



SUBSCRIPTION TERMS AND CONDITIONS

WEBILL SUBSCRIPTION TERMS AND CONDITIONS

Last updated: 19 October 2022



1. DEFINITIONS AND INTERPRETATION

- 1.1. In these Terms, the following terms and phrases shall have the following meanings, unless the context otherwise requires:
- 1.1.1. **"Account"** shall mean the unique access profile allocated to an Organisation upon registration, and includes (i) the single, unique System Administration Credential, and (ii) all Licenses and Services associated therewith. All Services accessed and used by and all Licenses obtained by an Authorised User associated with an Account will be charged to the account holder, being the Organisation.
- 1.1.2. **"Account Code"** shall mean all charges which WeBill invoices the Organisation will be according to WeBill defined Account Codes. Each Account Code has a unique code. There are two types of Accounts Codes, viz: Licenses (any code beginning with the letter "L") and Services (any code beginning with the letter "S")
- 1.1.3. **"Applicable Laws"** shall mean any and all applicable laws, regulations, mandatory legal requirements and/or administrative orders in the jurisdiction(s) where a Service is to be provided, accessed and/or used, as the case may be.
- 1.1.4. **"Authorised User"** shall mean a duly authorised user of the Organisation who has been authorised to access the Organisation's Account through such authorised user's unique access Credentials.
- 1.1.5. **"Business Day"** shall mean any day excluding Saturdays, Sundays and any gazetted public holiday in the Republic of South Africa.
- 1.1.6. **"Charges"** shall mean all fees, commissions and charges, payable by the Organisation to WeBill in respect of a Service or License or any Prepaid Sales, as set out in WeBill's published rate tables available at the WeBill website, or otherwise in writing, and revised from time to time in accordance with Clause 8.
- 1.1.7. **"Confidential Information"** shall mean all information (in whatever format): (i) which relates to these Terms and/or a Service Order; (ii) which is designated as confidential by either Party; or (iii) which relates to the business, affairs, networks, customers, products, developments, trade secrets, know-how and personnel of either Party (including, in the case of the Licensee, Licensee Data) and may reasonably be regarded as being the confidential or proprietary information of the disclosing Party, and shall include, without limitation, all software and associated material and documentation (including the Software), including the information contained therein.
- 1.1.8. **"Cloud Platform"** shall mean the WeBill cloud-based platform hosting the various Services which WeBill makes available to Licensees from time to time, at such address and through such means as reasonably determined by WeBill.
- 1.1.9. **"Credential"** shall mean a unique username and password combination allowing a person to successfully access the Organisation's Account and use the Services or Licenses provided on the Cloud Platform or the Mobile Applications, as the case may be, and shall include a System Administration Credential.
- 1.1.10. **"Deliverable"** shall mean any deliverable or work product (or any part thereof) created or delivered by WeBill relating to the Services.
- 1.1.11. **"Documentation"** shall mean, in respect of any Service or Software, the online user guides, help and training material, policies and/or terms and conditions applicable to such Service or Software, accessible in the manner as advised by WeBill from time to time, and as updated and amended from time to time, including without limitation any notices and information, external usage policies, and security, privacy and architecture documentation.
- 1.1.12. **"Emergency Works"** shall mean works, the execution of which, at the time it is proposed to execute them, is required to put an end to, or prevent, the arising of circumstances then existing or imminent that are likely to cause: (i) danger to persons or property; (ii) the interruption of any service provided or generated by a third party; (iii) substantial loss to WeBill or any third party; (iv) a violation of Applicable Laws; and such other works as WeBill deems appropriate in the circumstances, acting reasonably, for the preservation of the Services.
- 1.1.13. **"Excusing Event"** shall mean (i) Organisation's act or omission, or an act or omission of an Authorised User or third party for which Organisation is responsible, including, without limitation, failure to supply accurate, complete, and timely information when requested; (ii) a Force Majeure Event; (iii) maintenance of the Services and Licenses in accordance with these Terms; (iv) defects in, or failure, destruction, theft, loss or incorrect configuration of, third-party software or equipment not provided by WeBill, including, without limitation, Organisation Equipment, or the termination or expiry of Organisation's rights to use same; (v) inability of WeBill to procure the necessary dependent technology or other resources on commercially reasonable terms; (vi) compliance with Applicable Laws or requests

of governmental entities that adversely and materially affects WeBill's ability to provide the Services and Licenses; (vii) any failure by Organisation to comply with WeBill's reasonable instructions in relation to the modification of the Organisation Equipment; or (viii) any other event outside of the reasonable control of WeBill.

- 1.1.14. **"Force Majeure Event"** shall mean any cause beyond a Party's reasonable control affecting the performance of its obligations, including, but not limited to, fire, flood, explosion, accident, war, acts of terrorism, strike, embargo, governmental requirement, civil or military authority, Act of God, changes to laws or regulations, inability to secure materials or services, industrial disputes and acts or omissions of other providers of utility or telecommunications services, including acts and omissions resulting in the unavailability of the services they provide.
- 1.1.15. **"Internet"** shall mean the international interconnected network of networks using the TCP/IP protocol to exchange data communications.
- 1.1.16. **"License"** shall mean any licence granted to the Organisation and/or its Authorised Users in respect of Software pursuant to these Terms. For identification purposes, a charge shall be designated by WeBill on an invoice to the Organisation as a "Licence" with the letter "L", for example "L-org-user".
- 1.1.17. **"Organisation"** shall mean the natural or legal person or entity, whether registered or incorporated or not, that has entered into these Terms by successfully registering on the Cloud Platform and obtained a unique System Administration Credential that has been activated.
- 1.1.18. **"Organisation Data"** shall include, but not be limited to, data transmissions (including the originating and destination numbers and IP addresses, date, time and duration of voice or data transmissions, and other data necessary for the establishment, billing or maintenance of the transmission), data containing personal and/or private information of the Organisation, its employees or Authorised Users, and other data provided to or obtained by WeBill and its agents in connection with the provision of Services and Licenses, but excludes any anonymised, aggregated or derived data that is created by WeBill for its own internal purposes or which is proprietary or confidential to WeBill.
- 1.1.19. **"Organisation Equipment"** shall mean hardware, software, systems and all other equipment or facilities provided by the Licensee and used in order to receive the Services.
- 1.1.20. **"Mobile Applications"** shall mean WeBill's proprietary mobile applications available from time to time, access to which is granted to Authorised Users who register on the Cloud Platform or directly by downloading the Mobile Application from authorized application store providers.
- 1.1.21. **"Party"** shall mean each of WeBill and the Organisation, and **"Parties"** shall be construed accordingly.
- 1.1.22. **"Policies"** shall mean all reasonable policies, procedures and instructions of WeBill and its Third Party Contractors as updated and amended from time to time and made available to Organisation, whether on the [Webill website](#), platform or otherwise in writing.
- 1.1.23. **"Prepaid Sales"** shall mean prepaid sales by Organisation's consumers, which sales are managed and/or facilitated on behalf of the Organisation by WeBill;
- 1.1.24. **"Remittance"** shall mean a monthly digital document with a unique reference sent by WeBill to the Organisation detailing the total amount charged by WeBill to the Organisation's prepaid consumers by or on behalf of the Organisation and the total of the charged amount actually collected in respective month, and more clearly set out in clause 8.
- 1.1.25. **"Service"** shall mean the services made available by WeBill on the Cloud Platform or any of the Mobile Applications from time to time. For identification purposes, a charge shall be designated by WeBill on an invoice to the Organisation as a "Service" with the letter "S", for example S-wf-read. For the avoidance of doubt, "Prepaid Services" (purchased via Prepaid Sales) are excluded from Services in these Terms.
- 1.1.26. **"Software"** shall mean, to the extent applicable:
- 1.1.26.1. the system through which Organisation and its Authorised Users can access the Services and Licenses, as amended; and
 - 1.1.26.2. such other solutions or software owned and/or licensed by WeBill which it uses for the purpose of providing the Cloud Platform or the Mobile Applications.
- 1.1.27. **"Specific Terms"** shall mean any additional terms imposed on the Organisation in respect of the Services and/or Software, as incorporated or contained in the Documentation, or as otherwise made available to Organisation on the Cloud Platform or the mobile Applications, or otherwise in writing, all as updated and amended from time to time.
- 1.1.28. **"Subscription Terms and Conditions"** shall mean these terms and conditions which regulates access to and/or use of the Software and/or Services, as updated and amended from time to time;
- 1.1.29. **"System Administration Credential"** shall mean the single, immutable and unique Credential assigned to an Account on the successful registration of such Account on the Cloud Platform. All other Credentials to an Account are created by means of permission delegated by the System Administration Credential or other Authorised Users with the respective roles and permissions allowing for the creation of new Authorised Users. While other Credentials can be deactivated or deleted, the deletion of the System Administration Credential will result in the deletion of the

Account, and WeBill accepts no liability

- 1.1.30. or responsibility for such deletion or any damage or loss of any nature whatsoever resulting therefrom or relating thereto.
- 1.1.31. **"Terms"** shall mean, as between WeBill and the Organisation generally, these Subscription Terms and Conditions, and, as between WeBill and Organisation for a Service or License, shall include the relevant Specific Terms, all as updated and amended from time to time.
- 1.1.32. **"Third Party Contractors"** shall mean, in respect of any Services or Licenses, or part thereof, WeBill's contractors, suppliers, vendors, value added resellers or licensors (as the case may be) who are not party to these Terms.
- 1.1.33. **"WeBill"** shall mean WeBill Proprietary Limited, a company duly incorporated in accordance with the laws of the Republic of South Africa, with registration number 2016/538436/07.
- 1.1.34. **"WeBill IP"** shall mean any and all intellectual property that WeBill has created, acquired (whether already acquired or pending acquisition thereof) or otherwise has rights in and may, in connection with the performance of its obligations under these Terms, employ, provide, modify, create or otherwise acquire rights in and includes, without limitation, all inventions; concepts; ideas; methods; methodologies; procedures; processes; know-how; techniques; function, process, system and data models; templates; the generalised features of the structure, sequence and organisation of software, user interfaces and screen designs; general purpose consulting and software tools, utilities and routines; logic, coherence and methods of operation of systems. Some or all of the aforementioned IP is or may be patented in the name of WeBill or any person or other legal entity mandated by the WeBill.
- 1.2. Unless the context otherwise requires, in these Terms, a reference to:
- 1.2.1. a person includes a reference to a body corporate, association or partnership;
- 1.2.2. a person includes a reference to that person's legal personal representatives, successors and permitted assigns;
- 1.2.3. any statute or statutory provision includes references to that statute or provision as amended, modified or re-enacted; and
- 1.2.4. a document is a reference to that document as supplemented or varied from time to time.

2. COMMENCEMENT AND SERVICE & LICENSE UTILISATION

- 2.1. These Terms shall take effect from the earliest of either one of the below mentioned:
- 2.1.1. the creation of an Account;
- 2.1.2. the creation of a System Administration Credential;
- 2.1.3. the first log on to a Mobile Application;
- 2.1.4. the date of acceptance of these Terms by any Authorised User of an Organisation, either as indicated by the Organisation or one of its Authorised Users ticking the appropriate box and/or clicking the "I Accept" button online at the website where Organisation registers for, subscribes to and or purchases the Services, subject always to WeBill's acceptance thereof by notification to the Organisation's system administrator or designated billing or general contact; or
- 2.1.5. the date that Organisation or any of its Authorised Users first accesses a License and/or uses a Service, as the case may be,
- and shall continue in force unless and until terminated in accordance with these Terms. For the avoidance of doubt, these Terms shall apply to all Services, regardless of whether same is provided as a paid for, free or trial Service.
- 2.2. Subject to compliance with these Terms and payment of the corresponding Charges, if applicable, the Organisation may access any License and/or use any of the Service available to it on the Cloud Platform and/or Mobile Application from time to time, in part or in whole.

3. SERVICE TERMS

- 3.1. Each License access or Service utilisation by an Authorised User shall create an individual contractual relationship between the Parties to provide and receive the relevant Service and/or use the relevant License subject to these Terms and, where applicable, any applicable Specific Terms. Such contractual relationship shall be governed by these Terms, together with any specific terms pertaining to such Service and License from time to time, to which terms the Parties agree. Except where specifically provided to the contrary in the Specific Terms, and then only to the extent so specified, each Service and License shall be subject to these Subscription Terms and Conditions. Insofar as any term and condition for a Service or License conflicts with these Subscription Terms and Conditions, the terms and conditions in these Subscription Terms and Conditions shall prevail.
- 3.2. In addition to the terms of these Subscription Terms and Conditions and the relevant Service Orders, the Parties acknowledge and agree that the Services and Licenses shall be subject to all Applicable Laws, including, but not limited to, all applicable regulatory and data protection requirements.
- 3.3. Without releasing it from any of its obligations, WeBill shall be entitled at any time, and without notice, to use subcontractors to perform some or all of its obligations under these Terms.

- 3.4. The Organisation shall not be entitled to resell, charge, transfer or otherwise dispose of a Service or License (or any part thereof) to any third party without WeBill's prior written consent.
- 3.5. WeBill reserves the right from time to time to make changes to a Service or License, or to change any applicable Credential or Account access details required for receipt of a Service or utilisation of a License, provided always that such change does not materially affect the relevant Service or License. WeBill shall use reasonable endeavours to give the Organisation reasonable notice of any changes to Credentials or Account access details as soon as the changes have been effected, provided that the changes are, in WeBill's sole discretion and opinion, material in nature. For all other changes in and to the Service or License, WeBill will not be liable to inform the Organisation thereof.
- 3.6. Should Licensee require any functionality other than the functionality contained in the Services or Licenses, then such other functionality may be provided by WeBill subject to the terms of a separate agreement or Service Order, as the case may be, which shall be concluded between the Parties, and shall set out the terms and conditions, including payment terms, attaching to such additional functionality. Notwithstanding the foregoing, in the event that WeBill provides additional functionality to an Organisation at the Organisation's request that do not form part of this or any other agreement, WeBill shall be entitled to charge the Organisation for such additional services at its standard time-and-materials fees and charges applicable at the time that such additional services are rendered.

4. SERVICE PERFORMANCE

- 4.1. In performing its obligations under these Terms, WeBill shall at all times:
 - 4.1.1. exercise the reasonable skill and care of a competent provider of the Services and Licenses;
 - 4.1.2. comply with the provisions of these Terms;
 - 4.1.3. ensure that it has full capacity and authority and all the necessary licences, permits and consents to enter into and perform in terms of these Terms and to provide the Services and Licenses to the Organisation;
 - 4.1.4. have the right, power and authority to grant the rights to Organisation pursuant to Clause 9.1 free of all liens, encumbrances and other restrictions.
- 4.2. To the reasonable knowledge of WeBill, the rights granted to Organisation hereunder and/or the use of the Licenses or access to Services by the Organisation in accordance with the terms and conditions herein, will not infringe upon nor violate any patent, copyright, trade secret, or other proprietary right of any third party. To this extent, WeBill shall use commercially reasonable endeavours to ensure that the Organisation's use of the Services or possession of the Licenses consistent with the terms of these Terms, shall not be adversely affected, interrupted or disturbed by WeBill or any entity asserting a claim under or through WeBill.
- 4.3. Except as specifically provided for in these Terms, all Services and Licenses provided by WeBill under these Terms are provided "as is". WeBill hereby excludes and disclaims all warranties, whether expressed or implied, statutory or otherwise, except those warranties expressly made in these Terms, including any implied warranties of satisfactory quality, no latent defects, merchantability and fitness for a particular purpose, and all warranties in respect of third-party software applications provided pursuant to these Terms (including the Software).
- 4.4. WeBill shall be entitled to change the nature and scope of any Service or License provided by WeBill under these Terms from time to time, such change to take effect on the effective date indicated on such notice. WeBill will as soon as the changes have been effected, inform the Organisation thereof, provided that the changes are, in WeBill's sole discretion and opinion, material in nature. For all other changes in and to the scope of any Service or License, WeBill will not be liable to inform the Organisation thereof. The Organisation shall not have, and hereby waives, any claim of any nature whatsoever that it may have against WeBill for any loss or damages suffered resulting from or relating to such change.
- 4.5. While WeBill will take all reasonable and legally required measures to ensure the security and integrity thereof, including those set out in its Policies, WeBill does not warrant that the information transmitted by or available to the Organisation through the Service(s) or Licenses will be:
 - 4.5.1. preserved or sustained in its entirety;
 - 4.5.2. delivered to any or all of the intended recipients;
 - 4.5.3. suitable for any purpose;
 - 4.5.4. free of inaccuracies or defects or bugs or viruses of any kind; or
 - 4.5.5. secured against intrusion by unauthorised third parties,

and WeBill assumes no liability, responsibility or obligations in regard to any of the exclusions set forth in this Clause 4.4.

- 4.6. WeBill will use its reasonable commercial endeavours to make the Services and Licenses available 24 (twenty-four) hours per day, 7 (seven) days per week and 365 (three hundred and sixty-five) days of each year but does not guarantee a minimum uptime.
- 4.7. WeBill agrees to maintain a disaster recovery facility and a disaster recovery plan in accordance with its Policies, for the purposes of ensuring continuity of the Services in the event of a disaster. Such plan will at all times be in line with relevant industry standards and practices.
- 4.8. In the event of a disaster, WeBill will implement the disaster recovery plan referred to in Clause 4.6 above. Notwithstanding the foregoing, The Organisation is exclusively responsible for designing, implementing and maintaining an appropriate disaster recovery plan in respect of Organisation's systems which covers, without limitation, all

Organisation Data and information stored on or generated by the Services or Licenses on the Organisation's systems. For the avoidance of doubt, in no event shall WeBill be liable for any loss or destruction of Organisation Data of any nature whatsoever, and howsoever arising.

5. SERVICE AVAILABILITY AND MAINTENANCE

- 5.1. Notwithstanding anything to the contrary contained in these Terms, WeBill will not be liable or responsible for any loss or damage resulting from or relating to any unavailability of the Services or Licenses, nor shall it be held liable for any failure to fulfil any obligation contained in these Terms, to the extent caused by one or more of the following ("excusable events"):
- 5.1.1. any maintenance, suspension, or termination of the Services or Licenses, whether in whole or in part, in accordance with the provisions of these Terms;
 - 5.1.2. the failure of servers or services outside of a data centre on which the Services or Licenses are dependent, including, but not limited to, inaccessibility of the Internet that is not caused by WeBill's infrastructure;
 - 5.1.3. an attack on WeBill's infrastructure, including a denial of service attack or unauthorised access, provided that WeBill has implemented and upheld reasonable security measures to prevent such attacks;
 - 5.1.4. any failure by the Organisation to report a Service or License unavailability in accordance with these Terms within one (1) day of the date of occurrence, to the extent that such continued unavailability could reasonably have been limited or prevented by WeBill if the Organisation had timeously reported the Service or License unavailability to WeBill in accordance with these Terms. In such cases, only the period calculated from the date of Organisation's failure as aforesaid until the date upon which WeBill became aware of such Service or License unavailability shall be excluded from the calculation of downtime for the purposes of this Clause 5.1;
 - 5.1.5. unavailability that results from the failure of the Organisation's Equipment or any hardware, software, equipment, service or facilities not provided by WeBill;
 - 5.1.6. any unavailability caused by a failure by the Organisation to timeously implement configurations to the Services or Licenses required by WeBill, or due to any configuration performed by the Organisation and not approved by WeBill;
 - 5.1.7. any unavailability caused by Organisation's breach of these Terms or the Policies; or
 - 5.1.8. an Excusing Event.
- 5.2. Upon the occurrence of an excusable event, WeBill's failure to perform shall not be a breach of the Terms and WeBill's obligations to perform shall be extended on a reasonable basis in proportion to the prejudice caused by the excusable event.
- 5.3. Unless otherwise provided for, WeBill may, from time to time, suspend the provision of one or more Services or Licenses for the purpose of conducting routine maintenance, repair and/or improvement on the technical infrastructure by means of which the Service or License is provided during a standard maintenance window determined by WeBill from time to time. WeBill shall use reasonable endeavours to notify the Organisation of such maintenance window(s) from time to time. WeBill shall not be liable for any loss or damage of any nature whatsoever and howsoever arising as a result of such suspension in accordance with this Clause 5.3.
- 5.4. Notwithstanding the foregoing, the Organisation acknowledges that circumstances may arise from time to time that require WeBill to perform Emergency Works. In such cases, WeBill shall endeavour to inform the Organisation as soon as possible of this requirement and the planned suspension of one or more Services or Licenses. Notwithstanding the foregoing, however, the Parties acknowledge and agree that WeBill may, acting reasonably, perform the Emergency Works without prior notice to the Organisation, provided that WeBill shall notify the Organisation of such Emergency Works and suspension of the Service or License as soon as reasonably possible.

6. SERVICE OR LICENSE SUSPENSION

- 6.1. WeBill may, acting reasonably and without prejudice to any right which it might have to terminate a Service or License and/or these Terms, elect to immediately suspend the provision of a Service (or part thereof) if it:
- 6.1.1. has reasonable grounds to consider that it is entitled to terminate the Service or License and/or these Terms pursuant to Clause 14 or that the Organisation has committed a breach of these Terms or the Policies;
 - 6.1.2. is obliged to comply with an order, instruction or request of a court, government agency, emergency service organisation or other administrative or regulatory authority;
 - 6.1.3. needs to carry out Emergency Works to the Services or Licenses or WeBill's infrastructure or any part thereof, subject to the provisions of Clause 5.4;
 - 6.1.4. has reasonable grounds to believe that the Service or License is being used fraudulently or illegally or in violation of Clause 7.5;
 - 6.1.5. does not receive payment in full of any Charge by the due date of payment thereof or if there is a reversal of Charges to Organisation's credit or debit card;
 - 6.1.6. has reasonable grounds to believe that the Organisation is or has been involved or connected with criminal activity or other activity, which is or may be detrimental to WeBill, its Third Party Contractors or its customers (which may include without limitation, if the Organisation is included as an offender on any official corruption list, or other list of defaulters published by any governmental authority, agency, organisation or other administrative or regulatory authority);
 - 6.1.7. has reasonable grounds to believe that the Organisation has provided it with false information prior to or upon entering into these Terms, or that it lacked the capacity to enter into these Terms;
 - 6.1.8. has reasonable grounds to believe that the security or functionality of the Services or Licenses or any component thereof are under a significant threat; or

6.1.9. determines that an Excusing Event has occurred.

6.2. If WeBill exercises its right to suspend the Service or License (or part thereof) pursuant to Clauses 6.1.2, 6.1.3 or 6.1.8, it shall, whenever reasonably practicable, give prior notice of such suspension to the Organisation, such notice to state the grounds of such suspension and its expected duration, if applicable. WeBill shall, in such circumstances, use all reasonable endeavours to resume the Service or License as soon as is practicable.

6.3. If the Service or License (or part thereof) is suspended as a consequence of the breach, fault, act or omission of the the Organisation, the Organisation shall, upon demand, pay to WeBill all reasonable costs and expenses reasonably incurred by WeBill in the implementation of such suspension and/or recommencement of the provision of the Service or License

6.4. **WeBill shall not be liable for any loss, damage or inconvenience suffered by the Organisation or any injury to or incapacitation or death of the Organisation as a result of any suspension made pursuant to Clause 6.1, except to the extent that such suspension is made pursuant to Clause 6.1.3 or 6.1.8 for reasons which are solely and directly attributable to the gross negligence of WeBill, in which event, WeBill's liability will be subject to Clause 10 below.**

7. ORGANISATION OBLIGATIONS AND WARRANTIES

7.1. The Organisation shall provide WeBill with such facilities and information as WeBill may reasonably require to enable it to perform its obligations or exercise its rights under these Terms. Without derogating from the generality of the foregoing, the Organisation shall, to the extent applicable:

- 7.1.1. render all decisions and approvals required as soon as is reasonably possible;
- 7.1.2. provide WeBill with such reasonable access to the Organisation's Data, Equipment and/or computer systems as is required for WeBill to discharge its obligations in terms of these Terms, including any necessary licences, waivers or consents reasonably required by WeBill;
- 7.1.3. notify WeBill as soon as reasonably possible of any issues, concerns or disputes in connection with the Services or Licenses;
- 7.1.4. be responsible for the accuracy and completeness of all the Organisation's Data;
- 7.1.5. comply with Policies in connection with the Services or Licenses; and
- 7.1.6. take commercially reasonable measures to ensure that no malicious software is introduced into the Software by its personnel or any third party.

7.2. The Organisation warrants at the date of these Terms and throughout the term of these Terms, that:

- 7.2.1. it has the full right, power and authority to enter into and perform its obligations under these Terms;
- 7.2.2. it owns or has obtained all the necessary consents and authorisations in respect of any intellectual property rights contained in each and every part of the Organisation Data, and that the use by WeBill of the Organisation Data will not infringe any intellectual property or proprietary rights of any third party;
- 7.2.3. it shall be responsible for ensuring that the Services or Licenses will be fit for the Organisation's intended purposes;
- 7.2.4. it shall timeously make payment of all fees, charges and other amounts which become due under these Terms;
- 7.2.5. it shall provide WeBill with all such reasonable assistance and cooperation that WeBill may reasonably require to investigate any interruption of Service or License, security problems, and any other violations or alleged violations of these Terms and/or the Policies;
- 7.2.6. it shall comply with Applicable Laws and shall not at any time use the Services or Licenses in contravention of such Applicable Laws nor for any illegal or immoral purpose;
- 7.2.7. it shall ensure that, at its own cost and expense, regular and complete back-ups of Organisation Data are made to prevent any loss or destruction thereto;
- 7.2.8. it shall prohibit any person other than its Authorised Users, from accessing the Service(s) or utilising the Licenses;
- 7.2.9. all Organisation Equipment used by the Organisation to access the Licenses and/or use the Services shall at all times comply with WeBill's published recommendations, it being agreed that (i) it is a prerequisite for the access and/or use of the Services and Licenses that such Organisation Equipment shall comply with WeBill's published minimum requirements, and (ii) all warranties provided by WeBill in respect of the Services or Licenses shall, notwithstanding anything to the contrary herein contained, be conditional on the Organisation complying with WeBill's published maximum requirements in respect of the Organisation Equipment; and
- 7.2.10. without derogating from the generality of the foregoing, it shall comply with WeBill's reasonable instructions in relation to the modification of the Organisation Equipment to enable the Organisation to receive the Services or use the Licenses, at the Organisation's own expense.

7.3. **Notwithstanding anything to the contrary contained in these Terms, the Organisation shall be liable for any and all loss, harm or damage to WeBill's infrastructure which is caused by:**

- 7.3.1. **any act or omission of the Organisation or the Organisation's breach of the terms of these Terms; or**
- 7.3.2. **the malfunction or failure of any equipment or facility provided by or on behalf of the Organisation or Authorised Users, including but not limited to the Organisation Equipment. WeBill shall not be liable for any costs incurred by the Organisation arising out of any malfunction or failure of any such equipment or facility, including the Organisation's Equipment.**

7.4. The Organisation warrants that it holds and shall continue to hold such licences and/or other authorisations as are required under all Applicable Laws, to receive the Services or access and/or use the Licenses. WeBill reserves the right to suspend the Organisation's access to the Licenses, and use of, the Services where the Organisation has failed to

comply with the provisions of this Clause 7.4 and WeBill shall in no event be liable in respect of the Organisation's failure to comply with this Clause 7.4 or any loss or damage of any nature whatsoever and howsoever arising suffered by the Organisation as a result of such suspension.

- 7.5. The Organisation warrants and undertakes that it shall, and shall procure that all of its Authorised Users shall, in its/their use of the Services or access to the Licenses, comply with the then-current version of the [end user license agreement\(s\)](#) (each a "EULA"), Policies and any other Documentation that may be applicable to the Services or Licenses. The applicable EULA, Policies and Documentation shall be available at the website where Organisation registers for, subscribes to and/or purchases the Services or Licenses, and shall be made available by WeBill to the Organisation on request. The Organisation shall, and shall procure that all of its Authorised Users shall, prior to commencing its use of the Services or access to Licenses, read and understand the EULA, Policies and Documentation. By using the Licenses or accessing the Services and continuing to use the Licenses and/or accessing the Services, the Organisation acknowledges that it and its Authorised Users have read, understood and accepted the terms of the EULA, Policies and Documentation and agree(s) to be bound thereby. Changes to the EULA, Policies and/or Documentation shall be effective upon posting of the revised documents at the abovementioned URL or other notice to the Organisation system administrator or billing contact. The Organisation acknowledges that, by continuing the use of the License or accessing the Services after such effective date, it and its Authorised Users have read, understood and accepted the terms of the EULA, Policies and Documentation, as amended, and agree(s) to be bound thereby.
- 7.6. For the duration of these Terms, the Organisation shall not, nor shall it allow its Authorised Users to, commit nor attempt to commit any act or omission which directly or indirectly:
- 7.6.1. damages WeBill's technical infrastructure or any part thereof;
 - 7.6.2. impedes, impairs or precludes WeBill from being able to provide the Service(s) or Licenses(s) in a reasonable and business-like manner; or
 - 7.6.3. constitutes an abuse or malicious misuse of the Service(s) or License(s).

WeBill reserves the right, without prejudice to any other rights or remedies available to it under these Terms or in law, to charge the Organisation the amount necessary to cover any reasonable expenditure incurred in order to remedy the situation, to the extent that such remedial action was necessitated by the Organisation's breach of the provisions of this Clause 7.6.

- 7.7. The Organisation hereby grants WeBill and, where applicable, its Third Party Contractors, a worldwide perpetual, irrevocable royalty-free license to use and incorporate into the Services or License any suggestion, enhancement request, recommendation, correction or other feedback provided by the Organisation or Authorised Users in relation to the operation of the Services or provision of the Licenses.
- 7.8. **The Organisation hereby indemnifies WeBill and hold it harmless in respect of any and all losses, damages, costs or expenses resulting from or relating to any breach of the warranties set out in this Clause 7 and/or any third-party claim or allegation arising out of or relating to the use of the License(s) or access of or reliance on the Service(s), and which relates to any act or omission of the Organisation which is, or if substantiated would be, a breach of this Clause 7.**

8. INVOICES, PAYMENTS AND REMITTANCES

- 8.1. Unless otherwise agreed by WeBill, the Organisation shall be liable for and shall pay the Charges in accordance with this Clause 8.
- 8.2. **License & Services Invoice**
- 8.2.1. On the first day of every month (or any other day WeBill may elect from time to time), WeBill will issue to the Organisation an invoice in respect of the Organisation's use of Services and Licenses obtained in the previous month ("**License and Services Invoice**"). The License and Services Invoice will indicate the due date of payment of the full invoiced Charges.
- 8.2.2. The License and Services Invoice will contain a summary of the net total License Charges and the net total Service Charges, both exclusive of VAT. For the avoidance of doubt, the total amount payable by the Organisation in respect of such License and Services Invoice will comprise the License Charges and Service Charges as well as VAT or other taxes where applicable.
- 8.3. **Prepaid Invoice**
- 8.3.1. On the first day of every month (or any other day WeBill may elect from time to time), WeBill will issue to the Organisation an invoice in respect of Prepaid Sales ("**Prepaid Invoice**"). Prepaid Sales are charged to the Organisation in real time and invoiced at the end of the month.
- 8.3.2. The Prepaid Invoice will set out the aggregated total amount charged to all the Organisation's consumer's in respect of all Prepaid Sales in respect of the previous month, as well as the amount actually collected by WeBill from the consumers in respect of such Prepaid Sales. The Organisation hereby acknowledges that the total amount collected may be less than the total amount charged.
- 8.3.3. WeBill's Charges for Prepaid Sales is based on the amount charges to the consumers and not on the amount

collected. The Organisation acknowledges and agrees that it cannot hold WeBill responsible or liable for uncollected but charged prepaid amounts, and hereby indemnifies WeBill from any failure or delay on the part of the consumer to make payment in respect of any Prepaid Sales in full.

- 8.3.4. The Parties specifically agree that WeBill will not be responsible or liable for ensuring that payments are collected from the Organisation's consumers in respect of Prepaid Sales. When a consumer revokes a prepaid payment for Prepaid Sales already provided and charged, WeBill will not be obliged to pay such amount over the Organisation and can add such amounts that have been remitted to subsequent Organisation invoices. Even if a payment is revoked by an Organisation consumer, WeBill will remain entitled to the Charges in respect of the relevant Prepaid Sales in respect of which such payment is revoked.
- 8.3.5. On issuance of a Prepaid Invoice, WeBill will send the Organisation a Prepaid Sales Remittance. This Remittance will indicate the gross total Prepaid Sales amount charged (inclusive of VAT or other taxes) to the Organisation's consumers and the gross total prepaid amount actually collected (inclusive of VAT or other taxes) from such consumers. The remittance amount will be calculated as the gross total Prepaid Sales amount charged less the Charges charged by WeBill in respect of Prepaid Sales at the time. WeBill will remit this amount to the Organisation within 10 working days of issuance of the Remittance.
- 8.3.6. The Organisation acknowledges and agreed that it cannot hold WeBill liable for uncollected but charged amounts in respect of Prepaid Sales. Notwithstanding the foregoing, however, these amounts might be collected in a subsequent month, in which case WeBill will remit same to the Organisation following such collection.
- 8.3.7. Amounts will be remitted to the bank account designated by the Organisation to WeBill in writing. Changes to the Organisation's bank account details need to be conveyed to WeBill at least 10 days before the remittance is paid. WeBill shall be entitled to rely on any written notification from Organisation in this regard, and shall not be required to verify same.
- 8.3.8. **Notwithstanding anything to the contrary contained in these Terms, the Organisation shall be and remain solely liable for any chargebacks, fines or other fees incurred as a result of payments in terms of this clause 8.3 (in respect of Prepaid Sales) being unauthorised, fraudulent, declined or rejected for any other reason whatsoever, and hereby indemnifies WeBill and holds WeBill harmless against any damages, losses or costs suffered or incurred as a result of such chargebacks or claims.** Without derogating from the generality of the foregoing the Organisation hereby expressly consents and agrees to WeBill setting off any such chargebacks or claims against any future Remittance that may be due to the Organisation hereunder.
- 8.4. WeBill shall be entitled to amend the Charges on twenty (20) Business Days' notice to the Organisation, such notice to take effect at the expiry of the notice period as aforesaid.
- 8.5. Each invoice for Charges shall be due and payable on the date of issue of the invoice, unless otherwise stipulated on the invoice.
- 8.6. WeBill shall be entitled to charge interest on any overdue amounts from the due date of payment until the date of payment in full, at an annual rate of two (2) percent above the base lending rate from time to time of WeBill's bankers from time to time.
- 8.7. All Charges or other sums which may from time to time be due, owing or incurred to WeBill are exclusive of value-added tax and any similar sales tax, levy or duty, or other applicable tax, all of which shall be payable by the Organisation and invoiced by WeBill at the then prevailing rate. In respect of withholding tax, the Organisation agrees to pay such additional amounts as may be necessary, such that WeBill receives the amount that it would have received had no withholding tax been imposed.
- 8.8. In the event that the Organisation elects to make payment of an invoice by means of credit card, debit order, or any other similar available payment method, and subject always to WeBill's acceptance of such elected payment method, the following terms shall apply:
- 8.8.1. in respect of credit card payments:
- 8.8.1.1. the Organisation's acceptance of these Terms, activation of an Account and access to and/or use of the Services and/or Licenses constitute continued authority for the issuer of the card(s) to immediately debit the Organisation with the relevant Charges, inclusive of all costs and charges of whatsoever nature, relating to such Services, as and when such Charges become due; and
- 8.8.1.2. the Organisation warrants that all information relating to the card details provided to WeBill is true and correct, and that the Organisation is duly authorised to use such card and provide such card details for the purposes of making payment of the applicable Charges; and
- 8.8.1.3. **the Organisation shall be and remain solely liable for any chargebacks, fines or other fees incurred as a result of any credit or debit card payments being unauthorised, fraudulent, declined or rejected for any other reason whatsoever, and hereby indemnifies WeBill and holds WeBill harmless against any damages, losses or costs suffered or incurred as a result of such chargebacks or claims.** Without derogating from the generality of the foregoing the Organisation hereby expressly consents and agrees to WeBill setting off any such chargebacks or claims against any future Remittance that may be due to the Organisation hereunder.

- 8.8.2. in respect of payment by any other similar available payment method not specifically catered for in this Clause 8, the Organisation shall comply with all such directions, policies and procedures made available by WeBill from time to time for such purpose.
- 8.8.3. WeBill shall be entitled to levy a reasonable administration charge, and the Organisation agrees to pay such a charge in the event that any form of payment is returned unpaid from the account or credit card nominated by the Organisation. In addition to such charge, WeBill shall be entitled to recover from the Organisation all costs incurred as a result of any form of payment being returned unpaid as foresaid, which costs may be included in any subsequent invoice rendered by WeBill to the Organisation, and the Organisation agrees to pay such costs to WeBill on the payment terms of the relevant invoice. Such costs may include, but shall not be limited to, banking fees, switching fees, clearance fees and charges, and facilitation and administration charges charged by the relevant payment provider; and
- 8.8.4. **the Licensee indemnifies WeBill in respect of any and all losses, damages, costs and expenses arising from or in connection with a breach of this Clause 8.**

9. USE RIGHTS

- 9.1. During the term of an open or active Account, and in consideration for payment of the applicable Charges, WeBill grants or will procure for the Organisation a limited, revocable, non-transferable, non-exclusive right to access a Service(s) and/or use the License(s), subject to the terms of this Clause 9.
- 9.2. The Organisation hereby:
- 9.2.1. accepts the right granted to it in terms of Clause 9.1;
 - 9.2.2. acknowledges that it will only use the Licenses and access the Services in accordance with these Terms, the applicable EULA, Specific Terms, Policies and the Documentation;
 - 9.2.3. is authorised to use the Services and Licenses only for its own business purposes; and
 - 9.2.4. acknowledges that it obtains no rights of ownership of the Services or Licenses or any part thereof whatsoever.
- 9.3. The Organisation shall not:
- 9.3.1. except to the extent as may be permitted by law, modify, translate or create derivative works based on the Services or Licenses, nor reverse assemble, decompile or reverse engineer the Services or Licenses, whether in whole or in part, or otherwise attempt to derive the source code, underlying ideas, algorithms, file formats, programming of the Services or Licenses or any files contained in or generated by the Services or Licenses, nor shall it permit, whether directly or indirectly, any third party to do so;
 - 9.3.2. merge or combine the whole or any part of the Services or Licenses or any part thereof with any third-party software or documentation without the prior written consent of WeBill;
 - 9.3.3. grant any third party, besides its Authorised Users, if applicable, direct access to the Services or direct or indirect use of the Licenses, including, without limitation by way of lease, download, as an application or bureau service provider or any other method. For the avoidance of doubt, if the Organisation allows Authorised Users to use the Services or access the Licenses, the Organisation shall be responsible for ensuring that such Authorised Users' access to the Licenses and use of the Services complies with the terms of these Terms, and shall at all times remain solely liable for the acts and omissions of such Authorised Users as if they were the acts and omissions of Organisation;
 - 9.3.4. lend or transfer the Services or any part thereof to any third party;
 - 9.3.5. sub-license or otherwise transfer the use of the Services, whether in whole or in part, to any third party; or
 - 9.3.6. remove or suppress any proprietary notices on the Services; or
 - 9.3.7. share its Authorised User's password(s) with any other individual and undertakes to notify WeBill promptly of any unauthorised access or use of the Services or any content available through the Services. The Licensee shall only reassign an Authorised User identification to a new individual when replacing one who no longer requires ongoing use of the Services.
- 9.4. Additional restrictions may apply to certain Software, files, programs or data supplied by third parties or embedded in Software. Such restrictions will be set out in the instructions or release notes and/or in the form of the Specific Terms and/or Documentation or an [end user licence](#) terms provided and/or made available with such material, and are incorporated herein by reference.
- 9.5. WeBill reserves the right forthwith to suspend or terminate the provision of Services or Licenses (either in whole or in part) to any Authorised User in the event of a default or breach by such Authorised User of the terms of this Clause 9, or if at any time the Authorised User ceases to be an Authorised User as defined.

10. LIABILITY

- 10.1. Notwithstanding anything else in these Terms, WeBill's total liability to the other in contract, delict (including negligence or breach of statutory duty) or otherwise arising in connection with these Terms, shall be limited to an amount equal to the total Charges already paid by the Organisation to WeBill in respect of the Service(s) or Licenses in respect of which such claim arose for the period 3 (three) months preceding the claim. For the avoidance of doubt, for the purposes of this Clause 10.1, the maximum amount shall be an aggregate amount for all claims arising out of these Terms in respect

of the relevant Service.

- 10.2. Notwithstanding anything else in these Terms, neither Party shall in any event be liable to the other for indirect or consequential losses, or otherwise for harm to business, loss of revenues, loss of anticipated savings or lost profits, whether or not reasonably foreseeable at the time when these Terms were entered into.
- 10.3. **The Organisation acknowledges that WeBill is unable to exercise editorial or other control over any content, including the Organisation Data, placed on or accessible through the Organisation use of the Services or access to the Licenses and WeBill shall have no liability as to the quality, content or accuracy of information received through or as a result of the use of the Services or access of the Licenses.**
- 10.4. **Notwithstanding anything to the contrary contained in these Terms, WeBill shall not be liable to the Organisation for any failure, delay, malfunction or non-performance of the Services or Licenses, or for any loss, liability, damage or expense of any nature whatsoever and howsoever arising (including but not limited to or any injury to or incapacitation or death of the Organisation), directly or indirectly relating to or resulting from:**
- 10.4.1. **services, hardware, or software provided by or on behalf of the Organisation (including the Organisation's Equipment) which are not according to WeBill's minimum or recommended requirements as published or notified by WeBill to Organisation from time to time;**
 - 10.4.2. **any of the information provided by the Organisation under or pursuant to these Terms being false or inaccurate;**
 - 10.4.3. **The Organisation's failure to adhere to any required configurations or reasonable guidelines or advice provided by WeBill in respect of the use of or modification of a Service or License, or to follow the Policies or directions set out in the Documentation;**
 - 10.4.4. **any unauthorised access to and/or use of the Services or Licenses (or part thereof) as a result of any act or omission, including negligence, of the Organisation or its Authorised User(s);**
 - 10.4.5. **any unpaid or suspended Service(s) or Licenses;**
 - 10.4.6. **The Organisation's or its Authorised Users' failure to perform, or delay in performing its obligations in terms of these Terms;**
 - 10.4.7. **circumstances that constitute a Force Majeure Event;**
 - 10.4.8. **failure or unreasonable delay by the Organisation to report faults/problems to WeBill; or**
 - 10.4.9. **any combination of the Services or License with any Organisation Data or other services, software, hardware or other materials not provided by WeBill, or any alteration or modification to the Services or Licenses in contravention of these Terms.**

11. CUSTOMER DATA AND PRIVACY

- 11.1. The Organisation acknowledges that it has read the [WeBill Privacy Policy](#) and that the terms of this Clause 11 apply in addition to the terms of such and any other WeBill Policy.
- 11.2. The Organisation acknowledges that WeBill or its agents will, by virtue of the provision of Services or Licenses, come into possession of Organisation Data. Ownership in all Organisation Data whether under its control or not, shall continue to vest in Organisation and WeBill shall not obtain any proprietary rights in the Organisation's Data. The Organisation grants to WeBill (and its Third Party Contractors as necessary) a limited, non-exclusive, royalty free licence to use, reproduce and modify any Organisation Data strictly for the purposes of providing the Services or Licenses or as otherwise directed by the Organisation.
- 11.3. **The Organisation warrants that:**
- 11.3.1. **it has obtained and will obtain all legally required consents and permissions from relevant parties (including data subjects) for the use, processing and transfer of the Organisation Data as described in this Clause 11;**
 - 11.3.2. **it shall, for the duration of these Terms, have sole responsibility for the accuracy, quality, integrity, legality and reliability of the Organisation Data and of the means by which it acquired the Organisation Data, and will ensure that data and processing instructions given to WeBill comply with all Applicable Laws; and**
 - 11.3.3. **it shall comply with Applicable Law and related regulations in collecting, compiling, storing accessing and using Organisation Data in connection with the Services or Licenses.**
- 11.4. WeBill and the Organisation are each responsible for complying with their respective obligations under Applicable Laws governing Organisation Data, and each Party shall take reasonable precautions (having regard to the nature of their obligations under these Terms), to preserve the integrity of Licensee Data and to prevent any unauthorised access, corruption or loss of Organisation Data. Without derogating from the generality of the foregoing, WeBill shall implement appropriate technical and organisational measures to protect Organisation Data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access and against other unlawful forms of processing, all as set out in its Policies. The Organisation acknowledges that it has the right to access, at Organisation's cost, Organisation Data upon written notice and have any agreed errors in such Organisation Data rectified.
- 11.5. The Organisation acknowledges and agrees that WeBill and its agents may, and by entering into these Terms the Organisation expressly authorises WeBill and its agents to, use, process and/or transfer Organisation Data (including intra-group transfers, transfers across a country border and transfers to entities in countries that do not provide statutory protections for personal information):

- 11.5.1. in connection with the provision of Services and Licenses and for the purpose of complying with WeBill's obligations under these Terms;
- 11.5.2. to incorporate Organisation Data into databases controlled by WeBill for the purpose of administration, provisioning, billing and reconciliation, verification of the Organisation's identity and solvency, maintenance, support and product development, fraud detection and prevention, sales, revenue and customer analysis and reporting, market and customer use analysis, and
- 11.5.3. to communicate to the Organisation by voice, letter, fax or email regarding products and services of WeBill or its Affiliates.
- 11.6. The Organisation, as the controller of Organisation Data, is solely responsible for ensuring that no Organisation Data provided to WeBill shall be in violation of any Applicable Law, and that the subsequent transfer of such Organisation Data across a country border as set out in clause 11.5 shall not, as a result of the content, nature, state and/or form of such Organisation Data, be rendered, determined or otherwise deemed to be unlawful or non-compliant under the applicable privacy and protection of personal information laws.
- 11.7. **The Organisation may withdraw consent for such use, processing or transfer of Organisation Data as set out above, unless it is required to (i) provision, manage, account and bill for the Services and Licenses; (ii) carry out fraud detection; or (iii) comply with any Applicable Law or court or other public authority order, by sending written notice to WeBill in accordance with the prescribed form, available from WeBill on request.**
- 11.8. WeBill shall, after the period referred to in such prescribed form, destroy and/or delete the Organisation Data in its possession and/or under its control, or, if applicable, de-identify any personal information therein contained in a manner that prevents its reconstruction in an intelligible form, unless and to the extent that:
- 11.8.1. WeBill is otherwise required to retain same in connection with these Terms; and
- 11.8.2. The Organisation has consented to the retention of such Organisation Data by WeBill.
- 11.9. **Each Party hereby indemnifies and holds the other harmless from any claim, damages, costs penalty or fine as a result of such Party failing to comply with its obligations under this Clause 11.**

12. INTELLECTUAL PROPERTY

- 12.1. The Organisation acknowledges that:
- 12.1.1. WeBill has created, acquired or otherwise obtained rights in the WeBill IP and, notwithstanding anything contained in these Terms, WeBill will own all right, title and interest, including all rights under all copyright, patent (whether granted or pending) and other intellectual property laws, in and to the WeBill IP; and
- 12.1.2. without limitation to the foregoing, the Organisation shall not be entitled to use the name, trademarks, logos, trade names or other proprietary identifying marks or symbols of WeBill, WeBill Affiliates or their Third Party Contractors, as applicable, without the prior written consent of WeBill, which consent can be withheld and/or withdrawn at any time and for any reason whatsoever.
- 12.2. Without limiting the generality of the foregoing, all right, title and ownership of any code, forms, algorithms, methodologies, frameworks, processes, formulae, data, concepts or materials developed by or for WeBill or the Organisation independently and outside of these Terms and provided during the course of these Terms ("**Existing Material**") shall remain the sole property of the Party providing the Existing Material.
- 12.3. All right, title and interest, including all rights under all copyright, patent (whether granted or pending) and other intellectual property laws, in and to any Deliverables shall, unless expressly agreed to the contrary in the appropriate Service Order, vest in WeBill.
- 12.4. To the extent that WeBill utilises any WeBill IP in connection with WeBill's performance under these Terms, the WeBill IP shall remain the property of WeBill and the Organisation shall acquire no right or interest therein.
- 12.5. WeBill will defend the Organisation against any claims made by an unaffiliated third party that any Service or License infringes its patent, design, copyright or trade mark and will pay the amount of any resulting adverse final judgment (or settlement to which WeBill consents). WeBill will reimburse the Organisation with all costs reasonably incurred by the Organisation in connection with assisting WeBill with the defence of the action. The Organisation shall promptly notify WeBill of the claim in writing and WeBill shall have sole control over its defence or settlement.
- 12.6. Should any third party succeed in its claim for the infringement of any intellectual property rights, WeBill shall, at WeBill's discretion and within thirty (30) calendar days of the infringing item having been found to so infringe:
- 12.6.1. obtain for the Organisation the right to continue using the infringing item or the parts which constitute the infringement;
- 12.6.2. replace the infringing item or the parts which constitute the infringement with another product which does not infringe and which in all respects operates substantially in accordance with its specifications;
- 12.6.3. alter the infringing item in a way as to render it non infringing while still in all respects operating substantially in accordance with its specifications; or
- 12.6.4. withdraw the infringing item and terminate the applicable Service Order and, if applicable, refund to the Organisation all Charges which the Organisation has already paid to WeBill in respect of the period calculated from the date on which the claim arose until 12 (twelve) months thereafter.

- 12.7. **WeBill shall not be liable for any claim which arises out of third party goods or services selected by the Organisation and which are procured by the Organisation from third parties.**
- 12.8. The Organisation warrants that any domain name registered or administered by it or on its behalf will not contravene the trademark or other intellectual property rights of any third party and that it shall comply with the rules and procedures of the applicable domain name authorities, registries and registrars. **The Organisation shall indemnify WeBill in respect of any and all losses, damages, costs and expenses arising from or in connection with breach of this Clause 12.8.**
- 12.9. If applicable, Internet Protocol (IP) addresses assigned to the Organisation by WeBill in connection with a Service or License shall be used solely in connection with such Service or License. If such Service or License is discontinued for any reason (including termination of these Terms or the Service), the Licensee's right to use the IP addresses shall immediately cease and the IP addresses shall be returned immediately to WeBill. Any breach of this Clause 12.9 shall be a material breach of these Terms.
- 12.10. If the Organisation does not move the domain name(s) registered by WeBill for and on behalf of Licensee to another service provider within one month after termination of these Terms and/or the relevant Service Order, WeBill reserves the right to terminate such domain name(s) with the applicable domain name authorities, registries and registrars.

13. CONFIDENTIALITY

- 13.1. Subject to Clause 13.2, WeBill and the Organisation shall:
- 13.1.1. only use the Confidential Information for the purposes of complying with its obligations under these Terms;
 - 13.1.2. only make the Confidential Information available to those of its personnel who are actively involved in the execution of its obligations under these Terms and then only on a "need to know" basis;
 - 13.1.3. initiate internal security procedures reasonably acceptable to the disclosing Party to prevent unauthorised disclosure and will take all practical steps to impress upon those personnel who need to be given access to Confidential Information, its secret and confidential nature; and
 - 13.1.4. subject to the right to make the Confidential Information available to its personnel under Clause 13.1.2, not at any time use any Confidential Information of the disclosing Party or directly or indirectly disclose any Confidential Information of the disclosing Party to third parties.
- 13.2. The provisions of Clause 13.1 shall not apply to any Confidential Information which:
- 13.2.1. is in or comes into the public domain other than by breach of this Clause 13;
 - 13.2.2. is or has been independently generated by the recipient Party; or
 - 13.2.3. is properly disclosed pursuant to a separate written consent or a statutory obligation, the order of a court of competent jurisdiction or the requirement of a competent regulatory body, in which case the Party ("Receiving Party") compelled to disclose the confidential information of the other Party ("Disclosing Party"), will give the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information.
- 13.3. On termination or expiry of a Service or Licence, a Service Order or these Terms, the Parties will deliver to each other in the form it was received or, at the other Party's option, destroy all originals and copies of Confidential Information in their possession which are no longer required for the purposes of any other Service Order. A Party may in addition to the aforementioned, request from the other a written statement confirming that it has not retained in its possession or under its control either directly or indirectly any such material and may within 7 (seven) business days of receiving written notice from the other party, expunge such Confidential Information and furnish to the other Party, in writing, with confirmation that it has been destroyed.
- 13.4. The Parties undertake not to copy, or reproduce, mechanically, electronically or in a machine readable form, or otherwise, any of the Confidential Information furnished without the express written consent of the Party and undertake to keep such Confidential Information in a safe place.
- 13.5. **Each Party hereby indemnifies the other Party against any loss or damage which such Party may suffer as a result of a breach of this Clause 13 by the indemnifying Party or its personnel.**
- 13.6. This Clause 13 is severable from the remainder of these Terms and shall remain valid and binding on the Parties, notwithstanding any termination, for a period of five (5) years after the effective date of termination.

14. BREACH AND TERMINATION

- 14.1. Either Party may terminate/delete an Account:
- 14.1.1. immediately by notice if the other Party has committed a material breach which is incapable of remedy;
 - 14.1.2. immediately by notice if the other Party has committed a material breach capable of remedy, but which it fails to remedy within ten (10) Business Days of having been notified of such breach;

- 14.1.3. immediately by notice if a Force Majeure Event subsists for a continuous period exceeding three (3) months;
- 14.1.4. for any reason whatsoever on at least 1 (one) calendar month's prior written notice to the other;
- 14.1.5. if the other Party institutes business rescue proceedings or passes a resolution for winding up (other than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction) or a court of competent jurisdiction makes an order to that effect or if the other becomes subject to an administration order or enters into any voluntary arrangement with its creditors or ceases or threatens to cease to carry on business, or undergoes or is subject to any analogous acts or proceedings under any foreign law; or fails to satisfy a judgment taken against it or take such necessary steps to have such judgment rescinded within 30 (thirty) days from becoming aware that judgment has been granted against it;
- 14.1.6. where, after registration of the Account, no Services or Licenses have been provided under these Terms for a continuous period exceeding three (3) months.

- 14.2. WeBill may terminate these Terms immediately by notice if a suspension of a Service pursuant to Clauses 6.1.4, 6.1.5, 6.1.6 or 6.1.7 has continued for a period of at least two (2) consecutive months.
- 14.3. Notwithstanding anything herein to the contrary, neither Party shall be liable to the other for any delay or failure in performance of any part of these Terms (other than for payment obligations set out in Clause 8) to the extent such delay or failure is attributable to a Force Majeure Event. Subject to Clauses 14.1, any such delay or failure shall suspend these Terms until the Force Majeure Event ceases.
- 14.4. If WeBill has reasonable grounds to consider that there has been a violation of Clause 7.5, WeBill may notify the Organisation and require it to remedy the violation:
 - 14.4.1. immediately, in the event of an incident involving a violation of public law or regulation or an imminent threat to the Services and/or License and/or WeBill's infrastructure; or
 - 14.4.2. within forty-eight (48) hours, in all other cases.

If the Organisation fails to notify WeBill that such a remedy has been effected in accordance with this Clause 14.4 (subject to such remedy actually being effected) or if WeBill reasonably determines that the violation is continuing or is likely to occur again, WeBill may terminate these Terms (or relevant Service or License) immediately upon notice to the Organisation.

- 14.5. Where the Organisation has failed to timely effect payment of any monies due to WeBill under this Agreement and has failed to remedy / cure the breach as provided for under clause 14.1.2 above, all monies (including all Charges) under these Terms, whether or not due for payment, will immediately become due and payable to WeBill.

15. CONSEQUENCES OF TERMINATION

- 15.1. Without prejudice to accrued rights or obligations, upon termination of these Terms:
 - 15.1.1. all Services and Licenses shall terminate immediately;
 - 15.1.2. the Organisation's Account shall be terminated and deleted;
 - 15.1.3. all the Organisation's rights under these Terms shall immediately terminate;
 - 15.1.4. notwithstanding the provisions of Clause 8, all accrued Charges not yet invoiced shall become due and shall be paid by the Organisation immediately on receipt of an invoice; and
 - 15.1.5. each Party shall promptly return or make available to the other Party all copies of the other Party's Confidential Information in the form that it was received and, if requested, verify to the other Party that it has done so.
- 15.2. Notwithstanding the provisions of clause 15.1.5 above, and provided that the Organisation has made payment of all outstanding Charges to WeBill in full, WeBill shall, make available to the Organisation all the Organisation's Data in its possession and/or under its control, in such format and by such means as determined by WeBill for a period no less than what's prescribed in terms of legislation. For the avoidance of doubt, if the Organisation fails to make payment as foresaid, WeBill shall be entitled to, and the Organisation hereby consents that WeBill may, retain all such Organisation Data until such time as payment has been made in full. After receipt of payment as foresaid, WeBill shall grant the Organisation access to such the Organisation's Data for a 30 (thirty) day period in such format and by such means as determined by WeBill.
- 15.3. After expiry of the period referred to in Clause 15.2, WeBill shall, and the Organisation hereby consents that WeBill may, destroy and/or delete all such Organisation Data, or, if applicable, de-identify any personal information therein contained in a manner that prevents its reconstruction in an intelligible form, unless and to the extent that WeBill is otherwise required to retain same in connection with these Terms, or the Organisation has consented to the retention of such Organisation Data by WeBill. The Organisation hereby expressly consents to WeBill retaining copies of Organisation Data for a period of up to 5 (five) years.
- 15.4. Notwithstanding termination of these Terms, any clause which, from the context, contemplates ongoing rights and obligations of the Parties, shall survive such termination and continue to be of full force and effect.

16. DISPUTE RESOLUTION

- 16.1. In the event of a dispute concerning these Terms, each Party shall promptly bring the dispute to the attention of a director or similar person in a management position of such Party, and such Parties shall use their best endeavours to resolve such a dispute.

16.2. If the Organisation, acting in good faith, wishes to dispute any invoice or part of an invoice falling due in accordance with Clause 8, the Organisation shall, before the invoice is payable, deliver a notice in writing to WeBill setting out the nature of its dispute, including: (i) date and number of disputed invoice; (ii) amount in dispute; (iii) reason for dispute; and (iv) supporting documentation, in as far as such documentation is available. Notwithstanding the foregoing, the Organisation shall not be entitled to withhold any undisputed part of a disputed invoice, the intention being that the full amount of the invoice shall be paid by the Licensee in accordance with Clause 8.

16.3. The Parties shall use all reasonable endeavours to resolve such payment disputes as soon as is reasonably practicable.

17. NOTICES

17.1. Except as otherwise expressly provided for herein, any notice required or authorised to be given under these Terms shall be in writing and delivered to the following addresses:

17.1.1. **WeBill:** such addresses and/or numbers provided by WeBill for such purpose in the Service Order, or as otherwise notified by WeBill from time to time;

17.1.2. **Organisation:**

17.1.2.1. if these Terms has been entered into in accordance with Clause 2.1.1, at such address and/or number indicated by Licensee on the relevant Service Order; or

17.1.2.2. if these Terms has been entered into in accordance with Clause 2.1.4, at such address and/or number provided by the Organisation upon registration for, purchase of and/or request for Services, whichever as the case may be.

17.2. Each Party may by giving written notice to the other Party, change the addresses and numbers set out above to any other address and number, provided that the change shall only take effect fourteen (14) calendar days after delivery of the written notice.

17.3. All notices provided in terms of this Clause 17 shall be delivered to the addresses listed above by prepaid registered post, by facsimile transmission, by hand and/or by e-mail. Notices shall be deemed to have been served, in respect of:

17.3.1. prepaid registered post, fourteen (14) days after such posting;

17.3.2. delivery by hand, on the date of delivery to a responsible person during business hours; and

17.3.3. e-mail, on the first (1st) Business Day following the date of successful delivery to the recipient.

provided that, if a notice or communication is actually received by a Party, adequate notice or communication shall have been given.

17.4. Notwithstanding the aforementioned, technical and service related notices relating to the Services and Licenses shall be sufficient if transmitted to the Licensee's designated point of contact by e-mail and shall be deemed to have been served on the transmission date of such e-mail, if such email does not return.

18. GOVERNING LAW AND JURISDICTION

These Terms shall be governed and construed in accordance with the laws of the Republic of South Africa, and WeBill and the Licensee irrevocably agree to the jurisdiction of the South African courts, except that WeBill may, at its option, institute any claim it may have in the country where the Organisation is located or where the Services and Licenses are being provided and/or received. The Organisation and WeBill agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply to these Terms.

19. CONSUMER PROTECTION ACT

19.1. In terms of the provisions of the Consumer Protection Act No. 68 of 2008 ("CPA"), a transaction as contemplated by these Terms may be subject to the CPA in the event that the Organisation's asset value or annual turnover, as defined in the CPA and determined by the Minister of Trade and Industry by publication in the Government Gazette from time to time, falls below a certain threshold.

19.2. In order to ascertain whether the Organisation, and the specific transaction referred to above, is subject to the CPA, the Organisation may be required to provide WeBill with certain information regarding its asset value and/or annual turnover. The Organisation hereby warrants that any statement made to WeBill in this regard shall be true and accurate, and shall provide WeBill, upon request, with financial statements as proof thereof.

19.3. **In the event that the Organisation, for any reason whatsoever, misrepresents the abovementioned information to WeBill in a manner that results in WeBill erroneously regarding said transaction as being subject to the CPA, then all provisions of these Terms that do not apply to transactions subject to the CPA shall retroactively apply to the transaction in question, and the Organisation shall be liable for any damage sustained by WeBill as a result of such misrepresentation.**

19.4. **To the extent that the provisions of the CPA are applicable to these Terms, in the event that the Organisation alleges that there is a defect in the quality of the Services or Licenses, WeBill's exclusive obligation, and the Organisation's only remedy against WeBill, is to remedy the defect in the quality of the Services performed.**

20. ASSIGNMENT

Subject to Clause 3.3, neither Party may assign, charge, transfer or otherwise dispose of these Terms, any Service Order, or any rights or obligations therein in whole or in part, without the written consent of the other Party (which consent shall not be unreasonably withheld or unduly delayed), except that WeBill may, without requiring the Organisation's consent, assign any and all of its rights and obligations hereunder: (i) to any WeBill Affiliate; (ii) to a third party pursuant to any sale or transfer of substantially all the assets or business of WeBill or a WeBill Affiliate; or (iii) to a third party pursuant to any financing, merger, or reorganisation of WeBill or a WeBill Affiliate.

21. ENTIRE AGREEMENT

These Terms (read with all applicable Service Orders) sets out the entire and exclusive agreement between WeBill and the Organisation superseding all prior or contemporaneous representations, agreements or understandings concerning the subject-matter addressed herein. No oral or written explanation or representation or oral or written information provided (whether given by authorised employees or agents of WeBill) shall alter the interpretation of these Terms. The Organisation confirms that, in entering into these Terms and/or a Service Order, it has not relied on any representation except as set out herein and the Organisation agrees that it shall have no remedy in respect of any misrepresentation which has not become a term of these Terms, excluding any fraudulent misrepresentation.

22. GENERAL

- 22.1. If any provision of these Terms, including any limitation, is held by a court or any governmental agency or authority to be invalid, void or unenforceable, the remainder of these Terms shall nevertheless remain legal, valid, and enforceable, provided the severance does not alter the nature of these Terms between the Parties.
- 22.2. Failure or delay by either Party to exercise or enforce any right or benefit conferred by these Terms, including WeBill's right to deliver invoices in accordance with Clause 8, shall not be deemed to be a waiver of any such right or benefit nor operate so as to bar the exercise or enforcement thereof or of any other right or benefit on any later occasion.
- 22.3. Nothing in these Terms and no action taken by the Parties pursuant to these Terms shall constitute or be deemed to constitute between the Parties a partnership, agency, association, joint venture or other co-operative entity. The Parties shall at all times owe each other a duty of good faith and shall, in all dealings with each other and in respect of the Services and Licenses act according to such standard.
- 22.4. Except as otherwise contemplated by these Terms or the Documentation, nothing herein will create or confer any rights or other benefits in favour of any person other than the Parties.
- 22.5. WeBill reserves the right to change these Terms at any time, in which event WeBill will notify the Organisation by prominently posting a notice of such changes on the applicable websites, or by sending the Organisation an e-mail to its email-address on record informing of such change.
- 22.6. In the event that the Organisation registers an Account for and on behalf of any of its affiliates ("Registered Affiliate"), then, by completing such registration, the Organisation expressly represents and warrants that it is authorised to register an Account for such affiliate and accept these Terms on such affiliate's behalf, and that such affiliate agrees to comply with and be bound these Terms. The Organisation shall remain liable for and hereby indemnifies WeBill and holds it harmless in respect of any and all losses, damages, costs or expenses resulting from or relating to (i) a breach of these Terms by any Registered Affiliate, and (ii) any denial of liability on the part of any Registered Affiliate. The Organisation is and remains solely responsible for ensuring the Registered Affiliate's compliance with these Terms, notwithstanding that such Registered Affiliate may be invoiced directly pursuant to these Terms.