



Master Service Agreement - Internet Acceptable Usage Policy

MASTER SERVICE AGREEMENT

INTERNET ACCEPTABLE USAGE POLICY

The Policy is incorporated into the Service Agreement when a Service Order is entered into.

The defined terms and phrases that are set out in the General Terms and Conditions apply to this Policy.

In addition “we”, “our” or “us” means Blue Apache Pty Ltd and “you”, “your”, or “yourself” has the same meaning as “Customer” in the General Terms and Conditions.

Acceptable Usage Policy

This Acceptable Usage Policy applies to all use of the blueAPACHE Internet network (“blueAPACHE Network”) and the emPOWER Cloud Internet network (“emPOWER Network”).

All blueAPACHE Internet Network and emPOWER Cloud Internet network Customers (“Customers”), including Customers that are downstream providers, are required to comply with this Acceptable Usage Policy as part of their agreement with blueAPACHE for Internet access services (whether under Our SFOA, Customer Service Agreement or other form of Agreement) (“Customer Agreement”).

This Acceptable Usage Policy outlines certain prohibited uses of the blueAPACHE Network and the consequences which may flow from a violation of this Policy.

E-MAIL

It is a prohibited use of the blueAPACHE Network to accept, transmit or distribute unsolicited bulk e-mail of an advertising or promotional nature.

The only circumstances in which the blueAPACHE Network may be used to send unsolicited e-mail of an advertising or promotional nature (otherwise known as "spam") is where the unsolicited e-mail is sent to persons with whom the sender has a pre-existing business, professional or personal relationship or to persons who have previously indicated their consent to receive e-mail from the sender from time to time, for example by ticking a box to that effect on the vendor's web site. Unless these requirements are met, the Customer must not send unsolicited bulk e-mail on the blueAPACHE Network. If these requirements are met, the Customer must also provide an unsubscribe function on their web site (and make this function known to recipients in the relevant e-mails) which allows those recipients to elect to be removed from that mailing list.

A Customer using the blueAPACHE Network to run an e-mail subscription service must also observe the following requirements:

- a) a subscriber of the subscription service must nominate their own e-mail address to the Customer;
- b) the Customer must then send an e-mail to the subscriber seeking confirmation that the subscriber wants to be added to the Customer's mailing list;
- c) the subscriber's e-mail address is only to be added to the Customer's mailing list if the subscriber replies to the Customer's request e-mail confirming that the subscriber wants to be added to the Customer's mailing list;
- d) if the subscriber fails to reply within 14 days, the Customer must remove the subscriber's e-mail address from the Customer's e-mail mailing list; and
- e) the Customer's unsubscribe function must allow for immediate removal of an e-mail address from the Customer's mailing list when requested by a subscriber and for a reply confirming removal to be sent to the Subscriber.

The following activities are also prohibited uses of the blueAPACHE Network:

- a) sending e-mail, or causing e-mail to be sent, to or through the blueAPACHE Network that hides or obscures the source of the e-mail, that contains invalid or forged headers or domain names or deceptive addressing;
- b) receiving or collecting responses from bulk unsolicited e-mail whether the original was sent via the blueAPACHE Network or not or hosting a web site to which recipients of bulk unsolicited e-mail are directed;
- c) relaying e-mail from a third party's mail server without permission or which employs similar techniques to hide or obscure the source of the e-mail;
- d) collecting or harvesting screen names or e-mail addresses of others for the purpose of sending unsolicited e-mails or for exchange;
- e) sending large or numerous e-mails for the purpose of disrupting another's computer or account;
- f) sending e-mail that may damage or affect the performance of the e-mail recipient's computer;
- g) persistently sending e-mail without reasonable cause or for the purpose of causing annoyance, inconvenience or needless anxiety to any persons; or
- h) connecting to the blueAPACHE Network with an open relay mail server or any other device which may allow third parties, whether connected to the blueAPACHE Network or to another service provider, to

use that mail server or device for the purposes of sending electronic messages, solicited or otherwise, with or without the Customer's prior knowledge or consent.

NEWSGROUPS

The Customer must not use the blueAPACHE Network or allow the blueAPACHE Network to be used to:

- a) engage in mass posting of messages to newsgroups;
- b) post advertisements other than in newsgroups that specifically encourage or permit advertising;
- c) post binary files other than in newsgroups that specifically encourage or permit such postings;
- d) post large or numerous messages with purpose of disrupting a newsgroup; or
- e) send messages that contain invalid or forged headers or domain names or deceptive addressing.

PROHIBITED USE

Without limiting any other obligation in this Acceptable Usage Policy, a Customer must not use the blueAPACHE Network, or allow the blueAPACHE Network to be used:

- (a) in a manner which causes that Customer to breach its Customer Agreement with blueAPACHE, or to breach a law (including a foreign law), a code or an instrument which governs the Customer's conduct;
- (b) in a manner which could cause blueAPACHE to breach, or be involved in a breach of law (including a foreign law), a code or an instrument which governs blueAPACHE's conduct;
- (c) in a manner which could result in blueAPACHE incurring a liability to any person;
- (d) in a manner which could interfere with a Customer's service, the blueAPACHE Network or blueAPACHE's equipment, or the network or equipment of another person, or the provision by blueAPACHE of services to a Customer or another person;
- (e) to engage in conduct or activities that blueAPACHE considers could adversely affect or prejudice blueAPACHE's reputation or brand; or in a manner which attempts to manipulate or bypass any limitations on a Customer's service by any means.

VIOLATION OF ACCEPTABLE USAGE POLICY

blueAPACHE is serious about ensuring the lawful and proper use of the blueAPACHE Network, and in particular, working towards eliminating:

- a) inappropriate use of newsgroups; and
- b) unsolicited e-mails of an advertising or promotional nature,

from travelling through its network, whether originating from a Customer or not. If blueAPACHE, in its complete discretion, considers that this Acceptable Usage Policy has been violated in any way whatsoever, blueAPACHE reserves the right to take all legal and technical steps available under the Customer Agreement including suspending or disconnecting a Customer's service. blueAPACHE may also take remedial action if the law or a regulator or other authority requires blueAPACHE to do so.

Such remedial action may include:

- (a) immediately terminating or suspending the provision of a Customer's service;
- (b) if the Customer's service involves blueAPACHE publishing, hosting, linking to, or otherwise making available material or content provided or selected by the Customer, removing or disabling access to that material or content;

- (c) giving a Customer a notice to stop the activities or conduct, or to take steps to remedy the Customer's breach of this Acceptable Usage Policy;
- (d) giving a Customer a warning that any further repetition of the activity or conduct will result in blueAPACHE immediately terminating or suspending the provision of a service to the Customer; and
- (e) reporting of the activities or conduct to relevant authorities.

blueAPACHE will attempt to notify a Customer before blueAPACHE terminates or suspends that Customer's services if it is reasonably possible to do so. However, a failure to notify a Customer will not affect any such termination or suspension.

VIRUSES, WORMS, TROJANS, DENIAL OF SERVICE ATTACKS, ETC

As you should be aware, it is important to protect your computer and any connected networks against higher level computer programs (such as viruses, worms, trojans and other malicious programs) and lower level Denial of Service (DOS) attacks that can be distributed or propagated via the Internet, including electronic mail. It is the Customer's responsibility to ensure that the Customer has in place appropriate protection for the Customer's systems and to prevent circulation of such computer programs and attacks from the Customer's computer or networks through the blueAPACHE Network. Such protection methods may include firewalls, an appropriate policy regarding email attachments, the most up to date virus scanning software, etc.

While blueAPACHE makes reasonable efforts to ensure the security of its network, it cannot and does not guarantee that viruses and other detrimental programs will not be distributed via the blueAPACHE Network. In accordance with the Customer Agreement, blueAPACHE is not liable for any degradation in service, increased download or damage suffered by a Customer as a result of any program received or sent by the Customer over the blueAPACHE Network.

Further information and assistance on virus protection can be found at <http://www.cert.org/>.

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