

## **50PLUS-SKILLS TERMS OF SERVICE**

**THESE TERMS OF SERVICE ARE EFFECTIVE AS OF: 1 June 2018 “EFFECTIVE DATE”  
READ THESE TERMS CAREFULLY BEFORE BROWSING THE 50PLUS-SKILLS WEBSITE.**

**YOUR CONTINUED USE OF THE 50PLUS-SKILLS WEBSITE INDICATES THAT YOU HAVE BOTH READ AND ACCEPT THESE TERMS. YOU CANNOT USE THE 50PLUS-SKILLS WEBSITE IF YOU DO NOT ACCEPT THESE TERMS. ALL SECTIONS OF THESE TERMS ARE APPLICABLE TO ALL USERS UNLESS THE SECTION EXPRESSLY STATES OTHERWISE.**

### **1. INTRODUCTION**

1.1 The 50Plus-Skills website [www.50Plus-skills.co.za](http://www.50Plus-skills.co.za), is made available, and owned by, Fifty Plus Skills (Pty) Ltd t/a 50Plus-Skills (bearing registration number 2018/015445/07) (hereinafter referred to as “50Plus-Skills”, “50Plus-Skills Website” “Website”, “we”, “our” or “us”). Any reference to “50Plus-Skills”, “we”, “our” or “us” shall include our employees, officers, directors, representatives, agents, shareholders, affiliates, subsidiaries, holding companies, related entities, advisers, sub- contractors, service providers and suppliers.

1.2 These terms, including any document incorporated by reference herein, including, but not limited to the Privacy Policy (collectively, the “Terms”) apply to any Users who use the Services, access, refer to, view and/or upload or download any information or material made available on 50Plus-Skills for whatever purpose, and which Users shall carry the definition as set out in clauses 2.1.1 and 2.1.2 below as the case may be, and governs the Users relationship with 50Plus-Skills.

1.3 Accessing and/or use of the 50Plus-Skills Website after the Effective Date will signify that the User has read, understands, accepts, and agrees to be bound, and are bound, by the Terms, in such User’s individual capacity and/or for and on behalf of any entity for whom the User utilises the 50Plus-Skills Website. Further, the User represents and warrants that they have the authority to do so and that in the case of a User being a natural person, the User is a Competent Person (as defined in the Protection of Personal Information Act, 4 of 2013, as amended).

1.4 To the extent permitted by applicable law, we may modify the Terms with prospective effect without prior notice to Users, and any revisions to the Terms will take effect when posted on the 50Plus-Skills Website, as indicated above, unless a later date is otherwise stated in the revised Terms. A User’s continued use of the 50Plus-Skills Website and/or the Services will be construed as a User’s consent to the amended or updated Terms, and will be conditional upon the Terms in force at the time of use. A User’s only remedy, should such User not agree to these Terms, is to stop the use of the 50Plus-Skills Website.

### **2. TERMINOLOGY**

2.1 The following terminology applies to these Terms:

2.1.1 “**Opportunity Seeker**” shall mean an individual aged 50 years or older who utilises the Services as offered on the 50Plus-Skills Website;

2.1.2 “**Opportunity Offeror**” shall mean a Corporate entity, Small Medium and Micro-sized Enterprise (“SMME”), Academic Institution or Non-Profit Organisation (“NPO”) which utilises the 50Plus-Skills Website to attempt to locate a suitable Opportunity Seeker to fill a position;

2.1.3 “**Services**” shall mean those Services as provided to the Users through the 50Plus-Skills Website as more fully set out in clause 4 below; and

2.1.4 “**Users**” shall mean the Opportunity Seeker and the Opportunity Offeror collectively and “User” shall mean either of them as the context may indicate.

2.2 Any use of the above terminology or other words in the singular, plural, capitalisation and/or he/she or they, are taken as interchangeable and therefore as referring to the same.

### **3. A USER’S AGREEMENT TO THESE TERMS**

3.1 Subject to, and on the basis of a User’s acceptance of the Terms, 50Plus-Skills grants the User a limited, revocable, non-transferable license to access and use the 50Plus-Skills Website in accordance with the various policies and agreements which may govern such use and access.

### **4. SERVICES & COSTS**

4.1. 50Plus-Skills through the use of the 50Plus-Skills Website provides the following Services to Users:

#### **4.1.1. Opportunity Seeker:**

4.1.1.1. the opportunity to upload, at an annual registration cost of R500.00 (five hundred Rand) or monthly at R50.00 (fifty rand) payable in advance, certain data as required on the 50Plus-Skills Website including but not limited to contact information, skills and the sector in which they seek opportunities whether such opportunity is for remuneration, voluntary, full time, part time or otherwise;

4.1.1.2. a link through which to upload their Curriculum Vitae together with their LinkedIn Profile, should they so wish;

4.1.1.3. the option of allowing their details to be accessed by Opportunity Offerors registered on the 50Plus-Skills Website through the 50Plus-Skills Website’s internal search engine;

4.1.1.4. the election to attend a 90-minute workshop as hosted by 50Plus-Skills.

4.1.1.5. although 50Plus-Skills relies solely on the information as provided by the Opportunity Seeker, should the Opportunity Seeker wish to provide validation of such information, this can be done through the <http://ifacts.co.za> link as situate on the 50Plus-Skills Website. The Opportunity Seeker shall however be liable for all costs relating to the obtaining of such validation/s.

4.1.2. Opportunity Offeror (comprising the following sectors):

#### **4.1.2.1. Corporate Entities:**

4.1.2.1.1. the opportunity to, at an annual registration cost of R10 000.00 (ten thousand Rand) payable in advance and upon providing certain information as required on the registration form, obtain access to the 50Plus-Skills Website in order to locate Opportunity Seekers through the 50Plus-Skills Website’s internal search engine who may meet their criteria in an opportunity capacity; and

4.1.2.1.2. the option to have 25 (twenty five) or less of their employees attend the shared value workshops as hosted by 50Plus-Skills during the 12 (twelve) month period of registration.

#### **4.1.2.2. SMME's:**

4.1.2.2.1. the opportunity to, at an annual registration cost of R3 000.00 (three thousand Rand) payable in advance and upon providing certain information as required on the registration form, obtain access to the 50Plus-Skills Website in order to locate Opportunity Seekers through the 50Plus-Skills Website's internal search engine who may meet their criteria in an opportunity capacity; and

4.1.2.2.2. the option to have 6 (six) or less of their employees attend the shared value workshops as hosted by 50Plus-Skills during the 12 (twelve) month period of registration.

4.1.2.2.3.

#### **4.1.2.3. NPO's:**

4.1.2.3.1. the opportunity to, at an annual registration cost of R500.00 (five hundred Rand) payable in advance and upon providing certain information (which shall include the NPO certificate) as required on the registration form, obtain access to the 50Plus-Skills Website in order to locate Opportunity Seekers through the 50Plus-Skills Website's internal search engine who may meet their criteria in an employment capacity; and

4.1.2.3.2. the option to have 5 (five) or less of their employees attend the shared value workshops as hosted by 50Plus-Skills during the 12 (twelve) month period of registration.

### **5. THE ROLE OF 50PLUS-SKILLS**

5.1 50Plus-Skills provides the Services as set out in clause 4 above.

5.2 Although 50Plus-Skills by the provision of the Services facilitates the referral or introduction of the Opportunity Offeror to the Opportunity Seeker, the Users will be responsible for agreeing between themselves the terms and conditions that will govern any relationship that may be forged between themselves.

5.3 50Plus-Skills is not a party to nor will it have any liability with respect to any engagement between Users resulting from the Services.

### **6. WARRANTIES BY THE USERS**

6.1 The Users warrant and represent that the information provided to 50Plus-Skills, is and shall remain accurate, true and correct and that the Users will update the information held by 50Plus-Skills to reflect any changes as soon as possible.

6.2 Any individual registering on the 50Plus-Skills Website warrants that if registering on behalf of any Opportunity Offeror, such individual will be taken to have represented to 50Plus-Skills that it has the authority to act on behalf of the Opportunity Offeror, and that these Terms will be binding on the Opportunity Offeror.

6.3 The Users further warrant that when registering on the 50Plus-Skills Website they:

6.3.1 are not impersonating any person or entity

6.3.2 are not violating any applicable law regarding use of personal or identification information;

6.3.3 are authorised to create an account; and

6.3.4 will provide, on demand from 50Plus-Skills, verification of such User's Credentials in such form as required by 50Plus-Skills.

## **7. WARRANTIES BY 50PLUS-SKILLS**

7.1 50Plus-Skills makes no representation or warranty (express or implied) that the 50Plus-Skills Website or Services will:

7.1.1 meet a User's needs;

7.1.2 be accessible at all times;

7.1.3 be accurate, complete or current; or

7.1.4 be free from viruses.

7.2 Subject to any express terms, 50Plus-Skills makes no representation or warranty as to the volume or subject area of Services accessible through the 50Plus-Skills Website.

7.3 Except for any express warranties in these Terms the Services are provided "as is". 50Plus-Skills makes no other warranties, express or implied, statutory or otherwise, including but not limited to warranties of merchantability, title, fitness for a particular purpose or noninfringement. 50Plus-Skills does not provide advice in relation to the suitability of either an Opportunity Seeker or an Opportunity Offeror nor does 50Plus-Skills take into account any User's individual circumstances when providing the Services.

7.4 50Plus-Skills does not warrant that the use of the 50Plus-Skills Website will be uninterrupted or error free, nor does 50Plus-Skills warrant that we will review information for accuracy or that we will preserve or maintain the User's information without loss.

7.5 50Plus-Skills shall not be liable for delays, interruptions, service failures or other problems inherent in use of the internet and electronic communications or other systems outside the reasonable control of 50Plus-Skills. While a User may have statutory rights, the duration of any such statutory warranties, will be limited to the shortest period to the extent permitted by required law.

## **8. COMMENCEMENT & TERMINATION**

8.1. These Terms commence on the date upon which payment of the annual registration fee is received from a User and shall terminate automatically at the end of the 12 (twelve) month period.

8.2. The terms commence on the date upon which payment of the monthly registration fee is received from the User and shall terminate automatically at the end of 30 day period, unless renewed.

8.3. In the event of a User wishing to continue with the Services after the 12 (twelve) month period has elapsed, the User shall, after a notification from 50Plus-Skills 1 month prior to the expiration of the 12 (twelve) month period, notify 50Plus-Skills of same, and make payment of a further 12 (twelve) month registration fee, which amount payable may be increased annually on a percentage basis as determined by 50Plus-Skills.

## **9. SURVIVAL**

9.1 Clauses which out of necessity or by implication herein survive termination of these Terms, shall remain in full and effect despite the termination hereof.

## **10. DISCLAIMER**

10.1 50Plus-Skills does not have, and expressly disclaims, any liability to a User in connection with any content, information, text, graphics, images, audio or video, or material a User creates or uploads to a profile and/or the 50Plus-Skills Website (Posted Content). 50Plus-Skills cannot guarantee, and makes no representations in relation to the completeness or accuracy of any Posted Content.

10.2 50Plus-Skills makes no express, implied or statutory representations, warranties, or guarantees in connection with the 50Plus-Skills Website, the Services, any other Users of the site, including but not limited to partners, or third parties, or any materials on the 50Plus-Skills Website relating to the quality, suitability, truth, accuracy or completeness of any information or material contained or presented on the 50Plus-Skills Website.

10.3 Without limiting the generality of the foregoing, 50Plus-Skills makes no warranty that the 50Plus-Skills Website will meet a User's requirements, or that the 50Plus-Skills Website will be uninterrupted, timely, secure, error free or that defects in the 50Plus-Skills Website will be corrected.

10.4 50Plus-Skills makes no warranty as to the results that may be obtained from the use of the 50Plus-Skills Website or as to the accuracy or reliability of any information obtained through the 50Plus-Skills Website. No advice or information, whether oral or written, obtained by a User through the 50Plus-Skills Website or from 50Plus-Skills shall create any warranty enforceable as against 50Plus-Skills.

## **11. UNAUTHORISED USE OF THE 50PLUS-SKILLS WEBSITE**

11.1 A User may not:

11.1.1 use the 50Plus-Skills Website for any objectionable or unlawful purpose, including the posting of any threatening, libellous, defamatory, obscene, scandalous, inflammatory, pornographic, profane or spam material;

11.1.2 take any action that imposes an unreasonable or disproportionately large load on the 50Plus-Skills Website's infrastructure, including spam or other unsolicited mass e-mailing techniques;

11.1.3 use the 50Plus-Skills Website in any manner would result in a User breaching any applicable legislation or licensing obligations (including with respect to privacy) or any obligations a User may owe to third parties;

11.1.4 mislead or deceive others through any act or omission or make a false representation about a User's identity, including the impersonation of a real or fictitious person or using an alternative identity or pseudonym;

11.1.5 post content which contravenes a confidentiality or non-disclosure agreement, insider trading laws, or intellectual property rights which a User is not authorised to transfer to another party;

11.1.6 conduct any activity which compromises or breaches another party's patent rights, trademark, copyright or other intellectual property rights;

11.1.7 copy, collect or save information about other Users including their skills, employment or education history;

11.1.8 publish advertising material of any kind or market any goods or services directly to other Users;

11.1.9 introduce any virus, worm, trojan horse, malicious code or other program which may damage computers or other computer-based equipment to the 50Plus-Skills Website or to other Users;

11.1.10 stalk or harass anyone;

11.1.11 attempt to disrupt or interfere with the delivery of 50Plus-Skill's Services;

11.1.12 use the details of other Users for anything other than the use expressly permitted by those Users;

11.1.13 download, access, use, harvest or download in bulk User details other than to fill vacant positions as contemplated by the 50Plus-Skills Website or as otherwise explicitly permitted by 50Plus-Skills in writing;

11.1.14 sell, redistribute or use information contained on the 50Plus-Skills Website for a commercial purpose without our prior written consent;

11.1.15 pass on user name and password information to anyone other than the authorised User of that account;

11.1.16 remove or alter our copyright notices or other means of identification including any watermarks, as they appear on the 50Plus-Skills Website;

11.1.17 provide to any persons who are not authorised users of the 50Plus-Skills Website, any part of the information included in the Services or content, except as permitted in these Terms;

11.1.18 distribute or publish any part of the information or content included in the Services on any publicly accessible electronic network, including without limitation the internet and the world wide web, Facebook, YouTube, or otherwise publish, broadcast or display any such information in public.

11.2. The User understands and agrees that it is solely responsible for compliance with any and all laws, rules, regulations and taxation obligations that may apply to its use of the 50Plus-Skills Website or the Services.

## **12. COPYRIGHTS**

12.1 50Plus-Skills and the contents of the 50Plus-Skills Website are the property of 50Plus-Skills, and are protected by South African and international copyright laws. Furthermore, the compilation (meaning the collection, arrangement, and assembly) of all content on the 50Plus-Skills Website and/or the Services, is the property of 50Plus-Skills, unless credit is attributed to the author thereof, and is, likewise, protected by South African and international copyright laws.

12.2 Except as stated in the Terms, none of the contents may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means, including, but not limited to, electronic, mechanical, photocopying, recording, or otherwise, except as permitted by the fair use privilege under the South African copyright laws or without the prior written permission of 50Plus-Skills, and further, should such consent be provided, 50Plus-Skills reserves its right to withdraw such consent at any stage, in its sole and absolute discretion.

12.3 Users are expressly prohibited to “mirror” any content, contained on the 50Plus-Skills Website, on any other server unless with the prior written permission of 50Plus-Skills, and further, should such consent be provided, 50Plus-Skills reserves its right to withdraw such consent at any stage, in its sole and absolute discretion.

12.4 50Plus-Skills does not permit copyright infringing activities and infringement of intellectual property rights on the 50Plus-Skills Website, and 50Plus-Skills may, at our sole discretion, remove any infringing content if we are of the view that such content infringes on another’s intellectual property rights or our own.

12.5 The User is granted a limited, revocable, and non-exclusive right to create a hyperlink to the home page of 50Plus-Skills, so long as the link does not portray 50Plus-Skills, its affiliates, or its products or services in a false, misleading, derogatory, or otherwise offensive manner. A User may not use 50Plus-Skills’ logo or other proprietary graphic or trademark as part of the link without the express permission of 50Plus-Skills, its affiliates or content suppliers.

12.6 All trademarks and copyrights, as also any other intellectual property rights, in and to any of the content of the 50Plus-Skills Website are the exclusive property of 50Plus-Skills.

### **13. POSTED CONTENT**

13.1 50Plus-Skills reserves the right to remove any Posted Content if we consider, acting reasonably, that a User has breached these Terms or any other agreement between 50Plus-Skills and a User, or if, in our sole discretion, we believe that maintaining the Posted Content presents a risk to 50Plus-Skills’ reputation or business and operations (including the 50Plus-Skills Website).

13.2 Notwithstanding the foregoing, we do not, nor are we under any obligation or duty to a User or anyone else to monitor, consider, evaluate, assess, review, screen, censor or remove any Posted Content. We do not have (and expressly disclaim) any liability in connection with any monitoring, consideration, evaluation, assessment, review, screening, censoring or removal of Posted Content or any failure or refusal on our part to do so.

13.3 The User is solely responsible for all of its Posted Content. The User agrees to indemnify 50Plus-Skills, and keep us indemnified, from and against any claims, costs, damage loss or liability that may arise in connection with such Posted Content. 50Plus-Skills will not have any liability in connection with the deletion, loss, or unauthorised modification of any of your Posted Content. A User may not use any Posted Content for any purpose other than for the purpose for which it has been posted.

13.4 We reserve the right to keep the Posted Content on the 50Plus-Skills Website until the termination of the Agreement unless removed earlier by the User.

## **14. USERNAME AND PASSWORD**

14.1 Upon registration on the 50Plus-Skills Website a User shall be required to provide their own unique username and password.

14.2 It is the User's responsibility to keep its username and password secure, and a User is not to disclose those details to any other person. A User may not transfer its account to another person.

14.3 A User is solely responsible for the consequences of any use of its username and password by third parties, regardless of whether that use is authorised.

14.4 In the event of a User being of the view that its username and password is being used by someone else, please contact us immediately at [info@50plus-skills.co.za](mailto:info@50plus-skills.co.za).

## **15. INTELLECTUAL PROPERTY**

15.1 A User undertakes not to attempt to decipher, decompile, disassemble or reverse engineer any of the software or code comprising or in any way making up a part of the 50Plus-Skills Website including any algorithm used by 50Plus-Skills;

15.2 50Plus-Skills owns or are licensed to use all intellectual property on the 50Plus-Skills Website, with the exception of Posted Content, which shall remain the User's intellectual property but which a User licenses to us in accordance with the license below. A User may not use any of our intellectual property for any purpose other than as may be required to use the 50Plus-Skills Website for its intended purpose;

15.3 In relation to Posted Content and a User's use of the 50Plus-Skills Website, the User grants to us an unconditional, world-wide and irrevocable, fully paid and royalty free license and right to use, display, copy, modify, adapt, reproduce, commercialise, prepare derivative works, display and publish all such intellectual property and that content forming all or part of the Posted Content, for any purpose.

15.4 By using the 50Plus-Skills Website, a User warrants that it owns or is licensed to use the intellectual property rights in such User's Posted Content. This includes copyright in respect of any text posted, as well as the right to use or display any image or logo. The User indemnifies 50Plus-Skills, and agrees to keep 50Plus-Skills indemnified, from and against any claims by third parties arising from a User's Posted Content, including any breach of intellectual property rights any third party may bring against us, in relation to a User's Posted Content.

15.5 No User may use or display any trade marks on the 50Plus-Skills Website without first obtaining the consent of the owner of the trade mark. We own the distinctive “50Plus-Skills” marks, brand and logo.

15.6 Nothing on this Website creates any right on a User’s part (express or implied) that would allow a User to use or display a trade mark that such User does not own, regardless of whether the trade mark is currently registered.

## **16. LINKS TO OTHER WEBSITES**

16.1 The 50Plus-Skills Website contains links or portals to other websites. We have no control over websites operated by third parties and the User agrees that 50Plus-Skills are not responsible for and will have no liability in connection with a User’s access to or use of any third-party website.

## **17. LIMITATION OF LIABILITY AND INDEMNITY**

17.1 The 50Plus-Skills Website shall be used entirely at a User’s own risk.

17.2 50Plus-Skills is not responsible for, and the User agrees that we will have no liability in relation to, the use of and conduct in connection with the 50Plus-Skills Website, or any other person’s use of or conduct in connection with the 50Plus-Skills Website, in any circumstance.

17.3 50Plus-Skills cannot guarantee or warrant that any file downloaded from the 50Plus-Skills Website or delivered to you via email will be free of infection or virus, worms, trojan horses or other code that has contaminating or destructive qualities. A User is responsible for implementing appropriate processes, systems and procedures to protect itself from this type of issue.

17.4 A User indemnifies us, and agrees to keep us indemnified, from and against any claim, loss, damage, cost or expense that we may suffer or incur as a result of or in connection with a User’s improper use of or conduct in connection with the 50Plus-Skills Website, including any breach by a User of these terms or any applicable law or licensing requirements.

17.5 To the maximum extent permitted by law 50Plus-Skills excludes all implied representations and warranties which, but for these terms, might apply in relation to a User’s use of the 50Plus-Skills Website.

17.6 To the extent that 50Plus-Skills’ liability cannot be excluded by law, our maximum liability, whether in contract, equity, statute or tort (including negligence), to a User will be limited to the minimum amount imposed by such law.

17.7 Notwithstanding anything to the contrary in these terms, in no circumstances will 50Plus-Skills be liable for any indirect, punitive or consequential loss or damages, loss of income, profits, goodwill, data, contracts, use of money or any loss or damages arising from or in any way connected to interruption of the Services of any type, whether in delict, contract or otherwise.

## **18. CONFIDENTIALITY**

18.1 Confidential Information means any documents or information created, received or obtained from one User by another alternatively 50Plus-Skills, together with information relating to 50Plus-Skills as well as non-public information pertaining to 50Plus-Skills' business (including, without limitation, our pricing information, any related entities, the identity of Users, and any content marked confidential) which must remain strictly confidential.

18.2 A User may not disclose, solicit, make available or misappropriate any Confidential Information, trade secrets or other proprietary information that belongs to any third party without that party's prior written permission, or in violation of any express or implied duty or contractual right.

18.3 Where a User is legally required to disclose the Confidential Information, such User shall inform the third party who disclosed the Confidential Information of the requirement as soon as reasonably practicable and liaise with that party prior to disclosing any of that party's Confidential Information.

18.4 A User shall notify 50Plus-Skills immediately upon becoming aware of a suspected or actual breach of this obligation.

18.5 50Plus-Skills will not disclose or make available to any third party, directly or indirectly, any User's Confidential Information, except where we have the User's permission, where the Confidential Information is already in the public domain (through no breach of these Terms), in furtherance of a User's use of the Services, to enforce these Terms or if legally compelled to do so.

## **19. MISCELLANEOUS**

### **19.1 Assignment and novation:**

19.1.1 50Plus-Skills may assign or novate any of our rights or obligations under these Terms without a User's consent.

### **19.2 Continued application:**

19.2.1 These Terms will continue to apply even once a User has ceased making use of the Services.

### **19.3 Variation or waiver:**

19.3.1 Our failure to enforce any provision of these Terms shall not constitute a waiver of such provision. Further, any consent to depart from any terms the terms of this Agreement shall be ineffective unless it is confirmed in writing and signed by us.

19.3.2 Any present or future legislation which operates to vary an obligation or right, power or remedy of a person in connection with these Terms is excluded except to the extent that its exclusion is prohibited or rendered ineffective by law.

### **19.4 Cumulative rights:**

19.4.1 The rights, powers and remedies provided to us in these Terms are cumulative with and not exclusive of the rights, powers or remedies provided by law independently of these Terms.

### **19.5 Nature of Agreement:**

19.5.1 These Terms constitute the entire agreement, read together with the Privacy Policy. A User acknowledges and agrees that it has not relied on any representations by us in entering this Agreement, except those contained in these Terms.

### **19.6 Relationship of parties:**

19.6.1 These Terms do not constitute and shall not be construed as constituting a partnership or joint venture among 50Plus-Skills and the User. A User agrees that 50Plus-Skills has no special relationship with or fiduciary duty to a User. Neither a User nor 50Plus-Skills shall have any right, power or authority to enter into any agreement for, or on behalf of, or incur any obligation or liability of, or to otherwise bind, the other.

### **19.7 Dispute Resolutions and Deadlock Procedures**

19.7.1 Save as otherwise contained in the Terms, should any dispute arise between a User and 50Plus-Skills, the senior representative of the User alternatively the User in his or her personal capacity (if an individual) and 50Plus-Skills shall attempt on the basis of good faith to settle such dispute by way of negotiation.

19.7.2 If either the User or 50Plus-Skills provides written notification to the other that such attempt has failed, then 50Plus-Skills and the User shall attempt to agree upon the appointment of a suitably qualified mediator, within 10 (ten) days of such dispute being referred.

19.7.3 If agreement is not reached as to the appointment of such mediator within 10 (ten) days after either the User or 50Plus-Skills have in writing called for the appointment of a mediator, or where an appointment has been agreed upon and such mediator is not able to mediate a resolution of such dispute within 30 (thirty) days after such appointment, then either the User or 50Plus-Skills may give written notice to the other referring the dispute to arbitration in accordance with the provisions of this clause 19.7 ("Arbitration Notice").

19.7.4 The arbitration shall be:

19.7.4.1 held at Gauteng;

19.7.4.2 conducted in the English language;

19.7.4.3 held before a single arbitrator.

19.7.5 Subject to the provisions of this clause 19.7 conducted in accordance with the Arbitration Foundation of Southern Africa (AFSA) Rules.

19.7.6 Held as soon as is reasonably practicable in the circumstances and with a view to it being completed within 30 (thirty) business days of the date of the Arbitration Notice.

19.7.7 The arbitrator shall be an attorney or advocate of at least 10 (ten) years standing as such, agreed upon between the User and 50Plus-Skills, provided that should they fail to agree on an arbitrator within 3 (three) business days of the date of the Arbitration Notice, the arbitrator shall, at the written request of either the User or 50Plus-Skills, be appointed by the President for the time being of AFSA or its successor.

19.7.8 The arbitrator shall determine whether the User or 50Plus-Skills shall pay the costs of and incidental to the arbitration or, if both the User and 50Plus-Skills are to contribute, the ratio of their respective contributions, and the scale on which such costs are to be paid.

19.7.9 Subject to each 50Plus-Skills' and the User's rights of appeal in accordance with the AFSA Rules, they both irrevocably agree that the decision of the arbitrator shall be final and binding on them, shall be carried into effect, and shall be capable of being made an order of any court of competent jurisdiction.

19.7.10 This clause shall be severable from the rest of the Terms and therefore shall remain effective between the User and 50Plus-Skills after the Agreement has terminated.

#### **19.8 Automated use of the 50Plus-Skills Website:**

19.8.1 Crawling, spidering or scraping of content is prohibited, except to the extent required by recognised search engines (e.g. Google) for the purposes of indexing the 50Plus-Skills Website. A User may not provide unauthorised interfaces to any of our applications.

#### **19.9 Force Majeure:**

19.9.1 The failure of either a User, 50Plus-Skills or both to fulfil any of their obligations under this Agreement shall not be considered to be a breach of, or default under this Agreement, provided such inability arises from an event of Force Majeure, and that either the User or 50Plus-Skills as affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures in order to meet the terms and conditions of this Agreement, and has informed the other as soon as possible about the occurrence of such an event.

19.9.2 During the subsistence of Force Majeure, the performance of both the User and 50Plus-Skills under the Agreement shall be suspended, on condition that either of them may elect to cancel the Agreement should the event of Force Majeure continue for more than 14 (fourteen) days by giving written notice to the other.

#### **19.10 Severance**

19.10.1 If any of these terms are deemed invalid or unenforceable for any reason (including, but not limited to the exclusions and limitations set out above), then the invalid or unenforceable provision will be severed from these Terms and the remaining terms will continue to apply. Failure by 50Plus-Skills to enforce any of the provisions set out in these Terms and/or any other agreement, or failure to exercise any option to terminate, shall not be construed as a waiver of such provisions and shall not affect the

validity of these Terms or of any agreement or any part thereof, or the right thereafter to enforce each and every provision.

## **20 DOMICILIUM CITANDI ET EXECUTANDI AND CONTACT INFORMATION**

20.1 The User and 50Plus-Skills choose as their respective domicilium citandi et executandi for the purpose of legal proceedings and for the purpose of giving or sending any notice provided for or necessary of these Terms, the following:

20.1.1 Fifty Plus Skills (Pty) Ltd  
Holkam Road, Paulshof  
Email : lynda@50plus-skills.co.za

20.1.2 User: The address as provided when registering on the 50Plus-Skills Website.

20.2 Both the User and 50Plus-Skills may change its domicilium to any other physical address or email address by written notice to the other to that effect. Such change of address will be effective 7 (Seven) days after receipt of notice of change of domicilium.

20.3 All notices to be given in terms of these Terms will:

20.3.1 be given in writing;

20.3.2 be delivered or sent by email; and

20.3.3 be presumed to have been received on the date of delivery.

20.4 Notwithstanding the above, any notice actually received by the Party to whom notice is addressed will be deemed to have been properly given and received, notwithstanding that such notice has not been given in accordance with the provisions of this clause.

## **21. PREPARATION**

21.1 These Terms have been custom created for 50Plus-Skills by the good folks at Legal Legends [www.legallegends.co.za](http://www.legallegends.co.za).