
Terms and Conditions

1. LEGALLY BINDING AGREEMENT

BY ACCESSING AND USING THIS WEBSITE, THE USER AGREES TO BE BOUND UNCONDITIONALLY BY THE TERMS AND CONDITIONS SET OUT BELOW. IF THE USER DOES NOT AGREE TO BE BOUND BY THE TERMS AND CONDITIONS SET OUT BELOW, THE USER MUST IMMEDIATELY STOP ACCESSING AND/OR USING THIS WEBSITE.

ACCEPTANCE OF THE TERMS AND CONDITIONS SET OUT BELOW BY THE USER CONSTITUTES A BINDING LEGAL AGREEMENT BETWEEN SK FINO TRADING CC AS FINO ("FINO") AND THE USER, WHICH AGREEMENT SHALL GOVERN THE USE OF THIS WEBSITE.

THE AGREEMENT BETWEEN THE USER AND FINO IS CONSTITUTED BY THESE TERMS AND CONDITIONS, THE TERMS AND CONDITIONS OF SALE AND THE PRIVACY NOTICE, ALL OF WHICH ARE PUBLISHED ON THIS WEBSITE.

2. PRELIMINARY NOTICES IN TERMS OF THE CONSUMER PROTECTION ACT, 2008

2.1. IN TERMS OF SECTION 22(1) OF THE CONSUMER PROTECTION ACT, 2008, THESE WEBSITE TERMS AND CONDITIONS ARE DRAFTED AND DISPLAYED IN PLAIN LANGUAGE.

2.2. IF YOU DO NOT UNDERSTAND THE CONTENT, SIGNIFICANCE AND IMPORT OF ANY OF THE PROVISIONS OF THESE WEBSITE TERMS AND CONDITIONS, PLEASE CONTACT US BY EMAILING INFO@FINO.CO.ZA

2.3. YOUR ATTENTION IS DRAWN TO CERTAIN TERMS AND CONDITIONS CONTAINED HEREIN WHICH CONSTITUTE OR HAVE THE EFFECT OF BEING:

- LIMITATIONS OF RISK OR LIABILITY IN FAVOUR OF FINO AS THE SUPPLIER OF THE GOODS OR SERVICES OFFERED FOR SALE OR USE ON THIS WEBSITE;
- ASSUMPTIONS OF RISK OR LIABILITY BY YOU, THE USER;
- INDEMNITIES IN FAVOUR OF FINO; OR
- AN ACKNOWLEDGEMENT OF CERTAIN FACTS BY YOU, THE USER.

2.4. SUCH TERMS AND CONDITIONS ARE HIGHLIGHTED IN CAPITAL LETTERS AND BOLD FONT.

3. DEFINITIONS AND INTERPRETATION

In this agreement, the following terms will have the meanings assigned to them in this clause:

- "CPA" means the Consumer Protection Act, 2008, as amended from time to time;
- "ECT Act" means the Electronic Communications and Transactions Act, 2002, as amended from time to time;
- "Intellectual Property Rights" means all patents, trademarks (registered or unregistered), service marks, design rights, copyright, trade or business names, know-how, confidential or proprietary information, databases, software or code, or any changes or additions thereto (if any) and other similar rights or obligations, whether or not registerable, registered or application for registration thereof has been made in any part of the world;
- "Fino" means SK Fino Trading CC, trading as Fino;
- "you/the User" means any person accessing and using this website;
- "User Generated Content" means any information, images, comments, posts or other content created, uploaded, shared, published or distributed by a User using this website, either directly or indirectly;
- "Website" means the website found at www.fino.co.za, and includes any sub-pages, content, display elements and other components making up the website, but excludes any links to external websites not associated with Fino;

3.2. Any reference in this user agreement to:

- the singular includes the plural and vice versa;
- "person/s" includes natural and juristic person/s;
- any one gender includes the other genders;

3.3. Clause headings have been inserted for reference purposes only and must not be taken into account when interpreting this user agreement.

3.4. Terms not specifically defined in clause 3.1 will be given their normal grammatical meaning, and any terms, acronyms, or phrases known in the information communication and technology industry will be interpreted in accordance with their generally accepted meaning in that industry.

3.5. Any reference to "days" means business days, which excludes Saturday, Sunday and South African public holidays.

3.6. When calculating any number of days for the purposes of this user agreement, the first day must be excluded and the last day of the relevant interval included, unless the last day is not a business day, then the last day will be the next succeeding business day.

3.7. If the due date for performing any obligation or exercising any right in terms of this user agreement is a day which is not a business day, then the due date will be the next business day.

3.8. If any obligation or act is to be performed on a particular day, it must be performed by 15h00 on that day.

3.9. No provision in this agreement must be interpreted to the disadvantage of a party because that party introduced or caused that provision to be included in this user agreement.

3.10. The word "include" means "include without limitation".

3.11. A requirement that any request, claim, demand or other communication made in terms of this user agreement must be in writing will be met if it is in the form of a data message as defined in the ECT Act, and is accessible in a manner usable for subsequent reference.

3.12. All amounts quoted on this website include value-added tax (VAT), unless explicitly stated.

4. DISCLOSURE OF INFORMATION IN TERMS OF SECTION 43 OF THE ECT ACT

- The following information is disclosed in terms of section 43(1) of the ECT Act:
- Website owner: SK Fino Trading CC, trading as Fino
- Legal status of website owner: A private company with limited liability duly incorporated in South Africa
- Registration number: 9900/002057/52
- Website address: <http://www.fino.co.za>
- Email addresses:
 - info@fino.co.za
 - sales@fino.co.za
 - kay@fino.co.za

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- Fino is not a member and/or does not subscribe to any self-regulatory or accreditation bodies.
 - Fino does not subscribe to any code of conduct.

5. NO OFFER

5.1. Users should regard nothing contained in this website as an offer but rather as an invitation to do business.

5.2. Unless specific arrangement is made prior to engaging with the website or placing an order, the goods and services advertised on this website are available to South African clients and delivery addresses only.

6. ACCESS AND USE OF THIS WEBSITE

6.1. Subject to your compliance with these terms and conditions, Fino grants you a limited, non-exclusive, non-transferable, non-sub licensable license to access and make personal and non-commercial use of this website and the content published herein.

6.2. This license does not entitle you to resell or otherwise make commercial use of this website or any content published therein, including any product listings, descriptions, or prices; or to create any derivative use of any content published herein.

6.3. No content published on this website may be reproduced, sold, or otherwise exploited for any commercial purpose without the prior written consent of Fino.

6.4. Third party vendors, including Google, use Google Analysis to serve ads based on a user's prior visit to this website and/or other sites on the internet.

7. AVAILABILITY OF THE WEBSITE

7.1. While Fino will use all reasonable endeavours to ensure that the website is available 24 hours a day with minimum disruptions, it cannot guarantee such availability.

7.2. Fino will not be held liable for any loss or damage caused to a User or any third party by the non-availability or disrupted availability of this website or any part thereof.

7.3. Fino is entitled, without any liability, at its sole discretion, and without any notice, to refuse, limit, suspend or interrupt access to the website or any part thereof, for any reason whatsoever.

7.4. Fino reserves the right to prevent or prohibit any User from accessing or using the website as a result of any contravention by the User of these terms and conditions, or for any other reason valid in law.

8. ACCEPTABLE USE OF THE WEBSITE

8.1. The website may only be used by Users who are 18 years of age or older, unless they are assisted by or under the supervision of their parent or guardian.

8.2. Users warrant that they shall not, when accessing and using this website:

- intentionally access or intercept any data contained in this website without authority or permission;
- interfere with any data contained in this website in such a way which causes such data to be modified, destroyed or otherwise rendered ineffective;
- take any action that imposes or may impose an unreasonable or disproportionately large load on the Fino's web servers and/or which impairs the functionality of the website;
- use any device or computer program which is designed primarily to overcome security measures used on this website to protect data, or perform any act with regard to a username, password, access code or other similar data with the intent to unlawfully utilise such item to gain access to or interfere with data on this website;
- copy, reproduce, reverse engineer, modify, create derivative works from, distribute, or publicly display any content (except for user generated content) from the website without Fino's prior written permission;
- impersonate any other person or use a false or unauthorised username or password so as to create a false identity and/or e-mail address or to misrepresent the origin or identity of any communications;
- make available or upload content not owned or licensed to the User

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- make use of the website to collect, harvest or otherwise obtain personal information relating to other users;
 - use, apart from the search facility provided on the website, any application including but not limited to any robot, spider, other automatic device, or manual process to monitor, copy, distribute or modify the website or any content contained herein, without the prior written consent from Fino;
 - cache any data on this website unless:
 - o the purpose of the caching is to make the onward transmission of the content from the website more efficient;
 - o the cached content is not modified in any manner whatsoever;
 - o the cached content is updated at least every 12 (twelve) hours; and
 - o the cached content is removed or updated when so required by Fino

8.3. Fino may, in its sole discretion, refuse further access or use of the website to any person who contravenes the provisions of clause 8.2.

8.4. The acceptable use provisions contained in this clause may be in addition to any further acceptable use provisions relating to any specific services offered by Fino on this website.

9. USER GENERATED CONTENT

9.1. User generated content may be posted on the website directly by a User and is not pre- screened or approved by Fino. Fino has the right but not the obligation to monitor and edit or remove any activity or content on the website.

9.2. Fino does not accept responsibility, under any circumstances, for any user generated content but does however reserve the right, in its sole and absolute discretion, to delete any user generated content that is found to be unlawful or in contravention of these terms and conditions.

9.3. Fino does not endorse any opinion, statement, recommendation, comment, reply, review or advice expressed in any user generated content and expressly disclaims any and all liability to any person who places any reliance thereon or otherwise acts in accordance therewith.

9.4. Any user generated content that is posted or transmitted by the User to or via the website shall be deemed to be non-confidential and non-proprietary. The User hereby grants Fino a non- exclusive, royalty-free perpetual, irrevocable license to use, reproduce, modify, adapt, publish, translate, create derivative works from, distribute, and display such content throughout the world in any media.

9.5. Users who post user generated content hereby warrant that they own or are otherwise authorised to exercise the rights to such content, and that any content posted will be accurate and will not cause injury or harm to any person or entity.

9.6. Users hereby indemnify Fino against all claims resulting from user generated content that is found to be infringing or harmful.

9.7. Users shall not post, distribute or transmit to or from the website any material, including but not limited to text, images, video and audio clips that:

- is illegal, obscene, threatening, defamatory, invasive of privacy, infringing of intellectual property rights, or otherwise injurious to third parties or objectionable;
- consists of or contains commercial solicitation, political campaigning, chain letters, mass mailings, or any form of unsolicited or bulk communications;
- constitutes hate speech or is likely to provoke violence;
- is racist, sexist, homophobic, sexually explicit, abusive or otherwise objectionable;
- constitutes or encourages conduct that would be considered a criminal offence, or condones or encourages unlawful activity;
- is technically harmful (including, without limitation, computer viruses, logic bombs, Trojan horses, worms, harmful components, corrupted data or other malicious software or harmful data); and/or
- otherwise infringes the rights of any other person.

9.8. If a person believes that any user generated content published or transmitted on or from the website does not comply with the standards set out in these terms and conditions, or that such content infringes any of their rights, they must immediately contact the Fino at info@fino.co.za

10. DISCLAIMERS

10.1. THIS ENTIRE WEBSITE, INCLUDING TEXT, IMAGES, LINKS, DOWNLOADS AND CODING, IS PROVIDED "AS IS" AND "AS AVAILABLE". FINO MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES AS TO THE CORRECTNESS OR SUITABILITY OF EITHER THE WEBSITE OR THE INFORMATION CONTAINED INIT.

10.2. SUBJECT TO CHAPTER 7 OF THE ECT ACT, Fino, ITS OFFICERS, DIRECTORS, EMPLOYEES, SUPPLIERS, INTERNET SERVICE PROVIDERS, PARTNERS, AFFILIATES AND AGENTS, SHALL NOT BE LIABLE FOR ANY

DAMAGE, LOSS OR LIABILITY, HOWSOEVER ARISING, INCURRED BY USERS OR ANY OTHER PERSONS AND RESULTING FROM THE USE OR INABILITY TO USE THIS WEBSITE.

10.3. SUBJECT TO CHAPTER 7 OF THE ECT ACT AND TO THE FULLEST EXTENT POSSIBLE UNDER ANY APPLICABLE LAW, FINO DISCLAIMS ALL RESPONSIBILITY OR LIABILITY FOR ANY DAMAGES, INCLUDING BUT NOT LIMITED TO DIRECT, ECONOMIC, CONSEQUENTIAL LOSS OR LOSS OF PROFITS, RESULTING FROM THE USE OF THIS WEBSITE IN ANY MANNER.

10.4. FINO HAS NO CONTROL OVER ANY USER GENERATED CONTENT AND/OR ANY OTHER THIRD PARTY INFORMATION, ADVERTS, FEATURES OR OTHER MATERIALS ("THIRD PARTY CONTENT") PUBLISHED ON THIS WEBSITE OR ACCESSIBLE ON OR FROM THIS WEBSITE. FINO DOES NOT EXAMINE OR EDIT ANY THIRD PARTY CONTENT AND/OR DOES NOT ACT AS AN AGENT FOR ANY THIRD PARTY IN THIS REGARD. AS SUCH AND TO THE FULLEST POSSIBLE EXTENT PERMISSIBLE UNDER LAW, FINO DISCLAIMS ANY LIABILITY WHATSOEVER FOR ANY LOSS OR DAMAGE ARISING FROM THE USE OF ANY THIRD PARTY CONTENT.

11. INDEMNITY

11.1. USERS INDEMNIFY FINO, ITS OFFICERS, DIRECTORS, EMPLOYEES, ISPs, AGENTS, SERVANTS, SUBCONTRACTORS, PARTNERS, SUBSIDIARIES AND AFFILIATES FROM ANY CLAIM, DEMAND, ACTION, APPLICATION OR OTHER PROCEEDINGS, INCLUDING FOR ATTORNEYS FEES AND RELATED COSTS, MADE BY ANY THIRD PARTY DUE TO OR ARISING OUT OF OR IN CONNECTION WITH THE USERS' BREACH OF THIS AGREEMENT, THEIR IMPROPER USE OF THE WEBSITE OR ANY CONTENT OR SERVICES OFFERED BY THE WEBSITE OR THEIR VIOLATION OF ANY LAW OR THE RIGHTS OF A THIRD PARTY.

12. ELECTRONIC COMMUNICATIONS

12.1. Users agree to the use of electronic communications in order to place orders and/or enter into contracts with Fino, and to the electronic delivery of notices and electronic retention of records of transactions initiated or completed through the website.

12.2. Electronic communications, including e-mail, SMS and instant messages, sent by Users to this website or to Fino shall be deemed to be received only when acknowledged or responded to by or on behalf of Fino.

12.3. Electronic communications sent by Fino to Users shall be deemed as received when the complete communication enters an information system designated or used for that purpose by the User and is capable of being retrieved and processed by the User.

13. MONITORING AND INTERCEPTION OF DATA MESSAGES

13.1. In order to provide a relevant and secure service, and where required to do so under law, Fino may monitor and/or intercept electronic communications which are sent to the website, although it has no duty to monitor as a matter of general practice.

13.2. Users acknowledge that they are aware of such potential monitoring and/or interception and they consent thereto.

13.3. Where Fino is required to intercept communications in accordance with the provisions of the Regulation of Interception and Provision of Communication-Related Act, 2003, any interception of communications shall be strictly carried out in accordance with the requirements of that Act.

13.4. The User acknowledges that Fino serves merely as a conduit and/or host of user generated content on this website (where applicable) and Fino has no knowledge of, nor interest in, user generated content hosted or published by it on this website.

14. INTELLECTUAL PROPERTY PROTECTION

14.1. All intellectual property rights in all content, images, software, source code, databases and other original material contained in this website, which is not attributed to a third party, is held by or licensed to Fino, who hereby asserts and reserves all such rights, including its moral rights.

14.2. Fino grants to Users a personal, non-exclusive, non-assignable and non-transferable license to use, print and display all content on this website for their personal and non-commercial purposes only.

15. ADVERTISING, PROMOTIONS AND COMPETITIONS

15.1. This website may contain third party advertising. Third party advertisers are responsible for ensuring that advertising material submitted for inclusion in this website complies with all applicable laws and regulations.

15.2. FINO ACCORDINGLY EXCLUDES, TO THE FULLEST POSSIBLE EXTENT PERMISSIBLE UNDER LAW, ANY RESPONSIBILITY OR LIABILITY FOR ANY ERROR OR INACCURACY APPEARING IN THIRD PARTY ADVERTISING MATERIAL.

15.3. This website may, from time to time, run competitions and other promotions. These will be subject to additional terms and conditions which will be made available to users and/or entrants at the applicable time.

16. HYPERLINKS, DEEP LINKS, FRAMING & METADATA

16.1. The express permission in writing of Fino, which may be subject to conditions, is required before any deep-linking to or framing of this website, any of its pages and/or any of the content contained on this website is carried out by any person.

16.2. Permission to link to this website is given by Fino without assumption of any liability. Fino reserves the right to withdraw permission granted to link to this website at any time and for any reason.

16.3. Hyperlinks contained on this website and directed towards other websites or users are provided without any warranties or endorsements as to the content, suitability, accuracy or security of the site linked to. Fino does not control or edit the content of any websites or pages linked to, and Fino disclaims all liability, direct or indirect, which may arise from the use or inability to use a link or a linked-to web site. Use of such websites or pages linked to is accordingly exclusively at the risk of the User.

16.4. Users may not use any Meta tags or any other "hidden text" which is the same as or similar to Fino name or any of its trademarks or to the names or trademarks associated with any of its proprietary products and services, without the express written consent of Fino.

17. GOVERNING LAW

17.1. The law applicable to this agreement, its interpretation and any matter or litigation in connection therewith or arising therefrom will be the law of the Republic of South Africa.

17.2. This website is owned, hosted and maintained within the Republic of South Africa.

17.3. When using this website and agreeing to these terms and conditions, such use and agreement is deemed to have taken place in Johannesburg, South Africa.

18. DISPUTE RESOLUTION

18.1. Any dispute which may arise between any parties to this agreement shall be referred to arbitration and resolved in accordance with the Rules of the Arbitration Foundation of Southern Africa ("AFSA") by an arbitrator.

18.2. The arbitrator shall be agreed upon between the parties and failing such agreement, and within a period of ten (10) days after the arbitration has been demanded by the parties, any party to such dispute shall be entitled to request the chairperson for the time being of AFSA to make the appointment who, in making the appointment, shall have regard to the party's requirement of speedy arbitration.

18.3. Nothing in this clause shall preclude a party from obtaining interim relief on an urgent basis from a Court of competent jurisdiction pending the decision of the arbitrator.

18.4. The arbitration shall be held in Johannesburg at a venue agreed to between the parties in writing, and shall be conducted in English and completed as soon as practically possible.

18.5. The parties irrevocably agree that any award that may be made by the arbitrator shall be final and binding, and may be made an order of any Court to whose jurisdiction the parties are subject.

19. AMENDMENT OF THESE TERMS AND CONDITIONS

19.1. Fino reserves the right, at any time, to amend any of the terms and conditions set out herein.

19.2. An updated version of this agreement containing any amended or new terms and conditions will be posted on the website from time to time.

19.3. Any amendment made to this agreement shall become binding and enforceable from the date of publication

19.4. The User agrees that it is their responsibility to peruse any amended version of this agreement when accessing the website and before proceeding to use it further.

19.5. If the User objects to any amendment which is binding on them or which may become binding on them, the User must stop accessing and using the website immediately.

20. TERMINATION OF THIS AGREEMENT

21.1. Fino reserves the right, in its sole and absolute discretion, and with prior notification, to terminate this agreement if:

- Fino, in its sole discretion, regards any action or inaction by a User as an abuse of the website or any of the services or content associated with the website; and
- Where events beyond the reasonable control of Fino, including technical failures, prevent the continuing provision of this website.

21.2. In the event of a breach of any of the terms and conditions of this agreement by either party, then the other party shall have the right, without prejudice to any other rights it may have at law, including the right to claim damages:

- to enforce the relevant provisions of this agreement, and to claim payment of any amounts due, owing and payable immediately, or
- To cancel this agreement.

21.3. In the event of any breach by both party and the other party instructs its attorneys to make demand and/or to institute legal proceedings, then in either such event, the party in breach shall be obliged and agrees to pay on demand all legal costs and disbursements so incurred including, particularly, all costs as between attorney and client, it being the intention that the aggrieved party shall not incur any liability whatsoever for any legal expenses as a result of a breach by the other.

21. GENERAL

22.1. Users may not cede, sub-license or otherwise transfer any rights they may have under this agreement or which may otherwise have been obtained through the use of this website.

22.2. In the event of any part of this agreement being found to be partially or fully unenforceable, for whatever reason, this shall have no effect on the application or enforceability of the rest of this agreement.

22.3. This agreement, or any of the terms and conditions contained therein, as amended from time to time, contains the record of the entire agreement between the User and Fino.

22.4. Failure to enforce any provision of these terms and conditions shall not be deemed a waiver of such provision nor of the right to enforce such provision.

THE USER EXPRESSLY ACKNOWLEDGES THAT THEY HAVE READ THESE TERMS OF SERVICE AND UNDERSTANDS THE RIGHTS, OBLIGATIONS, TERMS AND CONDITIONS SET FORTH HEREIN. BY CLICKING ON THE ACCEPT BUTTON AND/OR CONTINUING TO USE THIS WEBSITE, THE USER EXPRESSLY CONSENTS TO BE BOUND BY THE TERMS AND CONDITIONS SET OUT HEREIN.

These terms and conditions were last updated September 2019 and this version supersedes all previous versions published on the website before this date.