

Terms and Conditions

These terms and conditions (the "Agreement") applies to your (we may refer to you as "you" or "the Customer") use of TechTribe IT (Proprietary) Limited's ("TechTribe", "us", "our", "we") website as well as our services, including, but not limited to, Voice, Data, Cloud Services, internet services and any other products and services that we may make available from time to time. The terms and conditions contained in this document, as well as any other documents, quotations, service orders and other proposals that you conclude with TechTribe, constitute the Agreement between TechTribe and you.

1. DEFINITIONS AND INTERPRETATION

- 1.1. For purposes of this Agreement, the following terms shall have the following meanings –
- 1.1.1. "**Business Day**" means any day other than a Saturday, a Sunday or a gazetted public holiday in the Republic of South Africa;
 - 1.1.2. "**Claim**" means a claim, action, demand, suit or proceeding;
 - 1.1.3. "**Connection date**" means, the date on which the Service provided by TechTribe is connected and becomes available for use by the Customer;
 - 1.1.4. "**Destructive Code**" means any "viruses", "trojan horses", computer code, malware, "ransomware", instructions, devices or other Materials that (i) are designed to disrupt, disable, harm or otherwise impede in any manner, including aesthetic disruptions or distortions, the operation or use of Infrastructure or Materials; or (ii) would disable the whole or any part of any Infrastructure or Materials or impair in any way their operation or use based on the elapsing of a period of time, exceeding the authorised number of copies, advancement to a particular date or other numeral; or (iii) that would permit an unauthorised party to access the Infrastructure or Materials of TechTribe to cause such disablement or impairment, or (iv) which contains any other harmful, malicious or hidden procedures, routines or mechanisms; or (v) that can cause or allow damage to, or loss, theft, destruction or corruption of, Infrastructure or Materials, data, storage media, programs, equipment or communications, or otherwise interfere with the operations thereof;
 - 1.1.5. "**Dispute Notice**" means a written notice served by an aggrieved party on a defaulting party, setting out the nature of a dispute between such parties;
 - 1.1.6. "**Effective Date**" means, in respect of each Service Order, the effective date stipulated in each Services Order, or the Connection Date, whichever is the first to occur;
 - 1.1.7. "**Emergency Changes**" means an urgent, mandatory change that may occur outside the Scheduled Downtime where critical changes impacting on TechTribe's network infrastructure must be performed in order to (i) restore accessibility and functionality of; and/or (ii) sustain the availability of the TechTribe network infrastructure;
 - 1.1.8. "**Equipment**" means the router/gateway, modem and/or any other equipment or hardware required to be installed by the Customer at the Sites in order for TechTribe to provide the Services, including, without limitation, the Equipment set out in a Service Order;
 - 1.1.9. "**Fees**" means the fees and charges payable and to be paid by the Customer to TechTribe in respect of the Services, as set out in the relevant Service Order, or as amended by agreement between the parties from time to time;
 - 1.1.10. "**Initial Term**" means the period stipulated in the Service Order(s);
 - 1.1.11. "**Infrastructure**" means information technology and telecommunications infrastructure and systems, including computer and telecommunications networks, equipment, hardware, software, middleware, firmware, data, databases, peripherals, terminals and components and such further infrastructure components as may be required or become available;
 - 1.1.12. "**Laws**" means all laws, statutes, regulations, by-laws, rules, directives and orders, including all other requirements of any government or any government agency, body, authority, tribunal, regulator or court of the Republic of South Africa;
 - 1.1.13. "**Loss**" means any actual loss, liability, direct damages, penalty, fine, expense and cost (including legal costs on the scale as between attorney and own client), including any indirect and/or consequential loss or damages of whatsoever nature;

- 1.1.14. "**Materials**" means all products, goods, software, software documentation, documentation, literature, materials, tools, data, information, databases, modules, components, compilations of data, methodologies, processes, policies, procedures, techniques, models, configurations, protocols, routines, interfaces (including Application Program Interfaces (APIs)), reports, plans, notes, files, diagrams, manuals, templates, schematics, correspondence, designs, circuit designs, algorithms, specifications, records, equipment, hardware, servers, computers, platforms, computer code, derivative works, and works of authorship, and irrespective of the form and format of the foregoing and whether tangible or intangible;
 - 1.1.15. "**Parties**" means TechTribe and the Customer, and "**Party**" means either one of them;
 - 1.1.16. "**Personnel**" means any shareholder, member, director, employee, agent, consultant, contractor or other representative of the Parties;
 - 1.1.17. "**Policies**" means the policies, guidelines, procedures and practices published by TechTribe on its Website relating to TechTribe's providing, and the Customer's use, of the Services and Equipment, as amended from time to time;
 - 1.1.18. "**Scheduled Downtime**" means a maintenance period scheduled by TechTribe for general or specific maintenance operations, enhancements, upgrades or modifications to TechTribe's network infrastructure;
 - 1.1.19. "**Security Breach**" means any incident that results in unauthorised access to computer data, applications, networks or devices, whereby a cybercriminal obtains, steals, controls or holds ransom the Customer's data.
 - 1.1.20. "**Service/s**" means those services to be provided by TechTribe to the Customer in terms of a Service Order and/or such further written agreement concluded between TechTribe and the Customer;
 - 1.1.21. "**Service Levels**" means, in relation to each of the Service/s, the service levels, standards and specifications which are applicable to the Service/s and which have been published by TechTribe on its Website, or as otherwise agreed by the Parties in writing;
 - 1.1.22. "**Service Order**" means a Service Order which has been concluded between TechTribe and the Customer, which Service Order shall incorporate the terms and conditions of this Agreement, as well as such other terms and conditions expressly agreed in the Service Order by the Parties, together with such further agreements concluded between the parties in writing;
 - 1.1.23. "**Sites**" means the offices or premises designated in the Service Order at or to which the Services are to be provided by TechTribe;
 - 1.1.24. "**Subsequent periods**" means the period following the initial term which shall continue indefinitely until terminated by either party;
 - 1.1.25. "**Third Party Service Provider**" means, in respect of any goods and services, the contractor, supplier, vendor or licensor (as the case may be) of such goods or services, which is not a party to this Agreement;
 - 1.1.26. "**VAT**" means value-added tax levied in terms of the Value-added Tax Act, 89 of 1991, as amended;
 - 1.1.27. "**Website**" means the website of TechTribe, available at <https://techtribe.mobi>
- 1.2. In this Agreement and each Service Order, headings and sub-headings are inserted for information purposes only and shall not be used in the interpretation of this Agreement or a Service Order, and unless expressly stated otherwise:
 - 1.2.1. the rule of construction that if general words or terms are used in association with specific words or terms which are a species of a particular genus or class, the meaning of the general words or terms shall be restricted to that same class (i.e. the *eiusdem generis* rule) shall not apply. The words "**include**" and "**including**" mean "**include without limitation**" and "**including without limitation**". The use of the words "**include**" and "**including**" followed by a specific example or examples, or the use of examples, shall not be construed as limiting the meaning of the general wording preceding it;
 - 1.2.2. references to a statutory provision include any subordinate legislation made from time to time under that provision and include that provision as modified or re-enacted from time to time;
 - 1.2.3. words importing any particular gender include the other genders (i.e. the masculine, feminine and neuter genders, as the case may be); the singular includes the plural and *vice versa*; and natural persons include juristic persons and *vice versa*;

- 1.2.4. references to a "person" or a "party" include a natural person, company, close corporation or any other juristic person or other corporate entity, a charity, trust, partnership, joint venture, syndicate, or any other association of persons;
- 1.2.5. technical terms that are not defined in this Agreement or in a Service Order (where such term is used in that Service Order) will have the meaning generally understood in the information communications and technology industry;
- 1.2.6. if a definition imposes substantive rights and obligations on a Party, such rights and obligations shall be given effect to and shall be enforceable, notwithstanding that they are contained in a definition;
- 1.2.7. any definition, wherever it appears in this Agreement or a Service Order, shall bear the same meaning and apply throughout this Agreement or that Service Order unless otherwise stated or inconsistent with the context in which it appears;
- 1.2.8. when any number of days is prescribed in this Agreement, the first day will be excluded and the last day included, unless the last calendar day falls on a calendar day that is not a Business Day, in which event the last calendar day shall be the next Business Day;
- 1.2.9. where the day upon or by which any act is required to be performed is not a Business Day, the Parties shall be deemed to have intended such act to be performed upon or by the next succeeding Business Day;
- 1.2.10. any provision in this Agreement or a Service Order which is or may become illegal, invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be treated as having not been written (i.e. *pro non scripto*) and severed from the balance of this Agreement or the Service Order (as the case may be), without invalidating the remaining provisions of this Agreement or the Service Order (as the case may be) or affecting the validity or enforceability of such provision in any other jurisdiction;
- 1.2.11. references to any amount shall mean that amount exclusive of VAT, unless the references to the amount expressly state that VAT is included;
- 1.2.12. the expiration or termination of this Agreement or a Service Order shall not affect such of the provisions of this Agreement, or a Service Order, as are expressly provided to operate after any such expiration or termination, or which implicitly or of necessity must continue to have effect after such expiration or termination, notwithstanding that the relevant provisions themselves do not provide for this; and
- 1.2.13. no provision herein shall be construed against or interpreted to the disadvantage of a Party by reason of such Party having or being deemed to have structured, drafted or introduced such provision.

2. SERVICE ORDER

- 2.1. From time to time during the term of this Agreement, the Customer may submit a request for Services to be undertaken, potentially, by TechTribe. Until a Service Order is formally agreed, concluded and signed by the Customer and TechTribe, TechTribe will be under no obligation in relation to such Services requested by the Customer.
- 2.2. This Agreement shall apply to each Service Order concluded between the Parties and the terms and conditions of this Agreement shall, unless otherwise stated or where inconsistent with the context, be deemed to be incorporated into each Service Order.
- 2.3. Each Service Order shall constitute a separate agreement between the Parties and shall be separate and distinct from and independent to any other Service Order that may be signed by the Parties.
- 2.4. In the event of any conflict or inconsistency between the terms of this Agreement and a Service Order, the terms of this Agreement shall prevail to the extent of such conflict or inconsistency.
- 2.5. TechTribe shall bear no obligations to the Customer, other than those specifically set out in a Service Order and this Agreement.

3. DURATION AND RIGHT OF EARLY CANCELLATION

- 3.1. This Agreement shall commence on the Effective Date of the first Service Order concluded by the Parties and, subject to clause 11 below, shall endure until the termination or expiry (as the case may be) of every Service Order concluded between the Parties.
- 3.2. The Services, in respect of each Service Order, shall commence on each respective Effective Date, unless otherwise agreed by the Parties in writing, and shall continue for the initial term set out in the relevant Service Order in relation to each Service. Each Service Order shall endure until the expiry of the term of the last Service set out in such Service Order.
- 3.3. Upon expiry of the initial term, the Services shall continue indefinitely on the same terms and conditions for further periods of equal duration ("subsequent period") unless and until terminated by either party giving unto the other at least three calendar months.
- 3.4. In the event where the customer wishes to terminate this Agreement or any service/s during the subsequent period pursuant to clause 3.3, the customer shall send written notice on a company letterhead and send this written notice to cancellations@techtribe.mobi
- 3.5. Subject to the further provisions of clause 11 below, TechTribe may terminate this Agreement or a Service Order at any time, by providing three calendar months' written notice to the Customer.

4. EQUIPMENT

- 4.1. The Customer shall either:
 - 4.1.1. purchase the Equipment from TechTribe in accordance with a separate sale agreement ("the sale agreement") to be concluded between the Customer and TechTribe, which sale agreement shall set out the terms of, and govern the relationship between the Parties with regard to, the purchase of such Equipment; or
 - 4.1.2. lease the Equipment in accordance with clause 4.3;
- 4.2. Where the Equipment is purchased by the Customer from TechTribe:
 - 4.2.1. the Equipment shall be supplied and installed by TechTribe or its nominated representative, in terms of the sale agreement in respect of the Equipment;
 - 4.2.2. TechTribe shall invoice the Customer for the cost of the Equipment and its installation, which invoice/s will be payable by the Customer in accordance with the sale agreement;
 - 4.2.3. the Customer will effect payment of such invoice/s by electronic fund transfer and provide TechTribe with proof of payment before installation is scheduled and implemented by TechTribe;
 - 4.2.4. any Equipment supplied by TechTribe to the Customer that functions incorrectly or is defective as a consequence of its design, materials or workmanship may be covered by a warranty provided by a Third Party Provider (including the manufacturer of the Equipment) or relevant legislation, for such period stated by such Third Party Service Provider or set out in the relevant legislation;
 - 4.2.5. to the maximum extent permitted by law, TechTribe gives no warranty in relation to the Equipment which has been damaged due to the negligence or conduct of the Customer, including but not limited to water damage, lightning, power surges, alterations or combination with other equipment or property; and
 - 4.2.6. while all risk in and to the Equipment shall pass to the Customer upon delivery thereof by TechTribe, TechTribe shall retain ownership of the Equipment until such time as the Customer has made payment for the Equipment in full, irrespective of whether it is installed or not.

- 4.3. Where the Equipment has been leased by the Customer from TechTribe:
 - 4.3.1. the lease Equipment and period of lease (“initial lease Equipment period”) will be detailed and listed on a Service Order as requested by the Customer and provided by TechTribe at its sole discretion;
 - 4.3.2. the lease Equipment shall be supplied and installed by TechTribe or its nominated representative;
 - 4.3.3. TechTribe shall invoice the Customer for the rental of the lease Equipment and its installation in accordance with the Service Order, which invoice/s will be payable by the Customer in accordance with the terms of this lease Agreement;
 - 4.3.4. while all risk in and to the lease Equipment shall pass to the Customer upon delivery thereof by TechTribe, TechTribe shall at all times retain ownership of the lease Equipment;
 - 4.3.5. the Customer shall be required to insure the lease Equipment to its full replacement value against the risk of loss or damage due to the Customer’s negligence, theft, fire, flood, explosion and such other like risks, and confirmation of such insurance must be provided by the Customer to TechTribe on request;
 - 4.3.6. immediately upon entering into the lease Equipment arrangement, the Customer shall provide written notification to its Landlord, informing the Landlord of the arrangement and that TechTribe shall at all times retain ownership of the lease Equipment;
 - 4.3.7. in the event of faultiness, damage, or theft to the lease Equipment, TechTribe will either repair or replace the lease Equipment, as its sole discretion;
 - 4.3.8. in the event that TechTribe replaces faulty or damaged leased Equipment, the Customer shall return the original lease Equipment to TechTribe;
 - 4.3.9. Where such damage, loss or theft arises from the conduct of the Customer or its representatives, the Customer shall be liable for the costs of repairing or replacing the lease Equipment, and which costs shall become due and payable by the Customer to TechTribe upon presentation of invoice in respect thereof.
 - 4.3.10. Upon expiry of the initial lease Equipment period, the lease Equipment period shall continue indefinitely on the same terms and conditions for further periods of equal duration (“subsequent lease Equipment period”) unless and until terminated by either party giving unto the other at least three calendar months’ notice (“cancellation notice period”).
 - 4.3.11. In the event where the customer wishes to terminate the lease Equipment lease during the subsequent period, the customer shall send written notice on a company letterhead and send this written notice to cancellations@techtribe.mobi.
 - 4.3.12. Upon expiry of the cancellation notice period, the customer shall provide TechTribe with access to the Customer’s premises in order to remove the lease Equipment.
 - 4.3.13. in the event that the lease Equipment arrangement is cancelled, and
 - 4.3.13.1. the Customer refuses TechTribe access to the Customer’s premises in order to remove the lease Equipment, or
 - 4.3.13.2. if when attending to remove the lease Equipment, TechTribe discovers that the lease Equipment has been damaged or removed, then
 - 4.3.13.3. TechTribe shall be entitled to invoice the Customer for the full costs of replacing the lease Equipment, together with the relevant installation charges in respect thereof, and the Customer hereby accepts liability for such costs, and which costs shall become due and payable by the Customer to TechTribe upon presentation of the invoice.
- 4.4. The Customer shall, at all times:
 - 4.4.1. take all necessary steps to prevent the Equipment from being damaged or tampered with, or otherwise modified either in configuration or setup;

- 4.4.2. house the Equipment in a safe place at the Site;
 - 4.4.3. maintain the Equipment at all times in proper working order, ensuring that the Equipment is used with due skill and care and only in the manner and for the purpose for which it was designed and intended in accordance with the business of the Customer;
 - 4.4.4. keep the Equipment comprehensively insured against all Loss, theft, damage, or destruction and any other event or occurrence that could lead to the diminution in value of the Equipment; and
 - 4.4.5. not allow any of its Personnel or any third party to make any modification or addition to any of the Equipment, software or Materials provided by TechTribe, without the prior written consent of TechTribe, which consent TechTribe shall be entitled to grant or withhold in its sole discretion.
- 4.5. Without limiting or derogating from the remainder of this clause 4, the Customer accepts the risk of damage to or destruction, Loss or theft of the Equipment and all business interruptions that are caused by or flow from such incidents or the use of the Equipment, with effect from the date that the Equipment is delivered to the Customer.
 - 4.6. When notified of the proposed installation of the Equipment, the Customer shall forthwith provide TechTribe and/or its nominated representative/s with such access and co-operation as may be required by TechTribe for the purposes of installing the Equipment.
 - 4.7. The Customer acknowledges and agrees that the Services may be interrupted, suspended or terminated should the Customer fail to provide access to the Equipment as required in terms of this Agreement, or should an Emergency Change be required at the instance of TechTribe or a Third Party Service Provider, and TechTribe shall not be liable to the Customer for any loss or damages arising out of such interruption, suspension or termination of the Services.

5. THE SERVICES

- 5.1. TechTribe will provide the Services to the Customer in accordance with the terms of the applicable Service Order (including any Service Levels applicable to the Services specified in the Service Order) and this Agreement.
- 5.2. TechTribe shall be responsible for obtaining any necessary permits, licenses or consents from the relevant statutory authorities permitting TechTribe to provide Services.
- 5.3. While TechTribe undertakes to use its reasonable endeavours to cause the Services to be uninterrupted, the Parties agree and understand that;
 - 5.3.1. due to the nature of the Services, TechTribe cannot guarantee that the Services will be uninterrupted; and
 - 5.3.2. continued and uninterrupted service is dependent on the utilisation, availability and functionality of equipment and resources provided by Third-Party Service Providers;
 - 5.3.3. TechTribe shall not be liable directly or indirectly for any losses or damages sustained arising out of any interruption in or failure of the Services (including, without limitation, the speed of any Services) as a result of any such failure, unless caused by the wilful or neglectful acts of TechTribe;
 - 5.3.4. TechTribe shall provide the Services in accordance with the Service Levels;
 - 5.3.5. in certain circumstances, TechTribe may recommend certain upgrades to resources, including those provided by Third Party Service Providers, in order to ensure a more reliable and efficient service, and that in the event that the Customer elects not to follow the recommendation of TechTribe, the Customer shall not be entitled to rely on the quality of the Services to attempt to cancel this Agreement or to suspend or withhold any payments or fees due to TechTribe or to a credit in respect of any such fees or payments, unless expressly agreed to in writing by TechTribe, by its duly authorised representative.

- 5.4. This Agreement shall remain valid and enforceable and the Customer shall continue paying the Fees in terms hereof, during any period of interruption or suspension to the Services which is caused other than as a direct result of TechTribe's wilful or neglectful acts.
- 5.5. The suspension or interruption of the Services by reason of the Customer's damage to, or negligent or unlawful use of the Services and/or the Equipment, and/or the provisions of clause 6 below, and/or the failure of the Customer to utilise the equipment and services properly and in accordance with the operational requirements thereof, shall not entitle the Customer to cancel this Agreement, or to suspend or withhold any payments or fees due to TechTribe, or to a credit for any such fees or payments. TechTribe may, without derogating from its rights under this Agreement, charge the Customer a reconnection fee of R250,00 in the event that TechTribe elects to cease the suspension of the Customer's Services, as provided for in this clause.
- 5.6. Maintenance of, remedial works to, modification of and upgrading to the Equipment and Scheduled Downtime and Emergency Changes may take place from time to time which will bring about a suspension or interruption of the Services. In such an event, TechTribe shall endeavour to notify the Customer of any impending suspension or interruption in the Services and TechTribe will make all reasonable efforts to keep the duration of such suspension or interruption to a minimum. The Customer shall not be entitled to cancel this Agreement or to suspend or withhold any payments or fees due to TechTribe, or to a credit in respect of any such fees or payments, as a result of a suspension or interruption of Services in such circumstances.
- 5.7. The Parties agree that the Customer will be responsible for providing and shall provide the necessary Equipment to receive and utilise the Services, and TechTribe will not be liable for the provision of any of the Services or Equipment unless these are expressly specified in the Service Order. Subject to the full and timeous payment of the Fees by the Customer, TechTribe hereby grants to the Customer a non-exclusive and non-transferrable license, to the extent required, to utilise and access the Services (where applicable) with the Equipment, for the term of the relevant Services in terms of the Service Order.
- 5.8. All Material and software made available by TechTribe for the purposes of providing the Services shall remain the exclusive property of TechTribe, or its licensors, as the case may be, and nothing in this Agreement shall constitute a transfer or be deemed to transfer any rights to the Customer in respect of such Materials or software, save as specifically provided herein.
- 5.9. TechTribe shall be entitled to employ any reasonable means necessary to protect its network, infrastructure and systems, including, but not limited to, from spam or unsolicited/junk communications or any vulnerabilities caused by the Customer's conduct. Without limiting or derogating from the generality of this clause 5.9, TechTribe may suspend or terminate a Customer's use of the Services (whether in whole or in part) where TechTribe is of the opinion that such a suspension or termination is necessary to protect its network, infrastructure and/or systems. In these circumstances, TechTribe shall be entitled to take such steps and do such things as it may deem necessary for the removal of the threat to its network, infrastructure and/or systems, at the Customer's cost, in order to restore the Services to the Customer in as short a time as possible.

6. CUSTOMER'S OBLIGATIONS

- 6.1. The Customer and its Personnel shall comply with TechTribe's reasonable requests and directions necessary for the implementation and use of the Services.
- 6.2. With effect from the Signature Date, the Customer shall allow TechTribe and its Personnel access (at all reasonable times) to the Sites for the purposes of fulfilling TechTribe's obligations under this Agreement.
- 6.3. The Customer shall purchase or rent/lease the Equipment, as the case may be, as required in terms of this Agreement.

- 6.4. The Customer shall, at all times:
 - 6.4.1. provide TechTribe with all assistance, Materials and information reasonably requested by TechTribe for the purposes of TechTribe performing the Services and/or performing its other obligations under the Agreement; and
 - 6.4.2. comply with the Policies applicable to the Services.
- 6.5. The Customer and its Personnel shall not do or permit to be done anything in relation to the Services and/or the Equipment which may reasonably be expected to damage or adversely interfere in any way whatsoever with the proper or normal operation of TechTribe's business and/or the performing of its obligations in terms of the Agreement.
- 6.6. To the fullest extent permissible by law, the Customer irrevocably indemnifies and holds TechTribe harmless from and against any and all Claims and any and all Loss arising out of or in connection with any Claim made or instituted against any of the Indemnified Parties by any third party (including, without limitation, for the infringement or misappropriation of any Intellectual Property Rights), where such Claim arises in relation to, or as a result of:
 - 6.6.1. Materials provided, disclosed or made available by or on behalf of the Customer or any of the Customer's Personnel;
 - 6.6.2. the use of Materials provided, disclosed or made available by or on behalf of the Customer or any of the Customer's Personnel;
 - 6.6.3. any act or omission of the Customer or any of the Customer's Personnel;
 - 6.6.4. any breach of, or non-compliance with, any of the obligations, representations, warranties or undertakings contained in clauses 6 and 7 and/or elsewhere in this agreement; or
 - 6.6.5. any prohibited or unlawful activities in relation to the Customers use of the Services and/or Equipment.
- 6.7. The Customer shall not, under any circumstances:
 - 6.7.1. prevent or preclude TechTribe from providing or maintaining the Services and/or Equipment;
 - 6.7.2. abuse the Services and/or damage the Equipment or the Infrastructure of TechTribe in any manner whatsoever;
 - 6.7.3. withhold any payment due to TechTribe for any reason whatsoever;
 - 6.7.4. be entitled to claim a remission of fees or charges, save for such remission of fees or charges as has been expressly agreed to in writing by TechTribe;
 - 6.7.5. remove or cause the Equipment to be removed from the site without the prior written consent of TechTribe, which consent TechTribe shall grant or withhold in its absolute discretion;
 - 6.7.6. alter or modify the equipment in any manner whatsoever;
 - 6.7.7. sell, assign, mortgage, encumber or otherwise dispose of, deal with or part with the Equipment or Services (or any part thereof or interest therein) or attempt to do so, without the prior written consent of TechTribe, which consent TechTribe shall grant or withhold in its absolute discretion.

7. WARRANTIES

- 7.1. The Customer represents, warrants and undertakes that on the Signature Date and at all times thereafter that:
 - 7.1.1. it will implement and maintain adequate procedures, policies, controls, systems, methodologies, and technology to prevent and avoid any unauthorised access to, alteration of, Loss, interference with, interception, or destruction of the Materials or Infrastructure of TechTribe;
 - 7.1.2. it will not intentionally or negligently introduce, or intentionally or negligently permit the introduction of, any Destructive Code into the Materials or Infrastructure of TechTribe, and it will implement and maintain adequate procedures, policies, controls, systems and technology to prevent the introduction of any Destructive Code into the Materials or Infrastructure of TechTribe;

- 7.1.3. it has the legal right and full power and authority to execute and deliver in terms of this Agreement, and to exercise its rights and perform its obligations under this Agreement, and to give effect to all the documents which are to be executed or procured by it as envisaged by this Agreement;
- 7.1.4. it will use the Services and Equipment, and perform all of its obligations under this Agreement, in accordance with all applicable Laws.
- 7.2. Each of the warranties and undertakings set out in this clause 7 shall be read separately from and without prejudice to and without derogation from all others.

8. FEES AND PAYMENT

- 8.1. The Customer shall pay TechTribe the Fees on the terms set out in the Service Order and this Agreement. The Customer will not, for any reason whatsoever:
 - 8.1.1. withhold payment (or authorisation) of any invoice which details or relates to any amounts which are payable by the Customer to TechTribe; and
 - 8.1.2. deduct, withhold or set-off from any payment due by the Customer to TechTribe, any sums owed or alleged to be owed by TechTribe to the Customer.
- 8.2. Where TechTribe performs any services and/or other activities falling outside the scope of its obligations set out in this Agreement, including a Service Order, TechTribe may charge a fee for such services and/or activities. The fee payable by the Customer will be determined by TechTribe by applying the applicable rates as set out on its Website, as amended from time to time.
- 8.3. The Parties record that, in certain instances, TechTribe's Third Party Service Providers may levy certain fees (the "**Third Party Fees**") in relation to the commencement of certain services and/or the provision of certain Equipment, including, but not limited to, costs pertaining to the installation of a fibre network for the Customer (the "**Third Party Services**"). TechTribe will notify the Customer of such Third Party Services that will be required for the purposes of the Customer receiving the Services contemplated in the Service Order, as well as the applicable Third Party Fees, once these have been determined by the applicable Third Party Service Provider. In the event that the Customer elects to receive the Third Party Services from the Third Party Service Provider identified by TechTribe, the Customer shall be solely liable to the Third Party Service Provider for the applicable Third Party Fees on the terms, and subject to the conditions, imposed by such Third Party Service Provider. In the event that the Customer elects not to receive the Third Party Services from the Third Party Service Provider identified by TechTribe, the Customer may:
 - 8.3.1. appoint an alternate Third Party Service Provider to provide the relevant Third Party Services, at the Customer's sole cost and expense, but only upon written approval by TechTribe in this regard, which approval TechTribe shall be entitled to grant or withhold in its sole discretion; or
 - 8.3.2. elect to terminate the relevant Service Order on 90 days' written notice to TechTribe, subject to the remaining provisions of this Agreement (including, without limitation, the provisions of clauses 11 and 12 below.
- 8.4. Invoicing/billing periods for the Services will run from 00h00 on the 1st day of the month to 23h59 on the 31st day of that month, unless otherwise agreed by TechTribe in writing.
- 8.5. TechTribe will provide the Customer with an electronic invoice reflecting all of its applicable monthly fees and charges for the continuous connection to the Services, its line fees (if any) and all other applicable once off and any other charges. The invoice will set out TechTribe's banking details for payment purposes if payment is not made by the Customer by way of debit order. The Customer shall pay the Fees set out in an invoice by no later than 30 days after the date of such invoice.
- 8.6. Where any amount payable by the Customer to TechTribe under this Agreement is not paid on the due date for payment, the amount due will bear interest at the prime interest rate as charged by TechTribe's bankers from time-to-time plus 2% (two percent), calculated from the due date of the payment to the date of payment.

- 8.7. Notwithstanding any provision in this Agreement to the contrary, and without prejudice to any other rights and/or remedies which TechTribe may have against the Customer, arising out of this Agreement or in law, TechTribe may, without notice to the Customer, suspend its performance of the Services and any of its other obligations (in whole or in part) in the event that any amount payable by the Customer to TechTribe under this Agreement is not paid on the due date therefor.
- 8.8. Subject to what is contained in clause 8.9 below, the Fees payable under each Service Order shall be renegotiated on the anniversary of the Effective Date of such Service Order. In the event that the Parties are unable to agree to the increase to the Fees within 5 (five) days of the anniversary of the Effective Date of a Service Order, TechTribe may, in its sole and absolute discretion, increase the Fees at its discretion, but by no more than 10% (ten percent) per annum.
- 8.9. Without limiting or derogating from the provisions of clause 8.8, above, and notwithstanding such provisions, the Parties record that the Fees payable by the Customer for the Services are based on, subject to and linked to the fees charged to TechTribe by its Third Party Service Providers. The Customer accordingly acknowledges and agrees that any increase of the fees payable by TechTribe to those Third Party Service Providers, for whatsoever reason, may result in an adjustment of the Fees payable by the Customer to TechTribe under this Agreement. The Parties agree that TechTribe may determine the extent of such increase to the Fees in its sole and absolute discretion. Such increases will take effect in the month following the notification of the Customer of such increases by TechTribe.
- 8.10. All amounts due and payable by the Customer to TechTribe in terms of this Agreement or otherwise, shall be paid by the Customer to TechTribe in South African Rands at an address and in a manner specified by TechTribe in writing from time to time.
- 8.11. An account statement signed by TechTribe's chief financial officer (or any other person designated by TechTribe's chief financial officer for this purpose), who's authority in this regard it shall not be necessary for TechTribe to prove, shall constitute prima facie proof of the amount and extent of any indebtedness by the Customer to TechTribe for all purposes, including summary judgment and/or provisional sentence proceedings.
- 8.12. All other taxes, duties, levies, insurance or any other statutorily imposed charges, to the extent that these are applicable, will be payable by the Customer to TechTribe on the basis as set out in this Agreement.

9. CONFIDENTIAL INFORMATION AND NON-SOLICITATION

- 9.1. Each Party (the "Receiving Party") shall treat and hold as confidential, all information which it may receive from the other Party (the "Disclosing Party") or which becomes known to it during the currency of this Agreement.
- 9.2. The confidential information of the Disclosing Party shall include, but is not limited to –
 - 9.2.1. any information of a confidential and/or commercially sensitive nature, howsoever obtained or received and whether or not marked confidential;
 - 9.2.2. all software and associated material and documentation, including the information contained therein;
 - 9.2.3. all information relating to:
 - 9.2.3.1. the Disclosing Party's past, present and future research and development;
 - 9.2.3.2. the Disclosing Party's business activities, pricing, products, services, customers, as well as the Disclosing Party's technical knowledge, policies, operations, *modus operandi* and trade secrets; and/or
 - 9.2.3.3. the terms of this Agreement,whether in written, oral, magnetic, machine-readable or any other format.
- 9.3. The Receiving Party agrees that in order to protect the proprietary interests of the Disclosing Party in the Disclosing Party's confidential information –

- 9.3.1. it shall only use the confidential information for the purposes of complying with its obligations under this Agreement;
 - 9.3.2. it shall only make the confidential information available to those of the Receiving Party's Personnel who are actively involved in the execution of the Receiving Party's obligations under this Agreement and then only on a "need to know" basis;
 - 9.3.3. it shall initiate internal security procedures reasonably acceptable to the Disclosing Party to prevent unauthorised disclosure of the Disclosing Party's confidential information and obtain binding confidentiality undertakings from those Personnel who need to be given access to such confidential information;
 - 9.3.4. subject to the right to make the confidential information available to its Personnel under clause 9.3.2 above, it shall not at any time use any confidential information of the Disclosing Party for its own benefit, outside of the parameters of this Agreement, or directly or indirectly disclose any confidential information of the Disclosing Party to any third party;
 - 9.3.5. all written instructions, drawings, notes, memoranda and records of whatever nature relating to the confidential information of the Disclosing Party which have or shall come into the possession of the Receiving Party and/or its Personnel, shall be and shall at all times remain the sole and absolute property of the Disclosing Party and shall promptly be handed over to the Disclosing Party when no longer required for the purposes of this Agreement.
- 9.4. On termination or expiry of this Agreement, the Parties will deliver to each other or, at the other Party's option, destroy, all originals and any copies in existence, of any and all of the confidential information in their possession, unless retention of such confidential information is required by Law, in which case the applicable provisions of this clause 9 shall continue to apply to such retained confidential information until such time as it may be destroyed or delivered to the other Party.
- 9.5. These obligations shall not apply to any information which –
- 9.5.1. is lawfully in the public domain at the time of disclosure;
 - 9.5.2. subsequently and lawfully becomes part of the public domain by publication or otherwise;
 - 9.5.3. subsequently becomes available to the Receiving Party from a source other than the Disclosing Party, which source is lawfully entitled without any restriction on disclosure to disclose the confidential information; or
 - 9.5.4. is disclosed pursuant to a requirement or request by operation of law, regulation or court order.
- 9.6. This clause is severable from the remainder of this Agreement and shall remain valid and binding on the Parties, for an indefinite period, notwithstanding the expiry or termination of this Agreement (for any reason).
- 9.7. The Customer shall not, for the duration of this Agreement, and thereafter, for its own benefit or the benefit of a third party encourage, induce or solicit the staff or former staff of TechTribe (including TechTribe's sub-contractors, agents and/or third party suppliers, whether involved in the rendering of the Services to the Customer or not, to become employed or interested directly or indirectly in any manner whatsoever by it or a competitor TechTribe or to terminate his/her employment with TechTribe. In respect of a staff member, sub-contractor, agent of third party supplier of TechTribe resigning or terminating its services with TechTribe whether during the term of this Agreement or after its termination, the Customer may not, within 12 (twelve) months of TechTribe's staff member, sub-contractor, agent of third party supplier resigning, directly or indirectly encourage or solicit such staff member, sub-contractor, agent of third party supplier, as contemplated in terms of this clause.
- 9.8. The Parties agree that in the event of a breach of the provisions of clause 9.7 above, an employment/contractor fee of 24 months of the staff member, sub-contractor, agent of third party supplier's monthly gross salary/fee will be forthwith payable by the Customer to TechTribe.

10. LIMITATION OF LIABILITY

- 10.1. To the fullest extent permitted by law and subject to clause 10.2 below, in no event or circumstances, will TechTribe or any of its Personnel be liable to the Customer for:
 - 10.1.1. any loss of profits, loss of revenue or savings, loss of goodwill, or loss of business opportunities, loss of data or software, loss of use or damages relating to a Security Breach, service downtime, or costs of substitute products, whether direct or indirect; or
 - 10.1.2. any indirect, incidental, special, punitive, exemplary or consequential losses and/or damages of whatsoever nature.
- 10.2. Nothing in this Agreement shall limit or exclude the liability of the Parties for any matter to the extent to which such liability cannot be lawfully excluded or limited.
- 10.3. Nothing in this clause 10 shall in any way operate so as to reduce or affect a general duty to mitigate Loss suffered by a Party.
- 10.4. Notwithstanding anything else contained in this clause or elsewhere in this agreement, the Customer hereby indemnifies TechTribe and holds TechTribe harmless in respect of any and all claims that may be made against TechTribe, of whatsoever nature, by the Customer or any third party, arising out of the exercise and fulfillment by TechTribe of its rights and obligations set out in this Agreement.

11. BREACH AND TERMINATION

- 11.1. Should either Party (the "**Defaulting Party**"):
 - 11.1.1. commit a breach of this Agreement (including a Service Order), and fail to remedy the breach, provided such breach is capable of being remedied, within 10 (ten) Business Days of having been called upon in writing by the other Party (the "**Aggrieved Party**") to do so; where the breach is not remediable, no such notice will be required; or
 - 11.1.2. effect or attempt to effect a compromise or composition with its creditors; or
 - 11.1.3. be provisionally or finally liquidated or placed under judicial management; or
 - 11.1.4. cease or threaten to cease to carry on business in the ordinary course; or
 - 11.1.5. commit any act or omission which would, in the case of an individual, be an act of insolvency in terms of the Insolvency Act, 1936 (as amended),
 - 11.1.6. then the Aggrieved Party may, in its discretion and without prejudice to its rights in terms of this Agreement or in law, terminate this Agreement and/or the applicable Service Order, on written notice to the Defaulting Party.
- 11.2. Without limiting or derogating from the generality of the foregoing, where the Customer is the Defaulting Party, TechTribe may:
 - 11.2.1. terminate the Services (in whole or in part) on written notice to the Customer and in the event of the Equipment being leased by the Customer from TechTribe, remove the Equipment or, if the Equipment is subject to a sale Agreement by TechTribe to the Customer, TechTribe shall be entitled to retain all payments made by the Customer to TechTribe in respect of the purchase price for such Equipment as a genuine pre-estimate of damages suffered by TechTribe arising out of the Customer's breach of the Agreement; and
 - 11.2.2. terminate this Agreement and/or any Service Order/s, on written notice to the Customer, which termination shall be without prejudice to, and shall not constitute a release or waiver of, any Claims which TechTribe may have against the Customer occasioned by the termination of this Agreement and/or any Services Order/s.
- 11.3. In the event that this Agreement is terminated for any reason, all Service Orders concluded under the Agreement shall automatically terminate with effect from the date that the termination of the Agreement becomes effective. The Customer shall be liable to TechTribe and shall pay to TechTribe any and all cancellation and /or termination fees payable by TechTribe to its third party supplier arising out of the said termination of this Agreement.
 - 11.3.1. the Customer terminates this Agreement or a Service Order for a reason other than a breach contemplated in clause 11.1 above, or

- 11.3.2. the Customer terminates this Agreement or a Service Order in accordance with the provisions of clause 11.1 above;
- 11.3.3. TechTribe terminates the Agreement or a Service Order by reason of the Customer's non-payment or otherwise pursuant to clause 11.1 above,
- 11.3.4. then, without limiting or derogating from TechTribe's further rights under the Agreement or at law, TechTribe shall be entitled (but not obliged) to impose, at TechTribe's sole and absolute discretion, an amount (the "**Termination Fee**") to be paid by the Customer to TechTribe in relation to the terminated Agreement and/or Service Order, which Termination Fee shall be calculated on the following basis:

Termination Fee = $(A \times B) - C$

Where:

A= The monthly Fees charged by TechTribe to the Customer; B= the initial term per the Service Order/s;

C= the Fees paid by the Customer to TechTribe during the initial period preceding the termination of the Agreement.

12. CANCELLATION PRIOR TO INSTALLATION OF EQUIPMENT AND/OR SERVICES

- 12.1. The customer hereby acknowledges that acceptance of any TechTribe quotation and/or contract application is a binding commitment and constitutes an order placed on TechTribe for the quoted services. The customer acknowledges, accepts and confirms that a cancellation requested by the customer of TechTribe's services, subsequent to the signing thereof, but prior to the physical connection date of the equipment/services, will result in a fee of twenty percent (20%) of the total contract value, which payment shall be due and payable by the Customer to TechTribe immediately upon demand.
- 12.2. Notwithstanding the above, TechTribe reserves the right to recover from the Customer, who agrees to pay to TechTribe, in addition to the fee referred to in clause 12.1 above, any charges incurred by TechTribe with its subcontractors and/or suppliers, as a result of such early cancellation, which portion thereof exceeds twenty percent (20%) of the total contract value, which payment shall be due and payable by the Customer to TechTribe immediately upon demand.

13. CONVENTIONAL PENALTIES ACT

To the extent that any provision of this Agreement is considered to be, or qualifies as, a penalty stipulation in terms of the Conventional Penalties Act, 15 of 1962, the terms of this Agreement shall not be construed or interpreted in such a way as entitling TechTribe to recover both damages and the penalty;

- 13.1. TechTribe shall be entitled to recover damages in lieu of the relevant penalty;
- 13.2. TechTribe shall not be obliged to accept defective or delayed performance by the Customer; and
- 13.3. the Customer acknowledges and agrees, having taken account of the prejudice that will be suffered by TechTribe, that the penalty stipulation is equitable in the circumstances.

14. DISPUTE RESOLUTION

- 14.1. This clause is a separate, divisible agreement from the rest of this Agreement and shall:
 - 14.1.1. not be or become void, voidable or unenforceable by reason only of any alleged misrepresentation, mistake, duress, undue influence, impossibility (initial or supervening), illegality, immorality, absence of consensus, lack of authority or other cause relating in substance to the rest of the Agreement and not to this clause. The Parties intend that disputes between them, including the issues set forth above, be and remain subject to arbitration in terms of this clause; and

- 14.1.2. remain in effect even if the Agreement expires or terminates for any reason whatsoever.
- 14.2. Prior to any of the dispute resolution procedures as detailed below being enforceable, the Parties hereby agree that any dispute raised by either/any Party with the other shall be referred to a meeting of a director from each Party (or their duly appointed representative/s) with a view to resolving such dispute within 5 (five) days. Failing resolution of the dispute by the aforesaid persons within 5 (five) days of the raising of the dispute, the further provisions of this clause 14 shall apply.
- 14.3. Save as may be expressly provided for elsewhere in this Agreement for the resolution of particular disputes, and subject to the provisions of clause 14.4 below, any dispute arising out of or in connection with this Agreement, or the subject matter of this Agreement, including but not limited to any dispute referred to below, shall be referred to arbitration as set out in 14.5. below:
 - 14.3.1. the existence of the Agreement and/or a Service Order, apart from this clause;
 - 14.3.2. the interpretation, application and effect of any provision/s in the Agreement and/or a Service Order;
 - 14.3.3. the Parties' respective rights or obligations under the Agreement and/or a Service Order;
 - 14.3.4. the rectification of the Agreement and/or a Service Order;
 - 14.3.5. any alleged misrepresentation, mistake, duress, undue influence, impossibility (initial or supervening), illegality, immorality, absence of consensus, lack of authority or other cause relating to or in any way connected with the Agreement, a Service Order and/or any part thereof;
 - 14.3.6. the breach, expiry, termination or cancellation of the Agreement, a Service Order and/or any matter arising out of the breach, expiry, termination or cancellation; and
 - 14.3.7. any claims in delict, compensation for unjust enrichment or any other claim, whether or not the rest of the Agreement and/or a Service Order apart from this clause is valid and enforceable.
- 14.4. Notwithstanding what is set out above, it is recorded and agreed between the parties that TechTribe shall be entitled, in its sole and absolute discretion, to proceed with legal action by way of litigation and shall not be bound by the provisions of this Dispute Resolution clause, in respect of the non-payment of any amount due and owing by the Customer to TechTribe in terms of this Agreement and/or any Service Order.
- 14.5. Subject to what is set out in clause 14.4 above and except as explicitly provided for in 14.11 below, all disputes shall be finally determined in accordance with the Commercial Arbitration Rules of the Arbitration Foundation of Southern Africa ("**AFSA**") without recourse to the ordinary courts of law.
- 14.6. Once a dispute is declared by a Party, in writing to the other Party, the Parties to the dispute shall agree on the arbitrator who shall be an attorney or senior advocate (with at least 20 years' experience in commercial legal practice), on the panel of arbitrators of AFSA. If agreement is not reached within 10 (ten) Business Days after any Party calls in writing for such agreement, the arbitrator, with the foregoing credentials, shall be nominated by the Chairman for the time being of AFSA.
- 14.7. The request to nominate an arbitrator shall be made in writing, outlining the claim and any counterclaim of which the Party concerned is aware.
- 14.8. The arbitration shall be held in Johannesburg and the Parties shall endeavour to ensure that it is completed within 90 days after notice declaring the dispute has been given, as set out in clause 14.6 above.
- 14.9. The Parties agree that, subject to clauses 14.4 above and 14.11 below, any decisions and awards of the arbitrator:
 - 14.9.1. shall be binding on them;

- 14.9.2. shall be carried into effect; and
 - 14.9.3. may be made an order of any court of competent jurisdiction.
- 14.10. The Parties agree that there shall be no appeal against the decision of the arbitrator, unless such decision was reached by the arbitrator as a result of an error in law, and which appeal shall be conducted in accordance with Article 22 of the AFSA Commercial Rules and shall be limited to such question of law and those aspects of the decision impacted by the alleged error in law.
- 14.11. Nothing contained in this clause 14 shall prohibit a Party from approaching any court of competent jurisdiction for urgent interim relief pending the determination of a dispute by arbitration. In respect of such proceedings, each of the Parties specifically consents to the non-exclusive jurisdiction of the High Court of South Africa (Gauteng Local Division, Johannesburg).

15. NOTICES AND DOMICILE

- 15.1. The Parties choose their *domicilia citandi et executandi at the following addresses:*
- 15.1.1. TechTribe:
 - 28 Main Road, Southern Paarl,
 - Paar, Cape Town
 - Western Cape
 - 7646
 - Email: notice@techtribe.mobni
 - 15.1.2. The Customer:
 - Email:
- 15.2. All notices, authorisations, requests and other formal correspondences given or made in connection with this Agreement must be sent by either:
- 15.2.1. hand, or
 - 15.2.2. pre-paid registered post; or
 - 15.2.3. electronic mail,
- to the addresses and numbers as set out in the Service Order.
- 15.3. Each Party chooses as its chosen address for service of all notices in terms of this Agreement, for all purposes under this Agreement the physical address specified for the Party set out in a Service Order.
- 15.4. Each Party may, by giving written notice to the other Party, change the addresses and numbers set out herein to any addresses and numbers in the Republic of South Africa, provided that the change shall only take effect 14 (fourteen) calendar days after delivery of the written notice.
- 15.5. Notice shall be deemed to be given:
- 15.5.1. if delivered by hand to a responsible person during Business Hours to the designated physical address, on the date of delivery;
 - 15.5.2. if sent by pre-paid registered post in a correctly addressed envelope to the designated postal address, on the 4th (fourth) Business Day after the date of posting;
 - 15.5.3. if sent by e-mail to the addressee, on the date of sending thereof, in the absence of any administrator or mail server error messages.
- 15.6. If a notice or communication is actually received by a Party, adequate notice or communication shall be deemed to have been given.

16. FORCE MAJEURE

- 16.1. Neither Party shall be liable for any failure to fulfil its obligations under this Agreement (other than its payment obligation/s, which shall remain intact and unaffected) if and to the extent such failure is caused by any circumstances beyond its reasonable control, including flood, fire, earthquake, war, tempest, hurricane, pandemic, industrial action, government restrictions, failure of third party service providers or acts of God.
- 16.2. Should any event of *force majeure* arise, the affected Party shall notify the other Party without delay and the Parties shall meet within 7 (seven) calendar days of the notice, to negotiate in good faith, alternative methods of fulfilling its obligations under this Agreement, if any. In addition, TechTribe shall continue to provide and the Customer shall continue to pay for those Services not affected by the event of *force majeure*.
- 16.3. Should either Party be unable to fulfil a material part of its obligations under this Agreement for a period in excess of 60 (sixty) calendar days due to circumstances beyond its control *or force majeure* as envisaged above, the other Party may at its sole discretion, cancel this Agreement forthwith by written notice to that Party.

17. ASSIGNMENT AND SUB-CONTRACTING

- 17.1. TechTribe shall be entitled to cede, assign, delegate or otherwise transfer the benefit or burden of any part of this Agreement without the written consent of the Customer. Without limiting the generality of the foregoing, TechTribe may sub-contract its obligations under this Agreement to a third party contractor/s, provided that TechTribe shall remain liable for the performance of the third party contractor/s in terms of this Agreement. TechTribe shall not be required to disclose the terms (including payment terms) of any sub-contract entered into with respect to TechTribe's obligations under this Agreement.
- 17.2. The Customer shall not be entitled to cede, assign, delegate or otherwise transfer the benefit or burden of any part of this Agreement without the prior written consent of TechTribe, which consent TechTribe shall be entitled to grant or withhold in its sole and absolute discretion.

18. GENERAL

- 18.1. This Agreement and each Service Order, contains all the provisions agreed on by the Parties with regard to the subject matter of the Agreement and the relevant Service Order/s, and supersedes and novates in its entirety any previous understandings, undertakings or agreements between the Parties in respect thereof; and the Parties waive the right to rely on any alleged provision not expressly contained in this Agreement or a Service Order.
- 18.2. A Party may not rely on any representation (whether made innocently, negligently or deliberately) which allegedly induced that Party to enter into this Agreement or a Service Order, unless the representation is recorded in this Agreement or the applicable Service Order.
- 18.3. No contract amending, adding to, deleting from, novating or cancelling this Agreement or a Service Order, and no waiver of any right under this Agreement or a Service Order, shall be of any force or effect unless reduced to writing and signed by authorised signatories of both the Customer and TechTribe.
- 18.4. The grant of any indulgence, extension of any time or relaxation of any provision by a Party under this Agreement or a Service Order/s (or under any other agreement or document issued or executed pursuant to this Agreement or a Service Order/s) shall not constitute a waiver of any right by the grantor or prevent or adversely affect the exercise by the grantor of any existing or future right of the grantor.

- 18.5. If the whole or any part of a term of this Agreement is void or voidable by either Party or unenforceable or illegal, the whole or that part (as the case may be) of that term, shall be severed from this Agreement, and the remainder of this Agreement shall remain of full force and effect, provided the severance does not alter the nature of the agreement between the Parties.
- 18.6. This Agreement shall be governed and construed according to the laws of the Republic of South Africa and, subject to the provisions of clause 14 above, the Parties agree to the non-exclusive jurisdiction of the High Court of South Africa, Gauteng Local Division, Johannesburg.
- 18.7. Save as is expressly provided in this Agreement, no provision of this Agreement (including a Service Order) constitutes a stipulation for the benefit of a third person (i.e. a *stipulatio alteri*) which, if accepted by the person, would bind any Party in favour of that person.
- 18.8. Should it become necessary for TechTribe to institute legal action against the Customer, the Customer shall be liable for the legal costs of TechTribe arising out of such litigation on the scale as between attorney and own client.
- 18.9. Each Party shall be responsible for its own legal and other costs relating to the drafting, negotiation and execution of this Agreement. Except to the extent stated expressly to the contrary by this Agreement or a Service Order/s, this Agreement and Service Order/s do not confer any benefits or rights on any other parties.

Signed at		on this the		day of		20
TechTribe			Witness			
			Witness			
Signed at		on this the		day of		20
The Customer (Duly Authorised)			Witness			
			Witness			

DEED OF SURETYSHIP

1. I, the undersigned,

(IDENTITY NUMBER: _____)
("the Surety")

do hereby bind myself, jointly and severally, as surety for and co-principal debtor in *solidum* with

(REGISTRATION NUMBER: _____)
("the Debtor")

for the payment on demand to

**TECHTRIBE IT (PTY) LIMITED (REGISTRATION
NUMBER: 2019/056966/07)**
("the Creditor")

of all sums of money which the Debtor owes and is indebted in, or shall in the future owe or become indebted in, to the Creditor, and the successors and assigns of the Creditor, from whatsoever cause arising, including but limited to, those arising out of the Agreement between the Debtor and the Creditor and/or in respect of any services rendered and/or goods sold and delivered and/or leased by the Creditor to the Debtor.

2. It is agreed and declared that all admissions and acknowledgements of indebtedness by the Debtor shall be binding on the Surety; that the Creditor shall be at liberty, without affecting the rights of the Creditor hereunder, to release securities and to give time to or compound or make any other arrangements with the Debtor or other person or persons, company or companies aforesaid without reference to the Surety or the Surety's approval, and that in the event of the sequestration, liquidation or judicial management of or compromise by the Debtor, no such sequestration, liquidation, judicial management or compromise and no dividend/s or payments which the Creditor may receive from the Debtor or any other person or persons, company or companies, or from the Surety shall prejudice the rights of the Creditor to recover from the Surety to the full extent of this Suretyship any sum which after the receipt of such dividend/s or payment/s may remain owing by the Debtor.
3. Should it become necessary for the Creditor to enforce its legal rights hereunder, the Surety shall be responsible for any legal expenses of whatsoever nature incurred by the Creditor on the scale as between attorney and own client, including collection commission on the amount/s collected. Moreover, should the Surety leave her address without advising the Creditor in writing of her new address the Creditor shall be entitled to instruct tracing agents to locate her whereabouts and all fees and disbursements so incurred shall be recoverable from the Surety.
4. In the event of any sequestration, liquidation or judicial management of the Debtor, the Surety binds herself not to file any claim against the Debtor in competition with the Creditor.

5. Further, in the event of any compromise by the Debtor, whether in terms of the Company Laws or under Common Law, the Surety also undertakes not to file any claim against the Debtor in competition with the Creditor.
6. The Surety hereby renounces the benefits of the legal exceptions of excussion, division, *ordinis seu excussionis et divisioni, non causa debiti* and revision of accounts, with the full force and effect of which the Surety acknowledges herself to be fully acquainted, and agrees and declares that this Suretyship is to be in addition and without prejudice to any other suretyship/s and security/ies now or hereafter held or to be held by the Creditor and that it shall remain in force as a continuing security notwithstanding any intermediate settlement of account and notwithstanding the Surety's legal disability.
7. And the Surety hereby agrees that notwithstanding any part payment by her or on her behalf, she shall have no right to any cession of action in respect of such part payment and shall not be entitled to take any action against the Debtor or against any other surety for the Debtor in respect thereof unless and until the indebtedness of the Debtor to the Creditor shall have been discharged in full.
8. For the purposes of any action against the Surety hereunder, for provisional sentence or otherwise, a certificate under the hand of a Director of the Creditor as to the amount owing by the Debtor and to the effect that the due date of payment of such amount has arrived, shall constitute prima facie proof of the facts therein stated until the contrary shall have been proved.
9. The Surety hereby consents to the jurisdiction of the Magistrates' Court in respect of any legal proceedings arising out of this suretyship.
10. The Surety hereby undertakes to pay the legal costs of any action which the Creditor may institute against her in terms of this Suretyship on the Attorney and Own Client scale, including collection commission.
11. The Surety chooses *domicilium citandi et executandi* for all purposes hereunder at the address set out alongside her name below, and all notices required to be given to the Surety in terms hereof shall be considered duly given if posted to her by registered post to the said address.
12. This Suretyship shall remain of full force and effect for so long as the Debtor is indebted to or under any obligation or commitment to the Creditor, and the Surety shall not be entitled to withdraw or cancel this Suretyship unless and until all indebtedness, commitments and obligations of the Debtor to the Creditor shall have been fully discharged, and then only upon the expiry of fourteen (14) days' notice in writing given to the Surety by the Creditor.
13. The Surety does hereby waive presentment, notice or dishonour and protest of any promissory note, bill of exchange, cheque or other negotiable instrument made, drawn, accepted, endorsed or discounted by the Debtor or to be so made, drawn, accepted, endorsed or discounted, hereby agreeing and admitting that his liability hereunder in respect of any such instrument shall not be in any way affected by any failure to present or to give notice of dishonour or to protest as aforesaid.
14. No amendment or addition to or novation or cancellation of this Suretyship and no waiver of the Creditor's rights hereunder shall be binding on the Creditor, unless reduced to writing and signed by the Creditor.

SIGNED AT _____ ON THIS THE ____ DAY OF _____ 202__.

AS WITNESSES:

Residential Address (not box number):

Email: