



**FINASA**  
INTECH ASSOCIATION OF SA

## WEBSITE TERMS AND CONDITIONS

You should read these Terms and Conditions carefully before using the Website or services of FINASA. By accessing or using the Website or otherwise indicating your consent, you agree to be bound by these Terms and Conditions and the documents referred to herein.

## 1. DEFINITIONS

- 1.1. **“Acceptable Use Policy”** refers to the policy governing Users’ conduct in respect of the Website;
- 1.2. **“Account”** means the account created on the Website by the Member, which will require personal information to be submitted to the Website in order to access your Account;
- 1.3. **“Additional Terms and Conditions”** refers to the terms and conditions you will be required to agree to upon when wanting to access areas which do not form part of your Membership Tier;
- 1.4. **“Agreement”** means these legally binding Terms and Conditions;
- 1.5. **“Content”** collectively refers to FINASA Content and User Content;
- 1.6. **“FINASA”** means The FinTech Association of South Africa, a company duly incorporated in accordance with the laws of South Africa with registration number, 2020/496935/08 and registered address at, Darter Studios, Longkloof, Darter Road, Gardens, Cape Town, 8001, being the owner and operator of the Website;
- 1.7. **“FINASA Content”** refers to all material uploaded to the Website by FINASA, including photos, videos, audio (for example, dialogue, music and other sounds), livestream material, data, text (such as comments and hashtags), metadata, images, interactive features, emojis, GIFs, memes, and any other uploaded material whatsoever;
- 1.8. **“Member”** refers to any company with a membership, including any employee of the company who has been selected and permitted access to the Website;
- 1.9. **“Intellectual Property”** includes, without limitation, any patent, copyright, trademark, trade name, service mark, service name, brand mark, brand name, logo, corporate name, domain name, registered and unregistered trademarks, know-how, trade secret, formula, research, report and/or information, discoveries, client information, marketing data, and any

computer program, software, database or data right, processes and methods;

- 1.10. **“Membership”** means your annual membership with FINASA;
- 1.11. **“Membership Agreement”** refers to the agreement concluded between FINASA and Members;
- 1.12. **“Membership Tier”** refers to the level of Membership, specifically, Protea Free, Protea Gold, Protea Platinum and Protea Partners, each of which contain their own Additional Terms and Conditions;
- 1.13. **“Privacy Policy”** refers to the policy dealing with the privacy of personal information provided on or through the Website;
- 1.14. **“Terms and Conditions”** means these Website Terms and Conditions applicable to all Users, including, without limitation, the Acceptable Use Policy and Privacy Policy;
- 1.15. **“User”** means any user of the Website, that views and/or posts and/or publishes Content to the Website, including all Members;
- 1.16. **“User Content”** means all material uploaded, posted and/or displayed on or through the Website by any Member, including, without limitation, advertisements, messages, photos, videos, audio (for example, dialogue, music and other sounds), livestream material, data, text (such as comments and hashtags), metadata, images, interactive features, emojis, GIFs, memes, and any other material uploaded, posted and/or displayed on or through the Website whatsoever;
- 1.17. **“Website”** means the <https://finasa.org.za> website and all associated web pages wholly owned and operated by FINASA.
- 1.18. **“you”** and **“your”** refers to Members and/or members of the public viewing the Website and Content, as the context requires.

## 2. ABOUT THE WEBSITE

- 2.1. The Website is owned and operated by FINASA.

- 2.2. Members are allowed to post and/or upload User Content to the Website in accordance with the Terms and Conditions and Membership Agreement.
- 2.3. The use of the Website may be subject to separate third-party terms of service and fees, including, without limitation, mobile network operator terms of service and fees, including fees charged for data usage and coverage, which fees and charges are your sole responsibility.
- 2.4. FINASA reserves the right to make changes to the Website, which changes may be made at any time.
- 2.5. The use of the Website and Content is at your own risk.

### **3. ACCEPTANCE OF TERMS AND CONDITIONS**

- 3.1. By accessing, using, uploading to or visiting the Website and/or any of its Content and/or functionalities, you agree to be bound by the Terms and Conditions. If you do not agree, you may not access or use the Website. If you would like a copy of the Terms and Conditions, contact FINASA at [hello@finasa.org.za](mailto:hello@finasa.org.za).
- 3.2. The Terms and Conditions apply to all Users of the Website, whether accessed *via* computer, mobile device, or other technology, manner, or means.

### **4. AMENDMENTS TO TERMS AND CONDITIONS**

- 4.1. FINASA reserves the right to amend the Terms and Conditions at any time and at FINASA's sole discretion. All amendments are effective immediately when posted to the Website and applies to all access and use of the Website thereafter. By continuing to use the Website after such notice, you agree to the amended Terms and Conditions. You are expected to review this page from time to time to ensure awareness and familiarity with any changes, which may be applicable to and binding on you.
- 4.2. The updated version of the Terms and Conditions supersedes any prior version/s immediately upon being posted, and the prior version/s shall have no continuing legal effect. It is your responsibility to periodically and regularly review the Website to ensure that you always remain compliant with the latest version of the Terms and Conditions.

## 5. COMMUNICATION

- 5.1. By using the Website you expressly and specifically consent to receiving electronic communications from FINASA, including emails and posting communications on the Website.
- 5.2. You acknowledge and agree that all electronic communications, including but not limited to, notices, agreements and disclosures provided to you by FINASA will satisfy any legal communication requirement, including that such communication be in writing.
- 5.3. You agree to maintain copies of electronic communications.
- 5.4. You also expressly and specifically consent to receiving certain other electronic communications from FINASA, such as newsletters regarding the Website.
- 5.5. Should you wish to withdraw your consent to receiving communications from FINASA at any time, you are required to email [hello@finasa.org.za](mailto:hello@finasa.org.za) notifying FINASA of your withdrawal of consent.

## 6. FINASA CONTENT

- 6.1. FINASA Content is provided for general information purposes only and to inform you about FINASA news, features, services, partners and other websites that may be of interest.
- 6.2. FINASA Content does not constitute technical, financial, or legal advice or any other type of advice and should not be relied on for any purposes. If you rely on it, you are doing so at your own risk.

## 7. REGISTRATION, ACCOUNT AND CONTENT

- 7.1. To access certain additional features and functionality of the Website, you must register an Account on the Website. All information provided to FINASA during registration will be held and used in accordance with the FINASA Privacy Policy.
- 7.2. **Login details and access to your Account**
  - 7.2.1. It is your responsibility to ensure that your Account login details remain confidential and secure, including your user name, passwords and any other information that forms part of FINASA security procedures.

- 7.2.2. You agree to provide true, accurate, current and complete information about yourself as requested in all registration forms and to update information about yourself promptly, and as necessary, to maintain current and accurate records.
- 7.2.3. You agree that all information you provide to register and create an Account, including, but not limited to, use of any interactive features on the Website is governed by the FINASA Privacy Policy, and you consent to FINASA taking any action with respect to your information in a manner consistent with the FINASA Privacy Policy.
- 7.2.4. You acknowledge and agree that your Account is personal to you and you will not disclose your Account login details to any other person or entity, except as provided for in these Terms and Conditions. You may never use any other person or entity's account and they may not use yours.
- 7.2.5. If you have reason to believe that any other person or entity has used or is using your Account or if your Account has been subject to any other breach of security, you will immediately notify the FINASA at [hello@finasa.org.za](mailto:hello@finasa.org.za). It is your responsibility to immediately inform FINASA of any apparent breach of security, such as loss, theft or unauthorised disclosure or use of a user name or password.
- 7.2.6. You will ensure that you log out of your Account from a public or shared computer so that others are not able to access, view or record your password or other personal information.
- 7.2.7. You acknowledge that you are solely responsible for all activities that occur on your Account, regardless as to whether such activities occurred as a result of any other person or entity using your Account. You agree that FINASA will not be liable for any loss sustained or caused by any unauthorised access and use of your Account. You further agree that you may be liable for the losses suffered by FINASA due to any unauthorised use of your Account.

### **7.3. Your Content**

- 7.3.1. Your User Content shall always strictly comply with the Acceptable Use Policy.
- 7.3.2. All User Content is created, selected and provided by Members and not by FINASA. You shall be solely responsible for your User Content.

- 7.3.3. FINASA is not responsible for reviewing or moderating User Content and does not select or modify User Content stored or transmitted *via* the Website. FINASA is under no obligation to monitor User Content or detect breaches of the Terms and Conditions.
- 7.3.4. You understand that FINASA does not guarantee any confidentiality in respect of any User Content you produce, post or publish where such User Content is available for other Users and/or the general public to view.
- 7.3.5. Subject to what is permissible by law and the Terms and Conditions, you are free to choose the type of User Content you produce, post or publish. You shall be solely responsible for your own User Content and the consequences of posting or publishing such User Content.
- 7.3.6. FINASA is not responsible for any User Content that violates community morals or standards in your community. If you are seeking any illegal or inappropriate activities, you agree to leave the Website immediately. FINASA expects and demands that you comply with all applicable laws and regulations when using the Website and when submitting or posting User Content to the Website. If you are unsure whether or not User Content will violate law, you should seek legal advice prior to posting the User Content.
- 7.3.7. You must evaluate, and bear all risks associated with, the use of any User Content, including any reliance on the accuracy, completeness, usefulness or lawfulness of such User Content.
- 7.3.8. FINASA has the right to disable and/or delete User Content, at any time in its sole discretion for any reason or no reason if, in FINASA's opinion, you have or may have violated any provisions of the Terms and Conditions and/or any applicable legislation and regulations, including, without limitation, if in FINASA's view, your User Content could create liability for FINASA, damage FINASA's brand and/or reputation, or cause FINASA to lose Users or the services of third parties.
- 7.3.9. If FINASA disables and/or deletes User Content from your Account, you will be notified *via* electronic communication, but FINASA is not obliged to give you prior notice.
- 7.3.10. FINASA reserves the right, in its sole discretion, to suspend access to any User Content you post on the FINASA Platform, which may not comply with the FINASA Terms and Conditions or any applicable

legislation and regulations, whilst FINASA investigates the suspected non-compliance and/or unlawfulness and/or illegality of such User Content.

- 7.3.11. You may request a review of FINASA's decision to suspend access to your User Content by contacting FINASA at [hello@finasa.org.za](mailto:hello@finasa.org.za).
- 7.3.12. You hereby warrant and agree that FINASA is entitled to investigate any suspected non-compliant and/or unlawful and/or illegal User Content.
- 7.3.13. Following FINASA's investigation of such non-compliant and/or unlawful and/or illegal User Content, appropriate action may be taken against you, including reinstating access to the User Content or permanently removing or disabling access to the relevant User Content without obtaining your consent and without providing prior notice.
- 7.3.14. You undertake, at your own cost, to immediately on request or demand, provide FINASA with the necessary assistance in its investigation regarding the User Content.
- 7.3.15. FINASA will not be responsible for any loss suffered by you arising from the suspension of access to your User Content, deletion of your User Content, your account being disabled or deleted.
- 7.3.16. FINASA does not endorse any User Content submitted by any User, or any opinion, recommendation, or advice expressed therein, and the FINASA Platform expressly disclaim any and all liability in connection with User Content.

#### **7.4. Termination of your Agreement and Account**

- 7.4.1. FINASA reserves the right, in its sole discretion, to terminate your Agreement and Membership with FINASA and your access to the Website for any reason, by giving you 30 (thirty) days' electronic written notice. We also reserve the right, in our sole discretion, to immediately terminate your Agreement and Membership with FINASA and your access to the Website, without prior notice if:
  - 7.4.1.1. FINASA is of the opinion you have or may have grossly or repeatedly breached any provision of the Terms and Conditions and/or Membership Agreement; or

- 7.4.1.2. you attempt or threaten to breach any part of the FINASA Terms and Conditions in a way which has or could have serious consequences for FINASA or any other User; or
- 7.4.1.3. you take any action that, in FINASA's opinion, has caused or is reasonably likely to cause FINASA to suffer a loss or otherwise damages the reputation of FINASA.
- 7.5. Upon termination of your Agreement with FINASA, we may deal with your User Content in accordance with the FINASA Privacy Policy, including but not limited to deleting the User Content, and you will no longer be entitled to access the User Content.
- 7.6. We are entitled to disclose any information or records in our possession or control relating to your use of the Website, to law enforcement agencies in connection with any investigation of suspected illegal activity, to protect FINASA's rights or in response to legal process.

## **8. SCOPE OF LICENSE TO USE FINASA INTELLECTUAL PROPERTY**

- 8.1. The Website and all Intellectual Property rights therein are owned by FINASA.
- 8.2. FINASA and associated names and logos are FINASA's trademarks and/or service marks. Other trademarks, service marks, names, and logos used on or through the FINASA Platform, such as trademarks, service marks, names or logos associated with third party content providers, are the trademarks, service marks, or logos of their respective owners.
- 8.3. All rights in and to the Website and its features, databases, source code, functionality and FINASA Content, are owned by FINASA and/or its licensors. Such material is protected by Intellectual Property laws.
- 8.4. The Website and FINASA Content are owned, authored, created, purchased, or licensed by FINASA ("FINASA Works"). FINASA Works may be protected by copyright and/or other laws, and FINASA reserves and retains all rights in and to FINASA Works and the Website.
- 8.5. The Website is licensed, not sold, to you for use in accordance with the Terms and Conditions and your Membership Agreement. FINASA hereby grants you a personal, limited, revocable, non-transferable and royalty-free license to use the Website.
- 8.6. You agree not to otherwise reproduce, adapt, duplicate, copy, sell, distribute, rent, resell, publicly display, publicly perform, link to or exploit the

Website and FINASA Works or any adaptations thereof unless expressly set forth herein. Such conduct would constitute copyright infringement.

- 8.7. If you breach these license restrictions, or otherwise exceed the scope of the licenses granted herein, any licenses you have obtained will be automatically rescinded and terminated and you may be subject to prosecution and damages claims, as well as liability for infringement of Intellectual Property rights.
- 8.8. You grant FINASA (and its assignees, successors, licensees and sub-licensees) a non-exclusive, assignable, sub-licensable, revocable, royalty-free, worldwide license to reproduce, adapt, modify, distribute, display, publish, transmit, communicate to the public, make available, broadcast, create derivative works from, and otherwise use and exploit (collectively "**Use**") all User Content you post to or through the Website.
- 8.9. You further hereby grant FINASA, a royalty-free license to Use your Intellectual Property made available by or on your behalf through the Website in conjunction with your User Content.
- 8.10. FINASA will discontinue licensed use within a commercially reasonable time period after the termination of your Agreement and/or Membership Agreement with FINASA.
- 8.11. You waive any moral rights you may have under any applicable legislation to object to derogatory treatment of any User Content posted by you on the Website. This waiver does not affect your ownership of any Intellectual Property in your User Content or the rights which you have to prevent your User Content from being copied without your consent. The waiver is intended to allow FINASA when dealing with your User Content, to add watermarks, stickers or text to your User Content.
- 8.12. You agree that FINASA is under no obligation to monitor infringements of your User Content.
- 8.13. FINASA does not grant you any rights owned by other Users. Any such rights may only be granted to you by the Users.
- 8.14. By posting User Content on the Website, which User Content can be viewed by the general public, you agree to other Users accessing, displaying, viewing, storing and reproducing such User Content whilst you retain all ownership rights in respect of the User Content.

## **9. LINKS TO THE WEBSITE AND OTHER FEATURES**

- 9.1. You may link to the FINASA Website, provided you do so in a manner that is fair and legal and does not damage or take advantage of FINASA's reputation.
- 9.2. The Website may provide certain features that enable you to:
  - 9.2.1. link from your own or third party websites to certain User Content on the Website;
  - 9.2.2. send emails or other communications with certain User Content, or linked to certain User Content on the Website; and,
  - 9.2.3. cause limited portions of the User Content on the Website to be displayed or appear to be displayed on your own or certain third party websites.
- 9.3. You may use these features solely as they are provided by FINASA and solely with respect to the User Content they are displayed with and otherwise in accordance with any additional terms and conditions provided by FINASA regarding such features.
- 9.4. FINASA may disable all or any additional features and any links at any time without notice, in FINASA's sole discretion.

## **10. LINKS FROM THE WEBSITE**

- 10.1. If the Website contains links to other sites and resources provided by third parties, these links are provided for your convenience only. This includes links contained in advertisements, including banner advertisements and sponsored links. FINASA has no control over, and assumes no responsibility for, the contents, privacy policies, or practices of such other sites or resources, and accepts no liability for them or for any loss or damage that may arise from your use of them. Inclusion of, linking to, or permitting the use or installation of any third party site, applications, software, content, or advertising does not imply approval or endorsement thereof by FINASA. If you decide to access any of the third party sites linked to the Website, you do so entirely at your own risk and subject to the terms and conditions of use for such sites. Further, you agree to release and indemnify FINASA from any and all liability arising from your use of any third party website, content, service, or software accessed through the Website.
- 10.2. Your communications, dealings with or participation in promotions of sponsors, advertisers, or other third parties located through the Website, are solely between you and such third party. You agree that FINASA will not

be responsible or liable for any loss or damage of any sort incurred as a result of any dealings which such sponsors, third parties or advertisers, or as the result of their presence on the Website.

## **11. PRIVACY POLICY**

Your use of the Website is subject to the FINASA Privacy Policy, which is hereby incorporated by reference into these Terms and Conditions. By using the Website, you agree that you have read, understood and unequivocally agree to the data collection, use, and disclosure provisions set forth in the FINASA Privacy Policy.

## **12. MOBILE SERVICES**

- 12.1. The Website includes certain services that are available *via* a mobile device, including:
  - 12.1.1. the ability to browse the Website from a mobile device, and;
  - 12.1.2. the ability to access certain features of the Website through applications downloaded and installed on a mobile device (collectively, the “Mobile Services”).
- 12.2. To the extent that you access the Website through a mobile device, your wireless service carrier’s standard charges, data rates and other fees may apply and you acknowledge you are solely responsible for all such fees and charges. In addition, you acknowledge that your carrier may restrict downloading, installing, or using certain Mobile Services, and not all Mobile Services may work with all carriers or devices.

## **13. ACCOUNT DEACTIVATION**

Should you wish to deactivate your Account, please contact customer support at [hello@finasa.org.za](mailto:hello@finasa.org.za) to submit your deactivation request. FINASA will deactivate your account within 10 (ten) working days after receiving your written request.

## **14. WAIVER**

You hereby waive any and all rights of privacy, rights of publicity, or any other rights of a similar nature in connection with your User Content, or any portion thereof. To the extent any moral rights are not transferable or assignable, you hereby waive and agree never to assert any and all moral rights, or to support, maintain or permit any action based on any moral rights that you may have in or with regard to any of your User Content posted to the Website, during the term of your Agreement with FINASA.

## 15. INDEMNITY

- 15.1. You agree to indemnify and hold harmless FINASA, its Website operator, its affiliates, licensors, service providers, officers, directors, employees, agents, successors, and assigns from and against any claims, liabilities, damages, judgments, awards, obligations, losses, liabilities, costs or debt, and expenses, including, without limitation, legal and accounting fees, arising out of or in any manner connected to:
  - 15.1.1. your access, use, or misuse of the Website or User Content;
  - 15.1.2. your violation of any third party right, including without limitation, intellectual property or privacy right;
  - 15.1.3. any claim that your User Content caused damage to a third party; or,
  - 15.1.4. your violation of the Terms and Conditions.
- 15.2. FINASA is not affiliated with any mobile carrier or other third party service provider, and any dispute you have with any such third party service provider, including, without limitation, any other User of the Website, is directly between you and such third party and/or User, and you irrevocably release FINASA (and our officers, directors, agents, subsidiaries, joint ventures, employees, successors, and assigns) from any and all claims, demands and damages (actual and consequential) of every kind and nature, known and unknown, arising out of or in any way connected with such disputes.
- 15.3. This indemnification will survive the Terms and Conditions and your use of the Website. You agree that FINASA shall have the sole right and obligation to control the legal defence against any such claims, demands, or litigation, including the right to select counsel of FINASA's choice and to compromise or settle any such claims, demands, or litigation.

## 16. DISCLAIMERS

- 16.1. You use the Website at your sole risk. FINASA provides the Website "as is" and "as available". To the fullest extent permitted by law, FINASA disclaims all warranties of any kind related to the Website and goods and/or services and/or Content obtained through the Website, whether express or implied, including but not limited to, the implied warranties and merchantability, fitness for a particular purpose and non-infringement. You shall be solely responsible for any damage to your computer system or loss of data that results from your use of the Website. FINASA makes no warranty or

representation about the accuracy or completeness of the Content or the content of any sites linked to the Website or that the Website will meet your requirements and assumes no liability or responsibility for any:

- 16.1.1. errors, typographical errors, mistakes, or inaccuracies of Content;
  - 16.1.2. personal injury or property damage, of any nature whatsoever, resulting from your access to and use of the Website and FINASA's services;
  - 16.1.3. any interruption or cessation of transmission to or from the Website or FINASA's services;
  - 16.1.4. any bugs, viruses, trojan horses, or the like which may be transmitted to or through the Website; and/or,
  - 16.1.5. any errors or omissions in any Content or for any loss or damage of any kind incurred as a result of the use of any Content posted, emailed, transmitted or otherwise made available *via* the Website or FINASA's services.
- 16.2. FINASA does not warrant, endorse, guarantee, or assume responsibility for any product or service advertised or offered by third parties through the Website or FINASA's services or any hyperlinked services or featured in any banner or other advertising and FINASA will not be a party to or in any manner be responsible for monitoring any transaction between you and third party providers of products or services. You should use your best judgment and exercise caution where appropriate.
- 16.3. FINASA does not warrant against the interference with your enjoyment of the Website, that the functions contained in or services performed or provided by the Website and FINASA will meet your requirements, that the operation of the Website will be uninterrupted or error-free or not interfere with your use or enjoyment of any other applications on the device on which the Website is accessed or installed, or that defects in the Website will be corrected.
- 16.4. No oral or written information or advice given by FINASA or its authorised representatives will create a warranty not expressly provided for in the Terms and Conditions. Some jurisdictions do not permit the exclusion of implied warranties or limitations on applicable statutory rights of a consumer, accordingly the above exclusion and limitations may not apply to you but, in such case, the foregoing will be applied to the greatest extent enforceable under applicable law.

- 16.5. FINASA does not warrant that the Website is compatible with all devices and operating systems. You are responsible for configuring your information technology, device and computer programs to access the Website. You shall use your own virus protection software.
- 16.6. FINASA will try and ensure that the Website is secure and free from bugs and viruses but cannot guarantee that it will be and has no control over the User Content.
- 16.7. FINASA is not responsible for the availability of internet, or any errors in your connections, device or other equipment, or software that may occur in relation to your use of the Website.
- 16.8. FINASA is not responsible for any lost, stolen, or compromised Accounts, passwords, email accounts, or any resulting unauthorised activities.
- 16.9. You acknowledge that once your User Content is posted on the Website, FINASA cannot control and will not be responsible to you for the use which other Users or third parties make of such User Content. You can delete your Account at any time, but you acknowledge that deleting your Account will not of itself prevent the circulation of any of your User Content which may have been recorded by other Users in breach of the Terms and Conditions or by third parties prior to the deletion of your Account.
- 16.10. The material FINASA makes accessible on the Website for Users are for general information only. FINASA makes no guarantees about the accuracy or otherwise of such materials, or that Users will achieve any particular result or outcome from such materials.
- 16.11. The Terms and Conditions will remain in full force and effect for the duration of your Membership. FINASA reserves the right to pursue all legal remedies, including, without limitation, to remove your User Content and immediately terminate your Membership and ability to access the Website and/or any other services provided to you by FINASA.

## **17. REPRESENTATIONS AND WARRANTIES**

- 17.1. Except for materials provided to you by FINASA through the Website, you represent, warrant and covenant that:
  - 17.1.1. you either are the sole and exclusive owner of all of your User Content, or you have all rights, licenses, consents, and releases that are necessary to grant to FINASA a license in respect of your User Content and Intellectual Property as provided for herein; and,

- 17.1.2. neither your User Content nor your creation of, accessing, posting, submission or transmission of your User Content shall:
  - 17.1.2.1. infringe, misappropriate or violate the rights of any party or entity, including third party Intellectual Property, rights of publicity, rights of privacy or other proprietary rights;
  - 17.1.2.2. constitute or result in defamation, libel, slander, or the violation of any applicable legislation or regulation or;
  - 17.1.2.3. require FINASA to obtain any licenses from or make any payments in any amounts to any third party throughout the world.

## **18. LIMITATION OF LIABILITY**

- 18.1. To the extent not prohibited by law, in no event shall FINASA, its affiliates, shareholders, officers, directors or employees be liable to you for any personal injury, or any incidental, special, indirect or consequential damages whatsoever, including, without limitation, damages for loss of profits, loss of data, business interruption or any other commercial damages or losses, arising out of or related to your use or inability to use the Website and any Content or materials available through the Website, however caused, regardless of the theory of liability (contract, tort or otherwise) and even if FINASA has been advised of the possibility of such damages.
- 18.2. FINASA cannot be liable for any losses that could not be foreseen by yourselves or FINASA, were not caused by any breach on FINASA's part, losses to non-consumers and/or third party losses.
- 18.3. In no event shall FINASA's total liability to you for all damages exceed the amount you paid to FINASA in the preceding 12 (twelve) months.
- 18.4. You specifically acknowledge that FINASA, its officers, directors, employees, shall not be liable for Content or for the defamatory, offensive, or illegal conduct of any third party, and that the risk, harm or damage from the foregoing rests entirely with you.
- 18.5. You further acknowledge that any Content uploaded to public sections of the Website may be viewed, downloaded, republished, and distributed, potentially in violation of your rights or the Terms and Conditions, and that you assume such risks as a material part of the Terms and Conditions.

18.6. You agree not to file any arbitration claim, lawsuit or proceeding inconsistent with the foregoing liability limitations.

18.7. Only FINASA and Users are entitled to enforce the Terms and Conditions.

## **19. BREACH**

19.1. You will be in breach of these Terms and Conditions if you:

19.1.1. do anything contrary to the Terms and Conditions and Acceptable Use Policy;

19.1.2. fail to verify or authenticate any information which is personal, about your Membership, or any of your User Content;

19.1.3. become insolvent or have an order made for your insolvency

19.2. If you breach the Terms and Conditions and fail to remedy such breach within 14 (fourteen) days of receiving written notice to remedy the breach, FINASA will be entitled to terminate the Agreement and Membership Agreement. FINASA reserves the right to charge you for the full annual membership subscription.

## **20. DISPUTE RESOLUTION**

20.1. Any dispute between the you and FINASA arising out of the Terms and Conditions shall, at the option of FINASA be submitted to arbitration in terms of the provision of the Arbitration Act, 1965 or any amendment thereto.

20.2. The parties hereby consent to the jurisdiction of the appropriate Magistrates Court in regard to any action or proceedings based on or arising from the Terms and Conditions, notwithstanding that the amount claimed would otherwise exceed the jurisdiction of the Magistrate's Court. This consent is not to be construed as a restraint on any party to institute action in the High Court of South Africa.

## **21. GOVERNING LAW**

The Terms and Conditions are governed by the laws of the Republic of South Africa.

## **22. ASSIGNMENT**

22.1. You may not assign this Agreement or any of the rights or licenses granted hereunder, directly or indirectly, without first obtaining the prior written consent of FINASA.

22.2. FINASA may assign this Agreement, including all its rights hereunder, without restriction and without your prior consent.

### **23. COMMENTS AND CONCERNS**

All feedback, comments, requests for technical support and other communications relating to the Website should be directed to [hello@finasa.org.za](mailto:hello@finasa.org.za).

### **24. MISCELLANEOUS**

24.1. Use of section headers in this Agreement is for convenience only and will not have any impact on the interpretation of particular provisions. In the event that any part of this Agreement is held to be invalid or unenforceable, the unenforceable part will be given effect to the greatest extent possible and the remaining parts will remain in full force and effect.

24.2. No joint venture, partnership, employment or agency relationship exists between you and FINASA as a result of this Agreement, the Terms and Conditions, or use of the Website.

24.3. Your access to and use of the Website is governed by and conditioned on your express consent to this Agreement. You have thoroughly reviewed this Agreement to your satisfaction. By using the Website you agree to be bound by this Agreement, just as if you had signed it in pen and ink.

24.4. The Terms and Conditions, Privacy Policy, Acceptable Use Policy, Membership Agreement and any other documents expressly incorporated by reference constitute the sole and entire agreement between you and FINASA with respect to the Website.

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