



# TLC IP Networks Internet Usage Policy

## ACCEPTABLE USE POLICY ("AUP")

TLC IP Networks believes that the Internet industry should self-regulate behaviour on the Internet as a part of embedded principles of *best practice* and good governance. Self-regulation can only work when You are prepared to take a stand against conduct contrary to Corporate and Social Responsibility. TLC IP Networks takes the view that the following behaviours are Prohibited Use of the Internet and the network of TLC IP Networks ("**Our Network**") and by You using Our Network (which includes that of any Third Party Providers or Suppliers contracted or engaged by TLC IP Networks) You hereby undertake not to engage in the matters or things imposed by this AUP and You acknowledge and agree to accept TLC IP Networks or its related bodies corporate reserves the sole right (in its absolute discretion) to regulate use of its Network in accordance with this AUP and any relevant contract You have with TLC IP Networks:

1. **BREACH OF LAW:**

breaching or becoming involved in a breach of law, order or regulation (including that of a foreign country) mandatory code of conduct; or a voluntary code of conduct that You have agreed to comply with;

2. **SPAM/USENET SPAM/SPIM:**

including sending or causing the sending of any unsolicited or unauthorised advertising, promotional materials, junk mail, bulk unsolicited email, mail bombing, chain letters, multiple newsgroup cross-posting, or other form of solicitation and if You sent unsolicited electronic messages you must disclose in such message contact details that can be used to notify you that the recipient no longer wishes to receive such messages from You, this must include an 'Opt Out Notice' and upon receipt of such You must immediately cease and desist transmitting such unsolicited electronic messages to comply with such notice;

3. **BENEFITING FROM SPAM:**

including hosting any website which, on a regular basis, is advertised by any person sending unsolicited commercial email or unsolicited bulk email or spam;

**4. EMPLOYING IDENTITY-DISGUIISING TECHNIQUES IN CONNECTION WITH SPAM:**

including relaying email via a third party's mail server without permission, hosting an open mail relay server, or employing similar techniques to hide or obscure the source of an email;

**5. INVESTIGATION OF SPAM VIOLATIONS:**

Upon notification of an alleged violation of the terms of this AUP regarding SPAM, we will initiate an immediate investigation. During the investigation, we may restrict Your access to Our Network to prevent further violations. If we find You are in violation of this AUP regarding SPAM, we may, at our sole discretion, restrict, suspend or terminate Internet Customer Contract without penalty or claim by you in contract and or tort (refer to Internet Customer Contract);

**Violation of Policy;**

First violations of this AUP will result in an "Administrative Fee" of \$300 and Your account (pursuant to Internet Customer Contract) will be reviewed for possible immediate termination.

A second violation will result in an "Administrative Fee" of \$600 and immediate termination of Your account. You hereby acknowledge and agree that in addition to these "Administrative" fees, You may be asked to pay "Service Fees" not to exceed \$175 per hour (or part thereof rounded up to the nearest 15 minute interval) for the time that TLC Protected Networks spends investigating the matter.

TLC Protected Networks also reserves the right to pursue civil remedies for any costs associated with the investigation of a substantiated SPAM violation and You agree to indemnify TLC Protected Networks against any costs of and incidental to such investigation so incurred (refer to Internet Customer Contract).

**6. NEWSGROUPS, FORUMS, CHAT ROOMS AND INSTANT MESSAGING**

using Our Network to contribute to, or participate in, a Newsgroup, Forum, Chat Room or Instant Messaging service in a way that has an adverse effect on the proper operation of those Newsgroups, Forums, Chat Rooms or Instant Messaging services;

**7. BREACHING INTELLECTUAL PROPERTY RIGHTS:**

including hosting any content which infringes any copyright, trademark, trade secret, patent or other property or other intellectual property rights of any third party unless you are the owner of, or have the permission of the owner to post or transmit the content;

**8. SPREADING VIRUSES:**

including knowingly or ought reasonably knowing hosting or transmitting any content that contains any software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;

**9. HOSTING OR STORING CONTENT OR ENGAGING IN CONDUCT WHICH IS UNLAWFUL/CRIMINAL/DISCRIMINATORY:**

including hosting or transmitting any content the hosting or transmitting of which would be a contravention of any law of the Commonwealth of, or a State in, Australia, such as, for example, illegal business practices and gambling, material that is obscene, defamatory or is or would be regarded by TLC IP Networks or another person, acting reasonably in all the circumstances, to be offensive or abusive or of a pornographic nature, including depicting children; enabling a minor to access material inappropriate for a minor or establishing (or try to establish) contact with a minor otherwise known to You. Unlawfully inciting discrimination, hate or violence towards one person or group, for example, but not limited to, because of their race, religion, gender or nationality. If You become aware or ought reasonably have become aware that Our Network is being used to access material that a reasonable person in Your position believes or suspects is child pornography or child abuse material, You must report it immediately to TLC IP Protected Networks and the relevant Law Enforcement Agency;

**10. MALICIOUS ACTIVITY AGAINST OTHER HOSTS ON THE INTERNET:**

including:

- i. defacing of web-sites without the permission of the website owner;
- ii. obtaining (or attempting to obtain) un-authorised access to data by circumventing (or attempting to circumvent) security controls designed to prevent un-authorised or adverse access or control on a computer, a network or data whether the computer, network or data is that of Our Network or anyone else;
- iii. the use of "probing" of devices on the internet with the intent of searching for and/or identifying security weaknesses on those devices
- iv. interference with service to any user, host or network including, without limitation, mailbombing, flooding, deliberate attempts to

overload a system and broadcast attacks and denial of service attacks;

**11. USAGE LIMITS:**

attempting to or allowing a third party to manipulate or bypass Our Network of Third Party Suppliers content usage limits, by any means including connecting multiple pieces of hardware or software to Our Network;

**12. COPYRIGHT:**

You are responsible for ensuring that You do not store, transfer or cause to be transferred, reproduce or make available for distribution, through or on Our Network or Service, any data where the storage, reproduction, transfer, or distribution of, that data is in contravention of the *Copyright Act* 1968 (Cth) or otherwise infringe any third party intellectual property rights (such as by using, copying or distributing data or software without the permission of the owner). TLC IP Protected Networks may at its absolute discretion delete any infringing Copyright Material stored by You if:

- (i) we are requested via a valid “take down notice” to delete the material; or
- (ii) You have not deleted infringing material within 2 Calendar days of our request You do so; and
- (iii) If we delete any infringing material under the terms of this AUP we are not required to notify You or the sender of the deletion/s;

**13. USAGE LIMITS:**

If You use Our Network to host emails, TLC IP Networks will set limits on the size of emails sent to or by You, the period for which email messages can be stored and the maximum disk space that will be allotted on Our Network servers for Your Service. These limits (“**Mail Quota**”) are set out in the TLC Protected Networks Contract relevant to You and or collateral information.

**14. DELETION OF EMAIL:**

If You use Our Network to host emails, TLC Protected Networks may delete any electronic mail message sent by You or addressed to You if:

- (i) the size of the mail message addressed to You (including attachments) exceeds Mail Quota;
- (ii) the size of the mail message sent by You (including attachments) exceeds Maximum Mail Size as defined in the relevant TLC Protected Networks Contract for Your chosen Service (by way of example only: estimated 10 MB);

- (iii) the total of Your undeleted messages (including attachments) exceeds Your Mail Quota; or
- (iv) You have not deleted the message within 180 Calendar days of it becoming available to You (whether read or unread). TLC Protected Networks recommends that You delete emails on a regular basis. Once deleted, the message will not be able to be retrieved;
- (v) the message has been stored in the Deleted, Spam, or Outbox folders 7 days after the message becomes available to You or was sent by You;

If TLC Protected Networks deletes any electronic mail messages we are not required to notify You or the sender of the deletion of the mail message(s);

**Sending Mail via SMTP;**

You will not send any electronic mail message via SMTP that is sent using a server other than the Our Network SMTP servers, unless we otherwise agree with You doing so;

**Service Cancellation;**

If the TLC Protected Networks Contract relevant to You is cancelled, TLC Protected Networks may delete any stored or received emails in Your email account after 30 Calendar days;

**15. INTERNET USE RISK DISCLAIMER;**

The Internet contains content You may find unsuitable, offensive or adult in nature and which may breach Australian laws. TLC Protected Networks does not endorse or control such content and disclaims any and all liability howsoever or whatsoever arising in contract and in tort (including negligence) in respect of such content. You have the right to make complaints to the Australian Communications Management Authority (ACMA) about Internet content which is or could be rated R, X or Refused Classification (RC).

- (i) You must take all reasonable measures to prevent unauthorised access to Our Network. You acknowledge that if You run certain applications (such as File Transfer Protocol or Hyper Text Transfer Protocol), other users may gain access to Your computer;
- (ii) If You buy goods or services on the Internet TLC Protected Networks will not be responsible or liable for those goods and services and You will be responsible for any fees or charges You incur. If You send confidential information of any type whatsoever, such as Your credit card details over the Internet, You bear and acknowledge that you accept all risks and losses whatsoever or howsoever arising in contract and or tort (including negligence) from such transmissions or use of or on the Internet; and

- (iii) TLC Protected Networks may monitor Your use of Our Network to ensure that You are complying with this AUP, but is not obliged to do so. TLC Protected Networks may investigate any misuse or suspected misuse of Our Network and may involve the police or other law enforcement agencies in doing so. TLC Protected Networks may recover the cost of and incidental to such investigation if it is established that You have misused Our Network and you hereby agree to so indemnify TLC Protected Networks. If Your use of Our Network causes any loss or damage to third parties, You hereby agree to indemnify, release and hold harmless and blameless TLC Protected Networks against any claims, suits, demands, direct or indirect or economic or consequential loss, or proceedings of any type whatsoever or howsoever arising in contract and in tort (including negligence) and You must compensate those third parties claiming any such loss or damage (refer to Internet Customer Contract);

#### **16. REGULATORY AUTHORITIES;**

Commonwealth legislation allows the ACMA to direct TLC Protected Networks to attend to certain matters including removal of prohibited Internet content from Our Network or prevent users from accessing certain Internet content. You agree that we may take any necessary steps in order to comply with any relevant industry code of practice or direction from the ACMA or other regulatory authority. We may take these steps at any time without notice to You and You agree that you have no claim against us of any type in contract and or tort (including negligence) in the event that we do so (refer to Internet Customer Contract).

#### **17. ABUSE (EXCESSIVE USE) OF SERVICE;**

In all cases, abuse of Our Network whether intentional or not will not be tolerated and will be stopped or corrected, with or without notice to You;

- (i) You further agree that use of Our Network regarding any type, format or process, used by or through Our Network that uses 10% or more of Our Network resources, per instance, for more than 30 continuous seconds, is subject to being shutdown;
- (ii) Abuse of Our Network can also include "Excessive Errors" generated by Your Web pages, scripts or other use of Our Network. When possible, You will receive notice of Excessive Errors and You agree to correct or remove, any such files creating the Excessive Errors within a maximum of 24 hours from time of the notice. If You do not correct or remove them we reserve the sole right of resolving the Excessive Errors to the best judgment of TLC Protected Networks;

- (iii) You agree that TLC Protected Networks may or may not charge a maintenance fee to resolve Excessive Errors within 24hrs of this notice;

**18. VARIATION;**

This Acceptable Use Policy may be revised by TLC Protected Networks from time to time at its sole discretion and without notice. The latest version will always be available on the TLC IT Group website;

**19. LAW AND JURISDICTION;**

The laws and the courts of the State of Victoria and the Commonwealth of Australia shall apply to this AUP;

**20. DEFINITIONS AND INTERPRETATION**

**AUP** means this Acceptable Use Policy of TLC IP Networks.

**TLC IP Networks** includes its related bodies corporate (TLC IT Group Pty Ltd ACN 119 872 607 being one such entity) and or Third Party Suppliers where relevant.

**We** or **Us** means TLC Protected Networks or its related bodies corporate.

**You** or **Your** means the company client or customer, whichever the case may be, contracted to TLC Protected Networks under Internet Customer Contract.