



STANDARD TERMS AND CONDITIONS OF CONTRACT FOR LEASE OF PREMISES

1. These standard terms and conditions of contract:-
 - are or form part of the special conditions of contract referred to in the General Conditions of Contracts; and
 - will form part of the lease agreement to be concluded between SANParks and the preferred bidder upon bid award.
2. Bidders are required to indicate their acceptance of these standard terms and conditions by initialling (through its authorised representative) each page of these standard terms and conditions.
3. If a bidder does not accept any term or condition contained in these standard terms and conditions, they must clearly indicate such non-acceptance by either:
 - marking up the relevant provisions in these standard terms and conditions; or
 - submitting, as part of their bid response, a separate document detailing their proposed amendments or comments.
4. Failure by a bidder to initial each page of these standard terms and conditions, and to indicate any objections either through mark-ups or a separate submission, shall be deemed by SANParks as the bidder's full acceptance of all terms and conditions set out in these standard terms and conditions.
5. The bidder acknowledges, by initialling these terms and conditions or submitting its comments thereto, that it:-
 - has fully read and understands the provisions contained in these standard terms and conditions;
 - has no expectation of award; and
 - does not deem the initialling of these standard terms and conditions as creating any binding contract between it and SANParks.
6. SANParks reserves the right to amend these standard terms and conditions at its sole discretion as it deems fit and appropriate.

Agreement

xxx

LEASE AGREEMENT



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	Lease Agreement	
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**COMMERCIAL LEASE AGREEMENT
SCHEDULE A (KEY DETAILS)**

xxx (A xxx company duly established in term of the Companies Act 71 of 2008 with registration number xxx) Hereinafter referred to as “ Landlord/Lessor ” with its main place of business:- Xxx Xxx xxx		SOUTH AFRICAN NATIONAL PARKS (a statutory body with juristic personality established in terms of section 5 of the now repealed National Parks Act, 1976 (Act No. 57 of 1976) and which continues to exist in terms of Section 54 of the National Environmental Management: Protected Areas, 2003 (Act No. 57 of 2003) as amended) Hereinafter referred to as “ Lessee/Tenant ” with its main place of business as:- 643 Leyds Street Muckleneuk Pretoria 0001			
LEASED PREMISES xxx		PROPERTY xxx			
DURATION This Lease shall endure for a period of xxx years from the Commencement Date		PURPOSE OF LEASE AGREEMENT The Tenant shall use the Leased Premises for general office purpose.			
				COMMENCEMENT DATE Xxx	
				EXPIRY DATE Xxx	
		BENEFICIAL OCCUPATION DATE Xxx			
MONTHLY RENTAL (inclusive of VAT) The monthly rental in respect of the Leased Premises shall be:- [xxx including VAT]		RATES AND TAXES [Xxx]			
		PARKING RENTAL [Xxx]			
		ESCALATION xx% escalation applied over xxx months period			
OPTION TO RENEW: Not Applicable	TOTAL RENTAL AMOUNT FOR THE DURATION OF THE LEASE AGREEMENT An amount not exceeding xxx (VAT inclusive)	DEPOSIT xxxx (including VAT) payable as agreed upon by both Parties			
ANNEXURES TO THIS LEASE AGREEMENT A- Tenant Installation Scope of Work B- xxxxx					
LANDLORD'S SIGNATURE (who warrants that s/he is duly authorised thereto) Name of signatory _____ Capacity _____ Date of signature _____ Place of signature _____		TENANT'S SIGNATURE (who warrants that s/he is duly authorised thereto) Name of signatory _____ Capacity _____ Date of signature _____ Place of signature _____			

TERMS AND CONDITIONS OF AGREEMENT

1 DEFINITIONS AND INTERPRETATION

- 1.1 In this Agreement clause headings are for convenience and will not be used in its interpretation.
- 1.2 Unless the context clearly indicates a contrary intention, an expression which denotes:
- 1.2.1 any gender includes the other genders;
- 1.2.2 a natural person includes a juristic person and vice versa; and
- 1.2.3 the singular includes the plural and vice versa.
- 1.3 Any reference to any legislation is to such legislation as at the Signature Date and as amended, re-enacted or substituted from time to time thereafter.
- 1.4 If any provision in a definition is a substantive provision conferring any right or imposing any obligation on a Party, then notwithstanding that it is only in the interpretation clause, effect will be given to it as if it were a substantive provision in the body of this Agreement.
- 1.5 Where any term is defined within the context of any particular clause in this Agreement, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, will bear the same meaning as ascribed to it for all purposes in terms of this Agreement, notwithstanding that that term has not been defined in a particular clause.
- 1.6 When any number of days is prescribed, such number will exclude the first and include the last day unless the last day falls on a day which is not a Business Day, in which case the last day will be the next succeeding day which is a Business Day.
- 1.7 Any reference to days (other than a reference to Business Days) or to months or years, will be a reference to calendar days, months or years, as the case may be.
- 1.8 The use of the word "including" followed by a specific example/s will not be construed as limiting the meaning of the general wording preceding it and the rule of interpretation to the contrary will not be applied in the interpretation of such general wording or such specific example/s.
- 1.9 The terms of this Agreement having been negotiated, the rule of interpretation to the effect that an agreement will be interpreted against the Party responsible for its preparation, will not be applied in the interpretation of this Agreement.
- 1.10 No provision of this Agreement constitutes a stipulation for the benefit of any Person who is not a Party to this Agreement.
- 1.11 The termination of this Agreement will not affect the provisions of this Agreement which operate after any such termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.
- 1.12 Unless otherwise expressly provided in this Agreement, no terms or conditions contained in any purchase order, correspondence, invoice or other document issued by the Tenant shall amend, vary the terms and conditions of this Agreement, and any such terms or conditions shall have no force or effect to the extent that they are inconsistent with this Agreement.
- 1.13 Unless the meaning is inconsistent with the context, the following expressions will bear the following meanings and related expressions will have corresponding meanings:
- 1.13.1 **"Agreement/ Agreement of Lease/ Lease Agreement or Lease"** means this written agreement together with all schedules, annexures and appendices hereto;
- 1.13.2 **"B-BBEE"** means broad-based black economic empowerment as defined in the B-BBEE Act;
- 1.13.3 **"B-BBEE Act"** means the Broad-Based Black Economic Empowerment, 2003 (Act No. 53 of 2003);
- 1.13.4 **"B-BBEE Codes"** means the codes of good practice on BEE published by the responsible/relevant department, pursuant to the B-BBEE Act;
- 1.13.5 **"B-BBEE Credentials"** mean the B-BBEE profile (including gender and race) of an entity that scores B-BBEE points in terms of the B-BBEE Codes;
- 1.13.6 **"B-BBEE Score"** mean the B-BBEE score of an entity calculated in accordance with the B-BBEE Act and the B-BBEE Codes as such score is reflected in a valid and up to date Verification Certificate (as defined in the B-BBEE Codes) issued by a Verification Agency (as defined in the B-BBEE Codes); or in the case of a Qualifying Small Enterprise (QSE) or Exempted Micro Enterprise (EME) the score which such QSE or EME is entitled to upon submission of a sworn affidavit to this effect;
- 1.13.7 **"Beneficial Occupation Date"** means the date on which the Lessee is granted access to the Premises by the Lessor to commence the Fit-Out Works and preparatory works on the basis that the Premises are in a condition reasonably suitable for the commencement of such works, including the availability of essential services such as water, electricity, and access for contractors and deliveries, but prior to the Commencement Date;
- 1.13.8 **"Beneficial Occupation Period"** means the period commencing on the **Beneficial Occupation Date**, being the date on which the Lessee is granted access to the Premises for the purpose of carrying out Fit-Out Works (but not for the conduct of its business), and ending on the earlier of the date on which the Lessee commences business operations from the Premises or Xxx (xxx) days from the Beneficial Occupation Date;
- 1.13.9 **"Bid"** means the invitation to the bid for rental of office space for a period of xxx years issued by the Tenant under bid number xxx;
- 1.13.10 **"Bid Documents"** means the Bid and the Lessor's Response;
- 1.13.11 **"Business Day"** means any day of the week, excluding Saturdays, Sundays and public holidays;
- 1.13.12 **"Commencement Date"** means the date as set out in the Schedule;
- 1.13.13 **"Common Area"** means an area not specifically set aside for the Tenant's exclusive use and are not in the opinion of the Landlord to be designated as rentable areas;
- 1.13.14 **"Confidential Information"** means any information relating to either of the Parties or this Agreement or to such Party's assets and affairs, including all communications (whether written, oral or in any other form) and all reports, statements, schedules and other data concerning any financial, technical, labour, marketing, administrative, accounting or other matter;
- 1.13.15 **"CPI"** means the average annual rate of change (expressed as percentage) in the consumer price index for metropolitan areas as published in the Government Gazette by Statistics South Africa, or such other index reflecting the official rate of inflation in the Republic of South Africa as may replace it, which annual change shall be determined by the last 12 (twelve) month average index immediately preceding each anniversary of the Lease Agreement;
- 1.13.16 **"Data"** means any data, including personal data as defined in the Electronic Communications and Transactions Act 25 of 2002, the Protection of Personal Information Act 4 of 2013 (POPI) and any other legislation related to the protection of data, supplied by one Party ("the Disclosing Party") to the other Party ("the Receiving Party") or stored, collected, collated, accessed or processed on behalf of the Disclosing Party by the Receiving Party, if applicable;
- 1.13.17 **"Data Subject"** means the person to whom or which the Personal Information relates;
- 1.13.18 **"Disclosing Party"** means the Party disclosing Confidential Information pursuant to clause 8 and 35;
- 1.13.19 **"Employees"** means employees, associates, approved contractors, sub-contractors and/or independent contractors of the Tenant employed solely for purposes of assisting the Tenant;
- 1.13.20 **"Existing Material"** means any work or materials developed by or for either Party independently and outside of the Agreement and provided during the course of the Agreement;
- 1.13.21 **"Expiry Date"** means the date of expiry of a period as specified in the Schedule;

- 1.13.22 **"Fit-Out Works"** means the installation and placement of the Tenant's operational, business and occupation-related furniture, fixtures, fittings, equipment, information technology, telecommunications, security, audiovisual and related systems within the Premises, excluding any construction, alteration, demolition, partitioning or building works constituting Tenant Installations;
- 1.13.23 **"Good Industry Practice"** means the exercise of the highest degree of skill, diligence, prudence, judgment, care and foresight and the use of practices, equipment and materials which would reasonably be expected from appropriately qualified, experienced and skilled leading professionals with experience in carrying out work of a similar scope, type, nature and complexity as to the Services;
- 1.13.24 **"General Conditions of Contract/GCC"** means the document containing the general conditions applicable to government bids, contracts and orders of contract;
- 1.13.25 **"Intellectual Property"** means all intellectual property of any nature or form, where ever situated (and whether registered or unregistered), including any copyright, name, trading style, mark, logo, trademark, brand, drawing, design, pattern, registered design, patent, invention, discovery, process, formula, know-how, computer software, customer lists, rights to domain names, goodwill or any application in respect of any of the foregoing;
- 1.13.26 **"Key Account Manager"** means the person designated by the Lessor as its representative who is appropriately qualified and skilled with sufficient seniority, who will act as its primary day-to-day representative for purposes of managing its obligations in terms of the Lease Agreement and to whom all communications from the Tenant will be addressed pursuant to clause 9;
- 1.13.27 **"Landlord/Lessor"** means the Person referred to in the Schedule as "Landlord" and includes its principals, directors, employees, licensees, contractors, agents, invitees and any other similar category of persons;
- 1.13.28 **"Lessor Response"** means the response by the Lessor to the Bid submitted on or before [xxx];
- 1.13.29 **"Law"** means the laws of the RSA and will be construed as any law (including common or customary law), or statute, constitution, decree, judgment, treaty, regulation, directive, by-law, order or any other measure of any government, local government, statutory or regulatory body or court;
- 1.13.30 **"Lease Period"** means the period for which this lease continues, including any period for which it is renewed;
- 1.13.31 **"Leased Premises/Premises"** means the building upon which the office is situated as described in the Schedule;
- 1.13.32 **"Losses"** means all losses, liabilities, costs, expenses, fines, penalties, damages, claims as well as related costs and expenses as determined in Law, unless specifically excluded in terms of this Agreement;
- 1.13.33 **"Monthly Rental"** means the aggregate of the Tenant's monthly Rates and Taxes (to the extent applicable) the monthly parking rental, (to the extent applicable), basic monthly operating costs (to the extent applicable), the monthly maintenance charges (to the extent applicable) and the basic monthly rental as set out in the Schedule in respect of the Premises and which Monthly Rental is subject to escalations only as specifically provided in the Agreement at the escalation rate provided in the Schedule;
- 1.13.34 **"Parties"** mean the Landlord and the Tenant collectively and **"Party"** will mean any one of them as the context may indicate;
- 1.13.35 **"Person"** means any person, firm, company, corporation, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the foregoing;
- 1.13.36 **"Property"** means the property upon which the Leased Premises is situated;
- 1.13.37 **"Purchase Order"** means an official purchase order with a purchase reference number issued by SANParks to the Service Provider for purposes of ordering the Services;
- 1.13.38 **"Rates and Taxes"** means those charges levied by any competent authority or body upon and in respect of the Premises and/or other charges relating to the value of the Premises and/or the improvements thereon, at any time during the Lease Period including any increases in those charges, which include inter alia, sanitary, water, sewerage and all refuse removal services rendered to and for the benefit of the Leased Premises and all occupants of the Leased Premises;
- 1.13.39 **"Schedule"** means the schedule to which this Lease Agreement is attached providing for the key details of this Lease;
- 1.13.40 **"Service Levels"** means, if applicable, the levels and standards of performance against which the Services will be measured from time to time as provided in this Lease;
- 1.13.41 **"Services"** the provision of office space by the Landlord to the Tenant in exchange for rental as described in the Schedule;
- 1.13.42 **"Signature Date"** means the date of signature of this Agreement by the last of its signatories;
- 1.13.43 **"Specifications"** means the criteria and requirements that the Premises is expected to comply with;
- 1.13.44 **"Tenant/Lessee"** means the South African National Parks, a public entity established in terms of Section 5 of the National Parks Act, 1976 (Act No. 57 of 1976) and continuing to exist in terms of section 54 of the National Environmental Management Protected Areas Act, 2003 (Act 57 of 2003), as amended;
- 1.13.45 **"Tenant Installation Period"** means a period of Xxx (months) from Signature Date until the date before the Beneficial Occupation Date within which the Landlord must carry out and complete the Tenant Installations;
- 1.13.46 **"Tenant Installation"** means the improvements, modifications, and alterations to be carried out by the Landlord at the Premises;
- 1.13.47 **"Tenant Proportionate Share"** means the share for which the Lessee is liable to contribute to certain costs, expenses and other charges, which share is determined by taking the floor area actually leased and occupies by the Lessee in ratio to the total floor area that is leased and occupied from time to time;
- 1.13.48 **"Terms and Conditions of Agreement"** means these terms and conditions of this Agreement; and
- 1.13.49 **"VAT"** means Value-Added Tax as levied in terms of the VAT Act 89 of 1991.
- 2 **RECORDAL**
- 2.1 The Tenant and the Landlord wish to formalise their Agreement following the appointment of the Landlord to let their Premises.
- 2.2 The Landlord has accepted to let their Premises to the Tenant and therefore the Parties agree to bind themselves to the terms and conditions contained in this Agreement.
- 3 **LEASE AGREEMENT**
- 3.1 The Landlord hereby lets to the Tenant, who hereby hires from the Landlord, the Leased Premises in accordance with the terms and conditions of this Lease Agreement.
- 3.2 The Lessee acknowledges itself to be fully acquainted with the locality and full details of the Leased Premises.
- 3.3 The Lessor warrants that the Leased Premises are fit for the purpose for which they are let and that the Leased Premises is or will be compliant with labour legislation, local municipality by-laws, authority, fire, building, SANAS, OHS regulations and provisions and any other relevant legal prescripts on or before the Commencement Date.
- 4 **CONFLICT**
- 4.1 In the event of a conflict between the documents comprising this Agreement, such conflict will be resolved in accordance with the order of precedence (in descending order of priority) as follows (i) the Bid (ii) Terms and Conditions of Agreement; (iii) Annexures, (iv) Schedules, (v) Lessor's Response and (vi) the GCC.
- 4.2 Where annexures include provisions in respect of which the Terms and Conditions of Agreement are silent, then the provisions contained in such annexure will apply.
- 5 **DURATION**
- 5.1 The duration of this Agreement will commence on the Commencement Date and terminate on the Expiry Date, as set out in the Schedule, unless terminated earlier in terms of the Agreement.

6 NATURE OF RELATIONSHIP

- 6.1 The Landlord will deliver the Services to the Tenant as an independent contractor and nothing in this Agreement, and/or the Purchase Order will be construed as creating any relationship of agency, employment, partnership or joint venture between the Tenant and the Landlord.
- 6.2 The Landlord will accordingly not be entitled to hold itself out as being an agent or partner of the Tenant, or as being in a joint venture with the Tenant; to make any false or misleading representations concerning the Landlord's appointment as independent contractor of the Tenant, or to do anything which might bind the Tenant in any manner whatsoever.

7 GOOD FAITH

- 7.1 The Parties undertake at all times to do all such things, to perform all such acts and to take all such steps and to procure the doing of all such things, the performance of all such actions and the taking of all such steps as may be open to them and necessary for, or incidental to, the putting into effect or maintenance of the terms, conditions and import of this Agreement.
- 7.2 The Parties undertake to act towards one another in good faith in all respects relating to this Agreement.

8 CONFIDENTIALITY

- 8.1 Either Party will not, at any time after the Signature Date, notwithstanding any termination or cancellation of this Agreement, directly or indirectly disclose, or directly or indirectly use, whether for its own benefit or that of any other person any Confidential Information.
- 8.2 Either Party may disclose the Confidential Information if and to the extent:
- 8.2.1 disclosed to any expert appointed in terms of this Agreement;
 - 8.2.2 the prior written consent for such disclosure has been obtained from the other Party;
 - 8.2.3 to which disclosure is required by Law;
 - 8.2.4 to which disclosure is required by the rules of any stock exchange or regulatory or government body to which either Party is subject, wherever situated, whether or not the requirement for information has the force of law in which event the Disclosing Party will, unless prohibited from doing so, obtain the other Party's consent, not to be withheld unreasonably, for the manner of such disclosure; provided that the Disclosing Party will not be obliged to obtain the consent of the other Party if such disclosure is required before the approval can reasonably be obtained, but the Disclosing Party will in these circumstances promptly notify the other Party of the full details of such disclosure, including the reasons why time did not permit such consent to be obtained;
 - 8.2.5 the information has come into the public domain through no fault of that Party;
 - 8.2.6 to which the Confidential Information corresponds in substance to information disclosed and/or made available by a third party to the Disclosing Party at any time without any obligation not to disclose same, unless the Disclosing Party knows that the third party from whom it received that information is prohibited from transmitting the information to the Disclosing Party by a contractual, legal or fiduciary obligation to any other party;
 - 8.2.7 required to vest the full benefit of this Agreement in either of the Parties; and
 - 8.2.8 that it is information which was already in the possession of the Disclosing Party prior to its disclosure by the other Party to the Disclosing Party or is independently developed by the Disclosing Party without reference to the Confidential Information.
- 8.3 Any information so disclosed shall be disclosed only after notification to the other Party.
- 8.4 Notwithstanding this clause, the Tenant will be entitled to disclose and use any Confidential Information for the purposes of conducting its business.
- 8.5 Upon termination or expiry of this Agreement, the Parties will deliver to each other or, at each Party's option, destroy all originals and copies of Confidential Information in their

possession.

- 8.6 Without prejudice to any other rights or remedies which either Party may have, each Party acknowledges and agrees that damages are not an adequate remedy for any breach by either Party of the provisions of this clause and either Party shall accordingly be entitled to the remedies of interdict, specific performance and other equitable relief for any threatened or actual breach of any such provision of this clause by the other Party or by any other relevant person.
- 8.7 Each Party shall impose the same confidentiality obligations set out in this clause upon its employees, sub-contractors, vendors and other third parties who are in association with it and who may have access to any Confidential Information.
- 8.8 Neither Party shall make any public announcement (save for any announcement required under applicable law or the rules of any securities exchange or regulatory body to which such Party or its affiliates are subject) regarding the subject matter of this Agreement unless such announcement has been approved by the other Party, provided that such approval shall not be unreasonably withheld or delayed.

9 KEY ACCOUNT MANAGER

- 9.1 The Landlord will appoint a Key Account Manager as its representative who will be responsible for the monitoring and supervision of the Tenant's obligations in terms of this Lease Agreement and whose details are set out in the Schedule.
- 9.2 The Key Account Manager will co-operate fully with the Tenant's representative in relation to this Lease Agreement and will report to the Tenant on the basis and in the format to be determined by the Tenant.
- 9.3 The Landlord will appoint a substitute Key Account Manager and promptly notify the Tenant accordingly whenever such Key Account Manager takes leave or is not available for an extended period of time during any normal working day.
- 9.4 The Key Account Manager will have no authority to amend the Agreement and may only exercise the authority attributable to the Key Account Manager as set out or implied in this Agreement.

10 SCOPE OF SERVICE

- 10.1 Prior to the rendering of the Services the Tenant may issue the Landlord with a Purchase Order, the purpose of which shall solely be to order the Services.
- 10.2 The Landlord will render the Services such that the Services will in all material respects conform to the following: -
- 10.2.1 Schedule;
 - 10.2.2 Annexures;
 - 10.2.3 Services Levels;
 - 10.2.4 the provisions of this Agreement; and
 - 10.2.5 Good Industry Practices.

11 CONDITION OF LEASED PREMISES

- 11.1 The Lessee shall, within 14 (fourteen) Business Days after Beneficial Occupation Date, notify the Lessor in writing of any material defects in the base building infrastructure (including keys, locks, windows or any structural or mechanical installations forming part of the Lessor's obligations, giving full particulars. Failing such notice, or after rectification of notified defects by the Lessor, the Lessee shall be deemed to have accepted that the Leased Premises have been delivered in good order and condition, and suitable for the Lessee's intended use.
- 11.2 Upon receipt of any such notification or defect inspection schedule, the Lessor shall remedy the defect or omission within the agreed upon timeframes. If the Lessor fails to remedy the defect within the agreed upon timeframes, the Lessee shall be entitled to carry out the necessary work and recover the reasonable cost of doing so from the Lessor provided such work relates to the Lessor's obligations and not the Lessee's obligations.

12 PURPOSE OF LEASED PREMISES

- 12.1 The Tenant shall be entitled to use the Leased Premises from the Commencement Date, solely for the purposes set out in the Schedule hereto and for no other purpose whatsoever.
- 12.2 The Tenant shall comply with the following conditions to ensure the proper use and maintenance of the Premises:

- 12.2.1 not exceed the floor loading capacity of the Premises, or any lifts, hoists, or structural components of the Property;
- 12.2.2 not store or permit the storage of any goods, equipment, or waste in common areas, corridors, parking areas, or any part of the Property other than within the designated Premises, unless expressly authorised in writing by the Lessor; and
- 12.2.3 conduct its business in a lawful, professional, and orderly manner and shall keep the Premises continuously open for the purpose identified in the Schedule.
- 12.3 The Tenant shall not engage in any activity that may cause nuisance, disturbance, or inconvenience to the Landlord, other tenants, or occupants of the Property, including but not limited to excessive noise, strong odours, or hazardous material handling.
- 13 TENANT INSTALLATION**
- 13.1 The Parties record that the Tenant Installation shall be undertaken and completed during the Tenant Installation Period by the Landlord, with the Landlord assuming all risk and responsibility for the execution and completion of the Tenant Installation.
- 13.2 The works shall be effected in accordance with the scope of works agreed to in writing by the Parties and any deviation therefrom shall require the prior written approval of both Parties.
- 13.3 The Tenant acknowledges that all Tenant Installation works undertaken by the Landlord are carried out for the benefit and requirements of the Tenant. To the extent that the Tenant Installation Costs are borne by the Tenant, ownership of the Tenant Installation shall vest in the Tenant.
- 13.4 Sign-Off of Tenant Installations
- 13.4.1 Upon completion of the Tenant Installations, the Landlord and Tenant shall conduct a joint inspection of the Premises. Any defects or incomplete items shall be recorded on a snag list and rectified by the Landlord. Once the Tenant Installations have been completed substantially in accordance with the approved specifications, the Parties shall sign a practical completion certificate confirming completion and acceptance of the Tenant Installations, following which the Beneficial Occupation Period shall commence.
- 13.4.2 The practical completion certificate shall constitute confirmation that the Tenant Installations have been completed and the Premises has been accepted by the Tenant for occupation, without prejudice to the obligation by the Landlord to remedy latent defects and any outstanding snag items during the defects liability period.
- 13.4.3 Following completion of all snag items, provision of all statutory approvals, compliance certificates, warranties, operating manuals and as-built drawings required under this Lease, the Parties shall conduct a final inspection of the Premises.
- 13.4.4 If the Tenant Installations are found to have been completed in accordance with the approved plans and specifications and all snag items have been rectified, the Parties shall sign a final completion certificate.
- 13.4.5 The final completion certificate shall constitute conclusive evidence that the Tenant Installations have been fully completed and accepted by the Tenant, without prejudice to any rights the Tenant may have in respect of latent defects, breaches of warranty or obligations that survive completion.
- 13.5 During the Tenant Installation Period and until the date of practical completion, the Landlord shall be responsible for, and shall indemnify and hold harmless the Tenant from and against, any and all claims, losses, damages, liabilities, costs and expenses arising from:
- 13.5.1 injury to or death of any person employed or engaged by the Landlord, its contractors, subcontractors, consultants, agents or invitees;
- 13.5.2 loss of or damage to property belonging to the Landlord or its contractors, subcontractors, consultants, agents or invitees; and
- 13.5.3 any negligent act, omission, breach of this Lease or wilful misconduct by the Landlord or its contractors, subcontractors, consultants, agents or invitees,
- except to the extent that such claim, loss, damage, liability, cost or expense is caused by the negligence or wilful misconduct of the Tenant.
- 13.6 The Landlord shall indemnify the Tenant against any loss, damage, claim, liability, cost or expense arising from the Tenant Installations or from the acts or omissions of the Landlord's employees, contractors, subcontractors, consultants or agents during the Tenant Installation Period.
- 13.7 Upon expiry or earlier termination of this Agreement, the Tenant shall be entitled to remove the Tenant Installations at its own cost, provided that such removal does not cause material damage to the Premises.
- 14 OCCUPATION OF THE PREMISES**
- 14.1 The Tenant shall be granted full access to the Premises with all necessary utilities and services operational, from the Beneficial Occupation Date for the Beneficial Occupation Period. For clarity, the Beneficial Occupation Date shall not trigger the obligation to pay Monthly Rental, Rates and Taxes and water and electricity unless otherwise agreed in writing by the Parties.
- 14.2 The Lessee shall not conduct its business from the Premises during the Beneficial Occupation Period and shall only conduct its business from the Commencement Date.
- 14.3 Should the Landlord fail to give the Tenant beneficial occupation on the Beneficial Occupation Date, the Tenant shall issue the Landlord with a written notice requiring the Landlord to grant the Tenant, beneficial occupation within 10 (ten) Business days of the notice, failing which the Tenant may, at its sole discretion, cancel this Agreement.
- 14.4 The Tenant shall indemnify the Landlord against any loss, damage, claim, liability, cost or expense arising from the Tenant's Fit-Out Works or from the acts or omissions of the Tenant's employees, contractors, subcontractors, consultants, suppliers or invitees during the Beneficial Occupation Period.
- 15 ASSIGNMENT AND SUBLETTING**
- 15.1 The Lessee shall not sub-let the Leased Premises or any part thereof nor assign, cede or encumber any of its rights herein, nor permit any other Person to occupy the Leased Premises or any portion thereof, or give up possession of the Leased Premises without the prior written consent of the Lessor.
- 15.2 The Lessor shall, not assign, delegate or cede any of its rights or transfer its obligations in terms of this Lease without the prior written consent of the Lessee. Should the Lessee consent to the Lessor selling or otherwise disposing of the Premises or ceding or assigning its rights or delegating its obligations in respect thereof to a third party/ies at any time during the currency of this Lease thereof, the Lessee undertakes to hold itself bound by the terms of this Lease to such third party as the new Lessor, and this Lease shall continue unchanged and of full force and effect as fully as though the Lessor had remained unchanged.
- 15.3 Therefore, the Lessee shall have the right to forthwith cancel this Lease by reason of the Lessor failing to comply with the obligations set out in clause 15.2 above.
- 15.4 The Landlord shall ensure that any sale of the Leased Premises or sale or lease of the Property is made subject to the terms of this Lease, and the Lessor shall ensure that the purchaser or transferee acknowledges and accepts the Lessee's leasehold rights in writing. The Lessee shall have no obligation to enter into a new lease or to renegotiate any existing terms as a result of such disposal.
- 16 PAYMENT OF MONTHLY RENTAL**
- 16.1 The Tenant shall, from the Commencement Date, pay the Monthly Rental to the Lessor in the period set out in the Schedule. The Monthly Rental will be free of exchange and without deduction or set off, to the Landlord's bank account as reflected in the central supplier database.
- 16.2 With effect from the anniversary of the Commencement Date of each subsequent year during the subsistence of this Lease, the basic Monthly Rental shall escalate as set out in the Schedule hereto.
- 16.3 The Tenant must, upon payment of the Monthly Rental, deliver to the Landlord by e-mail proof of such payment.
- 16.4 The Tenant shall not be liable for any interest on late payments

of the Monthly Rental or any other amount payable by the Tenant in terms of this Agreement.

- 16.5 Should the standard VAT rate change, the Tenant agrees to pay the new VAT rate from the date that such rate legally applies.

17 SECURITY DEPOSIT

- 17.1 Within Xxx (xxx) Business Days after Signature Date the Tenant shall pay to the Landlord a security deposit equal to [Xxx] (xxx) months' Monthly Rental ("the Deposit").
- 17.2 The Deposit shall serve as security for the due and punctual performance by the Tenant of all its obligations under this Lease and may be applied by the Landlord towards any amount owing by the Tenant in terms of this Lease, including unpaid rental, operating costs, utility charges, damages, reinstatement costs or any other amount due and payable by the Tenant.
- 17.3 Should the Landlord apply any portion of the Deposit, the Tenant shall, within ten (10) Business Days of written demand, reinstate the Deposit to its original amount.
- 17.4 The Deposit shall not relieve the Tenant of its obligation to make payment of any amount due under this Lease when due and payable.
- 17.5 The Landlord shall hold the Deposit in an interest-bearing account with a registered financial institution and any interest accrued thereon shall accrue for the benefit of the Tenant, subject to any deductions lawfully made by the Landlord in terms of this Lease.
- 17.6 Within thirty (30) Business Days after termination or expiry of this Lease and vacation of the Premises by the Tenant, the Landlord shall refund the Deposit, together with any accrued interest, less any amounts lawfully deducted in terms of this Lease.
- 17.7 Before making any deduction from the Deposit, the Landlord shall provide the Tenant with reasonable written particulars of the amounts claimed and supporting documentation where reasonably available.
- 17.8 The Landlord's rights in respect of the Deposit shall be without prejudice to any other rights or remedies available to the Landlord under this Lease or at law.

18 RATES AND TAXES

- 18.1 The Tenant shall pay on the due date the charges levied by the Landlord or any competent authority for Rates and Taxes, in the amount set out in the Schedule and into the bank account details provided by the Landlord from time to time.
- 18.2 If there are other tenants in the Property, the Tenant shall pay for the Rates and Taxes on the method of the Tenant Proportionate Share.
- 18.3 In the event that the Landlord pays the Rates and Taxes on behalf of the Tenant, the Tenant shall reimburse the Landlord for the costs of such Rates and Taxes within 30 (thirty) days after receiving an account from the Landlord showing the amounts outstanding.

19 ELECTRICITY AND WATER

- 19.1 The Tenant shall pay to the Landlord the Tenant's costs in respect of electricity and water used in respect of the relevant period, together with VAT thereon.
- 19.2 Should the Leased Premises be served by specific sub-meters in respect of electricity and water, then the Tenant shall pay to the Landlord or to the local authority or to the supplier thereof as the Landlord may direct in writing, the cost of all electricity and water used by the Tenant in the Leased Premises as measured by such sub-meters, together with all related deposits, service charges, other costs and VAT thereon levied by the local authority or supplier thereof.
- 19.3 Should the Leased Premises be served by a meter or sub-meter which also serves other areas within the Property, then the Tenant shall upon demand pay to the Landlord the Tenant's share of all electricity and water as measured by such meter or sub-meter expressed as a percentage which the total rentable area of the Leased Premises bears to the total area serviced by such meter or sub-meter, together with the VAT thereon levied by the local authority or supplier thereof.

20 INTERRUPTION OF USE

The Tenant shall have no claim whatsoever, whether for damages or remission of rental or cancellation of this Lease, against the Lessor (except where interruptions are as a result of the Landlord's action or omissions), nor be entitled to withhold or defer payment of rent by reason of any suspension or interruption in the supply of water, gas or electricity (howsoever such suspension or interruption may arise) or by reason of amenities in or on the Leased Premises being out of use or out of order for any reasons attributable to the local authority or the supplier thereof.

21 INSURANCE

- 21.1 The Tenant shall not do or omit to do anything or allow anything to be done which may constitute a contravention of the terms of or increase the risk of any insurance policy held from time to time by the Landlord in respect of the Property and/or Premises or which may increase the insurance premiums of the aforesaid policy or which may render the insurance void or voidable. Without prejudice to any other rights of action or remedy the Lessor might have, if any insurance premiums payable by the Landlord are increased due to a contravention of this clause by the Tenant, the Tenant shall be liable for and shall on presentation of invoice pay to the Landlord the amount of such increase.
- 21.2 For the purposes of the above provisions, the Lessor hereby warrants that the Property and/or Premises is at all material times insured against:
- 21.2.1 risks;
 - 21.2.2 on terms;
 - 21.2.3 for amounts; and at
 - 21.2.4 such premiums,
- that are normal for similar buildings in similar locations.
- 21.3 The Tenant shall, from the Commencement Date, take out and maintain insurance, reasonably acceptable to the Landlord, in respect of the items within the Leased Premises, including all personal goods of the Tenant, all interior alterations, fixtures and finishes and other goods and property contained in the Leased Premises and shall bear all risk in the Leased Premises, including risk with respect to any interior alterations, fixtures, fittings and finishes.
- 21.4 The Landlord shall, for the Lease Period, be responsible for insuring the Premises and shall have adequate public liability insurance in respect of any claims arising in terms of this Agreement.
- ## 22 TENANT'S OBLIGATIONS
- The Lessee shall:-
- 22.1 prevent any blockage of any sewerage or water pipes or drains in or used in connection with the Leased Premises;
 - 22.2 remove at its cost any obstruction or blockage referred to in 22.1 above which occurs in the Leased Premises;
 - 22.3 during the operation of this Lease, care for and maintain the interior of the Leased Premises, including but not limited to all the keys, locks, doors, windows, sewerage pans and pipes, electrical installations, geysers, water taps and appurtenances therein in good order and condition and at the termination thereof return and redeliver the same to the Lessor in like good order and condition, fair wear and tear excepted, and the Tenant shall make good and repair at its own cost any damage or breakages or in the alternative, reimburse the Lessor for the cost of replacing, repairing or making good any broken, damaged or missing items;
 - 22.4 keep the Leased Premises, including the interior and exterior of all windows and all its contents liveable, clean, tidy and in good order, condition and repair;
 - 22.5 not use or allow the Premises to be used, in whole or part, for any purpose other than that set out in the Schedule;
 - 22.6 take all reasonable measures to protect the Premises and all its parts (including all fixtures, fittings, accessories, appliances and keys) from abuse, damage, destruction, and theft;
 - 22.7 not place or leave any article or other thing in or about any passage, pathway, parking garage, or other Common Areas of the Property to cause a nuisance or obstruction,
 - 22.8 not bring anything into the Premises or the Property which,

- because of its weight or other characteristics, might cause damage to the Property or the Premises;
- 22.9 not contravene any of the conditions of the title of the Property or any of the laws, rules or regulations affecting owners, tenants or occupiers of the Property;
- 22.10 not cause or commit any nuisance on the Property or cause any annoyance or discomfort to other tenants or occupiers of the Property;
- 22.11 not leave refuse or allow it to build up in or about the Premises except in the refuse bins provided;
- 22.12 not to interfere with the electrical, plumbing, or gas installations or systems serving the Premises or the Property, except if it is necessary to enable the Lessee to carry out its obligations of maintenance and repair in terms of this Lease;
- 22.13 not display anything in any visible place in or about the Premises which causes the Premises or the Property to appear unsightly; and
- 22.14 not paint, affix or attach to the Premises or any part of the Property any sign, notice, awning or canopy without the prior written consent of the Landlord's architect, which consents shall not be unreasonably withheld.
- 23 MAINTENANCE**
- 23.1 The Lessor shall be liable for maintenance as follows:-
- 23.1.1 The Lessor shall, at its own cost, be responsible for all maintenance, repair, and replacement necessary in or to the Premises and the Property (including all systems, infrastructure, and structural elements), except where such maintenance is the clear responsibility of the Lessee under this Agreement. This includes, without limitation, the structure of the building, roofing, plumbing, electrical systems, HVAC, lifts, exterior walls, foundations, grounds, gardens and all common areas.
- 23.1.2 The Lessor is responsible for the provision and maintenance of all security to the Premises. The Lessor therefore indemnifies the Tenant for any Losses, damages or claims suffered by the Tenant as a result of the Lessor's failure to comply with this clause.
- 23.1.3 The Lessor shall in respect of features (such as gardens, paving, fountains) and accesses which are common to the Property or the common areas, be responsible for the maintenance, repairs and replacement costs of such common areas.
- 23.1.4 The Lessor shall, at its own cost, be responsible for the maintenance, repair, and replacement of the roofs and external walls of the Premises, including structural components and water and power back up at their Premises. These obligations shall be performed within a reasonable timeframe once the Lessor has been made aware of the need for such works by the Lessee or otherwise.
- 23.1.5 The Lessor shall undertake structural repairs with minimal disruption to the Lessee's use of the Premises and shall provide prior notice wherever feasible.
- 23.1.6 The Lessor is not in breach of this clause 23 if those obligations are not or cannot be fulfilled because of any Force Majeure (act of God or nature) or the acts or omissions of others over whom the Lessor has no direct authority or control. The Lessor shall, however, use reasonable commercial efforts to mitigate the impact of such events and ensure the timely restoration of the affected facilities or services.
- 23.2 The Lessee shall be responsible for maintenance as follows:-
- 23.2.1 The Lessee shall, at its own cost, maintain the interiors of the Premises in a reasonably good order and condition during the Lease Period, subject to reasonable wear and tear. The Lessee shall only be responsible for repairing any damage to the Premises (interior or exterior) that is directly caused by the Lessee's negligent acts or omissions.
- 23.2.2 The Lessee shall not be liable for any damage resulting from criminal activity, natural disasters, or acts of third parties over whom the Lessee has no control.
- 23.2.3 The Lessee shall be responsible, at its cost, for the replacement of internal light bulbs (electric, fluorescent, and incandescent) within the Premises. The Lessor shall remain responsible for lighting in all common areas and any specialized or fixed lighting systems forming part of the Lessor's equipment.
- 23.2.4 The Lessee shall promptly repair or make good all damage to any common area of the Premises, provided that such damage is caused solely by the Lessee, or its invitees negligent acts or omissions.
- 23.2.5 The Lessee shall, at its own cost, maintain and clean the interior and immediately adjacent exterior portions of the Leased Premises, including windows and doors, on a regular basis. This includes cleaning of glass panes, louvers, window frames, and any food preparation equipment or ventilation systems installed by or used exclusively by the Lessee (e.g. cooker hoods, grease traps).
- 23.2.6 The Lessee shall be responsible for plumbing, electrical and any other damage caused by the Lessee's alterations, at its expense.
- 24 ALTERATIONS BY TENANT**
- 24.1 The Tenant may not effect any improvements, alterations or additions to the Leased Premises including, but not limited to, the air-conditioning units or the relocation thereof, without the prior written consent of the Landlord.
- 24.2 If any alterations or additions are made by the Tenant, it shall be obliged, at the expiry or termination of this Agreement, unless the Landlord otherwise agrees in writing (in which case any such alterations or improvements shall become the Landlord's property and the Lessor shall compensate the Tenant the market value of such alterations), to remove and reinstate the leased Premises to the condition in which they were prior to the alterations or additions being effected.
- 24.3 Subject to clause 24.2, the Tenant shall in no circumstances have any claim for compensation for any such alterations or additions whether or not they are removed or the leased Premises reinstated.
- 24.4 The Lessee shall not contravene or permit the contravention of any law, by-law, regulation, town planning scheme or condition of title, relating to or affecting the Premises with any alteration or addition to the Premises: the approval by the Lessor of any alteration or addition shall not be construed as a condonation by the Lessor of any contravention of any law (as above), and the Lessee shall remain liable to comply with same.
- 24.5 Nothing in this Agreement, including this clause 24, shall be construed as obliging the Lessee to undertake any leasehold improvements or upgrades to the Premises, or Property beyond what is otherwise required for compliance with applicable law or to maintain the Premises in good order as set out elsewhere in this Lease.
- 25 HEALTH AND SAFETY**
- 25.1 In carrying out the Services, the Landlord shall at all times adhere to and undertakes that it will comply with the provisions of the Occupational Health and Safety Act, No. 85 of 1993, as amended from time to time (OHSA).
- 25.2 In the event of the Tenant requiring the Landlord to implement health and safety processes or procedures, or compliance or certification at a standard higher than that required in terms of OHSA, as amended from time to time, the Tenant shall bear all the reasonable costs incurred by the Landlord in order to achieve such certification or compliance, including, but not limited to, the costs of any relevant training of the Landlord employees, certification or equipment.
- 25.3 In the event that the Landlord fails to comply with the provisions of OHSA, as amended from time to time, the Tenant shall immediately inform the Landlord and request it to remedy the non-compliance forthwith, and in event by no later than 3 (three) months of being so notified. Should Landlord fail to remedy the non-compliance within the period specified in this clause 25.3, the Tenant shall be entitled to suspend its obligations in terms of this Agreement until such non-compliance has been remedied by the Landlord.
- 26 COMPLIANCE WITH LAWS**
- 26.1 The Tenant shall not contravene or permit the contravention of any of the conditions of title under which the Premises and/or the Property is held by the Landlord.

26.2 In event that any fine or penalty is imposed upon the Landlord as a result of the Tenant's contravention of any statutory regulation, the Landlord shall be entitled to recover from the Tenant such fine or penalty, together with any damages arising from such contravention, provided that the Landlord furnishes the Tenant with proof of the fine or penalty prior to such recovery.

27 AUDITS

27.1 The Landlord shall for the duration of this Agreement and for a period of 5 (five) years after the expiry or termination of this Agreement maintain complete and accurate records of and supporting documentation for the amounts invoiced to the Tenant and payments made by Tenant. The Landlord must, maintain a complete audit trail, sufficient to permit a complete audit thereof.

27.2 The Tenant acting through its duly authorised representatives, including without any limitation, its external auditors or legal advisors, shall at its own costs and on reasonable notice to the Landlord, be entitled to inspect during business hours and at the premises of the Landlord, all books, records, and supporting documentation related to this Lease and to make copies of and take extracts from such books, records, and supporting documentation for audit purposes.

28 ACCESS

28.1 The Landlord is entitled to reasonable access to the Leased Premises for inspection, maintenance and repair. In the case of an emergency, the Landlord shall be entitled to immediate access to the Leased Premises without the Tenant's consent.

28.2 The Landlord shall be entitled at any and all times during the Lease Period to have access to the Leased Premises and/or Property as are required by any competent authority and by the Landlord itself and for any such purpose to erect hoardings and/or any other building equipment in, at, near or in front of the Leased Premises in order to effect such repairs, alterations, improvements and or additions.

28.3 If applicable and depending on the Leased Premises, the Lessee shall, at its reasonable cost install, operate and maintain a secure electronic access control system for the Leased Premises for the duration of this Agreement and such system will be subject to the Lessor's reasonable approval, not to be unreasonably withheld or delayed.

28.4 The entire access control system, including all hardware, software, access cards, biometric devices, keypads or other entry mechanisms, shall remain the property of the Lessee throughout the term of this Agreement.

28.5 Upon expiry or earlier termination of this Agreement, the Lessee shall be entitled to remove the system installed by it provided that such removal is carried out at the Lessee's cost and without causing material damage to the Premises. Alternatively, at the Lessor's election, the Lessee may leave the security system in place, in which event ownership of the security system shall be transferred to the Lessor. In the event the Lessor accepts such transfer, the Lessor shall reimburse the Lessee for an amount agreed upon in writing between the Parties and payment shall be made to the Lessee within thirty (30) days of the date of transfer.

29 RULES

29.1 The Lessee must at all material times comply with the reasonable rules and regulations as are laid down in writing by or on behalf of the Lessor for tenants and other occupiers of the Premises and their invitees, including rules and regulations in connection with:

- 29.1.1 the security of the Premises/Property and the protection of persons and property thereon, including in particular (again without generality being restricted) any rules for the control and identification of persons and vehicles;
- 29.1.2 entering the Premises/Property or any parts thereof;
- 29.1.3 the driving and parking of vehicles on or about the Premises/Property; and
- 29.1.4 the utilisation of common amenities and facilities on the Premises/Property.

29.2 Clause 29.1 must not be interpreted as implying that the Lessor assumes any liability which it would not otherwise have had for the subject matter of any such rule or regulation.

30 PARKING

30.1 The Lessee shall have the right to park its vehicles on the allocated number of parking bays as specified in the Schedule subject to the rules applicable for such parking.

30.2 All the terms of this Agreement relating to the Premises themselves will apply *mutatis mutandis* (in the same way with necessary changes) to the parking area, bay or garage where the Tenant parks its vehicles, except those which are obviously inapplicable.

30.3 The parking arrangement in terms of clause 30.2 shall end simultaneously with this Lease in so far as it relates to the Premises or a unit forming part of the Premises.

30.4 All loading, delivery and unloading of goods, merchandise, supplies and fixtures to and from the Premises shall be done only at such times in the areas and through the entrances designated for that purpose by the Lessor and shall be subject to such rules and regulations as in the discretion of the Lessor are necessary for the proper administration of the Premises. Any changes to such areas, access points or time restrictions shall require at least 14 (fourteen) days' prior written notice to the Lessee, and must be reasonable, non-discriminatory, and not materially adverse to the Lessee's business operations.

31 INTELLECTUAL PROPERTY

31.1 Each Party will own its Existing Material.

31.2 Any Intellectual Property developed by the Landlord as a result of this Agreement shall vest in the Tenant. Each Party grants to the other a revocable, non-transferable and non-exclusive licence in respect of any Intellectual Property that may be needed to by the other Party to fulfil their respective obligations in terms of this Agreement.

31.3 Neither Party will obtain any rights in the Existing Material or Intellectual Property of the other Party that was not created in performing the Agreement or existed before the commencement of the Agreement, unless a licence is granted.

31.4 The Parties' respective logo and sub-logos, marks, and trade names are the Parties' respective trademarks and no Person may use them without written permission. Any other trademark or trade name that may appear on the Parties' marketing material is the property of its respective owner.

31.5 All violations of proprietary rights will be prosecuted to the fullest extent permissible under applicable Law.

32 INTELLECTUAL PROPERTY INFRINGEMENT

32.1 The Landlord warrants that no aspect of the Services will infringe any patent, design, copyright, trade secret or other proprietary right of any third party. The Landlord must defend the Tenant against any claims made by any third party that the Services infringe its patent, design, copyright, or trademark and must pay the amount of any resulting adverse final judgment (or settlement, which settlement the Parties will negotiate with the third party). The Landlord must reimburse the Tenant with all costs incurred by the Tenant in connection with assisting the Landlord with the defence of the action immediately on demand (including attorney's fees on an attorney and client basis). The Tenant will notify the Landlord of the claim in writing and the Tenant will have sole control over the defence and/or settlement.

32.2 If any third party succeeds in its claim for the infringement of any Intellectual Property rights, the Landlord must within 30 (thirty) calendar days of the infringing item having been found to so infringe:-

- 32.2.1 obtain for the Tenant the right to continue using the infringing item or the parts that constitute the infringement; or
- 32.2.2 replace the infringing item or the parts that constitute the infringement with another product that does not infringe and that in all respects operates substantially in accordance with its specifications; or
- 32.2.3 alter the infringing item in a way as to render it non infringing while still in all respects operating substantially in accordance with its specifications.

32.3 This clause will survive termination of the Agreement.

33 INDEMNITY AND LIMITATION OF LIABILITY

33.1 Neither Party shall be liable to the other for any indirect, special

or consequential loss, including loss of profits or business interruption, except where such damage arise from gross negligence or fraud or deliberate and unlawful breach of this Lease.

33.2 The Lessor shall not be liable for any damage caused to the Leased Premises or to the Lessee's property, or for any interruption to services (such as electricity, water, gas, HVAC, lifts, alarms, etc.), where such failure arises due to Force Majeure or any act or omission by a local authority or third-party supplier beyond the reasonable control of the Lessor.

33.3 The Lessor shall remain liable for any loss, damage or injury suffered by the Lessee (or its agents, employees, invitees, or property) where such loss, damage, or injury:

33.3.1 arises directly from a breach by the Lessor of its obligations under this Lease Agreement;

33.3.2 is caused by the gross negligence, fraud or wilful misconduct of the Lessor or any of its directors, employees, agents or contractors.

33.3.3 any breakdown of, or interruption in the operation of, any machinery, plant, equipment, installation or system in or on, or serving, the Property, or the Leased Premises, and including any:

33.3.3.1 geyser;

33.3.3.2 boiler;

33.3.3.3 burglar alarm, or security installation; or

33.3.3.4 system,

33.3.4 any interruption of or interference with the enjoyment or occupation of the Leased Premises or any of the common parts of the Property caused by any building operations or other works to or elsewhere on or about the Property, whether carried out by the Lessor or by anybody else; or

33.3.5 any other event, failure or circumstance on the Property or the Leased Premises, whether or not the Lessor could otherwise have been held liable for such occurrence or failure.

33.4 The Landlord shall not be responsible for any damages of whatsoever nature, howsoever and whensoever arising, including, but not limited to, loss of profits, consequential damages or any damage to equipment, machines, raw materials, papers or other articles kept in the Leased Premises (whether the property of the Tenant or that of anyone else) caused by rain, hail, lightning or fire or State's enemies.

34 CORRUPT GIFTS AND FRAUD

34.1 The Landlord warrants that in entering into this Agreement it has not committed any Corrupt Act. Any breach of this warranty shall entitle the Tenant to terminate this Agreement immediately without notice to the Landlord.

34.2 "Corrupt Act" means: -

34.2.1 offering, giving or agreeing to give to the Tenant or any other organ of state or to any person employed by or on behalf of the Tenant or any other organ of state any gift or consideration of any kind as an inducement or reward:

34.2.1.1 for doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Agreement or any other contract with the Tenant or any other organ of state; or

34.2.1.2 for showing or not showing favour or disfavour to any person in relation to this Agreement or any other contract with the Tenant or any other organ of state;

34.2.2 entering into this Agreement or any other contract with the Tenant or any other organ of state in connection with which commission has been paid or has been agreed to be paid by the Landlord or on its behalf, or to its knowledge, unless before the relevant contract is entered into particulars of any such commission and of the terms and conditions of any such contract for the payment of such commission have been disclosed in writing to the Tenant;

34.2.3 committing any offence:

34.2.3.1 under any law from time to time dealing with bribery, corruption or extortion;

34.2.3.2 under any law creating offences in respect of fraudulent acts; or

34.2.3.3 at common law, in respect of fraudulent acts in relation to this Agreement or any other contract with the Tenant or any other public body; or

34.2.3.4 defrauding or attempting to defraud or conspiring to defraud the Tenant or any other public body.

34.3 The Landlord shall reimburse the Tenant with all costs incurred by the Tenant in exercising any of its rights in terms of this clause 34 (including, without limitation, any relevant increased administrative expenses and attorney and own client costs, where applicable).

34.4 The rights of the Tenant (to terminate or otherwise) under this Clause are in addition (and without prejudice) to any other right which the Tenant may have in law to claim the amount of Losses or damages suffered by the Tenant on account of the acts or omissions of the Landlord (or to take any action other than termination of this Agreement).

35 DATA PROTECTION AND PROCESSING OF PERSONAL INFORMATION

35.1 The Parties acknowledge that in the provision of the Services they may be exposed to Data of each other, its employees and/or third parties.

35.2 The Parties specifically record that all Data provided by each of them to either of them or to which either Party may be exposed shall constitute Confidential Information and, where applicable, Intellectual Property belonging to the Disclosing Party.

35.3 The Parties warrant to each other that they shall at all times strictly comply with all applicable legislation which may be in force from time to time (including but not limited to POPI) and that it shall not, at any time, copy, compile, collect, collate, process, mine, store, transfer, alter, delete, interfere with or in any other manner use Data for any purpose other than with the express prior written consent of the other Party.

35.4 Either Party warrant that it shall immediately inform the other Party should any Data it has access to be compromised in any manner or form and further undertakes to also immediately inform the other as to how it will manage such compromise and what steps will be taken to rectify the situation to the satisfaction of the Disclosing Party.

35.5 In the event of the Agreement being terminated whenever and for whatsoever reason, then in such an event, the Landlord undertakes, where it processes the Data:-

35.5.1 to restore and / or transfer to a third party nominated by the Tenant all and any Data pertaining to the employees within a period of 30 (thirty) days from date of termination of the Agreement; and

35.5.2 to confirm in writing simultaneously when a transfer takes place, that all such Data, notwithstanding the return of same to the Landlord, will be kept confidential and that it will not under any circumstances use the aforementioned information for whatsoever reason.

35.6 The Landlord agrees to indemnify, defend, and hold the Tenant (and the Tenant's customers, those related to the Tenant, and the Tenant's personnel) harmless from and against any claim, demand, Losses, damage, cost, or liability (including legal costs) arising out of or relating to the Landlord's failure to comply with the Landlord's obligations under this clause. If permissible under applicable law, legal costs will be on an attorney and own client basis. In this clause "related" means natural and juristic persons who are connected to one another in the manner contemplated in applicable law.

35.7 The obligations under this clause will survive the termination of this Agreement for any reason.

36 BROAD-BASED BLACK ECONOMIC EMPOWERMENT

36.1 Save in respect of any amendment to the B-BBEE Act or any other B-BBEE legislation that may come into force after the date of the Lessor's Response which alters the requisite B-BBEE Credentials and/or B-BBEE Score, the Landlord represents and warrants that its B-BBEE Credentials and/or B-BBEE Score –

36.1.1 are as set out in the Lessor's Response;

36.1.2 were measured using the B-BBEE Act, the B-BBEE Codes and the relevant B-BBEE legislation in force as at the date of the Lessor's Response; and

36.1.3 were certified by means of a Verification Certificate (as defined in the B-BBEE Codes) issued by a Verification Agency (as defined in the B-BBEE Codes) or in the case of a QSE or EME, by means of a sworn affidavit.

- 36.2 Should, following the date of the Lessor's Response, the B-BBEE Credentials and/or the B-BBEE Score of the Landlord drop below the B-BBEE Credentials and/or the B-BBEE Score as set out in the Lessor's Response, then –
- 36.2.1 the Landlord will notify the Tenant in writing of such decrease in its B-BBEE Credentials and/or B-BBEE Score within 7 (seven) days of the Landlord becoming aware of such decrease; and
- 36.2.2 the Tenant may, upon written notice to the Landlord, request that the Landlord remedy such decrease in its B-BBEE Credentials and/or B-BBEE Score within a period of 90 (ninety) days from the date of such notice, failing which the Tenant may terminate this Agreement by giving the Landlord 90 (ninety) Business Days written notice of its intention to do so.
- 37 DISPUTE RESOLUTION**
- 37.1 Save in respect of those provisions of this Agreement which provide for their own remedies which would be incompatible with arbitration, or in the event of either Party instituting urgent action against the other in any court of competent jurisdiction any dispute arising from or in connection with this Agreement, its validity, the Parties' rights and/or obligations hereunder or its termination shall in the first instance be referred to the respective senior representatives of the Parties, who are responsible for them, who shall use their best endeavours to settle the dispute as expeditiously as is practically possible.
- 37.2 If the dispute cannot be settled as provided for in clause 37.1 within fourteen (14) Business Days or within such period as agreed upon by the Parties in writing the dispute will finally be resolved by arbitration in accordance with the Rules of the Arbitration Foundation of Southern Africa (the "Foundation") or its successor, by an arbitrator or arbitrators appointed by the Foundation and anyone of the Parties may refer the matter for such.
- 37.3 Neither Party shall be entitled to withhold performance of any of its obligations in terms of this Agreement pending the settlement of, or decision in, any dispute arising between the Parties. Each Party shall, in such circumstances, continue to comply with its obligations in terms of this Agreement.
- 37.4 The provisions of this clause –
- 37.4.1 constitute an irrevocable consent by the Parties to any proceedings in terms hereof and no Party shall be entitled to withdraw therefore or claim at any such proceedings that it is not bound by such provisions; and
- 37.4.2 constitute a separate agreement, severable from the rest of this Agreement and shall remain in effect despite determination of or invalidity for any reason of this Agreement.
- 38 DESTRUCTION OF PREMISES**
- 38.1 In the event of the Leased Premises being damaged or destroyed in any other way, the Tenant shall have the right to terminate this Lease by giving the Landlord 30 (thirty) days written notice of its intention to cancel and the Landlord shall refund to the Tenant rent paid in advance. The Tenant shall not be liable to pay the Monthly Rental during the said notice period.
- 38.2 In the event that the Tenant elects not to cancel the Lease in terms of this clause, the Landlord shall repair the damage as expeditiously as possible. The Tenant shall not be liable for any rentals or other lease charges for the period in respect of which it is deprived of beneficial occupation due to the damage and destruction.
- 39 BREACH**
- 39.1 This clause exists in addition to s23 and s26 of the GCC, and does not replace it.
- 39.2 Should either Party:
- 39.2.1 fail to pay by the due date therefore any amount due by that Party in terms of this Lease and remains in default in respect of such payment for a period of 30 (thirty) calendar days after being notified by the other Party to rectify the default; or
- 39.2.2 commit a breach of any other condition of this Lease and fail to remedy that breach within a period of 30 (thirty) calendar days after being notified by the other Party to remedy such breach; or
- 39.2.3 conduct itself in such a way or consistently breach this Lease Agreement so that the that Party's conduct is inconsistent with the intention or ability to carry out the terms of this Lease agreement; or
- 39.2.4 be placed in liquidation or under judicial management, whether provisionally or finally.
- 39.3 then the aggrieved Party shall be entitled, but not obliged, to:
- 39.3.1 enforce the provisions of this Lease and claim damages; and/or
- 39.3.2 forthwith cancel this Lease Agreement.
- 39.4 This clause does not exclude the ordinary lawful consequences of breach (except those that are expressly excluded by any of the other provisions of this Lease) and in particular any right of cancellation of this Lease on the ground of a material breach going to the root of this Lease.
- 40 TERMINATION**
- 40.1 The Tenant shall vacate the Leased Premises at the termination of the Lease or any earlier termination thereof and shall return the Leased Premises to the Landlord in the condition as elected by the Landlord in terms of clause 40.2 hereunder.
- 40.2 The Landlord shall have the right in its sole and absolute discretion to require the Tenant to either:
- 40.2.1 reinstate the Leased Premises to the same good order and condition as the Leased Premises were received by the Tenant in terms of this Agreement of Lease. The Landlord shall have the right to take photographs in order to assist the Landlord in the determination of the condition of the Leased Premises at the Commencement Date of this Lease; or
- 40.2.2 return the Leased Premises to the Landlord without removing any refurbishments and/or alterations undertaken by either the Landlord or the Tenant, as the case may be.
- 40.3 If any alteration is made by the Tenant with or without the Landlord's consent, then upon the expiration or earlier termination of this agreement:
- 40.3.1 if the Tenant is required to do so by written notice from the Landlord, the Tenant shall remove the alteration (or any such part thereof as the Landlord may direct in writing) and reinstate the Leased Premises (or any part of the Leased Premises as directed in writing by the Landlord) at the Tenant's cost, to the same condition that existed prior to the carrying out of such alteration, failing which the Landlord shall be entitled to do so, and to recover the cost thereof from the Tenant. Such removal and reinstatement to be completed at the termination date or in the event of earlier termination, within 10 (ten) days of such earlier termination;
- 40.3.2 to the extent to which the Landlord does not exercise its rights in terms of clause 40.3.1, such alterations which the Landlord does not require to be removed shall not be removed by the Tenant, but shall become the Landlord's property, and the Tenant shall be entitled to compensation therefore from the Landlord.
- 40.3.3 the Tenant may not remove any installation (including the Tenant Installations) or alteration that was in the Leased Premises at the Commencement Date, or which the Landlord funded directly or indirectly by way of contributions or otherwise or which became the property of the Landlord in terms of clause 40.3.2 above other than as instructed by the Landlord in terms of clause 40.3.1 above.
- 40.4 In the event of a dispute with regards to any installation, alteration or asset, such installation, alteration or asset shall remain in the Leased Premises if so directed by the Landlord.
- 40.5 Upon vacation by the Tenant of the Leased Premises the Landlord shall undertake a final inspection of the Leased Premises and any items which have not been attended to in terms of clause 40.2 and/or 40.3 shall be reinstated by the Landlord. In this regard, the Tenant hereby appoints the Landlord as its agent and attorney irrevocably and in *rem suam* with power of substitution, to effect any such removal of the alterations and/or additions and/or the reinstatement of the Leased Premises as contemplated in this clause, at the cost of the Tenant, on behalf of the Tenant. The Landlord shall be

entitled to recover these costs from the Tenant on presentation of invoices and proof of expenditure. Notwithstanding anything to the contrary herein contained, the Landlord shall not be required to deliver any breach notice to the Tenant, as may be required in terms of this Lease Agreement, if the Landlord exercises its rights set out in this clause.

40.6 The Tenant does not waive in favour of the Landlord any liens of whatsoever nature which it may have in respect of the Leased Premises including but not limited to any physical, financial or aesthetic improvements which it may have made to the Leased Premises.

40.7 The Tenant shall have the option to either undertake the work required by the Landlord above, alternatively to make payment to the Landlord of the cost thereof, as determined by mutual agreement. In the event that the Parties cannot agree on the cost of reinstatement the Tenant shall be obliged to undertake the reinstatement as provided in clause 40.2 and 40.5.

40.8 Either Party shall have the right to at any time prior to the Expiry Date and for any reason whatsoever, to terminate this Lease by giving the other Party 3 (three) month's prior notice of its intention to terminate.

41 OCCUPATION POST EXPIRATION DATE

The Tenant may not remain in occupation of the Leased Premises for any reason whatsoever after the Expiry Date, without the Parties having properly renewed the terms of the Lease Agreement and without a formal addendum or agreement, signed by both the Landlord and the Tenant having been concluded and irrespective of any oral discussions, representations, negotiations and correspondence that may have been exchanged between the Landlord and the Tenant.

42 REBUILDING AND EXTENSION STRUCTURAL ALTERATIONS, REPAIRS AND EXTENSION

42.1 The Lessor and its agents shall have the right to enter and to effect structural alterations and/or repairs to the Leased Premises at all reasonable times. It is envisaged that the Lessee will, of necessity, suffer some inconvenience as a result of the carrying out of such structural alterations and/or repairs and the Lessor shall accordingly endeavour to ensure that as little inconvenience as is reasonably possible is caused to the Lessee thereby. The Lessee shall not, however, be entitled to claim remission of or reduction in rental, damages or cancellation of this Lease by reason of the structural alterations and/or repairs unless such alterations result in the Tenant not having any beneficial occupation of the Premises.

42.2 The Landlord may not extend or change the Leased Premises without giving the Tenant notice to such effect. All such extension and rezoning shall be done in accordance with plans and Specifications approved by the Tenant, which approval shall not be unreasonably withheld.

42.3 The Tenant shall have the right to forthwith cancel this Lease by reason of such extension or rezoning by giving the Landlord written notice of its intention to do so.

43 REFUSE CONTROL, COMPACTOR AND INCINERATOR

43.1 The Landlord shall for the purpose of collection and disposal of the Tenant's refuse and at its own expense provide the Tenant with for use bins and/or other containers designated or approved from time to time by the Landlord and/or local authority. The Tenant shall be required to place its refuse in the plastic bags, which shall be effectively sealed to prevent spillage of their contents, before disposing such refuse in the aforesaid bins or containers.

43.2 All bins and containers referred to in clause 43.1 above shall be maintained in good order and condition and kept neat and tidy by the Landlord throughout the subsistence of this Lease. The bins and containers shall be prepared by the Landlord for collection in the manner and at the times and places specified by the local authority and/or the Landlord.

43.3 The Tenant shall not permit the accumulation of refuse in or outside the Leased Premises save in refuse bins and containers as contemplated herein.

43.4 The Landlord shall be responsible for the replacement costs of any bins or containers used by or in connection with the Leased Premises which may be stolen, lost or unlawfully removed.

43.5 Should the Landlord provide a refuse compactor and/or incinerator for refuse disposal, the Tenant shall comply with such rules and regulations as the Landlord may make or vary in regard to the use thereof.

44 FORCE MAJEURE

44.1 In the event of any act beyond the control of a Party or of any circumstances arising beyond the reasonable control of a Party hereto such as war, fire, flood, explosion, lightning, storm, earthquake, strikes, riots, insurrection or other act of God preventing or delaying such Party from the performance of any obligation hereunder, then the Party affected by such Force Majeure will be relieved of its obligations hereunder during the period that such *Force Majeure* continues.

44.2 The affected Party's relief is only to the extent so prevented. Such Party will not be liable for any delay or failure in the performance of any obligations hereunder or Losses or damage which the other Party may suffer due to or resulting from the *Force Majeure*, provided always that a written notice will be promptly given by the affected Party of any such inability. Any Party invoking *Force Majeure* will upon termination of such *Force Majeure* give prompt written notice thereof to the other Party.

44.3 The Parties undertake to do everything in their power to establish restitution of the rights and obligations under the Agreement as soon as possible. Should the *Force Majeure* continue for a period of more than 6 (six) weeks, then either Party has the right to cancel the Agreement with immediate effect.

44.4 The Landlord consents that during any period of *Force Majeure* the Tenant will be entitled to procure rental of alternative premises from a third party. The Landlord will not be entitled to any payment during the period that the Tenant is compelled to make use of a third-party landlord to provide rental space.

45 ADDRESSES AND NOTICES

45.1 Notices

45.1.1 Any notice, consent, approval or other communication in connection with this Agreement (Notice) will be in writing in English.

45.1.2 Each Party chooses the physical address, fax number and/or email address corresponding to its name as below as the address to which any Notice must be sent:-

45.1.2.1 Tenant:
Physical Address: 643 Leyds Street, Muckleneuk; Pretoria; 0001

E-mail address: xxx.legalnotices@sanparks.org

45.1.2.2 Landlord:
Physical Address: xxx
Email Address: xxx

45.1.3 Any Party may by Notice to the other Party change its address and/or the person, if any, for whose attention any Notice must be marked in clause 45.1.2.

45.2 Any Notice takes effect when received by the recipient (or on any later date specified in the Notice) and, unless the contrary is proved, is deemed to be received:-

45.2.1 on the day of delivery, if delivered by hand to a responsible person at the recipient's physical address in clause 45.1.2. If delivery is not on a Business Day, or is after ordinary business hours on a Business Day, the Notice is deemed to be received on the Business Day after the date of delivery; and

45.2.2 on the first Business Day after the date of transmission, if sent by email to the recipient's email address in clause 45.1.2.

45.3 Despite anything to the contrary in this Agreement, a Notice actually received by a Party is effective even though it was not sent, or delivered, or sent and delivered to its address in clause 45.1.2.

45.4 Service of legal process

45.4.1 Each Party chooses its physical address referred to in clause 45.1.2 as its address at which legal process and other documents in legal proceedings in connection with this Agreement may be served (*domicilium citandi et executandi*).

45.4.2 Any Party may by Notice to other Party change its address at which legal process and other documents in legal proceedings in connection with this Agreement may be served to another physical address in South Africa.

45.5 E-mailed notices of intended legal proceedings as contemplated in the Institution of Legal Proceedings Against Certain Organs of State Act, 2002 (Act No. 40 of 2002) will remain subject to section 4(2) of this Act.

46 RE-LOCATION

46.1 The Landlord shall have no right, at any time before or after the Commencement Date, to relocate the Tenant from the Leased Premises to another premises in the Property (the "relocated premises") or anywhere else.

46.2 The Parties agree that this Lease Agreement shall forthwith terminate should the Landlord want to relocate the Tenant.

47 PARTIES' REPRESENTATIVES

47.1 In order to ensure that:

47.1.1 a successful working relationship is maintained between the Parties;

47.1.2 any relevant queries, complaints, instructions and/or directions in relation to the rendering of the Services can be effectively and timeously dealt with; and

47.1.3 the Parties have an effective channel for the communication of day-to-day operational matters.

The Landlord designated the Key Account Manager and the Tenant designates: xxx

47.2 Either Party may, on 14 (fourteen) days written notice to the other, change their nominated representative.

48 GENERAL

48.1 **Whole Agreement:** This Agreement constitutes the sole record of the Agreement between the Parties in relation to the subject matter hereof. Neither Party will be bound by any representation, warranty, promise nor the like not recorded herein. This Agreement supersedes and replaces all prior commitments, undertakings or representations, whether oral or written, between the Parties in respect of the subject matter hereof.

48.2 **Waiver:** No relaxation, extension of time, latitude or indulgence which any party ("the grantor") may show, grant or allow to another ("the grantee") shall in any way constitute a waiver by the grantor of any of the grantor's rights under the Agreement and the grantor shall not thereby be prejudiced or stopped from exercising any of its rights against the grantee which may have already arisen or which may arise thereafter.

48.3 **Governing Law:** The Agreement will be governed by the laws of the Republic of South Africa (RSA) and the Parties submit to

the jurisdiction of the RSA courts.

48.4 **Non-Variation:** Unless otherwise provided for in this Agreement, no addition to, variation, novation or agreed cancellation of any provision of the Agreement will be binding upon the Parties unless reduced to writing and signed by or on behalf of the Parties.

48.5 **Severability:** Each provision of the Agreement is, notwithstanding the grammatical relationship between that provision and the other provisions of this Agreement, severable from the other provisions of this Agreement. Any provision of this Agreement which is, or becomes invalid, unenforceable or unlawful in any jurisdiction will, in such jurisdiction only, be treated as *pro non scripto* to the extent that it is so invalid, unenforceable or unlawful, without invalidating or affecting the other provisions of the Agreement, which will remain of full force and effect.

48.6 **Cost:** Each Party will pay its own costs in connection with the negotiation and finalisation of the Agreement.

48.7 **Consent:** Where agreement, approval, acceptance, consent, or similar action by either Party is required under this Agreement such action will not be unreasonably delayed or withheld, except where expressly provided as being in the sole discretion of a Party. An approval, acceptance, consent or similar action by a Party under this Agreement will not relieve the other Party from the responsibility of complying with the requirements of this Agreement, nor will it be construed as a waiver of any rights under this Agreement, except as and to the extent otherwise expressly provided in such approval, acceptance or consent.

48.8 **Costs of Action:** Should either Party institute legal proceedings against the other from or in connection with this Lease, the costs of such proceedings shall be determined by the court. The Lessee shall only be liable for the Landlord's legal costs to the extent that such costs are awarded to the Landlord by the court and shall not be liable for an attorney and client costs, collection commission or other fees arising between the Landlord and its attorneys, unless expressly ordered by the court.

48.9 **Counterpart:** This Agreement may be executed in one or more counterparts, each of which will be deemed an original, and all of which together will constitute one and the same Agreement as at the date of signature of the Party last signing one of the counterparts. The Parties undertake to take whatever steps may be necessary to ensure that each counterpart is duly signed by each of them without delay.