1. INTRODUCTION

This document sets out the standard terms and conditions that are applicable to the use of the System (and which are incorporated into the Agreement by reference and agreed to by the Parties). Any term which is not defined in these T&Cs shall bear the meaning ascribed to them in the Agreement.

2. DEFINITIONS

In these T&Cs, unless the context clearly indicates a contrary intention, the following expressions shall bear the meaning assigned to them below, and cognate expressions shall bear corresponding meanings:

2.1. "**Agreement**" means the master license and service agreement, including the annexures thereto, and incorporates these T&Cs, as amended from time to time;

2.2. "**Background IP**" means any and all Intellectual Property in any form and of any nature, which either of the Parties owns or develops prior to the execution of the Agreement, or which it will create or develop independently and separate from the Agreement;

2.3. "**Confidential Information**" means all technical and business information, including all trade connections, Know How, secret knowledge and information (including any financial, commercial, market, technical, functional and scientific information, and information relating to a Party's strategic objectives and planning and its past, present and future research and development), technical, functional and scientific requirements and specifications, data concerning business relationships, demonstrations, processes, trade secrets, machinery, architectural information, information contained in a Party's software and associated materials and documentation, plans, designs and drawings and all material of whatever description, whether subject to or protected by copyright, patent or trademark, registered or unregistered, or otherwise disclosed or communicated before or after the date of the Agreement;

2.4. "**Derived IP**" means any rights to Intellectual Property which arise in the course of the Parties' activities, but which are derived solely from Background IP, held by either of the Parties;

2.5. "**Force Majeure Event**" means any event or circumstance which, as at the Signature Date, is either (i) unforeseeable, or (ii) foreseeable as a possibility, but a reasonable person would not, or the Parties themselves did not, expect the occurrence of such event to affect the ability of a Party to perform in terms of the Agreement, and it would be reasonable to permit a Party to be entitled to rely on such an event or circumstance;

2.6. "**Foreground IP**" means all Intellectual Property that is jointly developed by the Parties or Intellectual Property developed or created during the course of the Agreement;

2.7. "**Intellectual Property**" means all intellectual property rights owned by either Party subsisting anywhere in the world, which is in any way capable of protection in law, including trademarks, domain names, copyright, patents, designs, Confidential Information, and all proprietary rights in and to ownership of any idea, discovery, artwork, design, concept, technique or improvement, industry information, Know How, system, methodology, data, data model, computer software, computer source code and object code, report, correspondence, documentation, flow chart, database, table, calculation, spreadsheet, schematic plan, photograph, presentation or invention (whether patented or not) and any other rights of a similar nature which exist now or will in the future exist, by either Party from time to time, and whether registered or not;

2.8. "**Know How**" means all unpatented, secret, substantial and identified know-how, expertise, technical or other information, including all related ideas, concepts, methods, inventions, discoveries, data, formulae, processes, methods, techniques and specifications; and

2.9. "**Losses**" means any damages, liabilities, losses, expenses, fines, costs, penalties and expenses, excluding any indirect, incidental or consequential losses or damages; and

2.10. "**T&Cs**" means these standard terms and conditions that are applicable to the use of the System (and which are incorporated into the Agreement by reference).

3. INTERPRETATION

3.1. Clause headings are for ease of reference only and unless the context clearly indicates a contrary intention, any expression which denotes: (i) any gender includes all genders; (ii) a person includes any individual, firm, company, corporation, government, state or agency of the state or any association, trust, joint venture, consortium or partnership (whether or not having a separate legal personality); and (iii) the singular includes the plural and vice versa.

3.2. If any provision in a definition is a substantive provision conferring a right or imposing an obligation on any Party then, notwithstanding that it is only in a definition, effect shall be given to that provision as if it were a substantive provision of the Agreement.

3.3. Any reference to an enactment is to that enactment as at the Signature Date and as amended or re-enacted from time to time and includes any subordinate legislation made from time to time under such enactment.

3.4. Where any term is defined in a particular clause, that term shall bear the meaning assigned to it in that clause wherever it is used in the Agreement.

3.5.   Any reference to a time or day is, unless otherwise expressly indicated or set out in a Work Order, a reference to Johannesburg, South Africa time. Any reference to days (other than a reference to Business Days) or years shall be a reference to calendar days or years, as the case may be.

3.6.   Where any day for the performance of any obligation or the payment of any amount under the Agreement falls on a day other than a Business Day, such obligation shall be performed, or such amount shall be paid on the immediately preceding day, which is a Business Day.

3.7.   The Parties acknowledge and agree that the Agreement has been entered into pursuant to the negotiation of its provisions by them and, accordingly, that any rule of construction requiring that the Agreement be interpreted or construed against the Party responsible for the drafting or preparation to hereof shall not be of any application.

3.8.   The obligations of each Party under or in connection with the Agreement are several, and no Party shall be responsible for the obligations of any other Party under or in connection with the Agreement. Failure by a Party to perform its obligations under the Agreement shall not affect the obligations of any other Party under the Agreement.

3.9.   The rights of each Party under or in connection with the Agreement are separate and independent rights, and any debt arising under or in connection with the Agreement to a Party shall be a separate and independent debt.

3.10.   The words following "other", "specifically", "including", "in particular", or any other similar general term or expression shall not, if a wider construction is possible, (i) be construed as being of the same kind, class or nature with any preceding words; or (ii) limit the generality of any preceding word/s.

3.11.   Any term which is not defined in these T&Cs shall bear the meanings ascribed to them in the Agreement.

4.   **RELATIONSHIP BETWEEN PARTIES**

4.1.   The relationship between the Parties shall be that of independent contractors, and nothing in the Agreement shall be interpreted as constituting a partnership, employment, joint venture or an agency relationship between the Parties or between either Party and the other Party's Personnel.

4.2.   Nothing in the Agreement or in the conduct of the Parties in relation to the Agreement or in giving of effect to the provisions of the Agreement shall be deemed or construed as either Party exercising or being able to exercise any form of control over the business, affairs or decisions of the other Party.

4.3.   No Party shall have any authority to bind the other in any way whatsoever, including (i) entering into contractual obligations on behalf of the other Party; (ii) incurring any liability on behalf of the other Party; (iii) settling or waiving any claim against or by the other Party; (iv) entering into any oral arrangements, thereby binding the other Party to such arrangements; or (v) making any promises, representations, warranties or guarantees in respect of the License other than those contained in the Agreement.

5.   **TERMINATION EVENTS**

5.1.   The Parties agree that the non-defaulting Party shall be entitled to terminate the Agreement on five Business Days' notice to the other defaulting Party in any of the following circumstances:

5.2.   the defaulting Party become the subject of business rescue proceedings, is placed under liquidation, judicial management whether provisionally or finally and whether voluntarily or compulsorily;

5.3.   the defaulting Party commits any act of corruption (as applicable in terms of any laws applicable in the Jurisdictions); or

5.4.   the defaulting Party commits any Prohibited Action.

6.   **EFFECTS OF TERMINATION**

6.1.   **Information**

When a Work Order terminates for any reason, the Parties shall, to the extent permissible in law:

6.1.1.   delete all data, software and documentation associated with the terminated System, except any documentation required by law for compliance purposes;

6.1.2.   ensure that such data is destroyed in accordance with acceptable industry standards relating to document destruction; and

6.1.3.   ensure that all Confidential Information is deleted or destroyed pursuant to, and in accordance with, the provisions set out in the T&Cs.

6.2.   **Fees**

6.2.1.   Upon termination of a Work Order/s by the Licensee prior to the expiry thereof for any reason (except due to breach of the Licensor), the Licensee shall remain solely liable for all amounts owing to the Licensor up until the last date of the agreed upon term of the Work Order/s.

6.2.2.   In the event that a Work Order/s is terminated prior to the expiry due to a breach by the Licensor, no amount shall be payable by the Licensee other than amounts due up to and including the end of the notice of termination.

7.   **DISPUTES IN RELATION TO FEES**

7.1.   **Introduction**

If an invoice issued by the Licensor has not been queried within ten days of issue ("**Invoice Dispute Period**"), it shall

be deemed to have been accepted by the Licensee.

7.2. **Dispute**

7.2.1. If a bona fide dispute arises in relation to any of the Fees which are due and payable by the Licensee to the Licensor, then the Licensee shall be required, within the Invoice Dispute Period, to provide a written notice to the Licensor setting out the dispute with sufficient detail therein ("**Invoice Dispute Notice**").

7.2.2. The Parties shall resolve the dispute in accordance with the provisions of clause 16 and on the basis detailed in the Invoice Dispute Notice.

8. RIGHT TO REVIEW

8.1. If a Party reasonably suspects (with prima facie evidence) that the other Party has, or continues, to breach any of the provisions of the Agreement (including misusing the System or embarking upon fraudulent activities), then either of the Parties may conduct a review of the Party's compliance with the Agreement in accordance with this clause 8.

8.2. Subject to clause 8.1, either Party may (at its discretion) conduct a review of the other Party's compliance with the Agreement (including, but not limited to, a review of the Fees, the Party's systems, processes, and policies), provided that any such review is carried out as follows:

8.2.1. the Party wishing to conduct the review ("**Reviewing Party**") shall provide the Party in which the review will be conducted over ("**Recipient**") with five Business Days prior written notice, setting out the reasons for the review, the documents and information required to conduct the review, and any other ancillary information that may be required to allow the Reviewing Party to adequately conduct the review ("**Review Notice**");

8.2.2. upon receipt of the Review Notice, the Recipient shall provide the Reviewing Party with the information and documents set out in the Review Notice within the aforementioned time period set out in the Review Notice. If the Reviewing Party is not satisfied with the information or documents, the Reviewing Party shall provide the Recipient with a notice requesting additional information or documents ("**Additional Notice**"), and the Recipient shall be required to provide the additional information or documents set out in the Additional Notice within three Business Days thereafter;

8.2.3. the Reviewing Party shall endeavour to conduct the review of the information and documents provided to it by the Recipient. However, if the Reviewing Party requests a meeting with the Recipient to explain or discuss any information, the Parties shall agree on a time and date for the review within two Business Days after the meeting request is sent by the Reviewing Party to the Recipient. In the event that the Parties are unable to reach a mutually suitable time and date to conduct the review meeting, the Reviewing Party shall determine the date and time for the review meeting; and

8.2.4. the Recipient shall, upon receipt of the Review Notice (or the Additional Notice, as the case may be), provide all assistance reasonably requested by the Reviewing Party in relation to the review. The Recipient shall be required to provide any such information and documents as the Reviewing Party may require for purposes of conducting the review to ensure compliance with the Agreement, provided, however, that the parties adhere to the confidentiality undertakings set forth in the Agreement.

8.3. If the Reviewing Party finds on the face of it (with *prima facie* evidence) that the Recipient is or has breached a provision of the Agreement, then the Reviewing Party shall be entitled to place the Recipient in breach, and the Recipient will be deemed to have breached the Agreement, unless it provides (i) a written statement under oath (to the satisfaction of the Reviewing Party) confirming that it is not in breach of the Agreement, or (ii) remedies the breach within the prescribed time period set out in the Agreement (in relation to a breach remedy period).

9. INTELLECTUAL PROPERTY

9.1. **Background IP**

9.1.1. Each party shall retain ownership of and rights in its respective Background IP. No party shall be deemed to have assigned or granted to the other party any licence or right to use such Background IP or any right to disclose such Background IP other than as expressly set out in the Agreement or for purposes of the Licensor being able to perform the Services.

9.1.2. Notwithstanding anything to the contrary, the Licensor's Background IP includes the System, and any enhancements, improvements, modifications or adaptations to the Licensor's algorithms, apps and systems independently developed in the course of the Agreement, any modification, adaptation and upgrades to the System created or implemented in connection with the Agreement, and any feedback pertaining to the System, even where provided or paid for by the Licensee. The Licensor's Background IP in relation to the System includes all components thereof, including calculation methods, related applications, user interface designs, software and source codes, and Know How.

9.1.3. All Intellectual Property which could reasonably be expected to be developed, produced, created, compiled, devised, discovered or brought into being by the Licensor or in conjunction with the Licensee, during the course and scope of or incidental to the Agreement, or similar in nature or form to System or the Services, as well as any customisations, enhancements and modifications relating thereto, shall vest fully in the Licensor.

9.2. **Derived IP**

9.2.1. Derived IP in respect of the System, Services and other related Intellectual Property shall belong to the Licensor, and the Licensee shall take all such action as is reasonably required in order for rights to such

Derived IP to be vested in the Licensor.

9.2.2. Derived IP from the Licensee's Background IP shall remain the Intellectual Property of the Licensee.

9.3. Foreground IP

Save as set out in a Work Order, all Foreground IP relating to the System or the Services will be owned by the Licensor, and each of the Parties shall do all such actions and execute all such documents as may be required to ensure that such Foreground IP is validly vested in the Licensor.

9.4. Data in the IP

9.4.1. Any personal information or data solely relating to the Licensee, or its personnel will remain the property of the Licensee.

9.4.2. Any data relating to the Licensor will remain the property of the Licensor, and in this regard, the Licensor shall own and retain all right, title and interest in and to its data.

9.5. Termination

Upon termination of the Agreement or earlier if required by the Licensor, each Party shall:

9.5.1. immediately cease all use whatsoever of the other Party's Intellectual Property;

9.5.2. deliver to the other Party or destroy, at the other Party's election, any and all materials in its possession or control that bear or include the other Party's Intellectual Property and confirm in writing to the other Party that it has done so; and

9.5.3. take all reasonable measures to protect each other's Intellectual Property, including providing assistance and measures as are reasonably requested by the other Party from time to time.

10. CONFIDENTIALITY

10.1. Introduction

During the course of the Agreement, either of the Parties may gain access to, or come to possess, non-public, proprietary information or materials, including Confidential Information and Intellectual Property of the other Party. As such, the Parties agree that all Confidential Information is deemed to be proprietary, valuable, specific and a unique asset of each of the Parties, respectively.

10.2. Confidentiality Undertakings

Each Party ("**Receiving Party**") undertakes in favor of the other Party ("**Disclosing Party**"), and to the extent within its power and control, that it shall, at all times:

10.2.1. ensure that Confidential Information will be used only for the purposes contemplated in the Agreement and for no other purpose;

10.2.2. not to disclose or divulge, directly or indirectly, or copy or reproduce, Confidential Information in any manner whatsoever, unless required for purposes of performance in terms of the Agreement; and

10.2.3. ensure that Confidential Information will be treated as private and confidential and will be kept and safeguarded in the same manner and with the same endeavours which a reasonable man would employ to protect his own confidential information.

10.3. Permitted Disclosures

10.3.1. The Parties agree that Confidential Information will not be disclosed to any person except to:

10.3.1.1. the extent required by law (other than in terms of a contractual obligation of the Receiving Party); and

10.3.1.2. permit the use thereof by its Personnel, representatives and professional advisers to the extent strictly necessary for the purpose of implementing or enforcing the Agreement or obtaining professional advice or conducting its business, it being specifically agreed that any disclosure or use by any such Personnel, representative or adviser of such Confidential Information or other information for any other purpose shall constitute a breach of this clause 10 by the Receiving Party.

10.3.2. The provisions of this clause 10 shall cease to apply to any Confidential Information of a Party which:

10.3.2.1. is or becomes generally available to the public other than as a result of a breach by the Receiving Party of its obligations in terms of this clause 10 is also received by the Receiving Party from a Third Party who did not acquire such Confidential Information subject to any duty of confidentiality in favour of another Party;

10.3.2.2. was in possession of a Party prior to its disclosure otherwise than as a result of any breach by that Party of any obligation of confidentiality owed to any other person whether pursuant to the Agreement, or otherwise;

10.3.2.3. is disclosed to a Party by a person which person did not acquire the information under an obligation of confidentiality; or

10.3.2.4. is independently acquired by a Party as a result of work carried out by a person to whom no disclosure of such information has been made.

10.4. **Deletion of Confidential Information**

Immediately upon written request by a Party at any time, the other Party agrees to return all Confidential Information to the Party who requested the return of the relevant Confidential Information (including all copies and extracts thereof). Where Confidential Information is in a form or format that is incapable of return, the relevant Party shall delete, destroy or erase the Confidential Information and immediately thereafter, provide written confirmation (under oath, if requested) to certify such destruction or erasure of the Confidential Information.

11. ACCESS AND RESTRICTIONS

11.1. The license to use the System granted in terms of the Agreement only permits the Licensee to use the System within the parameters allowed by the Licensor.

11.2. Without derogating from any other restriction or limitation in the Agreement or these T&Cs, the Licensee undertakes:

11.2.1. to maintain accurate and up-to-date records of the Users who have access to the System;

11.2.2. to supervise and control the use of the System in accordance with the terms of the Agreement;

11.2.3. ensure that its Administration Users are notified of the terms and obligations hereof prior to such parties being given access to or using the System;

11.2.4. to use the System for its own business purposes and shall, in the ordinary course of its business, use the System only for the number of Users as specified and agreed;

11.3. The Licensee accepts that no output that is produced from the use of the System constitutes or can be interpreted as advice on the financial affairs of the Licensee by the Licensor. Information provided by the Licensor to the Licensee in whatever form shall be for informational purposes only and should not be construed to constitute financial, legal, accounting or tax advice.

11.4. Each Party is entitled to, on reasonable written notice to the other Party and during regular business hours, to audit the other Party's compliance with the terms and conditions of the Agreement, should there be reasonable suspicion, or a reason to believe, that the other Party may be in breach of any of the terms of the Agreement.

11.5. The Licensor reserves the right to monitor access to the System by the Licensee as part of the normal course of its business practice. Should the Licensor discover that the Licensee engaged in Prohibited Actions which create denial of access or impediment of Service or System, or which adversely affect the Licensor's ability to provide Services or System, the Licensor reserves the right to temporarily or permanently suspend access to the System or provision of the Services or terminate the Agreement or the relevant Work Order. The Licensor shall make written or electronic notification to the Licensee point of contact of any temporary suspension, and the cause thereof, as soon as reasonably possible. This temporary suspension will remain in effect until the Prohibited Actions have ceased.

11.6. Without derogating from the generality of any terms and conditions in the Agreement, the Licensor identifies the Prohibited Actions as a breach of the Agreement for the Licensee in terms of which the Licensor may terminate the Agreement or the relevant Work Order, or deny access to the System or impede the Services.

12. PROHIBITIONS ACTIONS

The Licensee shall not, and shall not permit any User to engage in any of the following actions ("**Prohibited Actions**"):

12.1. Misuse of the System or Intellectual Property: Use the System or the Licensor's Intellectual Property in any manner that contravenes this Agreement or any applicable laws.

12.2. Unauthorized Transactions: Sell, lease, license, sublicense, sublease, subcontract, assign, cede, vary, enhance, copy, or resell the System or the Services without the prior written authorization of the Licensor.

12.3. Reverse Engineering: Redistribute, reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code of the System or the Licensor's Intellectual Property, or engage in any actions aimed at circumventing technical protections.

12.4. Derivative Works: Modify, duplicate, create derivative works from, or develop subsets or derivative databases based on the System or the Licensor's Intellectual Property.

12.5. Competitive Exploitation: Access or use the System or the Licensor's Intellectual Property for the purpose of developing or supporting a product, service, or system that directly or indirectly competes with the Licensor's System or Services.

12.6. Interference with System Integrity: Interfere with or disrupt the integrity, performance, or functionality of the System, the Licensor's Intellectual Property, or any data contained therein.

12.7. Network Disruption: Interfere with the operations of other networks, services, or equipment, or fail to ensure secure network configurations as necessary to protect the System.

12.8. Automated Interference: Interfere with the System or Services by using automated tools, including but not limited to spiders, bots, scrapers, or scripts, without the Licensor's explicit consent.

12.9. Unauthorized Access: Use the System or Services to access, or attempt to access, the accounts, data, or systems of others, or to breach security measures of any software, hardware, or electronic communications system, whether or not such actions result in data loss or corruption.

12.10. Misuse of Credentials: Solicit login credentials or otherwise gain unauthorized access to accounts or data.

12.11. System Overload: Engage in actions that could disable, overburden, or impair the functionality of the System, including denial-of-service (DoS) attacks or other activities detrimental to System performance.

12.12. Unauthorized Dissemination: Publish, distribute, or disclose the System or any derivative works for commercial use or sale without the Licensor's prior written consent, except for lawful disclosures required by auditors or regulatory authorities.

12.13. Data Sharing: Share, download, or transfer any data, system content, or software from the Services or System to unauthorized parties.

12.14. Improper Password Use: Share or distribute user credentials, including identities or passwords, to unauthorized users or common access points.

12.15. Unauthorized Access or Display: Provide access to the System to non-authorized users, or display System content through unauthorized public channels, including bulletin boards, websites, or other public forums.

12.16. Unlawful Data Collection: Use the Services or System to collect user information or third-party personal data without proper consent.

12.17. Malicious Uploads: Upload viruses, malware, or other malicious content designed to disrupt or damage the System.

12.18. Infringement of Rights: Upload, distribute, or otherwise use content belonging to another party without authorization.

12.19. Illegal Activities: Use the System or Services for any unlawful, deceptive, harmful, or inappropriate purpose.

12.20. Enabling Illegal Use: Configure or allow the System to be used by third parties for illegal or unauthorized purposes.

12.21. Compliance with Laws: Transmit or facilitate the transmission of materials in violation of local, state, national, or international laws.

12.22. Fraudulent Practices: Use the System to engage in fraudulent schemes, such as pyramid or Ponzi schemes, or other deceptive practices.

12.23. Deceptive Header Information: Forge or manipulate identifying information to mislead others or obscure the origin of communications.

12.24. Spam Prohibition: Use the System to send unsolicited commercial or bulk emails.

12.25. Intellectual Property Infringement: Transmit, upload, or otherwise use materials that infringe on any copyright, trademark, patent, or proprietary rights of third parties.

13. COOPERATION

The Parties undertake, to the extent that it is within their control, at all times to do all such things, perform all such actions and take all such steps and to procure the doing of all such things, the performance of all such actions and the taking of all such steps as may be available to them and necessary for or incidental to the putting into effect or maintenance of the terms, objectives or import of the Agreement.

14. NON-CIRCUMVENTION

Neither of the Parties will, at any time, in any manner, circumvent, or attempt to circumvent, compete, avoid, by-pass or obviate either Parties' obligation, howsoever arising, which is, or may be considered, to be a circumvention with any of the provisions contained herein.

15. NON-SOLICITATION

15.1. Neither Party shall at any time during the Agreement, and for a period of one year after the termination of the Agreement, for any circumstances whatever reason whatsoever, either for themselves or as their agent of anyone else, persuade, induce, solicit, encourage or procure any employee or authorized representative of the other Party to: (i) become employed by any business, firm, or company, directly in competition with the business carried on by the other Party; or (ii) terminate his or her employment with the other Party.

15.2. The restraint set out in clause 15.1 shall not be applicable where (i) the prior written approval to make such an offer has been obtained from the Party, who is or has been the employer of such staff member, or (ii) an offer is made to a staff member of a Party who has left the employ of such Party, on his or her own accord (that being, not as a result of having been approached or solicited by the other Party), and at the time the offer is made a period of at least six months has lapsed since the staff member has left the employment of such Party.

16. DISPUTE RESOLUTION

16.1. **Internal Resolution**

16.1.1. Should any dispute, disagreement or claim arise between the Parties ("**Dispute**") concerning the Agreement, the Parties shall endeavour to resolve the Dispute by negotiation.

16.1.2. One of the Parties shall invite the other/s in writing to meet and to attempt to resolve the Dispute by negotiation ("**Negotiation**"), within ten Business Days from the date of the written invitation.

16.1.3. If the Dispute has not been resolved by Negotiation within ten Business Days of the commencement thereof, then the Parties shall submit the dispute to the chairpersons of their board of directors, who shall, within a further period of ten Business Days, use their best commercial endeavours to resolve the Dispute by way of Negotiation.

16.1.4. If the chairpersons of each of the Parties' board of directors are unable to reach an agreement in respect of the Dispute, then either of the Parties shall be entitled to follow the dispute resolution process set out in clause 16.2.

16.2. **External Resolution**

16.2.1. If the Dispute has not been resolved by Negotiation within the time periods set out in clause 16.1, then the Parties shall submit the dispute, for final resolution, to arbitration ("**Arbitration**") before an arbitrator ("**Arbitrator**").

16.2.2. The Arbitrator shall be such person as is agreed upon by the Parties. If the Parties fail to reach agreement regarding the appointment of the Arbitrator within five Business Days after the dispute has been submitted to arbitration, then the Arbitrator shall be selected and appointed by the Licensor, and shall be the following persons (subject to the question in issue):

16.2.2.1. primarily an accounting matter, an independent chartered accountant of not less than ten years' standing;

16.2.2.2. primarily a legal matter, a legal practitioner of not less than five years' standing; and

16.2.2.3. a technical matter pertaining to the System, a suitably qualified computer engineer or developer, of not less than ten years' standing.

16.2.3. The Arbitrator shall determine the rules that apply to the Arbitration.

16.2.4. Unless otherwise agreed in writing by all the Parties, any such Negotiation or Arbitration shall be conducted in English and held on any electronic communication platform (including Microsoft Teams or Zoom).

17. FORCE MAJEURE

17.1. If during the currency of the Agreement, a Force Majeure Event occurs which prevents performance by a Party of all or any of its obligations in the Agreement, then the Party claiming a Force Majeure Event (on whom the onus shall rest) shall by no later than 30 days after the start of the Force Majeure Event, give written notice thereof to the other Parties, specifying the nature of the Force Majeure Event, its anticipated duration and the anticipated effects that the Force Majeure Event will have on the performance of its obligations in terms of the Agreement.

17.2. Any notice given after the time period set out in clause 17.1, shall be of no effect, and the Party concerned shall not be entitled to rely on such Force Majeure Event.

17.3. Subject to clause 17.3.4:

17.3.1. the Agreement, or the affected part of it, shall be suspended for the period during which the Force Majeure Event continues, and the time for performance of an obligation referred to in clause 17 shall be extended accordingly (unless the Parties agree in writing to not extend the performance of an obligation);

17.3.2. the Party claiming a Force Majeure Event shall, at its own cost, take all reasonable steps available to it to mitigate its effect upon that Party's ability to perform and the Party claiming the Force Majeure Event shall not, to the extent and for so long as that Party is prevented from performing such obligation as a result of the Force Majeure Event, be in breach of the Agreement or otherwise liable for the resulting failure or delay in the performance of such obligation;

17.3.3. the Party not claiming a Force Majeure Event shall not be obliged to comply with reciprocal obligations to those obligations suspended in the period during which the force majeure subsists;

17.3.4. if a Party fails to perform, satisfy or comply with any obligation, condition, covenant, or other provision contained in the Agreement for a period of not less than 45 consecutive days due to a Force Majeure Event, and such failure shall either have a material and adverse effect on the Agreement or the innocent Party, such affected Party shall be entitled on 30 days' notice to terminate the Agreement.

17.4. If the event of a Force Majeure Event, then the Parties shall use their best commercial endeavors and negotiate in good faith, with a view of agreeing to such extensions to perform their obligations in the Agreement. Accordingly, the Parties shall not use a Force Majeure Event as a means to circumvent the provisions of the Agreement and prevent performance, where it is reasonably possible to agree on extensions to a Parties' performance.

17.5. A Force Majeure Event will not relieve a Party from any obligation which arose before the occurrence of the Force Majeure Event.

18. DOMICILIUM AND NOTICES

18.1. **Domicilium**

Each of the Parties chooses as its domicilium citandi et executandi ("**Domicilium**") for all purposes relating to this Agreement, including the giving of any notice to the address set out in the Agreement.

18.2. **Change of Domicilium**

Any Party shall be entitled from time to time, by giving written notice to the others, to vary its physical Domicilium to any other physical address (not being a post office box or poste restante).

18.3. **Delivery**

18.3.1. Any notice given or payment made by any Party to another which is delivered by hand between the hours of 09h00 and 17h00 on any Business Day to the addressee's physical Domicilium, for the time being, shall be deemed to have been received by the addressee at the time of delivery.

18.3.2. This clause 18 shall not operate so as to invalidate the giving or receipt of any written notice which is actually received by the addressee other than by a method referred to in this clause 18.

18.4. **Electronic communication**

If sent by email during business hours, such email will be presumed to have been received on the date of successful transmission of the email. Any email sent after business hours or on a day which is not a business day will be presumed to have been received on the following business day.

19. MIGRATION ASSUMPTIONS

19.1. The migration service is limited to relevant data for the total number of leases and Users specified in the Work Order based on the initial dataset provided by the Licensee. The migration of this information based on the initial dataset shall be referred to as the "Initial Migration".

19.2. The Initial Migration timeline is only an estimate and assumes that the data is provided by the Licensee to the Licensor in a ready-to-import state ("a good state") and that the Licensee's team will be available to check the data within the timeline. The Licensee must promptly provide agreed historical information (at the start date of the implementation) for the Licensor to meet the anticipated timelines.

19.3. The Licensor will provide the Licensee with the required data field lists and/or templates for the data migration which the Licensee must complete and return (ideally, on the Work Order Effective date). The Licensee must ensure data is provided in a format the Licensor requires to meet anticipated timelines.

19.4. The Licensee must ensure that documents, data and information are substantially free from inaccurate records and uniquely identifiable. Should the data reflect inaccurate, incomplete, incorrect, or irrelevant parts, replacing, modifying, or deleting the dirty data may incur additional costs.

19.5. The data for the migration provided to the Licensor will be the balances and information as at a specified date to be agreed by Parties (the "**Specified Date**"). The Licensor will upload that set of data onto the platform. Unless agreed by the Licensor (at its sole discretion), updates to the platform for new data after the Specified Date can only be made after the migration is completed and signed off and may be performed as part of the support hour allocation.

19.6. The Licensee must provide the Licensor with:

19.6.1. user data such as personal information;

19.6.2. any other information that the Licensor requires to migrate the dataset.

19.7. The Licensee will be required to sign off on the Initial Migration before go-live. Thereafter, or once the Initial Migration is complete, the Licensee will be responsible for updating and maintaining all related participant and award information (including importing and maintaining the administration data). The Licensee may utilise the Basic Support to assist with these tasks. The Licensee shall not unreasonably withhold sign-off of any of the migration tasks shown above.

19.8. Migration Services that are included in the scope of this Work Order, for the Initial Migration do not contribute towards Basic Support.

20. GENERAL

20.1. **Whole Agreement**

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.

20.2. **Variations in Writing**

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.

20.3. **Cession and Assignment**

No Party shall be entitled to cede any of its rights or delegate any of its obligations in terms of this Agreement without the prior written consent of the other Parties.

20.4. **Costs**

Each Party shall bear its own costs of and incidental to the negotiation, preparation and drawing of this Agreement.

20.5. **Signature**

20.5.1. The Parties sign the Agreement on the dates and at the places indicated below.

20.5.2. The Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same Agreement as at the date of signature of the Party last signing one of the counterparts.

20.5.3. The Parties record that it is not required for the Agreement to be valid and enforceable that a Party shall initial the pages of the Agreement or have its signature of the Agreement verified by a witness.

20.5.4. The Agreement may be signed by way of electronic signature.

20.6. **No Indulgences**

No latitude, extension of time or other indulgences which may be given or allowed by any Party to the others (or some of them) in respect of the performance of any obligation hereunder, and no delay or forbearance in the enforcement of any right of any Party arising from the Agreement and no single or partial exercise of any right by any Party under the Agreement, shall in any circumstances be construed to be an implied consent or election by that Party or operate as a waiver or a novation of or otherwise affect any of its rights in terms of or arising from the Agreement or estop or preclude it from enforcing at any time and without notice, strict and punctual compliance with each and every provision or term hereof. Failure or delay on the part of any Party in exercising any right, power or privilege under the Agreement 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.

20.7. **No Waiver or Suspension of Rights**

No waiver, suspension or postponement by any Party of any right arising out of or in connection with the Agreement shall be of any force or effect unless in writing and signed by such Party. Any such waiver, suspension or postponement will be effective only in the specific instance and for the purpose given.

20.8. **Provisions Severable**

20.8.1. Each provision of the Agreement is, notwithstanding the grammatical relationship between that provision and the other provisions of the Agreement, severable from the other provisions of the Agreement. Any provision of the Agreement, which is or becomes invalid, unenforceable or unlawful in any jurisdiction shall, in such jurisdiction only, be treated as *pro non scripto* to the extent that it is so invalid, unenforceable or unlawful, without invalidating or affecting the other provisions of the Agreement which shall remain of full force and effect.

20.8.2. The Parties declare that it is their intention that the Agreement would be executed without such invalid, unenforceable or unlawful provision if they were aware of such invalidity, unenforceability or unlawfulness at the time of execution of the Agreement.

20.9. **Continuing Effectiveness of Certain Provisions**

The expiration or termination of the Agreement shall not affect such of the provisions of the Agreement as expressly provide that they will operate after any expiration or termination or which of necessity must continue to have effect after such expiration or termination.

20.10. **Benefit of Agreement**

The Agreement will also be for the benefit of and be binding upon the successors in title and permitted assigns of the Parties or any of them.

SERVICE LEVEL AGREEMENT

1. PURPOSE

The purpose of this *Annexure SLA* is to define the relevant support provided by the Licensor, the procedures and protocols to obtain the required support, and the responsibilities of both parties in doing so.

2. SUPPORT DESCRIPTION

2.1. Basic Support is the support provided by the Licensor to the designated Licensee Administration Users during normal business hours from Monday to Friday, 08h00 until 17h00 in the time zone that the Licensor is domiciled to adequately support the use of the Licensor System. Basic Support may include both chargeable Basic Support or non-chargeable Basic Support ("Covered Basic Support") as detailed in a Work Order. This includes the following:

2.1.1. support required to assist Licensee Administration Users with using existing functionality;

2.1.2. meetings initiated by Licensee (excluding non-billable periodic Licensee visits initiated by the Licensor);

2.1.3. support relating to general enquiries by Administration Users that fall outside of the items listed in clause 2.2 of *Annexure SLA*.

2.2. Advanced Support consists of additional services and support thereof provided by the Licensor in terms of the agreement that do not form part of the scope of the Services (and support thereof) and includes ("**Advanced Support**"):

2.2.1. implementation of new modules or additional development work;

2.2.2. support provided for any non-system related enquiries, including, inter alia: accounting support ("**Technical Support**"); and

2.2.3. System training to Administrative Users over and above the training that is provided as part of the initial deployment of the System.

2.3. For the avoidance of doubt, support in the event of Bugs and support in case of an Unplanned Outage shall not be considered Advanced Support.

2.4. Should the Licensee require any of the Services and support in relation to the items in clause 2.2, the Licensor will provide Licensee with a separate quotation outlining the fees and terms for performing such work. The proposed fee will be calculated based on the Advanced Support Fee stipulated in the Work Order.

3. SYSTEM AVAILABILITY

3.1. The uptime shall be calculated as follows:

$$\left(\frac{Total - Unplanned\ Outage - Planned\ Maintenance}{Total - Planned\ Maintenance}\right) \times 95\% \geq Minimum\ Uptime$$

3.2. where:

3.2.1. "**Total**" is the total minutes in the year;

3.2.2. "**Unplanned Outage**" is the total minutes unavailable in the year outside of the Planned Maintenance window, excluding Force Majeure events;

3.2.3. "**Planned Maintenance**" is the total minutes of planned maintenance in the year.

3.2.4. Planned Maintenance will not be calculated as non-available time insofar that the following rules are observed:

3.2.4.1. Planned Maintenance is allowed as mutually agreed;

3.2.4.2. Planned Maintenance shall be communicated to Licensee by email or any other agreed communication method, to all persons indicated as interested in the information, at least 14 calendar days in advance; and

3.2.4.3. as a general rule, Planned Maintenance will not take longer than four hours at a time, except in case of major upgrades that have been notified as such and longer periods of maintenance will be calculated as downtime.

4. ROLES AND RESPONSIBILITIES

4.1. **Licensor Responsibilities**

The Licensor's responsibilities to provide support to meet the support requirements include:

4.1.1. Remediating Bugs based on their assigned priority, within specified times referred to in the Work Order;

4.1.2. Notifying the Licensee of any Planned Maintenance; and/or

4.1.3. Complying with any specific change request requirements, initiated by the Licensee, which are associated with the existing Services which are supplied to the Licensee. This excludes new services and support thereof, as specified in clause 2.2 of *Annexure SLA*.

4.2. **Licensee Responsibilities**

The Licensee's responsibilities to obtain the support required include:

4.2.1. communicating the required support adequately; and

4.2.2. complying with the support procedures and requirements as set out below.

4.2.3. Administration Users are responsible for ensuring that the Active Participants are adequately trained on the Licensor System before being given access.

5. SYSTEM BUGS AND RESPONSE TIMES

5.1. Where support is required due to events adversely affecting (interrupting or reducing the quality of) the System or Services ("**Bugs**"), the Licensor will commit to investigating and remediating the Bug subject to the following levels of priority ("**Severity Levels**"):

5.1.1. **Critical Bug**: where a critical process fails or where the entire System becomes unusable for Users or degraded in a way that many Users cannot access or cannot save their data online, the response time from the time that the Licensee's Agent makes confirmed contact with the Licensor Agents, will be 16 business hours;

5.1.2. **Moderate Bug**: where a non-critical function fails, and the System is degraded but is usable, the response time, from the time the Licensee's Agent makes confirmed contact with the Licensor Agents, will be one month.

5.1.3. **Minor Bug**: where a non-critical function fails, and the System is usable without user impact in that the problem can be circumvented or the user requires a configuration change to an existing application, the response time, from the time the Licensee's Agent makes confirmed contact with the Licensor Agents, will be three months.

5.2. For the avoidance of doubt, the response time referred to in this clause 5.1 includes the time to respond to the Licensee to investigate and resolve the respective Bug.

5.3. The stipulated response times as per the agreement are subject to the parties to the agreement strictly adhering to the procedures set out in section 6 of *Annexure SLA*.

6. SYSTEM PROCEDURES

6.1. The specific procedure that is required to be followed should the Licensee require any support due to a Bug, is the Licensee is to provide the Licensor Agents with a written request (via email) for support ("**Support Request**") which shall include the following:

6.1.1. a detailed description of the fault that was encountered, the time the Bug was encountered, and, if possible, a screenshot of the problem; and

6.1.2. to Licensee's best knowledge, the Severity Level of the Bug in accordance with the definitions of clause 5.1 of *Annexure SLA*.

6.2. An appointed Licensor Agent will review the Support Request and will send an email as written acknowledgement that the Support Request is being attended to.

6.3. Once the Support Request has been completed, the Licensee will be informed thereof.

6.4. The specific procedure that is required to be followed in respect of obtaining the support defined in clause 2.1 of *Annexure SLA*, excluding support required to remediate Bugs, is as follows:

6.4.1. the Licensee is to provide the Licensor's Agents with a description of the support or work that is required by the Licensor as well as the urgency thereof; and

6.4.2. agree upon a suitable response time if it cannot be remediated via a telephonic conversation.

7. ADHERENCE TO THE STIPULATED PROCEDURE

Should the Licensee not submit the necessary information in the easily usable format and through the communication channels as detailed in clause 6 of *Annexure SLA*, then the Licensor cannot commit to the response times described in clause 5.1 of *Annexure SLA*, and the Support Request may not be entertained.