

Web Hosting Agreement

This Web Hosting Agreement (this “**Agreement**”) is between Host Asean Ltd., a Web Hosting Company formed under the laws of the the UK with its principal office at 20-22 Wenlock Road, London, UK, N1 7GU (“HostAsean”) and the person (individual or legal person) whose signs HostAsean’s service order and set up form (the “**Order**”) incorporating this Agreement by reference (“**Customer**”). This Agreement governs Customer’s use of HostAsean’s Web hosting service.

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Whereas:

(1) HostAsean offers website hosting services to clients using all appropriate hardware providers connected to the World Wide Web via the internet.

(2) Customer wishes to use HostAsean’s Service to host the Customer’s Website and/or selected internet services under the terms and conditions of this Agreement.

Customer’s access to and use of the Service constitutes the Customer’s acceptance and agreement to be bound by these terms and conditions.

It is agreed as follows:

1. Services.

Subject to the terms of this Agreement, and contingent on Customer’s satisfaction of HostAsean’s credit approval requirements, HostAsean agrees to provide the web hosting services described in the Order for the fees stated in the Order.

2. Term.

The initial service term of the Agreement shall begin on the date that HostAsean generates an e-mail message to Customer announcing the activation of the Customer's account (the "**Service Commencement Date**") and shall continue for the number of months stated in the Order (the "**Initial Term**"). Upon expiration of the Initial Term, this Agreement shall automatically renew for up to three successive renewal terms of the same length as the Initial Term (each a "**Renewal Term**") unless HostAsean or Customer provides the other with written notice of non-renewal at least thirty (30) days prior to the expiration of the Initial Term or then-current Renewal Term, as applicable. The Initial Term and any Renewal Term may be referred to collectively in this Agreement as the "**Term**."

3. Payments.

(a) Fees.

Fees are payable in advance on the first day of each billing cycle. Customer's billing cycle shall be monthly or annually as indicated on the Order, beginning on the Service Commencement Date. HostAsean may require payment for the first billing cycle before beginning service. If the Order provides for credit/debit card billing, Customer authorizes HostAsean to bill subsequent fees to the credit/debit card on or after the first day of each successive billing cycle during the Term of this Agreement; otherwise HostAsean will invoice Customer via electronic mail to the Primary Customer Contact listed on the Order. Invoiced fees may be issued on or before the 1st day of each billing cycle, and the fees shall be due on the 14th day following invoice date, but in no event earlier than the first day of each billing cycle.

Payments must be made in United States dollars. Customer is responsible for providing HostAsean with changes to billing information (such as credit card expiration, change in billing address) At its option, HostAsean may accrue charges to be made to a credit/debit card until such charges exceed \$10.00. HostAsean may charge interest on overdue amounts at the lesser of 1.5% per month or the maximum non-usurious rate under applicable law. HostAsean may suspend the service without notice if payment for the service is overdue. Fees not disputed within sixty (60) days of due date are conclusively deemed accurate. Customer agrees to pay HostAsean's reasonable reinstatement fee following a suspension of service for non-payment, and to pay HostAsean's reasonable costs of collection of overdue amounts, including collection agency fees, attorney fees and court costs.

(b) Fee Increases.

HostAsean may increase its fees for services effective the first day of a Renewal Term by giving notice to Customer of the new fees at least forty five (45) days prior to the beginning of the Renewal Term, and if Customer does not give a notice of non-renewal as provided in Section 2 above, the Customer shall be deemed to have accepted the new fee for that Renewal Term and any subsequent Renewal Terms (unless the fees are increased in the same manner for a subsequent Renewal Term).

(c) Taxes.

At HostAsean's request Customer shall remit to HostAsean all sales, VAT or similar tax imposed on the provision of the services (but not in the nature of an income tax on HostAsean), regardless of whether HostAsean fails to collect the tax at the time the related services are provided.

(d) Early Termination.

Customer acknowledges that the amount of the fee for the service is based on Customer's agreement to pay the fee for the entire Initial Term, or Renewal Term, as applicable. In the event HostAsean terminates the Agreement for Customer's breach of the Agreement in accordance with [Section 9](#) (Termination), or Customer terminates the service other than in accordance with [Section 9](#) (Termination) for HostAsean's breach, the unpaid fees for each billing cycle remaining in the Initial Term or then-current Renewal Term, as applicable, are due on the business day following termination of the Agreement.

4. Law/AUP.

Customer agrees to use the service in compliance with applicable law and HostAsean's Acceptable Use Policy posted at <http://www.hostasean.com/acceptable-use-policy/> (the "AUP"), which is hereby incorporated by reference in this Agreement. Customer agrees that HostAsean may, in its reasonable commercial judgment consistent with industry standards, amend the AUP from time to time to further detail or describe reasonable restrictions and conditions on Customer's use of the Services. Amendments to the AUP are effective on the earlier of HostAsean's notice to Customer that an amendment has been made, or the first day of any Renewal Term that begins subsequent to the amendment. Customer agrees to cooperate with HostAsean's reasonable investigation of any suspected violation of the AUP. In the event of a dispute between HostAsean and Customer regarding the interpretation of the AUP, HostAsean's commercially reasonable interpretation of the AUP shall govern.

5. Customer Information.

Customer represents and warrants to HostAsean that the information he, she or it has provided and will provide to HostAsean for purposes of establishing and maintaining the service is accurate. If Customer is an individual, Customer represents and warrants to HostAsean that he or she is at least 18 years of age. HostAsean may rely on the instructions of the person listed as the Primary Customer Contact on the Order with regard to Customer's account until Customer has provided a written notice changing the Primary Customer Contract.

6. Indemnification.

Customer will fully indemnify HostAsean against all costs, expenses, liabilities, losses, damages and judgments that HostAsean may incur or be subject to as a result of any of the following:

- Customer's misuse of the Service;
- Customer's breach of this Agreement;

- Customer's negligence or other act of default;
- The Activities of third parties conducted on Customer's website using facilities such as blogs, forums and chat.

7. Warranty Disclaimer Subject to the provisions of this Agreement, HostAsean gives no warranty, express or implied, in connection with the Service as to fitness for purpose, quality, non-infringement or merchantability.

8. Liability

HostAsean shall not be liable to Customer or to third parties for:

- Any losses resulting from interruptions or downtime to the Service;
- Any inability, on the part of Customer, to use the Service;
- Any damage or loss resulting from the loss of confidentiality caused by the storage of information on the internet.

Nothing in this Clause shall exclude the liability of HostAsean for death or personal injury resulting from HostAsean's negligence or that of its employees or agents.

Nothing in this Clause or in this Agreement shall exclude the liability of HostAsean for fraudulent misrepresentation.

9. Suspension/Termination.

(a) Suspension of Service.

Customer agrees that HostAsean may suspend services to Customer without notice and without liability if: **(i)** HostAsean reasonably believes that the services are being used in violation of the AUP; **(ii)** Customer fails to cooperate with any reasonable investigation of any suspected violation of the AUP; **(iii)** HostAsean reasonably believes that the suspension of service is necessary to protect its network or its other customers, or **(iv)** as requested by a law enforcement or regulatory agency. Customer shall pay HostAsean's reasonable reinstatement fee if service is reinstituted following a suspension of service under this subsection.

(b) Termination.

The Agreement may be terminated by Customer prior to the expiration of the Initial Term or any Renewal Term without further notice and without liability if HostAsean fails in a material way to provide the service in accordance with the terms of the Agreement and does not cure the failure within ten (10) days of Customer's written notice describing the failure in reasonable detail. The Agreement may be terminated by HostAsean prior to the expiration of the Initial Term or any Renewal Term without further notice and without liability as follows: **(i)** upon ten (10) days notice if Customer is overdue on the payment of any amount due under the Agreement; **(ii)** Customer materially violates any other provision of the Agreement, including the AUP, and fails to cure the violation within thirty (30) days of a written notice from HostAsean describing the violation in reasonable detail;

(iii) upon one (1) days notice if Customer's Service is used in violation of a material term of the AUP more than once, or (iv) upon one (1) days notice if Customer violates Section 5 (Customer Information) of this Agreement. Either party may terminate this agreement upon ten (10) days advance notice if the other party admits insolvency, makes an assignment for the benefit of its creditors, files for bankruptcy or similar protection, is unable to pay debts as they become due, has a trustee or receiver appointed over all or a substantial portion of its assets, or enters into an agreement for the extension or readjustment of all or substantially all of its obligations.

10. Requests for Customer Information.

Customer agrees that HostAsean may, without notice to Customer, (i) report to the appropriate authorities any conduct by Customer or any of Customer's customers or end users that HostAsean believes violates applicable law, and (ii) provide any information that it has about Customer or any of its customers or end users in response to a formal or informal request from a law enforcement or regulatory agency or in response to a formal request in a civil action that on its face meets the requirements for such a request.

11. Back Up Copy.

Customer agrees to maintain a current copy of all content hosted by HostAsean notwithstanding any agreement by HostAsean to provide back up services.

12. Changes to HostAsean's Network.

Upgrades and other changes in HostAsean's network, including, but not limited to changes in its software, hardware, and service providers, may affect the display or operation of Customer's hosted content and/or applications. HostAsean reserves the right to change its network in its commercially reasonable discretion, and HostAsean shall not be liable for any resulting harm to Customer.

13. Notices.

Notices to HostAsean under the Agreement shall be given via electronic mail to the e-mail address posted for customer support on <http://www.hostasean.com>. Notices to Customer shall be given via electronic mail to the individual listed as the Primary Customer Contact on the Order. Notices are deemed received on the day transmitted, or if that day is not a business day, on the first business day following the day delivered. Customer may change his, her or its notice address by a notice given in accordance with this Section.

14. Force Majeure.

Neither HostAsean nor Customer shall be liable for breaching this Agreement where that breach results from Force Majeure.

Force Majeure refers to any event that is beyond the reasonable control of the parties and includes, but is not limited to, acts of God; acts of war; national emergencies; governmental action; union action; civil unrest; fire; explosion; flood and theft.

15. Miscellaneous.

Each party acknowledges and agrees that the other party retains exclusive ownership and rights in its trademarks, service marks, trade secrets, inventions, copyrights, and other intellectual property. Neither party may use the other party's name or trade mark without the other party's prior written consent. The parties intend for their relationship to be that of independent contractors and not a partnership, joint venture, or employer/employee. Neither party will represent itself to be agent of the other. Each party acknowledges that it has no power or authority to bind the other on any agreement and that it will not represent to any person that it has such power or authority. This Agreement may be amended only by a formal written agreement signed by both parties. The terms on Customer's purchase order or other business forms are not binding on HostAsean unless they are expressly incorporated into a formal written agreement signed by both parties. A party's failure or delay in enforcing any provision of the Agreement will not be deemed a waiver of that party's rights with respect to that provision or any other provision of the Agreement. A party's waiver of any of its right under the Agreement is not a waiver of any of its other rights with respect to a prior, contemporaneous or future occurrence, whether similar in nature or not. The captions in the Agreement are not part of the Agreement, but are for the convenience of the parties. The following provisions will survive expiration or termination of the Agreement: Fees, indemnity obligations, provisions limiting liability and disclaiming warranties, provisions regarding ownership of intellectual property, these miscellaneous provisions, and other provisions that by their nature are intended to survive termination of the Agreement. There are no third party beneficiaries to the Agreement. Neither insurers nor the customers of resellers are third party beneficiaries to the Agreement. Customer may not transfer the Agreement without HostAsean's prior written consent. HostAsean's approval for assignment is contingent on the assignee meeting HostAsean's credit approval criteria. HostAsean may assign the Agreement in whole or in part. In the event that any provision of this Agreement is found to be invalid or otherwise unenforceable for any reason, the remaining provisions shall continue in full force without being impaired or invalidated in any way. The waiver by either party of any provision of this Agreement will not operate or be interpreted as a waiver of any other provision or a subsequent breach of any provision. This Agreement is governed by the laws of England and Wales. Any dispute relating to this Agreement shall fall within that jurisdiction. Both parties shall keep in strict confidence all information which are of a confidential nature and have been disclosed by one party to the other party and shall procure that the receiving party's employees, agents, consultants or subcontractors keep in strict confidence all such information other than for the purposes of performing its obligations under this Agreement.

This Agreement together with the Order and AUP constitutes the complete and exclusive agreement between the parties regarding its subject matter and supercedes and replace any prior understanding or communication, written or oral.