

OlyPen

Acceptable Use Policy

Introduction.

OlyPen has formulated this Acceptable Use Policy (“AUP”) in order to encourage the responsible use of OlyPen’s networks, systems, services, web sites and products (collectively, the Service) by our Subscribers and other users of the Services. This Policy outlines acceptable use of the Services, as well as permissible and prohibited conduct for using the Service to access the Internet.

BY USING THE SERVICE, SUBSCRIBER CONSENTS TO BE BOUND BY THE TERMS OF THIS AUP. OLYPEN MAY REVISE THIS AUP FROM TIME TO TIME WITHOUT NOTICE BY POSTING A NEW VERSION OF THIS DOCUMENT ON THE OLYPEN WEB SITE AT <http://www.olypen.com>. ALL REVISED COPIES OF THE AUP ARE EFFECTIVE IMMEDIATELY UPON POSTING.

IF YOU DO NOT AGREE TO COMPLY WITH THIS AUP, YOU MUST IMMEDIATELY STOP USE OF THE SERVICE AND NOTIFY OLYPEN SO THAT YOUR ACCOUNT MAY BE CLOSED.

1.0 Customer Responsibility. It is the responsibility of the OlyPen Subscriber and all others who have access to OlyPen’s network to comply with this AUP. It is the responsibility of each Subscriber to secure their computer equipment so that it is not subject to external threats such as viruses, spam, and other methods of intrusion.

2.0 Suspension; Termination. Any Subscriber that OlyPen determines to have violated any element of this AUP may be subject to a suspension or termination of service. OlyPen will suspend service for violation of the AUP on the most limited basis as OlyPen determines is reasonably practical under the circumstances to address the underlying violation. OlyPen will attempt to notify Subscriber prior to suspending service for violation of the AUP (which may be via email or any other notification); provided, however, OlyPen may suspend service without notice if OlyPen becomes aware of a violation of any applicable law or regulation or activity, including but not limited to a violation of the AUP, that exposes OlyPen to criminal or civil liability or that exposes the OlyPen network or OlyPen customers’ network or property to harm. Such harm to a network may include, but is not limited to, risk of having an IP address placed on blacklists. OlyPen may take such further action as OlyPen determines to be appropriate under the circumstances to eliminate or preclude repeat violations, and OlyPen shall not be liable for any damages of any nature suffered by any Subscriber, user, customer, or

any third party resulting in whole or in part from OlyPen's exercise of its rights under this AUP.

3.0 Prohibited Conduct.

3.1 General. The OlyPen Service must be used in a manner that is consistent with the intended purpose and the Services may be used only for lawful purposes. Subscribers shall not use the Service in order to transmit, distribute or store material:

- (a) in violation of any applicable law or regulation, including export or encryption laws or regulations;
- (b) that may adversely affect the OlyPen Network and/or Services of other OlyPen Subscribers;
- (c) that may expose OlyPen to criminal or civil liability. Subscribers are prohibited from facilitating the violation of any part of this AUP or another provider's AUP, including, but not limited to transmitting, distributing, or otherwise making available any product or service that violates this AUP or another provider's AUP.

3.2 Prohibited Uses and Activities. Prohibited uses include, but are not limited to, using the Service, Subscriber Equipment or OlyPen Equipment to:

- (a) undertake or accomplish any unlawful purpose. This includes, but is not limited to, posting, storing, transmitting or disseminating information, data or material which is libelous, obscene, unlawful, threatening, defamatory, or which infringes the intellectual property rights of any person or entity, or which in any way constitutes or encourages conduct that would constitute a criminal offense, give rise to civil liability, or otherwise violate any local, state, federal or international law, order or regulation;
- (b) post, store, send transmit, or disseminate any information or material which a reasonable person could deem to be objectionable, offensive, indecent, pornographic, harassing, threatening, embarrassing, distressing, vulgar, hateful, racially or ethnically offensive, or otherwise inappropriate, regardless of whether this material or its dissemination is unlawful;
- (c) access any other person's computer or computer system, software, or data without their knowledge and consent; breach the security of another user; or 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 hosts, networks, or accounts;
- (d) use or distribute tools designed or used for compromising security, such as password guessing programs, decoders, password gatherers, analyzers, cracking

tools, packet sniffers, encryption circumvention devices, or Trojan Horse programs. Network probing or port scanning tools are only permitted when used in conjunction with a residential home network, or if explicitly authorized by the destination host and/or network. Unauthorized port scanning, for any reason, is strictly prohibited;

(e) upload, post, publish, transmit, reproduce, create derivative works of, or distribute in any way information, software or other material obtained through the Service or otherwise that is protected by copyright or other proprietary right, without obtaining permission of the owner;

(f) restrict, inhibit, or otherwise interfere with the ability of any other person, regardless of intent, purpose or knowledge, to use or enjoy the Service, including, without limitation, posting or transmitting any information or software which contains a worm, virus, or other harmful feature, or generating levels of traffic sufficient to impede other's ability to send or retrieve information;

(g) restrict, inhibit, interfere with, or otherwise disrupt or cause a performance degradation, regardless of intent, purpose or knowledge, to the Service or any OlyPen host, server, backbone network, node or service, or otherwise cause a performance degradation to any OlyPen facilities used to deliver the Service;

(h) resell the Service or otherwise make available to anyone outside the Premises the ability to use the Service (e.g., wi-fi, or other methods of networking) in whole or in part, directly or indirectly, unless specifically authorized by OlyPen in writing;

(i) transmit unsolicited bulk or commercial messages or "spam". This includes, but is not limited to, unsolicited advertising, promotional materials or other solicitation material, bulk mailing of commercial advertising, chain mail, informational announcements, charity requests, and petitions for signatures;

(j) send numerous copies of the same or substantially similar messages, empty messages, or messages which contain no substantive content, or send very large messages or files to a recipient that disrupts a server, account, newsgroup, or chat service;

(k) distribute programs that remove locks or time-outs built into software (cracks);

(l) participate in the collection of email addresses, screen names, or other identifiers of others (without their prior consent), a practice sometimes known as spidering or harvesting, or participate in the use of software (including "spyware") designed to facilitate this activity;

(m) impersonate any person or entity, engage in sender address falsification, forge anyone else's digital or manual signature, or perform any other similar fraudulent activity;

(n) collect, or attempt to collect, personal information about third parties without their consent;

(o) run programs, equipment, or servers from the Premises that provide network content or any other services to anyone outside of your Premises LAN (Local Area Network), also commonly referred to as public services or servers, except as expressly authorized by OlyPen. Examples of prohibited services and servers include, but are not limited to, email, web hosting, file sharing, and proxy services and servers;

(p) interfere with computer networking or telecommunications service 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; and

(q) violate the rules of, regulations, or policies applicable to any network, server, computer database, or Web site that you access.

4.0 Security. You, the Subscriber, are responsible for any misuses of the Service, even if the misuse was committed by a friend, family member, or guest with access to your Service account, whether knowingly or unknowingly. Therefore, you must take steps to ensure that others do not use your account to gain unauthorized access to the Service by, for example, strictly maintaining the confidentiality of your Service login and password. In all cases, you are solely responsible for the security of any device you choose to connect to the Service, including any data stored or shared on that device. OlyPen recommends against enabling file or print sharing of any sort unless you do so in strict compliance with all security recommendations and features provided by OlyPen and the manufacturer of the applicable file or printer sharing devices. Any devices that are used to make the Service available for shared access on a home or office LAN (e.g. wi-fi and other devices), for example, should be protected with a strong password or as otherwise appropriate.

5.0 Inappropriate Content and Transmissions. OlyPen reserves the right, but not the obligation, to refuse to transmit or post and to remove or block any information or materials, in whole or in part, that it, in its sole discretion, deems to be offensive, indecent, or otherwise inappropriate, and regardless of whether this material or its dissemination is unlawful. Neither OlyPen nor any of its affiliates, suppliers, or agents have any obligation to monitor transmissions or postings (including, but not limited to, email, newsgroup, and instant messages transmissions as well as materials available on Personal Web Pages and Online Storage features) made on the Service. However, OlyPen and its affiliates, partners, suppliers, and agents have the right to monitor these transmissions and posting from time to time for violations of this AUP and to disclose, block or remove them in accordingly.

6.0 Electronic Mail. The Service may not be used to send unsolicited bulk or commercial messages and may not be used to collect responses from unsolicited email

sent from accounts on other Internet hosts or email services that violate this AUP or the acceptable use policy of any other Internet Service Provider.

7.0 Personal Web Page and File Storage. You, the Subscriber, are solely responsible for any information that you or others publish or store on the Personal Web Space or on any disk storage space provided to you by OlyPen in conjunction with your Service. You must ensure that the intended recipient of any content made available is appropriate. For example, you must take the appropriate precautions to prevent minors from receiving or accessing inappropriate content.

8.0 Copyright Infringement. OlyPen is committed to complying with U.S. copyright and related laws, and requires all Subscribers and users of the Service to comply with these laws. Accordingly, you may not store any material or content on, or disseminate any material or content over, the Service (or any part of the Service) in any manner that constitutes an infringement of third party intellectual property rights, including rights granted by U.S. copyright law. Owners of copyrighted works who believe that their rights under U.S. copyright law have been infringed may take advantage of certain provisions of the Digital Millennium Copyright Act of 1998 (the “DMCA”) to report alleged infringements. It is OlyPen’s policy in accordance with the DMCA and other applicable laws to reserve the right to terminate the Service provided to any customer or user who is either found to infringe third party copyright or other intellectual property rights, including repeat infringers, or who OlyPen believes in its sole discretion is infringing these rights. OlyPen may terminate the Service at any time with or without notice for any affected customer or user.

9.0 Monitoring. OlyPen does not routinely monitor the activity of Service accounts for violation of this AUP. However, in our efforts to promote good citizenship within the Internet community, OlyPen will respond appropriately if OlyPen becomes aware of inappropriate use of the Service. Although OlyPen has no obligation to monitor the Service and/or network, OlyPen and its partners reserve the right at any time to monitor bandwidth, usage, transmissions, and content from time to time to operate the Service; to identify violations of this AUP; and/or to protect the network, the Service and OlyPen Subscribers.

10.0 Enforcement. OlyPen prefers to advise customers of inappropriate behavior and any necessary corrective action. However, if the Service is used in a way that OlyPen or its partners, in their sole discretion, believe violate this AUP, OlyPen or its partners may take any responsive actions they deem appropriate. These actions include, but are not limited to, temporary or permanent removal of content, cancellation of newsgroup posts, filtering of Internet transmissions, and the immediate suspension or termination of all or any portion of the Service. Neither OlyPen nor any of its partners, affiliates, suppliers or agents will have any liability for any of these responsive actions. These actions are not OlyPen’s exclusive remedies and OlyPen may take any other legal or technical action it deems appropriate. OlyPen reserves the right to investigate suspected violations of this AUP, including the gathering of information from the Subscriber or Subscribers involved and the complaining party, if any, and examination of

material on OlyPen's servers and network. During an investigation, OlyPen may suspend the account or accounts involved and/or remove or block material that potentially violates this AUP. Subscriber expressly authorizes OlyPen and its partners to cooperate with (a) law enforcement authorities in the investigation of suspected legal violations, and (b) any systems administrators at other Internet Service Providers or other network computing facilities in order to enforce this AUP. This cooperation may include OlyPen providing available personally identifiable information about Subscriber to law enforcement and/or system administrators, including, but not limited to, username, subscriber name, and other account information. Upon termination of Subscriber account, OlyPen is authorized to delete any files, programs, data and email messages associated with Subscriber's account.

11.0 Failure to Enforce. The failure of OlyPen or its partners to enforce this AUP, for whatever reason, shall not be construed as a waiver of any right to do so at any time.

12.0 Severability. Subscriber agrees that if any portion of this AUP is held invalid or unenforceable, that portion will be construed consistent with applicable law as nearly as possible, and the remaining portions will remain in full force and effect.

13.0 Indemnity. Subscriber agrees to indemnify, defend and hold harmless OlyPen and its affiliates, partners, and agents against all claims and expenses (including reasonable attorney fees) resulting from Subscriber engaging in any of the prohibited activities listed in this AUP or resulting from Subscriber's violation of this AUP or of any other posted OlyPen policy related to the Service. Subscriber's indemnification will survive any termination of the Subscriber Agreement.