

PRODUCT AGREEMENT entered into between Liquid Telecommunications Operations Limited and You

1 PRODUCT AND DURATION

- 1.1 Pursuant to this Agreement, Liquid Telecommunications Operations Limited as a licenced reseller of Microsoft products will provide the Microsoft **“Teams”** application (“Product”) to You for your use for the 30 day trial period free of charge. You are required to click the relevant boxes on Liquid Telecommunications Operations Limited’s website to confirm your acknowledgement and agreement with Microsoft’s and Liquid Telecommunications Operations Limited’s terms and conditions of use.
- 1.2 You may not cancel the 30 day trial during the 30 day period of the trial, save where You purchase a subscription to use the Product for monetary value. However, Liquid Telecommunications Operations Limited may cancel the 30 day trial where there is any breach of Microsoft’s and Liquid Telecommunications Operations Limited’s terms and conditions of use.
- 1.3 You shall not be prevented from purchasing a subscription for the Product during the 30 day trial period.
- 1.4 Where you have utilized the 30 day free trial period, you shall not be eligible for any further free trial usage of this Product, through Liquid Telecommunications Operations Limited or any other sales and distribution channel.

2 PROVISION OF THE PRODUCT

- 2.1 In providing the Product to You, Liquid Telecommunications Operations Limited reserves the right to utilise any technology which it has available and which it considers at its discretion as most suitable and reasonable to render Product, as permitted under the applicable agreement between Microsoft and Liquid Telecommunications Operations Limited.
- 2.2 You shall ensure that the Product is not used in a manner which constitutes an infringement of any rights of Liquid Telecommunications Operations Limited or any third party, or for any illegal, fraudulent or unauthorised activities and shall further ensure that it, its employees and its customers do not by any act or omission, damage, interfere with or impede the operation of the Product. You shall do this, inter alia, by exercising appropriate control over your employees.
- 2.3 Where You are aware that there is any violation or contravention contemplated in this clause 2, You will co-operate and provide Liquid Telecommunications Operations Limited with the necessary information to assist in identifying, preventing, remedying or rectifying such violation or contravention.

3 FEES AND CHARGES

- 3.1 The Product is provided to you on a trial basis free of all fees and charges for the 30 day trial period.
- 3.2 No invoice for this 30 day free trial shall be provided to you.

4 NO AUTOMATIC RENEWAL AT THE END OF THE 30 DAY TRIAL PERIOD

- 4.1 There shall be no automatic renewal for you at the end of the 30 day trial period.

4.2 Where you wish to purchase a subscription to use the Product at the end of the 30 day trial period, you can purchase such subscription from Liquid Telecommunications Operations Limited through the Liquid Telecommunications Operations Limited website or office in your country at its stated cost plus applicable taxes.

5 DELIVERY OF THE PRODUCT

5.1 Liquid Telecommunications Operations Limited shall use its best endeavours to provide the free 30 day trial of the Product to you by way of a download as soon as possible after you have clicked the relevant boxes on Liquid Telecommunications Operations Limited's website to confirm your acknowledgement and agreement with Microsoft's and Liquid Telecommunications Operations Limited's terms and conditions of use and correctly completed the ordering procedure. Completion of the relevant download should enable You to access an online account with respect to the Product.

6 LIQUID TELECOMMUNICATIONS OPERATIONS LIMITED'S HELP DESK SERVICES WITH RESPECT TO THE 30 DAY TRIAL

6.1 Liquid Telecommunications Operations Limited's assistance to you with respect to the Product following your download of the Product shall be limited to undertaking its reasonable endeavours to assist you with respect to accessing the account provided with respect to the Product for your 30 day trial period. You may send queries concerning accessing your account to **support@liquidcloud.africa**

7 FORCE MAJEURE

7.1 A party to this agreement shall not be liable for a failure to perform any of its obligations in terms of this agreement in so far as it is able to prove that:

7.1.1 such failure was due to an impediment beyond its reasonable control;

7.1.2 it could not reasonably have been expected to have taken such impediment and its effects upon such party's ability to perform into account at the time of conclusion of this agreement. For the avoidance of doubt, with respect to the Covid 19 pandemic, the total effects of are unknown;

7.1.3 it did all reasonably possible to mitigate the adverse impact on the other party; and

7.1.4 it could not reasonably have avoided or overcome the impediment or at least its effects and, for purposes of this clause 8.1, the impediments shall include those set out in the definition of Force Majeure in 7.3 below (which enumeration is not exhaustive).

7.2 Relief from liability for non-performance by reason of the provisions of this clause shall commence on the date on which the party seeking relief ("Defaulting Party") gives written and detailed notice of the impediment relied upon and shall terminate upon the date on which such impediment ceases to exist, provided that if the impediment continues for a period of more than 10 (ten) consecutive days, the other Party shall be entitled, at its option, to terminate this agreement by written notice to the Defaulting Party without any penalty, early termination fees or other recourse by the Defaulting Party.

7.3 Force Majeure means impediments beyond the control of each of the parties, namely:

- 7.3.1 war, whether declared or not, civil war, civil violence, riots and revolutions, acts of piracy, acts of sabotage and global pandemics including but not limited to Covid 19;
- 7.3.2 natural disasters such as violent storms, cyclones, earthquakes, floods and destruction by lightning;
- 7.3.3 acts of authority, whether lawful or unlawful, apart from acts for which the party seeking relief has initiated or assumed risk; and
- 7.3.4 acts and omissions of any third party telecommunications provider or any utility provider, other than where such party is a subcontractor, agent, contracted party or affiliated company;
- 7.3.5 causes beyond a party's control, including but not limited to: acts of God; fire; explosion; vandalism; cable cut; any law, order, regulation, direction, action or request of any government, including federal, state, provincial, municipal and local governments claiming jurisdiction over a Party or the Service, or of any department, agency, commission, bureau, corporation, or other instrumentality of any such government, or of any civil or military authority;
- 7.3.5 national emergencies;
- 7.3.6 unavailability of materials or rights-of-way; insurrections; riots, terrorist acts or strikes, lock-outs, work stoppages, or other labour difficulties, supplier failures, shortages, breaches or delays.

8 LIMITATION OF LIABILITY

- 8.1 Given that the Product is provided for free for the trial period, Liquid Telecommunications Operations Limited shall bear no liability of any description to You under this agreement including, for the avoidance of doubt, for any of the following types of loss or damage arising under or in relation to this agreement (whether arising for breach of contract, misrepresentation (whether tortious, delictual or statutory), tort or delict (including but not limited to negligence), breach of statutory duty or otherwise):
 - 8.1.1 indirect, incidental, consequential, punitive or special loss or damages whatsoever; or
 - 8.1.2 any loss of profits, advantage, anticipated savings, data or revenues, business, contracts, goodwill, or increased cost of operation, or any wasted expenditure (regardless of whether any of these types of loss or damage are direct, indirect or consequential),

even if it was decided by a court of competent jurisdiction that Liquid Telecommunications Operations Limited was aware of the possibility that such loss or damage might be incurred by You.
- 8.2 Nothing in this agreement shall operate so as to exclude or limit the liability of either party to the other for:
 - 8.2.1 death or personal injury arising out of negligence;
 - 8.2.3 a breach of confidentiality;
 - 9.2.4 damages arising out of a Party's gross negligence, fraud or wilful misconduct; or

- 9.2.5 for any other liability that cannot be excluded or limited by law.
- 9.6 You agree to indemnify, defend and hold Liquid Telecommunications Operations Limited, its officers, directors, employees, agents and contractors harmless from and against all loss, damage, liability, cost and expense (including reasonable attorney's fees and expenses) by reason of any claims or actions by third parties, including but not limited to Microsoft, for (i) bodily injury or death or damage, loss or destruction of any real or personal property (including without limitation the property of Liquid Telecommunications Operations Limited), which third party claims arise out of or relate to your negligence or willful misconduct, (ii) infringement or misappropriation by You of any intellectual property rights under this agreement or belonging to Microsoft, or (iii) your use of the Product, including without limitation, defamation, libel, slander, obscenity, pornography, or violation of the rights of privacy or publicity, or spamming or any other tortious, delictual or illegal conduct.
- 8.7 The parties agree that the limitation of liability provisions set out in this Clause 8 shall survive the termination of this agreement.
- 8.8 Except as otherwise expressly provided in this agreement, Liquid Telecommunications Operations Limited does not make, and hereby disclaims, any and all warranties or conditions, express or implied, including but not limited to any and all warranties or conditions of merchantability, satisfactory quality or fitness for a particular purpose.

9 DISPUTE RESOLUTION

- 9.1 Any dispute arising out of or in connection with this contract, including any question regarding its existence, validity or termination shall be referred to and finally resolved by arbitration under Liquid Telecommunications Operations Limited, which rules and procedures are deemed to be incorporated by reference into this clause. The number of arbitrators shall be one. The language to be used in the arbitral proceedings shall be English.
- 9.2 The arbitrator shall have industry and subject matter background or experience relevant to the nature of the Dispute.
- 9.3 Each party shall pay its own fees and expenses with regard to the arbitration and the parties shall share equally the fees and expenses of the arbitrator/s unless and to the extent the rules of any arbitration provider selected allow for the arbitrator/s to order the fees of the winning party to be paid by the losing party. In such case, the losing party shall pay the fees and expenses of the winning party, if and as the same may be mandated or apportioned in the discretion of the arbitrator/s.
- 9.4 The parties hereby submit to the subject matter and personal jurisdiction of any court of competent jurisdiction for interim remedies, including injunctive relief, and for the enforcement of the arbitral award.

10 CONFIDENTIALITY

- 10.1 Subject to clauses 10.2 to 10.4, each party must;

- 10.1.1 use the other party's confidential information only for the purposes of this agreement and must keep confidential and not disclose to any person the other party's confidential information; and
- 10.1.2 not make press or other public announcements or issue press releases about the usage of the Product under this agreement without the written approval of the other party ("Announcement").
- 10.2 Clause 10.1.1 does not apply to confidential information that is in the public domain other than such information that has entered the public domain as a result of a breach of this agreement or any other obligation of confidence.
- 10.3 A party may disclose the confidential information of the other party if that disclosure is to the employees, contractors or professional advisers of that party or its affiliates who have a need to know that information in relation to provision or usage of the Product and who have agreed in writing to keep it confidential.
- 10.4 A party may disclose confidential information of the other party or make an Announcement that is required by any applicable law.
- 10.5 Liquid Telecommunications Operations Limited may keep records of You and your usage of the Product following the 30 day free trial period to ensure that You do not attempt to secure any further free trial periods with respect to the Product.
- 10.6 Confidential information in this agreement means any information or data which by its nature or content is identifiable as confidential and/or proprietary to either party and/or any third party, or which is provided or disclosed in confidence, and which a party or any person acting on its behalf may disclose or provide to the other party or which may come to the knowledge of the other party by whatsoever means.

11 INTELLECTUAL PROPERTY RIGHTS

Nothing contained in this agreement shall be construed to confer or be deemed to confer on either party the intellectual property rights of the other party.

12 NOTICES AND DOMICILE

- 12.1 The parties choose as their respective domicile for the purpose of legal proceedings and for the purposes of giving or sending any notice provided for or necessary in terms of this agreement, with respect to You, the address provided by You in ordering this Product from the Liquid Telecommunications Operations Limited website, and with respect to Liquid Telecommunications Operations Limited, the address of provided on the Liquid Telecommunications Operations Limited website.
- 12.2 All notices to be given in terms of this agreement will -
 - 12.2.1 be given in writing;
 - 12.2.2 be delivered by hand and be presumed to have been received on the date of delivery.
- 12.3 Notwithstanding the above, any notice actually received by the party to whom the notice is addressed will be deemed to have been properly given and received, notwithstanding that such notice has not been given in accordance with the provisions of this clause 12.

13 CESSION, ASSIGNMENT AND SUB-CONTRACTING

The agreement shall be binding on the parties hereto and their respective successors and assigns. Neither party shall be entitled to assign or otherwise transfer the benefit or burden of all or any part of this agreement without the prior written consent of the other party except that Liquid Telecommunications Operations Limited may assign its rights and obligations under this agreement without your approval to an affiliate.

14 COVENANT OF GOOD FAITH

Each party agrees that it shall at all times act in good faith, in its respective dealings with the other party under or in connection with this agreement.

15 RIGHTS OF THIRD PARTIES

No person who is not a party to this agreement shall have any rights to enforce or enjoy the benefit of any term of this agreement.

16 APPLICABLE LAW

16.1 The agreement and any dispute or claim arising out of, or in connection with, it or its subject matter or formation (including any dispute or claim relating to non-contractual obligations) shall be governed by and construed in accordance with **United Kingdom** law.

16.2 The parties irrevocably agree that any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims) shall be settled in accordance with Clause 9.

17 DATA PROTECTION

17.1 Both parties agree that they will duly observe all their obligations under any data protection and privacy laws which arise in connection with this agreement.

18 ANTI CORRUPTION AND COMPLIANCE

18.1 It shall be a condition of this agreement that each party shall at all times comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption (the "Requirements" as defined in 18.6 below) and shall maintain in place throughout the term of this agreement its own policies and procedures to ensure compliance with such Requirements; and will enforce them where appropriate; and promptly report to the other party any request or demand for any undue financial or other advantage of any kind received by a party in connection with the performance of this agreement.

18.2 Neither party shall do any act, or omit to do anything which would cause the other party to commit an offence under the Requirements.

18.3 Each party will indemnify the other against any loss or damage suffered or incurred by the other as a result of breach of clause 19.

18.4 Breach of clause 19 will constitute a material breach of this agreement.

18.5 This clause 19 shall apply to each Party regardless of the jurisdiction in which they are located or operating in.

18.6 The Requirements shall mean;

18.6.1 Bribery Act 2010 of the United Kingdom and the Foreign Corrupt Practices Act of the United States of America as amended and supplemented from time to time; and

18.6.2 any other applicable laws, statute and regulations (including any guidelines of any public body, or any other administrative requirement) which:

- (i) relate to anti-bribery and anti-corruption; and/or
- (ii) prohibit the conferring, receipt, offer, acceptance or request of any gift, payment or other benefit on any person or any officer, employee, agent or adviser of such person.