

TERMS AND CONDITIONS

FOR USE OF THE NIKOS PHYSICAL GIFT CARDS AND DIGITAL E-GIFT CARDS

The Nikos Gift Card and the use thereof (both physical and digital) is subject to the following terms and conditions as amended from time to time (“these Terms”), together with any terms and conditions appearing on such Gift Card (the “Gift Card Terms”). In the event of a conflict between these Terms and the Gift Card Terms, these Terms will prevail.

The following provisions are drawn to the attention of the user if the Consumer Protection Act 68 of 2008 (“the CPA”) applies to any transaction concluded pursuant to these Terms, namely **Clause 5, Clause 7.1, and Clause 7.2** of these Terms.

The purchase, use or receipt of a Nikos Gift Card constitutes express consent to abide by the External Privacy Statement found on the Nikos website at <https://www.nikosgreek.co.za/legal>.

1. DEFINITIONS

Unless inconsistent with the context, the following words and expressions shall bear the meanings assigned thereto and cognate words and expressions shall bear corresponding meanings in these Terms:

- 1.1 “**Bearer**” means the person in possession of a Gift Card.
- 1.2 “**Gift Card**” means both the Physical Nikos Gift Card or Digital Nikos e-Gift Card, save where it is expressly stated otherwise.
- 1.3 “**Gift Card Website Portal**” and “**Website**” means <https://www.nikosgreek.co.za/legal>.
- 1.4 “**Physical Gift Card**” means the physical pre-paid Nikos Gift Card purchased from any Restaurant.
- 1.5 “**Digital e-Gift Card**” means the digital pre-paid Nikos e-Gift Card purchased on the Website.
- 1.6 “**Purchaser**” means any person who has purchased a Gift Card.
- 1.7 “**Restaurant**” means any Nikos restaurant in the Republic of South Africa.
- 1.8 “**Nikos**” means Nikos Franchise (Pty) Limited, being the company that owns the trademarks, trade name and business model licensed to its Nikos Restaurants.
- 1.9 “**Spur Group**” means Spur Group (Pty) Limited, being the holding company of Nikos.

2. BINDING AGREEMENT

The purchase and/or use of a Gift Card is deemed to constitute a binding agreement between Nikos, the Purchaser and the Bearer (to the extent that the Bearer is not the Purchaser) in accordance with these Terms.

3. PURCHASE, ISSUE AND RECHARGING OF GIFT CARDS

- 3.1 The terms and conditions governing the purchase and recharging of Gift Cards are available on the Gift Card Website Portal (“Purchase and Recharge terms and conditions”). In the event of a conflict between these Terms and any Purchase and Recharge terms and conditions, the Purchase and Recharge terms and conditions will prevail.
- 3.2 A Gift Card may be purchased as follows:
 - 3.2.1 A Physical Gift Card may be purchased from any Restaurant. Once payment has been received by the Restaurant, a Physical Gift Card will be issued to the Purchaser by the Restaurant, for and on behalf of Nikos.

- 3.2.2 A Digital e-Gift Card can be purchased on the Website. Once the Purchaser has completed the transaction and it is successful, a unique code ("the Unique Code") will be sent to the recipient's cell phone number with the purchased value.
- 3.3 The Gift Card will be loaded with a pre-paid amount purchased ("the pre-paid amount") and may be utilised at a participating Restaurant in accordance with these Terms.
- 3.4 The Physical Gift Card may be reloaded with additional pre-paid amounts by the Purchaser or the Bearer thereof at any Restaurant after the initial issue date (as defined below).
- 3.5 The minimum pre-paid amount that a Gift Card may be initially loaded with or re-loaded (in the case of a Physical Gift Card), at any time, is R50.00 (fifty Rand). The maximum aggregate pre-paid amount that may be loaded or re-loaded (in the case of a Physical Gift Card) onto a Gift Card at any time is R2 000.00 (two thousand Rand). Pre-paid amounts may only be loaded onto Physical Gift Cards in increments of R50.00 (fifty Rand).
- 3.6 Digital e-Gift Cards cannot be re-loaded. Once the pre-paid amount has been depleted, the Digital e-Gift Card will be marked as inactive.
- 3.7 The pre-paid amounts loaded onto a Gift Card from time to time will not accrue any interest.
- 3.8 The balance remaining on the Gift Card from time to time can be checked at any Restaurant, subject to the following:
- 3.8.1 In the case of Digital e-Gift Cards, once the Unique Code is used at a Restaurant, the Bearer will receive a SMS notification indicating the amount spent and the amount available on the Digital e-Gift Card.
- 3.8.2 Bearers of Physical Gift Cards will not be able to check their balances online. They will be able to check their balances through the Restaurant or by contacting the Contact Centre on wecare@nikos-greek.com.
- 3.9 Purchasers, Bearers and recipients of the Digital e-Gift Card Unique Code may contact the Contact Centre on wecare@nikos-greek.com regarding balances and lost or misplaced Unique Codes.

4. ISSUE, VALIDITY AND USE OF GIFT CARDS

- 4.1 The Gift Card may be utilised by the Bearer at any Restaurant as payment, or part payment (as the case may be) of the purchase price of goods ordered at such Restaurant ("the order"). The Gift Card may also be used to pay a gratuity to a waitron ("the gratuity").
- 4.2 The date of first issue of the Gift Card shall be the date on which an initial pre-paid amount is loaded onto the Gift Card ("the initial issue date") in accordance with these Terms.
- 4.3 The prepaid amounts loaded onto a Gift Card are valid for a period of 3 (three) years from the initial issue date or the date that the last pre-paid amount was loaded onto such Gift Card, whichever is the later, whereafter such pre-paid amounts, and consequently the Gift Card, will expire.
- 4.4 Pre-paid amounts loaded onto a Gift Card may not be refunded or exchanged for cash or credit.
- 4.5 To utilise the Gift Card as payment for, or towards, the purchase price of an order and/or any gratuity (subject to the provisions of clause 4.1 above):
- 4.5.1 in relation to a Physical Gift Card, the Bearer will be required to:
- 4.5.1.1 hand same to the waitron/cashier at a Restaurant when settling the purchase price of such order and/or paying such gratuity; and

- 4.5.1.2 indicate the portion of the purchase price of such order to be discharged utilising the Physical Gift Card and/or the quantum of any gratuity that will be paid utilising the Physical Gift Card.
- 4.5.2 In relation to a Digital e-Gift Card, the Bearer will be required to:
 - 4.5.2.1 provide to the waitron/cashier at the Restaurant the Unique Code which was SMSed to the Bearer (as contemplated in Clause 3.2.2) when settling the purchase price of such order and/or paying such gratuity; and
 - 4.5.2.2 indicate the portion of the purchase price of such order to be discharged utilising the Unique Code and/or the quantum of any gratuity that will be paid utilising the Digital e-Gift Card.
- 4.6 When the Bearer tenders the Gift Card as payment for, or towards, the purchase price of an order and/or as payment for any gratuity, an amount equal to, or towards, the purchase price of the order (or portion thereof) and/or to such gratuity (or portion thereof) will be deducted from the Gift Card. No cash refunds will be given in the event of any pre-paid amounts remaining on the Gift Card after the payment as aforesaid.
- 4.7 If the Gift Card is used to make part payment of any order and/or gratuity, the balance of such order is to be paid in full in cash or using any major credit cards accepted by such Restaurant.

5. LOST OR STOLEN GIFT CARDS

If the Gift Card is lost or stolen or misappropriated in any other manner whatsoever whilst in the possession of the Bearer, neither Nikos nor its holding, subsidiary, associated, related and inter-related companies, nor its franchisees (together referred to as the "Protected Parties") will be liable to the Purchaser or the Bearer for any form of reimbursement or compensation of any nature whatsoever. The effect of this clause is that the Purchaser and the Bearer will have no recourse against the Protected Parties in the circumstances referred to above.

6. MISUSE OF GIFT CARDS

Misuse of the Gift Card may constitute fraud and the Gift Card may not be used for any unlawful purpose.

7. LIMITATION OF LIABILITY

- 7.1 The Protected Parties will be liable for any losses if the Gift Card cannot be utilised on any specific occasion or for any reason arising out of any failure, malfunction or delay in any electronic device. The effect of this clause is that the Purchaser and the Bearer will have no recourse against the Protected Parties in the circumstances referred to above.
- 7.2 To the maximum extent permitted in law, neither the Protected Parties, nor any of their respective directors, prescribed officers, managers, employees, agents, franchisees, or anyone associated with any of them (collectively, "Extended Protected Parties"), shall incur any liability to any person for any injury, claim, loss or damage of any nature whatsoever, whether direct, indirect, consequential or otherwise, whatsoever or howsoever arising from their purchase and/or use of the Gift Card or otherwise. To the extent necessary in law the provisions of this clause shall constitute a *stipulatio alteri* (i.e., a contract in favour of a third party) in favour of the Extended Protected Parties, the benefit whereof may be accepted by any or all of them at any time, from time to time. The effect of this clause is that such persons may have no recourse against the Protected Parties, in the circumstances referred to above.

8. GENEAL

- 8.1 These Terms may be amended, varied and/or modified by Nikos at any time and such amendment, variation and/or modification shall be effective immediately upon posting of the amended, varied and/or modified Terms on the Website. Accordingly, the continued use by a Bearer of the Gift Card shall be deemed to be the Bearer's acceptance of any such modified Terms.

- 8.2 These Terms shall comply with, and will be subject to, any preemptory provisions of the CPA and the regulations promulgated thereunder, which are deemed to be incorporated therein (“Preemptory Provisions”). In the event of any conflict between these Terms and the Preemptory Provisions, the latter shall prevail. Furthermore, no term or condition of these Terms is intended to breach any Preemptory Provisions. Any breach of any such Preemptory Provision shall be governed by the provisions of clause 8.4 *mutatis mutandis* (i.e., subject to changing those things which need to be changed).
- 8.3 This document, together with the Gift Card Terms and any Purchase and Recharge terms and conditions, contains the entire agreement between the parties in relation to the subject matter hereof. Save as contemplated in these Terms (including clause 8.1 above) no alteration, cancellation, variation of, or addition hereto will be of any force or effect.
- 8.4 Each sentence, paragraph, term, clause and provision of these Terms and any portion thereof shall be considered severable and if, for any reason, any such sentence, paragraph, term, clause or provision is held to be invalid, contrary to, or in conflict with any applicable present or future law or regulation (including, without limitation, the CPA and any Regulations thereto) or in terms of a final, binding judgment issued by any court, it shall to that extent be deemed not to form part hereof and shall not impair the operation of, or have any effect upon such other sentence, paragraph, term, clause or provision hereof as may otherwise remain valid or intelligible, which shall continue to be given full force and effect and bind the parties hereto. If any provision of these terms and conditions is found by any Court to be unfair as contemplated in Regulation 44 to the CPA, then that provision will apply to the maximum extent permitted under the CPA and will further be governed by the provisions of this clause 8.4 *mutatis mutandis*.

9. PROCESSING OF PERSONAL INFORMATION: DIGITAL E-GIFT CARDS

- 9.1 This clause 9 is only applicable to Purchasers, Bearers and/or recipients of e-Gift Cards (together the “User”).
- 9.2 The User’s privacy is very important to the Protected Parties and they will use reasonable efforts to ensure that any information, including personal information, provided by the User, or which is collected from the User, is stored in a secure manner.
- 9.3 The User agrees to give (where applicable) honest, accurate and current information about the User to the Protected Parties and to maintain and update such information when necessary.
- 9.4 The User’s personal information collected by the Protected Parties may be used for the following reasons:
- 9.4.1 the processing of personal information on the Website.
 - 9.4.2 further processing by third parties, including the fact that related parties of the company may access information on the Website.
 - 9.4.3 direct marketing.
 - 9.4.4 fraud prevention.
 - 9.4.5 SARB and SARS reporting and the like if applicable.
- 9.5 The User acknowledges that any information supplied to the Protected Parties is voluntarily.
- 9.6 By submitting any information to the Protected Parties in any form the User further acknowledges that such conduct constitutes an unconditional, specific and voluntary consent to the processing of such information by the Protected Parties under any applicable law in the manner contemplated above, which consent shall, in the absence of any written objection received from the User, be indefinite and/or for the period otherwise required in terms of any applicable law.
- 9.7 Unless the User has consented, the Protected Parties will not sell, exchange, transfer, rent or otherwise make available any personal information about the User (such as name, address, email address, telephone or fax

number) to other parties and the User indemnifies the Extended Protected Parties from any unintentional disclosures of such information to unauthorised persons.

- 9.8 Should the User believe that the Protected Parties have utilised the User's personal information contrary to applicable law, the User shall first resolve any concerns with Nikos. If the User is not satisfied with such process, the User has the right to lodge a complaint with the Information Regulator of South Africa.