



OneDayOnly Offers (Pty) Ltd
Unit G06, the Old Castle Brewery
6 Beach Road, Woodstock, 7925

**ONEDAYONLY OFFERS (PTY) LTD
STANDARD TERMS AND CONDITIONS APPLICABLE TO ALL SUPPLIER
AGREEMENTS**

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STANDARD TERMS AND CONDITIONS APPLICABLE TO ALL TRANSACTIONS (GOODS AND SERVICES)

1 INTERPRETATION

- 1.1 In this Agreement, unless clearly inconsistent with or otherwise indicated by the context -
- 1.1.1 “**Affiliate**” means any subsidiary company of the Company;
- 1.1.2 “**Agreement**” means the written agreement entered into by the Company and the Supplier, including but not limited to the Company’s Supplier Take-On Information Form, the Company’s Freeze-the-stock e-mail and the Company’s Supplier Purchase Order, which incorporates these Standard Terms and Conditions by reference, as the same may be amended, supplemented or modified from time to time in accordance with the terms hereof, which constitutes the entire agreement between the Parties regarding the subject matter;
- 1.1.3 “**Company**” means OneDayOnly Offers (Proprietary) Limited, Reg nr: 2009/020929/07. OneDayOnly's head office is located at Unit G06 - The Old Castle Brewery, 6 Beach Road, Woodstock, 7925, South Africa; email address: customerservice@onedayonly.co.za
- 1.1.4 “**Freeze-the-stock e-mail**” means the sign-off e-mail sent by the Company to a Supplier confirming the details of Goods and/or Services to be run as a daily deal on the Company’s websites;
- 1.1.5 “**Goods**” means any tangible object supplied by the Supplier to the Company in terms of this Agreement;
- 1.1.6 “**Party**” or “**Parties**” means respectively, a party or both parties to this Agreement as the context may require;
- 1.1.7 “**Services**” means the Services provided by the Supplier to the Company’s customers in terms of this Agreement;
- 1.1.8 “**Standard Terms and Conditions**” means the terms and conditions set out in this document;
- 1.1.9 “**Supplier**” means the Party identified as such in the Agreement;
- 1.1.10 “**Supplier Purchase Order**” means a written supplier purchase order issued electronically by the Company to the Supplier;
- 1.2 Any reference to the singular includes the plural and vice versa.
- 1.3 Any reference to natural persons include legal persons and vice versa.
- 1.4 Any reference to a gender includes the other gender.
- 1.5 Any substantive provision, conferring rights or imposing obligations on a Party and appearing in any of the definitions in clause 1.1 or elsewhere in this Agreement or any of its annexes, shall be given effect to as if it were a substantive provision in the body of the Agreement or of the annex concerned.
- 1.6 Words and expressions defined in any clause shall, unless the application of any such word or expression is specifically limited to that clause, bear the meaning assigned to such word or expression throughout this Agreement.



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- 1.7 The terms "holding company" and "subsidiary" shall bear the meanings assigned to them in the Companies Act No. 71 of 2008.
- 1.8 Reference to "days" shall be construed as calendar days unless qualified by the word "business", in which instance a "business day" shall be any day other than a Saturday, Sunday or public holiday as gazetted by the government of the Republic of South Africa from time to time. Any reference to "business hours" shall be construed as being the hours between 08h30 (eight hours and thirty minutes) and 17h00 (seventeen hours) on any business day. Any reference to time shall be based upon South African standard time being Greenwich Mean Time plus 2 (two) hours.
- 1.9 Unless specifically otherwise provided, any number of days prescribed shall be determined by excluding the first and including the last day or, where the last day falls on a Saturday, Sunday or public holiday, the next succeeding Business Day.
- 1.10 Where figures are referred to in numerals and in words, and there is any conflict between the two, the words shall prevail, unless the context indicates a contrary intention.
- 1.11 No provision herein shall be construed against or interpreted to the disadvantage of a Party by reason of such Party having or being deemed to have structured, drafted or introduced such provision.
- 1.12 The words "include" and "including" mean "include without limitation" and "including without limitation". The use of the words "include" and "including" followed by a specific example or examples shall not be construed as limiting the meaning of the general wording preceding it: the application of the *eiusdem generis* rule is excluded.
- 1.13 Unless specifically otherwise provided, all amounts in this Agreement are exclusive of value-added tax.
- 1.14 Any communication required to be in writing in terms of this Agreement may be sent by data message, as defined in the Electronic Communications and Transactions Act, No. 25 of 2002.
- 1.15 The rule of construction that a contract shall be interpreted against the party responsible for the drafting or preparation of the contract, shall not apply.
- 1.16 This Agreement incorporates the annexes, which annexes shall have the same force and effect as if set out in the body of this Agreement. In this Agreement the word "**Agreement**" refers to this Agreement and the words "**clause**" or "**clauses**" and "**annexe**" or "**annexes**" refer to clauses of and annexes to this Agreement.

2 APPLICABILITY

- 2.1 The Supplier's sale and/or supply of Goods to the Company and/or the provision of Services to the Company's and/or its Affiliates' customers and any and all agreements resulting therefrom shall be subject to the Standard Terms and Conditions which shall apply to the exclusion of all other terms and conditions, whether express or implied, unless the Company specifically agrees in writing to accept any variation hereto.
- 2.2 The Supplier, by accepting any Supplier Purchase Order issued by the Company, acknowledges that no terms and conditions which the Supplier

purports to attach to its acceptance, nor any terms and conditions which might have been attached to the Supplier's credit application, quotation or invoice, shall be binding on the Company and the Supplier agrees that all such conditions shall be deemed to have been substituted by these Standard Terms and Conditions.

- 2.3 Where any additional and/or specific conditions are expressly included in any Supplier Purchase Order, such additional and/or specific conditions shall apply in addition to the Standard Terms and Conditions. In the event of conflict between the terms of any Supplier Purchase Order and these Standard Terms and Conditions the terms of the Supplier Purchase Order shall take precedence.
- 2.4 The Agreement shall continue for an indefinite period unless terminated by the Company in terms of clause 10.

3 WHOLE AGREEMENT

- 3.1 The Agreement is the sole record of the agreement between the Parties and may only be varied or waived in a written, signed document between the Company and the Supplier. Where however the Parties have concluded and signed a principal supplier contract, the terms as contained in such contract shall take precedence over these Terms and Conditions.
- 3.2 No undertaking, representation, term or condition relating to the subject matter of this Agreement not incorporated in the Agreement shall be binding on either of the Parties.
- 3.3 The Parties agree that the Supplier is an independent contracting party and that the Agreement does not constitute a contract of agency, representation, employment or partnership with the Supplier. The Supplier shall not incur any liability whatsoever for or on behalf of the Company.

4 SUPPLIER PURCHASE ORDERS

- 4.1 Supplier Purchase Orders will be system generated and placed by the Company electronically or by e-mailing a copy thereof to the Supplier, and contain details of the Goods ordered (including the specifications), and/or details of the Services to be offered and/or rendered (including scope of service and service levels) and confirmation of prices.
- 4.2 Should there appear to be any discrepancy or ambiguity in description or quantities in a Supplier Purchase Order or between a Supplier Purchase Order and the Freeze-the-stock e-mail, the Supplier shall immediately submit the matter to the Company for its decision before proceeding to execute the Supplier Purchase Order.
- 4.3 Amendment to the Supplier Purchase Order shall be subject to the Company's prior written approval and the Supplier's acceptance. No amendment to a Supplier Purchase Order will be valid unless agreed to in writing by both Parties and incorporated in a revised and duly issued Supplier Purchase Order.
- 4.4 Supplier Purchase Orders may be cancelled by the Company at any time provided that the Company shall pay the Supplier for costs reasonably

incurred up to the date of cancellation. The Supplier will use all reasonable and practical endeavours to mitigate its losses in this regard.

5 DAILY DEALS

- 5.1 The Company shall send the Supplier a Freeze-the-stock e-mail containing the details of the Goods and/or Services to be run as daily deals on the Company's website as well as the proposed dates for running the daily deals.
- 5.2 By confirming the Freeze-the-stock e-mail, the Supplier confirms the details of the daily deals. By signing the deal off, the Supplier confirms that the following details are correct:
 - 5.2.1 Sales dates (day of the deals);
 - 5.2.2 Brand names, product names and product codes (SKUs);
 - 5.2.3 Service offering details;
 - 5.2.4 Cost prices, retail prices and sales prices;
 - 5.2.5 Quantities available for sale;
 - 5.2.6 Shipping dimensions and weight;
 - 5.2.7 All specifications and images to be used in the daily deals; and
 - 5.2.8 The delivery location as agreed with the Company.
- 5.3 The Supplier agrees to freeze the stock as confirmed in the Freeze-the-stock e-mail until such time as the daily deals have been run and the Company issues a Supplier Purchase Order to the Supplier.
- 5.4 By freezing the stock, the Supplier warrants that the goods will be delivered to the Company's relevant warehouse within 3 (three) working days after the Company has issued a Supplier Purchase Order. In the case of Services to be offered by the Supplier, the Supplier warrants that the Services will be made available in accordance with the details confirmed in the Freeze-the-stock e-mail.
- 5.5 The position of the Supplier's daily deal on the Company's website, app, or its inclusion in the Company's newsletters is entirely at the discretion of the Company. The Company may, in its sole discretion, elect to deactivate or "pull" a daily deal at any time prior to or during a daily deal or after running the first of a series of daily deals.
- 5.6 The Supplier shall be solely responsible for any errors or omissions in the Freeze-the-stock e-mail where it has signed off and/or confirmed such e-mail.

6 TRAVEL AND VOUCHER DEALS

- 6.1 The Supplier acknowledges that where it sells any travel services and/or related products ("Travel Deals") or promotional vouchers and/or product/service vouchers ("Voucher Deals") through OneDayOnly, OneDayOnly acts as an agent or intermediary only between the Customer and the Supplier and/or its third-party service providers and that it and its third-party service providers are solely responsible to provide the



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Customer with the travel or Products /Services which the Customer have purchased via OneDayOnly.

- 6.2 The Customer purchasing any Travel Deals or Voucher Deals through OneDayOnly contracts directly with the Supplier and/or its third-party service providers. It is the Supplier's responsibility to provide the Customer with the correct details of any Travel Deals and/or Voucher Deals and to provide the Customer with the applicable terms and conditions and to ensure that the Customer is aware thereof.
- 6.3 The Supplier agrees to be solely responsible for any refunds to Customers in terms of the applicable terms and conditions. Where OneDayOnly refunds a customer that requested a change of mind refund within 7 (seven) days from the date of purchase of the Travel Deal or Voucher Deal, the Supplier shall immediately refund OneDayOnly the full refund amount upon demand.
- 6.4 The Supplier hereby indemnifies and absolves the Company (including its directors, employees and agents) from any claims, damages, losses and any other liability (whether jointly or individually) arising from any cause whatsoever or based on any ground of liability (including liability without fault) to the extent that such liability is attributable, whether wholly or in part, to of any act or omission on the part of the Supplier and/or its third-party service providers or the failure of the Supplier and/or its third-party service providers to fulfill their obligations to the Customer in terms of any Travel Deal or Voucher Deal.
- 6.5 The Supplier warrant the correctness of the details of any Travel Deal or Voucher Deal run by OneDayOnly as a daily deal and accept full liability for any discrepancies contained in any daily deal signed off by it.
- 6.6 OneDayOnly and the Supplier shall agree on the payment terms for any Travel Deals or Voucher Deals sold by OneDayOnly to Customers, which payment terms shall be confirmed in the Supplier Purchase Order issued by OneDayOnly to the Supplier.

7 DELIVERY AND DISCREPANCIES

- 7.1 Supplier Purchase Orders will be issued in writing, electronically by the Company's procurement team the first working day following the daily deal.
- 7.2 The Supplier shall acknowledge the Supplier Purchase Order as soon as practically possible, but not later than 24 (twenty-four) hours from the time which the Supplier Purchase Order was issued.
- 7.3 The Company will not be obligated to place any minimum quantity stock order or Services order or be obligated to order any stock or Services if no sales were made during the daily deal.
- 7.4 Delivery of Services sold shall be undertaken by the Supplier in accordance with the agreed provisions and/or supply of services set out in the Supplier Purchase Order.

- 7.5 Delivery needs to be made to the Company's designated or agreed warehouse within 3 (three) working days after the Supplier Purchase Order was issued, unless otherwise agreed in writing in the Supplier Purchase Order.
- 7.6 Where the Company and the Supplier agrees that the Supplier shall despatch the goods ordered directly to customers, the details including but not limited to delivery times shall be stipulated in the Supplier Purchase Order.
- 7.7 The Company's Cape Town and Johannesburg warehouses only accept deliveries until 15:30.
- 7.8 The Supplier agrees to the following minimum packing requirements of the Company:
 - 7.8.1 Supplier Purchase Order number indicated on the box(es);
 - 7.8.2 Packing list and delivery note with Supplier Purchase Order number;
 - 7.8.3 Multiple boxes must be numbered;
 - 7.8.4 Description of items on packaging, including SKU;
 - 7.8.5 Items packaged as per deal (for example, a set of 2 must be packed as a set of 2); and
 - 7.8.6 Clothing to be packaged individually/in poly-bags.
- 7.9 On delivery, delivery notes will be stamped with a "GOODS NOT CHECKED" stamp, meaning that the Company's warehouse has received the order but it is still to be checked.
- 7.10 Any discrepancies will be communicated within 48 (forty-eight) hours, after the Company's warehouse have checked all items individually. The Supplier agrees that it is in the Company's sole discretion to decide whether a product is discrepant or not.
- 7.11 Any incorrectly delivered / excess units need to be collected within 7 (seven) working days of delivery by the Supplier from the Company's warehouse.
- 7.12 The Company will notify the Supplier of any discrepancies in writing within 48 (fourty-eight) hours of delivery, unless delivery has taken place on a Friday in which case the Company will notify the Supplier within 72 (seventy-two) hours of delivery (excluding public holidays).
- 7.13 The Supplier agrees to inform the Company as soon as it becomes aware of any stock issues that might affect delivery and require a refund of customers.
- 7.14 Where it is necessary for the Company to refund customers, customers will be offered a voucher for the inconvenience. The Supplier agrees to be liable for a percentage of the voucher costs, which cost will be invoiced to the Supplier. The apology vouchers are no less than R50 and weighted based on the cost of the item in question as follows:
 - 7.14.1 <R500 = R50 Voucher;
 - 7.14.2 R501- R1000 = R100 Voucher; and

7.14.3 R1001 - R5000 = R250 Voucher.

8 OWNERSHIP AND RISK IN AND TO THE GOODS

8.1 Where any Goods are to be delivered by the Supplier:

8.1.1 Ownership of and risk in and to the Goods shall pass to the Company upon the physical delivery thereof at the Company's premises as set out in the Supplier Purchase Order. A Supplier Purchase Order shall not be considered fulfilled until the Company has issued an unendorsed delivery note for each delivery.

8.2 Where any goods are to be delivered directly to the Customer by the Supplier:

8.2.1 Ownership of and risk in and to the Goods shall pass to the Customer upon the physical delivery thereof at the Customer's premises as set out in the Supplier Purchase Order; and

8.2.2 The Customer has signed an unendorsed delivery note; or

8.2.3 In the case of the installation of the Goods at the Customer's premises, a signed note confirming the completion of the installation.

8.3 The Company shall have the right to inspect the Goods and/or to measure progress and/or request Supplier reports on the execution of the Services at all reasonable times and to reject Goods and/or Services that do not comply with the terms of the Agreement. Any inspection, checking or approval by the Company shall not relieve the Supplier from any obligation under the Agreement.

9 PRICE AND PAYMENT

9.1 The price for the Goods and/or Services ("the Price") shall be the price specified in the Supplier Purchase Order and shall be paid to the Supplier in the amount as indicated therein. Unless expressly stated to the contrary in the Supplier Purchase Order:

9.1.1 the Price shall be exclusive of VAT and shall include standard packaging, delivery and installation (where applicable);

9.1.2 no additional charges of whatever nature shall be recoverable from the Company unless the Supplier has, prior to the execution of the Supplier Purchase Order, obtained the Company's agreement in writing on such additional charges.

9.2 Price amendment shall be subject to agreement and acceptance by the Company in writing. Should the Supplier Purchase Order be issued on a basis of "price to be advised or agreed" or "estimate price", "subject to change" or any other similar description, the Supplier Purchase Order shall stipulate the agreed terms applicable in this respect. The Company may demand, before payment is made, that the price computation be substantiated by the Supplier.

9.3 Supplier invoices are to be sent via e-mail to accounts@onedayonly.co.za

9.4 No invoice shall be binding on the Company unless supported by a valid Supplier Purchase Order issued by the Company.

- 9.5 VAT registered Suppliers need to invoice the Company as per the requirements set out by SARS: <https://www.sars.gov.za/businesses-and-employers/government/tax-invoices/> . Non-VAT registered Suppliers, or Suppliers in the process of registering for VAT, may not charge VAT to the agreed prices.
- 9.6 Supplier Invoices with pricing queries will only be eligible for payment once queries have been resolved (queries occur when there is a difference in the agreed on signed off price in the Freeze-the-stock e-mail and the invoice price).
- 9.7 Payment shall be made by EFT into the account nominated in writing by the Supplier. Unless an alternative credit agreement has been reached between the Company and the Supplier, or if a valid tax invoice has not been provided by the Supplier to the Company, payment will be made within 24 (twenty-four) hours of the order being received and checked by the Company.
- 9.8 Invoices received by the Company after 14:00 will be eligible for payment on the following working day regardless of the progress of delivery of Goods and/or Services by the Supplier.

10 BREACH

- 10.1 In the event of either Party breaching any of its obligations under the Agreement, and such Party failing to remedy such breach within a period of 14 (fourteen) days of receipt of written notice from the aggrieved Party calling upon it to do so, the aggrieved Party shall be entitled without further notice to (a) cancel the Agreement and/or cancel the Purchase Order and (b) claim specific performance, in either event without prejudice to the aggrieved Party's rights to claim damages or to enforce any other remedy to which it may be entitled whether in terms of the Agreement or in law.
- 10.2 In addition the Company shall be entitled to cancel the Agreement and/ or any Purchase Order forthwith if:
- 10.2.1 the Supplier is either provisionally or finally wound-up/sequestered or seeks to make a compromise with its creditors; or
- 10.2.2 the Supplier applies for deregistration or is deregistered in terms of sections 81 to 83 of the Companies Act, No. 71 of 2008 or section 26 of the Close Corporations Act 69 of 1984; or
- 10.2.3 any business rescue proceedings are commenced in respect of the Supplier in terms of Chapter 6 of the Companies Act No. 71 of 2008; or
- 10.2.4 the Supplier is provisionally or finally liquidated, is placed under judicial management or becomes financially distressed; or
- 10.2.5 the Supplier commits a breach of the Agreement which cannot be remedied; or

- 10.2.6 the Supplier is guilty of any act of fraud, bribery, corruption, intentional misrepresentation; or
- 10.2.7 during the course of supplying the Goods and/or the Services, the Supplier contravenes the provisions of any applicable law.
- 10.3 In the event of any legal proceedings against the Supplier, the Company shall be entitled to recover its legal costs on an attorney-and-client scale.

11 SUPPLIER WARRANTIES

- 11.1 The Supplier warrants that Goods shall (unless otherwise stated in the Supplier Purchase Order) be new, merchantable, of agreed quality and description, in working order, fit for their intended purpose and free from contaminants, defects in materials, workmanship and design and shall be usable and durable for a reasonable period of time.
- 11.2 The Supplier warrants that the Goods are not subject to any lien, hypothec, pledge, mortgage, notarial bond, judicial attachment or other encumbrance and that the Supplier is entitled to transfer ownership thereof to the Company and/or the Customer.
- 11.3 The Supplier warrants that there are no circumstances, facts or reasons which are known, or ought to be known by the Supplier, which should have been disclosed to the Company and which would have influenced the Supplier's decision in appointing the Supplier to supply the Goods and/or Services.
- 11.4 Where any Goods supplied to the Company are not covered by a manufacturer's warranty of at least 6 (six) months, the Supplier herewith agrees to provide a warranty against defects or poor quality in terms of the Consumer Protection Act 68 of 2008 for a period of 6 (six) months from the date of delivery to the Company's Customers.

12 INDEMNITIES

- 12.1 The Supplier hereby indemnifies and holds harmless the Company from and against any and all claims, actions, liabilities, damages, costs and expenses asserted against, imposed upon or incurred by it as a result of or arising out of any harm alleged or proven by a consumer himself or herself, or other person contemplated in section 4(1) of the Consumer Protection Act 68 of 2008, in terms of Section 61 of the Consumer Protection Act 68 of 2008.
- 12.2 The Supplier hereby indemnifies and holds harmless the Company against any and all liability, suits, claims, losses, damages and judgments and shall pay all costs (including reasonable attorney's fees) and damages to the extent that such liability, costs or damages arise from a claim that the Supplier's Products and/or Services infringe any third party's intellectual property rights including but not limited to any patent, copyright, trademark, registered design, trade secret, or any other third party personal or proprietary right.
- 12.3 The Supplier hereby indemnifies and absolves the Company from any claims, damages, losses and any other liability (whether jointly or individually) arising from any cause whatsoever or based on any ground of liability (including liability without fault) to the extent that such liability is attributable, whether wholly or in part, to any defect or deficiency in any of the Goods/Services

supplied by the Supplier or is due to the Supplier's breach of the provisions of this Agreement and/or a failure to comply with any applicable laws.

13 PRIVACY AND DATA PROTECTION

- 13.1 The Supplier shall at all times during the performance of its obligations in terms of these this Agreement ensure that (a) no data collected from any person during the supply of the Goods/Service is sold, disclosed, commercially exploited, or used in any way other than as expressly authorised by the Company and (b) ensure that it processes data for only the express purpose for which it was obtained.
- 13.2 For purposes of this section,
- 13.2.1 "POPIA" means the Protection of Personal Information Act 4 of 2013, inclusive of all its Regulations and Guidance Notes issued by the Information Regulator;
- 13.2.2 "Personal Information" has the meaning given to it in POPIA, and specifically means the Personal Information accessed and shared by the Parties with each other for purposes of giving effect to this Agreement;
- 13.3 The Parties hereby consent to the use of the Personal Information respectively collected and shared with each other, for purposes of giving effect to the terms of the Agreement and agree to treat all such Personal Information strictly confidential.
- 13.4 The Parties agree that such Personal Information shared shall be processed (i) lawfully, (ii) in a minimal way, and (iii) for the intended purpose of the Agreement only.
- 13.5 Each Party shall comply with POPIA and other applicable data protection legislation (e.g. the General Data Protection Regulation (EU) 2016/679), where applicable, with respect to the processing of Personal Information.
- 13.6 Each Party warrants to the other that it has the legal right to disclose all Personal Information that it does in fact disclose to the other under or in connection with this Agreement.
- 13.7 The Parties shall only process Personal Information for the purposes specified in the Agreement and shall where required by POPIA obtain the necessary consent to process special Personal Information in terms of section 26 of POPIA.
- 13.8 The Parties shall only process Personal Information during the term of the Agreement, or until either Party, lawfully withdraws such consent.
- 13.9 The Parties have the right to access any Personal Information exchanged in respect of the Agreement, and to request correction and updating of such Personal Information.
- 13.10 The Parties shall ensure that all Personal Information be destroyed in a manner that de-identifies the Personal Information once the statutory period for storage of such Personal Information has expired.
- 13.11 The Parties hereby authorise each other to make the following transfers of Personal Information:

- 13.11.1 internally to its own employees, offices and facilities, only for purposes of given effect to the terms of the Agreement, providing that such transfers must be protected by appropriate safeguards as envisaged by POPIA;
- 13.11.2 to its operators (as defined in POPIA), providing that such transfers must be protected by appropriate safeguards and a written contract with the operator (as envisaged by POPIA), which shall impose no less stringent obligations regarding the processing of Personal Information on the operator, than this Agreement does on the Parties.
- 13.11.3 to a country or territory to the extent that such jurisdiction ensures an adequate level of protection for Personal Information, as envisaged by POPIA, or has specifically been identified by the Information Regulator as having adequate data protection laws.
- 13.12 Each Party shall promptly inform the other if, in their opinion, an obligation under the Agreement relating to the processing of Personal Information infringes POPIA.
- 13.13 Notwithstanding any other provision of this Agreement, a Party may process the Personal Information if and to the extent that it is required to do so by applicable law.
- 13.14 The Parties shall ensure that persons authorised to process Personal Information have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.
- 13.15 The Parties have the right to access any Personal Information exchanged in respect of the Agreement, and to have corrected and updated such Personal Information.
- 13.16 The Parties shall ensure that all Personal Information be destroyed in a manner that de-identifies the Personal Information once the statutory period for storage of such Personal Information has expired.
- 13.17 The Parties shall each implement appropriate technical and organisational (unless not applicable, e.g. in the case of an individual contracting with an organisation) measures to ensure an appropriate level of security for Personal Information under their control and that it is protected against unauthorised or unlawful processing, accidental loss, destruction or damage or alteration, having regard to (i) generally accepted industry security rules, practices and standards, and (ii) applicable codes of conduct.
- 13.18 The Parties shall, insofar as is required under POPIA, identify all reasonably foreseeable internal and external risks and take all necessary steps to (i) verify that the safeguards which they have in place have been effectively implemented; and (ii) ensure that the safeguards are updated in response to new risks or deficiencies in previously implemented safeguards subsequently identified.
- 13.19 The Parties shall, insofar as possible and taking into account the nature of the processing, take appropriate technical and organisational measures to assist each other with the fulfilment of their obligations to respond to requests exercising any data subject's rights under POPIA.

- 13.20 The Parties shall assist each other in ensuring compliance with the obligations relating to the security of processing of Personal Information, the notification of Personal Information breaches to the Information Regulator and the communication of Personal Information breaches to an affected data subject.
- 13.21 The Parties must notify each other of any Personal Information breach affecting Personal Information without undue delay and, in any case, not later than 48 hours after a Party becomes aware of the breach, and shall take all reasonable steps necessary to mitigate the extent of the loss occasioned by such breach.
- 13.22 The Parties shall make available to each other all information necessary and reasonably required to demonstrate the compliance with POPIA.
- 13.23 The Parties shall, at their choice, delete or return all of Personal Information to each other termination of this Agreement and shall delete existing copies save to the extent that applicable law requires storage of the relevant Personal Information.
- 13.24 If any changes or prospective changes to POPIA result or will result in one or both Parties not complying with POPIA in relation to processing of Personal Information carried out under this Agreement, then the Parties shall use their best endeavours to promptly to agree such variations to this Agreement as may be necessary to remedy such non-compliance.

14 CUSTOMER RETURNS POLICY

Change-of-mind returns

- 14.1 Where a customer changes their mind about a Product within 7 (seven) days of receipt, the Company will arrange a return and refund for the customer subject to the Company's terms and conditions of sale and will sell the item on the Company's website.
- 14.2 The Company will only involve the Supplier where the Supplier has directly delivered the goods to the customer, or where the Goods returned by one or more customers from one/more daily deals are of a total value of more than R2000 (two thousand Rand).

Material difference / Not as advertised / Quality issues

- 14.3 Where there is a material difference between any Goods sold on the Company's website as signed off by the Supplier and the item the customer received, the Supplier will be liable to credit any returns based on this material difference. This includes the shipping charges originally paid, as well as the shipping charges of the return of these units, either directly to the Supplier or to the Company's warehouse for the Supplier to collect.
- 14.4 A "material difference" here is the quality of the goods or performance of the goods, or a material aspect like the finish and/or the specifications which, had the customer known about this difference, would not have purchased the Goods or would have paid less for them.
- 14.5 The Supplier may not refuse a return for quality or due to the Goods not being as advertised and/or has a material difference by reason of it being opened or not being in the original packaging.

- 14.6 If the Supplier delivered the Goods directly to the customer, the Supplier will also have to collect the Goods from the customer unless the Company chooses to collect the Goods, in which case the Company will invoice the Supplier for the collection costs.

Faulty on arrival

- 14.7 An item is deemed faulty on arrival if a fault arises within 7 (seven) days of receipt by the customer. If this fault isn't due to courier damage, the Supplier will be liable to refund (by means of a credit to the Company) or replace the item at the Customer's discretion.
- 14.8 Where the Supplier delivered the Goods directly to the customer, the Supplier will also have to collect the Goods from the customer unless the Company chooses to collect the Goods, in which case the Company will invoice the Supplier for the collection costs.

Faulty within warranty period (warranty claim)

Warranty period and applicable legislation

- 14.9 All Goods sold to the Company will carry a minimum warranty of 6 (six) months from the date of delivery to the Company's customers in line with the Consumer Protection Act 68 of 2008. If the Supplier offers a longer warranty on any Goods or where any longer warranty requires additional steps such as online registration, the Supplier will inform the Company before accepting any Freeze-the-stock e-mail.

Assessment

- 14.10 The Supplier may assess faulty items to ascertain the extent of the fault. If the item is found to be faulty, the Supplier may repair or replace the item. If no repair or replacement is possible, the Supplier shall refund the Company and the Company will refund the customer.
- 14.11 If an item is not found to be faulty, the Supplier may dispatch the item back to the Company or, if applicable, directly to the customer. The Supplier shall provide detailed feedback on why it assessed the item as "not faulty" before this dispatch occurs.

Missing parts or no packaging

- 14.12 If any parts/items/fittings or other auxiliary components/additions of the product are missing on delivery to the customer, these parts can either be delivered by the Supplier directly to the customers, or to the Company's warehouse and the Company will deliver and invoice the Supplier for these courier costs.

Packaging

- 14.13 The Supplier may not refuse a warranty claim by reason of the item not being in original packaging or containing all accessories. The Supplier is entitled to levy a reasonable repackaging fee in this case.

Return Process

- 14.14 The Company will contact the Supplier via e-mail in the case of a return query for a faulty product. In this query, the Company will convey the following information:

- 14.14.1 The issue faced by the customer;
 - 14.14.2 Date of purchase / date received;
 - 14.14.3 Item name and SKU;
 - 14.14.4 Supplier order number;
 - 14.14.5 Images if applicable
- 14.15 The Supplier shall supply the Company with the correct email address and contact information to be used for a query. Any changes in contact information, addresses, or processes need to be communicated in advance.
- 14.16 The Supplier must endeavour to answer a query email from the Company within 24 (twenty-four) hours, even if it is only an acknowledgment of the query having been received. If no response is received from the Supplier within this timeframe, the Company reserves the right to refund the customer and to request a credit from the Supplier. If this takes place, the Company will deliver this unit back to the Supplier and the Supplier may not refuse to accept the delivery of this return on the basis that the Supplier has not approved it.
- 14.17 Refunds, replacements or repairs must be completed within 30 (thirty) days from the date of which the Company returns the item to the Supplier or its assessment centre. The Company reserves the right to refund a customer and issue a request for credit to the Supplier if the query is unresolved after 14 (fourteen) days.

Repairs and replacements

- 14.18 All repairs and replacements of faulty items will be undertaken in compliance with the Consumer Protection Act 68 of 2008. Repairs and replacements will carry a further 3 (three) month warranty from the date that the customer has received the repaired or replaced device. If a repaired or replaced device is faulty once more within this 3 (three) month period, the customer will be entitled to either a replacement or a refund at the customer's discretion.

Credits

- 14.19 The Company shall issue a request for credit to the Supplier called a "refund request". The Company in its sole discretion shall decide whether to request a credit to the Company's account by means of a credit note, or an EFT transfer by the Supplier to the Company's nominated bank account. Requests for credit need to be settled within 30 (thirty) days, whereafter the Company may invoice the Supplier and request an EFT transfer for the requested credit amount; alternatively the Company in its sole discretion shall be entitled to set off any unsettled credit amount against any amount owed by it to the Supplier.

15 NOTICES AND DOMICILIA

- 15.1 The Company nominates as its *domicilium citandi et executandi* its registered address for service upon it of all processes in connection with any claim arising from the Agreement. The Customer nominates as its *domicilium citandi et executandi* its registered address or its address as stipulated in the Company's

Supplier Take-on Information Form and/or its invoice to the Company for service upon it of all processes in connection with any claim arising out of the Agreement.

- 15.2 All notices and communications under the Agreement shall be given in English and in writing. For the purposes of the Agreement, "writing" means e-mails that have been acknowledged by the recipient or facsimiles with proof of transmission or letters sent by registered post with proof of delivery. Oral agreements, notices or instructions are not binding on either Party.

16 **CESSION, ASSIGNMENT AND SUB-CONTRACTING**

The Supplier shall not, without the prior written consent of the Company, (a) sub-contract any of its obligations or (b) cede or assign any of its rights or obligations in terms of this Agreement (including but not limited to, the right to receive payment from the Company). Notwithstanding any such consent, the Supplier shall at all times be liable for the acts or omissions of its employees, agents, sub-contractors, cessionaries, assigns or any other associated party utilised by it, as if they had been acts or omissions of the Supplier.

17 **BENEFIT OF THE AGREEMENT**

This Agreement will inure for the benefit of and be binding upon the successors in title and permitted assigns of the Parties hereto or any of them.

18 **APPLICABLE LAW AND JURISDICTION**

This Agreement will in all respects be governed by and construed under the laws of the Republic of South Africa.

19 **GENERAL**

- 19.1 The Parties agree that each clause of this Agreement is separate and severable from the remaining provisions hereof and if any provision of this Agreement is or is retrospectively found to be defective or rendered unenforceable then that provision only shall be deemed to be modified to the extent and in the manner necessary to render it consistent with the enactment rendering it unlawful, or if such modification is impossible to be *pro non scripto*. The remaining clauses shall continue to be of full force and effect.
- 19.2 The Parties agree and acknowledge that this Agreement shall not be deemed to create a partnership or joint venture between the Parties, and neither Party is the other's agent, partner, employee, or representative.