# Collaboration Agreement

## 1. Parties and recitals

1.1 **Parties.** This Collaboration Agreement (the "Agreement") is entered into between:

(a) **[First Party's full legal name: _____]**, [First Party's legal form: _____], registration or identity number [First Party's registration or ID number: _____], VAT number [First Party's VAT number: _____] (the "First Party"); and

(b) **[Second Party's full legal name: _____]**, [Second Party's legal form: _____], registration or identity number [Second Party's registration or ID number: _____], VAT number [Second Party's VAT number: _____] (the "Second Party").

Each of them is a "Party" and together they are the "Parties".

1.2 **Effective Date.** This Agreement takes effect on **[Effective date: _____]** (the "Effective Date"), even if it is signed by the last Party on a later date.

1.3 **Recitals.** The Parties record that:

(a) the First Party carries on business in [First Party's business: _____];

(b) the Second Party carries on business in [Second Party's business: _____];

(c) the Parties wish to work together on [Short description of the project: _____] (the "Project"), each bringing its own skills, staff, property, data or funds;

(d) each Party wishes to keep full ownership of what it brings to the Project, to agree in advance who will own and may exploit what the Project produces, and to share agreed income from the Project; and

(e) the Parties do not intend to form a partnership, joint venture entity, company or other separate legal person, and they record that intention in clause 25.

1.4 **Intention to be bound.** The Parties intend this Agreement to create binding and enforceable obligations from the Effective Date. The recitals form part of this Agreement and may be used to interpret it.

## 2. Definitions

2.1 **Definitions.** In this Agreement, unless the context clearly shows otherwise:

(a) "Affiliate" means, for a Party, any entity that directly or indirectly controls, is controlled by, or is under common control with that Party, where "control" means holding more than half of the voting rights or the right to appoint more than half of the board.

(b) "Applicable Law" means every law, regulation, directive, ruling, code of conduct and binding guideline in force in the Republic of South Africa, and in any other country where a Party performs this Agreement, that applies to the relevant Party or activity.

(c) "Background IP" means all Intellectual Property and materials that a Party owns, controls or has the right to license on the Effective Date, or that it creates or acquires afterwards outside the Project and without using the other Party's Confidential Information, including the items listed for that Party in Schedule 4.

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(d) "Background Improvement" means a Result that is only a modification, adaptation, translation or improvement of one Party's Background IP and that cannot be used without that Background IP.

(e) "Business Day" means any day other than a Saturday, a Sunday or an official public holiday in the Republic of South Africa.

(f) "Commercialise" means to sell, license, lease, distribute, publish for reward, provide as a paid service, or otherwise exploit for money or other value, and "Commercialisation" has a matching meaning.

(g) "Confidential Information" has the meaning given in clause 19.1.

(h) "Contribution" means the work, money, staff time, equipment, facilities, materials, data, software and rights that a Party must provide under Schedule 2.

(i) "Intellectual Property" means copyright, patents, patent applications, inventions, designs, trade marks, know-how, trade secrets, databases, computer programs, plant breeders' rights and every similar right, whether registered or not, and every application for any of them, anywhere in the world.

(j) "Joint Results" means Results, other than Background Improvements, created jointly by Personnel of both Parties. For a copyright work, this includes a "work of joint authorship" as defined in section 1(1) of the Copyright Act 98 of 1978, that is, a work produced by the collaboration of two or more authors in which the contribution of each author is not separable from the contribution of the others. For an invention, it means an invention for which Personnel of both Parties are joint inventors. For any other Result, it means a Result to which Personnel of both Parties made a material creative or technical contribution.

(k) "Personal Information" has the meaning given in the Protection of Personal Information Act 4 of 2013 ("POPIA").

(l) "Personnel" means a Party's directors, members, employees, students, agents, contractors and consultants who perform work on the Project.

(m) "Results" means all work, information, data, materials, inventions and other output first created, conceived, developed or reduced to practice in performing the Project, and all Intellectual Property in them.

(n) "Shared Costs" means the costs that Schedule 2 lists as shared and any other cost that both Parties approve in writing as a shared cost.

(o) "Shared Receipts" means all money, and the market value of any other consideration, that a Party or its Affiliate actually receives from Commercialising Joint Results, less only (i) refunds and credit notes actually given, and (ii) VAT or other indirect tax charged to customers and paid over to the relevant tax authority.

(p) "Sole Results" means Results, other than Background Improvements, created only by Personnel of one Party.

(q) "VAT" means value-added tax under the Value-Added Tax Act 89 of 1991.

2.2 **Interpretation.** In this Agreement: (a) clause headings are for convenience only; (b) words in the singular include the plural and the reverse; (c) "including" means "including without limitation"; (d) a reference to a law includes that law as amended or replaced; (e) "written" or "in writing" includes email, except where this Agreement requires a signature; (f) a period of days is counted by excluding the first day and including the last day, and if the last day is not a Business Day, the period ends on

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the next Business Day; and (g) amounts are in South African rand (R) and exclude VAT unless stated otherwise.

2.3 **Order of precedence.** If a clause and a Schedule conflict, the clause prevails, unless the Schedule expressly states that it changes a named clause.

2.4 **No contra proferentem.** No provision will be interpreted against a Party merely because that Party drafted it.

## 3. Purpose and scope of the collaboration

3.1 **Purpose.** The purpose of the Project is to [Purpose of the project: _____].

3.2 **Scope.** The Project includes [What the project includes: _____]. The Project excludes [What the project excludes: _____]. Work outside this scope forms part of the Project only after a change made under clause 5.4.

3.3 **Expected outcome.** The Parties will use reasonable efforts to deliver [Main deliverables: _____] by **[Target completion date: _____]**, as set out in Schedule 1. The Parties accept that research and creative work may not succeed. A failure to reach a technical, scientific or commercial outcome is not a breach of this Agreement if the responsible Party performed its obligations with the skill and care stated in clause 4.4.

3.4 **Present obligations.** The Contributions and tasks in Schedules 1 and 2 are firm obligations, not an agreement to agree. Where a detail is left for later decision, the steering committee will decide it under clause 7, and until it does so the existing Schedules continue to apply.

3.5 **Other business.** Subject to clauses 19, 23 and 24, each Party may continue its other business, including work in the same field, and may accept other opportunities without first offering them to the other Party.

3.6 **Substance over labels.** The Parties record that they have structured the Project as a contractual collaboration in which each Party contributes to a defined project, owns and exploits its own business and shares only the receipts stated in clause 9. Each Party will conduct itself in line with that structure and with clause 25.

## 4. Contributions, roles and responsibilities

4.1 **Contributions.** Each Party will provide the Contributions allocated to it in Schedule 2, by the dates stated there and at its own cost, unless Schedule 2 lists the cost as a Shared Cost.

4.2 **Responsibilities of the First Party.** The First Party is responsible for [First Party's responsibilities: _____].

4.3 **Responsibilities of the Second Party.** The Second Party is responsible for [Second Party's responsibilities: _____].

4.4 **Standard of performance.** Each Party will perform its tasks with the skill, care and diligence of a reasonably competent person in its field, in line with good industry practice and Applicable Law, and will give the other Party the information, access and cooperation it reasonably needs.

4.5 **Delay.** A Party that expects to miss a date will promptly notify the other Party in writing, giving the reason and a proposed new date. The other Party's dependent dates move by the period of the delay. If a Contribution is more than [Days a Contribution may be late before remedies apply: _____] days late without an agreed extension, the other Party may, after written notice:

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(a) suspend its dependent work; (b) obtain a reasonable substitute after giving written notice of the expected cost; or (c) follow the breach procedure in clause 31. The late Party will refund the reasonable additional cost of a substitute, subject to clause 28.

4.6 **Equipment and materials on loan.** Equipment, samples and materials that one Party lends to the other for the Project remain the property of the lending Party. The receiving Party will use them only for the Project, keep them insured where Schedule 2 requires it, not encumber them, take reasonable care of them and return them in the same condition, fair wear and tear excepted, within 15 days of a written request or the end of the Term.

4.7 **Value of Contributions.** A value given to a Contribution in Schedule 2 is for budgeting only. It does not create a capital account, a share in the other Party's business, a share in profits or losses, or a right to repayment, unless Schedule 2 expressly provides for repayment.

4.8 **Site rules.** Personnel who visit the other Party's premises or use its systems will follow that Party's health and safety, security, information technology and conduct rules as notified to them in advance.

## 5. Project plan, milestones and changes

5.1 **Project plan.** Schedule 1 sets out the tasks, the responsible Party for each task, the milestones, the decision points and the acceptance standards. Each Party will meet its dates and help keep the plan up to date.

5.2 **Progress reports.** The project leads will exchange a written progress report at least [How often progress reports are exchanged: _____]. Each report will cover work completed, work planned, delays and their causes, spending against the budget, new Results identified and risks.

5.3 **Acceptance of deliverables.** When a Party completes a deliverable, it will deliver it to the other Party. The receiving Party has [Business Days to review a deliverable: _____] Business Days to accept the deliverable or to state in writing how it fails the acceptance standard in Schedule 1. The responsible Party will correct each valid failure within 15 Business Days, or any longer period agreed in writing by the project leads, and deliver it again. If the receiving Party does not respond within [Business Days to review a deliverable: _____] Business Days after a second written notice stating that a response is overdue, the deliverable is treated as accepted.

5.4 **Changes.** Either Party may propose a change to the Project by completing the change form in Schedule 5. The other Party will respond within 10 Business Days. A change to the scope, budget, cost shares, receipt shares, ownership of Results or the end date is binding only once both Parties have signed the change form. Until then each Party continues under the existing plan.

5.5 **Minor adjustments.** The project leads may agree by email to move an internal task date by up to 10 Business Days if the change does not affect cost, ownership or the target date.

5.6 **Decision points.** At each decision point in Schedule 1, the steering committee will decide whether to continue, change or end the Project. If it makes no decision within 15 Business Days, clause 7.6 applies.

## 6. Personnel, contractors and staff IP commitments

6.1 **Suitable Personnel.** Each Party will assign suitably qualified and experienced Personnel to the Project. The key people named in Schedule 1 may be replaced only after written notice to the other Party, except where death, illness, resignation or an emergency prevents notice. A replacement must have similar skills.

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6.2 **Employer obligations.** Each Party remains solely responsible for the remuneration, benefits, employees' tax, Unemployment Insurance Fund and Skills Development Levy contributions, compensation for occupational injuries cover, supervision and discipline of its own Personnel. No Personnel of one Party become employees of the other Party because of this Agreement.

6.3 **Subcontractors.** A Party may subcontract a material part of its tasks only with the other Party's prior written consent, which may not be unreasonably withheld or delayed. The subcontracting Party remains responsible for the acts, omissions and payment of its subcontractors.

6.4 **Why written IP commitments are needed.** The Parties record that under section 21(1)(d) of the Copyright Act 98 of 1978 an employer owns copyright in a work made by an employee in the course of employment under a contract of service, but that this rule does not apply to independent contractors, consultants, students who are not employees, or the other Party's staff. A person who commissions and pays for a work owns the copyright under section 21(1)(c) only in the limited categories listed there (such as photographs, portraits, gravures, cinematograph films and sound recordings). Ownership of software, reports, designs, data compilations and other commissioned work therefore passes only by a written, signed assignment.

6.5 **Personnel undertakings.** Before any person works on the Project or receives Confidential Information, the Party that engages that person will ensure that the person is bound by a written agreement signed by that person which: (a) assigns to that Party, including by way of a present assignment of future copyright, all Intellectual Property that the person creates in the Project, so that the Party can perform clause 13; (b) imposes confidentiality obligations at least as protective as clause 19; and (c) preserves the person's right to make protected disclosures under clause 19.6. Schedule 6 may be used for this purpose. A Party that cannot obtain these terms from a person will tell the other Party before that person starts work.

6.6 **Limits for employee inventions.** No undertaking under clause 6.5 may require an employee to assign an invention made outside the course and scope of employment, or restrict an employee's rights in an invention made more than one year after the employment ends. The Parties record that section 59(2) of the Patents Act 57 of 1978 makes such a provision in a contract of employment void.

6.7 **Third-party claims to Personnel work.** If a university, employer, funder or other third party may claim rights in a person's work, the Party engaging that person will disclose the claim in writing and obtain every release, assignment or consent needed before that person contributes to the Project.

6.8 **Removal of Personnel.** If a Party reasonably objects to a person on lawful grounds of safety, misconduct, breach of confidentiality or lack of competence, the other Party will consider the objection promptly and, where the objection is reasonable, remove the person from the Project.

## 7. Governance: project leads and steering committee

7.1 **Project leads.** The First Party's project lead is [First Party's project lead: _____] and the Second Party's project lead is [Second Party's project lead: _____]. The project leads manage the day-to-day work. A Party may replace its project lead by written notice. A project lead may not amend this Agreement, except as clause 5.5 allows.

7.2 **Steering committee.** The Parties establish a steering committee made up of one senior representative of each Party, who is the signatory of this Agreement unless the Party nominates someone else in writing. The committee will meet at least [How often the steering committee meets: _____], in person or by video conference, and within 5 Business Days after either Party asks for an urgent meeting.

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7.3 **Functions.** The steering committee will monitor progress, approve changes to the budget within the limit in clause 8.3, plan Commercialisation, resolve issues referred by the project leads and recommend amendments. It may not commit a Party to spend more than the approved budget, change ownership or receipt shares, or waive any right, except in a document signed by both Parties.

7.4 **Decisions.** Each Party has one vote. Decisions must be unanimous and recorded in writing. The Party hosting a meeting will circulate minutes within 5 Business Days. Minutes are treated as correct unless a Party objects in writing within 5 Business Days after receiving them.

7.5 **Conflicts of interest.** A representative will declare any personal interest in a matter, including an interest in a supplier, customer or licensee, before the committee considers it.

7.6 **Deadlock.** If the steering committee cannot decide a matter within 15 Business Days, either Party may refer it to senior executives under clause 34.1. While the matter is unresolved, the last approved plan and budget continue and neither Party may make a new commitment on the disputed matter. If the deadlock prevents the Project from continuing for 45 days after the executive referral, either Party may terminate this Agreement on 15 days' written notice under clause 31.5.

7.7 **Competition safeguards.** Meetings of the project leads and the steering committee are subject to clause 24. Agendas will be circulated in advance and minutes will record the matters discussed.

## 8. Costs, budget and expense sharing

8.1 **Own costs.** Each Party bears its own costs of performing this Agreement, including the cost of its Personnel and its Contributions, except for Shared Costs.

8.2 **Shared Costs.** The Parties will share Shared Costs in the proportions **[First Party's share of Shared Costs: _____]** (First Party) and **[Second Party's share of Shared Costs: _____]** (Second Party). The total of Shared Costs may not exceed **[Maximum total of Shared Costs: _____]** (excluding VAT) without a change signed under clause 5.4.

8.3 **Approval limit.** A Party may incur a single Shared Cost of up to [Single Shared Cost a party may incur without committee approval: _____] (excluding VAT) if it falls within an approved budget line. A larger Shared Cost needs the prior written approval of the steering committee.

8.4 **Advance payments.** Where Schedule 2 provides for advance contributions to Shared Costs, each Party will pay its share into the account and by the dates stated there. Funds held for Shared Costs will be kept separately identified and used only for the Project.

8.5 **Reimbursement.** A Party that pays a Shared Cost may invoice the other Party for its share, with supporting documents, once a month. The other Party will pay a valid tax invoice within [Days to pay an invoice: _____] days of receiving it.

8.6 **Overruns.** A Party that expects a budget line to be exceeded by more than 10% will notify the other Party in writing before incurring the excess. A Party that incurs an unapproved overrun bears it alone.

8.7 **Unspent funds.** On termination or expiry, unspent advance contributions will be returned to the Parties in proportion to their payments after all approved Shared Costs have been paid.

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## 9. Revenue sharing and payment (VAT, interest)

9.1 **Receipt shares.** Shared Receipts will be divided **[First Party's share of Shared Receipts: _____]** to the First Party and **[Second Party's share of Shared Receipts: _____]** to the Second Party, unless Schedule 3 states a different division for a particular product, territory or use.

9.2 **Receipts, not profits.** The division is of gross receipts from Joint Results, not of profits. Neither Party shares in the profits of the other Party's business and neither Party bears any part of the other Party's losses. Each payment under this clause is consideration for the rights and work that the receiving Party provides under this Agreement.

9.3 **Collecting Party.** [Party that collects Shared Receipts: _____] will invoice customers and collect Shared Receipts for transactions concluded for both Parties (the "Collecting Party"). Any Party that receives Shared Receipts directly is the Collecting Party for that amount.

9.4 **Statements and payment.** Within [Days after each period to send a statement: _____] days after the end of each [Accounting period for receipts: _____], the Collecting Party will deliver a statement showing, for each transaction, the customer, the date, the gross amount, the permitted deductions and each Party's share, and will pay the other Party's share against a valid tax invoice from that Party. If nothing was received, the statement will say so.

9.5 **Minimum amount.** If an amount due is less than [Amount below which payment may be carried forward: _____], the Collecting Party may carry it forward to the next statement, but it will pay all amounts due at least once every 12 months and on termination or expiry.

9.6 **Separate identification and set-off.** The Collecting Party will identify the other Party's share separately in its records and may not encumber it or use it for its own purposes. It may set off only an amount that is due, payable and not disputed, or that a court or arbitrator has awarded.

9.7 **Bundled sales.** If a Joint Result is sold together with other products or services for one price, the Parties will agree in writing, before the sale, the part of the price attributable to the Joint Result. If they do not agree, that part is the ratio of the standalone price of the Joint Result to the sum of the standalone prices of all items in the bundle. If there is no standalone price, an independent chartered accountant appointed under clause 10.5 will determine a reasonable part.

9.8 **VAT on payments.** All amounts in this Agreement exclude VAT. Where a supply under this Agreement is a taxable supply, the supplying Party, if it is a registered vendor, may add VAT at the rate in force when the supply is made. At the Effective Date, VAT is levied at the standard rate of 15%. Payment of VAT is due only against a valid tax invoice.

9.9 **Interest on late payment.** An amount that is not paid when due bears interest from the due date to the date of payment at [Late-payment interest rate: _____]. If no rate is stated, interest runs at the rate prescribed under the Prescribed Rate of Interest Act 55 of 1975, being the repurchase rate determined by the South African Reserve Bank plus 3.5% a year. Interest is calculated daily, subject to any limit that Applicable Law places on interest. Acceptance of a late payment does not waive the breach.

9.10 **Refunds.** If Shared Receipts that have been divided are later refunded to a customer, each Party will repay its share within 30 days after receiving proof of the refund, or the amount will be adjusted in the next statement.

9.11 **Payment method.** Payments will be made by electronic funds transfer, without deduction except as required by law or allowed by clause 9.6, into the bank account that the receiving Party

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notifies in writing on its letterhead. A change of bank details is valid only once confirmed by a telephone call to a known representative of the receiving Party.

## 10. Records, reports and audit

10.1 **Books and records.** Each Party will keep complete and accurate books and records of its Contributions, Shared Costs, Shared Receipts and Commercialisation of Joint Results, in line with generally accepted accounting practice, for at least [Years to keep records: _____] years after the end of the financial year to which they relate, or any longer period that Applicable Law requires.

10.2 **Records of creation.** Each Party will keep dated laboratory notebooks, version-control logs or similar records that identify the Personnel who created each Result and their contribution.

10.3 **Reports.** In addition to the progress reports under clause 5.2, each Party will on request give the other Party copies of supporting documents for any amount it claims or pays under clauses 8 and 9.

10.4 **Audit.** Once in any 12-month period, on at least 15 Business Days' written notice, a Party may have an independent registered auditor or chartered accountant inspect the other Party's records relating to this Agreement during normal business hours. The auditor must sign a confidentiality undertaking and may report to the appointing Party only whether the statements were correct and the amount of any difference.

10.5 **Costs of audit and adjustment.** The appointing Party pays for the audit. If an audit shows an underpayment of more than [Underpayment that shifts audit costs: _____] of the amount due for the period audited, the audited Party will pay the reasonable cost of the audit. Any underpayment is payable with interest under clause 9.9 within 10 Business Days, and any overpayment will be refunded or credited within the same period. If the Parties cannot agree on the result, either Party may refer it to an independent chartered accountant agreed by them or, failing agreement within 10 Business Days, nominated by the chairperson of the South African Institute of Chartered Accountants. That accountant acts as an expert, not an arbitrator, and the decision is final and binding except for manifest error.

## 11. Taxes, VAT and withholding

11.1 **Tax status.** The Parties record that the South African Revenue Service ("SARS") treats an unincorporated joint venture as a partnership, and that a partnership is not a separate legal person or taxpayer. Each Party will account for and pay its own income tax on its share of Shared Receipts and on any other amount it receives under this Agreement. Neither Party is liable for the other Party's income tax.

11.2 **VAT position.** The Parties record that, for VAT purposes, a partnership or unincorporated joint venture is a separate "person" under section 1(1) of the Value-Added Tax Act 89 of 1991 and may have to register as a vendor in its own right, and that registration is compulsory once taxable supplies exceed R2.3 million in a 12-month period. The Parties have structured this Agreement so that each Party makes its own supplies to customers and to the other Party. Before Shared Receipts are first earned, the Parties will obtain written tax advice on whether the arrangement requires a separate VAT registration and will act on that advice, sharing the cost of the advice as a Shared Cost.

11.3 **Tax invoices.** Each Party that is a registered vendor will issue tax invoices that comply with the Value-Added Tax Act for every taxable supply it makes under this Agreement, and will notify the other Party promptly if its registration status changes.

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11.4 **Withholding tax on royalties.** If a payment under this Agreement is a royalty paid from a South African source to a Party that is a foreign person, the paying Party must withhold the final withholding tax on royalties, currently 15% of the amount, or a lower rate under an applicable tax treaty if the receiving Party has given the paying Party, before the payment date, the documents the paying Party needs to apply that rate. The paying Party will pay the amount withheld to SARS within the time allowed and give the receiving Party proof of payment. An amount properly withheld and paid to SARS is treated as paid to the receiving Party.

11.5 **Other withholding.** If any other law requires a Party to withhold tax from a payment, the paying Party will withhold only the amount required, pay it to the relevant authority and give the receiving Party proof of payment.

11.6 **Tax cooperation.** Each Party will give the other the information and documents reasonably needed to comply with tax law, including residence certificates and VAT registration details.

11.7 **No tax warranty.** Neither Party warrants to the other the tax treatment of any amount under this Agreement. Each Party relies on its own tax advice.

## 12. Background intellectual property and licences

12.1 **Ownership unchanged.** Each Party keeps all rights, title and interest in its Background IP. Nothing in this Agreement transfers ownership of Background IP or grants any licence to it, except as stated in this clause 12.

12.2 **Licence for the Project.** Each Party grants to the other Party a non-exclusive, non-transferable, royalty-free licence, during the Term, to use its Background IP only to the extent needed to perform the Project, subject to the limits in Schedule 4. The licence includes a right to sublicense to the licensee's Personnel and approved subcontractors for the Project only.

12.3 **Licence to use Joint Results.** Where a Party's Background IP is necessary to use or Commercialise a Joint Result, that Party will, on request, negotiate in good faith a non-exclusive licence of that Background IP to the other Party on fair and reasonable terms, limited to the use of the Joint Result, unless Schedule 4 excludes that Background IP or states other terms.

12.4 **Contractual licences may be revoked only as agreed.** The Parties record that under section 22(4) of the Copyright Act 98 of 1978 a non-exclusive licence granted by contract may be revoked only as the contract provides. The licences in this clause 12 end only under clause 32 or for a material breach that is not remedied under clause 31.

12.5 **Exclusive licences.** No exclusive licence of any Background IP is granted under this Agreement. Any exclusive licence must be in a separate document signed by or on behalf of the licensor, because section 22(3) of the Copyright Act requires an exclusive licence to be in writing signed by or on behalf of the licensor.

12.6 **Third-party materials.** Each Party will disclose in Schedule 4 any open-source software, data set or other third-party material that it intends to bring into the Project, with the applicable licence terms. A Party may not introduce third-party material whose licence would require the other Party's Background IP or Joint Results to be disclosed, licensed free of charge or made available in source code form, without the other Party's prior written consent.

12.7 **Background Improvements.** A Background Improvement belongs to the Party that owns the underlying Background IP. To the extent the other Party's Personnel contribute to a Background Improvement, that Party assigns its rights in it to the owner of the Background IP under clause 13.5, and the owner grants the contributing Party a non-exclusive, royalty-free licence to use it for the

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Project during the Term.

## 13. Ownership of project results (copyright and patents)

13.1 **Disclosure of Results.** Each Party will notify the other in writing within 30 days after it identifies a Result that may be protectable, giving enough detail to decide ownership and the form of protection. The notice and the Result are Confidential Information of both Parties until the Parties decide on protection.

13.2 **Default position under the Copyright Act.** The Parties record that copyright vests first in the author or, for a work of joint authorship, in the co-authors, unless a statutory exception applies, and that paragraphs (b), (c) and (d) of section 21(1) of the Copyright Act apply subject to any agreement excluding them. The Parties intend the allocation in this clause 13 to apply in place of those default rules between them, to the fullest extent the law allows.

13.3 **Sole Results.** A Party owns the Sole Results created by its Personnel. It grants the other Party a non-exclusive, royalty-free licence to use those Sole Results during the Term solely for the Project.

13.4 **Joint Results.** The Parties jointly own Joint Results in the following undivided shares: **[Ownership shares in Joint Results: _____]**. These shares apply regardless of the amount or timing of each Party's work. The shares of ownership and the shares of Shared Receipts are separate, and a change to one does not change the other.

13.5 **Present assignment of future copyright.** Section 22(5) of the Copyright Act allows an assignment of copyright in a future work. To the extent necessary to give effect to the ownership in this clause 13 and in clause 12.7, each Party hereby assigns to the other Party, with effect from the moment each relevant Result comes into existence, the share or interest in that Result and in all Intellectual Property in it that this Agreement allocates to the other Party, together with the right to claim damages for past infringement. This assignment is made in writing and is signed by each Party when it signs this Agreement, as section 22(3) of the Copyright Act requires.

13.6 **Joint patents and applications.** The Parties record that, in the absence of an agreement to the contrary, joint inventors may apply for a patent in equal undivided shares, joint applicants hold equal undivided shares in an application and may not deal with it without each other's consent, and joint patentees are each entitled to an equal undivided share in the patent. The Parties agree that each patent application and patent covering a Joint Result will be held in the shares stated in clause 13.4, and that dealings with it are governed by clauses 14 and 15.

13.7 **Further assurance.** Each Party will, at the reasonable cost of the Party requesting it, sign and procure that its Personnel sign every document reasonably required to confirm, record, register, maintain or enforce the ownership allocated by this Agreement, including assignments for recording in the register of patents.

13.8 **Moral rights.** Each Party will procure from its Personnel, to the extent the law permits, consents needed to allow agreed editing, adaptation and credit of Results. Nothing in this Agreement requires an author to give up a right that cannot lawfully be waived.

13.9 **Project data.** Each Party may use data generated jointly in the Project for its internal research and business purposes, subject to clauses 19 and 20 and to any restriction in Schedule 4. Disclosure of that data to third parties or its Commercialisation is governed by clause 14.

13.10 **No ownership from minor input.** Suggestions, comments, general ideas, ordinary supervision, access to facilities or payment alone do not make a Party an author, inventor or owner of a Result.

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## 14. Commercialisation and licensing of joint results

14.1 **Why this clause matters.** The Parties record that under section 49(2) of the Patents Act 57 of 1978, unless they agree otherwise and without the consent of the other joint patentee, a joint patentee may not make, use, exercise or dispose of the patented invention, grant a licence under the patent, or assign the whole or any part of its interest in the patent, and may not take steps or proceedings relating to the patent other than paying renewal fees. This clause 14 is the agreement to the contrary that sets the Parties' rules for using and licensing Joint Results.

14.2 **Internal use.** Each Party may use Joint Results free of charge for its own internal research, development, teaching and evaluation, subject to clauses 19 and 21.

14.3 **During the Term.** During the Term neither Party may Commercialise a Joint Result except in line with the Commercialisation plan in Schedule 3 or with the other Party's prior written consent. The steering committee will review the plan at each milestone. A Party will not unreasonably withhold consent to a proposal that follows the plan.

14.4 **After the Term.** After the Term, unless Schedule 3 states otherwise, each Party may itself make, use and sell products and services that use a Joint Result, and may grant non-exclusive licences of it to third parties, without the further consent of the other Party, provided that it pays the other Party its share of Shared Receipts under clause 9, protects Confidential Information and respects the other Party's Background IP and names. Each Party consents in advance, for the purposes of section 49(2) of the Patents Act and section 29(1) of that Act, to the dealings that this clause allows.

14.5 **Exclusive licences and disposals.** No exclusive licence of a Joint Result, and no sale, assignment, mortgage or other encumbrance of the whole of a Joint Result, is valid unless both Parties sign the relevant document. A Party may transfer its own undivided share only under clause 37 and subject to the right of first offer in clause 14.7.

14.6 **Licence terms.** Every licence of a Joint Result must be in writing, describe the permitted use, be limited to the rights held, require suitable credit, protect Confidential Information, allow termination for serious unremedied breach and, if granted to a non-resident, comply with clause 16. The licensing Party will give the other Party a copy within 10 Business Days of signature. Commercial details that the other Party does not need for accounting may be redacted.

14.7 **Right of first offer.** Before a Party offers its share in a Joint Result, or an exclusive licence of it, to a third party, it will give the other Party written notice of the proposed terms. The other Party has [Days to accept a right of first offer: _____] days to accept those terms in writing. If it does not, the offering Party may, for 6 months, deal with a third party on terms no more favourable to the third party than those offered, and the other Party will give any consent required by clause 14.5 or by the Patents Act for that dealing.

14.8 **Disputes between joint owners.** A dispute about the use, licensing or exploitation of a Joint Result will first be dealt with under clause 34. The Parties record that section 49(6) of the Patents Act allows any joint patentee to apply to the Commissioner of Patents to decide a dispute between joint patentees, and nothing in this Agreement removes that right.

14.9 **Independent pricing.** Each Party sets its own prices and terms for its own products and services. Prices for a product offered jointly by the Parties may be agreed only to the extent needed for that joint offer and only in line with clause 24.

14.10 **No sales guarantee.** Neither Party guarantees any level of Shared Receipts. A Party responsible for sales under Schedule 3 will use reasonable commercial efforts.

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## 15. Registration, prosecution and enforcement

15.1 **Filing decisions.** The steering committee will decide whether, where and in whose names to seek registered protection for a Joint Result. Unless the committee decides otherwise, [Party that files patent applications: _____] (the "Filing Party") will prepare, file and prosecute applications for Joint Results in the names of both Parties, in the shares stated in clause 13.4, using a patent attorney approved by both Parties.

15.2 **No disclosure before filing.** The Parties record that under section 25(6) of the Patents Act the state of the art includes all matter made available to the public, whether in the Republic or elsewhere, by written or oral description, by use or in any other way. Neither Party will disclose a potentially patentable Result to anyone who is not bound by confidentiality, publish it, present it or use it in public before an application has been filed or the Parties have decided in writing not to seek patent protection.

15.3 **Costs.** The costs of filing, prosecuting and maintaining registrations for Joint Results are Shared Costs in the proportions of ownership in clause 13.4, unless the Parties agree otherwise in writing.

15.4 **Opting out.** A Party that does not wish to pay its share of costs for a registration in a particular country will give the other Party at least 30 days' written notice before the next cost falls due. The other Party may then continue in that country at its own cost, and the opting-out Party will assign its share in that registration to the continuing Party, which will hold the registration alone, subject to a non-exclusive, royalty-free licence back to the opting-out Party for its internal use.

15.5 **Assignment and recording.** The Parties record that under section 60(1) of the Patents Act an assignment of a patent or patent application must be in writing, and that an assignment is not valid against third parties, but only between the parties to it, until it is recorded in the register. A Party that receives an assignment of any interest in a patent or application for a Joint Result will apply to record it in the register without delay, and the assigning Party will sign every document needed for that purpose.

15.6 **Cooperation.** Each Party will provide the information, signatures and assistance reasonably required for prosecution and maintenance, including declarations by inventors.

15.7 **Infringement by third parties.** Each Party will notify the other promptly in writing of any suspected infringement of a Joint Result. The Parties will consult and try to agree on joint action. The Parties record that under section 49(4) of the Patents Act any joint patentee may institute infringement proceedings, but must give notice to every other joint patentee, who may intervene as co-plaintiff. If one Party sues alone, it bears the costs and keeps the damages after reimbursing any costs the other Party incurred at its request, unless the other Party joins and shares the costs, in which case recoveries are shared in proportion to costs borne.

15.8 **Challenges by third parties.** If a third party challenges the validity of a registration for a Joint Result, the Parties will defend it jointly and share the cost in their ownership shares, unless one Party declines in writing, in which case clause 15.4 applies with the necessary changes.

## 16. Exchange control and cross-border transfers

16.1 **Application.** This clause applies if a Party is not a South African resident for exchange control purposes, or if a Result or Background IP owned by a South African resident is to be assigned, licensed or made available to a non-resident.

16.2 **Approval before transfer.** The Parties record that under the Currency and Exchanges Manual

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for Authorised Dealers issued by the Financial Surveillance Department of the South African Reserve Bank ("FinSurv"), the sale, assignment, cession or waiver of South African-owned intellectual property to non-residents, directly or indirectly, is not allowed without the prior written approval of FinSurv, unless the Manual allows an Authorised Dealer to approve it. No assignment, cession or waiver under this Agreement of any interest in Intellectual Property owned by a South African resident in favour of a non-resident Party takes effect until the required approval has been obtained.

16.3 **Arm's-length terms.** The Parties will ensure that every assignment or licence of Intellectual Property between a resident and a non-resident under this Agreement is concluded on arm's-length terms at a fair and market-related price. Where an Authorised Dealer may approve the transaction under the Manual, the resident Party will submit to its Authorised Dealer the relevant agreement and the auditor's letter or intellectual property valuation certificate that the Manual requires.

16.4 **Licences to non-residents.** Before a licence of Intellectual Property owned by a resident is granted to a non-resident, the resident Party will obtain the approval of its Authorised Dealer or FinSurv, as applicable, by submitting the licence agreement and an auditor's letter confirming the basis of the royalty or fee.

16.5 **Repatriation.** A resident Party that becomes entitled to royalties or fees from a non-resident licensee will repatriate them to South Africa within 30 days of becoming entitled to them, as the Manual requires.

16.6 **Condition and cooperation.** Each provision of this Agreement that requires an exchange control approval is subject to the approval being granted. Each Party will cooperate in applying for approvals and will provide the documents reasonably required. If an approval is refused, the Parties will negotiate in good faith an alternative structure, such as a licence in place of an assignment, that achieves their commercial intent lawfully. If they cannot agree within 60 days, either Party may refer the matter to the steering committee and then to clause 34.

16.7 **Personal Information abroad.** A transfer of Personal Information outside South Africa is also subject to clause 20.6.

## 17. Publicly funded research (IPR Act)

17.1 **Application.** This clause applies if a Party is a higher education institution, science council or other institution to which the Intellectual Property Rights from Publicly Financed Research and Development Act 51 of 2008 (the "IPR Act") applies, and any part of the Project is funded from public funds. The Parties record in Schedule 2 whether this clause applies: [Whether public funds are used and on what basis: _____].

17.2 **Full-cost funding.** The Parties record that under section 15(4)(a) of the IPR Act, research and development at an institution that is funded by a private entity on a full-cost basis is not deemed to be publicly financed. If a private Party funds the institution's work in the Project on a full-cost basis, the Parties will record that in Schedule 2.

17.3 **Conditions for co-ownership.** Where the IPR Act applies, the private Party may co-own Intellectual Property arising from the publicly financed work only if the conditions in section 15(2) of the IPR Act are met, namely that the private Party contributed resources to the research, that there is joint creatorship, that arrangements for benefit-sharing with the institution's creators are made, and that the Parties conclude a commercialisation agreement. The Parties agree that clause 14 and Schedule 3 serve as the framework for that commercialisation agreement, and that any further terms required by the IPR Act or by the National Intellectual Property Management Office ("NIPMO") will be concluded in writing before the Joint Result is Commercialised.

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17.4 **Disclosure and protection.** The institution Party will ensure that its research Personnel disclose Intellectual Property to it within 90 days, or any longer prescribed period, and that Intellectual Property is protected before results are published, as section 5(1) of the IPR Act requires. The institution Party will tell the other Party promptly of any disclosure that concerns a Result.

17.5 **Offshore transactions.** Before any offshore assignment or exclusive licence of Intellectual Property to which the IPR Act applies, the institution Party will advise NIPMO and obtain any approval required under section 12(2) of the IPR Act, which requires it to satisfy NIPMO that there is insufficient capacity in the Republic to develop or commercialise the Intellectual Property and that the Republic will benefit. The private Party will provide information reasonably needed for that application.

17.6 **Precedence.** To the extent that this Agreement conflicts with a mandatory requirement of the IPR Act or its regulations, the mandatory requirement prevails, and the Parties will amend this Agreement to comply.

## 18. Artificial intelligence and third-party materials

18.1 **Permitted use.** A Party may use artificial intelligence tools in the Project only for [Permitted uses of AI tools: _____], or as otherwise approved in writing by the steering committee.

18.2 **Confidential Information.** A Party may not enter the other Party's Confidential Information or Personal Information into an artificial intelligence tool unless the tool's terms prohibit the provider from using the input to train its models and from disclosing it, and the tool meets the security standard in clause 20.3.

18.3 **Records and disclosure.** Each Party will keep a record of material use of artificial intelligence tools in creating Results and will disclose that use to the other Party on request, so that the Parties can assess authorship, ownership and the risk of third-party claims.

18.4 **Third-party rights.** Each Party will take reasonable steps to ensure that material it contributes, including output of an artificial intelligence tool, does not knowingly infringe the rights of any third party, and will comply with the terms of use of every tool and data source it uses.

18.5 **Human review.** Each Party will ensure that a competent person reviews every deliverable produced with the help of an artificial intelligence tool before it is delivered under clause 5.3.

## 19. Confidentiality and protected disclosures

19.1 **Meaning.** "Confidential Information" means all information, in any form, that one Party (the "Discloser") or its Personnel discloses to the other Party (the "Recipient") in connection with this Agreement and that is marked as confidential or that a reasonable person would understand to be confidential, including technical data, know-how, source code, formulae, business plans, customer information, pricing and unpublished Results. The terms of this Agreement are Confidential Information of both Parties.

19.2 **Exclusions.** Confidential Information does not include information that the Recipient can show: (a) is or becomes public other than through a breach of this Agreement; (b) was lawfully known to it before disclosure without a duty of confidence; (c) is lawfully received from a third party without a duty of confidence; or (d) is developed independently without use of the Discloser's Confidential Information.

19.3 **Obligations.** The Recipient will: (a) use Confidential Information only for the Project and for exercising its rights under this Agreement; (b) disclose it only to its Personnel, Affiliates and

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professional advisers who need to know it and who are bound by duties of confidence at least as strict as this clause; (c) protect it with at least the care it uses for its own confidential information of similar importance, and no less than reasonable care; and (d) notify the Discloser promptly on becoming aware of any unauthorised use or disclosure.

19.4 **Compelled disclosure.** The Recipient may disclose Confidential Information to the extent required by law, a court order or the rules of a stock exchange, if it gives the Discloser prompt written notice where lawful, discloses only what is required and cooperates with any lawful effort to obtain protection.

19.5 **Duration and return.** These obligations continue for [Years confidentiality lasts after the Term: _____] years after the end of the Term, and for trade secrets for as long as the information remains a trade secret. On termination or on request, the Recipient will return or destroy the Discloser's Confidential Information, except copies kept under a legal retention duty or in routine back-ups, which remain subject to this clause.

19.6 **Protected disclosures.** Nothing in this Agreement prevents, restricts or discourages any Party or any of its Personnel from making a protected disclosure under the Protected Disclosures Act 26 of 2000 or a disclosure protected by section 159 of the Companies Act 71 of 2008. The Parties record that section 2(3) of the Protected Disclosures Act makes void any provision in an agreement between an employer and an employee or worker to the extent that it excludes that Act or precludes or discourages a protected disclosure, and that section 159(2) of the Companies Act makes void any agreement to the extent that it limits, sets aside or negates the effect of that section. This clause prevails over every other provision of this Agreement.

19.7 **Remedies.** Each Party acknowledges that a breach of this clause may cause harm for which damages are not an adequate remedy, and that the Discloser may apply to court for an interdict or specific performance in addition to any other remedy.

## 20. Protection of personal information (POPIA)

20.1 **Roles.** Schedule 1 identifies the Personal Information to be processed in the Project, the purpose and the role of each Party. The Parties record that a "responsible party" under POPIA is a person who, alone or in conjunction with others, determines the purpose of and means for processing Personal Information. Where the Parties jointly decide the purpose and means of processing, each is a responsible party and will comply with POPIA for its own processing.

20.2 **Lawful processing.** Each Party will process Personal Information in the Project only for the purposes stated in Schedule 1, in line with the conditions for lawful processing in POPIA, and will ensure that data subjects are given the information POPIA requires.

20.3 **Security.** Each Party will secure the integrity and confidentiality of Personal Information in its possession or under its control by taking appropriate, reasonable technical and organisational measures to prevent loss of, damage to or unauthorised destruction of it, and unlawful access to or processing of it, as section 19(1) of POPIA requires.

20.4 **Operator terms.** Where one Party processes Personal Information for the other Party without coming under its direct authority, the processing Party acts as an operator of the other. Section 21(1) of POPIA requires a written contract under which the operator establishes and maintains the security measures in section 19. The operator Party will therefore: (a) process the Personal Information only with the knowledge or authorisation of the responsible Party; (b) treat it as confidential and not disclose it unless required by law or in the course of the proper performance of its duties; (c) establish and maintain the security measures in clause 20.3; and (d) notify the responsible Party immediately

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where there are reasonable grounds to believe that the Personal Information has been accessed or acquired by an unauthorised person.

20.5 **Security compromises.** A Party that becomes aware of a security compromise affecting Personal Information processed in the Project will notify the other Party in writing within [Hours to report a data security compromise to the other party: _____] hours, with the information then available, and will cooperate in containing it. The Parties record that under section 22(1) of POPIA the responsible party must notify the Information Regulator and, subject to the exceptions in that section, the data subject. The Party that is the responsible party for the affected Personal Information will make those notifications, and where both Parties are responsible parties they will coordinate the notifications.

20.6 **Cross-border transfers.** Neither Party will transfer Personal Information processed in the Project to a third party in a foreign country unless section 72(1) of POPIA allows it, for example because the recipient is subject to a law, binding corporate rules or a binding agreement that provides an adequate level of protection, or the data subject consents.

20.7 **Requests and complaints.** Each Party will promptly tell the other about any request by a data subject, complaint or enquiry by the Information Regulator that concerns processing in the Project, and will cooperate in responding to it.

20.8 **End of processing.** On termination, each Party will return or destroy Personal Information that it processed as operator for the other Party, unless the law requires it to be retained.

## 21. Publications, credit and publicity

21.1 **Right to publish.** Each Party, and in the case of an academic Party its researchers and students, may publish or present Results in line with this clause, subject to clause 19.

21.2 **Review period.** A Party that intends to publish or present a Result will send the proposed publication to the other Party at least [Days' notice before a publication: _____] days before submission. The other Party may, within that period, require: (a) removal of its Confidential Information; or (b) a delay of up to [Maximum publication delay for a patent filing: _____] days to allow an application for protection to be filed.

21.3 **Novelty.** Because South Africa applies absolute novelty, as recorded in clause 15.2, no publication, conference presentation, poster, thesis, website posting or public demonstration of a potentially patentable Result may take place before a patent application has been filed or the Parties have agreed in writing that no application will be filed.

21.4 **Theses.** Where a student's thesis contains a Result, the academic Party may place the thesis under embargo for the review and delay periods in clause 21.2, in line with its institutional rules.

21.5 **Credit.** Each publication will acknowledge the contribution of the other Party and its Personnel in line with accepted academic and industry practice and the credit line in Schedule 3.

21.6 **Publicity.** Neither Party may issue a press release or public announcement about this Agreement or the Project without the other Party's prior written approval of its content, except as required by law or stock exchange rules.

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## 22. Names and trade marks

22.1 **No licence of names.** Neither Party acquires any right to use the other Party's name, logo or trade marks, except as allowed by this clause or approved in writing.

22.2 **Approved use.** Each Party may use the other Party's name and the logo described in Schedule 3 only to identify the Parties as collaborators in the Project, in line with the brand rules in Schedule 3. All goodwill from that use accrues to the owner of the mark.

22.3 **Project name.** The project name is [Project name: _____]. Any trade mark rights in the project name belong to [Owner of the project name: _____], who may decide whether to register it. Neither Party may register a mark, domain name or social media handle that is confusingly similar to the other Party's marks or to the project name without the owner's written consent.

22.4 **End of use.** On termination, each Party will stop using the other Party's name and marks within 30 days, except in factual historical references and in materials already distributed.

## 23. Exclusivity and non-solicitation (optional)

23.1 **Election.** This clause 23 applies only to the extent that the Parties elect it here: exclusivity [Exclusivity election: _____]; non-solicitation [Non-solicitation election: _____].

23.2 **Exclusivity.** If exclusivity is elected, during the Term neither Party will carry out, alone or with a third party, a project that substantially duplicates the Project in the field of [Field covered by exclusivity: _____] in [Area covered by exclusivity: _____]. This clause does not restrict either Party's other business, its sales to any customer or in any area, its pricing, or its participation in any tender.

23.3 **Competition law limit.** Nothing in this clause 23 allocates customers, suppliers, territories or specific types of goods or services between the Parties, fixes any price or trading condition, or provides for collusive tendering. If a Party reasonably considers that this clause could have that effect, the Parties will amend it in line with clause 24.

23.4 **Non-solicitation.** If non-solicitation is elected, during the Term and for [Months non-solicitation lasts after the Term: _____] months afterwards neither Party will actively solicit for employment any employee of the other Party who worked on the Project, without the other Party's prior written consent. General advertisements not targeted at the other Party's employees, and approaches initiated by an employee, are not solicitation.

23.5 **Reasonableness.** The Parties consider the restrictions in this clause reasonable and necessary to protect their legitimate interests in the Project, their Confidential Information and their Personnel. If a court finds a restriction wider than is reasonable, it applies only to the extent the court considers reasonable.

## 24. Competition law compliance and clean-team rules

24.1 **Compliance.** Each Party will comply with the Competition Act 89 of 1998 in performing this Agreement. The Parties record that section 4(1)(b) of the Competition Act prohibits outright an agreement between competitors that directly or indirectly fixes a purchase or selling price or any other trading condition, divides markets by allocating customers, suppliers, territories or specific types of goods or services, or involves collusive tendering, and that no efficiency, pro-competitive or technological gain can be raised as a defence to that prohibition.

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24.2 **Other restrictions.** The Parties record that under section 4(1)(a) of the Competition Act other agreements between competitors are prohibited if they have the effect of substantially preventing or lessening competition in a market, unless a party proves that a technological, efficiency or other pro-competitive gain from the agreement outweighs that effect. The Parties intend the Project to produce such gains through the combination of their skills and resources described in clause 3.

24.3 **Prohibited conduct.** Neither Party will use the Project, the steering committee or any exchange of information under this Agreement to agree with the other Party on prices, discounts, margins or other trading conditions for its own products or services, to divide customers, suppliers, territories or product lines, or to coordinate bids or tenders.

24.4 **Competitively sensitive information.** If the Parties are actual or potential competitors, they will exchange competitively sensitive information, such as prices, customer lists, production costs, quantities, turnover, sales, capacities, marketing plans, technologies and research and development programmes and their results, only to the extent relevant and necessary for the Project. The Parties record that the Competition Commission's Guidelines on the Exchange of Competitively Sensitive Information between Competitors (2023) recommend that exchanges be limited to what is relevant and necessary for the claimed pro-competitive gains, and that, although the Guidelines are not binding on the competition authorities, they must be taken into account when the Act is interpreted or applied.

24.5 **Clean team.** Where competitively sensitive information must be shared, it will be shared only through a clean team of named Personnel who are not involved in pricing, sales or marketing decisions, who have signed a written undertaking to use it only for the Project, and who will pass on only aggregated or historical information that is necessary for the Project. Each Party will keep a list of its clean-team members and the information they received.

24.6 **Meetings.** Each meeting at which both Parties are present will follow a written agenda. A participant who believes a discussion has moved to a prohibited topic will object, the discussion will stop and the objection will be recorded in the minutes.

24.7 **Amendment.** If either Party is advised in writing by a competition lawyer that a provision of this Agreement may contravene the Competition Act, the Parties will promptly negotiate in good faith to amend it so that it complies while preserving their commercial intent as far as possible.

## 25. Relationship of the parties (no partnership)

25.1 **No partnership.** The Parties record that South African law has no general partnership statute and that the common law, applying the essentials described by Pothier (each party contributes money, labour or skill, the business is carried on for the joint benefit of the parties, and the object is to make a profit), decides whether a partnership exists, including a tacit partnership inferred from conduct. The Parties do not intend to form a partnership, and this Agreement does not create one. In particular: (a) the Parties do not carry on a business in common, and each carries on its own business; (b) the Parties do not share profits or losses, but share only the gross receipts stated in clause 9; and (c) no Party contributes to a common fund except the limited Shared Costs account in clause 8.

25.2 **Reasons.** The Parties record that SARS treats an unincorporated joint venture as a partnership, that a partnership is not a separate legal person or taxpayer, and that each partner may be held liable for the debts of the business. Each Party therefore wishes to remain responsible only for its own debts and obligations.

25.3 **No agency.** Neither Party is the agent of the other. Neither Party may conclude a contract, incur a debt, give a guarantee or make a representation in the name of or on behalf of the other Party, or

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hold itself out as having authority to do so, without the other Party's prior written authority in each case.

25.4 **Own liabilities.** Each Party is solely responsible for the debts, obligations and liabilities it incurs, including to its own Personnel, suppliers and customers, and will indemnify the other Party against any claim by a third party that arises because the indemnifying Party incurred a debt in the name of the other Party or because the indemnifying Party's conduct created the appearance of a partnership.

25.5 **Conduct.** Each Party will conduct itself, in correspondence, marketing, contracts with third parties and dealings with tax authorities, in a way consistent with this clause, and will not describe the Parties as partners or the Project as a partnership.

25.6 **No fiduciary duties.** Except for the express duties in this Agreement, including confidentiality and accounting for Shared Receipts, neither Party owes the other any fiduciary duty.

## 26. Representations and warranties

26.1 **Mutual warranties.** Each Party warrants to the other, at the Effective Date, that: (a) it is duly incorporated or constituted and validly existing, or, if an individual, has full legal capacity; (b) it has the power and authority to enter into and perform this Agreement, and its signatory is duly authorised, by board resolution where required; (c) entering into and performing this Agreement does not breach its constitutional documents, any law or any agreement binding on it; and (d) no litigation, insolvency or business rescue proceedings are pending or, to its knowledge, threatened against it that could materially affect its ability to perform.

26.2 **Background IP.** Each Party warrants that, to the best of its knowledge after reasonable enquiry, it owns or has the right to license its Background IP for the purposes of this Agreement, and that it has disclosed in Schedule 4 every known restriction, third-party claim and prior commitment affecting it.

26.3 **Contributions.** Each Party warrants that its Contributions will be provided in line with clause 4.4 and that, to its knowledge, their use for the Project as contemplated will not infringe the Intellectual Property of any third party.

26.4 **Disclaimer.** Except as expressly stated in this Agreement, all Results, Background IP and Contributions are provided "as is". To the fullest extent allowed by law, neither Party gives any warranty, express, implied or tacit, as to merchantability, fitness for a particular purpose, validity of registrations, or that the Results will be commercially successful or free from defects.

26.5 **Reliance.** Each Party confirms that it has not relied on any representation, warranty or undertaking that is not recorded in this Agreement.

## 27. Indemnities and claims procedure

27.1 **Indemnity.** Each Party (the "Indemnifying Party") indemnifies the other Party and its directors, employees and agents (each an "Indemnified Party") against all losses, damages, costs (including legal costs on the attorney and client scale) and liabilities arising from a third-party claim to the extent it results from: (a) the Indemnifying Party's breach of its warranties in clause 26.2 or 26.3; (b) death, bodily injury or damage to property caused by the negligence or wilful misconduct of the Indemnifying Party or its Personnel; (c) the Indemnifying Party's breach of clause 19, 20 or 24; or (d) the matters in clause 25.4.

27.2 **Claims procedure.** An Indemnified Party will: (a) notify the Indemnifying Party in writing

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promptly, and in any event within 15 Business Days, after receiving a claim, but a delay releases the Indemnifying Party only to the extent it is prejudiced; (b) allow the Indemnifying Party to control the defence and settlement of the claim with counsel of its choice, at its cost; (c) give reasonable cooperation at the Indemnifying Party's cost; and (d) make no admission or settlement without the Indemnifying Party's written consent.

27.3 **Limits on settlement.** The Indemnifying Party may not settle a claim in a way that requires an admission by, or imposes an obligation other than payment of money on, the Indemnified Party without its written consent, which may not be unreasonably withheld.

27.4 **Mitigation.** The Indemnified Party will take reasonable steps to mitigate its loss.

## 28. Limitation of liability

28.1 **Exclusion of indirect loss.** Neither Party is liable to the other, whether in contract, delict or otherwise, for any indirect, special or consequential loss, or for loss of profit, revenue, goodwill or data, arising from this Agreement, even if it was foreseeable.

28.2 **Cap.** Each Party's total liability to the other arising from or in connection with this Agreement, whether in contract, delict or otherwise, is limited to **[Liability cap: _____]**.

28.3 **Exceptions.** Clauses 28.1 and 28.2 do not limit liability for: (a) fraud, dishonesty or wilful misconduct; (b) gross negligence; (c) death or bodily injury caused by negligence; (d) breach of clause 19, 20 or 24; (e) infringement or misappropriation of the other Party's Intellectual Property; (f) the indemnity in clause 27.1(a), (c) or (d); or (g) the payment of Shared Receipts, Shared Costs or other amounts due under this Agreement.

28.4 **Liability that cannot be limited.** Nothing in this Agreement limits or excludes any liability that cannot lawfully be limited or excluded.

## 29. Insurance

29.1 **Required cover.** During the Term and for at least 12 months afterwards, each Party will maintain with reputable insurers authorised to conduct business in South Africa the following insurance: [Insurance each party must carry: _____].

29.2 **Evidence.** On request, each Party will provide a certificate or other reasonable evidence of its cover.

29.3 **Notice of change.** Each Party will notify the other promptly if its cover is cancelled, materially reduced or not renewed.

29.4 **No limit.** The insurance required by this clause does not limit a Party's liability under this Agreement.

## 30. Term and renewal

30.1 **Duration.** This Agreement starts on the Effective Date and continues until **[End date of the Term: _____]**, unless it is terminated earlier under clause 31 (the "Term").

30.2 **Renewal.** The Parties may extend the Term for further periods of [Length of each extension: _____] by signing a written extension before the Term ends. In the absence of a signed extension, the Agreement ends on the last day of the Term.

30.3 **Prior work.** Work on the Project that either Party performed from [Date from which earlier work is included: _____] until the Effective Date is treated as performed under this

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Agreement, and Results of that work are Results for the purposes of clause 13.

## 31. Breach, default and termination

31.1 **Breach and notice to remedy.** If a Party (the "Defaulting Party") commits a breach of this Agreement and fails to remedy it within [Days to remedy a breach after notice: _____] days after receiving written notice from the other Party (the "Aggrieved Party") describing the breach and requiring it to be remedied, the Aggrieved Party may, without limiting any other right it has under this Agreement or the law: (a) claim specific performance of the Defaulting Party's obligations, with or without damages; or (b) cancel this Agreement by written notice, with or without claiming damages.

31.2 **Breach that cannot be remedied.** If a breach is material and by its nature cannot be remedied, including a material breach of clause 19, 24 or 25.3, the Aggrieved Party may cancel this Agreement immediately by written notice.

31.3 **Insolvency.** Either Party may terminate this Agreement immediately by written notice if the other Party is placed under provisional or final liquidation or sequestration, is placed under supervision and business rescue proceedings, makes a general compromise with its creditors, or, being an individual, dies or is declared incapable of managing their affairs.

31.4 **Voluntary withdrawal.** Either Party may withdraw from the Project and terminate this Agreement without cause on at least [Notice period for withdrawal without cause: _____] days' written notice. A withdrawing Party remains liable for its share of Shared Costs committed before the notice was given and for Contributions due before the termination date.

31.5 **Deadlock and force majeure.** Either Party may terminate this Agreement as allowed by clause 7.6 or clause 33.4.

31.6 **Penalties.** If the Parties agree in Schedule 2 or Schedule 3 on an amount payable as a penalty or as liquidated damages for a particular breach, that stipulation is enforceable subject to the Conventional Penalties Act 15 of 1962. The Aggrieved Party may not recover both the penalty and damages for the same act or omission, but may elect to claim damages instead of the penalty. The Parties record that a court may reduce a penalty that is out of proportion to the prejudice suffered.

31.7 **Rights preserved.** Termination does not affect rights and obligations that accrued before termination.

## 32. Effects of termination

32.1 **Wind-down.** On termination or expiry, the Parties will cooperate to wind down the Project in an orderly way, complete or stop work in progress as the steering committee decides, and settle all Shared Costs and Shared Receipts within 60 days.

32.2 **Licences.** The licences of Background IP and Sole Results granted for the Project end, except that each Party may keep using them to the extent needed to complete wind-down activities and to exploit Joint Results under clause 14.4, on the terms in clause 12.3.

32.3 **Joint Results.** Ownership of Joint Results is not affected by termination. After termination clause 14.4 applies, except that if this Agreement is cancelled for a Party's breach, the Aggrieved Party may, by written notice given within 60 days of cancellation, require the Defaulting Party to offer its share in Joint Results under clause 14.7 at a fair market value determined, failing agreement, by an independent expert appointed under clause 10.5.

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32.4 **Return of property.** Each Party will return the other Party's equipment, materials and Confidential Information under clauses 4.6 and 19.5.

32.5 **Final statement.** Each Party will deliver a final statement of Shared Costs and Shared Receipts within 30 days of termination, and any balance will be paid within 15 Business Days after the statement.

32.6 **Survival.** Clauses 2, 9 (for receipts from Joint Results), 10, 11, 12.4, 13, 14, 15, 16, 17, 19, 20, 21, 25, 27, 28, 32, 34, 35, 36 and 38, and any other provision that by its nature is intended to survive, survive termination or expiry.

## 33. Force majeure

33.1 **Meaning.** "Force majeure" means an event beyond a Party's reasonable control that it could not reasonably have prevented or provided against, including natural disaster, fire, flood, epidemic, war, terrorism, riot, civil unrest, strike not limited to that Party's workforce, act of government, failure of public utilities and extended load-shedding or power outages affecting the Party's premises, but not lack of funds.

33.2 **Suspension.** A Party prevented from performing an obligation by force majeure will notify the other Party in writing as soon as reasonably possible, describing the event, its likely duration and the obligations affected. Its obligation to perform is suspended for as long as the force majeure continues, and the time for performance is extended accordingly.

33.3 **Mitigation.** The affected Party will use reasonable efforts to mitigate the effects of the force majeure and to resume performance as soon as possible.

33.4 **Termination for long force majeure.** If force majeure prevents a Party from performing a material obligation for more than [Days of force majeure before termination is allowed: _____] consecutive days, either Party may terminate this Agreement by written notice.

33.5 **Payment.** Force majeure does not excuse an obligation to pay money that was due before the force majeure began.

## 34. Dispute resolution (negotiation, mediation, arbitration)

34.1 **Negotiation.** A Party that considers a dispute has arisen under or in connection with this Agreement, including about its validity, interpretation, breach or termination (a "Dispute"), will give the other Party written notice describing the Dispute. Senior executives of the Parties with authority to settle the Dispute will meet within 10 Business Days after the notice and try in good faith to resolve it.

34.2 **Mediation.** If the Dispute is not resolved within 20 Business Days after the notice, either Party may refer it to mediation by a mediator agreed by the Parties or, failing agreement within 5 Business Days, nominated by [Arbitration body and rules: _____]. The mediation will take place in [Seat of mediation and arbitration: _____]. Each Party bears its own costs, and the Parties share the mediator's fees equally.

34.3 **Arbitration.** If the Dispute is not resolved within 30 Business Days after the referral to mediation, or if a Party refuses to mediate, either Party may refer the Dispute to final and binding arbitration. The arbitration will be conducted under the rules of [Arbitration body and rules: _____] in force at the time, by one arbitrator who is a practising advocate or attorney of at least 10 years' standing (or, for a technical Dispute, an expert in the relevant field), agreed by the Parties or, failing agreement within 10 Business Days, appointed by [Arbitration body and rules:

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_____]. The seat of the arbitration is [Seat of mediation and arbitration: _____], and it will be conducted in English.

34.4 **Arbitration Act.** This clause 34 is a written arbitration agreement. If the arbitration is international within the meaning of article 1(3) of the Model Law in Schedule 1 to the International Arbitration Act 15 of 2017, including because the Parties have their places of business in different States when they conclude this Agreement, that Act applies and the Arbitration Act 42 of 1965 does not. Otherwise the Arbitration Act 42 of 1965 applies, and the Parties record that, unless the agreement provides otherwise, an arbitration agreement under that Act may be terminated only by consent of all the parties to it. This clause 34 is severable from the rest of this Agreement and survives its termination.

34.5 **Award.** The award is final and binding, and either Party may have it made an order of court. The arbitrator may award costs.

34.6 **Urgent relief.** Nothing in this clause 34 prevents a Party from applying to a competent court for urgent interim relief, from taking any step necessary to protect or preserve a claim before it prescribes, or from exercising the right in clause 14.8 to apply to the Commissioner of Patents.

34.7 **Prescription.** The Parties record that a contractual debt prescribes after three years from the date on which it becomes due, unless an Act of Parliament provides otherwise. Each Party is responsible for protecting its own claims against prescription, including while negotiation or mediation under this clause is under way.

34.8 **Continued performance.** The Parties will continue to perform their obligations not affected by a Dispute while it is being resolved.

34.9 **Confidentiality.** Dispute resolution proceedings under this clause are confidential, except to the extent necessary to enforce an award or as required by law.

## 35. Governing law and jurisdiction

35.1 **Governing law.** This Agreement and any non-contractual obligations arising from it are governed by the law of the Republic of South Africa.

35.2 **Courts.** Subject to clause 34, the Parties consent to the non-exclusive jurisdiction of the [High Court division: _____] of the High Court of South Africa for any matter arising from this Agreement, including applications for urgent relief and for making an arbitration award an order of court.

35.3 **Foreign Party.** A Party that is not resident in South Africa irrevocably submits to the jurisdiction of the court named in clause 35.2 and chooses the domicilium in clause 36 for service of process.

## 36. Notices and domicilium citandi et executandi

36.1 **Domicilium.** Each Party chooses the physical address set out below as its domicilium citandi et executandi, at which all notices and legal process relating to this Agreement may be delivered or served, and the email address set out below for written notices:

(a) First Party: [First Party's physical address (domicilium): _____]; email: [First Party's email for notices: _____]; attention: [First Party's signatory: _____];

(b) Second Party: [Second Party's physical address (domicilium): _____]; email: [Second Party's email for notices: _____]; attention: [Second Party's signatory:

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_____].

36.2 **Change of domicilium.** A Party may change its domicilium to another physical address in South Africa, or its email address, by written notice to the other Party, effective 5 Business Days after receipt.

36.3 **Delivery.** A notice must be in writing in English. A notice is presumed, unless the contrary is proved, to have been received: (a) if delivered by hand to the domicilium, on the day of delivery, if a Business Day, otherwise on the next Business Day; (b) if sent by courier, on the date of delivery recorded by the courier; and (c) if sent by email, on the first Business Day after it is sent, unless the sender receives an automated message that the email was not delivered.

36.4 **Legal process.** Legal process may be served only at the physical domicilium of a Party, and not by email, unless a court authorises otherwise.

36.5 **Actual receipt.** A written notice actually received by a Party is adequate notice even if it was not sent to its chosen domicilium or email address.

## 37. Assignment and change of control

37.1 **Cession and delegation.** Neither Party may cede, assign, delegate or otherwise transfer any of its rights or obligations under this Agreement, or its share in any Joint Result, without the prior written consent of the other Party, which may not be unreasonably withheld or delayed. An attempted transfer without consent is void.

37.2 **Permitted transfer.** A Party may, on written notice, cede and delegate all of its rights and obligations under this Agreement to an Affiliate, or to a purchaser of all or substantially all of the business to which this Agreement relates, if the transferee agrees in writing to be bound by this Agreement, is not a competitor of the other Party, and, if it is a non-resident, the transfer complies with clause 16.

37.3 **Change of control.** A Party will notify the other Party in writing within 10 Business Days after a change of control of that Party. If the new controlling person is a competitor of the other Party, the other Party may, within 60 days after receiving the notice, terminate this Agreement by written notice of at least 30 days, and may require that clean-team arrangements under clause 24.5 apply immediately.

37.4 **Security.** A Party may not cede its share in a Joint Result in security, or pledge it, without the other Party's prior written consent.

## 38. General terms (whole agreement, non-variation, no waiver, severability)

38.1 **Whole agreement.** This Agreement, with its Schedules, is the whole agreement between the Parties about its subject matter and replaces all earlier agreements, term sheets, memoranda of understanding, negotiations and representations about it, except for the confidentiality or funding agreements listed in Schedule 4, which continue to the extent stated there.

38.2 **Variation.** No addition to, variation of, consensual cancellation of or agreed departure from this Agreement, including this clause 38.2, has any effect unless it is in writing and signed by or on behalf of both Parties. A data message or email does not satisfy this requirement unless it bears the advanced electronic signatures of both Parties.

38.3 **No waiver.** No latitude, extension of time or other indulgence that a Party grants to the other, and no delay or failure in exercising a right, is a waiver of that right or a novation of this Agreement,

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or prevents that Party from later enforcing its rights strictly.

38.4 **Severability.** Each provision of this Agreement is separate and severable. If any provision is found to be invalid, unlawful or unenforceable, it is treated as deleted to that extent, and the rest of this Agreement remains in force.

38.5 **Costs.** Each Party pays its own costs of negotiating, preparing and signing this Agreement. A Party that breaches this Agreement will pay the other Party's legal costs of enforcing it, on the attorney and client scale.

38.6 **Third parties.** No provision of this Agreement is a stipulation for the benefit of a third party, except the indemnity in clause 27 for an Indemnified Party who is not a Party, which that person may accept at any time.

38.7 **Compliance with laws.** Each Party will comply with all Applicable Law, including laws on anti-corruption, the Prevention and Combating of Corrupt Activities Act 12 of 2004, export control, sanctions, health and safety and labour, in performing this Agreement. A Party will notify the other Party promptly if it becomes aware of conduct in the Project that may breach any such law.

38.8 **Further acts.** Each Party will sign all documents and perform all acts reasonably required to give effect to this Agreement.

38.9 **Language.** This Agreement is concluded in English. If it is translated, the English version prevails.

## 39. Counterparts and electronic signatures

39.1 **Counterparts.** This Agreement may be signed in any number of counterparts, each of which is an original, and all of which together form one agreement.

39.2 **Electronic signature.** The Parties agree that this Agreement may be concluded and signed by electronic means. The Parties record that an agreement is not without legal force and effect merely because it was concluded partly or wholly by data messages, and that where the parties do not require an electronic signature, an expression of intent is not without legal force merely because it is in electronic form. Signature of this Agreement by an ordinary electronic signature, or by a scanned or digital copy of a handwritten signature, is therefore valid for all purposes between the Parties, except as stated in clause 39.3.

39.3 **Assignments and exclusive licences.** The Parties record that where the law requires a person's signature and does not specify the type of signature, the requirement for a data message is met only if an advanced electronic signature is used. Because section 22(3) of the Copyright Act requires an assignment of copyright or an exclusive licence to be in writing signed by or on behalf of the assignor or licensor, each Party will sign this Agreement, and every separate assignment or exclusive licence under it, either by hand in wet ink or with an advanced electronic signature. The same applies to every assignment of a patent or patent application to be recorded under clause 15.5.

39.4 **Delivery.** A Party may deliver a signed counterpart by email, and delivery in that way is as effective as delivery of an original, subject to clause 39.3.

By signing, each Party agrees to every clause and Schedule of this Agreement, including the present assignments in clauses 12.7 and 13.5, and its signatory warrants that they are duly authorised to sign.

**FIRST PARTY: [First Party's full legal name: _____]**
Signed at [Place where the First Party signs: _____] on the date below.
Signature:

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Full name: [First Party's signatory: _____]
Capacity: [First Party signatory's capacity: _____], duly authorised
Date:

As witnesses (optional):\

1. Name and signature:\
2. Name and signature:

**SECOND PARTY: [Second Party's full legal name: _____]**
Signed at [Place where the Second Party signs: _____] on the date below.
Signature:
Full name: [Second Party's signatory: _____]
Capacity: [Second Party signatory's capacity: _____], duly authorised
Date:

As witnesses (optional):\

1. Name and signature:\
2. Name and signature:

**SCHEDULE 1: PROJECT PLAN**

**1. Project:** [Short description of the project: _____]

**2. Deliverables:** [Main deliverables: _____]

**3. Milestones**

Milestone 1: [Milestone 1: _____]. Responsible Party: [Milestone 1 responsible party: _____]. Due date: [Milestone 1 due date: _____]
Milestone 2: [Milestone 2: _____]. Responsible Party: [Milestone 2 responsible party: _____]. Due date: [Milestone 2 due date: _____]
Milestone 3: [Milestone 3: _____]. Responsible Party: [Milestone 3 responsible party: _____]. Due date: [Milestone 3 due date: _____]

**4. Decision points (clause 5.6):** [Decision points: _____]

**5. Acceptance standards (clause 5.3):** [Acceptance standards: _____]

**6. Key people (clause 6.1):** [Key people: _____]

**7. Personal Information, purpose of processing and role of each Party under POPIA (clause 20):** [Personal information, purpose and roles: _____]

**SCHEDULE 2: CONTRIBUTIONS AND BUDGET**

**1. First Party's Contributions and dates:** [First Party's Contributions: _____]

**2. Second Party's Contributions and dates:** [Second Party's Contributions: _____]

**3. Budget for Shared Costs (excluding VAT)**

Item: [Budget item 1: _____]. Amount: [Budget item 1 amount: _____]
Item: [Budget item 2: _____]. Amount: [Budget item 2 amount: _____]
Item: [Budget item 3: _____]. Amount: [Budget item 3 amount: _____]
Maximum total: [Maximum total of Shared Costs: _____]

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**4. Cost shares:** First Party [First Party's share of Shared Costs: _____]; Second Party [Second Party's share of Shared Costs: _____]

**5. Advance contributions, dates and account (clause 8.4):** [Advance contributions and account: _____]

**6. Contributions to be repaid, if any (clause 4.7):** [Contributions to be repaid: _____]

**7. Public funding and full-cost funding position (clause 17):** [Whether public funds are used and on what basis: _____]

**8. Agreed penalties or liquidated damages, if any (clause 31.6):** [Agreed penalties or liquidated damages: _____]

**SCHEDULE 3: REVENUE SPLIT, COMMERCIALISATION PLAN AND CREDIT**

**1. Shared Receipts:** First Party [First Party's share of Shared Receipts: _____]; Second Party [Second Party's share of Shared Receipts: _____]

**2. Different shares by product, territory or use:** [Different receipt shares: _____]

**3. Approved products, channels and territories (clause 14.3):** [Approved products, channels and territories: _____]

**4. Party responsible for sales and support:** [Party responsible for sales: _____]

**5. Rule after the Term, if different from clause 14.4:** [Rule after the Term: _____]

**6. Ownership shares in Joint Results (clause 13.4):** [Ownership shares in Joint Results: _____]

**7. Credit line for publications and products (clause 21.5):** [Credit line: _____]

**8. Approved names and logos, and brand rules (clause 22.2):** [Approved names, logos and brand rules: _____]

**SCHEDULE 4: BACKGROUND IP AND EXISTING COMMITMENTS**

**1. First Party's Background IP:** [First Party's Background IP: _____]

**2. Second Party's Background IP:** [Second Party's Background IP: _____]

**3. Limits on licences of Background IP (clauses 12.2 and 12.3):** [Limits on Background IP licences: _____]

**4. Open-source and other third-party materials, with their licence terms (clause 12.6):** [Third-party and open-source materials: _____]

**5. Prior grants, institutional or funder claims and other existing commitments:** [Existing commitments: _____]

**6. Continuing confidentiality or funding agreements and the matters on which they prevail (clause 38.1):** [Continuing agreements: _____]

**SCHEDULE 5: CHANGE FORM**

This form amends the Collaboration Agreement with effective date [Effective date: _____] between [First Party's full legal name: _____] and [Second Party's full legal name: _____]. Use a separate form for each change.

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**1. Change number and date requested:** [Change number and date: _____]

**2. Clause or work affected, and reason:** [Clause or work affected, and reason: _____]

**3. Effect on dates and Contributions:** [Effect on dates and Contributions: _____]

**4. Effect on budget, cost shares or receipt shares:** [Effect on money: _____]

**5. Effect on ownership, licences or credit:** [Effect on ownership, licences or credit: _____]

All other terms of the Agreement remain unchanged. This change takes effect only when signed by both Parties, as clause 38.2 requires.

**For the First Party: [First Party's full legal name: _____]**
Signature:
Full name and capacity:
Date:

**For the Second Party: [Second Party's full legal name: _____]**
Signature:
Full name and capacity:
Date:

## SCHEDULE 6: PARTICIPANT IP AND CONFIDENTIALITY UNDERTAKING

A Party may ask each employee, student, consultant or contractor who works on the Project to sign this undertaking. The Party that engages the participant is the "Engaging Party".

This undertaking relates to the Collaboration Agreement with effective date [Effective date: _____] between [First Party's full legal name: _____] and [Second Party's full legal name: _____] (the "Agreement"). Capitalised terms have the meanings given in clauses 2 and 19 of the Agreement, copies of which, with clause 3 and Schedule 1, the Engaging Party has given to the participant before signature.

**1. Participant:** [Participant's full name: _____]

**2. Engaging Party:** [Engaging Party: _____]

**3. Assignment.** In return for the remuneration or other consideration the participant receives from the Engaging Party, the participant hereby assigns to the Engaging Party all copyright and other Intellectual Property in every Result that the participant creates in the Project, including copyright in works not yet in existence, with effect from the moment each Result is created. The participant will sign further documents reasonably required to confirm or record the assignment, at the Engaging Party's cost.

**4. Limit for employee inventions.** If the participant is an employee of the Engaging Party, this undertaking does not require the participant to assign an invention made outside the course and scope of the participant's employment, and does not restrict the participant's rights in an invention made more than one year after the employment ends.

**5. Confidentiality.** The participant will use Confidential Information only for the Project, protect it with reasonable care, not disclose it to anyone who is not authorised to receive it, and return or destroy it when asked or when the participant's work on the Project ends.

**6. Protected disclosures.** Nothing in this undertaking prevents or discourages the participant from

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making a protected disclosure under the Protected Disclosures Act 26 of 2000 or a disclosure protected by section 159 of the Companies Act 71 of 2008.

**7. Personal Information.** The participant will process Personal Information in the Project only as instructed by the Engaging Party and in line with POPIA.

**8. Prior inventions and outside claims.** The participant lists here earlier inventions, works, employer or university claims and other restrictions: [Participant's prior inventions and outside claims: _____]. Listed items are not assigned or licensed by this undertaking.

**Participant: [Participant's full name: _____]**
Signature:
Date:

**For the Engaging Party: [Engaging Party: _____]**
Signature:
Full name and capacity:
Date:

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