

# Terms of Service

## **AGREEMENT FOR ONLINE ACCESS(r) RESIDENTIAL NON-COMMERCIAL SERVICE**

Internet of Beaufort County is pleased to provide its online high-speed Internet access (the "Internet of Beaufort County") to you in accordance with these terms and conditions, which terms and conditions incorporate and include the Internet of Beaufort County Internet Product Acceptable Use Policy, as both may be changed from time to time. Internet of Beaufort County is provided to subscribing households for non-commercial use.

Subscriber's use of the Internet of Beaufort County shall be deemed acknowledgment that Subscriber has read and agreed to these terms of service. This is a legal document.

### **1. Definitions:**

(a) **Subscriber:** Each member of your household and any other individual who uses the Computer and the online services irrespective of the individual in whose name the account is in or who owns, rents or uses the premises on which the Computer is located.

(b) **Computer:** An electronic device that can store, receive and process data and which has the minimum requirements necessary to operate online as outlined in the consumer informational literature provided by Internet of Beaufort County for online access.

(c) **Equipment:** All equipment owned by Internet of Beaufort County delivered to and installed in Subscriber's home including but not limited to all cable wire, the Modem (unless purchased separately) and certain software necessary to receive Internet of Beaufort County.

(d) **Modem:** A device that converts and transmits computer data over cable lines or plain old telephone service (POTS).

(e) **Internet of Beaufort County:** An electronic two way online information and communication service of Internet of Beaufort County (which includes proprietary products of Online access as well as Internet access) which is delivered over the cable system or POTS service and accessed by your personal computer via a cable modem or standard telephone modem.

**2. Services Provided:** The Internet of Beaufort County provides Internet access, as well as access to certain proprietary products of the Internet of Beaufort County. Through access to the Internet, you also can subscribe to services such as America Online and CompuServe (collectively the "Services") and transact other forms of electronic commerce. Subscriber acknowledges that Subscriber may incur charges while using the Services or while engaging in other forms of "e-commerce" (i.e. charges may be incurred as a result of accessing certain information, or purchasing or subscribing to certain offerings via the Internet of Beaufort County or the Services.) All such charges, including applicable taxes shall be paid by Subscriber to the Services and are not the responsibility of Internet of Beaufort County.

**3. Payment of Internet of Beaufort County Charges:** Subscriber agrees to pay the monthly rate and other fees, including applicable fees and taxes, if any, for Internet of Beaufort County, as established from time to time by Internet of Beaufort County. Subscriber must pay all undisputed monthly charges as itemized on the Internet of Beaufort County monthly invoice and notify Internet of Beaufort County of disputed items within thirty (30) days of receipt, or longer as provided by applicable law. Failure to pay charges invoiced (including checks returned for insufficient funds) may result in discontinuance of service, the

removal of all equipment delivered and the imposition of late payment or service charge. Rates for the Internet of Beaufort County, Equipment, installation and all related services hereunder are subject to change in accordance with applicable law.

**4. Computer Equipment:** Subscriber acknowledges and agrees that it has the minimum Computer requirements necessary to operate the Internet of Beaufort County as outlined in the consumer informational literature provided by Internet of Beaufort County.

**5. Disruption of Service:** Subject to applicable law, credit shall be given for qualifying outages. In any event, if there is a known service interruption in excess of twenty-four (24) consecutive hours (or in excess of such lesser time period pursuant to state law), Internet of Beaufort County, upon prompt notification of such failure or interruption from Subscriber, shall provide Subscriber with a pro-rata credit relating to such failure or interruption. Internet of Beaufort County will not be liable for any incidental or consequential damages.

**6. Repair of Internet of Beaufort County Equipment:**

(a) Internet of Beaufort County will repair or replace defective Equipment in accordance with the applicable pricing schedule, if any, as long as such damage was not caused by misuse or other improper operations or handling by Subscriber. Internet of Beaufort County shall have the right to presume misuse or other improper operations or handling by Subscriber in the event Subscriber requests repair or replacement more than twice in any twelve-(12-)month period, or more than three times in any twenty-four (24-)month period, and shall have no obligation to fulfill any such repair or replacement.

(b) Internet of Beaufort County is not responsible for the maintenance or repair of Subscriber's Computer, Modem (if Subscriber-owned) or related Subscriber-owned equipment. A service charge may be imposed upon the dispatch of a technician, if there is damage to Internet of Beaufort County's Equipment due to negligent use or abuse or if no fault is discovered in Internet of Beaufort County's system or Equipment. Internet of Beaufort County makes no warranties with respect to the Equipment's or Modem's compatibility with Subscriber's Computer.

**7. Relocating Equipment:** Internet of Beaufort County's system is highly sophisticated and sensitive. Any "break" in the integrity of the cable system will subject the system to "ingress" of radio signals, which will disrupt your service and may affect that of others. Cable modems are not "portable" and are not permitted to operate at any location other than the address that appears on the subscriber's account. Accordingly, you agree that you will not relocate, move or in any way tamper with or relocate the Internet of Beaufort County. Notwithstanding the foregoing, upon receipt of a request by Subscriber, Internet of Beaufort County shall relocate the Internet of Beaufort County for Subscriber within Subscriber's home at a time mutually agreed to by Internet of Beaufort County and Subscriber. If the Subscriber moves residences outside of Internet of Beaufort County's service area, Subscriber shall notify Internet of Beaufort County that this Agreement shall be terminated and the provisions of Section 14 shall apply to such termination. In all cases, Subscriber shall notify Internet of Beaufort County pursuant to Section 8 below.

**8. Contact Address:** For any inquiries or notices required in connection with this Agreement, Subscriber shall contact Internet of Beaufort County by writing to:

Internet of Beaufort County  
P.O. Box 8

Belhaven, NC 27810 or alternatively by calling Internet of Beaufort County at (252) 943-

2246.

**9. Subscriber Property:** Internet of Beaufort County assumes no liability for the condition or repair of any Subscriber owned hardware or software. Subscriber is responsible for the repair and maintenance of all such Subscriber hardware and software.

**10. Taxes:** Subscriber agrees to pay any local, state or federal taxes imposed or levied on or with respect to the Internet of Beaufort County, the Services, the Equipment or installation or service charges incurred with respect to the same.

**11. Internet of Beaufort County's Rights:**

(a) Internet of Beaufort County has no obligation to monitor Internet of Beaufort County content. However, Subscriber acknowledges and agrees that Internet of Beaufort County has the right to monitor content electronically from time to time and to disclose any information as necessary to satisfy any law, regulation or other governmental request, to operate Internet of Beaufort County properly, or to protect itself or its Subscribers.

(b) Internet of Beaufort County shall have the right to determine, in its sole discretion, what constitutes "commercial use" of the Internet of Beaufort County hereunder.

**12. Access to Subscriber Premises:** Subscriber authorizes Internet of Beaufort County and its employees, agents, contractors and representatives to enter the Subscriber's premises in order to install, maintain, inspect, repair, and remove the Internet of Beaufort County, as applicable. All such service shall be conducted at a time mutually agreed to by Internet of Beaufort County and Subscriber.

**13. Assignment or Transfer:** The Agreement and the Equipment supplied by Internet of Beaufort County are not assignable or otherwise transferable by Subscriber.

**14. Termination and Expiration:**

(a) **Termination by Subscriber:** Unless otherwise terminated, this Agreement shall automatically renew on a month to month basis. Subscriber acknowledges that upon such renewal all pricing is subject to change.

(b) **Termination for Bankruptcy:** Internet of Beaufort County shall have the right to terminate this Agreement immediately in the event that Subscriber makes an assignment for the benefit of creditors, or a voluntary or involuntary petition is filed by or against Subscriber under any law having for its purpose the adjudication of Subscriber as a bankrupt or the reorganization of Subscriber.

(c) **Termination for Breach:** In the event of any breach of this Agreement by Subscriber, or the failure of Subscriber to abide by the rates, rules and regulations of Internet of Beaufort County, this Agreement may be, at Internet of Beaufort County's option, terminated and Internet of Beaufort County's Equipment removed. Failure of Internet of Beaufort County to remove such Equipment shall not be deemed abandonment thereof. Subscriber shall pay reasonable collection and/or attorney's fees to Internet of Beaufort County in the event that Internet of Beaufort County shall find it necessary to enforce collection or to preserve and protect its rights under this Agreement.

(d) **Obligations Upon Termination:** The Subscriber agrees that upon termination of this Agreement:

(i) Subject to 14(a), Subscriber will pay Internet of Beaufort County in full for Subscriber's use of the Equipment and Services up to the later of the effective date of termination of this Agreement and the date on which the Internet of Beaufort County has been disconnected. The Subscriber agrees to pay Internet of Beaufort County on a pro-rated basis for any use by the Subscriber of the Internet of Beaufort County for a part of a month;

(ii) Subscriber will promptly return all Equipment to Internet of Beaufort County. In the event that Subscriber fails to return any Equipment within ten (10) days of the termination of this Agreement, Subscriber shall be liable to Internet of Beaufort County for the actual cost of such Equipment, or be subject to a non-return fee, which fee shall be subject to change in accordance with applicable law, or.

(e) The termination of this Agreement for reasons other than Subscriber's bankruptcy shall not affect Subscriber's Internet of Beaufort County television service.

**15. Renewal after Cancellation or Termination:** Subscriber acknowledges and agrees that in the event of renewal after cancellation or termination of Internet of Beaufort County, Subscriber shall be subject to the pricing, warranties, and terms of Online access as are effective at the time of such renewal.

**16. Change In Internet of Beaufort County:** The Internet of Beaufort County provided hereunder is subject to change in accordance with applicable law.

**17. Disclaimer:** Internet of Beaufort County assumes no liability for and exercises no control over the content contained in the Internet and other Services, including content that is pornographic, obscene or otherwise inappropriate or offensive. Further, Internet of Beaufort County shall not be responsible for any products, merchandise or prizes promoted or purchased through the use of the Internet of Beaufort County, or the Services unless such products, merchandise or prizes are provided directly by Internet of Beaufort County.

**18. Online access Network:** The Internet of Beaufort County utilizes a network that will allow bi-directional direct access to the Internet, i.e. Subscribers can directly access and respond to direct requests from Internet users outside the Internet of Beaufort County network. The Network is not intended to protect Subscribers from hackers gaining access to their Computer and as such, Subscribers should not rely on it to provide such functions. Internet of Beaufort County shall have no liability whatsoever for any claims, losses, actions, damages, suits or proceedings resulting from, arising out of or otherwise relating to damage to the Subscriber or the Subscriber's Computer resulting from the actions of any third party including, without limitation, hackers or computer viruses.

**19. Limitation of Liability:**

(a) Subscriber expressly agrees that the use of Internet of Beaufort County, software and Equipment, as well as the purchase, download, or use of any third-party product or service provided by or accessed through Internet of Beaufort County, is at Subscriber's sole risk and Subscriber acknowledges that this service and these materials are provided "as is" and "as available" for Subscriber's use, without warranties of any kind, whether express or implied. Neither Internet of Beaufort County nor any third-party provider of services or products makes any representations or warranties with respect to any product or service offered through the Internet of Beaufort County or the Services, and Internet of Beaufort County shall not be party to nor responsible for monitoring any transaction between Subscriber and third-party providers of products or services.

(b) Unless otherwise specifically provided in this Agreement, Internet of Beaufort County will

not be liable to the Subscriber or to any third party for:

(i) any direct, indirect, incidental, special, punitive or consequential losses or damages, including loss of profits, loss of earnings, loss of business opportunities and personal injuries (including death), resulting directly or indirectly out of, or otherwise arising in connection with the use of Internet of Beaufort County by the Subscriber or any other use of the Services including without limitation, any damage resulting from or arising out of the Subscriber's reliance on or use of the Internet of Beaufort County or the Services, or the mistakes, omissions, interruptions, deletion of files, errors, defects, delays in operation, transmission, or any failure of performance of the Internet of Beaufort County or the Services; and

(ii) any losses, claims, damages, expenses, liabilities or costs (including legal fees) resulting directly or indirectly out of, or otherwise arising in connection with, any allegation, claim, suit or other proceeding based upon a contention that the use of the Internet of Beaufort County or the Services by the Subscriber or a third party infringes the copyright, patent, trade-mark, trade secret, confidentiality, privacy, or other industrial or intellectual property rights or contractual rights of any third party. This limitation applies to the acts, omissions, negligence and gross negligence of Internet of Beaufort County, its officers, employees, agents, contractors or representatives which, but for this provision, would give rise to a cause of action against Internet of Beaufort County in contract, tort or any other legal doctrine.

**20. Multiple Users:** Subscriber acknowledges that by "clicking" the Acceptance icon below and/or by using the Internet of Beaufort County, Subscriber is agreeing to the terms and conditions of this Agreement on behalf of all persons who use the Internet of Beaufort County or the Services through Subscriber's Computer. Subscriber shall be responsible for ensuring that all Subscribers understand and comply with the terms and conditions of this Agreement. Subscriber acknowledges and agrees that the Subscriber is responsible and liable for any and all breaches of the terms and conditions of this Agreement, whether such breach is the result of use of the Internet of Beaufort County or Services.

**21. Prohibited Uses of Online access:** Subscriber shall comply with all of Internet of Beaufort County's standards for acceptable use with respect to the Internet of Beaufort County and the Services and shall refrain from any and all illegal and/or inappropriate activities, including without limitation as outlined in the Acceptable Use Policy. The Internet of Beaufort County Internet Product Acceptable Use Policy will be updated from time to time and the latest version will supersede all prior versions. Please click [here](#) for the most updated Acceptable Use Policy.

In addition to the prohibitions outlined in the Acceptable Use Policy, Residential Online access users may not:

(a) Run any type of server on the system. This includes but is not limited to FTP, IRC, SMTP, POP, HTTP, SOCKS, SQUID, DNS or any multi-user forums;

(b) Register or point a domain, sub-domain, or hostname to any Online access IP address. Moreover, users may not have traffic redirected to The Service;

(c) Resell, share, or otherwise distribute the Service or any portion thereof to any third party without the written consent of Internet of Beaufort County. For example, Subscriber may not provide Internet access to others through a dial up connection, wireless access or host shell accounts over the Internet, provide e-mail or news service, or send a news feed.

(d) copy, distribute or sublicense any software provided by Internet of Beaufort County, except that Subscriber may make one copy of each software program for back-up or archival

purposes only;

(e) FTP/HTTP. Subscriber should also be aware that when using the Computer to access files through means such as FTP (File Transfer Protocol) and HTTP (Hyper Text Transfer Protocol), Subscriber may open access to Subscriber's computer to other Online access users and Internet users. If Subscriber chooses to make use of such applications for file retrieval, Subscriber should take the appropriate security measures.

**22. License Requirements:** Subscriber agrees to comply with all end user license requirements relative to any of the Services which Subscriber accesses pursuant to the terms of this Agreement.

**23. Back-up Requirements:** The Subscriber agrees to back-up all existing Computer files by compiling them to another storage medium prior to installation of the Equipment. Internet of Beaufort County shall have no liability whatsoever for any damage to or loss or destruction of any of Subscriber's software, files, data, or peripherals.

**24. Viruses:** Internet of Beaufort County may run a third party virus check software on the Subscriber's Computer prior to installing software on the Subscriber's Computer. Subscriber agrees that Internet of Beaufort County provides such technology "as is" or "as available" and acknowledges and agrees that Internet of Beaufort County does not represent, warrant or covenant that the virus check software will detect or correct any or all viruses.

**25. Internet of Beaufort County shall not be Liable for:**

(a) (i) Eavesdropping; Any information sent by the Subscriber over the Online access network is sent at the Subscriber's sole risk, and Internet of Beaufort County shall have no liability whatsoever for any claims, losses, actions, damages, suits or proceedings arising out of or otherwise relating to such actions by the Subscriber.

(ii) Multiple Computer Connections; When Subscriber's Computer is connected to a cable Modem, it constitutes a "local" segment. All Subscriber's ethernet traffic on this local segment will be reflected by the cable Modem in an unencrypted form onto the cable network and be subject to eavesdropping, as previously described in subsection (a)i above.

(iii) File and Print Sharing, Subscriber understands that users outside the Subscriber's home may be able to access Subscriber's Computer. Further, some software includes capabilities that permit other users across a network such as Online access and the Internet to gain access to the Subscriber's Computer and to the software, files and data stored on the Computer.

(b) Any Subscriber who, (i) chooses to participate in the Internet of Beaufort County using other than a single, stand-alone Computer connected to the local segment, if and when this capability is offered or (ii) chooses to enable capabilities such as file sharing, print sharing or other capabilities that allows users to gain access to Subscriber's Computer, hereby acknowledges and agrees that the Subscriber does so at the Subscriber's own risk

**26. Security.** (See Acceptable Use Policy)

(a) Internet of Beaufort County reserves the right to protect the integrity of its network and resources by any means it deems appropriate. This includes but is not limited to: port blocking, email virus scanning, denying email from certain domains, and putting limits on bandwidth and email.

(b) Subscriber is solely responsible for any misuse of the Internet of Beaufort County or the Services, as well as for the security of any device you choose to connect to the Internet of Beaufort County, including any data stored on that device, all as detailed more fully in the Acceptable Use Policy.

## **27. Inappropriate Content.**

There may be content on the Internet or otherwise available through the Internet of Beaufort County or the Services which may be offensive to some individuals, or which may not be in compliance with all local laws, regulations and other rules. For example, it is possible to obtain access to content which is pornographic or offensive, particularly for children. Neither Internet of Beaufort County nor any of its distribution affiliates can assume any responsibility for the content contained on the Internet or otherwise available through the Services. You must assume the risk of accessing content through the Service, and neither Internet of Beaufort County nor any of its distribution affiliates shall have any liability for any claims, losses, actions, damages, suits or proceedings arising out of or otherwise relating to access to such content. Parents may want to use a program capable of restricting access to sexually explicit material on the Internet. Content questions or complaints should be addressed to the content provider.

You are solely responsible for any information which you publish on the web or other Internet services. You must ensure that the recipient of the content is appropriate. For example, you must take appropriate precautions to prevent minors from receiving inappropriate content. Internet of Beaufort County and its distribution affiliates reserve the right to refuse to post or to remove any information or materials, in whole or in part, that it, in its sole discretion, deems to be offensive, indecent, or otherwise inappropriate regardless of whether such material or its dissemination is unlawful.

By using the Internet of Beaufort County or the Services to publish, transmit or distribute content, a user is warranting that the content complies with this Policy and authorizes Internet of Beaufort County and its distribution affiliates to reproduce, publish, distribute, and display such content worldwide.

## **28. Electronic Mail.**

Users must adhere to the Online access e-mail policies set forth in the Acceptable Use Policy.

Internet of Beaufort County may, at its discretion, provide, offer for sale or subscription, or otherwise make available to Subscribers software or services for e-mail filtering, anti-virus scanning, and other e-mail security solutions for the convenience of Subscribers. Internet of Beaufort County shall not be responsible for nor have any liability with regard to the e-mail that users receive, nor for any lost or filtered e-mail, nor for any failure to prevent virus delivery or infection.

Subscriber agrees that Subscriber has been informed that Internet of Beaufort County includes a filter that diverts commercial mass mailings ("spam") from user's inbox into a bulk mail folder. User will have 7 days to review any email diverted into the bulk mail folder, and to save or delete the email. Any email left in the bulk mail folder for over 7 days will be deleted by Online access. Subscriber has been informed in addition that Subscriber may opt out of this filtering service at any time by following the instructions in the User Guide.

Internet of Beaufort County is not responsible for the forwarding of email sent to any account which has been suspended or terminated. Such email will either be returned to sender, ignored, deleted, or stored temporarily at Internet of Beaufort County's sole discretion. Internet of Beaufort County reserves the right to reclaim any and all e-mail addresses from

Subscribers whose service has been cancelled or terminated, regardless of the reason for such cancellation or termination.

29. **Newsgroups.** (See Acceptable Use Policy)

30. **Internet Relay Chat.** (See Acceptable Use Policy)

### 31. **Violation of Acceptable Use Policy / Terms of Service**

Internet of Beaufort County does not routinely monitor the activity of accounts for violation of this Policy. However, in our efforts to promote good citizenship within the Internet community, we will respond appropriately if we become aware of inappropriate use of our Internet of Beaufort County.

Neither Internet of Beaufort County nor any of its distribution affiliates has any obligation to monitor transmissions made on the Internet of Beaufort County or the Services. However, Internet of Beaufort County and its distribution affiliates have the right to monitor such transmissions from time to time and to disclose the same in accordance with these terms and conditions.

You hereby authorize Internet of Beaufort County and its distribution affiliates to cooperate with (i) law enforcement authorities in the investigation of suspected criminal violations, and (ii) and system administrators at other Internet service providers or other network or computing facilities in order to enforce this Policy. Such cooperation may include Internet of Beaufort County providing the username, IP address, or other identifying information about a subscriber.

Upon termination of an account, Internet of Beaufort County is authorized to delete any files, programs, data, and email messages associated with such account.

The failure of Internet of Beaufort County or its distribution affiliates to enforce this Policy, for whatever reason, shall not be construed as a waiver of any right to do so at any time.

You agree that, if any portion of this Policy 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. This Policy shall be exclusively governed by, and construed in accordance with, the laws of the State of New York.

### 32. **Bandwidth, Data Storage and Other Limitations**

Subscriber agrees to comply with Internet of Beaufort County's bandwidth, data storage and other limitations of Internet of Beaufort County as established and modified by Internet of Beaufort County from time to time. Subscriber agrees that its activity will not improperly restrict, inhibit or degrade any other user's use of Internet of Beaufort County, nor represent (in the sole judgment of Internet of Beaufort County) an unusually large burden on the network itself. In addition, Subscriber agrees that its activity will not improperly restrict, inhibit, disrupt, degrade or impede Internet of Beaufort County's ability to deliver and monitor Internet of Beaufort County, backbone, network nodes, and/or other network services.

Your email account is limited to 20 megabytes of storage space and to 30 days of storage. Online access reserves the right to modify, delete, or otherwise correct any accounts that exceed either limitation.

To preserve email you do not want deleted, you can set your email account to ensure that

your email is automatically stored on your computer's hard drive when you open it. Please check the Help section or the FAQ on your email client (e.g., Outlook Express, Eudora) to find out how this can be done.

### 33. **Installation**

(a) Internet of Beaufort County does not represent, warrant, or covenant that installation modifications, including installing network cards or similar computer equipment, and modification of computer files such as INI, BAT, SYS, .DLL and other system configuration files will not disrupt the normal operations of the Subscriber's Computer. Internet of Beaufort County shall have no liability whatsoever for any damage resulting from the above or other file modifications.

(b) Upon Subscriber's request, Internet of Beaufort County or its agents will install certain software, an extra cable outlet (if necessary), a cable Modem and associated equipment. Internet of Beaufort County will also provide a user's manual and instructions on how to use Internet of Beaufort County. If installed by Internet of Beaufort County, Internet of Beaufort County shall use reasonable efforts to install the Internet of Beaufort County to a fully operational status.

(c) All installation services performed by Internet of Beaufort County shall be subject to Internet of Beaufort County's applicable service charges, if any.

34. **Amendment:** Internet of Beaufort County may, in its sole discretion, change, modify, add or remove portions of this Agreement at any time. Internet of Beaufort County may notify Subscriber of any such changes to this agreement by posting notice of such changes on the Internet of Beaufort County, or sending notice via e-mail or postal mail. The Subscriber's continued use of the Internet of Beaufort County following notice of such change, modification or amendment shall be deemed to be the Subscriber's acceptance of any such modification. If Subscriber does not agree to any modification of this Agreement, Subscriber must immediately cease using the Internet of Beaufort County and notify Internet of Beaufort County that Subscriber is terminating this Agreement in accordance with Section 14 of this Agreement. Additionally, this Agreement may be superseded by an Online access user subscription agreement subject to your approval, which shall be indicated by your use of the Internet of Beaufort County described herein.