

## Terms and Conditions

Accountability Group (Pty)Ltd Subscriber Terms and Conditions of Use

By clicking on the "Submit" option or by using this Web Site, you agree to be bound by these Terms and Conditions of Use, as amended from time to time. If you do not agree, you may not make use of the Accountability Services.

## Definitions

- 1.1 In these Terms and Conditions of Use, the following terms have the meanings assigned to them hereunder, unless the context clearly indicates otherwise:
- 1.1.1 "Commencement Date" means the date on which you clicked on Submit on the Registration page;
- 1.1.2 "Confidential Information" means that information belonging to or known by the parties to this Agreement which is not generally in the public domain and which came into being as a result of this Agreement;
- 1.1.3 "Consent" means any freely given, specific and informed expression of will whereby natural people agree to the processing of personal information relating to them;
- 1.1.4 "Consumer" means a consumer as defined in section 1 of the NCA;
- 1.1.5 "Consumer Credit Information" means that information as more fully set out in s70 of the NCA;
- 1.1.6 "Credit Bureau" means a credit bureau as defined in s43 of the NCA and registered as such with the National Credit Regulator of South Africa;
- 1.1.7 "Accountability" means Accountability Group (Pty) Ltd, a company incorporated in terms of the laws of South Africa, registration number 2008/012163/07, having its main place of business at 29 Bella Rosa Road, Rosen Park, Bellville, 7530 which it hereby elects as its *domicilium citandi et executandi* in terms of these Terms and Conditions of Use. The directors of Accountability and further information can be found on the contact us page.
- 1.1.8 "Accountability Services" are those information-related services as provided to Subscribers by Accountability of the Web Site, as amended from time to time and includes both those services provided for consideration and those services that are free and further includes those information-related services where the source of the information is not a Credit Bureau. Please consult the Web Site for more details;
- 1.1.9 "Credit Repair" shall bear the meaning set out in Notice 169 published in terms of the Consumer Affairs Act, 71 of 1988 (published in Government Gazette No. 18646);
- 1.1.10 "ECT Act" means the Electronic Communications and Transactions Act no25 of 2002;
- 1.1.11 "Force Majeure" means any act of God, strike, riot, war (whether declared or not) embargo, international restriction, shortage of transport facilities, any order of a regulatory authority and the downtime of a communications medium which is not under the control of the party concerned.
- 1.1.12 "NCA" means the National Credit Act no.34 of 2005, as amended;
- 1.1.13 "Prescribed Purpose" or "Enquiry Reason" shall mean those reasons for which Consumer Credit Information may be obtained as set out in the NCA and Regulations as amended from time to time and as explained in the "help on prescribed purposes" web page at <http://www.creditdata.co.za/CreditData/Public/enquiryreasons.aspx>;
- 1.1.14 "Primary Contact" means a single natural person that has been appointed by the Subscriber to represent the Subscriber to Accountability;
- 1.1.15 "Regulations" means those regulations promulgated in terms of the National Credit Act no. 34 of 2005, as amended;
- 1.1.16 "Subscriber" means the legal entity/individual/s that completed the Registration Page and includes its agents, employees and assigns;
- 1.1.17 "Terms and Conditions" or "Agreement" means these Subscriber Terms and Conditions of Use as amended from time to time, and includes by reference all other terms and conditions that are contained in other documents or electronic references as mentioned in these Subscriber Terms and Conditions of Use in terms of s11(2) and s11(3) of the ECT Act;
- 1.1.18 "Transaction" means each separate time a Subscriber accesses a specific Accountability Service by means of the Web Site. For the sake of clarity it is recorded that repeated access

of the same Accountability Service will result in multiple Transactions;

- 1.1.19 "User" means each natural person who has access to Accountability's Services as enabled by the Subscriber;
- 1.1.20 "Username and Password" means that combination of alphanumeric characters that are unique to each User and are intended to provide a safe and secure way of accessing the Accountability Services in a manner where the use of the Accountability Services can be tracked to each User;
- 1.1.21 "Web Site" means <http://www.accountability.co.za> and includes any derivatives thereof, such as, but not limited to, <http://www.accountability.co.za>.

## **Preamble**

- 2.1 Accountability provides the Accountability services to Subscribers for consideration in terms of these Terms and Conditions.
- 2.2 The Subscriber wishes to appoint Accountability as its agent in order to obtain the Accountability services and agrees to abide by these Terms and Conditions.

## **Appointment**

- 3.1 By completing and clicking on "submit" on the Registration Page - which incorporates these Terms and Conditions - the Subscriber appoints Accountability as its agent to procure the Accountability Services. By providing the Primary Contact with a Username and Password, Accountability accepts this appointment.

## **Commencement and Duration**

- 4.1 Membership is subject to vetting and security checks. Upon receipt of an application for membership, a full credit report will be performed on the applicant and/or his company. The cost of the credit report will be for the account of the applicant. Membership will not be activated until such time as all contractual documentation has been received and the payment of the first month's subscription reflects on the Accountability bank statement. In the event that an application for membership is rejected, the amount paid in respect of the first month's subscription is non-refundable.
- 4.2 The agreement shall commence on the date that the account is activated upon receipt and verification of the first month's membership fee ("the commencement date") and shall continue thereafter for a period of one year. Thereafter, this agreement shall automatically be renewed on each anniversary of the commencement date for periods of not less than one year each, unless terminated by the applicant by giving Accountability one month's written notice to that effect, provided that such notice is received by Accountability not less than one month prior to the next anniversary of the commencement date. Should membership be terminated prematurely by the member, for whatever reason, Accountability will be entitled to levy on such member a cancellation fee equal to the balance of that particular year's contractual obligations. Annual price increases will be applied every year in November.

## **CANCELLATION PROCEDURES DURING COLLECTIONS PROCESS**

Should a member have instructed MBDCS (Messrs Munnik Basson Da Gama Collection Services) prior to the submission of a cancellation request, such cancellation request will only become effective once the collections process by MBD has been completed and a **further 60 day period** has elapsed in order to allow for the finalisation of all invoicing and accounting procedures.

## **Fees**

- 5.1 Fees are charged in arrears each month with the exception of the first month's membership fees, which incorporates an activation fee equal to our monthly subscription fee.
- 5.2 Each Transaction processed through the Accountability Site is subject to a fee, which is paid on presentation of the month end statement, paid by any means as set out on the Registration Page.
- 5.3 All fees that are payable per Transaction for the Accountability services by the Subscriber can be obtained on the Web Site and are incorporated herein by reference.

- 5.4 From time to time Accountability may increase the fees payable for the Accountability Services and will provide the Subscriber with 14 (fourteen) calendar days notice of the increase in fees, which notice may be provided electronically.
- 5.5 The Subscriber undertakes to pay all amounts due to Accountability, without deduction or set-off, on presentation of the month end statement provided by Accountability to the Subscriber.
- 5.6 In the event that the Subscriber is a Juristic Person as defined in s1 of the NCA then the following provisions apply:
- 5.6.1 If the payment tendered by the Subscriber is not honoured by the financial institution concerned, the Subscriber shall be liable for an administration fee of R200.00 (two hundred rand) in addition to the fees then due to Accountability; and
- 5.6.2 If the Subscriber does not pay the amount due in terms of the invoice mentioned in clause 5.5, interest at the rate of 4% (four percent) per month will be levied on overdue amounts and this interest will be calculated daily and compounded monthly.
- 5.7 For the sake of clarity if the Subscriber is a natural person then no interest will be levied on overdue amounts, unless legal action has commenced to recover any monies due to Accountability. If legal action has commenced then the prescribed rate of interest in terms of the Prescribed Rate of Interest Act no.55 of 1975 will apply.
- 5.8 In the event of a change in the rate of Value Added Tax (VAT) or any other charge that is imposed on the Accountability Services by the South African government or an organ thereof, Accountability will be immediately entitled to increase the fee per Transaction by the amount that the charge was increased.
- 5.9 The Subscriber hereby agrees that it wishes to receive invoices electronically.
- 5.10 Membership promotions may be run by Accountability from time to time. In the event that promotional memberships are offered, only such members that have signed on during that specific promotional period shall qualify for discounts or relaxations as determined during that particular promotional period. Members that sign on outside of any particular promotional period will not qualify for any discount or relaxation on their monthly subscription.

### **Written Authority and Mandate for Debit Payment Instructions**

- 6.1 The signed Authority and Mandate refers to our contract as per the date of our registration and signed registration documents. ("The Agreement").

I/We hereby authorise you to issue and deliver payment instructions to your Banker for collection against my/our account at my/our Bank (or any other bank or branch to which I/we may transfer my/our account) on condition that the sum of such payment instructions will never exceed my/our obligations as agreed to in the Agreement and commencing on registration and continuing until this Authority and Mandate is terminated by me/us by giving you notice in writing of not less than 20 ordinary working days, and sent by prepaid registered post or delivered to your address as indicated above.

The individual payment instructions so authorised to be issued, must be issued and delivered monthly.

In the event that the payment day falls on a Sunday, or recognised South African public holiday, the payment day will automatically be the very next ordinary business day. Furthermore, if there are insufficient funds in my account to meet the obligation, you are entitled to track my account and represent the instruction for payment as soon as sufficient funds are available in my account. <sup>1</sup>

I/We understand that the withdrawals hereby authorised will be processed through a computerised system provided by the South African Banks. I also understand that details of each withdrawal will be printed on my bank statement. Such must contain a number, which must be included in the said payment instruction and if provided to me should enable me to identify the Agreement. In order to further identify the debit collection, the short name "ACCOUNTABI" will be displayed on my bank statement.

## **6.2 Mandate**

I/We acknowledge that all payment instructions issued by you shall be treated by my/our abovementioned Bank as if the instructions have been issued by me/us personally.

## **6.3 Cancellation**

I/We agree that although this Authority and Mandate may be cancelled by me/us, such cancellation will not cancel the Agreement. I/We shall not be entitled to any refund of amounts which you have withdrawn while this Authority was in force, if such amounts were legally owing to you.

## **6.4 Assignment**

I/We acknowledge that this Authority may be ceded or assigned to a third party if the Agreement is also ceded or assigned to that third party, but in the absence of such assignment of the Agreement, this Authority and Mandate cannot be assigned to any third party.

## **Cooling off period not applicable**

- 7.1 A cooling-off period for the cancellation of this contract shall be determined in accordance with the provisions of Section 44 of the ECT and shall be five working days (7 calendar days) from the date of conclusion of this contract, with the proviso that any services utilised by the member during the said cooling-off will be immediately due and payable. Any default on the settling of the amount in respect of utilised services may result therein that the default will be reported to credit bureaux in accordance with the provisions of Section 70 of the National Credit Act, No 34 of 2005, as amended.

## **Submission and use of Data sent to Accountability**

- 8.1 The Subscriber undertakes to ensure that data that is submitted by it and its Users contains the following information in respect of a Consumer:
- 8.1.1 Initials and surname or full names and surname;
  - 8.1.2 South African identity number or if the Consumer does not have an identity number, the passport number and date of birth;
  - 8.1.3 The residential address and telephone number of the Consumer (if known); and
  - 8.1.4 The details of the employer and place of work of the Consumer (if known) and if self-employed or unemployed, a statement to that effect (if known).
- 8.2 The Subscriber undertakes that any data submitted to Accountability shall be accurate, up-to-date, relevant, complete and not duplicated.
- 8.3 The Subscriber undertakes that any data submitted to Accountability may be utilised by a Credit Bureau as part of its database in the ordinary course of business of a Credit Bureau.

## **Use of Subscriber Data sent to Accountability**

- 9.1 The Subscriber acknowledges and agrees that:
- 9.1.1 The data contained in the Subscriber Application Form may be checked by Accountability to ensure the accuracy thereof, and that this process will include the obtaining of a credit report the cost of which will be invoiced to the Subscriber itself;
  - 9.1.2 Accountability may monitor the Subscriber's payment behaviour by researching its profile at one or more Credit Bureau;
  - 9.1.3 Accountability may record and transmit the details of how the Subscriber performs in terms of this Agreement to any Credit Bureau; and
  - 9.1.4 Accountability may disclose information relating to the Subscriber's use of the Accountability services to any Credit Bureau or to satisfy any requirement in law or as directed by the National Credit Regulator.

## **Use of Data sent to a Subscriber**

- 10.1 Any information released by a Credit Bureau via Accountability to a Subscriber shall in no way be construed as an opinion of the Credit Bureau and/or Accountability on the solvency, financial standing, creditworthiness, integrity or motives of any party reported upon but merely reflects a recording of information received by the Credit Bureau from various sources from time to time. Use of the recommendations and the information contained within the credit reports requires the use of the Subscriber's skill and judgment. The Subscriber shall be solely liable for all opinions, recommendations, forecasts or comments made or actions taken in connection with the recommendations and information contained in the credit reports.
- 10.2 The Subscriber undertakes that it will only use the Consumer Credit Information provided by the Credit Bureau via Accountability for the Prescribed Purpose as indicated to Accountability by means of the Web Site.
- 10.3 The Subscriber undertakes that it will obtain the Consent of the Consumer for an enquiry to be made to a Credit Bureau for Consumer Credit Information before a Subscriber requests information from Accountability and/or a Credit Bureau, if such Consent is required by the applicable Prescribed Purpose.

## **Technical Specifications and Security**

- 11.1 While Accountability uses its best efforts to provide the data related to the Accountability services as quickly as possible it cannot guarantee the period within which the data will be provided. Please contact Accountability if the data that you required was not provided to you within 2 (two) working days.
- 11.2 Accountability will provide Subscribers with technical specifications from time to time in order to ensure that the security of its system and related systems are not compromised and for operational reasons. The Subscriber undertakes to abide by these technical specifications and to implement them as soon as possible after they have been released by Accountability. Failure to abide by these technical specifications could result in incorrect data being received and/or submitted by the Subscriber and/or damages sustained by third parties for which the Subscriber will be held strictly liable.
- 11.3 In addition to the technical specifications as mentioned above the Subscriber undertakes to ensure that:
  - 11.3.1 The Username and Password of each User is exclusively used by that particular User;
  - 11.3.2 Not to provide the Username and Password of any User to any person whatsoever aside from the Primary Contact;
  - 11.3.3 It will notify Accountability as soon as possible after it becomes aware of any security breach;
  - 11.3.4 It will notify Accountability either before or when the Primary Contact ceases to be entitled to represent the Subscriber;
  - 11.3.5 It will not tamper with, reverse-engineer or disclose confidential information about the security systems of Accountability and/or any Credit Bureau; and
  - 11.3.6 It will be responsible for the actions of any of the Users that it allowed to have access to Accountability Services.

## **Intellectual Property**

- 12.1 The Subscriber agrees that:
  - 12.1.1 no unauthorised use of Accountability and/or the applicable Credit Bureau's intellectual property - which includes its designs, trademarks, copyrighted works or patents - is permitted; and
  - 12.1.2 All rights, title and interest in and to the Intellectual Property vests in the Credit Bureau and/or Accountability, respectively, as appropriate. Nothing in this Agreement transfers ownership in any of the Intellectual Property to any party.

## **Confidentiality and Privacy**

- 13.1 The parties hereby warrant that they will not disclose the Confidential Information to any unauthorized third party and will use their utmost efforts and diligence to guard and protect the Confidential Information.
- 13.2 In the event that any Confidential Information is disclosed, whether intentionally, negligently or otherwise, the party who becomes aware of this disclosure will inform the other party in writing as soon as possible.
- 13.3 All payment information and personal information provided to Accountability is stored electronically and is only able to be accessed by Accountability's employees. If specifically required Accountability is obliged to provide personal data to a Credit Bureau/Credit Regulator in order for the Credit Bureau/Credit Regulator to fulfill its functions in terms of the NCA. This information is encrypted and protected by authentication mechanisms to ensure that this information is not disclosed to unauthorized persons.

## **Warranties**

- 14.1 Save as specifically set out herein, neither Accountability nor any Credit Bureau make any representations and warranties and/or guarantees of whatever nature, whether express, implied in law, or residual, in respect of this Agreement, the Accountability Services and/or the accuracy or correctness of the reports and/or the recommendations.
- 14.2 The Subscriber hereby warrants that:
  - 14.2.1 It will abide by the terms of this Agreement and particular warrants that it will honour the undertakings as set out in this Agreement.
  - 14.2.2 It does not and will not at any time conduct and/or be directly or indirectly involved in the business of Credit Repair;
  - 14.2.3 Any data sent to Accountability is not subject to a duty of confidentiality between the Subscriber and the Consumer; and
  - 14.2.4 It will at all times abide by all the applicable legal and/or regulatory requirements and constraints in regard to its access to and use of the Credit Bureau information and services.

## **Indemnity**

- 15.1 The Subscriber hereby indemnifies Accountability and/or the applicable Credit Bureau from any claims of whatever nature arising as a result of any actions taken or reliance made on information provided by Accountability and the Credit Bureau concerned.
- 15.2 Accountability and/or the applicable Credit Bureau will not be liable for an actual or contingent loss, liability, expense, costs or damage of whatsoever nature (whether indirect, direct, consequential or otherwise) suffered by the Subscriber as a result of:
  - 15.2.1 A breach of this Agreement by the Subscriber;
  - 15.2.2 The use of any data provided by Accountability after the termination of this Agreement;
  - 15.2.3 Any mistake, error or omission related to data submitted to or received from Accountability;
  - 15.2.4 Any delay or failure to communicate with Accountability; and
  - 15.2.5 An event of Force Majeure.
- 15.3 Without prejudice to any of the rights of Accountability or the applicable Credit Bureau at law or in terms of this Agreement, the Subscriber indemnifies Accountability and the applicable Credit Bureau against all actual or contingent losses, liabilities, damages, costs (including legal costs on the scale as between attorney and client and any additional legal costs) and expenses of any nature whatsoever which Accountability and/or the applicable Credit Bureau may suffer or incur as a result of or in connection with the negligent acts or omissions of the Subscriber in carrying out its obligations in terms of this Agreement.

## **Disclaimer**

- 16.1 All information provided to the Subscriber is provided on an "as is" basis. Accountability does not have control over the data provided to the Subscriber and will not be held responsible for any error or omission related to the data. In addition, Accountability does not warrant that the Accountability Services will be uninterrupted, error-free, free of viruses or destructive code or that defect's will be corrected.

## **Audit**

- 17.1 In order to ensure that the Subscriber complies with the terms of this Agreement, Accountability is required to obtain the Subscriber's consent to audit its books records and systems, which consent the Subscriber hereby provides.
- 17.2 Any audit of the Subscriber's systems will be undertaken solely for the purpose of ensuring compliance with the terms and conditions of this Agreement and such information will be held in confidence unless this information is required to be provided to a Credit Bureau, the National Credit Regulator or to a court of law. Any audit of a member's records will be limited to such records' applicability to specific instructions issued to Accountability.
- 17.3 Accountability may appoint third parties as its representatives and/or agents to conduct the said audit and the result of the audit will be provided to the Subscriber concerned.
- 17.4 Accountability will pay for the costs of the audit unless the audit reveals that the Subscriber is or was in breach of this Agreement. If the Subscriber is breaching this Agreement or has breached this Agreement then the Subscriber will pay for the full costs of the audit.

## **Force Majeure**

- 18.1 In the event that Accountability, the Subscriber or the Credit Bureau is prevented from carrying out its obligations in terms of this Agreement as a result of Force Majeure, the party that is so prevented will be released from its obligations to the extent and for the duration that the event of Force Majeure exists.
- 18.2 Any party that is so prevented by Force Majeure as described above will endeavour to contact the other parties as soon as it is able and inform them of the event that gave rise to the Force Majeure, the expected duration of the Force Majeure and thereafter indicate when the Force Majeure has ceased to apply.

## **Cession**

- 19.1 The Subscriber shall not be entitled to cede or assign any of the rights contained herein without the express written permission of one of the Directors of Accountability. Accountability may cede this agreement by providing written notice to you, which notice may be communicated electronically.

## **Legal Costs**

- 20.1 In the event that the Subscriber breaches this agreement, it shall be liable for any legal, professional and/or other costs and/or disbursements (including the costs of any letter of demand, tracing agents fees and collection commissions), that are incurred due to this breach on the scale as between attorney and own client.

## **Termination**

- 21.1 This Agreement may be terminated by the Subscriber or Accountability by giving the other party 30 (Thirty) calendar days notice of the intention to terminate this agreement provided that the subscriber has fulfilled his/her obligation as per 4.2 above or as a result of a breach of this Agreement as described hereunder.

## **Breach of Agreement**

- 22.1 In the event that the Subscriber breaches any term of this Agreement, Accountability will be entitled to cancel this Agreement immediately by notice in writing, without prejudice to any of its other rights and remedies, which include any right to claim damages and indemnification.

## **Entire Agreement and Variation**

- 23.1 This Agreement constitutes the entire Agreement between Accountability and the Subscriber and supersedes any express or implied oral representation or any advertising by a party. No variation of this Agreement is valid unless reduced to writing and agreed to by a Director of Accountability.

- 23.2 Any certificate by a Director of Accountability, whose appointment, qualification and authority need not be proved, indicating the various versions of this Agreement, will be prima facie proof of the current and previous versions of this Agreement. All versions of this Agreement will be provided to the Subscriber by means of the Web Site.
- 23.3 Notwithstanding clause 22.1 above, this Agreement may be amended by Accountability posting an amended Agreement on the Web Site, which shall be deemed to be effective and binding on the parties on the date as set out therein, provided that the date as set out within the Agreement is no earlier than 5 (five) calendar days after the amended Agreement is posted to the Web Site. In the event of a conflict between the terms of the current version of the Agreement and the previous versions of the Agreement as posted on the Web Site, the terms of the current version posted on the Web Site shall prevail.

### **Waiver and Failure to Enforce Rights**

- 24.1 No extension of time or indulgence granted by either party to the other shall be deemed in any way to affect, prejudice or derogate from the rights of such party in any respect under this Agreement, nor shall it in any way be regarded as a waiver of any rights hereunder, or a novation of this Agreement.

### **Governing Law**

- 25.1 This Agreement shall be construed and governed in accordance with the laws of the Republic of South Africa and the parties submit to the non-exclusive jurisdiction of the High Court of South Africa, Cape Town Local Division.

### **General**

- 26.1 The parties undertake to ensure that all necessary resolutions are passed and all documents are signed as is necessary to give proper and due effect to the terms of this Agreement, or any matter arising as a result, according to its intent and purpose.
- 26.2 The expiration or termination of this Agreement shall not affect such of the provision of this Agreement as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.
- 26.3 If any provision of this Agreement is unenforceable or invalid under law, the remaining substance of such provision and remaining provisions of this Agreement shall continue to be binding and in full force and effect provided the essential economic benefits of this Agreement are retained.
- 26.4 Accountability is a member of the Credit Bureau Association (CBA). The contact details of the Credit Bureau Association can be obtained from its Web Site at <http://www.cba.co.za> or from any Credit Bureau.

### **Contact Information**

- 27.1 The parties choose their contact information and *domicilium citandi et executandi* as follows:
- 27.1.1 The Subscriber –As found in the Registration Form;
- 27.1.2 Accountability –As set out in clause 1.17 of the Subscriber Application Form and the Web Site. In the event of a discrepancy between these details, the details as found on the Web Site will prevail. Either party may vary its *domicilium citandi et executandi* by providing written notice to the other, which may be provided electronically.
- 27.2 Notwithstanding clause 27.2 Accountability may require that the Subscriber authenticate this change in *domicilium citandi et executandi* and contact information by providing proof of the new Subscriber address.

*Please note by accepting these terms you in term agree to terms and conditions of the various providers specified below.*

[TransUnion Credit Bureau Terms & Conditions](#)

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