



## **Terms of Service**

KAP Computer Solutions Pvt. Ltd., herewith KAPS Acceptable Use Policy ("AUP") is provided to give our customers and users a clear understanding of what KAPS expects of them while using the service. All users of KAPS services: those who access some of our Services but do not have accounts, as well as those who pay a service fee to subscribe to the Services, must comply with this AUP and our TOS (Terms of Service).

### **Use of KAPS Service constitutes acceptance and agreement to KAPS AUP as well as KAPS TOS (Terms of Service)**

**IMPORTANT NOTICE:** \*All Payments To KAPS (KAP Computer Solutions Pvt. Ltd.,) are Non-Refundable\*

We support the uncensored flow of information and ideas over the Internet and do not actively monitor subscriber activity under normal circumstances. Similarly, we do not exercise editorial control over the content of any web site, e-mail transmission, newsgroups, or other material created or accessible over or through the services, except for certain proprietary Web sites. However, in accordance with our TOS (Terms of Service), we may remove any materials that, in our sole discretion, may be illegal, may subject us to liability, or which may violate this AUP. KAPS may cooperate with legal authorities and/or third parties in the investigation of any suspected or alleged crime or civil wrongdoing. Your violation of this AUP may result in the suspension or immediate termination of either your KAPS account or other actions as detailed in Section 3 **WITHOUT PRIOR NOTICE.**

This document is intended to provide a basic understanding of KAPS Acceptable Use Policy. The following are guidelines for the establishment and enforcement of KAPS AUP:

- Ensure reliable service to our customers
- Ensure security and privacy of our systems and network, as well as the networks and systems of others
- Comply with existing laws
- Maintain our reputation as a responsible service provider
- Encourage responsible use of the Internet and discourage activities which reduce the usability and value of Internet services
- Preserve the value of Internet resources as a conduit for free expression and exchange of information
- Preserve the privacy and security of individual users

KAPS intends to provide its customers access to everything the Internet has to offer. While KAPS is firmly committed to the principles of free speech, certain activities that may be damaging to the resources of both KAPS and the Internet and cannot be permitted under the guise of free speech. The resources of KAPS and the Internet are limited, and abuse of these resources by one user has a negative impact on the entire community.

We do not routinely monitor the activity of accounts except for measurements of system utilization and the preparation of billing records. However, in our efforts to promote good citizenship within the Internet community, we will respond appropriately if we become aware of inappropriate use of our service.

You may not use your server or virtual site to publish material, which KAPS determines, at its sole discretion, to be unlawful, indecent or objectionable. For purposes of this policy, "material" refers to all forms of communications including narrative descriptions, graphics (including photographs, illustrations, images, drawings, logos), executable programs, video recordings, and audio recordings.

If a KAPS account is used to violate the Acceptable Use Policy or our TOS, we reserve the right to **terminate your service without notice**. We prefer to advise customers of inappropriate behavior and any necessary corrective action, however, flagrant violations of the Acceptable Use Policy will result in immediate termination of service. Our failure to enforce this policy, for whatever reason, shall not be construed as a waiver of our right to do so at any time.

As a member of our network community, you must use your Internet access responsibly. If you have any questions regarding this policy, please contact us at [info@kapsystem.com](mailto:info@kapsystem.com).

### **VIOLATIONS OF KAPS ACCEPTABLE USE POLICY**

The following constitute violations of this AUP:

1. **Illegal use:** KAPS services may not be used for illegal purposes, or in support of illegal activities. KAPS reserves the right to cooperate with legal authorities and/or injured third parties in the investigation of any suspected crime or civil wrongdoing.
2. **Harm to minors:** Use of KAPS service to harm, or attempt to harm, minors in any way, including, but not limited to child pornography. Any account found to host child pornography or linking to the same will be removed from our network immediately without notice. Upon a second violation the account will be immediately terminated without notice. Severe cases can result in immediate termination. Any implication of underage content or misleading information perceived to be child pornography will result in the same penalties. All violations will be reported to the appropriate law enforcement agency. Any account found to host "Lolita" type content or linking to the same will be given one hour to remove the offending content/domain. Upon a second violation the account will be removed from our network immediately without notice. Subsequent violations can result in the termination of the server without notice. Severe cases can result in immediate termination. Any implication of underage content or misleading information perceived to be underage content will result in the same penalties. All violations will be reported to the appropriate law enforcement agency.
3. **Copyright or trademark infringement:** Use of KAPS service to transmit any material (by e-mail, uploading, posting, hot linking, directly linking or otherwise) that infringes any copyright, trademark, patent, trade secret or other proprietary rights of any third party, including, but not limited to, the unauthorized copying of copyrighted material, the digitization and distribution of photographs from magazines, books, or other copyrighted sources, and the unauthorized transmittal of copyrighted software.
4. **Collection of personal data:** Use of KAPS service to collect, or attempt to collect, personal information about third parties without their knowledge or consent is violation of this AUP.
5. **Fraud:** Involves a knowing misrepresentation or misleading statement, writing or activity made with the intent that the person receiving it will act upon it.
6. **Infringement of Copyright, Patent, Trademark, Trade Secret, or Intellectual Property Right:** Distribution and/or posting of copyrighted or the aforementioned infringements will not be tolerated.



7. **Third Party Accountability:** KAPS subscribers will be held responsible and accountable for any activity by third parties, using their account, that violates guidelines created within the Acceptable Use Policy.

## **Security**

You are responsible for any misuse of your account, even if the inappropriate activity was committed by a friend, family member, guest or employee. Therefore, you must take steps to ensure that others do not gain unauthorized access to your account. In addition, you may not use your account to breach security of another account or attempt to gain unauthorized access to another network or server.

- Your password provides access to your account. It is your responsibility to keep your password secure.
- Sharing your password and account access with unauthorized users is prohibited. You should take care to prevent others from using your account since you will be held responsible for such use.
- Attempting to obtain another user's account password is strictly prohibited, and may result in termination of service.
- You must adopt adequate security measures to prevent or minimize unauthorized use of your account.
- You may not attempt to circumvent user authentication or security of any host, network or account. This includes, but is not limited to, accessing data not intended for you, logging into or making use of a server or account you are not expressly authorized to access, or probing the security of other networks. Use or distribution of tools designed for compromising security is prohibited. Examples of these tools include, but are not limited to, password guessing programs, cracking tools or network probing tools.
- Users who violate systems or network security may incur criminal or civil liability. KAPS will cooperate fully with investigations of violations of systems or network security at other sites, including cooperating with law enforcement authorities in the investigation of suspected criminal violations.

## **Network Performance**

KAPS accounts operate on shared resources. Excessive use or abuse of these shared network resources by one customer may have a negative impact on all other customers. Misuse of network resources in a manner which impairs network performance is prohibited by this policy and may result in termination of your account.

You are prohibited from excessive consumption of resources, including CPU time, memory, disk space and session time. You may not use resource-intensive programs which negatively impact other customers or the performances of KAPS systems or networks. KAPS reserves the right to terminate or limit such activities.

## **REPORTING VIOLATIONS OF KAPS AUP**

KAPS requests that anyone who believes that there is a violation of this AUP direct the information to the Abuse Department at [info@kapsystem.com](mailto:info@kapsystem.com).

If available, please provide the following information:

- The IP address used to commit the alleged violation
- The date and time of the alleged violation, including the time zone or offset from GMT
- Evidence of the alleged violation



E-mail with full header information provides all of the above, as do system log files. Other situations will require different methods of providing the above information. KAPS may take any one or more of the following actions in response to complaints:

- Issue written or verbal warnings
- Suspend the Member's newsgroup posting privileges
- Suspend the Member's account
- Terminate the Member's account
- Bill the Member for administrative costs and/or reactivation charges
- Bring legal action to enjoin violations and/or to collect damages, if any, caused by violations

### **REVISIONS TO THIS ACCEPTABLE USE POLICY**

KAPS reserves the right to revise, amend, or modify this AUP, our TOS (Terms of Service) and our other policies and agreements at any time and in any manner. Notice of any revision, amendment, or modification will be posted in accordance with our TOS (Terms of Service).

### **Terms of Service**

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kapsystem.com ("The Company" – KAP Computer Solutions Pvt. Ltd.,) agrees to furnish services to the Subscriber, subject to the following TOS (Terms of Service).

Use of KAPS Service constitutes acceptance and agreement to KAPS AUP as well as KAPS TOS (Terms of Service).

All provisions of this contract are subject to the TOS (Terms of Service) of kapsystem.com and AUP (Acceptable Use Policy). The AUP may be changed from time to time at the discretion of the Company. Subscriber understands that change to the AUP by the Company shall not be grounds for early contract termination or non-payment.

This Agreement shall be construed in all respects in accordance with the laws of the state of Karnataka, India.

1. **Disclosure to Law Enforcement:** The AUP specifically prohibits the use of our service for illegal activities. Therefore, Subscriber agrees that the Company may disclose any and all subscriber information including assigned IP numbers, account history, account use, etc. to any law enforcement agent who makes a written request without further consent or notification to the Subscriber. In addition KAPS shall have the right to terminate all service set forth in this Agreement.
2. **Service Rates:** Subscriber acknowledges that the nature of the service furnished and the initial rates and charges have been communicated to Subscriber. Subscriber is aware that the Company may prospectively change the specified rates and charges from time to time. The promotional offer is contingent upon Company achieving and maintaining its cost of service goals including but not limited to rates charged to company by its suppliers.
3. **Payment:** Establishment of this service is dependent upon receipt by the Company of payment of stated charges. Subsequent payments are due on the anniversary date of the month for that month's service or, on the annual renewal date in case of services purchased annually.
4. **Payments and Fees:** **Checks and Demand Drafts returned for any reason are subject to returned item charge.** Service will be interrupted on accounts that reach 7 days past due. Service interrupted for nonpayment may be subject to a reconnect charge fixed at the sole discretion of KAP Computer Solutions Pvt. Ltd. Accounts not paid by due date may be subject to a late fee at



the sole discretion of KAP Computer Solutions Pvt. Ltd. If you desire to cancel your account, please email [info@kapsystem.com](mailto:info@kapsystem.com) 30 days before expiry of the account. Failure to notify cancellation would result in services billed and payable for the next period.

5. **Refund and Disputes:** All payments to kapsystem.com are non-refundable. This includes any service rendered by KAPS or purchasing any service in online and subsequent charges regardless of usage. All overcharges or billing disputes must be reported within 30 days of the time the dispute occurred. If you dispute a charge to your credit card issuer that, in KAPS sole discretion is a valid charge under the provisions of the TOS and /or AUP, you agree to pay KAPS an "Administrative Fee" of not less than Rs. 2000 and not more than Rs. 10,000. KAPS reserves the right to suspend all services provided to the client in such a case till payments are settled.
6. **Failure to Pay:** The Company may temporarily deny and suspend ALL accounts and services provided to a customer or terminate this Agreement upon the failure of the customer to pay charges when due. Such termination or denial will not relieve Subscriber of responsibility for the payment of all accrued charges, plus reasonable interest and any collection fees.
7. **Account Cancellation:** Requests for canceling accounts may be made in writing with at least 30 days notice but not more than 60 days prior written notice and sent to [info@kapsystem.com](mailto:info@kapsystem.com). Only the authorized account holder or a authorized contact may cancel the account. Authorized contacts are appointed only by the account holder. In the event of cancellation, customer will automatically be billed for any excess usage during the then-current calendar month.
8. **Subscriber acknowledges that the service provided is of such a nature that service can be interrupted for many reasons other than the negligence of the company and that damages resulting from any interruption of service are difficult to ascertain. Therefore, subscriber agrees that the company shall not be liable for any damages arising from such causes beyond the direct and exclusive control of the company. Subscriber further acknowledges that the company's liability for its own negligence may not in any event exceed an amount equivalent to charges payable by subscriber for services during the period damages occurred. In no event shall the company be liable for any special or consequential damages, loss or injury.**
9. **Support Boundaries:** KAPS provides 24 x 7 technical supports to our subscribers. We limit our technical support to our area of expertise. The following is our guidelines when providing support: KAPS provides support related to your service. KAPS does not provide technical support for YOUR customers. If you can email, we encourage you to email [support@kapsystem.com](mailto:support@kapsystem.com) for assistance.

10. **Notification of Violation:**
  - a. KAPS is under no duty to look at each customer's or user's activities to determine if a violation of the AUP has occurred, nor do we assume any responsibility through our AUP to monitor or police Internet-related activities.
  - b. First violation: Any User, which KAPS determines to have violated any element of this Acceptable Use Policy, shall receive an email, warning them of the violation. The service may be subject at KAPS discretion to a temporary suspension pending a User's agreement in writing, to refrain from any further violations.



- c. **Second Violation:** Users that KAPS determines to have committed a second violation of any element of this Acceptable Use Policy shall be subject to immediate suspension or termination of service without further notice.
11. **Indemnification:** KAPS wishes to emphasize that in agreeing to the KAPS Acceptable Use Policy (AUP) and Terms of Service (ToS), customer indemnifies KAPS for any violation of the Acceptable Use Policy (AUP) and Terms of Service (ToS) that results in loss to KAPS or the bringing of any claim against KAPS by any third-party. This means that if KAPS is sued because of a customer's or a customer of a customer's activity, the customer will pay any damages awarded against KAPS, plus all costs and attorney's fees.
12. **Miscellaneous Provisions:** You must provide us with, and keep current, good contact information for you. E-mail, fax, and telephone contacts are used, in that order of preference.
  - a. A waiver by the Company of any breach of any provision of this Agreement by Subscriber shall not operate as or be construed as a continuing or subsequent waiver thereof or as a waiver of any breach of any other provision thereof.
  - b. Subscriber shall not transfer or assign this Agreement without the prior written consent of the Company. Company may assign Agreement at anytime without consent from or notice to Subscriber. Company reserves right to cancel customers rights under this contract at anytime without further obligation.
  - c. KAPS is not responsible for any damages your business may suffer. KAPS does not make implied or written warranties for any of our services. KAPS denies any warranty or merchantability for a specific purpose. This includes loss of data resulting from delays, non-deliveries, wrong delivery, and any and all service interruptions caused by KAPS.
13. **Responsibility for Content:** You, as KAPS customer, are solely responsible for the content stored on and served by your KAPS server.
14. **Force Majeure:** Neither party shall lose any rights hereunder or be liable to the other party for damages or losses on account of failure of performance by the defaulting party if the failure is occasioned by any occurrence or contingency beyond its reasonable control, including war, strike, fire, Act of God, earthquake, flood, lockout, embargo, governmental acts or orders or restrictions, failure of suppliers, or any other reason where failure to perform is beyond the reasonable control of the nonperforming party; provided that such party shall use commercially reasonable efforts to promptly mitigate any damages or losses.
15. **Denial of Service:** We reserve the right to refuse service to anyone at any time for any reason.