



## **ACCEPTABLE USE POLICY**

This Acceptable Use Policy ("AUP") applies to all users of Modica Group's Services.

This AUP is not exhaustive and we reserve the right to modify this AUP at any time. You should review this AUP from time to time to keep abreast of any changes. We may notify you if this AUP changes, but this is a courtesy only.

Violation of this AUP is prohibited and may result in the immediate termination or suspension of the Services. You shall remain solely liable and responsible for your use of the Services and any and all Content that you display, upload, download or transmit through the use of the Services. "Content" includes, without limitation, email, web pages, text messages, multimedia messages, instant messages and domain names. It is Modica's policy to terminate the accounts of repeat infringers with immediate effect.

### **Definitions**

In this document, unless the context requires otherwise:

"Modica", "us", "we" and "our" means Modica Group

"You" and "users" means users of Modica's network, servers, services and systems, including their affiliates or Customers.

The definitions in the Terms of Use and Schedules apply to this AUP as applicable.

### **General Responsibilities**

Modica expects you, and all other users of our Services, to take responsibility in using our Services with courtesy and responsibility, and to be familiar with and practice good etiquette.

### **Prohibited Activities**

**Users will be deemed to be in violation of this Acceptable Use Policy when they (or their affiliates or customers) engage in any of the following prohibited activities:**

- 1. Unacceptable Content**
  - 1.1. Infringement of intellectual property rights or other proprietary rights including, without limitation, material protected by copyright, trademark, patent, trade secret, or other intellectual property right used without proper authorization. Infringement may result from, among other activities, the unauthorized copying and posting of pictures, logos, software, articles, musical works, and videos.
  - 1.2. Transmission or dissemination of, sale, storage or hosting of material that is unlawful, libelous, tortious, defamatory, obscene, pornographic, indecent, lewd, vulgar, harassing, threatening, harmful, invasive of privacy or publicity rights, abusive, inflammatory, hateful, or racially, ethnically or otherwise objectionable;
  - 1.3. Posting or sending of software or technical information in violation of any laws or regulations.
  - 1.4. Disseminating or hosting harmful content including, without limitation, viruses, Trojan horses, worms, time bombs, cancelbots or any other computer programming routines that may damage, interfere with, surreptitiously intercept or expropriate any system, program, data or personal information.
  - 1.5. Offering or disseminating fraudulent goods, services, schemes, or promotions (e.g. make money fast schemes, chain letters, pyramid schemes), or furnishing false data on any signup form, contract or online application or registration, or the fraudulent use of any information obtained through the use of

the Services, including without limitation use of false or stolen credit card numbers.

## **2. Unsolicited Content**

- 2.1. Sending unsolicited commercial messages sent by email, text message, multimedia message, instant message or posted to websites by means of comment submission, without the recipient either requesting such information or otherwise explicitly expressing an interest in the material advertised. It should be noted that a user has not expressed an interest by the mere act of posting a news article in any particular newsgroup, or by visiting a web site, unless they have made a specific request for information to be sent to them.

## **3. System and Network Security**

- 3.1. Unauthorised access to or use of data, systems or networks, including any attempt to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without express authorisation of the owner of the systems, or network.
- 3.2. Unauthorised monitoring of data or traffic on any network or system without express authorisation of the owner of the system or network.
- 3.3. Interference with service to any user, host or network including, without limitation, mailbombing, flooding, deliberate attempts to overload a system and broadcast attacks. Intentional interference also means the use of any kind of program/script/command, or sent messages of any kind, designed to interfere with a user's terminal session, via any means, locally or by the Internet.
- 3.4. Forging of any TCP-IP packet header or any part of the header information in an email, SMS message or newsgroup posting. This prohibition does not include the use of aliases or anonymous remailers.
- 3.5. Using manual or electronic means to avoid any use limitations placed on the Services such as timing out.
- 3.6. Failing to prevent unauthorized access to accounts, including any account passwords.
- 3.7. Disobeying any requirements, procedures, policies or regulations of networks connected to the Services.

## **4. System Performance**

- 4.1. Taking any action that may result in an overload of Modica's network, servers or systems or those of its suppliers by whatever means will be considered reckless use of the Services and as such is not allowed. We may prohibit the running of any such application which, in our sole judgement, endangers the stability or performance of the Services.
- 4.2. Use of IP multicast other than by means provided and coordinated by us;
- 4.3. Attempting to use our Services for the purposes of engaging in denial of service attacks on our or any other Services.

## **5. Other Prohibited Activities**

- 5.1. Adding or attempting to add addresses to any mailing list without explicit positive consent of the addressee.
- 5.2. Reselling Services to third parties that do not abide by these guidelines.
- 5.3. Use of any Service in a manner intended to harm minors.
- 5.4. Impersonation of any person or entity, or falsely stating or otherwise misrepresenting your affiliation with a person or entity.
- 5.5. Stalking or otherwise harassing another.

- 5.6. Use of any Service to intentionally or unintentionally violate any applicable local, provincial, state, national or international law, including, but not limited to, rules, orders and regulations having the force of law.

## 6. **Audit of Content**

- 6.1. We may at any time, and from time to time intercept, read, store and otherwise deal with the Content for the purpose of ascertaining your compliance with this AUP and any other agreements we may have with you.
- 6.2. We may delete any data stored using the products or services, in our absolute discretion, if we consider that data to be inappropriate, immoral, illegal, offensive or otherwise in breach of any law, standard, regulation or code of practice. We will inform you of any deletion.

## 7. **Content and Advertising Approval**

We (together with the Mobile Network Provider) reserve the right to review all Content and Advertising for every proposed or existing Service. In this regard, all such Services and Advertising may be required to:

- 7.1. Be submitted to us for approval by the Mobile Network Provider (in its discretion) and in respect of Advertising be accompanied by an indication of the media, publications and times at which it is intended that the Advertising will be made public.
- 7.2. Comply with all relevant codes of advertising including those published by any advertising standards authority.
- 7.3. Comply with all laws of any relevant jurisdictions.
- 7.4. In respect of Advertising, be consistent with the nature of the Content service to which it relates.

## 8. **Subject to our specific written authorisation to the contrary, Content and Advertising for a Content service must not:**

- 8.1. Infringe any Intellectual Property Rights;
- 8.2. Detrimentally affect the brand or reputation of Modica or the Mobile Network Provider;
- 8.3. Be placed under the heading of adult entertainment or similar headings;
- 8.4. Be misleading as to the nature, type, price service or benefits of the Content;
- 8.5. Contain inaccurate, ambiguous, exaggerated, defamatory, untrue or out of date information;
- 8.6. Encourage, counsel, incite or suggest any criminal or unlawful acts;
- 8.7. Prey upon individual groups by virtue of their circumstances;
- 8.8. Contain vulgar and/or suggestive language or images or innuendo or slang of a sexual, immoral or violent nature;
- 8.9. Promote the competitors of the Mobile Network Provider; or
- 8.10. Promote or provide inflammatory or demeaning opinions of any individual or group.

## 9. **All Advertising placed in any media must contain:**

- 9.1. The name of the Client and the Contact Number of the Client;
- 9.2. A disclaimer of any liability for the Mobile Network Provider in relation to any Content or service provided to the Customer;

And, in relation to Customer Charged Content, must contain:

- 9.3. The cost of the service and whether the price includes tax;
- 9.4. A warning to those not responsible for paying for the service to seek the permission of the person who pays the bill;
- 9.5. Be clear, legible and presented in a way that does not require close scrutiny; and
- 9.6. Have a supporting website.

Modica or the Mobile Network Provider may review any consent granted under this clause at any time.

## **10. Complaints**

- 10.1 Where any Customer contacts us or the Mobile Network Provider with a complaint regarding any Content services, we may provide the Customer with your contact details and inform them that the Content service was provided by you.
- 10.2 Where any government or regulatory body commences an investigation in respect of a Content service, you must actively assist and co-operate with any such investigation. We may also assist and co-operate with any such investigation by providing some or all relevant information requested by such bodies.
- 10.3 You will have a contact number available to Customers and will maintain suitable information and helpdesk services that are available during business hours to assist any Customer that contacts you with a complaint or requiring any information regarding any Content service.