



AFRICONNECT ZAMBIA LIMITED (ICONNECT)

AND

END USER SERVICES AGREEMENT

(EUSA)

SUBSCRIPTION & RENTAL OF EQUIPMENT

TABLE OF CONTENTS

1	DEFINITIONS AND INTERPRETATION.....	2
2	CONSIDERATION CLAUSE	4
3	SERVICE	4
4	SERVICE RELIABILITY AND AVAILABILITY	5
5	EQUIPMENT AND SOFTWARE REQUIREMENTS.....	5
6	FEES.....	6
7	SUSPENSION OF SERVICE.....	7
8	MONITORING AND CONTENT	8
9	CONFIDENTIALITY	8
10	LIMITATION OF LIABILITY	9
11	TERM AND TERMINATION	9
12	EFFECTS OF TERMINATION	10
13	NOTICES	11
14	FORCE MAJEURE	11
15	GENERAL	11
16	PROPRIETARY RIGHTS.....	11
17	ASSIGNMENT	12
18	DISCLAIMER OF WARRANTIES.....	12
19	MODIFICATION OF TERMS.....	12
20	SEVERABILITY	12
21	DISPUTES	12
22	LAW AND JURISDICTION.....	13
	SCHEDULE 1.....	14
	ACCEPTABLE USE POLICY	14
	SCHEDULE 2.....	5
	AFRICONNECT BILLING PROCESS.....	5
	SCHEDULE 3.....	6

THIS AGREEMENT dated this of 200... is made

BETWEEN

- (A) AfriConnect Zambia Limited a company incorporated in Zambia having its registered office at Plot 59, Great East Road, Lusaka (hereinafter called “**AfriConnect**”); and
- (B) a company / business / NGO / individual incorporated in Zambia and having its registered office / plot at herinafter called the ‘**User**’)

WHEREAS

- (A) AfriConnect provides iConnect wireless internet connectivity services (the “Service”) and rents out computer-related hardware (the “Equipment”) to facilitate the Services;
- (B) The User is desirous of renting the Equipment and requires broadband internet connectivity to be made available at its premises;
- (C) AfriConnect is satisfied that the Services and the Equipment are capable of being provided in accordance with this Agreement; and
- (D) AfriConnect and the User desire to memorialize their Agreement as detailed herein.

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1 DEFINITIONS AND INTERPRETATION

- 1.1 In this Agreement words and expressions shall have the same meaning as are respectively assigned to them in the Agreement hereinafter referred to.
- 1.2 The following documents shall be deemed to form and be read and construed as part of this Agreement, viz: -
 - (a) Acceptable User Policy (AUP) (Schedule 1);
 - (b) AfriConnect billing process (Schedule 2); and
 - (c) Equipment to be rented (Schedule 3).
- 1.3 The order of priority of the documents shall be as stated in clause 1.2 above.
- 1.4 In interpreting the Agreement, singular also means plural, male also means female or neuter, and the other way around. Headings have no significance. Words have their normal meaning under the language of the Agreement unless specifically defined.

- 1.5 “Agreement” Means this agreement together with all schedules and any appendices extensions renewals and amendments entered into by the parties;
- 1.6 “Acts or Omissions” means any actions of the User that are contrary to their obligations under this Agreement, or any failure by the User to perform an obligation required of him under the provisions of this Agreement;
- 1.7 “AUP” means Acceptable Use Policy published by AfriConnect from time to time which may be available on the AfriConnect website;
- 1.8 “Conditions” means these conditions entered into between AfriConnect and the User and all amendments;
- 1.9 “Delivery Date” means the delivery date specified in Schedule 3 or such date as may be granted or agreed by the parties;
- 1.10 “Documentation” Means the related handbooks and other material provided with the Equipment;
- 1.11 “Equipment” means the items of hardware identified in Schedule 3;
- 1.12 “Event” means the first in a series of events connected by the same cause and which shall be considered a single event;
- 1.13 “Initial Term” means the initial contractual term entered into between the parties during which AfriConnect shall provide the Service and rent the Equipment to the User as set out in this Agreement. Unless otherwise agreed the initial term shall be 12 (twelve) months which shall commence after the Installation Period;
- 1.14 “Installation Period” means the two week period subsequent to the installation of the Equipment by AfriConnect to enable the User have access to the Service. The period will be used by the service provider to take the necessary steps to ensure the service is being provided to the satisfaction of the User. AfriConnect shall not be liable whatsoever for any service interruption in whatever manner it occurs during this period;
- 1.15 “Place of Use” means the site at which the User intends to operate and use the Equipment;
- 1.16 “PoPs” means Point of Presence which is a location from where AfriConnect shall provide the Service.
- 1.17 “Renewal Term” means a contractual term following on from the Initial Term, between the parties during which AfriConnect shall provide the Service and rent the Equipment as set out in this Agreement. Unless otherwise agreed, the minimum term of the renewal shall be 12 (twelve) months. The Renewal Term shall be continuous and shall not terminate unless agreed to by the parties;

- 1.18 “Service Agreement” means the Agreement duly entered into between AfriConnect and the User incorporating these terms and conditions and any addendum, appendices, renewals or amendments entered into by the parties;
- 1.19 “Service Interruption” means an interruption in the provision of the Service lasting more than forty eight hours, other than that resulting from:
- (i) acts or omissions of the User;
 - (ii) failure or poor performance of the equipment referred to in Clause 5 (Equipment and Software Requirements);
 - (iii) the causes stated in Clause 14 (Force Majeure);
 - (iv) suspension of the Service as described in Clause 7 (Suspension of Service) below.
 - (v) Power outages, electricity surges, weather related issues, or interference related issues.
- 1.20 “Service” means the main product provided by AfriConnect to the User, being the provision of internet services , and any other services incidental to the foregoing that are provided by AfriConnect to the User;
- 1.21 “Usage Allowance” means the amount of data that can be passed along the User’s communication channel in a given period of time and related facilities that the User will be entitled to use on a monthly basis in accordance with the User’s chosen class;
- 1.22 “User” means the company or person to whom AfriConnect shall rent the Equipment to and provide the Services, including the provision of internet connection, to in accordance with the Agreement.

2 CONSIDERATION CLAUSE

- 2.1 In consideration of the sums payable in advance as per Schedule 2 to be made by the User to AfriConnect the User hereby agrees with AfriConnect to use the Services and rent the Equipment in conformity in all respects with the provisions of the Agreement.
- 2.2 The User hereby agrees to pay AfriConnect in consideration of the Services and the Equipment at the times and manner prescribed by AfriConnect in the Agreement.

3 SERVICE

- 3.1 In consideration of the payment of the fees as they fall due, the User shall rent the Equipment from AfriConnect and AfriConnect shall allow the User access to the Internet via the iConnect wireless infrastructure with effect from the date that AfriConnect sets up the User’s access to the Service.

- 3.2 The Usage Allowance available to the User shall not exceed that of their chosen class of service. Should the User exceed the monthly usage allowance, of their chosen class of service, the User shall be disconnected or throttled (provided with minimal internet bandwidth) without notice for the remainder of that month.
- 3.3 Notwithstanding the provisions of clause 3.2, the User may purchase additional Usage Allowance for the remainder of the given month and the provisions of Schedule 2 shall apply to the User.
- 3.4 To facilitate an orderly and proper use of the Service and the Equipment by the User, AfriConnect shall publish Documentation, operating guidelines and AUP for the User from time to time on the AfriConnect website. The User shall comply with the latest Documentation, operating guidelines and AUP as published by AfriConnect.
- 3.5 AfriConnect may make changes to the Service and the Equipment on notice to the User provided that they do not have a material adverse effect on the overall Service. AfriConnect will provide details of any actions required by the User to continue use of the Service and the Equipment after the change.
- 3.6 The User shall furnish AfriConnect with such details as may be required for installation of the Service and the Equipment. AfriConnect will respect the privacy of such information and will comply with applicable data protection legislation in respect of it.

4 SERVICE RELIABILITY AND AVAILABILITY

- 4.1 Should the User suffer Service Interruptions of greater than 48 hours AfriConnect shall provide the User free use of the Service equivalent to the duration of the Service Interruption.
- 4.2 The User acknowledges that AfriConnect may interrupt the Service to carry out adjustments, repairs, testing, maintenance or improvements. AfriConnect shall endeavour to give the User reasonable notice of any such interruption. In such case the provisions of clause 4.1 above shall not apply.
- 4.3 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. AfriConnect or its authorised representative shall give as much notice as in the circumstances is reasonable and AfriConnect shall endeavour to carry out such works during the scheduled maintenance periods as published from time to time.
- 4.4 Should the User encounter a fault with the Services and or Equipment the User shall report such fault to the AfriConnect helpdesk. AfriConnect shall rectify reported faults to the Services as soon as possible and carry out such repairs, modifications or alterations to the Equipment and or replace the Equipment or such component parts as it shall in its absolute discretion deem fit.
- 4.5 AfriConnect reserves the right to remove e-mails from AfriConnect servers that is left for a period of more than three months.
- 4.6 The User acknowledges that the Service will depend upon the characteristics of the wireless signal quality and that it may not be possible to supply the Service at all times.

5 EQUIPMENT AND SOFTWARE REQUIREMENTS

- 5.1 The User shall rent the required Equipment from AfriConnect, which will provide for access to AfriConnect's internet services. The rental of equipment is per the terms summarised in schedule 3 of this agreement.

- 5.2 AfriConnect shall invoke all reasonable measures at its disposal to deliver the Equipment and Documentation to the Place of Service on the Delivery Date or as soon as subsequently possible.
- 5.3 The User shall grant AfriConnect full access to the Place of Use in order to install the Equipment, if installation services are required and have been paid for by the User. AfriConnect shall bear no liability to the User in respect of late or partial delivery and installation where the same results from the User's failure to grant AfriConnect access to the Place of Use.
- 5.4 AfriConnect shall commence installation of the Equipment at the Place of Use on the Delivery Date and shall inform the User when such installation is completed. The User shall accept the Equipment upon the date that AfriConnect informs the User that the Equipment has been installed.
- 5.5 The User shall indemnify and hold harmless AfriConnect for any injury or damages arising from the installation or removal of the Equipment from the Place of Use.
- 5.6 The Equipment shall at all times remain the property of AfriConnect and AfriConnect reserves the right to swap replace modify or alter the Equipment rented to the User upon giving the User notice and the User agrees to grant AfriConnect full access to the Place of Use in order to carry out the same.
- 5.7 The User shall at all times use a surge protector on the power supply connecting the Equipment. That notwithstanding the User shall be liable for any damage to the Equipment and the User shall be liable to pay AfriConnect the full cost of replacing the Equipment.
- 5.8 The User shall have the option to purchase monthly insurance from AfriConnect to remove any liability for damaged equipment. If the User exercises this option, AfriConnect will be replace the damaged equipment within 14 days of notification, without any additional charges being incurred by the User. Should damage occur to the Equipment more than once, AfriConnect reserve the right to refuse equipment replacement until it has been proven that the User has made adequate attempt to safeguard the equipment.
- 5.9 The User agrees to take reasonable care while using the Equipment and use it in accordance with the Documentation and warrants that the Equipment shall be used only for such purposes as envisaged in this Agreement and shall not be used for any other purpose, legal or illegal or otherwise.
- 5.10 AfriConnect may provide the User with one or more passwords to allow the User to access and use part of the Equipment and Services. These passwords are confidential and the User must not disclose them to third parties, otherwise the User shall be responsible for any resulting unauthorised use until AfriConnect has had a reasonable opportunity to prevent further use of those passwords. The User shall notify AfriConnect immediately on becoming aware of any known or suspected unauthorised use of such passwords.
- 5.11 The User is responsible for protecting the integrity and security of the User's system and the data stored on it.
- 5.12 Any internet protocol address allocated by AfriConnect to the User shall at all times remain the sole property of AfriConnect and AfriConnect have the right to swap such address at their discretion. If this Agreement is terminated for whatever reason, the User's right to use the internet protocol address allocated by AfriConnect, shall automatically terminate and thereafter it will not be authorised to use such address.

6 FEES

- 6.1 The User shall be responsible to pay the fees and charges in advance and shall be issued with a receipted invoice for the relevant amount. Save as set out in Clause 3.2, the User shall have no entitlement to the Service or Equipment for any period for which the fees have not been paid.
- 6.2 In order to offset administrative costs AfriConnect may charge interest on any overdue amount at the rate of 8 per cent per annum above the Bank of Zambia compiled London Interbank Offered Rate in force from time to time from the date the payment became due, as well after as before judgement, and until the overdue amount has been paid in full together with any interest thereon. Interest shall be calculated on a daily basis and compounded monthly and shall be payable on demand.
- 6.3 AfriConnect's prices will be based in United States Dollars, whilst invoices will be provided to the User in Zambian Kwacha at the current mid Bank of Zambia quoted exchange rate. The User will have the option of paying for these invoices in either of the two currencies stated above.
- 6.4 AfriConnect may increase their prices no more than once each year on not less than 30 day's notice to the User. Where such increase exceeds 10% of the then current fee, the User may terminate this Agreement within 14 days of notice of such increase, otherwise the User shall be deemed to have accepted such increase and the fee shall be varied accordingly. All amounts are stated exclusive of:
 - 6.4.1 all taxes duties, levies or imposts;
 - 6.4.2 bank charges relating to the remittance of the fees to AfriConnect's bank;
 - 6.4.3 all of which shall be paid by the User at the then prevailing rate at the same time as the fee.
- 6.5 Any increase in third party costs, which costs have a bearing on the provision of the Service and the Equipment shall be passed on to the User as and when those charges become effective.

7 SUSPENSION OF SERVICE

- 7.1 Access to or use of the Service or Equipment may be suspended in whole or in part if:
 - 7.1.1 AfriConnect does not receive payment of the fees or charges when due;
 - 7.1.2 the User is in breach of any of the terms of this Agreement and associated AUP;
 - 7.1.3 the User exceeds the monthly Usage Allowance permitted by the class of service subscribed for notwithstanding that there is a balance on the User's account for any subsequent months;
 - 7.1.4 required to do so by any competent authority; or
 - 7.1.5 AfriConnect has reasonable grounds for suspecting any of the situations described in 7.1.1 or 7.1.2 or 7.1.3 is likely to occur or has occurred.
- 7.2 AfriConnect shall take reasonable steps to notify the User of any suspension pursuant to Clause 7.1. However, AfriConnect shall not be obliged to restore the Service or use of the Equipment to a User until it is satisfied that the breach has been remedied or is unlikely to occur or re-occur or that the competent authority has approved the restoration. The right to suspend shall not prejudice any other right that AfriConnect may have in respect of the incident giving rise to suspension. The User shall not be entitled to any refund of fees for any period of suspension pursuant to this Agreement.
- 7.3 AfriConnect shall remove the Equipment from the Place of Use and shall terminate the Service and this Agreement if a suspension occurs under clause 7.1 and continues for more than 30 (thirty) days

and the User shall provide AfriConnect with full access to the Place of Use in order to remove the Equipment.

- 7.4 AfriConnect reserves the right to make an additional charge for reconnecting the Service and or reinstalling or enabling the Equipment for any suspension pursuant to Clause 7.1.
- 7.5 Upon reasonable notice and at reasonable times, AfriConnect or its authorised agents or representatives shall be entitled to enter the User's premises and access the User's equipment for the purpose of ascertaining the User's compliance with the terms of this Agreement. In the event of non-compliance by the User, the User shall reimburse AfriConnect's costs and expenses incurred in carrying out such investigations and enquiries.
- 7.6 If the User becomes aware of or suspects any actual or attempted unauthorised access to or use of the Service, the User shall promptly notify AfriConnect providing as much detail as it has available to it. AfriConnect shall take such steps as AfriConnect shall consider appropriate and the User shall comply with AfriConnect's reasonable requests to prevent further or continued unauthorised access or use.

8 MONITORING AND CONTENT

- 8.1 AfriConnect is not obliged to monitor or investigate the use of the Service and or Equipment provided under this Agreement or the content of the data traffic relating to the Service. AfriConnect may however monitor and investigate the said content:
 - 8.1.1 if requested to do so by a competent authority;
 - 8.1.2 to comply with any legal process in Zambia or foreign jurisdictions;
 - 8.1.3 in compliance with this Agreement, the AUP or additional terms; and
 - 8.1.4 to protect itself, other Users or the general public.
- 8.2 In addition to and for purposes outlined above in Clause 8.1 AfriConnect may also access, preserve or disclose information relating to the content of the Service. The User hereby consents to such monitoring, investigation, preservation and or disclosure of information for purposes outlined in this Agreement.

9 CONFIDENTIALITY

- 9.1 Both parties undertake to each other to keep confidential all information, written or oral, concerning the business and affairs of each other, including the pricing of the Service and Equipment, which has been obtained or received as a result of the discussions leading up to or the entering of this Agreement save that which is already in its possession other than as a result of a breach of this clause or in the public domain other than as a result of a breach of this clause.
- 9.2 A party to this Agreement shall not disclose to a third party any confidential information relating to the other party except with the prior consent in writing of that other party, as required by law, or to the extent to which that information is publicly available or already known to the receiving third party at the date of receipt from the disclosing party.

10 LIMITATION OF LIABILITY

- 10.1 Under no circumstances shall AfriConnect be liable for:
- 10.1.1 loss of revenue, loss of profits, loss of goodwill, loss of contract, or loss of or damage to reputation or loss or corruption of data; or
 - 10.1.2 for any special, incidental, indirect or consequential loss or damage, costs, expenses or other claims for consequential compensation whatsoever or howsoever caused which arise out of or in connection with the Agreement.
- 10.2 Subject to clause 10.1, AfriConnect's aggregate liability to the User in respect of any and all claims under or in connection with this Agreement whether for negligence, breach of contract, misrepresentation or breach of statutory duty shall not exceed the prepaid fees for the unexpired period at the time of the event giving rise to the claim; and in no event shall AfriConnect or its suppliers pay for incidental, indirect, special or consequential damages even if they had been advised of or should have foreseen the possibility of such damages.
- 10.3 The limits on liability in this clause are set on the basis of the fees charged and the nature of the service being supplied. AfriConnect will, if requested, consider higher levels or a wider scope of liability but these will be subject to an additional charge. That notwithstanding the User shall indemnify and hold harmless AfriConnect against all damages, losses, costs and expenses (including but not limited to legal costs and expenses) suffered by AfriConnect and arising out of or in connection with any actions claims or proceedings against or by any third party as a result of any breach by the User of any term of this Agreement.

11 TERM AND TERMINATION

- 11.1 This Agreement shall be for an Initial Term of not less than 12 (twelve) months and shall be automatically renewed for the Renewal Term on similar terms and conditions subject to the provisions of this clause 11.
- 11.2 This Agreement may be terminated by the User giving not less than 30 (ninety) days notice from that date on which this Agreement would come to an end as a result of the expiry of the Initial Term.
- 11.3 During the Renewal Term this Agreement may be terminated by AfriConnect giving the User not less than 30 (thirty) days and in case of the User by giving AfriConnect 30 (ninety) days notice to terminate. The User shall have paid a minimum of 12 (twelve) months subscription and rental fees before it can terminate this Agreement.
- 11.4 Within 7 (seven) days of the termination of this Agreement, the User shall grant AfriConnect full access to the Place of Use in order for AfriConnect to remove the Equipment from the Place of Use.
- 11.5 The User may during the Initial Term terminate this Agreement by giving notice to AfriConnect where a Service Interruption continues for more than 30 continuous days and AfriConnect shall refund any unused prepaid fee calculated pro rata on a time spent basis.
- 11.6 AfriConnect may terminate this Agreement immediately and without notice to the User if AfriConnect is prohibited by any relevant law from providing the Service to the User.

12 EFFECTS OF TERMINATION

- 12.1 Any termination of this Agreement shall be without prejudice to any other rights or remedies a party may be entitled to hereunder or at law and shall not affect any accrued rights or liabilities of either party nor the coming into or continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination including, without limitation, Clauses 6.2, 8, 9, 10, 11, 13, 16 and 17.
- 12.2 Following termination of this Agreement the User shall immediately cease use of the Service and return the Equipment to AfriConnect. The User shall not be entitled to any refund of the Fees if the User is in breach of this Agreement.

13 NOTICES

- 13.1 Any notice to be given under this Agreement shall be in writing and delivered by hand, sent by recorded delivery letter, by fax or by e-mail to the address, fax number or e-mail address of the relevant party specified in this Agreement or to such other address or fax number or e-mail address as may be notified by that party in accordance with this Clause.

14 FORCE MAJEURE

- 14.1 AfriConnect shall not have any liability for any loss or damage if its performance of the Agreement, in whole or in part, is delayed, hindered or prevented by any cause beyond its reasonable control, including without limitation, fire, storm, flood, earthquake, accident, adverse weather conditions, solar, meteorological or astrological disturbances, explosions, Acts of God, wars, insurrections, governmental controls, restrictions or prohibitions, strikes, lock-outs, industrial action, employment dispute, protests, vandalism, spectrum interference, interruptions in communications or power supply. In the event of such delay, hindrance or prevention AfriConnect shall be entitled to postpone performance by the duration of interference plus a reasonable start-up time.

15 GENERAL

- 15.1 The User acknowledges that it has not relied and does not rely upon any representation or statement by AfriConnect unless expressly set out in this Agreement or subsequently agreed to in writing by AfriConnect.
- 15.2 This Agreement constitutes the entire agreement between the parties with regard to their subject matter and no other terms, conditions, warranties or statements will apply.
- 15.3 AfriConnect's failure to enforce strict performance of this Agreement does not constitute a waiver of any of its provisions. Neither the course of conduct between AfriConnect nor trade practices should be construed as modifying any of the provisions of this Agreement.
- 15.4 Any waiver of any breach of any provision of the Agreement will not constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provisions of the Agreement. A waiver of a provision or breach of a provision of the Agreement will only be effective if made in writing and signed by an authorised representative of the waiving party. Failure or delay in exercising any right under this Agreement shall not prevent the exercise of that or any other right.
- 15.5 Notwithstanding any other provision in this Agreement, nothing in this Agreement will create or confer any rights or other benefits in favour of any person other than the User or AfriConnect.

16 PROPRIETARY RIGHTS

- 16.1 All title, interests, and rights (including intellectual property rights) in the Service and Equipment remain in AfriConnect and/or its suppliers. The User acknowledges such title, interest and rights and the User shall not take any action to jeopardise, limit or interfere in any manner with AfriConnect's (or any third party supplier's) title, interests or rights with respect to the Service including, but not limited to, using its trademarks or trade name.
- 16.2 Title and related rights in any content accessed through the Service are the property of the applicable content owner and are protected by applicable laws. The right to use granted to the User under this

Agreement gives the User no rights to such content. If the User wishes to use such content, the User must ensure that it has the appropriate consent or licence of the content owner.

- 16.3 The User shall not alter, obscure, remove, interfere with or add to any copyright, trademark, trade names, proprietary markings or notices contained in any information connected with the Service. All goodwill in any of AfriConnect's trademarks, trade names, styles, logos or get up shall accrue exclusively to AfriConnect and no rights in the same are granted to the User under this Agreement.
- 16.4 Except as otherwise expressly permitted in these conditions, and in addition to other restrictions herein, the User may not:
 - 16.4.1 redistribute, encumber, sell rent, lease, sub-license, copy or use the Service or Equipment or otherwise transfer rights to the use of the Service or Equipment to any third party, whether in whole or in part;
 - 16.4.2 modify the Service or Equipment without AfriConnect's prior written consent.

17 ASSIGNMENT

AfriConnect reserve the right to assign or sub-contract any or all of its rights and obligations under this Agreement without the User's further consent to such assignment or sub-contract.

The User may not sell, lease, sub-licence, assign or otherwise transfer, whether in whole or in part, by operation of law or otherwise, the Agreement or any rights or obligations therein without the prior express written consent of AfriConnect.

18 DISCLAIMER OF WARRANTIES

The Service and Equipment will be provided to the User "as is", without warranty or representation of any kind, whether express or implied. AfriConnect disclaims and excludes all such warranties and representations including without limitation any warranty or representation that the service is free of defects and viruses, of satisfactory quality, fit for a particular purpose or non-infringing of third party rights. Further, AfriConnect disclaims any express or implied warranties that might arise from a course of dealing, usage or trade practice. The User accepts all risks and liabilities associated with the User's use of the Service and Equipment.

19 MODIFICATION OF TERMS

AfriConnect reserves the right to add to and/or amend the terms of this Agreement at anytime. AfriConnect may also offer new or additional services or set new prices for existing services. The User shall be given thirty (30) days prior notice before any of the said changes take effect. The notice shall be by way of posting on the Legal section of the Website or if that is not possible then by email to the address on file.

20 SEVERABILITY

If any provision of this Agreement shall be held invalid, illegal, unenforceable or in conflict with the law of any jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

21 DISPUTES

- 21.1 In the event of any dispute or controversy arising out of or relating to this Agreement, the parties will attempt in good faith to resolve the dispute or controversy promptly through negotiations between the respective representatives of the parties who have authority to settle the same. The parties shall,

without delay continue to perform their respective obligations under this Agreement which are not affected by the dispute or controversy.

21.2 In the event of a dispute or conflict arising out of this agreement either party may give notice in writing to the other party to refer such dispute or conflict to the arbitration of a single arbitrator sitting in Lusaka to be conducted in accordance with the provisions of the Arbitration Act No. 19 of 2000 or any other statutory modification or re-enactment thereof. The outcome of the arbitration shall be binding on the parties.

22 LAW AND JURISDICTION

The laws of Zambia shall govern this Agreement and the parties submit to the exclusive jurisdiction of the Courts of Zambia.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to set their hands and seal hereunto the day and year first above written:

Signed for and on behalf of)
AfriConnect Zambia Limited by)
_____)
In the presence)

WITNESS

Name:
Occupation:
Address:

Signed for and on behalf of)
[] Limited by)
_____)
in the presence of)

WITNESS

Name:
Occupation:
Address:

SCHEDULE 1

Acceptable Use Policy

ACCEPTABLE USE POLICY (AUP)

TABLE OF CONTENTS

CLAUSE	PAGE
1 Introduction	1
2 Violations Of Africonnect's Aup	1
3 Reporting violations of Africonnect's AUP.....	2
4 Right to terminate Services:.....	3
5 Disclaimer	3
6 General Practices Regarding Mail Use And Storage	3
7 Modifications to Service	4
8 Indemnification	4
9 Revisions To This AUP	4

1 Introduction

- 1.1 AfriConnect's Acceptable Use Policy ("AUP") is intended to help enhance the use of the Internet by preventing unacceptable use. All users of AfriConnect's Internet services (the "**Services**") whether as visitors (those who access some of the Service but do not have accounts), as well as Users (those who pay a monthly service fee to subscribe to the Services) must comply with this AUP.
- 1.2 AfriConnect supports the free flow of information and ideas over the Internet and do not actively monitor use of the Service under normal circumstances. Similarly, AfriConnect does not exercise editorial control over the content of any Web site, electronic mail transmission, news group, or other material created or accessible over or through the Services, except for certain proprietary websites. However, in accordance with the Agreement, AfriConnect may remove any materials that, in its sole discretion, may be illegal, may subject it to liability, or which may violate this AUP.
- 1.3 AfriConnect may cooperate with legal authorities and/or third parties in the investigation of any suspected or alleged crime or civil wrong. The User's violation of this AUP may result in the suspension or termination of either the User's access to the Services and/or AfriConnect account or other actions as detailed in Section 3.3 This AUP should be read in conjunction with the Agreement.

2 Violations of AfriConnect's AUP

- 2.1 The following constitute violations of this AUP:
 - 2.1.1 using the Services to transmit any material (by email, uploading, posting, or otherwise) that, intentionally or unintentionally, violates any applicable Zambian law or international law or the laws of any state to which it may be transmitted or in which it may be accessed, including any rules or regulations promulgated thereunder;
 - 2.1.2 using the Services to harm, or attempt to harm, minors in any way;
 - 2.1.3 using the Services to transmit any material (by email, uploading, posting, or otherwise) that threatens or encourages bodily harm or destruction of property;
 - 2.1.4 using the Services to transmit any material (by email, uploading, posting, or otherwise) that harasses another;
 - 2.1.5 using the Services to make fraudulent offers to sell or buy products, items, or services or to advance any type of financial scam;
 - 2.1.6 adding, removing or modifying identifying network header information in an effort to deceive or mislead; attempting to impersonate any person by using forged headers or other identifying information; the use of anonymous remailers or nicknames does not constitute impersonation;
 - 2.1.7 Sending unsolicited commercial email/Unsolicited bulk email; using the Services to transmit any unsolicited commercial email or unsolicited bulk email; activities that have the effect of facilitating unsolicited commercial email or unsolicited bulk email whether or not that email is commercial in nature;
 - 2.1.8 using the Services to access, or to attempt to access, the accounts of others, or to penetrate, or attempt to penetrate, security measures of AfriConnect's or another entity's computer software or

hardware, electronic communications system, or telecommunications system, whether or not the intrusion results in the corruption or loss of data;

- 2.1.9 using the Services to transmit any material (by email, uploading, posting, or otherwise) that infringes any copyright, trademark, patent, trade secret, or other proprietary rights of any third party, including, but not limited to, the unauthorized copying of copyrighted material, the digitization and distribution of photographs from magazines, books, or other copyrighted sources, and the unauthorized transmittal of copyrighted software;
- 2.1.10 using the Services to collect, or attempt to collect, personal information about third parties without their knowledge or consent;
- 2.1.11 reselling the Services without AfriConnect's authorization;
- 2.1.12 using the Services for any activity which adversely affects the ability of other people or systems to use AfriConnect Services or the Internet. This includes "denial of service" (DoS) attacks against another network host or individual user. Interference with or disruption of other network users, network services or network equipment is prohibited. It is the User's responsibility to ensure that their network is configured in a secure manner.
- 2.1.13 The User may not, through action or inaction, allow others to use the User's network for illegal or inappropriate actions. The User shall not permit their network, through action or inaction, to be configured in such a way that gives a third party the capability to use their network in an illegal or inappropriate manner.

3 Reporting violations of AfriConnect's AUP

- 3.1 Should the User believe that there is a violation of this AUP; the User should direct the information to abuse@africonnect.co.zm. Where available, the User should provide the following information:
 - 3.1.1 the IP address used to commit the alleged violation;
 - 3.1.2 the date and time of the alleged violation, including the time zone or offset from GMT;
 - 3.1.3 evidence of the alleged violation;
- 3.2 Email with full header information provides all of the above, as do syslog files. Other situations will require different methods of providing the above information;
- 3.3 AfriConnect may take any one or more of the following actions in response to complaints:
 - 3.3.1 issue warnings whether written or verbal;
 - 3.3.2 suspend the User's account;
 - 3.3.3 terminate the User's account;
 - 3.3.4 bill the User for administrative costs and/or reactivation charges; or
 - 3.3.5 bring legal action to enjoin violations and/or to collect damages, if any, caused by violations to the AUP.

4 Right to terminate services

- 4.1 AfriConnect reserves the right to disconnect the service to any User in cases where there is sufficient evidence of the User intentionally or unintentionally using the service in the manner which would adversely impact AfriConnect or AfriConnect's network or any other party.
- 4.2 The User shall be responsible for using the service only for legal and appropriate purposes.
- 4.3 AfriConnect reserves the right to terminate the Service in the event of non-payment of bills issued by AfriConnect in accordance with the usage allowance opted by the User and the extent of usage or any default on the part of the Users.

5 Disclaimer

- 5.1 AfriConnect will exercise all reasonable care in providing its services, but it is not responsible for interruption in service due to power failures, equipment malfunctions, or acts of natural calamity.
- 5.2 AfriConnect is not responsible for subscriber's computer hardware and software or areas of the Internet not under its control. AfriConnect does not warrant privacy, security or efficiency of the Internet.
- 5.3 AfriConnect is not responsible for actions taken by its Users or others as a result of its services.
- 5.4 AfriConnect is not responsible for material any person (including household users of the subscriber) may receive or transmit via the Internet, or for anything bought or sold via the Internet, or for any other result of an action taken by anyone using its service.

6 General practices regarding mail use and storage

- 6.1 The User acknowledges that AfriConnect may establish general practices and limits concerning use of the Service, including without limitation the maximum number of days that email messages, message board postings or other uploaded content will be retained by the Service, the maximum number of email messages that may be sent from or received by an account on the Service, the maximum size of any email message that may be sent from or received by an account on the Service, the maximum disk space that will be allotted on AfriConnect's servers on the User's behalf, and the maximum number of times (and the maximum duration for which) you may access the Service in a given period of time. The User agrees that AfriConnect has no responsibility or liability for the deletion or failure to store any messages and other communications or other Content maintained or transmitted by the Service.
- 6.2 The User acknowledges that AfriConnect reserves the right to log off accounts that are inactive for an extended period of time. The User further acknowledge that AfriConnect reserves the right to modify the AUP from time to time.
- 6.3 All e-mails older than 4 months left un-collected on the mail-server will be deleted and mailbox size will be allocated a maximum of 50MB storage space. Each e-mail sent or received will be limited to a maximum of 5MB per e-mail
- 6.4 Due to the release of a new viruses, file extensions .exe, .scr, .com, .pif, .bat, .htm*, .vbs and .cmd, etc will be blocked by the server.
- 6.5 All unauthorized mail servers or email relays or shouts will be blocked without prior notice.

7 Modifications to service

AfriConnect reserves the right at any time and from time to time to modify or discontinue, temporarily or permanently, the Service (or any part thereof) with or without notice. The User agrees that AfriConnect shall not be liable to the User or to any third party for any modification, suspension or discontinuance of the Service.

8 Indemnification

- 8.1 The User agrees to defend, indemnify, and hold harmless AfriConnect and other affiliated companies, together with their respective employees, contractors, officers, directors, and agents from all liabilities, claims, and expenses, including attorney's fees that arise from the User's use or misuse of the Service. AfriConnect reserve the right, at its own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by the User, in which event the User will cooperate with AfriConnect in asserting any available defenses.

9 Revisions to this Acceptable Use Policy

- 9.1 AfriConnect reserves the right to revise, amend, or modify this AUP at any time and in any manner. Notice of any revision, amendment, or modification will be posted on AfriConnect's website.

SCHEDULE 2

AfriConnect billing process

1 Prior to Installation

- 1.1 Prior to beginning any installation at the Place of Use AfriConnect will issue an invoice for:
 - 1.1.1 1st month's rental fees for the Equipment: as per the stated list price
 - 1.1.2 Installation fees as per stated list price
 - 1.1.3 One month's subscription for the Service as per stated list price
- 1.2 The invoice must be paid in full or a valid Purchase Order provided before installation will be conducted and internet service commenced.

2 Monthly Subscriptions

- 2.1 The consideration for this Agreement shall be the sum of []. This sum shall be payable [quarterly/monthly/yearly] in advance.
- 2.2 AfriConnect's monthly subscription is based on a calendar month (ie. 1st – end of month). All clients are required to be on this billing cycle.
- 2.3 Monthly Subscriptions will be invoiced to Users on the 15th of every month and Tax invoices will be sent to the account holder (email address provided on client application form – this can be changed on request). These invoices will be for the following month's subscription as all AfriConnect's iConnect services run on a pre-paid basis.
- 2.4 Payments on this invoice are due by the last working day of the month. AfriConnect's automated billing system will disconnect the service and disable or remove the Equipment if this payment deadline is not met.

3 Top up Charges

- 3.1 AfriConnect's automated billing system will issue a warning email when a client has reached 80% of their usage allowance for the month. This warning email will be sent to the account holders' email address.
- 3.2 If the User requires further bandwidth to reach the month end, it is possible for the User to top-up on their account by emailing accounts@iconnect.zm or calling the office number and speaking with AfriConnect accounts staff. An invoice will be sent at the time the top-up is initiated and emailed directly to the account holder.
- 3.3 Payment for the top-up charge must be made within 10 days of invoice being issued.

SCHEDULE 3 – Rental of Equipment

Equipment to be Rented

No.	Item	Serial Number
1.	Wireless Modem	
2.	Wireless Router – Linksys or similar	

Delivery Date: _____

- Rental of equipment from AfriConnect will allow the User to rent a modem and wireless router (Linksys or similar) from AfriConnect, that will enable the User to access AfriConnect internet services
- The equipment at all times will remain the property of AfriConnect, and AfriConnect reserves the right to swap, replace, modify or alter the equipment rented to the User, upon giving the User notice
- The User will be required to pay a monthly rental fee as per stated price lists for the rental of the above equipment. Following **24 months** of rental payments, the user will no longer be required to continue paying the monthly rental fee, but the Equipment will still remain as AfriConnect property, and the terms of this agreement will continue to remain.
- The User shall grant AfriConnect full access to the Place of Use in order to install/de-install the Equipment within **48 hours** of a request from AfriConnect
- AfriConnect will remove the equipment from the Place of Use and shall terminate this agreement, should the User account be suspended for a period of greater than 30 (thirty) days
- AfriConnect will charge for call-out services for any technical issues caused the by User, and outside of the scope of AfriConnect’s responsibilities.
- The User shall at all times use a surge protector on the power supply connecting the Equipment. That notwithstanding the User shall be liable for any damage to the Equipment and the User shall be liable to pay AfriConnect the full cost of replacing the Equipment.
- The User shall have the option to purchase monthly insurance from AfriConnect to remove any liability for damaged equipment. If the User exercises this option, AfriConnect will be replace the damaged equipment within 14 days of notification, without any additional charges being incurred by the User. Should damage occur to the Equipment more than once, AfriConnect reserve the right to refuse equipment replacement until it has been proven that the User has made adequate attempt to safeguard the equipment.
- The User agrees to take reasonable care while using the Equipment and use it in accordance with the Documentation and warrants that the Equipment shall be used only for such purposes as envisaged in this Agreement and shall not be used for any other purpose, legal or illegal or otherwise.