

---

# Anti-Spam Policy

---

Metergy Solutions Inc.

---



---

Effective as of December 1, 2020.

**Metergy Solutions Inc.**  
**Anti-Spam Policy**

**1. INTRODUCTION**

At Metergy Solutions Inc. and our subsidiaries and affiliates (collectively, “**MSI**”, “**we**”, “**our**” or “**us**”), we strive to ensure that our communications do not contain any spam. “Spam” refers to any unsolicited commercial electronic messages (as defined below). In that light, we require all commercial electronic messages from our servers to be in compliance with this Anti-Spam Policy (the “**Policy**”).

**2. APPLICATION**

This Policy applies to all directors, officers, employees, agency staff, consultants and contractors of MSI, and each such person must abide by the terms of this Policy when conducting business in Canada.

**3. PRINCIPLES**

- (a) We will comply with the requirements of all applicable federal, provincial laws relating to spam, including the Canadian Anti-Spam Legislation (“**CASL**”) regime that currently governs our electronic communications;
- (b) We recognize that it is our responsibility to be accountable for compliance with applicable laws and commit to ensuring such accountability and compliance;
- (c) We are committed to monitoring and auditing our compliance performance;
- (d) We are committed to continually improving our officers’ and employees’ understanding and awareness of our compliance responsibilities through training and education;
- (e) We recognize the importance of maintaining an accurate and up-to-date database that keeps track of whether we have obtained consent for each of our contacts or clients and any third parties with whom we may communicate electronically; and
- (f) We are committed to avoiding any and all deceptive content in our commercial electronic messages.

**4. RELEVANT DEFINITIONS**

- (a) “commercial activity” means any particular transaction, act or conduct that is of a commercial character, whether or not the person who carries it out does so in the expectation of profit.
- (b) “electronic message” means a message sent by any means of telecommunication, including a text, sound, voice or image message.
- (c) “commercial electronic message” (“**CEM**”) is a message sent to an electronic address (such as an email address, a phone number, or an instant messaging account) that has as its purpose, or one of its purposes, the encouragement of participation in a commercial activity, defined above.

**5. SCOPE**

The Policy applies to electronic messages sent to promote any commercial activity. This includes, but is not limited to:

- (i) An electronic message that offers to purchase or sell a product, good, or service;

- (ii) An electronic message that offers to provide a business, investment, or gaming opportunity;
- (iii) An electronic message that promotes any of the above activities, including advertisements, contact information, or links pertaining to the above;
- (iv) An electronic message that promotes a person who engages in any of the above activities; and
- (v) An electronic message that contains a request to send a commercial electronic message.

## 6. PROCEDURES

### Consent

We will seek to obtain consent for our CEMs. We will also rely on the implied consent categories and exceptions outlined in Schedule "A".

In obtaining consent, we commit to avoiding any and all deceptive content, and we will comply with form and content requirements as required by applicable legislation.

We will commit to reviewing and renewing consents, and we will never send a CEM to a recipient whose consent has expired or terminated.

### Content

Each CEM that we send is subject to strict rules about what it must and must not contain:

- (a) It must contain:
  - (i) Our name;
  - (ii) Our contact information;
  - (iii) An unsubscribe mechanism; and
  - (iv) Disclaimers, notices, and notations.
- (b) It must not contain deceptive content.

For a full description of the content requirements, please see Schedule A.

### Exemptions

In certain circumstances, consent is not necessary. For instance, when a familial or personal relationship exists between the sender and recipient of the CEM, we are not required to obtain the recipient's consent to receive that CEM.

We commit never to rely on an exemption without first properly ascertaining its existence, to the best of our knowledge and ability.

For a list of the exemptions under the Policy, please see Schedule A. If in doubt, we will confirm with our legal department before relying on a form of exception from consent to send a CEM.

## 7. THIRD PARTY CONTRACT REQUIREMENTS

Where other parties engage in the sending of CEMs on our behalf, or in relation to our business, we will ensure that such relationships are governed by this Policy and that the legal department has been involved in the engagement of any such third parties by contacting [legal@metergy.com](mailto:legal@metergy.com) prior to any CEMs being sent by the third party.

## 8. CONTINUAL IMPROVEMENT

### Records Management

In order to remain compliant with relevant legislation, we will maintain records with respect to recipients:

- (i) from whom we have obtained explicit consent;
- (ii) from whom we have implicit consent at any given time; and,
- (iii) for whom consent is not necessary by virtue of an exemption.

As part of these records, we will retain all consent and unsubscribe records. We will update our records in real time, as information becomes available to us, and within ten (10) business days of any request to unsubscribe. The marketing department will be responsible for the management of the compliance records.

### Training and Education

We are committed to implementing a training and education program for all employees and management with a view to ensuring universal understanding and awareness of our compliance responsibilities and requirements.

Any requests for information or advice with respect to anti-spam legislation or CASL compliance should be sent to [legal@metergysolutions.com](mailto:legal@metergysolutions.com).

MSI has instituted a training and education program comprised of the following elements:

- (i) Initial group training sessions for employees and management;
- (ii) Supplementary training sessions offered upon request;
- (iii) Periodic refresher sessions to ensure continued understanding and awareness; and,
- (iv) Ad hoc training sessions offered in the event of material changes to relevant legislation imposing additional compliance responsibilities.

### Monitoring and Auditing

We are committed to establishing a process to regularly monitor and audit our compliance with relevant anti-spam legislation.

Each department head is responsible for monitoring the anti-spam regulatory compliance of their department and for reporting any non-compliance to the person to whom they report and the General Counsel.

The General Counsel will work with management to develop a risk based internal audit plan to ensure that anti-spam regulatory compliance is maintained, solicit suggestions for communications innovations and advise on opportunities for compliance improvement.

Audit scope may include but not be limited to the following internal controls testing procedures:

- (i) Examination of out-going CEMs and incoming unsubscribe requests to verify CASL and any other relevant anti-spam regulatory compliance;
- (ii) Interviewing individual employees and managers to determine the level of understanding and awareness of our compliance responsibilities and requirements; and
- (iii) Collaborating with various stakeholders including, but not limited to,
  - (A) Employees;
  - (B) Management;

- (C) Marketing partners; and,
- (D) Service providers.

When deemed appropriate by the General Counsel, an external auditor will be appointed to ensure compliance with the minimum requirements of provincial and federal legislation.

**9. ENFORCEMENT**

We are committed to ensuring that no entity or person receives unauthorized CEMs from us.

In the event that a client or customer may receive an inadvertent or mistakenly-sent CEM, we commit to investigating every such instance, and assisting the employee(s) or managers involved with renewing their understanding and awareness of our compliance responsibilities as outlined in the Policy.

Violations of all laws, including without limitation, laws governing and regulating commercial electronic communication generally carry significant consequences to MSI both in terms of actual penalties, fines and other monetary damages, but also in terms of goodwill and relationships.

IF EMPLOYEES DO NOT COMPLY WITH THIS POLICY, THEY WILL BE SUBJECT TO DISCIPLINARY PROCEDURES, UP TO AND INCLUDING DISMISSAL.

**10. AMENDMENT**

- (a) The terms of this Policy, including the Schedules hereto, may be amended from time to time by MSI. When this Policy is amended, we will provide notice of such amendment in the most expeditious and clear manner as reasonably possible.
- (b) We ask that you refer to this Policy when sending CEMs and otherwise on a regular or at least annual basis so that you refresh your memory on its terms.

**11. QUESTIONS OR CONCERNS?**

If you have any questions about the application of this Policy, how this Policy is to be interpreted, or how it is to be implemented, we direct you to ask the General Counsel of MSI, Chelsea Provencher ([legal@metergysolutions.com](mailto:legal@metergysolutions.com) or 416.649.1940). All enquiries will receive a timely response.

## **SCHEDULE "A"** **RULES**

### **1. REQUESTING CONSENT TO SEND CEMs (FORM AND CONTENT REQUIREMENTS)**

- (a) The initial "request for consent" to send a CEM may be obtained "orally or in writing" and must also include:
  - (i) The name of the person or organization seeking consent;
  - (ii) If the person or organization is seeking consent on behalf of another person, the name of the person on whose behalf consent is sought and a statement indicating which person is seeking consent and;
  - (iii) The purposes for which consent is being sought, which should not be overly broad;
  - (iv) The mailing address, and either a telephone number, email address or web address of the person seeking consent; and
  - (v) A statement that the person whose consent is sought can withdraw their consent at any time.
- (b) An electronic message that contains a request for consent to send a CEM is also considered to be a CEM and, as such, may only be sent with prior consent.

### **2. EXPRESS CONSENT- DEFAULT**

- (a) In all instances where "express consent" is required, "express consent" requires active "opt in" (not opt-out) from the recipient.
- (b) Opt-ins cannot be subsumed in, or bundled with, requests for consent to the general terms and conditions of use or sale of another service or contract, and must instead require a positive or explicit action on the part of the person providing consent. Examples of acceptable means of obtaining consent include through a checkbox or a confirmation button on form, web page or digital application. Any such checkbox cannot be pre-checked.

### **3. FULL EXEMPTIONS**

In the following circumstances, the relevant MSI entity (the "**Company**") is under no obligation to obtain consent, and is not subject to content rules:

- (a) The CEM is sent by or on behalf of an individual with whom the recipient is connected by:
  - (i) A blood relationship;
  - (ii) Marriage;
  - (iii) A common-law partnership; or
  - (iv) Adoption;
- (b) The CEM is sent by or on behalf of an individual with whom the recipient has had direct, voluntary, two-way communications that would reasonably lead to the conclusion that the relationship between the sender and the recipient is personal, taking into consideration all relevant factors such as the sharing of interests, experiences, opinions and information evidenced in the communications, the frequency of communication, the length of time since the parties communicated and if the parties have met in person and the recipient has not indicated a desire not to receive communications from the Company;
- (c) The CEM is sent to an individual or corporation engaged in a commercial activity and consists solely of an inquiry or application related to that business;

- (d) The CEM is sent:
  - (i) Within the Company or between the Company and another organization with which the Company has a pre-existing relationship, and the CEM relates to the activities of the Company or the other organization; or
  - (ii) In response to a complaint, inquiry, or request;
- (e) The CEM is sent to:
  - (i) Satisfy a legal or judicial obligation;
  - (ii) Provide notice of an existing or pending right, legal or judicial obligation, court order, judgment, or tariff;
  - (iii) Enforce a right, legal or judicial obligation, court order, judgment, or tariff; or
  - (iv) Enforce a right arising under Canadian law, including a provincial or municipal law of Canada or a foreign state;
- (f) The CEM is sent to limited-access secure and confidential accounts to which only the provider of the account can send messages to the recipient. For example, CEMs sent to customers through a customer portal likely falls under this exemption.

#### 4. INSTANCES WHERE CONSENT IS NOT REQUIRED TO SEND CEMS

- (a) In the following circumstances, consent is not required, but CEMs remain subject to content rules, as outlined below at Paragraph 6(a):
  - (i) The recipient has requested a quote or an estimate from the Company;
  - (ii) The CEM is in relation to an existing transaction between or involving the Company and the recipient;
  - (iii) The CEM provides warranty, recall or safety information for a product, good or service that the recipient has already purchased from the Company;
  - (iv) The CEM notifies the recipient of factual information as part of an ongoing subscription, membership, or account in the recipient's name;
  - (v) The CEM provides employment information;
  - (vi) The officer or employee who sends the CEM has a personal or familial relationship with the recipient; or
  - (vii) The CEM delivers a product, good, or service that the recipient is entitled to receive under the terms of a transaction previously entered into with the Company.
- (b) The requirement to obtain consent before sending a CEM also does not apply if the Company acquires the recipient's name and contact details by way of a referral from a person (the "**Referee**") with a pre-existing relationship with both the Company and the recipient, and the CEM discloses the full name of the Referee and states that the message is sent as a result of the referral. This is a ONE TIME right. A second CEM may not be sent to the recipient in this instance without requisite consent.

#### 5. INSTANCES WHERE CONSENT MAY BE "IMPLIED" (EXPRESS CONSENT IS NOT REQUIRED)

- (a) In the following circumstances, consent can be implied, but CEMs remain subject to content rules, as outlined below at Paragraph 6(a):
  - (i) The Company and the recipient have a business relationship arising from:

- (A) The purchase or lease of a product, good, service, or parcel of land within the last 2 years; or,
- (B) An inquiry or application initiated by the recipient in the last 6 months; or  
A non-business relationship arising within the last 2 years from:
  - (C) A donation or gift;
  - (D) Membership in a club; or,
  - (E) Volunteer activity;
- (ii) The recipient has conspicuously published its contact information without indicating in such publication a desire not to receive communications from the Company, and the CEM is relevant to the recipient's business relationship with the Company; or
- (iii) The recipient has disclosed the electronic address to the Company (such as handing over a business card or an equivalent thereto) without indicating at such time (or since) a desire not to receive communications from the Company, and the CEM is relevant to the recipient's business relationship with the Company.

## 6. CONTENT REQUIREMENTS FOR CEMS

- (a) CEMs are subject to strict content rules. These rules require CEMs to include:
  - (i) The Company's name;
  - (ii) The Company's contact information, which must remain valid for at least 60 days after the CEM is sent;
  - (iii) An unsubscribe mechanism whereby the recipient is able to unsubscribe from the mailing list within ten (10) days; and,
  - (iv) Any intellectual property notations, liability disclaimers, confidentiality and privacy notices, or any other legal requirements not related to CASL as may be appropriate in the circumstances.
- (b) All CEMs must be free of deceptive content.

## 7. UNSUBSCRIBE MECHANISM

Every CEM must allow for the easy opt-out mechanism ("**unsubscribe mechanism**") for persons to indicate, at no cost, they no longer wish to receive CEMs from the Company. The unsubscribe mechanism must:

- a. be set out clearly and prominently and must be able to be readily performed;
- b. use the same electronic means used to send the CEM or, if not practical, any electronic means that enables the recipient to unsubscribe;
- c. set out the e-address or link to a web page to which indication to unsubscribe can be sent; and
- d. give effect to the unsubscribe request without delay, and in any event, within ten (10) business days.