

Cybersmart Terms and Conditions

PLEASE READ!

WE WANT YOU TO KNOW WHAT YOU ARE SIGNING !

It has come to our attention that many people are so anxious to subscribe to our service, that they just don't seem to find the time to read the terms and conditions. This is not a good thing, because if you don't read them, you may find that the service costs you more than you expected because sometime there are penalties if you infringe a condition - we don't want this to happen and we are sure you don't want this to happen either. To help those users just itching to go, a summary of the restrictions/limitations on these accounts is documented, so that you can have an idea of the service that you are subscribing to without reading the whole document. If there is a dispute the Terms and Conditions will take precedent to the summary. We ask you to take the time to read this whole document, we can guarantee that the price that you see, as cheap as it is, will not change in the time it takes you to read this, in fact if anything it may be made cheaper. At first glance it may appear that the restrictions are "ridiculous" or "too restrictive", however, each of these restrictions has a logical reason for being there and these reasons are listed right at the bottom of this document or in the FAQ under " What are your reasons for all the restrictions in ..." . If you do a price comparison you will find that we offer the cheapest 3Gig service by far and on some line speeds we are almost half the price of our nearest competitor and more than 3 times cheaper than others. These prices are NOT and "opening special", Cybersmart was established in 1998 and these particular prices have remained the same since July 2005. Be assured these restrictions are here for three reasons only, to keep the price down by streamlining our administration, to protect you from other malicious users on the Internet and to protect us from fraud. When reading a restriction, please read the explanation and then ask yourself whether or not it is reasonable; we are confident that you will think that it is especially when considering the huge cost savings you will make when subscribing to this service.

Summary of Restrictions/Limitations

1. Payment is by debit order only. The debit order will be processed on the first working day of every month.
2. You are required to give one months notice in writing when cancelling.
3. You may only use the account at one location - you may not use the same account at your home and at your office or at your friend's premises, but you may connect as many computers as you wish at your own premises.
4. You can only use one account at the same location- if we detect multiple accounts connecting from the same place, all subsequent accounts will be treated as top ups and you will be charged the top up rate.
5. You are required to use the @cybersmart.co.za email address that comes free with your ADSL account
6. If you overshoot your 3Gig Cap by manipulating the session timeout, the Gigs that you used, but did not pay for will be subtracted from your following months cap.

7. If you subscribe to our ADSL service, you are required to cancel any other ADSL service you may have with any other ISP.
8. If you make a mistake and say that you have a 192Kb service installed but you in fact have a 512Kb circuit installed, don't worry, you need not phone in and tell us, our system will detect it and your price will be adjusted to the price advertised for the correct circuit speed.
9. If you have applied for the One Price ADSL package you will be paying the R275.00 once off setup fee which includes a FREE non-wireless ADSL router ,pots filter and the courier fee .
- 10 In the event of you having received a free or discounted adsl router as part of your package , should you terminate the contract within 12 months you will be required to pay the full purchase price of the router or return it to Cybersmart with all it's contents.
11. In order to subscribe for an ADSL circuit you must have an account based analogue telephone line. It must not be a pre-paid line and it cannot be an ISDN line. If you need assistance in converting the line please email us at info@cybersmart.co.za

These restrictions are here to help us streamline our administration and reduce our overhead so that we can pass on these savings to you the customer. There are further long winded reasons for these restrictions document below the terms and conditions and repeated in the FAQ under "What are your reasons for all the restrictions in ...", for your added reading pleasure.

Terms and Conditions of services

All prices are VAT inclusive.

Payment is by debit order only and in advance for the services that you receive. The debit order will be processed on the first working day of every month. Failed debit orders carry a penalty of R50 which will be levied against your account. Even though your subscription is collected via debit order, you will receive an invoice via email for your records. Should your debit order fail, your services will be disabled immediately and you will be required to pay your arrears, the R50 debit order penalty as well as a deposit amount equal to 50% of the failed debit order to a maximum of R500.00 before your service is re-enabled again. The deposit required will double every time your debit order fails. The deposit will be refunded, interest free on termination of the service. Cybersmart reserves the right to reprocess failed debit orders at any time for the outstanding amount or any part thereof. If you do not use your adsl service in the month this does not entitle you to stop your debit order, your adsl monthly subscription is payable irrespective of whether you use your adsl service or not or whether your service is disabled or not and the monthly amounts will continue to accrue against your account until the service is cancelled. By successfully completing this form you are electronically signing the debit order instruction below. You will be sent a copy of this debit order instruction to your cybersmart email address for your records. We require that you return this document by fax to (087) 625 0003 or (021) 461 0015, so we can give it to the bank for their records. Section 39.1 of the RICA Act (<http://www.cybersmart.co.za/rica/#informationtobeobtainedandkeptbycertaintelego> mmunicationserviceproviders) requires us to keep a copy of your identity document and proof of residence. Any document showing your street address such as your Telkom Account, Rates/Electricity Account, bank statement, SARS IRP5/6 form can be use ad proof of residence. Please fax these documents with the debit

order instruction. Should you not return these documents, your account will be disabled, however the debit order instruction will still remain in force until you cancel your account by following the cancellation procedure shown below or until our systems detect that your account has been disabled for more than two months.

You are required to give Cybersmart 1 calendar months notice when terminating a service. For the absence of doubt examples are given. Should you cancel your service on the 1 July, you will be required to pay for both July and August months. If you cancel your service on 15 July, you will be required to pay for July and August months. If you cancel your service on 31 July, you will be required to pay for July and August months. A service can only be cancelled by FAXING it to (087) 625 0003 or (021) 461 0015. On the cancellation FAX you must include the following: Your name and ID number, your ADSL account name and a copy of your ID. This copy of your ID is required as it is compared to the earlier ID document received in the application - this prevents a person maliciously cancelling someone else's service. Please make sure that you keep the confirmation of receipt produced by your FAX machine as proof of cancellation date. Your account will be deleted on the last day of the following month.

You may not sign up for multiple accounts using the same bank details.

For the protection of all customers, should you fraudulently enter bank details not belonging to yourself, Cybersmart will

- a) lay criminal charges against you.
- b) prevent you from subscribing to this service again.
- c) blacklist the location that you were using.

If you connect with a faster circuit, you will AUTOMATICALLY be billed for the higher circuit price:

ADSL Only Accounts :

3Gig cap on 384Kb circuits costs: R125 per month
3Gig cap on 512Kb circuits costs: R185 per month
3Gig cap on 4096Kb circuits costs: R225 per month

One Price ADSL :

384/128kbs circuit plus 1 GIG CAP R169 per month
384/128kbs circuit plus 3 GIG CAP R259 per month
512/256kbs circuit plus 3 GIG CAP R429 per month
4096/384kbs circuit plus 3 GIG CAP R524 per month

All prices include 1 Free 2048Mb email address @cybersmart.co.za

An additional R5 per month will only be levied if you wish to have the email address @yourdomain instead of @cybersmart.co.za. The cost of registering @yourdomain is not included.

If you sign up after the 20th of the month both the amount that you are invoiced and the Gigs that you have bought will be prorated . For the absence of doubt examples are provided. If you sign up on the 20 July, you will be billed for the full month of July and receive the full 3Gigs. If you sign up on the 21 July you will be billed for the remaining 10 days in July and you will receive $10/31 \times 3$ Gigs (ie approximate 1 Gig). Since payment is for services in advance, your

FIRST debit order amount will be for the month that you sign up plus the following months services.

You are required to use your @cybersmart.co.za email address that comes with this account. All billing information and notifications go to this address and we assume that if we have sent it there you have received it. Cybersmart reserves the right to block mail fetched from other networks either via pop or imap should we find that customers are not using their cybersmart email address. Should you wish to use another email address or guarantee that pop or imap is never blocked for you, it will cost you an addition R45 per month.

You may connect from ONE location only per account, you will AUTOMATICALLY be billed for every additional location(s) at R100 for each additional 192Kb connection, R125 for each 384Kb connection, R185 for each 512Kb location . You may only connect from ONE account per location. Additional accounts at the same location will be disabled and the owners of each of the secondary accounts will be charged an additional R65.

You receive a 3 Gig CAP which is the sum of your upload/download traffic. Spare Gigs are not carried to the following month unless you have done a "rolled top up" in which case whatever is left of your "rolled top up" gigs will be carried over to the following month. Uploading and downloading is not limited to reading web pages and browsing the internet. Getting email, listening to the radio, streaming video clips are also included in your download/upload limit. It is possible to download more than 3Gigs on a 3Gig account by exploiting the way statistics are gathered and manipulating the session timeout. Should Cybersmart detect that a user has downloaded more than 3Gigs on a 3Gig account without "topping up", these extra Gigs that were used, but not paid for will be subtracted from the users Gigs in the following month.

If you run out of gigs during the month, you may add additional gigs in 1Gig and 3Gig increments according to the following prices.

ADSL Shaped Topup Prices

A topup on a 192Kb Circuit costs: R69 per additional 1Gig
A topup on a 384Kb Circuit costs: R69 per additional 1Gig
A topup on a 512KB Circuit costs: R79 per additional 1Gig
A topup on a 1024KB Circuit costs: R89 per additional 1Gig
A topup on a 4096KB Circuit costs: R99 per additional 1Gig

A topup on a 192Kb Circuit costs: R165 per additional 3Gigs
A topup on a 384Kb Circuit costs: R189 per additional 3Gigs
A topup on a 512KB Circuit costs: R229 per additional 3Gigs
A topup on a 1024KB Circuit costs: R249 per additional 3Gigs
A topup on a 4096KB Circuit costs: R259 per additional 3Gigs

ADSL Unshaped Topup Prices

A topup on a 192Kb Circuit costs: R99 per additional 1Gigs
A topup on a 384Kb Circuit costs: R99 per additional 1Gigs
A topup on a 512KB Circuit costs: R107 per additional 1Gigs
A topup on a 1024KB Circuit costs: R109 per additional 1Gigs
A topup on a 4096KB Circuit costs: R111 per additional 1Gigs

A topup on a 192Kb Circuit costs: R295 per additional 3Gig
A topup on a 384Kb Circuit costs: R295 per additional 3Gig

A topup on a 512KB Circuit costs: R315 per additional 3Gig
A topup on a 1024KB Circuit costs: R330 per additional 3Gig
A topup on a 4096KB Circuit costs: R350 per additional 3Gig

Should you top up during the month, this amount will be collected in the debit order run. The Gigs that you top up DO NOT carry over to the following month unless you have paid the rollover fee, nor are they prorated.

Cybersmart scans emails for both viruses and unsolicited bulk email (SPAM). Cybersmart will not be held liable should an email be erroneously blocked as SPAM. Further, Cybersmart uses a third party virus scanner in order to scan for viruses. Only viruses that are known by this scanning software can be blocked. Cybersmart will not be held liable for any damage caused by a virus that was unable to be blocked by the virus scanner. A customer is prohibited from sending unsolicited bulk email and our mail servers will only allow you to address your email to 25 recipients.

If you use our ADSL service, you are required to cancel the ADSL services that you might have at other providers. We have incurred thousands of support hours fixing problems that result from settings specific to other ISPs. Should we find that we are not your only ADSL provider, we will degrade your service

For purposes of billing you will be billed according to the circuit speed that you are using not the circuit speed you subscribed to in the signup process. As an example, if you have signed up for a 192Kb circuit but the exchange reports to us that you are using a 512Kb circuit; we will advise you of such and then adjust your subscription accordingly. If you can produce a Telkom account that is not more than one month old showing that the exchange is indeed reporting the wrong speed, we will give you six months grace before we check again, if at such a time your line speed is still incorrect, the above procedure will unfortunately have to be repeated.

Terms and conditions may change without prior notice.

Debit Order instruction

To: Cybersmart Pty (Ltd) (2007/013792/07)
72 Canterbury Street, Cape Town, 8001
Phone: (086) 100 3278
Fax: (087) 625 0003 or (021) 461 0015

I hereby request, "Instruct" and authorise Cybersmart cc to draw against my bank account entered on the online signup form (or any other bank account to which I may transfer my account) the balance reflected on my monthly Cybersmart statement sent via email, being the amount due in respect of all monthly Internet Services subscribed to at Cybersmart less payments receipted in advance, excluding deposits. The amount due will be drawn on the first working day of every month and will continue until cancelled in writing. (If no amounts are due then no amounts will be drawn). All such withdrawals from my bank account by Cybersmart cc shall be treated as though they have been signed by me personally. I understand that the withdrawals hereby authorised will be processed electronically and I also understand that details of each withdrawal will be printed on my bank statement or on an accompanying voucher.

I agree to pay any bank charges relating to this debit order instruction.

This authority may be cancelled by me by following the cancellation procedure documented above. I understand that I shall not be entitled to any refund of

amounts which Cybersmart cc has withdrawn while this authority was in force if such amounts were legally owing to Cybersmart cc.

ASSIGNMENT:

I acknowledge that the party hereby authorised to effect the drawing(s) against my account may cede or assign any of its rights to any third party without my prior written consent and that I may not delegate any of my obligations in terms of this contract/authority to any third party without prior written consent of the authorised party which shall not be unreasonably withheld.

Reasons for Restrictions

1. Why only debit order payments?

This restriction allows us to reduce our overall cost to you. If we accepted other means of payment, we would have to employ additional staff for the sole purpose of debt collection. Unfortunately, the staff required to do debt collection grows in proportion to client base size and the only way to recoup this cost would be to build it into the cost of the service, thereby increasing your cost. There have been complaints that bank charges for debit orders are much more expensive than if an internet transfer is done. If you do an internet transfer before the 21st of each month, you will receive an email saying that the amount you paid has been receipted and the debit order will not go off your account. Should you decide to do an internet transfer PLEASE make sure you use a reference that can identify you such as the invoice number or your ADSL account name. Using "ADSL subscription" or "ADSL" as a reference makes it impossible for us to identify you and the debit order will still come off as we will be unable to allocate your payment.

2. Why is one months notice period required?

We need to submit the debit order run to the bank before month end. If you cancel near the end of the month, the run may have been submitted already, the 1 month notice period gives us time to make sure you are no longer in the run.

3. Why am I allowed to connect from one location only?

This restriction is for your security. The ADSL username and password are sent across the internet in clear text and as a result can be captured by a "hacker", this is a function of the equipment at the Telkom exchanges and there is nothing we can do about it. There are also a number of unscrupulous installers and support companies that use the ADSL username and passwords of their clients. If we see that someone is using your account from another location, we assume your password has been compromised and we will warn you that your account is being used elsewhere. This restriction avoids unpleasantness later, when you claim your Gigs have "disappeared" or you couldn't have downloaded so much. If you are restricted to using the account from one location, then nobody but you could have used those Gigs.

Another reason for this restriction is that we charge different amounts depending on your circuit speed. If you have a 512Kb line at your business and a 192Kb line at home and you use the account at both locations, it is not fair to expect us to charge you at the 192Kb rate.

4. Why only one account per location?

It is regrettable that in some circumstances such as when a debit order bounces or when a client has entered fraudulent bank details that we are forced to blacklist a location. When a location is blacklisted all accounts connecting from that location will not be able to connect irrespective of whether the other accounts are fully paid. In this situation we are denying some people service even though they are fully paid creating a legal position that we would like to avoid and thus the restriction is enforced.

Furthermore, we provide the cheapest ADSL service by far, to try work around the system to make it even cheap for yourself is like grabbing the whole arm when all that is offered is a hand.

5. Why must I use a @cybersmart.co.za email address?

All notifications and invoices are sent to this email address. We can guarantee that our notifications will be delivered to our servers, but we cannot guarantee that to be the case for mail servers off site. If we know that you are using a @cybersmart.co.za email address, we know that you are getting our invoices, statements and notifications which reduces our support calls and therefore our support staff size and therefore our cost to you. As an example, you will be notified via email should we predict that you are likely to exceed your cap. If you get capped you will know beforehand and will not have to phone in and find out.

6. Why do you charge me for the Gigs I used but did not pay for?

Our advertised price is for a 3G account, not a 3.1Gig or 3.2Gig account. If you manage to get more because then you will be required to pay for it.

7. Why do you want me to cancel my ADSL subscription with my other ISP?

A large number of support calls are originating from users who are using us as a secondary ISP. They can't remember how to configure their router to put in our ADSL account, or their email does not work when they use our ADSL account or the accelerator product of their primary ISP is causing our account not to work optimally. All these support calls are as a result of some configuration or program used by another ISP. Invariably these problems take substantially longer to fix, with the net effect that it increases our support cost. It is not fair to expect customers that are loyal to our brand to receive the same service as customers who are not. We will degrade your service should we find that you are using another ISP so that we can give better service to our loyal customers.

ACCEPTABLE USE POLICY

1. General Notice

Thank you for reading Cybersmart, Acceptable Use Policy (AUP). By accessing this website, or by contracting with us for service, you agree, without limitation or qualification, to be bound by this policy and the terms and conditions it contains, as well as any other additional terms, conditions, rules or policies which are displayed to you in connection with this service/website.

The purpose of this AUP is to comply with the relevant laws of the Republic; to specify to customers and users of our service/website what activities and online behavior are considered an unacceptable use of the service/website; to protect the integrity of our network and to specify the consequences that may flow from undertaking such prohibited activities.

This document contains a number of legal obligations, which you are presumed to be familiar with. As such, we encourage you to read this document thoroughly and direct any queries to our customer services/legal department at 086 100 3278 or 087 625 3278.

Cybersmart respects the rights of our customers and users of our services to: freedom of speech and expression; access to information; privacy; human dignity; religion, belief and opinion in accordance with our constitution. We undertake not to interfere with any of those rights unless required to do so by law; or unless those rights are exercised for unlawful purposes; or unless the exercise of those rights threatens to cause harm to another person or affect the integrity of our network.

2. ISPA membership and Code of Conduct

Cybersmart confirms that in compliance with section 72 of the Electronic Communications and Transactions Act 25 of 2002, Cybersmart is a member of the Internet Service Providers, Association (ISPA) and has adopted and implemented the association, official Code of Conduct, which can be viewed at <http://www.ispa.org.za/code>.

Unlawful Use

Cybersmart, services/website may only be used for lawful purposes and activities. We prohibit any use of our website/network including the transmission, storage and distribution of any material or content using our network that violates any law or regulation of the Republic. This includes: ,Any violation of local and international laws prohibiting child pornography; obscenity; discrimination (including racial, gender or religious slurs) and hate speech; or speech designed to incite violence or hatred, or threats to cause bodily harm.

Any activity designed to defame, abuse, stalk, harass or physically threaten any individual in the Republic or beyond its borders; including any attempt to link to, post, transmit or otherwise distribute any inappropriate or defamatory material.

Any violation of Intellectual Property laws including materials protected by local and international copyright, trademarks and trade secrets. Moreover

Cybersmart cannot be held liable if you make any unlawful use of any multimedia content accessed through the search facility provided by Cybersmart, network, or otherwise available through access to our network, whether for commercial or noncommercial purposes.

Any violation of the individual, right to privacy, including any effort to collect personal data of third parties without their consent.
Any fraudulent activity whatsoever, including dubious financial practices, such as pyramid schemes; the impersonation of another subscriber without their consent; or any attempt to enter into a transaction with Cybersmart on behalf of another subscriber without their consent.

Any violation of the exchange control laws of the Republic.
Any activity that results in the sale, transmission or distribution of pirated or illegal software.

Failing to respond to a request by a recipient of unsolicited mail to be removed from any mailing or direct marketing list and continuing to send unsolicited mail following such a request for removal.

Where any user resides outside of the Republic, permanently or temporarily, such user will be subject to the laws of the country in which s/he is currently resident and which apply. On presentation of a legal order to do so, or under obligation through an order for mutual foreign legal assistance, Cybersmart will assist foreign law enforcement agencies (LEA) in the investigation and prosecution of a crime committed using Cybersmart, resources, including the provisioning of all personal identifiable data.

3. Prohibited Activities

The following sections outline activities that are considered an unacceptable use of Company's services/network/website and also detail the guidelines for acceptable use of certain facilities/services, as the case may be.

Threats to Network Security

Any activity, which threatens the functioning, security and/or integrity of Cybersmart, network is unacceptable. This includes:

Any efforts to attempt to gain unlawful and unauthorized access to the network or circumvent any of the security measures established by Cybersmart for this goal

Any effort to use Cybersmart, equipment to circumvent the user authentication or security of any host, network or account (, 'cracking,' or , 'hacking,');

Forging of any TCP-IP packet header (spoofing) or any part of the header information in an email or a newsgroup posting;

Any effort to breach or attempt to breach the security of another user or attempt to gain access to any other person's computer, software, or data without the knowledge and consent of such person.

Any activity which threatens to disrupt the service offered by Cybersmart through , 'denial of service attacks,,' flooding of a network, or overloading a service or any unauthorized probes ("scanning" or "nuking") of others' networks;

Any activity which in any way threatens the security of the network by knowingly posting, transmitting, linking to or otherwise distributing any information or

software which contains a virus; Trojan horse; worm, lock, mail bomb, cancelbot or other harmful, destructive or disruptive component.

Any unauthorized monitoring of data or traffic on the network without Cybersmart, explicit, written consent.

Any unsolicited mass mailing activity including direct marketing; spam and chain letters for commercial or other purposes, without the consent of the recipients of those mails.

Public Space and Third Party Content and sites

In reading this AUP or in signing a service contract with Cybersmart, you acknowledge that Cybersmart has no power to control the content of the information passing over the Internet and its applications, including e-mail, chatrooms, news groups; or other similar fora, and that Cybersmart cannot be held responsible or liable, directly or indirectly, for any of the abovementioned content, in any way for any loss or damage of any kind incurred as a result of, or in connection with your use of, or reliance on, any such content.

Our services also offer access to numerous third party webpages. You acknowledge that we exercise absolutely no control over such third party content, or sites and in such cases, our network is merely a conduit or means of access and transmission. This includes, but is not limited to, third party content contained on or accessible through the Cybersmart network websites and web pages or sites displayed as search results or contained within a directory of links on the Cybersmart network. It remains your responsibility to review and evaluate any such content, and that any and all risk associated with the use of, or reliance on, such content rests with you.

Access to public Internet spaces, such as bulletin boards, Usenet groups, chat rooms and moderated forums is entirely voluntary and at your own risk.

Cybersmart employees do not moderate any of these services, or your communications, transmissions or use of these services. We do not undertake any responsibility for any content contained therein, or for any breaches of your right to privacy that you may experience as a result of accessing such spaces.

Usenet Newsgroups

The customer is responsible for determining and familiarizing himself or herself with the written policies of a given newsgroup before posting to it.

The customer must comply with these guidelines at all times which can be obtained from other users of the newsgroup upon request, or from the group's administrators/moderators.

The following are prohibited practices with regard to Usenet newsgroups and Cybersmart reserves the right to delete and/or cancel posts which violate the following conditions:

Excessive cross-posting of the same article to multiple newsgroups.

Posting of irrelevant or off-topic material to newsgroups (also known as USENET spam).

Posting binaries to a non-binary newsgroup.

Posting adverts, solicitations, or any other commercial messages unless the guidelines of the newsgroup in question explicitly permit them.

Unsolicited, Spam and Junk mail

Spam and unsolicited bulk mail are highly problematic practices. They affect the use and enjoyment of services by others and often compromise network security. Cybersmart will take swift and firm action against any user engaging in any of the following unacceptable practices:

Sending unsolicited bulk mail for marketing or any other purposes (political, religious or commercial) to people who have not consented to receiving such mail;

Operating or maintaining mailing lists without the express permission of all recipients listed;

Failing to promptly remove from lists invalid or undeliverable addresses or addresses of unwilling recipients;

Using Cybersmart, service to collect responses from unsolicited e-mail sent from accounts on other Internet hosts or e-mail services, that violate this AUP or the AUP of any other Internet service provider;

Including Cybersmart, name in the header or by listing an IP address that belongs to Cybersmart in any unsolicited email sent through Cybersmart, network or not;

Failure to secure a customer, mail server against public relay as a protection to themselves and the broader Internet community. Public relay occurs when a mail server is accessed by a third party from another domain and utilized to deliver mails, without the authority or consent of the owner of the mail-server. Mail servers that are unsecured against public relay often become abused by unscrupulous operators for spam delivery and upon detection such delivery must be disallowed.

Cybersmart reserves the right to examine users' mail servers to confirm that no mails are being sent from the mail server through public relay and the results of such checks can be made available to the user. Cybersmart also reserves the right to examine the mail servers of any users using Cybersmart, mail servers for "smarthosting" (when the user relays its mail via a Cybersmart mail server to a mail server of its own) or similar services at any time to ensure that the servers are properly secured against public relay. All relay checks will be done in strict accordance with Cybersmart, privacy policy.

Spam/virus Filtering

Cybersmart provides a spam and virus filtering system to protect customers from unsolicited mail and viruses. The customer acknowledges that this system might incorrectly identify a valid message as spam or as a virus and consequently this message might not be delivered to the customer. The customer acknowledges and agrees that Cybersmart shall without limitation have no responsibility for, or liability in respect of any data lost as a result of this system.

Webmail

Webmail and other web based email services made available by Cybersmart are provided on an "as is" basis without representations, warranties or conditions of any kind, and the customer acknowledges and agrees that Cybersmart shall have no responsibility for, or liability in respect of, any aspect of the Webmail services, including without limitation for any lost or damaged data or any acts or omissions of Cybersmart. As webmail storage space is limited, some Webmail messages may not be processed due to space constraints or message limitations. Webmail is provided to individuals and for personal use only. Any unauthorized commercial use of the Webmail service, or resale of the Webmail service is expressly prohibited.

Protection of Minors

Cybersmart prohibits customers from using Cybersmart, service to harm or attempt to harm a minor, including, but not limited to, by hosting, possessing, disseminating, distributing or transmitting material that is unlawful, including child pornography.

Privacy and Confidentiality

Cybersmart respects the privacy and confidentiality of our customers and users of our service. Please review our privacy policy which details how we collect and use personal information gathered in the course of operating this service.

User Responsibilities

Customers are responsible for any misuse of Company, services that occurs through the customer,Äôs account. It is the customer, responsibility to ensure that unauthorized persons do not gain access to or misuse Cybersmart, service.

Cybersmart urges customers not to reply to unsolicited mail or "spam", not to click on any suggested links provided in the unsolicited mail. Doing so remains the sole responsibility of the customer and Cybersmart cannot be held liable for the Customer being placed on any bulk mailing lists as a result.

Where the customer has authorized a minor to use any of the Cybersmart, services or access its websites, you accept that as the parent/legal guardian of that minor, you are fully responsible for: the online conduct of such minor; controlling the minor's access to and use of any services or websites; and the consequences of any misuse by the minor, including but not limited to transactions entered into by the minor using such access.

Cybersmart cannot be held liable for any business dealings you have with any third parties on the Internet, including any vendors, or advertisers found on, or through, the Cybersmart network. Further, Cybersmart assumes no responsibility whatsoever for any charges you or any user of your account incurs when making purchases or other transactions in this manner. Further, the responsibility for ensuring compliance with all applicable customs and exchange control laws in connection with any such transactions shall be the customer.

Notice and Take-down Procedures

Cybersmart confirms that it has a procedure in place for the notice and take-down of illegal material. In compliance with section 77 of the Electronic Communications and Transactions Act (No. 25 of 2002) Cybersmart, designated agent for this process can be reached at (011) 318 1406 or at takedown@ispa.org.za . The notice and take-down procedure can be viewed at <http://www.ispa.org.za/code> .

Customers are also notified of the content and procedures of the ISPA Code of Conduct (<http://www.ispa.org.za/code>) which may be used against any Internet service provider who fails to comply with the code of conduct. We urge you to familiarize yourselves with this code.

Complaints and procedures

It is the customer, responsibility to familiarize himself or herself with the procedure set out below and report any cases of violation of this AUP to Cybersmart, designated complaints handling agent.

Please note that Cybersmart cannot handle complaints concerning networks or users that do not have service contracts with us or our affiliates, or are outside of our control.

In order for Cybersmart to thoroughly investigate the complaint and take appropriate action, all complaints must be in writing, via fax or e-mail and contain as much information as possible, including, but not limited to:

the origin of abuse or offence, including the website, full mail headers, relevant logfile extracts etc;
any contact details for the source of the complaint;
A brief explanation why the incident is considered to be an offence.

Cybersmart discourages anonymous complaints being made via this service, and urges complainants to supply their name and contact details to us. Such information will not be released, except where required by law enforcement. Anonymous complaints will however be acted upon as long as sufficient detail as outlined above is supplied.

Action following breach of the AUP

Upon receipt of a complaint, or having become aware of an incident, Cybersmart may take any of the following steps:

In the case of a network, inform the user's network administrator of the incident and request the network administrator or network owner to deal address the incident in terms of this AUP and the ISPA Code of Conduct;

In severe cases suspend access of the user's entire network until abuse can be prevented by appropriate means;

In the case of individual users, warn the user; suspend the user's account and/or revoke or cancel the user's network access privileges completely;

In all cases, charge the offending parties for administrative costs as well as for machine and human time lost due to the incident;

Assist other networks or website administrators in investigating credible suspicions of any activity listed in this AUP;

Institute civil or criminal proceedings;

Share information concerning the incident with other Internet access providers, or publish the information, and/or make available the users' details to law enforcement agencies

Reservation and Non Waiver of Rights

Cybersmart reserves the right to amend or alter this policy at any time, and without notice to you.

Cybersmart reserves the right to take action against any individuals, companies or organizations that violate any of the prohibited activities set out herein, or engage in any illegal or unlawful activity while accessing our services, to the fullest extent of the law.

Cybersmart reserves the right, at its sole discretion, to act against other types of abuse not listed in this document and to investigate or prevent illegal activities being committed over our network.

Cybersmart reserves the right to monitor user and network traffic for site security purposes and prevent any unauthorized attempts to tamper with our site or cause damage to our property.

Cybersmart reserves the right to suspend, revoke or cancel Cybersmart, services to the customer/user if the safety and integrity of Cybersmart, resources are placed at risk in continuing to provide service to the subscriber/user.

Cybersmart reserves the right to remove any information or materials in whole or in part, that, in Cybersmart, sole discretion, is deemed to be offensive, indecent, or otherwise objectionable.

Cybersmart does not undertake to guarantee the security of any data passing through its networks. Although Cybersmart will provide a "best effort" service,

including regular updates on computer viruses and other threats to security of data, it is the responsibility of the communicating parties to safeguard their data, and Cybersmart cannot be held liable for any loss or damage arising as result of the failure to do so.

Cybersmart does not waive its right to enforcement of this AUP at any time, or prejudice its right to take subsequent action, should Cybersmart fail, neglect or elect not to enforce a breach of the AUP at any time.

Limited Liability

Although Cybersmart makes every effort to offer a reliable uninterrupted service, Cybersmart will not be held liable for any damage incurred directly or indirectly through service interruption.

Cybersmart will not be held liable for the loss of a domain due to late payment by the client.

Cybersmart uses third party software to scan incoming mail for viruses and unsolicited bulk email (SPAM).Cybersmart will not be held liable for any loss of data or income due to a virus infection or email that is incorrectly classed as SPAM but is not.

Cybersmart does not support the sending of bulk email under any circumstances, even if you can show that your mailing list has opted in to receive your correspondence.

Consequently, the number of emails that you can send through our mailservers in a given timeframe is limited.

Cybersmart reserves the right to block mail addresses, domains, ip numbers and netblocks of ip numbers should services originating from mail addresses, domains, ip numbers or netblocks cause a degradation of Cybersmart services , an annoyance to other members of Cybersmart's client base, the integrity of Cybersmart's security to be compromised, laws governing South Africa to be violated Cybersmart will not be held liable for such blocking.

Cybersmart backs up all client data, and will endeavor to restore lost data, however, it will not be held liable should the restore not be successful or up to date.