



OUT OF THIS WORLD INTERNET SOLUTIONS

Standard Terms and Conditions

THIS AGREEMENT is made between ASAP Advertising Services And Promotions (PTY) Ltd also known as "ASAP" and the "customer" / "client".

1. SERVICES:

ASAP agrees to provide website hosting and/or internet access and/or email and other Internet or Network services to which the customer has subscribed, subject to the following terms and conditions.

2. CONTENT AND INDEMNIFICATION:

The customer acknowledges that ASAP does not regulate or take any responsibility for the content of the customer's websites, email or any other service rendered by ASAP or for the security of customer's password.

ASAP, with effect from the effective date, hereby grants to the customer the use and enjoyment of its computer network to gain entry to the Internet ("access") or related hosting / network services on the terms and conditions set out herein.

- a. The customer hereby acknowledges receipt of such services and agrees to be bound by these Terms & Conditions along with ASAP's Acceptable Use Policy and all other Policies as posted on the ASAP website.
- b. The customer agrees that the use and security of his/her passwords is solely their responsibility.
- c. The customer agrees not to give or make available in any way his/her personal log-in ID and password to any person for such person's use ("unauthorized use") and undertakes to maintain the confidentiality of such log-in ID and password.
- d. The customer agrees that if he/she believes the security of their account has been compromised in any way that he/she will notify ASAP immediately.
- e. Static IP addresses are rented to the customer by ASAP on a monthly basis only and are not a standard service.
- f. The customer warrants that he/she has all rights necessary to lawfully submit any information or materials that he/she is uploading\ transmitting to or via ASAP, including all intellectual property rights.

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- g. The customer agrees that ASAP may remove any hosted content on the customer's account which is considered, in ASAP's opinion, to be of an illegal nature or for which a valid take-down notice has been received. The customer agrees that ASAP will be indemnified against any action or liability as a result of these actions.
- h. The customer agrees to indemnify ASAP against any action brought by a third party as a result of such material or information, or as a result of the customer's use in any way of the services provided by ASAP.
- i. The customer acknowledges that he/she has read the ASAP Acceptable Use Policy and hereby agrees to abide by and conform to all points as set out in the Acceptable Use Policy.

3. TRADEMARKS & COPYRIGHTS:

The customer warrants that he/she has the right to use any trademarks and service marks which the customer may choose to use in its domain name, on their website or any related product or service. ASAP cannot be held responsible in the event of a customer infringing on any intellectual or property copyright.

4. NO WARRANTIES:

ASAP makes no warranties of any kind, whether express or implied, for the services to be provided hereunder.

- a. The customer agrees that ASAP shall not be liable for any losses or damages of any kind to the customer, including but not limited to, loss that may result from service interruption, delays in account activation, delays in general or non-deliveries no matter what the cause might be.
- b. ASAP makes no warranties regarding its ability to recover any lost file or information, regardless of how or why the file / information was lost or deleted.
- c. Use of the service is at the customer's sole risk. ASAP is not responsible for files and data residing on a customer's account.
- d. The customer agrees to take full responsibility for files and data transferred and to maintain all appropriate backup of files and data stored on the ASAP network.
- e. Under no circumstances will ASAP be liable for any consequential damages or for any delictual liability of any nature whatsoever.
- f. ASAP may temporarily suspend its obligations in terms of this agreement in order to service, repair, maintain, upgrade, modify, alter, replace or improve





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any of ASAP's services. Where the circumstances permit, ASAP shall use its best endeavours to provide prior notice of any such suspension to the customer. The customer shall not be entitled to any setoff, discount, refund or other credit in respect of any such suspension of service nor in respect of any suspension, which is beyond ASAP control.

5. BILLING POLICY:

- a. The charge for a subscription to the service on a monthly basis is a monthly fee, payable monthly in advance by the customer to ASAP, including a pro-rata charge for the first month's billing
- b. Invoices will be sent to the customer via electronic mail in advance of receiving services. The customer agrees to submit payment for all invoices upon receipt. Accounts not paid in full by the 7th of every month are subject to immediate suspension.
- c. Payment is rendered without deduction, free of exchange or set-off by way of debit order or in such manner as determined acceptable by ASAP.
- d. It is a condition of activation that details of an active bank account be provided for debit order purposes. All amounts due to ASAP will be recovered from the banking source given.
- e. ASAP will not be held responsible for any damages, losses, or claims as a result of an account being suspended for non-payment.
- f. Accounts 30 days past due are subject to cancellation which will result in the deletion of all of the customer's files, including but not limited to web pages, email and databases. ASAP reserves the right to withhold access for overdue accounts, while the customer shall continue to be liable for the service until the conditions of notice of termination are fulfilled.
- g. Without prejudice to rights granted to ASAP in terms hereof, any amount due by the customer to ASAP not paid on due date thereof:
 - i. shall bear interest at a rate equal to the maximum allowable in terms of prevailing legislation, calculated daily in advance from date payment was due until date of actual payment thereof; and
 - ii. should the customer fail to pay any amount owing to ASAP on due date, ASAP shall be entitled, in its discretion and without prejudice to any other rights which it may have, to cancel this agreement without notice to the customer, or to suspend performance of its obligations pending full payment by the client.
- h. ASAP shall be entitled to take all such steps, without notice to the customer, as may be necessary to recover such outstanding amount. The customer shall



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- be liable to pay all costs incurred in respect of the recovery of such outstanding amount.
- i. ASAP reserves the right to levy a charge for handling fees at an amount determined by ASAP for monies due in the event of a customer's payment being returned or rejected by the customer's bankers.
 - j. ASAP furthermore reserves the right to blacklist with any or all credit bureau agencies within the Republic of South Africa, any such customer who fails to comply with the payment agreement for subscription to the service. In addition, ASAP will not be held responsible or be required to assist with the removing or rescinding of any such information, which may be recorded by a credit bureau agency.
 - k. The customer agrees that submission of Banking Details to ASAP shall constitute authorisation by the customer for ASAP to bill the specified Bank Account for all fees owed by the customer to ASAP.
 - l. The customer agrees that all setup fees where applicable and monthly fees are non-refundable.
 - m. The customer agrees that unless he/she notifies ASAP of his/her desire to cancel any or all services received, those services will be billed on a recurring basis.
 - n. The signatory hereby binds himself/herself in his/her personal capacity as co-debtor in solidum for the full amount due to ASAP and agrees that the Standard Conditions will apply mutatis mutandis to him/her and he/she renounces the benefits of excursion and division.
 - o. ASAP reserves the right to amend service subscription charges at its sole discretion. Annual increases will be effective 1st March of each year – these will be published on the website. In the case of any other increases ASAP shall give the customer 30 (thirty) days' notice of any such amendment and the customer shall be bound to such adjustments.
 - p. The customer shall not be entitled to any setoff, discount, refund or other credit in respect of any suspension or interruption of or delay in service, or where in any month the client has utilised less than any minimum bandwidth specified.

6. DEFINITION OF UNLIMITED BANDWIDTH:

The term "Unlimited" is often used within the Internet Services community to describe services of which no hard limits or per unit pricing are imposed, but which are nonetheless governed by limitations of fair and reasonable use, often at the discretion of the service provider. ASAP offers some services with "Unlimited"



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bandwidth, which bear no per unit charges, nor hard limits, but nonetheless are governed by reasonable and fair use. This means that we will not charge you for any bandwidth your account uses, nor will we impose any hard limits on the amount of bandwidth that you can use, provided said use is what ASAP in its sole discretion deems to be reasonable.

If at any time ASAP deems your bandwidth usage to be abusive or unreasonable for the level of service you have purchased, or your bandwidth usage threatens to impair the quality of other users' service, ASAP may, at its sole discretion take steps to limit the amount of bandwidth you consume, or request you to upgrade to a higher package. Special hosting packages can be designed for sites that require higher than normal bandwidth. ASAP will at no time attempt to collect payment for bandwidth already used by a customer whose account grants them unlimited bandwidth, regardless of the amount ASAP does however reserve the right to charge the client for any additional bandwidth he/she might require.

7. ADSL SPECIFIC CONDITIONS:

- a. Service Levels
 - i. ADSL is provided as a best-effort service and uptime cannot be guaranteed. During any technical failure, modification or maintenance of the service provided, ASAP will use its reasonable endeavours to resume the service as soon as possible. This excludes upstream provider infrastructure that is not within the control of ASAP
- b. Static IP's

In order to use this product you must have a router or server that can terminate an L2TP tunnel/connection

 - i. Only one static IP can be linked to one active ADSL service (username)
 - ii. A static IP cannot be transferred from one service to another
 - iii. The static IP will remain active as long as the ADSL service (username) it is linked to is active, should the ADSL service (username) it is linked to be cancelled, the static IP will automatically be deleted. Please be aware that once the static IP is deleted it cannot be recovered, should you repurchase the service a new static IP will be issued.
 - iv. Failure to pay for your static IP and linked service before the due date will result in the static IP being deleted, once the static IP has been deleted it cannot be recovered.
 - v. A static IP can be cancelled during the course of a month, but the cancellation will only take effect at the end of the month. E.G if we

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receive your cancellation on the 1st or 15th of July, the static IP will only be deleted on the 31st of July at 11:59pm.

- vi. The ASAP Technical Support Team will only assist you with the initial setup and maintenance of your L2TP connection and ASAP username on your device. Due to privacy and security concerns, internal network configurations like natting and routing will need to be set up and maintained by your network administrator.
 - vii. Static IPs are available for all monthly billed services, except SAIX based accounts and trial accounts.
- c. Modems
- Please Note: An ADSL or VDSL Line is required in order to make use of these modems. These modems are only available within South Africa.
- i. Delivery times stated are not guaranteed but are generally attainable within major centres, a possible delay of 24 to 48 hours can be expected outside of major centres.
 - ii. A physical address is required for the delivery of your order, orders to Postal Addresses will not be accepted.
 - iii. Deliveries take place on weekdays during business hours and excludes weekends and public holidays, your delivery will be dispatched on the 1st working day thereafter.
 - iv. Delivery times may be delayed should the need arise for clearance of payment.
 - v. ASAP undertake to carry the cost of one exchange or return if required, thereafter the client will be responsible for the delivery and collections costs.
 - vi. Each modem includes a 1 year replacement warranty.
- d. Telkom ADSL Lines
- i. By requesting an ADSL Line from or to transfer your ADSL Line to ASAP, the following will be seen as accepted and agreed to:

I/We hereby authorise ASAP Advertising Services And Promotions (Pty) Ltd to apply for a new/transfer of my/our ADSL Line from Telkom SA Ltd.

In order to apply for an ADSL Line, you are required to have an active monthly billed telephone line with Telkom SA Ltd. ADSL Lines remain the property of Telkom SA Limited, installations and repairs remain their responsibility. ADSL Line sizes are supplied at the maximum stable speed available that is requested by the customer, the Telkom SA Ltd network is supplied as a best effort network and therefore service



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cannot be guaranteed. Should you experience complete downtime on your ADSL Line for a period exceeding 24 hours, a dispute will be logged with Telkom SA Ltd once the fault has been cleared requesting a credit for the period the line was down. Once this credit has been issued, the customer's account will be credited accordingly. ASAP Advertising Services And Promotions (Pty) Ltd will on behalf of our customer as far as possible deal with Telkom SA Limited on the customer's behalf. Any credit due to the customer by Telkom SA Limited after the transfer of their ADSL Line to ASAP Advertising Services And Promotions (Pty) Ltd remains the responsibility of Telkom SA Limited and the customer will need to converse with Telkom SA Limited directly to arrange this if not done automatically. The activation of a new line is dependent on the exchange being ADSL ready as well as ports being available, the activation of a new line, cancellation, upgrade/downgrade or transfer is dependent on Telkom SA Limited as such cannot be guaranteed by ASAP Advertising Services And Promotions (Pty) Ltd. Telkom SA Limited do not allow two actions to be performed at the same time, we are therefore not able to perform a transfer and an upgrade/downgrade at the same time, we need to process each action separately. ADSL lines cannot be transferred between Service Providers, an ADSL Line can only be transferred to ASAP Advertising Services And Promotions (Pty) Ltd from Telkom SA Limited directly. Should you wish to have your ADSL Line transferred to ASAP Advertising Services And Promotions (Pty) Ltd that is currently with another Service Provider you will first need to transfer the ADSL line back to Telkom SA Limited, thereafter the application for the transfer can be submitted to ASAP Advertising Services And Promotions (Pty) Ltd.

The customer will continue to be billed by Telkom SA Limited for the telephone/fax line rental and telephone/fax calls as well as any other services provided to them directly by Telkom. Should your line be suspended by Telkom SA Ltd, the ADSL service on your line will not be usable until Telkom SA Ltd have lifted the suspension on the line. The ADSL line rental will be billed to the customer by ASAP Advertising Services And Promotions (Pty) Ltd together with any other services provided to them. On application for a new line or a transfer of a line the full amount for the ADSL line size chosen will be billed, once the new line, transfer has been completed we will credit the original amount paid and a prorata amount will be billed, the balance will be used towards your renewal for the following month. In the case of an upgrade/downgrade of a line, we will bill you a prorata amount once the upgrade/downgrade of the ADSL Line has been completed, in the case of a downgrade any credit amount due will be used towards the following months renewal. Should your debit order payment (unless other payment options have been approved) against your bank account or credit card be returned unpaid the ADSL Line

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will be suspended immediately, failure to pay the outstanding amount within 7 days will result in the ADSL Line being transferred back to Telkom SA Limited which will result in your telephone/fax line account being charged for the ADSL Line by Telkom SA Limited. Payment for the rental of the ADSL Line is due before the 1st of every month, failure to pay will result in the ADSL line being transferred back to Telkom, should the clients Telkom account be suspended the ADSL line will be cancelled. Should you approach Telkom directly to have your telephone number ported, the ADSL service on your line will automatically be cancelled. Please advise us of your intent to port in advance so that we may arrange for the ADSL line to be transferred back to Telkom and thus avoid the cancellation of the ADSL line service.

Cancellations need to reach us by 4pm, no later than 7 working days before the end of the month, all cancellations received after this will only be cancelled at the end of the following month and the account holder will be liable for the ADSL line cost.

Please also note that ADSL lines are not cancelled during the month but only at the end of the month, if you wish to have your line cancelled during the course of a month you will not be refunded any monies already paid for that month.

Please be aware that Telkom do not allow us to submit cancellations for a specific date. In an effort to avoid the cancellation or transfer back of the line taking place before the last day of the month we submit these applications on the last 2 working days of every month. It is possible that the cancellation/transfer back will be actioned before the last day of the month or only take place the following month.

Queries pertaining to your adsl line can be directed to help@asap.co.za during office hours, if you are experiencing technical difficulties you can contact our Support Line on 031 100 1030.

Telkom terms and conditions can be found at: www.telkom.co.za

8. DOMAIN NAMES AND DOMAIN NAMES DISPUTES:

- a. ASAP will not be held liable for any disputes arising out of domain name registrations or domain name hosting on behalf of the customer.
- b. ASAP will not be held liable for any losses or damages the customer may suffer due to a domain name being reallocated, transferred or deleted by any Domain Name Authority or NIC.



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- c. ASAP will not issue any credits for domain names where the client has requested the wrong domain name to be registered. By submitting a domain name registration form, the customer confirms that he/she has completed the registration form correctly and that the domain name that he/she has entered is correct.
- d. ASAP reserves the right to take ownership of any domain name upon cancellation by the customer should the client not specify any action to be taken in regards to ownership or transfer of the domain name.
- e. ASAP requires 24 hours written notification via fax prior to releasing any domain name. Where the customer has not notified ASAP of his intention to transfer or move a domain name, all transfer requests will be declined.
- f. ASAP will retain the administration of the domain name in the event of the customer's accounts not being settled in full on termination of the service agreement.

9. CONTRACT SUSPENSION AND TERMINATION:

- a. In the event that ASAP at any time reasonably believes that the customer is in breach of any of the terms and conditions contained in this agreement or is using ASAP' services in an unacceptable manner, ASAP may, at its sole discretion, immediately suspend or terminate the customer's services and/or this agreement without liability.
- b. ASAP may terminate this contract with 1 calendar months' notice to the customer for any reason or for no reason.
- c. The customer may terminate this contract at any time by giving ASAP no less than 1 calendar months' written notification which must coincide with the last day of the billing period. Such written notification must be sent by either FAX or registered mail.
- d. At the time of cancellation notification, the customer shall be responsible for the entire amount of any outstanding fees due.
- e. All goods and services supplied by ASAP remain the property of ASAP until such goods or services have been paid for in full. The customer is not entitled to sell or dispose of any goods / services unpaid for without the prior written consent of ASAP.

10. LEGAL AGE/AUTHORISATION:

- a. The customer certifies that he/she is of legal age in the country of his/her residence to enter into this agreement.

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- b. Where acting on behalf of a Partnership, Close Corporation, PTY (Ltd), LTD or any other form of company/legal entity, the customer hereby confirms that he/she has the full permission/authority to act on behalf said legal entity.

11. TAKE-DOWN NOTICE

In terms of Section 75 of the Electronic Communications and Transactions Act ("the Act") ASAP has designated the Internet Service Providers' Association (ISPA) as an agent to receive notifications of infringements as defined in Section 77 of the Act.

Details for ISPA:

Tel: 010 500 1200

takedown@ispa.org.za

PO Box 518

Noordwyk 1687

Midrand

12. AMENDMENTS:

ASAP reserves the right to make amendments or changes to this agreement from time to time. ASAP shall notify all customers via e-mail when changes are made.

13. CESSION, DELEGATION OR ASSIGNMENT:

The customer shall not be entitled to cede its rights or assign its obligations in terms of this Agreement to any third party without the prior written consent of ASAP, which consent may not be unreasonably withheld.

14. DOMICILIUM:

For all purposes, including the giving of any notice, the making of any communication and the serving of any process, ASAP and customer respectively choose their domicilium citandi et executandi ("domicilium") at their respective street addresses and telefax number appearing on the face hereof. Either party shall be entitled from time to time to vary its domicilium provided that any address selected by it shall be situate in South Africa and any such variation shall only become effective upon receipt of notice in writing by the other party of such variation. Any notice which either party may give to the other shall be posted by prepaid registered post or hand delivered or sent by telefax to the other party's domicilium.





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15. LITIGATION AND ATTORNEY'S FEES:

In the event of any dispute arising out of or relating to this agreement, such dispute shall be resolved in Johannesburg, South Africa.

The customer shall be liable to ASAP for all legal expenses on the Attorney Client scale of an Attorney and Counsel incurred by ASAP in the event of (a) any default by the customer or (b) any litigation in regard to the validity and enforceability of this agreement. The customer will also be liable for any collection or valuation fees incurred. The customer agrees that ASAP shall not be liable to make payment of security into Court in terms of section 62 of the Magistrate's Court Act, as amended. The customer hereby consents to the jurisdiction of the Magistrates Court. The customer chooses Domicilium citandi et executandi for servicing of all documents and processes the address entered in on the Customer Account Information form.

16. ENTIRE AGREEMENT AND SEVERABILITY:

This represents the complete agreement and understanding between ASAP and customer with respect to the subject matter herein. In the event that any term or provision of this agreement is held by a court to be unenforceable, then the remaining provisions shall remain in full force and effect.

17. ACCEPTANCE OF TERMS:

Use of any ASAP services constitutes acceptance of the terms and conditions contained in this agreement and any amendments thereto as well as acceptance to ASAP's Acceptable Use Policy.

Customer Signature

Date