

STANDARD TERMS AND CONDITIONS OF SALE AND USE



IMPORTANT NOTICES

- 1 This document contains the terms and conditions on which Juta & Company Proprietary Limited ("Juta Law") sells products ("Products").
- 2 This document contains terms and conditions which appear in similar text style to this clause and which –
 - 2.1 may limit the risk or liability of Juta Law or a third party; and/or
 - 2.2 may create risk or liability for the Purchaser; and/or
 - 2.3 may compel the Purchaser to indemnify Juta Law or a third party; and/or
 - 2.4 serves as an acknowledgement, by the Purchaser, of a fact.
- 3 To the extent that the Purchaser is a consumer for the purposes of the Consumer Protection Act, 2008 ("CPA"), the Purchaser's attention is drawn to these Terms and Conditions because they are important and should be carefully noted.
- 4 Nothing in these terms and conditions is intended to or must be understood to unlawfully restrict, limit or avoid any rights or obligations, as the case may be, created for either the Purchaser or Juta Law in terms of the CPA.

1 APPLICATION OF THIS DOCUMENT

- 1.1 This document, as amended by Juta Law from time to time in accordance with the provisions of the ECT Act, the CPA or any other applicable legislation, is applicable to the provision and use of all Products sold by Juta Law to Purchasers.
- 1.2 The Purchaser accepts and agrees that these terms and conditions become binding once Juta Law has processed the Purchaser's Order and agreed to provide the Products. Juta Law will notify the Purchaser in writing if the Purchaser's Order is not accepted.
- 1.3 Each order for Products, and each instance in which Products are sold to the Purchaser, shall constitute a separate Sale Agreement between the Purchaser and Juta Law and shall be governed by this document.
- 1.4 In the event of a conflict between these Terms and Conditions and the Order then these Terms and Conditions shall take precedence.
- 1.5 The Parties may agree certain terms and conditions relating to a certain Product regarding the manner in which the Product may be used. In such an event, those specific terms will be recorded in writing in a separate document signed by both Parties ("**Terms of Use Sheet**"). The Terms of Use Sheet will be considered an annexure to these Terms and Conditions and shall be in addition to these Terms and Conditions and not in substitution thereof. In the event of a conflict between these Terms and Conditions and the Terms of Use sheet then the Terms of Use Sheet will take precedence.
- 1.6 Juta Law reserves the right to amend these Terms and Conditions from time to time. Juta Law will give written notice to each Purchaser of such amendments by placing the amended terms and conditions on the Juta Law website (www.jutalaw.co.za).

2 ORDERS AND PRICE

All orders received for Products will be processed in accordance with Juta Law's normal business practice.

3 EXPORT ORDERS

- 3.1 All Orders received from outside of the Republic of South Africa for Products are subject to Juta Law obtaining the necessary export licence.
- 3.2 It is the Purchaser's responsibility to obtain the necessary import permit.
- 3.3 Any cost which Juta Law may have incurred by the non-availability of the import permit to the Purchaser on the date

by which the Products are ready for dispatch will be for the Purchaser's account.

4 PAYMENT

- 4.1 Unless otherwise agreed upon in writing, any amount payable pursuant to this document shall be due no later than 30 (thirty) days from the date of issue of an Invoice by Juta Law for the Products in question.
- 4.2 Notwithstanding the provisions of clause 4.1 above, the full price for any e-Book must be paid in advance of download.
- 4.3 All payments by the Purchaser and other amounts due shall be paid in full, without any deduction or set-off and without the costs of transfer of funds either in cash at the premises of Juta Law or directly into the bank account of Juta Law as indicated in the Invoice or such other bank account as Juta Law may notify the Purchaser of in writing from time to time.
- 4.4 Juta Law shall be entitled to charge interest on any amount not paid on the due date for payment at the Prime Rate plus 2% (two per cent) calculated from the due date for payment until the date of payment, both days inclusive.

5 DELIVERY, OWNERSHIP AND RISK

- 5.1 Ownership in the print products or CD-ROM /DVD-Rom archive discs shall pass to the Purchaser when the total purchase price in respect of the Products purchased have been paid in full and received by Juta Law. Accordingly, ownership in and to these Products shall remain vested in Juta Law until fully paid for, notwithstanding anything to the contrary herein contained or in any contract of carriage, insurance or finance.
- 5.2 Notwithstanding the provisions of clause 5.1 above, risk in the Products shall pass to the Purchaser on the date of delivery, including the risk of loss, theft, destruction or damage.
- 5.3 In the event Juta issues a CD-ROM or DVD-ROM Archive Disc or Non-Expiry Disc, all risk passes on to the Purchaser including risk of loss, theft, destruction, damage or technological changes to computer hardware or software affecting compatibility with the Product.
- 5.4 Juta Law shall deliver the Products to the Purchaser at the place stipulated on the relevant Order and the Purchaser shall be obliged to take delivery of the Products when tendered.
- 5.5 Juta Law will at all times endeavour to dispatch the Products for delivery to the Purchaser as soon as practicably possible after the Order confirmation has been issued, however the Purchaser acknowledges that Juta Law's ability to supply the Products is dependent on its stock levels. The Purchaser shall not be entitled to rely on any indication given to the Purchaser, indicated prior to or at the time of placing of the Order or thereafter, of the time at which delivery shall take place, which shall merely be an estimate, and Juta Law shall not be liable or accountable to the Purchaser for any claims, loss or damages suffered in relation thereto.
- 5.6 Delivery of the Products shall be deemed to be effected as follows –
 - 5.6.1 in the case of Internet Products, once Juta Law has provided the Purchaser with a unique username and password, or once the IP addresses of the End Users have been authenticated;
 - 5.6.2 in the case of Print Products and CD-ROM Products, when posted via registered mail or upon the signature of any employee or agent of the Purchaser, on Juta Law's official delivery note or waybill, or the delivery note of any authorised independent courier;
 - 5.6.3 in the case of e-Books, once the Purchaser has downloaded the e-Book in full; and
 - 5.6.4 in the case of Legalbrief, once the email has been sent to the Purchaser's email address as recorded on Juta Law's records.

- 5.7 In the case of CD-ROM, DVD-ROM and Intranet products provided that the Purchaser has paid the price in full, the Purchaser shall be entitled to receive any updates issued by Juta Law to subscribed products, for the duration of the subscription period.
- 5.8 The Purchaser is required to inform Juta of non-delivery / non receipt of print or CD/DVD-ROM products within three months of scheduled delivery date. Juta will not supply customers with free replacement copies of these products later than three months of original despatch.
- 5.9 Unless expressly agreed to in the Terms of Use sheet, Juta Law makes no warranties for the suitability of the Products sold for any particular end use contemplated by the Purchaser. It is the sole responsibility of the Purchaser;
- 5.9.1 to ensure the suitability of the Products for the use contemplated by the Purchaser and/or any End-User, and
- 5.9.2 for the purchase, installation and subsequent maintenance or updating of computer hardware, software or any other components, systems including recommended internet browsers that may be required to access Juta Law electronic products.
- 5.10 No delay (whether occasioned by a delay in delivery of Products ordered by the Purchaser, to the Purchaser by the suppliers or couriers of Juta Law or by other causes beyond Juta Law's reasonable control (as contemplated in clause 5.12) shall give rise to a right or claim for loss, damages or cancellation of an Order or this Agreement by the Purchaser.
- 5.11 The Purchaser shall be liable for all additional costs occasioned by –
- 5.11.1 the Purchaser's inability to accept delivery of the Products concerned; or
- 5.11.2 the Purchaser's specific request for delay or suspension of delivery.
- 5.12 Notwithstanding anything to the contrary herein contained, Juta Law shall not be liable to the Purchaser in respect of the non-performance of any of the provisions of this Agreement in the event and to the extent that such non-performance is as a result of or has been caused by *force majeure*, which shall mean any event beyond the reasonable control of Juta Law or which could not reasonably have been foreseen by it, and shall include, but not be limited to, –
- 5.12.1 inability to secure or procure labour and/or Products (including due to a breach by any supplier of Products for an Order therefor), if applicable, despite Juta Law having taken all reasonable steps to procure same; or
- 5.12.2 any act of God, war, strike, lockout or other labour dispute, fire, flood, drought, rain, storm, rough seas, wind or any existing or new legislation, general power failures, breakdown of telecommunication networks or computers, political intervention, imposition of sanctions, riot, insurrection embargoes, quarantine or any governmental barring directive or order.
- 6 DATA PROTECTION AND PROCESSING OF PERSONAL INFORMATION**
- 6.1 Juta Law may, and the Purchaser expressly consents to, the collecting and processing of its Personal Information by Juta Law, in order to process the Order; to draw matrices, statistics and user reports from the Designated System to identify potential markets and trends; to determine current and future customer requirements and develop new products and services.
- 6.2 Any Personal Information obtained will be used in accordance with Juta Law's Privacy Policy, which can be viewed on www.juta.co.za.
- 7 INTELLECTUAL PROPERTY AND PERMITTED USE**
- 7.1 Notwithstanding the sale and delivery of the Products to the Purchaser, all copyright, patent rights, trademarks, registered design or any application for registration of the same, database rights, design rights, rights in trade, business or domain names, rights in trade dress, rights in inventions, rights in confidential information or know-how, whether registered or unregistered, or any similar or equivalent rights in any part of the world and all other intellectual property rights in and to the content of the Products shall at all times remain vested in Juta Law or its licensors. Any Personal Information obtained will be used in accordance with Juta Law's Privacy Policy, which can be viewed on www.juta.co.za.
- 7.2 Juta Law hereby grants to the Purchaser, who hereby accepts, a non-exclusive, non-transferable licence to use the Products in accordance with these Terms and Conditions (and the Terms of Use Sheet, if applicable). In respect of the Print Products, the duration of the aforesaid licence shall be for the life of the Product. In respect of the Electronic Products, the aforesaid licence shall endure for the “**subscription period**” indicated in the Juta Law catalogue prevailing at the time of purchase, read with the applicable Invoice.
- 7.3 Unless otherwise stipulated in the Terms of Use Sheet for the relevant Electronic Product;
- 7.3.1 the licence contemplated in clause 7.2 may only be used by the number of concurrent End-Users defined by the number of licences purchased, read with the applicable Invoice.
- 7.3.2 registered recipients of the Legalbrief newsletters may not forward or distribute these newsletters to any other recipients.
- 7.3.3 E-Books may only be downloaded 3 (three) times and may only be used on the Purchaser's own devices and not for the purposes of re-sale or for any shared usage
- 7.4 Unless Juta Law agrees otherwise in writing, the Purchaser may not display or distribute any part of the Electronic Products on any electronic network other than as permitted in these Terms and Conditions.
- 7.5 CD-ROM Products may contain an archive component. If the Purchaser chooses not to renew the licence to such a Product, the Purchaser may, provided all Outstanding Amounts has been paid within 30 days of the date of expiry of the licence, request in writing a non-expiry disc from Juta Law free of charge. Once issued with such non-expiry disc, Juta Law shall have no further obligations or liability to the Purchaser whatsoever.
- 7.6 The Purchaser's is entitled to receive one copy of the CD-ROM Product and to install same on one computer or server within the Designated System. The CD-ROM Products are designed for and may only be accessed and used directly or via a local area network or any other form of network or remote access, but not via a wide area network. Unless otherwise agreed in writing by Juta Law, the CD-ROM Products may not be used on an online system or platform.
- 7.7 Internet products can be accessed by;
- 7.7.1 using internet protocol (“IP”) authentication which requires the purchaser to provide Juta Law with a static IP address or static range of IP addresses. The Purchaser must notify Juta Law of any changes to such IP addresses.
- 7.7.2 using username and password. The username must be an active email address.
- 7.8 Juta Law may make use of cookies when verifying the End-user's IP address.
- 8 DISCLAIMER**
- 8.1 **Whilst Juta Law takes reasonable precautions to protect the security of its Electronic Products, due to the nature of the Internet, Juta Law stipulates, and the Purchaser acknowledges that Juta Law cannot warrant or guarantee that the Products will be error-free, be free from interruptions or always available, save where the Products are found to be defective and such defect has been solely caused by Juta Law as anticipated under sections 55 and 56 of the CPA, where applicable.**
- 8.2 **In addition to the provisions of clause 8.1, Juta Law disclaims all warranties or representations, whether express or implied, that the information or files available on the Electronic Products are free of viruses, spyware, malware, trojans, destructive materials or any other data or code which may corrupt, destroy, compromise or jeopardise the operation, stability, security functionality or content of the Purchaser's Designated System, computer network, hardware or software in any way.**

9 LIMITATION OF LIABILITY

- 9.1 In addition to any other specific exclusions of liability contained herein and unless otherwise expressly stated herein, the Parties agree that the Purchaser shall have no claim against Juta Law for any loss or damage, of any nature, occasioned by any defect in any Products supplied, or any failure to provide adequate instructions in respect of any hazards that might arise from the use or incorrect use of the Products save to the extent that such loss or damage is contemplated in section 61 of the CPA, and provided that nothing in these Terms and Conditions must be construed as in any way limiting the rights of the Purchaser to raise such defences as may be available to it at common law or in terms of any statute.
- 9.2 Notwithstanding the provisions set out in clause 9.1 above, in the event that Juta Law provides advice regarding the application of Juta Law Products, the liability of Juta Law in respect of the non-suitability of the Products for the purpose for which they are used will be limited to the selling price of those Products.
- 9.3 **Juta Law accepts no liability for damage to Products caused by inadequate storage, tampering by parties not authorised by Juta Law, negligence of the Purchaser or End-User, or use of the Products by the Purchaser in applications for which they are not recommended (including use in a manner not authorised in the Terms of Use Sheet accompanying the Product).**
- 9.4 Juta Law has no control over third party content and features which can be accessed through the use of the Products and does not examine or edit such content and features or act as an agent for third parties accessible through the Products. As such and to the fullest possible extent permissible under law Juta Law disclaims any liability whatsoever to users for any loss or damage arising from the use of third party websites, contents and features.
- 9.5 **Subject to chapter 7 of the ECT Act, Juta Law, its officers, employees, suppliers, internet service providers, partners, affiliates and agents, shall not be liable for any direct damage, loss or liability, howsoever arising, incurred by End-Users or any other persons and resulting from the use or inability to use the Products, unless such damage was caused by the gross negligence of Juta Law or any or a combination of the foregoing persons.**

10 DEFAULT EVENTS

- 10.1 The Purchaser shall be in default of its obligations in terms of the sale Agreement if it –
- 10.1.1 fails to pay punctually any amount due and payable to Juta Law and fails to remedy the non-payment within a period of 10 (ten) Business Days from the date of written notification to that effect from Juta Law; or
- 10.1.2 commits any other breach of any of the terms of the Agreement and fails to remedy same within a period of 10 (ten) business days from the date of written notification to that effect from Juta Law; or
- 10.1.3 allows any judgments against it to remain unsatisfied for a period of 5 (five) business days; or
- 10.1.4 compromise or attempts to compromise any debt with any of its creditors; or
- 10.1.5 is provisionally or finally sequestrated, liquidated, wound-up or placed under business rescue or curatorship; or
- 10.1.6 permits any lien, hypothec, notarial bond, pledge, other security, or interest to be created over the Products, or abandons the Products or relinquishes possession of the Products, or allows the Products to be seized under any legal process issued against the Purchaser prior to the discharging all of its obligations arising from the Sale Agreement.
- 10.2 Upon the Purchaser being in default, or should Juta Law be otherwise entitled in law, Juta Law shall, without prejudice to any other rights that it may have at law or in terms of the Sale Agreement be entitled to –

- 10.2.1 suspend any and all supply of or access to Products until such time as payment of all amounts owed is received in the case of a default in terms of clause 10.1.1; or
- 10.2.2 cancel this Agreement on written notice to the Purchaser or to claim specific performance in terms of this Agreement for any obligation owed by the Purchaser to Juta Law; and
- 10.2.3 claim damages from the Purchaser.
- 10.3 Without derogating from the provisions of 4.4, if the Purchaser cancels or purports to cancel this Agreement then, notwithstanding anything to the contrary herein, the Outstanding Amount shall immediately be due and payable by the Purchaser to Juta Law.

11 DOMICILIUM & INFORMATION

- 11.1 The Purchaser hereby chooses as its *domicilium citandi et executandi* for all purposes under or arising from the Sale Agreement its street address provided to Juta Law in the Order.
- 11.2 Any notices sent by facsimile or email shall be deemed to have been received on the date of transmission provided that the transmission or receipt report does not indicate otherwise and if posted by registered or secured mail, on the 10th (tenth) day after posting.
- 11.3 The Purchaser shall notify Juta Law in writing of any changes in the information provided to Juta Law in the Order. Juta Law shall not be liable for any damages, loss or expenses suffered or incurred by the Purchaser as a result of the non-compliance by the Purchaser with this clause 11.3.

12 LEGAL COSTS

In the event of a default by the Purchaser under the Sale Agreement, the Purchaser will be liable for all legal and related costs.

13 APPLICABLE LAW AND JURISDICTION

- 13.1 The Sale Agreement will in all respects be governed by and construed under the laws of South Africa.
- 13.2 The Parties consent and submit to the jurisdiction of the High Court of South Africa, Western Cape Division, Cape Town in respect of any dispute between them in relation to or arising from the Sale Agreement.

14 CREDIT INFORMATION

The Purchaser agrees that Juta Law may –

- 14.1 make inquiries to confirm any information provided by the Purchaser in the Order;
- 14.2 seek information from any credit bureau when assessing the Purchaser's application and at any time during the existence of the Sale Agreement; and
- 14.3 disclose the existence of the Purchaser's account to any credit bureau, share positive and negative information about the Purchaser and its compliance with the Sale Agreement with any such credit bureau.

15 GENERAL

- 15.1 If any provisions of the Sale Agreement are found to be unlawful, unenforceable or invalid, it shall be deemed to be separate and severable from the remaining provisions of the Agreement and to the extent that same is unlawful, unenforceable or invalid, be deemed to be *pro non scripto*.
- 15.2 No extension of time or other indulgences granted by Juta Law to the Purchaser in respect of its obligations will constitute a waiver or novation of or otherwise affect any of credit provider's rights to enforce strict compliance with the terms of the Sale Agreement.
- 15.3 Juta Law reserves the right to amend these terms and conditions without notification to third parties.
- 15.4 The Sale Agreement together with these terms and conditions constitutes the whole agreement between the Parties and no Party shall be bound by any undertakings, representations, warranties and promises or the like not recorded therein.