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1 DEFINITIONS

In this Policy (as defined below), unless the context requires otherwise, the following words and expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings –

- 1.1 "**Applicable Data Protection Law**" means POPIA and all national, provincial, local and/or municipal legislation, regulations, statutes, by-laws, ordinances, consents and/or laws of any relevant Governmental Authority and/or any other instrument having the force of law as may be issued and in force from time to time relating in any way to the privacy, confidentiality or security of Personal Information;
- 1.2 "**Child**" means any natural person under the age of majority in accordance with the laws of the relevant country of the Applicable Data Protection Law;
- 1.3 "**Data Breach**" means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Information under the control of or in the possession of KwaZulu-Natal Growth Fund Agency ("**KZNGFA**");
- 1.4 "**Data Subject**" has the meaning ascribed thereto under Applicable Data Protection Law and, for purposes of this Policy, means KZNGFA's clients or suppliers who may be natural or juristic persons or any other person(s) in respect of whom KZNGFA Processes Personal Information;
- 1.5 "**Direct Marketing**" means to approach a person, by electronic communication, for the purpose of promoting or offering to supply, in the ordinary course of business, any goods or services to the data subject;
- 1.6 "**Direct Marketer**" means a supplier who employs Direct Marketing as an advertising mechanism;
- 1.7 "**Employees**" means any employee of KZNGFA;
- 1.8 "**Governmental Authority**" means any governing authority having jurisdiction over KZNGFA and/or a Data Subject, including any state organ or authority, whether national, provincial, local or municipal or any department thereof, subdivision (political or otherwise), agency, parastatal, corporation or commission, under the direct or indirect control thereof;
- 1.9 "**KZNGFA**" means the KwaZulu Natal Growth Fund Agency, an Agency with registration number IT1437/2007/PMB, with its registered address at 28th Floor, Delta Towers 303, Dr Pixley Kaseme Str, Durban, 4001 South Africa;
- 1.10 "**Operator**" means a person or entity who Processes Personal Information for a Responsible Party in terms of a contract or mandate, without coming under the direct authority of that Responsible Party;

- 1.11 "**Personal Information**" or "**personal data**" has the meaning ascribed thereto under Applicable Data Protection Law and specifically includes any form of information that can be used to identify a Data Subject;
- 1.12 "**Policy**" means this Privacy Policy;
- 1.13 "**POPIA**" means the South African Protection of Personal Information Act No. 4 of 2013;
- 1.14 "**Processing**" has the meaning ascribed thereto under Applicable Data Protection Law. "**Process**" has a corresponding meaning;
- 1.15 "**Regulator**" means the South African Information Regulator established in terms of POPIA, and/or any other supervisory body established in terms of Applicable Data Protection Law;
- 1.16 "**Responsible Party**" means a public or private body or any other person which alone or in conjunction with others, determines the purpose of and means for Processing Personal Information;
- 1.17 "**Special Personal Information**" means Personal Information concerning a Data Subject's religious or philosophical beliefs, race or ethnic origin, trade union membership, political opinions, health, sexual life, biometric information, or criminal behaviour; and
- 1.18 "**Third Party**" means any independent contractor, agent, consultant, sub-contractor, or other representatives of KZNGFA.

2 INTRODUCTION

- 2.1 This Policy regulates the use and protection of Personal Information that KZNGFA Processes.
- 2.2 KZNGFA acknowledges the need to ensure that Personal Information is handled with care and is committed to ensuring that they comply with the requirements of the Applicable Data Protection Law for the Processing of Personal Information.

3 PURPOSE

The purpose of this Policy is to inform Data Subjects about how KZNGFA Processes their Personal Information, pursuant to its objectives, including the provision of project finance within the Kwazulu- Natal province, making investments by entering into partnerships, creating an environment that promotes economic activity (including job creation and enhance welfare) within the province as well as promoting black economic empowerment initiatives within the Republic South Africa.

4 APPLICATION

- 4.1 This Policy has been prepared in respect of, and applies to, KZNGFA.
- 4.2 KZNGFA, in its capacity as Responsible Party and/or Operator, shall strive to observe, and comply with its obligations under Applicable Data Protection Law as well as accepted information protection principles, practices and guidelines when it Processes Personal Information from or in respect of a Data Subject.
- 4.3 This Policy is applicable to the processing of all personal information throughout the information life cycle, from the point of first collection of personal information until the time that such information is destroyed.
- 4.4 This Policy will not apply in situations where the processing of personal information –
 - 4.4.1 is concluded in the course of purely personal or household activities; or
 - 4.4.2 where the personal information has been de-identified, to the extent that it can no longer be reconstructed.

5 PROCESS OF COLLECTING PERSONAL INFORMATION

- 5.1 KZNGFA collects Personal Information directly from Data Subjects, unless an exception is applicable (such as, for example, where the Data Subject has made the Personal Information public, the Personal Information is contained in or derived from a public record or the legitimate interests of KZNGFA as a Responsible Party).
- 5.2 KZNGFA will always collect Personal Information in a fair, lawful and reasonable manner to ensure that it protects the Data Subject's privacy and will Process the Personal Information based on legitimate grounds in a manner that does not adversely affect the Data Subject in question.
- 5.3 KZNGFA often collects Personal Information directly from the Data Subject and/or in some cases, from Third Parties. Where KZNGFA obtains Personal Information from Third Parties, KZNGFA will ensure that it obtains the consent of the Data Subject to do so or will only Process the Personal Information without the Data Subject's consent where KZNGFA is permitted to do so in terms of clause 5.1 above.
- 5.4 An example of such Third Parties include: (i) credit reference agencies; (ii) other companies providing services to KZNGFA; and (iii) where KZNGFA makes use of publicly available sources of information.

6 NOTIFYING DATA SUBJECTS

- 6.1 KZNGFA will make Data Subjects aware of the fact that it is Processing their Personal Information and inform them of the specific purpose for which KZNGFA will be Processing such Personal Information, including making the Data Subject aware of any Third-Party recipients of the Personal Information. KZNGFA will not use the Personal Information of a Data Subject for any purpose other than the disclosed purpose

without the consent of the Data Subject, unless KZNGFA is permitted or required to do so by law.

7 **LAWFUL PROCESSING OF PERSONAL INFORMATION**

7.1 Where KZNGFA is the Responsible Party, and where required under Applicable Data Protection Law, it will only Process a Data Subject's Personal Information where –

7.1.1 consent of the Data Subject (or a competent person where the Data Subject is a Child) is obtained;

7.1.2 Processing is necessary to carry out the actions for conclusion of a contract to which a Data Subject is party;

7.1.3 Processing complies with an obligation imposed by law on KZNGFA;

7.1.4 Processing protects a legitimate interest of the Data Subject; and/or

7.1.5 Processing is necessary for pursuing the legitimate interests of KZNGFA or of a third party to whom the information is supplied.

7.2 KZNGFA will only Process Personal Information where one of the legal bases referred to in paragraph 7.1 above are present.

7.3 Where required (i.e. where we are not relying on a legal ground listed in paragraph 7.1 above), KZNGFA will obtain the Data Subject's consent prior to collecting, and in any case prior to using or disclosing, the Personal Information for any purpose.

7.4 KZNGFA will make the manner and reason for which the Personal Information will be Processed clear to the Data Subject.

7.5 Where KZNGFA is relying on a Data Subject's consent as the legal basis for Processing Personal Information, the Data Subject may withdraw his/her/its consent or may object to KZNGFA's Processing of the Personal Information at any time.

7.6 If the consent is withdrawn or if there is otherwise a justified objection against the use or the Processing of such Personal Information, KZNGFA will ensure that the Personal Information is no longer Processed.

8 STORAGE AND PROCESSING OF PERSONAL INFORMATION BY KZNGFA AND THIRD-PARTY SERVICE PROVIDERS

- 8.1 KZNGFA may store your Personal Information in hardcopy format and/or in electronic format. Your Personal Information may also be stored by Third Parties, via cloud services or other technology, with whom KZNGFA has contracted with, to support KZNGFA's business operations.
- 8.2 KZNGFA's Third Party service providers, including data storage and processing providers, may from time to time also have access to a Data Subject's Personal Information in connection with purposes for which the Personal Information was initially collected to be Processed.
- 8.3 KZNGFA will ensure that such Third Party service providers will process the Personal Information in accordance with the provisions of this Policy, all other relevant internal policies and procedures and Applicable Data Protection Law.
- 8.4 These Third Parties do not use or have access to your Personal Information other than for purposes specified by us, and KZNGFA requires such parties to employ at least the same level of security that KZNGFA uses to protect your personal data.
- 8.5 Your Personal Information may be Processed in South Africa or another country where KZNGFA, its affiliates and their Third Party service providers maintain servers and facilities and KZNGFA will take steps, including by way of contracts, to ensure that it continues to be protected, regardless of its location, in a manner consistent with the standards of protection required under Applicable Data Protection Law.

9 USE OF PERSONAL INFORMATION

- 9.1 KZNGFA will only Process a Data Subject's Personal Information for a specific, lawful and clear purpose (or for specific, lawful and clear purposes) and will ensure that it makes the Data Subject aware of such purpose(s) as far as possible.
- 9.2 It will ensure that there is a legal basis for the Processing of any Personal Information. Further, KZNGFA will ensure that Processing will relate only to the purpose for and of which the Data Subject has been made aware (and where relevant, consented to) and will not Process any Personal Information for any other purpose(s).
- 9.3 KZNGFA may use Personal Information for the following purposes of –
- 9.3.1 providing its services to KZNGFA's Data Subjects from time to time;

- 9.3.2 processing loan applications;
- 9.3.3 considering and assessing tenders from suppliers; responding to any correspondence KZNGFA's Data Subjects may send to KZNGFA, including via email, KZNGFA's site(s) or by telephone;
- 9.3.4 generally, for the purposes of providing its services to applicants, as per its mandate such as processing applications for funding;
- 9.3.5 verification of information supplied in applications;
- 9.3.6 for purposes of onboarding suppliers or service providers as approved suppliers/service providers of KZNGFA. For this purpose, KZNGFA will also Process a service provider's/supplier's Personal Information for purposes of performing credit checks, and this may include engaging third party credit vetting agencies;
- 9.3.7 for purposes of managing KZNGFA's relationships with its suppliers;
- 9.3.8 in connection with the execution of payment processing functions, including payment of KZNGFA's suppliers'/service providers' invoices;
- 9.3.9 for purposes of monitoring the use of KZNGFA's electronic systems. KZNGFA will, from time to time, engage third party service providers (who will Process the Data Subject's Personal Information on behalf of KZNGFA) to facilitate this;
- 9.3.10 for purposes of preventing, discovering and investigating violations of this Policy, the applicable law and other KZNGFA policies, and investigating fraud, or other related matters in terms of any other applicable laws;
- 9.3.11 in order to ensure adherence to applicable legislation including, but not limited to the Financial Intelligence Centre Act 38 of 2001 (as amended), Broad-based Black Economic Empowerment Act No. 53 of 2003 (as amended), etc.;
- 9.3.12 for employment-related purposes such as recruiting staff, administering payroll, background checks, etc.;
- 9.3.13 in connection with internal audit purposes (i.e., ensuring that the appropriate internal controls are in place in order to mitigate the relevant risks, as well as to carry out any investigations where this is required);
- 9.3.14 in connection with external audit purposes. For this purpose, KZNGFA engages external service

providers and, in so doing, shares Personal Information of the Data Subjects with third parties;

9.3.15 in order to address inquiries or complaints in respect of KZNGFA's services or functions;

9.3.16 for such other purposes to which the Data Subject may consent from time to time; and for such other purposes as authorised in terms of applicable law.

10 SPECIAL PERSONAL INFORMATION AND PERSONAL INFORMATION OF CHILDREN

10.1 Special Personal Information is sensitive Personal Information of a Data Subject and KZNGFA acknowledges that it will generally not Process Special Personal Information unless –

10.1.1 Processing is carried out in accordance with the Data Subject's consent;

10.1.2 Processing is necessary for the establishment, exercise or defence of a right or obligation in law;

10.1.3 Processing is necessary to comply with an obligation of international public law;

10.1.4 Processing is for historical, statistical or research purposes, subject to stipulated safeguards;

10.1.5 information has deliberately been made public by the Data Subject; or

10.1.6 specific authorisation has been obtained in terms of Applicable Data Protection Law.

10.2 KZNGFA acknowledges that it may not Process any Personal Information concerning a Child and will only do so where it has obtained the consent of the parent or guardian of that Child or where it is permitted to do so in accordance with applicable laws.

11 RETENTION OF PERSONAL INFORMATION

11.1 KZNGFA may keep records of the Personal Information it has collected, correspondence, or comments in an electronic or hardcopy file format.

11.2 KZNGFA will not retain personal information for a period longer than is necessary to achieve the purpose for which it was collected or processed and is required to delete, destroy (in such a way that it cannot be reconstructed) or de-identify the information as soon as is reasonably practicable once the purpose has been achieved. This prohibition will not apply in the following circumstances –

11.2.1 where the retention of the record is required or authorised by law;

11.2.2 KZNGFA requires the record to fulfil its lawful functions or activities;

- 11.2.3 retention of the record is required by a contract between the parties thereto;
- 11.2.4 the data subject (or competent person, where the data subject is a child) has consented to such longer retention; or
- 11.3 the record is retained for historical, research or statistical purposes provided safeguards are put in place to prevent use for any other purpose. Accordingly, KZNGFA will, subject to the exceptions noted herein, retain Personal Information for as long as necessary to fulfil the purposes for which that Personal Information was collected and/or as permitted or required by applicable law.
- 11.4 Where KZNGFA retains Personal Information for longer periods for statistical, historical or research purposes, KZNGFA will ensure that appropriate safeguards have been put in place to ensure that all recorded Personal Information will continue to be Processed in accordance with this Policy and the applicable laws.
- 11.5 Once the purpose for which the Personal Information was initially collected and processed no longer applies or becomes obsolete, KZNGFA will ensure that the Personal Information is deleted, destroyed or de-identified sufficiently so that a person cannot re-identify such Personal Information.
- 11.6 In instances where we de-identify your Personal Information, KZNGFA may use such de-identified information indefinitely without further notice to you.

12 **FAILURE TO PROVIDE PERSONAL INFORMATION**

- 12.1 Should KZNGFA need to collect Personal Information by law or under the terms of a contract that KZNGFA may have with you, and you fail to provide the personal data when requested, we may be unable to perform the contract we have or are attempting to enter into with you.
- 12.2 In such a case, KZNGFA may have to decline to provide or receive the relevant services, and you will be notified where this is the case.

13 **SAFE-KEEPING OF PERSONAL INFORMATION**

- 13.1 KZNGFA shall preserve the security of Personal Information and, in particular, prevent its alteration, loss and damage, or access by non-authorised third parties.
- 13.2 KZNGFA will ensure the security and integrity of Personal Information in its possession or under its control with appropriate, reasonable technical and organisational measures to prevent loss, unlawful access and unauthorised destruction of Personal Information.

- 13.3 KZNGFA has implemented physical, organisational, contractual and technological security measures (having regard to generally accepted information security practices or industry specific requirements or professional rules) to keep all Personal Information secure, including measures protecting any Personal Information from loss or theft, and unauthorised access, disclosure, copying, use or modification.
- 13.4 Furthermore, KZNGFA maintains and regularly verifies that the security measures are effective and regularly updates same in response to new risks.

14 BREACHES OF PERSONAL INFORMATION

- 14.1 A Data Breach refers to any incident in terms of which reasonable grounds exist to believe that the Personal Information of a Data Subject has been accessed or acquired by any unauthorised person.
- 14.2 A Data Breach can happen for many reasons, which include: (a) loss or theft of data or equipment on which Personal Information is stored; (b) inappropriate access controls allowing unauthorised use; (c) equipment failure; (d) human error; (e) unforeseen circumstances, such as a fire or flood; (f) deliberate attacks on systems, such as hacking, viruses or phishing scams; and/or (g) alteration of Personal Information without permission and loss of availability of Personal Information.
- 14.3 KZNGFA will address any Data Breach in accordance with the terms of the Applicable Data Protection Law.
- 14.4 KZNGFA will notify the Regulator and the affected Data Subject (unless the Applicable Data Protection Law requires that we delay notification to the Data Subject) in writing in the event of a Data Breach (or a reasonable belief of a Data Breach) in respect of that Data Subject's Personal Information.
- 14.5 KZNGFA will provide such notification as soon as reasonably possible after it has become aware of any Data Breach in respect of such Data Subject's Personal Information.

15 PROVISION OF PERSONAL INFORMATION TO THIRD PARTY SERVICE PROVIDERS

- 15.1 KZNGFA may disclose Personal Information to Third Parties and will enter into written agreements with such Third Parties to ensure that they Process any Personal Information in accordance with the provisions of this Policy, and Applicable Data Protection Law.
- 15.2 KZNGFA notes that such Third Parties may assist KZNGFA with the purposes listed in paragraph 9.2 above – for example, service providers may be used, *inter alia*, to: (i) notify the Data Subjects of any pertinent information concerning KZNGFA, and/or (ii) for data storage.
- 15.3 KZNGFA will disclose Personal Information with the consent of the Data Subject or if KZNGFA is permitted to do so without such consent in accordance with the applicable laws.
- 15.4 Further, KZNGFA may also send Personal Information to various jurisdictions throughout the world, including for Processing and storage by Third Parties.
- 15.5 When Personal Information is transferred to a jurisdiction outside of the jurisdiction in which the relevant

Data Subject is domiciled, KZNGFA will obtain the necessary consent to transfer the Personal Information to such foreign jurisdiction or may transfer the Personal Information where KZNGFA is permitted to do so in accordance with the provisions applicable to transborder flows of Personal Information under Applicable Data Protection Law.

- 15.6 The Data Subject should also take note that the Processing of Personal Information in a foreign jurisdiction may be subject to the laws of the country in which the Personal Information is held, and may be subject to disclosure to the governments, courts of law, enforcement or regulatory agencies of such other country, pursuant to the laws of such country.

16 ACCESS TO PERSONAL INFORMATION

- 16.1 A Data Subject has the right to obtain from KZNGFA the record or description, in a reasonable form, of Personal Information concerning him/her/it and any information regarding the recipients or categories of recipients of the Personal Information. A Data Subject may request:

16.1.1 KZNGFA to confirm, free of charge, whether it holds any Personal Information about him/her/it; and

16.1.2 to obtain from KZNGFA the record or description of Personal Information concerning him/her/it and any information regarding the recipients or categories of recipients who have or had access to the Personal Information. Such record or description is to be provided:

16.1.2.1 within a reasonable time;

16.1.2.2 at a prescribed fee (if any); and

16.1.2.3 in a reasonable manner and format and in a form that is generally understandable.

16.2 Accordingly, KZNGFA may request the Data Subject to provide sufficient identification to permit access to, or provide information regarding the existence, use or disclosure of the Data Subject's Personal Information.

16.3 Any such identifying information shall only be used for the purpose of facilitating access to or information regarding the Personal Information.

16.4 The Data Subject can request in writing to review any Personal Information about the Data Subject that KZNGFA holds including Personal Information that KZNGFA has collected, utilised or disclosed.

16.5 KZNGFA will provide the Data Subject with any such Personal Information to the extent required by law and any of KZNGFA's policies and procedures which apply in terms of the Promotion of Access to

Information Act No. 2 of 2000 ("**PAIA**").

- 16.6 The Data Subject can challenge the accuracy or completeness of his/her/its Personal Information in KZNGFA's records at any time in accordance with the process set out in KZNGFA's manual prepared in terms of PAIA ("**PAIA Manual**") for accessing information.
- 16.7 If a Data Subject successfully demonstrates that their Personal Information in KZNGFA's records is inaccurate or incomplete, KZNGFA will ensure that such Personal Information is amended or deleted as required (including by any Third Parties).

17 **KEEPING PERSONAL INFORMATION ACCURATE**

- 17.1 KZNGFA will take reasonably practicable steps to ensure that Personal Information is complete, accurate, not misleading and up to date (having regard to the purpose for which Personal Information is collected or further processed).
- 17.2 Accordingly, KZNGFA will take reasonable steps to ensure that all Personal Information is kept as accurate, complete and up-to-date as reasonably possible.
- 17.3 KZNGFA may not always expressly request the Data Subject to verify and update his/her/its Personal Information unless this process is specifically necessary.
- 17.4 KZNGFA, however, expects that the Data Subject will notify KZNGFA from time to time in writing of any updates required in respect of his/her/its Personal Information.

18 **COSTS TO ACCESS TO PERSONAL INFORMATION**

The prescribed fees to be paid for copies of the Data Subject's Personal Information are listed in KZNGFA's PAIA Manual.

19 **CHANGES TO THIS POLICY**

- 19.1 KZNGFA reserves the right to make amendments to this Policy from time to time and will use reasonable efforts to notify Data Subjects of such amendments.
- 19.2 The current version of this Policy will govern the respective rights and obligations between you and KZNGFA each time that you access and use our site.

20 CONTACTING US

20.1 All comments, questions, concerns or complaints regarding your Personal Information or this Policy, should be forwarded to us as follows —

Tel. **031 372 3721**

Email. **info@kzngf.co.za**

20.2 If a Data Subject is unsatisfied with the manner in which KZNGFA addresses any complaint with regard to KZNGFA's Processing of Personal Information, the Data Subject can contact the office of the Information Regulator.