

**PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY BEFORE YOU PROCEED. BY CLICKING ON “REGISTER” OR “LOGIN” YOU ACKNOWLEDGE THAT YOU HAVE READ THESE TERMS AND CONDITIONS AND AGREE TO THEM.**

## 1. THESE TERMS

- 1.1. These are the terms and conditions (“**Terms of Services**”) relevant to your access to the FAIS EXCHANGE (“**EXCHANGE**”) and the services made available on the FAIS EXCHANGE (“**Services**”). These Terms of Services refer to the following additional terms which also apply to your use of our Services:-
  - 1.1.1. Our Terms of Use;
  - 1.1.2. Our Privacy Policy; andThe above terms and conditions and policy are hereby incorporated by reference and together are the agreement (“**Agreement**”) between us and you. If there is any conflict between the above terms and conditions/policy and the Terms of Services in terms of the Services, the Terms of Service will prevail;
- 1.2. All information that is incorporated by using hyperlinks and / or other methods of reference form part of these Terms and Conditions of Supply (see section 11(3) of the [Electronic Communications and Transactions Act 25 of 2002](#) “**ECT Act**”);
- 1.3. **Please read these terms carefully before you use our Services. These terms, unless otherwise specified under Service specific terms conditions (“**Service Specific T&Cs**”), tell you how we will provide Services to you, how you and we may change or end the contract, what to do if there is a problem and other important information.**

## 2. OUR CONTRACT WITH YOU

- 2.1. You must be 18 years and older;
- 2.2. The presentation of the Services (including certain Exams or other Third Party Material) on our EXCHANGE is an invitation to you to utilise the **Services**;
- 2.3. **Registration by your employer or Product Provider:** Where you have been registered as an authorised user by your employer or a Product Provider to utilise the EXCHANGE and Services You are hereby notified that in connection with providing access to you to the EXCHANGE and Services, we have entered into a Software as a Service Agreement with your employer or Product Provider (“**Software as a Service Agreement**”). Your use of the EXCHANGE is subject to the Software as a Service Agreement which shall take precedent over these terms and conditions if there is any conflict between the Software as a Service Agreement and these terms and conditions.
- 2.4. **Registration as a new user by using the ‘Register’ function** (excluding registration as per paragraph 2.3 above):
  - 2.4.1. By submission of your information under the Advisor Registration screen or further information does not mean we have concluded a contract with you (not yet);
  - 2.4.2. **Offer:** The message submitted to us after you have clicked on “Register” constitutes your offer to use the EXCHANGE and Services.
  - 2.4.3. **Acceptance:** Our acceptance of your offer will take place on receipt of your information, [our verification of your abovementioned registration or information as per par. 2.4.4 below], and your receipt of our email to confirm our acceptance of you application to create an account, which email also contains your login details; at which point a contract will come into existence for our Services (“**commencement date**”); you will then be seen as a user of the EXCHANGE and Services (“**Registered User**”).
  - 2.4.4. **Verification of your registration at applicable regulatory authorities:** For registration purposes we may require certain information from the regulatory authorities, including but not limited to the FSCA (see Privacy Policy). Your registration may further be subject to the aforesaid information (if applicable);
  - 2.4.5. **If we cannot accept your order:** If we are unable to accept your order, we will inform you of this via the email address you have submitted to us.
- 2.5. **License:** Subject to our acceptance and these Terms of Service, we grant you a limited, non-exclusive, non-assignable, non-transferrable and revocable license to access and use our EXCHANGE to enable you to use the Services.

- 2.6. **Service Specific terms and conditions:** certain Services may have additional terms and conditions that will apply. Those terms and conditions ("**Service Specific T&C**") will be presented to you prior to submitting your order for the particular Service. The Service Specific T&C should be read with these Terms of Services. Insofar as any term and condition in a Service Specific T&C conflicts with these Terms of Services in respect of-
- 2.6.1. the description of the Services (including but not limited to [pricing (if any)], specifications, service levels or limitations of liability), the Service Specific T&C shall prevail;
  - 2.6.2. any other matter, the Terms of Services shall prevail.
- 2.7. **"Writing" " includes data messages.** When we use the words "writing" or "written" in these terms, this includes data messages (as defined by the [ECT Act](#)), including but not limited to emails. You acknowledge that all agreements, authorization or request on the EXCHANGE satisfy the "writing" requirement as per section 12 of the [ECT Act](#).

### 3. THE SERVICES

- 3.1. **Description:** The Services that we provide are as per the FAIS-EXCHANGE website, including but not limited to: -
- 3.1.1. Access and use of the FAIS EXCHANGE platform – free
  - 3.1.2. PST- Product Specific Training per Product Provider ("**Course Material**")
  - 3.1.3. Provision of Product Provider Exams – free ("**Exams**")
  - 3.1.4. CPD = Continuous Professional Development – free up to a certain level, where after certain pricing may apply;
  - 3.1.5. COB - Class of Business Training
  - 3.1.6. Competence Register - This service will be for free for advisors, however if a person wishes to see a rollup report for a group of advisors the standard FAIS EXCHANGE rate will apply.
  - 3.1.7. Online Shop for the acquisition of specific services and/or products (under license)  
(Collectively referred to as "**Services**")
- 3.2. **Services may vary slightly from their description:** The information on our site is for general information purposes. Although we made every effort to display the correct content, we cannot guarantee that the content is 100% accurate. For more detailed information about our Services kindly contact us;
- 3.2.1. If you identify any Course Material or Exams that is not accurate or complete, then kindly contact us immediately.
- 3.3. **Third Party Materials:**
- 3.3.1. The EXCHANGE may display, include, or make available third-party content (including (but not limited to) the Content Material, Exams, other data, information and other product and service information) as part of the EXCHANGE or via an online shop ("**Online Shop**") or provide links to third-party websites or services, including through third-party advertising (collectively, "Third Party Materials"). **You acknowledge and agree that we are not responsible for Third Party Materials, including their accuracy, completeness, timeliness, validity, copyright compliance, legality, decency, quality or any other aspect thereof. We do not assume and will not have any liability or responsibility to you or any other person or entity for any Third Party Materials. Third Party Materials, Third Party Online Shop and links thereto are provided solely as a convenience to you, and you access and use them entirely at your own risk and subject to such third parties' terms and conditions. Take note that on the Third Party websites there may be other terms and conditions that apply.**
  - 3.3.2. **On acquisition of certain Third Party Material specific Third Party terms and conditions may apply. Take note that we will not form part of that contract, which will be between you and the Third Party service/product provider. However, we have been appointed as agent for the Third Party service/product provider to assist with any service/product issues and will assist to the best of our ability with the process to resolve issue between you and the Third Party service/product provider.**
  - 3.3.3. **Third Party – Exams / Product Assessments: For each assessment and/or accreditation submitted by you, you acknowledge that you have read and agrees to the following accreditation declaration and statement of authenticity:**

- 3.3.3.1. I have not impersonated or allowed myself to be impersonated by any person for the purposes of this accreditation.
  - 3.3.3.2. No part of this accreditation has been written for me by any other person.
  - 3.3.3.3. I give permission for my accreditation results to be communicated, compared and archived for plagiarism detection, benchmarking or educational purposes.
  - 3.3.3.4. I am responsible for all activities that occur under my Account. I may not share my Account or password with anyone.
  - 3.3.3.5. I agree not to access an Account using a false identity, or on behalf of someone other than myself.
  - 3.3.3.6. I agree not to share the answers to accreditations with others unless this is expressly authorized by the Instructor.
  - 3.3.3.7. I will not submit the work of others as my own work.
  - 3.3.3.8. I understand that Plagiarism is the using of another's work and to present it as my own without attributing the sources in the correct way. I further understand what it means to copy another's work.
- 3.4. **Availability of Services:** Subject to the terms of this Terms of Services, Services will only be made available subsequent to receipt of all relevant information and/or documentation required for the Services through our Online Shop;
  - 3.5. **Access to the EXCHANGE:** unless otherwise agreed to in writing, the EXCHANGE will be provided to you as long as you comply with the Agreement.
  - 3.6. **Updates:** We may from time to time in our sole discretion develop and provide EXCHANGE updates, which may include upgrades, bug fixes, patches and other error corrections and/or new features (collectively, including related documentation, "Updates"). Updates may also modify or delete in their entirety certain features and functionality. You agree that we have no obligation to provide any Updates or to continue to provide or enable any particular features or functionality. You may receive notice of Updates, however there is no obligation on us to notify you. You further agree that all Updates will be deemed part of the EXCHANGE and be subject to all terms and conditions of this Terms of Service.
  - 3.7. **Unable to supply certain Services:** if we are unable to perform in terms of the Agreement on the grounds that the Services ordered are unavailable and said availability has not been addressed under these Terms of Services, we will notify you of this fact.
  - 3.8. **We are not responsible for delays outside our control.** If our supply of the Services is delayed by an event outside our control, we will contact you as soon as possible to let you know and we will take steps to minimise the effect of the delay. Provided we do this, we will not be liable for delays caused by the event.
  - 3.9. **Downtime and Service Suspensions:** Your access to and use of the Services may be suspended for the duration of any anticipated, unanticipated, scheduled or unscheduled downtime, maintenance, system updates, malfunction, or other unavailability of any portion or all of the Services for any reason, including as a result of power outages, system failures or other interruptions. We shall also be entitled, without any liability to you, to suspend access to any portion or all of the Services at any time, on a system-wide basis: (a) for scheduled downtime to permit us to conduct maintenance or make modifications to any part of the Services or resolve technical problems and minor technical changes; (b) in the event of a denial of service attack or other attack on the Services or other event that we determine, in our sole discretion, may create a risk to the applicable EXCHANGE, to You or to any of our other users if the Services were not suspended; or (c) in the event that we determine that any Services is prohibited by law or we otherwise determine that it is necessary or prudent to do so for legal or regulatory reasons.
  - 3.10. **Monitoring:** We reserve the right to log, review, and otherwise examine any information stored on or passing through our networks or systems to ensure an effective Service and security of our Platform.

#### 4. YOUR SERVICE ACCOUNT

- 4.1. In order to use the EXCHANGE and access our Services, you must Register for and maintain an active **personal** user Service account ("Service Account");

- 4.2. Service Account registration (see 2.4 above) requires you to submit to us certain information under the application Form.  
You agree: -
- 4.2.1. To provide and maintain accurate, complete, and up-to-date information on your Service Account;
  - 4.2.2. That your failure to maintain accurate, complete and up-to-date Service Account information, may result in your inability to access and use the Service or our termination of this Agreement;
  - 4.2.3. We may utilise the initial information you submit to verify your registration under the FSCA, including verification with any other third party, such as the Product Provider;
  - 4.2.4. For certain Services, i.e Competence Register we will utilise your information, as made available by you to the FSCA to verify the accuracy of same.
- 4.3. Further, if in our reasonable opinion you have failed to comply with these Terms of Service, we have the right to not grant you access to your Service Account, or to revoke your access right and disable your user identification code;
- 4.4. During your initial submission of your registration information, you will be allowed to select the necessary access credentials or any other piece of information as part of our security procedures;
- 4.5. You are responsible for all activity that occurs under your Service Account;
- 4.6. At all times you must maintain the security and secrecy of your Service Account details. Your Service account details are confidential and under NO CIRCUMSTANCES whatsoever may you share or distribute it to any third party/parties. Any breach of this term will result in the IMMEDIATE SUSPENSION of your Service account;
- 4.7. You must only possess one Service Account;
- 4.8. If you know or suspect that anyone, other than you, knows your user identification code or password, you must promptly notify us at: [info@fais-exchange.co.za](mailto:info@fais-exchange.co.za); and
- 4.9. You may not assign or otherwise transfer your Service Account to any other person or entity.

## 5. RESTRICTIONS

- 5.1. You will not or allow any third party to: (a) copy, modify, translate, adapt, distribute or otherwise create derivative works or improvements, whether or not patentable, of the EXCHANGE or any content or Services; (b) reverse engineer, disassemble, decompile, decode or otherwise attempt to derive or gain access to the source code of the EXCHANGE or any part thereof; (c) remove, delete, alter or obscure any copyright, trademark, patent or other intellectual property or proprietary rights notices from the EXCHANGE, including any copy thereof; (d) rent, lease, use it for purposes of a service bureau, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make available the EXCHANGE or any features or functionality of the EXCHANGE or Services, to any third party for any reason or (e) remove, disable, circumvent or otherwise create or implement any workaround to any copy protection, rights management or security features in or protecting the EXCHANGE; (f) use the EXCHANGE for purposes which are illegal, (g) not transmit any material that is in breach of our Content Standards in relation to your use of the EXCHANGE, Service and Content.
- 5.2. The Exams and Course Materials are **not sold to you**. It is **licensed** to you for your personal, non-commercial use only.
- 5.3. Certain content and Course Material may be downloaded, however, this will be for your own personal use and you shall not be entitled to submit or make it available to any third party whatsoever;
- 5.4. Where you are allowed to print certain content or Course Material you are granted permission to produce a single hard copy of it for **YOUR PERSONAL USE ONLY**. Each single hard copy printed must be kept in the format it was presented and made available to you. You are prohibited from modifying the copy.
- 5.5. Except as granted in this clause 5, no part of our site or Course Material may be copied, photocopied or reproduced in any form or by any means without the written permission of the Course Provider.

## 6. OUR RIGHT TO MAKE CHANGES TO SERVICES

We may change the Services to reflect changes in relevant laws and regulatory requirements and to implement minor technical adjustments and improvements. These changes will not affect your use of the Services, content, Exams or Course Material.

## 7. PRICE AND PAYMENT

- 7.1. **The price of Services:** The price of the Services will be the price as indicated on the EXCHANGE from time to time and will be presented to you before paying for it. We will use all reasonable efforts to ensure that the price of the Services is correct. However, there might be instances where this is not the case, and we refer you to paragraph 7.3 below in these instances.
- 7.2. **VAT:** All prices and/or costs quoted by us shall be inclusive of all applicable taxes but exclusive of VAT, which shall be shown clearly and separately to the agreed fees charged in terms of the Services. If the rate of VAT changes between your order date and the date we supply the Services, we will adjust the rate of VAT that you pay, unless you have already paid for the Services in full before the change in the rate of VAT takes effect.
- 7.3. **What happens if we or the Third Party service providers got the pricing wrong?** There is always the possibility that, despite our or the Third Party service providers best efforts, some of the Services that are published on the Exchange may be incorrectly priced. We will normally check prices before accepting your Purchase Order so that, where the Services' correct price at the time of your Purchase Order is less than our stated price at the time of your Purchase Order, we will charge the lower amount. If the Services' correct price at the time of your Purchase Order is higher than the price stated, we will contact you for your instructions before we accept your Purchase Order. If we accept and process your Purchase Order where a pricing error is obvious and unmistakable and could reasonably have been recognised by you as a mispricing, we may end the Contract, refund you any monies you have paid and require the return of any Services provided to you.
- 7.4. **Time and method of payments:** The Online Shop is made available by a Third Party service provider. All Services acquired via the Online Shop will be executed by One Fifty Three (Pty) Limited (One Fifty Three). One Fifty Three use the following payment gateway for Debit Card and Credit Card payments as per the conditions below:
  - 7.4.1. Credit card and debit card transactions will be acquired for our benefit via Paystack (Pty) Ltd ("Paystack") who is the approved payment gateway for all South African Acquiring Banks.
  - 7.4.2. Paystack allows for payment with Visa and Mastercard credit cards.
  - 7.4.3. Paystack is PCI-DSS Level 1 Compliant;
  - 7.4.4. Paystack uses the strictest form of encryption, namely Extended Validation SSL (Secure Socket Layer) with 256-bit encryption and 3D Secure.
  - 7.4.5. **No credit card details are stored on our database.**
  - 7.4.6. Users may go to <https://paystack.com/za/> to view their security certificate and security policy.
- 7.5. One Fifty Three will store your details separately from your credit card details which are entered by you on Paystack's secure website.
- 7.6. The merchant outlet country at the time of presenting payment options to the cardholder is the Republic of South Africa. Therefore, the transaction currency is South African Rand (ZAR).
- 7.7. **Credit Card Refunds:** One Fifty Three will process the refund to your credit card as soon as we receive your returned Product (subject to these Terms of Service). Please allow for a period of 30 days for the refund to reflect. If you have made payment by any other means we will transfer the refund by way of Electronic Funds Transfer.
- 7.8. When you must pay depends on what Services you bought: You are required to pay for the Services before we allow it to be downloaded. We will not provide our Services unless payment has been made in full.
- 7.9. **What if my invoice is incorrect?** Should you believe that any part of your invoice is incorrect please contact us promptly to let us know and we will not charge you interest until we have resolved the issue.
- 7.10. One Fifty Three may, in our sole discretion and notwithstanding any instructions by you, appropriate any payment received from or on your behalf to any of your indebtedness to us arising from any cause whatsoever.
- 7.11. **Special Offers:** We shall not be liable for the sale of Services at lower prices if such lower prices were increased and you could not, for any reason, conclude a Contract while such prices were at such lower price.
- 7.12. Should One Fifty Three supply the wrong Services to you or if the Services is in any way faulty or damaged, One Fifty Three will exchange the Services for the correct/non-faulty/undamaged one. However, if the Services are no longer being offered at the special discounted price, it will not be replaced, and One Fifty Three will refund you with the purchase price and delivery costs.
- 7.13. **Records of Transactions:** One Fifty Three will keep a record of your transaction with them.

## 8. HOW TO END THE CONTRACT WITH US (INCLUDING IF YOU HAVE CHANGED YOUR MIND)

**Tell us you want to end the contract.** To end the contract with us (i.e. you don't want to use the Services any more or receive any information or notifications related to the Services anymore, then please let us know by sending us an e-mail to the email

address as per our Terms of Use. We may request certain information from you to ensure that it is actually you that are requesting the end of the/a contract.

## 9. TERMINATION

9.1. **We may end the contract for the Services at any time if:-**

9.1.1. you have breached any term or condition under these Terms of Services or the Terms and Conditions under One Fifty Three (Pty) Ltd ; or

9.1.2. You are no longer registered under the FSCA (if applicable);

9.1.3. Your employer or specific Product Provider informs us in writing that you are no longer authorised to have access to the EXCHANGE or to a particular Service of the Product Provider.

9.2. **We may withdraw the Service.** We may write to you to let you know that we are going to stop providing a Service or any part thereof. We will let you know at least 7 (seven) days in advance of our stopping the supply of the service and will refund any sums you have paid in advance for service which will not be provided.

9.3. Should we be obliged to institute legal action against You to enforce any provisions of our contract with you, then You will be responsible for all reasonable legal costs on an attorney and own client basis, including such tracing fees and collection commission which such attorneys are entitled to charge, on successful judgement of Our claim.

9.4. Upon termination or expiry of the Services –

9.4.1. Your rights under these terms and conditions shall terminate immediately;

9.4.2. We shall stop providing the Services and will be entitled to suspend you access to the EXCHANGE;

9.4.3. We will deliver, upon written request by You, any Personal Information we may have on You, unless we are required by law to keep a copy (which we will only keep for record purposes).

9.4.4. You undertake to return to Us any documentation, information or other materials of Us, which You or have no legal right to retain.

## 10. CONFIDENTIALITY

We acknowledge that, during the performance of Services, we will have access to Personal Information relating to You or other information that may be confidential by nature ("Confidential Information"). We agree that, during the term of this Agreement and thereafter, we will use and hold all such Confidential Information in the strictest confidence and not to disclose it to any person or to use it except as necessary in carrying out the Services consistent with this Agreement or as per your instructions and consent.

## 11. INTELLECTUAL PROPERTY RIGHTS

11.1. All existing and future intellectual property rights (patents, copyright, designs, trademarks, know how whether registered or un-registered) in and to the EXCHANGE, Services, content, Exams and Course Material belong to us or our licensors (including but not limited to Product Providers). You may only use it subject to the terms and conditions of this Terms of Service.

11.2. Without limiting our rights as confirmed above, the content on the Exchange including without limitation, the text (including but not limited to the Product Exams), software, scripts, tables and compilations, graphics, photos, sounds, videos, interactive features and the like ("Content") and the trademarks, service marks and logos contained therein ("Marks"), are owned by or licensed to us and subject to copyright and other intellectual property rights under the Republic of South Africa and foreign laws and international conventions. Content on the Exchange is provided to you "AS IS" for your information and personal use only. Except for the purpose as explained on the Exchange, the Content may not be used, copied, reproduced, distributed, transmitted, broadcast, displayed, sold, licensed, or otherwise exploited for

any other purposes whatsoever without the prior written consent of the respective owners. We reserve all rights not expressly granted in and to the Exchange and the Content. You agree to not engage in the use, copying, or distribution of any of the Content other than expressly permitted herein. If you download or print a copy of the Content for personal use, you must retain all copyright and other proprietary notices contained therein. You agree not to circumvent, disable or otherwise interfere with security-related features of the Exchange or features that prevent or restrict use or copying of any Content or enforce limitations on use of the Exchange or the Content therein. If you feel that any Service, Content, Exams or Course Material may be an infringement of any third party's rights, then please contact us immediately in writing on: info@fais-exchange.co.za.

## 12. HOW WE MAY USE YOUR INFORMATION

- 12.1. We will process your information as confidential information.
- 12.2. Where the information you provide to us may contain Personal Information, we will Process same in accordance with our **Privacy Policy**;
- 12.3. **By using and providing information to or through this EXCHANGE, you consent to all actions taken by us with respect to your information in compliance with the Privacy Policy, including that we may request Third Parties such as the FSCA to submit certain information to us to verify you as a user of our EXCHANGE (if applicable to your registration as a user of our site).**

## 13. **DISCLAIMER OF WARRANTIES: THE EXCHANGE IS PROVIDED TO YOU "AS IS" AND WITH ALL FAULTS AND DEFECTS WITHOUT WARRANTY OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, WE, ON ITS OWN BEHALF AND ON BEHALF OF ITS MEMBERS AND ITS AND THEIR RESPECTIVE LICENSORS AND SERVICE PROVIDERS OR PRODUCT/CONTENT PROVIDERS, EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE EXCHANGE, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND WARRANTIES THAT MAY ARISE OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OR TRADE PRACTICE. WITHOUT LIMITATION TO THE FOREGOING. WE PROVIDE NO WARRANTY OR UNDERTAKING, AND MAKES NO REPRESENTATION OF ANY KIND THAT THE EXCHANGE WILL MEET YOUR REQUIREMENTS, ACHIEVE ANY INTENDED RESULTS, BE COMPATIBLE OR WORK WITH ANY OTHER SOFTWARE, SYSTEMS OR SERVICES, OPERATE WITHOUT INTERRUPTION, MEET ANY PERFORMANCE OR RELIABILITY STANDARDS OR BE ERROR FREE OR THAT ANY ERRORS OR DEFECTS CAN OR WILL BE CORRECTED.**

## 14. LIMITATION OF LIABILITY

- 14.1. **To the extent permitted by law, we (including our directors, employees, licensors, content / Product Providers, service providers, partners, affiliates and agents) shall not be liable for any damages, loss or liability of any nature incurred by you, or any other person resulting from the use of or inability to use our Services, including the EXCHANGE or the technology, material and content made available on and through it.**
- 14.2. **Unless otherwise agreed to under these Terms of Services or determined by law, we (including our directors, employees, licensors, content / Product Providers, service providers, partners, affiliates and agents) will not be liable in law or delict, for any indirect, special or consequential damages whatsoever. We shall further not be liable for any direct loss or damage suffered by you as a result of the inaccurate information you made available to us.**
- 14.3. **For purposes of all Service providers / Product Providers you hereby agree to indemnify us and the specific Service provider / Product Provider, or any provider of content via the Service Provider / Product Provider system, against any action, may be taken against us or the Service provider or any such Product Provider, whether natural or legal person, as well as against any damage or loss, including interest or legal costs incurred by us or the Service provider or any Product Provider as a result of such action, damage or loss which we or the Service provider or the Product Provider may suffer or incur as a result of the unauthorised use of the EXCHANGE or information accessed.**



## 19. FORCE MAJEURE

We will not be liable to You for any default or delay in the performance of the obligations under these Terms of Service, if and to the extent that such default or delay is caused by any act of God, war or civil disturbance, court order, or any other circumstance beyond Our reasonable control including fluctuations in communications or utility services ("Circumstances of Force Majeure") and provided we are obviously without fault in causing such default or delay, and such default or delay could not have been prevented by us through the use of alternative sources or means.

## 15. SUPPORT

- 15.1. In the event of you encountering any technical problems/errors with the EXCHANGE or any of the Services (functionality and content) you will immediately report it to us (see our Contact us page);
- 15.2. We shall attend to the queries in respect of any technical problems/errors reported to it as soon as is possible. Take note that resolution on some of those problems will depend on the turnaround time of Third-Party Product Providers or Service providers.

## 16. COMMUNICATIONS

- 16.1. You agree that these terms and conditions are valid, binding, enforceable and concluded at the address as per our Terms of Use ("Premises"), the moment you access the EXCHANGE;
- 16.2. Time and Place of communication, dispatch and receipt:-
  - 16.2.1. Data Messages (as defined under the ECT Act) sent from us to You have been sent from our Place of Business;
  - 16.2.2. Data Messages sent from us to You on receipt of sent confirmation on our system; and
  - 16.2.3. Data Messages from You to us are deemed to be received by us only when a representative of us responds thereto, and for the purposes of this clause an auto-response shall not be a response by us. Such acknowledgement further does not give legal effect to that message, unless specifically indicated by an authorised representative of ours that it does give legal effect to the message.

## 17. OTHER IMPORTANT TERMS

- 17.1. **Entire Agreement:** This Terms of Service constitutes the entire agreement between you and us with respect to the EXCHANGE and Services and supersede all prior or contemporaneous understandings and agreements, whether written or oral.
- 17.2. **Assignment:** You may not transfer your rights or your obligations under these Terms of Services to another person.
- 17.3. **Third Party rights:** Although this agreement is between you and us, third party Product Providers shall have a right to take such action that may be necessary to protect their intellectual property.
- 17.4. **Severability:** If a court finds part of this contract illegal, the rest will continue in force. Each of the paragraphs of these terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.
- 17.5. **Waiver:** No failure to exercise, and no delay in exercising, on the part of either party, any right or any power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or power hereunder preclude further exercise of that or any other right hereunder.
- 17.6. **Amendments / Variations:** We may, in our sole discretion, change any of these Terms of Services at any time. It is your responsibility to regularly check these Terms of Services and make sure that you are satisfied with the changes. Should you not be satisfied, you must not place any further orders on, or in any other way use, the Services or Service platform. Any such change will only apply to your use of our Services after the change is published by us. If you use our Services after such amended Terms of Services have been published, you will be deemed to have accepted such changes.
- 17.7. **Applicable law:** These terms are governed by the Republic of South Africa law.



- 17.8. **Dispute Resolution:** Subject to the Terms of Use provisions that deal with Complaints and Legal Documentation, the parties hereby agree to the Western Cape High Court (Cape Town) to institute proceedings concerning the EXCHANGE and Services.

**We recommend you print these Terms of Services for your records**