

## ACCEPTABLE USE POLICY

### 1. Introduction

- 1.1. By accessing this website, or by contracting with us for service/s, you agree, without limitation or qualification, to be bound by this policy and the terms and conditions it contains, as amended from time to time by CM Value Added Services (Pty) Ltd (“CMVAS”), as well as any other additional terms, conditions, rules or policies which are displayed to you in connection with this service/website.
- 1.2. The purpose of this Policy is to ensure that all our customers:
  - 1.2.1. use our services in the manner, and for the purposes, which has been agreed in the Terms and Conditions;
  - 1.2.2. use our services in a way that complies with legal and regulatory requirements;
  - 1.2.3. do not use our services in a manner that is unreasonable or unacceptable (those terms are defined below);
  - 1.2.4. to specify what activities and online behaviour are considered an unacceptable use of the service/website;
  - 1.2.5. protect the integrity of our network and to specify the consequences that may flow from undertaking any such prohibited activities.
- 1.3. This Acceptable Use Policy sets out rules about:
  - 1.3.1. how customers may, and may not, use our services;
  - 1.3.2. what steps we can take to manage our networks in circumstances of unexpected use by some customers;
  - 1.3.3. what we may do in some circumstances, to monitor telephone and on-line activity and to ensure compliance with this Acceptable Use Policy and laws and regulations, including setting out our responsibilities to comply with directions from regulatory and other law enforcement bodies; and
  - 1.3.4. what we may do in the event of a breach of this Acceptable Use Policy.
- 1.4. CMVAS respects the rights of our customers and users of our services to freedom of speech and expression; access to information; privacy; human dignity; religion, belief and opinion in accordance with our Constitution.
- 1.5. We undertake not to interfere with any of those Constitutionally guaranteed rights unless required to do so by law; unless those rights are exercised for unlawful purposes; or unless the exercise of those rights threatens to cause harm to another person or affect the integrity of our network.

### 2. Unlawful Use

- 2.1. CMVAS’s services/website may only be used for lawful purposes and activities. We prohibit any use of our website/network including the transmission, storage and distribution of any material or content that violates any law or regulation of the Republic of South Africa, or any other jurisdiction in which the unlawful use may take place. This includes, inter alia,:
  - 2.1.1. Any violation of local and international laws prohibiting child pornography, obscenity, harassment, discrimination (including racial, gender or religious slurs), and hate speech, or speech designed to incite violence or hatred, or threats to cause bodily harm.
  - 2.1.2. Any activity designed to defame, abuse, stalk, harass or physically threaten any individual in the Republic of South Africa or beyond its borders including any attempt to link to, post, transmit or otherwise distribute any inappropriate or defamatory material.

- 2.1.3. Any violation of Intellectual Property laws including materials protected by local and international copyright, trademarks and trade secrets. CMVAS cannot be held liable if you make any unlawful use of any multimedia content accessed through the search facility provided by CMVAS's network, or otherwise available through access to the CMVAS network, whether for any Any fraudulent activity whatsoever, including dubious financial practices, such as pyramid schemes; the impersonation of another person without their express consent or any attempt to enter into a transaction with CMVAS on behalf of another person without their express consent.
- 2.1.4. Any activity that results in the sale, transmission or distribution of pirated or illegal media, software, copyright or other intellectual property.
- 2.1.5. Failing to respond to a request by a recipient of unsolicited mail to be removed from any mailing or direct marketing list and continuing to send unsolicited mail following such a request for removal.
- 2.2. Where any user resides outside of the Republic of South Africa, permanently or temporarily, such user will be subject to the laws of the country in which s/he currently resides and which apply. On presentation of a legal order to do so, or under obligation through an order for mutual foreign legal assistance, CMVAS will assist foreign law enforcement agencies in the investigation and prosecution of a crime committed using CMVAS's resources, including the provisioning of all personal identifiable data.

### **Prohibited Activities**

The following sections outline activities that are considered an unacceptable use of CMVAS's services/network/website and details the guidelines for acceptable use of certain facilities/services. The below list is not intended to be exhaustive.

### **3. Threats to Network Security**

Any activity which threatens the functioning, security and/or integrity of CMVAS's network is unacceptable and expressly prohibited. This includes, inter alia,:

- Any efforts to attempt to gain unlawful and unauthorised access to the network or circumvent any of the security measures established by CMVAS;
- Any effort to use CMVAS's equipment to circumvent the user authentication or security of any host, network or account ("cracking" or "hacking");
- Forging of any TCP-IP packet header ("spoofing") or any part of the header information in an email or a newsgroup posting or any other attempt at spoofing;
- Any effort to breach or attempt to breach the security of another user or attempt to gain access to any other person's computer, software, or data without the knowledge and consent of such person;
- Any activity which threatens to disrupt the service offered by CMVAS through "denial of service attacks", flooding of a network, or overloading a service or any unauthorised probes ("scanning" or "nuking") of others' networks;
- Any activity which in any way threatens the security of the network by knowingly posting, transmitting, linking to or otherwise distributing any information or software which contains

a virus, Trojan horse, worm, lock, mail bomb, cancelbot or other harmful, destructive or disruptive tools.

- Any unauthorized monitoring of data or traffic on the network without CMVAS's express, prior written consent.
- Any unsolicited mass mailing activity including direct marketing, spam and chain letters for commercial or other purposes, without the express consent of the recipients of those mails.

#### **4. Public Space and Third-Party Content and sites**

- 4.1. You acknowledge that CMVAS has no power to control the content of the information passing over the Internet and its applications, including e-mail, chat rooms, news groups or other similar mediums, and that CMVAS cannot be held responsible or liable, directly or indirectly, for any of the abovementioned content, in any way for any loss or damage of any kind incurred as a result of, or in connection with your use of, or reliance on, any such content.
- 4.2. Our services also offer access to numerous third-party webpages. You acknowledge that we exercise absolutely no control over such third-party content, or sites and in such cases, our network is merely a conduit or means of access and transmission. This includes, but is not limited to, third party content contained on or accessible through the CMVAS network websites and/or web pages and/or sites displayed as search results or contained within a directory of links on the network. It remains your sole responsibility to review and evaluate any such content, and that any and all risk associated with the use of, or reliance on, such content rests with you.
- 4.3. Access to public Internet spaces, such as bulletin boards, Usenet groups, chat rooms and moderated forums is entirely voluntary and at your own risk.
- 4.4. CMVAS employees do not moderate any of these services, or your communications, transmissions or use of these services. We do not undertake any responsibility for any content contained therein, or for any breaches of your right to privacy that you may experience as a result of accessing such spaces.

#### **5. Unsolicited, Spam and Junk mail**

Spam and unsolicited bulk mail are highly problematic practices. They affect the use and enjoyment of services by others and often compromise network security. CMVAS will take swift and firm action against any user engaging in any of the following unacceptable practices:

- Sending unsolicited bulk mail for marketing or any other purposes (political, religious or commercial) to people who have not expressly consented to receiving such mail;
- Operating or maintaining mailing lists without the express permission of all recipients listed;
- Failing to promptly remove from lists invalid or undeliverable addresses or addresses of unwilling recipients or a recipient who has indicated s/he wishes to be removed or unsubscribed from such list;
- Using CMVAS's service to collect responses from unsolicited e-mail sent from accounts on other Internet hosts or e-mail services, that violate this AUP or any other internet service providers policies;
- Including CMVAS's name in the header or by listing an IP address that belongs to CMVAS in any unsolicited email whether sent through CMVAS's network or not;

- Failure to secure a customer’s mail server against public relay as a protection to themselves and the broader Internet community. Public relay occurs when a mail server is accessed by a third party from another domain and utilised to deliver mails, without the authority or consent of the owner of the mail-server. Mail servers that are unsecured against public relay often become abused by unscrupulous operators for spam delivery and upon detection such delivery must be disallowed. CMVAS reserves the right to examine users’ mail servers to confirm that no mails are being sent from the mail server through public relay and the results of such checks can be made available to the user.
- CMVAS also reserves the right to examine the mail servers of any users using CMVAS’s mail servers for “smarthosting” (when the user relays its mail via a CMVAS mail server to a mail server of its own or visa versa) or similar services at any time to ensure that the servers are properly secured against public relay. All relay checks will be done in strict accordance with CMVAS’s privacy policy.

## **6. Spam/virus Filtering**

- 6.1. CMVAS provides a spam and virus filtering system to protect customers from unsolicited mail and viruses. The customer acknowledges that this system might incorrectly identify a valid message as spam or as a virus and consequently this message might not be delivered to the customer. The customer acknowledges and agrees that CMVAS shall without limitation have no responsibility for, or liability in respect of any data lost as a result of this system.
- 6.2. CMVAS reserves the right to examine incoming or outgoing mail to the extent necessary to determine if it is classified as spam.

## **7. Webmail**

- 7.1. Webmail and other web-based email services made available by CMVAS are provided on an “as is” basis without representations, warranties or conditions of any kind, and the customer acknowledges and agrees that CMVAS shall have no responsibility for, or liability in respect of, any aspect of the Webmail services, including without limitation for any lost or damaged data or any acts or omissions of CMVAS. As webmail storage space is limited, some Webmail messages may not be processed due to space constraints or message limitations.
- 7.2. Webmail is provided to individuals and for personal use only. Any unauthorised commercial use of the Webmail service, or resale of the Webmail service is expressly prohibited.

## **8. Protection of Minors**

CMVAS prohibits customers from using CMVAS’s service to harm or attempt to harm a minor, including, but not limited to, by hosting, possessing, disseminating, distributing or transmitting material that is unlawful, including child pornography.

## **9. Privacy and Confidentiality**

CMVAS respects the privacy and confidentiality of our customers and users of our service. Please review our privacy policy which details how we collect and use personal information gathered in the course of operating this service.

## **10. User Responsibilities**

- 10.1. Customers are responsible for any misuse of CMVAS's services that occur through the customer's account. It is the customer's responsibility to ensure that unauthorised persons do not gain access to or misuse CMVAS's service/website.
- 10.2. CMVAS urges customers not to reply to unsolicited mail or "spam", not to click on any suggested links provided in the unsolicited mail. Doing so remains the sole responsibility of the customer and CMVAS cannot be held liable for the Customer being placed on any bulk mailing lists as a result or suffering any damage as a result thereof.
- 10.3. Where the customer has authorised a minor to use any of the CMVAS's services or access its websites, you accept that as the parent/legal guardian of that minor, you are fully responsible for:
  - the online conduct of such minor;
  - controlling the minor's access to and use of any services or websites; and
  - the consequences of any misuse by the minor, including but not limited to transactions entered into by the minor using such access.
- 10.4. CMVAS cannot be held liable for any business dealings you have with any third parties on the Internet, including any vendors, or advertisers found on, or through, the CMVAS network. Further, CMVAS assumes no responsibility whatsoever for any charges you or any user of your account incurs when making purchases or other transactions in this manner. It is the customer's responsibility for ensuring compliance with all applicable customs and exchange control laws in connection with any such transactions.

## **11. Complaints and procedures**

- 11.1. It is the customer's responsibility to familiarise himself or herself with the procedure set out below and report any cases of violation of this AUP to CMVAS's designated complaints handling agent.
- 11.2. Please note that CMVAS cannot handle complaints concerning networks or users that do not have service contracts with us or our affiliates.
- 11.3. In order for CMVAS to thoroughly investigate the complaint and take appropriate action, all complaints must be in writing, via fax or e-mail and contain as much information as possible, including, but not limited to:
  - the origin of abuse or offence, including the website, full mail headers, relevant logfile extracts etc;
  - any contact details for the source of the complaint;
  - a brief explanation why the incident is considered to be an offence.
- 11.4. CMVAS discourages anonymous complaints being made via this service and urges complainants to supply their name and contact details to us. Such information will not be released, except where required by law enforcement. Anonymous complaints will however be acted upon as long as sufficient detail as outlined above is supplied.

## **12. Action following breach of the AUP**

- 12.1. Upon receipt of a complaint, or having become aware of an incident, CMVAS may take any of the following steps:

- In the case of a network, inform the user's network administrator of the incident and request the network administrator or network owner to address the incident in terms of this AUP and the WAPA Code of Conduct;
- In severe cases, suspend access of the user's entire network until abuse can be prevented by appropriate means;
- In the case of individual users, warn the user; suspend the user's account and/or revoke or cancel the user's network access privileges completely;
- In all cases, charge the offending parties for administrative costs as well as for machine and human time lost due to the incident, as determined by CMVAS;
- Assist other networks or website administrators in investigating credible suspicions of any activity listed in this AUP;
- Institute civil or criminal proceedings;
- Share information concerning the incident with other Internet access providers, or publish the information, and/or make available the users' details to law enforcement agencies

### **13. Reservation and Non-Waiver of Rights**

- 13.1. CMVAS reserves the right to amend or alter this policy at any time, and without notice to you. It is expressly understood and agreed that the onus to check the provisions of this AUP lies solely with you at all material times.
- 13.2. CMVAS reserves the right to take action against any individuals, companies or organizations that violate any of the prohibited activities set out herein or engage in any illegal or unlawful activity while accessing our services, to the fullest extent of the law.
- 13.3. CMVAS reserves the right, at its sole discretion, to act against other types of abuse not listed in this document and to investigate or prevent illegal activities being committed over our network.
- 13.4. CMVAS reserves the right to monitor user and network traffic for site security purposes and prevent any unauthorised attempts to tamper with our site or cause damage to our property.
- 13.5. CMVAS reserves the right to suspend, revoke or cancel CMVAS's services to the customer/user if the safety and integrity of CMVAS's resources are placed at risk in continuing to provide service to the subscriber/user, as determined in the sole and unfettered discretion of CMVAS.
- 13.6. CMVAS reserves the right to remove any information or materials in whole or in part, that, in CMVAS's sole discretion, is deemed to be offensive, indecent, or otherwise objectionable.
- 13.7. CMVAS does not undertake to guarantee the security of any data passing through its networks. Although CMVAS will provide a "best effort" service, including regular updates on computer viruses and other threats to security of data, it is the responsibility of the communicating parties to safeguard their data, and CMVAS cannot be held liable for any loss or damage arising as result of the failure to do so.
- 13.8. CMVAS does not waive its right to enforcement of this AUP at any time, or prejudice its right to take subsequent action, should CMVAS fail, neglect or elect not to enforce a breach of the AUP at any time