

Terms and Conditions of Service

In this Agreement

“service provider” means Breedenet CC, CK 2005/091092/23

“the service” means the means the internet access package and related services such as hosting and mailbox provision as requested and agreed upon by the customer and provided by the service provider;

1. Termination

1.1. This Agreement may be terminated in the following ways:

- 1.1.1. by giving 30 days notice by email or fax to the domicilium / address for service of legal notices of the other party;
- 1.1.2. at the discretion of the service provider in the event of
 - 1.1.2.1. the failure by the customer to pay any monthly subscription or other fee or charge due to the service provider timeously;
 - 1.1.2.2. a material breach of these Terms and Conditions of Service or the Acceptable Use Policy (AUP) incorporated therein.

2. Increases in rates & refunds

- 2.1. The service provider reserves the right to increase applicable rates in the event of any increase in the cost of bandwidth or any other facility provided by Telkom or any other service provider.
- 2.2. The service provider reserve the right to amend subscription rates at its discretion and such amended rates shall be effective thirty days after notification of the amendment is communicated to the customer.
- 2.3. There will be no refunds of subscriptions already paid to the service provider.

3. No warranties

- 3.1. The service provider makes no warranties, express or implied, regarding the service provided, including but not limited to the availability thereof or the correctness or suitability thereof for the purposes of the customer. The service is provided “as is” and “as available”. Without limitation of the foregoing, the customer expressly acknowledges that the service provider is reliant on service provision from third parties the performance of which is beyond its control.

4. Disclaimer and indemnity

- 4.1. To the fullest extent possible the service provider disclaims all responsibility or liability for any damages or loss howsoever arising, including but not limited to direct, economic, consequential loss or loss of profits, resulting from the use of or inability to use the service in any manner or from reliance on the service in any way.
- 4.2. The service provider shall not be liable for any claims or damages arising from any deficiency of any nature whatsoever in the service supplied, whether such claims or actions arise from the negligent or willful acts or omissions of the service provider, its servants or agents.
- 4.3. Users agree to indemnify and hold harmless the service provider, its members, employees, servants, subcontractors, partners, subsidiaries and affiliates from any demand, action or application or other proceedings, including for attorneys fees and related costs such as tracing fees, made by any third party and arising out of or in connection with this Agreement and/or the user’s use of or inability to use the service.
- 4.4. The customer acknowledges that they remain solely responsible for their own security and privacy. Customers are strongly advised to install firewalls and anti-virus software for their own protection.

5. Prohibition on sub-letting of the service provided

- 5.1. The customer may not cede, sub-let or otherwise transfer any rights they may have under these terms and conditions or which may otherwise have been obtained through the use of the service.
- 5.2. The customer is prohibited from reselling the service in any manner whatsoever.

6. Compliance with Acceptable Use Policy

The customer hereby acknowledges that they have read and agreed to the provisions of the service provider’s Acceptable Use Policy and that a failure to observe such provisions may lead to the suspension and/or cancellation of this Agreement and the provision of services.

7. Invoicing

- 7.1. The customer expressly consents to receiving all invoices and other notices and notifications by electronic mail.

8. General provisions

- 8.1. These terms and conditions may be unilaterally altered by the service provider at any time and such alterations will be binding on the customer. The customer will be furnished with a copy of the amended terms and conditions as and when changes are made.
- 8.2. The customer hereby consents to the jurisdiction of any Magistrate’s Court having jurisdiction over their person in respect of any legal proceedings arising out of these terms and conditions and to the payment of all costs on an attorney-and-client scale including VAT, tracing fees and collection commission in respect of any legal proceedings instituted by the service provider pursuant to the entering into of this Agreement.
- 8.3. In the event of any part of these Terms and Conditions being found to be partially or fully unenforceable, for whatever reason, this shall not effect the application or enforceability of the remainder of this Agreement.
- 8.4. These Terms of Use contain the record of the entire agreement between the user and the web site owner. Failure to enforce any provision of these Terms and Conditions shall not be deemed a waiver of such provision nor of the right to enforce such provision.

9. Notices and domicilia / address for service of legal notices

- 9.1. The parties choose as their domicilium or address for any notices in terms of this Agreement as reflected on the Application Form of which these terms and conditions form a part.
- 9.2. Data messages, including e-mail messages, sent by users to the web site owner shall be deemed to be received only when acknowledged or responded to.
- 9.3. Data messages sent by the web site owner to users shall be regarded as received when the complete data message enters an information system designated or used for that purpose by the recipient and is capable of being retrieved and processed by the recipient.
- 9.4. Any notice sent by facsimile shall be deemed to have been received by the other party by close of business on the business day following the sending of the fax.