

Terms & Conditions

Connectivity Service Contract

PARTIES:

This Agreement is made between you the Subscriber and Zululand Wireless Network cc (Registration Number 2007/030966/23) herein referred to as "ZWN" of Richards Bay, South Africa.

THE SERVICES ZWN will provide the Subscriber with Internet Access and related services as described in product literature on a contractual basis of month to month. The Service also includes access to ZWN's help desk which is staffed Monday to Friday (excluding public holidays) 08:00 - 16:30.

ZWN aims to maintain a 24-hour presence (for those who have web space) and 24-hour access for the Subscriber but cannot guarantee a continuous uninterrupted service.

From time to time certain Points of Presence, servers, or the whole or part of the network may be closed down for routine repair or maintenance work. ZWN will give, as much notice as in the circumstances is reasonable and will endeavour to carry out such work during the scheduled maintenance periods as published from time to time.

Neither ZWN nor any other party has control over the Internet, which is a global decentralised network of computer systems. Service interruptions may occur due to causes beyond ZWN's control such as system malfunctions or failures of other parties. In these circumstances, ZWN will use its best endeavours to restore the Service as soon as reasonably practicable.

ZWN does not take back-ups of websites posted utilising the free web space described at clause 2.1.

ZWN reserves the right (but does not assume any obligation) to inspect the content of data that the Subscriber transmits and receives to ensure compliance with this Agreement or any applicable laws regulations or codes of practice. Also reserves the right to disclose the content of data that the Subscriber transmits and receives or remove offending material if required to do so by the police or other law enforcement authorities.

ZWN exercises no control over the content of the information passing through the network and makes no warranty as to its quality, accuracy or freedom from defects or viruses.

The Subscriber acknowledges that neither the Internet nor the ZWN server is secure and that ZWN cannot guarantee the security of any of the Subscribers information.

PAYMENT TERMS

Subscriptions may be paid monthly or annually in advance as agreed at the commencement of this Agreement. These charges are due whether or not there has been on-line activity during such period. If ZWN does not receive payment in full by the due date the Subscriber's account may be suspended. If after 30 days from being suspended ZWN has not received payment in full of the outstanding debt, the Subscriber's account and the Service may be terminated.

ZWN reserves the right to vary the amount of any fee or charge from time to time and will provide at least 30 days notice to the Subscriber. E-mail notices will be sent to the Subscriber in advance of such changes taking effect.

Continued use of the Service after the effective date of a change will constitute acceptance.

All accounts are billed on the 25th of the month. If the customer subscribes part way through the month, a partial payment / pro rata will be generated taking the account up to the 25th of the following month.

An amount of R65-00 will be charged to a Subscriber if authorization cannot be obtained or Debit is returned or unpaid. If authorization or payment cannot be obtained by the due date, ZWN, at its sole discretion, also has the option to terminate or otherwise deactivate the clients account without any notice.

SUBSCRIBERS OBLIGATIONS

The Subscriber is responsible for providing all computer hardware and software, equipment and services necessary to gain access to the Service. It is also the Subscribers responsibility to ensure that the Subscribers equipment will be compatible with the Service.

The Subscriber is responsible for all use of the Subscribers account. If the Subscriber suspects that there is, or has been, unauthorised use of the Subscriber's password, the Subscriber should notify ZWN immediately and have the applicable password changed.

ZWN does not control the messages, information or files that the Subscriber transmits or receives. If a Subscriber has engaged in activities or if ZWN believes a Subscriber has engaged in activities which are illegal or prohibited under this Agreement ZWN may exercise any of the rights set out at Clause 5 below; The Subscriber must not use the Service to transmit or receive information, which is obscene, threatening menacing, offensive, defamatory, in breach of confidence or otherwise unlawful.

The Subscriber must not transmit or receive material, which is in breach of copyright or any other intellectual property rights. If the Subscriber wishes to transmit, receive or post material protected by any such rights it is the Subscribers responsibility to obtain the owners written permission.

The Subscriber agrees that the Subscriber will, when using service, observe the provisions of the Data Protection Act and subsequent amending legislation.

The Subscriber will not knowingly or recklessly transmit or receive material, which contains viruses or other code, or defects which are likely to cause damage to any computer system or data or engage any other activity which is in breach of the Computer Misuse Act.

The Subscriber may not use the Service to engage in activity, which is in breach of any applicable national or international laws.

If any advertisement or offer for sale of goods or services is displayed on a Subscriber's website on a ZWN server such advertisement or offer for sale of goods or services must comply with the code of practice of the South African Advertising Standards Authority.

No subscriber may participate in the sending of large volumes of unsolicited e-mails.

The Subscriber agrees to observe and comply with the requirements of any Acceptable Use Policy, which ZWN may notify to the Subscriber from time to time.

The Service provided is non-transferable and for use only by the individual or corporation subscribing to the Service.

The Service will be charged for the full month's usage, even if the Service is only activated during a later stage in the month.

SUSPENSION OR TERMINATION OF SERVICE

In the event of the Subscriber engaging in any activities which are in breach of this Agreement, bankruptcy or insolvency proceedings are brought against the Subscriber, a receiver is appointed over any of the Subscriber's assets or the Subscriber goes into liquidation, ZWN may, at its sole discretion, and without prejudice to any other legal rights or remedies which it may have (in any order), take any one of the following actions; Notify the Subscriber by e-mail or other means that the Subscriber appears to be engaged in prohibited activity. The Subscriber will then have 5 calendar days to show cause why ZWN should not take further action;

Delete any offending material (if relevant);

Suspend the Service;

Terminate the Service.

Either party may terminate this Agreement by giving the other at least one calendar month's notice in writing, subject to the conclusion of the agreed contract period.

No refund of advance payments for the unused portion of the Service will be made to the Subscriber if a Subscriber terminates an account during a billing period or if ZWN terminates this agreement in accordance with clause 5.1 above.

Without prejudice to the generality of clause 6.4 of this Agreement, ZWN shall have a right to recover from the Subscriber the cost to ZWN in terms of staff time spent dealing with technical and other problems which arise as a result of any use of the Subscriber's account for unlawful or prohibited activities.

The Service needs to be cancelled giving one calendar month's days notice in writing to ZWN, subject to the conclusion of any agreed contract period if applicable.

Cancellations are not deemed valid unless client is possession of a valid cancellation document provided by ZWN acknowledging cancellation.

ZWN operates on a "HARD CAPPING" system. When bandwidth limits have been reached for the package taken, the service will be disconnected until the beginning of the following month.

Extra data bundles may be purchased at the rate determined by ZWN from time to time.

LIMITATION OF LIABILITY AND INDEMNITY:

ZWN shall provide the Service in accordance with the warranties given in Clause 2. Save as expressly set out in this Agreement all conditions or warranties, which may be implied or incorporated into this Agreement by law or otherwise, are hereby expressly excluded to the fullest extent permitted by law.

The liability of ZWN (if any) in contract, tort, negligence or otherwise arising out of or in connection with this Agreement, in respect of all defaults related or unrelated, occurring in any one year will not exceed in aggregate the charges received by ZWN from the Subscriber during that year.

In no event will ZWN be liable for any indirect or consequential loss or damage of any kind (including without limitation loss of profits, business interruptions, or loss, corruption or misdelivery of data) however caused and whether arising under contract, tort (including negligence) or otherwise.

The Subscriber agrees to indemnify ZWN against any claims brought by a third party resulting from the Subscriber's use of the Service and in respect of any losses or liabilities incurred directly by ZWN as a result of the Subscriber's breach or non-observance of any of these terms and conditions.

The Subscriber shall pay all costs, damages, awards, fees (including any reasonable legal fees) and judgements awarded against ZWN arising from any such claims and shall provide ZWN with notice of such claims, full authority to defend, compromise or settle such claims and reasonable assistance necessary to defend such claims, at the Subscriber's sole expense.

The Subscriber agrees that ZWN's network vendor(s) shall be third-party beneficiaries of the provisions of this Agreement.

The provisions of this Clause 6 shall survive any termination of this Agreement.

Additional Services Customers may request additional services via e-mail that will be deemed part of this contract and endure for duration of this contract, any new services if not specified will be subject to the normal cancellation procedures.

GENERAL:

ZWN reserves the right to vary these terms and conditions from time to time and will provide at least 30 days notice to the Subscriber. E-mail notices will be sent to the Subscriber in advance of such changes taking effect. Continued use of the Service after the effective date of a change will constitute acceptance.

The terms and conditions contained in this Agreement constitute the entire agreement between the Subscriber and between ZWN and supersede all other communications.

The Subscriber acknowledges that they have read and accept the terms of this Agreement. Use of the service shall be deemed as acceptance of the terms of this Agreement.

This Agreement shall be governed by and construed in accordance with the laws of South Africa and the Subscriber hereby submits to the exclusive jurisdiction of the courts of South Africa.

Web Hosting Service Contract

This Agreement is between ZWN cc a South African company with its principal office located in Richards Bay, and the client named hereafter. ZWN agrees to provide, and Client agrees to accept through ZWN access to Web Hosting services according to the following terms and conditions:

TERM AND COMPENSATION:

The parties agree to an annual contract, beginning after ZWN's receipt of payment of the initial monthly or other service fee.

This Agreement will automatically renew for successive annual periods unless cancelled in writing prior to the annual renewal date which shall be that date thirty days from receipt by ZWN of payment of Clients compensation payable to ZWN. Such charges and fees are subject to change. Continuation of use of services by Client indicates agreement to such changes or revisions.

A fee of R65.00 will be charged to Client if authorization cannot be obtained or Debit is returned or unpaid. If authorization or payment cannot be obtained by the due date, ZWN, at its sole discretion, also has the option to terminate or otherwise deactivate the Client's account without any notice.

The Subscriber is bound to a 12 month's hosting agreement with ZWN if the Subscriber has a dedicated server using ZWN software or hardware.

DISCLAIMER OF WARRANTY:

ZWN'S SERVICE IS PROVIDED ON AN AS IS, AS AVAILABLE BASIS. DUE TO ZWN'S RELATIONSHIP WITH ON LINE NETWORKS, ZWN GIVES NO WARRANTY, EXPRESSED OR IMPLIED, FOR THE WEB HOSTING SERVICES PROVIDED, INCLUDING WITHOUT LIMITATION, WARRANTY OF THE MERCHANTABILITY AND WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. THIS DISCLAIMER OF WARRANTY EXPRESSLY DISCLAIMS ANY RIGHT TO REIMBURSEMENT FOR DIRECT OR CONSEQUENTIAL LOSSES, INCLUDING BUT NOT LIMITED TO LOSSES OF INCOME, DUE TO DISRUPTION OF SERVICE BY ZWN OR BEYOND THE FEES PAID BY CLIENT TO ZWN FOR SERVICES.

Client expressly agrees that use of ZWN's service is at Client's sole risk. ZWN, its employees, affiliates, agents, third party information ZWN's merchants licensors or the like, indicate ZWN's Web Hosting service may be interrupted and is not likely to be error free. ZWN makes no warranty as to the results that may be obtained from the use of the Web Hosting service or as to the accuracy, reliability or content of any information service or merchandise contained in or provided through the Web Hosting service, unless otherwise expressly stated in this Agreement.

Under no circumstances, including negligence, shall ZWN, its offices, agents or anyone else involved in creating, producing or distributing ZWN's Web Hosting service be liable for any direct, indirect, incidental, special or consequential damages that result from the use of or inability to use the ZWN's Web Hosting services; or that results from mistakes, omissions, interruptions, deletion or loss of files or data, errors, defects, delays in operation, or of performance, whether or not limited to acts of God, communication failure, theft, destruction or unauthorized access to ZWN's records, programs or services. Client maintains sole responsibility for data backups and restoration. Client hereby acknowledges that this paragraph shall apply to all content on ZWN's Web Hosting services.

Use of any information obtained by way of ZWN is at Client's own risk and ZWN specifically denies any responsibility for the accuracy or quality of information obtained through its services. Connection speed represents the speed of a connection to and does not represent guarantees of available end to end bandwidth.

ZWN disclaims liability for any damages arising from Client's use of ZWN or by Client's Server(s). ZWN disclaims liability for Client's data, files, or directories residing on ZWN's equipment or its ZWN's equipment. Client is solely responsible for maintaining data, file, and directory structure back-ups.

Notwithstanding the above, Client's exclusive remedies for all damages, losses and causes of actions whether in contract, tort including negligence or otherwise, shall not exceed the aggregate Rand amount which Client paid during the term of this Agreement.

It is the responsibility of the Subscriber to make sure that mail spooled on ZWN servers are retrieved at least once a week, as the Mail Spool File gets cleared every 5 days. ZWN will not be held responsible for any mail lost due to non-retrieval.

TRADEMARKS AND COPYRIGHTS:

Client warrants that it has the right to use the applicable trademarks of Client, and grants to ZWN the rights to use such trademarks, if any, in connection with ZWN's motion of, referencing of, cataloguing of, or indexing of ZWN's Web Hosting clients.

CLIENT HEREBY AGREES THAT ANY MATERIAL SUBMITTED FOR PUBLICATION ON ZWN THROUGH CLIENT'S ACCOUNT(S) WILL NOT VIOLATE OR INFRINGE ANY COPYRIGHT, TRADEMARK, PATENT, STATUTORY, COMMON LAW OR PROPRIETARY RIGHTS OF OTHERS, OR CONTAIN ANYTHING LIBELOUS OR HARMFUL. CLIENT WILL HOLD ZWN HARMLESS AND IDEMNIFY ZWN FROM ANY DAMAGES, FINES, OR COSTS INCLUDING ATTORNEY FEES WHICH MAY ARISE FROM ANY SUCH VIOLATION OR INFRINGEMENT.

CAPACITY:

Client certifies that he or she has full right and authority to enter into this agreement to bind Client hereto.

INTERNET ETIQUETTE:

Due to the public nature of the Internet, all information should be considered publicly accessible, and important or private information should be treated carefully. ZWN is not liable for protection or privacy of electronic mail or other information transferred through the Internet or any other network ZWN or its customers may utilize.

Use of distribution list via unsolicited electronic mail or other electronic mailings is strictly prohibited. ZWN reserves the right to deactivate the Client's Web Hosting account(s) upon an indication of such activity. Client hereby agrees to indemnify and hold harmless ZWN from any claim resulting from the Client's or another party's use of electronic mail service(s) on the Client's Web Hosting account(s).

TERMINATION /CANCELLATION OF SERVICES

This Agreement may be terminated by either party. Outstanding invoices are not affected by termination. ZWN may terminate service under this Agreement at any time, without penalty, if Client fails to comply with the terms of this Agreement

The Subscriber is bound to a 12 month hosting agreement with ZWN.

The Subscriber is bound to a 12 month hosting agreement with ZWN if the Subscriber has a dedicated server using ZWN software or hardware. The Subscriber shall provide one calendar month's termination notice when cancelling dedicated server hosting with ZWN.

The Subscriber shall be subject to a call-out fee, on all maintenance needed at server room that does not fall under the agreed maintenance provided to dedicated server clients.

The subscriber shall provide one calendar month's notice in writing to terminate any service's with ZWN.

Cancellations are not deemed valid unless client is possession of a valid cancellation

document provided by ZWN acknowledging cancellation.

INDEMNIFICATION:

CLIENT HEREBY AGREES THAT ANY MATERIAL SUBMITTED FOR PUBLICATION ON ZWN THROUGH CLIENT'S ACCOUNT(S) WILL NOT CONTAIN ANYTHING LEADING TO AN ABUSIVE OR UNETHICAL USE OF THE WEB HOSTING PRODUCT(S) OR THE HOST SERVER(S). ABUSIVE AND UNETHICAL MATERIALS AND USES INCLUDES, BUT IS NOT LIMITED TO, PORNOGRAPHY, OBSCENITY, NUDITY, VIOLATIONS OF PRIVACY, COMPUTER VIRUSES, ANY HARASSING AND HARMFUL MATERIAL OR USES, ANY ILLEGAL ACTIVITY, OR MATERIAL ADVOCATING ILLEGAL ACTIVITY, AND ANY INFRINGEMENT OF PRIVACY OR LIBEL.

Client agrees that it shall defend, indemnify, save and hold ZWN harmless from any and all demands, liabilities, losses, costs and claims, including reasonable attorneys' fees, (Liabilities) asserted against ZWN, agents, its clients, servants, officers and employees, that may arise or result from publication or use of client's materials, any service provided or performed or agreed to be performed or any product sold by Client, its agents, employees or assigns. Client agrees to defend, indemnify and hold harmless ZWN against Liabilities arising out of (i) any injury to person or property caused by any products or services sold or otherwise distributed in connection with ZWN's Web Hosting service; (ii) any material supplied by Client infringing on the proprietary rights of a third party; (iii) copyright infringement and (iv) any defective product which Client sold on the Web Hosting.

CONTRACT REVISIONS:

Revisions to this Contract will be considered agreed to by Client on renewal of ZWN's Web Hosting services as specified in Section 1(c).

UNLIMITED USE POLICY:

High bandwidth usage: ZWN offers an unlimited use policy by maintaining very large ratios of bandwidth per customer. In rare cases, ZWN may find a customer to be using server resources to such an extent that he or she may jeopardize our service ZWN's' server performance and resources for other customers. In such instances, ZWN reserves the right to impose the High Resource User Policy for the consideration of all customers.

HIGH RESOURCE USER POLICY:

Resources are defined as bandwidth and / or processor utilisation.

ZWN may implement the following policy at its sole discretion:

When a website is found to be monopolising the resources available ZWN reserves the right to suspend that site immediately or renegotiate the current hosting package in accordance to the use. This policy is only implemented in extreme circumstances and is intended to prevent the misuse of our service ZWN's servers.

ENTIRE UNDERSTANDING:

This Agreement contained in this Contract constitutes the sole agreement between ZWN and Client regarding its Web Hosting service. It is construed in accordance with the laws of South Africa. Any litigation or lawsuits incidental to this Agreement shall be filed and be determined in South Africa unless otherwise agreed to in writing by ZWN.

Client will use the Web Hosting services in a manner consistent with any and all applicable laws of South Africa.

Signing up for an account binds the clients to the above contract.