



# OntheNet Acceptable Use Policy

## **Version 1.1**

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This Policy sets out the rules which apply to the use of any and all OntheNet Services provided to the Customer for connection to the Internet, email and other publicly accessible data, voice and information networks.

## 1. Definitions

- 1.1. Capitalised terms have the meaning set out in the OntheNet Terms and Conditions and the following definitions are used in OntheNet's Acceptable Use Policy:

**Contract** means the agreement between the Customer and OntheNet for the Services.

**Customer** means the individual, business or entity entering into the Contract with OntheNet.

**Order Form** means the relevant OntheNet document (including Customised Agreements) or online OntheNet Toolbox request by which the Customer orders a new Service or change to a Service.

**Internet** 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.

**OntheNet's Network** means the infrastructure used and maintained by OntheNet to provide the Service to the Customer.

**Policy** means this Acceptable Use Policy, a copy of which is accessible on the OntheNet website at [www.onthenet.com.au](http://www.onthenet.com.au).

**Service or Services** means the products and services supplied to the Customer by OntheNet as per the Order or Customised Agreement.

**OntheNet Terms and Conditions** means both OntheNet's General and Product Terms and Conditions applicable to the use of all OntheNet Services, a copy of which is accessible on the OntheNet website at [www.onthenet.com.au](http://www.onthenet.com.au).

## 2. Application of this Policy

- 2.1. This Policy applies to all Customers who acquire a Service from OntheNet. The Customer's obligation to comply with this Policy includes the obligation to ensure any person who uses the Service, whether with or without the Customer's authority, also complies with this Policy.
- 2.2. The Customer's failure to comply with this Policy (including by any person whom the Customers authorises or otherwise permits to use the Service) may lead to the restriction, suspension or termination of the Service.

## 3. Interaction with OntheNet Staff

- 3.1. The Customer will not bully, abuse, harass, intimidate or otherwise engage in threatening or offensive behavior towards OntheNet staff. OntheNet staff reserve the right to terminate any phone call with a Customer, and/or refuse to serve a Customer, if the Customer engages in such behavior. OntheNet reserve the right to terminate the Service if the Customer engages in such behavior.

#### 4. Responsible Usage

- 4.1. The Customer, or anyone connecting to the Customer's Service, must use the Service responsibly and in accordance with the law. If the Customer engages in any conduct which could result in injury or damage to any person or property (including OntheNet's Network, systems and equipment) access to the Service may be restricted, suspended or terminated without prior notice.
- 4.2. The Customer **must not** use or attempt to use the Service to store, send, distribute or otherwise make available any content or material which:
  - 4.2.1. 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;
  - 4.2.2. is prohibited or unlawful under any Commonwealth, State, Territory, or foreign law or classification system, or which is likely to be offensive or obscene to a reasonable person;
  - 4.2.3. is confidential, subject to copyright or any other rights of a third party (unless the user has a lawful right to do so); or
  - 4.2.4. is otherwise illegal, fraudulent or likely to give rise to civil or criminal proceedings.
- 4.3. The Customer must not use or attempt to use the Service to:
  - 4.3.1. store, send or distribute any viruses or other harmful programs, codes or other malicious software;
  - 4.3.2. hinder, restrict or interfere with the normal operation of OntheNet's Network, systems and equipment or that of any other person;
  - 4.3.3. 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;
  - 4.3.4. 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;
  - 4.3.5. send or distribute unsolicited commercial electronic messages in breach of the provisions of the Spam Act 2003 (Cth). OntheNet may immediately terminate the Service if it believes, at its 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, the Customer agrees to pay OntheNet liquidated damages from or otherwise connected with the Service, or actual damages to OntheNet, whichever is greatest;
  - 4.3.6. send or distribute any material or take any other action with the aim of overloading any network or system (including OntheNet's Network and systems);
  - 4.3.7. 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';
  - 4.3.8. 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;
  - 4.3.9. access, or to attempt to access, the accounts of others, or to penetrate, or attempt to penetrate, OntheNet's 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;

- 4.3.10. engage in any activity which adversely affects the ability of other people or systems to use OntheNet's 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
  - 4.3.11. aggregate, redistribute or multi-link a like service provided by us. A 'like service' being two services that are the same technology. Where this is detected, in OntheNet's sole opinion, the additional service shall be terminated and data transiting that link shall be charged at a rate of excess data, as set out on the Order Form.
  - 4.3.12. send marketing material by fax or make marketing calls within Australia unless they are compliant with the Do Not Call Register Act 2006 and the Fax Marketing Industry Standard 2011.
- 4.4. The Customer is responsible for ensuring that all messages sent using the Service are compliant with the relevant legislation applicable to the message type and/or location or country of the recipient.
- 4.5. The Customer **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.

## 5. Excessive Use

- 5.1. The Customer must use the Service in accordance with any download or capacity limits stated on the Order Form. OntheNet may limit, suspend or terminate the Service if the Customer unreasonably exceeds such limits or excessively uses the capacity or resources of OntheNet's Network and systems in a manner which OntheNet deems unsuitable.

## 6. Security

The Customer is responsible for:

- 6.1. maintaining the security of the Service, including protection of account details, usernames and passwords against unauthorised use by a third party;
- 6.2. all charges incurred by other persons whom the Customer authorises or permits to use the Service, including anyone to whom the Customer has disclosed password and account details; and
- 6.3. taking appropriate security measures such as installation of a firewall and use of anti-virus software to protect personal data, computer and other equipment from loss or damage.

## 7. Third Party Intellectual Property Rights

- 7.1. The Customer **must not** use the Service to:

- 7.1.1. 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

7.1.2. transmit any material (by email, uploading, posting, or otherwise) that infringes any trademark, patent, trade secret, or other proprietary rights of any third party.

7.2. The Customer acknowledges and agrees that OntheNet has the right to immediately cease hosting and to remove from its 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.

## 8. Access to Internet Content

8.1. The Customer is responsible for determining the content and information that is chosen to be accessed on the Internet when using the Service.

8.2. It is the Customer's responsibility to take all steps considered necessary (including the use of filtering programs) to prevent access to offensive or obscene content on the Internet by children or minors whom the Customer authorises or permits to use the Service.

## 9. Communicating with Others

9.1. The Customer **must not** use, attempt to use, or permit to be used the Service to make inappropriate contact with children or minors who are not otherwise known to the user, or any person the Customer is not permitted to contact as determined by a court of law.

9.2. The Customer is responsible for any content that is sent or distributed (or permitted to be sent or distributed) using the Service including, but not limited to, content posted on web pages, email, chat or discussion forums, bulletin boards, instant messaging and other services available via the Internet. The Customer 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, Territory or other law, including to send or distribute classes of restricted content to children or minors if that is prohibited or an offence under such laws.

9.3. The Customer's failure to comply with these requirements may lead to immediate suspension or termination of the Service without notice.

## 10. Classifying Content

10.1. The Customer must label or otherwise clearly identify any content made publicly available using the 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 the Customer's use or distribution of that content.

## 11. Complying with Regulatory Authorities

11.1. Commonwealth legislation allows the Australian Communications and Media Authority (ACMA) to direct OntheNet to remove from its network and servers any content which is classified, or likely to be classified, as 'prohibited' content. The Customer must not hinder or prevent OntheNet from taking all steps necessary to comply with any direction from ACMA or any law enforcement agency and the Customer acknowledges that OntheNet may comply with the directions of such authorities without notice to the Customer.

11.2. The Customer acknowledges that OntheNet reserve the right to restrict, suspend or terminate the Service if there are reasonable grounds for suspecting that the Customer is engaging in illegal conduct or where use of the Service is subject to any investigation by law enforcement agencies or regulatory authorities.

## **12. Complaints**

12.1.If the Customer has a complaint about Internet content, the Customer should visit ACMA's website at [www.acma.gov.au/hotline](http://www.acma.gov.au/hotline).

12.2.If the Customer has any questions or concerns about this Policy, the Customer should contact OntheNet.

## **13. Changes**

13.1.OntheNet may vary this Policy by posting the revised Policy on its website at [www.onthenet.com.au](http://www.onthenet.com.au). OntheNet may also give notice to the Customer of any variation of this Policy by email to the email address notified by the Customer or otherwise in accordance with the notice provisions of the OntheNet Terms and Conditions. The continued use of the Service after such posting or notice will constitute the Customer's acceptance of the variation.

## **14. Breach of Acceptable Use Policy**

14.1.OntheNet reserve the right to terminate the Customer's Service for breach of any term of this Acceptable Use Policy without prior notice.