

**CONFIDENTIALITY AND INTELLECTUAL PROPERTY AGREEMENT**

**ENTERED INTO AND BETWEEN**

**SOUTH AFRICAN RUGBY UNION**

**(“DISCLOSING PARTY”)**

**AND**

**(“RECEIVING PARTY”)**

This Agreement has been made and entered into between the South African Rugby Union, a is an incorporated association of persons with perpetual succession and juristic personality and the controlling body and custodian of rugby in South Africa; and

(hereinafter referred to as the “Parties”).

The Receiving Party acknowledges and agrees that they will be provided with or exposed to information of the Disclosing Party and/or its division or subsidiary, or any of their respective related or inter-related persons (as defined in the Companies Act, 2008) that relates to, or is in connection with the Disclosing Party’s business information (“Confidential Information”).

The Parties now wish to enter into this Agreement to regulate the use and disclosure of the Confidential Information upon the terms set out in this Agreement.

Therefore the Parties agree as follows:

**CONFIDENTIAL INFORMATION**

1. Subject to clause 3, the Receiving Party undertakes in favour of the Disclosing Party that it shall, and it shall procure that each of its related or inter-related persons (as defined in section 2 of the Companies Act No. 71 of 2008) shall:
  - 1.1. treat all Confidential Information as strictly private and confidential and not disclose any of the Confidential Information to any third party, other than with the prior written consent of the Disclosing Party;
  - 1.2. protect the Confidential Information by using the same standard of care used to safeguard its own information of a confidential nature (but no less than a reasonable standard of care) and take all reasonable steps to prevent any unauthorised disclosure of such Confidential Information.

- 1.3. not reproduce, or make any use of, the Confidential Information for any purpose whatsoever other than for the express purpose of advising the Disclosing Party or as expressly permitted by the Disclosing Party.
2. The Receiving Party agrees that the unauthorised or unlawful use or disclosure of the Confidential Information may cause irreparable loss, harm and damage to the Disclosing Party, including material and intangible harm, losses and damage. Accordingly, the Receiving Party indemnifies and holds the Disclosing Party, harmless against any loss, action, expense, claim, harm or damage, of whatsoever nature, suffered or sustained by the Disclosing Party pursuant to a breach of this Agreement by the Receiving Party or any of their respective representatives, officers or employees to whom disclosure is made in terms of this Agreement.
3. The Parties agree that the Receiving Party may disclose Confidential Information:
  - 3.1. where requested or required by any court of competent jurisdiction or any competent judicial, governmental, supervisory or regulatory body;
  - 3.2. which is or becomes publicly known, otherwise than pursuant to a breach of this Agreement or any wrongful act by the Receiving Party; or
  - 3.3. which was received by the Receiving Party from a third party who is entitled to disclose such information free of restriction and without obligation (whether contractual, legal, fiduciary or otherwise) to the Disclosing Party; or
  - 3.4. with the Disclosing Party's prior written consent.
4. The Receiving Party shall procure that the undertakings and acknowledgements set out in this Agreement shall be equally observed by any of the Receiving Party's staff assigned to perform services in terms of the Agreement.
5. The Receiving Party acknowledges and agrees that the Confidential Information may constitute non-public price sensitive information under the laws of any jurisdiction in which the shares of the Disclosing Party or the Receiving Party are listed on a recognised exchange ("Inside Information"), and accordingly the Receiving Party is prohibited from trading on Inside Information; provided that this clause 5 prohibits any dealings or encouragement of dealings in the ordinary course of the Receiving Party's business where all individuals involved in such dealings, the decision to deal and any encouragement to deal, have no knowledge of any Confidential Information.
6. The Confidential Information shall remain the property of the Disclosing Party.

## **THE DISCLOSING PARTY'S PROPERTY**

7. The Receiving Party acknowledges that all documents, reports and papers relating to the Disclosing Party or any other member of the Disclosing Party and/or any of their clients, business associates and service providers and prepared by a Receiving Party or received by the Receiving Party from the Disclosing Party, including in connection with, or by virtue of, the Receiving Party's performance of assignments under the Agreement, and all copies and summaries of such documents and papers, shall be the sole property of the Disclosing Party.
8. The Receiving Party shall promptly, whenever requested by the Disclosing Party, and in any event upon the termination of the Agreement for whatsoever reason, deliver up to the Disclosing Party all documents, papers and records, including but not limited to all correspondence, memoranda, notes, reports, records (including those stored in magnetic media or other forms of computer storage), materials, equipment, products and any other articles of whatsoever nature, which may have been prepared by the Receiving Party or have come into their possession or under their control in the course of performing assignments under the Agreement, and the Receiving Party shall not be entitled to retain any copies or items thereof, it being recorded that all rights, title, interest and copyright in and to any such correspondence, document, papers, records and articles shall throughout the currency of this Agreement and thereafter subsist in and continue to subsist in the Disclosing Party.
9. The Receiving Party shall procure that the undertakings and acknowledgements set out in this Agreement shall be equally observed by any of the Receiving Party's staff assigned to perform services in terms of the Agreement.
10. This Agreement will, irrespective of the signature date hereof, be deemed to have commenced and taken effect on the earliest of: (i) the signature date and (ii) any previous date upon which any Confidential Information was disclosed, or became known, to the Receiving Party. This Agreement shall terminate automatically, and without any action being required by or on behalf of any Party, on
11. The Parties select as their respective *domicilia citandi et executandi* for all purposes under this Agreement (including for the purposes of giving or sending any notice provided for or required under this Agreement), the following physical, postal and email addresses:

11.1.1.

11.1.2. SARU

163 Uys Krige Drive Tygerberg Park, Panorama, Cape Town

Tel: +27 (0) 21 928 7031

12. This Agreement shall be governed by, and construed in accordance with, the laws of the Republic of South Africa.
13. This Agreement may be signed in any number of counterparts, all of which taken together shall constitute one and the same instrument. Either Party may enter into this Agreement by signing any such counterpart.
14. No addition to or variation, deletion or agreed cancellation of all or any clauses or provisions of this Agreement will be of any force or effect unless recorded in writing and signed by or on behalf of the Parties.
15. Neither this Agreement nor any part, share or interest herein nor any rights or obligations hereunder may be ceded, delegated or assigned by either Party without the prior signed written consent of the other Party, save as otherwise provided herein.

SIGNED at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 2021.

For: SARU \_\_\_\_\_

Signatory:

Capacity:

SIGNED at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 2021.

By: RESPONDEE \_\_\_\_\_

Signatory:

Capacity: