



## **WEBSITE Terms & Conditions and Privacy Policy**

TERMS AND CONDITIONS FOR THE USE OF  
www.capetownmarathon.com & www.sanlamcapetownmarathon.com websites

### **1. INTRODUCTION**

- **IMPORTANT NOTICE:** These Terms and Conditions set out the terms of the agreement between you and us (“the Agreement”) under which we will provide you with access to the information and services we offer from time to time via the Cape Town Marathon website located at [capetownmarathon.com](http://capetownmarathon.com) & [www.sanlamcapetownmarathon.com](http://www.sanlamcapetownmarathon.com) (“the Websites”). It is, therefore, very much in your interests to read them carefully.
- Unless otherwise stated, the Website is provided to you by Asem Running. Hereinafter referred to as “ASEM”, a company registered in the Republic of South Africa. References to “we”, “our” and “us” are references to ASEM.

### **2. SUPPLY OF GOODS AND/OR SERVICES IN TERMS OF THE ELECTRONIC COMMUNICATIONS AND TRANSACTIONS ACT 25 OF 2002 – (“THE ACT”)**

- Insofar as this Agreement falls within the ambit of the Act, the following information is made available to you in respect of the supply of goods and/or services offered for sale, hire or exchange by way of an electronic transaction:
  - All our contact details are set out in clause 11 below.
  - Goods and/or Services: The goods and/or services provided through the Websites are various services which enable you to give instructions to ASEM in respect of your investment account.
  - Complaints and Disputes: We invite you to file complaints with us via the “Contact Us” service of the Website or you can contact us by way of the contact details set out in clause 11 below. We do not currently subscribe to any alternative dispute resolution code or mechanism.
  - Policies: Our policies are set out in this Agreement below. In terms of Section 42(2)(a) of the Act, you acknowledge and agree that Section 44 of the Act will not apply to transactions concluded by means of the Website.

### **3. USE OF THE WEBSITE**

- You agree to use the Website for lawful purposes only. Without derogating from the generality of the foregoing, if you should choose to access or use this Website from locations other than the Republic of South Africa, you do so at your own initiative and you are responsible for compliance with applicable local laws.

- You are prohibited from posting or transmitting, by means of reviews, comments, suggestions, ideas, questions or other information through the Website, any content which is, unlawful, harmful, threatening, abusive, harassing, defamatory, vulgar, obscene, sexually-explicit, profane or hateful, or racially, ethnically or otherwise objectionable content of any kind, which includes but is not limited to:
  - any content that encourages conduct that would constitute a criminal offence or give rise to civil liability, or otherwise violate any applicable local, provincial, national, or international law; or
  - any content that constitutes an invasion of privacy; or
  - any content that is an infringement of any intellectual property right; or
  - any content that contains software viruses; or
  - any content that constitutes a political statement, commercial solicitation, or “Spam”.
- Although ASEM does not purport to review (nor is it under any obligation to review) any submitted content, it reserves the right to remove any content from the Website where it deems such content, in its sole and absolute discretion, to be an infringement of Clause 3 or harmful in anyway whatsoever. Should you place on or submit to the Website any such harmful content or should you breach any clause in these Terms and Conditions, ASEM may immediately terminate and/or suspend your access to all or parts of the Website, without any further notice to you.
- You warrant that:
  - you own or otherwise control all rights to any and all content that you may submit to the Website;
  - any use of such content will not cause injury or harm to any person or entity; and
  - you will indemnify and/or its affiliates, directors, officers and employees, for any and all claims of whatever nature resulting from the submitted content.
- By submitting reviews, comments and/or any other content (other than your personal details) to ASEM for posting on the Website, you automatically grant ASEM and its affiliates a non-exclusive, royalty-free, perpetual, irrevocable right and licence to use, reproduce, publish, translate, sublicense, copy and distribute such content in whole or in part worldwide, and to incorporate it in other works in any form, media, or technology now known or hereinafter developed for the full term of any copyright that may exist in such content. Subject to this licence, you retain any and all rights that may exist in such content.
- The following activities on or through the Website are expressly prohibited:
  - any non-personal or commercial use of any robot, spider, other automatic device or technology, or manual process to monitor or copy portions of the Website or the content contained thereon, without the prior written authority of ASEM; and
  - the collection or use of any listings, descriptions, and/or price lists from the Website for the benefit of a competing merchant that supplies products comparable to those offered on the Website; and

- any use or action that imposes an unreasonable or disproportionately-large load of traffic on the Site, or otherwise interferes with the proper and timely functioning of the Website;
  - any attempt to gain unauthorised access to the Website or its related systems or networks;
  - accessing the Website for purposes of monitoring its availability, performance or functionality, or for any other benchmarking or competitive purpose; and
  - the reverse engineering or decompiling of the Website to: (i) build a competitive product or service; (ii) build a product using similar ideas, features, functions or graphics of the Service; (iii) copy any ideas, features, functions or graphics of the Website.
- Although reasonable steps have been taken to ensure the accuracy and completeness of the contents, data and information on this Website, there may be instances where such information proves inaccurate or incomplete. Before making any decision or taking any action which might affect you or your business you should consult your own professional advisors and take all reasonable steps to ensure and verify the accuracy of the contents, data and information obtained from this Website.
  - Without limiting the generality of the foregoing this Website could include technical, typographical or other inaccuracies and you are urged to contact your own professional advisors to confirm all information contained on this Website prior to placing reliance thereon. Changes are periodically made to the information herein and these changes will be incorporated in new editions of this Website.

#### **4. NATIONAL CREDIT ACT 34 OF 2005**

In terms of the National Credit Act (“the Act”): Please refer to standard terms and conditions relating to credit and the National Credit Act.

#### **5. IS INTELLECTUAL PROPERTY**

- All content included on this Website, such as text, graphics, logos, buttons, icons, images, photographs, audio clips, databases and software (“the Content”), is the property of ASEM or its content suppliers and is protected by South African and international copyright laws. Furthermore, the compilation (meaning the collection, arrangement, and assembly) of all content on this Website is the exclusive property of ASEM and is protected by South Africa and international copyright laws.
- Except as stated herein, none of the material may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means, including, but not limited to, electronic, mechanical, photocopying, recording, or otherwise, except as permitted by the fair use privilege under the South African copyright laws or without the prior written permission of ASEM or the copyright owner.
- You may not “mirror” any content contained on the Website on any other server unless with the prior written permission of ASEM.
- You are granted a limited, revocable, and non-exclusive right to create a hyperlink to the home page of the Website, provided that the link does not portray ASEM, its

affiliates, or their products or services in a false, misleading, derogatory, or otherwise offensive manner. You may not use any ASEM logo or any other proprietary graphic or trademark whatsoever as part of the link without the express written permission of ASEM, its affiliates and/or content suppliers.

- All trademarks are and shall remain the exclusive property of ASEM.
- The unauthorised submission, removal, modification or distribution of copyrighted or other proprietary Content is illegal and could subject you to criminal prosecution as well as to personal liability for damages.

## **6. LIMITATION OF LIABILITY**

- Whilst every attempt is taken by ASEM to ensure your security when making use of the Website, due to the nature of the Internet we are unable to guarantee that any products and services or any websites accessible via the Website are virus- or error-free. We therefore caution you to check all emails, attachments and files before downloading them.
- We may provide links to other websites or resources. We are unable to accept, and do not accept, responsibility for these websites or resources; nor have we endorsed their content, products or services merely because they are accessible via the Website.
- While we make all reasonable efforts to ensure that all information provided by us in connection with the Website is accurate at the time of its inclusion on the Website, you acknowledge and understand that there may be errors, inaccuracies or omissions in respect of which we exclude all liability. We make no representations, guarantees or warranties of any nature whatsoever concerning the information included on our web pages (including, but not limited to, links to third parties' web pages). You shall be solely responsible for any decisions or actions you take based on the information contained on such web pages.
- Information provided by ASEM does not constitute legal or professional advice and should not be relied upon as such without taking independent advice.
- While we take all reasonable steps to safeguard the security of any information you input or send to us in connection with the ASEM Service, by using secure services and encryption technology where we deem appropriate, we accept no responsibility or liability whatsoever for any damages that you may suffer as a result of the breach of confidentiality of such information.

## **7. OUR LIABILITY TO YOU**

- We shall not be liable to you in contract, delict (including for negligence) or otherwise:
  - for any amount in respect of any damage or loss arising from the consequences of your use of the Website, viruses received by you via the Website or of our failure to provide the Website in accordance with this Agreement; or
  - for any economic losses, any indirect, special or consequential loss, loss of data, goodwill or reputation or any wasted expenditure

including but not limited to losses caused by your use of the Website or through any viruses.

- for any failure to perform our obligations or failure to perform our obligations properly as a result of our being prevented from doing so by an event beyond our reasonable control (which may include, without limitation, strikes; labour disputes; acts of God; war; riot; civil action; malicious acts or damage; compliance with any law, governmental or regulatory order, rule, regulation or direction; any act or omission of any government or other competent authority; accident; equipment or services failure, including the unavailability of third party telecommunications services, lines or other equipment; fire; flood or storm).
- Each provision of this clause 7 operates separately. If any part is held by a court to be invalid, unreasonable or inapplicable then the other parts shall be severable and shall still apply in their entirety.

## **8. CHANGES, SUSPENSION, AND TERMINATION**

- We may alter and/or amend the Website at any time without giving notice to you.
- We may suspend or terminate the Website at any time without giving notice to you.
- ASEM may terminate your account at any time for any reason, including any improper use of this Website or your failure to comply with this Agreement.
- Such termination shall not affect any right to relief to which ASEM may be entitled.
- Upon termination of this Agreement, all rights granted to you will terminate and revert to ASEM.
- ASEM may at any time modify the Terms and Conditions making up this Agreement and your continued use of this Website will be conditioned upon the Terms and Conditions as amended and in force at the time of your use.
- We accordingly advise you to read and take note of these Terms and Conditions each and every time you visit the Website, as these may have been modified since your last visit.

## **9. ASEM PRIVACY AND COOKIE POLICY**

This clause 9 provides details about our Privacy and Cookie Policy, which Policy forms part of this Agreement. ASEM takes your privacy seriously. We use the personal information that we collect from you in accordance with this Privacy and Cookie Policy.

- What we mean by personal information When we refer to personal information in this Policy, we mean information that can identify you as an individual or is capable of identifying you. By personal information we don't mean general, statistical, aggregated or anonymized information.
- Consent Your use of our services signifies your consent to us collecting and using personal information about you as specified below, in accordance with this Policy.
- How we collect information about you
  - You may provide personal information to us when communicating with us.

- You may order a product or a service and provide your name, e-mail address, delivery address, credit or debit card number and expiry date so that the order can be processed and your products (or services where appropriate) delivered to you. Sometimes, you may be asked for your telephone number.
- When you call us, we may monitor or record your calls and store details of the phone number(s) you use to make the calls. This information is used to better address your customer service needs.
- If you enter a competition or participate in a promotion, we will ask for your name, address and e-mail address and any other relevant information about you.
- We will collect information concerning your tastes and preferences both when you tell us what these are and through our analysis of customer traffic, including through the use of cookies (as described below).
- It may be that you provide to us details of credit or debit cards or bank accounts in order to make payments to us. Any such information (“confidential financial information”) will be used by us only for the specific purpose for which it was provided to us.
- How we use your information
  - We may use your information to confirm that your entries have been received; to validate you as a customer when using our services and calling our [help desk]; to prevent and detect criminal activity, fraud and misuse of or damage to our services or networks; to prosecute those responsible and to contact you to invite you to form part of our consumer panel or various research groups including medical research.
  - We may also use your personal information and process such information for the purposes of event management, research, analysis, reporting, results, medical, IAAF world ranking, World Marathon Major age group rankings and improving business efficiencies.
  - We may use personal information collected about you to contact you by post, telephone and electronic mail (that is email, picture, video, and SMS) about functionality changes to our Website, services or changes to our terms and conditions of use and to communicate with you about your customer benefits and advise you regarding the use of our services.
  - We may use the information collected about you to contact you by post or phone about new customer offers and services. We may also contact you by electronic mail for these purposes, subject to any preferences selected by you.
  - Subject to your preferences in respect of each of our services, selected third parties may use the personal information collected about you to contact you about information that you might find interesting.
- Other information we may collect
  - We may collect network or traffic data related to your use and access to our services. Such data would include, but not be limited to, time spent using our services. We may also use some of this information for research, segmentation of our customer base, marketing our services and to understand and keep you informed.
  - We also collect information from visitors to our Websites and registered customers to help us improve the Websites and services that we make available. The type of information collected includes how many visitors visit

our Websites, when they are visited, for how long and which areas of our services. This information allows us to continuously improve our services and develop them according to the taste of our customers and visitors. The information we collect from visitors to our Websites who are not registered users is anonymous and does not include personal information that allows us to identify you as an individual. However, if you are a ASEM registrant, the information collected from our Websites is not anonymous and ASEM may use this information along with your preferences to tailor content, services and offers for you.

- How long do we keep your information for? The time periods for which we keep your information may vary according to the use or purpose attached to the information. Unless there is a specific legal requirement requiring us to keep your information, however, we will not keep it for longer than necessary for the purpose for which the information was collected or for which it is to be processed.
- Disclosing your information to third parties
  - ASEM reserves the right to access and disclose individual-identifying information to comply with applicable laws, regulations and lawful government requests, to operate its systems properly or to protect itself or its users or to solve any customer disputes.
  - We may provide aggregate statistics about our sales, customers, traffic patterns and other website information to third parties, but these statistics will not include any information that could personally identify you.
  - We may from time to time elect to make use of other companies to provide some of our services (e.g. registration, timing, medical, ranking and tracking), and our services will then be offered through third party service providers. We may then share your personal information with these companies. These companies can and will process this information and will be obliged to keep such information confidential.
- Cookies

A cookie is a piece of information that is stored on your computer's hard drive by your web browser. On revisiting our Website, our computer server will recognise the cookie, giving us information about your visit.
- When and where do we use cookies?
  - During the registration process We allocate cookies during the registration process for our services. These cookies will hold information collected during your registration and will allow us to recognise you as a customer and provide you with the services you require. If your browser is set to reject cookies, you may not be able to register for ASEM services. We may also use this data to better understand your interests while online and to personalise your visits to our Websites.
  - On different sections of our portal We use cookies to collect information concerning visitors to our Website. Our servers use two different types of cookies. The first type is known as a 'session-based' cookie and is allocated to your computer only for the duration of your visit to our Website. It helps you to move around the Website faster and, if you're a registered customer, it allows us to give you information relevant to your selected ASEM service. This cookie automatically expires when you close down your browser. The second type of cookie is known as a 'persistent' cookie. A persistent cookie will remain on your computer for the period of time that has been set for

each cookie. Persistent cookies are used for the purposes of advertisements on our Website and to track whether these advertisements are clicked on by users; to control how often you are shown a particular advertisement; to tailor content to your preferences; to count the number of anonymous users of the Website and to provide security within shopping baskets or transactions. The types of cookies used and the manner in which the information generated by them is used will be governed by those advertisers' privacy policies. We have no control over these.

- How can you refuse or opt out of cookies? Most browsers are set by default to accept cookies automatically, but usually you can alter the settings of your browser to prevent automatic acceptance and to prompt you every time a cookie is sent to you or to allow you to choose not to receive cookies at all.
- How can you manage your privacy preferences? If you'd like us to stop processing your information for marketing purposes, please write to ASEM customer care at the address set out in clause 11 below.

## **10. GOVERNING LAW AND JURISDICTION**

This Agreement shall be governed by the laws of the Republic of South Africa, and you consent to the jurisdiction of the Cape Town High Court in the event of any dispute arising from this Agreement. If any of the provisions of this Agreement are found by a court of competent jurisdiction to be invalid or unenforceable, that provision shall be enforced to the maximum extent permissible so as to give effect to the intent of this Agreement, and the remainder of the Agreement shall continue in full force and effect. This Agreement constitutes the entire agreement between you and us with regard to the use of the Website.

## **11. CONTACT DETAILS**

In the event that you need to contact us for purposes related to this Agreement, please make use of the following contact details:

Email: [raceoffice@capetownmarathon.com](mailto:raceoffice@capetownmarathon.com)

**This Agreement was most recently updated on the 1 March 2021**