

Terms of use

Last updated on 15 March 2017

NOTE IN TERMS OF SECTION 49 OF THE CONSUMER PROTECTION ACT (No. 68 of 2008)

This Terms of Service Agreement ("these Terms") contains provisions which limit our risk and liability, which constitute an assumption of risk or liability by you and which impose an obligation on you to indemnify us.

These provisions can be found in clauses 9, 10, 11, 12.1.3 and 12.2 AND YOUR ATTENTION IS DRAWN TO THESE CLAUSES. If you are uncomfortable with this please do not accept these Terms and do not use the Service.

1. ACCEPTANCE OF TERMS

1. The Roscommons Group Proprietary Limited ("Sendr", "we" or "us") provides its Service (as defined in clause 2.1 below) to you, subject to these Terms. By accepting these Terms or by accessing or using the Services or our website located at www.rcommons.co.za (the "Site"), you acknowledge that you have read, understood, and agree to be bound by these Terms.
2. If you are entering into these Terms on behalf of a company, business or other legal entity, you represent and warrant that you have the authority to bind such entity and its affiliates to these Terms, in which case the terms "you" or "your" shall refer to such entity and its affiliates. If you do not have such authority, or if you do not agree with these Terms, you must not accept these Terms and may not use the Service and will attract personal liability for the obligations contracted for herein. Any reference in these Terms to "Party" shall be construed as a reference to either you or us, as the context may require and "Parties" shall be a reference to both you and us collectively.
3. We reserve the right, at our sole discretion, to change or modify portions of these Terms at any time. If we do this, we will post the changes on this page and will indicate at the top of this page the date these Terms were last revised. We will also notify you, either through the Services user interface, in an email notification or through other reasonable means. Any such changes will become effective no earlier than fourteen (14) days after they are posted, except that changes addressing new functions of the Services or changes made for legal reasons will be effective immediately. Your continued use of the Service after the date any such changes become effective constitutes your acceptance of the new these Terms.
4. You will be required to register with Sendr in order to access and use the features of the Service. If you choose to register for the Service, you agree to provide and maintain true, accurate, current and complete information about yourself and the entity you represent as prompted by the Service's registration form. Registration data and certain other information about you are governed by our Privacy Policy. If you are under 13 years of age, you are not authorized to use the Service, with or without registering. In addition, if you are under 18 years old, you may use the Service, with or without registering, only with the approval of your parent or guardian.
5. You are responsible for maintaining the confidentiality of your password and account, if any, and are fully responsible for any and all activities that occur under your password or account. You agree to (a) immediately notify Sendr of any unauthorized use of your password or account or any other breach of security, and (b) ensure that you exit from your account at the end of each session when accessing the Service. Sendr will not be liable for any loss or damage arising from your failure to comply with this clause.
6. In addition, when using certain services, you will be subject to any additional terms applicable to such services that may be posted on the Service from time to time, including, without limitation, the Privacy Policy located at www.rcommons.co.za. All such terms are hereby incorporated by reference into these Terms.

2. DESCRIPTION OF SERVICE

1. The "Service" includes "â€“
 1. the Site;
 2. the Mobile Services (as defined in clause 3.1.3);
 3. Sendr's delivery services; and
 4. all software (including the Software, as defined in clause 4.4 below), data, reports, text, images, sounds, video, and content made available through any of the foregoing (collectively referred to as the "Content").
2. Any new features added to or augmenting the Service are also subject to these Terms.

3. MOBILE SERVICES

1. The Service includes certain services that are available via a mobile device, including 1. the ability to upload content to the Service via a mobile device;
2. the ability to browse the Service and the Site from a mobile device; and

3. the ability to access certain features through an application downloaded and installed on a mobile device (collectively, the "Mobile Services").
2. To the extent you access the Service through a mobile device, your wireless service carrier's standard charges, data rates and other fees may apply. In addition, downloading, installing, or using certain Mobile Services may be prohibited or restricted by your carrier, and not all Mobile Services may work with all carriers or devices. By using the Mobile Services, you agree that we may communicate with you regarding Sendr and other entities by SMS, MMS, text message or other electronic means to your mobile device and that information about your usage of the Mobile Services may be communicated to us. In the event you change or deactivate your mobile telephone number, you agree to promptly update your Sendr account information to ensure that your messages are not sent to the person that acquires your old number.

4. GENERAL CONDITIONS / ACCESS AND USE OF THE SERVICE

Delivery policy

- Subject to availability and receipt of payment, requests will be processed within 1 days and delivery confirmed by way email / SMS notification .
- **Export restriction**
- The offering on this website/app is available to South African clients only.

Return and Refunds policy

- The provision of goods and services by (Sendr) is subject to availability. In cases of unavailability, (Sendr) will refund the client in full within 30 days. Cancellation of orders by the client will attract a 10% administration fee.

Customer Privacy policy

- (Sendr) shall take all reasonable steps to protect the personal information of users. For the purpose of this clause, "personal information" shall be defined as detailed in the Promotion of Access to Information Act 2 of 2000 (PAIA). The PAIA may be downloaded from: http://www.polity.org.za/attachment.php?aa_id=3569.

Payment options accepted

- Payment may be made via Visa, MasterCard, Diners or American Express Cards or by bank transfer into the (Your Company) bank account, the details of which will be provided on request.

Card acquiring and security

- Card transactions will be acquired for (Sendr) via PayGate (Pty) Ltd who are the approved payment gateway for all South African Acquiring Banks. PayGate uses the strictest form of encryption, namely Secure Socket Layer 3 (SSL3) and no Card details are stored on the website. Users may go to www.paygate.co.za to view their security certificate and security policy.

Customer details separate from card details

- Customer details will be stored by (Sendr) separately from card details which are entered by the client on PayGate's secure site. For more detail on PayGate refer to www.paygate.co.za.

Merchant Outlet country and transaction currency

- The merchant outlet country at the time of presenting payment options to the cardholder is South Africa. Transaction currency is South African Rand (ZAR).

Responsibility

- (Sendr) takes responsibility for all aspects relating to the transaction including sale of goods and services sold on this website, customer service and support, dispute resolution and delivery of goods.

Country of domicile

- This website is governed by the laws of South Africa and (Sendr) chooses as its domicilium citandi et executandi for all purposes under this agreement, whether in respect of court process, notice, or other documents or communication of whatsoever nature,.
- **Variation** ○ (Sendr) may, in its sole discretion, change this agreement or any part thereof at any time without notice.

Company information

- This website is run by The Roscommons Group private company based in South Africa trading as Sendr and

with registration number 2014/173429/07 and George Sibotshiwe / Neo Lekgabo (Director(s)/Member(s)/Owner(s)).

- **(Sendr) contact details**
- Email: info@sendr.co.za Address: 126 Bramfisher Dr Randburg 2194 Telephone: +27110278370

5. SOCIAL NETWORKING SERVICES

1. You may enable or log in to the Service via various online third Party services, such as social media and social networking services like Facebook or Twitter ("Social Networking Services"). By logging in or directly integrating these Social Networking Services into the Service, we make your online experiences richer and more personalized. To take advantage of this feature and capabilities, we may ask you to authenticate, register for or log into Social Networking Services on the websites of their respective providers. As part of such integration, the Social Networking Services will provide us with access to certain information that you have provided to such Social Networking Services, and we will use, store and disclose such information in accordance with our Privacy Policy. For more information about the implications of activating these Social Networking Services and Sendr's use, storage and disclosure of information related to you and your use of such services within Sendr (including your friend lists and the like), please see our Privacy Policy at [www.rcommons.co.za]. However, please remember that the manner in which Social Networking Services use, store and disclose your information is governed solely by the policies of such third Parties, and Sendr shall have no liability or responsibility for the privacy practices or other actions of any third Party site or service that may be enabled within the Service.
2. In addition, Sendr is not responsible for the accuracy, availability or reliability of any information, content, goods, data, opinions, advice or statements made available in connection with Social Networking Services. As such, Sendr is not liable for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such Social Networking Services. Sendr enables these features merely as a convenience and the integration or inclusion of such features does not imply an endorsement or recommendation.

6. REPRESENTATIONS AND WARRANTIES

You represent and warrant to Sendr that "I"

1. you have full power and authority to enter into these Terms;
2. you own all Your Content or have obtained all permissions, releases, rights or licenses required to engage in your posting and other activities (and allow Sendr to perform its obligations) in connection with the Services without obtaining any further releases or consents;
3. Your Content and other activities in connection with the Service, and Sendr's exercise of all rights and license granted by you herein, do not and will not violate, infringe, or misappropriate any third Party's copyright, trademark, right of privacy or publicity, or other personal or proprietary right, nor does Your Content contain any matter that is defamatory, obscene, unlawful, threatening, abusive, tortious, offensive or harassing; and
4. you are eighteen (18) years of age or older and should you be under 18 years of age, you have required the consent or assistance of your parent or guardian.

7. TERMINATION

1. You have the right to terminate your account at any time by sending a cancellation request to info@sendr.co.za. Subject to earlier termination as provided below, Sendr may terminate your account and these Terms at any time by providing thirty (30) days prior notice to the administrative email address associated with your account. In addition to any other remedies we may have, Sendr may also terminate these Terms upon thirty (30) days' notice (or immediately) in the case of nonpayment), if you breach any of the terms or conditions of these Terms. Also, Sendr may terminate these Terms immediately without notice if you violate any provision of the AUP, as determined in Sendr's sole reasonable discretion. Sendr reserves the right to modify or discontinue, temporarily or permanently, the Service (or any part thereof). Except as provided above, upon any termination of your account, Sendr may store all of Your Content on the Service (if any), or it may be permanently deleted by Sendr, in its sole discretion. If Sendr terminates your account without cause and you have signed up for a fee-bearing service, Sendr will refund the pro-rated, unearned portion of any amount that you have prepaid to Sendr for such Service. However, all accrued rights to payment and the terms necessary to enforce and implement these Terms shall survive termination.

8. DISCLAIMER OF WARRANTIES

The Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Sendr or by third-Party providers, or because of other causes beyond our reasonable control, but Sendr shall use reasonable efforts to provide advance notice on the Site or by email of any scheduled service disruption. However, the Service, including the Site, Software and Content, and any server and network components are provided on an "as is" and "as available" basis without any warranties of any kind, and Sendr expressly disclaims any and all warranties, whether express or implied, including, but not limited to, the implied warranties of merchantability, title, fitness for a particular purpose, and non-infringement. you acknowledge that Sendr does not warrant that the service or software will be uninterrupted, timely, secure, error-free or virus-free, nor does it make any warranty as to the results that may be obtained from use of the services or software, and no information, advice or services obtained by you from Sendr or through the service shall create any warranty not expressly stated in these Terms.

9. LIMITATION OF LIABILITY

- Under no circumstances and under no legal theory (whether in contract, delict, tort, or otherwise) shall Sendr be liable to you or any third Party for -
 - any indirect, incidental, special, exemplary, consequential or punitive damages, including lost profits, lost sales or business, lost data, or
 - any direct damages, costs, losses or liabilities in excess of the fees actually paid by you in the last six (6) months preceding the event giving rise to your claim, or, if no fees apply, one hundred (R100) ZA Rands.
- The provisions of this section allocate the risks under these Terms between the Parties, and the Parties have relied on these limitations in determining whether to enter into these Terms.

10. INDEMNIFICATION

You hereby defend, indemnify, and hold Sendr harmless from and against all claims, actions or demands, including without limitation all legal and accounting fees, arising or resulting from your breach of these Terms, any of Your Content, or your other access, contribution to, use or misuse of the Service. Sendr shall provide notice to you of any such claim, suit or demand. Sendr reserves the right to assume the exclusive defense and control of any matter which is subject to indemnification under this clause. In such case, you agree to cooperate with any reasonable requests assisting Sendr's defense of such matter.

11. RISKS AND INSURANCE

- Sendr shall give you the option as part of the Service, to conclude a separate agreement with a reputable insurance company ("Insurer"), to insure the items which are being delivered under the Service for the risks stipulated. This option is extended to you on the following basis -
 - you authorise us to deduct the amount of the fee/premium applicable to such insurance agreement from your credit card and the terms of clause 5 shall apply *mutatis mutandis*;
 - you shall be contracting with such Insurer (and not Sendr) on the terms and conditions to be found at [WEBSITE WITH INSURER'S TERMS AND CONDITIONS], which terms and conditions shall be deemed to have been incorporated herein by reference, and not Sendr;
 - all claims for loss, destruction and/or damage of any items being delivered under the Service shall be directed to the Insurer at [EMAIL ADDRESS]; to the extent that you have selected the option to acquire insurance from the Insurer then you hereby irrevocably waive and abandon all claims against Sendr for all loss, damage and/or destruction as aforesaid.
- Sendr always recommends that you acquire insurance from the Insurer. However, subject to the terms below, if you have not selected the option to acquire insurance from the Insurer, then Sendr will only reimburse you for actual loss of or damage to any items being delivered while in Sendr's Possession (as defined herein below) up to a maximum reimbursement of R1,000 per delivery, provided however that any reimbursement hereunder may not exceed the total value of the original delivery. For purposes hereof, an item shall be deemed to be in "Sendr's Possession" from the point Sendr collects the item from you until the item reaches the end destination via one of our delivery partners. Any insurance must be purchased separately from an insurance provider.
- If a delivery is lost or damaged while in Sendr's Possession (and you have not purchased insurance from the Insurer as referred to in clause 12.1), you may file a claim with Sendr for reimbursement. All claims must be initiated within 15 days of the mailing date by contacting us at info@sendr.co.za where we will provide more details on how to file a claim. The original receipt of the delivery label and an image or photograph of the damaged item may be required when filing a claim. If the recipient accepts the delivery without noting any damage on the delivery record, we will assume the delivery was delivered in good condition. In order for us to consider a claim for damage, the contents, original delivery cartons, and packing must be available to us for

inspection. Written documentation (such as a receipt) supporting the amount of a claim will also be required. All supporting documentation must be submitted within 30 days of claim initiation (45 days of mailing date) of the mailing date.

12. ARBITRATION

1. Any disputes arising from or in connection with these Terms or the termination hereof shall, if so required by any Party to the dispute giving written notice to the others, be finally resolved in accordance with the rules of the Arbitration Foundation of Southern Africa (or its successor in title) ("AFSA") by an arbitrator or arbitrators appointed by AFSA.
2. Notwithstanding this 13, any Party shall be entitled to apply for, and if successful, be granted, an interdict from any competent court having jurisdiction.
3. For the purposes of 13.2 and for the purposes of having any award made by the arbitrator/s being made an order of court, each Party hereby submits itself to the non-exclusive jurisdiction of South Gauteng Division of the High Court of South Africa.
4. This 13 is severable from the rest of these Terms and shall remain in full force and effect notwithstanding the termination of these Terms.
5. Notwithstanding the provisions of the introductory section above, if Sendr changes this "Arbitration" section after the date you first accepted these Terms (or accepted any subsequent changes to these Terms), you may reject any such change by sending us written notice within 30 days of the date such change became effective, as indicated in the "Date of Last Revision" date above or in the date of Sendr's email to you notifying you of such change. By rejecting any change, you are agreeing that you will arbitrate any dispute between you and Sendr in accordance with the provisions of this section as of the date you first accepted these Terms (or accepted any subsequent changes to these Terms).

13. ASSIGNMENT

You may not assign these Terms without the prior written consent of Sendr, in which case, Sendr may charge a transfer fee. Sendr may assign or transfer these Terms, in whole or in part, without restriction.

14. MISCELLANEOUS 1. Whole Agreement

1. These Terms constitute the whole of the agreement between the Parties relating to the matters dealt with herein and, save to the extent otherwise provided herein, no undertaking, representation, term or condition relating to the subject matter of this Agreement not incorporated in these Terms shall be binding on either of the Parties.
2. These Terms supersede and replace any and all agreements between the Parties (and other persons, as may be applicable) and undertakings given to or on behalf of the Parties (and other persons, as may be applicable) in relation to the subject matter hereof.

2. Variations to be in Writing

No addition to or variation, deletion, or agreed cancellation of all or any terms or conditions of these Terms will be of any force or effect unless in writing and signed by the Parties.

3. No Indulgences

No latitude, extension of time or other indulgence which may be given or allowed by any Party to the other Parties in respect of the performance of any obligation hereunder, and no delay or forbearance in the enforcement of any right of any Party arising from these Terms, and no single or partial exercise of any right by any Party under these Terms, shall in any circumstances be construed to be an implied consent or election by such Party or operate as a waiver or a novation of or otherwise affect any of the Party's rights in terms of or arising from these Terms or estop or preclude any such Party from enforcing at any time and without notice, strict and punctual compliance with each and every provision or term hereof.

4. Provisions Severable

All provisions and the various clauses of these Terms are, notwithstanding the manner in which they have been grouped together or linked grammatically, severable from each other. Any term or condition of these Terms which are or becomes unenforceable in any jurisdiction, whether due to voidness, invalidity, illegality, unlawfulness or for any other reason whatever, shall, in such jurisdiction only and only to the extent that it is so unenforceable, be treated as pro non scripto and the remaining provisions and clauses of this Agreement shall remain of full force and effect. The Parties declare that it is their intention that these Terms would be executed without such unenforceable provision if they were aware of such unenforceability at the time of execution hereof.

5. Continuing Effectiveness of Certain Provisions

The expiration or termination of these Terms shall not affect such of the terms or conditions of these Terms as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.

6. No Assignment

Neither these Terms nor any part, share or interest herein nor any rights or obligations hereunder may be ceded, delegated or assigned by either Party without the prior written consent of the other Party, save as otherwise provided herein.

7. Counterparts These

Terms -

1. may be executed in separate counterparts which none of which need contain the signature of all the Parties, each of which shall be deemed to be an original and all of which, when taken together, shall constitute one agreement;
2. shall be valid and binding upon all the Parties hereto, notwithstanding that one or more of the Parties may have signed a facsimile copy thereof and whether or not such facsimile copy contain the signature of any other Party.