

CleverGround SaaS Services Terms and Conditions

These SaaS Services Terms and Conditions (“Services Terms”) set forth the terms and conditions pursuant to which CleverGround Technologies Pvt. Ltd. or the applicable CleverGround entity listed in Exhibit B if the Customer is located outside India (“CleverGround”) provides services (“Services”) to customers (“Customer”), as specified in the Order Form that references these Services Terms (each an “Order Form”). CleverGround may update these Services Terms from time to time, provided, however, that if such changes have a material adverse effect on a particular Service, such changes shall not be effective for such Service until the next renewal date for such Service.

The (i) Order Form, (ii) these Services Terms including all its Exhibits, and (iii) the CleverGround Data Processing Terms & Conditions (DPA) available at [CleverGround DPA](#) shall together constitute an agreement (“Agreement”).

In the event of a conflict between the above documents, the documents higher in the order above shall supersede those lower in the order.

1. Definitions

“Downtime” means the time that the Service is unavailable. Downtime can either be Excused Downtime or Unexcused Downtime.

“Downtime Percentage” shall equal the result obtained by subtracting the service availability percentage from 99.5%.

“Excused Downtime” is Downtime due to any of the causes listed below:

- Failures outside CleverGround’s control such as Downtime due to failure of the internet or Customer’s network.
- Downtime resulting from applications, customizations, integrations, or configurations developed for or by Customers that are running on or interacting with Service.
- Planned maintenance or downtime, for which CleverGround provides Customer advance notification.
- Emergency maintenance or downtime for which CleverGround will make

commercially reasonable efforts to provide Customer advance notification.

- Downtime resulting from a Customer disabling the Service in the case of a Service where the customer can enable or disable the Service or user access.
- Force Majeure events.

“Data” means the data that is created using the Service or transmitted to, loaded into, or stored in the Service by Customer and Users.

“Reseller” - a third-party appointed and authorized by CleverGround to resell or distribute any Services to Customer.

“Service” means, the SaaS Services and any other allied services provided pursuant to this Agreement.

“SaaS Services” means CleverGround providing SaaS services so that Customer may access the Service through the internet-based platform owned and operated by CleverGround including

the web platform and the mobile application, by the name of CleverGround, which platform is based on the software owned and run by CleverGround.

“Service Level Agreement” (“SLA”) means CleverGround commitments related to Service availability as specified in Exhibit A.

“Service Period” means the term that CleverGround commits to perform the Services (i.e., the initial term and any renewal terms), per Section 11 of these Services Terms.

“Storage” means the storage consumed by the Data included in the applicable Service.

“Unexcused Downtime” is Downtime that is not Excused Downtime.

“User” means persons who are employees or consultants of either Customer or of a subcontractor, supplier, business partner, or customer of Customer, and whom Customer authorizes to access the Service.

3. Services

a) CleverGround will provide Customer with the non-exclusive right to access the Service during the Service Period solely for Customer’s internal business purposes and solely in accordance with this Agreement. Customer may permit its wholly owned subsidiaries to exercise its rights or perform its obligations under this Agreement; provided that, (a) all acts and omissions of any such subsidiary shall be deemed to be those of Customer and Customer shall be responsible, therefore, and (b) Customer hereby agrees to the relevant provisions of this Agreement on behalf of such subsidiaries.

b) CleverGround will provide support for the Service as described in the SLA and Support

Services – Terms and Conditions as specified in Exhibit A.

c) CleverGround performs backups of the data in the production system.

d) Particular Services have specific authorizations, and a particular Service typically will entail access to particular features and functionality of the Service, but not necessarily all features and functionality of such Service. Furthermore, it may be technically possible for Customer to access CleverGround Technologies or functionality that Customer has not purchased the right to access, and Customer agrees that it shall not access such other CleverGround Technologies or functionality.

4. Availability SLA. CleverGround shall monitor the availability of the Service 24/7. The availability of the production Services will be as specified in Exhibit A.

5. Usage Restrictions

a) Customer may access and use the Services only to the extent of authorizations acquired by Customer in accordance with the terms of this Agreement. Where applicable, usage beyond the authorizations will be treated as overage.

b) Credentials for access to the Services may not be used by more than one individual.

c) The Services may not be used for unlawful, obscene, offensive, or fraudulent content or activity. If there is a complaint or notice of violation, or if CleverGround otherwise learns of violation, use and access may be suspended until the same is resolved.

d) Customer shall not permit any third party(ies) other than Users to: (i) use the Services for third-party training, to deliver software implementation or consulting services to any third parties, or for commercial time-sharing; or

(ii) copy, download or otherwise reproduce the Service in whole or in part.

e) If the Order Form identifies a Service or environment as being “developer”, “development”, “demo”, “evaluation” or similar non-production service or environment, then Customer will use such Service or the applicable environment only for non-production purposes.

6. Data Center/Security

a) CleverGround uses industry-standard measures designed to protect the operating environment of the Services and Service against unauthorized physical access and the threats of fire, power, temperature, humidity, and other physical forces.

b) In addition to the physical access protections described above, CleverGround will implement and maintain appropriate technical and organizational measures to protect Data against accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, personal data transmitted, stored or otherwise processed including:

i. CleverGround will maintain controls consistent with the ISO 27001:2013, General Data Protection Regulation (GDPR), SOC-2 framework, and CleverGround will be ISO 27001:2013 certified.

ii. Data in the production environment will be backed up to a secure alternate location for disaster recovery purposes. Backups will be maintained in accordance with the terms defined in CleverGround Support Services Terms and Conditions. CleverGround will conduct scanning, patching, monitoring, logging, and protection of the network, infrastructure, databases, operating system, and applications of the Service. In the event viruses, worms, or similar problems are determined to have infected the Service, CleverGround will use commercially reasonable efforts to restore the Service as quickly as reasonably possible.

c) Customer is responsible for making an independent determination as to whether the technical and organizational measures for the Service meet Customer's requirements, including its security obligations under applicable law or regulations. Customer acknowledges and agrees that the security practices and policies implemented and maintained by CleverGround provide a level of security appropriate to the risk with respect to its Data.

d) Customer is responsible for implementing and maintaining privacy protections and security measures for components of the Services that Customer provides or controls such as ensuring, (i) that Users do not share accounts and their passwords, and (ii) maintaining the security of its systems, machines and User's devices that connect to and use the Service.

e) The scope of the Services does not include any Customer security requirements beyond those set forth in this Agreement.

7. Fees, Billing, and Payment

a) Fees. Customer shall pay CleverGround (directly or through a Reseller) the fees specified in the Order Form.

b) Overages. CleverGround shall measure Customer's usage of the Services (e.g., number of Users by User type, amount of reports/orders managed, or such other fee basis as is applicable to the Services purchased by Customer) on a quarterly basis. If the peak usage exceeds the quantity purchased, Customer shall be charged and shall pay the applicable fees for such excess usage calculated on quarterly basis.

c) Taxes. Taxes, as applicable, shall be charged extra by CleverGround. Withholding taxes, if applicable, need to be borne by Customer.

d) Overdue Amounts. Amounts not paid when due shall be subject to interest at one and one-half percent (1.5%) per month or, if less, the maximum rate of interest allowed by law, calculated from the due date. In addition, CleverGround may suspend Customer's access to the Services in the event that Customer is overdue in payments under this Agreement by thirty (30) days or more.

e) Purchase Orders. Other than the line items that serve to order the Services, in no event shall any other terms of any purchase order or other document issued by the Customer modify or become part of this Agreement or become binding on CleverGround.

8. Indemnification

a) CleverGround, at its own expense, will defend any action brought against Customer based on a claim that the Services infringe a third party patent, copyright or trademark and, at its option, will settle any such action or will pay any final judgment awarded against Customer, provided that: (i) CleverGround shall be notified promptly in writing by Customer of any notice of any such claim; (ii) CleverGround shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise and shall bear the costs of the same; and (iii) Customer shall cooperate fully at CleverGround expense with CleverGround in the defense, settlement or compromise of such claim. If a claim described in this Section 8 occurs or, in CleverGround opinion, may occur, CleverGround may terminate the Services and grant Customer a credit equal to the unused, prepaid Services fees paid for the applicable terminated portion of the Services. This Section 8 states CleverGround sole and exclusive liability, and Customer's sole remedy, for any and all claims relating to infringement of any intellectual property rights.

b) Customer, at its own expense, will defend, and indemnify CleverGround as a result of any and all claims, demands, actions, causes of action, suits, proceedings, losses, damages, costs, and expenses, including reasonable attorneys' fees, arising from or relating to Customer's: (i) breach of Section 3 (Services); or (ii) Section 5 (Usage Restrictions).

9. Ownership/Confidentiality/Privacy

a) Ownership of the Service, SaaS Services, any related documentation, copies, modifications, and derivatives of the foregoing or documentation (in whole or in part), and all related copyright, patent, trade secret, and other proprietary rights, are and will remain the exclusive property of CleverGround and/or its licensors. Customer shall not and shall not attempt to (i) reverse engineer the Service or derive its algorithms from its use; (ii) create derivative works of the Service or disassemble, decompile or reverse engineer the Service or the file format of the Service, or otherwise attempt to gain access to the source code (iii) rent, sell, license, sublicense, lease, loan, assign, or otherwise transfer (whether by sale, exchange, gift, operation of law, or otherwise) to any third party the Service, any copy thereof, or any other rights thereto, in whole or in part, without in each case obtaining CleverGround prior written consent (iv) alter, remove, or obscure any copyright, trade secret, patent, trademark, logo, proprietary and/or other legal notices on or in any copies of the Service or (v) authorize or permit a third party to access the Services using Customer issued logins or passwords.

b) All non-public information regarding the Service and its performance, including any analyses and benchmarking that Customer may perform, shall be deemed the confidential information of CleverGround and Customer shall not disclose to any third party or use for any

purpose other than exercising its rights hereunder.

c) In performing the Services, CleverGround will comply with its privacy policy available at [CleverGround Privacy Policy](#).

d) CleverGround Data Processing Terms and Conditions (DPA) which is available at [CleverGround DPA](#) and which is incorporated herein by reference describes how CleverGround will process Personal Information (as defined in the DPA) that Customer provides as part of the provision of the Services.

e) Customer certifies that it has obtained any personal data provided to CleverGround in accordance with applicable data protection laws.

f) If Customer provides CleverGround with any feedback or suggestions regarding the Service, including potential improvements or changes thereto (collectively, "Feedback"), the Feedback shall not be considered confidential information of Customer, and CleverGround shall be free to use, disclose, and otherwise exploit in any manner, the Feedback for any purpose and without compensation to Customer.

10. Data

a) Customer agrees that the Data will not include:

i. any information, documents, or technical data that are U.S. Government Classified, Controlled Unclassified Information, ITAR or EAR controlled or otherwise have been determined by the United States Government or by a foreign government to require protection against unauthorized disclosure for reasons of national security.

ii. any personal credit information, including without limitation credit card account numbers,

cardholder names, card expiration dates, and security codes.

b) CleverGround shall treat all Data as confidential and shall only use the Data to:

i. provide the Services,

ii. monitor Customer's use of the Services for security and support purposes and for validating Customer's compliance and usage limitations, and for purposes of otherwise complying with CleverGround obligations to Customer,

iii. improve the Services and understand what functionality of the Service Customer uses and how Customer and other customers may be able to get more value from its use of the Services, and

iv. share with any CleverGround subcontractors who need to know such information to provide the Services, provided that they are bound by similar confidentiality obligations. For purposes of clarity, CleverGround obligation to keep such Data confidential shall not apply to information that CleverGround is required to disclose by law (but only to the extent of such required disclosure).

11. Term and Termination

a) The initial Services Period and any renewal provisions shall be as specified in the Order Form. Either party may terminate the Services if the other party breaches the terms set forth herein or in the Order Form and fails to remedy such breach within thirty (30) days after written notice thereof from the non-breaching party.

b) If CleverGround discontinues a Service during the term of such Service, CleverGround shall provide to Customer a refund of the prepaid fees for the terminated portion of the term.

c) Sections 7 through 9 and Sections 11 through 13 shall survive termination or expiration of the Services.

d) If the Service is terminated, Data will be archived and can be exported. The Customer can request a copy of the archived data prior to or during the retention period. CleverGround, at its discretion, may charge fees to the Customer for such Data transfer or export.

12. Warranty/Disclaimer of Warranty/ Limitations of Liability

a) CleverGround warrants that the Service shall function substantially in accordance with the then applicable documentation accompanying the Service.

B) EXCEPT AS EXPLICITLY STATED HEREIN, CLEVERGROUND DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, WRITTEN OR ORAL, INCLUDING ANY WARRANTY OF SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, AND/OR NON-INFRINGEMENT, AND/OR ANY WARRANTY WITH RESPECT TO THE SECURITY OF THE SERVICES OR THAT DATA WILL NOT BE DESTROYED, LOST, INTERCEPTED, OR ALTERED BY UNAUTHORIZED PERSONS. CLEVERGROUND DOES NOT WARRANT THAT THE OPERATION OR OTHER USE OF THE SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE OR WILL NOT CAUSE DAMAGE OR DISRUPTION TO DATA. WITHOUT LIMITING THE FOREGOING, IF CUSTOMER REQUESTS THAT CleverGround DELAY IMPLEMENTATION OF A NEW VERSION, UPDATE OR UPGRADE TO THE SERVICE AND CleverGround (IN ITS SOLE DISCRETION) AGREES TO SUCH DELAY, CleverGround WILL HAVE NO LIABILITY ARISING FROM ANY SECURITY INCIDENT OR DATA LOSS THAT WOULD HAVE BEEN PREVENTED IF SUCH NEW VERSION, UPDATE OR UPGRADE HAD BEEN IMPLEMENTED.

C) EXCEPT UNDER SECTION 8 ABOVE, CLEVERGROUND AND ITS LICENSORS' MAXIMUM AGGREGATE LIABILITY FOR ALL

CLAIMS OR LIABILITIES ARISING HEREUNDER OR OUT OF, OR RELATING TO THE LICENSE, SUPPLY, FAILURE TO SUPPLY OR USE OF THE SERVICES OR OTHERWISE RELATING TO THESE SERVICES TERMS OR AGREEMENT, WHETHER BASED UPON WARRANTY, CONTRACT, TORT, OR OTHERWISE, SHALL NOT EXCEED THE FEES PAID TO CLEVERGROUND FOR THE SERVICES DURING THE TWELVE-MONTH PERIOD PRIOR TO THE EVENTS THAT GAVE RISE TO THE APPLICABLE CLAIM. IN NO EVENT SHALL CLEVERGROUND, ITS SUBSIDIARIES OR AFFILIATES, ITS LICENSORS OR ANY OF THEIR DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, BUSINESS INTERRUPTION, LOSS OF USE OF DATA AND ANY LOSS CAUSED BY THE INTERRUPTION, TERMINATION OR FAILED OPERATION OF THE INTERNET), EVEN IF CleverGround HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

13. General

Governing Law and Dispute Resolution: For Customer(s) located outside India.

Governing Law: This Agreement and all disputes arising under this Agreement shall be governed by and construed in accordance with the laws of India.

Dispute Resolution: Any dispute arising out of or in connection with this Agreement, including any question regarding its existence, validity, or termination, shall be referred to and finally resolved by arbitration administered by the Singapore International Arbitration Centre ("SIAC") in accordance with the Arbitration Rules of the Singapore International Arbitration Centre ("SIAC Rules") for the time being in force, which rules are deemed to be incorporated by reference in this clause. The venue or place of

arbitration shall be Singapore. The arbitration tribunal shall consist of one (01) arbitrator. The language of the arbitration shall be English.

Governing Law and Dispute Resolution: For Customer(s) located in or within India.

Governing Law: This Agreement and all disputes arising under this Agreement shall be governed by and construed in accordance with the laws of India.

Dispute Resolution: Any dispute arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration administered by the Mumbai Centre for International Arbitration (MCIA) in accordance with the Arbitration Rules of the Mumbai Centre for International Arbitration for the time being in force, which rules are deemed to be incorporated by reference in this clause. The venue or place of arbitration shall be Pune. The arbitration tribunal shall consist of one (01) arbitrator. The language of arbitration shall be English. The seat of arbitration shall be Pune, India.

a) Force Majeure. CleverGround shall not be in default of its obligations to the extent its performance is delayed or prevented by causes beyond its control.

b) Marketing. Customer agrees that while this Agreement is in effect, CleverGround shall be authorized to identify Customer as a customer/end-user of CleverGround Technologies and services (as applicable) in public relations and marketing materials.

c) Notices. Notices under this Agreement shall be in writing and, if to CleverGround, should be delivered to CleverGround Director-Operation at support@cleverground.com or its office address, and if to Customer, to the address specified in the Order Form.

d) Assignment, Waiver, Modification. Customer may not assign, transfer, delegate or sublicense any of Customer's rights or obligations under these Services Terms without CleverGround prior written consent. Any such attempted delegation, assignment, transfer or sublicense shall be void and a breach of these Services Terms.

e) Entire Agreement; Severability. This Agreement constitutes the entire agreement between the parties, and supersedes all prior discussions, representations, and understandings, with respect to the subject matter hereof.

Exhibit A

Service Level Agreement (SLA) and Support Services – Terms and Conditions

SLA and Support Services Overview

This Exhibit A provides the Service Level Agreement (“SLA”) and Support Services – Terms and Conditions between CleverGround and Customer for the provisioning of IT services required for providing SaaS services so that Customer may access the Service through the internet-based platform owned and operated by CleverGround including the web platform and the mobile application, by the name of CleverGround.

Service Level Agreement (SLA) and Support Services – Terms and Conditions are available at [CleverGround SLA and support services](#).

Exhibit B

Contracting Entities of CleverGround

Based on the location of the Customer purchasing SaaS Services from CleverGround, the respective CleverGround contracting entity is specified below.

Sr. No	Customer Location	CleverGround Contracting Entity
1.	India	CleverGround Technologies Pvt. Ltd.
2.	US, Rest of the World	CleverGround Technologies Pvt. Ltd.