

**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG PROVINCIAL DIVISION, PRETORIA)**

CASE NO:

In the matter between:

MABUNDA INCORPORATED	1ST Applicant
KEKANA HLATSWAYO HADEBE INCORPORATED	2ND Applicant
NOKO MAIMELA INCORPORATED	3RD Applicant
MAPONYA INCORPORATED	4TH Applicant
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NOMPUMELELO HADEBE INC.	41ST Applicant
MBOWENI AND PARTNERS INC.	42ND Applicant

and

ROAD ACCIDENT FUND	Respondent
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**MABUNDA INCORPORATED**

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To: THE REGISTRAR OF THE HIGH COURT
PRETORIA

And to: **THE ROAD ACCIDENT FUND**
Respondent
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DATED AT JOHANNESBURG ON THIS THE 3RD DAY OF MARCH 2020

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NOTICE OF MOTION

PART A

KINDLY TAKE NOTICE THAT the applicants intend making an application to the above Honourable Court on Tuesday, 17 March 2020 at 10h00 or so soon thereafter as the matter may be called for orders in the following terms:

1. That the rules of service and process provided for in the rules of this Court be dispensed with in order that this matter be heard as one of urgency in terms of Rule 6(12).
2. **PENDING** the adjudication and finalisation of the review in Part B:
 - 2.1 the respondent is interdicted and restrained from implementing and/or giving effect to its notice of handover addressed to the applicants and all panel attorneys of the respondent dated 18 February 2020 and 20 February 2020 respectively.

Part B

KINDLY TAKE NOTICE THAT the applicants intend making an application to the above Honourable Court on the date to be determined by the Registrar of this Court for orders in the following terms:

- 
3. It is declared that the decision of the respondent dated 18 February 2020 and 20 February 2020 to demand from the panel attorneys to handover all unfinalized files in their possession to the respondent is unlawful, unconstitutional and invalid.
 4. The decision of the respondent communicated in a letter dated 18 February and 20 February 2020 demanding that the panel attorney's handover all unfinalized files in their possession to the respondent is reviewed and set aside;
 5. It is declared that the purported cancellation of tender number RAF/2018/00054 by the respondent on or about 26 February 2020 and on 2 March 2020 is unlawful, unconstitutional and invalid.
 6. The decision of the respondent to cancel tender number RAF/2018/00054 on or about 26 February 2020 and 2 March 2020 is reviewed and set aside.
 7. The respondent is directed to withdraw the handover notice dated 18 February 2020 and 20 February 2020 forthwith.
 8. The respondent is directed to withdraw the tender cancellation notice dated 26 February 2020 and 2 March 2020 forthwith.
 9. The respondent is ordered to pay the costs of this application in the event of opposition.

TAKE NOTICE FURTHER THAT the affidavit deposed to by PRITZMAN BUSANI MABUNDA together with supporting documentation attached to it will be used in support of this application.

TAKE NOTICE FURTHER THAT if the respondent intends opposing Part A of the relief sought hereinabove, it is required to file notice of intention to oppose by no later than close of business on Wednesday, 4 March 2020 and thereafter file an answering affidavit by no later than close of business on Friday, 6 March 2020, where of the applicants will file their replying affidavit if needs be by no later than Tuesday, 10 March 2020.

TAKE NOTICE FURTHER THAT in respect of Part B of the relief sought herein above, the respondent is in terms of Rule 53 of the Uniform Rules of Court called upon to dispatch the record of the impugned decisions together with reasons if any within 15 days from the date hereof.

TAKE NOTICE FURTHER THAT the applicant will in terms of Rule 53(4) upon receipt of the record aforesaid, supplement its founding affidavit in respect of Part B, or file a notice that they stand by their notice of motion.

TAKE NOTICE FURTHER THAT the respondent will as required by Rule 53(4) upon receipt of the supplementary founding affidavit or a notice of thereof from the applicants, file an answering affidavit if any within 30 days from the date of service of the supplementary founding affidavit or notice that the applicants stands by their notice of motion.

TAKE NOTICE FURTHER THAT the applicants have appointed the address of their attorneys hereunder as the address at which they will accept all service and process in this application.

KINDLY enrol the matter for hearing of Part A accordingly

DATED AT JOHANNESBURG ON THIS THE 3RD DAY OF MARCH 2020



MABUNDA INCORPORATED
Applicants' Attorneys

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To: THE REGISTRAR OF THE HIGH COURT
PRETORIA

And to: **THE ROAD ACCIDENT FUND**
Respondent
Eco Glades 2, 420 Witch-Hazel Avenue
Centurion, Pretoria
Tel: 012 621 1600
Fax:
Email: juneC@raf.co.za
CollinsL@raf.co.za

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FOUNDING AFFIDAVIT

I, the undersigned,

PRITZMAN BUSANI MABUNDA

do hereby state under oath that:

1. I am an adult male Attorney, practising as such, under the name and style of Mabunda Incorporated at 2 Protea Road, Cnr Riley, Bedfordview, Germiston.
2. I depose to this affidavit on behalf of the first applicant, and in my capacity as the Director thereof. I also depose to this affidavit on behalf of the second to forty-second applicant, who have duly authorised me by virtue of the power of attorney attached hereto to launch this application and to depose to the founding affidavit on their behalf. To the extent necessary, confirmatory affidavits are attached. Where I rely on hearsay evidence, which cannot readily be confirmed, or which it is impractical for me to obtain confirmatory affidavits, I ask leave of this Court to accept the said hearsay evidence in accordance with the provisions of section 3 of the Law of Evidence Amendment Act 1988. I verily believe the correctness of such hearsay evidence and the sources obtained from.
3. The facts herein contained are within my personal knowledge and belief both true and correct, save in circumstances that I have described above or where the context indicates otherwise.

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4. Where I rely on legal submissions, I have obtained same from the legal representatives of the applicants, which I verily believe it to be correct and or legally sound.

The parties

5. The applicants are all panel attorneys, appointed into the panel of the Road Accident Fund ("RAF") pursuant to a 2014 tender.
6. The respondent is the Road Accident Fund, a statutory entity, established in terms of section 2(1) of the Road Accident Fund Act No. 56 of 1996 ("the Act"). The respondent's principal place of business is at Eco Glade 2, 420 Witch Hazel Avenue, Centurion, Pretoria. Service of this application will be made at the principal place of business of the respondent by email and to the extent necessary by delivering a copy at the principal address of the respondent.

The purpose of the application

7. The purpose of this application is two fold. Firstly, the application is divided into two parts. Part A, is an urgent application in terms whereof the Honourable Court is requested to dispense with the rules pertaining to service and process and to adjudicate Part A of this application as one of urgency for the reasons fully set out herein below. In Part A, the applicants seek first and foremost an interdict against the respondent pending the adjudication and finalisation of the

review application sought in Part B of the application. Insofar as the interim relief sought in Part A, the applicants demonstrate in this affidavit that they have made out a proper case for an interim interdict due to the irreparable harm, and the balance of convenience directly implicated by the facts of this case and the conduct of the respondent. However, the applicants also seek to demonstrate this Court that not only have they established a *prima facie* right to be granted the interim relief, but they also demonstrated that on the facts they are entitled to a final relief.

8. The applicants have made out a case for a final relief but have elected to press for interim relief because Part A is in the urgent Court. The consequence of such orders in Part B entail that the notice dated 18 and 20 February 2020 demanding the handover of unfinalized files from the panel attorneys as well as the notice withdrawing tender number RAF/2018/00054 be withdrawn by the respondent forthwith.
9. As a result, the applicants are alive to the fact that the urgent Court deals with urgent matters and grant largely interim relief which seek to preserve the *status quo* until the Court has had a full opportunity of the full ventilation of the issues in Part B for the final relief. To this end, the applicants have filed a review application and the declaratory relief in Part B which should be adjudicated in due course.
10. The applicants will demonstrate in these papers that it is necessary for the Court to preserve the *status quo ante* pending the adjudication of the review

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given the irreparable damage that is likely to be caused to the administration of justice in general and to the public purse in particular let alone the prejudice that would be suffered by the plaintiffs who are entitled to speedy redress from the Courts as required by section 34 of the Constitution of the Republic of South Africa. In fact, the irreparable harm has already been caused by the respondent's Acting Chief Executive Officer ("CEO"), who has taken an unprecedented step of addressing a letter to the Judges. This is because of the irrationality of the decision of the respondent. This letter is dealt with later.

The facts

11. The facts giving rise to this application will be largely common cause. During 2014, the respondent issued an invitation to law firms to tender to be in the panel of attorneys which will represent the respondent in third party claims. The tender was adjudicated by the respondent and 103 law firms in the 9 provinces were successful and included in the panel as panel attorneys.
12. Pursuant to their successful bids, the respondent concluded a Service Level Agreement with all panel attorneys. The Service Level Agreement concluded with all panel attorneys are identical both in form and content for the High Court, Regional Court and Magistrate Court. I therefore do not attach each of the Service Level Agreement concluded with the respondent but will simply attach the Service Level Agreement concluded between the respondent and the first applicant in the High Court. A copy of the said Service Level Agreement is attached marked "PBM1".

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13. The tender was for a period of 5 years commencing on 1 December 2014 to 29 November 2019.
14. The panel attorneys represent the respondent in all third-party claims in all Courts where proceedings had been instituted by plaintiffs in third party claims against the respondent as defendant attorneys.
15. On the 20th September 2019 an email through the RAF Panel Manager Mr. Ignatius Briel attached an important letter addressed to panel attorneys by one Mr. Collins Letsoalo in which he clearly stated that, *"as at 20 September 2019 the evaluation of the tender for the panel of attorneys was incomplete and they required more time for completion, and that the RAF was evaluating an making arrangements for the adherence to clause 14 of the SLA in the most cost effective and transparent manner."* I annex a copy of the letter as **"PBM 2"**
16. On 14 November 2019 a meeting was convened at the instance of the respondent, per Mr Ignatius Briel at the respondent's head office. The meeting was to be attended by all panel attorneys and those outside Gauteng, joined in the meeting by video link. The meeting was addressed by the current acting Chief Executive Officer ("CEO") of the respondent, Mr Collins Letsoalo. The purpose of the meeting was to discuss the extension of the contract with panel attorneys given the fact that the contracts were to expire on 29 November 2019. For the sake of convenience, I attach the email invitation to panel attorneys from the respondent marked **"PBM3"**. In this meeting, Mr Letsoalo made it clear to the panel attorneys that he did not want panel attorneys going forward.

17. Whilst the extension of the contracts was intimated by the respondent through Mr Letsoalo in that meeting, the terms of the extension were not necessarily discussed. On 19 November 2019 that Chief Procurement Officer of the respondent, Mr John Modise, sent a letter to panel attorneys attaching what is termed a second addendum. The second addendum was providing for an extension of the contract.
18. The contract was extended to 31 May 2020. However, the letter addressed by Modise caused problems for panel attorneys. Various panel attorneys raised their concerns including the Black Lawyers Association ("BLA") and the Law Society of South Africa. This prompted the respondent to revise its second addendum and resent it on 21 November 2019 to panel attorneys. The panel attorneys were given until 22 November 2019, 16h00, to sign the addendum accepting the extension with the terms contained therein. A copy of the letter by Modise dated 19 November is annexed hereto marked "PBM4" A copy of the revised addendum is annexed hereto marked "PBM5". Significantly, the addendum contained provisions which purportedly sought to amend the clauses in the original agreement and deleting some of the clauses in the original agreement. The addendum sought to introduce into the contract clauses which are contrary to law, in conflict with the duties and responsibilities of attorneys as regulated by the Legal Practice Council, and contravening the Legal Practice Act. Essentially, the clauses introduced in the addendum, were unlawful, invalid and *bonos*. The provisions sought to be introduced are simply a nullity.

19. The respondent sought to coerce the panel attorneys to accept unlawful terms and conditions introduced by the addendum by threatening them that if they did not sign by 22 November 2019, there would be required to return the files the following day. As such, the panel attorneys were placed under duress to sign for unlawful terms and conditions which are *contra bonos mores*, unlawful, in contravention of the statute, and which are a nullity. The extension of the contract which was done by the respondent was not made in good faith. It was intended to coerce the panel attorneys into agreeing to unlawful terms and conditions which are a nullity.
20. The panel attorneys signed second addendum albeit under duress or in circumstances where the terms and conditions are a nullity as the addendum could not delete and replace lawful terms and conditions in the original contract which regulated the relationship between panel attorneys and the respondent for the five-year period during the subsistence of the original agreement.
21. On 18 February 2020, the Acting Chief Operations Officer of the respondent, Mrs Lindelwa Xingwana Jabavu ("Jabavu") addressed a letter to all panel attorneys. A copy of this letter is annexed marked "**PBM6**". In this letter (notice) the panel attorneys where required to handover unfinalized files and withdraw as attorneys of record within five days of handing over. This notice was unlawful as it was contrary to the ethical duties of attorneys and in contravention of the Legal Practice Act.

22. The notice was further unlawful as it was contrary to the terms of the amended SLA and revised second addendum.
23. There was an outcry from various panel attorneys who intimated the impossibility of complying with this directive (demand). This outcry prompted the respondent to address a second letter dated 20 February 2020 which amended the initial letter of 18 February 2020 by demanding the handover of the files in staggered form. The 20 February 2020 notice was still unlawful and invalid and a nullity as it contravened the attorneys ethical and legal obligations imposed on them by the Legal Practice Act and their ethical duties as enforced by the Legal Practice Council.
24. The panel attorneys raised issue with the notice and questioned its legality, lawfulness and rationality of the decision by the respondent to demand the handover of files from the panel attorneys.
25. In particular, the first applicant, Rehana Khan-Parker and Associates, Sangham Attorneys and Fourie Fisser Incorporated addressed letters to the respondent. I annex a letter that was addressed to the respondent by the first applicant under my hand dated 24 February 2020. This letter was addressed to the Chairperson of the Board given that the Board exercises overall authority and control and management of RAF as empowered by section 11 of the Act. A copy of this letter is annexed marked "PBM7". The contents of this letter must be read as if herein specifically incorporated as I do not wish to repeat its contents due to its length. It is a 22 page letter which raises pertinent factual

and legal issues which go to the heart of the unlawfulness and the irrationality of the decision of the respondent to demand the handover of the unfinalized files and the cancellation of the tender which was due to be announced at any moment.

26. The Board did not deal with matters that have been raised by the first applicant in its letter. Instead the Board responded by saying that it will revert to the first applicant. In fact, I came to know that the Board was due to have a meeting on Thursday, 27 February 2020 and another meeting on 2 March 2020. What the first applicant sought from the Board, was that the notice which require the handover of files by the panel attorneys should be withdrawn for the reasons fully stated in the letter. The power to withdraw the mandate of panel attorneys, and the power to cancel the tender not yet awarded vest solely with the Board in terms of section 11 of the Act.
27. The applicants had hoped that a sensible decision would be taken by the Board in its meeting on 27 February 2020. I also came to know that the Board wanted to obtain legal opinion on the lawfulness of the notice demanding handover of files and the withdrawal of the panel attorneys as attorneys of record of the respondent given the serious ramifications such decision would inevitably have on the administration of justice and the judiciary.

Irrational and unlawful decision

28. Whilst the applicants are not privy to whether or not the Board ultimately obtained the legal opinion and if so, I invite the Board to share the legal opinion

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with the Court in order to take the Court into its confidence. This is particularly so given the seriousness of the matter and the impact the respondent's decision would inevitably have in the administration of justice in particular. What the applicants also came to know was that the decision to issue a handover notice on 18 February and 20 February 2020 was not taken by the Board. The applicants also came to know that the decision to cancel the tender that was due to be announced in order to constitute a new panel of attorneys for the next five years was also not taken by the Board. It seems that the decision to demand the handover of files from the panel attorneys as well as the decision to cancel the announcement of the tender and the tender itself was taken by the acting CEO, Mr Letsoalo or his delegates. The significance of this is that if it is correct that the decision was not taken by the Board, the decision is *ultra vires* and unlawful. The decision should therefore be set aside on that basis alone. The decision to demand handover of the files and the decision to cancel the tender contravenes section 11 and regulation 13(3) of 2017 Promulgated under Preferential Procurement Policy Framework Act ,2000 (The "PPPFA").

29. However, if the decision was taken by the Board, the decision is nevertheless still unlawful because it is irrational, and unlawful. Further regulation 13(3) was also not complied with.
30. The decision is irrational because the respondent demand for the return of unfinalized files, and the withdrawal of panel attorneys as attorneys of record, was not mitigated by the announcement of a new panel of attorneys as the tender which was intended to announce a new panel of attorneys was also

cancelled. The respondent did not put in place mitigating measures which would ensure that the administration of justice will not be hampered but its decision to demand the handover of unfinalized files. In the absence of any mitigating measures in place, the effect of the decision is to throw the administration of justice into chaos and to further delay the finalisation of trial matters to the serious prejudice of the plaintiffs. It is a matter of public record that the majority of RAF matters litigated in all Courts involve poor people, who do not have means of their own. Most of them were involved in motor vehicle accidents which have impaired them from performing their daily work and are not gainfully employed.

31. They are entirely reliant on the finalisation of their matters in the Courts against the RAF in order for them to obtain appropriate redress. Some of them are completely paralysed and incapacitated and are not able to be gainfully employed at all. The delay in the finalisation of these matters is highly prejudicial to the plaintiffs. I have obtained an affidavit from one of the plaintiff's attorneys Mr. Luyanda Templeton Jona, demonstrating the serious impact that this decision will have on the administration of Courts and to the plaintiffs in general. A copy of the affidavit aforesaid is annexed marked "PBM8".
32. Besides, this decision will result in postponement of trial matters which otherwise were ready for trial or the delay of the readiness of matters which otherwise would have been certified ready for trial because there would be no defendants attorneys to attend pre-trial conferences or judicial case management in order to certify matters trial ready.

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33. This will come at a huge cost to the respondent as on each occasion the respondent will be required to pay the costs of the plaintiff's legal representatives as the postponements or delays would have been occasioned by the unreadiness of the respondent. It is a matter of public knowledge that the respondent receives huge chunk of its budget from the public purse.
34. Any costs occasioned by such conduct constitutes a fruitless and wasteful expenditure which directly affect the public purse. This state of affairs cannot be sustained by the country as a whole given the serious economic slump the country is facing and the sluggish economic growth.

The interim interdict

35. The applicants have a *prima facie* right to be granted an interim interdict at this stage. They have also demonstrated a clear right to be granted final orders should the Court deem fit. The applicants will suffer irreparable harm in that the demand for them to return all files affect them financially but also affect their employees. The effect of this decision will entail that panel attorneys who in total employ over 3000 employees in their law firms would have to retrench almost 90% of the workforce in this economic distress that the country is facing. The country cannot afford the further exacerbation of unemployment which is caused by the irrational decision of the respondent. The damage will be irreparable to both the applicant and as well as their employees and to the country and the judiciary. As a result, these are relevant factors that the Court ought to take into account in granting an interim interdict.

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36. The balance of convenience favours the granting of the order sought given that the respondent stand not to suffer any prejudice at all if the *status quo ante* is maintained pending the finalisation of the review. The respondent will actually gain and obtain a benefit from the *status quo* because the panel attorneys will continue to render services and remain on record as attorneys of record of the respondent and attend to all unfinalized matters until such time that the respondent has put in place appropriate mechanisms to mitigate the adverse effects that would be caused by the handover of the unfinalized files by the panel attorneys. In any event, the respondent is required to announce the successful bidders of the tender which it has cancelled unlawfully and irrationally. Whilst it is within the powers and discretion of the respondent to cancel a tender, it is only required to do so on rational reasons. The respondent had not provided any reasons for the cancellation of a tender which was adjudicated and finalised and the only thing remaining was to announce the successful bidders who would constitute a new panel of attorneys. In the absence of any reasons, the decision to cancel the tender is irrational and unlawful. In its endeavours to justify its irrational decision, the Respondent withdrew its initial letter of 28 February 2020 and substituted it with the one dated 2 March 2020 with reasons for cancellation of bid. This was an afterthought following a letter to the board that there are no reasons advanced for the cancellation. The said letter to the Chairperson of the Board and the CEO marked annexure "PBM9". It is unconstitutional as it does not serve the proper administration of justice but simply seeks to plunge the administration of justice into chaos. Such a decision should not be countenanced as it is clearly

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unlawful and irrational. The decision is also *ultra vires* as it was not taken by the Board and to the extent that the Board ratified still remains unlawful for its irrationality.

37. When the respondent took the decisions, which are impugned in this application, it was performing a public function and exercising a public power. Its decision to demand the handover of the unfinalized files is therefore reviewable under section 1(c) of the Constitution and the rule of law. It is one that is attacked on the legality ground of review, and the rationality ground of review. It is also *ultra vires* for the reasons that are set out in this affidavit. The applicants have a strong prospects of success on review and therefore are entitled to an interim interdict pending that review. In addition, the applicants have demonstrated a *prima facie* right, irreparable harm and balance of convenience which favour the granting of the order sought. A prejudice to the applicants and the litigants in third-party claims is immense. The prejudice to the administration of justice is undeniable.

38. The applicants do not have any alternative remedy at their disposal. It would be a futile exercise for them to sue the respondent as it would be difficult for them to quantify the damages suffered. In any event, any claim in due course will not save the jobs of the panel attorneys employees including the jobs of the panel attorneys themselves. By the time any such claim which is illusory and not real materialises, the horse would have bolted, and the irreparable damage would have been caused. As a result, there is no adequate alternative remedy available to the applicants. The only remedy at present is for this Court to

exercise its discretion to grant the interdict on the basis that a proper case has been made out for the grant of an interim interdict alternatively a strong case has been made out for the grant of the final relief on the basis that a clear right has been demonstrated by the applicants.

39. There are many other panel attorneys who support this application but who are unable to come on board due to the short period available. Almost all panel attorneys support this application and all of them are in unison that the decision is irrational and unlawful and should be set aside and that the respondent be interdicted from implementing these decisions.

Urgency

40. This application is urgent for two reasons. Firstly, the decision was taken on 18 February 2020 that the panel attorneys should handover the unfinalized files. The panel attorneys and the applicants in particular as demonstrated by the letter from the first applicant immediately communicated with the respondent through the Chairperson of the Board and impressed on the Board to withdraw the notice. In the course of that engagement, the Board undertook to return to the first applicant with a response by no later than 2 March 2020. The applicant could therefore not take any action until the Board has returned to them about the Board's response to the panel attorneys concern about the legality of the handover notice. It is only after the Board has responded and depending on the nature of the response that the applicants could exercise their right in law to approach Court. As at the time of preparing these papers, the Board had not

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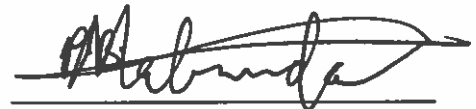
yet responded but the applicants elected to give the Board an opportunity to respond and not to file the application beforehand. Whilst awaiting the response of the Board, the second notice was issued on 26 February 2020 to the effect that the tender which was awaited to be announced was now cancelled. This exacerbated the problem and rendered the matter even extremely urgent given that there will be no new panel of attorneys which will replace the current panel of attorneys whose term only ends on 31 May 2020. This simply demonstrated that crisis was clearly looming. While still surprised at the cancellation of the tender issued on the 28 February 2020, without reasons, the Respondent issued another letter on the 02 March 2020 purporting to give reasons for the cancellation, which was not done in the initial cancellation. A copy of the letter aforesaid is annexed marked "PBM10".

41. Whilst finalising these papers, I received letter dated 28 February 2020 written by the Acting CEO to the judges in the Republic of South Africa. That rendered the matter extremely urgent as the suggestions in the said letter are unprecedented and equally borders on a fundamental misunderstanding on the part of the Acting CEO on how the Judiciary functions. The contents of this letter must be read as if herein specifically incorporated as I do not wish to repeat its contents . A copy of the letter aforesaid is annexed marked "PBM11".
42. Essentially, the applicants did not waste time in approaching the Court and therefore have indeed treated the matter as urgent. The second leg of urgency is that the applicants will not be afforded any appropriate redress in due course. The reason for that is that should the interdict not be granted the panel attorneys



would be required to handover all the files which are unfinalized and withdraw as attorneys of record with the consequence that the administration of justice would be plunged into chaos. The applicants attorneys will be forced to retrench their staff which would lead into even more economic depressing situation.

43. The matter is for the above reasons and all other reasons set out in this affidavit urgent and the Court should treat it as such.
44. In respect of Part B, the applicants reserve their right to file a supplementary founding affidavit once the respondent has filed the record in terms of Rule 53 and amplify their grounds of review.
45. A proper case has been made out for the relief sought in the notice of motion to which this affidavit is attached.


DEPONENT

I HEREBY CERTIFY that the deponent has acknowledged that he/she knows and understands the contents of this affidavit, which was signed and sworn before me at Bedfordview on this the 3rd day of **March 2020**, the regulations contained in Government Notice N0. 1648 dated 19 August 1977 (as amended) having been complied with.

KYLE CLAUDE OOSTHUIZEN
Commissioner of Oaths Ex Officio
Practising Attorney R.S.A.
Unit 8 Townsend Office Park
1 Townsend Road, Bedfordview
Tel: +27 11 455-6868



COMMISSIONER OF OATHS

REPUBLIC OF SOUTH AFRICA
SPECIAL POWER OF ATTORNEY

I/We Tasneem Banu Antilay of
Mabunda Incorporated

do hereby appoint the Directors and qualified staff of Mabunda Incorporated situated at 2 Protea Road, Cnr. Riley Road, Bedfordview, Germiston, 2007 with power of substitution to be my/our lawful Attorneys and agents in my/our name to do any or all the following acts:

1. To institute legal proceedings against the Road Accident Fund("RAF") to set aside the directive issued by the RAF on panel attorneys on 18th February 2020 and 26th February 2020 following from RAF/2014/00023 and addendum thereto.
2. To challenge the validity of the RAF's notice of cancellation of bid RAF/2018/00054 sent to bidders on 26th February 2020.
3. To sign all documents necessary in connection with the motion proceedings.
4. To engage the services of Counsel to prepare and conduct the proceedings on our behalf.
5. To do everything lawful in order to realise the above in terms of this power of attorney.

I hereby ratify and agree to ratify all and whatsoever the agent shall lawfully do or cause to be done by virtue of these presents

Signed at PRETORIA on this the 2nd March 2020.

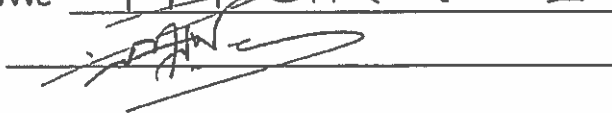
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As Witness

1. [Signature]

2. [Signature]

REPUBLIC OF SOUTH AFRICA
SPECIAL POWER OF ATTORNEY

I/We T.M. CHAUKE INCORPORATED


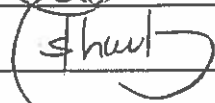
do hereby appoint the Directors and qualified staff of Mabunda Incorporated situated at 2 Protea Road, Cnr. Riley Road, Bedfordview, Germiston, 2007 with power of substitution to be my/our lawful Attorneys and agents in my/our name to do any or all the following acts:

1. To institute legal proceedings against the Road Accident Fund("RAF") to set aside the directive issued by the RAF on panel attorneys on 18th February 2020 and 26th February 2020 following from RAF/2014/00023 and addendum thereto.
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3. To sign all documents necessary in connection with the motion proceedings.
4. To engage the services of Counsel to prepare and conduct the proceedings on our behalf.
5. To do everything lawful in order to realise the above in terms of this power of attorney.

I hereby ratify and agree to ratify all and whatsoever the agent shall lawfully do or cause to be done by virtue of these presents

Signed at PRETORIA on this the 02nd March 2020.

As Witness

1. 
2. 

T.M. CHAUKE INC.
P. O. BOX 4677
PRETORIA 0001
TEL: (012) 326 8711/2


P.B.M

REPUBLIC OF SOUTH AFRICA
SPECIAL POWER OF ATTORNEY

I/We NINGIZA HORNER INCORPORATED

do hereby appoint the Directors and qualified staff of Mabunda Incorporated situated at 2 Protea Road, Cnr. Riley Road, Bedfordview, Germiston, 2007 with power of substitution to be my/our lawful Attorneys and agents in my/our name to do any or all the following acts:

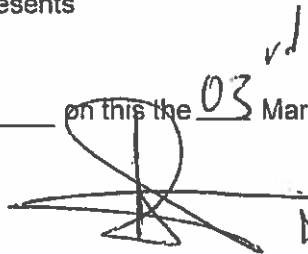
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3. To sign all documents necessary in connection with the motion proceedings.
4. To engage the services of Counsel to prepare and conduct the proceedings on our behalf.
5. To do everything lawful in order to realise the above in terms of this power of attorney.

I hereby ratify and agree to ratify all and whatsoever the agent shall lawfully do or cause to be done by virtue of these presents

Signed at SANDTON on this the 03 March 2020.

As Witness

1. [Signature]
2. _____



DAVID ANDILE HORNER
(DULY AUTHORIZED)

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REPUBLIC OF SOUTH AFRICA
SPECIAL POWER OF ATTORNEY

I/We TASNEEM MOOSA INC, duly represented by
TASNEEM MOOSA

do hereby appoint the Directors and qualified staff of Mabunda Incorporated situated at 2 Protea Road, Cnr. Riley Road, Bedfordview, Germiston, 2007 with power of substitution to be my/our lawful Attorneys and agents in my/our name to do any or all the following acts:

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5. To do everything lawful in order to realise the above in terms of this power of attorney.

I hereby ratify and agree to ratify all and whatsoever the agent shall lawfully do or cause to be done by virtue of these presents

Signed at Houghton. on this the 2nd March 2020.

As Witness

1. [Signature]
2. [Signature]

[Signature]

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P.B.M

REPUBLIC OF SOUTH AFRICA
SPECIAL POWER OF ATTORNEY

I/We MKHONTO & NGWENYA INCORPORATED ATTORNEYS

do hereby appoint the Directors and qualified staff of Mabunda Incorporated situated at 2 Protea Road, Cnr. Riley Road, Bedfordview, Germiston, 2007 with power of substitution to be my/our lawful Attorneys and agents in my/our name to do any or all the following acts:

1. To institute legal proceedings against the Road Accident Fund ("RAF") to set aside the directive issued by the RAF on panel attorneys on 18th February 2020 and 26 February 2020 following from RAF/2014/00023 and addendum thereto.
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4. To engage the services of Counsel to prepare and conduct the proceedings on our behalf.
5. To do everything lawful in order to realise the above in terms of this power of attorney.

I hereby ratify and agree to ratify all and whatsoever the agent shall lawfully do or cause to be done by virtue of these presents.

Signed at CENTURION on this the 2nd March 2020.

As Witness

1.

2.

TSM MKHONTO

Director o.b.o. Mkhonto &
Ngwenya Incorporated

REPUBLIC OF SOUTH AFRICA
SPECIAL POWER OF ATTORNEY

I/We Maduba Attorneys Incorporated
2015/307260/21

do hereby appoint the Directors and qualified staff of Mabunda Incorporated situated at 2 Protea Road, Cnr. Riley Road, Bedfordview, Germiston, 2007 with power of substitution to be my/our lawful Attorneys and agents in my/our name to do any or all the following acts:

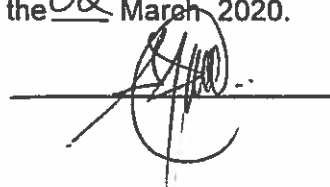
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3. To sign all documents necessary in connection with the motion proceedings.
4. To engage the services of Counsel to prepare and conduct the proceedings on our behalf.
5. To do everything lawful in order to realise the above in terms of this power of attorney.

I hereby ratify and agree to ratify all and whatsoever the agent shall lawfully do or cause to be done by virtue of these presents

Signed at Bloemfontein on this the 02 March 2020.

As Witness

1. Potgieter
2. Makala



REPUBLIC OF SOUTH AFRICA
SPECIAL POWER OF ATTORNEY

I/We Tembe Kheswa Nxumalo Incorporated
t/a TKN Incorporated

do hereby appoint the Directors and qualified staff of Mabunda Incorporated situated at 2 Protea Road, Cnr. Riley Road, Bedfordview, Germiston, 2007 with power of substitution to be my/our lawful Attorneys and agents in my/our name to do any or all the following acts:

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3. To sign all documents necessary in connection with the motion proceedings.
4. To engage the services of Counsel to prepare and conduct the proceedings on our behalf.
5. To do everything lawful in order to realise the above in terms of this power of attorney.

I hereby ratify and agree to ratify all and whatsoever the agent shall lawfully do or cause to be done by virtue of these presents

Signed at Durban on this the 02 March 2020.

As Witness

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N S Khanyile - Managing Director


P.B.M

REPUBLIC OF SOUTH AFRICA
SPECIAL POWER OF ATTORNEY

I/We DEV MAHARAJ + ASSOCIATES INC

do hereby appoint the Directors and qualified staff of Mabunda Incorporated situated at 2 Protea Road, Cnr. Riley Road, Bedfordview, Germiston, 2007 with power of substitution to be my/our lawful Attorneys and agents in my/our name to do any or all the following acts:

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4. To engage the services of Counsel to prepare and conduct the proceedings on our behalf.
5. To do everything lawful in order to realise the above in terms of this power of attorney.

I hereby ratify and agree to ratify all and whatsoever the agent shall lawfully do or cause to be done by virtue of these presents

Signed at Bryanston on this the 1 March 2020.

As Witness

1. [Signature]
2. [Signature]

[Signature]
DIRECTOR

Ko
P.B.M

REPUBLIC OF SOUTH AFRICA
SPECIAL POWER OF ATTORNEY

I/We SARAS SAGATHAVAN ATTORNEYS INC
[Signature]

do hereby appoint the Directors and qualified staff of Mabunda Incorporated situated at 2 Protea Road, Cnr. Riley Road, Bedfordview, Germiston, 2007 with power of substitution to be my/our lawful Attorneys and agents in my/our name to do any or all the following acts:

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5. To do everything lawful in order to realise the above in terms of this power of attorney.

I hereby ratify and agree to ratify all and whatsoever the agent shall lawfully do or cause to be done by virtue of these presents

Signed at GENONI on this the 2nd March 2020.

As Witness

1. [Signature]
2. [Signature]

[Signature]
DIRECTOR.

REPUBLIC OF SOUTH AFRICA
SPECIAL POWER OF ATTORNEY

I/We SHEREEN MEERSINGH OBO
SHEREEN MEERSINGH & ASSOCIATES

do hereby appoint the Directors and qualified staff of Mabunda Incorporated situated at 2 Protea Road, Cnr. Riley Road, Bedfordview, Germiston, 2007 with power of substitution to be my/our lawful Attorneys and agents in my/our name to do any or all the following acts:

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4. To engage the services of Counsel to prepare and conduct the proceedings on our behalf.
5. To do everything lawful in order to realise the above in terms of this power of attorney.

I hereby ratify and agree to ratify all and whatsoever the agent shall lawfully do or cause to be done by virtue of these presents

Signed at JOHANNESBURG on this the 2 March 2020.

As Witness

1. [Signature]
2. [Signature]

[Signature]
S. D. MEERSINGH

KO
D.R.M

REPUBLIC OF SOUTH AFRICA
SPECIAL POWER OF ATTORNEY

I/We ANDREW CONROY

do hereby appoint the Directors and qualified staff of Mabunda Incorporated situated at 2 Protea Road, Cnr. Riley Road, Bedfordview, Germiston, 2007 with power of substitution to be my/our lawful Attorneys and agents in my/our name to do any or all the following acts:

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5. To do everything lawful in order to realise the above in terms of this power of attorney.

I hereby ratify and agree to ratify all and whatsoever the agent shall lawfully do or cause to be done by virtue of these presents

Signed at EMF London on this the 2nd March 2020.

As Witness

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p.Bm

REPUBLIC OF SOUTH AFRICA
SPECIAL POWER OF ATTORNEY

We BRIAN RAMABEA INCORPORATED

do hereby appoint the Directors and qualified staff of Mabunda Incorporated situated at 2 Protea Road, Cnr. Riley Road, Bedfordview, Germiston, 2007 with power of substitution to be my/our lawful Attorneys and agents in my/our name to do any or all the following acts:

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4. To engage the services of Counsel to prepare and conduct the proceedings on our behalf.
5. To do everything lawful in order to realise the above in terms of this power of attorney.

I hereby ratify and agree to ratify all and whatsoever the agent shall lawfully do or cause to be done by virtue of these presents

Signed at 1417 FICUS on this the 2ND March 2020.

As Witness

1. [Signature]
2. [Signature]

J. Rambea
BRIAN RAMABEA (DIRECTOR)

Ko
P.B.M

REPUBLIC OF SOUTH AFRICA
SPECIAL POWER OF ATTORNEY

I/we KUSHENDREN PILLAY
OF GOVINDASAMY, NDZINGI & GOVENDER INC.

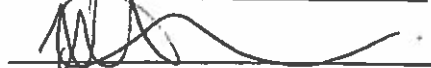
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5. To do everything lawful in order to realise the above in terms of this power of attorney.

I hereby ratify and agree to ratify all and whatsoever the agent shall lawfully do or cause to be done by virtue of these presents

Signed at PIETERMARITZBURG on this the 29 February 2020.

As Witness

1. 
2. 



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REPUBLIC OF SOUTH AFRICA
SPECIAL POWER OF ATTORNEY

I/We JOHANNES HAMMANU on behalf of
HAMMANU-MOOSA INCORPORATED

do hereby appoint the Directors and qualified staff of Mabunda Incorporated situated at 2 Protea Road, Cnr. Riley Road, Bedfordview, Germiston, 2007 with power of substitution to be my/our lawful Attorneys and agents in my/our name to do any or all the following acts:

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5. To do everything lawful in order to realise the above in terms of this power of attorney.

I hereby ratify and agree to ratify all and whatsoever the agent shall lawfully do or cause to be done by virtue of these presents

Signed at Louis Trichardt on this the 2 March 2020.

As Witness

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Ko 1
P.B.M

REPUBLIC OF SOUTH AFRICA
SPECIAL POWER OF ATTORNEY

I/we MR GODFREY LUFUNO MATHOBO, I.D. NO: 720626 5381 083, a duly authorised Director of Mathobo Rambau & Sigogo Inc. Thohoyandou in Limpopo.

do hereby appoint the Directors and qualified staff of Mabunda Incorporated situated at 2 Protea Road, Cnr. Road, Bedfordview, Germiston, 2007 with power of Substitution to be my/our lawful Attorney and Agents in my/our name to do any or all the following acts:-

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5. To do everything lawful in order to realise the above in terms of this power Attorney.

I hereby ratify and agree to ratify all and whatsoever the Agent shall lawfully do or cause to be done by virtue of these presents.

Signed at THOHOYANDOU on this the 2nd day of March 2020

As Witness

1. _____

2. Mamunahac C.


DEPONENT

Ko
P.B.m

REPUBLIC OF SOUTH AFRICA
SPECIAL POWER OF ATTORNEY

I/We T B. Lang, Director of MNL
Inc. Attorneys

do hereby appoint the Directors and qualified staff of Mabunda Incorporated situated at 2 Protea Road, Cnr. Riley Road, Bedfordview, Germiston, 2007 with power of substitution to be my/our lawful Attorneys and agents in my/our name to do any or all the following acts:

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I hereby ratify and agree to ratify all and whatsoever the agent shall lawfully do or cause to be done by virtue of these presents

Signed at Sandton on this the 2nd March 2020.

As Witness

1. [Signature]

2. [Signature]

REPUBLIC OF SOUTH AFRICA
SPECIAL POWER OF ATTORNEY

I/We Sibusiso C. MDHLULI of S.C MDHLULI
ATTORNEYS INC

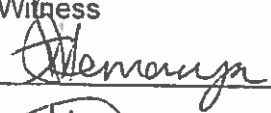
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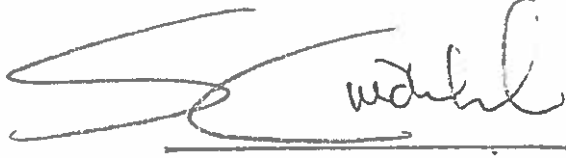
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I hereby ratify and agree to ratify all and whatsoever the agent shall lawfully do or cause to be done by virtue of these presents

Signed at POLOKWANE on this the 2nd March 2020.

As Witness

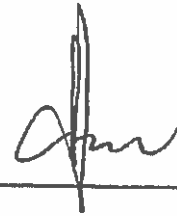
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S.C. MDHLULI

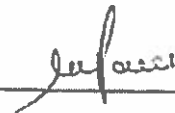
RESOLUTION
HAJRA PATEL INCORPORATED
REGISTRATION NUMBER: 2007/014379/21

DATED AT DURBAN ON THIS THE 02ND DAY OF MARCH 2020

THAT HAJRA ESSOP PATEL in her capacity as a Director of the Company is hereby authorised to sign the **SPECIAL POWER OF ATTORNEY**, on behalf of the Incorporation, for the **COURT APPLICATION AGAINST THE ROAD ACCIDENT FUND**.



HAJRA ESSOP PATEL
DIRECTOR / SHAREHOLDER



MEERA J PATEL
DIRECTOR / SHAREHOLDER



ARSEYAH KADWA
DIRECTOR / SHAREHOLDER

REPUBLIC OF SOUTH AFRICA
SPECIAL POWER OF ATTORNEY

I/We HASRA PATEL INCORPORATED T/A HP ATTORNEYS
REPRESENTED HEREIN BY HASRA ESSOP PATEL BY RESOLUTION
DATED 02nd MARCH 2020

do hereby appoint the Directors and qualified staff of Mabunda Incorporated situated at 2 Protea Road, Cnr. Riley Road, Bedfordview, Germiston, 2007 with power of substitution to be my/our lawful Attorneys and agents in my/our name to do any or all the following acts:

1. To institute legal proceedings against the Road Accident Fund("RAF") to set aside the directive issued by the RAF on panel attorneys on 18th February 2020 and 26th February 2020 following from RAF/2014/00023 and addendum thereto.
2. To challenge the validity of the RAF's notice of cancellation of bid RAF/2018/00054 sent to bidders on 26th February 2020.
3. To sign all documents necessary in connection with the motion proceedings.
4. To engage the services of Counsel to prepare and conduct the proceedings on our behalf.
5. To do everything lawful in order to realise the above in terms of this power of attorney.

I hereby ratify and agree to ratify all and whatsoever the agent shall lawfully do or cause to be done by virtue of these presents

Signed at DURBAN on this the 02nd March 2020.

As Witness

1. 
2. 


HE PATEL

REPUBLIC OF SOUTH AFRICA
SPECIAL POWER OF ATTORNEY

I/We Zimkitha NGOGODO of
ZTZ NGOGODO INC

do hereby appoint the Directors and qualified staff of Mabunda Incorporated situated at 2 Protea Road, Cnr. Riley Road, Bedfordview, Germiston, 2007 with power of substitution to be my/our lawful Attorneys and agents in my/our name to do any or all the following acts:

1. To institute legal proceedings against the Road Accident Fund("RAF") to set aside the directive issued by the RAF on panel attorneys on 18th February 2020 and 26th February 2020 following from RAF/2014/00023 and addendum thereto.
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3. To sign all documents necessary in connection with the motion proceedings.
4. To engage the services of Counsel to prepare and conduct the proceedings on our behalf.
5. To do everything lawful in order to realise the above in terms of this power of attorney.

I hereby ratify and agree to ratify all and whatsoever the agent shall lawfully do or cause to be done by virtue of these presents

Signed at Midrand on this the 2nd March 2020.

As Witness

1. Zimkitha NGOGODO
2. T. D. D. D.

KO
P.B.M

REPUBLIC OF SOUTH AFRICA
SPECIAL POWER OF ATTORNEY

I/We TWALA ATTORNEYS

do hereby appoint the Directors and qualified staff of Mabunda Incorporated situated at 2 Protea Road, Cnr. Riley Road, Bedfordview, Germiston, 2007 with power of substitution to be my/our lawful Attorneys and agents in my/our name to do any or all the following acts:

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5. To do everything lawful in order to realise the above in terms of this power of attorney.

I hereby ratify and agree to ratify all and whatsoever the agent shall lawfully do or cause to be done by virtue of these presents

Signed at JOHANNESBURG on this the 02nd March 2020.

As Witness

- 1.
- 2.

Ko
P.B.M

48

☎ +27 33 394 1807
 ☎ +27 33 394 1847
 ☎ +27 33 394 1840
 ☎ +27 33 342 5895

bd
 P.O.BOX 8157
 Cumberwood,
 3235

Sangham Incorporated

ATTORNEYS, NOTARIES & CONVEYANCERS

Our Ref : NIS/ZK.

Your Ref : _____

(GEN) +27 33 342 6431
 DOCEX 58 Pietermaritzburg

Email : sangham@law.co.za
 Web : www.sangham-inc.co.za

188 Relief Street
 Pietermaritzburg
 KwaZulu Natal, 3201

27 FEBRUARY 2020

MESSRS MABUNDA INC.
 PER EMAIL : director@mabundainc.com

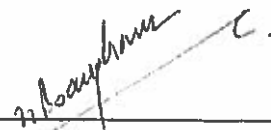
Dear Sirs

Re : LETTER OF COMMITMENT

1. This letter serves to confirm our commitment to the anticipated litigation process that is going to be undertaken by your firm.
2. We commit ourselves to support you financially and in any other manner that may be required.

Yours faithfully

Sangham Incorporated



N.I. SANGHAM

REPUBLIC OF SOUTH AFRICA
SPECIAL POWER OF ATTORNEY

I/we RACHOENE ATTORNEYS INC. REPRESENTED
By RACHOENE LUKELA SIDWELL AS A DIRECTOR

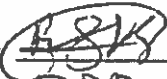
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4. To engage the services of Counsel to prepare and conduct the proceedings on our behalf.
5. To do everything lawful in order to realise the above in terms of this power of attorney.

I hereby ratify and agree to ratify all and whatsoever the agent shall lawfully do or cause to be done by virtue of these presents

Signed at POLOKWANE on this the 02 March 2020.

As Witness

1. 
2. 

REPUBLIC OF SOUTH AFRICA
SPECIAL POWER OF ATTORNEY

I/We Zubeda Seedat

do hereby appoint the Directors and qualified staff of Mabunda Incorporated situated at 2 Protea Road, Cnr. Riley Road, Bedfordview, Germiston, 2007 with power of substitution to be my/our lawful Attorneys and agents in my/our name to do any or all the following acts:

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5. To do everything lawful in order to realise the above in terms of this power of attorney.

I hereby ratify and agree to ratify all and whatsoever the agent shall lawfully do or cause to be done by virtue of these presents

Signed at Durban on this the 2nd March February 2020.

As Witness

1. VP
2. Sherry

Zubeda

KO
p.B m

REPUBLIC OF SOUTH AFRICA
SPECIAL POWER OF ATTORNEY

I/We Dwenzile Hlebelu Attorneys

do hereby appoint the Directors and qualified staff of Mabunda Incorporated situated at 2 Protea Road, Cnr. Riley Road, Bedfordview, Germiston, 2007 with power of substitution to be my/our lawful Attorneys and agents in my/our name to do any or all the following acts:

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3. To sign all documents necessary in connection with the motion proceedings.
4. To engage the services of Counsel to prepare and conduct the proceedings on our behalf.
5. To do everything lawful in order to realise the above in terms of this power of attorney.

I hereby ratify and agree to ratify all and whatsoever the agent shall lawfully do or cause to be done by virtue of these presents

Signed at Johannesburg on this the 02 ^{March 10} ~~February 2020~~.

As Witness

1. [Signature]
2. [Signature]

KO
P.B.M

REPUBLIC OF SOUTH AFRICA
SPECIAL POWER OF ATTORNEY

I/We Kgotatsi Kamogelo Moche of
Moche Attorneys Incorporated

do hereby appoint the Directors and qualified staff of Mabunda Incorporated situated at 2 Protea Road, Cnr. Riley Road, Bedfordview, Germiston, 2007 with power of substitution to be my/our lawful Attorneys and agents in my/our name to do any or all the following acts:

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5. To do everything lawful in order to realise the above in terms of this power of attorney.

I hereby ratify and agree to ratify all and whatsoever the agent shall lawfully do or cause to be done by virtue of these presents

Signed at PRETORIA on this the 02nd March 2020.

As Witness

1. 
2. _____



KO
P.B.M

REPUBLIC OF SOUTH AFRICA
SPECIAL POWER OF ATTORNEY

I/we ELON RHULANI MARIVATE (DIRECTOR OF
MARIVATE ATTORNEYS INCORPORATED

do hereby appoint the Directors and qualified staff of Mabunda Incorporated situated at 2 Protea Road, Cnr. Riley Road, Bedfordview, Germiston, 2007 with power of substitution to be my/our lawful Attorneys and agents in my/our name to do any or all the following acts:

1. To institute legal proceedings against the Road Accident Fund("RAF") to set aside the directive issued by the RAF on panel attorneys on 18th February 2020 and 26th February 2020 following from RAF/2014/00023 and addendum thereto.
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5. To do everything lawful in order to realise the above in terms of this power of attorney.

I hereby ratify and agree to ratify all and whatsoever the agent shall lawfully do or cause to be done by virtue of these presents

Signed at PRETORIA on this the 02 ^{MARCH} February 2020.

As Witness

1. 
2. 

KO
p.B'm

REPUBLIC OF SOUTH AFRICA
SPECIAL POWER OF ATTORNEY

I/We Mabunda Ngqolweni duly representing
Mabunda Ngqolweni Inc.

do hereby appoint the Directors and qualified staff of Mabunda Incorporated situated at 2 Protea Road, Cnr. Riley Road, Bedfordview, Germiston, 2007 with power of substitution to be my/our lawful Attorneys and agents in my/our name to do any or all the following acts:

1. To institute legal proceedings against the Road Accident Fund("RAF") to set aside the directive issued by the RAF on panel attorneys on 18th February 2020 and 26th February 2020 following from RAF/2014/00023 and addendum thereto.
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3. To sign all documents necessary in connection with the motion proceedings.
4. To engage the services of Counsel to prepare and conduct the proceedings on our behalf.
5. To do everything lawful in order to realise the above in terms of this power of attorney.

I hereby ratify and agree to ratify all and whatsoever the agent shall lawfully do or cause to be done by virtue of these presents

Signed at Mthatha on this the 2 March 2020.

As Witness

1. [Signature]
2. [Signature]



REPUBLIC OF SOUTH AFRICA
SPECIAL POWER OF ATTORNEY

I/We LEKHY PILSON ATTORNEYS INC

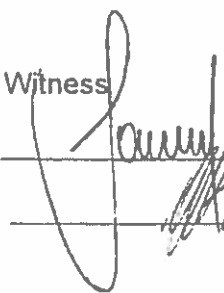
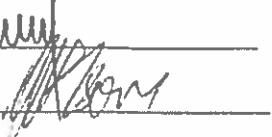
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5. To do everything lawful in order to realise the above in terms of this power of attorney.

I hereby ratify and agree to ratify all and whatsoever the agent shall lawfully do or cause to be done by virtue of these presents

Signed at PRETORIA on this the 02 March 2020.

As Witness

1. 
2. 

KO
P.B.M

56



A.K. Essack, Morgan Naidoo & Co. EST. 1963

ATTORNEYS, NOTARIES AND CONVEYANCERS

311 Pietermaritz Street
P.O. Box 1058
Pietermaritzburg 3200
Docex 24
TAX NO. 7080709308

OUR REF : PN/MN
YOUR REF :

Tel: 033 345 2304/5
033 345 2378
033 342 3586 (Conveyancing)
Fax: 033 342 9247
033 345 8293
Email: boshi@akemn.co.za
kavish@akemn.co.za

27th FEBRUARY 2020

MABUNDA INCORPORATED

PER EMAIL: director@mabundainc.com

Dear Sir,

RE: LETTER OF COMMITMENT

We confirm that AK Essack, Morgan Naidoo and Company Attorneys supports and agrees to Mabunda Incorporated acting on behalf of the Road Accident Fund panel of attorneys, of which it is part, and to the proposed consultation with senior counsel on the 27th February 2020.

We await to hear the outcome.

**YOURS FAITHFULLY
A.K ESSACK, MORGAN NAIDOO AND COMPANY**

PER
MR MN NAIDOO

KC
p.B.m

REPUBLIC OF SOUTH AFRICA
SPECIAL POWER OF ATTORNEY

I/we KOTISTU BERNARD MOLABA
(MOLABA ATTORNEYS INC formerly TSEBANE
MOLABA INC)

do hereby appoint the Directors and qualified staff of Mabunda Incorporated situated at 2 Protea Road, Cnr. Riley Road, Bedfordview, Germiston, 2007 with power of substitution to be my/our lawful Attorneys and agents in my/our name to do any or all the following acts:

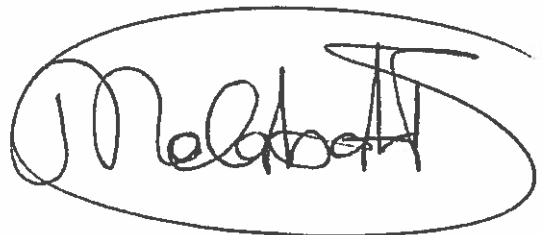
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4. To engage the services of Counsel to prepare and conduct the proceedings on our behalf.
5. To do everything lawful in order to realise the above in terms of this power of attorney.

I hereby ratify and agree to ratify all and whatsoever the agent shall lawfully do or cause to be done by virtue of these presents

Signed at PRETORIA on this the 29th February 2020.

As Witness

1. _____
2. _____



KO
P.B.M

Pritzman Busani Mabunda

From: Yoshie Naidu <yoshie@nminc.co.za>
Sent: Thursday, 27 February 2020 12:08
To: Pritzman Busani Mabunda
Subject: FW: RAF

Importance: High

Dear Sir

We confirm that our firm NAIDOO MAHARAJ INC (KZN PANEL)is committed to the litigation process .

Yours faithfully

Yoshetha Karim (Naidu)

Direct email: yoshie@nminc.co.za

Naidoo Maharaj Inc.

ATTORNEYS

141 PROBLEM MKHIZE ROAD, MORNINGSID, DURBAN, 4001 **

P.O. BOX 270, DURBAN, 4000**DX 9 , MORNINGSID

TEL : 031- 209 8491. / FAX : 031- 209 8525

E MAIL : nminc@nminc.co.za and

(ATTORNEYS)

DIRECTORS : SURENDRA NAIDOO , YOSHETHA KARIM AND FEROZ KHAN

CONSULTANT: J P MAHARAJ

COMPANY REGISTRATION No, 99/07082/21

This email and any accompanying documentation may contain confidential or legally privileged information intended for a specific individual or entity and purpose. If you received the email in error, you may not disclose or use the contents. Please notify the sender of the error immediately. Naidoo Maharaj Incorporated cannot assure the integrity of this email or that it is free of any error, virus, interception or interference. Naidoo Maharaj Incorporated shall not be liable for any damages whatsoever arising from this email or use thereof, nor will Naidoo Maharaj Incorporated be liable for the proper and complete transmission of the information contained in this email. The use or contents of this email is intended for Naidoo Maharaj Incorporated official business. If it is used for any other purpose, the views, opinions or recommendations expressed are those exclusively of the author. Only personnel that are duly authorised by Naidoo Maharaj Incorporated are entitled to bind Naidoo Maharaj Incorporated contractually. The provisions of section 13 of the Electronic Communications and Transactions Act of 2002 are specifically excluded, unless this data message is signed using an advanced electronic signature. Please be advised that our banking details appear on our statements of account. Under no circumstances will those details change, alter, or be amended. Payment effected into an account other than that reflected on our statements of account, will not constitute payment. Please be advised accordingly"

REPUBLIC OF SOUTH AFRICA
SPECIAL POWER OF ATTORNEY

I Nisean Gobind, Director of the Firm Harkoo Brijlal & Reddy Inc. (HBR Inc.) and lead attorney of the RAF Department, duly authorized by the remaining Directors of the Firm HBR Inc. do hereby appoint the Directors and qualified staff of Mabunda Incorporated situated at 2 Protea Road, Cnr. Riley Road, Bedfordview, Germiston, 2007 with power of substitution to be my/our lawful Attorneys and agents in my/our name to do any or all the following acts:

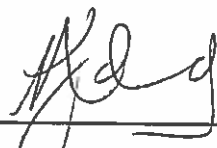
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4. To engage the services of Counsel to prepare and conduct the proceedings on our behalf.
5. To do everything lawful in order to realise the above in terms of this power of attorney.

I hereby ratify and agree to ratify all and whatsoever the agent shall lawfully do or cause to be done by virtue of these presents

Signed at DURBAN on this the 2 March 2020.

As Witness

1. 
2. 



NISEAN GOBIND
DIRECTOR OF HARKOO, BRIJLAL & REDDY INC.
LEAD ATTORNEY


pp.B.M

60

REPUBLIC OF SOUTH AFRICA
SPECIAL POWER OF ATTORNEY

I/We MORARE THOBEJANE INC ATTORNEYS

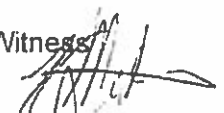
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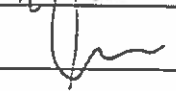
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I hereby ratify and agree to ratify all and whatsoever the agent shall lawfully do or cause to be done by virtue of these presents

Signed at PRETORIA on this the 02 March 2020.

As Witnesses

1. 

2. 



HO
p.B.m

REPUBLIC OF SOUTH AFRICA
SPECIAL POWER OF ATTORNEY

I/We NOMAMMELO HADEBE INC.

do hereby appoint the Directors and qualified staff of Mabunda Incorporated situated at 2 Protea Road, Cnr. Riley Road, Bedfordview, Germiston, 2007 with power of substitution to be my/our lawful Attorneys and agents in my/our name to do any or all the following acts:

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I hereby ratify and agree to ratify all and whatsoever the agent shall lawfully do or cause to be done by virtue of these presents

Signed at DURBAN on this the 18th March 2020.

As Witness

1. [Signature]
2. [Signature]

[Signature]
NOMAMMELO HADEBE INC

[Signature]
P.B.M

REPUBLIC OF SOUTH AFRICA
SPECIAL POWER OF ATTORNEY

I/We Sakhile Vusi Mboweni of Mboweni
and Partners Incorporated

do hereby appoint the Directors and qualified staff of Mabunda Incorporated situated at 2 Protea Road, Cnr. Riley Road, Bedfordview, Germiston, 2007 with power of substitution to be my/our lawful Attorneys and agents in my/our name to do any or all the following acts:

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I hereby ratify and agree to ratify all and whatsoever the agent shall lawfully do or cause to be done by virtue of these presents

Signed at Mbombela on this the 02 March 2020.

As Witness

1. Rmbamba
2. [Signature]

u

KO
P.B.M



SERVICE LEVEL AGREEMENT

Entered into between:

ROAD ACCIDENT FUND (*"THE FUND"*)

and

MABUNDA INCORPORATED (*"THE FIRM"*)

KO
P.B.M

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ANNEXURE A

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SERVICE LEVEL AGREEMENT

Schedule

This **Service Level Agreement** records the Agreement between the Road Accident Fund and its **Panel Attorney**, which is recorded in this Schedule and Annexure A to F hereto. The standard South African Government Procurement General Conditions of Contract ("GCC") are incorporated into this **Service Level Agreement** by reference only.

1. THE PARTIES

1.1. The **Parties** hereto are:

The **Road Accident Fund** ("the **Fund**")

(a statutory entity established in terms of section 2(1) of the **Road Accident Fund** Act, Act No. 56 of 1996, with its principal place of business at 38 Ida Street, Menlo Park, Pretoria, herein represented by Dr Ntuthuko Bhengu in his capacity as Chairperson of the Board, duly authorised in terms of the **Road Accident Fund** Delegation of Authority and Approval Framework.)

Physical address: 420 Witch – Hazel Avenue, Eco Glades 2 Office Park, Centurion

Contact person: Devine Maluleke – Contracts Manager

Tel: 012 429 5215

Email: devinem@raf.co.za

and

Mabunda Incorporated ("the **Firm**")

(represented by, duly authorised thereto, and in his capacity as)

Physical address: 2 Protea Road, Corner Reily, Bedfordview.

Contact person: Refiloe Mathopo

Tel: (011) 450 2284

Fax: (011) 450 1566

Email: busani@mabundainc.co.za

2. INTERPRETATION AND DEFINITIONS

- 2.1. The headings to the clauses are for the purpose of convenience and reference only and shall not be used in the interpretation of or to modify the terms of this **Service Level Agreement**, nor any clause thereof.
- 2.2. Words importing:
- 2.2.1. the singular include the plural and visa versa;
 - 2.2.2. natural persons include legal persons and visa versa; and
 - 2.2.3. any one gender includes the other gender.
- 2.3. This **Service Level Agreement** shall be governed by and construed and interpreted in accordance with the laws of the Republic of South Africa.
- 2.4. The rule of construction that the **Service Level Agreement** shall be interpreted against the party responsible for the drafting or preparation of the **Service Level Agreement** shall not apply to this **Service Level Agreement**.
- 2.5. Where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.
- 2.6. Terms other than those defined within the **Service Level Agreement** will be given their plain English meaning and those terms, acronyms, abbreviations and phrases known in the relevant profession to which this **Service Level Agreement** applies shall be interpreted in accordance with their generally known meanings in such profession.
- 2.7. Any reference to any organisation, institution, office, body, department, organ or person vested with certain powers and authority shall include a reference to its successor/s in title.
- 2.8. The **Parties** shall initial the annexures for the purposes of identification and the same shall form part of this **Service Level Agreement** as if specifically included herein.
- 2.9. The expiration or **Termination** of this **Service Level Agreement** shall not affect those provisions of this **Service Level Agreement** which expressly provide that they will operate after any such expiration or **Termination** or which of necessity must continue to have effect

after such expiration or **Termination**, notwithstanding the fact that the clauses themselves do not expressly provide for this.

- 2.10. The following words bear the meaning set out below and cognate expressions bear a like meaning:
- 2.10.1. **Act** means the **Road Accident Fund Act**, 1996 (Act No. 56 of 1996), as amended by the **Road Accident Fund Amendment Act**, 2005 (Act No. 19 of 2005) and includes amendments to the **Act** and any successor/s in title to such statute.
- 2.10.2. **Contracts Manager** means the employee of the **Fund** holding the position of **Contracts Manager** of the **Fund**, or his successor in title.
- 2.10.3. **Day(s)** shall mean calendar day(s), unless specifically stated to the contrary.
- 2.10.4. **Effective Date** means date of signature of this **Service Level Agreement** by the authorized representative of the Party signing last in time.
- 2.10.5. **Firm** means Mabunda Inc., located at 2 Protea Road, Corner Reily, Bedfordview.
- 2.10.6. **Fund** means the **Road Accident Fund**, a public entity established in terms of section 2 (1) of the **Road Accident Fund Act**, 1996 (Act No. 56 of 1996), as well as its successor in title or any other juristic person to whom the **Fund's** rights and obligations may be assigned and devolve upon.
- 2.10.7. **Head Office** means Eco Glades 2, 420 Witch-Hazel Avenue, Centurion, Pretoria, or any other address designated by the **Fund** from time to time.
- 2.10.8. **Lead Attorney** means the attorney at the **Firm** primarily responsible for the provision of Services to the **Fund** and is responsible for the overall conduct of the **Firm** in dealing with and supervising the work in respect of RAF matters to the **Signature** of this **Service Level Agreement**.
- 2.10.9. **Panel of Attorneys** means the firms of attorneys appointed regionally to provide the **Services** to the **Fund**. To avoid doubt, the **Firm** acknowledges that the **Fund** may have more than one **Panel of Attorneys** at one time, and that this appointment is specific to the **Panel of Attorneys** as specified in clause 3 below.
- 2.10.10. **Panel Attorney** means a firm duly appointed to the **Panel of Attorneys** of the **Fund**.
- 2.10.11. **Professional Person** means a person employed by the **Panel Attorney**, and holding the position of Director, Partner, or Professional Assistant, or other like position, and who is admitted to practice as an attorney.
- 2.10.12. **Regional General Manager** means an employee of the **Fund** holding the position of **Regional General Manager** at the **Fund**, or his successor in title.

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- 2.10.13. **Regional Office** means the Cape Town, Durban, Johannesburg, Pretoria, Centurion, East London offices of the **Fund**, or such other offices as determined by the **Fund** from time to time.
- 2.10.14. **Service Level Agreement** means the **Service Level Agreement** set out in this document, together with all annexures hereto, as well as any directives issued by the **Fund** from time to time.
- 2.10.15. **Services** means primarily but not exclusively:
- 2.10.15.1. The defending and institution of actions arising out of the provisions of the Act;
 - 2.10.15.2. The provision of advice on costs and/or opposing taxations of bills, as and when required, presented as a result of claims instituted in terms of the Act;
 - 2.10.15.3. The provision of general legal advice and opinions when requested to do so relating to areas of the Law other than compulsory motor vehicle insurance, and opposing or instituting legal proceedings.
- 2.10.16. **Signed / Signature** means a hand-written **Signature**, excluding any **Signature** appended by electronic communication.
- 2.10.17. **Suspension** means the temporary withholding of new instructions to the **Panel Attorney** as detailed in clause 10 below.
- 2.10.18. **Termination** shall have the meaning as described in clause 11 of this **Service Level Agreement**.

3. RECORDAL

- 3.1. The **Fund** hereby appoints the **Firm** to its **Panel of Attorneys** in Gauteng Province, Johannesburg, for High Court to perform the **Services** subject to the terms and conditions of this **Service Level Agreement** and in accordance with all annexures and directives that may be issued by the **Fund** from time to time.
- 3.2. The **Firm** accepts that they shall not charge the perusal fees for all matters handed over to the **Firm** during the hand over process.

- 3.3. The **Firm** accepts that the **Fund** may, at any stage, distribute or redistribute instructions in any manner that will ensure equitable file allocation to the Firms appointed to its **Panel of Attorneys**.
- 3.4. The **Firm** hereby accepts the appointment and undertakes to perform all **Services** subject to the terms and conditions of this **Service Level Agreement** and in accordance with all annexures and directives that may be issued by the **Fund** from time to time.
- 3.5. In the event of the **Firm** having more than one office, only the office located at the address reflected in this **Service Level Agreement** is appointed to the **Fund's Panel of Attorneys**.
- 3.6. This **Service Level Agreement** serves to record the **Service Level Agreement** between the **Parties** and to regulate all aspects of the **Services** to be supplied by the **Firm** and the general business relationship between the **Parties**.
- 3.7. The Scope of Work or Specifications of the **Services** to be supplied to the **Fund** are those contained in the **Fund's** Request for Bid Ref: RAF/2014/00023, and any additions or amendments thereto furnished to the **Firm** during procurement process. It is recorded that the **Firm** accepted these provisions and on the basis thereof submitted its Bid and any supplementary information thereto.
- 3.8. Such Scope of Work or Specifications are incorporated into the provisions of this **Service Level Agreement** as if specifically mentioned and are binding and enforceable on the **Parties**.
- 3.9. In the event of any of the provisions of the **Fund's** Request for Bid and any additions or amendments thereto furnished to the **Firm** during the procurement process ("the Tender Documents"), including the Scope of Work or Specifications mentioned in clause 3.7 above, being in conflict with the provisions of this **Service Level Agreement**, the provisions of this **Service Level Agreement** (including the Annexures to this **Service Level Agreement**) shall prevail.
- 3.10. It is recorded that the further Annexures to this **Service Level Agreement** are as follows:
- 3.10.1. ANNEXURE A: RAF Special Conditions of Contract ("SCC")
- 3.10.2. ANNEXURE B: Scope of Work

- 3.10.3. ANNEXURE C: Fees Schedule
- 3.10.4. ANNEXURE D: Advocate's Fees
- 3.10.5. ANNEXURE E: Schedule of Penalties
- 3.10.6. ANNEXURE F: Notification of Court Orders

4. GOVERNING PRINCIPLES

The relationship between the *Parties* shall at all times be governed by, and in the spirit of the following guiding principles:

4.1. Good faith

The *Parties* shall at all times deal with each other in a manner which is fair and honest, and not act in any way to the detriment of the other party, where such detriment could reasonably have been avoided by the exercise of reasonable care.

4.2. Mutual trust

A party shall not conduct itself in its dealings with the other and third *Parties* in a manner that will destroy or seriously damage the relationship of trust and confidence between the *Parties* and thereby detrimentally prejudice the interests of the other party.

The *Firm* shall through its best endeavours and in all its dealings, protect the reputation, image and interests of the *Fund*.

4.3. Ethical dealings

The *Firm* shall at all times act in accordance with the professional and ethical rules of the legal professions and shall adhere to ethical standards required of it by virtue of the professional nature of its business.

The *Parties* shall:

- a) timeously recognise and deal with potential conflicts of interest;
- b) co-operate fully in the elimination of fraud and corruption within their spheres of control; and

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- c) protect the financial integrity of the **Fund** by being scrupulous with their use of the financial resources of the **Fund**, as these finances are derived from public sources, and are intended for the social betterment of the people of the Republic of South Africa.

4.4. Protection of Public Funds

The **Firm** acknowledges that the cost of delivering compensation is unacceptably high, and therefore the Firm as a whole, and in particular all the staff of the Firm who will deal with the Fund, shall ensure that:

- a) the **Fund** receives service and / or advice which is suitable and appropriate to the circumstances, and which meets the requirements of the **Fund**;
- b) the **Fund** receives service and / or advice which is of the highest quality available in the market;
- c) it maintains the necessary levels of skill within the **Firm** to continuously provide the **Fund** with the best quality of service;
- d) it persistently pursues the successful discharge of **the Services** in order to ensure a positive outcome for the **Fund**;
- e) it will not overcharge the **Fund** for the **Services** provided; and
- f) matters are finalised as speedily and cost effectively as possible.

4.5. Accountability and Reporting

The **Parties** shall ensure that effective measures exist to report regularly to each other on issues of mutual interest.

The **Firm** further acknowledges that it will be answerable for its actions and the actions of its employees. For this purpose, the **Firm** shall at all times report to the **Fund** in an open and transparent fashion.

5. PROCEDURAL REQUIREMENTS AND DOCUMENTS

- 5.1. Within 10 (ten) **Days of Date of Signature** of this **Service Level Agreement**, the **Firm** undertakes to deliver in writing to the **Contracts Manager** either by hand, or by e-mail, the following:

- 5.1.1. In respect of each **Professional Person** who will be rendering **Services** to the **Fund** on behalf of the **Firm**:
- 5.1.1.1. Full names;
 - 5.1.1.2. Professional qualifications;
 - 5.1.1.3. Date of admission as an Attorney of the High Court;
 - 5.1.1.4. Position in the **Firm**;
 - 5.1.1.5. Cell phone number; and
 - 5.1.1.6. E-mail address.
- 5.1.2. In respect of each candidate attorney who will be rendering **Services** to the **Fund** on behalf of the **Firm**:
- 5.1.2.1. Full names; and
 - 5.1.2.2. Professional qualifications.
- 5.1.3. In respect of the **Lead Attorney** and each director / partner of the **Firm**:
- 5.1.3.1. Full names;
 - 5.1.3.2. Professional qualifications;
 - 5.1.3.3. Date of admission as an Attorney of the High Court;
 - 5.1.3.4. Position in the **Firm**;
 - 5.1.3.5. Cell phone number; and
 - 5.1.3.6. E-mail address.
- 5.2. In the event the **Lead Attorney** becoming unable to perform his or her responsibilities as contemplated in clause 2.10.8, for whatever reason, the **Firm** shall notify the **Fund** of the breach and the reasons for same within 5 (five) Days of the breach occurring.
- 5.3. In the event that the breach contemplated in clause 5.2 above is of a temporal nature, the **Firm** shall remedy the breach within 30 (thirty) Days by appointing a temporal substitute Lead Attorney with equivalent or better experience as that of the Lead Attorney being substituted.
- 5.4. In the event that the breach contemplated in clause 5.2 above is of a permanent nature, the **Firm** shall remedy the breach within 30 (thirty) Days by appointing a temporal substitute Lead Attorney with equivalent or better experience as that of the Lead Attorney being substituted, provided that the **Firm** must appoint a new permanent Lead Attorney with

equivalent or better experience as that of the **Lead Attorney** being substituted within 60 (sixty) Days of breach.

- 5.5. Within 10 (ten) days of appointing a temporal or permanent substitute **Lead Attorney** the **Firm** shall deliver to the **Fund's Contracts Manager** in writing either by hand or email the following in respect of the **Lead Attorney**:
- 5.5.1. Full names and surname;
 - 5.5.2. Professional Qualification;
 - 5.5.3. Date of admission as an Attorney of the High Court;
 - 5.5.4. Position in the **Firm**;
 - 5.5.5. Cell number; and
 - 5.5.6. E-mail address.
- 5.6. The **Firm** hereby consents to and authorises the **Fund** to conduct credit checks on the **Firm** and on each **Professional Person**, **Lead Attorney** and **Candidate Attorney** of the **Firm** who will be rendering **Services** to the **Fund**.
- 5.7. The **Firm** hereby consents to and authorises the **Fund** to conduct criminal checks on each **Professional Person**, **Lead Attorney** and **Candidate Attorney** of the **Firm** who will be responsible for rendering **Services** to the **Fund**, and further agrees to obtain the necessary consents from such persons.
- 5.8. The **Fund** has the right, based on information obtained from the credit and criminal checks, to instruct the **Firm** that a **Professional Person**, **Lead Attorney** or **Candidate Attorney** may not render **Services** to the **Fund**.
- 5.9. In the event of the **Lead Attorney** or any other **Professional Person** in the employ of the **Firm** leaving the **Firm**, the **Firm** shall notify the **Contracts Manager** in writing either by hand, or by e-mail, not less than 30 (thirty) **Days** prior to such person leaving the **Firm**.
- 5.10. Within 30 (thirty) **Days** of **Date of Signature** of this **Service Level Agreement**, and thereafter on or before 31 March of each succeeding year, the **Firm** undertakes to deliver in writing to the **Contracts Manager** either by hand or by e-mail, the following:
- 5.10.1. Certificate of good standing issued by the relevant Law Society in respect of **Professional Persons** and **Lead Attorneys**;

- 5.10.2. A valid BEE Rating Certificate issued by a rating company listed with the South African National Accreditation System, or a valid Exempted Micro Enterprise Certificate;
- 5.10.3. Valid Fidelity Fund Certificate issued by the relevant Law Society in respect of the *Firm*.
- 5.11. Where any of the documents referred to above are delivered via e-mail, the *Fund* reserves the right to call for the original of such document.

6. WARRANTIES

- 6.1. The *Firm* hereby warrants that:
- 6.1.1. Unless authorised by the *Fund*, the *Services* required by the *Fund* shall at all times be performed by a **Professional Person** in the direct employ of the *Firm* and/or by such other persons who are in the direct employment of the *Firm* and under direct supervision and control of a **Professional Person**;
- 6.1.2. No litigation, arbitration or administrative proceedings are pending or threatened against the *Firm* which would have an adverse effect upon its financial condition or business, nor its ability to perform its obligations under this *Service Level Agreement*;
- 6.1.3. The **Lead Attorney** and other **Professional Persons** who will be rendering *Services* to the *Fund* are in the full time employ of the *Firm*; and
- 6.1.4. Each **Professional Person** and **Lead Attorney** rendering *Services* to the *Fund* shall for the duration of this *Service Level Agreement* have valid certificate of good standing issued by the relevant Law Society.

7. DURATION

- 7.1. This Service Level Agreement shall take effect on the Effective Date.
- 7.2. Subject to clauses 12 below, this *Service Level Agreement* shall endure for a period of 5 (five) years from the *Effective Date*.

- 7.3. The **Fund** reserves the right in its sole discretion to extend the term of this **Service Level Agreement** for such further period as it deems fit and necessary in the circumstances.

8. ACTING AGAINST THE FUND

- 8.1. The **Firm** agrees that from the **Effective Date**, it shall not act in any way which may give rise to a conflict of interests in relation to the **Fund** or the **Services** to be rendered in terms of this **Service Level Agreement**.
- 8.2. From the **Effective Date** of this **Service Level Agreement** the **Firm** may not accept any instruction to submit claims against the **Fund**, prosecute actions against the **Fund**, and defend actions instituted by the **Fund** or in any way act against the **Fund**.
- 8.3. In addition to paragraph 8.1 above, in instances where the **Firm** accepted an instruction to act against the **Fund** prior to the **Effective Date** of this **Service Level Agreement**, the **Firm** shall terminate such mandate/s within a period of 30 (thirty) **Days** from the **Effective Date** of this **Service Level Agreement**.

9. FURNISHING OF INSTRUCTIONS

9.1. Actions arising out of the provisions of the Act

- 9.1.1. The **Fund** will from time to time appoint the **Firm** to:

- 9.1.1.1. defend or institute actions arising out of the provisions of the **Act**; and
- 9.1.1.2. lodge or oppose appeals in actions arising out of the provisions of the **Act**; and
- 9.1.1.3. furnish advice on costs and/or tax or oppose taxations of bills presented as a result of claims instituted in terms of the **Act**.

- 9.1.2. Such instructions will be furnished by the Regional Offices and the Legal Compliance and Regulation Department and any other department that the **Fund** may from time to time create.

- 9.1.3. The **Fund** reserves the right to determine the manner in which instructions will be allocated between **Panel Attorneys**. In the furnishing instructions, the **Fund** will consider inter alia:

- 9.1.3.1. The need to keep claims arising from the same motor vehicle accident with the same **Panel Attorney**;
 - 9.1.3.2. The fact that a **Panel Attorney** is under **Suspension** in terms of clause 10 below;
 - 9.1.3.3. The fact that a claim involves a point of law that has previously been considered by a **Panel Attorney**;
 - 9.1.3.4. Where, in the view of the **Fund**, the value and/or complexity of the claim warrant a particular **Panel Attorney** being instructed;
 - 9.1.3.5. The performance of a particular **Panel Attorney**; and
 - 9.1.3.6. Any other consideration which the **Fund** may deem to be relevant.
- 9.1.4. Instructions will usually be allocated between **Panel Attorneys** located within the area of the Court having jurisdiction. The **Fund** may however allocate instructions to a **Panel Attorney** outside of the area of the Court having jurisdiction, if the **Fund** determines that good reasons exist to do so.
- 9.1.5. In instances where the **Fund** does not have **Panel Attorneys** within the area of the Court having jurisdiction, instructions will be allocated to **Panel Attorneys** located within the area of the **Regional Office** managing the claim.

10. SUSPENSION OF NEW INSTRUCTIONS

- 10.1. The **Fund** may at any time on good cause suspend furnishing new instructions to the **Firm**.

10.2. Reasons for Suspension

- 10.2.1. In deciding to suspend instructions, the **Fund** will have regard to, amongst others, the following:
- 10.2.1.1. A breach or breaches of the terms of this **Service Level Agreement**;
 - 10.2.1.2. The capacity of the **Firm**;
 - 10.2.1.3. The level of service delivery by the **Firm** or any of the **Professional Persons** in its employ;
 - 10.2.1.4. The performance of the **Firm** in terms of clause 22 below;
 - 10.2.1.5. Changes in ownership and/or management of the **Firm** that may affect the **Firm's** BBBEE rating adversely;
 - 10.2.1.6. A violation by the **Firm** of the Governing Principles contained in clause 4 above;

10.2.1.7. Any other reason which in the **Fund's** opinion will warrant the **Suspension** of new instructions to the **Firm**.

10.3. Period of Suspension

10.3.1. The initial period of **Suspension** will be determined by the **Fund** but shall be no less than 3 (three) months.

10.3.2. The **Fund** may extend the initial period of **Suspension** for a further 3 (three) month period should the **Fund** deem this to be appropriate and in its best interests.

10.3.3. At any time during or after the period of **Suspension**, the **Fund** may terminate the **Service Level Agreement** in accordance with clause 11 below.

10.4. Process of Suspension

10.4.1. Notice of **Suspension** and the duration of the initial period for which instructions are to be suspended, will be delivered to the Lead Attorney in writing by the **Fund's Contracts Manager** and shall contain the reason/s for instructions being suspended.

10.4.2. The **Suspension** will become effective on the same Day that the notice referred to in clause 10.4.1 above is delivered in writing to the **Firm**.

10.4.3. In the event of the initial period of **Suspension** being extended by the **Fund**, this will be conveyed to the Lead Attorney by the **Fund's Contracts Manager** in writing, at least 10 (ten) Days before the initial period of **Suspension** expires and shall contain the reason/s for the **Suspension** period being extended.

10.5. Disputes arising from Suspension

10.5.1. Within 5 (five) Days of receipt of either of the notices referred to in clause 10.4 above, the Lead Attorney may deliver to the **Fund's Contracts Manager** a written response to such notice, addressing the reason/s for the **Suspension** or the extension of the **Suspension** period.

10.5.2. The **Fund** will consider and review all relevant factors and within 10 (ten) Days of receipt of the response contemplated in clause 10.5.1 above, will in writing notify the Lead Attorney whether:

10.5.2.1. the initial or extended **Suspension** period will remain in effect; or

10.5.2.2. the initial or extended **Suspension** period will be varied, in which event the **Firm** will be advised of the new period of **Suspension**.

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- 10.5.3. In the event of the **Firm** remaining dissatisfied with the decision of the **Fund**, the **Lead Attorney** may, within 3 (three) **Days** of receipt of the notification referred to in clause 10.5.2 above, in writing, send a meeting request to the **Fund's Contracts Manager** to discuss the **Suspension**.
- 10.5.4. Such meeting will be held within 10 (ten) **Days** from receipt of the request referred to in clause 10.5.3 above, or such longer period as agreed to between the **Parties**.
- 10.5.5. Within 3 (three) **Days** of the meeting being held, the **Fund's Contracts Manager** will notify the **Lead Attorney** of the decision regarding the **Suspension**.
- 10.5.6. Instructions to the **Firm** will remain suspended during the process contemplated in this clause 10.
- 10.5.7. Clause 16 of this **Service Level Agreement** shall not apply to the **Suspension** and the decision of the **Fund** will be final.
- 10.6. **Relationship between the Parties during the period of Suspension**
- 10.6.1. All the terms of this **Service Level Agreement** will remain of full force and effect for the duration of the period of **Suspension**.
- 10.6.2. The **Firm** shall ensure that all instructions received by the **Firm** before the **Suspension** is dealt with in a professional and ethical manner.
- 10.6.3. The **Firm** shall also ensure that the service standards expected of the **Firm** before the **Suspension** are maintained during the period of **Suspension**.

11. **TERMINATION OF THE SERVICE LEVEL AGREEMENT BY THE FUND**

- 11.1. The **Fund** may at any time terminate this **Service Level Agreement** by giving 30 (thirty) **Days** written notice to the **Firm**.
- 11.2. **Reasons for Termination**
- 11.2.1. In deciding to terminate this **Service Level Agreement**, the **Fund** will have regard to, amongst others, the following:
- 11.2.1.1. a breach or breaches of the terms of this **Service Level Agreement**;
 - 11.2.1.2. the **Firm** failing to uphold the attorney/client relationship;
 - 11.2.1.3. the **Firm** acting against the **Fund**;
 - 11.2.1.4. operational requirements of the **Fund**;

- 11.2.1.5. an attorney or candidate attorney employed by the *Firm* being found guilty of a fraudulent act;
- 11.2.1.6. an attorney delivering **Services** to the **Fund** being suspended by a Law Society for any reason;
- 11.2.1.7. the *Firm* failing to provide the *Fund* with Fidelity Fund certificates as required in terms of clause 5.10 above;
- 11.2.1.8. the *Firm* failing to provide the *Fund* with a BBBEE rating as required in terms of clause 5.10 above;
- 11.2.1.9. instructions to the *Firm* having been suspended and on the expiration of the initial or extended **Suspension** period, the cause or causes for **Suspension** having not been remedied by the *Firm* to the satisfaction of the *Fund*;
- 11.2.1.10. a de bonis propriis cost order being granted against the *Firm* in a matter in which the *Firm* has been instructed by the *Fund*;
- 11.2.1.11. an adverse cost order being granted against the *Fund*, or any of its employees in their personal capacity, which could have been avoided had the *Firm* taken reasonable care in the handling of the matter;
- 11.2.1.12. a Court making a finding to the effect that the *Firm*, or any of the Professional Persons in its employ, had acted unprofessionally in discharging its duties in relation to any matter where the *Firm* held instructions on behalf of the *Fund*;
- 11.2.1.13. a judgement by default being granted against the *Fund* in a matter in which the *Firm* was instructed by the *Fund* and the sole cause of the default judgement being that the *Firm* failed to timeously enter an Appearance to Defend;
- 11.2.1.14. a judgement by default being granted against the *Fund* due to the *Firm's* failure to deliver a Plea;
- 11.2.1.15. a writ of execution being served on the *Fund* and the sole cause of the writ being that the *Firm* failed to provide the *Fund* with the Court Order within 3 (three) **Days** of the order being granted, as required in terms of Annexure B;
- 11.2.1.16. a writ of execution being served on the *Fund* and the sole cause of the writ being that the *Firm* failed to provide the *Fund* with the allocator of the Taxing Master within 3 (three) **Days** of the allocator being signed by the Taxing Master, as required in terms of Annexure B;

- 11.2.1.17. the *Firm* being instructed to oppose a taxation of a Bill of Costs and failing to do so;
- 11.2.1.18. the capacity of the *Firm*;
- 11.2.1.19. the level of service delivery by the *Firm*;
- 11.2.1.20. the performance of the *Firm* in terms of clause 22 below;
- 11.2.1.21. the *Firm* receiving penalties as outlined in *Annexure E* in 2 consecutive months;
- 11.2.1.22. changes in ownership and/or management of the *Firm* that may affect the *Firm's* BBBEE rating;
- 11.2.1.23. any other reason which in the *Fund's* opinion will warrant the **Termination of the Service Level Agreement**;
- 11.2.1.24. a violation by the *Firm* of the Governing Principles contained in clause 4 above, particularly, but not limited to the principle of Trust; and
- 11.2.1.25. distribution or redistribution of instructions by the *Fund* in any manner that will ensure equitable file allocation to the *Firms* appointed to its Panel of Attorneys.

11.3. Process of Termination

- 11.3.1. Notice of Termination of the *Service Level Agreement*, will be delivered to the Lead Attorney in writing by the *Fund's Contracts Manager* and shall contain the reason/s for the Termination of the *Service Level Agreement*.
- 11.3.2. The Termination of the *Service Level Agreement* will become effective on the 31st Day following the receipt by the *Firm* of the notice referred to in this clause.

11.4. Disputes arising from Termination of the Service Level Agreement by the Fund

- 11.4.1. Within 5 (five) Days of receipt of the notice referred to in clause 11.3 above, the Lead Attorney may deliver to the *Fund's* designated *Contracts Manager* a written response to such notice, addressing the reason/s for the Termination of the *Service Level Agreement*.
- 11.4.2. The representation made by the *Firm* will be considered by the *Fund* and within 10 (ten) Days of receipt of the response referred to in clause 11.4.1 above, the *Fund's Contracts Manager* will in writing notify the Lead Attorney if the *Fund* confirms the Termination of the *Service Level Agreement*.
- 11.4.3. In the event of the *Firm* remaining dissatisfied with the decision of the *Fund*, the Lead Attorney may, within 3 (three) Days of receipt of the letter referred to in

clause 11.4.2 above, in writing, send a meeting request to the **Fund's Contract Manager** to discuss the Termination of the **Service Level Agreement**.

11.4.4. Such meeting will be held within 10 (ten) **Days** from receipt of the request referred to clause 11.4.3 above, or such longer period as agreed to between the **Parties**.

11.4.5. Within 3 (three) **Days** of the meeting being held, the **Fund's Contract Manager** will notify the **Lead Attorney** of the **Fund's** decision regarding the Termination of the **Service Level Agreement**.

11.4.6. In the event of the **Firm** remaining dissatisfied with the decision of the **Fund**, the **Firm** may refer the dispute for arbitration in terms of clause 16 below.

11.5. **Relationship between the Parties after Termination of the Service Level Agreement by the Fund**

11.5.1. The **Firm**, upon receipt of a notice contemplated under clause 11.1 above, shall be deemed to be under **Suspension** as contemplated in clause 10 above for the duration of the 30 (thirty) **Days** notice period contemplated in clause 11.1 above.

11.5.2. During this 30 (thirty) **Days** notice period, all the terms of clause 10.6 above shall apply to the **Firm**.

11.5.3. During the 30 (thirty) **Days** notice period, irrespective of whether the **Firm** agrees with the Termination or not, the **Firm** shall prepare all unfinalised files for handover to the **Fund** as contemplated in clause 13 below.

11.5.4. The **Firm** shall also ensure that the service standards expected of the **Firm** before the Termination of the **Service Level Agreement** is maintained during the period of deemed Termination.

11.5.5. The governing principles of good faith, mutual trust and ethical dealings shall endure after Termination of the **Service Level Agreement**.

11.5.6. Once the **Service Level Agreement** with the **Firm** is terminated, the **Firm** shall be disqualified from consideration for any tender issued by the **Fund** for a period of 3 (three) years after the date of Termination.

12. **TERMINATION OF THE SERVICE LEVEL AGREEMENT BY THE FIRM**

12.1. The **Firm** may terminate the **Service Level Agreement** by giving the **Fund** 60 (sixty) **Days** notice in writing.

12.2. Process of Termination

- 12.2.1. Notice of **Termination** of the **Service Level Agreement** by the **Firm** will be delivered in writing to the **Fund's** designated **Contracts Manager** and shall contain the reason/s for the **Termination** of the **Service Level Agreement**.
- 12.2.2. The **Termination** of the **Service Level Agreement** will become effective on the 61st Day following the receipt by the **Fund** of the notice referred to in clause 12.2.1.

12.3. Relationship between the Parties after Termination of the Service Level Agreement by the Firm

- 12.3.1. The **Firm**, upon receipt by the **Fund** of a notice contemplated under clause 12.2.1 above, shall be deemed to be under **Suspension** as contemplated in clause 10 above for the duration of the 60 (sixty) Days notice period contemplated in clause 12.2.1 above.
- 12.3.2. During this 60 (sixty) Days notice period, all the terms of clause 10.6 above shall apply to the **Firm**.
- 12.3.3. During the 60 (sixty) Days notice period, the **Firm** shall prepare all unfinalised files for hand over to the **Fund** as contemplated in clause 13 below.
- 12.3.4. The **Firm** shall also ensure that the service standards expected of the **Firm** before the **Termination** of the **Service Level Agreement** is maintained during the period of deemed **Suspension**.

13. HANDOVER PROCESS (BY TERMINATION)

- 13.1. Upon **Termination** of the **Service Level Agreement** by either the **Fund** or the **Firm**, the **Firm** will be obliged to hand over all unfinalised files to the **Fund**.
- 13.2. The **Firm** waives any and all rights of retention over documents in respect of any work done by it on behalf of the **Fund**.
- 13.3. Procedure upon receipt of Notice of Termination
- 13.3.1. Immediately on notice of **Termination** being given by either of the **Parties**, the **Firm** shall commence preparations for handover of the unfinalised files.
- 13.3.2. The **Firm** shall within 5 (five) Days of notice of **Termination** provide the **Fund's** **Contract Manager** and **Regional General Manager** where the claim(s) are being

handled, with a list of matters on which trial dates have been allocated. This list shall be in Microsoft Excel format and shall contain the following information:

- 13.3.2.1. Claim number;
- 13.3.2.2. Link number;
- 13.3.2.3. Claimant's initials and surname;
- 13.3.2.4. Claimant's attorney;
- 13.3.2.5. Claimant's attorney's reference number;
- 13.3.2.6. Court;
- 13.3.2.7. Case number;
- 13.3.2.8. Trial date;
- 13.3.2.9. Amount claimed;
- 13.3.2.10. Experts instructed;
- 13.3.2.11. Previous trial dates; and
- 13.3.2.12. Interim Payments.

13.3.3. Within 10 (ten) **Days** of notice of Termination, the **Firm** shall provide the **Fund's Contract Manager** and **Regional General Manager** where the claim(s) are being handled, with a list of all unfinalised matters in the **Firm's** possession. This list shall be in Microsoft Excel format and shall contain the following information:

- 13.3.3.1. Claim number;
- 13.3.3.2. Link number;
- 13.3.3.3. Claimant's initials and surname;
- 13.3.3.4. Claimant's attorney;
- 13.3.3.5. Claimant's attorney's reference number;
- 13.3.3.6. Court;
- 13.3.3.7. Case number;
- 13.3.3.8. Trial date (if applicable);
- 13.3.3.9. Amount claimed;
- 13.3.3.10. Status of claim;
- 13.3.3.11. Experts instructed;
- 13.3.3.12. Previous trial dates;
- 13.3.3.13. Interim Payments; and
- 13.3.3.14. Estimate of **Firm's** outstanding fees.

13.3.4. Within 30 (thirty) **Days** of notice of Termination, and subsequent to the delivery of all unfinalised files to the **Fund** by the **Firm** in terms of clause 13.3.6 below, the **Firm** shall prepare, serve and file the Notices of Withdrawal as Attorneys of

Record for all unfinalised matters in the **Firm's** possession which shall be delivered to the **Fund's** Regional Office closest to the offices of the **Firm**, and signed for by the Regional General Manager of that Regional Office.

13.3.5. The **Firm** shall remain responsible for all unfinalised matters which have not yet been handed over to the **Fund**.

13.3.6. Within 30 (thirty) Days of notice of Termination, the **Firm** shall make copies of the files of all unfinalised matters in the **Firm's** possession. The original files shall be delivered by hand to the **Fund** at the Regional Office closest to the offices of the **Firm**, and signed for by the Regional General Manager of that Regional Office. The files shall be accompanied by:

- 13.3.6.1. a list of all matters handed over, similar in form to the list referred to in clause 13.3.2;
- 13.3.6.2. copies served and filed Notices of Withdrawal as Attorneys of Record attached to each file; and
- 13.3.6.3. a written confirmation by the Lead Attorney that all unfinalised files have been handed over, and that no documents or files have been withheld.

13.3.7. The **Firm** shall within Five (5) Days of delivery of the files in terms of clause 13.3.6 above, provide the **Fund's Contract Manager** with the copy of the list of all matters handed over and the confirmation that that all copies of Notices of Withdrawal as Attorneys of Record have been delivered to the **Fund's** Regional Office.

13.4. Procedure in respect of costs after Termination of the Service Level Agreement

13.4.1. Within 90 (ninety) Days of notice of Termination, but not before the date on which the files are handed over as contemplated in clause 13.3, the **Firm** shall present the **Fund** with Bills of Cost in respect of each matter handed over to the **Fund**.

13.4.2. These Bills of Cost shall be delivered by hand to the **Fund** at the Regional Office closest to the offices of the **Firm**, and signed for by the Regional General Manager of that Regional Office.

13.4.3. The Bills of Cost shall be accompanied by:

- 13.4.3.1. a list of all matters on which Bills are presented, similar in form to the list referred to in clause 13.3.2;
- 13.4.3.2. a written confirmation by the Lead Attorney that the Bills represent the full value of outstanding fees and disbursements due to the **Firm**; and

- 13.4.3.3. a consolidated statement of account of outstanding fees and disbursements due to the **Firm**.
- 13.4.4. From date of receipt of the **Firm's** Bills of Cost and associated documentation as contemplated in clause 13.4.3 above, the **Fund** shall have 180 (hundred and Eighty) Days within which to make payment of the outstanding fees as reflected in the consolidated statement of account referred to in clause 13.4.3.3 above.
- 13.4.5. The Bills of Cost shall be prepared in accordance with the fee structure governing this **Service Level Agreement** during its subsistence.
- 13.5. Dispute resolution in respect of costs after Termination of the Service Level Agreement
- 13.5.1. In the event that the **Fund** disputes any amount claimed by the **Firm**, the **Fund's Contract Manager** shall notify the **Firm** in writing of such dispute. The notification shall be delivered by hand, by fax or by e-mail to the **Lead Attorney**.
- 13.5.2. The notification shall indicate the following:
- 13.5.2.1. the specific matter to which the dispute relates;
 - 13.5.2.2. whether the dispute relates to the entire Bill of Costs, alternatively which specific item on the Bill of Costs the dispute relates to; and
 - 13.5.2.3. the amount that the **Fund** proposes to pay in respect of the specific Bill of Costs.
- 13.5.3. The **Firm** shall notify the **Fund** in writing within 10 (ten) Days of receipt of the **Fund's** counteroffer whether it accepts the **Fund's** cost assessment.
- 13.5.3.1. If the **Firm** accepts the **Fund's** assessment, the **Fund** shall make payment of the assessed amount within 90 (ninety) Days of receipt of the **Firm's** notice of acceptance.
 - 13.5.3.2. If the **Firm** does not accept the assessment, the **Firm** shall forthwith set the disputed Bill of Costs down for taxation with the Taxing Master for the Court with jurisdiction over the matter.
- 13.5.4. The Taxing Master shall tax the Bills of Cost in accordance with the fee structure governing this **Service Level Agreement** during its subsistence.
- 13.5.5. Each party shall bear its own costs relating to the taxation of the Bills of Cost. Neither of the **Parties** shall be entitled to a drawing or attendance fee.
- 13.5.6. The decision by the Taxing Master shall be final and binding on the **Parties**.
- 13.5.7. The **Fund** shall make payment of the taxed amount within 90 (thirty) Days of the date of the Taxing Masters allocator.

13.5.8. The **Fund** shall not be liable to pay interest on any agreed or taxed costs.

- 13.6. The **Firm** acknowledges that the **Fund** will instruct new **Panel Attorneys** to deal with the unfinalised files contemplated in clause 13.1 above. For this purpose, the **Firm** undertakes to co-operate fully with the **Fund** and the newly appointed **Panel Attorney** in order to facilitate smooth hand over of the files, and to minimise the risk to the **Fund**.

14. HANDOVER PROCESS (BY EFFLUXION OF TIME)

- 14.1. Four (4) months before the expiry of this **Service Level Agreement** by the effluxion of time the **Fund's Contract Manager** shall deliver to the **Firm** in writing, a **Notice of Handover** advising the **Firm** to start to prepare all unfinalised files in its possession for the hand over process.

- 14.2. The **Firm** waives any and all rights of retention over documents in respect of any work done by it on behalf of the **Fund**.

- 14.3. During the period referred to in clause 14.1 above the **Fund** reserve the right to issue or not to issue any further new instructions to the **Firm**.

14.4. Procedure on receipt of Notice of Hand Over

14.4.1. Immediately on a Notice of Handover being given by the **Fund**, the **Firm** shall commence preparations for handover of the unfinalised files.

14.4.2. The **Firm** shall within 10 (ten) Days of Notice of Handover provide the **Fund's Contract Manager** and **Regional General Manager** where the claim(s) are being handled, with a list of matters on which trial dates have been allocated. This list shall be in Microsoft Excel format and shall contain the following information:

- 14.4.2.1. Claim number;
- 14.4.2.2. Link number;
- 14.4.2.3. Claimant's initials and surname;
- 14.4.2.4. Claimant's attorney;
- 14.4.2.5. Claimant's attorney's reference number;
- 14.4.2.6. Court;

- 14.4.2.7. Case number;
- 14.4.2.8. Trial date;
- 14.4.2.9. Amount claimed;
- 14.4.2.10. Experts instructed;
- 14.4.2.11. Previous trial dates; and
- 14.4.2.12. Interim Payments.

14.4.3. Within 15 (fifteen) **Days of Notice of Hand Over**, the **Firm** shall provide the **Fund's Contract Manager** and **Regional General Manager** where the claim(s) are being handled, with a list of all unfinalised matters in the **Firm's** possession. This list shall be in Microsoft Excel format and shall contain the following information:

- 14.4.3.1. Claim number;
- 14.4.3.2. Link number;
- 14.4.3.3. Claimant's initials and surname;
- 14.4.3.4. Claimant's attorney;
- 14.4.3.5. Claimant's attorney's reference number;
- 14.4.3.6. Court;
- 14.4.3.7. Case number;
- 14.4.3.8. Trial date (if applicable);
- 14.4.3.9. Amount claimed;
- 14.4.3.10. Status of claim;
- 14.4.3.11. Experts instructed;
- 14.4.3.12. Previous trial dates;
- 14.4.3.13. Interim Payments; and
- 14.4.3.14. Estimate of **Firm's** outstanding fees.

14.4.4. Within 60 (sixty) **Days of Notice of Hand Over**, and subsequent to the delivery of all unfinalised files to the **Fund** by the **Firm** in terms of clause 14.4.6 below, the **Firm** shall prepare, serve and file the Notices of Withdrawal as Attorneys of Record for all unfinalised matters in the **Firm's** possession which shall be delivered to the **Fund's Regional Office** closest to the offices of the **Firm**, and signed for by the **Regional General Manager** of that **Regional Office**.

14.4.5. The **Firm** shall remain responsible for all unfinalised matters which have not yet been handed over to the **Fund**.

14.4.6. Within 60 (sixty) **Days of Notice of Hand Over**, the **Firm** shall make copies of the files of all unfinalised matters in the **Firm's** possession. The original files shall be delivered by hand to the **Fund** at the **Regional Office** closest to the offices of the

Firm, and signed for by the **Regional General Manager** of that **Regional Office**.

The files shall be accompanied by:

- 14.4.6.1. a list of all matters handed over, similar in form to the list referred to in clause 13.3.2; and
- 14.4.6.2. a written confirmation by the **Lead Attorney** that all unfinalised files have been handed over, and that no documents or files have been withheld.

14.4.7. The **Firm** shall prepare and deliver an **Assessment Report** for each file handed over to the **Fund** in terms of clause 14.4.6 above, which shall contain the following:

- 14.4.7.1. opinion on merits;
- 14.4.7.2. opinion on quantum;
- 14.4.7.3. areas of disputes;
- 14.4.7.4. stage of pleadings;
- 14.4.7.5. current status; and
- 14.4.7.6. recommendations.

14.4.8. The **Firm** shall within Five (5) Days of delivery of the files in terms of clause 14.4.6 above, provide the **Fund's Contract Manager** with the copy of the list of all matters handed over and confirmation that that all copies of Notices of Withdrawal as Attorneys of Record have been delivered to the **Fund's Regional Office**.

14.5. **Procedure in respect of costs after Notice of Hand Over**

14.5.1. Within 120 (One Hundred and Twenty) Days of Notice of Hand Over, but not before the date on which the files are handed over as contemplated in clause 14.4.6, the **Firm** shall present the **Fund** with Bills of Cost in respect of each matter handed over to the **Fund**.

14.5.2. These Bills of Cost shall be delivered by hand to the **Fund** at the **Regional Office** closest to the offices of the **Firm**, and signed for by the **Regional General Manager** of that **Regional Office**.

14.5.3. The Bills of Cost shall be accompanied by:

- 14.5.3.1. a list of all matters on which Bills are presented, similar in form to the list referred to in clause 13.3.2;
- 14.5.3.2. a written confirmation by the **Lead Attorney** that the Bills represent the full value of outstanding fees and disbursements due to the **Firm**; and

- 14.5.3.3. a consolidated statement of account of outstanding fees and disbursements due to the **Firm**.
- 14.5.4. From date of receipt of the **Firm's** Bills of Cost and associated documentation as contemplated in clause 14.5.3 above, the **Fund** shall have 180 (hundred and Eighty) Days within which to make payment of the outstanding fees as reflected in the consolidated statement of account referred to in clause 13.4.3.3 above.
- 14.5.5. The Bills of Cost shall be prepared in accordance with the fee structure governing this **Service Level Agreement** during its subsistence.
- 14.6. Dispute resolution in respect of costs after Notice of Hand Over
- 14.6.1. In the event that the **Fund** disputes any amount claimed by the **Firm**, the **Fund's Contract Manager** shall notify the **Firm** in writing of such dispute. The notification shall be delivered by hand, by fax or by e-mail to the **Lead Attorney**.
- 14.6.2. The notification shall indicate the following:
- 14.6.2.1. the specific matter to which the dispute relates;
 - 14.6.2.2. whether the dispute relates to the entire Bill of Cost, alternatively which specific item on the Bill of Cost the dispute relates to; and
 - 14.6.2.3. the amount that the **Fund** proposes to pay in respect of the specific Bill of Cost.
- 14.6.3. The **Firm** shall notify the **Fund** in writing within 10 (ten) Days of receipt of the **Fund's** counteroffer whether it accepts the **Fund's** cost assessment.
- 14.6.3.1. If the **Firm** accepts the **Fund's** assessment, the **Fund** shall make payment of the assessed amount within 90 (ninety) Days of receipt of the **Firm's** notice of acceptance.
 - 14.6.3.2. If the **Firm** does not accept the assessment, the **Firm** shall forthwith set the disputed Bill of Costs down for taxation with the Taxing Master for the Court with jurisdiction over the matter.
- 14.6.4. The Taxing Master shall tax the Bills of Cost in accordance with the fee structure governing this **Service Level Agreement** during its subsistence.
- 14.6.5. Each party shall bear its own costs relating to the taxation of the Bills of Cost. Neither of the **Parties** shall be entitled to a drawing or attendance fee.
- 14.6.6. The decision by the Taxing Master shall be final and binding on the **Parties**.
- 14.6.7. The **Fund** shall make payment of the taxed amount within 90 (thirty) Days of the date of the Taxing Masters allocator.
- 14.6.8. The **Fund** shall not be liable to pay interest on any agreed or taxed costs.

- 14.7. The **Firm** acknowledges that the **Fund** will instruct new **Panel Attorneys** to deal with the unfinalised files. For this purpose, the **Firm** undertakes to co-operate fully with the **Fund** and the newly appointed **Panel Attorney** in order to facilitate smooth hand over of the files, and to minimise the risk to the **Fund**.

15. INSURANCE IN RESPECT OF A FIRM APPOINTED TO THE HIGH COURT PANEL OF ATTORNEYS

- 15.1. The **Firm**, if appointed to the **Fund's** High Court **Panel of Attorneys** shall maintain, at no additional cost to the **Fund**, a Professional Liability Insurance Policy to the value of at least R20 000 000.00 (Twenty Million Rand).
- 15.2. Within 10 (ten) **Days** from the **Effective Date** of this **Service Level Agreement**, the **Firm** shall provide the **Fund's Contracts Manager** with proof, in a form acceptable to the **Fund**, of the Professional Liability Insurance Policy, and thereafter within 30 (thirty) **Days** of each anniversary of this **Service Level Agreement**.

16. DISPUTE RESOLUTION & ESCALATION

- 16.1. Should any dispute arise between the **Parties** in connection with the interpretation or application of the provisions of this **Service Level Agreement** or its breach, or **Termination**, or any other matter but excluding **Suspension** and cost issues, such dispute will, unless resolved between the **Parties**, be referred to and be determined by arbitration in terms of this clause, as expediently as may be reasonably possible.
- 16.2. Either party to this **Service Level Agreement** may demand that a dispute be determined in terms of this clause by written notice to the other party, provided that any and all dispute resolution measures referred to in this **Service Level Agreement** has been exhausted.
- 16.3. Written demand for a dispute to be referred to arbitration will be delivered:
- 16.3.1. By the **Firm** to the **Fund's Contracts Manager** by hand or email; or

- 16.3.2. By the **Fund** to the **Lead Attorney** by fax or email.
- 16.4. The **Parties** shall be entitled to legal representation during the arbitration process.
- 16.5. The arbitration will be held:
- 16.5.1. In Johannesburg, with only the **Parties** and their legal representatives being present; and
- 16.5.2. In accordance with the formalities and procedures settled by the arbitrator, and may be held in an informal and summary manner, on the basis that it will not be necessary to observe or carry out the usual formalities or procedures, pleadings and discovery or the strict rules of evidence, it being the intention that the arbitration will be held and completed as soon as possible.
- 16.6. A single arbitrator will be appointed by agreement between the **Parties**. The arbitrator will be an advocate of no less than 7 (seven) years experience, acceptable to both **Parties**.
- 16.7. Should the **Parties** fail to agree on an arbitrator within 5 (five) **Days** after the arbitration was demanded, the arbitrator will be appointed at the request of either party by the Chairman for the time being of the Johannesburg Bar Council, its successor in title or assigns.
- 16.8. Each party shall be liable to pay an equal share of the arbitration costs, subject to the provisions of clause 16.10 below.
- 16.9. The decision of the arbitrator will be final and binding on the **Parties**.
- 16.10. The arbitrator will be entitled to make such award, including an award for specific performance, damages or a penalty or otherwise as he, in his sole discretion, may deem fit and appropriate and to deal as he deems fit with the question of costs, including, if applicable costs, on the attorney and client scale and his own fees.
- 16.11. This arbitration clause does not prohibit a party from seeking relief in a dispute where urgency can be proved, and where, as a result, application can be made for an urgent interdict, urgent declaratory order or other urgent relief to any Court of competent jurisdiction, on condition that such urgent relief is only of an interim nature pending the final determination by the arbitrator.

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16.12. The provisions of this clause:

- 16.12.1. constitute an irrevocable consent by both **Parties** to any proceedings in terms hereof and no party will be entitled to withdraw there from or claim at any such proceedings that it is not bound by such provisions; and
- 16.12.2. are severable from the rest of this **Service Level Agreement** and will remain in effect despite the **Termination** of or invalidity of the **Service Level Agreement**.

17. SCOPE OF WORK

- 17.1. The Scope of Work and Procedure is set out in **Annexure B** to this **Service Level Agreement** and may be supplemented or revised by the **Fund** through the issuing of Directives.
- 17.2. Any Directive issued by the **Fund** in terms of this clause will form part of the **Service Level Agreement**.
- 17.3. When the **Firm** is instructed in matters not arising out of the provisions of the **Act**, the **Parties** may by agreement revise **Annexure B**.

18. PAYMENT

- 18.1. The **Fund** shall pay the **Firm** for the due, full and proper performance and fulfilment by the **Firm** of its obligations in terms of this **Service Level Agreement**.
- 18.2. The pricing of this **Service Level Agreement** as contained in **annexure C** and **D** is:
 - 18.2.1. exclusive of VAT;
 - 18.2.2. inclusive of all other taxes and duties which are levied or charged by any revenue authority (including, without limitation, the South African Revenue Services);
 - 18.2.3. exclusive of all disbursements; and
 - 18.2.4. fixed.
- 18.3. In respect of Magistrates' and Regional Courts matters, the **Firm** shall only invoice the **Fund** on completion of the matter by virtue of settlement, judgment or withdrawal of the

claim by the Plaintiff, and in accordance with the fee structure set out in **Annexure C** and **D**.

18.4. In respect of High Court and Arbitration matters, the **Firm** shall only invoice the **Fund** on completion of the matter by virtue of settlement, judgment or withdrawal of the claim by the Plaintiff, and in accordance with the fee structure set out in **Annexure C** and **D**, provided that the **Firm** may invoice the **Fund** before finalisation of the matter in the following instances:

18.4.1. where merits and quantum were separated, and the issue of merits has been finalised; and

18.4.2. where the trial or arbitration was postponed.

18.5. Payment of invoices shall be subject to the review and sign off by the **Fund**, which sign off shall not be unreasonably withheld.

18.6. The **Firm** shall ensure that invoices submitted to the **Fund** are sufficiently detailed and include such supporting documentation as is necessary for the **Fund** to be able to confirm the correctness of the amounts being invoiced as well as to be able to tie the invoice to a specific claim.

18.7. Payment shall be made to the **Firm** in accordance with the provisions of clause 19 of **Annexure B**

18.8. The fees charged by counsel for work arising out of the provisions of the **Act**, shall be in accordance with the tariff set out in **Annexure D** hereto. Any fee in excess of this tariff must be approved in writing by the **Regional General Manager** in advance of counsel being briefed.

18.9. The tariff of fees charged for work other than that arising out of the provisions of the **Act**, shall be agreed upon in writing between the **Firm** and the **Fund** at the time the **Firm** is instructed. Any written instructions to perform work, other than work referred to in clause 9.1 above, shall be deemed to be incorporated into this agreement, and shall be read as an addendum to this agreement.

- 18.10. No collapse fee will be allowed for counsel, unless the written consent of the **Regional General Manager** is obtained in advance.
- 18.11. No travelling fees will be allowed for candidate attorneys, attorneys and/or counsel when travelling to Court, unless the court is more than 60 kilometres from the office of the **Firm** or the chambers of counsel.
- 18.12. No parking fees will be charged by the **Firm** or counsel when attending court.
- 18.13. Both **Parties** acknowledge that the charges specified in this **Service Level Agreement** and the annexures thereto are intended to compensate the **Firm** fully for all **Services** /Deliverables to be performed or provided by the **Firm** pursuant to this **Service Level Agreement**. Accordingly, the **Fund** will not be obligated to pay the **Firm** any amounts in addition to those specifically described in the **Service Level Agreement**, unless there is an agreed change in the scope of the **Services**/ Deliverables, or a change in applicable law to which additional charges apply and have been approved in writing by the **Fund**, or additional **Services** and/or Deliverables are required by the **Fund**.

19. PENALTY FOR MALPERFORMANCE

- 19.1. In the event of the **Firm** breaching any provision of the **Scope of Work and Procedure** (Annexure B), the **Fund** will have the option to impose a penalty on the **Firm** in respect of the breach.
- 19.2. The **Firm** acknowledges that the **Fund** suffers prejudice when the **Firm** fails to timeously perform its obligations in terms of the **Scope of Work and Procedure**.
- 19.3. The extent of the penalty will be commensurate with the period by which the **Firm** delays in its performance.
- 19.4. The penalty shall not exceed 30% of the total assessed costs (inclusive of fees and disbursements) in respect of the matter to which the breach relates.

- 19.5. A **Penalty Notice** will be delivered to the **Firm** by the **Fund's Contracts Manager** and will convey the percentage to be imposed as a penalty and the reasons for a penalty being imposed.
- 19.6. Within 5 (five) **Days** of receipt of the **Penalty Notice**, the **Firm** may deliver to the **Fund's Contracts Manager** a written response to such notice, addressing the **Fund's** reason/s for the penalty and motivating as to why a penalty should not be imposed.
- 19.7. The **Fund's Contracts Manager** will consider all relevant facts, including the response and motivation from the **Firm**, and will deliver a written reply to the **Firm** within 20 (twenty) **Days** of receipt of the response referred to in paragraph 19.6 above.
- 19.8. Within 5 (five) **Days** of receipt of the response referred to in clause 19.7 above, the **Firm** may deliver to the **Fund's Contracts Manager** a written response, addressing the **Fund's** reason/s for the penalty and motivating as to why a penalty should not be imposed.
- 19.9. The **Fund** will consider all relevant facts, including the response and motivation from the **Firm**, and will deliver a written reply to the **Firm** within 20 (twenty) **Days** of receipt of the response referred to in paragraph 19.8 above.
- 19.10. The decision by the **Fund** will be final.
- 19.11. A schedule detailing the penalties is attached hereto as **Annexure E**.
- 19.12. The **Firm** confirms that these penalties are reasonable.
- 19.13. Without prejudice to any other rights that the **Fund** may have in law, the **Fund** shall be entitled to recover damages from the **Firm** in lieu of the prescribed penalty.
- 19.14. In addition to the penalties outlined herein, the **Fund** has the right, based on the objective assessment of the work performed by a specific **Professional Person, Lead Attorney** or candidate attorney, to instruct the **Firm** that such a **Professional Person** or candidate attorney may not render **Services** to the **Fund**.

20. REPORTING

- 20.1. In addition to the general feedback as stipulated in **Annexure B, Quarterly Status Reports** must be furnished to the **Fund** by the **Firm** on the following dates:
- 20.1.1. 15 January of each year;
 - 20.1.2. 15 April of each year;
 - 20.1.3. 15 July of each year; and
 - 20.1.4. 15 October of each year.
- 20.2. In the event of the day referred to in 20.1.1 to 20.1.4 above being a Saturday, Sunday or public holiday, the **Quarterly Status Reports** will be delivered on the first business day thereafter.
- 20.3. Separate **Quarterly Status Reports** shall be furnished in respect of:
- 20.3.1. each Regional Office.
- 20.4. The **Firm** shall also provide **Monthly Reports** to the **Fund** which shall contain the following information:
- 20.4.1. The number of files the **Firm** has;
 - 20.4.2. The number of instructions received per month;
 - 20.4.3. The number of open files;
 - 20.4.4. The number of trial matters settled;
 - 20.4.5. The number of merits and quantum trials;
 - 20.4.6. The number of matters postponed or removed from the Court Roll;
 - 20.4.7. The number of Counsels and experts appointed;
 - 20.4.8. Pre-trial dates;
 - 20.4.9. Directions hearing; and
 - 20.4.10. Trial dates coming up.
- 20.5. The reports shall be delivered to the **Regional General Manager and Central Panel Management** by electronic mail to the addresses provided to the **Firm** from time to time in respect of each relevant **Regional Office**.
- 20.6. The **Fund** may from time to time give the **Firm** notice of new electronic mail addresses to which the Monthly and Quarterly Status Reports must be delivered.

20.7. In the **Quarterly Status Reports** the **Firm** will report on each open (unfinalised) claim and each claim finalised during the month preceding the reporting date.

20.8. **Quarterly Status Reports** must be submitted in Microsoft Excel format, and shall contain the following information:

20.8.1. Open (Unfinalised Claims):

- 20.8.1.1. Link number;
- 20.8.1.2. Serial number;
- 20.8.1.3. The Firms reference number;
- 20.8.1.4. Date of accident;
- 20.8.1.5. Date claim lodged;
- 20.8.1.6. Date Firm instructed;
- 20.8.1.7. Date Firm received the Fund's file content;
- 20.8.1.8. Heads of damages claimed and amount claimed per head of damage;
- 20.8.1.9. Contact person at Firm;
- 20.8.1.10. Plaintiff's attorney;
- 20.8.1.11. Plaintiff's full names;
- 20.8.1.12. Plaintiff's ID number;
- 20.8.1.13. Plaintiff's contact details;
- 20.8.1.14. Date of any interim payments and amount/s paid;
- 20.8.1.15. Liability settled or outstanding and if outstanding, a brief description of merits;
- 20.8.1.16. Information or documents still required in respect of merits;
- 20.8.1.17. Information or documents still required in respect of quantum
- 20.8.1.18. Expert witnesses appointed by Firm and area of specialty;
- 20.8.1.19. Expert witnesses appointed by Plaintiffs attorney and area of specialty;
- 20.8.1.20. Estimate of quantum;
- 20.8.1.21. Date tender/s made and amount tendered;
- 20.8.1.22. Date/s when matter previously set down for trial;
- 20.8.1.23. Trial date.

20.9. Simultaneously with the Quarterly Status Reports, the **Firm** shall provide the **Fund** with the following information:

20.9.1. The extent to which service levels have or have not been met during the quarter;

20.9.2. Details of any failure to meet service levels; and

20.9.3. The workload of all **Professional Persons, Lead Attorney(s)** and candidate attorneys dealing with **Fund** matters, i.e. number of files in his or her portfolio and number of matters on trial.

20.10. The **Fund** may during the term of this **Service Level Agreement** implement new IT technologies which may necessitate a change in the format in which the **Firm** must submit reports to the **Fund** and to receive the reports. The **Firm** undertakes to abide by any change in reporting format as required by the **Fund**.

20.11. In addition to the reports outlined above, the **Fund** may at any time require the **Firm** to report more frequently, or on matters not dealt with above.

20.12. The **Firm** recognizes that the **Fund** is entitled to any and all information held by the **Firm** relating to the claims handled by the **Firm** on behalf of the **Fund**.

20.13. The **Firm** acknowledges that the failure to comply with any of its reporting obligations constitutes a material breach of its obligations in terms of this Service Level Agreement, and may warrant Suspension or Termination of the Service Level Agreement.

21. CONTRACT MANAGEMENT

21.1. The **Parties** acknowledge the need for proper monitoring of their obligations in terms of this **Service Level Agreement**.

21.2. The **Firm** undertakes to at all times have a dedicated person assigned to the **Fund** as a contact in respect of Contract Management issues.

21.3. To this end the **Firm** designates the following persons as ultimately responsible for the Contract Management of this **Service Level Agreement**.

21.3.1. Lead Attorney:.....

21.3.2. Name:

21.3.3. Tel. No.:

21.3.4. E-mail:

21.3.5. Dedicated Resource

21.3.6. Name:

21.3.7. Position:

21.3.8. Tel. No.:

21.3.9. E-mail:

21.4. In order to facilitate effective contract management, the **Firm** shall quarterly, or at such other intervals as determined by the **Fund**, attend meetings with the **Fund's** designated **Contract Manager** in order to discuss contract management issues.

21.4.1. The **Firm** shall not be entitled to raise a fee for attendance of these meetings.

22. MEASUREMENT OF RESULTS

22.1. It is imperative to the **Fund** that all legal matters are dealt with in an efficient and cost effective manner. The **Fund** will evaluate the performance of the **Firm** on an on-going basis by using a variety of indicators. The key performance indicators that will be used to measure the **Firm** will include, but will not be limited to:

22.1.1. Cost Effectiveness: Legal costs as a percentage of the compensation paid.

22.1.2. Estimate Ratio: Amount paid as a percentage of the estimated liability.

22.1.3. Tender Ratio: Amount paid as a percentage of the amount first tendered.

22.1.4. Time Efficiency: Time taken to settle the claim from date of instruction.

22.1.5. Trial Preparedness: Number of Days before trial that claim settled.

22.1.6. Work flow: Number of claims finalised as a percentage of number of instructions received.

22.1.7. Resource Performance: Number of successfully litigated matters.

23. GIFTS, INDUCEMENTS AND REWARDS

23.1. The **Firm** shall not, under any circumstances, offer, promise or make any gift, payment, loan, reward, inducement, benefit or other advantage to any of the **Fund's** employees.

- 23.2. Such an act shall constitute a material breach of the **Service Level Agreement** and the **Fund** shall be entitled to terminate the **Service Level Agreement** forthwith, without prejudice to any of its rights in terms of this **Service Level Agreement** or in law.

24. CONFIDENTIAL INFORMATION

- 24.1. Notwithstanding and without limitation to the common law relationship between the **Parties** regarding the confidential nature of information made available to the **Firm**, the **Firm** acknowledges and accepts that it will have access to and become possessed of, amongst others, client information, financial information, statistics, operating methods, procedures, templates, manuals, processes and procedures relating to the financial and operations of the **Fund** and which are of crucial importance in the conduct of the business of the **Fund** (hereinafter referred to as "Confidential Information").
- 24.2. The **Firm** accepts that it is reasonable for the **Fund** to protect its rights in and to the Confidential Information.
- 24.3. The **Parties** accept and acknowledge that disclosure of the Confidential Information could, if disseminated to or used by any person without prior authorisation of the **Fund**, cause the **Fund** to suffer material harm.
- 24.4. The **Firm** undertakes that:
- 24.4.1. it will not use the Confidential Information other than for purposes of the **Service Level Agreement**;
 - 24.4.2. it will not disclose any portion of the Confidential Information to any third party other than to persons who are required to obtain such information by virtue of being appointed to provide a professional service in the evaluation process of the claim or to Court in terms of the Rules of Court; and
 - 24.4.3. it will procure all persons in its employ and any third party it may appoint who will have access to the Confidential Information as a result of such appointment, to bind themselves to the provisions of this clause.
- 24.5. This entire clause shall survive the **Termination** of this **Service Level Agreement** for whatever reason and remain binding on the **Firm** indefinitely.

25. DOMICILIUM CITANDI ET EXECUTANDI

25.1. The *Parties* hereby choose their domicilium citandi et executandi for all purposes of this *Service Level Agreement*, whether in respect of court process, notices or other documentation or communications of whatsoever nature, the following address:

25.1.1. The Fund:

420 Witch-Hazel Avenue
Eco Glades 2
Eco Park
Centurion

25.1.2. The Firm:

Mabunda Inc
2 Protea Road
Corner Reily
Bedfordview

25.2. Any notice or communication required or permitted to be given in terms of this *Service Level Agreement* shall be valid and effective only in writing.

25.3. Notice will be deemed to be given:

25.3.1. 7 (seven) Days after posting by registered mail;

25.3.2. if delivered by hand, at the time of delivery;

25.3.3. on dispatch of successful transmission and receipt by facsimile; or

25.3.4. on dispatch of successful transmission by e-mail with a delivery receipt.

25.4. Either party may by notice to the other party change its domicilium citandi et executandi to another physical address by giving notice in writing to the other party, provided that the change shall become effective from the seventh Day after the receipt of the notice by the party receiving such.

26. MISCELLANEOUS

- 26.1. This ***Service Level Agreement*** constitutes the whole agreement between the ***Parties*** and there are no promises, terms, conditions or obligations, oral or written, express or implied, other than those contained in this ***Service Level Agreement***. All the representations, undertakings, warranties or guarantees ("the representations") made by the ***Parties*** are contained in this ***Service Level Agreement***.
- 26.2. Any representations not contained in this ***Service Level Agreement*** shall not be binding on the ***Parties*** and shall be without any force or effect. Any provision at variance with the terms and conditions of this ***Service Level Agreement*** shall not be binding on the ***Parties*** and shall be without any force or effect.
- 26.3. This ***Service Level Agreement*** replaces all previous agreements with a similar content between the ***Firm*** and the ***Fund***. There are no prior or parallel agreements with a similar subject matter to this ***Service Level Agreement*** that are binding on the ***Parties***.
- 26.4. Save for Directives issued by the ***Fund*** from time to time, no amendment, addition, or neither variation, nor any extension of time, waiver, relaxation or ***Suspension*** of any of the provisions or terms of this ***Service Level Agreement*** shall have any force or effect unless same have been reduced to writing and ***signed*** by both ***Parties*** to this ***Service Level Agreement***. Any such extension, waiver, relaxation, or ***Suspension*** which is so given or made shall be strictly construed as relating to the specific matter in respect whereof it was made or given.
- 26.5. No extension of time or waiver, relaxation or ***Suspension*** of any of the provisions or terms of this ***Service Level Agreement*** shall operate as an estoppel against any party in respect of its rights under this ***Service Level Agreement*** nor shall it operate so as to preclude such party thereof from exercising its rights strictly in accordance with this ***Service Level Agreement***.
- 26.6. If any provision of this ***Service Level Agreement*** is unenforceable at law, such provision shall be severed from the remaining provisions of this ***Service Level Agreement*** and the remaining provisions of this ***Service Level Agreement*** shall not be affected and shall remain of full force and effect.

26.7. The **Fund** and the **Firm** warrant to each other that their respective signatories and representatives have the power, authority and legal right to conclude and sign this **Service Level Agreement** and perform in terms of this **Service Level Agreement**, and that this **Service Level Agreement** has been duly authorised by all necessary actions of their respective governing organs and management, as the case may be, and constitutes valid and binding obligations on them in accordance with the provisions of this **Service Level Agreement**.

27. SPECIAL TERMS AND CONDITIONS

27.1. At no additional cost to the **Fund**, other than the payment to be paid by the **Fund** to the **Firm** for the **Services** in terms of this **Service Level Agreement**, the **Firm** undertakes to:

27.1.1. provided that the unjustifiable actions of the **Fund** does not prevent the **Firm** from performing its obligations under this **Service Level Agreement** and barring any force majeure event:

27.1.1.1. the **Firm** shall at all times supply the **Services** with promptness, diligence, in a professional manner and with all due care, skill and expertise; and

27.1.1.2. it shall render the **Services** within the agreed timelines.

27.1.2. perform its obligations in a manner that does not infringe or constitute an infringement or misappropriation of any intellectual property or other proprietary rights of any third party; and

27.1.3. comply with all legal requirements and with the necessary licenses, certificates, authorisations and consents required under the laws of the Republic of South Africa or under any other applicable jurisdiction for the supply of the **Services** to the **Fund**.

27.2. Notwithstanding anything seemingly to the contrary contained in this **Service Level Agreement**, a breach by the **Firm** of any of the provisions specified in clause 27.1 above shall constitute a material breach of this **Service Level Agreement** which will entitle the **Fund** to require the **Firm** to rectify the breach within 5 (five) **Days**, failing which, without prejudice to any other remedies the **Fund** may have in law, the **Fund** may terminate this **Service Level Agreement** summarily.

28. ORDER OF PRECEDENCE

28.1. In the event of any of the provisions of this **Service Level Agreement**, or any Annexure to this **Service Level Agreement**, or addendum or any Bid Document being in conflict with each other, the conflict shall be resolved in accordance with the following order of precedence:

28.1.1. this Schedule and **Annexure B** takes precedence over **Annexure A**; and

28.1.2. **Annexure A** takes precedence over the Government Procurement Special Conditions of Contract and all other annexures to this **Service Level Agreement**.

29. DELETIONS, REVISIONS AND ADDITIONS TO ANNEXURE A

29.1. The **Parties** agree to delete the current clause 3.1 and 3.2 of **Annexure A**.

29.2. The **Parties** agree to substitute the current clause 3.3 of Annexure A for the following:

"Should the **Firm** fail to meet the set performance standards (as objectively considered), the **Fund** shall be entitled to cancel any outstanding payment due to the **Firm** with regards to the deliverable in terms of this **Service Level Agreement**."

29.3. The **Parties** agree to substitute the current clause 7.2 of **Annexure A** for the following:

"All written representations made by the **Firm** in this regard shall be deemed to be incorporated into this **Service Level Agreement**."

29.4. The **Parties** agree to delete the current clause 11 of **Annexure A**.

Signed at _____ on this _____ day of _____ 2014.

For: **ROAD ACCIDENT FUND**
Name: Dr Ntuthuko Bhengu
Capacity: Chairperson of the Board

Witness
Name:

Signed at _____ on this _____ day of _____ 2014.

For: **MABUNDA INCORPORATED**
Name:
Capacity:

Witness:
Name:

ANNEXURE A
ROAD ACCIDENT FUND
SPECIAL CONDITIONS OF CONTRACT ("SCC")

1. INTERPRETATION AND DEFINITIONS

- 1.1. In this **Service Level Agreement**, unless clearly inconsistent with or otherwise indicated by the context of the **Service Level Agreement**, the following words, terms or phrases have the following meanings:
- 1.1.1. "Fund" means the **Road Accident Fund**, a juristic person established in terms of Section 2(1) of the **Road Accident Fund Act No. 56 of 1996** (as amended), as well as its successor in title and any other juristic person to whom the **Fund's** rights and obligations may be assigned and devolve upon;
 - 1.1.2. "The Firm" means the party described in the Schedule of the **Service Level Agreement**, or in lieu of a **Service Level Agreement** the party described as the Supplier in the Purchase Order issued by the Fund (whichever is applicable);
 - 1.1.3. "Confidential Information" means the terms of this **Service Level Agreement**; any information concerning either party or its stakeholders and customers including its operations, business and financial affairs and all other matters which relate to the business of either party and in respect of which information is not readily available in the ordinary course of the business to a competitor of such party or in to any third party; proprietary information or secret information;
 - 1.1.4. "Intellectual Property Rights" means all rights in and to the intellectual property including, without limitation, any know-how, patent, copyright, registered design, trademark or other industrial or intellectual property, whether registered or not and whether or not capable of being registered and any application for any of the aforementioned.
- 1.2. Any reference to the singular includes the plural and vice versa.
- 1.3. Any reference to natural persons includes legal persons and vice versa.
- 1.4. Any reference to a gender includes the other gender/s.

- 1.5. Where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.
- 1.6. Where any number of **Days** is prescribed in this **Service Level Agreement** same shall be considered to be calendar **Days** and reckoned exclusive of the first and inclusive of the last **Day** unless the last **Day** falls on a Saturday, Sunday or public holiday, in which case the last **Day** shall be the next succeeding **Day** which is not a Saturday, Sunday or public holiday in the Republic of South Africa.
- 1.7. The use of the word "including" or "includes" followed by a specific example shall not be construed as limiting the meaning of the general wording preceding it and the eiusdem generis rule shall not be applied in the interpretation of such general wording or such specific example.
- 1.8. The rule of construction that an agreement shall be interpreted against the party responsible for the drafting or preparation of the **Service Level Agreement**, shall not apply.
- 1.9. The clause headings in this **Service Level Agreement** have been inserted for convenience only and shall not be taken into account in its interpretation.
- 1.10. Recordals shall be binding on the **Parties** and are not for information purposes only.
- 1.11. Words and expressions defined in any sub-clause shall, for the purposes of the clause of which that sub-clause forms part, bear the meaning **assigned** to such words and expressions in that sub-clause.
- 1.12. To the extent that there is a conflict between the provisions contained in the Schedule and the provisions contained in these Special Terms and Conditions of Contract (SCC), the provisions of the Schedule shall prevail.
- 1.13. To the extent that there is a conflict between the provisions contained in the Special Terms and Conditions of Contract (SCC) and the provisions contained in Government Procurement General Terms and Conditions of Contract (GCC), the provisions of the SCC shall prevail.



- 1.14. Terms other than those defined within this **Service Level Agreement** will be given their plain English meaning, and those terms, acronyms, abbreviations and phrases known in the relevant industry to which this **Service Level Agreement** applies shall be interpreted in accordance with their generally known meanings in such industry.
- 1.15. Any reference to any statute or statutory regulation shall include a reference to any amendments thereto and to the successor/s in title to such statutes and statutory regulations.
- 1.16. Any reference to any organisation, institution, office, body, department, organ or person vested with certain powers and authority shall include a reference to its successor/s in title.
- 1.17. The expiration or **Termination** of this **Service Level Agreement** shall not affect those provisions of this **Service Level Agreement** which expressly provide that they will operate after any such expiration or **Termination** or which of necessity must continue to have effect after such expiration or **Termination**, notwithstanding the fact that the clauses themselves do not expressly provide for this.
- 1.18. If any provision in a recordal, preamble or definition is a substantive provision conferring rights or imposing obligations on any party, effect shall be given to it as if it were a substantive clause in the body of the **Service Level Agreement**.
- 1.19. This **Service Level Agreement** shall be governed by and construed and interpreted in accordance with the laws of the Republic of South Africa.

2. RECORDAL

- 2.1. The SCC is the **Fund's** standard terms and conditions of contract and constitutes part of the **Service Level Agreement** between the **Fund** and the **Firm**, or in lieu of a **Service Level Agreement**, constitutes part of the Purchase Order issued by the **Fund** to the **Firm** (whichever is applicable)
- 2.2. All references to the **Service Level Agreement** are references to the **Service Level Agreement** or Purchase Order (whichever is applicable) and the SCC and the GCC.

3. NON-PERFORMANCE OF THE FIRM

- 3.1. In the event of *the Firm* not meeting the performance standards set by *the Fund*, *the Fund* shall be entitled to call upon *the Firm* by written notice to remedy the situation.
- 3.2. Should *the Firm* fail to remedy the situation within 14 (fourteen) days *the Fund* shall be entitled to cancel this Agreement forthwith and without further notice to *the Firm*.
- 3.3. Should *the Firm* fail to meet the set performance standards, *the Fund* shall be entitled to cancel any outstanding payment due to *the Firm* with regards to the deliverable in terms of the Agreement.

4. PAYMENT

- 4.1. An original and detailed tax invoice must be submitted after the *Fund* has acknowledged receipt of the *Services* rendered or goods received in writing.
- 4.2. A correct and original tax invoice must be submitted to the *Fund* by the 1st (first) calendar *Day* of the month.
- 4.3. All supporting documentation, including but not limited to monthly statements (where applicable) and a verification of bank details, must be received before payment can be effected.
- 4.4. The *Firm* shall be required to verify its bank account details by furnishing the *Fund* with a letter from its bank with a bank stamp, alternatively it shall furnish the *Fund* with a cancelled cheque.
 - 4.4.1. The following bank details must be verified:
 - 4.4.1.1. Account Holder and any Trading Names
 - 4.4.1.2. Bank Name
 - 4.4.1.3. Branch Name
 - 4.4.1.4. Branch Code
 - 4.4.1.5. Account Number
 - 4.4.1.6. Type of Account

- 4.5. Payment will be made by the end of the month on condition that the documentation listed in 4.2 and 4.3 above is furnished to the **Fund** by the 1st (first) calendar **Day** of the month.
- 4.6. If an invoice and supporting documentation is submitted to the **Fund** after the 1st (first) calendar **Day** of the month it shall only be paid by the end of the following month.
- 4.7. Should the documentation be incomplete, incorrect or late (see clauses 4.1 – 4.6 above), payment shall only be effected once the correct and complete documents are received and shall be made in terms of the provisions of 4.5 and 4.6 above. No penalty interest shall be permitted to be charged by the **Firm** in this event.
- 4.8. Payment shall be effected by electronic bank transfer or any other method of payment decided to be used by the **Fund** from time to time and at the **Fund's** sole discretion.
- 4.9. Any special or unusual expenses incurred by the **Firm** at the **Fund's** specific written request must be charged by the **Firm** at cost to the **Fund**. The **Fund** may inspect expense vouchers at any reasonable time. The **Fund** shall at its own cost verify any such special or unusual expenses.
- 4.10. Value Added Tax (VAT) shall be charged on all invoices, which must include the **Firm's** VAT registration number, in terms of the Value Added Tax legislation applicable in the Republic of South Africa.

5. CONFIDENTIAL INFORMATION

- 5.1. The **Parties** shall hold in confidence all Confidential Information received from each other and not divulge the Confidential Information to any **Parties**, including any of their employees, agents, consultants and sub-contractors directly, unless the **Parties** are involved with the execution of this Agreement and then only on a need to know basis.
- 5.2. The **Parties** shall prevent disclosure of the Confidential Information, except as may be required by law.

- 5.3. The *Parties* agree that they shall protect each other's Confidential Information using the same standard of care that each party applies to safeguard its own Confidential Information and that the information shall be stored and handled in such a way as to prevent any unauthorised disclosure thereof.
- 5.4. Within thirty (30) days after the termination of this Agreement, for whatever reason, the receiving party of Confidential Information shall return same or at the discretion of the disclosing party of such Confidential Information, destroy such Confidential Information, and shall not retain copies, samples or excerpts thereof.
- 5.5. The disclosing party of Confidential Information may at any time request the receiving party of such Confidential Information to return any material containing, pertaining to or relating to Confidential Information disclosed pursuant to the terms of this Agreement, and may in addition request the receiving party to furnish a written statement to the effect, that upon such return, the receiving party has not retained in its possession or under its control either directly or indirectly any such material.
- 5.6. As an alternative to the return of the material contemplated in 5.5 above, the receiving party shall at the instance of the disclosing party, destroy such material and furnish the disclosing party with a written statement to the effect that all such material has been destroyed.
- 5.7. The receiving party shall comply with the request in terms of clauses 5.5 and 5.6, within fourteen (14) days of receipt of same.
- 5.8. It is recorded that the following information shall, for the purpose of this Agreement, not be considered to be Confidential Information:
- 5.8.1. Information known to either of the *Parties* prior to the date that it was received by the other party; or
 - 5.8.2. Information known to the public or generally available to the public prior to the date that it was disclosed by either of the *Parties* to the other; or
 - 5.8.3. Information which becomes known to the public or becomes generally available to the public subsequent to the date that it was disclosed by either of the *Parties* to the other, through no act or failure to act on the part of the recipient of such Information; or
 - 5.8.4. Information which either of the *Parties*, in writing, authorises the other to disclose.

- 5.9. For the avoidance of any doubt, no provision of this Agreement should be construed in such a way that the disclosing party is deemed to have granted its consent to the receiving party to disclose the whole or any part of the Confidential Information in the event that the receiving party receives the request for the whole or any part of the confidential information in terms of the provisions of the Promotion to Access to Information Act No. 2 of 2000.
- 5.10. Breach of these obligations shall, without prejudice to any other rights that the *Parties* have in law and or in terms of this Agreement entitle *the Fund* to recover damages from *the Firm*.

6. INTELLECTUAL PROPERTY RIGHTS

- 6.1. Where the *Firm's Services* and/or products supplied to the *Fund* in terms of this *Service Level Agreement* include Intellectual Property Rights which require to be protected, this is acknowledged by the *Fund*.
- 6.2. Where certain information pertaining to the *Firm's* Intellectual Property Rights is disclosed to the *Fund* and any of its employees and consultants, such information shall be treated as Confidential Information and afforded the protection in terms of clause 5.above.

7. WARRANTIES

- 7.1. Where the *Firm's* products and/or *Services* supplied to the *Fund* in terms of this *Service Level Agreement* include or come with certain warranties or guarantees, these shall be incorporated into this *Service Level Agreement* as if specifically mentioned and the *Fund* shall receive the full benefits thereof.
- 7.2. All representations made by the *Firm* in this regard whether in writing or verbally shall be deemed to be incorporated into this *Service Level Agreement* as if specifically stated.
- 7.3. Where a dispute arises regarding the terms and conditions of such warranties or guarantees and the representations made by the *Firm*, then the standard practice of the

Firm in giving such warranties in the normal course of its business shall be deemed to apply as the minimum warranty or guarantee benefits due to the **Fund**.

- 7.4. The particular terms and conditions of such warranties or guarantees may be recorded in the Schedule. In the event of a conflict between the provisions contained in the Schedule and the provisions contained in the SCC pertaining to such warranties or guarantees, the provisions of the Schedule shall prevail.

8. CESSION AND ASSIGNMENT

- 8.1. The **Firm** shall not cede, assign, abandon or transfer any of its rights and/or obligations in terms of this **Service Level Agreement** (whether in part or in whole) or delegate any of its obligations in terms of this **Service Level Agreement**, without the prior written consent of the **Fund**.

9. NON-EXCLUSIVE AGREEMENT

- 9.1. The **Fund** is not obliged to make exclusive use of the **Firm**. Nothing in this **Service Level Agreement** shall be interpreted as precluding the **Fund** from procuring similar or equivalent products or service from other firms.

10. CONTRACTUAL RELATIONSHIP – COMMUNICATIONS WITH NEWS MEDIA AND CONSENSUAL EFFORTS AT RESOLUTION

- 10.1. The **Firm** may not make a statement or furnish any information or cause any information to be furnished to any news media, on or regarding any matter relating to the contractual relationship between the **Parties**, except with the prior written permission of the Chief Executive Officer of the **Fund**.
- 10.2. The **Parties** agree that they shall inform each other as soon as possible about any problem relating to the contractual relationship between them that either of them may experience,

and further that they shall make all reasonable effort to resolve any such problem consensually.

11. RELATIONSHIP

- 11.1. This Agreement does not constitute either of the *Parties* an agent or legal representative of the other for any purpose whatsoever and neither of the *Parties* shall be entitled to act on behalf of, or to represent, the other unless duly authorised thereto in writing.

12. LIMITATION OF LIABILITY AND INDEMNIFICATION

- 12.1. The *Fund* shall not be liable for any damages arising out of any injuries sustained by the *Firm's* employees, consultants, agents, representatives or sub-contractors whilst such persons are on any premises or in any vehicle owned or used by the *Fund* or arising out of any damage or loss of any property belonging to such persons on or in such premises or property, whether such injury or damage or loss is caused by the negligence by the *Fund* or any of its employees, consultants, agents, representatives or sub-contractors or by any other cause whatsoever.
- 12.2. The *Firm* indemnifies the *Fund* against any claims that may arise from the performance of their functions and actions in terms of this *Service Level Agreement* and that of their employees, consultants, agents, representatives or sub-contractors.
- 12.3. Each party hereby indemnifies the other party against all damages, losses or liabilities caused due to an event which is at its risk or due to that party's negligence, either contractually or delictually. The liability of each party to indemnify the other party shall be reduced proportionally if the event at the other party's risk or negligence contributed to the damage, loss or liability.
- 12.4. The *Firm* shall ensure that it and its employees, consultants, agents, representatives and sub-contractors concerned do not in any way infringe or allow any infringement of any other party's Intellectual Property Rights in the performance of this contract, and the *Firm* hereby

indemnifies and holds the **Fund** harmless from and against any claims arising against the **Fund** as a result of any such infringements by the **Firm** of such Intellectual Property Rights.

13. INSURANCE

- 13.1. Without limiting the **Firm's** liabilities or responsibilities in terms of the **Service Level Agreement**, the **Firm** shall provide insurance to cover its liabilities and responsibilities in terms of the **Service Level Agreement**.
- 13.2. Notwithstanding anything elsewhere contained in the **Service Level Agreement**, the **Firm** shall provide at least:
- 13.2.1. Insurance in terms of the Compensation for Occupational Injuries and Diseases Act, 130 of 1993. The **Firm** shall upon request from the **Fund** submit proof to the satisfaction of the **Fund** that the **Firm** is insured under the Compensation for Occupational Injuries and Diseases Act by providing the **Fund** with adequate proof stating that it has paid all assessments due;
 - 13.2.2. Insurance covering legal liability in respect of claims for death of/or injury to persons or loss of/or damage to third party property;
 - 13.2.3. Motor vehicle liability insurance in respect of all motor vehicles brought onto the premises of the **Fund**.
- 13.3. The **Fund** shall have the right to examine the policies maintained by the **Firm** at any time during the term of the **Service Level Agreement**.

14. SAFETY AND SECURITY

- 14.1. The **Firm** agrees to comply with the **Fund's** security and safety procedures. Without limiting the generality thereof the **Firm** must specifically comply with the Occupational Health and Safety Act.
- 14.2. The **Fund** shall be entitled to request the **Firm** to remove any employee, agent, consultant or subcontractor from its team if the **Fund** is of the opinion that such a person is a security or safety risk or that the conduct of such a person is detrimental to the relationship between

the *Parties*. Such a person must be removed by the *Firm* within the time period stipulated by the *Fund*. The *Firm* indemnifies the *Fund* against any claims that might arise due to such removal.

15. CANVASSING, GIFTS, INDUCEMENTS AND REWARDS

- 15.1. *The Firm* shall not under any circumstances offer, promise or make any gift, payment, loan, reward, inducement, benefit or other advantage to any of *the Fund's* employees, consultants or sub-contractors.
- 15.2. Such an act shall constitute a material breach of the Agreement and *the Fund* shall be entitled to terminate the Agreement forthwith, without prejudice to any of its rights in terms of this Agreement or in law.

16. MEETINGS

- 16.1. If the nature of the goods or *Services* supplied to the *Fund* dictate it, authorised representatives of the *Parties* must attend periodic meetings at such intervals as such representatives may agree from time to time but in any event not less than once every two weeks. The meetings shall take place at the location and at such times as the representatives may agree.
- 16.2. Each party's representatives shall be entitled to place such items which they intend discussing at a meeting on the agenda for the meeting and shall give the representatives of the other party notice of all such items by no later than 16h00 two (2) *Days* preceding the *Day* on which the meeting is to be held.
- 16.3. The *Firm* shall not be entitled to payment from the *Fund* for time spent attending the aforementioned meetings.

17. COMPLIANCE WITH LAWS AND TAX OBLIGATIONS

- 17.1. The **Firm** warrants that it complies with all laws and regulations applicable to it, with its legal obligations pertaining to its business in general and to its obligations contained in this **Service Level Agreement** as well as with all applicable requirements of any government department (whether national, provincial or local), other public authorities and regulating bodies (whether statutory or voluntary); and undertakes to continue to take all reasonable and necessary steps to ensure that such compliance is maintained.
- 17.2. The **Firm** warrants that any of its undertakings in terms of this **Service Level Agreement** do not constitute a contravention in terms of any statute, statutory regulation, other law or regulating body's rules that it is bound by; and undertakes to continue to take all reasonable and necessary steps to ensure that this remains so.
- 17.3. The **Firm** furthermore specifically warrants that it complies with all of its obligations in terms of all tax laws and regulations applicable to it, including but not limited to all of its obligations pertaining to the payment of income tax, capital gains tax, employees tax (PAYE and SITE), value added tax, skills development levies, unemployment insurance **Fund** levies, workmen's compensation **Fund** levies, regional **Services** council levies and all other taxes and levies payable both now or in the future and whether it is liable in the Republic of South Africa or other jurisdictions; and undertakes to continue to take all reasonable and necessary steps to ensure that this remains so.
- 17.4. The **Firm** warrants that it is well acquainted with its obligations as contemplated in 17.1 – 17.3, above and undertakes to take all reasonable and necessary steps to remain so.
- 17.5. The **Firm** specifically warrants that it is well acquainted with its obligations as a taxpayer, provisional taxpayer, employer, employee, labour broker, personal service company, personal service trust and the like (as the case may be) and its income tax, employees taxes and levies (SITE, PAYE, UIF, SDL, others) and other tax implications and obligations in terms of the Income Tax Act as a whole and specifically the Fourth Schedule thereto, and their successor/s in title.

- 17.6. Any specific warranties given by the **Firm** in clause 17. above shall not in any way limit or affect the generality of the warranties and undertakings given in this clause. Such specific warranties and undertakings are merely included for the sake of additional clarity.

18. BREACH

- 18.1. In the event of either one of the **Parties** (the "defaulting party") committing a breach of any of the provisions of this Agreement and failing to remedy such breach within a period of fourteen (14) days after receipt of a written notice from the other party (the "aggrieved Party") calling upon the defaulting party to remedy the breach complained of, then the aggrieved party shall be entitled at their sole discretion and without prejudice to any of their other rights in law and/or in terms of this Agreement, either to:

18.1.1. Claim specific performance in the terms of the Agreement;

18.1.2. Cancel the Agreement forthwith and without further notice and recover damages from the defaulting party.

- 18.2. In the event of the defaulting party being in breach of any provision of this Agreement and the aggrieved party having to take legal action / dispute resolution action against the defaulting party as a result thereof (see the arbitration clause 21. below), the defaulting party shall be liable to pay the aggrieved party's legal costs as well as all expenses which have reasonably been incurred in having to take such legal action, which expenses will include but not be limited to private investigators fees, tracing agents fees, forensic auditors fees, valuation fees and such similar professional fees in terms of any court order, arbitration award or settlement agreement (whether legal action was instituted in by way of arbitration, in a court of law or other forum, or was resolved prior to any such action having to be taken).

19. TERMINATION

- 19.1. **The Fund** may terminate this Agreement, or suspend its operation, in whole or in part, at any time and at **the Fund's** sole discretion, by giving not less than 1 (one) month's written notice to **the Firm**.

- 19.2. **The Fund** when giving notice under clause 19.1 shall, in the written notice, specify the extent of the termination or suspension, and the **Effective Date** of such termination or suspension.
- 19.3. **The Firm**, upon receipt of a notice contemplated under clause 19.1 shall discontinue the supply of all services or goods under this Agreement, to the extent specified, and on the date specified in the notice.
- 19.4. In the event of the termination or suspension, in whole or in part, of this Agreement by **the Fund** under this clause 19, **the Fund** shall pay **the Firm** for services or goods already supplied by **the Firm** under this Agreement, up to and including the date of termination or suspension specified in the notice.
- 19.5. **The Fund** shall not be liable for any consequential loss resulting from the termination or suspension of this Agreement by **the Fund** under this clause 19, including, without limitation, any loss of profits or any costs associated with the termination or suspension of any sub-contracts entered into by **the Firm**.
- 19.6. Termination or suspension of the Agreement under this clause 19 shall be without prejudice to any rights that may have accrued to either of the **Parties**, in respect of goods or services delivered before the date of termination or suspension, specified in the notice. It is specifically agreed that, upon termination or suspension of this Agreement under clause 19, no rights shall accrue to either party in respect of goods or services not yet delivered under the Agreement.

20. DISPUTE RESOLUTION

- 20.1. All disputes concerning or arising out of this Agreement exists once a party notifies the others in writing of the nature of the dispute and requires the dispute to be resolved under this clause. The **Parties** must refer any dispute to be resolved by:
- 20.1.1. Negotiation, in terms of clause 20.4; failing which;
 - 20.1.2. Mediation, in terms of clause 20.5; failing which; and
 - 20.1.3. Arbitration, in terms of clause 21.

- 20.2. Clause 20.1 shall not preclude any party from access to an appropriate court of law for interim relief in respect of urgent matters by way of an interdict, or mandamus pending finalisation of the dispute resolution process contemplated in clause 20.1, for which purpose the **Parties** irrevocably submit to the jurisdiction of a division of the High Court of the Republic of South Africa.
- 20.3. Clause 20.1 constitutes the irrevocable consent of the **Parties** to the dispute resolution proceeding in terms hereof and neither of the **Parties** shall be entitled to withdraw there from or to claim at any negotiation, mediation or arbitration proceedings that they are not bound by the dispute resolution provisions of this Agreement.
- 20.4. Within ten (10) days of notification, the **Parties** must seek an amicable resolution to the dispute by referring the dispute to designated and authorized representatives of each of the **Parties** to negotiate and resolve the dispute. If an amicable resolution to the dispute is found the authorized representatives of the **Parties** must sign, within the ten (10) day period, an agreement *confirming* that the dispute has been resolved.
- 20.5. If negotiation in terms of clause 20.4 fails, the **Parties** must, within fifteen (15) days of the negotiations failing, refer the dispute for resolution by mediation under the rules of the Arbitration Foundation of Southern Africa (or its successor or body nominated in writing by it in its stead).
- 20.6. The periods for negotiation (specified in clause 20.4) or for referral of the dispute for mediation (specified in clause 20.5), may be shortened or lengthened by written agreement between the **Parties**.

21. ARBITRATION OF DISPUTES

- 21.1. In the event of the mediation contemplated in clause 20.5 failing the **Parties** shall refer the dispute, within fifteen (15) days of the mediation failing, for resolution by expedited arbitration under the current rules of the Arbitration Foundation of Southern Africa (or its successor or body nominated in writing by it in its stead).

- 21.2. A single arbitrator shall be appointed by agreement between the **Parties** within ten (10) days of the dispute being referred for arbitration, failing which the arbitrator shall be appointed by the Secretariat of the Arbitration Foundation of Southern Africa (or its successor or body nominated in writing by it in its stead).
- 21.3. At all times, every reasonable effort shall be made to ensure that such arbitrator has the necessary technical skills to enable him to adjudicate the dispute in a satisfactory manner.
- 21.4. The arbitration shall be held at Sandton, South Africa, in English.
- 21.5. The South African law shall apply.
- 21.6. The **Parties** shall be entitled to legal representation.
- 21.7. The award of the arbitrator shall be final and binding on the **Parties**, who hereby agree to give effect to the award. Either party shall be entitled to have the arbitrator's award made an order of court at the cost of the party requesting same.
- 21.8. Should any dispute arise between the **Parties** whether in regard to the interpretation of the provisions of this Agreement, a breach of any of its provisions, a variation or cancellation thereof, or any other matter whatsoever, then and in such event, such a dispute shall be resolved by way of arbitration.
- 21.9. This clause 21 read with clause 20 above is a separate, divisible agreement from the rest of this Agreement and shall remain in effect even if the Agreement terminates, is nullified, or cancelled for any reason or cause.

22. DOMICILIUM AND NOTICE ADDRESS

- 22.1. The **Parties** each choose their *domicilium citandi et executandi* as the address where they will receive service of all legal process and notices at the respective physical addresses given in the Schedule or the Purchase Order (whichever is applicable).

23. NOTICE

- 23.1. All notices, correspondence and any other communication between the **Parties** shall be made in writing and shall be sent by hand delivery, by registered post, by facsimile transmission or by e-mail with a 'read receipt'.
- 23.2. If notice is given by way of e-mail it must be with a 'read receipt', such notice shall be deemed to be received 1 (one) day after sending.
- 23.3. If notice is given by way of facsimile transmission, such notice shall be deemed to be received 1 (one) day after sending.
- 23.4. If notice is given by registered post, such notice shall be deemed to be received 7 (seven) days after sending.
- 23.5. If notice is given by hand delivery, such notice shall be deemed to be received after delivery.
- 23.6. Any legal process shall be served at the **Parties'** chosen *domicilium citandi et executandi* addresses.
- 23.7. Any changes to the **Parties'** notice addresses and *domicilium* addresses as furnished in the Schedule shall be given in writing and shall be deemed to apply upon the date of receipt of such notice.

24. GENERAL CONTRACT PROVISIONS

24.1. Entire Contract

- 24.1.1. This **Service Level Agreement** replaces all previous agreements with a similar content between the **Firm** and the **Fund**. There are no prior or parallel agreements with a similar subject matter to this **Service Level Agreement** that are binding on the **Parties**.

24.1.2. This **Service Level Agreement** constitutes the sole and entire agreement between the **Parties**.

24.1.3. All the representations, undertakings, warranties or guarantees ("the representations") made by the **Parties** are contained in this **Service Level Agreement**. Any representations not contained in this **Service Level Agreement** shall not be binding on the **Parties** and shall be without any force or effect.

24.1.4. The provisions of clause 7 above shall be excluded here from, where applicable.

24.1.5. Any provision at variance with the terms and conditions of this **Service Level Agreement** shall not be binding on the **Parties** and shall be without any force or effect.

24.2. **Amendments and Latitude**

24.2.1. No amendment or variation of this **Service Level Agreement** (including this clause), whether by addition, deletion, waiver, novation or consensual cancellation shall be binding on the **Parties** and shall be without any force or effect unless reduced to writing and signed by the **Parties** to this **Service Level Agreement**.

24.2.2. No latitude, extension of time or other indulgence which may be given or allowed by any party to any other party in respect of the performance of any obligation in this **Service Level Agreement** or any enforcement of any rights arising from this **Service Level Agreement** and no single or partial exercise of any right by any party, shall under any circumstances be construed to be an implied consent by such party or operate as a waiver or a novation of, or otherwise affect any of that party's rights in terms of or arising from this **Service Level Agreement** or estop such a party from enforcing, at any time and without notice, strict and punctual compliance with each and every provision of this **Service Level Agreement**.

24.3. **Severability**

24.3.1. If any term, condition or performance, or any part thereof, in this **Service Level Agreement** (the "provision") is determined to be invalid, illegal, unlawful or unenforceable to any extent, then that provision shall be removed from the remaining provisions of this **Service Level Agreement**, or amended to make it valid, legal, lawful or enforceable (as the case may be), in such a manner as to leave the amended agreement substantially the same in essence, and the **Service Level Agreement** so amended shall remain in force and effect.

24.3.2. If any provision of this **Service Level Agreement** is determined to be invalid, illegal, unlawful or unenforceable to any extent as contemplated in 24.3.1 above, such a provision shall be deemed to be severable from the rest of the provisions of this **Service Level Agreement**, and shall not in any way affect the validity and enforceability of the rest of the provisions of this **Service Level Agreement** and the **Service Level Agreement** as a whole.

24.4. Warranty of Authority

24.4.1. The **Fund** and the **Firm** warrant to each other that their respective signatories and representatives have the power, authority and legal right to conclude and sign this **Service Level Agreement** and perform in terms of this **Service Level Agreement**, and that this **Service Level Agreement** has been duly authorised by all necessary actions of their respective governing organs and management, as the case may be, and constitutes valid and binding obligations on them in accordance with the provisions of this **Service Level Agreement**.

24.5. Costs

24.5.1. Each party shall pay their own legal and other consulting and advisory fees and related expenses incurred in regard to the negotiation, drafting, preparation and finalisation of this **Service Level Agreement** and the entire transaction.

ANNEXURE B

SCOPE OF WORK AND PROCEDURE

1. ACKNOWLEDGEMENT OF INSTRUCTIONS FURNISHED IN TERMS OF THE SERVICE LEVEL AGREEMENT

- 1.1. The **Firm** must acknowledge receipt of instructions in writing within 1 (one) business **Day** of receipt thereof.
- 1.2. If the instruction is to defend an action instituted against the **Fund**, the **Firm** must provide the **Fund** with a copy of the served **Notice of Intention to Defend** within 3 (three) business **Days** from the date of the instruction.

2. CORRESPONDENCE

- 2.1. All correspondence sent to the **Fund** must reflect the **Fund's** claim and link numbers.
- 2.2. Correspondence delivered to the **Fund** after a trial date or arbitration hearing date has been allocated, must also reflect the date of trial or arbitration hearing.
- 2.3. The **Firm** shall at all times maintain an operational IT capability as required by the **Fund** and shall inform the **Fund** within 24 (twenty four) hours of any breakdown or other issue which may impact fax, e-mail or telephonic communication between the **Firm** and the **Fund**.

3. PROVISION OF DOCUMENTS

- 3.1. Within 5 (five) **Days** of the **Fund** furnishing instructions in terms of paragraph 9 of the **Schedule**, the **Fund** will provide the **Firm** with a copy of the **Fund's** file.

- 3.1.1. In the event of the **Firm** not receiving copies of the **Fund's** file contents within the time period mentioned in sub-paragraph 3.1 above, the **Senior Manager** of the region from which the instruction was received must be notified of this in writing.
- 3.1.2. Such written notification must be sent by electronic mail.
- 3.2. If copies of the file contents are not received within 5 (five) **Days** from date of the written notification being sent in terms of sub-paragraph 3.1 above, the **Firm** must notify the **Regional General Manager** by electronic mail of the **Fund's** failure to deliver the file content.
- 3.3. Unless an earlier time period is specified in this Annexure, the **Firm** must provide the **Fund** with copies of all pleadings, applications and notices within 5 (five) **Days** of such being served.
- 3.4. The **Firm** must provide the **Fund** with copies of all reports of experts instructed on behalf of the **Fund** within 5 (five) **Days** of such reports being received by the **Firm** from the expert.
- 3.5. A copy of the minutes of a pre-trial conference will be delivered to the **Fund** within 3 (three) **Days** of such pre-trial conference being held, unless the pre-trial conference is held less than 10 (ten) court **Days** before trial or the arbitration hearing, in which event the minutes of the pre-trial conference must be delivered to the **Fund** on the business **Day** following the pre-trial conference.
- 3.6. Copies of Court Orders and Arbitration Awards must be furnished by the **Firm** to the **Fund** within 3 (three) **Days** of such order being handed down. Notification of Court Orders and Arbitration Awards must be done on the template attached hereto as **Annexure F**.
- 3.7. The **Firm** must provide the **Fund** with a copy of taxed bills of costs within 3 (three) **Days** of the date of the Taxing Masters allocator.
- 3.8. The **Firm** must provide the **Fund** with a copy of settled bills of costs within 3 (three) **Days** of the date of settlement.

- 3.9. In the event of the **Fund** instructing the **Firm** to obtain a written opinion from counsel, a copy of such opinion shall be furnished to the **Fund** within 3 (three) **Days** of such opinion being received from counsel.

4. APPLICATIONS, PLEADINGS AND NOTICES

- 4.1. The minimum time periods specified in the Rules of Court and the Arbitration Rules for the Arbitration of Disputes in **Road Accident Fund** Claims for the delivery of applications, notices and pleadings must be adhered to.

5. EXCEPTIONS AND SPECIAL PLEAS

- 5.1. The **Firm** shall not take exception to a Plaintiff's Particulars of Claim and/or Notice of Intention to Amend or deliver a Special Plea unless the prior approval of the **Fund** is obtained.
- 5.2. In the event of the **Firm** being of the view that Particulars of Claim and/or Notice of Intention to Amend are excipiable, or that a Special Pleas should be delivered, this must be conveyed to the **Fund** at least 5 (five) **Days** before the Plea is due to be delivered.
- 5.3. The **Fund** will furnish the **Firm** with instructions within 1 (one) **Day** from receipt of the request for instructions.
- 5.4. In the event of instructions not being received from the **Fund** within 1 (one) **Day** of the request for instructions referred to in paragraph 5.3 above being delivered, the **Firm** may proceed with the exception or the special plea, and should provide the **Fund** with written confirmation to that effect.

6. MERITS

- 6.1. No concession of liability or settlement thereof on the basis of an apportionment or any other aspect of the claim may be made without the prior written authority of the **Fund**.

- 6.2. Consultations with the insured driver and all other witnesses relevant to the issue of merits must be held within a period of 2 (two) months from the **Firm** receiving the file contents of the **Fund** in terms of sub-paragraph 3.1 above.
- 6.3. Prior written instructions must be obtained from the **Fund** for an inspection in loco or consultation to be held if the place where the inspection or consultation is more than 100 kilometres from the **Firm**.
- 6.4. Instructions to separate merits and quantum must be obtained in writing from the relevant **Regional General Manager**.

7. QUANTUM

- 7.1. Quantum investigations will be conducted by the **Firm** in a pro-active rather than a re-active manner.
- 7.2. In matters where it is appropriate to instruct expert witnesses, the **Firm** will, subject to the provisions of paragraph 17 of this Annexure, endeavour to mutually agree with the Plaintiff on the experts to be instructed.

8. INITIAL ASSESSMENT REPORT

- 8.1. Within 6 (six) weeks of receiving the **Fund's** file of paper referred to in paragraph 3 of this Annexure, the **Firm** will provide the **Fund** with an Initial Assessment Report which will serve as a roadmap for the management of the claim. This report must be headed **Initial Assessment Report**.
- 8.2. The **Initial Assessment Report** will be based on the documents to hand and must be in a preliminary manner and must:
- 8.2.1. address the issues of prescription, jurisdiction, substantive compliance, locus standi, liability and quantum and indicate which issues are in dispute. The **Fund** may, when instructing the **Firm**, direct that one or more of the aforementioned issues need not be addressed in the Initial Assessment Report;

- 8.2.2. address any relevant points of law;
 - 8.2.3. detail additional documentation that must be sourced in order to assess the claim;
 - 8.2.4. provide recommendations on consultations, inspections, experts to be appointed and issues that require additional investigation; and
 - 8.2.5. address all other aspects of the claim that are relevant for purposes of assessing the **Fund's** liability and extent thereof.
- 8.3. If having considered all the documents to hand it is considered by the **Firm** that sufficient information is available to deliver an offer of settlement, instructions to make an offer will be requested from the **Fund**.

9. FOLLOW UP REPORTS

- 9.1. Subject to what is stated in paragraph 9.2 below, the **Firm** will, following the provision of the Initial Assessment Report, furnish written reports to the **Fund** on a regular basis, or as and when requested.
- 9.2. In addition to regular follow up reports being furnished, reports as specified below must be furnished to the **Fund**:
- 9.2.1. within 1 (one) **Day** of a Notice of Bar being received, which report must provide an explanation as to why the Plea was not delivered timeously and a copy of the Notice of Bar must be attached to the report;
 - 9.2.2. within 10 (ten) **Days** of receipt of a Notice of Set Down for Trial, which report must address the issues in dispute and fully detail all steps that must be taken to place the **Fund** in a position to deliver an offer of settlement and/or proficiently defend the claim in Court;
 - 9.2.3. within 5 (five) **Days** of an Application for an Interim Payment being received, which reports must summarize the relief being sought, assess the merits of the application and advise the **Fund** on an offer to be made, if appropriate;
 - 9.2.4. within 5 (five) **Days** of an Application for the appointment of a curator ad litem or curator bonis being received, which reports must summarize the relief being sought, assess the merits of the application and advise the **Fund** on whether the order should be consented to or the application opposed. In the event of such application being received less than 20 **Days** before the date on which a trial date

has been allocated, the report must be furnished within 1 (one) business Day from date of service of the application;

- 9.2.5. within 2 (two) Days of any Application to Compel being received, which report must summarize the relief being sought, assess the merits of the application and advise the **Fund** on the appropriate manner to deal with the application. In addition, such report must provide an explanation as to why the **Fund** did not timeously perform the action that is being compelled;
- 9.2.6. within 5 (five) Days of being notified (either through correspondence or by way of an application) that the Plaintiff intends to apply for a separation of merits and quantum. In the event of such notification being received less than 20 Days before the date on which a trial date has been allocated, the report must be furnished within 1 (one) business Day of the **Firm** receiving the correspondence or application;
- 9.2.7. within 10 (ten) Days of being notified (either through correspondence or by way of notice) that the Plaintiff intends to amend the Claim. In the event of such notification being received less than 20 Days before the date on which a trial date has been allocated, the report must be furnished within 1 (one) Day of the **Firm** receiving the correspondence or notice; and
- 9.2.8. no later than 5 (five) Days before the holding of a pre-trial conference, which report must:
 - 9.2.8.1. specify the date of the pre-trial conference;
 - 9.2.8.2. state the name of the **Professional Person** and if applicable the name of the advocate who will attend the pre-trial conference on behalf of the **Fund**;
 - 9.2.8.3. list the admissions that will be required from the Plaintiff;
 - 9.2.8.4. mention any aspects of prejudice that will be raised on behalf of the **Fund**; and
 - 9.2.8.5. list all enquiries that will be directed to the Plaintiff.

10. FINAL ASSESSMENT REPORT

- 10.1. No later than 25 (twenty five) Days before the date allocated for trial, the **Firm** will provide the **Fund** with a Final Assessment Report, which report shall be headed Final Assessment Report.

- 10.2. In such report the **Firm** will:
- 10.2.1. address each issue that remains in dispute;
 - 10.2.2. in the event of an offer of settlement not having been made, or of it is considered that a previous offer should be revised, motivate the recommended offer of settlement to be made to the Plaintiff;
 - 10.2.3. request instructions to brief counsel on trial, if counsel has not yet been instructed;
 - 10.2.4. list all expert witnesses to be called by the Plaintiff and Defendant and summarize the areas of agreement and disagreement;
 - 10.2.5. provide an estimated duration of the trial; and
 - 10.2.6. address all other relevant issues.
- 10.3. In the event of the Plaintiff delivering expert reports subsequent to the period referred to in paragraph 10.1 above, the **Firm** will, within 2 (two) **Days** of receiving such expert reports, furnish a Revised Final Assessment Report:
- 10.3.1. attaching the expert notice/s and reports;
 - 10.3.2. summarizing the opinions of the expert/s; and
 - 10.3.3. providing a revised recommendation on tender, if applicable.

11. REQUESTS FOR INSTRUCTIONS

- 11.1. Where instructions are required, the **Fund** will furnish such instructions within 20 (twenty) **Days** from receiving a written request for such.
- 11.2. If instructions are required within a shorter period of time, the correspondence requesting such instructions will:
- 11.2.1. be clearly marked as "Urgent Instructions Required";
 - 11.2.2. be delivered by hand, courier or electronic mail to the **Fund**; and
 - 11.2.3. specify the period of time in which the instruction/s is required and explain the reason for urgency.
- 11.3. If the **Firm** does not receive instructions within the period referred to in paragraph 11.1 or the shorter period referred to in 11.2 above, the **Firm** must in writing notify the relevant **Senior Manager**.

- 11.4. If the original request for instructions was on the basis of 11.2 above, the **Firm** must in the written notification to the **Senior Manager**, record by when the instruction must be furnished.
- 11.5. If instructions are not received within 15 (fifteen) **Days** from delivery to the **Fund** of the notification referred to in 11.3 above, or within the time specified if the request for an instruction is urgent, the **Firm** must in writing notify the **Regional General Manager**.

12. OFFERS OF SETTLEMENT

- 12.1. In matters in which liability is not repudiated by the **Fund**, offers of settlement in respect of both merits and quantum must be made as soon as is reasonably possible after the **Firm** has been instructed in terms of clause 9 of the **Schedule**.
- 12.2. The **Firm** must in advance obtain written instructions to deliver an offer of settlement.
- 12.3. Offers of settlement must be delivered to the Plaintiff at least 15 (fifteen) days before trial, unless the pre-trial conference is held more than 15 (fifteen) days before trial, in which even the offer of settlement must be delivered on the day of the pre-trial conference.
- 12.4. A copy of the offer must be delivered to the **Fund** within 5 (five) **Days** of the offer being served.
- 12.5. If an offer of settlement is accepted, a copy of the notice of acceptance must be furnished to the **Fund** within 3 (three) **Days** of service of such notice.

13. PLAINTIFFS' BILLS OF COST

- 13.1. A Notice of Taxation and/or Bill of Costs served on the **Firm** must be delivered to the **Fund** within 3 (three) **Days** from receipt.

- 13.2. Together with the Notice of Taxation or Bill of Costs referred to in paragraph 13.1 above the **Firm** will provide the **Fund** with its recommendation on settlement in respect of the Bill of Costs.
- 13.3. In the event of the **Firm** not receiving instructions from the **Fund** within 5 (five) days of the notice referred to in paragraph 13.2 above, the **Firm** shall tender the recommended amount.
- 13.4. If the tender is not accepted by the Plaintiff, the **Firm** shall oppose the taxation of the Bill of Costs.
- 13.5. If the **Firm** intends making use of the services of a Cost Consultant to attend to the taxation of the Bill of Costs, the **Firm** shall provide the **Fund** with the names of 3 (three) cost consultants, and the **Fund** shall select one, or recommend a different cost consultant.
- 13.6. Within 3 (three) days of the settlement of the Bill of Costs, or the Taxing Master's allocator, the **Firm** must report to the **Fund** in writing the details of the settlement, and provide the **Fund** with a copy of the settled Bill of Costs or Taxing Master's allocator.
- 13.7. The **Firm** shall only be entitled to charge the **Fund** 10% of the amount saved on the Bill of Costs as their fee for settling or taxing the Bill of Costs.

14. NOTIFICATION OF TRIAL DATES

- 14.1. Copies of Notices of Set Down for Trial or arbitration must be delivered to the **Fund** within 3 (three) **Days** of such notices being served on the **Firm**.
- 14.2. On the first Friday following the end of each month, the **Firm** must furnish the **Fund** with information of all matters in which trial dates and arbitration hearing dates have been allocated. In the event of the first Friday following the end of the month being a public holiday, the information referred to above will be delivered on the first business **Day** thereafter.

- 14.3. This information must be furnished in an Excel Workbook containing 2 (two) spreadsheets, providing the **Fund** with details of:
- 14.3.1. All matters in which Notices of Set Down for Trial were received during the preceding month. (Spreadsheet 1)
- 14.3.2. All matters in which trial dates have been allocated and which are not reflected in Spreadsheet 1. (Spreadsheet 2)
- 14.3.3. Each Spreadsheet must contain the name of the **Firm** and must be headed as follows:
- 14.3.3.1. Spreadsheet 1: NEW TRIAL DATES.
- 14.3.3.2. Spreadsheet 2: TRIAL DATES ALLOCATED PRIOR TO PRECEDING MONTH
- 14.4. Spreadsheets 1 (one) and 2 (two) must be divided into 5 (five) sections, namely Cape Town **Regional Office**, Durban **Regional Office**, East London **Regional Office**, Johannesburg **Regional Office**, Pretoria **Regional Office**.
- 14.5. The Trial Date Notification Excel Workbook must be delivered by electronic mail to the **Regional Offices**.
- 14.6. The **Fund** may from time to time give the **Firm** notice of new addresses to which the Trial Notification Excel Workbook must be delivered.
- 14.7. The spreadsheets will be submitted in the following format:

SPREADSHEET 1: NEW TRIAL DATES

Claim & Link Number	Date of Instruction	Court	Trial Date	Date of receipt of Notice of Set Down	Plaintiff's Attorney	Claimed Amount (per Head of Damages)

SPREADSHEET 2 ALL TRIAL DATES ALLOCATED PRIOR TO PRECEDING MONTH

Claim & Link Number	Date of Instruction	Court	Trial Date	Plaintiff's Attorney	Claimed Amount (per Head of Damages)

15. NOTICES OF INTENTION TO AMEND CLAIM

15.1. When the Plaintiff delivers a Notice of Intention to Amend the Claim, the **Firm** must provide the **Fund** with a copy of such notice within 3 (three) **Days** the notice being served.

15.2. In the event of the Notice of Intention to Amend increasing the damages claimed to an amount in excess of R5 million, a copy of the notice, together with a covering letter from the **Firm** must, within the same time period referred to in paragraph 15.1 above, be sent to the **Regional General Manager**. The covering letter must contain:

15.2.1. the claim and link numbers;

15.2.2. the date of trial or arbitration hearing, if applicable;

15.2.3. the amount claimed for each head of damages at the time summons was issued;

15.2.4. details of any previous amendments to the damages claimed; and

15.2.5. the **Firm's** estimate of the **Fund's** liability for each head of damage.

15.3. The **Fund** may from time to time give the **Firm** notice of new e-mail addresses to which the notifications must be delivered.

16. INSTRUCTIONS TO ASSESSORS

16.1. The **Firm** will obtain instructions in advance from the **Fund** to instruct an assessor and an assessor shall not be engaged without the prior written authorisation of the **Fund**.

16.2. The **Fund** will select the assessor to be engaged. Such selection may, at the sole discretion of the **Fund**, be made in consultation with the **Firm**.

- 16.3. In the event of paragraphs 16.1 and 16.2 not being complied with when an assessor is instructed, the **Fund** will not be liable for any the fees and disbursements charged by such assessor.

17. INSTRUCTIONS TO EXPERT WITNESSES

- 17.1. The **Firm** will obtain instructions in advance from the **Fund** to instruct expert witnesses or obtain follow-up reports from expert witnesses and no expert witness shall be engaged without the prior written authorisation of the **Fund**.
- 17.2. The **Fund** will select the expert/s to be engaged. Such selection may, at the sole discretion of the **Fund**, be made in consultation with the **Firm**.
- 17.3. In the event of paragraphs 17.1 and 17.2 not being complied with when an expert witness is instructed, the **Fund** will not be liable for any the fees charged by such expert witness.
- 17.4. Where applicable, expert witnesses must be instructed within 3 (three) months of the **Firm** being instructed in terms of paragraph 9 of the **Service Level Agreement**.
- 17.5. Expert reports obtained on behalf of the **Fund** must be received by the **Firm** no later than 2 (two) months before the date of trial, except in circumstances where an amendment to the claim requires additional experts to be instructed, and such amendment is received less than 2 (two) months before the date of trial.

18. INSTRUCTING CORRESPONDENT ATTORNEYS

- 18.1. In the event of an action having been instituted, or requiring to be instituted in a court outside the jurisdiction of the **Firm**, the **Firm** may instruct a correspondent attorney subject to the following:
- 18.1.1. In selecting the correspondent attorney, the **Firm** must have regard to and apply the BBBEE principles;
- 18.1.2. The **Firm** must notify the **Fund** of the name of the correspondent attorney within 5 (five) days of such attorney being appointed;

- 18.1.3. Correspondent attorneys must be appointed on the basis that they will only receive, serve, file and forward pleadings, notices and correspondence to the **Firm**. Correspondent attorneys may not draft any notices or pleadings, appear at meetings or in court, or enter into any negotiations with a Plaintiff's attorney on behalf of the **Fund**;
- 18.1.4. Correspondent attorneys will be instructed on the basis that the tariff of fees in set out in Annexure C hereto;
- 18.1.5. Bills of costs will not be submitted by the correspondent attorney directly to the **Fund**. Such Bills of Costs must be furnished by the correspondent attorney to the **Firm** and submitted by the **Firm** to the **Fund**. The **Fund** will pay the assessed fees and disbursements of the correspondent attorney to the **Firm** and not directly to the correspondent attorney.

19. BRIEFING OF COUNSEL

- 19.1. The **Firm** will obtain instructions from the **Fund** to brief counsel. Written instructions to be brief counsel must be sought from the **Fund** at least 15 (fifteen) days before the trial date or the date an application is set down for hearing.
- 19.2. Counsel will be briefed in accordance with the tariff set out in **Annexure D**. Any deviation from this tariff must be requested in writing and approved in advance by the COO.
- 19.3. When briefing counsel the **Firm** will have to give preference to historically disadvantaged individuals.
- 19.4. Should the **Fund** fail to instruct the **Firm** within 5 (five) days of the written request by the **Firm** to instruct counsel in terms of 19.1 above, the **Firm** may proceed to instruct counsel, and shall notify the **Fund** within 2 (two) days of the name of the counsel instructed.
- 19.5. In the event of paragraphs 19.1 not being complied with when counsel is briefed, the **Fund** will not be liable for any of the fees charged by such counsel.
- 19.6. Counsel will not be instructed in the Magistrates' Court, unless the written consent of the **Regional General Manager** is obtained.

- 19.7. When counsel is instructed on trial, the **Firm** shall not, without the prior written approval of the **Fund**, brief counsel to provide written opinions on any aspect of the claim, including but not limited to opinions on liability and/or quantum or to draft or settle any notices, applications and/or pleadings.
- 19.8. The written consent referred to in paragraph 19.7 above, must be obtained from the **Regional General Manager** of the region where the claim is managed.

20. FEES AND DISBURSEMENTS

20.1. Disbursements incurred to expert witnesses, counsel and assessors

- 20.1.1. By the 22nd Day of each month, the **Firm** will provide the **Fund** with a consolidated statement of account listing the outstanding invoices received from expert witnesses, counsel and assessors.
- 20.1.2. This will be headed Monthly Consolidated Disbursement Statement of Account.
- 20.1.3. The Monthly Consolidated Disbursement Statement of Account will reflect:
- 20.1.3.1. The name of the person/entity who rendered the service;
 - 20.1.3.2. The amount due in respect of each invoice; and
 - 20.1.3.3. The claim and link numbers.
- 20.1.4. The originals of all invoices will be attached to the statement of account, except if the original invoices have already been submitted to the **Fund** previously.
- 20.1.5. Each invoice should also be accompanied by written proof of the **Fund's** instruction to appoint the expert witness, counsel or assessor.
- 20.1.6. The consolidated statement account and accompanying invoices must be delivered to the **Regional Office** of the **Fund** by hand, docex or courier. The **Fund** may from time to time give the **Firm** notice of a different person to whom the documentation must be delivered.
- 20.1.7. Within a period of 30 (thirty) Days from date of receipt of the statement of account and original invoices or copies as referred to in sub-paragraph 20.1.4 above, the **Fund** will effect payment of such invoices, alternatively in writing notify the **Firm** of any query relating to one or more of such invoices. The **Firm** will respond to all queries within a period of 10 (ten) Days from receipt thereof.

- 20.1.8. In the event of a query raised by the **Fund** being addressed to its satisfaction, payment of the invoice/s queried will be made within 15 (fifteen) **Days** of the **Fund** receiving the response referred to in paragraph 20.1.7 above.
- 20.1.9. In the event of a query not being addressed to the satisfaction of the **Fund**, the **Fund** will, within 15 (fifteen) **Days** of receiving the response referred to in paragraph 20.1.7 above, pay the amount for which it accepts liability, alternatively inform the **Firm** in writing that it repudiates liability for the invoice/s.
- 20.1.10. Payments for assessors and expert fees will be made directly to the assessor or expert who submitted the invoice, while payment of fees of counsel will be made to the **Firm**.
- 20.1.11. The **Firm** will be notified by the **Fund** of payments made directly to assessors and experts.
- 20.1.12. The **Firm** must ensure that payments in respect of Counsel's fees are paid within 5 (five) **Days** of receipt of payment from the **Fund**.

20.2. Other Disbursement

- 20.2.1. In the event of the **Firm** incurring disbursements in excess of R1 000.00 (One thousand Rand) to a person or entity other than one referred to in paragraph 20.1.1 above, the **Firm** may include such invoices in the Monthly Consolidated Disbursement Statement of Account referred to in sub-paragraph 20.1.2 above.
- 20.2.2. The original invoice from the person or entity referred to in paragraph 20.2.1 above must be attached to the statement of account.
- 20.2.3. Each invoice should also be accompanied by written proof of the **Fund's** instruction to incur the expense.
- 20.2.4. Within a period of 30 (thirty) **Days** from date of receipt of the statement of account and original invoice, the **Fund** will effect payment of such invoices, alternatively in writing notify the **Firm** of any query relating to one or more of such invoices. The **Firm** will respond to all queries within a period of 10 (ten) **Days** from receipt thereof.
- 20.2.5. In the event of a query raised by the **Fund** being addressed to its satisfaction, payment of the invoice/s queried will be made within 15 (fifteen) **Days** of the **Fund** receiving the response referred to in paragraph 20.2.4 above.
- 20.2.6. In the event of a query not being addressed to the satisfaction of the **Fund**, the **Fund** will, within 15 (fifteen) **Days** of receiving the response referred to in

paragraph 20.2.4 above, pay the amount for which it accepts liability, alternatively inform the **Firm** in writing that it repudiates liability for the invoice.

20.3. **Legal Costs – Magistrate Court Claims**

20.3.1. No earlier than 10 (ten) **Days** after the finalisation of a Magistrates Court matter but within 2 (two) months of such a matter being finalised, the **Firm** will provide the **Fund** with a Consolidated Statement of Account drawn in terms of Annexure C of this **Service Level Agreement**.

20.3.2. This will be headed Monthly Consolidated Statement of Account Magistrate Court Matters.

20.3.3. The Monthly Consolidated Disbursement Statement of Account referred to in the above paragraph must, in respect of each matter, reflect:

20.3.3.1. the link and claim numbers of the each matter; and

20.3.3.2. the total fees and disbursement being claimed.

20.3.4. The following documents must be attached to the account:

20.3.4.1. tax Invoices issued by the **Firm** for each matter reflected on the account;

20.3.4.2. original invoices or other supporting documentation relating to outstanding disbursements. (Disbursements that have been paid or accounted for in a Monthly Consolidated Disbursement Statement of Account must not be reflected); and

20.3.4.3. written proof of instruction by the **Fund** in respect of the specific disbursement.

20.3.5. The statement of account and accompanying documentation will be delivered to the **Regional Office** of the **Fund** where the matter is dealt with by hand, docex or courier.

20.3.6. Within a period of 30 (thirty) **Days** from date of receipt of the Statement of Account and supporting documentation, the **Fund** will effect payment to the **Firm**, alternatively in writing notify the **Firm** of any queries relating to account.

20.3.7. The **Firm** will respond to all queries within a period of 10 (ten) **Days** from receipt thereof.

20.3.8. In the event of a query raised by the **Fund** being addressed to its satisfaction, payment of the Statement of Account will be made within 15 (fifteen) **Days** of the **Fund** receiving the response referred to in paragraph 20.3.7 above.

20.3.9. In the event of a query not being responded to or not being addressed to the satisfaction of the **Fund**, the **Fund** will, within 15 (fifteen) Days of receiving the response referred to in paragraph 20.3.7 above, pay the amount for which it accepts liability.

20.4. Legal Costs – High Court Claims

20.4.1. Within 3 (three) months of a High Court claim being finalised, the **Firm** will provide the **Fund** with Bill of Costs drawn in terms of Annexure C of this **Service Level Agreement**.

20.4.2. All outstanding disbursement will be reflected in the Bill of Costs and original Tax Invoices relating to such disbursements will be attached to the Bill of Costs.

20.4.3. The Bill of Costs and accompanying documentation will be delivered by hand, docex or courier to:

20.4.3.1. The **Regional General Manager** at the **Regional Office** where the claim was finalized.

20.4.4. The Bill of Costs will be assessed by the **Fund** within 2 (two) months from date of receipt of the Bill.

20.4.5. Within 10 (ten) Days from date of assessment, the **Fund** will notify the **Firm** in writing of the amount for which the Bill has been assessed and provided details of all amounts that have been disallowed and/or reduced.

20.4.6. Payment of the assessed amount will be paid within 1 (one) month from date of assessment.

20.4.7. If the **Firm** disputes all or any of the amounts disallowed or reduced, the **Firm** will, within 10 (ten) Days from receiving the notice referred to in paragraph 20.4.5 above, in writing request a meeting with the person who assessed the Bill of Costs and the manager of the Department.

20.4.8. The meeting will take place within 15 (fifteen) Days of the request for a meeting.

20.4.9. If the dispute is not resolved at the meeting, or if the meeting is not held within the 15 (fifteen) Day period referred to above, the **Firm** may address a letter to the **Senior Manager Claims** detailing as to why the disallowed/ reduced amounts are queried. Such letter must be delivered to the **Senior Manager Claims** within 10 (ten) Days after the expiry of the 15 (fifteen) Day period referred to in paragraph 20.4.8 above, or within 10 (ten) Days after the meeting taking place.

- 20.4.10. The **Senior Manager Claims** will consider the matter and may call for oral or written representations from the Cost Officer who assessed the Bill of Costs and/or the relevant Manager.
- 20.4.11. The **Senior Manager Claims** will notify the Firm in writing of his decision regarding the queried amounts within 20 (twenty) Days from receiving the letter referred to in paragraph 20.4.9 above.
- 20.4.12. Any additional payment that is due to the Firm having regard to the decision of the **Senior Manager Claims** will be made within 20 (twenty) Days from date of the notice from the **Senior Manager Claims** to the Firm referred to in paragraph 20.4.11 above.
- 20.4.13. The Firm will, by the 22nd Day of each month, or the first business Day thereafter, provide the Fund with a consolidated statement of account listing outstanding payments in respect of High Court matters where the assessment process has been finalised.
- 20.4.14. This will be headed Monthly Consolidated Statement of Account: High Court Matters.
- 20.4.15. The Monthly Consolidated Disbursement Statement of Account referred to in the above paragraph must, in respect of each matter, reflect:
- 20.4.15.1. the link and claim numbers; and
 - 20.4.15.2. the total fees and disbursement due and payable as per the assessment of the Bill of Costs
- 20.4.16. The following documents must be attached to the account:
- 20.4.16.1. Tax Invoices issued by the Firm for each matter reflected on the account;
 - 20.4.16.2. original invoices or other supporting documentation relating to outstanding disbursements. (Disbursements that have been paid or accounted for in a Monthly Consolidated Disbursement Statement of Account must not be reflected); and
 - 20.4.16.3. written proof of instruction by the Fund in respect of the specific disbursement.
- 20.4.17. The statement of account and accompanying documentation will be delivered to the Regional Office of the Fund where the matter is dealt with by hand, docex or courier.
- 20.4.18. The Fund may from time to time give the Firm notice of a different person to whom the documentation must be delivered.

20.4.19. Within a period of 30 (thirty) Days from date of receipt of the consolidated monthly statement of account, the Fund will effect payment of the assessed amount.

ANNEXURE C

FEE STRUCTURE FOR ATTORNEYS' FEES

1. GENERAL FEE STRUCTURE

Subject to the terms of this **Service Level Agreement** the **Firm** shall be entitled to fees in respect of the due, full and proper performance of its obligations set out in the **Service Level Agreement**.

1.1. High Court Litigation

Unless specifically provided otherwise, and subject to the guidelines set out in paragraph 2 below, the **Firm** shall be entitled to base its fees on the tariff as set out in rule 70 of the Supreme Court Uniform Rules of Court, as amended from time to time.

Attorneys appearing personally in the High Court shall not be entitled to charge the fees of an advocate.

1.2. Magistrates' Court Litigation

Unless specifically provided otherwise, and subject to the guidelines set out in paragraph 2 below, the **Firm** shall be entitled to base its fees on the tariff as set out in table A of annexure 2 to the Magistrates' Courts Rules of Court, as amended from time to time.

2. CALCULATION OF FEES ALLOWED

- 2.1. The final fee to which the **Firm** will be entitled will depend on the stage at which the matter is settled or finalised, and will be computed on the basis as set out in the table below:

<u>STAGE</u>	<u>PERCENTAGE ENTITLEMENT</u>
Before Close of Pleadings	100%
After Close of Pleadings, but before Discovery is due in terms of the Court rules	90%
After Discovery, but before Notice of Set Down is received	80%
After Notice of Set Down, but before Trial	70%

- 2.2. In arriving at the final amount payable to the **Firm**, the following procedure is to be followed:
- 2.2.1. The **Firm** shall draw its Bill of Costs on the tariff set out in paragraph 1 above.
- 2.2.2. Depending on the stage at which the matter is finalised, the total fees (excluding disbursements) (gross fees) indicated on the Bill of Costs will be multiplied by the percentage to which the **Firm** is entitled as indicated in the table under paragraph 2.1 above.
- 2.2.3. The amount calculated in paragraph 2.2.2 above (nett fees) will be added to the disbursements to arrive at the final amount payable to the **Firm**, subject to the subtraction of any penalties due by the **Firm** in terms of clause 19 of the **Schedule**.
- 2.3. Guidelines in respect of Legal Costs charged by Panel Attorneys
- 2.3.1 Perusal of the following documents will be charged at half the tariff applicable
- Written judgments;
 - Court transcripts;
 - Inquest documents;
 - Hospital records;
 - Medical Accounts;
 - Financial statements;
 - Other similar voluminous documents and
 - All re-perusals.
- 2.3.2 **Travelling expenses:-** Successful Bidder(s) are requested to specify date and purpose for these expenses as well as the distance travelled. Successful Bidder(s) are required to charge the sum of using AA rates *per km* (inclusive of vat) as a disbursement. No travelling expenses to and from court may be charged where the attorney's office is situated within 60 km in the jurisdiction area of the court. If both counsel and Successful Bidder(s) have to travel they should travel together if their office/residence is in the same town.
- 2.3.3 No interim account/bills should be furnished unless the merits and quantum have been separated and the merit has been settled.
- 2.3.4 Where a bill of costs is drawn and finalized on behalf of the Fund, an amount will be allowed equal to 10% plus vat if applicable, on the amount of the fees of the bill of costs as settled or taxed as well as the actual attendance fee as allowed. In the event of the maximum amount being regarded as inadequate in a particular matter, motivation in writing can be send to the Fund for consideration. This will only be considered in exceptional circumstances.

- 2.3.5 Cost Consultant will be entitled to charge a fee equal to 10 % of the savings of the bill as drawn and settled to a maximum of R 7500 plus VAT. The minimum fee that can be charged is R150.00 plus VAT. No travelling fees will be allowed for legal cost consultants when travelling to Court, unless the court is more than 100 kilometers from the office of the Cost Consultant. Travelling fees will be charged at R3.00 per kilometer. In the event that the maximum amount is regarded as inadequate in a matter, motivated representations in writing in such regard can be submitted to the Fund for consideration (will only be considered in exceptional circumstances).
- 2.3.6 Preparation time for the drafting of opinions & executive summaries will be allowed at the rate of three (3) pages per hour. A page consists of 250 words.
- 2.3.7 No fee will be allowed for preparation to draft a Plea.
- 2.3.7.1 A maximum of 1 hour will be allowed for preparation for Pre-trial.
- 2.3.7.2 Attorneys charging fees to compare documents like medico-legal reports with other expert reports on a time basis, will not be allowed.
- 2.3.7.3 Attendance at court will not exceed 5 hours.
- 2.3.7.4 A maximum of 1 hour will be allowed for perusal of Discovery documents.
- 2.3.7.5 Attorneys charging fees for comparing documents received with file content will not be allowed.
- 2.3.7.6 The plaintiff's name should be on all expert/counsel/correspondent accounts.
All items on expert/counsel/correspondent accounts must be dated.

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ANNEXURE D

ADVOCATES' FEES

1. GENERAL GUIDELINES FOR ADVOCATES' FEES

- 1.1. When a *Firm* requires the services of an advocate, the *Firm* shall endeavour to make use of the services of advocates who are willing to perform work for the *Fund* on the terms and tariffs set out in this *Service Level Agreement*.
- 1.2. Where the *Firm* deems it necessary to exceed these guidelines, the written consent of the *Regional Manager* of the *Regional Office* where the matter is managed shall be obtained prior to briefing the advocate.

2. RAF TARIFF OF FEES ALLOWED FOR ADVOCATES

	JUNIOR COUNSEL				SENIOR COUNSEL
	0 – 3 YEARS	3 – 5 YEARS	5 – 10 YEARS	10+ YEARS	
DAY FEE (ON TRIAL)	R9 000.00	R11 000.00	R13 000.00	R15 000.00	R18 000.00
HOURLY FEE (PREPARATION)	R900.00	R1 100.00	R1 300.00	R1 500.00	R1 800.00
POSTPONEMENT	R900.00	R1 100.00	R1 300.00	R1 500.00	
ATTENDING TO MAKE SETTLEMENT AN ORDER OF COURT	R900.00	R1 100.00	R1 300.00	R1 500.00	

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- 2.1. Where a matter is postponed or settled before the trial date, counsel will be entitled to a portion of the normal Day Fee for the first day of the trial on the following basis:
 - 2.1.1. If the matter is settled or postponed not more than 3 (three) Days prior to the date of hearing: 90% of the normal Day Fee;
 - 2.1.2. If the matter is settled or postponed more than 3 (three), but less than 6 (six) Days prior to the date of hearing: 60% of the normal Day Fee;
- 2.2. If the matter is settled or postponed more than 6 (six) Days, but less than 10 (ten) Days prior to the date of hearing: 40% of the normal Day Fee;
 - 2.2.1. If the matter is settled or postponed more than 10 (ten) Days prior to the date of hearing: Nil.
- 2.3. Counsels Fees and Guidelines:
 - 2.3.1. The employment of two counsels' is not allowed without prior written authorization
 - 2.3.2. The employment of a Senior Advocate is not allowed without prior written authorization.
 - 2.3.3. Travelling time shall be at half the hourly tariff applicable. Counsel and Attorney should travel together and only one of them will be entitled to charge the travelling expense.
 - 2.3.4. If counsel exceeds 5 hours preparation written authorization must be obtained.
 - 2.3.5. Perusal of documents forms part of preparation.
 - 2.3.6. Consultations between counsel and attorney should be limited and can only take place after counsel has perused his brief or part thereof.
 - 2.3.7. Where both a Senior & Junior Advocate are properly instructed, the Junior Counsel can only levy a fee not exceeding half of that levied by the Senior Counsel.
 - 2.3.8. Counsel may only furnish advice on evidence if prior written authorization has been obtained.
 - 2.3.9. Only if prior written authorization has been obtained may Counsel be appointed to settle pleadings / notices
 - 2.3.10. Prior written authorization must be obtained for counsel to attend inspection in loco's
 - 2.3.11. On the day(s) of trial counsel may not exceed the day fee.
 - 2.3.12. Counsel will not be entitled to charge a collapsed fee.
 - 2.3.13. No consultations will be allowed except for preparation for trial with the attorney and witnesses and/or plaintiff's counsel/attorney.

2.3.14. No fees will be allowed for drafting Heads of Argument.

2.3.15. Counsel will only be entitled to charge a fee of R900.00 for the noting of judgment

ANNEXURE E
SCHEDULE OF PENALTIES

ITEM	DAYS DELAY VS PENALTY AS PERCENTAGE OF CAPITAL AMOUNT *									
	1	2	3	4	5	6	7	8	9	10+
PLEADINGS										
Delivery of Appearance to Defend to Plaintiff	0.1%	0.2%	0.3%	0.4%	0.5%	0.6%	0.7%	0.8%	0.9%	1.0%
Delivery of Plea to Plaintiff	0.1%	0.2%	0.3%	0.4%	0.5%	0.6%	0.7%	0.8%	0.9%	1.0%
Delivery of Tender to Plaintiff at least 15 days before trial	0.2%	0.4%	0.6%	0.8%	1.0%	1.2%	1.4%	1.6%	1.8%	2.0%
DELIVERY OF DOCUMENTS TO FUND										
Initial Assessment Report	0.1%	0.2%	0.3%	0.4%	0.5%	0.6%	0.7%	0.8%	0.9%	1.0%
Final Assessment Report	0.2%	0.4%	0.6%	0.8%	1.0%	1.2%	1.4%	1.6%	1.8%	2.0%
Notice of Intention to Amend	0.2%	0.4%	0.6%	0.8%	1.0%	1.2%	1.4%	1.6%	1.8%	2.0%
Notice to Amend	0.2%	0.4%	0.6%	0.8%	1.0%	1.2%	1.4%	1.6%	1.8%	2.0%
Notice of Set Down	0.1%	0.2%	0.3%	0.4%	0.5%	0.6%	0.7%	0.8%	0.9%	1.0%
Pre-Trial Minutes	0.1%	0.2%	0.3%	0.4%	0.5%	0.6%	0.7%	0.8%	0.9%	1.0%
Court Order / Settlement Documents/Judgments	0.25%	0.50%	0.75%	1.00%	1.25%	1.50%	1.75%	2.00%	2.25%	2.50%

NO
P.B.M

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ITEM	DAYS DELAY VS PENALTY AS PERCENTAGE OF PLAINTIFF'S TAXED COSTS									
	1	2	3	4	5	6	7	8	9	10+
Delivery of Notice of Opposition of Bill of Costs	0.2%	0.4%	0.6%	0.8%	1.0%	1.2%	1.4%	1.6%	1.8%	2.0%
<u>DELIVERY OF DOCUMENTS TO FUND</u>										
Plaintiff's Bill of Costs	0.2%	0.4%	0.6%	0.8%	1.0%	1.2%	1.4%	1.6%	1.8%	2.0%
Settlement of Bill of Costs	0.25%	0.50%	0.75%	1.00%	1.25%	1.50%	1.75%	2.00%	2.25%	2.50%
Taxing Master's Allocator	0.25%	0.50%	0.75%	1.00%	1.25%	1.50%	1.75%	2.00%	2.25%	2.50%

KO
P.B.M

- * "Capital Amount" means the amount representing the capital portion of the claim (after apportionment) for which the claim is settled or judgment is given.
- * Penalties in respect of any one matter shall not exceed, in aggregate, 30% of the **Firm's** Bill of Costs in respect of the matter to which the penalty relates.

ANNEXURE F

NOTIFICATION OF COURT ORDERS AND ARBITRATION AWARDS

THE CHIEF EXECUTIVE OFFICER
 ROAD ACCIDENT FUND
 DEPARTMENT:
 ATT:

CLAIM NUMBER:
 PLAINTIFF:
 DATE OF TRIAL:

1. OUTCOME & LIABILITY

We confirm that the above matter was on the trial roll / arbitration on

The outcome of the matter was the following:

Matter proceeded to trial and judgment was granted	
Matter was settled and the settlement was made an order of Court	
Matter proceeded to arbitration and an award was granted	

The RAF is liable to compensate the Claimant for % of the damages suffered by the Claimant.

2. CAPITAL

The capital is due for payment on or before . The amount to be paid is R , which amount is made up as follows:

GENERAL DAMAGES	
PAST MEDICAL EXPENSES	
FUTURE MEDICAL EXPENSES	
PAST LOSS OF SUPPORT	
FUTURE LOSS OF SUPPORT	
PAST LOSS OF INCOME	
FUTURE LOSS OF INCOME	
FUNERAL COSTS	
SUB-TOTAL	
LESS APPORTIONMENT	
SUB-TOTAL	
LESS WCC	
LESS INTERIM PAYMENTS	
TOTAL PAYABLE	

3. UNDERTAKING FOR FUTURE MEDICAL EXPENSES

The Claimant will be entitled to a statutory undertaking in terms section 17(4)(a) / section 17(4)(b) / a contractual undertaking (*delete whichever is not applicable*) which undertaking shall be limited to % of the proven expenses.

4. LEGAL COSTS

The Claimant will be entitled to payment of the agreed or taxed party and party High Court / Magistrates' Court costs. (*delete whichever is not applicable*).

5. BANKING DETAILS

Payment of the capital and costs are to be made to the account of the Claimant's attorneys of record. Their details are the following:

Attorney's name	
Attorney's reference	
E-mail	
Fax number	
Bank	
Account number	
Branch code	

6. ADDITIONAL COMMENTS

RAF PANEL OF ATTORNEYS

20 September 2019

Dear Sir / Madam

RE: HANDOVER PROCESS

Our Service Level Agreement ("SLA"), specifically clause 14 and our subsequent notice issued on 25 July 2019 requesting you to prepare for the handover of the files hereby refers.

Kindly be advised that the evaluation of the tender for the panel of attorneys is incomplete and requires more time for completion. The RAF is evaluating and making arrangements for the adherence to clause 14 of the SLA in the most cost effective and transparent manner.

In terms of clause 3.4 of the SLA, all firms undertook to perform all services subject to the terms and conditions of the SLA and in accordance with all annexures and directives issued by the RAF from time to time. In light thereof, we hereby issue a directive to the effect that you should, at this stage, suspend temporarily the return of unfinalised files until we issue further instructions / directive in this regard. We further intend to engage with yourself as a matter of urgency regarding the making of copies for your records as envisaged in clause 14.4.6 of the SLA.

We trust that you will find the above in order and beg for your indulgence in this regard.

Kind regards

Q-1

Collins Letsoalo

Acting Chief Executive Officer

CO.28
To
P.B.M

From: Ignatius Briel
To: Busani Mabunda
Subject: FW: URGENT MEETING BETWEEN RAF AND PANEL ATTORNEYS
Start: Monday, 18 November 2019 2:00:00 PM
End: Monday, 18 November 2019 4:00:00 PM
Location: ECO GLADES
Importance: High

-----Original Appointment-----

From: Rosina Topa [mailto:Rosinat@raf.co.za] <mailto:[mailto:Rosinat@raf.co.za]> On Behalf Of Ignatius Briel
Sent: Thursday, November 14, 2019 12:41 PM
To: Ignatius Briel, Panel of Attorneys-2014; Denzil Jacobs; Lindelwa Xingwana-Jabavu; Angel Mokhari; Justice Mdhluli; 'Charlene Mckue'; Marivate Attorneys
Cc: 'Shikar Maharaj'; Ighsaan Sadien Attorneys; 'Jill - Alet Gerber Attorneys'; 'Salma Munshi'; Lekhu Pilson Attorneys; Bowes, Loon & Connellan Inc.; TJ Maodi Attorneys Inc.; Moloto Stofile Incorporated; 'Molebogeng Maakoe'; 'Kobus De Beer'; Diale Mogashoa Attorneys; M F Jassat Dhlamini Attorneys; 'Ntando Makuyana'; A.V. Dawson; 'Nandipha Mabele'; 'Ian Patterson-Roberts'; 'Madimpe Mogashoa'; Harkoo, Brijal, Reddy Incorporated; Smith Tabata Attorneys; 'Abraham Dawson'; 'Vanessa van Niekerk'; 'Abigail De Freitas'; 'Sifiso'; 'Nontokozo Kona'; A K Essack; Morgan Naidoo & Company; Joubert, Galpin & Searle Incorporate; Friedman Scheckter; Borman Duma Zitha Attorneys; Mayat, Nurick Langa Incorporated; Rambevhla Morobane Attorneys; Maponya Inc.; 'Shane Timber'; TOMLINSON, MNGUNI & JAMES; 'Kabir Sangham'; 'Thopane Maloka'; 'Tshepo Mashile'; 'mdhluli@scmattorneys.co.za'; Mastross Incorporated; Lindsay Keller Attorneys; Hammann-Moosa Inc.; Livingston Leandy Incorporated; 'David Horner'; Dev Maharaj & Associates; 'Ansabe Ferreira'; 'Khanyiswa Peter'; Rehana Khan Parker & Associates; 'kkarsan@karsans.co.za'; KETSE NONKWELO INC; Maduba Attorneys; Maribana Makgoka Incorporated; Bate Chubb & Dickson; Tsebane Molaba Inc.; Dwarika, Naidoo And Co.; MOTHLE JOOMA SABADIA; 'Anneme Galatis'; 'Jabulani Dlamini'; 'Barry Moyana'; Harja Patel Incorporated; 'Candice Britton'; MAYATS ATTORNEYS; 'Olivia Swardling'; 'HC1@shermeer.co.za'; Mothle Jooma Sabdia Inc.; LINDSAY KELLER ATTORNEYS; 'Alet Gerber'; HUGHES-MADONDO INC; 'valencia@sagathevanattorneys.co.za'; 'Zubeida Mehtar'
Subject: URGENT MEETING BETWEEN RAF AND PANEL ATTORNEYS
When: Monday, November 18, 2019 2:00 PM-4:00 PM (UTC+02:00) Harare, Pretoria.
Where: ECO GLADES
Importance: High

Good day

All attorneys are requested to attend a critical meeting on Monday 18 November 2019 from 14:00 to 16:00 with the Acting CEO of the RAF.

The purpose of the meeting is to discuss the extension of the contract with the panel of attorneys as well as expectations from the panel going forward.

It is critical that the senior partner / director of the firm as well as the lead attorney attend the meeting.

Please contact Rosina Topa on 012 621 1918, VC will be arranged in Cape Town, East London, and Durban further details of the VC will be communicated in due cause.

Regards

KO
PBM

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PBM 4

**RAF PANEL OF ATTORNEYS**

Dear Madam/Sir

RE: EXTENSION OF SERVICE LEVEL AGREEMENT PERIOD

The SLA with the RAF Panel of Attorneys is set to expire imminently as per SLA provision.

The RAF has approved an extension of the SLA period up to 31 May 2020. In addition to the extended period, the RAF has proposed changes to align the SLA with its operational and administrative requirements.

You are required to sign the attached addendum and return it to the RAF by no later than 15:00 on 21 November 2019. The signed addendums are to be hand delivered to the RAF Head Office at 420 Witch Hazel Ave, Centurion, for attention Ignatius Briel.

For firms outside of Gauteng, a copy of the signed Second Addendum must be sent by e-mail to FHP@raf.co.za, and the original should be transmitted to the RAF Head Office at 420 Witch Hazel Ave, Centurion, for attention Ignatius Briel by no later than 30 November 2019.

In the event that you do not agree to the provisions of the Second Addendum, you are required to return all original files to the RAF Regional Office closest to you by close of business on 22 November 2019.

Yours sincerely

A handwritten signature in black ink, appearing to read "John Modise", with the date "19/11/19" written below it.

John Modise
Acting GM: SCM
Road Accident Fund

Centurion: 420 Witch Hazel Road Eco Glades 2 Centurion 0046 | Private Bag X178 Centurion 0046
T +27 12 621 1600 | www.raf.co.za

Board Members: Dr Matsotso Mathebula (Chairperson), Ms Koko Mashigo (Vice-Chairperson), Dr Farie Bale, Ms Dineo Molefe, Dr Nomonde Mabuya-Molelele, Mr Kholiso Molhobi, Mr Moses Nyama, Dr Maria Peenze, Dr Mohamed Fazel Randera, Mr Thulani Tshabalala, Ms Constance Mafaho (Director General's Representative)

Handwritten initials "KO" and "PBM" in the bottom right corner.

**SECOND ADDENDUM
TO
THE SERVICE LEVEL AGREEMENT**

entered into by and between

The Road Accident Fund (the "Fund")

(a statutory entity established in terms of section 2(1) of the Road Accident Fund Act, Act No. 56 of 1996, as amended, herein represented by _____ in his capacity as _____ duly delegated.

Physical Address: 420 Witch-Hazel Avenue, Block F, Eco Glades 2 Office Park, Centurion
Postal Address: Private Bag X178, Centurion, 0046
Contact Person: Ignatius Briel
Tel: 012 649 2126
E-mail: Panelcompliance@raf.co.za

and

_____ (the "Firm")

(herein represented by _____, duly authorised thereto, and in his/her capacity as the _____.)

Physical Address: _____

Contact person: _____
Tel: +27 _____
Fax: +27 _____
Email: _____

WHEREAS, the *Fund* and the *Firm* entered into a *Service Level Agreement* for a period of 5 (five) years (hereinafter referred to as the "*Original Agreement*"), which agreement came into effect on appointment under RFB: RAF/2014/00023;

WHEREAS, the *Fund* appointed the *Firm* to its *Panel of Attorneys* within the relevant jurisdiction mentioned under clause 3.1 of the *Original Agreement*.

WHEREAS, the *Fund* and the *Firm* entered into a *First Addendum* whose terms were duly captured, recorded and signed-off by the parties;

WHEREAS, the *Fund* and the *Firm* agree to further amend the *Original Agreement*, as amended, on the terms specified in this addendum (*Second Addendum*);

WHEREAS, the *Fund* wishes to make changes to the *Original Agreement* as provided for under clause 7, 24.2 read with clause 26 in Annexure A of the *Original Agreement* which provides that the *Fund* shall be entitled to propose amendments to the terms, conditions and scope of the *Original Agreement* should the need arise, to be considered by the *Firm*;

AND WHEREAS the *Fund* and the *Firm* have undertaken an exercise to determine the impact (including any knock-on effect) of the proposed change and have satisfied themselves on its merits having due regard to the continued provision of the balance of the Parties' obligations under the *Original Agreement*;

NOW THEREFORE, the *Fund* and the *Firm* agree as follows:

1. Interpretation

- 1.1 Definitions used in the *Original Agreement*, as amended, shall apply to this *Second Addendum*, save where any definition is altered or deleted by the provisions of this *Second Addendum*.
- 1.2 In the event that there is a conflict between the provisions contained in this *Second Addendum* and that of the *Original Agreement*, as amended, the provisions of this *Second Addendum* shall, to the extent that there is a conflict, supersede the provisions of the *Original Agreement*, as amended.

2. Proposed Changes

2.1 For the purposes of the *Original Agreement*, as amended, referral to the *Fund's Contracts Manager* is deleted and replaced with the *Fund's Panel Manager*. The details of the *Fund's* contact person is also replaced with the details contained on the cover page of this *Second Addendum*.

2.2 The *Fund* and the *Firm* agree to extend the duration of the *Original Agreement*, as amended, for a further period until 31 May 2020 (the *Extended Period*).

2.3 Ad Clauses on Suspension of New Instructions

2.3.1 The *Parties* agree to the following deletions in the *Schedule* of the *Service Level Agreement*:

2.3.1.1 Delete clause 9.1.3.2 in its entirety.

2.3.1.2 Delete clause 10 in its entirety.

2.3.1.3 Delete clause 11.2.1.9 in its entirety.

2.3.1.4 Delete clause 11.5.1 in its entirety.

2.3.1.5 Delete clauses 12.3.1 and 12.3.4 in its entirety.

2.3.1.6 Delete the words "suspension or" in clause 20.13.

2.3.1.7 Delete the words "or suspension" in clauses 19.2, 19.4, 19.5 and 19.6 of Annexure A.

2.4 Ad Clause 11: TERMINATION OF THE SERVICE LEVEL AGREEMENT BY THE FUND

2.4.1 **Ad Clause 11.1:** Insert the following sentence to the current clause 11.1. "The *Fund* reserves the right to cancel the contract earlier than 30 (thirty) *Days* at its own discretion". The new clause 11.1 to read as follows:

11.1 The *Fund* may at any time terminate this *Service Level Agreement* by giving 30 (thirty) *Days* written notice to the *Firm*. The *Fund* reserves the right to terminate the contract by giving written notice for a period shorter than 30 (thirty) *Days*, which period shall be determined by the *Fund* at its sole discretion, informed by the circumstances which necessitates such a termination. In the event where the *Fund* exercises the right of a shorter notice period, the remainder of the provisions of clause 11 will be replaced by suitable terms informed by the circumstances for termination.

ko
P.B.M

2.5 Ad Clause 14: HANDOVER PPROCESS (BY EFFLUXION OF TIME)

2.5.1 Ad Clause 14.1: delete the clause in its entirety and replace it with a new clause to read as follows:

14.1 At least one (1) month before the expiry of this **Service Level Agreement** (as amended), the **Fund's Panel Manager** shall deliver to the **Firm** in writing, a Notice of Handover advising the **Firm** to start to prepare all unfinalised files in its possession for the hand over process and logistics thereof. The Notice of Handover will stipulate the handover procedure to be followed. The **Fund** reserves the right in its sole discretion, to waive the obligation to hand over files to the **Fund**.

2.5.2 Ad Clause 14.4: Delete clauses 14.4.1 to 14.4.4 in its entirety.

2.5.3 Ad Clause 14.4.6: Delete the clause in its entirety and replace it with a new clause to read as follows:

14.4.6 The **Fund** reserves the right in its sole discretion to request the **Firm** to provide the **Fund** with original files of all unfinalised matters in the **Firm's** possession. The files shall be accompanied by:

- 14.4.6.1 a list of all matters handed over, in a format prescribed by the **Fund**; and
- 14.4.6.2 a written confirmation by the **Lead Attorney** that all unfinalised files have been handed over, and that no documents or files have been withheld.

2.5.4 Ad Clause 14.4.8: Delete the clause in its entirety and replace it with a new clause to read as follows:

14.4.8 The **Firm** shall within Five (5) **Days** of request for Notice of Withdrawal by the **Fund's Panel Manager**, provide the **Fund** with Notices of Withdrawal as Attorneys of Record.

2.5.5 Ad Clause 14.5.5: Delete the clause in its entirety and replace it with a new clause to read as follows:

14.5.5. The Bills of Cost shall be prepared in accordance with the fee structure governing the **Original Agreement**, as amended, during its subsistence. The **Firm** shall however not be entitled to bill any amount for making copies, scans of files or uploading into any of the IT systems.

2.6 Ad Clause 16: Dispute Resolution & Escalation

2.6.1 **Ad Clause 16.1:** The *Parties* agree to amend clause 16.1 by deleting the words "excluding suspension" and replacing the words 'will' with 'may'. The new clause 16.1 to read as follows:

16.1 Should any dispute arise between the *Parties* in connection with the interpretation or application of the provisions of this *Service Level Agreement* or its breach, or *Termination* or cost issues or any other matter, such dispute may, unless resolved between the *Parties*, be referred to and be determined by arbitration in terms of this clause, as expediently as may be reasonably possible.

2.6.2 The *Parties* agree to add a new clause 16.1.1. to read as follows:

16.1.1 Notwithstanding the provisions of clause 16.1, the *Parties* are not precluded from approaching the court for determination of any dispute arising from this *Service Level Agreement* or seek any relief that maybe appropriate in the circumstances.

2.7 **Ad Annexure A, Clause 20:** Delete Clause 20 in its entirety.

2.8 **Ad Annexure A, Clause 21:** Delete Clause 21 in its entirety.

2.9 **Ad Annexure B, Clause 3:**

2.9.1. The *Parties* agree to amend Clause 3 of Annexure B by inserting an additional clause 3.10 to read as follows:

3.10 The *Firm* shall provide the *Fund* with details of any adverse or punitive cost orders granted against the *Firm* within three (3) *Days* of such order being granted. Failure to report such adverse or punitive cost order to the *Fund* within three (3) *Days* shall constitute a material breach of trust between the *Firm* and the *Fund*.

2.10 **Ad Annexure B, Clause 9:**

2.10.1 The *Parties* agree to amend clause 9.2.8 and 9.2.8.1 to Annexure B by replacing the word pre-trial with the words pre-trial / judicial pre-trial / case management meeting.

2.11 The *Parties* agree to add a new clause 9.2.9 to read as follows:

9.2.9 The **Fund** shall provide the **Firm** with instructions pursuant to the report provided to the **Fund** in terms of clause 9.2.8 within 3 **Days** of receiving such report, unless more urgent instructions are needed, in which case the **Firm** must follow the provisions contained in clause 11.2 to 11.4 of Annexure B of the **Service Level Agreement**.

2.12 **Ad Annexure B, Clause 10:**

2.12.1 The **Parties** agree to amend the provisions of Clause 10 of Annexure B by inserting an additional Clause 10.4 and 10.5 to read as follows:

10.4 The **Firm** acknowledges that failure to comply with the provisions of Clause 10 of Annexure B constitutes a material breach of its obligations in terms of this **Service Level Agreement**.

10.5 The **Fund** shall be entitled to recover any wasted costs or financial damage suffered as a result of the failure by the **Firm** to comply with Clause 10 from the **Firm**.

2.13 **Ad Annexure B, Clause 12:**

2.13.1 The **Parties** agree to amend the provisions of Clause 12 of Annexure B by inserting an additional Clause 12.6 and clause 12.7 to read as follows:

12.6 The **Firm** shall avoid making settlement agreements orders of Court and shall endeavor to enforce the provisions of Rule 41(4) of the Uniform Rules of Court. The **Firm** shall conclude settlement agreements with payment terms of at least 180 days for payment of the settlement amount.

12.6.1 In instances where Plaintiff Attorneys insist that the settlement agreements must be made orders of Court instantly, such agreements shall have payment provisions which allows the Fund to make payment within 180 days and that no writ of execution shall be issued before the expiry of the 180 days period.

12.7 In instances where a matter is settled on the day of trial, the **Firm** shall provide the Fund with a detailed memorandum, signed by the Lead Attorney of the **Firm**, detailing the following:

12.7.1 Detailed timelines of the management of the matter leading up to settlement of the matter, including:

12.7.1.1 Date of FAR submitted to the Fund;

12.7.1.2 Date instructions received from the Fund;

12.7.1.3 Dates of receipt of all expert reports and when same was transmitted to the **Fund**.

12.7.2 Reasons why the matter was not settled earlier.

KO
P.B.M

2.14 Ad Annexure B, Clause 21: The *Parties* agree to add a new clause 21 to Annexure B to read as follows:

21.1 The *Firm* shall diligently update all information on the IT systems used by the *Fund* and made available to the *Firm*.

21.2. The information to be updated shall include but not limited to:

2.5.2.1 Trial Date;

2.5.2.2 Pre-Trial dates;

2.5.2.3. Trial and Pre-trial outcomes; and

2.5.2.4 Any other information required in terms of the *Original Agreement*, as amended.

21.3 All documentation required to be delivered to the *Fund* in terms of the *Scope of Work* shall be uploaded to the Litigation Management System (LMS) within the time period provided for in this Annexure B.

21.4 Failure to update the information or upload the documents as required by the provisions of clause 21 in this *Second Addendum* shall be regarded as a breach and may result in a termination of the *Original Agreement*, as amended.

3. Duration

3.1 Notwithstanding the date of signature of this *Second Addendum* by the authorised representatives of both parties, this *Second Addendum* shall become effective and enforceable from 25 NOVEMBER 2019 (*the Effective Date*).

3.2 The *Extended Period* shall commence from the *Effective Date* and shall terminate by effluxion of time on 31 May 2020, unless terminated earlier.

4. Precedence

4.1 The Parties agree to the amendments as contained in this *Second Addendum*.

4.2 Unless stated otherwise and save for the amendments specifically provided for in this *Second Addendum*, this *Second Addendum* shall incorporate all the terms and conditions of the *Original Agreement*, as amended, which terms and conditions remain of full force and effect.



Signed at _____ on this _____ day of _____ 2019.

For: ROAD ACCIDENT FUND

Witness

Name: _____

Capacity: _____

Witness

Duly authorised in terms of the Road Accident Fund's Delegation of Powers and Functions Policy Framework.

Signed at _____ on this _____ day of _____ 2019.

For: _____

Witness

Name: _____

Capacity: _____

Witness

By signing above, I warrant that I have been duly authorised to sign this **Second Addendum**.

KO
P.B.m



The Managing Director / Senior Partner
Road Accident Fund Panel Attorney

18 February 2020

Messrs

**NOTICE OF HANDOVER PURSUANT TO CLAUSE 14 OF THE SERVICE LEVEL AGREEMENT WITH
RAF PANEL ATTORNEYS**

Pursuant to clause 14 of the Service Level Agreement (SLA) entered into between you and the RAF, you are hereby notified of your obligation to prepare all unfinalised files in your possession for handover of all original files to the RAF.

You are required to provide the Fund a list of all open matters by close of business on Thursday, 20 February 2020, which list shall be in Excel format as per the template attached hereto. The completed Excel lists must be delivered by e-mail to the following e-mail address: FHP@raf.co.za.

The handover will be done in four stages as follows:

DELIVERY PERIOD	FILES TO BE RETURNED
21/02/2020 – 28/02/2020	Files with trial dates between 01/06/2020 and 31/12/2020
01/03/2020 – 31/03/2020	Files with trial dates between 01/01/2021 and 31/12/2021
01/04/2020 – 15/04/2020	Files with trial dates between 01/01/2022 and 31/12/2022
16/04/2020 – 31/05/2020	All open files not already returned

All original files must be returned to the office closest to you. The regional handover teams will communicate specific handover schedules for each firm.

You are required to proceed with the all trials and pre-trials in respect of files not yet returned to the RAF, with specific reference to matters with trials dates from the issuance of this letter to 31 May 2020.

Centurion: Eco Glades 2, 420 Witch Hazel Avenue, Centurion, 0046 | Private Bag X178 Centurion 0046
T +27 12 621 1600 | www.raf.co.za

Board Members: Adv Galetlana Rasethaba (Chairperson), Ms Themba hle Msibi (Vice-Chairperson), Mr Hlengiwe Danieels, Dr Prieur du Plessis, Ms Lorraine Francois, Dr Nomonde Mabuya-Moale, Mr Lusani Mulaudzi, Mr Kheliso Mthobeni, Mr Moses Nyama, Dr Maria Peenze, Mr Thabani Tshabane

KO
P.B. n

The Managing Director / Senior Partner
Road Accident Fund Panel Attorney

20 February 2020

Messrs

NOTICE OF HANDOVER PURSUANT TO CLAUSE 14 OF THE SERVICE LEVEL AGREEMENT

We refer to the letter that was communicated to you dated 18 February 2020.

We have been inundated with requests from a number of firms requesting us to reconsider the time lines for the delivery of the files. In light of the requests received, the RAF has taken into consideration all the concerns raised and hereby amend the handover schedule as follows:

DELIVERY PERIOD	FILES TO BE RETURNED
21/02/2020 – 13/03/2020	Files with trial dates between 01/06/2020 and 31/12/2020
16/03/2020 – 10/04/2020	Files with trial dates between 01/01/2021 and 31/12/2021
13/04/2020 – 30/04/2020	All outstanding files

Kindly be advised that you are required to submit a list of the files you are delivering for handover in the excel spreadsheet that was provided to you together with the Notice of Handover.

Further be advised that you are expected to fully comply with the provisions of clause 14.4.7 of the SLA by ensuring that the following is contained in the file:

- Opinion on merits
- Opinion on quantum
- Areas of dispute
- Stage of pleadings
- Current status
- Recommendations

Centurion: Eco Glades 2, 420 Witch Hazel Avenue, Centurion, 0046 | Private Bag X178 Centurion 0046
T +27 12 621 1600 | www.raf.co.za

Board Members: Adv Galetlane Rasethaba (Chairperson), Ms Thembelihle Msibi (Vice-Chairperson), Mr Hilmi Daniels, Dr Prieur du Plessis, Ms Lorraine Francois, Dr Nomonde Mabuya-Moloela, Mr Lusani Mulaudzi, Mr Khotso Mothobi, Mr Moses Nyama, Dr Maria Peenze, Mr Thulani Tshabalala

We reiterate, as per our letter dated 18 February 2020, that you please complete the excel spreadsheet with details of all trial matters and unfinalised matters.

If you have any queries, kindly submit them on the following email address: FHP@raf.co.za

Yours sincerely,



Lindelwa Xingwana-Jabavu
Chief Operations Officer
Road Accident Fund

Busani Mabunda

From: Busani Mabunda
Sent: Monday, 24 February 2020 14:13
To: juneC@raf.co.za; CollinsL@raf.co.za
Subject: Handover of RAF Files
Attachments: Letter to the Road Accident Fund_PB - 24 February 2020.pdf; RAF 202 Notice of handover pursuant to Clause 14 of the service level agreement with RAF panel attorney-Signed.pdf; RAF203 -Notice of handover pursuant to clause 14 of the SLA-20 February 2020.pdf; RAF 201 - Notice of handover pursuant to clause 14 of the service level agreement with RAF panel attorneys.pdf

Tracking:	Recipient	Read
	juneC@raf.co.za	
	CollinsL@raf.co.za	
	Pritzman Busani Mabunda	Read: 2020/02/24 14:13

Chairperson of the Board

Kindly receive herewith our letter for your urgent consideration.

Kind Regards



Busani Mabunda – Director

MABUNDA INCORPORATED

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 PO BOX 81236 Marshalltown, 2107
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Tel: (011) 450 1641/2284
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24 February 2020

Chairperson of the Board
Road Accident Fund
Eco Glades 2
420 Witch Hazel Avenue
Centurion
0046

FOR THE URGENT ATTENTION OF THE CHAIRPERSON OF THE BOARD

PER EMAIL AND PER HAND

The Chairperson of the Board Advocate Galetlane Rasethaba	juneC@raf.co.za
The Acting Chief Financial Officer Collins Letsoalo	CollinsL@raf.co.za

RE: ROAD ACCIDENT FUND ATTORNEYS: HANDOVER OF FILES AND ANNOUNCEMENT OF RAF REQUEST FOR BIDS: RAF/2019/0054: THE APPOINTMENT OF A SUITABLY QUALIFIED LEGAL FIRM(S) FROM ALL PROVINCES TO BE ON THE PANEL OF ATTORNEYS TO PROVIDE SPECIALIZED LITIGATION SERVICES TO THE RAF IN RESPECT OF MAGISTRATE COURT, REGIONAL COURT AND HIGH COURT FOR A PERIOD OF FIVE(5) YEARS.

1. We refer to the above matter and in particular to your recent letters regarding the handover of files by all your RAF panel attorneys nationwide.

Directors:

Pritzman Busani Mabunda: B Proc (UDW), LLB (Wits), LLM (Labour Law) UNIN), MPhil (Medical Law and Ethics) (UP), Dip. Advanced Banking (RAU), Dip in Criminal Justice and Forensic Auditing (RAU), Certificate in Sports Law (UCT), Certificate in Admin & Const Law (UCT).
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Assisted by:

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2. We enclose herewith copies of your said letters for your ease of reference as annexures RAF201, RAF202 and RAF203 respectively.

3. This letter is addressed to you in our capacity as panel attorneys and we record that these views are also shared by the following laws firms amongst others: -

3.1. Kekana Hlatswayo Radebe Inc;

3.2. Noko Maimela Inc;

3.3. Maponya Incorporated

4. We demand from the onset and for reasons which will follow below that you comply with the following: -

4.1. That you withdraw your directives to all panel attorneys nationwide to handover the files in their possession to your various offices both nationally and regionally.

4.2. That you announce the outcome of tender adjudication of **RAF/2019/0054: THE APPOINTMENT OF A SUITABLY QUALIFIED LEGAL FIRM(S) FROM ALL PROVINCES TO BE ON THE PANEL OF ATTORNEYS TO PROVIDE SPECIALIZED LITIGATION SERVICES TO THE RAF IN RESPECT OF MAGISTRATE COURT, REGIONAL COURT AND HIGH COURT FOR A PERIOD OF FIVE(5) YEARS.**

4.3. That you respond to the above demands by not later than close of business on Wednesday the 26 February 2020.

Directors:

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5. We record that aforementioned directives are fundamentally flawed in many respects and will negatively impact on the administration of justice including but not limited to: -

5.1. Attorneys are by law expected to serve on their opponents and file with the court a notice of withdrawal as attorneys of record on each and every file in their possession when they effect a handover instruction from yourselves.

5.2. The notice of withdrawal is to include the names of contact details of the defendant's new representatives, if any or client's last known address and details of the contact person.

6. If you persist on this directive, kindly forward the address, telephone numbers, email address and fax numbers and the relevant person assigned to the matters to enable the attorneys to discharge their professional mandate as expected from the office they hold and in line with their oath of office as legal practitioners.

7. Your decision as it stands will negatively impact on the proper and smooth administration of justice in many ways including but not limited to: -

7.1. In terms of practice directives, Judicial case management meetings for certification purposes and representations in connection therewith at court will be hampered in the absence of proper legal representation.

7.2. Case management meetings – representation at court and timeous preparation on litigation matters? This will be hampered in the absence of proper planning and preparation for litigation by attorney or Advocate as legal practitioner.

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- 7.3. Attendance to trial matters by claims handlers/in-house RAF representation at court in multiple jurisdictions and associated logistical challenges.
- 7.4. Logistical Challenges with RAF files stored offsite. The experience of the last handover process five years ago is still presenting problems for panel attorneys from time to time.
- 7.5. Adhering to judicial practice directives (different jurisdictions) and technical understanding and compliance therewith including the case line directive;
- 7.6. Attending pre-trials on a daily basis at attorneys'/advocates offices in terms of rule 37;
- 7.7. The likelihood of fraud during taxations and attendance before the Taxing Master due to lack of understanding of rules of court and opposing taxations with an RAF file.
- 7.8. Service of documents to plaintiff's attorneys – (15km radius from court). The RAF will have to appoint correspondences within the prescribed jurisdiction throughout the country in terms of the rules of court. In terms of the current set up, there is no need as all defendant's attorneys operate within the prescribed radius in terms of the rules. It should be noted that the RAF complained about correspondent attorneys and this resulted in this need being obviated. The effect of what RAF seeks to do is inevitably bringing back the correspondence problem to itself because it cannot provide offices for service of process within the 15-kilometer radius of various courts in the country.

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- 7.9. RAF – service of documents (services at court and plaintiff attorneys). The duty of dealing with this challenge is enormous and will not be successfully executed by the RAF with its current resources.
- 7.10. The current capacity of RAF staff to fulfil the statutory mandate in terms of the Act. This is an existing problem and it has not been adequately addressed. The contemplated insourcing will exacerbate an already exiting problem.
- 7.11. Medico-legal appointments – providing voluminous support documentation in hard copies to various experts across South Africa. The RAF must be ready and geared to deal with this challenging task.
- 7.12. Numerous applications (motions) – representation at court, technical knowledge of rules of court, the law and with adherence to time frames will pose a serious challenge to the RAF. The net result will be orders being granted without opposition even in applications which may be brought frivolously if not defended.
- 7.13. Current RAF departments not conducive to handle litigation to ensure continuity of matters and therefore ensure access to justice;
- 7.14. Claims handlers and litigation officers are not in the majority formally trained in terms of civil procedure and law of evidence.

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- 7.15. Panel attorneys specialise in personal injury law and third-party law and have practical litigation experience to protect the interest of the RAF and therefore ultimately the taxpayer's money. This is a fact which is not generally acknowledged.
- 7.16. RAF in house resources are currently limited as the bare requirement is not an LLB degree anymore, whereas plaintiff attorneys are qualified and make use of services of counsel. Risk of over settlement a real possibility.
- 7.17. Trial matters which are not properly presented may lead to adverse judgements and punitive cost orders against the RAF and affect the taxpayer unduly. This include default judgements.
- 7.18. RAF statutory mandate relating to fair compensation in terms of the Act is an intricate model of various areas of expertise requiring the input of professional service providers. Once any link in the chain is broken the said mandate is compromised and at risk. This will be so if the plaintiff's attorneys are left unchallenged by defendants' attorneys where a matter is fully litigated upon.
- 7.19. Treasury rules dictate that any amount above R500 000.00 must be subject to a tender process. The RAF will not be able to appoint ad-hoc legal practitioners as no tender has been awarded and will be against the rules of treasury and possible contravention of the Public Finance and Management Act.

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- 7.20. Geographical challenges – Magistrates' Courts, Regional Courts and High Courts. Who will appear on behalf of RAF: Who will ensure compliance with the rules and acts of the aforesaid courts? Example – a Cape Town RAF representative situated in Cape Town attending to matters in different provinces/jurisdictions. Challenges of infrastructures relating to the service of documents in terms of court and costs related thereto must be taken into account.
- 7.21. Major challenges of claim handlers to constantly work on one matter to ensure time frames are being complied with. This will undoubtedly be an insurmountable task for people who are not trained legal practitioners with the requisite experience.
- 7.22. The capability of the RAF to comply with technical aspects of the complex litigation process with the framework of the Acts and applicable Rules is highly doubtful. This once again highlights a lack of knowledge, experience and logistic capability. This will frustrate the Judiciary. This will also make any gains to streamline the litigation process by the judiciary redundant;
- 7.23. There are challenges with regards to the effective consultation process with lay persons such as insured drivers, eyewitnesses as well as experts. Currently, the RAF does not have such training.
- 7.24. Is there compliance by the RAF with the provisions of Section 33 of the Legal Practice Act (LPA)?
- 7.25. Has the RAF appreciated the consequences of section 34 in particular section 34(5) of the LPA?

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- 7.26. Does the RAF appreciate the effects of section 93(3) of the LPA?
- 7.27. RAF cannot as the law stands brief counsel nor can an untrained legal practitioner appear and brief counsel for pretrial, certifications and arguments before a Court of law.
8. The above challenges highlight the impact of the irrational decision on the proper administration of justice in the country and what the judicial system is now being subjected to.
9. The board of the RAF is requested to confirm that it has sanctioned this decision which led to the issued directives and whether it associates with and stands by this decision as this is or should be an RAF policy decision taken by the board.
10. As acting CEO of the Raf, Mr. Collins Letsoalo has publicly stated before that he does not want the panel of attorneys for the RAF going forward. We enquire if the RAF has familiarized itself with the process of ensuring proper legal representation of the RAF in terms of the Legal Practice Act.

In this regard, we specifically enquire: -

- 10.1. If the RAF has sought the audience of the Legal Practice Council (LPC);
- 10.2. If there is any formal engagement in writing seeking to have inhouse counsel and legal processes to be followed to give effect thereto and compliance with legislation, in particular but not limited to:

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10.2.1. We specifically enquire if the RAF has complied with Section 33 of the LPA;

10.2.2. Has the RAF appreciated the consequences of Section 34(5) of the LPA, and Section 93(3)?

Section 33 of the LPA provides: -

33. Authority to render legal services –

(1) Subject to any other law, no person other than a practising legal practitioner who has been admitted and enrolled as such in terms of this Act may, in expectation of any fee, commission, gain or reward –

(a) appear in any court of law or before any board, tribunal or similar institution in which only legal practitioners are entitled to appear; or

(b) draw up or execute any instruments or documents relating to or required or intended for use in any action, suit or other proceedings in a court of civil or criminal jurisdiction within the Republic.

(2) No person other than a legal practitioner may hold himself or herself out as a legal practitioner or make any representation or use any type or description indicating or implying that he or she is a legal practitioner.

(3) No person may, in expectation of any fee, commission, gain or reward, directly or indirectly, perform any act or render any service which in terms of any other law may only be done by an advocate, attorney, conveyancer or notary, unless that person is a practicing advocate, attorney, conveyancer or notary, as the case may be.

(4) A legal practitioner who is struck off the Roll or suspended from practice may not –

(a) render services as a legal practitioner directly or indirectly for his or her own account, or in partnership, or association with any other person, or as a member of a legal practice; or

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(b) be employed by, or otherwise be engaged, in a legal practice without the prior written consent of the Council, which consent may not be unreasonably withheld, and such consent may be granted on such terms and conditions as the Council may determine.

Section 34 of the LPA provides: -

34. Forms of legal practice –

(1) An attorney may render legal services in expectation of any fee, commission, gain, or reward as contemplated in this Act or any other applicable law, upon receipt of a request directly from the public for that service.

(2) (a) An advocate may render legal services in expectation of a fee, commission, gain or reward as contemplated in this Act or any other applicable law –

(i) upon receipt of a brief from an attorney; or

(ii) upon receipt of a request directly from a member of the public or from a justice centre for that service, subject to paragraph (b).

(b) An advocate contemplated in paragraph (a) (ii) may only render those legal services rendered by advocates before the commencement of this Act as determined by the Council in the rules, if he or she –

(i) is in possession of a Fidelity Fund certificate and conducts his or her practice in accordance with the relevant provisions of Chapter 7, with particular reference to sections 84, 85, 86 and 87;

(ii) has notified the Council thereof in terms of section 30 (1) (b) (ii).

(c) An advocate may render legal services in criminal or civil matters in expectation of a fee, commission, gain or reward as contemplated in this Act or any other applicable law upon receipt of a request directly from a justice centre for that service, in which event the provisions of paragraph (b) do not apply.

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A T T O R N E Y S A T L A W

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...

(5) Attorneys may only practise –

(a) for their own account;

(b) as part of a commercial juristic entity referred to in subsection (7) and as such, may only make over to, share or divide any portion of their professional fee whether by way of partnership, commission, allowance, or otherwise with an attorney;

(c) as part of a law clinic established in terms of subsection (8);

(d) as part of Legal Aid South Africa; or

(e) as an attorney in the fulltime employment of the State as a state attorney or the South African Human Rights Commission.

(6) Advocates may only practise –

(a) for their own account and as such may not make over to, share or divide any portion of their professional fee whether by way of partnership, commission, allowance or otherwise;

(b) as part of a law clinic established in terms of subsection (8);

(c) as part of Legal Aid South Africa; or

(d) as an advocate in the fulltime employment of the State as a state advocate or the South African Human Rights Commission.

(7) A commercial juristic entity may be established to conduct a legal practice provided that, in terms of its founding documents –

(a) its shareholding, partnership or membership as the case may be, is comprised exclusively of attorneys;

(b) provision is made for legal services to be rendered only by or under the supervision of admitted and enrolled attorneys; and

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(c) all present and past shareholders, partners or members, as the case may be, are liable jointly and severally together with the commercial juristic entity for—

(i) the debts and liabilities of the commercial juristic entity as are or were contracted during their period of office; and

(ii) in respect of any theft committed during their period of office.

(8) (a) Subject to the approval of the Council in terms of the rules, a law clinic may be established by –

(i) a non-profit juristic entity registered in terms of the Nonprofit Organisations Act, 1997 (Act No. 71 of 1997), to conduct a legal practice if, in terms of its founding documents –

(aa) the majority of its members of its governing body is comprised of legal practitioners; and

(bb) upon its winding up, dissolution or voluntary deregistration, any asset remaining after all liabilities have been met, are transferred to another non-profit organisation having similar objectives to it; or

(ii) any university in the Republic if it is constituted and governed as part of the faculty of law at that university, and is subject to the provisions of paragraphs (b) and (c).

(b) A law clinic referred to in paragraph (a) –

(i) may only render legal services if those services are rendered by or under the supervision of attorneys;

(ii) may not make over to, share or divide any portion of its professional fee whether by way of partnership, commission, allowance or otherwise;

(iii) may not distribute any of its income or property to its members, governors or employees, except as reasonable compensation for services rendered;

(iv) may only engage candidate legal practitioners if it complies with the requirements determined by the Council in the rules; and

(v) may not render those legal services determined by the Council in the rules.

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(c) Legal services rendered by a law clinic referred to in paragraph (a)—

(i) must be accessible to the public; and

(ii) must, subject to section 92, be rendered to the recipient of those services free of charge, except that the law clinic may recover any amounts actually disbursed on behalf of the recipient of the services.

Section 93 of the LPA provides: -

93. Offences and penalties

(1) Any person who, in a practice, without the written consent of the Council, employs in any capacity any person who has been struck off the Roll or suspended from practice, while that person remains struck off or suspended, commits an offence and is liable on conviction to a fine or imprisonment for a period not exceeding one year.

(2) Any person who contravenes the provisions of section 33 commits an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding two years or to both such fine and imprisonment.

(3) Any legal practitioner who contravenes any of the provisions of section 34 commits an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding two years or to both such fine and imprisonment

(6) Any attorney or advocate who contravenes section 56(7) commits an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding two years.

(7) A claimant who fails to co-operate with the Fund in the exercise of its subrogated rights as contemplated in section 80, commits an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding two years.

(8) Any person who contravenes sections 84(1) or (2) or section 34, in rendering legal services— (a) commits an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding two years or to both such fine and imprisonment; (b) is on conviction

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liable to be struck off the Roll; and (c) is not entitled to any fee, reward or reimbursement in respect of the legal services rendered".

11. We further enquire if you have consulted with the Legal Practitioner Fidelity Fund and the legal practitioners Indemnity Insurance Fund (LPIIF) to discuss the potential liability for negligent handling of claims by your inhouse counsels, if you have, what their (Legal Practitioners Fidelity Fund and Legal Practitioners Insurance Indemnity Fund) response thereto, in consultation with the Legal Practice Council (LPC).
12. We wish to advise that the amendment to the Service Level Agreement which was signed in the course of November 2019 seeking to amend the existing service level agreement is unlawful and will equally be challenged in court.
13. It is clear that law firms were in this regard coerced to sign the addendum and that those who do not sign would be understood not to be accepting the extension and were expected to hand over the files forthwith.
14. We record that the rules of Legal Practice Council take precedence over any agreement which is *contra bonos mores* and they prevail.
15. We will argue that the so-called addendum to the service level agreement (which is an amendment to the original service level agreement) should be taken as *void ab initio* and / or be taken as *pro non scripto*.
16. Additionally, we will argue the above having regard to the factors set out hereunder:

Directors:

Pritzman Busani Mabunda: B Proc (UDW), LLB (Wits), LLM (Labour Law) UNIN), MPhil (Medical Law and Ethics) (UP), Dip. Advanced Banking (RAU), Dip in Criminal Justice and Forensic Auditing (RAU), Certificate in Sports Law (UCT), Certificate in Admin & Const Law (UCT).
Samuel Modiba: B Proc (Wits), LLM (Fundamental Rights and Constitutional Practice) (UP), Certificate in the Law, Practice and Procedure in Conveyancing.

Assisted by:

Dewald Leonard Viljoen: B Proc (RAU), LLM (International Law) (UJ); and
S'fiso Molongoana: LLB (UNIZULU), LLM (Labour Law) (UNISA).



ATTORNEYS AT LAW

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- 16.1. Clause 14.4.6 of the addendum Service Level Agreement, makes provision for the Fund reserving the right in its sole discretion to request the Firm to provide it with Original files of all unfinalised matters in the Firm's possession. Clause 4.5.5 states that, "the firm shall however not be entitled to bill any amount for making copies, scans of files or uploading into any of the IT systems".
- 16.2. On the other hand Rule 54.9 read with rule 54.9.1. of the Legal Practice Rules provides thus:
- "a Firm shall retain its accounting records and all files and documents relating to matters dealt with by the firm on behalf of clients, for at least seven years from the date of the last entry recoded in each particular book or other document of record or file"
- 16.3. Legal Practitioners are governed by the Rules of the Legal Practice Council and any form of arrangement or agreement in contradiction with the Rules shall not supersede the Rules. Attorneys are directed by the rules of the Profession to keep documents/ files for at least seven years, from the date of last entry on the file. The instruction by the Fund to handover the Original files, without being entitled to the costs of making copies of the files, is in direct conflict with what Attorneys are directed to do by the Regulator.
- 16.4. In this case the Attorneys are entitled to be given sufficient time to bill all the files, and upon receipt of payment of all the outstanding amounts, it shall await direction from the Legal Practice Council as to the release of the original file without retaining a copy compliance with Rule 54.9.
- 16.5. We wish to record that the so called handover letter(s)/ directives which we demand be withdrawn are riddled with inconsistencies and impracticalities when it comes to execution thereof, for example it is impractical to file a notice of withdrawal within five days of termination while the files are handed over.

Directors:

Pritzman Busani Mabunda: B Proc (UDW), LLB (Wits), LLM (Labour Law) (UNIN), MPhil (Medical Law and Ethics) (UP), Dip. Advanced Banking (RAU), Dip in Criminal Justice and Forensic Auditing (RAU), Certificate in Sports Law (UCT), Certificate in Admin & Const Law (UCT).
Samuel Modiba: B Proc (Wits), LLM (Fundamental Rights and Constitutional Practice) (UP), Certificate in the Law, Practice and Procedure in Conveyancing.

Assisted by:

Dawald Leonard Viljoen: B Proc (RAU), LLM (International Law) (UJ); and
S'fiso Molongoana: LLB (UNIZULU), LLM (Labour Law) (UNISA);



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17. The letter of the RAF does not address expert and advocate appointments made by the current panel which will expose the firms to liability for outstanding payments when they cancel the appointments.
18. In the absence of a proper response to the above and an already executed procedural and legal plan by the RAF, we submit that you are exposing the legal profession to a serious risk, which we submit is unconscionable.
19. Kindly take notice that your directives commencing 18 February 2020 are fundamentally flawed and will impact on the administration of justice in the entire Republic's Courts at all levels including the Supreme Court of Appeal, High Courts, Regional and Magistrates' Courts.
20. The catastrophic consequences of your directive will cause the court system which is central to the administration of justice to almost near grounding to a halt in general.
21. All attorneys in general and panel attorneys in particular owe a professional duty to you as client as well as to courts based on the oath of office they have taken.
22. In the light of the above highlighted factors, it is our considered view, that your decision to panel attorneys to handover the files in capricious, arbitrary and irrational falls to the challenged unless it is retracted immediately as demanded.

Directors:

Pritzman Busani Mabunda: B Proc (UDW), LLB (Wits), LLM (Labour Law) UNIN, MPhil (Medical Law and Ethics) (UP), Dip. Advanced Banking (RAU), Dip in Criminal Justice and Forensic Auditing (RAU), Certificate in Sports Law (UCT), Certificate in Admin & Const Law (UCT).
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23. We notify you that unless the directive is retracted by close business on Wednesday the 26 February 2020, we shall be launching an urgent interdict against yourselves on behalf of the firms which are our members and other interested firms on the panel.
24. We would like to bring to your attention that the contents of this letter will be brought to the attention of the High Court when the urgent relief is sought with a punitive costs order.
25. We trust that with sanity prevailing, the unnecessary protracted battle will be avoided.

We await your urgent response.

Yours Faithfully

PB MABUNDA
MABUNDA INCORPORATED

Directors:

Fritzman Busani Mabunda: B Proc (UDW), LLB (Wits), LLM (Labour Law) UNIN, MPhil (Medical Law and Ethics) (UP), Dip. Advanced Banking (RAU), Dip in Criminal Justice and Forensic Auditing (RAU), Certificate in Sports Law (UCT), Certificate in Admin & Const Law (UCT).
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Assisted by:

Dewald Leonard Viljoen: B Proc (RAU), LLM (International Law) (UJ); and
S'fiso Molongoana: LLB (UNIZULU), LLM (Labour Law) (UNISA).

Ko
P.B.M

The Managing Director / Senior Partner
Road Accident Fund Panel Attorney

18 February 2020

Messrs

**NOTICE OF HANDOVER PURSUANT TO CLAUSE 14 OF THE SERVICE LEVEL AGREEMENT WITH
RAF PANEL ATTORNEYS**

Pursuant to clause 14 of the Service Level Agreement (SLA) entered into between you and the RAF, you are hereby notified of your obligation to prepare all unfinalised files in your possession for handover of all original files to the RAF.

You are required to provide the Fund a list of all open matters by close of business on Thursday, 20 February 2020, which list shall be in Excel format as per the template attached hereto. The completed Excel lists must be delivered by e-mail to the following e-mail address: FHP@raf.co.za.

The handover will be done in four stages as follows:

DELIVERY PERIOD	FILES TO BE RETURNED
21/02/2020 – 28/02/2020	Files with trial dates between 01/06/2020 and 31/12/2020
01/03/2020 – 31/03/2020	Files with trial dates between 01/01/2021 and 31/12/2021
01/04/2020 – 15/04/2020	Files with trial dates between 01/01/2022 and 31/12/2022
16/04/2020 – 31/05/2020	All open files not already returned

All original files must be returned to the office closest to you. The regional handover teams will communicate specific handover schedules for each firm.

You are required to proceed with the all trials and pre-trials in respect of files not yet returned to the RAF, with specific reference to matters with trials dates from the issuance of this letter to 31 May 2020.

Centurion: Eco Glades 2, 420 Witch Hazel Avenue, Centurion, 0046 | Private Bag X178 Centurion 0046
T +27 12 621 1600 | www.raf.co.za

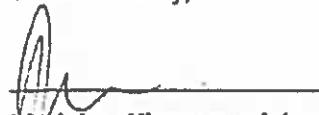
Board Members: Adv Galetiano Rasethaba (Chairperson), Ms Thembe'hle Msibi (Vice-Chairperson), Mr Hilmi Daniels, Dr Priour du Plessis, Ms Lorraine Francois, Dr Nomonde Mabuya-Mo'oefle, Mr Lusani Mulaudzi, Mr Khotso Mothobi, Mr Moses Nyama, Dr Maria Peenza, Mr Thuan Tshaba a'a

Ko
P. B. M.

Withdrawal as attorney of record on any matter should be undertaken within 5 (five) days of handing over the file pertaining to said matter, but not before handover.

If you have any queries, kindly submit them on the following email address: FHP@raf.co.za

Yours sincerely,



Lindelwa Xingwana-Jabavu
Chief Operations Officer
Road Accident Fund

KO
P.B.M

The Managing Director / Senior Partner
Road Accident Fund Panel Attorney

20 February 2020

Messrs

NOTICE OF HANDOVER PURSUANT TO CLAUSE 14 OF THE SERVICE LEVEL AGREEMENT

We refer to the letter that was communicated to you dated 18 February 2020.

We have been inundated with requests from a number of firms requesting us to reconsider the time lines for the delivery of the files. In light of the requests received, the RAF has taken into consideration all the concerns raised and hereby amend the handover schedule as follows:

DELIVERY PERIOD	FILES TO BE RETURNED
21/02/2020 – 13/03/2020	Files with trial dates between 01/06/2020 and 31/12/2020
16/03/2020 – 10/04/2020	Files with trial dates between 01/01/2021 and 31/12/2021
13/04/2020 – 30/04/2020	All outstanding files

Kindly be advised that you are required to submit a list of the files you are delivering for handover in the excel spreadsheet that was provided to you together with the Notice of Handover.

Further be advised that you are expected to fully comply with the provisions of clause 14.4.7 of the SLA by ensuring that the following is contained in the file:

- Opinion on merits
- Opinion on quantum
- Areas of dispute
- Stage of pleadings
- Current status
- Recommendations

Centurion: Eco Glades 2, 420 Witch Hazel Avenue, Centurion, 0046 | Private Bag X178 Centurion 0046
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Board Members: Adv Galatlane Rasehaba (Chairperson), Ms Thembelihle Msibi (Vice-Chairperson), Mr Hilmi Daniels, Dr Prieur du Plessis, Ms Lorraine Francois, Dr Nomonde Mabuya-Moloele, Mr Lusani Mulaudzi, Mr Kholso Mothobi, Mr Moses Nyama, Dr Maria Peenza, Mr Thulani Tshabalala

P.B.M

We reiterate, as per our letter dated 18 February 2020, that you please complete the excel spreadsheet with details of all trial matters and unfinalised matters.

If you have any queries, kindly submit them on the following email address: FHP@raf.co.za

Yours sincerely,



Lindelwa Xingwana-Jabavu
Chief Operations Officer
Road Accident Fund

KO

P.B.M

MAYAT NURICK LANGA INC	22 ND Applicant
SC MDHLULI ATTORNEYS INCOPORATED	23 RD Applicant
HAJRA PATEL INC	24 TH Applicant
Z & Z NGOGODO INC	25 TH Applicant
TWALA ATTORNEYS	26 TH Applicant
SANGHAM INCORPORATED	27 TH Applicant
RACHOENE ATTORNEYS	28 TH Applicant
ZUBEDAK K SEEDAT & CO INCORPORATED	29 TH Applicant
DUDUZILE HLEBELA INC	30 TH Applicant
MOCHE INCOPORATED ATTORNEYS	31 ST Applicant
MARIVATE ATTORNEYS	32 ND Applicant
and	

ROAD ACCIDENT FUND	Respondent
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CONFIRMATORY AFFIDAVIT

I, the undersigned,

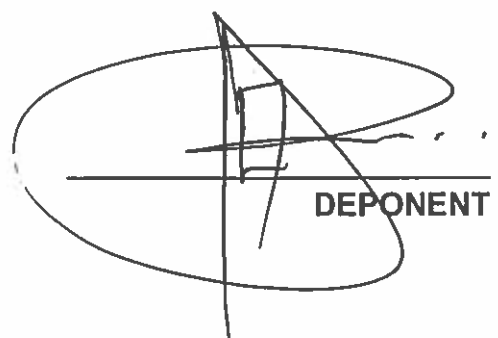
LUYANDA TEMPLETON JONA

Hereby confirm and state under oath that:

1. I am an adult male Attorney, practising as such, under the name and style Mathebula and Jona Incorporated at 506, 5th Floor, Works @ Market Building, Von Brendis Street Johannesburg.

L.T.J.
P.B.M. 1/10

2. I have read the affidavit of Mr Pritzman Busani Mabunda in the application against Road Accident Fund.
3. I, like many other attorneys represent the Plaintiffs in various High Courts, Regional and Civil Magistrates Courts across South Africa in their third-party actions against the Road Accident Fund.
4. I have learnt of the termination of services of panel attorneys by the Road Accident Fund on matters which are before courts, including those which are ready for trial. I confirm that this termination as done will negatively impact the Plaintiffs who seek redress through courts and affect their rights of speedy resolution of disputes through courts of laws.
5. I humbly submit that the handover of files by the Road Accident Fund's panel attorneys will negatively impact on poor Plaintiffs as their matters will have to be postponed without any valid reasons. This is tantamount to denial of justice. Most Plaintiffs are people who lost their employment as a result of motor vehicle accidents.
6. I also align myself with the submissions made in the founding affidavit in so far as they relate to the negative impact of the handover decision on the administration of justice in our courts throughout the country.



DEPONENT

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P.B.M

I HEREBY CERTIFY that the deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and sworn before me at BEDFORDVIEW on this the 3RD day of **March 2020**, the regulations contained in Government Notice NO. 1648 dated 19 August 1977 (as amended) having been complied with.



COMMISSIONER OF OATHS

KYLE CLAUDE OOSTHUIZEN
Commissioner of Oaths Ex Officio
Practising Attorney R.S.A.
Unit 8 Townsend Office Park
1 Townsend Road, Bedfordview
Tel: +27 11 455-6868

L.T.J. NO
P.B.M



ATTORNEYS AT LAW

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28 February 2020

Chairperson of the Board
Road Accident Fund
Eco Glades 2
420 Witch Hazel Avenue
Centurion
0046

FOR THE ATTENTION OF ADVOCATE GALETLANE RASETHABA PER EMAIL

The Chairperson of the Board	
Advocate Galetlane Rasethaba	iuneC@raf.co.za and ouma.rasethaba@icloud.com
The Acting Chief Executive Officer Collins Letsoalo	CollinsL@raf.co.za

RE: ROAD ACCIDENT FUND ATTORNEYS: HANDOVER OF FILES AND ANNOUNCEMENT OF RAF REQUEST FOR BIDS: RAF/2019/0054: THE APPOINTMENT OF A SUITABLY QUALIFIED LEGAL FIRM(S) FROM ALL PROVINCES TO BE ON THE PANEL OF ATTORNEYS TO PROVIDE SPECIALIZED LITIGATION SERVICES TO THE RAF IN RESPECT OF MAGISTRATE COURT, REGIONAL COURT AND HIGH COURT FOR A PERIOD OF FIVE(5) YEARS.

1. We refer to the above matter and in particular to your letter to us dated 26th February 2020, contents of which have been noted.

Directors:

Pritzman Busani Mabunda: B Proc (UDW), LLB (Wits), LLM (Labour Law) (UNIN), MPhil (Medical Law and Ethics) (UP), Dip. Advanced Banking (RAU), Dip. n Criminal Justice and Forensic Auditing (RAU), Certificate in Sports Law (UCT), Certificate in Admin & Const Law (UCT).
Samuel Modiba: B Proc (Wits), LLM (Fundamental Rights and Constitutional Practice) (UP), Certificate in the Law, Practice and Procedure in Conveyancing.

Assisted by:

Dewald Leonard Viljoen: B Proc (RAU), LLM (International Law) (UJ); and
S'fiso Molongoana: LLB (UNIZULU), LLM (Labour Law) (UNISA);

KO
P.B.M.



ATTORNEYS AT LAW

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2. We have however noted with disappointment that contrary to the encouraging contents of your letter, all bidders to tender RAF/2019/00054 received letters of cancellation of the tender without reasons advanced.
3. We record that this decision affects the grain of your letter to us dated 26th February 2020.
4. We advise that our firm as a panellist as well as several panel attorneys and bidders outside the panel are aggrieved by the communication of the cancellation of the bid.
5. An overwhelming number of panel attorneys have instructed us to challenge the legality and/or validity of the letter of termination.
6. We note with interest that the letter was received by bidders on the evening of the date before the Board was to meet to consider this particular issue among others.
7. We accordingly advise that we have already consulted with Counsel consequent to the said letter of termination and we will be serving and filing an urgent application on the Road Accident Fund on Monday, the 2nd March 2020 seeking the relief as per our letter dated 24th February 2020 consequent to your communique to us dated 26 February 2020 wherein the tender under RAF2019/00054 has been terminated.
8. We trust that you will find the above to be in order.

Yours Faithfully

PB MABUNDA
MABUNDA INCORPORATED

Directors:

Pritzman Busani Mabunda: B Proc (UDW), LLB (Wits), LLM (Labour Law) UNIN, MPhil (Medical Law and Ethics) (UP), Dip. Advanced Banking (RAU), Dip. in Criminal Justice and Forensic Auditing (RAU), Certificate in Sports Law (UCT), Certificate in Admin & Const Law (UCT).
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Assisted by:

Dawald Leonard Viljoen: B Proc (RAU), LLM (International Law) (UJ); and
S'fiso Molongoana: LLB (UNIZULU), LLM (Labour Law) (UNISA);

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PBM 10



TENDER CANCELLATION LETTER

28 February 2020

Dear Bidder

RE: NOTIFICATION OF THE CANCELLATION OF TENDER NUMBER RAF/2018/00054

REQUEST FOR BIDS: RAF/2018/00054: THE APPOINTMENT OF A SUITABLY QUALIFIED LEGAL FIRM(S) FROM ALL PROVINCES TO BE LISTED ON THE PANEL OF ATTORNEYS TO PROVIDE SPECIALIZED LITIGATION SERVICES TO THE RAF IN RESPECT OF MAGISTRATE COURT, REGIONAL COURT AND HIGH COURT LITIGATION FOR A PERIOD OF FIVE (5) YEARS

This serves as a formal notification that the invitation to tender number RAF/2018/00054 has been cancelled in line with the provisions of Regulation 13(1)(a) and (b) of the Preferential Procurement Regulations, 2017 issued by the Minister of Finance in terms of section 5 of the Preferential Procurement Policy Framework Act, 2000, in that:

- (a) The RAF's dire financial situation has necessitated a review of its operating model, which resulted in a conclusion that there is no need to have the panel of attorneys. Consequently, the RAF no longer require the services, which were specified in the invitation.
- (b) In addition to (a) above, the RAF's financial situation which continues to worsen on a daily basis has rendered the funds no longer available to cover the total envisaged expenditure.

Kindly be advised that our notification of cancellation dated 26 February 2020 is hereby withdrawn, and is substituted by this notification of cancellation.

As required by Regulation 13(2), the cancellation publication will appear in the Government Tender bulletin of 6 March 2020 as well as on the RAF website.

The RAF appreciates all the time and effort that has been dedicated to this invitation.

We sincerely apologise for the inconvenience that may have been caused by this cancellation.

Yours sincerely



Victor Songelwa
Chief Financial Officer (Acting)

Centurion: Eco Glades 2, 420 Witch Hazel Avenue, Centurion, 0046 | Private Bag X178 Centurion 0046
T +27 12 621 1600 | www.raf.co.za

Board Members: Adv Galetlane Rasethaba (Chairperson), Ms Thembelihle Msibi (Vice-Chairperson), Mr Hilmi Daniels, Dr Dirk du Plessis, Ms Lorraine Francois, Dr Nomonde Mabuya-Molelele, Mr Lusani Mulaudzi, Mr Khotso Mthobi, Mr Moses Nyama, Dr Maria Peenze, Mr Thulani Tshabalala

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P.D.M

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PBM11



Email Address: Collinsl@raf.co.za

Contact Number: 012 621 1621

28 February 2020

Dear Honorable Judges

NEW RAF MODEL, LITIGATION MATTERS AND EXPIRY OF PANEL OF ATTORNEYS CONTRACT

The Road Accident Fund (RAF), as part of its efforts to bring efficiencies and embark on turnaround will be bringing various changes in its business model. We intend to reduce the claims average age to 180 days from the current 1350 days. This will be done mainly by avoiding litigation and only litigating where bona fide settlement has failed, where there is a litigious dispute and mediation has also been unsuccessful.

We have considered various research conducted into RAF's litigation strategy, various judgements and the comments made by the judicial officers, various Practice Directives issued by different Judge Presidents as well as personal costs orders against RAF employees and consider this situation seriously and not sustainable.

Having considered all the above as well as the financial position of the RAF, we are embarking on a new strategic direction, which includes amongst others, the review of the RAF's cost structure, which at this stage reflects 25% legal costs incurred, i.e. R10.6 billion as at 31 December 2019. It should be noted that RAF had already spent R9.6 billion in the financial year 2018/19.

The RAF further owes the South African public at least R17 billion, which it struggles to pay resulting from various court orders against the RAF, consequently we also get our bank account attached from time to time as various debtors exercise their rights to get monies owed by the RAF.

We further considered the requirements of the PFMA, specifically section 50 and 51, which creates obligations on the Accounting Authority and other RAF functionaries. We also draw specific attention to the RAF Act, specifically, Section 4(1)(b) and Section 7 thereof.

We have on the basis of the extensive reviews above decided not to continue with the services of Panel of attorneys, at least in its current form. We have sought to capacitate our internal team to be able to investigate and settle claims within the 120 days as set out in the RAF Act.

A handwritten signature in black ink, appearing to be "P. B. M.", located at the bottom right of the letter.

Centurion: Eco Glades 2, 420 Witch Hazel Avenue, Centurion, 0046 | Private Bag X178 Centurion 0046
T +27 12 621 1600 | www.raf.co.za

Board Members: Adv Galetlane Rasethaba (Chairperson), Ms Thembelihle Msibi (Vice-Chairperson), Mr Hilmi Daniels, Dr Prieur du Plessis, Ms Lorraine Francois, Dr Nomonde Mabuya-Molelele, Mr Lusani Mulaudzi, Mr Khotso Molhosi, Mr Moses Nyama, Dr Maria Peenze, Mr Thulani Tshabalala

P.B.M.

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In this regard we will also be procuring an integrated claims management system that will facilitate the digitization of claims and improve efficiencies in the claims process. We will employ the services of suitably qualified personnel with medical and legal background to be able to expedite the execution of this mandate.

Our contract with the current panel attorneys expires on 31 May 2020 and we have requested in line with our SLA handover of all outstanding matters in three phases:

Phase 1	Trial dates 01/06/ 2020	6 653
Phase 2	Trial dates 01/01/2021	61
Phase 3	All outstanding files	384 026

Other outstanding files will be tranced by age and region. We note the biggest file count is in Pretoria and Johannesburg with 178 547 and 93 274 files, respectively. We are putting together a team of experts, including trained mediators, to work through this file load starting around June 2020 when we expect that phase 1 and phase 2 would have been completed.

From our data analysis, we have also noted that some of these files are partially settled, with most having past medical expenses postponed *sine dies* without any sound rationale. We have assembled a team of medical experts to work through these files to ensure finalization of these matters.

We intend to brief the NEEC and various PEEC's on these developments as we progress.

Your understanding and co-operation in this transitional period will be highly appreciated. In the event where you notice any glitches within the administration of justice relating to the RAF, we request that you engage us for the resolution thereof.

Should you have any queries in this regard, kindly contact the RAF Lindelwa Xingwana Jabavu (COO) Lindelwa@raf.co.za 012 621 1626 or Collins Letsoalo - Collinsl@raf.co.za 012 621 1621.

Yours Sincerely



Collins Letsoalo

Chief Executive Officer (Acting)

KO
P.B.M