



## CONFIDENTIALITY AND MUTUAL NON-DISCLOSURE AGREEMENT

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### 1. THE PARTIES

#### 1.1 Party A:

**SAMIC (Pty) Limited**, a company incorporated in accordance with the company laws of the Republic of South Africa (registration number: \_\_\_\_\_).

#### 1.2 Party B:

\_\_\_\_\_ **[Company Name]**,

a \_\_\_\_\_ [entity type] incorporated in accordance with the laws of the Republic of South Africa with registration number: \_\_\_\_\_ [Registration Number].

#### 1.3 Third Party (Privy to Information):

**Reisiger** is acknowledged as a third party that will be privy to certain Confidential Information shared by the Parties as part of the proposal submission. Reisiger shall be bound by confidentiality obligations consistent with the terms set out in this Agreement.



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## 2. RECITAL

2.1 The Parties (and Reisinger, as a third party) are engaged in discussions, negotiations, business transactions, or relationships necessitating the reciprocal disclosure of information of a proprietary, secret, and confidential nature. They wish to establish the terms governing such disclosures, specifically relating to:

- The disclosure of database infrastructure for the purpose of constructing schematics and evidence-based reports as a current state assessment of the data in the Disclosing Entity.
- The disclosure of sensitive information, which includes but is not limited to:
  - Process catalogue & audit information,
  - Scope of software to be developed,
  - Any proprietary information.

2.2 The Parties agree that **no information** may be shared with any entity or individual outside of the Recipient's organization (including Reisinger, except as already established herein) **without the prior written permission of SAMIC**.

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## 3. DEFINITIONS

In this Agreement, unless the context indicates otherwise:

3.1 **"Affiliate"** means, in respect of each Party:

3.1.1 a company, organization, community, or entity which controls, either directly or indirectly, the Disclosing Party in question; or

3.1.2 a company, organization, community, or entity which is controlled, either directly or indirectly, by the Receiving Party in question.

3.2 **"Confidential Information"** means, without limitation, any technical, commercial, scientific information, know-how, trade secrets, processes, notes, memoranda, methodology, designs, drawings, technical specifications, costs, data (in whatever form) relating to the Parties and their Affiliates, which is disclosed to the Recipient or comes into the Recipient's possession or under its control in any manner whatsoever, at any time before or after the conclusion of this Agreement. **Confidential Information expressly includes:**

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- Process catalogue & audit information,
- Scope of software to be developed,
- Any proprietary information.

3.3 **“Discloser”** means any Party who discloses Confidential Information to the Recipient under this Agreement.

3.4 **“Parties”** means **SAMIC** and **[Company Name]** collectively, and **“Party”** shall mean either one of them as the context may indicate.

3.5 **“Recipient”** means the Party receiving the Confidential Information from the Discloser or otherwise acquiring such information under this Agreement.

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#### 4. INTERPRETATION

4.1 For the purposes of this Agreement, the following rules of construction shall apply unless the context requires otherwise: 4.1.1 The singular shall include the plural and vice versa.

4.1.2 A reference to any one gender, whether masculine, feminine, or neuter, includes the other two.

4.1.3 Any reference to a person includes any individual, body corporate, unincorporated association, or other entity recognized under any law as having a separate legal existence or personality.

4.1.4 Any word or expression defined in, and for the purposes of, this Agreement shall, if expressed in the singular, include the plural and vice versa, and a cognate word or expression shall have a corresponding meaning.

4.1.5 References in this Agreement to “clauses,” “sub-clauses,” and “Annexures” are to clauses and sub-clauses of, and annexures to, this Agreement.

4.1.6 Any reference in this Agreement to this Agreement or any other agreement, document, or instrument shall be construed as a reference to this Agreement or that other agreement, document, or instrument as amended, varied, novated, or substituted from time to time.

4.2 All headings and sub-headings in this Agreement are for convenience only and are not to be considered for the purpose of interpreting it.

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#### 5. DISCLOSURE OF INFORMATION

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## 5.1 Mutual Acknowledgment

5.1.1 The Parties acknowledge that the Confidential Information communicated to or acquired by the Recipient is a valuable, special, and unique asset proprietary to the Discloser.

5.1.2 Any unauthorized disclosure of Confidential Information will prejudice the Discloser's operations and business interests.

## 5.2 Recipient Obligations

The Recipient agrees and undertakes to the Discloser that:

5.2.1 It shall keep in the strictest confidence all Confidential Information.

5.2.2 It shall not, directly or indirectly, disclose any of the Confidential Information to any third party for any reason or purpose whatsoever **without the prior written consent of SAMIC** (and, where applicable, the specific Discloser).

5.2.3 It shall not use the Confidential Information for any purpose other than that for which it is disclosed, communicated, or acquired, and in accordance with the provisions of this Agreement.

5.2.4 The unauthorized disclosure of the Confidential Information to a third party may cause irreparable loss, harm, and damage to the Discloser. Accordingly, the Recipient indemnifies and holds the Discloser harmless against any loss, action, claim, harm, or damage, of whatever nature, suffered by the Discloser pursuant to a breach by the Recipient of the provisions of this Agreement.

5.2.5 It shall take all such steps as may be reasonably necessary to prevent the Confidential Information from falling into the hands of any person not entitled, in terms of this Agreement, to receive such information.

5.3 If the Recipient is uncertain about whether any information is to be regarded as Confidential Information, it shall be regarded as such until written confirmation is obtained from the Discloser.

5.4 The Recipient may disclose the Confidential Information to its officers and employees only on a strictly need-to-know basis and subject to the provisions of this Agreement.

5.5 The Recipient may disclose the Confidential Information at the request of the Discloser's direct or indirect partners and may express opinions by compiling a report with findings from the disclosed information, insofar as it forms part of the purpose of this engagement.

5.6 The Discloser acknowledges that this Agreement is by no means a restraint of trade against the Recipient.

## 5.7 Third-Party Access (Reisiger)

The Parties acknowledge that **Reisiger** is a third party privy to the Confidential Information shared under this Agreement solely for the purpose of the proposal submission. Reisiger shall be bound by confidentiality obligations



that are no less stringent than those set forth in this Agreement. **Reisiger is prohibited from sharing such Confidential Information further, unless with prior written consent from SAMIC and the Discloser.**

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## **6. PRIVACY AND DATA PROTECTION**

The Parties undertake to comply with the relevant data protection legislation, including POPIA and GDPR (where applicable). The clauses below apply equally to both Parties and any relevant third party (including Reisiger).

### **6.1 Definitions**

6.1.1 "POPIA" means the Protection of Personal Information Act 4 of 2013, inclusive of all its Regulations and Guidance Notes issued by the Information Regulator.

6.1.2 "Personal Information" has the meaning given to it in POPIA and specifically refers to the Personal Information accessed and shared by the Parties for purposes of this Agreement.

6.2 The Parties consent to the use of Personal Information shared for the intended purposes of this Agreement and agree to treat all such Personal Information strictly confidential.

6.3 The Parties agree that such Personal Information shall be processed lawfully, in a minimal way, and for the intended purpose of the Agreement only.

6.4 Each Party shall comply with POPIA and other applicable data protection legislation, including GDPR where applicable, with respect to the processing of Personal Information.

6.5 Each Party warrants to the other that it has the legal right to disclose all Personal Information that it does in fact disclose under or in connection with this Agreement.

6.6 The Parties shall only process Personal Information for the purposes specified in this Agreement and, where required by POPIA, obtain necessary consent to process special Personal Information in terms of section 26 of POPIA.

6.7 The Parties shall only process Personal Information during the term of the Agreement or until such time as a Party lawfully withdraws its consent.

6.8 Each Party has the right to access any Personal Information exchanged and to request correction or updating of such Personal Information.



6.9 The Parties shall ensure that all Personal Information is destroyed in a manner that de-identifies the information once the statutory period for storage has expired.

6.10 The Parties authorize each other to make certain transfers of Personal Information, provided such transfers comply with POPIA and any other applicable data protection laws.

6.11 Each Party shall inform the other if an obligation under this Agreement relating to the processing of Personal Information infringes POPIA.

6.12 A Party may process Personal Information if and to the extent that it is required to do so by applicable law.

6.13 The Parties shall ensure that persons authorized to process Personal Information have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

6.14 Each Party may access and correct any Personal Information exchanged as needed.

6.15 The Parties shall ensure that all Personal Information is properly destroyed or de-identified after the statutory retention period.

6.16 The Parties shall implement appropriate technical and organizational measures to ensure a suitable level of security for Personal Information under their control.

6.17 The Parties shall identify foreseeable internal and external risks and regularly verify the effective implementation of safeguards.

6.18 The Parties shall, where possible, assist each other in responding to requests from data subjects exercising their rights under POPIA.

6.19 The Parties shall assist each other in ensuring compliance with security obligations, breach notifications, and other data protection requirements under POPIA.

6.20 Each Party shall notify the other of a Personal Information breach affecting that other Party's Personal Information within 48 hours of becoming aware of the breach, taking all reasonable steps to mitigate any losses.

6.21 The Parties shall provide information necessary to demonstrate compliance with POPIA.

6.22 At termination of this Agreement, each Party shall return or delete all Personal Information of the other Party, unless retention is required by law.



6.23 The Parties shall endeavor to promptly agree on necessary amendments to this Agreement to address any changes in POPIA or other applicable legislation.

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## **7. UNDERTAKINGS BY DIRECTORS, OFFICERS, AND EMPLOYEES**

7.1 The Recipient shall be entitled to disclose the Confidential Information to its responsible directors, officers, and employees (collectively, “employees”) only to the extent that:

7.1.1 Such disclosure is necessary for the Recipient to fulfill the purpose of this Agreement.

7.1.2 The Recipient ensures that its employees who have access to the Discloser’s Confidential Information are aware of the confidential nature of such information and are similarly bound by obligations consistent with this Agreement.

7.2 The Recipient shall use its best endeavours to ensure that each employee complies with these obligations and indemnifies the Discloser in respect of any loss suffered by the Discloser arising out of any breach by any employee of such obligations.

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## **8. EXCLUSION**

The confidentiality obligations do not apply to any information that:

8.1 Was in the Recipient’s possession or within the Recipient’s knowledge prior to disclosure under this Agreement.

8.2 Becomes generally available to the public so as to become part of the public domain, other than as a result of any breach of this Agreement.

8.3 Is required to be disclosed by the Recipient to comply with any order of a court of competent jurisdiction or the provision of any law or regulation, provided always that:

8.3.1 The Recipient advises the Discloser in writing before such disclosure, to enable the Discloser to take steps to protect its interests in such information; and

8.3.2 The Recipient discloses only that portion of the information which it is legally required to disclose and uses its best endeavours to protect the confidentiality of any information so disclosed.

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## **9. TITLE AND OWNERSHIP**

9.1 All Confidential Information communicated to or acquired by the Recipient remains the property of the Discloser.

9.2 Nothing in this Agreement shall be construed as conferring on the Recipient any license, right, title, or interest in the Discloser's Confidential Information.

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## **10. STANDARD OF CARE**

10.1 The Recipient agrees to protect the Confidential Information disclosed, communicated, or acquired pursuant to this Agreement using the same standard of care it applies to its own proprietary information, and in no event less than a reasonable standard of care.

10.2 The Discloser agrees to share only information that may be made accessible to its direct or indirect partners and shall not hold the Recipient responsible for any such information included in the Recipient's findings or reports, provided such use is consistent with this Agreement.

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## **11. RETURN OF INFORMATION**

11.1 The Discloser may at any time request the Recipient to return any material containing or relating to the Confidential Information disclosed pursuant to this Agreement. The Discloser may also request the Recipient to furnish a written statement confirming that the Recipient has not retained any such material.

11.2 As an alternative to returning the material, the Recipient shall, at the Discloser's instance, destroy such material and furnish a written statement confirming that all such information has been destroyed.

11.3 The Recipient shall comply with a request in terms of this clause 11 within 7 days of receipt of such a request.

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## **12. BREACH**

12.1 Should the Recipient breach any undertaking or provision of this Agreement and fail to remedy such breach immediately upon notification:

12.1.1 The Discloser, in addition to and not in substitution for any other legal rights or remedies available, shall be

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entitled to apply to a court of competent jurisdiction for urgent interdictory relief to restrain the Recipient from continuing such breach; and/or

12.1.2 Whether or not the Discloser elects to exercise its rights in terms of 12.1.1, to claim from the Recipient all direct or consequential damages which the Discloser may have suffered as a result of such breach; and/or

12.1.3 To claim and recover from the Recipient all legal costs on an attorney-and-own-client scale in respect of any legal proceedings instituted by the Discloser arising out of or in connection with this Agreement or to enforce the Discloser's rights hereunder.

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### 13. DOMICILIUM CITANDI ET EXECUTANDI

13.1 The Parties choose the following addresses for all purposes under this Agreement:

#### 13.1.1 Party A (SAGIC):

Physical Address: \_\_\_\_\_

Email: \_\_\_\_\_

Attention: \_\_\_\_\_

#### 13.1.2 Party B ([Company Name]):

Physical Address: \_\_\_\_\_

Email: \_\_\_\_\_

Attention: \_\_\_\_\_

13.2 Any notice given by one Party to the other shall be deemed to have been received:

13.2.1 On the date of delivery if delivered by hand.

13.2.2 On the 7th calendar day after the date of posting if sent by pre-paid registered post.

13.2.3 On the date of dispatch if sent by email or telefax.

13.3 A Party may change its address for this purpose by notice in writing to the other Party. Such change of address shall be effective seven days after receipt of such written notice.

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### 14. EFFECTIVE DATE AND DURATION

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14.1 This Agreement shall commence on the date of the last signature appended hereto (“Signature Date”) and remain in force for a period of 60 (sixty) months thereafter, whereafter it shall automatically terminate unless otherwise agreed in writing by both Parties.

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## **15. GENERAL**

15.1 Each Party represents and warrants that it has the authority to enter into this Agreement and to fulfil its obligations hereunder.

15.2 The failure to enforce or require the performance of any provision of this Agreement at any time shall not be construed as a waiver of such provision and shall not affect the validity of this Agreement or any part thereof.

15.3 This Agreement shall be binding on and inure to the benefit of the successors, permitted assigns, and personal representatives (as the case may be) of the Parties.

15.4 No modification, variation, alteration, or consensual cancellation of this Agreement shall be valid unless reduced to writing and signed by both Parties.

15.5 This Agreement and its annexures constitute the entire agreement between the Parties with respect to the subject matter hereof and supersede all prior agreements, whether written or oral. Neither Party shall be bound by any representation, promise, or undertaking not recorded in this Agreement.

15.6 Any indulgence granted by a Party to the other shall not constitute a waiver of the rights of the grantor Party.

15.7 No representation or warranty is given by the Discloser or its Affiliates regarding the accuracy of any Confidential Information disclosed. The Discloser expressly disclaims any liability for damage resulting from the use or reliance on such Confidential Information.

15.8 Should any provision of this Agreement be found invalid, illegal, or unenforceable, such finding shall not affect any other provisions, which shall remain in full force and effect.

15.9 Termination of this Agreement for any reason does not release a Party from any liability that, at the time of termination, has already accrued or may accrue in respect of any act or omission prior to such termination.

15.10 This Agreement shall be governed by and construed in accordance with the laws of the Republic of South Africa.

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## 16. SIGNATURES

This Agreement is signed by the authorized representatives of the Parties on the dates and at the places indicated below.

### Party A: SAGIC (Pty) Limited

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 2024.

Name: \_\_\_\_\_

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

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

### WITNESS

1. \_\_\_\_\_ (Print Name)

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

### Party B: [Company Name]

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 2024.

Name: \_\_\_\_\_

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

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

### WITNESS

1. \_\_\_\_\_ (Print Name)

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