



VIRTUAL PRIVATE SERVER SERVICE TERMS AND CONDITIONS

1. Services:

1.1. The Service Provider agrees to provide the Customer with the following services:

1.1.1. Virtual Private Server (VPS): A dedicated virtual server environment with allocated resources (CPU, RAM, Disk Space) within a physical server, configured according to the Customer's specifications.

1.2. The specific service features, resource allocations, and pricing are detailed in the Service Order generated by the Service Provider and agreed upon by the Customer.

2. Service Level Agreement (SLA):

2.1. The Service Provider agrees to adhere to the following Service Level Agreement (SLA) for the provision of the services:

2.1.1. Uptime Guarantee: The Service Provider shall use commercially reasonable efforts to ensure that the virtual server instance and the collocated hardware achieve a minimum uptime of 99.50% each month, excluding:

2.1.1.1. Scheduled and emergency maintenance periods

2.1.1.2. Acts or omissions of the Customer or any person or entity on behalf of or under the control of the Customer.

2.1.1.3. Operating system or Software Application breaches and failures hosted in the virtual instance or collocated hardware.

2.1.2. Support Availability: The Service Provider shall provide technical support and assistance to the Client 24 hours a day, 7 days a week, via email, phone, or online ticketing system.

2.1.3. Response Times: The provider shall respond to the client's support requests within two (2) hours for critical issues and four (4) hours for non-critical issues.

- 2.2. Security Measures: The Service Provider shall implement industry-standard security measures to protect the virtual server instance from unauthorized access, including firewall configuration, intrusion detection/prevention systems, and regular security updates.
- 2.3. Penalty for Breaches of SLA (defined as failure to meet the uptime guarantee outlined in Section 2.1.1):
- 2.3.1. If the minimum uptime is not achieved during any calendar month, the Customer shall be eligible to receive service credit calculated on a prorated basis of the monthly Service Charge payable in respect of the month during which the outage was experienced. The Service Provider will issue a Service Credit to the Subscriber following its approval of the service credit request. A service credit will appear on the invoice issued in the month or quarter following the month or quarter during which the service credit was approved.
- 2.3.2. For the purpose described herein, a month is deemed to equal thirty (30) days. Service Credits will not be compounded in any given month.
- 2.3.3. The customer's eligibility for Service Credits hereunder shall constitute the Service Provider's sole liability and the Customer's sole remedy related to the Service Provider's undertakings under this SLA.
- 2.3.4. In the event of repeated breaches of the SLA by the Service Provider on more than three occasions within six months, the following shall apply:
- 2.3.4.1. The Service Provider shall provide a detailed written report to the Client outlining the reason for each breach and the steps taken to rectify the issue via email.
- 2.3.4.2. The Customer reserves the right to terminate the service agreement with the Service Provider upon giving fourteen (14) days' notice if repeated breaches of the SLA persist despite reasonable effort to remedy the situation.
- 2.4. Backup and Disaster Recovery: The Service Provider shall maintain regular backups of the Customer's database(s) stored on the virtual server instance. The Service Provider shall also implement disaster recovery procedures to minimize downtime in the event of hardware failures or data loss.

3. Acceptable Use Policy (AUP):

- 3.1. A separate Acceptable Use Policy ("AUP") is attached (Exhibit 1) to this Agreement, outlining the prohibited activities and acceptable conduct for utilizing the services.

4. Non-Disclosure Agreement (NDA):

- 4.1. Both parties agree to keep confidential any Non-Public Information ("Confidential Information") of the other party disclosed in connection with this Agreement. Confidential Information includes, but is not limited to, technical specifications, pricing information, customer data, and trade secrets.
- 4.2. The above obligation shall not apply to Confidential Information that:
- 4.2.1. Was already known to the receiving party without restriction;

- 4.2.2. Is or becomes publicly known through no fault of the receiving party;
- 4.2.3. Is independently developed by the receiving party without reference to the disclosing party's Confidential Information or
- 4.2.4. Is rightfully obtained by the receiving party from a third party without restriction.
- 4.2.5. Both parties shall take reasonable precautions to protect Confidential Information from unauthorized access, use, disclosure, or misuse.
- 4.3. Breach of Confidentiality: In the event of a breach of Confidentiality by either party, the non-breaching party shall be entitled to seek injunctive relief, damages, or any other legal remedies available under applicable law of Tanzania. The breaching party shall indemnify the non-breaching party for any losses, damages, or expenses incurred as a result of the breach.
- 4.4. Duration of Confidentiality: The obligation of confidentiality outlined in this Agreement shall remain in effect for One Year from the date of disclosure of the Confidential Information or until such times as the Confidential Information becomes publicly known through no fault of the receiving party, whoever occurs first.
- 4.5. Return or Destruction of Confidential Information: Upon termination or expiration of this Agreement, or the written request of the disclosure party, the hosting party shall promptly return or destroy all Confidential Information in its possession, custody, or control, including any copies thereof, and provide written certification of such return or destruction to the party receiving the service.

5. **Payment:**

- 5.1. The Customer shall pay the Service Provider the fees for the services as specified in the Service Order Form and as may be updated from time to time whenever services are rendered and their respective prices are changed and/or added.
- 5.2. Late payments shall attract a late fee of 2% per month on the total outstanding amount that exceeds the aging of 45 days.
- 5.3. Failure to pay for rendered services within the agreed time shall be considered a breach of contract, and hence the Service Provider shall exercise the right to suspend the services immediately upon written notification by email to the Customer. The data hosted on the VPS instance(s) shall be retained intact for Sixty (60) days from the suspension date, after which it shall be permanently erased.
- 5.4. The Customer shall be allowed to retrieve the hosted data only upon full payment of the outstanding amounts.

6. **Obligations:**

6.1. **The Service Provider agrees to:**

- 6.1.1. Provide Virtual Server Hosting services according to industry best practices and the terms of this Agreement.
- 6.1.2. Maintain the physical infrastructure and network connectivity necessary for the provision of hosting services.
- 6.1.3. Monitor the server performance and promptly address any issues that may affect the virtual server instance's availability or performance.

6.1.4. At no time shall the Service Provider, its employees, agents, or representatives have access to the Customer Operating Systems, Applications, and associated data hosted in the virtual server instances unless specifically granted permission in writing by the Customer. The Service provider's main responsibility is to provide an appropriate hosting environment for the customer Operating System and associated applications and not to manage the Customer-installed Operating systems and applications.

6.1.5. Notwithstanding clause 6.1.4, the Service Provider may provide technical support, related to the Operating System and associated applications to the Customer upon written request and approval of the Customer.

6.1.6. Comply with all applicable laws and regulations governing the provision of such services.

6.2. The Customer agrees to:

6.2.1. Pay the fees for hosting services promptly.

6.2.2. Use the services solely for lawful purposes and in compliance with all applicable laws and regulations, and the Applicable Use Policy (Exhibit 1).

6.2.3. Maintain the security of its virtual server instance, including implementing appropriate access controls and security measures.

6.2.4. Maintain the security, updates, and stability of the Operating Systems, System applications, and all applications hosted in the virtual server instance(s).

6.2.5. Maintain up-to-date offsite backup of data stored in the virtual server instance(s).

6.2.6. Provide accurate and complete Information to the Service Provider to set up and configure the virtual server instance(s).

7. Term and Termination:

7.1. This Agreement shall be effective for a minimum term stipulated in the Service Order Form commencing on the Effective Date and automatically renewing for additional equal months on each anniversary date unless terminated by either party upon thirty (30) days prior written notice.

7.2. Either party may terminate this Agreement for breach of any material covenant or provision hereof by the other party upon seven (07) days written notice if the breach remains uncured after the expiration of such notice period.

7.3. Upon termination of this Agreement, Customer shall promptly pay the Service Provider all outstanding fees and delete all its data from the VPS instances.

8. Warranties and Disclaimers:

8.1. PROVIDER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, CONCERNING THE SERVICES, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT.

8.2. PROVIDER SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR SPECIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS

AGREEMENT, INCLUDING WITHOUT LIMITATION, LOSS OF DATA OR PROFITS, BUSINESS INTERRUPTION, OR DAMAGE TO GOODWILL.

9. Limitation of Liability:

- 9.1. In no event shall either party be liable to the other party for any indirect, incidental, consequential, or punitive damages arising out of or in connection with this Agreement, whether in contract, tort, or otherwise.
- 9.2. The Service Provider's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, or otherwise, arising in connection with the performance or contemplated performance of this Agreement shall be limited to the total one-month Service Fee paid to the Service Provider by the Customer in terms of this Agreement.

10. Indemnity:

The Customer agrees to indemnify and keep indemnified the Service Provider and its officers, employees, and subcontractors against any claims, damages, costs, loss, liability, or expenses arising from or incurred in connection with any of the following: (a) any breach of this Agreement by the Customer; (b) the Content or its use by the Customer or any other person; and (c) Customer's usage of the service in breach of any Law.

11. Entire Agreement:

This Agreement constitutes the entire Agreement between the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous communications, representations, or agreements, whether oral or written.

12. Governing Law:

This Agreement shall be governed by and construed in accordance with the laws of the United Republic of Tanzania.

13. Dispute Resolution:

- 13.1. Notice of Breach - Should either Party be in breach of any of the terms and conditions of this Agreement, then the aggrieved Party shall serve written notice on the Party in breach, specifying the breach and where possible providing Seven (7) days' notice to rectify the same, unless a material breach requiring immediate action or a serious material irremediable breach on the part of the Supplier which may give rise to immediate termination as provided herein or if the said breach has not been rectified within the Seven (7) days, the breach may be treated as a material breach and the termination provisions contained herein may apply.
- 13.2. Negotiation - Any dispute that may arise regarding this Agreement as to the meaning or effect of these presents or as to the rights or liabilities of either Party hereunder shall

first be subject to negotiations between the senior management of the Parties and if no agreement can be reached within thirty (30) days from the date at reference it shall then be referred to mediation.

14. Notices:

All notices and other communications hereunder shall be in writing. They shall be deemed to have been duly given when delivered personally, sent by certified or registered mail, sent by email return receipt requested, and addressed as follows:

If to Provider:

Habari Node Limited

13 Nyerere Road, Mahakama Street,

Arusha, Tanzania.

Email: sales@habari.co.tz and support@habari.co.tz

If to Customer:

According to the contact details shared in the Service Order Form.

11. Severability:

If any provision of this Agreement is held to be invalid or unenforceable, such provision shall be struck, and the remaining provisions shall remain in full force and effect.

11. Variation of Terms and Conditions:

The Service Provider may amend this Service Agreement by giving the Subscriber thirty (30) days' written notice.

EXHIBIT 1: Acceptable Use Policy for VPS Services

1. Introduction:

This Acceptable Use Policy ("AUP") outlines the acceptable and unacceptable uses of VPS Services. Your use of these services constitutes your Agreement to comply with this AUP. We reserve the right to modify this AUP at any time without prior notice.

2. General Conduct:

- 2.1. You are responsible for all activities that occur on your VPS, including the activities of your users and agents.
- 2.2. You may use the services only for lawful purposes and in accordance with all applicable laws and regulations.
- 2.3. You may not use the services in a manner that could damage, disrupt, or disable our network or infrastructure, or interfere with the use of the services by others.
- 2.4. You may not use the services to store or transmit material that is:
 - 2.4.1. Infringing on the intellectual property rights of others, including copyrights, trademarks, patents, and trade secrets.
 - 2.4.2. Obscene, defamatory, threatening, harassing, or abusive.
 - 2.4.3. Hateful or discriminatory.
 - 2.4.4. Fraudulent or misleading.
 - 2.4.5. Spam or unsolicited bulk email.
 - 2.4.6. Malicious software or viruses.
 - 2.4.7. Child pornography or other illegal content.
 - 2.4.8. You may not attempt to gain unauthorized access to our network infrastructure or other users' accounts.
 - 2.4.9. You are responsible for maintaining the security of your accounts and passwords.

3. Specific Prohibitions:

- 3.1. You may not use the services for:
 - 3.1.1. Hosting illegal or high-risk activities, such as gambling, online pharmacies, or illegal streaming.
 - 3.1.2. Running cryptocurrency mining operations.
 - 3.1.3. Sending spam or unsolicited bulk email.
 - 3.1.4. Hosting proxy servers or Tor exit nodes.
 - 3.1.5. Engaging in Denial-of-Service (DoS) or Distributed Denial-of-Service (DDoS) attacks.
 - 3.1.6. Engaging in port scanning or vulnerability scanning without proper authorization.



3.1.7. Running any type of botnet or malware distribution network.

4. **Resource Usage:**

4.1. You are responsible for ensuring that your resource usage (CPU, RAM, disk space, bandwidth) does not exceed the limits of your plan.

5. **Monitoring and Enforcement:**

5.1. We may monitor your use of the services to ensure compliance with this AUP.

5.2. We may take any action we deem necessary to enforce this AUP, including suspending or terminating your account without notice.

6. **Disclaimer:**

We are not responsible for the content or activity on your Virtual Private Server. We make no warranties, express or implied, about the services, including their availability, reliability, or security.

7. **Variation of AUP:**

The Service Provider may amend the AUP without prior notice.

Contact Us

Don't hesitate to contact us if you have any questions:

→ via email: support@habari.co.tz

→ via phone: +255 659 074 444