



## Website User Terms

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## 1. DEFINITIONS

In these WUTs, unless otherwise indicated or clearly apparent from the context, the following words and phrases have the meanings given to them in this clause and cognate expressions have corresponding meanings:

- 1.1 **“Aggrieved Party”** means the Party not in breach of these WUTs and/or the Party who has complied with all of its obligations under these WUTs.
- 1.2 **“Applicable Laws”** means all applicable legislation, regulations, directives, practice notes and by-laws relating to these WUTs.
- 1.3 **“Broker/s”** means a person registered as such with an insurance company in the Republic of South Africa and the Financial Services Board and who acts as an intermediary between the insured (customer) and insurer in, *inter alia*, procuring insurance cover or any insurance product for the customer.
- 1.4 **“Business Days”** means any day other than a Saturday, Sunday or public holiday in the Republic of South Africa.
- 1.5 **“Defaulting Party”** means the Party in breach of these WUTs and/or the Party who has failed to comply with its obligations under these WUTs.
- 1.6 **“Icon”** means Icon Digital Consulting (Pty) Ltd, a limited liability private company incorporated in accordance with the Laws of the Republic of South Africa with registration number 2013/133860/07.
- 1.7 **“Intellectual Property Rights”** means any of the rights in and to intellectual property of any nature owned or controlled, now or in the future, by Icon, including, without limitation, Icon’s rights, title and interest in and to all technology, source codes, trade secrets, logos, systems, methods, trademarks, trade names, styles, insignia, designs, patents, copyrights and any other similar proprietary rights, whether registered or not.
- 1.8 **“Parties”** means Icon and the Users, and **“Party”** means each or either of them as the context requires.

- 1.9        **“Personal Information”** means the personal information of the Users as defined in the Privacy Policy.
- 1.10       **“Platform”** means Icon’s internet based system that is used to store its data, including the Personal Information.
- 1.11       **“Portal”** means the portal which may be accessed via the Website with your unique log-in details and where you may interact with Icon and access, *inter alia*, the Services and your Personal Information.
- 1.12       **“Privacy Policy”** means Icon’s privacy policy, a copy of which may be accessed on and downloaded from the Website.
- 1.13       **“Services”** means the services provided by Icon which may be accessed on the Website and Portal and those services provided by Icon to you which are detailed in any separate written agreement that you have concluded with Icon.
- 1.14       **“User/s”** means the persons who access and use the Services, Portal and Website, including the Brokers.
- 1.15       **“Website”** means Icon’s website which may be accessed at [www.icononline.co.za](http://www.icononline.co.za).
- 1.16       **“WUTs”** means the Website user terms as set out in this document and as may be amended from time to time, describing the terms and conditions on which any person accesses the Website, Portal and Services.

## 2.        **TERMS AND CONDITIONS OF USE**

- 2.1        These WUTs set-out the terms and conditions for access to and use of the Website, Portal and Services.
- 2.2        These WUTs apply to you if you:

- 2.2.1 Visit the Website or Portal whether directly or redirected from a third-party website or make use of the Services.
- 2.2.2 Have concluded an agreement with Icon wherein it is specifically stated that these WUTs will apply to you and/or that agreement.
- 2.3 You may not make use of the Website, Portal or Services if you are younger than 18 years of age or are not able to conclude legally binding agreements.

### **3. ACCEPTANCE**

- 3.1 By using the Website, Portal or Services, you accept all the terms of these WUTs and are deemed to have read, understood and agree to be bound by all the terms hereof.
- 3.2 If you do not agree with these WUTs, you must not access the Website or Portal or make use of the Services. Access to the Website and Portal are not allowed on any other basis.

### **4. MODIFICATIONS**

- 4.1 Icon may modify these WUTs from time to time.
- 4.2 If any material modifications are made to these WUTs, Icon will furnish you with written notification thereof by e-mail or through our Website or Portal, before the changes are published on the Website or Portal and/or become effective.
- 4.3 If you continue to use the Website, Portal or Services after the publication of the modifications, you will be deemed to have consented to the modifications.

## **5. WEBSITE AND PORTAL ACCESS**

Different Users will have access to different features in the Portal, depending on, *inter alia*, whether you are a Broker or otherwise.

## **6. USER'S OBLIGATIONS**

6.1 You agree that you will:

6.1.1 Comply with all Applicable Laws.

6.1.2 Use the Services and Portal in a professional manner and in accordance with these WUTs.

6.2 You agree that you will not:

6.2.1 Copy, use, disclose or distribute any information obtained from the Website or Portal that you do not have the consent to copy, use, disclose or distribute.

6.2.2 Reverse engineer, decompile, disassemble, decipher or otherwise attempt to derive the source code for the Website, Portal and Services or any related technology that is not open source.

6.2.3 Rent, lease, loan, trade, sell/re-sell access to the Website, Portal or Services.

6.2.4 Monitor the Website, Portal or Services' availability, performance or functionality for any competitive purpose.

6.2.5 Engage in "framing," "mirroring," or otherwise simulating the appearance or function of the Website, Portal or Services.

6.2.6 Access the Website, Portal or Services except through the interfaces expressly provided by Icon.

- 6.2.7 Use the Website, Portal or Services in a manner or for a reason that they are not intended for.
- 6.2.8 Override any security feature of the Website, Portal or Services.
- 6.2.9 Interfere with the operation of, or place an unreasonable load on the Website, Portal or Services (e.g. viruses).
- 6.2.10 Deliver any unauthorised, damaging or malicious code to the Services, Website or Portal.

## **7. NOTICES AND MESSAGES**

- 7.1 Icon will provide you with notices and messages through the Portal, via e-mail, text message on your mobile phone and the like based on the contact information provided.
- 7.2 You must keep Icon informed of any changes to your contact details and agree that your contact information is up to date.
- 7.3 You may review, control and limit the notices and messages that are sent to you by Icon on the Portal.

## **8. AVAILABILITY OF SERVICES**

- 8.1 Icon may change, suspend or discontinue any of the Services or the Website or Portal in its sole discretion and from time to time.
- 8.2 Icon may inform you, in writing, prior to any change, suspension or discontinuation of the Services, Website or Portal but it is not obliged to do so.

- 8.3 Icon may use the services of third parties on its Website and Portal. Icon has no control over these third parties and, as such, it is not responsible for, gives no warranties, nor makes any representations in respect of these third parties.

## **9. SECURITY**

- 9.1 In order to ensure the secure and reliable operation of the Website, Portal and Services, Icon reserves the right to take whatever action it may deem necessary to preserve the security, integrity and reliability of the Website, Portal, Services and Platform.
- 9.2 Any User who commits any of the offences detailed in chapter 13 of the Electronic Communications and Transactions Act, no 25 of 2002 will, notwithstanding criminal prosecution, be liable for all liability, loss and/or damages suffered by Icon.

## **10. INTELLECTUAL PROPERTY RIGHTS**

- 10.1 Icon reserves all of its Intellectual Property Rights in respect of the Services, Portal and Website.
- 10.2 Using the Website, Portal and Services does not give you any ownership, right, title or interest in and to the Website, Portal, Services or the content or information made available through the Website, Portal or Services.
- 10.3 Except with the prior written permission of Icon, no material or content of the Website or Portal may be copied or transmitted from the Website or Portal unless it is for your own personal use or for information purposes only.

## **11. NO WARRANTY**

- 11.1 Icon does not warrant or represent that the Website, Portal or Services are to be used for a particular purpose or the accuracy, completeness or reliability of any information, data and/or content on the Website or Portal.



11.2 Icon does not guarantee that the Services, Website or Portal will function without interruption or error.

## **12. LIMITATION OF LIABILITY**

Icon will not be liable to you for any indirect, incidental, special, consequential or punitive damages, liabilities, losses, harm, costs, claims, fines, penalties, expenses of whatsoever kind which you may suffer and which are related to the Website, Portal, Services or these WUTs or the Website, Portal or Services' unavailability, interruption or error.

## **13. INDEMNITY**

You indemnify Icon against all damages, liabilities, losses, harm, costs, claims, fines, penalties, expenses of whatsoever kind which may be suffered by Icon and which are related to your use of the Website, Portal or Services or failure to comply with these WUTs.

## **14. DISPUTE RESOLUTION**

14.1 Should any dispute arise between the Parties which they cannot resolve within 5 Business Days, the Parties will jointly nominate, within a further 5 Business Days, a suitably qualified expert with appropriate skills and knowledge in relation to the matter in dispute, to make a decision, who will determine the matter as an expert and not as an arbitrator.

14.2 If the Parties are unable to agree on the identity of the expert, then the President of the Law Society of KwaZulu-Natal will appoint a suitably qualified expert with appropriate skills and knowledge in relation to the matter in dispute and, in particular, if the dispute principally involves:

14.2.1 an accounting issue, an independent auditor with more than 15 years' experience;

14.2.2 a legal issue, a Senior Advocate,

within 5 Business Days after the Parties failed to agree on an expert.

- 14.3 Within 5 Business Days of the appointment of the expert, the Parties will be entitled to make written representations to the expert and submit documents in support of the representations regarding the dispute. The expert will be entitled, but not required, to call for any specific written submissions that he/she in his/her sole discretion deems necessary. The expert will not be entitled to hear oral evidence from the Parties or from anyone else.
- 14.4 The Parties will be jointly liable for the expert's costs up until the expert has made his/her decision, however the expert will determine ultimate liability for his/her costs, which determination will form part of his/her decision.
- 14.5 The expert will further determine, which determination will also form part of his/her decision, if a Party is liable for the other Party's legal costs incurred in connection with preparing the submissions to the expert (if applicable), as well as the total sum of these costs.
- 14.6 The expert will thereafter make his/her decision within 10 Business Days of the dispute being referred to the expert, on the basis of such written representations and documents, which decision will be final and binding on the Parties and the Parties will not have a right of appeal.
- 14.7 This dispute resolution process will not preclude either Party from approaching any appropriate court for urgent relief, where the circumstances require it.
- 14.8 The Parties hereby consent to the non-exclusive jurisdiction of the High Court of South Africa, KwaZulu-Natal Local Division, Durban.

## 15. CONTACT DETAILS

- 15.1 You may contact Icon, including for the purpose of serving all legal processes relating hereto or for the giving of all notices and Icon chooses as its *domicilium citandi et executandi*, at the following address:

Physical address: 44A Salisbury Avenue  
Westville

KwaZulu-Natal  
South Africa

Email address: [icon@icononline.co.za](mailto:icon@icononline.co.za)

15.2 Your *domicilium citandi et executandi* will be the physical address and email address provided to Icon or reflecting on the Portal.

## **16. MISCELLANEOUS LEGAL PROVISIONS**

16.1 These WUTs are governed by and construed according to the laws of the Republic of South Africa.

16.2 This is the whole agreement between the Parties containing all of the express provisions agreed on by the Parties with regard to the subject matter hereof.

16.3 No agreement varying, adding to, deleting from or cancelling these WUTs and no waiver of any right hereunder will be effective unless in writing and signed by or on behalf of the Parties, unless in accordance with clause 4.

16.4 No relaxation by a Party of any of its rights in terms of these WUTs at any time will prejudice or be a waiver of its rights (unless it is a signed written waiver) and it will be entitled to exercise its rights thereafter as if such relaxation had not taken place.