



AGREEMENT OF LEASE

entered into between

SWAZILAND NATIONAL PROVIDENT FUND BOARD

The Board duly incorporated by statute under Act no. 23 of 1974 herein represented by the Facilities Manager he being duly authorized for the purpose hereto (hereinafter referred to as "the Lessor") of the one part

And

(hereinafter referred to as "the Lessee") of the other part

GENERAL

The Lessee has hired from the Lessor the undermentioned Lessor's property known as situated at plot.....(hereinafter referred to as the premises) premises subject to the terms and conditions set out hereunder for the period and use and at the rental operating costs as described in the Schedule of Information.

1. DEFINITION AND INTERPRETATION

In this agreement unless the context clearly otherwise indicates:

1.1 **the premises** - means the premises let in terms of this lease and as described in 1.5 of the Schedule of Information.

1.2 **use of premises** - the premises are let for the purpose described in 1.12 of the Schedule of Information and for no other purpose whatsoever.

- 1.3 **the building** - means the building of which the premise from a portion as set out in 1.4 of the Schedule of Information.
- 1.4 **the property** - means the property upon which the building is situated as set out in 1.3 of the Schedule of Information.
- 1.5 **the commencement date**- means the date upon which this lease commences and **the termination date** means the date which this lease terminates as set out in 1.7 and 1.9 respectively of the Schedule of Information.
- 1.6 The clause heading in this agreement is for convenience only and shall not be used in the interpretation thereof.
- 1.7 Unless the context clearly indicates a contrary intention an expression which denotes-
- 1.7.1 any gender shall include the other gender;
- 1.7.2 a natural person shall include an artificial person and vice versa;
- 1.7.3 the singular shall include the plural and vice versa.
- 1.8 All terms to in the Schedule of Information shall have the meanings as are assigned to them therein.

1.9 **Common areas**

Those portions of the building not actually intended to be let by the Lessor or its agent.

1.10 **Operating costs**

Those costs incurred by the Lessor in respect of maintaining and running and the building and/or property for which the Lessee is liable in terms of this lease, including (but not limited to):-

1.10.1 cleaning expenses;

1.10.2 security expenses;

1.10.3 lift and escalator maintenance costs;

1.10.4 insurance premiums

1.10.5 the cost of water, electricity, gas, oil, coal, coke or any other fuel used in the building for any purpose except that used in the various letted premises in the building;

1.10.6 building amenity costs, including towel and other toilet services, and the cost maintaining indoor and outdoors gardens and plants;

1.10.7 rent collecting expenses and fees;

- 1.10.8 cost of repairs and general maintenance, painting, salaries and wages of all employees engaged in the operation and maintenance of the building and property;
- 1.10.9 air-conditioning maintenance and running costs in respect of the common areas;
- 1.10.10 administrative costs;
- 1.10.11 accounting, audit and secretarial fees;
- 1.10.12 pest control;
- 1.10.13 property assessment rates;
- 1.10.14 sewerage and refuse removal costs;
- 1.10.15 regional services levies, fees, levies or charges payable to the local or any other responsible authority. This schedule and annexures listed therein and attached to this lease shall be deemed to be part of the lease as if specifically incorporated therein and shall constitute the lease between Lessor and Lessee.

2. **COMMENCEMENT AND OCCUPATION**

This Lease shall commence on the commencement date. In the event that the Lessor should be unable to deliver the premises to the Lessee on the commencement date, the Lessee shall not be entitled to cancel this lease, to file a claim for damages

or institute any other action against the Lessor, and the commencement date shall be the earliest date upon which the Lessor is able deliver the premises, subject to a remission of rental for the period in which the Lessee is unable to take up occupation.

3. **RENT**

3.1 The rent per month is the total of basic rent and operating cost in 1.10(a) and 1.10(b) of the Schedule of Information. Rental shall be paid monthly in advance on the first day of each and every month to Lessor's agent.

3.2 In the event of tax being or becoming payable by the Lessor on the rent or any other amount due by the Lessee in terms of this lease, the Lessee shall bear such tax and shall refund to the Lessor on demand such tax amounts disbursed by its agent.

4. **CONDITION OF PREMISES**

The premises are let "voestoots" (as it stands) as to the condition and extent and the Lessor shall not be liable for defects, either latent or patent. The Lessee is hereby deemed to have himself acquainted with the situation, nature and condition of the premises and acolyte of property and the Lessor and/or the agent is entirely free from any liability in respect thereof, save as provided in terms of this agreement of lease.

5. **FIRE HAZARDS**

The Lessee shall not at any times bring or allow to be brought or kept on the premises, or do or suffer to be carried on the premises, any matter, or thing or activity whereby the fire or any other insurance policy of the building may liable to become void or violable or whereby the premiums for such insurance may be increased. If the premiums for such insurance are increased as a result of a contravention of this clause, whether with the Lessor's written consent or not, the Lessor without prejudice to any of its rights hereunder, may recover from the Lessee the amount due in respect of any additional premiums and the Lessee shall pay such amount immediately no notification from the Lessor or the insurance company to the effect that such additional premiums have charged.

6. **ALTERATIONS AND ADDITIONS**

6.1 Save as set elsewhere in this lease, the Lessee shall not make any structural or other alteration or addition of any nature whatsoever to the exterior, roof or interior of the building or the lease premises without the Lessor's prior written consent and shall not at any time have any claim against the Lessor for improvements effected to the leased premises or the building.

6.2 If consent is given by the Lessor in terms of 7.1, then during the currency of this lease or any extension thereof, such alteration or additions shall not be removed or altered by the Lessee, and upon the expiration or earlier termination of the lease: -

6.2.1 If the Lessee is requested in writing to do so by the Lessor within 30 days of the expiration or termination the Lessee shall remove the said alterations or additions

and reinstate the building and/or the leased premises in question, at the Lessee's cost to the same condition (fair wear tear excepted) prior to the carrying out of alterations or additions, and if the Lessee fails to do so after notice as aforesaid, the lessor shall be entitled to remove the said alterations or additions and reinstate the building and/or leased premises as aforesaid at the Lessee's cost.

6.2.2. If the Lessor does not exercise its right in terms of 7.2.1, the said additions or alterations shall not be removed by the Lessee but shall become the Lessor's property and no compensation therefore shall be paid by the Lessor.

6.3 In the event of any dispute arising as to whether any alteration or addition is structural, non structural or merely a fixture or fitting, a certificate of any Architect appointed by the Lessor shall be *prima facie* final and binding on both the Lessor and Lessee.

6.4 If the Lessee effects any alterations and/or additions to the building or the leased premises without the Lessor's prior written consent, the Lessor shall be entitled to deem that such consent has been given and to exercise its rights in terms of 6.3.

6.5 If the Lessee is obliged by the Lessor to remove any alterations and additions and reinstate the leased premises and, for the purpose of so doing the Lessee shall be liable for the payment of rent in terms of this lease in respect of such period of occupation, and such further damages as may accrue to the Lessor arising therefrom.

6.6 The Lessor shall be entitled at any and all times during the currency of this lease to effect any such repair, alteration, improvements and/or addition to the premises, or

the building embracing them and such purpose to erect scaffolding, boardings and/or other building equipment in, at near or in front of the premises, and also such devices as may be required by law or which the Lessor's Architect may certify to be reasonably necessary for the protection of any person against injury arising out of the building operation, in such manner as may be reasonably necessary for the purpose of any of the works aforesaid. The Lessor shall further be entitled, by itself, its contractors, sub-contractors, Architect, Quantity Surveyor and Engineers and all artisans and other workmen engaged on the works, to such rights of access to the premises as may reasonably be necessary for the purpose aforesaid. The Lessee shall have no claim against the Lessor for compensation, damages or otherwise by reason of any interference with its tenancy or its beneficial occupation of the premises occasioned by any such repairs or building works as are herein before contemplated, or arising from any failure or interrupting the supply of water and/or electricity and/or steam and/or heating and/or gas and/or any other amenities to the premises, or the temporary cessation or interruption in the operation of any of the lifts, elevators and hoists in the building.

7. CESSION AND SUBLETTING

7.1 The Lessee shall not, without the Lessor's prior written consent, cede, assign, transfer, alienate, or otherwise dispose of its rights and/or obligations under this lease or pledge or hypothecate this lease.

7.2 If the Lessee is a company, no shares therein shall be transferred from its shareholder, nor may any shares be allocated to any person other than such shareholders, without the Lessor's prior written consent which, in the case of an allotment or transfer of shares which will still leave control of the Lessee with the

existing shareholders as at the date of signature hereof, or of a transfer of shares to a deceased shareholder's heirs, shall not be unreasonably withheld. Any transfer or allotment of shares effected without such consent shall constitute a breach of the terms of this lease by the Lessee, justifying cancellation of the lease by the Lessor.

8. **LESSEE'S GENERAL OBLIGATIONS**

8.1 Manner of Using Premises.

The Lessee shall-

- 8.1.1 comply with all laws, by -laws and regulations relating to owners, tenants or occupiers of residential premises;
- 8.1.2 not permit the contravention of the conditions of title whereunder the property is held by the Lessor;
- 8.1.3 not by any act, default or sufferance contribute to any common law nuisance or any nuisance as defined in section 11 of the public Health Act No.5 of 1969 and the Nuisance Act.
- 8.1.4 not permit the accumulation of refuse in or outside the premises and shall comply with rules concerning refuse determined by the Lessor;
- 8.1.5 not be entitled to the exclusive use of any yards or toilets in the building;

- 8.1.6 not install in the premises any electrically operated computers without the prior written consent of the Lessor;
- 8.1.7 not permit the storage of motor vehicles, motor cycles and bicycles, packing cases or goods of any description whatsoever in areas other than those designated for this purpose by the Lessor;
- 8.1.8 not drive or permit to be driven into the walls or ceilings of the premises, nails, screws or any objects save as may be reasonably required for the Lessee's shelving or fixtures and fittings, which fixtures and fittings will be fixed to the walls by a method prescribed by the Lessor's Architect; provided that on the termination of this lease the Lessee shall repair any damage caused to the premises in this regard;

8.2 Electrical fittings.

The Lessee shall-

- 8.2.1 not interfere with, alter or overload any electrical installation in the premises,;
- 8.2.2 pay for all replacements of fluorescent bulbs, starters, ballast's and any incandescent bulbs used in the premises.
- 8.3 windows. The Lessee shall not paint, tint or treat or obscure the windows including any plate glass windows in the premises with any material or in any way whatsoever without the prior written consent of the Lessor.

8.4 Air-conditioning apparatus.

The Lessee shall-

- 8.4.1 pay all maintenance charges in respect of all air-conditioning units in the premises;
- 8.4.2 not install in the premises any air-conditioning apparatus or equipment without the prior written consent of the Lessor which consent shall not unreasonably be withheld;
- 8.4.3 not obstruct, interfere or tamper with any thermostats or air-conditioning apparatus in the premises.

8.5 Maintenance

The Lessee shall-

- 8.5.1 at its own expense for the duration of this lease, keep and maintain the interior of the premises, all the keys, locks, doors, windows, sewerage pans and pipes, water taps, electrical installation, air-conditioning units, whether splits units or stand alone units and appurtenances therein in good order and condition and at the termination of this lease shall return and redeliver the same to the Lessor in like good order and condition, fair wear and tear excepted, and it shall make good and repair at its own cost any damage or breakage or, in the alternative, reimburse the Lessor for the cost of replacing, repairing or making good any broken, damaged or missing articles;

8.5.2 not cause or permit the obstruction or blockage of any sewerage pipes, water pipes or drains or grease traps in or used in connection with the premises, but shall throughout the currency of the lease maintain such sewerage pipes, waterpipes, or drains or grease traps free from any such obstruction or blockage-

8.5.2.1 The obstruction or blockage referred to in 9.5.2 which occurs in the premises shall be removed at the Lessee's own cost;

8.5.2.2 Where necessary the Lessee shall repair the sewerage pipes, water pipes or drains or grease traps concerned;

8.5.3 Keep and maintain any carpets provided in respect of the premises. Should the said carpets be damaged for any reason whatsoever the Lessor shall be entitled to repair the damage and recover the cost of such repairs from the Lessee, which cost the Lessee shall pay to the Lessor upon demand. The Lessor shall not be obliged under any circumstances to replace any existing carpets in the leased premises.

8.5.4 The Lessee shall, however, be entitled to replace such carpets should it so decide but upon termination of this lease the Lessee shall not be entitled to reimbursement in respect of the said carpets which shall become the sole and absolute property of the Lessor should it so elect.

Should the Lessee fail to comply with any of its obligations of clause 10.6 hereof, the Lessor may, but shall not be obliged to, attend to the repair of the said damage, in which event the Lessor shall appropriate the deposit or portion thereof towards the payment of any such expensive so incurred.

9. LESSOR'S RIGHTS AND OBLIGATIONS

9.1 The Lessor shall maintain the outside walls and the roof of the premises in good order and condition.

9.2 The Lessor shall be entitled in its sole and absolute discretion to appropriate any amounts received from the Lessee towards the payment of debt or amount owing by the Lessee to the Lessor .

10. COSTS

The Lessee shall pay the Lessor or its authorized agent or representatives the lease fee stipulated in 1.18 of the Schedule of Information and the stamp duty thereon, and any further amount that becomes payable by reason of any renewal or extension of this lease.

11. ELECTRICITY AND OTHER CHARGES

11.1 If water or electricity is metered separately, the Lessee must pay for this in addition to the rent as follows:

11.1.1 If the supplier supplies to the Lessee direct, the Lessee must pay the supplier. The Lessor may pay the supplier on behalf of the Lessee and claim such payment from the Lessee.

11.2 If electricity and/ or water are not metered separately then the Lessee must pay to the Lessor a charge for the Lessee's consumption of electricity and /or water calculation:

11.2.1 ratable in the same proportion to the total amounts measured for the period (on the meter which measures, *inter alia*, electricity and /or water consumed by the Lessee) as the area of the premises bears to the total lettable area served by meters;

11.2.2 at the same tariff rate (irrespective of any other rate at which the Lessor may obtain such services) as the Lessee would have to pay if it contracted direct with the supplier of electricity and/or water.

11.3 Should the Lessee fail to pay the charges for electricity or water within 7 (seven) days of written demand, then, without prejudice to any right it may have, the Lessee shall be entitled to terminate the supply of current to the Lessee.

12. POWER

If the Lessor agrees to provide additional power to satisfy the Lessee's requirements, the Lessee shall bear all the costs of installation and supply thereof, including the cost of a meter.

13. DEPOSIT

The Lessee shall on the signing hereof, pay to the Lessor a deposit as set out in 1.11 of the Schedule of Information which deposit may be appropriated by the Lessor

against any amount/s which may be outstanding at any time during the duration of this lease and which in any event may be retained by the Lessor throughout this lease. The Lessor shall be entitled to apply the deposit of any portion thereof towards the reduction or payment in full of any sums due in terms refunded to the Lessee upon termination of this lease.

13.2 The Lessors shall invest the deposit in an interest bearing account with a bank. The interest which accrues in respect of the said deposit will be paid to and shall be deemed to be earned by the said Lessor as an agreed administrative fee. The Lessor may obtain payment of the interest from the said bank at times solely in the discretion of the Lessor.

13.3 The Lessee shall not be entitled to set off against the deposit any rental of other amounts payable by it.

13.4 The Lessor's rights hereunder shall be without prejudice to any other rights it may have to claim damages or sums due in terms of this lease.

13.5 When at any time during the course of this lease, rental is increased, or a portion of the deposit is applied as envisaged in this lease, the Lessee shall forthwith be obliged to pay the additional amount necessary to make up the deposit. Should the Lessor at any time and from time to time during the currency of this lease be obliged to demand rental due to late payment thereof, the Lessee shall upon demand by the Lessor become liable for and shall pay an additional deposit, equivalent to the basic monthly rental as defined in 1.10 (a) of the Schedule of Information and such additional deposit shall form part of the deposit as defined in 1.11 of the Schedule of Information provided that the Lessee shall not be liable to pay a deposit greater in

the aggregate than the equivalent of 3 (three) months basic rental, calculated at the highest basic monthly rental stipulated in 1.10 (a) of the Schedule of Information.

- 13.6 Should the Lessee vacate the premises in terms of 20.3 below, the Lessee shall be entitled to a refund of the deposit after one (1) calendar month of such vacation provided the Lessee has submitted proof to the Lessor that the Lessee has fully settled its utilities' bills.

14. EXCLUSION OF CLAIMS AND RIGHT TO WITHHOLD RENT

The Lessee shall not under any circumstances be entitled to cancel this lease or have any claim or right of action whatsoever against the Lessor for any damages, loss, or otherwise, nor be entitled to withhold or defer payment of rent by reason of the premises or any appliances, air-conditioning or other installations, fittings and fixtures in the said premises or the building being in a defective condition or falling into disrepair or any particular repair not being effected by the Lessor, or for any reason whatsoever. The Lessee shall not have any right of cancellation or claim for damages, abatement of rent or otherwise against the Lessor by reason of the lift or lifts, air-conditioning installation or other amenities in or on the premises being out of use or order for any reason whatsoever or for any period whatsoever. The Lessor shall not be responsible for any damage or inconvenience which the Lessee may suffer owing to any difficulties from time to time in the supply of the electric current, water, gas, air-conditioning installation or other amenities or the complete cessation of such amenities, nor shall the Lessee be entitled to cancel this lease nor be entitled to an abatement of rent in respect of any occurrence.

15. EXCLUSION OF LESSOR'S LIABILITY

15.1 Neither the Lessor nor its agents or employees shall be liable for any damage or injury or loss of life which may be caused to any of the assets of the Lessee or of its employees, invitees or licensees including, without derogating from the generality hereof, stock-in-trade, fixtures, fittings, books, papers, clothing and personal effects; or to the Lessee or its employees, invitees or licensees, in consequence of the overflow of water or any leakage or of any fault in the plumbing works or any electrical fault; or by reason of any of the elements of the weather; or failure on the part of the Lessor or its agents or its employees to carry out any work required of them in a proper manner; or by reason of any defect in the property or any portion thereof or any of the equipment of the Lessor; or as a result of any other cause whatsoever whether or not as a result of the default or negligence of the Lessor, its agents or employees.

15.2 The Lessee hereby indemnifies the Lessor against any claim by its employees, invitees or licensees and their dependents in respect of any such damage, injury or loss of life.

16. LESSOR'S RIGHT OF ENTRY AND TO ADVERTISE THE PREMISES

The Lessor shall be entitled-

16.1 to enter the premises at all reasonable times either through its representatives servants or its contractors for the purpose of inspecting the premises or for carrying out any repairs or other work. In exercising its rights as foresaid the Lessor shall not

unduly or unreasonably interfere with the conduct of any business lawfully carried on in the premises and shall carry out any repairs or other work as expeditiously as possible. The Lessee shall not have any claim for remission of rent compensation or damages in connection with the exercise by the Lessor of any of its rights aforesaid.

16.2 at all reasonable times together with the prospective purchasers of the properties or of the share capital of the Lessor to view the interior of the premises, and

16.3 to affix at the premises and to exhibit on the windows of the premises a "To Let" notice during the period of six months immediately preceding the termination or expiry of this lease.

17. DAMAGE TO OR DESTRUCTION OF BUILDING OR PREMISES

17.1 For the purpose of this clause-

17.1.1 the building shall be deemed to be rendered partially untenable if not more than 50% (fifty per centum) of the area thereof is destroyed or damaged by fire or other causes, and

17.1.2 the building shall be deemed to be rendered substantially untenable if more than 50% (fifty per centum) of the area thereof is destroyed or damage by fire or other cause.

17.2 Should the premises in the building be-

17.2.1 rendered partially untenable the Lessor shall expeditiously reinstate them substantially to their form before the damage or destruction and the Lessee shall be entitled to a remission of rent according to the extent to and time during which it is deprived of beneficial occupation of the premises;

17.2.2 rendered substantially untenable and the Lessor fails within 60 (sixty) days of the date of the destruction or damage to give the Lessee written notice that it intends to continue this lease, the lease shall be deemed to have been canceled the date of destruction. If the lessor gives notice as aforesaid it shall restore the building to a tenable condition as expeditiously as practicable and the lessee shall be entitled to a total of partial remission of rent according to the extent to and the period during which it has been deprived of beneficial occupation of the premises.

17.3 Should any dispute arise between the Lessor or and the Lessee with regard to the provisions of 18.2 such dispute shall be submitted to the Lessor's Architect whose decision shall be the prima facie final and binding on the parties; provided that under no circumstances whatsoever shall the lessor or its employees be responsible or liable to the Lessee or any person for any damage sustained by the Lessee or such other person as a result of or in consequence of any fire in the building, whatever the cause of such fire.

17.4 Should a fire take place in the premises, the Lessor shall not be liable for any damage or loss sustained by the Lessee in consequence thereof and the Lessee shall not be entitled to any remission of rent whatsoever.

17.5 Lessee shall, at its own expense, insure the stock, fixtures and fitting contained in the premises against destruction by fire, and should a fire take place n the premises, the Lessee shall within a reasonable time restore the premises and recommence residence.

17.6 Should any dispute arise between the Lessor and the Lessee in regard to the provisions of paragraphs 18.1, 18.2, 18.3, 18.4 and 5 such dispute shall be settled by arbitration as follows;

17.6.1 Arbitrator shall be the Lessor's Architect.

17.6.2 In the absence of agreement between the parties to the dispute, the arbitration shall have been completed within 21 business days after it shall be demanded by any parties.

17.6.2.2 the arbitration shall be conducted in a summary manner.

17.6.2.3 The arbitrator shall be entitled to disburse with the rules of procedure but not discovery and shall observe the rules of evidence.

17.6.2.4 The arbitrator shall decide the matter according to what he consider to be just an equitable in the circumstances.

17.6.2.5 The decision of the arbitrator shall be final and binding on the parties and shall be carried into effect. The arbitrator's award may be an order of any Court of competent jurisdiction.

18. **BREACH BY LESSEE**

Should the Lessee fail to pay rental or any other amount on due date **the Lessor shall be entitled to lock the Lessee out of the leased premises without causing prejudice to the other of the Lessor's lawful remedies.** Should the Lessee commit or suffer or permit a breach of any other term of this lease or

18.1 being an individual be sequestrated, whether voluntarily or compulsorily or whether provisionally, or

18.2 being a company placed in liquidation or under judicial management, whether provisionally, or

18.3 allow any judgment against it to remain unsatisfied for a period of 7 (seven) days or longer, or

18.4 commit an act of insolvency, or

18.5 being a guarantor in terms of any suretyship granted in favour of the Lessor with respect to any of the Lessee's obligations under this lease, and-

18.5.1 Should an individual die or be sequestrated or cease to reside permanently in Swaziland or in the case of a company, be wound up or placed under judicial management (in either case whether provisionally or otherwise); or

18.5.2 lawfully withdraw from such suretyship and the Lessee should within 21 (twenty one) days of receipt of notice to it by the Lessor, fail to furnish the Lessor with a suretyship in replacement to the satisfaction of the Lessor, then the Lessor shall have the right but shall not be obliged forthwith to cancel the lease and to retake possession of the premises and, upon so doing to remove from the premises any goods situate therein. Any goods so removed from the premises shall be stored at the cost and risk of the Lessee; or to vary the lease by making it thereafter terminable by one month's written notice given by the Lessor.

The Lessee hereby irrevocably constitutes the Lessor as its agent for effecting the sale of any such goods and it cedes to the Lessor towards payment of its indebtedness to the Lessor the proceeds of any such sale. The exercise of this right by the Lessor shall be without prejudice to its claim for arrears of rent and other amounts owing hereunder or for damages it may have suffered by reason of the Lessee's breach or of the premature cancellation.

19. **PAYMENT OF RENT - HOLDING OVER**

Should the Lessor cancel this lease and the Lessee dispute the right to cancel and remain in occupation the premises, then-

- 19.1 the Lessee shall, pending the determination of such dispute, continue to pay to the Lessor on the due date thereof all amounts due under this lease, and the acceptance thereof shall be without prejudice to the Lessor's rights.
- 19.2 should such dispute be determined in favour of the Lessor, any such payments received shall be deemed to be amounts paid by the Lessee on account of damages suffered by the Lessor by reason of the cancellation of this lease and/or the unlawful holding over by the Lessee.
- 19.3 The Lessee shall give the Lessor a one (1) calendar month notice of any intention to vacate the premises of the Lessor, and
- 19.3.1 whether during a vacation in terms of 23.0 above or any other time where the Lessee elects to remove any of its movable property, the Lessee shall first seek a pass-out slip from the Lessor before removing the said property.

20. **LEGAL COSTS AND OUTSTANDING PAYMENTS**

- 20.1 Should the Lessor institute action against the Lessee pursuant to a breach of any term of this lease by the Lessee, then without prejudice to any other rights which the Lessor may have, the Lessor shall be entitled to recover from the Lessee all legal costs incurred by the Lessor, including attorney and own client charges, tracing fees and such collection commission as the Lessor is obliged to pay its attorneys;
- 20.2 Without prejudice to any of the Lessor's other rights, from due date to date of payment of all outstanding amounts, the Lessee shall pay interest at the prime rate charged by the banker of the agents from time to time during the period while

payment is outstanding on all amounts due by it to the Lessor in terms of this lease, including any monies disbursed by the Lessor on behalf of the Lessee.

21. **EXCLUSION OF WARRANTIES**

The Lessor does not warrant, and this lease is not made on the basis that the premises are or will at any time be fit for the purpose for which they are let, or for any other purpose whatsoever;

22. **SERVICES**

The nature of the service in the premises by the servants of the Lessor or its agents shall be at the sole discretion of the Lessor. Neither the Lessor nor its agents or employees shall be liable for the receipt or non-receipt or the delivery or non-delivery of goods, postal matter or correspondence, nor shall they be liable for anything which the Lessee or any employee, client, licensee, visitor, or invitee of the Lessee may have deposited or left in the premises or in any part of the building. All goods brought by the Lessee on to the property shall be placed there at its sole risk and no responsibility whatsoever therefore is undertaken by the Lessor, its agents or employees. The Lessee acknowledges that neither the Lessor nor its agents or employees shall in anyway be responsible for any loss, theft or damage of any kind to any of the Lessee's property whilst contained in the property. The Lessee indemnifies the Lessor, and its agents and employees against claims by its employees, client's, licensee, visitors and invitees in respect of the foregoing.

23. USE OF COMMON AREAS

23.1 The Lessee shall, in conducting its business upon the premises, give due consideration to the use and enjoyment of the building by other tenants, customers and employees.

23.2 The Lessee shall have the right of reasonable use, having regard to the rights of other tenants, of the yard, toilets and other convenience outside the premises. The Lessee undertakes that its employee will use such spaces, toilets, convenience and facilities as may be allocated from time to time in respect of the employees of the Lessee generally.

23.3 The common areas shall at all times be subject to the exclusive control and management of the Lessor, and the Lessor, shall have the right from time to time establish, modify and enforce reasonable rules and regulations with respect thereto. The Lessor shall have the right to construct, maintain and operate lighting facilities wheresoever it decides in the common area and to police the same; from time to time to change the area, location and arrangement of parking areas and other facilities; to restrict parking by tenants, their officers, agents and employees to employee parking areas; to enforce parking charges (by operation of meters or otherwise) with appropriate provisions for tree parking; to close temporarily all or any portion of the parking area or facilities; to discourage non-customer parking; and to do or perform such other acts in and to the common area as in the use of good business judgment the Lessor shall determine to be advisable with a view to the improvement of the convenience and use thereof by tenants, their officers, agents, employees and customers. The Lessor shall furthermore be entitled to

operate, vary and maintain the common area in such a manner as it will in its sole discretion decide.

24. **COMPANIES**

24.1 In the event that this lease is signed by a trustee for a company in the course of formation then such trustee or agent shall specifically undertake within 90 (ninety) days of the signature of this agreement to promote and register the proposed company according to the company Laws of the Kingdom of Swaziland. Should such promotion and registration of the said company and /or ratification and adoption of the said company of this lease not transpire within the said period of 90 (ninety) days, then the signatory hereto shall himself be personally be bound to all the terms and conditions of this lease.

24.2 If the Lessee is a company and the interests of the members change so that the members who held controlling interest when this lease was entered into, no longer do so:-

24.2.1 the Lessee must inform the Lessor of the change forthwith in writing;

24.2.2 the Lessor may terminate this contract on 3 (three) calendar month's written notice it accepts the change in writing.

25. **JURISDICTION**

At the option of the Lessor any action or application arising out of this lease or any suretyship furnished for the obligations of the Lessee hereunder may be brought in

any Magistrate's Court having jurisdiction in respect of the Lessee or the sureties, as the case may be, notwithstanding that the amount in issue may exceed the jurisdiction of such Court.

26. **DOMICILIUM AND NOTICES**

26.1 The Lessor chooses *domicilium citandi et executandi* and its address for service of any notice under this Agreement at the address set out in 1.15 of the Schedule of Information.

26.2 The Lessee chooses *domicilium citandi et executandi* and its address for any notice under this Agreement at the address set out in 1.16 of the Schedule of Information.

26.3 All notices which are given by the Lessor to the Lessee hereunder shall be given to at the premises or at such other address in the Kingdom of Swaziland of which the Lessee may advise the Lessor by written notice duly received by the Lessor.

26.4 All notices which are given by the Lessee to the Lessor hereunder shall be given to it at the address specified in 30.1 or at such other address in the Kingdom of Swaziland of which the Lessor may advise the Lessee by written notice.

26.5 All notices sent by either party to the other shall be delivered by hand or sent by pre-paid registered mail.

26.6 All notices delivered or sent as aforesaid to the respective address provided for in this clause shall be deemed to have been received by the addressee on the date of delivery or the seventh business day after posting, as the case may be.

26.7 All notices which may have be given by the Lessor to the Lessee prior to the commencement of this lease shall be valid if address to any address which the Lessee stated, implied or held out to be its domicilium.

27. **SEVERABILITY**

Each of the obligations assumed by the lessee under this lease is severable and divisible the one from the other. Should any one such obligation the unenforceable in law for any reason whatsoever, it will leave unaffected the remaining obligations assumed by the lessee under this agreement. In particular the failure of any such obligation as aforesaid will not render the agreement null and void of no force and effect.

28. **DEVELOPMENT OF PROPERTY AND/OR BUILDING**

28.1 The Lessor shall be entitled at any time and at all time during the currency of this lease to effect any such repairs, alterations, improvements and/or additions to the premises, or the building embracing them and for any such any purpose to erect scaffolding, boarding and/or other building equipment in, at, near or in front of the premises, as also such devises as may be required by law or which the Lessor's Architect may certify to be reasonably necessary for the protection of any person against injury arising out of the building operation, in such manner as may be reasonably necessary for the purpose of any of the works aforesaid. The Lessor shall further be entitled, itself, its contractors, and sub-contractors, its architect, its Quantity Surveyor, its engineers and all artisans and other workmen engaged on the works, to such rights and access to the premises as may reasonably be necessary for

the purposes as aforesaid. The Lessee shall have no claim against the Lessor for compensation, damages or otherwise by reason of any interference with its tenancy or its beneficial occupation of the premises occasioned by any such repairs or building works as herein before contemplated, or arising from any failure or interruption in the supply of water and /or electricity and /or steam and / or heating and / or gas and / or any other amenities to the premises, or the temporary cessation or interruption in the operation of any of the lifts, elevators and in the building.

28.2 Notwithstanding anything to the contrary contained in this agreement, should the lessor, at any time decide either to rebuild the containing the premises, or to make any major structural alteration thereto which will result in the premises being destroyed or deprived of reasonable access, it shall be entitled to cancel this agreement by giving 6(six) calendar month's notice written notice to that effect to the Lessee, and in that event the Lessor shall not be obliged to compensate the Lessee in any way in respect of the expired portion of this lease and the Lessee shall not be entitled to claim any amount from the Lessor by virtue of such cancellation.

29. **SALE OF PREMISES OR CHANGE OF NAME**

29.1 The Lessor shall be entitled at any time during the currency of this lease and absolute discretion to change the name of the building in which the premises are situated.

29.2 The sale of the premises prior to the termination date shall not affect this lease, nor shall it entitle the Lessee to resale from the lease or to cancel the lease nor shall

the entitled to claim damages from the Lessor as a result of the aforesaid sale or change of name.

30. **WHOLE AGREEMENT AND OF PAYMENTS**

The document constitutes the whole agreement between the parties and no warranties or representation, whether express or implied, not stated herein shall be binding on the parties. No agreement at variance with the terms and conditions of this lease shall be binding on the parties unless reduced to a written agreement signed by or on behalf of the parties. No relaxation or indulgence which the Lessor may show to the Lessee shall in any way prejudice its rights thereunder and in particular acceptance by the Lessor of rental or other amounts after due date (whether on one or more occasions) shall preclude the Lessor from exercising any rights enjoyed by it hereunder by reason of any subsequent payment not being made strictly on due date. Unless otherwise stated by the Lessor in writing, the receipt by the Lessor or its agent of any rental or other amount shall in no way whatsoever prejudice or operate as a waiver, rescission or abandonment of any cancellation or right of cancellation effected or acquired prior to such receipt.

31 **SALE OF PROPERTY**

Insofar as the Lessee may have the right to elect, upon change of ownership of the property, whether to cancel this lease and vacate the premise, the Lessee hereby waives and abandons such right and agrees that this lease shall be binding upon the Lessee notwithstanding any such change of ownership and any proposed cancellation of this lease by the Lessee in such circumstances shall be invalid and unenforceable by the Lessee.

THUS DONE AND SIGNED AT..... ON THISDAY OF
.....2009

AS WITNESSES

1. _____

2. _____

LESSOR

THUS DONE AND SIGNED AT ON THIS DAY OF
..... 2009

AS WITNESSES:

1. _____

2. _____

LESSEE

DEED OF SURETYSHIP

I,, of.....
(*state domicilium citandi et executandi*) the undersigned do hereby bind myself jointly and severally, as surety and so-principal debtor in solida, to and in favour of (hereinafter referred to as the "Creditor") for the payment on demand of all sums of money which hereinafter referred to as the "Debtor" may now and from time to time hereafter owe or been indebted into the creditor from whatsoever cause arising, together with any interest and/or any other charges including attorney and client costs which the Debtor may or may become liable for such time to time to pay the Creditor, whether such indebtedness be incurred by the Debtor solely or jointly or in partnership with any other person or persons, company or companies, and for the due and punctual performance of all obligations howsoever arising, which the Debtor may now and from time to time be bound to perform in favour of the Creditor.

I agree that;

1. This suretyship shall apply to, cover and secure the Creditor's respective successors entitle order or assigns;
2. It shall always be in the discretion of the Creditor to determine the extend, nature and duration of the facilities (if any) to be allowed to the debtor;
3. The Creditor shall be at liberty to release securities, or other sureties for the Debtor, or to extend any leniency or extension of time to, or compound or make other arrangement with, the Debtor or me or any other such surety or sureties for the Debtor, and do such action on the part of Creditor shall affect or in anyway be

construed or operate as a waiver or abundant of any the creditors right or claim against me or any of us hereunder.

4. All acknowledgment of debt and agreement to pay by the Debtor shall be binding on me.

5. In the event of the insolvency, liquidation, sigoslation or placed under judicial management of the estate of the Debtor, in the event of a compromise between the Debtor and any Creditors of the Debtor;
 - a) I undertake not to prove a claim against the Debtors estate for any amount I may be call upon to pay under this suretyship until all amounts (including interest and costs) due by the Debtor to Creditor have been paid in full;

 - b) I hereby agree notwithstanding any part payment by or on behalf of me or any of us, to the Creditor, I shall have no right to any session of action in respect of such part payment and shall not be entitled to take any action the Debtor in respect thereof, unless and until the indebtedness of the Debtor to the Creditor shall have in discharged in full;

 - c) I agree that any dividend received from the Debtor by Creditor in respect of Creditor's claims against the Debtor shall be appropriate in the first instance to the payments of the part (if any) of the Debtor's indebtedness to the creditor which is not covered by this suretyship;

 - d) No dividends or payments which the creditor will receive from the debtor on any other surety or sureties or of from me or any of us, shall prejudice the Creditor's

right to recover from me or any other or other, to full extent of this suretyship, any sum which, after the receipt of such dividend or payments will remain owing to creditor by the Debtor, but nothing herein contained will be deemed to limit the provision of clause 13 hereafter;

- e) Notwithstanding any payments received by the creditor from me or any of us hereunder, the Creditor shall be entitled to prove against the estate of the Debtor for the full amount of the indebtedness of the Debtor, at the date of insolvency, Liquidation, sequeslation, assignment, judicial management or compromise as the case may be.

- 6. This surety shall remain in full force as a continuing covering security, notwithstanding any intermediated settlement of or fluctuations in the indebtedness or the Debtor to the Creditor for the time being, and notwithstanding the debt or legal disability of myself, until the Creditor will have agreed in writing to cancel this suretyship.

- 7. This suretyship shall be in addition and without prejudice to any other suretyship or security now or at any time hereafter be held by the Creditor in respect of the liabilities or obligation of the Debtor to the Creditor.

- 8. Should the Creditor claim against the Debtor beside to any third party, then this suretyship as if such sessionary with the Creditor.

- 9. (a) The amount of the debtor indebtedness and of the Creditor at any time and the fact that the due date of payment of the whole or as the case may be, portion of

such amount has arrived, shall be determined and prove but certificates signed by the Creditors general manager for the time being or any other authorized person.

(b) The certificate in terms of (a) shall be

1. Binding upon me

(ii) *Premia facia* prove of the amount of my indebtedness hereunder and

(iii) Valid as a liquid document against me arising hereunder.

10. I renounce the benefit of excursion, division, session of action, senatus consultum velleianum, authenticasquamulier.

11. a) I choose domicilium citandi et executandi for all purpose herein at the above address set out against my name.

b) All notices addressed to me shall be sent by prepared registered post to my respective address above, and shall be deemed to have been delivered to me three days after such posting thereof.

12. By appending my signature at the foot hereof, I bind myself as surety and co-principal Debtor in terms of this deed of suretyship irrespective of whether any other person or company referred to in this deed of suretyship as surety and co-principal Debtor signed this document.

13. Without delegating from any of the provisions of this suretyship, my liability shall include all damages which the Creditor may suffer as a result of the cancellation this lease, including any thereof.

THUS DONE AND SIGNED AT ON THISDAY OF
..... 2009

AS WITNESSES:

- 1. -----
- 2. -----

SURETY

SCHEDULE OF INFORMATION

- 1. Fundamental Lease Provisions

The following words have the meaning assigned to them unless the schedule otherwise indicates:

1.1 **Agent** : **Swaziland National Provident Fund**

1.2 **Lessee's Name** :

1.3 **Property** :

1.4 **Premises** :

1.5 **Area of Premises** :

1.6 **Commencement date:**

1.7 **Duration of lease** :

1.8 **Termination date** :

1.9(a) **Basic monthly rental:** **E**

First year : **E**

Second year : **E**

Third year : **E**

Fourth year : **E**

Fifth year

1.9(b) Monthly contribution for security

First year : E

Second year : E

Third year : E

Fourth year :

Fifth year :

1.9 (c) House Keys Deposit : E

1.10 Rent Deposit : E

**1.11 Sole permitted use of premises:RESIDENTIAL
Sureties:-**

1.

2.

**1.12 Rental Payable at:-Swaziland National Provident Fund Offices,
2nd Floor, Lqhaga House
MANZINI**

1.13 Lessor's address and domicilium citandi et executandi

**Swaziland National Provident Fund Offices,
Second Floor, Lqhaga House
Private Bag MZ51
MANZINI
M200**

1.14 Lessee's address and *domicilium citandi et executandi*

1.15 Lessor's lease fee : E

Stamp duty : E