



## ONLINE CONDUCT POLICY

This Online Conduct Policy (this "Policy") applies to 5NINES's Customers, defined as those with whom 5NINES has a contractual relationship for the provision of Internet services (or to whom 5NINES otherwise directly provides Internet services), as well as the Customer's customers, agents, and users (defined collectively herein as "Users").

**Customer Content.** Customer acknowledges that 5NINES exercises no control whatsoever over the content of the information passing through Customer's website(s) and that it is the sole responsibility of Customer to ensure that the information it and its Users transmit and receive complies with all applicable laws and regulations and this Policy.

**Prohibited Activities.** Customer and their Users will not, and will not permit any persons using 5NINES's Internet Service or Customer's online facilities and/or services, including, but not limited to, Customer's website(s) and transmission capabilities to, do any of the following (each, singularly, a "Prohibited Activity," and collectively, "Prohibited Activities"):

- Engage in any activities or actions that infringe or misappropriate the intellectual property rights of any person or entity, including, but not limited to, using, posting, distributing, or downloading third party copyrighted materials without appropriate permission or attribution.
- Use, post, distribute or download third party information protected as trade secret information in violation of a duty of confidentiality or law.
- Engage in activities that would violate the privacy rights of others, including, but not limited to, collecting and distributing information about Internet users without their permission, except as permitted by applicable law.
- Post, store, send, transmit, or disseminate information, data or material which is libelous, obscene, unlawful, threatening, or defamatory.
- Send very large numbers of copies of the same or substantially similar messages, empty messages, or messages which contain no substantive content.
- Impersonate any person or entity, engage in sender address falsification, forge anyone else's digital or manual signature, or perform any other fraudulent activity.
- Access another person's or entity's computer or computer system, network, software or data without his or her knowledge and consent, breach the security of another Internet user or system, or attempt to circumvent the user authentication of any host, network or account.



- Restrict, inhibit, interfere with, or otherwise disrupt or cause a performance degradation of 5NINES's Internet service.
- Restrict, inhibit, interfere with, or otherwise disrupt another's use or enjoyment of 5NINES's Internet service.
- Intentionally omit, delete, forge or misrepresent transmission information, including headers, return mailing and Internet Protocol addresses.
- Interfere with "standard technical measures" as defined by 17 U.S.C. 512(i)(2).
- Engage in any activities or actions intended to withhold or cloak Customer's or User's identity or contact information.
- Use or attempt to use 5NINES's Internet services for any illegal or unlawful purpose, in violation of applicable laws or regulations or in violation of the rules of any other service provider, websites, chat rooms or the like.
- Assist or permit another to engage in any of the Prohibited Activities described above.

**Awareness of Prohibited Activities.** If Customer or their Users become aware of any Prohibited Activity, Customer or Users will use their best efforts to remedy such Prohibited Activity immediately, including, if necessary, limiting or terminating the offending party's access to Customer's or User's online facilities and/or 5NINES's Internet service.

**Violation of Policy.** If 5NINES believes a Customer or its User has violated this Policy, 5NINES may take any responsive actions it deems appropriate under the circumstances with or without notice. These actions may include, but are not limited to, temporary or permanent removal of content, filtering of Internet transmissions, and the immediate suspension or termination of all or any portion of the 5NINES Internet service. 5NINES shall not have any liability for any of these responsive actions. These actions are not 5NINES's exclusive remedies and 5NINES may take any other legal or technical actions it deems appropriate with or without notice.

**Monitoring by 5NINES.** 5NINES does not routinely monitor the activity of individual Customers or Users for violations of this Policy. However, 5NINES will respond appropriately if it becomes aware of any Prohibited Activity. 5NINES and its suppliers reserve the right at any time to monitor bandwidth, usage, transmissions, and content in order to, among other things, operate the 5NINES Internet services; identify violations of this Policy; and/or protect its network, the 5NINES Internet services, and 5NINES's Customers.

**Investigation.** 5NINES reserves the right to investigate suspected violations of this Policy, including the gathering of information from the complaining party and/or



from the Customer(s) or User(s) involved, and examination of material and data on 5NINES's servers and network. During an investigation, 5NINES may suspend the account or accounts involved and/or remove or block material that potentially violates this Policy. Customer and their Users expressly authorize and consent to 5NINES and its suppliers cooperating with (i) law enforcement authorities in the investigation of suspected legal violations, and (ii) system administrators at other Internet service providers or other network or computing facilities in order to enforce this Policy. Upon termination of Customer's or User's account, 5NINES is authorized to delete any files, programs, data, email and other messages associated with Customer's or User's account (and any secondary accounts).

**Spam.** In addition to the above, the transmission, broadcast, support, or the hosting of any websites, products or services promoted by UBE (Unsolicited Bulk E-mail) a.k.a. "Spam" is a Prohibited Activity, and may result in any or all of the following:

- 1) Immediate and permanent termination of power, data, and KVM (Keyboard-Video-Mouse) connectivity.
- 2) Seizure and forfeiture of ownership of all equipment belonging to the individual or organization responsible for the UBE activity.
- 3) Immediate and permanent forfeiture of all pre-paid rack, cage, and connectivity charges.
- 4) Immediate revocation of physical access privileges to all 5NINES Center facilities.
- 5) The offending individual or organization will be financially responsible for all residual financial liabilities incurred by 5NINES due to violation of any upstream carrier's policies or rules.
- 6) The offending individual or organization will be financially responsible for all residual financial liabilities and labor expense incurred by 5NINES repairing damage from UBE activity, e.g. RBL (Realtime Blackhole List) de-listing activity or efforts.

**DMCA.** 5NINES respects the intellectual property rights of others and expects its Customers and their Users to do the same. From time to time, 5NINES will receive notices from purported copyright holders alleging copyright infringement by



Customers or their Users. In accordance with the Digital Millennium Copyright Act of 1998 (the "DMCA"), which may be found on the U.S. Copyright Office website at <http://www.copyright.gov/legislation/dmca.pdf>, 5NINES will respond to DMCA compliant notices it receives from purported copyright holders ("DMCA notices") as stated in 5NINES's DMCA Policy, which DMCA Policy is provided to Customers and available to Customers and Users upon request. DMCA notices must be e-mailed to 5NINES at [dmca@5nines.com](mailto:dmca@5nines.com) or at [abuse@enjoy5nines.com](mailto:abuse@enjoy5nines.com), or sent to 5NINES's DMCA agent as identified at: <http://www.copyright.gov/onlinesp/agents/num-syms/5-nines.pdf>.

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