

1. INTERPRETATION

In this Agreement -

1.1 Clause headings are for convenience purposes only and shall not be used in its interpretation.

1.2 Unless the context clearly indicates a contrary intention –

1.2.1 an expression which denotes any gender includes the other genders, a natural person includes an artificial person (whether incorporated or unincorporated and including the State and all other juristic persons) and *vice versa* and the singular includes the plural and *vice versa*;

1.2.2 where any term is defined within a particular clause, other than this interpretation clause, that term shall bear the meaning assigned to it in that clause wherever it is used in this Agreement;

1.2.3 the following expressions shall bear the following meanings and related expressions shall bear corresponding meanings –

1.2.3.1 **"Affiliates"** means, in respect of The Client, any entity which controls or is controlled by or is under common control with The Client;

1.2.3.2 **"Agreement"** means, as the context may require, this Service Level Agreement together with all annexures hereto;

1.2.3.3 **"Applicable Law/s"** in relation to a Party, will include all and any -

1.2.3.3.1 statutes and subordinate legislation and common law;

1.2.3.3.2 regulations;

1.2.3.3.3 ordinances and by laws; or

1.2.3.3.4 other similar provisions, from time to time, compliance with which is mandatory for that Party;

1.2.3.4 **"Business Day"** means any day other than a Saturday, Sunday or official public holiday in RSA;

1.2.3.5 **"Commencement Date"** shall, notwithstanding the date of signature, mean the date upon which the Company officially start implementing services;

1.2.3.6 **"Key Account Manager"** is the person responsible for overseeing and managing the relationship with key clients as outlined in this agreement. The KAM shall act as the primary point of contact between The Company and the designated key accounts, ensuring effective communication and collaboration;

1.2.3.7 **"Force Majeure Event"** means an event beyond the control of the affected Party which was not reasonably foreseeable by the affected Party and which was not caused by and could not have been reasonably planned for, or avoided by the exercise of reasonable foresight and/or reasonable care and diligence on the part of the affected Party and are not acts related to the Service Provider's supply chain, economic hardship or changes in market conditions, including acts of God, pandemics, lockouts and other industrial disputes (except in relation to that Party's own personnel), war, riot or civil unrest/commotion but only where and to the extent that:

1.2.3.7.1 the non-affected Party agrees (such agreement not to be unreasonably withheld or delayed) that the event asserted has prevented the affected Party from performing any or all of its obligations under this Agreement; and

1.2.3.7.2 the event was not caused by the act or omission of the sub-contractor of the affected Party;

1.2.3.8 **"Intellectual Property"** refers to the legal rights and protections granted to the creators or owners of certain intellectual or creative works. These works can include original ideas, inventions, designs, processes, and other intangible creations in the field of health services. Intellectual property may encompass various industry specific models including but not limited to: Therapeutic Models and Approaches (treatment methodologies and counselling approaches); Software and Applications, Assessment Tools and Instruments; Educational Materials; Research Findings; Branding and Trademarks;

- 1.2.3.9 **"Mobile Unit"** shall mean clinic unit that could be towed or just mobile equipment to sites to perform Occupational Health Services;
- 1.2.3.10 **"Medical Records"** refers to all the documents that are associated with the patient's history including but not limited to clinical findings, diagnostic test results, pre and postoperative care, patient's progress and medication;
- 1.2.3.11 **"Parties"** means collectively The Company and The Client, and **"Party"** refers to either one of them, as the context may require;
- 1.2.3.12 **"POPIA"** means Protection of Personal Information Act;
- 1.2.3.13 **"Professional Standards"** means generally accepted industry principles, codes, guidelines, and standards for the profession of The Company in relation to the Services which may include professional skills, competency, capability, fiduciary duty, ethical standards, and confidentiality.
- 1.2.3.14 **"Rack Rates"** refers to the standard, undiscounted rates that are established by the Company
- 1.2.3.15 **"RSA"** means the Republic of South Africa;
- 1.2.3.16 **"Services"** means the Services provided by The Company to The Client as more fully described in Annexure A;
- 1.2.3.17 **"Signature Date"** means the date of signature of this Agreement by the last signing Party;
- 1.2.3.18 **"Termination Date"** means the date of termination of this Agreement for any reason whatever;
- 1.2.3.19 **"Territory"** means the RSA and may include other agreed upon countries in which an Affiliate conducts business from time to time;
- 1.2.3.20 **"Third Party"** means any person which is not a Party.
- 1.3 Should any provision in a definition be a substantive provision conferring rights or imposing obligations on a Party, effect shall be given to that provision as if it were a substantive provision in the body of this Agreement.
- 1.4 Any reference to an enactment, regulation, rule or by-law is to that enactment, regulation, rule or by-law as at the Signature Date, and as amended or replaced from time to time.
- 1.5 When any number of days is prescribed, such number shall exclude the first and include the last day, unless the last day falls on a day other than a Business Day in which case the last day shall be the next succeeding Business Day.
- 1.6 Any annexure to this Agreement shall form part of, and be deemed to be incorporated in this Agreement.
- 1.7 The use of the word **"including"**, **"includes"** and **"in particular"** or the like followed by a specific example/s shall not be construed as limiting the meaning of the general wording preceding it.
- 1.8 The expiration or termination of this Agreement shall not affect those provisions of this Agreement which expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination notwithstanding the fact that the clauses themselves do not expressly provide for this.
- 1.9 In its interpretation (this Agreement being the product of negotiations between the Parties), this Agreement shall not be construed in favour of any Party by reason of the extent to which that Party or its professional advisors participated in the preparation of this Agreement.
- 1.10 Where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail, unless the context indicates a contrary intention.

2. RECORDAL

- 2.1 Whereas The Client is in the business of _____.
- 2.2 Whereas The Client has duly appointed The Company to provide Physical/Mental/Health Wellness Services as well as Occupational Health, Hygiene and Safety Services.
- 2.3 The Company undertakes to provide The Client with the Services, subject to the terms and conditions contained in this Agreement.
- 2.4 The Client and The Company wish to record the relationship between themselves in writing.

3. APPOINTMENT

- 3.1 The Client hereby appoints The Company to perform the Services on the terms and conditions of this Agreement and The Company hereby accepts such appointment.

4. DURATION

- 4.1 Notwithstanding the Signature Date, this Agreement shall commence on _____ and shall endure for a period of _____ calculated from the official implementation of service.
- 4.2 The Parties may elect to renew the Agreement, on terms to be agreed and reduced to writing between the Parties.

5. EARLY TERMINATION

- 5.1 Neither party may terminate early, except in the event of an unremedied breach that cannot be remedied by the dispute resolution process outlined in this agreement.
- 5.2 Any early termination will trigger invoicing of the remaining fixed service fee of this period.
- 5.3 If the client decides to terminate or amend this agreement, such action will result in incurring a penalty. The penalty is determined based on the remaining contractual duration of the relevant services. The calculation shall include but not be limited to a cancellation fee.
- 5.4 Reference to the early termination cancellation fees can be found in Annexure C.

6. SERVICES

- 6.1 The Company agrees to provide the Services as described in Annexure A.

7. LIAISON AND AUTHORITY

- 7.1 The Company shall appoint a key account manager as well as designated staff/nurses who are solely dedicated to The Client's account, and shall act as a liaison between The Client's nominated Representatives and The Company.

- 7.2 The Client shall, if it is experiencing difficulty in maintaining a proper and healthy working relationship with The Company or any of its representatives, which difficulty may be attributed to the conduct of the account manager/staff/nurses, inform The Company in reasonable detail and in writing of the difficulties which are being experienced. The Parties undertake to endeavour to resolve such difficulties. The Company may, at its sole discretion, and only after exhaustive attempts have been made to resolve such dispute, decide whether to replace the account manager/ /nurses/staff, and then only if it is of the opinion that it has no other options at its disposal to protect and promote a proper working relationship between the Parties.

8. THE COMPANY'S OBLIGATIONS

- 8.1 The Company assumes professional and technical responsibility for the performance of the services, which will be in accordance with recognised Professional Standards employed by service providers performing work of a comparable nature.
- 8.2 The Company warrants to The Client that:
- 8.2.1 It possesses the necessary skills to carry out the Services;
 - 8.2.2 the Services shall be performed in a timely and professional manner;
 - 8.2.3 it shall at all times endeavour to remain current with all technical knowledge required to render the Services.
- 8.3 The Company undertakes to:
- 8.3.1 comply with any reasonable requests from The Client from time to time in relation to the Services;
 - 8.3.2 ensure that The Company's personnel return all equipment allocated to them by The Client on termination of this Agreement, in substantially the same working condition in which it was when allocated to The Company's personnel, fair wear and tear excepted;
 - 8.3.3 prepare and submit (if so required or requested), in a reasonable format, up-to-date reports on the Services provided in terms of this Agreement; and
 - 8.3.4 implement appropriate measures to monitor service performance and compliance with this Agreement.

9. THE CLIENT'S RESPONSIBILITIES

- 9.1 The Client will be required to provide the following details to ensure the correct medicals are quoted and performed:
- 9.1.1 Provision of updated employee lists every quarter. Lists will include regional managers and their contact details.
 - 9.1.2 Availability for periodical meeting attendance, ideally every quarter or when requested.
 - 9.1.3 Provision of conference / meeting room and relevant amenities for presentation purposes (where required)
 - 9.1.4 Provision of relevant employee reports where Absenteeism, Incapacity and Disability cases are concerned.
 - 9.1.5 Sharing and participation in periodic surveys and content driven platforms for improvement of service offerings.
- 9.2 Employees must be booked in accordance with the Company's booking process, on the Company's prescribed booking form or electronic platform available, as soon as cases are identified.

- 9.3 Onsite Roadshows or Event must be booked at least 4 (four) weeks in advance. A minimum of 50% deposit must be paid upfront for the service.
- 9.4 The Company will accommodate the Client as far as possible should an urgent situation arise where the above timelines cannot be met. In such a case the Key Account Manager of the Company must be contacted to make the necessary arrangements and relevant adjusted costs that will apply.
- 9.5 The Company, may if applicable, accommodate the Client on weekends and public holidays should it be required taking into consideration that the above processes were followed.
- 9.6 Services on weekends/public holidays are subject to the availability of both the service providers and individuals requiring the service.
- 9.7 Services on weekends/public holidays are subject to additional charges.
- 9.8 Should the Client's employees arrive late on a weekend or public holiday or not arrive at all, a charge will be levied to compensate for the Company's employees overtime including any additional costs incurred.

10. **DOCUMENTATION/EQUIPMENT**

- 10.1 The Company will provide all required files and documents.
- 10.2 The format used remains the intellectual property of The Company .
- 10.3 All medical records of the Client's Employees will remain the property of the Client in line with POPIA.
- 10.4 The Client agrees that any unauthorised use or dissemination of any intellectual property belonging to the Company, including but not limited to any forms, agreements, documents, brochures, pamphlets, certificates and/or reports, amounts to plagiarism and is unlawful and could result in the Company taking measures against the Client to protect its intellectual property.
- 10.5 The Client will facilitate the making of photocopies at the Client's premises when medicals are performed at the client's premises.

11. **ACCOMODATION AND MEALS**

- 11.1 Should the Company staff be required to stay overnight to deliver services or conduct sessions, the costs for reasonable accommodation, travel, travel time and meals will be for the Client's account.
- 11.2 The Company will provide estimated costs prior to the commencement of the project and receive prior written approval from the Client for the Client for any amounts so spent.

12. **TRAVELING AND TOLL FEES**

- 12.1 Travelling will be charged per kilometre as per Annexure B for each Vehicle utilised by the Company to provide the service.
- 12.2 Out of city travel will be billed from point of departure to point of return, additional costs such as, car hire and accommodation may be incurred and rebilled to the Client.
- 12.3 Professional travel time will be charged according to the operational needs of the project.
- 12.4 In city travel is charged from base to base, which entails from the Company's office in Illovo, Boundary Place, 18 Rivonia Road, Sandton, Gauteng to the Client's required location and back (round trip) for Johannesburg.
- 12.5 The additional costs described in clause 11 and 12 will be payable by the Client to the Company within 7 days of invoice from the Company.

13. OUTSOURCING

- 13.1 In furtherance of the Services, The Company shall be entitled to outsource any aspect of the Services to any Third Party without the prior written consent of The Client.
- 13.2 The Company remains responsible for the performance of any of the Services in accordance with this Agreement notwithstanding the engagement of a Third Party, including any sub-contractors.

14. FEES AND COSTS

- 14.1 The agreed fees for services will be set out in Annexure B.
- 14.2 Any additional services required by the client will be quoted for on a request basis.
- 14.3 The Company will open a 30-day account upon approval of a completed credit application in addition to written acceptance of The Company's standard terms and conditions for credit.
- 14.4 Payment terms are strictly 30 (thirty) days from date of invoice.
- 14.5 Should the Client require order numbers, it will be the responsibility of The Client to issue such order numbers. The Company will, irrespective of any order number being received or not, submit an invoice by no later than the last working day of the month.
- 14.6 Should the Client require additional services not covered by the original order; an additional order number will be required to cover the additional expenses.
- 14.7 Upon acceptance of this Agreement, the Company will provide the Client with a template invoice. The Client is to provide the Company with a list of invoice requirements. Any deviations from this signed template without agreement by the parties will not be cause for any delay in making any payment/s.
- 14.8 The Company shall provide the Client with detailed invoices throughout the month as and when projects are completed.
- 14.9 In the event of a dispute regarding a cost or fee on an invoice, the rest of the invoice shall remain valid and payable, while the disputed amount will be temporarily withheld pending resolution.
- 14.10 In the event that this Agreement is terminated for whatsoever reason, The Company shall be entitled to be remunerated by The Client for the amounts due to The Company in terms of this Agreement.
- 14.11 The parties acknowledge that the costs associated with the performance of this contract may be subject to fluctuations due to various factors, including but not limited to inflation, legislative changes, necessary escalations, and third-party escalations related to inflation.
- 14.12 The fees may be subject to an annual adjustment based on the percentage increase, if any, in the Consumer Price Index (CPI) published by the South African Reserve Bank for the preceding calendar year. The adjustment shall be calculated by multiplying the initial Contract Price by the percentage change in the CPI.
- 14.13 In the event of any changes to applicable laws, regulations, or legislative measures that result in increased costs for the performance of this contract, the Company shall in good faith determine a fair and reasonable adjustment to the Fees.
- 14.14 These escalation clauses 14.10-14.12 shall apply throughout the term of the contract and any extensions thereof.

15. DISCOUNT BASED ON MINIMUM AGREED VOLUMES

- 15.1 Volume-based discounts may apply and will always be calculated off the rack rates applicable at that time. In the event that The Company agrees a discounted fee based on minimum agreed volumes and such volumes are not met by The Client, The Company reserves the right, in its own discretion, to invoice for the full amount of the applicable fee.

16. INTEREST

- 16.1 Where The Client fails to make timeous payment to The Company of any amount due and payable in terms of any invoice issued, or for any other amount due in terms of this Agreement on the date upon which payment is due (30 Days from receipt of invoice and prior to service delivery in the case of deposit based fees), then the Company shall charge interest on the outstanding balance at the Prime Rate plus 5%. Interest shall be compounded monthly from the due date for payment until the payment of the outstanding balance in full.

17. CONSISTENT LATE PAYMENT

- 17.1 The Client agrees to adhere to the payment terms specified in this agreement. Payments are due 30 days from the date of the invoice.
- 17.2 In the event that any payment due under this agreement is not received by the Company within the stipulated payment period, the Client shall be deemed to be in breach of contract, and the following provisions shall apply:
- 17.2.1 A late payment fee (stipulated in Annexure B) per month shall be applied to any outstanding amount for each day that the payment is overdue;
- 17.2.2 Should the Client fail to remedy the late payment within 10 Days after receiving the notice, the Company reserves the right to suspend or terminate services until all outstanding payments, including late fees, are settled; and
- 17.2.3 In addition to the late payment fee, the Client shall be liable to pay interest on the overdue amount at the rate of Prime +5%.

18. WARRANTIES

- 18.1 In addition to any warranties contained elsewhere in this Agreement, the Parties hereby warrant to and in favour of the other Party that, as at the Signature Date and for the duration of this Agreement:
- 18.1.1 it has full capacity and all necessary rights and consents to provide and receive the Services and enter into this Agreement.
- 18.1.2 this Agreement constitutes an agreement valid and binding on it and enforceable against it in accordance with its terms.
- 18.1.3 the execution of this Agreement and the performance of its obligations hereunder does not and shall not:
- 18.1.3.1 contravene any Applicable Law; or
- 18.1.3.2 conflict with, or constitute a breach of any of the provisions of any other agreement, obligation, restriction or undertaking which is binding on it;
- 18.1.4 it will observe and comply with all Applicable Laws in relation to the provision of the Services;
- 18.1.5 the Parties will not under any circumstances offer, promise or make any gift, payment, loan, reward, inducement, benefit or other advantage to any of the other Parties employees. Such an act will constitute a material breach of the Agreement and either Party will be entitled to terminate this Agreement forthwith, without prejudice to any of its other rights.
- 18.2 Each such warranty is:
- 18.2.1 a separate warranty and is in no way limited or restricted by inference to the terms of any other warranty; and
- 18.2.2 deemed to be material and to be a material representation inducing The Client to enter into this Agreement.

19. INDEMNIFICATION

- 19.1 Without any prejudice to any of the rights of either Party arising from any other provision of this Agreement, The Company indemnifies The Client and The Client indemnifies The Company in respect of all loss, liability, damage or expense which the aggrieved Party may suffer or incur as a result of or which may be attributable to:
- 19.1.1 any claims by governmental authorities or others for non-compliance by the defaulting Party with any Applicable Law provided that such compliance therewith was required for the execution of this Agreement;

19.1.2 any intentional or negligent acts, or omissions to act, of the defaulting Party;

19.1.3 any breach of this Agreement.

19.2 The defaulting Party shall, at the defaulting Party's own cost and expense, defend any action instituted by such third Party against the aggrieved Party. The aggrieved Party shall assist the defaulting Party by providing to the defaulting Party such information as the defaulting Party may require in order to defend any of the aforesaid proceedings instituted against the aggrieved Party.

19.3 The defaulting Party's obligation to indemnify the aggrieved Party will survive the termination of this Agreement by either Party for any reason.

19.4 In no event shall either of the Parties hereto be liable to the other for the payment of any consequential and indirect damages.

19.5 The client understands and is aware that the company will be providing investigative, medical and safety assessments, compliance, and other services, but cannot and does not provide any assurances or guarantees against existing or future medical or compliance failures or events of a similar nature.

19.6 The client shall at all times maintain current and comprehensive insurance cover in all respects, including but not limited to, policies related to professional indemnity, occupational health and safety claims, personal injury and illness related to employment

19.7 Notwithstanding any termination or expiration of this Agreement, the provisions stated above shall survive and continue to be binding upon the parties.

20. TERMINATION

20.1 Notwithstanding any other provision of this Agreement, The Client shall, at its sole election, be entitled to terminate this Agreement:

20.1.1 If The Company passes a resolution or commences business rescue proceedings (or a similar process under Applicable Laws);

20.1.2 if The Company is liquidated (whether provisionally or finally), or placed in business rescue;

20.1.3 if The Company is "financially distressed" within the meaning set out in section 128(1)(f) of the Companies Act, No. 71 of 2008;

20.1.4 if legal proceedings are commenced against The Company that is likely to substantially impair its ability to perform its obligations in terms of this Agreement, provided that notwithstanding any termination in this clause 20, and any other relevant provisions shall remain of full force and effect.

20.2 The obligations, covenants, representations, warranties, and indemnities in this agreement shall survive its termination or expiration for a period of 2 years except for claims related to fraud, willful misconduct, or intentional breach, which shall survive without limitation.

21. DATA PROTECTION AND CONFIDENTIALITY

21.1 The Parties agree to be bound by the provisions of the Data Protection Annexure D hereto.

21.2 It is recorded that The Company, by virtue of The Company's association with The Client, will become possessed of and will have access to the trade secrets and confidential information of The Client and in respect of which information is confidential or is commercially sensitive and which may not be readily available in the ordinary course of business to a competitor of The Client and which will or is reasonably likely to cause financial loss to The Client if disclosed to competitors or unauthorised persons.

21.3 If, on termination of The Company's appointment in terms of this Agreement for any reason whatever (including the lapsing of time), The Client's proprietary interests in its trade secrets may be prejudiced.

21.4 Having regard to the facts recorded in clauses 21.1 and 21.2 respectively, The Company undertakes, in favour of The Client, to keep all information disclosed confidential.

21.5 The provisions of clause 21.4 shall not apply to any information which –

21.5.1 is in the public domain other than by default of The Company;

21.5.2 is or had already been independently received by The Company;

21.5.3 is required to be disclosed by Applicable Law or the valid order of a court or any governmental or other regulatory authority or agency of competent jurisdiction, in which event The Company shall so notify The Client as promptly as practicable (and if possible prior to making any disclosure) and shall use the Service Provider's reasonable endeavours to seek confidential treatment of such information.

21.6 Notwithstanding any termination or expiration of this Agreement, the provisions stated above shall survive and continue to be binding upon the parties

22. FORCE MAJEURE

22.1 If either Party is prevented or restricted directly from carrying out all or any of its obligations or duties under this Agreement by a Force Majeure Event, this clause 20 shall apply.

22.2 If either Party is prevented or delayed in the performance of any of its obligations or duties under this Agreement, by a Force Majeure Event, then that Party shall within 5 (five) Business Days or sooner of that Party becoming aware of the Force Majeure Event, notify the other Party specifying the nature and extent of the circumstances giving rise to the Force Majeure Event.

22.3 The affected Party shall, subject to service of the notice under 22.2 to 22.5 hereof, have no liability in respect of the performance of such of its obligations or duties as are directly prevented by the Force Majeure Event(s) during the continuation of such event(s) and for such time after they cease, as is reasonably necessary for that Party to begin re-performing the affected obligation or duty.

22.4 The affected Party shall use all reasonable endeavours, both to notify the other Party of the end of the Force Majeure Event and to recommence its affected operations as soon as reasonably practicable in order for it to perform its obligations or duties under this Agreement.

22.5 The affected Party shall use all reasonable endeavours to bring the Force Majeure Event(s) to a close or to find a solution by which this Agreement may be performed despite the continuance of the Force Majeure Event.

22.6 The Parties agree that, should the Force Majeure Event last more than 2 (two) weeks, then the Party who has not issued a notice in terms of clause 22.2 to excuse any non-performance of its obligations or duties, may terminate this Agreement, by giving 3 (three) days' written notice to the other Party.

23. BREACH

23.1 A Party shall be in default if it:

23.1.1 fails to pay any amount due by it in terms of this Agreement, by the due date, and fails to remedy such breach within 7 (seven) Business Days of written notice to do so; or

23.1.2 commits a material breach of any other provision of this Agreement and fails to remedy such breach within 7 (seven) calendar days (or such period as may be reasonable in the circumstances) of a written notice to do so; or

23.1.3 commits an act of insolvency or is deemed unable to pay its debts within the ambit of Applicable Law.

23.2 If a Party is in default, the aggrieved Party shall be entitled, in addition to all other remedies to which it may be entitled in law or in terms of this Agreement, to terminate this Agreement.

24. NON-EXCLUSIVITY

24.1 This Agreement is non-exclusive, and nothing in this Agreement shall be construed to prevent either party from entering into similar agreements with other parties or from engaging in similar business relationships. Both parties acknowledge and agree that they are free to pursue business opportunities with third parties and are not restricted by the terms of this Agreement from doing so.

25. NON-SOLICITATION

- 25.1 The Client is prohibited from directly or indirectly offering employment to, or hiring, any current employee of the Company or any former employee who was previously employed by the Company during the term of this agreement and for a period of 24 months following the termination of this agreement.
- 25.2 If the Company chooses not to enforce the non-solicitation clause, the Company will provide written consent to exempt the client from the operation of the non-solicitation clause, subject to the client making a fair and reasonable compensation payment to the Company. This payment includes, but is not limited to
- 25.2.1 A recruitment fee of 37.5% of annual salary, exclusive of VAT, covering bonuses and incentives paid, along with all historical and existing training costs associated with each employee.
- 25.3 In such a scenario, the client is obligated to adhere to all relevant labour relations statutes and protocols, including but not limited to:
- 25.3.1 Undertaking a complete takeover of the employee, including all due benefits.
- 25.4 The Company reserves the right to retain healthcare professionals if the Company has an alternative placement opportunity for them within 30 days before the end of the contract term.
- 25.5 The Client must take all reasonable precautions to prevent any prejudice to the Company and indemnify the Company in all respects in such instances.
- 25.6 Notwithstanding any termination or expiration of this Agreement, the provisions stated above shall survive and continue to be binding upon the parties. The obligations, covenants, representations, warranties, and indemnities in this agreement shall survive its termination or expiration for a period of 2 years, except for claims related to fraud, wilful misconduct, or intentional breach, which shall survive without limitation.

26. EFFECTS OF TERMINATION

- 26.1 In the event that this Agreement is terminated as described herein each Party shall forthwith return to the other all papers, materials and other properties of the other then in its possession.
- 26.2 The Company waives all liens and rights of possession relating to the Services.
- 26.3 The Client's property supplied to The Company for the execution of this Agreement remains the property of The Client and will at any time be available for inspection by a The Client Representative. Any such property in the possession of The Company on completion of this Agreement will, at the Service Provider's expense, be returned to The Client forthwith.

27. DISPUTES

- 27.1 Any dispute between the Parties arising from or in connection with this Agreement or its termination shall in the first instance be referred to the respective chief executive officers of the Parties, failing whom, their respective equivalents or nominees ("CEOs/MDs").
- 27.2 Should the CEOs/MDs be unable to resolve the dispute within 7 (seven) days after the referral of the dispute to them, the dispute shall, if so requested by any Party be submitted to arbitration.
- 27.3 Any dispute arising from or in connection with this Agreement or its termination which has not been resolved pursuant to 25.1 shall be resolved through arbitration in accordance with the rules of the Arbitration Foundation of Southern Africa ("AFSA") (or such other rules as may be agreed in writing by the Parties). The Parties shall agree the identity of the arbitrator or, in the absence of agreement within three days of a request therefor by any Party, the arbitrator shall be appointed by AFSA (or such other Party as may be agreed to by the Parties). The arbitration shall be held in Johannesburg.
- 27.4 The Parties agree that the written request or demand by a Party in terms of this clause 27 that the dispute be submitted to mediation or arbitration is to be deemed to be a legal process for the purpose of interrupting extinctive prescription.
- 27.5 Notwithstanding anything to the contrary contained in this clause 27, neither Party shall be precluded from instituting any injunctive or similar proceedings in any appropriate court of competent jurisdiction and, if successful, being granted appropriate injunctive relief.

27.6 For the purposes of clause 25.4 and for the purposes of having any award made by the arbitrator being made an order of court, each of the Parties hereby submits itself to the non-exclusive jurisdiction of the High Court, seated in Johannesburg.

27.7 This clause 27 –

27.7.1 is severable from the rest of this Agreement and shall, notwithstanding the termination, cancellation, invalidity or alleged invalidity of this Agreement or any part of it for any reason, remain in full force and effect; and

27.7.2 constitutes an irrevocable consent by the Parties to any proceedings in terms hereof and neither Party shall be entitled to withdraw therefrom. For the purposes of this clause 27 "proceedings" shall include proceedings referred to in clause 27.4.

28. DOMICILIUM AND NOTICES

28.1 The Parties choose *domicilium citandi et executandi* ("domicilium") for all purposes of the giving of any notice, the payment of any sum, the serving of any process and for any other purpose arising from this Agreement, at the addresses on the cover page of the Agreement and on the below email addresses:

28.1.1 The Company

Email

28.1.2 The Client

Email

28.2 Each Party shall be entitled from time to time, by written notice to the other, to vary its domicilium to any other physical address within the RSA and/or its email address.

28.3 Any notice given and any payment made by a Party to another Party ("addressee") which is delivered by hand during the normal business hours of the addressee at the addressee's domicilium shall be rebuttable presumed to have been received by the addressee at the time of delivery.

28.4 Any notice given by a Party to the other Party by email shall be rebuttable presumed to have been received by the addressee on the date of successful transmission thereof.

28.5 Notwithstanding anything to the contrary in this clause 26, a written notice or other communication actually received by a Party shall be adequate notice to it notwithstanding that the notice was not delivered to its given domicilium.

29. APPLICABLE LAW

All matters arising from or in connection with this Agreement, its validity, existence or termination shall be determined in accordance with the laws for the time being of RSA, the Parties hereby submit to the non-exclusive jurisdiction of the High Court of South Africa, seated in Johannesburg.

30. GENERAL

30.1 This Agreement constitutes the sole record of the Agreement between the Parties in relation to its subject matter.

30.2 No Party shall be bound by any representation, warranty, promise or the like not recorded in this document.

30.3 No addition to, variation, novation or agreed cancellation of this Agreement shall be of any force or effect unless in writing and signed by or on behalf of the Parties.

30.4 No indulgence which a Party may grant to the other Party shall constitute a waiver of any of the rights of the grantor unless in writing signed by the Parties.

30.5 All costs, charges and expenses of any nature whatever which may be incurred by a Party in enforcing its rights in terms of this Agreement, including legal costs on the scale of attorney and own client and collection commission, irrespective of whether any action has been instituted, shall be recoverable on demand from the Party against which such rights are successfully enforced and shall be payable on demand.

Terms & Conditions

30.6 All provisions in this Agreement are, notwithstanding the manner in which they have been put together or linked grammatically, severable from each other. Any provision of this Agreement which is or becomes unenforceable in any jurisdiction, whether due to voidness, invalidity, illegality, unlawfulness or for any other reason whatsoever, shall, in such jurisdiction only and only to the extent that it is so unenforceable, be treated as *pro non scripto* and the remaining provisions of this Agreement shall be of full force and effect. The Parties declare that it is their intention that this Agreement would be executed without such unenforceable provisions if they were aware of such unenforceability at the time of its execution.

30.7 Notwithstanding any termination or expiration of this Agreement, the relevant provisions stated in this agreement shall survive and continue to be binding upon the parties. The obligations, covenants, representations, warranties, and indemnities in this agreement shall survive its termination or expiration for a period of 2 years, except for claims related to fraud, wilful misconduct, or intentional breach, which shall survive without limitation

31. COSTS

31.1 Each Party shall bear their own costs relating and incidental to the drafting, preparation and execution of this Agreement.

31.2 Save as otherwise in this Agreement, if either Party obtains its own independent advice in relation to any tax or regulatory issues pertaining to the transactions contemplated in this Agreement and/or the negotiation, drafting, preparation and execution of this Agreement, such Party shall bear its own fees and costs in relation to such advice.

Data Protection:

Definitions

- 1.1. **"Data Processing Conditions"** means the 8 (eight) statutory conditions for the lawful Processing of Personal Information, as listed in section 4(1) of the POPI Act and detailed in Part A of Chapter 3 of the POPI ACT.
- 1.2. **"Data Subject/s"** means the person/s to whom Personal Information relates.
- 1.3. **"Operator"** means a person who processes Personal Information for a Responsible Party in terms of a contract or mandate, without coming under the direct authority of that party.
- 1.4. **"Personal Information"** means any information used to identify a Data Subject and includes information related to:
 - 1.4.1. race, gender, sex, pregnancy, marital status, national, ethnic, or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language, and birth;
 - 1.4.2. education or the medical, financial, criminal or employment history;
 - 1.4.3. any identifying number, symbol, e-mail address, physical address, telephone, number, location information, online identifier, or other particular assignment;
 - 1.4.4. biometric information of the person;
 - 1.4.5. the personal opinions, views, or preferences of the person;
 - 1.4.6. correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
 - 1.4.7. views or opinions of another individual about the person; and
 - 1.4.8. name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person.
- 1.5. **"POPI ACT"** means the Protection of Personal Information Act No. 4 of 2013 (as amended).
- 1.6. **"Processing"** means any operation or activity, whether automatic or not, concerning Personal Information, including (i) collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation, or use; (ii) dissemination by means of transmission, distribution or making available in any other form; or (iii) merging, linking, as well as restriction, degradation, erasure, or destruction of information. "Process" and "Processed" shall have corresponding meanings.
- 1.7. **"Responsible Party"** means a public or private body or any other person which, alone or in conjunction with others, determines the purpose of and means for Processing Personal Information.
- 1.8. **"Security Incident"** means a situation where any party reasonably believes that there has been any unauthorised or unlawful use, access, acquisition, disclosure, accidental loss, destruction, or damage to Personal Information.

Parties Obligations

- 2.1. During the Initial Period and extended period, either Party may be provided with access or otherwise obtain Personal Information from the Responsible Party.
- 2.2. The Responsible Party shall take all reasonable steps to ensure that the Personal Information is complete, accurate, not misleading and updated.
- 2.3. The Operator acknowledges that the Agreement shall be subject to the requirements of this Annexure A together with the POPI ACT in relation to the Processing of any Personal Information of any Data Subject by an Operator as a result of or in connection with the Agreement, irrespective of where such Operator is located.
- 2.4. The Operator will take all appropriate steps to ensure that Personal Information is Processed in accordance with Data Processing Conditions.

- 2.5. Any Processing of Personal Information shall be for a specific, lawful purpose for a limited time period strictly in accordance with the Responsible Party's written instructions. The Operator may not carry out any related or further Processing activities for any other reason whatsoever without the express written consent of the Responsible Party, save that the Operator may carry out reasonable further Processing strictly in order to comply with an obligation imposed on it by law.
- 2.6. The Operator will, on request, comply with all instructions that the Responsible Party deems necessary so as to enable the Responsible Party to comply with its obligations under the POPI ACT.
- 2.7. Where either Party Processes Personal Information as an Operator on behalf of the other Party within the ambit of the Agreement, such party will:
- 2.7.1. perform a data protection risk assessment in order to identify data protection risks;
 - 2.7.2. Process such Personal Information only with the written instructions of the other Party, unless the Party is required by Applicable Laws to otherwise Process the Personal Information;
 - 2.7.3. treat Personal Information as strictly confidential in accordance with the provisions of the Agreement;
 - 2.7.4. not disclose or otherwise make available Personal Information to any third party (including subcontractors) other than authorised personnel or third parties who require access to such Personal Information strictly on a "need-to-know" basis in order for the Party to carry out their obligations under the Agreement;
 - 2.7.5. ensure that all the Party's personnel and any other persons having access to and/or Processing the Personal Information are bound by appropriate and legally binding confidentiality and non-use obligations in relation to the Personal Information on substantially the same terms and conditions as set forth in the Agreement;
 - 2.7.6. take appropriate technical measures to ensure that the integrity of the Personal Information in its possession or under its control is secure and protected against unauthorised or unlawful use, access, acquisition, disclosure, accidental loss, destruction, or damage (which measures may include, encryption, resilience testing of systems and regularly assessment of the effectiveness of implemented technical measures);
 - 2.7.7. provide reasonable evidence of compliance with the POPI ACT in the Processing of Personal Information;
 - 2.7.8. immediately comply with any lawful instruction by a Data Subject to delete Personal Information; and
 - 2.7.9. comply with the Responsible Party's auditing requirements in respect of the Processing of Personal Information or submit an independent auditor's report verifying that Personal Information is Processed within the ambit of the POPI ACT.

3. Cross-Border Data Transfer Agreement

3.1. No Personal Information in relation to the Agreement shall be transferred by the Operator across international borders without the prior written consent of the Responsible Party, and if granted, such transfer shall be conducted in accordance with Chapter 9 of the POPI ACT.

4. Incident Reporting

- 4.1. In the event of any Party having reasonable suspicion that a Security Incident has occurred, such Party shall:
- 4.1.1. promptly notify the other Party in writing immediately upon becoming aware of or having reasonable grounds to suspect the Security Incident;
 - 4.1.2. promptly provide a full investigative report along with the corrective action/s reasonably necessary to prevent a future recurrence of such violation or Security Incident;
 - 4.1.3. at its cost, take all necessary and reasonable steps to mitigate the extent of the loss or compromise of Personal Information and, if applicable, to restore the integrity of the affected information systems as quickly as possible;
 - 4.1.4. furnish the other Party with details of the Data Subject/s affected by the compromise and the nature and extent of the compromise; provide the other Party with a report on its progress in resolving the compromise at reasonable intervals until such time as the compromise is resolved; and
 - 4.1.5. consult with the other Party and where required by law, notify appropriate authorities.

5. Access Requests to Personal Information

- 5.1. In the event that The Company is required to disclose any Personal Information by law, regulation or court order, The Company will promptly notify The Client in writing (unless prohibited by law): (i) any requests from an individual with respect to Personal Information and shall not respond to any such requests unless expressly authorised to do so by The Client; or (ii) any complaint relating to the processing of Personal Information including, but not limited to, allegations that the processing infringes an individual's rights under the POPI ACT.
- 5.2. The Company will take such steps to limit the extent of the disclosure to the extent that it lawfully and reasonably practically can and will afford The Client a reasonable opportunity, if possible and permitted, to intervene in the proceedings.

6. Retention, Return or Disposal of Personal Information

- 6.1. The Company may not retain a record of Personal Information longer than is necessary for achieving the purpose for which the information was Processed, unless such retention is: (i) required by law; (ii) reasonably required for a lawful purpose related to the Service Provider's functions or activities; (iii) required by a contract between the parties; or (iv) for reasons of historical, statistical or research purposes with The Client's prior written consent provided that appropriate safeguards have been established to safeguard the Personal Information.
- 6.2. Upon expiry or termination of the Agreement for any reason whatsoever, The Company shall immediately cease handling Personal Information and return the Personal Information in a manner and format reasonably requested by The Client, or if specifically instructed to do so, immediately destroy or permanently delete all forms of Personal Information in its possession, power and/or control and provide The Client with a return or permanent destruction certificate.
- 6.3. If The Company disposes of any paper, electronic or other record containing Personal Information, The Company shall do so by taking all reasonable steps (based on the sensitivity of the information) to destroy the Information by: (a) shredding; (b) permanently erasing and deleting; or (c) otherwise modifying the Personal Information in such records to make it unreadable, or permanently indecipherable.