

## FIXED TERM EMPLOYMENT AGREEMENT

between

**Absa Bank Limited**

Registration Number: 1986/004794/06  
("Absa")

and

**Digital Software and Development Company**

Registration Number: K2015098609 (DA or  
Digital Academy)

and

Full Names & Surname

**Ofentse Chantal Malebye**

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ID Number

**9807290658086**

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**(the "Employee"/ "You")**

(Collectively "The Parties")

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## THE PARTIES AGREE AS FOLLOWS:

- A. Absa's social promise, to do the best for people and the planet, includes tackling societal challenges faced by the youth. One of the major societal challenges faced by the youth today that Absa wishes to tackle is youth unemployment.
- B. In order to empower unemployed youth, Absa together with **The Digital Academy** are offering an **NC: Information Technology: System Support, NQF Level 5** ("the Learnership") in terms of which unemployed youth will be empowered through training, gaining work experience and obtaining a **System Support**, qualification accredited by the South African Qualifications Authority (SAQA).
- C. The Learnership shall be implemented through a fixed term employment contract between Absa as the sponsoring employer who shall fund the costs and monthly stipend payments and **The Digital Academy** who shall facilitate and coordinate the Learnership (collectively "the Employers") and each learner participating in the Learnership on the terms and conditions set out in the enclosed employment agreement (collectively "the Parties").
- D. The Key Terms, Your Detailed Terms and Conditions of Employment and any applicable Annexure(s) together form your employment agreement with the Employers (your "Agreement").

## Key Terms

This section reflects the Key Terms that are personal to you. You must therefore read these terms in conjunction with the enclosed Detailed Terms and Conditions of Employment, which together form your Agreement.

The provisions of the Sectoral Determination 5 on Learnerships and the Basic Conditions of Employment Act 75 of 1997 (the "BCEA") apply to this Agreement, and supplements its provisions to the extent deemed necessary.

Employee Name                      **Ofentse Chantal Malebye**

Employee address                **6953 Kilimanjaro street, Clayville Ext.45, Olifantsfontein, 1666**

Employers

Absa Bank Limited, registration number 1986/004794/06 ("Absa")  
and

**Digital Software and Development Company**, registration  
number **K2015098609**  
**("DA or Digital Academy")**

Employee Position

You will be appointed as a Learner on the Learnership. For the duration of your employment under this Agreement you will report to the facilitator at **The Digital Academy**.

Your role, responsibilities and specific performance objectives will be discussed and confirmed with you upon commencement of the Learnership by the facilitator at **The Digital Academy**.

Start Date

Subject to the Conditions clause below, your fixed term employment will commence on **01 April 2023** (the "Start Date") or such later date as agreed to in writing by the parties.

Termination Date

Your employment will terminate automatically, by the effluxion of time, on the earlier of (a) the date when the purpose of your employment defined in clause 1.1 of Your Detailed Terms and Conditions of Employment has been completed (which **The Digital Academy** will notify to you) or (b) on **31 March 2024** (the "Termination Date").

Conditions	<p>Your employment is conditional on you satisfying the Employers pre-screening requirements from time to time.</p> <p>If you are a foreign national, your employment shall be conditional on you obtaining and maintaining the legal right to live and work in South Africa.</p> <p>Place of Training Your primary place of work will be at <b>7 Quince Street, Auckland Park, Johannesburg</b>; however, you may need to and you agree to travel to and work at other<sup>4</sup> locations and/or offices, including remote working, as reasonably required in the performance of your duties.</p>
Training hours	Your normal training hours are <b>08h00 to 17h00, Monday to Friday</b> , read together with clause 2 of Your Detailed Terms and Conditions of Employment.
Ongoing obligations	You have an ongoing duty to communicate any changes to your circumstances including but not limited to new criminal convictions or pending criminal investigations or charges, pending regulatory investigations, any adverse media or social media coverage, any pending or actual personal adverse credit or debt matters or sequestration and/or changes in your legal right to work status.
Stipend	Absa shall pay you a stipend of <b>R 10 000, (Ten Thousand Rands only)</b> per month, in accordance with Sectoral Determination 5 on Learnerships (as amended from time to time), into your bank account no later than the <b>31<sup>st</sup>/last</b> day of each month, after necessary deductions for income tax, statutory and any other authorised deductions have been made.
Annual leave	<p>You are entitled to 15 (fifteen) working days annual leave per annual leave cycle in accordance with the BCEA, as amended from time to time.</p> <p>You are obliged to take all your annual leave entitlement during your employment, which annual leave dates must be agreed in advance with <b>The Digital Academy</b>.</p>

**Sick leave** You are entitled to 1 (one) day's paid sick leave for every 26 (twenty six) days worked or training received during your Learnership, in accordance with Sectoral Determination 5 on Learnerships.

For any sick leave that exceeds 2 (two) consecutive days or where you are absent for more than 2 (two) days or on more than 2 (two) occasions during an eight week period, you must produce a valid medical certificate.

**Maternity leave** A female employee will be entitled to 4 (four) months unpaid maternity leave as contemplated in Sectoral Determination 5 on Learnerships (as amended from time to time). A claim may be submitted to the Unemployment Insurance Fund (UIF) for the period of unpaid maternity leave.

**Family Responsibility leave** You are entitled to 3 (three) days paid family responsibility leave per annual leave cycle in accordance with Sectoral Determination 5 on Learnerships, as amended from time to time, in the following circumstances:

- when your child is sick;
  - in the event of the death of your spouse, life partner, parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling,
- on reasonable proof being provided to your **The Digital Academy** facilitator.

**Notice Period** Any of the Parties to this Agreement may terminate this Agreement on giving written notice in terms of the BCEA, as amended from time to time.

- 1 week's written notice where you have been employed for 6 months or less;
- 2 weeks written notice where you have been employed for more than 6 months but less than 1 year;
- 4 weeks written notice where you have been employed for 1 year or more.

## YOUR DETAILED TERMS AND CONDITIONS OF EMPLOYMENT

This section sets out your detailed terms and conditions of employment and should be read alongside your enclosed Key Terms (and any applicable Annexures).

### 1. DURATION AND TERM

- 1.1 The Parties record that they have agreed to a fixed term contract for the specific reason that you are a learner on the **NC: Information Technology: Systems Support NQF 5** who is employed for the purpose of being trained for gaining work experience in order to enter a job or profession.
- 1.2 You understand that the Employers require your services for a limited period only and that on termination of your employment on the Termination Date, you shall have no expectation of continued employment and no expectation of being engaged on a permanent basis or on a further fixed term contract, either on the same or similar terms or on less favourable terms. A promise made during the period of your employment under this Agreement shall have no force or effect unless reduced to writing and signed by or on behalf of all the Parties.
- 1.3 It is specifically agreed that as termination of this Agreement is through the effluxion of time, termination will not constitute a dismissal in terms of the Labour Relations Act, 1995, as amended from time to time.

### 2. TRAINING HOURS AND OVERTIME

- 2.1 Your normal training hours as well as your eligibility to receive additional remuneration or time off in lieu of overtime pay are regulated by clauses 9 and 10 of Sectoral Determination 5 on Learnerships, and any such arrangements as agreed to with **The Digital Academy** from time to time.
- 2.2 You shall dedicate your full time and attention to the Learnership (both theoretical and practical) and, as such, you may not engage in any other form of external study, training, learnership or internship during your participation, without the Employers' prior written consent.

- 2.3 Should you breach clause 2.2 above, this will be viewed as a material breach of this Agreement, which may constitute a disciplinary offence and may result in the termination of your employment and participation in the Learnership.

### 3. **REGULATORY COMPLIANCE**

It is your responsibility to know, understand and comply with all legal, regulatory and governance obligations, including the provisions of the Employers' Regulatory and Compliance policies and such other rules, regulations and governance obligations that may apply to you from time to time. You are also required to complete any prescribed training that is relevant to you.

### 4. **PERFORMANCE PLANNING**

- 4.1 You are required to successfully meet the requirements of your Learnership, as agreed with you, including but not limited to, the specific learning outcomes for the qualification. Regular assessments will be conducted as per the Learnership Programme as evidence by your Portfolio of Evidence and the Employers' performance processes.
- 4.2 Should you fail to meet the required performance standards and requirements of the Learnership, as agreed, the Employers shall follow the incapacity process as set out in the applicable policy, as amended from time to time. This may lead to termination of your employment and participation in the Learnership.

### 5. **PLAGIARISM**

- 5.1 Plagiarism is regarded as serious misconduct by the Employers for which you will be disciplined and, if found guilty, may result in the termination of your employment and participation in the Learnership.
- 5.2 Plagiarism is a form of dishonesty that occurs when you pass off someone else's work as your own. This can range from failing to quote an author for ideas incorporated into your paper, to cutting and pasting paragraphs from another student's assignment, to handing in a paper downloaded from a fellow student, colleague or the internet, and making your assignment/ coursework available to another student.

- 5.3 All parties to plagiarism are considered equally guilty. Therefore, if you share your coursework with another student and the student plagiarises it, you are considered equally guilty as the student who plagiarised your work. Under no circumstances should you make your coursework available to another student, unless the instructor/facilitator gives explicit instructions, in writing, permitting you to do so.
- 5.4 Instructors/facilitators must report all instances of plagiarism to **The Digital Academy** who will initiate their own review.

## 6. **CONSENT**

You hereby consent to the Employers obtaining all relevant information concerning the theoretical component of your Learnership, including but not limited to, information concerning your results, conduct and attendance at classes.

## 7. **NON-ATTENDANCE DURING LEARNERSHIP**

- 7.1 Should you not attend training for 1 (one) to 2 (two) days and you cannot present a medical certificate or death certificate or a valid reason, such absence will be regarded as unpaid leave.
- 7.2 Should you not attend training for an extended period (in excess of 2 (two) days for any reason, including medical reasons) without due notice to **The Digital Academy**, you will be deemed to have absconded and disciplinary action will be taken.

## 8. **STUDY LEAVE**

- 8.1 All learning/studying towards and writing examinations must be accommodated in the learnership study blocks.
- 8.2 Only where you have written examinations that are not accommodated in the learnership study blocks, will you be eligible for 1 (one) day study leave the day before the exam to prepare for it and 1 (one) day on the day of the exam to write the exam.
- 8.3 No study leave will be granted to rewrite examinations. You may apply for annual leave (where available) to prepare for rewriting your examinations.
- 8.4 Should you not attend an examination session and cannot present a valid medical certificate or death certificate, this will be regarded as unpaid leave.



## 9. DEDUCTIONS

You consent to the deduction of any sums owing by you to the Employers, arising from your employment under this Agreement, at any time from your stipend or any other payment due from the Employers to you, in respect of any overpayment made to you or in respect of any outstanding debt owed by you to the Employers.

## 10. DATA PRIVACY

10.1 For purposes of this clause:

**“Data Protection Legislation”** means any local applicable data protection laws and any data protection obligations contained within national legislation in South Africa such as the Protection of Personal Information Act 4 of 2013, Consumer Protection Act No. 68 of 2008, the National Credit Act No. 34 of 2005, or regulations, directives or standards issued by the South African Reserve Bank and the Financial Intelligence Centre, the EU Directive on Privacy and Electronic Communications 2002/58/EC, and the European Union General Data Protection Regulation.

**“Personal Information”** means any information (including Special Personal Information) relating to a living, natural person and where applicable, an existing juristic person, either in electronic or hard copy format, from which an individual or juristic person can be identified. This includes but is not limited to race, gender, sex, pregnancy, marital status, national, social or ethnic origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language, birth of person, education background and history, financial history, employment history, criminal history, email address, physical address, location information, mobile numbers, online identifiers (e.g. cookies or IP addresses), biometric information, an identifying number or symbol, the personal opinions, views or preferences of the person, the opinions of another individual about the person, the name of the person if it appears with other personal data relating to the person or if the disclosure of the name itself would reveal information about the person, correspondence sent by the person that is implicitly or explicitly of a private or confidential nature, or further correspondence that would reveal the contents of the original correspondence.

**“Process”, “Processing”, “Processed”** means obtaining, recording or holding Personal Information or carrying out any operation or set of operations on Personal Information, including retrieval, use, alteration, organisation, disclosure, dissemination, porting, blocking, erasure or destruction of Personal Information.

**“Special Personal Information”** means information that may include, but is not limited to, information relating to an individual’s race or ethnicity, political persuasion, religious or philosophical beliefs, trade union membership, physical or mental health (including genetic or biometric data), sexual orientation or criminal behaviour

- 10.2 You agree to provide your Personal Information to the Employers, which you warrant is accurate and complete, and consent to the processing of your Personal Information for the purposes set out in this clause. Personal Information refers to information that allows the Employers to identify you as a natural person.
- 10.3 The Employers are committed to maintaining the privacy and security of your Personal Information collected for purposes related to your employment and the conduct of their respective businesses, whether in physical or electronic form.
- 10.4 The Employers may carry out further processing on your Personal Information for employee monitoring and historical, research and statistical purposes, and to comply with its legal obligations from time to time, as well as use your Personal Information for carrying out automated decisions that may impact you. Where you are dissatisfied about the outcome of such automated decisions, please contact your facilitator.
- 10.5 The Employers may share your personal information to any third party service provider (for example the Host Business) that processes your Personal Information in conjunction with the Employers, or on its behalf. All third party providers, whether local or trans-border, are contractually obliged to process your personal data in line with the Employers data privacy and security policies and applicable privacy laws. Where appropriate, the Employers may also share your Personal Information with regulators or other crime-fighting agencies.

- 10.6 To the extent that local legislation permits, you have the following rights regarding your Personal Information that the Employers have on record:
- 10.6.1 the right to access your Personal Information;
  - 10.6.2 the right to request that any incorrect Personal Information held by the Employers be corrected;
  - 10.6.3 the right to object to the processing of your Personal Information or request that the Employers delete or destroy your personal information;
  - 10.6.4 the right to lodge a complaint with the Employers regarding the manner in which either of them processes your Personal Information; and
  - 10.6.5 the right to lodge a complaint with your local privacy regulator in terms of applicable data privacy legislation where the Employers have not dealt with your complaint adequately.
- 10.7 Where you have a complaint relating to the protection of your Personal Information, including the manner in which it was collected or processed by the Employers, please contact Action Line at [actionline@absa.co.za](mailto:actionline@absa.co.za). Where you believe that your complaint has not been dealt with satisfactorily, you may lodge a complaint with your local privacy regulator.
- 10.8 You acknowledge that the Employers may monitor, access and/or record and/or obtain such information or data from a third party service provider that the Employers may use in this regard, in respect of your use of office equipment and work tools, for example, e-mail, internet, telephones and mobile telephones, tablets, laptops, notebooks ("tools of the trade") and access control records and communications, for the purposes of compliance with the Employers procedures and policies, maintenance, security, business continuity, internal investigations, regulatory requirements or as permitted by law.
- 10.9 You acknowledge that you have no reasonable expectation of privacy regarding your use of tools of the trade. In particular, where you elect to make use of tools of the trade for personal use, you do so at your own risk and acknowledge that you waive any reasonable expectation of privacy in respect of any Personal Information that may be recorded or obtained or created in the use of such tools of the trade. Nevertheless,

your privacy will be respected and preserved to the extent necessary in accordance with applicable law.

- 10.10 The Employers will retain your personal information only for as long as is required in terms of applicable laws and regulations; thereafter it will be securely destroyed or de-identified.
- 10.11 You agree to comply with applicable Data Protection Legislation and Employers policies in respect of all Processing of Personal Information and the handling of any Employers data, including Confidential Information and any Intellectual Property.

## 11. REDSCHECK

- 11.1 You agree that by virtue of your employment, you are bound by the principles of the REDScheck Framework which applies to you both during and after termination of your employment.
- 11.2 Should your employment under this Agreement be terminated for any reason related to dishonesty, your name and biographical details will be recorded on a central database, the REDScheck Framework, administered by the Banking Association of South Africa.
- 11.3 If you were to resign to avoid facing a disciplinary process relating to a misconduct involving an element of dishonesty or if the Employers, after termination of your employment, were to uncover serious misconduct by you involving an element of dishonesty committed whilst still employed, then Absa shall be entitled to convene a REDScheck enquiry. The purpose of the enquiry shall be to determine whether you should be listed on the REDScheck Framework and to afford you an opportunity to be heard before a decision is made.

## 12. INTELLECTUAL PROPERTY

12.1 For the purposes of this clause:

**"Intellectual Property Rights"** means (i) copyright and related rights, patents, knowhow, confidential information, database rights, Inventions and rights in trademarks and designs, (ii) applications for registration, and the right to apply for registration, for any of the same, and (iii) all other intellectual property rights and equivalent or similar forms of protection existing anywhere in the world;

**"Invention"** means any invention, idea, discovery, development, improvement or innovation made, whether or not patentable or capable of registration, and whether or not recorded in any medium; and

**"Works"** means all documents, materials, software, photographic or graphic works of any type, whether created or developed or in the process of being created or developed, or used by you, or on your behalf, or by the Employers in the course of your employment, or for the Employers' benefit and which are protected by, contain or relate to any Intellectual Property Rights.

12.2 You acknowledge that you have, and will have at all times while you are employed by the Employers, a special obligation to further their interests, and that all Works and Intellectual Property Rights in the Works will automatically, on creation, belong to and vest in the Employers to the fullest extent provided by law.

12.3 To the extent that the Works and Intellectual Property Rights do not vest in the Employers automatically, you will hold such Works and Intellectual Property Rights, on trust for the benefit of the Employers, until the Works and Intellectual Property Rights vests absolutely in them.

- 12.4 You shall immediately, on request and at the Employers expense, provide all such documents and assistance necessary to vest the Works and Intellectual Property Rights in the Works in the Employers, to enable them to enjoy the full benefit of the Intellectual Property Rights, and to enable them to enforce their Intellectual Property Rights against third parties or defend claims of infringement brought against them in relation to the Intellectual Property Rights.
- 12.5 You shall assign to the Employers all current and future Intellectual Property Rights in the Works and any other proprietary rights capable of assignment by way of present assignment of future rights for the full term of such rights.
- 12.6 When your Agreement terminates, for whatever reason, you will immediately deliver up to the Employers all Works in your possession or under your control, and under no circumstances may any Works be retained by you except with the prior written consent of the Employers.

### 13. **CONFIDENTIALITY**

- 13.1 For the purposes of this Agreement, "Confidential Information" means information concerning the business, affairs, finance, employees, clients or trade connections of the Employers or any of their customers, clients, suppliers or agents.
- 13.2 During your employment with or at any time thereafter, you must not disclose to any person or make use of any Confidential Information that you have obtained in the course of your employment. You are required to use your best efforts to prevent the unauthorised publication or disclosure of any Confidential Information.
- 13.3 Should there be a breach you shall immediately report this to [privacy@absa.co.za](mailto:privacy@absa.co.za)

### 14. **TERMINATION**

- 14.1 Your employment shall automatically terminate on the Termination Date as set out in your Key Terms.
- 14.2 Your employment may be terminated prior to the Termination Date in the following circumstances:

- 14.2.1            you meet the requirements for the successful completion of the Learnership;
  - 14.2.2            BANKSETA approves the early termination; or
  - 14.2.3            by the Employers (with or without notice) on the basis of misconduct (including but not limited to a breach of this Agreement), incapacity, redundancy of your role due to the Employers operational requirements or for any other reason recognised in law subject to compliance with the applicable Employers policies, as amended from time to time.
- 14.3            On termination of employment, you shall return all the Employers assets provided to you during your employment, irretrievably delete any information relating to the Employers business stored on any computer or storage device and all information derived from the same in your possession or control and held outside any of the Employers premises. You may be required upon the Employers request to provide written confirmation of having complied with this obligation.

## 15.    **KEY POLICIES, PROCEDURES AND PRACTICES**

During your employment (and where applicable after your employment has terminated) you must familiarise yourself and comply with all of the Employers' policies and procedures, and such other policies and procedures that may be applicable to you from time to time, as well as any legal obligations, including (but not limited to) policies and procedures relating to ethical behaviour, employment relations and anti-bribery and corruption.

## 1. NOTICES

16.1 Each of the parties chooses as its address for all purposes arising from or pursuant to this Agreement, as follows:

**Absa** : Absa Towers West, 15 Troye Street, Johannesburg,  
2001

Tel. Number : +27 (11) 8469031

Email address : Lerato.Monyatsi@absa.africa

Attention : Lerato Monyatsi

**The Digital Academy** : 7 Quince Street, Auckland Park, Johannesburg

Tel. Number : 061 544 9399

Email address : Mel@thedigitalacademy.co.za

Attention : Melisha Moodley

**Employee** : **Ofentse Chantal Malebye**

Residential Address. : **6953 Kilimanjaro street, Clayville Ext.45,**  
**Olifantsfontein, 1666**

Tel. Number : **0655175323**

Email address : **malebyeoc@gmail.com**

16.2 All notices to be given in terms of this Agreement will be given in writing and may be delivered by hand, sent by e-mail or post.



16.3 Any Party may by written notice to the other Parties change its address or email address for the purposes of clause 16.1 to any other address (other than a post office box number) provided that the change shall become effective:

16.3.1 if delivered by hand, be presumed to have been received on the date of delivery;

16.3.2 if sent by e-mail, be presumed to be received on the date the e-mail is sent, unless the contrary is proved;

16.3.3 if sent by post, be presumed to have been received 7 (seven) days after posting.

## 2. MISCELLANEOUS

17.1 This Agreement sets out the whole agreement between the Parties relating to your fixed term employment and supersedes all previous agreements and representations (whether oral or in writing) in connection with your employment.

17.2 Any amendments to this Agreement must be effected in writing.

17.3 This Agreement may be executed in any number of counterparts, each of which, when executed, shall be an original, and all the counterparts together shall constitute one and the same instrument.

17.4 The Parties acknowledge that in entering into this Agreement none of them has relied on any representation or undertaking by the others (whether oral or in writing) except as expressly incorporated in this Agreement.

17.5 No omission to exercise or delay in exercising any right, power or remedy of the Employers under this Agreement will constitute a waiver thereof.

## 3. GOVERNING LAW

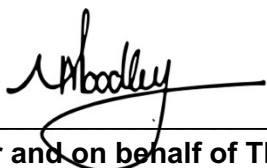
This Agreement is governed by and should be interpreted in accordance with the laws of South Africa. The Parties submit to the exclusive jurisdiction of the tribunals and courts of South Africa in relation to any claim or dispute arising out of or relating to this Agreement.

SIGNED at **Johannesburg** on this the \_\_\_\_ 03 \_\_\_\_ of \_\_\_\_ April 2023 \_\_\_\_

  
L. Monyatsi

**For and on behalf of Absa Bank Ltd.**  
**Lerato Monyatsi**  
**Skills Development Manager**  
Duly authorised thereto

SIGNED at **Johannesburg** on this the \_\_\_\_ 03 \_\_\_\_ of \_\_\_\_ April 2023 \_\_\_\_



**For and on behalf of The Digital Academy**  
**Melisha Moodley**  
**Programme Manager**  
Duly authorised thereto

SIGNED at **Johannesburg** on this the \_\_\_\_ 03 \_\_\_\_ of \_\_\_\_ April 2023 \_\_\_\_



**Employee**

who confirms that I have read, understood and accept the terms of this Agreement as forming the terms and conditions of my employment.

OCM

