

## SERVICE LEVEL UNDERTAKINGS AND STANDARD TRADING TERMS

The following are the service level undertakings which GATEWAY TECHNOLOGY (a division of Gateway Professional Services (Pty) Ltd, Registration Number 2017/358650/07) ("GATEWAY") provides in connection with ICT Services rendered to or on behalf of Clients; as well as the standard trading terms and conditions under which GATEWAY renders ICT Services and/or licenses Gateway Systems to or on behalf of Clients.

By accepting a Quotation issued by GATEWAY, or by accessing or using any Gateway System for Commercial Purposes (or by facilitating such access or use by any third party), a person will be regarded as a Client for the purposes hereof and will be regarded as having bound themselves as subject to, and having agreed to, the terms and conditions set out in this document. If a person does not wish to be bound by the terms and conditions set out in this document, then, notwithstanding anything else contained in this document, they may not access or use Gateway Systems for Commercial Purposes (or facilitate such access or use by any third party), and GATEWAY will not be bound by any service level undertaking set out herein or have any obligation or liability arising in any way in connection with the provision (or non-provision) of ICT Services to or on behalf of that person.

### 1. INTERPRETATION

In this document, unless the context indicates otherwise:

- 1.1. "Acceptable Use Policy" or "AUP" means the policy and terms of use governing the use of Gateway Systems by any person (including end users), as amended or updated from time to time, and which is published online and available at <https://gatewaytech.online/aup.html>;
- 1.2. "Access Fees" means fees payable by the Client in accordance with clause 6, in return for the rights to be derived under the Licence, for Gateway System Access, and for Tech Support Services;
- 1.3. "Business Day" means any day other than a Saturday, Sunday or statutory public holiday in South Africa, on which commercial banks are generally open for business in South Africa;
- 1.4. "Client" means any person who has accepted a Quotation, and/or any person who accesses or uses any Gateway System for Commercial Purposes (or who facilitates such access or use by any third party);

- 1.5. "Client Content" means bespoke content or material, in any media format, which is created, developed or materially customised (whether by GATEWAY or otherwise) by or at the instance of the Client and/or its Staff, for the purposes of dissemination, delivery or consumption by the Client's Patrons or prospective Patrons;
- 1.6. "Commencement Date" means the earlier of –
  - 1.6.1. the date and time at which a prospective Client indicates their acceptance of any relevant Quotation; or
  - 1.6.2. the date and time at which a person who is not already regarded as a Client in terms hereof, accesses or uses any Gateway System for Commercial Purposes (or facilitates such access or use by any third party);
- 1.7. "Commercial Purposes" means, within the context of use of any Gateway System, the use of or access to software or systems for the purposes of advancing the interests of an organisation, undertaking, business or enterprise (whether or not for profit), and/or alternatively with a view to directly or indirectly generating any form of revenue, income, fee or charge in connection with such use of or access to such software or systems; provided that by way of example and for the sake of clarity –
  - 1.7.1. a training provider's enrolled learners (who would be regarded as Patrons within the context of this document) would not generally be regarded as using or accessing Gateway Systems for Commercial Purposes, provided they are doing so in their personal capacity; however
  - 1.7.2. that training provider would be regarded as using Gateway Systems for Commercial Purposes, and would be regarded as a Client within the context of this document.
- 1.8. "Design and Development Services" means professional services in any of the following spheres or disciplines, provided or rendered by GATEWAY to or on behalf of Clients, on specific instruction –
  - 1.8.1. creation, digitisation, conversion, customisation or amendment of Client Content;
  - 1.8.2. digital design services;
  - 1.8.3. white labelling, customisation and/or configuration of any Gateway System;
  - 1.8.4. bespoke software development and coding, including but not limited to the development

- of custom additions or alterations to a Gateway System;
- 1.8.5. sourcing, configuration and implementation of software or systems other than a Gateway System; and/or
- 1.8.6. anything ancillary or analogous to any of the services envisioned in paragraphs 1.8.1 to 1.8.5 above;
- 1.9. "Gateway System" means a software application, module and/or solution developed, adapted, customised and/or implemented by GATEWAY, as well as any new version or upgrade thereof which is implemented by GATEWAY from time to time, and which is usually (although not necessarily) made available in 'software-as-a-service' format through a cloud-platform interface; and "Gateway Systems" means collectively any or all of such, or any component of such, as the context may indicate;
- 1.10. "Gateway System Access" means the making available of specified Gateway Systems for use and access, as envisioned and in accordance with clause 6;
- 1.11. "ICT Services" means the information and communication technology related services rendered by GATEWAY to or on behalf of Clients from time to time, including –
- 1.11.1. Design and Development Services;
- 1.11.2. Gateway System Access;
- 1.11.3. Tech Support Services;
- 1.11.4. Training Services; and/or
- 1.11.5. System Hosting Services;
- 1.12. "Intellectual Property" means any and all trade secrets, inventions, know-how, copyrights, trademarks, brands, styles and/or other intellectual property which are used in connection with a Party's business, and to or in which that Party has present and/or future proprietary rights;
- 1.13. "Invoice" means an invoice raised by GATEWAY, in electronic form or otherwise, in respect of any ICT Services;
- 1.14. "Licence" means a limited, non-transferable and non-exclusive right granted by GATEWAY to the Client to use particular Gateway Systems for its (the Client's) own Commercial Purposes, on the basis as set out in clause 4 and subject to the terms of this document;
- 1.15. "Office Hours" means during the hours of 08h00 to 17h00 on a Business Day;
- 1.16. "Out of Scope Support Services" means technical or other support services envisioned or required or requested in circumstances or in connection with or involving any of the following matters –
- 1.16.1. maintenance of or failure of any of the Client's hardware, networks or telecommunications infrastructure;
- 1.16.2. maintenance of or failure of or licensing of or access to, any third-party software, operating systems or other systems maintained, implemented or used by the Client;
- 1.16.3. technical or other support requests directly raised by Client's Patrons, of any nature; and / or
- 1.16.4. moderation, assurance, updating, amendment or curation in respect of any Client Content which is or is anticipated to be stored or disseminated on or by means of the Gateway Systems, except to the extent expressly provided for in an accepted Quotation in connection with Design and Development Services to be rendered by GATEWAY;
- 1.17. "Parties" means the Client and GATEWAY, and "Party" shall mean either one of them as the context may indicate;
- 1.18. "Patron Content" means bespoke content or material, in any media format, which is generated, prepared or produced by or ostensibly by or at the instance of Patrons, in connection with their patronage of the Client's goods and/or services, and which is uploaded and/or stored on or within the Gateway Systems;
- 1.19. "Patrons" means those persons to whom the Client provides services and/or goods in the ordinary course of its business, such as (for example, but not limited to) students, learners, pupils, shoppers, clients or customers of the Client;
- 1.20. "person" includes natural persons, juristic persons, trusts, association of persons, funds (including pensions and provident funds), partnerships or (without limitation *eiusdem generis*) any other entity;
- 1.21. "Prime Rate" means the prime bank overdraft rate as charged by Standard Bank of South Africa Limited to its corporate customers in respect of overdraft facilities, calculated and compounded monthly in arrears, as certified by any manager of such bank whose appointment and authority shall not be necessary to prove.
- 1.22. "Proprietary Software or GATEWAY Content" means collectively –
- 1.22.1. the Gateway Systems;
- 1.22.2. any source code or software programmes developed and/or deployed

- and/or used by GATEWAY for the purposes of or in connection with the operation of, or the provision of access to, the Gateway Systems (specifically including any 'middleware' developed by GATEWAY for the purposes of extraction of relevant data housed in the Client's existing information management systems);
- 1.22.3. any bespoke content or material, in any media format, which is created, developed or materially customised by or at the instance of GATEWAY for use or dissemination on or within the Gateway Systems (excluding any Client Content and any Patron Content); and/or
- 1.22.4. any part, component or element of any of the foregoing;
- 1.23. "Quotation" means a written quotation issued by GATEWAY in relation to the prospective provision of one or more ICT Services, and which is usually issued, delivered, and made available for acceptance, in electronic format;
- 1.24. "Staff" means persons who –
- 1.25. are directly employed by the Client; or
- 1.26. who contract regularly in their personal capacity with the Client to provide personal services directly to Patrons on behalf of the Client;
- 1.27. "System Hosting Services" means collectively –
- 1.27.1. the online hosting of cloud-based software applications, modules, websites and/or related data on behalf of Clients (whether in respect of Gateway Systems or otherwise), and/or the procurement of and oversight over appropriate enterprise-grade hosting services from reputable downstream internet service providers for such purposes; and/or
- 1.27.2. anything ancillary or analogous thereto;
- 1.28. "Tech Support Services" means technical support services provided in connection with the use and operation of Gateway Systems by authorised users, in circumstances or in connection with or involving any of the following matters –
- 1.28.1. service interruptions and / or lack of availability of Gateway Systems and / or inability of users to access Gateway Systems, other than pursuant to the provision by users of invalid credentials (such as in the case of forgotten passwords);
- 1.28.2. malfunctioning of a feature or component of a Gateway System;
- 1.28.3. the apparent corruption of data or information uploaded into a Gateway Systems, post capturing; and /or
- 1.28.4. any matter similar or analogous to any envisioned in clauses 1.28.1 to 1.28.3 above;
- and which services are rendered on the basis provided for and as envisioned in clause 9 below, but which services exclude Out of Scope Support Services (except in the circumstances envisioned in clause 9.2 below); and provided further that the provision of instruction, education, training, consulting or tutoring with respect to the use of or administration of a Gateway System (including where such relates to general trouble shooting or the onward provision by a Client of user support for its Staff or Patrons) will not constitute Tech Support Services, although such may well constitute Training Services and be provided separately as such;
- 1.29. "Training Services" means training and / or consulting services provided to or on behalf of Clients, usually (although not necessarily) in connection with the use and operation of Gateway Systems, as envisaged and on the basis as set out in clause 8 below;
- 1.30. "VAT" means value-added tax at the applicable rate in terms of the Value Added Tax Act, 89 of 1991;
- 1.31. "Warranties" means warranties and representations as envisioned in clause 13, and the term "Warranty" shall have a corresponding meaning;
- 1.32. "ZAR" means South African Rands, the lawful currency of South Africa.
- 1.33. Words importing the singular shall include the plural and vice versa, words importing any gender shall include the other gender/s and words importing persons shall include partnerships and bodies corporate.
- 1.34. The head notes to the paragraphs in this document are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate.
- 1.35. This document shall be binding on and enforceable by the permitted assigns or trustees of the Parties as fully and effectually as if they had signed this document in the first instance and reference to any Party shall be deemed to include such Party's permitted assigns or trustees, as the case may be.
- 1.36. If any provision in this clause 1 is a substantive provision conferring rights or imposing

- obligations on any Party, then notwithstanding that such provision is contained in such clause, effect shall be given thereto as if such provision were a substantive provision in the body of this document.
- 1.37. Where any term is defined within the context of any particular clause in this document, the term so defined shall, unless it appears clearly from the clause in question that such term has limited application to the relevant clause, bear the meaning ascribed to it for all purposes in terms of this document, notwithstanding that such term has not been defined in this clause 1.
  - 1.38. When any number of days is prescribed in this document, they shall be reckoned inclusive of the first and exclusive of the last day.
  - 1.39. Should the day for payment of any amount due in terms of this document fall on a day which is not a Business Day, the relevant day for payment shall be the succeeding Business Day, provided that should the succeeding Business Day fall within the next month, the relevant date for payment shall be the preceding Business Day.
  - 1.40. Save as provided in clause 1.39 above, should the day for the performance of any obligation in terms of this document fall on a day which is not a Business Day, then such obligation shall be performed on the immediately following Business Day.
  - 1.41. Expressions defined in this document shall bear the same meanings in any schedule which does not contain its own definition of the same expressions.
  - 1.42. Any reference to this document or any other agreement or document shall be construed as a reference to this document or such other agreement or document (as the case may be) as each may have been or may, from time to time, be amended, varied, novated or supplemented.
  - 1.43. Any reference in this document to legislation or subordinate legislation is to such legislation or subordinate legislation at the Commencement Date hereof and as amended and/or re-enacted from time to time.
  - 1.44. The rule of interpretation that a contract shall be interpreted against the Party responsible for the drafting or preparation of the contract, shall not apply.
  - 1.45. In this document references to the term "include" and "including" shall be interpreted as meaning "include without limitation" and "including without limitation".
2. COMMENCEMENT AND DURATION  
The provisions of this document shall become applicable and binding upon the Parties from the Commencement Date, and shall endure (and this document shall continue to be binding) indefinitely in relation to all and any ICT Services rendered or to be rendered by GATEWAY.
  3. APPOINTMENT  
Subject to the terms and conditions set out in this document, the Client hereby appoints GATEWAY, with effect from the Commencement Date, to render ICT Services on the basis set out in each Quotation they (the Client) have accepted and/or which they accept in future from time to time.
  4. GRANT OF LICENCE
    - 4.1. GATEWAY hereby grants the Client the Licence –
      - 4.1.1. to use (and to facilitate use by Staff and Patrons of) those instances of Gateway Systems which GATEWAY has made or makes available to the Client pursuant to a relevant accepted Quotation,
      - 4.1.2. for its (the Client's) own Commercial Purposes,
      - 4.1.3. subject to the remaining provisions of this clause 4, as well as the terms and conditions set out elsewhere in this document.
    - 4.2. The Licence is non-transferable, and non-exclusive.
    - 4.3. For the sake of clarity, the Licence does not entitle the Client, nor its Staff, nor its Patrons to use any instance or component of the Gateway Systems for any purpose or in any way which is in breach of any of the Warranties, or which could reasonably be expected to cause or result in GATEWAY breaching any of the Warranties, or in circumstances where relevant access to a Gateway System has been suspended or limited as envisioned in clause 16 below.
  5. DESIGN AND DEVELOPMENT SERVICES
    - 5.1. Design and Development Services will be rendered and delivered on the basis set out in the relevant accepted Quotation, subject to the provisions of this clause 5 as well as the terms and conditions set out elsewhere in this document.
    - 5.2. Where a relevant Quotation provides for a 'deposit' or initial fee portion payable in advance (an "Initial Deposit"), GATEWAY will not be obligated to commence with delivery of Design

and Development Services until that Initial Deposit has been received.

- 5.3. Subject to clauses 5.1 and 5.5 below, as well as the terms and conditions set out elsewhere in this document, GATEWAY undertakes to initiate and endeavour to render the relevant Design and Development Services substantially in accordance with any the timelines and provisions set out in the relevant Quotation.
  - 5.4. Fees payable by a Client in respect of Design and Development Services will be payable in accordance with the provisions of the relevant Quotation and against presentation of each relevant Invoice, provided that where a relevant Quotation is silent as to the timing of payment of fees for Design and Development Services, then fees per that Quotation will be payable when the rendering of the Design and Development Services described in that Quotation is substantially complete (in GATEWAY's reasonable discretion).
  - 5.5. Where a relevant Quotation provides for 'milestone' or 'tranche' payments for Design and Development Services, GATEWAY will not be obligated to continue with delivery of those Design and Development Services while any one or more of such 'milestone' or 'tranche' payments are in arrears.
6. GATEWAY SYSTEM ACCESS AND ACCESS FEES
- 6.1. GATEWAY will provide Gateway System Access to the Client (and indirectly to the Client's Staff and Patrons) in accordance with relevant accepted Quotations from time to time, subject to the provisions of this clause 6 as well as the terms and conditions set out elsewhere in this document.
  - 6.2. Subject to clause 6.5 below, as one indivisible recurring charge for –
    - 6.2.1. the rights derived by the Client under the Licence,
    - 6.2.2. their Gateway System Access, and
    - 6.2.3. Tech Support Services,
 the Client shall pay GATEWAY monthly Access Fees as specified in relevant accepted Quotations from time to time.
  - 6.3. Unless otherwise specified in relevant accepted Quotations, Access Fees will be payable monthly in advance on the first day of each calendar month, along with VAT thereon, against presentation of an Invoice by GATEWAY; provided that where Gateway System Access in respect of a particular Gateway System is set to commence other than on the first day of a calendar month, the first payment of Access Fees in connection with that Gateway System may be pro-rated for a corresponding portion of that first month.
  - 6.4. It is anticipated that presentation of an Invoice will usually take place electronically.
  - 6.5. Access Fees are non-refundable, and the Client remains liable for payment thereof irrespective of whether or not or to what extent the Client, their Staff or their Patrons have used or accessed relevant Gateway Systems during any particular period, and irrespective of whether or not any particular Client Content intended for use or deployment on the relevant Gateway Systems has been developed or finalised or deployed. It should be borne in mind that the Client is at liberty to decline or delay acceptance of any Quotation relating to Gateway System Access and / or to initiate termination of their subscription for Gateway System Access at any time in accordance with clause 15 below, and also that GATEWAY incurs direct costs in order to provide Gateway System Access irrespective of whether or not a Client uses of those systems.
  - 6.6. In February of each year, GATEWAY will advise the Client as to a prospective price increase with regards to the Access Fees. Unless the Client advises GATEWAY in writing before the end of that February that they (the Client) wish to relinquish and discontinue their Gateway System Access in light of the proposed price increase, the Client will be deemed to have assented to the proposed price increase and GATEWAY may levy relevant increased Access Fees with effect from the following month onwards.
7. SYSTEM HOSTING SERVICES
- 7.1. Unless separately specified and priced for in a relevant Quotation, System Hosting Services in connection with Gateway Systems will be provided as an integral and indivisible component of the Gateway System Access service to be provided in terms of that Quotation, subject to the provisions of clauses 7.4 and 7.5 below, as well as the terms and conditions set out elsewhere in this document.
  - 7.2. Where System Hosting Services are separately specified and priced for in a relevant accepted Quotation, they will be provided in accordance with that relevant Quotation, subject to the remaining provisions of this clause 7 as well as

the terms and conditions set out elsewhere in this document.

- 7.3. In circumstances envisioned in clause 7.2 above, fees payable by a Client in respect of System Hosting Services will be payable in accordance with the provisions of the relevant Quotation and against presentation of each relevant Invoice, provided that where a relevant Quotation is silent as to the timing of payment of fees for System Hosting Services, then fees per that Quotation will be payable monthly in advance.
- 7.4. Where physical hosting infrastructure and/or sub-contracted hosting services are procured by GATEWAY from downstream internet service providers for the purposes of providing System Hosting Services, such will be procured at GATEWAY's sole and absolute discretion, and it will not be incumbent on GATEWAY to disclose the commercial terms of any such arrangements.
- 7.5. Notwithstanding clause 7.4 above, GATEWAY will make the following information in relation to System Hosting Services provided to a Client available to that Client upon request –
  - 7.5.1. the corporate identity and domicile of relevant downstream internet service providers;
  - 7.5.2. the geographical location of relevant data centres and physical server infrastructure employed on the provision of System Hosting Services; and/or
  - 7.5.3. any other information GATEWAY is required to disclose in accordance with applicable laws, regulations or other governmental or judicial requests.

## 8. TRAINING SERVICES

- 8.1. Training Services will be rendered and delivered on the basis set out in the relevant accepted Quotation, subject to the provisions of this clause 8 as well as the terms and conditions set out elsewhere in this document.
- 8.2. Where a relevant Quotation provides for a 'deposit' or initial fee portion payable in advance (an "Initial Deposit"), GATEWAY will not be obligated to commence with delivery of Training Services until that Initial Deposit has been received.
- 8.3. Subject to clauses 8.4 and 8.5 below, as well as the terms and conditions set out elsewhere in this document, GATEWAY undertakes to initiate and endeavour to render the relevant Training Services substantially in accordance with any the

timelines and provisions set out in the relevant Quotation; provided that –

- 8.3.1. where a training or consultation session (irrespective of whether such is expected to take place virtually or in-person)(a "Training Session") is cancelled or postponed by the Client less than one week (or such longer notice period as may be specified in the relevant Quotation) before its scheduled date, GATEWAY reserves the right to levy a cancellation fee equal to 50% (fifty percent) of the original fee for that Training Session per the relevant Quotation;
- 8.3.2. where a Training Session is cancelled or postponed by the Client less than two business days before its scheduled date, or where the Client fails (or relevant Staff or Patrons fail) to arrive for or attend a Training Session, GATEWAY reserves the right to levy a 'no-show' fee equal to 100% (one hundred percent) of the original fee for that Training Session per the relevant Quotation;
- 8.3.3. should GATEWAY be unable to host or deliver a particular Training Session for a cause beyond their (GATEWAY's) reasonable control, and beyond the reasonable control of the Client (or the Client's Staff or Patrons as the case may be), then the Parties will use their reasonable endeavours to reschedule that Training Session at a mutually convenient future time and date;
- 8.4. Fees payable by a Client in respect of Training Services will be payable in accordance with the provisions of the relevant Quotation and against presentation of each relevant Invoice, provided that where a relevant Quotation is silent as to the timing of payment of fees for those Training Services, then fees per that Quotation will be payable by the Business Day preceding the first anticipated Training Session in connection with those Training Services.
- 8.5. Where a relevant Quotation provides for 'milestone' or 'tranche' payments for Training Services, GATEWAY will not be obligated to continue with delivery of those Training Services while any one or more of such 'milestone' or 'tranche' payments are in arrears.

## 9. TECH SUPPORT SERVICES

- 9.1. GATEWAY will render Tech Support Services to the Client in connection with those Gateway

- Systems in respect of which Gateway System Access is provided to the Client from time to time, subject to the provisions of this clause 9 as well as the terms and conditions set out elsewhere in this document.
- 9.2. Unless separately specified and priced for in a relevant Quotation, no Out of Scope Support Services will be provided by GATEWAY, and GATEWAY will not be responsible for or liable in connection with any matters, systems or components envisioned in clause 1.16 above.
  - 9.3. Unless separately specified and priced for in a relevant Quotation, Tech Support Services will be provided as an integral and indivisible component of the Gateway System Access service to be provided in terms of that Quotation.
  - 9.4. Where Tech Support Services have been separately specified and priced for in a relevant Quotation, fees payable by the Client in respect of Tech Support Services will be payable in accordance with the provisions of the relevant Quotation and against presentation of each relevant Invoice, provided that where a relevant Quotation is silent as to the timing of payment of fees for Tech Support Services, then fees per that Quotation will be payable monthly in advance.
  - 9.5. In general, GATEWAY shall respond promptly to all requests by the Client for technical support, and shall endeavour in good faith to procure the resolution of any reported matters or concerns, as quickly as practically possible.
  - 9.6. Provided the appropriate service request procedure has been followed as set out in clause 9.9 below, GATEWAY hereby undertakes to respond to a Tech Support Services request from the Client, and to initiate action towards resolution of the particular underlying matter or concern raised, within the specified timeframe ("Guaranteed Response Time") as set out in clause 9.8 below.
  - 9.7. The Guaranteed Response Time applicable in respect of a particular matter or concern will depend on the categorisation of that matter or concern as to its level of priority, as follows –
    - 9.7.1. A matter, or concern requiring Tech Support Services, will be classified as having –
      - 9.7.1.1. Critical Priority, should it ever involve the general unavailability of the Gateway Systems online;
      - 9.7.1.2. Urgent Priority, should it ever involve –
        - 9.7.1.2.1. the malfunctioning of a material feature or component of the Gateway Systems; or
        - 9.7.1.2.2. the apparent corruption of data or information uploaded into the Gateway Systems, post capturing; or
    - 9.7.2. High Priority, should it involve or pertain to anything else.
  - 9.8. Guaranteed Response Times
    - 9.8.1. GATEWAY shall respond to, and initiate action towards resolution of, a Tech Support Services request received from the Client in respect of a matter having –
      - 9.8.1.1. Critical Priority, within –
        - 9.8.1.1.1. 1(one) hour, if reported during Office Hours; and
        - 9.8.1.1.2. 4(four) hours otherwise.
      - 9.8.1.2. Urgent Priority, within –
        - 9.8.1.2.1. 4(four) hours, if reported during Office Hours; and
        - 9.8.1.2.2. 12(twelve) hours otherwise.
      - 9.8.1.3. High Priority, within –
        - 9.8.1.3.1. 1(one) Business Day, if reported during Office Hours; and;
        - 9.8.1.3.2. 2(two) Business Days otherwise.
    - 9.9. Service Request Procedure
      - 9.9.1. Matters which the Client considers to be of Critical Priority or Urgent Priority, are to be logged by the Client with GATEWAY via the support portal on GATEWAY's website (assuming this is available), as well as by telephone on the support telephone number furnished on GATEWAY's website.
      - 9.9.2. Any other matters or concerns may be logged either telephonically or by email or via the support portal on GATEWAY's website, at the Client's discretion.
      - 9.9.3. Requests for Tech Support Services transmitted by the Client to GATEWAY must contain at a minimum –
        - 9.9.3.1. the assessed priority level and nature of the incident;
        - 9.9.3.2. sufficient details as to the nature and circumstances of the concern or issue being reported, in order for GATEWAY to reasonably be in a position to assess and initiate action towards resolution of the issue or concern; and

9.9.3.3. the contact details of the representative logging the relevant request on behalf of the Client.

#### 9.10. Escalation Procedure

9.10.1. If a satisfactory response is not received from GATEWAY within the relevant Guaranteed Response Time, the Client may notify GATEWAY's service desk and/or any GATEWAY representative to report the position, and request that the matter be escalated.

9.10.2. In the event that a response is not received within a further two hours thereafter, the Client may forthwith notify and engage any director or senior officer of GATEWAY with a view to escalating the matter and expediting its resolution.

### 10. INDEMNITIES

10.1. Save in circumstances arising as a consequence of the gross negligence or wilful delict of GATEWAY, the Client hereby irrevocably indemnifies and holds GATEWAY harmless, against all and any claims, loss, demands, damages, liability, costs and/or expenses of whatsoever nature, including legal costs as between attorney and client, the Client may suffer or sustain as a result of, or which may be attributable to –

10.1.1. the use by the Client, or its Staff or its Patrons, of Gateway Systems; and

10.1.2. any claim against GATEWAY from any third-party arising out of disputes or litigation in respect of, or concerning the use of the Gateway Systems by the Client, its Staff or its Patrons.

10.2. Save in circumstances arising as a consequence of the gross negligence or wilful delict of GATEWAY, and while every effort is to be made in good faith to provide uninterrupted availability and integrity of the Gateway Systems, neither GATEWAY, its officers nor its employees, shall be liable for any loss or damage which the Client may at any time sustain or incur by reason of, or as a result of, the temporary unavailability of the Gateway Systems and/or the loss or unauthorised dissemination of the Client's Intellectual Property, Client Content or the Patron Content, due to –

10.2.1. unauthorised use of or access to the Gateway Systems by any person to whom the Client has previously provided access,

or by any person who gains access to the Gateway Systems pursuant to having gained access to the Client's own data or systems, irrespective of whether such use or access was authorised by Client;

10.2.2. service interruptions at remotely hosted servers downstream;

10.2.3. circumstances beyond GATEWAY's reasonable control, including, without limitation, acts of any governmental body, war, insurrection, sabotage, embargo, fire, flood, unavailability of or interruption or delay in telecommunications or third-party services, failure of third-party software or inability to obtain raw materials, supplies, or power used in or equipment needed for provision of the Services by GATEWAY; or

10.2.4. scheduled maintenance, emergency maintenance or upgrades.

10.3. Due to the nature of the Gateway Systems, being a platform intended for delivery and housing of bespoke Client Content and Patron Content originated independently of GATEWAY, and which platform can be used or operated in any multitude of ways by the Client, its Staff and its Patrons, GATEWAY does not provide any assurance or warranty as to –

10.3.1. whether use of the Gateway System by the Client's Staff or Patrons is or has been in accordance with the Acceptable Use Policy, and GATEWAY will have no obligation (although it shall have the right, in accordance with clause 14 below) to monitor any content or materials stored, distributed or accessed on or via the Gateway Systems;

10.3.2. the suitability or acceptability of the Gateway Systems itself within the context of any particular regulatory framework under which the Client operates (for example should the Client provide accredited training and be regulated by a particular Sector Education and Training Authority); or

10.3.3. the likelihood of acceptance or recognition of the delivery or consumption of content or material via the Gateway Systems, by any specific regulatory authority, for the purposes of accreditation of a qualification or otherwise.

### 11. METHOD OF PAYMENT



11.1. Unless otherwise specified in a relevant accepted Quotation, Access Fees and any other fees which are payable on a regular monthly basis, are to be paid via monthly debit order.

11.2. The Client undertakes to –

11.2.1. conclude and return the necessary third-party forms and consents in order for the relevant monthly debit order charge to be made on the Client's nominated bank account;

11.2.2. update such form(s) or authority as may be necessary from time to time (including but not limited to in circumstances where there has been a variation in relevant ICT Services to be rendered and/or a change in pricing of such services); and

11.2.3. to confirm or verify the validity of GATEWAY's relevant debit order mandate if called upon to do so by GATEWAY's bankers or third-party collection agents from time to time.

11.3. All other payments to be made by the Client to GATEWAY as envisioned in terms of this document shall be made by the Client –

11.3.1. to GATEWAY on the due date for such payment; and

11.3.2. in cash, in ZAR without any set-off, withholding or deduction of bank commission, by means of direct bank transfer of immediately available, freely transferable, cleared funds into the bank account as specified on the most recent relevant Invoice presented by GATEWAY.

11.4. Any amount due and owing by the Client to GATEWAY for more than 30(thirty) Business Days will bear interest reckoned at the Prime Rate plus 3(three) percent per annum, from due date until payment thereof has been received by GATEWAY in full.

## 12. INTELLECTUAL PROPERTY

12.1. Each Party will retain their rights to their own respective Intellectual Property at all times, and accordingly by extension –

12.1.1. GATEWAY will not acquire any ownership interest or similar right in or to the Client Content or the Patron Content, by virtue of such being stored in or delivered or transmitted via the Gateway Systems; and

12.1.2. neither the Client, nor its Staff nor its Patrons will acquire any ownership interest or similar right in or to the Proprietary Software or GATEWAY Content, or any right

of access to the Gateway Systems beyond that as provided for and envisioned in terms of this document.

## 13. WARRANTIES

13.1. The Parties give each other the representations and warranties ("Warranties") in this clause 13 as the context may indicate, on the basis that –

13.1.1. The transactions and arrangements envisioned in this document have been entered into relying on the Warranties, each of which is deemed to be both a material representation inducing them to enter into the transactions and arrangements envisioned in this document, and each of which is deemed to be an essential contractual undertaking;

13.1.2. each Warranty will, unless it is expressly stated to be given only at a particular date or time, be deemed to be given as at the Commencement Date and for the duration of any commercial arrangements or activities provided for or envisioned in this document;

13.1.3. insofar as any Warranty is promissory or relates to a future event, that Warranty will be deemed conclusively to have been given as at the due date for fulfilment of the promise or for the happening of the event, as the case may be;

13.1.4. each Warranty will be a separate and independent warranty and will not therefore be limited by any reference to, or inference from, the terms of any other Warranty or any other provision of this document; and

13.1.5. each Warranty will, to the extent that it is expressed in an inappropriate tense, be construed and read in the appropriate tense.

13.2. Each Party represents and warrants to and in favour of the other that it is duly authorised to enter into the transactions and arrangements envisioned in this document, and they are not aware of any fact or circumstance which would render any of the provisions of this document invalid or void.

13.3. Subject to clause 10 above and clause 14 below, GATEWAY represents and warrants to and in favour of the Client that it will not divulge or share the Client's Intellectual Property, the Client Content or the Patron Content with any third-party, save in accordance with clause 21 below.

- 13.4. The Client represents and warrants to and in favour of GATEWAY that –
- 13.4.1. it will maintain compliance at all times with any laws applicable with regards to privacy of personal data and data security, and will as far as reasonably possible ensure that Staff and Patrons do so as well; and that
  - 13.4.2. reasonable security precautions will be taken in respect of the dissemination of passwords and digital credentials to Staff and Patrons who may use the Gateway Systems, and that account access will be terminated timeously for those Staff who cease to be engaged by the Client, and timeously terminated or restricted appropriately for those Patrons who have terminated or concluded their patronage.
- 13.5. The Client represents and warrants to and in favour of GATEWAY that it will not –
- 13.5.1. copy, remove, modify, reverse engineer, decompile or disassemble Proprietary Software or GATEWAY Content;
  - 13.5.2. remove, modify or obscure any copyright, trademark or other proprietary rights notices that may appear in Proprietary Software or GATEWAY Content;
  - 13.5.3. divulge or share GATEWAY's Intellectual Property with any third-party, save in accordance with clause 21 below;
  - 13.5.4. offer access to or use of the Gateway Systems to any person (including but not limited to any member of Staff or Patron), directly or indirectly, and whether as part of a greater service offering or otherwise, where that person uses or intends to use the Gateway Systems substantially independently of the Client (save say for technical support, advisory or similar services to be provided to that person by the Client), and/or in the furtherance of that person's or another person's Commercial Purposes;
  - 13.5.5. use or deploy the Gateway Systems in any situation where a failure or fault of the Gateway Systems could lead to death or serious bodily injury of any person, or to physical or environmental damage. For example, the Gateway Systems may not be used or deployed in connection with critical functions related to the operation of aircraft or other modes of human mass transportation, or the operation of nuclear or chemical facilities;
- 13.5.6. cause or permit the Gateway Systems to be accessed or used by any person (including but not limited to any member of Staff or Patron) in any way which is in breach of the Acceptable Use Policy, or in any way which could reasonably be expected to result in the use of the Gateway Systems in breach of the Acceptable Use Policy; or
- 13.5.7. cause or procure that any debit order or stop order in place in respect of monthly fees payable to GATEWAY, is cancelled or withdrawn or suspended or is otherwise unpaid or dishonoured, for so long as any relevant ICT Services are being rendered and/or any amount remains outstanding and payable by the Client to GATEWAY.
- 13.6. Save for the Warranties specifically set out above in this clause 13, and save for any other undertakings or representations expressly reflected elsewhere in this document, the Parties provide no further warranties, representations or undertakings to each other with respect to the subject matter of this document.
14. ACCEPTABLE USE POLICY
- 14.1. Access to any of the Gateway Systems, by any person, shall at all times be subject to that person's acceptance of and agreement to observe and adhere to the AUP, as amended from time to time.
  - 14.2. A link to a document setting out the current AUP will be generally available on a Gateway System's primary interface, and users may from time to time be required to digitally confirm their acknowledgement and acceptance of their obligation to use the Gateway Systems in accordance with the AUP. However, the obligation of every person using a Gateway System to observe and adhere to the AUP, as provided for in clause 14.1 above, is not conditional upon them digitally confirming their acknowledgement and acceptance thereof, and such obligation shall remain in force whether or not they've given such confirmation or further acknowledgement.
  - 14.3. GATEWAY may (but is not obliged to) monitor or review the content of any material posted on any Gateway System (including without limitation Client Content and Patron Content), and / or of any communications disseminated on any

Gateway System, as necessary (in GATEWAY's discretion) to protect GATEWAY's network and its clients and any users, by assessing whether relevant usage of the Gateway Systems complies with the AUP, and / or in order to comply with applicable laws, regulations or other governmental or judicial requests.

- 14.4. GATEWAY may disclose information relating to use of the Gateway Systems in contravention (or alleged contravention) of the AUP or of any applicable laws, regulations or other governmental or judicial requests, to any relevant authority as may be appropriate in the circumstances.

## 15. NO-FAULT TERMINATION OF SUBSCRIPTION FOR CERTAIN ICT SERVICES

- 15.1. Subject to any provisions to the contrary in a relevant accepted Quotation (including for example where a minimum duration has been specified for the provision of ICT Services, or where a discount has been offered for payment up-front for future ICT Services to be provided), and subject to the further provisions of this clause 15, either Party may at any time initiate termination of the Client's periodic subscription for the following ICT Services envisioned in this document, on written notice ("No-Fault Termination Notice") to the other –

- 15.1.1. Gateway System Access in respect of a Gateway System;
- 15.1.2. Tech Support Services, to the extent such have been separately specified and priced for in a relevant Quotation; and/or
- 15.1.3. System Hosting Services, to the extent such have been separately specified and priced for in a relevant Quotation.

- 15.2. Should the Client issue a No-Fault Termination Notice in respect of any or all of the ICT Services referred to in clauses 15.1.1 to 15.1.3 above, the Client's relevant monthly subscription(s) (or other periodic subscription(s) as may be applicable) will terminate at the end of the calendar month (or other relevant period) in which such No-Fault Termination Notice is given.

- 15.3. Where the Client has issued a No-Fault Termination Notice in respect of Gateway System Access in respect of a Gateway System, then, unless otherwise agreed between GATEWAY and the Client, and with effect from the end of the calendar month (or other relevant period) in which such No-Fault Termination Notice is given –

- 15.3.1. The Licence granted to the Client in accordance with clause 4 above in respect of the relevant Gateway System instance, will expire and no longer be of any force of effect;

- 15.3.2. Gateway System Access to the relevant Gateway System will no longer be available to the Client, its Staff or its Patrons;

- 15.3.3. Tech Support Services in respect of that Gateway System will no longer be rendered by GATEWAY; and

- 15.3.4. GATEWAY shall have the right (but not the obligation) to simultaneously terminate the Client's subscription for Gateway System Access in respect of any other Gateway Systems which are dependent on or integrate with such Gateway System, on the same basis.

- 15.4. Should GATEWAY issue a No-Fault Termination Notice, the Client's relevant monthly subscription(s) (or other periodic subscription(s) as may be applicable) will terminate at the end of the second calendar month (or second other relevant period) following the calendar month (or other period as may be applicable) in which such No-Fault Termination Notice is given, whereafter the provisions of clauses 15.3.1 to 15.3.4 above will apply mutatis mutandis, but provided further that GATEWAY shall provide reasonable assistance to the Client enabling it to retrieve Client Content or Patron Content at any time up to termination of the Client's relevant subscription (subject always to clause 16 below).

- 15.5. For the sake of clarity, the provisions of this document will otherwise operate as normal after the issue of a No-Fault Termination Notice by either Party, and all existing obligations and rights of the Parties in terms of this document shall remain in force (including GATEWAY's obligation to provide the relevant ICT Services up until the date of termination the Client's relevant subscription(s), and including the Client's obligation to pay all relevant Access Fees accrued).

## 16. SUSPENSION OF ACCESS

- 16.1. Notwithstanding anything else provided for in this document, GATEWAY shall be entitled (but not obliged) to suspend or limit access to Gateway Systems by the Client, or any member of the Client's Staff, or any of the Client's Patrons, and on any basis that GATEWAY deems

appropriate (in their reasonable discretion), in any of the following circumstances –

- 16.1.1. The Client has failed or neglected to fully settle an Invoice raised by GATEWAY in respect of the monthly Access Fee, by the seventh day of the calendar month to which that monthly Access Fee pertains;
  - 16.1.2. GATEWAY reasonably believes that any Gateway Systems are being used in violation of the Acceptable Use Policy or in breach of this document, by the Client, its Staff or its Patrons;
  - 16.1.3. The Client does not cooperate with GATEWAY's reasonable investigation of any suspected use in violation of the Acceptable Use Policy or in breach of this document;
  - 16.1.4. There is an attack on the Gateway Systems or components of the Gateway Systems associated with the Client are accessed or manipulated by a third-party without the Client's Consent;
  - 16.1.5. GATEWAY is required by law to suspend the access to the Gateway Systems;
  - 16.1.6. The Client fails to honour the undertakings given in terms of clause 11.2 above; and/or
  - 16.1.7. The Client breaches one or more of the Warranties given in terms of clause 13 above.
- 16.2. In a circumstance envisioned in clause 16.1 above, GATEWAY shall provide the Client advance notice of a suspension or limitation under this clause 16 of at least 1(one) Business Day, unless GATEWAY determines (in its reasonable discretion) that a suspension or limitation on shorter or contemporaneous notice is necessary to protect GATEWAY or its other clients, or any other person, from imminent and material harm or loss.
- 16.3. Save in the circumstances envisioned in clause 16.1.4 (and provided GATEWAY is of the view that such circumstances were not occasioned as a consequence of the negligence or wilful delict of the Client, or any of its Staff or its Patrons), where access to Gateway Systems has been suspended or limited on any basis in terms of this clause 16, the Client will have no claim against GATEWAY pursuant to such suspension or limitation, and GATEWAY will not be liable to the Client for any loss or damage howsoever arising, pursuant thereto.

## 17. FORCE MAJEUR

17.1. Neither Party will be in violation of the provisions contained in this document if their failure to perform an obligation is directly attributable to an event beyond such Party's control, such as significant failure of a part of the power grid, significant failure of the internet, natural disaster, war, riot, insurrection, epidemic, strikes or other organized labour action, terrorism, or other events of a magnitude or type for which precautions are not generally taken in their industry.

## 18. PROMOTIONAL USE

18.1. The Client agrees that GATEWAY may publicly disclose that they are providing ICT Services to the Client. GATEWAY may also use Client's name and logo to identify the Client as a client of GATEWAY, in promotional materials, including press releases and on its website. GATEWAY undertakes not to use the Client's name or logo in any manner that suggests an endorsement or false affiliation, nor in any way which may reasonably be expected to cause harm or detract from the Client's good name and reputation.

## 19. SEVERABILITY

19.1. Each clause and provision of this document is severable, the one from the other, and if any clause or provision is found to be defective or unenforceable for any reason by any competent court, then the remaining clauses and provisions hereof shall be and continue to be of full force and effect.

## 20. CESSION OR ASSIGNMENT

- 20.1. The Client may not cede or transfer any or all of its rights or delegate or transfer any or all of its obligations in respect of this document without the prior written consent of GATEWAY, which consent shall be given or withheld in GATEWAY's absolute discretion.
- 20.2. GATEWAY may not cede or transfer any or all of its rights or delegate or transfer any or all of its obligations in respect of this document without the prior written consent of the Client, which consent shall not be unreasonably withheld.

## 21. CONFIDENTIALITY

21.1. Save as expressly provided for in this document, each Party shall keep confidential and shall not disclose to any person, without the prior written consent of the other Party, all information

constituting the other Party's Intellectual Property ("Confidential Information").

21.2. The Parties agree to keep all Confidential Information secret and confidential and to disclose it only to their employees, agents, professional advisors, contractors and/or potential investors who –

21.2.1. have a need to know, and to that extent only; and are aware of the disclosing Party's undertaking in relation to such Confidential Information in terms of this document; and have been directed by the disclosing Party to keep the Confidential Information confidential

21.3. The obligations of the Parties in relation to the Confidential Information do not extend to information that –

21.3.1. is known to be in the lawful possession or control of the person to whom it is disclosed and is not subject to an obligation of confidentiality; or is or becomes public knowledge, otherwise than in terms of a breach of this document; or is required to be disclosed by applicable law (which applicable law includes the common law and statutory law applicable in South Africa) or during any court proceedings, and the Party required to make the disclosure has taken all reasonable steps to ensure that, where reasonably possible, the Confidential Information is not further disclosed by the person to whom disclosure is made.

## 22. APPLICABLE LAW AND JURISDICTION

22.1. This document, and the envisioned trading arrangements coming into force between the Parties, will in all respects be governed by and construed in accordance with the laws of South Africa.

## 23. NOTICES AND DOMICILIA

23.1. For the purposes of the giving of notices and the serving of legal process in terms of the arrangements, rights and obligations dealt with in this document, each of the Parties chooses a domicilium citandi et executandi ("Domicilium") as follows:

23.1.1. Gateway Professional Services (Pty) Ltd (GATEWAY)

23.1.1.1. Physical Address: First Floor,  
152 Bryanston Drive, Bryanston,  
Sandton, Johannesburg, South Africa

23.1.1.2. Electronic Mail:

23.1.1.3. Attention: The  
Managing Director

23.1.2. The Client

23.1.2.1. Physical Address: Either (at GATEWAY's discretion): Any physical address specified by the Client as their physical address in a form completed and submitted to GATEWAY for the purposes of onboarding the Client in anticipation of rendering ICT Services; or

The Client's registered address with the Companies and Intellectual Property Commission (or its successor in title), if the Client is a company or Close Corporation; or The Client's registered address with the Master of the High Court, if the Client is a Trust; or Any physical address indicated as a place of business of the Client on its website.

23.1.2.2. Electronic Mail: Either (at GATEWAY's discretion):

Any email address specified by the Client as the email address of any employee or office bearer, in a form completed and submitted to GATEWAY for the purposes of onboarding the Client in anticipation of rendering ICT Services; or

Any email address indicated for the purposes of enquiries or contact generally, by the Client on its website.

23.1.2.3. Attention:  
Management

23.2. Any notice given in connection with this document shall, save where a particular form of notice is stipulated, be –

23.2.1. delivered by hand; or

23.2.2. sent by courier; or

23.2.3. sent by electronic mail,  
to the Domicilium chosen by the Party concerned.

23.3. A notice given as set out above shall be deemed to have been duly given (unless the disputing Party proves the contrary) –

23.3.1. if delivered by hand, on the date of delivery; or

23.3.2. if sent by courier, on the date of delivery by the courier service concerned; or

23.3.3. if sent by electronic mail, on the date of transmission if transmitted during Office

Hours, otherwise on the first Business Day after the date of transmission.

23.4. Any written notice actually received by a Party shall be valid, notwithstanding that it may not have been given in accordance with the preceding provisions of this clause 23.

24. NO WAIVER

24.1. No relaxation, indulgence or extension of time granted by either Party ("Grantor") to the other Party shall be construed as a waiver of any of the Grantor's rights in terms hereof, or a novation of any of the terms of this document or estop the Grantor from enforcing strict and punctual compliance with the terms of this document.

25. NO VARIATION

25.1. No variation of, addition to, consensual cancellation of or waiver of any right arising in terms of this document (including this clause 25) shall be of any force or effect unless it is reduced to writing and signed by a duly authorised representative of each of the Parties.

26. WHOLE AGREEMENT

26.1. This provisions of this document constitute the whole agreement between the Parties in relation to the subject matter hereof and no Party shall accordingly be bound by any undertaking, representation or warranty not recorded therein.

27. COSTS

27.1. If a Party (the "Defaulting Party") commits a material breach of the provisions contained in this document, they shall be obliged to reimburse the other Party (the "Aggrieved Party") on demand with any and all other costs (including legal costs on the de facto scale as between attorney and client), which the Aggrieved Party may at any time incur in or about the exercise of any of its rights set out in terms of this document, including collection commission, tracing fees, valuation charges, transport costs and other reasonable expenses in connection therewith.