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## INTERNET (ISP) SERVICE TERMS & CONDITIONS

PLEASE NOTE: BY COMPLETING THE SIGNUP PROCESS AND SUBSCRIBING FOR THE SERVICES AND BY ACCESSING AND/OR BY USING THE SERVICE(S) IN ANY WAY, YOU THE USER, WILL BE SIGNIFYING YOUR ACCEPTANCE OF THESE TERMS AND CONDITIONS OF USE, WHICH WILL FORM A BINDING AGREEMENT BETWEEN YOU THE USER AND POSIX WHICH TERMS AND CONDITIONS YOU THE USER IS DEEMED TO HAVE FAMILIARISED YOURSELF WITH AND TO HAVE IRREVOCABLY ACCEPTED.

### 1. TERMS AND CONDITIONS

#### 1. Introduction

- 1.1. This acceptable use policy ("AUP") outlines the principles that govern use of the systems, services and equipment provided by POSIX Internet in connection with your POSIX services.
- 1.2. You must read this AUP very carefully. It is important. It forms part of your customer services agreement with us.
- 1.3. "User(s)" "You" or "Customer's" means customers or anyone else who uses or accesses the POSIX services.
- 1.4. We may amend, modify or substitute this AUP at any time. Your continued use of any POSIX services after any such amendment, modification or substitution constitutes your acceptance of any new AUP. We recommend that you visit our website regularly to check for any updates or amendments to this AUP.
- 1.5. POSIX shall provide the Customer with the subscribed ("the POSIX Services") set out in Annex 1 for the duration of this Agreement subject to the terms and conditions set out herein.
- 1.6. POSIX reserves the right to establish policies, rules and limitations, from time to time, concerning the use of any service. You must comply with any bandwidth, data storage and other limitations we may impose, in our reasonable discretion. Failure to comply with these rules will result in your service being restricted, suspended or terminated, in our reasonable discretion.
- 1.7. The Customer acknowledges that the POSIX Services contain valuable copyright, trademark, service mark, trade secret, accompanying information and other proprietary rights. POSIX reserves all rights thereto. No title or ownership to such rights is transferred pursuant to this Agreement.

#### 2. EFFECTIVE DELIVERY DATE AND ANNIVERSARY DATE

- 2.1. The effective date is the date on which POSIX activates the Customer's / User's service.
- 2.2. The initial contract will expire on the anniversary date, being 12 months from the effective delivery date, but the contract will continue in force automatically thereafter on a six-monthly basis unless three months' written notice of termination is given by either party.

#### 3. CHARGES

- 3.1. The installation and subscription charges payable by the Customer to POSIX at the time of signing up for the POSIX Service are as set out in Annex 1.
- 3.2. The Customer acknowledges that POSIX may review their charges from time to time, subject to POSIX giving prior one (1) months' written notice to the customer.

#### 4. PAYMENT TERMS

- 4.1. The pricing schedule for the POSIX Services is set forth in Annex 1. Fees are not refundable once paid. All invoices are due when issued. If payment is not received, POSIX reserves the right to suspend or terminate access to the Customer's service without notice in the event payment is not timely made.
- 4.2. The Customer agrees to pay POSIX the subscription charges in full including applicable taxes by the due date specified in the invoice.
- 4.3. POSIX will issue its first invoice for the service on the effective date. From then on invoices will be recurring thereafter on a monthly or yearly basis depending on the type of service the Customer has subscribed to.
- 4.4. All services are on a prepay basis and should be paid for in advance before the service is activated or as invoiced.

## **5. RESPONSIBILITIES**

### **5.1 Customer 's responsibilities**

The Customer must provide us with accurate and truthful information in your Service application and keep us informed of any changes to this information.

Where applicable the Customer shall, prior to the installation of POSIX Services, obtain the necessary hardware required for connectivity or install the local area network infrastructure as recommended by POSIX after a site inspection has been carried out.

The Customer shall be responsible for applying to the local Telco S.P.T.C for any telephone line service installation or upgrades

The Customer shall be responsible for repair and replacement their LAN infrastructure and equipment in the event of any hardware failure.

Customer will be required to maintain complex passwords for their email accounts where applicable. For any such passwords POSIX will provide a secure URL that any User can access to change passwords.

The Customer acknowledges that it understands that POSIX shall only assist in the registration of a domain name and that the customer shall be responsible for transferring the domain name on termination of this Agreement.

### **5.2 POSIX's Responsibilities**

POSIX shall be responsible for providing the Customer with the Products & Services ( POSIX Services ) as subscribed set out in Annex 1.

## **6. INSTALLATION AND SUPPORT**

### **6.1 Installation**

Installation of the POSIX Services will be effected by POSIX personnel liaising with an employee of the Customer ( "Technical Contact" ). The Customer undertakes to provide full access and any technical/personnel help necessary for the installation and support of the POSIX Services.

### **6.2 Support**

POSIX shall provide technical support ( "Support Services" ) to the customer as set out in Annex 2.

## **7. INDEMNITY**

7.1 The customer shall indemnify and keep POSIX indemnified against all losses, claims or liability whatsoever that may arise in connection with the infringement of copyright, patents or trade marks or the misuse of either the telecommunication services or any software, equipment or material used in connection this Agreement.

## **8. EQUIPMENT**

8.1 The Customer acknowledges that for any equipment that is provided by the Customer to be used for the POSIX Services is property of the Customer. The Customer shall be responsible for the repair or service of such equipment.

## **9. VIRUSES/MALWARE**

9.1 POSIX shall provide as a first line of defence email scanning for virus and spam filtering for all emails received and sent. POSIX shall not be responsible for any damage or loss or liability that may be caused to the Customer or any third party by viruses or spam infection and the customer shall indemnify POSIX against all such claims losses or liabilities unless the virus or spam is proved to have been deliberately introduced by POSIX during the installation of POSIX Services.

## **10. SECURITY**

10.1 The customer shall not use or permit its authorised users to use the POSIX Services in ways that infringe the rights of other users of the POSIX Services or violates the laws of Swaziland.

## **11. LIMITATION OF LIABILITY**

11.1 The Customer acknowledges and agrees that POSIX shall assume no liability either to the customer or any third party for all direct or indirect liabilities, special or consequential damages, loss of profits, loss of goodwill, expenses and costs arising out of the use or inability to use the POSIX Services.

## **12. CONFIDENTIALITY**

12.1 Each Party hereto acknowledges that in dealing with the other pursuant to this Agreement, such Party will come across information which is confidential and proprietary to the other Party, disclosure or use of which might result in damage or loss to the business or affairs of such Party. It is therefore agreed that each Party shall keep all such information confidential and shall not disclose or use such information without the prior written consent of the other Party. For the avoidance of doubt, it is hereby agreed that the provisions of this clause shall survive the termination of this Agreement.

## **13. TERMINATION**

13.1 The Customer can terminate the contract at any time before the end of the contract service term on condition the Customer serves a months termination notice and settles all outstanding balances by the date of termination.

13.2 The Customer's internet domain or other services hosted by POSIX for the Customer will not be released until all balances have been cleared with POSIX.

## 14. PROPER USE

14.1 The POSIX Internet connection may only be used for lawful purposes by the Customer and at the installation site. Transmission of any material through the POSIX connection or the use of the POSIX connection in violation of any Swaziland law or regulation is prohibited. Such transmission includes, but is not limited to, copyright material, material legally judged to be threatening or obscene, and material protected by trade secret, whether or not the Customer was aware of the content of the material or of the relevant law.

14.2 The Customer acknowledges that POSIX is unable to exercise control over the content of the information passing over the POSIX connection and/or the POSIX network, and POSIX hereby excludes all liability of any kind for the transmission or reception of infringing information of whatever nature.

14.3 The Customer hereby agrees to indemnify and hold POSIX harmless from any claim brought by third parties alleging that use of the POSIX connection and/or the POSIX network by the Customer has infringed any intellectual property right of any kind or any applicable Swaziland or international law or regulation. The Customer shall defend and pay all costs, damages, awards, fees (including legal fees) and judgements finally awarded against POSIX arising from such claims, and shall provide POSIX with notice of such claims, full authority to defend, compromise or settle such claims and reasonable assistance necessary to defend such claims, at the Customer's sole expense.

14.4 The POSIX network may be used by the Customer to link into other networks worldwide and the Customer agrees to conform to the acceptable use policies of such networks. In addition the Customer undertakes to conform to the protocols and standards defined in the following Internet documents: RFC1009, RFC1122, RFC1123 and RFC1250, and such future protocols and standards as appropriate. In the event that communication by the Customer does not conform to these standards, or if the Customer makes profligate use of the POSIX network to the detriment of POSIX or POSIX customers, POSIX reserves the right to restrict passage of the Customer's communications until the Customer gives a suitable undertaking as to use.

14.5 POSIX shall use its best efforts to provide a reliable and stable service to the Customer and reserves the right to put in control measures to prevent disruption or degradation of services to other customer's.

14.6 POSIX will bear no liability for any configurations and/or loss of data or service caused by the Customer's interaction with the Customer's internet systems/servers.

## 15. RESTRICTION ON TRANSFER

15.1 The Customer in entering into this contract undertakes that it will not assign, re-sell, sub-lease or in any other way transfer the POSIX connection or its use to any third party. Contravention of this restriction in any way, whether successful or not, will result in the service being terminated by POSIX, in which event the Customer will be liable for a termination fee of three months' service charges..

## 16. EXCLUSION OF WARRANTIES

16.1 Any condition or warranty which might be implied or incorporated within this contract, by reason of statute or common law or otherwise, is hereby expressly excluded so far as may be permitted by law. While POSIX will use all reasonable endeavours to provide a prompt and continuing service, it will not be liable for any loss of data resulting from delays, non-deliveries, missed deliveries, or service interruptions whatever the cause. In no circumstances will POSIX be liable for economic or consequential loss. POSIX specifically excludes any warranty as to the quality or accuracy of information received through the POSIX connection.

## 17. DATA PROTECTION

17.1 POSIX reserves the right to put the names and other information from the service registration form relating to the Customer into a computerised directory for internal use only.

## 18. CUSTOMER WARRANTY

The Customer warrants to POSIX that it shall not knowingly, negligently or intentionally conduct the following in connection with the POSIX Services:

18.1 Incorporating into email any material, text, graphic, sound or animation in any form that, without limitation, may be obscene, defamatory, harassing, grossly offensive, malicious, or that actually or potentially infringes or misappropriates the copyright, trademark, proprietary or other intellectual property right of any person.

18.2 Posting or sending any content that advocates, promotes or otherwise encourages violence against any governments, organizations, groups or individuals or which provides instruction, information or assistance in causing or carrying out such violence.

18.3 Introducing viruses, worms, harmful code, trojan horses on the internet, and/or using any software or device to interfere or attempt to interfere with the proper functioning of any server or other internet facilities.

18.4 Sending unsolicited bulk mail messages ("junk mail" or "spam") which, in POSIX sole judgment, is disruptive or generates a significant number of user complaints. This includes bulk-mailing of commercial advertising, informational announcements and political tracts.

18.5 Launching of denial of service attacks ( Dos Attack )Malicious email, "mailbombing" or flooding a user or site with very large or numerous pieces of email

## 19. ADSL Services

POSIX offers a shared Capped and Uncapped ADSL service of up to 2MB. ADSL service is on "*best effort*" basis, which means that bandwidth is shared between many users and can be highly variable - especially over long distances and at off-peak times (i.e. busy afternoons will slow the performance).

19.1 POSIX will use monitoring systems to monitor and measure the amount of data usage for all ADSL users connected to the POSIX network for purposes of usage based billing and bandwidth usage monitoring. Data usage monitoring and billing is done month by month.

19.2 Customer's that subscribe to the Capped ADSL package options will be billed for the monthly service fee including any data usage above your monthly usage Limit ( Cap ) according to our rates as stated in our products and services price schedule.

19.3 Customer's will be notified regularly of their amount of usage via email or any other means possible.

19.4 POSIX does not accept responsibility if you exceed your monthly usage limit, and we will charge you for usage above cap according to our above cap rates.

19.5 The Customer is responsible for monitoring and controlling your use of the ADSL Service to minimize usage or avoid exceeding the monthly Cap.

19.6 The Customer acknowledges that for ADSL connection the ADSL router / modem is supplied and maintained by and property of the local Telco ( S.P.T.C.) All hardware maintenance and replacement for the ADSL router/ modem is responsibility of S.P.T.C . POSIX shall assist in the reporting of such failures to S.P.T.C

19.7 The Customer acknowledges that the ADSL line capacity is controlled and managed by the local Telco ( S.P.T.C ). Any changes in line capacity e.g line capacity upgrade or downgrade is managed by S.P.T.C. The customer is responsible for verifying the bandwidth capacity of their ADSL Line by accessing their ADSL modem configurations or contacting S.P.T.C to confirm.

19.8 The Customer is responsible for informing POSIX of any changes in the ADSL line capacity either downgrade or upgrade so that POSIX can bill the Customer appropriately for the line capacity.

19.9 Should the Customer not inform POSIX of any changes in the line capacity POSIX reserves the right to bill the Customer for the line capacity which POSIX can confirm with S.P.T.C.

## **20. FAIR USE POLICY**

20.1 POSIX maintains and promotes a policy of fair and acceptable usage at all times, so please ensure that any use of POSIX services, by yourself or any User of your connection doesn't in any way contradict the restrictions listed the included FUP Clause 20.2 below. By adhering to the Fair Use Policy, you'll help us to provide a fair and equal internet service for all Customers.

### **20.2 Fair Use Policy**

#### **- Usage guidelines and acceptable use**

POSIX's ADSL uncapped accounts are designed for either home or business use, and customers need to select the appropriate package service for their line speed taking into consideration the type of use whether for business or home use.

POSIX can advise the Customer on the the most suitable service package upon getting the relevant information from the Customer concerning the intended or type of internet usage the Customer will be using. Customers are advised to check with POSIX if they need any assistance or advise concerning our products and services including how to protect from and prevent excessive use.

POSIX Internet uncapped products are not capped in the ordinary course. However, POSIX reserves the right to apply restrictions on an uncapped account if a customer's behaviour is determined to be affecting the user experience of other customers on POSIX's network. Examples of customer behaviour which may compromise or cause network congestion to POSIX's network performance and excessive data transfer, include, but are not limited to the following listed examples below;

- running excessive concurrent internet sessions
- accessing excessive bandwidth intensive protocols such as peer-to-peer, VOIP etc.
- Downloading large files like movies, MP3s, games and software using software such as Napster, Kazaa, E-donkey etc
- On-Line Gaming
- Sending large and numerous emails, using social network sites and chat clients like facebook, youtube etc..
- Excessive and continuous browsing or downloading of files with suffix of "avi", "jpeg", "mpeg", "gif", etc which can contain very large amounts of data.

To help ensure that all customers have fair and equal use of the service and to protect the integrity of the network, POSIX reserves the right, and will take necessary steps, to prevent improper or excessive usage. The action that POSIX may take includes, but is not limited to, limiting throughput, preventing or limiting service through specific ports or communication protocols, and a complete termination of service to customers with improper or excessive usage. This policy applies to and will be enforced for intended and unintended (e.g., viruses, worms, malicious code, or otherwise unknown causes) prohibited usage.

If any Customer's Internet activities are so excessive that other Customer's are detrimentally affected, POSIX may give the Customer generating the excessive data traffic a written warning ( by email or otherwise ). In extreme circumstances, should the levels of activity not immediately decrease after the warning, POSIX may terminate that Customer's services. POSIX may enforce a Customer's service to be changed from capped to uncapped in the event of excessive or heavy use of data. POSIX at its own discretion will judge what it considers to be heavy or excessive use based on the amount of data usage patterns monitored and gathered for each Customer.

POSIX will make all attempts possible to inform the Customer when his or her behaviour is compromising POSIX's network performance, however POSIX reserves the right to suspend the relevant customer's usage within 24 hours of usage having reached such levels.

The above controls will be implemented by POSIX in addition to those set out elsewhere in this AUP regarding unlawful behaviour.

This AUP may be modified periodically and POSIX reserves the right to modify this policy at any time, which changes shall become effective as soon as they are posted to the POSIX website ([www.posix.co.sz](http://www.posix.co.sz)).

## **21. VIOLATIONS POLICY**

21.1 Violations of system or network security are prohibited, and may result in criminal and civil liability. POSIX will investigate incidents involving such violations and may involve, or will cooperate with, law enforcement agencies if a criminal violation is suspected.

21.2 POSIX reserves the right to investigate any suspected violation(s) of this AUP. When we become aware of possible violations, we may initiate an investigation, which may include gathering information from the User involved and the complaining party, if any, and examination of material on our servers, networks or any other equipment associated with the services.

21.3 POSIX shall inform the Customer of any such findings and action may be taken to warn restrict or terminate the Customers services with or without notice.

## **22. PRIOR ARRANGEMENTS**

22.1 These terms and conditions supersede any prior arrangements or understandings of any nature whatsoever that may exist between POSIX and "the Customer".

## **22. DISPUTE RESOLUTION**

22.1 If a dispute of any nature arises between the parties, the parties will attempt to resolve the matter internally and amicably within one calendar month, failing which the dispute will be referred to arbitration.

## **23. CONSTRUCTION**

23.1 This Agreement shall be governed by and construed in accordance with the laws of Swaziland and the Parties hereby submit to the exclusive jurisdiction of Swazi Courts.

**PRODUCTS & SERVICES**

- \* All Prices exclusive of VAT and line rental charges by SPTC.  
 \* All services are Prepay and should be paid for before service is activated.

**DIAL UP Unlimited Web Access & Mail**

<b>3Months</b>	E360.00
<b>6 Months</b>	E660.00
<b>1Year</b>	E1,200.00

**64K ISDN Web Access & Mail**

<b>3Months</b>	E630.00
<b>6 Months</b>	E1,200.00
<b>1Year</b>	E2,280.00

**Email Only Services**

- 1 User POP3 Mailbox E960.00 p/year  
 5 User POP3 Mailbox E1,200.00 p/year  
 10 User POP3 Mailbox E1,500.00 p/year

**ADSL Services**

- 128k Capped Home + 5GB cap @ E275.00 per month  
 256k Capped + 15GB cap @ E550.00 per month  
 512k Capped + 25GB cap @ E720.00 per month  
 512k UnCapped @ E862.00 per month  
 1MB unCapped Business @ E1,896.00 per month  
 2MB Capped Business +45GB Cap @ E2,600.00 per month

Usage above cap is @ 0.15 cents per MB

**Leased Line Services**

- 64k Bandwidth @E3,500.00 per month  
 128k Bandwidth @E4,800.00 per month  
 256k Bandwidth @E9,000.00 per month  
 512k Bandwidth @E17,000.00 per month

On-site Installation fee ( Once Off Cost ) @ E350.00 per hour

**Server Hosting Services**

- Server Hosting E195.00 p/month (Unlimited Mailboxes ) @ E2,280.00 p/year  
 Server Installation ( Firewall/ Email/ Webserver/ Internet Gateway) Once Off Cost E3,240.00

**Domain Registration and Hosting**

- DNS Registration .sz ( Yearly ) E 250.00  
 DNS Hosting ( Yearly ) E 300.00

**WebSite Hosting**

Per Month	E 175.00
1Year	E 1,900.00

**\* Terms and Conditions Apply**

**Service Description**

POSIX provides Dial Up , ISDN ADSL and Leased Line services connection services. Other services provided include but not limited to domain, email and web hosting services. The services provided will vary on price and speed depending on the bandwidth capacity and the typed of service plan subscribed to. Our service and billing plans depending on the type of service vary from monthly, half yearly or yearly.

## **ANNEX 2**

### **SUPPORT SERVICES**

#### **Service Availability**

POSIX shall use commercially practical and reasonable efforts to make the Customer's services available and reachable via the internet to the Customer approximately 24 hours per day and 7 days per week. No assurance is given regarding any minimum availability.

POSIX shall provide remote and administrative access to the email server to the Customer for the purposes of managing the Customers user accounts and access to their email accounts. Access is restricted to the Customer, POSIX may access the administrative control panel for purposes of support on permission from the Customer.

POSIX will provide after sales technical support as required by the customer and as mutually agreed upon in advance by the parties hereto. Below are the POSIX support services and responsibilities;

- Our support team is available for technical support during normal business hours on weekdays (8:00 hours to 17:00 hours)
- The charge for on-site support and maintenance shall be E350.00 per hour provided that the minimum period to qualify for payment is one hour, any fractions greater than one hour shall be treated pro-rata.
- POSIX will provide on-site, remote and telephonic support for services forming part of the POSIX connection or Service.
- POSIX will liaise with the local Telco (SPTC) in reporting any line faults or other SPTC related faults that affect the availability of the POSIX services.
- POSIX will provide support services from POSIX's network to any systems that were deployed by POSIX. Any other services deployed within the customer's network are the responsibility of the customer.
- POSIX will liaise with the Customer's key Technical support resource or representative to address POSIX service related issues.
- Limited availability of support after hours , weekends and holidays. Call out charges during these times at 450.00 per hour.
- In the case where the fault is on POSIX's network or due to third-party providers which affect our service provision, POSIX will make every effort possible to immediately resolve the problem.

#### **Maintenance and Upgrades**

POSIX reserves the right to replace the Customer Service with an equivalent or upgraded Service at any time during the contract duration.

POSIX will make an effort to coordinate any such Service change with the Customer prior to such change. If POSIX is unable to coordinate an acceptable time for a Service change with the Customer POSIX reserves the right to make such a Service change. POSIX will bear no liability for any configurations and/or loss of data or service caused by the changes or upgrade.

POSIX shall maintain its data/ internet center infrastructure including facility security, power, internet security and temperature control. The Customer acknowledges that POSIX does not provide guarantee or warrant of protection. POSIX shall not be held liable in the event of security breach, attack, unintended release of sensitive information or other such event while using the POSIX Services.

POSIX shall not be held liable for downtime or failures of the POSIX Services including those caused by any Third-party providers.

The POSIX Services do not include any Back-Up of your data unless otherwise subscribed to such a service.

#### **FAULTING REPORTING**

To ensure consistency of communication and quicker resolution of problems, faults relating to any internet problems or connectivity issues should be reported through either one of the following contact methods;

- Where possible Email to [support@posix.co.sz](mailto:support@posix.co.sz)
- Telephone our support technicians on the numbers 2404 1278/ 2409 0015 / 7617 5578.
- When contacting POSIX technical support, it is helpful to provide the description of the issue, symptoms, informational or error messages, history of issue and steps already taken by your technical staff to resolve the problem.
- All Calls and reported faults may be logged for Customer records and history.

#### **PRIORITY & RESPONSE TIMES**

POSIX guarantees a response to all support requests within one working day. Response time commitments do not guarantee a complete resolution of the problem within the stated time frames. Rather, the time commitment is meant to indicate the maximum time interval in which the customer will be contacted by our support personnel.

POSIX shall use commercially practical and reasonable efforts to ensure acceptable response times for users accessing the POSIX Services. However, no assurances are given regarding any minimum response time.

Every effort will be made to immediately respond to and resolve all calls and emergencies with high priority and at the earliest time possible.

Accept in the case of emergencies, all site visits are to be scheduled prior.

Calls that are made to the support team are prioritized based on the nature, severity and time of the call.

High priority is given to problems which have a major business impact e.g in the case of offline internet or email services/servers which affects all users.

The following procedure is followed whenever a call is received in order to service the Customer in then most efficient manner possible.

- When contacting POSIX for support, our support team will first attempt to resolve the problem over the phone with the key technical contact person at the Customer's location. Email queries or requests will be addressed and responded to accordingly, if this fails support may be escalated to the next stage.
- Where appropriate POSIX may remotely access your servers in order to provide hands-on troubleshooting and assistance. The Customer is responsible for allowing remote access to your router, servers and PCs.

If neither of the above resolves the problem a site visit will be scheduled to a time agreed by both parties.