

## Acceptable Use Policy

**SmartCIC, and its affiliates (collectively, "SmartCIC") have formulated this Acceptable Use Policy ("AUP") in order to encourage the responsible use of SmartCIC's Networks, Systems, Services, Websites and Products (collectively, the "SmartCIC Network and Services") by our customers and other users of the SmartCIC Network and Services (collectively, "Users"), and to enable SmartCIC to provide Users with secure, reliable and productive services.**

SmartCIC reserves the right to modify this AUP and notify the Customer prior to coming into effect. Such modifications will be effective when posted. Any use of the SmartCIC Network and Services after such modification shall constitute acceptance of such modification.

This AUP includes by reference the terms and conditions and policies, including the Terms of Use and Privacy Policy, that are referenced here and the SmartCIC Websites. You agree and warrant that you will not use (or plan, encourage or help others to use) this Website or any SmartCIC service for any purpose or in any manner that is prohibited by these terms and conditions, law, regulation, or other prohibition. It is your responsibility to ensure that your use of this Website complies with these terms and conditions.

While it is not our intent to control or monitor your online experience or the content of your online communications, we may edit or remove content that we deem to be in violation of the AUP or that we otherwise deem harmful or offensive, or if requested or required to do so by a government authority. The AUP applies to all aspects of the SmartCIC Network and Services, including but not limited to email, bulletin-board postings, chatting, and browsing.

You are entirely responsible for maintaining the confidentiality of your password and account information, as well as the security of your network. For the most part, simply exercising good judgment and common sense while using the Service should enable Users to remain within the purview of acceptable conduct as further described in this AUP. The categories listed below are intended merely to serve as guidelines regarding appropriate and inappropriate conduct; the list is by no means exhaustive and should not be interpreted as such.

### **Rights of SmartCIC**

If Users engage in conduct while using the SmartCIC Network and Service that is in violation of the AUP or is otherwise illegal or improper, we reserve the right to suspend and possibly terminate any product or service provided by SmartCIC ("Service") or the User's access to the Service. In most cases, we will attempt to notify you of any activity in violation of the AUP and request that the User cease such activity; however, in cases where the viability of the SmartCIC Network and Services are potentially threatened or cases involving UCE/SPAM, mail relaying, alteration of your source IP address information, denial of service attacks, illegal activities, harassment or copyright infringement, we reserve the right to suspend your Service or the User's access to the Service, at SmartCIC's sole discretion, without notification. In addition, we may take any other appropriate action, legal or otherwise, against a User for violations of the AUP, which may include termination of the Service. We do not make any promise, nor do we have any obligation, to monitor or police activity occurring via the Service and will have no liability to any party, including you, for any violation of the AUP.

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**Prohibited Conduct.** In general, the SmartCIC Network and Services must be used in a manner that is consistent with the intended purpose of the Services and may be used only for lawful purposes. Users shall not use the SmartCIC Network and Services in order to transmit, distribute or store material: (a) in violation of any applicable law or regulation, including export or encryption laws or regulations; (b) that may adversely affect the SmartCIC Network and Services or other SmartCIC customers; or (c) that may expose SmartCIC to criminal or civil liability. Users are prohibited from facilitating the violation of any part of this AUP or another provider's AUP, including, but not limited to transmitting, distributing, or otherwise making available any product or service that violates this AUP or another provider's AUP.

**Inappropriate Content.** Users shall not use the SmartCIC Network and Services to transmit, distribute or store material that is inappropriate, as reasonably determined by SmartCIC, or material that is obscene (including but not limited to child pornography), defamatory, libellous, threatening, abusive, hateful, or excessively violent.

**Intellectual Property.** Material accessible through the SmartCIC Network and Services may be subject to protection under privacy, publicity, or other personal rights and Intellectual Property rights, including but not limited to, copyrights and laws protecting patents, trademarks, trade secrets or other proprietary information. Users shall not use the SmartCIC Network and Services in any manner that would infringe, dilute, misappropriate, or otherwise violate any such rights. If you use a domain name in connection with any of the SmartCIC Network and Services, you must not use that domain name in violation of the trademark, service mark, or other rights of any third party.

**Harmful Content.** Users shall not use the SmartCIC Network and Services to transmit, distribute or store material that may be harmful to or interfere with the SmartCIC Network and Services or any third party's networks, systems, services, or Websites. Such prohibited harmful content includes, but is not limited to, viruses, worms, password-cracking programs or Trojan horses.

**Fraudulent/Misleading Content.** Users shall not use the SmartCIC Network and Services to transmit or distribute material containing fraudulent offers for goods or services, or any advertising or promotional materials that contain false, deceptive, or misleading statements, claims, or representations. In addition, Users are prohibited from submitting any false or inaccurate data on any order form, contract or online application, including but not limited to the fraudulent use of credit cards.

**Email and Unsolicited Messages.** Users shall not use the SmartCIC Network and Services to transmit unsolicited email messages, including, without limitation, unsolicited bulk email, where such emails could reasonably be expected to provoke complaints ("spam"). Further, Users are prohibited from using the service of another provider to send spam to promote a site hosted on or connected to the SmartCIC Network and Services. In addition, Users shall not use the SmartCIC Network and Services in order to (a) send email messages which are excessive and/or intended to harass or annoy others, (b) continue to send email messages to a recipient that has indicated that he/she does not wish to receive them, (c) send email with forged TCP/IP packet header information, (d) send malicious email, including, without limitation, "mailbombing", (e) send or receive email messages in a manner that violates the use policies of any other Internet service provider, or (f) use an email box exclusively as a storage space for data.

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**Third Party Rules.** Users may have access through the SmartCIC Network and Services to search engines, subscription Web services, chat areas, bulletin boards, Web pages, or other services that promulgate rules, guidelines or agreements to govern their use. Users must adhere to any such rules, guidelines, or agreements.

**Filters.** Filters against particular networks or traffic types are generally available from a variety of sources. In addition, in certain circumstances and for an applicable fee, SmartCIC may be able to install other filters upon the customer's request.

**Configuration.** All users of the SmartCIC Network are responsible for configuring their own systems to provide the maximum possible accountability. SmartCIC shall not be liable for any damage caused by such system configurations regardless of whether such configurations have been authorised or requested by SmartCIC. For example, Users should ensure there are clear "path" lines in news headers so that the originator of a post may be identified. Users should also configure their Mail Transport Agents (MTA) to authenticate (by look-up on the name or similar procedures) any system that connects to perform a mail exchange, and should generally present header data as clearly as possible. As another example, users should maintain logs of dynamically assigned IP addresses.

**Resellers and Downstream Service Providers.** Some Users may be customers of Internet Service Providers (ISPs) that receive Internet connectivity through SmartCIC. Such ISPs (also known as resellers or downstream service providers) are responsible for informing their customers of this Acceptable Use Policy and for enforcing its restrictions with regard to their customers' actions. Complaints about customers of any such reseller or downstream service provider shall be forwarded to such reseller or downstream service provider for resolution. If at any time SmartCIC determines that such reseller or downstream service provider is not taking appropriate action in accordance with this Acceptable Use Policy, SmartCIC shall work with such reseller or downstream service provider to review their policies and enforcement procedures. If the reseller or downstream service provider continues to fail to take appropriate action, SmartCIC will take such further action as it deems appropriate, up to and including termination proceedings. Violations of this Acceptable Use Policy by a customer or end-user of a reseller or downstream service provider shall be considered violations of this Acceptable Use Policy by such reseller or downstream service provider.

**Unauthorised Access/Interference.** A User may not attempt to gain unauthorised access to, or attempt to interfere with or compromise the normal functioning, operation, or security of any network, system, computing facility, equipment, data, or information. A User may not use the Service to engage in any activities that may interfere with the ability of others to access or use the Service or the Internet. A User may not use the Service to monitor any data, information, or communications on any network or system without written authorisation. A User may not attempt to gain unauthorised access to the user accounts or passwords of other Users.

Users are responsible for educating themselves and configuring their systems with at least basic security. Should systems at a User's site be violated, the User is responsible for reporting the violation and then fixing the exploited system. For instance, should a site be abused to distribute unlicensed

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software due to a poorly configured FTP (File Transfer Protocol) Server, the User is responsible for re-configuring the system to stop the abuse.

Users are prohibited from intentionally or negligently injecting false data into the Internet, for instance in the form of bad routing information (including but not limited to the announcing of networks owned by someone else or reserved by the Internet Assigned Numbers Authority) or incorrect DNS information.

**Illegal Activity.** Users agree to use the SmartCIC Network and Service only for lawful purposes. Use of the SmartCIC Network and Service for transmission, distribution, retrieval, or storage of any information, data, or other material in violation of any applicable law or regulation (including, where applicable any tariff or treaty) is prohibited. This includes, without limitation, the use or transmission of any data or material protected by copyright, trademark, trade secret, patent, or other intellectual property right without proper authorisation and the transmission of any material that constitutes an illegal threat, violates export control laws, or is obscene, defamatory, or otherwise unlawful. In those instances involving child pornography, SmartCIC complies with all applicable National laws including providing notice to the relevant Telecommunications Regulatory Authority or other designated agencies.

**Other Prohibited Activities.** The following activities are also prohibited:

- Attempting to intercept, redirect, or otherwise interfere with communications intended for others.
- Intentionally transmitting files containing a computer virus or corrupted data.
- Resale of Services, unless expressly authorised in a separate written agreement with SmartCIC.
- Harassment, whether through language, frequency, or size of messages.
- Furnishing false or incorrect data to SmartCIC on written or online applications, contracts, or other materials or information provided to SmartCIC, including fraudulent use of credit card numbers or "bill to" telephone numbers.
- Attempting to circumvent or alter the processes or procedures to measure time, bandwidth utilisation, or other methods to document use of the Service.
- Any other inappropriate activity or abuse of the Service (as determined by us in our sole discretion), whether or not specifically listed in this AUP, Terms of Use or Privacy Policy, may result in suspension or termination of the User's access to and use of the Service.

**Cooperation with Investigations.** We will cooperate with appropriate law enforcement agencies and other parties involved in investigating claims of illegal or inappropriate activity. SmartCIC reserves the right to disclose customer information to the extent authorised by lawful statutes.

**Privacy.** Because the Internet is an inherently open and insecure means of communication, any data or information a User transmits over the Internet may be susceptible to interception and alteration. We make no guarantee regarding, and assume no liability for, the security and integrity of any data or information a User transmits via the Service or over the Internet, including any data or information transmitted via any server designated as "secure."



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**Modifications.** SmartCIC reserves the right to modify this Acceptable Use Policy at any time., We will notify you, our Customer, of any such modifications via email prior to the modifications coming into effect.

**Excessive Usage.** If we have specified bandwidth limitations for your user account, use of the Service shall not be in excess of those limitations.

**Transfer of Account.** A User may not transfer an account to anyone without our prior written consent.

**Mail Server Filters.** The use of SmartCIC's Network and Services to send email through external third-party servers is prohibited. You are responsible for ensuring that all persons accessing or using SmartCIC Network and Service through your account, comply with the AUP.

If you become aware of any violation of this AUP by any person, including Users that have accessed the Service through your account, please notify us. We will notify you, our Customer, of complaints received by us regarding each incident of alleged violation of this AUP by your Users. You agree to promptly investigate all such complaints and take all necessary actions to remedy any actual violations of this AUP. We may identify to the complainant that you are investigating the complaint and may provide the complainant with the necessary information to contact you directly to resolve the complaint. You shall identify a representative for the purposes of receiving such communications. We reserve the right to install and use, or to have you install and use, any appropriate devices to prevent violations of this AUP, including devices designed to filter or terminate access to the Services.

## Legal

**Additional Terms and Conditions.** The use of the SmartCIC Network by a customer of SmartCIC is subject to the terms and conditions of any agreements entered into by such customer with SmartCIC. This Acceptable Use Policy is incorporated into such agreements by reference.

**Limitation of Liability and Indemnification.** SmartCIC SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, LOSS OF BUSINESS OR BUSINESS OPPORTUNITY, LOSS OF USE, ETC., EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SmartCIC SHALL NOT BE LIABLE FOR ANY DIRECT OR ACTUAL DAMAGES, EXCEPT TO THE EXTENT SPECIFIED IN A WRITTEN AGREEMENT ENTERED INTO BETWEEN SmartCIC AND ITS CUSTOMER. OTHER LIMITATIONS OF LIABILITY ARE INCLUDED HERE BY REFERENCE INCLUDING THE TERMS OF USE AND PRIVACY POLICY OF THE SmartCIC WEBSITES.

SmartCIC MAKES NO WARRANTIES OR REPRESENTATIONS HEREIN, EITHER EXPRESS OR IMPLIED, CONCERNING THE NETWORK, AND EXPRESSLY DISCLAIMS WARRANTIES OF FITNESS FOR A PARTICULAR USE OR PURPOSE, THE WARRANTY OF MERCHANTABILITY AND ANY OTHER WARRANTY IMPLIED BY LAW.

You agree to indemnify, defend, and hold SmartCIC, its subsidiaries, affiliates, officers, directors, employees, agents, licensors, consultants, suppliers, and any third-party Website providers harmless from and against all claims, demands, actions, liabilities, losses, expenses, damages, and costs,

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including actual attorneys' fees, resulting from your violation of this AUP, misuse or abuse of the Services, or your infringement, or infringement by any other user of your account, of any intellectual property or other right of any person or entity. You will cooperate as fully as reasonably required in SmartCIC's defence of any claim in this regard. SmartCIC reserves the right, to assume the exclusive defence and control of any matter otherwise subject to indemnification by you and you shall not in any event settle any matter without the written consent of SmartCIC. You agree immediately to notify SmartCIC of any unauthorised use of your account or any other breach of security known to you.

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