

Z.com Master Service Agreement

1. Information

- 1.1 NetDesign Host Co., Ltd. is a limited liability company incorporated under the laws of Kingdom of Thailand (hereinafter referred to as the “**Z.com**”) providing online services including domain name registration, hosting services, SSL certificates service and website creation service.
- 1.2 **PLEASE READ THIS MASTER SERVICE AGREEMENT CAREFULLY.**
This Master Service Agreement (hereinafter referred to as the “**Agreement**” or “**MSA**”) sets out the terms and conditions on which you may use products and services (hereinafter referred to as the “**Services**”) from Z.com. This Agreement is entered into by and between Z.com and you, and is made effective as of the date of your use of Services. It shall be binding upon the parties hereto and their respective successors, legal representatives, permitted assigns and sub-contractors. Agreeing to use the Services by clicking "Sign up" constitutes your acceptance and agreement to be bound by these Terms and Conditions, and all other operating rules, policies and procedures that may be published from time to time on the Website by us, each of which is incorporated by reference and each of which may be modified from time to time without notice to you,
- 1.3 For any further information on our services, you may contact us:
E-mail: hosting.th@z.com
Fax:/Phone: 02-641-0022 / 02-642-0405

2. Definitions

- 2.1 “**We**”, “**us**” or “**our**” means Z.com.
- 2.2 “**You**”, “**your**”, “**user**” or “**customer**” means any individual or entity who accepts this Agreement, has access to your account, or uses the Services. Nothing in this Agreement shall be deemed to confer any third-party rights or benefits.
- 2.3 “**Business day**” means every official working day other than Saturday, Sunday or any official holiday in Thailand.
- 2.4 “**Confidential Information**” means any and all confidential or proprietary information or materials or data which have been or are hereafter disclosed or made available by one party (the “**Disclosing Party**”) to the other (the “**Receiving Party**”) in connection with this Agreement and/or Order(s), whether provided in any form or media, including without limitation: all trade secrets; existing or contemplated products, services, designs, technology, processes, technical data, engineering techniques, methodologies and concepts and any related information; information relating to business plans, sales or marketing methods and customer lists or requirements; and customer-specific terms or pricing set forth in this Agreement and/or any Order.
- 2.5 “**Content**” means all content, data, video, templates or information in any form that is uploaded through Z.com Services by the customer including any such Content that is ingested into the Z.com Services from third parties at the direction of the customer.
- 2.6 “**Deliverables**” means any tangible and intangible materials including a document, software, development work or design that are prepared and provided by Z.com or its subcontractors in the course of performing the Services.
- 2.7 “**Z.com Property**” means all Intellectual Property used or developed by Z.com to provide the Services, including without limitation the text, software, source code, APIs,

photos, sounds, music, videos and interactive features and the trademarks, service marks and logos contained therein.

- 2.8 “**Intellectual Property**” means any and all inventions, patent applications, patents, design, copyrights, trademarks, service marks, trade names, domain name, mask work, know-how and other trade secret, and all other intellectual property, derivatives thereof, and forms of protection of a similar nature anywhere in the world (whether registered or unregistered and including the right to register such intellectual property) that are, in each case, protected under the laws of any governmental authority having jurisdiction.
- 2.9 “**Order**” means the Z.com Domain Name Registration Service Order, Z.com Hosting Service Order, Z.com SSL Service Order and/or Z.com ShopUp Service Order which are integral parts of this Agreement.

3. Warranties and Representations

- 3.1 If you are an individual and are entering into this Agreement on behalf of an entity, you represent and warrant that you have the authority to bind such entity to all of the terms and conditions of this Agreement.
- 3.2 Z.com represents and warrants that (i) it either owns fully and outright or otherwise possesses and has obtained all rights, approvals, licenses, consents and permissions as are necessary to perform its obligations hereunder, exercise its rights hereunder and to grant the licenses granted by it under this Agreement and (ii) the Z.com Services, as used by the customer in accordance with this Agreement, does not, and shall not, infringe, violate or misappropriate any third party's rights.
- 3.3 The customer represents and warrants that (i) it either owns fully and outright or otherwise possesses and has obtained all rights, approvals, licenses, consents and permissions as are necessary to perform its obligations hereunder, exercise its rights hereunder and to grant the licenses granted by it under this Agreement and (ii) the Content used through the Z.com Services, as enabled by the customer, directly or indirectly, does not, and shall not, infringe, violate or misappropriate any third party's rights.
- 3.4 Each party represents and warrants that it has the legal power and authority to enter into this Agreement.

4. Provision of Services and Orders

- 4.1 This Agreement shall apply each time Customer engages Z.com to provide Services. Services do not include any Third Party Products or Services that may be purchased by Customer from a third party or procured for Customer by Z.com, including without limitation extended warranties on Third Party Products offered by the manufacturer thereof.
- 4.2 You may enter into Order(s) with us which describe each Service you may use. You could access and enter into the Z.com Domain Name Registration Service Order at <https://domain.z.com/th/>, Z.com Hosting Service Order at <https://hosting.z.com/th/>, Z.com SSL Service Order at <https://ssl.z.com/th/>, and Z.com ShopUp Service Order at <https://shopup.z.com/th/>. Service Order and its Terms shall be an integral part of this Agreement. In the event of any inconsistency between this Agreement and any Order, the terms of the Order take precedence over this Agreement, to the extent of the inconsistency.

- 4.3 We may provide you with the Services in accordance with this Agreement and the terms of an Order or Orders you have made. We have no obligation to provide any Services requested by you until execution of an Order with respect to those Services.
- 4.4 Subject to the terms and conditions of this Agreement, Orders and our other policies and procedures, we shall use commercially reasonable efforts to attempt to provide the Services.

5. Maintenance Services

- 5.1 During the Term of Services, Z.com will perform the repair or maintenance services at its own costs unless otherwise agreed between the parties.
- 5.2 If a damage to the Services is as a result of misuse or abuse of the system or component (such as, but not limited to, use of incompatible devices or accessories, or failure to follow operating instructions) by the customer, the costs of maintenance services shall be borne by the customer.

6. Account

- 6.1 In order to use the Services, the customer needs to create an Account at the Z.com website: <https://cloud.z.com/th/signup/> by its username(s) and password(s) (hereinafter referred to as “**Credentials**”). An "Account" is a single point of entry through which the customer accesses and uses the Z.com Services. The customer is solely responsible for all activities occurring in customer’s Account(s), whether authorized by the customer or not, and the Z.com shall have the right, without further inquiry, to rely on the provision of customer’s Credentials as sufficient to authenticate customer’s use of the Service(s). The customer must notify Z.com immediately of any breach of security or unauthorized use of its Account. Z.com will not be liable for any loss the customer incurs due to any unauthorized use of its Account.
- 6.2 Accounts can be created by persons 18 years of age or older. If you are less than 18 years of age and wish to use the Service, your parent(s) or guardian(s) must complete the registration process, open an Account in their name(s) and accept full responsibility for all obligations under this Agreement. The registered user of an Account may use the Account or may choose instead to permit a minor child of the registered user to use the Account. You are liable for all activities conducted through your Account, and parents or guardians are liable for all activities of their minor child conducted through the Account.
- 6.3 You agree to provide true, accurate, current and complete information about yourself when you create your Account (hereinafter referred to as the “**Account Information**”) and maintain and promptly update the Account Information to keep it true, accurate, current and complete. If you provide any information that is untrue, inaccurate, not current or incomplete, or Z.com has reasonable grounds to suspect that such information is untrue, inaccurate, not current or incomplete, Z.com has the right to suspend or terminate your Account and refuse any and all current or future use of the Service.

7. Customer’s Obligations

- 7.1 The customer acknowledges and agrees that its use of the Services, including any content it has submitted, will comply with this Agreement, Orders and the laws and regulations of Kingdom of Thailand.
- 7.2 The customer covenants that it shall not use the Services in a manner (as determined by

Z.com in its sole and absolute discretion) that:

- (a) is illegal, or promotes or encourages illegal activity;
- (b) promotes, encourages or engages in child pornography or the exploitation of children;
- (c) promotes, encourages or engages in terrorism, violence against people, animals, or property;
- (d) promotes, encourages or engages in any spam or other unsolicited bulk email, or computer or network hacking or cracking;
- (e) infringes on the intellectual property rights of Z.com, another User or any other person or entity;
- (f) violates the rights of Z.com, another User or any other person or entity, or breaches any duty of confidentiality that you owe to another User or any other person or entity;
- (g) interferes with the operation of the Services;
- (h) contains or installs any viruses, worms, bugs, Trojan horses or other code, files or programs designed to, or capable of, disrupting, damaging or limiting the functionality of any software or hardware; or
- (i) contains false or deceptive language, or unsubstantiated or comparative claims, regarding Z.com or the Services.
- (j) send commercial advertising and/or bulk emails or faxes without recipient's prior consent to receive messages from you.

7.3 The customer shall not copy or distribute any part of the Services or Z.com Property without Z.com's express prior written consent. Written consent of the parties may be made by email or fax or attachment to an email, or by other means.

7.4 The customer shall not re-sell or provide the Services, including any of Z.com's related technologies, without Z.com's express prior written consent.

7.5 The customer shall not modify or alter any part of the Services or any of its related technologies.

7.6 The customer shall not access Z.com Property or the customer's content, which posted or published or submitted through the customer's Account ("User Content"), through any technology or means other than through the Services, or as Z.com may designate.

7.7 The customer agrees to back-up all of its User Content so that the customer can access and use it when needed. Z.com does not warrant that it backs-up any Account or User Content, and the customer agrees to accept as a risk the loss of any and all of its User Content.

7.8 The customer is aware that Z.com may from time-to-time contact with him or her about his or her Account, and that, for the purposes of any and all such contact(s), the customer does not have any reasonable expectation of privacy during those contacts; indeed the customer hereby consents to allow Z.com, in its sole discretion, to record the entirety of such contact regardless of whether Z.com asks the customer on any particular contact for consent to record such contact. The customer further acknowledges and agrees that, to the extent permitted by the laws of Kingdom of Thailand, any such recording(s) may be submitted as evidence in any legal proceeding in which Z.com is a party.

7.9 If the customer posts or publishes or submits any of its User Content through or to the Services, the customer represents and warrants to Z.com that:

- (a) The customer has all necessary rights to post or publish or submit its User Content

- through or to the Services and;
- (b) Its User Content does not violate the rights of any third party.

8. Z.com's obligations

- 8.1 Z.com agrees to (a) make the Services available to the customer in accordance with this Agreement, including any current Order; and (b) perform any other obligations expressly identified in any current Order.

9. Fees and Payments

- 9.1 The customer shall pay Z.com the fees set forth, from time to time, on the website(<https://z.com/th/>)
- 9.2 The customer shall make its payment in accordance with the "Payment Methods" set forth in this Agreement and/or the relevant Order. Payment may be made by valid credit card, bank transfer, online payment such as "Paypal", deposit payment "Z.com Pre-Pay", check, or in cash. Such payment shall be made, without set-off, by due date.
- 9.3 The Customer shall be responsible for and shall pay any applicable taxes or duties, tariffs or the like applicable to Customer's Order (except for taxes on Z.com's income). All payments shall be made without deduction for withholding taxes except the payment under corporate or company which should be complied with the tax rules and regulations of Revenue Department of Thailand.
- 9.3.1. Under corporate's payment, it is the customer's responsibility to provide the withholding tax certificate to Z.com. Upon receiving the withholding tax certificate, Z.com will provide the official receipt to the customer.
- 9.3.2. If the customer pays in full amount without deduction of withholding tax amount, it is not Z.com's responsibility to submit such withholding tax amount to government authority.
- 9.4 If Z.com pursues collection efforts against Customer due to Customer's failure to pay fees due under this Agreement and/or Order, the Customer shall pay Z.com's reasonable costs of collection, including any attorneys' fees related thereto.
- 9.5 To the extent permitted by the laws of Kingdom of Thailand, the fees payable under this Agreement and/or Order are non-refundable and non-cancelable, even if customer's use of the Services are suspended, terminated, or transferred prior to the end of the Term.
- 9.6 Z.com may, in its sole and absolute discretion, change or modify fees, at any time, and such changes or modifications shall be effective immediately upon posting to its website. If a customer has purchased or obtained Services for a period of months or years, changes or modifications in prices and fees shall be effective when the Services in question come up for its renewal.

10. Term

- 10.1 This Agreement shall begin on the Commencement Date of each Order (as described in each Order) and shall remain in effect until such Order has expired or been terminated in accordance with this Agreement and the terms of each Order. The Term may be renewable by the customer pursuant to the terms of each Order.
- 10.2 Regarding to the renewal procedure, we send invoice and notify the fee for renewal services or domains by email or phone call before they are expired. On payment of the fees to Z.com, and after acceptance of the application, Z.com may proceed with the designated procedure.

11. Termination

- 11.1 Either the Z.com or the customer may terminate this Agreement or Order, with or without a reason, by giving at least ten (10) business day prior written notice to other party unless otherwise provided in the Order.
- 11.2 Without prejudice to any other rights of Z.com under this Agreement or the laws of Kingdom of Thailand, Z.com may immediately, in its sole and absolute discretion, suspend the performance of its obligations or provision of Services(including remove and destroy any User Content) and/or may terminate this Agreement or Order, at any time and without prior notice if:
- (a) you fails to pay any fee due to Z.com;
 - (b) you materially breach any provision of this Agreement or Order;
 - (c) you suffer an Insolvency Event;
 - (d) your use of the Services deemed to be inappropriate;
 - (e) Z.com has reason to believe that you are a repeat offender;
 - (f) you are abusive, harassing or threatening Z.com and/or any of Z.com's employees;
- 11.3 Notwithstanding the above clauses, Z.com expressly reserves the right to deny, cancel, terminate, suspend, lock, or modify access to (or control of) any Account or Services (including the right to cancel or transfer any domain name registration) for any reason, including but not limited to the following:
- (a) To correct mistakes made by us in offering or delivering any Services (including any domain name registration);
 - (b) To protect the integrity and stability of, and correct mistakes made by, any domain name registry;
 - (c) To assist with our fraud and abuse detection and prevention efforts;
 - (d) To comply with court orders against you and/or your domain name or website and Laws;
 - (e) To comply with requests of law enforcement, including subpoena requests;
 - (f) To comply with any dispute resolution process;
 - (g) To defend any legal action or threatened legal action without consideration for whether such legal action or threatened legal action is eventually determined to be with or without merit or;
 - (h) To avoid any civil or criminal liability which might concern with Z.com, its officers, directors, employees and agents, as well as its affiliates, including, but not limited to, instances where you have sued or threatened to sue us.

12. Consequences of Termination

- 12.1 If this Agreement is terminated, the customer shall pay Z.com the amounts specified in each Order relating to Service(s) performed by Z.com up to and including the date of termination, as well as any additional costs or expenses which Z.com has incurred or contracted for with respect to the Services and is unable to avoid. We may invoice for all fees and any other amounts payable to us. You must pay those fees and amounts within 3 days after the date of the termination.
- 12.2 Upon termination of this Agreement and Order, all property of each party in possession of

the other party relating to such Service(s) shall be promptly returned, including, without limitation, any deliverable properties provided to Customer by Z.com under such Order(s) but not yet fully paid for by Customer. The customer shall also promptly return or destroy (as determined by Z.com in its sole and absolute discretion) all Confidential Information, (including all copies), held by it, its personnel or otherwise under its control.

- 12.3 Notwithstanding the above clauses, Clauses 3, 7, 8, 9, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 24, and 25 shall survive after the date of termination.

13. Intellectual Property

- 13.1 Customer owns and retains all worldwide right, title, and interest in and to all of its Intellectual Property. Except as expressly set forth herein, nothing in this Agreement conveys any right, title, or interest in or to the Customer's Intellectual Property to Z.com.
- 13.2 Z.com owns and retains all worldwide right, title and interest in and to all its Intellectual Property including without limitation the text, software, source code, APIs, photos, sounds, music, videos and interactive features and the trademarks, service marks and logos contained therein ("Z.com Property"). To the extent that any Z.com's Intellectual Property is included in a deliverable provided to Customer as part of any Services, Z.com hereby grants to Customer a non-exclusive, non-transferable, worldwide right and license to internally use such Z.com's Intellectual Property solely for use with the related Services. Except as expressly set forth herein, nothing in this Agreement conveys any right, title, or interest in or to the Z.com's Intellectual Property to Customer or any other third party. Z.com shall own all worldwide right, title, and interest in and to all Work Product delivered to Customer (including without limitation all related Intellectual Property) from the time that it is created, authored, invented, discovered, or first reduced to practice.
- 13.3 Z.com shall retain all intellectual property rights with respect to the processes, tools and software related to the Services. Any use by Customer, including the execution, reverse engineering, decompilation, reproduction, modification, distribution, transmission, republication, display, transfer or performance, except as specifically permitted by Z.com during the Term of Services is prohibited. We provide Z.com Property to you "as is", "as available" and "with all faults" for your information and personal, non-commercial use only and may not be copied, reproduced, distributed, transmitted, broadcast, sold, licensed, or otherwise exploited for any purposes whatsoever without the express prior written consent of Z.com. Except as provided in this Agreement or Order, we may not grant you any rights in relation to any Z.com Property.
- 13.4 Except as otherwise specifically agreed to in this Agreement, Z.com shall retain exclusive ownership in all of its Deliverables. Subject to payment in full for the applicable Services, Z.com grants Customer a non-exclusive, non-transferable, royalty-free right to use the Deliverables solely for Customer's internal use. Customer agrees to take all reasonable steps to protect Deliverables under this Agreement, and any related documentation, from unauthorized copying or use. Customer further agrees not to modify, disassemble or decompile any such Deliverables in order to discover the trade secrets contained in the source code or for any other reason.
- 13.5 The customer acknowledges that this Agreement is not a sale, and does not convey to you any rights of ownership in or related to the Services, the Z.com Technology or the Intellectual Property Rights owned by Z.com.

14. Confidentiality

- 14.1 In the performance of the Services, Customer and Z.com may have access to or be exposed to Confidential Information of the other party. Confidential Information may not be shared with third parties unless such disclosure is to personnel of Z.com or Customer, including employees, agents, consultants, and subcontractors, on a “need-to-know” basis in connection with its performance of this Agreement, provided that such personnel have agreed to treat such Confidential Information under terms at least as restrictive as those herein and execute a confidentiality agreement in the form reasonably required by a Party. Each party agrees to take the necessary precautions to maintain the confidentiality of Confidential Information by using at least the same degree of care as such party employs with respect to its own Confidential Information of a like-kind nature, but in no case less than a commercially reasonable standard of care to maintain confidentiality, and shall only make such information available to its employees on a “need-to-know” basis. The Parties ensure that the Confidential Information is secured with the reasonable level of security. The Recipient agrees that it will hold in confidence the Confidential Information disclosed by the Discloser. The Parties shall not use Confidential Information for any purpose other than the performance of this Agreement or Customer’s use of the Services. Each party shall also be liable for all violations of these obligations by its employees and contractors.
- 14.2 The obligations of the Receiving Party under this Clause will not apply to information of the Disclosing Party if such information (i) was in the possession of the Receiving Party at the time of disclosure without any restrictions as to confidentiality of such information, (ii) was generally available to the public at the time of disclosure or became generally available to the public after disclosure through no breach of this Agreement or other wrongful act by the Receiving Party, (iii) was rightfully received by the Receiving Party from a third party without restriction on disclosure, or (iv) is independently developed by the Receiving Party without use of or reference to the Confidential Information.
- 14.3 The Receiving Party may disclose Confidential Information to the extent required to comply with the laws of Kingdom of Thailand or binding orders of governmental entities that have jurisdiction over it; provided that, to the extent legally permitted, the Receiving Party gives the Disclosing Party reasonable written notice to allow the Disclosing Party to seek a protective order or other appropriate remedy, discloses only such Confidential Information as is required by the governmental entity, and uses commercially reasonable efforts to obtain confidential treatment for any Confidential Information disclosed.
- 14.4 Upon the written request of the Disclosing Party, made by email, fax or other similar means, the Receiving Party shall promptly return or destroy the Confidential Information, including all copies thereof (certifying the fact of such destruction to the Disclosing Party).
- 14.5 The parties acknowledge and agree that any breach of the obligations of this Clause may cause the non-breaching party irreparable harm for which an adequate remedy at law may not be available and that, therefore, the non-breaching party shall be entitled to seek injunctive relief, in addition to all other remedies available at law.
- 14.6 Each party shall promptly notify the other party upon discovery of any unauthorized use or disclosure of Confidential Information and will cooperate with the other party in every reasonable way to help regain possession of such Confidential Information and prevent

its future unauthorized use.

- 14.7 The obligations with respect to Confidential Information shall continue for five (5) years from the date of termination of this Agreement.

15. Indemnification

- 15.1 Each party, at its own expense, agrees to protect, defend, indemnify and hold harmless the other party and such other party's officers, employees, directors, agents, affiliates, subsidiaries, successors and assigns from and against any and all claims, demands, damages, liabilities, losses, government fines, costs and expenses (including, without limitation, reasonable attorney's fees and litigation expenses) imposed upon or incurred by a Party directly or indirectly arising from (i) the use of the Services; (ii) any violation of any provision of this Agreement or Order which are incorporated herein; and/or (iii) any violation of any third-party right, including without limitation any intellectual property or other proprietary right.
- 15.2 The indemnification obligations in this Clause are conditioned upon: (a) written notice by the indemnified party, made by email or fax or other means to the indemnifying party within 30 days of the indemnified party's receipt of any Claim for which indemnification is sought; (b) counsel for the indemnified party reasonably acceptable to the indemnifying party; (c) approval by the indemnifying party of any settlement of the Claim for which indemnification is sought; and (d) such reasonable cooperation by the indemnified party in the defense as the indemnifying party may request. Notwithstanding anything to the contrary contained herein, the indemnifying party shall not, without the prior written consent of the indemnified party, settle, compromise or consent to the entry of any judgment with respect to any pending or threatened Claim unless the settlement, compromise or consent provides for and includes an express, unconditional release of such Claim against the indemnified party.
- 15.3 If Z.com receives notice of a claim that, in its reasonable opinion, is likely to result in an adverse ruling, then Z.com shall at its option, (i) obtain a right for Customer to continue using such Service or Deliverable; (ii) modify such Service or Deliverable to make it non-infringing; (iii) replace such Service or Deliverable with a non-infringing equivalent; or (iv) refund any pre-paid fees for the allegedly infringing Services that have not been performed or provide a reasonable depreciated refund for the allegedly infringing Deliverable. Notwithstanding the foregoing, Z.com shall have no obligation under this Clause for any claim resulting or arising from (i) Customer's modifications of the Services or Deliverables that were not performed by or on behalf of Z.com; (ii) the combination, operation or use of the Service or Deliverable in connection with a third-party product or service (the combination of which causes the infringement); or (iii) Z.com's compliance with Customer's written specifications or directions, including the incorporation of any software or other materials or process provided by or requested by Customer.
- 15.4 Customer shall defend, indemnify and hold Z.com harmless from, any third-party claim or action arising out of (i) the failure of Customer to obtain the appropriate license, intellectual property rights, or any other permissions, regulatory certifications or approvals associated with Customer-provided technology, software or other components related to the Service, as well as software directed or requested by Customer to be installed or integrated as part of Services, or (ii) any inaccurate representations regarding

the existence of a license or any allegation made against Z.com due to Customer's violation or alleged violation of the laws and regulations of Kingdom of Thailand, and orders.

16. Data Security and Protection of customer system

- 16.1 Z.com will maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer Data which is owned and/or controlled by Customer. Z.com will not modify Customer Data or access Customer Data except to provide the Services and prevent or address service or technical problems, or at Customer's request in connection with Customer support matters.
- 16.2 Z.com shall maintain procedures to promptly notify Customer in the event of loss, misuse, or unauthorized acquisition of Customer Personal Data where such events come to Z.com's attention.
- 16.3 Although the Z.com will use reasonable endeavors to prevent any damage or alteration of customer in the course of providing the Services, customer understands that it is solely responsible to take appropriate measures to isolate and back up its computer system, including its computer programs, data and files, and to take other actions necessary to protect its system and data. Customer further acknowledges that customer data may be altered or damaged in the course of providing technical services, whether on-site or via remote connection or otherwise.

17. Limitation of Liabilities

- 17.1 IN NO EVENT SHALL WE, ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND ALL THIRD PARTY SERVICE PROVIDERS, BE LIABLE TO YOU OR ANY OTHER PERSON OR ENTITY FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, WHICH IS SUFFERED OR INCURRED IN CONNECTION WITH OR RELATING TO THIS AGREEMENT (INCLUDING AN ORDER) OR OTHERWISE ARISING OUT OF THE RELATIONSHIP BETWEEN YOU AND US, WHETHER BASED ON WARRANTY, CONTRACT, TORT, OR ANY OTHER LEGAL OR EQUITABLE THEORY, AND WHETHER OR NOT WE WERE AWARE OR SHOULD HAVE BEEN AWARE OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.
- 17.2 YOU PARTICULARLY ACKNOWLEDGE AND AGREE THAT ANY CAUSE OF ACTION ARISING OUT OF OR RELATED TO THE SERVICES MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES, OTHERWISE SUCH CAUSE OF ACTION SHALL BE PERMANENTLY BARRED.
- 17.3 YOU SPECIFICALLY ACKNOWLEDGE AND AGREE THAT, TO THE EXTENT PERMITTED BY LAWS, OUR TOTAL AGGREGATE LIABILITY TO YOU FOR ANY AND ALL LOSS SHALL NOT EXCEED THE TOTAL AMOUNT OF THE FEES PAID TO US BY YOU UNDER THE APPLICABLE ORDER IN THE 12 MONTHS PRIOR TO THE LOSS OCCURRING (LESS ANY OTHER CLAIMS PAID BY WE IN CONNECTION WITH OR RELATING TO THAT ORDER IN THAT PERIOD.)
- 17.4 YOU FURTHER ACKNOWLEDGE THAT SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. Z.COM IS NOT

RESPONSIBLE FOR DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE IN SERVICES RESULTING FROM SUCH PROBLEMS.

18. Disclaimer

18.1 TO THE EXTENT PERMITTED BY APPLICABLE LAWS, WE, OUR OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND ALL THIRD PARTY SERVICE PROVIDERS DISCLAIM ALL WARRANTIES, STATUTORY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

19. Parties' relationship and Assignment

19.1 The parties are independent contractors. Neither party will have any rights, power or authority to act or create an obligation, express or implied, on behalf of another party except as specified in this Agreement. Z.com has the right to assign, subcontract or delegate in whole or in part of this Agreement, or any rights, duties, obligations or liabilities under this Agreement, by operation of law or otherwise, provided that Z.com shall remain responsible for the performance of Services under this Agreement. You may not novate, assign or sub-contract its rights or obligations under this Agreement or Order without prior written consent of Z.com; saved that such consent may be given or withheld at our sole discretion.

20. Modification

20.1 Z.com may, in its sole and absolute discretion, change or modify this Agreement and/or Order, and any policies or agreements which are incorporated herein, at any time, and such changes or modifications shall be effective immediately upon posting to its Site. Your use of the Services after such changes or modifications have been made shall constitute your acceptance of this Agreement as last revised. If you do not agree such modifications to be bound by this Agreement as last revised, you could not use (or continue to use) Services.

20.2 Z.com may, in its sole and absolute discretion, change or modify or discontinue any aspect of the Services, including without limitation prices and fees for the same, at any time, and such changes, modifications or discontinuation shall be effective immediately upon posting to its Site. Your use of the Services after such changes or modifications have been made shall constitute your acceptance of Services as last revised. If you do not agree such modifications to be bound, you could not use (or continue to use) such Services.

20.3 Your use of Services after the effective date of any amendments to this Agreement constitutes your complete and irrevocable acceptance of such amendments. You also agree to check this Agreement from time to time so that you will be familiar with its content as amended or modified periodically.

21. Governing Law

21.1 This Agreement and the relevant Orders shall be governed by and construed under the laws of Kingdom of Thailand.

22. Settlement of Disputes

- 22.1 Z.com and Customer will attempt to resolve any claim, or dispute or controversy (whether in contract, tort or otherwise) arising out of or relating to this Agreement and/or Orders through the amicable negotiation. The existence or results of any negotiation or settlement will be treated as confidential.
- 22.2 In the event the parties are unable to resolve the dispute within 30 days of notice of the dispute to the other party, the parties have a right to refer the dispute to a court of competent jurisdiction in Thailand.

23. Force Majeure

- 23.1 Neither party shall be liable to the other party for any failure to perform any of its obligations (except payment obligations) under this Agreement during its Term in which such performance is delayed by circumstances beyond its reasonable control including, but not limited to, fire, flood, war, embargo, strike, riot or the intervention of any governmental authority (a “**Force Majeure**”). In such event, the delayed party must promptly provide the other party with written notice of the Force Majeure. The delayed party’s performance shall be excused and suspended for the duration of the Force Majeure, but if the Force Majeure events lasts longer than thirty (30) days, the other party may terminate the applicable Service and this Agreement by giving written notice to the delayed party.

24. Use of Customer Name

- 24.1 With the prior written consent of Customer (not to be unreasonably withheld), Z.com may use and publish Customer's name in its customer lists, lists of referrals for other customers (or potential customers), and in other promotional information, including, but not limited to, press releases, brochures, reports, letters, white papers, and electronic media such as e-mail or Web pages.

25. Miscellaneous

25.1 Notice

All notices, demands, requests, or other communications that may be or are required to be given, served, or sent by either Party to the other Party pursuant to the Agreement, shall be in writing and shall be mailed by first-class, registered, or certified mail, return receipt requested, postage prepaid, or transmitted by hand delivery or email or facsimile addressed to the respective Parties as follows:

To NetDesign Host Co., Ltd.

Address: 1 Fortune Tower Building, 22nd Floor, Ratchadapisek Road, Kwaeng Dindaeng, Khet Dindaeng, Bangkok 10400

Email: hosting.th@z.com

Fax: 02-641-0022

To Customer: Address provided in the most recent Order.

25.2 Severability

If any provision of this Agreement becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, then other provisions of this Agreement shall continue remain in full force and effect.

25.3 No Waiver

The failure of either party to require the performance of any of the terms of this Agreement or the waiver by either party of any default under this Agreement shall not prevent a subsequent enforcement of such term, nor be deemed a waiver of any subsequent breach. Any waiver shall not be effective unless it is written and duly signed by the Parties hereto.

25.4 Entire Agreement

This Agreement and any Order or documents attached hereto shall constitute an entire agreement between the Parties relating to the subject matter of this Agreement and supersedes all prior representations, proposals, understandings, communications or agreements, whether written or oral, relating to that subject matter.

25.5 Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and such counterpart together shall constitute one and the same instrument. For the purposes hereof, a facsimile copy of this Agreement shall be deemed to be an original. Facsimile and electronic copies of signatures shall have the same effect as originals. If a party elects to sign Order electronically, it expressly acknowledges and agrees that such electronic signature is the legal equivalent of, and has the same force and effect as, a manual signature.

25.6 Foreign Language Translation of Agreement

For customer's convenience only, Z.com may provide customer with a non-English translation of the Agreement. Any such non-English language version of the Agreement is for reference purposes only. Customer acknowledges and agrees that the English language version of this Agreement shall govern in all instances between the Parties.