

RESTRICTED



# SITA Website Terms and Conditions of Use

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Page 1 of 12

## Contents

1. Terms and Conditions of Use.....	3
2. Definitions and Interpretation .....	3
3. General .....	4
4. Allowed use and licence .....	4
5. Usage restrictions.....	5
6. User requirements .....	5
7. Intellectual property rights.....	6
8. Software and equipment.....	6
9. Disclosures required by section 43 of the ECT Act .....	6
10.Changes and amendments .....	7
11.Privacy.....	8
12.Hyperlinks to third party sites.....	8
13.Security .....	8
14.Risk, Disclaimer and limitation of liability.....	9
15.Removal and correction of content .....	10
16.Interception of Communications.....	10
17.Agreement in terms of Section 21 of the ECT Act .....	10
18.Confidentiality.....	11
19.Breach or cancellation by SITA.....	11
20.Compliance with laws.....	11
21.Notices .....	11
22.General clauses .....	12
23.Legal costs.....	12

## 1. Terms and Conditions of Use

- a) This document sets out the terms and conditions (“Terms”) of the State Information Technology Agency (SOC) Ltd (“SITA” or “We”) pertaining to the access and use of the information, products, services and functions provided on [www.sita.co.za](http://www.sita.co.za) (“Website”).
- b) These Terms are binding and enforceable against all persons that access the Website or any part thereof. SITA relies on the provisions of section 11 of the Electronic Communications and Transactions Act, 25 of 2002 (“ECT Act”) in this regard.
- c) Should any person that accesses the Website (“you” or “user”) disagree with any of the Terms, you must refrain from accessing, using, downloading, copying and/or distributing content obtained from the Website as further use will automatically bind you to these Terms.
- d) SITA reserves the right, in its sole discretion, to amend and/or replace any of, or the whole of the Terms.
- e) Such amendments shall supersede and replace any previous Terms and shall be made available on the Website. Each time a user accesses the Website and/or uses the services, the user shall be deemed to have consented, by such access and/or use, to the Terms, as amended and/or replaced by SITA from time to time. If you are not satisfied with the amended Terms, you should refrain from using the Website.
- f) If there is anything in these Terms that you do not understand then please contact us as soon as possible – see clause 10 below for contact details. Please note that calls to us are charged at national rates and may be monitored for security or other legitimate purposes.

## 2. Definitions and Interpretation

- a) “**Confidential information**” means all trade secrets, intellectual property rights, and other information SITA or third parties protect against unrestricted disclosure to others, which is either labelled Confidential and accessed through a restricted or non-public area of the Website or pursuant to software downloads, or reasonably identifiable as confidential based on the type of information and the manner of its disclosure.
- b) “**Intellectual property**” means patents of any type, design rights, utility models or other similar invention rights, copyrights, trademarks, service marks, trade secret or confidentiality rights, and any other intangible property rights including applications for any of the foregoing, in any country, arising under statutory or common law or by contract and whether or not perfected, now existing or hereafter filed, issued, or acquired.
- c) “**Website**” means the State Information Technology Agency SOC Ltd website located at [www.sita.co.za](http://www.sita.co.za) and includes any page, part or element thereof;
- d) “**User**” means any person who accesses and / or uses the Website, notwithstanding the fact that such a person only visits the home page of the Website; References herein to the singular includes the plural and vice versa; and
- e) Notwithstanding the fact that hyperlinks in these Terms to copyright notices and legislation should be deemed part of these Terms in terms of section 11 of the ECT Act, the fact that some or all of the hyperlinks may be non-operational, shall not play a role in determination of the validity and interpretation of these Terms.

### 3. General

- a) SITA's focus is to consolidate and coordinate the State's information technology resources in order to achieve cost savings through scale, increase delivery capabilities and enhance interoperability. SITA is committed to leveraging Information Technology (IT) as a strategic resource for government, managing the IT procurement and delivery process to ensure that the Government gets value for money, and using IT to support the delivery of e-Government services to all citizens.

### 4. Allowed use and licence

- a) SITA licenses the User to view, download and print the content of the Website, provided that such content is used for private, personal, educational and/or non-commercial purposes only.
- b) Content from the Website shall not be used or exploited by Users for any commercial and non-private purposes without SITA's prior written consent of.
- c) Users may not access, browse and use the Website for illegal purposes.
- d) The caching of the Website shall only be allowed if:
  - i. The purpose of the caching is to make the onward transmission of the content from the Website more efficient;
  - ii. The cached content is not modified in any manner whatsoever;
  - iii. The cached content is updated at least every 12 (twelve) hours; and
  - iv. The cached content is removed or updated when so required by SITA.
- e) If any User uses content from the Website in breach of the provisions detailed herein SITA:
  - i. reserves the right to claim damages from the User;
  - ii. reserves the right to institute criminal proceedings against the User; and
  - iii. shall not be liable, in any manner whatsoever, for any damage, loss or liability that resulted from the use of such content by the User or any third party who obtained any content from the User.
- f) Hyperlinks to the Website from any other source shall be directed at the home page of the Website.
- g) SITA shall not be liable, in any manner whatsoever, for any damage, loss or liability that resulted from the use of content from the Website, if such content was accessed through a hyperlink not directed at the home page of the Website. Persons that wish to link to content beyond the home page of the Website shall do so at their own risk and indemnify SITA against any loss, liability or damage that may result from the use of content from the Website, if such content was accessed through a hyperlink not directed at the home page of the Website. SITA's non-liability for deep linking is based on the fact that deep links bypass these terms and conditions. Users understand that content available on the Website is proprietary to SITA and other third parties and warrant that they may quote small and reasonable amounts of content available from the Website only if such quote is placed in inverted commas and acknowledged.
- h) No person may incorporate the Website's content into their own website (a practice known as framing), in any manner whatsoever, without SITA's prior written consent.
- i) Apart from bona-fide search engine operators and use of the search facility provided on the Website by Users, no person may use or attempt to use any technology or applications (including web crawlers or web spiders) to search, collect or copy content from the Website for any purposes, without SITA's prior written consent. E-mail addresses, names, telephone numbers and fax numbers published on the Website may not be incorporated into any database used for electronic marketing or similar purposes. No permission is given or should be implied that information on the Website may be used

to communicate unsolicited communications to SITA and all rights detailed in section 45 of the ECT Act are reserved.

- j) All licenses and/or permissions granted in terms of this clause 4 are provided on a non-exclusive and non-transferable basis and may be terminated or cancelled by SITA at any time without prior notice or giving reasons therefore.

## 5. Usage restrictions

The User hereby agrees that, where applicable, it shall not itself, nor through a third party:

- a) copy (other than for backup, archival or disaster recovery purposes), reproduce, translate, adapt, vary, modify, lease, licence, sub-licence, encumber or in any other way deal with any part of the Website for any reason and in any manner, unless it is consistent with the intent and purpose of these Terms;
- b) decompile, disassemble or reverse engineer any portion of the Website;
- c) write and/or develop any derivative of the Website or any other software program based on the Website;
- d) modify or enhance the Website. In the event of a User effecting any modifications or enhancements to the Website in breach of this clause, such modifications and enhancements shall be the property of SITA;
- e) without SITA's prior written consent, provide, disclose, divulge or make available to or permit the use of or give access to the Website by persons other than the User;
- f) remove any identification, trademark, copyright or other notices from the Website;
- g) post or transmit, by means of reviews, comments, suggestions, ideas, questions or other information through the Website, any content which is unlawful, harmful, threatening, abusive, harassing, defamatory, vulgar, obscene, sexually-explicit, profane or hateful, or racially, ethnically or otherwise objectionable content of any kind; and/or
- h) notwithstanding anything contained to the contrary in these Terms, use the Website for any purpose other than personal, non-commercial and information purposes.

## 6. User requirements

- a) Browser:

We support any browser with SSL 2.0; SSL 3.0 and a 128 bit cipher, but the Website is best viewed by using Internet Explorer 6.0 SP 1, or Netscape 7.2. One can confirm the browser version by selecting the Help drop-down menu and then clicking on the About option.

- b) Site Design and Fonts.
- c) The optimal viewing of the Website is at 1024 x 768 resolution. The text size used on the Website was chosen according to industry standards, however if the user is browsing the site and find that text is too small to read clearly, lower the screen resolution to 1024 x768.
- d) This can be done by right-clicking on your "desktop", selecting "properties" and then choosing "settings". Under "screen area" you can change the screen resolution to 1024 x 768, which will make everything on your screen larger (unless your screen is already set to 1024 x 768). Please note that once one clicks "apply" or "OK" this will change the screen resolution for the PC and all applications. The settings can be changed back at any time again though.

## 7. Intellectual property rights

- a) For the purpose of this clause, the following words shall have the following meanings ascribed to them:
- b) "Intellectual property rights" means all and any of the rights in and to intellectual property of any nature whatsoever owned and/or controlled directly or under licence by SITA, now or in the future, including without limitation, SITA's rights, title and interest in and to all technology, source code/s, trade secrets, logos, systems, methods, trademarks, trade names, styles, insignia, designs, patents and copyright, and all similar proprietary rights which may subsist in any part of the world, whether registered or not.
- c) All copyright and other intellectual property rights in all content, trademarks, software, data, material, including logos, databases, text, graphics, icons, hyperlinks, confidential information, designs, agreements, and multimedia works, published on or via the Website ("proprietary material"), are the property of, or are licensed to, SITA and as such are protected from infringement by local and international legislation and treaties.
- d) By submitting reviews, comments and/or any other content (other than your personal information) to SITA for posting on the Website, you automatically grant SITA and its affiliates a non-exclusive, royalty-free, perpetual, irrevocable right and licence to use, reproduce, publish, translate, sub-license, copy and distribute such content in whole or in part worldwide, and to incorporate it in other works in any form, media, or technology now known or hereinafter developed, for the full term of any copyright that may exist in such content. Subject to this licence, you retain any and all rights that may exist in such content. You represent and warrant to SITA that you have the right, title and authority to grant such licence to SITA.
- e) All rights not expressly granted are reserved and no right, title or interest in any proprietary material or information contained in this Website is granted to you.
- f) Except with SITA's express written permission, no proprietary material from this Website may be copied or retransmitted.
- g) Irrespective of the existence of copyright, the User acknowledges that SITA is the proprietor of all material on the Website (except where a third party is indicated as the proprietor), whether it constitutes confidential information or not, and that the User has no right, title or interest in any such material.
- h) SITA authorises you only to view, copy, temporarily download to a local drive and to print the content of this Website, or any part thereof, provided that such content is used for personal purposes and for information purposes only, and such content is used for non-commercial purposes.

## 8. Software and equipment

- a) It is the responsibility of the User to acquire and maintain, at his/her expense, the necessary computer hardware, software, communication lines, accounts required to access the Internet and the Website and/or download content from the Website.

## 9. Disclosures required by section 43 of the ECT Act

- a) Access to the services, content, software and downloads available from the Website may be classified as "electronic transactions" as defined in terms of the ECT Act and therefore Users have the rights detailed in Chapter 7 of the ECT Act and SITA has, amongst others, the duty to disclose the following information:
- b) The full name and legal status of the Website owner: State Information Technology Agency SOC Ltd;

- c) Company Registration number: 1999/001899/30
- d) Street address: 459 Tsitsa Street, Erasmuskloof, Pretoria, South Africa;
- e) Postal address: PO Box 26100, Monument Park, Pretoria, South Africa;
- f) Physical address for receipt of legal service: 459 Tsitsa Street, Erasmuskloof, Pretoria, South Africa;
- g) Telephone number: +27 12 482 3000;
- h) Board of Directors: see [www.sita.co.za](http://www.sita.co.za) ;
- i) Main business: SITA's focus is to consolidate and coordinate the State's information technology resources in order to achieve cost savings through scale, increase delivery capabilities and enhance interoperability. SITA is committed to leveraging Information Technology (IT) as a strategic resource for government, managing the IT procurement and delivery process to ensure that the Government gets value for money, and using IT to support the delivery of e-Government services to all citizens.
- j) The SITA website address is: [www.sita.co.za](http://www.sita.co.za);
- k) The official e-mail address of SITA is: [contact@sita.co.za](mailto:contact@sita.co.za);
- l) Membership of self-regulatory or accreditation bodies: Available on request;
- m) SITA's Code of conduct is currently unavailable on the web;
- n) The Manual published in terms of section 50 of the Promotion of Access to Information Act 2 of 2000 of the owner of the Website may be downloaded from [www.sita.co.za](http://www.sita.co.za);
- o) SITA Management: see [www.sita.co.za](http://www.sita.co.za) ;
- p) The costs associated with the access and use of the Website are as follows: Free.
- q) Alternative dispute resolution: Subject to urgent and/or interim relief, all disputes regarding:
  - iv. access to SITA web site;
  - v. the inability to access SITA website;
  - vi. the services and content available from SITA website; or
  - vii. these terms and conditions,

shall be referred to arbitration in terms of the expedited rules of the Arbitration Foundation of South Africa and such arbitration proceedings shall be conducted in terms of the South African law in Johannesburg in English. The arbitration ruling shall be final and the unsuccessful party shall pay the costs of the successful party on a scale as between attorney and own client. The expedited rules of the Arbitration Foundation of South Africa may be downloaded from the following web site: [www.arbitration.co.za](http://www.arbitration.co.za)
- r) Cooling-off period: In terms of the operation of section 42(1)(d) of the ECT Act, the cooling-off provisions of the ECT Act do not apply to this web site;
- s) Users may lodge complaints concerning the Website with SITA as Web Contact or call +27 12 482 2007.

## 10. Changes and amendments

- a) SITA reserves the right, in its sole and absolute discretion, to do any of the following, at any time without prior notice or justification
  - i. change these Terms;
  - ii. change the content and/or services available from the Website;
  - iii. discontinue any aspect or feature of the Website and any information or content on the Website or service(s) available from the Website; and/or;
  - iv. change the software and hardware required to access and use the Website.

## 11. Privacy

- a) SITA receives various types of information via the Website which includes your personal information. SITA shall take all reasonable steps to protect the personal information of
- b) To ensure that you are aware of how SITA processes your personal information, SITA refers you to the SITA Privacy Policy incorporated in these Terms. SITA advises you to read through and understand the SITA Privacy and Cookie Policy which is on this Website and can be found here: [INSERT URL].

## 12. Hyperlinks to third party sites

- a) SITA may provide links to third party websites on the Website. These links are provided to the User for convenience purposes only and SITA does not endorse, nor does the inclusion of any link imply SITA's endorsement of, such websites, their owners, licensees or administrators or such websites' content or security practices and operations.
- b) While SITA tries to provide links only to reputable websites or online partners, SITA cannot accept responsibility or liability for the information provided on other websites. Linked websites or pages are not under, nor subject to, the control of SITA. SITA is not responsible for and gives no warranties or makes any representations in respect of the privacy policies or practices of linked or any third party or advertised websites on the Website.
- c) SITA does not editorially control the content on such target sites. You agree that SITA shall not be held liable, directly or indirectly, in any way for the content, the use or inability to use or access any linked website or any link(s) contained in a linked website, nor for any loss or damage of any sort incurred as a result of any dealings with, or as the result of the presence of such third party linked websites on the Website. Any dealings that you may have with any linked websites, including advertisers, found on the Website, are solely between you and the third party website.
- d) SITA does not warrant or guarantee that the links to third party websites are free from virus or other malicious software and you undertake to click on any such link at your own risk.

## 13. Security

- a) In order to ensure the security and reliable operation of the services to all SITA's users, SITA hereby reserves the right to take whatever action it may deem necessary to preserve the security, integrity and reliability of its network and back-office applications. However, SITA does not make any warranties or representations that content shall be 100% safe and secure.
- b) SITA is under no legal duty to encrypt any content or communications from and to the Website and is also under no legal duty to provide digital authentication of any page on the Website.
- c) Users may not deliver or attempt to deliver, whether on purpose or negligently, any damaging code, such as computer viruses, to the Web site or the server and computer network that support the Website. Any person or entity which does so or attempts to do so shall be held criminally liable. Further, should SITA suffer damages or loss, civil damages shall be claimed by SITA against the User.
- d) Notwithstanding criminal prosecution, any person who delivers any damaging code to the Website, whether on purpose or negligently, shall, without any limitation, indemnify and hold SITA harmless against any and all liability, damages and losses SITA and its partners / affiliates may suffer as a result of such damaging code.
- e) Users may not develop, distribute or use any device to breach or overcome the security measures of the Website and SITA reserves the right to claim damages from any and all persons concerned with a security failure or breach.

- f) Any User who commits any of the offences detailed in sections 85 to 88 of the ECT Act shall, notwithstanding criminal prosecution, be liable for all resulting liability, loss or damages suffered and/or incurred by SITA and its partners / affiliates.

## 14. Risk, Disclaimer and limitation of liability

- a) The User's use of the Website and the information contained on the Website is entirely at the User's own risk and the User assumes full responsibility and risk of loss resulting from the use thereof.
- b) The transmission of information via the internet, including without limitation e-mail, is susceptible to monitoring and interception. The User bears all risk of transmitting information in this manner. Under no circumstances shall SITA be liable for any loss, harm, or damage suffered by the User as a result thereof. SITA reserves the right to request independent verification of any information transmitted via e-mail and the User consents to such verification should SITA deem it necessary.
- c) To the extent permissible by law:
- i. Neither SITA, its affiliates, shareholder, agents, consultants or employees shall be liable for any damages whatsoever, including without limitation any direct, indirect, special, incidental, consequential or punitive damages, however arising (whether in an action arising out of contract, statute, delict or otherwise) related to the use of, or the inability to access or use the content of the Website or any functionality thereof, or the information contained on the Website, or of any linked website, even if SITA knows or should reasonably have known or is expressly advised thereof.
  - ii. Neither SITA, its affiliates, shareholder, agents, consultants or employees shall be liable for any damages whatsoever, including without limitation any direct, indirect, special, incidental, consequential or punitive damages, however arising (whether in an action arising out of contract, statute, delict or otherwise) related to defamatory content published by the User on the Website, infringement of copyrights, trade secrets, proprietary information and other intellectual property rights of third parties by Users on the Website and / or any invasion of privacy or wrongful intentional interference.
  - iii. The liability of SITA for faulty execution of the Website as well as all damages suffered by the User, whether direct or indirect, as a result of the malfunctioning of the Website shall be limited to SITA rectifying the malfunction, within a reasonable time. However in no event shall SITA be liable to the User for loss of profits or for special, incidental, consequential or punitive losses or damages arising out of or in connection with the Website or its use or the delivery, installation, servicing, performance or use of it in combination with other computer software.
  - iv. User hereby unconditionally and irrevocably indemnifies and agrees to hold SITA free from all loss, damages, claims and/or costs, of whatsoever nature suffered or incurred by SITA or instituted against SITA as a direct or indirect result of:
    - v. the use of the website;
    - vi. your failure to comply with any of the terms or any other requirements which SITA may impose from time to time;
    - vii. the actions or requirements of any telecommunications authority or a supplier of telecommunications services or software; or
    - viii. any unavailability of, or interruption in, the Website which is beyond SITA's control.
- d) SITA makes no warranty or representation as to the availability, accuracy or completeness of the content of the Website. User expressly waives and renounces all its rights of whatever nature that it

may have against SITA for any loss suffered by it, as a result of information supplied by SITA being incorrect, incomplete or inaccurate.

## 15. Removal and correction of content

- a) Users are encouraged to report untrue, inaccurate, defamatory, illegal, infringing and/or harmful content available from the Website to SITA and SITA undertakes to correct and/or remove such content or any part thereof if the person reporting such content provided reasonable grounds to prove the alleged nature of the content.
- b) SITA may, in its sole discretion;
  - i. remove any content from the Website; or
  - ii. request Users to remove content from the Website, if such content is untruthful, misleading, inappropriate, offensive or unsuitable for any reason whatsoever. SITA may filter all content, advertisements or materials published on the Website and make no commitment to edit and / or update such content on the Website.
- c) SITA does not assume any responsibility or liability for any errors or omission of whatsoever nature or however it may arise in relation to this clause 15.

## 16. Interception of Communications

- a) Subject to the provisions of the Regulation of Interception of Communications and Provision of Communication-Related Information, Act 70 of 2002 ("the RIC Act"), the User agrees to SITA's right to intercept, block, filter, read, delete, disclose and use all communications sent or posted by the User to the Website, its staff and employees.
- b) The User agrees and acknowledges that the consent provided by the User in clause 16 (a) satisfies the "writing" requirement as detailed in the ECT Act and the RIC Act.

## 17. Agreement in terms of Section 21 of the ECT Act

The User and SITA agree that:

- a) the User shall be bound to these term and conditions and such agreement is concluded in Johannesburg (South Africa) at the time the User enters the Website for the first time;
- b) data messages (as defined in the ECT Act) addressed by the User to SITA shall only be deemed to have been received if and when responded to;
- c) data messages (as defined in the ECT Act) addressed to the User by SITA shall be deemed to be received by the User as detailed in section 23(b) of the ECT Act;
- d) data messages (as defined in the ECT Act) addressed by the User to SITA shall be deemed to have been created and sent by the User from within the geographical boundaries of South Africa;
- e) electronic signatures, encryption and/or authentication is not required for valid electronic communications between the User and SITA; and
- f) the User agrees and warrants that data messages that are sent to SITA from a computer, IP address or mobile device normally used by or owned by the User, was sent and/or authorised by the User personally.

## 18. Confidentiality

- a) By subscribing as a User, you agree that you shall hold in the strictest confidence and not disclose to any third party information acquired in connection with any aspect of the products and/or services offered by SITA. You shall notify SITA should you discover any loss or unauthorised disclosure of the information.
- b) You agree not to reproduce any confidential information to which you are provided access through the Website in any form except as authorised at the time of the disclosure. Any reproduction of confidential information shall remain the property of SITA or the third party that has prepared such information.
- c) Any information or material sent to SITA will be deemed not to be confidential, unless otherwise agreed in writing by the User and SITA. You agree not to provide SITA or other users with any confidential information that you or the owner of the confidential information do not intend to become public information. Any content that you upload to the Website without clearly labelling it as confidential shall be deemed not to be confidential or proprietary and you expressly agree that you waive any trade secrets or other confidentiality rights with respect to such content.

## 19. Breach or cancellation by SITA

- a) SITA is entitled without notice, in addition to any other remedy available to it at law or under these Terms, including obtaining an interdict, to cancel these Terms, limit or deny such User use of the Website and services, or to claim specific performance of any obligation whether or not the due date for performance has arrived, in either event without prejudice to SITA's right to claim damages, should any user:
  - I. breach any of these Terms;
  - II. in the sole discretion of SITA, use the Website in an unauthorised manner; or
  - III. infringe any statute, regulation, ordinance or law.
- b) Breach of these Terms entitles SITA to take legal action without prior notice to the User and the User agrees to reimburse the costs associated with such legal action to SITA on an attorney and own client scale.

## 20. Compliance with laws

- a) You shall comply with all applicable laws, statutes, ordinances and regulations pertaining to your use of and access to this Website.

## 21. Notices

- a) Except as explicitly stated otherwise, any notices shall be given by email to [Information.officer@sita.co.za](mailto:Information.officer@sita.co.za) (in the case of SITA) or to the e-mail address you have provided to SITA (in your case), or such other address that has been specified. Notice shall be deemed given forty-eight (48) hours after an email is sent, unless the sending party is notified that the email address is invalid. Alternatively, SITA may give you notice by registered mail, postage prepaid and return receipt requested, to the address which you have provided to SITA. In such case, notice shall be deemed given seven (7) days after the date of mailing. You acknowledge that all agreements, notices or other communication required to be given in terms of the law or these Terms may be given via electronic means and that such communications shall be "in writing". Notwithstanding anything to the contrary,

a written notice or communication actually received by a party shall be an adequate written notice or communication to it, notwithstanding that it was not sent to or delivered at its chosen address (es) for that purpose.

## 22. General clauses

- a) The Website is hosted, controlled and operated from the Republic of South Africa and therefore South African law enforced by the South African courts governs the use or inability to use the Website, its content, services and these Terms.
- b) This Website is controlled, operated and administered by SITA from its offices within the Republic of South Africa. SITA makes no representation that the content of the Website is appropriate or available for use outside of South Africa. Access to the Website from territories or countries where the content of the Website is illegal is prohibited. Users may not use this Website in violation of South African export laws and regulations. If the User accesses this Website from locations outside of South Africa, that User is responsible for compliance with all local laws.
- c) SITA does not guarantee continuous, uninterrupted or secure access to our services, as operation of our Website may be interfered with as a result of a number of factors which are outside of our control.
- d) If any provision of these Terms is held to be illegal, invalid or unenforceable for any reason, such provision shall be struck out from these Terms and the remaining provisions shall be enforced to the full extent of the law.
- e) SITA's failure to act with respect to a breach by you or others does not constitute a waiver of our right to act with respect to subsequent or similar breaches.
- f) You shall not be entitled to cede your rights or assign your rights or delegate your obligations in terms of these Terms to any third party without SITA's prior written consent.
- g) No party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein, whether it induced the contract and/or whether it was negligent or not.
- h) Headings to the paragraphs to these Terms shall be used in the interpretation of any of the provisions to which they relate.
- i) Words importing the singular shall include the plural and vice versa, and words importing the masculine gender shall include the other genders and words importing persons shall include partnerships and corporate and unincorporated entities.
- j) These Terms set forth the entire understanding and agreement between SITA and you with respect to the subject matter hereof.

## 23. Legal costs

- a) SITA shall not be liable for costs incurred by Users to obtain professional advice relating to these terms and conditions.