

## POLICIES

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# ACCEPTABLE USE POLICY("AUP")

### OVERVIEW

This Acceptable Use Policy ("AUP") sets forth provisions of acceptable use of TerreNAP Data Center, Inc. ("TDC") Services. All users of TDC Services are required to comply with this policy and all applicable laws and regulations in full, in addition to all terms and conditions of applicable agreements, and any additional policies that may be applicable to a specific service offered by a TerreNAP Data Center. A list of TerreNAP Data Centers is set forth at the end of this AUP. TDC strives to provide its customers with the highest quality Internet service available, while at the same time respecting the standards that have been created both within the Internet community, and by legislation. To that end, inappropriate or abusive activities and conduct will not be tolerated on at or through a TerreNAP Data Center. TDC reserves the right to modify this AUP from time to time, without notice. Users of TDC Services are encouraged to review this AUP often for changes or new information. Please send questions, comments, or complaints regarding this AUP to [abuse@terremark.com](mailto:abuse@terremark.com).

### COMPLIANCE

#### Duties

Each user is responsible for complying with this AUP, and for providing assistance to TDC in investigating and resolving any issue, as TDC may request from time to time. Additionally, TDC customers and users are required to determine the conditions of, and comply with, the acceptable use policies or equivalent documents of all network(s) which their data transits.

Users will be held responsible for the actions of any third party agent that acts on behalf of, or for the benefit of, any end user, and such end users shall be held directly accountable for any violations of this AUP by third party agents.

TDC does not control the content of data residing at or traversing a TerreNAP Data Center; accordingly, TDC assumes no responsibility for the content of any data or communication that may reside at or be transmitted through a TerreNAP Data Center. TDC will not access or make use of any data or communication that may reside at or be transmitted through a TerreNAP Data Center, except as described in the TerreNAP Data Center Services Agreement (the "Services Agreement?"), or if for any reason, in TDC's sole discretion, TDC believes that it is reasonable to do so, including: to satisfy laws, such as the Electronic Communications Privacy Act, regulations, or governmental or legal requests for such information; to disclose information that is necessary to identify, contact, or bring legal action against someone who may be violating this Acceptable Use Policy or other user policies; to operate TDC Services properly; or to protect TDC, our parent and affiliated companies, and our Customers. TDC will inform their Customers in advance of any contemplated access or use that deviates from this practice.

#### Configuration

All systems connected to a TerreNAP Data Center shall be configured in accordance with Services Agreement, industry standards, applicable laws and regulations, specifically to conform with approved "Request For Comments" standards documents which are published from time to time by the Internet Engineering Task Force (<http://www.ietf.org/rfc.html>).

Systems connected to a TerreNAP Data Center shall not be configured in any way that obscures system-identity information.

Proxy servers of any kind shall be configured so as to prevent unauthenticated use from the public Internet.

#### Reporting Obligations

TDC Customers are responsible for immediately reporting to TDC any issue that could compromise the stability, service or

security of any user or system connected to a TerreNAP Data Center.

### **Resellers and Downstream Service Providers**

Resellers of TDC Services are responsible for informing their customers of this AUP and for enforcing its restrictions with regard to their customers' actions. Breach or non-compliance of this AUP by a customer or end-user of a reseller shall be considered a violation of this AUP.

### **PROHIBITED USES**

These lists are not meant to be exhaustive, but merely illustrative of examples of inappropriate and improper conduct, prohibited when using TDC Services.

#### **Illegal Use**

TDC Services may only be used for lawful purposes. The transmission, distribution, or storage of any data or material in violation of any applicable law or regulation is prohibited. This includes, but is not limited to material or data that:

- Infringes any copyright, trademark, trade secret, or other
- Intellectual property right.
- Violates export control laws or regulations.
- Violates any party's confidentiality rights.
- Constitutes use or dissemination of child pornography.
- Is illegal or unlawful.

#### **Abuse**

The following general actions are considered "abuse" and are strictly prohibited:

- Any conduct that is inconsistent with generally accepted norms and expectations of the Internet community (whether or not detailed in this AUP). TDC reserve the right, in their sole discretion, to make a determination whether any particular conduct violates such norms and expectations.
- Using a TerreNAP Data Center to store or transmit material that TDC believe to be illegal, obscene, or inappropriate.
- Forging of message headers or identity information, or taking any action with the intent of bypassing restrictions or limits on access to a specific service or site. This prohibition does not restrict the legitimate non-commercial use of pseudonymous or anonymous services.
- Falsifying identity or contact information (whether given to TDC, to the InterNIC, or other parties).

#### **Security**

Users TDC Services must configure their systems in a secure manner. Should a user's system be exploited by unauthorized persons, the user is responsible for both reporting the violation (where applicable), and then fixing the exploited system. For instance, should the security of a mail server be compromised to distribute unsolicited emails, the user is responsible for immediately re-configuring the system to prevent further unauthorized use.

Users are prohibited from interfering or attempting to interfere with services ("Denial of Service Attacks"), whether intentionally or through neglect, of any other user, host, or network. The prevention of "unintentional attacks", such as infection and subsequent propagation of computer viruses, are the responsibility of every user; anti-virus software should be installed on every system that connects to a TerreNAP Data Center.

Users are prohibited from injecting, intentionally or negligently, false or unauthorized network control data into a TerreNAP Data Center, for instance in the form of incorrect routing or DNS information.

## E-Mail

Users are prohibited from engaging in improper use or distribution of electronic mail (“e-mail”). Users are strictly prohibited from engaging in any of the following activities:

- Sending unsolicited mass or commercial e-mail (“spamming”) for any purpose whatsoever.
- Having third parties send out commercial emails on any user’s behalf. Using TDC facilities to receive replies from unsolicited emails (commonly referred to as “drop-box” accounts).
- Configuring any email server in such a way that it will accept third party emails for forwarding (commonly known as an “open mail relay”). If a site has roaming users who wish to use a common mail server, the mail server must be configured to require some form of user identification and authorization.
- Mass or commercial email may be sent only to recipients who have expressly requested receipt of such e-mails, by the sending of an email request to the person performing the mass or commercial mailings. This exchanging of requests, acknowledgements, and final confirmations (commonly referred to as a “double opt-in” process) must be adhered to in their entirety for any mass or commercial email to be considered “solicited” by TDC.
- Users that send mass or commercial e-mail are required to maintain complete and accurate records of all e-mail subscription requests, specifically including the email and associated headers sent by every subscriber, and to immediately provide TDC with such records upon request of TDC. Subscriptions that do not have a specific recipient generated email request associated with them are invalid, and are strictly prohibited.
- In the absence of positive, verifiable proof to the contrary, TDC considers complaints by recipients of e-mails to be de-facto proof that the recipient did not subscribe or otherwise request the e-mail(s) about which a complaint was generated.

## Usenet (also known as Netnews or Newsgroups)

TDC recommends that users not post to any newsgroup until they have familiarized themselves with the subjects, established guidelines, and restrictions of such newsgroups. All Usenet guidelines and restrictions are incorporated herein by reference, and users of TDC Services agree to adhere to such guidelines unconditionally. Without limitation of the foregoing, it is strictly prohibited to engage in any of the following activities:

- Making any posting for commercial purposes (including without limitation the pointing to specific URLs for commercial purposes), except where such postings are expressly permitted under the charter and/or Frequently Asked Questions (FAQ) of an applicable newsgroup.
- Posting binary files to newsgroups whose charter or name does not include allowances for such files.
- Canceling newsgroup postings other than your own, or using auto-responders or cancel-bots (except in cases of official newsgroup moderators performing their duties).
- “Excessive Cross-Posting” (ECP) or “Excessive Multi-Posting” (EMP), or “Usenet spam”: TDC retains the exclusive right to define these and other terms, however, we generally defer to the definitions found at <http://www.cybernothing.org/faqs/net-abuse-faq.html>
- Disrupting newsgroups with materials, postings, or activities that are (as determined by TerreNAP Data Center in its sole discretion), excessive, or repetitious, unless such materials or activities are expressly allowed or encouraged under the newsgroup’s name, FAQ, or charter.
- Performing any unauthorized creation, cancellation, or removal of newsgroups.
- The legitimacy of a given post or cancellation is generally determined by the official newsgroup or mailing-list moderator, therefore, TDC usually defers to their judgment on these issues, however, TDC retains the exclusive right to make these determinations.

## Revisions to This Policy

TDC reserves the right to revise, amend, or modify this policy, and our other policies and agreements at any time and in any manner. Notice of any revision, amendment, or modification will be posted in accordance with the Services Agreement