

EarthLink, LLC
COMMERCIAL SERVICE AGREEMENT
COVER PAGE

EarthLink, LLC ("EarthLink"), 980 Hammond Drive, Suite 400, Atlanta, GA 30328

CUSTOMER: Kaufman ISD
PREMISES: 3205 S Houston St
Kaufman, TX 75142

SERVICES:

Initial Service Term: Starts on the Installation Date and continues until the expiration of full calendar months thereafter.

Extension Service Term: Starts at the end of the Initial Service Term and continues until the expiration of one (1) full calendar months thereafter.

1. Fiber Repair

Installation Fee: **Monthly Service Fee:**

Estimated Installation:

("Estimated Installation" means the interval from the "Effective Date" service will be available.)

Notes:

******The project consists of an 808-foot fiber strand to be rehung pole-to-pole along Rand Road, including a 267-foot directional bore with conduit installed under Highway 34 along Rand Road. All fiber splicing will be completed to restore connectivity to Helen Edwards Early Childhood School, located at 1605 Rand Road, Kaufman, TX 75142.******

This Agreement includes any terms attached hereto or incorporated by reference herein, including without limitation the EarthLink Commercial Terms and Conditions. This Agreement and all terms attached hereto or incorporated herein by reference constitute the entire agreement of the parties with respect to its subject matter, and supersede all prior oral or written agreements, understandings, representations and warranties.

Agreed to as of the Effective Date by: ("Effective Date" means the date EarthLink, LLC executes this Agreement.)

EarthLink, LLC
("EarthLink")

By: _____
Print: Kris Maher
Title: Sales Manager
Date: _____

("Customer")

By: _____
Print: _____
Title: _____
Date: _____

EARTHLINK COMMERCIAL TERMS AND CONDITIONS

"We", "us" and "our" refer to EarthLink, LLC. "You" and "your" refer to the customer identified on the attached Cover Page. "Terms" means these Commercial Terms and Conditions. "Agreement" means the attached Cover Page, these Terms, and any terms attached hereto or incorporated by reference in either of the foregoing. "Service(s)" refers to access services ("Access Services") you ordered on the attached Cover Page, and any other services (e.g., voice services) we provide to you. "Equipment" means hardware or software we use or provide to you in connection with Services.

1. Our Duties. Subject to all terms of this Agreement, we will provide you Services and you will pay for those Services. **These Terms include and incorporate by this reference our Internet Acceptable Use Policy ("AUP"), a current version of which is attached hereto as Exhibit "A", and you agree that you have reviewed, understand and agree to the AUP.** Any private line services ("Private Line"), including but not limited to Metro Ethernet private line point to point circuits, shall be provisioned as a dedicated circuit. Any traffic traversing Customer's Private Line circuit will be segmented from other customer's traffic and will not traverse the Internet. The traffic will not be subject to degradation from other customers or Internet outages.

2. Availability of the Service. We are not liable for Service performance issues caused in whole or in part by you, by third parties, by your equipment or by Equipment you install or maintain or have a third party install or maintain. We are not liable for adverse performance of Services during modifications, relocation, or repairs to Equipment, provided that we give you notice of such activities.

3. Equipment. You grant us and our agents full right and authority of entry and access, across, under and over your Premises identified on the attached Cover Page ("Premises") to install, inspect, maintain, repair and remove Equipment, and to do anything necessary with respect to the Services or Equipment, for as long as we provide Service or as long as Equipment is on the Premises. While on the Premises, we will abide by all reasonable security procedures you have in place.. You represent and warrant to us that you have the authority to grant us the right and authority of entry and access under this Section. You will abide by all license agreements associated with any computer software. We may supply new or reconditioned Equipment to you. We have no liability whatsoever for any loss, damage, or expense arising out of Equipment provided by you or a third party. You will not move Equipment from the location where installed or open, tamper with, make changes to, or try to repair, Equipment without our prior written permission. You assume all risk of loss of Equipment at the Premises resulting from abuse, misuse or intentional damage of any Equipment.

4. Charges. Except for Installation Fees specified on the attached Cover Page, which are due and payable immediately, you will pay all charges for use of Services and Equipment in full within 25 days after receiving our invoice. If you do not notify us of a billing dispute within 14 days of receiving our invoice, you waive all rights to dispute that invoice. You will pay any local, state or federal taxes, charges or fees, including all applicable regulatory surcharges and fees, in connection with the Services, along with all third party charges, including all applicable taxes, incurred while using the Services. You will pay interest on past-due amounts at the rate of 1.5% per month until paid in full.

5. Term. This Agreement is effective as of the Effective Date set forth on the attached Cover Page and shall remain in effect until you no longer take any Services and all of our Equipment provided to you or installed at the Premises has been returned to us and you have paid all charges. The Initial Service Term commences on the "Installation Date", which is the date we complete the installation of Services and Equipment and the Services and Equipment are ready for your use. You may cancel Services and/or terminate this Agreement effective at the end of the Initial Service Term by providing us written notice of your intent to cancel thirty days' prior to the end of the Initial Service Term. If you do not provide such written notice, the Initial Service Term will automatically renew, and you agree that you will continue to take, and pay for, the Services, for the Extension Service Term indicated on the attached Cover Page and thereafter on a month-to-month basis; provided, however, that you may, after the end of the Extension Service Term, cancel the Services at any time by giving us thirty days' prior written notice to that effect. Upon cancellation of any Service, you will return any related Equipment (other than Equipment you bought from us) in its original condition and working order. We will use commercially reasonable efforts to complete the installation of Services and Equipment and make the Services and Equipment ready for your use on or by the Estimated Installation Date(s) set forth on the attached Cover Sheet, but we cannot guarantee Services availability on the Estimated Installation Date(s), and we will not be in breach of this Agreement, or otherwise liable, for failure of Services to be available on the Estimated Installation Date(s).

6. Limitation of Liability. OUR LIABILITY IS SUBJECT TO ALL TERMS OF THIS AGREEMENT. OUR TOTAL LIABILITY TO YOU IN CONNECTION WITH THIS AGREEMENT OR ANY SERVICES OR EQUIPMENT IS LIMITED TO ACTUAL, DIRECT DAMAGES, BUT IN NO EVENT ARE WE LIABLE FOR ANY AMOUNT IN EXCESS OF THE TOTAL AMOUNTS YOU PAID TO US FOR SERVICES DURING THE 12 MONTHS PRIOR TO THE TIME WHEN THE LIABILITY AROSE. IN NO EVENT WILL WE OR OUR DIRECTORS, OFFICERS, STOCKHOLDERS, EMPLOYEES, AGENTS AND AFFILIATES BE LIABLE WITH RESPECT TO THIS AGREEMENT, ANY SERVICES OR ANY EQUIPMENT FOR ANY TYPE OF INDIRECT, CONSEQUENTIAL, INCIDENTAL, RELIANCE, SPECIAL, OR PUNITIVE DAMAGES, OR FOR ANY LOST PROFITS, LOST REVENUES, OR LOST SAVINGS OF ANY KIND, WHETHER ARISING UNDER CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY, OR OTHER THEORY, AND WHETHER OR NOT SUCH DAMAGES WERE FORESEEABLE. THESE LIMITS DO NOT APPLY TO DAMAGES FOR DEATH OR BODILY INJURY.

7. No Resale; Fixed Location Use. Services and Equipment are for your internal use only and you will not share, resell or assign the Services or any Equipment (other than Equipment you bought from us) without our prior written consent. The Services may not be moved to, or used from, any location other than the location to which the Services are first provided, without payment of new connection fees and any applicable early termination charge(s).

8. Events of Default. You are "in Default" if: (i) you fail to make payment when due and such failure is uncorrected for five (5) calendar days after notice by us; (ii) you breach any other provision of this Agreement and such breach is uncorrected for ten (10) calendar days after notice by us; or (iii) your use, or the use of any person accessing or using the Services or Equipment, violates, or is alleged to violate, any applicable law, rule, regulation or policy of any governmental authority. We may refuse, suspend, discontinue, or terminate Service(s) and remove Equipment and/or terminate this Agreement without notice if (a) you are in Default, or (b) Service is used in a manner that violates this Agreement or any applicable law, rule, regulation or policy of any governmental authority or affects provision of any service to you or any other users.

9. Indemnification. You will indemnify, defend and hold harmless us, our directors, officers, stockholders, employees, agents and affiliates from and against any liability, loss, damage, or expense arising in connection with any actual or threatened claim, action, or proceeding arising out of any act or omission by any person (other than us) accessing Services or Equipment, whether authorized by you or not, which violates, or is alleged to violate, this Agreement or any applicable law, rule, regulation or policy of any governmental authority.

10. Self-Installation. We will have no liability whatsoever for any inability to use the Services or Equipment due to, or damage caused by, installation, maintenance or removal of Equipment by you or a third party chosen by you. You will indemnify, defend and hold harmless us, our directors, officers, stockholders, employees, agents and affiliates from and against any liability, loss, damage, or expense in connection with claims, actions, or proceedings arising out of installation, maintenance or removal of Equipment by you or a third party chosen by you.

11. No Liability for Content. We have no responsibility for, or obligation to control, content available through the Services, and you access and use the Services and such content at your own risk. Neither we nor our directors, officers, stockholders, employees, agents or affiliates will have any liability whatsoever for claims, losses, actions, damages or proceedings relating to such content. We have the right (but not the duty) to monitor content accessed, transmitted or used by anyone accessing Services or Equipment, whether authorized by you or not, and to disclose information as necessary to satisfy any law, regulation or other governmental request, to operate the Services or to protect us or other users. We may remove any materials that we deem to be undesirable or in violation of this Agreement. Without limiting any other provision of this Agreement, you will not, and will not cause or permit any other person to, use Equipment or Services: (i) to violate, or in connection with any act or omission which violates, any law, rule, regulation or policy of any governmental authority; (ii) for any unlawful, immoral, invasive, infringing, harassing, defamatory, fraudulent, or obscene purpose; or (iii) in a manner that violates EarthLink's then-current publicly available policies regarding acceptable use of Equipment or Services (including without limitation the AUP). You will indemnify, defend and hold harmless us, our directors, officers, stock holders, employees, agents and affiliates from and against any liability, loss, damage, or expense arising in connection with a claim that use of Equipment or Services by anyone, whether authorized by you or not, infringes any right of any third party.

12. WARRANTIES. Commencing on the Installation Date, the Services will operate as substantially continuously, except for (i) regularly scheduled maintenance, (ii) maintenance required as a result of matters beyond our reasonable control, (iii) events beyond our control, or (iv) your failure to perform in accordance with this Agreement.

Service Level Agreement per Circuit	SLA Value
Service Availability with Single Lateral	99.9%
Service Availability with Diverse Dual Lateral	99.99%
Service Availability with Diverse Dual Lateral and Managed Redundancy	100%
Layer 2 Packet Loss	Less than 1%
Layer 2 Latency (One Way)	Less than 40 msec
Layer 2 Jitter (One Way)	Less than 10 msec
Mean Time-To-Repair (MTTR)	4 Hours

Upon a failure of the Services to operate as described in this Section 12, we will grant you a credit against future amounts due hereunder calculated as follows ("**Service Credit(s)**"): for each sixty (60) minute period that the Access Services are the subject of a continuous Interruption, we shall grant you a credit equal to 1/720 of the monthly recurring charge for the affected Services. To receive Service Credit(s), you must request Service Credit(s) in writing within thirty (30) days after the occurrence of the Interruption which gave rise to such Service Credit(s).

For purposes of the foregoing, "**Interruption**" means a total failure of the Services to operate as described in this Section 12. The duration of any Interruption will commence when you first report the Interruption to us and will end when the Interruption ceases. You agree to promptly: (i) notify us of any Interruption, (ii) cooperate with us in implementing any required fixes and (iii) provide us with any monitoring data used by you to determine the existence of an Interruption and its duration. Service Credits shall be your sole and exclusive remedy for any failure of the Services to operate as described in this Section 12. **EXCEPT FOR EXPRESS WARRANTIES SET FORTH IN THIS AGREEMENT, ALL EQUIPMENT AND SERVICES ARE PROVIDED WITHOUT WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, STATUTORY OR CONTRACTUAL, AND ANY WARRANTIES NOT EXPRESSLY SET FORTH IN THIS AGREEMENT, INCLUDING ANY IMPLIED WARRANTIES OF TITLE, NONINFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY, ARE HEREBY DISCLAIMED AND EXCLUDED.**

13. Access Services. You are solely responsible for backing-up all data prior to installation, inspection, maintenance, repair or removal of Equipment. We will have no liability whatsoever for any damage to your computer, software, files, data or peripherals or for breaches of your security (including access to your computer, software, data or peripherals) in connection with Access Services (excluding damages for death or bodily injury). You represent that you have reviewed the minimum technical requirements necessary to use Access Services and that computer(s) in which Equipment will be installed or which use Access Services meets these requirements. You must possess original (or equivalent) media (CD, disk, etc.) for the operating system of that computer(s) in order for installation of Access Services and related Equipment to be successful.

14. General. We are not liable if our performance is delayed or prevented by causes beyond our control such as an act of God, natural disaster or any unforeseen action by you or third parties that impairs the use of our Service or Equipment. This Agreement will be governed by the laws of the State of Georgia (without regard to its conflict of law principles) and applicable tariffs and similar documents (including any publicly available price lists) ("Tariffs"), and state and federal laws, rules, and regulations. Our obligations are subject to any applicable law, rules or regulations, and any of our or our affiliates' Tariffs or Tariffs of third parties we contract with, and in the event of a conflict between the terms of any applicable Tariff, rule, or regulation and this Agreement, the Tariff, rule, or regulation controls with respect to the conflicting provision, but all non-conflicting provisions of this Agreement continue to apply. Provisions regarding payment, limitation of liability, exclusions of warranties, arbitration and indemnification will survive termination of this Agreement. Except as provided in this Agreement, neither party may amend or modify this Agreement except by a writing signed by both parties. You may not assign any of your rights or obligations under this Agreement, or any Services or any Equipment, without our prior written consent. This Agreement, as amended from time to time, along with any orders accepted by us and any applicable Tariffs, constitute the entire agreement of the parties with respect to Services and Equipment, and supersede all prior oral or written agreements, understandings, representations and warranties. In the event of a conflict between the terms of any orders and this Agreement, this Agreement will control. Any provision of this Agreement determined by a legal authority of competent jurisdiction to be illegal, invalid, or unenforceable in any jurisdiction shall be deemed separate, distinct and independent, and shall be ineffective to the extent of such determination without (i) invalidating the remaining provisions of this Agreement in that jurisdiction or (ii) affecting the validity or enforceability of such provision in any other jurisdiction. Any additional or varying terms contained in your preprinted forms, purchase orders, correspondence or other documents transmitted to us shall be of no effect.

15. Dispute Resolution. Any controversy or claim arising out of or relating to this Agreement, any Services or any Equipment shall be settled by binding arbitration in Atlanta, Georgia, administered by the American Arbitration Association under its Commercial Arbitration Rules. Judgment on the award may be entered in any court having jurisdiction thereof. Arbitrator(s) may award costs and reasonable attorney's fees to the prevailing party, but may not award punitive damages or any damages other than actual direct damages.

Exhibit "A"

EarthLink Internet Acceptable Use Policy (AUP)

Introduction

1.1. This Acceptable Use Policy applies to all users ("End Users") of EarthLink, LLC ("EarthLink") services (the "Services"). All End Users must comply with this Internet Acceptable Use Policy ("AUP"), Services are provided to an End User on express condition that he or she agrees to comply fully with all provisions of this AUP.

1.2. EarthLink does not monitor under normal circumstances the content of any Web site, electronic mail transmission, news group, or other material created, transmitted, or accessed over or through the Services. However, we reserve the right to suspend or terminate any Services, or take any other action, if we believe that your use of the Services, in our sole discretion, may be illegal, subject EarthLink to liability, or violate this AUP. EarthLink may cooperate with legal authorities and/or third parties in the investigation of any suspected or alleged crime or civil wrong. EarthLink does not accept responsibility for the content of the materials and information published by others, which are accessible through the Services, and does not accept responsibility for the violation of any laws resulting from such publication.

1.3. End Users must abide by the laws of the state and country in which they reside, including all copyright laws and regulations, tariff regulations, and export controls, treaties and international law.

1.4. Use of Services constitutes an End User's acceptance of and agreement to abide by all of the policies of EarthLink, including this AUP, as such policies may be modified by EarthLink at any time and from time to time, and to use such services for lawful purposes in compliance with all applicable laws. Use of EarthLink's services is at the risk of the End User.

Electronic Communications Privacy Act Notice (18 USC 2701-2711) EARTHLINK MAKES NO GUARANTEE OF CONFIDENTIALITY OR PRIVACY OF ANY COMMUNICATION OR INFORMATION TRANSMITTED ON ITS NETWORK OR ANY OTHER NETWORK. EARTHLINK SHALL NOT BE LIABLE FOR THE PRIVACY OF E-MAIL ADDRESSES, REGISTRATION AND IDENTIFICATION, DISK SPACE, COMMUNICATIONS, CONFIDENTIAL OR TRADE-SECRET INFORMATION, OR ANY OTHER CONTENT STORED ON EARTHLINK'S EQUIPMENT, TRANSMITTED OVER NETWORKS ACCESSED BY EARTHLINK, OR OTHERWISE CONNECTED WITH USE OF THE EARTHLINK NETWORK.

Policies

2.1. EarthLink accounts may be used only by the authorized owners of the accounts, except where specifically authorized by EarthLink system administrators. Revealing your account username or password to others or allowing use of your account by others is prohibited.

2.2. Resale, trade of transfer any account without express written consent from EarthLink is prohibited. Attempting to obtain access beyond that for which a customer is authorized will be grounds for immediate termination of such customer's account.

2.3. Attempting to defeat identification procedures, gain passwords or encryption codes, penetrate security measures, circumvent user authentication or use of the EarthLink network to gain unlawful or unauthorized entry to another machine on the Internet or any other network; use of an EarthLink account to or attempt to alter or destroy data belonging to EarthLink or another user on any computer network; and use of the EarthLink system as a staging ground to "crack" other systems will be grounds for immediate termination of such customer's account.

2.4. Transmission, redistribution, reproduction or commercial exploitation of information available on EarthLink's network without the permission of its owner or in violation of applicable copyright laws or patents will be grounds for immediate termination of such customer's account.

2.5. Abusive or inappropriate use of any Service, including any behavior which disrupts the normal use of the system or Internet services of others, inhibits any user from accessing the Internet, interferes with the proper operation of EarthLink's network or impairs the availability, reliability or quality of EarthLink service for other customers will be subject to the sanctions described below.

2.6. General: It is also a violation of this AUP for any End User to affect or participate in any of the following activities:

2.6.1. exporting software or technical information in violation of U.S. export control laws;

2.6.2. making fraudulent offers of items, products, or services originating from a customer's account;

2.6.3. using non-authorized relays through any third party systems, or using or tolerating the use by others of Services as a relay for any use not permitted by this AUP;

2.6.4. "flooding" or overburdening recipient computer systems by sending a high volume of spurious data which impedes functionality or disables the recipient system, or any other methods of denial of service of another;

2.6.5. storing or distributing on EarthLink servers illegally-acquired information, programs containing malicious code, including viruses, trojans or worms or tools to comprise the security of other sites;

2.6.6. using programs such as packet sniffers, host and/or service monitoring or other similar programs;

2.6.7. engaging in any of the above activities using the service of another provider but channeling such activities through an EarthLink account or re-mailer or using EarthLink account as a mail drop for responses;

2.6.8. directing commercial advertising to groups in violation of their charters;

2.6.9. publishing or distributing obscene or defamatory materials; and

2.6.10. willfully violating the posted Acceptable Use Policy of any Internet Service Provider (ISP) or network.

2.6.11. Illegal use. Using the Services to transmit any material (by email, uploading, posting, or otherwise) that, intentionally or unintentionally, violates any applicable federal, state, local or international law, or any rules or regulations promulgated there under, or permitting any other person to do any of the foregoing, whether through action or inaction.

2.6.12. Harm to minors. Using the Services to harm, or attempt to harm, minors in any way.

2.6.13. Threats. Using the Services to transmit any material (by email, uploading, posting, or otherwise) that threatens or encourages bodily harm or destruction of property.

2.6.14. Harassment. Using the Services to transmit any material (by email, uploading, posting, or otherwise) that harasses another.

2.6.15. Fraudulent acts. Using the Services to make fraudulent offers to sell or buy goods or services or to conduct any type of financial scam, including without limitation "pyramid schemes," "Ponzi schemes," and "chain letters."

2.7.16. Unsolicited messaging. Using the Services to transmit or facilitate any unsolicited advertising or promotional messaging, or bulk messaging, including but not limited to email and instant messages.

2.7.17. Forgery or impersonation. Adding, removing or modifying identifying network header information to deceive or mislead, or to impersonate any person (excluding using anonymous remailers or nicknames not intended to impersonate and deliberately misleading headers ("munging" headers) in news postings to safeguard against spam email address collectors).

2.7.18. Unauthorized access. Using the Services to access, or attempt to access, accounts of others, or to penetrate, or attempt to penetrate, security systems of EarthLink or any other organization, or to access or attempt to access the communications network of EarthLink or any other organization without authority, whether or not such actions disrupt or affect any data or other information.

2.7.19. Copyright or trademark infringement. Using the Services to transmit any material (by email, uploading, posting, or otherwise) that infringes any copyright, trademark, patent, trade secret, or other proprietary rights of another, including without limitation, unauthorized copying of copyrighted material, digitization and distribution of photographs from publications, web sites, or other copyrighted sources, and unauthorized transmission of copyrighted software.

2.7.20. Collection of personal data. Using the Services to collect, or attempt to collect, personal information about others without their knowledge or consent.

2.7.21. Network disruptions. Using the Services in any manner which adversely affects the ability of other people or systems to use the Services, including without limitation "denial of service" (DoS) attacks against another network host or user, interfering with or disrupting use or enjoyment of the Services by other users, or tampering with any network equipment (whether in or out of the site of use).

2.8. Email, Newsgroups and Internet Relay Chat

2.8.1. Email is a person-to-person medium and not a broadcast medium. Harassing others by "mail-bombing" or "spamming", which constitutes sending the same or substantially similar unsolicited electronic mail messages to a large number of recipients, or more than ten (10) similar mail messages to the same email address, or 10Mb of data to a newsgroup is grounds for termination of a customer's account. Threatening bodily harm or property damage to individuals or groups, for example, making terrorist threats is also strictly prohibited and is grounds for termination.

2.8.3. Certain restrictions relating to newsgroup postings have been established by Usenet and are respected by EarthLink. Customers of EarthLink unconditionally agree to abide by such restrictions, protocols and policies in using their accounts.

2.8.4. The following activities are specifically prohibited by EarthLink in connection with the use of email, newsgroup or IRC services:

2.8.4.1. distributing malicious software which contributes to or assists in "mail-bombing" or "spamming";

2.8.4.2. sending unsolicited, junk or chain letter email for the purpose of advertising or soliciting, or using EarthLink Internet's email address to collect responses from unsolicited email;

2.8.4.3. attempting to impersonate any person, using forged email or Usenet headers or other identifying information;

2.8.4.4. using a news server for software distribution, cross-posting messages to more than 10 newsgroups and posting off-topic messages and advertising to newsgroups;

2.8.4.4. posting frivolous, excessively vulgar or repetitious messages to newsgroups;

2.8.4.5. posting binary or excessively large unrelated text files to non-binary newsgroups;

2.8.4.6. installing "auto-responders," "cancel-bots" or similar automated or manual routines which generate excessive amounts of net traffic, or disrupt newsgroups or email use by others;

2.8.4.7. transmitting blanket postings to all or large numbers of newsgroups simultaneously without regard to the newsgroups' topics; and

2.8.4.8. using IRC bots in violation of any accepted policies on IRC servers.

2.8.4.9. Posting to any newsgroup in violation of a group's charter, published guidelines, FAQs, "community standards", other "netiquette" standards, this AUP, or any law or regulation, including without limitation continued posting of off-topic articles or advertisements, deleting or canceling another's posting. We reserve the right to delete or cancel any posting which violates this AUP.

If you decide to use our service to offer any public information service, such as running a web server or FTP server, you will experience a diminution in performance. We are not responsible for any diminution of service resulting from your operation of such public information services.

End User Responsibilities

3.1. All End Users who publish materials and information which are accessible through the Services are solely responsible for the content of such materials and information and are solely responsible for compliance with all laws applicable to the publication of such materials and information.

3.2. Each EarthLink account holder is responsible for charges incurred by others to whom the account holder has given its username and/or password, and for charges incurred by a person who has obtained such account holder's username and/or password prior to such account holder's notification to EarthLink of such fact.

3.3. EarthLink customers are solely responsible for all traffic emanating from their networks.

3.3. Each End User is responsible for ensuring that his or her site of use and computer and other network facilities at the End User's premises are protected against unauthorized access and are continuously configured in a secure manner. If an End User is provided a password or other security device by which to access or use the Services, the End User shall safeguard and maintain the integrity and confidentiality of such password or security device.

3.4. Also, each account holder must immediately notify EarthLink of any unauthorized use of such account holder's account, of any breach or attempted breach of security, if it is believed that such account holder's password has been compromised or of any other violations of this AUP.

Actions by EarthLink for Noncompliance or Violation

4.1. Use of an EarthLink account or service in an illegal manner is grounds for immediate termination of such account. End Users should be aware that EarthLink views such activities very seriously and may disclose prohibited activities to law enforcement agencies, including the Federal Bureau of Investigation, with whom EarthLink will fully cooperate. EarthLink will cooperate with appropriate law enforcement agencies involved in investigating instances that may be reported to such authorities by subscribers or other users who believe they are being subjected to potentially unlawful harassment.

4.2. EarthLink reserves the right to conduct its own investigation of suspected violations of this AUP.

4.3. Each account holder understands and acknowledges that EarthLink has the right to terminate any account for any reason that EarthLink interprets as a violation of this AUP and such account holder will be liable for any and all costs incurred by EarthLink as result of such violation.

4.4. EarthLink will review alleged violations of this AUP on a case-by-case basis. Violations, which are not promptly remedied, may result in disciplinary action, including referral to appropriate authorities for civil or criminal prosecution. EarthLink's decisions in all such matters are final. EarthLink does not assume any liability to any account holders, users or others for its failure to enforce this AUP.

4.5. Nothing herein is to be construed to limit EarthLink's remedies in any way, to recover costs, identify and remove offenders, levy cancellation charges or pursue any other remedies at law or in equity.

4.6. EarthLink may take any one or more of the following actions in response to a reported violation of this AUP:

issue verbal or written warnings to the offending End User.

suspend the End User's Services.

terminate the End User's Services.

invoice the End User for administrative costs and expenses associated with his or her violation of this AUP, all of which costs and expenses shall be paid by the End User in full within twenty-five (25) days of invoice date.

bring legal action against the End User to enjoin violations and/or to collect damages, if any, caused by violations, without prejudice to any other rights at law or in equity which EarthLink may have against the End User or any other party.

EARTHLINK RESERVES THE RIGHT TO MODIFY THIS POLICY AT ANY TIME AND FROM TIME TO TIME WITHOUT NOTICE.

Version: Version 1.0

Date: November 2004