Appendix 1

OKELETSANG MOOKELETSI ATTORNEYS

Standard Terms of Business

1. **Definitions**
   1. Unless the context otherwise requires:
      1. **OKELETSANG MOOKELETSI ATTORNEYS** means an entity registered with the Legal Practice Council and engaged in the provision of legal services;
      2. **Data Protection Laws** means laws and regulations relating to the processing of personal data or personal information to the extent applicable.
      3. **Personal Data** means all personal data or personal information (as that term is defined in relevant Data Protection Laws) provided to us pursuant to our instruction with you or generated by us in the course of our instruction with you;
      4. **we**, **us** and **our** refer to the **OKELETSANG MOOKELETSI ATTORNEYS** providing services on a particular matter; and **you**, **yourself** and **your** refer to the person, persons, entity or entities receiving those services.
2. **Application and interpretation**
   1. These terms, as amended from time to time, will apply to our work for you except to the extent that we agree, or have agreed where still applicable, different terms with you.  Unless we expressly agree, terms which are included as part of any e-billing system which you may request that we use will not apply.
   2. Nothing in these terms will apply to the extent that its application would result in a breach of applicable law or regulations.
   3. Each provision of these terms will be enforceable independently of each of the others and the validity of each provision will not be affected if any of the others is invalid.
   4. Unless agreed otherwise, you will instruct us on a matter by matter basis.
   5. We will not be responsible for advising you on non-legal matters (including, without limitation, business, commercial, financial, technical, insurance, accounting, broking, actuarial, environmental or information technology matters), and you will be responsible for deciding whether documents or advice prepared or reviewed by us meet your commercial objectives.  We will not be responsible for the accuracy of any computer model's algorithms or for any formulae in the documentation.  We will only advise you on the matters that are specifically in scope (as agreed on a matter-by-matter basis) and to the extent you have: (i) provided us with all relevant factual information to enable us to do so; and/or (ii) where relevant, permitted us to make appropriate assumptions, qualifications and reservations.  We will not be liable for any loss or damage to you to the extent it relates to something outside the agreed scope of our advice or to the provision of incomplete, inaccurate or misleading information to us by you or by anyone acting on your behalf or at your direction including your other advisers.
   6. We will advise you based on our interpretation of the relevant legislation, case law and practice at the time the advice is given.  Unless we have expressly agreed to the contrary, we will not be responsible for updating our advice, even if the relevant law and practice changes thereby affecting our conclusions and even if you remain a current client in relation to any or all matters.
   7. We reserve the right not to send any of our staff or consultants to any location where we believe there is a risk to their personal safety.
3. **Fees and invoicing**
   1. Our practice is to bill you monthly unless the nature of the matter makes this inappropriate or unless otherwise agreed upon between the parties.  Our invoices are payable within 30 days of delivery,  failing which we may exercise our right to stop acting or charge interest at CPI +2% per annum (except to the extent that you have raised an unresolved bona fide query), or both.  You will also remain liable to pay our fees even if a third party agrees to pay them.
   2. If you receive from us a fee quote in a particular currency for a matter which will involve work from more than one jurisdiction, we reserve the right to revise this quote should there be major exchange rate movement between the date on which the quote was given and the date of the relevant invoice.
   3. We may require you, from time to time, to make a payment on account of our anticipated fees, disbursements and/or other charges.  In the event of your failure to make this payment as required we may exercise our right not to accept instructions or to terminate your instructions.  You shall be liable for any negative rate charges applying to any monies held by us on your behalf.
   4. Each party shall be liable to pay its own tax in accordance with the prevailing tax rate and laws.
   5. Where you have an outstanding liability to us for our fees, disbursements or other charges (in relation to this matter or any other in which we are acting or have acted for you), we have the right to retain and withhold your documents, files and/or any other materials relating to a matter until payment is made in full.
4. **Taxes and exchange controls**

4.1   Our fees are payable free of any withholding or deduction in respect of any taxes or duties.  If you are required by law to withhold or deduct tax and such withholding or deduction is not reduced or removed, we shall be entitled to increase the amount of our invoice so that after any withholding or deduction we receive and retain a net sum equal to the amount of the fees you owe us.

4.2   If your payment of our fees or our receipt of such payment is subject to exchange or other similar control, you will use your best endeavours to obtain (or, where appropriate, help us to obtain) the necessary consents as soon as possible after you receive an invoice from us and then ensure that we receive prompt payment in accordance with such consents.  If exchange control approval has not been obtained within three months from the date of our invoice then, if so lawfully requested by us at any time thereafter, you will pay into an account designated by us the amount in local currency equivalent to the amount outstanding (converted at the date of our request).

6.    **Intellectual property rights and data retention**

6.1  We will retain copyright and all other intellectual property rights in material developed, designed or created by us: (i) independently of any matter; and (ii) in relation to any matter.  Accordingly, we may (subject to our duties of confidentiality to you) use the materials and/or intellectual property rights in materials we create during the course of a matter or independently of any matter, as well as aggregated or otherwise de-identified data derived from such materials, as the basis for advice, analysis or the provision or improvement of our services including on other matters.  You will have a perpetual, irrevocable and worldwide right to use the documents we draft and produce in relation to your matter for your own purposes.

6.2   We reserve the right to retain copies of documents and files (whether paper or electronic) relating to a matter for the purposes of compliance with applicable laws, professional rules and our internal data retention policies.  We may use such materials for our own internal purposes, subject always to our duties of confidentiality to you.  Any documents and files that we retain on completion of a matter may routinely be destroyed in accordance with our policies applying from time to time.  However, we will not destroy original deeds or other similar documents which you may ask us to keep in safe custody but we may return these to you.  We reserve the right to charge you for custody and storage if we retain documents and files on your behalf.

6.3    You agree that we may charge you for retrieving, reviewing or otherwise dealing with your documents and files (whether paper or electronic) and/or any other materials in response to a request or instruction regarding them from you or from a third party on your behalf.

7.   **Liability**

7.1    Without prejudice to your right to bring a claim against OKELETSANG MOOKELETSI ATTORNEYS providing the relevant services, you agree, to the extent such agreement is enforceable under applicable laws and regulations, that there is no assumption of a personal duty of care by, and you will not bring any claim against OKELETSANG MOOKELETSI ATTORNEYS.

7.2    If we and any other Person (as defined below) are both liable to you in respect of the same damage, or another Person and/or you have caused or contributed to that damage, our liability to you will be limited to such amount as is just and equitable, having regard to the extent to which we, that Person and/or you are liable for, or have otherwise caused or contributed to, that damage.  Any limitation, exclusion, restriction or settlement (however arising) including inability to pay or insolvency, affecting the possibility of recovering compensation from any Person, will be ignored in determining whether and to what extent that Person is liable or responsible for that damage and the amount of our liability.  For this purpose, **Person** means any body corporate, individual or other legal or natural person, including any director or employee Group Undertaking, any person associated with a Group Undertaking and any person providing finance or services to a Group Undertaking, including other professionals.

7.3  Unless otherwise agreed in writing, our aggregate liability by reason of or arising out of anything done or omitted in relation to a matter will be limited to a sum where such sum is set out in the relevant engagement terms letter/email sent by us to you.  We will not be responsible for any losses, liabilities or damages arising from any fraud committed by any third party. This clause does not exclude or limit any liability which cannot be excluded or limited under applicable rules and/or law.

7.4  Our services are for your benefit and may not be used or relied upon by anyone else without our prior written consent.  You agree to compensate and reimburse us against reasonable expenses, costs or liability that we may incur in respect of any action, claim or proceeding brought or threatened against us by any counterparty of you or by any other third party (meaning a third party which is not a beneficiary of our services as named in the relevant engagement terms letter/email sent by us to you) where the principal reason for such action, claim or proceeding against us is the fact that we are, or were, representing and acting for you, unless such action, claim or proceeding arises from our own gross negligence or wilful default, provided that you provide prior written approval to us before incurring such expenses, costs or liability for any action, claim or proceeding brought or threatened against us by any counterparty of you or by any other third party.

7.5   We will not be responsible for any losses, liabilities or damages whatsoever caused or contributed to by any third party (including any local counsel) we may instruct on your behalf, or any service provider used by any such third party, or any persons acting at the direction of any such third party in the course of providing services to you.

7.6   For the avoidance of doubt, under no circumstances shall we be liable for services provided by other advisors or service providers on any of your matters (including, for the avoidance of doubt, any other legal services providers or other legal advisors we may use or engage with when providing services to you). In addition: (i) where you instruct us to provide information/data to, or otherwise use, a third party (including any local counsel); and/or (ii) where we use or engage on your behalf with any services providers or other advisors during the course of your matter, then we will not be responsible for any losses, liabilities or damages whatsoever caused or contributed to by that third party.  For the avoidance of doubt, any local counsel that we may instruct on your behalf is not employed by, or an agent of, or providing services for or on behalf of OKELETSANG MOOKELETSI ATTORNEYS.  We will not be liable for any local counsel's or any other services provider's or other advisor's compliance with legal and/or regulatory requirements to which they are subject or for the reliability or integrity of their information technology or other systems.  We cannot accept liability for the default of any financial institution with which we deposit money on your behalf.

7.7   Nothing in this clause 7, these terms or in the relevant engagement terms letter/email sent by us to you shall operate so as to exclude or limit any liability which cannot be excluded or limited under applicable rules and/or law.  In any event, our liability will not be limited to a sum that is lower than the minimum requirement under any applicable law or rules of professional conduct.  In the event that the liability cap stated in the relevant engagement terms letter/email is less than the minimum requirement under applicable law or rules of professional conduct, the cap will be deemed to be increased to such minimum amount.

8.  **Electronic communications and data protection**

8.1   We may communicate with you electronically, including through third party software such as our document sharing platform.  You accept the risks involved in such communication, except in the case of our gross negligence or wilful default.  We may also monitor communications in order to establish facts, to determine that communications using our systems are relevant to our business, to comply with applicable laws or regulations, or to develop and manage our relationship with you.

8.2   You are responsible for ensuring that the Personal Data you provide to us complies with applicable Data Protection Laws and you will not do or omit to do anything that would cause us to be in breach of those laws.  We will comply with applicable Data Protection Laws when processing the Personal Data.

8.3  We act as an independent data controller when processing Personal Data in the course of our work for you.  We will also process the Personal Data: (i) to meet our legal and regulatory obligations; (ii) in pursuing our legal rights; and (iii) for administrative, financial, risk management and client relationship purposes.

8.4   You agree that we may transfer Personal Data to our third party service providers, in compliance with applicable Data Protection Laws.

9.   **Conflicts/relationships with other clients**

9.1   We will establish whether we are able to act for you by reference to the legal and professional rules.  Under such rules, we may have to stop acting for you if a conflict arises between our duties to you and to other clients, or between our interests and your interests; similarly, we may have to stop acting for another client if a conflict arises between our duties to you and that client.

9.2   You agree that: (a) we are, and will remain, free to represent other clients adversely to you on matters which are not substantially related to the matters where we represent you; and (b) wherever we are permitted under applicable law and the professional rules which regulate our conduct as lawyers, we will not be prevented or restricted by virtue of our relationship with you, or by virtue of matters on which we act for you, from advising any other clients, including clients which: (i) you might wish to acquire; (ii) are your market competitors; (iii) are your counterparties; and/or (iv) you are competing with for the same or a similar business opportunity.

9.3   Unless otherwise agreed in writing, we will consider a matter for you to have ended for conflict purposes if we have not received instructions from you in respect of the matter for a period of three months (or otherwise received an instruction or indication that the matter is active or on hold).

9.4   We will consider you as a current client for conflict purposes where we are retained on at least one current matter for you.  For these purposes, “current matter” shall include neither: (i) a matter in respect of which a final invoice has been submitted; nor (ii) a matter in which we have received no instructions (or other instruction or indication that it remains active or on hold) from you for a period of three months.

9.5   This clause 9 may be supplemented by and should be read in accordance with any specific conflicts waiver provisions in any relationship terms letter or matter specific engagement terms letter/email sent by us to you.

10.   **Confidentiality**

10.1   We will treat any information obtained from you that is not in the public domain as confidential.  However, we may sometimes have to disclose information relating to our relationship with you and/or any work we do for you: (i) in order to protect our own interests (for example, to enforce or defend claims arising from these terms); (ii) to certain regulatory authorities or under rules of law or professional conduct; and/or (iii) if, during the course of a matter, it becomes necessary or appropriate for us to discuss your affairs with your other advisors.  If so, we would (where permissible and practicable) inform you of the request or requirement to disclose.  We assume no liability whatsoever to you or any other person in connection with any disclosure made in good faith.

10.2   We will assume that information that you give, or is given by a third party on your behalf, to us and which is subject to confidentiality obligations owed to a third party has not been given in breach of such obligations.

10.3   You agree that we will not be prevented from acting for another client (including a client with interests adverse to yours) on a matter where we hold information that would be relevant but in respect of which we owe a duty of confidentiality to you, provided that we put in place appropriate safeguards to protect such information.

10.4   We will not use information which is confidential to you for the advantage of, or, subject to clauses 8 and 10 disclose such information to, any third party.  In the same way, you acknowledge that we will not use confidential information obtained from any other party for your advantage or disclose such information to you, even if it is relevant to a matter.

10.5  We may outsource support services such as word processing, translation, photocopying, document reviews, certain IT services (including cloud-based systems), waste disposal and the administration of our expenses.  We may also use technology solutions during the course of an instruction to deliver our services to you, some of which will be cloud-based.  Our use of third party suppliers and technologies is on the basis that our suppliers have agreed or will agree to keep confidential information they process on our behalf confidential and secure and to process any Personal Data in compliance with applicable Data Protection Laws.

11.   **Termination**

Our instruction for a matter will terminate upon delivery of our final invoice.  Otherwise:

(a)  you may at any time upon reasonable notice terminate our instruction on any or all matters by written notice of 15 business days;

 (b)   to the extent enforceable under applicable laws and regulation, we may terminate our instruction on any or all matters:

1. by written notice if we have good reason (such as delay in payment of our fees, a conflict of interest arising or where we consider our continuing to act may adversely impact our reputation) and upon reasonable notice; or
2. immediately on notice in accordance with clause 11.

and, in each case, you will pay our costs up to the time of termination.

12.    **Governing law and dispute resolution**

12.1  This agreement and our instruction on any matter (including any non-contractual obligations arising out of or in connection with this agreement or our instruction on any matter) is governed by South African law.

12.2  For the purposes of this clause 12, a Dispute means: (i) any dispute arising out of, relating to or having any connection with, this agreement or our instruction on any matter, including any dispute as to its existence, validity, interpretation, performance, breach or termination or the consequences of its nullity; and (ii) any dispute relating to any non-contractual obligations arising out of or in connection with this agreement or our instruction on any matter.

12.3    Any Dispute between us and one or more parties to this agreement must be notified to the other party or parties (as the case may be) in writing.  The notice must give details of the Dispute.  The parties to the Dispute must first attempt to resolve it amicably by negotiation.  If the Dispute is not resolved amicably by negotiation within 30 days from the date on which notice was given in accordance with this clause 0 (or any longer period as is agreed by the parties to the Dispute in writing), either party may begin proceedings in accordance with the provisions which follow in this clause 12.

12.4  Unless the option to litigate is invoked:

(a)   The Dispute shall be referred to and finally resolved by arbitration under the Arbitration Foundation of South Africa - AFSA Rules (the **Rules**) as are in force at the time the arbitration is commenced.  The Rules are incorporated by reference into this clause **Error! Reference source not found.**.  The arbitral proceedings, the documents prepared or produced in connection with the arbitral proceedings and all decisions, orders and awards will remain confidential.  Unless otherwise agreed in writing, the number of arbitrators will be three, the seat of the arbitration will be Johannesburg(although the tribunal may decide that hearings will be held elsewhere) and the language to be used in the arbitral proceedings will be English.  We will nominate one arbitrator for appointment by AFSA.  You will nominate one arbitrator for appointment by AFSA.  AFSA will appoint the chairman.

(b)   If, following the time specified for service of the Statement of Case, the Statement of Defence, the Statement of Reply/Defence to Counterclaim and/or the Statement of Reply to Defence to Counterclaim, as applicable (the **Statements**), it appears to the tribunal that there is or may be no real prospect of succeeding on any or all of the claims made in the Statements or of successfully defending any or all of the claims made in the Statements, the tribunal may determine such claim(s) by a summary procedure if it considers that it is in the interests of justice to do so.  In the event that a summary procedure is adopted, the tribunal shall proceed to determine such claim(s) as soon as reasonably practicable.  The tribunal may call for further short written submissions in relation to such claim(s) and will only hold an oral hearing to determine such claim(s) if it feels that it is necessary to do so.  The tribunal may decide to determine only certain claims advanced in the arbitration by the summary procedure.

(c)  For the avoidance of doubt, the agreement to arbitrate in this clause 12 is governed by South African law.

12.5  For the avoidance of doubt, the option to litigate in this clause is governed by South African law.

12.6   You expressly, irrevocably and unconditionally: (a) waive, in respect of yourself and your assets (irrespective of their use or their intended use), any right of immunity or claim thereto, under the laws of any jurisdiction, on the grounds of sovereignty or otherwise which may now or hereafter exist – whether immunity from any legal or arbitral process, from the jurisdiction of any court or arbitral tribunal, from recognition of any judgment, order or award, from attachment prior to judgment or in aid of execution, from execution and from relief of any kind (including by way of injunction, specific performance or recovery of property), and agree not to assert any such right or claim in any legal or arbitral action or proceeding, whether in South Africa or any other jurisdiction; (b) submit to the jurisdiction of any court for the purposes of recognition of any judgment, order or award in relation to a Dispute; and (c) consent to the attachment, execution and other relief described above.

13.     **Anti-money laundering laws, sanctions and mandatory disclosures**

13.1    Under anti-money laundering laws, we may need formal evidence of your identity before we can act and may also conduct checks using external electronic databases for this purpose.  If we are unable to obtain evidence of your identity or you do not provide such evidence, we may be unable to act or have to stop acting.  We must also report suspicions of money laundering activity to our Money Laundering Reporting Officer or to the relevant external authorities, or both.  We may have to stop work on a matter and/or terminate our instruction with you and we may not be allowed to tell you if we make such a report or the reasons for us ceasing to work on a matter or for terminating our instruction.  We will not be liable to you for the consequences of any such report made in good faith.

13.2   We are subject to legal and regulatory constraints which may be specific to certain jurisdictions, entities and/or individuals.  Where, in our absolute discretion, we consider that our work on any matter may give rise to: (i) a material reputational risk to OKELETSANG MOOKELETSI ATTORNEYS being in breach of any governmental, intra governmental or regulatory sanction, law or regulation, or being subject to sanctions, you agree that we may cease acting on the relevant matter immediately and may terminate our instruction, without liability for so doing.  If we become aware of such a situation, to the extent permitted by law, we will endeavour to bring the matter to your attention and consult with you about appropriate steps to mitigate any consequential inconvenience to you.

13.3   Some jurisdictions require the disclosure of information relating to certain schemes or arrangements to the relevant authorities.  In many cases we will not be obliged to make such disclosures or only be obliged or allowed to make disclosures of a limited scope on the basis that legal privilege applies.  In such circumstances, however, another person or you may be required to do so or to disclose additional information.  In each case we will determine, in our absolute discretion, whether, and to what extent, we are required to disclose information to the relevant authorities and/or other persons.  We may not be able to tell you if we make a disclosure or notification and we assume no liability whatsoever to you or any other person in connection with any disclosure or notification made in good faith.

14.  **Anti- bribery, anti-corruption**

We have a zero tolerance of bribery or corruption by or on behalf of OKELETSANG MOOKELETSI ATTORNEYS and have our own internal policies and procedures which prohibit bribery and corruption.  In providing the services, we confirm: (i) we will comply with all applicable anti-bribery and anti-corruption laws; and (ii) we will not offer, promise or give financial or other advantage to another person with the intention of inducing a person to perform their duties improperly or to reward improper behaviour for your benefit.

16.  **Force Majeure**

We shall not in any circumstances be liable for any loss of any kind whatsoever including, but not limited to, any damages, whether directly or indirectly, caused to or incurred by you by reason of any failure or delay in the performance of our services to you which is due to circumstances or causes beyond our reasonable control including, without limitation, act of God, governmental act, war, fire, flood, explosion, epidemic or pandemic, strike or labour dispute, civil commotion or from any other cause beyond our reasonable control.

17.   **Third party rights**

These terms and our instruction by you on any matter creates rights and obligations only between you and us and no other person may rely on advice which we give to you, and no such other person is intended to be protected by our obligations and services to you or may enforce any term of our engagement by virtue of any applicable law.

18.   **Severability**

The provisions of this agreement shall be severable in the event that any of the provisions of this agreement is held by a court or tribunal of competent jurisdiction to be invalid, void or otherwise unenforceable, and the remaining provisions shall remain enforceable to the fullest extent permitted by law.