

## **JTL TERMS AND CONDITIONS FOR BUSINESS SERVICES**

JTL Services will be provided to you ("you," "your," or "Customer") on the terms and conditions set forth in this Agreement for Business Services (the "Agreement") by Jamii Telecommunications Limited ("JTL," "we," "us," or "our"). Services may include, but are not limited to, IP television service ("Video"), JTL High-Speed Internet service ("INT"), and JTL Phone Service ("PHONE") (each a "Service" and collectively the "Services"). The terms and conditions in the "GENERAL TERMS AND CONDITIONS" section below are applicable to all Services unless otherwise indicated. We may change our prices, fees, the Services and/or the terms and conditions of this Agreement in the future. Unless this Agreement or applicable law specifies otherwise, we will give you thirty (30) days prior Notice of any significant change to this Agreement. If you find the change unacceptable, you have the right to cancel your Service(s). However, if you continue to receive Service(s) after the end of the notice period (the "Effective Date") of the change, we will consider that you have accepted the changes.

### **GENERAL TERMS AND CONDITIONS**

#### **1. ACCEPTANCE OF THIS AGREEMENT**

You will have accepted this Agreement and be bound by its terms if you use the Services or otherwise indicate your affirmative acceptance of such Services.

#### **2. CHARGES AND BILLINGS**

**a. Charges, Fees, and Taxes That You Must Pay.** You agree to pay all charges associated with the Services, including, but not limited to, installation charges, monthly service charges, applicable local taxes (however designated) and any fees or payment obligations imposed by governmental or quasigovernmental bodies for the sale, installation, use, or provision of the Services. We will provide you with notice and an effective date of any change in our prices or fees. For Video, INT and PHONE customers pricing information is available at [www.faiba.co.ke](http://www.faiba.co.ke).

**b. How We Will Bill You.** Services are provided to you on a month-to-month basis. You will be billed monthly, in advance, for recurring service charges. IN ADDITION, YOU MUST PAY, ON OR BEFORE THE DAY WE INSTALL ANY OR ALL OF THE SERVICES, THE FIRST MONTH'S SERVICE CHARGES, ANY DEPOSITS AND ANY INSTALLATION CHARGES. You may be billed for some Services individually after they have been provided to you; these include per-call charges and charges for pay-per-view movies or events, interactive television. Your first bill may include pro-rated charges from the date you first begin receiving Services, as well as monthly recurring charges for the next month and charges for nonrecurring charges for any non-recurring services you have received. If you make partial payment of any bill, we will apply that payment to the outstanding charges in the amounts and proportions that we determine. However, we do not waive our rights to collect the full balance owed to us by accepting partial payment.

**c. Third-Party Charges That Are Your Responsibility.** You acknowledge that you may incur charges with third-party service providers that are separate and apart from the amounts charged by us. These may include charges resulting from accessing on-line services, calling parties who charge for their telephone-based services, purchasing or subscribing to other offerings via the Internet or interactive options on your Video Service, if applicable, or otherwise. You are solely responsible for all charges payable to third parties, including all applicable taxes. In addition, you are solely responsible for protecting the security of credit card and other personal information provided to others in connection with such transactions.

**d. Payment by Credit Card or Cheque.** If you use a credit card to pay for the Services, that use is governed by the card issuer agreement for that card, and you must refer to that agreement for your rights and liabilities as a cardholder.

#### **e. Our Remedies if You Pay Late or Fail to Pay**

**i. Late or Non-Payments:** You may be billed fees, charges and assessments related to late payments or non-payments if for any reason (i) JTL does not receive from you any required payment for the Services by the payment due date or (ii) you pay less than the full amount due for the Services.

**ii. Fees Not Considered Interest or Penalties:** JTL does not anticipate that you will fail to pay for the Services on a timely basis, and we do not extend credit to customers. Any fees, charges, and assessments due to late payment or nonpayment are not interest, credit service charges, or finance charges or penalties. Rather, they are liquidated damages intended to be a reasonable advance estimate of our costs resulting from late payments and non-payments. These costs will be difficult to calculate or to predict when we set such fees, charges, and assessments, because we cannot know in advance: (a) whether you will pay for the Services on a timely basis, if ever; (b) if you do pay late, when you will actually pay; and (c) what costs we will incur because of your late payment or non-payment.

**iii. Collection Costs:** If we are required to use a collection agency or attorney to collect money owed by you, you agree to pay the reasonable costs of collection. These costs include but are not limited to any collection agency's fees, reasonable attorneys' fees, and arbitration or court costs.

**iv. Suspension/Disconnect:** If you fail to pay the full amount due for any or all of the Services then JTL, at its sole discretion in accordance with applicable law, may suspend or disconnect any or all the Services you receive.

**g. Reconnection Fees and Related Charges.** Should you wish to resume a Service after any suspension, we may require you to pay a reconnection fee. Should you wish to reinstate any or all Services after disconnection, we may require you to pay an installation fee and/or service activation fee. These fees are in addition to all past due charges and other fees.

**h. Our Right to Make Credit Inquiries.** You authorize JTL to make inquiries and to receive information about your credit experience from others, to enter this information in your file, and to disclose this information concerning you to appropriate third parties for reasonable business purposes.

**i. Your Responsibilities Concerning Billing Questions.** Subject to applicable law, if you intend to dispute a charge or request a billing credit, you must contact JTL within sixty (60) days of the date on the bill. You waive any disputes or credits that you do not report within sixty (60) days.

### **3. REFUNDABLE DEPOSIT**

We may require you to pay a refundable deposit when you activate the Service(s). We may also require you to pay a refundable deposit after activation of the Service(s) if you add JTL Equipment and/or Service(s) or if you fail to pay any amounts when they are due. If we disconnect your Service(s) or are otherwise required under applicable law to refund the deposit, we shall within forty-five (45) days or as otherwise specified by applicable law return a sum equal to the deposit(s) you paid (without interest unless otherwise required by law) minus any amounts due on your account (including without limitation, any amounts owed for Services or for any JTL Equipment that is damaged, altered, or not returned).

### **4. CHANGES TO SERVICES**

Subject to applicable law, we have the right to change our Services, JTL Equipment and rates or charges, at any time with or without notice. We also may rearrange, delete, add to or otherwise change programming or features or offerings contained in the Services, including but not limited to, content, functionality, hours of availability, customer equipment requirements, speed and upstream and downstream rate limitations. If we do give you notice, it may be provided on your monthly bill, as a bill insert, in a newspaper or other communication permitted under applicable law. If you find a change in the Service(s) unacceptable, you have the right to cancel your Service(s). However, if you continue to receive Service(s) after the change, this will constitute your acceptance of the change. Please take the time to read any notices of changes to the Service(s). We are not liable for failure to deliver any programming, services, features or offerings except as provided in Section 11 (e).

### **5. ACCESS TO YOUR PREMISES**

You agree to allow us and our agents the right to enter at reasonable times your property upon which the Services and/or JTL Equipment will be provided (the "Premises"), for purposes of installing, configuring, maintaining, inspecting, upgrading, replacing and removing the Services and/or JTL Equipment used to receive any of the Services. You warrant that you are either the owner of the Premises or that you have the authority to give us access to the Premises. If you are not the owner of the Premises, you are responsible for obtaining any necessary approval from the owner to allow us and our agents into the Premises to perform the activities specified above.

### **6. MAINTENANCE AND OWNERSHIP OF EQUIPMENT**

**a. JTL Equipment.** You agree that except for the wiring installed inside the Premises ("Inside Wiring"), all JTL Equipment belongs to us or other third parties and will not be deemed fixtures or in any way part of the Premises. JTL Equipment includes all new or reconditioned equipment installed, provided or leased to you by us or our agents, including but not limited to, cabling or wiring and related electronic devices, cable modems, multimedia terminal adapters ("MTA"), wireless gateway/routers, any other hardware and all software or "downloads" to JTL Equipment. You agree to use JTL Equipment only for the Services pursuant to this Agreement. We may remove or change the JTL Equipment at our discretion at any time the Services are active or following the termination of your Service(s). You agree to allow us access to the Premises for these purposes. You may not sell, lease, abandon or give away the JTL Equipment, or permit any other provider of video, high speed data or telephone services to use the JTL Equipment. The JTL Equipment may only be used in the Premises. At your request, we may relocate the JTL Equipment in the Premises for an additional charge, at a time agreeable to you and us. YOU UNDERSTAND AND ACKNOWLEDGE THAT IF YOU ATTEMPT TO INSTALL OR USE THE JTL EQUIPMENT OR SERVICES AT A LOCATION OTHER THAN THE PREMISES, THE SERVICES MAY FAIL TO FUNCTION OR MAY FUNCTION IMPROPERLY. You agree that you will not allow anyone other than JTL employees or agents to service the JTL Equipment. We suggest that the JTL Equipment in your possession be covered by your insurance. Save for reasonable wear and tear, you will be directly responsible for loss, repair, replacement and other costs, damages, fees and charges if you do not return the JTL Equipment to us in an undamaged condition.

#### **b. Customer Equipment**

**i. Responsibility:** JTL has no responsibility for the operation or support, maintenance or repair of any equipment, software or services that you elect to use in connection with the Services or JTL Equipment (the "Customer Equipment").

**ii. Non-Recommended Configurations:** Customer Equipment that does not meet JTL's minimum technical or other specifications constitutes a "Non-Recommended Configuration." NEITHER JTL NOR ANY OF ITS AFFILIATES, SUPPLIERS OR AGENTS WARRANT THAT A NON-RECOMMENDED CONFIGURATION WILL ENABLE YOU TO SUCCESSFULLY INSTALL, ACCESS, OPERATE OR USE THE SERVICES. YOU ACKNOWLEDGE THAT ANY SUCH INSTALLATION, ACCESS, OPERATION, OR USE COULD CAUSE CUSTOMER EQUIPMENT TO FAIL TO OPERATE OR CAUSE DAMAGE TO CUSTOMER EQUIPMENT, YOU, YOUR PREMISES OR JTL EQUIPMENT. NEITHER JTL NOR ANY OF ITS AFFILIATES, SUPPLIERS OR AGENTS SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY SUCH FAILURE OR DAMAGE. JTL reserves the right to deny you customer support for the Services and/or terminate Service(s) if you use a Non-Recommended Configuration.

**iii. No Unauthorized Devices or Tampering:** You agree not to attach any unauthorized device to JTL Equipment or the Services. If you make any unauthorized connection or modification to JTL Equipment or the Services or any other part of our cable network, we may terminate your Service and recover such damages as may result from your actions. Unless expressly authorized by us, you agree not

to install anything to intercept or receive any of the Services offered over our cable network or to assist any person in intercepting or receiving any of the Services offered over our cable network. You also agree that you will not attach anything to the Inside Wiring, JTL Equipment or Customer Equipment, whether installed by you or us, which singly or together impairs the integrity of our cable network or degrades our cable network's signal quality or strength or creates signal leakage. You hereby agree that we may recover damages from you for tampering with any JTL Equipment or any other part of our cable network or for receiving unauthorized Service(s). You agree that it would be difficult if not impossible to calculate precisely the lost revenue resulting from your receipt of unauthorized Service(s) or the alteration or improper use of JTL Equipment. You therefore agree to pay us as liquidated damages, the sum of \$500.00 per device used to receive the unauthorized Services in addition to our cost to replace any altered, damaged or unreturned JTL Equipment or other equipment owned by JTL, including any incidental costs. The unauthorized reception of the Services may also result in criminal fines and/or imprisonment.

• **For PHONE Customers.** You will be liable for all authorized and unauthorized PHONE use at the Premises. You agree to notify us immediately in writing or by calling our customer service line during normal business hours if you become aware at any time of unauthorized use of your PHONE Services. If you fail to notify us in a timely manner, your Services may be terminated without notice, with additional charges to you.

**c. Inside Wiring.** You may install Inside Wiring, such as additional cable wiring and outlets, provided it does not interfere with the normal operations of our Services. If you have us install Inside Wiring, we will charge you for that service. Regardless of who installed it, we consider the Inside Wiring your property or the property of whomever owns the Premises. Accordingly, you are responsible for the repair and maintenance of the Inside Wiring, unless you and JTL have agreed otherwise in writing. (If you do not own the Premises, contact your landlord or building manager about the repair or maintenance of Inside Wiring.) If you have us repair or maintain the Inside Wiring, we will charge you for that service.

## **7. USE OF SERVICES**

You agree that the Services and the JTL Equipment will be used only for personal, business, non-commercial purposes, unless otherwise specifically authorized by us in writing. You will not use the JTL Equipment at any time at an address other than the Premises without our prior written authorization. You agree and represent that you will not resell or permit another to resell the Services in whole or in part. You will not use or permit another to use the JTL Equipment or the Service(s), directly or indirectly, for any unlawful purpose, including, but not limited to, in violation of any posted JTL policy applicable to the Services. Use of the JTL Equipment or Services for transmission, communications or storage of any information, data or material in violation of any local regulation or law is prohibited. You acknowledge that you are accepting this Agreement on behalf of all persons who use the JTL Equipment and/or Services and that you shall have sole responsibility for ensuring that all other users understand and comply with the terms and conditions of this Agreement and any applicable JTL policies including, but not limited to, acceptable use and privacy policies. You further acknowledge and agree that you shall be solely responsible for any transactions, including, without limitation, purchases made through or in connection with the Services. You agree to indemnify, defend and hold harmless JTL and its affiliates, suppliers, and agents against all claims and expenses (including reasonable attorney fees) arising out of the use of the Services, the JTL Equipment and/or the Customer Equipment or the breach of this Agreement or any of the applicable JTL policies by you or any other user of the Services at the Premises.

### **For INT Customers.**

**a. Acceptable Use Policy.** The JTL Acceptable Use Policy ("AUP") and other policies concerning INT are posted on the Service's Web site at [www.faiiba.co.ke](http://www.faiiba.co.ke) (or an alternative Web site if we so notify you). You further agree that JTL may modify the AUP or other policies from time to time. Notwithstanding anything to the contrary in this Agreement, YOU ACKNOWLEDGE AND AGREE THAT THE TERMS OF THE AUP AND ANY OTHER APPLICABLE JTL POLICIES MAY BE PUT INTO EFFECT OR REVISED FROM TIME TO TIME WITHOUT NOTICE BY POSTING A NEW VERSION OF THE AUP OR POLICY AS SET FORTH ABOVE. YOU AND OTHER USERS OF THE SERVICE SHOULD CONSULT THE AUP AND ALL POSTED POLICIES REGULARLY TO CONFORM TO THE MOST RECENT VERSION.

**b. Prohibited Uses of INT.** You agree not to use INT for operation as an Internet service provider, a server site for ftp, telnet, rlogin, e-mail hosting, "Web hosting" or other similar applications, for any business enterprise, or as an end-point on a non-JTL local area network or wide area network. You agree to indemnify, defend and hold harmless JTL and its affiliates, suppliers, and agents against all claims and expenses (including reasonable attorney fees) arising out of any breach of this Section including, but not limited to, any claims based on or arising out of any material violation of any applicable law.

- **For PHONE Customers.** You expressly agree not to use PHONE for auto-dialing, continuous or extensive call forwarding, telemarketing, fax broadcasting or fax blasting, or for any other use that results in usage inconsistent with normal business calling patterns. If we determine, in our sole discretion, that your use of PHONE is in violation of this Agreement, we reserve the right (i) immediately and without notice to terminate or modify PHONE or (ii) assess additional charges for each month in which such violation occurred.

## **8. ASSIGNABILITY**

This Agreement and the Services furnished hereunder may not be assigned by you. You agree to notify us immediately of any changes of ownership or occupancy of the Premises. We may freely assign our rights and obligations under this Agreement with or without notice to you.

## **9. TERMINATION OF THIS AGREEMENT**

**a. Term.** This Agreement is for a period of twelve (12) calendar months (“**Minimum Period**”) computed from the date on which the Services are provided to you or such other time as may be agreed in writing between JTL and you and will continue in effect until (i) it is terminated as provided for by this Agreement or by any addendum to this Agreement or (ii) it is replaced by a revised Agreement. If you self-install JTL Equipment, Service charges begin the earliest of (i) the day on which you picked up JTL Equipment at our service center, or (ii) the day you install the Service. Upon expiry of the Minimum Period this Agreement shall be renewed automatically for further consecutive terms of twelve (12) months unless terminated as provided herein.

**b. Termination by You.** After the Minimum Period, you may terminate this Agreement for any reason at any time by giving Ninety (90) day’s notice to JTL in one of two ways: (i) send a written notice to the JTL’s postal address; or (ii) send an electronic notice to the e-mail address specified on [www.faiba.co.ke](http://www.faiba.co.ke). Subject to applicable law or the terms of any agreements with governmental authorities, all applicable fees and charges will accrue until this Agreement has terminated, the Services have been disconnected, and all JTL Equipment has been returned. We will refund all prepaid monthly service fees charged for Services after the date of termination (less any outstanding amounts due JTL for the Services, affiliate services, JTL Equipment, or other applicable fees and charges). Should you wish to terminate this Agreement during the Minimum Period, you shall be liable to pay the monthly charges for the unexpired duration of the Minimum Period together with any charges outstanding against the account and such charges that shall constitute a debt recoverable from you until payment is made in full.

**c. Suspension and Termination by JTL.** Under the conditions listed below, JTL reserves the right, subject to applicable law, to act immediately and without notice to terminate or suspend the Services and/or to remove from the Services any information transmitted by or to any authorized users (e.g., email or voicemail). JTL may take these actions if it: (i) determines that such use or information does not conform with the requirements set forth in this Agreement, (ii) determines that such use or information interferes with JTL's ability to provide the Services to you or others, (iii) reasonably believes that such use or information may violate any laws, regulations, or written and electronic instructions for use, or (iv) reasonably believes that such use or information interferes with or endangers the health and/or safety of our personnel or third parties. JTL's action or inaction under this Section shall not constitute review or approval of your or any other users' use of the Services or information transmitted by or to you or users.

**d. Your Obligations upon Termination.** You agree that upon termination of this Agreement you will do the following:

i. You will immediately cease all use of the Services and all JTL Equipment;

ii. You will pay in full for your use of the Services up to the date that this Agreement has been terminated, and the Services are disconnected;

iii. Within ten (10) days of the date on which Services are disconnected, you will return all JTL Equipment to us at our local business office or to our agent/s in working order, normal wear and tear excepted. Otherwise, you will be charged the amount set forth in the current pricing lists for such JTL Equipment, or the revised amount for which you receive notice; if no amount has been specified for the particular model of JTL Equipment, you will be charged the retail price for a new replacement. You may also be charged incidental costs that we incur in replacing the JTL Equipment. Upon our request, you will permit us and our employees, agents, contractors, and representatives to access the Premises during regular business hours to remove the JTL Equipment and other material provided by JTL. We will conduct this removal at a time agreed on by you and us, and you will ensure that all JTL Equipment is returned to JTL.

## **10. LIMITED WARRANTY**

THE JTL EQUIPMENT AND THE SERVICES ARE PROVIDED "AS IS," WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED. NEITHER JTL NOR ITS AFFILIATES, SUPPLIERS, EMPLOYEES, AGENTS OR CONTRACTORS WARRANT THAT THE JTL EQUIPMENT OR THE SERVICES WILL MEET YOUR REQUIREMENTS, PROVIDE UNINTERRUPTED USE, OR OPERATE AS REQUIRED, WITHOUT DELAY, OR WITHOUT ERROR. NEITHER JTL NOR ITS AFFILIATES, SUPPLIERS, EMPLOYEES, AGENTS OR CONTRACTORS WARRANT THAT ANY COMMUNICATIONS WILL BE TRANSMITTED IN UNCORRUPTED FORM. ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF PERFORMANCE, NONINFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY, ARE HEREBY DISCLAIMED AND EXCLUDED UNLESS OTHERWISE PROHIBITED OR RESTRICTED BY APPLICABLE LAW.

## **11. LIMITATION OF JTL'S LIABILITY**

**a. Application.** The limitations of liability set forth in this Section apply to any acts, omissions, and negligence of JTL and its underlying third-party service providers, agents and suppliers (and their respective officers, employees, agents, contractors or representatives) which, but for that provision, would give rise to a cause of action in contract, tort or under any other legal doctrine.

**b. Customer Equipment.** CUSTOMER EQUIPMENT MAY BE DAMAGED OR SUFFER SERVICE OUTAGES AS A RESULT OF THE INSTALLATION, SELF-INSTALLATION, USE, INSPECTION, MAINTENANCE, REPAIR, AND REMOVAL OF JTL EQUIPMENT AND THE SERVICES. EXCEPT FOR GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER JTL NOR ANY OF ITS AFFILIATES, SUPPLIERS, EMPLOYEES, AGENTS OR CONTRACTORS SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY DAMAGE, LOSS, OR DESTRUCTION TO THE CUSTOMER EQUIPMENT. IN THE EVENT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT BY JTL, SUPPLIERS, EMPLOYEES, AGENTS OR CONTRACTORS, WE SHALL PAY AT OUR SOLE DISCRETION FOR THE REPAIR OR REPLACEMENT OF THE DAMAGED CUSTOMER EQUIPMENT UP TO A MAXIMUM OF \$500. THIS SHALL BE YOUR SOLE AND EXCLUSIVE REMEDY RELATING TO SUCH ACTIVITY. • For INT Customers. YOU UNDERSTAND THAT YOUR COMPUTER OR OTHER DEVICES MAY NEED TO BE OPENED, ACCESSED OR USED EITHER BY YOU OR BY US OR OUR AGENTS, IN CONNECTION WITH THE INSTALLATION OR REPAIR OF INT. THE

OPENING, ACCESSING OR USE OF YOUR COMPUTER OR OTHER DEVICES USED IN CONNECTION WITH YOUR COMPUTER MAY VOID WARRANTIES PROVIDED BY THE COMPUTER OR DEVICE MANUFACTURER OR OTHER PARTIES RELATING TO THE COMPUTER'S OR DEVICE'S HARDWARE OR SOFTWARE. NEITHER JTL NOR ANY OF ITS AFFILIATES, SUPPLIERS, OR AGENTS SHALL HAVE ANY LIABILITY WHATSOEVER AS THE RESULT OF THE VOIDING OF ANY SUCH WARRANTIES.

**c. Other Services or Equipment.** BY ACCEPTING THIS AGREEMENT, YOU WAIVE ALL CLAIMS AGAINST JTL FOR INTERFERENCE, DISRUPTION, OR INCOMPATIBILITY BETWEEN THE JTL EQUIPMENT OR THE SERVICES AND ANY OTHER SERVICE, SYSTEMS, OR EQUIPMENT. IN THE EVENT OF SUCH INTERFERENCE, DISRUPTION, OR INCOMPATIBILITY, YOUR SOLE REMEDY SHALL BE TO TERMINATE THE SERVICES IN ACCORDANCE WITH SECTION 9.

**d. Software.** When you use certain features of the Services, such as online features (where available), you may require special software, applications, and/or access to the Internet. JTL makes no representation or warranty that any software or application installed on Customer Equipment, downloaded from the Service, or available through the Internet does not contain a virus or other harmful feature. It is your sole responsibility to take appropriate precautions to protect any Customer Equipment from damage to its software, files, and data as a result of any such virus or other harmful feature. NEITHER JTL NOR ITS AFFILIATES, SUPPLIERS, EMPLOYEES, AGENTS OR CONTRACTORS SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY DAMAGE TO OR LOSS OF ANY HARDWARE, SOFTWARE, FILES, OR DATA RESULTING FROM A VIRUS, ANY OTHER HARMFUL FEATURE, OR FROM ANY ATTEMPT TO REMOVE IT.

**e. Disruption of Service.** The Services are not fail-safe and are not designed or intended for use in situations requiring fail-safe performance or in which an error or interruption of the Services could lead to severe injury to business, persons, property or environment ("High Risk Activities"). These High Risk Activities may include, without limitation, vital business or personal communications, or activities where absolutely accurate data or information is required. You expressly assume the risks of any damages resulting from High Risk Activities. We shall not be liable for any inconvenience, loss, liability, or damage resulting from any interruption of the Services, directly or indirectly caused by, or proximately resulting from, any circumstances beyond our control, including, but not limited to, causes attributable to you or your property; inability to obtain access to the Premises; failure of any cable signal at the transmitter; failure of a communications satellite; loss of use of poles or other utility facilities; strike; labor dispute; riot or insurrection; war; explosion; malicious mischief; fire, flood, lightening, earthquake, wind, ice, extreme weather conditions or other acts of God; failure or reduction of power; or any court order, law, act or order of government restricting or prohibiting the operation or delivery of the Services. In all other cases of an interruption of the Services, you shall be entitled upon a request made within sixty (60) days of such interruption, to a pro rata credit for any Service interruption exceeding twenty-four consecutive hours after such interruption is reported to us, or such other period of time as may be specifically provided by law. Unless specifically otherwise provided by law, such credit shall not exceed the fixed monthly charges for the month of such Service interruption and excludes all nonrecurring charges, one-time charges, per call or measured charges, regulatory fees and surcharges, taxes and other governmental and quasi-governmental fees. EXCEPT AND UNLESS SPECIFICALLY PROHIBITED BY LAW, SUCH CREDIT SHALL BE YOUR SOLE AND EXCLUSIVE REMEDY FOR AN INTERRUPTION OF SERVICE. IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE DAMAGES FROM WHATEVER CAUSE, INCLUDING, BUT NOT LIMITED TO, LOSS OF BUSINESS OR WAGES. Any credits provided by JTL are at our sole discretion and in no event shall constitute or be construed as a course of conduct by JTL.

• **For PHONE Customers.** You understand and acknowledge that you will not be able to use PHONE under certain circumstances, including but not limited to the following: (i) if our network or facilities are not operating or (ii) if normal electrical power is interrupted for a longer duration than the battery backup can support. You also understand and acknowledge that the performance of the battery backup is not guaranteed. If the battery backup does not provide power, PHONE will not function until normal power is restored.

**f. Third Parties.** Notwithstanding anything to the contrary in this Agreement, you acknowledge and understand that we may use third parties to provide components of the Services, including without limitation their services, equipment, infrastructure or content. JTL is not responsible for the performance (or non-performance) of third-party services, equipment, infrastructure or content, whether or not they constitute components of the Services. JTL shall not be bound by any undertaking, representation or warranty made by an agent or employee of JTL or of our underlying third-party providers and suppliers in connection with the installation, maintenance or provision of the Services, if that undertaking, representation or warranty is inconsistent with the terms of this Agreement. In addition, you understand that you will have access to the services and content of third parties through the Service(s), including without limitation that of content providers (whether or not accessible directly from the Service). JTL is not responsible for any services, equipment, infrastructure and content that are not provided by us (even if they are components of the Service), and we shall have no liability with respect to such services, equipment, infrastructure and content. You should address questions or concerns relating to such services, equipment, infrastructure and content to the providers of such services, equipment, infrastructure and content. We do not endorse or warrant any third-party products, services or content that are distributed or advertised over the Services.

**g. Damages.** EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, NEITHER JTL NOR ITS AFFILIATES, SUPPLIERS, EMPLOYEES, AGENTS OR CONTRACTORS SHALL UNDER ANY CIRCUMSTANCES OR UNDER ANY LEGAL THEORY (INCLUDING BUT NOT LIMITED TO TORT OR CONTRACT) HAVE ANY LIABILITY TO THE CUSTOMER OR TO ANY OTHER PERSON OR ENTITY FOR THE FOLLOWING LOSSES, DAMAGES, OR COSTS: (i) ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, TREBLE, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL LOSSES

OR DAMAGES (INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, LOSS OF EARNINGS, LOSS OF BUSINESS OPPORTUNITIES, PERSONAL INJURIES OR DEATH) THAT RESULT DIRECTLY OR INDIRECTLY FROM OR IN CONNECTION WITH (a) YOUR RELIANCE ON OR USE OF THE JTL EQUIPMENT OR THE SERVICES OR (b) THE INSTALLATION, SELF-INSTALLATION, MAINTENANCE, FAILURE, OR REMOVAL OF THE SERVICES (INCLUDING BUT NOT LIMITED TO ANY MISTAKES, OMISSIONS, INTERRUPTIONS, COMPUTER OR OTHER HARDWARE OR SOFTWARE BREACH, FAILURES OR MALFUNCTIONS, DELETION OR CORRUPTION OF FILES, WORK STOPPAGE, ERRORS, DEFECTS, DELAYS IN OPERATION, DELAYS IN TRANSMISSION OR FAILURE OF PERFORMANCE OF THE SERVICE, THE JTL EQUIPMENT OR THE CUSTOMER EQUIPMENT, OR ANY OTHER MISTAKES, OMISSIONS, LOSS OF CALL DETAIL, E-MAIL, VOICEMAIL OR OTHER INFORMATION OR DATA); OR (ii) ANY LOSSES, CLAIMS, DAMAGES, EXPENSES, LIABILITIES, LEGAL FEES, OR OTHER COSTS THAT RESULT DIRECTLY OR INDIRECTLY FROM OR IN CONNECTION WITH ANY ALLEGATION, CLAIM, SUIT, OR OTHER PROCEEDING BASED UPON A CONTENTION THAT THE USE OF THE JTL EQUIPMENT OR THE SERVICES BY YOU OR ANY OTHER PERSON OR ENTITY INFRINGES UPON THE CONTRACTUAL RIGHTS, PRIVACY, CONFIDENTIALITY, COPYRIGHT, PATENT, TRADEMARK, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.

**h. Customer's Sole Remedies.** Your sole and exclusive remedies under this Agreement are as expressly set forth in this Agreement.

**i. Survival of Limitations.** All representations, warranties, indemnifications, and limitations of liability contained in this Agreement shall survive the termination of this Agreement; any other obligations of the parties hereunder shall also survive, if they relate to the period before termination or if, by their terms, they would be expected to survive such termination.

## **12. INDEMNIFICATION AND LIABILITY OF CUSTOMER**

YOU AGREE THAT YOU SHALL BE RESPONSIBLE FOR AND SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS JTL AND ITS EMPLOYEES, AFFILIATES, SUPPLIERS, AGENTS AND CONTRACTORS AND SHALL REIMBURSE US FOR ANY DAMAGES, LOSSES OR EXPENSES (INCLUDING WITHOUT LIMITATION, REASONABLE ATTORNEY'S FEES AND COSTS) INCURRED BY US IN CONNECTION WITH ANY CLAIMS, SUITS, JUDGMENTS AND CAUSES OF ACTION ARISING OUT OF (i) YOUR USE OF THE SERVICE OR JTL EQUIPMENT; (ii) VIOLATION OR INFRINGEMENT OF CONTRACTUAL RIGHTS, PRIVACY, CONFIDENTIALITY, COPYRIGHT, PATENT, TRADEMARK, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY AND PROPRIETARY RIGHTS ARISING FROM YOUR USE OF THE SERVICE OR ANY UNAUTHORIZED APPARATUS OR SYSTEM; AND (iii) YOUR BREACH OF ANY PROVISION OF THIS AGREEMENT.

## **13. CUSTOMER PRIVACY NOTICE AND SECURITY**

To the extent that JTL is expressly required to do so by applicable law, we will provide notice to you of a breach of the security of certain personally identifiable information about you. It is JTL's information security policy to provide such notice to you in the manner set forth in Section 15.

## **14. GENERAL**

**a. Entire Agreement.** This Agreement and any other documents incorporated by reference constitute the entire agreement and understanding between the parties with respect to the subject matter of this Agreement, and they replace any and all prior written or verbal agreements. If any portion of this Agreement is held to be unenforceable, the unenforceable portion shall be construed in accordance with applicable law as nearly as possible to reflect the original intentions of the parties, and the remainder of the provisions shall remain in full force and effect. If JTL fails to insist upon or enforce strict performance of any provision of this Agreement, it shall not thereby waive any provision or right. Neither the course of conduct between the parties nor trade practice shall act to modify any provision of this Agreement.

**b. Additional Representations and Warranties.** In addition to representations and warranties you make elsewhere in this Agreement, you also represent and warrant that:

**i. Age:** You are at least 18 years of age.

**ii. Customer Information:** During the term of this Agreement, you have provided and will provide to JTL information that is accurate, complete and current, including without limitation your legal name, address, telephone number/s, the number of devices on which or through the Service(s) is being used and payment data (including without limitation information provided when authorizing recurring payments). You agree to notify us promptly, in accordance with the terms of this Agreement, if there is any change in the information that you have provided to us. If you fail to provide and maintain accurate information, you will breach this Agreement.

**c. Information Provided to Third Parties.** JTL is not responsible for any information provided by you to third parties, and this information is not subject to the privacy provisions of this Agreement or the privacy notice for the Services. You assume all privacy, security and other risks associated with providing personally identifiable information to third parties via the Services. For a description of the privacy protections associated with providing information to third parties, you should refer to the privacy policies, if any, provided by those third parties.

## **15. NOTICE METHOD FOR CHANGES TO THIS AGREEMENT**

We will provide you notice of changes to this Agreement consistent with applicable law. The notice may be provided on your monthly bill, a bill insert, in a newspaper, by e-mail, or by other permitted communication. If you find the change unacceptable, you have the right to cancel your Services. However, if you continue to receive Services after the change, we will consider this your acceptance of the change.

## **16. GOVERNING LAW**

This Agreement shall be governed in all respects in accordance with the Laws of Kenya and a court of competent jurisdiction in Kenya shall determine every claim or dispute arising out of or in connection with this Agreement.