

## **OPERATOR UNDERTAKING - in terms of the Protection of Personal Information Act 4 of 2013 (“POPIA”)**

### **1. DEFINITIONS**

The following words shall have the meanings set out after them:

#### **“Personal Information”**

information relating to an identifiable living natural person, or an identifiable existing juristic person, as described in section 1 of POPIA and which includes special personal information, as defined in section 1 of POPIA, and for the purposes of this Operator Undertaking constitutes a reference to the Personal Information of the Company and all Personal Information Processed by the Company in its capacity as a Responsible Party (as defined in section 1 of POPIA);

#### **“POPIA”**

the Protection of Personal Information Act 4 of 2013, as may be amended, varied, or substituted, from time to time; and

#### **“Processing”**

any operation or activity or any set of operations, whether or not by automatic means, concerning Personal Information, including –

- (i) the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
- (ii) dissemination by means of transmission, distribution or making available in any other form; or
- (iii) merging, linking as well as restriction, degradation, erasure or destruction of information,
- (iv) and “Process” and “Processed” have corresponding meanings.

### **2. RECORDAL**

2.1. It is hereby recorded that –

- 2.1.1. The Operator and the Company entered into a Principle Agreement effective as from the date set out in the Principle Agreement;
- 2.1.2. in the course and scope of the relationship embodied in the Principal Agreement, the Operator shall be required, from time to time, to Process Personal Information of certain natural or juristic persons, including but not limited to the employees, clients, service providers and associates of the Company, on behalf of the Company;
- 2.1.3. the Operator has resolved to supplement the Principal Agreement with the provisions of this Operator Undertaking, in order to record its obligations in respect of the Processing of Personal Information in terms of POPIA;

- 2.1.4. for the purposes of this Operator Undertaking, the Company shall be deemed the “Responsible Party” and the Operator shall be deemed the “Operator”, as defined in terms of POPIA;
- 2.1.5. the Parties agree as set out herein.

### 3. UNDERTAKING

- 3.1. The Operator hereby acknowledges and agrees that in the course and scope of the relationship envisaged in terms of the Principal Agreement, that the Operator shall be required, from time to time, to Process Personal Information of the Company.
- 3.2. Pursuant to the provisions of paragraph 3.1 above, the Operator hereby warrants that it shall –
  - 3.2.1. ensure that it secures the confidentiality and integrity of all Personal Information obtained and/or Processed by it or on its behalf in accordance with the provisions of the POPIA;
  - 3.2.2. use the Company’s Personal Information for no other purposes than that required to comply with its duties under and otherwise give effect to this Agreement, and shall make no such Personal Information available to any external third party save as provided for in this Agreement and unless it is required for the performance of this Agreement;
  - 3.2.3. maintain industry standard administrative, physical and technical safeguards for the protection, security, confidentiality and integrity of the Company’s Personal Information in its custody and control and for the duration of this Agreement and shall ensure that it remains compliant with the provisions of POPIA; and
  - 3.2.4. adhere to all applicable data protection regulations, including in particular to any applicable provisions of POPIA, as well as all directives and guidance issued by the Information Regulator.
- 3.3. The Operator hereby indemnifies the Company from any liability or loss incurred or otherwise sustained by the Company of whatsoever nature as a result of the Operator’s breach of the obligations bestowed on it, in terms of POPIA and this Operator Undertaking.