F. Reference herein to any products, services, processes, hypertext links to third parties or other information by trade name, trademark, manufacturer, supplier or otherwise does not necessarily constitute or imply its endorsement, sponsorship or recommendation by MOKAN.

### **III) Warranty**

- A. YOU ACKNOWLEDGE AND CONSENT THAT MOKAN EXERCISES NO CONTROL OR CENSORSHIP OF THIRD PART CONTENT. USE OF ANY INFORMATION OBTAINED VIA THE SERVICE IS AT YOUR OWN RISK. PARENTS SHOULD TAKE NECESSARY PRECAUTIONS TO MONITOR AND SUPERVISE THE USE OF THE SERVICE BY MINORS.
- B. MOKAN EXPRESSLY DISCLAIMS AND IN NO EVENT SHALL BE LIABLE FOR ANY SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES OR ANY DAMAGES WHATSOEVER RESULTING FROM, BUT NOT LIMITED TO: (1) LOSS OF USE, DATA OR PROFITS; (2) LOSS OF HARDWARE OR SOFTWARE; (3) ACCESS DELAYS OR ACCESS INTERRUPTIONS; (4) COMPUTER VIRUSES OR OTHER HARMFUL COMPONENTS; (5) DATA NONDELIVERY OR DATA MISDELIVERY; (6) NEGLIGENT ACTS AND/OR OMISSIONS OF MOKAN OR MOKAN'S AFFILIATED COMPANIES; (7) ERRORS, OMISSIONS, OR MISSTATEMENTS IN ANY AND ALL INFORMATION, GOODS, OR SERVICES OBTAINED ON OR THROUGH THE SERVICE; AND (8) ACTS OF GOD, WHETHER IN AN ACTION OF CONTRACT, NEGLIGENCE OR OTHER TORTUOUS ACTION, ARISING OUT OF OR IN CONNECTION WITH THE USE OR PERFORMANCE OF THE INFORMATION ON MOKAN INTERNET OR THE INTERNET GENERALLY.
- C. MOKAN'S PERFORMANCE IS SUBJECT TO INTERRUPTION AND DELAY DUE TO CAUSES BEYOND ITS REASONABLE CONTROL, SUCH AS: ACTS OF GOD; ACTS OF ANY GOVERNMENT; WAR OR OTHER HOSTILITY; CIVIL DISORDER; THE WEATHER; FIRE; EXPLOSION; POWER FAILURE; EQUIPMENT FAILURE; INDUSTRIAL OR LABOR DISPUTES; INABILITY TO OBTAIN NECESSARY SUPPLIES; DENIAL-OF-SERVICE AND/OR HACKER ATTACKS AND CIRCUMSTANCES IN THE VEIN OF THOSE LISTED ABOVE.

- D. CUSTOMER EXPRESSLY AGREES THAT USE OF THE SERVICE, WHICH INCLUDES THE CONTENTS THEREOF AND ANY STORAGE OR USE OF INFORMATION, IS AT CUSTOMER'S SOLE RISK. NEITHER MOKAN NOR ANY OF ITS EMPLOYEES OR AGENTS WARRANTS THAT THE SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE; THE SERVICE IS DISTRIBUTED ON AN "AS IS" BASIS WITHOUT GUARANTEES OF ANY KIND, EITHER EXPRESSED OR IMPLIED. NEITHER MOKAN NOR ANYONE ELSE OR ENTITY INVOLVED IN CREATING, PRODUCING, AND DELIVERING THE SERVICE SHALL BE LIABLE TO ANY DIRECT, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF USE OF THE SERVICE OR INABILITY TO USE THE SERVICE, OR OUT OF ANY BREACH OF ANY WARRANTY. NO ADVICE OR INFORMATION GIVEN BY MOKAN, ITS AFFILIATES OR THEIR RESPECTIVE EMPLOYEES SHALL CREATE ANY WARRANTY. THE PROVISIONS OF THIS PARAGRAPH WILL SURVIVE ANY TERMINATION OF THIS AGREEMENT.
- E. CUSTOMER AGREES THAT MOKAN'S ENTIRE LIABILITY, AND CUSTOMER'S EXCLUSIVE REMEDY, WITH RESPECT TO USE OF THE SERVICE, SERVICE SOFTWARE, AND ANY BREACH OF THIS AGREEMENT IS STRICTLY LIMITED TO A PRORATED PORTION OF THE AMOUNT PAID TO MOKAN FOR MONTHLY CHARGES. SOME STATES DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL CONSEQUENTIAL DAMAGES. IN SUCH STATES, MOKAN'S LIABILITY IS LIMITED TO THE EXTENT PERMITTED BY LAW.

