

# Terms and Conditions

Last updated 29 August 2019

Version 1.0

These terms and conditions are the contract between you and Team Radar (Pty) Ltd (“us”, “we”, etc).

## **We are:**

Radar, a company incorporated in South Africa as Team Radar (Pty) Ltd, registration number 2019/327556/07.

Our address is 11<sup>th</sup> Floor, Touchstone House, 7 Bree Street, Cape Town.

Our e-mail address is support@radar.co.za.

## **You are:**

This agreement applies to anyone who uses Our Website or buys a Service from us (“you” and “your”). This includes any company, natural person or employee of a company using Our Website or a Radar Service.

These terms are effective as of the date you first click “I agree” (or similar button or checkbox) or use or access a Radar Service or Website. These terms do not have to be signed in order to be binding. You indicate your assent to these terms by clicking “I agree” (or similar button or checkbox) at the time you register or by accessing or using the Service.

Please read this agreement carefully. If you do not agree with it, you should leave Our Website and stop using the site or the Services immediately.

## **These are the agreed terms:**

### **1. Definitions**

“Content”	means the textual, visual or aural content that is encountered as part of your experience on Our Website. It may include, among other things: text, images, documents, files, sounds, videos and animations. It includes content Posted by you or sent to us in another way.
“Intellectual Property”	means intellectual property owned by us, of every sort, whether or not registered or registrable in any country, including intellectual property of all kinds coming into existence after today; and including, among others, patents, trademarks, unregistered marks, designs, copyrights, software, domain names, discoveries, creations and inventions, together with all rights which

are derived from those rights.

“Our Website”	means any website or service which is owned or operated by us, including, but not limited to, all pages and services hosted at <a href="http://www.radar.co.za">http://www.radar.co.za</a> and associated domains. It includes all web pages controlled by us as well as services accessed via apps or application programming interfaces (APIs).
"Post"	means place on or into Our Website any Content or material of any sort by any means.
“Services”	means all of the services available from Our Website, whether free or charged.
“Visitor”	means anyone who visits Our Website.

## **2. Interpretation**

In this agreement unless the context otherwise requires:

- 2.1. a reference to a person includes a human individual, a corporate entity and any organisation which is managed or controlled as a unit.
- 2.2. a reference to a person includes reference to that person’s successors, legal representatives, permitted assigns and any person to whom rights and obligations are transferred or pass as a result of a merger, division, reconstruction or other re-organisation involving that person.
- 2.3. in the context of permission, “may not” in connection with an action of yours, means “must not”.
- 2.4. the headings to the paragraphs and schedules (if any) to this agreement are inserted for convenience only and do not affect the interpretation.
- 2.5. any agreement by either party not to do or omit to do something includes an obligation not to allow some other person to do or omit to do that same thing.
- 2.6. any obligation of any person arising from this agreement may be performed by any other person.
- 2.7. a reference to an act or regulation includes new law of substantially the same intent as the act or regulation referred to.
- 2.8. apply to all supplies of Services by us. They prevail over any terms proposed by you.
- 2.9. this agreement is made only in the English language. If there is any conflict in meaning between the English language version of this agreement and any

version or translation of this agreement in any other language, the English language version shall prevail.

### **3. Basis of Contract**

- 3.1. In entering into this contract, you have not relied on any representation or information from any source except the definition and explanation of the Services given on Our Website.
- 3.2. Subject to these terms and conditions, we agree to provide you some or all of the Services and products described on Our Website at the prices we charge from time to time.
- 3.3. You acknowledge that you understand exactly what is included in the Services and you are satisfied that the Services are suitable and satisfactory for your requirements;
- 3.4. So far as we allow the use of our Intellectual Property, we grant a licence to you, limited to the terms set out in this agreement.
- 3.5. We may change this agreement and / or the way we provide the Services, at any time. If we do:
  - 3.5.1 the change will take effect when we Post it on Our Website.
  - 3.5.2 we will give you notice of the change. If you do not accept the change(s) you have to notify us that you want to cancel your subscription.
  - 3.5.3 if you make any payment for Services or goods in the future, you will do so under the terms Posted on Our Website at that time.

### **4. Your account and personal information**

- 4.1. When you visit Our Website, you accept responsibility for any action done by any person using your name, account or password. You should take all necessary steps to ensure that the password is kept confidential and secure and should inform us immediately if you have any reason to believe that your password has become known to anyone else, or if the password is being, or is likely to be, used in an unauthorised manner.
- 4.2. You agree that you have provided accurate, up to date, and complete information about yourself. We are not responsible for any error made as a result of such information being inaccurate.
- 4.3. You agree to notify us of any changes in your information immediately when it occurs. If you do not do so, we may terminate your account.

## **5. Payments**

- 5.1. You may purchase a Paid Subscription by paying a subscription fee in advance on a monthly basis or some other recurring interval disclosed to you prior to your purchase; or by prepayment giving you access to the Radar Service for a specific time period.
- 5.2. Radar will invoice you for use of our Services once per billing period until this Agreement is terminated.
- 5.3. The prices payable for Services are clearly set out on Our Website and updated from time to time. Price changes will take effect at the start of the next subscription period following the date of the price change. You accept the new price by continuing to use the Radar Service after the price change takes effect. If you do not agree with a price change, you have the right to reject the change by cancelling your subscription prior to the price change going into effect.
- 5.4. In the case of a prepaid subscription, Radar will not provide any refund for any remaining prepaid period if the subscription is cancelled by you.
- 5.5. The price charged for any Service may differ from one country to another. You may not be entitled to the lowest price unless you reside in the qualifying country.
- 5.6. From time to time Preferential, Promotional or Discounted Pricing may be offered by Radar. This pricing may be subject to specific eligibility requirements and may not be available to all customers.

## **6. Renewal payments**

- 6.1. Your subscription will automatically renew at the end of the applicable subscription period, unless you cancel your subscription before the end of the then-current subscription period by contacting us and requesting cancellation or cancelling your account in your Billing profile (where applicable and available). After cancellation you will retain access to Radar and the signed-up Services until the expiry of the current subscription period.
- 6.2. If paying by credit card, you explicitly authorise us to charge renewal amounts to the card you provided for payment purposes. You further authorise us to use a third party to process payments, and consent to the disclosure of your payment information to such third party. You also undertake to keep us updated if your payment details change. If we are unable to charge your card you will remain liable for all outstanding amounts and your service may be suspended or terminated.
- 6.3. If you are paying by invoice, we will invoice you no more than forty-five (45) days before the beginning of the next subscription period and at other times when fees are payable. All amounts invoiced are due and payable within thirty (30) days from the date of the invoice, unless otherwise specified.

## **7. Trial Policy**

- 7.1. When you first sign up for access to the Service you can evaluate the Service with no obligation to continue to use the Service for the period specified at sign up. If you choose to continue using the Service thereafter, you will be billed according to the terms set out above.

## **8. How we handle your Information**

- 8.1. We take your privacy and the protection of your information seriously. Full details of which information and data we collect and how we use it can be found at <https://www.radar.co.za/docs/privacy.pdf>
- 8.2. Posting content of any sort does not change your ownership of the copyright in it. We have no claim over it and we will not protect your rights for you.
- 8.3. You understand that you are personally responsible for your breach of someone else's intellectual property rights, defamation, or any law which may occur as a result of any Content having been Posted by you;
- 8.4. You accept all risk and responsibility for determining whether any Content is in the public domain and not confidential.

## **9. Restrictions on what you may Post to Our Website**

- 9.1. We invite you to Post Content to Our Website in several ways and for different purposes. We have to regulate your use of Our Website to protect our business and our staff, to protect other users of Our Website and to comply with the law. These provisions apply to all users of Our Website.
- 9.2. We do not undertake to moderate or check every item Posted, but we do protect our business vigorously. If we believe Content Posted breaches the law, we shall cooperate fully with the law enforcement authorities in whatever way we can.
- 9.3. You agree that you will not use or allow anyone else to use Our Website to Post Content or undertake any activity which is or may:
  - 9.3.1 be unlawful, or tend to incite another person to commit a crime;
  - 9.3.2 consist of commercial audio, video or music files;
  - 9.3.3 be obscene, offensive, threatening, violent, malicious or defamatory;
  - 9.3.4 be sexually explicit or pornographic;
  - 9.3.5 be likely to deceive any person or be used to impersonate any person, or to misrepresent your identity, age or affiliation with any person;

- 9.3.6 request or collect passwords or other personal information from another user without his permission;
- 9.3.7 be used to sell any goods or services or for any other commercial use not intended by us, for yourself or for any other person. Examples are sending private messages with a commercial purpose, or collecting information with the intention of passing it to a third party for his commercial use;
- 9.3.8 facilitate the provision of unauthorised copies of another person's copyright work;
- 9.3.9 link to any of the material specified in this paragraph;
- 9.3.10 involve sending age-inappropriate communications or Content to anyone under the age of 18.

## **10. Security of Our Website**

- 10.1. If you violate Our Website, we shall take legal action against you. You now agree that you will not, and will not allow any other person to:
  - 10.1.1 modify, copy, or cause damage or unintended effect to any portion of Our Website, or any software used within it.
  - 10.1.2 link to our site in any way that would cause the appearance or presentation of the site to be different from what would be seen by a user who accessed the site by typing the URL into a standard browser;
  - 10.1.3 download any part of Our Website, without our express written consent;
  - 10.1.4 collect or use any product listings, descriptions, or prices;
  - 10.1.5 collect or use any information obtained from or about Our Website or the Content except as intended by this agreement;
  - 10.1.6 aggregate, copy or duplicate in any manner any of the Content or information available from Our Website, other than as permitted by this agreement or as is reasonably necessary for your use of the Services;
  - 10.1.7 share with a third party any login credentials to Our Website;
- 10.2. Despite the above terms, we now grant a licence to you to:
  - 10.2.1 create a hyperlink to Our Website for the purpose of promoting an interest common to both of us. You can do this without specific permission. This licence is conditional upon you not portraying us or any product or service in a false, misleading, derogatory, or

otherwise offensive manner. You may not use any logo or other proprietary graphic or trademark of ours as part of the link without our express written consent.

- 10.2.2 you may copy the text of any page for your personal use in connection with the purpose of Our Website or Service we provide.
- 10.3. We are under no obligation to monitor or record the activity of any customer for any purpose. However, we may do so without notice to you and without giving you a reason.
- 10.4. You agree to notify us of any security breach or unauthorised use of your account.

## **11. Termination**

This agreement may be terminated:

- 11.1. upon either of us giving the other 30 days' notice in writing addressed by e-mail to the last known email address of the other of us. For this and all purposes in connection with this agreement, our addresses are as at the head of this document. If your cancellation is to be effective, you must give us full information to enable us to identify:
  - 11.1.1 who you are and;
  - 11.1.2 that you have proper authority to cancel and;
  - 11.1.3 the Services you wish to cancel.
- 11.2. when we terminate it, without notice, on account of your failure to comply with these terms.
- 11.3. immediately by either party if a trustee receiver administrative receiver or similar officer is appointed in respect of all or any part of the business or assets of the other party or if a petition is presented or a meeting is convened for the purpose of considering a resolution or other steps are taken for the winding up of the other party or for the making of an administration or bankruptcy order (otherwise than for the purpose of an amalgamation or reconstruction).
- 11.4. Any termination of this agreement by this paragraph shall be without prejudice to any other rights or remedies to which a party may be entitled.
- 11.5. Termination by either party shall have the following effects:
  - 11.5.1 your right to use the Services immediately ceases;
  - 11.5.2 we are under no obligation to forward any unread or unsent messages to you or any third party or export any data except for where already provided by the product;

- 11.6. In the event of such termination by us, we will within 30 days refund to you the balance of your cost outstanding for any Service, pro rata with time not elapsed;
- 11.7. There shall be no reimbursement or credit if we decide in our absolute discretion that you have failed to comply with any of the terms of this agreement.

## **12. Interruption to Services**

- 12.1. If it is necessary for us to interrupt the Services, we will give you reasonable notice where this is possible and when we judge the down time is such as to justify telling you.
- 12.2. You acknowledge that the Services may also be interrupted for many reasons beyond our control.
- 12.3. You agree that we are not liable to you for any loss, foreseeable or not, arising from any interruption to the Services.

## **13. Intellectual Property**

You agree that at all times you will:

- 13.1. not to cause or permit anything which may damage or endanger our title to the Intellectual Property.
- 13.2. notify us of any suspected infringement of the Intellectual Property;
- 13.3. indemnify us for any loss or expense arising from your misuse of the Intellectual Property;
- 13.4. on the expiry or termination of this agreement immediately stop using the Intellectual Property except as expressly authorised by us in writing;
- 13.5. not use any name or mark similar to or capable of being confused with any name or mark of ours;
- 13.6. so far as concerns software provided or made accessible by us to you, you will not:
  - 13.6.1 copy, or make any change to any part of its code;
  - 13.6.2 use it in any way not anticipated by this agreement;
  - 13.6.3 give access to it to any other person than you, the licensee in this agreement;

- 13.6.4 in any way provide any information about it to any other person or generally.
- 13.7. not use the Intellectual Property except directly in our interest.

## **14. Disclaimers and limitation of liability**

- 14.1. The law differs from one country to another. This paragraph applies so far as the applicable law allows.
- 14.2. All implied conditions, warranties and terms are excluded from this agreement.
- 14.3. The Radar Website and Services are provided “as is”. We make no representation or warranty that the Radar will be:
  - 14.3.1 useful to you;
  - 14.3.2 of satisfactory quality;
  - 14.3.3 fit for a particular purpose;
  - 14.3.4 available or accessible, without interruption, or without error;
- 14.4. Our Website contains links to other Internet websites. We have neither power nor control over any such website. You acknowledge and agree that we shall not be liable in any way for the Content of any such linked websites, nor for any loss or damage arising from your use of any such website.
- 14.5. We claim no expert knowledge in any subject. We disclaim any obligation or liability to you arising directly or indirectly from information you take from Our Website.
- 14.6. You agree that in any circumstances when we may become liable to you, the limit of our liability is the amount you have paid us in the immediately preceding 12-month period for the Services concerned.
- 14.7. Except in the case of death or personal injury, our total liability under this Agreement, however it arises, shall not exceed the sum of R10 000 (ten thousand rand).
- 14.8. We shall not be liable to you for any loss or expense which is:
  - 14.8.1 indirect or consequential loss; or
  - 14.8.2 economic loss or other loss of turnover, profits, business or goodwill even if such loss was reasonably foreseeable or we knew you might incur it.

14.9. This paragraph (and any other paragraph which excludes or restricts our liability) applies to our directors, officers, employees, subcontractors, agents and affiliated companies as well as to us.

14.10. Nothing in this agreement excludes liability for a party's fraud.

## **15. You indemnify us**

15.1. You agree to indemnify us against all costs, claims and expenses arising directly or indirectly from:

15.1.1 your failure to comply with the law of any country;

15.1.2 your breach of this agreement;

15.1.3 any act, neglect or default by any agent, employee, licensee or customer of yours;

15.1.4 a contractual claim arising from your use of the Services;

15.1.5 a breach of the intellectual property rights of any person;

## **16. Miscellaneous matters**

16.1. You undertake to provide us with your current physical address, email address, and telephone numbers as often as they are changed together with all information that we may require to enable us to fulfil our obligations under this contract.

16.2. Unless otherwise agreed to by you and Radar, during the Term, Radar may disclose your name as a customer and/or subscriber to the Service, and you hereby grant Radar the right to display your name, company, and logo in our marketing materials and on our public website, in each case in accordance with any branding guidelines you may provide to us.

16.3. Radar respects your privacy, takes reasonable steps to protect your personal information as defined in the Promotion of Access to Information Act 2000 and Protection of Personal Information Act 2013. Our compliance with the legislation is set out in our Privacy Policy.

16.4. If any term or provision of this agreement is at any time held by any jurisdiction to be void, invalid or unenforceable, then it shall be treated as changed or reduced, only to the extent minimally necessary to bring it within the laws of that jurisdiction and to prevent it from being void and it shall be binding in that changed or reduced form. Subject to that, each provision shall be interpreted as severable and shall not in any way affect any other of these terms.

- 16.5. The rights and obligations of the parties set out in this agreement shall pass to any permitted successor in title.
- 16.6. If you are in breach of any term of this agreement, we may:
- 16.6.1 publish all text and Content relating to the claimed breach, including your name and email address and all correspondence between us and our respective advisers; and you now irrevocably give your consent to such publication.
  - 16.6.2 terminate your account and refuse access to Our Website;
  - 16.6.3 remove or edit Content, or cancel any order at our discretion;
  - 16.6.4 issue a claim in any court.
- 16.7. Any obligation in this agreement intended to continue to have effect after termination or completion shall so continue.
- 16.8. No failure or delay by any party to exercise any right, power or remedy will operate as a waiver of it nor indicate any intention to reduce that or any other right in the future.
- 16.9. You agree that we may disclose your information, including account history, account use, etc. to any judicial or proper legal authority who makes a written request without further consent or notification to you.
- 16.10. Any communication to be served on either of the Parties by the other shall be delivered by hand or sent by first class post or recorded delivery or by e-mail.
- It shall be deemed to have been delivered:
- if delivered by hand: on the day of delivery;
  - if sent by post to the correct address: within 72 hours of posting;
  - If sent by email to the address from which the receiving party has last sent email: within 24 hours if no notice of non-receipt has been received by the sender.
- 16.11. In the event of a dispute between the parties to this agreement, then they undertake to attempt to settle the dispute by engaging in good faith with the other in a process of mediation before commencing arbitration or litigation.
- 16.12. This agreement does not give any right to any third party.
- 16.13. Neither party shall be liable for any failure or delay in performance of this agreement which is caused by circumstances beyond its reasonable control.
- 16.14. In the event of any conflict between any term of this agreement and the provisions of the memorandum of incorporation of a limited company or any

comparable document intended to regulate any other corporate or collective body, then the terms of this agreement shall prevail.

16.15. The validity, construction and performance of this agreement shall be governed by the laws of the Republic of South Africa.