

COMMERCIAL LEASE AGREEMENT

ENTERED INTO BETWEEN

AECI LIMITED

**Acting through its AECI Property Services Division
("the Landlord")**

AND

[INSERT NAME OF THE TENANT]

**herein represented by :
("the Tenant")**

The Landlord and the Tenant record in the Lease Schedule and the Lease Terms, each of which is attached hereto, a commercial lease agreement.

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LEASE SCHEDULE

THE PARTIES			
1.	The Landlord	Name	AECI LIMITED, through its AECI Property Services Division
		Registration number	1924/002590/06
		VAT number	4350103539
		Physical Address	THE WOODLANDS OFFICE PARK, WOODLANDS DRIVE, BUILDING 23/24, WOODMEAD, SANDTON, 2191
2.	The Tenant	Name	[INSERT NAME OF THE TENANT]
		Registration number	[INSERT REGISTRATION NUMBER OF THE TENANT]
		VAT number	[INSERT VAT NUMBER OF THE TENANT]
		Physical Address	[INSERT PHYSICAL ADDRESS OF THE TENANT]
THE PREMISES			
3.	<p>The Leased Premises</p> <p>Where the Landlord deems it appropriate, it may represent the extent of the Leased Premises in diagrammatic form in a document, which will, if applicable, constitute annexure B to the Lease Terms.</p>	Description of the Leased Premises	BUILDING , 1 DICKENS ROAD, UMBOGINTWINI INDUSTRIAL COMPLEX, UMBOGINTWINI
		The building known as	BUILDING
		Erf description of the Property on which the Leased Premises are situate	SUB 2505 UMLAZI NATIVE LOCATION NO. 4676 SITUATED AT UMBOGINTWINI INDUSTRIAL COMPLEX, UMBOGINTWINI
		Physical Address of the Leased Premises	BUILDING , 1 DICKENS ROAD UMBOGINTWINI INDUSTRIAL COMPLEX, UMBOGINTWINI
		Extent of the Leased Premises	<p>The extent of the Leased Premises is stated for illustrative purposes only and is measured in accordance with reasonable systems of measurement employed by the Landlord from time to time. It is not a warranted representation, nor is it binding on the Landlord</p> <p>[INSERT]m² gross lettable area</p>
DURATION			
4.	The Lease Period	Commencement Date:	[INSERT DATE]
		Termination Date:	[INSERT DATE]
5.	Early Occupation Date (if applicable)	N/A	
RENTAL			
6.	Rental	R [INSERT] per month (stated exclusive of VAT) for the first 12 month period of the Lease	
7.	Rental Escalation	Rental will escalate at a rate of 8% (percentage) per annum (compounded), effective on each anniversary of the Commencement Date	
8.	Due Date For Payment of Rental	In respect of each month, the first calendar day of that month. Where the Commencement Date falls on a day other than the first calendar day of a month, then Rental will be paid <i>pro rata</i> on the basis of the number of days which remain in that month, divided by the number of days in that month	

Append Initials
of Parties

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UTILITIES AND CHARGES			
9.	Electricity	The Tenant will pay for electricity consumed on or at the Leased Premises	
	Water	The Tenant will pay for water used on or at the Leased Premises	
	Refuse	The Tenant will procure the removal of its refuse at its own cost, if applicable	
	Sewerage	The Tenant will pay the cost associated with the removal or treatment of sewerage effluent produced on or at the Leased Premises	
	Security and Access Control	R , escalating each year as agreed by Government Gazette	
	Alarm	R , escalating annually as per contractor	
	Assessment Rates	R , escalating in July of each year as per local authority	
10.	The Tenant's Pro Rata Share of Costs Where the Tenant has access to common areas or use of utilities which are not allocated to the Leased Premises	[INSERT]% (percentage)	
PARKING			
11.	Parking Bays The location of each parking bay will be stipulated by the Landlord, which may change that stipulation from time to time upon notice to the Tenant	Number of covered parking bays allocated to the Tenant: [INSERT NUMBER] Number of open parking bays allocated to the Tenant: [INSERT NUMBER]	
12.	Parking Rental Parking rental to escalate at the same rates and times as escalations applicable to Rental	Covered Bays:	R[INSERT] (stated exclusive of VAT)
		Open Bays:	R[INSERT] (stated exclusive of VAT)
MISCELLANEOUS			
13.	Permitted Use	[INSERT THE PERMITTED USE OF THE LEASED PREMISES]	
14.	Deposit/Guarantee	R [INSERT]. R deposit held; R additional deposit required	
15.	Signage	To be discussed with, agreed to and approved by the Landlord	
16.	Contract Cost	R [INSERT], being the Landlord's standard contract cost, which the Tenant must pay, before taking occupation	
SURETYSHIPS			
17.	Sureties for the Tenant Each named surety to sign a deed of suretyship substantially similar to the specimen deed of suretyship which is attached to the Lease Terms as annexure C.	1.	[INSERT FULL NAME AND IDENTITY NUMBER OF EACH SURETY]
		2.	[INSERT FULL NAME AND IDENTITY NUMBER OF EACH SURETY]

SPECIAL TERMS

18.	Lease Renewal	In the event that the Landlord and the Tenant intend to implement a right of renewal of the Lease, then the Lease Renewal Terms set forth in annexure D must be completed and signed by the Landlord and the Tenant. If the Lease Renewal Terms are not signed by the Landlord and the Tenant, then no renewal of the Lease will apply.
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NOTIFICATION IN TERMS OF THE CONSUMER PROTECTION ACT NO. 68 OF 2008 ("CPA")

CERTAIN CLAUSES IN THE LEASE ARE PRINTED IN BOLD. THESE CLAUSES MAY:
1. LIMIT THE RISK OF LIABILITY OF THE LANDLORD;
2. CONSTITUTE AN ASSUMPTION OF RISK OR LIABILITY BY THE TENANT;
3. IMPOSE AN OBLIGATION ON THE TENANT TO INDEMNIFY THE LANDLORD; OR
4. BE AN ACKNOWLEDGEMENT OF A FACT BY THE TENANT.
TO THE EXTENT THAT THE TENANT IS A "CONSUMER" AS DEFINED IN THE CPA, THESE CLAUSES ARE BROUGHT TO THE ATTENTION OF THE TENANT AS IS REQUIRED BY SECTION 49 OF THE CPA. THE TENANT ACKNOWLEDGES THAT IT HAS CAREFULLY READ AND UNDERSTANDS THE LEASE.

Signed by **the Tenant** at _____

on _____ 2023

As Witnesses:

1. _____

2. _____

, Duly authorised

Signed by **the Landlord** at Acacia House, Moddercrest Office Park, Modderfontein

on _____ 2023

As Witnesses:

1. _____

2. _____

**P ZWANE, Duly authorised on
behalf of the the Landlord**

THE LEASE TERMS

1. **Definitions:**
 - 1.1. **Applicable Law:** The common law and statutory law applicable in South Africa, including any present or future constitution, decree, judgment, legislation, order, ordinance, regulation, treaty, licence, directive, rule or practice issued by any relevant authority with due jurisdiction.
 - 1.2. **the Building:** The building described in clause 3 of the Lease Schedule, in which the Leased Premises are situate.
 - 1.3. **the Commencement Date:** The first day of the Lease Period.
 - 1.4. **Early Occupation Date:** If set forth in clause 5 of the Schedule, the date so set forth, from which the Tenant will be entitled to occupy the Leased Premises.
 - 1.5. **the Landlord:** The landlord described in clause 1 of the Lease Schedule.
 - 1.6. **the Lease:** The Lease Schedule and the Lease Terms, including the annexures to the Lease Terms.
 - 1.7. **the Lease Period:** The period of the Lease as described in clause 4 of the Lease Schedule.
 - 1.8. **the Leased Premises:** The premises described in clause 3 of the Lease Schedule.
 - 1.9. **the Lease Schedule:** The schedule of information prefixed to these Lease Terms.
 - 1.10. **the Parking:** The discrete areas for the parking of motor vehicles, set forth in clause 14 of the Schedule.
 - 1.11. **the Parking Rental:** The monthly rental pertaining to the Parking, set forth in clause 15 of the Lease Schedule.
 - 1.12. **the Parties:** The Landlord and the Tenant, and a reference to "Party" will be a reference to one of them as the context dictates.
 - 1.13. **Permitted Use:** The use to which the Tenant is permitted to put the Leased Premises, described in clause 16 of the Schedule.
 - 1.14. **the Property:** The Landlord's property upon which the Leased Premises are situate, described in clause 3 of the Lease Schedule.
 - 1.15. **Rental:** The monthly rental pertaining to the Leased Premises, set forth in clause 6 of the Lease Schedule.
 - 1.16. **the Tenant:** The tenant described in clause 2 of the Lease Schedule.
 - 1.17. **the Tenant's Pro-Rata Share:** The share (expressed as a percentage) of the cost applicable to the Tenant's use

or right of use of common areas and related utilities at the Property, set forth in clause 13 of the Lease Schedule.

- 1.18. the Tenant Rules: The rules set forth in annexure A to the Lease Terms, which regulate the Tenant's use of and conduct at the Leased Premises and the Property.

2. Interpretation:

2.1. In the Lease:

- 2.1.1. references to a statutory provision include any subordinate legislation made from time to time under that provision and include that provision as modified or re-enacted from time to time;
- 2.1.2. the use of the singular shall include the plural and vice versa as the context may require;
- 2.1.3. words importing the masculine gender include the feminine and neuter genders and vice versa; the singular includes the plural and vice versa;
- 2.1.4. references to a "person" include a natural person, juristic person or other corporate entity, or any other association of persons;
- 2.1.5. references to a "subsidiary" or a "holding company" shall be references to a subsidiary or holding company as defined in the Companies Act No. 71 of 2008;
- 2.1.6. if a definition imposes substantive rights and obligations on a Party, such rights and obligations shall be given effect to and shall be enforceable, notwithstanding that they are contained in a definition;
- 2.1.7. any definition, wherever it appears in the Lease, shall bear the same meaning and apply throughout the Lease unless otherwise stated or inconsistent with the context in which it appears;
- 2.1.8. if there is any conflict between any definitions in the Lease then, for purposes of interpreting any clause of the Lease or paragraph of any annexure, the definition appearing in that clause or paragraph shall prevail over any other conflicting definition appearing elsewhere in the Lease;
- 2.1.9. where reference is made to a "day", it shall be a reference to a business day, which shall be each day of the week except for Saturdays, Sundays and official gazetted public holidays in South Africa;
- 2.1.10. where any number of days is prescribed, those days shall be reckoned exclusively of the first and inclusively of the last day;
- 2.1.11. references to "Date of signature", "Signature date", or "Date of Agreement" or "Date of Lease" shall unless otherwise defined in 1, be references to the date upon which the Lease is signed by the Party signing last in time;
- 2.1.12. annexures will be referred to in capital letters in bold print and each annexure shall be an integral part of the Lease;
- 2.1.13. any provision in the Lease which is or may become illegal, invalid or unenforceable in any jurisdiction affected by the Lease shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be treated as having not been written (ie *pro non scripto*) and severed from the balance of the Lease, without invalidating the remaining provisions of the Lease or affecting the validity or enforceability of such provision in any other jurisdiction;

- 2.1.14. the use of any expression covering a process available under South African law (such as but not limited to a winding-up) shall, if any of the Parties is subject to the law of any other jurisdiction, be interpreted in relation to that Party as including any equivalent or analogous proceeding under the law of such other jurisdiction;
- 2.1.15. any reference to "VAT" will be a reference to Value Added Tax, as that tax is defined in the Value Added Tax Act No. 89 of 1991, as amended, and references to any amount shall mean that amount exclusive of VAT, unless the amount expressly includes VAT;
- 2.1.16. where any term is defined within the context of any particular paragraph in the Lease, the term so defined, unless it is clear from the paragraph in question that the term so defined has limited application to that paragraph, shall bear the same meaning as ascribed to it for all purposes in terms of the Lease, notwithstanding that that term may not have been defined in 1;
- 2.1.17. the rule of construction that if general words or terms are used in association with specific words or terms which are a species of a particular genus or class, the meaning of the general words or terms shall be restricted to that same class (ie the *eiusdem generis* rule) shall not apply, and whenever the word "including" is used followed by specific examples, such examples shall not be interpreted so as to limit the meaning of any word or term to the same genus or class as the examples given.
- 2.2. The expiration or termination of the Lease shall not affect such of the provisions of the Lease which are expressly provided to operate after any such expiration or termination, or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the relevant provisions themselves do not provide for this.
- 2.3. Each of the provisions of the Lease has been negotiated by the Parties and drafted for the benefit of the Parties, and accordingly the rule of construction that the contract shall be interpreted against or to the disadvantage of the Party responsible for the drafting or preparation of the Agreement (ie the *contra proferentem* rule), shall not apply.
- 2.4. Any reference to "domicilium" will be a reference to *domicilium citandi et executandi*. The Tenant selects as its domicilium the address of the Leased Premises and the Landlord selects as its domicilium the address set forth in clause 1 of the Lease Schedule.
- 2.5. Any notice in terms of the Lease shall be in writing. Where the notice relates to a breach of the Lease then it shall specify the breach and call for it to be remedied within not less than 7 days of receipt of notice. Any notice shall be addressed to the addressee in at least one of the following ways:
- 2.5.1. in relation to the Tenant only, by email to the Tenant's then current email address;
- 2.5.2. by hand to the addressee's *domicilium*;
- 2.5.3. by hand to the addressee's then current place of business;
- 2.5.4. by prepaid registered post to the addressee's *domicilium* in which event it shall be deemed to have been

- received 96 hours after the time of its posting;
- 2.6. A Party may change its *domicilium* by notice at any time;
- 2.7. Where the Lease requires a Party to use “reasonable endeavours” in relation to an act or omission, that Party shall do all such things as are or may be necessary or desirable so as to achieve that action or omission, and to the extent that the action or omission is frustrated, hindered or otherwise difficult to attain, each of the Parties will consult and co-operate with each other and continue to take action so as to achieve that action or omission until each of the Parties agrees that it is not reasonable to take the action or is reasonable to omit taking the action, provided that any actions or omissions required to be taken:
- 2.7.1. shall at all times be commercially reasonable as regards all the Parties;
- 2.7.2. shall not be such as to result in a breach of a fiduciary duty or contravention of any Applicable Law; and
- 2.7.3. shall not be construed as requiring a Party to take any step other than one which a prudent, determined and reasonable business person, acting in its own interests and desiring to achieve that result, would in that circumstance undertake.
- 2.8. The Lease Schedule and the Lease Terms must be read together to constitute the Lease and where substantive rights or obligations are contained in the Lease Schedule, they will be treated in terms of the Lease as rights and obligations of the Party to whom they apply.
3. **Lease:**
The Landlord lets to the Tenant which takes on hire the Leased Premises and the Parking.
4. **Duration:**
The Lease will endure for the Lease Period, unless terminated in accordance with the Lease before the expiry of the Lease Period.
5. **Occupation:**
- 5.1. The Landlord will give occupation of the Leased Premises to the Tenant during the Lease Period.
- 5.2. **Notwithstanding 5.1, if the Landlord is unable to give the Tenant occupation of the Leased Premises for any reason, including that the Leased Premises are incomplete, in disrepair or occupied by a third party, the Tenant will have no right to claim any compensation or damages from the Landlord, but will be entitled to cancel the Lease in accordance with its terms.**
- 5.3. Where the Landlord gives the Tenant occupation on the Early Occupation Date, all the terms of the Lease will apply to the Parties, save that the Tenant will not be required to pay the Rental and may not conduct business from the Leased Premises until the Commencement Date.
- 5.4. The Landlord will have the right to refuse to give occupation of the Leased Premises to the Tenant if the Tenant has not:
- 5.4.1. delivered to the Landlord such resolutions or other evidence of corporate capacity and authority to enter into the Lease as the Landlord may reasonably require;

- 5.4.2. delivered to the Landlord the guarantee or deposit in terms of 12 and each other amount payable in advance by the Tenant to the Landlord on or during the first month of the Lease Period;
- 5.4.3. delivered to the Landlord each properly executed deed of suretyship contemplated in clause 21 of the Lease Schedule;
- 5.4.4. delivered to the Landlord such information and documents as the Landlord reasonably requests in accordance with the Financial Intelligence Centre Act No. 38 of 2001; and
- 5.4.5. obtained the Landlord's written approval for the specifications of any alterations or fittings which the Tenant proposes to effect to the Leased Premises.
- 5.5. The Tenant will be bound by and will comply with the Tenant Rules.
- 5.6. If the Tenant remains in occupation of the Leased Premises after the expiry of the Lease Period, without concluding a new written Agreement of Lease, then the Tenant's occupation of the Leased Premises will be on a month-to-month tenancy, subject to a bi-annual (every six months) 8% (eight percent) increase in Gross Rentals, and furthermore subject in all other respects to the terms and conditions of this Lease.

6. **Rental:**

- 6.1. The Rental will be paid by the Tenant to the Landlord on or before the first day of each month during the Lease Period.
- 6.2. The Rental and other amounts stated in the Lease are stated exclusive of VAT. The Tenant will pay such VAT as is imposed upon Rental and other amounts stated in the Lease in terms of Applicable Law.
- 6.3. The Rental will escalate annually in the manner set forth in clause 8 of the Lease Schedule.

7. **Rates and Levies:**

- 7.1. The Tenant will, in addition to the Rental, pay to the Landlord the Tenant's Pro-Rata Share of:
 - 7.1.1. any increase after the Commencement Date of rates, levies (including property owners' association and sectional title levies) or property-related taxes charged upon or in relation to the Property and/or the Leased Premises by any government, provincial or local authority, or otherwise pursuant to Applicable Law.
 - 7.1.2. any new levy, charge or impost upon property or leases which is introduced after the Commencement Date and which is charged to the Landlord in respect of the Property and/or the Leased Premises.
- 7.2. The Tenant will pay the amounts contemplated in 7.1 to the Landlord, or at the written instruction of the Landlord, to the relevant authority, within 30 days of the date of an appropriate invoice having been delivered to the Tenant.
- 7.3. Should the Tenant raise any dispute in relation to the charges referred to in 7.1, the Tenant must do so by notice to the Landlord within 14 days of the Tenant being notified of the increase in question. In the event

that any such dispute is not resolved between the Parties, it will be referred to and determined by a practising chartered accountant nominated by the Landlord, whose decision will be final and binding.

- 7.4. Pending the determination of any dispute in terms of 7.3, the Tenant will make payment of the amount applicable prior to the increase which the Tenant found objectionable, and payment of any increase must be made within 7 days of the final determination of the amount in terms of 7.3.

8. **FICA:**

The Tenant will within 7 days of request by the Landlord from time to time, deliver to the Landlord such data and documents as the Landlord reasonably requires to meet its obligations in terms of the Financial Intelligence Centre Act No. 38 of 2001.

9. **Electricity, Water and Other Charges:**

- 9.1. With effect from the earlier of the Early Occupation Date and the Commencement Date, the Tenant will pay the cost of:
- 9.1.1. electricity consumed at or on the Leased Premises, determined in terms of 9.2;
 - 9.1.2. water consumed at or on the Leased Premises, determined in terms of 9.3;
 - 9.1.3. the removal of refuse from the Leased Premises, determined in terms of 9.4;
 - 9.1.4. the removal and/or treatment of sewerage and/or effluent from the Leased Premises, determined in terms of 9.4.
- 9.2. The cost of electricity contemplated in 9.1.1 will be the cost thereof, measured by way of an electricity meter installed for measuring the use of electricity at the Leased Premises. If no electricity meter is installed then the cost will be determined on the basis of the Tenant's Pro-Rata Share of the total cost of electricity consumed by all occupiers of the Property.
- 9.3. The cost of water contemplated in 9.1.2 will be the cost thereof, measured by way of a water meter installed for measuring the use of water at the Leased Premises. If no water meter is installed then the cost will be determined on the basis of the Tenant's Pro-Rata Share of the total cost of water consumed by all occupiers of the Property.
- 9.4. The cost of the removal of refuse, sewerage and/or effluent will be the Tenant's Pro-Rata Share of the total amount payable by the Landlord to the applicable authority for the removal of refuse, sewerage and/or effluent from the Property.
- 9.5. Notwithstanding 9.4, the Tenant will be responsible to cause its refuse to be removed from the Leased Premises regularly, and placed at such location on the Property as the Landlord designates for the storage of refuse.
- 9.6. Where the Leased Premises receive chilled air via a central air-conditioning system which provides chilled air to other parts of the Building, then the Tenant will pay the Tenant's Pro-Rata Share of the cost of servicing and maintaining the air-conditioning system.
- 9.7. The Landlord will have the right upon written notice to the Tenant to require the Tenant to pay any amount

which it is required to pay in terms of this 9, directly to the supplier of the utility or service to which the amount relates.

- 9.8. If the Tenant fails to timeously pay any amount contemplated in this 9, then the Landlord will have the right upon 7 days' notice to cause the termination of supply to the Leased Premises of the utility or service to which the outstanding amount relates.

10. **Operating Costs:**

- 10.1. The Tenant will in addition to its obligation to pay Rental and the costs referred to in 9, pay a monthly contribution towards the Landlord's monthly cost of operating and maintaining the common areas at the Property. This cost may include, without limitation, the cost to the Landlord of the supply to the common area of electricity, chilled air, water, refuse, sewerage and/or effluent removal, security, cleaning and landscaping services.
- 10.2. The contribution payable by the Tenant will be calculated as the Tenant's Pro-Rata Share of the total cost to the Landlord of providing or funding the costs of operating and maintaining the common areas.
- 10.3. The reference in 10.1 to the maintenance of the common areas will not constitute a reference to general maintenance of the structure of buildings, roofs, floor slabs, driveways and parking areas, which the Landlord will fund without requiring a contribution by the Tenant.

11. **Payment:**

- 11.1. All payments due by the Tenant in terms of the Lease will be made by electronic funds transfer into the Landlord's bank account, stipulated in writing by the Landlord.
- 11.2. Payments will be made without deduction, demand or set-off, and the Landlord may appropriate any payment received from the Tenant towards any component of the Tenant's indebtedness to the Landlord from time to time.
- 11.3. If the Tenant fails to make any payment to the Landlord timeously in terms of the Lease, the Landlord will be entitled to charge to the Tenant, which will pay to the Landlord, interest on the amount outstanding at an interest rate equivalent to the prime overdraft rate of interest charged by the Landlord's bankers on unsecured overdraft, plus 3%, compounded and calculated in the manner employed by the Landlord's bankers.

12. **Deposit or Bank Guarantee:**

- 12.1. The Tenant will before the Commencement Date, deliver to the Landlord one of the following forms of security, whichever the Landlord in its discretion elects:
- 12.1.1. a deposit in the amount contemplated in clause 15 of the Lease Schedule, paid to the Landlord in terms of 11.1; or
- 12.1.2. an unconditional and irrevocable bank guarantee for the amount contemplated in clause 15 of the Lease Schedule issued in favour of the Landlord by a South African banking institution in a format and containing terms as are approved in the sole discretion of the Landlord.
- 12.2. The Landlord will have the right at any time to apply the whole or any portion of the security towards payment of any liability of the Tenant in terms of the Lease. If the whole or any portion of the security is so applied by the Landlord, the Landlord may demand from the Tenant that the Tenant immediately causes the security to be reinstated to its original amount, and the Tenant will comply with that demand.
- 12.3. The security will be retained by the Landlord until 30 days after the complete discharge of all of the Tenant's obligations to the Landlord arising from the Lease, or the cancellation or termination of the Lease.
- 12.4. The Tenant will not be entitled to set-off against the security any Rental or other amount which may be payable by it in terms of the Lease, or any other basis. The Landlord will not be required to pay the Tenant any interest on security delivered by the Tenant to the Landlord, and any interest which accrues on security which is deposited to the Landlord will accrue in favour of the Landlord.

13. **The Leased Premises:**

- 13.1. The Tenant has acquainted itself with the Leased Premises and with the Property and records that the Leased Premises are fit for the purpose for which they are leased by the Tenant.
- 13.2. **The Landlord does not warrant that the Leased Premises are fit for the purpose for which they are let by the Tenant, nor that the Tenant will be granted any particular licence or renewal of a licence to operate from the Leased Premises. The Landlord will be under no obligation to carry out any alterations or repairs to the Leased Premises in order to comply with any licence or permitted requirements applicable to the Tenant or the operation of its business.**
- 13.3. The Tenant will within 10 days of the Early Occupation Date or the Commencement Date, whichever is earlier, notify the Landlord in writing of any defects in the condition of the Leased Premises. Failing this notification, the Tenant will be deemed to have received the Leased Premises in a thoroughly good state of repair and condition and the Landlord will have no obligation to make good any defects or damages which are not so notified to the Landlord.
- 13.4. The Tenant will use the Leased Premises only for the Permitted Use and for no other purpose.
- 13.5. The Landlord may lease premises upon the Property to other tenants who conduct business which is the same as or similar to the business conducted by the Tenant.
- 13.6. The Tenant's Pro-Rata Share is calculated on the basis of a predetermined percentage which is reasonable

on the Commencement Date. The Tenant agrees that the Landlord may adjust the Tenant's Pro-Rata Share from time to time to reflect the Tenant's actual proportionate occupation of the Building or the Property (in the discretion of the Landlord), having regard for occupation by other occupiers.

14. Maintenance of Interior:

- 14.1. The Tenant shall at its own expense keep and maintain the interior of the Leased Premises in good order and repair and will comply with the Tenant Rules which relate to the interior of the Leased Premises.
- 14.2. If the Tenant fails to carry out any of its obligations in terms of the Lease, then in addition to any other right which the Landlord may have in terms of the Lease, the Landlord will be entitled itself or through its contractor, to cause the obligation in question to be performed by itself or its contractor and having done so, to recover the cost incurred by the Landlord in doing so, plus 10% of that cost.
- 14.3. The Tenant irrevocably authorises the Landlord and its contractor to perform or cause to perform the acts contemplated in 14.2 and waives any claim or complaint it may have against the Landlord arising from any of those acts.

15. Maintenance of Exterior:

- 15.1. The Landlord will keep and maintain in reasonable order the exterior of the Building, being its foundations, walls, roof, gutters, down pipes and common areas, and any electrical or water reticulation installations applicable to the common areas.
- 15.2. The Landlord will be entitled to effect repairs, alterations, improvements or additions to the Building or any part of the Property and for such purposes, to erect scaffolding, hoardings and/or any building equipment and will be entitled to access any portion of the Leased Premises which may be reasonable and necessary for these purposes.
- 15.3. **The Tenant will not have any claim and may not claim any reduction in Rental as a result of any loss or inconvenience which it may suffer as a result of the Landlord's actions as contemplated in 15.2.**
- 15.4. The Landlord will be entitled to reasonable access to the Leased Premises for the purposes of inspecting or repairing the Leased Premises, or the Building.
- 15.5. The Landlord will be entitled to repair, add to or alter the Leased Premises as and when it may be required to do so by any competent authority.

16. Alterations:

- 16.1. The Tenant may not make any alterations or additions of any nature to the Leased Premises or the Building without the prior written consent of the Landlord.
- 16.2. If the Landlord gives its consent in terms of 16.1, then the Tenant will comply with the Tenant Rules in

relation to any alterations or additions in respect of which the consent is given.

- 16.3. If the Tenant effects any alterations or additions to the Leased Premises or the Building without the Landlord's prior written consent then in addition to any other rights which the Landlord may have in terms of the Lease, it may, in its discretion, require the Tenant to remove the alterations or additions in the manner contemplated in the Tenant Rules, or deem that its consent has been given and exercise its rights to take ownership of the alterations or improvements as set forth in the Tenant Rules.

17. **Fixtures and Fittings:**

- 17.1. The Tenant may, provided it has first obtained the Landlord's prior written consent, install fixtures and/or fittings in the Leased Premises for the purpose of conducting its business.
- 17.2. The Tenant will be entitled at any time, and must by the date upon which the termination of the Lease takes effect, remove any such fixtures and/or fittings as it has installed, subject to the provisions of 17.4 and 18.6.4.
- 17.3. The Tenant will ensure that any fixtures and/or fittings which it causes to be installed at the Leased Premises are of the general nature and finish which is consistent with the general nature and finish of the Building.
- 17.4. If the Tenant does not remove fixtures and fittings which it has installed at the Leased Premises timeously, then in addition to any other rights which it may have, the Landlord will be entitled, in its discretion to take ownership and possession of the fixtures and/or fittings without being required to compensate the Tenant.

18. **Air-conditioning:**

- 18.1. The Tenant may not interfere with any air-conditioning installations in the Building or in the Leased Premises, where these have been provided by the Landlord.
- 18.2. The Tenant will:
- 18.2.1. pay the cost of running and maintaining any air-conditioning installations which have been provided by the Landlord and which serve the Leased Premises exclusively;
- 18.2.2. pay the Tenant's Pro-Rata Share of the cost of running and maintaining any air-conditioning installations which have been provided by the Landlord and which serve the Leased Premises and other areas in the Building.
- 18.3. **The Tenant will have no claim against the Landlord arising out of any defect in or interruption of the operation of air-conditioning in the Leased Premises, regardless of the reason therefore.**
- 18.4. **Where the air-conditioning has been provided by the Landlord to the Leased Premises, it has been provided on the basis of specifications which the Landlord considers reasonable, and the Tenant will have no claim against the Landlord should it not be satisfied with the specifications of the air-conditioning, or the extent of its operation.**
- 18.5. The Tenant may not install any item of air-conditioning plant in any part of the Leased Premises without the prior written consent of the Landlord.

- 18.6. Where the Landlord gives consent contemplated in terms of 18.5:
- 18.6.1. the Landlord may make such consent subject to reasonable conditions relating to nature, extent and positioning of the air-conditioning components;
 - 18.6.2. the Tenant will comply with any conditions contemplated in 18.6.1;
 - 18.6.3. the Tenant will be liable for the cost of keeping, maintaining, and repairing the air-conditioning components which it has installed; and
 - 18.6.4. the air-conditioning components which the Tenant has installed will, immediately upon installation, accede to the Building and ownership and possession of those components will transfer to the Landlord without the Landlord being required to compensate the Tenant.

19. **Common Areas:**

- 19.1. The Tenant will have the right of reasonable use of the amenities provided by the Landlord in common areas upon the Property for the general use of occupiers of the Property.
- 19.2. Common areas will be subject to the exclusive control and management of the Landlord and the Landlord will have the right to implement rules relating to tenants' use of common areas and the Tenant will abide by all such rules, including any amendments to those rules.
- 19.3. The Tenant will not operate any business activities upon common areas and will ensure that common areas are kept free of items or obstacles which the Tenant may bring upon the Property.
- 19.4. The Tenant will ensure that neither it, nor its invitees and/or employees obstruct, occupy or interfere with any parking areas other than those specifically designated from time to time by the Landlord for use by the Tenant.

20. **Parking:**

- 20.1. The Landlord lets to the Tenant which takes on hire the Parking.
- 20.2. The Tenant will be entitled to take occupation of the Parking on the date upon which it takes occupation of the Leased Premises in terms of the Lease.
- 20.3. The Parking Rental will be paid by the Tenant to the Landlord on the first day of each month during the Lease Period.
- 20.4. The Parking Rental will escalate annually in the same manner and by the same amount (expressed as a percentage) as the Rental escalates, as set forth in clause 8 of the Lease Schedule.
- 20.5. The Parking may be used by the Tenant for the parking of motor vehicles and for no other purpose.
- 20.6. **The Landlord will not be liable for, and the Tenant indemnifies the Landlord against, any loss or damage caused to any vehicle or property of the Tenant and any person who is an employee or invitee to the Leased Premises of the Tenant.**

21. Change, Development and Relocation:

- 21.1. If the Landlord at any time during the Lease Period sells the Leased Premises or any part of the Property which includes the Leased Premises, or if any holder of the shares or equity in the Landlord sells such shares or equity so that the purchaser of the shares or equity acquires control of the Landlord, then the Landlord, or the purchaser of the shares or equity, will be entitled, within 6 months after the sale takes effect, to terminate the Lease on 6 months' notice to the Tenant.
- 21.2. Save for the circumstances contemplated in 21.1, if the Landlord (or the owner of the Leased Premises, should the Landlord not be the owner of the Leased Premises at that time), disposes of or sells the Leased Premises, or any part of the Building which includes the Leased Premises, such disposal or sale will not in any way affect the Lease or entitle the Tenant to resile from or cancel the Lease.
- 21.3. If the Landlord (or the owner of the Leased Premises should the Landlord not be the owner of the Leased Premises at that time) decides to demolish the Building or to materially add to, enhance or renovate the Building and/or the Leased Premises, then notwithstanding anything to the contrary contained in the Lease, the Landlord will be entitled at any time to terminate the Lease on 6 months' notice to the Tenant.
- 21.4. The Landlord's architect will determine whether any additions, enhancements or renovations contemplated in 21.3 are material and the architect's determination will be final and binding upon the Parties.
- 21.5. The Landlord may at any time during the Leased Period require the Tenant to relocate from the Leased Premises to premises upon the Property which, in the reasonable opinion of the Landlord, are reasonably comparable to the Leased Premises.
- 21.6. If the Landlord wishes to exercise its right contemplated in 21.5, it must give the Tenant notice to that effect, specify the new location proposed for the relocation of the Tenant and the date upon which the relocation will occur, provided that the date may not be earlier than 90 days' from the Landlord's notice.
- 21.7. The Tenant will be entitled within 14 days of its receipt of the Landlord's notice referred to in 21.6 to accept the relocation, or to reject it.
- 21.8. If the Tenant rejects the relocation, the Lease will, notwithstanding anything to the contrary contained in the Lease, terminate on the 91st day following the Tenant's receipt of the notice contemplated in 21.6.
- 21.9. If the Tenant accepts the relocation, the Tenant will vacate the Leased Premises and take up occupation of the new premises (which will be deemed to be the Leased Premises in terms of the Lease) within 90 days of the Landlord's notice contemplated in 21.6 and the Landlord will pay all of the Tenant's costs reasonably connected with the moving of the Tenant to the new premises. These costs will include the costs of packing and translocating the Tenant's furniture, the removal and translocation of the Tenant's fixtures and fittings and the installation and configuration of any data cabling, but will exclude the cost of any new furniture, fixtures and fittings.

22. Damage and Destruction:

- 22.1. If the Leased Premises are completely destroyed or so extensively damaged so as to preclude the Tenant

from utilising the Leased Premises for a period of 30 days or more, then:

- 22.1.1. **the Tenant will have no claim against the Landlord as a result of the damage or destruction;**
- 22.1.2. the Landlord will be entitled to determine within 30 days after the damage or destruction, whether or not to cancel the Lease;
- 22.1.3. **should the Landlord elect to cancel the Lease, the Tenant will have no claim against the Landlord as a result of that cancellation;**
- 22.1.4. should the Landlord not notify the Tenant of its decision to cancel the Lease within the period contemplated in 22.1.2, then it will be deemed not to have cancelled the Lease.
- 22.2. If the Landlord elects not to cancel the Lease:
 - 22.2.1. the Landlord will reinstate the Leased Premises as quickly as is reasonably practicable;
 - 22.2.2. the Tenant will not be liable for any rent for so long as it does not have occupation of the Leased Premises, but subject to 22.2.3;
 - 22.2.3. if the Tenant is given beneficial occupation of any part of the Leased Premises, the Tenant will pay rental for that part on a pro-rata basis, calculated on the basis of area;
 - 22.2.4. the Lease Period will not be extended by the period during which the Tenant does not have occupation of the whole of the Leased Premises.
- 22.3. If a part, but not the whole of the Leased Premises is destroyed or damaged to the extent so as not to preclude the Tenant from having beneficial occupation of a portion of the Leased Premises, then:
 - 22.3.1. the Lease will not be cancelled;
 - 22.3.2. the rental payable by the Tenant will be reduced pro-rata to the extent of that part of the Leased Premises in respect of which the Tenant is deprived of beneficial occupation;
 - 22.3.3. the Landlord will at its cost repair the damage or destroyed portion of the Leased Premises as soon as reasonably practicable;
 - 22.3.4. **the Tenant will have no claim against the Landlord as a result of the destruction or damage.**
- 22.4. Notwithstanding the provisions contained in this 22, if the Leased Premises are, or any part of the Property is, damaged or destroyed by the Tenant or by reason of or related to the Tenant's use of the Leased Premises or the Property, the Landlord will be entitled to recover from the Tenant any cost which the Landlord incurs in making good any such damage or destruction, and a certificate issued by the Landlord or its contractor will constitute *prima facie* proof of damage or destruction caused by the Tenant as well as the cost to make good any such damage or destruction.
- 22.5. If any other premises in the Building are partially or wholly damaged or destroyed and the Leased Premises are affected by such damage or destruction or access to the Leased Premises is reasonably required by the Landlord in order to effect any necessary repairs to such other premises, the Landlord will have the right to deal with the Leased Premises as if they had been totally or partially damaged or destroyed (in the

Landlord's discretion) and in such event the applicable provisions of this 22 will apply *mutatis mutandis*.

- 22.6. If any dispute arises as to whether the Building or Leased Premises are destroyed or damaged to the extent that the Tenant cannot utilise them or enjoy beneficial occupation in respect of a whole or part thereof, then the dispute will be referred to an architect paid for and appointed by the Landlord for determination as an expert, and that determination will be final and binding.
- 22.7. If any dispute arises with regard to the reduced amount of rental payable in terms of this 22, then that dispute will be referred to a chartered accountant paid for and appointed by the Landlord for determination as an expert, and that determination will be final and binding.

23. Waiver and Indemnity:

23.1. The Tenant will not have any right, remedy or claim of any nature against the Landlord for any loss, damage (whether general, special or consequential), expense or injury which may be suffered by the Tenant directly or indirectly by reason of or arising out of or as a result of:

- 23.1.1. **the Leased Property, the Building or the Property or any part thereof being in a defective condition or a state of disrepair or any particular repair or maintenance not being effected by the Landlord;**
- 23.1.2. **any act or omission by any other tenant or visitor to the Property;**
- 23.1.3. **theft, housebreaking, forcible entry or burglary at the Leased Premises or upon the Property; or**
- 23.1.4. **force majeure event or the failure or interruption in any services, utilities or amenities provided to the Leased Premises or the Property, regardless of the cause of such failure or interruption and whether or not it is caused through the negligence of the Landlord or any person appointed by the Landlord.**

23.2. The Tenant indemnifies the Landlord against:

- 23.2.1. **any claim made against the Landlord by any person who attends upon the Leased Premises or the Property as employee, invitee or contractor of the Tenant for any loss or damage suffered in or on the Leased Premises or upon the Property or in consequence of any act or omission of the Tenant or its agents, invitees or employees;**
- 23.2.2. **any claims for loss or damage suffered by the Landlord arising from the Tenant's breach of any of the provisions of the Lease.**

24. Cession, Sub-Lease and Change of Control:

- 24.1. The Tenant may not without the prior written consent of the Landlord cede, assign or in any way alienate or encumber any of its rights in terms of the Lease, sub-let the whole or a part of the Leased Premises to any third party, nor permit any third party to occupy the Leased Premises or the Property or any part of either.
- 24.2. If the Landlord gives its consent to sub-let, then without effecting any conditions which the Landlord may stipulate, the Tenant will be deemed to have ceded in favour of the Landlord all of its rights against the sub-tenant, including its right to receive payment of rental or any other amounts in terms of the sub-lease as security for the Tenant's obligations to the Landlord in terms of the Lease.

- 24.3. If the Tenant is a company or close corporation, any change in control of the Tenant will be deemed to be a cession by the Tenant of its rights under the Lease, and the Tenant will be subject to the obligations and restrictions in 24.1.
- 24.4. The Tenant may not without prior written notice to the Landlord change the name by which it trades from the Leased Premises.
- 24.5. The Landlord will be entitled to cede and assign its rights and obligations in terms of the Lease to any third party without the prior consent of the Tenant.

25. **Breach:**

- 25.1. If a Party:
 - 25.1.1. breaches any provision of the Lease and fails to remedy the breach within 7 days' of written notice to do so;
 - 25.1.2. commits a second or subsequent breach of the Lease after having received written notice to remedy an earlier similar breach during the preceding 60 days;
 - 25.1.3. takes steps to surrender that Party's estate or that Party's estate is sequestrated, whether provisionally or finally;
 - 25.1.4. takes steps to place itself, or is placed, in liquidation, whether provisionally or finally and whether voluntary or compulsory, or in judicial management, or under debt review, in either case whether provisionally or finally;
 - 25.1.5. being a corporate body, takes steps to deregister itself or is deregistered;
 - 25.1.6. commits an act of insolvency as defined in the Insolvency Act No. 24 of 1936, or, being a corporate body, commits an act which would be an act of insolvency if committed by a natural person;
 - 25.1.7. in the case of the Tenant, fails to satisfy a judgment against it within 10 days after it becomes aware of the judgment, except that if it provides evidence on an ongoing basis to the reasonable satisfaction of the Landlord that steps have been initiated within the 10 days to discharge, appeal, review or rescind the judgment and to procure suspension of execution and that such steps are being expeditiously pursued;
 - 25.1.8. in the case of the Tenant, it sells the whole or a substantial portion of its business, without first having obtained the prior written consent of the Landlord; or
 - 25.1.9. in the case of the Tenant, there is a change of control of the Tenant (by the transfer of 50% or more of the equity of the Tenant or the transfer of the power to control or direct the Tenant) which takes effect without the Tenant first having obtained the prior written approval of the Landlord, the applicable Party shall be in default.
- 25.2. If a Party is in default, the other Party shall be entitled, in addition to all other remedies at law, to:-
 - 25.2.1. enforce the provisions of the Lease; and/or

- 25.2.2. terminate the Lease; and/or
- 25.2.3. in either event and in an appropriate case, recover damages.

26. **Holding Over:**

- 26.1. Should the Landlord cancel the Lease and the Tenant disputes the Landlord's right to do so and remains in occupation of the Leased Premises, the Tenant will continue to pay all amounts due by the Tenant in terms of the Lease on the dates that those amounts are due.
- 26.2. The Landlord will be entitled to accept payment of all amounts due without prejudice to its claim that it has cancelled the Lease. If the dispute is determined in favour of the Landlord, the payments received in terms of 26.1 will be deemed to be amounts due by the Tenant on account of damages suffered by the Landlord by reason of the Tenant unlawfully occupying the Leased Premises.

27. **Premature Termination:**

If the Lease is terminated prior to the expiry of the Lease Period for any reason, other than a breach on the part of the Landlord, then until the Tenant proves to the contrary, the Tenant will be deemed to be indebted to the Landlord for damages for loss of Rental in the sum equal to the aggregate of the Rental, which would be payable in terms of the Lease but for its premature termination, and the amount equivalent to the pro-rata portion (calculated by multiplying the amount in question by the quotient of the number of unexpired calendar months remaining and the total number of calendar months of the Lease Period) of any tenant installation grant or allowance given by the Landlord to the Tenant.

28. **Force Majeure:**

- 28.1. Neither Party will be liable for any breach or delay in performance of its obligations in terms of the Lease if, and to the extent that, the breach or delay is directly caused by a *force majeure* event which will constitute one or more of the following events: civil riots, strikes, government or municipal intervention, interruptions in the supply of electricity and/or water, or acts of God, but in each case if, and only to the extent that, the non-performing Party is without fault in causing the breach or delay, the breach or delay could not have been prevented by reasonable precautions and the breach or delay cannot reasonably be circumvented by the non-performing Party in accordance with 28.2.
- 28.2. In the event that a Party is unable to perform its obligations pursuant to a *force majeure* event as described in this 28, such Party will:
 - 28.2.1. immediately notify the other Party of the occurrence of the *force majeure* event and describe the circumstances causing such delay; and
 - 28.2.2. use its reasonable endeavours to perform (or recommence performing) its obligations.
- 28.3. If *force majeure* causes delays in or failure or partial failure of performance by a Party of all or any of its obligations, the Lease, or as the case may be, the affected portion thereof, shall be suspended for the period during which the *force majeure* prevails, but if they affect any material part of the Lease, it shall be

suspended for a maximum of 60 days after which any affected Party will be entitled on 7 days' written notice to cancel the Lease.

29. Anti-Corruption:

- 29.1. The Tenant will comply with all relevant anti-bribery and corruption provisions of the Applicable Law and with the relevant foreign anti-bribery and corruption laws including but not limited to the Prevention and Combating of Corrupt Activities Act No. 12 of 2004 (South Africa), the United States Foreign Corrupt Practices Act of 1977 and the United Kingdom Bribery Act of 2010.
- 29.2. The Tenant warrants and undertakes that:
- 29.2.1. it has implemented, and will at all times implement adequate procedures designed to prevent it or any person associated with it from engaging in any act which would constitute an offence under or violate the anti-bribery laws referred to in 29.1;
- 29.2.2. no financial or other advantage has been, will be or is agreed to be given to any person (whether working for or engaged by the Landlord or any third party) by or on behalf of the Tenant in connection with the Lease, unless details of any such arrangement have been disclosed to and approved by the Landlord in writing; and
- 29.2.3. none of its employees, directors, shareholders or trustees or beneficiaries of its shareholders (where any shareholder is a trust) are related to any employee of the Landlord or of the Landlord's agent, save to the extent that such relationship has been disclosed to and approved by the Landlord in writing.
- 29.3. The Tenant will promptly notify the Landlord in writing if it becomes aware that it or any person associated with it has committed or may have committed a breach of this 29 or of any anti-bribery laws contemplated in 29.1, or has received any request or demand for any undue financial or other advantage in connection with the performance of the Lease.

30. Protection of Personal Information:

- 30.1. Each Party shall strictly comply with all provisions of POPIA relating to the Processing of Personal Information. Any failure by a Party (the "Non-Complying Party") to comply with POPIA or any of the provisions of this clause must be remedied upon receipt of 7 (seven) days written notice by the Affected Party, without prejudice to any rights the Affected Party may have in law.
- 30.2. Each Party hereby agrees to processing of Process Personal Information only for purposes relating directly to this Agreement. Unless provided for in terms of the provisions of this Agreement or otherwise as may be agreed to by the Parties in writing, neither Party shall modify, merge with other data, commercially exploit or engage in any other practice or activity that may in any manner adversely affect the integrity, security or confidentiality of the Personal Information.

- 30.3. All Personal Information shared by a Party with the other Party during the subsistence of this Agreement shall constitute Confidential Information and as such, the Receiving Party shall comply with all the confidentiality and/or non-disclosure provisions contained in this Agreement, and as such the Receiving Party shall not disclose any Personal Information to any third party without the Disclosing Party's prior written consent.
- 30.4. Each Party shall implement and maintain adequate technical and organisational security and safety measures to protect the integrity of the Personal Information Processed by it in terms of this Agreement and to avoid any damage or unauthorised access to or loss of any such Personal Information.
- 30.5. The Non-Complying Party shall immediately notify the Affected Party if the Affected Party's Personal Information has been lost or damaged, or accessed or acquired by an unauthorised person, and the Non-Complying Party shall comply with any instructions and/or directives which the Affected Party may issue in the event of any such circumstances.
- 30.6. Each Party shall, at its own cost, be entitled to verify compliance of the technical and organisational security and safety measures implemented by the other Party, or appoint auditors to do so, upon reasonable prior notice to the other Party. Each Party shall respect the operational sequences of the business of the other Party and the other Party shall assist the first mentioned Party in the execution of the inspections in the best possible way.
- 30.7. Each Party shall provide the other Party upon request with any information required to meet the first mentioned Party's obligations in law relating to the processing of Personal Information and make the necessary documentation available within a reasonable time.
- 30.8. Each Party shall ensure that its personnel and /or any other authorised person or entity which processes Personal Information on its behalf receives adequate and appropriate training in the care and handling of Personal Information in terms of POPIA and any other applicable data privacy legislation.
- 30.9. Each Party shall maintain adequate records of all processing of Personal Information, including the training of such Party's personnel regarding the protection of Personal Information and any applicable data privacy legislation.
- 30.10. Upon this Agreement to an end for whatever reason, each Party shall return to other Party or destroy, if instructed by the other Party to do so, all such Personal Information in its possession, or in the possession of its agents, sub-contractors or any third party who may have had access and/or possession of the Personal Information, in accordance with such procedures which requesting Party may prescribe from time to time.
- 30.11. Each Party shall indemnify and hold the other Party harmless against any claim, Loss, damage, cost and expense (including legal fees on and attorney and Client scale) relating to or arising from such Party breaching any of the provisions of this clause.
31. **General Provisions:**
- 31.1. No variation, extension or termination of or addition to the Lease shall be of any force or effect unless reduced to writing and signed on behalf of the Parties.

- 31.2. Where a Party is granted a right or remedy under the Lease it shall be in addition to and not in substitution for any other right or remedy which that Party might have in terms of the Lease or in law.
- 31.3. No failure on the part of a Party to exercise, and no delay by a Party in exercising, any right under the Lease will operate as a waiver of that right, nor will any single or partial exercise of any right under the Lease preclude any further or other exercise of that right nor act to the exclusion of any other right.
- 31.4. Should any Party fail or decline to enforce the whole or any part of the Lease or grant any indulgence to any other Party, then the act or omission aforesaid shall not be interpreted as a waiver of rights, nor shall it act as an estoppel against or otherwise prejudice the Party committing the act or omission.
- 31.5. No provision of the Lease shall be construed against or interpreted to the disadvantage of a Party to the Lease by reason of such Party having or being deemed to have structured, drafted or introduced such provision.
- 31.6. If any provision of the Lease is found by a court to be invalid, void or unenforceable, the remaining provisions shall remain in full force and effect.
- 31.7. The Lease may be signed in any number of counterparts, each of which shall be an original, but all of which together shall constitute a single indivisible agreement.
- 31.8. This is the sole agreement between the Parties on this subject. No preceding representation, warranty, offer, invitation, term or condition proposed or settled upon shall be of any effect whatsoever save to the extent that it is recorded in the Lease.
- 31.9. The Tenant consents in terms of Section 45 of the Magistrates' Court Act No. 32 of 1944 to the jurisdiction of the Magistrate's Court having jurisdiction in relation to any matter arising between the Landlord and the Tenant, provided that either Party will be entitled to bring proceedings in the High Court of South Africa.
- 31.10. Each Party warrants to the other that it has power, authority and legal right to sign the Lease and to perform in terms of the Lease, and that the Lease has been duly authorised by all necessary actions of its directors, members or shareholders, as the case may be, and constitutes valid and binding obligations on it in accordance with the terms of the Lease.
- 31.11. If the Landlord provides any assistance or services to the Tenant or makes concessions or grants indulgences which it is not obliged to, then the Tenant does not acquire any rights in respect thereof and the Landlord is not obliged to continue to provide the same.
- 31.12. The Lease supersedes all prior agreements in respect of the matters contained in it.
- 31.13. If the Tenant is a natural person then the Lease will terminate upon the death or incapacity of the Tenant.
- 31.14. **If the Tenant comprises more than one person, such persons will be jointly and severally liable for the obligations in terms of the Lease.**
- 31.15. The Tenant irrevocably consents to and authorises the Landlord or its nominee to request any information available in relation to the Tenant from any credit bureau from time to time and to record or report the

Tenant's performance in terms of the Lease (including any failure to perform) to any credit bureau which the Landlord elects.

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Annexure A**The Tenant Rules**

The Tenant will in addition to its obligations set forth in the Lease, comply in precise terms with the following rules:

1. Maintenance and Related Matters:

The Tenant will:

- 1.1. maintain all windows and doors, including external doors, in good order and condition;
- 1.2. maintain all electrical installations at the Leased Premises in good order and condition, including repairing or replacing lighting equipment, light globes and tubes, switches, electrical geysers, switchboards and other electrical fittings and/or devices which may cease to operate, or which become damaged, lost or destroyed;
- 1.3. in relation to floor coverings which constitute carpets at the Leased Premises, which become dirty, stained, marked or permanently indented during the Leased Period, replace such floor coverings;
- 1.4. maintain all wall coverings at the Leased Premises, including paint, wall paper, cladding or rendering in good order and condition and clean, and where it becomes dirty or damaged, clean and/or replace it, as applicable;
- 1.5. maintain the water and waste water reticulation systems at the Leased Premises in good order and condition, including, rectifying any blockages to any water pipes and waste water pipes within the Leased Premises or outside of the Leased Premises where the latter become blocked as a result of activities at the Leased Premises;
- 1.6. maintain the sanitary ware and sewerage systems at the Leased Premises in good order and condition including rectifying any blockages to any pipes or sewerage reticulation systems or connections within the Leased Premises or which may become blocked as a result of activities at the Leased Premises.
- 1.7. maintain taps and sanitary ware, mirrors, countertops and fixtures and fittings at the Leased Premises in good order and repair and where these become dirty or damaged, to clean and/or replace them, as applicable;
- 1.8. not, without the Landlord's prior written consent, drive or permit to be driven into the walls, ceiling or floors of the Leased Premises and/or any part of the Property, any nails, screws or instruments, nor in any manner whatsoever do or permit anything to be done that may damage the walls, ceiling and/or floors of the Leased Premises and/or any part of the Property;
- 1.9. not, without the Landlord's prior written consent remove any floor covering, partition, wall, lighting, electrical fitting, plumbing, shelving or any other fixture or fitting on the Property.
- 1.10. obtain from the Landlord its prior written consent for the fitting or installation to the Leased Premises of any floor covering, partition, wall, lighting, electrical fitting, plumbing, shelving or any other fixture or fitting;
- 1.11. not alter any electrical installations on the Property nor overload the electrical installations on the Property, nor fit or install any additional electrical installation on the Property without the prior written consent of

the Landlord. Where the Landlord grants its consent in relation to the installation of any electrical installations at the Leased Premises, deliver to the Landlord within 14 days of the completion of the installation a certificate of compliance by an accredited electrical contractor pertaining to such installation and if the Tenant fails to deliver this certificate timeously, the Landlord will, in addition to any other right which it has in terms of the Lease, have the right to gain access to the Leased Premises to carry out such work as it in its opinion is necessary to achieve the certificate of compliance and the Tenant will pay the Landlord's costs associated with procuring the certificate of compliance;

- 1.12. not, without the prior written consent of the Landlord, affix any item to any part of the exterior of the Building or the Property;
- 1.13. regularly take steps to minimise the infestation of pests and/or rodents at the Leased Premises.
- 1.14. not permit any unlawful activity at the Property, or any activity which would be contrary to the conditions of title, registered servitude or the provisions of the Town Planning Scheme applicable to the Property;
- 1.15. not exceed the floor loading capacity of the Leased Premises, nor exceed any stacking height or configuration limitation stipulated by the Landlord from time to time;
- 1.16. not, without the prior written consent of the Landlord, install any window covering, window tinting, awning, blind, burglar proofing or like device on or adjacent to the Building (other than within the interior portion of the Leased Premises) without the prior written consent of the Landlord.

2. Storage:

The Tenant will:

- 2.1. not use, store or permit the use or storage of any toxic, flammable, noxious, corrosive or hazardous substance at the Leased Premises without the Landlord's prior written consent, and in the event that any part of the Property is damaged or degraded by reason of the Tenant's use or storage at the Leased Premises of such substance, then the Tenant will, upon demand by the Landlord, make good any such damage or degradation, including in circumstances where the Landlord may have given the consent contemplated in this Rule;
- 2.2. not store or permit the storage of any items on the Property, other than at the Leased Premises;

3. Signage:

- 3.1. Save for any signage stipulated by the Landlord in terms of clause 15 of the Schedule, the Tenant will not affix, paint or hang any signage on the exterior of the Building or on the Property or on any window or door of the Leased Premises.
- 3.2. In the event that, with the Landlord's consent, the Tenant affixes any sign to any part of the Property, it will maintain the sign in good order and condition and ensure that it complies at all times with any requirements of any competent authority, including the authority of any property owners' association, or managing agent in relation to the property development in which the Building is situate, and will upon the termination of the Lease, remove any sign which it has caused to be erected and make good any damage caused as a result

of it having erected the sign.

- 3.3. The Tenant will allow the Landlord to display signage of any nature upon the Leased Premises at any time, including signage to the effect that the Leased Premises or the Building may be for sale, or during the 3 month period immediately preceding the expiration of the Lease or upon the Landlord or the Tenant giving notice to terminate the Lease, or terminating the Lease, to erect any sign advertising the Leased Premises for lease to the public.
- 3.4. The Tenant will allow the Landlord to show the interior of the Leased Premises to any prospective tenant or purchaser of the Leased Premises during business hours.

4. Noise, Nuisance and Related:

The Tenant will:

- 4.1. not solicit or canvass for business in the common areas of the Property;
- 4.2. not display any televisions or use any loud speakers or other similar devices in a manner so as to be seen or heard outside of the Leased Premises;
- 4.3. not operate any machine or apparatus which can be heard outside of the Leased Premises, or in any way causes any nuisance to any other occupier of the Building or the Property;
- 4.4. ensure at all times that no nuisance emanates from the Leased Premises and/or the Property or otherwise interfere in any way with the use by other occupiers of the Building and the Property;
- 4.5. not use the Leased Premises for residential purposes and procure that no person ever sleeps at the Leased Premises or on the Property;
- 4.6. not wash or allow to be washed any vehicle or other equipment on the Property unless a designated wash bay facility is provided on the Property and that wash bay facility is equipped with requisite drainage and grease trap facility;
- 4.7. ensure that vehicles driven or used by its principals, agents, servants, directors, licensees or invitees do not obstruct the free flow of traffic at the entrances or exits or the driveways or the pedestrian entrances to the Property;
- 4.8. ensure that no item of plant, machinery, raw materials, furniture or any other item which is delivered to or removed from or for the Tenant obstructs the free and safe access to any entrance, doorway, pathway, roadway or exit upon the Property;
- 4.9. not hold any social gatherings and/or make any open fires without the Landlord's prior written consent;
- 4.10. not contravene or permit the contravention of any Applicable Law in relation to its conduct at the Property, nor will it contravene or permit the contravention of any provision contained in the title deeds or any servitude pertaining to the Property, but nothing contained in this clause will entitle the Tenant to oblige the Landlord to take any action in terms of this rule, nor will the Tenant derive any rights from the provisions

of this rule.

5. Insurance and Risk:

The Tenant will:

- 5.1. at its cost secure the Leased Premises against unlawful entry;
- 5.2. insure and keep insured all fixtures, fittings, installations and other furniture and goods at the Leased Premises from time to time;
- 5.3. maintain public liability insurance for such amount as will provide indemnity in respect of all claims which may foreseeably be made against the Tenant arising out of its activities at the Leased Premises. If there is a dispute as to the quantum of the public liability insurance cover, the dispute will be referred to the Landlord's auditors for a determination, which will be final and binding on the Parties;
- 5.4. upon request by the Landlord, furnish proof to the Landlord of the insurance policies referred to in these rules and if the Tenant fails to do so, the Landlord will, without prejudice to any other rights, be entitled to pay on behalf of the Tenant (where the insurance policies are current), or to itself take out such insurance policies, and recover the premiums of those insurance policies from the Tenant;
- 5.5. not do or permit anything to be done or keep anything in the Leased Premises which in terms of any fire or other insurance policy held from time to time by the Landlord in respect of the Building and/or the Property may not be done or kept therein or which may render any such policy void or voidable and the Tenant will comply in all respects with the policy, provided that if any premium payable in respect of such policy increases by reason of the nature and scope of the activities of the Tenant at the Leased Premises, or as a result of the Tenant not complying with this rule, then without any prejudice to any other rights which the Landlord may have, the Tenant will on demand refund the Landlord the amount of the additional premium.

6. Alterations:

- 6.1. If the Landlord grants consent to the Tenant in terms of the Lease to carry out any alterations or additions at the Leased Premises, then during the Lease Period, such alterations or additions will not be removed or altered by the Tenant and upon the termination of the Lease, the Landlord will have the right to:
 - 6.1.1. require the Tenant to remove the alterations or additions and reinstate the Building and/or the Leased Premises, at the Tenant's cost, to the same condition prior to the carrying out of such alterations or additions; or
 - 6.1.2. require the Tenant to leave any one or more of the alterations or additions at the Leased Premises, in which case such alterations or additions will become the Landlord's property and no compensation will be payable by the Landlord to the Tenant for any such alterations or additions.
- 6.2. If the Landlord requires the Tenant to remove any alterations or additions which the Tenant has effected to the Leased Premises, then the Tenant will remove the same before the termination of the Lease and if

the Tenant fails to do this, the Landlord will, in addition to any other rights which it may have, have the right to remove any applicable alterations or additions and reinstate the Leased Premises and charge to the Tenant the cost thereof, plus 10%.

- 6.3. If the Landlord is obliged to carry out the alterations and additions at the Leased Premises as contemplated in rule 6.2, and those activities take place after the termination of the Lease, then the Landlord will be entitled, in addition to any other rights which it may have, to charge to the Tenant an amount equivalent to the monthly rental which the Tenant was required to pay in the last month of its occupation for any month (or part of a month) in which the Landlord is engaged in such activities.

7. Security, Safety and Health:

- 7.1. The Tenant will comply, and will procure that its invitees and employees comply, with all rules and protocols implemented from time to time by the Landlord or by its security contractors relating to access to, egress from and conduct at the Property, and the Landlord may implement or change these rules and protocols in its discretion at any time.
- 7.2. The Landlord and its security contractors may change or vary the rules and protocols which they implement and the Tenant will comply, and will procure that its invitees and employees comply, with any changed or varied rules or protocols.
- 7.3. The Landlord and/or its security contractors may refuse to grant to the Tenant and/or its invitees and employees access to the Property if they do not comply with the rules and protocols implemented by the Landlord and/or its security contractors.
- 7.4. Where so required by the Landlord, the Tenant will procure that it, its invitees and its employees park vehicles in parking bays such that the front of each vehicle faces forward onto the driveway or road, as applicable.
- 7.5. To the extent that the Landlord so requires, the Tenant will procure that it and its invitees and/or employees diligently participate in any safety, health and environmental induction training or protocols as the Landlord, in its sole discretion, stipulates from time to time, including, without limitation, fire drills, emergency evacuation drills, air-borne chemical emission drills and the like. In addition to any other rights which it may have, the Landlord may preclude the Tenant or any invitee or employee of the Tenant from entering upon the Property if that person has not diligently participated in such safety, health and environmental induction training or protocols.
- 7.6. If the Leased Premises are situate within the industrial complex constituting the Landlord's Modderfontein or Umbogintwini National Key Point areas, then in addition to the other obligations in the Lease, the Tenant will comply, and will procure that its invitees and employees comply, with the additional rules or procedures stipulated by the Landlord from time to time, and for the timebeing, those stipulated in the Landlord's

“Industrial Complex Operating Standards”, as amended from time to time.

- 7.7. The Tenant will be deemed to be bound by all of the rules and procedures set forth in the “Industrial Complex Operating Standards” in question and acknowledges that those standards are available to the Tenant upon request, or are available via the following website link: [INSERT LINK TO I.C.O.S].
- 7.8. The Tenant’s failure to comply with any rules and procedures referred to in the “Industrial Complex Operating Standards” will constitute a breach of a material term of the Lease.
- 7.9. The Tenant may not, and will procure that its invitees and employees do not, perform any excavation of any nature upon the Property, nor draw or use water from the ground of the Property, or from below the ground, without the prior written consent of the Landlord.
- 7.10. The Tenant will not dispose of any chemical waste, medical waste, raw material waste, effluent waste or contaminated waste upon the Property.
- 7.11. In the event that the Tenant is, or any of its employees are, involved in any labour dispute which will or may result in any industrial action, picket, strike or lock-out occurring upon or near to any part of the Property, the Tenant will inform the Landlord in writing as soon as the Tenant becomes aware of the existence or possibility of existence of such action and will, at its cost and with the utmost diligence, take all such steps as are possible to prevent such action taking place upon or near to the Property, such steps to include, without limitation, Court interdict proceedings where that is permissible in law.
- 7.12. The Tenant will comply with and co-operate in any reasonable initiative or programme implemented by the Landlord from time to time which has its objective the reduction in the use of water, electrical power and/or consumables at the Property, and without derogating from the generality of this Rule, the Tenant will allow the Landlord or its contractor access to the Leased Premises to remove, install or replace applicable installations and/or fittings and to implement such initiatives and programmes.

Annexure B

PLAN OF THE LEASED PREMISES (to be completed if required by the Landlord)

The shape, area and location of the Leased Premises as identified on the plan below are for identification purposes only and are not intended to be a warranty, representation or agreement on the part of the Landlord that the Leased Premises will be exactly as indicated on the plan below.

[INSERT FLOORPLAN FOR IDENTIFICATION PURPOSES]

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DEED OF SURETYSHIP

1. The undersigned, _____ [INSERT FULL NAME OF SURETY], identity number _____ [INSERT IDENTITY NUMBER OF SURETY] (“the Surety”), hereby binds itself to and in favour of **AECI LIMITED**, registration number 1924/002590/06, and its successors in title or assignees (“the Creditor”), as surety for and co-principal debtor jointly and severally *in solidum* for the due, proper and timeous performance by _____ [INSERT CORPORATE DESCRIPTION OF THE TENANT], registration number _____ [INSERT REGISTRATION NUMBER OF THE TENANT] (“the Principal Debtor”) of all of its obligations to the Creditor in respect of or arising from or in terms of the lease agreement entered into or to be entered into between the Creditor and the Principal Debtor in terms of which the Creditor lets to the Principal Debtor which takes on hire the leased premises situate at _____ [INSERT DESCRIPTION OF AND PHYSICAL ADDRESS OF THE LEASED PREMISES], and all matters pertaining to or connected with that lease agreement (“the Lease”).
2. This deed of suretyship is of a continuing nature to correspond with the continuing relationship between the Principal Debtor and the Creditor.
3. The Surety agrees to pay the amount of all costs, charges and expenses of whatever nature including, but not limited to, legal costs and collection commission as between attorney and client incurred by the Creditor in securing or endeavouring to secure fulfilment of the obligations of the Principal Debtor to the Creditor and the obligations of the Surety hereunder.
4. The rights of the Creditor will not be affected or diminished if the Creditor at any time obtains additional suretyships, guarantees or securities or indemnities in connection with the obligations of the Principal Debtor to the Creditor.
5. This deed of suretyship will remain in full force and effect until such time as the obligations of the Principal Debtor to the Creditor have been discharged in full.
6. The Surety will be bound by all admissions and acknowledgements of indebtedness made or given at any time by the Principal Debtor to the Creditor in regard to any obligation for which this deed of suretyship is given.
7. No alteration or variation of any present or future agreements between the Principal Debtor and the Creditor will in any way release the Surety from its liability hereunder.

8. The Creditor will be entitled, whether before or after the due date or dates for performance of the obligations of the Principal Debtor under or pursuant to the Lease, without reference or notification to the Surety, without affecting its rights hereunder and without releasing the Surety, to:
 - 8.1. release any other sureties and securities;
 - 8.2. grant the Principal Debtor extensions of time for payment; and
 - 8.3. compound or to make any other arrangements with the Principal Debtor for the discharge of the indebtedness of the Principal Debtor to the Creditor.

9. Should the Principal Debtor be wound-up, placed in liquidation or under business rescue (whether provisionally or finally, compulsorily or voluntarily) or suffer any other legal disability or become subject to the provision of any law for the assistance or benefit of debtors or other arrangement with any creditor of the Principal Debtor in terms of any company or insolvency law, or in terms of the common law:
 - 9.1. then the Creditor is entitled to:
 - 9.1.1. prove a claim against the Principal Debtor for the full amount of any indebtedness due to it, whether actual or contingent;
 - 9.1.2. accept a dividend in such event on account and in reduction of the indebtedness of the Principal Debtor; and
 - 9.1.3. accept other securities, guarantees or suretyships arising out of any such event, without prejudice to the rights of the Creditor against the Surety and no dividends or payments which the Creditor will receive from the Principal Debtor or from the Surety or any other surety or sureties nor a compromise recorded in writing with any other surety, will prejudice the right of the Creditor to recover from the Surety or the other surety or sureties, to the full extent of this deed of suretyship, any sum which, after the receipt of such dividend or payments, will remain owing to the Creditor by the Principal Debtor; and
 - 9.2. then notwithstanding the aforementioned in clause 9 of this deed of suretyship, the Surety will not be released from any liability under this deed of suretyship because of the trustee, liquidator or business rescue practitioner, as the case may be, not performing the obligations of the Principal Debtor under or pursuant to the Lease or because of the adoption of and implementation of a business rescue plan, and this deed of suretyship will extend and may be enforced against the Surety and cover loss which may be sustained by the Creditor by reason of the Principal Debtor's failure to perform in terms of the Lease.

10. The Surety warrants and represents to the Creditor that it is duly empowered to enter into this deed of suretyship.

11. The Creditor has the right to appropriate any amount received by the Creditor from the Surety to such indebtedness of the Principal Debtor to the Creditor as the Creditor may in its discretion decide.

12. The Creditor may at any time without the consent of or notice to the Surety, cede, assign or transfer any or some of its rights in or arising out of this deed of suretyship or any part of it or any actual, prospective or contingent obligation of the Principal Debtor.
13. Should the Principal Debtor fail to discharge any of its obligations in terms of or pursuant to the Lease on the due date or dates for performance, the Creditor is entitled notwithstanding any contrary agreement with the Principal Debtor, to demand from the Surety immediate performance of all obligations then due and owing by the Principal Debtor to the Creditor in terms of the Subscriptions.
14. The Surety hereby renounces and declares itself to be fully acquainted with the meaning and effect of the benefits of the legal exceptions *non causa debiti* (no reason or cause for the debt), *errore calculi* (errors of calculation and revision of account), *beneficium ordinis seu excussionis* (the benefit of excussion), *beneficium divisionis* (the benefit of division), *de duobus vel pluribus reis debendi* (all sureties must be joined in any action, each for their proportionate share of the debt), "no value received", "cession of action" and "revision of accounts".
15. A certificate under the hand of any director of the Creditor as to the existence and amount of the indebtedness of the Principal Debtor and of the Surety to the Creditor at any time, as to the fact that such amount is due and payable, the amount of interest accrued thereon and the rate of interest applicable thereto and as to any other fact, matter or thing relating to the indebtedness of the Principal Debtor and of the Surety to the Creditor will be *prima facie* proof of the contents and correctness thereof and the amount of the Surety's indebtedness hereunder for the purpose of provisional sentence or summary judgment or any other proceedings against the Surety in any competent court, and will be valid as a liquid document for those purposes. It will not be necessary to prove the appointment of the person signing any such certificate.
16. Any provision in this deed of suretyship which is or may become illegal, invalid or unenforceable in any jurisdiction affected by this deed of suretyship will, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability and will be treated as having not been written (ie *pro non scripto*) and severed from the balance of this deed of suretyship, without invalidating the remaining provisions of this deed of suretyship or affecting the validity or enforceability of such provision in any other jurisdiction.
17. This deed of suretyship, and all matters and disputes arising from it, directly or indirectly, is governed by the law of the Republic of South Africa. The Surety consents to the non-exclusive jurisdiction of the High Court of South Africa in relation to any legal action instituted in connection with this deed of suretyship.

18. The Surety hereby chooses the following address as its *domicilium citandi et executandi*, at which address all notices and communications may be addressed to it:

[INSERT THE DOMICILIUM ADDRESS OF THE SURETY]

Signed by [INSERT FULL NAME OF THE SURETY] at _____

on _____ 2023

As Witnesses:

1. _____

SIGNATURE OF SURETY

2. _____

NAME OF THE SURETY

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LEASE RENEWAL TERMS

1.

<p>The Renewal Period</p> <p><small>If Renewal Commencement Date and Renewal Termination Date are not inserted, then no Renewal Period will apply</small></p>	<p>Renewal Commencement Date: [INSERT DATE]</p> <p>Renewal Termination Date: [INSERT DATE]</p>
<p>Rental During Renewal Period</p>	<p>R [INSERT] per month (stated exclusive of VAT) for the first 12 month period of the Renewal Period</p>
<p>Rental Escalation During Renewal Period</p>	<p>Rental during the Renewal Period will escalate at a rate of [INSERT]% per annum (compounded), effective on each anniversary of the Renewal Commencement Date of the Renewal Period</p>

2. **Status of these Leased Renewal Terms:**

The provisions of these Lease Renewal Terms will apply if the table in clause 1 of this Annexure [INSERT] has been populated with the applicable information.

3. **Right of Renewal:**

Subject to clause 6 of these Lease Renewal Terms, the Tenant will have a right of renewal to review the Lease for the further period set forth in the table above (“the Renewal Period”) on the same terms and conditions as contained in the Lease, save that:

- 3.1. there will be no further right to renew the Lease; and
- 3.2. the Rental During Renewal Period and Rental Escalation During Renewal Period will be a market rent and a market escalation rate prevailing at the time a determination is made in terms of clause 5.1 of these Lease Renewal Terms; and
- 3.3. notwithstanding anything to the contrary contained in these Lease Renewal Terms, the monthly rent payable in the first year of the Renewal Period will be at least 10% (ten percent) greater than the Basic Monthly Rental payable by the Tenant in the last month of the last year of the initial period of the Lease.

4. **Exercise:**

The Tenant must, if it wishes to exercise the right of renewal contemplated in clause 3 of these Lease Renewal Terms, exercise it by giving written notice to the Landlord, not less than 6 (six) months prior to the termination of the initial period of the Lease, failing which, the right will lapse and will not be capable of being exercised.

5. **Market Rent and Escalation Rate Determination:**

- 5.1. By not later than 30 (thirty) days after the date on which the Tenant has exercised the right of renewal in accordance with clause 4 of these Lease Renewal Terms, the Tenant will be entitled, to request a determination is made on the market rent and market escalation rate for the Renewal Period. The Parties will procure that the determination on the market rent and market escalation rate is finalised within 30 (thirty) days of the request for such determination.

Append Initials
of Parties

- 5.2. The Landlord and the Tenant will within 15 (fifteen) days of the Tenant having requested that a determination is made on the market rent and market escalation rate, use their best endeavours to agree on the prevailing market rent and the prevailing market escalation rate applicable at that time.
- 5.3. In the event that the Landlord and the Tenant fail to agree on the prevailing market rent and/or the prevailing market escalation rate within the 15 (fifteen) day period in clause 5.2 of these Lease Renewal Terms, then such determination will be made by an independent arbitrator (“the Arbitrator”) acting as an expert, who will be appointed by the Chief Executive Officer for the time being of the South African Property Owners Association (or its successor-in-title), whose decision will be final and binding on the Parties.
- 5.4. The Landlord and the Tenant will use their best endeavours to procure that the Arbitrator furnishes his determination within 15 (fifteen) days of the request for such determination.
- 5.5. The Arbitrator will, in determining the prevailing market rent and the prevailing market escalation rate, have regard to prevailing market rents and prevailing market escalation rates payable in respect of similar premises in the area where the Leased Premises is situated and taking into account the Lease and the period of the Lease.
6. **Lapsing on Breach:**
In the event that the Tenant commits a breach of the Lease at any time during the last year of the Lease (even if such breach is remedied by the Tenant), then the right of renewal contemplated in clause 3 of these Lease Terms will automatically lapse and be of no further force and effect.

RESOLUTION – to be signed by all directors in the case that the Tenant is a company, and by all members in the case that the Tenant is a close corporation

RESOLUTION OF THE BOARD OF DIRECTORS / MEMBERS OF [INSERT NAME OF THE TENANT], REGISTRATION NUMBER [INSERT REGISTRATION NUMBER OF THE TENANT] (“the Entity”)

A. BACKGROUND:

The Board/Members considered a circulated and proposed commercial lease agreement between AECL Property Services, a division of AECL Limited, with registration number 1970/002590/06 (“AECL”), in terms of which AECL lets to the Entity which takes on hire the leased premises situate at [INSERT DESCRIPTION OF AND PHYSICAL ADDRESS OF THE LEASED PREMISES], the [INSERT NUMBER] of covered parking bays and the [INSERT NUMBER] of open parking bays for a period of [INSERT PERIOD OF THE LEASE] with commencing rentals during the first period of the Lease as follows:

- Rental - R[INSERT AMOUNT], plus VAT;
- Parking Rental (covered parking) - R[INSERT AMOUNT], plus VAT;
- Parking Rental (open parking) - R[INSERT AMOUNT], plus VAT.

B. IT WAS RESOLVED THAT:

ORDINARY RESOLUTION 1:

The Board/Members waives the requirement of notice in respect of the following resolution.

ORDINARY RESOLUTION 2:

The Entity will enter into the commercial lease agreement referred to in **A** above.

ORDINARY RESOLUTION 3:

[INSERT NAME OF AUTHORISED REPRESENTATIVE], in his capacity as [INSERT CAPACITY] of the Entity, is hereby authorised to sign all such documents and to do all such other things as may be necessary or desirable for, or incidental to, the implementation of the above resolutions. Insofar as any such action has been taken or any such documents have been signed before the date of these resolutions, to the extent permissible by law, such actions and/or signatures be and are hereby retrospectively approved and ratified in their entirety.

Name of Director/ Member	Signature	Date
[INSERT FULL NAME OF DIRECTOR/MEMBER]		

Name of Director/ Member	Signature	Date
[INSERT FULL NAME OF DIRECTOR/MEMBER]		
[INSERT FULL NAME OF DIRECTOR/MEMBER]		

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AN AGREEMENT ENTERED INTO BY:

AECI PROPERTY SERVICES (PTY) LTD

AND

THE CUSTOMER DESCRIBED IN ANNEXURE "A"

Certain provisions of this agreement are required to be highlighted in terms of section 49 of the Consumer Protection Act No. 68 of 2008 ("CPA") because they have the effect of:

- (a) limiting Acacia's liability or risk; and/or*
- (b) placing risk or liability on a consumer as defined in the CPA; and/or*
- (c) constituting a positive acknowledgement of fact by a consumer as defined in the CPA.*

In this agreement, such clauses are typed in the same font as this paragraph. You are entitled to sufficient time to consider the clauses so identified. By your signature of this agreement, you acknowledge that you have read and properly considered each of the specified terms and that you have been afforded sufficient opportunity to consider the effects of entering into this agreement.

1 DEFINITIONS

- 1.1 the Commencement Date: the date recorded in Annexure "A".
- 1.2 the Customer: the customer described in Annexure "A".
- 1.3 AECI: AECI Property Services (Proprietary) Limited, registration number 1924/002590/06.
- 1.4 the Parties: The Customer.
- 1.5 the Services: electricity, water, sewerage and any other services described in Annexure "B".

2 SUPPLY OF THE SERVICES

- 2.1 The Customer requires the Services.
- 2.2 AECI Property Service has agreed to supply the Services to the Customer with effect from the Commencement Date.

3 SPECIFICATIONS FOR THE SERVICES

- 3.1 A shall supply the Services to the specifications for each service as are set out in Annexure "B".
- 3.2 Save for that set out in 3.1, AECI Property Services a makes no warranties or representations in regard to the Services or their fitness for any purpose.

4 DEPOSITS

- 4.1 The Customer shall upon its signature of this agreement pay to AECI Property Services deposits in the amounts set out in Annexure "B" in respect of electricity and water to be supplied by AECI Property Services to the Customer as part of the Services.
- 4.2 AECI Property Services shall have the right to apply the whole or any portion of the deposits towards payment of the prices for electricity and water consumed by the Customer. If the whole or any portion of the deposits are so applied, AECI Property Services shall notify the Customer in writing and the Customer shall immediately reinstate the deposits to their original amounts.

5 PRICES

- 5.1 The prices payable by the Customer to AECI Property Services for the Services are the amounts stipulated in or calculated under Annexure "B".
- 5.2 The prices shall escalate on each anniversary of the Commencement Date by such rate as may be agreed by the Parties but, failing agreement, at the rates of escalation stipulated in or calculated under Annexure "B", compounded annually.

6 PAYMENT

The Customer shall pay the prices for the Services, other than electricity, within 30 days of the date of AECI Property Services monthly statement and invoice for the Services supplied during the immediately preceding period. The Customer shall pay the prices for electricity in the same month in which they are invoiced by AECI Property Services.

7 CONSEQUENCES OF NON-PAYMENT

7.1 *In the event that the Customer is in arrears and fails to pay the prices for the Services within 7 days of written demand by AECI Property Services then, without prejudice to any other rights AECI Property Services may have, it shall be entitled to terminate the supply of the Services to the Customer until the Customer has paid the entire outstanding amount, and a reconnection fee in the amount set out in Annexure "B", to AECI Property Services.*

7.2 *In the event that the supply of the Services is terminated pursuant to 7.1, the Customer acknowledges:*

7.2.1 *that it will be hampered in its operations without the Services;*

7.2.2 *that it may lose customers as a result of the termination of the supply of the Services;*

7.2.3 *that AECI Property Services will have the right to require the Customer to pay to AECI Property Services an additional amount equivalent to half of the existing deposits in 4.1, to be held by AECI Property Services on the terms in 4.*

8 WAIVER

The Customer waives any right or claim of any nature for any loss of any nature arising from AECI Property Services termination of the supply of the Services pursuant to 7.1.

9 REPAIRS, SERVICING AND MAINTENANCE MEASURES

9.1 AECI Property Services will from time to time carry out repairs, servicing and maintenance measures to its plants and to its infrastructure required to supply the Services.

9.2 AECI Property Services will fund the cost of any repair, service or maintenance activity in terms of 9.1.

9.3 *AECI Property Services shall not be liable for any loss, down-time or loss of productivity of the Contractor occasioned by any repair, service or maintenance activity in terms of 9.1.*

10 TERMINATION

Either Party may terminate this agreement by not less than 30 calendar days' written notice to the other Party.

11 PROTECTION OF PERSONAL INFORMATION:

11.1 Each Party shall strictly comply with all provisions of POPIA relating to the Processing of Personal Information. Any failure by a Party (the "Non-Complying Party") to comply with POPIA or any of the provisions of this clause must be remedied upon receipt of 7 (seven) days written notice by the Affected Party, without prejudice to any rights the Affected Party may have in law.

11.2 Each Party hereby agrees to processing of Process Personal Information only for purposes relating directly to this Agreement. Unless provided for in terms of the provisions of this Agreement or otherwise as may be agreed to by the Parties in writing, neither Party shall modify, merge with other data, commercially exploit or engage in any other practice or activity that may in any manner adversely affect the integrity, security or confidentiality of the Personal Information.

11.3 All Personal Information shared by a Party with the other Party during the subsistence of this Agreement shall constitute Confidential Information and as such, the Receiving Party shall comply with all the confidentiality and/or non-disclosure provisions contained in this Agreement, and as such the Receiving Party shall not disclose any Personal Information to any third party without the Disclosing Party's prior written consent.

11.4 Each Party shall implement and maintain adequate technical and organisational security and safety measures to protect the integrity of the Personal Information Processed by it in terms of this Agreement and to avoid any damage or unauthorised access to or loss of any such Personal Information.

11.5 The Non-Complying Party shall immediately notify the Affected Party if the Affected Party's Personal Information has been lost or damaged, or accessed or acquired by an unauthorised person, and the Non-Complying Party shall comply with any instructions and/or directives which the Affected Party may issue in the event of any such circumstances.

11.6 Each Party shall, at its own cost, be entitled to verify compliance of the technical and organisational security and safety measures implemented by the other Party, or appoint auditors to do so, upon reasonable prior notice to the other Party. Each Party shall respect the operational sequences of the business of the other Party and the other Party shall assist the first mentioned Party in the execution of the inspections in the best possible way.

11.7 Each Party shall provide the other Party upon request with any information required to meet the first mentioned Party's obligations in law relating to the processing of Personal Information and make the necessary documentation available within a reasonable time.

11.8 Each Party shall ensure that its personnel and /or any other authorised person or entity which processes Personal Information on its behalf receives adequate and appropriate training in the care and handling of Personal Information in terms of POPIA and any other applicable data privacy legislation.

11.9 Each Party shall maintain adequate records of all processing of Personal Information, including the training of such Party's personnel regarding the protection of Personal Information and any applicable data privacy legislation.

11.10 Upon this Agreement to an end for whatever reason, each Party shall return to other Party or destroy, if instructed by the other Party to do so, all such Personal Information in its possession, or in the possession of its agents, sub-contractors or

any third party who may have had access and/or possession of the Personal Information, in accordance with such procedures which requesting Party may prescribe from time to time.

- 11.11 Each Party shall indemnify and hold the other Party harmless against any claim, Loss, damage, cost and expense (including legal fees on and attorney and Client scale) relating to or arising from such Party breaching any of the provisions of this clause.

12 NO PREJUDICE

No relaxation which AECI Property Services may give at any time in regard to the carrying out of the Customer's obligations in terms of this agreement shall prejudice or constitute a waiver of any of AECI Property Services rights in terms of this agreement.

ANNEXURE "A"

DETAILS OF THE CUSTOMER

Registered name / Full name	
Trading name	
Registration Number	
Building Number Occupied Registration number/ID number	
VAT number	
Physical address	
Postal address	
Contact person	
Telephone number	
Email address	
Accounts Department Contact	
Email address	
Commencement date	

ANNEXURE "B"

DETAILS OF THE SERVICES

ELECTRICITY	Specifications <i>Supplied in accordance with the National Energy Regulator</i>
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Append Initials
of Parties

	<p>Prices</p> <p>Escalation <i>Back to back with eThekwini</i></p> <p>Deposit <i>The higher of R2 500.00 or an average of a typical month. Deposits will be reviewed annually and adjusted if required (non-interest bearing).</i></p> <p>Reconnection fee <i>R500.00</i></p>
WATER	<p>Specifications <i>Umbogintwini Water – SABS 0241 standard</i> <i>Metro Water – eThekwini municipal standard</i></p> <p>Prices <i>Umbogintwini Water – R29.87 per M³</i> <i>Metro Water – R49.70 per M³</i></p> <p>Escalation <i>Umbogintwini Water – 1st January of each year</i> <i>Metro Water – Back to back with eThekwini</i></p> <p>Deposit <i>Higher of R500.00 or an average of a typical month. Deposits will be reviewed annually and adjusted if required (non-interest bearing).</i></p> <p>Reconnection fee <i>R350.00</i></p>
SEWERAGE	<p>Specifications <i>Raw sewage treatment – domestic sewage only</i></p> <p>Prices No of persons = _____ <i>R 264.63 per person (contractors and employees – on site)</i></p> <p>Escalation <i>1st January of each year</i></p>

Banking Details

All payments for Services listed on this agreement must be paid to this account:

First National Bank
Account Number: 62017614357
Branch: 223126

Company Registration Number: 1924/002590/06
Vat Number: 4350103539

Postal Address

Private Bag X501
Umbogintwini
4125

Physical Address

1 Dickens Road
Umbogintwini
4125

SIGNED by **AECI PROPERTY SERVICES (PTY) LTD** at _____ this _____ day
of _____ 2023.

WITNESS

DULY AUTHORISED

SIGNED by **THE CUSTOMER** at _____ this _____ day of
_____ 2023.

Append Initials
of Parties

Environmental Code of Conduct: Umbogintwini (Version 4)

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DRAFT

1. Glossary

In this document, the following words and phrases have the meaning attributed hereunder:

- 1.1. **AECI** means AECI LTD and the AECI LTD subsidiary or associate recorded in an Occupation Agreement as having authority to grant or supply the Customer the tenancy, occupation and/or use rights or services recorded in an Occupation Agreement;
- 1.2. **AEL** means Atmospheric Emission Licence
- 1.3. **Alterations** means material, physical changes to an existing Site;
- 1.4. **Code** means this Environmental Code of Conduct;
- 1.5. **Contaminated Land** means the presence in or under any land, site, buildings or structures of a substance or micro-organism above the concentration that is normally present in or under that land, which substance or micro-organism directly or indirectly affects or may affect the quality of soil or the environment adversely;
- 1.6. **Customer** means the person entitled to receive occupancy and/or services on land owned by AECI under an Occupation Agreement or any subsidiary of AECI that operates at Umbogintwini and/or receives services within the UIC;
- 1.7. **Environmental Authorisation** means any and all registrations, permissions, licences, permits and authorisations required by Environmental Laws for the conduct of activities or operations;
- 1.8. **Environmental Laws** means all applicable laws including all or any of statute, common law, rule, regulation, treaty, directive, direction, decision of the court, by-law, code of practice, circular, guidance note, statutory guidance, order, notice, demand or official guideline (in each case having the effect of law) of any governmental, statutory or regulatory authority, agency or body in force in any relevant jurisdiction and concerning Environmental Matters;
- 1.9. **Environmental Matters** includes any matter relating to the environment including (but not limited to) all or any of hazardous substances, waste (including packaging waste), radiation, radioactive substances and materials, trespass, negligence and nuisance (both common law and statutory nuisance), contaminated land, discharges, releases, emissions or escapes to land, air, groundwater, surface and coastal waters, and sewers, abstraction of water, extraction of natural resources, and conservation or protection of species, habitats, biodiversity, flora and fauna;
- 1.10. **Excavation Works** means all and any intrusive removal or movement of soil from, on or related to the development, re-development or alteration of a Site;
- 1.11. **ESA** means Environmental Site Assessment, which may include various phases of investigations including but not limited to desk-top studies, comprehensive sampling of soil, air, groundwater and/or building materials, risk assessments etc. An ESA is performed to ascertain the baseline and contamination status of a site;
- 1.12. **ERA** means Environmental Risk Assessment;
- 1.13. **HASP** means Health and Safety Plan;
- 1.14. **Incident** means an unexpected sudden occurrence, including a major emission, fire or explosion leading to serious danger to the public or potentially serious pollution of or detriment to the environment, whether immediate or delayed (as in terms of Section 30 of the National Environmental Management Act (NEMA, Act 107 of 1998)) read with the Guidelines on the Administration of Incidents, as amended;
- 1.15. **LRUA** means a site-specific Land Redevelopment and Use Agreement as prepared by AECI and accepted by a Customer (previously referred to as Land Redevelopment Information Document (LRID));
- 1.16. **New Development** means the complete design and construction of permanent buildings, facilities and infrastructure on a new Site or an undeveloped area at an existing Site;
- 1.17. **New Tenancy** means the conclusion of an Occupation Agreement with a new Customer over an existing Site;
- 1.18. **Occupation Agreement** means any agreement between AECI and the Customer in terms of which the Customer enjoys the right to occupy, construct buildings or facilities, operate a business and/or receive services on or at the Site;
- 1.19. **PPE** means personnel protection equipment;
- 1.20. **OHSA** means the Occupational Health and Safety Act, (Act 85 of 1993) as amended;
- 1.21. **RemEMPr** means Remediation Environmental Management Programme;
- 1.22. **Site** means the area and location of land and/or buildings recorded in an Occupation agreement in respect of which the right to occupy, construct buildings or facilities, operate a business or receive services is granted to a Customer by AECI;

- 1.23. **SiteEMP** means Site Environmental Management Plan and may be specific to *inter alia* the construction, operation and/or decommissioning phase as required;
- 1.24. **Significantly contaminated** when used in relation to Contaminated Land means impacted in such a manner that reasonably requires or has required the physical removal or other active treatment of soil or other management measures (excluding land use restrictions) to minimise or prevent harm to human health or the environment; and
- 1.25. **UIC** means the Umbogintwini Industrial Complex.

2. Introduction and Purpose of the Code

- 2.1. The UIC has been operated as a multi-user industrial complex, manufacturing a range of chemical and explosives products for more than a century. Legacy environmental impacts associated with AECI's operations at Umbogintwini are the subject of a comprehensive response by AECI in partnership with regulatory authorities.
- 2.2. The purpose of this Environmental Code of Conduct ("the Code") is to ensure that:
 - 2.2.1. the manufacturing operations and land redevelopment activities at Umbogintwini are conducted in accordance with best environmental practice;
 - 2.2.2. the environmental impact of past, present and future users of land owned by AECI is accurately measured and continuously updated, assessed and addressed in compliance with regulatory and AECI requirements;
 - 2.2.3. remedial measures are to the extent possible planned for and executed at optimal points in industrial development cycles;
 - 2.2.4. investments by the Customer or AECI in environmental assessment and remediation are protected;
 - 2.2.5. appropriate mechanisms are put in place to detect and respond to inadvertent or unexpected impacts as they arise and to minimise the seriousness of such impacts to the extent possible;
 - 2.2.6. AECI's environmental programmes to address legacy environmental impacts are not adversely affected by current and future land redevelopment and operational practices; and
 - 2.2.7. neither the Customer nor AECI acquires environmental obligations, the responsibility for which is properly that of the other.

3. Application of the Code

- 3.1. The Code applies to:
 - 3.1.1. all users of land owned by AECI at Umbogintwini, regardless of whether the Code has been specifically incorporated into an Occupation Agreement between AECI and the Customer; and
 - 3.1.2. all other persons operating at the UIC who have agreed to be bound by the Code, in whole or in part.

The Customer shall be obliged to ensure compliance with the Code by its representatives, agents, sub-contractors, employees, invitees, customers and suppliers and shall be liable to AECl for any damage or expense incurred by AECl as a result of any non-compliance by it or any of those persons with the Code.

3.2. The Code does not replace a Customer's obligations in terms of Environmental and other Laws. Where obligations or standards imposed by or under environmental or other laws are more onerous than those imposed under the Code, then the more onerous obligation or standard should be adhered to. In amplification of the foregoing, the Customer shall be obliged to:

3.2.1. at all times comply with the general duty of care contained in section 28 of the National Environmental Management Act, 1998 and the principles informing that duty;

3.2.2. make application where required to the competent authority for Environmental Authorisation prior to commencing with such activity and thereafter comply with the terms and conditions of such Environmental Authorisation; and

3.2.3. apply for and comply with the requirements of any other licence, permit or authorisation required for the conduct of the Customer's operations.

4. Amendments and Exemptions

4.1. The Code may be amended by AECl from time to time. Amendments to the Code are binding on Customers and it is the responsibility of the Customer to determine whether any amendment to the Code has been affected. The Customer shall be deemed to be familiar with the Code and any amendment thereto. A copy of the most recent version of the code is available from AECl on request. The Customer may request AECl to grant an exemption for a reasonable period for compliance with a particular obligation or standard resulting from an amendment where such period is reasonably required to achieve compliance with such obligation or standard. AECl may not unreasonably refuse such a request.

4.1.1. It shall not be unreasonable for AECl to refuse to grant an exemption where the obligation or standard is a requirement under Environmental Laws, the exemption would result in AECl breaching a condition of a licence, permit, and/or statutory directive, the exemption would likely result in an unacceptable environmental impact and/or the exemption is required as a result of the Customer's failure to keep abreast of changes to this Code.

4.2. AECl may impose additional conditions or exempt the Customer from conditions imposed by the Code where required to meet operational requirements provided that it is consistent with its obligations in terms of environmental law.

5. Non-compliance

5.1. Non-compliance with the Code, regardless whether identified through a compliance review and/or an audit as specified in Section 14 or a subsequent or AECl initiated inspection, constitutes a material breach of an Occupation Agreement which, notwithstanding and in addition to any other right which AECl may have in terms of an Occupation Agreement or law, shall entitle AECl, in good faith, to:

5.1.1. immediately suspend any supply of services to the customer;

5.1.2. refuse any person access to the UIC or a Site;

5.1.3. enter onto a Site for the purpose of conducting an investigation;

5.1.4. amend or withdraw an LRUA and/or an excavation permit;

- 5.1.5. direct the Customer to take immediate steps including temporary measures to desist from or perform any measure to investigate, prevent, minimise or address such non-compliance within a reasonable period; and/or
- 5.1.6. where the Customer fails to do so itself or in order for AECl to address an emergency incident, enter onto the Site and conduct such measures recorded in 5.1.5 itself and recover the cost from the Customer.
- 5.2. For the avoidance of doubt, the duty of good faith in 5.1 shall not limit a discretionary right or election acquired by AECl under a provision of an Occupation Agreement unless that right or obligation is expressly subject to a duty of good faith in the Occupation Agreement itself.
6. New Development and Alterations under Occupation Agreements
- 6.1. New Development and Alterations have the potential to change the risk profile of a Site and may also represent an opportunity to undertake remedial work in a cost-effective manner by ensuring that major environmental improvement projects coincide with industrial capital funding cycles.
- 6.2. Unless otherwise agreed in an Occupation Agreement the following requirements apply to New Development and Alterations:
- 6.2.1. Site-specific limitations relating to environmental requirements imposed by AECl shall be ascertained and complied with, and the Customer shall satisfy itself and AECl that the New Development or Alteration does not pose an unacceptable risk to AECl (including AECl's Remediation Strategy and the risk and status of pre-existing environmental impacts), the UIC, surrounding land users, the environment and/or the Customer.
- 6.2.2. It is the responsibility of the Customer to ensure compliance with Environmental Laws and determine a requirement to, and if required obtain Environmental Authorisation for New Development or Alterations as referred to in Section 3.
- 6.2.3. Prior to undertaking New Development and/or performing Alterations, the Customer shall:
- 6.2.3.1. conduct a Pre-Occupation Assessment as detailed in 9.1;
- 6.2.3.2. follow the site remediation planning and procedures as detailed in Section 10, where applicable;
- 6.2.3.3. obtain a LRUA from AECl as referred to in Section 11, following the completion and submission to AECl of the Pre-Occupation Assessment referred to in 6.2.3.1 and the Remediation Report (if required) in terms of 6.2.3.2; and
- 6.2.3.4. submit a SiteEMP as detailed in Section 12 to AECl.
- 6.2.4. The Customer shall implement and comply with its SiteEMP and associated requirements for the duration of the construction, operational, maintenance, and decommissioning phases of its site activities and operations.
- 6.2.5. The Customer shall implement and adhere to the requirements for relevant practices and controls in Section 13.
- 6.2.6. The Customer shall ensure that all staff, contractors and service providers receive environmental awareness training, which shall include the requirements of the SiteEMP.

- 6.2.7. The Customer is responsible for compliance by all staff, contractors and service providers with the SiteEMP.
- 6.2.8. The Customer shall assess and report on compliance with the SiteEMP as required under Section 14 and Section 15 during the construction, operational, maintenance and decommissioning phases.
- 6.2.9. On completion of the commissioning of a New Development or an Alteration and commencement of operations, the Customer shall comply with the requirements of Section 8.

7. New Tenancies under Occupation Agreements

- 7.1. A New Tenancy has the potential to change the risk profile of a Site, through changes in operations, procedures and materials introduced or produced.
- 7.2. Unless otherwise agreed in an Occupation Agreement the following requirements apply to New Tenancy:
 - 7.2.1. Site-specific limitations relating to environmental requirements imposed by AECl shall be ascertained and the Customer shall satisfy itself and AECl that the New Tenancy does not pose an unacceptable risk to AECl (including AECl's Remediation Strategy and the risk and status of pre-existing environmental impacts), the UIC, and surrounding land users, the environment or the Customer.
 - 7.2.2. It is the responsibility of the Customer to determine if there is a requirement to obtain Environmental Authorisation for any new operations introduced at the site.
 - 7.2.3. Prior to taking up a New Tenancy, the Customer shall:
 - 7.2.3.1. conduct a Pre-Occupancy Assessment as detailed in 9.1;
 - 7.2.3.2. follow the site remediation planning and procedures as detailed in Section 10, where applicable;
 - 7.2.3.3. ascertain with AECl whether a LRUA is applicable and available; and obtain and implement such a LRUA as referred to in Section 11, following the completion and submission to AECl of the Pre-Occupancy Assessment referred to in 7.2.3.1 and the Remediation Report if required in terms of 7.2.3.2; and
 - 7.2.3.4. submit a SiteEMP as detailed in Section 12 to AECl.
 - 7.2.4. The Customer shall implement and comply with its SiteEMP and associated requirements for the duration of the development, operational, maintenance and decommissioning phases.
 - 7.2.5. The Customer shall implement and adhere to the requirements for relevant practices and controls for operations and activities in Section 13.
 - 7.2.6. The Customer shall ensure that all staff, contractors and service providers receive environmental awareness training, which shall include the requirements of the SiteEMP.
 - 7.2.7. The Customer is responsible for compliance by all staff, contractors and service providers with the SiteEMP.
 - 7.2.8. The Customer shall assess and report on compliance with the SiteEMP as required under Section 14 and Section 15 during the construction, operational, maintenance and decommissioning phases.

- 7.2.9. Once the Customer has completed the commissioning of its operation or takes over control of existing operations the Customer shall comply with the requirements of Section 8.

8. Existing Operations

- 8.1. It is the responsibility of the Customer to ensure compliance with Environmental Laws; including its Environmental Authorisations, if any, as referred to in Section 3.
- 8.2. Unless otherwise agreed in an Occupation Agreement and subject to 8.3 the following requirements apply to existing operations:
- 8.2.1. Subject to 8.4 the Customer shall provide a current Environmental Risk Assessment (ERA) to AECl, or in the absence thereof, conduct an ERA as detailed in 9.3.
- 8.2.2. The Customer is required to perform an Interim Assessment to the satisfaction of AECl, for all areas where potentially significant environmental degradation arising from the Customer's activities as specified in 9.2.
- 8.2.3. Where an Interim Assessment or an Exit Assessment confirms significant impact resulting from a Customer's activities, remediation requirements as detailed in Section 10 shall apply.
- 8.2.4. The Customer shall ascertain from AECl whether a LRUA is required for the responsible management of environmental risk. In the event that an LRUA is required, the Customer shall engage in good faith with AECl to conclude an LRUA in Section 11; and thereafter comply with the terms of the LRUA.
- 8.2.5. Upon completion of the ERA as in 8.2.1, an Interim Assessment as in 8.2.2 (where applicable) and the conclusion of a LRUA (where applicable), the Customer shall develop, implement and comply with a SiteEMP and associated requirements (as described in Section 12) for the duration of the operational, maintenance and decommissioning phases of its Site operations.
- 8.2.6. The Customer shall implement and adhere to the requirements for relevant practices and controls for operational / maintenance /decommission operations and activities in Section 13.
- 8.2.7. Environmental awareness training of staff, contractors and service providers shall be performed on a regular basis and at a frequency appropriate to the Site area, type of operations, type of activities and environmental and human health risks associated with the tasks the person is involved with.
- 8.2.8. The Customer is responsible for compliance by all staff, contractors and service providers with the SiteEMP.
- 8.2.9. The Customer shall assess and report on compliance with the SiteEMP in Section 14 and Section 15 during the operational, maintenance, and decommissioning phases.

- 8.2.10. The Customer shall perform an Exit Assessment as detailed in Section 9.2 prior to the expiry or renewal of the Occupation Agreement, the assignment of the Occupation Agreement to a third party and/or the Customer undergoing a change in control as that term is defined in the Companies Act, 2008.
- 8.3. Customers that have complied with the requirements for Pre-Occupation Assessment as described in Sections 6.2.3.1 for New Development or Alterations or 7.2.3.1 for New Tenancy, are not required to:
- 8.3.1. perform an Interim Assessment; and/or
- 8.3.2. undertake an ERA;
- provided that no circumstances have arisen, which are reasonably likely to increase the risk associated with the Customer's operations.
- 8.4. AECI shall not ordinarily require an ERA where a screening assessment confirms in the sole discretion of AECI having regard to the Site's environmental status, and in relation to AECI's Remediation Strategy, that there is no reasonable prospect of the proposed development or operation having any impact on or constituting or increasing the risk profile of the UIC.

9. Environmental Site and Risk Assessments

9.1. Pre-Occupation Assessment

- 9.1.1. In order to assess the environmental condition of a Site and to measure the environmental impact resulting from any activity under an Occupation Agreement, it is necessary to conduct a Pre-Occupation Assessment.
- 9.1.2. The requirement to conduct a Pre-Occupation Assessment applies to any Customer or prospective Customer wishing to conclude an Occupation Agreement for a New Tenancy or New Development or to perform Alterations.
- 9.1.3. The Pre-Occupation Assessment shall be conducted by the Customer at its own cost.
- 9.1.4. Unless otherwise agreed in an Occupation Agreement, Pre-Occupation Assessment shall be conducted by the Customer to the satisfaction of AECI. As a result of AECI's efforts to address historical impacts at Umbogintwini, information necessary to conduct the Pre-Occupation Assessment may be available and the Customer should request access to such information from AECI.
- 9.1.5. Subject to 9.1.6, 9.1.7, 9.1.8, 9.1.10 and 9.1.11, Pre-Occupation Assessment shall include:
- 9.1.5.1. a screening assessment of the Customers' proposed activities so as to ensure that there is nothing inherently unsuitable in conducting such activity on land owned by AECI / at the UIC, to the satisfaction of AECI;
- 9.1.5.2. an Environmental Risk Assessment (ERA) as detailed in 9.3;
- 9.1.5.3. an Environmental Site Assessment (ESA) to the satisfaction of AECI; and
- 9.1.5.4. remediation planning and procedures as specified in Section 10.
- 9.1.6. AECI shall not ordinarily require an ERA where the screening assessment confirms in the sole discretion of AECI having regard to the Site's environmental status, and in relation to AECI's Remediation Strategy, that there is no reasonable prospect of the proposed development or operation having any impact on or constituting or increasing AECI's risk profile at Umbogintwini.

- 9.1.7. AECI shall not ordinarily require an ESA as part of a Pre-Occupation Assessment for New Development, Alterations or New Tenancy where:
- 9.1.7.1. the Site available for New Development / Alteration / New Tenancy has previously been the subject of an ESA to the satisfaction to AECI;
 - 9.1.7.2. target remedial water and soil quality values and any additional risk based remedial measures or land-use restrictions, as AECI may have determined for specific contaminants, sites and/or water resources, have been met as agreed with the relevant authority and will not be compromised by the proposed development; and
 - 9.1.7.3. the proposed development shall not result in a material change in the risk to human health and the environment relevant to the adoption of the values and measures in 9.1.7.2.
- 9.1.8. AECI may permit a limited ESA for New Tenancy where it is satisfied from the preliminary results of the ESA that there are no environmental impacts which require urgent remediation.
- 9.1.9. AECI shall not ordinarily require soil sampling as part of an ESA for New Tenancy where the screening assessment and the ERA demonstrate, to the satisfaction of AECI that:
- 9.1.9.1. no significant environmental impact is likely to result from any and all activities to be performed by the new Tenancy;
 - 9.1.9.2. pre-existing environmental impact does not pose a risk to the New Tenancy; and
 - 9.1.9.3. the New Tenancy does not pose a risk of exacerbating / impacting on pre-existing impacts.
- 9.1.10. AECI may permit a limited ESA and may not require extensive remediation (as specified in Section 10) for Alterations where the results of the limited ESA has confirmed the absence of environmental / human health impacts which require urgent remediation and where all of the following conditions can be met:
- 9.1.10.1. hard-surfacing shall as far as possible be left intact (the removal and reinstatement of not more than 15% of the total surface area is considered acceptable);
 - 9.1.10.2. excavation of soils below affected hard-surfaces shall be avoided as far as possible;
 - 9.1.10.3. all excavated soil shall be treated as prescribed in 13.1.8; and
 - 9.1.10.4. an assessment of the condition of the hard-standing surfaces is required pre- and post- alteration (as well as when audits are performed).
- 9.1.11. AECI shall not ordinarily require the site remediation planning and procedures as specified in Section 10 to be followed unless an ESA indicates material risk associated with the contamination of the Site.
- 9.1.12. All Excavation Works done as part of a Pre-Occupation Assessment shall comply with Section 13.1.

- 9.1.13. The results of Pre-Occupation Assessment shall be retained by the Customer and a copy provided to AECl.
- 9.1.14. It is important to note that any environmental impact not recorded in a Pre-Occupation Assessment shall, for the purposes of an Occupation Agreement and any proceedings in relation thereto, be presumed to have arisen after the date of the Pre-Occupation Assessment and be the responsibility of the Customer.**
- 9.1.15. AECl shall not be responsible for any losses and expenses incurred by the Customer or claims made by third parties against the Customer whatsoever relating to pre-occupancy environmental impacts. Where in the course of the Pre-Occupation Assessment, the Customer receives any recommendation from its environmental consultants to the effect that it is necessary to further quantify the extent of contamination or to define an appropriate remedial approach or site-specific standard by the completion of a Phase III ESA (remediation design, implementation and monitoring) or otherwise, the Customer shall notify AECl immediately.
- 9.1.16. All ESAs shall be conducted by a suitably qualified and experienced scientist, engineer or technician. Prior to the appointment of a practitioner by the Customer, the qualifications and relevant experience of the practitioner as well as the proposed scope of work are subject to the approval of AECl.
- 9.1.17. Where an Environmental Authorisation is required for development contemplated in an Occupation Agreement, a separate Pre-Occupation Assessment shall generally not be required by AECl provided that the information submitted to the competent authority in respect of the application for environmental authorisation includes ESA equivalent in scope and purpose to a Pre-Occupation Assessment.

9.2. Interim and Exit Assessments

- 9.2.1. An Interim Assessment or Exit Assessment shall be conducted by the Customer:
- 9.2.1.1. prior to the expiry or renewal of the Occupation Agreement, the assignment of the Occupation Agreement to a third party and/or the Customer undergoing a change in control as that term is defined in the Companies Act, 2008;
 - 9.2.1.2. where an ERA (in terms of Section 9.3), internal or external audit (in terms of Section 14) or incident assessment conducted by the Customer identifies potentially significant actual or likely environmental degradation arising from the Customer's activities; and/or
 - 9.2.1.3. where an investigation by the Customer and/or AECl identifies potentially significant actual or likely environmental degradation arising from the Customer's activities.
- 9.2.2. An Interim Assessment or Exit Assessment shall consist of a review of activities conducted by the Customer that may have altered the environmental condition of the Site during the term of the Occupation Agreement and, subject to 9.2.3 and 9.2.4, shall include:
- 9.2.2.1. Environmental Site Assessment (ESA); and
 - 9.2.2.2. remediation planning and procedures as specified in Section 10.
- 9.2.3. AECl shall not ordinarily require soil sampling as part of an ESA included in an Interim or Exit Assessment where an ERA or an audit in terms of Section 14 adequately demonstrates, to the satisfaction of AECl that no environmental impact has resulted from any and all activities performed by the Customer, and that the Customer has not exacerbated / impacted on any pre-existing impact.

- 9.2.4. AECI shall not ordinarily require comprehensive ESA nor extensive remediation (as specified in Section 10) during ongoing site utilisation unless the results of a limited ESA confirms environmental impacts which require urgent remediation due to immediate risk to human health or the environment.
- 9.2.5. All Excavation Works done as part of an Interim Assessment or an Exit Assessment shall comply with Section 13.1.
- 9.2.6. As much of the investigation required for a Pre-Occupation Assessment and an Exit Assessment is the same, Customers may reach agreement with future tenants regarding the sharing of costs for the performance of Exit Assessment where the future tenant is known to the Customer.

An Interim Assessment or Exit Assessment shall be conducted by an experienced and suitably qualified scientist, engineer or technician. Prior to the engagement of a practitioner by the Customer, the qualifications of the practitioner and proposed scope of work are subject to AECI's approval.

9.3. Environmental Risk Assessment

- 9.3.1. Where an ERA is required in terms of 8.2 for existing operations or 9.1 as part of a Pre-Occupation Assessment it shall be performed by a suitably qualified scientist, engineer or technician.
- 9.3.2. The Customer shall ensure that an ERA is, revised to ensure that it remains applicable to current and new operations, any proposed New Developments and Alterations and/or New Tenancies.
- 9.3.3. The ERA shall:
 - 9.3.3.1. take all the proposed / actual activities within operational and affected areas and the site characteristics and restrictions into consideration; surrounding site activities (cumulative risk) as well as existing environmental impacts and remediation activities within or outside the Site boundaries shall also be considered;
 - 9.3.3.2. identify site activities that result or may potentially result in significant environmental degradation within or outside the Site's boundaries and/or that have or may have an adverse effect on the Site / UIC, including the risks and status associated with the Site's pre-existing impacts and remediation activities;
 - 9.3.3.3. consider areas on Site that have been identified as significantly impacted;
 - 9.3.3.4. identify suitable measures to mitigate and monitor actual and/or potential environmental degradation identified under 9.3.3.2 and 9.3.3.3, so as to inform design requirements of engineered interventions and monitoring requirements to the satisfaction of AECI; and
 - 9.3.3.5. inform, where applicable, the requirement for ESA, a LRUA, Remedial Plan, RemEMPrs and the SiteEMP
- 9.3.4. The Customer shall make a copy of the ERA available to AECI as follows:
 - 9.3.4.1. New Development and/or Alterations: as part of the Pre-occupation Assessment;
 - 9.3.4.2. New Tenancies: as part of the Pre-occupation Assessment; or

9.3.4.3. Existing Operations: within 90 days upon AECl's request.

10. Site Remediation Planning and Procedures

- 10.1. As the owner of the Site, AECl reserves the right to review and approve all remedial programs. AECl and the Customer are best protected by permanent solutions and risk-based remedial options are typically only approved for New Tenancy and Alterations.
- 10.2. The Customer shall inform AECl in writing of the results of an ESA within 30 days of such results becoming available to the Customer and confirm AECl's requirements where:
 - 10.2.1. a Pre-Occupation Assessment in 9.1 indicates significant pre-existing environmental impact; or
 - 10.2.2. an Interim Assessment or Exit Assessment in 9.2 indicates significant environmental impact as a result of a Customer's activities.
- 10.3. Following receipt of information provided in terms of 10.2, AECl may require the Customer to provide a Remedial Plan to the satisfaction of AECl in the form of:
 - 10.3.1. a Remediation Action Plan, consisting of a rational design for the remedial measures necessary to effectively address the risks associated with significant environmental and human health impacts on the Site; and/or
 - 10.3.2. a RemEMPr, which describes the reason and approach to the investigation/assessment of the site, the evaluation of alternative options to manage the potential risks identified and prescribes the recommended mitigation measures for management of the impacted site, as appropriate to the proposed or existing land use.
- 10.4. The documents referred to in 10.3 shall be:
 - 10.4.1. prepared by a suitably qualified and experienced scientist, engineer or technician; and
 - 10.4.2. submitted to AECl for review.
- 10.5. On the review contemplated in terms of 10.4, AECl may submit for regulatory approval the documents referred to in 10.3 in keeping with AECl's Remediation Strategy.
- 10.6. Following the review contemplated in 10.4.2 and/or the regulatory approval contemplated in 10.5, AECl shall confirm their requirements in terms of amendment, approval of and/or implementation of the Remedial Plan with the Customer in writing.
- 10.7. Following written approval by AECl of the Remedial Plan, the Customer shall implement the Remediation Action Plan and/or RemEMPr.
- 10.8. Following conclusion of remediation as contemplated in 10.7, the Customer shall provide a detailed Remediation Report, to the satisfaction of AECl. The Remediation Report shall *inter alia*:
 - 10.8.1. describe the remediation and rehabilitation activities and mitigation measures, where applicable;
 - 10.8.2. describe and provide results of verification sampling;
 - 10.8.3. describe the residual contamination status of the site;

- 10.8.4. provide recommendations regarding future measures required for the further remediation and/or environmental risk management of the site;
 - 10.8.5. include a map with coordinates delineating specific applicable site areas including but not limited to locations:
 - 10.8.5.1. where a specific type of remediation was performed;
 - 10.8.5.2. with a certain type of residual impact;
 - 10.8.5.3. that were excluded from remediation; and/or
 - 10.8.5.4. with specific post-remediation recommended mitigation measures and/or restrictions; and
 - 10.8.6. include supporting documentation in the form of Appendices, where applicable.
 - 10.9. Unless otherwise agreed in terms of an Occupation Agreement, all remedial work, including but not limited to soil/waste treatment, stabilisation or removal and disposal identified by way of a Remediation Action Plan, shall be undertaken by the Customer at its own cost.
 - 10.10. All soil remediation shall comply with Environmental Laws applicable at the time and in particular any norms and standards for such remediation and requirements for the disposal of contaminated soil.
 - 10.11. Approval of a Remedial Plan by AECI shall not derogate from the Customer's obligation to apply for and comply with any Environmental Authorisation required by the Customer under Environmental Laws.
11. Land Redevelopment and Use Agreements (LRUAs)
- 11.1. AECI may be in a position to provide a site-specific Draft LRUA based on available information, prior to receipt of a Pre-Occupation Assessment, an Interim or Exit Assessment and/or an ERA referred to in Section 9. The Customer should ascertain from AECI whether a draft LRUA is available to inform the Customer's development planning.
 - 11.2. AECI shall develop and make a site-specific LRUA available to the Customer for:
 - 11.2.1. New Development and/or Alterations, which takes into consideration a Pre-Occupation Assessment and associated ESA as detailed in Section 9.1, any ERA as detailed in 9.3 as well as any remedial plans and/or work done in terms of Section 10;
 - 11.2.2. New Tenancies, at AECI's discretion, which takes into consideration a Pre-Occupation Assessment and associated available ESA as detailed in Section 9.1, any ERA as detailed in 9.3 as well as any remedial plans and/or work done in terms of Section 10 into consideration; or
 - 11.2.3. Existing Operations, at AECI's discretion, which takes the ERA as detailed in 9.3, any ESA, Interim or Exit Assessment in terms of 9.2 and any remedial plans and/or work done in terms of 10 into consideration.

- 11.3. The LRUA shall provide background information and contain specific and detailed requirements/restrictions to facilitate risk management during New Development, Alterations, New Tenancies, Existing Operations as well as ongoing and future land use.
- 11.4. The Customer shall familiarise itself with the LRUA and implement and adhere to the requirements of the LRUA.
- 11.5. Non-compliance with the LRUA shall constitute a breach of this Code.
- 11.6. AECl reserves the right to revise the LRUA on notice to the Customer where changes in the Customer's operations, additional information regarding or changes to the conditions of the site reasonably require such revision.
- 11.7. The Customer shall inform AECl of any changes to its operations or impacts on the Site (including remedial measures) that may require information or specifications in a LRUA to be revised and/or renegotiated.

12. Site Environmental Management Plan

- 12.1. All Customers shall compile and submit a copy of their SiteEMPs to AECl for approval. SiteEMPs shall include the following minimum information:
 - 12.1.1. details of specific environmental management measures to be implemented in order to comply with Environmental Laws, this Code as well as any applicable LRUA and RemEMPr;
 - 12.1.2. development layout/site plan and method statement for all activities to be undertaken on the Site that may pose a significant environmental risk;
 - 12.1.3. excavation works plan;
 - 12.1.4. list of all raw and final products and waste materials, together with Material Safety Data Sheets for raw and final products and intermediate products that may pose a significant environmental risk;
 - 12.1.5. stormwater management plan;
 - 12.1.6. waste management plan;
 - 12.1.7. effluent management plan;
 - 12.1.8. air quality management plan;
 - 12.1.9. emergency preparedness plan; and
 - 12.1.10. a checklist of all stipulated environmental management measures for auditing purposes.
- 12.2. The SiteEMP shall cover all the development phases, including *inter alia* site preparation, construction, operational, maintenance and decommissioning phases. For practical purposes the SiteEMP may be provided in two or more parts to cover various phases of the development.
- 12.3. The SiteEMP shall be developed and implemented **prior** to activities associated with a specific phase commencing, e.g. construction activities will not be allowed to commence without an approved SiteEMP for the construction phase.

- 12.4. A copy of the SiteEMP shall be kept on Site by the Customer.
- 12.5. The development layout plan referred to in 12.1.2 shall:
- 12.5.1. include a description and map/drawing indicating:
 - 12.5.1.1. the boundaries of the existing development or proposed New Development / Alteration and plant servitude corridors;
 - 12.5.1.2. the layout of buildings and plant;
 - 12.5.1.3. the layout of access roads and turning circles;
 - 12.5.1.4. material and plant laydown and stockpile areas (including soil stockpile areas); and
 - 12.5.1.5. the layout of services.
- 12.6. The stormwater management plan referred to in 12.1.5 shall:
- 12.6.1. take the requirements referred to in 13.2 into consideration;
 - 12.6.2. be developed and maintained in accordance with any / all relevant AECI Storm Water Management Agreements and or requirement and shall address the construction, operational and closure phases. The Customer shall ascertain applicable agreements and requirements with AECI;
 - 12.6.3. be developed in accordance with the eThekweni 'Design Manual: Guidelines and Policy for the Design of Stormwater Drainage and Stormwater Management Systems' (2008);
 - 12.6.4. define measures to prevent the off-site migration of potentially contaminated runoff and sediment/silt emanating from the Site;
 - 12.6.5. provide for suitable interventions such as surface profiling, engineering measures and/or coverage for the development and operational phases, to prevent water ingress into Contaminated Land;
 - 12.6.6. address ongoing monitoring and maintenance of stormwater measures and infrastructure; and
 - 12.6.7. specify stormwater management requirements in relation to the Excavation Works plan (Section 12.7).
- 12.7. The Excavation Works plan referred to in 12.1.3 shall require approval by AECI prior to commencement of Excavation Works and shall:
- 12.7.1. take the requirements referred to in 13.1 into consideration;
 - 12.7.2. detail excavation and backfilling work (location, extent, depth, volumes that cannot be backfilled);
 - 12.7.3. detail soil stockpiling (location, layout, volume, cover, duration of stockpiling);

- 12.7.4. detail soil placement (location, rehabilitation and integration into site infrastructure); and
- 12.7.5. detail soil disposal (reason for disposal, volumes, method of disposal, details of removal service provider and landfill site) and measures that shall be implemented to limit soil erosion. NOTE: Disposal of soil is generally prohibited on land owned by AECl and requires authorisation from AECl in writing.
- 12.8. The Customer shall amend, expand and/or update its SiteEMP prior to undertaking an Alteration and from time to time to incorporate all reasonable requirements imposed by AECl and/or to comply with any Environmental Laws.
- 12.9. Should a Customer have a SiteEMP in place which was developed as part of their Environmental Management System (EMS), an Environmental Impact Assessment or other relevant process, such a SiteEMP may be utilised in terms of this Code, provided it complies with all the requirements of this Section (Section 12).

13. Operations and Activity Practices and Controls

13.1. Excavation Works and Soil Management

A suitably qualified Health and Safety Practitioner, shall be appointed for relevant work, as required by the OSHA. In addition to any requirements imposed by the OHS Act:

- 13.1.1. An Excavation Permit shall be obtained from AECl prior to engagement in any and all digging activities on land owned by AECl.
- 13.1.2. Reasonable precautions shall be taken to prevent soil and/or sediments and/or leachate (wind and/or water-borne) from leaving the Site during the construction, operational and/or decommissioning phases.
- 13.1.3. Extensive re-profiling of the Site shall not occur; without the prior written consent of AECl.
- 13.1.4. The Customer shall not allow or cause construction and Excavation Works beyond the boundaries indicated on the development layout plan submitted in terms of 12.5, without the prior written consent of AECl.
- 13.1.5. Dumping and/or burying of surplus and/or contaminated soils, sludge and/or any waste material is prohibited within all areas of land owned by AECl; soil placement on site (after due testing and assessment) may only occur with written consent of AECl.
- 13.1.6. As the owner of the Site AECl reserves the right to:
 - 13.1.6.1. review and approve all development plans that require Excavation Works to be performed;
 - 13.1.6.2. require reasonable mitigation measures to be implemented during execution of excavation activities to facilitate the protection of human health and the environment;
 - 13.1.6.3. oversee all Excavation Works, development plans and activities; and
 - 13.1.6.4. stop work / require additional preventative measures reasonably necessary to prevent environmental degradation from occurring.
- 13.1.7. All Excavation Works are to be performed with care and with appropriate management oversight.

- 13.1.8. The Customer shall treat all excavated soil as contaminated until appropriate testing confirms otherwise; and shall where reasonably possible backfill to the original location from which soil was excavated. Soil that cannot be backfilled in this manner shall be assessed (including testing, if contamination status is unknown) and, if such soil is contaminated, shall be:
- 13.1.8.1. managed on-site at a location and under conditions approved by AECl in writing; or
 - 13.1.8.2. if on-site soil management is not possible or feasible and provided such disposal is approved by AECl in writing, disposed of appropriately to a licenced waste disposal facility.
- 13.1.9. On receipt of an excavation permit, it is the responsibility of the Customer to ensure that adequate measures are implemented to protect the health and safety of its employees and contractors involved in any and all excavation works, including excavation works in any area where there is a known or potential material risk of harm to human health due to contaminants in soil, fill material and/or buried wastes. The customer shall compile a Health and Safety Plan (HASP) prior to commencing with such works.
- 13.1.10. All investigation and development work shall comply with the requirements of the OHSa and persons conducting such work are required to use appropriate PPE.
- 13.1.11. The Health and Safety Practitioner should, in addition to their statutory authority:
- 13.1.11.1. advise on health and safety requirements for workers potentially exposed to contaminated soil;
 - 13.1.11.2. compile a method statement for the contractor to guide all health and safety requirements associated with development in an area impacted by contaminants in the soil, including at a minimum the activity specific PPE that is required to be worn by the contractors and a protocol for the removal and disposal of PPE; and
 - 13.1.11.3. audit compliance with the HASP.
- 13.1.12. The site-specific PPE as defined by the appointed Health and Safety Practitioner is to be worn at all times by employees while undertaking Excavation Works.
- 13.1.13. Prior to any Excavation Works commencing, the Customer shall obtain *separate* Excavation Permits for:
- 13.1.13.1. all Excavation Works *within* the boundaries of the development footprint depicted in the development layout plan submitted in terms of 12.5; and
 - 13.1.13.2. any Excavation Works *outside* of the boundaries of the agreed development depicted in the development layout plan submitted in terms of 12.5;
- 13.1.14. The Customer shall obtain an updated Excavation Permit prior to any significant changes to the development layout plan.
- 13.1.15. The Customer shall keep and maintain a manifest of all soil/ borrow material brought onto Site. AECl may at its discretion require the Customer to test and verify the suitability of any soil/ borrow material to be used for backfilling brought onto Site by a Customer.

- 13.1.16. All costs associated with Excavation Works including HASPs, the appointment of a Health and Safety Practitioner, PPE, additional testing, stabilisation, and backfilling are for the account of the Customer.

13.2. Stormwater Management

- 13.2.1. In accordance with the eThekweni 'Design Manual: Guidelines and Policy for the Design of Stormwater Drainage and Stormwater Management Systems' (2008), the National Building Regulations and Part R (Stormwater Disposal) of Section 3 of SABS 0400 (1990), AECI requires that:

13.2.1.1. All sites control runoff in excess of that which would have occurred if a site had been in its natural or virgin state. Such stormwater management may be in the form of infrastructure installed to ensure that the rate of runoff is reduced to predevelopment states and that runoff is not concentrated onto adjacent neighbouring sites or other infrastructure, be it road drainage, valley lines, stormwater channels or the Umdoni Dams; and

13.2.1.2. The means of stormwater disposal is the subject of an acceptable rational design prepared under the supervision of a professional engineer or other approved competent person.

- 13.2.2. Where the condition stated in 13.2.1.1 cannot be met, the Customer shall confirm in writing (together with adequate proof) that capacity constraints in the existing stormwater infrastructure will remain within acceptable limits post development, so as to ensure that new development or alterations does not result in capacity constraints being exceeded.

- 13.2.3. All stormwater (clean and dirty), industrial effluent and sewerage systems shall be kept separated.

- 13.2.4. Existing stormwater infrastructure shall be preserved and protected and any modifications to the UIC stormwater system may not occur without the prior written consent of AECI.

13.3. Groundwater Management

- 13.3.1. AECI shall be responsible for the conduct and cost of general groundwater monitoring at Umbogintwini, however, the Customer shall install, operate and maintain appropriate monitoring and detection infrastructure, designed and implemented to a specification satisfactory to AECI, for any groundwater impacts that may arise due to the Customer's operations / activities and to which infrastructure, AECI shall be entitled reasonable access.

- 13.3.2. The Customer must obtain written consent from AECI prior to the installation of any boreholes.

- 13.3.3. Groundwater monitoring boreholes are not to be damaged or destroyed. Risk in and to monitoring infrastructure on a Site vests in the Customer and where damage occurs for any reason whatsoever, the cost of repair and reinstatement shall be recovered from the Customer.

- 13.3.4. Use of groundwater is prohibited and AECI shall be notified immediately if groundwater is encountered during excavations and/or observed as on-site seeps.

- 13.3.5. Boreholes within operational areas must be capped and locked; the introduction of any substance into a borehole is strictly prohibited unless agreed with AECI in writing.

13.4. Air Quality Management

- 13.4.1. It is the Customer's responsibility to comply with all the requirements of the National Environmental Management: Air Quality Act, which may include but are not limited to:
- 13.4.1.1. applying for an Atmospheric Emission Licence (AEL) with the relevant regulators, should any of the Customer's activities triggers the need for an AEL;
 - 13.4.1.2. complying with all the requirements of the AEL, where a Customer has been issued with an AEL; and
 - 13.4.1.3. reporting to the relevant regulator, if required in terms of an AEL.
- 13.4.2. Should a Customer be issued with an AEL; and be required in terms of its AEL to monitor emissions against specified emission limits and be required to report to regulators on the compliance with such limits, the Customer shall provide AECI with a report on such compliance on an annual basis for purposes of informing overall management of emissions at Umbogintwini.
- 13.4.3. All air emissions incidents that result in emissions that could be life threatening shall be reported immediately to the Environmental Helpline (082 440 7207) as per the UIC's EMPRO manual.

13.5. Use of Services

- 13.5.1. No illegal or unauthorised service connections of any nature are permitted.
- 13.5.2. The Customer shall make use of existing services. Where additional services are required, those services shall be above-ground unless agreed with AECI.

13.6. Materials Management and Spill Control

- 13.6.1. The Customer shall, prior to occupation, provide details of all hazardous substances required for, or generated in the course of, operations together with a process flow for waste streams and a layout of manufacturing, storage and despatch locations. The Customer shall not amend its manufacturing process through the introduction or generation of new substances without AECI's written approval (which approval shall not be unreasonably withheld).
- 13.6.2. Approval of the use of new substances by AECI shall not derogate from the tenant's obligation to apply for and comply with any Environmental Authorisation required by the Customer under Environmental Laws.
- 13.6.3. The Customer may not permit any hazardous chemicals or other substance that threatens the environment to enter the ground, drains, stormwater systems or surface water.
- 13.6.4. AECI reserves the right to require the installation of hard-surfaces, bunding, monitoring and/or other facilities as are reasonably necessary to prevent (and monitor) contamination of the Site and/or surrounding areas from emissions emanating from within the Site and/or to prevent the mobilisation of residual contamination from occurring.

- 13.6.5. The Customer shall notify AECl of any damage to tanks, bunds, sumps, foundations, process plant and equipment, and any other structure or infrastructure that poses an environmental risk.
- 13.6.6. Storage of hazardous materials or substances whether bagged or bulk or on pallets, and whether liquid in a tank or other container is not permitted on any surface that is not impermeable and intended for that type of storage (i.e. chemically resistant, etc.), or where containment is difficult. Liquid storage areas shall have bunding or other containment system with containment capacity equivalent to at least 110% of the maximum capacity of the storage facility.
- 13.6.7. The Customer shall ensure that there is no leakage or spillage at transfer points, from storage containers whether above or below ground, from piping above or below ground, from inadequate bunding and any other sources by adopting appropriate maintenance, design, control and housekeeping measures.
- 13.6.8. Maintenance planning shall include measures that address and prevent soil contamination, which includes bund areas and other hard surfaces for emergency catchment and includes soil and surface water contamination considerations.
- 13.6.9. Wash areas for containment of oil are to be cleaned and maintained on a regular basis. Where possible, soaps, emulsifiers or any substances that solubilize oils and greases should not be used in these areas. The use of degreasers and other substances that solubilise oil need to be documented by the Customer and authorised by AECl and records of type and volumes used shall be kept for review during annual audit.
- 13.6.10. Notwithstanding and in addition to complying with all Environmental Laws relating to the management of asbestos-containing material, AECl reserves the right to require that the Customer:
- 13.6.10.1. provide AECl with a statement on whether any asbestos-containing material and/or wastes are located, used, processed, handled and/or stored at a site occupied by the Customer;
 - 13.6.10.2. provide AECl with documentation on the inventory of all asbestos-containing material and/or wastes located, used, processed, handled and/or stored at a site occupied by the Customer, and for such an inventory to have been prepared or verified by a suitably qualified entity; and/or
 - 13.6.10.3. provide AECl with an asbestos management plan, should asbestos-containing material and/or wastes be located, used, processed, handled and/or stored at a site occupied by the Customer.
- 13.6.11. The asbestos management plan referred to in 13.6.10.3 13.6.10.2 shall include, where applicable:
- 13.6.11.1. an inventory of all asbestos-containing material with details on the location and condition of degradation thereof;
 - 13.6.11.2. an inventory of all asbestos-containing wastes with details on the location and containment thereof;
 - 13.6.11.3. an asbestos monitoring plan, which meets regulatory requirements;
 - 13.6.11.4. an inspection and maintenance plan and schedule for asbestos-containing materials that forms part of the structure of workplace, building, plant or premises;
 - 13.6.11.5. a schedule for phasing out asbestos-containing material;
 - 13.6.11.6. a plan for all demolition work of structures or plant that contain asbestos, and with such a plan having received the required regulatory approval; and

- 13.6.11.7. a plan for the disposal of asbestos wastes, which meets regulatory requirements.
- 13.6.12. Should an incident (as stated in 1.14) occur as a result of a Customer's activities or processes, the Customer shall manage the incident in terms of Section 30 of NEMA as amended from time to time and/or other applicable legislation, including:
 - 13.6.12.1. take all reasonable measures to contain and minimise the effects of the incident, including its effects on the environment and any risks posed by the incident to the health, safety and property of persons;
 - 13.6.12.2. undertake clean-up procedures;
 - 13.6.12.3. remedy the effects of the incident; and
 - 13.6.12.4. assess the immediate and long-term effects of the incident on the environment and public health.

In addition to the above, the Customer shall:

 - 13.6.12.5. report the incident in terms of Section 15 (Notification and Reporting);
 - 13.6.12.6. follow and implement requirements of this Code and of AECI which may include Interim Assessment as in Section 9.2 and/or site remediation planning and procedures as in Section 10; and
 - 13.6.12.7. undertake all soil treatment, stabilisation or removal and disposal as a result of spillage or other incident at the Customer's own cost.

13.7. Building/Plant Management

- 13.7.1. Subterranean bunkers allowing human occupancy is prohibited.
- 13.7.2. Any bunded areas on the Site are only to be used for emergency containment of unforeseen spillages. Bund areas are to be kept empty and dry during all other occasions. Incidents that require emergency containment are to be recorded in the incident register.
- 13.7.3. Pump glands are to be checked for leaks at an appropriate frequency.
- 13.7.4. Any leaks on plant shall be contained and repaired as a priority.
- 13.7.5. Any loading areas are to be kept clean and dry and are to be cleaned regularly.
- 13.7.6. All tankers are to be checked for leaks while loading and off-loading is in progress. Loading/offloading is to cease immediately if leaks are detected; and shall not recommence until the leak is remedied and any spillage addressed.
- 13.7.7. Any loading lines are to be drained before moving to the next tank to be loaded/offloaded to prevent any spillage into the ground.
- 13.7.8. The Customer shall undertake the regular cleaning and maintenance of roadways, bunds, storage areas and other surfaces so as to maintain the Site in a neat and tidy condition.

13.8. Control of Vehicles

- 13.8.1. Entry to the Site: Vehicles entering the Site are to be roadworthy and suitable for the transport of the materials they carry.

- 13.8.2. Within the Site: Vehicles are to be suitably and safely loaded to prevent loss of product and spillages on roadways and other surfaces.
- 13.8.3. Restricted areas: The Customer is to ensure that its employees, suppliers, customers, agents, representatives and invitees do not travel in areas of the UIC that are off limits or restricted. The Customer shall ensure that it is familiar with the location of such areas.
- 13.8.4. The recovery and cleaning of road and other surfaces contaminated through the spillage of chemical products, raw materials, oils, diesel or any other substance that poses a threat to road safety or the environment is to be done promptly and no later than the end of working day on which they occur. Any spillages that cannot be easily contained, or that cannot be removed by the end of that working day, or that have resulted in contamination are to be reported to AECL immediately.
- 13.8.5. Discharging of loads: Vehicles carrying any substances that pose or could pose a threat to the environment are only permitted to discharge their contents in areas of the Site demarcated for that specific purpose, and under the control of qualified supervisors.
- 13.8.6. Washing of tankers is strictly forbidden on any land owned by AECL without the prior written consent of AECL.
- 13.9. Waste and Effluent Management
- 13.9.1. The Customer shall comply with all Environmental Laws relating to the classification, storage, assessment, disposal, recycling, re-use, and reduction of waste.
- 13.9.2. Should any waste be stored on site the following measures shall apply:
- 13.9.2.1. Waste skips are to be free of leaks and are not to be overfilled;
 - 13.9.2.2. Bags of waste are to be bunch tied, stored on pallets and under roof; and
 - 13.9.2.3. Hazardous waste is to be stored separately from general waste and different types of recyclable materials are to be stored separately, where possible.
- 13.9.3. All waste not recoverable is to be disposed of off-site. Any dumping or burying of waste on the Site or on any land owned by AECL is prohibited including litter and garden refuse.
- 13.9.4. Building rubble shall not be dumped or buried on the Site or the on land owned by AECL without prior written consent from AECL. Contaminated building rubble should be treated as hazardous waste and disposed of accordingly.
- 13.9.5. All waste manifest documentation including proof of receipt by the waste manager shall be retained for the duration of the Occupation Agreement and made available to AECL on request.

14. Compliance Monitoring and Audits

- 14.1. AECl shall be entitled to enter onto the Site to conduct inspections to confirm the Customer's compliance with this Code with or without notice to the Customer. For the avoidance of doubt, such right is in addition to AECl's rights in Section 5.
- 14.2. The Customer shall appoint responsible and trained personnel for all areas within the Site, who shall maintain a record of all leaks and spills which could have potential for soil, groundwater or stormwater contamination. The records shall be reviewed at agreed regular intervals and all decisions to provide protective, containment or remediation measures are to be recorded. These records are to be made available to AECl on request.
- 14.3. The Customer shall implement and comply with its SiteEMP and shall assess and report to AECl on such compliance by:
 - 14.3.1. conducting internal compliance reviews on at least a monthly basis during the construction phase of New Development and Alterations which shall be submitted to AECl in electronic format on request;
 - 14.3.2. conducting internal compliance reviews on a regular basis of at least a quarterly frequency (unless otherwise motivated by the Customer and agreed by AECl) during the operational phase which shall be submitted to AECl in electronic format upon request;
 - 14.3.3. conducting internal compliance reviews on at least a monthly basis during the decommissioning phase which shall be submitted to AECl in electronic format on request;
 - 14.3.4. conducting annual internal peer audits or appointing an independent environmental consultant to report to the Customer on and conduct an annual audit for compliance with this Code, any LRUa and the Customer's SiteEMP; and to supply a copy thereof to AECl within 30 days of receipt by the Customer; Note: independent audits to be performed in the first year of operation and at least once every 3 years thereafter; and
 - 14.3.5. All internal and external audit reports shall be retained and be available for inspection for the duration of occupation.

15. Notification and Reporting

- 15.1. Meetings shall be held between the Customer and AECl to discuss environmental issues as and when required.
- 15.2. It is the responsibility of the Customer to make the necessary legal appointments in terms of the OHS Act to provide the correct reporting channels.
- 15.3. The Customer's contact person and an alternative contact person for reporting spillages, material adverse audit findings and incidents is to be appointed in writing by the Customer and notified to all the Customer's employees as well as AECl.
- 15.4. In addition to any reports which are required by law to be made to a specified regulator, all spillages, incidents, pre-directives, directives, dawn-raids, warrants & statutory inspections are to be reported

immediately to the Environmental Helpline (082 440 7207), and additionally, in respect of material adverse audit findings, directly to AECI.

- 15.5. The Customer shall inform AECI and provide detail of all mitigation measures, regulatory reporting and communication relating to material adverse audit findings and all incidents, pre-directives, directives, dawn-raids, warrants & statutory inspections within 24 hours.
- 15.6. The Customer shall maintain an incident register:
 - 15.6.1. containing details of material adverse audit findings and all incidents (reportable and non-reportable)
 - 15.6.2. that is up-to-date and available for inspection; and
 - 15.6.3. for a period of five years.

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