

TERMS AND CONDITIONS OF USE OF THE WEBSITE

1. DEFINITIONS

- 1.1. “ECTA” means the Electronic Communications and Transactions Act 25 of 2002, as amended;
- 1.2. “Listing” means a listing on the Website of a Seller’s submission approved by us for the sale of a vehicle, parts, accessories or other items;
- 1.3. “RICA” means the Regulation of Interception of Communications Act 70 of 2002, as amended;
- 1.4. “Services” means the services provided by us on the Website, subject to our [Terms and Conditions of Service](#);
- 1.5. “Terms and Conditions of Use” means these terms and conditions for access to and use of the Website, as amended or replaced from time to time;
- 1.6. “you” or “your” means any person who accesses and uses the Website, including users who have registered on the Website and who make use of our Services;
- 1.7. “we”, “us”, “our” means SeritoScape (Pty) Limited t/a Torque Trader and its directors, employees, consultants, subcontractors, agents and representatives; and
- 1.8. “Website” means the website created, managed and maintained by us or on our behalf located at www.torquetrader.co.za and includes the Listings and Services and all aspects, contents, facilities, information and functions of any nature whatsoever related to the Website.

2. ACCEPTANCE OF THESE TERMS AND CONDITIONS OF USE

- 2.1. These Terms and Conditions of Use read together with our [Privacy Policy](#) apply to your use of the Website, the information contained on the Website and to the facilities, functions and services provided by the Website. If you make use of the Services on the Website, you will also be bound by our Terms and Conditions of Service.
- 2.2. By accessing and using the Website in any manner, you confirm that you have the legal capacity and authority to accept and agree to be bound by these Terms and Conditions of Use in full. If you do not accept these Terms and Conditions of Use, in whole or in part, you must immediately stop using the Website.

3. AMENDMENTS TO THESE TERMS AND CONDITIONS OF USE

- 3.1. We may, in our sole discretion and without notice to you, amend or replace these Terms and Conditions of Use (in whole or in part) at any time and from time to time. We will publish the amended or replaced Terms and Conditions of Use on the Website. It is your responsibility to regularly check the Terms and Conditions of Use when you access the Website to make sure that you are familiar with the latest version.
- 3.2. Any amended or replaced Terms and Conditions of Use will be effective from the date on which they are published on the Website. If you do not agree with the amended or replaced Terms and Conditions of Use, you must not use the Website. If you continue to use the Website after such publication, you will be deemed to have accepted the amended or replaced Terms and Conditions of Use.

4. CONTENT AND AVAILABILITY OF THE WEBSITE

- 4.1. The Website and its contents are provided “as is”. We make no representations or warranties of any kind, express or implied:
 - 4.1.1. regarding the accuracy, completeness, correctness, integrity, quality or reliability of the information, content and material on the Website or any Listing;
 - 4.1.2. that the Website will be free from errors or omissions;
 - 4.1.3. that the Website and its content and information will meet your requirements or criteria of performance or quality or be fit for any particular purpose.
- 4.2. The information that appears on the Website is for general information purposes only and should not be interpreted as professional, expert or other advice of any kind or our official opinion.
- 4.3. We may alter, amend, update or remove Listings. We will not be liable to you for any outdated Listings, nor will we be liable to you for the version of any Listing prior to any such alteration, amendment, update or removal.
- 4.4. The Website may include content, information, materials, statements and views of other users

and third parties which has not been verified by us. We will not be liable for any loss, damage or harm caused by your reliance on third party content obtained on or through the Website. Before making any decision or placing any reliance on third party content provided on or through the Website, you should take all reasonable steps to verify such content.

- 4.5. We may remove any content from the Website that we, in our sole discretion, deem to be an infringement of any of the provisions of these Terms and Conditions of Use, any law or are otherwise harmful in any way.
- 4.6. We reserve the right, in our sole discretion, to make adjustments, changes, enhancements and improvements to the Website, its content or any aspect, feature or function of the Website, to change the Services provided on the Website, or to disable, discontinue, suspend, terminate or withdraw, temporarily or permanently the whole of the Website or any aspect, feature, function or part of the Website, at any time and without notice to you.
- 4.7. The Website is provided on an "as available" basis. We will use reasonable endeavours to maintain the availability of the Website, however there may be times when the availability or operation of the Website is delayed, interfered with or interrupted for scheduled maintenance or upgrades, emergency repairs, server integrity or due to service or equipment failures, or other problems in the use of the internet and electronic communications or other factors beyond our control. Therefore, we do not guarantee nor will we be liable for any inconvenience, loss or damage that you may suffer or incur in relation to:
 - 4.7.1. the availability, operation, timeliness or proper performance of the Website;
 - 4.7.2. the functionality of the Website over all internet connections;
 - 4.7.3. the compatibility of the Website with any particular computer, electronic device, browser or other software applications; or
 - 4.7.4. that you will have uninterrupted, continuous or secure access to the Website.

5. USE OF THE WEBSITE

- 5.1. You undertake to use the Website for lawful purposes only.
- 5.2. You must not use any software program or automated process, such as robots, spiders or other virtual agents, to crawl the Website, perform web scraping or any other form of web harvesting or web data extraction to search for and gather, extract, copy, monitor, store or distribute any data or information from the Website to use such data for electronic marketing or similar purposes or for any commercial solicitation or other use or purposes that may damage our economic interests and bring us, the Website and our Services into disrepute and we reserve our rights and remedies under these Terms and Conditions of Use and in law to take appropriate action against you.
- 5.3. You must not intentionally interfere with, impede, damage or disrupt the availability, infrastructure, operation or functionality of the Website, compromise or defeat the security of the Website or our network, or otherwise tamper with the Website in any manner whatsoever, including (but not limited to) gaining or attempting to gain unauthorised access to the Website, or delivering or attempting to deliver to the Website any material which constitutes or is linked to any malware, ransomware, spyware or other malicious or destructive program, software or code. If you deliver or attempt to deliver any unauthorised, damaging or malicious program, software or code to the Website or gain or attempt to gain unauthorised access to any information or page on the Website you will be held criminally liable and if we suffer any loss or damage as a result, we will claim civil damages against you.
- 5.4. The following activities on or through the Website are expressly prohibited:
 - 5.4.1. submitting any content through the Website that would violate any laws or regulations, is unlawful, harmful, threatening, abusive, harassing, defamatory, vulgar, obscene, sexually explicit, profane, hateful, racist or otherwise objectionable, or would incite violence or conduct that would give rise to a criminal offence or civil liability;
 - 5.4.2. collection or use of any listings, descriptions, or prices from the Website for the benefit of a business competing with or offering similar services to those offered by us on the Website;
 - 5.4.3. using the contact details in a Listing for purposes other than the purpose intended in the Listing;
 - 5.4.4. any use or action that imposes an unreasonable or disproportionately large load of traffic on the Website, or otherwise interferes with its proper and timely functionality;
 - 5.4.5. removing, obscuring or altering any legal notices displayed on the Website;
 - 5.4.6. sending junk email, spam, chain letters or any other unsolicited communications;
- 5.5. You are prohibited from using any of the following without our express prior written permission:

- 5.5.1. deep links that direct a User past the Website's homepage;
- 5.5.2. mirroring the Website to another computer server so that the Website is available from more than one location;
- 5.5.3. framing the Website by making its viewable from the website of a third party;
- 5.5.4. links that display only certain parts of the Website, for instance images, graphics or photographs.
- 5.6. We may, in our sole discretion, restrict, suspend, block or terminate your use of and/or access to the whole or any part of the Website, including in the case of:
 - 5.6.1. a breach or violation or suspected breach or violation of these Terms and Conditions of Use or our [Privacy Policy](#);
 - 5.6.2. a request by law enforcement or other government agency;
 - 5.6.3. our decision to discontinue or change all or part of the Website;
 - 5.6.4. technical or security issues;
 - 5.6.5. fraudulent or illegal activities.
- 5.7. No warranties, express or implied, are given that any files, downloads or applications on or available via the Website are free from malware, such as viruses, worms, logic bombs, trojans, bots, rootkits, spyware, ransomware, or other malicious programs or codes capable of corrupting or altering the operation of a computer, corrupting a system, damaging or destroying data or software, or having other detrimental effects.
- 5.8. You hereby indemnify us against any loss, liability, damage, cost or expense of whatever nature which we or any third party may suffer or incur which is caused by or attributable to your use of the Website in violation of this clause 5 or these Terms and Conditions of Use.

6. USER ACCOUNT

- 6.1. Only registered users will be able to access and use the Services on the Website. As part of the registration process you will be required to give a unique username and password and certain personal information, which you confirm will be truthful, accurate and complete. All information you provide to register on the Website will be processed and protected in terms of our [Privacy Policy](#).
- 6.2. You are responsible for maintaining the confidentiality and security of your username and password secure and confidential and to not disclose them to any third party. You are responsible for all activities that occur under your username and password and you accept all liability, damage or loss resulting from your failure to maintain the security and confidentiality of your username and password and for any unauthorised use of your username and password.
- 6.3. If you suspect or discover any unauthorised use of your username and password or any other breach of security, you must notify us immediately.
- 6.4. You may not impersonate any person, use a false name or otherwise attempt to mislead others about your identity or post material under an alias or through another username.
- 6.5. We may suspend or terminate your user account at any time and for any reason, including any improper use of the Website or your failure to comply with these Terms and Conditions of Use.

7. LINKS TO THIRD PARTY WEBSITES

- 7.1. The Website may contain links to third party websites for your convenience only. These third party websites are not owned or operated by us and we have no control over nor are we responsible for the availability, content, practices, security and privacy policies of those third party websites. Our inclusion of these third party websites on the Website does not imply our review or endorsement of such third party websites or their contents.
- 7.2. Your use of and reliance on any third party websites is entirely at your own risk and we will not be responsible or liable, directly or indirectly, for any loss, damage, expense or claim that you may suffer or incur arising from your use or access of, or inability to use or access, any linked third party websites or any link contained in a linked third party website or your reliance on any content or information contained therein.

8. INTELLECTUAL PROPERTY RIGHTS

- 8.1. We own or are licensed to use all copyright, trademarks and other intellectual property rights in and to the Website. Any intellectual property rights of third parties are owned or licensed by those third parties. Nothing in these Terms and Conditions of Use gives you any right, title, or

- interest in any intellectual property rights.
- 8.2. All intellectual property rights are protected by applicable South African and international laws.
 - 8.3. You must not, directly or indirectly, adapt, copy, decipher, decompile, disassemble, display, distribute, enhance, modify, translate, redistribute, reproduce, republish, transmit, reverse engineer or create derivative works from or otherwise extract any of the content of the Website or any of the software or code comprising or in any way making up the whole or any part of the Website without our prior written consent.

9. PROTECTION OF PERSONAL INFORMATION

Your personal information will be protected in accordance with our [Privacy Policy](#), which sets out how we collect, use and disclose your personal information.

10. LIMITATIONS AND EXCLUSIONS OF LIABILITY AND INDEMNITY

- 10.1. You use the Website, content and information on the Website and the Services entirely at your own risk.
- 10.2. Under no circumstances will we be liable in any way for any direct, indirect, consequential, incidental, or special of any nature whatsoever, including (but not limited to) loss of profits, revenue or income, loss of business, loss of contracts or business relationships, loss of reputation or goodwill, loss of data, and you hereby unconditionally and irrevocably indemnify us and hold us harmless against all and any actions, claims, costs, damages, demands, expenses, liabilities, losses, and proceedings of any kind whatsoever incurred or suffered by you or any third party, whether based on contract, negligence or any other action arising out of or in connection with:
 - 10.2.1. your access to and use of, or your inability to access and use, the Website or the Services;
 - 10.2.2. your reliance on any content, information or material on the Website, including any Listing;
 - 10.2.3. the conduct of you or any other person in connection with the Website;
 - 10.2.4. any delay, interruption, failure or unavailability of the Website or corruption of any data, information, database, software or system for any reason whatsoever, including internet service provider equipment failure, host equipment failure, communications or network failure, malfunction of any computer or device, any malicious or destructive program, software or code, power failure, natural events, acts of war or legal restrictions or censorship;
 - 10.2.5. any claims by us or any third party relating to your breach of any provision of these Terms and Conditions of Use;
 - 10.2.6. any errors or inaccuracies in respect of the Website or any Listings posted on the Website and any content, information, description, specification, text, images, price or other charges in any Listing;
 - 10.2.7. files or downloads that contain viruses, trojans or any other data or code;
 - 10.2.8. technical failures or lack of availability of the Website;
 - 10.2.9. Goods indicated in a Listing and the sale and delivery thereof;
 - 10.2.10. defective quality or workmanship, damage, and non-suitability for purpose of the Goods indicated in a Listing.

11. BREACH

- 11.1. If you breach any provisions of these Terms and Conditions of Use and/or our [Privacy Policy](#) or infringe our rights or the rights of any third party in any way, including the infringement of any intellectual property, protection of personal information and/or privacy rights, you will be liable for all damages and we reserve our rights to take any other lawful action against you that we deem appropriate to deal with the breach.
- 11.2. If we suspend, prohibit, or block your access to the Website, you must not take any action to circumvent such suspension, prohibition or blocking, including by creating and/or using a different account.
- 11.3. If any authorised administrator of the Website signs a letter confirming any fact related to the Website, that letter will be conclusive proof of the Website's content, including (without limitation) the version of the Terms and Conditions of Use that apply to any dispute, or content and functions that the Website had at a particular date and time.
- 11.4. We are 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 blacklist you on our database (including suspending or terminating your access to the Website), in whole or in part, on notice to you. We accept no other liability which may arise as a result of such blacklisting.

12. APPLICATION OF THE ECTA

- 12.1. When you visit the Website or send us emails, you are communicating with us electronically and you consent to receive communications from us electronically. We will communicate with you by email or by posting notices on this site. You agree that all agreements, notices, disclosures and other communications that we provide to you electronically satisfy any legal requirement that such communications be in writing.
- 12.2. 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 ECTA.
- 12.3. You acknowledge that electronic signatures, encryption and/or authentication are not required for valid electronic communications between you and us.
- 12.4. You warrant that Data Messages sent to us by you from any electronic device, used by you from time to time, or owned by you, were sent by you and/or were personally authorised.
- 12.5. In compliance with section 43(1) of the ECTA, the following is recorded:
 - 12.5.1. Full registered name: SeritoScape (Pty) Limited t/a Torque Trader
 - 12.5.2. Registration number: 2022/215448/07
 - 12.5.3. Postal address: 212 Bram Fischer Drive, Kensington B, JHB, 2194.
 - 12.5.4. Physical address: 212 Bram Fischer Drive, Kensington B, JHB, 2194.
 - 12.5.5. Telephone number: 011 463 8745
 - 12.5.6. Facsimile number: 011 463 7517
 - 12.5.7. Email address: info@torquetrader.co.za
 - 12.5.8. Website: www.torquetrader.co.za
 - 12.5.9. Office bearers: Anton Roux and Meegan Roux
 - 12.5.10. Place of registration: Gauteng

13. MONITORING AND INTERCEPTION OF COMMUNICATIONS

- 13.1. The Website includes email functionality for communications between you and us and chat functionality to enable Sellers and Purchasers to communicate with each other via the Website in respect of a Listing. You understand that communications by means of email and the Internet are inherently unsecure and can be monitored and intercepted. We will not be responsible if a third party intercepts any communications between you and us or between Sellers and Purchasers and this causes damage to you.
- 13.2. Subject to the provisions of RICA, you agree and consent for us to monitor, intercept, block, filter, read, delete, disclose and use all communications sent and/or received between you and us, our employees, directors, agents or third parties and communications between Sellers and Purchasers relating to the use of the Website and its email and chat functionalities.
- 13.3. You acknowledge that your consent in terms of this clause 13.2 satisfies the requirements of ECTA for consent in "writing".
- 13.4. We will not be liable if a third party intercepts any communications between you and us or any third party and this causes damage to you.

14. DOMICILIUM CITANDI ET EXECUTANDI AND NOTICES

- 14.1. We choose the address set out in paragraph 12.5.4 as our *domicilium citandi et executandi* for all legal processes relating to these Terms and Conditions of Use. For purposes of giving any notice or other communication, we choose the further addresses and contact details set out in paragraph 12.5.
- 14.2. You choose the physical addresses that you provided when registering on the Website as your *domicilium citandi et executandi* for all legal processes relating to these Terms and Conditions of Use. For purposes of giving any other communications, you choose the further contact details that you provided when registering on the Website.
- 14.3. Any notice or other communication to be given in terms of these Terms and Conditions of Use must be given in writing.
- 14.4. Unless the contrary is proved, any notice or other communications will be deemed to have been received:

- 14.4.1. on the date of delivery, if delivered by hand or sent by courier to the chosen physical address during business hours on a business day; and
- 14.4.2. on the date of successful transmission, if sent via email.
- 14.5. You acknowledge that all agreements, notices or other communications required to be given in terms of the law or these Terms and Conditions of Use may be given via electronic means and that such communications shall be "in writing".
- 14.6. Notwithstanding anything to the contrary in these Terms and Conditions of Use, a written notice or communication actually received by you or us shall be adequate written notice or communication, notwithstanding that it was not sent to or delivered at the chosen address(es).

15. LEGAL PROCEEDINGS AND JURISDICTION

- 15.1. In the event of us instituting any legal proceedings against you, including in respect of the any breach by you of these Terms and Conditions of Use, you will be liable for all legal costs incurred by us on a scale as between attorney and own client, including any costs incidental to such legal proceedings, including (without limitation) tracing agent's fees, collection commission and fees for counsel on brief.
- 15.2. If these Terms and Conditions of Use are annexed or attached to or incorporated by reference in a document in which your physical address is reflected, then you agree to accept delivery of any legal notice or service of any court process or other documentation, including notifications in terms of the National Credit Act, at such physical address.
- 15.3. Notwithstanding the amount of its claim, we shall be entitled, but not obliged, to institute action against you in any Magistrates Court in South Africa and by accepting these Terms and Conditions of Use you are deemed to have consented to such jurisdiction.
- 15.4. These Terms and Conditions of Use will be governed by the laws of South Africa and any disputes relating to these Terms and Conditions of Use will be subject to the exclusive jurisdiction of the courts of South Africa.
- 15.5. This clause 15 shall survive termination of these Terms and Conditions of Use.

16. GENERAL

- 16.1. The Website is hosted, controlled and operated from South Africa. Therefore, these Terms and Conditions of Use and the use and availability of the Website will be governed by the laws of South Africa and any disputes relating to these Terms and Condition of Use will be subject to the exclusive jurisdiction of the courts of South Africa.
- 16.2. These Terms and Conditions of Use, together with our [Terms and Conditions of Service](#) and [Privacy Policy](#), contain the entire agreement between you and us in relation to your use of the Website. You have not relied on any representation, undertaking or warranty that is not contained in these Terms and Conditions of Use.
- 16.3. Any reference to a person includes both natural and legal persons.
- 16.4. If any provision of these Terms and Conditions of Use is held to be illegal, invalid or unenforceable for any reason, such provision shall be deemed to be deleted and the remaining provisions will continue in full force and effect.
- 16.5. The rights, powers and remedies provided to us in these Terms and Conditions of Use are cumulative with and not exclusive of the rights, powers and remedies provided by law.
- 16.6. We may subcontract, cede, assign or otherwise transfer our rights and/or obligations under these Terms and Conditions of Use without notifying you or obtaining your consent. You may not cede, assign or otherwise transfer your rights and/or obligations under these Terms and Conditions of Use to any third party.
- 16.7. Any failure by us to exercise or enforce any right or provision of these Terms and Conditions of Use shall not constitute a waiver of that right or provision unless it is confirmed in writing and signed by us.