

OTHER @HOME SERVICES**@HOME SERVICE ACCEPTABLE USE POLICY**

Last modified: May 8, 2000

Important Note: Excite@Home may revise this Acceptable Use Policy from time to time without notice by posting a new version of this document on the Excite@Home Web site at <http://www.home.net> and in the "House Rules" section of the "Help" Tab on the @Home Service Homepage. Accordingly, users of the @Home residential service should consult this document regularly to ensure that their activities conform to the most recent version. In the event of a conflict between any subscriber agreement and this policy, the terms of this policy will govern. Questions regarding this policy and complaints of violations of this policy by @Home users can be directed to abuse@home.com.

Introduction

Excite@Home provides a variety of Internet services to residences (the "Services"). The @Home® residential service allows subscribers to connect to the Company's high-speed backbone network and the Internet.

The Services use resources that are shared with many other customers. Moreover, the Services provide access to the Internet which is used by millions of other users. Each user benefits by being able to share resources and communicate almost effortlessly with other members of the user community. However, as with any community, the benefits and privileges available from the Services, and the Internet in general, must be balanced with duties and responsibilities so that other users can also have a productive experience.

Use of the Services is subject to the following rules and guidelines. Each customer of Excite@Home or its distribution affiliates is responsible for ensuring that the use of all Services provided to such customer complies with this Acceptable Use Policy (the "Policy"). **ANY USER WHO DOES NOT AGREE TO BE BOUND BY THESE TERMS SHOULD IMMEDIATELY STOP USE OF THE SERVICES AND NOTIFY THE @HOME CUSTOMER SERVICE DEPARTMENT SO THAT THE USER'S ACCOUNT MAY BE CLOSED.**

Illegal Activity

The use of the Services for any activity that violates any local, state, federal or international law, order or regulation is a violation of this Policy.

Prohibited activities include, but are not limited to:

Posting or disseminating material which is unlawful (such as child pornography or obscene material).

Disseminating material which violates the copyright or other intellectual property rights of others. You assume all risks regarding the determination of whether material is in the public domain.

Pyramid or other illegal soliciting schemes.

Any fraudulent activities, including impersonating any person or entity or forging anyone else's digital or manual signature.

Security

You are responsible for any misuse of the Services that you have contracted for, even if the inappropriate activity was committed by a friend, family member, guest, employee or customer with access to your account. Therefore, you must take steps to ensure that others do not gain unauthorized access to the Services.

The Services may not be used to breach the security of another user or to attempt to gain access to any other person's computer, software or data, without the knowledge and consent of such person. They also may not be used in any attempt to circumvent the user authentication or security of any host, network, or account. This includes, but is not limited to, accessing data not intended for you, logging into or making use of a server or account you are not expressly authorized to access, or probing the security of other networks. Use or distribution of tools designed for compromising security, such as password guessing programs, cracking tools, packet sniffers or network probing tools, is prohibited.

You may not disrupt the Services. The Services also may not be used to interfere with computer networking or telecommunications services to any user, host or network, including, without limitation, denial of service attacks, flooding of a network, overloading a service, improper seizing and abuse of operator privileges and attempts to "crash" a host. The transmission or dissemination of any information or software which contains a virus or other harmful feature also is prohibited. You are solely responsible for the security of any device you choose to connect to the Services, including any data stored on that device. In particular, @Home recommends against enabling file or printer sharing of any sort. @Home recommends that any files or services you do choose to make available for remote access be protected with a strong password or as otherwise appropriate.

Inappropriate Content

There may be content on the Internet or otherwise available through the Services which may be offensive to some individuals, or which may not be in compliance with all local laws, regulations and other rules. For example, it is possible to obtain access to content which is pornographic or offensive, particularly for children. Neither Excite@Home nor any of its distribution affiliates can assume any responsibility for the content contained on the Internet or otherwise available through the Services. You must assume the risk of accessing content through the Service, and neither Excite@Home nor any of its distribution affiliates shall have any liability for any claims, losses, actions, damages, suits or proceedings arising out of or otherwise relating to access to such content. Parents may want to use a program capable of restricting access to sexually explicit material on the Internet. Content questions or complaints should be addressed to the content provider.

You are solely responsible for any information which you publish on the web or other Internet services. You must ensure that the recipient of the content is appropriate. For example, you must take appropriate precautions to prevent minors from receiving inappropriate content. Excite@Home and its distribution affiliates reserve the right to refuse to post or to remove any information or materials, in whole or in part, that it, in its sole discretion, deems to be offensive, indecent, or otherwise inappropriate regardless of whether such material or its dissemination is unlawful.

Neither Excite@Home nor any of its distribution affiliates has any obligation to monitor transmissions made on the Services. However, Excite@Home and its distribution affiliates have the right to monitor such transmissions from time to time and to disclose the same in accordance with your subscriber agreement.

By using the Services to reproduce, publish, display, transmit and distribute content, a user is warranting that the content complies with this Policy and authorizing Excite@Home and its distribution affiliates to reproduce, publish, display, transmit and distribute such content as necessary for Excite@Home to deliver the content in a timely manner.

Electronic Mail

The Services may not be used to send unsolicited bulk or commercial messages. This includes, but is not limited to, bulk mailing of commercial advertising, informational announcements, charity requests, petitions for signatures and political or religious messages. Such messages may only be sent to those who have explicitly requested it. The Services may not be used to send messages to any individual who has indicated that he/she does not wish to receive messages from you.

The Services may not be used to collect responses from unsolicited email sent from accounts on other Internet hosts or email services which violates this Policy or the acceptable use policy of any other Internet service provider. Moreover, unsolicited email may not direct the recipient to any web site or other resource which uses the Services.

Forging, altering or removing electronic mail headers is prohibited.

You may not reference the @Home network (e.g. by including "Organization: @Home " in the header or by listing an IP address that belongs to the @Home network) in any unsolicited email even if that email is not sent through the @Home network.

"Mail bombing" is prohibited. That is, you may not send numerous copies of the same or substantially similar messages, nor may you send very large messages or files to a recipient with the intent to disrupt a server or account. The propagation of chain letters is similarly prohibited, whether or not the recipient wishes to receive such mailings.

@Home is not responsible for the forwarding of email sent to any account which has been suspended or terminated. Such email will either be returned to sender, ignored, deleted, or stored temporarily at @Home's sole discretion.

Newsgroups

Messages posted to newsgroups must comply with the written charters or FAQs for those newsgroups. Advertisements, solicitations, or other commercial messages should be posted only in those newsgroups whose charters or FAQs explicitly permit them. You are responsible for determining the policies of a given newsgroup before posting to it.

Posting or cross-posting the same or substantially similar messages to more than eight newsgroups is prohibited. Our news software will automatically cancel any

messages posted to nine or more newsgroups.

Binary files may not be posted to newsgroups not specifically named for that purpose. Users posting binary files to groups with policies concerning the permissible daily volume of posted files are required to observe those limitations.

Forging, altering or removing header information is prohibited. This includes attempting to circumvent the approval process for posting to a moderated newsgroup.

The @Home network reserves the right to discontinue access to any Usenet newsgroup at any time for any reason.

You may not attempt to "flood" or disrupt Usenet newsgroups. Disruption is defined as posting a large number of messages to a newsgroup which contain no substantive content, to the extent that normal discussion in the group is significantly hindered. Examples of disruptive activities include, but are not limited to, posting multiple messages with no text in the body, or posting many follow-ups to messages with no new text. Messages may not be canceled, except by the author or by official newsgroup moderators performing their duties.

The Usenet news service included with an @Home residential service account is provided for interactive use by the subscriber, using a commonly-available NNTP client such as Netscape Communicator. Non-interactive clients which download Usenet articles in bulk are prohibited.

Internet Relay Chat

The Services may be used to participate in "chat" discussions. These discussions may be hosted by @Home network servers, by third party servers, or may not involve any servers at all. In all cases, @Home does not normally monitor the contents of the discussion and is not liable for the contents of any communications made via Internet chat.

The services may not be used to perform chat "flooding". Flooding is defined as deliberately repeating actions in quick succession in order to fill the screens of other Internet users with text.

Any computer or other device connected through the Services may not maintain more than 2 simultaneous chat connections. This includes the use of automated programs, such as "bots" or "clones". Automated programs may not be used when the account holder is not physically present at the device.

The Services may not be used to send messages which disrupt another Internet user's equipment, including software, hardware, and user display.

The Services may not be used to access any chat server in violation of the acceptable use policy of that server. The Services may not be used to manipulate any chat server in order to harass or disconnect other Internet users, or to gain privileges which have not been authorized.

A customer may not use the Services to connect to chat servers or channels from which they have been previously banned.

The Services may not be used to continue to send chat messages to an Internet user who has indicated their desire to not receive such messages.

Forging, altering, or obscuring your identity (other than using a nickname from which @Home could if necessary determine your real name) while participating in chat sessions is forbidden.

WebSpace

As part of the Services, @Home provides storage space and access for web pages through its Personal WebSpace service. You are solely responsible for any information that you publish on your Personal WebSpace. You must ensure that the intended recipient of the content is appropriate. For example, you must take appropriate precautions to prevent minors from receiving inappropriate content. @Home and its distribution affiliates reserve the right to remove or refuse to post any information or materials, in whole or in part, that they, in their sole discretion, deem to be offensive, indecent, or otherwise inappropriate regardless of whether such material or its dissemination is unlawful. This includes, but is not limited to: obscene material; defamatory, fraudulent or deceptive statements; threatening, intimidating or harassing statements, or material which violates the privacy rights or property rights of others (copyrights or trademarks, for example). For purposes of this policy, "material" refers to all forms of communications including narrative descriptions, graphics (including photographs, illustrations, images, drawings, logos), executable programs, video recordings, and audio recordings.

@Home will not routinely monitor the contents of your WebSpace; however, Excite@Home and its distribution affiliates have the right to monitor such and if complaints are received regarding language, content or graphics contained on your web pages, @Home may remove the web page hosted on @Home servers and terminate your Personal WebSpace service if @Home determines that you have violated the terms of the AUP.

Bandwidth, Data Storage and Other Limitations

You must comply with the then current bandwidth, data storage and other limitations on the Services.

Users must ensure that their activity does not improperly restrict, inhibit, or degrade any other user's use of the Services, nor represent (in the sole judgment of @Home) an unusually large burden on the network itself. In addition, users must ensure that their activity does not improperly restrict, inhibit, disrupt, degrade or impede @Home's ability to deliver the Services and monitor the Services, backbone, network nodes, and/or other network services.

@Home residential customers may not resell, share, or otherwise distribute the Services or any portion thereof to any third party without the written consent of @Home. For example, you cannot provide Internet access to others through a dial up connection, host shell accounts over the Internet, provide email or news service, or send a news feed.

The @Home residential service offering is a consumer product designed for your personal use of the Internet. You may not use the @Home residential service for commercial purposes. For example, the service does not provide the type of security, upstream performance and total downstream throughput capability typically associated with commercial use.

You may not run a server in connection with the @Home residential service, nor may you provide network services to others via the @Home residential service. The @Home residential service includes personal Webspace accounts for publishing personal Web pages. Examples of prohibited uses include, but are not limited to, running servers for mail, http, ftp, irc, and dhcp, and multi-user interactive forums. For information about @Work products for commercial or network services purposes, including commercial-grade remote LAN access, please see http://www.home_network_.

Violation of Acceptable Use Policy

@Home does not routinely monitor the activity of accounts for violation of this Policy. However, in our efforts to promote good citizenship within the Internet community, we will respond appropriately if we become aware of inappropriate use of our Services. Although Excite@Home has no obligation to monitor the Services and/or the network, Excite@Home and its various affiliates and partners reserve the right to monitor bandwidth, usage, and content from time to time to operate the Services; to identify violations of this Policy; and/or to protect the network and @Home users.

@Home prefers to advise customers of inappropriate behavior and any necessary corrective action. However, if the Services are used in a way which Excite@Home or its distribution affiliates, in their sole discretion, believe violate this Policy, Excite@Home or its distribution affiliates may take any responsive actions they deem appropriate. Such actions include, but are not limited to, temporary or permanent removal of content, cancellation of newsgroup posts, filtering of Internet transmissions, and the immediate suspension or termination of all or any portion of the Services. Neither Excite@Home nor its distribution affiliates will have any liability for any such responsive actions. The above described actions are not @Home's exclusive remedies and @Home may take any other legal or technical action it deems appropriate.

@Home reserves the right to investigate suspected violations of this Policy, including the gathering of information from the user or users involved and the complaining party, if any, and examination of material on @Home's servers and network. During an investigation, @Home may suspend the account or accounts involved and/or remove material which potentially violates this Policy. You hereby authorize Excite@Home and its distribution affiliates to cooperate with (i) law enforcement authorities in the investigation of suspected criminal violations, and (ii) and system administrators at other Internet service providers or other network or computing facilities in order to enforce this Policy. Such cooperation may include @Home providing the username, IP address, or other identifying information about a subscriber. Upon termination of an account, @Home is authorized to delete any files, programs, data and email messages associated with such account.

The failure of Excite@Home or its distribution affiliates to enforce this Policy, for whatever reason, shall not be construed as a waiver of any right to do so at any time. You agree that, if any portion of this Policy is held invalid or unenforceable, that portion will be construed consistent with applicable law as nearly as possible, and the remaining portions will remain in full force and effect. This Policy shall be exclusively governed by, and construed in accordance with, the laws of the State of California.

Copyright © 1995-1999 At Home Corporation. All Rights Reserved. Excite@Home, @Home, @Work and the @ ball logo are the trademarks of At Home Corporation, and may be registered in certain jurisdictions.

@Work Customers have a separate Acceptable Use Policy located [here](#).

@Work Customers have additional terms and conditions.

How do I learn more about @School?

@School is currently in development. We will be making a single @School outlet available to all schools passed by cable launch markets. The specifics of the service are in development. Keep checking the @Home website at <http://www.home.net/comcast@home/>.

What is Dial-Up Service and how do I use it ?

Dial-up Access is an add-on service to allow customers with cable modem service to dial-in to @Home and access their email, newsgroups, web pages, and other services when they are away from home.

- Initial setup fee is \$14.95 (to cover administration and service initiation costs.)
- Toll-free access for establishing dial-up connection
- User is charged per time based usage--\$.15 per minute (\$9.00 per hour)
- For access from North America only (US and Canada)
- Credit card is the only way of payment
- Customers will receive separate billing statement from @Home.
- For primary account only
- Concurrent dial-up using the same login is not permitted

System Requirements

- An installed and configured telephone modem
- A telephone line to connect to the modem
- Dial-up software
- Macintosh system 7.1 or later
- Windows 95, 98 or NT 4.0 (3.11 not supported)
- Internet software (browser, email client)
- 16 MB RAM

Subscriber Requirements

- Customers must already have cable modem service
- Only the primary account can be provisioned for Dial-up Access service

- The account is not in collections for Dial-up Access charges
- The MSO has not suspended the account
- Credit card authorization succeeds

Subscriber Experience

- Sign up for Dial-up Access via Member Services

(customer will receive confirmation via email)

- Configure their dial-up software and set up @Home connection:

- Toll-free phone number for dial-up: **1-877-395-4663 (1-877-DYL-HOME)**

- Network access login is sub's full login name: `username@home.com`

- Configure browser and email client for @Home dial-up connection

- **Proxy URL:** `http://proxy.snv11.sfba.home.com:8080/`

- **Home Page URL:** `http://www/` (Customers will be prompted to select either the dial-up connection interface or the broadband @Home Experience interface)

- **Mail server URL:** `mail.users.local.domain` (e.g. `mail.frmt1.sfba.home.com`)

- **News server URL:** `news.users.local.domain`

- IP address and primary/secondary DNS information will be assigned by the server and passed on to the system. It is also available via Member Services.

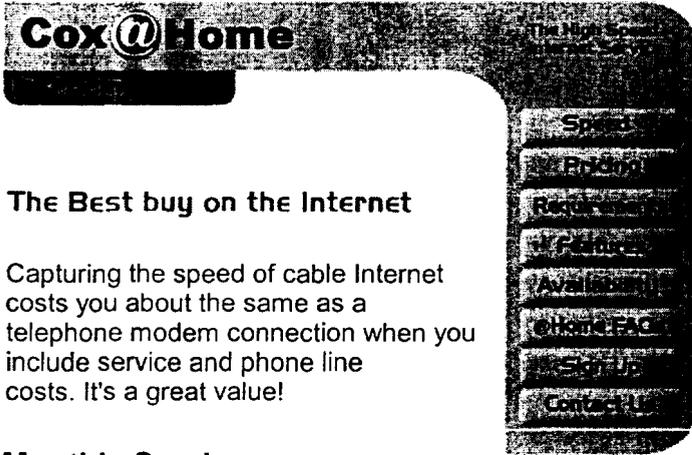
How do I learn more about @Work?

Please refer to the @Home website at <http://www.home.net/comcast@home/>.

Subscriber Agreement

Please refer to the @Home website at <http://www.comcastonline.com/subscriber-agreement.asp>.

EXHIBIT 11



The Best buy on the Internet

Capturing the speed of cable Internet costs you about the same as a telephone modem connection when you include service and phone line costs. It's a great value!

Monthly Service

	Cox Cable Customers	Non-Cox Cable Customers
w/Modem Purchase	\$29.95	\$39.95
w/Modem lease	\$44.95	\$54.95

Modem Purchase

Modem Purchase Price
\$299.95

Installation (one time fee)

Installation + NIC card	\$149.95
Installation only (NIC card already installed and working)	\$119.95

Additional Services

Additional Computers	\$6.95 per computer (2 maximum)
Remote Access	\$14.95 start-up fee, 9 cents/minute.

Guarantee

We offer a 30 Day Money-Back Guarantee, no strings attached! If you're not completely satisfied with your @Home service, we'll refund every penny.

Spread the fees

You have the option to spread any or all of your Cox @ Home startup fees over a 3-month period if you wish.

No Contract!

You don't have to sign any long-term contract with our service! We're

confident that
you'll love the
service enough
to keep it.

*Rates subject to change. Prices do not include any applicable fees and taxes. Other restrictions may apply.

Home

COX @ Home.
The High Speed Internet Service.

EXHIBIT 12

enter your zip code
check services covered in your area ▶

[Comcast@Home](#)
[Availability](#)
[Circuit City Sites](#)
[Demo Sites](#)
[Frequently Asked Questions](#)
[Friend Get A Friend](#)
[Testimonials](#)

[56K Dial Up Internet Service](#)

comcast **Comcast@Home**

Comcast@Home Subscriber Agreement

Version 3

The cable television operating subsidiary of Comcast Cable Communications, Inc. serving your municipality ("Comcast") will provide the @Home Network services (the "Service") to customer ("Customer") on the terms and conditions set forth below. The Service is offered to Customer through the efforts of Comcast and the At Home Corporation ("@Home Network").

1. *Equipment*

- a. **Comcast Equipment.** Customer may either rent or purchase a cable modem from Comcast directly. In some locations, customers may have the option of purchasing a DOCSIS-compliant standard modem either from Comcast or from a third party provider. Any cable modem or Ethernet card rented from Comcast, as well as any wiring installed by Comcast (including passive and active devices) up to the point twelve inches from where the wiring enters Customer's premises, shall at all times remain the property of Comcast or its designee ("Comcast Equipment"). Comcast may, at its option, provide Customer with new or reconditioned Comcast Equipment. Customer may not sell, transfer, lease, encumber or assign all or any part of the Comcast Equipment to any third party.
- b. **Maintenance of Comcast Equipment.** Comcast shall during the time of this agreement repair and maintain all Comcast Equipment. Customer agrees that Comcast Equipment shall not be serviced by anyone other than Comcast employees or agents and that Customer shall not relocate, tamper with or modify any Comcast Equipment or the Service installation.
- c. **Access to Customer's Premises.** Customer grants to Company the right, at reasonable times and upon reasonable notice, to enter upon the Premises for

purposes of connecting, disconnecting, inspecting, repairing, replacing in whole or in part, updating and/or removing any Comcast Equipment and the Service. Comcast shall have the option of removing any or all of the Comcast Equipment during or after its relationship with the Customer, but Comcast shall not have the obligation to do so. Customer warrants that (s)he is the owner or a tenant of the Service address and that (s)he is authorized to grant access to the Premises. Subscriber agrees to indemnify and hold Comcast harmless from any claim resulting from a breach of this warranty.

d. **Customer Equipment and Software.**

- i. **Customer Equipment.** Customer understands and agrees that use of the Service requires certain equipment provided by the Customer such as a personal computer and an appropriate operating system ("Customer Equipment"). Customer represents that (s)he owns the Customer Equipment or otherwise has the right to use it in connection with the Service. Customer agrees to connect only Comcast-approved and @Home Network-approved equipment to the Service.
- ii. Customer shall have sole responsibility for protecting all Customer Equipment and software from loss or damage including, but not limited to, power surges, lightning, fire, flood and acts of God.
- iii. The installation, use, inspection, maintenance, repair and removal of the Comcast Equipment may result in service outages or potential damage to Customer Equipment. If Customer does not back-up all existing computer files by copying them to another storage medium prior to such activities, Customer understands and accepts the associated risks of such a decision.
- iv. Except for gross negligence or willful misconduct neither @Home Network nor Comcast shall have any liability whatsoever for any damage, loss or destruction to Customer Equipment, peripherals, software or data. In the event of gross negligence or willful misconduct by Comcast, Comcast shall pay for the repair or replacement of the damaged Customer Equipment up to a maximum of One Thousand Five Hundred (\$1,500.00) Dollars which shall constitute Customer's sole remedy relating to such activity. NEITHER COMCAST NOR

@HOME NETWORK SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY DAMAGE TO OR LOSS OR DESTRUCTION OF ANY SOFTWARE, COMPUTER PERIPHERALS, FILES OR DATA.

- v. If the Customer purchases its own cable modem, the cable modem must meet the DOCSIS compatibility requirements established by CableLabs® and the @Home Network from time to time. Comcast reserves the right to provide service only to the extent that Customer utilizes a cable modem compatible with the Service. Further, Customer acknowledges that the use of the Service may periodically require updates and/or changes to the software resident in the Comcast cable modem or in the Customer-supplied cable modem, as the case may be. Such updates and changes may be performed remotely or on-site by Comcast and/or @Home Network at their sole option. Customer hereby consents to such updates which will be performed as deemed necessary by Comcast and/or @Home Network with or without notice to Customer.

2. *Installation and Use.*

- a. *Installation Process.* If Customer rents Comcast Equipment, Comcast or its agent will supply and install Comcast Equipment and a connection to the Service, or Comcast may at its option permit Customer to self-install such rented Comcast Equipment. If Customer purchases a DOCSIS-compliant modem and associated equipment from Comcast or a third party, Comcast or the third party may provide installation instructions for Customer to self install and connect the equipment. Customer shall follow all self-installation instructions and assumes sole responsibility with respect to self installation. WITHOUT LIMITING THE FOREGOING, IN NO EVENT SHALL COMCAST OR @HOME NETWORK BE LIABLE FOR ANY LOSS OR DAMAGES OF ANY NATURE WHATSOEVER, INCLUDING WITHOUT LIMITATION, PERSONAL INJURY (INCLUDING DEATH) OR DAMAGE TO PROPERTY, ARISING DIRECTLY OR INDIRECTLY OUT OF THE INSTALLATION OR CONNECTION OF SUCH EQUIPMENT BY CUSTOMER.
- b. *File Modification.* If the installation of an Ethernet card is required, it will be necessary to open Customer's computer. As part of the installation process for the

software, system files on Customer's computer may be modified. Neither Comcast nor @Home Network represents, warrants, or covenants that such modifications will not disrupt the normal operations of Customer's computer. For these and other reasons, Comcast and @Home Network recommend that Customer back-up all files prior to installation of the Service. If Customer does not back-up all existing computer files, Customer understands and accepts the associated risks of such a decision such as loss of files, software or data. EXCEPT AS SET FORTH IN SECTION 1(d)(iv), NEITHER COMCAST NOR @HOME NETWORK SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY DAMAGE RESULTING FROM FILE MODIFICATIONS.

- c. *Viruses.* Comcast may run a third party virus check software on Customer's computer prior to installing software on Customer's computer. Comcast does not represent, warrant or covenant that the virus check software will detect or correct any or all viruses. In addition, software or other content downloaded from the Service can contain viruses or other harmful features and it is Customer's sole responsibility to take appropriate precautions to protect Customer's computer, software, files and data from damage as a result of any such virus or other harmful feature. If a virus or other harmful feature is detected and not eradicated to Comcast's satisfaction by Customer then Comcast may immediately terminate the Service. NEITHER COMCAST NOR @HOME NETWORK SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY DAMAGE TO OR LOSS OR DESTRUCTION OF ANY SOFTWARE, FILES OR DATA RESULTING FROM ANY VIRUS OR OTHER HARMFUL FEATURE.
- d. *End User Licenses.* Customer agrees to comply with the terms and conditions of all end user license agreements accompanying any software or plug-ins to such software distributed in connection with the Service. @Home Network's end user license agreement is attached to this Agreement. All end user licenses supplied by Comcast or @Home Network will terminate at such time as the Service is terminated by Customer or Company.

3. *Limited Warranty.* EXCEPT AS OTHERWISE SET FORTH IN THE END USER LICENSE AGREEMENT REFERENCED IN SECTION 2 ABOVE, COMCAST EQUIPMENT AND THE SERVICE ARE PROVIDED BY COMCAST AND @HOME NETWORK "AS IS" WITHOUT WARRANTY OF

ANY KIND. NEITHER COMCAST NOR @HOME NETWORK WARRANTS UNINTERRUPTED OR ERROR FREE USE OR OPERATION OF THE COMCAST EQUIPMENT, CUSTOMER EQUIPMENT OR THE SERVICE. CUSTOMER'S SOLE REMEDY FOR CLAIMS ARISING OUT OF USE OF THE SERVICE OR INABILITY TO USE THE SERVICE SHALL BE LIMITED TO A PRO RATA CREDIT OF MONTHLY SERVICE CHARGES TO BE APPLIED AGAINST FUTURE MONTHLY SERVICES HEREUNDER UPON TIMELY CUSTOMER REQUEST AND COMCAST VERIFICATION. NEITHER COMCAST NOR @HOME NETWORK WARRANTS THAT ANY DATA OR FILES SENT BY OR TO CUSTOMER WILL BE TRANSMITTED IN UNCORRUPTED FORM, AT ANY MINIMUM SPEED OR WITHIN A REASONABLE PERIOD OF TIME. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF NONINFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY ARE HEREBY EXCLUDED.

4. **Payment Terms.**

- a. **Agreement to Pay.** Customer agrees to pay all applicable charges, fees and taxes ("Service Fees"). The timing of the assessment of Service Fees will be determined in the sole discretion of Comcast. If Comcast has agreed to charge Customer's credit card or debit card for the Service Fees (as opposed to billing the Customer for payment in cash, by check or money order), Customer authorizes Comcast to charge Customer's credit card and debit card for all such Service Fees. As applicable, Customer agrees to provide to Comcast updated credit card and debit card information on a timely basis prior to the expiration or termination of the credit card or debit card on file with Comcast or in the event that Customer's credit card limit or debit card balance is or will be insufficient to cover payment. Upon termination of Service and return of all Comcast Equipment undamaged, normal wear and tear excluded, Customer will be credited on a pro rata basis for any monthly Service Fees prepaid and unused.
- b. **Late Payments; Failure to Pay.** If any payment is not timely received, or if Comcast is unable to charge Customer's credit card or debit card due to invalid credit card or debit card information or due to insufficient funds, an administrative charge may be assessed and the Service may be disconnected. If the Service is disconnected, Customer may be required to

pay a reconnect fee in addition to all past due charges before the Service is reconnected. The administrative charge is intended to be a reasonable advance estimate of the costs resulting from Customer's late payments and non-payments because it would be difficult to determine the costs associated with any particular late payment or non-payment. Payments are expected in full when due. Neither @Home Network nor Comcast extends credit to Customers, and the administrative charge is not intended as interest, a credit service charge or a finance charge. No acceptance of partial payment shall constitute a waiver of Comcast's right to collect the full balance owing.

- c. **Additional Charges.** The Service will allow Customer to access the Internet, online services and other commercial sites. Customer acknowledges that (s)he may incur charges for goods or services purchased online in addition to those billed by Comcast and/or the @Home Network and agrees that all such charges, including all applicable taxes are Customer's sole responsibility.
 - d. **Credit Inquiries.** Customer authorizes Comcast to make inquiries and to receive information about Customer's credit experience from others, to enter this information in Customer's file, and disclose such information concerning Customer to appropriate third parties for reasonable business purposes.
 - e. **Billing Errors.** Unless otherwise provided by applicable law, Customer must notify Comcast of any billing errors or other requests for credit within ninety (90) days of receipt of the disputed bill.
5. **Collection, Use and Disclosure of Information on Subscriber Use.**
- a. **Collection of Information.** Comcast collects, uses and releases information on Customer use of the Service as necessary to render the Service, to otherwise undertake legitimate business activities related to the Service and to comply with law. Comcast may collect information in accordance with applicable law concerning Customer's use of the Service and customer preferences which are reflected in the choices that a customer makes among the range of services offered as part of the Service, the time that the customer actually uses the Service, the menus and features used most often by the Customer, and other information about a customer's "electronic browsing."

- b. ***Use of Information.*** Collecting information contained in transmissions made by Customer through the Service directed at Comcast, @Home Network, Internet web sites, or other service providers to which access is provided as part of the Service, is necessary to provide the Service. Comcast's detailed business records generally are used to help make sure Customers are properly billed; to send Customers pertinent information about the Service; and for accounting purposes. Customer information is also used to execute requests and orders placed by Customers with advertisers, merchants, and service providers; to understand customers' reactions to various features of the Service or the Internet; and to personalize the Service based on the interests of customers. Such information helps Comcast improve the Service and uncover unauthorized access to the Service or Customer data and may be provided to law enforcement agencies in the event of such unauthorized access.
- c. ***Confidentiality of Information.*** Comcast considers the personally identifiable Customer information that is collected to be confidential. Comcast will disclose to third parties personal information that Comcast maintains related to Customers only when it is necessary to deliver the Service to customers or carry out related business activities, in the ordinary course of business, for ordinary business purposes, and at a frequency dictated by Comcast's particular business need, or pursuant to a court order or order of any regulatory body having jurisdiction over matters which are the subject of this Agreement. Comcast may also disclose personal information to prevent criminal activity (including bomb threats), violation of the @Home Network Acceptable Use Policy, or in the event of fraud. The types of persons to whom information about Customers may be disclosed in the course of Comcast's business include: @Home Network; Comcast employees and the employees of Comcast's related legal entities; agents, billing and collection services; market research firms; and merchants or advertisers offering services to Customers through the Service; or as otherwise required under applicable law.
- d. ***Mailing Lists.*** Unless Customer instructs Comcast and @Home Network otherwise, Comcast and @Home Network may from time to time disclose Customer's name and address for mailing lists and other purposes permitted by law. If Customer wishes to remove

Customer's name from such a list or to limit the use of Customer's name, Customer must contact Comcast as described in Section 11(a).

6. *Prohibited Uses of the Service.*

- a. Customer shall not use the Comcast Equipment or the Service, directly or indirectly, for any unlawful purpose. Use of the Comcast Equipment or Service for transmission or storage of any information, data or material in violation of any U.S. federal, state or local regulation or law is prohibited. This includes, but is not limited to, posting or disseminating content which is obscene, unlawful, defamatory, or which infringes the intellectual property of any person.
- b. In addition, Customer agrees not to:
 - i. post, transmit or disseminate objectionable information, including, without limitation, any transmissions constituting or encouraging conduct that would constitute a criminal offense, give rise to civil liability, or otherwise violate any local, federal or international law, order or regulation;
 - ii. access any other person's computer, software, or data of any other person, without the knowledge and consent of such person;
 - iii. upload, post, publish, transmit, reproduce, create derivative works from, or distribute in any way, information, software or other material through the Service which is protected by copyright or other proprietary right, without obtaining permission of the owner;
 - iv. copy, distribute or sublicense any software provided by Comcast or @Home Network, except that Customer may make one copy of each software program for back-up purposes only;
 - v. service, alter, modify or tamper with the Comcast Equipment or Service or permit any other person to do the same that is not authorized by Comcast or @Home Network.
 - vi. restrict, inhibit or otherwise interfere with the ability of any other person to use or enjoy Comcast equipment or services, including, without limitation, posting or transmitting any information or software which contains a virus or

- other harmful feature, or generating levels of traffic sufficient to impede others' ability to send or retrieve information;
- vii. knowingly disrupt the Service;
 - viii. RESELL THE SERVICE OR OTHERWISE CHARGE OTHERS TO USE THE SERVICE, IN WHOLE OR IN PART, DIRECTLY OR INDIRECTLY, OR ON A BUNDLED OR UNBUNDLED BASIS. THE SERVICE IS TO BE USED SOLELY IN A PRIVATE RESIDENCE; LIVING QUARTERS IN A HOTEL, HOSPITAL, DORM, SORORITY OR FRATERNITY HOUSE, OR BOARDING HOUSE; OR THE RESIDENTIAL PORTION OF A PREMISES WHICH IS USED FOR BOTH BUSINESS AND RESIDENTIAL PURPOSES. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, THE SERVICE IS FOR PERSONAL AND NON-COMMERCIAL USE ONLY AND CUSTOMER AGREES NOT TO USE THE SERVICE FOR OPERATION AS AN INTERNET SERVICE PROVIDER, A SERVER SITE FOR FTP, TELNET, RLOGIN, E-MAIL HOSTING, "WEB HOSTING" OR OTHER SIMILAR APPLICATIONS, FOR ANY BUSINESS ENTERPRISE, OR AS AN END-POINT ON A NON-COMCAST LOCAL AREA NETWORK OR WIDE AREA NETWORK, OR IN CONJUNCTION WITH A VPN (VIRTUAL PRIVATE NETWORK) OR A VPN TUNNELING PROTOCOL; or
 - ix. connect the Comcast Equipment to any computer outside of the Customer's premises.
- c. Comcast reserves the right to immediately terminate this Agreement and the Service if Customer engages in any of the activities listed above or if Customer uses the Comcast Equipment or Services in a way which is contrary to any other Comcast or @Home Network policy. Copies of such policies are available as described in Section 6(d) and at such other websites as may be specified by Comcast or @Home Network from time to time. This Section 6 shall not in any way limit Comcast's rights of termination pursuant to Section 7(a) of this Agreement. Customer agrees to indemnify and hold harmless Comcast and @Home Network against all claims and expenses (including reasonable attorney fees) resulting from Customer engaging in any of the activities listed above. This

provision will survive termination of this Agreement.

- d. The @Home Network Acceptable Use Policy (the "Acceptable Use Policy"), found on the @Home Network website at <http://www.home.net/aup> (or at the applicable successor URL), and which is incorporated herein by reference, applies to the Service and may, in fact, limit the use of the Service. Customer expressly understands and agrees that the Acceptable Use Policy may be updated from time to time by Comcast and/or the @Home Network, with or without notice to the Customer, and any such revised version of the revised Acceptable Use Policy shall be posted to the foregoing websites. The Customer should consult the Acceptable Use Policy regularly to ensure that Customer's activities conform to the most recent version of that policy. Comcast may terminate the Customer's Service immediately for violation of such policies.

7. **Termination.** This Agreement and Service provided hereunder may be terminated:

- a. by Comcast:
 - i. at any time without prior notice if the Customer fails to comply in full with any term of this Agreement; or
 - ii. for any other reason upon thirty (30) days notice to Customer.
- b. by Customer at any time upon notice to Comcast.
- c. **Customer Obligations Upon Termination.** Customer agrees that upon termination of this Agreement:
 - i. Customer will return all Comcast Equipment to Comcast.
 - ii. Customer will return or destroy all copies of any software provided to Customer pursuant to this Agreement.
 - iii. Customer shall pay to Comcast the full manufacturer's suggested retail price for the replacement of any Comcast Equipment or any software which is not returned, is only partially returned, or is returned damaged (ordinary wear and tear excluded) at the end of this Agreement, together with any incidental costs incurred by Comcast relating to its replacement. Customer authorizes Comcast to charge Customer's Visa, Master Card, or other credit card on file with

Comcast (if applicable) for any such charges and to otherwise collect such amounts from Customer.

- iv. Customer shall pay Comcast in full for Customer's use of any Comcast Equipment and Service up to the latter of (I) the end of the monthly billing period in which Service was terminated or (II) the date on which all Comcast Equipment has been disconnected and returned to Comcast. In cases in which Customer elected an annual prepayment arrangement, Customer agrees that Comcast, at Comcast's option, may calculate any refund based upon either the discounted annual prepayment rate or the normal rate for the Service.
 - v. If Customer does not return all Comcast Equipment to Comcast and/or Customer's account has a balance due, Comcast may refer Customer's account to a collection agency which will pursue collection of such equipment and/or balance due. Fees incurred by Comcast as a result of Comcast's and its agent's efforts to collect past due amounts from Customer may be assessed by Comcast upon Customer, in addition to any other fees due under this Agreement.
- d. **Retention of Rights.** Nothing contained in this Agreement shall be construed to limit Comcast's or @Home Network's rights and remedies available at law or in equity. Comcast reserves the right to delete all data, files, electronic messages, or other information that is stored on Comcast's or @Home Network's servers or systems when Customer's account with Comcast is terminated for any reason.
- e. **Multiple Users.** Customer acknowledges that Customer is executing this Agreement on behalf of all persons who use the Comcast Equipment and/or Service through Customer's computer. Customer shall have the sole responsibility for ensuring that all such other users understand and comply with the terms and conditions of this Agreement. Customer further acknowledges and agrees that Customer is solely responsible and liable for any and all breaches of the terms and conditions of this Agreement, whether such breach is the result of use of the Service and/or Comcast Equipment by Customer or by any other user of Customer's computer. Customer agrees to indemnify and hold harmless Comcast and @Home

Network against all claims and expenses (including reasonable attorney fees) arising out of use of the Service and/or Equipment by Customer or any other user of Customer's computer.

8. **Content.**

a. **Responsibility for Content.** Customer should be aware that there may be some content on the Internet or otherwise available through the Service which may be offensive to some individuals, or which may not be in compliance with laws. Neither Comcast nor @Home Network assumes any responsibility for the content contained on the Internet or made available by others. Neither Comcast nor @Home Network shall have any liability whatsoever for any claims, losses, actions, damages, suits or proceedings arising out of or otherwise relating to access to such content by Customer. Questions or complaints concerning content should be addressed to the content provider.

b. **Posting of Content.** Neither Comcast nor @Home Network assumes any obligation to monitor transmissions made on the Service. However, Customer acknowledges and agrees that Comcast and @Home Network shall have the right to monitor such transmissions from time to time and to disclose the same necessary to satisfy any law, regulation or governmental request and to operate the Service properly. Comcast and @Home Network reserve the right to refuse to post or to remove any information or materials, in whole or in part, that in their sole discretion, are unacceptable, undesirable or in violation of this Agreement.

9. **Service Characteristics.**

a. **Eavesdropping.** The risk of "eavesdropping" exists on the Internet as well as other services to which access is provided as part of the Service. This means that other persons may be able to access and/or monitor Customer's computer, transmissions and receptions. Because of this risk, any sensitive or confidential information sent by Customer is sent at Customer's sole risk, and neither Comcast nor @Home Network shall have any liability whatsoever for any claims, losses, actions, damages, suits or proceedings arising out of or otherwise relating to such actions by Customer.

b. **FTP/HTTP.** Customer should be aware that when using the Service to access the Internet or any other online network or service, there are certain transfer protocols, such as FTP (File Transfer Protocol) and

HTTP (Hyper Text Transfer Protocol), which may allow other Service users and Internet users to gain access to Customer's computer. If Customer chooses to run such transfer protocols, Customer should take appropriate security measures. Neither Comcast nor @Home Network shall have any liability whatsoever for any claims, losses, actions, damages, suits or proceedings resulting from, arising out of or otherwise relating to the use of such transfer protocols by Customer, including without limitation, damages resulting from others accessing Customer's computer.

- c. **File and Print Sharing.** The Service functions as a Local Area Network (LAN) in that each Customer is a node on the network. As such, users outside the Customer's home may be able to access the Customer's computer. Additionally, some software may permit other users across a network such as the Service and the Internet to gain access to Customer's computer and to the software, files and data stored on the computer. For example, operating systems such as Windows 95 and Apple Macintosh include file sharing and print sharing capabilities which, when enabled, will permit other users to gain access to the Customer's computer even if the Customer is not using the Service. Comcast therefore recommends that the Customer connect only a single computer to the Service and that the Customer disable file and print sharing and other capabilities that allow users to gain access to the Customer's computer. Any Customer who chooses to participate in the Service using other than a single computer or who chooses to enable capabilities such as file sharing, print sharing, or other capabilities that allow users to gain access to the Customer's computer, acknowledges and agrees that the Customer does so at the Customer's own risk, and that neither Comcast nor @Home Network shall have any liability whatsoever for any claims, losses, actions, damages, suits or proceedings arising out of or otherwise relating to such use by the Customer.
- d. **High Risk Activities.** The Service is not fail-safe and is not designed or intended for use in situations requiring fail-safe performance or in which an error or interruption in the Service could lead to severe injury to business, persons, property or environment ("High Risk Activities"). Such High Risk Activities may include, without limitation, vital business or personal communications, or activities where absolutely accurate data or information is required. Subscriber expressly assumes the risks of any damages resulting from High Risk Activities.

- e. **Facilities Allocation.** Comcast reserves the right to determine, in its discretion, and on an ongoing basis, the nature and extent of its facilities allocated to support the Service, including, but not limited to, the amount of bandwidth to be utilized in conjunction with the Service.

10. **Limitation of Liability.**

- a. Unless otherwise prohibited by law, neither Comcast nor @Home Network will have any liability to Customer or to any third party for:
 - i. any direct, indirect, incidental, special, punitive or consequential losses or damages, including loss of profits, loss of earnings, loss of business opportunities and personal injuries (including death), resulting directly or indirectly out of or otherwise arising in connection with, installation, modification or removal of Comcast Equipment, the Customer Equipment, the use of the Service by Customer or any other user of the Comcast Equipment or other Service-related equipment, including, without limitation, any damage resulting from or arising out of Customer's reliance on or use of the Comcast Equipment, the Customer Equipment (and any installation instructions) or Service, or the mistakes, omissions, interruptions, deletion of files, errors, defects, delays in operation, transmission, or any failure of performance of the Comcast Equipment or Service; and
 - ii. any losses, claims, damages, expenses, liabilities or costs (including legal fees) resulting directly or indirectly out of, or otherwise arising in connection with any allegation, claim, suit or other proceeding based upon a contention that the installation or use of the Comcast Equipment, Customer Equipment or Service by Customer or a third party infringes the copyright, patent, trademark, trade secret, confidentiality, privacy, or other intellectual property rights or contractual rights of any third party, or based upon a contention that opening Customer Equipment in order to install any Ethernet card required to use the Service invalidates any warranty governing the Customer Equipment.
- b. The limitations set forth in this Section 10 apply to the acts, omissions, and negligence of Comcast and @Home Network (and their respective officers, employees, agents, contractors or representatives)

which, but for this provision, would give rise to a cause of action in contract, tort or any other legal doctrine.

- c. Customer's sole and exclusive remedies under this Agreement are as expressly set out in this Agreement. Some states do not allow the limitations or exclusion of incidental or consequential damages, so such limitations or exclusions may not apply.

11. *Miscellaneous*

- a. **Contact Address.** For any inquiries or notices required in connection with this Agreement, the Customer may contact Comcast via e-mail at comments@comcastpc.com, or in writing to Comcast@Home, 1500 Market Street, Philadelphia, PA 19102-2148.
- b. **Entire Agreement/Amendment.** This Agreement, the Customer Work Order and attached software end user license agreement constitute the entire Agreement between Customer and Comcast. No undertaking, representation or warranty made by an agent or employee of Comcast or @Home Network in connection with the installation, maintenance or provision of the Service which is inconsistent with the terms of this Agreement shall be binding on Comcast. This Agreement may be amended by Comcast on thirty (30) days' prior notice to Customer, and such amendment may be posted to the Comcast link at <http://www.comcastonline.com> (or the applicable successor URL) or otherwise provided to Customer in hard- or softcopy, as determined by Comcast in its sole discretion. Customer's election to continue receiving the Service thereafter shall be deemed to constitute Customer's acceptance of such amendment. Notwithstanding anything to the contrary in this Section, the terms and conditions of the Acceptable Use Policy, as the same may be revised from time to time by Comcast and/or @Home Network, apply to the Service and may, in fact, limit the use of the Service.
- c. **No Relationship.** Nothing in this Agreement will create any joint venture, joint employer, franchisee-franchisor, employer-employee or principal-agent relationship between Comcast and @Home Network, nor impose upon either company any obligations for any losses, debts or other obligations incurred by the other except as expressly set forth herein.
- d. **Assignment.** Comcast may freely assign its rights and