



Coherent Software Solutions

Terms of Service (v3.0)

general terms for providing goods or services to customers

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Key terms – please read these before you accept

These terms contain provisions that limit our liability, ask you to take on risk or to indemnify us, and record facts that you confirm by accepting. The most important ones are summarised here in plain language, with the clause where the full wording appears; the clauses prevail if the summaries differ from them. If the Consumer Protection Act applies to you, Appendix B sets out how these terms apply to you.

- **Subscription and cancellation:** you commit only to the billing cycle you choose, monthly or annual. You may cancel at any time, effective at the end of the current cycle, and fees already paid for that cycle, including an annual prepayment, are not refundable except as clause 30.3 and Appendix B provide. We may end your subscription on at least 30 days' notice, refunding prepaid fees for the period after it ends, and neither of us expects it to continue beyond the current cycle (clauses 3 and 22.6).
- **Fees, interest and currency:** we may change our fees on at least 30 days' written notice, effective from your next billing cycle. If you pay in rand and the rand weakens by more than 10% against the US dollar, we may increase your fees by up to that percentage, at most once a quarter; this adjustment works one way only. Overdue amounts bear interest from the due date at the higher of prime plus 2% and 15% a year, and you may not withhold or set off payments (clause 6).
- **Non-payment:** if an amount is 7 days overdue we send you a payment notice, and if it is still unpaid 7 days after that we may suspend the services, normally the cloud services first and the tills last. Fees keep accruing during a suspension, a reinstatement fee applies to lift it, we are not liable for loss caused by a suspension made under clause 7, we may tell your brand owner, we may terminate if an amount is 30 days overdue, and you must pay our collection costs to the extent the law allows (clause 7).
- **Termination and its effect:** either of us may terminate for a breach that is not remedied within 7 days after notice (20 business days for natural persons under Appendix B), and we may terminate immediately in the events listed in clause 22.2. When the agreement or your subscription ends, all fees for services rendered, hardware delivered and billing cycles already started become immediately payable, your licence ends and we may remotely disable the software on your devices, and we keep your data for 60 days so that you can export it before we delete it (clause 22).
- **Content created by the software's AI features:** images, icons and other content created with the content-generation features belong to us; to the extent you hold any rights in them you agree to assign those rights to us and licence them to us in the meantime. We may share generated content with our other customers through the shared asset library, and you cannot require an item to be kept private, except that we will withdraw an item containing a registered trademark on written notice. Library content is provided as is. You may keep using content created under your account, but you must stop using other customers' library content within 30 days after your subscription ends, and we may direct you to stop using any item that attracts a credible complaint, without liability (clause 10).
- **Your data:** we process the personal information of your customers and staff as your operator, and you are the responsible party. Your data is hosted on Amazon Web Services in South Africa and Ireland (Aura Mobile Ordering data by Vercel and Neon) and may be processed in other countries under safeguards. We may create anonymised data and use it to improve the services, train AI features and produce benchmarks (you may opt out of benchmarks and research). If you trade under a brand, you instruct us to give your brand owner access to your data, which you may withdraw on 60 days' notice, and we are not responsible for how the brand owner uses it. We notify you of security incidents immediately, as POPIA requires (clause 14).
- **Warranties and remedies:** we warrant that the software will perform substantially as documented, and your sole remedy if it does not is correction or a workaround, failing which cancellation with a refund for the affected period. Otherwise the software, services and hardware are provided as is and as available, without other warranties. You use AI features and third-party services at your own risk, you are responsible for your own internet, power and network, service credits are your only remedy for missed service levels, and our defence of infringement claims is your only remedy for them (clauses 5, 16, 17, 20 and 23).
- **Limitation of our liability:** our total liability to you in any 12-month period is capped at the fees you paid us in the 12 months before the first claim, and we are not liable for indirect or consequential loss, lost profits, lost data or downtime. Nothing excludes liability for fraud or wilful misconduct or, where the Consumer Protection Act applies to you, for our gross negligence (clause 18 and Appendix B).
- **Other things we are not liable for:** loss caused by your own negligence, misuse or infrastructure, assets we remove after an infringement claim, delays caused by suppliers, carriers or dependencies outside our control, force majeure events, the onsite services of independent resellers, and errors in a menu we built for you that you did not report before trading on it (clauses 17, 15, 11, 21, 24, 25 and 37).
- **Your indemnity:** you indemnify us against third-party claims arising from your breach of the agreement, your unlawful use of the software or services, the fonts, images and other assets you supply, your obligations for the personal information you process, and disputes with your own related parties (clause 19).
- **Hardware:** hardware you buy from us remains ours until it is paid for and is at your risk from delivery. Rented hardware remains ours or the financier's, and cancelling your subscription does not end a rental or the rentals due for its minimum term unless your rental quote says otherwise (clause 21).
- **Our staff:** if, during the agreement or within 12 months after it ends, you solicit or hire any of our employees or contractors who worked on your account, you must pay a placement fee equal to the greater of 35% of their annual remuneration and three months' remuneration, unless we elect to claim our actual loss instead (clause 12).
- **Disputes:** apart from our claims for unpaid fees and applications for urgent relief, which may go to court, disputes are resolved by confidential arbitration under the rules of the Arbitration Foundation of Southern Africa in Johannesburg, under South African law, the unsuccessful party normally pays the costs, and you waive class actions to the extent the law allows. If the Consumer Protection Act applies to you, you keep your right to complain to the National Consumer Commission, an ombud or a consumer court (clause 27 and Appendix B).
- **Marketing:** we may name you as a customer and show your logo in our customer lists and marketing unless you tell us in writing that you object (clause 31).
- **Your confirmations:** by accepting these terms you confirm that you are acquiring the software and services for business purposes, that the person accepting is authorised to bind you and your Related Businesses (a franchisee must accept for itself), and that you are responsible for activity under your account and bound by instructions given through it, except where clause 4.6 provides otherwise (clauses 1, 3, 4 and 33).
- **Changes to these terms:** we may change these terms on at least 30 days' notice. A change to the intellectual property, generated content, data, liability or disputes clauses needs your fresh acceptance in Aura Portal, and a change does not apply during a billing cycle you have already paid for unless the law requires it or we say so in the notice, in which case you may leave with a refund (clause 30).

You accept these terms in Aura Portal by confirming that you have read them and clicking to agree. The End User Licence Agreement is a separate document that you accept separately.

1. Introduction

- 1.1 **Who we are.** We are Coherent Software Solutions (Pty) Ltd, a company incorporated in South Africa with registration number 2005/026166/07, trading as Cosoft. We refer to ourselves in these terms as “we”, “us” and “our”.
- 1.2 **What these terms cover.** These terms of service (terms) govern our relationship with you as a customer for the Aura NextGen point-of-sale software and the services, hardware and support we provide with it. They are the master document of our agreement with you. Our End User Licence Agreement (EULA) grants the licence to install and use the software and is subordinate to these terms.
- 1.3 **Commercial use only.** Our software and services are intended for commercial business use. By accepting these terms you confirm that you are acquiring them for the purposes of a business and not as a consumer for personal, household or domestic purposes. Where the Consumer Protection Act 68 of 2008 nevertheless applies to you, nothing in these terms excludes any right you have under it that cannot lawfully be excluded, and Appendix B sets out how these terms apply to you.
- 1.4 **Plain language and the provisions that most affect you.** We have tried to write these terms in plain language. The Key Terms notice at the start of these terms draws your attention, before you accept them, to the provisions that most affect you, including the limitation of our liability (clause 18), your indemnity (clause 19), suspension and remote disablement of the software (clauses 7 and 22), arbitration (clause 27), and our rights in generated content and data (clauses 10 and 14). The Key Terms notice, the one-line summary shown in Aura Portal and the headings in these terms help you find your way around; they do not change the meaning of the clauses themselves, which prevail if they differ.

2. Definitions and interpretation

- 2.1 **Definitions.** In the agreement, unless the context indicates otherwise:
 - additional services** means goods or services outside your subscription that you order from us from time to time, including project work, onsite services, training and hardware;
 - administrator** means the authorised user you designate through the portal to administer your account;
 - administrator email** means the email address recorded on your account for your administrator, as you update it through the portal from time to time;
 - agreement** means the agreement between us and you, consisting of the documents listed in clause 2.3 in the order of precedence set out there;
 - anonymised data** means data derived from your use of the software or services from which you, your business, your authorised users and your customers cannot reasonably be identified, whether on its own or in combination with other information reasonably available to the recipient;
 - authorised user** means a person you or a Related Business authorises to use the software or services under your account, including your and their employees, agents and contractors and, where clause 14.7 applies, the users of your brand owner;
 - billing cycle** means the period, monthly or annual, for which subscription fees are charged in advance, as selected in your order;
 - brand owner** means the franchisor, brand owner or group under whose brand you trade or through whose group account you are administered, where applicable;
 - business day** means any day other than a Saturday, a Sunday or a public holiday in South Africa;
 - business hours** means 08:00 to 17:00 South African Standard Time (GMT+2) on business days, and any reference to a time is to South African Standard Time;
 - confidential information** means any information disclosed by one party to the other under or in connection with the agreement that is marked confidential or would reasonably be regarded as confidential, including our technology, pricing, security information and roadmap and your data, but excluding anonymised data;
 - customer-supplied assets** means fonts, typefaces, images, logos, branding elements, audio, video, menus, product descriptions, prompts and any other materials or content that you or your authorised users provide to us or submit through the software, including inputs submitted to content-generation features;
 - director-signed addendum** means a written addendum to the agreement that expressly states that it varies these terms and is signed by one of our directors and by you;
 - documentation** means the installation and operating instructions, user guides, help content and technical literature for the software that we make available from time to time;
 - EULA** means our End User Licence Agreement for the software, published at legal.cosoft.co.za/eula, as updated from time to time;
 - fees** means all amounts payable by you under the agreement, including subscription fees, fees for additional services, project fees, hardware charges, rentals, disbursements, reinstatement fees and any other charges;
 - franchisee** means a business that trades under a brand owner’s brand but is owned by a legal entity that the brand owner does not control;
 - generated content** has the meaning given in clause 10.1;
 - hardware** means point-of-sale terminals, tablets, printers, displays, networking equipment, uninterruptible power supplies and other equipment that we sell or rent to you;
 - Licensed Device** means a single point-of-sale terminal, mobile device or computer on which the software is installed or used by you or your authorised users, and the number of Licensed Devices is the number stated in your order. A device belonging to one of your customers that the customer uses to place an order through SST or Aura Mobile Ordering is not a Licensed Device;
 - order** means a quote, order form, subscription selection or other order for software, services or hardware that you accept in the portal or otherwise in writing, including a rental quote;
 - personal information, responsible party, operator and data subject** have the meanings given to them in the Protection of Personal Information Act 4 of 2013 (POPIA);
 - portal** means Aura Portal, the web application we provide for accepting the agreement, placing orders, managing your account and receiving notices, including any successor to it;
 - price list** means our published prices for the software, services and hardware at www.aurapos.com, as updated from time to time;
 - project** has the meaning given in clause 11.2;
 - Related Business** means any subsidiary, branch, outlet, store or other business that you control, directly or indirectly, or that is owned by a company under common control with you, and that is created, managed, administered or operated under your account; it does not include a franchisee;
 - rental quote** means an order for the rental of hardware, which may specify a minimum rental term, a rental schedule and the owner of the hardware;

reseller means an independent reseller or service partner that we have authorised to sell or support the software or hardware in a region;

services means everything we provide to you under the agreement other than hardware, including access to and use of the software, hosting, support, maintenance, onsite services, training, integration services and projects, as described in Appendix A;

site means a physical premises at which you use the software or at which we provide services;

software or Aura NextGen means Aura NextGen, our suite of point-of-sale and related software described in Appendix A, including CounterPOS, MobilePOS, Kitchen Display, Order Number Display, SST, Aura Mobile Ordering and myAura, any other products we add to the suite, all updates and enhancements, and the documentation;

subscription means your subscription to the software and the services included with it for the Licensed Devices and sites in your order;

subscription fees means the recurring fees for your subscription for each billing cycle;

third party services means services, platforms and software provided by parties other than us, including ordering, delivery and marketplace platforms, payment providers, integration partners and telecommunications and internet services;

our technology means all technology that we have created, acquired or otherwise have rights in, including the software, our concepts, methods, processes, know-how, techniques, models, templates, the structure, sequence and organisation of the software, user interfaces and screen designs, tools, utilities, frameworks, logic, data models and any patches or enhancements to open-source libraries;

writing or written includes email and messages delivered through the portal, but excludes SMS, text messages and instant messaging (including WhatsApp);

you or your means the customer that accepts the agreement, and includes each Related Business operated under its account; and

your data means data, including personal information, that you or your authorised users provide to us or that we generate, process or store for you in providing the services, but excludes anonymised data and data that we derive for our own internal purposes or that is proprietary or confidential to us.

- 2.2 **Interpretation.** Headings are for reference only and do not affect interpretation. "Including" and similar words do not limit what precedes them. A reference to a law includes that law as amended or replaced. A reference to a person includes a natural and a juristic person, and a reference to a party includes its successors and permitted assigns. When a number of days is prescribed, the first day is excluded and the last day is included. The rule that an agreement is interpreted against the party that drafted it does not apply. Words defined in one document forming part of the agreement have the same meaning in the others unless the context clearly indicates otherwise.
- 2.3 **Documents forming the agreement and their order of precedence.** The agreement consists of the following documents. If they conflict, the document higher in this list prevails over a lower one to the extent of the conflict:
- 2.3.1 **Director-signed addendum:** a director-signed addendum, which is the only document by which a variation agreed with a particular customer can change clauses 9, 10, 14, 18 or 27 of these terms, and only where it says so expressly. This does not limit our right to publish new versions of these terms and the EULA under clause 30;
- 2.3.2 **Orders:** an order you have accepted, which governs only the commercial particulars it sets out, being the software, services and hardware ordered, the fees, the currency, the billing cycle, the number of Licensed Devices and sites and, for a rental quote, the term, rental schedule, ownership and payment terms of the rented hardware, and which cannot vary any other provision of these terms;
- 2.3.3 **Country schedules:** any country schedule that we publish at legal.cosoft.co.za under clause 28.5 for the country in which you are domiciled, which prevails over these terms for customers in that country to the extent it says so;
- 2.3.4 **These terms:** these terms, including Appendix A and, for customers to whom it applies, Appendix B, which prevails over the rest of these terms to the extent of any inconsistency;
- 2.3.5 **The EULA:** the EULA; and
- 2.3.6 **Policies:** our privacy notice, price list and the service descriptions and support information published on our websites, each as updated from time to time.
- 2.4 **Previous versions.** When we publish a new version of these terms or the EULA under clause 30, the new version replaces the previous version in full, but accepted orders and director-signed addenda continue to apply according to their terms.

3. Acceptance and duration

- 3.1 **How you accept.** You accept these terms, and the agreement starts, when you confirm in the portal that you have read them and click to agree to them. The EULA is a separate document that you accept separately in the same way, and you must accept both before you can use the portal. If you have not accepted these terms in the portal, you are nonetheless deemed to have accepted them, and the agreement starts, when you first accept an order that refers to them, install, access or use the software or services in any way, or pay any fees. If you decline these terms or the EULA you may not use the software or services, and if you use them anyway the previous sentence applies. Each time we publish a new version of these terms you accept it in the manner described in clause 30.
- 3.2 **Accepting on behalf of others.** The person who accepts the agreement warrants that they are authorised to do so on behalf of the customer and each Related Business. Your acceptance binds each Related Business and every authorised user as if they had accepted the agreement themselves, without any need for separate acceptance. Whether or not a Related Business is itself bound, you are liable to us as principal for its use of the software and services, for its fees and for any breach by it, as if they were your own. We keep a record of each acceptance, including the version and hash of the document accepted, the confirmation you gave and the time of acceptance, and will give you a copy on request, and your use of the software or services or payment of any fees after acceptance confirms it.
- 3.3 **Brand owners and franchisees.** If you are a brand owner, your acceptance binds the Related Businesses you control but does not bind a franchisee, which is a separate legal entity. Each franchisee must accept the then-current version of these terms and the EULA itself, through its own portal login, before its account is activated, and from then on the franchisee is the customer for its own account. We may decline to activate a site until the legal entity responsible for it has been recorded on the account, with its registered name and registration number, and has accepted the agreement. If you are a brand owner you remain responsible for the use of the software and services at, and liable for the fees and any breach in respect of, every franchisee site that is billed to you or whose franchisee has not yet accepted the agreement, as if it were your own site. Your rights as brand owner under clauses 7.5 and 14.7 are not affected by a franchisee's acceptance.
- 3.4 **Subscription term.** Your subscription runs for successive billing cycles from the date it starts. You commit only to the billing cycle you selected in your order. There is no minimum term beyond that cycle: a monthly subscription commits you to the current month and an annual subscription commits you to the current year. Your order states the billing cycle you have chosen, and the Key Terms notice at the start of these terms draws this commitment to your attention.
- 3.5 **Cancelling your subscription.** You may cancel your subscription, or reduce the Licensed Devices or sites in it, at any time through the portal or by written notice to legal@cosoft.co.za. A cancellation or reduction takes effect at the end of the billing cycle in which we receive it, provided we receive it before the last day of that cycle; otherwise it takes effect at the end of the following billing cycle. Fees already paid for the current billing cycle, including an annual prepayment, are not refundable, except as provided in clause 30.3 and, where it applies to you,

Appendix B. You may change from one billing cycle to another with effect from the start of your next billing cycle.

- 3.6 **Termination by us for convenience.** We may terminate your subscription, or any part of the services, for convenience by giving you at least 30 days' written notice ending at the end of a billing cycle. If we do so we will refund any subscription fees you have paid in advance for the period after termination.
- 3.7 **Other ways the agreement can end.** Clause 7 deals with non-payment and clause 22 deals with termination for breach and other events. Cancellation or termination of your subscription does not end a hardware rental, which continues under its rental quote as described in clause 21.
- 3.8 **Where and when the agreement is concluded.** The agreement is concluded at the moment you accept it under clause 3.1 and is deemed to be concluded at our offices in Midrand, South Africa, wherever you are located.

4. Orders, the portal and your account

- 4.1 **Placing orders.** You place orders through the portal, by accepting a quote we send you, or otherwise in writing. An order is an offer by you that we accept when we confirm it, activate the software or services, deliver the hardware or issue an invoice for it, whichever happens first. We may decline an order for any reasonable cause, including where our registration or credit checks are not satisfactory.
- 4.2 **Quotes.** A quote is valid for the period stated in it, or for 30 days if no period is stated. Prices in a quote exclude tax and, unless the quote says otherwise, exclude travel, accommodation and other disbursements, which are charged under clause 6.12.
- 4.3 **Electronic acceptance.** Confirming that you have read a document and clicking to agree to it in the portal, accepting an order or a quote in the portal, or otherwise indicating acceptance electronically in a manner we make available, is an electronic signature that we and you agree to use, and is binding as if it were a handwritten signature. This does not apply to an assignment of copyright, which the law requires to be in writing signed by the assignor; clauses 9.4 and 10.2 deal with that by an undertaking to assign and a licence.
- 4.4 **Registration and verification.** You must register through the portal before using the services. You authorise us to make the enquiries we consider necessary to verify your identity and creditworthiness, including conducting credit checks, asking you for registration documents, identity documents and proof of address, and verifying your information against third-party databases. We may decline to enter into the agreement, or may require payment in advance or security, if we are not satisfied with the outcome.
- 4.5 **Your account.** We will give you an administrator account through which you add and manage your authorised users, Related Businesses and Licensed Devices. Appendix A sets out the rules for accounts, credentials and security. You must keep your account information, including your administrator email, physical address and payment details, complete and current at all times.
- 4.6 **Instructions from your account.** We may act on any instruction, order or cancellation given through your account or from your administrator email, and you are bound by it, even if it was given by someone without your authority, unless you had notified us in writing before we acted on it that the credentials or email address had been compromised, or the compromise was materially caused by a failure of our own security measures.

5. Services

- 5.1 **What we provide.** We provide the following services, as described in more detail in Appendix A:
- access to and use of the Aura NextGen software suite on your Licensed Devices, with the hosted services that support it;
 - technical support through our help desk;
 - administrative support, remote software installation and menu management;
 - onsite services, including callouts, installations and handholding, in the regions where they are available;
 - training;
 - integration with third party services; and
 - feature development and projects under clause 11.
- 5.2 **Standard platform.** All features of the software form part of our standard platform, which we make available to all our customers. We do not develop software that is exclusive to any customer, and we may add, change or retire features in the ordinary course of developing the platform.
- 5.3 **Service levels.** We provide the hosted services at the service levels set out in clause 23, and support and onsite services within the target times set out in Appendix A.
- 5.4 **Updates.** We may update or modify the software from time to time, including by installing updates on your Licensed Devices automatically and without further notice. Where an update materially changes the functionality of the software, we will give you reasonable notice through the portal or by email. You must not prevent or delay the installation of updates that we designate as required for security or compliance.
- 5.5 **Artificial intelligence features.** The software and services may include features that use artificial intelligence or machine learning, such as forecasting, recommendations, analytics and content generation (AI features). AI features are provided as is, without any warranty of accuracy, completeness or fitness for your purposes. Their outputs are advisory and do not replace your own judgement. You remain responsible for every business decision you take, whether or not it is based on the output of an AI feature, and we are not liable for any loss arising from your reliance on an AI feature, including inaccurate forecasts, biased or erroneous outputs or the failure of an AI feature to operate. We may modify AI features to comply with laws and regulations as they develop. You may ask us in writing to disable AI features for your account, which may limit the functionality available to you.
- 5.6 **Third party services.** The software integrates with third party services, including ordering, delivery and marketplace platforms and payment providers. The list of available integrations by region is published on our websites. Third party services are provided by their providers on their own terms, and we are not responsible for their availability, performance, data handling, fees or conduct, or for any change a provider makes that affects an integration. Our responsibility for our own integration software is governed by clause 18.
- 5.7 **Connectivity and infrastructure.** You are responsible for the internet connectivity, telecommunications, electrical supply, networking and other infrastructure at your sites needed to use the software and services, unless we have expressly agreed to supply it as hardware or a service.

6. Fees, billing and payment

- 6.1 **What you pay.** You must pay the subscription fees for your subscription, the fees for any additional services and hardware you order, and any other fees that arise under the agreement. Fees for the software, standard services and hardware are as published in the price list at the time of your order or as stated in your accepted order.
- 6.2 **Fees not on the price list.** Fees for services that are not published in the price list, including hourly work, onsite days, project work, travel, accommodation and transfers, are charged at our then-current rates, which we will provide on request and confirm in a quote before the work starts. Emergency callouts that you request cannot always wait for a quote, and callout fees, travel and disbursements for them are charged at the rates we advise to you at the time of the request.
- 6.3 **Billing in advance.** Subscription fees and hardware rentals are billed in advance for each billing cycle. Fees for additional services and

disbursements are billed as they are incurred.

- 6.4 **Due dates.** Subscription fees and rentals are due on the first day of the billing cycle to which they relate, which for South African customers paying by debit order is the debit order date. All other invoices are due 30 days after the invoice date unless the order states a different due date.
- 6.5 **Manner of payment.** If you are domiciled in South Africa you must pay by debit order and sign our debit order authorisation; if you do not, we may charge the administration fee in the price list for manual payment handling. If you are domiciled outside South Africa you must pay by electronic funds transfer or by a recurring card payment, monthly or annually in advance as selected in your order. All payments must be made in full, in the currency invoiced, without deduction, set-off or counterclaim and free of bank and exchange charges.
- 6.6 **No withholding.** You may not withhold or set off any amount due to us for any reason, including a dispute about the services. If you dispute an invoice you must pay it and raise the dispute in writing within 30 days of the invoice date, failing which the invoice is deemed accepted. We will refund or credit any amount that is found not to have been due.
- 6.7 **Tax.** Fees exclude value added tax and any other tax, duty, levy or withholding, which you must pay in addition. If any law requires you to withhold or deduct tax from a payment to us, you must increase the payment so that we receive the full amount we would have received without the withholding or deduction.
- 6.8 **Interest.** To the extent permitted by law, any amount not paid by its due date bears interest from the due date until the date of payment at the higher of 2% per annum above the prime overdraft rate of our bankers from time to time and 15% per annum, calculated daily and compounded monthly. A certificate from any manager of our bankers is sufficient proof of the prime rate.
- 6.9 **Certificate of balance.** A certificate signed by our director or by an accountant we appoint, stating the amount you owe us and its due date, is sufficient proof of that amount and date for the purposes of any claim, unless you prove otherwise.
- 6.10 **Appropriation.** We may appropriate any payment we receive from you to any amount you owe us under the agreement, in the order we choose.
- 6.11 **Credit information.** You and each person who signs on your behalf consent to our providing information about your account and your payment record to registered credit bureaux, and to our obtaining information about you from them, for the purposes of assessing risk and collecting amounts due.
- 6.12 **Travel and disbursements.** Unless your order states otherwise, you must pay our travel costs at the per-kilometre rate we advise for travel beyond 50 km from our nearest office or service base, together with accommodation, flights, transfers, subsistence and other out-of-pocket expenses reasonably incurred in providing onsite services or projects, and any time our personnel spend waiting or returning because a site was not ready at the agreed time.
- 6.13 **Changes to fees.** We may change our fees, including the subscription fees, by giving you at least 30 days' written notice. A change takes effect from the start of your first billing cycle that begins after the notice period ends. Fees you have already paid for a billing cycle do not change during that cycle. If you do not wish to pay the changed fees you may cancel under clause 3.5 before the change takes effect.
- 6.14 **Currency.** Unless your order states another currency, fees are quoted and payable in South African rand if you are domiciled in South Africa and in United States dollars if you are domiciled anywhere else. Currency conversion fees and charges imposed by your bank or payment provider are for your account.
- 6.15 **Currency adjustment for rand-denominated fees.** Our costs are substantially incurred in United States dollars. If you pay in rand, the following applies:
- 6.15.1 **Reference rate:** your reference rate is the closing ZAR/USD exchange rate published by the South African Reserve Bank for the date on which your subscription started, or for the date of your most recent adjustment under this clause, whichever is later;
- 6.15.2 **Trigger:** if on any day the rand has weakened against the dollar by more than 10% relative to your reference rate, we may increase your rand-denominated fees by up to the full percentage by which the rand has weakened;
- 6.15.3 **Notice and timing:** we will give you at least 30 days' written notice of an adjustment, which takes effect from the start of your first billing cycle that begins after the notice period ends, and we will not make more than one adjustment in any calendar quarter;
- 6.15.4 **Reset:** the exchange rate we use for an adjustment becomes your new reference rate; and
- 6.15.5 **One-way:** this clause allows increases only. A strengthening of the rand does not oblige us to reduce your fees, although we may choose to do so.
- 6.16 **Regulatory costs.** If a new law, regulation, fiscal requirement or government instruction requires us to change the software or services or to incur additional costs to continue providing them in your jurisdiction, we may pass those costs on to you as an additional fee on at least 30 days' written notice.

7. Non-payment, suspension and reinstatement

- 7.1 **Payment notice.** If any amount is not paid within 7 days after its due date, we will send you a payment notice by email to your administrator email and through the portal, stating the amount outstanding and warning that we will suspend the services if we do not receive payment within 7 days after the notice.
- 7.2 **Suspension.** If we have not received payment in full within 7 days after the payment notice, we may suspend the services, in whole or in part, without further notice. We will normally suspend in stages, beginning with the hosted services (including myAura, reporting, integrations, delivery channels and software updates) and suspending point-of-sale functions on your Licensed Devices only as a final step, but we may suspend everything at once where we consider the risk to us warrants it.
- 7.3 **Effect of suspension.** During a suspension the agreement continues, subscription fees and rentals continue to accrue and remain payable, and we will not intentionally erase your data. We are not liable for any loss you suffer because of a suspension made in accordance with this clause, and you are not entitled to service credits for the period of suspension.
- 7.4 **Reinstatement.** We will lift a suspension within a reasonable time after you have paid all amounts outstanding, including interest, together with the reinstatement fee published in the price list.
- 7.5 **Brand owner notification.** If you trade under a brand owner's brand, you consent to our informing your brand owner that your account is in arrears and that suspension is pending or has taken place, so that the brand owner can assist in resolving the position.
- 7.6 **Termination for non-payment.** If any amount remains unpaid 30 days after its due date we may terminate the agreement, or any part of it, by written notice with immediate effect, whether or not we have suspended the services. Clause 22.3 then applies.
- 7.7 **Collection costs.** You must pay all costs we incur in recovering any amount you owe us, including tracing fees, collection commission and legal costs on the attorney and own client scale, subject to any limit that the Consumer Protection Act 68 of 2008 or the National Credit Act 34 of 2005 places on pre-agreed enforcement costs where either of those Acts applies to you.

8. Software licence and Licensed Devices

- 8.1 **Licence.** The EULA grants you the licence to install and use the software. The licence is limited to your Licensed Devices, is conditional on

your subscription being active and paid, and ends when your subscription ends or is terminated, and is suspended while the services are suspended. These terms prevail over the EULA if they conflict.

- 8.2 **Licensed Devices.** You may install and use the software on no more than the number of Licensed Devices in your order. You may increase the number of Licensed Devices at any time, through the portal or by asking us in writing, and may reduce it with effect from the start of your next billing cycle.
- 8.3 **Device reporting.** The software may report to us the number of devices on which it is installed or used. If a device is found running the software beyond the number of Licensed Devices in your order, we may invoice you for it at our standard rates from the date it first connected to our services, and it becomes a Licensed Device from that date. You must not tamper with or circumvent device counting or licence enforcement.
- 8.4 **Related Businesses.** The licence extends to Related Businesses operated under your account without separate acceptance, provided that all use remains within the total number of Licensed Devices and sites in your orders.

9. Intellectual property

- 9.1 **Our technology.** We own, and will continue to own, all right, title and interest in our technology, including the software, the documentation and everything we create in providing the services, whether before or during the agreement. Nothing in the agreement transfers any intellectual property to you.
- 9.2 **Your licence.** We grant you a non-exclusive, non-transferable licence, for the duration of your subscription, to use our technology only as embodied in the software and services and only for your internal business purposes in accordance with the agreement. No other licence is granted, whether by implication, estoppel or otherwise.
- 9.3 **Restrictions.** Except as expressly permitted by the agreement or by a law that cannot be excluded, you may not, and may not allow anyone else to: copy, modify, translate, adapt or create derivative works of the software or documentation; decompile, disassemble, reverse engineer or otherwise attempt to derive the source code, algorithms, data models or business logic of the software; rent, lease, lend, sell, sublicense, distribute, publish or otherwise make the software available to any third party; use the software to provide services to third parties on a service bureau, timesharing or similar basis; remove or obscure any proprietary notice; or access the software or services in order to build a competing product.
- 9.4 **Feedback.** Any feedback, suggestions, requirements or ideas you give us about the software or services may be used by us for any purpose without restriction, attribution or payment. You grant us a perpetual, irrevocable, worldwide, royalty-free and sublicensable licence to use any intellectual property rights you may have in them, you agree to assign those rights to us, and you will sign a written assignment of them in the form we reasonably require on request.
- 9.5 **Developments.** All improvements, enhancements, new features, configurations and other developments that we make, whether at your request, in a project or otherwise, belong to us and form part of the standard platform.
- 9.6 **Trademarks.** Aura, Aura NextGen, Cosoft and our logos are our trademarks. You may not use them without our prior written consent, except to identify the software in the ordinary course. Other trademarks that appear in the software or our materials belong to their owners.
- 9.7 **Your data and materials.** As between us and you, you own your data and your customer-supplied assets. You grant us a licence to host, copy, process, display and use them to the extent needed to provide the services, to perform the agreement and as otherwise permitted by clauses 10 and 14.
- 9.8 **Non-exclusivity.** We may provide the software and services to any other person, including your competitors, and may exploit our technology as we see fit, subject only to our confidentiality obligations.
- 9.9 **Enforcement.** We may enforce our intellectual property rights to the fullest extent permitted by law, and you must notify us promptly if you become aware of any unauthorised use of the software.

10. Generated content and the Aura asset library

- 10.1 **Definitions.** In this clause:
generated content means any image, icon, description or other asset created using the image-generation, icon factory or similar content-creation features of the software, whether created by you, by an authorised user or by us at your request;
asset library means the shared library of generated content that we make available to our customers through the software; and
Aura sales channels means the ordering, menu and point-of-sale channels operated through the software, and excludes third party services (such as Uber Eats or Mr D) and any website or sales channel not operated through the software.
- 10.2 **Ownership.** You acknowledge that the content-generation features are systems that we have designed, configured and operate, which apply our own prompting, processing and controls to models licensed to us by third parties, and that we undertake the arrangements necessary for the creation of generated content. Subject to applicable law and to any rights of third parties in material incorporated in generated content, and as between us and you, we are the author and first owner of all generated content and of all intellectual property rights that subsist in it. To the extent that you or an authorised user nonetheless hold any right, title or interest in generated content, you agree to assign it to us, you hold it for our benefit until it has been assigned, and you will sign a written assignment of it in the form we reasonably require on request. Pending that assignment, and with effect from the moment of creation, you grant us a perpetual, irrevocable, worldwide, royalty-free, non-exclusive and sublicensable licence to use, reproduce, modify, adapt, store, display, distribute and otherwise exploit the generated content for any purpose. This clause survives termination of the agreement.
- 10.3 **Your inputs.** We do not claim ownership of the prompts, images or other materials you submit to create generated content. They are customer-supplied assets and clause 15 applies to them. You warrant that you have the right to submit them and that your prompts are not designed to reproduce any person's trademarks, logos, characters, artwork or other protected material.
- 10.4 **The asset library.** We may include generated content in the asset library and make it available to our other customers, including for their commercial use in their menus, products and sales channels. We curate the asset library in our discretion and may exclude, remove or replace any item at any time. We will exclude from the asset library any generated content that we identify as containing a customer's or a third party's trademarks, logos or trade dress, and we will withdraw an item on receiving a written notice to legal@cosoft.co.za that identifies the item and the registered trademark or logo it contains. Except in that case, you have no right to require that generated content be kept private or withheld from the asset library.
- 10.5 **Library content is provided as is.** Generated content that other customers have contributed to the asset library is made available to you as is. We give no warranty that it does not infringe any third party's rights, and clause 20 does not apply to it. Clause 10.9 applies if anyone objects to an item.
- 10.6 **Your licence to your own generated content.** We grant you a non-exclusive, royalty-free, non-transferable licence to use the generated content created under your account for your business purposes, within the Aura sales channels and on third party services, your website and other sales channels. This licence continues after the end of the agreement in respect of generated content created under your account while you were a customer.

- 10.7 **Your licence to library content.** For as long as you have an active subscription that is not suspended, we grant you a non-exclusive, royalty-free, non-transferable licence to use generated content that other customers have contributed to the asset library for your business purposes, within the Aura sales channels and on third party services, your website and other sales channels. This licence ends when your subscription ends or is terminated, and you must within 30 days after that date remove that content from, or replace it on, every platform, website, channel and menu on which you have used it.
- 10.8 **Data in generated content.** You must not submit personal information or confidential information of any person as an input to a content-generation feature unless you are entitled to do so, and you acknowledge that generated content may be included in the asset library and seen by other customers.
- 10.9 **Complaints and takedown.** If we receive a credible complaint that any generated content, whether in the asset library or created under your account, infringes or may infringe any person's copyright, trademark, privacy, confidentiality or other rights, or if we reasonably believe that it does, we may suspend or remove it from the software and the asset library and direct you in writing to stop using it. You must comply with a direction within 7 days, or immediately where we say the matter is urgent, by removing the content from, or replacing it on, every platform, website, channel and menu on which you use it. This clause applies during the agreement and, in respect of generated content you continue to use under clause 10.6, after it ends. We are not liable for any loss caused by a suspension, removal or direction under this clause, and you are not entitled to any credit or refund for it.

11. Feature development and projects

- 11.1 **Standard platform.** All features of the software form part of our standard platform, which we make available to all our customers. We do not develop software that is exclusive to any customer.
- 11.2 **Requests.** You may ask us to develop a new feature, to expedite a feature already on our roadmap, or to carry out configuration or integration work for you (each a project). We may agree to or decline any request in our discretion.
- 11.3 **Quote required.** We will only carry out a project under a quote or statement of work that you have accepted, describing the work, the fees, the timeline and any assumptions or dependencies. These terms govern every project. The quote prevails over these terms only on the commercial particulars listed in clause 2.3.
- 11.4 **Fees.** Project fees are payable as stated in the quote, in addition to your subscription fees. Project fees are not refundable because we later make the feature available to other customers or because you cancel your subscription.
- 11.5 **Ownership.** We own all intellectual property in everything we create in a project, including specifications, code, configuration, documentation and improvements, whether or not you paid for the project, contributed requirements or ideas, or tested the work. Any requirements, feedback or ideas you contribute may be used by us without restriction or payment. You receive no rights in project work other than the right to use the resulting feature as part of the software under these terms for as long as you are a customer.
- 11.6 **Non-exclusive.** Features developed in a project become part of the standard platform. We may make them available to all our customers, including your competitors, without payment or notice to you.
- 11.7 **Your materials.** Anything you provide for a project remains yours. You grant us a licence to use it for the project and the services, and your warranties and indemnities for customer-supplied assets in clause 15 apply to it.
- 11.8 **Delivery and acceptance.** We will deliver project work as described in the quote. If you do not notify us in writing of a material non-conformance with the quote within 10 business days after delivery, the work is deemed accepted. Where you do notify us, our sole obligation is to correct the non-conformance within a reasonable time, failing which we will refund the project fees paid for that item of work.
- 11.9 **Changes.** Changes to the scope of a project must be agreed in writing and may affect the fees and timeline.
- 11.10 **Timelines and dependencies.** Timelines are estimates. Where a project depends on something from you (information, access, decisions or test data) or from a third party such as an integration partner, and it is not provided when needed, we may pause the project and adjust the timeline and fees. We are not liable for delay caused by a dependency we do not control.
- 11.11 **No maintenance obligation.** We have no obligation to maintain, support or keep available any feature developed in a project beyond our normal support of the standard platform, and we may modify or retire features in the ordinary course, giving reasonable notice where the change materially affects functionality.
- 11.12 **Termination of a project.** Either party may terminate a project on written notice if the other party materially breaches the quote and does not remedy the breach within 14 days after written notice. If a project is terminated, you must pay for work done up to the date of termination and we will refund any project fees you have paid in advance for work not yet done.
- 11.13 **Liability.** Clause 18 applies to projects, and project fees count towards the fee-based cap in that clause.

12. Non-circumvention

- 12.1 **Purpose.** This clause protects our confidential information, our technology and our relationships with our personnel. It does not prevent you from developing or acquiring point-of-sale software from any source, provided you comply with it.
- 12.2 **No reverse engineering.** You must not, at any time, reverse engineer, decompile, disassemble or otherwise attempt to derive the source code, algorithms, data models, business logic or methodologies of the software, or assist anyone else to do so.
- 12.3 **No use of our confidential information to compete.** You must not use our confidential information or our non-public know-how, methodologies, business processes or technical information, gained through the software or services, to develop or assist anyone else to develop a product or service that competes with the software, for as long as that information remains confidential.
- 12.4 **Non-solicitation.** During the agreement and for 12 months after it ends, you must not, directly or indirectly, solicit for employment or engagement, employ or engage any of our employees or contractors who provided services to you or worked on your account during the 12 months before the solicitation or engagement. This does not apply to a person who responds to a general advertisement that is not targeted at our personnel.
- 12.5 **Placement fee.** If you breach clause 12.4, you must pay us on demand a placement fee equal to the greater of 35% of the person's annual remuneration with us at the date they left and three months of that remuneration. The placement fee is a genuine pre-estimate of the recruitment, replacement, training and disruption costs we incur when we lose a member of our personnel to a customer. We may instead elect, by written notice to you, to claim the damages we have actually suffered in place of the placement fee, but we will not recover both. This clause is without prejudice to our right to an interdict or to any other remedy for the breach.
- 12.6 **What this clause does not restrict.** Nothing in this clause restricts your use of general industry knowledge or publicly available information, the skills and experience that your employees gain in the ordinary course of their work, or the independent development of software without the use of our confidential information.
- 12.7 **Benchmarking.** You may evaluate and benchmark the software and services for your own internal purposes and share the results within your own group of companies and with your brand owner. You may not publish or disclose to any other person benchmarking, performance test or comparative results relating to the software or services without our prior written consent. This clause survives termination.

13. Confidentiality

- 13.1 **Obligation.** Each party must keep the other party's confidential information confidential, must use it only for the purposes of the agreement, and must not disclose it to anyone other than its personnel, professional advisers, financiers and, in our case, our sub-processors and resellers, who need to know it for those purposes and are bound by obligations of confidentiality no less strict than these.
- 13.2 **Exceptions.** These obligations do not apply to information that is or becomes public through no fault of the receiving party, that the receiving party already lawfully had or independently developed, that it lawfully receives from a third party free of any duty of confidence, or that it must disclose by law, court order or the rules of a regulator, in which case it will where lawful give the other party reasonable notice before disclosing.
- 13.3 **Return or destruction.** At the end of the agreement, or on written request, each party must return or destroy the other party's confidential information in its possession, except that we may retain your data in accordance with clause 22.4, and each party may retain copies that it is required by law to keep or that are held in routine backups until they are overwritten in the ordinary course, subject always to this clause.
- 13.4 **Survival.** This clause survives termination of the agreement for as long as the information remains confidential.

14. Data protection

- 14.1 **Roles.** In providing the services we process personal information of your customers, employees and other data subjects on your behalf. For that personal information you are the responsible party and we are your operator. This clause is the written contract between us that POPIA requires for that relationship, and it applies to the extent that we process personal information on your behalf. Where we process personal information for our own purposes, such as your contact and billing information, we are the responsible party and our privacy notice applies.
- 14.2 **Our obligations as operator.** We will process personal information only for the purposes of providing the services and performing the agreement, or as you otherwise instruct us in writing or as the law requires; treat it as confidential; establish and maintain appropriate, reasonable technical and organisational measures to secure its integrity and confidentiality and to prevent loss, damage, unauthorised destruction and unlawful access or processing; make information about our security measures available to you on reasonable request; and assist you, at your reasonable cost where the assistance is substantial, in responding to data subject requests and regulatory enquiries that relate to your data.
- 14.3 **Your obligations as responsible party.** You warrant that you have a lawful basis for the personal information you and your authorised users collect and submit through the software, that you have given the notices and obtained the consents that the law requires, and that your instructions to us comply with the law. You are responsible for the accuracy of your data and for the lawful use of any reports, exports and outputs you take from the software. You must not submit special personal information or the personal information of children to the software unless the law permits it and you have told us in writing beforehand.
- 14.4 **Sub-processors.** We use third parties to help us provide the services. Our principal sub-processors are Amazon Web Services, which hosts the platform; Vercel, which hosts our web applications, including Aura Mobile Ordering; and Neon, which hosts the database for Aura Mobile Ordering. We also use other service providers for functions such as messaging, payments, analytics, support and content generation. The current list of our sub-processors, the countries in which they process personal information and the functions they perform is published in our privacy notice, which we will update when it changes. We will impose on every sub-processor obligations no less protective than those in this clause and we remain responsible to you for their processing.
- 14.5 **Hosting and cross-border transfers.** Your data is hosted on Amazon Web Services infrastructure in South Africa and Ireland. Data processed by Aura Mobile Ordering is hosted by Vercel and Neon in the regions stated in our privacy notice. Your data may also be processed in other countries where that is necessary to provide the services, for support, backup and business continuity, and by the sub-processors referred to in clause 14.4. We will transfer personal information outside South Africa only to a recipient that is subject to a law, binding corporate rules or a binding agreement that provides an adequate level of protection substantially similar to POPIA. You authorise those transfers and acknowledge that you remain responsible for complying with the transfer requirements that apply to you as responsible party. Where a law in your jurisdiction requires your data to be stored in a particular territory, we will implement appropriate measures where we reasonably can, and any additional cost of doing so is for your account.
- 14.6 **Security incidents.** If we become aware of reasonable grounds to believe that personal information we process for you has been accessed or acquired by an unauthorised person, we will notify you immediately after becoming aware, as section 21(2) of POPIA requires, and without undue delay. Our initial notification may be preliminary, and we will then give you the further details as we establish them, including the information you reasonably need to meet your own notification obligations, keep you reasonably informed until the incident is resolved, and take reasonable steps to contain and remediate it. You must notify us immediately of any suspected security incident affecting your account or your Licensed Devices, cooperate with our incident response, and keep current security software and updates on the systems you use to access the services.
- 14.7 **Brand owner access.** If you trade under a brand owner's brand or through a brand owner's group account, you instruct us, as your operator, to make your data available to the brand owner recorded on your account, including by giving the brand owner's authorised users login access, for the purposes of consolidated reporting, menu management, support and brand compliance, and for as long as you use the services. This is a business instruction from you as responsible party, not the consent of any data subject: you are responsible for having a lawful basis to share personal information in your data with your brand owner, and the brand owner is a separate responsible party for its own use of that information. You may withdraw the instruction on 60 days' written notice, subject to your obligations to the brand owner under your franchise or brand agreement, and nothing in this clause delays or limits any right of a data subject under POPIA to withdraw consent or to object, which we and you will give effect to as the law requires. We are not responsible for the brand owner's use, storage or protection of your data once it has accessed it, and any issue about that must be taken up with the brand owner.
- 14.8 **Use of your data to provide the services.** Nothing in this clause restricts our use of your data, in identifiable form, to provide the services to you and your Related Businesses, including to generate the reports, forecasts, recommendations and other outputs of the software and its AI features for your own use.
- 14.9 **Anonymised data.** You grant us the right to create anonymised data from your data and from your use of the software and services, and to use anonymised data during and after the agreement to operate, secure, improve and develop the software and services, to train and improve AI features, to produce industry benchmarks, trends and analytics, and for research. We will not: sell or license your data in identifiable form; use your data to market to your customers; disclose your data in identifiable form to your competitors; or attribute anonymised data to you. You may opt out of the use of your data for benchmarks and product research (but not for operating, securing and improving the services) by written notice to us, which takes effect 30 days after we receive it and may limit the analytics features available to you.
- 14.10 **Other uses.** We will not use your data for any purpose not described in the agreement or our privacy notice without your written consent, which we will request by specifying the purpose, scope and duration of the proposed use.
- 14.11 **Retention.** We retain your data for the duration of the agreement and thereafter as set out in clause 22.4. We may retain anonymised data indefinitely.

- 14.12 **Applicable laws.** We comply with the data protection laws that apply to us in the countries in which we provide the services, including POPIA and, where applicable, the Personal Data Protection Law of the United Arab Emirates. You are responsible for compliance with the data protection, fiscal and point-of-sale laws that apply to you in your jurisdiction. The services are not currently offered to customers established in the European Union or the United Kingdom. Each party remains responsible for complying with the data protection laws that apply to its own processing activities.
- 14.13 **Privacy notice.** Our privacy notice, published on our websites, describes how we process personal information for our own purposes and forms part of the agreement. Where it conflicts with this clause in respect of your data, this clause prevails.

15. Customer-supplied assets and your warranties

- 15.1 **Your warranties.** You warrant that: you have full power and authority to enter into and perform the agreement; by entering into it you are not in breach of any other agreement; except where the Consumer Protection Act 68 of 2008 applies to you, you have not relied on any representation, warranty or promise that is not expressly set out in the agreement; you will use the software and services only for lawful purposes and in compliance with the agreement; and all information you give us in registering and ordering is true, accurate and complete.
- 15.2 **Customer-supplied assets.** You warrant that you own or hold all licences, consents and rights necessary for every customer-supplied asset to be used, installed, reproduced, displayed and distributed by us in providing the services, including any right to sublicense to us, and that our use of it in accordance with the agreement will not infringe any person's intellectual property, privacy or other rights.
- 15.3 **Consents.** You must obtain and provide all consents needed for us to access, use or modify your or any third party's software, hardware, networks and other systems in providing the services. We are relieved of any obligation affected by your failure to do so.
- 15.4 **Evidence of licensing.** On request you must provide us with evidence of your licence or authorisation for any customer-supplied asset within 10 business days. If you do not, we may remove or disable the asset without liability for any resulting disruption.
- 15.5 **Right to remove.** If we become aware of any actual or threatened claim relating to a customer-supplied asset, we may immediately remove or disable it from all deployments without prior notice and without liability for any resulting disruption, degradation or modification of the services, and you are not entitled to any credit, refund or compensation for the removal.

16. Our warranties

- 16.1 **Service warranties.** We warrant that we and our personnel have, and will use, the skill, knowledge and expertise reasonably required to provide the services; that we will provide the services with reasonable care and skill and in accordance with all laws that apply to us; and that we and our personnel will not knowingly introduce any malicious software into your systems.
- 16.2 **Functionality warranty.** We warrant that the software will perform substantially in accordance with the documentation when used on supported devices in accordance with the agreement. We do not warrant that the software will be error-free or will operate without interruption.
- 16.3 **Sole remedy for the functionality warranty.** If the software does not comply with clause 16.2 and you notify us in writing describing the non-compliance, our sole obligation, and your sole remedy, is that we will use commercially reasonable efforts to correct the non-compliance or to provide a workaround within a reasonable time. If we cannot do so within 30 days after your notice, you may cancel the affected part of your subscription by written notice and we will refund the subscription fees you paid for that part for the period during which it did not comply.
- 16.4 **Hardware warranty.** Hardware we sell to you carries a warranty of 12 months from delivery against defects in materials and workmanship, unless the order states a different period. Clause 21 sets out how warranty claims are handled and what the warranty excludes.
- 16.5 **Authority.** We warrant that we have the right and authority to enter into the agreement and to grant the rights it grants.

17. Disclaimer of warranties

- 17.1 **As is.** Except for the warranties expressly given in the agreement, and to the extent permitted by law, we provide the software, services and hardware on an "as is" and "as available" basis and we disclaim all other warranties, representations and conditions, whether express, implied or statutory, including any implied warranty of merchantability, satisfactory quality, fitness for a particular purpose, accuracy, non-infringement, system integration or quiet enjoyment.
- 17.2 **No warranty of results.** We do not warrant that the software or services will meet your requirements, will be uninterrupted, timely, secure or error-free, will be compatible with or integrate with any third party service or any hardware or software that we did not supply, or that all errors will be corrected. Use of the software and services is at your own risk.
- 17.3 **Your defaults.** We are not liable for any defect, failure or loss to the extent caused by your negligence, your failure to follow the documentation or our reasonable instructions, your misuse of the software or hardware, your infrastructure or connectivity, or any modification or combination of the software with anything we did not authorise in writing.

18. Limitation of liability

- 18.1 **Cap on our liability.** To the extent permitted by law, our total liability to you and your Related Businesses for all claims arising in any period of 12 months, whether in contract, delict, under statute or otherwise, and whether under these terms, the EULA or any order, is limited to the total fees you paid us in the 12 months immediately before the first of those claims arose. All claims arising from the same event or from a series of connected events are treated as a single claim arising when the first of them arose.
- 18.2 **Exclusion of indirect loss.** To the extent permitted by law, neither we nor our personnel, resellers or sub-processors are liable to you for any indirect, incidental, special, punitive or consequential loss or damage, or for any loss of profits, revenue, business, goodwill or anticipated savings, loss of or damage to data or software, loss of use, downtime, or the cost of substitute products or services, however arising and even if we were advised of the possibility of the loss.
- 18.3 **What is not excluded.** Nothing in the agreement excludes or limits either party's liability for fraud or wilful misconduct, any liability that cannot lawfully be excluded or limited, or, where the Consumer Protection Act 68 of 2008 applies to you, our liability for loss attributable to the gross negligence of us or of any person acting for or controlled by us.
- 18.4 **What this clause covers.** This clause applies to every claim relating to the software, the services, hardware, projects, the asset library, security incidents and third party services, including claims under clause 20, and the service credits in clause 23 are your sole remedy for the service levels to which they relate.
- 18.5 **Matters outside our control.** We are not liable for any loss arising from: third party services or any change made by their providers; hardware, software, networks or services that we did not supply; unauthorised access to your account or data caused by a failure to keep credentials or devices secure; any act or omission of a reseller beyond what we have expressly authorised in writing; or any act, omission, error or breach by you or your authorised users.
- 18.6 **Increasing the limits.** The limits in this clause may be increased only by a director-signed addendum that expressly says so. No order, quote, statement of work, service level commitment or other document increases them, but any of them may set lower limits for particular

services.

- 18.7 **Independence and survival.** Each limitation and exclusion in this clause is separate and independent, and this clause survives termination of the agreement.

19. Your indemnity

- 19.1 **Indemnity.** You indemnify us, our related companies, personnel, resellers and sub-processors against all claims, demands and proceedings by third parties, and all resulting liabilities, damages, losses, costs and expenses (including legal costs on the attorney and own client scale to the extent permitted by law), to the extent arising from:
- your or your authorised users' breach of the agreement;
 - your or your authorised users' unlawful use of the software, services or hardware;
 - any customer-supplied asset, including any claim that it infringes a third party's intellectual property, privacy or other rights;
 - your obligations as responsible party for the personal information you process through the software, including claims by data subjects and regulators arising from your instructions or your failure to comply with the law; or
 - any dispute between you and a Related Business, an authorised user, a brand owner or a customer of yours.
- 19.2 **Conduct of claims.** We will notify you promptly of any claim to which the indemnity applies, allow you to conduct its defence and settlement at your cost with counsel reasonably acceptable to us, and give you reasonable assistance at your cost. You may not settle a claim in a way that admits fault on our part or imposes obligations on us without our written consent.

20. Intellectual property infringement claims

- 20.1 **Our defence.** We will defend you against any claim by an unaffiliated third party that the software, as supplied by us and used in accordance with the agreement, infringes that party's copyright, trade mark, registered design or patent, and will pay the damages finally awarded against you or agreed by us in settlement, provided that you notify us of the claim promptly in writing, give us sole control of its defence and settlement, and give us reasonable assistance at our cost.
- 20.2 **Our options.** If a claim is made or we consider one likely, we may at our option and cost obtain the right for you to continue using the software, modify or replace it so that it does not infringe while performing substantially the same functions, or, if neither is commercially reasonable, terminate the affected part of your subscription and refund the subscription fees you paid for it for the preceding 6 months.
- 20.3 **Exclusions.** This clause does not apply to a claim arising from: customer-supplied assets or your data; generated content or asset library content; third party services or anything we did not supply; use of the software in combination with anything we did not supply or authorise; modification of the software by anyone other than us; use of a version of the software after we have made a non-infringing version available; or use in breach of the agreement.
- 20.4 **Sole remedy and cap.** This clause is your sole remedy for infringement claims relating to the software, and our liability under it is subject to clause 18.

21. Hardware

- 21.1 **Sale of hardware.** Where we sell hardware to you, the following applies:
- 21.1.1 **Ownership:** ownership of the hardware remains with us until you have paid the full price for it and all other amounts then due to us, and until then you must keep it identifiable as our property, insured for its full value, free of any lien or encumbrance and at the site to which we delivered it;
- 21.1.2 **Risk:** risk in the hardware passes to you on delivery to your site, and you must insure it from then;
- 21.1.3 **Return of unpaid hardware:** if you do not pay for the hardware when due, you must on request return it to us or arrange its voluntary collection at an agreed time. Entry onto your premises requires your consent given at the time or lawful court process, and we reserve all lawful remedies to recover the hardware;
- 21.1.4 **Warranty:** the hardware warranty in clause 16.4 covers defects in materials and workmanship, is administered through the manufacturer's warranty process, and excludes damage caused by accident, misuse, neglect, power surges, liquid, unauthorised repair, consumables and normal wear and tear. Our obligation under the warranty is to repair or replace the hardware or, where we cannot, to refund the price paid for it. Where the Consumer Protection Act applies to you, your rights under section 56 of that Act, described in Appendix B, apply in addition; and
- 21.1.5 **Delivery:** delivery dates are estimates and we are not liable for delay caused by a supplier or carrier.
- 21.2 **Rental of hardware.** Where we rent hardware to you under a rental quote, the following applies:
- 21.2.1 **Ownership:** the hardware belongs to us or to the financier named in the rental quote, and you acquire no ownership in it;
- 21.2.2 **Term and rentals:** the rental quote sets the minimum rental term, the rental schedule and the consequences of early termination, and prevails over these terms for the rented hardware. Cancellation or termination of your subscription does not terminate the rental or your obligation to pay the rentals for the remainder of the minimum rental term, unless the rental quote says otherwise;
- 21.2.3 **Your obligations:** you must keep the hardware at the site stated in the rental quote, use it only with the software, keep it in good working order, insure it for its full replacement value against all risks, keep it free of any lien or encumbrance, not sell, sublet, lend or part with possession of it, allow us to inspect it on reasonable notice, and notify us immediately of any loss, theft or damage;
- 21.2.4 **Return:** at the end of the rental you must return the hardware to us, or make it available for collection, in good order except for fair wear and tear, and you must pay for any missing items and for repairs beyond fair wear and tear; and
- 21.2.5 **Financier:** we may cede and assign our rights under a rental to a financier, in which case the financier's agreement governs the rented hardware to the extent stated in the rental quote.
- 21.3 **Consumables.** Consumables, including paper rolls and ink, are excluded from the hardware and the services and are for your account.

22. Termination for breach and other events

- 22.1 **Breach.** If a party breaches the agreement and does not remedy the breach within 7 days (or, where Appendix B applies to you, the period stated there) after receiving written notice requiring it to do so, the other party may, without prejudice to its other rights, terminate the agreement in whole or in part by written notice, or claim specific performance, and may in either case claim damages. Non-payment is dealt with under clause 7 and does not require a further notice under this clause.
- 22.2 **Immediate termination.** Either party may terminate the agreement by written notice with immediate effect if the other party: is placed in business rescue, liquidation, sequestration or administration, whether provisionally or finally; is deregistered or takes steps to deregister or wind up; makes any compromise or arrangement with its creditors generally; fails to satisfy a judgment against it for more than R1 million (or the equivalent) within 21 days; or suffers anything analogous in any jurisdiction. We may also terminate by written notice with immediate effect if termination is necessary to comply with any law, sanction or government instruction, if our licence from a key supplier or technology

provider ends or changes materially so that we cannot reasonably continue to provide the software or services, or if we reasonably believe that your activities pose a significant fraud, credit, security or legal risk to us or our other customers.

22.3 **Effect of termination.** When the agreement or your subscription ends for any reason:

- 22.3.1 **Fees:** all fees for services rendered, hardware delivered and billing cycles started before the end date become immediately due and payable, whether or not invoiced, and you may not withhold them for any reason unless an arbitrator or court directs otherwise;
 - 22.3.2 **Licence:** your licence to the software ends, you must stop using it and destroy or delete all copies of it, and we may remotely disable it on your devices;
 - 22.3.3 **Hardware:** you must return any rented hardware under clause 21.2, and any hardware not yet paid for becomes immediately payable or, at our option, returnable to us;
 - 22.3.4 **Data:** clause 22.4 applies to your data; and
 - 22.3.5 **Survival:** clauses that by their nature are intended to survive, including clauses 6, 9, 10, 12, 13, 14, 18, 19, 27 and this clause, survive termination.
- 22.4 **Your data after termination.** For 60 days after the end of the agreement we will retain your data and give you read-only access to the portal so that you can export it in the standard export formats the software supports. Within 30 days after that period ends we will delete your data from our active systems, except where the law requires us to keep it and except for anonymised data, and data in backups will be overwritten in the ordinary course. We will delete your data earlier if you ask us to in writing. Assistance beyond self-service export, including data conversion or migration, is chargeable at our then-current rates.
- 22.5 **Transition assistance.** If the agreement ends because of our breach or on our notice for convenience, we may, for up to 30 days after the end date and at our then-current rates, provide reasonable assistance to enable you to transition to another provider, including advice to the new provider and continued provision of services on an ad hoc basis. We are not otherwise obliged to provide transition assistance.
- 22.6 **No expectation of renewal.** Neither party has any expectation of the continuation or renewal of the agreement beyond the current billing cycle, and no compensation is payable by either party because the agreement ends in accordance with its terms.

23. Service levels

- 23.1 **What availability means.** Availability means the availability of our hosted services, being myAura, the synchronisation, integration and other cloud services and application programming interfaces that support the software, as measured by our monitoring systems. It does not include the software installed on your Licensed Devices, which is designed to continue trading when the hosted services are unavailable, or your connectivity, hardware, sites or third party services.
- 23.2 **Availability commitment.** We will use commercially reasonable efforts to make the hosted services available 99.0% of the time in each calendar month, excluding scheduled maintenance of up to 7 hours per month, emergency maintenance, force majeure events, failures of third party services, and unavailability caused by you, your authorised users, your infrastructure or your hardware.
- 23.3 **Maintenance.** We perform routine maintenance during off-peak hours where possible, typically between midnight on Sunday and Monday morning, and will give you at least 24 hours' notice of scheduled maintenance expected to exceed 2 hours. We may perform emergency maintenance at any time.
- 23.4 **Service credits.** If availability in a calendar month is below 99.0%, you may request a service credit calculated on the subscription fees for the affected sites for that month (where the subscription fee is bundled, on the whole subscription fee for those sites), as follows: 10% where availability is at least 97.0% but below 99.0%; 25% where availability is at least 95.0% but below 97.0%; and 50% where availability is below 95.0%. Credits are capped at 50% of the subscription fees for the affected sites for the month, must be requested in writing within 30 days after the end of the month, are applied against future subscription fees and are not paid in cash, and are not available for any month in which your account was suspended or in arrears.
- 23.5 **Sole remedy.** Service credits are your sole and exclusive remedy for any failure to meet the availability commitment, and the target response and resolution times in Appendix A are targets that we will use commercially reasonable efforts to meet and do not give rise to any other remedy.
- 23.6 **Enhanced service levels.** Customers with subscription fees above USD 5,000 (or the equivalent) per month may ask us to agree enhanced service levels and remedies in a director-signed addendum, for an additional fee.

24. Force majeure and business continuity

- 24.1 **Force majeure.** Neither party is liable for any failure or delay in performing its obligations, other than an obligation to pay money, to the extent caused by an event beyond its reasonable control, including acts of God, natural disasters, epidemics and pandemics, war, terrorism, civil unrest, riots, government actions, sanctions and embargoes, strikes and labour disputes (other than of its own personnel), fire, flood, failure of electrical supply or telecommunications, cyber attacks on infrastructure that it does not control, widespread internet outages, the failure or unavailability of a primary cloud infrastructure provider, and supply chain disruptions affecting key technology components.
- 24.2 **Continuity.** During a force majeure event we will use commercially reasonable efforts to maintain service continuity, to keep you informed of the status of the services, to prioritise the restoration of revenue-critical functions, and to modify the way we deliver services (for example by moving to remote-only support) where that helps. The availability commitment is suspended during a verified force majeure event. Where the hosted services are unavailable for more than 72 consecutive hours because of a force majeure event, we may in our discretion credit a pro rata portion of your subscription fees for the period of unavailability.
- 24.3 **Security events.** If we experience or reasonably anticipate a cyber attack, data breach or other security incident, we may temporarily suspend or restrict services, features, integrations or regions, and require additional authentication, to the extent reasonably necessary to protect our customers, their data and our systems.

25. Resellers

- 25.1 **Independent contractors.** In some regions we sell or support the software and hardware through resellers. Resellers are independent contractors and are not our agents, partners or employees. They have no authority to make representations, give warranties or vary the agreement on our behalf, and we are not bound by anything a reseller says or does beyond what we have expressly authorised in writing.
- 25.2 **Responsibilities.** We remain responsible for the software, its licensing and the hosted services regardless of how you were introduced to us or who supports you onsite. A reseller is solely responsible for the services it provides to you under its own terms, including onsite services, and for their quality and timeliness, and we are not liable for its acts or omissions.
- 25.3 **Your relationship with us.** Your agreement for the software and hosted services is with us and is governed by these terms, and all fees for them are payable to us on the terms of the agreement, regardless of any reseller terms. If you are dissatisfied with a reseller's service, tell us and we will use reasonable efforts to arrange an alternative within 60 days. A reseller's conduct does not entitle you to terminate the agreement. If a reseller's authorisation ends, your rights under the agreement are not affected.

26. Transfer and assignment

- 26.1 **Transfer by you.** You may not cede, assign, delegate or otherwise transfer the agreement, your subscription or any of your rights or obligations under them without our prior written consent. We will not unreasonably withhold consent to a transfer to a bona fide purchaser of your business, provided that the purchaser passes our registration and credit checks, accepts the then-current version of these terms and the EULA through the portal, and accepts and pays our transfer quote for the work involved in the transfer, and provided that all amounts you owe us have been paid. Until a transfer is completed you remain liable for all fees and obligations under the agreement, and any change in the control of your business is treated as a transfer for the purposes of this clause.
- 26.2 **Data on transfer.** Your data belongs to you as responsible party and does not pass to a purchaser of your business unless you instruct us in writing to transfer it, in which case you warrant that you are entitled to give that instruction.
- 26.3 **Assignment by us.** We may cede, assign or transfer the agreement, or any of our rights or obligations under it, to a related company, to a successor to our business or to a purchaser of all or part of our business or assets, and may cede our rights to payment to a financier, in each case without your consent, and we will notify you when we do.

27. Disputes

- 27.1 **Negotiation.** If a dispute arises out of or in connection with the agreement, other than a claim for the payment of fees or an application for urgent or interim relief, senior representatives of both parties must first try to resolve it by negotiation in good faith for a period of 30 days after either party gives the other written notice of the dispute.
- 27.2 **Arbitration.** A dispute that is not resolved by negotiation must be referred to and finally resolved by arbitration administered by the Arbitration Foundation of Southern Africa (AFSA) in accordance with its commercial rules or, where you are domiciled outside South Africa, its international arbitration rules, which are incorporated into this clause by reference. The seat of the arbitration is Johannesburg, South Africa; the tribunal consists of one arbitrator appointed under those rules; the language of the arbitration is English; and the proceedings and the award are confidential. The award is final and binding and may be made an order of any court with jurisdiction.
- 27.3 **Claims we may bring in court.** Nothing in this clause prevents us from bringing a claim for the payment of fees or any other amount you owe us in any court with jurisdiction, and you consent to the jurisdiction of the High Court of South Africa, Gauteng Division, and of any Magistrates' Court with jurisdiction, for any claim we bring against you, without prejudice to our right to bring a claim in any other court with jurisdiction over you.
- 27.4 **Urgent relief.** Either party may apply to any court with jurisdiction for urgent or interim relief, including an interdict to protect intellectual property, confidential information or data, without first referring the matter to negotiation or arbitration.
- 27.5 **Costs.** The costs of any arbitration or court proceedings, including the arbitrator's and AFSA's fees and each party's legal costs, are borne by the unsuccessful party or as the arbitrator or court otherwise directs, and clause 7.7, including its qualification where the Consumer Protection Act or the National Credit Act applies to you, applies to the recovery of amounts you owe us.
- 27.6 **No class actions.** To the extent permitted by law, disputes must be brought by a party in its own capacity only, and not as a plaintiff or class member in any purported class, collective or representative proceeding.
- 27.7 **Continued performance.** The existence of a dispute does not relieve you of your obligation to pay fees when due, and does not affect our rights under clause 7.

28. Governing law and compliance

- 28.1 **Governing law.** The agreement, and any dispute arising out of or in connection with it, is governed by the law of South Africa, without regard to its conflict of law rules. Mandatory laws of your jurisdiction may impose additional obligations on you, but they do not vary the interpretation or enforcement of the agreement between us except to the extent that they cannot lawfully be excluded.
- 28.2 **Local compliance.** You are responsible for complying with all laws that apply to your use of the software, services and hardware in your jurisdiction, including fiscal, tax, invoicing and fiscal-printer requirements, point-of-sale certifications, consumer, labour and data protection laws, and exchange control approvals and tax clearances required to pay us. We may charge an additional fee under clause 6.16 for changes required by those laws.
- 28.3 **Sanctions and export control.** You warrant that neither you nor any of your owners, directors or Related Businesses is the subject of sanctions administered by the United Nations, the European Union, the United Kingdom, the United States or South Africa, and that your use of the software and services will not breach any applicable sanctions or export control law. You must notify us immediately if this changes, and we may suspend or terminate the agreement immediately if it does.
- 28.4 **Service availability by region.** Service features, support hours, onsite services and integrations vary by region. Current availability is published on our websites.
- 28.5 **Country schedules.** We may publish country schedules at legal.cosoft.co.za setting out variations to these terms that apply to customers domiciled in a particular country, for example to comply with mandatory consumer, data protection, fiscal or point-of-sale laws of that country. A country schedule forms part of the agreement for customers in that country, with the precedence set out in clause 2.3, and we will introduce or change a country schedule in the manner set out in clause 30.

29. Notices

- 29.1 **Our addresses.** You must send notices to us by email to legal@cosoft.co.za, and legal process must be served on us at Block C, Central Park Offices, 400 16th Road, Randjespark, Midrand, 1685, South Africa, which we choose as our domicilium citandi et executandi.
- 29.2 **Your addresses.** We will send notices to you by email to your administrator email or through the portal, and legal process may be served on you at the physical address recorded on your account, which you choose as your domicilium citandi et executandi. You must keep both addresses current through the portal. A notice sent to the administrator email or physical address last recorded on your account is validly given even if you have stopped using that address.
- 29.3 **When notices are received.** A notice is deemed received: if sent by email during business hours, on the day it is sent, and otherwise on the next business day, unless the sender receives a delivery failure message; if delivered through the portal, when it is posted, provided an email alert is sent to the administrator email; and if delivered by hand or courier, on delivery. A notice may not be given by SMS or instant message.
- 29.4 **Changing addresses.** Either party may change its notice or physical address on 14 days' written notice to the other; you do so by updating your account in the portal.

30. Changes to these terms

- 30.1 **Material changes.** We may change these terms, the EULA and our policies from time to time. We will notify you of a material change through the portal and by email to your administrator email at least 30 days before it takes effect, and we may require you to accept the

changed terms in the portal before you continue to use the services. If you do not agree to a material change you may cancel your subscription under clause 3.5 before the change applies to you, or terminate under clause 30.3 where that clause applies. Subject to clauses 30.2 and 30.3, if you continue to use the software or services after a change applies to you, you are deemed to have accepted it.

- 30.2 **Changes to the protected clauses.** A material change to clause 9, 10, 14, 18 or 27 takes effect for you only when you, or a person authorised to act for your account, accept the new version in the portal. We will require that acceptance before you continue to use the services once the change applies to you under clause 30.3, and continued use alone is not acceptance of a change to those clauses. Clause 2.3 restricts variations agreed with a particular customer; it does not restrict new versions published under this clause.
- 30.3 **Changes during a prepaid billing cycle.** A material change does not apply to you during a billing cycle you have already paid for; it applies from the start of your next billing cycle, unless the change is required by law or we elect, by saying so in the notice, to apply it from an earlier date. Where a material change applies to you before the end of a billing cycle you have paid for and you do not accept it, you may terminate the affected subscription by written notice with effect from the date the change takes effect, without any cancellation penalty, and we will refund the subscription fees you paid for the unused period after termination. Declining a change is not a breach of the agreement, and the version of these terms that you last accepted continues to apply to you until the change applies to you or your subscription ends.
- 30.4 **Other changes.** Corrections, clarifications, changes to contact details and other changes that do not materially affect your rights or obligations take effect when we publish the changed document on our websites.
- 30.5 **Which version applies.** The version of these terms and the EULA that applies to you at any time is the version most recently accepted by you or that has taken effect under clause 30.1, as recorded by the portal. Versioned copies are archived at legal.cosoft.co.za.

31. General

- 31.1 **Entire agreement.** The agreement, as defined in clause 2.3, is the entire agreement between us and you about its subject matter and replaces all previous versions of these terms and the EULA and all earlier negotiations, representations and understandings, except accepted orders and director-signed addenda, which continue to apply.
- 31.2 **Relationship.** The parties are independent contractors. The agreement does not create any partnership, joint venture, agency, franchise or employment relationship between them.
- 31.3 **No waiver.** No failure, delay or indulgence by a party in exercising a right is a waiver of that right, and no waiver is effective unless it is in writing.
- 31.4 **Severability.** If any provision of the agreement is invalid or unenforceable, it will be read down or severed to the extent necessary, and the remaining provisions continue in full force.
- 31.5 **Language.** The agreement is in English. A reseller may provide translations or its own service terms in other languages, but the English version of the agreement prevails over any translation, and the agreement prevails over any reseller terms except for the reseller's own onsite service terms.
- 31.6 **Reference customer.** You agree that we may identify you as a customer, by name and logo, in our customer lists, website and marketing materials, unless you notify us in writing that you object.
- 31.7 **Related Businesses, brand owners and franchisees.** Where you are a brand owner or operate a group account, you are responsible for each Related Business under it as if it were you, and for each franchisee site to the extent set out in clause 3.3. Where you are a franchisee, nothing in the agreement affects your obligations to your brand owner under your franchise agreement.
- 31.8 **Counterparts and electronic records.** The agreement and any order may be concluded electronically, and our records of your acceptance (including the version and hash of each document accepted, the confirmation you gave and the time of acceptance), orders, cancellations and notices made by the portal are sufficient evidence of them.

Appendix A – Service descriptions

This Appendix describes the software and the services we provide under the terms. It forms part of the terms, and the definitions in clause 2 apply to it. Where a service is described as available at our current hourly, daily or per-kilometre rate, clause 6.2 applies.

32. The Aura NextGen software

- 32.1 **Products.** Aura NextGen is our suite of point-of-sale and related products, which can be installed on supported operating systems and devices and currently includes:
- CounterPOS, transactional software that processes restaurant sales on a tablet-sized device;
 - MobilePOS, which is similar to CounterPOS but formatted for a mobile device with a smaller screen;
 - Kitchen Display, software that runs in the kitchen and shows staff what to prepare as orders are placed;
 - Order Number Display, customer-facing software that shows the completion status of orders;
 - SST (Self Service Terminal), customer-facing software that a restaurant's customers use to place their own orders;
 - Aura Mobile Ordering (mobisite), a web-based ordering channel through which a restaurant's customers place orders from their own mobile devices;
 - myAura, which provides online analytics and consolidated reporting across stores; and
 - any other products that we add to the suite from time to time.
- 32.2 **Hosted services.** The software is supported by hosted services that we operate, including synchronisation between devices and the cloud, integrations with third party services, reporting and analytics, content-generation features and the portal. The software is designed to continue processing sales on your Licensed Devices when connectivity to the hosted services is lost, and to synchronise when connectivity is restored.
- 32.3 **Supported devices.** The software must be installed on devices that meet the specifications published in the documentation. We may end support for older devices and operating system versions on reasonable notice.

33. Accounts, credentials and security

- 33.1 **Administrator account.** We give you an administrator account, which you use to add and manage your own authorised users and Related Businesses. Only you may use your credentials, and credentials may not be shared between people.
- 33.2 **Authorised users.** You may have as many authorised users of the point-of-sale products as you need. The number of authorised users for myAura is limited as set out in the price list or your order. Each authorised user must have their own credentials.
- 33.3 **Passwords.** You and your authorised users must choose passwords that meet the requirements we publish, must not reuse them elsewhere, must keep them secret and must change them immediately if you suspect they have been compromised.
- 33.4 **Authorised user obligations.** You must ensure that each authorised user keeps their credentials secure and does not disclose them; does not give anyone else access to the software or services; secures all data under their control; does not interfere with the functionality or proper working of the software or services; does not introduce any virus, worm, logic bomb, trojan or other malicious software; and does not use the services for unlawful direct marketing, spam or unsolicited communications.
- 33.5 **Administrator obligations.** Your administrator must not use bots or other automated methods to register users; must give us a list of authorised users on request; must remove access for people who are no longer authorised, including when they leave your employment; must notify us of any known breach of the agreement or our privacy notice; and must take reasonable measures to prevent malicious software being introduced into the services.
- 33.6 **Activity on your account.** You are responsible for all activity under your account and your authorised users' credentials, and clause 4.6 applies to instructions given through them.
- 33.7 **Security monitoring.** We may take any action we consider necessary to preserve the security and reliable operation of the software and services, including suspending access from devices or accounts that we reasonably believe are compromised or are being used in breach of the agreement.

34. Access and availability

- 34.1 **Access.** We provide access to the hosted services through the internet. We are not responsible for providing you with internet access, telecommunications or other infrastructure needed to access them.
- 34.2 **Availability.** We use commercially reasonable efforts to make the hosted services available 24 hours a day, every day of the year, subject to maintenance. Our availability commitment, how it is measured and the service credits that apply are set out in clause 23, which prevails over this clause if they conflict.
- 34.3 **Maintenance.** We reserve up to 7 hours of scheduled downtime per month for routine maintenance of the hosted services, which we schedule during off-peak hours where possible, and we may perform emergency maintenance at any time, as set out in clause 23.3.

35. myAura services

- 35.1 **Single-store analytics.** Each store receives one myAura login at no additional charge, giving access to online analytics for that store. This does not include consolidated reporting across stores.
- 35.2 **Consolidated reporting.** Consolidated reporting across stores is available at the additional fee in the price list or as quoted.
- 35.3 **Custom dashboards.** We can configure custom dashboards for you within the standard capabilities of myAura at the additional fee in the price list or as quoted. Custom dashboards are configuration, not bespoke development, and clause 11 applies to any work beyond configuration.

36. Remote services: technical support

- 36.1 **Help desk.** We provide a help desk for technical support requests during the support hours, and emergency support outside those hours for issues that prevent a store from trading, through the channels and during the hours published at www.cosoft.co.za. We may change the hours and channels on notice through the portal or at www.cosoft.co.za.
- 36.2 **Before you log a request.** Before logging a support request you must make reasonable efforts to identify and reproduce the problem and must make all relevant details available to our help desk, including the device, the software version, the steps that produced the problem and any error messages.
- 36.3 **Evaluation.** When we receive a support request we will evaluate it and tell you our assessment. A request that falls outside the scope of the services, such as a request for a new feature, will be recorded for consideration under clause 11 or our roadmap.
- 36.4 **Target response times.** We aim to respond to requests within the target times published on our websites, prioritising issues that prevent a

store from trading (critical issues) over issues that do not (non-critical issues). Target times are targets, not commitments, and clause 23.5 applies to them.

- 36.5 **Ticket status and closure.** You can view the status of your support requests online and we will notify you when the status of a request changes and when it is resolved. If you do not tell us within a reasonable time after we notify you that a resolution was not satisfactory, the request is deemed resolved to your satisfaction.

37. Remote services: administrative support, installation and menu management

- 37.1 **Administrative support.** Our operations support team can help you with administrative activities in the software during support hours. Administrative support is billed in half-hour increments at our current hourly rate.
- 37.2 **Remote installation.** In exceptional cases, such as a distant store, our help desk can install the software remotely. Remote installation is billed at our current hourly rate and requires an accepted order before work starts.
- 37.3 **Menu management.** We can build and maintain your menu in the software on request, at our current hourly rate or on a retainer agreed in an order. This service is usually commissioned by a brand owner rather than by an individual store. Once we have built or changed a menu, you are responsible for checking that all items, options, prices and taxes are correct before you trade on it, and we are not liable for any loss arising from an error that you did not report to us before trading.

38. Onsite services

- 38.1 **Where onsite services are available.** Onsite services are available in South Africa and in the other regions where we have a physical presence or an authorised reseller. Where we do not offer onsite services, we provide remote support to the best of our ability.
- 38.2 **How onsite services are delivered.** In regions where we have a physical presence we provide onsite services directly, at the fees in the price list or as quoted, with the target response times in clause 38.3. In regions served by a reseller, onsite services are provided by the reseller under its own terms, fees and response times, and clause 25 applies.
- 38.3 **Callouts and target response times.** If our help desk determines that an issue needs a technician on site, we create a callout. For direct support we aim to have a technician on site within 4 business hours for a store that is unable to trade, and within 24 hours for a store that is able to trade, in each case plus 1 business hour for every 100 km between our nearest office or service base and your site. These are targets that we use commercially reasonable efforts to meet.
- 38.4 **Callout and travel fees.** Callouts are charged at the callout fee in the price list or as advised at the time, plus travel under clause 6.12. If the issue is caused by a defect covered by our hardware warranty, we will not charge the callout or travel fee. If it is caused by negligence, misuse, your infrastructure, consumables, an uninterruptible power supply failure or anything else not covered by a warranty, the callout and travel fees apply.
- 38.5 **Installations.** We can install hardware on site, including running network cables, at the fees quoted for the installation plus travel, accommodation and disbursements under clause 6.12. If we arrive at the agreed time and the site is not ready, you must pay for the waiting time or for the return visit.
- 38.6 **Handholding.** We can provide handholding at your store opening, including assistance with first cash-ups, stock-takes and general use of the software, for a period of a few hours to five days as agreed, at our current hourly or daily rate plus travel, accommodation and disbursements.

39. Training

- 39.1 **Onsite training.** On request we will quote for onsite training at our daily rate plus travel, accommodation and disbursements.
- 39.2 **Remote training.** On request we will quote for remote training at our daily rate.

40. Integration services

- 40.1 **Available integrations.** The software integrates with a range of third party services, and the list of available integrations by region is published on our websites. Integrations depend on the third party service remaining available and unchanged, and clause 5.6 applies.
- 40.2 **Integration work.** Enabling a standard integration is included in the subscription or charged as set out in the price list. Work to build or adapt an integration is a project under clause 11.

41. Excluded services

- 41.1 **Consumables and infrastructure.** Consumables, internet connectivity, telecommunications, electrical supply, networking and other infrastructure are excluded from the services and are for your account unless an order states otherwise.
- 41.2 **Additional services.** Any service that is not included in your subscription is an additional service and must be ordered under clause 4 at the fees in the price list or as quoted.

42. Restrictions on use of the services

- 42.1 **No third party access.** You must not give any third party direct access to the software or hosted services, whether by lease, download, resale, bureau service, on-demand service or any other method, other than to your authorised users and Related Businesses in accordance with the agreement. Making SST or Aura Mobile Ordering available to your own customers so that they can place orders with you, on their own devices, is part of the intended use of the software and is not a breach of this clause.
- 42.2 **No competing service.** You must not use the software or hosted services to provide a service to any third party that is similar to or competes with the software or services.
- 42.3 **Acceptable use.** You must not use the software or services to store or transmit unlawful, infringing or harmful material, to send unsolicited communications, to interfere with any other customer's use, or to attempt to gain unauthorised access to any system or data.

Appendix B – South African consumer schedule

This Appendix applies to you if you are a consumer under the Consumer Protection Act 68 of 2008 (the CPA) in respect of the agreement, being either a natural person (including a sole proprietor, or a partnership whose partners are all natural persons) or a juristic person whose asset value or annual turnover, at the time you accept the agreement, is below the threshold determined under section 6 of the CPA. Where this Appendix applies to you it prevails over the rest of these terms to the extent of any inconsistency, and nothing in these terms limits any right you have under the CPA that cannot lawfully be limited. Clause 43 applies to every customer to whom this Appendix applies. Clause 44 applies only to natural persons.

43. Rights of all consumers

- 43.1 **Plain language and notice.** The Key Terms notice at the start of these terms draws your attention, before you accept them, to the provisions described in clause 1.4, and you confirm that you have read these terms before you accept them. You may ask us, at support@cosoft.co.za, to explain any provision of the agreement before you accept it, and we will do so in plain language.
- 43.2 **Liability and risk.** As clause 18.3 provides, nothing in the agreement limits our liability for loss attributable to the gross negligence of us or of any person acting for or controlled by us, or requires you to assume the risk of such loss. Nothing in the agreement limits any liability we may have under section 61 of the CPA for harm caused by defective hardware we supply.
- 43.3 **Representations.** The warranty in clause 15.1 that you have not relied on any representation not set out in the agreement does not apply to you, and the agreement does not require you to acknowledge that no representations were made to you.
- 43.4 **Defective hardware.** In addition to the warranty in clause 21.1, if hardware we sell to you does not meet the standards required by section 55 of the CPA, you may within six months after delivery return it to us and require us, at your election, to repair or replace it or to refund the price you paid for it. If we repair it and the same defect recurs within three months after the repair, you may require us to replace it or to refund the price. This clause does not apply to a defect caused by misuse, neglect, accident or a failure to follow our instructions, or to a condition we specifically disclosed to you and you accepted before purchase.
- 43.5 **Recovery of hardware.** Nothing in the agreement authorises us or anyone acting for us to enter your premises to take possession of hardware. Clause 21.1 obliges you to return unpaid hardware or to arrange its voluntary collection, and we recover hardware otherwise only with your consent given at the time or through lawful court process.
- 43.6 **Enforcement costs.** The collection and legal costs you must pay under clauses 7.7 and 27.5 are limited to the costs that the CPA and, where it applies, the National Credit Act 34 of 2005 permit us to recover from you.
- 43.7 **Cooling-off after direct marketing.** If you accepted the agreement as a result of direct marketing by us, you may rescind it without reason or penalty by written notice to us within five business days after the later of the date you accepted it and the date any hardware was delivered to you. We will refund any payment you have made within 15 business days after receiving your notice or, where hardware was delivered, after its return. You must return the hardware to us in the condition in which you received it, and we may deduct the reasonable cost of restoring it to saleable condition where the CPA permits.
- 43.8 **Complaints.** Nothing in clause 27 prevents you from referring a complaint to the National Consumer Commission, an applicable ombud or a consumer court, or from exercising any other right to which the CPA entitles you. The arbitration provisions in clause 27 apply to you only to the extent that the CPA allows.
- 43.9 **Reading down.** If any provision of the agreement would be unfair, unreasonable or unjust as contemplated in section 48 of the CPA in its application to you, it is to be read as limited to the extent necessary to be fair, reasonable and just, and the rest of the agreement continues to apply.

44. Natural persons with annual subscriptions or rentals

- 44.1 **Application.** This clause applies only if you are a natural person and applies to an annual subscription, a hardware rental with a minimum term, and any other fixed-term arrangement under the agreement (each a fixed-term agreement). A monthly subscription is not a fixed-term agreement.
- 44.2 **Maximum term.** No fixed-term agreement with you will have a term longer than 24 months.
- 44.3 **Your right to cancel.** You may cancel a fixed-term agreement at any time by giving us 20 business days' written notice. We may charge a reasonable cancellation penalty determined in accordance with the regulations under the CPA, having regard to the unexpired portion of the term, the value of any hardware or services provided to you at a reduced price or without charge, the costs we incurred in entering into and performing the agreement and our reasonable prospects of re-supplying what you ordered, and we will tell you the amount of the penalty on request. We will refund any fees you have paid in advance for the period after cancellation, less the penalty and any amounts you owe us, within a reasonable time.
- 44.4 **Cancellation by us for breach.** Instead of the 7 days in clause 22.1, we may cancel a fixed-term agreement for a material failure by you to comply with it only if you have not remedied the failure within 20 business days after we have given you written notice of it. Clause 7 continues to apply to the suspension of the services for non-payment.
- 44.5 **Expiry and renewal.** Not more than 80 and not less than 40 business days before the end of an annual subscription or other fixed-term agreement we will notify you in writing of its expiry date, of any material changes that would apply if it were renewed, and of your options to renew it for a further term, to change to monthly billing or to cancel it. If you do not tell us what you want before the expiry date, the agreement continues after that date on a month-to-month basis on the same terms, subject to any material changes we notified to you, until you cancel it or renew it.