

Terms and Conditions applicable to a buyer of www.factoryshopssa.co.za

These terms and conditions are the contract between you and FSSA (PTY) Ltd (“us”, “we”, etc). By visiting or using Our Website, you agree to be bound by them. Our suppliers may also impose additional terms and conditions to which your contract with them will be subject.

www.factoryshopssa.co.za is a trade name of FSSA (PTY) Ltd, 2018 / 446919 / 07 registered in the Republic of South Africa, whose registered office is at Unit 31, Millennium Business Park, Edison Way, Century City, Cape Town.

Under 18 years? Sorry, but we deal only with people who are legally able to enter into a binding contract. Please ask someone over 18 to buy your Product on your behalf.

If you use our Service, you do so in accordance with these terms. If you are unable to accept these terms, your only remedy is to leave Our Website and stop using the Factory Shops SA App.

1. Definitions

“Factory Shops SA App”	means the mobile phone / cell-phone software application which enables you to browse Factory Shops using your phone. It includes any “app” or other product, material or thing offered for licence by us on Our Website, including supporting material, in hard or soft copy, and whether or not bought by you. A reference to “ www.factoryshopssa.co.za ” shall be a reference to all or part of the Factory Shops SA App.
“Service”	means the service we provide to you via the Factory Shops SA App or www.factoryshopssa.co.za website.
“Content”	means the textual, visual or audio content that is encountered as part of your experience using the Factory Shop SA App or Our Website. It may include, among other things: text, images, sounds, videos and animations. It includes content Posted by you and all of the content provided by Sellers to inform illustrate and promote sales of the Products.
“Copy or Publish”	with reference to the Factory Shops SA App, means

	reproducing or publishing in whole or in part, using any means, in any medium. It includes breaking up, changing, cropping or any other change or use as part of some other software.
“Device”	includes any device, work station, electronic application or electronic receiving device.
“Licence”	means a licence granted by us to you in the terms of this agreement for use of the Factory Shops SA App.
“Our Website”	means any website or service designed for electronic access by mobile or fixed devices which is owned or operated by us. It includes all of the hardware and software installations that enable Our Website to function.
"Post"	means place on or into Our Website any Content or material of any sort by any means.
“Product”	means any product offered for sale on Our Website, through any medium.
“Seller”	means a person or organisation whose Products we offer for sale through the Factory Shops SA App or www.factoryshopssa.co.za website.
“Software”	means the software which constitutes the Factory Shops SA App or which provides any electronic function which supports the use of it.

2. Our contract

- 2.1. We do not offer Service in all countries. We may refuse service if you live in a country we do not serve.
- 2.2. In entering into this contract you have not relied on any representation or information from any source except the definition and explanation of the Service given on Our Website.
- 2.3. Except in some cases, we are neither a buyer nor seller of Products offered for sale in any form. We are not either a principal or agent in a buying transaction.
- 2.4. www.factoryshopssa.co.za is a marketplace. We are agents of a Seller only to the extent of use of Our Website as a platform for sale of his Products and for collection and forwarding of your money. We are not responsible to you further than to take your money and pass it to the Seller.
- 2.5. We welcome any comment or complaint about a Seller, which you make through Our Website. We may act upon a complaint in our discretion, for the benefit of the body of our members.

- 2.6. Although we aim to facilitate all transactions on our website, we are not ultimately responsible for delivery of any Product you order or for the returns and repayment procedure should you decide to return a Product for any reason.
- 2.7. In any dispute with a Seller, you should deal only with the Seller. We have neither legal obligation nor detailed information about the Product.
- 2.8. We may change this agreement in any way at any time. The version applicable to your contract is the version which is Posted on Our Website at the time you buy a Product.

3. Your account and personal information

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

4. The buying procedure

- 4.1. www.factoryshopssa.co.za is not responsible for the fulfilment of your contract to buy a Product.
- 4.2. Prices listed on Our Website by Sellers are inclusive of any applicable sales tax.
- 4.3. Unless it is clear to the contrary, you may assume that every sale is made by a Seller in the course of his business.
- 4.4. Products may be offered for sale subject to any discount or promotion arranged between www.factoryshopssa.co.za and the Seller.

- 4.5. If, by mistake, we have under-priced an item, we will not be liable to supply that item to you at the stated price, provided that we notify you before we dispatch it to you.
- 4.6. Subject to discounts and promotions, Products are offered for sale at a fixed price. VAT may be due and will be either included in the price or shown separately. If not shown, it will not be charged.
- 4.7. All Products will be subject to a delivery charge which will be shown at the pay point. The delivery charge will be fixed for each item offered for sale. It may be changed at the discretion of www.factoryshopssa.co.za.
- 4.8. Orders from multiple sellers could incur multiple delivery charges.
- 4.9. Neither we nor the Seller can be responsible for action by any governmental authority. We do not know and are not responsible for duties, taxes, delays or impounding of any item.
- 4.10. Any detail given by us in relation to exchange rates is approximate only and may vary from time to time.
- 4.11. For security purposes (yours and ours) we will not permit more than a maximum number of transactions with you in a given period of time.
- 4.12. To make future use of Our Website easier and faster for you, we will retain the personal and delivery information you give to us. We will not retain information relating to your payment or credit card. This financial information never comes into our control. The information is given into a page which is in reality a page of our payment service provider. For detailed about disclosure of personal information please see our privacy notice.

5. Acceptance

- 5.1. Your order is an offer to buy from the Seller.
- 5.2. Nothing said or done by the Seller is an acceptance of an order until the Seller actually dispatches the Product.
- 5.3. At any time before a Product is despatched, the Seller may decline to supply the Product to you without giving any reason.

6. www.factoryshopssa.co.za guarantee

- 6.1. To give you the utmost confidence in the www.factoryshopssa.co.za buying experience, we offer you an after sales guarantee :
- 6.2. If the Seller fails to supply a Product to you for which you have paid, or supplies a Product which is substantially different from what you ordered, we ourselves will refund the cost to you.
- 6.3. This guarantee is subject to the following conditions:
 - 6.3.1 you must first follow the returns and refunds procedure set out on Our Website;
 - 6.3.2 We will make the payment to you between [30] and [60] days from the date we receive your claim form, as provided on Our Website;
 - 6.3.3 the claim form must be completed truthfully and accurately;
 - 6.3.4 you must provide a street address to us in in the Republic of South Africa.
 - 6.3.5 In the case of excessive claims received by www.factoryshopssa.co.za, we reserve the right stop the future supply of goods.
 - 6.3.6 you must not have requested a charge back from your credit card company.
- 6.4. The guarantee set out in this paragraph is non contractual. We shall operate it at our entire discretion.

7. How we handle your Content

- 7.1. Our privacy policy is strong and precise. It complies fully with current law.
- 7.2. If you Post Content to any public area of Our Website it becomes available in the public domain. We have no control who sees it or what anyone does with it.
- 7.3. Even if access to your text is behind a user registration it remains effective in the public domain because someone has only to register

and log in, to access it. You should therefore avoid Posting unnecessary confidential information.

- 7.4. We need the freedom to be able to publicise our Services and your own use of them. You therefore now irrevocably grant us the right and licence to edit, copy, publish, distribute, translate and otherwise use any Content that you place on Our Website, in the public domain and in any medium. You represent and warrant that you are authorised to grant all such rights.
- 7.5. We will use that licence only for commercial purposes of the business of Our Website and will stop using it after a commercially reasonable period of time.
- 7.6. You agree to waive of your right to be identified as the author and your right to object to derogatory treatment of your work as provided in the Copyright Act 1978.
- 7.7. You now irrevocably authorise us to publish feedback, comments and ratings about your activity through Our Website, even though it may be defamatory or critical.
- 7.8. Posting Content of any sort does not change your ownership of the copyright in it. We have no claim over it and we will not protect your rights for you.
- 7.9. You understand that you are personally responsible for your breach of someone else's intellectual property rights, defamation, or any law, which may occur as a result of any Content having been Posted by you;
- 7.10. You accept all risk and responsibility for determining whether any Content is in the public domain and not confidential.
- 7.11. Please notify us of any security breach or unauthorised use of your account.
- 7.12. We do not solicit ideas or text for improvement of our Service, but if you do send to us material of any sort, you are deemed to have granted to us a licence to use it in the terms set out at sub paragraph five above

8. Consumer protection: cancellation and refunds

This and the following paragraph is not contractually part of this agreement. These are statement of your rights as a consumer as defined in the Electronic Communications and Transactions Act 2002 and of the procedures with which all our Sellers have been asked to comply. We have no responsibility if they fail to do so. We are not party to your contract with the Seller. Please refer any question about a Product to the Seller.

- 8.1. As required by the law, details of Seller's after-sales service and guarantees, if any, are given on their various websites terms and conditions or in catalogues.
- 8.2. Products are delivered within 14 days from the day you place an order to purchase a Product.
- 8.3. You may cancel your order at any time before the expiry of 7 days from the date you receive the Product, not including the day you received it.
- 8.4. You are responsible for the cost of returning a Product. The Seller has no obligation to refund to you, your cost of re-packing and returning a Product.
- 8.5. The option to cancel your order is not available:
 - 8.7.1 if you purchase sealed goods which relate to health or hygiene, and they become unsealed after delivery, or cannot be re-sold for some other reason;
 - 8.7.2 sealed audio or sealed video recordings or sealed computer software, if these become unsealed after delivery;
 - 8.7.3 if the goods become mixed inseparably (according to their nature) with other items after delivery.
- 8.6. In the event of cancellation of an order by you in compliance with these terms, the Seller will refund any money due to you within 30 days.
- 8.7. To assist the Seller in identifying your Product on receipt by him, the Seller may ask you to provide telephone number for a return reference to be placed below his address / returns label.
- 8.8. This paragraph does not affect your rights in the event that the Products are faulty.

9. Products returned

These provisions apply in the event that you return any Product to the Seller for any reason:

- 9.1. You should examine Product on receipt to check for possible defects and to satisfy yourself that it complies with your order, is of merchantable quality and in safe, clean and usable condition.
- 9.2. The Product must be returned to the Seller as soon as any defect is discovered but not later than 6 months.
- 9.3. Product should be returned in accordance with the procedure set out on the Seller's website or otherwise in his terms and conditions.
- 9.4. So far as possible, a Product should be returned:
 - 9.4.1 with both Product and all packaging as far as possible in their original condition;
 - 9.4.2 securely wrapped;
 - 9.4.3 including the Seller's delivery slip;
 - 9.4.4 at your risk and cost.
- 9.5. In returning a defective Product, please enclose with it a note clearly stating the fault and when it arises or arose.
- 9.6. If the Seller agrees that the Product is defective, he will send a new copy to you or refund the full cost you have paid.

10. Security of your credit card

We take care to make Our Website safe for you to use.

- 10.1. Card payments are not processed through pages controlled by us. We use one or more online payment service providers who will encrypt your card or bank account details in a secure environment.
- 10.2. If you have asked us to remember your credit card details in readiness for your next purchase or subscription, we will securely store your payment details on our systems. These details will be fully encrypted and only used to process your automatic monthly payments or other transactions which you have initiated.

11. Restrictions on what you may Post to Our Website

We have to regulate your use of Our Website to protect our business and our staff, to protect other users of Our Website and to comply with the law. This paragraph applies so far as we allow you to Post Content.

We do not undertake to moderate or check every item Posted, but we do protect our business vigorously. If we believe Content Posted breaches the law, we shall co-operate fully with the law enforcement authorities in whatever ways we can.

You agree that you will not use or allow anyone else to use Our Website to Post Content or undertake any activity which is or may:

- 11.1. be unlawful, or tend to incite another person to commit a crime;
- 11.2. consist in commercial audio, video or music files;
- 11.3. be obscene, offensive, threatening, violent, malicious or defamatory;
- 11.4. be sexually explicit or pornographic;
- 11.5. be likely to deceive any person or be used to impersonate any person, or to misrepresent your identity, age or affiliation with any person;
- 11.6. use a Posting to solicit responses unconnected with the purpose of Our Website or the terms proposed by this agreement;
- 11.7. request or collect passwords or other personal information from another user without his permission, nor Post any unnecessary personal information about yourself;
- 11.8. be used to sell any goods or services or for any other commercial use not intended by us, for you or for any other person. Examples are: sending private messages with a commercial purpose, or collecting information with the intention of passing it to a third party for his commercial use;
- 11.9. include anything other than words (i.e. you will not include any symbols or photographs) except for a photograph of yourself in your profile in such place as we designate;
- 11.10. facilitate the provision of unauthorised copies of another person's copyright work;
- 11.11. link to any of the material specified in this paragraph;

- 11.12. use distribution lists that include people who have not given specific permission to be included in such distribution process;
- 11.13. send age-inappropriate communications or Content to anyone under the age of 18.

12. Your Posting: restricted content

In connection with the restrictions set out below, we may refuse or edit or remove a Posting which does not comply with these terms.

In addition to the restrictions set out above, a Posting must not contain:

- 12.1. hyperlinks, other than those specifically authorised by us;
- 12.2. keywords or words repeated, which are irrelevant to the Content Posted.
- 12.3. the name, logo or trademark of any organisation other than yours.
- 12.4. inaccurate, false, or misleading information;

13. Removal of offensive Content

- 13.1. For the avoidance of doubt, this paragraph is addressed to any person who comes on Our Website for any purpose.
- 13.2. We are under no obligation to monitor or record the activity of any user of Our Website for any purpose, nor do we assume any responsibility to monitor or police Internet-related activities. However, we may do so without notice to you and without giving you a reason.
- 13.3. If you are offended by any Content, the following procedure applies:
 - 13.3.1 your claim or complaint must be submitted to us in the form available on Our Website, or contain the same information as that requested in our form. It must be sent to us by post or email.
 - 13.3.2 we shall remove the offending Content as soon as we are reasonably able;
 - 13.3.3 after we receive notice of a claim or complaint, we shall investigate so far as we alone decide;

13.3.4 we may re-instate the Content about which you have complained or we may not.

- 13.4. In respect of any complaint made by you or any person on your behalf, whether using our form of complaint or not, you now irrevocably grant to us a licence to publish the complaint and all ensuing correspondence and communication, without limit.
- 13.5. You now agree that if any complaint is made by you frivolously or vexatiously you will repay us the cost of our investigation including legal fees, if any.

14. Interruption to our Service

- 14.1. We give no warranty that our Service will be satisfactory to you.
- 14.2. We will do all we can to maintain access to Our Website, but it may be necessary for us to suspend all or part of our Service for repairs, maintenance or other reason. We may do so without telling you first.
- 14.3. You acknowledge that our Service may also be interrupted for reasons beyond our control.
- 14.4. You agree that we are not liable to you for any loss whether foreseeable or not, arising as a result of interruption to our Service.

15. Disclaimers and limitation of liability

- 15.1. The law differs from one country to another. This paragraph applies so far as the applicable law allows.
- 15.2. All implied conditions, warranties and terms are excluded from this agreement.
- 15.3. We provide a market place for the supply of Products. We are in no way responsible for:
- 18.3.1 your locating and ordering a Product;
 - 18.3.2 your choice of a Product;
 - 18.3.3 any aspect of the provision of the Products;
 - 18.3.4 refund payment for any Product;

18.3.5 any complaint about any Product.

- 15.4. Our Website includes Content Posted by Sellers and other third parties. We are not responsible for any such Posting. If you come across any Content which offends against this document, please contact us via the "Contact us" page on Our Website.
- 15.5. You are advised that Content may include technical inaccuracies or typographical errors. We would be grateful if you bring to our immediate attention, any that you find.
- 15.6. Our Website contains links to other Internet websites. We have neither power nor control over any such website. You acknowledge and agree that we shall not be liable in any way for the content of any such linked website, nor for any loss or damage arising from your use of any such website.
- 15.7. We claim no expert knowledge in any subject. We disclaim any obligation or liability to you arising directly or indirectly from information you take from Our Website.
- 15.8. We shall not be liable to you for any loss or expense which is:
- 18.8.1 indirect or consequential loss; or
 - 18.8.2 economic loss or other loss of turnover, profits, business or goodwill even if such loss was reasonably foreseeable or we knew you might incur it.
- 15.9. You agree that in any circumstances when we may become liable to you, the limit of our liability is the amount you have paid the Seller for a Product.
- 15.10. This paragraph (and any other paragraph which excludes or restricts our liability) applies to our directors, officers, employees, subcontractors, agents and affiliated companies as well as to us.

16. Indemnity

You agree to indemnify us against any loss, damage or liability, suffered by us at any time and arising out of:

- 16.1. any act, neglect or default of yours in connection with this agreement or your use of the Services;

- 16.2. your breach of this agreement;
- 16.3. your failure to comply with any law;
- 16.4. a contractual claim arising from your use of the Services.

17. Miscellaneous matters

- 17.1. If any term or provision of this agreement is at any time held by any jurisdiction to be void, invalid or unenforceable, then it shall be treated as changed or reduced, only to the extent minimally necessary to bring it within the laws of that jurisdiction and to prevent it from being void and it shall be binding in that changed or reduced form. Subject to that, each provision shall be interpreted as severable and shall not in any way affect any other of these terms.
- 17.2. The rights and obligations of the parties set out in this agreement shall pass to any permitted successor in title.
- 17.3. www.factoryshopssa.co.za respects your privacy, takes reasonable steps to protect your personal information as defined in the Promotion of Access to Information Act 2000 and Protection of Personal Information Act 2013. Our compliance with the legislation is set out in Privacy Policy.
- 17.4. No failure or delay by any party to exercise any right, power or remedy will operate as a waiver of it nor indicate any intention to reduce that or any other right in the future.
- 17.5. Any communication to be served on either of the Parties by the other shall be delivered by hand or sent by first class post or recorded delivery or by e-mail.

It shall be deemed to have been delivered:

if delivered by hand: on the day of delivery;

if sent by post to the correct address: within 72 hours of posting;

If sent by e-mail to the address from which the receiving party has last sent e-mail: within 24 hours if no notice of non-receipt has been received by the sender.

- 17.6. In the event of a dispute between the parties to this agreement, then they undertake to attempt to settle the dispute by engaging in good faith with the other in a process of mediation before commencing arbitration or litigation.

- 17.7. This agreement does not give any right to any third party.
- 17.8. Neither party shall be liable for any breach of its obligations resulting from causes beyond its reasonable control including strikes of its own employees.
- 17.9. In the event of any conflict between any term of this agreement and the provisions of the memorandum of incorporation of a limited company or any comparable document intended to regulate any other corporate or collective body, then the terms of this agreement shall prevail.
- 17.10. The validity, construction and performance of this agreement shall be governed by the laws of the Republic of South Africa.