



TERMS & CONDITIONS

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1. WHO WE ARE

1.1 These Terms and Conditions ("**Terms**") govern the provision of website and application design, development, hosting and care services by **Cyberbear (Pty) Ltd**, a **private company** registered in the Republic of South Africa under registration number **2026/641370/07**, trading as **Cyberbear** ("Cyberbear", "we", "us", "our"), to the person or entity engaging us ("**Client**", "you", "your").

1.2 The information we are required to disclose to consumers under section 43(1) of the Electronic Communications and Transactions Act 25 of 2002 ("**ECTA**") is set out in **Schedule 1** and is published on our website at www.cyberbear.co.za

2. ACCEPTANCE OF THESE TERMS

2.1 You accept these Terms, and they become binding on you, when you do any of the following: accept a quote or proposal in writing or electronically; tick the acceptance box on our website or in our onboarding form; sign an order form; pay a deposit or any invoice; or instruct us to commence work.

2.2 If you do not agree to these Terms you must not engage or continue to use our Services.

2.3 Where you accept these Terms on behalf of a company, close corporation, trust or other entity, you warrant that you are authorised to do so and that the entity is bound.

3. DEFINITIONS AND INTERPRETATION

3.1 In these Terms:

Term	Meaning
Application	a mobile or desktop software application developed by us for you, including any iOS, Android, progressive web or hybrid application, and including its store listing assets
Build Fee	the once-off fee for the design and development of a Website or Application under a chosen package or Project Scope
Care Package	the ongoing subscription service selected by you, which includes Hosting and may include maintenance, updates, security monitoring, content changes, support and related service.
Client Content	all text, images, video, audio, logos, trade marks, data, databases and other materials supplied by you, or by a third party on your behalf, for incorporation into or use with the Deliverables
Deliverables	the Website, Application, associated Software, designs, and related materials produced by us for you under a Project Scope, excluding Client Content and Third Party Materials



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Term	Meaning
Hosting Fee	the portion of the Care Package fee covering hosting of the Deliverables on our chosen infrastructure or that of a third-party hosting provider
Operator Agreement	the Cyberbear Operator Agreement (POPIA Data Processing Addendum), which forms part of this agreement wherever we host, maintain or support the Deliverables
Project Scope	the specification, deliverables, exclusions, assumptions, milestones, timeline and price set out in the written quote, proposal, order form or invoice accepted by you
Services	the design, development, hosting, care, maintenance and support services we provide, whether in respect of a Website, an Application or both
Software	the source code, object code, scripts, configuration, templates and build tooling comprised in or used to produce the Deliverables, excluding Third Party Materials
Third Party Materials	any software, code, library, framework, theme, plugin, module, font, typeface, stock image, video, audio, dataset, API or service that is not authored by us, including open-source software
Third Party Vendor	any external service provider integrated into the Deliverables at your request, including payment gateways, e-mail marketing tools, booking systems, CRM systems and analytics providers
Website	the website developed by us for you under a Project Scope

3.2 Headings are for convenience only and do not affect interpretation. Words importing the singular include the plural and vice versa. "Including", "for example" and "such as" are not words of limitation. A reference to a statute is a reference to that statute as amended or replaced from time to time. Business days exclude Saturdays, Sundays and South African public holidays.

4. ORDER OF PRECEDENCE

4.1 The agreement between us comprises, in descending order of precedence:

- (a) any signed written variation expressly amending these Terms;
- (b) the accepted Project Scope (quote, proposal, order form or invoice);
- (c) the Operator Agreement, in respect of the processing of personal information;
- (d) these Terms; and
- (e) any other document we incorporate by reference.



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4.2 If there is a conflict, the higher-ranked document prevails to the extent of the conflict. This clause does not permit a Project Scope to reduce any right you have under a law that cannot be contracted out of.

5. THE SERVICES

5.1 We provide design and development services for Websites and Applications, and ongoing Care Packages, in each case as described in the accepted Project Scope.

5.2 The specific inclusions, exclusions, limits (such as the number of update requests per month, storage and bandwidth limits and response times) and pricing of each package will be confirmed in writing before work begins, and that written confirmation forms part of this agreement.

5.3 Anything not expressly included in the Project Scope is excluded. In particular, unless expressly included, the Services do not comprise: content writing, copywriting or translation; professional photography or videography; logo or brand identity design; search engine optimisation beyond basic technical configuration; paid advertising management; legal documents for your website accessibility conformance testing; penetration testing; or the cost of Third Party Materials or Third Party Vendor subscriptions.

5.4 We may update, rename or restructure our packages. A change will not affect your current active package until renewal, or until not less than **30 days'** written notice has been given to you.

6. QUOTES, FEES, PAYMENT AND YOUR COOLING-OFF RIGHTS

6.1 Quotes and fees

6.1.1 Quotes are valid for 7 days from the date of issue unless otherwise stated.

6.1.2 All fees are exclusive of VAT unless otherwise stated. VAT will be added where applicable under South African law.

6.1.3 The full price of the Services, including all costs, taxes and fees, will be stated in the Project Scope before you commit.

6.1.4 Fees for international Clients may be quoted and invoiced in South African Rand or in another currency as agreed. You are responsible for currency conversion charges, international transaction fees and bank charges levied on your side.

6.1.5 Third Party Materials and Third Party Vendor subscriptions (for example premium plugins, themes, fonts, stock media, SSL certificates and app store developer accounts) are charged at cost and recur separately unless the Project Scope states otherwise. We will identify these costs in the Project Scope.



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6.2 Payment terms

6.2.1 A deposit as specified in the Project Scope is payable before a build project commences. Work will not begin until the deposit has been received, unless otherwise agreed in writing.

6.2.2 The balance of the Build Fee is payable according to the milestones set out in the Project Scope.

6.2.3 Care Package fees, including the Hosting Fee, are billed in advance on a recurring basis and are due on the date stated on the invoice.

6.2.4 If a Care Package fee remains unpaid for more than **7** days after the due date, we may suspend hosting, maintenance and support after giving you not less than **5** business days' written notice of our intention to do so and an opportunity to bring the account up to date. We will not suspend without that notice.

6.2.6 You shall not withhold, defer, deduct or set off any payment due by reason of any claim, whether liquidated or unliquidated, which you have or allege against the Cyberbear, and shall pursue any such claim separately. If you dispute an invoice you must notify us in writing within **7** business days of the invoice date, identifying the disputed item

6.3 Your cooling-off right, and consent to immediate commencement

6.3.1 If you are a natural person and you conclude this agreement electronically, **section 44 of ECTA gives you the right to cancel without reason and without penalty within seven days** after the date on which the agreement for services was concluded. On cancellation we must refund all payments you have made, within 30 days of the date of cancellation.

6.3.2 Section 42(2) of ECTA excludes that right where **the supply of services began, with your consent, before the end of the seven-day period.**

6.3.3 Accordingly, if you wish us to begin work immediately, we will ask you to confirm the following in writing or by ticking a separate box at the time you accept these Terms:

Consent to immediate commencement

"I request that Cyberbear begin performing the Services immediately, before the expiry of the seven-day cooling-off period in section 44 of the Electronic Communications and Transactions Act 25 of 2002. I understand and agree that by giving this consent I lose the right to cancel without reason and without penalty during that period, and that if I cancel thereafter I will remain liable for work already performed and for third-party costs already incurred."

6.3.4 If you do not give that consent, we will not commence work until the seven days have expired, and your deposit is fully refundable during that period. **A deposit is therefore not "non-refundable" during the cooling-off period unless you have consented to immediate commencement.**



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6.3.5 After the cooling-off period has expired or fallen away, a deposit is non-refundable to the extent of work already performed and third-party costs already incurred, and we will account to you for the balance.

6.3.6 If a sale results from direct marketing by us and section 44 of ECTA does not apply to it, you have a cooling-off right of five business days under section 16 of the Consumer Protection Act 68 of 2008 instead.

7. CARD AND PAYMENT SECURITY

7.1 We do not store full credit or debit card numbers on our own systems. Card payments are processed through the PCI-DSS compliant third-party payment processors identified in Schedule 1.

7.2 Card and banking details you submit are transmitted directly to and handled by that processor, in accordance with its own security standards and applicable payment card industry rules.

7.3 As required by section 43(5) of ECTA, we use a payment system that is sufficiently secure with reference to accepted technological standards at the time of the transaction.

7.4 Where we integrate a payment gateway into your Website or Application, that gateway is a Third Party Vendor and clause 10 applies. We do not receive, process or store card data passing through such a gateway.

8. CONFIDENTIALITY

8.1 Each party must keep confidential all information of the other party that is marked confidential or that is by its nature confidential, including business information, personal information, credentials, pricing, content, source code, methodologies and commercial terms.

8.2 A party may disclose confidential information only: to its personnel, subcontractors and professional advisers who need it and who are bound by equivalent obligations; where required by law, regulation or a valid court order; or with the other party's prior written consent.

8.3 The obligation does not apply to information that is or becomes public through no breach of this clause, that the recipient already lawfully held, or that the recipient independently develops.

8.4 This clause survives termination or cancellation of the Services indefinitely.

9. DATA PROTECTION

9.1 Each party will comply with the Protection of Personal Information Act 4 of 2013 ("**POPIA**") and, where applicable, other data protection law.

9.2 In relation to personal information contained in or accessible through the Deliverables - including your own customers', subscribers' or staff's information - **you are the responsible party and we are**



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the operator. We process that information only on your documented instructions and for the purposes of delivering the Services.

9.3 Section 21(1) of POPIA requires a written contract between a responsible party and an operator. The **Operator Agreement** satisfies that requirement and forms part of this agreement wherever we host, maintain or support the Deliverables.

9.4 You warrant that you have a lawful basis under section 11 of POPIA for the processing you instruct us to perform, that you have given the notification required by section 18 to the relevant data subjects, and that where the processing involves a child's personal information or special personal information you have identified the applicable authorisation in sections 26 to 35 of POPIA and recorded it in the Operator Agreement.

9.5 You remain responsible for publishing your own privacy notice, cookie notice and, where applicable, PAIA manual on your Website or Application. Unless the Project Scope expressly says otherwise, we do not draft those documents and give no advice on their content.

9.6 Our own processing of your personal information as responsible party is described in our Privacy Policy at www.cyberbear.co.za

9.7 Where we become aware of a security compromise affecting personal information for which you are the responsible party, we will notify you immediately, as required by section 21(2) of POPIA, and will assist you with your notifications to the Information Regulator and affected data subjects.

10. THIRD PARTY VENDORS AND THIRD PARTY MATERIALS

10.1 Where you request functionality requiring integration with a Third Party Vendor, we will only integrate vendors we have assessed as reasonably reliable and secure. We will identify the vendor in the Project Scope before implementation.

10.2 You acknowledge that:

- (a) each Third Party Vendor operates under its own terms, privacy policy and fee structure, which you are responsible for reviewing and accepting directly;
- (b) we are not responsible for the acts, omissions, security practices, downtime, pricing changes, discontinuation or data handling of any Third Party Vendor; and
- (c) data shared with a Third Party Vendor as part of an integration is governed by that vendor's own practices.

10.3 We will act reasonably and in good faith in recommending and configuring integrations, but we do not guarantee the performance or availability of third-party services.

10.4 **Third Party Materials.** The Deliverables may incorporate Third Party Materials, including open-source software. Each is licensed to you on the terms of its own licence, not on the terms of clause 11. We will:



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- (a) provide, on request or on completion, a list of the material Third Party Materials incorporated in the Deliverables and the licence applicable to each;
- (b) not knowingly incorporate any Third Party Material whose licence conflicts with your intended use of the Deliverables as disclosed to us in the Project Scope; and
- (c) not incorporate any Third Party Material licensed on terms requiring the disclosure or copyleft licensing of your proprietary code, without telling you first.

10.5 We grant no rights in Third Party Materials beyond those the relevant licensor grants, and the warranty in clause 18.1 does not extend to them.

10.6 Where a Third Party Material or Vendor requires an ongoing licence fee or subscription, that cost is yours and continues after termination if you continue to use it.

11. INTELLECTUAL PROPERTY

11.1 Client Content

11.1.1 Client Content remains your property, or that of your licensor. You grant us a non-exclusive, royalty-free licence to use, reproduce, adapt and store Client Content to the extent necessary to perform the Services and, subject to clause 11.7, to display it in our portfolio.

11.1.2 You warrant that you own or are licensed to use all Client Content and that its use as contemplated by the Project Scope does not infringe any third party's rights.

11.2 Authorship of the Software — control over the making

11.2.1 The parties record that Cyberbear exercises control over the making of the Software: Cyberbear selects the architecture, languages, frameworks, libraries, data structures and implementation approach, and directs the persons who write the code. Cyberbear is accordingly the author and first owner of the copyright in the Software.

11.2.2 You acknowledge that your participation in the project including supplying requirements, specifications, functional descriptions, wireframes, feedback, approvals and change requests constitutes the communication of your requirements and does not constitute control over the making of the Software.

11.2.3 To the extent that, contrary to clause 11.2.1, any copyright in the Software vests in you, you hereby cede and assign that copyright to Cyberbear, and will sign any document reasonably required to give effect to that cession.

11.2.4 Cyberbear retains ownership of all know-how, methodologies, tools, libraries, frameworks, templates and reusable components it develops or uses, including anything developed in the course of





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your project that is of general application, and may reuse them freely provided it does not disclose your confidential information or Client Content.

11.3 Designs, artwork and copy

11.3.1 Copyright in the visual design, layout, artwork, illustrations, iconography and photographs we create, and in any copy we write, vests in Cyberbear on creation.

11.3.2 On payment in full of the Build Fee, Cyberbear grants you the licence in clause 11.4 in respect of those works. Designs, concepts and artwork we prepare but which you do not select or pay for remain ours and may be reused.

11.4 Licence granted to you

11.4.1 On payment in full of the Build Fee, Cyberbear grants you a **perpetual, irrevocable, worldwide, non-exclusive, non-transferable, royalty-free licence** to use, host, display, operate and (subject to clause 11.4.3) modify the Deliverables for your own business purposes.

11.4.2 **That licence is not conditional on your continuing to subscribe to a Care Package, and it does not terminate when a Care Package terminates.** What a Care Package fee buys is the ongoing service hosting, maintenance, updates, monitoring and support not the right to continue using what you have already paid to have built.

11.4.3 The licence does not permit you to resell, sublicense or distribute the Software as a standalone product, or to use it to build websites or applications for third parties. You may engage another developer to maintain and modify the Deliverables for your own use, and you may sublicense to that developer to the extent necessary for that purpose.

11.4.4 If you modify the Deliverables, or have them modified by anyone other than us, we are not responsible for the consequences and clause 18.1 ceases to apply to the affected part.

11.4.5 Until the Build Fee is paid in full, you have a limited licence to review and test the Deliverables in a staging environment only. We may withhold launch until payment is received.

11.5 Optional assignment of ownership

11.5.1 If you wish to acquire ownership of the copyright in the Software rather than a licence, we will negotiate that in good faith. It will be recorded in a separate written assignment, signed by us, and a separate fee will be payable.

11.5.2 Where an assignment is agreed and you are **not a resident of South Africa**, the assignment is subject to the prior written approval of the South African Reserve Bank or National Treasury, as a condition precedent. Regulation 10(1)(c) of the Exchange Control Regulations, as amended with effect from 8 June 2012, treats intellectual property rights, whether registered or unregistered, as "capital", and treats the cession or assignment of such rights to a non-resident as an export of capital. Each party will



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do what is reasonably necessary to obtain that approval, and we will not be in breach while approval is outstanding.

11.5.3 An assignment does not extend to Third Party Materials or to the items in clause 11.2.4.

11.6 Domain names, accounts and source code access

11.6.1 **All domain names are registered in your name, with you as the registrant, and remain your property.** Where we register a domain on your behalf we do so as your agent, and we will transfer or unlock it to you on request within **7** business days of a written request, provided your account is up to date.

11.6.2 Where an Application is distributed through an app store, the developer account will be registered in your name unless you instruct otherwise in writing. If we publish through a Cyberbear developer account at your request, we will transfer the listing to your account on request, subject to the store operator's process and any fee it charges.

11.6.3 Where the Deliverables are held in a version control repository, we will on request grant you read access, and on termination provide you with a copy of the source code as at termination, in each case at no charge.

11.7 Portfolio and publicity

11.7.1 We may display the Deliverables, together with your name and logo, in our portfolio, marketing materials, case studies and social media, unless you tell us in writing that we may not. You may withdraw that permission at any time in writing and we will remove the material within **30** business days.

11.7.2 This clause does not permit us to disclose your confidential information, commercial terms, traffic or revenue figures without your written consent.

11.7.3 You grant us a limited licence to use your trade marks solely for the purpose permitted in clause 11.7.1.

12. PROJECT PROCESS, ACCEPTANCE, CHANGES AND DELAY

12.1 **Your responsibilities.** You must provide content, feedback, approvals, credentials and access promptly, and must nominate a single person authorised to give instructions and approvals on your behalf.

12.2 **Acceptance.** On completion of a milestone or of the build we will notify you and make the Deliverables available for review. You must accept, or notify us in writing of any material non-conformity with the Project Scope, within **5** business days. If you do not, the Deliverables are deemed accepted.



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12.3 Change control. Any change to the Project Scope must be agreed in writing before we implement it. We will tell you the effect on the price and the timeline before you commit. Work outside the Project Scope is charged at our then-current hourly rate.

12.4 Delay by you. If you delay in providing anything we reasonably require, the timeline is extended by at least the period of delay, and we are not liable for any consequence of that delay. We may re-sequence our resources and, where a delay exceeds **7** business days, may charge a re-mobilisation fee of **25%**.

12.5 Dormant projects. If you do not respond to our written requests for **30** consecutive days, we may place the project on hold and invoice for all work performed to date. If you do not respond for **60** consecutive days, we may terminate the project on written notice, invoice for work performed to date, and retain the deposit. We will store the work product for **6** months, and will make it available to you on payment of amounts due.

12.6 Testing scope. Unless the Project Scope says otherwise, we test the Deliverables on the current and immediately preceding major versions of the current mainstream browsers and, for an Application, on the operating system versions stated in the Project Scope. We do not warrant behaviour on end-of-life platforms.

13. HOSTING, UPTIME, BACKUPS AND SUPPORT

13.1 We will use reasonable endeavours to achieve monthly uptime of not less than **99%**, excluding scheduled maintenance, your own acts or omissions, Third Party Vendor failures, and events of force majeure. We do not warrant uninterrupted or error-free service.

13.2 We will give not less than **48** hours' notice of scheduled maintenance likely to cause downtime, save in an emergency or where a security patch must be applied urgently.

13.3 Support response and resolution targets, update allowances and inclusions are governed by your Care Package tier.

13.4 In the absence of agreed targets, we will respond to a report of a total site outage within **4** business hours, to a report of a material defect within **1** business day, and to any other request within **3** business days.

13.5 Backups. For each hosted Website or Application we take:

- (a) a full backup of files and databases not less than once every **24** hours; and
- (b) retained on a rolling basis for not less than **30** days.

13.6 Our recovery point objective is **24** hours and our recovery time objective is **10** business hours from the time we are able to begin a restore. We will restore from the most recent viable backup at no charge where data loss arises from a cause within our control.



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13.7 You are nonetheless encouraged to keep your own independent copy of critical content and data, and we will provide an export on request at no charge, not more than once per quarter.

13.8 You must not use the Services to store or transmit unlawful material, to send unsolicited bulk communications, or in a way that impairs the infrastructure or other customers. We may suspend the Services immediately, without prior notice, where continued operation would expose us to legal liability or would materially threaten the integrity or security of our infrastructure, and will notify you as soon as practicable afterwards.

14. CONTENT AND CLIENT WARRANTIES

14.1 You are responsible for the accuracy, legality, decency and appropriateness of all Client Content, and for ensuring that your Website or Application, and your business as conducted through it, comply with all laws applicable to you including consumer protection, data protection, advertising, financial services, health, gambling and sector-specific regulation.

14.2 **You indemnify us against any claim, loss, damage, fine or reasonable legal cost we suffer arising from Client Content that is unlawful or that infringes the rights of a third party, or from your use of the Deliverables in breach of clause 13.9.** This indemnity:

- (a) does not apply to the extent that the claim arises from our own breach, negligence, gross negligence, fraud or wilful misconduct;
- (b) does not apply to Third Party Materials that we selected and incorporated;
- (c) is limited to claims of which we notify you promptly and in respect of which we give you a reasonable opportunity to participate in the defence; and
- (d) does not extend to any amount we settle without your consent.

14.3 We may, but are not obliged to, decline to publish Client Content we reasonably believe to be unlawful, and will tell you why.

15. CANCELLATION AND TERMINATION

15.1 Where the Client is a natural person

15.1.1 You may cancel a Care Package at any time, without penalty or charge, by giving us **30 business days' notice in writing or other recorded form**, as provided in section 14(2)(b)(i) of the Consumer Protection Act.

15.1.2 You remain liable for amounts owing up to the date on which cancellation takes effect, and we may impose a reasonable cancellation penalty in respect of goods supplied, services provided or a discount granted to you, calculated in accordance with section 14(3)(b) and regulation 5(2).



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15.1.3 We may cancel a Care Package **20 business days after giving you written notice of a material failure by you to comply with this agreement**, unless you have rectified the failure within that period.

15.2 Where the Client is a juristic person

15.2.1 Either party may cancel a Care Package by giving the other 30 days' written notice.

15.2.2 We may suspend or terminate the Services immediately on written notice where: an amount remains unpaid for more than **30** days after the due date and after the notice contemplated in clause 6.2.4; you commit a material breach and fail to remedy it within **7** business days of written notice; you commit an irremediable material breach; you use the Services unlawfully; you are placed under business rescue, liquidation or sequestration, or commit an act of insolvency; or your personnel are abusive toward ours.

15.3 Provisions common to both

15.3.1 Notice of cancellation must be in writing or another recorded form. E-mail to the address in Schedule 1 is sufficient. Verbal notice is not effective.

15.3.2 During the notice period, Care Package fees remain payable and we will continue to provide the Services as normal.

15.3.3 Cancellation of a Care Package does not entitle you to a refund of the Build Fee, or of fees already paid for the current billing period, except as required by law or under clause 6.3.

15.3.4 You may cancel a build project before completion on written notice. You remain liable for all work performed and third-party costs incurred to the date of cancellation, and clause 11.4.5 applies until those amounts are paid.

16. CONSEQUENCES OF TERMINATION

16.1 On expiry of the notice period, and provided all amounts due have been paid, we will:

- (a) provide you with a copy of the current source code, domain, and content, in a commonly used format;
- (b) transfer or unlock any domain name registered in your name;
- (c) hand over or revoke, as you direct, all credentials for systems in your name; and
- (d) deactivate hosting.

16.2 We will keep your data available for retrieval for 30 days after deactivation, after which we will securely delete it, save for backups that expire in the ordinary course and records we are required to retain by law.



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16.3 You are responsible for arranging alternative hosting before the end of the notice period. We will provide reasonable migration assistance, at our then-current hourly rate, if you request it.

16.4 Clauses 8 (confidentiality), 9 (data protection), 11 (intellectual property), 14.2 (indemnity), 16, 17 (limitation of liability) and 20 (governing law) survive termination.

16.5 Where we withhold performance under this clause because amounts remain unpaid, we will nonetheless not withhold anything registered in your name, and will not withhold your Client Content.

17. LIMITATION OF LIABILITY

17.1 **Subject to clauses 17.3 and 17.4, our total aggregate liability to you for all claims arising out of or in connection with the Services, whether in contract, delict or otherwise, is limited to the greater of (a) the total fees paid by you to us in the [[6]] months preceding the event giving rise to the claim, and (b) R25 000. 00.**

17.2 **Subject to clauses 17.3 and 17.4, we are not liable for indirect, special, incidental or consequential loss, including loss of profit, loss of business, loss of goodwill, loss of anticipated savings or loss of data, arising from the use of or inability to use the Services.**

17.4 You must notify us in writing of any claim within **30** days of becoming aware of it, or ought reasonably to have become aware of the facts giving rise to it.

17.5 Each limitation and exclusion in this clause is severable. If any is held unenforceable, the others continue to apply.

18. WARRANTIES AND DISCLAIMERS

18.1 We warrant that we will perform the Services with reasonable skill and care, in a professional manner consistent with generally accepted industry standards, and that for **30** days after acceptance the Deliverables will operate materially in accordance with the Project Scope. Our sole obligation for breach of that warranty is to remedy the defect at no charge.

18.2 **Except as expressly stated in these Terms, and to the extent permitted by law, the Services and Deliverables are provided without warranties of any kind, express or implied, including warranties of merchantability, fitness for a particular purpose and non-infringement.**

18.3 We do not warrant or guarantee any specific business outcome, search engine ranking, conversion rate, sales figure or traffic level, or that an Application will be approved for distribution by any app store operator.

18.4 Unless the Project Scope expressly includes it, we do not warrant that the Deliverables comply with any accessibility standard, or with the laws of any country other than South Africa.

18.5 The warranty in clause 18.1 does not apply to Third Party Materials, to any part of the Deliverables modified by anyone other than us, or to a defect caused by Client Content or by your instructions.



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18.6 This clause does not limit the implied warranty of quality in section 55 of the Consumer Protection Act, or any other right of a Consumer that cannot be contracted out of.

19. FORCE MAJEURE

19.1 Neither party is liable for a delay or failure to perform (other than an obligation to pay money) caused by an event beyond its reasonable control, including load shedding and power outages, internet, network or upstream provider outages, natural disaster, epidemic or pandemic, war, civil unrest, and acts of government.

19.2 The affected party must notify the other in writing as soon as reasonably practicable, describe the event and its likely duration, and use reasonable endeavours to mitigate and resume performance.

19.3 If the event continues for more than **30** consecutive days, either party may terminate the affected Services on **10** business days' written notice. On termination we will refund fees paid in advance for Services not yet provided.

19.4 Load shedding is a foreseeable feature of operating in South Africa, and clause 19.1 does not excuse a failure to maintain the reasonable backup power, redundancy and failover arrangements.

20. GOVERNING LAW AND DISPUTE RESOLUTION

20.1 These Terms are governed by the law of the Republic of South Africa.

20.2 The parties will first attempt in good faith to resolve any dispute by negotiation between senior representatives within **10** business days of written notice of the dispute. If that fails, the parties may agree to refer the dispute to mediation, and failing agreement either party may proceed under clause 20.3.

20.3 Subject to clauses 20.4 and 20.5, the parties consent to the jurisdiction of the **High Court of South Africa, Gauteng Division, Johannesburg**, and, in respect of any claim falling within its monetary jurisdiction, additionally consent in terms of section 45 of the Magistrates' Courts Act 32 of 1944 to the jurisdiction of the Magistrate's Court.

20.4 The party successful in any litigation is entitled to recover its legal costs on the scale as between attorney and client.

21. CHANGES TO THESE TERMS

21.1 We may amend these Terms. The current version is always published at www.cyberbear.co.za with a version number and date.

21.2 Where an amendment materially affects the rights or obligations of an active Client, we will give that Client not less than **30** days' written notice before it takes effect.



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21.3 If you do not accept a material amendment you may cancel the affected Services, on notice expiring no later than the date the amendment takes effect, without penalty. Continued use of the Services after the amendment takes effect constitutes acceptance.

21.4 An amendment does not apply retrospectively to a build project already in progress under an accepted Project Scope.

22. GENERAL

22.1 **Entire agreement.** This Agreement constitutes the entire agreement between the parties in respect of the Services and supersede all prior discussions and agreements.

22.2 **Severability.** If any provision is found invalid or unenforceable, it is severed and the remaining provisions continue in full force.

22.3 **No waiver.** A failure or delay in enforcing a provision is not a waiver of that or any other provision. A waiver is effective only if in writing and signed.

22.4 **Variation.** No variation of these Terms is effective unless in writing and signed by or on behalf of both parties, save for an amendment made under clause 21.

22.5 **Assignment.** You may not assign or transfer your rights or obligations without our prior written consent, which we will not unreasonably withhold. We may assign ours in connection with a sale, merger or restructuring of our business, on written notice to you, provided the assignee assumes our obligations.

22.6 **Notices.** Formal notices must be in writing and sent to the address or e-mail address in Schedule 1, or to the address or e-mail address last notified by you. A notice sent by e-mail is deemed received on the **first business day after transmission**, unless the sender receives an automated delivery-failure notification.

22.7 **Relationship.** Nothing in these Terms creates a partnership, joint venture, employment or agency relationship, save as expressly stated in clause 11.6.1.

22.8 **Language.** These Terms are concluded in English. Any translation is for convenience only and the English text prevails.

SCHEDULE 1 — SUPPLIER INFORMATION (ECTA SECTION 43)

This Schedule contains the information required by section 43(1) of the Electronic Communications and Transactions Act 25 of 2002. It must also be published on the Cyberbear website as a standalone, easily accessible page. If this information is not provided, a Consumer may cancel the transaction within 14 days of receiving the services under section 43(3).



TERMS & CONDITIONS

ECTA s 43(1) requirement	Cyberbear
(a) Full name and legal status	Cyberbear (Pty) Ltd, a private company
(b) Physical address and telephone number	30 Moira Avenue, Crosby, Johannesburg, 2092 0662212614
(c) Website address and e-mail address	www.cyberbear.co.za Support@cyberbear.co.za
(d) Membership of any self-regulatory or accreditation body, and contact details	None
(e) Any code of conduct to which we subscribe, and how it may be accessed electronically	None
(f) Registration number, names of office bearers, and place of registration	K2026/641370/07 Director: Goolam Mustafa Lawrence Registered in the Republic of South Africa
(g) Physical address for receipt of legal service of documents	30 Moira Avenue, Crosby, Johannesburg, South Africa
(h) Description of the main characteristics of the services	Design, development, hosting, maintenance and support of websites and mobile applications. See clause 5 and the applicable Project Scope.
(i) Full price, including transport costs, taxes and any other fees	Set out in each quote or proposal, inclusive of VAT where applicable, before you commit. See clause 6.1.
(j) Manner of payment	EFT, credit or debit card via the gateway named below, recurring debit order.
(k) Terms of agreement, including any guarantees	These Terms and Conditions, at www.cyberbear.co.za Warranties are in clause 18.
(l) Time within which the services will be rendered	As stated in the Project Scope; see clauses 6.3.7 and 12.
(m) Manner and period within which you may access and maintain a full record of the transaction	We e-mail a copy of the accepted quote, the accepted version of these Terms and each invoice. Records remain available on request for 5 years. See clause 2.2.





TERMS & CONDITIONS

ECTA s 43(1) requirement	Cyberbear
(n) Return, exchange and refund policy	Cooling-off and refunds: clause 6.3. Cancellation: clause 15. Warranty remedy: clause 18.1.
(o) Alternative dispute resolution code to which we subscribe, and how it may be accessed	None - disputes are handled under clause 20
(p) Security procedures and privacy policy for payment, payment information and personal information	Clause 7 and the Cyberbear Privacy Policy at www.cyberbear.co.za
(q) Minimum duration of the agreement, where services are supplied on an ongoing or recurrent basis	Care Packages: One (1) month. See clause 15.
(r) Your rights under section 44 of ECTA	Set out in clause 6.3.

