



EXECMAIL IT SOLUTIONS

P O Box 12708, Elspark, GERMISTON, 1418 • CK no: 2004/080436/23 • VAT No: 4430216905

T: 011 893-0298 • F: 086 698 2176 • E: info@execmail.co.za • W: www.execmail.co.za

APPLICATION FORM:

<i>DETAILS OF INDIVIDUAL</i>	
Full name and surname:	
Identity number:	
Residential address:	
Postal address:	
Telephone number:	
Cell phone number:	
Fax number:	
E-mail address:	
Please select one of the following:	
ADSL / FIBRE / LTE-A	
6 Month period:	
12 Month period:	
24 Month period:	
<i>TERMS AND CONDITIONS:</i>	
1. See detailed terms and conditions attached. It is the client's responsibility to familiarize themselves with our updated terms as per our website www.execmail.co.za	
2. Every client is to complete this application form and to submit supporting documents	
<i>PAYMENTS:</i>	
1. Payment as set out in your quotation	
2. Payment is to be made on or before the 25th of EVERY MONTH.	
3. In the event of you failing to make the payment the service will be suspended without any notification.	
4. To have the service reconnected a reconnection fee in the amount of R50.00 [FIFTY RAND] will be charged together with the arrear payment.	
<i>OUR BANKING DETAILS:</i>	
EXEC MAIL CC, STANDARD BANK, CHEQUE ACCOUNT ACCOUNT NUMBER: 020699468, BRANCH CODE: 011842	

THUS DONE and SIGNED at _____ on this the _____ day of _____.

SIGNED: _____
PRINT FULL NAME: _____



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1. PREAMBLE

- 1.1 WHEREAS EXEC MAIL is able to provide certain Internet Services to the CUSTOMER; AND WHEREAS the CUSTOMER requires the relevant Internet Services from EXEC MAIL.
- 1.2 NOW THEREFORE the terms and conditions regulating EXEC MAIL'S provision and the CUSTOMER'S utilisation of the relevant internet services shall be as set out herein below.

2. DEFINITIONS

- 2.1 "Execmail" shall mean: EXEC MAIL CC, a duly registered and incorporated Close Corporation with registration number 97/45703/23 and having its principal place of business situated at 26 Cormorant Street, Elspark, Germiston.
- 2.2 "The Customer" shall mean: the party who/which signs the "Application Form" as supplied by EXEC MAIL to the CUSTOMER and which form shall record the acceptance by the Customer of these Standard Terms and Conditions by the Customer affixing his signature/its authorised representative's signature, in writing, at the bottom thereof.
- 2.3 "The Parties" shall mean: both EXEC MAIL and the CUSTOMER.
- 2.4 "Services" shall include any relevant equipment and/or hardware, software.
- 2.5 "The Commencement Date" shall mean: the date upon which EXEC MAIL'S Application Form is duly signed by the CUSTOMER.

3. INCORPORATED DOCUMENTS

- 3.1 The parties hereby agree that the terms and conditions as recorded below SHALL be read together with EXEC MAIL'S Application Form and/or any further written documents which are/will be required by EXEC MAIL to be completed by the CUSTOMER upon conclusion of this agreement or as required from time to time by EXEC MAIL in the future, including but not limited to:-
 - 3.1.1 The Customer's Authority for payment by way of EFT.

4. CLAUSE HEADINGS

The use of headings shall be for the purpose of reference only and shall not influence the proper interpretation of the subject matter to which they pertain.

5. THE AGREEMENT

- 5.1 The parties hereby agree that a valid agreement of service between EXEC MAIL and the CUSTOMER shall come into operation at the commencement date hereof.
- 5.2 EXEC MAIL hereby agrees to use all reasonable efforts, within its power, to make available to the CUSTOMER, a continuous, uninterrupted, expedient and error free service in accordance with the terms and conditions recorded herein below.
- 5.3 The CUSTOMER hereby agrees to make use of EXEC MAIL'S services as referred to above and agrees to make payment of all charges due to EXEC MAIL in respect thereof. The CUSTOMER further agrees that NOTWITHSTANDING clause 5.2 above, it hereby acknowledges that temporary interruptions, during the normal course of EXEC MAIL'S provision of the relevant services to it may occur for WHATEVER REASON, and that EXEC MAIL shall not be held accountable and/or liable for ANY damages (economically or otherwise) as are incurred by the CUSTOMER as a result of such interruption/s.

6. PAYMENT

As stipulated in the Application Form.

7. INSTALLATION AND CONNECTION

As stipulated in the Application Form.

8. LIMITATION OF Execmail's LIABILITY

- 8.1 Execmail shall not be liable, directly or indirectly and UNDER ANY CIRCUMSTANCES for any loss, damage or injury, the CUSTOMER, its Holding Company, affiliates and/or subsidiaries, its/their customers or employees or any other third party having any dealings with the CUSTOMER for whatever reason, may suffer HOWSOEVER arising including, *inter alia*, as a result of the CUSTOMER'S access to or use of the services rendered by EXEC MAIL or any information or data obtained through such access or use, and specifically, but not limited to, any liability in respect of refunds of fees for loss of profits, financial losses, loss of contracts, loss of income, loss of anticipated/prospective business, the cost of replacement services, savings use, goodwill or any other form of consequential loss as a result of EXEC MAIL'S provision of services to the Company.
- 8.2 EXEC MAIL does not provide any warranties or representations, either express or implied with regard to the services to be provided by it in terms hereof and shall not accept any responsibility or liability for any damage, loss or injury arising from the provision or interrupted provision of the services to the CUSTOMER, the CUSTOMER'S employee's, directors, agents and/or representatives and which may arise, *inter alia*,





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- from a breach of **EXEC MAIL'S** security measures, any misuse of **EXEC MAIL'S** facilities and/or services and/or any act or omission of any **CUSTOMER** of **EXEC MAIL**.
- 8.3 **EXEC MAIL** shall, further, not be liable to **ANY** injured party for **ANY/ALL** amounts incurred by them/it as a result of, either directly or indirectly, the **CUSTOMER'S** use or misuse of **EXEC MAIL'S** services which:-
- 8.3.1 constitutes a violation of any law, regulation or tariff;
- 8.3.2 by its nature is defamatory, fraudulent and/or deceptive in any way;
- 8.3.3 is intended to threaten, harass or intimidate and/or;
- 8.3.4 interferes with the use and/or enjoyment of the services by other customers of **EXEC MAIL**.
9. **THE CUSTOMER'S GUARANTEES AND WARRANTIES**
Notwithstanding **clause 8** above and in addition thereto, the **CUSTOMER** hereby agrees and holds itself bound to the following terms and conditions which are deemed to be of a material nature and the compliance of which, *inter alia*, goes to the root of this agreement:-
- 9.1 It acknowledges that it is aware and will continue to remain aware of, and at all times comply with, all statutory or other regulatory provisions and/or rules applicable to the provision and use of **EXEC MAIL'S** services from time to time;
- 9.2 It shall make use of the services in a responsible, prudent, lawful and honest manner; fair usage
- 9.3 It shall comply with any directions, instructions and/or limitations issued to it or notified of by **EXEC MAIL** from time to time in connection with the services;
- 9.4 It shall not use any service in a manner which:-
- 9.4.1 constitutes a violation of any law, regulation or tariff that may be in force in South Africa or as may be binding upon it in respect of applicable foreign laws. In particular the **CUSTOMER** undertakes to familiarise itself and ensure that it is kept continuously apprised of all such laws, regulations and tariffs in force from time to time which may have any bearing on the services rendered and products provided by **EXEC MAIL** and/or the **CUSTOMER'S** access to or its use thereof;
- 9.4.2 constitutes an act or omission that is generally unacceptable or offensive to internet users in general, to the public at large or as same may be determined by **EXEC MAIL** from time to time in its sole and absolute discretion, specifically including (but not limited to) to hosting or pornographic material, spamming, hacking, unsolicited mailing and the like;
- 9.4.3 contravenes any **EXEC MAIL** policy, which may be contained in a document prepared by **EXEC MAIL** and which may be published, updated and amended by **EXEC MAIL** from time to time;
- 9.4.4 is defamatory, fraudulent or deceptive;
- 9.4.5 is intended to threaten, harass, nuke or intimidate;
- 9.4.6 tends to damage the name or reputation of **EXEC MAIL**, its holding company, affiliates and/or subsidiaries; or
- 9.4.7 interferes with the use and enjoyment of internet related services of customers of **EXEC MAIL**;
- 9.5 That the services to be rendered to it shall be as defined and subject to such limitations as may be notified from time to time by **EXEC MAIL**;
- 9.6 That it is and will continue to be aware of the limitations of all the relevant services provided by **EXEC MAIL** and it accepts that service quality and coverage available shall be limited to that supported by the infrastructure of **EXEC MAIL**, its network providers and Telkom and that this service may, from time to time, be adversely effected by a number of different causes;
- 9.7 That it shall not commit any act or omission which may have an adverse technical effect on the integrity or functionality of the network infrastructure of **EXEC MAIL** or that provided or made available to the **CUSTOMER** by or through **EXEC MAIL**. If any act or omission of the **CUSTOMER** has such an adverse technical effect the **CUSTOMER** shall, on receiving notification to that effect from **EXEC MAIL**, forthwith take such steps as may be necessary to rectify the situation at its on cost and expense, failing which **EXEC MAIL** shall be entitled, without prejudice to any other rights it may be entitled to in terms hereof or in terms of any other Law, to forthwith suspend the service and/or terminate this agreement;
- 9.8 That unless otherwise agreed with **EXEC MAIL**, in writing, it shall not resell or make available to any third parties and in any manner whatsoever, whether directly or indirectly, the services provided to it by **EXEC MAIL**.
- 9.9 That it shall take whatever steps may be necessary to ensure the safe keeping and confidentiality of all identification codes and passwords furnished by **EXEC MAIL** for use by it and shall specifically not disclose same to any third party without **EXEC MAIL'S** prior written consent;
- 9.10 To comply with the rules and regulations applicable to any network that is accessed through **EXEC MAIL**;
- 9.11 That where outside the Republic of South Africa it wishes to connect to the Internet, such connection may be subject to the terms and conditions of a Global Service Provider ("GSP"). The Customer has been informed of and acknowledges that the GSP is not affiliated to **EXEC MAIL**.
10. **EXEC MAIL'S SUSPENSION OF SERVICE**
As stipulated in the Application Form.
11. **BREACH AND TERMINATION OF THE AGREEMENT**
11.1 Without prejudice to any other rights or remedies which **EXEC MAIL** may have in terms hereof or in Law, **EXEC MAIL** shall be entitled to forthwith cancel this agreement and discontinue its service to the



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- CUSTOMER** in the event of the **CUSTOMER** failing to comply with any one or all of the terms and conditions of this agreement or any other further agreements as entered into from time to time between **EXEC MAIL** and the **CUSTOMER**.
- 11.2 Upon termination of this agreement, **EXEC MAIL** shall immediately disconnect the **CUSTOMER** from all the networks of **EXEC MAIL** and all its network providers and remove any property belonging to **EXEC MAIL**.
- 11.3 Upon disconnection of the **CUSTOMER** as a result of termination of this agreement, the **CUSTOMER** shall, on demand and within 7 (seven) days from the date of such written demand, pay all charges outstanding at the time of disconnection, including any disconnection fee, which may be charged by **EXEC MAIL**.
- 11.4 Upon termination hereof due to any breach of this agreement by the **CUSTOMER**, **EXEC MAIL** shall, in addition to the foregoing remedies, be entitled to claim any damages it may suffer as a result of such breach.
12. **EXEC MAIL'S NON LIABILITY OF UNINTENTIONAL BREACH**
EXEC MAIL shall not be liable to the **CUSTOMER** for any breach of this agreement and/or any failure on its part to perform any obligation in terms hereof as a result of any circumstances outside its reasonable control including without limitation, technical problems relating to the networks of **EXEC MAIL**, Telkom or any network provider of **EXEC MAIL**, or any one or more of them, acts of God, government control, restrictions or prohibitions or any Government Act or omission, whether local, national or international, any act or default of any supplier, agent or sub-contractor, industrial disputes of any kind or any other cause.
13. **ALTERATION**
13.1 **EXEC MAIL** reserves the right and shall be entitled to alter any name, code or number allocated by **EXEC MAIL** for use in connection with the services provided or to be provided to the **CUSTOMER** hereby indemnifies **EXEC MAIL** against any cost, loss or liability it may incur as a result of such alteration.
14. **SUPPORT SERVICES**
As stipulated in the Application Form.
15. **ACCEPTANCE OF OTHER EXEC MAIL SERVICES AND/OR PRODUCTS**
In the event of the **CUSTOMER** purchasing any other products and/or further services offered by **EXEC MAIL**, either upon conclusion hereof or in the future, the **CUSTOMER** shall be bound by the terms and conditions relating specifically to those products and/or further services and specifically with regard to the purchase of any course/s offered by **EXEC MAIL**, the **CUSTOMER**; in the event of any breach of the conditions contained herein or as otherwise recorded in any other written agreement with FFG; shall **IMMEDIATELY** be liable to **EXEC MAIL** for payment of the full purchase price of such course/s.
16. **SURETYSHIP**
In the event of the **CUSTOMER** being a Company (private or public), Close Corporation, partnership, association, trust and/or any other juristic person, then **EXEC MAIL** requires that all the directors, members, partners, associates or trustees (as may be applicable) of the juristic entity shall, in addition to the Application Form, complete in full the Agreement of Suretyship as attached to the Application Form.
17. **GENERAL**
17.1 The **CUSTOMER** shall not cede, assign, transfer, encumber or delegate any of its rights or obligations in terms of this agreement to any third party. Notwithstanding anything to the contrary contained herein, **EXEC MAIL** shall be entitled to cede its rights and delegate its obligations in terms of this agreement to any of its affiliated companies, provided that reasonable guarantees will be given to the **CUSTOMER**.
- 17.2 The terms and conditions as set out herein, constitute the entire agreement between **EXEC MAIL** and the **CUSTOMER** and supersedes all previous representations made to the **CUSTOMER**, all amendments effected by the **CUSTOMER** to any application form or other similar document submitted by it and all communications between **EXEC MAIL** and the **CUSTOMER** relating to the subject matter hereof, unless reduced to writing and signed by both parties.
- 17.3 The **CUSTOMER** chooses its *domicilium citandi et executandi* at the address as recorded disclosed on the Application Form, and which address shall be a physical address.
- 17.4 **EXEC MAIL** reserves the right to amend these terms and conditions from time to time and shall notify the **CUSTOMER** of such amendments, in writing.
- 17.5 This agreement shall be governed by and construed and interpreted in accordance with the Laws of the Republic of South Africa.
- 17.6 Unless inconsistent with or where a contrary intention clearly appears from the context, words importing any reference to a gender includes the other gender, any reference to the singular includes the plural and vice versa and any reference to natural persons includes legal persona and vice versa.
- 17.7 If any clause or clauses of the terms and condition of this agreement is found by any Court of competent jurisdiction to be invalid or unenforceable, they shall be capable of being severed from the remainder of the terms and conditions of this agreement which shall remain valid and enforceable.
- 17.8 The parties hereby consent to the jurisdiction of the Magistrates' Court irrespective of the value of any claim either party may have against the other.





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18. INTELLECTUAL PROPERTY RIGHTS

- 18.1 The intellectual property rights including (without limitation) copyrights and the trade and service marks utilised by **EXEC MAIL** during the term of this agreement, shall remain the property of **EXEC MAIL** or **EXEC MAIL'S** licensors and, save as provided herein, nothing contained in this Agreement shall be construed to confer on the **CUSTOMER** any rights or licences in such intellectual property rights.
- 18.2 Should **EXEC MAIL** be required to develop any computer code, data, documents, presentations, solutions design, web site or any application ("the work"), then all intellectual property rights in and to such work shall vest exclusively in **EXEC MAIL**. To the extent that intellectual property rights in the work vests, for whatever reason, in the **CUSTOMER**, the **CUSTOMER** hereby agrees to assign all such intellectual property rights to **EXEC MAIL**, which hereby accepts such assignment.
- 18.3 Save as provided for in this agreement, any license granted to the **CUSTOMER** in terms of this agreement shall be for singular user only. The **CUSTOMER** shall be obliged to pay a license fee for multiple use.
- 18.4 The **CUSTOMER** shall not modify or use any software, computer code, data, documents, presentations, solutions design, website or any application licensed to it in terms of this agreement, to create a derivative work without **EXEC MAIL'S** prior written consent.

19. DURATION OF THIS AGREEMENT

The agreement as contained hereinabove shall commence on the commencement date and shall continue for a period as determined in the Application Form as completed by the **CUSTOMER**.

20. FAIR USAGE POLICY

- 20.1 This Fair Use Policy is designed to make sure that all customers receive a fast and reliable service, whatever the time of day. A very small number of our customers use the service inappropriately, for example by sending or downloading large files, or using 'peer to peer' and file sharing software (which may involve sending and receiving video and other large files). This means that service quality for all users is affected, making it slower for everyone to access the internet or send and receive emails, especially at peak times. Peak times for the network are between 9.00am and 11.00pm, Monday to Sunday.
- 20.2 By adhering to the Fair Use Policy, you'll help us to keep the service running smoothly for everyone.
- 20.3 If you don't use peer to peer, file sharing or other inappropriate software and you're not frequently downloading or uploading videos or other very large files, you're unlikely to be affected by our Fair Use Policy.
- 20.4 All users must comply with relevant copyright and intellectual property laws.
- 20.5 Please note that some activities, such as using peer to peer or file sharing software, may contravene these laws. Under our terms and conditions, any illegal activity on the network will be a breach of your contract and will result in us ending your service.

