

# Power. Magnified.

Empower your business partners with clear insight so they can make better decisions anytime, anywhere.

## BINOKULA TERMS OF USE

LAST UPDATED: MARCH 2019

### Share Power BI reports with ease

Binokula enables simple, secure and scalable report sharing across your entire business network.

#### SIMPLICITY



#### Simply powerful. Powerfully simple.

Binokula simplifies report sharing while maximising the report delivery capabilities of Power BI.

#### SECURITY



#### Control your data.

Set permissions and decide what information users can view and interact with.

#### SCALABILITY



#### Software that grows with you.

Binokula is built to scale with your business growth so you only pay for what you need.

# BINOKULA Terms of Use.

Welcome to BINOKULA, your secure, scalable online portal for third-party reporting. These Terms of Use are intended to explain our obligations as a service provider and Your obligations as a customer. Please read them carefully. These Terms are binding on any use of the Service and apply to You from the time that Stellar provides You with access to the Service.

The BINOKULA Service will evolve over time based on user feedback. These Terms are not intended to answer every question or address every issue raised by the use of the BINOKULA Service. Stellar reserves the right to change these Terms at any time, effective upon the posting of modified Terms and Stellar will make every effort to communicate these changes to You via email or notification via the BINOKULA Website. It is likely the Terms will change over time. It is Your obligation to ensure that You have read, understood and agree to the most recent Terms available on the Website.

By registering to use the Service you acknowledge that You have read and understood these Terms and have the authority to act on behalf of any person for whom You are using the Service. You are deemed to have agreed to these Terms on behalf of any entity for whom you use the Service.

These Terms were last updated at the close of business on 23 March 2019.

## 1. Definitions

**"Agreement"**  
means these Terms of Use.

**"Access Fee"**  
means the monthly or annual fee (excluding any taxes and duties) payable by You in accordance with the Fee & Payment Schedule.

**"Confidential Information"**  
includes all information exchanged between the parties to this Agreement, whether in writing, electronically or orally, including the Service but does not include information which is, or becomes, publicly available other than through unauthorised disclosure by the other party.

**"Data"**  
means any data inputted by You or with Your authority into the Service.

**"Fee & Payment Schedule"**  
means the information relating to subscriptions and billing published on the BINOKULA website, or contained in a Service Proposal offered to You by Stellar or another authorised Service distributor.

**"Intellectual Property Right"**  
means any patent, trade mark, service mark, copyright, moral right, right in a design, know-how and any other intellectual or industrial property rights, anywhere in the world whether or not registered.

**"Service"**  
means the online third-party reporting services made available (as may be changed or updated from time to time by Stellar) via the BINOKULA Website.

**"Website"**  
means the secure Internet site at the domain [www.binokula.com](http://www.binokula.com), [www.binokula.app](http://www.binokula.app), [api.binokula.app](http://api.binokula.app) or any other site operated by Stellar.

**"Stellar"**  
means Stellar Consulting Group Limited which is a registered New Zealand limited company (NZ company number: 1974060).

**"Invited User"**  
means any person or entity, other than the Subscriber, that uses the Service with the authorisation of the Subscriber from time to time.

**"Subscriber"**  
means the person who registers to use the Service, and, where the context permits, includes any entity on whose behalf that person registers to use the Service.

**"You"**  
means the Subscriber, and where the context permits, an Invited User. "Your" has a corresponding meaning.

## 2. Use of Software

Stellar grants You the right to access and use the Service via the Website with the particular computing infrastructure available to You according to Your subscription type. This right is non-exclusive, non-transferable, and limited by and subject to this Agreement. You acknowledge and agree that, subject to any applicable written agreement between the Subscriber and the Invited Users, or any other applicable laws:

2.1. the Subscriber determines who is an Invited User and what level of user role access or Data access to the relevant organization and Service that Invited User has;

2.2. the Subscriber is responsible for all Invited Users' use of the Service;

2.3. the Subscriber controls each Invited User's level of access to the relevant Data, reports, and Service at all times and can revoke or change an Invited User's access, or level of access, at any time and for any reason, in which case that person or entity will cease to be an Invited User or shall have that different level of access, as the case may be;

2.4. if there is any dispute between a Subscriber and an Invited User regarding access to any Data, report, or Service, the Subscriber shall decide what access or level of access to the relevant Data or Service that Invited User shall have, if any.

### 3. Your Obligations

#### 3.1. Payment obligations:

3.1.1 You will pay all Access Fees Payable specified in the Fee & Payment Schedule. You are responsible for all applicable taxes, and Stellar will charge tax when required to do so.

3.1.2 Except as otherwise specified herein:

- i. fees are on subscriptions purchased and not actual usage;
- ii. payment obligations are non-cancellable and fees paid are non-refundable; and
- iii. subscription pricing plans cannot be downgraded during the relevant subscription term.

3.1.3 You will provide Stellar with valid and updated credit card information, or with a valid purchase order or alternative document reasonably acceptable by Stellar. If you provide credit card information to Stellar, You authorize Stellar to charge such credit card for the Access Fee Payable in the Fee & Payment Schedule for the subscription period. Such charges shall be made in advance, either annually or in accordance with any different billing frequency stated in the Fee & Payment Schedule. If You wish to pay by a method other than credit card, Stellar will invoice You in advance and otherwise in accordance with the Fee & Payment Schedule.

3.1.4 Unless otherwise stated in the Fee & Payment Schedule, invoiced charges are due net 20 days from the invoice date. You are responsible for providing complete and accurate billing and contact information to Stellar and notifying Stellar of any changes to such information. All Stellar invoices will be sent to You, or to a Billing Contact whose details are provided by You, by email.

3.1.3 Stellar will continue invoicing You in accordance with the Fee & Payment Schedule until this Agreement is terminated in accordance with clause 8.

#### 3.2. Preferential pricing or discounts:

You may from time to time be offered preferential pricing or discounts for the Access Fees. Eligibility for such preferential pricing or discounts is conditional upon Your acceptance of responsibility for payment of any Access Fees set out in the Service Proposal offered to You by Stellar or another authorised Service distributor. Without prejudice to any other rights that Stellar may have under these Terms or at law, Stellar reserves the right to render invoices for the full (non-discounted) Access Fees Payable or suspend or terminate Your use of the Service in the event that any invoices for those Access Fees are not paid in full in accordance with the requirements set out in the Fee & Payment Schedule.

#### 3.3. General obligations:

You must only use the Service and Website for Your own lawful business purposes, in accordance with these Terms and any notice sent by Stellar or condition posted on the Website.

#### 3.4. Automated Data feeds:

Where available, automated Data feeds are generally provided to You free of charge using an Application Gateway. However, Stellar reserves the right to pass on any charges related to the provision of automated Data feeds on a case-by-case basis at Stellar's sole discretion. Stellar would first inform You via email to indicate what those charges are likely to be (as such charges may vary depending on the complexity of Your Data source for Power BI). You have the option to decide to discontinue use of automated Data feeds at any time.

#### 3.5. Access conditions:

3.5.1. You must ensure that all usernames and passwords required to access the Service are kept secure and confidential. You must immediately notify Stellar of any unauthorized use of Your passwords or any other breach of security and Stellar will reset Your password and You must take all other actions that Stellar reasonably deems necessary to maintain or enhance the security of Stellar's computing systems and networks and Your access to the Services.

3.5.2. As a condition of these Terms, when accessing and using the Services, You must:

- i. not attempt to undermine the security or integrity of Stellar's computing systems or networks or, where the Services are hosted by a third party, that third party's computing systems and networks;
- ii. 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;
- iii. not attempt to gain unauthorized 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;
- iv. 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); and
- v. 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.

### 3.6. Usage limitations:

Use of the Service may be subject to limitations, including but not limited to hourly Power BI peak render volumes and Power BI in-memory Data storage. Any such limitations will be advised.

### 3.7. 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 center), 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. Stellar 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, Stellar does reserve the right to remove any communication at any time in its sole discretion.

### 3.8. Indemnity:

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

## 4. Confidentiality and Privacy

### 4.1. Confidentiality:

Unless the relevant party has the prior written consent of the other or unless required to do so by law:

4.1.1. Each party will preserve the confidentiality of all Confidential Information of the other obtained in connection with these Terms. Neither party will, without the prior written consent of the other, disclose or make any Confidential Information available to any person, or use the same for its own benefit, other than as contemplated by these Terms.

4.1.2. Each party's obligations under this clause will survive termination of these Terms.

4.1.3. The provisions of clauses 4.1.1 and 4.1.2 shall not apply to any information which:

- i. is or becomes public knowledge other than by a breach of this clause;
- ii. is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;

iii. is in the possession of the receiving party without restriction in relation to disclosure before the date of receipt from the disclosing party; or

iv. is independently developed without access to the Confidential Information.

### 4.2. Privacy:

Stellar maintains a privacy policy in accordance with the leading privacy, compliance, and security provisions provided to the Service by Microsoft. You are advised to read the privacy information available on the Microsoft Trust Center at <https://www.microsoft.com/en-us/trustcenter/privacy/> and You will be taken to have accepted those privacy provisions when You accept these Terms.

## 5. Intellectual Property

### 5.1. General:

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

### 5.2. Ownership of Data:

Title to, and all Intellectual Property Rights in, the Data remain Your property. However, Your access to the Data is contingent on full payment of the BINOKULA Access Fee when due.

### 5.3. Backup of Data:

You must maintain copies of all Data inputted into the Service. Stellar adheres to its best practice policies and procedures to prevent Data loss, including a daily system Data back-up regime, but does not make any guarantees that there will be no loss of Data. Stellar expressly excludes liability for any loss of Data no matter how caused.

## 6. Warranties and Acknowledgements

### 6.1. Authority:

You warrant that where You have registered to use the Service on behalf of another person, You have the authority to agree to these Terms on behalf of that person and agree that by registering to use the Service You bind the person on whose behalf You act to the performance of any and all obligations that You become subject to by virtue of these Terms, without limiting Your own personal obligations under these Terms.

### 6.2. Acknowledgement:

You acknowledge that:

6.2.1. You are authorized to use the Services and the Website and to access the information and Data that You input into the Website, including any information or Data input into the Website by any person you have authorized to use the Service. You are also authorized to access the processed information and Data that is made available to You through Your use of the Website and the Services (whether that information and Data is Your own or that of anyone else).

6.2.2. Stellar has no responsibility to any person other than You and nothing in this Agreement confers, or purports to

confer, a benefit on any person other than You. If You use the Services or access the Website on behalf of or for the benefit of anyone other than yourself (whether a body corporate or otherwise) you agree that:

- i. You are responsible for ensuring that You have the right to do so;
- ii. You are responsible for authorizing any person who is given access to information or Data, and you agree that Stellar has no obligation to provide any person access to such information or Data without Your authorization and may refer any requests for information to You to address; and
- iii. You will indemnify Stellar against any claims or loss relating to:
  - i. Stellar's refusal to provide any person access to Your information or Data in accordance with these Terms,
  - ii. Stellar's making available information or Data to any person with Your authorization.

6.2.3. The provision of, access to, and use of, the Services is on an "as is" basis and at Your own risk.

6.2.4. Stellar does not warrant that the use of the Service will be uninterrupted or error free. Among other things, the operation and availability of the systems used for accessing the Service, including public telephone services, computer networks and the Internet, can be unpredictable and may from time to time interfere with or prevent access to the Services. Stellar is not in any way responsible for any such interference or prevention of Your access or use of the Services.

6.2.5. It is Your sole responsibility to determine that the Services meet the needs of Your business and are suitable for the purposes for which they are used.

6.2.6. You remain solely responsible for complying with all applicable laws. It is Your responsibility to check that storage of and access to your Data via the Service and Website will comply with laws applicable to you (including any laws requiring you to retain records).

**6.3. No warranties:**

Stellar gives no warranty about the Services. Without limiting the foregoing, Stellar does not warrant that the Services will meet Your requirements or that it will be suitable for any particular purpose. To avoid doubt, all implied conditions or warranties are excluded in so far as is permitted by law, including (without limitation) warranties of merchantability, fitness for purpose, title and non-infringement.

**6.4. Consumer guarantees:**

You warrant and represent that You are acquiring the right to access and use the Services for the purposes of a business and that, to the maximum extent permitted by law, any statutory consumer guarantees or legislation intended to protect non-business consumers in any jurisdiction does not

apply to the supply of the Services, the Website or these Terms.

**7. Limitation of Liability**

7.1. To the maximum extent permitted by law, Stellar 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.

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

7.3. If You are not satisfied with the Service, Your sole and exclusive remedy is to terminate these Terms in accordance with Clause 8.

**8. Termination**

**8.1. Trial policy**

When You first sign up for access to the Services You can evaluate the Services under the defined trial usage conditions, with no obligation to continue to use the Services. If You choose to continue using the Services thereafter, You will be billed when You provide Your billing details to Stellar, as set out in more detail in the Fee & Payment Schedule and Service Proposal. If You choose not to continue using the Services, You will not be charged for the Trial period.

**8.2. Prepaid Subscriptions**

Stellar will not provide any refund for any remaining prepaid period for a prepaid Access Fee subscription.

**8.3. No-fault termination:**

These Terms will continue for the period covered by the Access Fee paid or payable under clause 3.1. At the end of each billing period these Terms will automatically continue for another period of the same duration as that period, provided You continue to pay the prescribed Access Fee in accordance with the Fee & Payment Schedule, unless either party terminates these Terms by giving at least one month's advance written notice. If You elect to terminate these Terms by providing one month's advance written notice, You shall be liable to pay all relevant Access Fees up to and including the day of termination of these Terms.

**8.4. Breach:**

If You:

- i. breach any of these Terms and do not remedy the breach within 14 days after receiving notice of the breach if the breach is capable of being remedied;
- ii. breach any of these Terms and the breach is not capable of being remedied (which includes (without limitation) any breach of clause 3.5 or any payment of Access Fees that are

not paid in full in accordance with the requirements set out in the Fee & Payment Schedule); or

iii. You or Your business become insolvent or Your business goes into liquidation or has a receiver or manager appointed of any of its assets or if You become insolvent, or make any arrangement with Your creditors, or become subject to any similar insolvency event in any jurisdiction,

Stellar may take any or all of the following actions, at its sole discretion:

iv. Terminate this Agreement and Your use of the Services and the Website;

v. Suspend for any definite or indefinite period of time, Your use of the Services and the Website;

vi. Suspend or terminate access to all or any Data.

vii. Take either of the actions in sub-clauses (iv), (v) and (vi) of this clause 8.4 in respect of any or all other persons whom You have authorized to have access to Your information or Data.

For the avoidance of doubt, if payment of any invoice for Access Fees Payable is not made in accordance with the requirements set out in the Fee & Payment Schedule, Stellar may: suspend or terminate Your use of the Service, the authority for all or any of Your Invited Users to use the Service, or Your rights of access to all or any Data.

#### **8.5. Accrued Rights:**

Termination of these Terms is without prejudice to any rights and obligations of the parties accrued up to and including the date of termination. On termination of this Agreement You will:

i. remain liable for any accrued charges and amounts which become due for payment before or after termination; and

ii. immediately cease to use the Services and the Website.

#### **8.6. Expiry or termination:**

Clauses 3.1, 3.7, 4, 5, 6, 7, 8 and 10 survive the expiry or termination of these Terms.

#### **9. Support Service**

##### **9.1. Technical problems:**

In the case of technical problems You must make all reasonable efforts to investigate and diagnose problems before contacting Stellar. If You still need technical help, please check the support provided online on the Website or failing that email us at [support@binokula.com](mailto:support@binokula.com).

##### **9.2. Service availability:**

Whilst Stellar intends that the Services should be available 24 hours a day, seven days a week, it is possible that on occasions the Services or Website may be unavailable to permit maintenance or other development activity to take place.

If for any reason Stellar has to interrupt the Services for longer periods than Stellar would normally expect, Stellar will use reasonable endeavours to publish in advance details of such activity on the Website.

#### **10. General**

##### **10.1. Entire agreement:**

These Terms, together with the Microsoft Privacy Policy and the terms of any other notices or instructions given to You under these Terms, supersede and extinguish all prior agreements, representations (whether oral or written), and understandings and constitute the entire agreement between You and Stellar relating to the Services and the other matters dealt with in these Terms.

##### **10.2. Waiver:**

If either party waives any breach of these Terms, this will not constitute a waiver of any other breach. No waiver will be effective unless made in writing.

##### **10.3. Delays:**

Neither party will be liable for any delay or failure in performance of its obligations under these Terms if the delay or failure is due to any cause outside its reasonable control. This clause does not apply to any obligation to pay money.

##### **10.4. No Assignment:**

You may not assign or transfer any rights to any other person without Stellar's prior written consent.

##### **10.5. Governing law and jurisdiction:**

If You are a tax resident of the United States of America or the information or Data You are accessing using the Services and the Website is solely that of a person who is a tax resident in the United States of America at the time that You accept these terms then the laws of the State of California, U.S.A govern this Agreement and Stellar and You agree that the U.S. Dispute Resolution Process described below applies for all disputes arising out of or in connection with this Agreement or in any way relating to the Service – PLEASE READ THE U.S. DISPUTE RESOLUTION PROCESS CAREFULLY AS IT REQUIRES THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS OR CLASS ACTIONS, AND ALSO LIMITS THE REMEDIES AVAILABLE TO YOU IN THE EVENT OF A DISPUTE. If the information or Data You are accessing using the Services and the Website is solely that of a person who is a tax resident in New Zealand at the time that You accept these terms then New Zealand law governs this Agreement and You submit to the exclusive jurisdiction of the courts of New Zealand for all disputes arising out of or in connection with this Agreement. If the information or Data You are accessing using the Services and the Website is solely that of a person who is a tax resident in Australia at the time that You accept these terms then Australian law governs this Agreement and You submit to the exclusive jurisdiction of the courts of Australia for all disputes arising out of or in connection with this Agreement. In all other situations this Agreement is governed by the laws of England and Wales and You hereby submit to the exclusive jurisdiction of the courts of England



and Wales for all disputes arising out of or in connection with this Agreement.

**10.6. Severability:**

If any part or provision of these Terms is invalid, unenforceable or in conflict with the law, that part or provision is replaced with a provision which, as far as possible, accomplishes the original purpose of that part or provision. The remainder of this Agreement will be binding on the parties.

**10.7. Notices:**

Any notice given under these Terms by either party to the other must be in writing by email and will be deemed to have been given on transmission. Notices to Stellar must be sent to [support@binokula.com](mailto:support@binokula.com) or to any other email address notified by email to You by Stellar. Notices to You will be sent to the email address which You provided as Your Account Contact when setting up Your access to the Service.

**10.8. Rights of Third Parties:**

A person who is not a party to these Terms has no right to benefit under or to enforce any term of these Terms.

**11. Additional terms for United States of America**

If You are a tax resident of the United States of America or the information or Data You are accessing using the Services and the Website is solely that of a person who is a tax resident in the United States of America, the following additional terms apply:

**Consumers**

The Service is not intended for consumer use (i.e., use for personal, family or household purposes).

**U.S. Dispute Resolution Process**

PLEASE READ THIS CAREFULLY – IT AFFECTS YOUR RIGHTS.

The following U.S. Dispute Resolution Process applies to tax residents in the United States of America, or if the information or Data You are accessing using the Services and the Website is that of a person who is a tax resident in the United States of America at the time that You accept these terms or if you otherwise seek to resolve a dispute in the U.S. If You are a tax resident in the United States of America or the information or Data You are accessing using the Services and the Website is that of a person who is a tax resident in the United States of America at the time that You accept these terms, You agree with Stellar as follows:

a. Summary:

Most customer concerns can be resolved quickly and to the customer's satisfaction by emailing our customer experience team at [support@binokula.com](mailto:support@binokula.com). IN THE UNLIKELY EVENT THAT OUR CUSTOMER EXPERIENCE TEAM IS UNABLE TO RESOLVE A COMPLAINT YOU MAY HAVE TO YOUR SATISFACTION (OR IF WE HAVE NOT BEEN ABLE TO RESOLVE A DISPUTE WE HAVE WITH YOU AFTER ATTEMPTING TO DO SO INFORMALLY), WE EACH AGREE TO RESOLVE THOSE DISPUTES THROUGH BINDING ARBITRATION OR SMALL CLAIMS COURT INSTEAD OF IN COURTS OF GENERAL JURISDICTION. Arbitration is more informal than a lawsuit in

court. Arbitration uses a neutral arbitrator instead of a judge or jury, allows for more limited discovery than in court, and is subject to very limited review by courts. Arbitrators can award the same damages and relief that a court can award. ANY ARBITRATION UNDER THIS AGREEMENT WILL TAKE PLACE ON AN INDIVIDUAL BASIS; YOU AGREE WITH STELLAR THAT CLASS ARBITRATIONS AND CLASS ACTIONS ARE NOT PERMITTED. For any non-frivolous claim that does not exceed \$10,000, Stellar will pay AAA filing, administrative and arbitrator costs. Moreover, in arbitration You are entitled to recover attorneys' fees from Stellar to at least the same extent as You would be in court.

b. U.S. Dispute Resolution Process.

ANY DISPUTE OR CLAIM RELATING IN ANY WAY TO THE SERVICE OR THIS AGREEMENT WILL BE RESOLVED BY BINDING ARBITRATION, RATHER THAN IN COURT, except that You may assert claims in small claims court if Your claims qualify. The Federal Arbitration Act governs the interpretation and enforcement of this provision; the arbitrator shall apply California law to all other matters. Notwithstanding anything to the contrary, any party to the arbitration may at any time seek injunctions or other forms of equitable relief from any court of competent jurisdiction. WE EACH AGREE THAT ANY AND ALL DISPUTES MUST BE BROUGHT IN THE PARTIES' INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. BY ENTERING INTO THIS AGREEMENT AND AGREEING TO ARBITRATION, YOU AGREE WITH STELLAR THAT YOU AND STELLAR ARE EACH WAIVING THE RIGHT TO FILE A LAWSUIT AND THE RIGHT TO A TRIAL BY JURY. IN ADDITION, YOU AGREE WITH STELLAR TO WAIVE THE RIGHT TO PARTICIPATE IN A CLASS ACTION OR LITIGATE ON A CLASS-WIDE BASIS. YOU AGREE WITH STELLAR THAT YOU HAVE EXPRESSLY AND KNOWINGLY WAIVED THESE RIGHTS.

To begin an arbitration proceeding, send a letter requesting arbitration and describing Your claim to Stellar Consulting Group Ltd. at Level 21 151 Queen Street, Auckland, 1010, New Zealand, Attention: BINOKULA Legal Department. Arbitration will be conducted by the American Arbitration Association (AAA) before a single AAA arbitrator under the AAA's rules, which are available at [www.adr.org](http://www.adr.org) or by calling 1-800-778-7879. Payment of all filing, administration and arbitrator fees and costs will be governed by the AAA's rules. In addition, Stellar will reimburse those fees and costs for claims totaling less than \$10,000 unless the arbitrator determines the claims are frivolous. Likewise, Stellar will not seek its attorneys' fees or costs in arbitration unless the arbitrator determines Your claims or defenses are frivolous. You agree with Stellar that You or Stellar may choose to have the arbitration conducted by telephone or based on written submissions. You agree with Stellar that in person arbitration will be conducted in the county in which You reside or at another mutually agreeable location. You agree with Stellar that the decision of the arbitrator shall be final and not appealable, and judgment on the arbitration award may be entered in any court having jurisdiction thereof. You agree with Stellar that the U.S. Dispute Resolution Process shall survive expiration, termination or rescission of this Agreement.