

# K PARKER JOINERY CC TERMS & CONDITIONS

**PLEASE READ THESE TERMS CAREFULLY BEFORE USING THE SELLERS SERVICE.**

**THE BUYER ACKNOWLEDGES THAT HE/SHE HAS READ AND UNDERSTOOD THESE TERMS AND CONDITIONS SET OUT BELOW.**

**THE SELLER SHALL DEEM THAT THE BUYER ACCEPTS THE TERMS AND CONDITIONS SET OUT BELOW AND ACCEPTS THEM AS BINDING WHEN PLACING AN ORDER FOR GOODS AND/OR SPECIAL ORDER GOODS WITH THE SELLER ON THE WEBSITE OR ANY OTHER MEANS.**

## **1. INTRODUCTION**

**1.1.** The Buyer can access the Sellers Website at [www.kparkerjoinery.co.za](http://www.kparkerjoinery.co.za) (the "Website") which is owned and operated by the Seller ("K Parker Joinery CC").

**1.2.** These Website Terms and Conditions ("Terms and Conditions") govern the ordering, sale and delivery of Goods, Special Order Goods and the use of the Website.

**1.3.** These Terms and Conditions are binding and enforceable against every person that accesses or uses

this Website ("Buyer") to place an order with the Seller, including without limitation each Buyer who registers as contemplated below ("create an account"). Accordingly, by using the Website and by clicking on the "create an account" button on the Website, as may be applicable, the Buyer acknowledges that he/she has read and agree to be bound by these Terms and Conditions.

**1.4.** The Website enables the Buyer to shop online for an extensive range of goods, including windows, doors, wooden Sealers, Wooden Mouldings and more "Goods" as well as "Special Order Goods".

**1.5.** The Seller sells Goods as well as Special Order Goods on the Website. Therefore, specific terms in these Terms and Conditions only apply to Goods purchased from the Seller and others only apply to Special Order Goods purchases from Seller as well as Third Party services. This will be made clear in the relevant clauses below.

**The Consumer Protection Act may apply to a transaction between the Seller and the Buyer where the Buyer is an individual or is a juristic person (like a company, close corporation, Trust or partnership) with either an asset value or annual turnover of less than R2 million at the of the transaction.**

## **2. IMPORTANT NOTICE**

**2.1.** These Terms and Conditions apply to users who are consumers for purposes of the Consumer Protection Act, 68 of 2008 (the "CPA").

**2.2.** These Terms and Conditions contain provisions that appear in similar text and style to this clause and which -

**2.2.1. may limit the risk or liability of the Seller or a third party; and/or**

**2.2.2. may create risk or liability for the Buyer; and/or**

**2.2.3. may compel the user to indemnify the Seller or a third party; and/or**

**2.2.4. serves as an acknowledgement, by the Buyer, of a fact.**

**2.3.** The Buyer's attention is drawn to these Terms and Conditions because they are important and should be carefully noted.

**2.4.** If there is any provision in these Terms and Conditions that the Buyer does not understand, the Buyer's responsibility is to ask the Seller to explain it to them before he/she accepts the Terms and Conditions or continues to place their order. If the Buyer is unfamiliar with the conditions applicable to all contracts for the sale of Goods, please pay particular attention to clause 3 below, which describes the nature, functionality, usage rights and delivery of Goods.

**2.5.** Nothing in these Terms and Conditions is intended or must be understood to unlawfully restrict, limit or avoid any right or obligation, as the case may be, created for either the Buyer or the Seller in terms of the CPA.

**2.6.** The Seller permits the use of this Website subject to the Terms and Conditions. By using this Website in any way, the Buyer shall be deemed to have accepted all the Terms and Conditions unconditionally. The Buyer must not use this Website if he/she does not agree to the Terms and Conditions.

### **3. DEFINITIONS**

**3.1.** The "Seller" means K Parker Joinery CC, a private company registered in South Africa with registration number: 1997/033404/23;

**3.2.** The "Buyer" means the person, firm or Company who places an order with the Seller for the purchase and/or supply of Goods;

**3.3.** The "Goods" means the Products supplied by the Seller which are the subject of an order placed by the Buyer with the Seller;

**3.4.** The "Special Order Goods" means goods supplied that are non-standard size, custom made, where size alterations are required, or where design alterations have been performed to the Goods

according to the Buyers specifications.

**3.5.** The "Third Party" means the appointed service provider that the Seller will appoint to instal the Goods and/or Special Order Goods as well as to courier the Goods and/or Special Order Goods to the Buyer

**3.6.** The "Product" means Goods and/or Special Order Goods supplied by the Seller.

**3.7.** the "Website" means <https://www.kparkerjoinery.co.za/>. This Website is run by the Seller who is based in South Africa, trading as K Parker Joinery CC.

### **4. CREATE AN ACCOUNT AND USE OF THE WEBSITE**

**4.1.** Only once the Buyer has created an account may the Buyer order Goods on the Website.

**4.2.** To create an Account, the Buyer will need to provide certain information and personal details to the Seller, including but not limited to his/her first name, last name and valid e-mail address.

**4.3.** The Buyer agrees that, once an account has been created, he/she will be liable for payment of such order, irrespective of whether the use of the created account is unauthorised or fraudulent, the Buyer will be responsible and liable for payment of any resulting order, save where the Buyer cancels the order in

accordance with these Terms and Conditions.

**4.4.** The Buyer agrees to notify the Seller immediately upon becoming aware of or reasonably suspecting any unauthorised use of your account and to take steps to mitigate any resultant loss or harm.

**4.5.** By using the Website, the Buyer warrants that they are 18 (eighteen) years of age or older and of full legal capacity. If the Buyer is under the age of 18 (eighteen) or if the Buyer is not legally permitted to enter into a binding agreement, then the Buyer may use the Website only with the involvement and supervision of his/her parent or legal guardian. If the Buyer's parent or legal guardian supervises the Buyer and gives his/her consent, then such person agrees to be bound to these Terms and Conditions and to be liable and responsible for all your obligations under these Terms and Conditions.

**4.6.** The Buyer agrees that they will not in any way use any device, software or other instruments to interfere or attempt to interfere with the proper working of the Website. In addition, the Buyer agrees that they will not in any way use any robot, spider, other automatic devices, or manual process to monitor, copy, distribute or modify the Website or the information contained herein,

without the prior written consent from an authorised Seller representative (such consent is deemed to be given for standard search engine technology employed by Internet search websites to direct Internet users to this Website).

**4.7.** The Buyer may not use the Website to distribute material that is defamatory, offensive, contains or amounts to hate speech or is otherwise unlawful.

**4.8.** The Buyer may not in any way display, publish, copy, print, post or otherwise use the Website and/or the information contained therein without the express prior written consent of an authorised Seller's representative.

## **5. CONDITIONS APPLICABLE TO ALL CONTRACTS FOR THE PURCHASE OF GOODS AND/OR SPECIAL ORDER GOODS**

**5.1.** Buyers may place orders for Goods and/ or Special Order Goods once they have created an account which the Seller may accept or reject. Whether or not the Seller accepts an order depends on the availability of Goods and/or Special Order Goods, the correctness of the information relating to the of Goods and/or Special Order Goods (including without limitation the price) and receipt of payment or payment authorisation by the

Seller for the Goods and/or Special Order Goods.

**5.2. NOTE: The Seller will indicate the acceptance of your order by delivering the Goods and/or Special Order Goods to the Buyer or allowing the Buyer to collect them, and only at that point will an agreement of sale between the Buyer and Seller come into effect (the "Sale"). This is regardless of any communication from the Seller stating that the Buyer's order or payment has been confirmed. The Seller will indicate the rejection of the Buyer's order (by the Seller) by cancelling it and, as soon as possible thereafter, refunding the Buyer for any amount already paid.**

**5.3.** Prior to delivery or your collection of the Goods, the Buyer may cancel an order at any time provided the Buyer does so before receiving a dispatch or delivery notice. The Buyer must ensure that the Seller receives the Buyer's cancellation request in writing. The Seller has to acknowledge the Buyer cancellation request for the Seller to process the Buyer's cancellation. The Seller will be entitled to impose a **reasonable charge** for the cancellation of that order, which will be deducted from the purchase price held by the Seller and the balance will be refunded to the Buyer, in terms of the Refunds Policy in clause 13 below.

**5.4.** The Seller reserves the right to refuse to accept such cancellation or variation or accept cancellation or variation only subject to such conditions according to the Returns Policy in clause 13 below.

**5.5.** The Buyer shall not be entitled to cancel any order for Special Order Goods without the Seller's written consent.

**5.6.** Any order for Goods as illustrated on the Website, has all drawings, illustrations, performance data and other details in the Seller's catalogues, sales or promotional literature or elsewhere are included as a guide only. While the Seller has provided these in good faith, they shall not be bound to these specifications. The Seller reserves the right to change specifications without prior notice at its absolute discretion.

**5.7.** Placing Goods in a shopping basket without completing the purchase cycle does not constitute an order for such Goods, and as such, Goods may be removed from the shopping basket if stock is no longer available or the price thereof might change without notice to you. The Buyer cannot hold the Seller liable if such Goods are not available or are not available at the particular price when he/she completes or attempt to complete the purchase cycle at a later stage.

**5.8. The Buyer acknowledge that the stock of all Goods on offer is limited and that pricing may change at any time without notice to you. The Seller will take all reasonable efforts to monitor stock levels and ensure that when stock is no longer available, that offers thereof are discontinued on the Website. However, the Seller cannot guarantee the availability of stock. When Goods are no longer available after the Buyer has placed an order, the Seller will notify the Buyer, and the Buyer will be entitled to a refund of any amount already paid by the Buyer for such Goods.**

**5.9. The Buyer may not purchase the Goods for resale. However, should the Seller suspect that any such Goods are being purchased for sale, the Seller is entitled to cancel your order immediately on notice to you.**

**5.10. The Buyer agrees that the Seller may deliver the Goods and/or Special Order Good in instalments if the Seller suffers a shortage of stock or other genuine and fair reason, the Buyer will not be liable for extra delivery charges.**

**6. GOODS**

**6.1. The Goods will be of satisfactory quality.**

**6.2. The Goods will be reasonably fit for any particular purpose for which the Buyer is buying the Goods.**

**6.3. The description of the Goods is as set out on the Website, catalogues, brochures or other forms of advertisement. Any description is for illustrative purposes only and there may be minor discrepancies in the size and colour of the Goods supplied.**

**6.4. The Seller's calculations, estimates and drawings are a guide only and do not replace that of a competent person. All designs, estimates and/or calculations must be approved by a Competent Person and conform to SANS 10137, SANS 10400 Part N, SANS10400XA, SANS204 and SANS 1263.**

**6.5. All Goods which appear on the Website are subject to availability.**

**6.6. The Seller can make changes to the Goods which are necessary to comply with any applicable law or safety requirements.**

**7. SPECIAL ORDER GOODS**

**7.1. In the case of any Goods made to your special requirements. It is the Buyer's responsibility and obligation to ensure that any information or specification provided to the Seller is accurate and correct.**

**8. ERRORS**

**8.1. The Seller shall take all reasonable efforts to accurately reflect the description, availability,**

**purchase price and delivery charges of Goods on the Website. However, should there be any errors of whatsoever nature on the Website (which are not due to our gross negligence), the Seller shall not be liable for any loss, claim or expense relating to a transaction based on any error, save – in the case of any incorrect purchase price – to the extent of refunding the Buyer for any amount already paid, or otherwise as set out in the Returns Policy below.**

**8.2. The Seller shall not be bound by any incorrect information regarding their Goods displayed on the Website.**

**8.3. The Buyer will ensure that the correct Goods are Purchased for its specific application has been ordered and that the information supplied to the Seller is accurate.**

**9. PRICE**

**9.1. The price of the Goods and/or Special Order Goods listed on the Website exclude the delivery charge payable should the Buyer select that option when purchasing the Goods and/or Special Order Goods.**

**9.2. The Purchase Price for the Goods and/or Special Order Goods are subject to an additional delivery fee and/or other charges is that set out on the Website or in these terms and conditions at the date of**

the order or such other price as may be agreed to in writing between the Seller and the Buyer.

**9.3.** The Prices and charges **INCLUDE VAT** at the rate applicable at the time of the order.

**9.4.** If the Buyer requests any variation to the Goods ordered, any extra cost arising from such variation shall be payable by the Buyer.

**9.5.** Unless otherwise specified, the prices quoted on the Website include the Seller's and / or suppliers standard non-returnable packaging. It is the Buyer's responsibility to dispose of all packaging after delivery at the Buyers own cost.

**9.6.** It must be **NOTED** that **ANY TIME BEFORE DELIVERY HAS BEEN COMPLETED, THE SELLER SHALL BE ENTITLED TO VARY THE PRICE** of the Goods and/or Special Order Goods based on all or any of the following factors: -

**9.6.1.** Where Goods are imported, any variation of currency exchange rates or special taxes or charges imposed by any government will be added to the Purchase Price;

**9.6.2.** Increased costs resulting from the prohibition or other actions of any government will be added to the Purchase Price;

**9.6.2.1.** Increased labour costs;

**9.6.2.2.** Increased material costs;

**9.6.2.3.** Increased transport costs;

**9.6.2.4.** Implementing any request of the Buyer for expedited despatch or changes in delivery, schedules, completion dates, quantities, designs or specifications; and

**9.6.2.5.** Delays caused by the Buyer's instruction or by the failure of the Buyer to give adequate instructions or information.

## **10. PAYMENT**

**10.1.** The Seller is committed to providing secure online payment facilities. All transactions are encrypted using appropriate encryption technology.

**10.2.** Whether the Goods are for sale by the Seller, payment may be made for Goods and/ Special Goods via the following methods (depending on its availability and/or your eligibility to use such a method) -

**10.2.1.** debit card payment may be made via Visa and MasterCard; where payment is made by debit card, The Seller may require additional information in order to authorise and/or verify the validity of payment. In such cases, the Seller is entitled to withhold delivery until such time as the additional information is received by them and authorisation is obtained by the Seller for the

amounts. If the Seller does not receive authorisation, the Buyer's order for the Goods and/or Special Order Goods will be cancelled. **The Buyer warrant that he/she is fully authorised to use the debit card supplied for purposes of paying the Goods and/or Special Order Goods. The Buyer also warrants that his/her debit card has sufficient available funds to cover all the costs incurred as a result of the services used on the Website;**

**10.2.2.** credit card payment may be made via Visa and MasterCard; where payment is made by credit card, the Seller may require additional information in order to authorise and/or verify the validity of payment. In such cases, the Seller is entitled to withhold delivery until the Seller obtains the additional information received by the Seller and authorisation for the amounts. If the Seller does not receive authorisation, your order for the Goods and/or Special Order Goods will be cancelled. **The Buyer warrant that they are fully authorised to use the credit card supplied for purposes of paying for the Goods. The Buyer also warrant that your credit card has sufficient available funds to cover all the costs incurred as a result of the services used on the Website;**

**10.2.3.** direct bank deposit or electronic funds transfer: if the Buyer pays via direct bank

deposit or electronic funds transfer, payment must be made within 5 (five) days of placing their order. The Seller will not accept the Buyer's order if payment has not been received; and

**10.2.4.** Instant EFT.

**10.3.** Credit or Debit Card Transactions on the Website:

**10.3.1.** Card transactions will be acquired for K Parker Joinery CC ("the Seller") via PayGate (Pty) Ltd who are the approved payment gateway for all South African Acquiring Banks. PayGate uses the strictest form of encryption, namely Secure Socket Layer 3 (SSL3) and no Card details are stored on the Website. Users may go to [www.paygate.co.za](http://www.paygate.co.za) to view their security certificate and security policy.

**10.3.2.** the Buyers details will be kept separate from card details submitted on the Website.

**10.3.3.** The Buyers details will be stored by K Parker Joinery CC ("the Seller") separately from card details which are entered by the client on PayGate's secure site. For more detail on PayGate, refer to [www.paygate.co.za](http://www.paygate.co.za).

**10.3.4.** The merchant outlet country at the time of presenting payment options to the cardholder is South Africa. Transaction currency is South African Rand (ZAR).

**10.3.5.** K Parker Joinery CC ("the Seller" takes

responsibility for all aspects relating to the card transaction pertaining to the sale of goods and services sold on this Website, customer service and support, dispute resolution and delivery of goods as set out in these Terms and Conditions.

**10.4.** The Buyer may contact the Seller directly to obtain a full record of your payment. The Seller will also send the Buyer e-mail communications about your order and payment.

**10.4.1.** the Seller's contact details are as follows:

**10.4.1.1.** Address: 44 12th Road, Kew, Sandton, 2090.

**10.4.1.2.** E-mail address: to [kelly@kparkerjoinery.co.za](mailto:kelly@kparkerjoinery.co.za)

**10.4.1.3.** Telephone number: (011) 786-5471.

**10.5.** Once the Buyer has selected their preferred payment method (save for direct bank deposit), the Buyer will be directed to a link to a secure site for payment of the applicable purchase price for the Goods and/ or Special Order Goods.

**10.6.** In default of payment on the Seller, the Seller shall at its own discretion (without prejudice to its right to treat the contract as repudiated and claim damages) be entitled to withhold despatch of the Goods and/or Special Order Goods or any of them until all monies owing to the Seller has been paid in full.

**11. DELIVERY OF GOODS AND/OR SPECIAL GOODS**

**11.1.** The Seller warrants that when the Goods and /or Special Order Goods have been dispatched from the Seller's premises, they are deemed to be in good working order.

**11.2.** The Seller takes no responsibility for any shortage or damage occurring to the Goods and/or Special Order Goods in transit unless: -

**11.2.1.** When the Goods are collected from the Seller, the Buyer has **24 HOURS** to report to [kelly@kparkerjoinery.co.za](mailto:kelly@kparkerjoinery.co.za) of the shortage or damage, as set out in the Returns Policy below;

**11.2.2.** When the Seller's appointed Courier delivers the Goods, the Buyer has to inform the Driver and in **24 HOURS** report to [kelly@kparkerjoinery.co.za](mailto:kelly@kparkerjoinery.co.za) of the shortage or damage, as set out in the Returns Policy below.

**11.3.** The Seller offers 2 (two) methods of delivery of Goods and/or Special Goods to the Buyer. The Buyer may elect delivery via:

**11.3.1.** Courier – The Seller will deliver directly to the Buyer's home or office, anywhere in South Africa. All delivery and tracking details are supplied to the Buyer at checkout; or

**11.3.2.** self-collection - The Buyer will collect the Goods

and/or Special Order Goods from the Seller situated at 44 12th Road, Kew, Sandton, 2090.

**11.4.** Should the Buyer select the courier option. The Buyer will be charged an additional delivery charge.

**11.5.** The Buyer will select the delivery address when making payment to the Seller.

**11.6.** The Seller shall determine the route and method of carriage and any special delivery requirements of the Buyer shall be subject to an additional charge.

**11.7.** The Sellers delivery charges are subject to change at any time, without prior notice to the Buyer. The Buyer will see the applicable delivery charges in his/her cart when the Buyer checks out.

**11.8.** Where the Seller accepts the Buyers order, the Seller will deliver the Goods and/or Special Order Goods to the Buyer as soon as reasonably possible. The Seller estimates that delivery shall be within 30 (thirty) business days of receipt of your payment ("Delivery Period"). The Seller will notify the Buyer if they are unable to deliver the Goods during the Delivery Period. The Buyer may then, within 30 (thirty) business days of receiving such notification, elect whether or not to cancel your order for the Goods. If the Buyer chooses to cancel his/her order, a reasonable charge for

the cancellation of that order will be deducted from the purchase price held by the Seller and the balance will be refunded to the Buyer.

**11.9.** The Delivery Period will commence once the Buyers payment has been authorised and received in full. For credit cards, this means that once the bank gives the Seller an authorisation code. For Internet transfers, this means once the funds reflect in the Sellers bank account.

**11.10.** The Seller shall not be liable in any way for a delay in delivery from any cause whatsoever and howsoever arising, nor shall such delay entitle the Buyer to reject the Goods or treat the contract as repudiated or render the Seller liable for damages in any way.

**11.11.** If the Buyer is not able to be present at the Delivery Address to accept delivery of the Goods and/ or Special Order Goods, it is the Buyer's responsibility to arrange for someone else to accept the delivery at such address and pay for the order on your behalf if payment has not yet been made. Neither the Courier of the Seller is responsible for any loss after the Courier has delivered the Goods and/ or Special Order Goods to the Delivery Address.

**11.12.** Delivery of the Goods and/ or Special Order Goods will be to the nearest point to the site on the road at the address provided by the

Buyer. The courier Driver will solely decide where the nearest drop off point will be.

**11.13.** Delivery of Goods and/or Special Order Goods shall be between 08:00 to 17:00 Monday to Friday. The Seller will inform the Buyer of the delivery date and estimated time of delivery. The Driver will contact the Buyer directly when they are outside the Buyers nominated address and wait for 20 minutes to effect delivery. In the event that the Buyer cannot accept delivery during those 20 minutes, the Driver will return the items to the Seller and secondary delivery arrangements will be made whereby the Buyer will be liable for a second delivery charge.

**11.14.** The Courier will endeavour to deliver the Goods and/or Special Order Goods to the Buyer by the estimated delivery time specified in the Acceptance Notice. However, delivery times are not guaranteed and may be adjusted by the Seller at their sole discretion. In addition, events outside of the Courier's control such as traffic, inclement weather conditions and unforeseen delays may result in a delay of the delivery of the Goods and/or Special Order Goods. However, the Courier will continue with its efforts to deliver the Goods and/or Special Order Goods to the Buyer as soon as possible in the circumstances.

**11.15.** The Buyer's duty to inform the Seller of the detailed delivery requirements in advance, to provide due to warning and notice of any changes in such requirements, and to provide the necessary labour and equipment to unload the vehicle without delay.

**11.16.** The Seller reserves the right to charge an additional charge for loading or off-loading the Goods and/or Special Order Goods to the Delivery address, should the need arise.

**11.17.** The Seller shall have the right to despatch any portion of the Goods covered by the contract separately and to invoice the Buyer for the delivery of each portion(s) of the order despatched on the same terms and conditions as are contained herein.

**11.18.** The Seller's obligation to deliver a Product to the Buyer is fulfilled when the Seller delivers the Product to the physical address nominated by the Buyer for delivery of the order.

**Therefore, the Seller is not responsible for any loss or unauthorised use of a Product after delivering the Product to the physical address nominated by you.**

**11.19.** Delivery of the Goods and/or Special Order Goods by the Seller to the Buyer may take place at the Seller's premises or any other premises agreed by the parties. The Seller will be

entitled, and the Buyer authorises the Seller, to deliver the Goods to any employee, agent or representative of the Buyer. Unless agreed to otherwise by the Seller in writing, any delivery of the Goods and/or Special Order Goods to the Buyer outside of the Seller's premises shall be at the Buyer's own risk and must not be relied upon by the Buyer.

## **12. NON-ACCEPTANCE BY BUYER**

**12.1.** If for any reason what so ever the Buyer default in the collection of the Goods and/or Special order Goods from the Seller's or for any reason or should the Buyer fail to accept delivery of the Goods and/or Special Order Goods to the address provided, then: -

**12.1.1.** The Buyer shall pay the Seller a storage charge in respect of any of the Goods and/or Special Order Goods Buyer which have not been collected or delivered together with the cost of any additional handling and delivery costs incurred. In the event that such storage by the Seller shall continue for a period exceeding six weeks, the Seller may (without prejudice to any other rights which may have accrued) treat the contract as repudiated.

**12.1.2.** During the period of any storage of the Goods or any of them by the Seller as contemplated by sub-clause

above, such goods shall be at the risk of the Buyer.

**12.1.3.** If the Buyer or your nominee fails, through no fault of the Seller, to deliver the Goods at the Delivery Location, the Seller may charge the reasonable costs of storing the Goods and/or Special Order Goods and redelivering them.

**12.1.4. NOTE:** The Buyer shall not be entitled to a refund for Special Order Goods and will be subject to the charges set out herein.

**12.1.5. NOTE:** The Buyer shall only be entitled to a partial refund, as charges will apply as set out herein.

## **13. RETURN POLICY**

**13.1.** This Policy does **NOT APPLY TO SPECIAL ORDER GOODS, RECONDITIONED PRODUCTS OR USED PRODUCTS**, and this is indicated in the relevant sections below.

**13.2.** The Buyer will only be able to return the Goods purchased if they were damaged during the delivery process.

**13.3.** The Buyer will inform the Seller that the delivered item received is damaged and the Buyer will have to illustrate the damage to the Driver, who will make notes of the damage on the Delivery Note. Should the Buyer fail to inform the Driver of the damage, it shall be deemed



that the items were received in perfect working condition.

**13.4.** The Buyer will, within 24 Hours of receiving the Goods, send an e-mail to [kelly@kparkerjoinery.co.za](mailto:kelly@kparkerjoinery.co.za), who will confirm the damage listed on the Delivery Note and make necessary arrangements to inspect the Product validated the Buyers return. Should it be deemed by the Seller that it is a valid return, the item purchased shall be collected and replaced at no additional cost to the Buyer.

**13.5.** Should the Buyer **FAIL TO** notify the Seller **IN WRITING WITHIN THE 24 HOURS OF DELIVERY**, any further **CLAIMS WILL BE NULL AND VOID.**

#### **14. DEFECTIVE PRODUCTS**

**14.1.** The Seller will do their best to ensure that the goods they deliver to the Buyer are of a high quality, and in good working order and without defects.

**14.2.** What is a defect? A defect is a material imperfection in the manufacture of a Product or any characteristic of a Product, which makes the Product less acceptable than one would reasonably be entitled to expect in the circumstances.

**14.3.** Risk of damage to, or loss of, any Goods will pass to the Buyer when the Goods are delivered to him/her.

**14.4.** The following will NOT be regarded as defects and will not entitle the Buyer to a return under this section

**14.4.1.** faults resulting from normal wear and tear;

**14.4.2.** damage arising from negligence, user abuse or incorrect usage of the Product;

**14.4.3.** damage arising from electrical surges or sea air corrosion;

**14.4.4.** damage arising from a failure to care for the Product adequately;

**14.4.5.** where the specifications of a Product, although accurately described on the Website and generally fit for its intended purpose, do not suit the Buyers taste.

**14.4.6.** damage arising from incorrect hardware;

**14.4.7.** damage arising from dark stains used externally

**14.4.8.** damage arising from acts of God (Force Majeure Event) means occurrences beyond the control of the affected party, including, but not limited to, decrees or restraints of Government, acts of God, strikes, work stoppage or other labour disturbances, war or sabotage. (Please see the Force Majeure Events clause below)

**14.4.9.** damage arising from abuse of the Goods and/or Special Order Goods

**14.4.10.** damage arising from improper storage

and installation of the Goods and/or Special Order Goods;

**14.4.11.** damage arising from unauthorised alteration of the Goods and/or Special Order Goods;

**14.4.12.** damage arising from the incorrect treatment of the Goods and/or Special Order Goods

**14.4.13.** damage arising from outside its intended purpose of the Goods and/or Special Order Goods

**14.4.14.** damage arising from warpage within 3mm/m of the Goods and/or Special Order Goods

#### **15. FORCE MAJEURE**

**15.1.** Should any event occur beyond the control of the Seller at their premises or elsewhere such as by way of example industrial action or dispute (including strike or lockout) shortage of materials, an act of God, war, fire, flood, drought or breakdown of machinery, as a result of which the performance of this contract is prevented or delayed: -

**15.1.1.** Without prejudice to its rights in the event of a breach of contract by the Buyer, the Seller reserves the right to cancel delivery or other performance of the Seller's obligations under any contract in whole or in part and in the event of the Seller exercising such right, the Seller's liability shall be limited

to the repayment to the Buyer (without interest) of any part of the purchase or contract price already received by the Seller and attributed to any unfulfilled and cancelled part of the contract less any expenses and charges incurred by the Seller down to the date of cancellation in part performance of the contract;

**15.1.2.** If such prevention or delay continues for 60 days, the Buyer may elect either to cancel the contract or to allow the order to remain on the books of the Seller and to be completed at some later date at an adjusted price to be determined by the Seller.

## **16. WARRANTY**

**16.1.** All Products are warranted to be free of defects in material and workmanship.

**16.2.** If the Buyer has received a Product that turns out to be defective, please notify the Seller in writing immediately as soon as the Buyer becomes aware of the defect.

**16.2.1. All Wooden items - 5 years,**

**16.2.2. All Ironmongery and hardware items - 1 year**

**16.2.3. All Glass items - 10 years**

**16.3.** The Seller cannot facilitate returns that fall outside of the aforementioned time periods.

**16.4.** The Buyer will inform the Seller of the alleged defect in writing via e-mail to [kelly@kparkerjoinery.co.za](mailto:kelly@kparkerjoinery.co.za).

The Seller will make arrangements with the Buyer to arrange to collect and/or inspect the Good and/or Special Order Good at no charge to the Buyer once the Seller has examined the Good and/or Custom order Good and validated the defect. At their sole discretion, the Seller shall either repair the Good and/or Special Order Goods or replace the Good and/or Special Order Goods.

**16.5.** The Good and/or Special Order Goods supplied by the Seller in replacement of the defective Good and/or Special Order Goods shall be **WARRANTED FOR THE REMAINDER OF THE ORIGINAL WARRANTY PERIOD.**

**16.6.** The Good and/or Special Order Goods that need to be returned due to defaults must be ready for collection by the Seller's transporters no later than **3 days** after informing the Seller otherwise of the defect. Should the Good and/or Special Order Goods not be ready for collection, the item shall no longer be accepted for repair and/or replacement.

## **17. GLAZING**

**17.1. NOTE** that All Glazing offered by the Seller on Goods and/or Special Order Goods is in accordance with the

requirements of the National Building Regulations.

## **18. CHARGES**

**18.1.** If the Buyer returns a defective Product to the Seller, but he/she fails to return all of the accessories and parts that were sold with that Good, the Seller is entitled to (subject to applicable law) refuse the return, or only to replace the item that the Buyer did return.

**18.2.** If the Buyer returns a Good that does not comply with this Policy, the Buyer may be liable to reimburse the Seller for the cost of collecting the Product from the Buyer and the cost of having the Product returned to the Buyer.

**18.3.** Transport charges for Goods returned for the replacement under the manufacturer's warranty shall be borne by the manufacturer if the Product has failed due to factory defaults.

**18.4.** Items returned without original packaging materials may be subject to **A REASONABLE SURCHARGES OF UP TO 15% OF THE PURCHASE PRICE;**

**18.5.** The Goods returned must be adequately packaged in the original packaging and be in as-new condition. Where original packaging was discarded, it shall be the Buyer's responsibility to ensure the item is packaged adequately to avoid damage in transit. The Seller's contracted third-party couriers do not

offer packaging services and **MAY REFUSE TO ACCEPT PRODUCTS WITHOUT ADEQUATE PACKAGING.** The Buyer **WILL BE LIABLE** for the **SECONDARY TRANSPORT COSTS**, as it was due to the Buyers lack of packaging resulting in the non-collection of the Goods. In the event where the Seller's transporters collect an item not packaged properly, or when they assisted the Buyer with packaging, this **SHALL BE DONE AT THE BUYER'S OWN RISK.**

**19. CREDIT BUYERS ACCOUNT OR REFUNDS**

**19.1.** Under no circumstances will a credit of the Buyers account or refund be considered for Special Order Goods.

**19.2.** The Seller will only consider a credit of the Buyers account or refund based on the following circumstances:

**19.2.1.** If the Buyer cancels the order before the Goods are scheduled for delivery, the Seller shall credit your account with the Purchase Price within 10 Business Days of your cancellation or alternately refund the Buyer the Purchase Price if that is his/her preference. **THE BUYER SHALL BE LIABLE FOR THE DELIVERY CHARGE IF THE CANCELLATION IS NOT DONE BEFORE THE CONFIRMATION OF THE DELIVERY DATE**

**19.2.2.** If the Seller accidentally delivers the

incorrect Goods to the Buyer. The Buyer must inform the Seller via e-mail to [kelly@kparkerjoinery.co.za](mailto:kelly@kparkerjoinery.co.za) within **24 HOURS OF DELIVERY** that the incorrect Goods were delivered. The Seller will collect the Goods from the Buyer at no charge. If the Goods are missing any accessories or parts, the Seller is entitled to (subject to applicable law) refuse the return, or only to estimate the value of the missing accessories and parts and to credit the Buyer's account or refund the Buyer in respect of the returned item only. It should be **NOTED** that this will be done only after the Seller has inspected the Good and validated the Buyers return. The Seller will at the Buyers choice deliver the correct Goods to the Buyer as soon as possible (if the correct Goods are available), **OR**

**CREDIT THE BUYERS ACCOUNT WITH THE PURCHASE PRICE OF THE GOODS LESS THE ESTIMATED VALUE OF THE ACCESSORIES AND THE CHARGES LISTED HEREIN WITHIN 10 BUSINESS DAYS OF THE RETURN.**

**19.2.3.** The Buyer must inform the Seller via e-mail to [kelly@kparkerjoinery.co.za](mailto:kelly@kparkerjoinery.co.za) within **24 HOURS OF DELIVERY** that **he/she no longer wants the Goods. The Seller will make the necessary arrangements to inspected the Goods and validated the Buyers return in terms of the conditions listed in this clause.**

**THE SELLER WILL CREDIT THE**

**BUYERS ACCOUNT WITH THE PURCHASE PRICE OF THE GOODS LESS THE CHARGES LISTED HEREIN WITHIN 10 BUSINESS DAYS OF THE RETURN.**

**19.2.4.** Where the Seller has determined deductions or surcharges to be deducted from the refund, such amounts shall be communicated to the Buyer with the final refund amount payable to the Buyer, which will be processed for payment within 10 business days of the return.

**19.2.5.** Please note that the Seller will only refund to the payment method that the Buyer used initially – i.e. payment by credit card will be refunded to the same credit card, payment by Instant EFT will be refunded to your nominated bank account once the Seller receives the Buyers bank account confirmation letter that must be delivered to the Seller by hand.

**19.2.6.** Once the Buyer's refund request has been processed. Funds may take 3– 5 business days to reflect in the Buyers account and are subject to your bank's processing times.

**20. PRIVACY POLICY**

**20.1.** K Parker Joinery CC ("the Seller") shall take all reasonable steps to protect the personal information of the Buyer. For the purpose of this clause, "personal information" shall be defined

as detailed in the Promotion of Access to Information Act 2 of 2000 (PAIA). The PAIA may be downloaded from: <http://www.lawsouthafrica.up.ac.za/index.php/current-legislation>.

**20.2.** The Seller respects the Buyers privacy and will take reasonable measures to protect it, as more fully detailed below.

**20.3.** Should the Buyer decide to create an account on the Website. The Seller may require the Buyer to provide them with personal information which includes but is not limited to -

**20.3.1.** Buyer's name and surname;

**20.3.2.** Buyers e-mail address;

**20.3.3.** Buyers e-mail address;

**20.3.4.** Buyers physical address;

**20.3.5.** Buyers mobile number; and

**20.3.6.** Buyer's date of birth.

**20.4.** Should the Buyers personal information change, please inform the Seller and provide the Seller with updates to your personal information as soon as reasonably possible to enable the Seller to update the Buyer's personal information.

**20.5.** The Buyer may choose to provide additional personal information to the Seller, in which event the Buyer agrees to provide accurate and

current information, and not to impersonate or misrepresent any person or entity or falsely state or otherwise misrepresent the Buyers affiliation with anyone or anything.

**20.6.** The Buyer consents to the Seller verifying the Buyer's credit worthiness and other details in its sole discretion and furnishing credit references to the Seller when requested.

**20.7.** Subject to clause 20.8 below, the Seller will not, without your express consent:

**20.7.1.** To use the Buyers personal information for any purpose other than as set out below:

**20.7.1.1.** in relation to the ordering, sale and delivery of Goods;

**20.7.1.2.** To contact the Buyer regarding current or new Goods or services or any other goods offered by us or any of our divisions, affiliates and/or partners (unless the Buyer has opted out from receiving marketing material from the Seller);

**20.7.1.3.** To inform the Buyer of new features, special offers and promotional competitions offered by the Seller or any of our divisions, affiliates and/or partners (unless the Buyer has opted out from receiving marketing material from the Seller); and

**20.7.1.4.** To improve our Product selection and the

Buyer's experience on our Website by, for example, monitoring the Buyer's browsing habits, or tracking the Buyer's sales on the Website; or

**20.7.2.** Disclose your personal information to any third party other than as set out below:

**20.7.2.1.** to the Sellers employees and/or third party service providers who assist the Seller to interact with the Buyer via the Seller's Website, e-mail or any other method, for the ordering of Goods and/or Special Order Goods or when delivering Goods and/or Special Order Goods to the Buyer, and thus need to know the Buyer's personal information in order to assist the Seller to communicate with the Buyer efficiently and adequately;

**20.7.2.2.** to the Sellers divisions, affiliates and/or partners (including their employees and/or third party service providers) in order for them to interact directly with the Buyer via e-mail or any other method for purposes of sending the Buyer marketing material regarding any current or new goods or services, new features, special offers or promotional items offered (unless the Buyer has opted out from receiving marketing material from the Seller);

**20.7.2.3.** to law enforcement, government officials, fraud detection agencies or other third parties when the Seller believes in

good faith that the disclosure of personal information is necessary to prevent physical harm or financial loss, to report or support the investigation into suspected illegal activity, or to investigate violations of these Terms and Conditions;

**20.7.2.4.** to the Seller's service providers (under contract with the Seller) who help with parts of our business operations (fraud prevention, marketing, technology services etc.). However, the Sellers contracts dictate that these service providers may only use the Buyer's information in connection with the services they perform for the Seller and not for their own benefit; and

**20.7.2.5.** to our suppliers in order for them to liaise directly with the Buyer regarding any faulty Goods the Buyer has purchased which requires their involvement;

**20.8.** The Seller is entitled to use or disclose the Buyer's personal information if such use or disclosure is required in order to comply with any applicable law, subpoena, order of the court or legal process served on the Seller, or to protect and defend the Sellers rights or property. In the event of a fraudulent online payment, the Seller is entitled to disclose relevant personal information for criminal investigation purposes or in line with any other legal obligation for

disclosing the personal information that may be required of it.

**20.9.** the Seller will ensure that all of their employees, third party service providers, divisions, affiliates and partners (including their employees and third party service providers) having access to your personal information are bound by appropriate and legally binding confidentiality obligations in relation to the Buyer's personal information.

**20.10. RATINGS AND REVIEWS:** When the Buyer provides a rating or review of a Product, the Buyer consent to the Seller using that rating or review as the Seller deem fit, including without limitation on the Website, in newsletters or other marketing material. The name that will appear next to that rating or review is your First Name, as the Buyer would have provided upon creating the account. If the Buyer does not agree to this, please do not put any ratings or reviews on the Website. In addition, The Seller will not display your Last Name, nor any of the Buyer's contact details, with a rating or review.

**20.11.** The Seller will -

**20.11.1.** Treat your personal information as strictly confidential, save where the Sellers are entitled to share it as set out in this herein;

**20.11.2.** Take appropriate technical and organisational measures to ensure that the Buyer's personal information is kept secure and is protected against unauthorised or unlawful processing, accidental loss, destruction or damage, alteration, disclosure or access;

**20.11.3.** Provide the Buyer with access to their personal information to view and/or update personal details;

**20.11.4.** Promptly notify the Buyer if the Seller becomes aware of any unauthorised use, disclosure or processing of the Buyer's personal information;

**20.11.5.** Provide the Buyer with reasonable evidence of the Seller's compliance with our obligations under this Policy on reasonable notice and request; and

**20.11.6.** Upon the Buyer's request, promptly return or destroy any and all of your personal information in the Seller's possession or control, save for that which the Seller is legally obliged to retain.

**20.12.** The Seller will not retain your personal information longer than the period for which it was originally needed, unless the Seller is required by law to do so, or the Buyer consent to the Seller retaining such

information for a longer period.

**20.13. The Seller undertakes never to sell or make the Buyers personal information available to any third party other than as provided for herein.**

**20.14. Whilst the Seller will do all things reasonably necessary to protect the Buyer's rights of privacy, the Seller cannot guarantee or accept any liability whatsoever for unauthorised or unlawful disclosures of your personal information, whilst in the Seller's possession, made by third parties who are not subject to our control, unless such disclosure is as a result of our gross negligence.**

**20.15. If the Buyer discloses his/her personal information to a third party, such as an entity which operates a website linked to this Website or anyone other than the Seller, THE SELLER SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE, HOWSOEVER ARISING, SUFFERED BY THE BUYER AS A RESULT OF THE DISCLOSURE OF SUCH INFORMATION TO THE THIRD PARTY.** This is because the Seller does not regulate or control how that third party uses the Buyer's personal information. Therefore, the Buyer should always ensure that they have read the privacy policy of any Third Party.

**20.16.** This Website makes use of "cookies" to automatically collect information and data through the standard operation of the Internet servers. "Cookies" are small text files a website can use (and which the Seller may use) to recognise repeat users, facilitate the user's ongoing access to and use of a website and allow a website to track usage behaviour and compile aggregate data that will enable the website operator to improve the functionality of the Website and its content, and to display more focused advertising to a user by way of third party tools. The type of information collected by cookies is not used to identify the Buyer personally. If the Buyer does not want information collected through the use of cookies, there is a simple procedure in most browsers that allow the Buyer to deny or accept the cookie feature. Please note that cookies may be necessary to provide the Buyer with certain features available on our Website, and thus if the Buyer disables the cookies on your browser, the Buyer may not be able to use those features, and his/her access to our Website will therefore be limited. **If the Buyer does not disable "cookies", the Buyer is deemed to consent to our use of any personal information collected using those cookies, subject to the provisions of this clause.**

**20.17.** The Seller may contact the Buyer by using e-mail or other electronic communication methods and the Buyer expressly agrees to this communication.

## **21. CHANGES TO THESE TERMS AND CONDITIONS**

**21.1.** The Seller may, in its sole discretion, change any of these Terms and Conditions at any time. The Buyer's responsibility is to regularly check these Terms and Conditions and make sure that they are satisfied with the changes. Should the Buyer not be satisfied, they must not place any further orders on, or in any other way use, the Website.

**21.2.** Any such change will only apply to the Buyer's use of this Website after the change is displayed on the Website. If the Buyer uses the Website after such amended Terms and Conditions have been displayed on the Website, the Buyer will have to be deemed to have accepted such changes.

## **22. ELECTRONIC COMMUNICATIONS**

**22.1.** When the Buyer visits the Website or sends e-mails to the Seller, the Buyer consent to receiving communications from the Seller or any of our divisions, affiliates or partners electronically according to our privacy policy as set out in clause 20 above.

## **23. OWNERSHIP AND COPYRIGHT**

**23.1.** The contents of the Website, including any material, information, data, software, icons, text, graphics, lay-outs, images, sound clips, advertisements, video clips, trade names, logos, trademarks, designs and service marks which are displayed on or incorporated in this Website ("Website Content") are protected by law, including but not limited to copyright and trademark law. The Website Content is the Seller's property (including drawings), its advertisers and/or sponsors and/or is licensed to the Seller.

**23.2.** The Buyer will not acquire any right, title or interest in or to the Website or the Website Content.

**23.3.** Any use, distribution or reproduction of the Website Content is prohibited unless expressly authorised in terms of these Terms and Conditions or otherwise provided for in law. To obtain permissions for the commercial use of any Website Content, contact us via e-mail at [kelly@kparkerjoinery.co.za](mailto:kelly@kparkerjoinery.co.za)

**23.4.** Where any of the Website Content has been licensed to the Seller or belongs to any third party, the Buyer's rights of use will also be subject to any terms and conditions which that licensor or third party imposes from time to time and the Buyer

agrees to comply with such third party terms and conditions.

## **24. DISCLAIMER**

**24.1.** The use of the Website is entirely at the Buyers own risk and the Buyer assumes full responsibility for any risk or loss resulting from the use of the Website or reliance on any information on the Website.

**24.2.** Whilst the Seller takes reasonable measures to ensure that the content of the Website is accurate and complete, the Seller makes no representations or warranties, whether express or implied, as to the quality, timeliness, operation, integrity, availability or functionality of the Website or as to the accuracy, completeness or reliability of any information on the Website. If the Seller's representatives make any such representations or warranties, the Seller shall not be bound thereby.

**24.3.** The Seller disclaims liability for any damage, loss or expenses, whether direct, indirect or consequential in nature, arising out of or in connection with your access to or use of the Website and/or any content therein unless otherwise provided by law.

**24.4.** Although Goods sold from the Website may, under certain specifically defined circumstances, be under warranty, the Website itself

and all information provided on the Website is provided "as is" without warranty of any kind, either express or implied, including, but not limited to, the implied warranties of merchantability, fitness for a particular purpose, completeness, or non-infringement, as may be allowed in law.

**24.5.** Any views or statements made or expressed on the Website are not necessarily the views of the Seller, its directors, employees and/or agents.

**24.6.** In addition to the disclaimers contained elsewhere in these Terms and Conditions, the Seller also makes no warranty or representation, whether express or implied, that the information or files available on the Website are free of viruses, spyware, malware, trojans, destructive materials or any other data or code which is able to corrupt, destroy, compromise, disrupt, disable, harm, jeopardise or otherwise impede in any manner the operation, stability, security functionality or content of your computer system, computer network, hardware or software in any way. The Buyer accepts all risk associated with the existence of such viruses, destructive materials or any other data or code which is able to corrupt, compromise, jeopardise, disrupt, disable, harm or

otherwise impede in any manner the operation or content of a computer system, computer network, any handset or mobile device, or your hardware or software, save where such risks arise due to the gross negligence or wilful misconduct of the Seller, its employees, agents or authorised representative. Thus, the Seller disclaims all liability for any damage, loss or liability of any nature whatsoever arising out of or in connection with your access to or use of the Website.

## **25. LINKING TO THIRD PARTY WEBSITES**

**25.1.** This Website may contain links or references to other websites ("Third Party Websites") which are outside of our control, including those of advertisers. These Terms and Conditions do not apply to those Third Party Websites and the Seller is not responsible for the practices and/or privacy policies of those Third Party Websites or the "cookies" that those sites may use.

**25.2.** Notwithstanding the fact that the Website may refer to or provide links to Third Party Websites, your use of such Third Party Websites is entirely at your own risk and the Sellers are not responsible for any loss, expense, claim or damage, whether direct, indirect or consequential, arising from your use of such Third Party

Websites or your reliance on any information contained therein.

## **26. LIMITATION OF LIABILITY**

**26.1.** The Seller cannot be held liable for any inaccurate information published on the Website and/or any incorrect prices displayed on the Website, save where such liability arises from the gross negligence or wilful misconduct of the Seller, its employees, agents or authorised representatives. The Buyer is encouraged to contact the Seller directly via e-mail to report any possible malfunctions or errors to e-mail

[kelly@kparkerjoinery.co.za](mailto:kelly@kparkerjoinery.co.za)

**26.2.** THE SELLER SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL LOSS OR DAMAGES WHICH MIGHT ARISE FROM YOUR USE OF, OR RELIANCE UPON, THE WEBSITE OR THE CONTENT CONTAINED IN THE WEBSITE; OR YOUR INABILITY TO USE THE WEBSITE, AND/OR UNLAWFUL ACTIVITY ON THE WEBSITE AND/OR ANY LINKEDTHIRDPARTY WEBSITE.

**26.3.** THE BUYER HEREBY INDEMNIFY THE SELLER AGAINST ANY LOSS, CLAIM OR DAMAGE WHICH MAY BE SUFFERED BY THE BUYER OR ANY THIRD PARTY ARISING IN ANY WAY FROM YOUR USE OF THIS WEBSITE AND/OR

## **ANY LINKED THIRD PARTY WEBSITE.**

**26.4.** The Seller shall not be held liable or entertain any claim for: -

**26.4.1.** Any expense incidental or otherwise arising out of or because of defects in the Goods and/or Special Order Goods sold;

**26.4.2.** Force Majeure, including other reasons but not limited to: -

**26.4.2.1.** late delivery,

**26.4.2.2.** machine breakdowns,

**26.4.2.3.** shortage of materials,

**26.4.2.4.** transport delays,

**26.4.2.5.** capacity

**26.4.3.** Goods signed for that are later lost, damaged, altered or untreated;

**26.4.4.** Timber is a natural Product and colour differences are not considered a defect.

**26.4.5.** Any changes to the Goods and/or Special Order Goods whatsoever.

## **27. AVAILABILITY AND TERMINATION**

**27.1.** The Seller will use reasonable endeavours to maintain the availability of the Website, except during scheduled maintenance periods, and are entitled to discontinue providing the Website or any part thereof



with or without notice to the Buyer.

**27.2.** The Seller may in its sole discretion terminate, suspend and modify this Website, with or without notice to the Buyer. The Buyer agrees that the Seller will not be liable to the Buyer in the event that it chooses to suspend, modify or terminate this Website other than for processing any orders made by the Seller prior to such time, to the extent possible.

**27.3.** If the Buyer fails to comply with your obligations under these Terms and Conditions, including any incident involving payment of the price of an order for any Goods and/ or Special Order Goods, this may (in the Sellers sole discretion with or without notice to the Buyer) lead to a suspension and/or termination of the Buyer's access to the Website without any prejudice to any claims for damages or otherwise that the Seller may have against the Buyer.

**27.4.** The Seller is entitled, for purposes of preventing suspected fraud and/or where it suspects that the Buyer is abusing the Website and/or has created multiple user profiles to take advantage of a promotion or Coupon intended by the Seller to be used once-off by the Buyer, to blacklist the Buyer on its database (including suspending or terminating the Buyer's access to the

**Website), refuse to accept or process the payment on any order, and/or to cancel any order concluded between the Buyer and the Seller, in whole or in part, on notice to the Buyer. However, the Seller shall only be liable to refund monies already paid by the Buyer (see the Seller's Returns Policy listed below in clause 20 in this regard) and accepts no other liability that may arise due to such blacklisting and/or refusal to process any order.**

**27.5.** At any time, the Buyer can choose to stop using the Website, with or without notice to the Seller.

## **28. GOVERNING LAW AND JURISDICTION**

**28.1.** These Terms and Conditions and the relationship between the Seller and the Buyer and/or any dispute arising from or in connection with these Terms and Conditions shall be governed and interpreted in accordance with the laws of the Republic of South Africa. The Buyers continued use of the Website will constitute your consent and submission to the jurisdiction of the South African courts regarding all proceedings, transactions, applications or the like instituted by either party against the other, arising from any of these Terms and Conditions.

**28.2.** In the event of any dispute arising between the Buyer and the Seller, the Buyer

hereby consents to the non-exclusive jurisdiction of the Randburg Magistrates Court or the High Court of the Republic of South Africa

(GAUTENG LOCAL DIVISION, JOHANNESBURG) depending on the quantum in the action or proceedings which may fall within the monetary jurisdiction of that court.

**28.3.** Nothing in this clause 28 or the Terms and Conditions limits your right to approach any court, tribunal or forum of competent jurisdiction in terms of the CPA.

## **29. NOTICES**

**29.1.** The Seller hereby selects 44 12th Road, Kew, Sandton, 2090, as its address for the service of all formal notices and legal processes in connection with these Terms and Conditions ("legal address"). The Seller may change this address from time to time by updating these Terms and Conditions.

**29.2.** The Buyer hereby selects the delivery address specified with the Buyer's order as their legal address, but the Buyer may change it to any other physical address by giving the Seller not less than 7 days' notice in writing.

**29.3.** Notices must be sent either by hand, prepaid registered post, telefax or e-mail and must be in English. All notices sent -

**29.3.1.** by hand will be deemed to have been received on the date of delivery;

**29.3.2.** by prepaid registered post, will be deemed to have been received 10 days after the date of posting;

**29.3.3.** by telefax before 16:30 on a business day will be deemed to have been received on the date of successful transmission of the telefax. All telefaxes sent after 16:30 or on a day which is not a business day will be deemed to have been received on the following business day; and

**29.3.4.** by e-mail will be deemed to have been on the date indicated in the "Read Receipt" notification. Therefore, **ALL E-MAIL COMMUNICATIONS BETWEEN THE BUYER AND THE SELLER MUST MAKE USE OF THE "READ RECEIPT" FUNCTION** to serve as proof that an e-mail has been received.

### **30. GENERAL**

**30.1.** The Seller may, in its sole discretion, at any time and for any reason and without prior written notice, suspend or terminate the operation of the Website or the Buyer's right to use the Website or any of its contents subject to us processing any orders then already made by the Buyer.

**30.1.1.** The Buyer may not cede, assign or otherwise transfer his/her rights and

obligations in terms of these Terms and Conditions to any third party.

**30.1.2.** Any failure on the part of the Buyer or the Seller to enforce any right in terms hereof shall not constitute a waiver of that right.

**30.1.3.** If any term or condition contained herein is declared invalid, the remaining terms and conditions will remain in full force and effect.

**30.1.4.** No variation, addition, deletion, or agreed cancellation of the Terms and Conditions will be of any force or effect unless in writing and accepted by or on behalf of the parties hereto.

**30.1.5.** No indulgence, extension of time, relaxation or latitude which any party (the "grantor") may show grant or allow to the other (the "grantee") shall constitute a waiver by the grantor of any of the grantor's rights and the grantor shall not thereby be prejudiced or stopped from exercising any of its rights against the grantee which may have arisen in the past or which might arise in the future.

**30.1.6.** These Terms and Conditions contain the whole agreement between the Buyer and Seller and no other warranty or undertaking is valid unless contained in this document between the parties.