



GENERAL TERMS

1. General Terms, Commencement, Duration and Termination

1.1 These General Terms are the principal terms that apply to the provision by Braintree of all services and products. They are supplemented by addendums containing the specific Product Terms or Service Terms applicable to the products or services subscribed for by the Customer.

1.2 Each separate Product Terms and/or Service Terms entered into between the Parties, shall constitute a distinct and separate contract incorporating (i) the associated Quote(s) and (ii) these General Terms (collectively the "Contract").

1.3 These General Terms shall apply from the date on which the Customer first subscribes for any Braintree service(s) or product(s) and shall continue for as long as Braintree provides services or products to the Customer in terms of any Contract.

1.4 The commencement date and contract duration of each Contract will be set out in the associated Quote(s) subject to the termination rights set out in these General Terms and, where applicable, the relevant Product- or Service Terms.

1.5 Notwithstanding the provisions of clauses 1.3 and 1.4, and any provisions relating to duration, suspension and/or termination contained in any Quote, Product Terms or Service Terms: where any particular Product Terms and Service Terms are interlinked to such a degree that the termination or suspension of the one will result in fulfilment of the other becoming impaired or impossible, Braintree shall be entitled to terminate or suspend, as the case may be, such other Product- or Service Terms.

2. Interpretation

Except as otherwise expressly provided in these General Terms, or in any specific Contract, the following rules of interpretation apply to the General Terms and all Contracts:

2.1 The headings of the clauses in these General Terms and all Contracts are for convenience and reference only. Headings shall not be used in the interpretation of, nor modify nor amplify the terms or any clause of these General Terms or any Contract;

2.2 A reference to a statute or statutory provision is a reference to it as it is in force, for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it;

2.3 References to clauses and annexures appearing in these General Terms are to the clauses and annexures of these General Terms;

2.4 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in the body of the General Terms or the relevant Contract;

2.5 When any number of days is prescribed in these General Terms or a Contract, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day is not a Business Day, in which case the last day shall be the next succeeding Business Day;

2.6 Reference to “day(s)”, “month(s)” or “year(s)” shall be construed as Gregorian calendar day(s), month(s) or year(s);

2.7 The expiration or termination of any Contract shall not affect the provisions of such Contract that expressly provide that they will operate after any such expiration or termination or which of necessity must continue to apply such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this;

2.8 The rule of construction that a contract shall be interpreted against the Party responsible for the drafting or preparation of the contract, shall not apply; and

2.9 Conflicting terms: If terms can be interpreted to be either in conflict or in harmony with each other, the interpretation that causes the terms to be in harmony with each other take preference. If terms in different parts of a Contract conflict with each other, then the following order of preference shall be applicable in resolving the conflict:

2.9.1 A Service Level Agreement;

2.9.2 Product or Service Terms;

2.9.3 The General Terms; and

2.9.4 Terms in a Quote.

3. Definitions

In these General Terms and each Contract, unless expressly stated or the context clearly indicates otherwise, the following words and expressions, when the first letter thereof is capitalised, shall have the meaning ascribed to them below, and similar words and expressions shall have an equivalent meaning:

3.1 “**AFSA**” means the Arbitration Foundation of Southern Africa;

3.2 “**Braintree**” means Braintree (Pty) Ltd, a private company with limited liability incorporated in the Republic of South Africa under registration number 2008/023574/07;

3.3 “**Business Day**” means Monday to Friday, excluding public holidays in the Republic of South Africa;

3.4 “**Business Hours**” means the hours between 08h00 and 17h00 on Business Days;

3.5 “**Causal Event**” means the happening of any one or more of the following events in respect of a Party:

3.5.1 it convenes a meeting of its creditors and makes an offer of compromise or makes a proposal for any other composition or scheme of arrangement with its creditors generally; or

3.5.2 it commits an act of insolvency in terms of Section 8 of the Insolvency Act, 1936; or

3.5.3 it is unable to pay its debts as contemplated in Section 345 of the Companies Act, 1973 read with Schedule 5(9) of the Companies Act, 2008 (as amended);

3.5.4 it is sequestrated or liquidated; or

3.5.5 it is placed under business rescue.

3.6 “**Charges**” means the charges payable by Customer to Braintree under the provisions of the relevant Contract;

3.7 “**Confidential Information**” means information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information by a Party, or information

which the receiving Party knows or reasonably should have known is of a proprietary or confidential nature;

3.8 “**Contract**” means each separate Product Terms or Service Terms entered into between the Parties, constituting a distinct and separate contract incorporating (i) the relevant associated Quote, Proposal and/or Schedule of Service, and (ii) the General Terms;

3.9 “**Customer**” shall mean the person described in a Quote accepted by such Customer;

3.10 “**Customer Data**” means:

3.10.1 the data inputted by Customer, its authorised representative(s), or Braintree on Customer’s behalf for the Customer’s use of the Products or Services;

3.10.2 Personal Information;

3.10.3 any data or information that is visible or can be extracted through the Customer’s use of the Products or Services;

3.11 “**Digital Signature**” means an electronic signature;

3.11.1 that uses a certificate-based digital identification;

3.11.2 is issued by an accredited certificate authority or trust service provider;

3.11.3 is uniquely linked to the signatory;

3.11.4 that binds the signature to the document with encryption; and

3.11.5 can be verified using public key infrastructure;

but need not be an advanced electronic signature as defined in the Electronic Communications and Transactions Act No. 25 of 2002;

3.12 “**General Terms**” means the General Terms and conditions in this document comprising clauses 1 to 24;

3.13 “**Intellectual Property Rights**” means all the rights in and to intellectual property including (without limitation) the rights in and to trademarks, service marks, trade names, domain names, logos, get-up, patents, provisional patents, inventions (whether patentable or not), know-how (including confidential industrial and commercial information and techniques in any form), utility models, registered and unregistered design rights, copyright, semi-conductor topography rights, database rights, and all similar proprietary rights which may subsist in any part of the world, as well as any Confidential Information or processes relating to that subject matter; and includes explicitly any other proprietary rights in and to any business plans and proposals, business processes and functional and technical specifications and any related material;

3.14 “**Notice**” means a written document carrying the handwritten or Digital Signature of the duly authorised signatory of Party;

3.15 “**Party**” means either Customer or Braintree, and “**Parties**” means both Customer and Braintree;

3.16 “**Personal Information**” has the meaning ascribed to it in the Protection of Personal Information Act 4 of 2013;

3.17 “**Product Terms**” means the terms and conditions applicable only to the products described therein;

3.18 “**Quote**” means a document, issued by Braintree to the Customer, that sets out a fixed or recurring price, or a predetermined formula for determining a price, for a specified or recurring amount of work

3.19 “**Service Terms**” means the terms and conditions applicable only to the services described therein;

3.20 **“Staff”** means any natural person who is either an employee, consultant, or subcontractor of either Party and where the context requires, employees, consultants and subcontractors of a subcontractor that is a corporate person;

3.21 **“Service Level Agreement”** means an annexure to Service Terms in which Braintree’s support functions are specified with objective, measurable metrics;

3.22 **“Time and Materials”** means the basis on which Braintree will charge the Customer for certain services as indicated in a Schedule of Service, and which is based on the time spent and the materials used to execute such work. Time will be billed per the agreed Time and Materials rates outlined in a Schedule of Service; and

3.23 **“VAT”** means value-added tax, chargeable under the Value Added Tax Act, 1991.

4. **Braintree Obligations**

4.1 In consideration of the Customer’s payment of the Charges but subject to clause 5, Braintree shall during the term of each Contract, provide the Services in a professional and workmanlike manner on the terms set out in the Service Terms and will provide the Customer with the products on the terms set out in the Product Terms.

4.2 Braintree shall always ensure that Braintree Staff is suitable and appropriately qualified, trained, experienced and available to render the Services.

4.3 Braintree shall ensure that Braintree Staff shall always, whilst on the Customer’s premises, adhere to the health, safety and security policies as are communicated to Braintree by the Customer.

5. **Excusable Events**

5.1 Braintree shall be excused from performing any of its duties under a Contract under any of the following circumstances:

5.1.1 the breach, actions of, or failure to act by the Customer or any third party appointed by the Customer; or

5.1.2 under circumstances where such failure is as a result of circumstances beyond the reasonable control of Braintree as contemplated in clause 15 (Supervening Impossibility); hereinafter referred to as an **“Excusable Event”**.

5.2 Upon the occurrence of an Excusable Event, Braintree’s failure to perform shall not be a breach of any Contract affected by such Excusable Event, and Braintree’s obligations shall be suspended for the duration of the Excusable Event.

5.3 Subject to clause 5.4, all contractually linked dates, such as milestone dates or contract end dates will move out with the same amount of time as the duration of the Excusable Event. This clause 5.3 does not apply to products procured on a subscription basis.

5.4 If other related contingencies prevent contractually linked dates from shifting forward as set out in clause 5.3, or Customer insists on original dates being met, then Braintree shall be entitled to charge for any additional hours it requires to meet deadlines affected by the Excusable Event. Extra work due to the Excusable Event will be negotiated, agreed upon and signed by both Parties before such work being conducted. If the Customer and Braintree cannot reach consensus in time for Braintree to meet expected dates, then the provisions of clauses 5.1.1 and 5.3 shall apply.

5.5 Braintree shall not be liable for any failure to fulfil any obligation in terms of any Contract or for any losses arising out of such failure, where such failure is a result of any Excusable Event.

6. **Customer obligations**

6.1 The Customer shall allow Braintree reasonable access to, and use of, Customer-owned hardware, software, equipment, and other resources reasonably required by Braintree to perform the services for the Customer. All the Customer's resources shall be provided to Braintree by the Customer in working order.

6.2 When requested, Customer shall ensure that Braintree's Staff is provided with timeous, up to date and accurate information required by Braintree.

7. Mutual co-operation

The Parties agree to co-operate with the other parties' Staff who are involved in performing any part of the services specified in each Contract, and shall ensure that their respective Staff do the same.

8. Charges and Payment

8.1 Charges:

8.1.1 In consideration of the products and services, Customer will pay Braintree the Charges.

8.1.2 All fees detailed in a Contract are exclusive of VAT or any other tax (excluding income tax), levy or import duty payable by Braintree in connection therewith, and the Customer shall pay an amount equal to the relevant tax, levy or import duty on the same date as the relevant fee is payable.

8.1.3 Charges for:

8.1.3.1 Retainer hours will be invoiced monthly in advance;

8.1.3.2 Ad-hoc and Time and Materials rates will be billed monthly in arrears;

8.1.3.3 Reimbursable expenses shall be invoiced in arrears, or if agreed by Customer, in advance; and

8.1.3.4 Subscription charges shall be invoiced monthly in arrears.

8.2 Payment:

8.2.1 Subject to the provision of clause 8.2.3.1, Customer shall make payment of invoices within 30 (thirty) days of receipt of a valid tax invoice from Braintree.

8.2.2 If the Customer disputes any amount on an invoice, it must provide the details of such dispute to Braintree before the invoice due date.

8.2.3 Customer may raise disputes on invoices up to 36 months after it was issued to Customer, but if the dispute is raised:

8.2.3.1 before the due date of the invoice to which the dispute relates, the Customer may withhold the disputed portion only and must pay undisputed amounts;

8.2.3.2 after the due date of the invoice to which the dispute relates; the Customer shall not have a right to withhold payment from any current or future payments to Braintree.

8.2.4 Customer's delay in issuing purchase orders will not be a valid reason for default against these payment terms.

8.3 Interest:

If payment of the Charges due and payable are not received on the due date, Braintree may charge interest on the overdue amount, calculated daily from the due date until Braintree receives payment at a rate equal to prime lending rate + 2%.

8.4 Price Adjustment:

From the 1st (first) anniversary of the Commencement Date, Braintree shall be entitled to increase the Charges to accord with any change in Braintree's standard scale of charges by

giving to the Customer not less than 30 (thirty) days' prior written Notice.

8.5 Exchange Rates:

8.5.1 If Braintree provides a Quote in South African Rand for any Service or Equipment affected by fluctuations in foreign currency, Braintree shall disclose that fact, as well as the foreign currency price of the relevant product or service.

8.5.2 If Customer requests, Braintree shall quote for a product both in South African Rand and the applicable foreign currency, and Customer shall be entitled to select the Quote preferred by it.

8.6 Reimbursable Expenses:

8.6.1 The Customer shall reimburse Braintree for all agreed expenses incurred by Braintree in the performance of the services, including, but not limited to, travel, subsistence and accommodation expenses, communications charges and other reasonable supplies.

8.6.2 Where Customer's process dictates, Braintree shall first obtain an official purchase order from Customer provided that Braintree may refuse to incur reimbursable expenses if it does not receive a purchase order from the Customer.

9. **Warranty**

Each of the Parties hereby warrants to and in favour of the other, on an ongoing basis, that:

9.1 it has or will have the requisite legal capacity and has taken or will take all necessary corporate action required to empower and authorise it to enter into each Contract;

9.2 each Contract will constitute an agreement that is valid and binding on it and enforceable against it;

9.3 the execution of each Contract and the performance of its obligations thereunder does not and shall not:

9.3.1 contravene any law or regulation to which that Party is subject;

9.3.2 violate any provision of that Party's constitutional documents; or

9.3.3 conflict with, or constitute a breach, of any provisions of another agreement, obligation, restriction or undertaking which is binding on it;

9.4 to the best of its knowledge and belief, it is not aware of the existence of any fact or circumstance that may impair its ability to comply with all its obligations in terms of each Contract;

9.5 it is entering into each Contract as principal and not as agent or in any other capacity;

9.6 the natural person who signs and executes each Contract on its behalf is validly and duly authorised to do so; and

9.7 no other party is acting as a fiduciary for it.

10. **Intellectual property rights**

10.1 For this clause 10, "Intellectual Property Rights" shall include, without limitation, any ideas, concepts, know-how, data processing techniques, copyrights, patents, designs, inventions, source code and documentation, notes and memorandum attaching to material:

10.1.1 created, invented and/or developed by Braintree and/or any Braintree Staff at the specific instance and request of Customer pursuant to a Contract ("**the Proprietary Material**");

10.1.2 produced independently and/or owned by Customer ("**Customer Material**");

10.1.3 produced independently and/or owned by Braintree ("**Braintree Material**"); or

10.1.4 developed and owned by any third party ("**Third-Party Material**").

10.2 All Intellectual Property Rights together with all right, title and/or interest therein, attaching to:

10.2.1 the Proprietary Material and the Customer Material shall always remain vested in Customer;

10.2.2 Braintree Material shall always remain vested in Braintree; and

10.2.3 the Third-Party Material

shall always remain vested in the applicable third party owner.

10.3 Braintree hereby grants to Customer for the duration of each applicable Contract a non-exclusive, non-transferable right to use Braintree Material in the furtherance of the services as set out in the Schedule of Service.

10.4 Notwithstanding the provisions of clause 10.3 above, Customer shall not:

10.4.1 reproduce or modify Braintree Material; or

10.4.2 cause, or allow the discovery by any third party of the source code of any software owned by Braintree and left in the possession or control of Customer; or

10.4.3 rent or lease Braintree Material or its direct derivatives to any other person; or

10.4.4 distribute Braintree Material to third parties.

11. Limitation of liability

11.1 Subject to clause 11.2, each Party (a "Defaulting Party") shall be liable to the other Party for any direct damages incurred by the other Party because the Defaulting Party failed to perform its obligations under any Contract, in part or at all.

11.2 The Parties agreed that the maximum liability to one another under each Contract shall be in the aggregate, an amount equal to all fees paid by the Customer to Braintree pursuant to such Contract for the performance of the services or the provision of the products.

11.3 In no event will either Customer or Braintree be liable for any indirect, special, or consequential damages arising out of, or relating to, its breach of a Contract. If any special or consequential damages are included as part of a settlement or judgment against a Party hereto arising from a claim for which such Party is entitled to indemnification hereunder, such damages shall be considered direct damages to the indemnified Party.

11.4 The maximum liability outlined in clause 11.2 shall not apply to:

11.4.1 damages occasioned by the fraud, wilful misconduct, or gross negligence of a Party;

11.4.2 claims that are the subject of indemnification under a Contract;

11.4.3 damages occasioned by a breach or violation of Legislation by the other Party;

11.4.4 damages occasioned by a Party's breach of its confidentiality obligations or data privacy and protection obligations under a Contract;

11.4.5 damages which are caused by a Party's breach of the other Party's or any third-party Intellectual Property rights; and

11.4.6 damages associated with either Party being the cause of any damage to the other Party's tangible property;

12. Confidentiality

12.1 Each Party may be given access to Confidential Information of the other Party to perform its obligations under each Contract. A Party's Confidential Information shall not be deemed to include information that:

12.1.1 is or becomes publicly known other than through any act or omission of the receiving Party;

- 12.1.2 was in the other Party's lawful possession before the disclosure;
- 12.1.3 is lawfully disclosed to the receiving Party by a third party without restriction on disclosure;
- 12.1.4 is independently developed by the receiving Party, which independent development can be shown by written evidence; or
- 12.1.5 is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.

12.2 Each Party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party or use the other's Confidential Information for any purpose other than the implementation of the relevant Contract.

12.3 Each Party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access, is not disclosed or distributed by its employees or agents in violation of the terms of the relevant Contract.

13. Data privacy and protection

13.1 Each Party's data shall be, and remain, the property of that Party or the proprietor/licensor thereof. Neither Party shall divulge the data of the other Party to third parties (unless provided otherwise in the relevant Contract), and a Party shall use the data of the other Party only for purposes of such relevant Contract.

13.2 Customer shall own all rights, title and interest in and to all of the Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of Customer Data.

13.3 Customer acknowledges that Braintree may process data (which may include Personal Information) as a result of providing the services per the terms of each Contract. Braintree warrants to the Customer that in such circumstances it will, in respect of such Customer Data which constitutes Personal Information:

13.3.1 observe all the relevant obligations under the Protection of Personal Information Act, 4 of 2013 ("POPIA"); and

13.3.2 indemnify the Customer against all claims, losses, expenses and/or damages that the Customer may suffer as a result of a breach of POPIA by Braintree.

14. Parties' Staff and Non-Solicitation

14.1 Neither Braintree nor Braintree's Staff are or shall be deemed to be Staff of the Customer. Braintree and any of its' subcontractor(s), shall be responsible for their Staff assigned to provide services under any Contract.

14.2 Braintree shall comply with and/or ensure compliance with all applicable laws, including in relation to employment and tax laws as they relate to and apply in respect of its Staff.

14.3 The Parties agree that, whilst any Contract is in force, and for a period of 12 (twelve) months after the termination or expiration of the last remaining Contract, no Party shall entice the Staff of the other to resign from its employment to join the workforce of such Party.

14.4 This clause 14 shall not apply where:

14.4.1 the Parties have agreed in writing to the change of Staff; and/or

14.4.2 where the relevant Staff member becomes the employee of a Party by virtue of an advertisement issued generally for which the person applied at his own initiative and without any active and specific solicitation from the other Party.

15. **Supervening Impossibility**

15.1 No Party shall be liable to the other for any losses which are a result of any default or delay in the performance of its obligations under any Contract if and to the extent such default or delay is caused, directly or indirectly, by fire, flood, earthquake, elements of nature or acts of God, riots, civil disorders, rebellions or revolutions in any country or any other cause beyond the reasonable control of such Party; provided that:

15.1.1 the non-performing Party is without fault in causing such default or delay;

15.1.2 such default or delay could not have been prevented by reasonable precautions; and

15.1.3 such default or delay cannot reasonably be circumvented by the non-performing Party with alternate sources, work around plans or other means.

15.2 Should either Party be prevented from carrying out any contractual obligation by any circumstance described in clause 15.1 above, such obligation will be postponed for the duration of the circumstance, provided the Party suffering such circumstance notifies the other in writing within 7 (seven) days of becoming aware thereof.

15.3 The Parties will promptly meet to determine whether an equitable solution can be found.

The Parties may by consensus determine that an event of supervening impossibility is of a permanent nature having the effect of extinguishing the contractual obligations.

15.4 The provisions of this clause 15 apply only to affected products or services.

16. **Termination**

16.1 As stipulated in clause 1, each separate Product Terms or Service Terms entered into between the Parties will constitute a distinct and separate contract ("Contract").

16.2 Material Breach

If either Party (the "**Defaulting Party**") commits a breach of a Contract that goes to the root of such Contract and fails to remedy such breach within 14 (fourteen) days of Notice thereof from the other Party (the "**Aggrieved Party**"), such Aggrieved Party shall be entitled to terminate such Contract by giving Notice to the Defaulting Party, which termination shall be in addition to any other rights and remedies that it may have in terms of the Contract or otherwise, and without prejudice to any claims which such Aggrieved Party may have for damages against the Defaulting Party.

16.3 Causal Event

Either Party may terminate all of the Contracts immediately on Notice on becoming aware of a Causal Event in respect of the other Party.

16.4 Effects Of Termination

16.4.1 The termination, for whatever reason, of one Contract (the "Terminated Contract") shall not affect:

16.4.1.1 the General Terms;

16.4.1.2 any other Contract except in the circumstances contemplated in clause 1.5;

16.4.1.3 any accrued rights or liabilities of either Party arising from the Terminated Contract; or

16.4.1.4 the coming into force or the continuance in force of any provision of the Terminated Contract which is expressly or by implication intended to come into or continue in force on or after such termination.

16.4.2 To the extent permitted by law, and in respect of the relevant Terminated Contract only, each Party shall forthwith return to the other all papers, materials, and other properties of the other in its possession, alternatively on request of the other Party, shall destroy it.

17. **Dispute resolution**

17.1 In the event of there being any dispute or difference between the Parties arising out of the General Terms or the validity or termination of any Contract:

17.1.1 either Party may declare a dispute ("Dispute") by giving written notice to that effect to the other Party; and

17.1.2 if within 20 (twenty) days of a Dispute being declared the authorised representatives of the Parties do not meet and/or cannot settle the Dispute or agree on a process to resolve the Dispute, such Dispute, may by consensus between the Parties be submitted to arbitration.

17.2 In the event that a Dispute is submitted for arbitration in accordance with clause 17.1.2, the said dispute or difference may by consensus between the Parties be submitted to arbitration, in which event the following shall apply:

17.2.1 The arbitration shall be held in Sandton in accordance with the AFSA rules, which arbitration shall be administered by AFSA.

17.2.2 Should AFSA not be operating or not accept requests for arbitration for any reason, then the arbitration shall be conducted in accordance with the AFSA rules for commercial arbitration (as last applied by AFSA) before an arbitrator appointed by consensus between the Parties to the Dispute or failing consensus within 3 (three) Business Days of the demand for arbitration, then any Party to the Dispute shall be entitled to forthwith call upon the chairperson of the South African Bar Council to nominate the arbitrator, provided that the person so nominated shall be an advocate of not less than 10 (ten) years standing as such. The person so nominated shall be the duly appointed arbitrator in respect of the Dispute. In the event of the attorneys of the Parties to the Dispute failing to agree on any matter relating to the administration of the arbitration, such matter shall be referred to and decided by the arbitrator whose decision shall be final and binding on the Parties to the Dispute.

17.2.3 Any Party to the arbitration may appeal the decision of the arbitrator or arbitrators in terms of the AFSA rules for commercial arbitration.

17.2.4 No consensus to refer a Dispute for arbitration shall be deemed to prevent or prohibit a Party to the arbitration from applying to the appropriate court for urgent relief or for judgment in relation to a liquidated claim.

17.2.5 Any arbitration in terms of this clause 17 (including any appeal proceedings) shall be conducted in camera, and the Parties shall treat as confidential details of the Dispute submitted to arbitration, the conduct of the arbitration proceedings and the outcome of the arbitration.

17.3 The provisions of clauses 17.1 and 17.2 shall not apply in respect of undisputed amounts due and owing by the Customer to Braintree. In such instances Braintree shall be entitled to institute action in any court of competent jurisdiction.

17.4 For the purposes of clause 17.3, the Customer:

17.4.1 irrevocably consents to the jurisdiction of the Magistrates' Courts notwithstanding that the amount claimed may exceed the jurisdiction of such courts but agrees that such consent shall not preclude Braintree from instituting proceedings in any other court of competent jurisdiction;

17.4.2 agrees that the legal costs incurred by Braintree in the collection of any overdue accounts from the Customer, including tracing fees, collection commission, and the like, shall be recovered from the Customer on a scale as between attorney and client. For the avoidance of

doubt, in respect of Disputes of any nature other than the collection of undisputed overdue amounts, the arbitrator shall make an appropriate order as to costs.

17.5 This clause 17 will continue to be binding on the Parties notwithstanding any termination or cancellation of the relevant Contract or the General Terms as a whole.

17.6 The Parties agree that the referral to arbitration in terms of clause 17 shall be deemed as a legal process for the purpose of interrupting prescription in terms of the Prescription Act, 1969.

18. Address for notices and legal process

18.1 The Parties select as their respective domicilium citandi et executandi for the purpose of:

18.1.1 giving or sending any Notice:

Braintree:

Street Address: 29 Scott Street, Waverley, Johannesburg, 2090

Postal Address: PO Box 369, Rivonia, 2128

Email Address: legalnotifications@braintree.co.za

Customer: As specified in the most recent Quote accepted by the Customer, or as notified to Braintree in terms of clause 18.2.

18.1.2 service of legal process commencing an action or application:

Braintree: 29 Scott Street, Waverley, Johannesburg, 2090

Customer: As specified in the most recent Quote accepted by the Customer, or as notified to Braintree in terms of clause 18.2.

18.2 Either Party may change its domicilium or its address for the purposes of Notices to any other physical address or email address by written Notice to the other Party to that effect. Such change of address will be effective 5 (five) Business Days after receipt of the Notice of the change by the addressee.

18.3 All Notices to be given in terms of these General Terms or any Contract will be given in writing and will:

18.3.1 be delivered by hand or either sent by email;

18.3.2 if delivered by hand during Business Hours, be presumed to have been received on the date of delivery. Any Notice delivered after Business Hours or on a day which is not a Business Day will be presumed to have been received on the following Business Day; and

18.3.3 if sent by email during Business Hours, be presumed to have been received on the date of successful transmission of the email. Any email sent after Business Hours or on a day which is not a Business Day will be presumed to have been received on the following Business Day.

18.4 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 this clause 18.

19. Waiver

19.1 A waiver of any right under these General Terms or any Contract shall only be effective if it is in writing and it applies only to the Party to whom the waiver is addressed and to the circumstances for which it is given.

19.2 Unless expressly provided otherwise, rights arising under these General Terms and any Contract are cumulative and do not exclude rights granted by law.

20. Entire Agreement

20.1 These General Terms, and any documents referred to in it, constitute the whole agreement between the Parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover.

20.2 Each of the Parties acknowledges and agrees that, in entering into one or more Contract(s) incorporating these General Terms, it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether a party to the relevant Contract or not) relating to the subject matter of the General Terms and applicable Contract(s), other than as expressly set out herein.

21. Provisions severable

21.1 All provisions and the various clauses of each Contract are, notwithstanding the manner in which they have been grouped together or linked grammatically, severable from each other.

21.2 Any provision or clause of a Contract, which is or becomes unenforceable in any jurisdiction, whether due to voidness, invalidity, illegality, unlawfulness or for any other reason whatever, shall, in such jurisdiction only and only to the extent that it is so unenforceable, be treated as pro non scripto (as if not written), and the remaining provisions and clauses of the Contract shall remain of full force and effect.

21.3 The Parties declare that it is their intention that the relevant Contract would be executed without such unenforceable provision if they were aware of such unenforceability at the time of execution hereof.

22. Assignment

22.1 Subject to clause 22.2 below, no Contract nor any part, share or interest therein nor any rights or obligations thereunder may be ceded, delegated or assigned by either Party without the prior signed written consent of the other Party, which shall not be unreasonable withheld.

22.2 Braintree may sub-contract all or any of its rights or obligations under one or all Contract(s), provided that the appointment of a subcontractor shall in no way affect or detract from the obligations of Braintree in terms of the relevant Contract(s) and Braintree shall remain liable to the Customer as if the subcontractor were one of its employees.

23. Applicable Law and Jurisdiction

23.1 Each Contract will be governed by and construed under the laws of the Republic of South Africa.

23.2 Subject to clause 17, the Parties hereby consent and submit to the non-exclusive jurisdiction of the High Court of South Africa, Gauteng Local Division in any Dispute (as defined clause 17.1.1) arising from or in connection with any Contract.