



SENDGUY MEMBERSHIP TERMS

By using the SENDGUY Mobile App or WEBSITE, you are deemed to have read and agree to these "SENDGUY Membership Terms". If you do not agree to these SENDGUY Membership Terms, then you are not allowed to use this Platform and should immediately terminate such usage.

This SENDGUY Mobile App or WEBSITE is made available by SENDGUY, as such, the following terminology applies to these SENDGUY Membership Terms: - "We" or "Our" refers to SENDGUY and "You", "Yours" refers to a User. Any use of the above terminology or other words in the singular, plural, capitalization and/or he/she or they, are taken as interchangeable and therefore as referring to same. Although parts of these SENDGUY Membership Terms may reference other affiliates of SENDGUY, these SENDGUY Membership Terms are only between you and us and not with any of those other entities.

1. Terms of use

By downloading, browsing, accessing or using the SENDGUY Mobile App or WEBSITE ("**SENDGUY Online Platform**"), you agree to be bound by these SENDGUY Membership Terms. If you disagree with any of these SENDGUY Membership Terms, you must immediately discontinue your access to the SENDGUY Online Platform and delete the SENDGUY Mobile App or WEBSITE from any of your devices. Continued use of the SENDGUY Online Platform via the "**SENDGUY Mobile App or WEBSITE**", will constitute acceptance of these SENDGUY Membership Terms, as may be amended from time to time.

2. Definitions and interpretation

2.1. Unless the context clearly indicates the contrary, any term defined in the SENDGUY Terms when used herein, shall bear the same meaning as defined in the applicable SENDGUY Terms.

2.2. The headings to these SENDGUY Membership Terms are to facilitate reference and shall not affect or influence in any way the construction of any of the SENDGUY Terms.

2.3. These SENDGUY Membership Terms hereby incorporate by reference the SENDGUY Terms and any other applicable Platform Terms.

2.4. In the event of any inconsistency among the terms in the SENDGUY Terms and SENDGUY Membership Terms, then if you are a: (i) User, these SENDGUY Membership Terms will prevail; or (ii) Customer, (i) the order of precedent as set out in the SENDGUY Terms will prevail over these SENDGUY Membership Terms.

2.5. Unless the context clearly indicates to the contrary, the following words bear the meanings ascribed thereto-



2.5.1. "**Account**" means an account created by a User on the SENDGUY Online Platform as part of Registration;

2.5.2. "**Authorised User**" means you or a user in your employ where you are a juristic person, who has been assigned credentials;

2.5.3. "**Communication Tools**" means telephone, sms, email, WhatsApp including any other Communication Tool enabled by SENDGUY;

2.5.4. "**Customer**" means a merchant being a customer of SENDGUY, whose products or services can be purchased and/or redeemed (as the case may be) via the Services by a User.

2.5.5 "**Guy**" means any service provider referred by SENDGUY to render to a customer in their respective fields.

2.5.6. "**Customer Offerings**" means any promotional offering, product and/or service offered to and/or made available to Users by Customer via the Services and subject to the terms and conditions applicable thereto;

2.5.7. "**My SENDGUY Account or Dashboard**" means the section on the mobile application accessible by you that allows you to control certain aspects of the services you offer via the platform;

2.5.8. "**Order Form**" means the application form completed and Signed by Customer for the provision of the Services via the SENDGUY Online Platform;

2.5.9. "**Privacy Policy**" means the privacy policy set out in Clause 18 of these Terms and Conditions of Use.

2.5.10. "**Promos**" means any promotional offering presented to a User by SENDGUY via the SENDGUY Online Platform either as part of the promotion or reward;



2.5.11. "**Register**" means to create an Account on SENDGUY Online Platform and "Registration" mean the same;

2.5.12. "**Products**" means all products provided by SENDGUY via the SENDGUY Online Platform to Users and "Product" means any one of them;

2.5.13. "**Services**" means all the services provided by SENDGUY via the SENDGUY Online Platform to Users, and "Service" means any one of them,

2.5.14. "**Third Party Service Provider**" [drafting note: are you going to advertise and sell third party products as SENDGUY via the Online Platform];

2.5.15. "**Third Party Offerings**" means any promotional offering, product and/or service offered to and/or made available to Users by Customer via the Services and subject to the terms and conditions applicable thereto;

2.5.16. "**Transaction**" means any interaction between you and us in relation to the SENDGUY Mobile App or WEBSITE and/or subscription to the SENDGUY Offerings via SENDGUY Online Platform or any of its nominated agents but does not include transaction between yourself and Customer via the Services;

2.5.17. "**Users**" means Users of the SENDGUY Mobile Platform, including Customer (unless otherwise specified) and "User" means any one of them;

2.5.18. "**SENDGUY Mobile App**" means the mobile technology we have created, acquired or otherwise have rights in and may, in connection with the performance of our obligations under the SENDGUY Terms, employ, provide, modify, create or otherwise acquire rights in and includes any: concepts or ideas; methods or methodologies; procedures or processes; know-how or techniques; function, process, system, data, or object models; templates; the generalised features of the structure, sequence and organisation of software, user interfaces and screen designs; general purpose consulting and software tools, utilities, routines or frameworks; logic, coherence and methods of operation of systems;

2.5.19. "**SENDGUY Membership Terms**" means these terms and condition of access to and use of the SENDGUY Mobile App or WEBSITE;

2.5.20. "**SENDGUY Offerings**" means any promotional offering, Products/Services offered to and/or made available to Users by SENDGUY via the SENDGUY Online Platform and subject to the SENDGUY Membership Terms;



3.1. Availability: SENDGUY undertakes to use its reasonable endeavours to provide the User with access to SENDGUY Platform on a 24 (twenty-four) hour per day basis on each and every day for the continued operation of the SENDGUY Platform.

3.2. Interruptions: The User acknowledges that the following circumstances and events may impact upon its access and use of the SENDGUY Online Platform and further that these circumstances and/or events are beyond SENDGUY's control: (i) use of the SENDGUY Online Platform by other customers; (ii) limitations upon international bandwidth capacity; (iii) mobile operator failures; (iv) communication links failures; (v) mobile network failures; (vi) operating systems; (vii) access technology failures; (viii) any action, omission and/or failure by User and/or his/her/its systems, software, network and/or Device which is having an impact on the access to and use of the SENDGUY Online Platform; and (ix) any other action, omission and/or failure not within SENDGUY's control which is having an impact on the SENDGUY Online Platform.

3.3. Further, we do not warrant that your use of the Services or the SENDGUY Online Platform will be uninterrupted and we do not warrant that any information (or messages) transmitted via the Services or the SENDGUY Online Platform will be transmitted accurately, reliably, in a timely manner or at all. Notwithstanding that we will try to allow uninterrupted access to the Services and the SENDGUY Online Platform, access to the Services and the SENDGUY Online Platform may be suspended, restricted or terminated at any time.

2.5.21. **"SENDGUY Terms"** means the General Term, Product Terms, Use Policies, and these SENDGUY Membership Terms available at <https://SENDGUY.co.za/assets/pdf/SENDGUY-Product-Terms.pdf>

2.5.22. **"SENDGUY WEBSITE"** means the WEBSITElication or technology we have created, acquired or otherwise have rights in and may, in connection with the performance of our obligations under the SENDGUY Membership Terms, employ, provide, modify, create or otherwise acquire rights in and includes any: concepts or ideas; methods or methodologies; procedures or processes; know-how or techniques; function, process, system, data, or object models; templates; the generalised features of the structure, sequence and organisation of software, user interfaces and screen designs; general purpose consulting and software tools, utilities, routines or frameworks; logic, coherence and methods of operation of systems.

3. Undertakings and acknowledgements



3.4. Use: User acknowledges that: (i) in using the SENDGUY Online Platform, it does so at its own risk; and (ii) SENDGUY does not guarantee that the SENDGUY Online Platform will be uninterrupted or error free.

3.5. Errors and Omissions: We will use reasonable endeavours to correct any errors or omissions as soon as practicable after being notified of them. However, we do not guarantee that the SENDGUY Online Platform and/or products and/or services will be free of faults, and we do not accept liability for any such faults, errors or omissions.

3.6. Changes and Modifications: SENDGUY may from time to time in its discretion change, modify, substitute, suspend or remove without notice any information or Services on the SENDGUY Online Platform. Your access to the SENDGUY Online Platform and/or the Services may also be occasionally restricted to allow for repairs, maintenance or the introduction of new facilities or services. We will attempt to restore such access as soon as we reasonably can. For the avoidance of doubt, we reserve the right to withdraw any information or Services from the SENDGUY Online Platform at any time.

3.7. Removal: We reserve the right to block access to and/or to edit or remove any material which in our reasonable opinion may give rise to a breach of these Terms and of Use. Without limiting the generality of the SENDGUY Terms, SENDGUY expressly disclaims any direct, indirect, incidental, special, punitive or consequential loss or damages which arise or may arise out of: (i) the SENDGUY Online Platform; (ii) the use of SENDGUY Online Platform; (iii) fraudulent use of the SENDGUY Online Platform by an unauthorized third party on User's account; (iv) any dispute between User and User and/or any other third party, including (without limitation) a third party service provider, relating to or resulting from SENDGUY Online Platform and/or Customer products and/or services; and (v) any Customer Offerings via the SENDGUY Online Platform and/or Services.

4.1. The marketing of the services by Us is merely an invitation to you for subscription to any of the SENDGUY Offerings. A valid and binding Transaction only takes place when you subscribe to any of the SENDGUY Offering by submitting an Order Form.

4. INVITATION FOR SUBSCRIPTION



4.2. There could be instances where an Order Form is not required or for some reasons, acceptance thereof was not received by yourselves due to any technical error, however, SENDGUY Offerings are made to you. You will in this instance, once you start consuming any of the SENDGUY Offerings you ordered using your Account, be deemed to have entered into a Transaction, it being agreed that each submission of a button or other means to requisition a SENDGUY Offering constitutes a serviceable event.

5.1. You hereby agree that your personal information (required for registration into the SENDGUY Mobile App or WEBSITE) will be collected but not stored on the SENDGUY Mobile App or WEBSITE, but retrievable.

5.2. You hereby agree that your personal information (required for registration into the SENDGUY Mobile App or WEBSITE) will be sent to and processed: (a) internally by SENDGUY for (i) processing Your registration to SENDGUY Mobile App or WEBSITE; and (ii) processing Your Order Form; and/or externally to third party service providers to SENDGUY, to enable provisioning of any of the SENDGUY Offerings requested to You.

5.3. By submitting registration to the SENDGUY Mobile App or WEBSITE including the Order Form, You confirm that You have given SENDGUY your Consent to use your personal information for the lawful purpose set out therein.

6.1. Registration: Each User must provide their full legal name, a valid email address, cell number, physical address and any other information requested by Us to complete the registration process.

6.2. Capacity: You represent and warrant that you and any person who registers into the SENDGUY Online Platform have the allowed capacity within the applicable legal capacity to subscribe to mobile applications. As SENDGUY, we only allow registration to the SENDGUY Mobile App or WEBSITE by persons in their personal capacity or representatives of companies who are 18 years and above, and capable of concluding any Transaction; and possess the legal right, full power, and authority to open an Account; are authorised to use the credentials required for the Account; and will submit true, accurate and correct information to Us. If you are younger than 18 years of age, you warrant that you have the consent of your legal guardian to subscribe to the SENDGUY Online Platform or that you have obtained legal status in another manner.

6.3. Customer Identifiers: Each User agrees (a) to keep their credentials secure; and (b) not to provide access to any person other than an authorised.

5. PERSONAL INFORMATION

6. SENDGUY Platform Specific Terms



6.4. User Data: We are not responsible for any of your data stored on our system or submitted through the SENDGUY Mobile App or WEBSITE to third parties, except to the extent that we are required to be responsible by applicable law.

6.5. Access to User Data: Based on your consent, SENDGUY will upon request by SENDGUY personnel or third party service provider (“**Requesting Party**”), provide and process the User Data to a Requesting Party to enable the Requesting Party to comply with its obligations under these SENDGUY Membership Terms or SENDGUY Terms and the applicable laws.

6.6. Preservation of integrity of User Data: Both of the parties will take reasonable precautions (having regard to the nature of each of their obligations under the agreement), to preserve the integrity of User Data and prevent any unauthorised access, corruption or loss of User Data.

6.7. Use: By using the SENDGUY Online Platform, you are deemed to have read and agree to these SENDGUY Membership Terms. If you do not agree to these SENDGUY Membership Terms, then you are not allowed to use the SENDGUY Platform and should immediately terminate such usage. The SENDGUY Online Platform are enabled for personal use and shall therefore not be used for commercial or business purposes unless you are a User.

6.8. Location: The SENDGUY Online Platform including the products and/or services offered therein as well as any Promos are intended solely for use by Users who access the SENDGUY Online Platform in South Africa. SENDGUY makes no representation that the products, services and/or Promos are available or otherwise suitable for use outside South Africa.

6.9. Suspension: Without limitation of the AUP below, User acknowledges and agrees that SENDGUY may in its discretion, suspend, terminate and delete User’s Account including access to SENDGUY Online Platform in the event of User’s contravention of the use of the SENDGUY Online Platform and/or AUP.



6.10. Access: In order to access the SENDGUY Platform, including any SENDGUY Offerings thereon, you will require suitable Internet access and telecommunication links. This means that your network (mobile, fibre or any other form of connectivity) provider may charge you for their network connection services for the duration of the connection while using the SENDGUY Online Platform on their network. You accept responsibility for these charges. You acknowledge that where you do not have Internet access and/or suitable connectivity, your access to and use of the SENDGUY Online Platform will be limited, slow or not available at all. You are therefore advised to resolve any Internet access and/or connectivity issues directly with your mobile network provider and/or any other Internet connectivity provider you use for Access purposes.

6.11. Ownership: Where allowed, either via the SENDGUY Online Platform or by submitting any text or images (including photographs) ("**Material**") via the SENDGUY Mobile App or WEBSITE, you represent that you are the owner of the Material, or have proper authorization from the owner of the Material to use, reproduce and distribute it. You hereby grant us a worldwide, royalty-free, non-exclusive license to use the Material to promote any products or services.

6.12. Promos: In order to market and/or promote the SENDGUY Online Platform, SENDGUY shall make certain Promos to Users directly via Communication Tools. To redeem any of the Promos, you must be a User and such redemption is subject to the promotional terms and conditions contained in such Promo. You are therefore advised to appraise yourself with such promotional terms and their implications to you before you redeem same.

6.13. My Location alerts and notifications: Use acknowledge that SENDGUY Online Platform has a location services which is used by SENDGUY Online Platform to send you pre-programmed notifications ("**Location Alerts**") on the SENDGUY Online Platform from Users and/or Promos if you have turned on locational services on your Device (as the case may be).

6.14. Amendments: We may periodically make changes to the contents of the SENDGUY Online Platform, including to the descriptions and prices of goods and services advertised, at any time and without notice. We assume no liability or responsibility for any errors or omissions in the content of the SENDGUY Online Platform. We reserve the right to amend these SENDGUY Membership Terms including the SENDGUY Terms, from time to time without notice. The revised SENDGUY Membership Terms and/or SENDGUY Terms will be posted on the SENDGUY Online Platform and shall take effect from the date of such posting. You are advised to review these terms and conditions periodically as they are binding upon you.



6.15. Rewards or benefits: We grant the rewards or benefits that we make available to you and allow you to redeem through our mobile application voluntarily in our unfettered discretion in terms of the provisions of the Consumer Protection Act 68 of 2008. Using our mobile application does not guarantee that you will be able to redeem the benefits. The allocation of any benefits also does not entail that you have a vested right to those benefits.

7.1. You may not create a link to any page on the SENDGUY Online Platform without our prior written consent. If you do create a link to a page on the SENDGUY Online Platform, you do so at your own discretion, risk and the exclusions, limitation and disclaimers set out below will apply to your use of the SENDGUY Online Platform by linking to it.

8.1. Redirect: User acknowledges and agree that once they click of a Services, they will be redirected to such Services and must therefore comply with Services terms and conditions.

8.2. Offerings: User is responsibility to ensure that any SENDGUY Offering and/or Customer Offering or information made available through the SENDGUY Online Platform and/or Services meets User's specific requirements before purchasing same or subscribing thereto.

8.3. Use and Access: User shall not use the SENDGUY Online Platform nor permit anyone else to use the SENDGUY Online Platform in contravention with the AUP. Any access and use of the SENDGUY Online Platform in contravention with the AUP is disallowed and as such, SENDGUY shall in its discretion, suspend and/or remove the User's access thereto including deletion of Account.

8.4. No support or maintenance: We are not responsible for any support or maintenance of our mobile application. However, we may upgrade the version of our mobile application from time to time to add support for new functions and services.

8.5. Without limitation to anything else in this Clause 8, we shall be entitled immediately or at any time (in whole or in part) to: (a) suspend access and/or use of any of the SENDGUY Offering and/or SENDGUY Online Platform; (b) suspend your access and/or use of the SENDGUY Offering and/or SENDGUY Online Platform including access and/or use by persons we believe to be connected to you; and/or (c) delete your Account, if:

7. LINKS TO THE SENDGUY ONLINE PLATFORM

8. User Obligation



8.5.1. you commit any breach of the SENDGUY Terms;

8.5.2. we suspect, on reasonable grounds, that you have, might or will commit a breach of the SENDGUY Terms; or

8.5.3. we suspect, on reasonable grounds, that you may have committed or be committing any fraud against us, our Customers or any person using the SENDGUY Platform.

8.6. Our rights under this Clause 8 shall not prejudice any other right or remedy we may have in respect of any breach or any rights, obligations or liabilities accrued prior to termination.

9.1. Unless otherwise indicated, the content on the SENDGUY Mobile App or WEBSITE is provided by us and/or our associates.

9.2. Copyright and other relevant intellectual property rights exist on all text relating to SENDGUY, its logo, services and names thereto that appear on this SENDGUY Mobile App or WEBSITE as well as the full content of this SENDGUY Mobile App or WEBSITE.

9.3. The SENDGUY Mobile App or WEBSITE and its contents are protected by the copyright, trademark, and other laws of the Republic of South Africa. We and our licensors reserve all rights not expressly granted in these SENDGUY Membership Terms.

9.4. We retain all copyright and other intellectual property rights in all documents and other works we generate and/or develop whilst providing the services (including know-how, working materials and final documents). We hereby grant you a non-exclusive, non-transferable right and/or license to use these documents or other works solely for the instruction to which such generation and/or development relate, and not otherwise. Failure to pay us in full for our services in relation to any particular work, may result to the revocation of any right of use or license so granted.

9.5. We respect all third-party intellectual property rights, and as such, we require that your use of the SENDGUY Mobile App or WEBSITE remains compliant with the third-party intellectual property rights. References to any of our associates' and/or other parties' trademarks on the SENDGUY Mobile App or WEBSITE are for identification purposes only, and do not indicate that such parties have approved the SENDGUY Mobile App or WEBSITE or any of its contents. These SENDGUY Membership Terms do not grant you any right to use the trademarks of other parties.

9. Intellectual Property Rights



9.6. Except as expressly provided for in these SENDGUY Membership Terms, you shall not use the names "SENDGUY.", either alone or in combination with other words or design elements. You may not use any of the foregoing names, marks or logos in any press release, advertisement or other promotional or marketing material or media, whether in written, oral, electronic, visual and/or any other form, except if expressly permitted in writing by SENDGUY or its designee. To request this written permission, use the Contact Us feature on the SENDGUY Mobile App or WEBSITE.

9.7. We shall not be liable in contract, tort (including negligence or breach of statutory duty) or otherwise howsoever and whatever the cause thereof, for any indirect, consequential, collateral, special or incidental loss or damage suffered or incurred by you in connection with the SENDGUY Online Platform and these Terms and Conditions of Use. For the purposes of these Terms and Conditions of Use, indirect or consequential loss or damage includes, without limitation, loss of revenue, profits, anticipated savings or business, loss of data or goodwill, loss of use or value of any equipment including software, claims of third parties, and all associated and incidental costs and expenses.

9.8. The above exclusions and limitations apply only to the extent permitted by law. None of your statutory rights as a consumer that cannot be excluded or limited are affected.

9.9. Notwithstanding our efforts to ensure that our system is secure, you acknowledge that all electronic data transfers are potentially susceptible to interception by others. We cannot, and do not, warrant that data transfers pursuant to the SENDGUY Online Platform, or electronic mail transmitted to and from us, will not be monitored or read by others.

10.1. The Services are provided "as is" and "as available" and without any warranty of any nature whatsoever whether express or implied including without limitation warranties of merchantability, fitness for purpose, title or non-infringement.

10.2. To the fullest extent permitted by applicable law, we disclaim all representations and warranties relating to the SENDGUY Online Platform and its contents, including in relation to any inaccuracies or omissions in the SENDGUY Online Platform, warranties of merchantability, quality, fitness for a particular purpose, accuracy, availability, non-infringement or implied warranties from course of dealing or usage of trade.

10. GENERAL LIMITATION



10.3. SENDGUY is not liable and will not be liable under any circumstances, for any direct, indirect, incidental, special, punitive or consequential loss or damages which arise, or may arise, out of access to and/or use of the Products and/or Services by User. This exclusion of liability applies notwithstanding the fact that SENDGUY may have been advised of the possibility of such loss or damage being incurred prior to its occurrence.

10.4. While we may use reasonable efforts to include accurate and up-to-date information on the SENDGUY Online Platform, we make no warranties or representations as to its accuracy, timeliness or completeness.

10.5. We shall not be liable for any acts or omissions of any third parties howsoever caused, and for any direct, indirect, incidental, special, consequential or punitive damages, howsoever caused, resulting from or in connection with the mobile application and the services offered in the mobile application, your access to, use of or inability to use the mobile application or the services offered in the mobile application, reliance on or downloading from the mobile application and/or services, or any delays, inaccuracies in the information or in its transmission including but not limited to damages for loss of business or profits, use, data or other intangible, even if we have been advised of the possibility of such damages.

10.6. SENDGUY is not liable and will not be liable under any circumstances, for any direct, indirect, incidental, special, punitive or consequential loss or damages which result or may result from User's access to and/or use of any SENDGUY Third Party Offerings accessible and/or used in conjunction with the Products and/or Services, but not provided by SENDGUY. This exclusion of liability applies notwithstanding the fact that SENDGUY may have been advised of the possibility of such loss or damage being incurred prior to its occurrence.

10.7. User acknowledges that the Services are provided subject to all Applicable Laws and regulations and that User hereby indemnifies SENDGUY from any liability for any loss or damage suffered by User or any Third Party Service Provider as a consequence of any interruption or unavailability of the Services attributable to any regulatory body or civil or criminal process instituted against SENDGUY.

10.8. User's sole and exclusive remedy if it is dissatisfied with any of the SENDGUY Offering for any reason whatsoever, is termination such SENDGUY Offering, or part thereof, as provided for and upon the terms stated in the relevant SENDGUY Terms.

11. INDEMNITY



11.1. User hereby unconditionally and irrevocably indemnifies SENDGUY and agrees to hold SENDGUY free from all costs, losses, claims harm, liabilities, expenses, damages, fines or injury of whatsoever nature suffered or incurred by SENDGUY or instituted against SENDGUY by any Third Party Supplier and/or Third Party Service Provider as a direct or indirect result of User's use of the Products and/or Services including SENDGUY Third Party Offerings, User's failure to comply with any of the SENDGUY Terms, or any downtime, outage, interruption in or unavailability of the Products and/or Services. Included, but without limitation, within the ambit of downtime, outage, interruption in or unavailability of the SENDGUY Offerings including SENDGUY Third Party Offerings is any of the following: (i) software or hardware service, repairs, maintenance, upgrades, modification, alterations, replacement or relocation of premises affecting the Products and/or Services; including Third Party Offerings (ii) non-performance or unavailability, of whatever nature and howsoever arising of any of the services provided by a Third Party Supplier and/or Third Party Service Provider, Upstream Providers (including, but not limited to, line failure) or in any international services or remote mail servers; (iii) non-performance or unavailability, of whatever nature and howsoever arising, of external communications networks to which User or SENDGUY's network infrastructure is connected; and (iv) repairs, maintenance, upgrades, modification, alterations or replacement of any hardware forming part of the Services or any faults or defects of whatever nature in such hardware.

11.2. User acknowledges that it has no claim against SENDGUY and User hereby indemnifies SENDGUY against any liability in respect of any loss, damage or cost caused by or arising from: (i) any infringement of User's rights of privacy and/or any other like rights (including those of any other person or entity), arising from the Products and/or Services; (ii) any breach of security by any third party or any breach of confidentiality by a third party or otherwise arising from any access howsoever obtained by a third party to User's Personal Information , information, data or content; (iii) damage, contamination or corruption of any kind of User's Personal Information, User Data, material, information and/or content howsoever occasioned; (iv) repairs, maintenance, upgrades, modification, alterations, replacement or work of any nature done on User's hardware, software or systems by any party other than SENDGUY; (v) without limiting the foregoing, any fact, cause or circumstances whatsoever and howsoever arising if SENDGUY substantially performed its obligations under the SENDGUY Terms.



11.3. Notwithstanding the above, in the even that SENDGUY is held liable by any Court of law and/or Authority for any damages suffered by User through use of Products and/or Services including Third Party Offerings, SENDGUY's liability for such damages shall be limited to the total Subscription Fees payable by User in terms of the Agreement.

12.1. User acknowledges that SENDGUY has no knowledge of, nor interest in, nor in any way contributes to, nor approves the creation of, User's content as hosted by SENDGUY and/or published by User on User's web site and/or User's web server (whether owned by User or rented from SENDGUY) and/or published otherwise through use of any of SENDGUY's Products and/or Services and that hosting or publication of certain kinds of content may be offensive, unlawful, in breach of codes of conduct binding on SENDGUY, violations of legislation (including regulations), violations of the common law generally, and violations of the requirements and rules of any regulatory Authority and that hosting and publication of certain kinds of content may cause harm to the name, goodwill and reputation of SENDGUY, its Affiliates, and its business partners.

12.2. Accordingly, User agrees, if SENDGUY in the exercise of its sole discretion is of the opinion that User's content is offensive, unlawful, or harmful, as set out above, that SENDGUY, without derogating from any of its other rights in terms of this agreement, may:

12.2.1. request User forthwith to remove the offensive, unlawful, or harmful content, as the case may be; or

12.2.2. request User forthwith to amend or modify the content; or

12.2.3. without notice terminate access to User's web site and/or User's server (whether owned by User or rented from SENDGUY) and/or suspend or terminate access to SENDGUY's products or services; or

12.2.4. without notice delete User's web site from the server; or

12.2.5. without notice remove User from SENDGUY Portal or any other web property owned or administered by SENDGUY.

12. MONITORING AND TERMINATION RIGHTS



12.3. User agrees that nothing that SENDGUY does in the performance of its obligations in terms of the Agreement or in the carrying on of its business generally shall be construed as an assumption of responsibility or liability by SENDGUY for User's content and the publication thereof, whether or not SENDGUY had knowledge of such content and User hereby indemnifies SENDGUY and holds it harmless against any liability and any claims of whatever nature made by any person for any loss or damage suffered arising directly or indirectly from the hosting and/or publication of User's content as well as any other data of User.

12.4. SENDGUY shall use all reasonable endeavours to notify User of any action taken in terms of clause 12.2 above, but does not warrant that notice shall be given to User prior to such action being taken.

13.1. SENDGUY reserves the right to take whatever action it may deem necessary at any time to preserve the security and reliable operation of its network infrastructure and User undertakes that it will not do or permit anything to be done which will compromise SENDGUY's security.

13.2. SENDGUY may temporarily suspend its obligations in terms of this agreement in order to service, repair, maintain, upgrade, modify, alter, replace or improve any of SENDGUY's services. Where the circumstances permit, SENDGUY shall use its reasonable commercial endeavours to provide prior notice of any such suspension to User. The client shall not be entitled to any setoff, discount, refund or other credit in respect of any such suspension of service nor in respect of any suspension that is beyond SENDGUY's control.

13.3. Although SENDGUY applies reasonable endeavours to provide disaster recovery, SENDGUY does not specify any recovery time, nor is SENDGUY liable for any loss or damage of whatever nature incurred or suffered by User arising from or in connection with any cause whatsoever as a result of its failure to provide, or delay in providing, or providing only partial, disaster recovery. User is cautioned to make back-ups of its data. Nothing contained in the SENDGUY Terms shall be construed as a representation that any back-ups of data implemented by SENDGUY will be successful or in any way will avoid disaster.

14.1. These SENDGUY Membership Terms shall be governed by and construed in accordance with the laws of the Republic of South Africa without giving effect to the principles of conflicts of laws. You hereby consent to the exclusive jurisdiction of the High Court of the Republic of South Africa in respect of any disputes arising in connection with the SENDGUY Mobile App or WEBSITE.

13. PRESERVATION OF SECURITY, MAINTENANCE AND REPAIR

14. APPLICABLE LAW AND JURISDICTION AND DISPUTE RESOLUTION



14.2. If any dispute arises out of or in connection with the content of the SENDGUY Online Platform or the products and/or services that we offering to you and/or any SENDGUY Offering, such dispute must be referred for resolution firstly by way of negotiation and in the event of that failing, by way of mediation and in the event of that failing, by way of arbitration. The reference to negotiation and mediation is a pre-condition to the parties having the dispute resolved by arbitration.

15.1. Unless otherwise directed by you, we will correspond with you by means of sms or electronic mail. Whilst we take reasonable steps to safeguard the security and confidentiality of the information transmitted, we: - 15.1.1. do not encrypt our electronic communications; and 15.1.2. cannot guarantee its security and confidentiality.

16.1. If any portion of these SENDGUY Membership Terms is invalid or unenforceable for any reason (including, but not limited to the disclaimer set out above) in any jurisdiction, then:

16.2. in that jurisdiction it shall be re-construed to the maximum effect permitted by law in order to effect its intent as nearly as possible, and the remainder of these SENDGUY Membership Terms shall remain in full force and effect; and

16.3. in every other jurisdiction, all these SENDGUY Membership Terms shall remain in full force and effect.

16.4. Failure by SENDGUY to insist upon strict compliance with any of the provisions of these SENDGUY Membership Terms or performance in the SENDGUY Online Platform, or its failure to exercise any right or remedy to which it is entitled hereunder, shall not constitute a waiver thereof; and shall not cause a diminution of any of your obligations under these SENDGUY Membership Terms. No waiver of any of the provisions of these SENDGUY Membership Terms shall be effective unless it is expressly stated to be such by SENDGUY in writing.

15. COMMUNICATION

16. GENERAL

17. NOTIFICATION OF CHANGES



17.1. SENDGUY reserves the right to change these SENDGUY Membership Terms from time to time as it deems fit and appropriate. It is your responsibility to be aware of any such revised SENDGUY Membership Terms by checking the SENDGUY Online Platform. Your continued use of the SENDGUY Online Platform will signify your acceptance of any adjustment to these SENDGUY Membership Terms.

17.2. Your access and continued use of the SENDGUY Online Platform indicates your understanding, agreement to and acceptance, of our terms.

18.1. Overview 18.1.1. SENDGUY intention for publishing this AUP is not to impose restrictions that are contrary to its established culture of openness, trust and integrity but to showcase its commitment to complying with legislation and ensuring all its Users have the ability to access and navigate its SENDGUY Mobile App or WEBSITE or interact with SENDGUY through Communication Tools or any other social platforms enabled via the SENDGUY Mobile App or WEBSITE (the “**SENDGUY Platforms**”) without interference or harassment from other Users. This AUP is designed to help achieve these goals. By accessing and/or using the SENDGUY Platforms, the User agrees to comply with this AUP and to remain responsible for its use, where applicable.

18.2. Purpose 18.2.1. The purpose of this AUP is to outline the acceptable use of our network and/or Platforms and to define the accepted behaviour of Users on the aforesaid. This allows SENDGUY to:-

18.2.2. maintain the integrity and quality of the SENDGUY Online Platform and/or Platforms;

18.2.3. protect its Users and/or SENDGUY Platforms from abuse; and

18.2.4. co-exist within the e-commerce community as a responsible professional services provider.

18.3. Platforms 18.3.1. Although SENDGUY has used its reasonable efforts to ensure the security, reliability of its Platforms, the User acknowledges that SENDGUY is unable to exercise control over the data passing over the network and the Internet, including but not limited to any mobile, Websites, electronic mail transmissions, social platforms or other material created or accessible over its network. Therefore, SENDGUY is not responsible for any data transmitted over its network.

18. ACCEPTABLE USE POLICY



18.3.2. To help protect the integrity of the Platforms and its network operator, and to further ensure that all Users have fair and equal ability to access, navigate, purchase and/or interact via the Platforms, the User must refrain from engaging in any activity that compromises or threatens SENDGUY's network, Internet and/or ability to provide the services in a reasonable and efficient manner to all other users. SENDGUY reserves the right, through its network operator, to take necessary steps, to prevent improper or excessive usage thereof which includes without being limited thereto:- (1) limiting throughput; (2) preventing or limiting service through specific ports or communication protocols; and/or (3) complete termination of service to customers who grossly abuse Platforms and/or network through improper or excessive usage.

18.3.3. Violations of Platforms and/or network operator's system or network security are prohibited and may result in criminal and civil liability. SENDGUY will investigate incidents involving such violations and may involve, or will cooperate with, law enforcement agencies if a criminal violation is suspected.

18.4. Prohibited Activities 18.4.1. General Prohibitions:

18.4.2. SENDGUY prohibits the User from obtaining, disseminating or facilitating over SENDGUY's network or via Platforms, any unlawful materials, including but not limited to: - (1) copying or dealing in intellectual property without authorization; (2) child pornography, and/or (3) any unlawful hate-speech materials. The User is further prohibited from using the services in any way that is:- (1) unlawful, incitement to commit criminal acts, harmful to or interferes with use of SENDGUY's Platforms or operator network or systems, or the network of any other provider; (2) interferes with the use or enjoyment of SENDGUY Platform received by others; (3) infringes intellectual property rights; (4) results in the publication of threatening or offensive material which is harmful, obscene, discriminatory, defamatory, constitutes hate speech; or (5) constitutes abuse, a security risk or a violation of privacy. Failure to adhere to the rules and guidelines or agreements applicable to search engines, social networks, web pages, applications or the like that are accessed via a link from Platforms is a violation of this AUP.

18.4.3. Unlawful Activities:



a) Platform shall not be used to host, post, transmit, or re-transmit any content or material (or to create a domain name or operate from a domain name), that harasses, or threatens the health or safety of others. The User acknowledges that SENDGUY reserves the right to decline to provide and/or enable access to Platforms in general and/or specially to the SENDGUY Online Platform and/or social platforms if the content is determined by SENDGUY to be obscene, indecent, hateful, malicious, racist, defamatory, fraudulent, libellous, treasonous, excessively violent or promoting the use of violence or otherwise harmful to others. The User shall not use the Platform or network:- (1) for the purpose of committing an offence against a child or in way that would constitute or promote unlawful interaction with children; (2) for publication, transmission, dissemination, distribution, posting, downloading/uploading and/or storage of child pornography; (3) to publish, transmit, disseminate, distribute, download/upload and/or post any material without the consent of the other party; (4) in connection with any criminal, civil or administrative violation of any applicable local, provincial, national or international law, treaty, court orders, ordinance, regulation or administrative rules. To ensure compliance with any relevant legislation, SENDGUY will take steps to remove child pornography (or otherwise block access to the content determined to contain child pornography) from its servers.

18.5. Violation of Intellectual Property Rights 18.5.1. For the purposes of this notice, "Intellectual Property" means trademarks (whether registered or not), inventions, patents (both registered and unregistered), copyrights, registered and unregistered designs, know-how and other intellectual property vesting SENDGUY, including any branding or logos and any content contained on the SENDGUY Online Platform.



18.5.2. Whilst the User may obtain and download any materials marked as available for download off the Internet via SENDGUY Online Platform, SENDGUY's network, the User acknowledges that it is not permitted to use their Internet access to distribute any copyrighted materials via the SENDGUY Online Platform or in combination thereof, unless permission for such distribution is granted to the User by the owner of the materials. The User shall further not use the services to publish, submit/receive upload/download, post, use, copy or otherwise reproduce, transmit, re-transmit, distribute or store any content/material or to engage in any activity that infringes, misappropriates or otherwise violates the intellectual property rights or privacy or publicity rights of SENDGUY or any individual, group or entity, including but not limited to any rights protected by any copyright, patent, trademark laws, trade secret, trade dress, right of privacy, right of publicity, moral rights or other intellectual property right now known or later recognized by statute, judicial decision or regulation.

18.6. Security 18.6.1. Network Security



b) All references to systems and networks in this AUP include but not limited thereto, the Internet, the infrastructure as well as systems and/or networks owned and operated by SENDGUY and/or SENDGUY's network operator to which the User is granted access through SENDGUY Online Platform. The User acknowledges that violations of any network or system security are prohibited. As such, the User may not circumvent User authentication or security of any host, device, network, or Account (referred to as "cracking" or "hacking"), nor interfere with service to any User, host, device, or network. The host, device, network, or Account shall also not be used for any illegal purpose, including phishing. Violations of system or network security by the User are prohibited and SENDGUY will investigate incidents involving such violations and will involve and co-operate with law enforcement officials if a criminal violation is suspected. The following are (without being limited thereto), examples of system or network security violations:- (1) unauthorized access to or use of data, systems or networks, including any attempt to probe, scan or test the vulnerability of any system or network or to breach security or authentication measures without the express authorization of SENDGUY; (2) unauthorized monitoring of data or traffic on the network or systems or any other action aimed at the unauthorized interception of data or harvesting of email addresses; (3) hacking, attacking, gaining access to, breaching, circumventing or testing the vulnerability of the User authentication or security of any host, network, server, personal computer, network access and control devices, software or data without express authorization of the owner of the system or network; (4) interfering with service to any User, device, host or network or using any program, file, script or transmission of any message, including, without limitation, mail bombing, flooding and/or any other act intended to overload a system, interfere with a terminal session or access to use the Internet and other means of communication; and (5) knowingly uploading or distributing files that contain viruses, spyware, Trojan horses, worms, time bombs, cancel bots, corrupted files, root kits or any other similar software or programs that may damage the operation of another's computer, network system or other property, or be used to engage in modem or system hi-jacking.

18.7. SENDGUY Platform Security



18.8. User Responsibility

18.9. Prevention and Management of Abuse

For security purposes and to ensure that Platforms remain available to all Users, SENDGUY computer system employs software programs to monitor network traffic to identify unauthorized attempts to upload or change information, or otherwise cause damage. Platforms may not be used to interfere with, gain unauthorized access to, or otherwise violate the security of SENDGUY's (or another party's) server, network, network access, personal computer or control devices, software or data, or other system, or to attempt to do any of the foregoing.

Whilst we use our reasonable endeavours to ensure security of our network and/or systems, the User acknowledges that we do not make any express or implied representations, warranties or guarantees regarding the availability, accuracy, reliability, timeliness, quality or security of our network, systems and/or any services. The User remains solely and fully responsible for: - (1) ensuring and maintaining security of their systems and the machines that connect to and use services, including implementation of necessary patches and operating system updates; (2) the content of any material posted, hosted, downloaded/uploaded, created, accessed or transmitted using our Website and/or services.

SENDGUY has no responsibility for any material created on SENDGUY Platforms or accessible using SENDGUY Platforms including content provided on third-party Websites linked to SENDGUY Platforms. Such third-party links are provided as Internet navigation tools for informational purposes only, and do not constitute in any way an endorsement by SENDGUY of the content(s) of such sites. The Users are responsible for taking prompt corrective action(s) to remedy a violation of AUP and to help prevent similar future violations.



18.9.1. SENDGUY reserves all its rights to implement appropriate technical mechanisms to prevent usage patterns in violation of this AUP. SENDGUY further reserves the right to take such action as may be necessary to protect the integrity of SENDGUY Platforms, network and/or system, including, but not being limited to, network and/or system monitoring, as well as protocol management and shutting down of ports affected by viruses, worms or other malicious code. Upon receipt of a complaint, or having become aware of an incident, SENDGUY reserves the right to:- (1) inform the User's network administrator of the incident and require the network administrator or network owner to deal with the incident according to this AUP; (2) in the case of individual Users suspend the User's account and withdraw the User's network access privileges completely; (3) charge the offending parties for administrative costs as well as for machine and human time lost due to the incident; (4) in severe cases suspend access of the User's entire network until abuse can be prevented by appropriate means; (5) take such action as may be necessary to protect the integrity of the system, including, but not being limited to, system monitoring, as well as protocol management and shutting down of ports affected by viruses, worms or other malicious code; and (6) share information concerning the incident with other Internet access providers, or publish the information, and/or make available the Users' details to law enforcement agencies.

18.10. Laws and Legislation 18.10.1. SENDGUY Platforms may be used only for lawful purposes. Users may not violate any applicable laws or regulations of South Africa within the territory of South Africa. Should the User reside outside of South Africa, the laws of the country in which the User resides shall apply.

18.10.2. Transmission, distribution, or storage of any material on or through SENDGUY Platforms in violation of any applicable law or regulation is prohibited. This includes, without limitation, material protected by copyright, trademark, trade secret or other intellectual property right used without proper authorization, and material that is obscene, defamatory, constitutes an illegal threat, or violates export control laws.

18.10.3. The User undertakes to use SENDGUY Platforms in accordance with any restrictions imposed under the following legislation:

- a) Electronic Communications and Transactions Act 25 of 2002, as amended
- b) Electronic Communications Act 36 of 2005, as amended



c) Films and Publications Act 65 of 1996, as amended.

18.10.4. All cases of violation of the above AUP should be reported to AUP Enforcement and Notice.



18.10.5. The User's failure to observe the guidelines set forth in this AUP will be regarded as a material breach and may result in SENDGUY taking actions, which may either be a warning, a suspension or termination of User's access to and use of the Platforms. When reasonably possible, SENDGUY may provide the User with a notice of an AUP violation allowing the User to promptly correct such violation.

18.10.6. If Platforms are used in a way that we, in our reasonable discretion, believe violates this AUP or any of our rules or limitations, we may take any responsive actions we deem appropriate. Such



actions may include without limitation, temporary or permanent removal of content, cancellation of social posts, filtering of Internet transmissions, and/or the immediate limitation, restriction, suspension or termination of all or any portion of the services or your account.

18.10.7. Should you engage in any one or more of the above activities, which shall be determined in SENDGUY 's reasonable discretion and which decision shall be final, then SENDGUY shall be entitled,



without prejudice to any other rights it may have, to take any responsive action we deem appropriate, such actions may include, without limitation:

a) without notice, temporary or permanent limitation, restriction or suspension of your access to the IP service concerned;



b) terminate all agreements with you with immediate effect;

c) bill you for any costs incurred by SENDGUY as a result of the offending activity, including (without being limited to) bandwidth used, administration costs, downtime, usage of SENDGUY's name or registered domain names; and



d) disclose information relating to the offending activity as may be required under the circumstances.

18.10.8. SENDGUY has no obligation to monitor content of any materials distributed or accessed using the IP services. However, SENDGUY may monitor content of any such materials as necessary to comply with applicable laws, regulations or other governmental or judicial requests; or to protect SENDGUY's network and its clients or Users.





18.11. Incident Reporting 18.11.1. Any complaints (other than claims of copyright or trademark infringement) regarding violation of this AUP by a SENDGUY client or User should be directed to info@SENDGUY.co.za, include details that would assist SENDGUY in investigating and resolving such complaint.

18.12. Legal Rights 18.12.1. SENDGUY reserves the right to take any action that it may deem appropriate with respect to any activity it deems in contravention with this AUP which activity shall include without limitation: (1) investigating suspected violations of this AUP; (2) taking action to recover costs and expenses incurred in identifying offenders and/or resolving abuse; and (3) terminating the Users' access to and use of the Internet as well as any other service accessed via the Internet. In addition, the SENDGUY reserves all available rights and remedies with respect to such activities at law or in equity.

18.12.2. This AUP forms part of SENDGUY's standard terms and conditions for access and use of SENDGUY Platforms.

18.13. Notification and Changes 18.13.1. SENDGUY reserves the right to change, modify or adjust the terms of this AUP from time to time as it deems fit and appropriate. Any such changes, modification or adjustment shall come into effect as soon as they are published on the Website. The User's continued use of the services and/or visit to our Website will signify your acceptance of any changes, modifications, and adjustment to this AUP. The updated version of the AUP will be published on our Website <https://SENDGUY.co.za>. The User is therefore advised to re-read this AUP on a regular basis.

19.1. By registering to our Portal, you acknowledges that your personal information will be used by SENDGUY in accordance with SENDGUY'S Privacy Statement <https://SENDGUY.co.za/assets/pdf/SENDGUY-Privacy-Policy.pdf> and is processed and stored in South Africa and shall be used for marketing, sales, analysis, reporting, testing and targeting ("lawful purpose").

20.1. By registering on our App Store, you hereby give SENDGUY consent to use your personal information which use in as set out in our Privacy Policy and confirms that:

19. Personal Information

20. POPIA Consent



20.1.1. the personal information is supplied voluntarily, without undue influence from any party and not under any duress;

20.1.2. the personal information which is supplied herewith is mandatory for the purposes of registration to the App Store and that without such information, SENDGUY will not be able to register the App Store; and

20.1.3. the personal information will be used for the lawful purpose set out herein and in the Privacy Policy.

20.2. I acknowledge that I am aware that I have the following rights with regard to my personal information which is hereby collected. The right to: 20.2.1. access the information at any reasonable time for purposes of rectification thereof;

20.2.2. object to the Processing of the Personal Information in which case this agreement will terminate in accordance with the provisions contained herein;

20.2.3. lodge a complaint to the Information Regulator.

20.2.4. POPIA Consent: By clicking accept, You acknowledge and agree that you have read the Privacy Statement and understands the (i) purpose for use of my personal information, (ii) how my personal information will be used and processed; and (iii) rights I have pertaining to my personal and hereby give consent for same to be used by SENDGUY.