

MASTER SERVICE AGREEMENT

(Mobile Training Technology)

entered into between: -

THREE BY THREE ENGAGE PROPRIETARY LIMITED

(Formerly M4Jam Fanaka Proprietary Limited)

(as indicated on the accepted Sales Order)

(Hereinafter referred to as “**THREE BY THREE ENGAGE**”)

And

The CLIENT

(as indicated on the accepted Sales Order)

(Hereinafter referred to as the “**CLIENT**”)

(Collectively referred to as the “Parties”)

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1. PARTIES

- 1.1. The Parties to this Agreement are the Parties recorded on the accepted Sales Order.
- 1.2. By signature of both Parties to a Sales Order referencing this Master Services Agreement, the Parties agree to be bound by the terms hereof, as read with the specific Sales Order.

2. RECORDAL

It is recorded between the Parties as follows -

- 2.1. THREE BY THREE ENGAGE owns and operates the Digital Platform offering clients the ability to train and engage with internal staff, contractors and independent agents.
- 2.2. The products and services that THREE BY THREE ENGAGE can deliver as part of its Mobile Training offering (but which may not be taken up by the CLIENT and therefore the provisions of the Specific Sales Order apply) are:
 - 2.2.1. Training: The THREE BY THREE ENGAGE mobile training solution makes use of multi-media content to train, inform and upskill Users anytime and anywhere.
 - 2.2.2. Tasks: Allows Users to view content (training or communication), complete assessments and upload content (video's, scripts or images) and undertake activities and tasks enabling the user to learn through practical experience.
 - 2.2.3. Incentivised learning: Allows incentives to activate and reward User participation.
 - 2.2.4. Spaced activities: Activities may be repeated multiple times to ensure that knowledge and insight are embedded.
 - 2.2.5. Library: Stores training or communication content.
 - 2.2.6. Administration portal: The administrative portal where the CLIENT will upload User information as per their User group structure and maintain User information. Furthermore, it allows the CLIENT to manage content that is made available to participants, allows the CLIENT to pull information and gives the CLIENT the ability to validate content uploaded by a User.

- 2.2.7. Time and attendance: Allows a User to record their location at a specific time and date for the purpose of time and attendance.
 - 2.2.8. Wallet / Payment: Provides a method whereby a User may receive financial rewards (for example, cash, airtime & data) based on the completion of tasks.
 - 2.2.9. Management information: Track, record, and report relevant information in real- time.
- 2.3. The CLIENT wishes to utilise THREE BY THREE ENGAGE's Digital Platform, on a "Software As A Service" basis, in accordance with the terms and conditions set out herein and for the purposes of mobile training solutions as more fully described in the specific Sales Order.
- 2.4. This Agreement is the Master Services Agreement between the Parties and the terms and conditions hereof shall take precedence over and regulate the delivery of the products and services as provided through the Digital Platform in accordance with specific Sales Order/s. Any conflict between the provisions of this Master Services Agreement and any Sales Order shall be resolved in favour of the Master Services Agreement, unless the provision is recorded in the Sales Order as a Special Provision which explicitly amends a provision of this Master Services Agreement.

3. DEFINITIONS AND INTERPRETATION

3.1. Definitions

In this Agreement, unless the context otherwise requires, the following capitalised terms shall have the meanings assigned to them below and cognate expressions shall have corresponding meanings:

"Affiliate"

means, (a) a subsidiary or a holding company or a subsidiary of the holding company of any entity, for purposes of this definition the terms "subsidiary" and "holding company" shall have the meaning assigned thereto in Section 1 of the Companies Act, 2008;

“Applicable Law”

means the following, as amended from time to time, to the extent it applies to a Party (including, as applicable, the Affiliates of a Party): any statute, regulation, notice, policy, directive, ruling or subordinate legislation (including treaties, multinational conventions and the like having the force of law); The common law; any binding court order, judgement or ruling; any applicable industry code, policy or standard enforceable by law, and any applicable direction, policy or order that is given by any regulator, competent authority or organ of state or industry body;

“Authorised Purpose”

means the scope of the agreed use to which THREE BY THREE ENGAGE’s Digital Platform, products and services may be put as agreed in the relevant Sales Order;

“Business Day”

means any day, except a Saturday, Sunday or a Public Holiday in the Republic of South Africa;

“CLIENT”

means, the client as defined in the Sales Order;

“CLIENT Data”

means all data, information, text, drawings and other materials which are embodied in any medium including all electronic, optical, magnetic or tangible media and which are supplied to THREE BY THREE ENGAGE by the CLIENT or any of its Affiliates or which THREE BY THREE ENGAGE and/or any sub-contractors are required to generate, collect, process, store or transmit in connection with this Agreement or any Sales Order and which are agreed in writing to belong to the CLIENT;

“Commencement Date”

means the date agreed upon by the CLIENT and THREE BY THREE ENGAGE, for the commencement of delivery of products and services as set out in a particular Sales Order;

“Confidential Information”

means all information whether conveyed orally, in writing, in machine readable form or otherwise which relates to a Party’s and/or any of its Affiliate’s and/or a third party’s business, equipment, services, developments, trade secrets, IP Rights, Know-How, personnel, suppliers and customers, (whether or not designated as “confidential information” by the disclosing party) together with all information derived from the above, the existence and terms of this Agreement and all information designated as confidential or which ought reasonably to be considered confidential;

“Data Subject”

means a person from whom Personal Information (as defined in POPI Act) is collected, stored, managed or processed during the provision of the services contained in the Sales Order;

“Data Processing”

means (as defined in POPI Act) any activity relating to the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, or use of Personal Information and includes dissemination by means of transmission, distribution or making available in any other form;

“Digital Platform”

means the Digital Platform created, operated and managed by THREE BY THREE ENGAGE and includes the System, software, associated technology, business methods, IP Rights, Know-how and the application thereof;

“Information Officer”

means a person required to be appointed either in terms of section 55 of POPI Act and/or section 1 of PAI Act;

“IP Rights”

means patents, rights to inventions, copyright and related rights, trademarks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, rights to preserve the confidentiality of information (including Know-How and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

“Know-How”

means industrial and technical information and ideas, concepts, methodology and techniques in any form (including paper, electronically stored data, magnetic media, film and microfilm) concerning the performance of the micro tasks including (without limiting the foregoing) process maps, drawings, reports, spreadsheets, instruction and training manuals, tables of operating conditions, specifications, tables and procedures;

“Licence Fee”

means an ongoing, month to month, licence fee payable by the CLIENT to THREE BY THREE ENGAGE for the use of the THREE BY THREE ENGAGE Digital Platform for the provision of such services and/or products as set out in the specific Sales Order from time to time;

“Losses”	means all losses, liabilities, damages, costs, expenses (including management time and reasonable legal fees) and charges arising from or in connection with: (a) any act or omission of a Party under this Agreement; (b) any breach by a Party of any provision of this Agreement; or any Third party actions, proceedings, claims, allegations or demands;
“Month”	means a calendar month and “monthly” shall be interpreted accordingly;
“Parties”	means the CLIENT and THREE BY THREE ENGAGE, and any reference to “ a Party ” shall refer to one of the relevant Parties as required by the context;
“PAI Act”	means the Promotion of Access to Information Act, 2 of 2000;
“Personal Information”	has the meaning ascribed thereto in POPI Act and shall refer, in this Agreement, to Personal Information about User, User Groups, employees, Users, independent contractors, sub-contractors and third parties;
“POPI Act”	means the Protection of Personal Information Act, 4 of 2013;
“Public Holiday”	means a day which has been designated and gazetted as such by the government of the Republic of South Africa;
“Sales Order”	means the statement of the specific services and products to be provided by THREE BY THREE ENGAGE to the CLIENT and the terms and conditions related thereto as set out in a separate (but supplementary document to this Agreement) in

	the format as substantially set out in Annexure “A” hereto;
“Signature Date”	the date of last signature of the Sales Order by the Parties thereto;
“Special Provision/s”	means a provision included in a Sales Order which explicitly amends a provision of this Agreement and is therefore binding upon the Parties to the extent stipulated in the Sales Order;
“System”	means telecommunication system, computer programs, software, computer and communications networks, hardware, firmware, servers, devices, cabling and related equipment, databases, the tangible media on which they are recorded and their supporting documentation, including input and output format, program listings, narrative descriptions, source code, executable code, operating instructions and user manuals;
“the/this Agreement”	means, this Master Service Level Agreement inclusive of Annexures , and Sales Orders concluded between the Parties in respect of providing Digital Platform solutions, products and related services.
“Training Task”	means a task undertaken by a User, using the Digital Platform, as defined and/or specified in a particular Sales Order;
“Training Task Data”	means the information and data submitted by a User in accordance with the Sales Order requirements including (without limitation) photos, graphics, images, videos, voice recordings, location information, files, text data, works of authorship, User Credentials, and Personal Information if consent was obtained from the Data

Subject in terms of POPI for such disclosure (but excludes the User Details unless otherwise agreed);

“User”

means the person who is enrolled on the System from time to time by the CLIENT for the purposes of completing a Training Task or otherwise making permitted use of the Digital Platform, and may include an employee, trainee or contractor of the CLIENT;

“User Credentials”

means the demographical information pertaining to a particular User, inclusive of age, race, gender, marital status and area of residence (but excluding User Details), being provided due to the requirements of a Task;

“User Details”

means the Personal Information pertaining to a particular User;

“User Groups”

means the CLIENT’s predefined organisation of Users utilising the Digital Platform, products and services under one or more Sales Orders;

“VAT”

means Value Added Tax imposed in terms of the Value Added Tax Act, No 89 of 1991 (as amended), including any similar tax which may be imposed in place thereof from time-to-time;

“Virus”

means any software virus, Trojan horse, time bomb or other code that is harmful or which enables access to the Digital Platform, its products and related services or theft of THREE BY THREE ENGAGE Data or otherwise impairs the operation of the THREE BY THREE ENGAGE’s System, and **“Viruses”** shall be the plural thereof;

3.2. Interpretation

This Agreement shall be interpreted according to the following provisions, unless the context requires otherwise:

- 3.2.1. This Agreement shall be interpreted according to the following provisions, unless the context requires otherwise:
- 3.2.2. References to the provisions of any law shall include such provisions as amended, re-enacted or consolidated from time to time in so far as such amendment, re-enactment or consolidation applies or is capable of applying to any transaction entered into under this Agreement.
- 3.2.3. References to “Parties” shall include the Parties’ respective successors-in-title and, as permitted in this Agreement, their respective cessionaries and assignees.
- 3.2.4. References to a “person” shall include an individual, firm, company, corporation, juristic person, Responsible Authority, and any trust, organisation, association or partnership, whether or not having separate legal personality.
- 3.2.5. References to any other contract or document shall include (subject to all approvals required to be given pursuant to this Agreement for any amendment or variation to or novation or substitution of such contract or document) a reference to that contract or document as amended, varied, novated or substituted from time to time.
- 3.2.6. Words in parentheses and italics appearing after a clause reference or a reference to a Schedule are inserted for ease of reference only. If there is any discrepancy between the clause reference and the words in parentheses and italics, the latter shall prevail.
- 3.2.7. The headings of clauses, sub-clauses and Annexures are included for convenience only and shall not affect the interpretation of this Agreement.
- 3.2.8. The Annexures to this Agreement are an integral part of this Agreement and references to this Agreement shall include the Annexures.
- 3.2.9. The Parties acknowledge that each of them has had the opportunity to take legal advice concerning this Agreement, and agree that no provision or word

used in this Agreement shall be interpreted to the disadvantage of either Party because that Party was responsible for or participated in the preparation or drafting of this Agreement or any part of it.

- 3.2.10. Words importing the singular number shall include the plural and vice versa, and words importing either gender or the neuter shall include both genders and the neuter.
- 3.2.11. References to “this Agreement” shall include this Agreement as amended, varied, novated or substituted in writing from time to time.
- 3.2.12. The number of days indicated to commit an act or indicated for any other purpose, is calculated by excluding the first day and including the last day, unless the last day falls on a Saturday, Sunday or public holiday in the Republic of South Africa, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday in the Republic of South Africa.
- 3.2.13. The expiration or termination of this Agreement shall not affect those provisions of this Agreement which expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding the fact that the clauses themselves do not expressly provide this
- 3.2.14. If any definition in clause 3.1 contains a substantive provision conferring rights or imposing obligations on any Party, effect shall be given to such provision as if it was a substantive provision in the body of this Agreement.

4. SUBSCRIPTION

With effect from the Commencement Date, the CLIENT is granted a nonexclusive, non-assignable, royalty free, worldwide right to access and use the THREE BY THREE ENGAGE Digital Platform for the services set out in the specific Sales Order, solely for the CLIENT’s internal business operations (and not for re-sale to third parties) subject to the further terms of this Agreement, as read with the Sales Order.

5. DURATION

This Agreement and the rights and obligations of the Parties under this Agreement shall take effect on the Signature Date and will remain in force for so long as agreed in the relevant Sales Order, or unless terminated in terms of clause 12 of this Agreement.

6. GENERAL RIGHTS AND OBLIGATIONS OF THREE BY THREE ENGAGE

- 6.1. THREE BY THREE ENGAGE shall provide products and related services –
 - 6.1.1. in accordance with the provisions of the relevant Sales Order and the provisions of this Agreement;
 - 6.1.2. in a manner that complies with and meets the requirements of Applicable Law; and
 - 6.1.3. ensuring that all persons employed by THREE BY THREE ENGAGE, in connection with the execution of a Sales Order, have the necessary skills and experience in relation thereto.
- 6.2. THREE BY THREE ENGAGE will manage and supervise all the activity on and functionality of the Digital Platform, which includes maintaining the operational capacity of the Digital Platform, as may be agreed to in the applicable Sales Order from time to time.
- 6.3. THREE BY THREE ENGAGE shall manage and maintain the overall security of the Digital Platform and take reasonable steps to protect the integrity of all data stored and processed thereon; including but not limited to the Training Task Data, all Personal Information, all Confidential Data and the CLIENT Data. THREE BY THREE ENGAGE shall take reasonable steps to protect the integrity of the Digital Platform, including freedom from Viruses.
- 6.4. THREE BY THREE ENGAGE shall store, process and safeguard all CLIENT Data with at least the same level of diligence and care as it does its own Confidential Information.
- 6.5. THREE BY THREE ENGAGE will provide CLIENT with detailed and accurate invoices, in a timely manner, as stipulated in clause 14 hereunder.
- 6.6. THREE BY THREE ENGAGE is entitled to suspend access to the Digital Platform by the CLIENT, the Users, and CLIENT User Groups, and to suspend the provision of any products or services under any Sales Order, with immediate effect should the CLIENT be in breach of or should THREE BY THREE ENGAGE have reason to believe that the

CLIENT (where CLIENT includes its employees, contractors and agents, and the Users) is in breach of any material term of this Agreement (including but not limited to the provisions of clause 7 below), or is of the reasonable opinion that the CLIENT's continued access to the Digital Platform threatens the integrity of the System, which suspension shall be followed as soon as is practicable by a written notice including the reason/s for the suspension.

- 6.7. THREE BY THREE ENGAGE shall have the right to subcontract any of its obligations under this Agreement or under any Sales Order (unless otherwise agreed in writing); provided that THREE BY THREE ENGAGE shall at all times remain obligated to the CLIENT in respect of the performance of such obligations.
- 6.8. Unless otherwise agreed in writing, and subject to the provisions of clauses 9, 10, 11, and 17, THREE BY THREE ENGAGE shall have the right to publish on its website, social media and other platforms, for the purposes of marketing the Digital Platform and its services, general details of the services provided to the CLIENT, together with Logos, testimonials and case studies related thereto. Where the CLIENT requires that prior written approval be given this shall not be unreasonably withheld or delayed.
- 6.9. During the term of this Agreement and for 12 (twelve) months thereafter, THREE BY THREE ENGAGE shall not, directly or indirectly, recruit, solicit, or induce, or attempt to recruit, solicit, or induce, any of the CLIENT's employees, or contractors, to work for any other company (including with THREE BY THREE ENGAGE or its associates).

7. GENERAL RIGHTS AND OBLIGATIONS OF CLIENT

7.1. CLIENT shall -

- 7.1.1. Attend meetings and presentations from time to time with THREE BY THREE ENGAGE on agreed upon dates and as THREE BY THREE ENGAGE may deem necessary so as to facilitate the delivery of products and services under a Sales Order;
- 7.1.2. Sign all relevant agreements provided by THREE BY THREE ENGAGE to enable THREE BY THREE ENGAGE to execute its obligations in terms of a Sales Order;
- 7.1.3. Advise THREE BY THREE ENGAGE in writing within 3 hours if it is experiencing technical difficulties with the Digital Platform;

- 7.1.4. Where applicable and as agreed in the relevant Sales Order, be responsible for the identification and sign-on of Users, shall facilitate training of Users, and shall facilitate communication with and co-operation of Users;
- 7.1.5. Where applicable and as agreed in the relevant Sales Order to provide THREE BY THREE ENGAGE timeously with the agreed content in the agreed format for upload on the Digital Platform;
- 7.1.6. Assign, authorise and permit THREE BY THREE ENGAGE the right to advertise the CLIENT's logo on its web site, on the Digital Platform and or other relevant media platforms;
- 7.1.7. Use the Training Task Data for the Authorised Purpose only and then in accordance with and subject to all Applicable Laws, including but not limited to the POPI Act and applicable data and privacy regulations;
- 7.1.8. Not access and or permit access to the Digital Platform, and or Training Task Data, by any other means than those authorised and permitted by THREE BY THREE ENGAGE and as permitted in terms of the Sales Order;
- 7.1.9. Other than as expressly permitted in writing by THREE BY THREE ENGAGE, not make any additions, alterations, modifications and or adaptations that in any manner materially reduce, impair or otherwise negatively impact on the accuracy, completeness, integrity, functionality, operability and or safety of the Digital Platform and/or Training Task Data;
- 7.1.10. Not interfere or disrupt the Digital Platform, its products and or related service, including any third-party services or networks linked thereto, including inter alia knowingly or negligently transmitting any Virus onto the Digital Platform;
- 7.1.11. Not use the Digital Platform, Training Task Data, Personal Information and or User Details for any unlawful or unauthorised purposes or activities;
- 7.1.12. Comply with all rules and policies applicable to its use of the Digital Platform as THREE BY THREE ENGAGE may reasonably prescribe from time to time;
- 7.1.13. Be responsible for protecting and safeguarding any login, User and User Group details and Personal Information and will ensure compliance with all POPI Act, data and privacy regulations;

- 7.1.14. Not to engage in any conduct which is calculated or reasonably likely to bring or has the effect of bringing the Digital Platform into disrepute, nor THREE BY THREE ENGAGE's reputation, brand, image or trademarks into disrepute; and
 - 7.1.15. Make payment to THREE BY THREE ENGAGE in accordance with clause 14 hereunder without set-off or any deduction for any reason whatsoever.
 - 7.1.16. During the term of this Agreement and for 12 (twelve) months thereafter, the CLIENT shall not, directly or indirectly, recruit, solicit, or induce, or attempt to recruit, solicit, or induce, any of THREE BY THREE ENGAGE's employees, or contractors, to work for any other company (including with the Client or its associates).
- 7.2. The CLIENT hereby indemnifies, defends and holds harmless THREE BY THREE ENGAGE, its employees and/ or any affiliates from all Losses arising or resulting from, or in connection with, any actual or threatened claim, demand, charge, action, cause of action, or other proceeding by any third party, arising from or in connection with a breach by the CLIENT (or any of its Affiliates, employees, contractors or agents) of any of the provisions of clause 7.1; provided that the CLIENT shall not be liable for any indirect, consequential damages or pure economic loss.

8. MANAGEMENT OF CLIENT USERS

- 8.1. The CLIENT shall be totally responsible for the recruitment, training and management of the Users. In such instances, the CLIENT shall also be liable for the protection of the User's Personal Information, and liable for any claims which the User may have arising from its use of the Digital Platform, save as otherwise agreed in writing.
- 8.2. The CLIENT hereby irrevocably indemnifies and holds THREE BY THREE ENGAGE harmless in respect of any claims by a User arising out of his or her employment status, the User's Personal Information and any other claim arising from their use of the Digital Platform (save to the extent that THREE BY THREE ENGAGE has expressly undertaken such risk under a Sales Order and is in breach of its obligations in respect thereof).

9. PERSONAL INFORMATION AND THE POPI ACT

- 9.1. The Parties hereby acknowledge that the operation of the Digital Platform and the provision of the services and products related thereto are subject to the provisions of the POPI Act and the PAI Act and accordingly, both Parties warrant in favour of one another that they are familiar with the terms and provisions thereof.
- 9.2. The Parties recognise that at all times when the Digital Platform is in use of for the purposes of delivering Digital Training products and services, THREE BY THREE ENGAGE shall be the Operator (as defined in the POPI Act) and the CLIENT shall be deemed to be the Responsible Party in terms of compliance with POPI Act.
- 9.3. Each Party shall appoint an Information Officer (and an alternate Information Officer) and advise the other Party of the name and contact details of that person in writing. Each Party shall ensure that the Information Officer (and their alternate) is adequately trained and equipped to fulfil the obligations of such a position.
- 9.4. The CLIENT shall not do anything, nor cause to anything to be done, that will jeopardise the Digital Platform's compliance with Applicable Law and the CLIENT hereby indemnifies and holds THREE BY THREE ENGAGE harmless in respect of any damages arising from a breach by the CLIENT of this obligation.
- 9.5. THREE BY THREE ENGAGE shall operate the Digital Platform in compliance with Applicable Law, including but not limited to POPI Act and PAI Act, and hereby indemnifies and holds the CLIENT harmless in respect of any claim that arises from a breach of Applicable Law, provided that such breach has not be caused by the acts or omissions of the CLIENT.
- 9.6. Where a third party makes a request to have access to their Personal Information, whether under POPI Act of PAI Act, the Party receiving the request shall notify the other Party immediately and the Parties shall, at the request of either Party, discuss the implications, impact and manner of meeting the request. Such consultation shall be undertaken expeditiously and within the time frames prescribed by Applicable Law. Nothing in this clause 9.6 shall prohibit any Party from meeting its obligations in terms of Applicable Law.
- 9.7. The CLIENT, being the Responsible Party in terms of POPI Act, hereby irrevocably undertakes in favour of THREE BY THREE ENGAGE that all Data Processing of Personal Information shall be in accordance with Applicable Law and that all consents by the relevant Data Subject shall be properly obtained and retained. The CLIENT

hereby indemnifies THREE BY THREE ENGAGE in respect of any harm caused to or claims raised by third parties relating to a breach by the CLIENT of its obligations under Applicable Law.

- 9.8. Notwithstanding any other provision of this Agreement, THREE BY THREE ENGAGE may publish a Data Security and Privacy Policy in relation to the Digital Platform and the CLIENT shall be bound by the terms and conditions of such Policy/ies (as amended from time to time) and compliance with its terms shall be deemed to be material obligations under this Agreement.
- 9.9. Each Party shall ensure that prior to providing Personal Information to the other Party, it shall have obtained all consents (whether from natural or juristic persons – as applicable) that may be required in terms of the POPI Act or any other Applicable Laws to provide Personal Information to the other Party.
- 9.10. Each Party warrants to the other that in relation to this Agreement, it shall comply strictly with all requirements of the PAI Act and POPI Act, as amended from time to time.
- 9.11. Notwithstanding any other provision in this Agreement, it is recorded that the Digital Platform may store or back-up data to servers and facilities outside the borders of South Africa and accordingly the CLIENT hereby irrevocable grants THREE BY THREE ENGAGE consent to transfer data (including, but not limited to CLIENT Data, User's Personal Information, Confidential Information and Training Task Data) outside the borders of South Africa, provided that THREE BY THREE ENGAGE in turn warrants that this shall be conducted in accordance with Applicable Law. The CLIENT shall procure the Users' consent to such transfer, storage and processing.

10. DATA OWNERSHIP AND RIGHTS

- 10.1. In addition to the management of Personal Information in terms of the POPI Act (dealt with in clause 9 above), each Sales Order may contain agreement on the nature of the Training Task Data to be collected, processed and stored, and the ownership and use of such Training Task Data by the Parties.
- 10.2. Notwithstanding clause 10.1, the following terms and conditions shall apply to the rights in and to data (unless otherwise agreed in writing):

- 10.2.1. All CLIENT Data shall belong to the CLIENT and the CLIENT hereby grants THREE BY THREE ENGAGE a non-exclusive license to make use of such CLIENT Data solely for the purposes of providing goods and services in terms hereof;
- 10.2.2. All Training Task Data collected on the Digital Platform shall be owned by the CLIENT and may be used by the CLIENT for its own purposes as determined in its sole discretion, subject to Applicable Law; and
- 10.2.3. Any Training Task Data delivered by the CLIENT to THREE BY THREE ENGAGE may only be used by THREE BY THREE ENGAGE for the purposes agreed to in the Sales Order.

11. INTELLECTUAL PROPERTY RIGHTS

- 11.1. All IP Rights owned by either Party (whether before or after the Commencement Date) remain the sole and exclusive property of that Party. Where the CLIENT provides content for uploading on the Digital Platform, the ownership of such content shall remain with the CLIENT, which hereby grants THREE BY THREE ENGAGE the non-exclusive license to use such content for the agreed purposes.
- 11.2. Where THREE BY THREE ENGAGE develops content for and on behalf of the CLIENT for uploading on the Digital Platform, the ownership and use of such content shall be agreed in writing; failing which the content shall be owned by THREE BY THREE ENGAGE and is hereby licensed to the CLIENT for the duration and purposes set out in the relevant Sales Order.
- 11.3. The CLIENT acknowledges that ownership rights, copyright, patents or IP Rights of whatever nature related to the Digital Platform shall remain the sole property of THREE BY THREE ENGAGE. The CLIENT shall not, at any time during or after the expiration or termination of the Agreement, assert or claim any interest in, or do anything that may adversely affect the validity of THREE BY THREE ENGAGE's IP Rights in and to the Digital Platform. The acceptance of the Services hereunder and the use of the Digital Platform shall in no way grant the CLIENT any right to or interest in the Digital Platform. Furthermore, upon the lawful termination of this Agreement for any reason, the CLIENT shall no longer have the right to access or use the Digital Platform and shall have no claim against THREE BY THREE ENGAGE for the loss of such access or use.

- 11.4. Any IP Rights arising out of the further development of the Digital Platform (whether developed by the CLIENT or for the CLIENT (by THREE BY THREE ENGAGE or by a third party)), shall vest in and be owned by THREE BY THREE ENGAGE and the CLIENT shall acquire no IP Rights in respect thereof. To the extent required by law, the CLIENT hereby cedes and assigns to THREE BY THREE ENGAGE, for no charge, all rights to and interest in any additions, amendments, improvements or the like in respect of the Digital Platform and undertakes to sign all such documentation and undertake all such actions as are required from time to time to give effect to the cession and assignment.
- 11.5. The CLIENT warrants that it shall not –
- 11.5.1. decompile, reverse engineer or modify the Digital Platform, or otherwise attempt to obtain the related source code or other code proprietary thereto;
 - 11.5.2. allow any other person to use the Digital Platform, except pursuant to the normal operation of the Digital Platform and then with the prior written consent of THREE BY THREE ENGAGE, which consent shall not be unreasonably withheld or delayed; and
 - 11.5.3. use the Digital Platform for any purpose other than the Authorised Purpose as set out in the Sales Order/s.
- 11.6. THREE BY THREE ENGAGE is entitled to suspend the provision of any product or services with immediate effect should the CLIENT be in breach of or should THREE BY THREE ENGAGE have reason to believe that the CLIENT is in breach of the provisions of this clause¹¹; provided that THREE BY THREE ENGAGE shall as soon as reasonably practicable after the suspension provide written notice to the CLIENT of the suspension and give reasons therefor.
- 11.7. The CLIENT hereby indemnifies, defends and holds harmless THREE BY THREE ENGAGE, its employees and/ or any affiliates from all Losses arising or resulting from, or in connection with, any actual or threatened claim, demand, charge, action, cause of action, or other proceeding by any third party, arising from or in connection with a breach by the CLIENT (or any of its Affiliates) of any of the provisions of this clause 11.

12. TERMINATION

12.1. Non-default termination

- 12.1.1. Subject to any fixed duration agreed to in the Sales Order, this Agreement will remain in force for an indefinite period, unless terminated in writing on [30] thirty calendar days' notice, to either party, which termination will not affect and or terminate the reciprocal duties and obligations of any incomplete Sales Order, unless otherwise agreed in writing.
- 12.1.2. The reciprocal duties and obligations of the Parties in respect of any Sales Order, will be terminated in accordance to the provisions as contained and set out therein.

12.2. Termination on Breach

- 12.2.1. In addition to circumstances where THREE BY THREE ENGAGE has the right to immediately suspend the provision of products and services, should the CLIENT commit a breach of this Agreement or a Sales Order and fail or refuse to rectify that breach within [10] ten days after receipt of a written notice from THREE BY THREE ENGAGE, calling upon the CLIENT to rectify that breach, THREE BY THREE ENGAGE shall be entitled, without prejudice to any other of its rights in law, to forthwith cancel this Agreement on [24] twenty four hours written notice to the CLIENT.
- 12.2.2. Should THREE BY THREE ENGAGE commit a breach of this Agreement and fail or refuse to rectify that breach within [10] ten days after receipt of a written notice from the CLIENT calling upon THREE BY THREE ENGAGE to rectify that breach, the CLIENT shall be entitled, without prejudice to any other of its rights, to forthwith cancel this Agreement on [24] twenty-four hours written notice to THREE BY THREE ENGAGE.

13. GENERAL WARRANTIES AND EXCLUSION OF LIABILITY

- 13.1. The CLIENT acknowledges that the Digital Platform is provided on an "as is", "as available" and on a "with all faults" basis and accordingly THREE BY THREE ENGAGE shall not be liable for any shortfall in the performance of the Digital Platform other than is expressly agreed to in a Sales Order. In particular, THREE BY THREE ENGAGE does not warrant that the Digital Platform is free of defects or of Viruses and the CLIENT shall take reasonable precautions to mitigate the risk thereof.

- 13.2. Under no circumstances will any Party be liable to the other Party (or its Affiliates) for any indirect, special or consequential damages or losses of any kind whatsoever and however caused even if that Party has been advised of their possibility.
- 13.3. CLIENT hereby indemnifies THREE BY THREE ENGAGE and holds THREE BY THREE ENGAGE harmless against any claim of whatsoever nature by any third party arising whether directly or indirectly out the use of the Training Task Data, the CLIENT data or the User Details (including Personal Information).
- 13.4. Notwithstanding any other provision of this Agreement, THREE BY THREE ENGAGE's total liability to the CLIENT (and its Affiliates) shall not exceed in total an amount equal to the aggregate of the last [3] three month's charges paid to THREE BY THREE ENGAGE by the CLIENT.

14. PAYMENT

- 14.1. The fees and charges payable by the CLIENT to THREE BY THREE ENGAGE shall be as agreed to in the Sales Order/s concluded from time to time; provided that if no such terms are agreed then:
- 14.1.1. In respect of retainer or other general services, the Client shall pay THREE BY THREE ENGAGE monthly in advance with payments being made against receipt of a valid tax Invoice prepared by THREE BY THREE ENGAGE and payable on presentation;
- 14.1.2. In respect of any adhoc services payable within [10] days of presentation of a valid tax Invoice.
- 14.2. THREE BY THREE ENGAGE shall include the following details on the Invoice, to enable the CLIENT to verify the accuracy of the Invoice:
- 14.2.1. reference to the specific Sales Order to which the invoice relates; and
- 14.2.2. a relevant purchase order number if so required and supplied by the CLIENT.
- 14.3. All amounts payable shall be paid free of any deduction, charge or set-off by bank transfer in South African Rand (ZAR) into the bank account nominated by THREE BY THREE ENGAGE in writing.
- 14.4. For the avoidance of doubt, it is recorded and agreed that all considerations and prices

quoted or otherwise provided for in this Agreement and/or any formulae for the determination thereof are quoted and provided for exclusive of VAT.

15. ARBITRATION

- 15.1. Should any dispute arise between the parties in connection with the interpretation or application of the provisions of this Agreement, including its validity, enforcement and termination or the validity of any documents furnished by the parties pursuant to the provisions of this agreement, unless resolved amongst the parties, this dispute will be referred to and be determined by arbitration in terms of this clause.
- 15.2. Any party to this agreement may demand that a dispute be determined in terms of this clause 15 by written notice given to the other party.
- 15.3. This clause will not preclude any party from obtaining interim relief on an urgent basis from a court of competent jurisdiction pending the decision of the arbitrator.
- 15.4. The arbitration will be held:
 - 15.4.1. In Sandton;
 - 15.4.2. With only the legal and other representatives of the parties to the dispute present;
 - 15.4.3. In accordance with the formalities and procedures settled by the arbitrator, and may be held in an informal and summary manner, on the basis that it will not be necessary to observe or carry out the usual formalities or procedures, pleadings and discovery or the strict rules of evidence, it being the intention that the arbitration will be held and completed as soon as possible;
 - 15.4.4. On the basis that the arbitrator will be entitled to decide the dispute in accordance with what he/she considers to be just and equitable in the circumstances.
- 15.5. The following arbitrators will be acceptable to both parties, if the matter in dispute is principally:
 - 15.5.1. A legal matter, a practising attorney or advocate of the Johannesburg Bar of at least 10 (ten) year's standing;

- 15.5.2. An accounting matter, a practising chartered accountant of Johannesburg of at least 10 (ten) year's standing;
- 15.5.3. Any other matter, a practising attorney or advocate of the Johannesburg Bar of at least 10 (ten) year's standing or other independent person.
- 15.6. Should the parties to the dispute fail to agree whether the dispute is principally a legal, accounting or other matter within 7 (seven) days after the arbitration was demanded, the matter will be deemed to be a legal matter.
- 15.7. Should the parties fail to agree on an arbitrator within 14 (fourteen) days after giving of notice in terms of clause 15.2 the arbitrator will be appointed at the request of any party to the dispute by the chairman for the time being of the Johannesburg Bar Council according to the provisions of clauses 15.5 and 15.6.
- 15.8. The decision of the arbitrator will be final and binding on the parties to the dispute and may be made an order of any court to whose jurisdiction the parties are subject at the instance of any of the parties to the dispute.
- 15.9. The arbitrator will be entitled to make such award, including an award for specific performance, an interdict, damages or a penalty or otherwise as he/she in his/her sole discretion may deem fit and appropriate and to deal as he/she deems fit with the question of costs, including if applicable, costs on the attorney and Affiliate scale, and his/her own fees.
- 15.10. The provisions of this clause:
- 15.10.1. Constitute an irrevocable consent by the parties to any proceedings in terms hereof and no party will be entitled to withdraw there from or claim at any such proceedings that it is not bound by such provisions;
- 15.10.2. Are severable from the rest of this agreement and will remain in effect despite the termination of or invalidity for any reason of this agreement.

16. GOVERNING LAW AND JURISDICTION

- 16.1. The interpretation and enforcement of the provisions of this Agreement, its Annexures and the Sales Orders, shall be governed by and construed in accordance with the laws of the Republic of South Africa.

- 16.2. The Parties consent to the non-exclusive jurisdiction of the High Court of South Africa, Gauteng Local Division, Johannesburg, with regard to any matter which may be referred to a court of law in terms of this Agreement.

17. CONFIDENTIALITY

- 17.1. The Parties acknowledge that they may, in the course of the performance of the Agreement, gain access to and become acquainted with the other Party's Confidential Information.
- 17.2. The Parties accordingly undertake, for the duration of this Agreement as well as after the termination thereof, not to directly or indirectly, utilize, disclose or make public to any third party any Confidential Information of each other and to keep any Confidential Information secret and confidential at all times, unless such disclosure takes place in the ordinary course of the rendering of the services in terms of this Agreement. Neither shall any Party make use of the other Party's Confidential information for any purpose other than for the provision or acceptance of products and services hereunder
- 17.3. The Confidential Information shall not include-
- 17.3.1. information which was known to the Parties prior to entering into this Agreement;
 - 17.3.2. information which is or lawfully becomes generally available to the public;
 - 17.3.3. information which is lawfully acquired from third parties who have a right to disclose such information;
 - 17.3.4. information which by mutual agreement is released from confidential status; and
 - 17.3.5. information which is required to be disclosed in response to a valid order of court or other governmental agency or if disclosure is otherwise required by law, and the Parties will provide each other with prompt written notice if such disclosure is required and shall limit the disclosure to the minimum necessary to comply with the law.
 - 17.3.6. is disclosed to a third party pursuant to the prior written authorisation from the party disclosing the Confidential Information;

- 17.3.7. is received from a third party in circumstances that do not result in a breach of the provisions of this Agreement.
- 17.3.8. is received by a Party from a third party who has the right to disseminate such Confidential Information;
- 17.3.9. is or had already been independently generated by a Party prior to receiving it from the other Party.
- 17.3.10. is furnished after the Commencement Date by the Party disclosing the Confidential Information to a third party without restriction;
- 17.3.11. has been received from a third party without any non-disclosure and/or confidentiality obligation

18. FORCE MAJEURE

- 18.1. THREE BY THREE ENGAGE shall not be liable for damages or termination to the extent that the delay in performance or other failure to perform its obligation under this Agreement is the result of an event of force majeure.
- 18.2. For purposes of this clause ‘force majeure’ means an event beyond the control of THREE BY THREE ENGAGE and not involving THREE BY THREE ENGAGE’ fault or negligence. Such events may include but are not restricted to wars, terrorist attacks, civil unrest, pandemics, Viruses’, fires, strikes, floods, power and utility outages, cyberattacks and freight embargoes.
- 18.3. If a force majeure situation arises THREE BY THREE ENGAGE shall notify CLIENT in writing of such condition within 24 hours of becoming aware of a force majeure situation. This notification must describe the nature of the circumstances that have emerged and if possible an estimated effect of the inability of THREE BY THREE ENGAGE to discharge its obligation under this Agreement, unless otherwise directed by CLIENT in writing THREE BY THREE ENGAGE shall continue to perform its obligations under the Agreement as far as is reasonably practical and shall seek all reasonable alternative means for performance not prevented by the force majeure.
- 18.4. If an event of force majeure continues for a period of seven days or more, THREE BY THREE ENGAGE may terminate the Agreement without either party incurring any

further liabilities towards the other with respect to the contract other than to effect payment for Services already performed.

19. MISCELLANEOUS

- 19.1. Save as expressly permitted hereunder, a Party shall not, without the prior written approval of the other Party, which shall not be unreasonably withheld, assign, cede, delegate, transfer or otherwise dispose of any right or obligation under this Agreement to any other person; provided that THREE BY THREE ENGAGE shall be entitled to subcontract the provision of services to third parties (however THREE BY THREE ENGAGE shall at all times remain liable for the performance by any of its subcontractors).
- 19.2. No provision of this Agreement (including, without limitation, the provisions of this clause) may be amended, substituted or otherwise varied, and no provision may be added to or incorporated in this Agreement, except (in any such case) by an agreement in writing signed by the duly authorised representatives of the Parties.
- 19.3. Any relaxation, indulgence or delay (together "Indulgence") by either Party in exercising, or any failure by either Party to exercise, any right under this Agreement shall not be construed as a waiver of that right and shall not affect the ability of that Party subsequently to exercise that right or to pursue any remedy, nor shall any Indulgence constitute a waiver of any other right (whether against that Party or any other person).
- 19.4. Except where expressly provided to the contrary in this Agreement, this Agreement constitutes the entire agreement between the Parties in connection with its subject matter and supersedes all prior representations, communications, negotiations and understandings concerning the subject matter of this Agreement.
- 19.5. This Agreement may be executed in any number of identical counterparts, all of which when taken together shall constitute one agreement. Any single counterpart or a set of counterparts taken together which, in either case, are executed by the Parties shall constitute a full original of this Agreement for all purposes.
- 19.6. All notices and any other communications whatsoever (including, without limitation, any approval, consent, demand, query or request) by either Party in terms of this Agreement or relating to it shall be given in writing and sent by registered post, or delivered by hand, or transmitted by facsimile or electronic mail to the recipient Party at its relevant address set out in the Sales Order.

- 19.7. Either Party may, by written notice to the other Party, change any of the addresses at which, or the designated person for whose attention those notices or other communications are to be given.
- 19.8. The person signing on behalf of the Party they represent expressly warrants his/her authority to do so and that they have obtained all relevant resolutions and/or authorisations.
- 19.9. Termination or expiry of this Agreement for any cause does not release any Party from any liability which at the time of termination or expiry has already accrued to such Party or which thereafter may accrue in respect of any act or omission prior to such termination or expiry.
- 19.10. Any notice or other communication given by any Party to the other Party which –
- 19.10.1. is sent by registered post to the addressee at its specified address shall be rebuttably presumed to have been received by the addressee on the 7th (seventh) day after the date of posting; or
 - 19.10.2. is delivered by hand during the normal business hours of the addressee at its specified address shall be rebuttably presumed to have been received by the addressee at the time of delivery; or
 - 19.10.3. is transmitted by facsimile copier to the addressee at the addressee's specified facsimile number shall be rebuttably presumed to have been received by the addressee on the date of transmission as indicated on the sender's facsimile transmission report; or
 - 19.10.4. is transmitted by electronic mail to the addressee at the addressee's specified electronic mail address shall be rebuttably presumed to have received by the addressee on the date of transmission as reflected on the sender's electronic mail records.
- 19.11. Each Party shall be responsible for paying its own costs and expenses incurred in connection with the negotiation, preparation and execution of this Agreement.

-END-