



Table of Contents

1. INTERPRETATION	1
2. INTRODUCTION	3
3. NATURE AND SCOPE	3
4. DURATION OF THE AGREEMENT	4
5. EXCLUSIVITY	4
6. SIYAYA STAFF AND SUBCONTRACTORS	4
7. GENERAL OBLIGATIONS OF THE COMPANY	5
8. INSURANCE	5
9. SERVICE CHARGES AND PAYMENT	5
10. MAINTENANCE EXCLUSIONS BY SIYAYA.....	6
11. SERVICE CHARGE ADJUSTMENTS	6
12. NON-SOLICITATION	6
13. CONFIDENTIALITY.....	7
14. LIMITATION OF LIABILITY	7
15. BREACH	7
16. SUMMARY TERMINATION.....	7
17. CESSION.....	8
18. FORCE MAJEURE	8
19. SEVERABILITY	8
20. APPLICABLE LAW AND JURISDICTION	8
21. DISPUTE RESOLUTION	8
22. NOTICES AND DOMICILIUM	9
23. GENERAL	9
24. POPI - PROTECTION OF PERSONAL INFORMATION	10
25. LEGAL COSTS & COUNTERPARTS	11
26. RESERVATION OF OWNERSHIP & RISK.....	11

WHEREAS: The PARTIES comprising Siyaya Phambili Technology Solutions (Pty)Ltd and Siyaya Phambili Technology Solutions UK Ltd , and Siyaya Platform Technology Systems (Pty)Ltd referred to as SIYAYA , and the customer, whether for the customer directly or the customer's customer as end-user, referred to as the COMPANY , have entered into an AGREEMENT to which these terms and conditions are attached. The AGREEMENT referred to as the MSA details the provision of SERVICES from SIYAYA to the COMPANY .	The PARTIES agree to be bound by these terms and conditions when SIYAYA commences providing SERVICES to the COMPANY .
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1. INTERPRETATION

1.1 In this AGREEMENT, unless clearly inconsistent with or otherwise indicated in the context –

1.1.1 An expression which denotes –

1.1.1.1 Any gender includes the other genders.

1.1.1.2 A natural person includes an artificial or juristic person and vice versa.

1.1.1.3 The singular includes the plural and vice versa.

1.1.2 The following words shall have the meanings assigned to them hereunder, and cognate expressions shall have corresponding meanings: –

1.1.2.1 **AFSA** means the Arbitration Foundation of Southern Africa.

1.1.2.2 **AGREEMENT** means this AGREEMENT entered into between **SIYAYA** and the **COMPANY** and any and all annexures incorporating and constituting concluded **QUOTATIONS**;

1.1.2.3 **BUSINESS DAY** means those periods as defined in each **QUOTATION**. If not explicitly specified in a **QUOTATION**, **BUSINESS DAY** shall mean Monday to Friday during **BUSINESS HOURS**, other than an official public holiday in the **RSA**.

1.1.2.4 **BUSINESS HOURS** means 08h00 to 17h00 on **BUSINESS DAYS** unless otherwise defined in a **QUOTATION**.

1.1.2.5 **COMMENCEMENT DATE** means the date as defined in clause **4.1**.

1.1.2.6 **DAY** means, for this **AGREEMENT**, a calendar day.

1.1.2.7 **FACILITIES** means, without limiting the generality of the definition, all IT and IT infrastructure and other infrastructure belonging to the **COMPANY** or its clients and where **SIYAYA** personnel have access to enable them to provide **PRODUCTS** and **SERVICES** in terms of this **AGREEMENT**. **FACILITIES** include but are not limited to the use of a telephone, toilets, restrooms, a desk, seating, lighting, water, electrical power points and other equipment, on the **COMPANY** premises concerned, free of charge and as reasonably required by **SIYAYA** for the adequate performance of this **AGREEMENT**, unless otherwise stated in a **QUOTATION**;

1.1.2.8 **FORCE MAJEURE** means any events or circumstances whatsoever which is not within the reasonable control of the affected

- PARTY including, any act of G-D, strike, fire, explosion, insurrection or other civil disorder, war (whether declared or not) or military operations, any requirements of any international authority, a pandemic or similar situation affecting the ability of either PARTY to perform its obligations other than payment by the COMPANY which shall not be suspended;
- 1.1.2.9 **PARTY** means either the COMPANY or SIYAYA, and PARTIES means both.
- 1.1.2.10 **SERVICE CHARGES** means the service charges and rates detailed in each QUOTATION under this AGREEMENT, as amended per the terms and conditions of this AGREEMENT from time to time.
- 1.1.2.11 **SERVICE LEVELS** means the agreed quantitative and qualitative performance metrics applicable to the service as contained in a QUOTATION.
- 1.1.2.12 **SERVICE LEVEL AGREEMENT** herein referred to as the SLA means a document agreed between the PARTIES in writing as provided for in this AGREEMENT, issued subject to the terms, conditions and provisions of this AGREEMENT, which contains inter alia the SERVICE LEVEL requirements applicable to the SERVICES; The SLA may be a standalone document or incorporated inside a QUOTATION.
- 1.1.2.13 **SERVICES** means any activities or work performed for or on behalf of the COMPANY by SIYAYA including, without limiting the generality hereof, managed support services and solutions, Software as a Service (SaaS), *ad hoc* and emergency support services and solutions, and software development and maintenance services and solutions, and any product/s supplies, either pursuant to the Services or independently thereof, as more fully detailed in individual QUOTATIONS issued from time to time in terms of this AGREEMENT or supplied thereafter.
- 1.1.2.14 **SIGNATURE DATE** the date of signature of this AGREEMENT by the PARTY signing last in time.
- 1.1.2.15 **STAFF** means any employee, duly authorised agent, subcontractor and the personnel of such subcontractor and other authorised representatives of a PARTY.
- 1.1.2.16 **SPECIFICATIONS** means the stipulations and criteria set out in each proposal or QUOTATION, to which the deliverable materials must conform.
- 1.1.2.17 **THIRD PARTY PROVIDERS** means any vendors, suppliers, distributors and/or sub-contractors SIYAYA utilises in providing the SERVICES to the COMPANY.
- 1.1.2.18 **QUOTATION** means a written AGREEMENT which is a QUOTATION, SLA or PROPOSAL DOCUMENT between the **PARTIES** subject to the terms, conditions and provisions of this AGREEMENT, and in which the provision of the SERVICES are specified. Once signed or where actual performance has taken place without a signature, QUOTATIONS issued in terms of this AGREEMENT are deemed to form part of this AGREEMENT and include *mutatis mutandis*,

the conditions, and
provisions in this

AGREEMENT subject to
[clause 23.2](#) hereof.

- 1.2 No provision shall be construed against or interpreted to the disadvantage of any PARTY hereto because of such PARTY having or being deemed to have structured or drafted such provision.
- 1.3 Any reference to any statute, regulation or other legislation shall be a reference to that statute, regulation, or other legislation as at the SIGNATURE DATE and as amended or substituted from time to time.
- 1.4 If any provision in a definition is a substantive provision conferring a right or imposing an obligation on any PARTY, then, notwithstanding that it is only in a definition, effect shall be given to that provision as if it were a substantive provision in the body of this AGREEMENT.
- 1.5 Any term defined within a clause other than [clause 1](#) shall bear the meaning ascribed to it in that clause wherever it is used in this AGREEMENT.
- 1.6 Any number of days is calculated from the day after the specified start day. However, if the last day of such calculation falls on a non-business day, the last day shall be the next business day after the non-business day.
- 1.7 The use of the word "including" followed by a specific example/s shall not be construed as limiting the meaning of the general wording preceding it, and the *eiusdem generis* rule shall not be applied in the interpretation of such general wording or such specific example/s; and;
- 1.8 The expiration or termination of this AGREEMENT shall not affect such provisions of this AGREEMENT as expressly provides that they will operate after any expiration or termination or which of necessity must continue to affect such expiry or termination notwithstanding that the clauses themselves do not expressly provide for this.

2. INTRODUCTION

Whereas:

- 2.1 The COMPANY requires SIYAYA to attend to its Technology needs per this AGREEMENT and the QUOTATION; and
- 2.2 SIYAYA can provide the necessary skills, expertise and qualified personnel to provide its SERVICES to the COMPANY and its client, per this AGREEMENT and the QUOTATION; and
- 2.3 The PARTIES wish to record the terms and conditions of this AGREEMENT upon which SIYAYA will render SERVICES to the COMPANY / its clients.

3. NATURE AND SCOPE

- 3.1 This AGREEMENT is an enabling AGREEMENT under the terms and conditions of which SIYAYA shall perform the SERVICES per the requirements and specifications as may, from time to time, be directed and defined in the QUOTATION.
- 3.2 A QUOTATION shall be agreed between the PARTIES from time to time, documented and signed by duly authorised representatives of the PARTIES before SIYAYA is obliged to commence rendering/providing the SERVICES stipulated therein.
- 3.3 Each QUOTATION forms an inseparable part of this AGREEMENT as if it were fully incorporated into the body of this AGREEMENT. Insofar as any term, provision, or condition in a QUOTATION directly conflicts with a like term, provision or condition of this AGREEMENT, then, and in only that event, the term, provision or condition in this AGREEMENT shall prevail unless otherwise explicitly so stated in a QUOTATION signed by the PARTIES.

- 3.4** The provisions in one QUOTATION executed under this AGREEMENT shall not apply to any other QUOTATION unless expressly so provided.

4. DURATION OF THE AGREEMENT

- 4.1** This AGREEMENT shall be deemed to have commenced from the earlier of the date of acceptance (electronically or otherwise) or signature hereof or the provision of the SERVICES (whichever is the earlier). It shall be subject to the provisions of this AGREEMENT and endure indefinitely subject to clause 4.2 for so long as a QUOTATION continues to subsist or any SERVICES are rendered.
- 4.2** In the event that a utilised THIRD PARTY PROVIDER terms and conditions varies from SIYAYA'S, then and in such event, that THIRD PARTY PROVIDER terms and conditions of service and duration thereof shall apply, the provisions of which the PARTIES agree to and undertake acquainting themselves therewith.
- 4.3** In specific relation to any rental SERVICES provided to the COMPANY by SIYAYA, including but not limited to any Software as a Service (SaaS), the stated duration of any such rental is agreed to be a fixed term period which may vary from item to item and from time to time.
- 4.4** A specific QUOTATION shall be operative in each instance from the date stipulated therein, and will endure for the term therein stipulated, subject to the provisions of this AGREEMENT.
- 4.5** SIYAYA shall be entitled, always and in its sole and unfettered discretion, to summarily suspend the provision of SERVICES or, at its election, cancel this AGREEMENT (including any QUOTATIONS or SLA's) in the event of non-payment by the COMPANY for any reason whatsoever on written notice to that effect.

5. EXCLUSIVITY

The COMPANY is required to exclusively utilise the SERVICES of SIYAYA in accordance with the QUOTATION.

6. SIYAYA STAFF AND SUBCONTRACTORS

6.1 Staff:

- 6.1.1** SIYAYA will use suitably skilled staff to provide the SERVICES that meets the requirements specified in this AGREEMENT and the QUOTATION.
- 6.1.2** Should the COMPANY require higher-skilled staff than that stipulated in the QUOTATION or request a staff change, for this reason, such request shall be given to SIYAYA in writing, in the event of which, the COMPANY shall be liable to SIYAYA in respect of the costs associated and incurred with this change and in effecting such requested change.
- 6.1.3** SIYAYA shall be entitled to determine which staff shall be assigned to perform the service.

6.2 Service Management:

- 6.2.1** The COMPANY will appoint a resource responsible for liaising with SIYAYA regarding its SERVICES in accordance with a QUOTATION.
- 6.2.2** The COMPANY shall give the resource authority to oversee and carry out the COMPANY obligations under the AGREEMENT and each QUOTATION.
- 6.2.3** The resource shall liaise with SIYAYA regarding its progress and any necessary corrective action relating to the non-achievement of the QUOTATION commitments.

6.3 THIRD PARTY PROVIDERS:

6.3.1 SIYAYA may employ THIRD PARTY PROVIDERS to execute all or any portion of the SERVICES.

6.3.2 SIYAYA shall endeavour to ensure that all THIRD PARTY PROVIDERS perform in terms of the provisions of this AGREEMENT subject to reasonable variances necessarily experienced in the way of such THIRD PARTY PROVIDERS specially applying terms and conditions.

7. GENERAL OBLIGATIONS OF THE COMPANY

- 7.1** Provide SIYAYA with pertinent information relating to any reported malfunction per the stipulated SIYAYA process and procedure.
- 7.2** Provide SIYAYA access to the user, equipment, and infrastructure to perform its duties in terms of this AGREEMENT.
- 7.3** Ensure that all software is licensed. In the unlikely event that the equipment is not correctly licensed, as SIYAYA may determine from time to time, SIYAYA is entitled, in its sole and unfettered discretion, to refuse to maintain such equipment.
- 7.4** Ensure that FACILITIES and its staff are provided and made available to SIYAYA at all times material and whenever SIYAYA provides its SERVICES on site (whether the SERVICES are provided at the COMPANY'S premises or at any other site address as required). Any delay in the provision of the FACILITIES and/or requisite COMPANY staff incurred by, or owing to the COMPANY shall be billable by SIYAYA to the COMPANY premised upon a time and material basis or such other ad hoc basis and payable upon presentation.
- 7.5** Ensure that its staff be available as reasonably required by SIYAYA and cooperate as is reasonably necessary and desirable for the effective and successful provision of the SERVICES.

8. INSURANCE

The PARTIES shall ensure they have adequate insurance coverage in respect of their assets and infrastructure in the event of a claim. The COMPANY is obliged to specifically have general and public liability insurance in place and effect in order to cover all sums which an insured under such insurance policy may become legally liable to pay as compensation for any loss which arises out of the provisions of the SERVICES in terms of this AGREEMENT and in this regard irrevocably and unconditionally indemnifies SIYAYA as against any and all claims in respect of any damages and/or losses that may arise from whichever person or third party or THIRD PARTY PROVIDER.

9. SERVICE CHARGES AND PAYMENT

- 9.1** In consideration for SIYAYA providing the SERVICES stipulated in each QUOTATION, the COMPANY shall pay SIYAYA the amounts specified therein.
- 9.2** The COMPANY shall pay such amounts to SIYAYA once such payments have become due and payable to SIYAYA for the provisions of such SERVICES stipulated per QUOTATION and in each instance. Service charges will be as specified in each QUOTATION.
- 9.3** If the relevant QUOTATION charges are time and material or ad hoc based, SIYAYA'S records of the SERVICES hours and any other expenses together with the user or personnel on site's signature shall be *prima facie* proof of SERVICES having been rendered. In the absence of such records, the COMPANY is obliged nevertheless to authorise such charges unless the COMPANY demonstrates that the SERVICES were not rendered or demonstrate that SIYAYA'S information is incorrect.
- 9.4** The COMPANY is only entitled to dispute the records relating to the SERVICES rendered within 1 (one) month of completion of the SERVICES. Accordingly, the COMPANY is entitled to dispute the amount relating to the disputed SERVICE. If the outcome of such dispute is in the COMPANY favour, it shall be extended a credit note regarding such amount.

- 9.5** All old parts replaced by new parts at SIYAYA'S cost shall become the sole and exclusive property of SIYAYA.
- 9.6** All charges set out in this AGREEMENT and the QUOTATION are exclusive of Value Added Tax (VAT) and any other statutory levies, taxes, and imposts.
- 9.7** Payment terms shall be on presentation of an invoice unless specified in a QUOTATION or any other SIYAYA document.

10. MAINTENANCE EXCLUSIONS BY SIYAYA

- 10.1** Maintenance or repair work performed on the FACILITIES without the authorisation of SIYAYA shall incur charges should SIYAYA be required to resolve such issues.
- 10.2** Services rendered to the COMPANY by other providers requiring SIYAYA'S involvement to help resolve such issues shall incur charges.
- 10.3** Parts and consumables are chargeable.
- 10.4** Neglect or failure to protect or maintain the equipment by the COMPANY shall incur charges should SIYAYA be required to resolve such issues.
- 10.5** Unsuitable environmental influences may incur charges should SIYAYA be required to resolve issues affected by this.
- 10.6** Any malicious damage to the FACILITIES from any cause whatsoever shall incur charges should SIYAYA be required to resolve issues related to this.
- 10.7** Theft or robbery shall be for the Companies risk.
- 10.8** Load shedding or any other power-related issues affecting the performance of the equipment and FACILITIES shall be for the client's risk and expense to repair or replace.
- 10.9** Acts of G-D.
- 10.10** Any other exclusion detailed in the QUOTATION.

11. SERVICE CHARGE ADJUSTMENTS

- 11.1** All charges are payable in respect of outsourcing SERVICES and additional SERVICES in terms of this AGREEMENT may with effect from the ANNIVERSARY DATE of the COMMENCEMENT DATE increase annually by SIYAYA'S annual increase rate on notice to that effect. Regarding on-site staff resources, such an increase shall relate to the on-site resource salary increase.
- 11.2** SIYAYA shall, in addition to 11.1, be entitled to increase the cost of parts, materials, and SERVICES if affected by a change in the exchange rate or distributor and supplier pricing changes.
- 11.3** Should the COMPANY vary the process and procedure stipulated in any QUOTATION, thus necessitating additional work or capital outlay by SIYAYA, the COMPANY shall bear liability in relation to such additional costs in each instance.

12. NON-SOLICITATION

- 12.1** The COMPANY undertakes that during the period of this AGREEMENT and for 12 (twelve) months after, it will not persuade, induce, solicit, encourage, procure, or employ directly or indirectly SIYAYA Staff its subcontractors and partners involved in the provision of the SERVICES and the implementation of the terms and conditions of this AGREEMENT.

12.2 Should the COMPANY employ any Staff as envisaged in [clause 12.1](#) the COMPANY shall be liable and shall pay SIYAYA 6 (six) times the monthly remuneration package payable to such employee (calculated on a cost to SIYAYA basis) immediately prior to the cessation of such Staff's employment by SIYAYA.

13. CONFIDENTIALITY

The PARTIES hereby undertake that they will be bound by the provisions of SIYAYA'S Confidentiality and Non-Disclosure Agreement (the "NDA"), a copy of which is available on SIYAYA'S website. By its acceptance of this MSA, the COMPANY warrants that it has read and understood the terms and conditions of the NDA and accepts the terms thereof.

14. LIMITATION OF LIABILITY

Notwithstanding anything to the contrary contained in this AGREEMENT or law, SIYAYA shall not be liable to the COMPANY for any direct, indirect, incidental, special, punitive, consequential, or exemplary damages or losses whether in contract, delict, or restitution, unless any such losses or damages were caused directly by the fraudulent conduct of SIYAYA. To the extent, and in the exceptional instance that the COMPANY may found any claim as against SIYAYA, the parties hereto agree that any such claim, or claims collectively, is limited to whether SIYAYA enjoys any insurance indemnity from its insurer in the instance and to the maximum extent and value of such insurance indemnification, as the case may be.

15. BREACH

If the COMPANY or SIYAYA (hereinafter the "Defaulting PARTY") commits a material breach of this AGREEMENT and/or any QUOTATION and fails to remedy such breach (other than non-payment in the case of the COMPANY) within 10 (ten) BUSINESS DAYS after the giving of written notice thereof by the other PARTY (hereinafter the "Aggrieved PARTY") the Aggrieved PARTY shall be entitled, without prejudice to its other rights in law, to terminate this AGREEMENT (and/or any QUOTATION where the material breach in question is in respect of a QUOTATION) forthwith and to claim specific performance of all of the Defaulting PARTY's obligations, without prejudice to any claims which the Aggrieved PARTY may have but always subject to the limitations provided for in clause 14 herein and provided that the termination of this AGREEMENT shall not affect such of the provisions of this AGREEMENT as are expressly provided will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.

16. SUMMARY TERMINATION

16.1 Notwithstanding anything to the contrary, if: -

- 16.1.1 A PARTY takes a resolution for the voluntary liquidation of such PARTY (where applicable) or application is issued for the judicial management (where applicable), or application is issued for the administration, sequestration or voluntary surrender of the estate (where applicable); or;
- 16.1.2 A PARTY commits any act which, if committed by a natural person, would constitute a deed of insolvency as contemplated in section 8 of the Insolvency Act (No. 24 of 1936) as amended; or;
- 16.1.3 A PARTY commits an act as defined in terms of section 344 of the Companies Act (No 61 of 1973) as amended where the contractor is a company); or;
- 16.1.4 A PARTY commits an act as defined in terms of section 68 of the Close Corporation's Act (No 69 of 1984) as amended (where the contractor is a close corporation); or;
- 16.1.5 A PARTY makes any general assignment for the benefit of its creditors or effect or attempts to effect a compromise or composition with its creditors, then, and without prejudice to its other rights in law, the other PARTY shall be entitled to terminate this AGREEMENT (and any QUOTATION where the material breach of the question is in respect of a QUOTATION) or to claim immediate performance of

all of the defaulting PARTY's obligations whether or not due for performance in either event without prejudice to any claim which the Aggrieved PARTY may have for damages against the Defaulting PARTY.

17. CESSATION

SIYAYA is entitled to cede, delegate, assign or in any other manner impose any of its rights or obligations in terms of this AGREEMENT.

18. FORCE MAJEURE

18.1 Should a PARTY (Affected PARTY") be prevented from fulfilling any of its obligations in terms of this AGREEMENT as a result of an event of Force Majeure, then: -

18.1.1 Those obligations shall be deemed to have been suspended to the extent that for so long as the affected PARTY is so prevented from fulfilling them and the corresponding obligations of the other PARTY ("Unaffected PARTY") shall be suspended to the corresponding extent.

18.1.2 The Affecting PARTY shall promptly notify the Unaffected PARTY in writing of such event of Force Majeure. Such notice shall include an estimation of the approximate period for which the suspension in terms of 18.1.1 will endure if this is possible.

18.1.3 The duration of this AGREEMENT and any active QUOTATION as well as each period within which and each date by which any obligation is required to be performed in terms of this AGREEMENT and QUOTATION shall be extended or postponed as the case may be, by the period of suspension in terms of 18.1.2 which, if not able to be specified, shall be a reasonable period.

18.1.4 Should an event of Force Majeure continue for more than 30 (thirty) days or such extended period as agreed between the PARTIES, after the date of the notice referred to in 18.1.2 then, the Unaffected PARTY shall be entitled (but not obliged) to terminate the AGREEMENT by giving not less than 30 (thirty) days written notice to the Affected PARTY.

19. SEVERABILITY

Suppose any term, condition, provision or performance, or any part of a term, condition, provision or performance of this AGREEMENT is determined to be invalid, illegal, unlawful or unenforceable to any extent. In that case, such term, condition, provision or performance or the relevant part thereof shall be severed from the remaining terms, conditions, provisions and performance of this AGREEMENT, or amended to make it valid, legal, lawful and enforceable, in such a manner as to leave the amended AGREEMENT substantially the same. The AGREEMENT so amended shall remain in force and effect.

20. APPLICABLE LAW AND JURISDICTION

This AGREEMENT is non-exclusively governed by and construed per the laws of the Republic of South Africa and is subject to the jurisdiction of the Courts of the Republic of South Africa (RSA) at the election of SIYAYA.

21. DISPUTE RESOLUTION

21.1 Should any dispute of whatsoever nature arise between the PARTIES concerning the terms, interpretation, cancellation or termination of this AGREEMENT, the PARTIES shall try to resolve the dispute by negotiation. This entails that one PARTY invites the other in writing to meet and attempt to resolve the dispute within 7 (seven) days from the date of written invitation. Pending such dispute resolution, the COMPANY shall not be entitled to withhold the disputed amount due.

21.2 Suppose the dispute has not been resolved by such negotiation within seven days. In that case, either of the PARTIES may submit by written notice to the other PARTY the dispute to an AFSA administered mediation upon the terms set out by the AFSA Secretariat. The receipt by either PARTY of notice as aforesaid shall constitute

the subjection of the dispute to arbitration to delay the completion of prescription in terms of Section 13 of the Prescription Act No. 68 of 1969 or the corresponding provisions in any amendment thereto or replacement legislation. Failing such resolution, the dispute, if arbitrable in law, shall be finally resolved per the Rules of AFSA by an arbitrator or arbitrators appointed by AFSA. SIYAYA may nominate another arbitration entity in place of AFSA, on written notice, and the terms of this [clause 21](#) shall apply *mutatis mutandis* to such entity.

21.3 This clause constitutes an irrevocable consent of the PARTIES to any proceedings in terms hereof, and neither of the PARTIES shall be entitled to withdraw from the provisions of this clause or claim at any such proceedings that this clause does not bind it.

21.4 This clause shall not preclude a PARTY from seeking urgent relief in a court of appropriate jurisdiction, where grounds for urgency exist.

22. NOTICES AND DOMICILIUM

22.1 The PARTIES choose domicilium citandi et executandi ("Domicilium") for all purposes relating to this AGREEMENT, including the giving of any notice, the payment of any sum, the serving of any process, as follows:

22.1.1 Email address as utilised in the most recent correspondence prior to acceptance hereof; or

22.1.2 Physical address of the COMPANY and SIYAYA as reflected on its website or its registered company documents on CIPIC, at SIYAYA'S election.

22.2 Either PARTY shall be entitled from time to time, by giving written notice to the other, to vary its Domicilium to any different physical address (not being a post office box or poste restante) within the RSA and the United Kingdom.

22.3 Any notice given or payment made by either PARTY to the other ("**Addressee**") which is-

22.3.1 Delivered by hand during BUSINESS HOURS on any Business Day to the Addressee's physical Domicilium, for the time being, shall be deemed to have been received by the Addressee at the time of delivery.

22.3.2 Delivered by email on the day of dispatch of such email.

22.4 This [clause 22](#) shall not operate to invalidate the giving or receipt of any written notice, which is received by the Addressee other than by a method referred to in this [clause 22](#).

22.5 Any notice in terms of or in connection with this AGREEMENT shall be valid and effective only if in writing and if received or deemed to be received by the Addressee.

23. GENERAL

23.1 This AGREEMENT constitutes the sole record of the AGREEMENT between the PARTIES regarding the subject matter thereof.

23.2 In the event of any conflict between any other agreement, SLA, QUOTATION or other such like document, the provisions of this MSA will prevail.

23.3 Neither PARTY shall be bound by any representation, express nor implied term, warranty, promise or the like not recorded herein or reduced to writing and signed by the PARTIES or their duly authorised representatives. Notwithstanding the PARTIES having any other documentation, if such documents conflict with this AGREEMENT, the terms herein contained shall supersede the conflicting clause.

23.4 No addition to, variation or agreed cancellation of this AGREEMENT shall be of any force or effect unless in writing and signed by or on behalf of the PARTIES. "Signed" shall mean a signature executed by pen, and

"writing" shall exclude any written document that is in the form of a data message as defined in the Electronic Communications and Transactions Act 25 of 2002 or any equivalent legislation.

23.5 No indulgence that any PARTY may grant to the other shall constitute a waiver of any grantor's rights.

23.6 All provisions of this AGREEMENT and any schedule or appendix hereto shall be independent of each other, and deletion from or the invalidity of any such provision or schedule shall not affect the remainder of this AGREEMENT.

24. POPI - PROTECTION OF PERSONAL INFORMATION

SIYAYA collects and processes your personal information, mainly to contact the COMPANY to understand its requirements and deliver PRODUCTS and SERVICES accordingly. For this purpose, we will collect contact details, including your name and organisation, contact information and an assessment of your needs. In addition, we collect information directly from you where you provide us with your details. Where possible, we will inform you what information you are required to provide to us and what information is optional.

Website usage information may be collected using "cookies", which allows us to collect standard internet visitor usage information. As part of its SERVICES, SIYAYA may partner with other service or product providers ("our partners"). By giving us consent to utilise your information, you also authorise us to disclose information to our partners to the extent required for its partners to provide their SERVICES and/or PRODUCTS.

SIYAYA will use the COMPANY'S personal information only for the purposes for which it was collected and agreed with the COMPANY. In addition, where necessary, the COMPANY'S information may be retained for legal or research purposes. for example:

- To gather contact information.
- To confirm and verify your identity or to verify that you are an authorised user for security purposes.
- For the detection and prevention of fraud, crime, money laundering or other malpractice.
- To conduct market or customer satisfaction research or for statistical analysis.
- For audit and record-keeping purposes.
- In connection with legal proceedings.
- For outsourcing SERVICES and product purchases and delivery and installation.

24.1 Disclosure of information:

The COMPANY may disclose your personal information to our service providers involved in delivering PRODUCTS or SERVICES to you. We have agreements to ensure that they comply with the Protection of Personal Information Act (POPIA). We may also disclose your information:

- Where we have a duty or a right to disclose in terms of law or industry codes.
- Where we believe it is necessary to protect our rights.

24.2 Information Security:

SIYAYA is legally obliged to provide adequate protection for the personal information it holds and stop unauthorised access and use of personal information. On an ongoing basis, it will continue to review its security controls and related processes to ensure that the COMPANY'S personal information remains secure. SIYAYA'S security policies and procedures cover:

- Physical security.
- Computer and network security.
- Access to personal information.
- Secure communications.
- Security in contracting out activities or functions.
- Retention and disposal of information.

- Acceptable usage of personal information.
- Governance and regulatory issues.
- Monitoring access and usage of private information.
- Investigating and reacting to security incidents.

When SIYAYA contracts with third parties, it imposes appropriate security, privacy and confidentiality obligations on them to ensure that personal information that it remains responsible for is kept secure. Furthermore, the COMPANY will ensure that anyone to whom it passes your personal information agrees to treat your information with the same level of protection as it is obliged to.

24.3 Your Rights: Access to information:

The COMPANY has the right to request a copy of the personal information SIYAYA holds. To do this, contact SIYAYA at the numbers/addresses as provided on its website and specify what information is required. SIYAYA will need a copy of your ID document/Company ID to confirm your identity before providing your personal information.

24.4 Correction of your information:

The COMPANY has the right to ask SIYAYA to update, correct or delete its personal information. SIYAYA will require a copy of the COMPANYS ID document to confirm its identity before changing the personal information it may hold.

24.5 Definition of personal information:

According to the Act, "personal information" means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person. Further to the PoPI Act, SIYAYA also includes the following items as personal information:

- All addresses, including residential, postal and email addresses.
- Contact details of your COMPANY and its representatives.

24.6 Consent:

By accepting this AGREEMENT, you consent to SIYAYA using the confidential information for the purposes set out herein.

25 LEGAL COSTS & COUNTERPARTS

- 25.1** In the event of any litigation in recovery or otherwise as between the PARTIES, it is agreed that SIYAYA shall be entitled to its legal costs on the scale as between attorney and own client and a *mora* interest rate of 20% per annum.
- 25.2** Should this AGREEMENT be executed in one or more counterparts, each counterpart shall be regarded as an original, and all of which shall be considered one and the same AGREEMENT.

26 RESERVATION OF OWNERSHIP & RISK

- 26.1** In rendering any SERVICES to the COMPANY, the parties hereby agree and acknowledge that any and all product and/or equipment items or articles sold and/or delivered to the CUSTOMER shall remain the sole and absolute property of SIYAYA until such time as full payment therefor, together with full payment in respect of the rendered SERVICES, in each instance, is received by SIYAYA.
- 26.2** Upon taking delivery of any and all product/s or equipment item/s from SIYAYA, the COMPANY shall bear the risk of damage and/or loss relating to the same and indemnifies SIYAYA as against any and all damages or losses

until ownership in and to any such product/s and/or item/s passes to the COMPANY which only occurs upon full payment thereof in accordance with the provisions of clause 26.1 herein immediately above.

- 26.3** Until such time as ownership in and to the product/s and/or equipment item/s passes to the COMPANY, the COMPANY is obliged to clearly identify and mark any and all such product/s and/or equipment item/s belonging to SIYAYA and the COMPANY shall have no rights to sell, pledge or otherwise encumber the same unless consent therefor is provided in writing by SIYAYA addressed to the COMPANY.