

# Qualified Sales as a Service (Pty) Ltd

## Terms and Conditions & Privacy Policy

The following terms and conditions document form a legal agreement between Qualified Sales as a Service (Pty) Ltd, and the website user, for the purposes of use of the Qualified website. We suggest that you carefully read these terms and conditions. By using the Qualified website, you acknowledge that you have read, understood and accepted, without reserve, these terms and conditions.

We reserve the right to modify, change or make corrections to these terms and conditions from time to time and without any prior notice.

### 1. Definitions

- 1.1. **“Data Subject”** means any individual person who can be identified, directly or indirectly, via an identifier such as a name, an ID number, location data, or via factors specific to the person's physical, physiological, genetic, mental, economic, cultural or social identity;
- 1.2. **“Intellectual Property”** means the copyright (including but not limited to literary (including database and computer programs) artistic, musical works, photographs, and sound recordings), patents, trademarks (including all related domain names and meta tags), confidential information, trade secrets and design rights (including all applications);
- 1.3. **“POPI”** means the Protection of Personal Information Act 4 of 2013.

### 2. About Us

- 2.1. Name: Qualified Sales as a Service Proprietary Limited (“Qualified” or “we” or “us” or “our”)
- 2.2. Registration Number: 2015/304926/07

### 3. General

- 3.1. By using our website, you indicate that you accept these terms and conditions and that you agree to abide by them. If you do not accept these terms, please do not use the website.
- 3.2. Use of our website is also subject to any additional application forms, policies or guidelines posted from time to time.
- 3.3. Qualified does not make any representation regarding any other websites which may be linked to or accessed through our website and accordingly accepts no responsibility for the content or use of such websites or information contained therein. Qualified shall not be liable to any party for any form of loss or damage incurred as a result of any use of or reliance on any information contained on such website or any websites which can be accessed through this website.
- 3.4. Our website is supplied on an “as is” basis and has not been compiled or supplied with the intention of meeting your individual requirements. It is your sole responsibility, as user, to satisfy yourself, prior to making use of our website, that the service available from and through our website will meet your individual requirements.

### 4. Age Restrictions

- 4.1. Our website is not available for any person under the age of 18 without a parents/guardian's consent. If you are under 18 years old, your parent or guardian is required to consent to your use of our website and shall be required to accept these terms on your behalf.
- 4.2. Qualified is indemnified from any and all liability, including any liability arising as a result of your failure, or someone acting on your behalf, to provide accurate information when required to do so through the use of our website.

## **5. Liability**

- 5.1. Subject to the provisions of sections 43(5) and 43(6) of the Electronic Communications and Transactions Act, we shall not be liable for any damage, loss or liability of whatsoever nature arising from the use or inability to use our website or the services or content provided from and through our website, or third-party website accessed through this website. Furthermore, we make no representations or warranties, implied or otherwise, that, amongst others, the content and technology available from our website is free from errors or that use of the website will be uninterrupted and error free.
- 5.2. Qualified, or any other party involved in creating, producing, maintaining or delivering the website, and their officers, directors, employees, shareholders or agents, exclude all liability and responsibility for any amount or kind of loss or damage that may result to you or a third party (including without limitation, any direct, indirect, punitive or consequential loss or damages, or any loss of income, profits, goodwill, data, contracts, use of money, or loss or damages arising from or connected in any way to business interruption, and whether in delict (including without limitation negligence), contract or otherwise) in connection with our website (including the user-generated content) in any way or in connection with the use, inability to use or the results of use of our website (including the user-generated content), any websites linked to our website or the material on such websites, including but not limited to loss or damage due to viruses that may infect your computer equipment, software, data or other property on account of your access to, use of, or browsing our website (including the user-generated content) or your downloading of any material from our website (including the user-generated content) or any websites linked to our website.
- 5.3. You agree to keep Qualified and its associates fully indemnified against any actual or contingent liabilities incurred in relation to any actions or claims brought by any person against Qualified as a result of an actual or alleged breach by you of any law or these terms and conditions.

## **6. Service Access**

Qualified endeavours to ensure that our website is normally available 24 hours a day. Access to our website may be suspended temporarily and without notice in the case of system failure, maintenance, or repair or for reasons beyond Qualified's control. Qualified shall not be liable if for any reason our website is unavailable at any time or for any period.

## **7. Information on our website**

- 7.1. Information, ideas and opinions expressed on our website should not be regarded as professional advice or the official opinion of Qualified. Users must seek advice prior to taking any action based on the contents of our website.
- 7.2. Qualified has not determined that our website content is suitable for any particular purpose and/or for a particular user whatsoever, other than as a general reference, and has not necessarily disclosed all risks relating to our website content or its subject matter. No information or data on our website is an offer to do business (which upon acceptance by yourself will constitute a contract), but is merely an invitation to do business. No agreements shall be concluded merely by sending a data message to our website or its owners. Valid agreements require an acknowledgement of receipt of an offer, duly received from us. This is subject to the provisions in section 11 of the Electronic Communications and Transactions Act.
- 7.3. While Qualified will implement precautionary measures to ensure that its website is free from viruses, Qualified cannot and does not guarantee or warrant that files available for downloading through our website or delivered via electronic mail through our website will be free of infection or viruses, worms, trojan horses or other code that manifest contaminating or destructive properties. You are responsible for implementing sufficient protective software on your system that will satisfy your particular data security requirements and for maintaining a means external to your workstation for the reconstruction of any lost data.

## **8. User-Generated Content and Conduct**

- 8.1. Any use of user-generated content by users other than for private, non-commercial research or study is strictly prohibited.
- 8.2. You are prohibited from posting or transmitting to or from our website, including Qualified's Facebook, Twitter, LinkedIn, Google+ and other social networking media, any material:
  - 8.2.1. that is threatening, defamatory, obscene, indecent, seditious, offensive, pornographic, abusive, liable to incite racial hatred, discriminatory, menacing, scandalous, inflammatory, blasphemous, in breach of confidence, in breach of privacy or which may cause annoyance or inconvenience; or
  - 8.2.2. for which you have not obtained all necessary licences and/or approvals; or
  - 8.2.3. which constitutes or encourages conduct that would be considered a criminal offence, give rise to civil liability, or otherwise be contrary to the law of or infringe the rights of any third party, in any country in the world; or
  - 8.2.4. which is technically harmful (including (but not limited to) computer viruses, logic bombs, Trojan horses, worms, harmful components, corrupted data or other malicious software or harmful data (together "Inappropriate User-Generated Content").
- 8.3. Qualified shall fully co-operate with any law enforcement authorities or court order requesting or directing Qualified to disclose or identify or locate anyone posting any Inappropriate User-Generated Content.
- 8.4. Qualified accepts no responsibility for actively monitoring any forums, such as, but not limited to Facebook, Twitter, LinkedIn and any such other forums as may come into existence, contained in our website for Inappropriate User-Generated Content. You agree that Qualified accepts no liability whatsoever if we so choose from time to time to edit, restrict or remove the User-Generated Content.

## **9. Intellectual Property**

Our website contains information which is owned by or is licensed to us, including but not limited to text, design, layout, graphics, organization, magnetic translation, digital conversion and other information related to our website. This information is protected under applicable intellectual property laws and reproduction, distribution, publication or any other use, either in whole or in part, other than in accordance with clause 9.1 to 9.3 below is strictly prohibited.

You are granted a non-exclusive, non-transferable, revocable license to:

- 9.1. access and use our website strictly in accordance with these terms;
- 9.2. to use our website solely for personal, non-commercial and lawful purposes;
- 9.3. to download, copy, print screen, use, save or print out information from our website solely for personal, non-commercial purposes, provided that all copyright and other intellectual property notices therein are unchanged.

## **10. Interactive Online Forums**

The access and use of any chat-room, newsgroup, bulletin board, mailing list, transaction or other online forum available on our website, shall be governed by the guidelines for Online Conduct (see clause 12 below) in these Terms and Conditions.

## **11. Links to and from Other Websites**

- 11.1. You may not create a link to our website from a third-party website or document without our prior written consent.

11.2. Links to third party websites on our website are provided solely for your convenience. If you use these links, you leave our website. We have not reviewed all of these third party websites and do not control and are not responsible for these websites or their content or availability. We therefore do not endorse or make any representations about them, or any material found there, or any results that may be obtained from using them. If you decide to access any of the third party websites linked to our website, you do so entirely at your own risk.

## **12. Guidelines For Online Conduct**

- 12.1. You agree to use our website in accordance with all applicable laws.
- 12.2. You agree not to post any advertising or any form of commercial solicitation, including, but not limited to, spamming anywhere on our website.
- 12.3. You agree not to post any content that contains viruses or other harmful items anywhere on our website.
- 12.4. We reserve the right to remove content, block access or take other action which we deem appropriate in the circumstances against any content which violates the above rules and guidelines.
- 12.5. If a third party claims that any material you have contributed to a website is unlawful, you will bear the burden of establishing that the material complies with all applicable laws.
- 12.6. You agree that you will not restrict or inhibit any other user from using our website.
- 12.7. We respect the intellectual property of others. If you believe your copyright has been violated on a website hosted by us, please give notice at: [legal@qualified.co.za](mailto:legal@qualified.co.za) We will, upon receipt of such notice and confirmation that such copyright has been violated, use all reasonable means to remove the infringing content and inform the person that posted it of such removal and the reason therefore.

## **13. Privacy Policy**

Qualified is committed to the lawful and responsible collection and processing of your personal information. We respect your right to privacy and therefore, we aim to ensure that we comply with the all of the relevant legal requirements set out in POPI which regulates the manner in which we collect, process, store, share and destroy any personal information which you have provided to us.

### **13.1. Personal Information**

- 13.1.1. Personal information includes any information which identifies you as a unique individual. We collect personal information to liaise with the client telephonically, via our website or email in order that we may:
  - i. respond to any query or comment received from the client;
  - ii. inform the client of new offers;
  - iii. enable us to process, validate and verify information and requests for the supply of services;
  - iv. for the purposes for which the client specifically requests;
  - v. generally to improve the client's experience on our website.
- 13.1.2. If you choose to provide us with your personal information, you agree to provide accurate and current information and not to misrepresent yourself in any way. Please inform us as soon as reasonably possible of any changes to your personal information so that we may make the appropriate updates to our records.

## 13.2. Processing

13.2.1. Qualified will not, without your express consent, disclose your personal information to any third party, other than:

- i. to our employees or contractors;
- ii. when we are legally obliged to do so, to: law enforcement; government officials; fraud detection agencies; or other third-parties when we believe in good faith that the disclosure of personal information is necessary to prevent physical harm or financial loss;
- iii. third parties who assist us in providing services to the client.

13.2.2. We will ensure that all our employees, contractors and third party service providers having access to your personal information are bound by appropriate and legally binding confidentiality obligations in relation to such information.

## 13.3. General

We will:-

13.3.1. treat your personal information as strictly confidential, save where we are entitled to share it as set out in these Terms and Conditions and Privacy Policy;

13.3.2. take appropriate technical and organisational measures to ensure that your personal information is kept secure and is protected against unauthorised or unlawful processing, accidental loss, destruction or damage, alteration, disclosure or access;

13.3.3. provide you with access to your personal information to view and/or update personal details;

13.3.4. promptly notify you if we become aware of any unauthorised use, disclosure or processing of your personal information;

13.3.5. provide you with reasonable evidence of our compliance with our obligations under these Terms and Conditions and Privacy Policy on reasonable notice and request;

13.3.6. upon your request, promptly return or destroy any and all of your personal information in our possession or control, save for that which we are legally obliged to retain;

13.3.7. not retain your personal information longer than the period for which it was originally needed, unless we are required by law to do so or you consent to us retaining such information for a longer period;

13.3.8. do all things reasonably necessary to protect your rights of privacy.

## 13.4. Limitation of Liability

Qualified shall not be liable for any loss or damage, howsoever arising, suffered by you as a result of the unauthorised or unlawful disclosure of your personal information, whilst in our possession, made by third-parties who are not subject to our control, unless such disclosure is as a result of our gross negligence.

## 13.5. Age of consent

If the Data Subject is under 18 (eighteen) years of age, the consent of the minor's parent/guardian/competent person is required before we may process such personal information.

## 13.6. Your Rights

The client has the following, non-exhaustive, rights regarding your personal information:

- 13.6.1. the right to access your personal information that we have on record;
- 13.6.2. the right to ask Qualified to correct any of your personal information that is incorrect;
- 13.6.3. the right to ask Qualified to delete or destroy your personal information;
- 13.6.4. the right to object to Qualified processing your personal information.

To exercise any of your rights mentioned above or if you have a complaint relating to the protection of your personal information, including the way in which it has been collected or processed, please contact us at [legal@qualified.co.za](mailto:legal@qualified.co.za)

## **14. Breach & Termination**

- 14.1. We will determine, in our discretion, whether there has been a breach of these terms and conditions, and we may take such action as we deem appropriate.
- 14.2. Failure to comply with these terms and conditions constitutes a material breach of the agreement upon which you are permitted to use the website, and may result in our taking all or any of the following actions:
  - 14.2.1. issuance of a warning to you;
  - 14.2.2. institution of legal proceedings against you for damages and/or loss sustained by us (including legal costs on the attorney and own client scale); and/or
  - 14.2.3. disclosure of such information to law enforcement authorities as we reasonably feel is necessary.
- 14.3. We exclude liability for actions taken in response to any breach of these terms and conditions. The actions described above are not exhaustive, and we may take any other action we deem reasonably appropriate.

## **15. Miscellaneous**

### **15.1. Sole record of agreement**

These terms and conditions constitute the sole record of the agreement between the client and us relating to the services rendered hereunder. Any other terms or conditions issued by us and governing our relationship with the client, and in particular relating to any service, shall supplement these terms and conditions. In the event of any inconsistency between these terms and conditions and any subsequently issued supplementary terms and conditions, the latter terms or conditions shall prevail over these terms and conditions.

### **15.2. No amendments except in writing**

- 15.2.1. We may revise these terms and conditions at any time. Any amended or new terms and conditions will be valid from the moment we upload them to our website. Continuing to use the website after same has been uploaded, implies that you agree to the amended or new terms and conditions.
- 15.2.2. No data message, including but not limited to an e-mail, SMS and recorded voice message, sent by you to us shall amend these terms and conditions or the rights and duties of the parties in any manner, unless such a data message is reduced to writing on paper and signed by the parties.

### **15.3. Waivers**

No relaxation or indulgence, which any party may grant to any other, shall constitute a waiver of the rights of that party and shall not preclude that party from exercising any rights which may have arisen in the past or which might arise in future.

15.4. Survival of obligations

Any provision under these terms and conditions, which contemplates performance or observance subsequent to any termination, or expiration of this agreement shall survive any termination or expiration of this agreement and continue in full force and effect.

15.5. Severability

If any one or more of the clauses of these terms and conditions is declared or adjudged (formally or informally) by competent authority to be illegal, invalid or unenforceable under any law applicable in any jurisdiction in which these terms and conditions are to be performed, including this clause, then the offending clause shall be deemed for all purposes to be severable from all the other clauses of these terms and conditions, which clauses shall continue in force unaffected.

15.6. Applicable and Governing Law

These terms and conditions shall be governed by and interpreted in accordance with the laws of the Republic of South Africa, which shall have exclusive jurisdiction over any disputes.