

DATA PROTECTION AGREEMENT

Entered into by and between

CLIMATIC TECHNOLOGIES CC TRADING AS CT CONVERT

(Registration number: 2001/075589/23)

(hereinafter referred to as the "CT Convert")

and

(Registration number:)

(hereinafter referred to as "the Service Provider")

DEFINITIONS

1. **“Agreement”** means this Data Protection Agreement, as may be amended from time to time;
2. **“Applicable Laws”** means all local and international laws, legislation, statutes, by-laws, statutory instruments, rules, regulations or guidance from government or governmental agencies;
3. **“Business Day”** means a day which is not a Saturday, Sunday or a day which has been declared an official public holiday in South Africa;
4. **“Data”** means any data, which is supplied, stored, collected, accessed and/or processed;
5. **“Data Subject”** means the person to whom personal information relates, as defined in Chapter 1 of the POPI Act;
6. **“Information Officer”** means the information officer that is referred to in CT Convert’s External Data Policy, from time to time;
7. **“Information Regulator”** means the information regulator established in terms of the POPI Act;
8. **“Parties”** collectively refers to CT Convert and the Service Provider and the term **“Party”** refers to either of them, as indicated by the context;
9. **“Personal Information”** means information relating to an identifiable, living, natural person, and where applicable, existing juristic person, as more fully provided for in Chapter 1 of the POPI Act;
10. **“POPI Act”** means the Protection of Personal Information Act, No 4 of 2013;
11. **“Processing”** means any operation or activity or any set of operations, whether or not by automated means, concerning Personal Information, as more fully provided for in the POPI

Act and "Process" and "Processed" shall have corresponding meanings;

12. **"Record"** means any recorded information, regardless of the form, including but not limited to, writing, information produced, recorded or stored, writing that identifies or describes any thing or person, a book, map, plan, graph, a photograph, film or tape or any other form of record that is provided for in Chapter 1 of the POPI Act;
13. **"Responsible Party"** means a public or private body, or any other person(s) which, alone or in conjunction with others, determines the purpose of and the means for processing of Personal Information;
14. **"Service Provider"** means the service provider that has signed the cover page of this document;
15. **"Supplier Agreement"** means the agreement entered into between CT Convert, and the Service Provider in respect of the services that the Service Provider provides CT Convert; and
16. **"Third Party"** means a person or entity other than a Party.

1. RECORDAL

- 1.1. CT Convert is a specialist body manufacturer and/or provider of accessories, ancillary services and goods associated with the conversion, mounting, assembly and/or alteration of commercial vehicles with extensive accumulated experience and competencies in the field of importation, manufacturing and engineering of bodies to be mounted on commercial vehicles. In order for CT Convert to provide its services, it uses the services of various service providers, from time to time.
- 1.2. Due to the obligations provided for in the POPI Act and other Applicable Laws, as a Responsible Party, CT Convert requires the Service Provider to treat the Personal Information in a manner as contained in this Agreement.

2. INTERPRETATION AND PRELIMINARY

- 2.1. Clause headings in this Agreement are for convenience purposes only and shall not be used in the interpretation of this Agreement.
- 2.2. This Agreement is to be read in conjunction with the Supplier Agreement.
- 2.3. If any provision in a definition clause in the Agreement is a substantive provision conferring any right or imposing any obligation on any Party, then, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in the Agreement.
- 2.4. Unless the context clearly indicates a contrary intention, in this Agreement:
 - 2.4.1. an expression which denotes any gender includes the other genders, a natural person includes an artificial person and vice versa and the singular includes the plural and vice versa;
 - 2.4.2. where any term is defined within a particular clause, other than the interpretation clause, that term shall bear the meaning ascribed to it in that clause wherever it is used in this Agreement;
 - 2.4.3. where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.
- 2.5. When any number of days is prescribed in the Agreement, such number shall exclude the first and include the last day, unless the last day falls on a day that is not a Business Day, in which case the last day shall be the next Business Day.
- 2.6. Terms other than those defined within the Agreement will be given their plain English meaning, and those terms, acronyms, and phrases known in the information and communication technology industry will be interpreted in accordance with their generally accepted meanings.
- 2.7. Any attachment, annexure, service order or variation to the Agreement shall be deemed to be incorporated in and form part of the Agreement. This interpretation clause and the definitions contained in the Agreement shall likewise apply to any such attachment, annexure, or variation thereto unless it is clear from the context

of such attachment, annexure, or variation that its own definitions apply to the exclusion of any definitions in this clause 0 (*Interpretation and Preliminary*).

- 2.8. The use of any expression in this Agreement covering a process available under South African law, such as winding up, shall, if either of the Parties to this Agreement is subject to the law of any other jurisdiction, be construed as including any equivalent or analogous proceedings under the law of such other jurisdiction.
- 2.9. The words “include” and “including” mean “include without limitation” and “including without limitation”. The use of the words “include” and “including” followed by a specific example or examples shall not be construed as limiting the meaning of the general wording preceding it; the application of the *eiusdem generis* rule is hereby excluded.
- 2.10. Warranties given in this Agreement by the Parties are material and essential terms and go to the root of the Agreement.

3. DATA PROTECTION

- 3.1. The Service Provider will use reasonable efforts to ensure that its acts and omissions under the Agreement will not result in CT Convert breaching any data protection laws and the Service Provider will, on request, comply with all instructions that CT Convert deems necessary so as to enable CT Convert to comply with its obligations under any data protection laws. The Service Provider will indemnify CT Convert and keep CT Convert indemnified against all claims, demands, actions and losses arising from or incurred by reason of any wrongful processing of any personal data by the Service Provider or breach of its obligations under this clause 3 (*Data Protection*).
- 3.2. The Service Provider acknowledges that in providing the Services, it may have access to Personal Information relating to Data Subjects, such as photographic or video footage or names, addresses and identity numbers. Accordingly, the Service Provider will:

- 3.2.1. treat the Personal Information as strictly confidential in accordance with the provisions of this clause 3 (*Data Protection*);
- 3.2.2. not disclose or otherwise make available the Personal Information to any Third Party (including sub-contractors) other than authorised personnel or Third Parties who require access to such Personal Information strictly in order for the Service Provider to carry out its obligations under this Agreement;
- 3.2.3. ensure that all the Service Provider's staff and any other persons having access to the Personal Information are bound by appropriate and legally binding confidentiality and non-use obligations in relation to the Personal Information on substantially the same terms and conditions as set forth in this clause 3 (*Data Protection*);
- 3.2.4. take appropriate, reasonable technical and organisational measures to ensure that the integrity of the Personal Information in its possession or under its control is secure and that such Personal Information is protected against unauthorised or unlawful processing, accidental loss, destruction or damage, alteration, disclosure or access by:
 - 3.2.4.1. having regard to:
 - 3.2.4.1.1. any requirement set forth in Applicable Law to which the Service Provider is subject; and/or
 - 3.2.4.1.2. generally accepted information security practices and procedures which apply to guarding and monitoring practices including the state of technological development and the cost of implementing any measures;
 - 3.2.4.1.3. harm that might result from such unauthorised or unlawful Processing or accidental loss, destruction or damage and the nature of the Personal Information being protected;
 - 3.2.4.1.4. complying with any requirements set forth in any CT Convert policies brought to the Service Provider's attention;

3.2.4.2. taking steps to identify all reasonably foreseeable internal and external risks associated with Personal Information security and, at least once in every 12 (twelve) month period, take all reasonable and necessary steps to:

3.2.4.2.1. identify all reasonably foreseeable internal and external risks to Personal Information in its possession or under its control using generally accepted auditing methodologies and furnish CT Convert with a detailed written report setting out any findings at no less than 12 (twelve) month intervals or more frequently as may be required by CT Convert;

3.2.4.2.2. implement and maintain appropriate safeguards against the risks identified by the Service Provider;

3.2.4.2.3. regularly verify that the safeguards which the Service Provider has in place have been effectively implemented; and

3.2.4.2.4. ensure that the safeguards are continually and proactively updated in response to new risks or deficiencies in previously implemented safeguards;

3.2.4.3. complying with the auditing requirements in respect of this Agreement; and

3.2.4.4. agreeing to reasonable amendments to this Agreement from time to time, to the extent that data protection legislation or the law generally requires such amendments for the benefit of Data Subjects.

3.3. Notification of a security breach

The Service Provider will:

3.3.1. notify the Information Officer in writing (who, as at the Signature Date, can be contacted via email at **david@ctconvert.co.za** immediately upon the Service Provider becoming aware of or having reasonable grounds to suspect any

unauthorised or unlawful use, disclosure or processing of Personal Information and comply with the following:

- 3.3.1.1. at its own cost, take all necessary and reasonable steps (including any and all steps as prescribed by the Information Officer) to mitigate the extent of the loss or compromise of Personal Information and, if applicable, to restore the integrity of the affected information systems as quickly as possible;
 - 3.3.1.2. furnish CT Convert with details of the Data Subjects affected by the compromise and the nature and extent of the compromise, including (if known to the Service Provider after the Service Provider has conducted an investigation into such compromise) details of the identity of the unauthorised person who may have accessed or acquired the Personal Information;
 - 3.3.1.3. provide CT Convert and the Information Officer with a report on its progress in resolving the compromise at reasonable intervals, but at least once per Business Day following the initial notification to CT Convert until such time as the compromise is resolved;
 - 3.3.1.4. in consultation with CT Convert and where required by law notify the South African Police Service and/or the National Intelligence Agency;
 - 3.3.1.5. provide CT Convert with such assistance and information it may require in order to enable it to notify the Information Officer and/or the affected Data Subjects; and
- 3.3.2. assist CT Convert (at CT Convert's cost) to comply with any requests for access to Personal Information received by CT Convert from Data Subjects and, at the request of CT Convert, the Service Provider will promptly provide CT Convert with a copy of any Personal Information held by the Service Provider in relation to a specified Data Subject. The Service Provider agrees that notwithstanding the provisions of the Confidentiality clause contained in the Supplier Agreement, if applicable, CT Convert may disclose to a Data

Subject that the Service Provider has Processed, or is involved in Processing such Data Subject's Personal Information;

- 3.3.3. provide reasonable evidence of the Service Provider's compliance with its obligations under this clause 3 (*Data Protection*) to CT Convert on reasonable notice and request (no more than once per year unless (i) there is evidence of a breach by the Service Provider of this clause or (ii) the Information Officer requires such evidence on a more frequent basis);
- 3.3.4. under instruction and authority of CT Convert, and at the cost of CT Convert, provide it with all assistance reasonably required for CT Convert to discharge its duties as Responsible Party relating to a requirement by the Information Officer for CT Convert as Responsible Party:
 - 3.3.4.1. to submit an independent auditor's report or other information relating to interference by the Responsible Party with the Personal Information of a Data Subject; or
 - 3.3.4.2. to verify that CT Convert is processing Personal Information in accordance with legislation; or
 - 3.3.4.3. to verify that CT Convert is otherwise compliant with Applicable Laws;
- 3.3.5. at the request and option of CT Convert, and to its satisfaction, promptly return or, (with respect to Personal Information stored electronically subject to reasonable technical limitations) destroy all Personal Information in the possession or control of the Service Provider, including in accordance with any specific but reasonable retention, destruction and purging requirements as may be prescribed by CT Convert, and furnish proof of compliance to the satisfaction of CT Convert; and
- 3.3.6. not Process the Personal Information otherwise than in accordance with this clause 3 (*Data Protection*).
- 3.4. Permitted processing of personal information

The Service Provider will only Process the Personal Information of Data Subjects:

3.4.1. for a specific, lawful purpose strictly in accordance with CT Convert 's express reasonable written instructions and CT Convert Policies and will not carry out any related or further Processing activities for any other reason whatsoever (including any related Processing functions or Processing which would otherwise be a normal extension of the Processing which the Service Provider is entitled to undertake in accordance with CT Convert 's instructions) without the express written consent of CT Convert, save that the Service Provider may carry out reasonable further Processing strictly in order to comply with an obligation which is imposed on it by law and in such circumstances, the further Processing will be in accordance with the provisions of this clause 3 (*Data Protection*) and relevant legislation relating to the Processing of Personal Information; and

3.4.2. the Service Provider is not permitted to disclose to any Data Subject that it is Processing, has Processed or intends to Process the Personal Information of such Data Subject unless:

3.4.2.1. it has obtained the prior written consent of CT Convert or the Information Officer in this regard; or

3.4.2.2. the Service Provider is required to comply with relevant legislation.

3.5. Disclosure required by law, regulation or court order

In the event that the Service Provider is required to disclose or Process any Personal Information required by law, regulation or court order, or if the Processing of such Personal Information is required to enable a public body to properly perform a public law duty to carry out actions for the conclusion or performance of a contract to which the Data Subject is a party, is necessary for pursuing the legitimate interests of CT Convert, a Third Party to whom the information is supplied, or a Data Subject, or complies with an obligation imposed by law on CT Convert, the Service Provider:

3.5.1. will advise CT Convert thereof prior to disclosure, if possible. If prior disclosure is not possible, the Service Provider will advise CT Convert promptly after such disclosure;

- 3.5.2. will take such steps to limit the extent of the disclosure to the extent that it lawfully and reasonably practically can;
- 3.5.3. will afford CT Convert a reasonable opportunity, if possible and permitted, to intervene in the proceedings; and
- 3.5.4. will comply with CT Convert 's reasonable requests as to the manner and terms of any such disclosure, if possible and permitted.

3.6. Separation of Personal Information

The Service Provider or any Third Party under its control may not combine or merge the Personal Information of a Data Subject with information of another party.

3.7. Transfer of Personal Information

- 3.7.1. The Service Provider will ensure that no Personal Information is transferred outside of South Africa unless:

- 3.7.1.1. CT Convert provides its prior written consent to the transfer;
- 3.7.1.2. the recipient is subject to a law, code of conduct or contract which provides comparable protection for the Personal Information as the protections contained in this Agreement including similar provisions relating to the further transfer of the Personal Information;
- 3.7.1.3. the transfer is necessary for the performance of a contract between the Data Subject and CT Convert, or a contract between CT Convert and the Service Provider which is in the interest of the Data Subject; or
- 3.7.1.4. the transfer is for the benefit of the Data Subject, and it is not reasonably practicable to obtain the consent of the Data Subject, and if it were reasonably practicable to obtain such consent, the Data Subject would be likely to give it.

- 3.7.2. Even in circumstances where CT Convert has consented to any such cross-border transfer, the Service Provider agrees to comply strictly with CT

Convert's express instructions for such cross-border transfers as may be set forth in the Service Order.

3.8. Transmission of Data

The Service Provider will ensure that all Personal Information communicated, including, without limitation, any digital communication or any Personal Information stored in digital form, will be secured against being accessed or read by unauthorized parties, using appropriate security safeguards, having due regard to generally accepted information security practices and procedures which may apply to it generally or be required in terms of relevant legislation.

3.9. The Parties will fully comply with the statutory obligations contained in the POPI Act, with which the Parties warrant that they are and will remain fully conversant with, when Processing Personal Information obtained by the Responsible Party and such Personal Information is entered into a Record. Without limiting the generality of the aforesaid, the Responsible Party will ensure that the Privacy and Data Protection Conditions are strictly adhered to when Processing the Data Subject's Personal Information.

3.10. The Service Provider hereby indemnifies and holds CT Convert harmless from any liability whatsoever arising from the Service Provider's failure to comply with its statutory obligations contained in the POPI Act.

AS WITNESSES:

1.

PRINT NAME & SIGNATURE

The Supplier SIGNATURE

2.

PRINT NAME & SIGNATURE

NAME (PRINTED)

For and on behalf of the Supplier who warrants
that he/she is duly authorised as such to give
effect to this Agreement.

THUS SIGNED AT ON THISDAY OF.....2021

AS WITNESSES:

1.

PRINT NAME & SIGNATURE

CT Convert SIGNATURE

2.

PRINT NAME & SIGNATURE

CT Convert NAME (PRINTED)

For and on behalf of the **CT Convert** who warrants that he/she is duly authorised as such to give effect to this Agreement.
