Terms and Conditions

**1. INTRODUCTION**

**1.1** FNSH (Pty) Ltd trading as WINGMAN **("WINGMAN")** maintains this website as well as related platforms such as mobile websites and mobile applications **(the "WINGMAN Platforms")**.

**1. 2** WINGMAN is in the E-commerce business of selling apparel and accessories.

**1.3** Your access to and use of the WINGMAN Platforms and the products and services provided via the WINGMAN Platforms **(the "Products and Services")** is governed by these terms and conditions **(the "Terms and Conditions")** as read with the [privacy policy](https://mercha.co.za/privacy-policy) located here **(the "Privacy Policy")**. When you use the WINGMAN Platforms or purchase our Products and Services, a legally binding contract comes into effect between yourself and WINGMAN.

**1.4** Any references to **"WINGMAN" "we"**, **"us"** or **"our"** in these Terms , and Conditions will be to WINGMAN, and will include, where applicable, our affiliates and subsidiaries. References to **"you"** or **"your"** will be to you as a visitor to the WINGMAN Platforms and/or as a customer purchasing the Products and Services.

**1.5** These Terms and Conditions contain provisions that require you to indemnify WINGMAN, which limit WINGMAN's liability towards you, or which may require you to assume responsibility for a risk or liability. These provisions will be in the same style as this paragraph. By using the WINGMAN Platforms and/or the Products and Services, you acknowledge that you have read, accept, and will be bound by these Terms and Conditions. If you do not agree to this, please do not use the WINGMAN Platforms and/or the Products and Services.

**2. YOUR ACCESS TO THE WINGMAN PLATFORMS**

**2.1** You agree to abide by these Terms and Conditions and to conduct yourself in a lawful manner on the WINGMAN Platforms.

**2.2** WINGMAN may suspend or terminate your access to the WINGMAN Platforms should you contravene any of these Terms and Conditions. WINGMAN will not be liable for any loss you suffer due to your inability to access the WINGMAN Platforms, where WINGMAN suspends or terminates your access on this basis.

**2.3** By using the WINGMAN Platforms, you warrant that you are 18 years of age or older and that you have the necessary legal capacity to agree to and to be bound by these Terms and Conditions.

**2.4** If you are under the age of 18 or you do not have the necessary legal capacity to agree to and to be bound by these Terms and Conditions, then you may use the WINGMAN Platforms only under the supervision of a parent or legal guardian. If your parent or legal guardian supervises you as such, then such parent or legal guardian agrees to be bound by these Terms and Conditions and agrees to be liable for you and your duties under these Terms and Conditions.

**3. PAYMENTS AND FEES**

**3.1** Payment may be made via Visa or MasterCard for Products and Services available via the WINGMAN Platforms by following the payment prompts on the relevant WINGMAN Platform.

**3.2** Card transactions will be acquired for WINGMAN via Payfast by Network who are the approved payment gateway for all South African Acquiring Banks. Payfast by Network uses the strictest form of encryption, namely Secure Socket Layer 3 (SSL3) and no Card details are stored on the website. Users may go to www.payfast.io to view their security certificate and security policy.

**3. 4** Customer details will be stored by WINGMAN separately from card details which are entered by the client on Payfast by Network ’s secure site. For more detail on Payfast by Network refer to [www.payfast.io](http://www.payfast.io).

**3.5** The merchant outlet country at the time of presenting payment options to the cardholder is South Africa. Transaction currency is South African Rand (ZAR).

**3.6** WINGMAN takes responsibility for all aspects relating to the transaction including sale of goods and services sold on this website, customer service and support, dispute resolution and delivery of goods.

**3.7** We will send you an email to confirm your order and its details. If you require a full record of your transaction with us, please contact the WINGMAN customer service team on  accounts@fnsh.co.za.

**3.8** You may be able to make payment for Products and Services using third-party payment providers. WINGMAN is not involved in such payments via these third-party payment providers nor are we a party to such transactions.

**3.9** Your bank or the payment provider you select may charge additional transaction, administrative and/or facilitation fees. WINGMAN is not responsible for any such fees.

**3.10** Depending on the payment method you select, WINGMAN or the payment provider you select may need to request information from you to verify and/or authorise your payment. You warrant that you are authorised to use the card you are using to make payment and that your card will have sufficient funds available to cover the cost of your purchase.

**3.11** If we require authorisation to process a payment and we do not receive such authorisation, then your order will be cancelled.

**3.12** Your order is not complete, and the fees payable are not fixed and the availability of goods not confirmed, until you have placed your order and paid for it. WINGMAN will not be liable where the price or availability of goods changes from the time you place an item into your cart until the time you make payment for it.

**3.13** WINGMAN reserves the right to amend and update the fees for Products and Services as well as the payment terms and payment methods available at its discretion from time to time.

**3.14** WINGMAN may from time to time offer discounts, free trials, and promotional offerings. Any such offering may be subject to such additional terms as WINGMAN may impose in its sole discretion and may publish on the WINGMAN Platforms.

**4. DELIVERY OF YOUR ORDER**

**4.1** We will deliver your order as soon as possible, and in any event within 10 business days of your date of order, if your order is to be delivered within South Africa, and 20 days of your date of order if you are outside South Africa. However, currently the offering on this website is available to South African clients only. From time to time, we may experience delays or disruptions to delivery. We will inform you of any delay with your order and strive to have it delivered to you as soon as possible.

**4.2** The fees payable for delivery will be displayed when placing an order and making payment and will depend on your delivery location and the delivery method you choose.

**4.3** WINGMAN's duty to deliver your order will have been fulfilled once the order is delivered to the delivery address you nominated when placing the order.

**4.4** If we or our third-party delivery partners are unable to deliver your order because we or they cannot reach you despite reasonable attempts or because you do not take receipt of the order, then your order will be returned to our warehouse, and you will be liable for any further delivery fees incurred in order to attempt to subsequently deliver your order.

**4.5** The fees payable for delivery are subject to change at any time, without prior notice to you.

**5. DEFECTIVE, INCORRECT OR DAMAGED ORDERS**

**5.1** We strive to provide you with correct and quality orders. However, from time to time you may receive an order that is incorrect, defective or damaged.

**5.2** Should this happen, please contact the WINGMAN customer service team on accounts@fnsh.co.za. WINGMAN's customer service team will arrange for such order to be collected from you or for you to deliver such order to WINGMAN.

**5.3** We will replace your order with a correct and undamaged order within 10 days of receipt. If we do not have stock available or we are otherwise unable to replace your order with a correct and undamaged order, we will refund you.

**6 RETURNS AND REFUNDS**

**6.1** We hope you are happy with every purchase you make; however, we understand that in certain circumstances you may want to return or exchange an order.

**6.2** Please contact the WINGMAN customer service team on  accounts@fnsh.co.za with a full description of the reason for the return, with supporting images. WINGMAN's customer service team will authorise your return prior to arranging for such return to be collected from you or for you to deliver such return to WINGMAN.

**6.3** You may return an incorrect order or a damaged item you purchased on a WINGMAN Platform within 7 days of that item being delivered to you. To be eligible for such a return, your item must be in the same condition that you received it, unwashed and unused, and in the original packaging with tags attached. Under these conditions the ordered item will be replaced.

**6.4** Where you wish to return an undamaged, unused order for an exchange, the direct cost of returning your order will be for your own account.

**6.5** Where an item is returned by the courier due to it not being collected, the direct cost of returning your order to the warehouse and dispatching it to you for a second time, will be for your own account.

**6.6** Where you wish to exchange an undamaged, unused order, the direct cost of returning your order will be for your own account. The return delivery of the exchange back to you, will be for WINGMAN's account.

**6.7** WINGMAN will not be liable where you return your order to an incorrect address or an address other than the return address specified by WINGMAN, or where you make use of a third party to cause the return to be delivered to WINGMAN, and the return is damaged, lost or destroyed in the process.

**6.8** Should your order be returned for a refund in accordance with clause 6, we will refund you within 30 days.

**6.9** We will refund you by way of the payment method that you used to make payment for the returned order.

**6.10** Delivery fees are not refundable.

**7. DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY**

**7.1** You acknowledge that the WINGMAN Platforms and the Products and Services are provided on an 'as is' basis, without any warranty that the WINGMAN Platforms and the Products and Services will be free from defects, to the extent that it is lawful to do so, and that the existence of errors in the WINGMAN Platforms and the Products and Services alone will not constitute a breach of these Terms and Conditions. In the event of any such defect or error, your sole remedy will be to cease your use of the WINGMAN Platforms and the Products and Services and to request a refund, where allowed.

**7.2** WINGMAN does not warrant that –

**7.2.1** the WINGMAN Platforms and the Products and Services (or any component thereof) will meet your personal requirements or expectations;

**7.2.2** the operation of the WINGMAN Platforms (or any component thereof) will be uninterrupted or error-free; or

**7.2.3** that all errors or defects in the WINGMAN Platforms will be corrected.

**7.3** The information provided as part of the WINGMAN Platforms is intended to serve as general information. No representations or warranties are made in respect of such information, including in respect of the accuracy of the information.

**7.4** To the extent not prohibited by applicable law, WINGMAN disclaims all warranties and conditions with respect to the WINGMAN Platforms and the Products and Services, either express or implied, including, but not limited to, warranties of merchantability, accuracy, fitness for a particular purpose and non-infringement.

**7.5** In no event shall WINGMAN or its affiliates, officers, directors, employees, service providers, contractors or agents be liable for any special, consequential, indirect, or incidental damages arising out of, or related to, the WINGMAN Platforms and the Products and Services or the information contained therein, whether such damages arise in contract, negligence, delict, under statute, at law or otherwise.

**7.6** You agree to defend and indemnify WINGMAN and to hold WINGMAN and its affiliates, officers, directors, employees, service providers, contractors and agents harmless from and against all claims, obligations, damages, losses, liabilities, costs or debt, and expenses (including but not limited to attorneys' fees) arising from–

**7.6.1** your violation of any part of these Terms and Conditions;

**7.6.2** your violation of any third party right, including without limitation any copyright, trademark, trade secret or other property, or privacy right;

**7.6.3** your use of and access to the WINGMAN Platforms and the Products and Services; or

**7.6.4** any claim that your use of the WINGMAN Platforms and the Products and Services caused damage to a third party.

**8. PROCESSING OF PERSONAL DATA**

**8.1** To facilitate your access to the WINGMAN Platforms and to provide the Products and Services to you, we are required to process some of your personal data and to share some of this personal data with certain third parties, such as our duly appointed service providers.

**8.2** Any information and data that you provide to WINGMAN must be accurate, truthful, and up to date.

**8.3** Please read our Privacy Policy located at [privacy-policy](https://mercha.co.za/privacy-policy) to understand the types of personal data we collect about you, where we collect it from, who we may need to share it with, how long we retain it for, whether it leaves the country in which we collected it, and how you can request access to and/or deletion of your personal data.

**9. TERMS OF USE AND INTELLECTUAL PROPERTY**

**9.1** We reserve all rights (including all intellectual property rights) not expressly granted herein to the WINGMAN Platforms and the content we make available on or via the WINGMAN Platform.

**9.2** You may use the WINGMAN Platforms and the Products and Services only for purposes that are legal, and you must not (nor will you allow or cause any third party to) –

**9.2.1** tamper with, disassemble, edit, reverse engineer, decompile, attempt to derive the source code of or modify the WINGMAN Platforms (wholly or in part);

**9.2.2** sublicense, distribute, export, or resell the WINGMAN Platforms (wholly or in part) or otherwise transfer any rights therein;

**9.2.3** use or exploit the WINGMAN Platforms and the Products and Services (wholly or in part) for commercial gain under any circumstances whatsoever or copy the WINGMAN Platforms and the Products and Services (wholly or in part);

**9.2.4** re-sell Products and Services; or

**9.2.5** exercise any other right to the WINGMAN Platforms and the Products and Services (wholly or in part) not specifically granted in these Terms and Conditions.

**9.3** Without limiting the foregoing, you agree not to circumvent, disable or otherwise interfere with security related features of the WINGMAN Platforms or features that prevent or restrict use or copying of any content or enforce limitations on the use of the WINGMAN Platforms or the content therein.

**9.4** You are granted a revocable, non-transferable, non-exclusive, limited license to use the WINGMAN Platforms to receive the Products and Services for personal, private use. No license or other right or interest is granted to you except for the license rights specifically set forth herein.

**9.5** WINGMAN, its valid licensor or the relevant proprietor owns all right, title and interest in and to the WINGMAN Platforms and the Products and Services and all information, documentation and proprietary products made available via the WINGMAN Platforms.

**9.6** You may not duplicate or reproduce in any way the WINGMAN Platforms and the Products and Services or the information, documentation and/or the proprietary products made available via the WINGMAN Platforms and the Products and Services without the express prior written permission of WINGMAN, its valid licensor or the relevant proprietor.

**9.7** By communicating with WINGMAN Platforms, you grant WINGMAN a royalty-free, perpetual, irrevocable, non-exclusive license to use, modify, reproduce, publish, edit, distribute, perform, translate, and display the communication, content, or any information therein alone or as part of other works in any form, media, or technology, whether now known or hereafter developed, for any purpose.

**10. LINKS TO THIRD PARTY WEBSITES AND THIRD PARTY CONTENT**

**10.1** We may use third-party service providers to monitor your activity on the WINGMAN Platforms or to assist us in making the WINGMAN Platforms and the Products and Services available to you.

**10.2** If you click on links to third-party websites, you leave the WINGMAN Platforms.

**10.3** We are not responsible for the content of these third-party websites or for the security of your information when you use the third-party websites. These third-party service providers and third-party websites may have their own terms and conditions and policies that you may be subject to.

**10.4** By using the WINGMAN Platforms, you agree that we are not liable for the following ―

**10.4.1** the content, operation, use, security, accuracy or completeness of any such third-party platforms or the products or services that may be offered or obtained through them or the accuracy, extensiveness, or dependability of any information obtained from a third-party platform;

**10.4.2** the ownership or right of use of any licensor of any software provided through any third-party platform;

**10.4.3** any content featured on a third-party platform that is accessed through the links found on a WINGMAN Platform; and/or

**10.4.4** any failure that affects the products or services of a third-party platform, for example any telecommunication service provider or internet service provider.

**11. DISPUTE RESOLUTION AND GOVERNING LAW**

**11.1** Any disputes that may arise concerning the WINGMAN Platforms and the Products and Services and the information contained herein will be governed by the laws of South Africa. All proceedings, which may arise out of, or in connection with, the WINGMAN Platforms and the Products and Services will be brought solely in the appropriate court in South Africa.

**11.2** Our failure to exercise or enforce any provision of these Terms and Conditions will not constitute a waiver of such right or provision.

**11.3** It is not intended that any part of these Terms and Conditions contravene any provision of any legislation which may apply. Therefore, all the provisions of these Terms and Conditions must be treated as qualified, to the extent necessary, to ensure that the provisions of applicable legislation are complied with.

**12. SEVERABILITY**

All provisions and the various clauses of these Terms and Conditions are, notwithstanding the manner in which they have been grouped together or linked grammatically, severable from each other. Any provision or clause of these Terms and Conditions which is or becomes unenforceable in any jurisdiction, whether due to voidness, invalidity, illegality, unlawfulness or for any other reason whatever, shall, in such jurisdiction only and only to the extent that it is so unenforceable, be treated as pro non scripto (as if not written herein) and the remaining provisions and clauses of these Terms and Conditions shall remain of full force and effect.

**13. ASSIGNMENT**

WINGMAN may cede its rights or delegate its obligations without your prior written consent where such action is pursuant to a sale of business, sale of shares, or change of ownership in WINGMAN or its holding entities or pursuant to any internal reorganisation or amalgamation in respect of WINGMAN and/or any of its holding entities, subject to any applicable notification requirements in terms of the law.

**14. WHOLE AGREEMENT**

**14.1** These Terms and Conditions, as read with the Privacy Policy, contain all the provisions with regard to the WINGMAN Platforms and the Products and Services, and supersedes and novates in its entirety any previous understandings or agreements in respect thereof.

**14.2** WINGMAN may modify or amend these Terms and Conditions at any time with the minimum notice permitted by applicable law or, if allowed by applicable law, without notice. Your use of the WINGMAN Platforms and the Products and Services signifies your acceptance of these Terms and Conditions, as amended from time to time.

**15. HOW TO CONTACT US**

If you have any questions about these Terms and Conditions, please contact us at accounts@fnsh.co.za with "WINGMAN Terms and Conditions" in the subject line.

**16. INFORMATION ABOUT WINGMAN**

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| **Full Name** | Wingman |
| **Director** | Kyle Gavin Brown |
| **Company Address:** | 6 Meryl Place Northcliff, Johannesburg, Gauteng, 2195 |