

Terms of Service

PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY BEFORE OPENING OR CONTINUING YOUR ACCOUNT WITH CYBERNET. USE OF THE SERVICE CONSTITUTES ACCEPTANCE OF THESE TERMS AND CONDITIONS. IF YOU DO NOT AGREE TO BE BOUND BY THIS AGREEMENT, YOU MUST IMMEDIATELY END YOUR USE OF CYBERNET'S SERVICES AND SOFTWARE, AND REQUEST THE CLOSURE OF YOUR ACCOUNT.

1.0 INTRODUCTION

1.01 Cybernet reserves the right to modify the Terms and Conditions as stated in this agreement or the Acceptable Use Policy (AUP) at any time. Any newer version of this agreement supersedes any of its predecessors. Customers are responsible for being familiar with the current revisions of all policy documents (for availability please see section 7.0 "Availability of This Document").

1.02 Cybernet will provide services on its networks to you in exchange for recurring payment of access and hourly fees and full compliance with the terms and conditions contained in this agreement.

1.03 Any person under the age of eighteen (18), henceforth referred to as the minor, must have their account listed under the name of their parent or legal guardian. The parent or legal guardian will be responsible for all aspects of the account. By using Cybernet's services, the parent or legal guardian acknowledges that the minor may be exposed to adult subject matter and that Cybernet will make no attempt to block access to such material. Cybernet accepts no responsibility for such exposure to the child or for any consequences whatsoever resulting from such exposure.

1.04 Cybernet reserves the right to discontinue any and all services to you, the customer, at any time without prior notice or liability. This may be for any conduct which Cybernet, in its sole discretion, believes violates these Terms and Conditions or Cybernet's Acceptable Use Policy or is otherwise harmful to Cybernet's interests or the interests of other account holders.

1.05 You may only use Cybernet's services for lawful purposes in compliance with all applicable laws including copyright and trademark law. All unlawful activities are strictly prohibited. Unlawful activities include, but are not limited to, storing, distributing or transmitting any unlawful or objectionable material through Cybernet's services, attempting to compromise the security of any Internet account or site, making direct or indirect threats of physical harm to any person or violating any existing or future law.

1.06 You are responsible for obtaining and maintaining any communications equipment necessary to connect to Cybernet's services, including modems, computer hardware and software and local or long distance telephone service. You are responsible for ensuring that such equipment or service is compatible with Cybernet's requirements.

1.07 You are responsible for any long distance charges, which may be incurred while using or attempting to use Cybernet's services.

1.08 You are responsible for maintaining the security of your account, password, files and any information you disseminate through Cybernet's services or any other Internet services. You are also responsible for any use of your account with or without your knowledge or consent. Cybernet accepts no liability for safeguarding your privacy.

1.09 Any use of Cybernet software or third-party software distributed by or linked to by Cybernet is governed by the license agreement that accompanies such software. Use of such software indicates acceptance of the terms therein.

1.10 The customer is responsible for a basic working knowledge of his/her operating system/interface (Windows, Mac, etc.). Technical support representatives are not responsible for general computer support. Cybernet offers free technical support via telephone for connectivity and email related issues only. Any additional technical support requests should be sent by email to info@cybernetcom.ca. Any technical assistance given to the customer outside the bounds of Internet connectivity or email issues is at the discretion of the representative.

1.11 The name, address and payment information that you provide when you join Cybernet, together with information regarding the manner in which you use Cybernet, will not be processed or disclosed by Cybernet except as permitted by this agreement or as required by applicable law. Cybernet may suspend accounts that are found to have false, missing or misleading personal information.

2.0 PAYMENT OF FEES/CHANGE OF ACCOUNTS

2.01 Cybernet will begin providing service to you after receiving payment in full for initial charges (i.e.: connection charges or installation charges, access fee, number of hours).

2.02 You agree to provide Cybernet with accurate and complete billing information including your legal name, address and telephone number, and to update this information within 30 days of any change. Payment for a Cybernet account or service by fraudulent means will result in immediate and permanent termination of the account and possible criminal prosecution and/or penalties. All bills are emailed to your Cybernet email address. It is the responsibility of the user to request all mail be forwarded to another account if not checking the Cybernet email account.

2.03 Your Cybernet account will be considered delinquent if we have not received your payment 7 days after due. Accounts that are still delinquent by the 15th of the month may be suspended, archived or purged from the system without notice. You acknowledge responsibility for any account you have opened until payment is made in full. Suspended accounts will be required to pay a \$10.00 reconnection charge.

2.04 There is a \$25.00 service charge for each returned NSF cheque. The Cybernet dial-up billing period is for 3 months. Renewal clients will receive a statement in their email box showing their current hours balance as of the first of that month. Additional hours may be purchased at any time.

2.05 Any account may upgrade services at any time. These upgrades are subject to the same user policies and contract terms in place at time of upgrade. Upgrades are NOT applicable to current month services. Please note that all monthly accounts are active indefinitely until such time as the account holder successfully closes their account. The client will be billed the entire monthly fee

even if no use is incurred.

3.0 CANCELLATION OF ACCOUNTS

3.01 Requests to cancel accounts must be made by e-mail or in person at our office, providing the correct access code. The set-up fee is non-refundable in the event of a discontinuation of the service. Cybernet is not liable for the inability of the client to successfully access the Internet. All Cybernet accounts must be paid in full before a cancellation will be considered complete. Service charges will extend to the end of the month in which the account is closed. Monthly charges for terminated accounts are not pro-rated.

3.02 Termination prior to expiry of service contract period. You may terminate service prior to the expiry of the initial contract period, subject to an early termination payment of \$100.00

3.03 Customer responsible. In the event that the customer chooses not to comply with one or more terms of service, the customer is responsible for the cost of the equipment.

4.0 "AS IS" SERVICES; Limitation of Liability; Indemnification

4.01 You acknowledge that Cybernet services are provided "as is". Cybernet, its employees, agents, suppliers, vendors and distributors make no warranty of any kind, either expressed or implied, regarding the quality, accuracy or validity of the data and/or information available on its systems or residing on or passing through its interconnecting networks or that Cybernet services will be uninterrupted or error free. Cybernet expressly excludes any implied warranty of merchantability or fitness for a particular purpose to the fullest extent possible by law.

4.02 UNDER NO CIRCUMSTANCES WILL CYBERNET BE LIABLE TO YOU OR ANY OTHER PERSON FOR ANY LOSS OR DAMAGE CAUSED BY RELIANCE ON DATA OR INFORMATION AVAILABLE FROM OR ON CYBERNET'S SERVICES AND SYSTEMS.

4.03 IN NO EVENT SHALL CYBERNET BE LIABLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, OR OTHER CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS) ARISING OUT OF OR IN RELATION TO THIS AGREEMENT OR THE ACCOUNTHOLDER'S (OR ANY OTHER PERSON'S) USE OF OR INABILITY TO USE CYBERNET'S SERVICES. CYBERNET'S ENTIRE LIABILITY AND YOUR EXCLUSIVE REMEDY SHALL BE AT CYBERNET'S OPTION, EITHER RETURN OF THE SERVICE FEES PAID FOR THE CURRENT MONTH OF SERVICE, OR REPLACEMENT OF CONNECTION SERVICES OR PRODUCTS.

4.04 You agree to defend, indemnify and hold Cybernet harmless from any claims, losses and damages, including attorney's fees, resulting from your violation of any of the provisions of this Agreement or your placement or transmission of any materials or content onto Cybernet's servers, or from any and all use of your account, with or without your knowledge or consent.

5.0 MISCELLANEOUS

5.01 While Cybernet makes every effort possible to keep our clients up-to-date regarding any changes we may make, customers should check their email box and our web page at least once a week in order to keep abreast of any changes that may be forthcoming.

4.02 Section 4 and your obligation to pay amounts due under this agreement will survive termination of this agreement. If any provision of this agreement is held to be unenforceable for any reason, such provision shall be reformed only to the extent necessary to effect the original intentions of Cybernet and the remainder of this agreement shall remain in full force and effect.

6.0 Acceptable Use Policy

6.01 Cybernet's acceptable use policy (AUP) is designed to help protect our customers and the Internet community in general, from irresponsible or illegal activities.

6.02 PLEASE READ THIS ACCEPTABLE USE POLICY CAREFULLY BEFORE OPENING OR CONTINUING YOUR ACCOUNT WITH CYBERNET. USE OF THE SERVICE CONSTITUTES ACCEPTANCE OF THE ACCEPTABLE USE POLICY. IF YOU DO NOT AGREE TO BE BOUND BY THIS AGREEMENT, YOU MUST IMMEDIATELY END YOUR USE OF CYBERNET'S SERVICES AND SOFTWARE, AND REQUEST THE CLOSURE OF YOUR ACCOUNT.

7.0 USE OF SERVICES

7.01 Cybernet expects its clients to use the Internet properly, in a manner consistent with good manners and citizenship.

7.02 Cybernet offers a variety of access speeds and accounts. All services are subject to the availability of suitable equipment and facilities and consequently not all services are available at all locations.

7.03 Attempting to impersonate any person, using forged headers or other identifying information is prohibited. The use of anonymous re-mailers and nicknames does not constitute impersonation.

7.04 Customer equipment must be adequate. The service provided by Cybernet is subject to your equipment satisfying standards of transmission and supporting communications protocols required for access to the Internet through the existing Cybernet equipment and facilities. Service reselling prohibited. You agree that you will not share, resell, or provide, as part of any commercial transaction, the Cybernet service to any third party.

7.05 Use of a Cybernet account for any unlawful purpose is prohibited. Such unlawful purposes may include, but are not limited to: On-line gambling, transmission, posting or downloading of child pornography, intentional spreading of computer viruses, unlawful entry into public or private computer systems including Cybernet's own network infrastructure or violation of any future or existing municipal, provincial, or federal law.

7.06 Activities, whether intentional or not, which adversely affect the ability of other people or

systems to use Cybernet's services or the Internet are prohibited.

7.07 Attempts, whether successful or not, to gain access to any computer system or customer's data without consent are prohibited.

7.08 Use of file sharing software and other illegal file sharing is not permitted.

8.0 USE OF ACCOUNT/PASSWORDS

8.01 Cybernet personal dial-up accounts are for individual use only. Clients may not share passwords or account information with any other individuals except those of his or her immediate family who reside in the same household as the client. The client is responsible for all actions by other family members using the account. The client is prohibited from reselling his or her Internet access without the written consent of Cybernet. Each Cybernet user is responsible for the security of his or her password. The user is also responsible for changing his or her password regularly to ensure password security. Passwords may be changed online at <http://www.cybernetcom.ca/myaccount>. Choose 'Check Statistics & Change Passwords' on Member Services Page, login with username and password. Choose the change password option.

8.02 If you do not know your password, it can only be provided to the account holder after his/her verifying information is submitted to a Cybernet Representative.

9.0 E-MAIL

9.01 Sending mass unsolicited e-mail is prohibited. Mass unsolicited email is defined as any email sent to a group of email addresses where the recipients have not specifically requested information or a response. Using a Cybernet email address to collect responses from mass unsolicited email is also prohibited. Sending threatening, harassing or obscene email is prohibited.

10.0 INTERNET RELAY CHAT (IRC)

10.01 The use of IRC bots is prohibited, as it is a violation of accepted policies on most IRC servers.

11.0 WORLD WIDE WEB (WWW)

11.01 Cybernet reserves the right to remove any web page residing on Cybernet's servers at any time and for any reason.

11.02 Prohibited material. Cybernet reserves the right to refuse to display advertisements for; establish links to or from; and provide any applicable service to, any web site that contains, advertises or links to any other web site that contains prohibited material.

11.03 Prohibited material defined. Prohibited material shall include the following: Nudity, sexual situations, pornography, and sexual material of a lewd, lecherous or obscene nature and intent as determined by Cybernet at its sole discretion;

any material that violates local, state or any federal laws;

any material that violates or infringes in any way the rights of any third party, including without limitation, copyright, trademark or other intellectual or industrial property rights;

hate propaganda or hate mongering, swearing, or fraudulent material or activity;
any material that is threatening, abusive, harassing, defamatory, invasive of privacy or publicity rights, vulgar, obscene, profane, indecent, or otherwise objectionable or inappropriate as determined by Cybernet at its sole discretion;
any material that promotes, encourages, or provides instructional information about illegal activities;
any material that is or may be misleading or deceptive;
any software, information, or other material that contains a virus, "Trojan Horse," corrupted data, or any other harmful or damaging component; or
any software or information to promote or utilize software or services designed to deliver unsolicited email.

11.04 Cybernet will investigate complaints regarding inappropriate web page content within Cybernet's domain and may, in its sole discretion, require that the material be removed or terminate the account.

11.05 Criteria for determining whether a page is inappropriate include, but are not limited to, the system resources consumed by the page and applicable laws.

11.06 In addition, Cybernet will cooperate with the appropriate legal authorities in investigating claims of illegal activity, including but not limited to illegal transfer or use of copyrighted material, postings or email containing threats of violence, or other illegal activity. Cybernet reserves the right to release the user names of clients involved in violations of system security to system administrators at other sites, in order to assist them in resolving security incidents. Cybernet will also fully cooperate with law enforcement authorities in investigating suspected lawbreakers.

12.0 MISCELLANEOUS

12.01 Help desk. The Cybernet help desk will provide telephone assistance on a reasonable effort basis during regular office hours. Assistance is limited to your problems using the Cybernet services and excludes problems related to your personal hardware and software. Cybernet cannot guarantee the resolution of any particular problem or Cybernet service disruption.

12.02 It may be necessary for Cybernet employees to examine the system accounting logs and other records/files to resolve system problems. Cybernet reserves the right to access any file on any system that is owned, operated or maintained by Cybernet.

12.03 Cybernet makes no guarantee and assumes no liability for the security of any data on any server including "secure servers". FAILURE TO ADHERE TO ANY OF THE ABOVE GUIDELINES WILL RESULT IN EXAMINATION OF THE INFRACTION BY CYBERNET. CYBERNET, IN ITS SOLE DISCRETION, MAY INSTITUTE ANY PENALTY IT DEEMS NECESSARY SUCH AS, BUT NOT LIMITED TO, A CLOSURE OR SUSPENSION OF ACCOUNT WITHOUT REFUND.

12.04 Cybernet considers itself to be positioned against unsolicited, commercial postings and will make every attempt to prohibit or prevent any/all such occurrences.

12.05 After the first offence, the client will receive an email message or letter from our accounts representative informing them of the infraction. The client must contact the accounts representative

within 48 hours of receipt of the message. Failure to do so will result in account suspension until such time that the client complies with the request. If a second offence occurs, the client's account will be terminated immediately and no refund on any remaining credit balance will be provided.

13.0 AVAILABILITY OF THIS AGREEMENT

13.01 This document is made available by the following methods:

13.02 On the World Wide Web: <http://www.cybernetcom.ca/terms.php>

13.03 As a printable PDF: <http://www.cybernetcom.ca/docs/terms.pdf>

13.04 Via e-mail: info@cybernetcom.ca

13.05 By fax, upon request.