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Terms and Conditions for the Supply of Services

THE AGREEMENT

“MASHCORP Services” herein refers to MASHCORP company registration 2012/053967/07, Unit 1 Portion 10, Newmark Estate, Silver Lakes Road, Hazeldean, 0081, Tel: +27 12 943 3933, admin@mashcorp.co.za.

“CLIENT” or “BUYER” refers to the person or body (legal entity) contracting with MASHCORP for the supply by MASHCORP of goods or services specified within the contract between MASHCORP and said person or body

Where THE CLIENT engages MASHCORP to provide consulting services or supply hardware or packaged software, the aforementioned are supplied on the basis of an agreement either in the form of the pro-forma Schedule, which will define the scope of the project, and each phase specification required to be undertaken in order to oversee the completion of the project, outlined and described within the Professional Services Agreement (“PSA”), or formalised by a proposal that has been accepted by the Client.

Each Schedule or accepted proposal shall be separately executed, subject to, and as referenced by the terms and conditions specified within the PSA, notwithstanding variations within the Schedule(s) or proposals. Where a conflict exists between the terms outlined within the Schedule or proposal and those outlined in the PSA, the Schedule or proposal shall prevail. Each Schedule or accepted proposal shall constitute a separate contract.

MASHCORP and the CLIENT agree that all orders accepted and contracts entered into between MASHCORP and the CLIENT during the executory period of the agreement will be subject to the terms, conditions, warranties and other provisions outlined and specified within the agreement (referred to as the MASHCORP terms) alone, and will not be subject to terms, conditions, warranties or contractual provisions, save those imposed by statute unless specifically agreed in writing, and annotated by an authorised officer representative of each party in relation to a specific order.

Any such variation to the terms will apply only to the specific order to which it relates, and is considered null and void where the continuation of all subsequent orders is engaged by the CLIENT.

In accordance with the ISPA Code of Conduct, MASHCORP makes all applicable Terms and Conditions, including our Acceptable Use Policy (AUP) and Fair Use Policy (FUP), available to customers and potential customers prior to the commencement of any contract. By entering into a service agreement with the Organization, you acknowledge that you have read, understood, and agreed to be bound by these terms, which govern the entirety of our relationship and service provision.

1. DEFINITIONS AND INTERPRETATIONS

The definitions and rules of interpretation in this clause apply to these Supplier Terms and the applicable PSA contracts and/or proposals.

“Acceptance Criteria” includes tests and/or other acceptance criteria described in the relevant Schedule or MASHCORP Proposal (‘proposal’)

“Affiliate” refers to any third party used, employed or contracted by MASHCORP to perform any part of the work to be undertaken under the Agreement, the use of which need not be communicated by MASHCORP to the CLIENT, with the understanding that MASHCORP accepts full responsibility for work undertaken according to the terms of the Agreement

“Agreement” means any PSA, all Schedules or Proposals or purchase orders issued by MASHCORP

“Business Hours” means the local standard business hours, 9am - 5pm, on any Business Day

“Business Day” means any day in a Location where banks in the Location are open for business, other than Saturday, Sunday or Public Holidays

“Commencement Date” means the date specified as such in the relevant Schedule or Proposal. **“Deliverables”** mean those deliverables described in the relevant Schedule or Proposal. **“Due Completion Date”** means the date specified as such in the relevant Schedule or Proposal

“Confidential Information” refers to all Supplier proprietary materials developed at any time independently of Supplier’s work under any contract or proposal, including but not limited to: software, applications, methodologies, code, templates, tools, policies, records, working papers, knowledge, data, know-how, architectures, concepts, techniques, templates, user interfaces; (ii) any developments that constitute improvements, modifications or other supplemental functionality/feature sets to Supplier’s independently developed proprietary materials; and (iii) third party licensed materials

“Daily Services Assignment” means a Project under which MASHCORP is retained to carry out tasks generally identified on the relevant Schedule or Proposal where personnel is supplied by MASHCORP to be managed by the CLIENT and in respect of

duties assigned, the CLIENT shall be charged at the standard daily rate for the duration of the use of such personnel

“Deliverables” means all Documents, products and materials developed by the Supplier or its agents, subcontractors, consultants and employees in relation to the Services in any form, including computer programs, data, reports and specifications (including drafts)

“Document” includes, in addition, any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form

“Fixed Price Assignment” means a Project where MASHCORP will be responsible for the completion of the Project for the Fixed Price and by the Due Completion Date specified in the relevant Contract or Proposal

“Hardware” means items of equipment manufactured or assembled by third parties

“Input Material” means all Documents, information and materials provided by the Buyer relating to the Services, including computer software, data, reports and specifications

“Location” means the location where the Services or Solution is executed, as set out in an agreed Contract

“Materials” means any materials or data (including methodologies), MASHCORP proprietary software (whether written in human or machine-readable format) and any subsequent modifications to the same, owned or created by on behalf of or for the benefit of MASHCORP prior to or independently

“Packaged Software” means software designed and developed by third parties which may be provided to the Client as a software deliverable or licence or Cloud service

“Personnel” means the employees, agents or sub-contractors affiliated to MASHCORP, whose services are provided to the CLIENT at the daily rate appropriate to skill level in the carrying out of specified tasks set out in the relevant Schedule or Proposal

“Project” means each or any of the services or other work to be carried out under and in accordance with the Agreement particularly described under the Scope of Work in each Schedule or Proposal

“Project Manager” means the individual assigned by each of the parties as specified in the relevant Schedule to be the focal point for communications with the other party and who may be substituted upon written notice by one party to the other

“Proposal for Services” is the proposal issued to the CLIENT by MASHCORP setting out the proposed services, outlined deliverables and limitations of service

“Public Body” means any local authority or central government office in any country including but not limited to customs officials and inspectors employed by a government agency

“Scope of Work” means the work, services, tasks, Type of Engagement, the use of MASHCORP Personnel and duration of the contract in accordance with the Agreement and in relation to the project

“Services” means those services to be provided by MASHCORP to the Buyer, as set out in an Order Form

“Solution” means the combination of Services, Deliverables and/or Licensed Materials covered by the Contract or Proposal

“Supplier’s Equipment” means any equipment, including tools, systems, software, cabling or facilities, provided by Supplier or its subcontractors and used directly or indirectly in the supply of the Services

“Time And Materials Assignment” means a Project where the resources are provided by MASHCORP on a Time and Materials basis

“Type of Engagement” means the type of fee basis to be charged by MASHCORP for the Project

“Work Place” means the location(s) as set out in the relevant Schedule or Proposal as being the principal place(s) from which the tasks are to be carried out

2. SERVICE PROVISION

2.1 Scope of Schedule or Proposal

The relevant Schedule or Proposal, together with its appendices and specifications (if any), will serve to define the scope of work for a particular Project.

Additions, including framework specifications for the Scope of Work to be performed may be attached to each Schedule or proposal. Each such addition, signed by the parties, shall become a part of the applicable Schedule or proposal.

2.2 Acceptance of Schedule or Proposal

Acceptance will occur when the relevant Deliverables under the relevant Schedule or Proposal meet the Acceptance Quality Control Criteria defined in the said Schedule or proposal. In the absence of defined criteria, the Deliverables will be deemed to have been accepted when the MASHCORP Project Manager has performed due diligence and has signed the project off as completed

If the relevant Deliverables do not meet the Acceptance Quality Control Criteria offered in the CLIENT’S estimation, THE CLIENT will provide MASHCORP written notification of the specified deficiencies within seven (7) working days. MASHCORP shall, within twenty-eight (28) working days of receipt of such written notification, provide remediation or provide THE CLIENT with a solution acceptable to THE CLIENT for correcting the deficiency. THE CLIENT shall not be liable to pay any further fees for the Project.

Notwithstanding the above, the CLIENT recognises and acknowledges that the solutions offered by MASHCORP are subject to third party software technologies susceptible to malfunction or performance variations or unexpected outcomes. It may not be within MASHCORP capacity to correct these issues directly. In these circumstances, MASHCORP will effect temporary solutions within reason. In those circumstances, additional charges to the CLIENT may arise which shall be advised to the CLIENT in advance by MASHCORP.

2.3 Project Requirements

MASHCORP Personnel will endeavour to maintain full compliance with THE CLIENT's technical standards and procedures providing the CLIENT provide details of such policies in writing to the MASHCORP Project Manager in advance.

It is expected that the CLIENT make available a suitable work space, to include general office supplies, equipment and other facilities including telephone and internet access, electricity and water. Additional material required shall be made available by MASHCORP, in order to perform the service, unless otherwise specified in the Schedule or Proposal.

Upon evaluate, MASHCORP will provide recommendations or guidelines pertaining to the client's regulatory environment. Recommendations from MASHCORP should not be interpreted as a guarantee of compliance.

2.4 Changes to the Scope of Work

During the implementation phase, THE CLIENT may desire a change in the Scope of Work or MASHCORP may identify an appropriate change in the Scope of the Work. Requests for changes will be made in writing and the Project Managers from both parties will review the proposed change and determine the effect (if any) that the implementation of the change will have on price, schedule, and other terms and conditions of the Agreement.

Upon completion of the review, any agreed changes will be documented in writing and signed by the Project Managers.

2.5 Cancellation

In the event that scheduled project activity is cancelled at short notice by the CLIENT. If less than two working days' notice has been issued by the client, the cancelled days will be charged at 100% of the relevant daily rate.

3 FEE and PAYMENT STRUCTURE

The CLIENT shall pay the fees timeously at the specified rate outlined in the relevant Schedule or Proposal, and commits to adhering to the pricing schedule agreed upon by MASHCORP and the CLIENT.

3.1 Invoices/Payment

In relation to each Project, Proposal or Time and Materials assignment, MASHCORP shall invoice the CLIENT monthly for all work performed in accordance with the details specified in the applicable Schedule or Proposal. MASHCORP shall invoice the CLIENT on a monthly basis for travel, accommodation and subsistence expenses. The CLIENT agrees to cover expenses for reasonable travel, accommodation and subsistence expenses incurred by MASHCORP personnel required to perform any orders placed under the Agreement. Mileage costs are to be agreed upon before the commencement of the contract.

Payment is to be made in cleared funds strictly no more than 30 days from date of invoice.

Payment of all invoices in respect of any Maintenance and Support Contract shall be received by MASHCORP in cleared funds before the commencement of the period to which such invoice relates.

3.2 VAT

All invoices provided under any Agreement entered into with MASHCORP include VAT.

4. CONFIDENTIALITY

4.1 Intellectual Property Rights

The CLIENT acknowledges that MASHCORP holds Intellectual Property Rights (IPR) in the techniques, processes, and methods it has developed to deliver customer solutions and that it also holds IPR in software, macros and other programmable procedures that it may use as part of the delivered solution to the CLIENT. The granting of any licences granted by MASHCORP to the CLIENT may not be sold or gifted to third parties, and the usage of such is not permitted in terms of the Agreement.

4.2 Confidential Information

The term "Confidential Information" shall mean all information in relation to developmental activities and business practices of the disclosing party, inclusive of the disclosing party's assets related to its IT profile and its product and business affairs. This clause makes provision for the confidentiality as regards all information and software belonging to third parties under the Agreement.

The receiving party shall limit access to the Confidential Information to those personnel with legitimate cause to become party to such information. Limitations include the prohibition of use, copy, or removal of any Confidential Information except where necessary, without the prior written consent of the disclosing party.

The receiving party shall return to the disclosing party's relevant Project Manager all documents or other materials in whatever form that contain Confidential Information, destroy all copies thereof, and certify to the disclosing party in writing that all copies of such materials have been destroyed; this commitment shall not extend to data held on computer archive systems but the receiving party shall acknowledge that the duty to preserve the Confidential Information as confidential extends to such archives .

4.3 Exceptional Circumstances

Confidential Information shall not include a restriction on the receiving party's right to use, disclose, or otherwise deal with information which:

- is publically available due to a wrongful act by the receiving party;
- was in the receiving party's possession prior to acquisition, and procured directly or indirectly by the disclosing party
- is required to be disclosed by court order or operation of law
- is independently developed by or for the receiving party by uninformed persons or entities in regards to the Confidential Information.

5. INDEMNITY

5.1 Claims Indemnity

MASHCORP shall indemnify THE CLIENT and THE CLIENT'S employees and agents from and against the costs and expenses of defending any Claim and discharging any settlement or judgement (unless determined otherwise by court of competent jurisdiction) provided that THE CLIENT:

- Upon becoming aware of any infringement or allegations of infringement promptly notifies MASHCORP of the same;
- Makes no admissions or incurs any avoidable costs without MASHCORP's consent and supplies all assistance and co-operation that MASHCORP may reasonably require. The CLIENT shall allow MASHCORP to defend the claim and MASHCORP shall consult with and pay due regard to the interest and views of the CLIENT (acting reasonably) in the conduct of such defence, subject always to MASHCORP's rights to conduct the defence at its sole discretion. The CLIENT shall provide all reasonable assistance in connection with any negotiations and litigation arising from such claims. Where there is any Claim of infringement or alleged infringement and such Claim causes the CLIENT's use of MASHCORP Materials and/or Deliverables under the relevant Work Order to be disrupted or materially impaired, MASHCORP shall, following consultation with the CLIENT, at its own discretion either:
 - Procure for the benefit of the CLIENT the right to continue to use the items; or

▪ Modify or replace the infringing or potentially infringing items, provided that the modification or replacement of aforementioned items shall not substantially affect the functionality of the service and are able to be adopted practically by the CLIENT without significant disruption to their business.

If neither of the foregoing alternatives is deemed reasonable or commercially viable, MASHCORP will remove the infringing items (wherever relevant).

5.2 General Conditions for Indemnity

Except as expressly stated in the Agreement, neither party provides any warranties to the other, either express or implied, including the implied warranties of merchantability and fitness for a particular purpose.

Neither party shall have liability to the other with respect to their obligations under the Agreement or otherwise for consequential, exemplary, incidental, or punitive damages, including loss of profits, even if they had been advised of the possibility of such damages.

6. INSURANCE

MASHCORP is insured in respect to:

- Public liability insurance for any one accident or occurrence (with limitation)
- Professional indemnity insurance (with limitation)

7. CONTRACTUAL PROVISIONS

7.1 Inconsistencies

A counter-offer shall be made in the event that the CLIENT submits an order containing terms inconsistent with or purporting to vary or override the PSA issued by MASHCORP in regard to the procurement of goods or services.

Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by MASHCORP shall be subject to correction without liability to MASHCORP.

7.2 Term and Termination

- i. Notwithstanding the date of signature of the PSA, the PSA shall be deemed to have commenced on the date of signature or when the CLIENT may have placed an order with MASHCORP and will remain in force until terminated in writing by either party, enforcing a 90-day notice period, in writing. All completed Schedule(s) or Proposals entered into shall duly terminate on the termination of

- the PSA. All Incomplete Schedule(s) or Proposals shall continue until they are completed or specifically and separately terminated
- ii. Either party shall be entitled to serve written notice on the other to terminate the PSA and all applicable Schedule (s) or Proposals with immediate effect in regard to the following:
 - iii. In the event that a liquidator (other than for the purpose of amalgamation or reconstruction), administrative receiver, administrator or receiver is appointed in respect of the whole or a material part of the assets and/or undertaking of the other party or the other party enters into an arrangement or composition with its creditors, or if it becomes unable to pay its debts within the meaning of Section 34(1) of the Insolvency Act 24 of 1936, or analogous provision in any other jurisdiction or other circumstances arise which would entitle the Court or a creditor to appoint a receiver, administrative receiver or administrator or to make a winding up order in relation to the other party
 - iv. The CLIENT may terminate any Schedule in its sole discretion on thirty (30) day notice to MASHCORP. In the event that the CLIENT terminates a Fixed Price Assignment pursuant to this Clause, MASHCORP shall be entitled to fair compensation for time and materials at a price to be negotiated in good faith by the parties, but in no event to exceed either the Fixed Price specified in the relevant Schedule or Proposal.
 - v. In the event of any termination of any Project hereunder, THE CLIENT shall be entitled to the ownership, possession, and use of any and all work in process after payment of the relevant invoices.

8. RIGHT TO SUSPEND OR TERMINATE SERVICES

The Organization reserves the right to suspend or terminate the provision of services to any customer, with or without notice, in the event that the customer:

- Fails to comply with these Terms and Conditions.
- Violates our Acceptable Use Policy (AUP) or Fair Use Policy (FUP).
- Fails to meet any other contractual or financial obligations.
- Engages in activity that jeopardizes the integrity of our network or our standing with our backend infrastructure providers.

9. RIGHT TO REMOVE ILLEGAL CONTENT

As a provider of internet services, the Organization respects the laws of the Republic of South Africa and the ISPA Code of Conduct regarding illegal content. We reserve the right, at our sole discretion, to:

- Remove or disable access to any content hosted via our services which we consider to be illegal or infringing on the rights of third parties.
- Act immediately upon the receipt of a formal "Take-Down Notice" issued by ISPA or any other competent legal authority.
- Cooperate with law enforcement and backend service providers in the investigation of any content or activity deemed unlawful.

10. SOFTWARE PROVISIONS

10.1 Where, during the provision of the services, the CLIENT and/or MASHCORP makes use of web or other remote-enabled application software facilities, whether provided by MASHCORP or a third party, then the CLIENT acknowledges that these facilities are provided on a reasonable endeavour basis and the CLIENT must make its own assessment as to fitness for purpose, the consequences of changes to the service or software or infrastructure that the Vendor of the web service might make and levels of security. MASHCORP gives no warranties, expressed or implied, as to fitness for purpose, nor any guarantees regarding ongoing availability of such systems or services, security or freedom from corruption or virus.

10.2 MASHCORP bases its estimates and quotations on its expertise in working in certain technology areas and on the information provided by and requirements of the CLIENT. However, where additional work is necessary resulting from defects, bugs or unexpected behaviours in third-party software, or inter-operability problems between third party software and the CLIENT'S or MASHCORP software, or the failure of third parties to perform tasks set out in project schedules then MASHCORP reserves the right to make additional charges for the additional work required to investigate or remedy or provide work-arounds to resolve such problems.

10.3 The CLIENT accepts and acknowledges that the development of software carries with it the likelihood of problems arising over the life of the product and that liability for such problems shall not lie with MASHCORP unless MASHCORP has failed properly to undertake the agreed tasks to a professional standard.

10.4 The CLIENT accepts and acknowledges that the CLIENT has duties under a specified Agreement and undertakes to meet all its obligations including all testing and acceptance obligations and the reasonable request of MASHCORP and if it fails to do so resulting in delay or further work by MASHCORP it shall pay to MASHCORP the additional costs incurred.

10.5 MASHCORP shall not be liable for any delay or expense caused by any third party failing to deliver goods or services on time or delivering in any fashion goods and services that are defective, not fit for the purpose required or which in any way

adversely affect the goods or services supplied under this Agreement. This includes third parties that are engaged by, or under the control of, the CLIENT.

11. FORCE MAJEURE

Neither party shall be responsible for any failure to perform or delay in performing any of its obligations under this Agreement where and to the extent that such failure or delay results from causes outside the reasonable control of the party. Such causes shall include, without limitation, Acts of God or of the public enemy, acts of the government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, freight embargoes, civil commotions, labour disputes or strikes or the like. Notwithstanding the above, strikes and labour disputes within either MASHCORP or the CLIENT shall not constitute an excusable delay for the relevant party under this Agreement

12. DISCLAIMER REGARDING BACKEND PROVIDERS

Because the Organization operates as a reseller, you acknowledge that certain technical limitations, take-down actions, or service suspensions may be initiated by our backend service providers. The Organization shall not be held liable for any loss or damage resulting from actions taken to ensure compliance with the law or the requirements of our upstream providers.

13. CHOICE OF LAW AND JURISDICTION

This Agreement shall be construed and the legal relations between the parties determined in accordance with the laws of the Republic of South Africa and the parties submit to the exclusive jurisdiction of the South African courts in respect of any disputes arising in relation to this Agreement.