



NAGGING PANDA USER TERMS AND CONDITIONS

1. Introduction to Terms and Conditions

- 1.1 Welcome to the NAGGING PANDA software platform and/or mobile application (“the Platform”), which enables you, the User, to use a variety of services (“the Services”).
- 1.2 The Platform is owned and managed by NAGGING PANDA FZCO , a company registered in Dubai Silicon Oasis, United Arab Emirates, with registration number DSO-FZCO-21245 (“NAGGING PANDA”).
- 1.3 All references in these terms and conditions to NAGGING PANDA are references to the Platform and to the party with which you are contracting.
- 1.4 NAGGING PANDA may from time to time contract with third parties to provide the Services or deliver the Platform, and where this has contractual relevance you will be notified on the Platform and or by email to the address on record.
- 1.5 Your access to the Platform and the use of the Services is subject to these User Terms and Conditions (“T&Cs” or “the Agreement”), which may be varied by NAGGING PANDA in its sole discretion from time to time, as and when necessary. Whenever you access the Platform or use the Services you are deemed to have consented to the T&Cs, as well as any amendments that may be made from time to time. Please make sure that you remain up to date on the terms and conditions, which are available via the Platform.



- 1.6 These T&Cs must also be read together with the Pricing Page, which is updated from time to time, and which provisions are incorporated into these T&Cs by reference. The Pricing Page sets out the pricing for the Subscription Plans, the additional charges for Communication Services, the EDC success fees (related to the EDC Process) and such other charges as may be applicable from time to time. The Pricing Page is available at: <https://www.naggingpanda.com/pricing>
- 1.7 Your privacy is important to NAGGING PANDA and you are referred to the Privacy Policy (including our use of Cookie technologies) which is available at www.naggingpanda.com

Terms and Conditions

2 Nature of the Relationship

- 2.1 In accessing the Platform and using the Services, you are acting as an independent party making use of a set of tools for your own benefit. Nothing in these T&Cs means or implies that NAGGING PANDA is acting on your behalf, or that you are acting on behalf of NAGGING PANDA. You hereby irrevocably indemnify and hold NAGGING PANDA harmless against any claims by third-parties that may arise from your access to the Platform and/or your use of the Services.
- 2.2 Where the Platform is linked to a third-party service provider, NAGGING PANDA does not warrant the efficacy, suitability, security, sustainability, performance, service provision or otherwise of the third-party services. NAGGING PANDA is not liable for the services provided to the User by third parties, even though the third-party services are delivered in conjunction with the Services or linked to the Platform.
- 2.3 The Platform is made available and the Services are provided on an “as-is” basis. NAGGING PANDA does not warrant the outcome of the use of the Services and you hereby waive any and all claims in relation thereto.



3 Provision of Services, Charges and Fees

Monthly Subscription:

- 3.1 Access to the Platform is achieved by registration and payment of a monthly Subscription Fee, to which you agree when you register. The amount of the monthly Subscription Fee you pay depends upon the Subscription Plan that you select from time to time. The monthly Subscription Fee is subject to change, but only on 30 (thirty) days' prior notice. In addition to the Subscription Fee there are additional costs per transaction which are listed on the Pricing Page, and which apply to the Services as and when used, including but not limited to the Communication Services and the External Debt Collection Process ("EDC Process").
- 3.2 The monthly Subscription Fee is billed each month on the same day of the month on which you subscribed ("the Billing Date"). However, if the month has fewer days than the month in which you subscribed, the Billing Date, for that month, will be the last day of the month. For example, if you subscribed on the 31st of a month then the Billing Date will be the 30th in each of April, June, September and November and either the 28th or 29th of February (As the case may be). This period is referred to as a "Subscription Month".
- 3.3 A Subscription Plan entitles you to: (i) receive an agreed number of Tokens each Subscription Month, and (ii) to use your Tokens to assign an agreed number of Workflows to Quotes, Invoices or EDC Process, as the case may be, over the period of the Subscription Month.
- 3.4 The following terms and conditions apply in regard to Tokens and Workflows:



- 3.4.1 You will be allocated the agreed number of Workflows per Subscription Month, in accordance with the Subscription Plan you have chosen and subscribed for;
- 3.4.2 When you assign a Workflow to a Quote or Invoice, you will use one Token. The number of Tokens available to you for the remainder of the Subscription Month will be reduced by the number of Tokens you utilize for this purpose, subject to the rules in clauses 3.4.4, 3.4.5 and 3.4.6, which relate to the cancellation of a Workflow;
- 3.4.3 When you refer a Debt to the EDC Process you will use one Token. The number of Tokens available to you for the remainder of the Subscription Month will be reduced by the number of Tokens you use for this purpose. If you withdraw a referral the Token will not be refunded.
- 3.4.4 If you cancel a Workflow before the first Instruction in that Workflow has been actioned, the Token will be refunded to your store of Tokens for the Subscription Month. However, if you cancel after the first Instruction in the Workflow has been carried out, the Token is spent, and won't be refunded;
- 3.4.5 All unutilised Tokens lapse at the end of each Subscription Month and do not carry over into the next Subscription Month. Any Token that is used to assign a Workflow to an Invoice or a Quote in one Subscription Month is regarded as spent, even if it is cancelled before the first Instruction in the following Subscription Month, and will not be included in the new Subscription Month's store of Tokens;
- 3.4.6 Any changes in an Instruction in an existing Workflow, even after the first Instruction is carried out, changes a Workflow, but isn't a new Workflow so no Token is spent for making such a change. However,



if the last Instruction in a Workflow is completed, an extension of the Workflow will constitute a new Workflow and will require a new Token;

3.4.7 No matter which Subscription Plan you have subscribed for, you may also buy extra Tokens on an ad hoc basis, thereby increasing the number of Tokens available to you for that Subscription Month, without affecting your Subscription Plan. The additional tokens will be charged for at the time of purchase and will lapse at the end of the Subscription Month in which they were purchased.

3.5 NAGGING PANDA does not warrant the success of any Workflow or Instruction.

3.6 If a Subscription Fee is not paid on the due date, for whatever reason, you must correct this and make payment within 72 hours, failing which your account will be suspended until the Subscription Fee has been paid. Until the Subscription Fee has been paid:

3.6.1 No further Instructions will be accepted by NAGGING PANDA;

3.6.2 Any Workflows that are still in process will be put on hold, including any EDC Process (where applicable); and

3.6.3 If Debts are still being collected, any monies received during the suspension period will be applied first to pay the outstanding Subscription Fees to NAGGING PANDA and thereafter to the Additional Charges, in full, before any monies are remitted to you.

3.7 The Services are provided and paid for in accordance with the Subscription Plan that you select upon registration. You may change your Subscription Plan (either an upgrade or a downgrade) at any time, subject to the following rules:



- 3.7.1 An upgrade will come into effect immediately. You will be charged the additional Subscription Fee (being the difference between your current Subscription Fee and the new Subscription Fee) and, against payment of that difference, you will be allocated the additional Tokens, these being the difference in the number of Tokens between your current Subscription Plan and the new selected Subscription Plan. Thereafter, with the start of the new Subscription Month you will be charged the new Subscription Fee and allocated the number of Tokens ordinarily allocated to the new Subscription Package.
- 3.7.2 A downgrade will only come into effect at the beginning of the new Subscription Month, when you will be billed the lesser Subscription Fee and allocated the reduced number of Tokens for the Subscription Month.

Communication Services and other Charges

- 3.8 In addition to the monthly Subscription Fees for Tokens, all other third party and other additional Services are charged for on a “pay as you go” basis, at rates determined by the Subscription Plan that you have selected and which appear on the Pricing Page. This includes Communication Services that may be coupled with an Instruction. These rates are determined by third party service providers and are subject to change.
- 3.9 To be able to use the Communication Services, and any other additional services, you are required to load money onto a NAGGING PANDA Wallet. Balances in your Wallet are deemed to be prepayments for Services. The Platform enables you to top-up your Wallet as and when required, using a credit card payment. The balance in your Wallet account will not accrue interest. The balance in your Wallet cannot be cashed out or refunded.



- 3.10 You will be charged for the third-party Communication Services on execution of an Instruction, - not at the time of the creation of the Instruction. Accordingly, if you cancel the Instruction timeously before the date and time of its scheduled execution, you will not be charged for an Instruction, and there will not be a third-party charge.
- 3.11 Once an Instruction is created you are deemed to have approved the charge and will be charged in full, unless the instruction is cancelled prior to the scheduled implementation date and time. It is solely your responsibility to ensure that Instructions are cancelled prior to the implementation date and time if they are no longer required.
- 3.12 An Instruction will not be implemented if there are insufficient funds in your Wallet to cover the Communication Services required to implement that Instruction.
- 3.13 Unless otherwise stated, all subscriptions and charges are quoted including relevant sales or value added taxes.

External Debt Collection Process (EDC Process)

- 3.14 If you want to pursue a debt collection process to recover outstanding Debts and would like NAGGING PANDA to facilitate this, you may select the Platform's External Debt Collection process ("the EDC Process"). The EDC process is subject to the terms and conditions presented to you and accepted by you when you deliver an Instruction to the EDC Process.
- 3.15 When you refer Claim to the EDC process you will need to: (i) allocate one Token, and (ii) Accept and comply with the EDC Process terms and conditions.



3.16 NAGGING PANDA does not warrant the success of the EDC Process and accepts no responsibility for this facilitation or for the third-party services provided, and you hereby indemnify NAGGING PANDA in respect thereof.

4 Terms and conditions relating to Instructions and Workflows

- 4.1 You are solely responsible for the input of all Customer Data and warrant that all such data is true and correct.
- 4.2 By creating an Instruction on the Platform, you warrant that the Instruction Data is true and correct.
- 4.3 You are solely responsible for your conduct on the Platform and in the use of the Services, including in respect of each Instruction and the quality, accuracy and truthfulness of all Instruction Data, Customer Data, and any other material that you submit on the Platform or otherwise under this Agreement.
- 4.4 As a User, you will conduct yourself in a diligent, respectful and professional manner at all times and shall not act in a manner which can be ascribed to and/or jeopardise the reputation of NAGGING PANDA or the Platform.
- 4.5 In accessing the Platform and using the Services, you shall not breach any of the provisions of the Protection of Personal Information Act, including, but not limited to, the conducting of direct marketing activities contrary to the provision of that Act, and related regulations.
- 4.6 You may not use the Platform for any illegal or unauthorized purpose and you shall comply with all legislation, rules, notices, policies, directives, industry codes, and regulations applicable to your access and use of the Platform and your management of an Instruction.



- 4.7 You may not use the Platform for spam or for direct marketing, and, without derogating from the generality of the aforementioned, all invoices, quotes and other communications must be bona fide, legal and accurate.
- 4.8 You may not include violent, nude, racial, discriminatory, unlawful, infringing, hateful, pornographic, sexually offensive or suggestive material, or any other offending information or content on or through the Platform.
- 4.9 You may not access the Platform by any other means than those officially permitted by NAGGING PANDA. Without derogating from the generality of the foregoing, you may not use the Platform for direct marketing purposes.
- 4.10 You shall not hack or attempt to hack or assist any other person to hack into the Platform, or otherwise gain unlawful access to the Platform and its data.
- 4.11 You may not interfere or disrupt the Platform, or any third party services or networks linked thereto, including by transmitting any malware, spyware, viruses, worms or introducing destructive or malicious code or by creating accounts on the Platform through unauthorized means, including, but not limited to, by automated device, script, bot, spider, crawler or scraper.
- 4.12 You are responsible for any activity that occurs through your account. You may not allow any other person to access your User account and you will not solicit or use the login credentials of another User at any time.



- 4.13 In addition to NAGGING PANDA’s rights in terms of clause 6, should you not comply with any of your obligations in terms of clauses 4.4 to 4.12 (both inclusive), NAGGING PANDA has the right to suspend your account with immediate effect and without notice.
- 4.14 You hereby warrant that all Personal Information entered by you onto the Platform, from time to time, is both true, accurate and complete, and lawfully obtained for the purposes for which you are using it for.
- 4.15 You hereby agree that you are familiar with and accept the terms of NAGGING PANDA’s Privacy Policy, which may be found on www.naggingpanda.com.
- 4.16 You hereby indemnify and hold NAGGING PANDA harmless in respect of any claim howsoever arising from your breach of any of the undertakings in this clause 4.

5 General Terms of Use of the Platform

- 5.1 In using the Platform, you warrant and represent in favour of NAGGING PANDA that you are of legal age to enter into contracts in terms of Applicable Law, or you are duly assisted by your legal guardian who consents thereto.
- 5.2 You agree that you are responsible for all charges and costs that you incur in accessing the Platform and in fulfilling an Instruction on the Platform, including but not limited to, data charges and other third-party costs.
- 5.3 You acknowledge that the Platform, is provided on an “as is”, “as available” and “with all faults” basis. Accordingly, to the fullest extent



permitted by law, NAGGING PANDA, nor its shareholders or affiliates, nor any of its directors, employees, managers, officers, agents or the like, make any representations or warranties or endorsements of any kind whatsoever, express or implied, as to:

- 5.3.1 the availability or reliability of the Platform and the third party providers;
- 5.3.2 the security associated with the transmission of information and data by you or to you on the Platform and the third party providers ;
or
- 5.3.3 that the Platform, or services of third party providers are free from any harmful components, including (without limitation) viruses.

- 5.4 You are responsible for protecting your login and account details, including your password, bank account details, and any and all Personal Information.

- 5.5 As the User of the Platform you are liable for all risk and entitled to all rewards associated with the fulfilment of an Instruction on the Platform, save for the agreed Fees payable to NAGGING PANDA in terms hereof.

6 Cancellation of Subscription Without Cause and For Breach

- 6.1 You may cancel your subscription at any time without cause or notice, by selecting the “cancel my subscription” in your account settings.

- 6.2 Upon cancellation:
 - 6.2.1 you will no longer be able to access the Platform after the expiry of the period for which your subscription has been paid (and no subscription monies shall be refundable);



- 6.2.2 Any received but unremitted monies resulting from the EDC process will be paid to you, less any charges or costs as agree to in the EDC Process terms and conditions;
- 6.2.3 any future-dated Workflows and Instructions will be cancelled; and
- 6.2.4 any outstanding EDC processes will be dealt with and subject to the EDC Process terms and conditions.
- 6.3 NAGGING PANDA may terminate the operation of the Platform and/or the provision of Services, at any time in its sole discretion, without cause and with or without notice, whereupon your subscription shall be cancelled. In this circumstance, NAGGING PANDA's sole liability to you will be to make payment of the prorated balance of Subscription Fees paid and the remittance of any amounts owing to you in terms of the EDC Process (as determined in accordance with the EDC Process terms and conditions).
- 6.4 In addition to any other rights that it may have, in the event of a breach by you of any of your obligations under this Agreement, NAGGING PANDA may in its sole discretion terminate your subscription on written notice, without any refund of any Subscriptions paid.

7 Value-added services

- 7.1 You may be offered third party value-added services on the Platform or in your capacity as a registered User. The terms and conditions regulating the supply and delivery of such value-added services shall be prescribed as at the date of the offer, which terms shall be binding on you if you should accept the offer. NAGGING PANDA shall under no circumstances be liable in respect of any services provided by third



parties, even if these are procured through the Platform, and you hereby waive any such claims and indemnify and hold NAGGING PANDA harmless in respect of any claim arising from the use of any third party value added services.

- 7.2 Given the varied nature of such value-added services, the offer and acceptance of any value-added services shall not be construed as changing the nature of the relationship between yourself and NAGGING PANDA.

8 Intellectual Property

Nothing in these T&Cs grants you any rights in and to the Platform, or any intellectual property related thereto. NAGGING PANDA will own all right, title and interest in and to the Platform, and all intellectual property related thereto (save where licenced from third parties) , which will include all modifications, improvements, upgrades, derivative works and feedback related thereto and intellectual property rights therein (even if these have been in response to a suggestion by you). You hereby waive any right or interest in the Platform and, if required by applicable law, you hereby cede and assign any and all rights therein to NAGGING PANDA at no charge.

9 Limitation of Liability

- 9.1 In no event will NAGGING PANDA be liable to you in contract and/ or delict (including negligence), for any indirect, exemplary, special, punitive, incidental or consequential losses or damages of any kind whatsoever and howsoever caused, even if foreseeable or if NAGGING PANDA has been advised of the possibility of such damages (including loss of profits, loss of goodwill, loss of data, loss of business, loss of



revenue), arising under or in connection with access to the Platforms or the provision and use of the Services.

- 9.2 Furthermore, under no circumstances shall NAGGING PANDA's aggregate liability for damages exceed the fees paid by you to NAGGING PANDA over the last three calendar months and you hereby waive any claims in excess thereof.

10 Indemnity

You hereby indemnify NAGGING PANDA against any and all claims, costs, damages and/or loss that it may sustain or incur, as a result of any claim by a third party, including your clients and any Platform subscribers and users, arising from: (a) your acts or omissions including, but not limited to, your provision of professional services, implementation support, or other products or services, (b) your breach of the terms and conditions of this Agreement.

11 Breach

Should any Party commit a breach of this Agreement, the aggrieved Party shall be entitled to give the defaulting Party notice in writing calling upon the defaulting Party to remedy the breach. Should the defaulting Party fail to comply with such notice within 3 (three) Business Days of receipt of such notice, then, without prejudice to any other rights the aggrieved Party may have in law, the aggrieved Party shall be entitled to enforce performance in terms of this Agreement, without prejudice to any right the aggrieved Party may have to claim damages from the defaulting Party.



12 Arbitration

- 12.1 Should any dispute, disagreement or claim arise between the parties (called hereafter “the dispute”) concerning this agreement, then either Party may submit the dispute for final and binding resolution in accordance with the Rules of the Arbitration Foundation of Southern Africa (“the Foundation”) by a single arbitrator as agreed to by the parties, or failing which is appointed by the Foundation; provided that nothing in this clause shall prohibit a Party from approaching a court of competent jurisdiction for an order for urgent and/or interim relief pending the outcome of the arbitration.
- 12.2 The Arbitration shall be held in front of one Arbitrator with the hearing being held in English and in Johannesburg, South Africa (unless otherwise agreed in writing).

13 Governing Law

This Agreement is governed in all respects by the laws of the Republic of South Africa, but excluding the provisions relating to conflicts of law to the extent that these may provide that this Agreement falls to be governed by any other laws.

14 Domicilium and Notices

- 14.1 NAGGING PANDA may give any notice required by the Agreement by means of a general notice on the Platform, electronic mail to your email address on record with NAGGING PANDA, or electronically via your cell phone number on record with NAGGING PANDA. Such notice shall be deemed to have been given once the notice was posted, or the email or text message sent.



- 14.2 You may give written notice to NAGGING PANDA, addressed to the attention of NAGGING PANDA. Such notice shall be deemed given when received by NAGGING PANDA by email at the following address: legal@naggingpanda.com

15 General provisions

- 15.1 This Agreement and your rights and obligations under the Agreement may not be assigned, delegated, or otherwise transferred, in whole or in part by you without NAGGING PANDA's express prior written consent, which may be withheld at NAGGING PANDA's sole discretion. Any attempted Instruction, delegation, or transfer in breach of the foregoing will be null and void.
- 15.2 NAGGING PANDA may assign, delegate, or transfer this Agreement, in whole or in part, or any of its rights under the Agreement to any third party without your prior written consent.
- 15.3 NAGGING PANDA's failure to insist upon or enforce strict performance of any provision of the terms and conditions agreed upon will not be construed as a waiver of any provision or right. No waiver of any of these terms and conditions will be deemed a further or continuing waiver of such term or condition or any other term or condition.
- 15.4 The Agreement is the final, complete, and exclusive agreement of the parties with respect to the subject matter hereof and supersedes and substitutes all prior or contemporaneous communications and understandings between the parties.
- 15.5 In the event that you provide NAGGING PANDA with any feedback regarding the Platform, including without limitation, any flaws, errors, bugs, anomalies, problems with and/or suggestions, you hereby agree that NAGGING PANDA may use such feedback for its own purposes in any way it may deem fit and you shall not have any rights to or claims upon NAGGING PANDA in respect thereof.



- 15.6 NAGGING PANDA reserves the right at any time to modify or discontinue, temporarily or permanently, the Platform (or any part thereof) with or without notice. You agree that NAGGING PANDA shall not be liable to you or to any third party for any modification, suspension or discontinuance of the Platform.

GLOSSARY OF TERMS

Unless otherwise defined, each of the following terms and phrases shall bear the meaning ascribed thereto in the remainder of the Agreement:

- “Additional Charges”** means, in addition to the Subscription Fee, those charges for which the User is liable as a result of using the Services and which are detailed on the Pricing Page, including the third party cost of Communication Services;
- “Agreement”** means this Agreement including this glossary of terms;
- “Applicable Laws”** means in the case of NAGGING PANDA and those statutes and laws that regulate the activities of NAGGING PANDA, and, in the case of the User, those statutes and laws that regulate the activities of the User, which may depend on the given context and circumstances;
- “Confidential Information”** means any and all information or data of any nature and in any format or medium, which by its nature or content is or reasonably ought to be identifiable as confidential and/or proprietary to the disclosing party, or which is provided or disclosed in confidence, or which may come to your knowledge by whatever means, related to (without limitation) NAGGING PANDA’s business (including trade secrets,



technical information, business forecasts and strategies, marketing plans, customer and supplier lists, personnel information, financial data, and proprietary information of third parties);

- “Communication Services”** SMS, email, telephone, Whatsapp or other available communication channels for sending communications using the NAGGING PANDA Platform, which are provided by third party service providers and transaction charges that are in addition to the Subscription Fees;
- “Customer”** means a third party which is a customer (or potential customer) of the User;
- “Customer Data”** means the data, including Personal Data, which the User registers on the Platform in respect of its Customers;
- “Debt”** means a legal obligation owing to the User by a Debtor, whether sounding in money or in kind, which is or will become due and payable;
- “Debtor”** means a person who lawfully owes the User a sum of money or any other legal obligation (a “Debt”);
- “EDC”** means an External Debt Collector, an independent third party service provider available to pursue debt collections on behalf of the User, introduced to the User by NAGGING PANDA;
- “EDC Process”** means the External Debt Collection Process (EDC) that NAGGING PANDA facilitates through the Platform and in terms of which the User mandates an EDC to collect a Debt, which process is regulated by a



- separate EDC Process terms and conditions.
- “Instruction”** means each action that the User requires in respect of the delivery of a Quote or Invoice to a Customer or Debtor and the follow up thereon, which together make up a “Workflow”;
- “Instruction Data”** means the information and data entered onto the Platform by the User in respect of either a Customer, Quote or Invoice, as a part of the Instruction or that is generated in the conducting of an Instruction or otherwise entered onto the Platform by or on behalf of the User;
- “Invoice”** means a valid invoice created by the user in respect of a Debt;
- “Personal Data”** means personal information or personal data, as defined in Applicable Law, for example in the Protection of Personal Information Act (4 of 2013) , or any other applicable data privacy laws, and relates to the User, the Customer or any third party arising from the use of the Services;
- “Pricing Page”** means the page which sets out the pricing, costs and charges for the Services, which pricing may change from time to time (on 30 days’ notice) and which pricing shall prevail as at the time of the User uses the Services;
- “Subscription Month”** means the period commencing on the date of the first Subscription and ending on the same date one month later, and repeated every month until the Subscription is terminated, provided that if a given month does not have enough days in the month to



include that date, the end date will be the last calendar day of that month only.

“Subscription Plan”

means the level of Service that you select when you subscribe to access the Platform, and which will determine the number of Tokens and other services that you, as the User, may receive each Subscription Month.

“Platform”

means the Nagging Panda Platform, that is offering the service;

“Token”

means one unit of pre-paid services purchased in accordance with the Subscription Plan selected, and which is non-refundable and expires at the end of each Subscription Month in which they are acquired;

“Quote”

means a quotation created by the User for the purposes of issue to a Customer or potential Customer.

“User”

means a person registered as a User on the Platform and who is thereby enabled to create and manage Instructions as a part of a workflow or individually;

“Workflow”

means the set of Instructions, created by the User in the Platform, assigned to attend to either a Quote or an Invoice, as the case may be.