



Please read the following terms and conditions and indicate whether you agree to them.

Should section 16 of the CPA apply to the Terms & Conditions, the Website User/s are entitled to cancel without reason and without penalty within 5 business days after the date of the conclusion of the Terms & Conditions, subject to the exclusions in the CPA.

“COOLING OFF (SECTION 16” In terms of section 16 the of CPA, a consumer may rescind a transaction resulting from any direct marketing without reason or penalty, by notice to the supplier in writing, or another recorded manner and form, within five business days after of the later of the date on which the transaction or agreement was concluded, or the goods that were the subject of the transaction were delivered to the consumer.” Source:  
<http://www.nccsa.org.za/index.php/facts-sheets/Fact-Sheets.html>

## 1. DEFINITIONS

The definitions mentioned below will have the below meanings wherever used in this Terms & Conditions or any annexure to it. **“Data Set”** means the data compiled and collated by Knowledge Factory including specific data compiled at the request of the Website User/s as stipulated in the Terms & Conditions; **“Data/Software License Agreement”** means the Agreement entered into by the Website User/s with Knowledge Factory, which sets out the Terms & Conditions applicable to the use of the particular Data Set and Services requested by the Website User/s in the this Agreement; **“Knowledge Factory”** means Knowledge Factory (PTY) Limited, registration number 2010/020642/07, a limited liability private company duly incorporated in the Republic of South Africa. Hereinafter referred to as KF; **“South African Property Transfer Guide/Property Intellect”** means the KF web-based information and statistics database relating to the property market in the Republic of South Africa, which includes but is not limited to, property transfer details, trends and

market analytics; **“Terms & Conditions”** means these terms & conditions stated in the physical document which binds KF and their Website User/s to a legal service, including Services and fees; **“Services”** means the licensing and/or provision by KF of various data, data sets, products and services in respect of Property Intellect, as more fully set out in the Data/Software License Agreement; **“Website/s”** means the Website/s operated by KF and located at [www.propertyintellect.co.za](http://www.propertyintellect.co.za) or [www.knowledgefactory.co.za](http://www.knowledgefactory.co.za) including any page, part or element thereof; **“Website User/s”** means any person/people who accesses or uses the Website.

## 2. SCOPE OF WEBSITE USE

- 2.1 The Website User/s signifies acceptance of all of these Terms & Conditions by its continued use of the Website/s. KF reserves the right to amend the Terms & Conditions at any time and the Website User/s will be bound by the latest version thereof as published on the Website/s.
- 2.2 Website User/s may only download the applicable data that is clearly marked as being available for downloading. Any content downloaded from the Website/s may only be used for personal or commercial purposes and no further reproduction or any form of distribution is allowed.
- 2.3 The Website User/s may display any content retrieved from the Website/s on a computer screen or mobile device, print individual pages on paper and store such pages in electronic form on the Website User/s computer or mobile telephone for the Website User/s personal use. Except as expressly permitted herein, the Website User/s may not reproduce, modify or in any way commercially exploit any Website/s content. In particular, the Website User/s **may not do any of the following** without KF's written consent –
  - 2.3.1 store in or transmit to any other website, mailing list, electronic bulletin board, server or other

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storage device connected to a network or regularly or systematically store in electronic or print form, all or any part of the website content; or

- 2.3.2 modify, publish, transmit, reproduce, create derivative works from, distribute, perform, display, or in any way exploit the Website content; and
- 2.3.3 establish a link to the Website, by way of hyperlink, frame or any other means, either electronically or otherwise.

2.4 Where the Website User/s has obtained written consent from KF, such consent is within the sole discretion of KF and may be withheld or granted subject to additional conditions as specified by KF.

2.5 The Website/s may contain links to third party Website/s with information or material produced by other parties. KF does not control these linked sites, unless expressly mentioned and is not responsible for any content, updates, links or changes to these linked sites.

### **3 PROVISION OF SERVICES**

- 3.1 If the Website User/s wishes to obtain the Services from KF, the Website User/s must contact KF who will send through the relevant contractual documents to be completed, signed and sent back to KF.
- 3.2 The Website User/s shall be required to enter into a Data/Software License Agreement for the usage of KF Services as stipulated in the Terms & Conditions.
- 3.3 KF reserves the right to decline any application for Services, with or without reason.

### **4 INTELLECTUAL PROPERTY**

4.1 All intellectual property rights in all materials and content made available through the Website/s are owned by KF or alternatively KF is the lawful

user thereof, and are protected by both the Republic of South Africa and international intellectual property laws.

4.2 The Website User/s agrees not to do anything that may infringe KF's intellectual property rights in this regard, including but not limited to unauthorised copying, reproduction, retransmission, distribution, dissemination, sale, publication, or exploitation of such material.

### **5 DURATION**

- 5.1 KF or the Website User/s shall be entitled to terminate the Terms & Conditions by way of one calendar month prior written notice of termination to be effective at the end of the initial period. Failing such notice of termination, the duration of the Service shall thereafter automatically renew for successive periods of one calendar month subject to and set out in the Terms & Conditions and subject to an escalation in fees stated in Clause 6.8
- 5.2 Either party may terminate this Terms & Conditions or any extension hereof in terms of Clause 6.

### **6 PAYMENT**

- 6.1 Payment of subscription will be paid as per the signed contractual document and agreed upon date.
- 6.2 Without limiting their rights, KF shall be entitled to charge interest on overdue amounts at the publicly quoted prime rate of First National Bank from time to time, plus two per cent from the due date until payment has been received.
- 6.3 Payment for Services may be made in any of the following methods which includes advance payments:
  - 6.3.1 Pre-paid subscriptions will be payable to KF via EFT or cheque.
  - 6.3.2 Monthly EFT subscriptions will be payable to KF on invoice by the seventh of every calendar month via EFT or cheque.



- 6.4 Monthly Debit Order subscriptions will be due and payable to KF on the agreed date as per the signed contractual document.
- 6.5 If payment is made in any other method other than those mentioned in clause 6.3 and 6.4, an additional administration fee of R57.00 will be levied monthly.
- 6.6 The parties agree that punctual payment of all payments to be made to KF goes to the root of this Terms & Conditions; in that regard, time is of the essence.
- 6.7 Should an account be reinstated KF reserves the rights to review the historical payment of the account and notify the Website User/s if the account will be reinstated at a fee of R 150.00. Only once proof of payment has been sent through to KF, will the account be reactivated.
- 6.8 As set out in these terms and conditions, the subscription will be subject to an escalation in fees of 6% or CPIX rate, whichever is greater.

## **7 NOTICES AND DOMICILIA**

- 7.1 The Website User/s and KF choose, as their domicilia citandi et executandi, the addresses set out herein, or at such other address which is not a post office box :
- 7.2 KF address: The Workshop, 70 7<sup>th</sup> Ave, Parktown North.
- 7.3 Website User/s address:
- 7.4 All notices regarding this Terms & Conditions shall be given in writing.

## **8 VALUE-ADDED TAX**

- 8.1 All prices and charges in this Terms & Conditions and any price list are exclusive of VAT.
- 8.2 The Website User/s shall be liable for VAT payable from time to time in respect of the Terms & Conditions .

## **9 GENERAL**

- 9.1 This Terms & Conditions constitutes the whole agreement between the parties as to the subject matter hereof and the parties confirm that

no Terms & Conditions, representations or warranties regarding the subject matter hereof other than those set out herein have been made.

- 9.2 No alteration hereof or consensual cancellation will be binding on the parties other than such being reduced to a written document signed by both parties.
- 9.3 KF shall be entitled to sell, cede, assign, delegate or in any other way alienate or dispose of any or all of its rights and obligations under and based on this Terms & Conditions, provided that if such action substantially impacts on the Website User/s rights or obligations under this Terms & Conditions, the Website User/s may summarily terminate this Terms & Conditions.
- 9.4 KF is granted the rights to access the files of any Credit Bureau or its agents or its clients to ascertain the applicant's and its directors and/or members and/or principal's total available credit profiles when assessing this application and at any time during the currency of the applicant's account with the supplier and also to disclose the existence and the conduct of the applicant's account with the supplier, whether still current or not, to any Credit Bureau or other credit grantor for publication.

## **10 DATA/SOFTWARE LICENSE AGREEMENT**

- 10.1 The Services supplied on the Website/s are the property of KF who hereby grants the Website User/s the right, upon payment of relevant fees, to use the data and Services supplied on the Websites, provided that the Website User/s abides by terms, it being specifically recorded and agreed that when KF Services are available, the Website User/s will use



such Services on the same terms as set out in this Terms & Conditions.

10.2 The proprietary software and design concepts are owned by KF and are protected by copyright laws, both nationally and internationally. All rights are reserved.

10.3 KF grants to the Website User/s a non-exclusive license to use its proprietary software and data subject to the following conditions:

- 10.3.1 the Website User/s is not granted title to the proprietary software and data;
- 10.3.2 the Website User/s may not sell, copy, reproduce, recompile or otherwise transfer the software and data to any third party, without written consent of the directors of KF;
- 10.3.3 the Website User/s usage will be monitored and any excessive use or abuse therefore will result in the immediate suspension of the service to the subscriber pending an investigation, where excessive use or abuse as defined by KF, if found, the Website User/s may be liable for additional charges and;
- 10.3.4 the Website User/s must retain the secrecy of their user names and passwords.

#### 11 LIMITS ON USAGE

11.1 The Website User/s may use the Data Set/s and Data Maintenance Services solely for purposes of its business.

11.2 The Website User/s may not, whether for reward or not, provide any person (other than bona fide employees of Website User/s) with access to, the means to access, the Website/s and/or Services or any material part thereof (in electronic format or otherwise).

11.3 The **Website User/s may not**, in any format whatsoever:

- 11.3.1 sell the right of use of the Services or any material part thereof to any other party;

11.3.2 cede or assign its rights under this Terms & Conditions without the prior written consent of KF.

11.4 The Website User/s accepts that the software subscribed for, will meet the specifications, requirements and results intended by the Website User/s who assumes responsibility for the condition of the environment in which the software will operate.

#### 12 PRIVACY AND CONFIDENTIALITY

12.1 The Website/s may utilise "cookies" and other technologies for data analysis and potential personalisation of the Website/s. These technologies may involve a small file stored locally on the device used to access the Website/s, and may be used to store and collect information relating to the use of the Website/s.

12.2 The browser can be set to notify the Website User/s when he/she/they has sent a "cookie", giving him/her/they the chance to decide whether or not to accept it. If the Website User/s does not accept a "cookie", he/she/they thereby consents to KF use of any personal information collected by KF using that cookie. Such use shall be solely for the purpose of marketing, compiling statistics and to provide the Website User/s with a better service.

12.3 The Website/s may contain links to or from other sites ('Linked Sites') which are not governed by these Terms & Conditions. KF is not responsible for the content or the privacy and security policies employed by Linked Sites.

#### 13 LIMITATION OF LIABILITY

13.1 In addition to any other specific exclusions of liability contained herein and unless otherwise expressly stated herein, the parties agree that KF shall not be liable for any other loss or damage, direct or indirect, special, consequential or



otherwise, sustained by the Website User/s or its agents or assigns arising from any cause whatsoever, including gross negligence and wilful or fraudulent misconduct, whether as a result of any breach of the provisions of the Terms & Conditions by KF or any act or omission on the part of KF or its employees, or whether caused directly or indirectly by the information contained in the Website/s, the Services or the use thereof, and the Website User/s indemnifies KF in respect of any such liability. Save as specifically provided for herein, KF gives no warranties, express or implied, whether arising by operation of law or otherwise, with regard to the Services.

#### **14 GOVERNING LAW AND JURISDICTION**

14.1 These Terms & Conditions are governed by the laws of the Republic of South Africa and the Website User/s agrees to submit to the exclusive jurisdiction of courts located within Republic of South Africa. In the event of any dispute between KF and the Website User/s arising out of these Terms & Conditions, such dispute shall be submitted for arbitration in Johannesburg in accordance with the rules of the Arbitration Foundation of Southern Africa (AFSA). Either party may apply to an appropriate court for urgent relief or for judgment in relation to a liquidated claim.

#### **15 OBLIGATION OF WEBSITE USER/S**

15.1 The Website User/s shall be obliged to ensure that the Services contained within and derived from the Website/s are available only to those employees who are permitted to have access thereto and that all steps necessary to prevent unauthorised use, access to and copying of the data or any part thereof are implemented. The Website User/s shall restrict access to any and all

access codes provided by KF to Website User/s only to those employees of Website User/s authorised to have access thereto.

15.2 The Website User/s shall not:

- 15.2.1 modify the software provided by KF; or
- 15.2.2 attempt to circumvent, bypass, obstruct or in any other way impede or alter the functionality or operation of the security mechanisms included in the Website/s including any and all authentication and authorization mechanisms;
- 15.2.3 attempt to decompile or otherwise alter the data and/or data access software in order to circumvent the login details to preserve any portion of the data and/or Services for use by Website User/s or any other person during or after the date of termination of this Terms & Conditions.

15.3 Upon termination of these Terms & Conditions, the Website User/s shall delete from its hardware and electronic archive system, all copies of the data and shall not utilise the data for any purpose whatsoever. The Website User/s acknowledges that KF is the owner of the data and Services and that the Website User/s has no proprietary rights in regard thereto, save as recorded in this Terms & Conditions. A formal signed letter stating that this action has taken place needs to be submitted to KF within seven business days after termination.

#### **16 TERMINATION OF ACCOUNT**

16.1 The Website User/s may terminate his/her/their user account/s at any time, subject to providing a written formal letter together with the Cancellation Form to KF as referred in clause 5.1.

16.2 The Website User/s must log into his/her user account at least once



every six calendar months. If the Website User/s does not log in over the course of that period, it shall be assumed that this Website User/s is/are no longer active and KF reserves the right to deactivate the Website User/s account. An amount of R 150.00 will need to be paid upfront to reactivate the account.

**17 WARRANTIES**

17.1 KF warrants that the data and Services provided, does not infringe the proprietary right of any third party rights or rights protected by law. KF hereby indemnifies and holds the Website User/s harmless against all and any liability, cost or expense incurred in respect of any action instituted against KF and/or the Website User/s in terms of which it is alleged that the data infringes proprietary rights of any third party rights.

17.2 KF will take reasonable steps to ensure that the data will be accurate and fit for the purposes for which it is to be used by the Website User/s. The Website User/s waives the right to claim for loss or damage (direct, indirect or consequential) arising out of the use of, or inability to use the data, except where such loss or damage is occasioned by KF's negligence (gross or otherwise).

17.3 The Website User/s indemnifies KF against any claim from any third party in respect of the use of any information contained within the data by the Website User/s.

**18 APPROVALS**

**I/We the undersigned subscriber/s, hereby request that Knowledge Factory, provide me/ us with Services subject to the following Terms & Conditions. These Terms & Conditions govern the Website User/s use of the Website/s located at the domain/s name [www.propertyintellect.co.za](http://www.propertyintellect.co.za) or**

**[www.knowledgefactory.co.za](http://www.knowledgefactory.co.za). By accessing and using the Website/s, the Website User/s agrees to be bound by the Terms & Conditions set out herein. I/We hereby accept the above mentioned terms and conditions.**

**I/We hereby accept the above mentioned terms and conditions:**

**Name and Surname:**

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**Signature:**

\_\_\_\_\_

**Date:**

\_\_\_\_\_

**KNOWLEGDE FACTORY Pty Ltd**

**Name and Surname:**

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**Signature:**

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**Date:**

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