

## Terms and Condition

**Trinet Online** gives nor express nor implied guarantees with regard to our services besides the ones laid out in this contract.

### **COMMENCEMENT, TERM AND TERMINATION**

- This Agreement shall commence on the date that the provision of the Services are first made available to You, and shall endure for an indefinite period thereafter, on the same terms and conditions as set out in this Agreement, until terminated by either Party giving the other Party 30 days prior written notice.
- This Agreement shall be deemed to have been concluded in Cape Town, South Africa, by Trinet Online's acceptance of your offer on the terms and conditions as provided in this Agreement. By making use of the Services, You acknowledge that you have read, understood, and agree to be bound by this Agreement.

### **CHARGES**

- Service charges are provided either on a monthly basis, and are calculated in accordance with the Product Price Schedule.
- Trinet Online charges for Services on a monthly basis with fees payable in advance by the 1st of the month by You to **Trinet Online**. A valid debit order must be submitted to **Trinet Online** at the time of placing an order for the Services. A rejected debit order will accrue an additional handling fee of R 30.00 per rejection.
- It is the policy of **Trinet Online** to only provide Services once you have authorized a valid debit order.
- **Trinet Online** shall be entitled (without obligation) to suspend the Services on non-payment of applicable charges which are due and payable by you. Service will be suspended 3 days after subscription payment expiry date. Suspended service requires a reconnection fee of R150.00 to be paid in addition to the monthly subscription in order to re-enable the Service. If no payment is received after 30 days the Service will be terminated and equipment will be uninstalled. All other contractual obligations in this document remain in place until terminated by **Trinet Online**.
- In the event of a legal dispute between the Parties, You will be obliged to continue paying the charges as they become due and payable in terms of this Agreement. **Trinet Online** reserves the right to adjust Service charges at their sole discretion. A change in charges will be effective immediately and will be recovered from you as soon as possible thereafter.

### **REFUND POLICY**

Direct costs incurred by **Trinet Online** will not be refunded.

- Refunds will be made by electronic bank transfer to a legitimate bank account. If you have any questions regarding our refund policy please call 054 33 21 560, or e-mail your question to [billing@trinet.co.za](mailto:billing@trinet.co.za).
- If you choose to discontinue Your Service with us, no refund will be made of the initial administration, installation and subscription fees paid up to the date of termination.

## USE AND SECURITY OF YOUR ACCOUNT

- You recognize and understand that the security of your account is your sole responsibility. You confirm by this Agreement that **Trinet Online** shall be entitled to rely on the fact that any person that has access to the Services via Your account shall be deemed to do so in your name and with your consent.
- You undertake to notify **Trinet Online** immediately in writing if you have cause to believe the security of your account has been compromised.
- You shall be held fully responsible for any misuse of or compromise to your account of which **Trinet Online** is not notified in writing.
- **Trinet Online** reserves the right to suspend access to your account, pending a full investigation and resolution thereof, if any security violations are reasonably believed to have occurred in association with your account.
- **Trinet Online** further reserves the right to cooperate with any lawful investigation regarding any aspect of your use of the Services.

## USER CODE OF CONDUCT AND PROHIBITED ACTIVITY

- The Services may only be used in accordance with this Agreement, and for lawful purposes. Use of the Services which violates this Agreement, or any applicable laws, is strictly prohibited.
- You undertake to adhere to restrictions on aspects of the Services associated with each account type, restrictions on certain features, and all other policies designed to protect and enhance the quality and reliability of the Services at **Trinet Online**. You undertake to abide by all current and future **Trinet Online** policy decisions.
- You understand and acknowledge that by using the Services to make information available via the Internet or any of its protocols, such information may become available to all Internet users, and that **Trinet Online** assumes no obligation or liability in limiting or restricting access to such information, or protecting such information from infringement.
- You assume total responsibility and risk for your use of the Services and the Internet. It is your sole responsibility to evaluate the accuracy, completeness, and usefulness of all opinions, advice, products and services, and any other information, and the quality of all merchandise provided through **Trinet Online** or on the Internet generally. While using the Services, You may not (nor may You authorize or permit any third party to) knowingly and intentionally:

- Use the Services in any manner prohibited by relevant legislation, including the Electronic Communications and Transactions Act 25 of 2002;
- Post, access or transmit any unlawful information (including without limitation abusive, defamatory, obscene, or like infringing information of any kind; any transmissions constituting or encouraging conduct that would constitute a criminal offence, give rise to civil liability, or otherwise violate any national or international law, including without limitation laws protecting intellectual property including copyright, trademark, trade secret, misappropriation and anti-dilution laws);
- Post, publish, transmit, reproduce or distribute any information or software which contains a virus or other harmful component;
- Post, publish, transmit, reproduce, distribute or in any way exploit any information, software, or other material obtained through the Services for commercial purposes (other than as expressly permitted by the provider of such information, software, or other material);
- Cause damage to or otherwise interfere with the proper operation of **Trinet Online**'s systems, including and without limitation the fraudulent use, falsification or other circumvention of identification procedures, the obtaining access beyond that which You are authorized for, or impairing the availability, reliability, or quality of **Trinet Online**'s Services to other clients;
- Cause damage to or otherwise interfere with the proper operation of any other information systems accessible via the Internet, including any attempt at unauthorized access of restricted forums or resources;
- Avoid or contravene the Acceptable Use Policy of any network or service You connect to via the Internet; or
- Make use of the Services for the transmission or facilitation of spam (which may be declared so by **Trinet Online** in its sole and unfettered discretion, following an investigation into Your use of the Services for qualities including the transmission or facilitation of the transmission of information which is characterized as being unsolicited (whether of not being of a commercial or promotional nature), or where a single or similar message is transmitted or facilitated in bulk, and considered to be an annoyance or hindrance to others), whether by email, Usenet postings, or any other communication mechanism relying on the Services.

Any breach of this clause will constitute a material breach of this Agreement, and shall, without derogating from any other right of recourse available to it, entitle **Trinet Online** to immediately suspend the Services.

#### **YOU'RE WARRANTIES**

- You undertake to only use the Services, any customer-premises hardware and any associated software (where applicable) in accordance with **Trinet Online**'s instructions and/or software license in effect from time to time.

- You undertake to indemnify and keep **Trinet Online** indemnified from any claim howsoever arising (lawful or otherwise), brought by any third party resulting from your use of the Services. You undertake to pay all costs, damages, awards, fees (legal fees on an attorney-and-own-client scale, whether incurred prior to, during or after the institution of legal proceedings) and judgments finally awarded against **Trinet Online** arising from such claims.
- You undertake at all times to acquaint Yourself with and abide by applicable legislation and regulation, and accordingly indemnify **Trinet Online** against any and all damages or loss occasioned by Your non-compliance hereof.

## INTERNET PROTOCOL

- Any Internet Protocol (IP) address allocated by **Trinet Online** to You shall at all times remain the sole property of **Trinet Online**, and You will have a non-exclusive, non-transferable license to use such IP address for the duration of this Agreement. If this Agreement is terminated, for whatever reason, your license to use the IP address shall immediately, automatically, and without prejudice, terminate.

## INTERNET PACKAGES

- **Trinet Online** will establish a communication link between your terminal equipment and the **Trinet Online** network. This connection is usable 24hours per day and you can access the **Trinet Online** network under the technical conditions pertaining to the subscription package chosen.
- **Trinet Online** offers no SLA with regard to its service - It is a BEST EFFORT service.
- **Trinet Online** will undertake all reasonable measures to facilitate minimum downtime of the service provided to you, and maintain a competent support staff to service you within specified support hours.
- **Trinet Online** shall be entitled, without prejudice to any of its legal rights, to suspend your access to the Services and/or cancel this agreement in the event that you are in breach of any provision in this agreement, compromise the integrity of the network or the quality of service **Trinet Online** is able to offer its users. Should **Trinet Online** institute action against you as a result of breach of this agreement then **Trinet Online** will be entitled to recover legal costs from you.
- You may only provide our services to a third party with the express written permission of **Trinet Online**.
- **Trinet Online** reserves the right to introduce, at any time, internal regulations which may result in changes in the use of the **Trinet Online** network or its Service offering and/or packages.
- **Trinet Online** reserves the right to alter at any time the technical parameters of the package. **Trinet Online** will use its best endeavors to notify you in advance of any such changes.

- **Trinet Online** may change the selected package of a client if deemed unsuitable for the clients needs, or if there is a violation of the **Acceptable Use Policy**.
- **Trinet Online** cannot guarantee the bandwidth throughput achieved when you surf the Internet. Wireless is an access medium to the Internet and will not overcome any bandwidth related constraints within the **World Wide Web**. **Trinet Online** 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 **Trinet Online**'s Internet access service. A migration fee will be charged should you choose to downgrade from any Internet Service Package to another Internet Service Package. Migration is only possible at the beginning of a new billing cycle and will only be processed upon receipt of a written request accompanied by a revised Debit Order Instruction Form.

### **Ultimate Package:**

- These accounts have various capping protocols that govern the usage thereof. Before you subscribe to an Ultimate account please ensure that you are aware of the various rules that govern the accounts. This service usage is measured on up and download access.
- This service is a monitored, uncapped service, but misuse and force downloading will be monitored and will then be limited. Your Internet access will terminate until the beginning of the following month when the applicable Gigabyte usage limit will be restored or until you purchase top-up bandwidth. Once proof of payment has been received of the top-up bandwidth purchased, the Internet connection will be re-activated. Top-up bandwidth purchased is not transferable from one month to the next.
- Bandwidth hungry applications such as peer-to-peer including Kazaa, Fasttrack & Napster etc. are only available on **Trinet Online**'s Ultimate package.

### **WIRELESS EQUIPMENT**

- Notwithstanding anything to the contrary, ownership of any goods or facilities installed or otherwise provided by **Trinet Online** to you will remain the property of **Trinet Online** for a period of 12 (twelve) months, unless a contract is entered into transferring ownership of said equipment to you. Upon lapse or cancellation of this agreement within the first 12 (twelve) months, all equipment shall be returned to **Trinet Online** in satisfactory condition. Failure to do so will result in replacement costs payable by you.
- You undertake to maintain all equipment that **Trinet Online** installs at your premises, taking all normal precautions when using electronic equipment.
- **Trinet Online** will assume responsibility, at its own cost, for the maintenance of the equipment installed for the duration of the 12 (twelve) month period. This does not include problems resulting from misuse or negligence on the part of the client, nor does this include theft, lightning, or any other act of

God. Any other damage to **Trinet Online** equipment including corrosion, equipment failure or malfunction, will be repaired or replaced by **Trinet Online** at no cost to you. Reasonable access will need to be provided by you to **Trinet Online** personnel for repairs and replacement in this event.

- **Trinet Online** is the only entity authorized to provide any technical maintenance on the **Trinet Online** equipment installed at your premises.
- Modification or re-configuration by any other entity, without the written consent of **Trinet Online**, is strictly prohibited.

#### **VIRUS SCANNING, SPAM FILTERING, PERMANENT DELETION AND BACKUP OF DATA**

- Your use of the Services is at your sole risk. **Trinet Online** is not responsible for the security or integrity of any information stored with **Trinet Online** and associated with your account.
- You undertake full responsibility for the integrity of all files and information communicated via the Services, and you will ensure and maintain appropriate backup facilities of files and information stored on **Trinet Online** servers.
- You acknowledge that, upon the termination of this Agreement for whatsoever purpose, **Trinet Online** shall be entitled to permanently remove your information from its servers within a reasonable period, following notice to you. If you have not made alternative arrangements acceptable to **Trinet Online** for the safe transfer or further storage of your information, **Trinet Online** accepts no liability for the permanent deletion thereof.
- As a responsible party facilitating access to the Internet and associated protocols, **Trinet Online** has a virus scanning and spam filter activated by default. In the unlikely event that “false positives” (a legitimate message mistakenly marked as spam) occur, **Trinet Online** will not be held liable for any direct, indirect or consequential loss, should legitimate information incorrectly be identified as spam or a virus, and filtered out, and the provisions set out in clause 1 of the Exclusion of Liability provision above will apply, with the necessary changes.

#### **DISCONTINUANCE OF SERVICES, MONITORING, NOTIFICATION**

- **Trinet Online** reserves the right to refuse or discontinue all or part of the Services at its sole discretion if you engage in any conduct or activity that **Trinet Online** in its sole discretion believes violates any of the terms and conditions in this Agreement, or is detrimental to its interests hereunder.
- You acknowledge that **Trinet Online** has the right to monitor your use of the Services from time to time in accordance with applicable legislation, and to disclose any information as is necessary in compliance with the law.
- **Trinet Online** reserves the right to terminate the Service if conceived to be in contradiction to the AUP.
- **Trinet Online** assumes no obligation to act as an information content monitor, but reserves the right to refuse to post, or to remove from publication, any

information or materials, in whole or in part, that, in its sole discretion, are unacceptable, undesirable, or in violation of law or of this Agreement.

- **Trinet Online** shall have no obligation, on discontinuation of provision of the Services, to notify any third-party providers of services, merchandise or information, nor shall it be liable for any consequences resulting from such discontinuance or lack of notification.

## WARRANTIES

- Other than as set out in this Agreement, **Trinet Online**, its employees and agents make neither express nor implied warranties or representations of any kind in respect of the Services, including without limitation warranties of title, non-infringement, or implied warranties of merchantability or fitness for any particular purpose. The Services are provided on an "as is" and "as available" basis. All warranties that are implied or residual in common law are hereby expressly excluded.
- Without limitation to the generality of the above clause, **Trinet Online** does not warrant that the Services available to You:
  - will be preserved or sustained in their entirety;
  - will be suitable for any purposes;
  - will be free of errors, defects, bugs or viruses of any kind;
  - and **Trinet Online** assumes no liability, responsibility or obligation with regard to any of the exclusions as set out in this clause.

## EXCLUSION OF LIABILITY

- Under no circumstances shall **Trinet Online** be liable to you or any third party for any direct, indirect, special, punitive, consequential or incidental loss or damage (including without limitation damage to property, business, or goodwill, or loss of profit, revenue or anticipated savings) that result directly or indirectly from Your use of or inability to use the Services, or for third parties' use of the Services, or your or any third parties' reliance on or use of information, services, or products provided together with, on or through the Services, or that result from mistakes, omissions, interruptions, deletion of files, errors, defects, delays in operation or transmission, or any failure of performance.
- Subject to the above clause, the entire liability of **Trinet Online**, and Your exclusive remedy for damages related to or arising from this Agreement, whether in contract or in defect, will not exceed the average aggregate of the charges paid by you to **Trinet Online** during the 1 month directly preceding the claim.
- **Trinet Online** reserves the right from time to time to suspend access to or provision of the Services for maintenance and repair work to its systems and infrastructure. In such instances and where possible, **Trinet Online** shall endeavor to provide due notice in advance of any restriction of or limitation to the Services. Any liability for any loss or damage arising from such restriction or limitation, whether direct or consequential, is hereby excluded, and the

provisions of the first Exclusion of Liability clause above shall apply with the necessary changes to such restriction or limitation.

## **INDEMNIFICATION**

- You agree, without limitation or exception, to indemnify, defend, and hold harmless **Trinet Online** from any and all liability, penalties, losses, damages, costs, expenses, attorneys' fees (on an attorney-and-own-client costs scale basis), causes of action or claims caused by or otherwise resulting indirectly from Your use of the Services which causes damage, either to You, **Trinet Online**, or any other third party.
- This indemnification extends to all issues associated with your account, including but not limited to Internet Connectivity Packages and other content.

## **CLIENT INFORMATION, FINANCIAL INFORMATION, RIGHT OF USE**

- You warrant that all information provided by you to **Trinet Online**, including without limitation all your identification and contact information, is true and correct, and that should such information change, you will notify **Trinet Online** thereof within 30 days of such change.
- You further warrant that You are the authorized user of any financial information provided (including without limitation any current account or credit card information) provided to **Trinet Online**, and that **Trinet Online** has the right to investigate and pursue any possible fraudulent use thereof.

## **INTELLECTUAL PROPERTY**

- You acknowledge that, by virtue of this Agreement, you acquire no interest or any other right in the Intellectual Property of **Trinet Online** or its affiliates, and that all such Intellectual Property is and shall remain the exclusive property of the Party to which it belongs.
- If you become aware of any actual, threatened or suspected infringement of such Intellectual Property, you undertake to immediately notify **Trinet Online** thereupon in writing.

## **GENERAL**

- Choice of Law, Jurisdiction: This Agreement shall be governed in all respects by the laws of the Republic of South Africa. Both Parties consent to the non-exclusive jurisdiction of the Magistrates Court, with regard to any proceedings in connection with the Agreement, but you acknowledge that **Trinet Online** shall be entitled to institute proceedings in the High Court of South Africa.

- **Pre-Contractual Negotiations:** This Agreement supersedes any written, electronic, or oral communication you may have had prior to the conclusion of this Agreement with **Trinet Online**, or any agent or representative thereof, and this Agreement constitutes the complete and total Agreement between the Parties.
- **Acting as Principal:** Each Party warrants that, in entering into this Agreement, it acts as a principal and not as an agent for any undisclosed principal.
- **Domicilium Citandi ET Executandi:** The Parties choose their addresses as provided for the purposes of this Agreement as their respective addresses for all purposes, including without limitation for the delivery of notices. Each Party shall be entitled to vary its address in writing to the other Party. Any communication shall be deemed to have been received on the 7th day following dispatch thereof. Notwithstanding anything to the contrary, a communication actually received by a Party shall be adequate notice, notwithstanding that it was not sent to the other Party's chosen address.
- **Unilateral Amendment:** **Trinet Online** shall be entitled to unilaterally amend the terms of this Agreement insofar as they relate to the applicable charges from time to time, which shall then become effective as from the date **Trinet Online** notifies you thereof. Further, **Trinet Online** shall be entitled to unilaterally vary the terms of this Agreement upon a change in the law as it applies to the telecommunications sector in general, in order to continue to offer its Services to all then current clients.
- **No Variation:** Subject to the foregoing provision, no acceptance by You of information offered by **Trinet Online**, its agents or employees, shall constitute an agreement expanding or diluting the terms and conditions of this Agreement, unless such offer and acceptance is explicitly intended to vary this Agreement in an addendum, and is signed by an authorized representative of **Trinet Online**.
- **Indulgence:** An indulgence granted by either Party shall not constitute a waiver or abandonment of any of that Party's rights in this Agreement, and that Party shall not be precluded from exercising any right against the other Party which may have arisen in the past, or which may arise in the future.
- **Waiver:** A waiver by either Party of any provision of this Agreement shall not be binding against that Party unless expressed in writing and signed by the Party giving it, and in that event such waiver will only be effective in that specific instance and for that specific purpose.
- **Severability:** If any provision of this Agreement is determined by a Court of competent jurisdiction to be invalid or unenforceable, all remaining provisions of this Agreement shall remain in full force and effect, said provision shall be performed to the maximum extent possible so as to obtain the intended result, and **Trinet Online** shall be entitled to review, correct and communicate a reformed provision only to the extent necessary to give intended effect to the original provision.
- **Surviving Clauses:** Upon the termination or cancellation of this Agreement or any clauses hereof for any reason, those clauses which are intended to continue and survive such termination or cancellation shall so continue and survive.
- **Assignment:** You will not be entitled to cede or assign this Agreement or any part thereof without the prior written consent of **Trinet Online**, and this Agreement shall be binding on your respective successors and assigns. **Trinet**

**Online** shall be entitled to assign its rights and obligations without your consent to an entity which acquires all or substantially all of the assets of **Trinet Online**, provided that such assignment does not relieve such assignee of its obligations under this Agreement.

**Representations:**

Neither Party shall without the prior written consent of the other Party refer to itself as an authorized representative of the other Party, nor use the other Party's logos, trade or service marks. Notwithstanding the foregoing, **Trinet Online** is hereby authorized to identify you as its customer for reasonable marketing and/or publicity announcements.