

PLEASE READ THESE TERMS AND CONDITIONS THAT APPLY TO THE USE OF OUR WEBSITE

1. TERMS OF WEBSITE USE

- These terms of use (“**Terms of Use**”), together with the documents referred to herein, makes provision for the terms and conditions applicable when making use of our website <https://www.opencollab.co.za/> (or such website that directs you to <http://www.opencollab.co.za/>) and/or any social network website we make available to you (“**our website**”).
- **Please read these Terms of Use carefully before making use of our website. We recommend that you print a copy of these Terms of Use for future reference.**
- These Terms of Use set forth the binding legal agreement between every person that accesses or uses our website.
- These Terms of Use also refer to our [Privacy Policy](#), which sets out the terms on which we process any Personal Information we may collect from you, or that you provide to us, which also apply to your use of our website or subsequent use of our Services.
- By using our website, you consent to such processing and you warrant that all Personal Information provided by you is accurate.
- **If you do not agree to these Terms of Use, we advise that you refrain from making use of our website.**

2. INFORMATION ABOUT US

- **Website:** Our website is owned and operated by OPENCOLLAB (PROPRIETARY) LIMITED (“we”, “us”, “our”).
- **Our physical addresses are:** see: [contact us](#)
- For more information about us, [click here](#).

3. CHANGES TO THESE TERMS

- We may change these Terms of Use or any other term as referred to under these Terms of Use at any time. The amendments will be applicable when published on our website.
- Please check the Terms of Use from time to time to take notice of any changes made, as they are binding on you.

4. CHANGES TO OUR WEBSITE

- We may update our website from time to time, and may change the Content at any time.
- We may stop publishing our site at any time without notice and will not be responsible for any consequences.
- **Please note:** The Content on our website is provided for general information purposes only and that the Content may be out of date at any given time. Although we make reasonable efforts to update the information on our site, **we make no representations, warranties or guarantees, whether express or implied**, that the Content on our site is accurate, complete, free from errors or omissions or up-to-date.

5. ACCESSING OUR WEBSITE

- **Access to our website** is made available free of charge.
- **Service costs:** for more details about the costs of our Services kindly contact us (our details [Contact](#) page).
- We do not guarantee that our website, or any content on it, will always be available or be uninterrupted. Access to our website is permitted on a temporary basis.
- We may suspend, withdraw, discontinue or change all or any part of our website without notice to you. We will not be liable to you if, for any reason, our website is unavailable at any time or for any period.
- **You are responsible for making all arrangements necessary for you to have access to our website**, including, but not limited to, mobile data and the costs associated with it. We do not guarantee that our website, or any portion thereof, will function on any particular hardware or devices. In addition, use of our website may be subject to malfunctions and delays inherent in the use of the Internet and electronic communications.
- You are also responsible for ensuring that all persons who access our website through your Internet connection are aware of these Terms of Use and other applicable terms and conditions, and that they comply with them.

6. RIGHTS GRANTED TO YOU

- Subject to these Terms of Use, we grant you a limited, non-exclusive, non-transferrable and revocable, license to access and use our website and Content at any time, solely for your personal, non-commercial use.
- We may terminate this licence at any time for any reason.
- Any rights not expressly granted herein are reserved by us.

7. PROHIBITED USES

You may not use our website or Content:

- in any way that breaches any applicable local, national or international law or regulation;

- in any way that is unlawful or fraudulent, or has any unlawful or fraudulent purpose or effect (including but not limiting to harassment of third party service providers).
- to transmit, or procure the sending of, any unsolicited or unauthorised advertising or promotional material or any other form of similar solicitation (for example: Spam).
- to knowingly transmit any data, send or upload any material that contains viruses, Trojan horses, worms, time-bombs, keystroke loggers, spyware, adware or any other harmful programs or similar computer code designed to adversely affect the operation of any computer software or hardware into our website or the Content used by us or any other Users of our website; or
- to access, without authority, interfere with, damage or disrupt any part of our website or the equipment or network on which the website is stored.

You may further not:

- remove any copyright, trademark or other proprietary notices from any portion of our website or from the Services available;
- reproduce, copy (direct or in-direct), modify, adapt, prepare derivative works based upon, distribute, license, lease, sell, resell, transfer, publicly display, publicly perform, transmit, stream, broadcast or otherwise exploit our website or the Services (or any part thereof);
- decompile, reverse engineer or disassemble our website or the Services except as may be permitted by applicable law;
- cause or launch any programs or scripts for the purpose of scraping, mirroring, indexing, surveying, or otherwise data mining any portion of our website or unduly burdening or hindering the operation and/or functionality of any aspect of our website;
- frame our website or any part thereof;
- access or use our website or the Content through automated means, including through the use of robots, spiders, or offline readers (other than by individually performed searches on publicly accessible search engines for the sole purpose of, and solely to the extent necessary for, creating publicly available search indices - but not caches or archives - of our website or the Content and excluding those search engines or indices that host, promote, or link primarily to infringing or unauthorized content); or
- attempt to gain unauthorized access to or impair any aspect of our website or its related systems or networks.

E-mail addresses, names, telephone numbers, physical addresses and/or fax numbers published on our website may not be incorporated into any database used for commercial purposes or electronic marketing or similar purposes. The presentation of such details is no "opt-in" / permission from us to utilise same.

8. INTELLECTUAL PROPERTY RIGHTS

- We are the owner and/ or rightful licensee of all intellectual property rights (including but not limited to any material, information, software, icons, text, graphics, images, sound clips, advertisements, video clips, concepts, know-how, data processing techniques, copyrights, patents, designs (including the website look and feel and lay out and photos), inventions, trademarks, trade name, logos, service marks, tables and compilations of data which are created, invented and/ or developed, registered or unregistered, in our website and Content and any subsequent Services.
- Any use, distribution or reproduction of our Content is prohibited unless expressly authorised in terms of these Terms of Use or otherwise provided for in law.
- The content, information and services made available on our website are protected by South African and international copyright, trademark, and other laws, and you acknowledge that these rights are valid and enforceable.
- You may copy, and may download extracts, of any page(s) from our website for your personal use and to determine whether you wish to acquire the services advertised on our website. You may draw the attention of others to content posted on our website or by sharing same via social networks or other means available.
- You must not modify the copies of any materials you have printed off or downloaded from our website in any way, and you must not use any illustrations, photographs, video or audio sequences or any graphics separately from any accompanying text or claim that it is yours. Our status as the authors of Content on our website must always be acknowledged.

Neither these Terms of Use nor your use of our website or Services convey or grant to you any rights:

- in or related to our website except for the limited license granted under paragraph 6 above; or
- to use or reference in any manner our business names, service names, product names, logos, trademarks, designs or services marks or those of our licensors (registered or un-registered).

9. LIMITATION OF OUR LIABILITY

- **WE PROVIDE OUR WEBSITE TO YOU ON AN "AS-IS" AND ON AN "AS-AVAILABLE" BASIS. TO THE EXTENT PERMITTED BY LAW, WE EXCLUDE ALL CONDITIONS, WARRANTIES, REPRESENTATIONS OR OTHER TERMS WHICH MAY APPLY TO OUR WEBSITE OR ANY CONTENT ON IT, WHETHER EXPRESS OR IMPLIED. IN ADDITION, WE MAKE NO REPRESENTATION, GUARANTEE OR WARRANTY REGARDING THE TIMELINES, QUALITY, RELIABILITY, SUITABILITY, OR AVAILABILITY OF OUR WEBSITE OR ANY OF OUR SERVICES THROUGH THE USE OF OUR WEBSITE, OR THAT THE USE OF OUR WEBSITE WILL BE UNINTERRUPTED OR ERROR-FREE. YOU AGREE THAT IT IS WITHIN YOUR SOLE DISCRETION TO USE OUR WEBSITE AND THAT THE ENTIRE RISK ARISING OUT OF YOUR USE OF OUR WEBSITE REMAINS SOLELY WITH YOU, TO THE MAXIMUM EXTENT PERMITTED UNDER ANY**

APPLICABLE LAW AND THAT YOU WILL INDEMNIFY US AGAINST ANY CLAIM, DEMAND, DAMAGE, COSTS, LOSS OR LIABILITY (INCL. REASONABLE ATTORNEY'S FEES) RELATED TO YOUR USE OF OUR SITE.

- WE, OUR OWNERS (WHERE APPLICABLE), DIRECTORS (WHERE APPLICABLE), EMPLOYEES AND AGENTS SHALL NOT BE LIABLE FOR DIRECT, INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER OR HOWSOEVER CAUSED ARISING FROM THE ACCESS OR USE OF OUR WEBSITE OR THE PURCHASE OF ANY OF OUR OR ANY THIRD PARTY PRODUCTS OR SERVICES.
- YOU AGREE TO INDEMNIFY AND HOLD US AND OUR DIRECTORS, EMPLOYEES, AND AGENTS HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, LOSSES, LIABILITIES, AND EXPENSES (INCLUDING ATTORNEY OWN CLIENT FEES), ARISING OUT OF OR IN CONNECTION WITH: (I) YOUR BREACH OR VIOLATION OF ANY OF THESE TERMS OF USE; OR (II) YOUR VIOLATION OF OUR RIGHTS.
- WE WILL NOT BE LIABLE TO YOU FOR ANY DEFAULT OR DELAY IN THE PERFORMANCE OF OUR SERVICES TO YOU IF AND TO THE EXTENT THAT SUCH DEFAULT OR DELAY IS CAUSED BY ANY ACT OF GOD, WAR OR CIVIL DISTURBANCE, LABOUR UNREST, COURT ORDER, OR ANY OTHER CIRCUMSTANCE BEYOND ITS REASONABLE CONTROL INCLUDING FLUCTUATIONS IN COMMUNICATIONS OR UTILITY SERVICES ("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 THE US THROUGH THE USE OF ALTERNATIVE SOURCES, WORKAROUND PLANS OR OTHER MEANS.
- DIFFERENT LIMITATIONS AND EXCLUSIONS OF LIABILITY MAY APPLY TO LIABILITY ARISING AS A RESULT OF THE SUPPLY OF SERVICES BY US TO YOU, WHICH WILL BE SET OUT IN OUR SERVICE SPECIFIC TERMS AND CONDITIONS.

10. SECURITY

- Although we are not obliged to provide security on our website, we feel it is important that your information, or any communication between us, is dealt with in the most secure manner reasonably possible. However, because of the nature of the Internet, we cannot guarantee that your communications with us via our website are completely secure at all times.
- To provide adequate security to all our Users, and to monitor activities prohibited under section 86 of the [ECT Act](#), you hereby agree to our right to intercept, monitor, block, read, delete or access all data sent to the website or any of our other communication facilities, for example, email, instant messaging or fax-to-email applications, subject to the conditions as set out under the [RIC Act](#).
- It is our policy to virus check documents and files before they are uploaded to our website. However, we cannot guarantee that documents or files downloaded from our website will be free from viruses and we do not accept any responsibility for any damage or loss caused by any such virus. Accordingly, for your own protection, you must use virus-checking software when using this website. Further, you agree not to upload or provide, via our website, any document or file that may contain a virus. You are required to virus check any document or file which you intend to upload or provide to our website.

11. LINKING TO OUR WEBSITE

- You may link to our website from your website or other social media page, but only to the Homepage or page of your service provider, provided you do so in a way that is fair and legal and does not damage our reputation or take advantage of it or breach any provision of these Terms of Use.
- You must not establish a link in such a way as to suggest any form of association, approval or endorsement on our part where none exists, or provide a link to our website in any website that is not owned by you.
- We reserve the right to withdraw linking permission without notice to you.
- The website in which you are linking must comply in all respects with our Acceptable Use Policy.

12. CONTENT AND LINKS IN OUR WEBSITE

- Where our website contains links to other websites and resources provided by third parties, these links are provided for your convenience and information only. You acknowledge that different terms of use and privacy policies may apply to your use of such third party content. We do not endorse such third party content and in no event shall we be responsible or liable for any Services of such third party providers.
- **Social networks:** You agree that when accessing, using and/or posting or uploading any content or materials of any kind to our social network pages (including but not limited to Facebook, Twitter, LinkedIn, GitHub, YouTube or any other facility made available by us from time to time), You will-
 - o not use the social network page of communication facility in any improper or unlawful manner or in breach of any legislation or licence that applies to You;
 - o not harass others or disclose personal information about others that could amount to harassment;
 - o not submit, publish, post, upload, store, distribute or disseminate any defamatory, infringing, offensive, obscene, indecent, harmful, confidential, hateful, threatening or otherwise illegal or objectionable material or information;
 - o not submit, post or upload files that contain software or other material the intellectual property rights in which are owned by any third party or which are protected by rights of privacy or publicity of any third party without having received all necessary consents;
 - o not upload files that contain viruses, corrupted files, or any other software or programs that may interfere with or damage the operation of the social network page or any other computer;

- o not impersonate any person or entity, or falsely state or otherwise misrepresent yourself in any way;
- o not promote any activity that is illegal;
- o not use software to harvest information from the social media network page;
- o not submit any material which is prohibited by any applicable data protection or privacy legislation;
- o only upload or submit material to the social network page which either You own or which You have the permission of the owner of that material to submit; or
- o not otherwise submit, post or upload any content or materials or otherwise do anything in breach of the social media networks' Terms of Use.
- o **Social media is not a medium for conflict resolution or lodging complaints. Complaints should be sent by using our [Contact](#) page.**
- o abide to the particular social network's Code of Conduct (Facebook) or Rules and Policies (Twitter) or any other similar rules and guidelines made available by the particular social network. You agree that You shall be solely responsible for all content, information or materials of whatever nature or medium that You submit, post, upload, publish or display on or through the social media network page or transmit to or share with other users ("User Content") and You warrant and undertake that You own the intellectual property rights in and to all User Content or that You are otherwise entitled to submit the same to the Page. You acknowledge and agree that We may, but are not obligated to, monitor the content (including the User Content) on the social media network page(s) and may delete or remove from the said page immediately without notice any User Content or any other content of whatever nature, for any or no reason, including without limitation, if such content in our absolute discretion is in breach of any of the rules or guidelines made available or in breach of these Terms of Use.

13. BREACH, SUSPENSION AND TERMINATION

- Kindly take note that it is within our discretion to determine whether there has been a breach of these Terms of Use through your use of our website. When a breach occurs, we may take such action as we deem appropriate.
- We specifically exclude any liability for our actions taken in response to a breach of these Terms of Use.
- **All costs, charges and expenses of whatsoever nature which may be incurred by us in enforcing our rights in terms hereof including, without limitation, legal costs on the scale as between an attorney and own client and collection commission, irrespective of whether any action has been instituted, shall be recoverable from you if the above rights are successfully enforced.**
- No relaxation or indulgence, by either one of us to the other, shall constitute a waiver of the rights of that person and shall not preclude that person from exercising any rights which may have arisen in the past or which may arise in future.
- Any provision under these Terms of Use, which contemplates performance or observance subsequent to any termination, or expiration of these Terms of Use shall survive any termination or expiration of these Terms of Use and continue in full force and effect.

14. APPLICABLE LAW AND JURISDICTION

Please note that these Terms of Use, its subject matter and its formation, are governed by the laws of the Republic of South Africa. The parties further agree to the exclusive jurisdiction of the Western Cape High Court, which shall have exclusive jurisdiction over any dispute that may arise from these Terms and Conditions.

15. CHANGE OF OWNERSHIP

- If we undergo a change in ownership, or a merger with, acquisition by, or sale of assets to, another entity, we may assign our rights and obligations under these Terms of Use (including those as per our Privacy Policy) to a successor, purchaser, or separate entity. We will disclose the transfer on the website.

16. ELECTRONIC COMMUNICATION AND CONTACT

- Any Data Messages sent by us to you shall be deemed to have been sent from the Premises.
- A Data Message is deemed to be **sent**:
 - o **By us**, at the time shown on such message, or if not so shown, at the time shown on our information system; and
 - o **By you**, at the time when we confirm receipt thereof.
- A Data Message is deemed to be received:
 - o **By us**, only when an authorised representative responds thereto (excluding an automated response). Such acknowledgement does not give legal effect to that message, unless specifically indicated by us that it does; and
 - o **By you**, once it enters your information system.
- As provided for in terms of section 11(3) of the [ECT Act](#), all information incorporated by the use of hyperlinks and / or other methods of reference shall form part of these Terms of Use.
- **Attribution of Data Messages** - You agree and warrant that any Data Message sent, from any computer or device that is owned by you or programmed by you, to us was sent by you.
- **Expression of Intent – use of our website**: For purposes of electronic communications between you and us, no electronic signature is required. The mere browsing of our website demonstrates your intent to be a party to these Terms of Use.

17. CONTACT US

- **Website functionality or any other recommendations:** Send us an email at info@opencollab.co.za.
- **Questions or queries about Services and related services:** Contact us by way of our [Contact Us](#) page.
- **Complaints:** We kindly request that you contact us first should you have any complaints or any other service related issues. It is important to us that you are satisfied with your purchases (if any). You may use the contact information as per our [Contact Us](#) page. Please ask for a reference number if you speak to any of our representatives/ consultants. We will of course reply to your complaint as soon as practically possible, but wish to note that we stand under no legal obligation to resolve such complain.
- **Legal Documentation or Notices (hopefully this will never be required):**
 - Physical address: First Floor, Block E, Belvedere Office Park, Bella Rosa Street, Rosenpark, Bellville, South Africa;
 - Email: see [Contact Us](#) page (subject: "LEGAL");
 - Marked for the attention of: **Managing Director (Legal)**
- If we are required to send you any legal documents or notices you agree that we can send it via electronic mail to your email address, or by written communication by way of registered post to your address or if delivery to the aforesaid addresses is not successful, then such contact details we may find about you on the Internet.
- Any notice to you, or us, which is:
 - sent by prepaid registered post in a correctly addressed envelope to the address specified for it under clause 2 above shall be deemed to have been received, unless the contrary is proven, within 10 (ten) days from the date on which it was posted;
 - delivered by hand, shall be deemed to have been received on the day of delivery, provided that it has been delivered to a responsible person during ordinary business hours; or
 - sent by a Data Message to the addressee shall be deemed to be received as per clause 16 above.
- Notwithstanding anything to the contrary herein, a written notice actually received by you or us, including a notice sent by telefax, shall be an adequate notice to it notwithstanding that it was not sent or delivered to the chosen address.

18. DEFINITIONS

- **Consumer** shall have the same meaning attributed to it in terms of the CPA.
- **Content** means any information, content, images, video, audio, data, works of authorship, materials, software and technology which may be displayed on, incorporated into, underlying, or used to operate our website;
- **CPA** means the [Consumer Protection Act, Act 68 of 2008](#);
- **Data Message** shall have the same meaning attributed to it in terms of the ECT Act;
- **ECT Act** means the [Electronic Communications and Transactions Act, Act 25 of 2002](#);
- **Personal Information** shall have the same meaning attributed to it in terms of the POPI Act;
- **POPI Act** means the [Protection of Personal Information Act, Act 4 of 2013](#);
- **Services** means the services, solutions or products as reflected on our website and promoted via other sites of ours;
- **RIC Act** means the [Regulation of Interception of Communication and Provision of Communication- Related Information Act, Act 70 of 2002](#); and
- **Users** mean users of our website (including you!).