

WEBSITE TERMS AND CONDITIONS

1. ACCEPTANCE

SMOLLAN provides you with access to its website, www.smollan.com ("website") as well as the services in respect thereof (collectively referred to as the "services"). These terms and conditions set out what is expected from you when accessing and using the services. By accessing or using the services, you will be deemed to have read, understood and accepted these terms and conditions. In terms of section 11 of the Electronic Communications and Transactions Act 25 of 2002 and the common law of contract, these terms and conditions are valid, binding and enforceable against all persons that access and use the services or any part thereof.

2. PRIVACY POLICY

SMOLLAN recognises the importance of keeping your personal information private and has formulated a Privacy Policy setting out the manner in which we collect, store, process and use your personal information. You understand that the Privacy Policy forms part of these terms and conditions and you are deemed to have read, understood and accepted the provisions of our Privacy Policy by your acceptance of these terms and conditions. The Privacy Policy is accessible on the website and we recommend you read and familiarise yourself with its provisions.

3. CONTENT AND INFORMATION

3.1. You are responsible for your use of the services, for any content you post on or through the services, and for any consequences thereof. The content you submit, post or display will be able to be viewed by other users of the services and through third party services and websites. You should only provide content that you are comfortable sharing with others under these terms and conditions. Any use or reliance on any content posted on or through the services or obtained by you through the services is at your own risk.

3.2. We do not endorse, support, represent, or guarantee the completeness, truthfulness, accuracy, or reliability of any content or any communications posted on or through the services or endorse any opinions expressed on or through the services. You understand that by using the services you may be exposed to content that might be offensive, harmful, inaccurate or otherwise inappropriate, or in some cases, postings that have been mislabelled or are otherwise defective. Under no circumstances will SMOLLAN be liable in any way for any content, including, but not limited to, any errors or admissions in any content, or any loss or damage of any kind incurred as a result of the use of any content posted, emailed, transmitted or otherwise made available on or through the services or broadcast elsewhere.

- 3.3. SMOLLAN is not obliged to monitor or control the content posted on or through the services and, we cannot take responsibility for such content. You may therefore be exposed to unwanted content and it is your duty to report any undesirable content to SMOLLAN.

4. USE OF THE SERVICES

- 4.1. You will only use these services for legitimate and lawful purposes and you agree to abide by all laws when using the services. You agree not to engage in any activities that may cause any damage or loss to SMOLLAN.
- 4.2. You warrant that all information provided to us for the purposes of opening your user account with SMOLLAN is true, accurate and complete. You agree to maintain and update your user account information to keep it true, accurate and complete.
- 4.3. You may not and agree not to:
- 4.3.1. monitor, intercept or modify any communication that is not addressed to you or to your user account;
 - 4.3.2. use any harmful or malicious code, such as viruses, trojan, horses, worms or spiders, to interfere or access any data, communications or software associated with the services;
 - 4.3.3. send any unsolicited communication to SMOLLAN or to any user of SMOLLAN, whether such unsolicited communication is sent to the SMOLLAN user's account or to any other address of such SMOLLAN user;
 - 4.3.4. use the services in such a manner as to threaten, harass, embarrass or invade the privacy of any person;
 - 4.3.5. abuse, harass, threaten, intimidate, or harm any other user or any member of SMOLLAN'S staff;
 - 4.3.6. resell the services or any content obtained via the services to a third party;
 - 4.3.7. impersonate any other SMOLLAN user or any other person;
 - 4.3.8. use another person's user name or password to access another user's account;
 - 4.3.9. use the services for any purpose that is defamatory, pornographic, an invasion of privacy, obscene, abusive, illegal, racist, offensive, harmful to a minor or an infringement of any intellectual property rights of a third party or would otherwise violate the rights of any third party.

4.4. SMOLLAN makes no claims that the services may be lawfully accessed and the content lawfully viewed or downloaded outside the Republic of South Africa. Access to the services and/or the content may not be legal by certain persons or in certain countries. If you access the services from outside of the Republic of South Africa, you do so at your own risk and you are solely responsible for compliance with the laws of, or applicable to, such jurisdiction.

5. RESTRICTIONS ON CONTENT AND USE OF SERVICES

5.1. You may not and agree not to post content on or through the services that is defamatory, pornographic, an invasion of privacy, obscene, abusive, illegal, racist, offensive, harmful to a minor or an infringement of any intellectual property rights of a third party or would otherwise violate the rights of any third party.

5.2. You are solely responsible for ensuring that any content posted is appropriate.

5.3. SMOLLAN reserves the right at all times (but will not have an obligation) to monitor any activity and content on or through the services. SMOLLAN may investigate any reported violations of these terms and conditions or any complaints and take any such steps or action as it may deem necessary to delete, remove, or refuse to distribute any content on the services and to terminate users or reclaim usernames.

5.4. We also reserve the right to access, read, preserve, and disclose any information as we reasonably believe is necessary to:

5.4.1. satisfy any applicable law, regulation, legal process or governmental request;

5.4.2. enforce these terms and conditions, including investigation of potential violations hereof;

5.4.3. detect, prevent, or otherwise address fraud, security or technical issues;

5.4.4. respond to reported violations and/or complaints; or

5.4.5. protect the rights, property or safety of SMOLLAN, its users and the public.

5.5. Whilst SMOLLAN reserves the right to delete or remove content deemed offensive by SMOLLAN, SMOLLAN does not guarantee that offensive content will be removed or deleted. Failure by SMOLLAN to remove or delete any offensive content does not constitute a waiver by SMOLLAN of its right to remove or delete offensive content in subsequent or similar cases and you agree that SMOLLAN will not be liable for any loss or damage resulting from any such failure.

6. PASSWORDS

You are responsible for safeguarding the password that you use to access the services and for any activities or actions under your password. SMOLLAN cannot and will not be liable for any loss or damage arising from your failure to comply with the foregoing.

7. INTELLECTUAL PROPERTY

- 7.1. All right, title, and interest in and to the services including all related intellectual property rights (excluding content provided by users) are and will remain the exclusive property of SMOLLAN and all its licensors. The services are protected by intellectual property laws. Nothing in these terms and conditions gives you a right to use the SMOLLAN name or any of the SMOLLAN trademarks, logos, domain names, and other distinctive brand features.
- 7.2. You retain your rights to any content you submit, post, or display on or through the services. By submitting, posting, or displaying content on or through the services, you grant us a worldwide, non-exclusive, royalty-free, perpetual licence (with the right to sub-licence) to use, copy, reproduce, process, adapt, modify, publish, transmit, display, distribute, or otherwise make available such content in any and all media or distribution methods (now known or later developed).
- 7.3. You agree that this licence includes the right for SMOLLAN to make such content available to other companies, organisations, or individuals who partner with SMOLLAN for the syndication, broadcast, distribution or publication of such content on other media and services, subject to our terms and conditions for such content use.
- 7.4. Such additional uses by SMOLLAN, or other companies, organisations or individuals who partner with SMOLLAN, may be made with no compensation paid to you with respect to the content that you submit, post, transmit or otherwise make available through the services.
- 7.5. We may modify or adapt your content in order to transmit, display or distribute it over computer networks and in various media and/or make changes to your content as are necessary to conform and adapt that content to any requirements or limitations of any networks, devices, services or media.
- 7.6. You are responsible for your use of the services, for any content you provide, and for any consequences thereof, including, but not limited to, the use of your content by other users and our third party partners. You understand that your content may be rebroadcasted by our partners and if you do not have the right to submit content for such use, it may subject you to liability. SMOLLAN will not be responsible or liable for any use of your content by SMOLLAN in accordance with these terms and conditions. You represent and warrant that

you have all the rights, power and authority necessary to grant the rights granted herein to any content that you submit.

8. THIRD PARTY CONTENT AND LINKS

- 8.1. The services may contain content posted and/or services provided by third parties and/or links to third party websites, or resources. You acknowledge and agree that SMOLLAN is not responsible or liable for the availability or accuracy of such third party content, services, websites, and/or resources.
- 8.2. You agree that SMOLLAN does not endorse any such third party content, services, websites, and/or resources. You acknowledge sole responsibility for and assume all risk arising from your access and/or use of any such third party content, services, websites, and/or resources. You indemnify, defend and hold us harmless against any claim by any third party for any loss or damage of any kind arising out of or in connection with your use of third party content, services, websites and/or resources.

9. CHILDREN

- 9.1. The services are intended solely for persons 18 (eighteen) years of age and older. If you are under the age of 18 (eighteen), you may not access or use the services.
- 9.2. By using the services you represent and warrant to us that you are 18 (eighteen) years of age or older.

10. USER WARRANTY

You represent and warrant to SMOLLAN that:

- 10.1. you have full power, authority, and legal capacity to enter into these terms and conditions and follow its obligations, and if you are registering on behalf of a company or other entity, you have the authority to bind your principal or employer company;
- 10.2. you will provide complete and accurate information to SMOLLAN what you warrant is true and correct;
- 10.3. you will adhere to these terms and conditions;
- 10.4. you are 18 (eighteen) years of age or older; and
- 10.5. in the event that your use of the services is dependent on using a cellular phone, personal computer, bandwidth or such other device or technology of another person, you have the necessary permission from that person.

11. INDEMNITY

You agree to indemnify, defend and hold SMOLLAN, its subsidiaries, affiliates, officers, agents, licensors, employees and any other partners harmless from any and all claims, losses, expenses, damages, actions, demands, liabilities or costs, including but not limited to legal fees resulting from your violation of these terms and conditions, your violation of any rights of a third party, and/or any content posted by you on or through the services.

12. MODIFICATIONS TO THE SERVICES

SMOLLAN reserves the right at any time to modify or discontinue, temporarily or permanently, services or any part thereof with or without notice to you. SMOLLAN will not be liable to you or to any third party for any such modifications, suspension, or discontinuance of the services.

13. AMENDMENTS TO TERMS AND CONDITIONS

SMOLLAN reserves the right to amend these terms and conditions at any time, for any reason with or without notice to you. The amended terms and conditions shall enter into force on the date that they are published on the website or from the first time you log on to SMOLLAN subsequent to such amendments, whichever occurs first.

14. DISCLAIMER

14.1. Whilst every effort has been made by SMOLLAN to ensure the proper performance of the services, SMOLLAN does not guarantee the availability of the services. Your use of the services is at your sole risk and the services are provided by SMOLLAN on an "as is" and "as available" basis. Without limiting the foregoing, SMOLLAN and its partners disclaim any warranties of any kind, whether express or implied, including, but not limited to the implied warranties of merchantability, fitness for a particular purpose, and non-infringement related to the services. We make no warranty that the services will meet your requirements or be available on an uninterrupted, secure, complete, timely, or error-free basis.

14.2. Any material or data downloaded or otherwise obtained through the use of the services is done at your own discretion and risk and you will be solely responsible for any damages or loss of data or e-mail that result from your use of the service. You also agree the SMOLLAN has no responsibility or liability for the deletion of, or the failure to store or to transmit, any material or data maintained by the services. No advice or information, whether oral or written, obtained by you from SMOLLAN or through or from the services will create any warranty not expressly stated in these terms and conditions. Some jurisdictions do not allow the disclaimer of implied warranties, so the foregoing disclaimer may not apply to you.

15. LIMITATION OF LIABILITY

You agree that SMOLLAN will not be liable for any loss or any direct, indirect, incidental, special, or consequential damages of any kind resulting from your use of the services, any content acquired from SMOLLAN, from any third party through the services, or in connection with any information or data uploaded to SMOLLAN. Smollan will further not be liable to any third party who has obtained content from you. In the event of a court ruling that the foregoing provisions are invalid or non-binding, you agree that SMOLLAN's liability will be limited to an amount of R5, 000.00 (five thousand rand) for all claims during any calendar year. Some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to you.

16. BREACH

If you breach any of your obligations in terms of these terms and conditions, SMOLLAN shall be entitled, without derogating from any other right you may have in terms of these terms and conditions or otherwise, cancel these terms and conditions and without prior notice to you, restrict or suspend your access to the services for such period of time as SMOLLAN may deem fit, remove any content posted by you and/or terminate your access and reclaim your username.

17. WAIVER AND SEVERABILITY

The failure of SMOLLAN to enforce any rights or provision of these terms and conditions will not be deemed a waiver of such rights or provisions. In the event of any provision of these terms and conditions is held to be invalid or unenforceable, the remaining provisions of these terms and conditions will remain in full force and effect.

18. NOTICES

- 18.1. You agree that for the purposes of the giving of any notice, SMOLLAN may send such notices to your e-mail address as indicated on your user account.
- 18.2. SMOLLAN chooses Hathorn House, 27 Hathorn Avenue, Maryvale, Gauteng or legal@smollan.co.za for the purposes of the giving of any notice.

19. GOVERNING LAW AND JURISDICTION

- 19.1. These terms and conditions and the relationship between you and SMOLLAN will be governed by the laws of the Republic of South Africa without regard to its conflict of law provisions.
- 19.2. You consent to the jurisdiction of the Magistrate's Court of South Africa in respect of any proceedings instituted by either party in terms of these terms and conditions.

20. GENERAL

These terms and conditions constitute the entire agreement between you and SMOLLAN relating to the subject matter hereof and these terms and conditions supersede and replace any prior agreements between you and SMOLLAN. Any claim or cause of action arising out of or related to the use of the services or the terms and conditions must be filed within 1 (one) year after the claim or cause of action arose or be forever barred.

21. SUPPORT

Should you experience any difficulties with any aspect of the services and/or the website, contact us on +27 11 640 8000 during office hours (08h00 to 17h00) Monday to Friday.

22. DISCLOSURES REQUIRED IN TERMS OF SECTION 43 OF THE ECT ACT

The following disclosures are made in terms of section 43 of the ECT Act:

Full name and legal status: Smollan Group SA Proprietary Limited

Telephone number: + 27 11 640 8000

E-mail address: legal@smollan.co.za

Physical address: Hathorn House, 27 Hathorn Avenue, Maryvale, Gauteng, 2192

Postal address: P.O. Box 51537, Raedene, Gauteng, 2124

Physical address for receipt of legal service: Hathorn House, 27 Hathorn Avenue, Maryvale, Gauteng, 2192

Main business: Sales and Merchandising Services

Registration number: 1993/003901/07

Office bearers (directors): D.R. Smollan, D.L. Smollan, J. Dowding, M. Segal, I.S. Monamodi, M.N. Mbekeni, D. Krishna and M.G. Leitch

Alternative dispute resolution: Please refer to the Standard Terms and Conditions.