

Business Referral Agreement

This Business Referral Agreement (“Agreement”), is effective as of the Signature Date, by and between:

KPMG Services Proprietary Limited, with registration number: 1999/012876/07, a private company duly registered in accordance with the laws of the Republic of South Africa, having its registered office at KPMG Crescent, 85 Empire Road, Johannesburg, 2193, Gauteng, South Africa (“**KPMG**”); and

_____, with registration number: _____,
a _____ company duly registered in accordance with the laws of _____,
having its registered office at _____
(the “**Technology Provider**”).

WHEREAS KPMG, through KPMG Matchi, specialises in connecting selected emerging technology firms to growth opportunities globally.

AND WHEREAS _____ is a provider of technology and services.

NOW THEREFORE, in consideration of the mutual covenants and provisions herein contained, the Parties agree as follows:

1. Interpretation and Definitions

1.1 Interpretation

In this Agreement and in the annexures and schedules hereto, unless the context clearly indicates a different intention:

- 1.1.1 words importing the singular also include the plural and the masculine include the feminine and *vice-versa* where the context requires;
- 1.1.2 if any provision in a definition, or background clause, is a substantive provision, conferring rights, or imposing obligations, on any Party notwithstanding that it is only in the definition or background clause, effect shall be given to it as if it were a substantive provision in the body of this Agreement;
- 1.1.3 expressions defined in this Agreement shall bear the same meanings in annexures and schedules to this Agreement which do not themselves contain their own definitions;
- 1.1.4 when any period is prescribed in this Agreement, that period shall be reckoned exclusively of the first day and inclusively of the last day unless the last day is not a Business day, in which case the last day shall be the next succeeding Business day;
- 1.1.5 a reference to a Party includes that Party’s successors and permitted assigns;
- 1.1.6 every schedule and annexure to this Agreement, whether attached to this Agreement on the Signature Date or thereafter and signed by both Parties, shall form part of and be read with this Agreement, and this interpretation clause and the definitions contained in this Agreement shall likewise apply to every such schedule and annexure and also to any amendment or amplification of this Agreement, unless such schedule, annexure, amendment or amplification provides otherwise;
- 1.1.7 the use of the word “including” followed by a specific example or examples shall not be construed or interpreted as limiting the meaning of the general wording preceding

it and the *eiusdem generis* rule shall not be applied in the interpretation of such general wording and/or such specific example or examples;

- 1.1.8 where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail;
- 1.1.9 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 this interpretation clause;
- 1.1.10 the rule of construction that, in the event of ambiguity, the contract shall be interpreted against the Party responsible for the drafting or preparation of the agreement, shall not apply;
- 1.1.11 the expiration or termination of this Agreement shall not affect such of the provisions of this Agreement as expressly provide that they will operate after any such expiration or 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;
- 1.1.12 no provision of this Agreement constitutes a stipulation for the benefit of any person who is not a Party to this Agreement; and
- 1.1.13 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.

1.2 Definitions

In this Agreement and in the annexures and schedules hereto, unless the context clearly indicates a different intention, the following expressions bear the meanings given to them below and equivalent expressions will have similar meanings:

- 1.2.1 **“Agreement”** means this Business Referral Agreement together with all the annexures and schedules attached hereto;
- 1.2.2 **“Business day”** means any day other than a Saturday, Sunday or official public holiday in the Republic of South Africa;
- 1.2.3 **“Business hours”** means the hours between 08h00 and 16h30 on a Business day;
- 1.2.4 **“Customer”** means any KPMG member firm, the client of a KPMG member firm and/or corporate entity which concludes a Sales Order for the purchase of a Technology Solution of the Technology Provider as a result of the Referral thereof by KPMG, pursuant to the terms of this Agreement;
- 1.2.5 **“KPMG Matchi”** means a business unit within KPMG;
- 1.2.6 **“KPMG member firm”** means each member firm of KPMG International Limited (“KPMG International”) which is a legally distinct and separate entity. KPMG International is a private English company limited by guarantee that serves as a coordinating entity for a global organisation of independent firms operating under the KPMG name. KPMG International provides no services to clients;

- 1.2.7 **“Parties”** means KPMG and the Technology Provider collectively, and **“Party”** shall mean either one of them as the context may require;
- 1.2.8 **“Referral”** means the marketing and referral by KPMG Matchi of the Technology Solution of the Technology Provider to KPMG member firm(s), the client of a KPMG member firm and/or corporate entity as more fully described in clause 3 hereto. The words **“Refer”**, **“Referral”**, **“Referred”** and **“Referring”** shall have corresponding meanings;
- 1.2.9 **“Referral Fee”** means the agreed fee recorded in clause 5 payable by the Technology Provider to KPMG, which is made up of a percentage of all revenue on all Sales Orders the Technology Provider executes as a result of the Referral by KPMG of the Technology Solution of the Technology Provider, pursuant to the terms of this Agreement. This percentage covers all income including customisation fees, set up and implementation fees as well as the ongoing licence fees (as the case may be) for the full term and any re-occurring basis, of each Sales Order the Technology Provider concludes.
- 1.2.10 **“Sales Orders”** means the purchase of the Technology Provider’s Technology Solution by the relevant Customer, as a result of the Referral thereof by KPMG pursuant to the terms of this Agreement;
- 1.2.11 **“Signature Date”** means the date of signature of this Agreement by the Party signing last in time;
- 1.2.12 **“Technology Solution”** means ... (Update per contract to describe the details hereof [being either a piece of technology and the maintenance thereof and/or technology as a service])
- 1.2.13 **“Term”** means one (1) year calculated from the Signature Date; and
- 1.2.14 **“VAT”** means value added tax as levied in terms of the Value Added Tax Act (Act No. 89 of 1991).

2. **Appointment**

- 2.1. Subject to the provisions of this Agreement, the Technology Provider hereby appoints KPMG, and KPMG hereby accepts, the non-exclusive appointment for the Referral of the Technology Provider’s Technology Solution.
- 2.2. KPMG shall act as a Referral agent for the sale of the Technology Provider’s Technology Solution for the Term of this Agreement. Except as specifically provided herein to the contrary, any sale of the Technology Provider’s Technology Solution which came about as a result of KPMG’s Referral thereof shall be credited as a sale(s) induced by KPMG and KPMG shall be entitled to the Referral Fee recorded in clause 5 hereinbelow.

3. **Front Runner**

- 3.1. For the Technology Solution of the Technology Provider to be Referred by KPMG in terms of this Agreement, the Technology Provider must be categorised as a Front Runner.
- 3.2. To be classified as a Front Runner, the Technology Provider shall be required to demonstrate the functioning and capabilities of the Technology Solution to a KPMG audience. KPMG invites

the Technology Providers where KPMG sees reasonable opportunity to connect them to potential opportunities.

- 3.3. Should the Technology Provider accept the Front Runner membership, the Technology Provider shall be required to pay KPMG upfront, a Front Runner fee of one thousand five hundred United States of America dollars (US\$ 1500) per annum, within thirty (30) days of receipt of the relevant invoice issued by KPMG. The Front Runner membership is renewable annually, by written notice delivered by the Technology Provider no later than sixty (60) days after receipt of and in response to written notification provided by KPMG to the Technology Provider, that the Technology Provider's Front Runner membership is due to expire.
- 3.4. More specific details describing the Front Runner membership can be accessed via the following link: <https://platform.matchi.biz/Home/ProvideTechnology>.
- 3.5. For the purposes of clarity and the avoidance of doubt, it is hereby agreed that the termination and/or expiration of the Technology Provider's Front Runner membership will not automatically result in the expiration and/or termination (as the case may be) of this Business Referral Agreement. Unless expressly stated to the contrary in any written notice and/or confirmation of termination of the Technology Provider's Front Runner membership, the expiration or termination of the Technology Provider's Front Runner membership will not affect this Business Referral Agreement which shall continue to be of force and effect in accordance with the terms hereof, irrespective of such expiration or termination of the Technology Provider's Front Runner membership.

4. **Referral**

- 4.1. The Technology Provider's Referral objectives have been document in this Agreement, after consultation with the Technology Provider. The Technology Provider's desired outcome and thus, the objective of this Agreement is that KPMG act as the Technology Provider's Referral agent for the sale of the Technology Solution defined above. If the Technology Provider has any acceptance criteria applicable to any Sales Order, the Technology Provider will establish and promulgate the acceptance criteria for Sales Orders to be Referred by KPMG and KPMG will use its best efforts to Refer Sales Orders that meet the Technology Provider's criteria. Any special acceptance criteria promulgated by the Technology Provider and agreed to by KPMG, shall, if not already detailed hereinbelow, be reduced to writing and attached hereto as an appendix.
- 4.2. Each Sales Order occasioned by the Referral of the Technology Solution of the Technology Provider by KPMG, will be submitted directly to the Technology Provider by the relevant Customer (with a copy of the Sales Order to be sent to KPMG via the following email: support@matchi.biz) and the agreed Sales Order Referral Fee shall be paid by the Technology Provider to KPMG in accordance with the contents of clause 5 below. If KPMG is successful in making a Referral and the Technology Provider decides to reject the Customer for good cause, the Technology Provider shall not be obligated to pay KPMG for such Referral.
- 4.3. If KPMG receives, as a direct result of KPMG's Referral of the Technology Provider, any Sales Order, KPMG will promptly forward any such Sales Order to the Technology Provider. The Technology Provider will have the right to reject any Sales Order in whole or in part for good cause. Good cause shall include the following:
 - (i) the Sales Order fails to meet the Technology Provider's acceptance criteria (if any);

- (ii) lack of Technology Solution availability, due to no fault of the Technology Provider;
or
 - (iii) Poor payment history by the Customer.
- 4.4. If the Technology Provider rejects a Sales Order brought about by the Referral of the Technology Solution of the Technology Provider by KPMG without good cause, then the Technology Provider shall pay to KPMG the full Referral Fee on such Sales Order. If the Technology Provider reasonably rejects any Sales Order Referred to it by KPMG, then KPMG shall be notified within a reasonable period of time not exceeding fourteen (14) Business days from the date of the Technology Provider's rejection and KPMG shall be given the opportunity to inform the Customer or potential customer of said rejection in an attempt to preserve KPMG's business goodwill. KPMG shall in no way be liable to the Technology Provider; any Customer; potential customer or any party or person whomsoever for any loss suffered and/or damages incurred or any other liability whatsoever and howsoever arising as a result of any rejection of any Sales Order(s). The Referral by KPMG of the Technology Solution is not a guarantee of the sale/purchase thereof. The Technology Provider shall indemnify (and keep indemnified) and hold KPMG harmless against any losses, liabilities, costs, claims, damages and expenses ("Losses") brought or threatened against KPMG in this regard.
- 4.5. If the Technology Provider rejects a Sales Order, the Technology Provider shall inform KPMG of its intention and the reasons for the rejection in writing, without undue delay and in any event within thirty (30) Business days calculated from the date of the submission to the Technology Provider of any Sales Order.
- 4.6. Should the Technology Provider initially reject any Sales Order and thereafter, within a period of six (6) months of written notice to KPMG, engage the Customer resulting in the sale of the Technology Solution Referred by KPMG, then KPMG shall forthwith be entitled to the full Referral Fee on such purchase/Sales Order.
- 4.7. The Technology Provider will invoice the Customer for the purchased Technology Solution consequent to the Referral thereof by KPMG. Payments against Sales Orders are to be made directly to the Technology Provider, without intervention by KPMG.
- 4.8. The Technology Provider will have the right, in its sole discretion, to issue credits, make discounts and allowances, and/or accept returns of the Technology Solution.
- 4.9. Any amounts included in the Sales Order that are not collected by the Technology Provider which are past due will be recorded on the books of the Technology Provider as bad debt in accordance with generally accepted accounting principles. Provided, if the amount due from such Sales Order is subsequently paid at any time, then KPMG shall be paid a Referral Fee on the amount ultimately received by the Technology Provider.
- 4.10. For the purposes of determining the Referral Fee, the Referral Fee shall be deemed payable:
- (i) when a properly executed Sales Order is received by the Technology Provider from the Customer in connection with each such sale; and
 - (ii) payment for each sale of the Technology Solution Referred by KPMG is received by the Technology Provider.
- 4.11. If a new Technology Solution(s) are added to the Technology Provider's list of offerings, the Referral Fee related to such new Technology Solution(s) shall be set forth in a mutually agreed

written addendum hereto. The Parties hereby agree and acknowledge that they shall mutually agree on the Referral Fee for any new Technology Solution(s) added to the Technology Provider's list of offerings, which are subject to this Agreement, after the Signature Date.

- 4.12. The Technology Provider hereby acknowledges that KPMG will (where required by law or to manage potential conflicts) disclose to all relevant parties that it has been engaged by the Technology Provider to undertake the relevant Referral/Referral activities.

5. Referral Fee

- 5.1. In consideration of each Referral of the Technology Provider's Technology Solution during the Term of this Agreement, the Technology Provider shall pay to KPMG [**percentage figure in words**] percent []% of the purchase consideration recorded in each Sales Order which came about as a result of KPMG's Referral thereof.
- 5.2. KPMG will invoice the Technology Provider in accordance with the Technology Provider's payment schedule of the relevant Customer, for the purchased Technology Solution consequent to the Referral thereof by KPMG.
- 5.3. The Referral Fee shall be paid by the Technology Provider within thirty (30) days of receipt by the Technology Provider of the relevant purchase consideration paid by the Customer for the purchased Technology Solution.
- 5.4. Payment of the Referral Fee by the Technology Provider to KPMG shall be made, free of deduction, set-off, withholding and/or counterclaim of any nature whatsoever into KPMG's bank account, details of which will be specified on KPMG's invoice against which payment is to be made.
- 5.5. Payment by the Technology Provider to KPMG must be made by way of electronic banking transfer only. The Technology Provider will ensure at all times that it makes payment of the KPMG's invoices into such a bank account as is stipulated on the relevant invoice being paid.
- 5.6. KPMG shall be liable for its own income tax affairs.
- 5.7. KPMG will inform the Customer of the fact that KPMG shall be entitled to a Referral Fee, in consideration of the successful Referral.

6. KPMG's Obligations

KPMG agrees:

- 6.1. To Refer the sale of the Technology Provider's Technology Solutions in accordance with the provisions of clause 3 (*Referral*), the law and any regulation, rule or requirements;
- 6.2. To Refer the Technology Provider's Technology Solution by:
- 6.2.1. publishing the approved profile of the Technology Provider/Technology Solution on the KPMG Matchi website and other social media platforms (where relevant);
- 6.2.2. sharing white papers and articles provided by the Technology Provider with KPMG colleagues and other KPMG member firms and external audiences where relevant;
- 6.2.3. facilitating opportunities for the Technology Provider to demonstrate the functionality and capabilities of the Technology Solution to potential customers, outside of KPMG/network of independent KPMG member firms;

- 6.2.4. sharing and/or profiling the Technology Solution on any platform which Matchi deems appropriate, to give KPMG additional marketing reach;
- 6.2.5. facilitating the introduction of the Technology Provider/Technology Solution to relevant KPMG colleagues in three KPMG member firms;
- 6.3. Compile a list of all Referrals being worked by KPMG and provide frequent updates on the status and progress of Referrals;
- 6.4. To bear all costs and liabilities relating to the conduct of its own business, including but not limited to the cost and expense of providing and maintaining its place of business, the wages of its employees, the payment of any success fee or other compensation to agents or independent contractors working on behalf of KPMG and its expenses incurred for or in connection with its performance under this Agreement;
- 6.5. To refrain from making any representations or warranties in respect of the Technology Solution(s) provided by the Technology Provider, except:
 - (i) those representations and warranties authorised in writing by the Technology Provider, in the form of the technology profile on Matchi as created by the duly authorised representative of the Technology Provider, brochures, memorandums, press releases, advertisements, specification sheets, or correspondences, and
 - (ii) representations or warranties that KPMG received verbally from the Technology Provider which was subsequently confirmed in writing by the Technology Provider.

7. Technology Provider's Duties and Obligations

In order to assist KPMG in the Referral and sale of the Technology Provider's Technology Solution(s), the Technology Provider agrees:

- 7.1. To provide white papers and articles which KPMG will share with KPMG colleagues and other KPMG member firms, on KPMG Matchi's website and other social media platforms where relevant;
- 7.2. Partake in opportunities to demonstrate the Technology Solution to potential customers both within and outside of KPMG/network of independent KPMG member firms;
- 7.3. Choose three (3) strategic markets, in which KPMG will during the Term of operation of the Agreement facilitate introductions to KPMG colleagues/other KPMG member firms and will attempt to facilitate the introduction of the Technology Solution/Technology Provider to the other member firm's clients;
- 7.4. To reasonably assist KPMG with, and provide to KPMG reasonable quantities of, advertising material, sales promotion aids, catalogues, and literature;
- 7.5. To provide KPMG with reasonable technical assistance (if any) in the Referral process;
- 7.6. To compensate KPMG for each Referral which culminates in the subsequent sale of any of the Technology Solution(s);
- 7.7. To fully co-operate with and assist KPMG in the resolution of any disputes between KPMG and the Technology Provider and/or any Customer, service provider or third party engaged by the Technology Provider;

- 7.8. To provide reasonable and expedient delivery of Technology Solution(s) Referred by KPMG;
- 7.9. The Technology Provider shall keep and maintain accurate, complete, and current books and records relating to the Referral Fees earned by KPMG. Upon payment of the Referral Fee to KPMG by the Technology Provider, the Technology Provider shall provide KPMG with a detailed breakdown of the Customer sales used to calculate KPMG's Referral Fees.

8. **Non-Exclusivity**

- 8.1. This Agreement will be a non-exclusive agreement and the Technology Provider reserves the unconditional right to obtain the Referral service provided by KPMG from any other third party at any time.
- 8.2. The Technology Provider reserves the right to sell the Technology Solution to any other person or entity offering to purchase and resell the Technology Solution as private label services so long as such person or entity is not at such time a potential customer or person to whom KPMG is actually Referring the Technology Solution to, without being compensated for the initial Referral in terms of this Agreement. If such private labelling occurs, the Technology Provider may, but is not obligated to, modify KPMG's Sales Order Referral Fee to reflect the competitive impact of private labelling. The Technology Provider shall provide prior written notice of at least sixty (60) Business days to KPMG in this regard.

9. **Relationship of Parties**

KPMG is an independent contractor having only such authority to act for the Technology Provider as is expressly set forth in this Agreement. KPMG is not authorised to enter into any commitment or contract of any kind on behalf of the Technology Provider. The Technology Provider will not incur any liability whatsoever to any third party by reason of KPMG having exceeded its authority under the appointment granted by the Technology Provider herein. Nothing contained in this Agreement is intended to be construed as creating or implying a relationship of employer and employee between the Technology Provider and KPMG or between the Technology Provider and KPMG's employees or agents, or a joint venture or partnership between the Technology Provider and KPMG.

10. **Compliance with Laws and Regulations and Due Authorisation**

- 10.1. Nothing in this Agreement shall require either Party to take any action which would violate any governmental regulation, law, rule of requirement to which either of them is subject, or breach KPMG's Code of Conduct (and related policies) or the public trust. The Technology Provider shall, at its sole cost and expense, obtain such governmental approvals, licenses or permits as may be necessary to effectuate the purposes of this Agreement, and shall comply with all federal, state, and local laws, regulations and rulings of governmental bodies having jurisdiction over the Technology Provider's business, in respect of the sale of the Technology Solution.
- 10.2. Each Party represents and warrants to the other Party:
 - (i) that such Party is duly organised and validly existing under the laws of the state of its incorporation and has full capacity; legal personality and authority and all the necessary licences, permits and consents to enter into this Agreement and to carry out the provisions hereof;

- (ii) each Party shall promptly notify the other Party of any changes to the necessary licenses, permits and other forms of authority necessary to perform in terms of this Agreement during the Term;
- (iii) such Party is duly authorised to execute this Agreement and to perform its obligations hereunder;
- (iv) the person executing this Agreement is duly authorised to do so by all requisite corporate action, policies and/or procedures;
- (v) this Agreement is a legal and valid obligation binding upon the Parties and enforceable in accordance with its terms;
- (vi) it is the owner of or has the right to use (albeit under licence or otherwise) any intellectual property employed by it during or as part of the Technology Solution;
- (vii) it is not aware, to the best of its knowledge and belief and as at the Signature Date, of any matter within its reasonable control which might or will adversely affect its ability to perform its contractual obligations under this Agreement; and
- (viii) the obligations herein contained will be performed within the time frames and specifications as set out in this Agreement.

11. **Defence and Indemnity**

- 11.1. The Technology Provider shall indemnify, defend and hold harmless KPMG, and its officers, directors, employees, affiliates and agents (the "KPMG Indemnitees") from all fines, penalties claims, damages, losses, costs, expenses, lawsuits, administrative claims, regulatory actions, and other proceedings (including attorneys' fees, settlements, and judgments) (the "Liabilities") which may be suffered, incurred or asserted against any KPMG Indemnitee to the extent that such Liabilities arise out of or result from:
- (i) any breach of any representation or warranty given by the Technology Provider with respect to the Technology Solution or otherwise provided by the Technology Provider, either verbally or in writing and claims for any related violations of any applicable law, ordinance or regulation or government authorisation or order;
 - (ii) the manufacture, use or sale of any product, solution and/or service which is not supplied by the Technology Provider and which is sold or combined with the Technology Solution;
 - (iii) the breach of any representation, warranty, or covenant of the Technology Provider contained in this Agreement; or
 - (iv) death, personal injury, damage to the property of KPMG or that of any third party attributable to any act or omission of the Technology Provider (or any of its employees, any service provider or third party engaged by the Technology Provider), fraud, theft, negligence, or wilful misconduct of the Technology Provider or any of the Technology Provider's directors, employees, agents, contractors or any other third party whomsoever engaged by the Technology Provider.
- 11.2. The Technology Provider's obligation to indemnify under this clause will apply regardless of whether legal action has been instituted or not and whether the claim arises in tort,

negligence, contract, warranty, strict liability or otherwise, except to the extent of the gross negligence of KPMG.

11.3 The KPMG Indemnitee shall:

- (i) give the Technology Provider (the “Indemnifying Party”) notice of the relevant claim;
- (ii) reasonably co-operate with the Indemnifying Party, at the Indemnifying Party’s expense, in the defence of such claim; and
- (iii) give the Indemnifying Party the right to control the defence and settlement of any such claim, except that the Indemnifying Party shall not enter into any settlement that affects the KPMG Indemnitee’s rights or interest without the KPMG Indemnitee’s prior written approval, which approval may be withheld or granted subject to any further stipulations at the sole discretion of the KPMG Indemnitee. The KPMG Indemnitee shall have no authority to settle any claim on behalf of the Indemnifying Party. The KPMG Indemnitee shall nonetheless have the right to participate in such defence at its own expense.

12. Confidential Information

- 12.1. The Technology Provider acknowledges that it will have access to certain Confidential Information (as defined below) relating to KPMG or its affiliates and subsidiaries and/or KPMG clients and/or KPMG member firms and/or KPMG member firms’ clients or the services providers of any of the aforementioned. For purposes of this Agreement, “Confidential Information” shall mean (without limitation) confidential and proprietary information of KPMG or its affiliates and subsidiaries and/or KPMG clients and/or KPMG member firms and/or KPMG member firms’ clients or the partners, services providers and vendors of any of the aforementioned, whether in written, oral, electronic or other form, including but not limited to the internal organisation of any of the aforementioned, the names and responsibilities of their management, supervisory and technical employees, operating plans, Inventions (as defined below), research and development activities, plans for acquisitions and mergers, manufacturing and/or sales activities, technical information concerning services and related instrumentation, trade secrets, specifications, procedures, techniques, ideas, methods, Patents (as defined below) and the names of customers and suppliers of any of the aforementioned or their clients.
- 12.2. The Technology Provider agrees that it will hold all Confidential Information as confidential and shall only use such Confidential Information to satisfy its obligations under this Agreement. During the term of this Agreement the Technology Provider will be permitted, however, to disclose such part of the Confidential Information to those of its employees and/or agents on a strict need-to-know basis only as is necessary to be known by them to assist or enable KPMG to perform its obligations under this Agreement, provided further that such employee or agent has entered into a written agreement of confidentiality, the terms of which are no less rigorous than the terms set forth in this clause.
- 12.3. The Technology Provider undertakes to hold all Confidential Information as confidential and shall only disclose such Confidential Information as authorised in terms of this Agreement alternatively, subject to the prior written authorisation granted to it by KPMG. The restrictions on use and disclosure of Confidential Information set forth in this clause shall not apply to the

extent that the Confidential Information is lawfully in the public domain without fault on the part of the Technology Provider or any third party bound by an obligation of confidentiality.

- 12.4. The Technology Provider will be permitted further, to disclose such part of the Confidential Information that the Technology Provider is ordered to disclose by a court of competent jurisdiction or compelled to disclose by the provisions of any law or regulation in force from time to time which the Technology Provider is subject, provided that the Technology Provider immediately notifies KPMG prior to such disclosure and takes reasonable actions to limit the disclosure of such Confidential Information to only that portion of the Confidential Information which the Technology Provider is legally required to disclose as advised by its legal counsel. Provided further that the Technology Provider will use its reasonable endeavours to protect the confidentiality of such Confidential Information to the extent reasonably possible in the circumstances.
- 12.5. Upon KPMG's written demand or upon expiration or termination of this Agreement, the Technology Provider, at its own cost and expense, will promptly return all Confidential Information to KPMG to the extent held or controlled by the Technology Provider in written, graphic or other tangible form, and all copies, summaries, notes and other write-ups thereof made by the Technology Provider, or its employees and agents, unless the Technology Provider or its agent are required to retain at least one (1) copy of the Confidential Information (or copies, summaries, notes and other write-ups thereof) by any applicable law or regulation in effect. For the avoidance of doubt, such retained Confidential Information (or copies, summaries, notes and other write-ups thereof) shall be retained in accordance with the terms of this clause and shall be returned at the end of any mandatory retention period. The terms of this clause shall survive indefinitely the termination or expiration of this Agreement.
- 12.6. To undertake the marketing and Referral of the Technology Solution as well as to improve KPMG's understanding of clients and their business, to develop KPMG's intellectual capital and for purposes of internal review and quality control, applicable professional standards and best practises, which includes identification and mitigation of any KPMG quality, conduct or risk management issue (including independence and conflict checks), KPMG shall be entitled to share the Technology Provider's Confidential information with KPMG International and its member firms. Consequently, the Technology Provider must ensure that the KPMG Matchi profile created by its duly authorised representative contains enough information to market and Refer the Technology Solution and the benefits that it offers. No proprietary information should be shared in the profile. It is hereby expressly agreed KPMG cannot and shall not be held liable and/or responsible for usage of Confidential and proprietary information if it was provided in the KPMG Matchi profile or shared by KPMG during a meeting with a Customer or potential customer by KPMG pursuant to the terms of this Agreement.

13. **Compliance with Privacy / Data Protection Laws**

- 13.1. These terms as contained in subsection 13 (the "Privacy Terms") shall govern KPMG and the Technology Provider's compliance with applicable data protection laws, which consists of the Protection of Personal Information Act, 4 of 2013 ("POPIA"), the regulations thereunder as amended from time to time, and directions from the Information Regulator (being the supervisory authority established under POPIA, or relevant authority established under applicable data protection laws), (collectively the "Applicable Data Protection Laws").

- 13.2. Any capitalised terms such as “Personal Information” used herein but not defined in these Privacy Terms shall have the meaning ascribed to them in POPIA.
- 13.3. KPMG and the Technology Provider shall comply with the Applicable Data Protection Laws.
- 13.4. KPMG’s Privacy Statement is available at: <https://home.kpmg/za/en/home/misc/privacy.html>
- 13.5. KPMG’s Information Manual is available at: <https://home.kpmg/za/en/home/misc/kpmg-south-africa-information-manual.html>
- 13.6. KPMG may process Confidential and Personal Information provided to it by or on the Technology Provider’s behalf, in terms of this Agreement or as otherwise in accordance with the Technology Provider’s documented lawful instructions in order, in particular, to:
 - undertake the Referral; and
 - comply with applicable legal and regulatory requirements.
- 13.7. In the event that KPMG cannot comply with the Technology Provider’s lawful instructions provided, KPMG shall notify the Technology Provider promptly in writing of such inability to comply.
- 13.8. The Technology Provider’s Personal Information provided to KPMG by or on the Technology Provider’s behalf will be processed by KPMG for the purpose for which it is intended by the Technology Provider, i.e. in order to perform the Referral in accordance with the terms of this Agreement, and not for any other purpose.
- 13.9. The Technology Provider shall only provide KPMG with Personal Information where:
 - it is required for performance of the Referral;
 - it has been lawfully obtained; and
 - the Technology Provider has determined, and hereby confirms, that a lawful basis exists for the processing activity as described in POPIA.
- 13.10. Personal Information provided to KPMG by or on the Technology Provider’s behalf will be provided to KPMG in a form that is reliable, accurate and complete, and must be updated by the Technology Provider, where necessary. KPMG will not establish how reliable, accurate or complete the Technology Provider’s Personal Information is, and KPMG does not accept responsibility for and make no representations about the reliability, accuracy, or completeness of any such information provided to KPMG.
- 13.11. In circumstances where KPMG acts in the capacity as Operator, KPMG will process Personal Information on the Technology Provider’s behalf, being the Responsible Party, without coming under the Technology Provider’s direct authority, and will treat such information as confidential and will not disclose it unless required by law or in the course of the proper performance of the Referral services.
- 13.12. In circumstances where KPMG act in the capacity as Responsible Party, KPMG will process the Personal Information in the manner and for the purposes set out in KPMG’s Privacy Statement (see above for the link to KPMG’s Privacy Statement).
- 13.13. Certain information collected by KPMG while providing the Referral services may be used, retained, processed and stored outside of the Republic of South Africa by KPMG, KPMG

International member firms or third party service providers or subcontractors providing support services to KPMG for administrative, technological and clerical/organisational purposes, including: in respect of client engagement acceptance procedures, maintaining engagement profiles, and to comply with applicable law, regulation or professional standards (including for quality performance reviews). Such information shall be subject to the laws applicable in the jurisdiction in which the information is used (predominantly KPMG in the Republic of South Africa and KPMG International Datacentres in the European Union), retained, processed or stored, which laws may not provide the same level of protection for such information as will South African law. KPMG may also share information with KPMG's legal advisers and insurers for the purposes of obtaining advice.

- 13.14. KPMG warrants that such KPMG International member firms, other third-party service providers or subcontractors have agreed or shall agree to conditions of confidentiality with respect to the Technology Provider's Confidential and Personal Information, and that KPMG are responsible to ensure their compliance with those conditions. Any services performed by KPMG International member firms or other third-party service providers or subcontractors shall be performed in accordance with the terms of this Agreement, but KPMG remains solely responsible to the Technology Provider for the delivery of the Referral services. The Technology Provider agrees that any claims that may arise out of this Agreement in relation to the Technology Provider Confidential Personal Information will be brought solely against KPMG, and not against any other KPMG International member firms or other third-party service providers or subcontractors referred to above.

14. Term and Termination

- 14.1. This Agreement will become effective on the Signature Date and shall subsist for a period of one (1) year thereafter, if not terminated earlier in accordance with the terms hereof.
- 14.2. If the Parties wish to renew or extend the period of operation of this Agreement beyond the initial one (1) year Term, then the Parties shall mutually agree upon any period of renewal or extension and any other terms and conditions deemed necessary, which agreement shall be reduced to a written addendum hereto and shall be signed by the Parties duly authorised representatives, prior to the expiry of the initial one (1) year Term.
- 14.3. This Agreement may be terminated by KPMG giving written notice of termination to the Technology Provider as follows:
- (i) at any time upon fourteen (14) days prior written notice from KPMG to the Technology Provider describing any breach of this Agreement by the Technology Provider and the Technology Provider failing to cure such breach within such fourteen (14) day period;
 - (ii) at any time if the Technology Provider engages in behaviour that, in KPMG's sole and unfettered discretion, is materially detrimental to KPMG or its business reputation;
 - (iii) at any time if (in KPMG's sole discretion), KPMG considers that any activity pursuant to the terms of this Agreement would result in a breach of any applicable law, regulation, rule or requirement, KPMG's Code of Conduct (and related policies), the public's trust, or there is a potential commercial or other conflict which KPMG (in its sole discretion) does not consider can be appropriately mitigated;

- (iv) at any time if the Technology Provider is placed under voluntary or compulsory liquidation (whether provisional or final) or business rescue proceedings are commenced against the Technology Provider;
- (v) at any time if a final court judgment against the Technology Provider remains unsatisfied for a period of ten (10) Business days or more after it comes to the notice of the Technology Provider; and/or, the Technology Provider makes any arrangement or composition with its creditors generally or ceases to carry on business; and
- (vi) at any time whatsoever and without assigning reasons, by delivering at least sixty (60) days' prior written notice to that effect to the Technology Provider.

14.4. This Agreement may be terminated by the Technology Provider giving thirty (30) day prior written notice to KPMG if KPMG fails to remedy any breach of a covenant, commitment or obligation under this Agreement within thirty (30) days after receipt of written notice from the Technology Provider. Should the Technology Provider terminate this Agreement and the Front Runner membership, as contemplated in this clause, KPMG shall reimburse the Technology Provider, no later than sixty (60) Business days after the effective date of termination of this Agreement as specified in the written notice delivered by the Technology Provider to KPMG. The amount to be reimbursed to the Technology Provider by KPMG in terms of this clause shall be a *pro rata* portion of the Front Runner membership fee which is equal to the balance of the term of the Technology Provider's Front Runner membership, as at the effective date of the termination.

14.5. Following the termination for any reason or expiration of this Agreement:

- (i) KPMG shall discontinue all Referral of the Technology Solution and/or Technology Provider;
- (ii) KPMG will not be entitled to any Referral Fee on sales of the Technology Solution that are Referred after the effective date of expiration or termination of this Agreement, provided that it is understood and hereby expressly agreed that KPMG shall be entitled to all Referral Fees stemming from any Sales Order, which came about as a result of the Referral by KPMG of the Technology Solution during the Term of this Agreement, where such Sales Order is only executed within a period of up to twelve (12) months post the effective date of expiration and/or termination of this Agreement;
- (iii) In the case of annual recurring Referral Fees, KPMG shall be entitled to Referral Fees on previously closed Sales Orders for a period, not exceeding the balance of the term of the current agreement with the relevant Customer; and
- (iv) KPMG and the Technology Provider will reconcile all matters pertaining to the Referral Fee and other amounts, if any, owed by either Party to the other up to the effective date of expiration or termination, as promptly as practicable thereafter, and will settle accounts between them in good faith not later than sixty (60) Business days after the effective date of expiration or termination of this Agreement.

15. Intellectual Property

15.1. Except as granted in this Agreement, neither Party has any rights in or to the other Party's trademarks, trade names or copyrights (the "Trademarks") and the Parties hereby agree that

they shall not in any way infringe upon, harm, contest or otherwise impair the rights of the other of them to the Trademarks. All material containing Trademarks shall be used solely in connection with promoting the sale of the Technology Solution. The Technology Provider, on behalf of itself and its subsidiaries and partners, hereby grants to KPMG a non-exclusive, non-transferable limited license to use the Trademarks solely in connection with its Referral of the Technology Solution pursuant to the terms of this Agreement.

- 15.2. KPMG acknowledges and agrees that any patent on the Technology Solution acquired by the Technology Provider or any of its subsidiaries and any patent applications on the Technology Solution filed by the Technology Provider or any of its subsidiaries (the "Patents") are the sole and exclusive property of the Technology Provider and that throughout the term of this Agreement and following its termination or expiration, KPMG will not do anything inconsistent with such ownership, will not directly or indirectly challenge the title of the Technology Provider or any of its subsidiaries to the same and will not attack the validity of such Patents.
- 15.3. KPMG shall submit to the Technology Provider all the Technology Provider's inventions, discoveries and ideas concerning any modifications and improvements relating to the Technology Solution, or any other manner of offering, and related instrumentation (the "Inventions"). Further, unless otherwise amended, all such the Technology Provider's Inventions are, and shall remain, the sole property of the Technology Provider.

16. **Limitation of Liability**

- 16.1. Under no circumstances shall KPMG be liable to the Technology Provider in any way for any indirect or consequential loss or damages, including but not limited to, lost business, loss of profits or anticipated savings, whether foreseeable or not and even if the Technology Provider will have been advised of the possibility of such damages arising out of or in connection with this Agreement and the acceptance, performance, implementation or operation of the Technology Solution.
- 16.2. Subject to clause 11.1, the Technology Provider indemnifies KPMG against all loss or damage, and/or any claims that may be brought or threatened by any of its employees, agents, service providers or any third party against KPMG, arising out of or in connection with this Agreement and the provision of the Technology Solution by the Technology Provider, provided such loss, damage and/ or claims was/were not caused by, and/or did not arise as a result of the gross negligence of KPMG or KPMG's employees.
- 16.3. KPMG shall not be liable to the Technology Provider for direct economic loss or damages occasioned by any actions, damages, claims, liabilities, costs, expenses or losses (collectively, "**Losses**") in any way arising out of or relating to this Agreement, in excess of the Referral Fees which are invoiced and paid in respect of the Referral which gave rise to the Losses ("**Direct Damage Cap**").

17. **Arbitration**

- 17.1. Any dispute arising from or in connection with this Agreement shall, by either Party, be referred to the Arbitration Foundation of Southern Africa ("AFSA") for arbitration by a single arbitrator appointed by the then chairman of AFSA and shall be conducted and determined in accordance with the rules of AFSA.

- 17.2. This clause 17 is severable from the rest of this Agreement and shall, notwithstanding the termination or expiration of this Agreement, remain in full force and effect.
- 17.3. The Parties expressly agree that neither the Commission for Conciliation, Mediation and Arbitration or any Bargaining Council, nor the Labour Court, shall have any jurisdiction to hear any dispute arising from this Agreement, of whatsoever nature, between the Parties.
- 17.4. The validity of this Agreement, its interpretation and the respective rights and obligations of the Parties in all of the matters arising in any way out of this Agreement or its performance, shall be determined in accordance with the laws of the Republic of South Africa and, subject to clause 17.1 above, nothing in this Agreement shall prevent either Party from seeking urgent relief in a court of competent jurisdiction.

18. **Anti-Bribery and Corruption**

- 18.1. The Technology Provider undertakes that, as at the Signature Date, itself, its directors, employees, or officers have not offered, promised, given, authorised, solicited or accepted any undue pecuniary or other advantage of any kind (or implied that they will or might do any such thing at any time in the future) in any way connected with this Agreement.
- 18.2. The Technology Provider agrees that at all times in connection with and throughout the Term of this Agreement and thereafter, it will comply with and that it will take adequate measures to ensure that its subcontractors, agents or other third parties acting on behalf of the Technology Provider or subject to its control or determining influence, will comply with all applicable laws and/or requirements of regulatory authorities relating to anti-bribery, corruption and/or anti-money laundering and shall require them to agree in writing to comply with KPMG's Anti-bribery Policy, which policy shall be made available to the Technology Provider upon request, and which is hereby incorporated into this Agreement by specific reference thereto.
- 18.3. If KPMG has reason to believe that the Technology Provider has breached any part of KPMG's Anti-bribery Policy or these clauses, KPMG will notify the Technology Provider accordingly and may elect to either require the Technology Provider to take such remedial action as KPMG deems necessary or to suspend or terminate this Agreement forthwith.
- 18.4. The Technology Provider agrees to prohibit the following practices at all times and in any form, in relation with a public official at an international, national or local level, a political party or candidate to political office, and a director, officer or employee of a party, or in relation to any person (natural or juristic person) in the private sector, whether these practices are engaged in directly or indirectly through third parties:
- 18.4.1. Bribery, which is the offering, promising, giving, authorising or accepting of any undue pecuniary or other advantage to, by or for any of the personal listed above or for anyone else in order to obtain or retain a business or other improper advantage for example, in connection with public or private procurement contract awards, regulatory permits, taxation, customs, judicial and legislative proceedings;
- 18.4.2. Extortion or Solicitation, which is the demanding of a bribe, whether or not coupled with a threat if the demand is refused. The Technology Provider will oppose any attempt of Extortion or Solicitation and is encouraged to report such attempts through available formal or informal reporting mechanisms;

- 18.4.3. Trading in Influence, which is the offering or solicitation of an undue advantage in order to exert an improper, real, or supported influence with a view of obtaining from a public official an undue advantage for the original instigator or the act for any other person;
- 18.4.4. Laundering the proceeds of any of the Corrupt Practices mentioned above, which is concealing or disguising the illicit origin, source, location, disposition, movement or ownership of property, knowing that such property is the proceeds of crime;
- 18.5. "Corruption" or "Corrupt Practice(s)" as used in this Agreement, shall include Bribery, Extortion or Solicitation, Trading in Influence and laundering the proceeds of these practices.
- 18.6. The Technology Provider shall hold harmless, indemnify and keep indemnified KPMG and its successors, assigns, officers, employees and representatives against losses which it suffers or incurs in connection with a breach of any of these clauses and/or KPMG's Anti-Bribery Policy.
- 18.7. The Technology Provider shall, immediately upon becoming aware, give to KPMG all details of any non-compliance with these clauses and/or KPMG's Anti-bribery Policy either by the Technology Provider, its directors, employees, or its subcontractor, agent, or any third party acting on behalf of the Technology Provider or subject to their control or determining influence.

19. Miscellaneous Provisions

- 19.1. Any notice required, permitted, or contemplated by this Agreement must be in writing, in the English language, sent by electronic mail or registered mail to the address of the Party as appears next to the Party's name on the first (1st) page of this Agreement.
- 19.2. Except as provided for within this Agreement, no delay or failure by either Party to enforce or take advantage of any provision of this Agreement for non-performance or breach of any obligation hereunder by the other Party, or to exercise any right hereunder, will constitute a waiver of the right of such Party subsequently to enforce or take advantage of such provision or any other provisions hereof (unless performance has been resumed or the breach has been cured by the other Party) or to exercise such right or any other right hereunder, unless such waiver is in writing signed by a duly authorised officer of the Party against whom the waiver is claimed to apply, or unless the respective period for enforcement, taking advantage or exercise, as the case may be, has expired by the express terms of this Agreement.
- 19.3. This Agreement may not be assigned by either Party except with the written consent of the other and any assignment that occurs without proper consent shall be deemed to be null and void.
- 19.4. The Parties agree that the breach of this Agreement may cause irreparable harm to a Party. Therefore, in addition to the other remedies specified herein, either Party may enforce its rights hereunder by all available equitable remedies, including, without limitation, the right to obtain an injunction or specific performance.
- 19.5. Neither Party shall be responsible for any failure or delay in performance of its obligations under this Agreement because of circumstances beyond its reasonable control, including, without limitation, pandemic, epidemic, acts of God, fires, floods, wars, civil disturbances, sabotage, accidents, labour disputes (whether or not the employees' demands are reasonable and within either Party's power to satisfy), governmental actions.

- 19.6. The validity, construction and enforcement of this Agreement and all matters related thereto or in connection therewith shall all be governed by and construed in accordance with the laws of the Republic of South Africa. The Parties hereby consent, subject to clause 15 above, to the jurisdiction of the Courts of the Republic of South Africa in relation to all matters arising out of or connected to the validity, construction and enforcement of this Agreement.
- 19.7. Each provision of this Agreement is severable from the other provisions. Should any provision be found by a court of competent jurisdiction to be invalid or unenforceable for any reason, the Parties will consult with one another in good faith in order to agree, if possible, an alternative provision in accordance with the intent and tenor of this Agreement. The remaining provisions of this Agreement shall nevertheless remain binding and continue with full force and effect.
- 19.8. Each Party's costs incidental to the negotiation and drafting of this Agreement shall be borne by each Party respectively.
- 19.9. 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 Signature Date of the signing one of the counterparts. The Parties undertake to take whatever steps may be necessary to ensure that each counterpart is duly signed by them without delay.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year appearing next to each Parties details hereinbelow.

On behalf of: _____

On behalf of **KPMG Services Proprietary Limited**

Signature: _____

Signature: _____

Name: _____

Name: _____

Designation: _____

Designation: _____

Date: _____

Date: _____