

## 9. General conditions governing Physical Hosting services

### 9.1 Purpose and scope

The purpose of these general conditions is to define the context in which Cyber Network SA provides a hosting service for a physical server. These general conditions apply to the services provided by Cyber Network SA.

- The Cyber Network SA hosting platform is available in secure mode via the public network, through technical equipment connected to the hosted server. The server hosted by Cyber Network SA will benefit from a fixed IP address throughout the term of the contract. All IP addresses assigned to the services remain the property of Cyber Network SA. Cyber Network SA will make every effort to assign, with no guarantees, the same IP addresses for the entire duration of the hosting contract. In the event of a change of IP address, domain name or any other technical parameter, Cyber Network SA will inform the Client as quickly as possible. Under no circumstances shall Cyber Network SA be held responsible for any works associated with these changes.
- Since Cyber Network SA cannot administer the machines, the Client retains sole responsibility for the security of its servers. For this reason, it is the responsibility of the Client to install protection software, to check regularly for any security failures and to deal with any known defects. Each Client is required to equip and manage its servers in such a manner that they do not compromise the security, integrity and availability of the Cyber Network SA platform.

### 9.2 Client liability

a) The Client undertakes to use the infrastructure provided strictly in accordance with Swiss law and applicable international conventions. In particular, the Client undertakes to refrain from any dissemination via the internet of data (applications, texts, images, sound or video) covered by the criminal code, notably those of a pornographic, violent or defamatory nature.

The Client expressly acknowledges that Cyber Network SA is not involved in any way in the design, development and implementation of the Client services and in the installation of any application.

The Client undertakes to refrain from storing content that violates the law or the rules of decent behaviour or to return any content that is illegal or infringes the rights of third parties (e.g. infringement of privacy, patents, brands and intellectual property).

The Client shall compensate Cyber Network SA in full for any claim made by third parties against Cyber Network SA in relation to the use of the server, for which the Client is solely responsible, including all costs incurred for its defence and the payment of any claims brought by third parties. The Client assures that it has sufficient insurance to cover all risks for which it is liable under this contract. In the event of abuse, Cyber Network SA reserves the right to interrupt the service without giving the Client prior notification. The Client may not claim any damages for such a reason.

b) The Client is required to equip its systems and software in such a manner that they do not compromise the security, integrity and availability of the platform of Cyber Network SA in providing its services. The Client undertakes not to use the hosted server covered by this contract to send e-mails on a massive scale or for advertising purposes (SPAM).

The Client authorises Cyber Network SA to check compliance with the above-mentioned conditions at any time and at the first request. In the event of a violation of the legal provisions, the rules for use defined in this contract and infringement of the rights of third parties, Cyber Network SA expressly reserves the right to suspend the service immediately without prior notification of the Client. The attention of the Client is drawn to the fact that in the case of repeated DoS (Denial of Service) attacks on its server, Cyber Network SA may terminate the contract without notification.

c) The Client has sole responsibility for backing up the data on its server. Under no circumstances shall Cyber Network SA be held responsible for the loss of data.

### **9.3 Supplier rights and responsibilities**

The quality of access to the servers is that provided by the internet, known as 'best effort'; for this reason, Cyber Network SA can give no commitment concerning the availability of national and international bandwidth. Cyber Network SA reserves the option to reinitialise or interrupt the service for technical reasons if necessary.

Similarly, Cyber Network SA shall not be held responsible for connection interruptions and the loss or alteration of data resulting from malfunctions in telephone lines, wireless or cable connections, or power cuts.

Within the legal limits, Cyber Network SA denies all responsibility for direct or indirect damage, such as loss of earnings, business interruption, loss of commercial data, or resulting from the use of its services or the use of persons engaged to perform contractual services.

a) Cyber Network SA is authorised immediately to block access to the hosted servers and services for the following reasons (list not exhaustive, and for as long as the causes persist):

- If Cyber Network SA is summoned by a court, an authority or another service authorised to take such a measure;
- If Cyber Network SA has knowledge of illegal content;
- If the Client uses the server to send SPAM;
- If the Client violates the obligations mentioned in this contract and does not remedy the violation despite a warning from Cyber Network SA within the stated deadline or if it reoffends.

b) The relationship between the supplier and the contracting company is governed exclusively by Swiss law. Any dispute that may arise between the two parties concerning the interpretation or performance of the service contract shall be settled by the competent courts of Geneva or by the civil court of the canton of Geneva, to which the supplier and the subscriber expressly give jurisdiction.

#### **9.4 Term of the contract and billing**

The 'Physical Hosting' contract is concluded by signature of the offer, for a minimum term of three years; it is tacitly renewable from year to year unless terminated in writing by registered letter giving notice of three months before the anniversary of its entry into service.

*Entry into force on 1 April 2011*