



CUSTOMER RELATIONSHIP TERMS

(general terms relating to the use of this web site and the provision of goods or services)

Version number: V2.0

INTRODUCTION

These Terms are the general terms of the relationship between Vendor and Customer. These Terms cover the use of this web site, including any other marketing material of Vendor. By visiting and using this web site, each Customer accepts and agrees to these Terms. These Terms also cover any transactions (including any transaction carried out electronically using a computer or network, or in person) where Vendor provides to Customer who receives Goods or Services. The commercial terms of any transaction between Vendor and Customer will be contained in an Order that will incorporate these Terms. The Order will prevail if there is a conflict of meaning. Nothing in these Terms obligates either party to enter into any Orders.

DEFINITIONS AND INTERPRETATION

Definitions. For purposes of the Agreement:

"Affiliate" means any parent company, subsidiaries, joint ventures, or other companies under a common control;

"Agreement" means the agreement between Vendor and Customer, consisting of these Terms and any Orders the parties enter into;

"Customer" or **"you"** means any person who visits this web site or concludes an Order;

"ECT Act" means the Electronic Communications and Transactions Act 25 of 2002;

"Effective Date" means in respect of each Order, the effective date stipulated in each Order, in the absence of which it will be the date the Order is accepted by Vendor;

"EULA" means an end user license agreement;

"Fees" means the fees, charges, or purchase consideration that Customer will pay to Vendor in respect of Goods and Services provided by Vendor under Orders;

"Goods" means any goods Vendor provides to Customer, under Orders;

"Order" means a goods or services order agreed to and signed by both the parties describing the specific Goods or Services to be provided by Vendor to Customer;

"Services" means any services Vendor provides to Customer, under Orders;

"Service Levels" means the levels according to which Vendor will provide each Service as agreed by the parties;

"Sign" means the handwritten signature or advanced electronic signature of the duly authorised representative of a party;

"Signature Date" means the date of signature by the party signing last;

"Terms" means these terms, consisting of:

1. these customer relationship terms; and
2. any other relevant specific terms, policies, disclaimers, rules and notices agreed between the parties, (including any that may be applicable to a specific section or module of this web site or any specific Goods or Services);

"Vendor" means the vendor identified on this web site; and

"Writing" means any mode of reproducing information or data in physical form and includes hard copy printouts, handwritten documents, fax transmissions, but excludes information or data in electronic form.

Definitions in the Order. Words defined (or assigned a meaning) in the Order will have that meaning in these Terms, unless the context clearly indicates otherwise.

Interpretation. A word defined or assigned a meaning in the Agreement will start with a capital letter. All headings are inserted for reference purposes only and must not affect the interpretation of the Agreement. Whenever “including” or “include”, or “excluding” or “exclude”, together with specific examples or items follow a term, they will not limit its ambit. Terms other than those defined within the Agreement will be given their plain English meaning. References to any enactment will be deemed to include references to the enactment as re-enacted, amended, or extended from time to time. A reference to a person includes a natural and juristic person and a reference to either party includes the party’s successors or permitted assigns. Unless otherwise stated in the Agreement, when any number of days is prescribed in the Agreement the first day will be excluded and the last day included. The rule of construction that an agreement must be interpreted against the party responsible for its drafting or preparation does not apply. GMT +2 will be used to calculate any times.

Conflict. If there is a conflict of meaning between these customer relationship terms and any other relevant specific terms, policies, disclaimers, rules and notices agreed between the parties, the specific terms will prevail in respect of your use of the relevant section or module of the web site or Goods or Services.

TERM

These Terms commence on acceptance and continue until terminated.

USE OF THIS WEB SITE

License to use this web site. Vendor grants each Customer a limited, revocable license to use this web site subject to the Agreement. Any person wishing to use this web site contrary to the Agreement must obtain Vendor’s prior written consent.

Framing. No person, business, or web site may frame this web site or any of the pages on this web site.

Linking. Customer may link to the web site only by linking to the home page of this web site. Vendor prohibits Customer from “deep linking” to any other pages in a manner that would incorrectly suggest endorsement or support of Customer by Vendor or suggests Customer is the owner of any intellectual property belonging to Vendor.

Spiders and Crawlers. No person, business, or web site may use any unauthorised technology (including spiders or crawlers) to search and gain any information from this web site.

MODIFY

Vendor may modify, suspend, or discontinue providing this web site or any Goods or Services (with or without notice) and will not be liable.

USER ACCOUNTS

Passwords and Security. Only a registered Customer can make offers. Each Customer is responsible for keeping their password secure. Each Customer is solely responsible and liable for activities that occur under their account. Customer authorises Vendor to act on any instruction given under Customer’s account, even if it transpires that someone else has defrauded both Vendor and Customer, unless Customer has notified Vendor prior to Vendor acting on a fraudulent instruction.

Customers. Customer accounts registered by bots or other automated methods are not permitted. Each Customer must provide their full legal name, a valid email address, and any other information requested in order to complete the registration process. One person may only use each Customer’s login - Vendor does not permit multiple people to share a login.

Deactivation or deletion by Customer. A Customer may deactivate or delete Customer’s account, for any reason.

ORDERS

Invitation to do business. The marketing of the Goods or Services by Vendor is merely an invitation to do business or for Customer to make an offer to procure Goods or Services. The parties only conclude a valid and binding Order when Vendor accepts the offer made by Customer. Unless proven to the contrary, Vendor only accepts an offer relating to Goods, when Vendor (i) gives the Customer access to the Goods online or (ii) ships the Goods. If online access is given only to a part of the Goods or if only a part of the Goods are shipped relating to an offer, Vendor only accepts that portion of the offer. Unless proven to the contrary, Vendor only accepts an offer relating to Services, when Vendor begins providing the Services. Vendor may accept or reject any offer. If Vendor does not accept any offer, then Vendor will refund any monies already paid by Customer.

Cancel. Vendor may cancel any Order at any time in its absolute discretion. Vendor will refund any monies already paid by Customer.

Fees. Despite Vendor’s best efforts, the stated Fees may be incorrect. Vendor will confirm the Fees for any Goods or Services when Vendor accepts the Customer’s offer.

Third party terms. If a third party supplies or delivers any Goods or Services directly to you, third party terms or conditions may apply. Customers are solely responsible to ensure they understand and agree to those terms.

Time and place. The parties conclude any agreement between them at the time when a duly authorised representative of Vendor accepts the relevant offer and at the place where Vendor has its head office. Vendor does not need to communicate the acceptance of the offer to Customer.

Orders. The Terms in effect at the time Customer makes an offer will govern the Order. Each Order will create a separate agreement. Despite that, Vendor may consider the breach of any one Order to constitute a breach of any or all Orders.

Stock availability. Vendor may not always have the Goods on which Customers make offers in stock. Customers may cancel the offer or make another offer on the part of the Goods that are in stock.

CAPACITY OF CUSTOMER

Each Customer represents and warrants that Customer (and any person who places an Order on Vendor):

1. is old enough under applicable law to enter into the Agreement;
2. is legally capable of concluding any transaction;
3. possess the legal right, full power, and authority to enter into the Agreement;
4. is authorised to use the password required for any account; and
5. will submit true, accurate and correct information to Vendor and this web site.

If Customer is younger than 18 years of age, Customer warrants that Customer has the consent of its legal guardian to enter into the Agreement or that Customer has obtained legal status in another manner.

GOODS

Sale. Vendor sells to Customer who purchases the Goods on the terms of the Agreement.

Countries. Customer may only make offers for Goods for delivery to the countries listed on the web site. If Customer's shipping or billing address is not listed as a choice under the country category on the web site, Customer must not make an offer. Vendor is only able to sell into the countries listed, and Vendor is only able to ship to those countries.

Shipping and packing. Vendor will display all available shipping options and charges before Customers completes Customer's purchase. Unless otherwise agreed in writing, Vendor will select the specific mode of shipment of the Goods and the cost of shipment will be for Customer's account. Vendor will pack the Goods in accordance with Vendor's packaging specifications for the Goods and the cost of packaging will be included in the Fees.

Time until dispatch. Once Vendor receives an offer, Vendor will endeavour to dispatch the Goods as soon as reasonably practicable (which may be longer than 30 calendar days) to the address specified in the offer. Vendor will try to adhere to the estimated delivery dates but accepts no liability for failing to do so. Customer may not withdraw any offer due to a delay in delivery.

Risk and ownership. All risk of loss or damage to the Goods will pass to Customer upon physical delivery of the Goods to Customer's delivery address. Ownership in the Goods will only pass to Customer upon the payment in full of the Fees.

SERVICES

Vendor will provide the Services to Customer at the Service Levels.

FEES AND PAYMENT

Due Dates. Payments must be made promptly on the Due Date, without any deduction, set off or demand and free of exchange in the currency specified in the Order.

Manner of payment. Customer must make payment in the manner specified in the Order.

Late payments. The additional surcharges and penalties specified in the Order will apply to any payment received after the Due Date to cover collection fees and additional administration costs. Customer must pay the surcharges and penalties to Vendor on-demand. Vendor may withhold or remove any Goods or halt the provision of any Services until Customer has paid all amounts that are due.

Interest on overdue amounts. Any amount not paid by Customer on the Due Date will bear interest for the benefit of Vendor, from the Due Date until the date Customer pays it. The rate of interest will be either 2% above the published prime overdraft rate from time to time of Vendor's bankers or 15%, whichever is higher. A letter signed by a general, branch or other bank manager setting out their rate will be proof of the rate. Interest will be payable on a claim for damages from when the damages were suffered.

Appropriation. Vendor may appropriate any payment received from Customer towards the satisfaction of any indebtedness of Customer to Vendor under the Agreement.

Withhold payment. Customer may not withhold payment of any amount due to Vendor for any reason.

Certificate. A certificate, signed by an accountant appointed by Vendor, of the amount due by Customer and the date on which it is payable will be conclusive irrefutable proof of the correctness of the certificate's contents.

Tax. All fees exclude any tax (including value added tax and other taxes levied in any jurisdiction), duty (including stamp duty), tariffs, rates, levies and any other governmental charge or expense payable, which will be payable where applicable by Customer in addition to the fees.

Costs to implement. Unless otherwise stated, the parties will bear their own costs to implement (or perform their obligations under) the Agreement.

Payment profile. Customer and any signatory consent and agree that Vendor may provide any registered credit bureau with information about the payment of amounts.

WARRANTY

Warranty. The Goods will be subject to any warranty indicated in the description of the Goods appearing on the web site, the accompanying documentation, packaging, or EULA. Please review those documents carefully. Customer will have the same rights against Vendor as Vendor has against the supplier regards defects in the Goods, the intention being that Vendor's liability to Customer will be co-extensive with the right of recourse Vendor has against the supplier. Vendor will provide a copy of any warranty on request. To the extent legally possible, Vendor assigns to Customer the benefit of any supplier warranties that a supplier may give to Vendor regards the Goods. Customer may not waive any of Vendor's common law rights as against the supplier.

Sales representatives. No sales representatives of Vendor has the authority to bind Vendor and no representation, warranty or any other statements made or given by any sales representative of Vendor will be binding on Vendor, unless given in Writing and Signed by a duly authorised representative of Vendor.

SOFTWARE

Please note that intellectual property laws protect all software. Software is licensed, not sold, to Customer. Unless agreed otherwise, the license for any software is contained in the EULA. Customer will be required to agree to the EULA prior to use of the software. The applicable EULA, which takes precedence, governs the use of the software. If Customer does not agree to the EULA, Customer must return the software in accordance with the [Refund Policy](#) for a refund of the Fees. If Customer uses the software (or takes any other action that is described in the packaging or software as constituting Customer's consent to the EULA), then Customer agrees to the EULA and may not be eligible for a refund or return of the software, unless otherwise allowed in the documentation accompanying the software or applicable law.

RESALE AND EXPORTS

If a Customer wishes to resell or export any Goods, Customer must obtain all required consents or licences under all applicable laws and regulations, including the Export Administration Regulations of the United States of America that may affect or regulate such resale or export.

INTELLECTUAL PROPERTY

Ownership. Except as provided to the contrary in the Agreement, all right, title, interest, and ownership (including all rights under all copyright, patent, and other intellectual property laws) in, to or of this web site are the sole property of or will vest in Vendor or a third party licensor. All moral rights are reserved.

Trademarks. Vendor's logo and sub-logos, marks, and trade names are the trademarks of Vendor and no person may use them without permission. Any other trademark or trade name that may appear on this web site or other marketing material of Vendor is the property of its respective owner.

Restrictions. Except as expressly permitted under the Agreement, this web site may not be:

1. modified, distributed, or used to make derivative works;
2. rented, leased, loaned, sold or assigned;
3. decompiled, reverse engineered, or copied; or
4. reproduced, transferred, or distributed.

Prosecution. All violations of proprietary rights or the Agreement will be prosecuted to the fullest extent permissible under applicable law.

DISCLAIMER OF WARRANTIES

Disclaimer. Use of this web site is at the sole responsibility and risk of each Customer. This web site is provided on an "as is" and "as available" basis. Except for the warranties given in the Agreement, Vendor expressly disclaims all representations, warranties, or conditions of any kind, whether express or implied, including:

1. any implied warranties or conditions of satisfactory quality, no latent defects, merchantability, fitness for a particular purpose, accuracy, system integration, quiet enjoyment, title, and non-infringement; or
2. any warranties regards third party software.

Vendor does not warrant that this web site will meet the requirements of any Customer or be uninterrupted, be legally effective or complete, timely, secure, error-free or free from infection by malicious software. Each Customer should keep up-to-date security software on the systems used to access this web site.

Exclusion of liability. Despite any warranty given by Vendor, Vendor will not be liable regards any defect arising from:

1. fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow its instructions (whether oral or in writing), misuse, or alteration or repair of the Goods without Vendor's express prior approval;
2. attachments, features or devices used on the Goods that are not supplied or approved in writing by Vendor;
3. the use of any version other than the current version of the correct operating system software.

INDEMNITY

Each Customer agrees to indemnify, defend, and hold harmless Vendor (and its subsidiaries, Affiliates, officers, agents, co-branders or other partners, and employees) from and against any claim, demand, loss, damage, cost, or liability (including reasonable attorneys' fees) arising out of or relating to its use of this web site.

LIMITATION OF LIABILITY

Correct faults. Vendor will correct any fault in this web site where possible and as soon as reasonably practical and this is its entire liability regarding any fault in the web site. If this clause is held inapplicable or unenforceable, then the following clause will apply.

Direct damages limited. To the extent permitted by applicable law, regardless of the form (whether in contract, tort, or any other legal theory) in which any legal action may be brought, Vendor's maximum liability to a Customer for direct damages for anything giving rise to any legal action will be an amount equal to the total fees already paid by the Customer to Vendor for the Goods or Services related to the claim. The aggregate amounts for all claims will not be greater than the maximum amount.

Indirect damages excluded. To the extent permitted by applicable law, in no event will Vendor (or its personnel) be liable for any indirect, incidental, special or consequential damages or losses (whether foreseeable or unforeseeable) of any kind (including loss of profits, loss of goodwill, damages relating to lost or damaged data or software, loss of use, damages relating to downtime or costs of substitute products) arising from the Agreement.

Other web site, goods, or services. Vendor is not liable for any other web site, goods, or service provided by any third party.

TERMINATION

Discontinue this web site, the goods, or services. The Agreement will automatically terminate if Vendor discontinues this web site, Goods or Services.

Breach. If a Customer:

1. commits a breach of the Agreement;
2. repeatedly infringes the copyrights or other rights of others;
3. fails to pay any amount due and fails to remedy the breach within 2 calendar days of having been called on in writing to do so;
4. effects or attempts to effect a compromise or composition with its creditors; or
5. is provisionally or finally liquidated or placed under judicial management.

Customer agrees that Vendor may, to the extent permitted by applicable law and without prejudice to its rights in the Agreement or in law, deactivate or delete the Customer's account, terminate access to or use of the web site, claim specific performance of the Agreement, or cancel the Agreement immediately on written notice and claim damages from Customer (including, any claim for any Fees already due).

Effects of termination. On the deactivation or deletion of a Customer's account, the Agreement will terminate and access rights will immediately cease to exist. On termination, cancellation or expiry of any Order all amounts due to Vendor for Services rendered or Goods ordered prior to termination will become due and payable even if Vendor has not invoiced them. Customer may not withhold the amounts for any reason, unless the arbitrator directs otherwise. The termination, cancellation, or expiry of an Order will not affect the enforceability of the terms that are intended to operate after expiry or termination.

DISPUTES

Forum. Any claims by Vendor against a Customer for injunctive or equitable relief or regarding intellectual property rights may be brought in any competent court without the posting of a bond. The parties will, in the first instance, refer any other dispute arising between Vendor and a Customer to the Customer Relationship Department of Vendor, which will use its best endeavours to resolve the dispute. If the parties are unable to resolve a dispute, the dispute will be finally resolved by expedited arbitration in accordance with the dispute resolution procedures and rules (available at

http://www.arbitration.co.za/Pages/docs/expedited_rules.pdf) of the Arbitration Foundation of Southern Africa in the city where Vendor has its head office in English.

Statute of limitations. Any claim or cause of action by a Customer arising out of or related to the Agreement must (regardless of any statute or law to the contrary) be filed within 12 calendar months after the claim or cause of action arose or be forever barred.

Collection proceedings. Vendor retains the right to institute collection proceedings in a court of law of competent jurisdiction for matters involving outstanding payment.

NOTICES AND DOMICILE

Notices. All notices, authorisations, disclosures, acknowledgements, and requests must be sent by hand, prepaid registered post, courier, facsimile, or electronic mail to the addresses and numbers provided on this web site. By providing contact information, each party consents to its use for administering the relationship by the other party and other third parties that help a party administer the relationship.

Domicile. Each party chooses its addresses and numbers provided on this web site as its *domicilium citandi et executandi* (its domicile for being served summons and execution levied) for all purposes.

Change of addresses and numbers. Each party may change the addresses and numbers provided on this web site.

Deemed Delivery. Notice will be deemed delivered on the date shown on the by hand, prepaid registered post, courier, facsimile or electronic mail confirmation of delivery.

Notice actually received. If a notice is actually received by a party, adequate notice will have been given.

CIRCUMSTANCES BEYOND CONTROL

No party will be responsible for any breach of the Agreement caused by circumstances beyond its control, including any breakdown or failure of power supply, the Internet, any telecommunications systems, or any computer hardware or software.

CESSION AND ASSIGNMENT

No Customer may delegate its duties under the Agreement or assign its rights under the Agreement, in whole or in part. Vendor may assign the Agreement to any successor or purchaser of its business or some of its assets.

GENERAL

Entire Agreement. The Agreement constitutes the entire agreement between the parties in respect of the subject matter of the Agreement.

Changes. The Agreement may be changed at any time by Vendor and where this affects the rights and obligations of a Customer, Vendor will notify the Customer of any changes by placing a notice in a prominent place on this web site (or by email). If a Customer does not agree with the change the Customer should stop using this web site. If a Customer continues to use this web site following notification of a change to the Agreement, the changed terms will apply to the Customer.

Fact related to web site. A certificate, signed by an administrator of this web site, of any fact related to this web site (including the version of the Terms that governs a particular Order or dispute and what content was published or functionality was available on the web site at a specific point in time) will be conclusive irrefutable proof of the correctness of the certificate's contents.

Waiver. No granting of time or forbearance will be, or be deemed to be, a waiver of the Agreement and no waiver of any breach will operate as a waiver of any continuing or subsequent breach.

Severability. If any term is void, unenforceable, or illegal, the term will be severed and the remainder of the Agreement will have full force and effect, provided the severance does not alter the nature of the Agreement.

Governing Law and jurisdiction. The Agreement is governed by and must be interpreted under the laws of the Republic of South Africa and Customer agrees to submit to the exclusive jurisdiction of the South African courts.

Right to reference. Each Customer consents to Vendor using its name in any marketing or sales material.

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