

## **ACCEPTABLE USE POLICY - ADAMMAX**

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This document sets out the rules which apply to your use of the AdamMax Services as stated in your Application which we provide to you for connection to the Internet, email and other publicly accessible data and information networks.

### **1. DEFINITIONS**

Capitalised terms have the meaning set out in your Customer Contract and the following definitions are used in our Acceptable Use Policy.

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| <b>Application</b>                | means the application you complete for the Program Service we provide to you.  |
| <b>Customer Contract</b>          | means the contract we entered into with you setting out the terms and conditions governing the supply of the particular Program Service.   |
| <b>Internet</b>                   | means the world wide connection of computer networks which provides a number of services to users including the transmission of electronic mail, provision of information on the world wide web and transfer of files.                                 |
| <b>Network Prioritisation</b>     | means that the provision of Services will occur across our Network in a prioritised order, such order to be determined by us in our sole discretion.   |
| <b>Our Network</b>                | means the infrastructure used and maintained by us to provide you with your Program Service. Our Network does not include the computer networks that make up the Internet  |
| <b>Policy</b>                     | means this Acceptable Use Policy, a copy of which is accessible on our website at <a href="http://www.adam.com.au/legal">www.adam.com.au/legal</a> .   |
| <b>Program Service(s)</b>         | means a product or service(s) which we have agreed to supply to you as stated in your Application. It is an Internet access service meeting the performance and pricing requirements of the Australian Broadband Guarantee Program Guidelines 2008-09. |
| <b>Shaped Services or Shaping</b> | means the controlled reduction in speed of a Program service.  |

**we, our or us** means Adam Internet Pty Ltd.

**you or your** means the current account holder.

## 2. APPLICATION OF THIS POLICY

This Policy applies to all customers who acquire a Program Service from us. Your obligation to comply with this Policy includes your obligation to ensure any person who uses your Program Service, whether with or without your authority, also complies with this Policy.

Your failure to comply with this Policy (including by any person who you authorise or otherwise permit to use your Program Service) may lead to the restriction, suspension or termination of your Program Service.

## 3. INTERACTION WITH OUR STAFF

You will not bully, abuse, harass, intimidate or otherwise engage in threatening or offensive behaviour towards our staff. Our staff reserves the right to terminate any phone call with you, and/or refuse to serve you, if you engage in such behaviour. We reserve the right to terminate your Program Service, with notice, if you engage in such behaviour.

## 4. RESPONSIBLE USAGE

3.1 You, or anyone connecting to your Program Service, must use your Program Service responsibly and in accordance with the law. If you engage in any conduct which could result in injury or damage to any person or property (including our network, systems and equipment) access to your Program Service may be restricted, suspended or terminated.

3.2 You **must not** use or attempt to use your Program Service to store, send, distribute or otherwise make available any content or material which:

- (a) defames, harasses, threatens, abuses, menaces, offends or incites violence or hatred against any person or class of persons whether on grounds of gender, race, religion or otherwise;
- (b) is prohibited or unlawful under any Commonwealth, State or Territory law or classification system, or which is likely to be offensive or obscene to a reasonable person;
- (c) is confidential, subject to copyright or any other rights of a third party (unless you have a lawful right to do so); or
- (d) is otherwise illegal, fraudulent or likely to give rise to civil or criminal proceedings.

3.3 You **must not** use or attempt to use your Program Service to:

- (a) store, send or distribute any viruses or other harmful programs, codes or other malicious software;

- (b) hinder, restrict or interfere with the normal operation of our network, systems and equipment or that of any other person or entity;
- (c) access, monitor, use or control any other person's equipment, systems, networks or data (including usernames and passwords) without their knowledge or consent or to otherwise probe, scan or test the vulnerability of any such equipment, networks, systems or data;
- (d) send, relay or otherwise distribute any electronic message, the contents or properties of which have been created, forged or altered for the purpose of impersonating, hiding or otherwise obscuring the original sender or source of that message;
- (e) send or distribute unsolicited commercial electronic messages in breach of the provisions of the *Spam Act 2003 (Cth)*. We may terminate your Program Service if we believe, at our sole discretion, it is transmitting or is otherwise connected with any spam or other unsolicited bulk email. In addition, because damages are often difficult to quantify, you agree to pay us liquidated damages from or otherwise connected with your Program Service. This will be charged at the rate specified in our Schedule of Fees and Charges, or actual damages to us, whichever is greatest;
- (f) send or distribute any material or take any other action with the aim of overloading any network or system (including our network and systems);
- (g) make fraudulent offers to sell or buy products, items, or services or to advance any type of financial scam such as 'pyramid schemes', 'Ponzi schemes', and 'chain letters';
- (h) add, remove or modify identifying network header information in an effort to deceive or mislead. Attempting to impersonate any person by using forged headers or other identifying information is prohibited. The use of anonymous remailers or nicknames does not constitute impersonation;
- (i) access, or to attempt to access, the accounts of others, or to penetrate, or attempt to penetrate, ours or a third party's security measures, computer software or hardware, electronic communications system, or telecommunications system, whether or not the intrusion results in the corruption or loss of data;
- (j) engage in any activity which adversely affects the ability of other people or systems to use our Program Services or the Internet. This includes 'denial of service' (DoS) attacks against another network host or individual user. Interference with or disruption of other network users, network services or network equipment is prohibited. It is the User's responsibility to ensure that their network is configured in a secure manner; or
- (k) aggregate, redistribute or multi-link a like service provided by us. A 'like service' being two services that are the same technology ie. AdamMAX. Where this is detected, in our reasonable opinion, the additional service may be terminated and data transiting that link shall be charged at a rate of excess data, as set out in our Schedule of Fees and Charges.
- (l) You **must not** authorise, aid, abet, encourage or incite any other person to do or attempt to do any of the acts or engage in any of the prohibited conduct described above.

#### **4. EXCESSIVE USE**

- 4.1 You must use your Program Service in accordance with any data usage or capacity limits stated in your Application Form. We may limit, suspend or terminate your Program Service if you unreasonably exceed such limits in a manner which may hinder or prevent us from providing services to other customers.
- 4.2 Program Services with no fixed data cap ie. Shaped Services are not designed to provide sustained, high-volume access as they will compromise the Program Service for other users. As such, continuous transfer of data well in excess of your data usage allowance for several consecutive days will be considered excessive use. If a user is found making excessive use of the Program Service the user will find the Program Service restricted and if it continues after notice will have the Program Service suspended or cancelled. Furthermore, if you use devices or knowledge to exceed our account restrictions pertaining to your account, that data or Program Service in excess of your allocated amount may be subject to cost recovery.

#### **5. SECURITY**

You are responsible for:

- (a) maintaining the security of your Program Service, including protection of account details, usernames and passwords against unauthorised use by a third party;
- (b) all charges incurred by other persons who use your Program Service, whether authorised by you or not, including anyone to whom you have disclosed your password and account details; and
- (c) taking appropriate security measures such as installation of a firewall and use of anti-virus software to protect your personal data, computer and other equipment from loss or damage.

#### **6. THIRD PARTY INTELLECTUAL PROPERTY RIGHTS**

- 6.1 You **must not** use your Program Service to:
- (a) copy, reproduce, distribute or otherwise make available to other persons any content or material (including but not limited to music files in any format) which is subject to copyright or do any other acts in relation to such copyright material which would infringe the exclusive rights of the copyright owner under the *Copyright Act 1968 (Cth)* or any other applicable law; or
  - (b) transmit any material (by email, uploading, posting, or otherwise) that infringes any trademark, patent, trade secret, or other proprietary rights of any third party.
- 6.2 You acknowledge and agree that we have the right to immediately cease hosting and to remove from our network or systems any material upon receiving a complaint or allegation that the material infringes the copyright or any other intellectual property rights of any person.

#### **7. ACCESS TO INTERNET CONTENT**

- 7.1 You are responsible for determining the content and information you choose to access on the Internet when using your Program Service.

- 7.2 It is your responsibility to take all steps you consider necessary (including the use of filtering programs) to prevent access to offensive or obscene content on the Internet by children or minors who you authorise or permit to use your Program Service.

## **8. COMMUNICATING WITH OTHERS**

- 8.1 You **must not** use, attempt to use, or permit to be used your Program Service to make inappropriate contact with children or minors.
- 8.2 You are responsible for any content you send or distribute (or permit to be sent or distributed) to other Internet users using your Program Service including, but not limited to, content you post on web pages, email, chat or discussion forums, bulletin boards, instant messaging and other services available via the Internet. You must not use such services to send or distribute any content which is prohibited, deemed obscene or offensive or otherwise unlawful under any applicable Commonwealth, State or Territory law, including to send or distribute classes of restricted content to children or minors if that is prohibited or an offence under such laws.
- 8.3 Your failure to comply with these requirements may lead to immediate suspension or termination of your Program Service.

## **9. CLASSIFYING CONTENT**

You must label or otherwise clearly identify any content you make publicly available using your Program Service in accordance with the applicable classification guidelines and the National Classification Code (issued pursuant to the *Classification (Publications, Films and Computer Games) Act 1995 (Cth)*) or any other industry code or content standard which applies to your use or distribution of that content.

## **10. COMPLYING WITH REGULATORY AUTHORITIES**

- 10.1 Commonwealth legislation allows the Australian Communications and Media Authority (ACMA) to direct us to remove from our network and servers any content which is classified, or likely to be classified, as 'prohibited' content. You must not hinder or prevent us from taking all steps necessary to comply with any direction from ACMA or any law enforcement agency and you acknowledge that we may comply with the directions of such authorities without notice to you.
- 10.2 You acknowledge that we reserve the right to restrict, suspend or terminate your Program Service if there are reasonable grounds for suspecting that you are engaging in illegal conduct or where use of your Program Service is subject to any investigation by law enforcement agencies or regulatory authorities.

## 11. COMPLAINTS

- (a) If you have a complaint about Internet content you should visit ACMA's website at [www.acma.gov.au/hotline](http://www.acma.gov.au/hotline)
- (b) If you have any questions or concerns about this Policy you should contact us at [help@adam.com.au](mailto:help@adam.com.au) or by calling (08) 8423 4000

## 12. CHANGES

Subject to approval by the Department of Broadband, Communications and the Digital Economy, we may vary this Policy by posting the revised Policy on our website at [www.adam.com.au/legal](http://www.adam.com.au/legal). We may also give notice to you of any variation of this Policy by email to the email address notified by you or otherwise in accordance with the notice provisions of your Customer Contract. The continued use of your Program Service after such posting or notice will constitute your acceptance of the variation.

## 13. BREACH OF ACCEPTABLE USE POLICY

All rights of suspension, limitation, cancellation and termination in this Acceptable Use Policy is reserved for us by Clause 15.4(g) of your Customer Contract. We reserve the right to terminate your Program Service for breach of any term of this Acceptable Use Policy and you acknowledge that you may be liable for costs associated with the termination of your Program Service.