



Customer relationship terms

general terms for providing goods or services to customers

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1 Introduction

These terms are the general terms of the relationship between us and you.

- The terms cover any transactions where we provide goods or services to you.
- The commercial terms of a transaction will be contained in an order that incorporates these terms.
- Nothing in the terms obliges any party to enter into any orders.

2 Definitions and interpretation

2.1 **Definitions.** In the agreement:

additional fee means a charge you must pay us for the supply of any goods or services outside of an order, at our then current standard prices and rates, unless otherwise agreed in writing between the parties;

administrator means an authorised user that you employ who is authorised to provide, manage and administer certain services;

agreement means the agreement between us and you, consisting of the terms and any orders the parties enter into, including any order relating to our goods or services entered into with a mandated reseller of ours;

annual subscription fee means the fee payable every 12 (twelve) months to access our product and excludes any processing credits necessary for processing activities. An annum will run from date of commencement for a period of twelve continuous months and is referred to as the annual subscription.

API means the application program interface owned by us that you might use to communicate with our systems in order to use the services;

API specifications means our required technical and administrative specifications, interface standards, regulations, procedures and communication protocols that you are required to adhere to in order to use the services, as notified by us in writing from time to time;

artificial intelligence model means any tool, algorithm or model which is created based on a data set used to train the software for a specific use case through which AIForged can classify, extract or process information or arrive at any decision.

Authorised user means you or a user in your employ where you are a juristic person, who has been assigned login credentials;

business day means any day within business hours, other than a Saturday, a Sunday, or a holiday (including a public or bank holiday) in the jurisdiction where we entered into the relevant order, and any other reference to a **day** means a calendar day;

business hours means our normal business hours on business days (9am to 5pm GMT +2 time zone);

consumables means any consumable items we use to fulfil our obligations under the agreement including stationery and storage media;

credentials means a unique username and password that has been assigned to an authorised user;

critical bug means any bug, problem, error or difficulty experienced with the operation of the thing being supported and maintained that threatens your ability to generate revenue, and includes a web application being down or the system not being accessible;

dashboard means the section on the website accessible by you through a web browser that allows you to control certain aspects of the services;

deliverables means the deliverables as defined in each order or related material;

enhancement means any minor change to the software as a service that:

- does not require any extensive business requirements analysis, functional specification or wire framing; and
- has a nominal development time;

effective date means, within each order, the effective date stipulated in each order, providing that where no date is stipulated it will be the date the order is accepted by us;

EULA means an end user license agreement in respect of our product;

existing material means any code, forms, algorithms or materials developed by or for either party independent of the agreement and provided during the agreement;

fees means the fees, charges, or price you will pay to us or our reseller for our goods or services provided under the orders;

generic tools means any tools, software (in source code or object code), bots, algorithms, calculators, spreadsheets, architecture, modules, components, designs, utilities, objects, program listings, models, templates, methodologies, frameworks, routines, interfaces, screen designs, instructions, configurations, databases, data sets, and similar items, owned, licensed, or developed by us (directly or through our affiliates, consultants, or subcontractors), whether in connection with or independently of the performance of the services, and modifications, enhancements, and derivative works to all of the above, whether pre-existing or developed during the performance of services and delivery of deliverables, including, without limitation, any modifications based on your feedback or based on services provided to you, and any copies or documentation relating to the foregoing.

goods means any goods we provide to you, under orders (including software/ such as our product) to you other than software that falls under services);

intellectual property means any intellectual property that a party has created, acquired or otherwise has rights, title or interest in or to, and may, in connection with performing their obligations under the agreement, employ, provide, modify, create or otherwise acquire rights, title or interest in or to, and includes any registered or unregistered: copyright or trademark; design or patent; concepts or ideas; methods or methodologies; procedures or processes; know-how or techniques; function, process, system, data, or object models; templates; the generalised features of the structure, sequence and organisation of software, user interfaces and screen designs; general purpose consulting, generic, and software tools, utilities, routines or frameworks; logic, coherence and methods of operation of systems; and patches or enhancements to open source libraries.

non-critical bug means any bug, problem, error, or difficulty experienced with the operation of the thing being supported and maintained that does not threaten your ability to generate revenue;

order means a goods or services order agreed to and signed by you and us, or you and our mandated reseller describing the specific goods or services that we will provide to you;

our product means AIForged, offered as software as a service.

parties means the parties to this agreement being you and us (and insofar as it relates to an order for our goods and services extends to our mandated reseller), and **party** refers to either of the parties as the context requires;

personnel means any representative, including any director, employee, agent, affiliate, consultant, or contractor;

privacy notice means our notice regulating data use and protection, accessible from our website;

Processing credits means the tokens that your wallet will be credited with after payment is received by us to enable you to engage in processing activities in our product.

project means any scoped project to make changes to the software as a service:

purchase includes any purchase order for our goods and services;

related persons or parties means natural and juristic persons who are connected to one another in the manner contemplated in applicable law;

response time means the time elapsed from receiving the support request, to identify the problem or in the case of third party fault the specific cause or likely cause (it does not include the time to fix the problem as this will depend on the cause of the problem itself);

services means any services we or related persons provide to you under orders;

service levels means the levels according to which we will provide each service as agreed by the parties in writing and signed;

sign, signed or signing means the handwritten signature, an advanced electronic signature, or an electronic signature that the parties agree to use, of a party's duly authorised representatives;

signature date means the date of conclusion of the agreement between the parties;

site means any physical premises referred to in an order, where we will provide goods or services under the order, if applicable;

software as a service means the ability we provide to you to use our software via the agreed access methods as a service, and is also referred to as **AI Forged** or **our product**;

specification means the specification (which may be in the form of a proposal, wireframe, project initiation document, functional specification, or technical specification) of the deliverable, which may be (i) in or attached to an order, or (ii) in writing, dated and signed by the parties;

tax means any tax (including value-added tax, income taxes, pay-as-you-earn tax or other taxes levied in any jurisdiction), duty, tariff, rate, levy, or any other governmental charge or expense payable;

terms means these terms, consisting of:

- these general customer relationship terms; and
- any other identified specific terms, policies, disclaimers, rules and notices that the parties agree on, (including any that may be applicable to any specific goods or services);

third party contractor means any contractor, supplier, vendor, service provider or licensor in relation to any of the goods or services, which is not a party to the agreement;

third-party software means all third-party software owned by a third party but legally licensed to us for use in providing the goods or services;

time to fix means the time taken to fix the problem or provide the support requested, which excludes time that elapses while we wait for a response from you;

we, us or our means LarcAI (Pty) Ltd, being the vendor or service provider that enters into an order, and where intellectual property is concerned, our related parties;

writing or written means the reproduction of information or data in physical form (includes handwritten documents, hard copy printouts and fax transmissions) or any mode of reproducing information or data in electronic form that the parties agree to use (like pdf files), but excludes information or data in the form text message or instant message;

you means the customer that enters into an order for our goods or services and, if specified in the order, those related to it;

your data means customer data (including information about an identifiable person) that:

- you (or any third party on your behalf) provide to us; or
- we generate, process, or supply to you in providing the goods or services; but excludes any derived data that we create for our own internal purposes or which is proprietary or confidential to us or our third party contractors.

updates means any updates, patches, corrections, by-passes or revisions to the software as a service, excluding upgrades, which add no functionality to the system that are provided to you as part of the service;

upgrade means all major changes to the software that results in the additions of functions or features not present in the software prior to the introduction of the change;

website means the website at the domain as may be designated by us or the application made available by us through Microsoft Store or any similar store that provides you with access to our product.

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2.2 **Definitions in the order.** Words defined (or assigned a meaning) in an order will have that meaning in the terms, unless the context clarifies otherwise.

2.3 **Interpretation.** All headings are inserted for reference purposes only and must not affect the interpretation of the agreement. Whenever 'including' or 'include', or 'excluding' or 'exclude' follow a term together with examples or items, it will not limit its ambit. Terms other than those defined within the agreement will be given their plain English meaning. References to any law or enactment will include the enactment as re-enacted, amended, or extended. A reference to a person includes a natural and juristic person and a reference to a party includes the party's successors or permitted assigns. Unless otherwise stated in the agreement, when any number of days is prescribed in the agreement the first day will be excluded and the last day included. The rule of construction that an agreement must be interpreted against the party responsible for its drafting or preparation does not apply. GMT +2 will be used to calculate any times.

2.4 **Conflict.** If there is a conflict of meaning between these terms and any order, the order will prevail as to your use of the relevant goods or services. This clause is subject to the limitations of liability clause below.

3 Duration

The terms commence on acceptance of an order relating to our goods or services and continue until terminated according to the terms.

4 Orders

4.1 **Capacity.** You represent and warrant that you (and any person who places an order):

- are old enough under applicable law to enter into the agreement;
- are legally capable of concluding any transaction;
- possess the legal right, full power, and authority to enter into the agreement; and
- will submit true, accurate and correct information to us.

4.2 **Valid and binding order.** The parties only conclude a valid and binding order when we accept the offer made by you.

4.3 **Fees.** The fees for any goods or services are as provided in the relevant order. In respect of our product the annual license fee will be payable annually in advance based on the number of authorised users and processing credits will be on order.

4.4 **Time and place.** The parties conclude any agreement between each other at Centurion, South Africa on acceptance by us.

- 4.5 **Orders.** Each order will create a separate agreement. Despite that, we may consider your breach of any one order to constitute a breach of any or all agreements.

5 Goods

- 5.1 **Sale.** We sell goods to you or provide our product to you on the basis contemplated in the order and this terms.
- 5.2 **Access.** We will provide you with access to the software as a service via the website or API. Access will be restricted to authorised users. Any additional users may be subject to additional charges. We are not responsible for providing you with internet access, telecommunications, or other infrastructure required to access our product.
- 5.3 **API permitted.** Authorised users and administrators may be able access our product via an API. Authorised users and administrators must not abuse the API specifications. Any abuse or misuse of the API may lead to suspension or termination of access to our product.
- 5.4 **API specifications.** Where your authorized users and administrator access our product via an API, you assume responsibility for meeting and complying with the API specifications. The API specifications must be treated as confidential information.
- 5.5 **API specification changes.** We may change or republish the API specifications for any service from time to time. It is your responsibility to ensure that the application calls made to a service are compatible with then current APIs for that service. If we remove a material feature or function of the API, we will provide you with at least 30 (thirty) days written notice and will ensure that backward compatibility with any previously valid APIs are maintained for a period of 30 (thirty) days. Thereafter, we may remove the previously valid APIs. You must make changes to your systems, at your expense, which may be necessary to comply with the amended API specifications.
- 5.6 **Registration required.** The administrator must register users that will use our product. We reserve the right not to enter into the agreement with you or to bar specific users (reasons could include for example that you or your authorized user have previously been suspended from using our services or that you pose an unacceptable level of risk for us).
- 5.7 **Registration information.** Your administrator and/or authorised users must:
- provide full legal names, valid email addresses, valid telephone number and any other information requested by us to complete the registration process;
 - have the legal capacity to conclude legally binding contracts;
 - possess the legal right, full power, and authority to enter into the agreement;
 - be old enough under applicable law to enter into the agreement;
 - submit true, accurate and correct information to us; and
 - if you are juristic person, the person making application on your behalf must also be duly authorised to conclude contracts on your behalf.
- 5.8 **Identity verification.** It is important for us to know who we are doing business with online. You authorise us to make any enquiries we consider necessary to verify your identity. This includes:
- conducting a credit or similar check on you;
 - asking you to provide us with documentation such as your registration documents if you are a juristic person, the front page of your ID book if you are a natural person, and proof of your address; and
 - verifying this against third party databases.
- 5.9 **Warranty.** The goods will be subject to any warranty specified in the description of the goods appearing on the accompanying documentation including web-based policies, packaging, order, or EULA. Please scrutinize those documents. To the extent legally possible, we assign to you the benefit of any supplier warranties that a supplier may give to us in regarding the goods. You may not waive any of our rights as against the supplier.
- 5.10 **Risk and ownership.** All risk of loss or damage to the goods will pass to you upon delivery but ownership of the goods (other than in our product) and where applicable, will only pass to you upon full payment of the fees.
- 5.11 **Software.** Unless otherwise stated, the license for any software is in the EULA or the relevant order. You will need to agree to the EULA and relevant order before using the software. The applicable EULA or order, which takes precedence, governs the use of the software. If you do not agree to the EULA, you must stop using the goods and return the software. If you use the software (or take any other action that is described in the packaging or software as constituting your consent to the EULA or relevant order), then you agree to the EULA or order, unless otherwise allowed in the documentation accompanying the software or applicable law.

6 Use of our product

- 6.1 **Processing actions and fees.** You or your authorised users may use our product to perform robotic process automation processing actions or integrate with any third party software technology. Access to our product is subject to an annual subscription fee and each processing action has an associated fee for which you will have to purchase processing credits. Whenever you or an authorised user uses our product to perform a processing action, we will deduct the relevant credits for the applicable processing action from the processing credits available in your account.
- 6.2 **Processing credits.** We will allocate processing credits on receipt of an order. Processing credits are non-refundable.
- 6.3 **Processing credits expiration.** Any processing credits purchased by you will expire 6 (six) calendar months after your annual subscription has lapsed without being renewed. In case that you elect not to renew your annual subscription within 6 (six) months of expiry, your credits shall be forfeited and you shall not be entitled to any compensation or claim in respect thereof. .
- 6.4 **Credit top-up.** You may purchase more processing credits at any time if you have a valid annual subscription. The processing credits so purchased will be on the terms set out in this order.
- 6.5 **Uploaded content deleted.** You may upload certain content to our product, as we allow. To manage capacity, we may delete such 6 (six) months after the date that you have uploaded it.

7 Our obligations relating to our product

- 7.1 **Grant of right.** We grant you a worldwide, non-exclusive, non-transferable and revocable right to use our product for the duration of this agreement.
- 7.2 **Access.** We will provide you with access to the software as a service via the website or API. Access will be restricted to authorised users. Any additional users may be subject to additional charges. We are not responsible for providing you with internet access, telecommunications, or other infrastructure required to access our product.
- 7.3 **Authorised use.** We will provide non-exclusive access to your authorised users who have agreed to the end-user licence or other relevant agreement that we require from time to time.

- 7.4 **Availability.** We will make the software as a service available at all times, subject to reasonable downtime for planned and emergency maintenance.
- 7.5 **Maintenance.** We will perform scheduled maintenance on our product at such times as would cause minimum disruption for the majority of our users. Maintenance may interrupt the software as a service. We may need to perform emergency maintenance in certain circumstances.
- 7.6 **Hosting.** Secure cloud-based web hosting services will be provided.
- 7.7 **Backups.** We will back up all data stored in the data repositories.
- 7.8 **Disaster recovery.** We will maintain a disaster recovery plan that is tested annually. In the event of a disaster, we will implement the disaster recovery plan and:
- replicate the software as a service as soon as possible with the most recent backup date; and
 - restore the software as a service with a recovery time objective of 24 hours and a recovery point objective of 24 hours.

8 Your software as a service obligations

- 8.1 **Authorised user list.** You are responsible for ensuring that the list of authorised users who are able to use our product is always up to date.
- 8.2 **Access necessities.** You are responsible for getting and maintaining any equipment, software, infrastructure, or ancillary services necessary to connect to, access, or otherwise use our product. For example:
- **equipment** – such as modems, servers, or other hardware;
 - **software** – such as operating systems;
 - **infrastructure** – such as networking equipment or web servers; and
 - **ancillary services** – such agreements with ISPs for the provision of Internet access.
- 8.3 **Authorised user instructions.** Each authorised user is responsible and liable for activities that occur under their account. You authorise us to act on any instruction given by an authorised user, even if it transpires that someone else has defrauded both of us, unless you have notified us in writing prior to us acting on a fraudulent instruction. We are not liable for any loss or damage suffered by you attributable to an authorised user's failure to maintain the confidentiality of their credentials.
- 8.4 **Expertise.** You must at all times employ sufficient personnel who:
- are skilled in and knowledgeable about your systems; and
 - have the necessary technical expertise to use our product.
- If you do not have sufficient personnel with the required knowledge or expertise to use our product, you must request training from us or the mandated reseller to teach them the necessary skills.
- 8.5 **Acceptable use.** You must follow (and ensure that each authorised user follows) the rules set out in our acceptable use policy and/or EULA, as updated from time to time.

9 Accounts and security

- 9.1 **Credentials.** You will be required to select your credentials when registering which will enable you to sign into your account on our website. If you are a juristic person, you will have to designate specific authorised users and an administrator. Only you may use your credentials. We do not permit multiple people to share credentials.
- 9.2 **Choice of password.** You must choose a password. We may prescribe requirements for this password on our website, including that it must be of at least a certain length and must contain at least one of certain types of characters. Please do not use derivatives of your username and common character sequences such as "123456". Also don't use personal details such as your spouse's name, car registration number, ID number, passport number and birthday, unless accompanied by additional unrelated characters.
- 9.3 **Access.** Only authorised users may access the software as a service by using their credentials.
- 9.4 **Authorised user obligations.** Each authorised user agrees:
- to keep their credentials secure;
 - not to disclose their credentials to any other person;
 - not to provide access to any other person;
 - to secure all data under their control;
 - not to interfere with the functionality or proper working of the website;
 - not to introduce any viruses, worm, logic bomb, trojan, wares, potentially unwanted program (PUP) or other malicious software into the website; and
 - not use the service for direct marketing, spamming, unsolicited communications, or other advertising or marketing activities prohibited by applicable law.
- 9.5 **Administrator obligations.** The administrator agrees:
- not to use bots or other automated methods to register authorised user accounts;
 - to only create one account per email address per authorised user;
 - to make a list of all authorised users available to us on request;
 - to immediately notify us in writing of any lost credentials by an authorised user;
 - to ensure that authorised users who are no longer authorised to use the service do not use the service;
 - to notify us of any known breach of our privacy policy;
 - to take reasonable measures to ensure that authorised users do not introduce any viruses, worm, logic bomb, trojan, wares, potentially unwanted program (PUP) or other malicious software into the service.
- 9.6 **Monitoring security.** We reserve the right to take whatever action we deem necessary to preserve the security and reliable operation of our product and you undertake that you will not do or permit anything to be done which will compromise our security. If:
- we are unable to verify any information you provide to us; or
 - we reasonably believe that your activities pose a significant risk to us or our other customers, or may cause financial loss or legal liability for us, our other customers, or you
- then we shall be entitled to suspend or terminate your use of the website.

10 Feedback

- 10.1 **Introduction.** We value your feedback about our product. It helps us improve it for you and our other customers. Feedback means any comments or suggestions that you send us or post on a website that we control related to our product or services.
- 10.2 **No obligation to you.** We are not obliged to compensate or credit you for your feedback in any way unless we have a written agreement with you to do so.
- 10.3 **Your obligations to us.** When you submit your feedback to us, you:
- grant us a worldwide, perpetual, non-exclusive, royalty-free, sublicensable licence to use, reproduce and modify your feedback for any purpose related to our product or services;
 - agree to deliver all documents and perform all actions necessary to ensure that our rights to use, reproduce, and modify your feedback are effective and enforceable; and
 - give up any claim that our use, reproduction, or modification of your feedback violates any of your rights, including your intellectual property rights or your moral rights (the rights not to have your work distorted and to be credited for your work).
- 10.4 **Submission.** You can submit any feedback to us by email or through any of our other feedback channels.
- 10.5 **May or may not take action.** We will consider your feedback and may or may not decide to act on it in our absolute discretion in terms of our roadmap for the software as a service.

11 Support

- 11.1 **Help desk.** Our mandated reseller will provide a help desk during business hours for support requests and will escalate complex requests to us for resolution.
- 11.2 **Initial requests.** You must record and diagnose initial support requests reported to you. You will resolve user errors and handle information requests.
- 11.3 **Research.** You will, before logging a support request, thoroughly research any problem encountered and will make sure that all the details relating to the problem are available to disclose to the help desk.
- 11.4 **Designated personnel.** Only your designated personnel may make support requests to the help desk.
- 11.5 **Support request.** Your support resource will place a support request via the help desk, stating the necessary information. The support request will be made in writing via the channel communicated to you.
- 11.6 **Evaluate.** Upon receipt of the support request, the help desk will evaluate the support request and communicate its appraisal to you. If a support request does not fall within the scope of the services, then the request will be added to your wish list and dealt with in a separate order.
- 11.7 **Resolution.** Once a support request has been resolved, the help desk will inform your support resource. Your support resource will, within a reasonable period thereafter (having regard to when the problem would reasonably be detected by you again), confirm through the help desk whether the correction was satisfactory to you or not. If no notice is received then the problem will be deemed to have been corrected to your satisfaction.

12 Support levels

- 12.1 **Support services.** We, or our mandated reseller, will provide the following support services in relation to our product:
- providing any advice over the phone or by email that you may reasonably require related to the use of the software as a service;
 - routine upgrades of the software as a service;
 - making sure that sufficient qualified personnel are available during support hours to respond to reasonable queries in regard to the operation of the software as a service; and
 - consulting with you from time to time in respect of suggested enhancements of the software as a service.
- 12.2 **Categories of support request.** Our categories of support request are based on the impact a problem will likely have on your reputation according to your operations as a whole in the context of your business. We will abide by the response times and times to fix for the categories of support request specified in the following table:

Cat.	Description	Response time
Level 1	The software as a service is inoperable or computes incorrectly and it threatens your ability to generate revenue. You are losing money and there is no workaround. Includes a critical bug.	2 (two) business hours
Level 2	Performance (throughput or response) of the software as a service is substantially degraded under reasonable loads, such that there is a severe impact on its use and it threatens your ability to generate revenue. It is usable but materially incomplete - one or more mainline functions or commands are inoperable or incomplete and it threatens your ability to generate revenue. You are losing money, but there is a workaround.	8 (eight) business hours
Level 3	The software as a service is usable or it does not threaten your ability to generate revenue, but there is a functional deficiency that does not fall within Level 1 or Level 2. Includes an update, support, and non-critical Bugs.	24 (twenty four) business hours

The parties may amend any service level in writing from time to time.

13 Excluded services

- 13.1 **On-site support excluded.** The software as a service does not include any site visits by our personnel at your premises, including support visits by our technical or training personnel.
- 13.2 **Services not provided.** Unless otherwise agreed between the parties, the following are excluded from the services:
- consumables;
 - projects;

- upgrades;
- training services;
- Implementation services;
- enhancements in response to any of your ad hoc requests.

13.3 **Additional services.** If you require excluded or additional services, you will request these under a separate order. This order will be quoted and billed for separately.

14 Services

14.1 We will provide services set out in the order according to the agreed service levels.

14.2 **Consumables.** You will pay the cost of any consumables used in the provision of services.

14.3 **Time and materials.** We may charge you additional fees on a time and materials basis for time that we, in our reasonable opinion, spend in relation to the following:

- data restoration or re-establishment or other assistance required by you that do not result from inherent errors in the software as a service;
- unauthorised use of the software as a service; or
- providing services to you in circumstances where any reasonably skilled and competent software as a service administrator would have judged your request to have been unnecessary.

15 Acceptance procedure for custom development by us

15.1 **Commencement and initial period.** You will commence acceptance testing of any deliverable immediately following delivery by us. You must use acceptance tests and data developed by you and approved by us in our reasonable discretion. The acceptance tests will be completed within five business days of delivery, unless otherwise agreed in writing.

15.2 **Assistance.** We will assist you to complete the acceptance tests on request and reasonable notice.

15.3 **Variations.** You will report any variances in any deliverable from its specification that you discover during acceptance testing to us in writing.

15.4 **Correction.** We will correct any variance as soon as possible and at our cost.

15.5 **Additional period for testing.** You will have another period (equal to the initial period above) to conduct acceptance tests on any corrected deliverable. If you discover any further material variance in a corrected deliverable from its specification, you will report it to us. We will correct any further variance in the corrected deliverable as soon as possible. During the additional period, you may not report any variance that does not relate to: (i) a variance that you first reported; or (ii) the corrected deliverable, unless agreed by the parties in writing. The parties will deal with these separately as additional services. The parties may agree, to neither party's detriment to an extension of the additional period if further material variances occur.

15.6 **Acceptance confirmation.** The parties may, at any time, confirm in writing that you have accepted the deliverables.

15.7 **Deemed acceptance.** You will be deemed to have accepted the deliverables if you:

- do not sign a confirmation of acceptance within three business days, unless otherwise agreed to in writing from when we have signed and sent it to you;
- do not report any variance to us in writing at the end of the initial or additional period;
- do not report any variance to us in any corrected deliverable within three business days, from when we call on you to do so in writing; or
- put any deliverable to productive use.

16 Change control

16.1 **Changes to goods or services.** During the currency of an order, events may occur which require a change to the nature and scope of goods or services. The parties will not implement a change unless they comply with this clause.

16.2 **Change request.** A party may propose a change to the nature and scope of goods or services by sending a scope change document to the other party detailing the desired changes.

16.3 **Scope change document.** If a scope change document is made by:

- you, it must specify the reasons for that change and describe the change in sufficient detail to enable us to respond. We will investigate the likely impact of any proposed changes on the provision of goods or services and will provide you with a scope change proposal, including amended pricing and timeframes; or
- us, the scope change proposal will detail the reasons for and impact of the change, any other information relevant to manage or implement the change, and the effect that the changes, if implemented, will have on the relevant order.

16.4 **Sign-off.** The parties will discuss and agree on the proposed changes and revise the scope change proposal accordingly. You will then consider the scope change proposal and may approve or reject it in writing within three business days. If you:

- accept a scope change proposal, a duly authorised representative of the parties will sign off the scope change proposal and it will be incorporated into the relevant order; or
- reject a scope change proposal, we will continue to provide the goods or services on the existing terms.

16.5 **No change effective until sign-off.** No party may proceed with any change to an order until the change and all matters relating to the change have been agreed in writing between the parties. Pending sign-off, the parties will continue to perform their obligations without considering the proposed changes. A party may not unreasonably delay or withhold its sign-off to a proposed change.

16.6 **Exception.** Amendments to the content of the agreement that do not affect the nature and scope of the goods or services will not be subject to this change control procedure, unless otherwise agreed by the parties in writing.

16.7 **Future enhancements.** If you require us to make any future enhancements to custom developments by us the same change control procedure will be followed. Still, this does not prevent you after the expiry of this agreement, to contract with another service provider to conduct any future changes or enhancements. If future enhancements are made by another service provider, the warranty we give below is void.

17 Personnel

17.1 **Access.** Where necessary and agreed to between the parties, you will allow us and our personnel the relevant access (at all reasonable times) to fulfil our obligations.

17.2 **After-hours access.** At times, we may need after-hours access to the sites. We will request this access in writing before the access. You will

not unreasonably withhold your consent.

- 17.3 **Compliance with your policies.** We will take all reasonable steps to comply, and ensure that our personnel comply, with your policies. You must notify us of all of your policies before the effective date and give us and the relevant personnel reasonable written notice of any change in your existing policies or the implementation of your new policies.

18 Non-solicitation

- 18.1 **Restriction.** Unless otherwise agreed, you will not, during the currency of these terms or for a period of 12 (twelve) calendar months following termination, directly or indirectly solicit, offer employment to, employ, or contract in any way with any of our personnel who were involved in the implementation or execution of an order.
- 18.2 **Recruitment fee.** In the event that the restriction is not adhered to, you will pay us a recruitment fee equal to a percentage of the highest gross annual package (including any quantifiable bonuses or incentives and annualised if necessary) paid by us to the personnel concerned (gross package). You will pay this recruitment fee on written demand from us. If we:
- consent to any such employment, the recruitment fee will be 50% of the gross package; or
 - do not consent to any such employment, the recruitment fee will be equal to 200% of the gross package.

19 Assignment and subcontracting

- 19.1 **No assignment.** You may not delegate your duties under this agreement or assign your rights under this agreement, in whole or in part without our prior written consent, which may not be unreasonably withheld. We may assign this agreement to any successor or purchaser of our business or some of its assets, provided we inform you of the change.
- 19.2 **Consent.** We may cede and assign all rights and obligations under this agreement to a related person or affiliate. We will inform you in writing should any such cession or assignment become relevant.
- 19.3 **Our third party contractors.** We may sub-contract or delegate our obligations under this agreement to third party contractors. We will remain liable for performance of the third party contractors. No one may require us to disclose the terms (including payment terms) of any sub-contract entered into regarding our obligations under this agreement.

20 Relationship

- 20.1 **No temporary employment service or partnership.** Nothing in this agreement will be construed as constituting a temporary employment service or as creating a partnership between the parties and no party will have any authority to incur any liability or give any warranties on behalf of the other or to pledge the credit of the other party.
- 20.2 **No employment relationship.** Each party enters into the agreement as an independent contractor. The agreement does not create any other relationship, including employment for any purpose, partnership, agency, trust or joint venture relationship.

21 Appointments and governance

- 21.1 **Appointment.** Each party will appoint a suitably qualified and responsible person to act as its representative in the order. If a party does not appoint a representative and that party is a natural person, then that party will be its own representative. Otherwise, a natural person with a senior role who is ordinarily responsible for the day-to-day administration of that party will be its representative.
- 21.2 **Function.** The representative's responsibilities include to manage and coordinate the goods or services and to discuss and manage any changes.
- 21.3 **Meetings.** The representatives will meet as agreed between the parties.
- 21.4 **Replacement.** A party may, on five business days' written notice to the other, appoint an alternative representative who is suitably qualified and responsible.
- 21.5 **Other personnel.** Both parties will, in writing, appoint other relevant personnel where necessary in connection with the provision of the goods or services.

22 Fees and payment due to us

- 22.1 **Due dates.** You will be liable for and pay the fees specified in the order, and any added fees, promptly on the due date specified in the relevant order, without deduction, set off or demand and free of exchange and bank charges in the currency specified in the order. If no due date is specified or agreed in an order between us and you, the due date is within 30 (thirty) days of the date of invoice. The parties may agree otherwise in the relevant order.
- 22.2 **Manner of payment.** You must make payment in the manner specified in the order and where the order is between us and you, in terms of this agreement.
- 22.3 **Our bank account.** **OUR BANK ACCOUNT DETAILS WILL NOT CHANGE. IT IS YOUR RESPONSIBILITY TO ENSURE THAT PAYMENTS DUE TO US ARE PAID INTO OUR BANK ACCOUNT as stated** in the relevant order. We will not be liable for any incorrect payments made into any other bank accounts. Because of the potential for cybercrime, we **will never use email, telephone or a purported bank stamped document to provide you with any instruction of a change in our bank details.** Please do not rely on the bank details provided on our invoices as it is also possible for cyber criminals to intercept and falsify these. If you receive any correspondence about a change in our bank details, you should treat it as suspicious and invalid and report it to us and your account manager or regular contact at us as soon as possible for investigation. Even if we ever wish to change our bank details, we would only do so via a signed amendment to this agreement, signed by an authorised representatives of our executive. You undertake to ensure that your finance function responsible for payments is aware of the information in this clause.
- 22.4 **Late payments.** Any added surcharges and penalties specified will apply to any payment received after the due date to cover collection fees and other administration costs. You must pay the surcharges and penalties to us on demand. We may withhold or halt the provision of any goods or services until you have paid all amounts that are due.
- 22.5 **Interest on overdue amounts.** To the extent permitted by applicable law, we may charge you interest for overdue amounts within our reasonable discretion. If you do not pay the overdue amounts within 7 (seven) days of receiving written notice from us to do so, any amount not paid by you on the date of the statement of outstanding invoices will bear interest for our benefit, from the due date until the date you pay it. The rate of interest will be either 2% (two percent) per year above the prime overdraft rate of our bankers published from time to time or 15% (fifteen percent) per year, whichever is higher. Interest rates published on our banks website or a letter from a branch will be proof of the rate. Interest will be payable on a claim for damages from when the damages were suffered.
- 22.6 **Appropriation.** We may appropriate any payment received from you towards the satisfaction of your debt to us under an agreement between

us.

- 22.7 **Withhold payment.** You may not withhold or set off payment of any amount due to us for any reason.
- 22.8 **Certificate.** A certificate, signed by an accountant appointed by us, of the amount due by you and the date on which it is payable will be proof of the correctness of the certificate's contents and the amount that you must pay, pending you providing evidence that such an amount is not due.
- 22.9 **Tax.** Unless otherwise stated, all fees exclude any tax, which will be payable by you where applicable along with the fees.
- 22.10 **Fee increase.** During the term of an order for our product, we may increase the fees proportionate to the fees that our integrated partners pass down to us. We will notify you of any such increase 14 (fourteen) days prior to imposing increases. Furthermore, we may increase our fees once during each successive period of 12 (twelve) calendar months calculated from the effective date, subject to 14 (fourteen) calendar days' prior written notice to you and not more than twice the Consumer Price Index related to all urban consumers and other goods and services as published during the previous calendar year in respect of the United States of America. At the end of the initial term of this agreement or any order, and before any applicable automatic renewal, we may otherwise increase the fees and charges applicable under this agreement or any order.
- 22.11 **Withholding Tax Certificate.** Where we must submit a Withholding Tax Certificate, you agree to reasonably assist us in timeously submitting it by providing us with any required information, including sending us the completed certificates. You acknowledge that any undue delay by you in sending the correctly completed certificates could prejudice our ability to comply with our tax obligations and result in financial losses, which we may claim from you.
- 22.12 **Payment profile.** You and any signatory consent and agree that we may provide any registered credit bureau with information about the payment of amounts and you consent to us accessing your personal information at the credit bureau or other relevant platform to protect our legitimate interest.
- 22.13 **Reimburse costs.** If we suspend the service or removes any goods supplied by us because of non-payment, you will pay to us the costs incurred by us (including redeployment, travel and associated expenses) in remobilising our employees affected by the agreement and recommencing the services or re-installing the removed goods. Where we suspend the service, you must still pay and will remain liable for all fees associated with the service during the suspension period.

23 Performance and good faith

The parties will cooperate with each other and at all times act in good faith towards each other in performing this agreement and any orders. We may restrict access to our goods or services if payment is not received in our nominated bank account within the agreed period in terms of an order to which we are a party.

24 Intellectual property

- 24.1 **Retention of rights.** We have created, acquired or otherwise obtained rights in our intellectual property and despite anything in the agreement, we will own all right, title, and interest in our intellectual property including any artificial intelligence models created while using our goods or services. You own all your data.
- 24.2 **Use of customer's intellectual property.** If we use any of your intellectual property in connection with our performance under an order, your intellectual property will remain your property and we will not acquire any right or interest in it.
- 24.3 **Use of our intellectual property.** If we use any of our intellectual property in connection with our performance under an order, our intellectual property will remain our property and you will not acquire any right or interest in it. If required we may grant you a non-transferable, non-exclusive licence in writing to use our intellectual property in connection with the deliverable as agreed in the relevant order.
- 24.4 **Licence.** We grant you a non-transferable and non-exclusive licence in intellectual property that may be needed in supplying the goods or services. When you upload data to the software as a service you give us a worldwide license to use, host and store your data, solely for the purpose of fulfilling our obligations.
- 24.5 **Deliverables created during the agreement.** All intellectual property rights, title and interests in and to the deliverables and any associated documentation, materials, inventions or discoveries that we develop or make for you while providing the goods or services under this agreement and any orders will vest in us, regardless of any applicable fact that it was conceptualised or envisioned by you, including any requests, ideas, feedback or improvements you suggest or cause to be made to our intellectual property.. You waive any claim to such rights and if necessary, you will assign any such rights, title or interest to us.
- 24.6 **Other rights.** Neither party will obtain any rights in the existing material or intellectual property of the other party that was not created in performing the agreement or existed before the start of the agreement, unless a licence is granted.
- 24.7 **Trademarks.** Our logo and sub-logos, marks, product names and trade names are our trademarks and no person may use them without permission. Any other trademark or trade name that may appear on our marketing material is the property of its owner.
- 24.8 **Restrictions.** Except as expressly agreed to in writing, the goods or services may not be:
 - modified, distributed, or used to make derivative works;
 - rented, leased, loaned, sold or assigned;
 - decompiled, reverse engineered, or copied;
 - integrated into other software; or
 - reproduced, transferred, or distributed.
- 24.9 **Residual knowledge.** Nothing in the agreement will restrict us from the use of any generic ideas, concepts, know-how, or techniques developed by us or learned while providing the goods or services.
- 24.10 **Monitoring security.** We reserve the right to take whatever action we deem necessary to preserve the security and reliable operation of the software. We may suspend or terminate your licence to use the software if we reasonably believe that your activities pose a significant credit or fraud risk to us or our other customers, or may cause financial loss or legal liability for us, our other customers, or you. Where we terminate your licence, we will adhere to the agreement, including notifying you of your breach of our licencing terms.
- 24.11 **Prosecution.** All violations of proprietary rights or the agreement will be prosecuted to the fullest extent permissible under applicable law.
- 24.12 **Survival.** This clause will survive termination of the agreement or an order.

25 Intellectual property infringements

- 25.1 **Defence.** We will defend you against any claims made by an unaffiliated third party that any goods or services infringe our patent, design, copyright, or trademark and will pay the amount of any resulting adverse final judgement (or settlement to which we consent). We will reimburse you with all costs you reasonably incurred in connection with assisting us with the defence of the action. You will promptly notify us of the claim in writing and we will have sole control over its defence or settlement.
- 25.2 **Consequences of successful claim by third parties.** If any third party succeeds in its claim for the infringement of any intellectual property rights, we may within 90 (ninety) days of a finding of infringement:
- obtain for you the right to continue using the infringing item or the parts that constitute the infringement;
 - replace the infringing item or the parts that constitute the infringement with another product that does not infringe and that in all respects operates substantially according to its specifications;
 - alter the infringing item in a way as to render it non-infringing while still in all respects operating substantially according to its specifications; or
 - withdraw the infringing item and refund to you all fees paid by you to us under the relevant order specifically related to the infringing item in the preceding six calendar month period.
- 25.3 **Exclusion.** We will not be liable for any claim that arises out of goods or services you select and acquire from third parties.
- 25.4 **Survival.** This clause will survive termination of the agreement or an order.

26 Confidential information

- 26.1 **Responsibility to keep information confidential.** Each party must keep confidential any information it receives from the other party or under this agreement, including existing material and customer's data. Each party will take all reasonable steps to ensure its employees or contractors abide by this clause.
- **The receiving party's responsibilities.** The party that receives
 - is given to the receiving party afterward by a different person who is allowed to reveal the confidential information; or
 - is given to comply with a court order or other legal duty.
- 26.2 **Privacy policy.** Our privacy policy applies to the terms. Despite anything to the contrary in this clause, we may process personal information as described under our privacy policy.
- 26.3 **Survival.** This clause about confidential information is separate from the rest of this agreement and remains valid forever.

27 Your data and data protection compliance

- 27.1 **Your data.** Unless otherwise agreed between the parties in writing and signed, we are not responsible for any of your data stored on our systems.
- 27.2 **Legal obligations.** Each party is responsible for complying with its own obligations under applicable laws governing customer's data. The parties both acknowledge that neither party is investigating the steps the other is taking to comply with any applicable privacy and data protection laws.
- 27.3 **Responsible party.** Unless otherwise agreed between the parties in writing and signed, you remain the responsible party (as defined in the Protection of Personal Information Act 4 of 2013) for determining the purpose and means of our processing of your personal information (as defined in the Protection of Personal Information Act 4 of 2013), including that processing will not place us in breach of any laws.
- 27.4 **Operator.** Unless otherwise agreed between the parties in writing and signed, we act as operator (as defined in the Protection of Personal Information Act 4 of 2013) for you, and we will, related to your personal information (as defined in the Protection of Personal Information Act 4 of 2013):
- establish and maintain technical and organisational security measures that we consider to be appropriate or reasonable in order to stop your personal information from being lost, damaged, destroyed, or unlawfully accessed or processed;
 - treat your personal information as confidential, not disclose it, and only process it with your knowledge or authorisation, except as otherwise required or allowed under the relevant data protection legislation; and
 - notify your information officer immediately where we have reasonable grounds to believe that an unauthorised person has accessed or acquired your personal information.
- 27.5 **Indemnity.** You agree to indemnify, defend, and hold us harmless (and those related to us and our personnel, co-branders or other partners) from and against any claim, demand, loss, damage, cost, or liability (including legal costs) arising out of or relating to you not complying with your obligations under this clause. If permissible under applicable law, legal costs will be on an attorney and own client basis.
- 27.6 **Access.** On a party's reasonable written request, the other party will provide the requesting party with the information that it has about your data and its processing that is necessary to enable the requesting party to comply with its obligations under this clause and the applicable laws. The requesting party will reimburse the other party for its reasonable charges for its assistance.
- 27.7 **Preservation of integrity of your data.** Both of the parties will take reasonable precautions (having regard to the nature of each of its obligations under the agreement), to preserve the integrity of your data and prevent any unauthorised access, corruption or loss of your data.
- 27.8 **Location of your data.** *We are able to provide the software as a service in multiple locations that are located in different countries. Your data will remain in whatever location you place it, unless we have to transfer it across a country border to comply with our obligations in terms of any agreement between us.*
- 27.9 **Records.** You agree that our records are evidence of the goods supplied or services provided to you.
- 27.10 **Return of data.** On termination of any order, each party will return to the other party in the form in which it was received all of the other party's data or information provided to the party for the purpose of performing the relevant order.

28 Our warranties

- 28.1 **Service warranties.** We warrant in relation to the services that:
- we and our personnel will possess and have the right to use knowledge and expertise sufficient to enable us to provide the services;
 - we will employ enough suitably trained personnel to provide the services and to achieve the service levels; and
 - we will provide the services according to all applicable laws, enactments, and regulations.
- 28.2 **Goods warranties.** Goods are subject to the warranty in any document, packaging or EULA that accompanies it. To the extent legally

possible, we assign to you the benefit of any supplier warranties we have. Otherwise, you have the same rights against us as we have against the supplier.

28.3 **General warranties.** We also warrant that:

- we have the legal right and full capacity and authority to execute and deliver, and to exercise our rights and perform our obligations under the agreement; and
- we and our personnel will not knowingly introduce any malicious software into your material or your system.

28.4 **Specific warranties.** We may provide more specific warranties in the relevant order.

29 Disclaimer of warranties

29.1 **Disclaimer.** You use our goods or services at your sole responsibility and risk. We provide the goods and services on an 'as is' and 'as available' basis. Except for the warranties given in this agreement and to the extent allowed by law, we expressly disclaim all representations, warranties, or conditions of any kind, whether express or implied, including:

- any implied warranties or conditions of satisfactory quality, no latent defects, merchantability, fitness for a particular purpose, accuracy, system integration, quiet enjoyment, title, and non-infringement;
- any warranties about third-party software; and
- that the goods or services will meet your requirements or be uninterrupted, legally effective or complete, timely, secure, error-free or free from infection by malicious software.
- All brochures, booklets, catalogues, trade pamphlets, advertising material and other documentation issued by us in respect of the goods or services are for information purposes only and do not constitute warranties, representations or undertakings in respect of the goods or services.

29.2 **Exclusion of liability.** Despite any warranty we give, we will not be liable for any defect arising from your negligence, failure to follow instructions (whether oral or in writing) or misuse.

29.3 **Security software.** You should keep up-to-date security software on any systems used to access the goods or services.

30 Limitation of liability

30.1 **Direct damages limited.** Despite anything else in this agreement including any order, our maximum liability to you for any claim for direct damages is the total amount of fees you have paid us in the preceding 12 months for the goods or services related to the claim. Our total aggregate liability for all claims under this agreement will never be greater than the maximum liability. This limitation applies to the extent allowed by any law that applies, and no matter the basis of the claim (whether in contract, delict, tort or any other legal basis).

30.2 **Indirect damages excluded.** Despite anything else in the agreement including any order, we and our personnel will never be liable for any indirect, incidental, special or consequential damages or losses of any kind arising from the agreement. These include foreseeable or unforeseeable loss of profits, loss of goodwill, pure economic loss, damages relating to lost or damaged data or software, loss of use and damages relating to downtime or costs of substitute products.

30.3 **This limitation of liability clause prevails.** To avoid all doubt, and despite the conflict provisions in clause 2.4 of these terms, no order can ever supersede the limitation of our liability and the exclusion of indirect damages in this clause.

30.4 **We are not liable for your default.** We will not be liable for any loss or damage suffered by you arising out of or in connection with any breach of the agreement by you or any act, misrepresentation, error or omission made by or on behalf of you or your personnel.

30.5 **Other services.** We are not liable for any other deliverable, including website, goods, or service provided by any third party, nor are we liable for any claims arising through third-party software.

30.6 **Severability.** This clause is separate and divisible from the rest of this agreement and remains effective even if this agreement ends or is invalid.

31 Your warranties and indemnities

31.1 **Warranties.** You warrant that:

- you have not been induced to enter into the agreement by any prior representations, warranties or guarantees (whether oral or in writing), except as expressly stated in the agreement;
- you have obtained all necessary user licences in advance; and
- by entering into an order, you are not acting in breach of any agreement to which you are a party;

31.2 **Consents.** You must promptly obtain and provide all consents necessary for us to access, use or modify (including creating derivative works) your or a third party's software, hardware, firmware and other products used by you without infringing the ownership, licence or intellectual property rights of the providers or owners of such products. We will be relieved of performing any obligations affected by your failure to promptly provide any necessary consents to us.

31.3 **Indemnity.** You agree to indemnify, defend, and hold harmless us (and those related to us and our personnel, co-branders or other partners) from and against any claim for damages by any third party as a result of the breach of these warranties, including all legal costs. If permissible under applicable law, legal costs will be on an attorney and own client basis.

32 Termination

32.1 **Termination for breach.** If a party does not fix any breach of this agreement (failure to comply with it) or an order within 14 (fourteen) days (or in the event of non-payment, 7 (seven) days) of receiving written notice from the other party to do so, the other party may, without prejudice to any of its rights:

- claim specific performance of this agreement (make the party comply with this agreement); or
- immediately cancel this agreement in writing; and
- claim damages from the other party, including any claim for any fees already due.

32.2 **Immediate termination in other circumstances.** Either party may immediately end this agreement at any time by giving the other notice in writing if:

- the other is declared provisionally or finally insolvent (bankrupt), or has some legal disability, for example business rescue or other similar proceedings has been instituted against it, or if it is placed under administration;
- the other tries to deregister itself (close) or is deregistered;

- the other makes any settlement or arrangement with its creditors;
- the other fails to pay a court order against it (does not satisfy a writ of execution) for more than one million rand (or equivalent), within 30 (thirty) days;
- anything analogous to the foregoing occurs in any applicable jurisdiction, which is not dismissed in 30 (thirty) days;
- termination is necessary to comply with any applicable law or government instruction; or
- the parties agree.

32.3 **Termination for convenience.** We may terminate this agreement at any time by giving you 90 (ninety) days' notice in writing.

32.4 **Termination for good cause.** We may immediately terminate this agreement at any time by giving you notice in writing if we:

- discontinue trading in the goods or services;
- believe that providing the goods or services could create an economic or technical burden or material security risk for us;
- determine that your use of the services or the provision of any of the goods or services to you has become impractical or unfeasible for any legal or regulatory reason.

32.5 **Severability.** This clause is separate and divisible from the rest of this agreement and remains effective even if this agreement ends or is invalid.

33 Effect of termination

33.1 **Duties on termination.** On termination, cancellation, or expiry of this agreement, we:

- will stop providing the goods or services to you;
- may deny access to our goods or services;
- may erase your data, unless we have agreed to provide you with post termination assistance in writing.

33.2 **Amounts due to us become due and payable.** On termination, cancellation, or expiry this agreement, all amounts due to us for services rendered or goods received before termination will become due and payable even if we have not yet invoiced them. You may not withhold the amounts for any reason, unless an arbitrator directs otherwise. We will refund you the proportion you have paid in advance for goods or deliverables that are incomplete.

33.3 **Post termination assistance.** Following termination, you may use the post-termination assistance that we may generally make available (such as data retrieval arrangements). We may provide you with post-termination assistance, but we will not be obliged to do so. Your right to use any post-termination assistance will depend on your acceptance of and compliance with any added fees, conditions or terms that we may impose for such assistance.

33.4 **No expectation.** We acknowledge and confirm that no expectation has been created by anyone, by the agreement or any other agreement, entitling us or you to expect the renewal or extension of the term of any agreement.

33.5 **Severability.** This clause is separate and divisible from the rest of this agreement and remains effective even if this agreement ends or is invalid.

34 Resolving disputes

34.1 **Definitions.** In this clause:

- **AFSA** means the Arbitration Foundation of Southern Africa (or its successor or body nominated in writing by it in its place).

34.2 **Notifying each other.** There will be a dispute about or from this agreement if a party writes to the other about it and asks for it to be resolved under this clause. The parties must refer any dispute to be resolved by:

- **negotiation** (direct talks to try to agree how to end the dispute); failing which
- **mediation** (talks in which a neutral third party tries to help the parties agree how to end the dispute); failing which
- **arbitration** (a hearing after which a neutral third party makes a binding decision about the dispute).

34.3 **Negotiation.** Each party must make sure that its chosen representatives meet within 10 (ten) days of notification, to negotiate and try to end the dispute by written agreement within 15 (fifteen) days of first meeting.

34.4 **Mediation.** If negotiation fails, the parties must refer the dispute to mediation under latest AFSA's rules.

34.5 **Arbitration.** If mediation fails, the parties must refer the dispute within 15 (fifteen) days to arbitration (including any appeal against the arbitrator's decision) under AFSA's latest rules for expedited arbitrations. The arbitration will be held in English in Gauteng Province, South Africa. The parties will agree and appoint one arbitrator. If the parties cannot agree on the arbitrator within 10 (ten) days after the referral, the secretariat of AFSA will appoint a suitably qualified arbitrator with at least 10 (ten) years' experience as arbitrator.

34.6 **Legal costs.** Any legal costs (attorneys and advocates fees and the costs of experts and witnesses) incurred by the parties in the arbitration will be recoverable on the attorney and own-client scale.

34.7 **Costs of arbitration.** The costs of the arbitration proceedings, including the fees of the arbitrator/arbitrators, will be borne equally between the parties, unless the arbitrator's award provides otherwise.

34.8 **Agree otherwise in an order.** The parties may agree otherwise in an order.

34.9 **Periods.** The parties may agree in writing to change the periods for negotiation or mediation.

34.10 **Urgent interim relief.** This clause will not stop a party from applying to court for urgent interim relief (temporary help) while the dispute resolution process is being finalised. An example might be an interdict (type of court order).

34.11 **Severability.** This clause is separate and divisible from the rest of this agreement and remains effective even if this agreement ends or is invalid.

35 Notices and domicile

35.1 **Notices.** The parties will send all notices, authorisations, disclosures, acknowledgements, or requests by hand delivery or email to an address given in the specific order.

35.2 **Service (delivery) address for legal documents.** Each party chooses its street addresses and numbers as its *domicilium citandi et executandi* (its address for the service of any document used in legal action) for this agreement.

35.3 **Change of addresses or numbers.** Each party may change the addresses or numbers in the specific order to any other addresses or

numbers in the same country by writing to the other party 14 (fourteen) days before the change.

35.4 **Deemed delivery.** Notice will be considered to be delivered the business day following the date shown on any hand-delivered or email confirmation of delivery.

35.5 **Notice actually received.** If a party actually receives any notice or other communication, this will be good enough.

36 Force majeure

36.1 **Parties not liable.** No party is responsible for any breach of this agreement caused by circumstances beyond its control, including flood, fire, earthquake, war, tempest, hurricane, industrial action, government restrictions or 'acts of God'.

36.2 **Party affected to notify other party.** If there is an event of force majeure, the party affected will tell the other immediately of:

- the cause, nature and extent of the circumstances;
- the expected duration of the circumstances; and
- how much its performance will be affected;

and it will meet within seven days to negotiate other ways to carry out any affected responsibilities under this agreement. The parties will continue to comply with the responsibilities that are not affected by the circumstances.

36.3 **Right to cancel.** If a party cannot fulfil a material (significant) part of its responsibilities under this agreement for more than 30 days because of force majeure, the other party may cancel this agreement, without liability to the affected party, on seven days' written notice.

37 General

37.1 **Entire agreement.** The agreement is the entire agreement between the parties on the subject including the order, our EULA that can be found at '<https://aiforged.com/EULA/>' and our privacy policy '<https://aiforged.com/privacypolicy/>'.

37.2 **Signed in part.** The agreement and orders may be signed in two or more counterparts, and the signed counterparts, taken together, will constitute a binding agreement between the parties.

37.3 **Changes to the terms.** No change to the terms is effective unless in writing and signed by both parties.

37.4 **Third-party software licence agreements and changes.** Our goods or services provided under this agreement or an order may incorporate third-party software provided by our third party contractors, in which case the applicable third-party software licence terms will apply to your use of our goods or services. The third-party software licence terms are incorporated into this agreement by this reference and are available from us on request or at '<https://aiforged.com/thirdpartyterms/>'. We will notify you of any changes to any of these third-party software licence terms by placing a notice in a prominent place on our website, or notifying you by email. The updated third-party software licence terms will be effective immediately and you will be deemed to have accepted them upon notification.

37.5 **Waiver (giving up of rights).** Any waiver we may allow you will not affect or substitute any of our rights against you.

37.6 **Severability.** If any term is void (invalid), unenforceable, or illegal, the term may be severed (removed) from and will not affect the rest of this agreement if it does not change its purpose.

37.7 **Governing law.** South African law governs the agreement.

37.8 **Jurisdiction for actions.** Each party consents to the jurisdiction of the lowest courts of South Africa, related to any action or proceedings that a party may bring against the other party in connection with this agreement or the relevant order, even if the action or proceedings would otherwise be beyond that court's jurisdiction. This clause is without prejudice to our right to institute any action in any other court having jurisdiction.

37.9 **Non-exclusivity.** We may provide any goods or services to any other person or entity. We may exploit our intellectual property subject to our confidentiality obligations.

37.10 **Costs.** Each party is responsible for its own costs of drafting and negotiating this agreement.

37.11 **References and publicity.** Neither party may make any announcement or statement to the press about this agreement or any order, or otherwise reference the other party in any communications with third parties without the other party's prior written consent.

37.12 **Acceptance of privacy policy.** By agreeing to these terms, you confirm that you have read, understood and agree to be bound by the terms of our privacy notice.

37.13 **Survival.** The termination, cancellation, or expiry of this agreement will not affect the enforceability of the terms that are intended to operate after expiry or termination.