



# Pearson

## Pearson South Africa - BookStars

### Terms and Conditions

Last updated: 24 August 2016.

#### 1. Definitions and Interpretation

- 1.1. These Terms and Conditions together with the Application Form constitute the agreement between Pearson South Africa (Proprietary) Limited (“Pearson”) and the Member (the “Agreement”) relating to the Pearson BookStars bookshop loyalty programme (“BookStars” or the “Programme”).
- 1.2. No variation or addition to these Terms and Conditions will be effective without the prior written consent of Pearson, and any additional or alternative terms that the Member may seek to impose will be void and/or unenforceable.
- 1.3. A person or entity who is not a party to this Agreement will not have any rights under it.
- 1.4. In this Agreement words and phrases have the meaning given to them in the Application Form and this clause 1.4:
  - 1.4.1. “Agreement” means these Terms and Conditions together with the Application Form.
  - 1.4.2. “Applicant” means the business that applies for membership of BookStars by completing and submitting an Application Form to Pearson.
  - 1.4.3. “Application Form” means the application form in which an Applicant applied for membership of BookStars and in which such Applicant has agreed to be bound by these Terms and Conditions.
  - 1.4.4. “BookStars” means the Pearson BookStars bookshop loyalty programme.
  - 1.4.5. “CAF” means Pearson’s standard Credit Application Form.
  - 1.4.6. “Code” has the meaning set out in clause 9.2.

- 1.4.7. "Member" means the qualifying Applicant that applied for membership in the Application Form and who has been notified in writing by Pearson that Pearson has accepted such application.
- 1.4.8. "New Target Year" shall have the meaning set out in clause 5.4.1 in respect of Silver Tier Members, and in clause 5.5.1 in respect of Gold Tier Members.
- 1.4.9. "Option Form" means the official Pearson Option Form on which a qualifying Member must indicate to Pearson which of the options set out in clauses 5.4.1.2 or 5.5.1.2, as the case may be, such Member has chosen.
- 1.4.10. "Pearson" means Pearson South Africa (Proprietary) Limited, registration number 2009/022455/07, of 4th Floor, Auto Atlantic, Corner Hertzog Boulevard and Heerengracht, Cape Town 8001, South Africa.
- 1.4.11. "Pearson Group" means Pearson PLC, a parent company of Pearson, registered in the United Kingdom according to the laws of England and Wales, and includes the group of companies incorporated under the Pearson name and/or brand;
- 1.4.12. "Personal Data" means information about a living individual or existing juristic person who can be identified from that data.
- 1.4.13. "Policy" has the meaning set out in clause 9.2.
- 1.4.14. "Product" means products that are (i) published, produced and/or distributed by Pearson South Africa (Pty) Ltd, and (ii) purchased directly from Pearson South Africa (Pty) Ltd by the Member and (iii) in respect of which a Pearson South Africa (Pty) Ltd invoice was issued to the Member. For the avoidance of doubt, products sold, distributed and/or invoiced by other Pearson Group entities are expressly excluded from this definition.
- 1.4.15. "Programme" means the Pearson BookStars bookshop loyalty programme.
- 1.4.16. "Returns" means the value of returns of Product (exclusive of Value-Added Tax), previously purchased from Pearson by the Member, that has been authorised, received, checked and credited by Pearson during the relevant Target Year.
- 1.4.17. "Target" means the target value of net purchases that must be achieved by the Member during the Target Year in order to qualify for any benefits under the Programme.
- 1.4.18. "Target Year" means the period from 1 January to 31 December in the specific calendar year to which the Target applies.

## 2. General

- 2.1. Pearson reserves the right to alter or change the terms and conditions governing BookStars or to terminate BookStars at any time. In the event of Programme termination, clause 8 below shall apply.

- 2.2. Should the Member wish to terminate its membership of BookStars, the Member must send notice of termination of its membership to [pearsonza.bookstars@pearson.com](mailto:pearsonza.bookstars@pearson.com) or contact 021 532 6008. Upon termination of membership, the Member will forfeit and no longer be entitled to any rebates or any other benefits that had accrued to such Member under the Programme.
- 2.3. Any abuse whatsoever of the Programme by any person or Member constitutes a criminal offence and Pearson reserves the right to cancel such person's membership and withhold all rebates and other benefits from such Member's account. Any incorrect or fraudulent sales data provided will not count towards meeting a Member's Target.
- 2.4. Once an Applicant's application to become a member of BookStars has been accepted and such acceptance has been communicated to the Applicant by Pearson in writing, the Applicant shall become a member of BookStars and these Terms and Conditions, together with the Application Form, shall form a binding agreement between the Member and Pearson. Being registered as a member of BookStars irrevocably signifies the Member's agreement to these Terms and Conditions, as amended by Pearson from time to time. Pearson, its officers, employees, contractors or agencies do not bear any responsibility or liability for any loss, damage or injury, howsoever arising from inclusion or participation in the Programme.
- 2.5. Should the Member have a credit account with Pearson, the Member agrees to comply with the terms of Pearson's standard Credit Application Form ("CAF"), incorporating any other terms that may be applicable, and meet the requirements contained therein prior to purchasing any of the Product from Pearson.
- 2.6. Pearson's standard trading terms and discounts will apply to all orders placed with Pearson and purchases made by the Member from Pearson.

### **3. Member Personal Information**

- 3.1. The Member warrants that all information provided on the Application Form are both accurate and complete as at date of submission thereof. Should any Member details change at any time, it shall be the Member's responsibility to notify Pearson of such change. Pearson, its officers, employees, contractors or agencies accept no liability for any loss, damage or injury arising directly or indirectly from the Member's failure to notify Pearson of any such change in a Member's details, including without limitation a change in the Member's bank account details.
- 3.2. By providing Pearson with any Personal Information, the Member hereby warrants that it has the necessary consent(s) and is entitled to furnish Pearson with such Personal Information and grants Pearson consent to retain, process and use such Personal Information, and further consents to the transfer of such information to other entities in the Pearson Group and to authorised Business Partners (as defined in the Code), for the purposes of operating and/or implementing any benefits under the Programme, communicating with the Member about Pearson, products, promotions and/or BookStars, any other purposes incidental to BookStars, and for Pearson's reporting and legislative compliance purposes. Such Personal Information shall be processed in accordance with applicable data protection legislation in force in South Africa from time to time, relating to the use and processing of data relating to living individuals and/or legal entities.

- 3.3. Due to the global nature of the Pearson Group, Personal Information may be transmitted, stored and processed in a country other than South Africa and the Member accordingly hereby explicitly grants Pearson, the Pearson Group and authorised Business Partners consent to transfer, process and store the Member's Personal Information in countries other than South Africa.
- 3.4. Pearson will not send marketing emails to the Member unless the Member has opted in for receiving them. Any marketing emails that Pearson send you will include an unsubscribe link at the end of the email. Members can also contact Pearson at [pearsonza.bookstars@pearson.com](mailto:pearsonza.bookstars@pearson.com) in order to unsubscribe.

## 4. Membership Requirements

- 4.1. An Applicant shall only be eligible for membership of BookStars once all of the following requirements have been met:
  - 4.1.1. The Applicant must be a South African citizen or, if the Applicant is a legal entity, registered within the Republic of South Africa in accordance with the laws of South Africa; and
  - 4.1.2. The Applicant must have a valid South African bank account; and
  - 4.1.3. The Applicant must be an existing customer of Pearson that has purchased Product from Pearson to the net value of not less than R50,000.00 (Fifty Thousand Rand) during the immediately preceding 12 twelve month period; and
  - 4.1.4. The Applicant must not be in arrears with settling its Pearson account and should conform to its credit limit, terms and conditions at all times.
- 4.2. Notwithstanding an Applicant being eligible for membership of BookStars in terms of clause 4.1 above, Pearson reserves the right to accept or refuse an Applicant's application for membership of BookStars at Pearson's sole discretion.
- 4.3. An Applicant shall only become a member of BookStars once Pearson has accepted the Applicant's application for membership and such acceptance has been communicated to the Applicant by Pearson in writing.

## 5. Member Benefits

- 5.1. Membership of BookStars is structured in accordance with a two-tier benefit system, consisting of a Silver Tier and Gold Tier. All Members commence the Programme on the Silver Tier.
- 5.2. A Silver Tier Member who meets its Targets for 3 (three) consecutive Target Years, without interruption or suspension of such Member's membership, will migrate up to the Gold Tier.
- 5.3. Should a Gold Tier Member not meet its Targets in any given Target Year, such Member will revert to Silver Tier status and will be required to re-earn Gold Tier status in accordance with clause 5.2 above.

5.4. Silver Tier Members are entitled to the following benefits:

5.4.1. Provided the Silver Tier Member has achieved its Target for the immediately preceding completed Target Year, the Silver Tier Member shall receive the following rewards (subject to any additional qualifying criteria specified) during the Target Year immediately following such completed Target Year (the "New Target Year"):

5.4.1.1. A 1.5 % (One Comma Five Percent) cash rebate calculated on the net value of all purchases of Product by the Member from Pearson during such completed Target Year, less Returns, as more fully set out in clause 6 below.

5.4.1.2. In addition, provided the Member has an existing credit account with Pearson and has signed Pearson's CAF, the Member can choose to receive one (but not both) of the following options by completing and returning the Option Form to Pearson as more fully set out in clause 6.9 below:

- A settlement discount of 1% (One Percent) during the New Target Year if the Member's account with Pearson is settled within 30 (Thirty) days of date of purchase;

OR

- Extended credit terms on the Member's account with Pearson to a maximum of 90 (ninety) days from date of statement during the New Target Year, provided the Member's account with Pearson is not in arrears. If the Member is in arrears with its account, this is not an option that will be considered by Pearson.

5.4.2. Selected Pearson promotional offers, as determined by Pearson in its sole discretion from time to time;

5.4.3. Selected Product samples to use when marketing Pearson Products, as determined by Pearson in its sole discretion from time to time;

5.4.4. Quarterly performance reports, to reflect the Member's progress in achieving its Targets;

5.4.5. Reasonable marketing support, as determined by Pearson in its sole discretion from time to time;

5.4.6. Quarterly newsletters to keep Members updated on new products and industry news;

5.4.7. Personalised service in the form of a dedicated Pearson contact person to attend to Member queries.

5.5. Gold Tier Members are entitled to the following benefits:

5.5.1. Provided the Gold Tier Member has achieved all its Targets for the immediately preceding 3 (three) consecutive, completed Target Years, the Gold Tier Member shall receive the following rewards (subject to any additional qualifying criteria

specified) during the Target Year immediately following the third such completed Target Year (“New Target Year”):

5.5.1.1. A 2 % (Two Percent) cash rebate calculated on the net value of all purchases of Product by the Member from Pearson during the most recently completed Target Year, less Returns.

5.5.1.2. In addition, provided the Member has an existing credit account with Pearson and has signed Pearson’s CAF, the Member can choose to receive one (but not both) of the following options by completing and returning the Option Form to Pearson as more fully set out in clause 6.9 below:

- A settlement discount of 2% (Two Percent) during the New Target Year if the Member’s account with Pearson is settled within 30 (Thirty) days of date of purchase;

OR

- Extended credit terms on the Member’s account with Pearson to a maximum of 90 (ninety) days from date of statement during the New Target Year, provided the Member’s account with Pearson is not in arrears. If the Member is in arrears with its account, this is not an option that will be considered by Pearson.

5.5.2. Selected Pearson promotional offers, as determined by Pearson in its sole discretion from time to time;

5.5.3. Selected Product samples to use when marketing Pearson Products, as determined by Pearson in its sole discretion from time to time;

5.5.4. Quarterly performance reports, to reflect the Member’s progress in achieving its Targets;

5.5.5. Reasonable marketing support, as determined by Pearson in its sole discretion from time to time;

5.5.6. Quarterly newsletters to keep Members updated on new products and industry news;

5.5.7. Personalised service in the form of a dedicated Pearson contact person to attend to Member queries.

## 6. Operation of the Rewards

6.1. A Silver Tier Member will be entitled to a rebate reward if such Member meets the requirements set out in clause 5.4.1, and a Gold Tier Member will be entitled to a rebate reward if such Member meets the requirements set out in clause 5.5.1.

6.2. Targets for a specific Target Year will be communicated to Members in writing by no later than 1 April within each relevant Target Year. Targets will be determined by Pearson and will be based on the total value of Product purchased from Pearson by the Member

during the previous Target Year (or in the case of new Members, during the 12 (twelve) months immediately preceding the commencement date of such new Member's membership), plus an annual percentage increase as set by Pearson at its sole discretion.

- 6.3. In determining whether the Member has met its Target, the performance of the Member during the Target Year will be measured on 31 January following the end of the relevant Target Year, and will take into account the value of all purchases of Product made from Pearson during the Target Year, as recorded by Pearson, less the value of Returns.
- 6.4. For purposes of this Agreement, purchases making up the Target shall mean:
  - 6.4.1. Purchases of Products which have been invoiced and supplied to the Member where the latter has had sufficient credit to make such purchases; and
  - 6.4.2. Purchases paid for by the Member in accordance with the provisions of Pearson's normal trading terms.
- 6.5. The rebate will be calculated in South African Rand, net of any Returns, in accordance with the Member's tier status as determined in accordance with clause 5.
- 6.6. Should the Member qualify for a rebate, the calculation of the rebate will be finalised annually by Pearson by 28 February following the end of the relevant Target Year, and the Member shall be informed in writing of the awarded rebate.
- 6.7. Pearson shall pass a credit note to the benefit of the Member's Pearson account for an amount equivalent to the value of the rebate by 31 March in the New Target Year.
- 6.8. All amounts and/or values referred to in this Agreement shall, unless expressly otherwise indicated, be exclusive of Value-Added Tax.
- 6.9. A Member with an existing Pearson credit account, who has signed Pearson's CAF and that, depending on such Member's tier status, qualifies to receive one of the rewards set out in clause 5.4.1.2 or clause 5.5.1.2, as the case may be, will receive an Option Form from Pearson by 28 February in the New Target Year, in which the Member must indicate which of the rewards the Member has chosen in respect of the then current New Target Year. The Member must return the fully completed Option Form to Pearson by no later than 31 March in the New Target Year in order for the chosen reward to apply to the entire New Target Year, failing which the chosen reward will only apply from date of receipt of the fully completed Option Form by Pearson up to the end of the New Target Year.
- 6.10. Once the Member has chosen a reward and returned the Option Form to Pearson as set out in clause 6.9 above, the Member's election will be final in respect of the then current New Target Year and the Member shall not be entitled to choose a different reward option in respect of such New Target Year.

## 7. Default

- 7.1. If the Member does not comply with the terms and conditions set out in this Agreement or, in the case of Pearson credit account Members, the terms and conditions in Pearson's CAF or if the Member is in arrears with settling such Member's account with Pearson (each a "Default"), then Pearson shall be entitled (but not obliged) to suspend

any benefits due to the Member under the BookStars bookshop loyalty programme with immediate effect on written notice to the Member.

- 7.2. Upon such suspension, the Member shall not be entitled to receive any rebates or any other rewards or benefits of the BookStars bookshop loyalty programme until such suspension has been lifted by Pearson in its sole discretion.
- 7.3. In addition, should the Default not be capable of remedy, or if the Default is capable of remedy and the Member fails to do so within 30 (thirty) days of receiving written notice from Pearson calling upon the Member to do so, then Pearson shall be entitled to immediately terminate this Agreement and the Member's membership of BookStars on written notice to the Member, upon which termination the Member shall forfeit all benefits that have accrued to such Member under the Programme.

## 8. Programme Termination

- 8.1. In the event that Pearson elects to terminate the BookStars bookshop loyalty programme, benefits earned by Members in respect of the completed Target Year immediately preceding the year in which the Programme was terminated, will not be adversely affected by such termination.
- 8.2. If the Programme is terminated within the first 6 (six) months of the then current Target Year and the Member has reached the Member's Target for such Target Year on or before the date of termination, then:
  - 8.2.1. Pearson shall credit the Member with a pro rata rebate, in accordance with such Member's tier status, on the value of purchases of Product made from Pearson during the then current Target Year up to the date of Programme termination, as recorded by Pearson, less the value of returns of Product (exclusive of Value-Added Tax), previously purchased from Pearson by the Member, that has been authorised, received, checked and credited by Pearson during such aforesaid period.
  - 8.2.2. Notwithstanding the fact that the Member has reached the Member's Target, the Member shall not be entitled to receive any benefits referred to in clause 5 above save the pro rata rebate referred to in clause 8.2.1 above. For the avoidance of doubt and without limiting the generality of the foregoing, the Member shall not be entitled to receive the benefits referred to in clauses 5.4.1.2 or 5.5.1.2 above and no benefits shall be carried over to the following year.
- 8.3. If the Programme is terminated within the first 6 (six) months of the then current Target Year and the Member has not reached its Target for such Target Year on or before the date of termination, then the Member shall not be entitled to receive any benefits referred to in clause 5 above in respect of the then current Target Year, including without limitation any rebates, and no benefits shall be carried over to the following year.
- 8.4. If the Programme is terminated within the last 6 (six) months of the then current Target Year and the Member has reached at least 85% (eighty five percent) of the Member's Target for such Target Year on or before the date of termination, then:
  - 8.4.1. Pearson shall credit the Member with a pro rata rebate, in accordance with such Member's tier status, on the value of purchases of Product made from Pearson during the then current Target Year up to the date of Programme termination, as



recorded by Pearson, less the value of returns of Product (exclusive of Value-Added Tax), previously purchased from Pearson by the Member, that has been authorised, received, checked and credited by Pearson during such aforesaid period.

- 8.4.2. Notwithstanding the fact that the Member has reached 85% (eighty five percent) or more of the Member's Target, the Member shall not be entitled to receive any benefits referred to in clause 5 above save the pro rata rebate referred to in clause 8.4.1 above. For the avoidance of doubt and without limiting the generality of the foregoing, the Member shall not be entitled to receive the benefits referred to in clauses 5.4.1.2 or 5.5.1.2 above and no benefits shall be carried over to the following year.
- 8.5. If the Programme is terminated within the last 6 (six) months of the then current Target Year and the Member has not reached at least 85% (eighty five percent) of the Member's Target for such Target Year on or before the date of termination, then the Member shall not be entitled to receive any benefits referred to in clause 5 above in respect of the then current Target Year, including without limitation any rebates, and no benefits shall be carried over to the following year.

## 9. Anti-Bribery and Corruption.

- 9.1. The parties shall at all times comply with all applicable laws related to bribery, corruption and related matters, including without limitation the US Foreign Corrupt Practices Act, the UK Bribery Act and the South African Prevention and Combating of Corrupt Activities Act.
- 9.2. The Member agrees to familiarise itself with and abide by the Business Partners' Code of Conduct (the "Code") and the Anti-Bribery and Corruption Policy (the "Policy") of Pearson PLC and its subsidiaries, as amended from time to time, which Code and Policy form an integral part of this Agreement, and undertakes not to participate in any conduct that may be seen as contrary to this Code or Policy, and to report any such conduct to Pearson. Copies of the Code and Policy can be obtained from Pearson on request or can be viewed at [www.pearson.com](http://www.pearson.com).
- 9.3. Pearson shall have the right to terminate this Agreement and the Member's membership of BookStars with immediate effect should it have reason to believe the Member has acted, or will act, in breach of the Code or Policy without any further liability to the Member.

## 10. GENERAL

- 10.1. This Agreement constitutes the whole of the agreement between the parties relating to the matters dealt with herein, and, save to the extent otherwise provided herein, no undertaking, representation, term or condition relating to the subject matter of this Agreement not incorporated in this Agreement shall be binding on any of the parties, except for any other published Pearson terms and conditions and any agreements, amendments or waivers that may be agreed to in writing by the party against whom they are to be enforced. Any contrary or inconsistent terms appearing on the Member's purchase orders, acknowledgments or other documents of the Member shall not be binding on Pearson. Where, in the case of Pearson credit account Members, there is any contradiction in any term or condition stated in this Agreement to those contained in the CAF, the terms contained in this Agreement shall prevail.

- 10.2. No addition to or variation, deletion, or agreed cancellation of all or any clauses or provisions of this Agreement will be of any force or effect unless in writing and signed by the parties.
- 10.3. No waiver of any of the terms and conditions of this Agreement will be binding or effectual for any purpose unless in writing and signed by the party giving the same. Any such waiver will be effective only in the specific instance and for the purpose given. Failure or delay on the part of any party in exercising any right, power or privilege hereunder or any indulgence granted to a party by the other, will not constitute or be deemed to be a waiver thereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.
- 10.4. The Member shall not be entitled to cede and/or assign its rights in terms of this Agreement to a third party without Pearson's express prior written consent. Pearson may freely assign this Agreement.
- 10.5. The parties choose as their respective *domicilia citandi et executandi* the following addresses, or such other physical address as one party may notify to the other from time to time, to which notices can be despatch: If to Pearson: To 4th Floor, Auto Atlantic, Corner Hertzog Boulevard and Heerengracht, Cape Town 8001, South Africa, marked for the attention of General Counsel: South Africa, Legal and Compliance. If to the Member: To the physical address identified on the Application Form.
- 10.6. All provisions and the various clauses of this Agreement are, notwithstanding the manner in which they have been grouped together or linked grammatically, severable from each other. Any provision or clause of this Agreement 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* and the remaining provisions and clauses of this Agreement shall remain of full force and effect. The Parties declare that it is their intention that this Agreement would be executed without such unenforceable provision if they had been aware of such unenforceability at the time of execution hereof.
- 10.7. This Agreement will be governed by the laws of the Republic of South Africa and the parties submit to the exclusive jurisdiction of the South African courts.

## 11. Version of Terms and Conditions

- 11.1. This version of the Terms and Conditions applies to the Member and the Member's membership of BookStars until this version of the Terms and Conditions is superseded by a new version.
- 11.2. Pearson may at any time and at its sole discretion change, update or amend these Terms and Conditions by posting a new version of the Terms and Conditions at: [za.pearson.com](http://za.pearson.com). Any such change under this clause will not affect any rewards that have already accrued to the Member pursuant to clauses 5.4.1 or 5.5.1, as the case may be.