

## 1. Introduction

1. This website can be accessed at [www.cafe2go.co.za](http://www.cafe2go.co.za), and is owned and operated by Cafe2go (Proprietary) Limited (“Cafe2go”, “we”, “us” and “our”).
2. These Website Terms and Conditions (“**Terms and Conditions**”) govern the ordering, sale and delivery of Goods, and the use of the Website.
3. These Terms and Conditions are binding and enforceable against every person that accesses or uses this Website (“**you**”, “**your**” or “**user**”), including without limitation each user who registers as contemplated below (“**registered user**”). **By using the Website and by clicking on the “Register Now” button on the Website, as may be applicable, you acknowledge that you have read and agree to be bound by these Terms and Conditions.**
4. The Website enables you to shop online for an extensive range of goods (“**Goods**”).

## 2. Important Notice

1. These Terms and Conditions apply to users who are consumers for purposes of the Consumer Protection Act, 68 of 2008 (the “**CPA**”).
2. **These Terms and Conditions contain provisions that appear in similar text and style to this clause and which -**
  1. **may limit the risk or liability of Cafe2go or a third party; and/or**
  2. **may create risk or liability for the user; and/or**
  3. **may compel the user to indemnify Cafe2go; and/or**
  4. **serves as an acknowledgement, by the user, of a fact.**
3. **Your attention is drawn to these Terms and Conditions because they are important and should be carefully noted.**
4. If there is any provision in these Terms and Conditions that you do not understand, it is your responsibility to ask Cafe2go to explain it to you before you accept the Terms and Conditions or continue using the Website.
5. Nothing in these Terms and Conditions is intended or must be understood to unlawfully restrict, limit or avoid any right or obligation, as the case may be, created for either you or Cafe2go in terms of the CPA.
6. Cafe2go permits the use of this Website subject to the Terms and Conditions. By using this Website in any way, you shall be deemed to have accepted all the Terms and Conditions unconditionally. You must not use this Website if you do not agree to the Terms and Conditions.
7. These Terms and Conditions are divided into three sections, as follows:
  1. **Part A – Orders and Sales;**

2. **Part B – Privacy Policy; and**
3. **Part C – General Legal Terms.**

3. **Returns**

1. Please refer to our Returns Policy for more information about returning products (and related refunds, replacements or repairs). The Returns Policy is incorporated by reference (which means that it forms part of these Terms and Conditions).

4. **Registration and use of the website**

1. Only registered users may order Goods on the Website.
2. To register as a user, you must provide a unique username and password and provide certain information and personal details to Cafe2go. You will need to use your unique username and password to access the Website in order to purchase Goods.
3. You agree and warrant that your username and password shall:
  1. be used for personal use only; and
  2. not be disclosed by you to any third party.
4. For security purposes you agree to enter the correct username and password whenever ordering Goods, failing which you will be denied access.
5. **You agree that, once the correct username and password relating to your account have been entered, irrespective of whether the use of the username and password is unauthorised or fraudulent, you will be liable for payment of such order, save where the order is cancelled by you in accordance with these Terms and Conditions.**
6. You agree to notify Cafe2go immediately upon becoming aware of or reasonably suspecting any unauthorised access to or use of your username and password and to take steps to mitigate any resultant loss or harm.
7. **By using the Website you warrant that you are 18 (eighteen) years of age or older and of full legal capacity. If you are under the age of 18 (eighteen) or if you are not legally permitted to enter into a binding agreement, then you may use the Website only with the involvement and supervision of your parent or legal guardian. If your parent or legal guardian supervises you and gives his/her consent, then such person agrees to be bound to these Terms and Conditions and to be liable and responsible for you and all your obligations under these Terms and Conditions.**
8. You agree that you will not in any way use any device, software or other instrument to interfere or attempt to interfere with the proper working of the Website. In addition, you agree that you will not in any way use

any robot, spider, other automatic device, or manual process to monitor, copy, distribute or modify the Website or the information contained herein, without the prior written consent from an authorised Cafe2go representative (such consent is deemed given for standard search engine technology employed by Internet search websites to direct Internet users to this Website).

9. You may not use the Website to distribute material which is defamatory, offensive, contains or amounts to hate speech or is otherwise unlawful.
10. You may not in any way display, publish, copy, print, post or otherwise use the Website and/or the information contained therein without the express prior written consent of an authorised Cafe2go representative.

#### 5. **Conclusion of sales and availability of stock**

1. Registered users may place orders for Goods, which Cafe2go may accept or reject. Whether or not Cafe2go accepts an order depends on the availability of Goods, correctness of the information relating to the Goods (including without limitation the price) and receipt of payment or payment authorisation by Cafe2go for the Goods.
2. **NOTE: Cafe2go will indicate the acceptance of your order by delivering the Goods to you or allowing you to collect them, and only at that point will an agreement of sale between you and Cafe2go come into effect (the "Sale"). This is regardless of any communication from Cafe2go stating that your order or payment has been confirmed.**
3. Prior to delivery or your collection of the Goods, you may cancel an order at any time provided you do so before receiving a dispatch or delivery notice. After delivery or your collection of the Goods, you may cancel the Sale only in accordance with the Returns Policy.
4. Placing Goods in a wishlist or shopping basket without completing the purchase cycle does not constitute an order for such Goods, and as such, Goods may be removed from the shopping basket if stock is no longer available or the price thereof might change without notice to you. You cannot hold Cafe2go liable if such Goods are not available or are not available at the particular price when you complete or attempt to complete the purchase cycle at a later stage.
5. **You acknowledge that stock of all Goods on offer is limited and that pricing may change at any time without notice to you.**
6. Certain Goods may not be purchased for re-sale. Should we suspect that any Goods are being purchased for sale, we are entitled to cancel your order immediately without notice to you.

#### 6. **Payment**

1. We are committed to providing secure online payment facilities. All transactions are encrypted using appropriate encryption technology.
2. Payment can be made for Goods via -
  1. debit card;
  2. credit card: where payment is made by credit card, we may require additional information in order to authorise and/or verify the validity of payment. In such cases we are entitled to withhold delivery until such time as the additional information is received by us and authorisation is obtained by us for the amounts. If we do not receive authorisation your order for the Goods will be cancelled. **You warrant that you are fully authorised to use the credit card supplied for purposes of paying the Goods. You also warrant that your credit card has sufficient available funds to cover all the costs incurred as a result of the services used on the Website;**
  3. Direct bank deposit or electronic funds transfer: if you pay via direct bank deposit or electronic funds transfer, payment must be made within 5 (five) days of placing your order. Cafe2go will not accept your order if payment has not been received;
  4. Instant EFT.
3. Once you have selected your payment method and you accept these Terms and Conditions, you will be directed to a link to a secure site for payment of the applicable purchase price for the Goods.

## 7. Delivery of goods

1. Cafe2go offers 2 (two) methods of delivery of Goods to you. You may elect delivery via:
  1. courier; or
  2. self-collection.
2. Please see details of our delivery and shipping terms and conditions in our FAQ's: Shipping and Delivery, which are incorporated by reference.
3. Where it accepts your order, Cafe2go will deliver the Goods to you as soon as reasonably possible, but no later than 30 (thirty) days of receipt of your payment ("Delivery Period"). We will notify you if we are unable to deliver the Goods during the Delivery Period. You may then, within 7 (seven) days of receiving such notification elect whether or not to cancel your order for the Goods. If you elect to cancel your order, we will reimburse you for the purchase price.
4. Cafe2go's obligation to deliver a product to you is fulfilled when we deliver the product to the physical address nominated by you for delivery of the order. Cafe2go **is not responsible for any loss or**

**unauthorised use of a product, after it has delivered the product to the physical address nominated by you.**

**8. Errors**

**We shall take all reasonable efforts to accurately reflect the description, availability, purchase price and delivery charges of Goods on the Website. However, should there be any errors of whatsoever nature on the Website (which are not due to our gross negligence), we shall not be liable for any loss, claim or expense relating to a transaction based on any error, save – in the case of any incorrect purchase price – to the extent of refunding you for any amount already paid, or otherwise as set out in the Returns Policy.**

**9. Privacy policy**

1. We respect your privacy and will take reasonable measures to protect it, as more fully detailed below.
2. Should you decide to register as a user on the Website, we may require you to provide us with personal information which includes but is not limited to -
  1. your name and surname;
  2. your email address;
  3. your physical address;
  4. your gender;
  5. your mobile number; and
  6. your date of birth.
3. Should your personal information change, please inform us and provide us with updates to your personal information as soon as reasonably possible to enable us to update your personal information.
4. You may choose to provide additional personal information to us, in which event you agree to provide accurate and current information, and not to impersonate or misrepresent any person or entity or falsely state or otherwise misrepresent your affiliation with anyone or anything.
5. Subject to clause 13.6 below, we will not, without your express consent:
  1. use your personal information for any purpose other than as set out below:
    1. in relation to the ordering, sale and delivery of Goods;
    2. to contact you regarding current or new Goods or services or any other goods offered by us or any of our divisions and/or partners (unless you have opted out from receiving marketing material from us);
    3. to inform you of new features, special offers and promotional competitions offered by us or any of our divisions and/or

- partners (unless you have opted out from receiving marketing material from us); and
4. to improve our product selection and your experience on our Website by, for example, monitoring your browsing habits, or tracking your sales on the Website; or
2. disclose your personal information to any third party other than as set out below:
    1. to our employees and/or third party service providers who assist us to interact with you via our Website, email or any other method, for the ordering of Goods or when delivering Goods to you, and thus need to know your personal information in order to assist us to communicate with you properly and efficiently;
    2. to our divisions and/or partners (including their employees and/or third party service providers) in order for them to interact directly with you via email or any other method for purposes of sending you marketing material regarding any current or new goods or services, new features, special offers or promotional items offered by them (unless you have opted out from receiving marketing material from us);
    3. 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, to report suspected illegal activity, or to investigate violations of these Terms and Conditions;
    4. to our service providers (under contract with us) who help with parts of our business operations (fraud prevention, marketing, technology services etc). However, our contracts dictate that these service providers may only use your information in connection with the services they perform for us and not for their own benefit;
    5. to our suppliers in order for them to liaise directly with you in the event of you submitting a warranty claim regarding any Goods you have purchased which requires their involvement; and
    6. to any Third Party Seller for purposes of sending you an invoice for any Goods purchased from such Third Party Seller, which disclosed information will be limited to your email address (refer to clause 12 above).

6. We are entitled to use or disclose your personal information if such use or disclosure is required in order to comply with any applicable law, subpoena, order of court or legal process served on us, or to protect and defend our rights or property.
7. We will ensure that all of our employees, third party service providers, divisions and partners (including their employees and third party service providers) having access to your personal information are bound by appropriate and legally binding confidentiality obligations in relation to your personal information.
8. We will -
  1. treat your personal information as strictly confidential, save where we are entitled to share it as set out in this policy;
  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;
  3. provide you with access to your personal information to view and/or update personal details;
  4. promptly notify you if we become aware of any unauthorised use, disclosure or processing of your personal information;
  5. provide you with reasonable evidence of our compliance with our obligations under this policy on reasonable notice and request; and
  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.
9. We will 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.
10. **Cafe2go undertakes never to sell or make your personal information available to any third party other than as provided for in this policy, unless we are compelled to do so by law. In particular, in the event of a fraudulent online payment, Cafe2go is entitled to disclose relevant personal information for criminal investigation purposes or in line with any other legal obligation for disclosure of the personal information which may be required of it.**
11. **Whilst we will do all things reasonably necessary to protect your rights of privacy, we cannot guarantee or accept any liability whatsoever for unauthorised or unlawful disclosures 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.**

#### **10. Changes to these Terms and Conditions**

1. Cafe2go may, in its sole discretion, change any of these Terms and Conditions at any time. It is your responsibility to regularly check these Terms and Conditions and make sure that you are satisfied with the changes. Should you not be satisfied, you must not place any further orders on, or in any other way use, the Website.
2. Any such change will only apply to your use of this Website after the change is displayed on the Website. If you use the Website after such amended Terms and Conditions have been displayed on the Website, you will be deemed to have accepted such changes.

#### **11. Electronic communications**

1. When you visit the Website or send emails to us, you consent to receiving communications from us or any of our divisions or partners electronically in accordance with our privacy policy as set out in clause 13 above.

#### **12. Ownership and copyright**

1. The contents of the Website, including any material, information, data, software, icons, text, graphics, lay-outs, images, sound clips, advertisements, video clips, trade names, logos, trade-marks, designs and service marks which are displayed on or incorporated in this Website ("**Website Content**") are protected by law, including but not limited to copyright and trade mark law. The Website Content is the property of Cafe2go, its advertisers and/or sponsors and/or is licensed to Cafe2go.
2. You will not acquire any right, title or interest in or to the Website or the Website Content.
3. Any use, distribution or reproduction of the Website Content is prohibited unless expressly authorised in terms of these Terms and Conditions or otherwise provided for in law. To obtain permissions for the commercial use of any Website Content contact our office.
4. Where any of the Website Content has been licensed to Cafe2go or belongs to any third party, your rights of use will also be subject to any terms and conditions which that licensor or third party imposes from time to time and you agree to comply with such third party terms and conditions.

#### **13. Disclaimer**

1. **The use of the Website is entirely at your own risk and you assume full responsibility for any risk or loss resulting from use of the Website or reliance on any information on the Website.**

2. Whilst Cafe2go takes reasonable measures to ensure that the content of the Website is accurate and complete, Cafe2go makes no representations or warranties, whether express or implied, as to the quality, timeliness, operation, integrity, availability or functionality of the Website or as to the accuracy, completeness or reliability of any information on the Website. If any such representations or warranties are made by Cafe2go's representatives, Cafe2go shall not be bound thereby.
3. **Cafe2go disclaims liability for any damage, loss or expenses, whether direct, indirect or consequential in nature, arising out of or in connection with your access to or use of the Website and/or any content therein unless otherwise provided by law.**
4. **Although Goods sold from the Website may, under certain specifically defined circumstances, be under warranty, the Website itself and all information provided on the Website is provided "as is" without warranty of any kind, either express or implied, including, but not limited to, the implied warranties of merchantability, fitness for a particular purpose, completeness, or non-infringement, as may be allowed in law.**
5. Any views or statements made or expressed on the Website are not necessarily the views of Cafe2go, its directors, employees and/or agents.
6. **In addition to the disclaimers contained elsewhere in these Terms and Conditions, Cafe2go also makes no warranty or representation, whether express or implied, that the information or files available on the Website are free of viruses, spyware, malware, trojans, destructive materials or any other data or code which is able to corrupt, destroy, compromise, disrupt, disable, harm, jeopardise or otherwise impede in any manner the operation, stability, security functionality or content of your computer system, computer network, hardware or software in any way. You accept all risk associated with the existence of such viruses, destructive materials or any other data or code which is able to corrupt, compromise, jeopardise, disrupt, disable, harm or otherwise impede in any manner the operation or content of a computer system, computer network, any handset or mobile device, or your hardware or software, save where such risks arise due to the gross negligence or wilful misconduct of Cafe2go, its employees, agents or authorised representatives. Cafe2go thus disclaims all liability for any damage, loss or liability of any nature**

**whatsoever arising out of or in connection with your access to or use of the Website.**

#### **14. Linking to third party websites**

1. This Website may contain links or references to other websites ("**Third Party Websites**") which are outside of our control, including those of advertisers. These Terms and Conditions do not apply to those Third Party Websites and Cafe2go is not responsible for the practices and/or privacy policies of those Third Party Websites or the "cookies" that those sites may use.
2. **Notwithstanding the fact that the Website may refer to or provide links to Third Party Websites, your use of such Third Party Websites is entirely at your own risk and we are not responsible for any loss, expense, claim or damage, whether direct, indirect or consequential, arising from your use of such Third Party Websites or your reliance on any information contained thereon.**

#### **15. Limitation of liability**

1. **Cafe2go cannot be held liable for any inaccurate information published on the Website and/or any incorrect prices displayed on the Website, save where such liability arises from the gross negligence or wilful misconduct of Cafe2go, its employees, agents or authorised representatives. You are encouraged to contact us to report any possible malfunctions or errors by way of email to [info@cafe2go.co.za](mailto:info@cafe2go.co.za)**
2. **CAFE2GO SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL LOSS OR DAMAGES WHICH MIGHT ARISE FROM YOUR USE OF, OR RELIANCE UPON, THE WEBSITE OR THE CONTENT CONTAINED IN THE WEBSITE; OR YOUR INABILITY TO USE THE WEBSITE, AND/OR UNLAWFUL ACTIVITY ON THE WEBSITE AND/OR ANY LINKED THIRD PARTY WEBSITE.**
3. **YOU HEREBY INDEMNIFY CAFÉ2GO AGAINST ANY LOSS, CLAIM OR DAMAGE WHICH MAY BE SUFFERED BY YOURSELF OR ANY THIRD PARTY ARISING IN ANY WAY FROM YOUR USE OF THIS WEBSITE AND/OR ANY LINKED THIRD PARTY WEBSITE.**

#### **16. Availability and termination**

1. We will use reasonable endeavours to maintain the availability of the Website, except during scheduled maintenance periods, and are entitled to discontinue providing the Website or any part thereof with or without notice to you.
2. **Cafe2go may in its sole discretion terminate, suspend and modify this Website, with or without notice to you. You agree that Cafe2go will not be liable to you in the event that it chooses to**

**suspend, modify or terminate this Website other than for processing any orders made by you prior to such time, to the extent possible.**

- 3. If you fail to comply with your obligations under these Terms and Conditions, including any incident involving payment of the price of an order for any Goods, this may (in our sole discretion with or without notice to you) lead to a suspension and/or termination of your access to the Website without any prejudice to any claims for damages or otherwise that we may have against you.**
- 4. Cafe2go is entitled, for purposes of preventing suspected fraud and/or where it suspects that you are abusing the Website and/or have created multiple user profiles to take advantage of a promotion or Coupon intended by Cafe2go to be used once-off by you, to blacklist you on its database (including suspending or terminating your access to the Website), refuse to accept or process payment on any order, and/or to cancel any order concluded between you and Cafe2go, in whole or in part, on notice to you. Cafe2go shall only be liable to refund monies already paid by you (see Cafe2go's Returns Policy in this regard), and accepts no other liability which may arise as a result of such blacklisting and/or refusal to process any order.**
5. At any time, you can choose to stop using the Website, with or without notice to Cafe2go.

#### **17. Governing law and jurisdiction**

1. These Terms and Conditions and our relationship and/or any dispute arising from or in connection with these Terms and Conditions shall be governed and interpreted in accordance with the laws of the Republic of South Africa. Your continued use of the Website will constitute your consent and submission to the jurisdiction of the South African courts regarding all proceedings, transactions, applications or the like instituted by either party against the other, arising from any of these Terms and Conditions.
2. In the event of any dispute arising between you and Cafe2go, you hereby consent to the non-exclusive jurisdiction of the High Court of the Republic of South Africa (Western Cape Division, Cape Town) notwithstanding that the quantum in the action or proceedings may otherwise fall below the monetary jurisdiction of that court.
3. Nothing in this clause 21 or the Terms and Conditions limits your right to approach any court, tribunal or forum of competent jurisdiction in terms of the CPA.

#### **18. General**

1. Cafe2go may, in its sole discretion, at any time and for any reason and without prior written notice, suspend or terminate the operation of the Website or the user's right to use the Website or any of its contents subject to us processing any orders then already made by you.
2. You may not cede, assign or otherwise transfer your rights and obligations in terms of these Terms and Conditions to any third party.
3. Any failure on the part of you or Cafe2go to enforce any right in terms hereof shall not constitute a waiver of that right.
4. If any term or condition contained herein is declared invalid, the remaining terms and conditions will remain in full force and effect.
5. No variation, addition, deletion, or agreed cancellation of the Terms and Conditions will be of any force or effect unless in writing and accepted by or on behalf of the parties hereto.
6. No indulgence, extension of time, relaxation or latitude which any party (the "**grantor**") may show grant or allow to the other (the "**grantee**") shall constitute a waiver by the grantor of any of the grantor's rights and the grantor shall not thereby be prejudiced or stopped from exercising any of its rights against the grantee which may have arisen in the past or which might arise in the future.
7. These Terms and Conditions contain the whole agreement between you and Cafe2go and no other warranty or undertaking is valid, unless contained in this document between the parties.