

**SERVICES AGREEMENT IN RESPECT OF THE APPOINTMENT OF A SERVICE  
PROVIDER FOR THE PROVISION OF JOB EVALUATION SERVICES AND  
TRAINING OF THE JOB EVALUATION OVERSIGHT COMMITTEE MEMBERS**

Between

**SOUTH AFRICAN REVENUE SERVICE**

An Organ of State established in terms of section 2 of the South African Revenue  
Service Act, 1997 (Act No. 34 of 1997)

(hereinafter referred to as “**SARS**”)

and

**(TO BE ADDED)**, a company incorporated in accordance with the laws of South  
Africa  
(Registration number: **XXX**)

(herein represented by its authorised representative who warrants that s/he is duly  
authorised to do so)

(hereinafter referred to as “**the Service Provider**”)

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### ANNEXURES:

A	-	PRICING SCHEDULE
B	-	SERVICE LEVELS AND PENALTY SCHEDULE
C	-	PERSONAL INFORMATION PROCESSING ADDENDUM

## 1. INTRODUCTION

- 1.1 SARS invited proposals for the appointment of a Service Provider to conduct job evaluation of all new and significantly changed jobs at all levels and to provide job evaluation training for the Job Evaluation Oversight Committee ("JEOC") members, as and when required, for a period of 5 (five) years through Request for Proposal No. **40/2025 ("RFP")** as more fully described therein.
- 1.2 The purpose of this assignment is to:
- (a) Provide independent and expert job evaluation services using a recognised and validated job evaluation methodology; and
  - (b) Ensure equity, consistency and transparency in the grading of all roles. Enable the organisation to maintain internal parity and external competitiveness in its remuneration and reward practices.
- 1.3 The Service Provider submitted a proposal in response to the RFP ("Proposal").
- 1.4 SARS accepted the Proposal and appointed the Service Provider to provide the Services.
- 1.5 The Service Provider has accepted the appointment, and the Parties herein record the terms and conditions of their agreement.

### a) DEFINITIONS AND INTERPRETATION

- 2.1 The headings to the clauses in this Agreement are for reference purposes only and will not govern or affect the interpretation of or modify or amplify the terms in this Agreement.
- 2.2 Unless inconsistent with the context, the words and expressions have the following meanings and similar expressions will have corresponding meanings:
- 2.2.1 **"Account Manager"** means a member of the Service Provider's Personnel, designated as such by the Service Provider, as

contemplated in the RFP, responsible for the oversight and overall management of this Agreement on behalf of the Service Provider; who shall also act as central point of contact between SARS and the Service Provider;

2.2.2 **“Agreement”** means this Services Agreement and all annexures hereto, as well as the RFP and its annexures. Also included are all amendments, variations, and/or substitutions to the Agreement, which have been reduced to writing and signed by the Authorised Signatories;

2.2.3 **“Applicable Law”** means any of the following to the extent applicable to the Service Provider and where applicable, to SARS or the Services-

2.2.3.1 Any original or subordinate legislation;

2.2.3.2 The common law;

2.2.3.3 Any binding court order, judgment or decree;

2.2.3.4 Any applicable industry code of conduct, policy or standard enforceable by law; or

2.2.3.5 Any direction, policy or order that is given by a Regulatory Authority;

2.2.4 **“Authorised Signatory”** means a signatory authorised by SARS and the Service Provider respectively to sign the Agreement, any amendments and/or addenda hereto;

2.2.5 **“Business Day”** means any day other than a Saturday, Sunday or public holiday in South Africa;

2.2.6 **“Commencement Date”** is **(TO BE ADDED)**, notwithstanding the date of signature of this Agreement;

2.2.7 **“Commercially Reasonable Efforts”** means taking such steps and performing in such a manner as a well-managed entity would where such entity was acting in a prudent and reasonable manner to achieve the particular result for its own benefit;

2.2.8 **“Confidential Information”** means Personal Information defined as such in terms of POPIA; any proprietary or confidential information or data of any nature, tangible or intangible, oral or in writing, in any form or on any medium, whether received by direct communication or observation by the Receiving Party. It 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 in terms of any other Applicable Law.

Information must be regarded as confidential if by its nature, content, or circumstances of disclosure of the information is, or ought reasonably to have been identified by a receiving party as such by reason of such information not being generally known to, or readily ascertainable by third parties generally. Such information includes-

- (a) information regarding Personnel, independent contractors and suppliers of the Disclosing Party, processes, procedures, projections, manuals, forecasts and analyses, security or intellectual property owned by or licensed to the Disclosing Party;
- (b) information relating to the knowledge, know-how, expertise, trade secrets and activities of the Disclosing Party;
- (c) information relating to the Services and any aspect thereof; and
- (d) any information which a Party (without creating a presumption that only so designated information is confidential), acting reasonably, may designate in writing, at

the time of disclosure to the Receiving Party, as being confidential information;

- 2.2.9 **“Designated Representative”** means the SARS employee designated pursuant to this Agreement, or his/her appointed delegate, as the person who will interface with the Service Provider on all matters relating to the general administration of this Agreement, and who will manage the overall performance of the Service Provider over the contract term and to whom all SARS directed communication regarding this Agreement must be addressed;
- 2.2.10 **“Losses”** means all losses, liabilities, costs, expenses, fines, penalties, damages and claims, and all related costs and expenses as determined in Law;
- 2.2.11 **“Parties”** means SARS and the Service Provider and “party” as the context requires, is a reference to any one of them;
- 2.2.12 **“Personal Information”** means Personal Information as defined in POPIA, relative to the Services and this Agreement; and for the purpose of this Agreement, reference to Personal Information includes Special Personal Information as defined in POPIA;
- 2.2.13 **“Personal Information Processing Addendum”** means **Annexure C** hereto, which represents the written agreement between Responsible Party and Operator contemplated in section 21 of POPIA;
- 2.2.14 **“POPIA”** means the Protection of Personal Information Act, 2013 (Act No. 4 of 2013);
- 2.2.15 **“Regulatory Authority”** means any Organ of State, government agency or institution, International Body or Organisation which has–
- 2.2.15.1 jurisdiction over the Services or parts thereof; or

2.2.15.2 administrative or oversight responsibility pertaining to any Applicable Law;

2.2.16 “**RFP**” means SARS’ invitation to service providers to submit proposals to provide job evaluation services and training to SARS’ JEOC members dated ..... 2025 and its annexures, with reference number **RFP 40/2025**, which is incorporated herein by reference;

2.2.17 “**SARS**” means the South African Revenue Service, an organ of state established in terms of section 2 of the South African Revenue Service Act, 1997 (Act No. 34 of 1997), with its principal address at 299 Bronkhorst Street, Nieuw Muckleneuk, Pretoria;

2.2.18 “**Service Provider**” means **(TO BE ADDED)**;

2.2.19 “**Service Provider’s Personnel**” means members of staff of the Service Provider and/or its agents who have been presented to SARS in the Proposal and assigned by the Service Provider to provide the Services to SARS;

2.2.20 “**Services**” means to provide job evaluation services and training to SARS’ JEOC members by the Service Provider as contemplated in the RFP, including functions or responsibilities not specifically mentioned therein but which are reasonably and necessarily required for the proper and complete execution of the Services;

2.2.21 “**Termination Date**” is **(TO BE ADDED)**; and

2.2.22 “**VAT**” means Value-Added Tax levied in terms of the Value-Added Tax Act, 1991 (Act No. 89 of 1991).

2.3 Any reference in this Agreement to-

2.3.1 A clause shall, subject to any contrary indication, mean reference

to a clause in this Agreement; and

2.3.2 A person refers to any person including juristic entities.

2.4 Unless inconsistent with the context or save where the contrary is expressly indicated-

2.4.1 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 Definitions and Interpretation clause, effect shall be given to it as if it was a substantive provision of this Agreement;

2.4.2 When any number of days is prescribed in this Agreement, same shall be calculated exclusively of the first and inclusively of the last day unless the latter falls on a day which is not a Business Day, in which case the last day shall be the next Business Day;

2.4.3 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 will be the subsequent Business Day;

2.4.4 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;

2.4.5 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;

2.4.6 No provision of this Agreement shall be construed to provide a benefit to any person who is not a party to this Agreement;

2.4.7 References to day/s, month/s or year/s shall be construed as



calendar day/s, month/s or year/s; and

2.4.8 Reference to a Party includes that Party's successor-in-title and permitted assigns.

2.5 Unless inconsistent with the context, an expression which denotes-

2.5.1 Any one gender, includes the other gender; and

2.5.2 The singular, includes the plural and *vice versa*.

2.6 The termination of this Agreement will not affect the provisions which are intended to operate after any such termination or which of necessity must continue to have effect after such termination, notwithstanding that the clauses themselves do not expressly provide for this.

2.7 The Agreement is fully 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.

2.8 Where figures are referred to in numerals and in words, and there is a conflict between the two, the words shall prevail.

2.9 The provisions of this Agreement shall not be construed against or interpreted to the disadvantage of the Party responsible for the drafting or preparation of such provisions.

## **b) DURATION**

3.1 This Agreement commences on the Commencement Date, and subsists for a period of 60 (sixty) months until the Termination Date, unless terminated earlier in accordance with the terms of this Agreement.

c) **SERVICE PROVIDER'S OBLIGATIONS**

4.1 The Service Provider must-

**General Obligations**

- 4.1.1 execute the Services, as contemplated in the RFP;
- 4.1.2 monitor implementation of the Services against set targets, costs and timeframes;
- 4.1.3 carry out all written and reasonable instructions (Service Requests) received from SARS timeously and in a diligent manner;
- 4.1.4 charge fees for Services rendered to SARS in accordance with the pricing schedule approved by SARS, as per **Annexure A**;
- 4.1.5 provide the Services in accordance with the highest professional standards;
- 4.1.6 act impartially and ethically at all times, and where applicable, act in accordance with the code of ethics / conduct of its profession;
- 4.1.7 exercise reasonable care and diligence in the discharge of its obligations in terms of the Agreement;
- 4.1.8 take Commercially Reasonable Efforts to prevent, overcome and mitigate any adverse effects that might ensue, to the extent required to achieve the relevant outcome;
- 4.1.9 ensure that it adheres to written and reasonable requests or instructions of the Designated Representative, in so far as same are lawful and consistent with this Agreement; and
- 4.1.10 implement rollout plans for the management of the Services set

out in its Proposal, with the concurrence of the Designated Representative, and may not vary therefrom without the prior written approval of the Designated Representative.

#### **Service Provider's Personnel**

- 4.1.11 ensure that the Account Manager contemplated in its bid proposal is duly assigned as such, and assumes the attendant role and responsibilities for the duration of this Agreement;
- 4.1.12 ensure that the Service Provider's Personnel are properly registered, licensed or accredited with the appropriate Regulatory Authorities and remain so registered for the duration of this Agreement;
- 4.1.13 ensure that the Service Provider's Personnel or other personnel observe confidentiality and do not use any information obtained pursuant to this Agreement for any reason other than for reasons envisaged in this Agreement;
- 4.1.14 ensure that the Service Provider's Personnel devote such time, attention and skill in executing the Services as may be reasonably required for the proper discharge of its duties under this Agreement;
- 4.1.15 not change or replace the Service Provider's Personnel without the prior written consent of SARS, and in this regard-
  - 4.1.15.1 The Service Provider may make a written request to SARS to replace a member of the Service Provider's Personnel, where such member has become incapacitated and/or unable to perform his/her duties under this Agreement;
  - 4.1.15.2 The Service Provider's request to SARS for the substitution of the Service Provider's Personnel shall include the reason for the request and a proposal to

replace the Service Provider's Personnel with a person of equal or better credentials indicated in the RFP. Such proposal must include the *curriculum vitae* of the proposed substitute;

4.1.15.3 SARS may only approve a substitute that meets or exceeds the corresponding credentials indicated in the RFP; and

4.1.15.4 Should SARS in its discretion reasonably consider a member of the Service Provider's Personnel to be incompetent or unsatisfactory, it shall notify the Service Provider in writing and the Service Provider must replace that member at its cost, with one having equal or better credentials, within the timeframes stipulated by SARS in the written notice.

#### **Audit Rights**

4.2 The Service Provider must co-operate as may be requested by SARS, to enable SARS to, amongst other things, comply with an enquiry from a Regulatory Authority.

4.3 For the duration of this Agreement and for a period of five (5) years after termination, and subject to Applicable Law, the Service Provider must maintain a record of the Services executed. The Service Provider must provide SARS and its auditors access at reasonable times, and subject to reasonable written notice, to information, records and documentation relating to the Services or this Agreement for the purpose of performing audits, examinations and inspections in order to verify the Service Provider's compliance with the terms of this Agreement and/or to enable SARS to comply with the requirements of any Regulatory Authority. All costs incurred in performing audits under this clause will be borne by SARS, unless audit findings reveal the Service Provider's non-compliance with the terms of this Agreement and/or requirements of a Regulatory Authority or similar institution having jurisdiction over SARS and/or the Service Provider, in which event such costs will be borne by the Service Provider.

## **Compliance with POPIA**

4.4 The Service Provider must –

- 4.4.1 have in place and maintain the minimum or better security safeguards contemplated in section 19 of POPIA, to secure the integrity and confidentiality of Personal Information; and
- 4.4.2 comply with the Personal Information Protection Addendum; and ensure compliance therewith by the Service Provider's Personnel.

### **d) SARS' OBLIGATIONS**

5.1 SARS must-

- 5.1.1 in writing, on the Commencement Date, nominate a Designated Representative, and communicate the names and contact details of such person to the Service Provider in writing. SARS may from time to time change the Designated Representative, in which event SARS must give the Service Provider at least twenty-four (24) hours' written notice of such change;
- 5.1.2 provide the Service Provider with timeous management decisions and any necessary approvals or authorisations to enable the Service Provider to fulfil its obligations under this Agreement;
- 5.1.3 make available to the Service Provider all relevant information and data at its disposal, which is reasonably required for the rendering of the Services; and
- 5.1.4 monitor and review the Service Provider's performance in terms of this Agreement. SARS however, reserves the right subject to Applicable Law, to appoint a third party to monitor and review the Service Provider's performance in terms of this Agreement.

5.2 Subject to the Service Provider's Personnel's compliance with SARS' access and security policies, provide the Service Provider's Personnel with access

to the premises and facilities of SARS, if necessary, for the purposes of rendering the Services.

**e) PRICING AND INVOICING**

- 6.1 The Service Provider must invoice SARS for Services rendered according to the pricing schedule accepted by SARS, attached hereto as **Annexure A**.
- 6.2 Apart from the pricing reflected in **Annexure A**, no other fee or cost will be covered by SARS.
- 6.3 The Service Provider must invoice SARS for Services rendered per job evaluation conducted, dependent on the requests received from SARS. Subject to Applicable Law, each invoice must contain-
  - 6.3.1 a full description of the Services rendered;
  - 6.3.2 the amount of the financial penalties accrued to SARS for Service Level Failures, as calculated with reference to the Service Levels regime set out in **Annexure B**;
  - 6.3.3 the total costs payable by SARS; and
  - 6.3.4 any such details as may be reasonably requested by SARS from time to time.
- 6.4 The Service Provider must verify that each invoice is complete and accurate, and that it conforms to the requirements of this Agreement before issuing the invoice to SARS.
- 6.5 The Service Provider must submit all invoices to the Designated Representative and where requested to do so by the Designated Representative, send copies to other SARS officials.
- 6.6 Subject to **clause 7.1** below, SARS shall pay undisputed amounts in an invoice owed to the Service Provider within thirty (30) days after SARS receives such invoice, if the invoice is accurate and meets the requirements

of Applicable Law or this Agreement.

- 6.7 Should SARS query an item in an invoice, the Service Provider must, within two (2) days after a written request by SARS, provide SARS with any other documentation or information reasonably required by SARS in order to verify the accuracy of amounts indicated in an invoice.
- 6.8 SARS may withhold, deduct or set off from any monies due and owing to the Service Provider in terms of this Agreement, an amount equal to the amount of any outstanding claims that SARS may have against the Service Provider for damages, costs or any other indebtedness arising out of this Agreement: Provided that SARS will provide the Service Provider with written notice of its intention to offset, supported by reasonable detail of the actual damages, costs or indebtedness incurred and sought to be offset by SARS.
- 6.9 A certificate of indebtedness signed by the Chief Financial Officer of SARS reflecting the amount due and payable under **clause 6.8** above shall be sufficient and conclusive proof of the contents and correctness thereof for the purposes of with-holding, deduction or set off by SARS or for provisional sentence, summary judgment or any other proceedings against the Service Provider in a court of law and shall be valid as a liquid document for such purposes.

**f) DISPUTED CHARGES AND INVOICING ERRORS**

- 7.1 SARS may withhold payment of fees or items in an invoice that SARS disputes in good faith, including disputes in respect of an error in an invoice or an amount already paid. If the disputed fees have already been paid, SARS may withhold an equal amount from a later payment that may be due to the Service Provider as contemplated in **clause 6.8** above.
- 7.2 If the dispute relates to (or equals in the case of disputed amounts that have already been paid) only a percentage of the invoiced amount, then SARS shall pay the undisputed amount in accordance with **clause 6.6** above.
- 7.3 If an invoice contains errors, the Service Provider shall make the necessary attendances to the invoice as prescribed by the Value-Added Tax Act, 1991

(Act No. 89 of 1991).

- 7.4 Any dispute arising in terms of **clause 7.1** above and which remains unresolved for five (5) Business Days after it has arisen, shall be referred by either Party to the Senior Manager: Contract Management and the Service Provider's Account Manager or their designees for resolution.
- 7.5 The SARS Senior Manager: Contract Management and the Service Provider's Account Manager or their designees shall meet within five (5) Business Days of the referral of the dispute to resolve such dispute.
- 7.6 In the event that the dispute remains unresolved after seven (7) days of its referral to the persons mentioned in **clause 7.5**, either Party shall be entitled to refer the dispute for resolution in accordance with the provisions of **clause o)** below: Provided that **clause o)** will not apply to disputes contemplated in this clause.

**g) SERVICE LEVELS AND PENALTIES**

**8.1 Service Levels**

- 8.1.1 **Annexure B** lists performance standards (hereinafter referred to as "**Service Levels**") that will apply to the performance of the Services. Failure to attain a prescribed Service Level constitutes a Service Level Failure and will entitle SARS to levy the corresponding financial penalty stipulated in **Annexure B**. The maximum percentage of the Service Provider's total invoice, which may be at risk due to any Service Level Failures in any particular month, shall not exceed twenty percent (20%) of the total amount invoiced to SARS in respect of such month.
- 8.1.2 The Service Provider shall comply with the prescribed Service Levels as of the Commencement Date. The Parties may from time to time add new Service Levels by mutual agreement.



## 8.2 Monitoring, Measuring and Reporting

### 8.2.1 The Service Provider shall:

8.2.1.1 Be responsible for monitoring, measuring and reporting on the Service Provider's compliance with the Service Levels;

8.2.1.2 Monitor its performance of the Services with respect to the Service Levels on a continuous basis and measure and provide SARS with a **Job Evaluation Outcome Report** in respect of any job evaluation/s conducted, which should be provided within the agreed turnaround time, as well as with a **Quarterly Performance Report** which provides a list of jobs evaluated, dates and outcomes;

8.2.1.3 The turnaround time for the provision of any **Job Evaluation Report** is within 30 Business Days (as per **Annexure B**). Each **Quarterly Performance Report** must be provided within six (6) Business Days after the end of each quarter;

8.2.1.4 The Service Provider shall provide SARS with detailed supporting information for each report mentioned in clause 8.2.1.2 above in soft-copy, or as otherwise reasonably requested by SARS;

8.2.1.5 The Service Provider shall include the following information in each report mentioned in clause 8.2.1.2 above with respect to any failure to achieve a Service Level during any given month:

8.2.1.5.1 the nature and date of the Service Level Failure;

8.2.1.5.2 the cause of the Service Level Failure; and

8.2.1.5.3 a summary of the steps the Service Provider has taken to resolve the Service Level Failure and reduce, to the extent reasonably possible, the likelihood that such Service Level Failure will be repeated; and

8.2.1.6 Any failure by the Service Provider to perform any of the obligations set forth in this **clause 8.2** during any given month will also be deemed to be a Service Level Failure.

### 8.3 Rules Governing Financial Penalty

#### 8.3.1 General

A financial penalty is a price adjustment deductible or levied by SARS against fees due to the Service Provider in respect of non-compliance by the Service Provider with applicable Service Levels annexed hereto.

#### 8.3.2 Status of Financial Penalties

8.3.2.1 Financial penalties are not an estimate of the loss or damage that may be suffered by SARS as a result of the Service Level Failure.

8.3.2.2 A price adjustment by means of a financial penalty due to SARS is without prejudice to and shall not limit any right SARS may have to terminate this Agreement and/or seek damages or other non-monetary remedies at Law resulting from, or otherwise arising in respect of, such Service Level Failure and any resulting termination.

8.3.2.3 Notwithstanding the provisions of **clauses 8.3.2.1 and 8.3.2.2**, any claim for damages resulting from any Service Level Failure, in respect of which a financial penalty has already been effected, shall be reduced by the amount of that financial penalty.

**h) THIRD PARTY COOPERATION**

9.1 As part of the Services, where appropriate and when requested by SARS to do so, the Service Provider shall provide full co-operation to any third party that might be contracted by SARS on the same or related engagement or for purposes contemplated in **clause 5.1.4** above, to the extent that the co-operation does not create a conflict of interests, breach of professional ethics or compromise the Service Provider's intellectual property rights or interests.

9.2 It is, however, agreed that the relationship between the Service Provider and any such third party will not constitute an alliance or partnership and that neither the Service Provider nor the third party will be required to perform quality checks on the work of the other party, except where the third party is appointed for purposes contemplated in **clause 5.1.4** above.

**i) SECURITY VETTING OF THE SERVICE PROVIDER'S PERSONNEL**

10.1 SARS may, subject to Applicable Law, at any time during the subsistence of this Agreement and in terms of its prevailing Policies, Procedures and Practices, request that the Service Provider, at its own costs–

10.1.1 send any or all of the Service Provider's Personnel for security vetting with a competent service provider and provide SARS with security clearance certificates; and

10.1.2 provide a personal background screening report from a reputable screening agency on personal status such as but not limited to the following:

- a) citizenship status report;
- b) criminal activity report; and
- c) credit worthiness report,

of any or all of the Service Provider's Personnel.

- 10.2 SARS may also at its sole and absolute discretion perform a security check (vetting) or any personal background screening on any or all of the Service Provider's Personnel.
- 10.3 Where SARS establishes the Service Provider's Personnel to be a security risk, SARS will inform the Service Provider accordingly and the Service Provider shall replace such Service Provider's Personnel with another one who meets or exceed the corresponding requirements published in the RFP.
- 10.4 The provisions of this clause will not exonerate the Service Provider from compliance with the provisions of the Personal Information Processing Addendum.

**j) WARRANTIES**

- 11.1 The Service Provider hereby represents and warrants to SARS that-
  - 11.1.1 this Agreement has been duly authorised and executed by it and constitutes a legal, valid and binding set of obligations on it;
  - 11.1.2 it is acting as principal and not an agent of an undisclosed principal;
  - 11.1.3 the execution 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;
  - 11.1.4 it will comply with the Personal Information Processing Addendum;

- 11.1.5 it is and will, for the duration of this Agreement, remain fully cognisant of and compliant with POPIA, and in this regard, the Service Provider warrants further that: (i) the Service Provider's Personnel have been trained on POPIA compliance and are aware of the provisions and implications of POPIA, and will ensure compliance therewith; and (ii) the Service Provider's Personnel who may be exposed to Personal Information have agreed to comply with POPIA and completed all necessary written undertakings or agreements with the Service Provider in that regard;
- 11.1.6 it has the necessary resources, skills, and capacity to render the Services to SARS in a diligent manner;
- 11.1.7 it will provide the Services in a cost-effective and expedient manner, thereby ensuring that no unnecessary or extraordinary costs are incurred and passed on to SARS;
- 11.1.8 it has the capacity to timeously deliver the Services, time being of the essence;
- 11.1.9 it has the requisite insurance contemplated in this Agreement;
- 11.1.10 it shall not, in executing the Services, breach or infringe any intellectual property right of a third party;
- 11.1.11 no factual circumstances exist that may materially affect its capacity to perform its obligations under this Agreement;
- 11.1.12 it, along with the Service Provider's Personnel, shall at all times have, and comply with all legal requirements and with the terms and conditions of all necessary licenses, certificates, authorisations and consents required under the laws of the Republic of South Africa or under any other applicable jurisdiction for the delivery of the Services; and
- 11.1.13 it is familiar with and will comply with Applicable Law.

11.2 It is expressly agreed between the Parties that each warranty and representation given by the Service Provider in its Proposal and this Agreement is material to this Agreement and induced SARS to conclude this Agreement.

11.3 The provisions of this clause shall survive termination of this Agreement.

**k) MEETINGS AND REPORTING**

12.1 The Account Manager, including all necessary Service Provider Personnel, and the Designated Representative shall meet as and when required to discuss the execution of the Services.

12.2 The Service Provider shall be responsible for the correct recording of the meeting proceedings.

12.3 The Service Provider shall deliver the record of the meeting proceedings to SARS within two (2) Business Days after the date of the meeting or such shorter period as SARS may of necessity prescribe in writing, for SARS' perusal and verification.

12.4 SARS shall have the right to comment on and amend the record. SARS' comments and amendments shall be discussed and/or confirmed at the next meeting between the Parties.

12.5 **Clauses 12.3 and 12.4** above are subject to **clause 28.11** below.

12.6 The Service Provider shall prepare and submit to SARS all reports outlined in the RFP, on a timely basis.

12.7 Any information provided by the Service Provider in reports or meetings should be accurate, relevant and sufficiently detailed to provide assurance that the Services are being rendered as contemplated in the RFP.

**I) CONFIDENTIALITY**

- 13.1 Neither Party may, both during the term of this Agreement and after its expiration, disclose any Confidential Information to any third party without the prior written consent of the other.
- 13.2 The Service Provider shall ensure that the Service Provider's Personnel individually take the SARS Oath / Declaration of Secrecy before commencing with execution of this Agreement, and shall submit the original copies of such Oath / Declaration to the Designated Representative.
- 13.3 SARS reserves the right to continually monitor and verify that the Service Provider's Personnel have individually taken the SARS Oath / Declaration of Secrecy.
- 13.4 The Service Provider must protect the interests of SARS and its Confidential Information by-
- 13.4.1 making available such Confidential Information only to those of the Service Provider's Personnel who are actively involved in the execution of its obligations under this Agreement and then only on a "need to know" basis;
  - 13.4.2 putting in place information security practices and procedures reasonably acceptable to SARS to prevent unauthorised disclosure and taking all practical steps to impress upon the Service Provider's Personnel who need to be given access to Confidential Information, the secret and confidential nature thereof;
  - 13.4.3 not using any Confidential Information of SARS, or disclosing directly or indirectly any Confidential Information of SARS to third parties, whether during the subsistence of this Agreement or thereafter; and
  - 13.4.4 ensuring that all Confidential Information of SARS which has or will come into the possession of the Service Provider and the

Service Provider's Personnel, will at all times remain the sole and absolute property of SARS.

- 13.5 Where the Service Provider is served with a request, demand or court papers which seek the disclosure of Confidential Information of SARS, the Service Provider shall, without disclosing such Confidential Information, forthwith and no later than twenty-four (24) hours from the time of receipt of such request, demand or court papers, transmit all such document(s) served on it to the Designated Representative.
- 13.6 The Service Provider shall not remove from SARS' premises any documents or material relating to the Services or SARS' business without first obtaining the written consent of SARS.
- 13.7 Upon SARS' request, the Service Provider must promptly return all documents, material, information, or data relating to the Services to SARS upon conclusion of the Services, unless they relate to pending cases which are yet to be concluded, in which event they shall be returned to SARS at the conclusion of each case but no later than six (6) months after the Termination Date.
- 13.8 The Service Provider may not, except for the purpose of fulfilling a request from SARS, disclose/share any of SARS' Confidential Information with any person, including its affiliates, outside the borders of South Africa, unless it obtains prior, written consent from SARS, which consent will, if granted (at the sole discretion of SARS), be subject to section 72 of POPIA. In this regard and in the event the written consent is obtained, the Service Provider fully indemnifies SARS and its employees against all and any third party damages, liability claims, Losses or the like occasioned by or as a result of i) the Service Provider exchanging, sharing or having exchanged or shared SARS Confidential Information; ii) the Service Provider failing to comply with POPIA in its exchange / sharing of SARS Confidential Information or iii) breach by the recipient of the information of POPIA or POPIA equivalent laws.
- 13.9 The Service Provider fully indemnifies SARS and its employees against all and any third party damages, liability claims, Losses or the like which may



be occasioned by or as a result of any failure by the Service Provider and/or the Service Provider's Personnel to comply with this **clause I**).

- 13.10 The provisions of this clause shall survive the termination or cancellation of this Agreement for any reason whatsoever.

**m) INTELLECTUAL PROPERTY**

- 14.1 The Parties will each retain ownership of their pre-existing intellectual property rights.
- 14.2 Subject to Applicable Law and pre-existing intellectual property rights of the Service Provider and/or any third party, all intellectual property rights to literary works created in the course of executing the Services shall vest exclusively in SARS.
- 14.3 In the event of the Service Provider's intellectual property being incorporated into any aspect of the Services being rendered in terms of this Agreement, the Service Provider hereby grants SARS a non-exclusive, royalty free license for the duration of this Agreement to use such intellectual property for its own purposes in connection with the Services.
- 14.4 The Service Provider warrants to SARS that it holds the right, title and interest to the intellectual property it will be utilizing to render the Services, alternatively it has procured the necessary rights from the relevant third party and indemnifies SARS against any claim of infringement, which any third party may make or bring against SARS as a result of this Agreement.

**n) BREACH**

- 15.1 If a Party (the "Defaulting Party") is in default or breach of any term of this Agreement and that Defaulting Party fails to remedy such default or breach within fourteen (14) Business Days after receipt of a written notice given by the other Party (the "Aggrieved Party") calling upon the Defaulting Party to remedy such default or breach, then the Aggrieved Party may, without prejudice to any other rights which it may have in terms hereof or at law-

- 15.1.1 claim specific performance;
- 15.1.2 cancel this Agreement and claim damages from the Defaulting Party, such cancellation to be effective immediately on receipt by the Defaulting Party of a written notice to that effect; or
- 15.1.3 claim any money due and payable in terms of this Agreement and claim damages from the Defaulting Party.

15.2 The remedies set out in this clause shall not be construed to be exhaustive of any other remedies available to the Parties.

**o) DISPUTE RESOLUTION**

16.1 In the event of any dispute arising out of or in connection with this Agreement, the Parties shall try to resolve the dispute by negotiation. This entails that the one Party invites the other in writing to a meeting and attempts to resolve the dispute within seven (7) days from date of the written invitation.

16.2 If the dispute has not been resolved by such negotiation as contemplated above, or in **clause f)**, the Parties shall submit the dispute to the Arbitration Foundation of Southern Africa ("AFSA") administered mediation, failing which the dispute shall be determined as below.

16.3 Save in respect of those provisions of this Agreement which provide for their own remedies which would be incompatible with arbitration, any dispute arising from, or in connection with this Agreement and not resolved as contemplated above will finally be resolved by arbitration in accordance with the Rules of the AFSA or its successor, by an arbitrator or arbitrators appointed by AFSA.

16.4 Neither Party shall be precluded from obtaining interim relief or an interim remedy from a court of competent jurisdiction pending the decision of the arbitrator.

16.5 This clause is 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.

16.6 Subject to **clause 7.1** above, neither Party shall be entitled to withhold performance of any of its obligations in terms of this Agreement pending the settlement of, or decision in, any dispute arising between the Parties and each Party shall, in such circumstances, continue to comply with its obligations in terms of this Agreement: Provided that SARS shall not pay any invoice in respect of which there is a pending dispute.

**p) TERMINATION**

**17.1 Termination for cause by SARS**

17.1.1 SARS may, by giving notice of immediate termination to the Service Provider, terminate this Agreement or the rendering of the Services in whole or in part, immediately as of a date set out in the notice of termination, in the event that the Service Provider–

17.1.1.1 breaches the confidentiality provisions of this Agreement or the SARS Oath / Declaration of Secrecy;

17.1.1.2 has committed any act or omission which, in the reasonable opinion of SARS, may either bring SARS into disrepute, damage its reputation or negatively impact taxpayer and public confidence in SARS;

17.1.1.3 breaches the Personal Information Processing Addendum (**Annexure C**);

17.1.1.4 breaches Applicable Law;

17.1.1.5 is found guilty of an offence in terms of Applicable Law;

17.1.1.6 commits an act of insolvency as defined in the

Insolvency Act, 1936 (Act No. 24 of 1936) or is placed under provisional liquidation or under business rescue proceedings or is finally liquidated;

17.1.1.7 commits an act of professional misconduct or professional or technical incompetence, which is substantial and serious;

17.1.1.8 fails through its Personnel, to maintain or loses its registration, license or accreditation with the appropriate Regulatory Authorities;

17.1.1.9 commits or participates in any unlawful, dishonest or unethical act in executing this Agreement; or

17.1.1.10 has committed any act or omission which, in the reasonable opinion of SARS, may either bring SARS into disrepute, damage its reputation or negatively impact taxpayer and public confidence in SARS.

## **17.2 Termination Upon Sale, Acquisition, Merger or Change of Control**

17.2.1 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 the Service Provider shall notify SARS of such Change Event within ten (10) Business Days after the Change Event is achieved.

17.2.2 No sale, acquisition, merger or other change of control shall be effective against and legally binding on SARS if the Service Provider failed to notify SARS, as required by **clause 17.2.1** above.

17.2.3 SARS may terminate this Agreement, at any time after being notified by the Service Provider of the Change Event, by giving the Service Provider thirty (30) days' written notice designating a date upon which such termination shall become effective.

17.2.4 In the event that the Service Provider fails to notify SARS, as required by **clause 17.2.1** above, then SARS may upon discovery of the Change Event terminate the Agreement by giving the Service Provider thirty (30) days' written notice and designating a date upon which such termination shall be effective.

17.2.5 "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 the following-

17.2.5.1 holding directly or indirectly the majority of the issued share capital or stock (or other ownership interest if not a company) of such entity ordinarily having voting rights;

17.2.5.2 controlling the majority of the voting rights in such entity;  
or

17.2.5.3 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.

17.3 SARS shall have no liability to the Service Provider with respect to a termination under this clause.

**q) ADDRESSES**

18.1 Each Party chooses the addresses 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.

18.2 SARS' physical address for **service of notices and legal processes** is-

Attention: Head - Corporate Legal Services  
Lehae La SARS  
299 Bronkhorst Street  
Nieuw Muckleneuk  
PRETORIA

18.3 The Service Provider's physical address for **service of notices and legal processes** is-

**(TO BE ADDED)**

18.4 SARS' email address for communications, and/or correspondences in connection with the execution of the Services: **(TO BE ADDED)**

18.5 The Service Provider's email address for communications, and/or correspondences in connection with the execution of the Services: **(TO BE ADDED)**

18.6 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 of *domicilium*, provided that documents in legal proceedings in connection with this Agreement may only be served at a Party's physical address.

18.7 Any Party may by written notice to the other Party, change its chosen address to another address, provided that-

18.7.1 the change shall become effective on the tenth (10<sup>th</sup>) Business Day after the receipt or deemed receipt of the notice by the addressee; and

18.7.2 any change in a Party's *domicilium* shall only be to an address in South Africa, which is not a post office box.

18.8 The Parties record that whilst they may correspond via email 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.

**r) LIABILITY**

19.1 The Service Provider shall be liable to SARS, where SARS has suffered any direct damages and/or Losses as a result of the Service Provider's failure to observe its obligations in terms of the Agreement.

19.2 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 gross negligence, wilful misconduct or breach by the Service Provider or its Personnel of confidentiality provisions in this Agreement, breach of Applicable Laws, infringement of third party intellectual property rights or a criminal act committed by the Service Provider, its Personnel or any employee of the Service Provider.

**s) INDEMNITY BY THE SERVICE PROVIDER**

20.1 The Service Provider hereby indemnifies, holds harmless and agrees to defend SARS and its officers, employees, agents, successors and assigns, against all claims or Losses arising from or in connection with, any of the following-

20.1.1 Third party claims attributable to any breach of the provisions of this Agreement by the Service Provider;

20.1.2 Third party claims attributable to theft, fraud or other unlawful activity or any negligent, wilful or fraudulent conduct by the Service Provider or the Service Provider's Personnel and claims attributable to errors and/or omissions;

20.1.3 Third party claims arising from or related to the death or bodily injury of any agent, employee, customer, business invitee, business visitor or other person on SARS' premises caused by the delictual conduct of the Service Provider or the Service

Provider's Personnel; or

- 20.1.4 Claims arising from damage to property owned or leased by SARS or belonging to a third party caused by the acts or omissions of the Service Provider or the Service Provider's Personnel.

**t) INSURANCE**

- 21.1 The Service Provider must, on or before the Commencement Date and for the duration of this Agreement, have and maintain adequate insurance cover consistent with acceptable and prudent business practices and acceptable to SARS, which must include, without limitation, professional indemnity cover against all actions, suits, claims or other expenses arising in connection with damages or Losses for which it is liable in terms of this Agreement.
- 21.2 The Service Provider must, on Commencement Date, provide SARS with certificates of insurance evidencing that the insurance covers and policy endorsements required under this Agreement are in place, and thereafter provide evidence of renewal of such insurance at least three (3) Business Days prior to expiration thereof.
- 21.3 The Service Provider must provide SARS with at least thirty (30) days' notice prior to any material modification of the insurance policies contemplated in this Agreement.
- 21.4 In the event of loss or damage or other event that requires notice or other action under the terms of any insurance coverage indicated herein, the Service Provider shall be solely responsible to take such action. The Service Provider shall provide SARS with contemporaneous notice and with such other information as SARS may request regarding the event.
- 21.5 Without limiting the generality of SARS' rights and remedies in this Agreement, in the event of a failure by the Service Provider to take out or maintain any insurance required hereunder, or to provide evidence of renewal within the period indicated herein, SARS may purchase the requisite



insurance and deduct or offset the costs thereof from any monies due to the Service Provider by SARS under this Agreement.

**u) FORCE MAJEURE**

- 22.1 In the event of any circumstance arising or action taken beyond the reasonable control of a Party or the Parties hereto, such as but not limited to war, rebellion, riot, civil commotion, lockout, fire, accident, operation of law, Applicable Law, epidemic, pandemic or any other circumstance preventing the Parties or any of them from the performance of any obligation hereunder (any such event hereinafter called "*force majeure* event") then the Party affected by such *force majeure* event shall, subject to **clauses 22.2 and 22.3** herein, be relieved of its obligations hereunder during the period that such *force majeure* subsists.
- 22.2 Should a *force majeure* event arise, the affected Party shall within seven (7) days of the commencement of the event notify the other Party of the event, giving sufficient details thereof, including details of how the event has impacted the affected Party's ability to perform in terms of the Agreement, as well as the estimated duration of the event or disturbing circumstances.
- 22.3 The affected Party's relief is only to the extent so prevented and to the extent that the affected Party is not the cause of the *force majeure* event. 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.
- 22.4 The affected Party shall use Commercially Reasonable Efforts to remove the disturbance with the least possible delay so that its obligations can be fulfilled as soon as reasonably possible, in the manner provided for in this Agreement.
- 22.5 SARS shall be entitled to use the services of other parties during *force majeure* events declared by the Service Provider.

**v) STEP IN RIGHTS**

- 23.1 In addition to any other rights and remedies that it may have in terms of this Agreement or otherwise, including the right to terminate this Agreement, SARS may in its sole discretion elect to temporarily step in and take over the Services as contemplated below, immediately upon SARS' identification or the Service Provider's notification to SARS of the occurrence of any adverse event caused by the Service Provider, which SARS considers, in its reasonable opinion, to be an event which may affect continuity of the Services.
- 23.2 For the purposes of this clause, SARS may (at its option), either itself or by the procurement of an alternative third party service provider, temporarily take over the provision of the Services until such time that SARS is able to make permanent alternative arrangements for the provision of the Services: Provided that any take over by SARS as envisaged in this clause shall apply for a period of no more than one hundred and eighty (180) days, reckoned from the date that SARS temporarily takes over the provision of the Services. The Service Provider must, upon the request of SARS, fully co-operate with and assist SARS during any temporary take-over of the Services.
- 23.3 To the extent that SARS exercises its right to assume the rendering of the Services or part thereof itself, or by a third party service provider, the Service Provider shall not be entitled to any fees and/or payment during the period for which SARS or the third party assumes the Services. SARS shall not, under any circumstances, by virtue of any assumption, be obliged, deemed or required to take over or assume responsibility for the conduct of the Service Provider's business operations.

**w) DISENGAGEMENT ASSISTANCE**

- 24.1 The Parties hereby acknowledge that, notwithstanding the termination of this Agreement for any reason whatsoever, the immediate and seamless transition of the Services to an incoming service provider is imperative. To this extent and without any derogation to any claims sounding in money, which either Party may have or allege against the other Party, the Service Provider shall not be entitled to withhold any information, files, records or

reports, or any assistance as set out in the clauses below that will be crucial to effect the immediate and seamless transition of the Services.

- 24.2 For a period of one (1) month after termination of this Agreement for whatsoever reason or such earlier period as the Parties may agree, the Service Provider will provide SARS or SARS' newly designated service provider such assistance as SARS may reasonably require to facilitate the immediate transition of the Services in as seamless a manner as possible ("Disengagement Assistance").
- 24.3 Without limiting the generality of the foregoing, the Service Provider shall, at no additional cost, deliver to SARS on a date specified by SARS, such information and documentation relating to the Services as SARS may reasonably require, to facilitate the immediate transition of the Services in as seamless a manner as possible.
- 24.4 The Service Provider undertakes to use its best endeavours to ensure that all files and records are complete, up to date and adhere to professional quality standards, and legislative requirements, failing which SARS reserves the right to demand that the Service Provider brings the files, records and/or reports up to standard.

**x) RELATIONSHIP BETWEEN THE PARTIES**

- 25.1 The Service Provider is an independent contractor and under no circumstances will it be considered a partner, joint venture partner or employee of SARS in the execution of this Agreement.
- 25.2 The Service Provider's Personnel and other personnel engaged 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 the responsibility of the Service Provider. The Service Provider is liable to SARS for the performance, malperformance, acts and or omissions of any of its Personnel or other personnel involved in the execution of this Agreement.

**y) CONFLICT OF INTERESTS**

- 26.1 Neither the Service Provider nor the Service Provider's Personnel must have any interest or receive any remuneration in connection with the execution of the Services, except as provided for in this Agreement.
- 26.2 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.
- 26.3 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 must 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.

**z) TAX COMPLIANCE**

- 27.1 The Service Provider represents and warrants that, as of the Commencement Date, it is and will remain compliant for the duration of this Agreement with all Applicable Law relating to taxation in the Republic of South Africa.

**aa) GENERAL**

**28.1 Advertising and Marketing**

Except in so far as herein expressly provided, 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 media 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.

## **28.2 Authorised Signatories**

This Agreement shall not be valid unless signed by the Authorised Signatories.

## **28.3 Costs**

Each Party shall bear its own costs in respect of the negotiation, preparation and finalisation of this Agreement.

## **28.4 Counterparts**

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be 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.

## **28.5 Covenant in 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.

## **28.6 Governing Law and Jurisdiction**

28.6.1 This Agreement shall be governed by and construed in accordance with the law of the Republic of South Africa and all disputes, actions and other matters relating thereto will be determined in accordance with such law.

28.6.2 The Service Provider hereby consents to the jurisdiction of the High Court of the Republic of South Africa (Gauteng Division, Pretoria), in regard to all matters arising from this Agreement.

#### **28.7 No Cession or Assignment Without Consent**

Subject to Applicable Law, neither Party may assign, cede, delegate, or in any other manner transfer any benefit, rights and/or obligations arising from this Agreement, without the prior written consent of the other Party, which consent shall not be unreasonably withheld.

#### **28.8 No Withholding of Consents**

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 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.

#### **28.9 Severability**

If any clause or provision of this Agreement is found to be invalid, illegal or unenforceable in any way, such clause or provision shall be deemed to be separate and severable from the remaining provisions of this Agreement, and the validity and enforceability of such remaining provisions shall not be affected. If, however, any invalid term is capable of amendment to render it valid, the Parties agree to negotiate in good faith an amendment to remove the invalidity.

#### **28.10 Waiver**

No change, waiver or discharge of the terms and conditions of this Agreement shall be valid unless in writing and signed by the Authorised Signatories, and any such change, waiver or discharge will be effective only in that 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.

#### 28.11 **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, disclaimers, qualifications, variation or consensual cancellation will be of any force or effect unless reduced to writing and signed by the Authorised Signatories. Any document executed by the Parties purporting to amend, substitute or revoke this Agreement or any part hereof, shall be titled an “Addendum” to this Agreement.

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**SIGNED FOR AND BEHALF OF SARS**

\_\_\_\_\_  
**Signatory as per Delegation of Authority**

**Name:**

**Designation:**

**Place:**

**Date:**

\_\_\_\_\_  
**Signatory as per Delegation of Authority**

**Name:**

**Designation:**

**Place:**

**Date:**

**FOR THE SERVICE PROVIDER**

**Full names :** \_\_\_\_\_

**Signature :** \_\_\_\_\_

**Capacity :** \_\_\_\_\_

**Date :** \_\_\_\_\_

**Place :** \_\_\_\_\_



## ANNEXURE A – PRICING SCHEDULE

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## ANNEXURE B – SERVICE LEVELS AND PENALTY SCHEDULE

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## ANNEXURE C - PERSONAL INFORMATION PROCESSING ADDENDUM

### PREAMBLE

This Addendum –

- a. serves as the written agreement between the Service Provider as Operator and SARS as Responsible Party as contemplated in section 21 of POPIA;
- b. sets out the specific terms and conditions on which the Service Provider must process Personal Information relating to the Services Agreement; and
- c. is an integral part of and must be read with the Services Agreement.

### 1. INTERPRETATION AND DEFINITIONS

1.1 In this Addendum, unless clearly inconsistent with or otherwise indicated by the context:

1.1.1 **“Addendum”** means this Personal Information processing addendum;

1.1.2 **“Contractual Purposes”** means the exclusive purpose for which the Service Provider may lawfully process Personal Information furnished by SARS in terms of the Services Agreement, which is the execution by the Service Provider of the Services;

1.1.3 **“Services Agreement”** means the Services Agreement concluded between the Parties pursuant to SARS’ procurement process under reference **RFP 40/2025**;

1.1.4 **“Operator”** is as defined in POPIA, and in this Addendum, specifically refers to the Service Provider;

1.1.5 **“Personal Information Breaches”** means the accidental, unauthorised, or unlawful processing, access, copying, modification, reproduction, display or distribution of Personal Information, including the accidental or unlawful loss, destruction,

alteration, disclosure and damage of or to Personal Information;

1.1.6 **“Process”** and/or **“Processing”** is as defined and contemplated in POPIA; and

1.1.7 **“Responsible Party”** is as defined in POPIA, and in this Addendum, specifically refers to SARS.

1.2 Unless a definition is expressly amended herein, words and phrases defined in the Services Agreement shall bear the same meaning in this Addendum, and in the event of there being a conflict between the terms and conditions of the Services Agreement and those of this Addendum, the provisions of this Addendum shall prevail and take precedence, in so far as the conflict relates to matters which are the subject of this Addendum.

1.3 Terms / Wording defined in POPIA and used in this Addendum bear definitions contained in POPIA, except where otherwise defined or amplified herein.

1.4 The principles of interpretation stated in the Services Agreement apply to this Addendum.

## **2. SERVICE PROVIDER'S OBLIGATIONS IN RELATION TO PERSONAL INFORMATION**

### **2.1 General Obligations**

The Service Provider must –

2.1.1 process Personal Information only to the extent, and in such a manner, as is necessary for Contractual Purposes;

2.1.2 not process Personal Information for any other purpose or in a way that does not comply with this Addendum; the Services Agreement; POPIA or other Applicable Law;

2.1.3 where SARS issues an instruction to the Service Provider and the

Service Provider is of the view that such instruction is inconsistent with POPIA or other related Applicable Law, the Service Provider must immediately notify the Designated Representative, and await SARS' written response on the pertinent issue;

2.1.4 immediately comply with any written instructions by SARS to stop processing any Personal Information; and

2.1.5 where required, assist SARS at no additional cost, with meeting SARS' regulatory compliance obligations under POPIA in so far as such compliance relates to or is in connection with the Services or Personal Information provided to the Service Provider by SARS.

## **2.2 Obligations relating to the Service Provider's Personnel**

2.2.1 The Service Provider must ensure that the Service Providers' Personnel –

- a) are informed of the confidential and sensitive nature of Personal Information;
- b) are bound by written confidentiality / information protection obligations, and have in place limitations of access or access restrictions in respect of Personal Information;
- c) have undertaken training on POPIA and understand how it relates to their handling of Personal Information and how it applies to their duties; and
- d) are aware of both the Service Provider's duties and obligations, and their personal duties and obligations under POPIA and the Services Agreement; and do in fact comply therewith.

2.2.2 The Service Provider must, as necessary, conduct background checks consistent with Applicable Law and take reasonable steps to ensure the reliability, integrity and trustworthiness of the Service Provider's Personnel with access to Personal Information.

## **2.3 Obligations relating to Information Security Measures**

### **2.3.1 The Service Provider must –**

**2.3.1.1** implement security measures and maintain in place, for the duration of the Services Agreement, appropriate technical and organisational measures as contemplated in section 19 of POPIA to secure the integrity and confidentiality of Personal Information and prevent Personal Information Breaches. Such measures must provide a level of security commensurate with corresponding risks, and may, as appropriate, include –

- a) the pseudonymisation and encryption of Personal Information;
- b) restricted access and complex passwords;
- c) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
- d) the ability to restore the availability and access to Personal Information in a timely manner in the event of a physical or technical incident; and
- e) processes for regularly testing, assessing and evaluating the effectiveness of the security measures.

**2.3.1.2** ensure, at all times, that the security measures are no less than what is prescribed by Applicable Law, and are, in addition, on par with applicable industry best practices for the security of information;

**2.3.1.3** regularly conduct risk assessments and assess the sufficiency and adequacy of the measures envisaged above, and accordingly update the measures to ensure that any new risks or deficiencies identified are effectively addressed; and

**2.3.1.4** regularly conduct verification processes to ensure that the measures envisaged above are indeed implemented and

functional. The Service Provider must retain records of its verification processes and make such available to SARS on request.

2.3.2 The Service Provider must immediately, in writing, notify the Designated Representative at their provided email addresses, as well as the SARS Contracts Management office at the email address: [Proc.OPE@sars.gov.za](mailto:Proc.OPE@sars.gov.za) (Attention: Contracts Management), and the SARS Anti-Corruption Unit at the email address: [Anti-Corruption@sars.gov.za](mailto:Anti-Corruption@sars.gov.za), where the Service Provider or the Service Provider's Personnel have reasonable grounds to believe or suspect that there has been a Personal Information Breach in respect of any Personal Information processed or held by the Service Provider pursuant to the Services Agreement.

2.3.3 Immediately following any Personal Information Breach, the Parties must meet to discuss the matter as necessary. The Service Provider must, at no additional cost, co-operate with and assist SARS in its further handling of the matter, including but not limited to:

- (a) assisting with any investigation;
- (b) providing SARS with physical access to any systems, facilities and operations affected;
- (c) facilitating interviews with the Service Provider's Personnel, including former employees and other parties involved in the matter;
- (d) making available all relevant records, logs, files, Personal Information reporting and other material required to comply with POPIA or as otherwise reasonably required by SARS; and
- (e) taking reasonable and prompt steps to mitigate the effects and to minimise any damage resulting from the Personal Information Breaches, subject to **clause 13.1** of the Services Agreement.

## **2.4 SARS' Audit Rights**

- 2.4.1 The Parties recognise that compliance with POPIA is material and critical to the successful implementation of the Services Agreement. SARS will, as part of honouring its legislative obligations as Responsible Party and as a POPIA compliance risk management strategy on its part, be entitled to monitor and audit the Service Provider's compliance with the Services Agreement, in general, and to conduct *ad hoc* audits of the Service Provider's compliance with this Addendum, to ensure that the Service Provider as Operator is fully compliant with the necessary POPIA, and contractual imperatives set out herein.
- 2.4.2 In addition to SARS' rights contemplated in the Services Agreement, SARS will be entitled to take any other reasonable monitoring measures to satisfy itself that Personal Information, its employees, and stakeholders are not exposed to any risk of non-compliance with POPIA: Provided that any such measures will be implemented within the confines of Applicable Law, with prior notification to the Service Provider.

## **2.5 Data subject requests and third-party rights**

- 2.5.1 The Service Provider must, at no additional cost to SARS, take such technical and organisational measures as may be appropriate, and promptly provide such information to SARS, as may reasonably be required, to enable SARS to comply with:
- (a) the rights of a data subject under POPIA; including, but not limited to, data subject access rights, the rights to rectify, port and erase Personal Information, object to the processing and automated processing of Personal Information, and restrict the processing of Personal Information; and
  - (b) any notice or request from a Regulatory Authority in relation to POPIA.
- 2.5.2 The Service Provider must promptly notify SARS in writing where it receives any complaint, notice or communication that relates



directly or indirectly to the processing of Personal Information or to either Party's compliance with POPIA.

2.5.3 The Service Provider must notify SARS within twenty-four (24) hours where it receives a request from a data subject for access to their Personal Information or to exercise any of their other rights under POPIA.

2.5.4 The Service Provider must further provide, at no additional cost to SARS, its full co-operation and assistance in responding to any complaint, notice, communication or data subject request.

## **2.6 Indemnity**

2.6.1 The Service Provider agrees to, at its own expense, indemnify, keep indemnified and defend SARS against all Losses incurred by SARS or for which SARS may become liable due to any failure by the Service Provider or the Service Provider's Personnel, to comply with any of the Service Provider's obligations under this Addendum and/or POPIA.

2.6.2 Any limitation of liability set forth in the Services Agreement will not apply to this Addendum's indemnity or liability obligations.