

IN DIALOGUE PROPRIETARY LIMITED

(Registration No. 2018/480386/07)

(hereafter "**the Company**")

TEST TERMS AND CONDITIONS OF SERVICE / USE

("Terms")

In respect of a software platform called IN·DIALOGUE ("IN·DIALOGUE")

1. INTRODUCTION

- 1.1 IN·DIALOGUE is operated by the Company. You require the Company to grant you access to and use of IN·DIALOGUE, which the Company agrees to do, in accordance with the Terms set out herein.
- 1.2 Your access to and use of IN·DIALOGUE is subject to these Terms. Kindly read these terms and conditions before accessing and using IN·DIALOGUE.
- 1.3 By accessing and/or using IN·DIALOGUE, you represent and confirm that you have read and understood these Terms and that you agree to be bound by them, including any future modifications. In this regard, these Terms become binding as between you and the Company upon your registration to IN·DIALOGUE. If you do not wish to be bound by the Terms, you should not register for, nor access and/or use IN·DIALOGUE.
- 1.4 The Company reserves the right to amend, update or change these Terms from time to time at our sole discretion and without notice to you. We will indicate at the bottom of the Terms, the date these Terms were last revised.
- 1.5 Changes to these Terms will become effective upon such changes being posted to a website relating to and supporting IN·DIALOGUE.
- 1.6 It is your obligation to periodically check these Terms at the websites for changes or updates. Your continued access and use of IN·DIALOGUE following the posting of changes or updates will constitute acceptance on your part to abide by and be bound by these Terms, including such changes or updates. If you do not agree to abide by these Terms, you are not authorised to use, access, or participate in IN·DIALOGUE.

2. DEFINITIONS

In this Policy, the following words shall, unless otherwise stated or inconsistent with the context in which they appear, bear the following meanings and other words derived from the same origins as such words (that is, cognate words) shall bear corresponding meanings:

- 1.7 **"Company"** means IN·DIALOGUE Proprietary Limited, registration number 2018/480386/07, a private company duly incorporated and registered in accordance with the laws of the Republic of South Africa;

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- 1.12 **"POPIA Policy"** means the Company policy on the Protection of Personal Information Act 4 of 2013;
- 1.13 **"Protection of Personal Information Act" and "POPIA"** means the Protection of Personal Information Act 4 of 2013, together with all Regulations that may in the future be promulgated thereunder;
- 1.14 **"Terms"** means the Terms recorded herein, and as amended from time to time; and
- 1.15 **"User" and "you" and "yours"** means any person, whether natural or juristic who makes use of and/or operates IN·DIALOGUE.

3. USE OF IN·DIALOGUE

- 1.16 Your registration on IN·DIALOGUE entitles you to access, make use of, and enjoy the benefit of IN·DIALOGUE, as provided by us, in the manner set out herein and in accordance with all applicable laws and regulations.
- 1.17 The Company reserves the right to refuse to register an applicant to use IN·DIALOGUE, or to de-register a User, for whatever reason, without the need to justify the refusal.
- 1.18 Your access to and use of IN·DIALOGUE may be interrupted from time to time for any of several reasons, including, the malfunction of equipment, periodic updating, maintenance, or repair of IN·DIALOGUE or other actions that the Company, in its sole discretion, may elect to take.
- 1.19 The Company does not mediate on, or moderate, any of the Dialogue that is shared on IN·DIALOGUE. Consequently, the Company shall not be responsible or liable, directly, or indirectly, for any damage or loss arising from access to, and use of, the Dialogue.
- 1.20 In connection with registering for and using IN·DIALOGUE, you agree to:
- 3.1.1 provide accurate, current, and complete information wherever prompted by IN·DIALOGUE;
- 3.1.2 maintain the confidentiality of your password and other information related to the security of your account;
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- 3.1.3 maintain and promptly update any registration information you provide on IN·DIALOGUE, to keep such information accurate, current, and complete;
 - 3.1.4 be fully responsible for all use of your account and for any actions that take place through your account.
 - 1.20.1 Unless the Company has provided you with written consent, you may not:
 - 3.1.5 resell and/or on-sell, sub-licence, distribute, display, copy, disassemble, decompile, reverse engineer, translate, transfer, or otherwise make available IN·DIALOGUE and/or its content, whether modified or not;
 - 3.1.6 download, modify, copy, distribute, transmit, display, perform, reproduce, duplicate, publish, license, create derivative works from, or offer for sale any information contained on, or obtained from or through, the Company and/or IN·DIALOGUE in any way than as set out in IN·DIALOGUE for the purpose of maintaining professional or clinical records;
 - 3.1.7 use IN·DIALOGUE in a way which might be detrimental to the Company and/or IN·DIALOGUE or be harmful to the Company and/or IN·DIALOGUE's reputation, nor shall you use IN·DIALOGUE in a harmful, fraudulent, deceptive, threatening, harassing, defaming, or otherwise OBJECTIONABLE manner;
 - 3.1.8 access or use IN·DIALOGUE in any manner that could disable, overburden, damage, disrupt or impair IN·DIALOGUE or interfere with any other party's access to or use of IN·DIALOGUE or use any device, software or routine that causes the same (including viruses and other malware);
 - 3.1.9 allow any third party to access, benefit or use your IN·DIALOGUE account or its content in any way nor for any reason whatsoever;
 - 3.1.10 attempt to gain unauthorised access to IN·DIALOGUE, or the computer systems or networks connected to IN·DIALOGUE;
 - 3.1.11 upload, display or otherwise provide on or through IN·DIALOGUE any content that:
 - 3.1.11.1 is libellous, defamatory, abusive, threatening, harassing, hateful, offensive, or otherwise violates any law or infringes upon the right of any third party (including copyright, trademark, privacy, publicity or other personal or proprietary rights); or
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- 3.1.11.2 in the Company's sole judgement, is objectionable or which restricts or inhibits any other person from accessing or using IN·DIALOGUE or which may expose IN·DIALOGUE and/or its Users to any harm or liability of any kind;
 - 3.1.12 circumvent, remove, alter, deactivate, degrade or thwart any technological measure or content protections of IN·DIALOGUE;
 - 3.1.13 use any robot, spider, crawlers or other automatic device, process, software or queries that intercept, "mine", scrape or otherwise access IN·DIALOGUE to monitor, extract, copy or collect information or data from or through IN·DIALOGUE, or engage in any manual process to do the same;
 - 3.1.14 violate any applicable law or regulation in connection with your access to or use of IN·DIALOGUE; or
 - 3.1.15 access or use IN·DIALOGUE in any way not expressly permitted by these Terms.

4. INTELLECTUAL PROPERTY RIGHTS

- 1.21 Intellectual property Rights subsist in IN·DIALOGUE. IN·DIALOGUE, including designs, text, graphics, images, information, software, audio and other files, and their selection and arrangement, excluding personal information of a User, as defined by POPIA, and excluding Dialogue ("**Content**"), whether modified or not, and all intellectual property and copyright contained therein, is and shall always remain the sole and exclusive proprietary property of the Company and its licensors.
 - 1.22 You agree that under no circumstances, whether IN·DIALOGUE has been modified or not, shall you have, or attempt to claim, any right, title, interest or ownership of any Intellectual Property Rights or copyright in IN·DIALOGUE and/or the Content.
 - 1.23 No Content may be modified, copied, distributed, framed, reproduced, republished, downloaded, scraped, displayed, posted, transmitted, or sold in any form or by any means, in whole or in part, other than as expressly permitted in these Terms.
 - 1.24 You indemnify the Company from and against all costs and expenses (including legal expenses) arising from any claim that any derivative work that you may create based on IN·DIALOGUE, with permission or not, infringes any third party's intellectual property rights. You agree to cooperate with the Company in the defence of any such claim at your own expense.
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- 1.25 You acknowledge and agree that the access to and use of IN·DIALOGUE in a manner inconsistent with these Terms may cause the Company and/or IN·DIALOGUE irreparable damage for which remedies other than injunctive relief may be inadequate. Accordingly, the Company may request from a court of competent jurisdiction injunctive or other equitable relief seeking to restrain such use as appropriate under the circumstances.
- 1.26 Your obligations with respect to Intellectual Property Rights shall continue in perpetuity notwithstanding termination of these Terms howsoever caused.
- 4.1 The Company will retain all proprietary rights in and to its Intellectual Property including but not limited to copyrights, trademarks, trade secrets, patents, and confidential information.
- 4.2 Save as is set out in these Terms, the Company does not grant you any rights in and to such Intellectual Property.
- 4.3 You hereby acknowledge and agree that IN·DIALOGUE and any connected Intellectual Property and Intellectual Property Rights are proprietary to the Company and that, as such, you shall not be entitled to:
- 4.3.1 copy, reproduce, publish, broadcast, translate, modify, adapt, decompile, disassemble, or reverse engineer IN·DIALOGUE, or anything of the sort or any concepts, code, texts, methods, and designs embedded in IN·DIALOGUE, or any part thereof; or
- 4.3.2 merge or combine the whole or any part of IN·DIALOGUE with any other components, elements, or software without the prior written consent of the Company.
- 4.4 You acknowledge that the unauthorised disclosure, processing, or use of the Company's Intellectual Property may cause substantial economic loss, and/or any other irreparable loss, harm, or damage to the Company. You hereby indemnify the Company against any direct loss, action, expense, claim, harm, or damage, suffered or sustained by the Company from the unauthorised or unlawful disclosure, processing or use of the Company's Intellectual Property by you or any other person.
- 4.5 Whilst the Company has taken all appropriate steps to ensure that your personal information, and any confidential proprietary information that you may share on IN·DIALOGUE, remains secure from unauthorised access, you acknowledge and agree that you shall at all times be solely responsible for the protection of your own, and you shall not hold the Company liable for any breach in protection of your personal and/or confidential information, and/or any resultant consequences therefrom, unless caused by the Company's gross negligence.
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5. YOUR REPRESENTATIONS AND WARRANTIES

- 1.27 You represent and warrant to the Company that your access and use of IN·DIALOGUE will be in accordance with these Terms and with all applicable laws, rules and regulations of South Africa or any other relevant jurisdiction,
- 1.28 You further represent and warrant that you will carefully safeguard your password, username, and account information, will not share your password or username with any third party, and will not allow any third party to access your IN·DIALOGUE account for any purpose.
- 1.29 You acknowledge that any access to and use of IN·DIALOGUE, or any of its Content, is at your own risk.

6. NO REPRESENTATIONS OR WARRANTIES BY THE COMPANY

- 1.30 IN·DIALOGUE, including all Content, and any other information, property and rights granted or provided to you by the Company, is provided to you on an “as is” basis. Accordingly, you indemnify the Company against claims for damages in respect of any latent or patent defects in IN·DIALOGUE.
- 1.31 The Company makes no representations or warranties of any kind with respect to IN·DIALOGUE, either express or implied, and all such representations and warranties, including warranties of merchantability, fitness for a particular purpose or non-infringement, are expressly disclaimed.
- 1.32 Without limiting the generality of the foregoing, the Company does not make any representation or warranty of any kind relating to accuracy, IN·DIALOGUE availability, completeness, informational content, error-free operation, results to be obtained from use, or non-infringement.
- 1.33 Access and use of IN·DIALOGUE may be unavailable during periods of peak demand, system upgrades, malfunctions or scheduled or unscheduled maintenance or for other reasons.

7. INDEMNIFICATION OF THE COMPANY

You agree to defend, indemnify and hold harmless the Company and its directors, officers, employees, contractors, agents, suppliers, licensors, successors and assigns, from and against any and all losses, claims, causes of action, obligations, liabilities and damages whatsoever, including attorneys' fees, arising out of or relating to your access or use of IN·DIALOGUE, any false representation made to us (as part of these Terms or otherwise), your breach of any of these Terms, or your negligent or wilful misconduct.

8. LIMITATION OF LIABILITY

In no event will the Company be liable to you, or any third party claiming through you, for indirect, incidental, special, consequential, or exemplary damages arising out of or relating to the access or use of, or the inability to access or use, IN·DIALOGUE or any portion thereof, including but not limited to the loss of use of IN·DIALOGUE, inaccurate results, loss of profits, business interruption, or damages.

9. THIRD PARTY LINKS, SITES AND SERVICES

1.34 IN·DIALOGUE may contain advertisements, and may contain links to third-party websites, services, or other events or activities that are not owned or controlled by the Company. We do not endorse, nor do we assume any responsibility for, any such third-party site and the information materials, products, or services in the advertisements and the third-party sites.

1.35 Should you access any third-party website, service, or content from IN·DIALOGUE, you understand that these Terms and our POPIA Policy do not apply to your use of such sites. You expressly acknowledge and agree that the Company shall not be responsible or liable, directly, or indirectly, for any damage or loss arising from your use of any third-party website, service, or content.

10. TERMINATION

1.36 If you breach any of the provisions of these Terms, the licence granted by the Company to use IN·DIALOGUE will terminate automatically. Additionally, the Company may terminate your access and use of IN·DIALOGUE immediately at any time, for any reason, and at such time you will have no further right to use IN·DIALOGUE.

1.37 You may terminate your IN·DIALOGUE account at any time by following the instructions available through IN·DIALOGUE.

1.38 The provisions of these Terms relating to the protection and enforcement of the Intellectual Property, your representations and warranties, disclaimer of representations and warranties, release and indemnities, limitations of liability and types of damages, ownership of data and information, governing law and venue, and miscellaneous provisions shall survive any such termination.

11. PRIVACY

1.39 The Company understands and respects your privacy. The Company shall maintain commercially reasonable administrative, physical, and technical safeguards for protection of the security,

confidentiality and integrity of your data processed on IN-DIALOGUE, in accordance with the Company's POPIA Policy. Please review the Company's POPIA Policy, which is accessible at <https://indialogueapp.com/#privacy-policy>.

- 1.40 By accessing and using IN-DIALOGUE, you consent to the terms of the Company's POPIA Policy, which terms are incorporated into, and form a part of, these Terms.

12. GOVERNING LAW AND JURISDICTION

- 1.41 These Terms shall be governed by the laws of the Republic of South Africa, and you consent to the jurisdiction of the Western Cape High Court, Cape Town in the event of any dispute.
- 1.42 If you access and/or make use of IN-DIALOGUE from locations outside of South Africa, you are responsible for compliance with all local laws. You may not access and/or use IN-DIALOGUE in violation of South African law (legislation and regulation) and the professional regulations to which you are affiliated.

13. GENERAL

- 1.43 These Terms constitute the entire agreement between the Company and you concerning the subject matter hereof.
- 1.44 Our failure to enforce any right or provision of these Terms will not be considered a waiver of those rights.
- 1.45 If any provision of these Terms is found by a court of competent jurisdiction to be invalid or unenforceable, that provision shall be enforced to the maximum extent permissible to give effect to the intent of these Terms, and the remainder of these terms shall continue in full force and effect.
- 1.46 The Company chooses as its *domicilium citandi et executandi* for all purposes under these Terms, whether in respect of court process, notice, or other documents or communication of whatsoever nature:

5 Lewis Drive
Constantia 7806
Cape Town
Western Cape Province
Republic of South Africa

- 1.47 Should the Company need to provide you with notice under these Terms, it shall be sent to you using the email address that you provided when registering on IN·DIALOGUE. It is your responsibility to ensure that your details are up to date and correct and to notify the Company and IN·DIALOGUE of any changes.
- 1.48 These Terms were originally written in English. To the extent that any translated version of these Terms conflicts with the English version, the English version prevails.

14. CONTACT DETAILS, QUERIES, COMPLAINTS

- 1.49 In the event of any complaints or queries regarding IN·DIALOGUE and/or the Services, you may contact us by email at: info@indialogueapp.com

These terms were last revised on 01 August 2023
