

Master Service Agreement:

Preamble

This **Preamble v9.1.1** replaces all previously signed Preamble version(s) (if any) and forms part of the **Master Services Agreement** and its provisions, together with all annexures incorporated by reference, are an integral part of the Master Services Agreement. Where signed electronically and or physically binds the Counterpart to all annexures and provisions contained within the same digital envelope or PDF.

A. Company/Individual Details			
Company Name/ Individual Name	('Counterpart')		
Company Registration or ID Number		Vat Number	
Physical Address			
Postal Address		Tel Number	

B. Contact Details			
	Full Name	Cell	E-mail
Technical Contact			
Finance Contact			
Signatory Contact			

C. Annexures/ Terms & Conditions			
The annexures specified as "Included" below, are incorporated by reference:			
Schedule Name		Version	Included/Excluded
Master Services	Annexure A	V9.1.1	Included
Hosted Backup Services	Annexure C	V9.1.1	
Hosted Virtual Server Services	Annexure D	V9.1.1	
Hosted Website Services	Annexure E	V9.1.1	
Connectivity Services	Annexure F	V9.1.1	
Cloud PBX Services	Annexure G	V9.1.1	
Telkom LTE Services	Annexure H	V9.1.1	
Debit Order Mandate	Annexure I	V9.1.1	Included
Personal Surety	Annexure K	V9.1.1	
Call Cabinet	Annexure L	V9.1.1	
Professional Services	Annexure M	V9.1.1	
Office 365	Annexure N	V9.1.1	
I acknowledge that I <u>have</u> reviewed and understood the contents of all annexures designated as "Included" above and are subject to the full terms and conditions, the Privacy Policy, Acceptable Use Policy, General Terms & Conditions, Debit Order Mandate, Surety and, all of which can be viewed via www.onlinedirect.co.za . I <u>accept</u> their incorporation by reference into this Master Services Agreement.			Counterpart Signer Initial here:

D. Signatures	
For and on behalf of Counterpart	For and on behalf of Service Provider
Signature	Signature
Printed Name (in full)	Printed Name (in full)
Designation	Designation
Place (full address)	Place (full address)
Date (dd/mm/yyyy)	Date (dd/mm/yyyy)

Master Service Agreement:

Annexure I: Service Schedule – Debit Order Mandate v9.1.1

This Service Schedule for **Debit Order Mandate v9.0.0** (the "Service") replaces all previously signed / incorporated version(s) of the Service Schedule(s) for Debit Order Mandate (if any) and forms part of the Master Services Agreement and Master Services Schedule. Its provisions are an integral part of the Master Services Agreement. Words and expressions defined in the General Conditions and Master Services Schedule shall (unless otherwise defined in this Services Schedule) bear the same meanings where used in this Service Schedule. In this Service Schedule the following words and phrases shall have the following meanings unless the context otherwise requires:

A. Online Direct (Pty) Ltd Bank Debit Order Instruction			
Printed Name (in full)		Debit order frequency	Monthly as per clause 7
Address (full address)		Debit Amount	As per statement balance
Contact Number (***-***-****)		Abbreviated name registered with Bank:	EJECT ONLI

B. Banking Details			
Bank		Branch Name	
Account Name		Branch Number	
Account Number		Account Type	

This signed Authority and Mandate refers to the contract as dated as on signature hereof ("the Agreement"). I / We hereby authorise Online Direct to issue and deliver payment instructions to the bank for collection against my / our abovementioned account at my / our above mentioned bank (or any other bank or branch to which I / We may transfer my / our account) on condition that the sum of such payment instructions will never exceed my / our obligations as agreed to in the Agreement, and commencing on the commencement date and continuing until this Authority and Mandate is terminated by me / us by giving you notice in writing of no less than a calendar month, and sent by email to Operations.Support@onlinedirect.co.za

The individual payment instructions so authorised to be issued must be issued and delivered as follows:

- For monthly recurring services debit orders will be on the 25th day of every month commencing on the 25th day of the calendar month. If the payment day falls on a Saturday, Sunday or recognized South African public holiday, the payment day will automatically be the very next ordinary business day. Further, if there are insufficient funds in the nominated account to meet the obligation, you are entitled to track my account and re-present the instruction for payment as soon as sufficient funds are available in my account;
- For usage-based services, i.e.: Voice usage and top ups debit orders will be on the 7th day of every month commencing on the 7th day of the calendar month. If the payment day falls on a Saturday, Sunday or recognized South African public holiday, the payment day will automatically be the very next ordinary business day. Further, if there are insufficient funds in the nominated account to meet the obligation, you are entitled to track my account and re-present the instruction for payment as soon as sufficient funds are available in my account;
- Monthly; on or after the dates when the obligation in terms of the Agreement is due and the amount of each individual payment instruction may not be more or less than the obligation due;

I / We understand that the withdrawals hereby authorised will be processed through a computerized system provided by the respective South African banking institutions and I also understand that details of each withdrawal will be printed on my bank statement. Each transaction will contain a number, which must be included in the said payment instruction and if provided to you should enable you to identify the Agreement. A payment reference is added to this form before the issuing of any payment instruction. I / We shall not be entitled to any refund of amounts which you have withdrawn while this authority was in force, if such amounts were legally owing to you.

- MANDATE** - I / We acknowledge that all payment instructions issued by you shall be treated by my/our above-mentioned bank as if the instructions had been issued by me / us personally.
- CANCELLATION** - I / We agree that although this Authority and Mandate may be cancelled by me / us, such cancellation will not cancel the Agreement. I / We shall not be entitled to any refund of amounts which you have withdrawn while this authority was in force, if such amounts were legally owing to you.
- ASSIGNMENT** - I / We acknowledge that this Authority may be ceded to or assigned to a third party if the agreement is also ceded or assigned to that third party in accordance with the Online Direct Master Services agreement, but in the absence of such assignment of the Agreement, this Authority and Mandate cannot be assigned to any third party.

C. Signatures			
Signature of responsible official who warrants his/her authority to sign this contract on for and on behalf of the Counterpart and acknowledges having read the above conditions			
Signature		Printed Name	
Designation		Date (dd/mm/yyyy)	
Place (full address)			

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Master Service Agreement:

General Conditions v9.1.1

These **General conditions v9.1.1** replace all previously signed / incorporated version(s) of the General Conditions (if any) and form part of the **Master Services Agreement** and its provisions are an integral part of the Master Services Agreement. Words and phrases shall have the following meanings unless the context otherwise requires:

1. Interpretation and Defined Terms

- 1.1. The Parties shall co-operate and consult with each other in good faith regarding the implementation of this Agreement with a view to achieving the aims and objectives of this Agreement.
- 1.2. The clause headings contained herein are for reference purposes only and shall not be used in the interpretation of this agreement.
- 1.3. Words which denote any one gender include the other gender, the singular includes the plural and vice versa, a reference to any person shall include natural persons, artificial persons and unincorporated entities and their successors-in-title and assigns.
- 1.4. Any reference to a number of days excludes weekends and public holidays and shall be reckoned exclusively of the first and inclusively of the last day.
- 1.5. Anything which is required to be done, performed or recorded in or reduced to writing (including but not limited to written requests, consents, directions and matters to be in writing) may be done, performed or reduce to writing provided by way of a data message, including but not limited to emails, telefax, and/or the SignFlow Process.
- 1.6. In the event of ambiguity or conflict, and unless stated explicitly to the contrary in the relevant clause, the order of precedence in the interpretation of the Agreement shall be:
 - 1.6.1. this Agreement;
 - 1.6.2. the Annexures attached hereto; and
 - 1.6.3. the Signed customer quotations.
- 1.7. The rule of construction that this Agreement shall be interpreted against the party responsible for the drafting or preparation of this Agreement, shall not apply.
- 1.8. If any provision of this Agreement is construed to be illegal or invalid, the illegal or invalid provisions will be treated as being deleted from this Agreement and no longer incorporated, but all other provisions of this Agreement will continue to be binding on the Parties.
- 1.9. The validity of this Agreement, its interpretation, respective rights and obligations of the Parties and all other matters arising out of it or its termination, for any reason whatsoever shall be determined in accordance with the laws of the Republic of South Africa.
- 1.10. Each Party will bear and pay its own legal costs and expenses of and incidental to the negotiation, drafting, preparation and implementation of this Agreement.
- 1.11. No Party shall be regarded as having waived, or be precluded in any way from exercising any right under or arising from this Agreement by reason of any Party having at any time granted an extension of time for, or having shown any indulgence to the other Party with reference to any payment or performance hereunder, or having failed to enforce, or delayed in the enforcement of any right of action against the other Parties.
- 1.12. In this Master Services Agreement, the following words and phrases shall have the following meanings unless the context otherwise requires:
 - 1.13. **"Authorised person"** means:
 - 1.13.1. in the case of SP, **Dion Carter**, or such other persons nominated by them in a written notice to the Counterpart from time to time;
 - 1.13.2. in the case of Counterpart, the individual(s) identified by the Counterpart as their Authorised Signatory Contact in the preamble of this Master Services Agreement;
 - 1.13.3. **"Change"** means amendment, variation or supplementing of or the addition to this Master Services Agreement and **"Changed"** shall have the corresponding meaning;
 - 1.13.4. **"Commitment Period"** shall have the meaning ascribed to that term in the services quotation
 - 1.14. **"Confidential Information"** means all proprietary and confidential information (whether written or oral) of the parties, including, without limitation, trade secrets, technical information, business information, know-how, methods, techniques, formulae, data, processes and other trade secrets.
 - 1.15. **"Content"** means data, information, video, graphics, sound, music, photographs, software including independent software vendor applications and any other materials (in whatever form) or services which may be made available.
 - 1.16. **"Customer"** means the person to whom the Services are provided, either (i) by a reseller pursuant to an agreement concluded between the reseller and the end customer or (ii) by SP pursuant to an agreement concluded between the SP and the customer.
 - 1.17. **"Customer Information"** means data, information, video, graphics, sound, music, photographs, software and any other materials (in whatever form) published or otherwise made available on the Customer equipment (directly or indirectly) by or on behalf of the Customer by using the Service. Customer Information may include information about the Customer (including individual employees or its representatives) or the Customer's users, which may include personal information.
 - 1.18. **"Signflow Process"** means the process by which this Master Services Agreement may be electronically reviewed and signed by the Parties through <https://signiflow.com> and by way of a digital envelope bearing a unique number which digital envelope has been created by the SP for the Counterpart.
 - 1.19. **"Electronically Signed"** means affixing an electronic initial and an electronic signature to this Master Services Agreement by way of the SignFlow Process
 - "Electronic Signature"** shall have a corresponding meaning.
 - 1.20. **"Intellectual Property Rights"** means (i) copyright, patents, know-how, confidential information, database rights, and rights in trademarks and designs (whether registered or unregistered), (ii) applications for registration, and the right to apply for registration, for any of the same, and (iii) all other intellectual property rights and equivalent or similar forms of protection existing anywhere in the world.
 - 1.21. **"Internet"** means the global data network comprising interconnected networks using TCP/IP ("Transmission Control Protocol/Internet Protocol").
 - 1.22. **"Master Services Agreement"** or "Agreement" means collectively, the Preamble, these General Conditions, the Master Services Schedule, the service quotations and any changes in accordance with clause 11 from time to time.
 - 1.23. **"Service/s Quotation"** means any quotation forming part of this Master Services Agreement and which governs the provisions of Services by SP to the Counterpart.
 - 1.24. **"Microsoft Online Services"** means any service provided by SP to Customer by means of the Microsoft Cloud Solution Provider ("CSP") Program including (but not limited to) Microsoft Office 365, Microsoft Intune, Microsoft Enterprise Mobility Suite, Microsoft Azure and Microsoft CRM Online.
 - 1.25. **"Operational Service Date"** means the date when the Service described in the Service(s) quotation is available for use by the Counterpart
 - 1.26. **"Order"** means a signed quotation
 - 1.27. **"Parties"** means SP and the Counterpart and **"Party"** shall, as the context requires, mean any one of them.

Master Service Agreement:

- 1.28. **"Service"** means the service or, where appropriate, the services or part of the service described in each of the Service quotation(s) which is(are) applicable to this Master Services Agreement from time to time.
- 1.29. **"Service Quotation"** means any service quotation forming part of this Master Services Agreement as at the Signature Date or which forms part of this Master Services Agreement in accordance with clause 11 and which governs the provision of any particular Service by SP to the Counterpart.
- 1.30. **"Service Quotation Fees"** means the Subscription Fees applicable to the provision of Services by SP to the Counterpart as reflected in the Quotation forming part of the relevant Service Schedule.
- 1.31. **"Service Provider or SP"** means **Online Direct (Pty) Ltd registration number 2007/015654/07**, including its authorised sub-contractors and agents.
- 1.32. **"Signature Date"** means the date of the signature of the last Party signing this Master Services Agreement.
- 1.32.1. **"Committed Subscription"** means a commitment in advance to pay based on a specific quantity of a Service during a Subscription Period
- 1.32.2. **"Consumption Subscription"** means a commitment to pay based on actual usage of a Service in the preceding month with no upfront commitment for the Subscription Period.
- 1.32.3. **"Combination Subscription"** means a Subscription that is a combination of a Committed Subscription and a Consumption Subscription.
- 1.33. **"Subscription Period"** means the specific period of time (or duration) for which a Subscription is valid.
- 1.34. **"Third Party Information"** means data, information, video, graphics, sound, music, photographs, software and any other materials (in whatever form) not owned or generated by or on behalf of the Customer, published or otherwise made available through the Service.
- 1.35. **"Working Day"** means 07:30am to 6:00pm weekdays and 9:00am to 1:00pm Saturdays and Public holidays 9:00am to 12:00pm (South Africa local time).
- 1.36. **"Personal Information"** shall bear the meaning as set out in the POPI Act and includes, but is not limited to any information provided by the Counterpart to The SP that is an identifying number, symbol, e-mail address, physical address, telephone number or similar assignment relating to the Counterpart or any Counterpart of the Counterpart, which is subject to protection in terms of any statute in South Africa which imposes data protection requirements from time to time;
- 1.37. **"POPI Act"** means the Protection of Personal Information Act, 4 of 2013, as may be amended from time to time
- 1.38. **"Processing"** shall bear the meaning as set out in the POPI Act;
- 1.39. **"Counterpart"** refers to an individual(s) who warrants his or her authority in the form of an Owner, Director and an Authorised Representative resolved to act on behalf of the company by signing a document(s) that is considered legally binding and accepts all terms and conditions, clauses and signed quotes set herein.

2. Effective date and duration

- 2.1. This Master Services Agreement commences on the Signature Date and shall have a 'Minimum Term' of 36 (thirty-six) months. Subject to clause 10, this Master Services Agreement shall endure while any Subscription, Sales Order remains in force.
- 2.1.1. Notwithstanding the Minimum Term for this Master Services Agreement, each Subscription will have a Subscription Period displayed on the top of all signed sales orders.
- 2.2. Any Changes to this Master Services Agreement will be effective as of and commence on the date determined in accordance with clause 12.3, 12.5, 12.6 (as appropriate), provided such Change is made in accordance with clause 11.

3. Provision of Service

- 3.1. SP will provide the Counterpart with the Service on the terms and subject to the conditions detailed in this Master Services Agreement.
- 3.2. SP will use reasonable endeavors to provide the Service by the date agreed with the Counterpart but all dates are estimates and SP shall have no liability for any failure to meet any date, SP will provide the Service with the reasonable skill and care of a competent service provider and will use reasonable efforts to provide uninterrupted Service but from time to time faults may occur, which SP will repair in accordance with the fault repair service as set out in the Service Quotation(s).
- 3.3. SP shall be entitled:
- 3.3.1. For operational reasons to change the technical specification of the Service, provided that any change to the technical specification does not materially affect the performance of the Service;
- 3.3.2. To give the Counterpart reasonable instructions which it believes are necessary for reasons of health, safety or the quality of any Service provided by SP to the Counterpart or any other person and the Counterpart undertakes to comply with such reasonable instructions;
- 3.3.3. Subject to reasonable notice, to suspend the Service for operational reasons including, without limitation, repair, maintenance or improvement provided that the Service shall be restored as soon as possible;
- 3.3.4. To suspend the Service with immediate effect in the event of an emergency provided that the Service shall be restored as soon as reasonably possible.
- 3.4. the Counterpart is responsible for providing suitable computer hardware necessary to access and use the Service, specifications for which, the SP will provide, upon written request by Counterpart.
- 3.5. Notwithstanding any other provision of this Master Service Agreement, SP shall have no liability in respect of any interruption, change of technical specification, implementation of instructions provided by SP to the Counterpart or suspension of the Service. Cancellation of services:
- 3.6. If the counterpart wishes to cancel any of the service(s) and or hardware related item(s) after the quote acceptance or delivery, implementation of service(s) and or hardware related item(s), the counterpart will be subject to clause 13 and the SP will be entitled to recover all monies from the Counterpart.
- 3.7. If the counterpart wishes to cancel any of the service(s) and or hardware related item(s) after the quote acceptance but before the delivery, implementation of service(s) and or hardware related item(s), the SP will be entitled to recover all monies from the Counterpart, for performance delivered as per signed quotation.

4. Intellectual property rights

- 4.1. Any specifications, descriptive matter, drawings and other documents, which may be furnished by SP to the Counterpart from time to time (1) Do not form part of the Service and may not be relied upon unless otherwise agreed in writing by both parties hereto, and (2) Shall remain the property of SP and shall be deemed to have been imparted by it in confidence to the Counterpart for the sole use of the Counterpart.
- 4.2. Nothing contained in this Master Services Agreement or in any of the documentation exchanged between SP and the Counterpart confers or shall be deemed to confer on any party any rights in or license to use any Intellectual Property Rights of the other Party except and insofar as is necessary to provide the Service in terms of this Master Services Agreement.

5. Intellectual property rights indemnities

- 5.1. The Counterpart hereby indemnifies SP against such claims and proceedings arising from infringement of any SP's Intellectual Property Rights as a result of the Counterpart's breach of SP's or Original Equipment Manufacturer's software license conditions as informed by SP for Customer's utilisation of the Service.
- 5.2. SP warrants to the Counterpart that SP is lawfully entitled to use any intellectual property utilised by SP in the provision of the Services to Counterpart under this Master Services Agreement.
- 5.3. SP hereby indemnifies Counterpart against any claim (an "Intellectual Property Claim") brought against Counterpart by a third party arising from a breach by SP of the warranty provided under clause 5.2. In the event that an Intellectual Property Claim is notified to, or instituted against, Counterpart then Counterpart shall immediately give written notice thereof to SP and shall provide to SP all such information and documentation as SP may reasonably require in relation to such Intellectual Property Claim. SP shall be entitled, on written notice to Counterpart, to assume control of any legal proceedings pertaining to an Intellectual Property Claim provided that SP shall be liable for all reasonable costs and expenses incurred by Counterpart in relation to such legal proceedings. Notwithstanding any other provision of this Master Services Agreement (including, without limitation, clause 11), in the event of an Intellectual Property Claim SP shall be entitled, on written notice to Counterpart, to vary the provision of Services to Counterpart which Service was adversely affected by the Intellectual Property Claim in such manner as SP reasonably deems necessary to reduce or eliminate any potential liability under such Intellectual Property Claim.

6. Confidentiality

- 6.1. The Parties will keep in confidence any Confidential Information obtained under this Master Services Agreement and will not disclose Confidential Information to any person (other than their employees or professional advisers without prior written consent of the other party).
- 6.2. This paragraph 6 will not apply to:
- 6.2.1. Any information, which has been placed in the public domain other than through a breach of this Master Services Agreement;
- 6.2.2. Information lawfully in the possession of the recipient before the disclosure under this Master Services Agreement took place;
- 6.2.3. Information obtained from a third party who is free to disclose it; and
- 6.2.4. Information which a party is required by law to disclose;
- 6.2.4.1. For the avoidance of doubt, no provision of this Master Services Agreement shall be construed in such a way that the disclosing party is deemed to have granted its consent to the receiving party to disclose the whole or any part of the Confidential Information in terms of the provisions of the Promotion of Access to Information Act, No 2 of 2000, as amended ('the Act');
- 6.3. Each Party's rights and obligations under this paragraph 6 shall survive the termination of the Master Services Agreement.

7. Service Schedule Fees

- 7.1. All fees are exclusive of Value Added Tax (VAT).
- 7.2. All fees will be billed in accordance with a signed quotation.
- 7.3. The Counterpart's liability for Service Schedule Fees will commence on the date contemplated in clause 2.2 read with clause 12. Service Schedule Fees will be calculated with reference to the applicable signed quotation, the type of Subscription(s) and SP's data in respect of usage and provisioned resources and that this data will be set out in statements and/or invoices and/or reports furnished by SP to the Counterpart. The Service Schedule Fees shall not be subject to deduction or set-off of any amount of whatsoever nature or for whatsoever reason.
- 7.3.1. On the anniversary of each Subscription, SP may increase the Service Schedule Fees by the greater of 10% (ten percent)
- 7.3.2. SP may increase the Service Schedule on 30 days written notice to the Counterpart
- 7.4. SP will invoice the Counterpart monthly (the "Billing Period") as follows:
- 7.4.1. The setup fees, if any, and the first Billing Period's recurring Service Schedule Fees up to 30 days in advance of the Operational Service Date and any pro rate fees applicable.
- 7.4.2. Subsequent Fees monthly in advance of the Billing Period.
- 7.5. The Counterpart will pay the Fees according to its prevailing payment terms with SP. Any amount falling due for payment by the Counterpart to SP in terms of or pursuant to this Master Services Agreement which is not paid on its due date, may, at the discretion of the SP, bear interest calculated from the invoice date until date of payment, at a rate of 2% above the standard prime overdraft rate as determined by SP's bank, from time to time, monthly in arrears. Additionally, SP reserves the right to suspend the provision of the Service to the Counterpart immediately if the Counterpart is in default of payment. Such suspension is without prejudice to the rights of SP, which have accrued prior to the date of reinstatement.
- 7.6. All Service Schedule Fees will be invoiced and paid in South African Rand unless otherwise stated
- 7.7. Value Added Tax or any other applicable country sales or use tax or like charge in a country where the Service is provided which is payable by the Counterpart will be added to SP's invoices as appropriate.
- 7.8. The Counterpart acknowledges that the SP shall be entitled to generate and deliver invoices electronically.
- 7.9. The Counterpart acknowledges that the Counterpart may be subject to SP credit vetting procedures and that SP may, at any time, require the Counterpart to pay a deposit, provide a guarantee as security for payment of future bills or provide audited financials
- 7.10. The Counterpart acknowledges that in the event of SP being in possession of any of the Counterpart's Property, and in the event of any monies being outstanding by the Counterpart to SP at any time, SP shall have a bona fide lien over such property and shall have the right to retain same until such time that all outstanding amounts have been paid by the Counterpart to SP in full.
- 7.11. Notwithstanding anything to the contrary contained herein, any increase in charges from third parties payable in respect of Services rendered by SP under the Master Services Agreement may be passed on to the Counterpart. Upon written request by Counterpart, SP will provide a declaration from SP's auditors that the increase was applied in a manner consistent with the increase in third party charges. Increases due to effect of the Rand-Dollar exchange rate shall be passed onto counterpart in full.
- 7.12. Late payments hereunder will accrue interest at the current prime lending rate, plus two percent (2%) per annum, apportioned for partial periods, or the highest rate allowed by applicable law, whichever is lower. If in its judgment the SP determines that the Counterpart is not creditworthy or is otherwise not financially secure, the SP may, upon written notice to the Counterpart, modify the payment terms to require full payment before the provision of services or other assurances to secure the Counterpart's payment obligations hereunder.

8. Limitation of liability

- 8.1. Notwithstanding any other provision of this Master Services Agreement, in no event will SP, its members, directors, officers, employees, contractors, agents and/or invitees be liable to the Counterpart for any indirect or consequential damages (including without limitation, loss of goodwill, profit, revenue, savings or interruption of business) caused by, arising from or in any way connected with the provisions of this Master Services Agreement (including breach thereof) and/or any act or omission performed or omitted to be performed by SP in connection with the Master Services Agreement.
- 8.2. SP shall not have any liability whatsoever in respect of any claim arising from or in any way connected with Counterpart Information, Third Party Information, or any other material which can be accessed or acquired using the Service and is not responsible in any way for any goods (including without limitation Products and software) or services provided, promoted, advertised, sold or otherwise acquired by means of the Service or on the Internet.
- 8.3. SP shall not be liable to the Counterpart whether in contract or delict or otherwise in respect of any claim caused by, arising from or is in any way connected with the act or omission of any other provider of telecommunications or Internet services (including domain registration authorities) or for the faults in or failures of their equipment).
- 8.4. The Counterpart hereby indemnifies SP and holds SP harmless against all claims of whatsoever nature and howsoever arising (and whether founded in contract, delict, statute or otherwise) caused by, arising from or in any way connected with the provision of the Service by the SP to Counterpart including, without limitation, any cessation, delay or defect in the provision of the Service by the Counterpart.

9. Matters beyond either Party's reasonable control

- 9.1. If either Party is prevented or restricted directly or indirectly from carrying out all or any of its obligations under this Master Services Agreement by reason of any event or circumstance beyond that Party's reasonable control including, without limitation, lightning, flood, exceptionally severe weather, fire, explosion, war, civil disorder, industrial disputes (whether or not involving employees of either Party) or acts of local or central government or other competent authorities, or event beyond the reasonable control of suppliers to either Party, 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 the affected Party shall not be liable for any delay or failure in the performance of any obligations hereunder, provided always that written notice shall forthwith be given of any such inability to perform by the affected Party.
- 9.2. If SP is prevented by restrictions of a legal or regulatory nature from supplying the Service, SP will have no liability to the Counterpart for failure to supply the Service.
- 9.3. If any of the events detailed in clauses 9.1 or 9.2 continue for more than 3 (three) months, either Party may serve notice on the other terminating this Master Services Agreement.

10. Breach

- 10.1. Either Party may cancel this Master Services Agreement immediately on notice, if the other:
- 10.1.1. Commits a material breach of this Master Services Agreement, which is capable of remedy, and fails to remedy the breach within 14 (fourteen) days of written notice to do so; or
- 10.1.2. commits a material breach of this Master Services Agreement which cannot be remedied; or
- 10.1.3. commits an act of insolvency; or
- 10.1.4. allows any judgement against it in excess of R50 000 (Fifty Thousand Rand) to remain unsatisfied for a period of 14 (fourteen) days or more after it comes to the notice, or ought reasonably to have come to the notice, of the board of directors of the defaulting Party without taking steps to have the judgement rescinded or taken on appeal or review as appropriate;
- 10.1.5. or is placed in liquidation or under judicial management (in either case, whether provisionally or finally) or, being an individual, his estate is sequestrated or voluntarily surrendered
- 10.2. Where SP has cancelled this Master Services Agreement in terms of this clause 10, the Counterpart shall, without prejudice, or limitation to any other remedy that SP may have in law, be liable for all Service Quotation Fees that would have been due and payable by the Counterpart under this Master Services Agreement but for the cancellation.

11. Changes to this Agreement and adding to this Agreement with additional Service Schedule(s)

- 11.1. Save as expressly provided in this Master Services Agreement, no Change to, or consensual cancellation of this Master Services Agreement shall be of any force or effect unless in writing and signed by or on behalf of the Parties by an Authorised Person of each of the Parties in accordance with this clause 11.
- 11.2. Subject to clause 11.1, if either Party wishes to Change this Master Services Agreement the procedure detailed in this clause 11.2 shall be followed:
- 11.2.1. The requesting Party must give written notification to the other Party providing particularity of the proposed Change (including but not limited to adding additional Service Schedule(s) to this Master Services Agreement) and the reason therefore.
- 11.2.2. The Parties will discuss the proposed Change.
- 11.2.3. Within a reasonable time of receipt of written notification from the requesting Party of a proposed Change, the other Party will notify the requesting Party in writing whether the proposed Change is feasible and the likely financial, contractual, technical and other effects and the terms and conditions of the proposed Change (Change Notice). If the proposed Change relates to a Service Quotation(s), the terms and conditions of such Change (including the Service Quotation Fees applicable to that Service Schedule) will be those set out in the relevant Service Quotation(s) attached to this Master Services Agreement unless specifically agreed otherwise by each of the Parties in writing.
- 11.2.4. Within a reasonable time of receipt of the Change Notice the requesting Party will advise the other Party in writing whether it unconditionally accepts the Change and wishes this Master Services Agreement to be amended to incorporate the Change as contemplated in the Change Notice.
- 11.2.5. Where the Parties agree to Change this Master Services Agreement, such Change must be recorded in writing and signed by an Authorised Person of both of the Parties in accordance with the provisions of clause 12.
- 11.3. Notwithstanding the provisions of clause 11.1, SP shall be entitled to amend this Master Services Agreement in accordance with the under mentioned procedure:
- 11.3.1. SP shall give the Counterpart 60 (sixty) days written notice of its intention to amend the Master Services Agreement provided that the aforesaid notice shall provide the Counterpart with full particularity of the proposed amendment;
- 11.3.2. The proposed amendment shall be effected on the 60th (sixtieth) day following receipt by the Counterpart of the written notice referred to in clause 11.3.1 unless the Counterpart is able to demonstrate that the proposed amendment reasonably results in the terms and conditions of the Master Services Agreement becoming materially commercially more onerous for the Counterpart, in which event the proposed amendment shall not be effected.

12. Signature of this Agreement and signature of Changes to this Agreement

- 12.1. Without prejudice to the provisions of clause 11, this Master Services Agreement and/or any Changes hereto may be either physically signed or Electronically Signed and one form of signature will not preclude the other form of signature.
- 12.2. To the extent this Master Services Agreement is Electronically Signed, such Electronic Signature:
- 12.2.1. will be valid and binding if the SignFlow Process has been followed by an Authorised Person of each Party;
- 12.2.2. will be valid and binding if the signed quotation process has been followed by an Authorised Person of each Party;
- 12.2.3. will be effective as of and commence on the Signature Date save to the extent expressly agreed otherwise by the Parties in writing (as contemplated in clause 2.1);
- 12.3. To the extent a Change in this Master Services Agreement is Electronically Signed such Electronic Signature:
- 12.3.1. will be valid and binding if the process contemplated in clause 11 has been complied with and has been Electronically Signed by an Authorised Person; and
- 12.3.2. will be effective as of and commence on the date on which the other Party receives the written notice of unconditional acceptance referred to in clause 11.2.5, save to the extent expressly agreed otherwise by the Parties in writing (Operational Service Date).
- 12.4. To the extent this Master Services Agreement is signed physically, such physical signature:
- 12.4.1. will be valid and binding if signed by an Authorised Person of each of the Parties; and
- 12.4.2. will be effective as of and commence on the Signature Date, save to the extent expressly agreed otherwise by the Parties (in writing as contemplated in clause 2.1);
- 12.4.3. will be valid and binding if the process contemplated in clause 11 has been complied with and has been signed by an Authorised Person; and
- 12.4.4. will be effective as of and commence on the date on which it is last signed, save to the extent expressly agreed otherwise by the Parties in writing (Operational Service Date).
- 12.5. To the extent that this Master Services Agreement is both physically signed and Electronically signed, this Master Services Agreement:
- 12.5.1. will be valid and binding if signed by an Authorised Person of each of the Parties; and
- 12.5.2. will be effective as of and commence on the earlier Signature Date, save to the extent expressly agreed otherwise by the Parties in writing.
- 12.6. To the extent a Change to this Master Services Agreement is either physically signed or Electronically Signed, the Change:
- 12.6.1. will be valid and binding if the process contemplated in clause 11 has been complied with and has been signed by an Authorised Person; and
- 12.6.2. will be effective as of and commence on date of the earlier signature, save to the extent expressly agreed otherwise by the Parties in writing (Operational Service Date), provided the process in this clause 11 has been complied with.

13. Termination of Subscription(s) by Notice

- 13.1. Subject to 13.1.4, Counterpart may terminate a Subscription, during its Subscription Period, by providing at least 30 (thirty), 90 (Ninety) or 120 (One Hundred and Twenty) days prior written notice dependent on notice period required for specific network and service.
- 13.1.1. A termination will be effective at the end of the monthly Subscription cycle having regard for the notice period requirement.
- 13.1.2. Counterpart must pay for the period up to and including the end of the monthly Subscription cycle.
- 13.1.3. To terminate a Subscription, the Counterpart must follow the Online Direct cancellation procedure
- 13.1.4. Counterpart may not cancel a service:
- 13.1.4.1. Any time after expiry of any Commitment Period; or
- 13.1.4.2. Any time after expiry of this Agreement; or
- 13.1.4.3. Any time where Counterpart is in breach of this Agreement or has been placed on notice of breach; or
- 13.1.4.4. Any time where a Subscription includes equipment rental; or
- 13.1.4.5. Any time where a Subscription includes a 3rd party service which does not permit early termination other than for breach;
- 13.1.4.6. Any time where a Subscription includes Microsoft Online Services, where the Customer is seeking to re-subscribe, via an entity other than SP, to one or more Microsoft Online Services whether by means of a Microsoft Cloud Agreement, any other licensing program or mechanism.
- 13.1.4.7. Any time where Counterpart is in excess of its liability of 30days or more

14. Subscription(s) Renewal

- 14.1. Subscriptions automatically renew for the same contract period
- 14.1.1. By Default, all Committed Subscriptions automatically renew upon expiration of the Subscription Period.
- 14.1.2. The quantity of Services in the Subscription at the time of renewal, is automatically renewed.

15. Subscription Upgrades and Downgrades

- 15.1. To increase or decrease within a Subscription ("upgrade, downgrade"), the Counterpart must follow the Online Direct Operations process.

16. Assignment

- 16.1. The Counterpart may not, without the prior written consent, which shall not be unreasonably withheld, cede its rights or delegate its obligations under this Master Services Agreement to any other person.
- 16.2. SP shall be entitled to cede any of its rights and delegate any of its obligations under this Master Services Agreement to any third party.

17. Solicitation of Employees

- 17.1. The Counterpart undertakes that, for the duration of this Master Services Agreement and for a period of 36 (thirty six) months after the termination of this Master Services Agreement, the Counterpart and any person or entity in which the Counterpart is directly or indirectly associated, engaged, concerned or interested, whether financially or otherwise, shall not (i) solicit the employment of or employ any person employed by SP during the term of this Master Services Agreement or (ii) procure or receive Services from any person who acted as a service provider to, or sub-contract of, SP in relation to the performance by SP of its obligations under this Master Services Agreement. The Counterpart acknowledges and agrees that the restraint imposed upon it in terms of this clause is reasonable as to subject matter, period and territorial limitation and is not more than is reasonable and necessarily required by SP to maintain its legitimate business interests. Each Party's rights and obligations under this clause shall survive the termination of this Master Services Agreement.

Master Service Agreement:

- 17.2. The SP undertakes that, for the duration of this Master Services Agreement and for a period of 36 (thirty six) months after the termination of this Master Services Agreement, the SP and any person or entity in which the SP is directly or indirectly associated, engaged, concerned or interested, whether financially or otherwise, shall not solicit the employment of or employ any person employed by Counterpart during the term of this Master Services Agreement. The SP acknowledges and agrees that the restraint imposed upon it in terms of this clause is reasonable as to subject matter, period and territorial limitation and is not more than is reasonable and necessarily required by Counterpart to maintain its legitimate business interests.
- 17.3. Each Party's rights and obligations under these clauses 17.1 and 17.2 shall survive the termination of this Master Services Agreement.

18. Entire agreement

- 18.1. This Master Services Agreement contains the whole agreement between the Parties and supersedes all previous written or oral agreements relating to its subject matter.
- 18.2. The Parties acknowledge and agree that they have not been induced to enter into this agreement by any representation, warranty or other assurance not expressly incorporated into it; and neither Party shall be bound by any express or implied representation, warranty, promise or the like not recorded herein.

19. Addresses and Domicilium

- 19.1. Each Party chooses the address set out opposite its name below as its address to which any written notice in connection with this Master Services Agreement (save for operational notices as contemplated in the Master Services Schedule may be addressed);
- 19.1.1. **SP: Address: 3802 Jan Frederick Avenue, Randpark Ridge, Johannesburg, 2154**
Telefax: [(011) 317-1801]
Attention: Managing Director
- 19.1.2. **The Counterpart: (As Per Preamble)**

The physical address and Telefax of the Counterpart reflected in these General Conditions.
For the attention of the signatory of the Counterpart to these General Conditions.

- 19.2. Any notice or communication required or permitted to be given in terms of clause 19.1 shall be valid and effective in writing but it shall be competent to follow up via telephone call.
- 19.3. The Parties hereby choose *domicilia citandi et executandi* for all purposes of and in connection with this Agreement at the addresses set out in clause 19.1 above.
- 19.4. Any Party may by written notice to the other party change its chosen address for purposes of this clause to another address, provided that the change shall become effective on the 14th (fourteenth) day after receipt of the notice by the addressee.

20. General

- 20.1. This agreement is governed by and shall be construed in accordance with the laws of South Africa.
- 20.2. The Parties hereby irrevocably and unconditionally consent to the non-exclusive jurisdiction of the South Gauteng High Court, Johannesburg in regard to all matter arising from this Master Services Agreement.
- 20.3. Either Party shall be liable for all costs incurred by the other in the recovery of any amounts or the enforcement of any rights which it has hereunder, including collection fees and costs as between attorney and own client scale, whether incurred prior to or during the institution of legal proceedings or if judgement has been granted, in connection with the satisfaction or enforcement of such judgement.
- 20.4. Each provision of this Master Services Agreement is severable from all others, notwithstanding the manner in which they are linked together or grouped grammatically and if, in terms of any judgement or order, any provision, phrase, sentence, paragraph or clause is found to be defective or unenforceable for any reason, the remaining provisions, phrases, sentences, paragraphs and clauses shall nevertheless continue to be of full force and effect.

21. Consumer Protection Act ('CPA')

- 21.1. A transaction (as defined in the CPA) between the Counterpart and SP may or may not fall under the provisions of the CPA depending upon whether certain values set out in clause 21.2 in respect of the Counterpart ("Threshold Values") are below a certain value at the time the transaction is entered into.
- 21.2. The Threshold Values are the Counterpart's asset value or annual turnover, and the value against which they are measured is as determined by the Minister of Trade and Industry by publication in the Government Gazette from time to time.
- 21.3. SP's duties towards the Counterpart may vary depending upon whether the transaction in question is subject to the CPA, and SP will act upon the information given to it by the Counterpart in this regard. Consequently:
- 21.3.1. The Counterpart warrants that any statement made to SP in respect of its Threshold Values is accurate.
- 21.3.2. If the Counterpart claims that all the Threshold Values are below the relevant value, or otherwise that the CPA applies to the transaction in question, SP may at its instance require the Counterpart to provide it with financial statements as proof thereof.
- 21.3.3. If the Counterpart misstates the Threshold Values in such a way that SP considers for a period that the transaction is subject to the CPA when it is not, all provisions of this Agreement that do not apply to transactions subject to the CPA shall retroactively apply to the transaction in question, and the Counterpart shall be liable for any damage sustained by SP resulting from such misstatement.
- 21.3.4. The Signatory to this agreement confirms that Counterpart is not currently subject to a debt review or re-arrangement order or agreement as contemplated by the National Credit Act, nor to business rescue proceedings as contemplated by the Companies Act.

22. Data Privacy and Protection

- 22.1. The Counterparty hereby consents to the processing by the SP of its Personal Information and any other information that the Counterpart may provide to the SP for all purposes related to providing the services.
- 22.2. The SP may collect Personal Information from and disclose Personal Information to other service providers of The SP, including credit bureaux (in order to perform credit and background checks), banks (to process transactions), research companies (that assist The SP to understand market trends), and collection agencies (for the collection of outstanding accounts). The Counterpart consents to the collection and/or disclosure of its Personal Information for these purposes.
- 22.3. The SP may, from time to time, store, transfer and process Personal Information in and to countries outside of the Republic of South Africa. The SP shall take all reasonable steps necessary to ensure that any Personal Information transferred outside of the Republic of South Africa is protected and is Processed as required by the POPI Act and the applicable data protection laws in that country. By submitting its Personal Information to the SP, the Counterpart consents to the transfer, processing or storage of its Personal Information outside of the Republic of South Africa.
- 22.4. The SP shall:
- 22.4.1. use its best efforts to keep Personal Information confidential and shall not disclose any Personal Information to any other person except as required by law, save to the extent set out herein;
- 22.4.2. utilise reasonable technical and organisational measures in accordance with best industry practice for the purpose of complying with its obligations in terms of clause 22.4.1;
- 22.4.3. at all times strictly comply with the POPI Act and other applicable laws, regulation or code relating to data protection in South Africa, or other requirements enforced by any relevant industry or self-regulatory body within the Republic of South Africa in the provision of the Services; and
- 22.4.4. not, at any time copy, compile, collect, collate, Process, mine, store, transfer, alter, delete, interfere with or in any other manner use Data for any purpose other than providing the Services to the Counterpart other than with the express prior written consent of the Counterpart.
- 22.5. The Parties record that all Data, in whatever form, is the Counterpart's Intellectual Property. Accordingly, the Counterpart retains all right, title and interest in and to the Data.
- 22.6. The Counterpart acknowledges that it is primarily responsible for complying with any data protection obligations imposed in terms of any law, including the common law, and shall obtain any consents necessary for the disclosure of Personal Information to the SP for the purposes of this Agreement.
- 22.7. The Counterpart shall separate any Personal Information from any other Data provided to the SP for the purpose of providing the Service and shall designate the Personal Information as such before disclosing or otherwise making it available to the SP.
- 22.8. The Counterpart shall immediately notify the SP if there is any change to its Personal Information, or to correct any errors in the Counterpart's account or Counterpart information. The Counterpart may at any time request access to, rectification or deletion of, the Personal Information held by the SP in relation to the Counterpart
- 22.9. The Counterpart is entitled to withdraw its consent to the Processing of its Personal Information by giving written notice to the SP together with the grounds therefor; provided that the lawfulness of the Processing of Personal Information before such withdrawal will not be affected or the withdrawal will not affect any Processing that:
- 22.9.1. is necessary to carry out actions for the conclusion or performance of any agreement between the SP and the Counterpart;
- 22.9.2. complies with an obligation imposed by law on the SP;
- 22.9.3. protects a legitimate interest of the Counterpart; or
- 22.9.4. is necessary for pursuing the legitimate interests of the SP or a third party to whom the Personal Information is supplied.
- 22.10. The Counterpart is entitled to:
- 22.10.1. object, by written notice to the SP, to the Processing of its Personal Information on reasonable grounds, unless legislation provides for such Processing;
- 22.10.2. lodge a complaint to the Information Regulator, established or to be established in terms of the POPI Act, regarding the alleged unlawful processing of the Counterparts personal information by the SP. The Information Regulator's contact details will be published in the Government Gazette and/or by the Information Regulator, once it is established.
- 22.11. All copyrights mentioned in the MSA and Annexures are owned by their respective companies and are used to provide the consumer with detailed information on which to base future decisions.

23. Hardware Warranty

- 23.1. Hardware supplied by SP carries a 1-year warranty unless a 3-year next business day warranty is included in the proposal.
- 23.2. SP reserves the right to charge a collection and delivery fee to assist with hardware warranty claims or return to SP
- 23.3. "Out of box failure" hardware must be returned with all packaging.
- 23.4. "Out of box failure" is a term used for hardware that is delivered and fails immediately.
- 23.5. Any hardware installed at counterparts' premises on a rental basis directly from SP remains the property of SP and must be returned when the contract has been terminated.