



public works
& infrastructure

Department:
Public Works and Infrastructure
REPUBLIC OF SOUTH AFRICA

DEPARTMENT OF PUBLIC WORKS AND INFRASTRUCTURE & KWIKSPACE MODULAR BUILDINGS (PTY) LTD.

STANDARD LEASE AGREEMENT FOR OFFICE AND FUNCTIONAL ACCOMMODATION

BUILDING NAME AND ADDRESS: BRACKENDOWN POLICE STATION – 78 LETABA STREET

CLIENT NAME: SOUTH AFRICAN POLICE SERVICES

PROPERTY CODE: 301195

FILE NO: 6101/0348

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STANDARD LEASE AGREEMENT FOR OFFICE AND FUNCTIONAL ACCOMMODATION

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VERSION 1 OF 2019 (ISSUED ON 26 FEBRUARY 2019)

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1 PARTIES

The parties to this agreement are:

the party identified in item 1.1 of Schedule A (hereinafter referred to as the "lessor");

and

the Government of the Republic of South Africa, herein represented by the Director-General of the Department of Public Works or his/ her duly authorised delegate, (hereinafter referred to as the "lessee").

2 DEFINITIONS AND INTERPRETATION

- 2.1 In this agreement, unless the context indicates otherwise, the following words have the meaning assigned to them hereunder:

"adjustment date" – means the date referred to in item 8 on Schedule A on which date the escalated rate comes into effect;

"the/this agreement" – means the agreement set out in this document together with Schedule A, Schedule B, Schedule C, ~~Schedule D~~ thereto and any other schedules annexed thereto;  *Not attached*

"building" – means the entire structure known by the name as set out in item 2.2 of Schedule A and situated on the property set out in item 2.4 of Schedule A;

"calendar day" – means the period from midnight to midnight, inclusive of weekends and public holidays;

"commencement date" – means the date on which this lease commences, which date may not be earlier than the date of occupation OR a month after the lessor has completed the agreed Tenant installations. Such date will be stipulated in item 7 on Schedule A;

"commencement rental" – means the rental payable at the commencement of the lease as is stipulated in Schedule B;

"day" – means any day other than a Saturday, Sunday or official public holiday in the Republic of South Africa; 

"escalation rate" – means the percentage mentioned in item 9 on Schedule A, which adjusts the rental on every adjustment date;

"initial lease period" – means the initial period of the lease, as set out in item 3 of Schedule A;

"lessee" – means the Government of the Republic of South Africa, (herein represented by the Director-General of the Department of Public Works or his duly authorised delegate) its successor-in-title and/or its duly authorised employees, agents, intermediaries, representatives and if and to the extent applicable, shall extend to the invitees;

"lessor" – means the party identified in item 1.1 of Schedule A (herein represented by the person identified in item 1.1.4 of Schedule A who by his/her signature hereto warrants that she/he is authorised to sign this agreement on behalf of the lessor), its successor-in-title and/or its duly authorised employees, agents, intermediaries and/or representatives;

"occupant" – the body defined in item 1.2 of Schedule A, being the body which will physically occupy the premises for the duration of the agreement of the lease;

"party / parties" – means the lessee, and the lessor or any of them as determined by the context;

"premises" – means the building and/or the structure and/or the land, or portions thereof, as set out in item 2.1 of Schedule A and a plan of which is attached as Schedule D, which forms the subject of this agreement;

Not attached

"secondary lease period" – means the period mentioned in item 4 of Schedule A, for which this agreement may be extended by the lessor or the lessee from the date on which the initial lease period expires;

"signature date" – means the date of signature of this agreement by the party which signs last in time;

HJH



"termination date" – means the date stipulated in item 10 of Schedule A on which the lease terminate, unless extended for the secondary lease period, as more fully detailed in clause 4 hereof;

"VAT" – means Value-Added Tax in terms of the VAT Act; and

"VAT Act" – means the Value-Added Tax Act (No. 89 of 1991), together with all amendments thereto and all regulations published thereunder from time to time;

- 2.2 The clause headings of this agreement have been inserted for reference purposes only and shall not be taken into account in its interpretation. Unless the context indicates otherwise, words importing the singular shall include the plural, words importing persons shall include natural persons and legal persons and the state and *vice versa*;
- 2.3 If a provision in a definition is a substantive provision conferring rights or imposing obligations on any party, effect shall be given to it as if it were a substantive provision in the body of the agreement, notwithstanding that it is in the definitions clause.
- 2.4 Any reference to an enactment, regulation, rule or by-law is to that enactment, regulation, rule or by-law as at the signature date, and as amended or replaced from time to time.
- 2.5 Where any number of days is prescribed, such number shall exclude the first and include the last day, unless the last day falls on a Saturday, Sunday or public holiday in the Republic of South Africa, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday.
- 2.6 The use of the word "including" followed by a specific example/s shall not be construed as limiting the meaning of the general wording succeeding it and the *eiusdem generis* rule shall not be applied in the interpretation of such general wording or such specific example/s.
- 2.7 The expiration or termination of this agreement shall not affect those provisions of this agreement which expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or

termination, notwithstanding the fact that the clauses themselves do not expressly provide this.

- 2.8 In its interpretation, the *contra proferentem* rule of construction shall not apply (this agreement being the product of negotiations between the parties) nor shall this agreement be construed in favour of or against any party by reason of the extent to which any party or its professional advisors participated in the preparation of this agreement.

3 THE LEASE

The lessor hereby leases the premises to the lessee who hires the premises on the terms and conditions set out in this agreement, for occupation by the occupant, it being specifically recorded and notwithstanding anything to the contrary contained in this agreement, that the only persons who are mandated to negotiate, enter into, amend or otherwise agree the terms and conditions of this agreement are lessor and lessee provided that any terms and conditions which are specifically exercisable by the occupant in terms of this agreement, shall be so exercisable despite this clause 3.;

4 DURATION AND RENEWAL

- 4.1 This agreement shall commence on the commencement date and shall endure for the period as specified in item 3 of Schedule A as the initial lease period.
- 4.2 Upon the expiry of the initial lease period, the lessee shall have the option of renewing this agreement. The parties will agree on a market related rental for the premises however the annual escalation rate applicable during the secondary lease period shall be limited to headline inflation or the escalation rate applicable during the initial lease period, whichever is the greater;
- 4.3 All extensions to the lease period in this agreement, and any changes to the terms and conditions of lease during such extended period, shall be concluded in writing and signed by the parties prior to the termination date or expiry of any extended period, as the case may be.

5 THE RENTAL

- 5.1 During the initial lease period, with effect from the commencement date, the monthly rental payable by the lessee to the lessor shall be as specified in Schedule B.
- 5.2 The lease commences with the commencement rental where after the rental shall escalate each year, on each adjustment date, in accordance with the compounded escalation rate as set out in item 9 on Schedule A.
- 5.3 The lessor warrants that the ~~space and parking leased~~ is/are as indicated in the Schedule B. Should it be discovered that the ~~space or parking provided~~ is/are lesser, any amount paid for the non-existent space and/or parking will be recovered as per clause 10.
- 5.4 For leases longer than five (5) years, the rate or tariff agreed between the parties shall be subject to review after the expiry of the fifth year (i.e. de-escalation). The object of the review will be to bring the rates in line with the market, should the parties not agree on the review rate or tariff (as provided in Schedule B), the matter will be resolved as per the Dispute resolution clause beneath.
- 5.5 The rental shall be paid by the lessee to the lessor, monthly in advance on or before the 7th (seventh) day of each and every month.
- 5.6 All payments made by the lessee to the lessor in terms of this agreement, shall be effected by electronic payment directly into the lessor's nominated bank account.
- 5.7 The parties agree that all rentals payable in terms of this agreement shall include VAT where such tax is payable. The lessor shall specify such tax for record and tax purposes separately from the basic rental.
- 5.8 The lessee undertakes to pay all VAT, at the standard rate applicable from time to time, leviable on any amounts payable by the lessee in terms of this agreement.
- 5.9 ~~The lessor shall be liable to pay all rates, taxes, other regulatory amounts and levies in respect of the premises to the relevant authority as well as any expenses and increases.~~ *N/A*

(Lessee's Responsibility)

N/A

6 USE OF THE PREMISES

- 6.1 The lessee records that she/he will use the premises for the purpose specified in item 5 of Schedule A and for any legitimate Government purpose. Where the lessee uses the premises for a purpose other than its intended purpose, the onus shall rest on the lessee to obtain and maintain all necessary permits and/or consents for the use of the premises for that purpose.
- 6.2 The lessor hereby warrants and undertakes that the premises are fit for use for the purpose set out in item 5 of Schedule A.
- 6.3 The ~~lessor~~^{lessee} shall be obliged to obtain such consents and authorisations (excluding trade and other licences) as may be required by competent authorities or title conditions to enable the lessee to use the premises for the purpose referred to in 6.1.

7 OCCUPATION OF THE PREMISES

The lessor warrants the lessee's right to free and undisturbed possession of the premises from the commencement date until termination of this agreement, subject thereto that any delay in taking possession due to avoidable actions or omissions of the lessee, shall not be regarded as a delay on the part of the lessor. The date of occupation shall be the date on which the lessee occupies the premises, which shall also be the date of commencement of the lease

8 CONDITION OF THE PREMISES AT THE COMMENCEMENT DATE AND AT THE TERMINATION DATE

- 8.1 Schedule C contains details of the installations required by the lessee, the party responsible for effecting those installations and the party who bears the costs in respect thereof. Schedule C also contains the obligations, if any, of the lessee in regard to the removal thereof on termination of this agreement. To the extent that any party does not make the installations listed opposite its name in Schedule C, either of the other parties may have such installations made at the reasonable cost thereof and the party which was responsible for such installation shall become liable for such reasonable amount;

- 8.2 In compliance with the National Building Regulations and Building Standards Act (Act 103 of 1977) as amended, and the Occupational Health and Safety Act (Act 85 of 1993) as amended, and /or any other applicable legislation, the ~~Lessor~~^{lessor} shall provide the Lessee with the following Certificates of Compliance, where applicable, in respect of the following equipment, prior to occupation of the premises. The lessee shall in writing accept that the lessor has complied with terms of the agreement and that the building is ready and available and ready for use.

Lifts - N/A

Electrical Certificate

~~Firefighting equipment~~ N/A

~~Gas Installation~~ N/A

~~Glass certificate~~ N/A

Air-Conditioning Units

- 8.3 The lessee shall, within 30 days of occupation of the premises, furnish the lessor with three (3) dates and times, which dates must be within twenty-one (21) days of occupation, to convene a meeting to inspect the premises. The lessor shall accept a date, from those furnished, that is suitable to him. At such meeting the parties, including the occupant, shall jointly inspect the premises, so as to ascertain any damage or defect in the premises and the general condition of the premises and to record them in a list which all three parties shall sign.

- 8.4 The lessor shall within thirty (30) days of such inspection (or such longer period as may be reasonably necessary to repair the defects) repair the defect(s).

- 8.5 The lessor shall furnish dates and times at least fourteen working (14) days prior to the termination of the agreement for the inspection of the premises after termination of the agreement. Within 14 days after the expiry of this agreement, the lessor shall ensure that the following lists are compiled and delivered to the lessee:

- 8.5.1 A list of all the items where the parties agree that such items are damaged or defective and that the lessee is liable; and

8.5.2 A list of the items, which are damaged or defective and which in the opinion of the lessor the lessee is liable for whereas the lessee denies liability.

8.6 The items recorded in the list contemplated in clause 8 shall be replaced as per agreement between the parties. Should the parties fail to reach such an agreement within seven (7) days from the date of delivery of the lists to the lessee, the dispute may by agreement between the parties be referred to an independent professional who shall act as a mediator in an attempt to resolve the dispute.

9 FIXTURES

The parties agree that for the purposes of the interpretation of this clause and of this agreement, fixtures shall refer to movable or immovable fittings installed by the lessee and required for its purposes, such as computer cables and telephone systems. The lessee shall be entitled, at its expense and with the written consent of the lessor, which consent shall not be unreasonably withheld (alternatively, as arranged in Schedule C), to install fixtures (which shall remain the property of the lessee) on the premises; provided that, after the termination of this agreement:

- 9.1 fixtures may be removed by the lessee on condition that the premises are restored to the condition in which they were before the installation of the fixtures, fair wear and tear excepted; or
- 9.2 Should the lessee fail or neglect to remove the fixtures and restore the premises in a substantially similar condition it was on commencement, fair wear and tear excepted, the lessor can remove the fixtures and recover the reasonable costs thereof from the lessee.

10 EXPENSES, MAINTENANCE AND REPAIRS

10.1 Subject to 10.3 below, the lessor shall be responsible for and pay all and any expenses in respect of the premises.

10.2 The lessor shall be responsible for contracting with the suppliers of utilities to the premises referred to in this clause 10.1 above and shall be directly responsible for payment of these charges and any connection fees and deposits in respect thereof.

10.3 The lessee shall be responsible for and will pay the cost of all electricity, water and/or sewerage consumed on the premises for the duration of this agreement. Electricity and/or water and/or sewerage consumed shall be charged according to the relevant meter reading, provided that the consumption of water, electricity and sewerage in the premises shall be proved *prima facie* by reading of meters or sub-meters and recording same. The ~~lessee~~
~~lessor~~ shall be responsible for contracting with the suppliers of utilities to the premises referred to in this clause and shall be directly responsible for payment of these charges and any connection fees and deposits in respect thereof.

10.4 In the event of the premises being a portion of a building and it consequently being necessary to determine the lessee's *pro rata* share in respect of maintenance or consumption of necessary services, the *pro rata* share of the lessee, for the purpose of this agreement, shall be determined by calculating the area of the premises as a fraction of the total area of the building.

10.5 Should the lessor fail to pay expenses or to undertake repairs for which the lessor is liable in terms of this agreement, the lessee may remind the lessor in writing, and should the lessor still be in default 30 days after receipt of such reminder (or such longer period which the parties may have agreed upon) the lessee shall be entitled to demand specific performance or to pay such expenses or to undertake such repairs (if and to the extent agreed between the parties) and to recover the amounts thus disbursed from the rental due to the lessor by set off (if and to the extent agreed between the parties) or by legal action. Where the lessee has to attend to the repairs, the lessee will be entitled, but not obliged, to use the Landlord's contractors. A certificate by the lessee of such expenses shall be *prima facie* proof thereof.

10.6 The lessee will also be entitled to recover any undisputed amount overpaid to the lessor in terms of this agreement as per the provision of 10.5.

No maintenance will be done if the account is overdue by more than 60 days.

11 OBLIGATIONS OF THE LESSOR

In addition to any other obligations contained in this agreement, the ~~lessor~~ shall be responsible for:

11.1 The payment of assessment rates, taxes and fixed municipal levies;

- 11.2 Insuring the building as provided for in clause 13 below; The lessor will insure the units. The lessee is responsible for excess payment.
- 11.3 Installation and maintenance of mechanical and fire services equipment, including fire detection equipment, fair wear and tear excepted, as further stipulated in clause 14 hereof; *N/A* (lessee's responsibility)
- 11.4 Landscape maintenance of the premises, if applicable; *n/a*
- 11.5 Providing, at the lessor's expense, all electric, fluorescent, and incandescent light bulbs required in the premises; *Replacement for lessee's account*
- 11.6 Maintenance of, and for all repairs and replacements becoming necessary from time to time in or to, the roofs and outside walls of the buildings including the maintenance and repair of the structure of the buildings, and all systems, works and installations contained therein; *Lessor's Responsibility*
- 11.7 Maintaining in good order and condition the exterior, roof, gutters and down pipes of the premises and shall make good any structural defects, other than damage caused by the lessee; *Lessor's Responsibility*
- 11.8 Normal maintenance and repairs (including painting) of both the exterior and interior of the premises, including the cleaning of the exterior of the premises as well as windows, in a high rise building; *N/A*
- 11.9 Operation (including maintenance and repairs) of the air-conditioning system and the lifts during normal office hours or during such times as may be agreed upon; *Lessor's Responsibility*
- 11.10 Water and electricity consumption to the extent that these are not separately metered for the lessee; *N/A* (lessee's responsibility)
- 11.11 Municipal rates (existing and future) levied on ownership (including rates increases); *N/A* (lessee's responsibility)
- 11.12 Installation and maintenance of the fire extinguishing and fire detection equipment as stipulated in clause 14; and *N/A* (lessee's responsibility)
- 11.13 Replacement of floor covering (carpeting etc.) at the expiry of their agreed lifetime which in the case of carpeting is 5 years from the date of installation; *Lessor's Responsibility*

11.14 Submission of valid annual tax certificate/sustain CSD compliance throughout the lease;

11.15 Compliance with Occupational Health and Safety and Act (Act No. 85 of 1993);

11.16 Compliance with Department of Labour's applicable standards annually – Certification of Occupation;

11.17 Quarterly fumigation of the premises. Without prejudice to any rights and/or remedies available to the lessor in terms of this agreement, where any losses, expenses, costs, damages or breakages are attributable to any act or omission of the lessee and/or negligence or wilful intent of the lessee, the lessor shall be entitled to attend to the necessary and recover the reasonable cost thereof from the lessee.

11.18 Should the Lessee/occupant be deprived of the full use and enjoyment of the premises through acts or omissions of the lessor e.g. non-functioning air conditioning system, lifts, water shortage etc, the lessee will be entitled to a pro rata reduction in the rental amount.
Defects to be reported and reported within 72 hours.

12 OBLIGATIONS OF THE LESSEE

In addition to any other obligations contained in this agreement, the lessee shall:

12.1 Not use the premises or allow them to be used, in whole or part, for any purpose other than that of the business;

12.2 Take good and proper care of the interior of the buildings;

12.3 Be responsible for all reasonable security, manned or otherwise, necessary to protect the premises;

12.4 Not cause or commit any unreasonable nuisance on the premises or cause any annoyance or discomfort to neighbours or the public;

12.5 Not unreasonably leave refuse or allow it to accumulate in or about the premises;

12.6 Refrain from interfering with the electrical, plumbing, or gas installations or systems serving the premises;

- 12.7 Take all reasonable measures to prevent blockages and obstructions from occurring in drains, sewerage pipes and water pipes serving the premises;
- 12.8 At all times comply with any law, by-law or regulation of the local authority relating to the conduct of its business at the premises and also with the conditions of the title deed under which the premises are held by the lessor;
- 12.9 Not be permitted to place such electrical or other signage on the exterior of the premises without the prior written consent of the lessor;
- 12.10 Forthwith disclose in writing to the lessor details of any act, matter or thing, stored or carried out upon the premises which may affect, vitiate or endanger the fire insurance policy in respect of the property or which may result in an increase of the fire insurance premium;
- 12.11 Undertake domestic cleaning of the interior of the premises, including domestic services such as the provision of toilet paper, soap, towels, etc.; excluding common areas;
- 12.12 Be responsible for the costs of water, electricity and sewerage consumption to the extent that these are separately metered as fully set out in clause 10 above; and
- 12.13 Be responsible for the costs of refuse removal and sanitary services.

13 INSURANCE

- 13.1 The lessor shall comprehensively insure ~~the property and~~ the building, and the lessor's fittings at its replacement value, at the lessor's own risk and cost. *Excess to be paid by lessee if there is a claim.*
- 13.2 The lessee and the occupant may not after the commencement of the lease do, or allow anything that is contrary to the provisions of the insurance policy, which will cause an increase in the premiums of any insurance policy held by the lessor over the property, provided that the conditions or the insurance policy will be communicated in writing to the lessee from time to time.
- 13.3 Should the lessee knowingly do or cause to be done anything that causes an increase in the premiums of such insurance policy, the lessee will be liable for the increase in the

premiums occasioned by the actions of the lessee. The lessor shall furnish to the lessee proof from the insurer of such increase before any payment shall be due from the lessee.

13.4 The lessor shall not be liable for any damage which the lessee may suffer as a consequence of rain, wind, hail, lightning, fire, earthquake, storm, riots, strikes, actions by enemies of the State or in consequence of the interruption of any facility or service supplies to the premises by third parties, unless such damage could have reasonably been prevented by the lessor.

13.5 The lessor shall not be liable for any accident, injury or damage incurred by the lessee, his employees, agents or visitors, in or near the premises, unless this could have reasonably been prevented on the part of the lessor.

14 FIRE FIGHTING EQUIPMENT AND LIFTS

14.1 The lessor shall be obliged to install, maintain and operate on the premises fire extinguishing and fire detection equipment complying with the National Building Regulations and Building Standards Act (Act No. 103 of 1977) as amended, and/or any other applicable legislation.

14.2 The lessor shall be obliged to maintain the lifts and ensure that regular checks are done in accordance with the Occupational Health and Safety Act (Act No. 85 of 1993) as amended and /or any other applicable legislation.

14.3 The lessor shall provide the lessee with quarterly reports of regular checks done on the fire extinguishers and lifts to ensure safety and security of the occupants of the premises.

15 ALTERATIONS, ADDITIONS AND IMPROVEMENTS

15.1 The lessee shall not make any alterations or additions to any of the buildings, the premises or any part thereof, without the lessor's prior written consent, but the lessor shall not withhold its consent unreasonably to any such alteration or addition. In the event that the lessee does make any such prohibited alterations or additions, it is agreed between the parties that such alterations and/or additions shall become an immovable part of the respective building or premises to which it is made and shall thus be owned by the lessor who shall not be obliged to compensate the lessee in respect of such alterations and/or

additions. Where the lessee has given its prior written consent to any alteration or addition and such alteration or addition has become an immovable part of the building or premises and has added value to the building or premises, the lessor shall not be obliged to compensate the lessee in respect thereof unless otherwise agreed between the parties prior to such alteration or addition being made.

15.2 Notwithstanding the aforesaid, the lessee shall be entitled to make any non-structural alterations or additions to the interior of the premises without the lessor's prior written consent, provided that the lessee may, on the expiration of this agreement, remove such non-structural alterations or additions as it may have made, provided that simultaneously with any such removal, it reinstates the premises or part of the premises in question, at the lessee's cost, to their same condition (fair, wear and tear excepted) as they were in prior to the carrying out of such alterations or additions.

16 DAMAGE TO OR DESTRUCTION OF THE PREMISES

16.1 In the event of the premises being destroyed and therefore rendered totally unfit for occupation, this agreement shall be terminated automatically unless the destruction of the premises is due to the wilful intent or negligence of the lessee and/or occupant. *Excess payable by lessee.*

16.2 In the event of the premises being damaged and remaining partially suitable for the purposes of the lessee, the parties shall be entitled to terminate this agreement by thirty (30) days' notice in writing given to the other party within thirty (30) days after such destruction or damage.

16.3 Should no notice in terms of 16.2 above be given, then this agreement shall continue and the lessor shall be obliged to proceed expeditiously with the work of rebuilding the premises. Should the parties continue with the agreement, the lessee shall be entitled to a reduction in rental to the extent to which the lessee is deprived of the full and beneficial use and occupation of the premises until such time as the premises have been rebuilt or re-instated.

16.4 Should there be any dispute as to the extent to which the premises have been damaged and/or the extent to which the premises are unfit for occupation and capable of being

used for the purpose for which they are let, the dispute shall be referred to an expert, who shall act as an expert and not as an arbitrator, and whose decision shall be final and binding on the parties. The parties shall jointly agree on who the expert shall be, failing which the expert shall be appointed by the chairperson of the Law Society of South Africa or his delegate.

17 BREACH

17.1 Subject to any specific provision in this agreement to the contrary, should;

17.1.1. the rental or any other amount payable by the lessee in terms of this agreement not be paid by due date or should the lessee commit or suffer or permit the commission of any breach of any of the remaining conditions of this agreement and fail to pay such rental or amount or to remedy such breach within 30 (thirty) days after receipt of written notice by the lessor requiring it to do so, or such longer period as may be reasonable in the circumstances,

17.1.2. subject to due process of law, the lessor shall be entitled to claim specific performance, cancel this agreement and retake possession of the premises (without prejudice to any of its other rights under this agreement or at all) and /or claim damages.

17.1.3. should the lessor and subsequent to an alleged breach by lessee or expiry of the lease, disturb the peaceful possession of the premises by the lessee without following due process of law and thereby disrupt government services, the lessor will be liable to compensate the lessee and occupant. The parties hereby agree that the compensation payable for each day of disruption will be the equivalent of a total monthly rental last payable in terms of this lease i.e. 2 days of disturbance/disruption the compensation is the equivalent of 2 monthly rentals. This clause does not limit or preclude the lessee or occupant's common law delictual rights and remedy should the actual loss suffered be more than the compensation provided for in this clause,

Not Agreed.

- 17.1.4 in addition to the ordinary factors which affect the validity of a contract, the parties agree that any unlawful act committed by the lessor which was material in the conclusion the contract will impair the validity of this contract warranting the lessee to terminate this agreement.
- 17.2 Should either party breach any obligations in terms of this agreement and fail to remedy such breach within 30 (thirty) days of written demand from the aggrieved party to do so, or such longer period as may be reasonable in the circumstances, the aggrieved party shall be entitled to cancel this agreement or claim specific performance, in either case, without prejudice to the aggrieved party's rights to claim damages from the offending party.

18 MANAGEMENT RULES

The lessee shall comply with all management rules as may be prescribed by the lessor from time to time provided that they are fair, reasonable and justifiable.

19 LESSORS RIGHT OF ENTRY AND CARRYING OUT OF WORKS

The lessor's representatives, agents, servants and contractors may at reasonable times and on reasonable notice (save for the in the event of an emergency), without thereby giving rise to any claim or right of action on the part of the lessee or the occupant of the property or any part thereof, enter the property or any of the buildings in order to inspect them, to carry out any necessary repairs, replacements, or other works, or to perform any other lawful function in the *bona fide* interests of the lessor or the lessee or the occupant, but the lessor shall ensure that this right is exercised with due regard for and a minimum of interference with the beneficial enjoyment of the property by those in occupation thereof, and provided further that such rights will be exercised subject to the lessee's specific security requirements relating to the physical security of the property.

20 CESSION, ASSIGNMENT AND SUB-LETTING

The lessee shall not, except with the prior written consent of the lessor, which shall not be unreasonably withheld:

- 20.1 cede or assign all or any of the rights and obligations of the lessee under this agreement; or
- 20.2 sublet the premises in whole or in part; or
- 20.3 give up possession of the premises or any portion thereof to any third party.

21 NON-WAIVER

- 21.1 Neither party shall be regarded as having waived, or been precluded in any way from exercising, any right under or arising from this agreement by reason of such party having at any time granted any extension of time for or having shown any indulgence to the other party with reference to any payment or performance hereunder, or having failed to enforce, or delayed in the enforcement of any right of action against the other party.
- 21.2 The failure of either party to comply with any non-material provision of this agreement shall not excuse the other parties from performing their obligations hereunder fully and timely.

22 RIGHT OF FIRST REFUSAL

- 22.1 The Lessor hereby grants to the Lessee and the Lessee hereby accepts the right of first refusal to purchase the property. *Rental buildings remain the property of Kwikspace at all times.* *N/A*
- 22.2 Pursuant to the right granted by the Lessor in favour of the Lessee in 22.1, the Lessor shall not dispose of any part or whole of the property at any time except in accordance with the following circumstances:
 - 22.2.1 if the Lessor intends to so dispose, the Lessor shall deliver to the Lessee a written notice offering ("the offer notice) so to dispose, to the Lessee at a consideration (which shall sound in money in South African currency) and on such terms as may be stipulated in the offer notice; and
 - 22.2.2 the Lessee may, at any time within 60 days after the receipt of the offer notice, accept it by giving written notice to the Lessor to that effect.

22.3 If the Lessee does not accept the offer within the aforesaid period, the Lessor may dispose of the property on terms no more favourable than the terms contained in the offer notice within a period of 90 (ninety) days after the Lessee has rejected the offer, whereafter the Lessor shall again be obliged to follow the procedure in clause.

22.4 Should the Lessee not exercise its right of first refusal in relation to the property or in relation to any rights thereto or pursuant thereto, the relevant acquirer shall acquire the property free of the right of first refusal contained in this clause.

23 SALE OF PREMISES

23.1 Transfer of the ownership of premises from the Lessor to a third party pursuant to a sale thereof shall not in any way affect the validity of this agreement. It shall accordingly, upon registration of transfer of the premises into the name of the purchaser, remain of full force and effect save that the purchaser shall be substituted as Lessor and acquire all rights and be liable to fulfil all the obligations which the Lessor, as the Lessor, enjoyed against or was liable to fulfil in favour of the Lessee in terms of the this agreement.

23.2 Nothing shall prevent the Lessor from advertising the premises as "for sale" or as "to let" as long as it does not disturb the Lessee in its use and enjoyment of the premises and any activities which the Lessor undertakes are undertaken on reasonable notice to the occupant.

24 WHOLE AGREEMENT

24.1 This is the entire agreement between the parties inclusive of all bid/tender documents.

24.2 Neither party relies, in entering into this agreement, on any warranties, representations, disclosures or expressions of opinion, which have not been incorporated into this agreement as warranties or undertakings.

24.3 No variation, alteration, or consensual cancellation of this agreement shall be of any force or effect unless reduced to writing and signed by the duly authorised representatives of both parties.

25 DOMICILIUM CITANDI ET EXECUTANDI

25.1 The parties respectively choose as *domicilium citandi et executandi* and as the address for the serving of notices the address appearing underneath their names in Schedule A (and the lessor is explicitly barred from serving such notices on officials and offices in the Regions/Provinces).

25.2 Any notice given by one of the parties to the other ("the addressee") which:

- 26.2.1 is delivered by hand to a responsible person during ordinary business hours at the physical address chosen as the addressee's *domicilium citandi et executandi* shall be deemed to have been received by the addressee on the date of the delivery, unless the contrary is proved;
- 26.2.2 is posted by prepaid registered post from an address within the Republic of South Africa to the addressee at the addressee's *domicilium citandi et executandi*, shall be deemed to have been received by the addressee on the tenth (10th) business day of the date of posting unless the contrary is proved; or
- 26.2.3 is emailed to the chosen email address, during ordinary business hours shall be presumed to have been received by the addressee at the time of transmission of the email, alternatively, if not emailed during normal business hours then at twelve o' clock on the 1st business day following the day on which it was emailed.

25.3 Either party shall be entitled, on 14 days' notice to the other, to change the address of his *domicilium citandi et executandi*.

26 WARRANTY OF AUTHORITY

The parties hereby warrant that each of them has the power, authority and legal right to sign and perform this agreement and that this agreement has been duly authorised by all necessary actions of its directors, to the extent applicable, and constitutes a valid and binding obligation on it in accordance with the terms thereof.



27. SEVERABILITY

Any provision in this agreement which is or may become illegal, invalid or unenforceable in any jurisdiction affected by this agreement shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be treated *pro non scripto* and severed from the balance of this agreement, without invalidating the remaining provisions of this agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

28. SUSPENSIVE CONDITION

Where the standard Tenant Installation allowance by the Lessor is not sufficient to cover all the required Tenant Installation, this lease contract is subject to the availability of the necessary additional funds/budget on the part of the lessee.

29. DISPUTE RESOLUTION

In the event of a dispute, disagreement or claim arise between the parties (called hereafter "the dispute") connected with or concerning this Agreement, the parties shall first endeavour to resolve the dispute by negotiation in good faith. This entails that the one party invites the other in writing to a meeting in an attempt to resolve the dispute within 7 (seven) days from date of the written invitation.

If the dispute has not been resolved by such negotiation, the parties shall submit the dispute to mediation to be administered by a property specialist or lawyer nominated by the parties by agreement or alternatively by the relevant professional body of property specialist or Law Society or Bar Council.

Should the parties fail to resolve the dispute through negotiation and/or mediation, the dispute shall be referred to arbitration, only if the parties agree thereto, in which event the arbitration clause hereunder shall apply.

30. ARBITRATION

If either Party to this Agreement is unwilling to accept mediation or is unwilling to accept the opinion expressed by the mediator, then either Party may require that the dispute be referred to arbitration.

The dispute will be referred to Arbitration by written notice delivered to the other, within 20 days of the declaration of the dispute if there is no mediation or within 20 days of the issue of the mediator's opinion if mediation takes place.

Such arbitrator shall be selected by agreement between the Parties, or if no agreement is reached after 10 days from deliberation on the identity of the Arbitrator; it is agreed that the arbitrator will be nominated on request of either of the party by the president of the Arbitration Foundation of South Africa, or its successor-in-title.

The arbitrator shall have power to open up, review and revise any certificate, opinion, decision, requisition or notice relating to all matters in dispute submitted to him and to determine all such matters in the same manner as if no such certificate, opinion, decision, requisition or notice had been issued. The arbitrator shall be entitled to make award, including an award for specific performance, an interdict, damages or otherwise as he in his discretion may deem fit and appropriate.

If a request is made by the arbitrator for a document or any item to be submitted, such document or item must be submitted within ten (10) days of the request.

The arbitration shall be conducted in the English language at DPWJ JHB or such other place as the Parties may agree on in writing.

The costs of and incidental to the award shall be in the discretion of the arbitrator, who may determine the amount of the costs, and shall direct by whom and to whom and in what manner they shall be borne and paid.

The award of the arbitrator shall be final and binding on the Parties though subject to review on any of the usual grounds for review. Any Party shall be entitled to apply to the Courts to have such award made an order of court if the party concerned fails to heed to the terms of the award. Nothing in this clause shall prevent either Party seeking urgent

relief in the High Court of South Africa and for this purpose, the Parties consent to the exclusive jurisdiction of the High Court of South Africa.

SIGNED AT ~~Hillbrow~~ ON THIS THE 27 DAY OF June 2022.

WITNESSES

1. 
FULL NAME AND SIGNATURE

2. Gareth Stenning 
FULL NAME AND SIGNATURE

SIGNATURE OF LESSOR / REPRESENTATIVE


Andre Prinsloo

FULL NAMES

Duly authorised as per attached resolution.

SIGNED AT... Pretoria ON THIS THE 17th DAY OF May 2022

WITNESSES

1. Thembele Maphenwa
FULL NAME AND SIGNATURE

Ronrick Lewis
FULL NAME AND SIGNATURE

SIGNATURE OF LESSEE / REPRESENTATIVE

Myleti Makhubele

FULL NAMES

DDG: REMS

CAPACITY

Duly authorised as per Departmental delegation dated

OM

26

SCHEDULE A TO AGREEMENT OF LEASE



public works
& infrastructure
Department:
Public Works and Infrastructure
REPUBLIC OF SOUTH AFRICA

1 The Parties:

1.1 The Lessor is: KWIKSPACE MODULAR BUILDINGS (PTY) LTD

1.1.1 Registration nr (company) or ID nr (individual): 2007/009700/07

1.1.2 VAT reg nr: 4200251991

1.1.3 of *Domicilium Citandi et executandi*:

32 KAREEKLOOF, WATERVAL, KLIPRIVER -1871

1.1.4 Herein represented by:

LEBOHANG DUBE

who hereby warrants he/she is duly authorised to do so by the attached resolution.

Hereinafter referred to as the lessor

1.1.5 Contact person/representative:

Tel nr 011 617 8000/087 287 5104

Fax nr

Postal address:

Name LEBOHANG DUBE

Comp KWIKSPACE MODULAR BUILDINGS (PTY) LTD

E mail lebohang.dube@kwikspace.co.za

1.2 The Lessee is:

Department of Public Works and Infrastructure

C
*& Sales@
kwikspace.co.
za.*

Herein represented by:

Ms. Nyeleti Makhubele

who hereby warrants he/she is duly authorised to do so by the attached resolution.

Hereinafter referred to as the occupant

of *Domicilium Citandi et executandi*:

Director General, C/O Chief Director: Legal Services, 156 Madiba Street, Pretoria

2 The Premises leased:

2.1 The Premises:

BRACKENDOWN POLICE STATION

as reflected on the diagram annexed hereto marked "Schedule D"

2.2 The Building name:

PREFABRICATED MODULAR BUILDINGS

2.3 The Building address:

BRACKENDOWN POLICE STATION- 78 LETABA STREET

2.4 The property:

BRACKENDOWN POLICE STATION

*R.C.
Glenji*

3	<u>Lease period</u>	3 YEARS	
4	<u>Renewal period</u>	N/A	
5	<u>Use of premises</u>	MOBILE OFFICES	
6	<u>The lessee's pro rata share</u>	0	%
7	<u>Commencement date</u>	Sunday, May 1, 2022	
8	<u>Adjustment date</u>	ANNIVERSARY	
9	<u>Escalation rate (%)</u>	Description	On: Rental Operating costs
		Offices	0.0 0.0
		Stores	6.0 0.0
		Retail	0.0 0.0
		Other	5.5 0.0
		Open parking	0.0 0.0
		Covered Parking	0.0 0.0

1	<u>Termination date</u>	30/04/2025
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11 Special conditions

11.1 The Lessee shall be entitled to terminate this agreement by giving the Lessor 03 (three) months written notice should a permanent accommodation be available before the end of the lease period. The Lessor agrees not to institute any legal process against the Lessee for any loss whatsoever resulting from the aforesaid termination.

SCHEDULE B



Public Works
& Infrastructure

Department:
Public Works and Infrastructure
REPUBLIC OF SOUTH AFRICA

Description	Period 1	Base Rent/unit	Expenses/unit	To Date	Commencement Rent (ex VAT)	Monthly Expenses (ex VAT)	Total monthly rent (ex VAT)	VAT	Total monthly Rent (incl VAT)
Offices	0	sqm R	-	R	-	R	-	R	-
Stores	0	sqm R	-	R	-	R	-	R	-
Retail	0	sqm R	-	R	-	R	-	R	-
Other	144	sqm R	111.71	R	-	R	16,086.32	R	18,499.27
Open parking	0	bays R	-	R	-	R	-	R	-
Covered Parking	0	bays R	-	R	-	R	-	R	-
									Total monthly rent R 18,499.27

Description	Period 2	Base Rent/unit	Expenses/unit	To Date	Commencement Rent (ex VAT)	Monthly Expenses (ex VAT)	Total monthly rent (ex VAT)	VAT	Total monthly Rent (incl VAT)
Offices	0	sqm R	-	R	-	R	-	R	-
Stores	0	sqm R	-	R	-	R	-	R	-
Retail	0	sqm R	-	R	-	R	-	R	-
Other	144	sqm R	117.85	R	-	R	16,971.07	R	19,516.73
Open parking	0	bays R	-	R	-	R	-	R	-
Covered Parking	0	bays R	-	R	-	R	-	R	-
									Total monthly rent R 19,516.73

Description	Period 3	Base Rent/unit	Expenses/unit	To Date	Commencement Rent (ex VAT)	Monthly Expenses (ex VAT)	Total monthly rent (ex VAT)	VAT	Total monthly Rent (incl VAT)
Offices	0	sqm R	-	R	-	R	-	R	-
Stores	0	sqm R	-	R	-	R	-	R	-
Retail	0	sqm R	-	R	-	R	-	R	-
Other	144	sqm R	124.34	R	-	R	17,904.48	R	20,590.15
Open parking	0	bays R	-	R	-	R	-	R	-
Covered Parking	0	bays R	-	R	-	R	-	R	-
									Total monthly rent R 20,590.15

T.C.
J.

SCHEDULE C

The lessor shall issue relevant Certificates of Compliance before occupation of the premises, failing which the occupant is not obliged to take occupation of the premises and the Lessee is not obliged to pay any rental amounts.

SCHEDULE C1: TENANT INSTALLATIONS (3 YEAR LEASE AGREEMENTS)

DESCRIPTION	LANDLORD LESSOR	LESSEE	DATE OF IMPLEMENTATION
Space planning and refurbishing requirements / needs		Lessee	Within three months of signing of lease agreement
Tenant Installation Project Execution Plan provided to the Portfolio Manager at the Regional Office	Landlord <i>lessee</i>	Landlord <i>lessee</i>	Within three months of signing of lease agreement
Installation of carpets / ceramic tiles in some offices and installation of ceramic tiles in all common areas	Landlord <i>lessor</i>	Landlord <i>lessor</i>	Upon approval of tenant installations by User. But not later than six months after signing of lease agreement.
Install ramps for people with disabilities / upgrade ablution facilities N/A	Landlord <i>lessor</i>	Landlord <i>lessor</i>	Upon approval of tenant installations by User. But not later than six months after signing of lease agreement.
Install blinds and maintenance of blinds	Landlord <i>lessor</i>	Landlord <i>lessor</i>	Upon approval of tenant installations by User. But not later than six months after signing of lease agreement.

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R.V

SCHEDULE C2: FUNDED MAINTENANCE PLAN

DESCRIPTION	RESPONSIBILITY	PERIOD	DELIVERY DATE
Funded Maintenance Plan must be provided as part of the Lease Agreement and initialled by Representatives of both Lessor and Lessee.	Landlord Lessee	Landlord Lessee	Within two months of signing the lease agreement.
General repairs and maintenance of the building - <i>Excluding blatant damage</i>	Lessor Landlord	Lessor Landlord	Monthly
Servicing and ensuring functional lifts <i>N/A</i>	Landlord	Landlord	Monthly or as per specification of OEM
Replace lights and fittings (where necessary)	Landlord Lessee	Landlord Lessee	Within 24 hours
Repair ceiling	Landlord Lessee	Landlord Lessee	Within 24 hours
Service Air conditioners	Lessor	Lessor	Monthly or as per OEM
Pest control	Lessor Lessee	Lessor Lessee	Minimum once a year

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