

# General Terms and Conditions



Cybermedia (NZ) Limited ("Cybermedia") agrees to provide Goods & Services to the customer on the following terms and conditions. Every request for Goods & Services (whether or not made on an Order Form) upon acceptance by Cybermedia shall form a separate contract between the parties comprising these terms and conditions and any other details agreed in writing. In these terms and conditions, references to "us", "our" and "we" are references to Cybermedia, and references to "you" and "your" are references to you.

## 1.0 Definitions

"Confidential Information" means any information, know-how, data and products whether of a business, financial, marketing, product, technical or non-technical nature and whether existing in hard copy form, on computer disc or otherwise which is disclosed to you by Cybermedia or which you become aware of in the course of the provision of the Goods & Services.

"Customised Software" means software specifically developed for you by Cybermedia.

"Goods" means all computer hardware and other equipment specified in an Order Form or otherwise ordered by you, and any software supplied by Cybermedia including the Customised Software.

"Goods & Services" means Goods, Services and/or Customised Software.

"Order Form" means a form provided by Cybermedia or otherwise approved by Cybermedia and used by you to request Goods & Services.

"Services" means the services specified in the Order Form or otherwise agreed, including project management, quality assurance, network and system design, system audits, engineering services, internet services and domain name services.

## 2.0 General

2.1 By requesting Goods & Services to be provided by Cybermedia, you have acknowledged and agreed that these terms and conditions apply and that you are bound by these terms and conditions. Cybermedia may amend these terms and conditions from time to time and the amended terms and conditions will apply to all Goods & Services ordered by you following receipt of the amended terms and conditions.

2.2 If you order Goods & Services on behalf of a company or other entity you represent that you have the requisite authority to enter into an agreement on behalf of that entity.

## 3.0 Term

3.1 Unless otherwise agreed in writing the term of any contract between the parties will continue until terminated following one of the parties providing the other with 30 days notice in writing of termination. For the avoidance of doubt, termination will not effect either party's rights as accrued prior to the date of termination.

## 4.0 Business And Domestic Use

4.1 These terms and conditions apply to both the private and business use of the Goods & Services. If you are not acquiring these for the purpose of a business (as defined by the Consumer Guarantees Act 1993) then that Act applies and nothing in these terms and conditions limits your rights under it.

## 5.0 Your Responsibilities To Cybermedia

5.1 Whenever Cybermedia provides Work to you, you will ensure that:

- (a) any information you have given Cybermedia is correct and complete;
- (b) you update all information given to Cybermedia as required to ensure Cybermedia retains a correct and complete record;
- (c) any directions given regarding the use of the same are followed;
- (d) the same are used for lawful purposes; and
- (e) any user of the same complies with these terms and conditions.

## 6.0 Delivery Of Goods, Services Or Customised Software

6.1 Cybermedia will make genuine reasonable commercial efforts to supply Goods & Services ordered by you. You acknowledge that any specified times are approximate and time is deemed not to be of the essence. You agree that Cybermedia will not be liable for failure or delay in delivery due to factors outside the reasonable control of Cybermedia.

6.2 Cybermedia may charge you for freight at its existing rates, provided it will consolidate Goods supplied wherever possible.

6.3 You must notify Cybermedia within three (3) working days of delivery of any error with regard to Goods delivered or any damage thereto. Failure to do so will be deemed acceptance of the Goods. Any Goods returned to Cybermedia must be in original condition and packaging, failing which you will be fully liable for them.

## 7.0 Payment Obligations

7.1 In return for the provision of the Goods & Services, you agree to pay the charges specified in the Order Form or as otherwise agreed. In particular you agree as follows:

- (a) You agree to pay for the Goods & Services regardless of who uses them.
- (b) Payment shall be made immediately on receipt of our invoice, by cash or direct debit unless agreed otherwise by Cybermedia. All payments are non-refundable even if your Services are suspended or cancelled.
- (c) Any payment received later than 7 days after the date of our invoice will incur a late payment fee of \$15.00. Any payment received later than 30 days after the due date will result in your account being placed on hold, an additional \$15.00 reconnection fee will apply, and all outstanding amounts will immediately become due and payable upon demand.
- (e) Should you dispute any of the charges appearing on your bill, please contact Cybermedia immediately. You will be required to pay all amounts invoiced while the parties investigate the dispute. If Cybermedia agrees there has been a mistake, Cybermedia will adjust your next invoice or issue a credit note.
- (f) If you have not paid your account by the due date, you agree to pay penalty interest (at 5% above Cybermedia's commercial overdraft rate) on overdue amounts from the due date until payment is received by Cybermedia.
- (g) If your account is overdue for a period of 2 months, your account will be closed and your details referred to our debt collection agency or credit reference agency without notice to you. You agree that you will be liable for all debt collection agency costs, legal and other costs arising from collection of any amount owing by you.

## 7.2 Pricing Structure Alterations

Cybermedia reserves the right to change its prices at any time. Cybermedia will inform you of any changes in writing, following which the new pricing will apply to Goods & Services supplied to you.

## 8.0 Personal Property Securities Act 1999

8.1 It is agreed and acknowledged that by these terms and conditions:

- (a) A Purchase Money Security Interest ("PMSI") pursuant to the Personal Property Securities Act 1999 ("PPSA") is granted in priority to all other creditors by you in favour of Cybermedia in the Goods & Services and in all other additional or different goods from time to time supplied, and that such PMSI and the priority thereof shall extend into and over the items referred to in clauses 8.2 and 8.3 (d) (i) (ii) (iii);
- (b) Cybermedia may at your cost register the PMSI interest under the PPSA by registering a financing statement and if at some later date additional or different property is supplied, to provide if necessary for registration a new collateral description by registering a financing change statement. This will not affect Cybermedia's right to register subsequent financing statements, and to register subsequent financing change statements in respect of any other amendments;
- (c) You agree to provide Cybermedia with such information as it may need to enable registration of the PMSI under the PPSA and you shall promptly execute any documents to ensure that the security interest under these terms and conditions is a first ranking perfected security interest over the Goods & Services and waive the right to receive a copy of the verification statement issued upon registration of the financing statement or of any financing change statement;
- (d) That you have received valuable consideration from Cybermedia and agree that it is sufficient; and
- (e) You shall not under any circumstances initiate any change to the registered financing statement.

8.2 In this document "Goods & Services" shall further refer to and mean:

- (a) All goods provided by Cybermedia pursuant to an Order Form or other agreement;
- (b) All future supplied goods and all additional or different property as may in the future from time to time be supplied;
- (c) The Goods & Services as contained and described in invoices, packing slips, statements and other documents issued by Cybermedia;
- (d) "Goods", "inventory", "other goods" and "personal property" as those terms are defined by the PPSA; and
- (e) All present and after acquired personal property and collateral including proceeds of whatever nature or kind that may arise including without limitation that which is described in clause 8.3(d)(i),(ii) and (iii).

8.3 Goods supplied are at your risk once they are delivered to you or your agent, or to the address specified by you, or upon loading where you arrange your own transport, or when Cybermedia first makes an attempt to deliver if you fail to accept the Goods, or on the date of the request by you to delay delivery, but title in the Goods shall remain with Cybermedia until such time as the full price has been paid to Cybermedia for the Goods and for all and any other Goods & Services supplied by Cybermedia to you and until all default interest, other costs recoverable hereunder and all enforcement costs incurred by Cybermedia in the enforcement of any of these provisions (for which you hereby agree to pay) are paid in full. Until such payment is made you:

- (a) Shall not under any circumstance mix the Goods supplied in any manner whatsoever with other goods not so supplied;

- (b) Shall enable the Goods whether or not they are mixed with or constituent parts of other product manufactured or constructed to be readily identifiable as the property of Cybermedia;
- (c) Shall be deemed to hold the Goods in a fiduciary capacity as bailee of Cybermedia and shall insure the Goods and maintain them safely and in good order and condition and to return or deliver the Goods immediately if called upon to do so;
- (d) Shall not re-sell the Goods without the authorisation of Cybermedia and shall not dispose of them outside the ordinary course of business but in any event Cybermedia's security interest and all the rights thereof shall still continue in the goods. Further and without prejudice to the above if the goods or any part thereof are re-sold or otherwise disposed of by you or any representative agent assignee or liquidator, or if they shall be destroyed or damaged prior to full payment, or if they shall become constituents of, attached or affixed to, co-mingled, mixed or manufactured with other goods, in addition to the rights given under the PPSA then the following shall also be the sole and absolute property of Cybermedia namely:
  - (i) All proceeds as defined by the PPSA, cash and monies, and pending payment to Cybermedia, you and any agent, representative, assignee or liquidator shall hold such proceeds, monies or other consideration in a separate account on trust for Cybermedia and deliver up same upon demand;
  - (ii) All accounts receivable, book debts and trade-ins in respect of the Goods ; and
  - (iii) The benefit of any other contract in pursuance to which the Goods or any property comprising the Goods or part thereof is or is to be disposed of and you, your agent, assignee or liquidator shall hold in trust for Cybermedia any benefit, contract or property comprising the Goods or any part thereof and all rights in respect of same.

**8.4** If you fail to make payment or are in default with regard to any amount owing to Cybermedia (in all respects time being strictly of the essence) or commit an act of bankruptcy or are adjudicated bankrupt or are unable to pay your debts as they fall due or a liquidator or receiver is appointed or you are placed under statutory or official management or you compound or arrange with all or any number of your creditors then Cybermedia or its agent may enter the address where the Goods are situated including branches and franchisee premises (and you hereby give Cybermedia irrevocable authority and licence to do so) and remove the Goods without notice or judicial process and may sever them from anything to which they may be attached or affixed notwithstanding that the goods have become a fixture to land or other property, without liability for any damage caused or any consequential damage thereby arising and dispose of them for Cybermedia's own benefit and take all other steps and remedies in respect of the items referred to in clauses 8.2 and 8.3(d)(i), (ii) and (iii) for Cybermedia's own benefit and you hereby waive any right that may arise as a result of the removal and other steps and remedies taken. Such action shall be without prejudice to all other remedies and shall not release you from payment of the full price and any interest and all other costs incurred all of which you hereby agree to pay.

**8.5** Where you are a consumer as that term is defined by the Consumer Guarantees Act 1993 you acknowledge that your right to undisturbed possession to the Goods is subject to full payment of the Goods and other costs and charges as stipulated in these terms and conditions and by your signature you acknowledge in writing such provision and your understanding of the affects and implications of it.

## **9.0 Customised Software**

**9.1** Cybermedia will provide you with a non-exclusive, non transferable licence to use the Customised Software on the following basis:

- (a) You will use the Customised Software in accordance with the documentation provided by Cybermedia and only for the number of users permitted and will inform Cybermedia should you require any additional licences;
- (b) You will not copy any Customised Software and you will not utilise the back up copy unless the original Customised Software is corrupted or loss occurs;
- (c) You are not entitled to resell or transfer any Customised Software;
- (d) You will not reverse engineer, disassemble, decompile, modify, adapt, or otherwise attempt to discover the source code of any Customised Software;
- (e) You are not entitled to assign, rent, lease or lend any Customised Software without the prior written consent of Cybermedia;
- (f) You will return all copies of any Customised Software or destroy copies of any Customised Software should you be required to do so for either not complying with these terms and conditions or due to termination of contract;
- (g) Any Customised Software labelled as an upgrade replaces and/or supplements and may disable the original software provided by Cybermedia that formed the basis of the upgrade. Any upgraded software is subject to these terms and conditions; and
- (h) In conjunction with clause 10.1(a) you acknowledge that title in the Customised Software (including but not limited to any images, animations, photographs, video, audio, music, text and applets) and any accompanying materials and copies accessed through this material, is and shall remain the property of Cybermedia.

## **10. Intellectual Property Rights**

**10.1** In relation to the provision of any Goods & Services by Cybermedia, you agree to the following:

- (a) All and any right, title and interest and all intellectual property rights (including without limitation copyright) in the Goods & Services and any Goods & Services developed by Cybermedia in conjunction with you will be and remain the property of Cybermedia or its licensors or suppliers.
- (b) You agree not to challenge or attack the validity of, nor challenge the rights of Cybermedia in relation to the intellectual property referred to in clause 10.1(a).
- (c) You will not supply any property or introduce any information for use by Cybermedia in relation to the provision by Cybermedia of Goods & Services that would breach confidentiality or infringe the intellectual property rights of a third party.

## **11. Confidential Information**

**11.1** You will:

- (a) ensure that all Confidential Information is kept strictly confidential and not use the contents in any way other than for the purpose for which the information was disclosed;
- (b) not give Confidential Information, or allow Confidential Information to be received, by any person who is under a duty to communicate this information to another person; and
- (c) not use Confidential Information for any purpose other than that for which it was provided. If uncertain you agree to obtain permission from Cybermedia.

**11.2** You agree to return us on demand, all Confidential Information in whatever form (including all copies) that is in your control.

**11.3** You shall take all reasonable care to ensure that all materials in your possession that contain Confidential Information are kept secure.

## **12. Use Of Personal Information**

**12.1** If you are an individual, you authorise Cybermedia and its agents to collect information about you to be held at Cybermedia's head office. You agree that this information can be used for statistical analysis, research and Cybermedia's marketing purposes. You also authorise Cybermedia and its agents to seek, supply and disclose information in relation to your credit-worthiness.

**12.2** Cybermedia recognises that under the Privacy Act 1993 you can request access and require correction of your personal information. Any such request must be written and Cybermedia reserves the right to charge a fee for any reasonable costs incurred in responding to your requests (any costs will be disclosed for your acceptance before they are incurred).

## **13. Warranties**

**13.1** Cybermedia warrants that the Goods & Services will be provided as defined in the Order Form or as otherwise agreed but Cybermedia will not be responsible for the compatibility of any Goods with other products unless Cybermedia has expressly agreed so in writing. Cybermedia will not be responsible for any failure of the Goods if the failure is a direct or indirect result of the inability of your software or hardware to operate correctly.

**13.2** Cybermedia warrants that all Services will be provided in a careful and skilled manner.

**13.3** Subject to clauses 13.1 and 13.2, Cybermedia's sole warranty is to correct any errors in the Goods. Cybermedia's liability under this warranty shall be limited to the Goods specified in the Order Form or otherwise agreed. You may be required to sign an installation certificate when Goods or Customised Software are installed by Cybermedia that indicates that installation is complete.

## **14. Limitation Of Liability**

**14.1** In no event will Cybermedia be responsible for any damages whatsoever, including but not limited to any damages for the loss of business profits, loss of business information, business interruption or other pecuniary loss, even if Cybermedia has been advised of the possibility of such damages. Notwithstanding clause 14.1, should Cybermedia be found liable for any breach, Cybermedia's maximum liability under any contract shall be the amount paid by you for the Goods specified in the Order Form the subject of that contract in the immediately preceding 1 month.

### **Indemnity**

You agree to defend, indemnify and/or hold Cybermedia harmless (at our option) from and against any and all claims, losses, liabilities and expenses (including solicitor-client fees and Court costs) related to or arising out of the Services provided by us to you or any breach by you of these terms and conditions, excluding only those claims which arise as a result of our negligence.

You agree to provide us with all assistance reasonably required to defend any claim brought against us as a result of your use of the Services, and to indemnify us from the cost of such defence to the same extent set out in clause 15.1 above.

### **Dispute Resolution**

Any dispute which arises between the parties concerning these terms and conditions which can not be resolved by discussions between the parties within 7 days of one party notifying the other in writing that there is a "dispute" may be referred by either party to the arbitration of a single arbitrator agreed on between the parties, or in default of agreement as nominated by the then President of the Auckland District Law Society. The arbitration will be conducted in accordance with the Arbitration Act 1996 (as amended).

## 15. Governing Law And Jurisdiction

15.1 These terms and conditions are governed by the laws of New Zealand and the parties submit to the non-exclusive jurisdiction of the Courts of New Zealand. You agree that if any part of these terms and conditions is found to be void and unenforceable, it will not affect the validity of the balance of these terms and conditions.

## 16. Termination

16.1 Without prejudice to any other rights, Cybermedia reserves the right to:

- (a) Terminate any Services provided to you immediately, if you have failed to comply with these terms and conditions (including any failure to pay for Goods & Services provided); and
- (b) Repossess any Goods or Customised Software supplied if you fail to make any payment due to Cybermedia within 30 days of the due date.

## 17. Force Majeure

Cybermedia will not be liable for any failure or omission to provide any Goods & Services due to any cause reasonably outside the control of Cybermedia, which include (without limitation) strikes, riots, fire, inclement weather, acts of God, theft and vandalism.

### Relationship Between The Parties

The relationship between the parties is that of independent contractors and not that of principal and agent. Neither party, nor any employee of that party, will be regarded as an employee or agent of the other party for any purposes whatsoever and neither has any right or authority to assume or create on behalf of the other any commitment, expense or liability whatsoever, except as specifically provided in these terms and conditions.

## Internet Services Terms and Conditions

The following terms and conditions apply if you use Cybermedia's Internet services and are in addition to Cybermedia's standard terms and conditions. We can refuse to give you a subscription to any Service without reason for such refusal. You must be at least 18 years old to register for an internet Service.

### 1. Our Services

1.1 We will provide Internet access to you through our host computers on the following basis:

- (a) We will provide you with an identification code to enable access.
- (b) We will make genuine and reasonable efforts to make the Services you have subscribed for available 24 hours a day and, if the system malfunctions, to restore those Services as soon as reasonably possible.

1.2 The reasons for these limits on our service levels are because:

- (a) We do not own or control all the facilities and communication lines necessary for access, and therefore, we cannot guarantee that the Service will be uninterrupted or error free.
- (b) Our Services may be used by you for purposes we do not know about and have no control over.

### 2. Your Use of our Services

2.1 We provide a passive interconnection service. We do not own or control the various sites or offerings available through the Internet or the facilities and information lines through which access is provided. In using our Services you agree to the following:

- (a) You will maintain the security of your accounts and password. You agree to change your password when requested to do so by us.
- (b) As we do not own or control all of the various facilities and communication lines through which access may be provided to you, we are not responsible for security.
- (c) Each dial-in account may only be used from one machine at any one time.
- (d) You agree not to use our services to breach anyone else's rights or to break the law. By way of example only, this means, without the owner's clear permission, using our Services to download or transfer any copyright programs, files, picture, trade names, trade marks or brands, moving images (such as cartoons, films or videos) or sound or music, or anything else owned by someone else.
- (e) You agree that you will not cause or help to cause the security or integrity of this or any other linked computer system to be compromised whether by way of hacking, introducing harmful code or in any other way.
- (f) You agree to be a responsible citizen of the Internet. This means that you must respect the privacy of other Internet users. You agree that any messages you post to the Internet such as to news groups or Internet Relay Chat (IRC) will be posted only to discussion topic areas and not for advertising purposes. Any "one-to-many" Internet communications used for advertising purposes, whether IRC email or other link or medium is a serious breach of these terms and conditions. If you do not comply with this requirement you will be immediately disconnected from our Service without warning.
- (g) You agree not to submit to us knowingly or unknowingly for publication or broadcast any of the following material (including pictures, links or any other content):
  - (i) material which violates or infringes any copyright, trademark, trade secret, patent, statutory common law or proprietary right of other persons;
  - (ii) material which is libellous or slanderous;
  - (iii) material which is or contains anything obscene, pornographic or otherwise offensive;
  - (iv) distribution lists to be used for unsolicited electronic mail or other mass electronic mailings; or
  - (v) any other material which breaches any law, is the subject of confidentiality agreements, or otherwise is not permitted to be broadcast by you.

2.2 Due to the public nature of the Internet, all material submitted will be considered publicly accessible. Cybermedia does not screen in advance your material submitted for publication, and our publication of your material does not create any express or implied approval of such material by us, nor does it indicate that such material complies with these terms and conditions.

### 3. Email

3.1 As a condition of your use of our email service you agree as follows:

- (a) To remove your email from our mail server promptly and to keep the space used by your files on the system below 1 megabyte. We have the right to remove email data in excess of 1 megabyte left by you on our mail server. If you have not made a special arrangement with us, we will not be liable for any loss of data because of your failure to housekeep your email.
- (b) Not to send multiple, unsolicited email (SPAM or UCE), to single or multiple users whether or not this is for business purposes.
- (c) Generally, you agree to obey the developing rules of Netiquette. These are the general rules of good and considerate behaviour on the Internet as a world wide and open community. If we consider any breach by you to be sufficiently serious (at our discretion) you agree that we may disconnect your Service without liability to you.
- (d) Email enables a rapid, immediate and wide-spread response. You must not use the email service for communications pursuant to clause 2.1(g) above. While we do not intend to be a censor, we have the right, at our discretion, to review your use of our Services at any time and to disconnect you if we consider you have breached those obligations. As always, you agree that you will indemnify us against any loss or damage incurred as a result of your breach.

### 4. Confidentiality

4.1 We each agree that the Internet is a medium which lacks consistent security and confidentiality and we have the right to check your use of the system.

4.2 We will take reasonable commercial efforts to protect your confidentiality. However, you should assume that your use of our Services is not confidential. If we consider in our discretion that your use of our Services is defamatory, contrary to accepted community standards or illegal you acknowledge that we have the right to disclose those activities to any person including the news media and the police.

4.3 We can check your use of the system for the purposes of ensuring that your use is not breaching these terms and conditions or for assessing any charges which may be payable by you.

### 5. Additional Rights of Cybermedia as the Service Provider

5.1 We can terminate any of the Services that you have subscribed for without notice or liability to you if you breach these terms and conditions.

5.2 Subscriber use of our Services may sometimes result in overload. We have the right to share Services amongst all subscribers on a fair basis by automatically disconnecting any user after 3 hours of continuous or cumulative use during peak times, to be determined at our discretion. If you are disconnected for this reason you will be able to reconnect without penalty.

5.3 If your account is overdue at the time of disconnection, you will be unable to reconnect for a minimum period of three hours. This allows customers who pay their accounts on time to receive a relatively better grade of service than those who do not.

### 6. Internet Surprises

6.1 Internet services allow access to material which may be the subject to copyright, third party ownership or unreliable or offensive material. You access such material at your own risk and we are not responsible in any way for your accidental or deliberate accessing of that material.

### 7. Limits on our Liability

7.1 The Services are provided on an "AS IS, AS AVAILABLE" basis and Cybermedia specifically disclaims any warranty, express or implied, unless stated herein or applicable due to statute.

7.2 By using our Services you do so at your sole risk. We do not warrant that the Services will be uninterrupted or error-free. We do not make any warranties to the results to be obtained from the Service or information or the experiences had with the Internet which is a matter of your own assessment given its unique nature.

**7.3** In particular, we are not liable to you - whether in contract or tort or under any other legal principle - for any direct or indirect losses or damages of any kind. These damages include but are not limited to loss of business, profits, work stoppage, computer or software failure or malfunction or any other damage or loss. Your exclusive remedy against us is to cancel your subscription.

## Domain Name Services Terms and Conditions

The following terms and conditions apply if you use Cybermedia for Domain Name services (including registration and maintenance) in addition to Cybermedia's standard terms and conditions.

1. You will select one of the service plans offered by us and agree to receive services according to the service plan selected.
2. While we maintain daily file backups, we are not responsible for your files residing on our servers. You are solely responsible for independent backup of data stored on our servers.
3. Since we have no association with any third party agency determining the registration of domain names, you acknowledge that we are not responsible for their allocation and administration and that we cannot guarantee the availability or continued availability of the same.
4. You agree to comply with the requests and terms and conditions of third party suppliers of domain name related services, including supplies with regard to the supply of international domain names.
5. You agree that Cybermedia may reject your application for any reason at our sole discretion.
6. You agree that Cybermedia is not liable in any way for errors, omissions or failures with regard to your domain name application.
7. You acknowledge that once your domain name is removed from Cybermedia's server, we will no longer manage that domain name and all subsequent management and payment of subscription fees will be your responsibility.
8. You agree that the information provided by you for domain name registration will be passed on to a domain name registry, and certain information will be made available to the public with regard to the domain name registration. You acknowledge that Cybermedia is not responsible for this information and may not be liable for any use of such information.
9. You agree that Cybermedia will not be liable for the following:
  - (a) any suspension, loss or modification of your domain name registration;
  - (b) interruption of business;
  - (c) access delays or interruptions to the web site accessed by your domain name;
  - (d) data non-delivery, mis-delivery, corruption, destruction or other modification;
  - (e) events beyond our reasonable control; and
  - (f) any indirect, special, incidental or consequential damages of any kind regardless of the form of action whether in contract, tort or otherwise, even if Cybermedia has been advised of the possibility of such damages.

## Acceptable Use Policies

Cybermedia is committed to, and work hard at providing you with an enjoyable and workable Internet environment. As part of this, our users are expected to meet the developing rules of Netiquette.

As general rules of good and considerate behaviour on the Internet, we have formulated the following guidelines and policies so that users are clear on what constitutes system abuse.

System abuse is strictly prohibited. If clients engage in system abuse, Cybermedia may terminate or modify their service immediately and may bill for any resulting support charges.

This list is non-exclusive. If you are in doubt about whether any action is system abuse, please refer it to Cybermedia for evaluation.

Actions which constitute system abuse include, but are not limited to:

- a. Attempting to access the Internet from two locations at the same time.
- b. Attempting to circumvent user authentication or security of any host, network, or account on Cybermedia's systems or the Internet at large (hacking).
- c. Attempting, in any way, to interfere with or deny service to any user or any host on the Internet. This includes, but is not limited to, the spawning of an excessive number of processes, consuming excessive amounts of memory, central processor time and/or hard disk storage space, and abusing any general system resources.
- d. Port scanning or investigating network configuration without the permission of the individual or company involved.
- e. Engaging in harassment, whether through the frequency, size or language of messages.
- f. Sending multiple unsolicited emails (spam) to single or multiple users including, but not limited to, advertising email.
- g. Forwarding or posting "chain letters" (multiple forwarding) of any type.
- h. Adding or attempting to add addresses to any mailing list without the explicit positive consent of the addressee. (This also violates the Privacy Act 1993)
- i. Using a Cybermedia account or network connection to collect replies to messages sent from another provider which violate these rules or those of that provider.
- j. Forging email or USENET posting header information.
- k. Posting inappropriate messages to USENET newsgroups, e.g. posting large numbers of unsolicited posts indiscriminately (spamming) or posting encoded binary files to USENET newsgroups not specifically named for that purpose.
- l. Attempting to cancel, supersede, or otherwise interfere with email or USENET posts other than one's own.
- m. Using an account at another provider to promote a Cybermedia website in an abusive manner.
- n. Reselling Cybermedia services to third parties that do not abide by these guidelines.

If we deem that you have abused our systems, we will not hesitate to disconnect your service indefinitely. In some cases, we may also add additional charges and/or prosecute.

If we consider the breach to be sufficiently serious (at our discretion), your agreement with Cybermedia verifies that we may disconnect your services without liability to you.

We have established these basic rules and guidelines so everyone can enjoy their experience on the Internet. The overall intent is simple: Your actions must not impact on the ability of other people to benefit from the Internet and enjoy themselves in cyberspace.