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ANTI-BRIBERY, FRAUD, CORRUPTION AND WHISTLE BLOWING POLICY

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1. BRIBERY, CORRUPTION AND FRAUD

1.1 CORRUPTION

- 1.1.1 Corruption as per the definition in section 3 of the Prevention and Combatting of Corrupt Activities Act No. 12 of 2004 ("PRECCA"), means an offence of any person who directly or indirectly:
- 1.1.1.1 Accepts or agrees or offers to accept any gratification from any other person whether for the benefit of himself or herself or for the benefit of another person; or
 - 1.1.1.2 Gives or agrees or offers to give to any other person any gratification whether for the benefit of that other person or for the benefit of another person, in order to act personally or by influencing another person to act, in a manner:
 - 1.1.1.2.1 That amounts to the: Illegal, dishonest, unauthorised, incomplete or biased or misuse or selling of information or material acquired in the course of exercising, carrying out or performing of any powers, duties or function arising out of a constitutional, statutory, contractual or other legal obligation;
 - 1.1.1.2.2 That amounts to the abuse of a position of authority, a breach of trust or the violation of a legal duty or a set of rules, designed to achieve an unjustified result; or
 - 1.1.1.2.3 That amounts to any other unauthorised or improper inducement to do or not do anything, is guilty of the offence of corruption

1.2 ZERO TOLERANCE

- 1.2.1 THE FIRM operates a strict zero tolerance towards bribery and corruption in all its forms, whether directly or through third parties. THE FIRM expects its clients and service providers to operate in the same manner.
- 1.2.2 High standards of ethical behaviour and compliance with laws and regulations are essential to protecting the reputation and long-term success of our organisation.
- 1.2.3 Any incidents of bribery and corruption involving or relating thereto will damage THE FIRM's reputation. All employees have a personal responsibility for protecting our reputation and living up to our values.
- 1.2.4 Breaches of the Anti-Bribery and Corruption rules of THE FIRM are not acceptable and may result in disciplinary action up to, and including, dismissal.
- 1.2.5 THE FIRM is obliged to comply with applicable laws that give effect to the prevention of bribery and corruption. These laws include but are not limited the Prevention and Combatting of Corrupt Activities Act No. 12 of 2004 ("PRECCA") which identifies an offense of Corruption, as recorded under section 1 as any person who directly or indirectly:
- 1.2.5.1 Accepts or agrees or offers to accept a gratification from any other person for the benefit of himself or herself or for the benefit of another person;
 - 1.2.5.2 Gives or agrees or offers to give to any other person any gratification for the benefit of that other person or for the benefit of another person in order to act personally or by influencing another person to act in a manner that amounts to the Illegal, dishonest, unauthorised, incomplete or biased or misuse or selling of information or material acquired in the course of the exercise, carrying out or performance of any powers, duties or function arising out of a constitutional, statutory, contractual or other legal obligation, that amounts to the abuse of a position of authority;
 - 1.2.5.3 A breach of trust;
 - 1.2.5.4 The violation of a legal duty or a set of rules, designed to achieve an unjustified result; or

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- 1.2.5.5 Is guilty of the offence of corruption that amounts to any other unauthorised or improper inducement to do or not to do anything.
- 1.2.6 To this end, THE FIRM's RCM together with the Management of THE FIRM will promote and facilitate compliance with these rules and standards.
- 1.2.7 The internal rules must address the principles mentioned herein and should be reviewed regularly (at least annually, but more frequently if required, and prior to any material change to the products, strategy and geographic footprint of THE FIRM that demands review of their internal rules) to ensure that they are aligned to statutory, supervisory and regulatory requirements.

1.3 ANTI-BRIBERY AND ANTI-CORRUPTION FRAMEWORK

- 1.3.1 THE FIRM is committed to the prevention of bribery and corruption in the workplace.
- 1.3.2 PRECCA creates a general offense for bribery and corruption, which is broadly explained as giving, or offering to give, someone in a position of power gratification to act in a certain manner. Gratification may be in the form of a financial benefit, a job or a favour, to name a few.
- 1.3.3 Lavish gifts or hospitality, such as tickets to sporting events, dinners or overseas travel can be perceived as an act of bribery. Bribery is not restricted to financial payment but includes anything that has value and is given to influence a decision.
- 1.3.4 If an individual or legal entity is identified through a tip-off or through the screening processes defined in the in this Policy, the relevant information pertaining to the individual or legal entity must be reviewed and investigated to determine whether or not the individual or legal entity is engaged in corruption. This extends to donors, clients, service providers, sub-contractors and employees.
- 1.3.5 No transaction should be processed for any individual or legal entity that is under investigation and all access must be suspended for an employee who is under investigation.
- 1.3.6 THE RCM must assess the information pertaining to the bribery and corruption allegation in order to assess the risk posed to THE FIRM by the individual or legal entity.
- 1.3.7 THE RCM must develop and implement internal review and investigation procedures to determine the risk that the individual or legal entity poses to THE FIRM and a process to determine if such risk should be accepted.
- 1.3.8 Should THE RCM deem the risk to be outside of the risk appetite, as determined by THE FIRM, clients, service providers, sub-contractor, employees, and / or Management must be exited according to the process provided by the Management.
- 1.3.9 PRECCA requires that any person in a position of authority, who knows or who ought to know that any other person has committed an offence of bribery and / or corruption, or has committed the offence of theft, fraud, extortion, forgery or uttering a forged document, involving an amount of R100 000 or more must report this to the SAPS or any police officer. However, any person who has knowledge or suspicion of bribery or corruption should report this internally to THE RCM
- 1.3.10 THE RCM must develop and implement internal reporting structures and procedures to ensure that instances of corruption can be promptly and effectively reported to the SAPS and other appropriate authorities within the agreed format and timeframe as prescribed by the statutory, supervisory and regulatory requirements. No bribery and corruption will be tolerated.
- 1.3.11 Depending on the nature of the corrupt conduct, a Court may impose a sanction of imprisonment and/or a monetary fine. Contraventions of PRECCA, which encompasses the act of bribery, include:
 - 1.3.11.1 A fine of unlimited value;
 - 1.3.11.2 Prison sentence (the maximum sentence being life imprisonment);
 - 1.3.11.3 An additional fine equal to 5x the value of the gratification involved in the offence; or

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- 1.3.11.4 Endorsement of convicted person or enterprises on the Register for Tender Defaulters (Black-Listing) (Black-Listing refers to being placed on a list of entities and individuals with which the South African government and public sector is prohibited from doing business with).

2. WHISTLE BLOWING

- 2.1 A number of South African laws govern whistle blowing including the Protected Disclosures Act, Act No. 26 of 2000, the Public Disclosures Act, Act No. 26 of 2002 and the Prevention and Combating of Corrupt Activities Act No. 12 of 2004.
- 2.2 Employee Disclosure means any disclosure of information regarding any conduct of an employer or a whistleblower of that employer, made by any whistleblower who has reason to believe that the information concerned shows or tends to show one or more of the following:
- 2.2.1 That a criminal or civil offence has been committed, is being committed or is likely to be committed within THE FIRM;
 - 2.2.2 That a person has failed, is failing or is likely to fail to comply with any legal obligation to which that person is subject including the Management of THE FIRM and the RCM appointed in terms of this POLICY;
 - 2.2.3 That a miscarriage of justice has occurred, is occurring or is likely to occur;
 - 2.2.4 That the health or safety of an individual has been, is being or is likely to be endangered;
 - 2.2.5 That the environment has been, is being or is likely to be damaged;
 - 2.2.6 Unfair discrimination as contemplated in the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000); or
 - 2.2.7 That any matter referred to in paragraphs above has been, is being or is likely to be deliberately concealed;
- 2.3 Internal disclosures must be made to either FIC or the Partners of THE FIRM.
- 2.4 Disclosures must include the following:
- 2.4.1 Background and history of the alleged or suspected impropriety;
 - 2.4.2 Where possible, names, dates, and places relevant to the impropriety;
 - 2.4.3 Reason why the whistleblower reasonably believes that the conduct in question constitutes or is likely to constitute impropriety;
 - 2.4.4 Where available, proof or any other evidence in support of the disclosure; allegation (invoices, bank statements, purchase orders).
- 2.5 While whistleblowers are not expected to prove the truth of an allegation, they will need to demonstrate that there are reasonable and sufficient grounds for the concern raised.
- 2.6 The information from calls received by the service provider will be presented by the whistle-blower in the form of summarised reports to FIC or the Sole Proprietor.
- 2.7 Information received on the following categories of employees of THE FIRM must be reported to the Partners:
- 2.7.1 Management and attorneys;
 - 2.7.2 All employees other than Management and attorneys;
 - 2.7.3 Clients; or
 - 2.7.4 Services providers.

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- 2.8 The Partner (considering the category of employee) will consider the disclosure and then decide as to whether there is a prima facie case to respond thereto within seven (7) working days of receiving the disclosure. Where there is a prima facie case, an investigation must be recommended and depending on the nature of the matter, the Partner may recommend to the Management that the matter:
- 2.8.1 Should be Investigated internally;
 - 2.8.2 Referred to the Internal Auditors; or
 - 2.8.3 Subject to an independent enquiry.
- 2.9 All investigations and enquiries will be dealt with confidentially, sensitively and timeously.
- 2.10 The outcome will be reported to the whistleblower and the Management.
- 2.11 The Partners of THE FIRM will report to the Management on all the disclosures made and the subsequent action taken. If in the course of an investigation or enquiry any concern raised by a whistleblower appears to relate more appropriately to a grievance or disciplinary processes, the relevant procedures will be invoked.
- 2.12 A whistleblower who is dissatisfied with the outcome of the Partner's response and who reasonably believes that the information disclosed and the allegation contained therein is substantially true, is at liberty to take the matter further.
- 2.13 Should the whistleblower be a resident of South Africa, such whistleblower is obliged in terms of the Public Disclosures Act No. 26 of 2002, to report such dissatisfaction to:
- 2.13.1 A legal representative (attorney/ advocate/ legal adviser);
 - 2.13.2 The Public Protector; or
 - 2.13.3 The Internal Auditors.
- 2.14 A further alternative reporting hotline has been established for the public sector, the National Anti-corruption hotline for the Public Sector whose contact details appear herein below.
- 2.15 The Partners will approach outside counsel appointed by the Management, who will have the primary responsibility for the investigation and enquiry of all suspected fraudulent acts as defined in this policy.
- 2.16 If the investigation or enquiry substantiates that fraudulent activities have occurred, the outside counsel will issue reports to the Partners who in turn will refer the findings if appropriate to the Management.
- 2.17 Decisions to prosecute or refer the examination results to the appropriate law enforcement and/or regulatory agencies for independent investigation will be made in conjunction with outside counsel, the Partners and the Management as will final decisions on disposition of the case.

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DEFINITIONS

- 1.1 **BRIBERY:** is not specifically defined in South Africa but the definition of corruption includes bribery as a form of corruption. Corruption is defined as an act of accepting or offering any gratification from any other person whether for the benefit of that person or any other person in order to influence the other person to act in a manner that is illegal, dishonest, unauthorised, incomplete, biased or in a manner that results in the misuse or selling of information. This is applicable to both public officials and private individuals.
- 1.2 **CORRUPTION:** is defined as an act of accepting or offering any gratification from any other person whether for the benefit of that person or any other person in order to influence the other person to act in a manner that is illegal, dishonest, unauthorised, incomplete, biased or in a manner that results in the misuse or selling of information. This is applicable to both public officials and private individuals
- 1.3 **EMPLOYEES:** mean all employees employed by THE FIRM and include contract workers and any person who may create records, documents and/or files or who may process Personal Information, on behalf of THE FIRM.
- 1.4 **PARTNER:** means a Partner of the FIRM.
- 1.5 **THE FIRM:** means BEKKER BRINK & BRINK INCORPORATED, Registration number 1994/009663/21 situated at ABSA Building, 2nd Floor, 60 Church Street, Ermelo, 2351 and hereinafter referred to as THE FIRM and all administrative employees and attorneys who represent THE FIRM are included insofar as their obligations are concerned and contained in this Policy.
- 1.6 **PRECCA:** means The Prevention and Combating of Corrupt Activities Act 12 of 2004 which intends:
- 1.6.1 to provide for the strengthening of measures to prevent and combat corruption and corrupt activities;
 - 1.6.2 to provide for the offence of corruption and offences relating to corrupt activities;
 - 1.6.3 to provide for investigative measures in respect of corruption and related corrupt activities;
 - 1.6.4 to provide for the establishment and endorsement of a Register in order to place certain restrictions on persons and enterprises convicted of corrupt activities relating to tenders and contracts;
 - 1.6.5 to place a duty on certain persons holding a position of authority to report certain corrupt transactions;
 - 1.6.6 to provide for extraterritorial jurisdiction in respect of the offence of corruption and offences relating to corrupt activities;
and
 - 1.6.7 to provide for matters connected therewith.
- 1.7 **WHISTLEBLOWING:** means the action someone takes to report wrongdoing at work that affects others, and is sometimes called 'blowing the whistle'. Whistleblowers reveal private or classified information about an organization, usually related to wrongdoing or misconduct, and generally state that such actions are motivated by a commitment to the public interest.