



## Kacific Broadband Satellites International Acceptable Use Policy v. 11 – New Zealand

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### 1. Introduction

This acceptable use policy (the "Policy") defines acceptable practices for the use of Kacific services by customers of Kacific and by users that have gained access to such services through these customers. The Policy is incorporated by reference into the Framework Agreement ("Agreement"), and any Attachment entered into pursuant to the Framework Agreement, between Kacific and each of its customers. Kacific reserves the right to update the Policy from time to time and will maintain the latest copy of the Policy on Kacific's website at [www.kacific.com](http://www.kacific.com) or any localized version of this website. The Policy is designed to assist in protecting the Kacific Network, the Service, Users, and the Internet community as a whole from improper and illegal activity over the Internet, to improve the Service and other offerings.

### 2. Terminology

For purposes of the Policy, the following are defined terms:

"Kacific" shall mean Kacific Broadband Satellites International Ltd or any of its affiliates and may also be referred to herein as "we" or "us".

"Customer" shall mean Kacific's customers who have executed an Agreement with us and may also be referred to herein as "you".

"Users" shall mean your customers who access the Service.

"The Service" shall mean the internet service provided by Kacific to Customer.

"Kacific Network" shall mean Kacific's satellite internet service and related equipment, systems, facilities, and other services used in the transmission of the Service.

### 3. Agreement to Policy

By using the Service, you acknowledge and agree that you and your Users are responsible for compliance with the Policy. You are responsible for violations of the Policy by any User that accesses the Service through your account. You also agree to fully cooperate with Kacific in any investigation regarding violation of the Policy by a User.

### 4. Kacific's Rights under the Policy

#### 4.1. Suspension or Termination of Service.

Kacific reserves the right to suspend or terminate a User's access to the Service, upon written notice given to Customer as far as practically feasible, if the User engages in conduct that violates a provision of the Policy, and such conduct is not corrected within the time frame specified in the written notice. In severe cases, i.e., where the operations of the Kacific Network or other Kacific customers are threatened, Kacific reserves the right to suspend or terminate the User's access to the Service without notification. Kacific does not make any promise, nor have any obligation, to monitor the activity of individual Users and will have no liability to any party, including you, for any violation of the Policy by Users.

#### 4.2 Cooperation with Law Enforcement.

Kacific will cooperate with appropriate law enforcement agencies involved in investigating claims of illegal or inappropriate activity. Kacific reserves the right to disclose Customer and User information to the extent required by law. By using and accepting the Service, you consent to our disclosure to any law enforcement agency, as required by such agency and without the need for a subpoena, of your identity as the service provider of record (including basic contact information), and for any User about whom Kacific is contacted by the law enforcement agency.

## 5. Prohibited Uses

Uses of the Service that will constitute violations of the Policy include:

### 5.1 Illegal Activity.

The Service shall not be used for any unlawful activities and shall, in all cases, be used in compliance with applicable law. Use of the Service or Kacific Network for transmission, distribution, retrieval, or storage of any information, data, or other material in violation of any applicable law or regulation (including, where applicable, any tariff or treaty) is prohibited. This includes, without limitation, the use or transmission of any data or material protected by copyright, trademark, trade secret, patent or other intellectual property right without proper authorization and the transmission of any material that constitutes an illegal threat, violates export control laws or is obscene, defamatory or otherwise unlawful.

### 5.2 Unauthorized Access/Interference.

A User may not attempt to gain unauthorized access to or attempt to interfere with or compromise the normal functioning, operation or security of, any portion of the Kacific Network or any other satellite system. A User may not use the Service to engage in any activities that may interfere with the ability of others to access or use the Service or the Internet. A User may not use the Service to monitor any data, information, or communications on any network or system without authorization. A User may not attempt to gain unauthorized access to the user accounts or passwords of other Users. The use of any transmission equipment other than that which is expressly approved by Kacific is strictly prohibited.

### 5.3 Unsolicited Commercial Email/Spamming/Mailbombing.

A User may not use the Service to transmit unsolicited commercial email messages or deliberately send excessively large attachments to one recipient. Spamming or "mailbombing" is prohibited. Likewise, a User may not use the Service to collect responses from mass unsolicited email messages. Kacific may, in its sole discretion, rely upon information obtained from anti-spamming organizations as evidence that a User is an active "spam operator" for purposes of taking remedial action under the Policy.

### 5.4 Spoofing/Fraud.

Users are prohibited from injecting false data into the Internet, for instance, in the form of bad routing information (including but not limited to the announcing of networks owned by someone else or reserved by the Internet Corporation for Assigned Names and Numbers) or incorrect DNS information. A User may not attempt to send email messages or transmit any electronic communications using a name or address of someone other than the User for purposes of deception. Any attempt to impersonate someone else by altering a source IP address information or by using forged headers or other identifying information is prohibited. Any attempt to fraudulently conceal, forge or otherwise falsify a User's identity in connection with the use of the Service is prohibited.

### 5.5 Inbound Complaints.

Kacific receives complaints directly from Internet users and other parties. Kacific shall not be required to determine the validity of complaints received, or of information obtained from anti-spamming organizations, but shall notify Customer of the complaint and provide a reasonable period of time, given the nature of the complaint, for Customer to resolve the complaint with the User before taking action under the Policy.

### 5.6 Other Prohibited Activities.

The following activities will also constitute violations of the Policy and may result in suspension or termination of the User's access to the Service.

**5.6.1** Intentionally transmitting files containing a computer virus or corrupted data.

**5.6.2** Attempting to circumvent or alter the processes or procedures to measure time, bandwidth utilization, or other methods to document the use of the Service.

**5.6.3** Advertising, transmitting, or otherwise making available any software, program, product, or Service that is designed to violate the Policy, which includes the facilitation of the means to deliver unsolicited commercial email.

**5.6.4** Any activity that disrupts degrades, harms, or threatens to harm the Kacific Network or the Service.

**5.6.5** Any use of another party's electronic mail server to relay email without express permission from such other party.

**5.6.6** Any other inappropriate activity or abuse of the Service (as determined by Kacific in our sole discretion), whether or not explicitly listed in the Policy.

**5.6.7** Any use of the Service for military purposes, unless such use is pre-approved in writing by Kacific.

**5.6.8** Any use of the Service that includes transmitting radio waves from Japan and its territorial waters and airspace.

## 6. Fair Usage Policy

All Users shall be able to access our services and get the best possible experience. To ensure the provision of high quality of service, a Fair Usage Policy ("FUP") applies to some of Kacific's services where the Users usage can affect that of other Users. We have developed this FUP by reference to average User profiles, and estimated the Users use of our services.

**6.1** Bandwidth allocated to Users is reviewed as required, but at any time, there is only a fixed amount of bandwidth available within the Kacific network. This FUP aims to ensure that the unreasonable usage of a few does not compromise the experience of the vast majority of Users.

**6.2** Kacific reserves the right to modify (through speed and other variables) the behavior of Users that frequently use significantly more data than the majority of the other Users and/or use their Internet service in a way that negatively affects the experience of other Users. If Users are found to be amongst the 10% heaviest Users, and their usage negatively impacts the network and other Users, Kacific may attempt to communicate with the Reseller and/or the User and request that the User modify their usage, may suggest a more suitable solution for all parties involved, or may exercise its rights outlined in this FUP.

**6.3.** Kacific may issue a warning to the Customer to suspend a User's service under this FUP, wherein Kacific's reasonable opinion the User's use of our services is excessive and/or unreasonable by materially exceeding estimated usage patterns over any month.

**6.4.** Where reasonable and practical, Kacific will provide the Customer with 7 days' notice before the suspension, restriction, or termination of a User's service.

**6.5.** If, after we have requested that the Customer notifies the User to stop or alter the usage to come within our FUP, the User's excessive or unreasonable use continues, we may without further notice, suspend, modify or restrict the User's use of our services or withdraw the User's access to the services. If we terminate the User's services under a fixed contract term, an early termination fee may apply per the terms of the relevant service contract applicable to that User's service.

The Kacific Gigstarter plans are subject to a prioritization policy as follows:

### **NZE-0007 (Woi1):**

The plan provides a maximum download speed of 40Mbps and a maximum upload speed of 5Mbps. The plan does not throttle these maximum possible speeds but provides tiers of access priority to bandwidth resources.

The plan provides a monthly 280Gbytes of premium priority download data and subsequently unmetered standard priority download data, subject to this Fair Usage Policy.

The plan also includes a monthly bonus of 200GBytes of VIP priority download data.

### **NZE-0001 (Woi2):**

The plan provides a maximum download speed of 50Mbps and a maximum upload speed of 5Mbps. The plan does not throttle these maximum possible speeds but provides tiers of access priority to bandwidth resources.

The plan provides a monthly 380Gbytes of premium priority download data and subsequently unmetered standard priority download data, subject to this Fair Usage Policy.

The plan also includes a monthly bonus of 270GBytes of VIP priority download data.

**6.6** Resellers and Users acknowledge that Kacific does not and cannot in any way supervise, edit or control the content and form of any information or data accessed through the Internet. Kacific shall not be held responsible in any way for any content or information accessed via the Kacific Service. Furthermore, Kacific disclaims all or any responsibility or liability for any material on the Internet that you may find offensive, upsetting, defamatory, and personally offensive and in any way unsuitable for minors.

**6.7** Some internet sites may have embedded within them the ability to program your PC, WIFI device, tablet, or mobile phone without the Users' knowledge or direction. Users are liable for any charges arising from such actions by third parties, and Kacific accepts no liability for any charges and/or damages the Users may incur by using the Internet.

**6.8** Users are not permitted to operate servers from the Service, and Users are not permitted to on-sell this Service without written approval from Kacific.

**6.9** Users are not permitted to send spam or bulk mail using the Service and Kacific reserves the right to charge you any costs that are required to rectify the result of such activity by the User.

**6.10** Kacific reserve the right to manage the network to improve the overall performance and customer experience. In particular, Kacific may act such that the usage of popular services such as standard web browsing and email is not adversely affected by other applications such as peer to peer or file sharing.

**6.11** The Users' use of our Service is subject to traffic prioritization by Kacific, where the allocation of bandwidth resources is necessary to minimize congestion.

**6.12** Kacific uses Quality of Service (QoS) configurations within its network and, at its sole discretion, to prioritize specific types of internet traffic over others to enhance the overall User experience.

These maximum speeds are not guaranteed, and the probability of obtaining such speed depends on the level of priority of each User and instantaneous traffic loading factors.

**6.13** Kacific reserves the right to at any time and at its sole discretion and on 30 days' prior notice, change, modify, edit, replace or withdraw any or all of this FUP.

**6.14** This FUP does not replace any of the terms, conditions, or obligations under any reseller agreement or contracts. And where any inconsistency or confusion may arise, then the reseller agreement or contracts override this FUP.

## **7. Complaints and Contact Information**

Any complaints or notifications regarding prohibited use or other abuse of the Kacific Network, including violations of the Policy, should be sent to Kacific by email at [complaints@kacific.com](mailto:complaints@kacific.com). Please include all applicable information that will assist Kacific in investigating the complaint, including all applicable headers of forwarded messages.

Kacific reserves the right to at any time and at its sole discretion and without any prior notice, change, modify, edit, replace or withdraw any or all of this Acceptable Use Policy.