ANNEXURE A3

STANDARD TERMS AND CONDITIONS FOR SANPC

PART I

1 INTERPRETATION

1.1 The following terms have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings, namely:

1.1.1 Words importing the singular shall include the plural and *vice versa.*

1.1.2 Words importing any gender include the other.

1.1.3 The clause headings in the Contract Documents are for convenience and are not to be used for purposes of interpretation.

1.1.4 Any schedules, annexures and addenda attached to the Contract Document, as amended from time to time are deemed to form part of the Contract Documents.

1.1.5 If a definition imposes substantive rights and obligations on a Party, such rights and obligations shall be given effect to and shall be enforceable, notwithstanding that they are contained in a definition.

1.1.6 Where any word is defined within the context of any particular clause in the Contract Documents, that word, unless it is clear from the clause in question that that word has limited application only to the relevant clause, shall bear the meaning ascribed to it for all purposes in terms of the Contract Documents, notwithstanding that that word has not been defined in clause 2.

1.1.7 Except as otherwise provided in a particular clause in the Contract Documents, where any number of days is prescribed, those days shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a day which is not a Business Day, in which event the last day shall be the next succeeding Business Day.

1.1.8 The rule of construction that if general words or terms are used in association with specific words or terms which are a species of a particular genus or class, the meaning of the general words or terms shall be restricted to that same class (i.e. the e*iusdem generus* rule) shall not apply, and whenever the word "*including*" is used followed by specific examples, such examples will not be interpreted so as to limit the meaning of any word or term to the same genus or class as the examples given.

1.1.9 Each of the provisions of the Contract Documents has been negotiated by the Parties and is for the benefit of the Parties, and accordingly the rule of construction that the contract shall be interpreted against or to the disadvantage of the Party responsible for the drafting or preparation of the Contract Documents (i.e. the *contra proferentem* rule) shall not apply.

1.2 Any reference to "days" shall be construed as being a reference to calendar "days" unless qualified by the word "business" in which instance a "business day" shall be any day other than a Sunday and/or a public holiday as gazetted by the government of the Republic of South Africa from time to time. Any reference to "business hours" shall be construed as being the hours between 07h30 (seven hours and 30 minutes) and 17h00 (seventeen hours) on any business day, which is not a Saturday, and 07h30 (seven hours and 30 minutes) and 13h00 (thirteen hours) on any business day, which is a Saturday. Any reference to time shall be based upon South African standard time being Greenwich Meantime plus 2 (two) hours.

1.3 The words "include", "includes", and "including" means "include without limitation", "includes without limitation", and "including without limitation". The use of the word "including" followed by a specific example/s shall not be construed as limiting the meaning of the general wording preceding it.

1.4 Terms other than those defined within these Terms and Conditions will be given their plain English meaning, and those terms, acronyms, and phrases known in the petroleum industry will be interpreted in accordance with their generally accepted meanings.

1.5 Defined terms appearing in these Terms and Conditions in title case shall be given their meaning as defined, while the same terms appearing in lower case shall be interpreted in accordance with their ordinary meaning as qualified by sub-clause 1.4 and shall, unless the context otherwise indicates, include the term as defined.

2 DEFINITIONS

In these Terms and Conditions, unless the context indicates a contrary intention, the following words and expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings:

2.1 "Acceptance Agreement" means an agreement between the Parties whereby they agree to be bound by these Terms and Conditions.

2.2 "Assigned Staff" means Staff or independent contractors of the Supplier providing Services to SANPC in accordance with the provisions of Section D.

2.3 "Causal Event" means; (i) a compromise or composition or threatened compromise or composition by the Supplier with its creditors; (ii) provisional or final liquidation of the Supplier or placement of the Supplier in judicial management, whether provisionally or finally; (iii) in circumstances where there is a default or cessation or a reasonable prospect of default or cessation (as the case may be) of the Supplier's normal line of business; (iv) commitment of any act or omission which would, in the case of an individual, be an act of insolvency in terms of the Insolvency Act, 1936 (as amended); (v) disposal by the Supplier of a material portion of its undertaking or assets; or (vi) any change in the control or material change in the shareholding of the Supplier. The Causal Events set forth in sub clauses (iv), (v) and (vi) are subject to the further qualification that they shall only be considered Causal Events where SANPC, acting in good faith, considers such events to be detrimental to it for sound business reasons.

2.4 "Confidential Information" means any information or data which by its nature or content is identifiable as confidential and/or proprietary to SANPC and/or any third party, or which is provided or disclosed in confidence; and which SANPC or any person acting on its behalf may disclose or provide to the Supplier or which may come to the knowledge of the Supplier by whatsoever means. Disclosing Party's Confidential information shall include (i) information relating to SANPC’s strategic objectives and planning for both its existing and future business needs; (ii) information relating to SANPC’s business activities, business relationships, products,

services and Staff; (iii) SANPC's technical, scientific, commercial, financial and market information and trade secrets; (iv) SANPC's data concerning its business relationships, demonstrations, processes and machinery; (v) Intellectual Property that is proprietary to SANPC or that is proprietary to a third party and in respect of which SANPC has rights of use or possession; (vi) SANPC's plans, designs, drawings, functional and technical requirements and specifications; (vii) information concerning faults or defects in SANPC's systems, plant or equipment or the incidence of such faults or defects; (viii) agreements to which SANPC is a Party; and (ix) any and all, methodologies, formulae and related information and trade secrets in SANPC's business and industrial processes. Confidential information excludes information or data which (a) is lawfully in the public domain at the time of disclosure to the Supplier; or (b) subsequently becomes lawfully part of the public domain by publication or otherwise; or (c) subsequently becomes available to the Supplier from a source other than SANPC which is lawfully entitled without any restriction on disclosure to disclose such Confidential Information to the Supplier; or (d) is disclosed pursuant to a requirement or request by operation of law, regulation or court order; provided that the onus shall at all times rest on the Supplier to establish that such information falls within such exclusions and provided further that the information disclosed in terms of these Terms and Conditions will not be deemed to be within the foregoing exclusions merely because such information is embraced by more general information in the public domain or in a Party's possession. Any combination of features will not be deemed to be within the foregoing exclusions merely because individual features are in the public domain or in a Party's possession but only if the combination itself and the principal of operation are in the public domain or in a Party's possession. The determination of whether information is Confidential Information shall not be affected by whether or not such information is subject to, or protected by, common law or statute related to copyright, patent, trade marks or otherwise.

2.5 "Contract Documents" means these Terms and Conditions, the Acceptance Agreement and all Transaction Document(s) executed under these Terms and Conditions, as each may be amended from time to time and any addenda, schedules or annexes to these Terms and Conditions, the Acceptance Agreement and/or the Transaction Document(s).

2.6 Data Subjects″ means SANPC's Affiliates, customers, suppliers, employees and any other Person/s to whom Personal Information relates.

2.7 "Deficiency" means with respect to a deliverable: (i) any error, problem, non-conformity or defect resulting from a deviation from the documentation for such deliverable, (ii) any other error, problem, non-conformity or defect that impacts the use or performance of the deliverable where the deliverable is used or performs in the environment defined for its use or performance, or (iii) incorrect or incomplete documentation.

2.8 "Engagement Order" means the Transaction Document relating to the Services contemplated in Section D.

2.9 "Goods" means any items supplied to SANPC by the Supplier as provided for in Sections A and C.

2.10 "Indemnitee" being the Party, other than the Indemnitor, to the extent that it relies upon the indemnity of the Indemnitor in terms of these Terms and Conditions.

2.11 "Indemnitor" being either of the Parties referred to in sub-clause 2.15 to the extent that it indemnifies the other in terms of these Terms and Conditions.

2.12 "Intellectual Property" means any: know-how (not in the public domain); invention (whether or not patented); design, trade mark, or copyright material (whether or not registered). For the purposes of this definition, "copyright material" means any material in which copyright subsists.

2.13 "Loan Equipment" means any equipment which either Party has lent to the other, regardless as to whether such loan is regulated in terms of a Transaction Document.

2.14 "Losses" means all losses, liabilities, damages and claims, and all related costs and expenses (including legal charges on the scale as between attorney and own client, tracing and collection charges, costs of investigation, interest and penalties).

2.15 "Parties" mean the parties to the Acceptance Agreement, being SANPC and the Supplier.

2.16 “Person” means any natural or juristic person.

2.17 "Personal Information" means information relating to an identifiable Person, including information relating to the Person's:

2.17.1 race, sex, gender, sexual orientation, pregnancy, marital status, nationality, ethnic or social origin, colour, age, physical or mental health, well-being, disability, religion, conscience, belief, cultural affiliation, language and birth;

2.17.2 education, medical, financial, criminal, tax or employment history;

2.17.3 name, any identifying numbers, passwords and pincodes, numeric- alfa- or alpha-numeric design or configuration of any nature, symbol, e-mail address, website address, physical address, cellular phone number, telephone number, VAT registration number or other particular assignment;

2.17.4 blood type or any other biometric information; and

2.17.5 personal opinions, views or preferences and views and opinions about another Person.

2.18 "Purchase Order" means the Transaction Document relating to the supply of Goods referred to in Section C.

2.19 "Relationship Manager" means one individual designated by each Party in writing to the other to whom all communications regarding these Terms and Conditions will be addressed. Either Party may replace such individuals from time to time on reasonable prior notice.

2.20 "Services" means the services, functions and responsibilities, as defined in the Service Orders or in the Engagement Orders as these may evolve during the continued duration of these Terms and Conditions and as they may be supplemented, enhanced, modified or replaced in accordance with the terms of these Terms and Conditions.

2.21 “Service Order” means the Transaction Document relating to the Services contemplated in Section B.

2.22 "Staff" means any employee, independent contractor, agent, consultant, sub-contractor or other representative of either Party. For the purposes of Sections A and D in relation to the labour supply function of the Supplier, the Supplier's Staff shall include Assigned Staff.

2.23 “Supplier” means an existing or potential vendor, contractor or service provider. A Supplier may be a natural person or a legal entity.

2.24 "Termination/Expiration Assistance" means the provision by the Supplier of all reasonable information and assistance to SANPC to enable SANPC or a third party designated by SANPC

to take over the Supplier's obligations under any Contract Document in the event of termination or expiration of these Terms and Conditions as provided for in clauses 28, 29 and 34.

2.25 "Transaction Documents" means Service Orders, Purchase Orders or Engagement Orders, executed in terms of clause 4 hereunder.

2.26 "Works" means any deliverable which is in the nature of an installation, construction, assembly or similar work delivered in whole or party in consequence of the issuance of a Transaction Document.

3 STRUCTURE OF THESE TERMS AND CONDITIONS

3.1 Unless otherwise agreed in writing, the provisions of these Terms and Conditions are applicable to all the Suppliers of Goods and Services to SANPC as well as to any Suppliers providing Assigned Staff members to SANPC.

3.2 For the avoidance of doubt, it is specifically recorded that any deviation from these Terms and Conditions must be specifically identified and recorded as such in order to be effective against either Party. In this regard, to the extent that any Supplier terms and conditions stated upon a quotation, an invoice, a proposal or any other contractual document furnished by the Supplier to SANPC conflict with these Terms and Conditions, such deviation shall be of no force or effect unless specifically identified and recorded as such and signed by both Parties.

3.3 These Terms and Conditions shall be binding upon the Parties following the execution by them of an Acceptance Agreement.

3.4 These Terms and Conditions consist of four parts, namely:

3.4.1 Section A. being the general terms and conditions;

3.4.2 Section B. being the terms and conditions applicable to the provision of Services by the Supplier to SANPC other than Labour Supply Services;

3.4.3 Section C. being the terms and conditions applicable to the supply of Goods by the Supplier to SANPC; and

3.4.4 Section D. being the terms and conditions applicable to Labour Supply by the Supplier.

3.5 The provisions of sub-clause 3.4.1 shall be applicable to all the Suppliers regardless of the Goods and/or Services which they may provide to SANPC. To the extent that the Supplier is engaged in any of the categories of the supply or service provision contemplated in sub-clauses 3.4.2, 3.4.3 or 3.4.4, these Terms and Conditions shall regulate such activities.

4 TRANSACTION DOCUMENT(S)

4.1 Any provision of Services in terms of Section A and B, these Terms and Conditions shall be contracted for in terms of the Service Order executed hereunder. Service Orders shall be governed by these Terms and Conditions.

4.2 Any supply of Goods in terms of Section A and C, these Terms and Conditions shall be contracted for in terms of a Purchase Order executed hereunder. Purchase Orders shall be governed by these Terms and Conditions.

4.3 Any provision of Assigned Staff members by the Supplier, in terms of Section A and D, to SANPC shall be contracted for in terms of an Engagement Order executed hereunder. Engagement Orders shall be governed by these Terms and Conditions.

4.4 The terms and conditions set forth in a Transaction Document shall not be effective until such Transaction Document is executed by both Parties in accordance with these Terms and Conditions. Unless otherwise agreed between the Parties in writing, any work, supply or service undertaken by the Supplier which is not set forth in an executed Transaction Document shall be at the Supplier's risk and cost.

4.5 A Transaction Document may amend the terms and conditions of these Terms and Conditions only with respect to the subject matter of such Transaction Document and only if the Transaction Document expressly identifies the clause(s) contained in these Terms and Conditions that is being amended and explicitly states that it is the intent of the Parties to amend such clause.

PART II

Section A. General Terms and Conditions

5 DURATION

5.1 These Terms and Conditions shall commence upon the Effective Date of any Acceptance Agreement concluded between the Parties under these Terms and Conditions and shall endure thereafter for the period stated in that Acceptance Agreement.

5.2 It is specifically recorded that these Terms and Conditions provide for the early termination of the relationship between the Parties by SANPC under certain circumstances. Such early termination may be in respect of particular Acceptance Agreements between the Parties, particular Transaction Documents, or the entire relationship between the Parties.

6 THE SUPPLIER'S DUTIES

6.1 The Supplier shall, to the extent possible and/or permissible, cede to SANPC the benefits of warranties and indemnities received from third party manufacturers, lessors or licensors of items supplied to SANPC under any agreements between the Supplier and such manufacturers, lessors or licensors. In order to give due and proper effect to the terms of this clause, the Supplier undertakes, as and when requested by SANPC in writing, to execute all such instruments and to do all such things as may be necessary (and to the extent that the Supplier is permitted) to effect the cession and in the event of the Supplier failing to comply promptly with any such request, the Supplier hereby irrevocably nominates, constitutes and appoints SANPC to be its agent, with power to sign all such documents and do all such acts, matters and things as may be necessary to effect the cession. If the cession contemplated in this sub-clause 6.1 is not effected as contemplated, then in such circumstances the Supplier shall enforce such warranties and indemnities as reasonably directed by SANPC and at the cost of SANPC. The Supplier shall comply with all terms and conditions of agreements with such manufacturers, lessors or licensors.

6.2 Notwithstanding the foregoing, the Supplier acknowledges that, in all its negotiations and agreements with such manufacturers, lessors or licensors, it is obliged to apply its best endeavours to ensuring that all such warranties and indemnities are capable of cession. To the extent that this is not possible, the Parties shall co-operate to achieve an alternative arrangement acceptable to both Parties.

6.3 The Supplier shall at all times during the currency of these Terms and Conditions, maintain the appointment of a Relationship Manager. It is recorded that the Relationship Manager's duties shall include, but not be limited to, the settlement of financial aspects of the relationship between the Parties, the regulation of financial and legal relationships, the governance of the

Contract Documents and the responsibility of maintaining professional relationships between the Parties.

6.4 The Supplier shall at all times during the currency of these Terms and Conditions, be required to procure the availability of sufficient numbers of key Supplier Staff with knowledge of SANPC's requirements and technical expertise relating to those requirements.

6.5 SANPC shall be entitled, by giving no less than 2 (two) business days written notice thereof to the Supplier's Relationship Manager setting out full and precise reasons, to require the Supplier to reconsider the deployment of any member of the Supplier Staff who, in its reasonable opinion, is failing to perform his duties in a satisfactory manner. The Supplier shall investigate the complaint and shall, if it is able to rectify the conduct of that member of the Supplier Staff within 2 (two) business days of its receipt of such complaint, do so, failing which it shall ensure that such Staff member is withdrawn from the SANPC environment. The aforegoing notwithstanding, where in SANPC's reasonable opinion, circumstances warrant an accelerated process in terms of this sub-clause 6.5, the time periods set out above may be adjusted.

6.6 The Supplier undertakes to apply best endeavours to ensuring that it shall materially comply in all respects with all regulatory and other obligations imposed upon it in terms of any law or in terms of any guidelines in respect of corporate governance.

6.7 The Supplier undertakes that it shall ensure:

6.7.1 that it and its Staff shall adhere to SANPC security policies of general application to SANPC Staff;

6.7.2 that it and its Staff shall, while on SANPC premises, conduct themselves in a manner which is appropriate to the context of a well-managed corporate environment and is appropriately respectful to the interests of all Staff.

6.8 Should SANPC at any time have reason to believe that any member of the Supplier's Staff is failing to comply with the policies and procedures set out in these Terms and Conditions or that such Staff member poses a threat or risk to SANPC, SANPC shall be entitled to deny such Staff member access to any or all of SANPC's premises and require the Supplier to withdraw such member of Staff from the Supplier's provision of Services to SANPC without delay and shall within 7 (seven) days of such decision, furnish the Supplier with a written report setting forth the full and precise reasons for its decision in terms of this clause.

6.9 The Supplier shall be obliged to procure that Staff who no longer require a right of access to SANPC premises or any part thereof for the normal performance of their services shall immediately return all access cards, security codes and any other like SANPC property to SANPC.

6.10 The Supplier shall undertake the Services in compliance with the requirements set forth in the Transaction Documents.

6.11 The Supplier undertakes to apply reasonable endeavours to promptly bring to SANPC's attention an act or omission of SANPC or its Staff, which may impact upon the provision of Services.

6.12 The Supplier shall be responsible for developing and/or maintaining up-to-date documentation pertaining to any Services and/or Goods provided to SANPC. The form and substance of Documentation (including any updates thereto) shall be specified in the applicable Transaction Document and shall be subject to SANPC's approval.

6.13 The Supplier shall attend, and procure the attendance of its Staff, at all meetings required in terms of the Transaction Documents.

6.14 The Supplier shall prepare all reports as required in terms of the Transaction Documents.

7 SANPC'S DUTIES

7.1 SANPC shall grant the Supplier reasonable access to data, information, equipment and facilities, as reasonably required by the Supplier in order to effectively perform its duties and obligations in terms of the Contract Documents.

7.2 SANPC shall for the duration of these Terms and Conditions allow the Supplier's Staff to make reasonable use of SANPC's resources and facilities as are necessary for it to perform its duties and obligations in terms of the Contract Documents. Commonly such resources and facilities shall consist of a lay down area, ablution facilities, telephone and fax connection points, water and electricity supplies, and other such reasonably required resources at the SANPC premises, i.e. cranage.

7.3 SANPC shall, where required, provide the Supplier with such access to SANPC sites as is reasonably necessary for the purposes of enabling the Supplier to perform its duties and obligations in terms of the Contract Documents.

7.4 SANPC shall ensure that the Supplier is afforded the reasonable assistance by SANPC Staff as is reasonably required by the Supplier to effectively perform its duties and obligations in terms of the Contract Documents provided that adequate notice of such requirement is given.

7.5 SANPC undertakes to apply reasonable endeavours to promptly bring to the Supplier's attention an act or omission of the Supplier or its Staff which may impact upon the Supplier's performance of its duties and obligations in terms of the Contract Documents. In addition, SANPC undertakes to apply reasonable endeavours to promptly bring to the Supplier's attention an act or omission of SANPC or its Staff, which may impact upon its performance of its duties and obligations in terms of the Contract Documents.

7.6 SANPC shall take reasonable measures to ensure that the users of the Services and Goods provided by the Supplier under these Terms and Conditions use such Services and Goods as intended to the extent expressly set forth in the Transaction Documents.

8 THE SUPPLIER TESTING

8.1 Prior to presenting any Goods or any other deliverable to SANPC to carry out acceptance testing, the Supplier shall submit to SANPC for its review and approval its pre-acceptance testing plan. The Supplier shall perform all testing required in accordance with the pre-acceptance testing plan in accordance with such plan as approved by SANPC.

8.2 If the Supplier is responsible for installation and/or implementation of any Goods or deliverables under the applicable Transaction Document, the Supplier shall implement and/or install such Goods and deliverables and verify that the Goods or deliverables have been properly implemented.

8.3 The pre-acceptance testing plan and any other testing required under sub-clause 8.2 shall be sufficiently rigorous to identify any Deficiencies that are reasonably discoverable.

8.4 The Supplier shall promptly remedy any Deficiencies identified during such pre-acceptance testing and retest the Goods or deliverables in accordance with sub-clause 8.2 to verify that the Deficiency has been successfully remedied and that there are no other Deficiencies. The

Supplier shall repeat this testing and remedial process until the pre-acceptance testing required under this sub-clause 8.2 is accomplished without revealing any Deficiencies.

9 INSPECTION

SANPC shall at all reasonable times be entitled to inspect the Goods to be supplied by the Supplier at the premises of the Supplier and/or its sub-contractors. The Supplier shall make the necessary arrangements for SANPC's access to the Goods. Failure to inspect the Goods shall in no way impair SANPC's rights under the common law or those set out in these Terms and Conditions, nor be deemed to constitute acceptance by SANPC of the Goods, notwithstanding SANPC's opportunity to inspect the Goods or the substantiality or ease of discovery of the defect or non-conformity.

10 ACCEPTANCE TESTING AND ACCEPTANCE (QUALITY CONTROL)

10.1 Prior to the date on which the Supplier is scheduled to deliver any Goods or other deliverables, the Supplier shall develop and present to SANPC for its review and approval an appropriate set of acceptance criteria for SANPC's use in the acceptance testing of such items.

10.2 The Supplier shall present to SANPC for its review and approval the acceptance criteria sufficiently in advance of its presentation to SANPC of the items so that SANPC has a reasonable period of time to review the acceptance criteria in detail, determine the adequacy of the acceptance criteria to evaluate whether the items meets SANPC's requirements, and provide its comments to the Supplier.

10.3 If SANPC does not approve the acceptance criteria, SANPC shall as soon as practicable notify the Supplier thereof in writing and provide the Supplier with a sufficiently detailed written description of the reasons for its decision to reject the acceptance criteria to enable the Supplier to correct the same.

10.4 The Supplier shall as soon as is practicable (i) revise the acceptance criteria to address SANPC's concerns, resubmit to SANPC the acceptance criteria for SANPC's review and approval; or (ii) where appropriate, furnish SANPC with a written explanation of the applicable acceptance criteria to SANPC's satisfaction.

10.5 The acceptance criteria shall be fully documented by the Supplier and shall, as a minimum, require: (i) That the items not contain any Deficiencies; (ii) That the items satisfy SANPC's stated business needs based upon functional and technical specifications in respect thereof as defined in the applicable Transaction Document as of the later of the Effective Date of the applicable Transaction Document and the date that SANPC requests that the Supplier produce such item, unless a fixed price for an item has been agreed in advance, in which case the date shall be the Effective Date of the applicable Transaction Document; (iii) That SANPC has successfully completed a security audit; and (iv) The timeframes applicable for acceptance testing by SANPC of the item.

10.6 The Supplier acknowledges that each item of Goods or other deliverables or any Services provided to SANPC requires formal acceptance by SANPC, which can only be accomplished in accordance with this clause 10. Upon successful completion of all requirements described in clause 8 and sub-clauses 10.1 to 10.5, the Supplier shall present the items to SANPC at the location designated by SANPC for acceptance testing.

10.7 SANPC shall commence acceptance testing of the Goods or other deliverables as soon as practical following delivery thereof.

10.8 Acceptance testing shall determine whether the delivered items operate in accordance with their specifications and complies with the acceptance criteria, where applicable.

10.9 During acceptance testing, the Supplier shall assist SANPC, to the extent necessary and reasonable, in conducting the acceptance testing and respond to any queries relating to the items within a reasonable time.

10.10 The Supplier shall be entitled at any time after the expiry of the period referred to in sub-clause 10.15, to deliver written notice to SANPC requiring SANPC to identify any part of any deliverable item which contains any Deficiencies and to provide a documented example of the fault in question. Should SANPC fail to comply with any such notice within 7 (seven) days of receipt thereof, SANPC shall be deemed to have accepted the item.

10.11 If SANPC discovers a Deficiency, SANPC shall promptly inform the Supplier in writing thereof. The Supplier shall, at no charge to SANPC, correct each Deficiency within 24 (twenty four) hours of receiving SANPC's notice of such Deficiency, or where it is not reasonably possible to do so, within such longer period as the Parties may agree in writing as reasonably required, provided that the Supplier shall be under no such obligation where the Deficiency arises from the acts, omissions or delays of SANPC.

10.12 Upon correction of the Deficiencies, the Supplier shall repeat the process described in sub-clause 8.2 and resubmit the corrected item to SANPC for acceptance testing.

10.13 Following acceptance testing, if SANPC does not accept the item it shall give the Supplier written notice of its rejection (including a written and sufficiently detailed description of the Deficiencies in order to enable the Supplier to remedy same) and a final period of 14 (fourteen) days in which to correct the Deficiency. If the Supplier is unable to correct the Deficiency within this period, then SANPC may in its sole discretion elect to:

10.13.1 Direct the Supplier to continue its efforts to make the item comply with the acceptance criteria, in which case the Supplier shall continue such efforts; or

10.13.2 Accept the item with its Deficiencies, in which event the charges with respect to such Goods or other deliverable shall be equitably reduced to reflect the presence of such Deficiencies; or

10.13.3 Without limiting the generality of SANPC's right to terminate these Terms and Conditions and/or any Transaction Document for cause under sub-clause 28.1, terminate the Transaction Document without liability by written notice to the Supplier, in which case the Supplier shall, at SANPC's request, refund to SANPC all amounts paid by SANPC to the Supplier in terms of the applicable Transaction Document whereupon the Supplier shall be entitled to remove the items from SANPC's premises. Such refund shall be made within 14 (fourteen) days of receiving SANPC's notice.

10.14 For the purposes of this clause 10, an upgrade, enhancement or modification to supported/maintained items shall be subject to acceptance testing.

10.15 Subject to the full co-operation by the Supplier and the number and severity measure/serious nature of the Deficiencies identified by SANPC during the acceptance testing process, SANPC shall use reasonable endeavours to complete the acceptance testing and accept or reject the items subject to testing.

11 CHARGES

11.1 The charges applicable to performing Services, providing goods or providing Assigned Staff members under these Terms and Conditions shall be as specified in the individual Transaction Documents.

11.2 The charges specified in a Transaction Documents shall include, where applicable, all taxes, duties and trade discounts but exclude any settlement discounts.

11.3 VAT applicable to any charges payable is to be reflected separately in each Transaction Document. SANPC shall pay all VAT that is payable on such charges and expenses.

11.4 In all instances, SANPC may demand, before payment is made, that the price computation be substantiated by documentary evidence.

11.5 In the absence of any special arrangements to the contrary contained in a Transaction Document, the cost of packing materials and containers of whatsoever nature shall be included in the charges in respect of a Transaction Document and such packing materials and containers shall upon delivery of the goods become the property of SANPC. The Supplier shall be liable for any loss or damage due to inadequate packing.

11.6 If the Services under a Transaction Document are performed on a time and materials basis, the Supplier will be compensated only for actual hours of work performed and such compensation shall be at the rates set forth in the applicable Transaction Document. In this regard, the following further provisions are of application:

11.6.1 All rates are deemed to be fully inclusive of all the Supplier's Staff costs and expenses for rendering the Services pursuant to these Terms and Conditions, including protective and safety clothing, mobilisation and demobilisation costs, compliance with laws, including but not limited to, the Supplier's portion of any employee insurance and social security benefits, payroll and income taxes, levies, premiums for insurance and all other contributions and benefits and the costs to the Supplier for its Staff, unless otherwise specifically provided for in the applicable Transaction Document.

11.6.2 Time and materials rates, and unit rates and fixed prices are deemed to be inclusive of any and all costs and expenses incurred by the Supplier in establishing and maintaining a supply base/office or any other establishment.

11.6.3 The Supplier shall be deemed to have satisfied itself as regards the sufficiency of its rates for the Services or goods as specified in a Transaction Document and all such rates shall remain fixed and firm for the duration of the applicable Transaction Document unless otherwise specifically provided for in that Transaction Document.

11.6.4 In respect of an Engagement Order, the Supplier's invoices shall contain sufficient detail as required by SANPC to support all time and materials rates for Assigned Staff, materials and equipment, including, but not limited to, approved work summaries and a full accounting of the attendance record of the Assigned Staff, and, if applicable, third-Party invoices.

11.6.5 In respect of any time and materials charges levied by the Supplier in respect of work performed by its Staff, all hours for such Staff shall be recorded and authorised in strict accordance with SANPC's Time and Attendance System.

11.6.6 The Supplier shall pay the costs associated with any Offshore Survival Courses as they fall due for all Staff sent offshore to perform the Services unless otherwise specifically provided for in a Transaction Document.

11.7 Third party expenses specifically identified in the Transaction Document shall be treated as pass-through expenses in accordance with sub-clause 11.11 to the extent that such third party expenses do not exceed the estimate therefor set forth in the Transaction Document. Unless authorised by SANPC in writing, any third party expenses not so identified (including third party expenses in excess of the estimate set forth in the Transaction Document and any expenses

for which no estimate was set forth in the Transaction Document) shall be for the Supplier's account. The Supplier shall not incur any third party expense as a pass-through expense without SANPC's prior consent.

11.8 Unless otherwise specified in a Transaction Document, all charges and expenses set out in a Transaction Document are inclusive of any export and import tax as at the Effective Date of such Transaction Document.

11.9 Unless specifically agreed to the contrary, the Supplier will quote all prices in South African Rand.

11.10 Both Parties acknowledge that the charges specified in the Transaction Document are intended to compensate the Supplier fully for all Services, Goods or Assigned Staff provided or supplied pursuant to such Transaction Document. Accordingly, SANPC will not be obligated to pay the Supplier any amounts in addition to those specifically described in a Transaction Document.

11.11 With respect to any expenses that are to be treated in a Transaction Document as a pass-through expense, the following shall apply: (i) The Supplier shall arrange to receive the invoices for each pass-through expense. Promptly following the receipt of an invoice, the Supplier shall review such invoice and determine which charges are valid and proper. The Supplier shall then provide SANPC with such invoice together with a statement identifying the charges that are, and are not, proper and valid. Payment shall be made directly to the third party by SANPC; (ii) The Supplier shall not apply a margin to or otherwise mark-up or charge an administration fee for pass-through expenses; (iii) The Supplier shall use commercially reasonable efforts to minimise the cost of goods and services provided to SANPC on a pass-through expense basis. With respect to services or materials paid for on a pass-through expense basis, SANPC reserves the right to: (a) obtain such services or materials directly from a third party; (b) designate the third party source for such services or materials; (c) designate the particular services or materials (e.g., in the case of Hardware, make and model) the Supplier shall obtain; (d) require the Supplier to identify and consider multiple sources for such services or materials or to conduct a competitive procurement; and (e) review and approve the pass-through expense for such services or materials before entering into a contract for such services or materials; and (iv) materials procured on a pass-through expense basis shall be acquired by the Supplier in SANPC's name and SANPC shall have all right, title and interest in such materials.

12 PAYMENT

12.1 Original invoices and monthly statements are to be sent to SANPC by the end of a calendar month in which the charges arose. Invoices shall be made monthly in arrear and shall only be considered for payment when accompanied by originals of the supporting documentation signed by SANPC's authorised representative and the invoice has been approved for payment.

12.2 Payment on invoices will be made by no later than the 25th day of the month following the month of invoice.

12.3 SANPC shall not be obliged to pay any invoice or demand for payment received by SANPC more than 90 (ninety) days from the date of expiry or termination of the associated Transaction Document or the completion of performance under that Transaction Document, whichever is the earlier occurring.

12.4 SANPC shall be entitled to stipulate, on reasonable written notice, invoicing standards applicable to any invoice issued by The Supplier.

12.5 The Supplier shall maintain complete and accurate records of, and supporting documentation for the amounts billed to and payments made by SANPC in accordance with generally accepted accounting principles applied on a consistent basis. The Supplier agrees to provide SANPC with any and all information with respect to each invoice as may be reasonably requested by SANPC to verify accuracy and compliance with the provisions of these Terms and Conditions.

12.6 With respect to any amount that is to be paid by SANPC under these Terms and Conditions, SANPC may set-off against such amount any amount that the Supplier is obliged to pay SANPC whether under these Terms and Conditions or otherwise.

12.7 Subject to sub-clause 12.6, SANPC shall pay undisputed charges when such payments are due under these Terms and Conditions. SANPC may withhold any amounts that it disputes in good faith, provided that such amount in dispute shall be automatically referred to dispute resolution in terms of clause 32.

12.8 Any undisputed amount payable by SANPC to the Supplier shall bear interest at the prime lending rate plus one percent charged by ABSA Bank Limited from time to time as certified by any branch manager of such Bank whose authority it shall not be necessary to prove, from due date to date of actual payment, both days inclusive.

13 THE SUPPLIER'S WARRANTIES

13.1 The Supplier represents and warrants that it shall at all times: (i) use adequate numbers of qualified Staff with suitable training, education, experience and skill to perform the Services; (ii) use and adopt any standards and processes required under Transaction Documents; and (iii) provide the Services and Goods with promptness and diligence and in a workmanlike manner and in accordance with the practices and high professional standards used in well-managed operations performing services similar to the Services or supplying goods similar to the Goods.

13.2 The Supplier represents and warrants that it shall at all times with respect to Services for which the Supplier is compensated on a time and materials basis, use its best efforts to perform the Services in the most cost-effective manner consistent with the level of quality and performance required under these Terms and Conditions and the applicable Transaction Documents.

13.3 The Supplier represents and warrants that it shall at all times perform its responsibilities under these Terms and Conditions and under any Transaction Documents in a manner that does not infringe, or constitute an infringement or misappropriation of, any Intellectual Property or other proprietary rights of any third party and have the rights required to meet its obligations under clause 17.

13.4 The Supplier represents and warrants that it shall: (i) be authorised to distribute, licence, support and maintain any item provided to SANPC under these Terms and Conditions; (ii) has all the necessary licences, certificates, authorisations and consents required under the laws of the Republic of South Africa or under any other applicable jurisdiction for the provision of the Goods and/or Services; (iii) that it shall comply with all legal requirements and with the terms and conditions of all licences, certificates, authorisations and consents required for the provision of the Goods and/or Services; and (iv) ensure that upon the date of delivery of any Goods, possession or use of such Goods by SANPC within the territory(ies) in which SANPC takes receipt thereof shall not breach any law or regulation of that territory(ies) or of the territory from which the Goods were sourced.

13.5 The Supplier represents and warrants that it shall at all times: (i) ensure that Goods shall comply with the specifications therefore stipulated in the applicable Transaction Document in terms of which they are supplied or procured or in terms of the specifications of the original equipment

manufacturer; (ii) ensure that any and all spare parts required for the maintenance of Goods shall be available to SANPC within 24 (twenty four) hours of being requested by SANPC and that it shall have access to a supply of all spare parts required for the maintenance of such Goods, for a period of 5 (five) years from the Effective Date of the Transaction Document in terms of which Goods are supplied to SANPC; and (iii) all Goods developed or delivered by the Supplier pursuant to a Transaction Document will be free from Deficiencies and will comply in all respects with the technical and functional specifications therefor as agreed by the Parties and annexed to that Transaction Document.

13.6 To the extent that the Supplier fails in any respect to comply with the above warranties and without in any way detracting from whatever other rights and remedies SANPC may have, the Supplier hereby indemnifies and holds SANPC harmless against any Losses incurred as a result of such failure.

13.7 Notwithstanding sub-clause 13.6, to the extent that the Supplier fails in any respect to comply with the warranties in sub-clause 13.3, and without in any way detracting from whatever other rights and remedies SANPC may have, the Supplier shall promptly at the Supplier's expense use its best efforts to secure for SANPC the right to continue using the item or replace or modify the item to make it non-infringing, provided that any such replacement or modification will not degrade the performance or quality of the affected component of the Services. In the event that none of such actions can be accomplished by the Supplier, and only in such event, the Supplier shall remove the item from the Services and the Supplier's charges shall be equitably reduced to reflect the reduction in the value of the Services to SANPC. SANPC may terminate the agreement or the applicable Transaction Document without liability and without prejudice to any claims against the Supplier which SANPC may have, if the Supplier removes the item from the Services and, in SANPC's reasonable opinion, inclusion of such item in the Services is material to the value of, and benefit derived from the Services by SANPC.

13.8 The Supplier may from time to time provide certain Goods and other items for which the Supplier is entitled to warranties and indemnities from the manufacturers, lessors or licensors of such items. Without limiting the generality of the Supplier's other warranties and indemnities under these Terms and Conditions, the Supplier shall (i) pass through to SANPC the benefits of such warranties and indemnities to the extent that the Supplier is permitted under any agreements between the Supplier and such manufacturers, lessors or licensors, and (ii) enforce such warranties and indemnities as directed by SANPC. The Supplier shall comply with all terms and conditions of agreements with such manufacturers, lessors or licensors.

14 INSURANCE

14.1 The Supplier shall for the continued duration of these Terms and Conditions have and maintain in force sufficient insurance to cover both its obligations and liabilities under these Terms and Conditions. The Supplier shall provide on request a copy of such insurance policy to SANPC. In this regard:

14.1.1 The Supplier shall be responsible for providing its own insurance such as public liability insurance and specifically comprehensively insure all its own plant, material and equipment on an all risk basis, as well as workmen's compensation insurance as required in terms of the provision of the Compensation for Occupational Injuries and Diseases Act No 130 of 1993 as amended or any similar enactment which may replace this Act.

14.1.2 Should the insurers dispute in whole or in part their liability for any reason, the Supplier shall have recourse against the insurers only.

14.1.3 There shall be no subrogation against SANPC, its agents or representatives under these insurances, whether mentioned herein or not, and taken out by or maintained by the Supplier.

14.2 The Supplier should on demand furnish proof of its insurer's knowledge of the above undertaking.

14.3 Where hazardous goods are transported pursuant to a Transaction Document, the Supplier shall observe the requirements of South African and international agreements relating to the packing, labelling and carriage of hazardous goods and shall obtain adequate insurance to cover any potential hazards which may be occasioned through the transportation of such goods.

14.4 SANPC reserves the right to amend the terms of insurance as instructed from time to time by its insurers. Any amendments resulting from such instructions will be negotiated between the Parties.

15 INDEMNITIES

15.1 The Supplier hereby indemnifies and holds harmless SANPC, its successors and assigns, from any and all Losses arising from or in connection with any claim or action arising from the Supplier's failure to observe or perform any duties or obligations to be observed or performed on or after the Effective Date by the Supplier under licenses for third party Intellectual Property or third party service contracts.

15.2 The Supplier hereby indemnifies and holds harmless SANPC, its successors and assigns, from any and all Losses arising from any claim of infringement of any third party Intellectual Property or other proprietary rights, alleged to have occurred because of SANPC's use of any Goods or other resources provided by the Supplier to SANPC, or based upon performance of the Services by the Supplier.

15.3 The Supplier hereby indemnifies and holds harmless SANPC, its successors and assigns, from any and all Losses arising from any claim arising out of the Supplier's insurance obligations pursuant to clause 14.

15.4 The Supplier hereby indemnifies and holds harmless SANPC, its successors and assigns, from any and all Losses arising from any claim or action arising from the Supplier's failure to observe or perform any duties or obligations in accordance with any law, licence, certificate, authorisations and consents required for the provision of Goods and/or Services by the Supplier to SANPC.

15.5 Without in any way detracting from the rights of SANPC in terms of these Terms and Conditions, the Supplier hereby indemnifies and holds harmless SANPC, its successors and assigns, from any and all Losses which SANPC may suffer as a result of any breach by the Supplier of the warranties in clause 13.

15.6 Indemnitor hereby indemnifies and holds harmless Indemnitee, its successors and assigns, from any and all Losses arising from or in connection with any claim or action arising from Indemnitor's breach of any obligation with respect to Confidential Information.

15.7 Indemnitor hereby indemnifies and holds harmless Indemnitee, its successors and assigns, from any and all Losses arising from or in connection with: (i) the death or bodily injury of any Staff, client, business invitee, or business visitor or other person caused by the Indemnitor; (ii) the damage, loss or destruction of any real or tangible personal property of any Staff, client, business invitee, or business visitor or other person caused by the Indemnitor; and (iii) any claim by any Staff, client, business invitee, or business visitor or other person against the

Indemnitee but resulting from an act or omission of the Indemnitor in its capacity as an employer of any person.

16 INDEMNITY PROCEDURES FOR THIRD PARTY CLAIMS AGAINST SANPC

16.1 Within 24 (twenty four) hours after receipt of notice of the commencement or threatened commencement of any civil, criminal, administrative, or investigative action or proceeding involving a claim in respect of which SANPC seeks indemnification pursuant to clause 15, SANPC will notify the Supplier of such claim in writing and advise the Supplier of its election to: (i) assume control of the defence and/or settlement of that claim; or (ii) instruct the Supplier to assume control of the defence and/or settlement of that claim; or (iii) recommend to the Supplier that such claim not be defended or settled.

16.2 If SANPC, in terms of sub-clause 16.1, recommends that any claim not be defended or settled, the Supplier shall have the election, within 24 (hours) of SANPC's notice in terms of sub-clause 16.1, to either: (i) pay the value of such claim to SANPC; or (ii) defend and/or settle the claim, at the Supplier's expense, in which event the provisions of sub-clause 16.3 shall apply.

16.3 If the Supplier, in terms of sub-clause 16.1, is instructed by SANPC to control the defence and/or settlement of a claim, it shall do so at its own cost and shall at all times comply with all of SANPC's reasonable instructions and required actions relating to the defence and/or settlement of such claim. Under no circumstances shall the Supplier without the prior written approval of SANPC: (i) make any admission or acknowledgement that would be binding on or prejudicial to the interests of SANPC; (ii) settle, compromise or cease to defend any such claim.

16.4 If SANPC, in terms of sub-clause 16.1, assumes control of the defence and/or settlement of a claim, the Supplier acknowledges that: (i) SANPC shall have sole control over such defence and/or settlement; (ii) SANPC shall be entitled to join the Supplier to any such proceedings, in which event the Supplier shall, in consultation with SANPC, defend such proceedings at its own cost. The aforegoing notwithstanding, SANPC's costs in defending and/or settling any such claim shall be for the Supplier's account.

16.5 The Supplier shall at all times be entitled, upon written notice to SANPC, to participate in any such proceedings (including the right to instruct its own attorneys and/or counsel). Any such participation shall be for the Supplier's account.

17 INTELLECTUAL PROPERTY RIGHTS

17.1 SANPC retains all right, title and interest in and to SANPC Intellectual Property.

17.2 Data, Literary works or other works of authorship generated in the course of performing Services, such as manuals, training materials, reports, and other Documentation, shall be owned by SANPC. SANPC shall have sole and exclusive ownership of reports generated by the Supplier under these Terms and Conditions and of all SANPC data. Further, all Intellectual Property rights in such items shall be and remain the sole property of SANPC, notwithstanding termination of these Terms and Conditions or any Transaction Document, and the Supplier hereby assigns, without any further consideration, all right, title and interest in and to such items to SANPC.

17.3 The Supplier retains all right, title and interest in and to the Supplier’s Intellectual Property that is used in connection with the Services and which is listed in each Transaction Document.

17.4 The Supplier shall not introduce into SANPC's environment any third party Intellectual Property for the continued duration of these Terms and Conditions or otherwise use such third party Intellectual Property to provide the Services without first obtaining SANPC's written consent

thereto. To the extent that SANPC grants such consent, the Supplier shall be responsible for obtaining a licence on behalf of SANPC and in SANPC's name, to use such third party Intellectual Property from the third party.

18 CHANGE CONTROL

18.1 The Supplier shall control and manage changes to the Services, to the environment in which it provides the Services, and to Goods that it maintains and supports as part of the Services, in accordance with the change control requirements of SANPC's then current change management standards and procedures and this clause 18. The Supplier shall not take any action or make any decision which may (i) have a material effect on SANPC or its data or equipment, or (ii) adversely affect the performance or efficiency of, or charges for (including third party expenses) the Services, without first (a) analysing the possible action or change and providing SANPC with a change control report; (b) providing SANPC with a reasonable period of time to review the change control report; and (c) obtaining SANPC's consent to the proposed change. With respect to any change which may have an adverse effect on SANPC or the Services, SANPC may withhold its approval in its sole discretion.

18.2 The Supplier shall schedule changes so as to minimise disruption of SANPC's normal business operations.

18.3 Until such time as any changes have been agreed by SANPC in writing, the Parties shall continue to perform their respective obligations in terms of these Terms and Conditions.

18.4 Changes shall be implemented in accordance with priorities designated by SANPC.

19 LOAN EQUIPMENT

19.1 No lien over any Loan Equipment shall be established in favour of the Party in possession of such Loan Equipment.

19.2 The Party in possession of the Loan Equipment shall be entitled to retain such Loan Equipment for such use as shall be as agreed between the Parties, it being recorded that the Parties acknowledge that it is desirable that such terms be recorded in a Transaction Document. During the period of the loan, the Party in possession of the Loan Equipment shall:

19.2.1 take proper and diligent care of such Loan Equipment;

19.2.2 mark all items owned by SANPC uniquely;

19.2.3 take all reasonable steps to exclude any landlord's hypothec over such Loan Equipment including giving any landlord written notice of the other's Party's ownership of such Loan Equipment; and

19.2.4 accept all risk in the Loan Equipment taking reasonable steps to protect the Loan Equipment from loss and/or damage and shall insure same against all risks. Both Parties shall be entitled to make reasonable inspections of the other's premises at which such Loan Equipment is located in order to establish whether or not the other is complying with its obligations in terms of this clause 19.

19.3 The Party in possession of Loan Equipment shall return such Loan Equipment to the owner on the termination of the loan period in the same condition in which it was received, fair wear and tear excepted and shall remedy to the satisfaction of the other, any damage to the Loan Equipment sustained whilst under its care; alternatively, in the event of the Loan Equipment being damaged beyond repair, shall, on written demand by the other and forthwith, replace such Loan Equipment with new equipment of the same standard, quality and specification.

20 AUDITS

20.1 The Supplier shall allow SANPC, its auditors (including internal audit Staff and external auditors) as SANPC may from time to time designate in writing, access at all reasonable times to any facility or part of a facility at which either the Supplier or any of its sub-contractors is providing the Services, to the Supplier Staff, and to hardware, software, data and records relating to the provision of Goods and/or Services for the purpose of performing audits and inspections of either The Supplier or any of its sub-contractors to (i) verify the accuracy of the Supplier's charges and invoices; (ii) verify the integrity of SANPC data and examine the systems that process, store, support and transmit that data; (iii) examine the Supplier's performance of the Services or supply of the Goods; (iv) the Supplier shall provide to SANPC's auditors and inspectors such assistance and co-operation as they may reasonably require, including installing and operating audit software. SANPC shall procure that any such audit shall not disrupt unreasonably the Supplier's business operations and shall comply with the Supplier's reasonable security or confidentiality requirements.

20.2 SANPC or its authorized representative shall have the right to conduct a due diligence at any time during the currency of this Agreement regarding compliance with, but not limited to, the following: (i) the terms and conditions of this Agreement; (ii) all applicable legislation, regulations, policies and procedures; (iii) undertakings regarding service delivery and BEE objectives.

20.3 The Supplier shall make available promptly to SANPC the findings of any review or audit conducted by the Supplier (including internal and external auditors), to the extent such findings reflect conditions and events which have a material impact on SANPC.

20.4 Promptly after the issuance of any audit report or findings issued under sub-clauses 20.2 or 20.3 the Supplier and SANPC shall meet to review such audit report or findings and to mutually agree upon the appropriate manner, if any, in which to respond to the changes suggested by the audit report or findings.

20.5 The Supplier shall maintain a complete audit trail of all financial and non-financial transactions resulting from these Terms and Conditions as reasonably necessary to give effect to the provisions of this clause 20. The Supplier will maintain and provide SANPC access upon request to the records, documents and other information that make up such audit trail until the later of: (i) (3) three years after expiration or termination of these Terms and Conditions; (ii) all pending matters relating to these Terms and Conditions (e.g., disputes) are closed; or (iii) such other period as is required by applicable law.

21 REGULATORY REQUIREMENTS

The Supplier warrants that it is and will remain for the duration of these Terms and Conditions, fully cognisant of any relevant legislative or regulatory requirements and rulings of any competent authority that has jurisdiction over the provision of Goods and/or Services under these Terms and Conditions. The Supplier shall promptly identify and notify SANPC of any relevant changes in law, legislative enactments and/or regulatory requirements and of rulings of any competent authority that may relate to the Supplier's provision of the Goods and/or Services. The Supplier and SANPC shall co-operate to identify the impact of such changes on how the Supplier provides the Goods and/or Services. The Supplier shall be responsible for any fines and penalties arising from any non-compliance with any law, legislative enactment or regulatory requirements or rulings of any competent authority relating to the delivery or use of the Goods and/or Services. The Supplier hereby indemnifies SANPC and holds SANPC harmless against any Losses suffered or sustained by SANPC pursuant to any such non-compliance by the

Supplier. SANPC shall remain responsible for communications with and participation in any governmental or regulatory body having jurisdiction over SANPC, or any industry body in which SANPC participates. SANPC shall consult with the Supplier regarding such matters to the extent SANPC deems appropriate, and the Supplier shall make itself available for such consultation as reasonably required by SANPC.

22 BLACK ECONOMIC EMPOWERMENT

It is recorded that all the suppliers of Goods and/or Services to SANPC are required to make certain representations to SANPC with regard to Black Economic Empowerment (BEE). Generally, these commitments will be made at the same time as the Supplier accepts these Terms and Conditions in which case these commitments will be attached to Acceptance Agreement and marked Annexure “B” thereto, although in some instance, these commitments may be made separately in writing. Any such commitments form part of the Terms and Conditions binding upon the Supplier and failure to comply with such commitments is a material breach of these Terms and Conditions.

23 SAFETY, HEALTH AND THE ENVIRONMENT

The Supplier at all times for the duration of these Terms and Conditions ensure that it complies with all relevant occupational health and safety legislation, including the Occupational Health and Safety Act No. 85 of 1993, Mine Health and Safety Act No. 29 of 1996 and the Minerals and Petroleum Resources Development Act No. 28 of 2003. It shall be incumbent upon the Supplier to ensure that every member of its Staff shall undergo the prescribed medical examination as provided for in the Mine Health and Safety Act No. 29 of 1996.

24 LABOUR RELATIONS

24.1 The Supplier shall warrant to SANPC that the Supplier complies with and shall continue to comply with all relevant labour legislation and shall comply with any legislation which may come into being during the currency of this agreement. In this regard and without limitation the Supplier confirms that it is complying with the following legislation, where applicable:

24.1.1 Labour Relations Act No. 66 of 1995, as amended;

24.1.2 Basic Conditions of Employment Act No. 7 of 1997, as amended;

24.1.3 Employment Equity Act No. 55 of 1998;

24.1.4 Skills Development Act No. 97 of 1998;

24.1.5 Skills Development Levies Act, No. 9 of 1999;

24.1.6 Occupational Health and Safety Act, No. 85 of 1993;

24.1.7 Compensation for Occupational Injuries and Diseases Act, No. 130 of 1993;

24.1.8 Unemployment Insurance Act, No. 63 of 2001;

24.1.9 Unemployment Insurance Contributions Act, No. 4 of 2002.

24.2 Where the Supplier provides Services to SANPC at any of its selected areas, it shall give preference to local labour and shall, in the recruitment of any category of staff first determine, to the satisfaction of SANPC, that no similar category is available locally and shall liaise with local interest groups in determining the availability of labour.

24.3 The Supplier shall make every endeavour to maintain sound labour relations and to prevent industrial action. The Supplier shall notify SANPC at the earliest opportunity of any anticipated industrial action and shall, in the event of industrial action, co-operate with SANPC in respect of the implementation and co-ordination of contingency plans, press liaison and evacuation of the Supplier's Staff from SANPC’s premises.

24.4 Participation by the Staff of the Supplier in industrial action, whether legal or protected in terms of any labour legislation or not, will not absolve the Supplier of any of its obligations pertaining to these Terms and Conditions.

25 CONFLICT OF INTEREST

25.1 The Supplier undertakes that it shall not engage in practices or pursue interests which are in conflict with the interests of SANPC and which could result in financial damage or loss being suffered by SANPC or SANPC's reputation being harmed in the eyes of the business community or the public at large.

25.2 Conflict of interest will exist when the Supplier has an interest in, or derives some benefits from, transactions to which SANPC is a Party, whether directly or indirectly. It also includes instances where there is a reasonable possibility, whether in the eyes of the Supplier or any third party, of such conflict occurring.

25.3 All conflicts of interest must be disclosed to SANPC.

25.4 The Supplier shall inform its Staff of the contents of this clause 25 and shall ensure their adherence thereto.

26 DOCUMENTATION

All documents, correspondence and drawings to be supplied by the Supplier to SANPC shall be in the English language. Advance copies in the original language may, however, be sent to SANPC, but they shall be followed as soon as possible thereafter by the Supplier's official translation.

27 CONFIDENTIALITY

27.1 The Supplier acknowledges the great importance of the Confidential Information to SANPC and, where applicable, third party proprietors of such information, and recognises that SANPC and/or third party proprietors may suffer irreparable harm or loss in the event of such information being disclosed or used otherwise than in accordance with these Terms and Conditions.

27.2 The Supplier agrees and undertakes:

27.2.1 Except as permitted by these Terms and Conditions, not to disclose or publish any Confidential Information in any manner, for any reason or purpose whatsoever without the prior written consent of SANPC and provided that in the event of the Confidential Information being proprietary to a third party, it shall also be incumbent on the Supplier to obtain the consent of such third party;

27.2.2 Except as permitted by these Terms and Conditions, not to utilise, employ, exploit or in any other manner whatsoever use the Confidential Information for any purpose whatsoever without the prior written consent of SANPC and provided that in the event of the Confidential Information being proprietary to a third party, it shall also be incumbent on the Supplier to obtain the consent of such third party;

27.2.3 To restrict the dissemination of the Confidential Information to only those of the Staff who are actively involved in activities for which use of Confidential Information is authorised and then only on a "need to know" basis and the Supplier shall initiate, maintain and monitor internal security procedures reasonably acceptable to SANPC to prevent unauthorised disclosure by the Staff;

27.2.4 To take all practical steps, both before and after disclosure, to impress upon the Staff who are given access to Confidential Information the secret and confidential nature thereof.

27.3 All Confidential Information disclosed by SANPC to the Supplier or which otherwise comes to the knowledge of the Supplier, is acknowledged by the Supplier:

27.3.1 To be proprietary to SANPC or where applicable, the relevant third party proprietor; and

27.3.2 Not to confer any rights of whatsoever nature in such Confidential Information on the Supplier.

27.4 The Supplier shall protect the Confidential Information in the manner, and with the endeavour, of a reasonable person protecting their own Confidential Information. In no event shall the Supplier use less than reasonable efforts to protect the confidentiality of the Confidential Information.

27.5 SANPC may at any time on written request to the Supplier, require that the Supplier immediately returns to SANPC any Confidential Information and may, in addition, require that the Supplier furnish a written statement to the effect that upon such return, it has not retained in its possession or under its control, either directly or indirectly, any such Confidential Information or material. Alternatively, the Supplier shall, as and when required by SANPC on written request to the Supplier, destroy all such Confidential Information and material and furnish SANPC with a written statement to the effect that the same has been destroyed. The Supplier shall comply with any request in terms of this sub-clause 27.5 within 7 (seven) days of receipt of such request.

27.6 The Supplier may retain Confidential Information to the extent required by, and for the duration of, any Services performed for SANPC in terms of agreements between the Parties, provided that SANPC has not waived performance of such Services and subject to the right of SANPC to recover the Confidential Information at any time in terms of this sub-clause 27.6.

27.7 The Supplier shall procure that the Supplier Staff who have access to Confidential Information, give a written undertaking in favour of SANPC in regard to the Confidential Information on substantially the same terms and conditions contained within these Terms and Conditions. SANPC shall be entitled to deny a Supplier Staff member access to its premises or prevent such member conducting any work in relation to the Services on its premises or under SANPC's direct control, should SANPC not be in receipt of a signed undertaking from such member on such terms and conditions as determined by SANPC. SANPC's failure to obtain receipt of the undertaking referred to in this sub-clause 27.7 shall in no way detract from the Supplier's obligations in terms of these Terms and Conditions.

27.8 The Parties record that this clause 27 shall not be applicable where the Supplier discloses Confidential Information to attorneys or auditors, provided that such disclosure is reasonably required by the Supplier for the purposes of conducting its business activities.

27.9 Nothing contained in these Terms and Conditions will restrict either Party from the use of any generic ideas, concepts, know-how, or techniques developed or learned by such Party in the course of performing any Services under these Terms and Conditions, provided that in doing so such Party does not disclose SANPC Confidential Information to third parties or infringe the Intellectual Property rights of the other Party or third parties who have licensed or provided materials to the other Party.

28 TERMINATION

28.1 If the Supplier commits a breach of a Contract Document and fails to remedy such breach within 14 (fourteen) days of notice or such period as determined by the conditions of contract thereof from the other, SANPC shall be entitled, in addition to any other rights and remedies that it may

have in terms of these Terms and Conditions or otherwise, to terminate these Terms and Conditions and/or any or all Transaction Documents without prejudice to any claims which SANPC may have for damages against the other upon written notice to the other, it being recorded that the withholding of disputed charges in terms of sub-clause 32.4 shall not constitute a breach of these Terms and Conditions.

28.2 If (i) a Causal Event occurs in respect of the Supplier or (ii) the Supplier fails to adhere to any legal requirement or breaches any term or condition of any licence, authorisation or consent required for the provision of the Services and which failure or breach SANPC, in its sole discretion, considers to be detrimental to SANPC for sound business reasons; then SANPC shall be entitled, but not obliged, to terminate these Terms and Conditions and/or any or all Transaction Documents on written notice to the Supplier, in which event such termination shall be without any liability and without prejudice to any claims which SANPC may have for damages against the Supplier.

28.3 Should the Supplier fail to fulfil any of its BEE obligations contemplated in Clause 22 above and set out in Annexure “B” of the Acceptance Agreement, or it is established that the Supplier has misrepresented issues in its tender submissions, or dissolves whatever arrangement is already in place, SANPC shall have the right to terminate these Terms and Conditions and/or any or all Transaction Documents on written notice to the Supplier, in which event such termination shall be without any liability and without prejudice to any claims which SANPC may have for damages against the Supplier. In the event of such termination, SANPC shall be entitled to re-tender the Service or appoint the tenderer with the next highest number of points in the tender evaluation.

28.4 For the avoidance of doubt, all Transaction Documents will terminate as of the Effective Date of any termination of these Terms and Conditions.

29 TERMINATION FOR CONVENIENCE

SANPC may terminate these Terms and Conditions or any Transaction Document(s) in whole or in part for convenience and without cause at any time by giving the Supplier at least 30 (thirty) days prior notice designating the termination date. SANPC shall have no liability to the Supplier with respect to such termination. If a purported termination by SANPC under sub-clause 28.1 is determined by a competent authority not to be a proper termination under the applicable clause, then such termination by SANPC shall be deemed to be a termination for convenience under this clause 29.

30 TERMINATION/EXPIRATION ASSISTANCE

30.1 At expiration or termination of these Terms and Conditions and/or any or all Transaction Documents, the Supplier shall, at the request of SANPC, make itself available to provide Termination/Expiration Assistance. The Termination/Expiration Assistance to be provided by the Supplier in the case of termination or expiration of a Transaction Document will include the Termination/Expiration Assistance described in such Transaction Document.

30.2 If these Terms and Conditions or any Transaction Document(s) or part thereof expires, or if these Terms and Conditions or any Transaction Document(s) or part thereof is terminated other than pursuant to clause 29, Termination/Expiration Assistance will be provided at no additional cost to SANPC. If the agreement or any Transaction Document(s) is terminated by SANPC in terms of clause 29 and SANPC elects to have the Supplier provide Termination/Expiration Assistance, the Supplier shall be entitled to charge for such assistance. In the event that the Supplier is entitled to charge for such Termination/Expiration Assistance in terms of this sub-clause 30.2, the Supplier shall charge on a time and materials basis at hourly rates as agreed between the Parties.

31 LIMITATION OF LIABILITY

Notwithstanding anything to the contrary set forth in these Terms and Conditions, the Parties agree that they shall be liable to the other for any Losses which are regarded in law as direct damages but excluding indirect, incidental and/or consequential damages arising from the Losses.

32 MEDIATION AND ARBITRATION

32.1 Either Party may request that any dispute or difference arising out of these Terms and Conditions or any Transaction Document be referred by the Parties, without legal representation, to mediation by a single mediator. If the Parties agree to mediation then the mediator shall be selected by agreement between the Parties or, failing such agreement the mediator shall be nominated by a mutually respected neutral Party. The written opinion expressed by the mediator shall be accepted by both Parties hereto unless and until otherwise ordered in arbitration proceedings referred to hereunder. The mediator shall formulate his costs in respect of the mediation and these shall be borne equally by the Parties hereto.

32.2 If either Party is dissatisfied or unwilling to accept mediation or an opinion expressed by the mediator then that Party may, by written notice served upon the other, within 1 (one) calendar month of the date of declaring a dispute or of the mediator's decision, require that the dispute or difference arising out of these Terms and Conditions or any Transaction Document shall be referred to arbitration by a single arbitrator to be mutually agreed upon or, failing agreement, to two arbitrators, one appointed by SANPC and one by the Supplier. In all respects the arbitration shall be in accordance with the provisions of the Arbitration Act of 1965 which makes the decision of the arbitrator(s) final and binding on the Parties hereto and the arbitration shall be conducted in accordance with the rules for the Conduct of Arbitrations published by the Association of Arbitrators and current at the date the Arbitrator is appointed or nominated.

32.3 Performance under these Terms and Conditions and under all Transaction Documents shall continue during mediation/arbitration proceedings unless SANPC shall order the suspension thereof, and if any such suspension shall be ordered, the reasonable expenses of the Supplier occasioned by such suspension shall be at SANPC's cost.

32.4 To the extent that any dispute referred to determination in terms of this clause 32 involves the withholding of payment of any amount otherwise due in terms of the Contract Documents by either Party, the withholding Party shall deposit the amount of the withheld payment into escrow and, if any part of the withheld amount is found properly due to the other Party, any capital award plus interest accruing in escrow in the same ratio as the capital award, shall be paid to that Party.

33 NOTICES AND DOMICILIUM

33.1 The Parties hereto select as their respective *domicilia citandi et executandi* the addresses appearing in the Acceptance Agreement or such other address or facsimile number as may be substituted by notice given as herein required.

33.2 All notices, requests, demands, and determinations under these Terms and Conditions (other than routine operational communications), shall be valid and effective only if in writing and if delivered by hand, mail or email. In this regard, a notice, request, demand and determination under these Terms and Conditions (i) delivered by hand shall be deemed duly given when delivered by hand during ordinary business hours as evidenced by a receipt declaration by a member of the addressee's Staff or a delivery declaration by a person authorised to deliver the notice, request, demand and determination by the addresser; or (ii) delivered by mail shall be deemed duly given when mailed in a properly addressed envelope to a responsible person at

the addressee's domicilium by registered mail, which delivery shall be evidenced by the registered mail receipt; and (iii) delivered by email shall be deemed duly given when sent to the email address set forth in the Acceptance Agreement, which delivery shall be evidenced by sender's sent confirmation. For the avoidance of doubt, notice shall be deemed to have been given upon receipt of such delivery confirmation whether or not such notice has actually been read. Notices, requests, demands and determinations sent by email and received prior to 24h00 (midnight) on a business day shall be deemed duly given on such business day; notices, requests, demands and determinations sent by email after midnight and received at other times shall be deemed duly given on the first business day following the date that such email is sent. A notice, request, demand and determination sent by mail shall be deemed to have been received 5 (five) days after posting if addressed within the Republic of South Africa to an address within the Republic of South Africa and 10 (days) after posting in all other instances.

34 FORCE MAJEURE

34.1 No Party shall be liable for any default or delay in the performance of its obligations under these Terms and Conditions if and to the extent (i) such default or delay is caused, directly or indirectly, by: fire, flood, earthquake, elements of nature or acts of God, riots, civil disorders, rebellions or revolutions in any country or any other cause beyond the reasonable control of such Party; and (ii) the non-performing Party is without fault in causing such default or delay, and (iii) such default or delay could not have been prevented by reasonable precautions, and (iv) such default or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, workaround plans or other means.

34.2 If any event under sub-clause 34.1 substantially prevents, hinders, or delays performance of the Services necessary for the performance of SANPC functions reasonably identified by SANPC as critical for more than three (3) consecutive days, then at SANPC's option: (i) SANPC may terminate any portion of these Terms and Conditions so affected without liability and the charges payable under these Terms and Conditions shall be equitably adjusted to reflect those terminated Services; or (ii) SANPC may terminate these Terms and Conditions without liability to SANPC or the Supplier as of a date specified by SANPC in a written notice of termination to the Supplier. The Supplier shall not have the right to any additional payments from SANPC for costs or expenses incurred by the Supplier as a result of any force majeure occurrence.

35 PROCESSING OF PERSONAL INFORMATION

35.1 Without limiting the generality of the provisions of this clause 35.1, the following provisions apply specifically with regard to all Personal Information which is Processed by the Service Provider–

35.1.1 **Limitations on Processing of Personal Information**

35.1.1.1 The Service Provider acknowledges that in providing the Services, it will have access to Personal Information relating to the Data Subjects. Accordingly, the Service Provider agrees that it shall only store, copy or use Personal Information disclosed to it by SANPC or which it has access to as part of the Services to the extent necessary to perform its obligations under this Agreement not otherwise modify, amend or alter the contents of the Personal Information or disclose or permit the disclosure of any of the Personal Information to any Third Party (save as set forth in clause 35.1.1.3 hereunder) and shall treat the Personal Information as strictly confidential, in compliance with the provisions of clause 27.

35.1.1.2 The Service Provider shall only Process the Personal Information of Data Subjects in accordance with any Applicable Law and for a specific, lawful purpose strictly in

accordance with SANPC's express written instructions and shall not carry out any related or further Processing activities for any other reason whatsoever (including any related processing functions or processing which would otherwise be a normal extension of the Processing which the Service Provider is entitled to undertake) without the express written consent of SANPC.

35.1.1.3 The Service Provider shall keep all Personal Information and any analyses, profiles or documents derived therefrom separate from all other data and documentation of the Service Provider.

35.1.1.4 The Service Provider shall implement appropriate, reasonable technical and organisational measures to ensure that the integrity of the Personal Information in its possession or under its control is secure and that such Personal Information is protected against unauthorised or unlawful processing, accidental loss, destruction or damage, alteration, disclosure or access by having regard to any requirement set forth in law, stipulated in industry rules or in codes of conduct or by a professional body and/or generally accepted information security practices and procedures which apply to the Service Provider and to SANPC.

35.1.1.5 The Service Provider shall promptly return or destroy any Personal Information in the possession or control of the Service Provider, at the request of and on instruction from SANPC (including in circumstances where a Data Subject has requested SANPC to delete all instances of their Personal Information) in accordance with any specific retention, destruction and purging requirements as may be prescribed by SANPC. The Service Provider shall be required to provide SANPC with written confirmation that the destruction request has been fully complied with within 5 (five) days of the instruction having been provided to the Service Provider.

35.1.1.6 The Service Provider shall ensure that no Personal Information is transferred or Processed outside of the borders of the Republic of South Africa unless SANPC provides its prior written consent thereto. Even in circumstances where SANPC has consented to any such cross-border transfer, the Service Provider agrees to comply strictly with SANPC's express instructions for such cross-border transfers.

35.1.2 **Personal Information security breach**

35.1.2.1 The Service Provider shall notify SANPC as soon as possible after the Service Provider becomes aware of or suspects any loss, unauthorised access or unlawful use of any Personal Information and shall, at its own cost, take all necessary remedial steps to mitigate the extent of the loss or compromise of Personal Information and to restore the integrity of the affected information systems as quickly as is possible. It shall also be required to provide SANPC with details of the Data Subjects who are affected by the compromise and the nature and extent of the compromise, including details of the identity of the unauthorised person who may have accessed or acquired the Personal Information.

35.1.2.2 Service Provider shall provide SANPC with regular reports on its progress in resolving the compromise at reasonable intervals until such time as the compromise is resolved to SANPC's satisfaction.

35.1.2.3 In consultation with SANPC and where required by law, the Service Provider may be required to notify the South African Police Service; and/or the National Intelligence Agency of a security breach and in certain circumstances SANPC may request that the

Service Provider notifies the applicable regulator and/or the affected Data Subjects. Any such notification shall be in a form prescribed by SANPC and contain such information as is specified by SANPC. Notwithstanding the aforegoing, a notification to a Data Subject shall always include sufficient information to allow the Data Subjects to take protective measures against the potential consequences of the compromise.

35.1.2.4 The Service Provider shall provide co-operation in any investigation relating to security which is carried out by or on behalf of SANPC, including providing any information or material in its possession or control and implementing new security measures, to the extent requested by SANPC.

35.1.3 **Disclosure required by law, regulation or court order**

35.1.3.1 In the event that the Service Provider is required to disclose any Personal Information, as required by law, regulation or court order or to comply with an obligation imposed by law on SANPC, the Service Provider will advise SANPC thereof prior to any such disclosure.

35.1.3.2 The Service Provider will take such steps to limit the extent of the disclosure to the extent that it lawfully and reasonably practically can and will afford SANPC a reasonable opportunity, if possible and permitted, to intervene in the proceedings and further, will comply with SANPC's requests as to the manner and terms of any such disclosure.

35.1.3.3 The Service Provider shall not maintain records of the Personal Information for longer than is necessary for the purpose that what it was collected or as prescribed in applicable legislation and must be destroyed erased or made anonymous.

36 GENERAL

36.1 The Contract Documents shall be binding on the Parties hereto and their respective successors and assigns. Neither Party shall be entitled to assign or otherwise transfer the benefit or burden of all or any part of these Terms and Conditions without the prior written consent of the other Party except that SANPC may assign its rights and obligations under any or all Contract Documents without the approval of the Supplier to an entity which acquires all or substantially all of the assets of SANPC; provided that in no event shall such assignment relieve SANPC of its obligations under these Terms and Conditions.

36.2 The Supplier may not delegate or sub-contract its obligations under these Terms and Conditions without the prior approval of SANPC. Subject to the Supplier binding itself to SANPC as surety for and co-principal debtor with any person to whom the Supplier intends delegating or sub-contracting its obligations under these Terms and Conditions, SANPC shall not unreasonably withhold its approval of such delegation or sub-contracting, as the case may be. The Supplier shall be SANPC’s sole point of contact regarding the Services, including with respect to payment.

36.3 The Supplier shall include in its contracts with its sub-contractors as flow down provisions, provisions substantially similar to clauses 17 and 22.

36.4 Should any of the terms and conditions of these Terms and Conditions be held to be invalid, unlawful or unenforceable, such terms and conditions shall be severable from the remaining terms and conditions which shall continue to be valid and enforceable. If any term or condition

held to be invalid is capable of amendment to render it valid, the Parties agree to negotiate an amendment to remove the invalidity.

36.5 No change, waiver or discharge of the terms and conditions of these Terms and Conditions shall be valid unless in writing and signed by an authorised representative of the Party against which such change, waiver or discharge is sought to be enforced, and any such change, waiver or discharge will be effective only in the specific instance and for the purpose given. No failure or delay on the part of either Party hereto in exercising any right, power or privilege under these Terms and Conditions will operate as a waiver thereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

36.6 Except where expressly provided as being in the sole discretion of a Party, where agreement, approval, acceptance, consent, or similar action by either Party is required under these Terms and Conditions, such action shall not be unreasonably delayed or withheld. An approval, acceptance, consent or similar action by a Party (including of a plan or deliverable) under these Terms and Conditions shall not relieve the other Party from responsibility for complying with the requirements of these Terms and Conditions, nor shall it be construed as a waiver of any rights under these Terms and Conditions, except as and to the extent otherwise expressly provided in such approval or consent.

36.7 The Parties agree that these Terms and Conditions and any Contract Document concluded in terms hereof shall not be valid unless signed by 1 (one) authorised signatory of SANPC. SANPC's company secretary shall upon request furnish the Supplier with such documentation as may reasonably be required by The Supplier to establish the authority of the authorised SANPC signatory.

36.8 The Contract Documents will be governed by and construed in accordance with the law of the Republic of South Africa and all disputes, actions and other matters relating thereto will be determined in accordance with such law.

36.9 The Contract Documents constitute the whole of the agreement between the Parties relating to the subject matter hereof and save as otherwise provided herein no amendment, alteration, addition, variation or consensual cancellation will be of any force or effect unless reduced to writing and signed by the Parties hereto or their duly authorised representatives.

36.10 The Parties agree that there are no other collateral terms or conditions to these Terms and Conditions, whether oral or written.

36.11 Except as provided in sub-clause 4.5, in the event of a conflict between the documents comprising these Terms and Conditions, such conflict shall be resolved in accordance with the order of precedence (in descending order of priority) as follows: (i) these Terms and Conditions; (ii) a Transaction Document, (iii) the annexes and/or schedules to these Terms and Conditions; and (iv) any annexes and/or schedules to a Transaction Document.

36.12 The Parties warrant and acknowledge that the relationship between them is not in the nature of a partnership and that neither Party is in any manner entitled to make or enter into binding agreements of any nature on behalf of the other Party.

36.13 Except as provided in clause 16, these Terms and Conditions are entered into solely between, and may be enforced only by, SANPC and the Supplier; and these Terms and Conditions shall not be deemed to create any rights in third parties, including the Suppliers and clients of a Party, or to create any obligations of a Party to any such third parties.

36.14 Any provision of these Terms and Conditions, which contemplates performance or observance subsequent to any termination or expiration of the applicable Contract Documents, shall survive any termination or expiration of the applicable Contract Documents and continue in full force and effect.

36.15 Each Party agrees that, in its respective dealings with the other Party under or in connection with these Terms and Conditions, it shall act in good faith.

36.16 Each Party shall bear and pay its own costs of or incidental to the drafting, preparation and execution of these Terms and Conditions.

Section B. Provision of Services other than Labour Supply

37 SERVICES

37.1 The Supplier will provide the Services to SANPC subject to the terms and conditions of these Terms and Conditions as well as the applicable Service Order.

37.2 At SANPC's election, SANPC may perform itself or retain third parties to perform any of the Services provided that SANPC shall: (i) by written notice to the Supplier, advise the Supplier of such election and (ii) pay the Supplier for Services in terms of existing Contract Documents for their continued duration of the applicable Service Order. In this regard:

37.2.1 The Supplier shall co-operate with SANPC or third parties performing services.

37.2.2 Where third parties require access to the Supplier Confidential Information (excluding financial information) to provide the Services, the Supplier shall be entitled to require that such third parties retained by SANPC comply with the Supplier's reasonable confidentiality requirements.

37.3 Without limiting the generality of the Supplier's obligation to perform the Services in accordance with any service levels, the Supplier shall as soon as practicable notify SANPC if an act or omission of such a third party may cause the Supplier a problem in providing, or delay the Supplier's provision of the Services and the Supplier's failure to meet any service level as a result of the third party act or omission shall not constitute a service level Default by the Supplier. Should SANPC become aware of any such act or omission, it shall as soon as practicable, notify the Supplier, by written notice, of such occurrence.

37.4 The Supplier shall, on the written order of SANPC, suspend the progress or alter the request for Services or any part thereof for such time or times and in such manner as SANPC may consider necessary and shall during such suspension or alteration properly protect and secure the Services so far as is necessary in the opinion of SANPC. The extra cost (if any) in giving effect to SANPC’s instructions under this clause shall be borne and paid by SANPC unless such suspension or alteration is:-

37.4.1 otherwise provided for in the Service Order, provided that the Supplier shall be entitled to recover any such extra cost unless having given notice in writing to SANPC of its intention to claim within seven days of SANPC’s order or instruction.

37.4.2 If the progress of the Services or any part thereof is suspended on the written order of SANPC for more than ninety days, the Supplier may serve a written notice on SANPC requiring permission, within 28 (twenty eight) days from receipt thereof, to proceed with the provision of Services or that part thereof in regard to which progress is suspended.

37.5 The Service Order shall be subject to changes by additions, deletions or revisions thereto by SANPC. The Supplier will be advised of such changes by receipt of additional and / or revised project plan and / or functional and technical specifications or written change requests.

37.6 Except as otherwise expressly provided in these Terms and Conditions, the Supplier shall be responsible for providing the facilities, Staff and other resources as necessary for the Supplier to provide the Services in accordance with the service levels.

38 COMPLIANCE BY THE SUPPLIER

38.1 The Supplier hereby warrants to SANPC that the Supplier is registered as an employer with, and in respect of, the following:

38.1.1 The South African Revenue Services;

38.1.2 Compensation Commission;

38.1.3 Unemployment Insurance Fund;

38.1.4 All and any applicable Bargaining Councils;

38.1.5 Skills Development; and

38.1.6 Employment Equity Registry.

38.2 The Supplier shall comply with all prescribed formalities, submit all prescribed returns and make all payments as may be required in connection with the list set out in sub-clause 37.1 above.

38.3 The Supplier undertakes, at all times, to comply with the provisions of any collective agreements which may be binding upon or become binding upon the Supplier and/or its Staff and/or SANPC.

38.4 The Supplier shall provide SANPC with copies of certificates of registration and/or prescribed forms or returns relating to each and every one of the items in 38.1 above, if requested to do so by SANPC.

38.5 The Supplier shall submit to SANPC proof of payment of all liabilities and obligations pursuant to legislation including, but not limited to, the Income Tax Act, if requested to do so by SANPC.

38.6 The Supplier shall provide proof of its registration with the South African Revenue Services within 5 (five) days of the date of signature of this agreement. The Supplier shall be responsible for any tax obligations in relation to the persons procured by it to perform work for SANPC.

39 SUPPORT AND MAINTENANCE SERVICES

Where the Supplier provides a Service to SANPC relating to support or maintenance of any item in terms of these Terms and Conditions, the following terms shall, unless otherwise agreed in a Service Order, apply to such Services:

39.1 The Supplier undertakes that in providing such Services it shall use its best endeavours to ensure that the supported/maintained items function error-free; and to maintain the supported/maintained items in such a manner as to ensure the supported/maintained items' continued compliance with their specifications.

39.2 SANPC shall be responsible for requesting the assistance of the Supplier with regard to any faults or failures in the supported/maintained items.

39.3 The manner in which the Supplier shall provide the support Services shall be specified in the Service Order relating to such Services.

39.4 Service Order relating to support Services shall record the hours of Service, the method for determining the severity of problems to be resolved, the escalation procedures applicable to

such supported/maintained items and any service levels applicable to the performance of the support Services.

39.5 In the performance of Services, the Supplier shall on an ongoing basis and in a sustained manner apply its best endeavours to provide future avoidance advice. In addition, the Supplier shall identify the nature and cause of the problem and advise SANPC of the same and irrespective of the source of the problem, recommend appropriate methods for resolving the same and provide SANPC with future avoidance advice as well as undertaking any necessary preventative measures to minimise recurrence of the problem.

39.6 The Supplier shall, at its expense, supply all items necessary or required for the provision of the Services, provided that should the Services be provided at SANPC's premises, such as supplies of electricity, network and telephone connectivity reasonably required by the Supplier to provide such Services, such Services will be made available to the Supplier in accordance with SANPC's generally accepted procedures and at SANPC's expense.

39.7 Should any supported/maintained items be removed by the Supplier to be repaired at the Supplier’s premises, the risk in such supported/maintained items shall vest in The Supplier as from the time of removal thereof from SANPC's premises until their return by The Supplier to SANPC's premises.

39.8 Any spare or replacement parts or components supplied in the performance of the Services, shall accede to the supported/maintained items upon installation thereof and shall become the property of the owner of the supported/maintained items, whilst parts removed by the Supplier for replacement shall become the property of the Supplier on removal thereof. Unless otherwise agreed by SANPC in writing, all spare or replacement parts or components supplied under these Terms and Conditions in respect of supported/maintained items which (i) if under warranty, shall be as supplied by the manufacturer thereof in terms of its warranty program and shall be used in accordance with the manufacturer's specifications, and (ii) if not under warranty, shall be either new or refurbished.

40 DEVELOPMENT SERVICES

Where the Supplier provides a Service to SANPC relating to the development of any item, the scope of any Services to be undertaken by the Supplier relating to the development of the items shall be outlined in a project plan and in the functional and technical specifications which shall be annexed to the Service Order relating to the development of the Services.

41 SERVICE PERFORMANCE STANDARDS

The Supplier shall ensure that the Services (including all workmanship) and all products, materials, documentation, tools and equipment used or required for the rendering of the Services, comply with relevant ISO Quality Assurance and Certification Requirements, where applicable.

42 SERVICE LEVELS

42.1 Notwithstanding the fact that a Service Order may not contain any service levels, the Supplier is required to perform the Services with promptness, diligence and courtesy and the Supplier shall at all times execute the Services in a professional manner and in accordance with the practices and professional standards used in well-managed operations performing services similar to the Services.

42.2 A Service Order may set forth the quantitative service levels by which the Supplier's performance of the Services are to be measured.

42.3 The Supplier recognises that its failure to meet an agreed service level may have a material adverse impact on the business and operations of SANPC and that the damage from the Supplier's failure to meet any service level is not susceptible to precise determination. Accordingly, in the event that the Supplier fails to meet a service level, then in addition to any non-monetary remedies available to SANPC, the Service Order may permit SANPC to elect in lieu of pursuing other monetary remedies to recover as its sole and exclusive monetary remedy for such failure to meet a service level a penalty determined by reference to that Service Order as liquidated damages.

42.4 In the event SANPC is entitled to a penalty under a Service Order, the amount of such penalty shall be set forth as a deduction on the Supplier's invoice for the month following the month in which the service level failure occurred. If SANPC elects to impose a penalty, SANPC's payment of the Supplier's invoice shall be net of such penalty.

42.5 If the Supplier fails to meet any service level, the Supplier shall (i) investigate and report on the root causes of the problem; (ii) promptly correct the problem and begin meeting the service levels; (iii) advise SANPC, as and to the extent requested by SANPC, of the status of remedial efforts being undertaken with respect to such problems; and (iv) take appropriate preventive measures so that the problem does not recur.

42.6 Where service levels are provided for in a Service Order, the Supplier shall be responsible for monitoring and measuring its performance of the Services against the service levels. It is recorded that SANPC is entitled to reasonable access to all data in the Supplier's possession relating to service levels and service level performance as provided for in the Service Order.

Section C. Supply of Goods

43 SUPPLY

43.1 Prior to supplying any Goods or Works in terms of these Terms and Conditions, the Supplier shall furnish SANPC with a detailed written quotation upon which shall be stated an all inclusive price for such Goods or Work and where applicable, the technical specifications and/or plans of the Goods or Works and the details as to the date until which such quotation shall be open for acceptance by SANPC. Save as provided herein, no other terms and conditions stated upon such quotation shall be binding upon either Party. For the avoidance of doubt, the total price stated upon the written quotation shall be exclusive of value added taxation, but inclusive of all time and materials costs, all fixed price costs, all third party time and materials costs, any additional taxation items, any import/export duties and any currency risk. Where a written quotation does not state a date of expiry, it shall be open for acceptance by SANPC for a period of 90 (ninety) days following its receipt by SANPC.

43.2 Notwithstanding acceptance of a written quotation, the delivery and/or installation of any Goods or Works, or any other act or omission on the part of SANPC relating to the Goods or Works which form the subject matter of any quotation, neither Party shall acquire any rights or obligations, other than as specified in sub-clause 43.1, unless and until both Parties have concluded a Purchase Order for the supply of such Goods in accordance with these Terms and Conditions.

44 PROCUREMENT

44.1 The Parties may from time to time agree approved supply lists, including where appropriate, technical specifications and plans, functional specifications and pricing. Such approved supply list shall constitute a Contract Document.

44.2 Unless otherwise agreed, SANPC shall be liable to the Supplier for the payment of the costs of any Goods procured, provided that the cost of such items shall be as per the approved supply list.

45 HARDWARE LEASING

Unless otherwise agreed in a Purchase Order, where the Supplier leases Goods to SANPC, the following provisions shall apply:

45.1 Any Goods leased to SANPC by the Supplier shall be listed in a schedule to be annexed to the Purchase Order in terms of which such Goods are leased. Such schedule shall contain the following information regarding each and every item of such Goods: (i) an appropriate description of the Goods, preferably including an asset identification number; (ii) the monthly rental payable in respect of that item of Goods, (iii) the useful life of that item of Goods expressed in months and measured from the 1st (first) day of the month immediately following the month in which such Goods are accepted by SANPC. Each item of Goods listed in such schedule shall be leased independently and upon the terms and conditions set forth in sub-clause 45.2 for a period being the useful life therefor as stated in such schedule, and for the rental specified in such schedule.

45.2 Any lease contemplated in sub-clause 45.1 shall be subject to the following terms and conditions: SANPC shall: (i) at all times keep the Goods under its control and shall take reasonable care in the use of the Goods and shall protect the same from loss and damage; (ii) only use the Goods for the purpose for which it was intended; (iii) ensure that any Services performed in respect of such Goods are in compliance with the reasonable specifications for such Goods as provided by the Supplier and/or the original equipment manufacturer thereof; (iv) at its own expense take reasonable steps to keep the Goods free from attachment, hypothec or other legal charge or process and shall not without the prior written consent of the Supplier sell, let, loan, pledge, transfer or otherwise encumber the Goods in any way or permit any lien to arise in respect of the Goods; (v) not do anything which may cause damage to the Goods; (vi) take reasonable steps to ensure that all restrictions on the use of the Goods that are imposed by any law are observed by SANPC and its Staff; and (vii) not modify the Goods otherwise than in accordance with the provisions of these Terms and Conditions.

45.3 Any item listed in a schedule shall be subject to a lease as referred to in sub-clause 45.1 while it remains so listed. When the useful life of the item has ended, the lease shall be deemed expired with effect from the last day of the month in which such useful life ends. Any such lease may only be terminated by agreement of the Parties, by expiration or by SANPC where SANPC in its sole discretion determines any Goods leased by it from the Supplier to be irremediably defective and as a result thereof cancels its lease of such Goods. The Supplier shall immediately update the schedule in order to give effect to any termination, expiration or cancellation of any lease in respect of any Goods listed in the schedule. Should these Terms and Conditions be terminated then all leases of Goods in terms of these Terms and Conditions shall terminate as of the Effective Date of any termination of these Terms and Conditions. Where a Purchase Order is terminated, then all leases of Goods pursuant to the terminated Purchase Order shall terminate as of the Effective Date of any termination of such Purchase Order. Upon the termination, expiration or cancellation of any Goods lease the Supplier shall as soon as reasonably possible remove all Goods subject to such termination, expiration or

cancellation from SANPC's premises and thereafter neither Party shall have any liability whatsoever under such lease.

46 LICENSING SERVICES

46.1 Where the Supplier licences SANPC to use any Goods, such licence shall, unless otherwise agreed in writing and recorded in the Purchase Order, be granted on the basis that SANPC shall receive a non-exclusive, non-transferable licence to use and deploy the Goods, within its own business environment.

46.2 SANPC shall be entitled to make and maintain back-up copies of Goods which are in the nature of software for operational security purposes and may make such number of copies of part or all of the software as are strictly necessary for such purposes. Back-up copies may be used whenever the software is rendered unusable or inoperable, provided that the Supplier shall be notified of such event without delay.

47 PRESERVATION OF INDUSTRIAL/INTELLECTUAL PROPERTY RIGHTS

47.1 SANPC shall not de-compile, reverse engineer, reverse compile or disassemble any Goods provided to it by the Supplier.

47.2 SANPC shall not attempt to modify, enhance or alter Goods or any part thereof, or permit others to do so.

47.3 Goods and the Industrial and Intellectual Property rights therein shall be and remain the property of the Supplier or its third party licensor.

48 RISK AND OWNERSHIP IN GOODS

48.1 The risk in Goods or Works to be provided in terms of a Purchase Order shall remain with the Supplier until delivery of such Goods or Works has been effected and the Goods or Works have been received by SANPC or its agent specified in the Purchase Order at the point of delivery stated in such Purchase Order.

48.2 The title to the Goods or Works, free of all liens or encumbrances, shall pass to SANPC at the earlier of:

48.2.1 Delivery of the Goods or Works to SANPC or its agent specified in the applicable Purchase Order, or

48.2.2 Payment or part payment therefor.

48.3 Delivery of Goods or Works to SANPC shall be as evidenced in such manner as may be agreed by the Parties in a Purchase Order and in the absence of such agreement, as evidenced by the SANPC signature to the Supplier's delivery note. This clause 47 shall not be construed as limiting any of SANPC's rights in terms of clause 10, and the Supplier shall bear all liability for any latent or patent defect identified during acceptance testing by SANPC.

49 RETURN OF DEFECTIVE DELIVERABLES:

49.1 If at any time during the progress of, or prior to acceptance of Goods or Works by SANPC, SANPC shall give notice in writing that it is dissatisfied with any materials, equipment and workmanship, or with any part or parts of the Goods or Works on account of such material, equipment or workmanship being faulty or of inferior quality and not meeting the specified tests and requirements, or on account of any such part or parts of the Goods or Works having been unsoundly or improperly executed, owing to inferior design, materials or workmanship or to

inaccurate setting out, or on account of any part or parts of the Goods or Works not being in strict conformance with the Purchase Order, the Supplier shall immediately proceed to alter, reconstruct or remove and replace such part or parts of the Goods or Works, and, whether the Goods or Works have been completed or are in the course of execution when objection is intimated, such alterations, reconstruction, or removal and replacement shall be executed at the cost of the Supplier, and no extension of the date for completion shall be granted by reason of making good the defects or deficiencies.

49.2 Should the Supplier unduly delay or refuse the making good of any defects or deficiencies in terms of this clause 48, SANPC shall have the right to employ at any time and pay other persons to have the defects or deficiencies rectified, and all expenses consequent thereon and incidental thereto shall be borne by the Supplier, and shall be recovered from it by SANPC, or may be deducted from any monies due or that may become due to the Supplier and SANPC shall not be answerable or accountable for any loss or damage that may arise or happen to materials rejected and removed by it, nor for any loss, damage or injury which the Supplier may claim to have sustained by reason of the actions of SANPC under this clause 48.

49.3 Should any Goods be delivered to SANPC in a damaged or sub standard condition, SANPC shall be entitled to return such Goods to the Supplier, at the Supplier's cost, in which event the Supplier shall, at SANPC's election, either refund or procure the refund to SANPC of the full amount paid by SANPC in respect thereof or replace or procure the replacement of such Goods with the equivalent Goods, delivered in an acceptable condition. In the event that, by reason of the contractual relationship between SANPC and the third party Supplier of the defective Goods, or by reason of the contractual relationship between the Supplier and the third party Supplier of such Goods, the Supplier is prevented from refunding or procuring the refund of the amount payable in respect of the Goods, the Supplier shall replace or procure the replacement of such Goods.

50 PACKAGING

Unless otherwise specified in a Purchase Order, the cost of packing materials and containers of whatsoever nature used in connection with the Goods shall be included in the purchase price and such packing materials and containers shall upon delivery of the Goods become the property of SANPC. The Supplier shall be liable for any loss or damage due to inadequate packing.

51 HAZARDOUS GOODS

Hazardous goods must be marked by the Supplier with international danger symbols and the name of the material must be displayed in English.

52 WORKS

52.1 Where Works to be performed by the Supplier form part of a Purchase Order, such Purchase Order shall specify the commencement and completion dates or such other arrangements as may be agreed by the Parties in this regard.

52.2 Within 7 (seven) days after execution of a Purchase Order relating to Works to be provided, unless otherwise specified by SANPC, the Supplier shall submit for SANPC's approval a detailed programme setting out in detail the stages in which such Works will be provided. Any such programme modified in accordance with SANPC's reasonable requirements (if any), shall be the programme to which the Supplier shall work. The submission to and approval by SANPC of such a programme shall not relieve the Supplier of any of its duties or liabilities hereunder. Any such programme shall be subject to revision from time to time as SANPC may reasonably require.

52.3 Notwithstanding the programme referred to in sub-clause 52.2, SANPC may at any time give direction in writing to the Supplier as to the order in which parts of the Works are to be provided and the Supplier shall comply with such directions.

52.4 The Supplier shall keep SANPC fully informed in advance upon all details of the Supplier's intended procedure in the performance of its obligations in terms of any such Purchase Order.

52.5 After submission to and approval by SANPC of such programme the Supplier shall adhere to the order of procedure and method stated therein unless he obtains the written permission of SANPC to vary such order or method, which permission shall not be unreasonably withheld.

52.6 If at any time it should appear to SANPC that the actual progress of the Works does not conform to the programme, the Supplier shall produce, at the written request of SANPC, a revised programme showing the modifications to the approved programme necessary to ensure completion of the Works within the originally agreed period of time.

52.7 The Supplier shall be deemed to have satisfied itself as to all the conditions and circumstances affecting such a Purchase Order, as to the possibility of providing the Works as shown and described in the Purchase Order and as to the general conditions and circumstances at the site at which the Works are to be provided, and to have fixed its prices according to its own view of these, as no additional allowance, except as expressly hereinafter provided, shall afterwards be made beyond that set out in the Purchase Order.

52.8 The Supplier shall be responsible for any discrepancies, errors or omissions in any designs and in any drawings or data supplied by it or its sub-contractor, whether such designs, drawings or data were approved by SANPC or not, provided that such discrepancies, errors or omissions not be due to inaccurate information furnished in writing by SANPC to the Supplier. The Supplier shall bear any extra costs reasonably incurred due to any alterations in or additions to the works necessitated by virtue of such discrepancies, errors or omissions.

52.9 If the Supplier shall fail or neglect to complete the Works and all extra or additional Works which SANPC and the Supplier may have agreed upon, on or before the prescribed date or any extension thereof to which the Supplier may be entitled under a Purchase Order, it shall pay to SANPC by way of penalty, a sum of money equal to 1% of the Purchase Order price for each week or part thereof which shall elapse between the prescribed date and the date on which the Works, and all extra or additional Works, if any, are completed so as to be safely usable for the operation for which it has been designed, provided that such penalty shall in no case exceed 5% of the Purchase Order price and that notwithstanding anything to the contrary herein contained, SANPC shall have the right to claim damages in lieu of such penalty.

52.10 The Supplier shall give reasonable notice in writing to SANPC of any further technical information that may be required for the provision of the Works or otherwise under the Purchase Order.

52.11 SANPC shall have full power and authority to supply to the Supplier, from time to time during the progress of the Works, copies of such further technical information and such instructions as shall be necessary for the purpose of the proper and adequate provision and maintenance of the Works and the Supplier shall carry out and be bound by the same.

52.12 Where a Purchase Order entails preparation by the Supplier of designs and details of any work to be supplied, it shall submit for review by SANPC all necessary documentation giving full details, dimensions and particulars, together with all relevant information (including erection or operating instructions, if any) and shall obtain SANPC’s written comments before commencing the Works. When any such documentation has been commented on in writing by SANPC it

shall not be departed from in any way except with the written consent of SANPC. SANPC shall be entitled to be provided with by the Supplier and to retain a satisfactory reproducible copy of any such reviewed documentation required in connection with any Works to be provided by the Supplier. The Supplier shall be responsible for any error, omission or deficiency in any documentation supplied by it and for any loss, damage or expense arising out of such error, omission or deficiency, notwithstanding that such documentation may have been reviewed and commented on by SANPC, provided always that such error, omission or deficiency is not due to incorrect drawings or inaccurate information furnished to the Supplier by SANPC.

52.13 The Supplier shall, on the written order of SANPC, suspend the progress or alter the order of the Works or any part thereof for such time or times and in such manner as SANPC may consider necessary and shall during such suspension or alteration properly protect and secure the Works so far as is necessary in the opinion of SANPC. The extra cost (if any) in giving effect to SANPC's instructions under this clause shall be borne and paid by SANPC unless such suspension or alteration is:-

52.13.1 Otherwise provided for in the Purchase Order, provided that the Supplier shall not be entitled to recover any such extra cost unless be given notice in writing to SANPC of its intention to claim within 7 (seven) days of SANPC's order or instruction.

52.13.2 If the progress of the Works or any part thereof is suspended on the written order of SANPC for more than ninety days, the Supplier may serve a written notice on SANPC requiring permission, within 28 (twenty eight) days from the receipt thereof, to proceed with the Works or that part thereof in regard to which progress is suspended.

52.14 The Purchase Order shall be subject to changes by additions, deletions or revisions thereto by SANPC. The Supplier will be advised of such changes by receipt of additional and / or revised drawings, specifications, exhibits or written change requests.

52.15 The Supplier shall submit to SANPC within 10 (ten) days after receipt of notice of a change, a detailed take-off with supporting calculations and pricing for the change together with any additional time required for the provision of Works as changed. Pricing shall be in accordance with the pricing structure of the Purchase Order and shall clearly define increase, decrease or no change in compensation under that Purchase Order.

52.16 The Supplier shall not perform changes in the Works until SANPC has approved in writing the pricing for the change and any adjustment in the time for the provision of the Works, or has expressly authorised the Supplier in writing to perform the change prior to such approval by SANPC. Upon receiving such written approval of SANPC or such written authorisation to perform from SANPC, the Supplier shall diligently perform the change in strict accordance with and subject to all of the terms of the Purchase Order. If the Supplier believes that such performance of the change, prior to having received SANPC's written approval of pricing and time adjustment, justifies modification of the Purchase Order price or time for provision of the Works, the Supplier shall comply with the claims procedure set forth hereinafter. The Supplier shall not suspend performance of a Purchase Order during the review and negotiations of any change, except as may be directed by SANPC.

52.17 During the course of providing the Works, SANPC's authorised representative may orally advise the Supplier of changes in the Works. The Supplier shall comply with such oral changes only if the Supplier deems that such changes will not affect the cost or time schedule of the Works. Any costs incurred by the Supplier to perform oral changes in the Works received from SANPC shall be for the Supplier's account, and the Supplier waives any and all rights to claim from

SANPC such costs or additional time to provide the Works as a result of compliance by the Supplier with such oral changes.

52.18 The Supplier shall give SANPC written notice within 7 (seven) days after the happening of any event which the Supplier believes may give reason to a claim by the Supplier for an increase in the Purchase Order price or in the scheduled time for performance. Within 14 (fourteen) days after the happening of such event, the Supplier shall supply SANPC with a statement supporting the Supplier's claim, which statement shall include the Supplier's detailed estimate of the change in Purchase Order Price and scheduled time occasioned thereby. SANPC shall not be liable for, and the Supplier hereby waives, any claim or potential claim of the Supplier of which the Supplier knew or should have known and which was not reported by the Supplier in accordance with the provision of this clause. The Supplier agrees to continue provision of the Works during the time any claim of the Supplier hereunder is pending. SANPC shall not be bound to any adjustments in the Purchase Order price or scheduled time for the Supplier's claim unless expressly agreed to by SANPC in writing. No claims hereunder by the Supplier shall be allowed if asserted after final payment under a Purchase Order.

53 WARRANTY MAINTENANCE

The Supplier shall carry out with all possible speed the maintenance work arising out of a breach of warranty, including work necessary to remedy defects or deficiencies, found necessary and ordered by SANPC during the period of the warranty. In the case of work rendered necessary owing to defective materials, equipment and workmanship, the cost shall be borne by the Supplier.

54 SPECIFIC WARRANTIES

54.1 The Supplier warrants the adequacy and sufficiency of all materials, plant, equipment and workmanship and the adequacy and sufficiency of the documentation including all designs for any Goods or Works to be provided and that such Goods or Works as designed and constructed and all the supplies incorporated therein shall be new and all workmanship relating thereto furnished by the Supplier shall be in full conformity with the requirements of the applicable Purchase Order and the associated technical information and shall be fit for the uses intended by the Purchase Order, shall be free of any defects in the material, equipment and workmanship and shall be in accordance with the applicable codes and industry standards as set forth in the Purchase Order.

54.2 The Supplier accordingly agrees to remedy by correction or replacement, at its own cost and expense, promptly upon receipt of notice from SANPC any breach of any of these warranties.

55 SUPPLY OF MINOR GOODS AND RECURRENT MINOR GOODS

55.1 For the purposes of this clause 55, "Minor Goods" shall mean Goods of a consumable nature such as stationery, foodstuff and similar items.

55.2 The provisions of Section C, other than this clause 54, shall not be applicable to Minor Goods. The following provisions shall be applicable to Minor Goods:

55.2.1 Prior to supplying any Minor Goods in terms of these Terms and Conditions, the Supplier shall furnish SANPC with a detailed written quotation upon which shall be stated an all inclusive price for such Minor Goods and the details as to the date until which such quotation shall be open for acceptance by SANPC. Save as provided herein, no other terms and conditions stated upon such quotation shall be binding upon either Party.

55.2.2 The Parties may from time to time agree that certain Minor Goods may be supplied on a recurrent basis upon an agreed price per item set out in the Purchase Order authorising

such supply. Any requisition for Minor Goods specified in that Purchase Order, shall be supplied under and in terms of that Purchase Order without approval of a quotation or the execution of a specific additional Purchase Order authorising such supply. Minor Goods not listed in the authorising Purchase Order, shall be individually contracted for by the execution of a Purchase Order.

Section D. Labour Supply

56 ENGAGEMENT ORDERS

56.1 Unless otherwise agreed by the Parties, each Engagement Order will include:

56.1.1 the Assigned Staff member's name and identity number;

56.1.2 a statement regarding the scope of the Services to be performed by the Assigned Staff member thereunder;

56.1.3 the premises at which the Services are to be undertaken;

56.1.4 the hours the Assigned Staff member is expected to work per day, it being recorded that where no express provision is made to the contrary in the Engagement Order, the Assigned Staff member shall work a minimum of 8 (eight) hours per day;

56.1.5 the commencement date and duration of the Engagement Order. An Engagement Order shall under no circumstances endure beyond the date of termination, for whatever cause, of these Terms and Conditions;

56.1.6 details as to the SANPC Staff member appointed to accept the Assigned Staff member’s time sheets;

56.1.7 details of the consideration payable by SANPC to the Supplier in respect of the Services to be performed in terms of the relevant Engagement Order subject to the provisions of sub-clause 61.1.

57 OBLIGATIONS OF THE SUPPLIER

57.1 The Supplier agrees to advise and assist SANPC with respect to all aspects of the Services and in the performance of such duties, the Supplier shall comply with all requests and directions of SANPC including, but not limited to, ensuring that its Assigned Staff members:

57.1.1 complete daily time sheets which accurately record work duration and activities;

57.1.2 at all times adhere to the standard health, safety and security procedures and guidelines applicable to SANPC’s Staff, as varied and conveyed by SANPC to the Supplier from time to time. Should SANPC at any time have reason to believe that any Assigned Staff member provided by the Supplier is failing to comply with such standard health, safety and security procedures and guidelines, SANPC shall be entitled to deny such Assigned Staff member access to any or all of SANPC’s premises.

57.2 The Supplier shall be liable to SANPC for any Losses that SANPC may suffer as a result of any theft, fraud or other criminal act of any Assigned Staff member of the Supplier.

57.3 The Supplier shall –

57.3.1 ensure that its Relationship Manager can be contacted at all times on a cellular telephone to be provided and paid for by the Supplier;

57.3.2 at all times employ and/or retain suitably qualified and trained Assigned Staff members to provide the Services to SANPC; and

57.3.3 at its own cost and expense, actively and to the best of its ability, where appropriate, promote SANPC and its activities to prospective Assigned Staff members;

57.3.4 take all reasonable precautions to ensure that it provides SANPC with reliable, efficient and diligent Assigned Staff members to provide Services for SANPC;

57.3.5 devote as much time as is required to successfully attain the objectives stated in the Engagement Order;

57.3.6 ensure that it has all the necessary resources and/or facilities, which shall be provided at its own expense, to render satisfactory and proper service in terms of the applicable Engagement Order;

57.3.7 maintain the standard and quality of Service as stipulated by SANPC in the applicable Engagement Order;

57.3.8 ensure that the Assigned Staff members procured to perform work for SANPC are clothed in suitable protective clothing required by SANPC and administered by the Supplier, where applicable. The Supplier shall be held accountable for any lost clothing;

57.3.9 ensure that the Assigned Staff members who perform work for SANPC are fit to carry out the functions required of them by SANPC;

57.3.10 at all times be responsible for any disciplinary action that may need to be taken against any of the Assigned Staff members procured by it to perform work for SANPC. Should SANPC at any time advise the Supplier that any of the Assigned Staff members procured by the Supplier to perform work for SANPC are performing unsatisfactorily, are incapable, do not have the necessary skills or expertise, or have committed an act of misconduct, the Supplier shall immediately remove the person and replace that Assigned Staff member with another;

57.3.11 immediately remove any Assigned Staff members provided by it to perform work for SANPC at the request of SANPC and to immediately replace that individual, if so required by SANPC;

57.3.12 ensure at all times that its Assigned Staff members are aware of and abide by current safety and security regulations of SANPC;

57.3.13 ensure that there are sufficient individuals available to SANPC when they are required. Accordingly, the Supplier undertakes to keep a pool of such individuals available for SANPC on an "as and when required" basis;

57.3.14 comply with the provisions of all binding arbitration awards regulating the terms and conditions of the employees of the Supplier performing work for SANPC.

57.4 Where persons provided by the Supplier are required to have specific qualifications and/or expertise and/or skills, the Supplier warrants that the individuals have the necessary qualifications and/or expertise and/or skills and that their qualifications and/or expertise and/or skills are valid.

57.5 The Supplier shall be responsible for all employer/employee related obligations arising in relation to the persons employed by the Supplier to perform services for SANPC.

57.6 The Supplier shall take responsibility for the management, training and performance standards of all persons procured to perform work for SANPC. The Supplier shall at all times ensure the due attendance of the Assigned Staff members to the duties required of them by SANPC.

57.7 Should any Assigned Staff members of the Supplier who is performing services for SANPC be accused of any misconduct or misdemeanour, the Supplier shall at its own cost conduct disciplinary proceedings as may be necessary.

57.8 In the event of an Assigned Staff member being denied access to SANPC's premise(s) in terms of sub-clause 56.1.2 or in the event of termination of an Engagement Order, the Supplier shall, at SANPC's option, replace such Assigned Staff member without delay with a suitable alternative Assigned Staff member approved by SANPC.

58 OBLIGATIONS AND RIGHTS OF SANPC

58.1 SANPC will notify the Supplier timeously of any requirements or change in any requirements which it may have.

58.2 SANPC undertakes to report to the Supplier any injuries suffered by any of the Supplier's Assigned Staff member who has been procured to perform services for SANPC at the earliest opportunity.

58.3 In the event of the Supplier not being able to provide sufficient and/or the required suitable Assigned Staff members, SANPC reserves the right in its sole discretion to make its own alternative arrangements to secure persons to fulfil its requirements.

58.4 SANPC reserves the right to conduct random audits or spot checks at the Supplier's offices, with regard to the Assigned Staff member, and the documentation kept by the Supplier in relation thereto.

59 COMPLIANCE BY THE SUPPLIER

59.1 The Supplier hereby warrants to SANPC that the Supplier is registered as an employer with, and in respect of, the following:

59.1.1 The South African Revenue Services;

59.1.2 Compensation Commissioner;

59.1.3 Unemployment Insurance Fund;

59.1.4 All and any applicable Bargaining Councils;

59.1.5 Skills Development; and

59.1.6 Employment Equity Registry.

59.2 The Supplier shall comply with all prescribed formalities, submit all prescribed returns and make all payments as may be required in connection with the list set out in sub-clause 58.1 above relating to SANPC and the Assigned Staff members procured by the Supplier to perform work for SANPC.

59.3 The Supplier shall provide SANPC with copies of certificates of registration and/or prescribed forms or returns relating to each and every one of the items listed in sub-clause 58.1 above, if requested to do so by SANPC.

59.4 The Supplier shall submit to SANPC proof of payment of all liabilities and obligations pursuant to legislation including, but not limited to, the Income Tax Act, if requested to do so by SANPC.

59.5 The Supplier undertakes at all times to comply with the provisions of any collective agreements, which may be binding upon or become binding upon the Supplier and/or its Staff and/or SANPC.

59.6 The Supplier shall provide SANPC with proof of its registration as a temporary employment service (if applicable) and provide full ownership details including proof of shareholding to SANPC within 5 (five) days of the date of signature of the Acceptance Agreement.

59.7 The Supplier shall provide proof of its registration with the South African Revenue Services within 5 (five) days of the date of signature of this agreement. The Supplier shall be responsible for any tax obligations in relation to the persons procured by it to perform work for SANPC.

60 PROPRIETARY RIGHTS

60.1 The Supplier acknowledges and agrees that all rights in and to the SANPC Intellectual Property made available to Assigned Staff members by SANPC from time to time, vests and shall remain vested in SANPC and that SANPC is the owner thereof.

60.2 The Supplier acknowledges and agrees that SANPC shall own all rights, including without limitation all Intellectual Property rights in and to any materials prepared or created by Assigned Staff members, or to which Assigned Staff members contributed, pursuant to the Contract Documents. The Supplier shall ensure that all Assigned Staff members are informed and agree that all Intellectual Property in and to such material vests in SANPC.

60.3 To the extent that title to material is not automatically vested in SANPC, the Supplier hereby irrevocably assigns all right, title and interest in and to the same to SANPC. The Supplier further undertakes, as and when requested by SANPC, to execute all such instruments and to do all such things as may be necessary to vest copyright and ownership of such material in SANPC and in the event of the Supplier failing to comply promptly with any such request by SANPC, it hereby irrevocably nominates and appoints SANPC to be its agent, with power to sign all such documents and do all such other acts, matters and things as may be necessary to give due and proper effect to the terms of this clause.

60.4 The Supplier acknowledges and agrees that SANPC shall have the right to modify any of the material provided to SANPC by Assigned Staff members, pursuant to the Contract Documents and the Supplier shall ensure that all Assigned Staff members are informed and agree that SANPC has the right to modify such material.

60.5 Save with the written consent of SANPC neither the Supplier nor any of its Assigned Staff members shall at any time, copy, duplicate or reproduce in any manner or form, the material or any part thereof or make any adaptations or translations of such material.

61 SPECIAL PROVISIONS WITH REGARD TO CONSIDERATION

61.1 No fee shall be chargeable in respect of any Assigned Staff member for absence due to illness, voluntary leave or public holidays and the fee set out in the Engagement Order shall be apportioned pro rata according to the length of time the Assigned Staff is not providing the Services.

61.2 The Supplier acknowledges that in the absence of an appropriate and valid Tax Exemption Certificate or tax directive issued by the Commissioner of Inland Revenue, SANPC shall deduct employees tax from the consideration referred to in sub-clause 60.1 and pay such employees tax to the Commissioner of Inland Revenue.

61.3 In the event that the Supplier is in possession of a valid Tax Exemption Certificate the Supplier shall deliver a certified copy thereof to SANPC for record purposes. In the event that the

Supplier is in possession of a valid tax directive the Supplier shall deliver the original thereof to SANPC for record purposes. It is recorded that the Tax Exemption Certificate or the tax directive, as the case may be, expires at the end of the year of assessment in which the certificate/directive was issued, which date is recorded on the certificate/directive. Accordingly, the Supplier undertakes to deliver, to SANPC, a new certified copy of the Tax Exemption Certificate or a new original tax directive, as the case may be, at the beginning of each year of assessment for the continued duration of these Terms and Conditions. In the event that the Supplier fails to deliver such certificate or directive timeously, SANPC shall immediately commence deducting Employees Tax from the consideration referred to in sub-clause 61.1 and shall continue to do so until the Supplier provides SANPC with a valid Tax Exemption Certificate or tax directive, in which event SANPC will comply with the instructions by the new Tax Exemption Certificate or tax directive, as the case may be.

62 STATUS OF THE SUPPLIER AND ITS ASSIGNED STAFF MEMBERS

62.1 Any Assigned Staff members employed by the Supplier is not an employee of SANPC and the Supplier hereby indemnifies SANPC against any claim that any such person is an employee or agent of SANPC or any claim by such persons relating to, or arising out of, the Services performed for SANPC.

62.2 Notwithstanding the provisions of section 198(4) of the Labour Relations Act in accordance with which the Supplier and SANPC are jointly and severally liable, if the Supplier, in respect of any of its Assigned Staff members, contravenes any of the following, the Supplier indemnifies SANPC in respect of any claims which may be made against it in accordance with the provisions of section 198(4) of the Labour Relations Act:

62.2.1 a collective agreement concluded at a bargaining council that regulates terms and conditions of employment;

62.2.2 a binding arbitration award that regulates terms and conditions of employment;

62.2.3 the Basic Conditions of Employment Act; or

62.2.4 a determination made in terms of the Wage Act;

63 ADDITIONAL WARRANTIES

63.1 The Supplier represents and warrants that it shall at all times -

63.1.1 advise the Assigned Staff members that no employment relationship shall exist between SANPC and any Assigned Staff;

63.1.2 ensure that each and every Assigned Staff member has signed a non disclosure agreement substantially similar to the provisions of clause 27 prior to commencing the Services; and

63.1.3 provide and maintain such documentation as is authored by or on behalf of the Supplier so that it –

63.1.3.1 accurately reflects the Services;

63.1.3.2 is accurate, complete and written in a manner easily understood by SANPC; and

63.1.3.3 is promptly updated from time to time to reflect any changes.