



Conách, LLC.

PO Box 340512  
Tampa, FL 33694  
www.ConachLLC.com

## The Financial Center Network Services Terms of Service

Last Updated: 9/30/08

This Agreement is between you as a tenant in The Financial Center and Conach, LLC. (Conach) and it sets forth the terms and conditions under which you agree to use and we agree to provide network services.

THIS IS A CONTRACT. PLEASE READ THESE TERMS CAREFULLY. IF YOU DO NOT AGREE TO THESE TERMS DO NOT USE THE SERVICE AND CONTACT US IMMEDIATELY TO TERMINATE IT.

### Term and Acceptance of Agreement.

The term of this Agreement will be for the duration of your lease at The Financial Center (the "Term"). The Term begins when you accept this Agreement and ends when you or we terminate as permitted in your lease agreement.

Acceptance by you of this Agreement occurs upon your use of the network services.

This Agreement consists of the terms below, plus (a) our Acceptable Use Policy (Attachment A) and (b) other Conach policies referred to in this Agreement (including our Privacy Policy), all of which are incorporated herein by reference. This Agreement and related policies are posted online at <http://www.conachllc.com/Policies.aspx> ("Website"). You can also receive a paper copy of this Agreement by writing to Conach, PO Box 340512, Tampa, FL 33694, Attention: Network Services.

### Definitions.

1. "Service" means all Conach Network Services, Software, Equipment, Content, technical support, email, domain name server (DNS) and related services provided by Conach.

### Revisions to this Agreement.

From time to time we will make revisions to this Agreement and the policies relating to the Service. We will provide notice of such revisions by posting revisions to the Website Announcements page, or sending an email to your email address on file with our leasing office, or both. You agree to visit the Announcements page periodically to review any such revisions. Revisions to any terms and conditions shall be effective on the date noted in the posting and/or email we send you. By continuing to use the Service after revisions are effective, you accept and agree to abide by them.

### Termination or Suspension of Service.

1. Tenant. Either you or Conach may terminate this Agreement any time by giving notice to the other as set forth in this Agreement. Termination by you will be effective upon your notice to us.
2. Termination and/or Suspension by Conach. Conach reserves the right to change, limit, terminate, modify or temporarily or permanently cease providing the Service or any part of it with or without prior notice if we elect to change the



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Service or a part thereof or if you violate the terms of Conach policies or this Agreement. If Conach terminates your Service under this provision, you must immediately stop using the Service. If your Service is reconnected, a reconnection fee may apply.

## **Management of Your Data and Computer(s).**

1. Your Responsibilities Regarding Management of Your Computer and Data. You are solely responsible for obtaining, maintaining and updating all equipment and software necessary to use the Service, and for management of your information, including but not limited to back-up and restoration of your data. YOU AGREE THAT CONACH IS NOT RESPONSIBLE FOR THE LOSS OF YOUR DATA OR FOR THE BACK-UP OR RESTORATION OF YOUR DATA.
2. Your Responsibilities Regarding Security. You agree that you are solely responsible for maintaining the security of your computer(s) and data, including without limitation, encryption of data and protection of your User ID, password and personal and other data. WE STRONGLY RECOMMEND THE USE (AND APPROPRIATE UPDATING) OF COMMERCIAL ANTI-VIRUS, ANTI-SPYWARE AND FIREWALL SOFTWARE.

## **Limitations on Use of the Service.**

1. You acknowledge and agree that Conach (a) is not responsible for invalid destinations, transmission errors, or the corruption of your data; and (b) does not guarantee your ability to access all websites, servers or other facilities or that the Service is secure or will meet your needs.
2. You acknowledge that the Service will allow access to information which may be sexually explicit, obscene or offensive, or otherwise unsuitable for children. You agree that the supervision of use of the Service by children is your responsibility and that Conach is not responsible for access by you or any other users to objectionable or offensive content. CONACH STRONGLY RECOMMENDS THE USE OF COMMERCIALY AVAILABLE CONTENT FILTERING SOFTWARE.
3. You agree that Conach assumes no responsibility for the accuracy, integrity, quality completeness, usefulness or value of any Content, advice or opinions contained in any emails, message boards, chat rooms or community services, or in any other public services or social networks, and that Conach does not endorse any advice or opinion contained therein, whether or not Conach provides such service(s). Conach does not monitor or control such services, although we reserve the right to do so.
4. You represent that when you transmit, upload, post or submit any content, images or data using the Service you have the legal right to do so and that your use of such data or content does not violate the copyright or trademark laws or any other third party rights.



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5. Websites linked to or from the Service are not reviewed, controlled, or examined by Conach and you acknowledge and agree that Conach is not responsible for any losses you incur or claims you may have against the owner of third party websites.

## **Warranties and Limitation of Liability.**

1. YOU ACKNOWLEDGE AND AGREE THAT THE SERVICE SUPPLIED HEREUNDER IS PROVIDED ON AN "AS IS" OR "AS AVAILABLE" BASIS, WITH ALL FAULTS. EXCEPT AS OTHERWISE SPECIFICALLY SET FORTH IN THIS AGREEMENT, CONACH (AND ITS OFFICERS, EMPLOYEES, AND AFFILIATES) DISCLAIM ANY AND ALL WARRANTIES AND CONDITIONS FOR THE SERVICE, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, NON-INFRINGEMENT, NON-INTERFERENCE, TITLE, COMPATIBILITY OF COMPUTER SYSTEMS, COMPATIBILITY OF SOFTWARE PROGRAMS, INTEGRATION, AND THOSE ARISING FROM COURSE OF DEALING, COURSE OF TRADE, OR ARISING UNDER STATUTE. ALSO, THERE IS NO WARRANTY OF WORKMANLIKE EFFORT OR LACK OF NEGLIGENCE. NO ADVICE OR INFORMATION GIVEN BY CONACH OR ITS REPRESENTATIVES SHALL CREATE A WARRANTY WITH RESPECT TO ADVICE PROVIDED.
2. CONACH DOES NOT WARRANT THAT THE SERVICE PROVIDED BY CONACH WILL PERFORM AT A PARTICULAR SPEED, BANDWIDTH OR DATA THROUGHPUT RATE, OR WILL BE UNINTERRUPTED, ERROR-FREE, SECURE, OR FREE OF VIRUSES, WORMS, DISABLING CODE OR CONDITIONS, OR THE LIKE. CONACH SHALL NOT BE LIABLE FOR LOSS OF YOUR DATA, OR IF CHANGES IN OPERATION, PROCEDURES, OR SERVICES REQUIRE MODIFICATION OR ALTERATION OF YOUR EQUIPMENT, RENDER THE SAME OBSOLETE OR OTHERWISE AFFECT ITS PERFORMANCE.

## **Notices.**

1. Notices required under this Agreement by you must be provided to us at PO Box 340512, Tampa, FL 33694, Attention: Network Services in the manner set forth in the Contact Us section of the Website. Notice by Conach to you (including notice of changes to this Agreement) shall be deemed given when: (a) transmitted to your email address on file with the leasing office; or (b) mailed via the US mail or hand-delivered to your address on file with us; or (c) when posted to the Announcements page of the Website.
2. If you send us an email, you agree that the User ID and/or alias contained in the email is legally sufficient to verify you as the sender and the authenticity of the communication.

## **General Provisions.**

1. All obligations of the parties under this Agreement, which, by their nature, would continue beyond the termination of this Agreement, including without limitation,



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those relating to Limitation of Liability and Indemnification, shall survive such termination.

2. Conach will not be liable for delays, damages or failures in performance due to causes beyond its reasonable control, including, but not limited to, acts of a governmental body, acts of God, acts of third parties, fires, floods, strikes, work slow-downs or other labor-related activity, or an inability to obtain necessary equipment or services.
3. You may not assign or otherwise transfer this Agreement, or your rights or obligations under it, in whole or in part, to any other person. Any attempt to do so shall be void. We may freely assign all or any part of this Agreement with or without notice and you agree to make all subsequent payments as directed.
4. You and Conach agree that the substantive laws of the State of Florida, without reference to its principles of conflicts of laws, will be applied to govern, construe and enforce all of the rights and duties of the parties arising from or relating in any way to the subject matter of this Agreement. YOU AND CONACH CONSENT TO THE EXCLUSIVE PERSONAL JURISDICTION OF AND VENUE IN A COURT LOCATED IN HILLSBOROUGH COUNTY, FLORIDA FOR ANY SUITS OR CAUSES OF ACTION CONNECTED IN ANY WAY, DIRECTLY OR INDIRECTLY, TO THE SUBJECT MATTER OF THIS AGREEMENT OR TO THE SERVICE. Except as otherwise required by law, including Florida laws relating to consumer transactions, any cause of action or claim you may have with respect to the Service must be commenced within one (1) year after the claim or cause of action arises or such claim or cause of action is barred.
5. Conach's failure at any time to insist upon strict compliance with any of the provisions of this Agreement shall not be construed to be a waiver of such terms in the future. If any provision of this Agreement is determined to be invalid, illegal or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect and the unenforceable portion shall be construed as nearly as possible to reflect the original intentions of the parties.
6. This Agreement, including all Policies referred to herein and posted on the Website, constitutes the entire agreement between you and Conach with respect to the subject matter hereto and supersedes any and all prior or contemporaneous agreements whether written or oral. No changes by you to this Agreement shall be effective unless agreed to in a writing signed by an authorized person at Conach.

## **Acceptable Use Policy.**

1. General Policy: Conach reserves the sole discretion to deny or restrict your network services, or immediately to suspend or terminate your network services, if the use of your network services by you or anyone using it, in our sole discretion, violates Conach policies, is objectionable or unlawful, interferes with the



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functioning or use of the Internet or the Financial Center network by Conach or other users, or violates the terms of this Acceptable Use Policy ("AUP").

2. Specific Examples of AUP Violations. The following are examples of conduct which may lead to termination of your network services. It is a violation of this AUP to: (a) access without permission or right the computer systems of others, to spoof the URL, DNS or IP addresses of Conach or any other entity, or to penetrate the security measures of Conach or any other person's computer system, or to attempt any of the foregoing; (b) transmit uninvited communications, data or information, or engage in other similar activities, including without limitation, "spamming", "flaming" or denial of service attacks; (c) intercept, interfere with or redirect email or other transmissions sent by or to others; (d) introduce viruses, worms, harmful code or Trojan horses on the Internet; (e) post off-topic information on message boards, chat rooms or social networking sites; (f) engage in conduct that is defamatory, fraudulent, obscene or deceptive; (g) violate Conach's or any third party's copyright, trademark, proprietary or other intellectual property rights; (h) engage in any conduct harmful to the Financial Center network, the Internet generally or other Internet users; (i) generate excessive amounts of email or other Internet traffic; (j) use the Service to violate any rule, policy or guideline of Conach; or (k) use the service in any fashion for the transmission or dissemination of images containing child pornography or in a manner that is obscene, sexually explicit, cruel or racist in nature or which espouses, promotes or incites bigotry, hatred or racism.
3. Copyright Infringement/Repeat Infringer Policy. Conach respects the intellectual property rights of third parties. Accordingly, you may not store any material or use Conach's network in any manner that constitutes an infringement of third party intellectual property rights, including under US copyright law. In accordance with the Digital Millennium Copyright Act (DMCA) and other applicable laws, it is the policy of Conach to suspend or terminate, in appropriate circumstances, the network services provided to any tenant who is deemed to infringe third party intellectual property rights, including repeat infringers of copyrights. In addition, Conach expressly reserves the right to suspend, terminate or take other interim action regarding the network services of any tenant if Conach, in its sole judgment, believes that circumstances relating to an infringement of third party intellectual property rights warrant such action. These policies are in addition to and do not affect or modify any other rights Conach may have under law or contract.
4. Conach may, but is not required to, monitor your compliance, or the compliance of other tenants, with the terms, conditions or policies of this AUP. You acknowledge that Conach shall have the right, but not the obligation, to pre-screen, refuse, move or remove any content available via the network services, including but not limited to content that violates the law or this AUP.