

TERMS AND CONDITIONS

1. DISCLAIMER

- 1.1 By signing up for a Saleslogic product or service you are agreeing to be bound by these Terms & Conditions. A copy of the Terms and Conditions will be updated at <https://www.saleslogic.co.za/Legal>.
- 1.2 Saleslogic offer a variety of products and services which are governed by the Terms & Conditions, herewith known as "Services".
- 1.3 Saleslogic reserves the right to update and change the Terms & Conditions by posting updates and changes to the Saleslogic website. You are advised to check the Terms & Conditions from time to time for any updates or changes. If you are not in agreement of these changes, you must cease using the Services.

2. EFFECTIVE DATE

- 2.1 The date upon which this agreement shall come into force and effect (the "**Effective Date**") shall be the date on which the last party signs the agreement. The Saleslogic platform will not be commissioned as a live site until this document has been signed.
- 2.2 Schedules, annexures and addendums attached to this agreement shall be deemed to form part of this agreement.

3. ACCOUNT TERMS

- 3.1 In order to use any Saleslogic services you must open an account by providing you full legal name or company name, registered business name or ID number, VAT number and company registration number (if applicable), address details, contact telephone numbers, email address and any other information which is requested.
- 3.2 Saleslogic reserves the right to reject your application for an account, or to cancel an existing account for any reason and at our sole discretion.
- 3.3 All accounts must be settled prior to the month of consumption, should payment not be made timeously the Saleslogic services will be immediately suspended pending deletion if the account is not brought date within 7 days of it moving into arrears.
- 3.4 You must be the older of: (i) 18 years, or (ii) at least the age of majority in the jurisdiction where you reside and from which you use the Services to open an Account.

- 3.5 You are responsible for keeping any provided login details secure. Saleslogic cannot and will not be held liable for any loss or damage from your failure to maintain the security of these credentials.
- 3.6 You are responsible for all activity and content such as photos, images, videos, graphics, written content, audio files, code, information, or data uploaded, collected, generated, stored, displayed, distributed, transmitted or exhibited on or in connection with your Account or Service.
- 3.7 A breach or violation of any of the terms of this agreement, including any linked annexures or addendums, may result in an immediate termination of your Services.
- 3.8 All services are provided on a pre-paid model unless specifically negotiated and agreed in writing between the parties. No services will be rendered unless paid for in full prior to the commencement of the services. No credit notes or refunds will be accommodated under any circumstances.
- 3.9 Prices for using the Services are subject to change upon 30 days' notice from Saleslogic. Such notice may be communicated at any time.
- 3.10 Saleslogic reserves the right at any time, and from time to time, to modify or discontinue, the Services (or any part thereof) with or without notice.
- 3.11 Saleslogic shall not be liable to you or to any third party for any modification, price change, suspension or discontinuance of the Service.

4. SALESLOGIC PRODUCT AND FEE AMENDMENTS

- 4.1 Saleslogic may from time to time, at their discretion, modify the Saleslogic Products and amend Fees payable by Customers. Such changes may be effective immediately or based on a communicated notice period.

5. DOMAIN NAMES

- 5.1 Upon purchasing a domain name through Saleslogic, domain registration will be pre-set to automatically renew each year so long as your Saleslogic Account remains active. You acknowledge that it is your sole responsibility to inform us if you do not wish to auto-renew your domain.
- 5.2 By accepting to purchase or renew a domain through Saleslogic you equally agree to the terms and conditions of any third-party provider Saleslogic chooses to partner with.

6. NON-EXCLUSIVITY

- 6.1 We reserve the right to provide our services to your competitors and make no promise of exclusivity in any particular market segment.

7. CONFIDENTIALITY

- 7.1 “Confidential Information” shall include, but shall not be limited to, any and all information associated with a party’s business and not publicly known, including specific business information, technical processes and formulas, software, customer lists, prospective customer lists, names, addresses and other information regarding customers and prospective customers, product designs, sales, costs (including any relevant processing fees), price lists, and other unpublished financial information, business plans and marketing data, and any other confidential and proprietary information, whether or not marked as confidential or proprietary. Saleslogic’s Confidential Information includes all information that you receive relating to us, or to the Services, that is not known to the general public including information related to our security program and practices.
- 7.2 Each party agrees to use the other party’s Confidential Information solely as necessary for performing its obligations under these Terms & Conditions and in accordance with any other obligations in these Terms & Conditions.
- 7.3 Each party agrees that it shall take all reasonable steps, at least substantially equivalent to the steps it takes to protect its own proprietary information, to prevent the duplication, disclosure or use of any such Confidential Information, other than (i) by or to its employees, agents and subcontractors who must have access to such Confidential Information to perform such party’s obligations hereunder, who each shall treat such Confidential Information as provided herein, and who are each subject to obligations of confidentiality to such party that are at least as stringent as those contained herein; or (ii) as required by any law, regulation, or order of any court of proper jurisdiction over the parties and the subject matter contained in these Terms & Conditions, provided that, if legally permitted, the receiving party shall give the disclosing party prompt written notice and use commercially reasonable efforts to ensure that such disclosure is accorded confidential treatment.
- 7.4 Confidential Information shall not include any information that the receiving party can prove: (A) was already in the public domain, or was already known by or in the possession of the receiving party, at the time of disclosure of such information; (B) is independently developed by the receiving party without use of or reference to the other party’s Confidential Information, and without breaching any provisions of these Terms & Conditions; or (C) is thereafter rightly obtained by the receiving party from a source other than the disclosing party without breaching any provision of these Terms & Conditions.

8. LIMITATION OF LIABILITY

- 8.1 You expressly understand and agree that, to the extent permitted by applicable laws, Saleslogic shall not be liable for any direct, indirect, incidental, special, consequential or exemplary damages, including but not limited to, damages for loss of profits, goodwill, use, data or other intangible losses resulting from the use of or inability to use the Service.
- 8.2 To the extent permitted by applicable laws, in no event shall Saleslogic or our suppliers be liable for lost profits or any special, incidental or consequential damages arising out of or in connection with our site, our Services or these Terms & Conditions (however arising including negligence).
- 8.3 You agree to indemnify and hold us and (as applicable) our parent, subsidiaries, affiliates, Saleslogic partners, officers, directors, agents, employees, and suppliers harmless from any claim or demand, including reasonable attorneys' fees, made by any third party due to or arising out of your breach of these Terms & Conditions or the documents it incorporates by reference (including the AUP), or your violation of any law or the rights of a third party.
- 8.4 Your use of the Services is at your sole risk. The Services are provided on an "as is" and "as available" basis without any warranty or condition, express, implied or statutory.
- 8.5 Saleslogic does not warrant that the Services will be uninterrupted, timely, secure, or error-free.
- 8.6 Saleslogic does not warrant that the results that may be obtained from the use of the Services will be accurate or reliable.
- 8.7 Saleslogic does not warrant that the quality of any products, services, information, or other materials purchased or obtained by you through the Services will meet your expectations, or that any errors in the Services will be corrected.

9. INTELLECTUAL PROPERTY RIGHTS

- 9.1 We do not claim any intellectual property rights over the content you provide to the Saleslogic platform. All content you upload remains yours. You can remove your Saleslogic content or instance at any time by requesting its deletion.
- 9.2 By uploading content, you agree: (a) to allow other internet users to view the content you post publicly; (b) to allow Saleslogic to store, and in the case of content you post publicly, display and use your content.
- 9.3 You retain ownership over all content that you upload to the Store; however, by making your Store public, you agree to allow others to view content that you post publicly to your Store. You are responsible for compliance of the content with any applicable laws or regulations.

- 9.4 Saleslogic shall have the non-exclusive right and license to use the names, trademarks, service marks and logos associated with your Store to promote the Service.

10. DISCONTINUATION OF SERVICES

- 10.1 You may cancel your Account and terminate the Terms & Conditions at any time by contacting Saleslogic Support and then following the specific instructions indicated to you in Saleslogic's response. All cancelation notices need to be served with a minimum of a calendar months' notice.
- 10.2 Upon termination of the Services by either party for any reason:
- 10.2.1 Saleslogic will cease providing you with the Services, the store instance will be taken offline and deleted.
 - 10.2.2 You will not be entitled to any refunds of any Fees, pro rata or otherwise.
 - 10.2.3 Any outstanding balance owed to Saleslogic for your use of the Services through the effective date of such termination will immediately become due and payable in full.
 - 10.2.4 If you purchased a domain name through Saleslogic, upon cancellation your domain will no longer be automatically renewed unless a separate billing arrangement has been negotiated.

11. DOCUMENTATION

- 11.1 All documentation, computer software and other material which Saleslogic makes available to the Client from time to time shall remain the sole and exclusive property of Saleslogic at all times, and may not be copied or reproduced, without the express written authority of Saleslogic, except to the extent necessary for the fulfillment of the purposes of this agreement, and be returned to Saleslogic on termination of this agreement.

12. BREACH

- 12.1 If either party commits any material breach of this agreement and fails to remedy such breach within 10 (ten) days after receipt by that party ("the defaulting party") of written notice from the other party ("the aggrieved party") calling upon it to do so, then the aggrieved party shall be entitled, without prejudice to any other rights it may have in terms of this agreement, including the right to claim damages, to cancel this agreement on 15 (fifteen) days' written notice.

13. DOMICILIA

- 13.1 The parties choose as their respective *domicilia citandi et executandi* for the service on them of all legal processes, notices, correspondence and communications in terms of this agreement the addresses set out in the front page of this agreement, provided that either party may change its domicilium to any other address in the Republic by written notice to the other party with effect from the date of deemed receipt of such notice and that such new address contains a physical address for the service of legal processes.
- 13.2 Any notice, order, acceptance, demand or other communication sent by pre-paid registered post shall have been deemed to have been received by the addressee on the 10th (tenth) day following the date of posting thereof.
- 13.3 Any notice given by a party to this agreement to another party to this agreement which is sent by facsimile during the normal business hours of the receiving instrument shall be rebuttably presumed to have been received on the date of successful transmission thereof, provided that any party may change its facsimile number to any other facsimile number in the Republic by written notice to the other parties with effect from the date of deemed receipt of such notice. Legal processes may not be sent by facsimile.

14. NON-WAIVER

- 14.1 Neither party to this agreement shall be precluded from exercising any right in terms of or arising from this agreement by reason that such party has previously, in respect of the same or any other right, granted an extension of time or other indulgence for the relevant or any other payment or performance or failure to enforce the terms of this agreement timeously or at all, and no failure to delay in or about the exercise of its rights under this agreement shall operate as a waiver of rights.

15. NON-VARIATION

- 15.1 This agreement, and all annexures, contains the entire agreement between the parties.
- 15.2 No warranties, representations, disclosures or expressions of opinion have been made which have not been incorporated into this agreement as warranting or undertakings.
- 15.3 No variation or consensual cancellation of this agreement shall be of any force or effect unless reduced to writing and signed by all parties.
- 15.4 No provision of this agreement shall be construed as preventing Saleslogic from amending Saleslogic's Terms and Conditions or changing the Saleslogic products at any time.

16. DISPUTE RESOLUTION / ARBITRATION

- 16.1 Should any dispute, disagreement or claim arise between the Parties (called hereafter "the dispute") concerning anything arising from or in connection with this Agreement, the Parties undertake to resolve the dispute by negotiation. The process shall involve senior representatives appointed by both Parties, meeting with each other, within 10 (ten) business days of a written notice to try and resolve the dispute.
- 16.2 If the dispute has not been resolved by such negotiation and the dispute is arbitral in law, it shall be finally resolved in accordance with the Rules of the Arbitration Foundation of Southern Africa (AFSA) by an arbitrator or arbitrators appointed by AFSA.
- 16.3 The arbitrator shall be appointed by the Parties, and failing Agreement, shall be nominated by the Chairman for the time being of the Durban Bar Council and the arbitration shall be held at Durban.
- 16.4 The arbitrator shall be entitled to:
- 16.4.1 determine and settle the formalities and procedures, which shall be in an informal and summary manner, that is, it shall not be necessary to observe or carry out either the usual formalities or procedure or the strict rules of evidence;
 - 16.4.2 investigate or cause to be investigated any matter, fact or thing which the arbitrator considers necessary or desirable in connection with any matter referred to him for decision;
 - 16.4.3 decide the matters submitted to the arbitrator according to what he or she considers just and equitable in all the circumstances, having regard to the purpose of this Agreement; and
 - 16.4.4 make such award, including an award for specific performance, an interdict, damages or a penalty or the costs of arbitration or otherwise as the arbitrator in his or her discretion may deem fit and appropriate.
- 16.5 The arbitration shall be held as promptly as possible after it is agreed between the Parties, with a view to it being completed within 30 (thirty) days.
- 16.6 The arbitrator's decision will be final and binding upon the Parties and may be made an order of any competent court having jurisdiction over any of the Parties to the dispute.
- 16.7 The inclusion of this arbitration clause shall not prevent a Party from applying to a Court for urgent or interim relief in the appropriate circumstances.

- 16.8 This clause shall remain in effect even if the Agreement terminates, is nullified or cancelled for whatsoever reason or cause.

17. PRIVACY

- 17.1 The privacy of your data is important to us. Please refer to our Privacy Policy located at <https://www.saleslogic.co.za/legal> for more information, or contact our support staff at support@saleslogic.co.za to request this.

18. GENERAL

- 18.1 No provision of this Agreement (including, without limitation, the provisions of this clause) may be amended, substituted or otherwise varied, and no provision may be added to or incorporated in this Agreement, except (in any such case) by an Agreement in writing signed by the duly authorised representatives of the Parties or in the case of Adam Walker in person or any other person delegated with signatory responsibilities.
- 18.2 Any relaxation, indulgence or delay (collectively referred to as "Indulgence") by either Party in exercising, or any failure by either Party to exercise, any right under this Agreement shall not be construed as a waiver of that right and shall not affect the ability of that Party subsequently to exercise that right or to pursue any remedy, nor shall any Indulgence constitute a waiver of any other right (whether against that Party or any other person).
- 18.3 The waiver of any right under this Agreement shall be binding on the waiving Party only to the extent that the waiver has been reduced to writing and signed by the duly authorized representative/s of the waiving Party.
- 18.4 This Agreement supersedes all prior Agreements, representations, communications, negotiations and understandings between the Parties concerning the subject matter of this Agreement.
- 18.5 Whenever possible, each provision of this Agreement shall be interpreted in a manner which makes it effective and valid under applicable law, but if any provision of this Agreement is held to be illegal, invalid or unenforceable under applicable law, that illegality, invalidity or unenforceability shall not affect the other provisions of this Agreement, all of which shall remain in full force.
- 18.6 This Agreement may be executed in any number of identical counterparts, all of which when taken together shall constitute one Agreement. Any single counterpart or a set of counterparts taken together which, in either case, are executed by the Parties shall constitute a full original of this Agreement for all purposes.

- 18.7 All notices and any other communications whatsoever (including, without limitation, any approval, consent, demand, query or request) by either Party in terms of this Agreement or relating to it shall be given in writing, and shall be sent by registered post, or delivered by hand to the recipient Party at its relevant address set out at the beginning of this Agreement which addresses shall also serve as the domicillium citandi et executandi for each respective Party.
- 18.8 Either Party may, by written notice to the other Party, change any of the addresses at which, or the designated person for whose attention those notices or other communications are to be given.
- 18.9 Any notice or other communication given by any Party to the other which:
- 18.9.1 is sent by registered post to the addressee at its specified address shall rebuttably be presumed to have been received by the addressee on the 7th (seventh) day after the date of posting;
- 18.9.2 is delivered by hand during the normal business hours of the addressee at its specified address shall be rebuttably presumed to have been received by the addressee at the time of delivery; or
- 18.10 The Parties agree to perform, or procure the performance, of all further things, and execute and deliver (or procure the execution and delivery) of all further documents, as may be required by law or as may be desirable or necessary to implement or give effect to this Agreement and the transactions contemplated therein.
- 18.11 The rule of interpretation (the *contra proferentem rule*) that the Agreement shall be interpreted against the party which drafted the Agreement shall not be applicable.
- 18.12 The Parties shall keep the contents of this Agreement confidential.
- 18.13 We may, but have no obligation to, remove content and suspend or terminate Accounts or Services if we determine in our sole discretion that the goods or services offered, or the content uploaded or posted to Saleslogic, violate our Acceptable Use Policy or these Terms & Conditions.