

Canby Telcom Internet Terms and Conditions

Revised June 21 2007

I. COMMENCEMENT OF SERVICES

Agreement

This is an agreement between [Canby Telcom](#) (CT") and you ("User") to provide Web-ster Internet access ("the Service"). Web-ster is CT's Internet service (hereinafter Web-ster). The terms of this agreement apply to both dial-up and DSL Internet service except where a provision specifically refers to dial-up or DSL only by the terms of the provision. Terms also apply to services used by domains hosted by or using services on CT systems.

By establishing an account or using the service or equipment, you agree to be bound by this Agreement and to use the service in compliance with CT's terms and conditions, which can be found by going to www.canbytel.com. This agreement applies to customers of CT's Internet service and resellers of CT's Internet service. This agreement, and the service furnished hereunder cannot be sold, assigned, or sublet without a specific reseller agreement. CT has accounts designed for commercial businesses and User agrees to apply for a business account if User intends to conduct business through CT's Internet service.

Terms of the Agreement

The initial term of this agreement is monthly and will renew automatically without notice. Your activation date is three days after your account is provisioned OR on the first day you connect to your service, whichever is earlier. The agreement will continue on a month-to-month basis after the initial term. All charges are billed monthly. CT reserves the right to change rates at any time. Failure to pay when due will result in suspension or discontinuance of service. A service fee to reactivate may be required. Current rates may be obtained by calling 503-266-8111.

Customers may not resell Internet services including Internet access, bandwidth, web space, e-mail, or any other feature without the express written permission of CT.

Dial-up

Long distance charges apply for customers who access their Internet service from outside the local calling area. Our analog Internet access service is engineered to support, but does not guarantee, speeds up to 56 kbps using the V.90 protocol. Service is capable of receiving speeds up to 56 kbps and sending speeds up to 31.2 kbps. Actual speeds may vary depending on line condition, weather, and other factors. Due to FCC regulations which restrict power output of service providers and modems, receiving speeds are limited to 53kbps. CT makes no warranties, express or implied regarding up link or down link speeds.

DSL

CT will provide you with a user kit ("the Equipment") that includes a DSL modem and associated cards required to connect service. Contents of the kit may change from time to time. If the relationship is terminated by either party (you or CT) before the activation date, or if the line is found to be unprovisionable, you must return the full kit with all its original packaging to CT. Failure to do so will result in a one-time equipment fee. If you choose to cancel the account after the activation date, you will be charged for the installation and/or setup charges. This fee is posted on our Website and is subject to change. You must also return the full kit with all of its original packaging to CT. Failure to do so will result in a one-time equipment fee.

The installation, use, inspection, maintenance, repair, and removal of the Equipment may result in service outage or potential damage to your computer. You are solely responsible for backing up all of your existing computer files and data. CT and its employees, agents, contractors, and representatives shall have no liability whatsoever for any damage to or loss or destruction of any of your hardware, software, files, data, or peripherals. You assume responsibility for impacts to or loss of any warranty associated with the opening of your computer for installation of an internal card (such as a Network Interface Card) or DSL modem.

You acknowledge that this is a fixed-location service for use at the service address only. Customers may not retransmit DSL Internet Service or make the service available to anyone outside the premises (i.e. wi-fi or other methods of networking). Moving to another location will require the service to be reprovisioned at the new location. This may result in substantial interruption of the service and will result in fees associated with cancellation and setting up a new account.

CT does not represent, warrant, or covenant that installation by you or a third party chosen by you will enable you to successfully access, operate or use the services, nor that such installation will not cause damage to your computer, data, software, files, or peripherals. In addition, CT shall have no liability whatsoever for any damage, or for the failure to properly install, access, use, or operate that equipment or services because of your installation. The foregoing limitation of liability is in addition to and shall in no way be construed to limit any and all limitations of liability set forth elsewhere in this agreement.

CT will make its best effort to provide the service. Because of the complex nature of broadband services, availability, and the underlying infrastructure, it may not be possible to provide the service to everyone. In its sole discretion, CT may cancel the installation process and refund any money that you have prepaid. CT will notify you of its intent to cancel as soon as reasonably possible. CT shall have no responsibility whatsoever for claims arising out of its failure or refusal to complete the installation or provide the service.

II. ENFORCEMENT OF TERMS AND CONDITIONS

Your account password & security

Upon registration, you will receive a username, password, and account designation. You are solely responsible for use of the service. You must keep your password confidential so that no one else may access the services through your account. You must notify CT immediately upon discovering any unauthorized use of your account. Unless you purchase a Static IP, you will be allocated a Dynamic IP address.

Account limitations

- CT reserves the right to timeout inactive connections.
- Web-ster technical support may be limited to Web-ster provided services, software and/or unmodified hardware.
- Email accounts exceeding 50MB in size may be inactivated until you reduce the size of the mail being stored.
- Websites exceeding the allotted amount of disk space may be suspended until you reduce the disk space usage or purchase additional space. Any Website exceeding the allotted amount of bandwidth will be billed for excess traffic. Bandwidth usage in excess of 2 gigabytes per month on non-domain hosted websites is considered to be more than normal usage and, at CT's option, CT can add a surcharge, which shall be based upon the amount of additional usage.
- Emails using CT email servers, either from a direct account or email addresses serviced under a hosted domain, are limited to typical individual and small group email rates per minute. Large bulk email transmissions exceeding typical rates may cause temporary suspension of email services.

Email, web space, and bandwidth limits are posted throughout our Website at www.canbytel.com. CT reserves the right to change limits at any time without prior notice.

Monitoring the Service

CT has no obligation to monitor the services, but may do so and disclose information regarding use of the service if CT, in its sole discretion, believes that it is reasonable to do so, including to: satisfy laws, regulations or requests to comply with applicable state and federal law; or to operate the service properly; or to protect itself and its subscribers. CT may immediately remove your material or information from CT's services, in whole or in part, which CT, in its sole and absolute discretion, determines to infringe another's property rights or to violate our terms and conditions.

Web-ster system & network security

Users are prohibited from violating or attempting to violate the security of the CT Network and services, including, without limitation, (a) accessing data not intended for such User or logging into a server or account for which such User is not authorized to access, (b) impersonation of Web-ster personnel, (c) hacking or attempting to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without proper authorization, (d) attempting to interfere with, disrupt or disable service to any User, host or network including, without limitation, via a means of overloading, flooding, mailbombing, denial of service attacks or crashing, (e) forging any TCP/IP packet header or any part of the header information in any e-mail or newsgroup posting, (f) attempting to utilize another User's account name or persona without authorization from that User. Users are also prohibited from attempting any action designed to circumvent or alter any method of measuring of billing for Web-ster services. Violations of system or network security may result in civil or criminal liability. CT will investigate occurrences which may involve such violations and may involve, and cooperate with law enforcement authorities in prosecuting Users who are involved in such violations.

Netiquette

The CT Network and services may only be used in a manner that is consistent with the intended purpose of the CT Network and services may be used only for lawful purposes. Users shall not use the CT Network and services in order to transmit, distribute or store material: (a) in violation of any applicable law or regulation, including export or encryption laws or regulations; or (b) that may expose CT to criminal or civil liability; or (c) that constitutes electronic junk mail or newsgroups. Users are further prohibited from assisting any other person in violating any part of the terms and conditions.

Inappropriate content

Users shall not use the CT Network and services to transmit, distribute or store material that is inappropriate, as reasonably determined by CT, or material that is indecent, obscene, pornographic (including child pornography), defamatory, libelous, threatening, abusive, hateful, or excessively violent.

Intellectual property

Material accessible through CT Network and services may be subject to protection under privacy, publicity, or other personal rights and intellectual property rights, including but not limited to, copyrights and laws protecting patents, trademarks, trade secrets, or other proprietary information. Users shall not use the CT Network and services in any manner that would infringe, dilute, misappropriate, or otherwise violate any such rights. If you use a domain name in connection with any of the CT Network and services, you must not use that domain name in violation of the trademark, service mark, or other rights of any third party.

Harmful content

Users shall not use the CT Network and services to transmit, distribute or store material that contains a virus, worm, Trojan horse, or other component harmful to the CT Network and services, any other network or equipment or other Users.

Fraudulent / misleading content

Users shall not use the CT Network and services to transmit or distribute material containing fraudulent offers for goods or services, or any advertising or promotional materials that contain false, deceptive, or misleading statements, claims, or representations. In addition, Users are prohibited from submitting any false or inaccurate data in any order form, contract or online application, including the fraudulent use of credit cards.

Suspension / Termination

Any User which CT determines to have violated any element of the terms and conditions may be subject to a suspension or termination of services, and if CT deems it necessary, immediate suspension or termination of such User's service without notice. CT may take such further action as CT determines to be appropriate under the circumstances to eliminate or preclude repeat violations, and CT shall not be liable for any damages of any nature suffered by any customer, User or any third party resulting in whole or in part from CT's exercise of its rights under this paragraph.

III. GENERAL PROVISIONS

User acknowledges the variety of subject matter and content found on the Internet or World Wide Web, and that it is User's responsibility to determine its suitability for members of User's household or business and that some content may not be suitable for viewing by children. User agrees to hold CT harmless for liability resulting from the subject matter or content found on the Internet or World Wide Web.

User agrees to pay all required regulation fees, and any local, state or federal taxes imposed or levied.

CT reserves the right to charge a service charge when User requests a modification of service to an existing account.

User grants to CT the right to enter upon or over the premises at the User's address at any time during regular business hours (after regular working hours with customer's consent) for the purpose of connecting the service, inspecting, adjusting, repairing, moving or removing rented cable modem or DSL equipment. If User at any time requests relocation of the service then a wire relocation fee based upon actual time and materials required to complete the relocation will apply.

CT is not responsible for the operation, maintenance, service or repair of User owned equipment or software including but not limited to PC workstations, printers, operating systems, application software, hubs, modems, routers, and local area or wide area networks used in conjunction with the services provided. CT does not warrant files or data against loss or deletion even if kept on CT servers. Best efforts will be maintained to maintain server files and backup capabilities. It is up to the User to ensure proper archiving and integrity of their data.

Monthly service charges not paid within 45 days of date billed will be subject to disconnection without notice. There is a reconnection fee for services reconnected due to non-pay disconnection. CT reserves the right to delete files on its servers from disconnected user accounts. Web page files, file storage, and emails may be deleted after disconnection and may not be available on reconnected accounts.

This agreement may be terminated by User at any time by giving FIVE (5) WORKING DAYS' NOTICE in writing to CT and cooperating with CT in the removal of any CT owned equipment from the premises. If notice is not provided, CT may claim, as forfeited, User's final month service charge. **ATTEMPTS BY CT TO ACT UPON NOTICE GIVEN BY USER WHICH DO NOT COMPLY WITH THE PROVISIONS OF THIS CONTRACT DO NOT CONSTITUTE A WAIVER OF THE PROVISIONS CONTAINED HEREIN.** This agreement, including the monthly service charges, may be modified without prior written notice; however, User shall have the right to terminate this agreement as previously stated.

In the event efforts are made by CT to enforce any of the terms of this agreement, then CT shall be entitled to recover CT's attorney's fees from User, even if an action is not instituted or as the Court may adjudge reasonable as attorney's fees at trial, or on appeal of such suit, or action in addition to all other sums provided by law.

User agrees not to duplicate, reproduce, or use CT graphics for any purpose. In the event that CT discovers that User is using said graphics, access will be immediately disconnected.

All actions relating to this agreement shall be construed under the laws of the State of Oregon and will be resolved in Clackamas County Circuit Court in Oregon City, Oregon.

Later versions of the terms and conditions are located on the CT Website, www.canbytel.com, and User agrees that such revisions to the terms and conditions are binding on the User and the User has the option to opt out of the revised terms and conditions by discontinuing service should the User choose to do so by giving the appropriate notice of the desire to discontinue service.

Miscellaneous

These terms and conditions constitute the entire agreement between you and CT with respect to your use of the service. CT may revise, amend, or modify the terms and conditions at any time and in any manner. Notice of any revisions, amendment, or modifications will be posted on CT's Website (www.canbytel.com) and/or on your start up pages and/or by e-mail and/or in our various publications and mailings to you. By continuing to receive Internet service from CT, you are indicating your acceptance of these terms and conditions.