



1 Website terms and conditions of use

- 1.1** This document sets out the terms and conditions (“Terms”) of *Chery International (Pty) Ltd t/a Omoda South Africa* (“OMODA”) pertaining to the access and use of the information, products, services and functions provided on www.OMODA.co.za (“Website”).
- 1.2** Should any person that accesses the Website you (“you” or “user”) disagree with any of the Terms, you must refrain from accessing the Website and/or using our services.
- 1.3** OMODA reserves the right, in its sole discretion, to amend and/or replace any of, or the whole of, the Terms. Such amendments shall supersede and replace any previous Terms and shall be made available on the Website. Each time a user accesses the Website and/or uses the services, the user shall be deemed to have consented, by such access and/or use, to the Terms, as amended and/or replaced by OMODA from time to time. If you are not satisfied with the amended Terms, you should refrain from using the Website.
- 1.4** We will, however, give you prior notice where we have collected personal information from you and the purpose for which we collected that information is affected by the intended amendment.
- 1.5** If there is anything in these Terms that you do not understand, then please contact us as soon as possible. Please note that calls to us are charged at national rates and may be monitored for training, security and quality assurance purposes.

2 Content of the website

- 2.1** OMODA reserves the right to make improvements, to change or to discontinue, without notice, any aspect or feature of the Website and any information or content on the Website.
- 2.2** OMODA reserves the right to change and amend the products, prices and rates quoted on this Website from time to time without notice.
- 2.3** OMODA may use the services of third parties to provide information on the Website. OMODA has no control over this information and makes no representations or warranties of any nature as to its accuracy, appropriateness or correctness. The user agrees that such information is provided “as is” and that OMODA and its online partners shall not be liable for any losses or damages that may arise from the user’s reliance on it, howsoever these may arise.

2.4 OMODA makes no representations or warranties, whether express or implied, as to the accuracy, completeness or reliability of any information, data and/or content on the Website, including without limitation:

2.4.1 OMODA does not warrant that the Website or information, or downloads shall be error-free or that they shall meet any particular criteria of performance or quality. OMODA expressly disclaims all implied warranties, including, without limitation, warranties of merchantability, fitness for a particular purpose, non-infringement, compatibility, security and accuracy;

2.4.2 whilst OMODA has taken reasonable measures to ensure the integrity of the Website and its contents, no warranty, whether express or implied, is given that any files, downloads or applications available via this Website are free of viruses, or any other data or code which has the ability to corrupt, damage or affect the operation of the user's system; and

2.4.3 OMODA has taken reasonable measures to ensure that the content of the Website is accurate and complete. OMODA 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 OMODA's representatives, OMODA shall not be bound thereby.

3 Linked third-party websites and third-party content

3.1 OMODA may provide links to third-party websites on the Website. These links are provided to the user for convenience purposes only, and OMODA does not endorse, nor does the inclusion of any link imply OMODA's endorsement of, such websites, their owners, licensees or administrators or such websites' content or security practices and operations.

3.2 While OMODA tries to provide links only to reputable websites or online partners, OMODA cannot accept responsibility or liability for the information provided on other websites. Linked websites or pages are not under, nor subject to, the control of OMODA. OMODA is not responsible for and gives no warranties or makes any representations in respect of the privacy policies or practices of linked or any third party or advertised websites on the Website.

3.3 You agree that OMODA shall not be held liable, directly or indirectly, in any way for the content, the use or inability to use or access any linked website or any link(s) contained in a linked website, nor for any loss or damage of any sort incurred as a result of any dealings with, or as the result of the presence of such third party linked websites on the Website. Any dealings that you may have with any linked websites, including advertisers, found on the Website, are solely between you and the third-party website.

4 Usage Restrictions

The user hereby agrees that it shall not itself, nor through a third party:

- 4.1** copy (other than for backup, archival or disaster recovery purposes), reproduce, translate, adapt, vary, modify, lease, licence, sub-licence, encumber or in any other way deal with any part of the Website for any reason and in any manner, unless it is consistent with the intent and purpose of these Terms;
- 4.2** decompile, disassemble or reverse engineer any portion of the Website;
- 4.3** write and/or develop any derivative of the Website or any other software program based on the Website;
- 4.4** modify or enhance the Website. In the event of a user effecting any modifications or enhancements to the Website in breach of this clause, such modifications and enhancements shall be the property of OMODA;
- 4.5** remove any identification, trademark, copyright or other notices from the Website;
- 4.6** post or transmit, by means of reviews, comments, suggestions, ideas, questions or other information through the Website, any content which is unlawful, harmful, threatening, abusive, harassing, defamatory, vulgar, obscene, sexually explicit, profane or hateful, or racially, ethnically or otherwise objectionable content of any kind; and/or



5 Security

- 5.1** In order to ensure the security and reliable operation of the services to all OMODA's users, OMODA hereby reserves the right to take whatever action it may deem necessary to preserve the security, integrity and reliability of its network and back-office applications.
- 5.2** You may not utilise the Website in any manner which may compromise the security of OMODA's networks or tamper with the Website in any manner whatsoever, which shall include, without limitation, gaining or attempting to gain unauthorised access to the Website, or delivering or attempting to deliver any unauthorised, damaging or malicious code to the Website, all of which is expressly prohibited. Any person or entity which does so, or attempts to do so, shall be held criminally liable. Further, should OMODA suffer any damage or loss, civil damages shall be claimed by OMODA against the user.
- 5.3** Any user who commits any of the offences detailed in Chapter 13 of the Electronic Communications and Transactions Act 25 of 2002 ("ECTA") (specifically sections 85 to 88 (inclusive)) shall, notwithstanding criminal prosecution, be liable for all resulting liability, loss or damages suffered and/or incurred by OMODA and its affiliates, agents and/or partners.

6 Intellectual property rights

6.1 For the purpose of this clause, the following words shall have the following meanings ascribed to them:

6.1.1 “**Intellectual property rights**” means all and any of the rights in and to intellectual property of any nature whatsoever owned and/or controlled directly or under licence by OMODA, now or in the future, including without limitation, OMODA’s rights, title and interest in and to all technology, source code/s, trade secrets, logos, systems, methods, trademarks, trade names, styles, insignia, designs, patents and copyright, and all similar proprietary rights which may subsist in any part of the world, whether registered or not.

6.2 All copyright and other intellectual property rights in all content, trademarks, software, data, and material, including logos, databases, text, graphics, icons, hyperlinks, confidential information, designs, agreements, and multimedia works, published on or via the Website (“**proprietary material**”), are the property of, or are licensed to, OMODA and as such are protected from infringement by local and international legislation and treaties.

6.3 By submitting reviews, comments and/or any other content (other than your personal information) to OMODA for posting on the Website, you automatically grant OMODA and its affiliates a non-exclusive, royalty-free, perpetual, irrevocable right and licence to use, reproduce, publish, translate, sub-license, copy and distribute such content in whole or in part worldwide, and to incorporate it in other works in any form, media, or technology now known or hereinafter developed, for the full term of any copyright that may exist in such content. Subject to this licence, you retain any and all rights that may exist in such content.

6.4 All rights not expressly granted are reserved, and no right, title or interest in any proprietary material or information contained in this Website is granted to you.

6.5 Except with OMODA ’s express written permission, no proprietary material from this Website may be copied or retransmitted.

6.6 Irrespective of the existence of copyright, the user acknowledges that OMODA is the proprietor of all material on the Website (except where a third party is indicated as the proprietor), whether it constitutes confidential information or not, and that the user has no right, title or interest in any such material.

6.7 OMODA authorises you only to view, copy, temporarily download to a local drive and to print the content of this Website, or any part thereof, provided that such content is used for personal purposes and for information purposes only, and such content is used for non-commercial purposes.

7 Risk, limitation of liability and indemnity



- 7.1** The user's use of this website and the information contained on the website is entirely at the user's own risk, and the user assumes full responsibility and risk of loss resulting from the use thereof.
- 7.2** The transmission of information via the internet, including without limitation e-mail, is susceptible to monitoring and interception. The user bears all risks of transmitting information in this manner. Under no circumstances shall OMODA be liable for any loss, harm, or damage suffered by the user as a result thereof. OMODA reserves the right to request independent verification of any information transmitted via e-mail, and the user consents to such verification should OMODA deem it necessary.
- 7.3** To the extent permissible by law:
- 7.3.1** Neither OMODA, its affiliates, shareholders, agents, consultants or employees shall be liable for any damages whatsoever, including without limitation any direct, indirect, special, incidental, consequential or punitive damages, howsoever arising (whether in an action arising out of contract, statute, delict or otherwise) related to the use of, or the inability to access or use the content of the website or any functionality thereof, or the information contained on the website, or of any linked website, even if OMODA knows or should reasonably have known or is expressly advised thereof.
- 7.3.2** The liability of OMODA for faulty execution of the website as well as all damages suffered by the user, whether direct or indirect, as a result of the malfunctioning of the website shall be limited to OMODA rectifying the malfunction within a reasonable time and free of charge, provided that OMODA is notified immediately of the damage or faulty execution of the website. This liability shall fall away and be expressly excluded if the user attempts to correct or allows third parties to correct or attempt to correct the website without the prior written approval of OMODA. However, in no event shall OMODA be liable to the user for loss of profits or for special, incidental, consequential or punitive losses or damages arising out of or in connection with the website or its use or the delivery, installation, servicing, performance or use of it in combination with other computer software.
- 7.3.3** You hereby unconditionally and irrevocably indemnify the service provider and agree to hold OMODA free from all loss, damages, claims and/or costs of whatsoever nature suffered or incurred by OMODA or instituted against OMODA as a direct or indirect result of:
- 7.3.3.1** your use of the website and/or any linked third-party websites;
- 7.3.3.2** Software, programs and support services supplied by, obtained by or modified by you or any third party without the consent or knowledge of OMODA;



- 7.3.3.3 your failure to comply with any of the terms or any other requirements which OMODA may impose from time to time;
- 7.3.3.4 the actions or requirements of any telecommunications authority or a supplier of telecommunications services or software; or
- 7.3.3.5 any unavailability of, or interruption in, the service which is beyond the control of OMODA.

7.4 OMODA makes no warranty or representation as to the availability, accuracy or completeness of the content of the website. You expressly waive and renounce all your rights of whatever nature that you may have against OMODA for any LOSS suffered by you as a result of information supplied by OMODA being incorrect, incomplete or inaccurate.

8 OMODA privacy and cookie policy

8.1 OMODA takes your privacy seriously and is committed to protecting your personal information. We use the personal information that we collect from you in accordance with this Privacy and Cookie Policy.

8.2 Personal information when used in this Policy means information that can identify you as an individual or is capable of identifying you. By personal information we don't mean general, statistical, aggregated or anonymised information.

8.3 Your use of our services signifies your consent to us collecting and using your personal information as specified below.

8.4 When you visit the Website or send e-mails to us or contact us via any other technological means, you consent to receive communications from us or any of our divisions, affiliates or partners electronically in accordance with our privacy policy.

9 Breach or cancellation by OMODA

9.1 OMODA is entitled without notice, in addition to any other remedy available to it at law or under these Terms, including obtaining an interdict, to cancel these Terms, limit or deny such user use of the Website and services, or to claim specific performance of any obligation whether or not the due date for performance has arrived, in either event without prejudice to OMODA's right to claim damages, should any user:

9.1.1 breach any of these Terms;

9.1.2 in the sole discretion of OMODA, use the Website in an unauthorised manner; or

9.1.3 infringe any statute, regulation, ordinance or law.

9.2 Breach of these Terms entitles OMODA to take legal action without prior notice to the user, and the user agrees to reimburse the costs associated with such legal action to OMODA on an attorney and own client scale.

10 Compliance with section 43(1) of ECT Act

In compliance with section 43(1) of the ECT Act, the following is noted:

10.1 Full name: CHERY INTERNATIONAL (PTY) LTD T/A OMODA SA

10.2 Registration number: 2021/355670/07

10.3 Physical address: GROUND FLOOR, FLUSHING MEADOWS,
THE CAMPUS, 57 SLOANE STREET,
BRYANSTON, SANDTON, 2191

10.4 Fax number:

10.5 Telephone number: 010 448 5388

10.6 Website address: WWW.OMODA.CO.ZA

10.7 E-mail address: LEGAL@CHERY.CO.ZA

10.8 Names of office bearers: BRANDAN GROBBELAAR

10.9 Registered at: GROUND FLOOR, FLUSHING MEADOWS,
THE CAMPUS, 57 SLOANE STREET,
BRYANSTON, SANDTON, 2191

11 Compliance with laws

You shall comply with all applicable laws, statutes, ordinances and regulations pertaining to your use of and access to this Website.

12 Notices

- 12.1** OMODA chooses as its *domicilium citandi et executandi* the address set out in clause 10 above for all purposes relating to these Terms and Conditions, including the giving of any notice and the serving of any process.
- 12.2** Except as explicitly stated otherwise, any notices shall be given by email to legal@chery.co.za (in the case of OMODA) or to the e-mail address you have provided to OMODA (in your case), or such other address that has been specified. Notice shall be deemed given 48 (forty-eight) hours after an email is sent unless the sending party is notified that the email address is invalid. Alternatively, OMODA may give you notice by registered mail, postage prepaid and return receipt requested to the address which you have provided to OMODA. In such case, notice shall be deemed given 7 (seven) days after the date of mailing. You acknowledge that all agreements, notices or other communication required to be given in terms of the law or these Terms may be given via electronic means and that such communications shall be “in writing”. Notwithstanding anything to the contrary, a written notice or communication actually received by a party shall be an adequate written notice or communication to it, notwithstanding that it was not sent to or delivered at its chosen address(es) for that purpose.
- 13** **General clauses**
- 13.1** These Terms shall be governed in all respects by the laws of the Republic of South Africa as such laws are applied to agreements entered into and to be performed within South Africa.
- 13.2** This Website is controlled, operated and administered by OMODA from its offices within the Republic of South Africa. OMODA makes no representation that the content of the Website is appropriate or available for use outside of South Africa. Access to the Website from territories or countries where the content of the Website is illegal is prohibited. Users may not use this Website in violation of South African export laws and regulations. If the user accesses this Website from locations outside of South Africa, that user is responsible for compliance with all local laws.
- 13.3** OMODA does not guarantee continuous, uninterrupted or secure access to our services, as the operation of our Website may be interfered with as a result of a number of factors which are outside of our control.
- 13.4** If any provision of these Terms is held to be illegal, invalid or unenforceable for any reason, such provision shall be struck out from these Terms, and the remaining provisions shall be enforced to the full extent of the law.
- 13.5** OMODA’s failure to act with respect to a breach by you or others does not constitute a waiver of our right to act with respect to subsequent or similar breaches.



- 13.6** You shall not be entitled to cede your rights or assign your rights or delegate your obligations in terms of these Terms to any third party without the prior written consent of OMODA.
- 13.7** No party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein, whether it induced the contract and/or whether it was negligent or not.
- 13.8** The head notes to the paragraphs to these Terms are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate.
- 13.9** Words importing the singular shall include the plural and *vice versa*, and words importing the masculine gender shall include females and words importing persons shall include partnerships and corporate and unincorporated entities.
- 13.10** These Terms set forth the entire understanding and agreement between OMODA and you with respect to the subject matter hereof.

