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Saturday, November 12, 2005

General Terms and Conditions

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COMMITMENT

BY YOUR USE OF CaribServe.NET SUBSCRIPTION YOU AGREE TO BE BOUND BY ALL TERMS AND CONDITIONS CONTAINED HEREIN. Read the following in its entirety as it contains the Terms and Conditions for use of CaribServe.NET and your use of the services constitutes acceptance of these Terms and Conditions and acknowledgement of a binding contract based on the same. These Terms and Conditions, together with CaribServe.NET's [Acceptable Usage Policy](#) (herein referred to as "the AUP"), all applicable pricing and software license agreements and any written agreements executed by both parties represents the complete agreement ("Agreement") between CaribServe.NET and you, the account holder or user (herein referred to as "you" or "yourself"). The current Terms and Conditions and AUP supersede any other written or oral agreement pertaining to your CaribServe.NET service, other than a specific written contract signed by both parties. In the event of such specific written contract signed by both parties, these terms and conditions and the written contract shall constitute the entire contract and in the event of a direct conflict between the two, the terms and conditions of the written agreement shall govern as to the specific conflict.

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DEFINITIONS

"**NTG**" – Shall mean New Technologies Group N.V. or New Technologies Group SARL.

"**CaribServe.NET**" - Shall mean New Technologies Group N.V. or New Technologies Group SARL.

"Internet" - Shall mean the world-wide collection of private and public router-based networks that are interconnected via gateways and exchange points, and which all utilize TCP/IP protocol suite.

"Customer" - Shall mean the individual or any legal entity that has applied to one or more of CaribServe.NET's services and has been granted the right of use these services.

"GTC" - Shall mean this general terms and conditions that together with the AUP and contract(s) shall govern all agreements and understandings between CaribServe.NET and the Customer.

"AUP" - Shall mean the Acceptable Use Policy, which together with this GTC and contract(s) shall govern all agreements and understandings between CaribServe.NET and the Customer.

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SERVICES

CaribServe.NET will provide selected Internet services ("Services"), based on the type of account you choose, in exchange for recurring payment of subscription fees and full compliance with this agreement. Bundled services may not be used separately. You may not assign, lease, rent, transfer or resell CaribServe.NET services or any portion of CaribServe.NET services with any other party in any way.

As an account holder, you bear full responsibility for communications and/or content provided via your CaribServe.NET account and all charges to your account. In addition to this agreement, you agree to abide by the terms and rules of any third party servers, networks or systems, that you may make use of or access with your CaribServe.NET account.

You assume responsibility for all conduct and content transmitted or stored using your account, with or without your knowledge or consent. You agree to protect and maintain the security of your account, password, files and data, network and user access, and any information and messages transmitted or provided via CaribServe.NET and any other Internet service.

CaribServe.NET reserves the right to provide information through distribution of a newsletter through either electronic means or via registered mail.

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USE OF SERVICE; COMPLIANCE WITH AUP & LAWS

You agree to comply with the CaribServe.NET [Acceptable Use Policy](#) (AUP), all service specific AUPs and all applicable laws. When CaribServe.NET has reason to suspect any violation of this Agreement or any statute or regulation or AUP, we may, at our sole discretion, begin an investigation or take such other action, as we deem appropriate under the circumstances. Such an investigation may include, but not be

limited to, gathering information from and about the account holder, including examining the content of personal electronic communications, web pages, and any other data or files on CaribServe.NET systems. By using the Services you consent to such investigation. During an investigation CaribServe.NET may suspend account access, and remove or deny access to files and data, as we deem necessary. You agree to cooperate with any such investigation.

In the event that CaribServe.NET, at its sole discretion, determines that a violation of this Agreement or AUP has taken place, may, but is not obligated under this agreement to, take enforcement measures. Such enforcement is at CaribServe.NET sole discretion and may include, without limitation:

Notices and/or warnings about future violations. Suspension or termination of any or all CaribServe.NET Internet accounts and Services used to violate this Agreement, the AUP, any island or federal law and/or belonging to the account holder. CaribServe.NET reserves the right to discontinue any and all Services to you, at any time, and without notice when CaribServe.NET determines that your account has been used to violate this agreement, the AUP or any state or federal law. Removal of any or all messages, files and/or data stored on or transmitted via CaribServe.NET systems. Filing of criminal charges or initiation of civil action, as CaribServe.NET sees fit, against the account holder and/or parties known or unknown. Requiring payment for actual costs, lost income, and other liability and/or a \$200 handling charge for each event in which this Agreement, the AUP or any island or federal law was violated.

CaribServe.NET reserves the right to restrict or prohibit access to any part of its system, at its sole discretion and as it sees fit, to protect its interests, the interests of the majority of its users, and to maintain consistent availability of system resources. You agree that for each violation, CaribServe.NET may, at its sole discretion, bill you a handling charge for actual costs, lost income, and other liability incurred due to said violation. You agree to remit the billed amount within 30 days of receipt of such billing. You agree that, absent payment in full, CaribServe.NET may bill your credit card directly or submit the billing for collection.

CaribServe.NET's reservation of rights does not imply nor impose on CaribServe.NET any obligation to monitor or enforce your obligations under these Terms and Conditions or the AUP or your compliance with any island or federal law.

Any use of CaribServe.NET software or third-party software distributed by CaribServe.NET is governed by the end-user license agreement that accompanies the software. Use of such software indicates your complete agreement with and acceptance of any and all terms in any such license agreement.

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SERVICE & RATE CHANGES

Due to the changing nature of various factors affecting

technology, telecommunications and the Internet, CaribServe.NET may, at its sole option, decide to change services and/or rates from time to time. CaribServe.NET reserves the right to change or discontinue Services at any time upon 15 days notice. Notices may be given electronically via e-mail or by posting on the CaribServe.NET website and shall be deemed given when sent. In the event that you do not agree to such fee change you may: if you are on a month-to-month account, terminate your account or if you have committed to a specific term, notify CaribServe.NET in writing of your intent to terminate the account and if the increase is determined to apply to your account then you may cancel without incurring an early termination fee. Any reduction in fees will not apply until such time as an account is renewed.

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MINIMUM AGE REQUIREMENTS

CaribServe.NET account holders must be at least eighteen (18) years of age.

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PRICING AND BILLING

You agree to provide CaribServe.NET with complete and accurate billing information at the time your account is created and to update this information within 10 days of any change. Such billing information includes, without limitation, your legal name, mailing address, and telephone number(s) and any applicable e-mail addresses. Providing false billing information shall be cause for immediate and permanent termination of the account. You agree that you are responsible for making payment in full for any account you have opened.

- ➔ **BILLING** - CaribServe.NET is a PREPAID service, meaning that subscription fees are due before the upcoming service period. Customers will receive an electronic invoice via email one week before the payment due date. The date on the electronic invoice represents the actual due date of payment. Customer is responsible for payment regardless if the service was used during or not.
- ➔ **METHOD OF PAYMENT** - The amounts due by the Customer shall be payable to NTG or CaribServe.NET, in US Dollars, Euros or Antillean Guilders. Payments can be made in cash, check, credit card, debit card (MAESTRO) or via a standing order with the bank.
- ➔ **TAXES** - All charges and installation fees are exclusive of all applicable taxes, including value added taxes, sales taxes and duties or levies imposed by an authority, government or government agency (except income tax or corporate taxes attributable to CaribServe.NET), all of which, if any, shall be assumed and paid promptly when due by Customer.
- ➔ In addition to the remedies provided in these GTC, CaribServe.NET may suspend the service agreement immediately and without notice if the Customer is in default of payment of any amount due. In such an event, the service will not be restored until all service fees dating back to the suspension date as well as a

reconnection fee are paid in full. Further, CaribServe.NET shall have the right to set off any amounts due by Customer which are not paid when due, against any amounts owed to Customer by CaribServe.NET or any of its affiliates, if any, pursuant to any other agreement or arrangement.

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DELINQUENT OR NON-PAYMENT

CaribServe.NET reserves the right to remove or suspend access to an account without notice that has an outstanding balance for monthly recurring fees, setup fees, handling charges, or any other fees and charges that may be due and also reserves the right to remove or suspend access to any other accounts, regardless of their payment status, you have in your same name until such charges are paid. Suspended accounts continue to accrue charges until restored or purged, even if the account holder does not use the account. Accounts that are delinquent by more than 30 days may be purged from the system without notice and without recourse to the account holder for any lost files or data stored on CaribServe.NET systems. The balance due on any account purged from CaribServe.NET system remains due and may be sent to collections if not paid in full. You agree to pay CaribServe.NET all costs, including attorney fees, collectors fees, accrued interest, and court costs associated with CaribServe.NET collection of your past due amounts.

CaribServe.NET will not release domain names for any account holder with an outstanding balance due. CaribServe.NET also reserves the right to hold any co-located servers or other equipment owned or otherwise placed and used by you on CaribServe.NET premises and not allow removal of such from CaribServe.NET premises until all balances due CaribServe.NET are paid or if such balances are not paid CaribServe.NET may take any and all legal steps to use the proceeds of such servers and/or equipment to satisfy any such balances owing.

Payment by fraudulent means for any CaribServe.NET account or service will result in immediate and permanent termination of the account and may result in possible civil damages and criminal penalties. CaribServe.NET prosecutes check and credit card fraud.

CaribServe.NET reserves the right to charge a service reconnection fee to reinstate suspended accounts.

CaribServe.NET reserves the right to require, as permitted by law, the customer to reimburse CaribServe.NET for reasonable costs incurred with collecting delinquent charges. Such costs may include, but are not limited to, collection agency fees as well as the costs of internal collection resources and attorney fees.

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DISCLAIMER OF WARRANTY AND LIMITATIONS OF LIABILITY

➡ CaribServe.NET cannot and does not guarantee the

confidentiality or security of any Customer information, whether stored in CaribServe.NET's system, in Customer's computers, or elsewhere.

- ➔ All use of the services provided by CaribServe.NET is at the Customer's own risk.
- ➔ CaribServe.NET exercises no control whatsoever over the availability of information or over the content of the information passing through its system and specifically denies any responsibility for the accuracy or quality of information obtained or transmitted through its services. Further, CaribServe.NET will not be responsible for any loss or inaccessibility, or the consequences of any loss or inaccessibility, of data resulting from delays, non deliveries, miss-deliveries, service interruptions or disconnection howsoever caused, whether caused by CaribServe.NET, or any other person or entity.
- ➔ IN NO EVENT SHALL CaribServe.NET BE LIABLE TO THE CUSTOMER FOR CONSEQUENTIAL, SPECIAL OR INDIRECT LOSSES OR DAMAGES SUSTAINED BY CUSTOMER OR ANY THIRD PARTIES IN USING THE SERVICE OR ACCESSING THE INTERNET HOWSOEVER ARISING AND WHETHER UNDER CONTRACT, TORT OR OTHERWISE (INCLUDING, WITHOUT LIMITATION, THIRD PARTY CLAIMS, LOSS OF PROFIT, LOSS OF CUSTOMERS, OR DAMAGE TO REPUTATION OR GOOD WILL).
- ➔ CaribServe.NET shall not be liable to Customer for any loss or damage sustained by Customer, its Customers or end users, by reason of any failure in or breakdown of CaribServe.NET's communication facilities or those of Customer or third parties associated with providing the regarded services, or for any interruption, or degradation or the services whatsoever shall be the duration or the cause of such failure, breakdown, interruption or degradation.

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ASSIGNMENT

- ➔ The Customer may not assign or transfer the service agreement without the prior written consent of CaribServe.NET.
- ➔ CaribServe.NET may assign or transfer the service agreement to any affiliated entity or successor in interest of CaribServe.NET, whether by merger, consolidation, transfer of all or its assets or otherwise. The Customer will be notified in writing 30 days prior to such assignment or transfer.

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TERMINATION

CaribServe.NET may terminate the service agreement immediately and without notice in the event of any of the following:

- ➔ If the Customer is in default in the payment of any amount due.
- ➔ If the Customer is declared bankrupt or judicially determined to be insolvent or fallen into a situation of suspension of payments.

- ④ If any representation or warranty made herein by Customer shall prove at any time to be materially incorrect as of the date made.
- ④ If Customer violates any part of the GTC.

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NOTICE FOR TERMINATION

- ④ Notice of termination or cancellation of the Agreement by Customer must be given by written means.
- ④ Notice of termination or cancellation will be effective when sent or received and any notice given by Customer will terminate the agreement at the end of the payment period unless a different time is established under the terms of another clause of this GTC.
- ④ All open amounts will still be still due upon termination.

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MISCELLANEOUS

- ④ Connectivity is provided for Customer and is additionally authorized for use by Customer's employees or household only.
- ④ Resale of this connection is strictly prohibited.
- ④ Use of the connection by an unauthorized person or entity is prohibited and shall be ground for termination of this agreement unless such use is specifically allowed in writing by CaribServe.NET.
- ④ All persons and entities using the connection provided by CaribServe.NET to Customer bear the same responsibilities as Customer under the service agreement, but Customer shall be fully responsible for any authorized or unauthorized person or entity's use of the connection supplied by CaribServe.NET to Customer.
- ④ The service agreement and these GTC shall be governed, construed and interpreted in all respects in accordance with the laws of the Netherlands Antilles for the Dutch Side of the island (St. Maarten) and with the laws of France for the French Side of the island (St. Martin) and shall be subject to exclusive jurisdiction of the courts of St. Maarten (Netherlands Antilles) for the Dutch side of the island and Guadeloupe (France) for the French side of the island.
- ④ CaribServe.NET may modify these GTC and /or amplify them, at any time, without notification. The last version of the GTC will be made available to Customer at Customer's request.
- ④ CaribServe.NET may modify the prices, as well as discontinue or change the Services offered. By continued usage of the CaribServe.NET's network services, the Customer shall be deemed to have agreed to all modified, altered and updated terms and conditions.
- ④ The actual act of utilization of CaribServe.NET's network constitutes an agreement to abide by the guidelines of this Article.
- ④ CaribServe.NET cannot and does not exercise any control over the information passing through its system. It is therefore the duty of the User and/or parent or guardian to supervise the use of the services provided by CaribServe.NET and the Internet by minors.

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DEVIATION

- ➡ It is only possible to deviate from these general terms and conditions by written agreement between CaribServe.NET and the Customer.

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