

# SERVICE LEVEL AGREEMENT

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Entered into by and between:

## 1. PARTIES

### 1.1. RENT PAY (PTY) LTD t/a ACPAS

Registration No.: (2012/018375/07)

*(hereinafter referred to as "ACPAS")*

And

1.2. **COMPANY NAME:** \_\_\_\_\_

**TRADING NAME:** \_\_\_\_\_

**REGISTRATION NO.:** \_\_\_\_\_

**VAT NUMBER:** \_\_\_\_\_

*(hereinafter referred to as "the Customer")*

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## 2. DEFINITIONS AND INTERPRETATION

2.1. The following expressions have the meaning assigned to them hereunder and cognate expressions bear corresponding meanings, namely –

2.1.1. “Agreement” means this written agreement, the information and consent supplied in the Application Pack, including any Policy, annexures and schedules as amended from time to time;

2.1.2. “Authorities” means any government or government administrative, agency, fiscal or judicial authority, body, court, department, commission, tribunal, registry or any state owned, controlled or legislatively constituted authority which principally performs public, governmental or regulatory functions, including, without limitation, any competition authorities;

2.1.3. “Application Pack” refers to the application which the Customer has completed, annexed its supporting documents to and returned to ACPAS. The full set of documents shall henceforth be referred to as the “Application Pack”;

2.1.4. “Confidential Property” means any information (whether tangible, electronic or any other form) shared between the Parties to this Agreement for the purposes of fulfilling the aims of this Agreement, but not limited to: -

2.1.4.1. the terms of this Agreement;

2.1.4.2. any intellectual property of either Party such as any opinion, idea, trade secrets, know-how, processes, formulae, developments and related technical information; or

- 2.1.4.3. any other information disclosed by either Party to the other on the express basis that such information is confidential; or
  - 2.1.4.4. which might reasonably be expected by either Party to be confidential in nature; or
  - 2.1.4.5. relating to the business affairs of either Party;
  - 2.1.4.6. relating to business affairs, intellectual property and/or other information or data of third parties affiliated with ACPAS, whether as client, service provider, parent company or any other capacity which provides for the disclosure of information and/or data which is required to remain confidential;
  - 2.1.4.7. all proprietary assets, whether realized or under development which are unique and directly attributable to ACPAS as proprietary and/or intellectual property of it, whether or not such proprietary asset or intellectual property has commercial value.
- 2.1.5. “Downtime” refers to the time during which any Product or Service is unavailable for use or non-operational. This definition is not limited in scope to only the Products and Services of ACPAS, but to any ancillary product and service contemplated in this Agreement and subject to third-party provision or supply.
- 2.1.6. “IT” means Information Technology and, in this Agreement, refers to the development and maintenance of loan management software as a service which is delivered remotely utilizing the internet, storage of data in cloud infrastructure and support for use of the software;

- 2.1.7. “Laws” means, in relation to that specific Party, all and any: -
- 2.1.7.1. Statutes and subordinate legislation and common law;
  - 2.1.7.2. Regulations;
  - 2.1.7.3. Ordinances and by-laws;
  - 2.1.7.4. Directives, codes of practice, circulars, guidance notices, judgments and decisions of any competent authority, or any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organization; and
  - 2.1.7.5. Other similar provisions, from time to time, compliance with which is mandatory for that Party.
- 2.1.8. “Payment Mandate” means the prescribed written confirmation and authority obtained from a consumer, which may be amended from time to time as required by Law, containing the instruction and authority to deduct, certain amounts from such consumer’s banking account at specified intervals;
- 2.1.9. “Payment Rules” means the rules, requirements, regulations and obligations imposed upon the parties making use of, or making available, any Payment System to consumers in order to establish a payment relationship between a payer and a beneficiary.
- 2.1.10. “Payment Systems” mean a system aimed at payment, settlement, or clearance, which includes net clearance, of monetary amounts, as between a payer and a payee. For the

- 2.1.11. “NPS” means the National Payment System;
- 2.1.12. “Parties” or “Party” refers to the Parties to this Agreement, as contained in clause 1 of this Agreement;
- 2.1.13. “PASA” means Payments Association of South Africa;
- 2.1.14. “Policy/ies” means any policy which ACPAS implements and requires the Customer to subscribe to and comply with, including but not limited to its Privacy Policy and Terms of Use;
- 2.1.15. “Product/s” shall refer to the ACPAS loan origination and loan management software, TPPP software including all ancillary software and products made available to the Customer, unless the contrary is clearly indicated;
- 2.1.16. “Services” refers to performance and services which ACPAS is required to undertake in order to provide the Customer with the Product, the continued software maintenance, and development of the Products;
- 2.1.17. “Signature Date” refers to the date on which the last Party affixes its electronic signature to this Agreement;
- 2.1.18. “System Requirements” means the minimum functionality, specifications and features of the device on which the Products are to be used and such requirements will be communicated to the Customer before signature of this Agreement and may be amended from time to time in accordance with the operational requirements of the Products and the integrated features the Customer chooses to utilize;
- 2.1.19. “TPPP” means Third-Party Payment Provider;
- 2.1.20. “Uptime” shall refer to the time during which any product or service is available for use and operation. This definition is not

limited in scope to the Products and Services of ACPAS, but any products and/or services contemplated in this Agreement.

- 2.2. Clause headings are for reference purposes only and do not influence the interpretation of this Agreement.
- 2.3. Reference to the masculine gender shall include reference to the feminine and neuter genders and vice versa and references to the singular shall include the plural and vice versa and reference to natural persons shall include body corporates and other legal personae and vice versa.
- 2.4. Where a number of days is prescribed, it shall consist only of business days. i.e. days other than Saturdays, Sundays and Public Holidays in the Republic of South Africa and shall be calculated exclusively of the first and inclusively of the last day.
- 2.5. If figures are referred to in words and in numerals, the words shall prevail in the event of any conflict between the two.
- 2.6. Any reference to an enactment shall be a reference to the enactment, as at the date of signature hereto.
- 2.7. Schedules or appendices to this Agreement shall be deemed to be incorporated in and form part of this Agreement, and expressions defined in this Agreement shall bear the same meaning in the schedules or appendices, which do not themselves contain their own definitions.
- 2.8. The expressions "hereunder", "hereto", "herein", "hereof" and similar expressions relate to this entire Agreement and not to any particular provision thereof.
- 2.9. References to this Agreement or any other document shall, where appropriate, be construed as reference to this Agreement or such other document as varied, supplemented, novated and/or replaced in any manner from time to time.



- 2.10. The expiration or termination of this Agreement shall not affect such of the provisions of this Agreement as 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 that the clauses themselves do not expressly provide for this.
- 2.11. The rule of construction that this Agreement shall be interpreted against the Party responsible for the drafting or preparation of this Agreement shall not apply. The same applies to the schedules or appendices hereto.
- 2.12. In the event of any conflict or discrepancy between the terms of this Agreement or schedule and appendix hereto or any document referred to in any of the schedules or appendices of this Agreement, the terms of this Agreement shall prevail.
- 2.13. Each of the Parties hereto acknowledges that it has been free to secure independent legal, financial, tax and/or other advice as to the nature and effect of all of the provisions of this Agreement.
- 2.14. If any provision in a definition is a substantive provision conferring any right or imposing any obligation on any Party, then notwithstanding that it is only in the definitions and interpretation clause, effect shall be given to it as if it were a substantive provision in this Agreement.
- 2.15. Any reference in this Agreement to a Party shall include a reference to that Party's assigns expressly permitted under this Agreement and, if such Party is liquidated, be applicable also to and binding upon that Party's liquidator.

### **3. RECORDAL**

- 3.1. ACPAS is the developer, owner and marketer of the Products and Services. By virtue of utilizing the Products, there are certain IT Services which need to be rendered to the Customer in order to facilitate the effective use, development and maintenance of the Products;

- 3.2. The Customer has elected to use the Products in the conduction of its business and therefore, this Agreement shall govern the use of the Products, the ancillary products and Services which ACPAS shall be required to render and the relationship between the Parties.

#### **4. THE OBLIGATIONS OF ACPAS**

- 4.1. Prior to the conclusion of this Agreement, ACPAS has undertaken a consultative process with the Customer in order to ensure that the Products and Services made available to the Customer as a result of this Agreement are appropriate for the business of the Customer.
- 4.2. Immediately following the commencement of this Agreement, ACPAS shall make the Products available to Customer in accordance with the consultative process undertaken. ACPAS will install and configure the Products in accordance with the specifications requested by the Customer and at the costs provided to the Customer in the Application Pack.
- 4.3. ACPAS shall be obligated to ensure that the Products remain available to the Customer for use and is maintained and upgraded in accordance with market and industry requirements.
- 4.4. ACPAS shall provide the Customer with a Payment Mandate, which meets the minimum criteria for validity in terms of Payment Rules. It shall be the responsibility of ACPAS to ensure that the Customer is provided with the Payment Mandate and that such Payment Mandate is updated in accordance with industry development and Laws. However, the Customer indemnifies ACPAS from any loss or liability which may arise as a result of the incorrect completion, signature or execution of the Payment Mandate or if the Payment Mandate was obtained by fraudulent means.
- 4.5. ACPAS is obliged to adhere to the turnaround times contemplated in clause 12 of this Agreement.

## 5. THE OBLIGATIONS OF THE CUSTOMER

- 5.1. The Customer is obligated to ensure that its hardware and software meet the minimum System Requirements. Such System Requirements was communicated to the Customer prior to entering into this Agreement and is based on the Products and Services which the Customer intends to make use of, as well as the operational size of the Customer. ACPAS reserves the right to change and amend such System Requirements in accordance with requirements which may arise as a result of the continued maintenance and development of the Products and Services.
- 5.2. The Customer is obligated to ensure that a suitably authorized representative will be available, within reason, when resolving a Service-related query or request.
- 5.3. It shall not use the Products in a manner which is unlawful or may lead to unlawful acts being committed.
- 5.4. The Customer is obliged to pay all invoices issued to it, in accordance with clause 16 of this Agreement.
- 5.5. The Customer is obligated to seek advice, on a continuous basis, on whether its configuration of the Products is compliant with the provisions of the applicable credit and collection Laws and Law in general of its particular jurisdictional territory and cause any amendments which it may require or believe it requires to be effected by ACPAS.
- 5.6. The Customer indemnifies ACPAS from any liability which may be attributable, whether directly or indirectly, to the configurations, updates and amendments made to the Products and Services in accordance with the preceding clause, or the Customer's failure to fulfill the obligation imposed on it in the preceding clause.
- 5.7. The Customer shall report to ACPAS, any errors of non-functionality in respect of the Products within a reasonable amount of time. Failure to do so will result in delayed response and resolution of the error and/or non-

functionality and ACPAS shall not be held liable or responsible for such delayed response in the event that the Customer failed to timeously report the issues experienced.

5.8. The Customer is obligated to ensure that all information and/or data which it inputs or uploads into the Products and Services are accurate and reliable and: -

5.8.1. The Customer indemnifies ACPAS from any liability which may be attributable, whether directly or indirectly, to the non-functionality of the Products and Services as a result of incorrect or inaccurate data and/or information input or uploads; and

5.8.2. The Customer indemnifies ACPAS from any liability which may be attributable, whether directly or indirectly, to erroneous information and/or data retained by the Product or erroneous output of data and/or information by the Product, as a result of incorrect or inaccurate data and/or information input or upload.

5.9. The Customer shall be obligated to report, as soon as practicable, any lost and/or stolen and/or compromised devices which have access to the ACPAS Products and Services.

## **6. REQUIRED DISSEMINATION OF INFORMATION**

6.1. The Parties acknowledge, and agree, that ACPAS shall be required to disseminate personal information of the Customer and of the consumer with whom the Customer conducts business in order to provide the Products and Services to the Customer. Such required dissemination includes, but is not limited to: -

6.1.1. providing Credit Bureaus with the personal information of a consumer in order to obtain such consumer's credit report, report on the agreement entered into with such consumer and

- report of the payment behavior of the consumer under the credit agreement entered into between the Customer and that consumer;
- 6.1.2. providing the name and contact details of the Customer to Credit Bureaus, for the purposes of reporting loans issued to consumers, allowing another party viewing the credit report to be able to see which business performed an enquiry or issued a loan and providing contact details for any disputes relating a consumer's credit report which may arise;
  - 6.1.3. providing the banking details of a consumer to a particular bank in order to create and execute the instruction contained in a Payment Mandate; and
  - 6.1.4. Any form of forced disclosure, such as a competent authority directing, ordering or requesting ACPAS to disclose information which it holds in relation to a consumer, the Customer, other customers or of ACPAS itself.
- 6.2. The Customer hereby gives its irrevocable consent to the dissemination of information for the purposes of making the Products and Services available to the Customer and the Customer understands that any dissemination of information by ACPAS is subject to its Privacy Policy, which details the manner in which data and information is collected, retained, protected and processed.

## **7. PARALLEL POLICIES**

- 7.1. Parallel to this Agreement in the regulation of the relationship between the Parties, ACPAS has the following Policies, which the Customer and the individuals within the Customer's business are required to agree to before using the Products:
  - 7.1.1. ACPAS Terms of Use; and
  - 7.1.2. ACPAS Privacy Policy.

7.2. The Parties agree and understand that the parallel Policies may be amended from time to time in accordance with the requirements of Law, the business of ACPAS and the further development of the Products. All ACPAS Policies must be adhered to and always complied with. Such updated Policies will be communicated to the Customer and the individuals within the Customer's business and the acceptance of such Policies will be recorded by ACPAS.

## **8. APPLICABLE LAWS**

8.1. ACPAS provides its Products and Services to multiple jurisdictional territories, all of which operate under their own Laws and requirements. It is therefore the obligation of the Customer to ensure its compliance with all applicable Laws, including, but not limited to: -

8.1.1. Protection of Information Laws;

8.1.2. Credit Extension and Collection Laws;

8.1.3. Financial Services Laws;

8.1.4. Banking Laws;

8.1.5. Insurance Laws; and

8.1.6. Any other Laws which may be applicable to the Customer in the jurisdictional territory where it conducts its business.

8.2. Should ACPAS suspect, or become aware of any Laws with which the Customer is not compliant, it may suspend the Customer's Products and Services in accordance with clause 17, without prior notice and, if in its sole discretion it believes it to be appropriate, terminate this Agreement in accordance with clause 18. A termination by ACPAS on the basis of this clause 8, shall not be subject to the provisions of the notice periods recorded in either clauses 18 or 19.

8.3. In terms of this clause, the Parties agree that the payment gateway portion of the Products and Services are not dependent on the territorial

jurisdiction of the Customer as the Payment Mandate is an agreement between the consumer and ACPAS. Therefore, the requirements of Payment Mandates and Payment Systems are subject to the Laws of South Africa and both Parties are required to remain compliant with such Laws, at all times.

## **9. PAYMENT SYSTEMS RULES**

- 9.1. During the consultative process prior to this Agreement, ACPAS has explained to the Customer it is subject to various Laws, rules and requirements applicable to use of Payment Systems and Payment Mandates and strict compliance with such Laws, rules and requirements must be maintained and uncompromised at all times.
- 9.2. The Payment Mandates entered into with consumers, whether directly through the ACPAS Products and Services, or through an external system, is an agreement entered into between ACPAS and a Consumer, not between the Customer and the consumer. As such, the Customer is not entitled to disseminate such Payment Mandates to any person or authority. Should any person or authority require or request a copy of the Payment Mandate, the Customer is obligated to advise such person or authority that their request must be directed to ACPAS.
- 9.3. ACPAS is required to ensure its compliance, as a TPPP with the obligations imposed upon it in order to remain a TPPP and be allowed to process Payment Mandates.
- 9.4. The Customer is obliged, as the entity/individual to whom payments will be made in accordance with Payment Mandates, to ensure that the Payment Mandates obtained by it in the conduction its business is compliant and valid.
- 9.5. The Customer has been provided with a template demonstrating the minimum requirements of valid Payment Mandates and it is obligated to ensure that any Payment Mandates which it obtains from consumers are compliant and valid with the Laws, rules and requirements issued by the

regulatory bodies of the NPS and properly completed and signed by the consumer.

- 9.6. The Customer is obligated to utilize only the latest version of the Payment Mandate which has been provided to it by ACPAS. These Payment Mandates are approved by the bank which ACPAS utilizes for the payment gateway portion of the Products and Services, in accordance with that banks terms, conditions and requirements, which may be amended from time to time.
- 9.7. The Customer is obligated to adhere to the terms, conditions and requirements contemplated in the preceding subparagraph at all times and such terms, conditions and requirement will be communicated to the Customer at the inception of this Agreement and at any time that ACPAS becomes aware of any change thereto.
- 9.8. ACPAS is not required to, and shall not, process any Payment Mandate which is not compliant and fully and properly completed and signed by the consumer to which the Payment Mandate relates.
- 9.9. The Customer should not retain Payment Mandates. All Payment Mandates should be submitted to ACPAS for storage and processing.
- 9.10. In the event that a consumer completes and signs a payment mandate at a branch or business premise of the Customer, the Payment Mandate should immediately be submitted to ACPAS and thereafter the Customer is obligated to ensure that the original Payment Mandate is destroyed to such an extent that it cannot be reproduced.
- 9.11. The Customer is prohibited from inducing or coercing any consumer who attends a branch or business premises of it, to complete and sign a Payment Mandate. All consumers are required to be informed of all payment options available to them and should be allowed to freely choose whichever option they deem appropriate.



- 9.12. For as long as the Products are used, with specific reference to the payment gateway portion thereof, the Customer is obliged to comply with all 'payment rules' issued by Law, including rules issued by PASA and SARB, as may be amended, revoked or added to, from time to time.
- 9.13. ACPAS will inform the customer of all changes made to Payment Rules issued by Law, PASA and SARB and the extent to which it affects the business of the Customer and its responsibilities in respect of Payment Mandates and the processing thereof.
- 9.14. If the Customer utilizes an external system for the completion and/or signature of Payment Mandates, it will be the obligation of the Customer to ensure that all amendments communicated to it by ACPAS are effected in such external system within a reasonable period of time and that a sample of the amended Payment Mandate is provided to ACPAS for approval, which approval will only be given at the sole discretion of ACPAS.
- 9.15. ACPAS is entitled to request a sample Payment Mandate, at any time and without prior notice, in order to monitor compliance in respect of Payment Mandates.
- 9.16. The Customer is obligated to resolve all disputes, reversed debit orders and failed transactions within a reasonable amount of time. This includes the Customer's overall and total amount of disputes, reversed debit orders and failed transactions applicable to its profile and the aforementioned may never exceed industry standards, which are defined by PASA, SARB and the banks of South Africa, from time to time.
- 9.17. Should the Customer fail to keep its profile in line with industry standards, ACPAS shall be entitled to suspend and terminate the Customer's use of the Products in accordance with clauses 17 and 18 of this Agreement.
- 9.18. The Customer may become obligated, and ACPAS entitled to require, security for the Customer's payment gateway profile. This is also referred to as an 'aggregate limit' in order to secure payment of failed transactions

and protect consumers who dispute the deductions from their accounts. All transactions submitted by the Customer will then be proportionate to the aggregate limit range, as agreed between ACPAS and the Customer.

## **10. FAILED, DISPUTED AND/OR REVERSED TRANSACTIONS**

10.1. The Customer specifically and irrevocably agrees to the operational flow associated with failed, disputed and reversed transactions. The operation flow is as follows:

- 10.1.1. An amount is deducted from a consumer's bank account;
- 10.1.2. the amount deducted from that consumer's bank account is paid to ACPAS' bank account and ACPAS settles such amount to the Customer;
- 10.1.3. that consumer disputes or reverses the deduction with his bank;
- 10.1.4. the consumer's bank then removes the amount deducted from ACPAS' bank account;
- 10.1.5. ACPAS removes such amount from the Customer's bank account; and
- 10.1.6. the cost(s) associated with these steps are for the Customer's account; thereafter,;-
- 10.1.7. if the Customer can prove that the transactions is no faulty fraudulent or otherwise invalid, a process which it is required to resolve with consumers in terms of clause 9.16, the amount is deducted from the consumer's bank account again and paid to ACPAS again;
- 10.1.8. ACPAS settles the amount to the Customer again;
- 10.1.9. the Customer is responsible for the costs of the secondary transaction.

- 10.2. In the event of a failed transaction, the Customer shall be billed for, and obligated to pay, the costs associated with the attempted deduction from the consumer's bank account and, such failed transaction's future deductions, if applicable, will be cancelled.
- 10.3. The Customer agrees that ACPAS may recover its banking fees in respect of failed, disputed and/or reversed transactions from the Customer directly.
- 10.4. The Customer shall not have any claim against ACPAS for any damages which it alleges it suffers as a result of the process flow described above and it acknowledges that the process flow is not optional to either the Customer or to ACPAS. It is a process flow determined by the banks of South Africa and SARB.
- 10.5. The Customer indemnifies ACPAS from any loss or liability which may be attributable, whether directly or indirectly, to any failed, disputed and/or reversed transactions which may occur on the Customer's payment gateway profile.

## **11. SUPPORT AVAILABILITY**

- 11.1. **User and Branch Support and Administration Services** shall be available:-
  - 11.1.1. Telephone Support: Mondays to Fridays (08:00 to 17:00) and Saturdays (08:00 to 13:00 GMT+2); and
  - 11.1.2. Email Support: Monitored Mondays to Fridays (08:00 to 17:00 GMT+2).
- 11.2. Outside of the hours noted above,:-
  - 11.2.1. Telephone calls will not be recorded and/or forwarded to other lines; and
  - 11.2.2. Emails will be collected, but no action can be guaranteed until the following business day.

11.3. **User and Branch Support and Administration Services** include: -

- 11.3.1. User Registration;
- 11.3.2. User Password Reset Assistance;
- 11.3.3. Branch/Merchant Registration and Setup;
- 11.3.4. Manned telephone support for user password resets;
- 11.3.5. Monitored email support;
- 11.3.6. Remote Assistance using Remote Desktop or similar Remote Access Software;
- 11.3.7. Hardware and server support; and
- 11.3.8. Software Support

**12. SUPPORT TURNAROUND TIME**

12.1. The following turnaround time is applicable to support Services:

- 12.1.1. **HIGH PRIORITY:** 0-4 hours and includes Server Downtime, Web Service Downtime and Platform Downtime.
- 12.1.2. **MEDIUM PRIORITY:** 24 hours and includes User Setup and Access, Transferring Users between Branches and New Branch Setup.
- 12.1.3. **LOW PRIORITY:** 48 hours and includes Transferring Clients between Branches, Assisting Users with General Queries relating to General Platform Process Flow.

12.2. The response times contemplated in this clause does not relate to the resolution of queries or issues and serves only as a guideline of the maximum amount of time it may take ACPAS action the request or resolution of the issue.

- 12.3. ACPAS may, at its sole discretion elect to action any query or resolve any issue falling by means of remote assistance.

### **13. STRUCTURE OF USERS**

- 13.1. It is of vital importance to the security, integrity, and proper functionality of the Products that a proper and comprehensive structure of users is created and their respective access levels and permissions are carefully defined.
- 13.2. In the Application Pack, ACPAS has requested the Customer to assign a role to the various users with the Customer which will have access to the Products and Services. The access and permissions of such users have been created and configured in accordance with the structure provided to ACPAS on the Application Pack.
- 13.3. ACPAS will create and assign each individual within the Customer's business his/her own profile and log-in details and configure their access and permissions in accordance with the directions of the Customer.
- 13.4. The Customer is obligated to review the access and permissions of these users to ensure that each user only has the access and permissions that user requires to fulfill their duty with the Customer. Should any limitation or addition or permissions and access be required, the Customer is required to direct a request to ACPAS to update the aforementioned permissions and access of the user.
- 13.5. The Customer is obligated to continuously ensure that this structure is maintained and updated, by directing a request to ACPAS to effect any amendments to the access and permissions of the users defined in the business, in accordance with the continuous requirements of the business and any operational changes it may experience.
- 13.6. The Customer is obligated to ensure and inform its employees, who are the users, that log-in details and passwords should never be exchanged, disclosed or disseminated.

- 13.7. The Customer will be held responsible for any damages which ACPAS may suffer as a result of unauthorized or unlawful use of the Products, resulting from the exchange, disclosure or dissemination of log-in details within the Customer's business.
- 13.8. The Customer indemnifies ACPAS from any loss or liability which may be attributable, whether directly or indirectly, to the Customer's failure to update and maintain its structure of users and their access and permissions.

#### **14. EXCLUSIONS**

- 14.1. The provisions and applicability of this Agreement specifically excludes:
- 14.1.1. Any and all software and hardware which were not provided, supplied or made available by ACPAS;
  - 14.1.2. software, equipment or services not purchased from, or made available by, ACPAS and any downtime which such software, equipment and/or services may experience.
  - 14.1.3. any downtime or non-functionality of the Products and Services, not caused by ACPAS but caused by downtime, updates or non-functionality of software, equipment or services not purchased from, or made available, by ACPAS.
  - 14.1.4. the use of equipment, software or service(s) in a manner which is not recommended, harmful or dangerous;
  - 14.1.5. the Customer has made unauthorized and unapproved changes to the configuration or setup of affected equipment, software or services.
  - 14.1.6. the Customer has prevented, in any manner, ACPAS from performing the required maintenance and upgrade tasks;
  - 14.1.7. the issue emanated from unsupported, or faulty, equipment, software or services;

- 14.1.8. the Customer abuses and/or illegally uses the Products and Services;
- 14.1.9. the computer hardware, used by the Customer, malfunctions;
- 14.1.10. the Products and Services have been subject to unauthorized alteration by the Customer, or the Customer caused the unauthorized alternation of the software;
- 14.1.11. the data has been accessed or amended, in whatsoever manner, other than access through use of the Products' standard software and configurations;
- 14.1.12. the Customer is in breach or default of any provision contained in this Agreement;
- 14.1.13. any development or customization of the Products and Services, specifically for the Customer, which falls outside the general development of the Products and Services.

## **15. COMMENCEMENT & DURATION**

- 15.1. This Agreement shall commence on the date upon which the Customer accepts the terms and conditions of this Agreement, or the date upon which the Customer commences use of the Products and/or other Services made available by ACPAS, whichever is the earlier, and endure for a continuous uninterrupted period of 6 (six) months, whereafter this Agreement shall continue on a month-to-month basis until such time as:
  - 15.1.1. this Agreement is terminated in accordance with clause 18 of this Agreement and the Parties agree that such termination is subject to the provisions of clause 40; or
  - 15.1.2. this Agreement is superseded by a by a revised and mutually agreed to Agreement governing the same subject matter as this Agreement.

- 15.2. If this Agreement is terminated in accordance with its clause 18, the relationship between the parties shall only be deemed terminated once all funds owing to ACPAS have been paid in full.
- 15.3. The commencement of this Agreement and the Customer's access to the Products and Services may remain suspended until such time as the Customer has furnished ACPAS with confirmation that it is registered with the regulatory body with requisite authority within the Customer's jurisdictional territory of operations, or furnished ACPAS with confirmation that is not required to be registered with any regulatory authority and the reasons it is not required to be registered within that jurisdictional territory of operations.

## **16. PAYMENT**

- 16.1. ACPAS shall issue invoices on a monthly billing cycle for all Products and Services in accordance with the pricing schedule contained in the Application Pack. These invoices shall reflect the monthly billing amounts for:
  - 16.1.1. Fixed fees, which shall remain the same each and every month. This includes the license rental fee which shall be payable in advance, the remainder of which shall be billed and invoiced in arrears;
  - 16.1.2. Transactional fees, which consists of fees which are billed and invoiced in accordance with the usage rate of the Product or functionality to which the fee relates and such invoices shall be issued in arrears;
  - 16.1.3. Other Service Fees, which consists of service fees, at ACPAS' ordinary service rates, which do not fall within the scope of this Agreement, but which ACPAS has rendered to the Customer and shall be invoiced in arrears.



- 16.2. The invoices issued to the Customer by ACPAS, are strictly payable upon presentation. Payment will be effected via debit order within the first 10 (ten) days of each particular month, in accordance with the written debit order mandate completed by the Customer and contained in the Application Pack;
- 16.3. The Customer further authorizes ACPAS to deduct the amount due to it in respect of issued invoices from any banking account which it may be aware of, or become aware of, for an amount not exceeding the total amount due to ACPAS in respect of issued and outstanding invoices.
- 16.4. The Customer is entitled to a detailed breakdown of all transactional and fixed billing items, upon written request.
- 16.5. The Customer agrees that it has been made aware of which items are charged, or billed for, transactionally and what action triggers billing for that particular transactional charge. The Customer is therefore fully liable for any amount which it is invoiced for in respect of repeated transactions, whether such repetitions were wilfully, negligently or erroneously made.
- 16.6. Should the Customer fail to effect payment in accordance with the provisions of this clause 16, ACPAS shall be entitled, without further notice to it, to suspend the Customer's use of the Products in accordance with clause 17 of this Agreement and, after compliance with the provisions of clause 19, cancel this Agreement.
- 16.7. ACPAS shall be entitled to increase the amounts charged in respect of the Products and Services, as contemplated in the pricing schedule contained in the Application Pack, upon notice to the Customer and at its sole discretion.
- 16.8. If ACPAS is required to institute legal recourse in order to recover amounts not paid by the Customer, the Customer agrees to pay the legal costs associated therewith on scale as between Attorney and Client.

## **17. SUSPENSION**

- 17.1. Suspension is the temporary removal of the Customer and its users' access and use of the Products. Suspension does not affect any background process of the Products and is limited to only the suspension of access and use.
- 17.2. ACPAS shall, at all times and without limitation, be entitled to suspend the Customer's access or use of the Products if it suspects non-compliance from the Customer of any of the terms of this Agreement or of industry rules, requirements and directions.
- 17.3. During suspension, the Customer is obliged to cooperate with ACPAS in respect of any and all investigations or compliance monitoring which ACPAS may elect to undertake before lifting the suspension.
- 17.4. If the suspension relates to non-payment of invoices issued by ACPAS, the suspension will not be lifted until either the invoices are paid, or ACPAS invokes the provisions of clause 19 of this Agreement.
- 17.5. ACPAS is in no manner required to lift any suspension and there are no limitations on the period of time that the Customer's use and access to the Products are suspended.

## **18. TERMINATION**

- 18.1. Should either Party wish to terminate this Agreement, such Party will be required to effect notice to the other Party of intention to do so, not less than 30 (thirty) ordinary days prior to the envisaged date upon which such termination should take effect and the aforesaid notice shall contain the terminating Party's reasons for terminating the Agreement.
- 18.2. The Parties agree that: -
  - 18.2.1. If this Agreement is terminated by the Customer during the original contract period, being 6 (six) months, then the Customer shall be liable for payment equal to that which it

would have paid to ACPAS, had the original contract period not been interrupted by termination. ACPAS may waive its right to such payment, at its sole discretion, but is not required or obligated to do so; and

- 18.2.2. Regardless of which Party terminates this Agreement, and regardless of period of notice contemplated in clause 18.1 of this Agreement, ACPAS reserves the right to withhold the clearance of payments and release of aggregate limits until such time as all disputed payments, reversals and failed transactions are resolved and finalized.
- 18.3. Upon receipt of a termination notice from either Party to the other Party, the Parties agree that they will continue attending to their respective responsibilities, in a professional and ethical manner, until such date upon which the termination takes effect.
- 18.4. In the event that any bank or competent authority recognized by Laws recommends, directs, orders or advises ACPAS to terminate its relationship with the Customer and cease the provision of Products or Services to the Customer, then ACPAS shall not be obligated to adhere to the notice period referred to in 18.1 and may terminate the Agreement, with immediate effect.

## **19. BREACH**

- 19.1. In the event of either Party committing a breach (“the Defaulting Party”) of any of the terms and conditions contained in this Agreement, and failing to remedy such breach within a period of 10 business days after receipt of a written notice from the other Party (“the Aggrieved Party”) to the Defaulting Party calling upon it to remedy the breach, the Aggrieved Party shall be entitled to, at its sole discretion and without prejudice to its other rights in law, either claim specific performance of the terms and conditions of this Agreement or to forthwith cancel this Agreement and without further notice, claim and recover damages from the Defaulting Party.

19.2. Should either Party: -

19.2.1. be placed under business rescue;

19.2.2. cede or assign, or purport to cede or assign any of its rights or obligations under this Agreement;

19.2.3. be wound-up, whether provisionally or finally,

then, in any of such events, the other Party will be entitled, without prejudice to its rights, to claim damages or any other claim whatsoever that it may have against the other Party as a result thereof, be entitled to cancel this Agreement by means of a written notice to that effect.

19.3. If the breach committed by the Defaulting Party pertains to proven unlawful and criminal action by the Defaulting Party, or it is clear that the Defaulting Party will not be able to remedy the breach at all, then the Aggrieved Party shall be entitled to terminate the agreement without the notice period contemplated in clause 19.1 of this Agreement.

## **20. THIRD PARTY PROVIDERS**

20.1. The Parties agree that ACPAS shall be entitled to contract with any third-party provider it deems necessary for the conduct of its business, the availability of the Products and rendering of Services, and that ACPAS may contract with such third parties at its sole discretion.

20.2. The Customer shall only be entitled to contract with such third-parties as it deems necessary for the conduct of its business insofar as such third-party's products or services may not interfere with, damage, negate or require alteration of the Products and/or Services.

## **21. RESOLUTION OF DISPUTES / ARBITRATION**

21.1. Should any dispute arise between the Parties in respect of any provision contained in this Agreement other than compliance and payment provisions, then such dispute shall be decided in consultation between the Parties at a meeting convened specifically for that purpose at a time

and venue suitable to the Parties concerned. In the event that the Parties fail to reach consensus on any issue envisaged in the matter of dispute within 7 (seven) days from the date on which any such dispute shall arise, then the dispute shall be submitted to and decided by arbitration in terms of the Arbitration Act No 42 of 1965 and as provided for in this clause.

- 21.2. Each Party to the dispute shall be entitled to be represented at such arbitration proceedings by its legal representatives and/or any other appointed expert or specialist.
- 21.3. The arbitration shall be held at Johannesburg or any other city in South Africa, as may be agreed upon by the Parties.
- 21.4. The arbitrator shall be such suitably qualified person with appropriate skills and knowledge in relation to the matter in dispute, as may be appointed by agreement between the Parties within 10 (ten) days of the dispute being referred to arbitration by any Party, and failing such agreement, then as may be appointed by the Chairman of the Association of Arbitrators of Southern Africa as follows:
  - 21.4.1. if the dispute is primarily an accounting matter, an independent practicing Chartered Accountant;
  - 21.4.2. if the dispute is primarily a legal matter, a practicing advocate of not less than 15 (Fifteen) years' experience as such;
  - 21.4.3. if the dispute relates to any other matter, an independent expert with appropriate knowledge and skills in relation to the matter in issue.
- 21.5. The Parties to the dispute shall within 10 (ten) days after the appointment of the arbitrator meet with him in order to agree the procedures to be followed at the arbitration proceedings. Failing such agreement within the said period of 10 (ten) days, the prevailing Rules for the Conduct of Arbitrations shall apply to the arbitration.

- 21.6. The decision of the arbitrator shall be final and binding upon all Parties to the dispute and capable of being made an order of Court upon the application of any of them and there shall be no right of appeal.
- 21.7. Nothing herein contained or implied shall preclude a Party from applying to Court for a temporary interdict, or other relief of any urgent and temporary nature, pending the award of the arbitrator.
- 21.8. The arbitrator is further vested with powers to make interim orders and to give directions as to alternative provisions, which are to be implemented by the Parties in the event of circumstances arising which in the opinion of the arbitrator render such interim orders or directions necessary or desirable.
- 21.9. The arbitrator shall have the power to give default judgment if any Party fails to make submissions on due date either as agreed or in terms of the Rules, as the case may be, and/or fails to appear at the arbitration.
- 21.10. The costs of an incidental to any such arbitration proceedings shall be in the discretion of the arbitrator, who shall be entitled to direct whether they be taxed as between "party and party" or as between "attorney and client".
- 21.11. The provisions of this clause:
- 21.11.1. constitute an irrevocable consent by the Parties to any proceedings in terms hereof and no Party shall be entitled to withdraw therefrom or claim at any such proceedings that it is not bound by such provisions;
  - 21.11.2. are severable from the rest of this Agreement and shall remain in effect despite the termination of or invalidity for any reason of this Agreement.

## **22. GOOD FAITH UNDERTAKING**

22.1. The Parties respectively agree that they will, at all times during this Agreement and thereafter, display good faith in their dealings with one another and the reputations of the Parties respectively.

## **23. NON-CIRCUMVENTION**

23.1. Neither Party will, from the commencement of this Agreement, without the prior, written consent of the other Party, which consent may be withheld at the other Party's sole discretion: -

23.1.1. attempt in any manner to deal directly or indirectly in any manner with any of the other Party's Clients, Distributors, Suppliers, Contractors, Employees or Customers which are related to this Agreement for their sole gain; or

23.1.2. by-pass, compete, void, circumvent or attempt to circumvent the other Party in respect of any proposed transaction including by using confidential information or otherwise by exploiting or deriving benefit from confidential information.

23.1.3. The provision of this clause shall survive the termination of this Agreement in terms of clause 18.

23.2. The Customer shall not, for the duration of this Agreement and for a period of 2 (two) years thereafter develop, cause to be developed, collaborate, co-develop, commission or fund any products and/or services which result in the practical effect of:

23.2.1. Loan Management;

23.2.2. Client Management System;

23.2.3. Payment System, Payment Gateway System or Payment plug-in to another system.

- 23.3. The Customer may not, for a period of 2 (two) years, whether directly or indirectly, whether through the same business or through a business with the same or similar shareholder and directorship, establish, create or direct a business which directly competes with ACPAS by providing the same, or similar Products and Services, whether such Products and Services are provided to the ACPAS' client base or not.

## 24. CONFIDENTIALITY AND INTELLECTUAL PROPERTY

- 24.1. The Parties hereto agree and undertake that they shall maintain as confidential and shall not disclose to any third party the terms and conditions of this Agreement other than to employees to whom it is necessary to make such disclosure in the conduct of the Agreement, unless the Parties hereto agree in writing to the contrary.

- 24.2. The Parties agree that: -

24.2.1. any Confidential Information which may be exchanged between the Parties is a valuable, special and unique asset of the Party to which such Confidential Information belongs or relates;

24.2.2. That the Party to whom the Confidential Information belongs or relates, may suffer irreparable harm or substantial economic and/or other loss in the event that such Confidential Information is disclosed or utilized in a manner which is inconsistent with the purpose for which it was disclosed, or: -

24.2.2.1. if such Confidential Information was inadvertently disclosed and no purpose exists; irreparable harm and/or other loss will be suffered if the Confidential Information is utilized in any manner whatsoever;

24.2.2.2. if such Confidential Information was obtained through *mala fide* or unscrupulous action by a



Party; irreparable harm and/or other loss will be considered to have been suffered by the Party to whom the Confidential Information belongs or relates to, as of the date on which the other Party obtained such Confidential Information.

- 24.3. Regardless of the manner in which Confidential Information of one Party is received or obtained by the other Party, it is agreed that: -
- 24.3.1. such information is proprietary, or intellectual property of the Party owning or to which it relates and is not deemed to confer any rights of whatsoever nature on the other Party;
  - 24.3.2. the Party in receipt of such Confidential Information of the other Party shall not use, or permit the use of, the Confidential Information for the purpose of obtaining commercial, trading, investment, financial or other advantage over the Party to whom the Confidential Information relates or to use, or permit to use, such Confidential Information to the detriment of the Party to whom such Confidential Information relates;
  - 24.3.3. such Confidential Information may only be disclosed or utilized if the Party in receipt of such Confidential Information relating to the other Party, is directed to do so by order or direction of a competent Authority;
- 24.4. Should any breach, or suspected breach of, any confidential information occur, the other Party will be notified thereof immediately.
- 24.5. Any intellectual property already developed or developed during the course of this Agreement shall remain the property of the Party which developed such intellectual property, unless the contrary is agreed to in writing.
- 24.6. Neither Party may claim or make representations to own the intellectual property of the other.

## 25. WARRANTIES

- 25.1. The Customer warrants that all information provided to ACPAS for the purposes of entering into this Agreement and making use of the Products and Services, including the information contained in the Application Pack, is true and correct and that it will notify ACPAS of any material or relevant change of the Customer, or in respect of the Customer or its Users, without undue delay.
- 25.2. The Customer warrants that it is registered, subscribed to, certified or approved by any other regulatory body or Authority, which it is required to be so registered, subscribed to certified or approved by, in accordance with the applicable Laws of the Customer's jurisdictional territory and indemnifies ACPAS from any liability attributable to the Customer's failure to be so registered, subscribed to, certified or approved.
- 25.3. The Customer warrants that it has confirmed that the use of the Products and Services will not cause it to be in contravention of any Laws applicable to it in its jurisdictional territory of operations and indemnifies ACPAS from any liability which may be attributable to the Customer's failure to establish whether its use of the Products and Services would render it in contravention of any applicable Laws and/or its continued use of the Products and Services with the knowledge that such use would render the Customer in contravention of applicable Laws.
- 25.4. The person accepting or signing this Agreement on behalf of the Customer, warrants that he/she is duly authorized to enter into this Agreement on behalf of the Customer.
- 25.5. The Customer warrants that it will not make use the Products, or the information to which it has access as a result of the Products, in any manner which is inconsistent with industry laws, regulations, statutory requirements, unethical or unlawful in terms of the Laws of the Customer's jurisdictional territory, international law (if applicable) or prohibited by this Agreement or any other policy between the Customer and its employees and ACPAS.

- 25.6. The Customer warrants that all the information that it has provided to ACPAS, during the application process and at all times thereafter is true, accurate and that it will inform ACPAS of any change in such information, as soon as practicable.
- 25.7. The Customer warrants that it will comply with the provisions of the Protection of Personal Information Act at all times in the conduct of its business and the use of the Products.

## **26. INDEMNIFICATION AND DISCLAIMERS**

- 26.1. The Parties indemnify each other and hold each other harmless from and against any claims, liabilities, investigations, actions, losses, penalties, expenses or damages arising from the daily conduct of their respective businesses and/or business activities;
- 26.2. The Customer indemnifies ACPAS from any liability in respect of damages suffered by the Customer due to any errors in calculations made or any malfunction in respect of the Product. This indemnification is because of the fact that the Product is configured and set-up in accordance with and at the instance of the Customer.
- 26.3. The Customer indemnifies ACPAS from any liability in respect of damages suffered by the Customer as a result of any amendment which may be directly or indirectly caused by any amendment or change made or caused to be made by the Customer to any of the Products' configurations.
- 26.4. The Customer indemnifies ACPAS from any loss or liability in respect of damages suffered by the Customer which may arise from the communication, distribution or dissemination of the log-in details issued to the employees of the Customer, as users.
- 26.5. ACPAS and its directors are indemnified of any liability which may arise from the use of the Products, whether such use was proper or improper,

from any damage, liability, loss and/or expense, whether directly or indirectly attributable to use of the Products.

- 26.6. The Customer indemnifies ACPAS from any damages, loss of income or liability which may be suffered as a result of reliance on the calculations or permutations contained and made by the Products.
- 26.7. The Customer indemnifies ACPAS of any liability or responsibility, whether directly or indirectly, as a result of any damages suffered which may be attributed to the Customer and its employees which arise as a result of its failure to utilize proper and compliant payment mandates.
- 26.8. The Customer indemnifies ACPAS from any loss of income, liability or damages which it may suffer as a direct, or indirect, consequence of ACPAS suspending or terminating its access to the Products, on any of the grounds contained in this Agreement or any other formal agreement or Policy between the Customer, its employees and ACPAS.

## **27. DOMICILIUM CITANDI ET EXECUTANDI**

- 27.1. The Parties appoint as their respective *domicilia citandi et executandi* for the purpose of all legal proceedings and for the purpose of giving or sending any notice provided for or necessary in terms of this Agreement, the addresses hereunder or such other address/es as the Parties may on not less than 5 (five) days' notice appoint, provided that the new domicile is in the Republic of South Africa and consists of, or includes, a physical address at which process can be served.
- 27.2. Any notice in terms of this Agreement shall be in writing and may be delivered by hand or by telefax transmission or e-mail where these facilities exist.
- 27.3. A notice will be presumed, unless the contrary is proved, to have been delivered:
- 27.3.1. if sent by telefax transmission or e-mail, on the next business day following the date of transmission. In each respective

method of transmission, proof of delivery (i.e.: telefax transmission or e-mail report) must be provided;

27.3.2. if hand-delivered during business hours on a business day, then on the day of delivery to a responsible person or employee who must acknowledge receipt in writing.

27.4. Domicilium addresses of the Parties:

27.4.1. ACPAS:

27.4.1.1. **92 Jean Avenue, Doringkloof, Centurion.**

27.4.2. The Customer:

27.4.2.1. As was supplied by the Customer to ACPAS on the application pack and as updated on the ACPAS Software.

## **28. ASSIGNMENT**

28.1. The rights and obligations of any Party under this Agreement shall not be assigned to any person or entity other than as expressly provided in this Agreement. Any attempted assignment of the rights and obligations of any Party in contravention of this clause shall be void.

## **29. ENTIRE AGREEMENT**

29.1. This Agreement contains all the express provisions agreed on by the Parties with regard to the provisions of the relationship between the Parties and the Parties waive the right to rely on any alleged express provision not contained in this Agreement.

## **30. AMENDMENT**

30.1. This Agreement may be amended, modified or consensually cancelled and supplemented only by written agreement between the Parties. No course of dealings shall be deemed to have modified, amended,

cancelled or discharged any part of this Agreement or any rights or obligations of any Party under this Agreement.

### **31. WAIVER**

31.1. No indulgence which any Party ("Grantor") may grant to any other ("Grantee") shall constitute a waiver of any of the rights of the Grantor, which shall not thereby be precluded from exercising any rights against the Grantee which may have arisen in the past or which may arise in the future.

### **32. SEVERABILITY**

32.1. If any provision of this Agreement or part hereof shall to any extent be or become invalid or unenforceable, the Parties shall agree upon any necessary and reasonable adjustment of the Agreement in order to secure the vital interest of the Parties and the main objectives prevailing at the time of execution of the Agreement. Failing an agreement between the Parties on adjustments to the Agreement, such adjustments shall be made by the arbitrators in accordance with the provisions of clause 19.3 above.

### **33. COUNTERPARTS AND PHOTOCOPIES**

33.1. This Agreement may be executed in counterparts each of which will be deemed to be an original of this Agreement with the same force and effect. A facsimile or photocopy of a fully executed counterpart of this Agreement or a set of identical versions separately executed by the Parties will be valid evidence of the existence and the terms of this Agreement.

### **34. COSTS**

34.1. Each Party shall bear its own costs in connection with the negotiation and preparation of this Agreement.

### **35. APPLICABLE LAW AND JURISDICTION**

35.1. The Parties agree that this Agreement shall be regulated by the Laws of the Republic of South Africa and that the Courts of the Republic of South Africa shall have jurisdiction.

### **36. COMPLIANCE AND REGULATORY PROVISIONS**

36.1. The Parties are obligated to, at all times, comply with all laws, regulations, rules, codes and policies (collectively referred to as "Laws") which are applicable or may become applicable to the daily activities of the respective Parties/

36.2. Should either Party believe that any facet of the Agreement, whether immediate or future, may result in non-compliance with any Laws, such Party is required to immediately notify the other Party of the Law and the extent of the possible non-compliance.

36.3. Should any Party fail, refuse or neglect to remedy any instance of non-compliance as referred to in the preceding clause, the Party which informed the other Party of current and/or possible non-compliance shall be entitled to invoke the provisions of 19 of this Agreement.

### **37. FORCE MAJEUR**

37.1. No Party shall be liable to the other in respect of the non-performance of any of the provisions of this Agreement in the event, and to the extent that such non-performance is the direct result of or has been directly caused by *force majeure*, which for the purposes of this Agreement shall mean an event not within the reasonable control of the Party concerned.

37.2. A Party claiming *force majeure* shall as soon as reasonably possible after becoming aware of the *force majeure* event, notify the other Party thereof, stating the nature, extent and expected duration of same.

37.3. The burden of proof of the existence and extent of the alleged event and the enforceability thereof, shall rest on the Party claiming *force majeure*.

37.4. In the event of *force majeure* as notified and accepted continuing for a period of thirty (30) days, the Party who has received notice of *force majeure*, shall be entitled to terminate this Agreement with immediate effect.

### **38. QUASI-PARTNERSHIP**

38.1. Nothing in this Agreement shall constitute or be deemed to constitute a legal partnership between the Parties.

### **39. SUCCESSORS IN TITLE**

39.1. The provisions of this Agreement shall be binding on the successors in title of the Parties.

### **40. SURVIVAL OF RIGHTS AND DUTIES**

40.1. The Termination of this Agreement, for any reason, shall not release either Party from any liability which, at the time of termination, has already accrued to such Party or which thereafter may accrue in respect of any act or omission prior to such termination.

40.2. The Termination of this Agreement, for any reason, shall not nullify the indemnities which one Party has extended to the other.



## 41. SIGNATURE PAGE

41.1. This Agreement may be electronically entered into between the Parties. By selecting the box "I Agree", the Customer enters into this Agreement and acknowledges: -

41.1.1. that it has read and understood the terms and conditions of this Agreement;

41.1.2. that it agrees to this Agreement being entered into electronically; and

41.1.3. that it has not been forced or induced, in any manner whatsoever, to enter into this Agreement.

41.2. The date upon which ACPAS signs this Agreement is the date upon which this Agreement is made available to the Customer, on the ACPAS portal and/or website and is:

41.2.1. *Today's date or the last date that the Customer selected the "I Agree" box on the portal and/website and continues to use the website.*

41.3. The date upon which the Customers signs this Agreement is the date upon which it selects the "I Agree" box on the portal and/website and continues to use the website and is:

41.3.1. *Today's date or the last date that the Customer selected the "I Agree" box on the portal and/website and continues to use the website.*