

TERMS AND CONDITIONS FOR SUPPLY OF VSAT SERVICES

The following are the terms and conditions that govern the satellite communication service provision from Indigo Telecom Ltd to the Subscriber, (“Contract”) is made by and between Subscriber and Indigo Telecom Ltd (ITL), each as defined and detailed as per the service supply contract. Now therefore, in consideration of the mutual promises and covenants herein contained, the adequacy of which is hereby acknowledged, and intending to be legally bound, Subscriber and ITL hereby agree as follows:

1 CONTRACT.

Subscriber agrees to be bound by this Contract and to use the Service in compliance with the terms of the Contract.

2 THE SUBSCRIBER.

Subscriber is at least 18 years of age, is legally able to enter into contracts and is responsible for this subscriber account. Subscriber shall pay all fees, taxes, charges and other expenses incurred in connection with the account.

3 THE SERVICE.

The Service consists of an Internet connection incorporating transmission of data communications via satellite uplink and downlink facilities and satellite transponders. The Service may contain material that is unsuitable for minors and Subscriber acknowledges that ITL does not and cannot filter the content. The Service speed can vary depending on Internet traffic, extreme weather conditions, and other factors beyond the control of ITL.

4 SUBSCRIBER ACKNOWLEDGEMENTS REGARDING THE SERVICE.

- (a) Subscriber acknowledges that in order to provide the Service, ITL has contracted with communications and satellite operators for space segment capacity and internet access capacity. Subscriber further acknowledges that ITL will only provide uninterrupted continuous Service to Subscriber pursuant to his Contract to the extent which ITL receives such service from the communications and satellite operators.
- (b) Subscriber acknowledges and agrees that from time to time ITL may be required to temporarily suspend the Service to verify compliance with applicable licenses, authorizations, and compliance with the technical and operating parameters of the Satellite. Under such circumstances ITL will use all reasonable efforts to minimize disruption to the Service.
- (c) Subscriber accepts that ITL may change or withdraw any element of the Service from time to time and will use all reasonable efforts to notify Subscriber of any necessary change in the Services.
- (d) Subscriber acknowledges and agrees that ITL have the right to move Subscribers service to a satellite other than the Satellite provided, however, that ITL shall give Subscriber five (5) days advance notice of any planned move and provided that ITL will not exercise this relocation without good cause, such cause to be determined in ITL's sole discretion, and that ITL will take all reasonable efforts to avoid that the Subscriber be required to take any related adjustment actions to maintain Service. In any event, ITL shall have the right by providing 24 hours notice to Subscriber to change the Satellite transponder frequency on any day.

- (e) Subscriber acknowledges that the Service is an “always open” connection to the internet while the equipment is powered on and that it is Subscriber’s sole responsibility to install, configure and maintain suitable security measures to protect Subscriber’s computer and equipment from unauthorised or malicious access from the internet.

11. TERM.

The Contract is for a minimum initial term of 12 months, and shall automatically renew for subsequent 12-month terms or as per the signed contract document, until terminated in accordance with the Contract. After the Initial Term, Subscriber may terminate the Contract upon ninety (90) days written notice to ITL, the effective date of the notice is the date ITL confirms receipt of the notice. Should Subscriber terminate the contract for any reason during the initial term, a cancellation fee equal to twelve (12) months monthly service fee will become immediately due, and Subscriber acknowledges and agrees to pay such fee. ITL may in its sole discretion decide to terminate the contract at any time. In the event that ITL terminates the contract for reasons other than breach of the Contract by Subscriber, then ITL shall endeavor to the extent reasonably possible to provide 60 (sixty) days notice to Subscriber. Subscriber is liable under the Contract for all fees and charges until such time as the Contract has been terminated. **SUBSCRIBER UNDERSTANDS THAT UNLESS WRITTEN NOTIFICATION IS RECEIVED BY ITL AFTER THE INITIAL TERM, THE SERVICE SHALL CONTINUE AND SUBSCRIBER WILL CONTINUE TO BE RESPONSIBLE FOR PAYMENT OF APPLICABLE SERVICE FEES.**

12. TERMINATION.

- (a) If Subscriber is dissatisfied with the Service or any related terms, conditions, rules, policies, guidelines, or practices, Subscriber’s sole remedy is to discontinue using the Service, cancel the account, and pay any cancellation fees that apply. To cancel the Service Subscriber must send a written request for termination by mail or fax to ITL and it must be signed by an authorised representative of the Subscriber. Should Subscriber terminate the contract for any reason during the initial term, a cancellation fee equal to twelve (12) months monthly service fee will become immediately due, and Subscriber acknowledges and agrees to pay such fee
- (b) Upon cancellation or otherwise upon termination of the Contract, related email and hosting services will be terminated and all Subscriber files stored on ITL servers will be deleted. ITL may terminate the Contract, your password, your account, or your use of the Services for any reason, including, without limitation, if ITL, in its sole discretion, believes you have violated the contracts or if Subscriber fails to pay any charges when due.
- (c) Sections 11, 20, 21, and 22 of the Contract shall survive termination of the Contract.
- (d) ITL may terminate the contract immediately if Subscriber is subject to bankruptcy, insolvency examinership, receivership, liquidation or any similar proceedings, or in ITL’s exclusive opinion is unable to pay fees due to ITL.

13. FEES AND PAYMENT.

- (a) Subscriber shall pay a basic monthly service fee and all other applicable fees, charges, taxes, and other amounts annually in advance for the Service at the rates in effect at date of payment. ITL may increase or decrease the basic monthly service fee. ITL will use all reasonable efforts to provide Subscriber prior notice of same.
- (b) Payments are due Quaterly in advance, and prorated charges are due on demand. If any payment is more than 7 days overdue, the Service may be suspended with immediate effect and remain suspended until the TERMS and CONDITIONS for Supply of Satellite data services Indigo Telecom Ltd

– VSAT Terms and Conditions Page 2 of 3 due amounts are paid in full. The Subscriber is NOT relieved of the obligation to pay the monthly service fees while an account is suspended. ITL may at its sole discretion terminate the Service and the Contract for any accounts which are 14 days or more overdue. A reactivation fee or deposit may be required before Service is reactivated after suspension or termination. Credit account balances shall not accrue interest. Subscriber agrees to pay the reasonable costs of any collection agency, solicitor or court used by ITL to collect past due amounts or to enforce the contract.

14. LICENCING AND REGULATION

- (a) The Customer undertakes and warrants that its use and reception of the Service does not and will not violate any applicable law, statute, regulation or government licence and that it has obtained, on or before commencement of the Service, and shall maintain any and all necessary licenses' and permissions in respect thereof and shall pay all fees and charges relating thereto.
- (b) The Customer is responsible for obtaining such licences and or permissions as may be required for the use of the Service.

15. NO LICENCE.

No license with respect to the Service expressed or implied is granted by ITL pursuant to the Contract

16. SUBSCRIBER ACCOUNT.

- (a) Subscriber may receive a username, password, account reference, IP information and various other details. Subscriber is solely responsible for use of the Service and for ensuring their information is kept confidential. Subscriber must notify ITL immediately upon discovering any unauthorized use of their account.
- (b) Subscriber acknowledges that usernames, passwords and IP addresses may change or be changed from time to time, and specifically that fixed IP addresses are not guaranteed.

17. FAIR ACCESS POLICY.

To ensure equal Internet access for all subscribers, ITL operates a fair access policy. Fair access establishes an equitable balance in Internet access across high-speed Internet services for all subscribers. To ensure this equity, heavy usage customers may experience some temporary throughput limitations during peak usage hours. ITL provides the Service on a "best effort" basis and does not guarantee upload or download speeds.

18. SOFTWARE LICENSE.

ITL grants to Subscriber a non-exclusive, non-assignable and non-transferable license to use and display the software provided by or on behalf of ITL only for purposes of accessing the Service ("Software"). Unauthorized copying of the Software is expressly forbidden. Subscriber may not sublicense, assign or transfer the license or the Software.

19. INSTALLATION.

- (a) Subscriber acknowledges that as the equipment is complex and that broadcast regulations for installing and aligning the antenna are stringent, the equipment must only be installed by a ITL Approved Installer. ITL will arrange for the installation and commissioning of the equipment at your site in advance of service provision.
- (b) The installation, use, inspection, maintenance, repair, and removal of the equipment may result in

service outage or potential damage to your computer. Subscriber is solely responsible for backing up all existing computer files and data. ITL and its employees, agents, contractors, and representatives shall have no liability whatsoever for any damage to or loss or destruction of any of your hardware, software, files, data, or peripherals. Subscriber assumes responsibility for impacts to or loss of any warranty associated with the opening of your computer for installation.

- (c) Subscriber acknowledges that this is a fixed-location service for one personal computer only unless it is expressly designed for multiple users and the same acknowledged by ITL. Moving to another location will require the service to be re-provisioned by a ITL Approved Installer at the new location. This may result in interruption of the Service, and will incur installation fees which Subscriber will be required to pay in advance of moving.
- (d) ITL will make its best effort to provide the Service to all applicants. ITL may in its sole discretion determine that it can not or will not service a particular site or subscriber, and reserves the right to cancel the installation process and refund any money that Subscriber has paid. ITL will notify you of its intent to cancel as soon as reasonably possible. It may take up to 90 or more days to determine if ITL is able to provide service. ITL shall have no responsibility whatsoever for claims arising out of its failure or refusal to complete the installation or provide the Service.
- (e) The installer will need to work internally and externally at your premises for which they will require access. Subscriber acknowledges responsibility for securing, including any associated costs, the following:
 - (i) obtaining all necessary consents including planning permission if needed, landlord, occupier and other building consents for both access and installation and maintenance of the equipment; and (ii) full, free and safe access to relevant premises at agreed times.
- (f) If for any reason an installation must be cancelled due to error, omission, oversight or for any other cause attributable to Subscriber the following arrangements apply. The installation may be cancelled 5 or more working days before the installation date without penalty. If cancelled less than 5 working days from installation, a cancellation fee of \$150 will be payable. If cancelled within 1 day of an agreed installation date an installation abort fee of \$350 will be payable. The payment of the abort fee includes but is not limited to the situation where the installer must cancel the installation having arrived on site where the Subscriber has provided inaccurate or incorrect information, or where the Subscriber has omitted to make known information relevant to the installation.

20. COPYRIGHTS AND LICENSES.

The content on the Service is protected under applicable copyright law. All copying, modification, distribution, publication or other use by Subscriber, or by any user of Subscriber's account, of any such content is prohibited, except as expressly permitted by the holder of the applicable copyrights.

21. NO ENDORSEMENT.

ITL does not endorse or in any way vouch for the accuracy or completeness of any content made available through the Service. ITL does not recommend that such content be relied on by Subscriber without appropriate verification.

22. SUBSCRIBER CONDUCT.

Subscriber shall comply with all laws, rules, regulations and legal obligations related to the Service and with all acceptable use policies and procedures established from time to time by ITL. Subscriber shall not use the Service to conduct any business or activity or to solicit the performance of any activity which is prohibited by any law, rule, regulation or legal obligation. Subscriber shall not intercept email

23. THIRD PARTY ACCESS.

- (a) Subscriber shall not resell, share, lease, hire or otherwise permit access to the Service to any third party, including but not limited to the connection of any third party to the Service through use of direct cable connection, network connection, wireless networking, or any other means.
- (b) ITL reserve the right to suspend the Service pending investigation where it reasonably suspects the above clause is breached by Subscriber and reserves the right to terminate with immediate effect the Service and the Contract where such breach has taken place.

24. SERVICE MONITORING.

ITL has no obligation to monitor the Service, but may do so and disclose information regarding use of the Services for any reason if ITL, in its sole discretion, believes that it is reasonable to do so, including to: satisfy laws, regulations, or governmental or legal requests; operate the Service properly; or protect itself and its subscribers. ITL may immediately remove your material or information from ITL servers, in whole or in part, which ITL, in its sole and absolute discretion, determines to infringe another’s property rights or to violate ITL’s Acceptable Use Policy).

25. SUBSCRIBER EQUIPMENT.

- (a) Subscriber shall maintain and operate suitable and fully compatible terminal equipment and communication devices required to access the service. ITL makes no representation or warranties, either express or implied, regarding such Subscriber equipment.
- (b) A 12-month limited warranty is available from the equipment manufacturer for the equipment purchased from ITL in connection with the Service and ITL will comply with all reasonable requirements necessary to affect the pass-through of the warranty to Subscriber. At its sole option within the initial term, ITL or its agent may replace defective equipment on behalf of the manufacturer, provided Subscriber follows all applicable procedures. All warranties are on a strict RETURN to BASE basis, associated costs will be the sole responsibility of the subscriber. This warranty does not cover defects resulting from acts outside of ITL’s control, use contrary to specifications or instructions, misuse or abuse, or repair or modification by anyone other than the manufacturer, ITL, or its contractors. ITL reserves the right to modify this warranty at any time. Title and all associated risks associated with the Equipment shall pass to Subscriber when equipment purchase costs are paid in full.

26. DISCLAIMER OF WARRANTIES.

Access to the service is not guaranteed. The Service is distributed on an “as is” and “as available” basis without warranties of any kind, either express or implied, including but not limited to warranties of title or implied warranties of merchantability or fitness for a particular purpose or otherwise.

27. LIMITATION OF LIABILITY.

Neither ITL nor any of its information or content providers, service providers, licensors, employees or agents shall be liable for any direct, indirect, incidental, special, punitive or consequential damages arising out of Subscriber’s use of the service or inability to use the service or any breach of any representation or warranty. In any event, such liability shall not exceed the total amount actually paid by Subscriber for services provided under the contract for the prior six month Period, expressly not including any amount paid for equipment purchase or installation.

28. INDEMNITY.

Subscriber assumes all risk and liability for any use of the Service. Subscriber agrees to indemnify ITL against all claims, liability, damages, costs and expenses, including but not limited to reasonable legal fees, arising out of or related to the use of the Service.

29. THIRD PARTY BENEFICIARIES.

The provisions of Sections 19, 20 and 21 are for the benefit of ITL and its respective contractors, information or content providers, service providers, licensors, employees and agents; and each shall have the right to assert and enforce such provisions directly on its own behalf.

30. SUPPORT SERVICES.

Subscriber shall direct all enquiries and service related issues to ITL's Customer Sales and Support contact points.

31. APPLICABLE LAWS.

The Contract shall be governed by the laws of the Republic of KENYA. Any cause of action of Subscriber, or by users of Subscriber's account, with respect to the Service or the Contract must be instituted within six (6) months after the claim or cause of action has arisen or be barred. It is acknowledged that this is a services contract and not a contract for the sale of goods.

32. GENERAL

- (a) Entire Contract. The Contract constitutes the entire contract between the parties relating to the subject matter hereunder, and supersedes any and all oral and/or written statements, discussions, representations and contracts made by either party to the other, and may not be assigned without the express written consent of ITL. No modification of the Contract shall be binding on either party unless it is in writing and signed by both parties. Failure on the part of ITL to enforce any provision of the Contract shall not be construed as a general waiver or relinquishment of the right to enforce such provision. If any provision shall be held unenforceable, the validity legality and enforceability of the remaining provisions shall in no way be affected thereby, and the intent of the unenforceable provision enacted to the maximum enforceable extent.
- (b) Notices. All notices, requests, consents and other communications hereunder, shall be in writing and shall be forwarded by either Registered Mail, fully prepaid, sent via facsimile or delivered in person to the address of each party as set forth at the beginning of the Contract, or at such other address as may have been furnished in writing; provided that any notice of termination shall be sent via registered mail in addition to any other means of communication used. Notices, if mailed, shall be deemed effective 5 working days following deposition with the mail service.
- (c) Non-Assignment. The Contract is personal to the parties hereto and the rights and obligations of Subscriber hereunder cannot be assigned, delegated, or in any manner transferred, except as approved by ITL, and, provided that ITL may assign the Contract to a subsidiary, affiliate, or other entity.
- (d) Publicity. ITL may identify Subscriber as user of ITL's services in reports, advertisements and other promotional literature or forms of publication. Subscriber should advise ITL if it does not wish to be identified.
- (e) Remedies. Any of the remedies set forth herein, are not exclusive of remedies that ITL or Subscriber may obtain in a Court of Law, on Legal or Equitable grounds.

(f) Headings for Convenience. All headings preceding paragraphs and subparagraphs have been inserted for convenience of reference only, and shall not be relied upon in determining the meaning of the rights and obligations of ITL or Subscriber.