

terms & conditions

Terms and Conditions

RECITALS

The Service Provider has developed certain software applications and platforms which it makes available to subscribers (Buyers and Sellers) through the Internet upon registration of a Service Bundle for securing a buyer for residential and or commercial properties.

The Customer (Buyer or Seller) wishes to utilize any Service Bundles from the Service Provider and make use of the Services offered by the Service Provider through the Service Providers Website.

The Service Provider has agreed to provide, and the Customer has agreed to accept and pay for the Service Provider's service subject to the terms and conditions of this Agreement.

Whereby It Is Agreed As Follow:

1. Interpretation

1.1. The headings of the clauses in this Agreement are for purposes of convenience and reference only and shall not be used in the interpretation, nor modify or amplify the terms of this Agreement nor any clause hereof. Unless a contrary intention appears;

1.2. The terms of the Service Bundle selected by the Customer contained in the schedule one to this agreement shall form part of the terms of this Agreement.

1.3. Words importing:

1.3.1 any one gender includes the other gender;

1.3.2 the singular includes the plural and vice versa; and

1.3.3 a natural person includes juristic persons (corporate or unincorporated) and vice versa.

1.4. A reference to a statute or statutory provision is a reference to it as it is In force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.5. References to clauses, and annexures are to the clauses and annexures of this Agreement; references to paragraphs are to paragraphs of the relevant annexures to this Agreement.

1.6. If any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in the body of the Agreement.

1.7. When any number of days is prescribed in this Agreement, the same shall be reckoned exclusively of the first and inclusively of the last day unless the last day is not a business day, in which case the last day shall be the next succeeding business day.

1.8. The expiration or termination of this Agreement shall not affect such of the provisions 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.

2. Definitions

2.1. The definitions and rules of interpretation in this clause apply in this agreement.

2.1.1. "AFSA" means the Arbitration Foundation of Southern Africa;

2.1.2. "Agreement" means this software subscription agreement and any schedules and annexures thereto;

2.1.3. "Confidential Information" means information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information by a Party, or information which the receiving Party knows or reasonably should have known is of a proprietary or confidential nature;

2.1.4. "Customer Data" means the data inputted by the Customer, Independent Property Professional, or the Service Provider on the Customer's behalf on the Website for the purpose of using the Services or facilitating the Customer's use of the Services, and includes (without limitation) Personal Information;

2.1.5. "Documentation" means the document made available to the Customer by the Service Provider electronically through the Website or such other web address notified by the Service Provider to the Customer from time to time and any physical document in paper format which sets out and description or forms part of the Services and the user instructions for the Services;

2.1.6. "Effective Date" means the date on which the Customer (Seller) has accepted these T&C's from the by the Service Provider for a particular Service Bundle in accordance with the payment terms of that Service Bundle set out in this Agreement;

2.1.7. "Intellectual Property Rights" means all the rights in and to Intellectual Property including (without limitation) the rights in and to the trademarks, service marks, trade names, domain names, logos, get-up, patents, provisional patents, inventions (whether patentable or not), know-how (including confidential industrial and commercial information and techniques in any form), utility models, registered and unregistered design rights, copyright, semiconductor topography rights, database rights, rights in respect of any new or existing compilation of any data or information

not covered under any existing copyright, any structured analysis, reports, application and any resulting know-how, use or any other results originating or following from or as a consequence of data being made available in respect of any of the aforementioned or part thereof, and all similar proprietary rights which may subsist in any part of the world including, where such rights are obtained or enhanced by registration, any registration of such rights and applications and rights to apply for such registrations, as well as any Confidential Information or processes relating to that subject matter;

2.1.8. “Party” means either the Service Provider or the Customer, and “Parties” means both the Service Provider and the Customer;

2.1.9. “Personal Information” has the meaning ascribed to it in the Protection of Personal Information Act 4 of 2013 (“POPI”), and any applicable law in South Africa and/or in any other jurisdiction where the Services are provided and/or used;

2.1.10. “Services” means the subscription service bundles provided by the Service Provider to the Customer under clause 7 of this Agreement;

2.1.11. “Software” means the online software applications provided by the Service Provider as part of the Services;

2.1.12. “Subscription Fees” means the subscription fees payable by the Customer to the Service Provider upon registration of a particular Service Bundle as detailed in clause 7 to this Agreement;

2.1.13. “Support Services Policy” means the Service Provider’s policy for providing support in relation to the Services as detailed in respect of the specific Service Bundles contained in clause 7 to this Agreement;

2.1.14. “Service bundle” means the particular service package purchased by the Customer pursuant to clause 10.1, which entitle the customer to access and use the Services and the Documentation in accordance with this Agreement;

2.1.15. “Subscription Term” means the term during which service will be rendered and access granted to the Website as detailed in the particular Service Bundle description as contained in clause 7 of this agreement, agreed upon by the customer;

2.1.16. “Virus” means a device or thing (including any software, code, file or programme) which may prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any program or data, including the reliability of any program or data (whether by rearranging, altering or erasing the program or data in whole or part or otherwise); or adversely affect the user experience, including worms, Trojan horses, viruses and other similar things or devices.

2.1.17. “Website” means the Service Provider’s Website, www.simplyonline.co.za

3. OPEN MANDATES

3.1. Seller’s and Buyer’s Platform Service Bundles are for Residential Sale of Properties

3.1.1. Where the customer has selected either the Seller’s Platform Service Bundle, the Customer hereby grants the Service Provider, an open mandate for the period of the Subscription Term being six months, to offer the Customer’s property for sale as from the effective date of this agreement, after which should the Service Provider have failed to secure a purchaser this open mandate shall automatically terminate.

3.1.2. Obligations of the Service Provider in respect of this open mandate.

3.1.2.1. The Service Provider hereby undertakes:

3.1.2.1.1. to find a purchaser on the terms stated in this + agreement and in accordance with the Service Bundle selected and paid for by the Customer, who is willing and able to purchase the property, from the Customer;

3.1.2.1.2. To furnish the Customer, during and upon termination of this agreement with alternative options to sell the property through approved traditional Estate Agency;

3.1.2.1.3. To provide details of any code of conduct or other standard applicable to the Service Provider or the service being rendered;

3.1.2.1.4. To disclose the existence of any circumstances or any personal interest in the service or the property which may give rise to an actual or potential conflict of interest.

3.1.2.1.5. To disclose whether the Service Provider or any Independent Property Professional referred to the Customer by the Service Provider has ever been:

3.1.2.1.5.1. found guilty of any offence involving dishonesty which was punishable by criminal imprisonment without the option of a fine;

3.1.2.1.5.2. placed under sequestration, liquidation or judicial management;

3.1.2.1.5.3. or still an unrehabilitated insolvent.

3.1.3. Obligations of the Customer (Buyer and Seller)

3.1.3.1. The Customer undertakes that:

3.1.3.1.1. The Seller will not do anything which might in any way prevent hinder the Service Provider from effecting a sale of the property in terms hereof;

3.1.3.1.2. he will allow the erection of "For Sale" boards or "Show House" boards and shall allow the Service Provider or any independent Property Professional referred to the Customer access to the property at all reasonable times;

3.1.3.1.3. with specific reference to the Seller's Platform Service Bundle, he will pay to the Service Provider the full fee still owing at any stage in the event that

3.1.3.1.3.1. The Customer commits a breach of the terms of this agreement;

3.1.3.1.3.2. The Customer refuses to accept a bona fide offer of purchase;

3.1.3.1.3.3. Advertise their property at a cheaper Price themselves or through another agency and results in a sale.

4. SERVICE BUNDLE (as per addendum 1)

4.1. 'Residential Sale' for Residential Sales

4.1.1. The purchase of this Service Bundle amounts to R9,500.00.

4.1.2. The Subscription Term shall be for a period of 120 days from the effective Date;

4.1.3. The Customer upon listing their property for sale grants the Service Provider an Open Mandate on terms detailed in clause 3 of this document.

4.1.4. The payment of this Service Bundle shall be payable once the listed property is sold and upon transfer.

5. USER SUBSCRIPTIONS

5.1. The Customer shall keep a secure password regulating the access to the Website for his use of the Services and Documentation;

5.2. The Customer shall not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services, Documents, and or Website that is unlawful, harmful,

threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive, and the Service Provider reserves the right to disable the Customer's access to any material that breaches the provisions of this clause.

5.3. The Customer shall not:

5.3.1. Except as may be allowed by any applicable law which is incapable Of exclusion by agreement between the Parties:

5.3.1.1. and except to the extent expressly permitted under this Agreement, attempt to copy, modify, duplicate, create derivative works from, frame, mirror, re-publish, download, display, transmit, or distribute all or any portion of the Software and/or Documentation (as applicable) in any form or media or by any means; or

5.3.1.2. attempt to reverse compile, disassemble, reverse engineer Or otherwise reduce to human-perceivable form all or any part of the Software.

5.4. The Customer shall prevent any unauthorised access to, or use of, the Services, Documentation and or Website and shall, in the event of any such unauthorised access or use promptly notify the Service Provider.

6. ADDITIONAL SERVICES

The Customer acknowledges that the Service Bundles are standard package and that any additional service not specifically stipulated in Clause 4.1. will result in additional charges being levied by the Service Provider Which additional charges will be payable immediately

7. SELLER PLATFORM SERVICE BUNDLE RESIDENTIAL SALES.

7.1. The purchase price of this Service Bundle amounts to R9.500.00.

7.2. The Customer on selection of this Service Bundle grants the Service Provider an Open Mandate on the terms detailed in clause 3 of this Agreement;

7.3. Payment of the purchase price shall be payable upon the Service Provider securing a purchaser who is willing and able to purchase the property from the Customer on the terms stated in this agreement and in accordance with this Service Bundle;

8. THIRD PARTY PROVIDERS

8.1. The Customer acknowledges that the Services may enable or assist it to access the website content of, correspond with, and purchase products and services from, third parties via third-party websites and that it does so solely at its own risk.

8.2. The Service Provider shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third- party website, or any transactions completed, and any contract entered by the Customer, with any such third party.

8.3. The Service Provider does not endorse or approve any third-party website nor the content of any third-party website made available via the Services.

9. SERVICE PROVIDER'S OBLIGATIONS

9.1. The Service Provider undertakes that the Services will be performed substantially in accordance with that stated in the selected Service Bundle purchased by the Customer contained in clause 4 of this Agreement and with reasonable skill and care.

9.2. The undertaking at clause 9.1 shall not apply to the extent of any non- conformance which is caused by use of the Services contrary to the Service Provider's instructions, or modification or alteration of the Services by any party other than the Service Provider or the Service Provider's duly authorised contractors or agents.

9.3. If the Services do not conform with the undertaking in clause 9.1, the Service Provider will use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance.

9.4. Notwithstanding the foregoing, the Service Provider:

9.4.1. does not warrant that the Customer's use of the Services will be uninterrupted or error-free; and

9.4.2. is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities.

9.4.3. The Service Provider warrants that it has and will maintain all necessary licenses, consents, and permissions necessary for the performance of its obligations under this Agreement.

10. CUSTOMER'S OBLIGATIONS

10.1. The Customer shall:

10.1.1. provide the Service Provider with:

10.1.1.1. all necessary cooperation in relation to this Agreement;

And

10.1.1.2. all necessary access to such information as may be Required by the Service Provider;

10.1.2. comply with all applicable laws and regulations with respect to its activities under this Agreement;

10.1.3. use the Services and the Documentation in accordance with the terms and conditions of this Agreement; and

10.1.4. be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to the Service Provider's data centres.

10.1.5. agree to only list one property for sale on the platform.

10.1.6. agree to consider utilizing one of the Service Provider's National Conveyancing Partners when selling their property.

10.1.7. agree to allow the Service Provider to manage all existing 'Sell By Owner' property portal listings that are currently listed on all South Africa's major property portals .

10.1.8. agree to allow the Service Provider to forward the Customer's contact details to the Service Provider's panel of Conveyancing Partners.

11. CHARGES AND PAYMENT

11.1. The Customer shall make payment to the Service Provider of any amount due under this Agreement on the terms stipulated in the selected Service Bundle contained in clause 4 of this agreement.

11.2. All amounts and fees stated or referred to in this Agreement are exclusive of value added tax (VAT).

11.3. The Service Provider will only grant access to its Services and Documentation to the Customer upon registration of the Service Bundle in Clause 7 of this Agreement by the Customer.

11.4. the Service Provider may at its sole discretion and at any time alter amend or change any price or payment terms for any Service Bundle and or the additional services subject to the Service Provider giving the Customer 30 days written notice of such changes and subject further that such change would not affect any Customer whose Subscription Term had already commenced.

12. INTELLECTUAL PROPERTY

12.1. The Customer acknowledges and agrees that the Service Provider and/or its licensors own all Intellectual Property Rights in and to the Services and the Documentation.

12.2. Except as expressly stated herein, this Agreement does not grant the Customer any rights to, or in, patents, copyrights, database rights, trade secrets, trade names, trademarks (whether registered or unregistered), or any other Intellectual Property Rights, or licences in respect of the Services or the Documentation.

13. DATA PRIVACY AND PROTECTION

13.1. The Service Provider is continuously developing its information security management system incorporating the function of information officers within the information security which provides for the establishment of an organizational infrastructure, the identification of the organisation's information assets, a risk management methodology defining how the risk relating to an organisation's information assets is to be determined, the development of appropriate policies, processes and standards governing the use of information within the organisation, and mechanisms for the continuous and ongoing review of the organisation's information management and security.

13.2. The Customer is aware of the processing of the information and the purpose for which the information has been collected.

13.3. The customer hereby voluntarily provides consent to the Service Provider for the processing of the Customers personal information which information was supplied directly and voluntarily by the customer to the service provider through the service providers website.

13.4. Where necessary the Customer herewith consents to the collection of Personal Information from a source other than the Customer.

13.5. The customer acknowledges, accepts and is aware that the personal information collected and processed by the Service Provider to enable the Service Provider to deliver the required service to the customer in relation to the sale and or letting of the customers immovable property.

13.6. The Customer acknowledges that he/she is aware that they may at any time object to the use and processing of personal information by the Service Provider.

13.7. The Service Provider Acknowledges that personal information will only be processed further to the extent that the processing is compatible with the purpose for which it was initially collected.

13.8. The Service Provider will take reasonably practicable steps to ensure that information is complete, accurate, not misleading and, where necessary, is updated.

13.9. The Service Provider shall ensure that personal information of a customer in its possession or under its control is appropriately safeguarded against loss, destruction or unlawful access. In the event of any loss or damage to Customer Data, the Customer's sole and exclusive remedy shall be for the Service Provider to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by the Service Provider.

14. CONFIDENTIALITY

14.1. Each Party may be given access to Confidential Information from the other Party in order to perform its obligations under this Agreement. A Party's Confidential Information shall not be deemed to include information that:

14.1.1. is or becomes publicly known other than through any act or omission of the receiving Party;

14.1.2. was in the other Party's lawful possession before the disclosure;

14.1.3. is lawfully disclosed to the receiving Party by a third party without restriction on disclosure;

14.1.4. is independently developed by the receiving Party, which independent development can be shown by written evidence; or

14.1.5. is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.

14.2. Each Party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of this Agreement.

14.3. Each Party shall take all reasonable steps to ensure that the other Party's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this Agreement.

15. DISINSTRUCT YOUR CURRENT ESTATE AGENT

Within the Website you can choose to use a facility to give notice to your current estate agent. This facility enables you via our system to generate a letter to your existing estate agent giving them notice to terminate the agency agreement that you have with them. You will enter the name of the Estate Agent; their address and email address and a letter will be automatically generated that you can send to your existing estate agent. We will not use this information provided for any other purpose.

16. INSTRUCT THE SERVICE OF SIMPLY ONLINE'S PREFERRED TRADITIONAL OR FIXED-FEE ESTATE AGENCIES

Within the Website you can choose to use a facility to instruct one of Simply Online's preferred Traditional or Fixed-Fee Estate Agencies. This facility enables you via our system to generate a mandate letter to instruct your chosen Traditional or Fixed-Fee estate Agency(s) to market your listed property 'For Sale'. The Mandate and Terms and Conditions of your chosen Traditional or Fixed-Fee Estate Agency can be found, and accepted, within our Website. You will receive a copy of the Mandate in your Seller's Dashboard.

17. ACCESS TO, CHANGING OR REMOVING THE INFORMATION WE HOLD

Registered users of the Website can update their information or change settings in the Dashboard once logged in. To deactivate an account, please email enquiries@simplyonline.co.za Users of the Website or Dashboard can request we provide them with a copy of the personally identifiable information we hold via enquiries@simplyonline.co.za. You may ask us to make any necessary changes to ensure that such information is accurate and kept up to date although you can do this yourself from within the Dashboard. We may charge a small administration fee to cover the data search, preparation and delivery.

18. COOKIES AND TRACKING

Like many sites and software, we use 'cookies' to enable us to personalise your visits, simplify the signing-in procedure, keep track of your preferences and to track the usage of the Website or Dashboard. Cookies are small pieces of information that are stored in the hard drive of your computer by your browser. Your browser will have the option to prevent sites using cookies (your browser's help screen or manual will tell you how to do this), but please note that this may reduce the functionality of the Website or Dashboard and other Sites. Like all sites, our servers automatically record 'log files' containing information about the volume and characteristics of the Website and Dashboard traffic e.g. IP address, numbers of pages viewed, length of time spent on site etc. We use log files to build pictures of how the Website and the Dashboard is used that help us to monitor and improve our service. We cannot identify you from your log files. We use Google AdWords remarketing services to advertise on third party websites (including Google) to previous visitors to our site. It could mean that we advertise to previous visitors who have not yet completed a task on our site, for example using the contact form to make an enquiry. This could be in the form of an advertisement on the Google search results page, or a site in the Google Display Network. Third-party vendors, including Google, use cookies to serve ads based on someone's past visits to our website. Of course, any data collected will be used in accordance with our own privacy policy and Google's privacy policy.

19. LIMITATION OF LIABILITY

19.1. The Customer's use of the Website and the information contained on the Website is entirely at the Customer's own risk and the Customer assumes full responsibility and risk of loss resulting from the use thereof.

19.2. The transmission of information via the internet, including without limitation e-mail, is susceptible to monitoring and interception. The Customer bears all risk of transmitting information in this manner. Under no circumstances shall Service Provider be liable for any loss, harm, or damage suffered by the Customer as a result thereof. The Service Provider reserves the right to request independent verification of any information transmitted via e-mail and the Customer consents to such verification should service provider deem it necessary.

19.3. To the extent permissible by law:

19.3.1. Neither Service Provider, its affiliates, shareholders, agents, consultants or employees shall be liable for any damages whatsoever, including without limitation any direct, indirect, special, incidental, consequential or punitive damages, howsoever arising (whether in an action arising out of contract, statute, delict or otherwise) related to the use of, or the inability to access or use the content of the Website or any functionality thereof, or the information contained on the Website, or of any linked website, even if the Service Provider knows or should reasonably have known or is expressly advised thereof.

19.3.2. In no event shall the Service Provider be liable to the Customer for loss of profits or for special, incidental, consequential or punitive losses or damages arising out of or in connection with the website or its use or the delivery, installation, servicing, performance or use of it in combination with another computer software.

19.3.3. The Service Provider makes no warranty or representation as to the Availability, accuracy or completeness of the content of the website. The Customer expressly waives and renounces all rights of whatever nature the Customer may have against the Service Provider for any loss suffered by the Customer, as a result of information supplied by service provider being incorrect, incomplete or inaccurate.

20. TERM AND TERMINATION

20.1. This Agreement shall, unless otherwise terminated as provided in this clause 16, commence on the Effective Date and shall continue for the Subscription Term of the particular Service Bundle as set out in clause 7 to this Agreement and thereafter this Agreement shall automatically terminate.

20.2. Without prejudice to any other rights or remedies to which the Parties may be entitled, either Party may terminate this Agreement without liability to the other if:

20.2.1. the other Party commits a breach of any of the material terms of this Agreement and fails to remedy that breach within 7 days of that Party being notified in writing of the breach;

20.3. Without prejudice to its rights, the Service Provider may terminate this Agreement immediately without further notice to the customer should the customer breach the payment terms of this agreement.

20.4. On termination of this Agreement for any reason any access by the customer to the Service Providers system, electronic platform, Website, service and documents under this Agreement shall immediately terminate.

21. FORCE MAJEURE

The Service Provider shall have no liability to the Customer under this Agreement if it is prevented from or delayed in performing its obligations under this Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of the Service Provider or any other party), failure of a utility service or transport or telecommunications network, acts of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of Service Providers or sub- contractors, provided that the Customer is notified of such an event and its expected duration.

22. DISPUTE RESOLUTION

22.1. In the event of there being any dispute or difference between the Parties arising out of this Agreement, the said dispute or difference shall on written demand by either Party be submitted to arbitration in Port Elizabeth in accordance with the AFSA rules, which arbitration shall be administered by AFSA.

22.2. Should AFSA, as an institution, not be operating at that time or not be accepting requests for arbitration for any reason, then the arbitration shall be conducted in accordance with the AFSA rules for commercial arbitration (as last applied by AFSA) before an arbitrator appointed by agreement between the Parties to the dispute or failing agreement within 10 (ten) business days of the demand for arbitration, then any Party to the Dispute shall be entitled to forthwith call upon the chairperson of the Port Elizabeth Bar Council to nominate the arbitrator, provided that the person so nominated shall be an advocate of not less than 10 (ten) years standing as such.

The person so nominated shall be the duly appointed arbitrator in respect of the dispute. In the event of the attorneys of the Parties to the dispute failing to agree on any matter relating to the administration of the arbitration, such matter shall be referred to and decided by the arbitrator whose decision shall be final and binding on the Parties to the dispute.

22.3. Any Party to the arbitration may appeal the decision of the arbitrator or arbitrators in terms of the AFSA rules for commercial arbitration.

22.4. Nothing herein contained shall be deemed to prevent or prohibit a Party to the arbitration from applying to the appropriate court for urgent relief or for judgment in relation to a liquidated claim.

22.5. Any arbitration in terms of this clause 18 (including any appeal proceedings) shall be conducted in camera and the Parties shall treat as confidential details of the dispute submitted to arbitration, the conduct of the arbitration proceedings and the outcome of the arbitration.

22.6. This clause 18 will continue to be binding on the Parties notwithstanding any termination or cancellation of this Agreement.

22.7. The Parties agree that the written demand by a Party to the dispute in terms of clause 17.1 that the dispute or difference be submitted to arbitration, is to be deemed as a legal process for the purpose of interrupting extinctive prescription in terms of the Prescription Act, 1969.

23. WAIVER

23.1. A waiver of any right under this Agreement is only effective if it is in writing and it applies only to the Party to whom the waiver is addressed and to the circumstances for which it is given.

23.2. Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.

24. SEVERANCE

24.1. If any provision (or part of a provision) of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

24.2. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the Parties.

25. ENTIRE AGREEMENT

25.1. This Agreement, and any documents referred to in it, constitute the whole agreement between the Parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover.

25.2. Each of the Parties acknowledges and agrees that in entering into this Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether a party to this Agreement or not) relating to the subject matter of this Agreement, other than as expressly set out in this Agreement.

26. ASSIGNMENT

26.1. The Customer shall not, without the prior written consent of the Service Provider, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement.

26.2. The Service Provider may at any time assign, transfer, charge, sub- contract or deal in any other manner with all or any of its rights or obligations under this Agreement.

27. NOTICES

27.1. Each of the Parties chooses their respective addresses set forth in clause

27.2. for the purposes of giving any notice, the payment of any sum, the serving of any process and for any other purposes arising from this Agreement.

27.3. Service address:

27.3.1. Service Provider:

Email: admin@simplyonline.co.za

Physical: 1st Floor, Bloomingdales Office Park, 145 Main Road, Walmer, Port Elizabeth, Eastern Cape, South Africa, 6065.

Postal: 1st Floor, Bloomingdales Office Park, 145 Main Road, Walmer, Port Elizabeth, Eastern Cape, South Africa, 6065.

27.3.2. Customer:

Email: As per details supplied on registration by customer to Simply Online

Physical: As per details supplied on registration by customer to Simply Online

Postal: As per details supplied on registration by customer to Simply Online

28. GOVERNING LAW AND JURISDICTION

This Agreement and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by and construed in accordance with the laws of South Africa.

29. REFERRALS

28.1. Any referral made by a registered and verified user will be lodged against that users profile.

28.2. Simply Online reserves the right to determine the original referrer in case of any dispute.

28.3. Simply Online may at any time withdraw the referral offer and negate any future claims to referral payable on any new referrals or existing referral logged in the system.

28.4. No referral shall be deemed as made unless it is stored against the referrers profile

28.5. Should a referer delete their account any claim to referral amounts will become null and void at that instant.

28.6. Only referral accepted by the referred to party on the Simply online platform will be deemed as payable referrals.

28.7. Only completed property sales where registration has occurred and all payments made including payment to Simply Online in full will be eligible for payment.

28.8. No bulk uploading of referral emails to unknown parties will be considered as referred on the Simply Online Platform irrelevant of the completion of a sales transaction as per 28.7

28.9. The amount of referral to be paid will be R1900 in total inclusive of VAT where applicable.

30. ACCEPTANCE

Acceptance is ratified by your clicking of the Terms and Conditions checkbox on signing up to the Simply Online Platform.

The IP address and the date and time is recorded and is available upon request.

Addendum 1 (As per Clause 4)

| <u>Product</u> | <u>Price</u> |
|--|---------------------|
| Sale of residential property | R9500.00 + VAT |
| Marketing Board Pack (including delivery) | R450.00 + VAT |
| Professional Photographer (includes an HD video) | R1500.00 + VAT |
| Property 24 Listing Upgrade | R750.00 + VAT |

Private Property Listing Upgrade

R750.00 + VAT

Gumtree Listing Upgrade

R750.00 + VAT