



# General terms and conditions

## **24 ASAP GmbH**

Valid from September 1<sup>st</sup>, 2014

## § 1 Conclusion of the contract und validity of general terms and conditions

1. The present general terms and conditions regulate the mutual rights and obligations of 24 ASAP GmbH, Bergstrasse 15, CH-8700 Küsnacht on one side and the customers of 24 ASAP GmbH on the other side. A contractual relation for the use of services of 24 ASAP GmbH is given by acceptance of an order through customers to 24 ASAP GmbH.
2. The present general terms and conditions serve as a legal basis and are valid without any reference for all contracts and additional contracts between 24 ASAP GmbH and the customer. The customer accepts the general terms and conditions of 24 ASAP GmbH by signing the contract resp. additional contract.
3. In addition to the present general terms and conditions additional contractual conditions will apply for certain services of 24 ASAP GmbH, which need to be recorded in written form.
4. If the customer order takes place per phone or per e-mail, the order applies till adoption resp. non-adoption through 24 ASAP GmbH as binding.

## § 2 Scope and liability of 24 ASAP GmbH services

1. The scope and liability results from the defined terms of reference as well as the single client contracts.
2. 24 ASAP GmbH reserves the right to extend and/or change its services and to make improvements. 24 ASAP GmbH is also entitled to reduce the services in a reasonable manner for the customer. The change and / or setting of services in the above mentioned scope does not lead under any circumstances to a reduction, refund or damage claim for the customer.
3. As far as 24 ASAP GmbH provides services free of charge, they might be changed, suspended or interrupted without notice at any time. The suspension, interruption and/or modification of services which are free of charge does not lead under any circumstances to a reduction, refund or damage claim for the customer.
4. 24 ASAP GmbH provides its services carefully and professionally. She is making all efforts to offer its services around the clock trouble-free and without interruptions. However, 24 ASAP GmbH assumes no guarantee, that all their services are ensured at any time and without interruption. Errors which affect the performance and compromise safety will be rectified as fast as possible through remote action. If the troubleshooting should/must be done at the customer site, the customer will be charged for the outlays according to the current price list.

5. For the fulfillment of services or contracts 24 ASAP GmbH may consult subcontractors, partners or third-parties. For all services offered by or through third-parties, 24 ASAP GmbH excludes any responsibility and/or liability. The third-parties are solely responsible for completeness, accuracy, availability or relevance of different information and services.
6. The customer will be informed early about all service interruptions that are necessary to carry out maintenance or troubleshooting.
7. 24 ASAP GmbH excludes any expenses of the customer, which caused him to third-parties to gain access to a service offered by 24 ASAP GmbH (i.e. dial in via phone line or similar things).

## § 3 Customer duties and responsibilities

1. The customer is liable to use the contracted services with 24 ASAP GmbH in an appropriate manner.
2. The customer is liable to notify every change of company or personal data, which have an influence on the contract concluded with 24 ASAP GmbH, within seven days unasked and in written form.
3. Mass message, multilevel marketing (MLM), sending of spam messages as well as similar activities are strictly prohibited.
4. Counterfeiting and / or usage of a different sender address than the own sender address or number is strictly prohibited.
5. 24 ASAP GmbH assumes no guarantee that all their offered services function properly on technically defective devices of the customer. The customer is personally responsible for hard- and software components (incl. programs, licenses and configurations) on his devices.
6. The customer bears sole responsibility for all contents (pictures, language, data etc.) which are transmitted through 24 ASAP GmbH services by the customer. The customer warrants that he has the appropriate privileges or is the holder of content.

## § 4 Warranty

1. 24 ASAP GmbH will make any reasonable efforts, to ensure the accuracy and reliability of the services. 24 ASAP GmbH does not assume any warranty for uninterrupted support of services. Processes which are necessary for maintenance- and data storage purposes may lead to disconnections. For the duration of this interruption time as well as an appropriate lead and lag time 24 ASAP GmbH is exempted from the obligation to perform the services.

2. In case of force majeure and unforeseen incident like fire, earth quake, storm, warlike occasions, strike, lockout, unforeseen government restrictions, internet interruptions or other circumstances which are not maintained by 24 ASAP GmbH and which lead to a reduction or discontinuation of the services 24 ASAP GmbH is exempted for the duration of the reduction or discontinuation from the obligation. Force majeure is also given if 24 ASAP GmbH needs to reduce or fully set their services as a result of a computer virus in the system although 24 ASAP GmbH made any appropriate and reasonable efforts to protect the services against the entering of a computer virus.

## § 5 Liability

1. As far as permitted by law, especially indication of intent and gross negligence, 24 ASAP GmbH excludes any liability for losses and damages caused by their acts or omissions as well as by the acts or omissions of their assistants.
2. The liability for indirect damage or consequential damages is excluded by 24 ASAP GmbH extent permitted by law.
3. 24 ASAP GmbH is not liable for possible damages occurred by the fact, that customer information on technical pathways, which are ruled by internet providers or network operators, can be viewed.
4. The customer is liable for all consequences and disadvantages which arise to 24 ASAP GmbH and third-parties through the improper or illegal use of the 24 ASAP GmbH services or if the customer fails to meet its obligations. The customer is especially obliged to compensate 24 ASAP GmbH for any suffered damage as well as for expenses regarding the damage repair.
5. Changes of the general terms and conditions will be notified in advance to the customer. If the contract is not going to be terminated within 20 days after reception of the changes by the customer he agrees to the changes.

## § 6 Terms of payment

1. The contractually owed compensation of the customer depends on the general applicable price list valid at the time of concluding the contract. The owed compensation is due after the monthly invoicing (partial services in advance).
2. Costs for the use of telephone services, data networks and other services of data transmission as well as costs for any other charges or services of third-party like internet provider or network operators are not included in the mentioned compensation for 24 ASAP GmbH services.
3. By giving notice of one month's written information 24 ASAP GmbH can increase the compensation owed for user specific services in a market scope at any time. The customer affected by a price increase has the right to

terminate the contract within the same deadline.

4. The user agrees to receive invoices in paper form.
5. All agreed prices for services of 24 ASAP GmbH are in Swiss Francs and are, unless otherwise mentioned, exclusive VAT or any other public charges. The agreed prices do not include costs for travel expenses, meals, delivery, packaging nor any other product ancillary costs.
6. For special orders which do not result in the standard range of 24 ASAP GmbH, the 24 ASAP GmbH can require a reasonable deposit from the customer.

## § 7 Default of payment

1. If the customer fails to pay the fee in areas, 24 ASAP GmbH is entitled to block the customers access, to charge 5% default interest (otherwise 24 ASAP GmbH proves a higher interest burden) and to terminate the contractual relationship without notice.
2. 24 ASAP GmbH reserves the right to assert further claims due to delay in payment. 24 ASAP GmbH may collect overdue fines of at least CHF 30.00 to cover administrative expenses.
3. 24 ASAP GmbH has the right to terminate the contractual relationship without notice if the customer fails to pay for two or more successive accountings. 24 ASAP GmbH has the right to charge the customer for resulting failures as well as additional administrative expenses.

## § 8 Clearing and retention

1. 24 ASAP GmbH is not liable for delivery and performance delays due to interruptions or failures of communication networks and gateways of the internet provider or network operator even if binding delivery periods are settled. This entitles 24 ASAP GmbH to delay the delivery or service by the duration of the fault or default, plus a reasonable start-up time.
2. Failures of services outside the responsibility of 24 ASAP GmbH do not lead to a refund. Moreover, downtimes will be covered by life-time extension of the contract.
3. Clearing and retention of the customer is only possible, if its claims against 24 ASAP GmbH are uncontested or legally established. Any withholding of payments is excluded if the retention is based on another contract. A settlement of claims by the customer is only permitted with the approval of 24 ASAP GmbH.

## **§ 9 Term and termination**

1. The contract for the purchase of 24 ASAP GmbH services will be closed to the period defined in the contract.
2. In compliance with a notice period of three months the contract can be terminated by both parties at the end of a month, but not earlier than the end of the minimum contracted period. The termination needs to be in real writing, sent to: 24 ASAP GmbH, Bergstrasse 15, CH-8700 Küsnacht, a termination via e-mail or via phone is ineffective.
3. 24 ASAP GmbH is entitled without prejudice to further claims to terminate this contract without notice and without the possible implications of customers right if the customer fails essential contractual obligations, especially the obligations described in §§ 3 and 6 or its obligations to pay the compensations. In an immediate termination of the contract for the above mentioned reasons 24 ASAP GmbH is entitled to claim the resulting damage due to the breach of contract as well as the immediate termination.
4. Exemption claims and legal waivers in favor of 24 ASAP GmbH shall survive the termination of this contract.
5. Fees already paid will not be refunded, whether in case of ordinary nor in case of termination without notice.
6. The customer can cancel his termination at any time, the previous termination will not found to be. Any resulting costs must be covered by the customer.

## **§ 10 Secrecy**

1. 24 ASAP GmbH and the customer make a commitment to keep designated confidential information secret and to make it inaccessible to unauthorized third party, contents of the contract and contract annexes are equally as strictly confidential.
2. 24 ASAP GmbH is entitled to hand out customer addresses to third parties, especially criminal authorities, in case of illegal and immoral activities.

## **§ 11 Jurisdiction and applicable law**

1. The place of jurisdiction for all disputes arising from this contract is Zürich, Switzerland.
2. Swiss law to the exclusion of the Swiss Private International Law and the UN Sales Convention shall be deemed agreed.

## **§ 12 Final determinations**

1. This general terms and conditions serve as a basis for all contracts with 24 ASAP GmbH. Customer confirmations with reference to his own terms and conditions are hereby expressly rejected.
2. Neither party may assign the rights according to this contract without the prior consent of the other party to third parties.
3. If any provisions of these terms and conditions are or should become invalid, this shall not affect the validity of the other provisions of these terms of use. The invalid resp. incomplete provision will be replaced resp. completed by a provision which comes closest to the economic intent.