



LEASE AGREEMENT

entered into by and between

The Road Accident Fund (“the Tenant”)

(a statutory entity established in terms of section 2(1) of the Road Accident Fund Act, Act No. 56 of 1996, with its principal place of business at 38 Ida Street, Menlo Park, Pretoria, herein represented by Eugene Watson in his capacity as Chief Executive Officer, duly authorised in terms of the Road Accident Fund Delegation of Authority)

Physical Address: 38 Ida Street, Menlo Park, Pretoria
Postal Address: Private Bag X2003, Menlyn, 0063
Tel: 012 621 1759
Contact Person: Marguerite Botha
E-mail: marguerite@raf.co.za

and

_____ (“the Landlord”)

(a private company / close corporation etc....., represented by _____, duly authorised thereto, and in his capacity as _____ of *the Landlord*).

Physical Address:
Postal Address:
Contact Person:
Tel:
Fax
E-mail:

INTRODUCTION

- A. **The Landlord** is the registered owner of .
- B. **The Landlord** hereby lets to **the Tenant**, who takes on hire **the Premises**, and agrees that the Tenant be entitled to the use of **the Premises**, as more fully described herein and on the terms and conditions set out in **this Agreement**.

IT IS AGREED THAT:

1. DEFINITIONS

- 1.1. "**the Appurtenances**" – means all of the installations and appliances in **the Premises** including, any keys, electrical switches, power plug points, light fittings carpeting, locks and doors, but excluding windows, water taps, pipes, basins, fixtures and fittings, and air conditioning equipment;
- 1.2. "**Commencement Date**" – means the date on which **the Premises** will be made available to **the Tenant** for beneficial occupation, being . **The Tenant** shall not be obliged to pay **Rental** or rates contribution from the **Commencement Date** up to and including **the Rental Commencement Date**;
- 1.3. "**the Building**" - means ;
- 1.4. "**the Rental Commencement Date**" – ;
- 1.5. "**Date of Signature**"- means the date of the signature of **this Agreement** by the party signing last in time;
- 1.6. "**the Deposit**" – means the sum of (inclusive of VAT) to be paid by **the Tenant**, by means of a banker's guarantee as provided for in **this Agreement**.
- 1.7. "**Domicilium**" - means the address which the parties elect for service of any notice that arises from **this Agreement**:
- 1.7.1. **the Landlord** :
- 1.7.2. **the Tenant** : 38 Ida Street, Menlo Park, Pretoria
- 1.8. "**Duration**" - means the period of **this Agreement**, which shall commence on the **Commencement Date** and shall endure for 60 (sixty) months, unless terminated on an earlier date as provided for in **this Agreement**;

- 1.9. "**Escalation Rate**" - means the rate at which the **Rental** shall be escalated being _____ % (percent) per annum for the **Duration** of the lease on each anniversary of the **Commencement Date**;
- 1.10. "**the Renewal Period**" – means a period of 1 (one) year from the expiry of **this Agreement**;
- 1.11. "**the Initial Period**" – means the period of 60 (sixty) months from the commencement date;
- 1.12. "**the Parking Bays**" – means _____ parking bays to be licensed exclusively to **the Tenant**, of which _____ will be secure parking bays;
- 1.13. "**the Plans**" – means the floor plans of **the Premises** annexed hereto marked annexure A;
- 1.14. "**the Premises**" – means the ground floor portion of **the Building** totalling _____ m² (square meter) and **the Parking Bays** as set out in Annexure A & B hereto;
- 1.15. "**Rental**" - means the monthly **Rental** payable by **the Tenant** to **the Landlord**, from **the Rental Commencement Date** as follows:
- 1.15.1. office area being _____ m², multiplied by R _____ (_____ Rand) per square metre being a total of R _____ (_____ Rand) (excluding VAT), including the cost of the _____ **Parking Bays**, escalating at the **Escalation Rate** as provided for herein.
- 1.16. "**the Rental Purposes**" - means general administrative office;

2. DURATION

- 2.1. **This Agreement** shall commence on the **Commencement Date** and shall endure for **the Initial Period** provided **the Tenant** may exercise the option to renew the lease as provided for in 2.2.
- 2.2. **The Tenant** shall have the right to renew **this Agreement** for **the Renewal Period** on the same terms and conditions as set out herein, *mutatis mutandis*, save for the **Rental** and the **Escalation Rate** which shall be agreed upon between the parties in accordance with 2.3, and further provided that written notice to renew the lease be given by **the Tenant** to **the Landlord** by a date no later than 6 months before the expiry of **the Initial Period**.
- 2.3. The rent and annual **Escalation Rate** for **the Premises** for **the Renewal Period**, shall be determined as follows:

- 2.3.1. as soon as possible after receipt of the notice of intention to renew, the parties shall attempt to reach agreement on the rent and the annual **Escalation Rate** for **the Renewal Period** based on the then current market **Rental** and **Escalation Rates** for similar unimproved premises in the same area;
- 2.3.2. if the parties are not able to agree on the **Rental** and **Escalation Rate** for **the Renewal Period** within 30 days of the notice in 2.2 being given, they shall agree to appoint a professional valuer who shall be a member of the South African Institute of Valuers of at least 10 years standing carrying on business in the same area and whose business is substantially that of valuing commercial premises. If, notwithstanding being given an opportunity to do so, the parties fail to agree on which valuer to appoint within the aforementioned period, either party may approach the Chairperson for the time being of the South African Institute of Valuers to appoint a valuer;
- 2.3.3. within 10 days of the appointment of the valuer in 2.3.2, both **the Landlord** and **the Tenant** may submit written representations to the valuer. The written representations shall *inter alia* specify the **Rental** and **Escalation Rate** that each party proposes;
- 2.3.4. the valuer will then act as an expert and shall, within 30 days of the receipt of the written representations but no longer than 40 days from his appointment and after hearing such further evidence as he may deem necessary, determine the **Rental** and **Escalation Rate** for **the Premises** and **the Parking Bays** for **the Renewal Period**;
- 2.3.5. the valuer shall specify who shall pay the costs of obtaining the decision in the matter including their own fees and shall, in determining the valuation, disregard any additions to or improvements effected to **the Premises** by **the Tenant** after the **Commencement Date**.

3. RENTAL

- 3.1. **The Tenant** shall pay the **Rental**, monthly, from **the Rental Commencement Date**.
- 3.2. For any portion of a month, **Rental** shall be calculated on a pro rata basis.
- 3.3. The **Rental** shall be paid without deduction to **the Landlord** at _____, or at such other place within the Republic of South Africa as **the Landlord** may stipulate in writing from time to time. The **Rental** shall be paid monthly in advance on or before the 7th (seventh) day in each and every month. Alternatively, **the Tenant** shall pay **the Rental** by way of electronic transfer to **the Landlord's** nominated bank account in advance on or before the 7th (seventh) day in each and every month.
- 3.4. The **Rental** shall be escalated at the **Escalation Rate** annually for the **Duration** of **this Agreement** on each anniversary of **the Rental Commencement Date**, or if **the Rental Commencement Date** is

not on the first day of a month, on the first day of the month in which **the Rental Commencement Date** occurs.

4. USE OF THE PREMISES

- 4.1. **The Premises** shall be used for **the Rental Purposes** and purposes ancillary thereto and for no other purpose save with the prior written consent of **the Landlord** which consent shall not unreasonably be withheld or delayed.
- 4.2. **The Landlord** warrants that the land is zoned for **the Rental Purposes**.

5. EXTERNAL SIGNAGE

- 5.1. **The Landlord** agrees that **the Tenant** shall be entitled to erect signage on **the Building**, the detail of which shall be agreed between **the Landlord** and **the Tenant**.

6. SUITABILITY OF PREMISES

The Landlord warrants that **the Premises** are suitable for **the Rental Purposes**, and acknowledges that **the Tenant** enters into **this Agreement** based on such warranty.

7. ALTERATIONS AND ADDITIONS

- 7.1. Subject to 7.2, **the Tenant** shall not make any alterations or additions to **the Premises** without **the Landlord's** prior written consent which shall not be unreasonably withheld or delayed.
- 7.2. If it is a condition of any competent authority in respect of a grant or renewal of any licences required by **the Tenant** to carry on business for which **the Premises** are hired, that **the Premises** be altered, added to or renovated, **the Landlord** shall be obliged to consent to such alteration, addition or renovation, and **the Tenant** shall carry out such alterations, additions or renovations.
- 7.3. If any alterations or additions are made by **the Tenant**, **the Tenant** may, on the lawful termination of **this Agreement**, at its sole discretion, remove them and reinstate **the Premises** to the condition in which they were before the alterations or additions were effected, fair wear and tear excepted.

- 7.4. **The Tenant** may at any time install any fixtures, fittings and equipment in **the Premises** for the purposes of carrying on **the Tenant's** business. Where any equipment is brought onto **the Premises** **the Landlord's** consent shall not be required. **The Tenant** may, prior to the lawful termination of **this Agreement**, at its sole discretion, on termination of **this Agreement**, remove any such fixtures, fittings or equipment, provided that **the Tenant** shall repair any damage caused by the installation or removal of such fixtures, fittings or equipment, fair wear and tear excepted.

8. INSURANCE

- 8.1. **The Tenant** shall not do or permit anything to be done which may result in any insurance policy held by **the Landlord** from time to time in respect of **the Building or Premises** being rendered void or voidable. **The Landlord** shall, procure and furnish **the Tenant** with a copy of the said insurance policy.
- 8.2. The Tenant shall insure and keep insured all its stock, fixtures, fittings, tenant installations, equipment and all its goods in **the Premises** from time to time.

9. WATER AND ELECTRICITY

- 9.1. **The Tenant** shall be liable for its proportional portion of the cost of water consumed in **the Premises** provided that **the Landlord** has installed a water meter to **the Premises**.
- 9.2. **The Tenant** shall be liable for and shall pay on demand all costs of and incidental to the consumption of electricity in **the Premises**, it being recorded that the electricity consumption will be metered by means of separate meters in respect thereof.
- 9.3. **The Tenant** shall be advised in advance of the date and time on which the meter readings in respect of electricity, gas and water will take place, in order to allow **the Tenant** the opportunity to take a simultaneous reading for its records. **The Tenant** will endeavour to make available a delegate of **the Tenant** to be present at the designated meter reading dates and times mentioned in this clause 9.3 and to simultaneously sign off the meter readings of **the Landlord** or its appointed agent. If **the Tenant** is unable to attend the meter readings at any given date or time as determined in this clause 9.3, then **the Tenant** will accept such meter readings by **the Landlord** or its appointed agent.
- 9.4. **The Landlord** shall provide **the Tenant** with a valid and current electrical compliance certificate for **the Premises** should **the Tenant** request this.

10. AIRCONDITIONING

- 10.1. It is recorded that **the Landlord** will ensure that the airconditioning installation in **the Building** and **the Premises** are serviced and in working order before **the Tenant** takes occupation of **the Premises**.
- 10.2. **The Landlord** shall be liable for the repair and routine 6 month maintenance cost of the airconditioning installation in **the Premises**.

11. DESTRUCTION OR DAMAGE

- 11.1. **The Tenant** shall not be liable for any damage sustained to the exterior of **the Premises**.
- 11.2. If **the Premises** are totally destroyed or damaged, so as to render them wholly untenable, **the Landlord** shall have the right to cancel **this Agreement**, provided written notice of such cancellation is given to **the Tenant** within 30 days of the destruction. Should **the Landlord** not elect to cancel the lease, **the Landlord** shall undertake the reinstatement of **the Premises** to the standard of **the Premises** immediately prior to its destruction and do so expeditiously.
- 11.3. Save where the cause of destruction is due to the negligence or wilful default of **the Tenant**, **the Tenant's** obligation to pay rent shall be abated during the period from the date of the occurrence to the date upon which the reinstated premises are ready for beneficial occupation following such damage or destruction.
- 11.4. The period of reinstatement shall not be added to the term of the lease.
- 11.5. In the event of partial destruction or partial damage of **the Premises**, the lease shall not terminate and, save where the destruction is due to the negligence or wilful default of **the Tenant**, the rent shall be abated to the extent of **the Tenant's** loss of beneficial occupation of **the Premises**.
- 11.6. In the event of a partial destruction of **the Premises**, **the Landlord** shall cause the reinstatement of the damaged portion as expeditiously as possible.
- 11.7. If any dispute arises as to the extent of the destruction or whether it does or does not render **the Premises** untenable, or whether **the Premises** are ready for occupation after re-instatement or the calculation of **Rental** abatements, such dispute shall be referred, if agreement on the expert to be appointed cannot be reached by the parties, to the President for the time being of the South African Institute of Architects (or similar applicable body at the time) for determination, who shall determine the

matter or may appoint some other suitably qualified person to determine the matter, as an expert and not as arbitrator; such expert's determination shall be final and binding on the parties.

- 11.8. The costs of such expert shall be borne equally by both parties unless the expert considers that it is equitable that the costs be borne on a different basis.

12. INDEMNITY

- 12.1. **The Tenant** indemnifies **the Landlord** against any claim of whatsoever nature made against **the Landlord** by anyone for any loss of or damage to property or for any damages or injury to person or loss of life suffered in or on **the Premises** or suffered in or on **the Premises** in consequence of any act or omission of **the Tenant**.
- 12.2. **The Landlord** indemnifies **the Tenant** against any claim of whatsoever nature made against **the Tenant** by anyone for any loss of or damage to property or for any damages or injury to person or loss of life suffered in or on **the Premises** in consequence of, or arising from any defect in **the Premises** or **the Building**.
- 12.3. Notwithstanding anything to the contrary contained in this clause or in **this Agreement**, or in any annexure to **this Agreement**, no limitation of **the Landlord's** liability shall apply in respect of a claim by **the Tenant** for damages suffered as a result of **the Landlord's** breach of contract, negligence, willful or unlawful conduct.

13. CESSION, SUB-LETTING AND SALE

- 13.1. **The Tenant** shall not:
- 13.1.1. cede, transfer or burden any of its rights or delegate any of its obligations under **this Agreement**;
- 13.1.2. sub-let the whole or any portion of **the Premises** or permit any other party to occupy or conduct business on any portion of **the Premises** without the prior written consent of **the Landlord**, which consent shall not unreasonably be withheld or delayed. When requesting **the Landlord's** consent, **the Tenant** shall furnish **the Landlord** with a copy of the proposed sub-lease agreement and with full details of the proposed sub-tenant.

14. THE TENANT'S GENERAL OBLIGATIONS

- 14.1. **The Tenant** shall not:

- 14.1.1. bring any unreasonably heavy article into **the Building** without **the Landlord's** prior written consent nor attach to **the Premises** any fixtures or fittings which will constitute too heavy a load for **the Premises** or any portion thereof;
 - 14.1.2. dispose of refuse other than in the manner and in the area as determined by **the Landlord**;
 - 14.1.3. interfere with or alter any electrical installations in **the Premises** or **the Building** without the prior written consent of **the Landlord** nor overload the electrical system in such a way as to exceed the designed load for **the Premises**;
 - 14.1.4. affix any signs, fitting, awning, shutters or blinds or anything on any part of the exterior or interior (where visible from the exterior of **the Premises**) or on any other part of **the Building**, save as provided for in **this Agreement** and save with the prior written consent of **the Landlord**, such consent not to be unreasonably withheld or delayed;
 - 14.1.5. do or cause or permit to be done in or about **the Buildings** anything which may be or cause a nuisance or disturbance to occupiers of neighbouring premises;
 - 14.1.6. interfere with or damage the control equipment or air conditioning equipment.
- 14.2. **The Tenant** shall comply with all laws, by-laws and regulations of any lawful authority which may apply to **the Tenant** or **the Premises** or affect the conduct of any business carried on in **the Premises**.

15. MAINTENANCE

- 15.1. **The Tenant** shall:
- 15.1.1. advise **the Landlord** in writing as soon as possible after the **Commencement Date** of any patent defects in **the Premises** or of any **appurtenances** which are in a defective state or are missing. **The Landlord** shall procure that any defects notified as aforesaid are repaired within 20 days of such notification;
 - 15.1.2. during the currency of **this Agreement** and at its own expense keep the entire interior of **the Premises** as well as all equipment and **appurtenances** in or on **the Premises** in a clean, tidy and sanitary condition.
 - 15.1.2.1. **The Tenant** may however request **the Landlord** to effect the necessary maintenance and repairs on behalf of **the Tenant**, in which event **the Landlord** shall invoice **the Tenant** for such maintenance and repairs;
 - 15.1.2.2. The invoice shall be accompanied by a job-card signed by a representative of **the Tenant** as proof that the maintenance or repairs had been effected; and
 - 15.1.2.3. **The Tenant** shall be obliged to make payment of the amount of the invoice within 30 (thirty) days of receipt of the invoice;
 - 15.1.3. at **the Landlord's** cost and prior to **the Tenant** taking occupation of **the Premises**, procure the services of a specialist to **Deep Clean the Premises**. For purposes of this clause "**Deep Clean**" shall mean to clean and disinfect (using cleaning methods, materials and equipment

which are generally accepted for this purpose in the commercial **Rental** property industry), **the Premises**, including all ancillary spaces, toilets, staircases, landing and lobby areas forming part of **the Premises**. The **Deep Cleaning** shall include, but not be limited to, the cleaning of all windows (inside and outside), walls, ceilings, partitions, doors, floors, carpets, hand rails, WCs and urinals. **The Landlord** and **the Tenant** will have an inspection done prior to occupation, so that the conditions of **the Premises** may be established prior to the occupation thereof by **the Tenant**.

- 15.2. **The Landlord** shall be responsible for maintenance of **the Premises**, which shall include all fixtures, windows, doors, electrical installation, water supply and sewerage. **The Landlord** shall ensure that all maintenance issues are remedied within 5 days of being notified by **the Tenant** of such maintenance issues.
- 15.3. **The Tenant** shall keep all windows clean.
- 15.4. **The Landlord** shall provide refuse containers to conform with the local authority requirements and shall keep these in good order and condition in the area or areas of **the Premises** or property set aside for such purpose.
- 15.5. **The Landlord** shall be obliged to repair any latent and/or structural defects in **the Premises** and **the Building** save for any repairs necessary as a result of any act or omission on the part of **the Tenant** in relation to its obligations to maintain **the Premises** in terms of **this Agreement** which repairs will be attended to by **the Tenant** at its cost and expense.
- 15.6. The Landlord shall:
- 15.6.1. effect any repairs which it is required to effect in terms of **this Agreement** within 5 days after written notification.
 - 15.6.2. be entitled to enter **the Premises** at all reasonable times and on reasonable notice to **the Tenant**, for the purpose of inspecting **the Premises** and for carrying out any repairs or work in respect of **the Premises**.
 - 15.6.3. in exercising its rights, not unduly or unreasonably interfere with the conduct or any business to be carried on in **the Premises**, and shall carry out any repairs or other work as expeditiously as possible.
 - 15.6.4. ensure that **the Premises** complies with the Occupational Health and Safety Act, as amended from time to time, at all times.
- 15.7. On the lawful termination of **this Agreement**:
- 15.7.1. **The Tenant** may elect not to reinstate **the Premises**, in which event ownership of any alterations, additions or improvements shall pass to **the Landlord** and **the Tenant** shall have

no claim for compensation against **the Landlord** in respect of such alterations, additions or improvements; or

- 15.7.2. **The Tenant** may elect in its sole discretion and at its own cost, to remove all alterations, additions or improvements within **the Premises**, in which event **the Tenant** will restore **the Premises** to its original condition, as before any alterations, additions or improvements were made, fair wear and tear excluded, and to the reasonable satisfaction of **the Landlord**.
- 15.7.3. Notwithstanding anything to the contrary in section 15.7.1 or section 15.7.2 or any other condition to the contrary contained elsewhere in **this Agreement**, **the Tenant** shall remain liable for the re-instatement of any structural improvements, alterations and/or additions to the exterior, roof or interior of **the Premises** irrespective of **the Landlord** having agreed to such improvements, alterations and/or additions previously in writing or otherwise. Such re-instatement shall be effected by **the Tenant** to the complete satisfaction of **the Landlord**.
- 15.7.4. This condition shall survive any termination through the normal expiration and maturity of the agreement or any early termination hereof; whether by mutual written consent by both parties or, any other termination whatsoever and shall also be applicable to any renewal or extension of this agreement, howsoever extended.
- 15.7.5. Without derogating from any other provisions of **this Agreement**, **the Landlord** is not liable to compensate **the Tenant** for any alterations, additions or improvements made to **the Premises**.

16. EXHIBITION OF NOTICES

16.1. **The Tenant** shall:

- 16.1.1. at all reasonable times, permit prospective purchasers of the property to view the interior and exterior of **the Premises** subject to **the Tenant's** security arrangements; and
- 16.1.2. during the period of 6 months preceding the termination or expiry of the lease permit at all reasonable times prospective tenants to view the interior and exterior of **the Premises** subject to **the Tenant's** security arrangements;
- 16.1.3. during the period of 6 months preceding the termination or expiry of the lease permit **the Landlord** to display "For Sale" or "To Let" signs at **the Premises** at any time, provided **the Landlord** obtains the reasonable consent of **the Tenant** in respect of the positioning and size of such signs, which consent shall not be unreasonably withheld.

17. PARKING FACILITIES, DRIVEWAYS AND LOADING ZONES

17.1. **The Parking Bays** are to be used for the purpose of the parking of motor vehicles and for no other purpose whatsoever. All motor vehicles shall be parked within the demarcation lines of **the Parking**

Bays. *The Tenant* shall be entitled to 24 hour access and egress into *the Building* and to *the Premises*.

17.2. *The Landlord* shall ensure that any leases with any other tenants in *the Building* shall contain the same restriction on *the Tenant* as are set out in this clause.

18. ENTRANCES

18.1. *The Tenant* shall, at its cost, obtain the necessary security access cards so as to enable its employees and other persons lawfully connected with its business to enjoy access and egress to *the Building* subject to the rules and security arrangements imposed by *the Landlord* from time to time.

19. GUARANTEE

19.1. *The Landlord* guarantees *the Tenant's* right to unimpaired use and enjoyment of *the Premises* for the *Duration* of the lease. For the purposes of this guarantee no actual or presumed knowledge, pertaining to *the Landlord's* right shall be ascribed to *the Tenant* and *the Tenant* shall be entitled to rely solely on *the Landlord's Guarantee*.

20. PAYMENTS

20.1. All payments to be made by *the Tenant* shall be made on or before the due date thereof, free of exchange and of any deduction, at *the Landlord's Domicilium* for the time being, provided for in 1.7.

21. BREACH

21.1. Should either party ("the defaulting party") commit a material breach of *this Agreement* and fail to remedy such breach within 14 days after the other party has given written notice to the defaulting party requiring such party to remedy such breach, or if the breach is of such a nature that it cannot be remedied within 14 days, the defaulting party fails, after written notice, to commence remedying the breach or to complete the remedy expeditiously, then the other party shall be entitled to:

21.1.1. remedy the breach itself and recover the costs thereof from the defaulting party; or

21.1.2. claim specific performance; or

21.1.3. recover any damages suffered as a result of such breach, but excluding any indirect or consequential or special damages; or

21.1.4. to cancel **this Agreement** without further notice and without prejudice to any other claim of any nature whatsoever which such party may have against the defaulting party.

22. PAYMENT OF RENT IF CANCELLATION DISPUTED

22.1. If **the Landlord** cancels the lease and **the Tenant** disputes the right to cancel and remains in occupation of **the Premises**, **the Tenant** shall, pending settlement of any dispute, either by negotiation or arbitration or litigation, continue to pay (without prejudice to its rights), an amount equivalent to the monthly rent provided for in **this Agreement**, monthly in advance on the first business day of each month and shall continue to pay the other amounts owing by **the Tenant** to **the Landlord** in terms of **this Agreement**.

22.2. Such payments and their acceptance by **the Landlord** shall be without prejudice to, and shall not in any way affect **the Landlord's** claim of cancellation then in dispute or any other rights of **the Landlord**.

23. LEGAL COSTS

23.1. Any defaulting party shall be liable for all legal costs including attorney and client costs and collection commission incurred by the other party in enforcing its rights in terms of **this Agreement**.

24. CONSENTS

24.1. If any dispute arises as to whether **the Landlord** or tenant, as the case may be, has unreasonably withheld its consent or approval in any case where **this Agreement** precludes **the Landlord** or tenant from withholding its consent or approval unreasonably, the onus shall be on the other party to prove that the party concerned has withheld its consent or approval unreasonably.

25. COSTS

25.1. Each party will pay its own legal costs in respect of the drafting and finalising of **this Agreement**.

26. ARBITRATION

- 26.1. Save where alternative mechanisms are specifically provided for in **this Agreement**, any dispute arising out of or in connection with **this Agreement**, as may be amended from time to time, or the subject matter of **this Agreement**, shall be decided by arbitration in terms of this clause, notwithstanding that the rest of the agreement may be void or voidable or may have terminated or been cancelled, this clause being a separate, divisible agreement. Claims in delict or claims based on unjust enrichment or claims for rectification of the agreement are included.
- 26.2. The arbitration shall be conducted by:
- 26.2.1. if the matter in issue is an accounting matter only, an independent auditor agreed to by the parties and failing agreement, an auditor selected by the president for the time being of the South African Institute of Chartered Accountants;
 - 26.2.2. if the matter is a technical building matter only, an independent architect agreed to by the parties or failing agreement, an architect selected by the President for the time being of the Institute of SA Architects.
 - 26.2.3. if the matter in issue is anything other than an accounting or technical building matter or either of the parties disputes that it is an accounting or technical building matter, a practising senior counsel at the Johannesburg Bar or retired judge or a practising attorney of not less than 15 years standing, as agreed upon by the parties and failing agreement, as selected by the chairman for the time being of the Johannesburg Bar Council.
- 26.3. The arbitration shall otherwise be held and determined in accordance with the Rules of the Arbitration Foundation of South Africa from time to time.
- 26.4. The provisions of this clause shall not preclude any party from applying to a competent court for urgent relief.

27. DEPOSIT

- 27.1. Within 30 days of the signature of **this Agreement**, **the Tenant** shall furnish **the Landlord**, with an irrevocable banker's guarantee, in particular that **the Landlord** be entitled, in the event of **the Tenant** having failed to pay **Rental** which is due and payable to **the Landlord** in accordance with **this Agreement**, to present the said guarantee for payment of that amount which may be certified by any director of **the Landlord** as being due and payable to **the Landlord** and in which event **the Tenant's** bankers shall, on making payment of the said amount due, provide **the Landlord** with a replacement guarantee, in an amount equivalent to the original guarantee which shall be payable on the same terms and conditions as set out herein.

27.2. The aforesaid banker's guarantee shall be in an amount equivalent to **the Deposit** and shall be held by **the Landlord** as security for the due performance by **the Tenant** of its obligations in terms of **this Agreement**. The banker's guarantee shall be returned to **the Tenant** upon it expiring, or the lease having been cancelled.

28. AGENT'S COMMISSION

28.1. **The Landlord** shall be liable for any agents commission payable in terms of **this Agreement** and **the Tenant** warrants that only the agent introduced **the Tenant** to **the Landlord** and to the property and is the effective cause of **this Agreement**.

29. TAX CLEARANCE CERTIFICATE

29.1. Without limiting in any manner whatsoever the generality of the **Landlord's** obligations, the **Landlord** shall, for the full and uninterrupted duration of this **Agreement**, ensure that the **Fund** is :

- 29.1.1. placed in possession of an original, valid, unexpired Tax Clearance Certificate, issued by the South African Revenue Services;
- 29.1.2. furnished with a new, original, valid, unexpired Tax Clearance Certificate, issued by the South African Revenue Services, not less than 30 (thirty) days prior to the expiry of the Tax Clearance Certificate contemplated in clause 29.1.1 above, in the event of any such Tax Clearance Certificate expiring during the duration of this **Agreement**.

29.2. Notwithstanding anything seemingly to the contrary in this **Agreement**, until the **Service Provider** complies fully with its obligations under clause 29.1 above, the **Fund** has the right to withhold payment of any unpaid amounts provided for in this **Agreement** –

- 29.2.1. without prejudice to any other rights which the **Fund** may have in terms of this **Agreement** or in law; and
- 29.2.2. without interest accruing on the amount or amounts withheld.

29.3. A breach by the **Landlord** of its obligations under clause 29.1 above is a material breach which will entitle the **Fund**, at its sole election, to cancel this **Agreement** forthwith, without prejudice to any other rights which the **Fund** may have in terms of this **Agreement** or in law.

30. MISCELLANEOUS MATTERS

30.1. Addresses and Notices

- 30.1.1. For the purposes of **this Agreement**, including the giving of notices and the serving of legal process, the parties choose **Domicilium** citandi et executandi as set out in the introduction to **this Agreement**.
- 30.1.2. A party may at any time change that party's **Domicilium** by notice in writing, provided that the new **Domicilium** is in the Republic of South Africa and consists of, or includes, a physical address at which process can be served.
- 30.1.3. Any notice given in connection with **this Agreement** shall:
- 30.1.3.1. be delivered by hand; or
 - 30.1.3.2. be sent by prepaid registered post; or
 - 30.1.3.3. be sent by telefax;
 - 30.1.3.4. be sent by email: or
 - 30.1.3.5. to the **Domicilium** chosen by the party concerned.
- 30.1.4. A notice given as set out above shall be deemed to have been duly given:
- 30.1.4.1. if delivered, on the date of delivery;
 - 30.1.4.2. if sent by prepaid registered post, 7 days after posting;
 - 30.1.4.3. if sent by telefax, on the day that the telefax is transmitted;
 - 30.1.4.4. if sent by email with delivery receipt, on the day that the email is transmitted.

30.2. Entire Contract

- 30.2.1. **This Agreement** constitutes the entire contract between the parties with regard to the matters dealt with in **this Agreement** and no representations, terms, conditions or warranties not contained in **this Agreement** shall be binding on the parties.

30.3. Variation and Cancellation

- 30.3.1. No agreement varying, adding to, deleting from or cancelling **this Agreement**, including this clause, shall be effective unless reduced to writing and signed by or on behalf of the parties.

30.4. Indulgences

- 30.4.1. No indulgence granted by a party shall constitute a waiver of any of that party's rights under **this Agreement**; accordingly, that party shall not be precluded, as a consequence of having granted such indulgence, from exercising any rights against the other which may have arisen in the past or which may arise in the future.



30.5. Interpretation

30.5.1. In **this Agreement**, unless inconsistent with the context:

- 30.5.1.1. words referring to one gender shall include a reference to the other genders;
- 30.5.1.2. words importing the singular shall include the plural and vice versa;
- 30.5.1.3. words referring to natural persons shall include companies and vice versa.

Signed at Pretoria on this ____ day of _____ 2013.

 For: **ROAD ACCIDENT FUND**
 Name: Eugene Watson
 Capacity: CEO

 Witness
 Name:

Signed at _____ on this ____ day of _____ 2013.

 For:
 Name:
 Capacity:

 Witness
 Name: