

## Terms of Service

These Terms of Service are effective as of: 17 April 2018 “Effective Date”

READ THESE TERMS CAREFULLY BEFORE BROWSING THIS WEBSITE. YOUR CONTINUED USE OF THIS WEBSITE INDICATES THAT YOU HAVE BOTH READ AND ACCEPT THESE TERMS. YOU CANNOT USE THIS WEBSITE IF YOU DO NOT ACCEPT THESE TERMS. ALL SECTIONS OF THESE TERMS ARE APPLICABLE TO USERS UNLESS THE SECTION EXPRESSLY STATES OTHERWISE.

### 1. Introduction

- 1.1. This site <http://www.thinkcareer.co.za>, is owned, operated and/or made available by Think Career, a South African limited liability company with Registration Number 2012/119369/07 (hereinafter referred to as "Think Career", "Think Career Website", "Website", "our", or "we"). Any reference to "Think Career", "Think Career Website", "Website", "our", or "we" ", shall include, where applicable, our employees, representatives, agents, affiliates, related entities, advisers, sub-contractors, service providers and suppliers.
- 1.2. These terms, including any documents incorporated by reference herein, including, but not limited to the Privacy Policy located on the Website, (collectively, the "Terms") apply to any person who uses the Services, accesses, refers to, views and/or downloads any information or material made available on the Website for whatever purpose (hereinafter referred to as "user", "users", "you" or "your").
- 1.3. Accessing and/or use of the Website after the Effective Date will signify that you have read, understand, accept, and agree to be bound, and are bound, by the Terms, in your individual capacity and for and on behalf of any entity for whom you use the Website. Further, you represent and warrant that you have the authority to do so and that you are a Competent Person (as defined in the Protection of Personal Information Act, 4 of 2013, as amended).
- 1.4. To the extent permitted by applicable law, we may modify the Terms with prospective effect without prior notice to you, and any revisions to the Terms will take effect on the date that such revision is recorded in the Terms. Any such modification shall be clearly marked in the Terms for the user/s convenience. Your continued use of the Website, and/or the Services will be construed as your consent to the amended or updated Terms, and will be conditional upon the Terms in force at

the time of your use. Your only remedy, should you not agree to these Terms, is to stop your use of this Website, and/or Services.

## **2. Terminology**

- 2.1. The following terminology applies to these Terms:
  - 2.1.1. "Party" or "Parties" refers to a user and/or Think Career as the context requires;
  - 2.1.2. "Services" shall refer to those services as more fully canvassed in clause 4 hereunder, in addition to any other services which may be provided through the Website from time to time;
- 2.2. Any use of the above terminology or other words in the singular, plural, capitalisation and/or he/she or they, are taken as interchangeable and therefore as referring to same.

## **3. Your Agreement to these Terms**

- 3.1. Subject to, and on the basis of your acceptance of the Terms, we grant you a limited, revocable, non-transferable license to access and use the Website in accordance with these Terms governing such use and access.

## **4. Description of our Services**

- 4.1. The Services of the Website encompass the provision of an online platform on which prospective employers are able to connect with career seekers, in terms of the following process:
  - 4.1.1. a prospective employer requests a candidate for a career opportunity;
  - 4.1.2. active and passive candidates are then sourced by Think Career;
  - 4.1.3. Think Career then screens such candidates;
  - 4.1.4. candidate profiles are then compiled and provided to the prospective employer;
  - 4.1.5. an in-person interview is then arranged between the candidate and the prospective employer;

4.1.6. should a candidate be deemed suitable, the pre-hiring process and offer is then made by the prospective employer; and

4.1.7. a candidate is then hired.

4.2. We reserve the right to change, upgrade, modify, limit or suspend the Services or any of the features or applications at any time whether temporarily or permanently and without prior notice. We further reserve the right to introduce new features, tools or applications to the Services. All new features, applications, modifications, upgrades and alterations shall be governed by these Terms.

4.3. As a user, you agree that you are solely responsible for you use of the tools and Services provided on the Website.

## **5. External Party Services**

5.1. In the course and scope of our rendering the Services to you, we utilise certain third party tools which may operate under their own separate terms of service. In this regard, you undertake and agree that by virtue of your continued use of our Services, that you have familiarised yourself with, and agreed to, any external party terms of service.

## **6. Warrantees**

6.1. You represent, warrant, and undertake (where applicable) to us that:

6.1.1. You have the full power and authority to enter into these Terms, and to perform your obligations hereunder;

6.1.2. You will not use the Services to engage in any unlawful activities;

6.1.3. You will not sell or otherwise derive monetary remuneration from any services on the Website without our prior written consent;

6.1.4. You will not impersonate any person or entity, or misrepresent yourself or your affiliation with any person or entity;

- 6.1.5. You will conduct all activities on the Website in accordance with all applicable local and international laws and regulations and commonly accepted commercial practices and in an ethical manner, and in this regard, it is your responsibility to ensure that you are in compliance with such laws and regulations.
- 6.2. Should we receive any complaint or claim in respect of your activities on the Website, we shall have the right to suspend or terminate your access or use of the Website.
- 6.3. You agree to indemnify our and our affiliates and employees, agents and representatives, and to hold them harmless from any and all losses, damages, actions, claims and liabilities (including legal costs), whether in contract, delict or otherwise, which may arise, directly or indirectly, from use of the Website.

## 7. Disclaimer

- 7.1. We make no express, implied or statutory representations, warranties, or guarantees in connection with this Website, the Services, any tools on the Website, or any materials on the Website relating to the quality, suitability, truth, accuracy or completeness of any information or material contained or presented on this Website.
- 7.2. The materials on the Website are provided “as is”. We make no warranties, expressed or implied, and hereby disclaim and negate all other warranties, including without limitation, implied warranties or condition in regard to fitness for a particular purpose, or non-infringement of intellectual property or other violation of rights. Further, the Website does not warrant or make any representations concerning the accuracy, likely results or reliability of the use of the materials on the Website or otherwise relating to such materials or on any sites linked to this site.
- 7.3. We do not provide any warranties against viruses, spyware or malware that may be installed on your computer as a result of you accessing or using this Website.
- 7.4. Without limiting the generality of the foregoing, we make no warranty that this Website will meet a user’s requirements, or that this Website will be uninterrupted, timely, secure, error free or that defects in this Website will be corrected.
- 7.5. We make no warranty as to the results that may be obtained from the use of this Website or a tool contained thereon, or as to the

accuracy or reliability of any information obtained through this Website. No advice or information, whether oral or written, obtained by a user through this Website, or from our or our third-party service providers shall create any warranty enforceable as against us.

- 7.6. The information contained on the Website is provided for informational purposes only, and should not be construed as any form of professional advice. The content of this Website contains general information and no user should rely on the accuracy and/or truthfulness thereof. Accordingly, we accept no responsibility whatsoever for any losses, claims or damages which may arise as a result of the use or interpretation of information supplied on the Website.

## **8. Unauthorised Use of This Website**

- 8.1. You are specifically not permitted to use this Website in any of the following ways (which list should not be deemed to be exhaustive of our rights in this regard):
  - 8.1.1. For any public or commercial exploitation, which includes the use of this Website, on another site or through a networked computer environment;
  - 8.1.2. In a manner that modifies, publicly displays, publicly performs, reproduces or distributes any of the contents of this Website;
  - 8.1.3. To stalk, harass, or harm another individual;
  - 8.1.4. To impersonate any person or entity or otherwise misrepresent the true state of affairs;
  - 8.1.5. To interfere with or disrupt this Website, or servers or networks connected to this Website;
  - 8.1.6. To use any data mining, robots, or similar data gathering or extraction methods in connection with this Website; or
  - 8.1.7. Attempt to gain access to any portion of this Website, to which you are not ordinarily permitted, or any other accounts, computer systems, or networks connected to this Website, whether through hacking, password mining, or any other means.

## **9. Copyrights**

- 9.1. The contents of the Website, together with the general layout, unless licensed on an open sourced or other basis from a third party, are our property and are protected by South African and international copyright laws. Furthermore, the compilation (meaning the collection, arrangement, and assembly) of all content on the Website and layout, save where credit is specifically given to a third party on the Website, has been created by our and is our exclusive property and is, likewise, protected by South African and international copyright laws.
- 9.2. Except as stated in the Terms, none of the contents of the Website, may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means, including, but not limited to, electronic, mechanical, photocopying, recording, or otherwise, except as permitted by the fair use privilege under the South African copyright laws or without our prior written permission or the copyright owner (where applicable), and further, should such consent be provided, we reserve our right to withdraw such consent at any stage, in our sole and absolute discretion.
- 9.3. You are expressly prohibited to “mirror” any content, contained on the Website, on any other server unless with our prior written permission, and further, should such consent be provided, we reserve our rights to withdraw such consent at any stage, in our sole and absolute discretion.
- 9.4. You are granted a limited, revocable, and non-exclusive right to create a hyperlink to the home page of the Website, so long as the link does not portray our, on behalf of Think Career, our affiliates and/or Think Careers’ products or services in a false, misleading, derogatory, or otherwise offensive manner. You may not use Think Careers’ logo or other proprietary graphic or trademark as part of the link without our express permission.
- 9.5. All trademarks and copyrights, as well as any other intellectual property rights, in and to any of the content on the Website, save where credited to a third party, are our exclusive property.

## **10. Assignment**

- 10.1. You may not assign your rights and/or obligations under these Terms to any other party without our prior written consent. We may assign our rights and/or obligations under these Terms to any other party at our discretion and without any prior notice to you.

## **11. Force Majeure**

- 11.1. Without limiting the foregoing, no Party to these Terms shall be held liable for any failure to perform in terms of these Terms if such failure is as a result of Acts of God (including fire, flood, earthquake, storm, hurricane or other natural disaster), war, invasion, act of foreign enemies, hostilities (regardless of whether war is declared), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalisation, government sanction, blockage, embargo, labour dispute, strike, lockout or interruption or failure of electricity, telephone service or internet connectivity, server failure, or technological failure. Neither you, nor we, are entitled to terminate these Terms in such circumstances. Any Party affected by such event shall forthwith inform the other Party of same, and shall use all reasonable endeavours to comply with the Terms.

## **12. General**

- 12.1. To the extent permitted by law, these Terms, and the provision of our Services, shall be governed by and construed in accordance with South African law, and any dispute arising out of these Terms and/or these Services shall be submitted to a court of competent jurisdiction situated in Cape Town.
- 12.2. To the extent necessary and/or lawfully permitted, you consent to having any dispute arising out of these Terms and/or these Services submitted to the exclusive jurisdiction of the North Gauteng High Court or an alternative appropriate South African court seized with appropriate jurisdiction in Pretoria.
- 12.3. These Terms comprise the whole agreement between the Parties in regard to its subject matter.
- 12.4. No indulgence by our, or failure strictly to enforce these Terms, shall be construed as a waiver or be capable of founding an estoppel.

## **13. Severance**

- 13.1. If any of these terms are deemed invalid or unenforceable for any reason (including, but not limited to the exclusions and limitations set out above), then the invalid or unenforceable provision will be severed from these Terms and the remaining terms will continue to apply. Failure by our to enforce any of the provisions set out in these Terms and/or any other agreement, or failure to exercise any option

to terminate, shall not be construed as a waiver of such provisions and shall not affect the validity of these Terms or of any agreement or any part thereof, or the right thereafter to enforce each and every provision.

#### **14. Application Of The Electronic Communications And Transactions Act 25 Of 2002 (“ECT ACT”)**

- 14.1. Data Messages (as defined in the ECT Act) will be deemed to have been received by us if and when we respond to the Data Messages.
- 14.2. Data Messages sent by us to you will be deemed to have been received by you in terms of the provisions specified in section 23(b) of the ECT Act.
- 14.3. You acknowledge that electronic signatures, encryption and/or authentication are not required for valid electronic communications between you and Promoza.
- 14.4. You warrant that Data Messages sent to us from any electronic device, used by you, from time to time or owned by you, were sent and or authorised by you personally.
- 14.5. Information to be provided in terms of section 43(1) of the ECT Act:
- 14.6. This Application is owned and operated and/or made available by Think Career, a South African limited liability company;
- 14.7. Address for service of legal documents: 3114 Cape Cherry Crescent, Amberfield Ridge, Centurion, Gauteng, Pretoria, South Africa;
- 14.8. Contact Number: 0832679345;
- 14.9. Email address: khani@think-career.co.za.