

Cherimoya Solutions Terms of Service

Below you will find the terms of service specific to Cherimoya Solutions. If you have any questions or concerns by emailing us an enquiry to info@cherimoyasolutions.com. By subscribing to our services at Cherimoya Solutions Ltd you agree to the terms and conditions as stated below.

General

This Terms of Use Agreement ("Agreement") sets forth the legally binding terms for your use of the CHERIMOYA SOLUTIONS Services. By using the CHERIMOYA SOLUTIONS Services, you agree to be bound by this Agreement, whether you are a "Visitor" (which means that you simply browse the CHERIMOYA SOLUTIONS Website, including through a mobile device) or you are a "Member" (which means that you have created an account or are otherwise registered with CHERIMOYA SOLUTIONS). The term "User" refers to a Visitor or a Member. You are only authorized to use the CHERIMOYA SOLUTIONS Services (regardless of whether your access or use is intended) if you agree to abide by all applicable laws and the terms of this Agreement. Please read this Agreement carefully. If you do not agree to be bound by it or with any of the legal provisions applicable to it and to follow all applicable laws, you should leave the CHERIMOYA SOLUTIONS Website and discontinue use of the CHERIMOYA SOLUTIONS Services immediately. If you wish to become a Member, communicate with other Members, and/or make use of the CHERIMOYA SOLUTIONS Services, you must read this Agreement and indicate your acceptance during the registration process.

This Agreement includes CHERIMOYA SOLUTIONS's policy for acceptable use of the CHERIMOYA SOLUTIONS Services and Content (as defined in Section 6a) below) posted on or through the CHERIMOYA SOLUTIONS Services as well as your rights, obligations, and restrictions regarding your use of the CHERIMOYA SOLUTIONS Services and Content posted on or through the CHERIMOYA SOLUTIONS Services. In order to participate in certain CHERIMOYA SOLUTIONS Services, you may be notified that you are required to download software or content and/or agree to additional terms and conditions from CHERIMOYA SOLUTIONS. Unless otherwise provided by the additional terms and conditions applicable to the CHERIMOYA SOLUTIONS Services in which you choose to participate, those additional terms are hereby incorporated into this Agreement.

CHERIMOYA SOLUTIONS may modify this Agreement from time to time, and such modification shall be effective upon posting by CHERIMOYA SOLUTIONS on the CHERIMOYA SOLUTIONS Website. Your continued use of the CHERIMOYA SOLUTIONS Services after CHERIMOYA SOLUTIONS posts a revised Agreement signifies your acceptance of the revised Agreement. It is therefore important that you review this Agreement regularly to ensure that you are updated as to any changes.

i) Membership

Cherimoya Solutions, Ltd. ("CHERIMOYA SOLUTIONS " or "we"), operates this site and provides the services that allow individual users to create customized online personal profiles. The services offered by CHERIMOYA SOLUTIONS include access to any CHERIMOYA SOLUTIONS-branded URL (the "CHERIMOYA SOLUTIONS Website") and other features (e.g., music and video embedded players) made available by CHERIMOYA SOLUTIONS from time to time, the opportunity for users to create and upload their own content on the CHERIMOYA SOLUTIONS Website, and any other features, content, or applications offered from time to time by CHERIMOYA SOLUTIONS in connection with this site (collectively, the "CHERIMOYA SOLUTIONS Services"). The CHERIMOYA SOLUTIONS Services are hosted in Nairobi.

Please choose carefully the information that you post on or through the CHERIMOYA SOLUTIONS Services and that you provide to other Users. Your CHERIMOYA SOLUTIONS profile may not include any form of Prohibited Content, as outlined in Section 8 below. Despite this prohibition, information, materials, products, or services provided by other CHERIMOYA SOLUTIONS Members (for instance, in their profiles) may, in whole or in part, be unauthorized, impermissible, or otherwise violate this Agreement, and CHERIMOYA SOLUTIONS assumes no responsibility or liability for this material. If you become aware of misuse of the CHERIMOYA SOLUTIONS Services by any person, please click on the "Contact CHERIMOYA SOLUTIONS" or the "Report Abuse" link at the bottom of the CHERIMOYA SOLUTIONS Website pages.

1. General

CHERIMOYA SOLUTIONS has the right, but not the obligation, to monitor any activity and content associated with its services including all affiliated websites. CHERIMOYA SOLUTIONS may investigate any apparent or reported violations of its policies and take any action that it, in its sole and absolute discretion, deems appropriate, including but not limited to issuing warnings; rejection of, refusal to post, or removal of any materials on the site; and/or denial, restriction, suspension, or termination of your access to any or all part(s) of the CHERIMOYA SOLUTIONS Services at any time. CHERIMOYA SOLUTIONS expressly reserves the right to remove, screen, or edit any content that CHERIMOYA SOLUTIONS deems, in its sole and absolute discretion, to violate this Agreement or any applicable law or to be otherwise objectionable. If we receive complaints that upon investigation show that you have repeatedly violated third-party copyright, CHERIMOYA SOLUTIONS may permanently suspend your registration for and use of the CHERIMOYA SOLUTIONS Services. CHERIMOYA SOLUTIONS may take any or all of the actions above at any time, with or without prior notice or explanation, and without liability.

2. Eligibility

Use of the CHERIMOYA SOLUTIONS Services and registration to be a Member for the CHERIMOYA SOLUTIONS Services ("Membership") is void where prohibited. By using the CHERIMOYA SOLUTIONS Services, you represent and warrant that

(a) all registration information that you submit is truthful and accurate;

(b) you will maintain the accuracy of such information;

(c) you are 18 years of age or older; and

(d) your use of the CHERIMOYA SOLUTIONS Services does not violate any applicable law or regulation.

Your profile may be deleted and your Membership may be terminated without warning if we believe that you are under 18 years of age, if we believe that you are under 18 years of age and you represent yourself as 18 or older.

3. Term

This Agreement and any posted revision to this Agreement shall remain in full force and effect while you use the CHERIMOYA SOLUTIONS Services or are a Member. You may terminate your Membership at any time, for any reason, by e-mailing info@cherimoyasolutions.com. CHERIMOYA SOLUTIONS may terminate your Membership at any time for any or no reason, with or without prior notice or explanation, and without liability. Even after Membership is terminated, this Agreement will remain in effect.

4. Password

When you sign up to become a Member, you will also be asked to choose a password. You are entirely responsible for maintaining the confidentiality of your password. You agree not to use the account, username, or password of another Member at any time or to disclose your password to any third party. You agree to notify CHERIMOYA SOLUTIONS immediately if you suspect any unauthorized use of your account or access to your password. You are solely responsible for any and all use of your account.

5. Use by Members

The CHERIMOYA SOLUTIONS Services are for the personal use of Members only. The Services may only be used for commercial endeavors if such endeavors are specifically endorsed or authorized by CHERIMOYA SOLUTIONS. CHERIMOYA SOLUTIONS reserves the right to remove commercial content in its sole discretion. Illegal and/or unauthorized use of the CHERIMOYA SOLUTIONS Services, including collecting usernames, user ID numbers, and/or e-mail addresses of Members by electronic or other means for the purpose of sending unsolicited e-mail or unauthorized framing of or linking to the CHERIMOYA SOLUTIONS Website, or employing third-party promotional sites or software to promote profiles for money, is prohibited. Commercial advertisements, affiliated business links, and other forms of unauthorized solicitation may be removed from Member profiles without notice or explanation and may result in termination of Membership privileges. CHERIMOYA SOLUTIONS reserves the right to take appropriate legal action for any illegal or unauthorized use of the CHERIMOYA SOLUTIONS Services.

6. Proprietary Rights in Content on the CHERIMOYA SOLUTIONS Website

a) CHERIMOYA SOLUTIONS does not claim any ownership rights in the text, files, images, photos, video, sounds, musical works, works of authorship, software scripts and applications, or any other materials (collectively, "Content") that you post on or through the CHERIMOYA SOLUTIONS Services. After posting

your Content to the CHERIMOYA SOLUTIONS Services, you continue to retain any such rights that you may have in your Content, subject to the limited license herein. By displaying or publishing ("posting") any Content on or through the CHERIMOYA SOLUTIONS Services, you hereby grant to CHERIMOYA SOLUTIONS a limited license to use, modify, delete from, add to, publicly perform, publicly display, reproduce, and distribute such Content in furtherance of CHERIMOYA SOLUTIONS's mission and CHERIMOYA SOLUTIONS's sole and absolute discretion, including without limitation distributing part or all of the CHERIMOYA SOLUTIONS Website in any media formats and through any media channels.

b) The license that you grant to CHERIMOYA SOLUTIONS is non-exclusive (meaning that you are free to license your Content to anyone else in addition to CHERIMOYA SOLUTIONS); fully paid and royalty-free (meaning that CHERIMOYA SOLUTIONS is not required to pay you for the use on the CHERIMOYA SOLUTIONS Services of the Content that you post); sublicensable; and worldwide (because the Internet and the CHERIMOYA SOLUTIONS Services are global in reach).

c) By uploading or otherwise posting any Content to the CHERIMOYA SOLUTIONS Website, you represent, warrant, and covenant that: (i) you own the Content posted by you on or through the CHERIMOYA SOLUTIONS Services or otherwise have the right to grant the license set forth in this Section 6; (ii) the posting of your Content on or through the CHERIMOYA SOLUTIONS Services does not violate any applicable laws, including but not limited to all applicable data protection laws and the privacy rights, publicity rights, intellectual property rights, copyrights, contract rights, or any other rights of any person or entity; and (iii) you have obtained the prior consent of any individuals whose personal information you use, disclose, or transmit on or through the CHERIMOYA SOLUTIONS Services. You agree to pay for all royalties, fees, and any other monies owing to any person or entity by reason of any Content posted by you on or through the CHERIMOYA SOLUTIONS Services.

d) The CHERIMOYA SOLUTIONS Services contain Content of CHERIMOYA SOLUTIONS ("CHERIMOYA SOLUTIONS Content"). CHERIMOYA SOLUTIONS Content is protected by copyright, trademark, trade secret, and other laws, and CHERIMOYA SOLUTIONS owns and retains all rights in the CHERIMOYA SOLUTIONS Content and the CHERIMOYA SOLUTIONS Services. CHERIMOYA SOLUTIONS hereby grants you a limited, revocable, nonsublicensable license to reproduce and display the CHERIMOYA SOLUTIONS Content (excluding any software code) solely for your personal use in connection with viewing the CHERIMOYA SOLUTIONS Website and using the CHERIMOYA SOLUTIONS Services.

e) The CHERIMOYA SOLUTIONS Services contain Content of Users and other CHERIMOYA SOLUTIONS licensors. Except as provided within this Agreement and subject to CHERIMOYA SOLUTIONS's copyright policy (viewable at CHERIMOYA SOLUTIONS), you may not copy, modify, translate, publish, broadcast, transmit, distribute, perform, display, or sell any Content appearing on or through the CHERIMOYA SOLUTIONS Services.

f) CHERIMOYA SOLUTIONS performs technical functions necessary to offer the CHERIMOYA SOLUTIONS Services, including but not limited to transcoding and/or reformatting Content to allow its use throughout the CHERIMOYA SOLUTIONS Services.

7. Content Posted.

a) CHERIMOYA SOLUTIONS may reject, refuse to post, or delete any Content for any or no reason,

including Content that in the sole judgment of CHERIMOYA SOLUTIONS violates this Agreement or which may be offensive or illegal, violate the rights of any person or entity, or harm or threaten the safety of any person or entity. CHERIMOYA SOLUTIONS assumes no responsibility for monitoring the CHERIMOYA SOLUTIONS Services for inappropriate Content or conduct. If at any time CHERIMOYA SOLUTIONS chooses, in its sole discretion, to monitor the CHERIMOYA SOLUTIONS Services, CHERIMOYA SOLUTIONS nonetheless assumes no responsibility for the Content, no obligation to modify or remove any inappropriate Content, and no responsibility for the conduct of the User submitting any such Content.

b) You are solely responsible for the Content that you post on or through any of the CHERIMOYA SOLUTIONS Services, any material or information that you transmit to other Members, and your interactions with other Users.

8. Content/Activity Prohibited

CHERIMOYA SOLUTIONS prohibits the use of the CHERIMOYA SOLUTIONS Services to post or transmit Content that is illegal or depicts illegal activity. The following are examples of the kind of Content that is illegal or prohibited to post on or through the CHERIMOYA SOLUTIONS Services. CHERIMOYA SOLUTIONS reserves the right to investigate and take appropriate action against anyone who, in CHERIMOYA SOLUTIONS's sole and absolute discretion, violates this provision, including, without limitation, removing the offending Content from the CHERIMOYA SOLUTIONS Website, terminating the Membership of such violators, and/or reporting violators to law enforcement authorities. Prohibited Content includes, but is not limited to, Content that in the sole and absolute discretion of CHERIMOYA SOLUTIONS:

- a) is patently offensive and promotes racism, bigotry, hatred, or physical harm of any kind against any group or individual;
- b) is derogatory toward or disparaging of CHERIMOYA SOLUTIONS;
- c) exploits people in a sexual or violent manner;
- d) contains excessive violence or offensive subject matter or contains a link to an adult Website;
- e) solicit persistently personal information from anyone;
- f) publicly posts information that poses or creates a privacy or security risk to any person;
- g) constitutes or promotes information that you know is false or misleading or that promotes illegal activities or conduct that is abusive, threatening, obscene, defamatory, or libelous;
- h) constitutes or promotes an illegal or unauthorized copy of another person's copyrighted work, such as providing pirated computer programs or links to them, providing information to circumvent manufacturer-installed copy-protect devices, or providing pirated music or links to pirated music files;
- i) involves the transmission of "junk mail," "chain letters," unsolicited mass mailing, instant messaging, "spimming," or "spamming";
- j) contains restricted or password-only access pages or hidden pages or images (those not linked to or from another accessible page);
- k) furthers or promotes any criminal activity or enterprise or provides instructional information about illegal activities including but not limited to making or buying illegal weapons, violating someone's

privacy, or providing or creating computer viruses;

l) solicits passwords or personal identifying information for commercial or unlawful purposes from other Users;

m) involves commercial activities and/or sales such as contests, sweepstakes, barter, advertising, or pyramid schemes without prior written consent from CHERIMOYA SOLUTIONS;

n) includes a photograph or a video of another person, in a context in which that person had a reasonable expectation of privacy, that you have posted without that person's consent;

o) violates the privacy rights, publicity rights, copyrights, trademark rights, contract rights, or any other rights of any person; or

p) promotes propaganda and/or symbols of organizations that are unconstitutional or illegal in your country.

q) criminal or tortious activity, including child pornography, corruption of minors, fraud, trafficking in obscene material, drug dealing, illegal gambling, harassment, stalking, spamming, spimming, sending of viruses or other harmful files, infringing others' intellectual property rights (including but not limited to copyright, trademark, and patent infringement), or theft of trade or industrial secrets;

r) advertising to, or solicitation of, any Member to buy or sell any products or services through the unauthorized or impermissible use of the CHERIMOYA SOLUTIONS Services. You may not transmit any chain letters or junk e-mail to other Members. In order to protect our Members from such advertising or solicitation, CHERIMOYA SOLUTIONS reserves the right to restrict the number of e-mails that a Member may send to other Members in any 24-hour period to a number that CHERIMOYA SOLUTIONS deems appropriate in its sole discretion. If you breach this Agreement and send unsolicited bulk e-mail, instant messages, or other unauthorized commercial communications of any kind through the CHERIMOYA SOLUTIONS Services, you acknowledge that you will have caused substantial harm to CHERIMOYA SOLUTIONS but that the amount of such harm would be extremely difficult to ascertain. As a reasonable estimation of such harm, you agree to pay CHERIMOYA SOLUTIONS KSH 2000 for each such unsolicited e-mail or other unauthorized commercial communication that you send through the CHERIMOYA SOLUTIONS Services;

s) circumventing or modifying, attempting to circumvent or modify, or encouraging or assisting any other person in circumventing or modifying any security technology or software that is part of the CHERIMOYA SOLUTIONS Services;

t) activity that involves the use of viruses, bots, worms, or any other computer code, files, or programs that interrupt, destroy, or limit the functionality of any computer software or hardware or otherwise permit the unauthorized use of or access to a computer or a computer network;

u) covering or obscuring CHERIMOYA SOLUTIONS content on your personal profile page or any CHERIMOYA SOLUTIONS page via HTML/CSS or any other means;

v) any automated use of the system, including but not limited to using scripts to post comments or upload Content or interfering with, disrupting, or creating an undue burden on the CHERIMOYA SOLUTIONS Services or the networks or services connected to the CHERIMOYA SOLUTIONS Services;

w) impersonating or attempting to impersonate a CHERIMOYA SOLUTIONS staff member or representative or another Member, person, or entity. Using the account, username, or password of another Member at any time, disclosing your password to any third party, or permitting any third party

to access your account. Using any information obtained from the CHERIMOYA SOLUTIONS Services in order to illegally abuse or harm another person or entity, or attempting to do the same;

x) selling or otherwise transferring your profile;

y) displaying an unauthorized commercial advertisement on your profile, or accepting payment or anything of value from a third person in exchange for your performing any commercial activity through the unauthorized or impermissible use of the CHERIMOYA SOLUTIONS Services on behalf of that person, such as placing commercial content on your profile, posting blogs or bulletins with a commercial purpose, or sending private messages with a commercial purpose; or

z) using the CHERIMOYA SOLUTIONS Services in a manner inconsistent with any and all applicable laws and regulations.

9. Protecting Copyrights and Other Intellectual Property

CHERIMOYA SOLUTIONS respects the intellectual property rights of others, and requires that our Users do the same. You may not upload, embed, post, e-mail, transmit, or otherwise make available any material that infringes any copyright, patent, trademark, trade secret, or other proprietary rights of any person or entity. CHERIMOYA SOLUTIONS has the right to terminate the Membership of infringers.

a) Notice of Claimed Infringement. If you believe that your work has been copied and posted on or through the CHERIMOYA SOLUTIONS Services in a way that constitutes copyright infringement, please send CHERIMOYA SOLUTIONS's a notification of claimed infringement with all the following information:

(a) identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works are covered by a single notification, a representative list of such works;

(b) identification of the claimed infringing material and information reasonably sufficient to permit us to locate the material on the CHERIMOYA SOLUTIONS Services (providing the URL(s) of the claimed infringing material will in most cases satisfy this requirement);

(c) information reasonably sufficient to permit us to contact you, such as an address, telephone number, and, if available, an e-mail address;

(d) a statement by you that you have a good-faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law;

(e) a statement by you, made under penalty of perjury, that the above information in your notification is accurate and that you are the copyright owner or are authorized to act on the copyright owner's behalf; and

(f) your physical or electronic signature.

We may provide your notice (including any contact details displayed in the complaint) to the poster of the work. CHERIMOYA SOLUTIONS accommodates tools and technologies that help facilitate copyright owners' control over their copyrighted works.

9.1 Counter-Notification

If you believe that Content you posted on or through the CHERIMOYA SOLUTIONS Services and that was removed (or to which access was disabled) is not infringing, or that you have authorization from the copyright owner or their agent or pursuant to the law to post such Content, you may send a counter-

notice containing the following information to CHERIMOYA SOLUTIONS's at our website:

(a) identification of the Content that has been removed or to which access has been disabled and the location at which the content appeared before it was removed or disabled (providing the original URL(s) of the material satisfies this requirement);

(b) your full name, address, telephone number, e-mail address, and the username of your CHERIMOYA SOLUTIONS account;

(c) a statement that, under penalty of perjury, you have a good-faith belief that the material was removed or disabled as a result of mistake or a misidentification of the material;

(d) a statement that you consent to the jurisdiction of the Federal District Court for the judicial district in which your address is located (or Federal District Court for the District of Columbia, if your address is outside the U.S.), and a statement that you will accept service of process from the person who provided notification of the alleged infringement or their agent; and

(e) your physical or electronic signature.

If a counter-notice is received by CHERIMOYA SOLUTIONS's we may send a copy of it to the original complaining party informing that person that it may replace the removed Content or cease disabling it in 10 business days. Unless the copyright owner files an action seeking a court order against the User who originally posted the material, the removed Content may be replaced, or access to it restored, in 10 to 14 business days or more after receipt of the counter-notice, at CHERIMOYA SOLUTIONS's sole and absolute discretion.

10. Member Disputes

You are solely responsible for your interactions with other CHERIMOYA SOLUTIONS Members.

CHERIMOYA SOLUTIONS reserves the right, but has no obligation, to become involved in any way with disputes between you and other Members.

11. Privacy

a) Use of the CHERIMOYA SOLUTIONS Services is also governed by our Privacy Policy (viewable at CHERIMOYA SOLUTIONS), which is incorporated into this Agreement by this reference.

b) Any Content posted by Users on or through the CHERIMOYA SOLUTIONS Services will be publically viewable on the CHERIMOYA SOLUTIONS Website as soon as that information is submitted. By posting Content on or through the CHERIMOYA SOLUTIONS Services, you waive any privacy expectations that you may have with respect to the Content posted.

c) Disclaimers. CHERIMOYA SOLUTIONS IS NOT RESPONSIBLE FOR AND MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AS TO THE USER CONTENT OR THE ACCURACY AND RELIABILITY OF THE USER CONTENT POSTED ON OR THROUGH THE CHERIMOYA SOLUTIONS SERVICES, WHETHER CAUSED BY USERS OF THE CHERIMOYA SOLUTIONS SERVICES OR BY ANY OF THE EQUIPMENT OR PROGRAMMING ASSOCIATED WITH OR USED IN THE CHERIMOYA SOLUTIONS SERVICES, AND SUCH USER CONTENT DOES NOT NECESSARILY REFLECT THE OPINIONS OR POLICIES OF CHERIMOYA SOLUTIONS. PROFILES AND THIRD-PARTY APPLICATIONS CREATED AND POSTED BY MEMBERS ON THE CHERIMOYA SOLUTIONS WEBSITE MAY CONTAIN LINKS TO OTHER WEBSITES. CHERIMOYA SOLUTIONS IS NOT

RESPONSIBLE FOR THE CONTENT, ACCURACY, OR OPINIONS EXPRESSED ON SUCH WEBSITES, AND SUCH WEBSITES ARE NOT NECESSARILY INVESTIGATED, MONITORED, OR CHECKED FOR ACCURACY OR COMPLETENESS BY CHERIMOYA SOLUTIONS. INCLUSION OF ANY LINKED WEBSITE ON THE CHERIMOYA SOLUTIONS SERVICES DOES NOT NECESSARILY IMPLY APPROVAL OR ENDORSEMENT OF THE LINKED WEBSITE BY CHERIMOYA SOLUTIONS. WHEN YOU ACCESS THESE THIRD-PARTY SITES, YOU DO SO AT YOUR OWN RISK. CHERIMOYA SOLUTIONS TAKES NO RESPONSIBILITY FOR THIRD-PARTY ADVERTISEMENTS OR THIRD-PARTY APPLICATIONS THAT ARE POSTED ON OR THROUGH THE CHERIMOYA SOLUTIONS SERVICES, NOR DOES IT TAKE ANY RESPONSIBILITY FOR THE GOODS OR SERVICES PROVIDED BY ITS ADVERTISERS. CHERIMOYA SOLUTIONS IS NOT RESPONSIBLE FOR THE CONDUCT, WHETHER ONLINE OR OFFLINE, OF ANY USER OF THE CHERIMOYA SOLUTIONS SERVICES. CHERIMOYA SOLUTIONS ASSUMES NO RESPONSIBILITY FOR ANY ERROR, OMISSION, INTERRUPTION, DELETION, DEFECT, DELAY IN OPERATION OR TRANSMISSION, COMMUNICATIONS LINE FAILURE, THEFT, DESTRUCTION, UNAUTHORIZED ACCESS TO, OR ALTERATION OF ANY USER OR MEMBER COMMUNICATION. CHERIMOYA SOLUTIONS IS NOT RESPONSIBLE FOR ANY PROBLEMS OR TECHNICAL MALFUNCTION OF ANY TELEPHONE NETWORK OR LINES, COMPUTER ONLINE SYSTEMS, SERVERS OR PROVIDERS, COMPUTER EQUIPMENT, OR SOFTWARE OR THE FAILURE OF ANY E-MAIL OR PLAYERS BECAUSE OF TECHNICAL PROBLEMS OR TRAFFIC CONGESTION ON THE INTERNET OR ON ANY OF THE CHERIMOYA SOLUTIONS SERVICES OR COMBINATION THEREOF, INCLUDING ANY INJURY OR DAMAGE TO USERS OR TO ANY PERSON'S COMPUTER RELATED TO OR RESULTING FROM PARTICIPATION OR DOWNLOADING MATERIALS IN CONNECTION WITH THE CHERIMOYA SOLUTIONS SERVICES. UNDER NO CIRCUMSTANCES SHALL CHERIMOYA SOLUTIONS BE RESPONSIBLE FOR ANY LOSS OR DAMAGE, INCLUDING PERSONAL INJURY OR DEATH, RESULTING FROM USE OF THE CHERIMOYA SOLUTIONS SERVICES, FROM ANY USER CONTENT POSTED ON OR THROUGH THE CHERIMOYA SOLUTIONS SERVICES, OR FROM THE CONDUCT OF ANY USERS OF THE CHERIMOYA SOLUTIONS SERVICES, WHETHER ONLINE OR OFFLINE. THE CHERIMOYA SOLUTIONS SERVICES ARE PROVIDED "AS IS" AND AS AVAILABLE, AND CHERIMOYA SOLUTIONS EXPRESSLY DISCLAIMS ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. CHERIMOYA SOLUTIONS CANNOT GUARANTEE AND DOES NOT PROMISE ANY SPECIFIC RESULTS FROM USE OF THE CHERIMOYA SOLUTIONS SERVICES.

13. Limitation on Liability

IN NO EVENT SHALL CHERIMOYA SOLUTIONS BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL, OR PUNITIVE DAMAGES, INCLUDING LOST PROFIT DAMAGES, ARISING FROM YOUR USE OF THE CHERIMOYA SOLUTIONS SERVICES, EVEN IF CHERIMOYA SOLUTIONS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, CHERIMOYA SOLUTIONS'S LIABILITY TO YOU FOR ANY CAUSE WHATSOEVER AND REGARDLESS OF THE FORM OF THE ACTION WILL AT ALL TIMES BE LIMITED TO THE AMOUNT PAID, IF ANY, BY YOU TO CHERIMOYA SOLUTIONS FOR THE CHERIMOYA SOLUTIONS SERVICES DURING THE TERM OF MEMBERSHIP.

15. Disputes

The Agreement shall be governed by, and construed in accordance with, the laws of the Republic of Kenya, without regard to its conflict of law provisions. You and CHERIMOYA SOLUTIONS agree to submit to the exclusive jurisdiction and venue of the appropriate state or federal court located in the City of Nairobi, Kenya, to resolve any dispute arising out of the Agreement or the CHERIMOYA SOLUTIONS Services. EACH OF THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ANY RIGHT THAT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION (INCLUDING BUT NOT LIMITED TO ANY CLAIMS, COUNTERCLAIMS, CROSS-CLAIMS, OR THIRD-PARTY CLAIMS) ARISING OUT OF, UNDER, OR IN CONNECTION WITH THIS AGREEMENT. FURTHER, EACH PARTY HERETO CERTIFIES THAT NO REPRESENTATIVE OR AGENT OF EITHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH PARTY WOULD NOT, IN THE EVENT OF SUCH LITIGATION, SEEK TO ENFORCE THIS WAIVER OF RIGHT TO JURY TRIAL PROVISION. EACH OF THE PARTIES ACKNOWLEDGES THAT THIS SECTION IS A MATERIAL INDUCEMENT FOR THE OTHER PARTY ENTERING INTO THIS AGREEMENT.

16. Indemnity

You agree to indemnify and hold CHERIMOYA SOLUTIONS, its affiliates, and their respective officers, agents, employees, successors, and assigns harmless from any loss, liability, claim, or demand, including reasonable attorneys' fees, made by any third party because of or arising out of your use of the CHERIMOYA SOLUTIONS Services in violation of this Agreement and/or arising from a breach of this Agreement and/or any breach of your representations and warranties set forth in this Agreement and/or if any Content that you post on or through the CHERIMOYA SOLUTIONS Services causes CHERIMOYA SOLUTIONS to be liable to another.

17. Other

This Agreement is accepted upon your use of the CHERIMOYA SOLUTIONS Website or any of the CHERIMOYA SOLUTIONS Services and is further affirmed by your becoming a Member. This Agreement constitutes the agreement between you and CHERIMOYA SOLUTIONS COMMUNITY regarding the use of the CHERIMOYA SOLUTIONS Services. The failure of CHERIMOYA SOLUTIONS to exercise or enforce any right or provision of this Agreement shall not operate as a waiver of such right or provision. The section titles in this Agreement are for convenience only and have no legal or contractual effect. CHERIMOYA SOLUTIONS is a registered Company by the Kenya Company's Board. This Agreement operates to the fullest extent permissible by law. If any provision of this Agreement is unlawful, void or unenforceable, that provision is deemed severable from this Agreement and does not affect the validity and enforceability of any remaining provisions.

Please contact us at info@cherimoyasolutions.com with any questions regarding this Agreement.

ii) Website Services

1. Terminology explained

We, our or us – CHERIMOYA SOLUTIONS Limited.

You or your – the customer whose name appears on the order form/welcome email.

Agreement – these conditions, the price plan and the price plan charges guide.

Charges – charges for services, as published in our price package plan, price plan charges guide or which we otherwise provide. These include the monthly charges and any other charges for the services provided to you.

Minimum period – a period of time shown on your order form/welcome email, which begins when we register your membership and provide all related services in your price plan. In the case of a change, renewal or upgrade to your price plan, the minimum period begins when we change your price plan and continues for the remainder of your previous minimum period plus any new period of time shown on the changed price plan in your new order form /welcome email. The minimum period is currently set to 12 months.

Order - a written or verbal contract between Cherimoya Solutions Limited and the client; this includes telephone and email agreements.

The Client: The company or individual requesting the services of Cherimoya Solutions Limited.

2. Web Design

a) We will carry out work only where an agreement is provided by members only. All members must 18 years of age or above.

b) Whilst every endeavour will be made to ensure that the website and any scripts or programs are free of errors, we cannot accept responsibility for any losses incurred due to malfunction, the website or any part of it.

c) The website, graphics and any programming code remain as our property until all outstanding accounts are paid in full.

d) Any scripts, cgi applications, php scripts, or software (unless specifically agreed) written by us remain the as our copyright and may only be commercially reproduced or resold with our permission.

e) We cannot take responsibility for any copyright infringements caused by materials submitted by you or used by you in the future on their website. We reserve the right to refuse any material of a copyrighted nature unless adequate proof is given of permission to use such material.

f) You agree to make available as soon as is reasonably possible to us all materials required to complete the site to the agreed standard and within the set deadline.

g) We will not be liable for costs incurred, compensation or loss of earnings due to the failure to meet agreed deadlines.

h) We will not be liable or become involved in any disputes between the site owner and their clients and cannot be held responsible for any wrongdoing on the part of a site owner. e.g. Any disputes re content/images that have been provided to us for inclusion on the site.

i) We will not be liable for any costs incurred, compensation or loss of earnings due to the work carried out on your behalf.

j) We will not be liable for any costs incurred, compensation or loss of earnings due to the unavailability of the site, its servers, software or any material provided by its agents.

k) All fees are non-refundable.

3. Website Hosting

- a) While we recommend/select hosting companies to host websites, no guarantees can be made as to the availability or interruption of this service by us
- b) We cannot accept liability for losses caused by the unavailability, malfunction or interruption of this service, or for loss of turnover, sales, revenue, profits or indirect, consequential or special loss.
- c) We reserve the right to refuse to handle in any way, material which may be deemed offensive, illegal or in any way controversial, and also to terminate the hosting service should the necessity arise.

4. Website Optimization

- a) Due to external factors, such as changes to the way search engines rank websites, we cannot offer any guarantees regarding the position we will achieve for websites. The process of optimizing websites itself will bring in more traffic and hits and you'll see visits increase to your site naturally.
- b) We cannot accept liability for any change in rankings, or drop off in the position of your website due to changes in the algorithms of the search engines or the factors that they use to rank websites.
- c) Due to the work involved we are unable to offer a refund of any monies to clients in relation to this type of work. We reserve the right to refuse to handle in any way, material which may be deemed offensive, illegal or in any way controversial.

5. Website maintenance

- a) Depending on your membership package we have set a monthly maintenance limit on your account. This may be increased or reduced subject to our approval. We will give you at least 14 days notice. You may request for added maintenance per month but if this happens, you must pay all charges.
- b) The monthly page alteration allowance requires that all alterations are made to the same page, at the same time and requested at least five days in advance of the required time for them to appear on a website. The monthly allowance for page alterations is not transferable to subsequent months if no changes are made, each month the additional alterations allowance will be reset to your package allocation. A page alteration is defined as multiple textual changes on a single page or a single image changes on a single page. This does not include changing complete image galleries or page layout and navigational structure.

iii) Cherimoya Store

1. Definitions

In these Membership Terms:

Buyer means a Member who buys Products made available for sale on the Sites.

Exclusive Seller means a Member who makes Products available for sale exclusively on the Sites.

General Seller means a Member who makes Products available for sale non-exclusively on the Sites.

Member means a person who is registered as a Member by completing and submitting the Membership application, accepts these Membership Terms and that application is accepted by CHERIMOYA

SOLUTIONS.

Member Account has the meaning given to that term in clause 12.

Member Ledger has the meaning given to that term in clause 12.

Payment Agent means any payment agent approved by CHERIMOYA SOLUTIONS from time to time including, but not limited to, PayPal and Moneybookers/Skrill.

Products mean products available for sale on the Sites including, but not limited to, web templates, Content Management System themes, services and other forms of stock content in the form of creative digital computer files.

Seller means a General Seller and an Exclusive Seller.

In these Membership Terms, a reference to "we" or "us" means CHERIMOYA SOLUTIONS and a reference to "you" or "your" means a Member.

2. Membership

You may only become a Member if you are 18 years or over.

You may only become a Member if you have a registered Limited Company.

You do not have an automatic entitlement to Membership and CHERIMOYA SOLUTIONS may, at its sole discretion, elect to:

refuse your application to become a Member; or

once Membership is granted, suspend, terminate or restrict your Membership at any time.

CHERIMOYA SOLUTIONS is not obliged to give reasons for its decision to reject your application or suspend, terminate or restrict your Membership at any time.

Your Membership is non transferable.

Once Membership is granted you will only be able to access all areas of the Sites with use of the username and password you set up at the time you become a Member.

You are responsible for each and every access or use of the Sites that occurs in conjunction with use of your username and password.

Use of your username and password is conclusive evidence that you have accessed the Membership sections of the Sites.

You must use all reasonable efforts to keep your username and password confidential.

You must not allow any third party to access the Sites using your username and password and make use of the Sites on your behalf.

You must notify CHERIMOYA SOLUTIONS in writing as soon as you become aware of any unauthorised use of your Member Account, username or password.

You acknowledge and agree that you are liable for, and will indemnify CHERIMOYA SOLUTIONS, its related bodies corporate, affiliates, officers, directors, agents and employees against, any and all claims made by a third party arising out of your access to, and use of, the Sites as a Member.

3. Benefits conferred by Membership

By being registered as a Member, you are entitled to:

buy Products from other Members;

sell Products to other Members (subject to clause 15);
participate in online forums;
generally make use of the Membership section of the Sites; and
participate in the referral program as described in clause 18
but subject to these terms and conditions.

A reference in these Membership Terms to 'buying' or 'sale' of a Product means the acquisition or grant of a license or other right to use a Product.

4. CHERIMOYA SOLUTIONS's Role

The Sites are online facility that allows you to sell, and buy, Products.

Ownership of Products remains with the seller. CHERIMOYA SOLUTIONS does not obtain any right of ownership or use (including any intellectual property rights) in respect of the Products.

CHERIMOYA SOLUTIONS does not have any control over, and does not take any responsibility for, the quality, safety or legality of any Products downloaded by you from the Sites.

CHERIMOYA SOLUTIONS does not warrant that the Products or any content, code, data or materials downloaded from the Sites does not infringe the intellectual property rights of a third party. Each Seller is required to warrant that its Product does not infringe the intellectual property rights of any third party.

5. Availability and Use of the Sites

The Sites will usually be available 24 hours a day, seven days a week or as otherwise stated on the Sites. CHERIMOYA SOLUTIONS may, in its absolute discretion, and for any reason, and at any time, with or without notice:

interrupt or suspend your right to access the whole or any part of the Sites; and/or
alter, interrupt or suspend the provision of the whole or any part of the content and/or the services available on the Sites.

You agree that CHERIMOYA SOLUTIONS will not be liable to you for any loss that you may suffer as a result of any such interruption, suspension or alteration.

When accessing the Sites (as a Member) and using the content and/or the services available on the Sites, you must also comply with any directions, instructions or protocols posted on the Sites from time to time.

6. Fees and Services

You do not have to pay a fee to become a Member.

You do not have to pay a fee to sell Products on the Sites.

If you are a Buyer of a Product, you will pay a fee to buy the right to use that Product in accordance with clause 14.

If you are a Seller, you will receive the fee (less the commission to which CHERIMOYA SOLUTIONS is entitled in accordance with clause 17) collected by CHERIMOYA SOLUTIONS for each sale of your Products to a Buyer.

All payments by Buyers on the Sites must be paid through a Payment Agent.

You are responsible for paying all fees and taxes (including withholding tax), associated with your use of the Sites wherever levied (including any goods and services or value added taxes, which will be added to amounts billed to you, if applicable).

All references on the Sites or in this Membership Terms to “Kshs” and “shillings” are to the virtual currency of CHERIMOYA SOLUTIONS, known as the CHERIMOYA SOLUTIONS Credit.

All prices on the Sites are expressed in CHERIMOYA SOLUTIONS Credit where 1 CHERIMOYA SOLUTIONS Credit is equal to 1 Ksh, which is the currency of the Republic of Kenya. Payment will be made in KES currency and accordance with the rules of the applicable Payment Agent.

The Buyer is responsible for all costs of currency conversion from his or her preferred currency to the KENYA Shilling, which in turn will be converted to the CHERIMOYA SOLUTIONS Credit at time of purchase at no cost to the Buyer.

Where a payment is made by CHERIMOYA SOLUTIONS to a Seller, the Seller is responsible for all costs of converting the amount of the payment from US currency into his or her preferred currency.

7. Member Information

In the course of your application for Membership and your use of the Sites, you may be asked to provide certain personal information to us (Member Information). You promise that the Member Information you provide is true, accurate and complete.

CHERIMOYA SOLUTIONS's information collection and use policies with respect to the privacy of such Member Information are set out in the Site's Privacy Policy.

Any Member Information that you disclose may be used by CHERIMOYA SOLUTIONS, its agents and contractors in relation to the provision of services accessible on the Sites, including marketing activities in relation to the Sites.

8. Proprietary Rights

CHERIMOYA SOLUTIONS, its licensors, advertisers or affiliates own all:

the content of the Sites (other than Products which are owned by Members who offer them for sale on the Sites);

the look and feel, design and the organisation of the Sites;

the compilation of the materials on the Sites; and

the intellectual property rights (if any) subsisting in the works described in paragraphs (a), (b) and (c) above.

Your use of the Sites does not grant to you any ownership or like interest in any content, code, data or materials you may access on or through the Sites or any intellectual property rights subsisting in any of those things.

9. Copyright Agent

CHERIMOYA SOLUTIONS respects the intellectual property rights of others. CHERIMOYA SOLUTIONS

requires that you do the same.

If you believe that a work of which you are the owner is infringed by a Product being offered for sale on a Site has been copied in a way that constitutes copyright infringement, please forward the following information (Copyright Claim) to CHERIMOYA SOLUTIONS:

your address, telephone number, and email address;

a description of the location of the alleged infringing material;

a description of the copyright work that has been allegedly infringed

a statement by you, that you warrant that the information given in the Copyright Claim is accurate and that you are either the copyright owner or are authorised to act on the copyright owner's behalf.

On receipt of a Copyright Claim, CHERIMOYA SOLUTIONS will take down the Product that is the subject of the Copyright Claim and seek an explanation from its Seller.

10. Trade Marks

The trade marks, logos, service marks and trade names (collectively the Trade Marks) displayed on the Sites are, unless otherwise stated, the registered and unregistered Trade Marks of CHERIMOYA SOLUTIONS and others.

A Trade Mark may not be used by you without the approval of its owner.

Nothing contained on the Sites should be construed as granting, by implication, estoppel, or otherwise, any license or right to use any Trade Mark displayed on the Sites without the written permission of its owner.

11. Confidential Information and Privacy

CHERIMOYA SOLUTIONS does not warrant or represent that your use of the Sites will be confidential.

CHERIMOYA SOLUTIONS is not responsible for any harm that you or any person may suffer as a result of a breach of your confidentiality in respect of your use of the Sites.

While CHERIMOYA SOLUTIONS has taken precautions to protect information that you transmit to the Sites over the internet, CHERIMOYA SOLUTIONS does not warrant the security of that information. Once CHERIMOYA SOLUTIONS receives your transmission, CHERIMOYA SOLUTIONS will take reasonable steps to preserve the security of such information.

You must not disclose any confidential information made available to you through the Sites.

When using the Sites or dealing with other users of the Sites you must respect the privacy and legal rights of other Members.

If a Member provides you with (or your Product accesses or uses) user-names, passwords or other login information or personal information of the Member (Personal Information) you must:

make the Member aware that the Personal Information will be available to you; and

ensure that, by proceeding to transact with you, the Member is giving you permission to use the Member's Personal Information; and

provide a privacy notice to the user, recording the manner in which the Personal Information will be handled by you, that is legally sufficient; and

use the Personal Information for the limited purposes for which the Member gave permission; and

handle the information in accordance with the terms of the privacy notice.

If the Member has entered into a separate agreement with you that allows you (or your Product) to store or use the Member's Personal Information directly related to your Product (not including other products or applications) then the terms of that separate agreement will govern your use of such Personal Information.

Without limiting the generality of the foregoing, if the user provides you information about the Member's Member Accounts, you may only use that information to access the Member's Member Accounts when, and for the limited purposes for which, the user gave permission for you to do so.

12. Member Accounts

When your application for Membership is accepted by CHERIMOYA SOLUTIONS, you will have a single account that is accessible by you from any of the Sites (Member Account). Among other things, through your Member Account, you will be able to access a ledger which records payments by you to CHERIMOYA SOLUTIONS (as a Buyer) and payments made by CHERIMOYA SOLUTIONS to you (as a Seller or in accordance with clause 18) (Member Ledger).

13. Payments from Member Ledger

You can make a payment into your Member Ledger by credit card or using the services of a Payment Agent.

You authorise CHERIMOYA SOLUTIONS to:

on your direction, debit monies from your Member Ledger, to pay for Products you buy at a Site;
credit to your Member Ledger any amounts due to you in respect of sales of your Products on a Site;
and

credit to your Member Ledger any Referral Commissions earned from referring new Members to the Sites (in accordance with clause 18).

CHERIMOYA SOLUTIONS is not a licensed financial service provider, nor does it conduct the business of banking in Australia and CHERIMOYA SOLUTIONS provides its services as a cashier using a payment processing service rather than a banking service as defined in the Banking Act 1959 (Cth).

CHERIMOYA SOLUTIONS is not providing a financial product or service as defined in the Corporations Act 2001 (Cth) and nor is it acting as a fiduciary or an escrow with respect to your funds.

Any monies that you deposit into your Member Ledger must be used to pay for Products you buy on the Sites.

CHERIMOYA SOLUTIONS will not refund any monies that you deposit into your Member Ledger as a Buyer. Any monies that you deposit into your Member Ledger as a Buyer, that are not used for a period of 12 months, will be forfeited to CHERIMOYA SOLUTIONS.

However, if you make a new deposit into your Member Ledger, before forfeiture of any unutilised previously made deposits, the whole of the balance of your Member Ledger (comprising both the new deposit and the balance of the previous deposit) will be available for use by you for a period of 12 months from the date of the new deposit but to the extent it is not used after the expiration of 12 months will be forfeited to CHERIMOYA SOLUTIONS.

CHERIMOYA SOLUTIONS may, but is not obliged to, warn you about the forfeiture before it occurs. CHERIMOYA SOLUTIONS will pay to you amounts earned by you as a Seller and Referral Commissions earned by you in accordance with clause 18 subject to the following conditions:

No refund is required or allowed on Products that can be previewed by the Buyer (such as graphics)

14. Buying Products

When you buy a Product in digital format, you acquire a license to use that Product.

Products are subject to different terms of use – depending on the type of license that you choose when buying the Product.

The different types of licenses (and associated fees) and the conditions of use are set out in the Pricing and Licensing Matrix.

Depending on the use you want to make of a Product, you will need to select the correct license required by you. You are responsible for choosing, and warrant that you have chosen, the correct license to meet your requirements.

If you buy a Product, you do so on the following terms:

you cannot cancel an order for a Product once the order has been submitted;

CHERIMOYA SOLUTIONS does not give any undertaking as to the continued availability of Products offered for sale on the Sites;

once your order for a Product is accepted, and you pay the fee, you acquire a non exclusive, non transferable license to use the Product in accordance with the conditions of the license that you acquire; ownership of the Product remains with the Seller;

the Product may not be re-sold by the Buyer; and

payment of the fee will be made at the time of download by deduction from your Member Ledger.

You acknowledge and agree that despite CHERIMOYA SOLUTIONS's reasonable precautions, Products may be listed at an incorrect price or with incorrect information due to a typographical error or similar oversight. In these circumstances, CHERIMOYA SOLUTIONS reserves the right to cancel or reverse a transaction, even after your order has been confirmed and a payment has been processed. If a transaction is cancelled, CHERIMOYA SOLUTIONS will immediately arrange for any payment to be refunded.

Due to the digital nature of the Products offered for sale at the Sites, we maintain a “no refunds” policy for Products which can be previewed by the Buyers (such as graphics). A Buyer may make a claim for refund if a Product is one that cannot be previewed and the Buyer asserts that the Product is not as described, or is broken or is corrupt. The deadline for a Buyer making any refund claim is 30 calendar days after purchase and this claim must be made to Support. We will verify the validity of the claim before a refund is approved.

15. Selling Products

As a Member, you may not start selling Products over a Site unless you first:

read a tutorial; and

pass our requirements at which we will present to you when necessary.

You warrant to CHERIMOYA SOLUTIONS and each Buyer that, as a Seller, in relation to each Product that you offer for sale on any of the Sites:

you own the intellectual property rights in that Product;

that Product does not infringe the intellectual property rights of a third party;

that Product is not false, inaccurate or misleading;

that Product is not fraudulent, stolen or an unlawful item;

that Product does not violate any applicable law, statute, ordinance or regulation (including but not limited to, those governing export control, consumer protection, unfair competition, criminal law, antidiscrimination or trade practices or fair trading laws);

that Product is not defamatory, unlawfully threatening or unlawfully harassing;

that Product is not obscene and does not contain child pornography and does not constitute or contain material that is adult in nature or harmful to person under the age of 18 years;

that Product does not contain any content that may be considered as prohibited or potentially prohibited content for the purposes of the Broadcasting Services Act 1992 (Cth);

that Product does not contain viruses or other computer codes, files or programs which are designed to limit or destroy the functionality of other computer software or hardware;

that Product would not create liability for CHERIMOYA SOLUTIONS or cause us to lose (in whole or in part) the services of its ISP or other suppliers; and

that Product would not cause CHERIMOYA SOLUTIONS to violate any applicable law, statute, ordinance or regulation by making it available on the Sites.

As a Seller, you must:

ensure all copies of your Products bear a notice of ownership of the intellectual property rights in your Products;

not offer to or sell to Members any of your Products that have not been approved by CHERIMOYA SOLUTIONS in accordance with this clause 15;

notify us of any information which may affect or assist in sales of your Product(s);

provide us with full and accurate information regarding enhancements and new releases of your Products;

act in good faith at all times and provide such assistance and co-operation as we reasonably request; and

to the extent practicable, maintain registrations of all relevant intellectual property rights and of all names relating in any way to your Products.

You acknowledge and agree that any Product offered for sale by you on Sites must first be submitted to CHERIMOYA SOLUTIONS to enable it to check the quality of the Product and the information provided with the Product.

CHERIMOYA SOLUTIONS may refuse, in its sole discretion, to allow you to offer the Product for sale on a Site. CHERIMOYA SOLUTIONS is not required to give reasons for refusing to allow you to offer a Product for sale on a Site.

You acknowledge and agree that If CHERIMOYA SOLUTIONS determines, in its absolute discretion, or is notified by a third party, that a Product that you offer for sale on a Site does not comply with any applicable laws and/or these Membership Terms, CHERIMOYA SOLUTIONS will disable your Member

Account and Member Ledger and withhold all amounts that you may have earned from the sale of the relevant Product until the earlier of:

- any dispute in relation to the Product has been resolved to the satisfaction of CHERIMOYA SOLUTIONS;
- and
- the expiry of two years from the date your Member Account and Member Ledger is disabled.

If after two years, the dispute has not been resolved, CHERIMOYA SOLUTIONS will pay amounts standing to your credit in your Member Ledger to you via PayPal.

You acknowledge and agreed that CHERIMOYA SOLUTIONS will, in its sole discretion, determine the fee payable for each Product on the Sites.

Products on Sites are continuously reviewed to ensure the library remains coherent with CHERIMOYA SOLUTIONS's latest quality and technical standards, currency of software and market trends.

You acknowledge and agree that CHERIMOYA SOLUTIONS may, at its sole discretion, elect at any time and for any reason to remove your Products from a Site without notice to you. CHERIMOYA SOLUTIONS is not responsible for any loss that you may suffer as a result a Product being removed from any of the Sites by CHERIMOYA SOLUTIONS.

CHERIMOYA SOLUTIONS is not liable for any loss suffered by you as a result of a Buyer making use of a Product that you offer for sale on a Site contrary to the conditions on which the Product was sold to the Buyer.

Unless you elect to become an Exclusive Seller in accordance with clause 16, you are free to sell the Product on other web sites or through other outlets as you see fit.

You agree and acknowledge that CHERIMOYA SOLUTIONS may use the whole or any part of a Product which you offer for sale at the CHERIMOYA SOLUTIONS Marketplace to promote the Sites. This promotional use may include use on a features page on a Site itself. No compensation is due or payable for such uses of your Product.

You agree and acknowledge that an CHERIMOYA SOLUTIONS affiliate can use your watermarked previews in their promotion of the Sites. No compensation is due or payable for such uses of your preview.

You agree that a Seller may use a watermarked preview of your Product in a preview of another Product without requiring permission from you, without violating your copyright and without providing monetary compensation to you. The Seller must credit such usage by providing a link to your Product.

16. Exclusivity

You may elect to become an Exclusive Seller which means that you agree only to sell your Products through the Sites and not through other web sites or other medium (Exclusive Seller).

In order to become an Exclusive Seller, you must elect to opt into the Exclusive Author Program through your Member Account or after passing the test.

For the avoidance of doubt, as an Exclusive Seller, you are still bound by these Membership Terms including the terms of clause 15 which sets out the obligations of Sellers generally.

17. Commissions

If one or more of your Products is sold over the Sites, CHERIMOYA SOLUTIONS will credit your Member Ledger with the balance of the fee received from the Buyer (that is the gross fee less CHERIMOYA SOLUTIONS's commission).

You authorize CHERIMOYA SOLUTIONS to collect and distribute such fees and commissions on your behalf.

The commission payable to CHERIMOYA SOLUTIONS on each sale of a Product will vary according to whether or not you are a General Seller or an Exclusive Seller.

If you are a General Seller, CHERIMOYA SOLUTIONS will be entitled to receive a commission of an amount equal to 75% of the fee payable for each Product sold over the Sites.

If you are an Exclusive Seller, CHERIMOYA SOLUTIONS's commission for each of your Products that are sold over the Sites will be calculated by reference to the Commission Table and by reference to the accumulated value of gross sales of your Products you have achieved over the Sites (Lifetime Sales Volume).

Commission rates may be varied by CHERIMOYA SOLUTIONS at its sole discretion, from time to time. Any changes to the commission rates by CHERIMOYA SOLUTIONS will take effect on and from the date on which notice of the variation is posted by CHERIMOYA SOLUTIONS on the Sites.

18. Referrals

If you refer a new Member to any of the Sites you will receive a commission equal to 30% of that new Member's first cash deposit in the form of Reward Points.

You automatically have a referral code generated using your username. This code is available on the Referral Page.

New Members referred via your referral link are eligible if they:

have cookies enabled on their browser;

do not clear their cookies;

have not been previously referred by another Member;

have been referred via an external site and not through an CHERIMOYA SOLUTIONS site; and

make a cash deposit or purchase within three months of the referral.

You may not refer new Members by:

purchasing a domain name, search engine keyword or pay-per-click advertisement that use any CHERIMOYA SOLUTIONS trademarks and/or variations and mis-spellings thereof; or

sending unsolicited email or other messaging that in any way may constitute spam;

engaging in any conduct that would amount to a breach of any laws including, but not limited to, privacy, intellectual property and spam; and

engaging in any conduct that is directly or indirectly in contravention of any direction given to you by CHERIMOYA SOLUTIONS or these Membership Terms.

CHERIMOYA SOLUTIONS reserves the right, in its absolute discretion, to determine whether or not your use of the referral program complies with any applicable laws and/or these Membership Terms.

CHERIMOYA SOLUTIONS's determination as to whether or not your use of the referral program is in breach of any applicable laws and/or these Membership Terms is final and binding.

If CHERIMOYA SOLUTIONS determines that you have not complied with any applicable laws and/or these Membership Terms, CHERIMOYA SOLUTIONS will disable your Member Account and withhold all Referral Commissions that may be payable by CHERIMOYA SOLUTIONS to you at the time it becomes aware of your failure to comply.

19. Prohibited Conduct

You warrant that while using the Sites and the various services and features offered on or through the Sites, you will not:

use a false email address or impersonate any person or entity or misrepresent your affiliation with any other person or entity;

insert your own or a third party's advertising, branding or other promotional content into any of the Site's content, materials or services or use, redistribute, republish or exploit such content or service for any further commercial or promotional purposes; or

attempt to gain unauthorised access to other computer systems through the Sites.

You must not:

engage in "spidering", "screen scraping," "database scraping," harvesting of e-mail addresses, wireless addresses or other contact or personal information, or any other automatic means of obtaining lists of users or other information from or through the Sites or the services offered on or through the Sites, including without limitation any information residing on any server or database connected to the Sites or the services offered on or through the Sites;

obtain or attempt to obtain unauthorised access to computer systems, materials or information through the Sites by any means;

use the Sites or the services made available on or through the Sites in any manner with the intent to interrupt, damage, disable, overburden, or impair the Sites or such services, including, without limitation, sending mass unsolicited messages or "flooding" servers with requests;

use the Sites, content or services offered on the Sites for any purpose or activity of an illegal, fraudulent, obscene, offensive, personally offensive or defamatory nature;

use the Sites to distribute or make available any Product whose primary purpose is to facilitate the distribution of Products outside of the Sites;

use any mechanism, device software or script to affect the proper functioning of the Sites including taking any action which may infect the Sites with any routine, including (but not limited to) any virus, time bomb, trojan horse, worm, cancelbot or other computer routine that may damage, interfere with, delay, intercept or expropriate any system, data or personal information;

take any action which may interfere with, disrupt, manipulate, tamper with or otherwise abuse the Sites or networks connected to the Sites;

use the Sites or the Sites' services or features in violation of CHERIMOYA SOLUTIONS's or any third party's intellectual property or other proprietary or legal rights; or

use the Sites or the Sites' services in violation of any applicable law.

You further agree that you must not attempt (or encourage or support anyone else's attempt) to circumvent, reverse engineer, decrypt, or otherwise alter or interfere with the Sites or the Sites' services,

or any content of the Sites or any of its domains, or make any unauthorised use of the Sites or the Sites' services or any content of the Sites or any of the domains of the Sites.

You agree that you must not use the Sites in any manner that could damage, disable, overburden, or impair the Sites or interfere with any other party's use and enjoyment of the Sites or any of its services.

You must not obtain or attempt to obtain any materials or information through any means not intentionally made publicly available or provided for through the Sites.

CHERIMOYA SOLUTIONS reserves the right, in its absolute discretion, to determine whether or not your use of the Sites or content or services available on the Sites complies with these Membership Terms.

Any commercial or promotional distribution, publishing or exploitation of the Sites, or any content, code, data or materials on the Sites, is strictly prohibited unless you have received the express prior written permission from CHERIMOYA SOLUTIONS.

Other than as expressly allowed in these Membership Terms, and unless otherwise indicated in these Membership Terms, you may not download, post, display, publish, copy, reproduce, distribute, transmit, modify, perform, broadcast, transfer, create derivative works from, sell or otherwise exploit any content, code, data or materials on or made available through the Sites.

20. Linking to the Sites

You agree that if you include a link from any other web site to one or more of the Sites, such link must link to the full version of an HTML formatted page of the relevant Site.

You are not permitted to link directly to any image hosted on the Sites or our services, such as using an "in-line" linking method to cause the image hosted by us to be displayed on another web site.

You agree not to download or use images hosted on the Sites on another web site, for any purpose, including, without limitation, posting such images on another site.

You agree not to link from any other web site to any of the Sites in any manner such that the Sites, or any page of the Sites, is "framed", surrounded or obfuscated by any third party content, materials or branding.

We reserve all of our rights under the law to insist that any link to any of the Sites be discontinued, and to revoke your right to link to the Sites from any other web site at any time upon written notice to you.

21. Third Party Sites

You may be able to link from the Sites to third party web sites and third party web sites may link to the Sites (Linked Sites).

You acknowledge and agree that we have no responsibility for the information, content, products, services, advertising, code or other materials which may or may not be provided by or through Linked Sites, even if they are owned or run by affiliates of ours.

The inclusion of a link to a Linked Site on a Site does not constitute or indicate any relationship between CHERIMOYA SOLUTIONS and the operator of that Linked Site or any endorsement or sponsorship by CHERIMOYA SOLUTIONS of that Linked Site.

CHERIMOYA SOLUTIONS disclaims any liability for links:

from another web site to any of the Sites; and

to another web site from any of the Sites.

CHERIMOYA SOLUTIONS is not responsible for any form of transmission received from any Linked Site.

22. Third Party Developers

CHERIMOYA SOLUTIONS is aware that third party developers offer applications for use in conjunction with the Sites and that use of these applications may require you to disclose confidential information (such as your CHERIMOYA SOLUTIONS password and user name).

While welcoming the contribution made by these third party developers CHERIMOYA SOLUTIONS is not able to, and does not, warrant or endorse those applications and cannot be responsible for any interaction between you and a third party developer. CHERIMOYA SOLUTIONS disclaims any liability so arising.

You will need to form your own view of the benefits to be derived from using any such applications and the reliability and trustworthiness of the third party developer.

23. Public Forums

CHERIMOYA SOLUTIONS may, from time to time, make messaging services, chat services, bulletin boards, message boards, blogs, other forums and other such services available on or through the Sites. In addition to any other rules or regulations that we may post in connection with a particular service, you agree that you must not upload, post, transmit, distribute or otherwise publish through the Sites or any service or feature made available on or through the Sites, any materials which:

restrict or inhibit any other user from using and enjoying the Sites or the Sites' services;

are fraudulent, unlawful, threatening, abusive, harassing, libelous, defamatory, obscene, vulgar, offensive, pornographic, profane, sexually explicit or indecent;

constitute or encourage conduct that would constitute a criminal offense, give rise to civil liability or otherwise violate any local, state, national or international law;

violate, plagiarise or infringe the rights of third parties including, without limitation, copyright, trademark, trade secret, confidentiality, contract, patent, rights of privacy or publicity or any other proprietary right;

contain a virus, spyware, or other harmful component;

contain embedded links, commercial solicitation, advertising, chain letters, mass mailings or, pyramid schemes of any kind;

constitute commercial solicitation or 'spam' of any kind; or

constitute or contain false or misleading indications of origin, endorsement or statements of fact.

You further agree not to impersonate any other person or entity, whether actual or fictitious, including anyone from CHERIMOYA SOLUTIONS.

You also may not offer to buy or sell any product or service on, or through, your comments submitted to our forums. You alone are responsible for all information and materials that you post to the Sites and the consequences of any of your activities on the Sites.

CHERIMOYA SOLUTIONS reserves the right, but does not have an obligation, to monitor and/or review all information and materials posted to the Sites or through the Sites, and CHERIMOYA SOLUTIONS is not responsible for, and assumes no liability for, any such materials posted by users. However,

CHERIMOYA SOLUTIONS reserves the right at all times to disclose any information as necessary to satisfy any law, regulation or government request, or to edit, refuse to post or to remove any information or materials, in whole or in part, that in CHERIMOYA SOLUTIONS's sole discretion are objectionable or in violation of these Membership Terms, CHERIMOYA SOLUTIONS's policies or applicable law.

CHERIMOYA SOLUTIONS may also impose limits on certain features of the forums or restrict your access to part or all of the forums without notice or penalty if we believe you are in breach of these Membership Terms or applicable law, or for any other reason without notice or liability.

It is important to remember that comments submitted to a forum may be recorded and stored in multiple places, both on our Sites and elsewhere on the Internet, which are likely to be accessible for a long time and you have no control over who will read them eventually.

It is therefore important that you are careful and selective about the personal information that you disclose about yourself and others, and in particular, you should not disclose sensitive, embarrassing, proprietary or confidential information in your comments to our public forums.

24. Disclaimer

The Trade Practices Act 1974 (Cth) and similar state and territory legislation in Australia may confer rights and remedies on you in relation to the provision goods or services on the Sites which cannot be excluded, restricted or modified by CHERIMOYA SOLUTIONS (Non-excludable Rights).

CHERIMOYA SOLUTIONS does not exclude any Non-excludable Rights but does exclude all other conditions and warranties implied by custom, law or statute.

Except as provided for by the Non-excludable Rights:

all content and services on the Sites is provided "as is" and without warranties of any kind, either express or implied;

CHERIMOYA SOLUTIONS and its suppliers expressly disclaim all warranties of any kind, including but not limited to implied warranties of merchantability and fitness for a particular purpose;

CHERIMOYA SOLUTIONS does not warrant that the functions contained in any content or your access to the Sites will be uninterrupted or error-free, that any defects will be corrected or that the Sites or the server which stores and transmits content to you are free of viruses or any other harmful components; and

CHERIMOYA SOLUTIONS does not warrant or make any representation regarding your access to, or the results of your access to, the Sites (including any related or linked websites) or any content in terms of correctness, accuracy, timeliness, completeness, reliability or otherwise.

Under no circumstances (including but not limited to any act or omission on the part of CHERIMOYA SOLUTIONS) will CHERIMOYA SOLUTIONS or its affiliates be liable for any indirect, incidental, special and/or consequential damages or loss of profits whatsoever which result from any use or access of, or any inability to use or access, the Sites.

To the fullest extent permitted by law, CHERIMOYA SOLUTIONS's liability for breach of any implied warranty or condition which cannot be excluded is limited at the option of CHERIMOYA SOLUTIONS to the following:

in the case of services supplied or offered by CHERIMOYA SOLUTIONS:
the supply of the services again;
the payment of the cost of having services supplied again; and
in the case of goods supplied or offered by CHERIMOYA SOLUTIONS:
the replacement of the goods or the supply of equivalent goods; or
the payment of the cost of replacing the goods or acquiring equivalent goods.

25. Indemnification and Release

You are solely responsible (and agree that CHERIMOYA SOLUTIONS has no responsibility to you or to any third party for) for, and you agree to indemnify and hold harmless CHERIMOYA SOLUTIONS (as well as CHERIMOYA SOLUTIONS's affiliates, directors, officers, employees and agents) from any and all claims, liabilities, costs and expenses (including legal fees) arising in any way from, any of the following matters:
your use of the Sites;

any Products you sell or buy through the Sites;

your placement or transmission of any Product, message, content, information, software or other materials through the Sites;

your breach of any applicable related third party contract or terms of service

your breach of the law or of these Membership Terms.

CHERIMOYA SOLUTIONS reserves the right, at its own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, and in such case, you agree to cooperate with CHERIMOYA SOLUTIONS's defense of such claim.

26. Changes to Membership Terms

CHERIMOYA SOLUTIONS may, at its sole discretion, revise or change these Membership Terms (in whole or in part) or the content of the Sites from time to time and at any time without notice to you.

Changes in the Membership Terms will be effective at the time notice of the change is posted by us on the Sites. It is your responsibility to check for these notices.

Your continued use of the Sites and/or the content or services made available on or through the Sites after any changes to the Membership Terms are posted will be considered acceptance of those changes.

27. Relationship between the Parties

Nothing in these Membership Terms:

constitutes a partnership between the parties; and

except as expressly provided, makes their party an agent of another party for any purpose.

A party cannot in anyway or for any purpose:

bind another party; or

contract in the name of another party.

If a party must fulfil an obligation and that party is dependent on another party, then that other party

must do each thing reasonably within its power to assist the other in the performance of that obligation.

28. Suspension or Termination

CHERIMOYA SOLUTIONS may suspend or terminate your registration as a Member and deny you access to your Member Account immediately if:

you breach these Membership Terms or any other terms and conditions, agreements or rules governing the Sites;

CHERIMOYA SOLUTIONS is unable to verify or authenticate any information you provide to us as part of your original application or in the course of using the Sites; or

CHERIMOYA SOLUTIONS believes that your actions may cause legal liability for you, our other Members or us.

Should CHERIMOYA SOLUTIONS elect to suspend, terminate or restrict your Membership in any way, you may be prohibited from accessing the Sites temporarily or permanently. In either case, you must not apply for a new Member account.

29. Notices

Any notice given in accordance with these Membership Terms will be correctly given if it is in writing and is emailed to a party to the email address that that party has nominated or any other email address as may be notified for the purpose of the service of notices.

A notice will be deemed to have been given on the date of delivery.

30. Applicable Laws

If you make use of the Sites, or the Products, content, code, data or materials on the Sites or available through the Sites, except as otherwise provided for in these Membership Terms, you may breach intellectual property laws (including copyright) and other state and federal laws of Australia and other countries and may be subject to liability for such unauthorised use.

We control and operate the Sites from our offices in Australia. We do not represent that materials on the Sites are appropriate or available for use in other locations. Persons who choose to access the Sites from other locations do so on their own initiative, and are responsible for compliance with local laws, if and to the extent local laws are applicable.

The laws of Nairobi, Kenya governs these Membership Terms. Each of CHERIMOYA SOLUTIONS and the Member irrevocably and unconditionally submit to the exclusive jurisdiction of the courts of Nairobi, Kenya.

iv) Pay monthly Services

1. Terminology explained

We, our or us – CHERIMOYA SOLUTIONS Limited.

You or your – the customer whose name appears on the order form/welcome email.

Agreement – these conditions, the price plan and the price plan charges guide.

Charges – charges for services, as published in our price package plan, price plan charges guide or which we otherwise provide. These include the monthly charges and any other charges for the services provided to you.

Minimum period – a period of time shown on your order form /welcome email, which begins when we register your membership and provide all related services in your price plan. In the case of a change, renewal or upgrade to your price plan, the minimum period begins when we change your price plan and continues for the remainder of your previous minimum period plus any new period of time shown on the changed price plan in your new order form /welcome email. The minimum period is set at 12 months. Any changes or notifications can be found on our website (cherimoyasolutions.com)

2. Your agreement period

a) We'll continue to supply you with, and you must pay the charges for, the services until we or you end this agreement in line with clause 11.

b) If this agreement is ended before the end of the minimum period (whether by you or us), you must still pay all the relevant charges until the end of the minimum period. This applies when this agreement comes to an end in clause 11, except in the following situations:

- if we end this agreement under clause 11a; or
- if you end this agreement under clause 11b; or
- if we end this agreement because we are permanently unable to provide the services to you.

3. Services

a) We strive to give you the services when you want them. However, due to the nature of the internet, it's impossible to provide a completely fault-free service.

4. Using our services – the rules

a) It's your responsibility to make sure you keep to this agreement, and you follow our instructions on using our services – even if someone else is using your membership.

b) You must never use your membership or our services for anything we would consider is abusive, illegal, fraudulent, or a nuisance. Nor for any criminal activities.

c) You're not allowed to sell all or any part of our services to anyone else.

d) We've allocated you a website as part of our services with us. This website does not belong to you until the membership period (i.e 12 months) is fulfilled upon which you are free to transfer this website to another provider.

e) The website and all related software and services with it, belongs to CHERIMOYA SOLUTIONS and is licensed to you so you can use our services for the duration of the membership..

f) All files and infrastructure associated with any website are the property of Cherimoya Solutions Limited; we do allow customers to purchase their website and are happy to transfer the files to you at an additional cost. All buyout costs are calculated based on the number of monthly payments made and

the costs associated with the production and maintenance of the website over that period of time.

5. Payment rules

a) We do not start any of the membership services until the first payment has been received towards the initial cost. This includes the domain name, web hosting and the chosen theme layout. If you pay us the total charges for the rest of the membership period in one lump sum, we will reduce total charge by a rate we set.

You can examine this on our Pricing Page at our website www.cherimoyabusiness.com/plans-pricing

b) All payments are to be made in advance each month within the allocated time you chose.

c) If payments are not received on the date specified in your payment terms we will email the person who's details are on our account records, if there is no reply or payment is not received within 72 hours the website and all other related services will be suspended.

d) All paid membership packages receive a 20% discount after twelve consecutive monthly payments, your new monthly payment will be the package cost at the time of renewal minus 20%.

e) You may cancel after the minimum period without incurring any additional costs. If cancelling part way through a monthly cycle there will be no refund for the remaining days of the month.

f) All add-on features are required to be included in a package for at least 12 months or until you cancel your website. After a twelve month period add-on feature can be removed at any time for no additional cost.

g) All package cost will remain the same price for a minimum of 12 months from your first payment date. If our monthly package cost increases part way through a year this increase will not be charged to you during the first twelve months. After a twelve month period you will receive a 20% discount off the monthly rate of the cost of that membership package at the date of the renewal.

7. Changing charges and terms

a) We may occasionally change or introduce new charges. If we believe any change in our charges will not disadvantage you, we may include it without telling you. However, if we increase our charges, we'll give you at least 14 days' notice.

b) We may change or withdraw services at any time and we may change or introduce new terms to this agreement at any time. If we do, we'll give you at least 30 days' notice of these changes. If such changes are to your significant disadvantage you may have a right to end this agreement under clause 11b and we'll tell you if you do.

c) You are free to upgrade your membership package or other services at any time, your monthly payment will increase accordingly.

d) You may down grade your package free of charge after a twelve month period, if you want to downgrade your website package within twelve months you must pay all due charges left for the agreed membership subscription.

9. Suspending our services

- a) We can suspend or restrict your use of any of our services if:
- we believe your use of the services are being used in a way we do not allow under this agreement;
 - you have not kept to this agreement (for example, you fail to pay any charges when due);
 - we have asked you for a payment which you've not paid;
 - you have not paid for your services;
 - we believe that you have entered into this agreement fraudulently;
 - we believe you got the use of any services in an unauthorised, illegal, or fraudulent way;
 - you become bankrupt or make any arrangement with creditors or go into liquidation or an administration order is made or a receiver is appointed over any of your assets;
 - you do anything (or allow anything to be done) which we think may damage or affect the operation of our services; or
 - a law or regulation is passed which means we need to do so.
- b) We will try to tell you when we suspend or restrict your use, but we do not have to.
- c) When we suspend or restrict your use, this agreement will continue and you still have to pay all charges due during any period when we suspend or restrict the service.

10. Ending this agreement

- a) Either you or us may end this agreement by giving the other 30 days' notice in writing. Your notice must include your membership I.D and the signature or appropriate security details of the account holder. All charges for the minimum period (12 months) must be fully paid at this point.
- b) You may end this agreement by writing to us if:
- we don't do something fundamental that we should have done under this agreement, within 7 days of you asking us in writing;
 - we tell you that there will be an increase in the charges by more than the increase in the retail price index since the last service increase and you write to us before the increase applies;
 - we change this agreement to your significant disadvantage including changing or withdrawing services (we will tell you if this is the case) and you write to us within one month of us telling you about the change. This does not apply if the change or withdrawal relates to services which you can cancel without us ending this agreement.
- c) We may end this agreement at any time by writing to you if:
- you do anything (or allow anything to be done) which we think may damage or affect the operation of our services;
 - within 7 days of us asking you in writing, you do not do something fundamental that you have to do under this agreement (for example, pay the charges when they are due); or
 - we are permanently unable to provide the services to you.
- d) When this agreement comes to an end:
- we will submit to you the allocated website with its back end and administrative controls.
 - you must still pay all the deemed charges until the end of the membership period (12 months). This applies when this agreement comes to an end in clause 11, except in the following situations:
 - if we ended this agreement under clause 10a; or

- if we ended this agreement because we were permanently unable to provide the services to you,
e) If you pay us the total charges for the rest of the membership period in one lump sum, we will reduce total charge by a rate we set. You can examine this on our Pricing Page on our website

www.cherimoyabusiness.com/plans-pricing

11. Liability and exclusions

a) We will not be legally responsible to you for:

- loss of income;
- loss of use of the services;
- lost business or missed opportunities; or
- any loss or damage that is not directly caused by us or which we could not reasonably expect at the time we entered into this agreement with you.

We will not be legally responsible to you if we cannot provide the services because of something outside of our reasonable control.

12. Personal information

a) We and our group companies may use your information for our own legal requirements and to:

- manage your account, carry out customer-care activities and train our staff;
- monitor the quality and security of the network and test and maintain our IT systems;
- protect us, and our brand, from activities that might cause loss or damage;
- assess and improve products and services;
- analyse your use of the services for marketing purposes (including, but not limited to, calls made and received by you); and
- contact you with marketing messages if you have not objected. These messages may include marketing from other organisations, but we will not pass responsibility of your information to these other organisations.

b) We may monitor or record calls, emails or text messages made to, or by us, for our business purposes such as to:

- improve customer service;
- carry out quality-control exercises;
- train our staff;
- prevent unauthorised use of our network; and
- make sure we have effective systems in place to prevent or detect crime.

c) We do not include your details in any directory or directory enquiry service. If you'd like to have your information included in these services, get in touch and we can sort it.

d) For more details on how we use your information, please read our privacy policy on our Website.

13. General

a) We may transfer this agreement to anyone at any time. However, you can't transfer this agreement to

anyone unless we've agreed in writing beforehand. We will not unreasonably refuse this request.

b) If you or we fail to enforce our rights under this agreement, it will not prevent you or us from taking further action.

c) We'll send you notices by text, voicemail or other form of electronic message and will assume that you have received them 48 hours after we have sent them. We'll send all bills and notices to the e-mail address you have given. You must tell us about any changes to your address. If you want to write or email us please use the address shown on your bill. You can then assume we have received these notices 48 hours after you have sent them.

d) If you have a complaint please contact us first. We will do our best to resolve your issues.

Privacy Policy

Cherimoya Solutions Limited is dedicated to protect the home user's privacy. This privacy statement explains our privacy practices for our site Cherimoya Solutions Limited. We feel it is important that visitors are fully knowledgeable about the use of their personal information. By using our website and/or purchasing our product, you expressly consent to the terms of this policy.

Personal Information

Cherimoya Solutions Limited allows you to visit the website without revealing any personal information about yourself. Your visit to this website is anonymous. We will only collect your contact information (first name, last name, billing address, phone number, email address and any other relevant information provided by you) as well as financial information (account or credit card numbers), with your permission and for the sole purpose of processing orders.

If you make a purchase from our website, you will be asked to provide your name, billing address, email and credit card information (if you have chosen credit card as payment method). Cherimoya Solutions Limited will use such information only for processing your order and to send important product specific information such as receipt, invoice or registration key.

The information you provide will not be used for any commercial purposes and will not be sold, rented, leased or otherwise forwarded to any third party. We do not distribute or share your personal information beyond what is strictly necessary to fulfill our obligations to you, and then only with partners who adhere to Cherimoya Solutions Limited's commitment to protecting your privacy and data.

Cherimoya Solutions Limited may provide your personal information if necessary, in Cherimoya Solutions Limited's good faith judgment, to comply with laws or regulations of a governmental or regulatory body or in response to a valid subpoena, warrant, or order or to protect the rights of Cherimoya Solutions Limited or others.

Security Procedures and Credit Cards

In order to provide secure processing of your credit card when ordering, Cherimoya Solutions Limited uses Secure Server Software (SSL) that is among the best in use today by e-commerce Web sites. Your personal information, including sensitive credit card information, is encrypted so that it is indecipherable

by others as it travels across the Internet. No credit card data is stored in Cherimoya Solutions Limited's Customer Database. All individual contact information provided to Cherimoya Solutions Limited is stored in secure facilities. If at any time you would like to make a purchase, but do not want to provide your credit card information online, you may contact our Customer Support Staff for details on mail payment.

Cookies

Cookies are identifiers that a web site can send to your browser to keep on your computer in order to facilitate your next visit to the site. The use of cookies is an industry standard, and many web sites use them. Cherimoya Solutions Limited does not use cookies that persist on your hard-drive. We do use dynamic, non-intrusive session cookies, which reside in your browser's memory only for the duration of your user session, to assist in the ordering and purchasing process. Cherimoya Solutions Limited also uses data collected through session cookies for the purpose of identifying the source of traffic (which ad or link you used to reach us), and general patterns of activity on our site. No personally identifiable information is stored in this cookie. Cherimoya Solutions Limited uses this data to better understand what services and support is valuable to our customers, and how we can continue to provide the best online experience possible to our users.

Links to Other Sites

Our site provides links to external web sites. Cherimoya Solutions Limited does not monitor or control the content of such web sites or whether such web sites collect or process your personal data. When you click on one of those links, you leave our site and enter one that we do not control and for which we cannot be responsible. Cherimoya Solutions Limited assumes no liability whatsoever for any kind of material available at such sites and recommends that you review their separate privacy policies.

Acceptance of this Privacy Policy

By using the web site or any services provided through the web site, you expressly consent to the use and disclosure of information as described in this Privacy Policy. Cherimoya Solutions Limited may occasionally update this Privacy Policy. Any changes will be posted to this site, so we encourage you to continuously review our Privacy Policy. All Privacy Policy changes will take effect immediately upon their posting on this Website. Your continued use of Cherimoya Solutions Limited or acceptance of our e-mails following the posting of changes to these terms will indicate your acceptance of these changes.

Support

Cherimoya Solutions Limited provides support for users on our website. If you have any questions or concerns about this Privacy Policy or our information handling practices, please contact us through our website. We will do our best to respond to your inquiry within one business days.