

# **AGREEMENT TO OCCUPY SANRAL'S PROPERTY**

## **1. Definitions**

For the purpose of this clause, the following words, phrases and expressions shall have the respective meanings assigned to each of them as set out hereunder:

- 1.1 "Commencement Date" shall mean 03 December 2020.
- 1.2 "Designated Person" shall mean an employee, director, agent, independent contractor and/or representative of SANRAL, as the case may be;
- 1.3 "the Property" shall mean the property delineated on the plan annexed hereto marked "Appendix A";
- 1.4 "Termination Date" shall mean 02 December 2026.

## **2. Option to occupy the Property**

- 2.1 SANRAL hereby grants the Contractor an option to occupy the Property for the purpose of:
  - 2.1.1 Providing the Operations and Maintenance of an Open Road Tolling System in the Gauteng Province, South Africa and the National Transaction Clearing House;
- 2.2 The Contractor may exercise the option referred to above by notifying SANRAL, within 30 (thirty) days of the Tender Award that it intends to use the Property, failing which this option will lapse and be of no further force or effect.

## **3. Use of the Property**

- 3.1 In the event that the Contractor exercises the option to occupy the Property, it may do so with effect from the Commencement Date.
- 3.2 The Property may not be used for any purpose other than that prescribed above without the prior written approval of SANRAL.
- 3.3 If SANRAL is unable to give the Contractor occupation of the Property on the Commencement Date for any reason whatsoever, whether or not occasioned by the negligence of SANRAL and/or the Designated Person, the Contractor shall have no claim of whatsoever nature against SANRAL or the Designated Person.
- 3.4 SANRAL does not warrant that the Property is or will be suitable for any of the purposes for which the Contractor requires the Property.
- 3.5 SANRAL does not warrant that the Contractor will be granted or provided with any licences, consents, authorities, services or permits in respect of the Property for the proposed use thereof by the Contractor.
- 3.6 The Contractor shall comply with all laws, by-laws and regulations (including but not limited to the requirements of the Occupational Health and Safety Act 85 of 1993) relating to the Property and shall not contravene or permit contravention of any of the conditions of title under which the Property is held by SANRAL or any of the provisions of the town planning scheme applicable to the Property, nor do or cause or permit to be done in or about the

Property anything which may be or cause a nuisance or disturbance to occupiers of neighbouring properties.

- 3.7 The Contractor's right to occupy the Property shall terminate on completion of Contract SANRAL ~~X.002-140-2020/1~~ X.002-184-2023/1

#### **4. Electricity, water and other services**

- 4.1 The Contractor may not install or arrange for any services such as water and electricity to be installed on the Property without the prior written consent of SANRAL.
- 4.2 In the event that SANRAL grants the consent referred to above, the Contractor shall be liable for the payment of all amounts due for the consumption of such services on the Property.
- 4.3 The Contractor hereby indemnifies and holds SANRAL harmless against any claim for payment for the consumption of services on the Property or any claim of whatsoever nature arising therefrom.

#### **5. Exclusion of claims**

- 5.1 The Contractor shall have no remedy against SANRAL and/or the Designated Person:
- 5.1.1 by reason of the Property or any part thereof or any improvement thereto being in a defective condition or in a state of disrepair;
- 5.1.2 in respect of any damage caused to furniture, equipment or any assets of any nature whatsoever kept on the Property by the Contractor, its employees, invitees, agents, directors or representatives;
- 5.1.3 in respect of any claim of whatsoever nature for loss or damages allegedly suffered by the Contractor, its servants, invitees, agents, directors, clients or representatives arising from loss of life and/or injury to persons on the Property.
- 5.2 The Contractor hereby indemnifies and holds harmless SANRAL and/or the Designated Person against any claim arising from the Contractor's occupation of the Property.

#### **6. Sub-letting**

The Contractor shall not be entitled, except with the prior written consent of SANRAL:

- 6.1 to cede all or any of the rights of occupation of the Property; or
- 6.2 to sublet or give up possession of the Property, in whole or part, to any third party.

#### **7. SANRAL's Right of Entry**

SANRAL and/or the Designated Person shall be entitled to enter the Property at all reasonable times for the purpose of inspecting it in order to determine that the Contractor is complying with the rights and obligations granted to it with respect to the Property.

#### **8. Obligation to maintain the Property**

- 8.1 Prior to the Contractor taking occupation of the Property, SANRAL and the Contractor shall jointly inspect the Property.

- 8.2 During such inspection, the Contractor shall record the condition of the Property and any improvements thereto on the Inspection Form attached hereto marked "Appendix B". In the event that the Contractor does not arrange for the completion of such form, the Contractor shall be deemed to have accepted the Property as being without defect and in good order and repair.
- 8.3 At all times during the Contractor's occupation of the Property, the Contractor shall care for and maintain the Property in good order and repair, including any improvements thereto.
- 8.4 On the Termination Date or the date of termination of the Contractor's occupation of the Property, as the case may be, the Contractor shall return the Property and any improvements thereto in good order, condition and repair, fair wear and tear expected, provided that SANRAL shall not be obliged to compensate the Contractor for any expenditure incurred by the Contractor in complying with the Contractor's obligations of maintenance, repair and replacement provided for herein.
- 8.5 Prior to the date of termination of occupation of the Property by the Contractor, SANRAL and the Contractor shall arrange a joint inspection of the Property and improvements thereto. Such inspection is to take place within a period of 3 (three) days prior to the date of termination with a view to ascertain if there was any damage caused to the Property or improvements thereto before the Contractor vacates the Property. SANRAL and the Contractor shall record the result of their inspection on the Inspection Form annexed hereto marked "Appendix C".
- 8.6 SANRAL and the Contractor shall make reference to the initial Inspection Form attached hereto marked Appendix "B" when undertaking the inspection prior to termination of the Contractor's occupation and shall record any damages or lost items which shall be repaired or replaced by the Contractor before the Contractor vacates the Property.
- 8.7 Should the Contractor fail to repair such damages to the Property or improvements thereto or fail to replace any missing articles, SANRAL may attend thereto and recover the cost thereof from the Contractor.
- 8.8 Should the Contractor fail to respond to SANRAL's request for an inspection, SANRAL shall, on termination of the Contractor's occupation of the Property, inspect the Property within 7 (seven) days from such termination in order to assess any damages or loss which occurred during the Contractor's occupancy, and may recover such loss or damages from the Contractor.

## **9. The Contractor's Employees**

- 9.1 The Contractor shall not allow any of its employees and/or their relatives to live on the Property.
- 9.2 The Contractor shall be held liable for all persons entering onto the Property and such persons shall be considered to be under the control of the Contractor.
- 9.3 On the termination of the Contractor's occupation of the Property, the Contractor shall ensure that the Property is returned to SANRAL vacant and free of any unlawful or lawful occupiers.
- 9.4 In the event that any person remains in occupation of the Property on termination of the Contractor's occupation of the Property, and SANRAL is obliged to obtain a Court Order to enable it to evict such person, the Contractor shall be liable for all and any costs in this respect, including but not limited to legal costs and costs for relocating such person.

## **10. Remedies for Breach and Cancellation**

Should the Contractor:

- 10.1 fail to comply with any of the terms and conditions relating to its occupation of the Property, as provided for herein; or
- 10.2 abandon the Property,

then, after having received written notification to remedy such breach within 7 (seven) days and having failed to do so, SANRAL shall have the right, but not be obliged to either:

- immediately terminate the Contractor's right to occupy the Property further notice; and/or
- take possession of the Property and claim damages arising from such breaches.

## **11. Early Termination of the Right to Occupy**

11.1 Notwithstanding the rights granted to the Contractor in terms hereof, the Contractor acknowledges that SANRAL may terminate such rights prematurely in the event that SANRAL requires the Property for anything related to the construction, maintenance or operation of a national road.

11.2 Should SANRAL be required to terminate the Contractor's right of use of the Property, SANRAL shall be required to give no more than 3 (three) months' written notice to the Contractor of the required premature termination, and the Contractor shall:

- 11.2.1 vacate the Property on the premature termination date required by SANRAL;
- 11.2.2 have no remedy against SANRAL as a result of such premature termination or its relocation arising from such premature termination.

## **12. Alterations and Improvements**

12.1 The Contractor shall not make any alterations or improvements to the Property without SANRAL'S prior written consent.

12.2 In the event that SANRAL grants approval for alternations or improvements, this shall not preclude the Contractor from having to obtain any consent or approval that may be necessary from any applicable authority.

12.3 SANRAL shall not be liable for compensating the Contractor for the value of any improvements or alterations to the Property.

## **13. Development of the Property and/or Underground Services**

13.1 SANRAL shall be entitled at any and at all times during the currency of the Contractor's occupation of the Property to effect such alterations, improvements and/or additions to the Property as SANRAL may deem necessary.

13.2 The Contractor shall have no claim against SANRAL for compensation, damages or otherwise, by reason of any interference with its occupation of the Property occasioned by any such alterations, improvements and/or additions, or arising from any failure or interruption in the supply of water and/or electricity and/or other services to the Property.

13.3 Where relevant, the Contractor shall bear the onus of investigating, at its expense, the existence or otherwise of any live or defunct underground services on or adjacent to the Property by making appropriate enquiries from the local municipality or any other competent authority.

13.4 Save in circumstances where SANRAL has in writing agreed to assume specific obligations to deal with underground services, whether live or abandoned, existing on the

Property, the Contractor agrees that it shall have no claim whatsoever against SANRAL for the removal and/or modification of any underground services or abandoned services that may exist on the Property, nor for any direct or consequential losses which may be suffered by the Contractor arising out of any removal and/or modification or failure to remove and/or modify any of the said underground services or abandoned services.

- 13.5 SANRAL shall have the right to lay and use, or continue using underground services of any nature on or under the Property and may grant such right to any third party without being liable for any loss or damage suffered by the Contractor as a result thereof. The Contractor shall not in any way, directly or indirectly, interfere or obstruct the laying or using of such underground services. SANRAL and/or any third party shall at all reasonable times have free access of the Property for the purpose of construction, maintenance, repairs, replacement or removal of such services.

#### **14. General**

- 14.1 No amendment or consensual cancellation of any of the above terms and conditions shall be binding unless recorded in a written document signed by SANRAL and the Contractor.
- 14.2 No extension of time, waiver, indulgence or relaxation or suspension of any of the provisions or terms applicable to the Contractor's occupation of the Property shall be binding unless recorded in a written document signed by the parties. Any such extension, waiver or relaxation or suspension which is so given or made shall be strictly construed as relating strictly to the matter in respect whereof it was made or given.

## **APPENDIX A: PLAN OF THE PROPERTY**

- Central Operation Centre: Refer to Part C4.1.2
- Dalpark Operations Centre: Refer to Part C4.1.3
- Satellite Centres: Refer to Part C4.1.4
- Technical Shelters and Tolling Point Gantries: Refer to Part C4.1.5

## APPENDIX B: PRE-OCCUPATION INSPECTION FORM

### Exterior of the Property:

EXTERIOR	Good	Fair	Poor	None Present
ROOF				
WALLS / FENCE				
GATE				
GUTTERS				
PAVING				
GARDEN (outside taps)				
Carport				
GARAGE				

List other exterior improvements or defects not indicated above:

---

---

---

---

---

**Improvements on the Property:**

EXTERIOR	Good	Fair	Poor	None Present
GUTTERS				
PAVING				
OUTSIDE TAPS				
Carport				
GARAGE				
ROOMS OR OFFICES				
PARTITIONING				
FLOOR COVERING				
WALL COVERING				
CEILING				
KITCHEN				
BATHROOM & TOILET				
SECURITY GATE				
BURGLAR PROOFING				
INTERIOR DOORS				
EXTERIOR DOORS				
LOCKS				
LIGHT FITTINGS				

**Details of any other improvements:**

---

---

---

---

---



**Occupancy Status:**

- ☐ Verified – No occupants found on the Property.
- ☐ Illegal occupants: *Full details of location and names (add page with details)*

SIGNED AT: ..... ON THIS ..... DAY OF ..... 20 .....

.....  
SIGNATURE

.....  
SIGNATURE

.....  
FULL NAME OF SANRAL'S REPRESENTATIVE

.....  
FULL NAME OF CONTRACTOR'S  
REPRESENTATIVE

## APPENDIX C: PRE-TERMINATION INSPECTION

a. Verify if the status or condition of any of the items as listed during the Pre-occupation inspection have changed. If so, furnish full detail, costs to repair damages and/or replace lost keys, etc.

b. Results:

☐ Property inspected – No damages found

**OR**

☐ Damages found – The following must be repaired or replaced:

ITEM TO BE REPAIRED / REPLACED	REPAIR?	REPLACE?	COST

☐ Property inspected: Property vacant

**OR**

☐ Property inspected: Property not vacant:

Number of persons remaining on Property: .....

SIGNED AT: ..... ON THIS ..... DAY OF ..... 20 .....

.....  
SIGNATURE

.....  
SIGNATURE

.....  
FULL NAME OF SANRAL'S REPRESENTATIVE  
REPRESENTATIVE

.....  
FULL NAME OF CONTRACTOR'S