

Asymmetric Digital Subscriber Line Internet
Access Terms
ANKHS LIMITED

A. Definitions:

“**Service Authorization**” means Ankhs Limited (“Anngel.com”) application formed together with any appendices thereto, signed by Ankhs and its customer (“Customer”) and to which these terms apply.

1. “**Agreement**” means the Service Authorization and any appendices thereto together with these terms.

B. ADSL Service Description:

1. ANKHS Asymmetric Digital Subscriber Line High Speed Internet Access Service (“Service”) is an Internet access service that provides dedicated connections from a Customer's premises to the Internet via Digital Subscriber Line local facilities and ANKHS Internet network.
2. At the Customer's premises, the Customer's equipment places data into Internet Protocol packets (“IP”) and gives each packet a terminating address and ANKHS routes registered IP packets over its Internet network to the terminating Internet location or peering point with another Internet Service Provider.

C. Equipment Description:

1. Customer is required to provide requisite equipment for the ADSL Service (ADSL modem and POT Splitter). These may be purchased from ANKHS or from recommended distributors. **Ankhs Limited will not be liable for any service warranty for modems and/or splitters not purchased from ANKHS Limited. ***
2. ANKHS Limited will be responsible for the configuration of the said modem. **Customer will be responsible for installation of modem and splitter at the premises. If applicable, service related**

charges for home or office installation will be billed to the customer.

3. If equipment is purchased from ANKHS, title to the equipment will pass to Customer upon Ankhs receipt of payment in full. Risk of loss for or damage to each item of equipment will pass to Customer upon its delivery to Customer.
4. **In the event that ANKHS determines that an item of equipment requires replacement owing to customer’s misuse of said equipment, customer will be responsible for replacing it with a functionally equivalent item of equipment.**

D. Payment:

1. Customer will pay all applicable charges for the ADSL service and will also pay any charges related to the equipment. *
2. Charges will be invoiced monthly in Jamaican Dollars. **Customer will be bound to a one year service contract for speeds 128-1024 Kbps. All speeds above will be bound to a two year service contract. If customer forfeits this contract; customer will be liable for payment (50% of the remaining months) as a penalty for this breach. These fees must be paid in full by the customer at the date of disconnection.** If applicable, customer’s first payment will be prorated.
3. **Monthly payments will become due on the 30th day of each month. Amount not paid on or before the final date for payment stated on the monthly invoice (“Final Date”) will be deemed overdue and will be disconnected after the four (4) day grace period. Monthly due date will not be altered to accommodate late payment.**

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4. **The charges do not include any applicable taxes and may be revised by ANKHS. Monthly Jamaican amount will vary depending on the rate of exchange being used.**
 5. The monthly invoices will be generated to individual Anngel email addresses seven (7) days prior to due date.
 6. If customer request ANKHS to expedite the delivery of Service, ANKHS will use its reasonable efforts to so expedite delivery, and Customer will pay any additional charges if applicable.
 7. If requested by ANKHS, Customer will provide a security deposit equivalent to the installation cost plus one month's rental charge. At the time of discontinuance or termination of the Service, this deposit will be applied firstly to settle any sum outstanding on the Customer's account, and the balance, if any, refunded to the Customer.
 8. If at any time, the Customer fails to pay any overdue amount, ANKHS will be entitled to deduct the overdue amount from the security deposit and Customer will, upon request by ANKHS pay such amount into the deposit as will be sufficient to restore the security deposit.
 9. **The Customer shall be liable to ANKHS for any and all costs and or expenses incurred directly or indirectly, including reasonable attorney's fees and expenses, in the collection or attempted collection of any due amount from Customer.**
- month-to-month basis becoming due on the 30th day of each month.
2. **Customer may terminate Service at any time giving thirty (30) days prior written notice, and will be liable to pay all outstanding amounts and any other amounts due to ANKHS under this Agreement as at the effective date of termination.**
 3. **In addition to any other remedies available, ANKHS may immediately (without notice and without liability to the Customer) discontinue the provision of Service if any of the following occurs: (a) ANKHS deems in its absolute discretion that it is necessary to discontinue the Service in order to protect against fraudulent or illegal use of the service or to otherwise protect ANKHS, its equipment, network or facilities; (b) ANKHS receives complaints or claims from third parties regarding the Customer's misappropriate use of the Service; or (c) the Customer fails to comply with its obligations in accordance to this Agreement or (d) Customer fails to pay the applicable charges for the ADSL Service or any other services required for the ADSL connection on or before the "Final Date".**
 4. ANKHS will endeavour to give Customer notice regarding the reason (s) for suspension or termination as soon as realistically practicable after such suspension or termination.
 5. **In the event that the Service is disconnected for any reason specified in clause E (3) herein and if ANKHS is willing in its sole discretion to reconnect the Service, Customer will, prior to such reconnection, sign documentation provided by ANKHS to comply with its obligations and pay all outstanding fees**

E. Term and Termination:

1. The term of the service ("Term") will start *on the date of provisioning* ("Term Start Date"). Service will continue on a

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and charges and the relevant reconnection fee.

compatible for the use with the Service, ANKHS may refuse such assistance and will not be responsible for the performance of the Service.

F. Additional Service Obligations:

1. ANKHS will operate and maintain the Service, contingent upon ANKHS (i) ability to maintain necessary licenses or permissions (ii) availability of network capacity and connections (iii) availability of service from its third party provider.
2. Customer will at their own expense be responsible for all site preparation activities necessary for installation of the Service.
3. ANKHS is not responsible for the installation, maintenance, compatibility or performance of any third party equipment or software not provided by ANKHS, and if such third party equipment or software impairs the service (i) Customer remains liable for bill payment, and (ii) if it is likely to cause hazard or service obstruction, Customer will eliminate such likelihood at ANKHS request.
4. It is acknowledged and agreed by the parties hereto that the bandwidth for each product set out in this Agreement is the maximum bandwidth which can be achieved on the circuit and cannot be guaranteed by ANKHS. ANKHS will however, use all reasonable efforts to achieve the highest possible level of Service at all times.
5. In the event that Customer provides router(s) to interface with the Service and upon request by Customer confirmed in writing, ANKHS may assist Customer in configuring the router (s) in order to implement and operate the Service. If router (s) are not recommended by ANKHS nor certified by ANKHS as
6. Customer will give ANKHS and its suppliers reasonable access to its premises at all reasonable times.
7. Customer will not misuse the Service (i.e. Violate the *Acceptable Use Policy*, permit any use of the Service, which is unlawful, harassing, or which infringes upon another's intellectual property rights, or which otherwise constitutes network abuse), and Customer will be responsible for any such misuse.
8. Although ANKHS may configure the Service so as to provide some security features, the Customer shall be solely responsible for providing any security or privacy that is desired for their computer, network and any data stored on the network or accessed through the Service. The Customer acknowledges and assumes all liabilities relating to, and risks associated with, unauthorized access by a third party.
9. ANKHS may communicate security issues to Customer from time to time when misuse is observed or reported by others.
10. ANKHS has no obligation to monitor the service; however, ANKHS may monitor the Service and disclose information gained from such monitoring in order to (i) satisfy any law, regulation or other government request, (ii) operate the Service and administer ANKHS network, or (iii) protect itself or its subscribers.
11. ANKHS reserves the right to refuse to post any information or materials, in whole or in part, that in its sole discretion are unacceptable, undesirable, or in violation of clause F7 of this Agreement

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12. The Customer shall not use the Service for the purpose of bypass (as defined in the Telecommunication Act, 2000), nor any other purpose prohibited by the said Act.

G. Warranties and Liabilities:

1. **Customer understands that, except for certain service specifically identified as ANKHS services, ANKHS does not operate or control the Internet.**

2. **CUSTOMER ASSUMES TOTAL RESPONSIBILITY FOR ITS USE OF THE INTERNET.**

3. **ANKHS MAKES NO EXPRESS OR IMPLIED WARRANTIES, REPRESENTATIONS OR ENDORSEMENTS REGARDING ANY MERCHANDISE, INFORMATION, PRODUCT OR SERVICES PROVIDED THROUGH THE INTERNET.**

4. **ANKHS does not in any manner warrant any item of equipment provided by ANKHS; ANKHS will however, transfer to Customer (to the extent permitted by an equipment supplier) any warranty provided by such Supplier, with ANKHS retaining the authority to exercise Customer's rights until warranty has expired.**

5. **THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, NONINFRINGEMENT OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

6. **NO ADVICE OR INFORMATION GIVEN BY ANKHS EMPLOYEES, AGENTS OR CONTRACTORS (INCLUDING WITH RESPECT TO ANY EQUIPMENT THAT MAY BE RECOMMENDED FOR PURCHASE AND/OR USE WITH THE SERVICE) SHALL CREATE A WARRANTY.**

7. **ANKHS shall not be liable for, and is excused from, any failure or delay arising from acts of God, acts of civil or military authority, riot, civil unrest, acts of public enemy, war or threats of war, accidents, fires, explosions, earthquakes, floods, unusually severe weather, epidemics, or due to any other cause beyond its reasonable control.**

8. **UNDER NO CIRCUMSTANCES SHALL ANKHS OR ITS AFFILIATES BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES THAT RESULT FROM CUSTOMER OR CUSTOMER'S USERS USE OF OR INABILITY TO ACCESS ANY PART OF THE INTERNET OR RELIANCE ON OR USE OF INFORMATION, SERVICES OR MERCHANDISE PROVIDED ON OR THROUGH THE SERVICE, OR THAT RESULT FROM MISTAKES, OMISSIONS, INTERRUPTIONS, LOSS THEFT OR DELETION OF FILES, ERRORS, DEFECTS, DELAYS IN OPERATION, OR TRANSMISSION, OR ANY FAILURE OF PERFORMANCE.**

9. **Notwithstanding anything to the contrary stated herein, ANKHS maximum liability hereunder will not exceed an amount equal to the total of the monthly recurring charges paid by Customer hereunder for the twelve (12) month preceding the month during which such liability arises.**

10. **Customer shall defend, protect and hold**

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harmless ANKHS and its affiliates from and against any liabilities, actions, losses, costs, or claims incurred by them as a result of (i) any use or misuse of the Service (whether by Customer or any other party), or (ii) any claims arising out of the use of any third party equipment or software with the Service based on the alleged infringement or misappropriation of any intellectual or other property rights of any third party.

11. ANKHS and Customer expressly agree that this Agreement does not give rise to any third party being a third party beneficiary or being entitled to any rights whatsoever.

12. In the event an action is brought by ANKHS against Customer to enforce this Agreement, in addition to any other remedy available to ANKHS, Customer shall reimburse ANKHS for reasonable attorney's fees and expenses of any kind or nature incurred in connection therewith.

H. Additional Terms & Conditions:

1. Neither party may use the other's name in trademark, trade names or other proprietary identifying symbols without the prior written approval of the other party.

2. Any notice and similar communications concerning this Agreement ("Notice") shall be in writing, and may be sent to the other party by (i) facsimile (electronically confirmed) or (ii) electronic mail. Notices will be delivered or sent to the relevant e-mail address provided by ANKHS, and (ii) if to ANNGEL.COM: Attention: Customercare at 18 Cargill Avenue, Kingston 10 in writing or via electronic mail to customercare@anngel.com. Notwithstanding the above, ANKHS

may also give notice to Customer (other than with respect to breach, default, suspension or termination) by including appropriate notification in Customer's monthly invoice. A Notice will be considered given when delivered in the manner prescribed in this paragraph.

3. Customer may not resell the Service or otherwise assign or transfer this Agreement or any rights or obligations without the prior written consent of ANKHS.

4. In the event that one or more of the provisions herein is for any reason held to be illegal or unenforceable, this Agreement will be revised only to the extent necessary to make such provision(s) legal and enforceable; provided, however, that this Agreement as revised, is consistent with the parties' original intent.

5. Either party's failure to insist upon strict performance of the terms of this Agreement or to exercise any rights or remedies hereunder shall not waive any of its rights to require strict performance of such terms, to assert any of the same rights, or to rely on any such terms any time thereafter.

6. Customer will not disclose the prices or other terms of this Agreement.

7. This Agreement is made in, and governed by and subjected to the laws and the jurisdiction of the courts of Jamaica.

8. Any cause of action Customer may have with respect to the Service must be made within seven days (7) after the cause of action arises or such claim or cause of action will be barred.

9. ANKHS and Customer are independent contracting parties, and this Agreement will not constitute the parties as principal

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- and agent, partners, joint ventures, or employer and employee.
- 10.No Customer purchase orders or similar documents will vary or add to the terms of this Agreement.
- 11.This Agreement constitutes the entire understanding of the parties with respect to the subject matter thereof, and it supersedes all prior or contemporaneous oral or written agreements, understandings and representations.
12. **ANKHS may at any time vary these terms and conditions making reasonable efforts to give fourteen (14) days notice to the Customer and the Customer will be bound by such variation if the Customer uses the Service after the effective date stated by ANKHS Limited.**
- 13.**Customers are required to maintain telephone service on the line used for ADSL as ADSL service will not be suspended pending reconnection of line. If customer's telephone line is barred, due date for ADSL service will not be altered.**
- 14.**Ankhs Limited will not accept liability and/or suspend the account if customer is without telephone service or customer's account is suspended for non-payment. All charges applicable to ADSL service will be billed as usual.**
- 15.Customer should allow a minimum of five to seven working days waiting period for provisioning of telephone line.
- 16.**Depending on the customer's proximity to the ADSL exchange and port availability, waiting period for provisioning may be in excess of seven days.**
- 17.**Service will be disconnected for non-payment if payment is not received on or before the due date or within the grace period specified. In the event the account is disconnected for non payment, customer wishing to reconnect will be required to pay all registration and monthly costs. Customer will be subjected to repeat the installation process. Previous service contracts will be null and void. Customer must enter in a new service agreement.**
18. **Customers are allowed a four (4) day grace period ("Final Date") following the due date. This grace period is inclusive of *Saturday and Sunday*.**
- 19.**Ankhs Limited cannot guarantee instant reconnection of accounts that have been disconnected owing to non-payment of telephone and/or ADSL bills. If ADSL service is lost due to disconnection based on any of the aforementioned, customer will have to reapply for provisioning of line in order to regain ADSL service.**
- 20.**Customer must ensure that computer/s are in proper working condition. Ankhs Limited will not be responsible for repairing customer's computer and/or installation/reinstallation of any operating system and/or any other application software which may or may not be on the computer.**
- 21.**Customer may not suspend ADSL service.**
- 22.**Once ADSL service has been provisioned, client must conduct the necessary checks within 3 days of notification by Ankhs Limited. Any abnormalities must be reported to Ankhs within the three-day period as billing will commence after three days.**

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I _____ (name)
agree to the terms and conditions set forth in this
service contract by ANKHS Limited.

Signature of Client: _____

Date: _____

Signature of
Ankhs Representative: _____

Name of
Ankhs Representative: _____

Date: _____

Ankhs Seal:

** conditions apply*