RESPONSIBLE PARTY// SERVICE PROVIDER AGREEMENT

1. **PARTIES**

This Agreement is made between:

1.1. the party identified in Schedule 1 hereto (the "**Responsible Party**"); and

1.2. the party identified in Schedule 2 hereto (the "**Service Provider**"),

each individually referred to as a "**Party**" and collectively the "**Parties**".

2. **DEFINITIONS AND INTERPRETATION**

2.1. Unless otherwise expressly stated, or the context otherwise requires, the words and expressions listed below shall, when used in this Agreement, bear the meanings ascribed to them as follows:

2.1.1. "**Agreement"** means this agreement including any schedules or addenda thereto;

2.1.2. "**Breach**" means any accidental, unauthorised or unlawful destruction, loss, alteration, or disclosure of, or access to, Personal Information in the Service Provider's possession or under its control;

2.1.3. "**Business Day**" shall mean a day other than a Saturday, a Sunday or official public holiday in South Africa;

2.1.4. "**Contract**" means any agreement, whether in written or oral form, and any annexures or schedules thereto, entered into between the Parties in respect of the provision of Services by the Service Provider to Responsible Party;

2.1.5. "**Data Subject**" means any person, whether a natural or juristic person, to whom the specific Personal Information relates, as defined in POPIA;

2.1.6. "**Operator**" has the meaning set out in POPIA and for purposes of this Agreement refers to the Service Provider and any authorised subcontractor of that party;

2.1.7. "**Personal Information**" means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person as defined in section 1 of POPIA, and includes special personal information and the personal information of children (as defined in POPIA);

2.1.8. "**POPIA**" means the Protection of Personal Information Act, 2013 and shall include all regulations and any amendments thereto from time to time;

2.1.9. "**Processing**" or "**Process**" has the meaning set out in POPIA and includes any operation or activity or any set of operations, whether or not by automatic means, concerning Personal Information, including:

2.1.9.1. the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;

2.1.9.2. dissemination by means of transmission, distribution or making available in any other form; or

2.1.9.3. merging, linking, as well as restriction, degradation, erasure or destruction of Personal Information;

2.1.10. "**Responsible Party**" has the meaning ascribed thereto in POPIA, and for purposes of this Agreement refers to Responsible Party;

2.1.11. "**Services**" means any supply or provision of goods or services by the Service Provider to Responsible Party in terms of a Contract and in terms of which the Service Provider, *inter alia*, Processes Personal Information of Data Subjects; and

2.1.12. "**Signature Date**" means the date of signature of this Agreement by the Party signing it last in time.

2.2. In this Agreement:

2.2.1. words importing:

2.2.1.1. any one gender includes the other gender;

2.2.1.2. the singular includes the plural, and vice versa; and

2.2.1.3. natural persons include created entities (corporate or unincorporated) and vice versa,

2.2.2. any reference to "days" shall be construed as being a reference to calendar days unless qualified by the word "business". When any number of days is prescribed in this agreement, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or public holiday in the Republic of South Africa, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday in South Africa;

2.2.3. the words "include", "includes", and "including" means "include without limitation", "includes without limitation", and "including without limitation". The use of the word "including" followed by a specific example shall not be construed as limiting the meaning of the general wording preceding it;

2.2.4. any substantive provision, conferring rights or imposing obligations on a Party and appearing in any of the definitions in this clause or elsewhere within the Agreement, shall be given effect as if it were a substantive provision within the body of the Agreement;

2.2.5. terms other than those defined in the Agreement and terms appearing in the lower case but which in the title case are defined in the Agreement, will be given their plain English meaning;

2.2.6. any reference to a Party shall, where relevant, be deemed to be references to, or to include, as appropriate, their respective successors or permitted assigns;

2.2.7. references to statutory provisions shall be construed as references to those provisions as respectively amended, consolidated, extended or re-enacted from time to time and shall be construed as including references to the corresponding provisions of any earlier legislation directly or indirectly amended, consolidated, extended or replaced by those statutory provisions or re-enacted and shall include any orders, ordinance, regulations, instruments or other subordinate legislation made under the relevant statute;

2.2.8. expressions defined in the main body of this Agreement shall bear the same meanings in schedules to this Agreement which do not themselves contain their own conflicting definitions;

2.2.9. the rule of construction that in the event of ambiguity, the contract shall be interpreted against the Party responsible for the drafting thereof, shall not apply in the interpretation of this Agreement; and

2.2.10. if figures are referred to in numerals and in words in this Agreement and if there is any conflict between the two, the words shall prevail.

3. INTRODUCTION

3.1. The Parties hereby agree that in the case of any Contract or ongoing relationship between the Parties, and where the provisions of POPIA apply to the Processing of Personal Information in relation to the Services, these terms and conditions shall apply to and supplement the terms and conditions of such Contract.

3.2. In the event of a conflict between the provisions of this Agreement and a Contract, the provisions of this Agreement will take precedence in regard to all aspects pertaining to any Processing of Personal Information by the Service Provider of any Data Subjects for Responsible Party.

4. **COMMENCEMENT AND DURATION**

This Agreement shall commence on the Signature Date and shall endure indefinitely, unless otherwise terminated in accordance with the provisions of this Agreement.

5. **SERVICE PROVIDER'S OBLIGATIONS**

In providing the Services to Responsible Party, the Service Provider:

5.1. shall comply with and ensure that it lawfully Processes Personal Information in accordance with the provisions of POPIA;

5.2. will Process Personal Information of Data Subjects in connection with and for the purposes of the provision of the Services to Responsible Party only. It is recorded that the Service Provider shall in no way be considered as the Responsible Party in relation to Personal Information and will only act as an Operator for purposes of POPIA;

5.3. the Service Provider shall, unless required by any applicable law, Process Personal Information with the knowledge or authorisation of Responsible Party for the purposes connected with the provision of the Services or as specifically instructed or authorised by Responsible Party, and for no other purpose;

5.4. shall treat the Personal Information that it receives or which comes to its knowledge or into its possession as confidential and shall not disclose it unless required to do so by law, an order of court, or in the course of the proper performance of the Service Provider's duties. The Service Provider shall duly notify Responsible Party prior to disclosure required by law or a court order (to the extent permitted by law);

5.5. shall ensure that any person which Processes Personal Information on behalf of the Service Provider shall be informed of the obligations of the Service Provider under this Agreement and shall have agreed in writing to comply with and abide by the terms and conditions of this Agreement;

5.6. shall secure the integrity and confidentiality of the Personal Information in its possession by taking appropriate, reasonable technical and organisational measures to prevent the:

5.6.1. loss of, damage to or unauthorised destruction of the Personal Information; and

5.6.2. unlawful access to or Processing of the Personal Information,

5.7. shall, in order to give effect to the provisions of clause 5.6, take reasonable measures to identify all reasonably foreseeable internal and external risks to Personal Information in its possession or under its control, implement and maintain appropriate safeguards against the risks identified, regularly verify that the safeguards are effectively implemented, and ensure that safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards;

5.8. shall comply and have due regard to generally accepted data security practices and procedures which may apply to the Service Provider generally or be required in terms of the legal industry or professional rules and regulations applicable to the Service Provider's jurisdiction; and

5.9. shall provide Responsible Party and/or its representatives access to the Service Provider's premises and/or operations to audit the Service Provider's compliance with the obligations set

out herein and the Service Provider shall take such remedial steps as Responsible Party may identify following such audit.

6. **SUB-CONTRACTING**

The Responsible Party authorises the Operator to engage the sub-contractors listed in Schedule 3 for the service-related personal information processing activities. Operators shall inform the Responsible Party of any addition or replacement of such sub-contractors giving the Responsible Party an opportunity to object to such changes. If the Responsible Party timely sends the Operator a written objection notice, setting forth a reasonable basis for the objection, the Parties will make a good-faith effort to resolve the Responsible Party's objection.

7. **RESPONSE TO ENQUIRIES**

7.1. The Service Provider shall deal promptly and properly with all Responsible Party's enquiries and requests for information and/or records in respect of the Service Provider's Processing of Personal Information under this Agreement.

7.2. In the event of receiving a Data Subject complaint or access request that may involve Responsible Party, the Service Provider shall immediately notify Responsible Party and not respond to such complaint or request unless in accordance with the Responsible Party's instructions and provide such cooperation and assistance as Responsible Party may require.

8. **PERSONAL INFORMATION BREACH**

8.1. In the event of any actual, potential, or attempted Breach, the Service Provider shall immediately inform Responsible Party as soon as reasonably possible and in any event not later than 24 (twenty four) hours after the Service Provider becomes aware of or suspects the Breach.

8.2. In addition, the Service Provider shall investigate the Breach and take such steps as may be required by Responsible Party (in its sole discretion) to remediate the effects of such Breach and to prevent it from recurring.

9. **CROSS-BORDER DATA TRANSFER**

It is hereby recorded and agreed that in order for the Service Provider to be able to fulfil its obligations in terms of the Contract, it may be necessary for the Service Provider to transfer Personal Information outside of South Africa for the performance of a contract between the Data Subject and Responsible Party or for the implementation of pre-contractual measures taken in response to a Data Subject's request. Notwithstanding the aforesaid, the Service Provider shall not transfer Personal Information outside of South Africa without the prior written consent of Responsible Party.

10. **RETENTION AND RETURN OF PERSONAL INFORMATION**

10.1. The Parties acknowledge that the Service Provider will lawfully retain Personal Information related to this Agreement for as long as is necessary for achieving the purpose for which the information was collected or subsequently processed, unless:

10.1.1. the retention is required or authorised by law;

10.1.2. Responsible Party reasonably requires the record for lawful purposes related to its functions or activities;

10.1.3. retention of the record is required by a contract between the Parties thereto; or

10.1.4. if the Data Subject to whom the Personal Information relates has consented to a longer retention period,

in which event the Service Provider may retain the Personal Information for a longer period as may be required.

10.2. Notwithstanding the provisions of clause 10.1, if Responsible Party so requests at any time for any reason whatsoever, the Service Provider will return all the Personal Information and the copies thereof to Responsible Party or shall, at Responsible Party's option, destroy all the

Personal Information or copies thereof, and certify to Responsible Party that it has done so, unless legislation imposed upon the Service Provider prevents it from returning or destroying all or part of the Personal Information. In that case, the Service Provider warrants that it will guarantee the confidentiality of the Personal Information received and will not actively process the Personal Information received anymore.

11. **LIABILITY AND INDEMNITY**

11.1. The Service Provider hereby indemnifies and holds Responsible Party harmless against any and all claims, actions, costs, expenses, demands, penalties and liabilities, of whatsoever nature, which arise from or in connection with:

11.1.1. the Service Provider's Processing of Personal Information;

11.1.2. any act or omission of the Service Provider, its employees, agents, affiliates and/or subcontractors or their failure to comply with the provisions of this Agreement; or

11.1.3. breach of any of the Service Provider's obligations under this Agreement.

11.2. The parties acknowledge and agree that neither Party shall be liable for any indirect or consequential damages of the other Party, such as (but not limited to) loss of revenue, loss of profit, loss of opportunity, loss of goodwill and third-party claims.

12. **BREACH AND TERMINATION**

12.1. In the event of either of the Parties committing a breach of any of the provisions of this Agreement and failing to remedy such breach within 7 (seven) Business Days of receipt of a notice from the other Party requesting it to remedy such breach, then the other Party shall be entitled to cancel this entire Agreement forthwith and claim such damages as it may have suffered.

12.2. In the event of termination of this Agreement, the Party terminating this Agreement shall have a right to exercise its rights of termination under the Contract.

12.3. Notwithstanding anything to the contrary contained in this Agreement, the Parties shall be entitled to terminate this Agreement by mutual agreement in writing.

12.4. The provisions of this clause 12 shall not affect or prejudice any other rights/remedies which the Parties may have in law or in any other Contract between the Parties.

12.5. The termination of this Agreement shall not affect the rights of either of the Parties that accrued before termination of this Agreement or which specifically survives the termination of the Agreement.

13. **SEVERABILITY**

If any clause or term of this Agreement should be invalid, unenforceable, defective or illegal for any reason whatsoever, then the remaining terms and provisions of this Agreement shall be deemed to be severable therefrom and shall continue in full force and effect unless such invalidity, unenforceability, defect or illegality goes to the root of this Agreement.

14. **GOVERNING LAW**

This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed exclusively in accordance with South African law. Without prejudice to any other rights or remedies which the Parties may have, the Parties acknowledges that nothing herein shall preclude the Parties from seeking urgent relief or specific performance from a court of competent jurisdiction.

15. **NOTICES AND DOMICILIUM**

15.1. Each Party chooses the addresses set out below as its addresses to which all notices and other communications must be delivered for the purposes of this Agreement and its *domicilium*

citandi et executandi ("**Domicilium**") at which all documents in legal proceedings in connection with this Agreement must be served:

Responsible Party: As specified in Schedule 1 to this Agreement.

Service Provider: As specified in Schedule 2 to this Agreement.

15.2. Any notice required or permitted under this Agreement shall be valid and effective only if in writing.

15.3. Any Party may by notice to the other Party change its chosen Domicilium to another physical address in South Africa and such change shall take effect on the 7th (seventh) day after the date of receipt by the Party who last receives the notice.

15.4. Any Notice to a Party contained in a correctly addressed envelope and delivered by hand to a responsible person during ordinary business hours at its chosen Domicilium, shall be deemed to have been received on the date of delivery.

15.5. Notwithstanding anything to the contrary herein, a written notice actually received by a Party, including a notice sent by telefax or e-mail, shall be an adequate notice to it notwithstanding that it was not sent or delivered to its Chosen Address.

15.6. Any notice shall be deemed to have been given and received:

15.6.1. if posted by prepaid registered post, 7 (seven) days after the date of posting thereof;

15.6.2. if hand delivered, on the day of delivery; and

15.6.3. if sent by email or telefax on the first Business Day after the date of transmission.

16. **GENERAL**

16.1. This Agreement constitutes the entire agreement between the Parties in regard to the subject matter hereof.

16.2. No Party shall be bound by or have any claim or right of action arising from any express or implied term, undertaking, representation, warranty, promise or the like not included or recorded in this document whether it induced the contract and/or whether it was negligent or not.

16.3. No variation, amendment or consensual cancellation of this Agreement or any provision or term hereof or of any agreement, bill of exchange or other document issued or executed pursuant to or in terms of this Agreement and no settlement of any disputes arising under this Agreement and no extension of time, waiver or relaxation or suspension of any of the provisions or terms of this Agreement or of any agreement, bill of exchange or other document issued pursuant to or in terms of this Agreement shall be binding or have any force and effect unless reduced to writing and signed by or on behalf of the Parties. Any such extension, waiver or relaxation or suspension which is so given or made shall be strictly construed as relating strictly to the matter in respect whereof it was made or given.

16.4. No extension of time or waiver or relaxation of any of the provisions or terms of this Agreement or any agreement, bill of exchange or other document issued or executed pursuant to or in terms of this Agreement, shall operate as an estoppel against a Party in respect of its rights under this Agreement.

16.5. No failure by any Party to enforce any provision of this Agreement shall constitute a waiver of such provision or affect in any way such Party's right to require the performance of such provision at any time in the future, nor shall a waiver of a subsequent breach nullify the effectiveness of the provision itself.

16.6. Nothing in this Agreement, express or implied, is intended to confer upon any person not a party to this Agreement any rights or remedies under or by reason of this Agreement.

16.7. The Parties undertake at all times to do all such things, to perform all such acts and to take all such steps and to procure the doing of all such things, the performance of all such actions and the taking of all such steps as may be open to them and necessary for or incidental to the putting into effect or maintenance of the terms, conditions and import of this Agreement.

SIGNED at _____ on this the _____ day of _____2025.

For and on behalf of
RESPONSIBLE PARTY

_____

Name:

Capacity:

Who warrants his authority hereto

SIGNED at _____ on this the _____ day of _____2025.

For and on behalf of
SERVICE PROVIDER

_____

Name:

Capacity:

Who warrants his authority hereto

SCHEDULE 1

RESPONSIBLE PARTY DETAILS

1. Name: _____

2. Registration Number: _____

3. Domicilium:

    Physical address: _____

    _____

    _____

    _____

    E-mail: _____

    Telephone number: _____

Attention: _____

SCHEDULE 2

SERVICE PROVIDER DETAILS

4. Name: _____

5. Registration Number: _____

6. Domicilium:

   Physical address: _____

   _____

   _____

   _____

   E-mail: _____

   Telephone number: _____

   Attention: _____

SCHEDULE 3

SUB-CONTRACTORS

The Service Provider shall not subcontract any of its Processing obligations in terms of this Agreement without the Responsible Party's prior consent, unless listed in this Schedule:

Sub-Contractors:

_____
_____
_____
_____
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_____
_____
_____
_____

The Service Provider shall inform the Responsible Party of any addition or replacement of such sub-contractors giving the Responsible Party an opportunity to object to such changes.