

TERMS AND CONDITIONS FOR ORANGE INTERNET SERVICES:

These terms and conditions shall be referred to as the “Orange Internet Services Terms and Conditions”

1. Definitions and Interpretations

“Account” means Orange Internet records of the Customer’s payments, outstanding charges, and other details of the account holder including name, postal address and usage of the services.

“Agreement” means this contract including equipment terms and conditions, order form and installation acceptance form

“Acceptable Use Policy (AUP)” means a policy by the Company on the acceptable usage of the service

“Charges” means the connection charges, usage charges, monthly service charges, and any other charges pertaining to the provision of broadband service and any other services howsoever provided by the Company to the customer, and as updated from time to time or as amended upon prior notification to the customer by the Company;

“Commencement Date” means the date of signature hereof or the date of actual provision of service to the Customer after completion of checks whichever is later;

“The Company” means TELKOM KENYA LIMITED.

“CDMA”: Code Division Multiple Access. Is a mobile digital radio technology where channels are defined with codes. It permits many simultaneous transmitters on the same frequency channel.

“GSM”: Global System for mobile communication

“CDMA 1X”: Narrow band internet access on the CDMA network. It is considered the 2.5G technology.

“EVDO”: Evolution Data Optimized. It is a telecommunications standard for the wireless transmission of data through radio signals, typically for broadband internet access. The download speeds of the service are up to 3.1Mbit/s operating under the CDMA network. It is considered the 3G technology.

“Dial up”: Internet service on the Telkom Fixed Network

“GPRS”: General Packet Radio Service. It is a system used by GSM mobile phones to access the internet

“EDGE”: Enhanced Data Rates for GSM Evolution. It is a system used by GSM to access the internet. It is considered the 2.5G technology.

“ADSL”: Assymetrical Digital Subscriber Line. A data communication technology that enables faster transmission over copper telephone line than a conventional voice data modem.

“Livebox”: modem used for accessing the ADSL service on the Orange network.

“Modem”: modulator-demodulator: is a device that modulates analog carrier signal to encode digital information, and also demodulates such a carrier signal to decode the transmitted information. The goal is to produce a signal that can be transmitted easily and decoded to reproduce the original digital data.

“USB”: Universal Serial Bus. A plug and play port used for the wireless Orange Internet Services.

“Connection” means the process of giving the customer access to the services.

“Connection charges”: means the charges levied by the Company upon the customer in consideration for activating a service utilized by the customer.

“Covered Zone”: Covered Zone is the geographical perimeter within Kenya where Telkom can provide its Services.

“Customer Access”: Telecommunications link that is provided by the Company to the customer premises with the most relevant technologies available to the Company to provide its service to the customer.

“Customer”: individual or company located in Kenya in the Covered Zone and having subscribed for a service with the Company

“Customer premises”: Location that is owned or rented by the Customer and that was designated by the former to install Equipment and provide service

“Equipment”: Technical appliances supplied by the Company such as Live boxes; USB Dongle; PCMCIA data cards e.t.c that are used to provide the service.

“Login”: personal data that is given to a customer to identify itself and be able to connect to a service i.e. Internet and e-mail.

“Password”: private code that is given to customer to authenticate itself when connecting to a service such as Internet and e-mail

“Internet”: Worldwide networks interconnecting servers and personal computers using the Internet protocol.

“FUP”: Fair Usage Policy (FUP) means a policy by the Company restricting the abuse of usage of the service by a customer

“Internet Data Volume”: total amount of data transferred which includes uploads and downloads.

“Internet Access”: Service that enables the Customer to connect over its Customer Access to Internet.

“Orange Internet Portal”: Website where ADSL and EVDO customers can access personal account information and manage their account.

“Minimum period”: means the minimum contract term of one year.

“Service”: All priced offers provided to the Customer by the Company under this present Agreement.

“User”: means the Customer or another person named by the Customer, who is authorised to incur charges to the Customer’s account

2. Commencement:

2.1 Notwithstanding any other provision herein the Agreement will only commence upon completion of checks including (but not limited to) geographical coverage, service eligibility, resource availability and an activation check.

2.2. If after the checks stated in Clause 2.1 above the Company is satisfied that it is able to provide the Service(s), the agreement will commence on the commencement date. The Customer’s obligations to the Company regarding any Equipment will commence on the date of receipt by the Customer of the Equipment.

2.3 Where a Customer applies for a Service and as a result of checks referred to in Clause 2.1 hereinabove or a technical check, the Company is of the opinion that it is not able to provide the Customer with that particular Service, it will notify the Customer and offer to provide the next best available Service.

3. Service

3.1 The Service gives the Customer the ability, using a computer of appropriate specification and the Equipment, to access the Internet at the Transmission Speed and to use the Service(s) to access the Member Service(s) and download and/or upload data up to any monthly Usage Allowance (if applicable).

3.2 In the event that the Customer either; exceeds any applicable monthly Usage Allowance the additional usage above the Usage Allowance will be charged by the Company.

- 3.3 The Service is a best effort service and thus the definition of speed as “up to” and no guarantees are provided on throughput. The Service is an access medium to the Internet or to other content source. As such, the Service will not overcome any bandwidth related constraints within the World Wide Web.
- 3.4 The Company cannot and does not guarantee the bandwidth throughput achieved on the Internet utilizing the Service.
- 3.5 Fair Usage Policy (“FUP”) will be implemented by the Company for Orange Internet Customers to ensure reliable and quality service on the terms below:
- 3.5.1 The Company reserves the right to determine what is deemed to be abuse of usage of service based on existing customers average usage, market conditions, international availability and quality of internet connectivity and this will change from time to time.
- 3.5.2 A customer will be deemed to be in breach of the FUP in the event the customer downloads and/or uploads such amount of data that the Company considers to be significant.
- 3.5.3 In the event the FUP is deemed to be breached, the Company reserves the right to reduce the speed of the service and/or reduce the quality of service and/or terminate the service.
- 3.6 Download and upload capping on internet data volume transferred will be implemented for Customers who purchase volume based Orange Internet offers.
- 3.7 The provision of the Service is subject to network availability, distance, copper quality, line speed limitations and satisfaction of all technical requirements.
- 3.8 The Customer acknowledges that the Service will only be available to the Customer if:
- 3.8.1 the Customer has a computer that satisfies the Technical Requirements;
- 3.8.2 the Customer premises falls within the Service Covered Zone; and;
- 3.8.3 the Customer has a UPS back up for the Livebox (if used) due to power fluctuation
- 3.9 The Customer acknowledges and agrees that the Service(s) are intended for its own use only and shall not resell the Service as a whole or partly . The Company reserves the right to suspend or cancel any or all of the Service(s) if it reasonably believes the Customer or anyone the Customer permits to use the Service(s) is not complying with this obligation.
- 3.10 In the event that the Customer relocates and/or moves, and wants to receive the existing Service(s) at the new location:
- 3.10.1 the Company may terminate the Customer’s current Service(s);
- 3.10.2 the Customer may be required to re-register for those Service(s);
- 3.10.3 the Customer may be required to commit to a new Minimum Period;
- 3.10.4 provided that the conditions set out in Clause 2.1 and that no other technical limitations apply, the Company will activate the Service(s) to the Customer’s New Location;
- 3.10.5 the Company reserves the right to charge the Customer for administration and set-up costs arising from the Customer’s relocation.
- 3.11 The Company accepts no liability for any loss or damages to the property or equipment of the customer arising out of the provision, installation or maintenance of the Service.
- 3.12 The Company shall not accept liability for the following: radio wave and electromagnetic interferences due to fluctuating propagation and interferences that could be caused by maintenance, upgrades and extensions of network resources.

- 3.13 The Company's Network Operations Centre points of contact and procedures will be given to the Customer during the service start-up period. The Customer's technical point of contact information shall be included in the Service Order Form.
- 3.14 The Company reserves the right to implement technical mechanisms, which prevents usage patterns in violation of the Acceptable Use Policy (AUP) for the Service. The Company further reserves the right to take such action as may be necessary to protect the integrity of the system, including, but not limited to, system monitoring, as well as protocol management and shutting down of ports affected by viruses, worms or other malicious code. The AUP shall be available on the Service Portal.
- 3.15 A customer will be deemed to be in breach of the Acceptable Use Policy (AUP) if :
- 3.15.1 the customer downloads or uploads an excessive amount of data, excessive meaning considerably more than the average customer would do for the same service.
 - 3.15.2 the customer uses the service for commercial purposes(if a residential customer).
 - 3.15.3 if the customer uses the service for illegal activities.
 - 3.15.4 if the customer uses the service for the purposes of spam or illegal email activities
 - 3.15.5 if the customer uses peer-to-peer applications that infringe international copyright laws
 - 3.15.6 if the customer downloads illegal content or infringes international copyright laws
 - 3.15.7 if the customer downloads inappropriate or sensitive content or material that may bring the Company into disrepute
 - 3.15.8 if the customer uses the service to disrupt, annoy, attack or in some way offend a third party user
 - 3.15.9 if a complaint is brought against the customer by a third party for abuse of the service and the complaint is confirmed to be factual by the Company
- 3.16 Nothing contained in these terms and conditions shall be construed to limit the Company's rights or remedies in any way with respect to any of the foregoing activities, and the Company reserves the right to take any actions that it may deem appropriate with respect to such activities, including without limitation, investigating suspected violations of these terms and conditions, taking action to recover the costs and expenses of identifying offenders and terminating their access to and use of the Service, and levying cancellation charges to cover the Company's costs in the event of termination of access to the Service. In addition, the Company reserves all available rights and remedies with respect to such activities at law or in equity.
4. Additional Services
- The Company will provide additional services to the Customer as part of the Customer Orange Internet Package. Some of these additional services will be billed separately as stipulated on the subscription form.
5. Changes To Services
- The Customer should contact the Company when they require to change the change its current Orange Internet Package. A Customer is entitled to upgrade or downgrade its package as it deems fit. For Postpaid customers they shall pay an additional deposit fee to the new upgraded offer while for downgrades of the service this amount shall be reduced from the monthly billing..
6. Equipment
- 6.1 The Company shall deliver and install the Equipment appropriately at the Customer's premises by the delivery date stated by the Company. The delivery date is however an estimate and is not guaranteed
- 6.2 The Customer must inspect the Equipment immediately upon receipt and report at the time of installation any damage, faults or missing items.

- 6.3 The Company will not be liable to the Customer for any fault in and/or damage to the Equipment that is caused by the Customer's failure to install and/or use the Equipment in accordance with the operating instruction supplied or the Customer's failure to comply with any instructions given to the Customer by Technical Support.
- 6.4 The Company will not be liable for any faults in and/or damage to the Equipment resulting from the Customer's negligence.
- 6.5 The Company does not take responsibility for damage caused by electrical power fluctuations. It is the Customers responsibility to ensure that power is conditioned and protected with either surge protection or a UPS.
- 6.6 The Customer will be liable for damage to Company equipment due to power fluctuation. The Company reserves the right to charge the Customer the full replacement cost for such Equipment in such a case
- 6.7 In the event that the Company has to provide the Customer with replacement Equipment, the Customer must return the faulty Equipment to the Company at the time of installation of the new equipment. If the Customer does not return the faulty Equipment to the Company at that time, the Company reserves the right to charge the Customer the full cost of the Equipment not returned.
- 6.8 Warranty
- 6.8.1 In the event that the Equipment supplied to the Customer shall be faulty or defective then the Company shall require the Customer to immediately return the Equipment together with the receipt for the purchase. The Company shall only be responsible for the replacement of the Equipment in the case of manufacturer's defects.
- 6.8.2 The Company shall extend to the Customer the benefit of any warranty as given to the Company (subject to any limitations and restrictions thereof) by its suppliers This Warranty is the only warranty given by the Company and specifies the entire liability of the Company including liability for negligence and in particular but without limitation all statutory or other express implied or collateral terms (including those related to but not limited to quality and fitness for purpose of the products and services) Conditions or warranties are excluded to the fullest extent provided by law including but not limited to any warranties and conditions expressed or implied by Sale of Good Act (Chapter 31 Of the Laws of Kenya).
- 6.8.3 The warranty shall remain valid for six (6) months from the date of receipt by the Customer of the Equipment.
7. The Customer Undertakes:
- a) To provide it's own and its Customers' Domain Name Server (DNS) registration and DNS name service functions. The Customer shall notify the Company when routing for additional IP Internet Backbone numbers is required or when existing routing information changes. In case of service termination the Customer shall return all IP addresses issued in respect of the Service.
- b) The Customer confirms that the Registration Details that the Customer provides shall be true, accurate and complete. The Customer agrees to inform the Company of any changes to the Customer Registration Details immediately by contacting Customer Support. Use of the Customer Registration Details will be confidential in accordance with the terms of this Agreement. To pay for all services provided by the Company.
- c) To allow the Company, its employees, servants and/or agents / resellers access to the customer's premises for purposes of installation, inspection, repair, maintenance, renewal or removal of the Company's equipment required for the provision of the service.

- d) To allow the Company, its employees, servants and/or agents to install and maintain such cables, works and /or equipment as may be reasonably required to provide the service upon the customer's premises.

To comply with all operational procedures and guidelines issued by the Company from time to time.

- e) To keep the Username and Password(s) given to it by the Company confidential and take all necessary steps to ensure that it is kept secure. The Customer will inform the Company of any suspected or actual unauthorized use of the Service(s) and will take all steps necessary, including those steps requested by the Company to prevent such use.
- f) To be responsible for any Equipment installed at its premises and use the Equipment in accordance with any instructions, safety and security procedures applicable.
- g) To notify the Company of any proposed move and/ or relocation and to keep the Customer Registration Details updated.
- h) To comply with any instructions necessary for health, safety or service quality given by the Company from time to time in relation to the Service(s).
- i) Not to allow any third party save for a persons authorized by the Company to add to, modify or in any way interfere with the Equipment.
- j) Not to connect other equipment to the network over which the Service(s) are provided that may in any way harm the network, the Equipment, Live box or other customers' equipment.
- k) Not to use the Service:
- (i) in a way that does not comply with the terms of any legislation or any licence applicable to the Customer or that is in any way unlawful or fraudulent or has any unlawful or fraudulent purpose or effect;
 - (ii) in connection with the carrying out of a fraud or criminal offence against the Company or any electronic communications service provider;
 - (iii) to send, knowingly receive, upload, download, use or re-use any material which is abusive, indecent, defamatory, obscene or menacing, in breach of any copyright, confidence, privacy or any other rights;
 - (iv) to send or procure the sending of any unsolicited advertising or promotional material;
 - (v) in a way that does not comply with any instructions given by the Company to the Customer;
 - (vi) in a way that in the Company's reasonable opinion could materially affect the quality of any telecommunications service, including the Service;
- l) To reduce spam from entering and affecting the operation of our systems and the Services. The Company may take reasonable measures to block access to or delivery of any email which appears to be of an unsolicited nature and/or part of a bulk email transmission. The Company may further use within its systems virus screening technology which may result in the deletion or alteration of email and or email attachments, although it cannot guarantee that such technology will be effective against all virus attacks.

8. Invoicing and Payment

8.1 The Charges for usage of the services shall apply from the connection date.

- 8.1.1 For post paid service, a deposit amount depending on the offer taken shall be charged before installation of the service
- 8.1.2 The charges for equipment installation shall apply before the equipment is installed.
- 8.1.3 The Customer will pay the charges in accordance with the payment terms.
- 8.2 For Postpaid service recurring service fees are payable at the end of the month. Payment is due within 15 days calendar days of the date of invoice and shall be in Kenya Shillings (KES), unless otherwise specified by the Company.
- 8.3 Consumption of prepayment amounts will commence when a functioning service is activated after testing and acceptance.
- 8.4 For Prepaid service the customer shall not receive any bills and the service account shall be recharged using Prepaid Cards. The Prepaid service will be disconnected 30 days from the last recharge of this account. However the customer shall receive invoices for any other charges that may arise in relation to services provided by the Company.
The Customer is solely responsible for its own bills, including those for the cost of using the service.
- 8.5 Payment of the charges shall be by either cash, cheques, credit or debit card or by direct debit.
- 8.6 All Charges are inclusive of VAT at the applicable rate.
- 8.7 The Company will distribute copies of statements for charges upon request by the Customer. The Customer should review all statements of charges when available and promptly notify Customer Support if there are any errors. The Company will endeavour to include all charges incurred by the Customer on the appropriate monthly statement, however, the Company reserves the right to include on future statements, charges that were incurred in previous months and which have not already been billed to the Customer.
- 8.8 If the Customer does not pay to the Company the charges when due, the Company reserves the right to suspend and/or terminate without notice all or any of the Service(s) and take such necessary action to recover sums due to it (plus any cost of collecting such sums) and, if the Customer Minimum Period has not yet expired, all charges that would have been payable for the remainder of the Minimum Period.
- 8.9 In the event that the Company suspends all or any of the Service(s) due to any breach by the Customer of the Company's payment terms, the Customer will be required to pay the charges for the period that such Service(s) are suspended, including any arrears of the charges.
- 8.10 The Company reserves the right to increase the charges at any time on giving the Customer 30 day's prior written notice.
9. No Publicity
- 9.1 The terms of this Agreement, including without limitation, the prices, shall be held confidential by both parties, except as required or appropriate to be disclosed to a party's legal, financial, or accounting advisers.
10. Intellectual Property Rights
- 10.1 All intellectual property rights in the Service(s) (including, without limitation, the Equipment and/or any associated software and all and any films, music, programmes and/or any other content provided to the Customer through the Service(s)) belong to the Company or its licensors, as appropriate, and the Customer shall not obtain any ownership interest in such intellectual property rights.
- 10.2 The Customer may be required to enter into agreements reasonably required by the owner of the intellectual property in any software, materials or content made available to the Customer for the purpose of accessing the Service(s).
11. The Company reserves the following rights:

11.1 Suspension of service

The Company may without notice suspend service to the customer in any of the following circumstances:

- (i) If the customer's account is inactive or not in use for a period for more than 90 days.
- (ii) If the customer's application contains false information.
- (iii) In case of breach of the Fair Usage Policy(FUP) or Acceptable Use Policy (AUP) as detailed in Clause 3.5 and 3.15 above
- (iv) To carry out maintenance
- (v) Using unauthorized, illegal or improper means to recharge the prepaid Service account.

11.2 Disconnection of Service

The Company may disconnect the service in any of the following circumstances:

- (i) If any of the events listed in 11.1 above are not rectified within a period from the suspension of service that will be communicated to the Customer.
- (ii) If in the Company's sole opinion the customer fails at any time to meet the credit test criteria as deemed necessary in any case.
- (iii) If the customer fails to recharge its account within 90 days of the expiry date.

The Company reserves the right to charge a fee for disconnection for whatever cause, and a reconnection fee in case of reinstatement of service. Disconnection shall not constitute a waiver of any charges or penalties due.

12. Assignment

The Company may after notice to the customer, assign its rights and duties under this agreement to a third party and for this purpose disclose to the assignee relevant data relating to the customer.

13. Disclaimer of Warranty

13.1 The Company shall exercise no control whatsoever over the content of the information passing through its Internet backbone and expressly disclaims any liability for such content.

13.2 The Company makes no warranties of any kind, whether express or implied, for the Service it is providing.

13.3 The Company disclaims any warranty of merchantability or fitness for a particular purpose. The Company will not be responsible for any damage suffered by the Customer as a result of use of the Company's Internet backbone or hub. This includes loss of data resulting from delays, non-deliveries, misdeliveries, or service interruptions. Use of any information obtained via the Company's Internet backbone is at the Customer's own risk.

13.4 The Company specifically denies any responsibility for the accuracy or quality of information obtained through its services.

14. Limitation of Liability

- 14.1 In the event that it becomes impossible for the Company to offer Service, both parties will be released from their obligations under these Terms and Conditions and the Company shall have no liability to the Customer.
- 14.2 The Customer accepts that some services offered by a third party carrier's network infrastructure are incompatible with the Service and may not be available to the Customer after connection to the Broadband Network.
- 14.3 Further to Clause 14.2 herein above, the Customer accepts that as provision of certain parts of the Service(s) is dependent upon third party service providers, there may be technical limitations that inhibit the activation or provision of the Service(s). Whilst the Company will use reasonable endeavors to rectify these issues it cannot guarantee that they will be rectified by these providers.
- 14.4 Without prejudice to the provisions of this Clause, in the event that the interruption of service is caused by the Company, it shall use reasonable endeavors to give the Customer reasonable notice before suspending or interrupting the Service(s). Technical Support is available to enable faults to be reported and resolved. Whilst the Company will use reasonable efforts to procure resolution of such faults, it cannot guarantee that all faults will be corrected.
- 14.5 The Customer hereby acknowledges that third party monitoring services such as alarm monitoring will be affected and that any third party providers of such a service connected to the proposed Broadband line have been informed.
- 14.6 The Customer hereby acknowledges that the Company cannot be held responsible for any loss incurred by the Customer because of faults and/or failures within a third party carrier's network infrastructure.
- 14.7 The Service is used at the Customer's own risk and the Company takes no responsibility for any data downloaded and/or the content stored on the Customer's computer.
- 14.8 The Customer agrees not to make any claim against the Company, its suppliers, employees, contractors or assignees for any loss, damages or expenses relating to, or arising from, the use of the Broadband Service.
- 14.9 The Company's responsibility for the Service does not apply in relation to any point beyond the Company Equipment at the Customer Premises. The Company shall not be responsible for any interference or degradation of service caused by any internal wiring or cabling within the Customer premises other than those performed by the Company's staff. The Customer shall be responsible for any upgrades of such internal wiring or cabling that are deemed necessary to enable the Customer to obtain connectivity or the full connectivity speed of the Service
- 14.10 The Company will use its best endeavors to make the Broadband Service available to the Customer 24 hours a day, 7 days a week. The Customer acknowledges that the Company cannot guarantee uninterrupted service, the speed, performance or quality of the Service. The Customer further acknowledges that the Service is not fault free and there may be interruptions and/or access problems from time to time as a result of maintenance, upgrades, emergency or problems caused by third party service providers over which the Company has no control and therefore can accept no liability for problems that may arise from the Service.
- 14.11 The Company will not be liable to the Customer for any failure to perform an obligation or provide the Service(s) to the Customer because of any factor beyond its control including but not limited to acts of God, industrial action, default or failure of a third party (including unavailability of third party telecommunications and/or content services), war, civil action, governmental action or by any act or decision made by a court of competent jurisdiction.

- 14.12 Notwithstanding anything else to the contrary stated or implied herein, the Company shall have no liability to the Customer whatsoever for any direct, incidental, consequential, punitive or special damages, including without limitation to, loss of profit, loss of revenue, or loss of business suffered by the customer of any third party even if informed in advance of the possibility of such damages as a result of non-availability of the service under any circumstances whatsoever.
- 14.3 Subject to the exclusions set out herein, the Company's liability for damages under this Agreement, for any cause whatsoever, and regardless of the form of action shall be limited to proven direct damages of Kshs 3,000/-per claim or series of related claims, subject to a cumulative liability of Kshs 10,000/- for all claims raised over any twelve (12) month period.
15. Term of the Agreement
- 15.1 This Agreement commences once the service is activated, and continues for a Minimum Period of one year for Orange Internet Postpaid accounts and shall be automatically renewed for further periods of one year each unless terminated by the Company under this clause or by the Customer upon giving one months notice. The provisions on the Minimum Period in this Clause shall not apply for Prepaid Orange Internet customers.
- 15.2 The Company may after the commencement date terminate this Agreement immediately by giving reasonable notice if the Customer's location is not technically capable of receiving a Service to which the Customer has subscribed or the Customer does not take steps reasonably required to enable the Customer to receive that Service within a reasonable time from the commencement date.
- 15.3 The Company reserves the right to terminate this Agreement at its discretion without notice at any time without incurring any liability to the Customer if:
- (i) the Customer breaches any material term of the Agreement including but not limited to non-payment of any outstanding charges;
 - (ii) the Customer or any person using the Customer's account misuses or abuses the Service(s) in any way;
 - (iii) bankruptcy or other insolvency proceedings are brought against the Customer, if the Customer are unable to pay the Customer debts as they become due, fails to make payments as they fall due or the Customer cancels the Customer's continuous payment authorisation (without substituting another payment authorisation in its place);
 - (iv) the Customer is no longer lawfully able to receive the Service(s);
 - (v) the Company receives a complaint from a third party that reasonably appears to be justified regarding the Customer's mis-use or abuse of the Service(s); or
 - (vi) the Company is required to do so in order to comply with any law, order or direction given by a competent regulatory authority
- 15.4 The customer may without penalty cancel the agreement at the expiry of the first year or at any later date, but only on giving of one month's notice in writing.
- 15.5 The Customer may terminate the Agreement before the end of the Minimum period upon giving one month's notice under the following circumstances:
- (i) if the customer relocates/moves to (i) a non coverage area. In which event the customer will have to furnish the Company with proof of relocation;

- (ii) if the Company varies the terms of the Agreement and as a result there is an excessive increase in the charges or the changes by the Company significantly alter the Customer's rights under the Agreement. In such cases the Customer's notice must be given no later than seven days prior to the date upon which the change would have taken effect

The Customer will however not have the right to terminate if the variations made by the Company have been imposed on it as a direct result of new legislation, statutory instrument, government regulation or licence.

15.6 In the case of premature cancellation, all outstanding payments shall become immediately due and payable.

15.7 In respect of the service covered by this agreement, this agreement supersedes all previous agreements between the parties save that the customer shall continue to be liable for any outstanding obligations owed to the Company.

16. Consequences of Termination

16.1 On termination of this Agreement the Company shall have the right to automatically terminate any remaining agreements or any other related Service(s) immediately and without further notice to the Customer.

16.2 In the event of termination, all the information stored by the Company on the Customer's behalf in its servers may be deleted and in particular the Company may delete all the emails in the Customer's email account.

16.3 Charges billed and/or paid in advance to the end of the next billing period shall not be pro rated or refunded but shall be used to discharge the Company's administrative expenses arising out of the termination of the Agreement

16.4 Termination shall not prejudice or affect any right of action or remedy which has accrued or will accrue to any party and all provisions which are expressed to survive this Agreement or impliedly do so shall remain in full force and effect.

17. Tariffs

The Customer will pay for the use of Orange Internet Services in accordance with published tariffs as approved and revised by the Company from time to time. Charges will be expressed in Kenya shillings or any other currency.

18. Changes To The Services Or Terms And Conditions

18.1 The Company may change any aspect of the Service(s) and/or the terms of this Agreement at any time for any valid reason which it shall notify to the Customer by giving the Customer 30 days notice in advance of any such change taking effect.

18.2 The Customer will be deemed to have accepted any change to this Agreement or the Service(s) if the Customer continues to use the Service(s) after the relevant period of notice has expired or fails to give notice that it wishes to terminate the Agreement before the relevant period of notice has expired.

19. Complaints Procedure

Complaints by the Customer about any aspect of the Service(s) should be communicated to the Company by calling or writing to Customer Support. The Company will endeavour to resolve any complaints as soon as is reasonably possible.

20. Force Majeure

Should an event of force majeure make it impossible for either Party to perform its obligations, the Parties' respective obligations shall first be suspended for the duration of said force majeure event. The following events are expressly considered by the Parties as events of force majeure:

Earthquake, flood, tempest, fire, lightening, national strike, labour disputes, declared war, civil war, terrorist act; actions of governmental entities, riots, epidemics, industry-wide recognized shortages of supplies.

The Company shall not be liable for breach or delay in performance, which is due to force majeure.

21. Applicable Law

This Agreement and the rights of the parties hereunder shall be governed by and interpreted in accordance with the laws of Kenya. Any dispute or differences of any kind whatsoever arising out of or in connection with this agreement shall be referred to arbitration under the rules of the Chartered Institute of Arbitrators Kenya Branch, provided that where Company claims any sums from the customer such claim shall not be considered a dispute for purposes of this clause.