

Cybervale Internet Service – Terms and Conditions

1. Service Description:

- 1.1. The Cybervale (CL) Asymmetric Digital Subscriber Line (ADSL) High Speed Internet Access Service ("Service") is an Internet access service that provides dedicated connections from a Customer's premises to the Internet via Digital Subscriber Line local facilities and CL's Business partner's Internet network.
- 1.2. At the originating Customer's premises, the Customer's equipment places data into Internet Protocol ("IP") packets and gives each packet a terminating address, registered IP packets are routed over the Internet network to the terminating Internet location or peering point with another Internet service provider.
- 1.3. This service is available to persons with a Cable & Wireless post paid fixed line. It is the sole responsibility of the customer to ensure that the phone lines are in working condition. CL makes no commitment and is in no way accountable for service disruption as result of disconnected phone lines.
- 1.4. Minimum Service period" 12 months for residential customer and 24 months for business customers.
- 1.5. The Service may not be compatible with devices such as home security systems, medical alerts, door bell answering service, or other similar automatic reporting systems using telephone lines.
- 1.6. Payment becomes due the 1st of each month.
- 1.7. Failure to make payment within five (5) days will result in suspension of service with full months charges applicable for the discounted service.

2. Equipment

- 2.1. The Customer requires a modem and splitter/filter kit in order to access the service.
- 2.2. The customer may source the modem and splitter/filter on his own or acquire it from CL in accordance with CL's terms and conditions.

- 2.3. The Customer is responsible for the configuration and installation of the said modem and splitter unless the said equipment is purchased from CL.
- 2.4. Where the Customer sources the modem and splitter/filter kit the Customer should ensure that they are configured and installed at the time of Service installation, as billing for the Service commences immediately on installation.
- 2.5. If equipment is purchased from CL, title to the equipment will pass to Customer upon CL's receipt in full of payment therefore. Risk of loss for or damage to each item of equipment will pass to Customer upon its delivery to Customer. Modems purchased from CL are subject to a ninety (90) day warranty from the date of installation limited to defects other than those caused by the customer's use or misuse of the product or acts of God or electrical surges.
- 2.6. After the expiration of the warranty or if the damage to the item is not covered by the warranty In the event that CL determines that an item of equipment requires replacement, Customer will be responsible for replacing it with a functionally equivalent new or used item of equipment.
- 2.7. The customer shall be responsible for obtaining and installing all other software or equipment that which are or may become necessary to access the Service and to operate its computer.
- 2.8. Customer will, at his/her own expense, be responsible for all site preparation activities necessary for installation of the Service.

3. Charges:

- 3.1. Customer will pay all applicable charges for the Service and will also pay any charges related to the equipment if equipment has been purchased from CL.
- 3.2. Charges will be prepaid on a monthly basis. The charges do not include applicable taxes and may be revised by us from time to time upon thirty (30) days advance notice to Customer.
- 3.3. The monthly charges will be billed from the date on which the Service is first provisioned for Customer's use.

3.4. The Customer shall be liable to for any and all costs and/or expenses incurred directly or indirectly, including reasonable attorney's fees and expenses, in the collection or attempted collection of any amounts due from the Customer.

4. 4.1 Terms and Termination:

The term of the Service ("Term") will start as of the billing effective date ("Term Start Date") and will continue on a month-to-month basis.

5. Cancellation/termination charges;

5.1. If you purchase our service at our discounted rates, you shall be required to retain active service with us for a minimum service period. And if you fail to retain active service for the minimum service period, You will be liable for the payment of the difference between the discounted rate and the actual cost of the service in addition to 50% of the outstanding rental for the remainder of the minimum service period, plus the full sum of any other fee or cost that was waived.

5.2. In addition to any other remedies available, CL may immediately (without notice and without liability to the Customer) discontinue the provision of Service if any of the following occurs: (a) CL deems in its absolute discretion that it is necessary to discontinue the Service in order to protect against its fraudulent or illegal use or to otherwise protect CL its equipment, network or facilities; (b) CL receives complaints or claims from third parties regarding the Customer's use of the Service; or (c) the Customer fails to comply with its obligations pursuant to this Agreement or (d) Customer fails to pay the applicable charges for the Service or any other service supplied to the Customer by CL on or before the Final Date.

5.3. CL will endeavour to give Customer notice regarding the reason(s) for suspension or termination as soon as reasonably practicable after such suspension or termination.

6. General

6.1. CL is not responsible for the installation, maintenance, compatibility of performance of any third party equipment or software not provided by CL, and if such third party equipment or software impairs the Service, (i) Customer remains liable for payment, and (ii) if it is likely to cause hazard or service obstruction, Customer will eliminate such likelihood at CL 's request.

6.2. It is acknowledged and agreed by the parties hereto that the bandwidth for each product set out in this Agreement is the maximum bandwidth which can be achieved on the circuit and cannot be guaranteed by CL. CL will however, use all reasonable efforts to achieve the highest possible level of Service at all times.

6.3. Customer will give CL and its suppliers, servants and/or agents reasonable access to its premise at all reasonable times.

6.4. Customer will not misuse the Service (Permit any use of the Service which is unlawful, harassing, or which infringes upon another's intellectual property rights, or which otherwise constitutes network abuse), and the Customer will be responsible for any such misuse.

6.5. Although CL may configure the Service so as to provide some security features, the Customer shall be solely responsible for providing for any security or privacy that it may desire for its computer network and any data stored on that network or accessed through the Service. The Customer acknowledges and assumes all liabilities relating to, and risks associated with, unauthorized access by a third party via the Service to such computer network and data.

6.6. CL may communicate security issues to Customer from time to time when misuse is observed or reported by others.

6.7. CL has no obligation to monitor the Service; however, CL may monitor the Service and disclose information gained from such monitoring in order to (i) satisfy any law, regulation or other governmental request, (ii) operate the Service and administer CL's networks, or (iii) protect itself or its subscribers.

6.8. CL reserves the right to refuse to post or to remove any information or materials, in whole

or in part, that in its sole discretion are unacceptable, undesirable, or in violation of clause 6.4 of this Agreement.

- 6.9. The Customer shall not use the Service for any purpose which contravenes the Telecommunications Act, 2000.

7. Warranties and Liabilities -

- 7.1. Customer understands that, except for certain services specifically identified as CL services, CL does not operate or control the Internet.
- 7.2. CUSTOMER ASSUMES TOTAL RESPONSIBILITY FOR ITS USE OF THE INTERNET.
- 7.3. CL MAKES NO EXPRESS OR IMPLIED WARRANTIES, REPRESENTATION OR ENDORSEMENTS REGARDING ANY MERCHANDISE, INFORMATION, PRODUCTS OR SERVICES PROVIDED THROUGH THE INTERNET.
- 7.4. CL does not in any manner warrant any item of equipment provided by CL; CL will, however, transfer to Customer (to the extent permitted by an equipment supplier) any warranty provided by such supplier, with CL retaining the authority to exercise Customer's rights hereunder until the discontinuation of service.
- 7.5. THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, NONINFRINGEMENT OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
- 7.6. NO ADVICE OR INFORMATION GIVEN BY CL'S EMPLOYEES, AGENTS OR CONTRACTORS (INCLUDING WITH RESPECT TO ANY EQUIPMENT THAT MAY BE RECOMMENDED FOR PURCHASE AND/OR USE WITH THE SERVICE) SHALL CREATE A WARRANTY.
- 7.7. CL shall not be liable for, and is excused from, any failure or delay in service due to acts of God, acts of civil or military authority, riots, civil unrest, acts of the public enemy, war or threats of war, accidents, fires, explosions, earthquakes, floods, unusually severe weather,

epidemics, or due to any other cause beyond its reasonable control.

- 7.8. UNDER NO CIRCUMSTANCES SHALL CL OR ITS AFFILIATES BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES THAT RESULT FROM CUSTOMER OR CUSTOMER'S USERS' USE OF OR INABILITY TO ACCESS ANY PART OF THE INTERNET OR RELIANCE ON OR USE OF INFORMATION, SERVICES OR MERCHANDISE PROVIDED ON OR THROUGH THE SERVICE, OR THAT RESULT FROM MISTAKES, OMISSIONS, INTERRUPTIONS, LOSS, THEFT, OR DELETION OF FILES, ERRORS, DEFECTS, DELAYS IN OPERATION, OR TRANSMISSION, OR ANY FAILURE OF PERFORMANCE.
- 7.9. Notwithstanding anything to the contrary stated herein, CL's maximum liability hereunder will not exceed an amount equal to the total of the monthly recurring charges paid by Customer hereunder for the twelve (12) months preceding the month during which such liability arises.
- 7.10. Customer shall defend, protect and hold harmless CL and its affiliates from and against any liabilities, actions, losses, costs, or claims incurred by them as a result of (i) any use or misuse of the Service (whether by Customer or any other party), or (ii) any claims arising out of the use of any third party equipment or software with the Service based on the alleged infringement or misappropriation of any intellectual or other property rights of any third party.
- 7.11. CL and Customer expressly agree that this Agreement does not give rise to any third party being a third party beneficiary or being entitled to any rights whatsoever.
- 7.12. In the event an action is brought by CL against Customer to enforce this Agreement, in addition to any other remedy available to CL, Customer shall reimburse CL for reasonable attorneys' fees and expenses of any kind or nature incurred in connection therewith.
- 7.13. Customer may not resell the Service or otherwise assign or transfer this Agreement or any rights or obligations without the prior written consent of CL.

- 7.14. In the event that one or more of the provisions herein is for any reason held to be illegal or unenforceable, this Agreement will be revised only to the extent necessary to make such provision(s) legal and enforceable; provided, however, that this Agreement as revised is consistent with the parties' original intent.
- 7.15. Either party's failure to insist upon strict performance of the terms of this Agreement or to exercise any rights or remedies hereunder shall not waive any of its rights to require strict performance of such terms, to assert any of the same rights, or to rely on any such terms any time thereafter.
- 7.16. This Agreement is made in, and governed by and subject to the laws and the jurisdiction of the courts of Jamaica.
- 7.17. Any cause of action Customer may have with respect to the Service must be made within one (1) year after the claim or cause of action arises or such claim or cause of action will be barred.
- 7.18. CL and Customer are independent contracting parties, and this Agreement will not constitute the parties as principal and agent, partners, joint ventures, or employer and employee.
- 7.19. No Customer purchase orders or similar documents will vary or add to the terms of this Agreement.
- 7.20. This Agreement constitutes the entire understanding of the parties with respect to the subject matter hereof, and it supersedes all prior or contemporaneous oral or written agreements, understandings and representations.
- 7.21. CL may at any time on giving thirty 30 days notice to the Customer vary these terms and conditions and the Customer will be bound by such variation if the Customer uses the Service thereafter.