

SWART Website Terms of Use

Version	2.0
Effective date	8 April 2025

1. About these terms

- 1.1. These terms and conditions (herein "**Terms**") govern your access to and use of this website (herein "**Website**").
- 1.2. If you do not agree to these Terms, or are not legally capable of doing so, you may not access or use the Website.
- 1.3. These Terms may be amended from time to time, with the revised Terms taking effect on the date of its publication on the Website. Your continued use of the Website shall signify your consent and acceptance of the revised Terms. You agree to keep yourself apprised of the prevailing Terms.
- 1.4. **These Terms contain provisions that may limit your rights at law, or place additional obligations on you, some of which may be onerous. While you should have regard to all of the Terms, we have endeavoured to highlight these provisions by bolding the relevant text. Your attention is specifically drawn to clauses 9 (Disclaimers), 10 (Limitation of Liability), and 11 (Indemnity).**

2. About us

- 2.1. This Website is made available and operated by the following group entities:
 - 2.1.1. Swart Advisory Services Proprietary Limited t/a SWART Advisory, a private company duly incorporated in terms of the laws of the Republic of South Africa under registration number 2016/317952/07; and
 - 2.1.2. D Swart & Associates Incorporated t/a SWART Attorneys, a personal liability company duly incorporated in terms of the laws of the Republic of South Africa under registration number 2003/021176/21,

(collectively herein "**SWART**").
- 2.2. SWART has the following further details:
 - 2.2.1. physical address: D9 Octo Place, 5 Elektron Road, Techno Park, Stellenbosch | P.O. Box 12266, Die Boord, 7613, Docex 22, Stellenbosch

2.2.2. email address: hello@swart.law

2.2.3. telephone: +27 21 880 5160.

3. No legal advice

3.1. The information, materials, and opinions contained on this Website (herein "**Content**") is for general information purposes only and is not intended to constitute legal or other professional advice. The Content should not be relied upon or treated as specific advice relevant to your particular circumstances.

3.2. We reserve the right to withdraw or amend the Content in our sole discretion and without notice.

4. No offer

4.1. The Content does not constitute an offer from SWART to do business or to sell any goods. If you are interested in doing business with us, you are invited to contact us using the contact information provided on the Website.

5. Intellectual property

5.1. For purposes of this clause, the term "**Intellectual Property**" means all intellectual property and similar proprietary rights, howsoever arising and in whatever tangible or intangible media, whether or not registered, including (without limitation) copyright, database rights, patents, trade marks, registered designs, unregistered design rights, domain names, confidential information, business processes, trade secrets goodwill and any applications for the protection or registration of those rights and all renewals and extensions thereof throughout the world (if applicable), as well as any adaptations, derivatives and embodiments of the foregoing.

5.2. The Intellectual Property vesting in this Website, including (without limitation) the Content, design, features, functionality, layout, graphics, displays, text, images, video, audio, software, underlying code, and any communications issued through the Website, is owned by SWART or its licensors.

5.3. You are only authorised to view the Content of this Website. Accordingly, you agree not to:

5.3.1. reproduce, distribute, modify, or create derivative works of the Content;

5.3.2. publicly display, publicly perform, or republish the Content; or

5.3.3. download, store, or transmit any of the Content.

5.4. All rights not expressly granted are reserved and no right, title, or interest in any Intellectual Property vesting in this Website is granted to you.

6. Restrictions on use

- 6.1. You may not, directly or indirectly:
 - 6.1.1. attempt to circumvent or compromise any security measures of the Website;
 - 6.1.2. place an unreasonable or disproportionate load on the Website by submitting a high volume of requests within a short period;
 - 6.1.3. access this Website through automated means, except in the case of a *bona fide* search engine indexing publicly accessible pages;
 - 6.1.4. use the Website to upload, post, transmit, or distribute any material that is obscene, threatening, violent, racist, defamatory, offensive, or otherwise unlawful;
 - 6.1.5. use any automated or manual process to monitor or copy any of the Content on the Website, or for any other purpose not expressly authorised in these Terms, without our prior written consent;
 - 6.1.6. use the Website in any way that infringes, misappropriates or violates any third-party rights;
 - 6.1.7. restrict or inhibit the use of the Website by others; or
 - 6.1.8. use the Website in any way that violates any applicable law or regulation.
- 6.2. We reserve the right to take any action we deem necessary to maintain the security, integrity, and proper functioning of the Website.

7. Extranet environment

- 7.1. In this clause, the following terms (as capitalised), shall have the meanings assigned below:
 - 7.1.1. "**Authorised User**" means a person granted access by SWART to use the Extranet in accordance with these Terms;
 - 7.1.2. "**Credentials**" means the username, password, and any other authentication information used by an Authorised User to access the Extranet; and
 - 7.1.3. "**Extranet**" means the password-protected, online environment provided by SWART for use by Authorised Users.
- 7.2. Access to the Extranet is restricted to Authorised Users. We may, in our sole discretion, grant or revoke access without notice.
- 7.3. Authorised Users are responsible for the security and confidentiality of their Credentials, and may not:

- 7.3.1. disclose the Credentials to any third party; or
- 7.3.2. permit any unauthorised person to access the Extranet.
- 7.4. Authorised Users agree to notify SWART immediately of any unauthorised access to or use of their Credentials, or any other breach of security.

8. Data privacy

- 8.1. This clause 8 should be read with our prevailing privacy policy published on the Website.
- 8.2. Unless we seek your express prior consent, we will not collect or otherwise process any personal information you provide to us via the Website.

9. Disclaimers

- 9.1. **To the maximum extent possible under applicable law, the Website and the Content is used entirely at your risk.**
- 9.2. **The Website is made available "as is", without any warranty, representation, or undertaking, whether express or implied, including but not limited to implied warranties of merchantability, fitness for a particular purpose, title, or non-infringement.**
- 9.3. **Specifically, and to the maximum extent possible under applicable law, SWART does not warrant, represent, or undertake that:**
 - 9.3.1. **the Website will be compliant with local or international laws;**
 - 9.3.2. **the Website will always be available or that its operation will be uninterrupted or error-free – the Website may be temporarily unavailable due to maintenance, updates, upgrades, or other reasons beyond our control; or**
 - 9.3.3. **any data or information stored, transmitted, or managed by the Website will be secure, or that the integrity of data will be maintained.**

10. Limitation of liability

- 10.1. **To the maximum extent possible under applicable law, in no event shall SWART, its affiliates, licensors, or service providers be liable for any direct, indirect, incidental, special, consequential, or punitive damages, or any loss of profits, revenue, data, goodwill, or other intangible losses, including, without limitation, any claims or damages arising out of or related to:**
 - 10.1.1. **your use of or inability to use the Website, or its failure to operate as intended;**

- 10.1.2. unauthorised access to or alteration of your data;**
- 10.1.3. your use of or reliance on the Content;**
- 10.1.4. Third-Party Content or conduct;**
- 10.1.5. loss of data or corruption of files;**
- 10.1.6. errors or omissions in the Website; and**
- 10.1.7. breach of security measures or unauthorised access, use, or distribution of your data or personal information.**

10.2. The foregoing shall apply even if SWART has been advised of the possibility of such damages, the limitations set forth herein shall apply regardless of the form of action, whether in contract, delict (including negligence), strict liability, or otherwise.

10.3. Some jurisdictions do not allow the exclusion or limitation of liability for certain types of damages, including direct or consequential damages. In such jurisdictions, SWART's liability is limited to the maximum extent permitted by law.

11. Indemnity

11.1. To the maximum extent possible under applicable law, you agree to keep SWART, its licensors, service providers, affiliates, and group companies indemnified from any claim, cost, damage, expense, or other adverse consequence arising from:

- 11.1.1. your violation of the terms of these Terms;**
- 11.1.2. your use of and access to the Website;**
- 11.1.3. any violation of any third-party rights; and**
- 11.1.4. your violation of any law, rule, or regulation.**

12. Termination

12.1. Your rights under these Terms will automatically terminate if you fail to comply with any term or condition of these Terms.

12.2. SWART may, in its sole discretion, suspend or terminate your right to use the Website on written notice to you.

12.3. Upon termination of your rights to use the Website for any reason, you will have no further entitlement to use the Website or any Content and must immediately cease all use of the Website.

13. Notices and address for service

13.1. Each party hereby chooses as its nominated physical and email address for service and receipt of notices (i.e. *domicilia citandi et executandi*) for purposes of these Terms (herein each a "**Notice Address**"), the following:

13.1.1. in our case, the prevailing Notice Addresses set out on the Website (listed at 2.2 above), which are incorporated herein by reference; and

13.1.2. in your case, (1) the details nominated in terms of any other agreement with us and (2) any email address used to communicate with us.

13.2. You may change your Notice Addresses on 7 business days prior written notice to us.

13.3. Any notice served on a Notice Address before 17h00 in the recipient's time zone shall:

13.3.1. if delivered by hand, be deemed to have been received on the day of delivery; or

13.3.2. if sent by email, be deemed to have been received on the date when it is capable of retrieval by the recipient.

13.4. In the event of delivery of a notice to a Notice Address later than 17h00 in the recipient's time zone, then delivery shall be deemed to have taken place on the next day.

13.5. The provisions of this clause 13 do not preclude a serving party from otherwise proving that a notice was in fact duly received by a receiving party.

14. Interpretation

14.1. For purposes of these Terms:

14.1.1. the rule of interpretation that a contract will be interpreted against the party responsible for the drafting and preparation thereof will not apply;

14.1.2. unless the context shows otherwise, a clause which includes a specific example or examples will not be construed as limiting the meaning of the general wording preceding it; and

14.1.3. the termination or expiry of these Terms will not affect those provisions which expressly provide that they will continue to operate after such termination or expiry, or those provisions which of necessity must continue to have effect after such termination or expiry, even where those clauses do not expressly provide for this.

15. General

- 15.1. **Applicable law.** These Terms shall be governed by and construed and interpreted in accordance with the laws of the Republic of South Africa. Unless and to the extent expressly agreed otherwise in these Terms, the parties agree that the High Court of South Africa, Western Cape Division, shall have exclusive jurisdiction to hear any disputes that may arise from these Terms.
- 15.2. **Whole agreement.** These Terms constitute the whole agreement between the parties as to the subject matter hereof. Neither party shall have any claim or right of action arising from any undertaking, representation or warranty not included in these Terms.
- 15.3. **Severability.** Each provision of these Terms is severable from the other provisions. Should any provision be found by a court of competent jurisdiction to be invalid or unenforceable, then the remainder of these Terms will remain binding and continue with full force and effect.
- 15.4. **Cost of legal services.** Each party will pay its own costs and expenses incurred by it in connection with the negotiation, drafting, re-drafting, entering into, and implementation of legally binding documents. Should any party instruct attorneys to take any steps to enforce any rights in terms of these Terms arising from a breach thereof, then the breaching party shall be liable for all legal and incidental costs, including legal fees on the attorney and own client scale, collection commission and tracing charges.