



# Acceptable Use Policy

Last modified October 5, 2016

This Marketware Acceptable Use Policy ("AUP") applies to the use of any product, service or website provided by us (Marketware, Inc.), whether we provide it directly or use another party to provide it to you (each, a "Marketware Service" or "Marketware Growth Suite Service"). This AUP is designed to ensure compliance with the laws and regulations that apply to the Marketware Service. This AUP also protects the interests of all of our clients and their customers, as well as our goodwill and reputation. These terms are so important that we cannot provide the Marketware Service unless you agree to them. By using the Marketware Service, you are agreeing to these terms.

If you are using any Marketware Service, this AUP applies to you. Every client of ours agrees to abide by this AUP and is responsible for any violations. You are not allowed to assist or engage others in a way that would violate this AUP. We will enforce and ensure compliance with this AUP by using methods we consider to be appropriate, such as complaint and email failure monitoring.

We periodically update these terms and we will let you know when we do through email, or by posting a revised copy on our website. You agree to review the AUP on a regular basis and always remain in compliance.

## 1. Reporting Suspected Violations

We encourage recipients of email messages sent using the Marketware Service to report suspected violations of this AUP to us by forwarding a copy of the received email with FULL headers to [abuse@Marketware.com](mailto:abuse@Marketware.com). We have a policy to investigate all of these reports and to respond in the way we consider appropriate.

If you know of or suspect a violation of this AUP, you will promptly notify us in writing of the known or suspected violation of this AUP.

## 2. No SPAM Permitted

You may not use the Marketware Growth Suite Service in any way (directly or indirectly) to send, transmit, handle, distribute or deliver: (a) unsolicited email ("spam" or "spamming") in violation of the CAN-SPAM Act (referenced below) or any other law; (b) email to an address obtained via Internet harvesting methods or any surreptitious methods (e.g., scraping or harvesting); (c) email to an address that is incomplete, inaccurate and/or not updated for all applicable opt-out notifications, using best efforts and best practices in the industry, or (d) commercial electronic messages in violation of Canada's Anti-Spam Legislation (referenced below).

### 3. Prohibited Email Content and Formatting; Email Best Practices

Email sent, or caused to be sent to or through the Marketware Growth Suite Service may not: (a) use or contain invalid or forged headers; (b) use or contain invalid or non-existent domain names; (c) employ any technique to otherwise misrepresent, hide or obscure any information in identifying the point of origin or the transmission path; (d) use other means of deceptive addressing; (e) use a third party's internet domain name without their consent, or be relayed from or through a third party's equipment without the third party's permission; (f) contain false or misleading information in the subject line or otherwise contain false or misleading content; or (g) use our trademark(s), tagline(s), or logo(s) without our prior written consent and only then pursuant to our trademark usage guidelines.

If you use email, we recommend that you adopt the Messaging, Malware and Mobile Anti-Abuse Working Group (M<sup>3</sup>AAWG) Sender Best Communications Practices (BCP), which were created and agreed upon with collaborative input from both volume email senders and Internet Service Providers. The Sender Best Communications Practices document is available at [https://www.m3aawg.org/sites/default/files/document/M3AAWG\\_Senders\\_BCP\\_Ver3-2015-02.pdf](https://www.m3aawg.org/sites/default/files/document/M3AAWG_Senders_BCP_Ver3-2015-02.pdf). You will use commercially reasonable efforts to follow these practices.

In addition, you are prohibited from using the Marketware Growth Suite Service to email: (a) purchased, rented, or borrowed lists, and (b) lists that are likely to result in an excessive number of unsubscribe requests or SPAM complaints or notices, as determined by acceptable industry practices.

### 4. Email Opt-out Requirements

You warrant that each email you send or is sent for you using the Marketware Growth Suite Service will contain: (a) header information that is not false or misleading; and (b) an advisement that the recipient may unsubscribe, opt-out or otherwise demand that use of its information for unsolicited, impermissible and/or inappropriate communication(s) as described in this AUP be stopped (and how the recipient can notify you that it wants to unsubscribe, opt-out, or stop this use of its information). These requirements may not apply if the email sent is a transactional email and these requirements are not otherwise required by law. You warrant that you will promptly comply with all opt-out, unsubscribe, "do not call" and "do not send" requests. The Marketware Service will not allow users to send emails to addresses that have opted out from a previous email. However, customers should update their other lists and programs with those that have opted out.

### 5. No Disruption

You agree not to use the Marketware Growth Suite Service in a way that impacts the normal operation, privacy, integrity or security of another's property. Another's property includes another's account(s), domain name(s), URL(s), website(s), network(s), system(s), facilities, equipment, data, other information, or business operations. You also agree not to use the Marketware Growth Suite Service to gain unauthorized access to, use, monitor, make an unauthorized reference to, another's property, unless you have the appropriate express prior consent to do so. Examples of prohibited actions include

(without limitation): hacking, spoofing, denial of service, mailbombing and/or sending any email that contains or transmits any virus or propagating worm(s), or any malware, whether spyware, adware or other such file or program. These restrictions apply regardless of your intent and whether or not you act intentionally or unintentionally.

## 7. Proper Usage of the Marketware Growth Suite Service

Without limiting the other requirements in this AUP, you may not (directly or indirectly) use the Marketware Growth Suite Service with content, or in a manner that:

- is threatening, abusive, harassing, stalking, or defamatory;
- is deceptive, false, misleading or fraudulent;
- is invasive of another's privacy or otherwise violates another's legal rights (such as rights of privacy and publicity);
- contains vulgar, obscene, indecent or unlawful material;
- infringes a third party's intellectual property right(s);
- publishes, posts, uploads, or otherwise distributes any software, music, videos, or other material protected by intellectual property laws (or by rights of privacy or publicity) unless you have all necessary rights and consents to do so;
- uploads files that contain viruses, corrupted files, or any other similar software or programs that may damage the operation of another person's computer;
- downloads any file that you know, or reasonably should know, cannot be legally distributed in that way;
- falsifies or deletes any author attributions, legal or proprietary designations, labels of the origin or source of software, or other material contained in a file that is uploaded;
- restricts or inhibits any other user of the Marketware Growth Suite Service from using and enjoying our website and/or the Marketware Growth Suite Service;
- harvests or otherwise collects information about others, including e-mail addresses, without their consent;
- violates the usage standards or rules of an entity affected by your use, including without limitation any ISP, ESP, or news or user group (and including by way of example and not limitation circumventing or exceeding equipment use rights and restrictions and/or location and path identification detail);
- is legally actionable between private parties; and/or
- is in violation of any applicable local, state, national or international law or regulation, including all export laws and regulations and without limitation the Controlling the Assault of Non-Solicited Pornography and Marketing Act (CAN-SPAM Act) (15 U.S.C. § 7701 et seq.), the U.S Telephone Consumer Protection Act of 1991 (47 U.S.C. § 227), the Do-Not-Call Implementation Act of 2003 (15 U.S.C. § 6152 et seq.; originally codified at § 6101 note), the Directive 2000/31/EC of the European

Parliament and Council of 8 June 2000, on certain legal aspects of information society services, in particular, electronic commerce in the Internal Market ('Directive on Electronic Commerce'), along with the Directive 2002/58/EC of the European Parliament and Council of 12 July 2002, concerning the processing of personal data and the protection of privacy in the electronic communications sector ('Directive on Privacy and Electronic Communications'), regulations promulgated by the U.S. Securities Exchange Commission, any rules of national or other securities exchange, including without limitation, the New York Stock Exchange, the American Stock Exchange or the NASDAQ, the Personal Information Protection and Electronic Documents Act (PIPEDA) (S.C. 2000, c. 5), Canada's Anti-Spam Legislation (CASL) (S.C. 2010, c. 23), Japan's Act on Regulation of Transmission of Specified Electronic Mail (Act No. 26 of April 17, 2002) and any regulations having the force of law or laws in force in your or your email recipient's country of residence.

If you use our Application Programming Interfaces (APIs), developer tools, or associated software, you will comply with our API Terms.

You will use the Marketware Growth Suite Service for your internal business purposes and will not: (i) willfully tamper with the security of the Marketware Growth Suite Service or tamper with our customer accounts; (ii) access data on the Marketware Growth Suite Service not intended for you; (iii) log into a server or account on the Marketware Growth Suite Service that you are not authorized to access; (iv) attempt to probe, scan or test the vulnerability of any Marketware Growth Suite Service or to breach the security or authentication measures without proper authorization; (v) willfully render any part of the Marketware Growth Suite Service unusable; (vi) lease, distribute, license, sell or otherwise commercially exploit the Marketware Growth Suite Service or make the Marketware Growth Suite Service available to a third party other than as contemplated in your subscription to the Marketware Growth Suite Service; (vii) use the Marketware Growth Suite Service for timesharing or service bureau purposes or otherwise for the benefit of a third party; or (viii) provide to third parties any evaluation version of the Marketware Growth Suite Service without our prior written consent.

## 8. Marketware Growth Suite Trademark Use

Unless you have our express prior written permission, you may not use any name, logo, tagline or other mark of ours or the Marketware Growth Suite Service, or any identifier or tag generated by the Marketware Growth Suite Service, including without limitation: (a) as a hypertext link to any website or other location (except as provided for or enabled expressly by us); or (b) to imply identification with us as an employee, contractor, agent or other similar representative capacity. You also agree not to remove or alter any of these items as we may have provided or enabled.

## 9. General Terms

If you breach of this AUP we may immediately suspend your access to the Marketware Growth Suite Service. We may also terminate your and our subscription agreement for cause if you breach this AUP. You acknowledge we may disclose information regarding your use of any Marketware Growth Suite Service to satisfy any law, regulation, government request, court order, subpoena or other legal

process. If we make this type of required disclosure we will notify you, unless we are required to keep the disclosure confidential.

We are not obligated to, but may choose to, remove any prohibited materials and deny access to any person who violates this AUP. We further reserve all other rights.

We may update and change any part or all of this AUP. If we update or change this AUP, the updated AUP will be posted at <http://www.marketware.com/acceptable-use>. If you have a Marketware Growth Suite subscription, we will let you know via email. If you do not have a Marketware Growth Suite subscription, we will let you know by posting the revised copy on our website. The updated AUP will become effective and binding on the next business day after it is posted. When we change this AUP, the "Last Modified" date above will be updated to reflect the date of the most recent version. We encourage you to review this AUP periodically.