STANDARD TERMS AND CONDITIONS

1. Variations

1.1. Variations. The Customer may at any stage:

1.1.1. without changing the fundamental Scope of Work, order variations to the Services in writing; or

1.1.2. request the Service Provider to submit proposals, including the time and cost implications, for variations to the Services.

1.2. The Service Provider and Customer shall in writing agree to the following:

1.2.1. reasonable cost of preparation and submission of the requested proposals;

1.2.2. the incorporation into this Agreement of any variations to the Services ordered by the Customer, including change in Service fees and/or delivery dates.

1.3. Where a variation is necessitated by default or breach of this Agreement by the Service Provider, any additional cost attributable to such variation shall be borne by the Service Provider.

2. Extensions

2.1 If the Service Provider becomes aware that it will not be able to perform or deliver the Services on or before the delivery date for any reason whatsoever, it will inform the Customer in writing. The written notice will fully motivate the reasons for the delay and propose a new delivery date to the Customer. The Customer shall not unreasonably withhold granting an extension.

3. Termination

3.1. Either Party has the right to terminate this Agreement immediately if the other Party (i) ceases operations without a successor; or (ii) takes steps to place itself or is placed under liquidation or under judicial management or under business rescue proceedings (provisionally or finally); or (iii) commits any act which would be an act of insolvency as defined by the Insolvency Act 24 of 1936 as amended if committed by a natural person; or (iv) fails to satisfy a judgement in excess of R1 000 000,00 (one million rand) entered against itself within 21 (twenty-one) days after it becomes aware of the judgement.

3.2. Either Party has the right to terminate the Agreement upon expiry of the minimum term (the date of termination to be the last day of the minimum term indicated in Annexure A) by giving the other Party 60 (sixty) days written notice of such termination.

3.3. Upon the expiry of any extended term, either Party has the right to terminate this Agreement by giving the other Party 60 (sixty) days written notice of termination. To avoid any doubt, notice must be given at least 60 days prior to expiry date of extended term.

3.4. In the event where Customer terminates the Agreement then (i) Customer will be responsible to the Service Provider for all outstanding fees and reasonable expenses incurred as a result of such termination, as from and including the date the Service Provider receives written notice of such termination; and (ii) all amounts due to the Service Provider or Services rendered before termination will remain payable by the Customer and the Customer my not withhold payment for any reason.

3.5. Any termination of the Agreement shall not affect any accrued rights or liabilities of either Party, nor shall it affect the coming into force or the continuance in force of any provision contained therein which is expressly or by implication intended to come into or continue in force on or after such termination.

3.6. Termination is not an exclusive remedy. The exercise by either Party of any remedy under this Agreement will be without prejudice to any other remedies it may have under this Agreement, by law, or otherwise.

4. Breach

4.1. If the Customer fails to comply with its obligations in terms of this Agreement for a period in excess of 5 (five) Days after receiving a written request from Service Provider to comply, such failure will constitute a material breach of this Agreement.

4.2. Should either Party ("the Defaulting Party") commit a breach of any provision of the Agreement and fail to remedy such breach, or if the breach is not capable of remedy, fail to implement such other action acceptable to the other Party within 14 (fourteen) days of receiving a written notice from the other Party ("the Aggrieved Party") requiring the Defaulting Party to do so, the Aggrieved Party shall be entitled, in addition to its other remedies in law or in terms of the Agreement, to terminate the Agreement forthwith, claim specific performance and, without prejudice to its rights, claim damages.

4.3. The Customer shall pay all outstanding fees upon termination of the Agreement.

5. Suspension and Reassignment

5.1. In addition to any remedies the Service Provider may have arising out of any breach referred to in paragraph 4 above, if the Customer fails to comply with its obligations in terms of this Agreement, then the Service Provider may suspend the performance of the Services and/or reassign its assigned resources to other projects.

5.2. In the event of such reassignment, if the Service Provider elects not to terminate the Agreement, the Services will be postponed to a date to be determined by Service Provider in its discretion.

6. Subcontractors

6.1 Service Provider may subcontract or delegate its obligations under the Agreement to third party contractors. Service Provider is not obliged to disclose any of the terms of any such subcontract entered into. Service Provider shall ensure that each of its subcontractors complies with the terms, conditions and obligations of the Agreement, as they apply to the Service Provider.

7. Non-exclusivity

7.1 Service Provider may provide Services to any other person or entity and may exploit its intellectual property, including providing services for other clients or itself, subject to its confidentiality obligations stipulated in the Agreement.

8. Indemnity and Limitation of liability

8.1. Despite anything to the contrary in the Agreement, neither Party shall be liable to the other for any indirect or consequential loss or damage, including without limitation, anticipated savings, business transactions or goodwill or other contracts, whether arising from negligence or breach of contract.

8.2. To the extent permitted by law, regardless of the form (contract, delict or any other legal theory) in which any legal action may be brought, each party's maximum liability for direct damages for anything giving rise to any legal action will be an amount equal to the total fees already paid (or due and payable) by the Customer to the Service Provider in respect of the Agreement for the period 12 (twelve) months preceding the claim ("**the Maximum Amount**"). The aggregate amounts for all claims will not be greater than the Maximum Amount.

8.3. The Service Provider will not be liable for any loss or damage suffered by the Customer arising from or in connection with any breach of the Agreement by the Customer or any act, misrepresentation, error or omission made by or on behalf of the Customer or its personnel.

8.4. The Service Provider shall not be liable for any service provided by a third party.

8.5. The Service Provider shall not be liable for any delay, failure, breakdown, damage, loss, costs, claim, penalty, fine or expense arising from (i) use of the Services other than in accordance with the Agreement (ii) the Customer effecting any changes, modifications or enhancements to Services without Service Provider's prior written consent; (iii) operator error by Customer, or any fault in the hardware, third party software or software supplied to or obtained by Customer from any entity other than the Service Provider; (iv) the intentional or negligent act or omission of any person who is not a member of the Service Provider's personnel; (v) Customer negligence; (vi) act or omission of any telecommunications authority or a service provider of telecommunication services; and (vii) any other cause, including the fluctuation of electrical supplies, accidents or natural disasters.

9. Warranties and limitations

9.1. The Service Provider undertakes, represents and warrants that it has the rights necessary to enter into the Agreement and to carry out its obligations herein.

9.2. The Service Provider warrants that the Services will conform to the Scope of Work agreed between the Parties and will be carried out with care and diligence in a proper and professional manner in compliance with agreed service levels.

9.3. The Service Provider's only obligations in the event of breach of these warranties will be to remedy any non-conformity of the Services to the agreed scope of work or specifications.

9.4. The Customer acknowledges and agrees that, except as may be expressly provided otherwise herein, the Service Provider makes no warranty, either expressly or implied, concerning the Services.

9.5. The Customer's use of the Services is at Customer's sole risk. The Service Provider hereby specifically disclaims all representations, warranties or conditions of any kind, express or implied, including (i) any implied warranties or conditions of satisfactory quality, fitness for a particular purpose, accuracy, title and non-infringement; and/or (ii) that the Services and service deliverables will work without interruption or will be error-free.

9.6. The Customer undertakes and warrants to the Service Provider that (i) all individuals signing the Agreement on its behalf are duly authorised to sign for and legally bind the Customer; (ii) it has not been induced to enter into the Agreement by any prior representations, warranties or guarantees whether oral or in writing, except as expressly contained in the Agreement; (iii) by entering into the Agreement, the Customer is not acting in breach of any other agreement to which Customer is a party; (iv) it will comply with all its obligations under applicable privacy laws and all applicable codes of conduct when using the Services.

9.7. The warranties in this paragraph are exclusive and in lieu of all other warranties, whether statutory, express or implied.

9.8. The Service Provider does not make any warranties on behalf of any subcontractor.

10. Force majeure

10.1. **Force Majeure Event** means an event beyond the control of a Party, including without limitation, an act of God, war, terrorism, fire, flood, strike, governmental restriction, power failure, failure of computer systems or networks, and/or failure of transportation or communication facilities.

10.2. If either Party is prevented or restricted from carrying out any of its obligations under the Agreement by any Force Majeure Event, the Party so affected shall, to the extent so prevented, be relieved of its obligations thereunder during the period of such event and shall not be liable for any delay or failure in the performance of any obligations hereunder or loss or damage (general, special or consequential) which the other Party may suffer due to or resulting from such delay or failure; *provided always* that written notice of the occurrence or event constituting force majeure shall be given within 24 (twenty four) hours by the affected Party. The Parties agree that, should force majeure last more than 6 (six) weeks, the Party who has not invoked force majeure to excuse any non-performance of its obligations, may terminate the Agreement by giving 10 (ten) days' written notice to the other Party.

11. Disputes

11.1. Should any dispute arise between the Parties concerning the Agreement or any issue arising therefrom, the Parties shall attempt to resolve the dispute by negotiation, whereby one Party invites the other in writing to meet to attempt to resolve the dispute within 10 (ten) days from date of the written invitation.

11.2. Failing such a resolution, and if the dispute is arbitrable in law, either Party shall have the right to require that the dispute be referred to arbitration and that Party shall notify the other Party in writing of such requirement. Arbitration shall be held in Cape Town.

11.3. The dispute shall be finally resolved in accordance with the Rules of the Arbitration Foundation of Southern Africa by one Arbitrator appointed by said Foundation. The decision resulting from arbitration shall be final and binding on the Parties and may be made an Order of any court of competent jurisdiction.

11.4. The provisions of this paragraph 11 shall not preclude any Party from access to an appropriate Court of Law for *interim* relief in the form of an interdict, *mandamus* or order for specific performance pending the outcome of arbitration. The Parties hereby consent to the non-exclusive jurisdiction of the High Court of South Africa for such purposes.

12. Miscellaneous

12.1. **Non-recruitment**. During the Agreement term and for a period of 12 (twelve) months thereafter, Customer and Service Provider agree not to recruit or attempt to recruit, divert or hire away any person who was an employee or independent contractor of the other Party during such term and who remains so at the time of any such recruitment, without the prior written permission of the other Party.

12.2. **Governing law**. The laws of the Republic of South Africa shall govern the validity, interpretation and performance of the Agreement and the courts of South Africa shall have sole jurisdiction.

12.3. **Cession and assignment**

12.3.1. Customer may not cede/assign the Agreement in whole or in part, without the prior written consent of Service Provider.

12.3.2. Service Provider may cede/assign the Agreement to any affiliate or subsidiary of Service Provider without prior written consent of Customer.

12.3.3. Subject to the foregoing limitation, the Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

12.3.4. Any cession/assignment by a Party will not relieve that Party of any obligations with respect to any warranty, covenant, condition, or obligation required to be performed by that Party under the Agreement.

12.4. **Amendment and severability**. The MSA and/or any Order may not be amended or supplemented except in writing, signed by each of the Parties. If any provision of the MSA and/or any Order should be found to be invalid or unenforceable, all of its other provisions will nonetheless remain in full force and effect to the maximum extent permitted by law.

12.5. **No waiver**. The failure of either Party to insist upon the strict performance of any provision of this Agreement or to exercise any right, power or remedy consequent upon a breach hereof, shall not constitute a waiver by such Party to require strict and punctual compliance with each and every provision of this Agreement.

12.6. **Signature authority and counterparts**. The Agreement may be executed in counterparts, each of which will be deemed an original, but all of which taken together will constitute one and the same instrument.

12.7. **Entire agreement and survival**. This document embodies the entire agreement between the Parties hereto and supersedes all previous understandings, negotiations and proposals as to such subject matter.

12.8. **Notices**

12.8.1. Each Party chooses their respective addresses set forth in the head of this Agreement (page 1) for the purposes of giving any notice, the serving of any process and for any other purposes arising from the Agreement. All notices shall be given in writing.

12.8.2. Notice will be deemed to have been given under the Agreement: (i) when delivered in person to the Party for whom it is intended; (ii) if left at recipient's address with receptionist during business hours on the date of delivery; and (iii) if sent by an express courier with a system for tracking delivery, when received.