

SERVICE LEVEL AGREEMENT

entered into and between

The Client

And

RESOLUTE EDUCATION (PTY) LTD

(Registration Number: 2018/604313/07)

(hereinafter referred to as the "Supplier")



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1. PARTIES

The Parties to this Agreement are –

- 1.1 The Client as set out in the Proposal (hereinafter referred to as the “Client”);
and
- 1.2 Resolute Education (Pty), with Registration No. 2018/604313/07, a company duly incorporated in terms of the Company Laws of the Republic of South Africa, and with its registered address as set out in the Proposal (hereinafter referred to as “the Supplier”)

2. INTERPRETATION

In this Agreement unless the context clearly indicates a contrary intention:

- 2.1 the headings are for reference purposes only and shall not affect the interpretation of any part hereof;
- 2.2 the singular includes the plural and vice versa;
- 2.3 a reference to one gender includes the other gender;
- 2.4 a reference to a natural person includes a juristic person and vice versa;
- 2.5 Reference to a “Business Day” means any day other than a Saturday, Sunday or an official public holiday in South Africa;
- 2.6 any reference to an enactment is to that enactment as at the date of signature hereof and as amended or re-enacted from time to time;



- 2.7 if any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in the body of the Agreement;
- 2.8 words and expressions defined in the Companies Act, 71 of 2008 of the Republic of South Africa shall be given those defined meanings when used in this Agreement;
- 2.9 The rule of construction that clauses must be interpreted against the Party principally responsible for drafting will not apply.

3. DEFINITIONS

- 3.1 Defined terms set out herein below will have the following meanings provided and will be written in initial capitals, cognate expressions bear a like meaning:
 - 3.1.1 "Agreement" means this Service Level Agreement , and all annexure and schedules hereto;
 - 3.1.2 "Commencement Date" means the commencement date as set out in the Proposal;
 - 3.1.3 "Confidential Information" means any and all information, documentation or knowledge of confidential or proprietary nature, in whatever form and of whatever nature, not generally known to the public, disclosed to, or which may be obtained directly or indirectly by a Party, or which may be derived in any way by it as a consequence of the performance under this Agreement. Including, without limitation:
 - 3.1.3.1 information relating to the a Party's Products and Services; Platform; Software designs; inventions, improvements; standards, specifications, systems, methods and operating procedures;
 - 3.1.3.2 techniques and modes of manufacturing, compounding or preparing the Products, merchandising, marketing plans and strategies;



- 3.1.3.3 tests and reports; profits, costs, pricing, product sourcing and sales policies and strategies;
- 3.1.3.4 buying habits and preferences of present customers as well as prospective and potential customers, their names and addresses;
- 3.1.3.5 trade secrets, know-how, data, research and development; patents, trade marks, copyright, industrial design;
- 3.1.3.6 all other Intellectual Property and proprietary rights; and
- 3.1.3.7 shall also include the terms of this Agreement;
- 3.1.4 “Fees” means the fees and expenses payable by the Client to the Supplier as more fully set out in the Proposal and as amended from time to time;
- 3.2 “Force Majeure” means any material event beyond the control of the Party claiming occurrence of Force Majeure, which occurrence could not have reasonably been foreseen; and which, despite the exercise of diligent efforts, could not be prevented, limited or minimised, including but not limited to war (declared or not), revolution, riot, strikes (except strike by or affecting employees of either Party, which strikes are not part of or directly related to any more wide spread or general strike or other industrial action), insurrection, civil commotion, invasion, armed conflict, hostile action or foreign enemy acts of terrorism, sabotage, radiation, or chemical contamination, acts of God, natural disaster, plague, serious epidemic or pandemic, official declared state of emergency, embargoes, sanctions, or law, global shortage of raw or other materials or non-availability of transport facilities, orders, restrictions, or sanctions imposed by any government or governmental authority (including the United Nations Organisations) or by Force Majeure of any description whether or not of the specific nature indicated above;
- 3.2.1 “Educational material” means the textbooks, teaching material and training sessions and development offered with the Kits as more fully set out in the Proposal and as amended from time to time;



- 3.2.2 "Initial Period" means the initial period of this Agreement as set out in the Proposal;
- 3.2.3 "Intellectual Property" means any and all rights of a Party in relation to its Intellectual Property and Software, in its widest term as defined and in terms of the Intellectual Property Laws of the Republic of South Africa, and if applicable anywhere else in the world, including but not limited to: (i) patents, trade marks, service marks, registered designs, applications for any of those rights, trade and business names (including internet domain names and email address names), (ii) unregistered trade marks and service marks, copyrights, know-how, trade secrets, methodology, database rights, rights in the design and inventions and (iii) rights of the same or similar effect and nature as those as set out as herein above, in each case and any jurisdiction, in relation to the Products, Services, Software and Platform, or of any other nature whatsoever;
- 3.2.4 "Intellectual Property Rights" means any and all rights of a Party in relation to its Intellectual Property;
- 1.1.1 "Kits" means the robotic kits and all components thereto, together with the Educational Material offered by the Supplier, as more fully set out in the Proposal and as amended from time to time.
- 1.1.2 "License" means any license granted by the Supplier to the Client for the use of the Software on its Platform, alone or in combination with its Products.
- 1.1.3 "Parties" means the Client and the Supplier, and "Party" shall mean any one of them as the context requires;
- 1.1.4 "Platform" means the electronic platform (Learning Management System or LMS) used to access the Supplier's Software and Educational Material that accompanies its Products;
- 1.1.5 "POPIA" means the Protection of Personal Information Act No. 4 of 2013, as amended from time to time;



- 1.1.6 "Products" means all Kits, Educational Material, Software and any License or other products offered by the Supplier and as amended from time to time, including any and all Services relating thereto, as more fully set out in the Proposal and as amended from time to time;
- 1.1.7 "Proposal" means the Proposal, including the Terms and Conditions to the Proposal, provided by the Supplier to the Client for the delivery and rendering of the Products, Services and Licenses and which has been acknowledged and agreed to by the Client;
- 1.1.8 "Services" means the services to be provided by the Supplier to the Client in respect of the Products or License, and as is more fully specified in the Proposal;
- 1.1.9 "Site" means the site where the Supplier shall render the Products and Services as more fully specified in the Proposal and as amended from time to time;
- 1.1.10 "Software" means the applications and /or computer programs developed and installed, or to be developed and installed, by the Supplier in combination with or in relation to the Products and its technical and functional specifications, including any one or more modules and all upgrades and enhancements thereof;
- 1.1.11 "Termination Date" means the termination date as set out in the Proposal;

4. RECORDAL

- 4.1 WHEREAS the Supplier is the sole owner of the Products and any and all Intellectual Property relating thereto;
- 4.2 WHEREAS the Client wishes to purchase the Products and/or Services and/or Licenses in relation to the Products from the Supplier;



- 4.3 WHEREAS the Supplier has offered and the Client has accepted the Products and/or Services and/or Licenses in accordance with the Proposal provided by the Supplier to the Client;
- 4.4 AND WHEREAS the Parties wish to regulate their relationship in accordance with the terms and conditions of this Agreement, which shall at all times be read together with the Proposal, as if specifically incorporated therein.

NOW WHEREFORE THE PARTIES HEREBY MUTUALLY AGREE AS FOLLOWS:

5. APPOINTMENT AND DURATION

- 5.1 This Agreement shall commence on the Commencement Date, shall endure for the Initial Period and shall terminate on the Termination Date, unless terminated earlier, or extended under the provisions of this Agreement or the Proposal.
- 5.2 The Client hereby appoints the Supplier to provide the Products and to perform any related Services and the Supplier hereby accepts such appointment upon the terms and conditions as set out herein.
- 5.3 The Supplier enters into this Agreement as an independent contractor and records that no principal/agent; joint venture; partnership, or employer/employee relationship is created hereby.

6. PLACING OF ORDERS

The Supplier shall to provide the Products and/or Services and/or Licenses in relation to the Products in accordance with the Proposal, or in terms of an order placed and approved by the Supplier in writing from time to time, and on such terms and condition as the Parties may mutually agree in writing.



7. RIGHTS AND OBLIGATIONS OF THE CLIENT

- 7.1 The Client undertakes –
 - 7.1.1 to remunerate the Supplier for its Products, Services and Licenses in accordance with clause 9;
 - 7.1.2 to provide the Supplier the necessary logistical support and access to the Site so as to enable the Supplier to effectively render the Products and Services; and
 - 7.1.3 to co-operate with the Supplier's reasonable requests for purposes of facilitating a timeous and efficient delivery of the Products and Services.
- 7.2 The Client hereby indemnifies and agrees to hold the Supplier free and harmless from and against any and all proceedings, claims, demands, liabilities, losses, damages and legal and associated costs of whatsoever nature, however arising, incurred in respect of or in connection with:
 - 7.2.1 any damage or loss to property, movable or immovable, corporeal or incorporeal, real or personal;
 - 7.2.2 any injury to any individual, including injury resulting in death;
 - 7.2.3 violation of any third-party rights, including without limitation any right of privacy or Intellectual Property rights;

arising out of or in connection with the actions of or omissions by the Client or its employees or sub-contractors, or any breach of its obligations hereunder.

- 7.3 The Client undertakes to use the Products, Services and License strictly as contemplated herein.



8. WARRANTIES OF THE CLIENT

In addition to any warranties given elsewhere in this Agreement by it, the Client gives the following warranties to Supplier as at the Commencement Date:

- 8.1 The Client warrants (if applicable) that it has been validly incorporated in accordance with the laws of the Republic of South Africa and will maintain its corporate existence;
- 8.2 As at the Commencement Date, it is duly authorised, by its statutory documents to conclude this Agreement;
- 8.3 All information (as supplemented from time to time) that has been made available or will hereafter be made available by it or any of its representatives to the Supplier in connection with this Agreement, was and will be complete and correct in all material respects at the time of its disclosure and did not and will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein not misleading in the light of the circumstances under which such statements were made or are made;
- 8.4 All actions required to be taken in order to enable it to lawfully enter into, exercise its rights under and perform and comply with its obligations under this Agreement have been taken or will be taken timeously;
- 8.5 No legal suit, action, proceeding, process or other steps have been taken, or to the best of its knowledge and belief and having made reasonable enquiries, have been threatened for the winding up or liquidation or sequestration (whether voluntary or involuntary, provisional or final), judicial management (provisional or final) or deregistration of the Client or for the appointment of a liquidator, judicial manager or similar officer over the Client or over any of its assets; and
- 8.6 The execution of this Agreement and any exercise by it of its rights and performance of its obligations hereunder do not:-



- 8.6.1 breach any agreement to which it is a party and which is binding upon it or any of its assets;
- 8.6.2 contravene any applicable law;
- 8.6.3 conflict with its constitutive documents; and
- 8.6.4 breach any court order or any decision by any arbitrator, arbitral tribunal or government authority which is binding on it.
- 8.7 To the extent applicable, the Client agrees to comply with the terms and conditions of any third party service providers, which may apply in respect of the Products, Services or License, as communicated by the Supplier to the Client from time to time.

9. RIGHTS AND OBLIGATIONS OF THE SUPPLIER

The Supplier undertakes-

- 9.1 To provide the Products and to perform the Services according to good industry practice and with the highest degree of care, skill and diligence, reasonably required to the satisfaction of the Client;
- 9.2 to devote the necessary time and attention to providing the Product and Services, and not to engage in any business or activity that will prevent the Supplier from providing the Product or Services;
- 9.3 to provide Products and to render the Services in terms of the Proposal or any subsequent orders, as may amended by written agreement of the Parties from time to time;
- 9.4 to respect and observe all applicable laws and the rules of any applicable professional regulatory body; and



- 9.5 to provide the Client with any information and reports reasonably requested by the Client in connection with the Products and Services;
- 9.6 The Supplier confirms that, as at the Commencement Date:
 - 9.6.1 no application for its winding up is either pending or threatened;
 - 9.6.2 no litigation, arbitration or administrative proceedings are pending or threatened against it which, if adversely determined, would have a detrimental effect upon its financial situation, business activities or its ability to render the Products and Services;
 - 9.6.3 it is fully experienced and properly qualified and equipped to perform the class and/or type of work constituting the Products or Services;
- 9.7 The Supplier, in rendering the Products or executing the Services:
 - 9.7.1 recognises that the timely execution under this Agreement and related obligations is material and of the essence to this Agreement;
 - 9.7.2 shall, at its own cost, attend such meetings as may reasonably be required by the Client from time to time;
 - 9.7.3 shall comply with all reasonable instructions and directions in relation to the Products and/or Services and/or this Agreement issued to the Supplier by the Client;
 - 9.7.4 shall comply with the security and other applicable regulations and policies of the Client as may be in existence in all areas of operation of the Client from time to time as and when communicated to it;
 - 9.7.5 guarantees that it shall treat all "personal information", as defined strictly within the parameters of POPIA and in accordance with the provisions of clause 13.



- 9.8 No sub-contracting by the Supplier shall in any manner divest it of its responsibility to comply with its obligations under or in connection with this Agreement and/or for delivery of the Products or Services.
- 9.9 Neither the Supplier nor any of its employees shall at any time hold itself and/or themselves out to be the employees or agents of the Client.
- 9.10 The Supplier hereby indemnifies and agrees to hold the Client free and harmless from and against any and all proceedings, claims, demands, liabilities, losses and legal and associated costs incurred in respect of or in connection with:
- 9.10.1 any damage or loss to property, movable or immovable, corporeal or incorporeal, real or personal;
- 9.10.2 any injury to any individual, including injury resulting in death;
- 9.10.3 violation of any third-party rights, including without limitation any right of privacy or Intellectual Property rights;

arising out of or in connection with the actions of or omissions by the Supplier, or its employees or sub-contractors, or any breach of its obligations hereunder.

10. FEES AND PAYMENT

- 10.1 During the term of this Agreement and as consideration for the Products, Services and Licenses provided by the Supplier to the Client, the Client will pay the Supplier the Fees and charges as set out in the Proposal or any subsequent order.
- 10.2 All payments must be made upfront and in advance, prior to the Commencement Date, upon receipt of an invoice from the Supplier, unless otherwise mutually agreed to between the Parties in writing in terms of the Proposal.



- 10.3 It is recorded that the Fees payable to the Supplier as provided for, is exclusive of Value Added Tax ("VAT") and disbursements, unless clearly specified otherwise. In invoicing the Client the Supplier will distinguish the relevant disbursement components from the Fees charged by the Supplier for the Products, Services or Licenses and the Client will approve all pre-agreed disbursements reasonably incurred by the Supplier in carrying out the Services.
- 10.4 The Fees payable in terms of this clause 9 shall be payable into such bank account as the Supplier may nominate and notify the Client in writing from time to time.
- 10.5 The Fees payable in terms of this clause 9 shall be subject to an annual increase levied at the sole discretion of the Supplier, subject to reasonable written notice to the Client . .
- 10.6 The Supplier reserves the right to levy interest on any late payments at the maximum prescribed rate as determined in the National Credit Act 34 of 2005, and as amended from time to time, from the date due to date of payment received, calculated daily and compared monthly.

11. DELIVERY

- 11.1 Upon delivery and signing of the delivery note, the Client acknowledges that it has thoroughly inspected the Products delivered, and found them to be in good condition, conforming to order specifications and free from any damages or defects.

12. DEFECTS, DISCREPANCIES AND MISSING COMPONENTS

- 12.1 Any defective Products shall be reported to the Supplier within 21 (twenty-one) days of delivery of the Product, to be repaired or replaced at the cost and discretion of the Supplier. The Client shall bear the cost of repair or replacement if not reported within the aforesaid period;



- 12.2 The Client shall, within 10 (ten) days from date of delivery, report any discrepancies in Products ordered, or any missing components to the Supplier in writing.

13. REPAIR AND REPLACEMENT POLICY

- 13.1 The Client shall report any damaged Products to support@resolute.education, together with:-
- 13.1.1 Any photo or video material evidencing such damaged Products;
- 13.1.2 Explanation of how the Product were damaged;
- 13.2 Following an initial assessment, the Supplier may address and approach such damaged Products as they deem fit, and may request that such Products be delivered to the Supplier's offices:
- 13.2.1 If possible, to repair the Product, at the cost of the Client, subject to prior written notification of the applicable costs, to be approved by the Client in writing; or
- 13.2.2 If the cost of repair of the Product exceeds 80% of the value of the Product, the Supplier will recommend that the Product be replaced at the cost of the Client; and
- 13.2.3 Where the damaged Product has been returned and is replaced, the Client will qualify for 10% discount on the cost of replacing the Product;
- 13.3 The repaired or replaced Product will be returned to the client, subject to the payment of a delivery fee prior to shipment thereof.



14. CANCELLATION OF PARTICULAR SERVICES

- 14.1 This clause applies to the following Services, as further set out in the Proposal:
 - 14.1.1 Training;
 - 14.1.2 Services rendered on scheduled steam days;
 - 14.1.3 Services rendered on scheduled open days.
- 14.2 Any booking or scheduled event in respect of the aforesaid Services, will bear the following penalty or cancellation charges, upon cancellation within the time periods as set out below:-
 - 14.2.1 Services may be cancelled and rescheduled free of charge with at least one month's advance written notice;
 - 14.2.2 Services cancelled less than one month, but more than one week prior to a booking or scheduled event will be charged a penalty fee of 25% (twenty-five) per cent of the total Fee.
 - 14.2.3 Services cancelled within the week of a booking or scheduled event will be charged the full Fee.

15. LIMITATION OF LIABILITY

- 15.1 The Client uses the Products and Services entirely at its own risk and hereby indemnifies and holds the Supplier harmless from any claims, liability, losses, damages or costs (including any legal costs) incurred or suffered by the Client as a result of any use of the Products.
- 15.2 Neither Party nor its affiliates, shall under any circumstances be liable for any consequential, indirect or special damages or losses of whatsoever nature and howsoever arising, whether in contract, direct or otherwise, suffered by



the other Party arising out of the Products or Services rendered pursuant to this Agreement.

- 15.3 Notwithstanding any provision to the contrary, the warranties given by the Supplier under this Agreement will not apply to the extent that an error is due to causes that are external to, or otherwise beyond, the Supplier's reasonable control, including, without limitation, and event of Force Majeure as defined in clause 18 below;
- 15.4 Except as specifically agreed under this Agreement, or as statutorily otherwise required, the Supplier disclaims all other warranties, express or implied, including any warranty of satisfactory quality, merchantability or fitness for a particular purpose. The Supplier does not represent that the Products, Services and Intellectual Property are error free or operate without interruption.

16. PROTECTION OF PERSONAL INFORMATION ACT

- 16.1 For purposes of this clause 13, terms that are defined in the POPIA shall have the same meaning when used in this clause 13 unless clearly stated otherwise.
- 16.2 Each Party will comply with all reasonable requests from the other party with respect to protecting personal information of the other Party's employees, customers and suppliers which it receives in connection with its performance of this Agreement. To the extent that either Party processes personal information of the other Party, including but not limited to personal information relating to its employees, customers and suppliers, each Party agrees that it will:
 - 16.2.1 restrict access to personal information to employees or agents who are properly authorised to process such personal information and who, by virtue of their office or contract are subject to appropriate confidentiality obligations;
 - 16.2.2 follow the other Party's instructions in connection with processing such personal information;



- 16.2.3 implement reasonable, appropriate technical and organisational measures to preserve the integrity and confidentiality of the personal information and to prevent any unauthorised processing, access, use, corruption or loss of the personal information;
- 16.2.4 verify that all security measures that are in place are effectively implemented;
- 16.2.5 not transfer or process personal information outside of South Africa to recipients that are not subject to appropriate data protection principles unless consent of the other Party is obtained to do so;
- 16.2.6 not disclose any such personal information to any third party without the prior written consent of the other Party or unless required by law;
- 16.2.7 conduct regular assessments to identify all reasonable foreseeable internal and external risks to the personal information in that Party's possession or control and update and align safeguards with the risks identified;
- 16.2.8 delete any personal information in its possession or control upon the expiry of the applicable retention period as prescribed by law, or upon the expiry or termination of this Agreement, or within 10 (ten) days of a written request by the other Party requesting the deletion or handing over of such personal information, whichever occurs first, unless otherwise Agreement upon between the Parties; and
- 16.2.9 provide the other Party upon reasonable advance notice with access to its premises to ensure that appropriate security measures are in place to protect the personal information.
- 16.3 In protecting personal information as set out in this clause 13, the Parties agree to adhere to all data privacy laws including but not limited to the POPIA, and in the event of any unauthorised, unlawful and/or unintended processing or where there are reasonable grounds to believe that the personal information has been access or acquired by any unauthorised person, each Party will immediately notify the other Party and co-operate with all



reasonable requests to investigate and remediate such incident and provide appropriate response.

- 16.4 In addition to the provisions of this clause 13, the Supplier shall Process any and all Personal Information of the Client, in accordance with its Privacy Policy.

17. STATUS OF PARTIES

It is recorded that, notwithstanding any provision to the contrary in this Agreement, the status of the Supplier shall be that of an independent contractor, and nothing in this Agreement shall be construed as creating a partnership or a contract of employment between the Client and the Supplier, and the Supplier will not be, or deemed to be, an agent of the Client or hold itself out as having authority or power to bind the Client in any way.

18. DISPUTE RESOLUTION & ARBITRATION

- 18.1 Any material breach of this Agreement, or any dispute, difference or question which may arise at any time hereafter between the Parties regarding the true construction and/or interpretation of this Agreement or any other rights and liabilities of the Parties hereto shall, unless otherwise herein expressly provided, be resolved as follows:
- 18.2 The Parties shall, in good faith, firstly try and amicably resolve this matter by and between them, failing such resolution, either Party may refer the matter to arbitration in accordance with the requirements set out herein below;
- 18.3 The arbitrator shall be appointed by the Parties by mutual agreement, and failing such agreement, the arbitrator shall be appointed by the Chairperson for the time being of the Pretoria Society of Advocates.
- 18.4 The Arbitrator shall be a Counsel with at least 15 (fifteen) years' experience;
- 18.5 The arbitration shall be held in Pretoria, Republic of South Africa ;



- 18.6 The arbitration shall be held in accordance with the Uniform Rules of Court, in accordance with the formalities and procedures settled by the arbitrator, which shall be in an informal and summary manner, that is, it shall not be necessary to observe or carry out either the usual formalities or procedure or the strict rules of evidence, and otherwise subject as aforesaid to the Arbitration Act, 1965, of the Republic of South Africa and any statutory modification or re-enactment thereof;
- 18.7 The arbitrator shall be entitled to:
- 18.7.1 investigate or cause to be investigated any manner, fact or thing which he considers necessary or desirable in connection with any matter referred to him for decision;
 - 18.7.2 decide the matters submitted to him according to what he considers just and equitable in all the circumstances, having regard to the purpose of the Agreement, and
 - 18.7.3 make such award, including but not limited to an award for specific performance, an interdict, damages or a penalty and the costs of arbitration or otherwise, as he in his discretion may deem fit and appropriate.
- 18.8 The arbitration shall be held as quickly as possible after it is demanded with a view to it being completed within 30 (thirty) days after it has been so demanded;
- 18.9 This clause is severable from the rest of the Agreement and shall remain in effect even if the Agreement is terminated;
- 18.10 The provisions of clause 15 will not preclude a Party from seeking urgent relief from a Court in appropriate circumstances.



19. BREACH OF CONTRACT

- 19.1 Notwithstanding any other provisions in this Agreement, should either Party commit any breach of any term or condition of this Agreement and fail to remedy such breach within 7 (seven) days of receipt of a notice from the other Party calling upon the defaulting Party to rectify such breach, the other Party shall, without prejudice to any other rights which it may have, be entitled to:
- 19.1.1 claim specific performance in terms of this Agreement and claim for damages; or
 - 19.1.2 immediately cancel this Agreement and claim for damages; or
 - 19.1.3 apply any such other relief and/or urgent relief, or as the case may be.

20. TERMINATION

- 20.1 This Agreement may be terminated by mutual written agreement between the Parties;
- 20.2 Either Party may terminate this Agreement, in the event of a failure to rectify a Breach as contemplated in terms of clause 16 or as provided for elsewhere in the Agreement.
- 20.3 Either Party may terminate this Agreement in the event of the occurrence of any of the following termination events (if applicable) or if such termination is provided for elsewhere in this Agreement: -
- 20.3.1 Either Party ceases to conduct business, is declared insolvent, or makes a general assignment for the benefit of its creditors, or liquidation or sequestration are proceedings instituted by or against it (whether provisionally or final).



- 20.3.2 Either Party has a material change in its ownership structure such that "voting control" is held by a new person or entity, and the new person or entity is not willing to agree by the terms of this Agreement.
- 20.4 The right to terminate is not exclusive and will not detract from any other rights that an aggrieved Party may have.
- 20.5 Upon the termination of this Agreement, all rights granted to the Client hereunder will immediately cease.
- 20.6 Any and all remaining unpaid fees or outstanding obligations under this Agreement shall become immediately due and payable to Licensor upon written notice.
- 20.7 Any Fees paid in advance will not be refunded.
- 20.8 Notwithstanding the termination or expiration of this Agreement all rights and obligations of the Parties in terms of any clause of this Agreement, which by their nature survive the termination or expiration of this Agreement, shall survive the termination or expiration of this Agreement.

21. FORCE MAJEURE

- 21.1 If either Party is prevented or restricted directly or indirectly from carrying out all or any of its obligations under this Agreement as a result of Force Majeure or any other cause or contingency beyond its foreseeable control, the Party so affected shall be relieved of its obligations hereunder during the period that such event and its consequences continue, but only to the extent so prevented and shall not be liable for any delay or failure in the performance of any obligations hereunder or loss or damages either general, special or consequential which the other Party may suffer due to or resulting from such delay or failure, provided always that written notice shall forthwith be given of any such inability to perform by the affected Party.



- 21.2 Either Party invoking Force Majeure shall, upon termination of such event giving rise thereto give written notice thereof to the other Party.
- 21.3 Should such Force Majeure continue for a period of more than 60 (sixty) days then either Party shall be entitled forthwith to cancel this Agreement in respect of any obligations still to be performed hereunder.

22. CONFIDENTIALITY

- 22.1 For the purposes of this clause any person disclosing Confidential Information shall be referred to as "the discloser" and any person receiving Confidential Information shall be referred to as "the recipient". For the purposes of this clause the phrase "personnel" or "employees" shall be deemed to include directors, personnel, agents, sub-contractors, consultants, or other representatives of the recipient. Any breach of confidentiality by such persons shall be deemed to also be a breach of confidentiality by the recipient.
- 22.2 All Confidential Information, disclosed or made available by one Party to the other in connection with this Agreement, whether furnished verbally or in writing or in computer language, and whether marked with proprietary legend or not, shall constitute confidential, proprietary information of the discloser, provided that there shall be excluded from such information any information which is, at the time of disclosure, already in the public domain otherwise than by breach of this Agreement or which was within the recipients knowledge prior to the disclosure thereof otherwise than by breach of any confidentiality requirements, or any Confidential Information which is required to be disclosed to any authority or party as prescribed in terms of law.
- 22.3 The recipient shall at all times, unless otherwise agreed in writing by the discloser, hold the Confidential Information furnished by the discloser in the strictest confidence and shall use such Confidential Information solely for the purposes of performing under this Agreement. The recipient and its employees shall not copy or reproduce the Confidential Information, in whole or in part, by any method whatsoever.



- 22.4 The recipient shall disclose such Confidential Information and the reports only to its own employees and professional advisers who will of necessity require it as a consequence of the implementation of this Agreement, provided that prior to any such disclosure, such employees and professional advisers are made aware of the confidential proprietary nature of such Confidential Information and undertake in writing in favour of the discloser to be bound (*mutatis mutandis*) by the provisions of this clause or are bound by equivalent obligations of non-disclosure.
- 22.5 Furthermore, it is agreed by the Parties that any of the Confidential Information shall not be disclosed to any third party unless otherwise agreed to.
- 22.6 This Agreement will not preclude disclosure by a Party of the Confidential Information of the other Party as required by applicable law or pursuant to valid court order or other directive provided the disclosing Party has, unless prohibited by law from doing so, provided to the other Party prompt notice of such legal requirement, order, or directive so as to enable the other Party to interpose appropriate objections thereto.
- 22.7 The recipient shall return all originals or copies of the Confidential Information held in its possession to the discloser on termination of this Agreement or shall destroy such information to the satisfaction of the discloser.

23. INTELLECTUAL PROPERTY RIGHTS

- 23.1 Except as explicitly granted in terms of the End User License Agreement between the Parties, no rights of use or any license of any nature whatsoever in respect of the Intellectual Property, are hereby granted to the Client, including those relating to any modifications and/or enhancements to the Intellectual Property.
- 23.2 The Client acknowledges that it has no ownership right, title or interest to the Supplier's Intellectual Property except as expressly granted in this Agreement or otherwise.



- 23.3 The Client shall not infringe or cause any third party to infringe on the Intellectual Property of the Supplier and shall not alter, remove, cover or otherwise interfere with copyright notices or other proprietary legends that appear on programs, data media, written documents, promotional packaging, materials in relation to the Intellectual Property supplied by the Supplier.
- 23.4 All information and data relating to the Client or any entity or individual associated with the Client or their operations and all material developed by the Client or its contractors remain the exclusive property of the Client, unless agreed otherwise.
- 23.5 All Intellectual Property conceived, developed and/or produced by the Supplier, during the tenure of this Agreement, shall remain vested in the Supplier.

24. MISCELLANEOUS

- 24.1 Neither Party shall not, without the prior written consent and approval of the other Party assign, cede, delegate, transfer or otherwise dispose of any right or obligation under this Agreement to any other person for any reason whatsoever.
- 24.2 No provision of this Agreement (including, without limitation, the provisions of this clause) may be amended, substituted or otherwise varied, and no provision may be added to or incorporated in this Agreement, except (in any such case) by an Agreement in writing signed by the duly authorised representatives of the parties.
- 24.3 Any relaxation, indulgence or delay (collectively referred to as "Indulgence") by either Party in exercising, or any failure by either Party to exercise, any right under this Agreement shall not be construed as a waiver of that right and shall not affect the ability of that Party subsequently to exercise that right or to pursue any remedy, nor shall any Indulgence constitute a waiver of any other right (whether against that Party or any other person).



- 24.4 The waiver of any right under this Agreement shall be binding on the waiving Party only to the extent that the waiver has been reduced to writing and signed by the duly authorised representative(s) of the waiving Party.
- 24.5 This Agreement supersedes all prior agreements, representations, communications, negotiations and understandings between the parties concerning the subject matter of this Agreement.
- 24.6 Whenever possible, each provision of this Agreement shall be interpreted in a manner which makes it effective and valid under applicable law, but if any provision of this Agreement is held to be illegal, invalid or unenforceable under applicable law, that illegality, invalidity or unenforceability shall be severable and shall not affect the validity and enforceability of any other provisions of this Agreement, all of which shall remain in full force.

25. ADDRESSES

- 25.1 Each Party chooses the addresses set out in the Proposal as its address to which all notices and other communications must be delivered for the purpose of this Agreement and its *domicilium citandi et executandi* ("Domicilium") at which all documents in legal proceedings in connection with this Agreement must be served.
- 25.2 Any notice or communication required or permitted to be given to a Party pursuant to the provisions of this Agreement shall be valid and effective only if in writing and sent to a Party's chosen address or e-mail address in accordance with the provisions of the clause, provided that documents in legal proceedings in connection with this Agreement may only be served at a Party's *Domicilium*.
- 25.3 Any Party may, by written notice to the other Parties, change its chosen address or e-mail address to another address or e-mail address, provided that:



25.3.1 the change shall become effective on the 10th (tenth) Business Day after the receipt or deemed receipt of the notice by the addressee in accordance with the provisions of clause 22.4; and

25.3.2 any change in a Party's *Domicilium* shall only be to an address which is not a post office box or a *poste restante*.

25.4 Any notice to a Party contained in a correctly addressed envelope; and

25.4.1 sent by prepaid registered post to it at its chosen address in clause 22.1; or

25.4.2 delivered by hand to a responsible person during ordinary business hours at its chosen address in clause 22.1;

shall be deemed to have been received in the case of clause 22.4.1 on the fifth Business Day after posting (unless the contrary is proved) and, in the case of clause 22.4.2 on the day of delivery.

25.5 Any notice by e-mail to a Party at its e-mail address shall be deemed, unless the contrary is proved, to have been received on the first Business Day after the date of transmission.

25.6 Notwithstanding anything to the contrary contained in this clause, a written notice or communication actually received by a Party shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen address or e-mail address as set out in clause 22.1.

26. costs

Each Party shall pay its own costs relating to and in connection with the negotiation, preparation and drafting of this Agreement, and any amendments thereto.

