

AGREEMENT OF LEASE

MADE AND ENTERED INTO BY AND BETWEEN:

(Registration number)

(hereinafter referred to as "**the Landlord**")

(herein represented by who warrants that he is duly
authorized to do so by authority of a Resolution of the Landlord)

and

SOUTH AFRICAN REVENUE SERVICE

(hereinafter referred to as "**the Tenant**")

1. INTRODUCTION

The Landlord hereby lets to the Tenant who hereby hires the Leased Premises described herein on the terms and conditions as set out in the Agreement of Lease and the Schedule attached hereto.

2. DEFINITIONS

In this Agreement of Lease (including all Annexures and Schedules attached hereto), unless the context clearly otherwise indicates:

- 2.1 "**Adjustment Date**" means the date on which the Escalation Rate comes into operation, the first adjustment date being the date stipulated in the Schedule;
- 2.2 "**Commencement Date**" means the date as stipulated in the Schedule;
- 2.3 "**Common Areas**" mean, where relevant, foyers, internal service areas, access gates, arcades, passages, entrances, exits, ramps, landscape areas, water features, toilets, stairways and all other amenities and facilities provided by the Landlord for general use in common by all tenants on the Property and their servants, clients, and invitees in or about the buildings or Park;
- 2.4 "**Escalation Rate**" means the percentage increase (as stipulated in the Schedule), to the previous year's rental and Operating Costs which adjusts the rental on every Adjustment Date;
- 2.5 "**Exclusive Use Areas**" mean those rentable areas for which the Tenant has sole use to the exclusion of any other tenants;
- 2.6 "**In Writing**" means a written communication and shall include a letter and a telefax and signed by a person properly authorised thereto;
- 2.7 "**Operating Costs**" means the monthly contribution by the Tenant towards the operating and/or maintenance costs of the Leased Premises, as specified in the Schedule;
- 2.8 "**Leased Premises**" shall mean the Leased Premises as described in the Schedule;
- 2.9 "**Pro rata share**" means the percentage share that the Leased Premises bears to the total rentable area of the Building;

2.10 "**Schedule**" means the Schedule attached to this Agreement of Lease marked "THE SCHEDULE";

2.11 "**Termination Date**" means the date as stipulated in the Schedule.

3. INTERPRETATION

3.1 The headings to the paragraphs to this Agreement of Lease are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate;

3.2 Words importing the singular shall include the plural and vice versa and words importing any one gender shall include the other and words importing persons shall include close corporations and companies and vice versa;

3.3 If a provision in a definition is a substantive provision conferring rights or imposing obligations on any party, effect shall be given to it as if it were a substantive provision in the body of the agreement, notwithstanding that it is contained in the definitions clause.

4. PERIOD OF LEASE

This lease period shall commence on the Commencement Date as stipulated in the Schedule, notwithstanding the date of signature of this Agreement of Lease, and shall terminate on the Termination Date stipulated in the Schedule.

5. DEPOSIT, RENTAL AND VALUE ADDED TAX

5.1 It is recorded that no rental deposit is payable by the Tenant as security for any of its obligations in terms of this Agreement of Lease.

5.2 The total monthly rental payable by the Tenant to the Landlord for the Leased Premises and Operating Costs shall be the amount specified as such in the Schedule.

5.3 The Landlord shall, prior to the 25th day of each month, issue the Tenant with an invoice in respect of the following month for all rentals and contributions towards Operating Costs and other amounts due by the Tenant to the Landlord. The amount due shall be paid by the Tenant monthly by no later than the 7th business day of every calendar month. For purposes of this clause, "business

day” means any day excluding Saturdays, Sundays and official public holidays in the Republic of South Africa. Any payments later than this date, will incur interest to be paid by the Tenant at the prime rate charged by First National Bank.

- 5.4 It is specifically recorded that all amounts referred to in this Agreement of Lease are subject to the applicable provisions of the VAT Act. The Tenant hereby agrees to make payment to the Landlord of any VAT which is payable in respect thereof on the date on which the amount/s to which it relates falls due for payment.
- 5.5 The Landlord represents and warrants to the Tenant that at the Commencement Date of this Agreement of Lease, the Landlord is and shall remain in compliance with all applicable laws relating to taxation in South Africa.
- 5.6 The Landlord undertakes, on each anniversary of the Commencement Date of the Agreement of Lease, to supply / deliver a valid tax clearance certificate to the Tenant. Failure to provide such a certificate shall constitute a material breach by the Landlord.
- 5.7 Notwithstanding any other provision of this Agreement of Lease, the Tenant shall have the right to withhold rentals in the event of the Landlord breaching its obligations in terms of this Agreement of Lease and failing to remedy such breach within fourteen (14) days of receipt of written notice from the Tenant detailing such breach. In this regard the Landlord acknowledges the Tenant’s rights in terms of the *exceptio non adimpleti contractus* (defense of non performance of the contract).

6. CHARGES PAYABLE BY THE TENANT

- 6.1 As of the Commencement Date the Tenant shall be liable for and shall on demand pay-
 - 6.1.1 any charges arising out of the use of gas, water and electricity in respect of the Leased Premises, as well as any charges arising out of all water and electricity consumed by the Tenant in or on the Leased Premises, whether directly or indirectly, which shall include water and electricity consumed by any air-conditioner unit/s serving the Leased Premises.
 - 6.1.2 the basic and service charges in respect of the services referred to in 6.1.1 above; and

- 6.1.3 the fees including those contemplated in 6.3 (if then in force) or a contribution to such fees, determined on the basis contemplated in 6.3 below.
- 6.2 The Tenant's consumption of gas, water and electricity shall be determined in accordance with a meter. If there are no meters the Tenant's consumption shall be calculated on a pro rata basis, being the ratio which the rentable area of the Leased Premises bears to the total area connected to the meter serving the premises or the Building, or the total rentable area of all the leasable premises in the Building or the complex.
- 6.3 If at any time after the Commencement Date any fees payable by the Landlord to any municipality in respect of the Leased Premises, the property, the Building or the complex are increased above those applicable at the Commencement Date, or imposed after the Commencement Date, then the Landlord shall be entitled to recover from the Tenant from time to time with effect from the date on which the increase in fees, as the case may be, becomes effective:
- 6.3.1 The amount concerned if it relates exclusively to the Leased Premises; or
- 6.3.2 An amount which bears the same ratio to such increase or fee, as the case may be, as the rentable area of the Leased Premises bears to the total rentable area of all the leasable premises in the Building or complex.
- 6.4 **Refuse Removal**
As of the Commencement Date the Tenant shall be liable for and shall on demand pay the basic refuse charge and any refuse removal charges in respect of the Leased Premises, including any charges attributable to the Tenant's dedicated refuse removal system, and/or which are attributable to the Tenant's use of the refuse removal facilities for the complex. Other than the charge for any dedicated refuse removal system which the Tenant is responsible for, the refuse charge to be paid by the Tenant will be calculated on a pro rata percentage basis.
- 6.5 **Effluent / Sewage Charges**
As of the Commencement Date the Tenant shall be liable for and shall within 30 days after the Landlord provides an invoice, pay the basic effluent/sewage charge and all effluent/sewage consumption charges in respect of the Leased Premises. The above charges will be calculated on a pro rata percentage basis.

7. USE OF PREMISES

The Tenant shall be entitled to use the premises as per the Tenant's business requirements and for no other purposes without the prior written consent of the Landlord first having been obtained, which consent shall not be unreasonably withheld.

8. SUITABILITY

- 8.1 The Tenant shall be solely responsible to obtain any licenses, consents, authorities or permits from any competent authority, in respect of the Leased Premises for the conduct of any business or for any other type of use, or any such licenses, consents, authorities or permits which may be required to be renewed from time to time.
- 8.2 The Tenant acknowledges that if it is a condition of any competent authority, in respect of a grant or renewal of any licenses required by the Tenant to carry on the business for which the Leased Premises are leased, that the Leased Premises be altered, added to or renovated, then the Tenant shall at its own expense carry out such alterations, additions or renovations.

9. ALTERATIONS AND ADDITIONS

The Tenant may at any time install such fixtures, fittings and equipment in the Leased Premises as are necessary, with prior written consent from the Landlord, which consent shall not be unreasonably withheld, for the purpose of carrying on the Tenant's business and may, prior to the termination of this Agreement of Lease remove any such fixtures, fittings and equipment:

Provided that, after termination of this Agreement of Lease, the Tenant shall repair any damage caused by the installation and removal of such fixtures, fittings and equipment to the condition, reasonable wear and tear considered, as it was at the commencement of the Agreement of Lease.

10. INSPECTION OF THE PREMISES AND REPORTING OF DEFECTS AFTER THE COMMENCEMENT DATE

Within 60 (sixty) days of the Commencement Date the Tenant shall give to the Landlord written notice of any defects in the Leased Premises or any fittings, equipment and/or appurtenances of whatsoever nature, installed therein by the Landlord. Failing such

notice, or after the remedying of any latent and/or patent defects stated in any such notice, the Tenant shall be deemed to have received the Leased Premises as being complete and without any latent and/or patent defect therein.

11. LANDLORD ENTRY

The Landlord acknowledges that the Tenant is in possession of and works with highly confidential information and accordingly it shall not have the right, without the Tenant's prior written approval, to enter the Leased Premises at any time.

12. INSURANCE

12.1 The Landlord shall furnish the Tenant, prior to the Commencement Date of the Agreement of Lease, with a copy of its insurance policy.

12.2 The Tenant shall not at any time bring or allow to be brought or kept in the Leased Premises nor do or omit nor suffer to be carried on in the Leased Premises, any matter or thing or activity which might result in a fire or any of the terms and conditions of the insurance policy of the Building becoming void or voidable or whereby the insurance premiums for any such insurance may be increased.

12.3 If the premiums of such insurance are increased as a result of a contravention of this clause, whether with the written consent of the Landlord or not, the Landlord, without prejudice to any of its rights hereunder, may recover from the Tenant the amount due from time to time in respect of any additional premiums. The Tenant shall pay such amount immediately on notification from the Landlord or the Insurance Company, to the effect that such additional premiums have been charged. The Tenant shall be obliged to adequately, if installed by the Tenant, insure all fittings, fixtures and moveable items in the Leased Premises.

13. NO CLAIMS

Neither party shall have any claim of any nature against each other for any loss, damage or any injury which either party may directly or indirectly suffer arising out of *vis major* (a greater force) or *casus fortuitus* (an accident against which due prudence could not have provided).

14. SUB-LETTING OR CESSION

- 14.1 The Tenant shall not cede this Agreement of Lease or any of its rights hereunder, nor sublet the Leased Premises or any portion thereof without the prior written consent of the Landlord, which consent shall not be unreasonably withheld.
- 14.2 At any time during the currency of this Agreement of Lease, the Landlord shall be entitled to sell its property and to cede and make over unto and in favour of any person or corporate body, its right, title and interest in and to this Agreement of Lease with the prior written consent of the Tenant, which consent shall not be unreasonably withheld. In the event of any such sale and cession, the Tenant shall not be entitled to terminate this Agreement of Lease and the Tenant shall be obliged to perform and carry out all its obligations under and in terms of this Agreement of Lease as if the cessionary were the original Landlord.

15. TENANT'S GENERAL OBLIGATIONS

The Tenant shall-

- 15.1 during the entire term hereof, keep in full force and effect, a policy of public liability insurance, covering general and Tenant's liability, with respect to the Leased Premises and the business operated by the Tenant and any sub-tenants of the Tenant, in the Leased Premises in such amounts as may be required to provide adequate cover in respect of all claims which may foreseeably be made against the Tenant;
- 15.2 pay all and any electricity, water or any other amounts in respect of any supplies or services to the Leased Premises in respect of the separate electricity and water meters for the Leased Premises to be installed by and at the cost of the Landlord;
- 15.3 be responsible for security within the Leased Premises;
- 15.4 be responsible for general cleaning and hygiene services, carpet vacuuming, pest control and the like, including refuse and waste removal from the interior of the Leased Premises;
- 15.5 during the operation of this Lease, care for and maintain the interior of the Leased Premises and 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 deliver the same to the Landlord in like good order and condition, fair wear and tear excepted,

and it shall make good and repair at its own cost any damage or breakages, or in the alternative, reimburse the Landlord for the cost of replacing, repairing or making good any broken, damaged or missing items, unless such damage is due to the wilful or negligent conduct of the Landlord;

15.6 prevent any blockage of any sewerage or water pipes or drains in or used in connection with the Leased Premises, and remove at its cost any obstruction or blockage which occurs in the Leased premises, unless caused by the wilful or negligent conduct of the Landlord;

15.7 be responsible for the refueling of the standby generator.

16. LANDLORD'S GENERAL OBLIGATIONS

The Landlord shall -

16.1 upkeep and maintain in good order and repair, amongst others, the exterior of the Leased Premises and the lifts, escalators, central air-conditioning system, common areas, roofs, windows (including cleaning) etc. relating to the Leased Premises;

16.2 remain responsible for repair, maintenance, upkeep and replacement (if necessary) of all lifts and escalators. The response time for any repair, maintenance and/or replacement work shall not be greater than 1 (one) business day, failing which the Tenant shall assume the Landlord's aforesaid obligation and thereafter recover all proven costs from the Landlord;

16.3 remain responsible for repair, maintenance, upkeep and replacement (if necessary) of all the air-conditioning installed by the Landlord to maintain a constant temperature of 22°C (with a maximum variance of 2°C). The response time for any repair and/or replacement work shall not be greater than 24 (twenty four) hours, failing which the Tenant shall assume the Landlord's aforesaid obligation and thereafter recover all proven costs from the Landlord;

16.4 remain responsible for repair, maintenance, upkeep and replacement (if necessary) of the external perimeter security fence and any gates. The response time for any repair, maintenance and/or replacement work shall not be greater than 2 (two) business days; failing which the Tenant shall assume the Landlord's aforesaid obligation and thereafter recover all proven costs from the Landlord;

- 16.5 remain responsible for repair, maintenance and replacement (if necessary) of the electrical reticulation up to and including the distribution board. The response time for any repair, maintenance and/or replacement work shall not be greater than 2 (two) business days, failing which the Tenant shall assume the Landlord's aforesaid obligation and thereafter recover all proven costs from the Landlord;
- 16.6 remain responsible for repair, maintenance and replacement of all plumbing and services including, but not limited to underground services, e.g. sewer, storm water, and water to the Leased Premises where such responsibilities / services fall outside of the municipal accountability. The response time for any repair, maintenance and/or replacement work shall not be greater than 2 (two) business days, failing which the Tenant shall assume the Landlord's aforesaid obligation and thereafter recover all proven costs from the Landlord;
- 16.7 remain responsible for repair, maintenance, upkeep and replacement (if necessary) of all structural aspects, including internal and external aspects, of the Leased Premises, but excluding the Tenant's installations;
- 16.8 remain responsible for repair, maintenance, upkeep and replacement (if necessary) of all waterproofing during the period of lease or any extensions or renewal thereof;
- 16.9 remain responsible for the rational fire design, supply and installation of any firefighting equipment externally and internally, including but not limited to fire extinguishers, hydrants, sprinkler systems, fire detection, etc. to the Leased Premises.;
- 16.10 remain responsible for repair, upkeep, replacement (if necessary) and annual service of any firefighting equipment externally and internally, including but not limited to fire extinguishers, hydrants, sprinkler systems, fire detection, etc. to the Leased Premises;
- 16.11 remain responsible for the repair, maintenance, upkeep and replacement (if necessary) of the comprehensive electrical supply and installation to the Leased Premises including repair and replacement of electrical fittings, defective power outlets, etc. In addition, removal and carting off site, to an accredited site, all fluorescent tubes and light bulbs;
- 16.12 remain responsible for the repair, maintenance, upkeep and replacement (if necessary) of all mechanical parts of the Building and the Leased Premises;

- 16.13 remain responsible for maintenance, upkeep and replacement (if necessary) of flower beds to all external surroundings of the Leased Premises, including the provision of pest control, insecticides and herbicide application;
- 16.14 pay all rates, levies, taxes and other government charges raised in respect of the Leased Premises;
- 16.15 procure and maintain adequate insurance of the Leased Premises, other than in respect of the fixtures, fittings and equipment of the Tenant;
- 16.16 supply, install and commission a suitable standby generator;
- 16.17 install and maintain a permanent water security solution;
- 16.16 procure and install separate electricity meters in respect of the Leased Premises, in order to accurately differentiate between the usages of the different tenants.

17. BRANDING AND ADVERTISING

The Tenant may be granted and thereafter retain all naming rights, branding and advertising in respect of the Leased Premises occupied by it and shall be entitled to erect signage on the Leased Premises in this regard. Such signage installation will be subject to the Landlord's final approval which approval shall not be unreasonably withheld.

18. DAMAGE TO OR DESTRUCTION OF PREMISES OR BUILDING

- 18.1 Should the Leased Premises be destroyed or damaged, without the cause thereof being attributable to the intent or negligence of either party to this lease, to an extent which prevents the Tenant from having beneficial occupation of the Leased Premises, then this lease shall forthwith terminate and neither party shall have any further claim howsoever arising against the other party as a result thereof.
- 18.2 Should the Premises be damaged to a lesser extent than that which prevents the Tenant from having full occupation of the Leased Premises, then –
 - 18.2.1 this Agreement of Lease shall not be cancelled;

- 18.2.2 the rental payable by the Tenant shall be reduced pro-rata to the extent (if any) by which the Tenant is deprived of occupation of the Leased Premises; and
- 18.2.3 the Landlord shall at its own cost, repair the Premises as expediently as is possible under the circumstances.
- 18.3 The provisions of this clause shall become applicable on signature of this Agreement of Lease and shall apply irrespective of whether the contemplated destruction occurs before or after the Commencement Date.
- 18.4 Should a dispute arise between the Landlord and the Tenant in respect of the amount of rental payable by the Tenant in terms of sub-clause 18.2.2 then such dispute shall be settled by way of the dispute resolution procedure set out in 18.

19. BREACH

- 19.1 Should either party (the "defaulting party") commit a breach of any of the provisions of this Agreement of Lease, then the party who is not in breach (the "aggrieved party") shall be entitled to give the defaulting party written notice to remedy the breach.
- 19.2 If the defaulting party fails to comply with that notice within 14 (fourteen) days of the receipt thereof, the aggrieved party shall be entitled to cancel this Agreement of Lease or to claim specific performance, in either event without prejudice to the aggrieved party's rights to claim damages. The foregoing is without prejudice to such other rights as the aggrieved party may have in common law or statute.

20. NOTICES AND ADDRESSES

- 20.1 All notices which are given by the Landlord to the Tenant may be given to it at the address set out in the Schedule, at which address the Tenant chooses *domicilium citandi et executandi* (the physical address at which legal proceedings may be instituted) for all purposes hereunder, or at such other address of which the Tenant may advise the Landlord by written notice duly received by the Landlord.
- 20.2 All notices which are given by the Tenant to the Landlord shall be given to it at the address set out in the Schedule, at which address the Landlord chooses *domicilium citandi et executandi* for all purposes hereunder or at such other address of which the Landlord

may advise the Tenant by written notice duly received by the Tenant.

- 20.3 All notices sent by either party to the other shall be delivered by hand or by telefax or sent by prepaid registered mail.
- 20.4 All notices delivered by either party to the other as aforesaid to the respective addresses provided for in this Agreement of Lease shall be deemed to have been received by the addressee on the date of delivery or on the 3rd (third) business day after posting, as the case may be, unless the addressee proves the contrary.
- 20.5 Any party shall be entitled, by prior written consent to the other to change its address to such other address within the Republic of South Africa, provided that the change shall become effective only 14 (fourteen) days after service of the written notice in question.

21. GENERAL

- 21.1 No alteration, cancellation, variation of or addition to this Agreement of Lease shall be of any force and effect unless it is recorded in writing and signed by both the Landlord and the Tenant.
- 21.2 No agreement varying, adding to, deleting from or canceling this Agreement of Lease and no waiver of any right under this Agreement of Lease shall be effective unless reduced to writing and signed by or on behalf of both parties.
- 21.3 No extension of time or indulgence granted by either party to the other shall be deemed in any way to affect, prejudice or derogate from the rights of such party in any respect under this Agreement of Lease, nor shall it in any way be regarded a waiver of any rights hereunder or a novation of this Agreement of Lease.
- 21.4 Should any one or more of the provisions of this Agreement of Lease be unenforceable, then the remaining provisions shall remain of full force and effect.

22. DISPUTE RESOLUTION

22.1 Mediation

Should any dispute of any nature whatsoever arise out of, or in connection with or relating to this Agreement of Lease then the parties agree to first meet and use all their reasonable endeavors to negotiate in good faith a settlement of such dispute by way of mediation. Should such negotiations fail after 10 (ten) business

days, or such longer period as agreed upon in writing, of referral of such dispute, the dispute will then be referred to arbitration in terms of clause 22.2.

22.2 Arbitration

22.2.1 Should the parties fail to settle the dispute pursuant to the provisions of clause 22.1, then any dispute, deadlock and/or difference between the Landlord and Tenant in connection with this Agreement of Lease may be referred to and be determined through arbitration in terms of the rules of the Arbitration Foundation of South Africa.

22.2.2 Upon such referral, the costs of and incidental to the referral and award shall be in the discretion of the arbitrator, who may determine the quantum of the costs, and liability for payment of such costs.

22.2.3 The award of the arbitrator shall be final and binding on the parties and any party shall be entitled to apply to the Courts to have such an award made an order of court.

22.2.4 This clause shall not preclude the Landlord or Tenant from obtaining interim relief on an urgent basis in a Court of competent jurisdiction. To this end, the Landlord and Tenant hereby consent to the jurisdiction of the North Gauteng High Court, Pretoria.

23. COSTS

The Landlord and the Tenant shall each be responsible for and pay its own costs in respect of the finalisation and execution of this Agreement of Lease and incidental costs and necessary consultations and attendances.

As Representative for (Landlord)

Signed at _____ on the ____ day of _____ 20....

As representative (full names) : _____

Capacity : _____

Signature : _____

WITNESSES:

1. _____

2. _____

As Representatives for South African Revenue Service (Tenant)

1. _____ **Group Executive: Procurement**

Signature

Date signed

2. _____

Chief Officer: Finance

Signature

Date signed

DRAFT

THE SCHEDULE

1.	The Building:	
2.	Erf / Stand	
3.	The Leased Premises	
4.	The Lease Period:	
5.	The Commencement Date:	
6.	The Termination Date:	
7.	The Adjustment Date:	
8.	Renewal option	
9.	Monthly Rental commencing at R.../m ² form ² (excl VAT) :	
10.	Operating Cost commencing at R.../m ² form ² (excl VAT):	
10.	Parking commencing at R..... / bay for parking bays (open / covered) (excl VAT):	
11.	Escalation Rate:	
12.	Domicilium Citandi Et Executandi of the Landlord:	
13.	Domicilium Citandi Et Executandi of the Tenant:	
14.	Landlord's Banking details for all payments:	
15.	Premises Usage:	
16.	Annexure	