

DATA PRIVACY AND PROTECTION AGREEMENT AS DEFINED IN THE PROTECTION OF PERSONAL INFORMATION ACT 4 OF 2013

1. DEFINITIONS

- 1.1. **"POPI"** means the **Protection of Personal Information Act** adopted by the Republic of South Africa on 26 November 2013 and as amended from time to time.
- 1.2. **"Data"** for the purposes of this clause means 'personal information' as that term is defined in the **Protection of Personal Information Act 4 of 2013 ("POPI Act")** and includes, but is not limited to the following:
 - 1.3. 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 the person.
 - 1.4. information relating to the education or the medical, financial, criminal or employment history of the person.
 - 1.5. any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person.
 - 1.6. the biometric information of the person.
 - 1.7. the personal opinions, views or preferences of the person.
 - 1.8. correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence.
 - 1.9. the views or opinions of another individual about the person; and
 - 1.10. 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.
- 1.11. **"Processing"** means any operation or activity or any set of operations, whether or not by automatic means, concerning personal or any information, including but not limited to:
 - 1.11.1. the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use.
 - 1.11.2. dissemination by means of transmission, distribution or making available in any other form; or
 - 1.11.3. merging, linking, as well as restriction, degradation, erasure or destruction of information.

2. AGREEMENT

- 2.1. **Both Parties** agree that they will comply with the **POPI** regulations and process all the information and/or personal data in respect of the services being rendered in accordance with the said regulation and only for the purpose of providing the **Services** set out in the **Agreement**.
- 2.2. **The Client** owns **the Client** data and all intellectual property rights in it.
- 2.3. **Both Parties** agree and acknowledge that all information provided, whether personal or otherwise, may be used and processed by **MCI**.
- 2.4. **MCI** acknowledges that in providing the services to **the Client** that **MCI** may be exposed to **the Client's Data**.
- 2.5. **MCI** will use its best endeavours and take all reasonable precautions to ensure that any information provided, is only used for the purposes it has been provided.
- 2.6. **The Parties** specifically record that all **Data** provided by **the Client** to **MCI** or to which **MCI** may be exposed in the performance of its obligations in terms of this **Agreement**, shall constitute **Confidential Information** and as such, **MCI** shall comply with all the provisions of this **Agreement** in relation to same.
- 2.7. **MCI** hereby warrants in favour of **the Client**, that it shall, at all times, strictly comply with all applicable legislation and with all the provisions and requirements of **the Client's Data Protection Policies and Procedures** as may be updated from time to time as notified to **MCI** in writing.
- 2.8. **MCI** hereby warrants and undertakes that it shall not, at any time copy, compile, collect, collate, process, mine, store, transfer, alter, delete, interfere with or in any other manner use the **Data** for any purpose other than with the express prior written consent of **the Client**, and to the extent necessary to provide the services to **the Client**.

- 2.9. All **Data**, including **Customer Data**, provided by **the Client**, or accessed (or accessible) by **MCI**, shall be used by **MCI** only in connection with the provision of the services and shall not be commercially exploited by **MCI** in any manner whatsoever.
- 2.10. **MCI** further warrants that it shall ensure that all its systems which it uses to provide the **Services**, including all systems onto which **the Client's Data** is copied, compiled, collected, collated, processed, mined, stored, transmitted, altered, or deleted, or otherwise used as part of providing the **Services**, shall at all times be of a minimum standard required by law for the protection, control and use of **Data**.
- 2.11. **MCI** has procured written undertakings from all its staff that those staff members who have access to **Confidential Information** are bound by confidentiality undertakings no less onerous than those contained in this **Agreement**.
- 2.12. **MCI** may retain **Confidential Information** to the extent required by, and for the duration of, any **Services** performed for **the Client** in terms of agreements between **the Parties**, provided that **the Client** has not waived performance of such **Services** and subject to the right of **the Client** to recover the **Confidential Information** at any time on the terms agreed herein.
- 2.13. **MCI** shall, in writing, notify **the Client** immediately where there are reasonable grounds to believe that the Personal Information received from and processed on behalf of **the Client** has been accessed or acquired by any unauthorised person.

3. WARRANTY

MCI warrants that:

- 3.1.1. It shall at all times perform its responsibilities under the **Agreement** in a manner that does not infringe, or constitute an infringement or misappropriation of, any **Intellectual Property** or **other Proprietary Rights** of **the Client** or any third party.
- 3.1.2. It is and will remain for the duration of this **Agreement**, fully cognisant of and compliant with any relevant legislative or regulatory requirements and/or rulings or codes of practice of any competent authority or industry body that has jurisdiction over the provision of or is relevant to the **Services**.
- 3.1.3. It shall remain compliant with all applicable legislation, including its statutory obligations set out in the **POPI Act** and the **Consumer Protection Act 68 of 2008 ("CPA")** if, and then to the extent, so required by the **POPI Act** and the **CPA**, respectively.

4. RETURN AND DELETION OF DATA

- 4.1. On termination of the **Agreement** for any reason, or upon written request from **the Client** at any time, **MCI** shall cease **Processing** any **Personal Data**, and (at **the Client's** instruction) return to **the Client** or delete (in accordance with **MCI's** document retention and deletion policies), any **Personal Data** in **MCI's** possession or control, except as required by law or as required in order to defend any actual or possible legal claims.
- 4.2. **The Client** acknowledges and agrees that **MCI** shall have no liability for any losses incurred by **the Client** arising from or in connection with **MCI's** inability to perform the **Services** as a result of **MCI** complying with a request to delete or return **Personal Data** made by **the Client**.