**SERVICE AGREEMENT IN RESPECT OF THE PROVISION OF**

**MEDICAL AID BROKERAGE SERVICES**

Between

**THE SOUTH AFRICAN REVENUE SERVICE**, an organ of state within the public administration but outside the public service established in terms of Section 2 of the South African Revenue Service Act 1997 (Act No. 34 of 1997).

**(“SARS”)**

and

**[TO BE ADDED]**, a company incorporated in accordance with the Laws of South Africa with registration number [**TO BE ADDED**]

**(“The Service Provider”)**

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1. **INTERPRETATION**
   1. The head notes to the Clauses of this Agreement are for reference purposes only and will not govern or affect the interpretation of nor modify nor amplify the terms of this Agreement.
   2. Unless inconsistent with the context, the words and expressions have the following meanings and similar expressions will have corresponding meanings:
      1. “**Agreement**” means this Agreement and the annexures hereto;
      2. **“Applicable Law”** means any of the following to the extent applicable to the Service Provider , and where applicable, to SARS or the Services-
2. Any statute, regulation, policy, by-law, ordinance or subordinate legislation;
3. The common law;
4. Any binding court order, judgment or decree;
5. Any applicable industry code of conduct, policy or standard enforceable by law;
6. Any applicable direction, policy or order that is given by a regulatory authority; and Service level agreements between the service provider and relevant medical aid schemes.
   * 1. “**Authorised Representative**” mean signatories authorised by SARS and the Service Provider to sign the Agreement;
     2. “**Business Day**” means any day other than a Saturday, Sunday or public holiday in South Africa;
     3. “**Commencement Date**” means **[TO BE ADDED]**  notwithstanding the date of the signing of this Agreement;
     4. “**Commercially Reasonable Efforts**” means taking such steps and performing in such a manner as a well-managed company would where such company was acting in a prudent and reasonable manner to achieve the particular result for its own benefit, provided always that such steps are within the reasonable control of the Party;
     5. “**Parties**” means SARS and the Service Provider and “party” as the context requires, is a reference to any one of them;
     6. “**RFP 16/2016**” subject to any contrary indication refers to SARS’s invitation to tender for the provision of medical aid brokerage services dated **[TO BE ADDED]** , which is incorporated herein by reference thereto;
     7. “**SARS**” means the **SOUTH AFRICAN REVENUE SERVICE**, an organ of state established in terms of the South African Revenue Service Act, 1997 (Act No. 34 of 1997), with its principal address at **Lehae La SARS, 299 Bronkhorst Street, Nieuw Muckleneuk, PRETORIA**;
     8. “**Services**” means the medical aid brokage services (“the Services”) as contemplated in **RFP16/2016** and set out in **Annexure A**;including functions or responsibilities not specifically mentioned herein but which are reasonably and necessarily required for the proper performance and provision of the Services;
     9. “**Termination Date**” means **[TO BE ADDED]**;

* + 1. “**The Service Provider**” means **[TO BE ADDED**], a company incorporated in accordance with the Laws of South Africa with registration number **[TO BE ADDED]**; and
    2. “**VAT**” means Value-Added Tax levied in terms of the Value-Added Tax Act, 1991 (Act No. 89 of 1991).
  1. Any reference in this Agreement to:
     1. a “**Clause**” shall, subject to any contrary indication, be construed as a reference to a Clause hereof;
     2. “**Law**” shall be construed as any law (including common or customary Law), or statute, constitution, decree, judgment, treaty, regulation, directive, by-law, order or any other legislative measure of any government, local government, statutory or regulatory body or court; and
     3. a “**Person**” refers to any person, firm, company, corporation, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the foregoing.
  2. Unless inconsistent with the context or save where the contrary is expressly indicated -
     1. if any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, notwithstanding that it appears only in the definition Clause, effect shall be given to it as if it were a substantive provision of this Agreement;
     2. 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 day which is not a Business Day, in which case the last day shall be the next succeeding Business Day;
     3. in the event that the day for payment of any amount due in terms of this Agreement should fall on a day which is not a Business Day, the relevant day for payment shall be the subsequent Business Day;
     4. in the event that the day for performance of any obligation to be performed in terms of this Agreement should fall on a day which is not a Business Day, the relevant day for performance shall be the subsequent Business Day;
     5. any reference in this Agreement to an enactment is to that enactment as at the signature date and as amended or re-enacted from time to time;
     6. any reference in this Agreement to this Agreement or any other Agreement or document shall be construed as a reference to this Agreement or, as the case may be, such other Agreement or document as same may have been, or may from time to time be, amended, varied, negotiated or supplemented;
     7. no provision of this Agreement constitutes a stipulation for the benefit of any Person who is not a Party to this Agreement;
     8. references to day/s, month/s or year/s shall be construed as calendar day/s, month/s or year/s; and
     9. a reference to a Party includes that Party’s successors-in-title and permitted assigns.
  3. Unless inconsistent with the context, an expression which denotes-
     1. any one gender includes the other gender; and
     2. the singular includes the plural and *vice versa*.
  4. Where any term is defined within the context of any particular Clause in this Agreement, the term so defined, unless it is clear from the Clause in question that the term so defined has limited application to the relevant Clause, shall bear the same meaning as ascribed to it for all purposes in terms of this Agreement, notwithstanding that that term has not been defined in such Clause.
  5. The termination of this Agreement will not affect the provisions of this Agreement which operate after any such termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the Clauses themselves do not expressly provide for this.
  6. This Agreement is binding on the executors, administrators, trustees, permitted assigns or liquidators of the Parties as fully and effectually as if they had signed this Agreement in the first instance and reference to any Party is deemed to include such Party’s estate, heirs, executors, administrators, trustees, permitted assigns or liquidators, as the case may be.
  7. Where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.

* 1. None of the provisions hereof shall be construed against or interpreted to the disadvantage of the Party responsible for the drafting or preparation of such provision.

1. **APPOINTMENT**

* 1. SARS issued a tender for the provision of the Services.
  2. SARS hereby appoints the Service Provider to render the Services, which appointment the Service Provider accepts.
  3. The performance of the Services shall be subject to the terms and conditions contained in this Agreement.
  4. The Service Provider represents that it has and warrants that throughout the duration of this Agreement it shall have the resources, skills, qualifications and experience necessary to provide the Services.

1. **DURATION**

* 1. This Agreement commences on **[TO BE ADDED]** continues in full force and effect until **[TO BE ADDED]**,

1. **FEES**
   1. The Parties specifically records herein that no fees are payable by SARS for the rendering of the Services;
   2. The Service Provider will recover any broker fees from the relevant SARS’ accredited medical aid schemes as provided for in terms of the provisions of the Medical Aid Schemes Act, 1998 ( Act 131 of 1998).
2. **SARS’S OBLIGATIONS**
   1. SARS undertakes to:
      1. Nominate a representative who will be responsible for managing the delivery of the Services by the Service Provider, including but not limited to-
         1. Acting as a central point of contact between SARS and the Service Provider;
         2. Authorising the Service Provider to start with the Services;
         3. Convening meetings with the Service Provider; and
   2. If required by the Service Provider, furnish the Service Provider with any relevant information, which is necessary for the Service Provider to perform the Services in compliance with the terms and conditions of this Agreement.
3. **THE SERVICE PROVIDER’S OBLIGATIONS**

* 1. During the currency of this Agreement, the Service Provider shall-
     1. Render the Services to SARS in terms of this Agreement;
     2. Nominate a representative who shall be referred to as the account executive and shall be responsible for the day to day management of the delivery of Services and resolution of any disputes in terms of this Agreement;
     3. Ensure that its personnel and consultants devote such time, attention and skill in performing the Services as may be reasonably required for the proper discharge of its duties under this Agreement;
     4. Assign suitably qualified and skilled personnel to provide the Services in terms of this Agreement, and where relevant ensure that such personnel is properly registered with the appropriate authorities and remain so registered for the term of this Agreement;
     5. Ensure that its personnel observe confidentiality and do not use any information obtained pursuant to this bid for any reason other than for reasons envisaged in this bid and subsequent agreement;
     6. Render the Services to SARS in accordance with the highest professional standards; and,
     7. Comply with Applicable Law.

1. **INTELLECTUAL PROPERTY RIGHTS**

Subject to **Clause 8** below, each Party shall retain all right, title and interest, in and to its processes, designs, drawings, specifications, formulae, databases, algorithms, models, methods, know-how, techniques, concepts, ideas, documents or other tools (“Intellectual Property”).

1. **COPYRIGHT IN MATERIAL**

Subject to third party or pre-existing Intellectual Property rights of the Service Provider, any available copyright in the reports and documentation produced by the Service Provider in rendering the Services pursuant to this Agreement shall vest in SARS.

1. **CONFIDENTIAL INFORMATION**
   1. The Service Provider undertakes that for the duration of this Agreement and after the expiration or earlier termination of this Agreement for any reason, it will keep confidential all proprietary information, including any trade secrets and/or all information of a confidential nature which SARS from time to time communicates to the Service Provider, its agents and/or its employees. This includes the knowledge acquired by the Service Provider, its agents and/or its employees as a result of the work to be performed by the Service Provider in terms of this Agreement and which by its nature, is intended to be kept confidential.
   2. If the Service Provider is uncertain about whether information is to be treated as confidential in terms of this **Clause 0**, it shall be obliged to treat it as such until clearance is obtained, in writing, from SARS.
   3. The Service Provider shall ensure that prior to commencing the performance of the Services, all its personnel involved in the rendering of such Services shall sign the ***SARS Oath of Secrecy*** and submit the original thereof to SARS for record keeping purposes.
   4. For purposes of this Agreement, the expression “proprietary information and confidential information of SARS” shall include, but shall not be limited to, the technical detail, programme content, techniques, know-how, methods of operating, costs, training courses, taxpayer information and names of clients and/or potential clients with whom SARS has not yet contracted but intends contracting for purposes of establishing business relationships to which the Service Provider may become privy during the contract term. It further includes SARS Confidential Information and Taxpayer Information as defined in Chapter 6 of the Tax Administration Act, 2011 (Act No. 28 of 2011), as well as any information required to be kept confidential by any other tax Act administered by the Commissioner for SARS.
   5. The Parties agree that all trade and professional secrets and other secrets or confidential information or methods of work supplied by the one Party to the other shall not be disclosed to any third party without first obtaining the written consent of the other Party.
   6. Where a Party is threatened with legal action to disclose the confidential information of the other Party, such Party shall give the other Party written notice of such legal action within five (5) days of receipt of the threatened legal action. The Party shall together with the notice referred to above, deliver to the other Party all documentation received or submitted in connection with the threatened legal action.
   7. The Service Provider shall not remove from SARS’s premises any documents nor materials relating to the Services or SARS’s business without first obtaining the written consent of SARS.
   8. The provisions of this Clause shall survive the termination or cancellation of this Agreement for any reason whatsoever.
2. **SECURITY VETTING OF THE SERVICE PROVIDER’S RESOURCES**
   1. SARS reserves the right at its sole and absolute discretion to perform a security check (vetting) on the Service Provider’s personnel involved with the performance of the Services.
   2. Where SARS establishes a Service Provider’s employee or agent to be a security risk, SARS will inform the Service Provider accordingly and the Service Provider shall replace such employee or agent with another employee or agent with similar or equal qualification(s) and experience.
3. **LIABILITY OF THE PAR****TIES**
   1. The Service Provider shall be liable to SARS for any actual damages incurred by SARS as a result of the Service Provider’s failure to perform its obligations in the manner required by this Agreement.
   2. The Service Provider shall further be liable to SARS for all indirect and consequential or special damages and/or losses suffered by SARS as a result of the Service Provider’s breach of **Clause 0** above, infringement of a third party’s intellectual property rights or any criminal or delictual act committed by the Service Provider or employees of the Service Provider.
4. **WARRANTIES**
   1. The Service Provider hereby represents and warrants to SARS that-
      1. this Agreement has been duly authorised and executed by it and constitutes a legal, valid and binding set of obligations on it-
      2. it is acting as a principal and not as an agent of an undisclosed principal;
      3. the execution and performance of the terms and conditions of this Agreement does not constitute a violation of any statute, judgment, order, decree or regulation or rule of any court, competent authority or arbitrator or competent jurisdiction applicable or relating to the Service Provider, its assets or its business, or its memorandum of incorporation, or any other documents or any binding obligation, contract or agreement to which it is a party or by which it or its assets are bound; and
      4. it has the capacity to timeously deliver the Services, time being of the essence.
   2. It is expressly agreed between the Parties that each warranty and representation given by the Service Provider in this Agreement is material to this Agreement and induced SARS to conclude this Agreement.
   3. The provisions of this Clause shall survive the termination of this Agreement.

1. **INDEMNITIES**

* 1. The Service Provider shall –
     1. on or before the Commencement Date and for the duration of this Agreement have and maintain in force adequate professional insurance coverage, to cover any claims, losses and/or damages for which it may be liable in terms of this Agreement;
     2. at SARS’s request and within two (2) days of such request, provide SARS with a copy of the aforementioned insurance policy;
     3. update and/or amend the policy as requested by SARS, including increasing the amount of cover provided in such policy, subject to mutual agreement between the Parties; and

* + 1. indemnify and hold SARS harmless against all losses, claims, demands, proceedings, damages, costs, charges and expenses (including reasonable legal expenses) of whatsoever nature arising out of this Agreement or at Law in respect of the Service Provider’s breach of the provisions of this Agreement, or injury or death of any person or loss of or damage to property occurring by reason of the Service Provider, its employees or agents’ wilful conduct or negligence during or after the execution of the Services.

1. **BREACH**

* 1. A Party (the “Aggrieved Party”) may terminate this Agreement with immediate effect if the other Party (the “Defaulting Party”) commits a material breach of this Agreement and fails to remedy such breach within ten (10) Business Days (the “Notice Period”) of being notified of the breach.
  2. For the purposes of **Clause 14.1,** a breach will be deemed to be a material breach if –
     1. it is capable of being remedied, but is not so remedied within the Notice Period; or
     2. it is incapable of being remedied or is not remedied within the Notice Period and/or if payment in money would compensate for such breach but such payment is not made within the Notice Period.

1. **TERMINATION FOR CAUSE**
   1. SARS may immediately terminate this Agreement at any time by giving written notice of such termination to the other Party if –
      1. the Service Provider is placed under voluntary or compulsory liquidation (whether provisional or final) or under business rescue proceedings as contemplated in Chapter 6 of the Companies Act, 2008 (Act No. 71 of 2008) or under curatorship or under the equivalent of any of the aforegoing;
      2. a final judgement against the Service Provider remains unsatisfied for a period of ten (10) Business Days or more after it comes to the notice of the Service Provider; and/or
      3. the Service Provider makes any arrangement or compromise with its creditors generally or ceases to carry on business.
   2. Any termination of this Agreement pursuant to the provisions of this **Clause 15** shall be without prejudice to any claim which either Party may have in respect of any prior breach of the terms and conditions of this Agreement by the other Party.
2. **FORCE MAJEURE**
   1. In the event of any act beyond the control of the Parties, strike, war, warlike operation, rebellion, riot, civil commotion, lockout, fire, accident, or (without regard to the foregoing enumeration) of any circumstances arising or action taken beyond the reasonable control of the Parties hereto preventing them or any of them from the performance of any obligation hereunder (any such event hereinafter called a “*force majeure* event”) then the Party affected by such *force majeure* event shall be relieved of its obligations hereunder during the period that such *force majeure* event continues.
   2. The affected Party’s relief is only to the extent so prevented and such Party shall not be liable for any delay or failure in the performance of any obligations hereunder or loss or damage which the other Party may suffer due to or resulting from the *force majeure* event, provided always that a written notice shall be promptly given of any such inability by the affected Party.
   3. Any Party invoking *force majeure* shall upon termination of such *force majeure* event give prompt written notice thereof to the other Party. Should the *force majeure* event continue for a period of more than thirty (30) days, then either Party has the right to cancel this Agreement.
   4. In the event that the Service Provider is for any reason other than as provided for in this Clause unable to provide the Services for the full duration of this Agreement –

* + 1. the Service Provider shall serve SARS with a written notice requesting an extension of the duration of this Agreement at least seven (7) Business Days prior to the end of the duration of this Agreement; and
    2. SARS shall consider the request and revert to the Service Provider by no later than five (5) Business Days from date of receipt of the notice referred to in **Clause 0**.
  1. The provisions of **Clause 16.4** above do not in any way entitle the Service Provider to an extension of this Agreement.

1. **RELATIONSHIP BETWEEN THE PARTIES**
   1. The Service Provider is an independent contractor and under no circumstances will it be a partner, joint venture partner, agent or employee of SARS in the performance of its duties and responsibilities pursuant to this Agreement.
   2. All personnel used by the Service Provider will be the Service Provider’s employees, contractors, or agents, and the entire management, direction and control of all such persons will be and remain the responsibility of the Service Provider.
   3. The Service Provider hereby warrants and undertakes to comply with all legislation relating to the employment relationship between the Service Provider and its employees, more specifically, it warrants that it will not commit any contravention(s) of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997), other labour legislation or any collective bargaining agreements and hereby fully indemnifies SARS against all legal consequences of any nature whatsoever which arise in connection with such non-compliance.
2. **DISPUTE RESOLUTION**
   1. If a dispute between the Parties arises out of or is related to this Agreement, the Parties shall meet and negotiate in good faith to attempt to resolve the dispute. If, after ten (10) Business Days from the date upon which the dispute was declared by a Party by written notice, the dispute is not resolved, the matter shall be determined in accordance with the provisions set out below.
   2. Save in respect of those provisions of this Agreement which provide for their own remedies which would be incompatible with arbitration, or in the event of either Party instituting urgent action against the other in any court of competent jurisdiction, any dispute arising from, or in connection with, this Agreement will finally be resolved by arbitration in accordance with the Rules of the Arbitration Foundation of Southern Africa (the “Foundation”) or its successor, by an arbitrator or arbitrators appointed by the Foundation.
   3. This **Clause 18** will be severable from the rest of the provisions of this Agreement so that it will operate and continue to operate notwithstanding any actual or alleged voidness, voidability, unenforceability, termination, cancellation, expiry or accepted repudiation of this Agreement.
3. **ADDRESSES**
   1. Each Party chooses the address set out below its name as its address 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.
   2. SARS’s physical address for service of notices and legal processes:

**The Group Executive: Corporate Legal Services**

**Khanyisa Building**

**281 Middel Street**

**Nieuw Muckleneuk**

**PRETORIA**

* 1. SARS’s email address for communications and/or correspondences in connection with the performance of the Services: Colette Jordaan [CJordaan3@sars.gov.za](mailto:CJordaan3@sars.gov.za).
  2. The Service Provider’s physical address for service of notices and legal processes:

**[TO BE ADDED]**

* 1. Any notice or communication required or permitted to be given to a Party pursuant to the provisions of this Agreement shall be valid and effective only if in writing and sent to a Party’s chosen address, provided that documents in legal proceedings in connection with this Agreement may only be served at a Party’s physical address*.*
  2. Any Party may by written notice to the other Parties, change its chosen address to another address, provided that-
     1. the change shall become effective on the tenth (10th) Business Day after the receipt or deemed receipt of the notice by the addressee; and
     2. any change in a Party’s *domicilium* shall only be to an address in the Republic of South Africa, which is not a post office box or a *poste restante.*
  3. Any notice to a Party contained in a correctly addressed envelope and sent by prepaid registered post to it at a Party’s chosen address shall be deemed to have been received on the fifth (5th) Business Day after posting.
  4. Any notice to a Party in a correctly addressed envelope and which is delivered by hand at a Party’s chosen address shall be deemed to have been received on the day of delivery, unless the contrary is proved.
  5. The Parties record that whilst they may correspond via email during the currency of this Agreement for operational reasons, no formal notice required in terms of this Agreement, nor any amendment or variation to this Agreement may be given or concluded via email.

1. **GENERAL**
   1. **No Assignment Without Consent**

Neither Party shall be entitled to assign, cede, sub-contract, delegate or in any other manner transfer any benefit, rights and/or obligations in terms of this Agreement, without the prior written consent of the other Party, which consent shall not be unreasonably withheld.

* 1. **Subcontracting**
     1. Subject to Applicable Law, the Service Provider shall not without the prior written consent of SARS, which consent shall not be unreasonably withheld, subcontract any of the Services required in terms of this Agreement to any third party. It is expressly recorded that SARS will not approve a proposed subcontracting if, in the exclusive judgment of SARS, the subcontracting will result in prejudice or potential prejudice to other service providers.
     2. Whenever the Service Provider wishes to subcontract any part of the Services in terms hereof, the Service Provider shall submit, together with its request as set out in **Clause 20.2.1** above,a complete written proposal for SARS’s approval containing-
        1. Full details and business references of the subcontractor;
        2. A full description of the part of the Services it proposes for subcontracting;
        3. Full details of how the Service Provider will manage the performance of the Services by the subcontractor;
        4. The value of the contract proposed to be subcontracted, expressed as a percentage;
        5. The B-BBEE status and certificate of the subcontractor; and
        6. A Tax Clearance Certificate of the subcontractor.
     3. Notwithstanding the provisions of this **Clause 20.2** the Service Provider shall remain the only Party wholly responsible for the due performance of its obligations in terms of this Agreement and compliance with the terms and conditions thereof.
     4. Subject to the provisions of **Clause** **20.2.1 above**, the Service Provider shall ensure that a subcontracting agreement entered into between the Service Provider and the subcontractor binds the subcontractor to the terms and conditions of this Agreement.
     5. Nothing contained herein shall create a contractual relationship between SARS and the subcontractor.
  2. **No Sale, Acquisition, Merger or Change of Control**
     1. In the event of a sale, acquisition, merger, or other change of control of the Service Provider (a “Change Event”), where such Change Event is achieved, directly or indirectly, in a single transaction or series of related transactions, or in the event of a sale of all or substantially all of the assets of the Service Provider in a single or series of related transactions, then, at any time within sixty (60) days after being notified by the Service Provider of the last of such events to occur, SARS may terminate this Agreement by giving the Service Provider sixty (60) days’ written notice and designating a date upon which such termination shall be effective.
     2. The Service Provider shall notify SARS if there is any Change Event within ten (10) days after becoming aware of the anticipated Change Event.
     3. No sale, acquisition, merger or other change of Control shall be effective against and legally binding on SARS if the prior written consent of SARS was not obtained.
     4. SARS shall have no liability to the Service Provider with respect to termination of the Agreement in terms of this Clause.

* + 1. “Control” in terms of this Clause shall mean, with regard to any entity, the right or power to dictate the management of and otherwise control such entity by any of:
       1. holding directly or indirectly the majority of the issued share capital or stock (or other ownership interest if not a corporation) of such entity ordinarily having voting rights;
       2. controlling the majority of the voting rights in such entity; or
       3. having the right to appoint or remove directors holding a majority of the voting rights at meetings of the board of directors of such entity.
  1. **Severability**

Should any of the terms and conditions of this Agreement be held to be invalid, unlawful or unenforceable, such terms and conditions shall be severable from the remaining terms and conditions which shall continue to be valid and enforceable. If any term or condition held to be invalid is capable of amendment to render it valid, the Parties agree to negotiate an amendment to remove the invalidity.

* 1. **Advertising and Marketing**

The Service Provider shall not make or issue any formal or informal announcement (with the exception of Stock Exchange announcements), advertisement or statement to the press in connection with this Agreement or otherwise disclose the existence of this Agreement or the subject matter thereof to any other person without the prior written consent of SARS.

* 1. **Waiver**

No change, waiver or discharge of the terms and conditions of this Agreement shall be valid unless in writing and signed by an Authorised Representative of the Party against which such change, waiver or discharge is sought to be enforced, and any such change, waiver or discharge will be effective only in the specific instance and for the purpose given. No failure or delay on the part of either Party hereto in exercising any right, power or privilege under this Agreement will operate as a waiver thereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof, or the exercise of any other right, power or privilege.

* 1. **No Withholding of Consents**

Except where expressly provided as being in the sole discretion of a Party; where agreement, approval, acceptance, consent, or similar action by either Party is required under this Agreement, such action shall not be unreasonably delayed or withheld. An approval, acceptance, consent or similar action by a Party under this Agreement (including in respect of a plan) shall not relieve the other Party from the responsibility of complying with the requirements of this Agreement, nor shall it be construed as a waiver of any rights under this Agreement, except as and to the extent otherwise expressly provided in such approval, acceptance or consent.

* 1. **Authorised Signatories**

The Parties agree that this Agreement and any contract document concluded in terms hereof shall not be valid unless signed by the Authorised Representatives of the Parties.

* 1. **Counterparts**

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same Agreement as at the date of signature of the Party last signing one of the counterparts. The Parties undertake to take whatever steps may be necessary to ensure that each counterpart is duly signed by each of them without delay.

* 1. **Applicable Law**

This Agreement will be governed by and construed in accordance with the Laws of the Republic of South Africa.

* 1. **Whole Agreement and Amendment**

This Agreement constitutes the whole of the Agreement between the Parties relating to the subject matter hereof and no amendment, alteration, addition, variation or consensual cancellation will be of any force or effect unless reduced to writing and signed by the Parties hereto or their duly Authorised Representatives. Any document executed by the Parties purporting to amend, substitute or revoke this Agreement or any part hereof, shall be titled an “Addendum” and assigned a sequential letter to be included in the title.

* 1. **Covenant of Good Faith**

Each Party agrees that, in its respective dealings with the other Party under or in connection with this Agreement, it shall act in good faith.

* 1. **Costs**

Each Party shall bear and pay its own costs of or incidental to the drafting, preparation and conclusion of this Agreement.

1. **JURISDICTION**

The Parties hereby irrevocably and unconditionally consent to the non-exclusive jurisdiction of the High Court of the Republic of South Africa (Gauteng Division, Pretoria), in regard to all matters arising from this Agreement.

1. **TAX COMPLIANCE**
   1. The Service Provider represents and warrants that as of the Commencement Date of this Agreement, the Service Provider is and will remain compliant throughout the duration thereof with all Applicable Laws relating to tax in the Republic of South Africa.
   2. In addition to the above, the Service Provider shall not later than one (1) month after the validity of the tax clearance certificate submitted to SARS has lapsed submit to the Group Executive: Procurement a valid tax clearance certificate that evidences the tax compliance of the Service Provider for the remainder of the Agreement term.
   3. A failure to provide a valid tax clearance certificate or a failure to comply with the provisions of this Clause will constitute a material breach and will entitle SARS to terminate the Agreement forthwith.
2. **BROAD-BASED BLACK ECONOMIC EMPOWERMENT**

* 1. The Service Provider acknowledges that Broad-Based Black Economic Empowerment is a business and social imperative in order to achieve a non-racial, non-sexist and equitable society in South Africa.
  2. In pursuance of this objective the Service Provider commits and warrants to comply in all respects with the requirements of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003) (hereafter referred to as the B-BBEE Act) as will be amended from time to time, and the Codes of Good Practice issued in terms of the B-BBEE Act.
  3. Upon signature of this Agreement and one (1) month after the expiry of a current certificate for a particular year, the Service Provider shall provide SARS with a certified copy of its BEE Certificate and rating status from an agency accredited by the South African National Accreditation System.
  4. During the currency of this Agreement (including any extension or renewal hereof which may apply), the Service Provider shall remain BEE Compliant, failing which it must provide written confirmation from a verification agent that it is in the process of being rated.
  5. A failure to provide a certified copy of its BEE rating status or a failure to comply with provisions of this Clause will entitle SARS to terminate the Agreement by giving the Service Provider one (1) month's written notice.

1. **CONFLICT OF INTEREST**
   1. Neither the Service Provider nor the Service Provider’s personnel shall have any interest or receive any remuneration in connection with the performance of the Services, except as provided for in this Agreement.
   2. The Service Provider must at all times act impartially and ethically, and where applicable, act in accordance with the code of ethics / conduct of its profession.
   3. The Service Provider must not have or undertake duties or interests that create or might reasonably be anticipated to create an actual or perceived conflict with its duties and interests in executing this Agreement. The Service Provider must have systems in place to identify potential conflicts and to bring them to the attention of SARS.
   4. The Service Provider warrants that there are no contracts, restrictions or other matters which would interfere with its ability to discharge its obligations under this Agreement. If, while executing its duties and responsibilities under this Agreement, the Service Provider becomes aware of any potential or actual conflict between its interests and those of SARS, the Service Provider shall immediately inform SARS. Where SARS forms the view that such a conflict does or could exist, it may direct the Service Provider to take action(s) to resolve that conflict, and the Service Provider shall comply with that instruction.

**SIGNED AT PRETORIA**

**As representatives for the South African Revenue Service**

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| **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **Susan Visser**  **Executive: HR: Payroll Administration**  **Date of signature:** | **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **Noxolo Ngubo**  **Senior Manager: Procurement**  **Date of signature:** |

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| **As representative for the Service Provider**  **SIGNED AT \_\_\_\_\_\_\_\_\_\_ON THIS \_\_\_\_DAY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_2016.** |
| **Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **Full Names And Surname: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **Capacity: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |