



MANUVA Terms of Service

Thank you for choosing MANUVA for your business. When you use our products and services you're agreeing to our terms, so please read these Terms of Service carefully as they contain important information regarding your legal rights and obligations. Certain capitalized words below are defined in Section 17 (Definitions).

MANUVA provides online gym management software services, designed specifically for businesses in the health, wellness and fitness industries ("Software Service"). You can access our Software Service via the client login page on our Website and through our MANUVA App.

These Terms of Service ("Agreement") apply to any use of and access to our Software Service, Website or Apps (collectively, "Services") by you and your Affiliates. By accessing or using the Services (or enabling an Affiliate to access or use the Services), you are indicating that you have read this Agreement and agree to be bound by its terms. If you do not agree with all of the terms of this Agreement, you may not access or use any Services.

This Agreement is effective ("Effective Date") on the earlier of (a) the date you accept this Agreement by clicking an "I Agree" button or otherwise indicate that you accept this Agreement (including through a Vendor Registration Form), or (b) the date you (or an Affiliate) first access or use the Services.

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1. General Terms.

When you use our Services, you are entering into a legal agreement and you agree to all of these terms.

1.1 Agreement. This Agreement is a binding legal agreement between you and the applicable MANUVA Entity indicated in Section 14.4 below (“MANUVA”, “we”, “us” or “our”). If you enter into this Agreement on behalf of a company or other legal entity, you represent and warrant that you have the legal authority to bind that entity and its Affiliates to this Agreement, and all references to “you” and “your” in this Agreement are referring to that entity. You and MANUVA are also sometimes referred to in this Agreement individually as a “Party” and collectively as the “Parties”. You also agree to our Privacy Policy.

Our [Privacy Policy](#) explains how we collect and use information that’s submitted to the Services. By using the Services, you are indicating that you’ve read the [Privacy Policy](#) and agree to its terms.

This Agreement covers Apps that allow you to access our software like the MANUVA GMP Software Solutions, but it doesn’t cover the MANUVA App.

This Agreement applies to any use of the Services, whether in connection with a paid subscription or a free trial. For clarity, this Agreement does not apply to use of the MANUVA App. That has a separate User Agreement, which is accessible through the app. In addition, if you (or any third party on your behalf) uses our APIs, you will be subject to the applicable API terms set forth on our Website and any other terms designated by MANUVA.

We continuously strive to improve our products and services, and as our business evolves, this agreement may change. This section describes how we can change the agreement.

1.2 Changes to the Agreement. We may, in our sole discretion, make changes to this Agreement from time to time. Any changes we make will become effective when we post a modified version of the Agreement to our Website, and we agree the changes will not be retroactive. If we make any material changes to the Agreement, we’ll also notify you within the Software Service or by sending you an email. If you continue using the Services after any changes, it means you have accepted them. If you do not agree to any changes, you must stop using the Services, and you can terminate your account by emailing cancellations@manuva.co.za. It is your obligation to ensure that you read, understand and agree to the latest version of the Agreement that’s posted on our Website. The legend at the top of the Agreement indicates when it was last changed.

2. Services.

Our software will meet the uptime requirements described in our SLA.

2.1 Access and Service Levels. MANUVA will make the Services to which you have Agreed available to you, subject to the terms and conditions of this Agreement. During the



Agreement Term, the Software Services will meet the service levels specified in the Service Level Agreement (“SLA”) located at <http://www.manuva.co.za/terms-of-service/service-level-agreement> (or such other URL as specified by MANUVA), as may be updated by MANUVA from time to time.

We may temporarily suspend your access for things like scheduled maintenance, or if a natural disaster occurs. We may also change or discontinue particular features or functions of our Services at any time.

2.2 Changes to Services. Notwithstanding Section 2.1, in addition to our rights set forth in Section 8.4, we reserve the right to suspend any Services (a) during planned downtime as provided in the SLA, (b) in connection with a Force Majeure event (as described in Section 14.9), or (c) if we believe any malicious software is being used in connection with your account. In addition, we reserve the right to change, suspend or discontinue any features, components or functions of the Services at any time. If we make any material changes to the Software Service, we’ll notify you within the Software Service or by sending you an email. Notwithstanding the above, we have no obligation to update or enhance any Services or to produce or release new versions of any Services. We aren’t responsible for any third party products that are integrated with or used in connection with the Services.

2.3 Third Party Offerings. Although the Services may allow you to access or use Third Party Offerings, they are not “Services” under this Agreement and are not subject to any of the warranties, service commitments or other obligations with respect to Services hereunder. The availability of any Third Party Offerings through the Services does not imply MANUVA’s endorsement of or affiliation with the provider. MANUVA does not control Third Party Offerings and will have no liability to you or Affiliates in connection with any Third Party Offerings. MANUVA has no obligation to monitor or maintain Third Party Offerings, and may disable or restrict access to any Third Party Offerings at any time. By using or enabling any Third Party Offering, you are expressly permitting MANUVA to disclose Your Data or other information to the extent necessary to utilize the Third Party Offering. YOUR USE OF THIRD PARTY OFFERINGS IS AT YOUR OWN RISK AND IS SUBJECT TO ANY ADDITIONAL TERMS, CONDITIONS AND POLICIES APPLICABLE TO SUCH THIRD PARTY OFFERINGS (SUCH AS TERMS OF SERVICE OR PRIVACY POLICIES OF THE PROVIDERS OF SUCH THIRD PARTY OFFERINGS).

Your Agreement Fees include our Basic Solution. You may also select to purchase two other service such as our Standard or Enterprise Solution, at an additional fee.

2.4 Software Services. As part of the Software Solution Services you will have access to MANUVA’s basic solution services described at <http://manuva.co.za/-pricing> (or such other URL as specified by MANUVA), as may be updated by MANUVA from time to time. For an additional fee, you may purchase our Standard or Enterprise Solutions as described at <http://manuva.co.za/-pricing> (or such other URL as specified by MANUVA), as may be updated by MANUVA from time to time. If you choose to upgrade your package, you agree to pay any related fees.



2.5 Marketing Services. When you subscribe to our Software Service, your business will automatically be listed on MANUVA’s online marketing platform (the “MANUVA Services”), which allows customers/members to locate MANUVA Vendors and evaluate, review and book their services, directly through the MANUVA App and through our partner applications. From time to time, MANUVA may offer Vendors the opportunity to participate in marketing services programs (“Marketing Services”), which are designed to promote their businesses and attract customers through the MANUVA Services. To enroll in Marketing Services, you must review and agree to the applicable Marketing Services terms and conditions accessible at http://www.manuva.co.za/tos/Manuva_Terms_of_Service.pdf (or such other URL as specified by MANUVA) (“Marketing Services Terms”). MANUVA reserves the right to charge fees for Marketing Services in accordance with the Marketing Services Terms. If you enroll in Marketing Services, you agree to pay all applicable fees for Marketing Services in accordance with Section 4.2 of this Agreement. In the event of any conflict between this Agreement and the Marketing Services Terms, the Marketing Services Terms will apply.

We are not responsible for any damages resulting from your use of any trial or beta services.

2.6 Trial/Pilot and Beta Services. MANUVA may in its sole discretion offer trial services or beta services from time to time at no charge. Any trial or beta services are provided “AS IS” with no warranties of any kind. MANUVA may discontinue any trial or beta services at any time, with or without notice and without any further obligations to you. MANUVA will have no liability for any harm or damages suffered by you or any third party in connection with any trial or beta services.

3. Your Responsibilities.

You are responsible for making sure that your Affiliates, Customers and Members comply with the terms of this agreement and applicable laws.

3.1 Liability for Affiliates and Members. You are responsible for all activity occurring under your account. You will ensure that your Affiliates, Customers and Members comply with all of the provisions of this Agreement and any applicable local, state, national and foreign laws, including those related to data privacy and transmission of personal data, at all times while using the Services. Any reference in this Agreement to your “access” or “use” of Services (or similar phrase) is deemed to include access or use by Affiliates and Members, and any act or omission of an Affiliate, Customer or Member that does not comply with this Agreement will be deemed a breach of this Agreement by you. These are things you promise to do in connection with using the Services.

3.2 Data; Unauthorized Access; Maintaining Networks. You will: (a) have sole responsibility for the accuracy and quality of Your Data and for ensuring that your collection and use of Your Data complies with applicable laws, including those related to data privacy and transmission of personal data; (b) prevent unauthorized access to, or use of, the



Services, and notify MANUVA promptly of any unauthorized access or use; and (c) have sole responsibility for obtaining, maintaining and paying for any hardware, telecommunications, Internet and other services needed to use the Services. These are things you promise not to do in connection with using the Services.

3.3 Restrictions on Use. You and your Affiliates will not: (i) submit any infringing, obscene, defamatory, threatening, or otherwise unlawful or tortious material to the Services, including material that violates privacy rights; (ii) interfere with or disrupt the integrity or performance of the Services or the data contained therein; (iii) attempt to gain access to the Services or related systems or networks in a manner not permitted by this Agreement; (iv) post, transmit or otherwise make available through or in connection with the Services any virus, worm, Trojan horse, Easter egg, time bomb, spyware or other harmful computer code, files, scripts agents or programs; (v) restrict or inhibit any other person or entity from using the Services; (vi) remove any copyright, trademark or other proprietary rights notice from the Services; (vii) frame or mirror any portion of the Services, or otherwise incorporate any portion of the Services into any product or service; (viii) systematically download and store Services content; or (ix) use any robot, spider, site search/retrieval application or other manual or automatic device to retrieve, index, “scrape,” “data mine” or otherwise gather Services content, or reproduce or circumvent the navigational structure or presentation of the Services. Notwithstanding subsection (ix) above, and subject to compliance with any instructions posted in the robots.txt file located in the root directory of any Website, MANUVA grants to the operators of public search engines permission to use spiders to copy materials from the Website for the sole purpose of (and solely to the extent necessary for) creating publicly available, searchable indices of such materials, but not caches or archives of such materials. MANUVA reserves the right to revoke these permissions at any time and without notice. You are liable if any Cardholder Data is mishandled under your account.

3.4 Cardholder Data. You are solely responsible for any liability resulting from your or any Affiliate’s handling of Cardholder Data. You agree that you and Affiliates will comply with PCI DSS (Payment Card Industry Data Security Standard) anytime the Services are used to process credit cards. You will ensure all user names and passwords are kept confidential. Some or all of MANUVA payments are made via PayFast, which is a Level 1 PCI DSS complaint service provider (the highest compliance level)

3.5 User Names and Passwords. MANUVA may reject or require that you change any user name or password under your account. User names and passwords are for internal business use only and may not be shared with any third party, including any competitor of MANUVA. You, and not MANUVA, are responsible for any use or misuse of user names or passwords associated with your account.

4. Fees and Payment.

4.1 Software Services Fees. Fees for the agreed Software Services (“Agreement Fees”) are set forth on our website at <http://www.manuva.co.za/-pricing> (or such other URL as



specified by MANUVA), as may be updated by MANUVA from time to time, or as otherwise stated on a Vendor Registration Form.

This describes our fees and your payment obligations. All fees are subject to the Payment Terms.

4.2 Payment Terms. You agree to pay MANUVA the Agreement Fees and any other applicable fees stated on a Vendor Registration Form, Online Package Purchase Form or otherwise specified in this Agreement. All payment obligations under this Agreement are non-cancelable and all fees paid are non-refundable. Unless otherwise stated on a Vendor Registration Form, fees must be paid in advance of each billing period via PayFast, EFT or any other payment structure agreed upon in the SLA. You will provide MANUVA with valid and updated bank account and credit card information or another form of payment acceptable to MANUVA to receive payments due to you via PayFast. If you provide credit card information, you represent that you are authorized to use the card and you authorize MANUVA to charge the card for all payments hereunder. By submitting payment information, you authorize MANUVA to provide that information to third parties for purposes of facilitating payment. You agree to verify any information requested by MANUVA for purposes of acknowledging or completing any payment.

4.3 Overdue Charges. Any amounts not received by the applicable due date may accrue late interest at 1.5% of the outstanding balance per month, or the maximum interest permitted by applicable law, whichever is less, plus costs of collection. Any amount not received by MANUVA within thirty (30) days after the applicable due date will be deemed a material default under this Agreement, and MANUVA will be entitled to either suspend the Services or terminate the Agreement in accordance with Section 8.2.

4.4 Changes in Fees. Upon notice to you, MANUVA may increase any fees specified in an Vendor Registration Form, provided the increase will not become effective until the expiration of the current Agreement Term. MANUVA may increase any fees that are not specified in an Vendor Registration Form at any time, with or without notice to you.

4.5 Payment Errors. If you believe a payment has been processed in error, you must provide written notice to MANUVA within thirty (30) days after the date of payment specifying the nature of the error and the amount in dispute. If notice is not received by MANUVA within such thirty (30) day period, the payment will be deemed final.

4.6 Taxes. Fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction (collectively, "Taxes"). You are responsible for paying all Taxes associated with purchases and transactions under this Agreement. If MANUVA is legally required to pay or collect any Taxes on your behalf, MANUVA will invoice you and you will pay the invoiced amount. For clarity, MANUVA will be solely responsible for taxes assessed on MANUVA based on its income.

5. Intellectual Property and Proprietary Rights.



This describes our intellectual property rights in the Services.

- 5.1** Each Party retains all rights, titles and interest in its Intellectual Property and it is agreed that the other Party shall not in any manner and at any time represent that they have right to or title to the aforementioned. Each party shall cease all use of the other Party's Intellectual Property as of the termination or expiration of this Agreement.
- 5.2** The Parties agree and the Vendor acknowledges that all right, title and interest in and to all the Intellectual Property (excluding the Vendor's Client's Intellectual Property), whether or not used by MANUVA as part of the rendering of the Services or any part thereof shall be and shall remain the property of MANUVA or its licensors, both during the currency of this Agreement and/or after termination of this Agreement. The Vendor acknowledges, and shall not contest, the rights of MANUVA or its licensors to such Intellectual Property.
- 5.3** The Vendor acknowledges, and shall not contest, the rights of MANUVA or its licensors to such Intellectual Property, the MANUVA Software Services and the Manuva™ App.
- 5.4** The Vendor hereby grants to MANUVA for the duration of this Agreement, an irrevocable, fully paid-up, royalty free licence to use any of its Intellectual Property as necessary to provide the Services in accordance with the provisions of this Agreement.
- 5.5** The Vendor shall not be permitted to use MANUVA's Intellectual Property for the benefit of any third party without the written consent of MANUVA, which may be withheld at MANUVA's sole and absolute discretion.
- 5.6** Under no circumstances shall the Vendor in any way whatsoever, use or apply for the registration of any Intellectual Property used by MANUVA to provide the Software Services and the MANUVA App and Services or part thereof or any Intellectual Property which is identical or confusingly similar to the Service and/or the MANUVA App or which would conflict with the Service and/or the Manuva™ App.
- 5.7** The Vendor hereby indemnifies, defends and holds MANUVA harmless from and against, all losses sustained or incurred by MANUVA as a result of or relating to any claim, action or proceeding brought by any third party for the Vendor's infringement of any of MANUVA's Intellectual Property or other proprietary right, including misappropriation of trade secrets, arising out of or relating to the Software Services or MANUVA App and/or MANUVA's Intellectual Property used by the MANUVA to provide the Services.



5.8 The Intellectual Property rights in and to the Data and Modified Data, the Software Services and the MANUVA App and the database structures and compilations relating thereto, literary works, methodologies, plans, specifications, processes, procedures or other works of authorship of any nature, whatsoever, generated, developed, improved or created by MANUVA in the course of performing the Services shall be owned by MANUVA.

5.9 License Grant to You. Subject to the terms and conditions of this Agreement, MANUVA hereby grants to you a limited, non-exclusive, non-transferable, non-sublicensable, revocable license and right to use the Services set forth in an Vendor Registration Form, during the Agreement Term and solely for your internal business purposes. You will not: (a) modify, copy or create any derivative works based on the Services; (b) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share, offer in a service bureau, or otherwise make the Services available to any third party, other than to Affiliates and Members as permitted herein; (c) reverse engineer or decompile any portion of the Services, including but not limited to, any software utilized by MANUVA in the provision of the Services; (d) access or use (or allow a third party to access or use) the Services for competitive analysis or to build any competing products or services; (e) copy any features, functions, integrations, interfaces or graphics of the Services; or (f) otherwise use or exploit the Services in any manner not expressly permitted by this Agreement.

You grant us a license to use your feedback, trademarks and logos in connection with providing the Services and for general marketing purposes.

5.9 License Grant to MANUVA. You hereby grant to MANUVA and its affiliates a worldwide, perpetual, irrevocable, transferable, sublicensable, royalty-free license (a) to modify, copy, distribute and incorporate into the Services (without attribution of any kind) any suggestions, enhancement request, recommendations, proposals, correction or other feedback or information provided by you, Affiliates or Members relating to the Services or MANUVA's business; and (b) to use your business name(s), trademarks, service marks or logos (collectively, "Your Corporate Identity") in connection with providing the Services and for marketing and promotional purposes in connection with MANUVA's business. MANUVA agrees that any use by MANUVA of any of Your Corporate Identity will inure solely to the benefit and goodwill of your business. Other than those rights specifically granted to MANUVA herein, all right, title and interest in and to Your Corporate Identity are expressly reserved by you.

6. Data Protection, Ownership and Use.

You own all data you provide to us, but you also grant us a license to use it for certain purposes, for example, to improve our products or to provide you with complementary products of our partners.



6.1 Your Data. As between you and MANUVA, you own all right, title and interest in Your Data. You hereby grant to MANUVA a nonexclusive, worldwide, assignable, sublicensable, fully paid-up and royalty-free license and right to copy, distribute, display and perform, publish, prepare derivative works of and otherwise use Your Data for the purposes of providing, improving and developing MANUVA’s products and services and/or complementary products and services of our partners. You represent and warrant to MANUVA that you have all rights necessary to grant the licenses in this Section 6.1, and that your provision of Your Data through and in connection with the Services does not violate any applicable laws or rights of any third party.

This describes our rights in data that we collect through independent sources, like the MANUVA™ App.

6.2 MANUVA Data. Notwithstanding Section 6.1, all right, title and interest in any data or information collected by MANUVA independently and without access to, reference to or use of any of Your Data, including, without limitation, any data or information MANUVA obtains about Members through the MANUVA App (whether the same as Your Data or otherwise), will be solely owned by MANUVA (collectively, “**MANUVA Data**”).

We will own all Aggregated Data.

6.3 Aggregated Data. MANUVA will own all Aggregated Data. You agree that nothing in this Agreement will prohibit MANUVA from utilizing Aggregated Data for any purpose, provided such Aggregated Data does not reveal any personally identifying information about you or any Members.

Our Privacy Policy covers how we collect and use personal information.

6.4 Personal Information. Our Privacy Policy governs how we collect and use personal information that is submitted through the Services. By accessing or using the Services, you agree to that you have read and accept our Privacy Policy.

6.5 The Parties agree that the Vendor may only access and/or make use of the Software Services and the MANUVA App in connection herewith or as directed by MANUVA in writing and may not otherwise modify the Services and/or the Manuva™ App, merge it with other data, commercially exploit it or engage in any other practice or activity that may in any manner adversely affect the integrity, security or confidentiality of the Services and/or the Manuva™ App, other than as specifically permitted herein or by MANUVA may request the Vendor in writing, from time to time.

The Vendor understands and agrees that MANUVA owns all right, title and interest in and to the Software Services and the MANUVA App and in and to any modification, compilation or Derivative Works therefrom (collectively, **Data and Modified Data**), and also owns all Intellectual Property, and other proprietary rights in and to the Data and Modified Data.



The Parties specifically record that the Data and Modified Data provided by MANUVA to the Vendor, or to which the Vendor may be exposed, shall constitute Confidential Information and as such, the Vendor shall comply with all the provisions in this regard.

The Vendor hereby warrants and undertakes that it shall not, at any time copy, compile, collect, collate, process, mine, store, transfer, alter, delete, interfere with or in any other manner use MANUVA's Data and Modified Data, MANUVA's Intellectual Property, the Software Services and the MANUVA App for any purpose other than with the express prior written consent of MANUVA, and to the extent necessary to provide the Services to the Vendor.

6.5 Protection and Security. During the Agreement Term, MANUVA will maintain administrative, physical and technical safeguards designed for the protection and integrity of Your Data. MANUVA will maintain PCI DSS compliance for the portions of the Services that store and process Cardholder Data.

We will notify one another if either of us becomes aware that Your Data has been compromised.

7 Unauthorized Disclosure. If either Party believes that there has been a disclosure of Your Data in a manner not authorized under this Agreement, such Party will promptly notify the other Party. Additionally, each Party will reasonably assist the other Party in remediating or mitigating any potential damage, including any notification which should be sent to individuals impacted or potentially impacted by such unauthorized disclosure. We are not responsible for resolving or intervening in any dispute over Your Data.

8 Data-Related Disputes. You are solely responsible for resolving disputes regarding ownership or access to Your Data, including those involving any current or former owners, co-owners, employees or contractors of your business. You acknowledge and agree that MANUVA has no obligation whatsoever to resolve or intervene in such disputes.

7. Confidential Information.

This describes the confidentiality obligations we have to one another under the agreement.

7.1 A Party will not disclose or use any Confidential Information of the other Party except: (a) as reasonably necessary to perform its obligations or exercise any rights granted pursuant to this Agreement; (b) with the other Party's prior written permission; or (c) to the extent required by law or order of a court or other governmental authority or regulation. Each Party agrees to protect the other Party's Confidential Information in the same manner that it protects its own Confidential Information of like kind, but in no event using less than a commercially reasonable standard of care. Confidential Information will not include any information that: (a) is or becomes generally known to the public without breach of any obligation owed to the disclosing Party; (b) was known to a Party prior to its disclosure by the other Party without breach of any obligation



owed to the other Party; (c) was independently developed by a Party without breach of any obligation owed to the other Party; or (d) was or is received from a third party without breach of any obligation owed to the other Party. For clarity, nothing in this Section 7 will restrict MANUVA with respect to MANUVA Data or Aggregated Data.

8. Term, Termination and Suspension.

We can each end this Agreement anytime by providing 30 days' advance notice in accordance of Section 68 of the CPA (2008). Should it be before the Agreement Term ends, a reasonable penalty fee may be payable by the Vendor in accordance with Regulation 5(2) of the CPA (2008). Our Termination Fee, payable by the Vendor is currently calculated at 40% of the remainder of the Agreement Term, unless otherwise stipulated in updated versions of this Terms of Service.

8.1 Term. Unless otherwise specified in an Vendor Registration Form, the term of this Agreement will be fixed for a minimum of 12 months ("**Agreement Term**"). The Agreement Term commences on the Effective Date and will automatically renew on a monthly basis until either Party terminates in accordance with this Agreement. Either Party may terminate the Agreement at any time, for any reason or no reason, by providing notice to the other Party at least thirty (30) days before the end of the relevant Agreement Term. Unless otherwise specified in the Vendor Registration Form, Agreement Fees during any automatic renewal term will revert to the current pricing in effect at the time such renewal term commences.

We have the right to end the Agreement immediately if you breach it.

8.2 Termination for Cause. MANUVA may terminate this Agreement, effective immediately upon notice to you, if you or an Affiliate are in material breach of this Agreement. In the event of a termination pursuant to this Section 8.2, in addition to other amounts you may owe MANUVA, you must immediately pay any unpaid Agreement Fees associated with the remainder of the Agreement Term. In no event will any termination relieve you of your obligation to pay any fees payable to MANUVA for the period prior to the effective date of termination.

This describes what will occur and the rights that apply when the Agreement is terminated.

8.3 Rights on Termination or Expiration. Upon termination or expiration of this Agreement (a) all Vendor Registration Forms will automatically terminate and be of no force or effect; (b) you will have no rights to continue use of the Services and will cease accessing and/or using the Services; and (c) except as specified in the following paragraph, MANUVA will have no obligation to maintain your Services account or to retain or forward any data to you or any third party, except as required by applicable law. Upon request by you within thirty (30) days following termination of this Agreement, and provided that you have paid MANUVA all amounts owed under this Agreement, MANUVA will make Your Data available to you through MANUVA's standard web services for a period of up to thirty (30) days after receipt of such notice. After such thirty (30) day period, MANUVA will have no obligation to retain or provide Your Data,



except as required by applicable law. If at any time during the Agreement Term you require MANUVA's assistance in retrieving Your Data, additional fees may apply.

The following will survive any expiration or termination of this Agreement: the Introduction and Sections 1, 2.3, 2.6, 3, 4 (other than Section 4.1), 5, 6, 7, 8.2, 8.3, 9.1, 9.3, 10, 11, 12, 13, 14, 15 and 16.

We have the right to suspend or terminate the Services at any time if we detect harmful or illegal activity under your account.

8.4 Right to Terminate or Suspend Services. We may suspend or terminate the Services (or any portion thereof) at any time without notice if we believe (a) that any activity or use of Services in connection with your account violates this Agreement, the intellectual property rights of a third party or applicable laws, or is otherwise disruptive or harmful to MANUVA or any third party, or (b) that we are required to do so by law.

9. Warranties & Disclaimer.

You are responsible for keeping your account contacts and other account information up to date, and you must notify us if anything changes.

9.1 Accuracy of Your Account Information. You agree to provide MANUVA with complete and accurate account information, including your legal company name, street address, e-mail address, and such other contact information as may be requested by MANUVA. You are responsible for keeping your account information up to date, and you agree to promptly notify MANUVA in writing if any information changes.

We promise that the software will generate reports and perform functions as generally described on our Website.

9.2 Warranty of Functionality. MANUVA warrants to you that during a Agreement Term: (a) the Agreed Software Service will perform materially in accordance with the functionality described in the Documentation applicable to such Software Service; and (b) such functionality will not be materially decreased. Your sole and exclusive remedy for a breach of this warranty will be that MANUVA will use commercially reasonable efforts to modify the applicable Services to achieve the functionality described above. If MANUVA is unable to restore such functionality, you may terminate the Agreement by providing written notice to MANUVA, and you will be entitled to receive a pro-rata refund of any pre-paid fees. MANUVA will have no obligation with respect to a warranty claim under this Section 9.2 unless notified by you in writing no later than thirty (30) days after the first instance of any material functionality problem. This warranty will only apply if the applicable Agreed Services have been utilized in accordance with this Agreement and applicable laws. For clarity, this warranty will not apply to any trial or beta services. This is our disclaimer of legal liability for the quality, safety, or reliability of our Services.

9.3 DISCLAIMER. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 9.2 ABOVE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, MANUVA MAKES NO



REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SERVICES AND/OR RELATED DOCUMENTATION. MANUVA DOES NOT WARRANT THAT YOUR USE OF THE SERVICES WILL BE SECURE, TIMELY, ERROR-FREE OR UNINTERRUPTED, OR THAT THE SERVICES ARE OR WILL REMAIN UPDATED, COMPLETE OR CORRECT, OR THAT THE SERVICES WILL MEET YOUR REQUIREMENTS OR THAT THE SYSTEMS THAT MAKE THE SERVICES AVAILABLE (INCLUDING WITHOUT LIMITATION THE INTERNET, OTHER TRANSMISSION NETWORKS, AND YOUR LOCAL NETWORK AND EQUIPMENT) WILL BE UNINTERRUPTED OR FREE FROM VIRUSES OR OTHER HARMFUL COMPONENTS. EXCEPT AS PROVIDED IN SECTION 9.2, THE SERVICES AND ANY PRODUCTS AND THIRD PARTY MATERIALS ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS AND SOLELY FOR YOUR USE IN ACCORDANCE WITH THIS AGREEMENT. ALL DISCLAIMERS OF ANY KIND (INCLUDING IN THIS SECTION AND ELSEWHERE IN THIS AGREEMENT) ARE MADE ON BEHALF OF BOTH MANUVA AND ITS AFFILIATES AND THEIR RESPECTIVE SHAREHOLDERS, DIRECTORS, OFFICERS, EMPLOYEES, AFFILIATES, AGENTS, REPRESENTATIVES, CONTRACTORS, LICENSORS, SUPPLIERS AND SERVICE PROVIDERS (COLLECTIVELY, THE “**MANUVA PARTIES**”).

10. Indemnification.

If we are sued by another party as a result of something you’ve done, you’ll cover the costs.

10.1 You agree to indemnify, defend, and hold harmless the MANUVA Parties from and against any and all third party claims alleged or asserted against any of them, and all related charges, damages and expenses (including, but not limited to, reasonable attorneys' fees and costs) arising from or relating to: (a) any actual or alleged breach by you, an Affiliate or Member of any provisions of this Agreement; (b) any access to or use of the Services by you, an Affiliate or Member; (c) any actual or alleged violation by you, an Affiliate or Member of the intellectual property, privacy or other rights of a third party; and (d) any dispute between you and another party regarding ownership of or access to Your Data.

11. Limitations and Exclusions of Liability.

These are the limits of legal liability we may have to you.

11.1 MANUVA EXPRESSLY DISCLAIMS ANY AND ALL LIABILITY AND WILL NOT BE RESPONSIBLE FOR ANY DAMAGES OR LOSS CAUSED, OR ALLEGED TO BE CAUSED, BY THE TRANSMISSION OF CARDHOLDER DATA PRIOR TO ITS ENCRYPTION AND RECEIPT BY SERVER(S) OWNED OR CONTROLLED BY MANUVA. THE EXCLUDED DAMAGES WILL INCLUDE, WITHOUT LIMITATION, DAMAGES RESULTING FROM FRAUD, EMBEZZLEMENT, THEFT, IDENTITY THEFT, OR INVASION OF PRIVACY.



11.2 TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL THE MANUVA PARTIES' AGGREGATE LIABILITY, COLLECTIVELY, FOR ALL CLAIMS ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR OTHERWISE, EXCEED THE AGREEMENT FEES ACTUALLY PAID BY YOU DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE INCIDENT. ALL LIMITATIONS OF LIABILITY OF ANY KIND (INCLUDING IN THIS SECTION AND ELSEWHERE IN THIS AGREEMENT) APPLY WITH RESPECT TO BOTH MANUVA AND THE MANUVA PARTIES.

11.3 IN NO EVENT WILL ANY MANUVA PARTIES HAVE ANY LIABILITY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, HOWEVER CAUSED, OR FOR ANY LOST PROFITS, LOSS OF USE, DATA OR OPPORTUNITIES, COST OF DATA RECONSTRUCTION, COST OR PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, WHETHER IN CONTRACT, TORT OR OTHERWISE, ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THE SERVICES OR THIRD PARTY OFFERINGS, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SERVICES, ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION, EVEN IF MANUVA, ITS LICENSORS OR SUBCONTRACTORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES.

11.4 THE FOREGOING EXCLUSIONS OR LIMITATIONS MAY NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

12. Intellectual Property Policy.

Any information and data submitted to the Services must not violate the intellectual property rights of third parties.

12.1 MANUVA respects the intellectual property rights of others and will investigate and respond to notices of alleged infringement that are properly submitted in accordance with our Intellectual Property Policy accessible at http://www.manuva.co.za/tos/Manuva_Terms_of_Service.pdf (or such other URL as specified by MANUVA), as may be updated by MANUVA from time to time. Any data or information submitted to the Services is subject to our Intellectual Property Policy.

13. Miscellaneous.

GOVERNING LAW & JURISDICTION

13.1 This Agreement shall in all respects (including its existence, validity, interpretation, implementation, termination and enforcement) be governed by the substantive laws of the RSA which is applicable to agreements executed and wholly performed within the RSA (and if the prescription laws of the RSA are not considered to be substantive laws thereof, by the prescription laws as well, but excluding its conflict of law principles).



13.2 The Company hereby irrevocably and unconditionally consents to the non-exclusive jurisdiction of the High Court of South Africa (any and all Provincial and Local Division(s) thereof) in respect of any action or application arising out of this Agreement or which relate in any way to any matter affecting the interests of the Parties in terms of this Agreement.

13.3.1 Mandatory Informal Dispute Resolution. If you have any dispute with MANUVA arising out of or relating to this Agreement, you agree to notify MANUVA in writing with a brief, written description of the dispute and your contact information, and MANUVA will have thirty (30) days from the date of receipt within which to attempt resolve the dispute to your reasonable satisfaction. If the Parties are unable to resolve the dispute through good faith negotiations over such thirty (30) day period under this informal process, either Party may pursue resolution of the dispute in accordance with the arbitration agreement below.

If we can't resolve a dispute after following the process above, then we must resolve through arbitration and not in court.

14. ARBITRATION

Any disputes arising from or in connection with this Agreement shall, if so required by any Party by giving written notice to that effect to the other, finally be resolved in accordance with the rules of AFSA by an arbitrator or arbitrators appointed by AFSA, which arbitrator's findings shall, save for manifest error, be final and binding on the parties and may be made an order of court. There shall be a right of appeal as provided for in article 22 of the aforesaid rules.

Each Party:

14.1 *expressly consents to any arbitration in terms of the aforesaid rules being conducted as a matter of urgency; and*

14.2 *irrevocably authorises the other to apply, on behalf of both Parties to such dispute, in writing, to the secretariat of AFSA in terms of article 23(1) of the aforesaid rules for any such arbitration to be conducted on an urgent basis.*

14.3 Notwithstanding clauses 0 and 0 any Party shall be entitled to approach a competent court for urgent interim, subject to any final orders, determinations and/or awards being made by the arbitrator as provided for in this clause 14. Any costs orders made by the arbitrator or the court shall be permitted to be made on an attorney and client scale.



14.4 Entire Agreement. This Agreement, together with any Vendor Registration Forms and any terms and policies that are incorporated into this Agreement by reference (including by reference to a URL), constitute the entire agreement and supersede any prior agreements between you and MANUVA with respect to the subject matter hereof. In the event of a conflict between an Vendor Registration Form and this Agreement, the Vendor Registration Form will control. This Agreement supersedes and replaces all prior and contemporaneous agreements, proposals or representations, written or oral, between MANUVA, on the one hand, and you or any Affiliate, on the other hand.

14.5 Waiver and Severability. No waiver of any provision of this Agreement by MANUVA will be effective unless in writing and signed by MANUVA. No waiver by either Party of any breach or default hereunder will be deemed to be a waiver of any preceding or subsequent breach or default. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision will be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement will remain in effect.

14.6 Assignment. You may not assign, delegate or transfer this Agreement in whole or in part, without MANUVA's prior written consent. MANUVA may assign, transfer or sublicense any or all of MANUVA's rights or obligations under this Agreement without restriction.

This explains how we can send each other notices in connection with this Agreement.

15 DOMICILIUM AND NOTICES

15.1 The Parties choose *domicilium citandi et executandi* (Domicilium) for all purposes relating to this Agreement, including the giving of any notice, the payment of any sum, the serving of any process, as follows:



the Service Provider

| | |
|-----------|---|
| Physical | 1 Wedgewood Link Bryanston Johannesburg, Gauteng, 2128, the RSA |
| E-mail | brodie@manuva.co.za |
| Attention | Brodie Robertson |

15.2 Any Party shall be entitled from time to time, by giving written notice to the others, to vary its physical Domicilium to any other physical address (not being a post office box or poste restante) within the RSA, and to vary its email Domicilium to any other email address.

15.2 Any notice given or payment made by a Party to the others (**Addressees**) which is delivered by hand between the hours of 09:00 and 17:00 on any Business Day to the Addressee's physical Domicilium for the time being shall be deemed to have been received by the Addressees at the time of delivery.

15.3 Any notice given by any Party to the others which is successfully transmitted by e mail to the Addressees' e-mail Domicilium for the time being shall be deemed (unless the contrary is proved by the Addressees) to have been received by the Addressees on the day immediately succeeding the date of successful transmission thereof.

15.4 This clause 15 shall not operate so as to invalidate the giving or receipt of any written notice, which is actually received by the Addressees other than by a method referred to in this clause 15.

15.5 Any notice in terms of or in connection with this Agreement shall be valid and effective only if in writing and if received or deemed to be received by the Addressees.

For the purposes of this Agreement:

no data message, as defined in the Electronic Communications and Transactions Act No 25 of 2002 (**ECTA**), other than an email or facsimile, shall constitute writing; and

no electronic signature or advanced electronic signature, as defined in ECTA, shall constitute a signature, except for the purposes of varying any date referred to in this Agreement or giving any consent or approval in terms of this Agreement.

15.6 Any Party shall be entitled from time to time, by giving written notice to the other, to vary its physical Domicilium to any other physical address (not being a post office box or poste restante) within the RSA, and to vary its email Domicilium to any other email address.



15.7 Any notice given or payment made by a Party to the other (**Addressee**) which is delivered by hand between the hours of 09:00 and 17:00 on any Business Day to the Addressee's physical Domicilium for the time being shall be deemed to have been received by the Addressee at the time of delivery.

15.8 Any notice given by any Party to the other which is successfully transmitted by e-mail to the Addressee's e-mail Domicilium for the time being shall be deemed (unless the contrary is proved by the Addressee) to have been received by the Addressee on the day immediately succeeding the date of successful transmission thereof.

15.9 This clause 15 shall not operate so as to invalidate the giving or receipt of any written notice, which is actually received by the Addressee other than by a method referred to in this clause 15. Any notice in terms of or in connection with this Agreement shall be valid and effective only if in writing and if received or deemed to be received by the Addressee.

16 Force Majeure.

16.1 If any Party is prevented from carrying out any of its obligations as a result of an act of God, strike, fire, riot, interruption in electricity supply, war (whether declared or not), embargoes, export control, international restrictions, shortage of transport or storage facilities, any order of international authority, any court order, any requirements of any authority or other competent local authority, or any other circumstance whatsoever which are not within the reasonable control of such Party then, such Party shall be deemed to have been released from its obligations to perform under this Agreement to the extent that and for so long as it is so prevented from performing and to such extent, this Agreement shall be deemed to have been suspended for the period concerned.

16.2 As soon as a Party becomes aware that an act of force majeure is likely to cause a suspension of this Agreement, it shall give notice in writing to the other Party, estimating the approximate duration of such suspension. The estimate shall not be binding on the Party claiming force majeure who shall give notice to the other Party as soon as force majeure ceases to operate

16.3 Electronic Communications and Signatures. You agree to the use of electronic communication in order to enter into agreements and place orders, and to the electronic delivery of notices, policies and records of transactions initiated or completed through the Services. Furthermore, you hereby waive any rights or requirements under any laws or regulations in any jurisdiction that require an original (non-electronic) signature or delivery or retention of non-electronic records, to the extent permitted under applicable law.



16.4 Relationship of the Parties. This Agreement does not, and will not be construed to, create any partnership, joint venture, employer-employee, agency or franchisor-franchisee relationship between you and MANUVA.

17 Definitions. For the purposes of this Agreement, the following capitalized terms will have the meanings set forth for each of them below:

“Affiliate” means any entity that directly or indirectly controls, is controlled by, or is under common control with you, and that has been designated to receive Services under this Agreement. **“Control”** for purposes of this definition means the power to direct or cause the direction of the management and policies of the subject entity, whether through equity ownership, a credit arrangement, franchise agreement or other contractual arrangement. **“Affiliate”** also includes any of your business locations and any Franchisees that have been designated to receive Services under this Agreement.

“Aggregated Data” means anonymized, aggregated data derived by or through the operation of the Services that is created by or on behalf of MANUVA and that does not reveal any personally identifying information.

“API” means MANUVA’s application programming interface and any subsequent application programming interfaces that are developed and made available by MANUVA to interact with or otherwise be used in connection with the Services. You may contact us at info@manuva.co.za to apply.

“Apps” means any mobile applications through which MANUVA makes the Software Service available, including MANUVA business app and MANUVA branded app. **“Apps”** excludes the MANUVA App.

“Cardholder Data” means credit card numbers, expiration dates, billing addresses, and cardholder names as entered by Members and you. Cardholder Data is a subset of Member Data.

“Confidential Information” means (a) any software utilized by MANUVA in the provision of the Services and its respective source code; (b) each Party’s business or technical information, including but not limited to the Documentation, information relating to software plans, designs, costs, prices and names, business opportunities, personnel, research, development or know-how that is designated by the disclosing Party as **“confidential”** or **“proprietary”** or the receiving Party knows or should reasonably know is confidential or proprietary; and (c) any special pricing or other non-standard terms agreed to by the Parties in an Vendor Registration Form or other separate written document.

“Documentation” means MANUVA’s user guides or tutorials, documentation, and help and training materials, as may be updated by MANUVA from time to time, accessible at www.manuva.co.za and any other materials provided by MANUVA as part of the Services.

“Franchisee” means any party that is bound by a franchise agreement with you, and that you have designated to receive Services under this Agreement. Franchisees are bound by the terms of this Agreement as if they were an original party hereto.

“HIPAA” means the Health Insurance Portability and Accountability Act, as amended and supplemented.



“**Member**” means a business or individual that schedules or purchases products or services from you through the Services or otherwise interacts with you through the Services.

“**Member Data**” means all data, information or other material about a Member that you, an Affiliate or Member provides or submits to the Services. Member Data may include Cardholder Data and such portions of Your Data that relates to specific Members.

“**MANUVA**” means MANUVA’s Services which allows consumers to locate MANUVA Vendors and evaluate, review and book their services, directly through the MANUVA App and other MANUVA Software Services.

“**MANUVA™ App**” means the consumer-facing, downloadable mobile app made available by MANUVA and known as the “MANUVA App” (and its successor products), which allows consumers to use their mobile devices to find, book and pay for the services of participating MANUVA Vendors. Customised versions of the MANUVA™ App are available.

“**MANUVA GMP**” means Gym Management Platform software that the Gym / Studio / Facility Manager or Owner use to manage their facility. Also referred to as MANUVA Management Platform.

“**Vendor Registration Form**” means a separate ordering document, invoice or other documentation that specifies the Services purchased hereunder, the applicable fees, and other terms as agreed to between the Parties. If an Vendor Registration Form indicates that any Affiliates or Franchisees will be receiving Services hereunder, each of them will be bound by the terms of this Agreement as if they were an original party hereto.

“**PCI DSS**” means the requirements of the Payment Card Industry Data Security Standard, as detailed on <https://www.pcisecuritystandards.org/>, and as may be updated from time to time.

“**Privacy Policy**” means the MANUVA Privacy Policy accessible at www.manuva.co.za/privacy-policy (or such other URL as specified by MANUVA), as may be updated by MANUVA from time to time.

“**Services**” means the Software Services, the Website and the Apps. “Services” excludes Third Party Offerings and the MANUVA™ App.

“**Software Service**” is defined in the Introduction.

“**Third Party Offerings**” means any third party products, applications, websites, implementations or services, including loyalty programs, that the Services link to, or that interoperate with or are used in conjunction with the Services.

“**Website**” means www.manuva.co.za and any other websites through which MANUVA makes the Software Service available.

“**Your Data**” means any data, information or material provided or submitted by you and Affiliates to the Services. Your Data may include Member Data and Cardholder Data, but excludes Aggregated Data.