

## 1. Our Responsibilities To You

### 1.1 Internet Access

Kraus Online's Internet Service (referred to as the "Service") is a service provided by Kraus Online that will provide you interactive access to the Internet as a registered customer or authorized user. The Service includes Internet access, e-mail, and other optional services described in your Services Guide provided through a single modem connection.

To access the Service you must have a personal computer along with equipment such as a modem and a network interface card, and software. We will provide you with an Internet connection from a single computer connection in your home or business via either a cable modem ("Cable Modem Service") or by dial-up access ("Dial-Up Service").

If you subscribe to KrausOnline Service, we will provide you with one cable modem that you may lease or purchase from us, the connection between the modem and your computer, and a network interface card. We will provide a single-user Internet Protocol ("IP") address for each authorized modem and computer, and at least one (1) e-mail address or account. If you reside in an area serviced by a one-way cable system, it will be your responsibility to provide the modem used to connect to your standard telephone line to send signals back to us and to arrange with the cable TV company or installer to provide you, at your expense, with a cable outlet for a separate cable connection to your computer, should you wish to have one. If you subscribe to our Dial-Up Service, we will provide software, a single-user IP address for each authorized modem and computer, and at least one (1) e-mail address or account. It will also be your responsibility to provide a dial-up modem and telephone line.

### 1.2 Other Services

We may provide other services such as web page hosting, static IP addresses, additional bandwidth, additional e-mail addresses, remote file backup/storage, peer-to-peer networking and other services that are covered by separate agreements. We may describe some of the other services that we may provide in other written materials provided with your installation kit or that we may provide you at other times (such as, by way of example, a Services Guide). Some of those materials may be found at internet addresses included in some of those other materials. You will be bound by all of the terms and conditions of services included in other written materials, with your installation kit, and/or posted at internet addresses that have been included in the earlier materials. HOWEVER, if there is any difference between the terms of this Agreement and any of those other materials, terms or conditions, the terms of this Agreement control. Those other materials, terms and conditions are subject to change from time to time by Kraus Online, in Kraus Online's sole discretion pursuant to Section 1.3 of this Agreement.

### 1.3 Changes To The Agreement

We reserve the right to amend, alter, or modify this Agreement or any Service Guide at any time and in any manner. Any amendment, alteration, or modification (referred to collectively as "Changes") may be either posted on Kraus Online's website (www) or sent to your e-mail address. **YOU ARE OBLIGATED TO CHECK KRAUS ONLINE'S WEBSITE AT LEAST EVERY THIRTY (30) DAYS FOR SUCH CHANGES.** Any Change is effective on the thirty-first (31<sup>st</sup>) day after it is posted on Kraus Online's website or sent to your e-mail address. Your continued use of the Service on or after that thirty-first (31<sup>st</sup>) day means that you agree to be legally bound by such Change(s).

## 2. General Subscriber Responsibilities

### 2.1 Personal Agreement

The Service is provided to you as an individual at your current home or business, and is for your personal use. The Service is to be used only by you, your employees, and members of your immediate family living with you or working for you at the same address. We call these people, including you, "Authorized Users." You may not transfer your subscription or your rights and obligations under this Agreement to any other person. If you subscribe to Cable Modem Service, you may not move your Account to a different location and you may only use the cable modem provided or approved and configured by us. If you subscribe to Dial-Up Service, you may move your Account to a different location, but you must notify us of the address of this new location. Only one person at a time — you or one of the Authorized Users — may use your Account at any particular

time. If you subscribe to Dial-Up Service, you may access your Account from locations other than your home or business. You are personally responsible for all use of the Service under your account even if your did not authorize someone to use it. You assume responsibility to ensure that all Authorized Users understand this Agreement and comply with its terms. You agree that you are fully responsible for the conduct of anyone using the Service under your Account. You agree that you are fully responsible for any consequences if such individual misuses the Service, violates this Agreement, or accesses material or information that you feel is obscene or otherwise objectionable. You agree to provide all Authorized Users a copy of this Agreement, and to inform them that their use of the Service is subject to the terms and conditions of this Agreement and any changes or additions to the Agreement.

## 2.2 Age Restrictions

The Service is restricted to individuals of at least 18 years of age. By subscribing to the Service, you certify that you are at least 18 years old. You may, at your discretion, permit an Authorized User under 18 years of age to use the Service. If you do, you acknowledge that you are responsible for providing adult supervision for any person who is less than 18 years of age who may use the Service, whether or not a member of your family or household. The Service may not be used to enable persons under 18 years of age to obtain material that is prohibited by law to be sent or displayed, including material deemed to be indecent or obscene.

## 2.3 Provide Accurate Information

You agree to provide us with accurate, complete and current information for yourself and all authorized users, including legal name, age, address, telephone number(s) and payment data upon subscribing to the Service. You agree to promptly inform us if this information changes.

## 2.4 No Resale; Acceptable Use Policy

You may not allow anyone who is not an Authorized User to use or access the Service without first obtaining written permission from us. You agree not to use the Service for any type of business or commercial enterprise, including (but not limited to) the provision of Internet access to others or provision of a server site for FTP, Telnet, RLOGIN, electronic mail, web hosting or other comparable applications. You also agree not to use the Service to operate as an Internet Service Provider ("ISP") or to operate any other business enterprise in competition with the Service. In addition, proxy servers are not allowed under this Account, and if you attempt to connect more than one computer to a given modem via proxy of any type, we reserve the right to terminate the Service. Without limiting the foregoing, applications that may not be run on this Service include, but are not limited to, FTP, HTTP, POP and SMTP, DNS, NNTP, and PROXY. We make other accounts available that would allow commercial or server access if you need it, but at a different fee schedule and at our sole discretion. If you believe you need some other type of account, for example, if you wish to add a hub and provide access to more than one computer in your household or your business, additional services can be purchased for this purpose (to be provided at our sole discretion). Please contact us for a description of those other services and their pricing.

## 2.5 Passwords and Password Security

You agree not to reveal your passwords to others and you agree to indemnify and hold us harmless for any improper or illegal use of your account. This includes illegal or improper use by someone to whom you have given permission to use your account. Your account is at risk if you let someone use it inappropriately. You are responsible for the use of the Account and the confidentiality of your password(s). We will make a reasonable effort to suspend access to the Service through a particular password, or change your access password, upon notification by you that the particular password has been stolen, lost or otherwise compromised. You must immediately notify us of any known or suspected unauthorized use of your Account and/or any known or suspected breach of security, including without limitation loss, theft and/or unauthorized disclosure of your password.

## 2.6 Corporations

We may accept corporations or other entities as members under other billing arrangements at our sole discretion.

# 3. Computer Equipment Requirements

## 3.1 Computer

The personal computer that you use to access the Service must meet the following minimum configuration standards:

Microprocessor:	166 MHz Pentium® or compatible
Memory:	16 MB of RAM
Operating System:	Microsoft Windows 98® or higher version (Apple®, MacIntosh® or Microsoft Windows NT® systems may also be supported)

You must provide and maintain this equipment and software at your cost. You are responsible for the proper installation, operation and maintenance of your equipment used in connection with the Service. You must ensure that such equipment is technically and operationally compatible with the Service and in compliance with applicable Federal Communications Commission rules and regulations.

### 3.2 Equipment, Software and Services Provided By Us Cable Modem

You may purchase or lease the cable modem from us. If you purchase the cable modem, it will become your property. If you lease the cable modem and connecting cables, they will remain our property and the monthly lease charge for it will be added as an additional charge on your bill. If you lease the cable modem, the following conditions apply:

- The cable modem must be returned to us in good condition (as determined by us) when you terminate service.
- You will use reasonable care to avoid damaging it, and will not move, relocate, alter, sell, lease, assign, encumber or otherwise tamper with it. If the cable modem and its connecting cables are not returned to Kraus Online in good condition (as determined by us) upon termination, you will be charged on your credit or debit card, and you agree to pay \$495 for their replacement.
- You agree to make your residence or business (wherever the Equipment is installed) available by appointment for the inspection, repair, replacement and/or removal of the Equipment between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday.

### 3.3 Software - none

### 3.4 E-Mail And IP Addresses

You agree that any e-mail addresses we assign to you as part of the Service belong to us, and that you may use such e-mail addresses only so long as you subscribe to the Service. You also agree that any IP addresses that we allow you to use to access the Service belong to us, and that you acquire no rights in such IP addresses by virtue of your subscription to the Service.

### 3.5 Cable Outlet For KrausOnline Service Only

Unless you reside in an area serviced by a one-way cable system, we or an authorized independent contractor will install an additional cable outlet at your residence or business for the use of the Cable Modem Service. This outlet may be used only to access the KrausOnline Service. You may not relocate this outlet, or use the Cable Modem Service from any other cable outlet, without our prior written approval.

### 3.6 Software And Equipment Installation

You may install the computer software and hardware received from Kraus Online, or we or an authorized independent contractor can install it at your expense.

#### 3.6.1 Damage to Your Home or Business Computer During Installation

Neither Kraus Online, our suppliers, nor our contractors shall be liable for any damage to, or loss or destruction of, your equipment during installation, including but not limited to any damage to, or loss or destruction of, any software, files or data. In addition, you understand that opening your computer to install the network interface card may void warranties provided by the computer manufacturer or other parties relating to the computer's hardware or software. You consent to the opening of the computer for the installation and removal of equipment related to the Service. Neither Kraus Online, our suppliers, nor our contractors shall have any liability whatsoever as the result of the voiding of any such warranties.

#### 3.6.2 Damage, Loss or Destruction of Software Files and/or Data

You understand that, as part of the installation of the Service, system files on your computer may be modified or deleted. We do not represent, warrant, or covenant that these modifications will not disrupt the normal operations of your computer. For these and other reasons, we strongly recommend, and you agree, that you will

back up all files prior to installation and start-up of the Service. If you do not back up all existing computer files, you understand and accept the risks associated with that decision. We and our contractors and suppliers are not responsible for damage resulting from these or other file modifications.

### 3.7 Modification of Equipment

If use or modification of the software, hardware or equipment we supply requires a visit to your home or business for repair or correction, we reserve the right to charge you for the visit and labor required to correct the situation. We do not undertake to correct or repair software, hardware or equipment that we do not supply and all corrections or repairs will be made at our sole discretion.

## 4. Fees and Payment

### 4.1 Monthly Fees

We will charge you, and you agree to pay, standard monthly fees for the Service. If you lease a cable modem from us, additional monthly charges will apply. You must provide us with credit or debit account information, and we will charge your fees and other charges to that account. Those fees and other charges will then appear on your monthly credit card statement, or bank statement, if payment is through your debit card. Subscription fees are not refundable in whole or in part. Each time you use the Service you agree and reaffirm that we are authorized to charge your designated credit card or debit card. Your card issuer agreement governs your use of your designated credit card or debit card in connection with the Service, and you must refer to that agreement with respect to your rights and liabilities as a card holder. If for any reason you pay by check, we may charge a service fee, in our sole discretion, for any returned check and/or bank card or charge card chargebacks.

### 4.2 Pricing Schedule and Billing Questions

We will charge you in accordance with our Pricing Schedule in effect at the time the Service is provided. The Pricing Schedule may be included in a Services Guide, may be provided to you with your application for services or in materials that come with your start-up kit, or may be posted at our website [WWW.KRAUSONLINE.COM](http://WWW.KRAUSONLINE.COM) or your local http/url site). That Pricing Schedule is incorporated in this Agreement by this reference. We can change our fees at any time, pursuant to Section 1.3 of this Agreement. We may also add or modify certain services relating to the Internet and/or the World Wide Web, and we can charge you additional or different fees for providing those new and/or modified services to you, all pursuant to Section 1.3 of this Agreement.

### 4.3 Billing Questions or Discrepancies

The Pricing Schedule is available on our website or call us at 815/478-4444. You must notify us of any billing problems or discrepancies within 90 days from the date they first appear on your Account statement. If you do not bring them to our attention within 90 days, you waive your right to dispute these charges.

### 4.4 Installation Fees

If we provide installation, you owe us an installation fee. If you prepaid that installation fee, we will credit that prepaid fee against the installation fee you owe under this section. If you did not prepay, we will bill you for that fee or collect it upon installation, in our discretion. Installation fees are nonrefundable and are set forth in the Pricing Schedule. Installation fees are due at the time of installation.

### 4.5 Taxes

You agree to pay all applicable local, state and federal fees or taxes (including any cable franchise taxes and general sales or use taxes), and any additional telephone company charges and fees that may apply to your Service.

### 4.6 Late Fees, Collections Expenses and Termination for Unpaid Balances

We expect you to pay your account balance on time. We will assess an additional 5% of any amount outstanding for more than 30 days (or the highest amount as permitted by law) for each month in which the amount is outstanding and unpaid.

You will also be liable for all attorney and collection fees arising from efforts to collect any unpaid balances on your Account.

You agree to be charged and to pay any outstanding balance in the event of cancellation, disconnection or termination of your account.

Without limiting any other right we may have to terminate your access to the Service, we may terminate your



access to the Service if you fail to pay any fees when they are due, in addition to any other remedies we may have.

## 5. Charges For Online Services, Internet Transactions Or Toll Charges For Dial-Up Service

### 5.1 Online Services

Through use of the Service, you may access certain information, products, and services of others, for which there is a charge. These include, for example, certain on-line services such as America Online. You agree that you are solely responsible for all fees or charges for these on-line services, products or information.

### 5.2 Internet Transactions

Some entities offer products and/or services for sale or other types of transactions through the Internet, and charge a price and/or fee for such products, services and/or transactions. You agree that all of the charges by other entities are in addition to the fees and charges payable to us for access to and through the Service. You are solely responsible for any payments associated with such products, services and/or transactions. YOU ALSO AGREE THAT YOU ARE SOLELY RESPONSIBLE FOR PROTECTING THE SECURITY OF YOUR CREDIT CARD INFORMATION FROM UNWANTED OR UNAUTHORIZED CHARGES FOR INTERNET BASED TRANSACTIONS.

## 6. System Rules

You agree to use the Service only for lawful purposes and in accordance with applicable local, state and federal laws, and the following rules. WE RESERVE THE RIGHT TO IMMEDIATELY DISCONNECT THE SERVICE TO YOU AND TO TERMINATE THIS AGREEMENT WITHOUT NOTICE FOR ANY REASON, OR NO REASON, AT OUR SOLE DISCRETION INCLUDING WITHOUT LIMITATION, IF YOU OR OTHERS USE YOUR ACCOUNT IN A WAY THAT WE BELIEVE, IN OUR SOLE DISCRETION, VIOLATES THE FOLLOWING RULES. ALSO, WE RESERVE THE RIGHT TO IMMEDIATELY REMOVE WITHOUT NOTICE ANY MATERIAL OR INFORMATION FOR ANY REASON WHATSOEVER AT OUR SOLE DISCRETION (WITH OR WITHOUT TERMINATING YOUR ACCOUNT). YOU AGREE TO WAIVE AND HOLD US HARMLESS FROM ANY AND ALL CLAIMS RELATING TO US AS A RESULT OF ANY REMOVAL OF MATERIALS, OR INFORMATION, DISCONNECTING OF SERVICE TO YOU OR TERMINATION OF THIS AGREEMENT. If we terminate Service because you violated this Agreement, our express permission will be necessary before you are allowed to use the Service again.

### 6.1 No Violation Of Copyright, Trademark Or Trade Secret Rights

You agree that you will not use the Service to publish, post, distribute or disseminate another's proprietary information, including but not limited to trademarks, trade secrets or copyrighted information, without the express authorization of the rights holder.

### 6.2 No Illegal Material Or Encouragement Of Illegal Behavior

You agree that you will not use, or allow others to use, your account to post, transmit, promote, or facilitate the distribution of any unlawful or illegal material, including but not limited to material that would constitute or encourage a criminal offense, give rise to civil liability or otherwise violate any applicable local, state, national or international law. You will not use our Service to commit a crime, or to plan, encourage or help others to commit a crime.

### 6.3 No Offensive Content

you agree that you will not use, or allow others to use, your account to post, transmit, promote, or facilitate the distribution of any threatening, abusive, libelous, defamatory, obscene, pornographic, profane or otherwise objectionable information of any kind.

### 6.4 No "Spamming," Advertisements Or Chain Letters

You agree that you will not use, or allow others to use, your account to post, transmit, promote, or facilitate the distribution of any unsolicited advertising (including but not limited to mass or bulk e-mail), promotional materials or other forms of solicitation to other individuals or entities. You will not post or transmit requests for money to persons not personally known to you, petitions for signature, chain letters or letters relating to pyramid schemes. You will not post or transmit any advertising, promotional materials or any other form of solicitation. We reserve the right, in our sole discretion, to determine whether such post or transmission constitutes an advertisement, promotional material or any other form of solicitation.

#### 6.5 No "Hacking"

You agree that you will not use, or allow others to use, your account to unlawfully access other computers or services, or to cause a disruption of service to other on-line users.

#### 6.6 No System Disruption

You may not use, or allow others to use, your account to cause disruption of the normal use of the system by others including without limitation disrupting our backbone network, nodes, or services.

#### 6.7 No Web Page Creation

You agree that you will not use, or allow others to use, your account to establish a web page or site on your computer.

#### 6.8 No Impersonation Of Others

You agree that you will not impersonate another user or otherwise falsify one's user name in e-mail or in any post or transmission to any newsgroup or mailing list or other similar groups or lists.

#### 6.9 No Abuse Of Newsgroups

You agree that you will not post a single item to more than three (3) newsgroups or mailing lists or other similar groups or lists. You agree that you will not post to any newsgroup or mailing list or other similar groups or lists, items which are off-topic (for example, off-topic according to the charter of the newsgroup or mailing list or other similar groups or lists or if the item provokes complaints from regular readers of the newsgroup or mailing list or other similar groups or lists for being off-topic). You agree that you will not post or transmit any private, third party e-mail to any newsgroup or mailing list or other similar groups or lists without the explicit approval of the sender.

#### 6.10 No Violation Of Other Laws Or Online Service Rules

You agree that you will comply with all laws and regulations that govern your conduct in connection with the use of the Service and the Internet. These include restrictions on exportation of encryption software. You agree that you will not violate the terms and conditions and operating rules of any other interactive service that you access via the Service. These include newsgroups and mailing lists, or other similar groups or lists and websites.

#### 6.11 Excessive Use Of Bandwidth

We consider usage over 300 GB to be classified as excessive bandwidth usage. If we determine, in our sole discretion, that your account is using, or has consistently used, an excessive amount of bandwidth, we may terminate your account at any time and without notice, or require you to pay additional fees in accordance with our Pricing Schedule. Overage amounts will be calculated at the rate of \$1 per 5GB or \$20 per 100G. If you exceed the monthly data in your plan, typically you will see the charges for additional data on the next month's bill.

#### 6.12 No "Viruses"

You agree that you will not use, nor allow others to use, your account to intentionally transmit computer "viruses," or other harmful software programs and that you will use your best efforts to prevent the unintentional transmission of such viruses or other harmful software programs.

### 7. Service and Performance

#### 7.1 Service Availability

We will make reasonable efforts to assure that the Service will be available to you 24 hours per day, 7 days per week. It is possible, however, that there will be interruptions of service. You acknowledge and agree that the Service may be temporarily limited, interrupted or curtailed for many reasons, including without limitation, limitations of either your or our equipment software, forward error correction overhead (FEC), 10Base-T Ethernet connections to your PC; network traffic or other technical glitches or malfunctions; system capacity limitations imposed on or experienced by the underlying communications carriers; governmental action; acts of God or other reasons beyond our control; equipment or systems failures or modifications, upgrades, maintenance, repairs or similar activities required or appropriate for the delivery or improvement of the Service. With respect to Dial-Up Service, we will make reasonable efforts to assure that we have sufficient capacity and facilities to support our Dial-Up Service subscribers. It is possible, however, that there will be times during which these facilities will be fully utilized by other subscribers. You acknowledge and agree that

Dial-Up Service may be temporarily unavailable. You also acknowledge and agree that Dial-Up Service may be unavailable for reasons beyond our control, such as problems with your local telephone network.

### 7.2 Finite Bandwidth Of KrausOnline Service

KrausOnline Service is provided over a shared network. The bandwidth used by the KrausOnline Service coexists with cable television service using the same facilities. You and all other users share a large, but still limited, amount of bandwidth. As a result, depending, among other things, upon the intensity of customer use of the KrausOnline Service and the time of day you use the KrausOnline Service, the bandwidth available to you, and the speed of the Service, will not always be at optimum levels. We do not guarantee any particular amount of bandwidth. We will, however, manage the KrausOnline Service to provide appropriate bandwidth for as many customers as is reasonably practical.

### 7.3 Disruption of Cable Service

If you subscribe to KrausOnline Service, it may affect the video programming portion of your television service. You waive any and all claims arising out of, or alleged to arise out of, the impact of the foregoing video programming. You also agree to promptly report any problems with your video programming services to the local video programming office by telephone.

## 8 LIMITATION OF LIABILITY: NO WARRANTIES

### 8.1 No Liability For Content

We supply access to the Internet through the Service, but we are not the publisher of any information provided by others through the Internet other than information on our own websites. We do not review, censor, or monitor any programs or content sent or accessed over the Internet or made available by any individual, user, information provider, on-line service or content provider. Such content or programs may include, without limitation programs or content of an infringing, abusive, profane or sexually offensive nature. All content from other parties accessed via the Service is accessed by you and those you have authorized, all at your own risk. We are not in any manner responsible for such content or programs. We assume no liability whatsoever for any claims, losses, action, damages, suits or proceedings arising out of or otherwise relating to such content accessed using the Service.

### 8.2 No Liability For Viruses

Files downloaded from the Internet and/or the World Wide Web, any Internet service, content or other on-line service provider, or other information provider, may contain corrupted, damaging or self-executable files that could corrupt, destroy or otherwise damage data, files, software and/or hardware on your home computer. Typically, these are called "viruses." We make NO REPRESENTATION OR WARRANTY that any software and/or files you may download from the Internet, the World Wide Web, any other Internet service provider, content provider, on-line service provider or other information provider is free from any virus or other damaging or destructive attribute. We make no representation or warranty that any software installed on the computer, including software installed by us, our agents, employees and contractors does not contain any virus or other damaging or destructive attribute. We have no responsibility, and assume no liability for, such acts or occurrences.

### 8.3 No Liability For Unauthorized Access

Because the Service is a shared network, and because it provides access to the Internet and the World Wide Web, it is possible that others may access or monitor the data you send and/or receive to and/or from the Internet and/or the Service. Also, the Internet uses facilities that are generally used for public access to transmit voice and data communications. For these reasons, the Service may not be completely private or secure. Accordingly, we do not warrant that any data or files you send over the Service and/or receive through the Service will be free from unauthorized access by others, or that other users (often called "hackers") would be unable to gain access to your computer. You agree that we are not liable for any claim, loss, damage or costs that may result from your lack of privacy or breach of security on or through the Internet and/or the World Wide Web or otherwise through your use of the Service. If you choose to run applications from your computer that permits others to gain access to it, you must take appropriate security measures. Failure to do so may cause immediate termination of the Service by us. We are not responsible for and assume no liability for any damages resulting from others accessing your computer.

#### 8.4 Peer-To-Peer Networking

Some software includes capabilities that permit other users across a network such as the Service and the Internet to gain access to your computer and to the software, files and data stored on the computer. For example, operating systems such as Windows and Apple Macintosh include file sharing and print sharing capabilities which, when enabled, may permit other users to gain access to your computer even if you are not using the Service.

The Service is typically configured NOT to permit peer-to-peer networking or file-sharing. If you request that we enable that feature, we will ask you to sign a separate release and liability waiver through which you would acknowledge the extreme security risks to your computer and the privacy of your data and files associated with peer-to-peer networking. Moreover, if you choose to run an application that might permit others to gain access to your computer, you do so at your own risk and should take appropriate security measures. You may want to consider installing third-party authentication encryption software to protect your hardware, data and/or e-mail files. We shall have no liability for any claims, losses, actions, damages, suits or proceedings arising out of or otherwise relating to use of peer-to-peer networking, file-sharing, and/or authentication encryption software by you.

8.5 NO WARRANTY/LIMITATION OF LIABILITY/YOUR EXCLUSIVE REMEDY YOU EXPRESSLY AGREE THAT USE OF THE SERVICE, SOFTWARE AND EQUIPMENT SUPPLIED BY US OR OUR AGENTS, EMPLOYEES OR CONTRACTORS (HEREINAFTER COLLECTIVELY REFERRED TO AS THE "COMPANY") IS AT YOUR SOLE RISK. THE SERVICE, EQUIPMENT AND SOFTWARE SUPPLIED BY THE COMPANY ARE PROVIDED ON AN "AS IS", "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, UNLESS SUCH WARRANTIES ARE LEGALLY INCAPABLE OF EXCLUSION. THE COMPANY'S ENTIRE LIABILITY AND YOUR EXCLUSIVE REMEDY WITH RESPECT TO USE OF THE SERVICE, E-MAIL SERVICES AND SOFTWARE AND EQUIPMENT, AND/OR ANY BREACH BY US OF ANY OBLIGATION WE MAY HAVE UNDER THIS AGREEMENT SHALL BE YOUR ABILITY TO TERMINATE THE SERVICE UNDER SECTION 10 OF THIS AGREEMENT OR THE REPLACEMENT OF ANY DISKETTE OR KRAUS ONLINE SUPPLIED EQUIPMENT FOUND TO BE DEFECTIVE. IN NO EVENT SHALL THE KRAUS ONLINE'S LIABILITY TO YOU FOR ANY CLAIM ARISING OUT OF THIS AGREEMENT EXCEED THE AMOUNT PAID BY YOU TO ACCESS AND USE THE SERVICE WITHIN THE THREE (3) MONTH PERIOD IMMEDIATELY PRECEDING THE CLAIM. IN NO EVENT SHALL KRAUS ONLINE BE LIABLE, EVEN UPON THE FAILURE OF ESSENTIAL PURPOSE OF ANY EXCLUSIVE REMEDY, FOR ANY INCIDENTAL, DIRECT, INDIRECT PUNITIVE OR CONSEQUENTIAL LOSSES OR DAMAGES ARISING IN ANY MANNER OUT OF THE INSTALLATION, MAINTENANCE, FAILURE, REMOVAL OR USE OF THE SERVICE, E-MAIL SERVICES OR KRAUS ONLINE SUPPLIED SOFTWARE OR EQUIPMENT.

8.6 NO WARRANTY NOR LIABILITY FOR INTERNET CONTENT OR TRANSACTIONS YOU ASSUME TOTAL RESPONSIBILITY AND RISK FOR YOUR USE OF THE INTERNET GENERALLY. IT IS ALSO SOLELY YOUR RESPONSIBILITY TO EVALUATE THE ACCURACY, COMPLETENESS, USEFULNESS OR VALIDITY OF ALL OPINIONS, ADVICE, SERVICE, PROMOTIONS, ADVERTISEMENTS, AWARDS, PRIZES OR OTHER INFORMATION, AND THE QUALITY AND MERCHANTABILITY OF ALL MERCHANDISE, PROVIDED THROUGH THE INTERNET OR ON THE INTERNET GENERALLY. NEITHER WE, NOR OUR AFFILIATES OR SUBSIDIARIES, MAKE ANY REPRESENTATIONS, WARRANTIES OR ENDORSEMENTS, EXPRESS OR IMPLIED, WITH REGARD TO THE INTERNET OR ANY MERCHANDISE, INFORMATION OR SERVICE PROVIDED THROUGH THE INTERNET OR ON THE INTERNET GENERALLY, OR AS TO THE ACCURACY, QUALITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR OTHERWISE OF ANY MATERIALS ACCESSED THROUGH THE INTERNET. WITH RESPECT TO THE SERVICE E-MAIL SERVICES AND OUR SOFTWARE AND EQUIPMENT, WE HEREBY EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.



WE DO NOT ENDORSE, WARRANT OR GUARANTEE ANY PRODUCT OR SERVICE OFFERED THROUGH OUR SERVICE OR THE INTERNET AND WILL NOT BE IN ANY WAY RESPONSIBLE FOR MONITORING ANY TRANSACTION BETWEEN YOU AND THIRD PARTY PROVIDERS OF PRODUCTS OR SERVICES. YOU ARE SOLELY RESPONSIBLE FOR ALL COSTS OR CHARGES YOU INCUR THROUGH YOUR PURCHASING OR OTHER ACTIVITIES THROUGH OR ON THE INTERNET.

#### 8.7 No Liability For Use In A Hazardous Environment

The Software is not fault-tolerant. It is not designed, manufactured or intended for use or resale as online control equipment in hazardous environments requiring fail-safe performance, such as in the operation of nuclear facilities, aircraft navigation or communications systems, air traffic control, direct life support machines, or weapons systems, in which the failure of the Software could lead directly to death, personal injury, or severe physical or environmental damage. We and our licensors specifically disclaim any express or implied warranty of fitness for such use.

#### 9. Indemnification

If the use of your account causes us to be exposed to legal claims, you are responsible for the cost of defending against such claims. You agree to defend, indemnify and hold harmless us, our officers, directors, employees, affiliates and subsidiaries and telecommunications providers from and against any and all claims, proceedings, damages, injuries, liabilities, losses, costs and expenses (including attorneys' fees) arising out of or relating to any acts by you (or others who use your Account) or materials or information transmitted by you (or others who use your Account) in connection with this Agreement, the Service or the Internet. This includes any illegal or improper use of the Account by those individuals whom you authorized to use your Account or who have accessed your Account due to your negligence or carelessness. If we choose, we may (but we will have no obligation to) monitor the defense of any matter otherwise subject to indemnification by you, and you will take such steps (including providing direction to your legal counsel) as we may request to assure us full access to all information about the defense of the matter. In addition, or in the alternative, if we choose we may (but we will have no obligation to) assume control of the defense of any matter otherwise subject to indemnification by you, using your counsel, or through our own separate counsel (or both), all at your cost and expense (including all attorneys' fees, whether your or our counsel) and without derogating your indemnity obligations. In any event, regardless of who controls the defense of any matter otherwise subject to indemnification by you, no settlement of any such matter may occur without our prior written consent, which we may give or withhold in our discretion.

#### 10. Termination of Service

##### 10.1 Termination By Either Party

Either we or you may terminate or cancel your account at any time. In the event that your account is terminated or cancelled, no refund, including any fees you have paid to us, will be granted; no online time or credits (for example, points in an online game) will be credited to you, nor can it be converted to cash or another form of reimbursement. If you or we terminate your account, we reserve the right to delete your e-mail addresses, and require you to delete any or all program or data files associated with the Account, and/or take any other actions we may deem appropriate to terminate fully all of your rights, access to, and/or use of the Service. We have no obligation to visit your home or office upon termination to reconfigure your computer, and we do not do so.

##### 10.2 Termination Methods

You may terminate your Account by delivering notice to our billing department 815/478-4000 or by sending your cancellation request via U.S. Mail to: 305 S. State Manhattan Il 60442. You still must pay for all charges, including late charges, accrued until your password and e-mail account has been deactivated, including full monthly charges for the month during which the termination occurs. We reserve the right to collect fees, surcharges or costs incurred before you cancel your account. In addition, you are responsible for any charges incurred to third-party vendors or content providers prior to your cancellation.

##### 10.3 Sole Remedy is in Section 8.5

If you have any dispute with us, and we do not resolve it to your satisfaction, your only remedy is as provided in Section 8.5 above. Unresolved disputes include, but are not limited to, any dispute related to, or arising out of: (1) any term of this Agreement or our enforcement or application of this Agreement; (2) any of our practices

or policies; (3) the content available through the Service or the Internet or any change in the content provided through the Service; (4) your ability to access and/or use the Service; (5) the amount or type of fees, surcharges, applicable taxes, billing methods, or any change to the fees, applicable taxes, surcharges or billing methods; or (6) our replacement or attempted replacement of any diskette or Kraus Online supplied equipment found to be defective.

#### 10.4 Survival Of Provisions Of This Agreement

The provisions of Section 4 (Payment and Fees), Section 8 (Limitation of Liability), Section 9 (Indemnification) Section 10.4 (Survival of Provisions of this Agreement), Section 11 (Proprietary Rights), Section 12 (Miscellaneous), and Section 13 (Privacy Policy) shall survive any termination of this Agreement. This means that those provisions remain in effect as between you and us even after this Agreement has been terminated.

#### 11. Proprietary Rights

Except as may be provided by law [or Section 13 of this Agreement], posting messages, uploading files, inputting data, or engaging in any form of communication (collectively, "Communications") in or through the Internet, you are granting to us a perpetual, irrevocable, worldwide non-exclusive license (the "License") to use, perform, display, copy, modify, adapt or document such Communications. We may use the Communications and any derivative works thereof in conjunction with providing, promoting, distributing or otherwise exploiting the Service, and you shall have no recourse against us for any alleged or actual infringement of any proprietary rights to which you may claim ownership as a result of such actions. Except as provided in this Agreement, the License does not grant us any ownership rights in or to your Communications. We or our suppliers own all rights, title and interest in and to all components of the Service, but expressly excluding content owned by third parties that may be accessible through the Service and/or the Internet generally. Our ownership rights in the Service include, but are not limited to, the look and feel of the end-user interfaces associated with the Service, the name of the Service, and the collective works consisting of all public messages on the Service. You may not reproduce any sequence of messages from our Service without our permission.

#### 12. Miscellaneous

##### 12.1 Entire Agreement

This Agreement, including the Services Guide and the Pricing Schedule mentioned in Sections 1.2 and 4.2, constitutes the entire agreement between us and you with respect to the Service.

##### 12.2 No Rights Or Remedies For Third Parties

You agree that this Agreement is not intended to give and does not give any rights or remedies to any person other than you and us.

##### 12.3 Enforceability

You agree that this Agreement is enforceable against you in accordance with its terms. You waive any objections to its enforcement, including any claim that it is a "contract of adhesion."

##### 12.4 Governing Law

This Agreement and all matters arising out of or related to this Agreement will be governed by and construed in accordance with the laws of the Commonwealth of Illinois, without regard to conflicts of laws provisions. Both parties hereby expressly reject the application of the United Nations Convention on Contracts for the International Sale of Goods.

##### 12.5