**OFF-SITE STORAGE SERVICES AGREEMENT**

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

**…………………………………………………………..,** a private company with limited liability incorporated in accordance with the Laws of South Africa.

**[“THE SERVICE PROVIDER”]**

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1. **DEFINITIONS AND 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. “**Authorised Representative**” means a SARS official who is authorised to have SARS Materials released to him/her by the Service Provider and who is in possession of written authority from the SARS Service Manager to this effect;
      3. “**Business Day**” means any day other than a Saturday, Sunday or public holiday in South Africa;
      4. “**Commencement Date**” means the **………………,** notwithstanding the date of the signing of this Agreement;
      5. “**Confidential Information**” means any proprietary and confidential information or data of any nature, tangible or intangible, oral or in writing, in any form or any medium. 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 in terms of any other Act administered by the Commissioner for SARS. Information must be regarded as confidential if , by its nature, content, or circumstances of disclosure the information is , or ought reasonably to have been identified by a Receiving Party as confidential or proprietary in nature (including by reason of such information being generally known to, or is readily ascertainable by third parties generally) –
2. information regarding Personnel, independent contractors and suppliers of the Disclosing Party, processes, procedures, projections, manuals, forecasts and analyses, or intellectual property owned by or licenced to the Disclosing Party;
3. information relating to the knowledge, know-how, expertise, trade secrets and activities of the Disclosing Party;
4. 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 disclosure to the Receiving Party, as being confidential information.
   * 1. **“Data”** means any information supplied, stored, collected, collated, accessed or processed by or for the benefit of SARS;
     2. **“Data Subject”** means the Person to whom Personal Information relates;
     3. **“Disengagement Assistance”** means the provision of all information, documentation and reasonable assistance to SARS to enable SARS or a third party designated by SARS to take over the Service Provider’s obligations under this Agreement upon termination for any reason.
     4. **“Express Service”** means an expedited collection, retrieval or delivery service, available from the Service Provider on an urgent basis and with a Response Period of 2 (two) hours, which Response Period may be adjusted at SARS’s sole discretion taking into account relevant factors such as location and travel distance.
     5. **“Index”** means a detailed list of SARS Materials collected from any Service Site and compiled as per SARS’s requirements.
     6. **“Instructions”** means any order, collection, retrieval, delivery or other type of request sent to the Service Provider by SARS.
     7. **“Intellectual Property”** means any know-how (not in the public domain), invention (whether or not patented), design, trade mark (whether or not registered), or material in which copyright subsists, processes, process methodology and all other identical or similar intellectual property as may exist anywhere in the world and any applications for registration of such intellectual property.
     8. **“Inventory”** means a concise list of boxes collected from any Service Site, indicating specifically the number of each box, as well as the type of documents collected.
     9. “**Losses**” means all losses, liabilities, costs, expenses, fines, penalties, damages, and claims, and all related costs and expenses as determined in law;
     10. “**Parties**” means SARS and ………………………….., and “party” as the context requires, is a reference to any one of them;
     11. “**Performance Report**” means a monthly report to be provided by the Service Provider to SARS setting out details of the Services rendered during a particular month, together with the details of any Service Level Failures;
     12. “**Personnel**’ means any employee, agent, consultant, sub-contractor or other representative of either Party:

* + 1. “**Personal Information**” means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to –

1. Information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of a person;
2. Information relating to the education or the medical, financial, criminal or employment history of the person;
3. Any identifying number, symbol, e-mail address, physical address, telephone number or other particular assignment to the person;
4. The blood type or any other biometric information of the person;
5. The personal opinions, views or preferences of the person;
6. Correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
7. The views or opinions of another individual about the person; and
8. The name of the person if it appears with other Personal Information relating to the person or if the disclosure of the name itself would reveal information about the person;
   * 1. “**Problem**” means any query or complaint received by the Service Provider from SARS;
     2. “**Processing**” means any operation or activity or any set of operations, whether or not automatic means, concerning Personal Information, including (a) the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use; (b) dissemination by means of transmission, distribution or making available in any other form; or (c) merging, linking, as well as blocking, degradation, erasure or destruction of information;
     3. “**Resolution Times**” means the respective periods within which the Service Provider must acknowledge, action and/or complete an instruction received from SARS, as set out in **Annexure** “**A**”;
     4. “**Response Period**” means the period within which the Service Provider must acknowledge, action and/ or complete an Instruction received from SARs, as set out in **Annexure “A”**;
     5. “**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);
     6. “**SARS Materials**” means boxes, files, and/or documents which a Service Provider may be instructed by SARS to collect from a Service Site, or alternatively to store at or retrieve from its storage facility;
     7. “**SARS Records**” means, but shall not be limited to, all paper records (hand written or in printed form) such as taxpayer documentation, employee records, tender documentation, customs documentation, financial statements, reports, plans , policies, methodologies, technical and user documentation, operating standards, specifications, training materials, computer media, microfilm, microfiche, photos, videos, recording tapes, computer tapes, computer disks, computer magnetic tapes, compact discs, digital versatile discs, other reproductions of the written word, any audio visual materials, books, machine-readable and other information that SARS requires the Service Provider to store.
     8. “”**Security Incident Report**” means a monthly report to be provided by the Service Provider to SARS setting out the details of all incidents relating to physical security breaches and/or information security breaches that occurred during a particular month;
     9. “**Service Fee**” means the fees payable by SARS to the Service Provider for the Services, which fees are set out in **Annexure “B”**;
     10. “**Service Level**” means a qualitative standard of performance of the Services that The Service Provider is required to satisfy in its performance of the services as detailed in **Annexure “A”**;
     11. “**Service Level Failure**” means the Service Provider’s failure to meet any of the prescribed Service Levels;

* + 1. “**Service Provider**” means……………………, a company with limited liability incorporated in accordance with the Laws of South Africa with registration number: ……………………;
    2. “**Service Hours**” means Mondays to Fridays from 07:00 to 17:00, public holidays excluded;
    3. “**Services**” means Document Storage and other related services as more fully described in **clause 5** below;
    4. “**Service Sites**” means the offices where the Service Provider has to render the Services, as will more fully appear in **Annexure “C”**;
    5. “**Service Type**” means the type of service required by SARS from the Service Provider linked to a prescribed Response Period and determined by the distance between the relevant Service Site and the Service Provider’s storage facility-

1. Platinum Service – delivery or collection within a radius of less than 50 kilometres from the Service Provider’s storage facility;
2. Gold Service – delivery or collection within a radius of 50 kilometres to 200 kilometres from the Service Provider’s storage facility;
3. Silver Service – delivery or collection within a radius of more than 200 kilometres from the Service Provider’s storage facility
   * 1. “**Signature Date**” means the date on which the last signature is affixed to this agreement;
     2. “**Stock Boxes**” means new boxes purchased by SARS form the Service Provider for purposes of storing SARS Records;
     3. “**Termination Date**” means the  **…………………….**; and
     4. “**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;
      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;
      4. “**Service Provider’s Proposal**” is, subject to any contrary indication, a reference to the proposal submitted by the Service Provider in response to SARS’s Request for Proposal number RFP…………….; and
      5. “**Tender Documents**” is, subject to any contrary indication, a reference to any contrary indication, a reference to SARS’s invitation to prospective bidders to tender for the Services specified in RFP\_\_\_\_\_\_/2019.
   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;

* + 1. references to day/s, month/s or year/s shall be construed as calendar day/s, month/s or year/s; and,
    2. a reference to a party includes that party’s successors-in-title and permitted assigns.
  1. Unless inconsistent with the context, an expression which denotes-
     1. any one gender includes the other gender;
     2. the singular includes the plural and *vice versa*.
  2. 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.
  3. 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.
  4. 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 a 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.
  5. Where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.
  6. 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 requires the Service Provider to provide document storage and related Services to SARS in compliance with the terms and conditions contained in this Agreement.
   2. The Service Provider has submitted a proposal to SARS in response to SARS’s Request for Proposal No. RFP ……/2019. SARS has accepted the aforesaid proposal and hereby appoints the Service Provider to render the Services.
   3. The Service Provider will at all times perform the Services in accordance with the Service Levels prescribed in this Agreement (Annexure “A”).
   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 to the highest standards prevailing in the local hygiene industry.
2. **DURATION**
   1. This Agreement shall commence on the Commencement Date, notwithstanding the Signature Date, and continue in full force and effect until Termination Date or terminated earlier in accordance with the terms of this Agreement.

1. **PERSONNEL**
   1. The Service Provider undertakes that it has sufficient and suitable personnel in order to render the Services to SARS.
   2. The Service Provider will ensure that the Personnel devote such time, attention and skill in performing the Services as may be reasonably required for the proper discharge of their duties under this Agreement.
   3. The Service Provider will assign suitably qualified and skilled personnel to provide the Services in terms of this Agreement.
   4. The Service Provider shall be solely responsible for its personnel at all times and nothing contained in this Agreement may be construed as constituting any relationship between the contracting parties other than for the Services provided.
   5. For the purpose of liaising with the Service Provider from time to time regarding any of its personnel, the Service Provider shall appoint an authorised representative and provide SARS with the relevant contact details within seven (7) days after the Commencement Date.
   6. Any complaints, queries, requests, notices or like information relating to any of the Service Provider’s personnel which may in any way be reasonably regarded as material to the Service Provider’s responsibility for its personnel shall be communicated in writing forthwith to the designated representative by SARS and the Service Provider undertakes to take appropriate action as may be required in a timely manner upon receiving such notice.
2. **SERVICES**
   1. During the currency of this Agreement, the Service Provider shall: -
      1. Supply and deliver Stock Boxes to SARS;
      2. Collect SARS Materials from applicable Services Sites;
      3. Store SARS Materials at its storage facility;
      4. Retrieve SARS Materials from its storage facility;
      5. Destroy SARS Materials, subject to receiving prior written authorisation from a duly authorised SARS representative, and
      6. Scan SARS Materials, subject to receiving prior written authorisation from a duly authorised SARS representative.
   2. Render the Services to SARS as more fully described in Annexure “**A**”;
   3. Render the Services to SARS in accordance with the Service Levels as prescribed in Annexure “**A**”;
   4. The applicable Service Type will determine the relevant Response Periods which the Service Provider must adhere to;
   5. The Service Provider will perform the Services during the Service Hours; and
   6. Should SARS require so, the Service Provider will provide the Services outside the Service Hours upon prior written agreement between the Parties.
3. **SARS OBLIGATIONS**

SARS undertakes to-

* 1. To nominate a SARS official to be referred to as the SARS Service Manager, who shall liaise with the Service Provider ‘s Contract Manager on all activities relating to the Services, for the duration of this Agreement;
  2. To nominate Authorised Representatives to whom the Service Provider may release SARS Materials upon proof of written authorisation, which is to be granted to such Authorised Representatives by SARS’s Service Manager;
  3. To furnish the Service Provider with any relevant information, if required, as soon as practically possible following reasonable request from the Service Provider for information relating to SARS’s operations and activities, or which is necessary for the Service Provider to perform the Services in compliance with the terms and conditions of this Agreement;
  4. To endeavour to provide the Service Provider with a forecast or an indication of any anticipated operational requirements in relation to various services as soon as reasonably practicable;
  5. To take reasonable measures to arrange for the Service Provider to have access during normal office hours to SARS or third party premises to enable the Service Provider to provide the Services and comply with its obligations set out in this Agreement;
  6. To, in the that SARS’s consent or authorisation is required in terms of this Agreement pursuant to a request made by the Service Provider, consider the request for consent or authorisation within a reasonable time period, having regard to the nature of the request and the impact which any delay in such consent or authorisation may have on the Services;
  7. To ensure that the boxes are stored for collection in a secure , access controlled environment;
  8. Not to overfill boxes or exceed the maximum allowed weight of 15 (fifteen) kilograms per box and to give the necessary consent, if advised by the Service Provider that a box needs to be split.
  9. To positively identify the person collecting any prepared SARS boxes as a Service Provider employee upon the collection of boxes from any SARS sites;
  10. To provide the Service Provider with the retention requirement as per its regulatory and policy requirements for which default times differ between documents;
  11. To provide the Service Provider via e-mail or the Service Provider’s Document Retrieval System (where applicable), with the relevant box number and bar code or relevant data with contact details required to facilitate a retrieval request;
  12. To ensure that the relevant SARS employee signs the delivery note when documents are received, alternatively that same is marked as received on the Service Provider’s Document Retrieval System (where applicable);
  13. To provide the Service Provider with a list of SARS representatives who are authorised to give destruction orders and to communicate any changes to the list to the Service Provider via SARS’s Service Manager;
  14. To provide the Service Provider in writing with the relevant details (box number, reference number, bar code, date) of the and/or its contents that should be destroyed; and
  15. To ensure SARS representatives authorised to give destruction orders, sign next to each box on the Service Provider’s destruction report to confirm SARS’s instructions to destroy.

1. **THE SERVICE PROVIDER’S OBLIGATIONS**
   1. The Service Provider will acknowledge receipt of any Instructions or Problems transmitted or communicated by SARS during business hours to the Service Provider.
   2. The Service Provider will promptly execute any Instructions received from and/or attend to any Problem reported by SARS in accordance with the Service Levels set out in **Annexure “A”**.
   3. The Service Provider is obliged to comply with all applicable Service Levels. In the event that the Service Provider fails to comply with the prescribed Service Levels, SARS reserves the right to, at its sole discretion, make use of a third party’s services.
   4. The Service Provider will assist SARS officials with packing of boxes, if and when required.
   5. The Service Provider will provide SARS with and Inventory of all SARS Materials removed from each Service Site.
   6. The Service Provider will issue and attach bar codes to each box collected from a Service Site.
   7. The Service Provider will compile a detailed Index of all SARS Materials removed from each Service Site in accordance with SARS’s requirements. SARS may require the Service Provider to include in the Index a reference to the number of each box collected; the total amount of files or folders contained in the box; reference to the first and last file/document (whichever is applicable) stored in the box; the type of documents collected and the required retention period, as per applicable legislation.
   8. The Service Provider will accurately capture all boxes transported from any of SARS’s Service Sites to its storage facility on an electronic database.
   9. The Service Provider will furnish SARS with a consolidated Index of all SARS Materials kept at its storage facility.
   10. The Service Provider will provide SARS with a record of all SARS Materials retrieved by SARS, as well as the method used (i.e. hand delivery or electronic transmission). Such record will also list SARS Materials that have not yet been returned to the Service Provider by SARS.
   11. The Service Provider will ensure that SARs Materials are only released to Authorised Representatives of SARS.
   12. The Service Provider will keep accurate record of the retention periods of all SARS Materials and notify SARS when such periods expire.
   13. The Service Provider will provide SARS with a destruction list prior to destroying any SARS Materials. The Service Provider will not destroy any SARS Materials without the prior written authorisation from SARS’s Service Manager. Pursuant to the destruction of any SARS Materials, the Service Provider is obliged to issue a certificate of destruction to SARS.
   14. The Service Provider will notify SARS of any change in its contact details, including changes to contact persons, telephone numbers, email addresses, physical addresses, postal addresses and/or bank details.
   15. The Service Provider will notify SARS of any problems experienced with the collection of SARS Materials, retrieval of SARS Materials or delays in the delivery of stock boxes. The Service Provider with further provide SARS with progress updates on problems and delays experienced.
   16. The Service Provider will maintain SARS Materials in good condition, keeping them dust-free and dry.
   17. The Service Provider will attend ad hoc meetings with SARS as and when required, as well as quarterly contract reviews.
   18. The Service Provider will provide the Services in accordance with best practices, in conformance with existing industry codes and to the highest professional standards as established for such Services in South Africa.
   19. The Service Provider will comply with and will procure that its personnel comply with all security measures imposed by SARS regarding access to SARS’s premises.
   20. The Service Provider will ensure that it is familiar will all SARS policies and procedures applicable to the Services, as advised by SARS from time to time.
   21. The Service Provider will have sufficient contingency measures in place, as can reasonably be expected in the particular circumstances to ensure the continuation of Services at all times, including during strikes or other labour actions.
   22. The Service Provider may appoint subcontractors, subject to obtaining prior written approval from SARS, in which event the Service Provider will at all times remain responsible to SARS for fulfilment of all its obligations under this Agreement.
   23. The Service Provider will ensure that it at all times adheres to and complies with all applicable legislation, including without limitation, tax laws, employment law and bargaining council agreements to which it is a party. The Service Provider will within 14 (fourteen) days from the Signature Date of this Agreement furnish proof to SARS that its employees are registered for UIF and PAYE.
   24. The Service Provider will ensure that its Personnel will at all times, whilst on SARS’s premises, adhere to the standard health, safety and security procedures and guidelines applicable to SARS’s personnel, as such procedures and guidelines may be amended by SARS from time to time and which are available to the Service Provider on request.
   25. The Service Provider will provide on-going training to its staff and more specifically, will ensure that its personnel at all times are familiar with all laws applicable to the protection of and access to information.
   26. The Service Provider will attend to the management of any problems in the manner and within the prescribed Response Periods as set out in **Annexure “A”**.
   27. The Service Provider will upon termination of this Agreement for any reason provide the necessary Disengagement Assistance to SARS. Such Disengagement Assistance will be provided by the Service Provider to SARS on demand and concluded within a reasonable period after such termination.
   28. The Service Provider will at all times adhere to, and conduct itself in an ethical manner, which will not be in conflict with those values that constitute good corporate governance in general, or specifically communicated by SARS to the Service Provider from time to time.
2. **FEES AND PAYMENT**
   1. The fees payable by SARS to the Service Provider in respect of the Services are set out in the Service Provider’s Pricing Schedule attached as **Annexure “B”**, subject to clause 8.3 below.
   2. The Service Provider will charge transportation costs in accordance with its quoted rates, read together with the methodology prescribed by SARS as well as any clarification provided.
   3. Save where provided otherwise, fees and charges referred to in this Agreement are inclusive of VAT.
   4. All amounts due and payable by SARS to the Service Provider shall be payable within 30 (thirty) days of receipt of a valid tax invoice provided that SARS is satisfied that the invoice correctly reflects the amount/s due by SARS in respect of the Services rendered. Should any invoiced amount/s be disputed, the Parties agree to refer the dispute to the SARS Service Manager and the Service Provider’s Contract Manager to be resolved within 5 (five) days, failing which the dispute will be dealt with in terms of **clause 20.**
   5. Invoice requirements:
3. All invoices and proofs of delivery must be submitted to the respective business units within SARS who requested the Service; and
4. The Service Provider will furnish SARS’s Finance Department with a monthly statement.
   1. The Service Provider accepts that it will not have the right to exercise a lien over SARS’s Materials for any reason whatsoever, including the non-payment of invoices issued by the Service Provider to SARS.
5. **SECURITY**

* 1. The Service Provider will ensure that the physical security measures put in place at its storage facility comply with SARS’s requirements, as set out in its tender documentation.
  2. The Service Provider will allow SARS access to its premises, upon reasonable notice and upon prior agreement, in order to inspect the security measures that have been implemented by the Service Provider, alternatively to check that such measures are being maintained.
  3. The Service Provider will ensure that it has an information security policy that complies with SARS’s requirements for information security and that its information security management system complies with international standards.
  4. The Service Provider will put in place appropriate safeguards to specifically protect Personal Information from unauthorised access, retrieval, alteration and/ or destruction on unlawful Processing
  5. The Service Provider will familiarize itself and fully comply with all applicable SARS policies.

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 South Africa.
   2. In addition to the above, the Service Provider shall not later than three (3) months after each anniversary of this Agreement submit to the Executive: Procurement a valid tax clearance certificate for the current year.
   3. If the Service Provider fails to provide such a certificate, SARS may terminate the agreement in accordance with **Clause 16.** SARS will have no liability to the Service Provider with respect to such termination.
2. **WARRANTIES**
   1. The Service Provider hereby represents and warrants to SARS that-
      1. it has sufficient storage facilities and infrastructure to ensure the seamless provision of the Services to SARS;
      2. the physical security at its storage facility will comply with SARS’s requirements for the duration of this Agreement;
      3. its information security management system will comply with SARS’s requirements for the duration of this Agreement;
      4. this Agreement has been duly authorised and executed by it and constitutes a legal, valid and binding set of obligations on it;
      5. SARS may upon reasonable notice and upon prior arrangement inspect any of the Service Provider’s storage facilities to determine the Service Provider’s level of compliance with SARS’s requirements;
      6. it is acting as a principal and not as an agent of an undisclosed principal;
      7. 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, articles of association 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
      8. 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;
   2. The provisions of this Clause shall survive the termination of this Agreement.
3. **INDEMNITIES AND INSURANCE**
   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 insurance coverage with regard to the building, to cover any claim, loss and or damages to which it is liable in terms of this Agreement;
      2. deliver to SARS upon the Signature Date of this Agreement, and on each anniversary of the Commencement Date during the term of the Agreement, proof of such insurance coverage as aforementioned;
      3. update the aforementioned as requested by SARS, including the possible increase in the amount of cover provided in such insurance policy.
      4. 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 (hereinafter referred to as “Losses”) in respect of The Service Provider’s negligent or intentional breach of the provisions of this Agreement or injury or death of any person or loss of or damage to any person or property occurring by reason of the Service Provider, its employees or agents’ wilful conduct or negligence during or after the execution of the Services.
4. **LIMITATION OF LIABILITY**
   1. The Service Provider agrees that, in the event of a breach of any of the provisions of this Agreement by the Service Provider, the Service Provider will be liable to SARS for losses which constitute direct, special and/or general damages.
   2. Subject to Clause 13.3, the Parties agree that, in the event of a breach of any of the provisions of this Agreement, the defaulting Party will not be liable to the other Party for any losses which constitute indirect, special and/or consequential damages.
   3. Notwithstanding anything to the contrary set forth in Clause 13.2 above, or this Agreement in general, the Service Provider agrees that it will be liable to SARS for-
      1. Losses which constitute indirect, special and/or consequential damages, where such losses are caused by a breach of any Confidential Information provisions contained in this Agreement;
      2. Where such losses are caused by the wilful and unlawful processing of Personal Information; and
      3. Where such Losses arise out of the Service Provider’s wilful misconduct, dishonesty or gross negligence, regardless of whether such Losses arise out of contract or delict.
5. **AUDITS AND REPORTS**
   1. The Service Provider will for the duration of this Agreement and for a period of 5 (five) years after the termination of the Agreement, sufficient to permit a complete audit thereof. The Service Provider will provide SARS and SARS’s auditors access at reasonable times and upon prior arrangement to information, records and documentation relating to the Services for the purpose of performing audits, examinations and inspections of the Service Provider, in order to verify the Service Provider’s compliance with all of the terms of this Agreement and to enable SARS to comply with the requirements of its regulators and governmental entities having jurisdiction over SARS;
   2. The Service Provider has a duty to immediately report all security incidents to SARS as soon as the Service Provider becomes aware of –
      1. Any physical security breach having occurred at its storage facility; or
      2. Any actual or possible information security breach that has occurred within its computer network.
   3. The service Provider will provide SARS with a monthly Security Incident Report within 7 (seven) days of the end of every month, setting out the details of-
      1. All incidents that occurred during the month relating to physical security breaches, as well as the specific SARS Materials affected, if any;
      2. All incidents that occurred during the month relating to actual or possible information security breaches, as well as the specific SARS Materials affected by such breaches;
      3. The outcome of the Service Provider’s investigations into the incidents; and
      4. The preventative measures put in place to avoid a recurrence of any further incidents.
   4. The Service Provider will provide SARS with a consolidated monthly Performance Report within 7 (seven) days of the end of every month, setting out the details of-
      1. All collection request received from SARS during the month;
      2. All retrieval requests received from SARS during the month;
      3. The respective methods used to retrieve the SARS materials (i.e. hand delivery or electronic transmission);
      4. All SARS materials temporarily retrieved by SARS and that has not yet been returned to the Service Provider;
      5. All SARS materials that has been permanently retrieved;
      6. The Service Level Failures that occurred during the month, as are more fully described in **Clause 32** below.
6. **HEALTH, SAFETY AND SECURITY PROCEDURES AND GUIDELINES**
   1. The Service Provider will ensure that its personnel will at all times, whilst on SARS’s premises, adhere to standard health, safety and security procedures and guidelines applicable to SARS’s personnel, as may be amended by SARS from time to time and which are available to the Service Provider on request.
   2. Should SARS at any time have reason to believe that any member of the Service Provider’s personnel is failing to comply with such standard health, safety and security procedures and guidelines, SARS will be entitled to deny such member of the Service Provider personnel access to any or all of SARS’s premises and the Service Provider will be required to replace such member of its personnel without delay. The Service Provider will not be relieved of its obligations under this Agreement as a result of such denial of access, and SARS will have no liability to the Service Provider with regard thereto.
   3. The Service Provider hereby agrees and undertakes, in terms of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993), to ensure that the Service Provider and the Service Provider’s personnel comply with the aforesaid Act. The Service Provider accepts sole responsibility for all health and safety matters relating to the provision of the Services, or in connection with or arising out of such Services for the duration of this Agreement and will ensure that neither SARS’s personnel, nor any third party’s health and safety is endangered in any way by The Service Provider’s activities or conduct in providing the Services.
   4. The Service Provider hereby agrees and undertakes to maintain its equipment in good order, so as to comply with SARS’s occupational health and safety policies, procedures and standards as amended from time to time.
7. **BREACH**

Should a party (“the defaulting party”) commit a breach of any of the provisions of this Agreement, then any other party (“the aggrieved party”) shall be entitled to require the defaulting party to remedy the breach within ten (10) Business Days, or any other reasonable time mutually agreed upon, of delivery of a written notice requiring it to do so. If the defaulting party fails to remedy the breach within the period specified in such notice the aggrieved party shall be entitled to cancel the contract and claim damages, alternatively claim immediate specific performance from the defaulting party. The aforegoing is without prejudice to such other rights as the aggrieved party may have in law.

1. **PROTECTION OF PERSONAL INFORMATION**
   1. The Parties acknowledge their respective obligations to comply with the substantive provisions of the Protection of Personal Information Act, 4 of 2013 (hereinafter referred to as POPI).
   2. Where any Party receives any personal information as defined in POPI, it shall ensure that it fully complies with the provisions of the Act and only deal with the personal information to fulfil its obligations under this Agreement. The personal information received shall not be further processed or disclosed without the consent of the disclosing party.
   3. Each party therefore understands and agrees, notwithstanding any contrary provision in any other agreement between the Parties, that each party retains its full rights to pursue legal or equitable remedies in the event of any breach or threatened breach of the provisions dealing with POPI, and may prevent the other Party, any agents or subcontractors, or any third party from violating this Agreement by any legal means available.
   4. Within thirty (thirty) days after the termination of this Agreement, for whatever reason, the Receiving Party of either party’s personal information shall return same or at the discretion of the disclosing party of such personal information, destroy such personal information, and shall not retain copies, samples or excerpts thereof.
   5. In cases where the Disclosing Party has elected for the personal information to be destroyed, as provided for in clause 16.4 above, the Receiving Party shall, within ten (10) days of receiving the instruction to destroy the personal information, send an affidavit confirming the destruction of personal information.
2. **CONFIDENTIAL INFORMATION**

* 1. General obligations
     1. Each Party (“the Receiving Party”) must treat and hold as confidential all information, which they may receive from the other Party, (“the Disclosing Party”), or which becomes known to them concerning the Disclosing Party during the currency of this Agreement.
     2. Each Party will maintain the confidentiality of the other Party’s Confidential Information, using at least the same efforts as it uses to maintain the confidentiality of its own Confidential Information, and as otherwise required under applicable law or in terms of the applicable policies and procedures of SARS, the terms of this Agreement, and, in relation to the Confidential Information of SARS, the Oath of Secrecy/ Solemn Declaration attached as **Annexure “D”**.
     3. The Parties acknowledge that nothing in this Agreement confers any rights or licence to the other Party’s Confidential Information.
     4. The Receiving Party agrees that in order to protect the proprietary interests of the Disclosing Party in its Confidential Information-
        1. It will only make the Confidential Information available to those of its Personnel who are actively involved in the execution of its obligations under this Agreement and then only on a “need to know” basis;
        2. It will put in place internal security procedures reasonably acceptable to the Disclosing Party to prevent unauthorised disclosure and will take all practical steps to impress upon those Personnel who need to be given access to Confidential Information, the secret and confidential nature thereof;
        3. It will not in at any time whether during this Agreement or thereafter, use any Confidential Information of the Disclosing Party, or directly or indirectly disclose any Confidential Information of the Disclosing Party to third parties;
        4. all Confidential Information of the Disclosing Party which has or will come into its possession will at all times remain the sole and absolute property of the Disclosing Party.
     5. The foregoing obligations will not apply to any information which-
        1. Is lawfully in the public domain at the time of disclosure;
        2. Subsequently and lawfully becomes part of the public domain by publication or otherwise;
        3. Subsequently becomes available to the receiving Party from a source other than the disclosing Party, which source is lawfully entitled without any restriction on disclosure to disclose such confidential information; or
        4. Is disclosed pursuant to a requirement or request by operation of law, regulation or court order.
  2. Specific Obligations
     1. In the event of any unauthorised access to, disclosure or loss of or inability to account for, any Confidential Information, the Party responsible for protecting such Confidential Information will promptly, at its own expense –
        1. Notify the other Party in writing;
        2. Describe in detail any materials in respect of which there has been unauthorised access;
        3. Take such actions as may be necessary or reasonably requested by the other Party to minimise the violation; and
        4. Co-operate in all reasonable respects with the other Party to minimise the violation and any damage resulting from any event as contemplated in clause 17.2.1 above, and including returning any materials.
  3. The Service Provider will ensure and confirm to SARS, in writing, that all its Personnel involved with the provision of the Services have signed SARS’s Oath of Secrecy, prior to the Commencement Date.

1. **FORCE MAJEURE**
   1. In the event of any act beyond the control of the Parties, strike, war, warlike operation, pandemic, rebellion, riot, civil commotion, lockout, interference by trade unions, suspension of labour, 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 "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 continues (excluding payment obligations for materials purchased or equipment rented).
   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 give prompt written notice thereof to the other Party. Should a 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 18.4.1**.
2. **RELATIONSHIP BETWEEN THE PARTIES**
   1. The Service Provider is an independent contractor and under no circumstances will it be partner, joint venture partner, agent, or employee of SARS in the performance of its duties and responsibilities pursuant to the 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. **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 twenty (20) 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 21** 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.
   4. Neither Party shall be entitled to withhold performance of any of their obligations in terms of this Agreement pending the settlement of, or decision in, or any dispute arising between the Parties nor shall each party in such circumstances continue to comply with their obligations in terms of this Agreement.
4. **ADDRESSES**
   1. Each Party chooses the addresses set out opposite its name below as its addresses to which all notices and other communications must be delivered for the purposes of this Agreement and its *domicilium citandi et executandi (“domicilium”)* at which all documents in legal proceedings in connection with this Agreement must be served.
   2. SARS’s physical address for ***service of notices and legal processes***-
      1. **Acting Group Executive: Procurement**

**570 Fehrsen Street;**

**Brooklynbridge**

**Linton House;**

**Brooklyn – Pretoria**

* 1. SARS’s email address for communications and/or correspondences in connection with the operation of the Services: …………..; e-mail: …………………..; Telephone number: ………………; cellular phone number: …………………..
  2. The Service Provider’s physical address for ***service of notices and legal processes-***
     1. **………………………….**

**……………………………..**

**………………………….**

**………………….**

* 1. The Service Provider’s email address for communications and/or correspondences in connection with the performance of the Services: e-mail: ……………..; telephone number: …………………………; cell number: ……………………
  2. 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.*
  3. 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 South Africa, which is not a post office box or a *poste restante.*
  4. 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; or
  5. Any notice to a Party in a correctly addressed envelope and 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.
  6. 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. **CONFIDENTIALITY**
   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, agents and/or its employees. This includes the knowledge acquired by the Service Provider, 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 22**, 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.
   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 (2) two 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 specifically acknowledges that all information relating to the Services, including and not limited to, literary works produced thereunder are of a sensitive nature and secret. The Service Provider undertakes not to disclose such information without first obtaining the written consent of SARS.
   8. 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.
   9. The provisions of this clause shall survive the termination or cancellation of this Agreement for any reason whatsoever.
2. **BROAD-BASED BLACK ECONOMIC EMPOWERMENT**
   1. The Service Provider commits and warrants to comply with the requirements of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003) (hereinafter referred to as the *BBBEE Act*) as will be amended from time to time, and the *Codes of Good Practice* issued in terms of the *BBBEE Act.*
   2. Upon the Signature Date of this Agreement and one (1) calendar month after the expiry of a current certificate for a particular year, the Service Provider shall provide SARS with a certified copy of its rating status from an agency accredited by the South African National Accreditation System.
   3. During the currency of this agreement (including any extension or renewal hereof which may apply), the Service Provider shall use reasonable endeavours to maintain and improve its current BEE rating.
   4. 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 written notice.
3. **PRINCIPLES GOVERNING SERVICE LEVELS**
   1. **GENERAL**
      1. **Annexure** “**A**” contains a list of the Service Levels that will be applicable to the performance of the Services. The Parties may from time to time add new Service Levels, or make changes to existing Service Levels, by mutual agreement and in writing. The Service Provider shall comply with the Service Levels as of the Commencement Date.
      2. The purpose of such Service Levels is to provide a framework against which the quality of the Services rendered to SARS can be measured.
      3. Service level targets are set which targets must be achieved by the Service Provider in order to avoid termination on the basis of malperformance.
      4. Thresholds are set in the form of percentages, which will be used to determine whether or not a transgression of a Service Level has taken place.
   2. **MONITORING, MEASURING AND REPORTING**
      1. The Service Provider shall -
         1. Monitor its performance of the Services and its compliance with the prescribed Service Levels on a continuous basis;
         2. Provide SARS with a monthly performance report in respect of all Services rendered to SARS during any particular month, within 7 (seven) days of the last day of the month, which report shall include the following: -
4. the nature of, and time and date when the Service Level Failure/s occurred;
5. the circumstances which led to such Service Level Failure/s;
6. the impact, if any, of the Service Level Failure/s on the balance of the Services.
   * + 1. Provide SARS with any supporting documentation and/or information, as and when requested to do so, to enable SARS to verify the Service Provider’s level of performance.
     1. Regardless of the requirement for the Service Provider to furnish SARS with a consolidated monthly performance Report, the Service Provider shall, in respect of each and every Service Level Failure, immediately upon it coming to the Service Provider’s attention:
7. Inform SARS of its non-compliance with the prescribed Service Level;
8. Investigate the non-compliance and advise SARS in writing of the cause of the Service Level Failure;
9. Advise SARS of the corrective actions being undertaken to remedy such Service Level Failure, as well as the status of and expected resolution time for the aforesaid Service Level Failure;
10. Take commercially reasonable steps to prevent such Service Level Failure from recurring in the future.
    1. **EXCUSED NON-COMPLIANCE**

* + 1. Where the Service Provider can establish to the reasonable satisfaction of SARS that-
       1. the cause of its failure to achieve a certain Service Level was due to a factor outside of the reasonable control of the Service Provider (i.e. force majeure);
       2. the Service Provider would have achieved such service level but for such factor;
       3. the Service Provider used commercially reasonable efforts to perform and achieve that service level notwithstanding the presence and impact of such factor; and
       4. the Service Provider is without fault in causing such factor,

in which instance no service level failure will be recorded against the record of the Service Provider.

1. **THIRD PARTY SERVICE PROVIDER COOPERATION**
   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 engagement.
   2. It is, however, agreed that the relationship between the Service Provider and any such 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.
2. **SECURITY VETTING OF THE SERVICE PROVIDER RESOURCE**
   1. SARS reserves the right in its sole and absolute discretion to do a security check (vetting) on the Service Provider personnel involved with the performance of the Services.
   2. Where SARS finds a Service Provider 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 equal qualification(s) and experience, without any delay.
3. **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. **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 or deliverable) 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 all authorised signatories of the respective Parties concerned.

* 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 Law of the Republic of South Africa and all disputes, actions and other matters relating thereto will be determined in accordance with such Law.

* 1. **WHOLE AGREEMENT AND AMENDMENT**

This Agreement constitute 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" to the applicable Agreement 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. **ORDER OF PRECEDENCE**

In the event of a conflict between the documents comprising this Agreement, such conflict shall be resolved in accordance with the order of precedence (in descending order of priority) as follows: (i) this Agreement; (ii) any Annexure and/or Schedule to this Agreement.

1. **COSTS**

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

1. **JURISDICTION**

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

1. **INTELLECTUAL PROPERTY**

The Parties acknowledge that all right, title and interest in and to the intellectual property rights of the other Party vest in such other Party and that neither Party has any claim of any nature in and to the intellectual property rights of the other Party.

**As Representatives for South African Revenue Service**

1. **Andy Tondi Group Executive: Corporate Real**

**Estate**

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

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

1. **Deliwe Rampa Acting Group Executive: Procurement**

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

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

**And for the Service Provider**

Signed at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_on the \_\_\_\_\_\_\_\_\_day of \_\_\_\_\_\_\_\_ 2020

**As Representative: (full names) :\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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

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

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1. **ANNEXURE A**

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| 1. **Administration**  |  |  | | --- | --- | | **ACTIONS REQUIRED** | **SERVICE LEVEL** | | Furnish SARS with a complete Inventory of SARS Materials removed from SARS’s premises | Within 24 hrs | | Furnish SARS with an index of archived SARS Materials | Within 5 days | | Furnish SARS with a list of retrieved SARS Materials and the method used | Every Week | | Furnish SARS with a list of retrieved SARS Materials not yet returned by SARS | Every Week | | Furnish SARS with an age analysis of all SARS boxes kept at its storage facility | Every 6 months |  |  |  | | --- | --- | | Furnish SARS with destruction list | As and when required | | Furnish SARS with certificates of destruction | Within 5 days after instruction was given | | Furnish SARS with a Security Incident Report covering both physical security and information security incidents | Every occurrence | | Furnish SARS with proof of continued insurance coverage | Every 3 months | | Send Original invoice and proof of delivery to the relevant business unit after retrieval or collection of SARS Materials, or the supply of stock Boxes to SARS | Within 7 days of the end of each month | | Ensure invoice data is correct and complete | Each invoice | | Send consolidated monthly statement to SARS’s Finance Department | Within 7 days of the end of each month | | Notify SARS of a change in the Service Provider’s details (i.e. contact numbers, contact persons, physical and postal addresses and/or bank details) | Within 24 hrs of the change taking effect |  1. **Communication**  |  |  | | --- | --- | | **ACKNOWLEDGEMENT / NOTIFICATION REQUIRED** | **SERVICE LEVEL** | | Acknowledgement of retrieval request | Within 2 hrs | | Acknowledgement of collection request | Within 8 hrs | | Acknowledgement of receipt of orders for stock boxes | Within 8 hrs | | Notification to SARS of problems experienced to retrieve SARS Materials | Immediately/ a.s.a.p | | Notification to SARS of delays experienced to collect SARS Materials | Immediately/ a.s.a.p | | Notification to SARS of delays in the delivery of Stock Boxes | Immediately/ a.s.a.p | | Progress updates on problems or delays | At the time of the delay and 2 hours thereafter or as the situation changes |  1. **Quality of the Services**  |  |  | | --- | --- | | **Duties** | **SERVICE LEVEL** | | Index SARS Materials according to SARS’s requirements | Always | | Issue and attach bar codes | To each box, or if specifically required by SARS, to each file | | Capture details of SARS Materials on Service Provider’s electronic database | Within 2 days | | Maintain boxes, i.e. keep document dust-free, dry and in good condition | Within 48 hrs | | Moving of equipment to a new SARS building | Continuously | | Release SARS Materials to authorised officials only | Always |  1. **Delivery**    1. **Turn-around times applicable to the retrieval of SARS Materials**  |  |  |  | | --- | --- | --- | | **PLATINUM SERVICE**  **(**radius: < 50km**)** | **GOLD SERVICE**  **(radius: >50km to 200km)** | **SILVER SERVICE**  **(radius: >200km)** | | 2 days | 3 days | 5 days |  * 1. **Turn-around times applicable to the retrieval of SARS Materials**  |  |  |  | | --- | --- | --- | | **PLATINUM SERVICE**  **(**radius: < 50km**)** | **GOLD SERVICE**  **(radius: >50km to 200km)** | **SILVER SERVICE**  **(radius: >200km)** | | 8 hours | 24 hours | 24 hours |  * 1. **Turn-around times applicable to the delivery of Stock Boxes**  |  |  |  | | --- | --- | --- | | **PLATINUM SERVICE**  **(**radius: < 50km**)** | **GOLD SERVICE**  **(radius: >50km to 200km)** | **SILVER SERVICE**  **(radius: >200km)** | | 2 days | 3 days | 5 days |  1. **Performance Monitoring**  |  |  | | --- | --- | | **DUTIES** | **SERVICE LEVEL** | | Submission of monthly Performance Reports | Every month | | Submission of Security Incident Reports | As and when an incident occurs | | Reporting of Service Level Failures | As and when a Service Level failure occurs | | Attend meeting arranged by SARS | As and when required | | Attend contract reviews by SARS | Quarterly |  1. **Problem Management**    1. Problems which require resolution during the term of this Agreement must be classified by SARS or the Service Provider (whichever is applicable) in terms of severity and allocated a corresponding priority. The classification of a specific Problem and the applicable Resolution Times will be determined by its possible impact on SARS-  |  |  |  | | --- | --- | --- | | **CLASSIFICATION OF PROBLEMS** | **PRIORITY** | **IMPACT ON SARS** | | **Level 1**  Critical | Immediate | Business critical financial or operational impact and/or reputational risk | | **Level 2**  Serious | Urgent | Serious financial or operational impact and/or reputational risk | | **Level 3**  Moderate | Medium | Moderate financial or operational impact and/or reputational risk | | **Level 4**  Minor | Low | Minor operational impact, no financial impact or reputational risk |      * 1. The applicable Resolution Times for each Problem type is set out in the table below  |  |  |  | | --- | --- | --- | | **CLASSIFICATION OF PROBLEMS** | **LEVEL** | **RESOLUTION TIMES** | | Critical | 1 | Within 8 hrs | | Serious | 2 | Within 24 hrs | | Moderate | 3 | Within 72 hrs | | Minor | 4 | Within 5 days |  1. **Escalation Procedures (Refer to ANNEXURE E2)**    1. Service Provider Escalation channels   During the term of this Agreement SARS will classify any Problem that arises in accordance with section 6 above, prior to escalating such problem to the Service Provider for resolution. The following escalation channels will apply to the Service Provider-   |  |  |  |  | | --- | --- | --- | --- | | **POSITION &**  **PROBLEM**  **LEVEL** | **NAME** | **E-MAIL ADDRESS** | **CONTACT**  **NUMBER** | | National Key  Accounts Consultant (Level 4) |  |  |  | | Operations Manager (Level 3) |  |  |  | | General Manager (Level 2) |  |  |  | | Director (Level 1) |  |  |  |   7.2 SARS Escalation Channels  During the term of this Agreement the Service Provider will classify any problem that arises in accordance with section 6 above,. Prior to escalating such problem to SARS for resolution. The following escalation channels will apply to SARS-   |  |  |  |  | | --- | --- | --- | --- | | **POSITION &**  **PROBLEM**  **LEVEL** | **NAME** | **E-MAIL ADDRESS** | **CONTACT**  **NUMBER** | | Buyer (Level 4) |  |  |  | | Manager: Projects (Level 3) |  |  |  | | Group Executive: Business (Level 2) |  |  |  | | Group Executive: Procurement (Level 1) |  |  |  | |

**ANNEXURE B**

**PRICING SCHEDULE**

**ANNEXURE C**

**LIST OF SERVICE SITES**

**ANNEXURE D**

**SARS OATH OF SECRECY**