

# **ICORS Terms of Service**

## **BACKGROUND**

Mission Statement:

The purpose of the corporation is to assist individuals and groups (clients) which offer support, information, and community to those in need, including those affected by disability, family issues, health issues, and other similar needs. To provide this assistance the corporation will offer its clients technical assistance and services, including Internet services.

The Internet services referred to in the mission statement are, primarily, a Listserv-based server for email list, and web hosting for small list-associated web sites.

## **TERMS OF SERVICE FOR ELECTRONIC MAIL LISTS**

In order to maintain some order among lists under the ICORS umbrella, maintain privacy for list subscribers, prevent spam, minimize confusion among subscribers who belong to multiple lists, and distribute resource usage fairly, all list owners are expected to agree to the common set of policies below. This will enable fair use of our donated space, allow older archives to be restored, and allow for future growth.

We understand that for some of the items below there can be variation in unusual circumstances, and we expect to be flexible in allowing such variation as long as it is within the spirit of our policies and does not cause problems for ICORS or for other lists.

These terms of service may be amended by ICORS at its discretion.

- I.) **Requirements** – The following policies must be followed for all lists and by all list owners:

***A.) List Owner's Role and Legal Issues.***

- 1.) Each list must have a Primary Sponsor (primary list owner) as defined in the ICORS Bylaws. Lists may have additional list owners at the discretion of the Primary Sponsor. These Terms of Service apply to all list owners, and a few apply specifically to the Primary Sponsor.
- 2.) Each list owner is fully responsible for and has full authority over their own list. ICORS will not become involved in discussions or difficulties between list owners and subscribers except (a) when assistance is requested by a list owner and ICORS feels it can offer such assistance; (b) when requested to do so by our host (LSOFT); or (c) when ICORS becomes aware of a significant legal or other similar issue which by its nature involves or might affect ICORS. ICORS will not otherwise address inquiries from list subscribers, and will redirect all correspondence from subscribers back to the list owner. Subscribers who repeatedly contact ICORS for list issues which should go to the list owner may be barred from future membership in all ICORS lists.
- 3.) ICORS does not monitor list content for its legality. Legal responsibility for list content – including responsibility for defamation, obscenity, and all other forms of legal liability for message content – rests solely with subscribers, unless the list owner explicitly assumes such responsibility.
- 4.) List owners must agree to work with ICORS to resolve any problem on their list(s) that violates ICORS' policies in a way that necessitates ICORS stepping in. While we expect such occurrences to be extremely rare, when they do occur constructive list owner input is critical.
- 5.) List owners must comply with all relevant laws related to their list, require subscribers to do so as well, and be willing to remove or restrict subscribers who do not comply with legal requirements. This includes but is not limited to laws related to copyright, privacy, and access for the disabled. It also includes laws related to defamation, though ICORS policies place the responsibility for defamation strictly on the subscriber, unless the list owner takes on the responsibility themselves.

**[NOTE:** Copyright ownership in messages posted to ICORS lists is a matter of law, not ICORS policy. For an excellent discussion of copyright issues for online services, including email lists, written by an intellectual property attorney at Franklin Pierce Law School, see <http://www.fplc.edu/tfield/copynet.htm>. For general information on US copyright law see <http://www.copyright.gov/circs/circ1.html>. List owners may also wish to investigate their ability to assert a “compilation copyright” in the archives; this does not override the individual copyright on each post, but can allow the list owner to protect the archives as a whole.]

### ***B.) List Access and Management.***

- 1.) List subscription privileges must meet one of the following criteria:
  - a.) They are free of charge and offered to the general public, or to those among the general public who fit the list's definition and purpose; or
  - b.) They are offered to the members, volunteers, staff, or clients of an organization that is a charitable or educational non-profit, or operates as such (this can include organizations where membership requires dues).

Subscriptions may not be restricted to a private group of specific individuals. For example, a list may serve only those with a specific medical condition, or only the members of a non-profit group set up to support adoptive families, but it may not serve only certain named individuals who are members of a private club.

List owners always have the right to exclude or remove individuals for cause (e.g. failure to provide required documentation at signup, disruption of the list, or violations of list rules).

- 2.) Subscription requests must be confirmed – automatically or through list owner correspondence – to prevent people from being subscribed without their knowledge. If Listserv’s “subscribe by owner without confirm” option is used then there must be correspondence to verify that the person at that address intended to subscribe.
- 3.) A list’s subscriber listing may not be sold, rented, shared, published, or exchanged with anyone outside the list.
- 4.) List owners must work with their subscribers to keep their list(s) free of space hogs – excessive quoting, long signature files, jokes

forwarded with hundreds of previous header lines, attachments which are not necessary to meet the purpose of the list, etc. We understand that there may be some variation in what is considered excessive depending on the nature of the list.

- 5.) List owners must provide an email address for timely, private correspondence with subscribers regarding list-related issues (normally this is the “-request” address for the list). This address must be checked routinely by the list owners, and private, list-related correspondence with subscribers initiated via this address may not be shared outside the list owner team, except where it needs to be shared with ICORS to address a problem, or where the subscriber themselves makes the content of the communication public.

This provision is intended to ensure that list subscribers can communicate privately with list owners on substantive questions, but does not prohibit list owners from using boilerplate or automated responses for standard questions (“how do I unsubscribe”, etc.).

- 6.) E-mail addresses must be hidden in public archives to the extent allowed by the Listserv software.

### ***C.) Subscriber Policies.***

- 1.) List owners must maintain a written set of policies (this can be termed “policies”, “rules”, “etiquette”, or whatever similar term the list owner desires) which are distributed to all new subscribers as a list “welcome message” or otherwise, and are available to all subscribers either on a web site, through regular posts to the list at least quarterly, or by email request. In this document we call these the “List Policies”. The List Policies may include any terms the list owner desires, but must cover at least all of the following:
  - a.) An honest and complete statement as to the general purpose and nature of the list;
  - b.) Names or email addresses of the list’s current owners and the nature of their involvement in the list, including disclosure of any conflicts of interest as described elsewhere in this document;
  - c.) Any policies the list owner expects the subscriber to follow in using the list or its archives;

- d.) Legal acknowledgments and information about privacy and archive access as described below; and
  - e.) Any other items required as part of the List Policies elsewhere in this Terms of Service.
- 2.) As part of the List Policies each subscriber must acknowledge and agree to the following statements of legal and administrative rights and responsibilities:
- a.) By posting to the list the subscriber understands and agrees that their message will be distributed to other subscribers via all those channels used by the list (e.g. via e-mail and web archives).
  - b.) The subscriber agrees not to post to the list any message or other text from outside the list without the express permission of the author, unless the item is clearly for public dissemination (e.g. a press release or public event announcement), or is within the 'fair-use' limitations as set by international copyright conventions. The subscriber acknowledges that in most cases this prohibits the posting of complete articles from newspapers, magazines, or web sites, and that references to such material must generally be made through links rather than posting the full text to the list.
  - c.) Subscribers agree not to quote or forward material from the list, including messages, parts of messages, or personal information of any kind, to others off-list, except as permitted by the list's privacy policies.
  - d.) Subscribers agree that they, and not the list owner, ICORS, or LSoft, are solely and completely responsible for their writings, including liability for any defamation or other similar charge, even if moderation (review of messages prior to posting) is used for the list.
  - e.) Subscribers acknowledge that all inquiries related to the list must go to the list owner, that neither ICORS nor LSoft will address inquiries from list subscribers, and that repeated failure to observe this rule may result in a ban on membership in all ICORS lists.

List owners may set additional or more restrictive policies than this if they wish.

- 3.) List owners must reveal to all subscribers, as part of or along with the List Policies:
- a.) Any associations or affiliations which may present a conflict of interest or the appearance thereof, *i.e.* where the list owner might

benefit or appear to benefit financially from their position as list owner; and

- b.) Any purpose for or focus of the list which specifically benefits the list owner.

For example, if the list owner has a significant financial interest directly or through an immediate family member in a company which sells products or services related to the topic area covered by the list, or intends to use ideas gathered from the list as part of a research project for a university thesis, then that must be disclosed. Note that such activity by list owners is not prohibited by this provision, the issue is that it must be disclosed.

The disclosure requirement does not apply to benefits which are available to all subscribers simply due to information gained from reading the list, for example saving money on purchases, reading about a job opportunity, or reading about ideas which are later used in a book (though use of actual posts from the list in a book would of course require permission of the author).

#### ***D.) Privacy.***

- 1.) List owners must maintain a privacy policy which explains the level of privacy subscribers can expect to receive and the corresponding privacy practices they must follow on the list, including who has access to the list of subscribers, and whether the list owner as a matter of policy restricts subscribers from forwarding others' list messages (or quotes from others' list messages) off-list without permission of the original author(s). The privacy policy can be anything from a sentence or two in the List Policies to a complete separate document, but if separate it must be distributed to new subscribers and available to current subscribers in the same way as the List Policies.
- 2.) The privacy policy must be written in such a way that subscribers are prohibited from forwarding others' personal information off-list without permission of the person involved unless all subscribers are made aware that such forwarding is allowed, and cautioned not to post information that they do not want forwarded. A more complex policy may be used (e.g. allowing forwarding of email addresses but not other information) as long as it is clearly stated.
- 3.) All current subscribers must be notified of any change to the privacy policy which makes it less restrictive than the policy under which they subscribed, and any such change must require that

messages or information posted under an older more restrictive policy continue to be treated under the terms in effect when they were posted.

#### ***E.) Archives.***

- 1.) A statement of who has access to the list archives must be part of the List Policies.
- 2.) For existing archives, the access level may not be changed to a more public level (e.g moving from private to public archives) without notifying current subscribers, and removing all messages posted under a more restrictive access level before such a change is made.

#### ***F.) Administration.***

- 1.) Each list owner must provide ICORS with their real name, address, telephone number, and one or more email addresses, and this information must be kept current. ICORS may share this information internally with its board, staff (if any), and any volunteer committee members who are involved in list approval or other management or administrative functions which involve access to list owner information. ICORS will use reasonable efforts to keep list owners' personal information which it holds from being divulged beyond these groups.
- 2.) Each list owner must provide ICORS with a clear backup plan for list administration should the list owner become unable to fulfill their responsibilities temporarily (e.g. due to illness or loss of internet connection) or permanently. Backup information must include who to contact, and what should be done with the list if no one can be reached.
- 3.) Both the list owner contact information and the backup information must be kept current. All information and notices sent from ICORS to list owners is sent by electronic mail. **Failure to keep contact and backup information, particularly email addresses, current may result in unilateral action by ICORS if the list's Primary Sponsor or owners cannot be reached in a timely fashion..**
- 4.) List owners must acknowledge LSoft's donation of list hosting services to ICORS by complying with both of the following:
  - a.) Listowners will acknowledge LSoft's donation at least once a year with a special message to all subscribers. This may take the form

of a special announcement, a permanent message on the website, an acknowledgment in the List Policies as long as they are sent to all subscribers at least once a year, or another similar form that ensures that subscribers see an acknowledgment of LSoft's donation of hosting services at least annually.

- b.) List owners may modify their Listserv web interface, but may not remove the "Powered by Listserv" logo.

**II.) Recommendations** – We recommend, but do not require, the following policies:

**A.) List Owner Practices**

- 1.) ICORS services are used by many people with disabilities or who have restricted access to the Internet. Where possible, we strongly recommend that list owners provide solutions which meet the needs of such members. (e.g. restrictions on the posting of HTML messages, or attachments).
- 2.) Listowners are encouraged to include a Listserv bottom banner that identifies that the mailing list service is provided by LSoft. For example: *This e-mail list is powered by LSoft's Listserv mailing list management software. For more information, go to <http://www.lsoft.com/LISTSERV-powered.html>.*

**B.) List Policy Recommendations** – *we recommend that the following items be included in the List Policies:*

- 1.) Subscribers agree to do their best to conserve space and make digests more readable. This includes trimming quoted material to the minimum necessary to get the meaning across, not using huge signature files, and not forwarding material with header lines and excessive quoting included from previous forwards. (Note that the list owner is required to work to conserve resources. This provision simply recommends having subscribers agree to participate in that effort.)
- 2.) Subscribers acknowledge that, while the list owners will work to enforce any privacy rules, they can not control the actions of other list members outside the list. List owners may not be held responsible for any damages should a list member choose to ignore any rules.



- 3.) Messages may not be posted to multiple lists (cross-posting). Privacy is compromised when reply-all is used in response, and responses meant for one list end up being quoted on another.

### **III.) Miscellaneous Provisions**

#### ***A.) Relationship to Bylaws***

- 1.) These Terms of Service are authorized under ICORS' Bylaws and apply to all email lists and list owners using ICORS' services.
- 2.) In the event of a conflict between this document and the ICORS Bylaws, the terms of the Bylaws take precedence.

#### ***B.) ICORS Membership and Compliance***

- 1.) The ICORS Bylaws require that there be a Primary Sponsor (primary list owner) for each list.
- 2.) The Primary Sponsor of each list must be a Member of ICORS as defined in the Bylaws, and is responsible for ensuring agreement to and compliance with the Bylaws and these Terms of Service by all list owners associated with their list(s), whether or not those individuals are also Members of ICORS.

#### ***C.) Notifications***

- 1.) Notices which ICORS sends to list owners / Primary Sponsors are sent only by electronic mail. **Failure to keep electronic mail addresses on file with ICORS up to date may result in unilateral action by ICORS if list owners and/or the list's Primary Sponsor cannot be contacted by electronic mail.**

#### ***D.) List Suspension and Termination***

- 1.) Lists may be terminated due to voluntary termination by the Primary Sponsor, or for cause, as set forth in the ICORS Bylaws, when the problem is not resolved by the Primary Sponsor in a timely fashion (generally within 30 days after notification is sent). Causes for termination include, but are not limited to: inactivity; excessive resource usage; termination of the Primary Sponsor's ICORS membership; violations of requirements related to ICORS' tax-exempt status; and violations of the ICORS Bylaws or of these Terms of Service.

2.) Lists may be suspended (temporarily disabled) immediately by the ICORS Board of Directors in the event of an emergency, as set forth in the Bylaws, for any reason for which a list might be terminated. In the event of suspension the Bylaws provide for immediate notification to the Primary Sponsor by email and telephone.