

## Zee Communications LTD (ZANLINK) Terms and Conditions

The customers' use of the Service (as defined below) and/or acceptance of these Terms and Conditions constitute THE CUSTOMER'S agreement to be bound by these Conditions.

These Conditions explain ZANLINK's responsibilities to THE CUSTOMER and THE CUSTOMER'S responsibilities to ZANLINK and to other users of the Service.

Terms and conditions for ZANLINK:

### 1. DEFINITIONS:

Please note some terms used in these Conditions will have a certain meaning:

- 1.1 ZANLINK means Zee Communications LTD; a Company registered of P.O. Box 4204, Zanzibar, Tanzania.
- 1.2 THE CUSTOMER means the person who orders the service and person shall be taken to include bodies corporate or unincorporated.
- 1.3 Service means the following range of Services - but not limited to - provided by ZANLINK.
  - 1.3.1 Wireless/liveline Internet services
  - 1.3.2 Dial up Internet services
  - 1.3.3 Hosting of mailboxes (e mails)
  - 1.3.4 Domain registration
  - 1.3.5 Structured cabled LAN
  - 1.3.6 Wireless LAN (WLAN)
  - 1.3.7 Website design and hosting
  - 1.3.8 Virtual private Networks
  - 1.3.9 Telephone billing and control solution
- 1.4 Equipment means any apparatus or equipment (wireless equipment, dial up modems, switches, routers, cables etc) provided by ZANLINK to THE CUSTOMER to enable provision of the agreed services.

### 2 RIGHTS, OBLIGATIONS AND LIABILITIES OF ZANLINK

- 2.1 ZANLINK will provide the agreed Service to the customer in accordance with the conditions of this Agreement and with reasonable skill and care. It is technically impracticable to provide the Service free of faults and ZANLINK does not undertake to do so.
- 2.2 ZANLINK will use its reasonable endeavors to provide a prompt and continuing Service but will not be liable for any loss of data resulting from delays, non-deliveries, missed deliveries, or Service interruptions caused by events beyond the control ZANLINK or by errors or omissions of THE CUSTOMER.
- 2.3 ZANLINK will provide the Service to The CUSTOMER at their Premises and that under these Conditions the customer cannot require ZANLINK to transfer the Service or Equipment to another location. In the event the customer requests the Equipment/service to be moved to another location within or outside the Premises, then any expense incurred in such move of the Equipment shall be incurred by the customer.
- 2.4 From time to time certain PoPs, servers, or the whole or part of the Network may be closed down for routine repair or maintenance work. ZANLINK shall give as much notice as in the circumstances is reasonable and ZANLINK shall endeavor to carry out such works during the scheduled maintenance periods.
- 2.5 ZANLINK may occasionally have to interrupt the Service or change the technical specification of the Service for operational reasons or because of an emergency. ZANLINK will give THE CUSTOMER as much notice as possible of any planned interruption of THE CUSTOMER'S Service In these circumstances. THE CUSTOMER shall have no claim against ZANLINK for any such interruption.
- 2.6 ZANLINK shall not be held responsible for any direct or indirect liability due to unavailability of the Internet Service.
- 2.7 ZANLINK is responsible for providing Internet access (or any agreed services provided by ZANLINK) to THE CUSTOMER, at the first point of connectivity. Although ZANLINK may assist THE CUSTOMER in configuring their equipment to enable the connectivity to be effectively used, ZANLINK shall NOT be responsible for all other aspects of THE CUSTOMER'S network, computers, servers, wiring, or any other aspect that may or may not hamper the ability to receive Internet access. ZANLINK cannot be held responsible for any malfunctioning of THE CUSTOMER'S software or hardware as a result of the assistance offered by ZANLINK.
- 2.8 ZANLINK does not undertake to repair or maintain THE CUSTOMER'S Computers (hardware or software). THE CUSTOMER shall ensure that their Computer(s) are in good condition to receive the Internet service. ZANLINK may assist to resolve some minor problems in certain cases when undertaking the configurations but shall not take any responsibility or carry any liability for any outcomes in such cases. THE CUSTOMER is advised to contact an independent Technician to undertake any such repairs.

- 2.9 ZANLINK shall NOT be responsible for the type, manner and outcomes of the Internet use. ZANLINK is not responsible for any damage or destruction caused by the use of the Internet either by computer viruses, hoaxes, or any other detrimental factor associated with the Internet.
- 2.10 ZANLINK shall NOT be responsible for any matters relating to information security including THE CUSTOMER'S computers being hacked from a user on the Internet.
- 2.11 ZANLINK reserves the right to establish and enforce usage limits, limiting the speed of uploads and downloads of any kind and in all protocols, including without limitation, file downloads (FTP's), Web browsing, etc., from time to time, for all wireless or other system accounts.
- 2.12 ZANLINK shall NOT be responsible for any damage or destruction to the equipment (whether supplied by ZANLINK or by THE CUSTOMER) that is caused by other factors such as power surges, lightning to THE CUSTOMER'S wireless equipment, cable connections, dialup modems, or any other form of equipment, theft, vandalism, negligence of THE CUSTOMER and so forth. THE CUSTOMER is responsible at all times for the safekeeping of the equipment.
- 2.13 Any Internet Protocol address allocated by ZANLINK to THE CUSTOMER shall at all times remain the sole property of ZANLINK and THE CUSTOMER will have a non-transferable right to use such address for the duration of this Agreement. If this Agreement is terminated for whatever reason, THE CUSTOMER'S right to use the Internet Protocol address shall automatically terminate and thereafter it will not use such address.

### **3. RIGHTS, OBLIGATIONS AND LIABILITIES OF THE CUSTOMER**

- 3.1 THE CUSTOMER shall maintain and regularly check his/her e-mail. This will be the primary medium of communication between ZANLINK and THE CUSTOMER. All-important notices, reminders, disconnection notice, invoices and other legal communication will be sent by e-mail.
- 3.2 THE CUSTOMER will call the official Help Line number (223 7480/1 or 0747 476 666) to report a fault or problem. If THE CUSTOMER has not called this number and reported the problem, ZANLINK does not take any responsibility in acknowledging that there was a fault and all claims, be verbal, e-mail, official letter, will be disregarded completely.
- 3.3 THE Customer is NOT allowed to carry any of the following activities:
  - 3.3.1 Use of a single user dial-up account by more than one party.
  - 3.3.2 Installation by THE CUSTOMER without prior arrangement with ZANLINK of server software of any kind, including without limitation E-mail server, proxy server, FTP server, IRC server or web server.
  - 3.3.3 Increasing or decreasing the number of Computers connected to the Internet without the knowledge of ZANLINK.
  - 3.3.4 Changing the IP (Internet Protocol) addresses, trying new IP addresses or playing with any IP addresses other than those provided by ZANLINK.
  - 3.3.5 "Hacking" activities of any kind, "Sniffing" activities of any kind, or any other attempt to compromise another individual or ZANLINK's Internet security.
  - 3.3.6 Fraudulent activities, including without limitation Credit card fraud and impersonation of any individual or ZANLINK.
  - 3.3.7 E-mail abuse including but not limited to running unauthorized "List" servers, or distributing unsolicited mail (UCE or SPAM)
  - 3.3.8 In any way that does not comply with the Conditions or any legislation or that is in any way unlawful or fraudulent.In case of breach of any of the above conditions, ZANLINK reserves the right to terminate this agreement.
- 3.4 THE CUSTOMER shall ensure that its users, staff or representatives shall comply with the terms and conditions of this agreement.
- 3.5 THE CUSTOMER and its users shall not use or permit its end users to use the service in ways that violate laws, infringe the rights of others, interfere with users of ZANLINK's service or other service networks. THE CUSTOMER is responsible for the knowledge of and adherence to any kind and all laws, statutes and regulations pertaining to or any way connected with the service provided by ZANLINK and all use of any information, data, material or service in violation of any such law, etc., is strictly prohibited.
- 3.6 THE CUSTOMER warrants that it, as the registered user of the account, will keep the username and password secure and not let them become public knowledge. If the password becomes known to any other unauthorized user it will inform ZANLINK immediately. ZANLINK shall bear no responsibility for any outcome due to the negligence by THE CUSTOMER to fail to secure its username and password.
- 3.7 THE CUSTOMER agrees that ZANLINK has the right to delete all data, files or other information that resides or is stored on ZANLINK's hardware, if either ZANLINK or THE CUSTOMER terminates THE CUSTOMER's account with ZANLINK, for any reason.
- 3.8 THE CUSTOMER shall be responsible for the entire cost of any service, which is not covered in this agreement. This includes labor, material and equipment for all failures which are not the fault of ZANLINK including without limitation, acts of God, weather phenomena, failure of THE CUSTOMER's equipment, etc., including service calls to reinstall software.
- 3.9 THE CUSTOMER's rights herein granted, cannot be transferred, assigned, shared, sold, or used by or to anyone other than THE CUSTOMER. No more than the agreed number of connections to the services provided by ZANLINK can be used at any time by THE CUSTOMER on any system account.
- 3.10 THE CUSTOMER agrees that they shall have no claims for the loss of Internet service against ZANLINK for any problems occurring in The CUSTOMER'S Computers, be it hardware problem, software problem or viruses or loss of power at the Customer's premises, non usage of the Internet service by the Customer for a certain period (due to traveling etc), or any such reasons that can not be addressed or fixed by ZANLINK or are not ZANLINK's responsibility.

- 3.11 THE CUSTOMER hereby irrevocably gives permission to ZANLINK and its employees, agents or contractors to:
- 3.11.1 Execute any works on the Premises for, or in connection with, the installation, maintenance, adjustment repair, alteration, moving, replacement, renewal or removal of the Equipment.
  - 3.11.2 Allow ZANLINK to have access to the Premises at all reasonable hours for the purpose of testing or maintaining any of the Equipment and/or the Service and provide a safe and suitable environment for such access visits.
  - 3.11.3 Visit THE CUSTOMER's Premises without any prior notice for the purpose of checking any irregularity detected in the service provided to THE CUSTOMER.

#### **4. PAYMENT**

- 4.1 All prices in this Agreement are inclusive of VAT and are in U.S. Dollars.
- 4.2 Payment may be made in U.S. Dollars or Tanzanian Shillings at the prevailing Bureau de Change selling rate.
- 4.3 Upon signing of this Agreement, THE CUSTOMER shall remit payment of Equipment/Hardware Cost, Setup/Configuration Charge, as well as the Monthly Access Charge shall be remitted as per the payment terms specified.
- 4.4 ZANLINK reserves the right to suspend or terminate the provision of service to the CUSTOMER immediately if THE CUSTOMER is in default of payment until full payments are made. Such suspension or termination is without prejudice to the rights of either party accrued prior to the date of termination.
- 4.5 THE CUSTOMER agrees that ZANLINK shall have the right to withhold any service yet to be rendered or any physical goods belonging to THE CUSTOMER in lieu of any outstanding amount due to ZANLINK.

#### **5. INDEMNITY**

THE CUSTOMER agrees to indemnify and hold ZANLINK harmless for all liabilities, loss, claims and expenses that may arise from (a) any breach of these Conditions by the customer; and (b) any transmission or receipt of any content or message which the customer has requested or made using the Service.

#### **6. COMMENCEMENT AND DURATION OF THE AGREEMENT**

- 6.1 This agreement shall come into force on the day of signing and shall remain in force for one year unless terminated by either party under the terms of this agreement.
- 6.2 The agreement shall be automatically renewed for each additional year at the prevailing service rates at each renewal period, unless terminated by either party under the terms of this agreement.

#### **7. FORCE MAJEURE**

- a. No party hereto shall be considered in default of its obligations hereunder if the performance thereof is prevented or delayed by circumstances of Force Majeure which shall include war, revolution, civil commotion, labour conflicts, epidemics, contagious diseases, accidents, fire, strong winds, floods, earthquake, or because of any law, order proclamation, regulation of the Government, act of God or because of reason beyond reasonable control of the party affected.
  - b. If either party is unable by reason of Force Majeure to perform its obligations under this Agreement, such party shall give to the other party of the event within fourteen (14) days of its occurrence.
- 6.3 As soon as the cause of Force Majeure has been removed the party affected by such cause shall notify the other. If a party prevented from fulfilling its obligation by a state of Force Majeure lasting more than (30) days, the parties shall consult with each other to determine the future performance of the Agreement. Circumstances of Force Majeure shall not affect parties rights already accrued.

#### **8. TERMINATION OF THE AGREEMENT**

Either party may terminate this Agreement at any time during the term of the Agreement by giving to the other party a written notice of its intention to do so of no less than thirty (30) days or some other period as the parties may mutually agree upon, provided that if THE CUSTOMER chooses to terminate this agreement then any advance payment made to ZANLINK will not be refunded.

#### **9. AMENDMENT**

No amendment or modification of any provision of this Agreement shall be effective unless in writing and signed by both parties and their duly-authorized agents.

#### **10. ENTIRE AGREEMENT**

This Agreement and/or the service order form represent the complete understanding between the parties as to the subject matter hereof, and supersede all prior written or oral negotiations, representations, guaranties, warranties, promises, orders, statements or agreements between the parties or any statement or representation made or furnished by any other person representing or purporting to represent either party.

#### **11. DISPUTES**

This Agreement shall be governed by and construed in accordance with the laws of Zanzibar. If at any time there is any dispute between the parties hereto relating to this agreement the parties shall each designate a senior officer to meet with designated senior officer of the other and shall use their best efforts to settle such dispute. If such senior officers fail to settle the dispute within fourteen (14) days after first conferring or if any party refuses to so meet the dispute shall be submitted to the Courts of Law in Zanzibar.

#### **12. NOTICE**

Any notice hereunder must be given in writing by either (i) delivering the message in person (ii) transmitting the message by facsimile or posted to the other party or (iii) by e mail to which such notice is to be given at the address set forth below or at such other address as may be given from time to time.