

TPN GROUP AGREEMENT TERMS AND CONDITIONS

1. DEFINITIONS AND INTERPRETATION

- 1.1. The head notes to the clauses of these Terms and Conditions are inserted for reference purposes only, and shall in no way govern or affect the interpretation thereof.
- 1.2. Unless inconsistent with the context, the expressions set forth shall bear the following meanings:
 - 1.2.1. "**Access Code**" means the personal access code to be supplied by TPN to the Customer on the Signature Date to enable the Customer to access the Database Services;
 - 1.2.2. "**Afiswitch**" means Afiswitch (Pty) Ltd part of the Muvoni Group Ltd
 - 1.2.3. "**the/this Agreement**" means these Terms and Conditions and the Schedule;
 - 1.2.4. "**Business Day**" means any day other than a Saturday, Sunday or public holiday in the Republic of South Africa;
 - 1.2.5. "**CPA**" means the Consumer Protection Act No. 68 of 2008, as amended from time to time, and all regulations promulgated in relation thereto;
 - 1.2.6. "**Customer**" means the Party identified as such in the Schedule;
 - 1.2.7. "**Database**" means the online database containing information on the behaviour, profile and creditworthiness of prospective tenants, clients or employees of the Customer (as the case may be), as compiled and organized by TPN and/or an online portal providing access to the Third Party Services, as the case may be;
 - 1.2.8. "**Database Services**" means the service of supplying the Customer with access to the Database, which service is to be supplied by TPN to the Customer in term of this Agreement;
 - 1.2.9. "**ECA**" means the Electronic Communications Act 36 of 2008;
 - 1.2.10. "**ECTA**" means the Electronic Communications and Transactions Act 25 of 2002;
 - 1.2.11. "**Effective Date**" means the Signature Date or the date upon which TPN provides the Customer with its Access Code, whichever occurs first in time;
 - 1.2.12. "**Experian**" means Experian Credit Bureau (Proprietary) Limited;
 - 1.2.13. "Invoice" means a tax invoice or commercial invoice issued by TPN to the Customer in respect of the supply of the Database Services, from time to time;
 - 1.2.14. "**Fees**" means the fees due and payable by the Customer to TPN in respect of the supply of the Database Services, and any other amounts listed on an Invoice and which have been mutually agreed to by both Parties;
 - 1.2.15. "**MIE**" means Managed Integrity Evaluation (Pty) Ltd;
 - 1.2.16. "**NCA**" means the National Credit Act No. 34 of 2005;
 - 1.2.17. "Parties" means TPN and the Customer and "Party" shall mean either one of them as the context may indicate;
 - 1.2.18. "**Payment Profile**" means a factual information pertaining to the payment profile of the consumer;
 - 1.2.19. "**Payment Profile Data**" means all information, of whatsoever nature, on the behaviour, profile and creditworthiness of any of the tenants, clients or employees of the Customer (as the case may be) as compiled and organised by the Customer;
 - 1.2.20. "**Prime Rate**" means a rate of interest per annum which is equal to the published minimum lending rate of interest per annum, compounded monthly in arrears and calculated daily, charged by TPN's principle bankers on the secured overdrawn current accounts of its most favoured corporate clients in the private sector from time to time (in the event of a dispute as to the rate so payable, the rate shall be certified by any manager or assistant manager of any branch of the said bank, whose authority and designation it shall not be necessary to prove and whose decision shall be final and binding on the Parties);
 - 1.2.21. "**Schedule**" means the schedule to which these Terms and Conditions are attached;
 - 1.2.22. "**Signature Date**" means the date of signature of the Schedule by the Customer;
 - 1.2.23. "**Third Party Services**" means those services provided by Third Party Service Providers;
 - 1.2.24. "**Third Party Service Providers**" means Experian, TransUnion, AFISWITCH and MIE;
 - 1.2.25. "**TPN**" means TPN Group (Proprietary) Limited with registration number 2002/032126/07;
 - 1.2.26. "**TransUnion**" means the Transunion Credit Bureau (Proprietary) Limited; and

- 1.2.27. "**VAT**" means Value Added Tax levied in accordance with the provisions of the Value Added Tax Act No. 89 of 1991, as amended.
- 1.3. Schedules, appendices or annexures to these Terms and Conditions shall be deemed to be incorporated in and form part of these Terms and Conditions.
- 1.4. Expressions defined in these Terms and Conditions shall bear the same meanings in schedules, appendices or annexures to these Terms and Conditions to the extent to which they do not themselves contain their own definitions.

2. THIS AGREEMENT

- 2.1. TPN grants the Customer the right to access the Database, which right the Customer accepts, upon these Terms and Conditions.
- 2.2. Acceptance occurs and this Agreement comes into being on the Effective Date.
- 2.3. These Terms and Conditions comprise the only terms and conditions upon which TPN will do business with the Customer and shall prevail notwithstanding any terms or conditions contained in any other document offered at any time by TPN or otherwise brought to TPN's attention by the Customer.

3. COMMENCEMENT AND DURATION

- 3.1. This Agreement shall commence on the Effective Date and shall endure for an initial period of 12 (Twelve) months whereafter it shall automatically be renewed for successive periods of 1 (one) month;
- 3.2. Subsequent to the initial period, either party may terminate this agreement by giving written notice to the other party of its intention to do so, provided that such notice shall be given at least 30 days prior to the expiry of the initial period or any subsequent period of renewal.

4. FEES AND PAYMENT TERMS

- 4.1. Unless special arrangements regarding credit facilities have been arranged with TPN, payment of each Invoice shall be made by the Customer within 30 (Thirty) days of the date stipulated on such Invoice.
- 4.2. The Price reflected on each Invoice is inclusive of VAT.
- 4.3. Payments by the Customer shall not be deemed to have been received unless actually received by TPN at its offices or electronically paid into its bank account after all amounts have been cleared by the relevant financial institution.
- 4.4. The Customer shall not be entitled to make any deduction from the Fees payable by it to TPN in respect of any alleged rights to set off or counter-claims unless both the validity and the amounts thereof have been expressly acknowledged and admitted in writing by TPN.
- 4.5. The amount of the indebtedness of the Customer to TPN at any time shall be proven, on the face of it, by a certificate issued under the signature of any one of TPN's managers, whose office need not be proved. In addition, such certificate shall be valid as a liquid document in any competent court for the purpose of obtaining summary judgment against the Customer and such certificate shall be deemed to be sufficient particularly for the purposes of pleading or trial in any action instituted against the Customer.
- 4.6. The Customer shall not, under any circumstances, be entitled to withhold payment of any amount due under this Agreement. In the event that the Customer fails to make due and timeous payment of any amount owing to TPN under this Agreement:
 - 4.6.1. TPN shall be entitled to suspend the Customer's access to the Database, until such time as the Customer shall have paid to TPN such fees, including any interest, which may have accrued thereon; and
 - 4.6.2. such amounts shall bear interest at the Prime Rate from the due date until date of payment thereof has been received by TPN in full.
- 4.7. The Customer shall, if called upon to do so by TPN, sign a debit order authorisation in favour of TPN in order to effect payment of the amounts due by it in terms of this Agreement.
- 4.8. Specifically, if the Customer elects to pay the Fees via electronic transfer into the bank account of TPN and TPN accepts such arrangement, should the Customer subsequently fail to make timeous payment of any amount in accordance with the provisions of clause 4.1, then the Customer agrees TPN may collect the outstanding Fees and all future amounts due to TPN by debit order and, in this regard, the Customer agrees to abide by the provisions of clause 4.7.

4.9. Should any debit order be returned for any reason whatsoever, the Customer shall be responsible for reimbursing TPN for any fees debited to TPN's account by its bankers in connection therewith.

5. INCREASE IN CHARGES

- 5.1. TPN shall have the right, from time to time and, on 14 (Fourteen) days' notice in writing, to increase the fees payable to it by the Customer.
- 5.2. Currently, TPN endeavours, where possible, to limit its increases to an annual increase in November of each year, save for increases of a statutory nature or basis, or increases occasioned by the increase in charges of Third Party Service Providers.

6. CONNECTIVITY

- 6.1. The onus of connecting to the Database services via an internet or dedicated connection rests with the Customer and the Customer shall bear all costs associated therewith, which costs are not included in the Fees.
- 6.2. It is the Customer's responsibility to ensure that it possesses, or will possess, the hardware and software necessary to access the Database Services. The Customer acknowledges that the provision of software and hardware necessary to access the Database does not constitute a service rendered by TPN to the Customer.

7. SECURITY

- 7.1.1. TPN shall have the right to take whatever action and to implement whatever measures it may deem necessary to protect the confidentiality, security and integrity of the Database and the information contained therein.

8. ACCESS CODES

- 8.1. It is the Customer's responsibility to ensure that only authorised representatives have access to its Access Code.
- 8.2. Any use of the Customer's Access Code by any person whatsoever (other than by the servants or agents of TPN) to gain access to the Database Services shall be deemed to be authorised use and the Customer shall be responsible for all Fees resulting from such access.

9. CONSENT

- 9.1. The Customer warrants that it has obtained the requisite consent from all of its clients, tenants, customers and/or employees (as the case may be), prospective or otherwise that:
 - 9.1.1. the Customer may make enquiries in respect of any of its customers, clients and/or employees, referred to in clause 9.1 above, by accessing the Database;
 - 9.1.2. the Customer may provide TPN with information concerning the behaviour, profile, payment patterns, indebtedness, whereabouts and creditworthiness of its customers, clients, tenants and/or employees (as the case may be) referred to in clause 9.1 above, for inclusion in the Database;
 - 9.1.3. the information as contemplated by 9.1.2 may be conveyed to, and accessed by, other users of the Database; and
 - 9.1.4. any failure by the customers, clients, tenants and/or employees referred to in clause 9.1 above to meet their obligations to the Customer, and any other information concerning the performance by such customers, clients, tenants and/or employees of their obligations to the Customer, may be recorded with TPN for inclusion in the Database.
- 9.2. The Customer hereby consents that, and authorises TPN or its agent to, at all times:
 - 9.2.1. contact, request and obtain information from any credit provider (or potential credit provider) or registered credit bureau relevant to an assessment of the behaviour, profile, payment patterns, indebtedness, whereabouts, and creditworthiness of the Customer; and
 - 9.2.2. furnish information concerning the behaviour, profile, payment patterns, indebtedness, whereabouts, and creditworthiness of the Customer to any registered credit bureau or to any credit provider (or potential credit provider) seeking a trade reference regarding the Customer's dealings with TPN.

10. AUDIT

- 10.1. The Customer agrees that the Company may at any time conduct an audit of the Customer's books, records, and systems for the purposes of verifying that the Customer is in compliance with its obligations in terms of this Agreement.
- 10.2. The Customer agrees to take all such steps and do all such things as may be necessary to facilitate the conducting of the audit referred in clause 10.1, provided that the Company shall

provide the Customer with reasonable notice of its intention to conduct such audit.

11. USE AND CONTROL OF INFORMATION

- 11.1. The Customer acknowledges and agrees that:
 - 11.1.1. any information submitted by it may be included in the Database and may be made available to other users of the Database;
 - 11.1.2. the information obtained by it from the Database shall be utilised by it solely and exclusively for the purpose of assisting it in its risk management and tenant, client, customer or employee evaluation decisions (as the case may be), in the ordinary course of its business from time to time;
 - 11.1.3. the information obtained by it from the Database shall be kept confidential and shall not be conveyed to any third party;
 - 11.1.4. TPN shall have the right, in relation to any information submitted to it, to edit, alter or censor such information, either in whole or in part, in such fashion as it in its sole discretion may deem desirable; and
 - 11.1.5. TPN shall have the right to verify the accuracy of any information submitted to it by the Customer.
- 11.2. It is recorded that the information as contained in, or obtained from, the Database shall not in any way be construed as an opinion of TPN as to the solvency, financial standing, creditworthiness, integrity or behaviour of any tenant, client, customer or employee reported on, but rather constitutes a reflection of information received by TPN from time to time and recorded within the Database in good faith.

12. OWNERSHIP OF INFORMATION

- 12.1. Ownership of the Database and the information contained therein, or submitted for inclusion from time to time, including all underlying intellectual property rights subsisting therein, shall vest in TPN.
- 12.2. For the sake of clarity and the avoidance of all doubt, TPN shall retain possession and ownership of all information submitted to it by the Customer in terms of clause 0 above, notwithstanding the termination or cancellation of the Agreement in accordance with the provisions of clause 0 below.
- 12.3. The Customer shall keep and maintain as strictly confidential, all the information obtained by it from the Database from time to time.

13. WARRANTIES AND INDEMNIFICATION

- 13.1. The Customer undertakes and warrants in favour of TPN that:
 - 13.1.1. all its customers, clients, leases and/or employment data (as the case may be) will be loaded regularly onto the Database;
 - 13.1.2. in terms of any lease, if the rental payable by the Customer's clients is managed by the Customer, the Rental Payment Profile will be loaded onto the Database on a monthly basis;
 - 13.1.3. all other Payment Profile Data in the Customer's possession, as defined in clause 9.1.2 above, shall be loaded onto the Database and updated by the Customer on a regular basis as and when new information becomes available to it;
 - 13.1.4. any information submitted by it to the Database shall be true and correct in every respect;
 - 13.1.5. any information submitted by it to the Database shall not be the subject of any dispute between it and the tenant, customers, clients and/or employees referred to in clause 9.1 above;
 - 13.1.6. it shall utilise the information obtained by it from the Database only for a prescribed purpose as referred to in the NCA, the ECA and the ECTA;
 - 13.1.7. it shall not do, nor omit to do, anything that would result in TPN contravening the provisions of the NCA, the ECA, the CPA, the ECTA (or the successor-in-title to such legislation); and
 - 13.1.8. in submitting any information to the Database, it shall itself comply with the legislation referred to in clauses 13.1.6 and 13.1.7 above.
- 13.2. Without in any way limiting the generality of 13.1, TPN shall not be liable for any loss, liability, damage or expense of whatsoever nature suffered by the Customer as a result of, or which may be attributable to:
 - 13.2.1. the use by the Customer or any other person of any of the information comprising, or obtained from, the Database;
 - 13.2.2. any mistake, error or omission in any of the information comprising, or obtained from, the Database; and/or
 - 13.2.3. any delay or failure in delivering, or in any manner communicating, any of the information comprising, or obtained from, the Database to the Customer.
- 13.3. The Customer indemnifies TPN against all loss, liability, damage and expense of whatsoever nature which TPN may

suffer as a result of, or which may be attributable to:

- 13.3.1. any breach by the Customer of any of its acknowledgements, undertakings or warranties in terms of this Agreement;
- 13.3.2. any unauthorised use made by the Customer of the Database;
- 13.3.3. any unauthorised use made by the Customer of the Third Party Services; or
- 13.3.4. any contravention of the legislation referred to in clauses 13.1.6 and 13.1.7 above.
- 13.4. TPN warrants that:
 - 13.4.1. it will perform its obligations to the Customer in supplying access to the Database Services timeously and with due regard to any specific criteria or conditions agreed between the Customer and TPN during the Agreement;
 - 13.4.2. it shall use its best endeavours to facilitate the ongoing access by the Customer to the Database Services; and
 - 13.4.3. it shall, where possible, afford the Customer prior notice of scheduled maintenance and shall schedule such maintenance for the most convenient time, so as to minimise the inconvenience to its customers in general.
- 13.5. If TPN fails to perform to the standards set out in clause 13.4 above, the Customer may request that TPN remedy any defect in the quality of the services performed by it or that it be refunded a reasonable portion of the Fees paid by it to TPN, having regard to the extent of the alleged failure in TPN's service.
- 13.6. TPN will not be responsible for any failure to perform its obligations to the Customer in term of this Agreement where this failure is caused by circumstances beyond TPN's control.
- 13.7. TPN's total liability to the Customer in any event whatsoever will not exceed the total Fees paid by the Customer to TPN for the 12 (Twelve) month period preceding that in which the cause of action arose.
- 13.8. The Customer agrees that no warranties or representations, whether express or implied, other than those recorded in this Agreement have been given or made by TPN in connection with this Agreement.

14. BREACH

- 14.1. Without prejudice to its rights at law, should the Customer:
 - 14.1.1. fail to pay any Fee or other amount in terms of this Agreement;
 - 14.1.2. breach any other term of this Agreement; or
 - 14.1.3. cause TPN to breach the terms of its Agreement with any Third Party Service Provider;
- 14.2. TPN shall be entitled to:
 - 14.2.1. claim immediate payment of all outstanding amounts from the Customer;
 - 14.2.2. suspend the performance of any obligation owed by it to the Customer;
 - 14.2.3. give the Customer 20 (Twenty) days' notice of its intention to cancel this Agreement; and/or
 - 14.2.4. claim any damages that it may have suffered from the Customer as a result of those acts listed in clause 14.1.

15. SURETY

- 15.1.1. Should the Customer be a company, close corporation, trust or a principal represented herein by an agent, the person/s signing this offer on behalf of the Customer hereby binds himself/themselves in favour of TPN as surety for, and co-principal debtor with, the Customer for the due and proper discharge of all of the Customer's obligations arising from this Agreement.

16. THIRD PARTY SERVICES

- 16.1. Currently, access to the Database enables the Customer to access the Third Party Services.
- 16.2. Save where the contrary appears from the context, a reference to the Database shall accordingly be deemed to also include a reference to the Third Party Services.
- 16.3. Access to the Third Party Services is provided in terms of separate agreements between TPN and the Third Party Service Providers.
- 16.4. TPN reserves the right to discontinue access to the Third Party Services at any time for any reason.

17. ADDRESSES AND NOTICE

- 17.1. For the purpose of this Agreement, including the giving of notices and the serving of legal process, the Customer chooses *domicilium citandi et executandi* ("**Domicilium**") at its physical address as referred to in the Schedule.
- 17.2. Any notice given by TPN to the Customer in connection with this Agreement may be delivered by hand, for which a written receipt shall be obtained, or be sent by pre-paid registered

post to the *Domicilium* chosen by the Customer, or sent by e-mail or facsimile to the Customer at the e-mail address and/or facsimile address set out in the Schedule.

- 17.3. A notice given as set out above shall be construed to have been duly given:

- 17.3.1. if delivered by hand, on the date of delivery;
- 17.3.2. if sent by post, 7 (Seven) days after posting; and
- 17.3.3. if transmitted by facsimile or sent by e-mail shall be presumed, until the contrary is proved by the Customer, to have been received by the Customer on the date of successful transmission or sending thereof.

18. LEGAL PROCEEDINGS

- 18.1. In any proceedings by TPN for the recovery of any amounts due by the Customer in terms of any Invoice:
 - 18.1.1. the Customer consents to the jurisdiction of any Magistrate's Court otherwise having jurisdiction, notwithstanding that the sum due might exceed the jurisdiction of such court (subject to the right of TPN not to proceed out of such court at its sole discretion); and
 - 18.1.2. the Customer shall be liable for and pay all reasonable legal costs, including collection commission, expenses and charges incurred by TPN in enforcing any of the terms contained herein on an attorney and client scale; and

19. INTELLECTUAL PROPERTY

- 19.1.1. Copyright and any other intellectual property rights of whatsoever nature in the Database and any/all data, lists, tables, and other information supplied by TPN to the Customer will remain the exclusive property of TPN. To the extent necessary, the Customer hereby cedes, assigns, transfers and makes over to TPN such copyright and any other intellectual property rights of the Customer in respect of any such data, lists, tables, and other information.

20. CONFIDENTIAL INFORMATION

- 20.1.1. The Customer shall treat all information supplied by TPN to the Customer as strictly confidential (except to the extent that any such information is available in the public domain) and shall not without the prior written consent of a director for and on behalf of TPN, disclose or part with possession of any such information.

21. GOVERNING LAW

- 21.1.1. This Agreement is governed by the laws of the Republic of South Africa.

22. GENERAL

- 22.1. The Customer shall not be entitled to cede or assign any of its rights and obligations contemplated herein.
- 22.2. The Customer warrants and acknowledges that any person who signs the Agreement on behalf of the Customer is and will be deemed to be duly authorised by the Customer to sign the document concerned as referred to above, on its behalf and to bind the Customer to the terms thereof.
- 22.3. Each provision in these Terms and Conditions is severable from all others and if any provision, phrase, sentence, paragraph or clause is found to be defective or unenforceable for any reason, the remaining provisions, phrases, sentences, paragraphs and clauses shall nevertheless continue to be of full force and effect.
- 22.4. These Terms and Conditions are of general application to the provision of any services by TPN to the Customer and no amendment to these Terms and Conditions will be deemed to have occurred unless specifically agreed to by TPN in writing.
- 22.5. TPN may at any time amend these Terms and Conditions subject to notification to the Customer, in writing, of such amendment.
- 22.6. This Agreement constitutes the sole record of agreement between the Parties in relation to the subject matter hereof. No Party shall be bound by any express, tacit or implied term, representation, warranty, promise or the like not recorded in the Agreement.
- 22.7. No indulgence or extension of time which either Party ("**the Grantor**") may grant to the other shall constitute a waiver of, whether by estoppel or otherwise, or otherwise limit any of the existing or future rights of the Grantor in terms hereof, save in the event and to the extent that the Grantor has signed a written document expressly waiving or limiting such right.
- 22.8. Without prejudice to any other provision of the Terms and Conditions, any successor-in-title, including any executor, heir, liquidator, judicial manager, curator or trustee of any either Party, shall be bound by this Agreement.