



# Terms Of Use

# TERMS OF USE

Welcome to Culcha, a platform designed to enhance team engagement and collaboration for businesses of all sizes. These Terms of Use outline our responsibilities as a service provider and your responsibilities as a user. Please review them carefully.

These Terms are binding for any platform use and apply from the moment Culcha grants you access.

Culcha's platform will continue to evolve based on feedback from users. These Terms are not intended to address every possible situation or question related to the platform's use. Culcha reserves the right to modify these Terms at any time, with changes taking effect once posted. We will strive to notify you of any significant updates via email or on the platform itself. As updates may occur periodically, you must ensure that you have read, understood and agreed to the most current Terms available on the platform.

By registering for and using the platform, you confirm that you have read and understood these Terms and have the authority to act on behalf of any entity for whom you are using the platform. Your use of the platform indicates your agreement to these Terms on behalf of yourself and any entity you represent.

## 1. Definitions

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- **“Agreement”** means these Terms of Use.
- **“User License Fee”** refers to the fee (excluding any applicable taxes, duties, or VAT) payable by You as per the pricing schedule outlined on the platform (which Culcha may update from time to time, with notice to You).
- **“Confidential Information”** includes all information exchanged between the parties to this Agreement, whether in writing, electronically, or verbally, including any information related to the platform, but does not include information that becomes publicly available, except through unauthorised disclosure by the other party.
- **“Data”** means any data inputted by You, or authorised by You, into the Culcha platform.
- **“Intellectual Property Right”** refers to any patent, trademark, service mark, copyright, moral right, design right, know-how, or any other intellectual or industrial property rights, whether registered or unregistered, in any part of the world.
- **“Service”** means the online team engagement and collaboration services made available (as may be updated or changed from time to time by Culcha) via the platform.
- **“Website”** refers to the Internet site at the domain [www.culcha.co.za](http://www.culcha.co.za) or any other site operated by Culcha.
- **“Culcha”** refers to the Culcha platform and any related procedures, products, or services provided by Culcha.
- **“Subscriber”** means the person who registers to use the Service, and, where applicable, includes any entity on whose behalf that person registers to use the platform.
- **“You”** refers to the Subscriber, and where applicable, an Invited User. “Your” has a corresponding meaning.
- **“Partner”** refers to the individual or organisation registered to resell the platform and manage Subscribers.



## 2. Your Obligations

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### 2.1 Payment obligations:

Culcha operates as a Software as a Service (SaaS) platform that relies on a pay-per-user model. You are required to purchase a valid user license for each user accessing the platform.

User license slots are managed manually by Culcha. If you need to add or reduce user slots or update billing information, please contact Culcha's account team to make the necessary changes. Payment for these slots is billed monthly in arrears, based on the number of active users during the month.

Upfront payments are possible for a specific period of time; please contact Culcha's account team to make arrangements. Please note that since we typically invoice in arrears, upfront payments are non-refundable. If additional users are added during a billing period, a pro-rata invoice will be issued for the remainder of the month.

At the end of each month, client invoices will be sent out, and clients are given 7 days to settle their accounts. If payment is not received within 7 days, the account will be suspended. If payment is not made within 30 days of the original invoice, Culcha reserves the right to terminate the account and delete all associated data. Culcha is not liable for any loss of data or access to the platform due to account suspension or termination for non-payment.

Clients can reactivate their accounts by contacting [accounts@culcha.co.za](mailto:accounts@culcha.co.za) and settling outstanding invoices.

Access to the platform will continue as long as valid user licenses are in place. Once a user license expires, a new license must be purchased and linked to the user account for continued access.

### 2.2 Preferential pricing or discounts:

From time to time, you may be offered preferential pricing or discounts on User License Fees based on the number of teams or organisations you have introduced to the platform, or that have been added under your authority, or due to your continued use of the platform.

### 2.3 General obligations:

You must only use the Service and Website for Your own lawful internal business purposes, per these Terms and any notice sent by Culcha or condition posted on the Website. You may use the Service and Website on behalf of others or to provide services to others but if You do so you must ensure that You are authorised to do so and that all persons for whom or to whom services are provided comply with and accept all terms of this Agreement that apply to You.

### 2.4 Access conditions:

- You must ensure that all usernames and passwords required to access the Service are kept secure and confidential. You must immediately notify Culcha of any unauthorised use of Your passwords or any other breach of security and Culcha will reset Your password, You must take all other actions that Culcha reasonably deems necessary to maintain or enhance the security of Culcha's computing systems and networks and Your access to the Services.
- As a condition of these Terms, when accessing and using the Services.
- You must not attempt to undermine the security or integrity of Culcha's computing systems or networks or, where the Services are hosted by a third party, that third party's computing systems and networks.
- Do not use, or misuse, the Services in any way which may impair the functionality of the Services or Website, or other systems used to deliver the Services or impair the ability of any other user to use the Services or Website.



- Do not attempt to gain unauthorised access to any materials other than those to which You have been given express permission to access or to the computer system on which the Services are hosted.
- Do not transmit, or input into the Website, any files that may damage any other person's computing devices or software, content that may be offensive, or material or Data in violation of any law (including Data or other material protected by copyright or trade secrets which You do not have the right to use).
- Do not attempt to modify, copy, adapt, reproduce, disassemble, decompile or reverse engineer any computer programs used to deliver the Services or to operate the Website except as is strictly necessary to use either of them for normal operation.

## **2.5 Communication Conditions:**

As a condition of these Terms, if You use any communication tools available through the Website (such as any forum, chat room or message centre), You agree only to use such communication tools for lawful and legitimate purposes. You must not use any such communication tool for posting or disseminating any material unrelated to the use of the Services, including (but not limited to): offers of goods or services for sale, unsolicited commercial e-mail, files that may damage any other person's computing devices or software, content that may be offensive to any other users of the Services or the Website, or material in violation of any law (including material that is protected by copyright or trade secrets which You do not have the right to use).

When You make any communication on the Website, You represent that You are permitted to make such communication. Culcha is under no obligation to ensure that the communications on the Website are legitimate or that they are related only to the use of the Services. As with any other web-based forum, You must exercise caution when using the communication tools available on the Website. However, Culcha does reserve the right to remove any communication at any time in its sole discretion.

## **2.6 Indemnity:**

You indemnify Culcha against all claims, costs, damage and loss arising from Your breach of any of these Terms or any obligation You may have to Culcha, including (but not limited to) any costs relating to the recovery of any User License Fees that are due but have not been paid by You.

# **3. Confidentiality and Privacy**

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## **3.1 Confidentiality**

Culcha employs industry-standard security measures to protect the confidentiality and integrity of Your data, including encryption and secure access protocols. While Culcha makes reasonable efforts to safeguard Your data, You acknowledge that no system can be completely secure, and Culcha cannot guarantee the security of any data transmitted or stored via the platform. You are responsible for maintaining the confidentiality of your login credentials and for taking appropriate measures to protect your systems from unauthorised access or data breaches.

Unless a party has prior written consent from the other party or is required by law:

- Each party will maintain the confidentiality of all Confidential Information obtained in connection with these Terms. Neither party will disclose Confidential Information to any person, nor use it for their benefit, without the prior written consent of the other party, except as allowed by these Terms.
- These confidentiality obligations will continue even after the termination of these Terms.

The obligations in this clause do not apply to information that:



1. Becomes publicly available, other than through a breach of this clause.
2. Is received from a third party who has lawfully acquired it and is under no obligation to restrict its disclosure.
3. Was already in the receiving party's possession without restriction regarding disclosure before receiving it from the disclosing party.
4. Is independently developed without access to the Confidential Information.

### 3.2 Privacy

Culcha has a privacy policy available on its website that outlines the obligations of both parties concerning personal information. You are encouraged to review the privacy policy, and by accepting these Terms, you are deemed to have accepted the terms of the privacy policy.

## 4. Intellectual Property

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### 4.1 General:

Title to, and all Intellectual Property Rights in the Services, the Website and any documentation relating to the Services remain the property of Culcha (or its licensors).

### 4.2 Ownership of Data:

Title to, and all Intellectual Property Rights in, the Data remain Your property. You grant Culcha a license to use, copy, transmit, store, and back up Your information and Data to enable You to access and use the Services and for any other purpose related to the provision of services to You.

### 4.3 Backup of Data:

Culcha adheres to its best practice policies and procedures to prevent data loss, including a daily system data backup regime but does not make any guarantees that there will be no loss of Data. Culcha cannot be held responsible or legally accountable for loss of income, or loss of business due to loss of Data no matter how caused.

## 5. Warranties and Acknowledgements

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### 5.1 Authority:

You warrant that, where You have registered to use the Service on behalf of another person or entity, You have the authority to agree to these Terms on their behalf. By registering to use the Service, You agree to bind the person or entity on whose behalf You act to perform all obligations under these Terms, without limiting Your own obligations.

### 5.2 Acknowledgement:

You acknowledge that:

#### 1. Authorisation to Use the Service

You are authorised to:

- Use the Services and the Website.
- Access the information and Data that You input into the Website, including any information or Data entered by persons You have authorised to use the Service.
- Access the processed information and Data made available to you through the Service (whether the information and Data are your own or those of others).



## 2. Culcha's Responsibility

Culcha's obligations are solely to You, and no part of this Agreement confers any benefit on any third party. If You use the Services or access the Website on behalf of or for the benefit of anyone else (whether a legal entity or otherwise), You agree that:

- You are responsible for ensuring You have the right to do so.
- You are responsible for authorising any person who is given access to information or Data. Culcha has no obligation to provide access to such information or Data without Your authorisation and may direct any requests for such access to You.
- You will indemnify Culcha against any claims or losses related to:
  1. Culcha's refusal to provide access to Your information or Data per these Terms.
  2. Culcha's provision of information or Data to any person with Your authorisation.

## 3. "As Is" Basis

The Services are provided "as is" and at Your own risk. Culcha does not warrant that:

- The use of the Services will be uninterrupted or error-free.
- The systems used to access the Services (including public telephone services, computer networks, and the Internet) will always be available or free from issues that may occasionally interfere with or prevent access to the Services.

## 4. Culcha's Role

Culcha is not acting as a salesperson or providing sales advice. You alone are responsible for determining that the Services meet the needs of Your business and are suitable for the purposes You intend.

## 5. Compliance with Laws

You are responsible for complying with all applicable accounting, tax, and other laws. It is Your responsibility to ensure that the storage of, and access to, Your Data via the Culcha platform complies with laws applicable to You, including any requirements to retain records.

### 5.3 No warranties:

Culcha makes no warranties regarding the availability or uptime of the Services. The platform is provided "as is," and Culcha makes no commitments regarding uninterrupted access. Culcha does not guarantee any specific uptime percentage and is not liable for any downtime or interruptions in service, whether caused by system maintenance, third-party outages, or other unforeseen circumstances.

### 5.4 Consumer guarantees:

You warrant that You are acquiring the right to access and use the Services for business purposes. To the maximum extent permitted by law, any statutory consumer guarantees or legislation intended to protect non-business consumers do not apply to the supply of the Services, the Website, or these Terms.

## 6. Limitation of Liability

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To the maximum extent permitted by law, Culcha excludes all liability and responsibility to You (or any other person) in contract, tort (including negligence), or otherwise, for any loss (including loss of information, Data, profits and savings) or damage resulting, directly or indirectly, from any use of, or reliance on, the Service or Website.

If You suffer loss or damage as a result of Culcha's negligence or failure to comply with these Terms, any claim by You against Culcha arising from Culcha's negligence or failure will be limited in respect of any one incident, or series of connected incidents, to the User License Fees paid by You in the previous 12 months.

If You are unsatisfied with the Service, Your sole and exclusive remedy is to terminate these Terms per Clause 7.



## 7. Termination

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### 7.1 Guarantee policy

When You first register for access to Culcha, You may terminate the Service without incurring any user license fees if cancellation occurs before your first month's billing cycle begins. If You choose to continue using the Service, You are required to purchase a valid user license for each user within the system. Should You decide not to continue using the Service, You may request the deletion of Your organisation by contacting Culcha's support team via the available communication channels.

### 7.2 No-fault termination:

These Terms will remain in effect for the duration covered by the User License Fee. At the start of each billing cycle, these Terms will automatically renew for the period until the next billing cycle or the expiry of the user license.

### 7.3 Breach:

If any of the following occur:

1. Accounts suspended for non-payment or breach of terms will remain suspended for a maximum of 30 days. After this period, Culcha reserves the right to permanently terminate the account and delete all associated data. Data recovery after termination may not be possible, and Culcha is not liable for any loss incurred due to data deletion following account termination. Clients will receive notice before termination and may contact Culcha to settle outstanding fees and reactivate their accounts during the suspension period.
2. You or Your business become insolvent, enter liquidation, have a receiver or manager appointed over any of its assets, plan with creditors, or become subject to any similar insolvency event.

Culcha may, at its sole discretion, take one or more of the following actions:

- Terminate this Agreement and Your access to the Service and the Website.
- Suspend Your use of the Service and the Website for a definite or indefinite period.
- Suspend or terminate access to all or any of Your Data.
- Take similar action against any persons You have authorised to access Your information or Data. For clarity, if any User License Fees associated with any of Your Billing Contacts or Organisations are not paid in full by the due date, Culcha may suspend or terminate Your use of the Service, as well as the access and authority of any associated Organisations to use the Service or access the Data.

### 7.4 Accrued Rights:

Termination of these Terms does not affect any rights or obligations of the parties that accrued up to and including the date of termination. Upon termination of this Agreement, You will remain liable for any accrued charges and amounts that become due before or after termination. You must also immediately cease using the Service and the Website.

### 7.5 Expiry or termination:

The following clauses will survive the expiry or termination of these Terms: 2.1, 2.5, 3, 4, 5, 6, 7, and 9.

### 7.6 Partners

Upon termination of a Partner account, any outstanding commissions for the Partner will be paid per the terms outlined in the Partner Agreement. Partners will not be entitled to future commissions following the sale of their subscriber base to Culcha unless explicitly stated in a separate agreement. Culcha reserves the right to negotiate the terms of the subscriber base purchase at the time of account termination.



## 8. Help Desk

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### 8.1 Technical Problems:

If you encounter technical issues, You are expected to make all reasonable efforts to investigate and diagnose the problem before reaching out to Culcha. If You still require assistance, please refer to the online support resources provided by Culcha or contact the support team via the available communication channels.

### 8.2 Service availability:

In the event of a disruption or outage caused by factors outside of Culcha's control, including but not limited to natural disasters, cyberattacks, or third-party service interruptions, Culcha will not be held liable for any delays or failures in service delivery. Culcha will make reasonable efforts to notify you in advance of any planned outages or interruptions.

While Culcha aims for 24/7 service availability, no guarantees of uptime are provided, and service interruptions may occur due to necessary maintenance or external events beyond Culcha's control.

## 9. General

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### 9.1 Entire agreement:

These Terms, along with the Culcha Privacy Policy and any other notices or instructions provided to You under these Terms, represent the entire agreement between You and Culcha concerning the Services and related matters. They supersede and replace all prior agreements, representations, or understandings, whether oral or written.

### 9.2 Waiver:

A waiver of any breach of these Terms by either party will not constitute a waiver of any subsequent breaches. No waiver is valid unless provided in writing.

### 9.3 Delays:

Neither party will be held liable for delays or failures in performing its obligations under these Terms if the delay or failure is due to circumstances beyond its reasonable control.

### 9.4 No Assignment:

You may not assign or transfer any of Your rights under these Terms to another party without prior written consent from Culcha.

### 9.5 Governing law and jurisdiction:

These Terms, including all matters concerning their existence, validity, interpretation, enforcement, and termination, are governed by the laws of South Africa.

### 9.6 Severability:

If any part of these Terms is found to be invalid, unenforceable, or in conflict with applicable law, that part will be replaced with a provision that, as closely as possible, reflects the original intent. The remainder of these Terms will continue to be binding.

### 9.7 Notices:

Any notice under these Terms must be provided in writing via email. A notice is considered given at the time of transmission. Notices to Culcha should be sent to [info@culcha.co.za](mailto:info@culcha.co.za) or any other email address provided by Culcha. Notices to You will be sent to the email address associated with Your account.



## 9.8 Rights of Third Parties:

Only parties to these Terms have the right to enforce or benefit from them. No third party has any rights under or in connection with these Terms.

