



#### 4. DATA PROTECTION

- 1.1 The Contractor acknowledges that during the course of the performance of the services, it and its employees, representatives and/or sub-contractors may gain access to and become acquainted with the Personal Information and/or Special Personal Information and children's information (collectively, "Personal Information") (as these terms are defined or explained in the Protection of Personal Information Act 4 of 2013, as amended from time to time, referred to as "**POPIA**"), of the Employer, its employees, clients, representatives, sub-contractors and/or suppliers. The Contractor will, and will procure that its employees, representatives and sub-contractors, treat such Personal Information as confidential and respect the privacy of the Employer, its employees, clients, representatives, sub-contractors and/or suppliers.
- 1.2 The Contractor further acknowledges that during the course of the performance of the services, it and its employees, representatives and/or sub-contractors may also be required to collect, use or process the Personal Information of the Employer and/or its employees, clients, representatives, sub-contractors and/or suppliers and, when doing so, will comply, and will procure that they comply, with (i) the conditions of lawful processing as set out in terms of POPIA and other applicable laws and regulations; (ii) the Privacy Notice and (iii) the Employer's data protection procedures;
- 1.3 The Employer, its employees, representatives and sub-contractors may, from time to time, Process the Contractor's and/or its employees', representatives' and/or sub-contractors' Personal Information, for purposes of, and/or relating to, the bid, this agreement, for research purposes, and/or as otherwise may be envisaged in the Employer's Privacy Notice and/or in relation to the Employer's Supply Chain Management Policy or as may be otherwise permitted by law. This may include the cross-border transfer of Personal Information and/or Special Personal Information (including children's information) from time to time. The Contractor acknowledges that it has read and understood this, the Employer's Privacy Notice and the Employer's Supply Chain Management Policy and hereby consents to the Employer, its employees and/or representatives and/or sub-contractors processing its Personal Information for those purposes and/or as otherwise contemplated herein.
- 1.4 The Contractor agrees and undertakes to procure that its employees and/or representatives and/or sub-contractors are made aware that the Employer may process their Personal Information from time to time as envisaged herein.
- 1.5 The Contractor hereby warrants in favour of, and represents to, the Employer, its employees, representatives and sub-contractors, that the Contractor and its employees, representatives and sub-contractors are permitted to Process the Personal Information, which they have and/or will Process in, and in relation to, this

bid and agreement, including but not limited to the disclosure of the Personal Information herein and irrevocably undertake to comply with all applicable laws in this regard and will procure that their employees, representatives and sub-contractors also so comply.

- 1.6 The Contractor hereby indemnifies and holds each of the Employer, its employees, representatives and sub-contractors harmless against all claims, losses, damages and costs relating to the Processing of Personal Information by the Contractor, its employees, representatives and/or sub-contractors.
- 1.7 In order to comply with section 19 read with section 21 of POPIA to the extent that the Contractor processes Personal Information for which it is the Operator and the Employer is the Responsible Party under POPIA, the parties agree and the Contractor irrevocably undertakes that it shall:
  - 1.7.1 only Process Personal Information on behalf of the **Employer** if (i) the processing of such information is within the knowledge or authorisation of the **Employer**, (ii) it treats the Personal Information which comes to its knowledge as confidential and does not disclose it, and (iii) the Processing is done in a lawful and reasonable manner, and only to the extent required to execute the services, or to provide the goods, or to perform its obligations pursuant to the agreement;
  - 1.7.2 put in place, and at all times maintain, appropriate, reasonable, technical and organisational measures to ensure the protection and confidentiality of the Personal Information that it, or its employees, its representatives, its sub-contractors and other authorised individuals come into contact with pursuant to the agreement;
  - 1.7.3 do all such things as are necessary to prevent the: (i) loss of, damage to, and/or unauthorised destruction of Personal Information; and (ii) unlawful access to or processing of personal information;
  - 1.7.4 notify the **Employer** immediately where there are reasonable grounds to believe that the Personal Information in its possession has been accessed or acquired by any unauthorised person;
  - 1.7.5 at all times comply with the provisions of POPIA, its regulations and any applicable codes of conduct, as well as the **Employer's** Privacy Notice;
  - 1.7.6 give the **Employer** reasonable access to its premises, systems and processes to enable the **Employer** to inspect same and conduct a data protection compliance audit thereof from time to time on receipt of request from the **Employer** and undertakes to give its full co-operation in this regard;
  - 1.7.7 upgrade, adapt and/or change its systems and processes upon request from the **Employer** from time to time, to meet the security standards reasonably required by the **Employer** as the Responsible Party in terms of POPIA.
- 1.8 The Contractor hereby indemnifies and holds the Employer harmless against all claims, losses, damages and costs of whatsoever nature suffered by the Employer arising from or in relation to the Contractor's (and/or its employees', representatives' and sub-contractors') non-compliance with applicable data protection laws and/or other legislation.

**1.9** The Employer's Information Officer who is responsible for overseeing questions in relation to data protection may be contacted at [Popia@capetown.gov.za](mailto:Popia@capetown.gov.za).

**1.10 Minimum Requirements**

Suppliers who are not registered for CPD Accreditation are not precluded from submitting quotations, however they will need to register when called upon.