

completion and commissioning) prepared by the Concessionaire and to be used by the Concessor, *inter alia*, for monitoring the progress of the Construction Works and for the subscription for *Convertible Shares* by Blue IQ;

**“Construction Site”** means that part of the Concession Area required for the Construction Works;

**“Construction Works”** means the phased design and construction works required to be undertaken by the Concessionaire so as to fulfil its obligations under this Concession Contract and the Construction Contracts, but shall exclude Exhibition Installation, and Operation and Maintenance;

**“Contractor”** means the party or parties designated as such under the relevant Construction Contract;

**“Convertible Shares”** means the 100 (one hundred) shares of R0,01 (one cent) each in the capital of the Concessionaire, having the rights, privileges, and conditions detailed in Schedule 17;

**“CPIX”** means the weighted average of the Consumer Price Index excluding interest rates on mortgage bonds for all areas as published from time to time by Statistics SA in Statistical Release PO 141.1 provided

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that if, after the Effective Date:

- (a) such index should cease to be published, or
- (b) either the Concessor or the Concessionaire should notify the other that, due to a change in circumstances, the index is no longer representative of inflation generally in South Africa,

then in the case of (a), from the date the index is last published, and in the case of (b), from the date of that change in circumstances specified in the notice concerned or if no date is specified in the notice concerned, from the date of that notice, the Parties will use such other official information or index as may be available and acceptable to them, or failing such acceptance, an index determined in writing as fair and reasonable by an internationally recognised firm of independent auditors agreed between the Concessor and Concessionaire, or if they are unable to agree within 3 (three) Business Days of either of them calling on the other to do so, nominated by the President for the time being of the South African Institute of Chartered Accountants or any successor body. Their determination shall be final and binding upon the Parties, except for any



manifest error. If any such index is rebased or the calculation thereof is otherwise changed, the Parties shall recalculate the index so that it reflects the original base and/or calculation; provided that any such recalculation shall only apply from the date the index is rebased or the calculation of the index is otherwise changed;

**“Design and Construction”**

means the design, construction and commissioning of the ICC;

**“Detailed Design”**

means the detailed design for the Construction Works or part thereof and the bulk sewage works to be constructed and used at the Mohale’s Gate Site and the Sterkfontein Site, prepared or procured by the Concessionaire in accordance with Clause 9;

**“Development Period”**

means the period between the Signature Date and the Effective Date;

**“Effective Date”**

means the day after the date when the conditions specified in Clause 2.1 have been satisfied or waived;

**“EIA” or “Environmental Impact Assessment”**

means the process of assessing the environmental effects of the Project, carried out in accordance with applicable Regulatory Provisions;

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**“Environmental Guidelines”**

means the environmental guidelines for the Concessionaire’s fulfilment of its obligations under this Concession Contract as set out in Schedule 3, as they may be revised and updated by the Concessor from time to time;

**“Environmental Laws”**

means any applicable law in force prior to and after the Signature Date, relating to pollution or the protection of the environment (which shall include any air, surface and sub-surface land, coastal, inland and ground waters) including, without limitation, laws relating to the release, exposure to, generation, use, treatment, storage, transport, removal or disposal of Potentially Hazardous Materials and permits required for any development of the Concession Area under the Environment Conservation Act 73 of 1989 and the National Environmental Management Act 107 of 1998 and other laws of the Republic of South Africa;

**“Equity”**

means any form of share capital or subordinated or mezzanine debt issued by or shareholders loans made to the Concessionaire;

**“Excluded Assets”**

means those Project Assets, as agreed in writing between the Concessor and the Concessionaire from time to time, that the Concessionaire will be entitled to encumber

in terms of Clause 5 and that the Concessionaire will retain on expiry of this Agreement in accordance with Clause 27.3;

**“Exhibition  
Installation”**

means the design, construction, compilation, installation and operation of permanent and temporary exhibits at the ICC or (under the aegis of the ICC) at such other places as the Concessionaire may choose;

**“Existing Immovable  
Concession Assets”**

means collectively the immovable assets and bulk infrastructure owned by the Concessor Parties associated with or connected to the ICC and/or the Concession Area as at the Effective Date or, if the context is appropriate, any one of them;

**“Financial Year”**

means the financial year of the Concessionaire;

**“Force Majeure”**

has the meaning set forth in Clause 25;

**“Generally Accepted  
Accounting Principles”**

means the generally accepted accounting principles developed by the South African Institute of Chartered Accountants as approved by the Accounting Practices Board in effect from time to time in the Republic of South Africa;

**“Government”**

means the Gauteng Provincial Government;

**“Gross Revenues”**

means any and all monies in any form,

*AI*

*RS*  
*CS*  
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received by the Concessionaire in respect of or arising out of the Project, which shall be net of the commissions retained by travel agents and tour operators and amounts received by the Concessionaire as Value Added Tax or as the subscription price for Convertible Shares.

**“Historically Disadvantaged Individual” or “HDI”**

means individuals who are citizens of the Republic of South Africa who, according to racial classification did not have the right to vote or had restricted voting rights immediately prior to the 1994 general election;

**“Historically Disadvantaged Group” or “HDG”**

means any organisation or group where the majority ownership or membership is held by HDIs;

**“ICC”**

means the Interpretation Centre Complex, comprising the Interpretation Centre, the Orientation Centre and all associated facilities;

**“Interpretation Centre”**

means the Interpretation Centre to be established and operated in accordance with the Technical Requirements within that part of the Concession Area located at the Mohale’s Gate Site comprising, *inter alia*, a conference centre, an education resource centre, an outdoor amphitheatre and food and retail outlets;

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**“Key Personnel Positions”**

means the positions designated as such in Schedule 11;

**“Material Damage”**

used in the context of the environment means any change in the environment within or emanating from the Concession Area caused by the Concessionaire as a result of any activity, whether engaged in by the Concessionaire or not, where the change results in a material adverse effect on the ecological integrity of the environment or on the ability of any eco-system to recover or which will have a material effect in the future, all of which shall be measured against the EIA or any subsequent EIA;

**“Minimum Rental”**

has the meaning described in Clause 19.1.3;

**“Mohale’s Gate Site”**

means the land situated adjacent to the COH WHS, forming part of the Concession Area and over which the Interpretation Centre will be established being the farm Interpretation Centre 932-JQ, comprising Portion 4 of the farm Waterkloof 515-JQ, Portion 1 of the farm Waterpoort 585-JQ, and Portion 3 of the farm Spring Farm 588-JQ, measuring 100 (one hundred) hectares;

**“Operation and Maintenance” or “O&M”**

means all the operation and maintenance activities that are necessary to ensure the proper operation and maintenance of the ICC in accordance with the requirements of

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this Concession Contract and the Operation and Maintenance Contract, including without limitation the Operation and Maintenance of the ICC buildings and other Project Assets, the permanent and temporary exhibits included as part of the Exhibition Installation, and tours of that part of the Sterkfontein Caves which is open to the public, as determined by Wits from time to time, which is part of the Sterkfontein Site;

**“O&M Bond”**

means the guarantee for the due performance of the Operation and Maintenance, and the Exhibition Installation obligations of the Concessionaire and for the payment of the Annual Concession Fee and/or any penalties that may be due by the Concessionaire, issued in favour of the Concessor and Wits on the basis set out in Schedule 6;

**“Operation and Maintenance Contract”**

means the contracts entered into between the Concessionaire and any third party in relation to the Operation and Maintenance of the ICC;

**“Orientation Centre”**

means the Orientation Centre to be established and operated in accordance with the Technical Requirements within that part of the Concession Area located at the Sterkfontein Site, comprising, *inter alia*, a fossil-preparation centre, an auditorium, a

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site museum and an educational resource centre;

**“PBO”**

means the Cradle of Humankind Trust Registration Number I TRUST 7264/03, which will be registered as a public benefit organisation registered under Section 30 of the Income Tax Act, 1962 (Act No. 58 of 1962) as amended;

**“Parties”**

means the Concessor, Wits, Blue IQ, the PBO and the Concessionaire and “Party” shall, as the context requires, refer to any of them;

**“Person”**

means any individual, partnership, corporation, company, business organisation, trust, governmental agency, parastatal, Relevant Authority or other legal entity;

**“Potentially Hazardous Materials”**

means any natural or artificial substance (whether in solid or liquid form or in the form of a gas or vapour) capable of causing harm (whether alone or in combination with any other substance) to any human or any other living organism supported by the environment, or capable of damaging the environment or public health or posing a threat to public safety or potentially causing a public nuisance including, without limitation, any pollutants and any hazardous, toxic, radioactive, noxious, corrosive or dangerous substances and all

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substances regulated, or for which liability or responsibility is imposed, under the applicable Environmental Laws;

**“Preliminary Design”** means the preliminary design of the ICC submitted to the Concessor by the Concessionaire as part of the Bid Submission, set out in Schedule 2;

**“Project”** means the execution of the Construction Works, the Exhibition Installation activities, and the Operation and Maintenance of the ICC by and all other obligations of the Concessionaire, pursuant to the provisions of this Concession Contract and the Associated Agreements;

**“Project Assets”** means all assets comprising part of or used at the ICC and required for the purposes of the Project including the Excluded Assets;

**“Project Software”** means any software, programmes and documentation used in connection with the Project and which are required for the Project;

**“Protected Sites”** means those portions of the Sterkfontein Site indicated in red on the map attached hereto as Part B of Schedule 1;

**“Regulatory Provisions”** means:

(a) the Environmental Guidelines; and

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(b) collectively the prevailing laws, regulations, ordinances, policy directives and standards of the Government and any Relevant Authority which in any way affect or apply to the Project and/or the activities of the Concessionaire and/or this Concession Contract from time to time or, if the context is appropriate, any one of them and where appropriate includes the Record of Decision obtained in respect of the EIA;

**“Related Party”**

means a Person who directly, or indirectly through one or more intermediaries, controls, or is controlled by, a Person who holds at least a 25% Equity interest in the Concessionaire, or is under common control with any Person who holds at least a 25% Equity interest in the Concessionaire, and any Person who holds at least a 25% Equity interest in the Concessionaire, where “control” with respect to any Person means the power to direct the management and policies of such Person whether through the ownership of voting securities, by contract or otherwise and the term “controlled” has the meaning correlative to the foregoing;

**“Related Party Transactions”**

means any transaction between the Concessionaire and a Related Party;

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- “Relevant Authority”** means any ministry, department, agency, authority, organ or body of government at any level of government and any other public authority, body, entity or Person having jurisdiction under the laws of the government of the Republic of South Africa with respect to the Concessionaire or the Project;
- “Remedy Period”** means the period specified in relation to any opportunity to remedy or if none is specified, 15 (fifteen) Business Days;
- “RFP”** means the Request for Proposal to tender for the design, construction, exhibition installation and operation and maintenance of the ICC within the Concession Area in accordance with the terms and conditions set forth in it;
- “Schedule”** means a schedule to this Concession Contract;
- “Servitudes”** means the servitudes which the Concessionaire shall be entitled to have registered over the Concession Area in its favour, in accordance with Clause 8.1.4, substantially in the form of the draft servitudes attached hereto as Schedule 7 (a) and (b);
- “Shareholders”** means those persons holding shares of any class in the Concessionaire and a

- shareholding is the interest each shareholder derives from such shares;
- “Shareholders’ Agreement”** means the agreement made between the Shareholders and the Concessionaire relating to the formation of the Concessionaire and the conduct of its business, being Schedule 16 hereto;
- “Shareholder Distributions”** means at any date, all payments by the Concessionaire to the Shareholders in respect of the Equity, after the deduction of all applicable taxes, including by way of dividends or other return of capital;
- “Signature Date”** means the date of last signature of this Concession Contract;
- “South African Currency”, or “Rand” or “R”** means the lawful currency of the Republic of South Africa from time to time;
- “Sterkfontein Site”** means: (a) Portion 1 called the Isaac Edwin Stegmann Nature Reserve of the farm Zwartkrans 172, Registration Division I.Q. Province of Gauteng; in extent 17,1306 hectares; and (b) the Remaining Extent of the farm Zwartkrans 172, Registration Division I.Q. Province of Gauteng; in extent 61,941 hectares, indicated on the plan attached hereto as Part B of Schedule 1, forming part of the Concession Area over which the Orientation Centre will be

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established, and shall include the Protected Sites but exclude the area marked "Staff Accommodation" and indicated in blue on the plan;

**"Technical Requirements"**

means the description of the scope, standards, design, construction and performance criteria required by the Concessor in terms of this Concession Contract as specified in Schedule 14 to this Concession Contract;

**"Utilities"**

means the facilities and infrastructure services required at the Mohale's Gate Site and the Sterkfontein Site for the provision of electricity, telecommunications, secondary roads and water supplies, but excluding solid waste removal and bulk sewage;

**"Wits"**

means the University of the Witwatersrand, Johannesburg; and

**"Working Days"**

means Business Days but excluding any annual builder holiday periods in the Republic of South Africa.

1.2 Except to the extent to which the context may otherwise require, this Concession Contract shall be construed in accordance with the following:

1.2.1 headings in this Concession Contract are for convenience only and shall not be deemed part thereof or be taken into consideration in the interpretation or construction thereof;

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- 1.2.2 references herein to the Preamble, Clauses and Schedules are to the Preamble to, Clauses in and Schedules to this Concession Contract unless the context requires otherwise. The Schedules to this Concession Contract shall form an integral part of this Concession Contract;
- 1.2.3 words importing the singular only, also include the plural and vice versa where the context requires;
- 1.2.4 any reference to any agreement, annexure or schedule shall be construed as including a reference to any agreement, annexure or schedule amending or substituting that agreement, annexure or schedule;
- 1.2.5 if any definition in this Clause 1 contains a substantive provision conferring rights or imposing obligations on any Party, effect shall be given to such provision as if it were a substantive provision in the body of this Concession Contract;
- 1.2.6 any word or expression related to a word or expression defined in this Concession Contract shall bear a corresponding meaning;
- 1.2.7 any word or expression importing any gender shall include the other genders;
- 1.2.8 any reference to the provisions of law and any similar reference of general application shall be construed to include both legislation and the common law, and any reference to "legislation" includes any statute, any regulations passed under any statute, as well as any public notice, ruling or similar legislative instrument passed or approved by a Relevant Authority with the requisite authority;
- 1.2.9 save where specifically provided otherwise, references to statutory provisions shall be construed as references to those provisions as amended or re-enacted or as their application is modified by other provisions (whether before or after the Signature Date) from time to

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time and shall include any provisions of which they are re-enactments (whether with or without modification);

1.2.10 the words "include" and "including" are to be construed without limitation;

1.2.11 wherever provision is made for the giving or issuing of any notice, decision, consent, acceptance, agreement, expression of satisfaction, endorsement, approval, certificate, instructions or determination by any Person, unless otherwise specified, such notice, decision, consent, acceptance, agreement, expression of satisfaction, endorsement, approval, certificate, instruction or determination shall be in writing and the words "notify", "decide", "consent", "accept", "agree", "endorse", "approve", "certify", "instruct" or "determine" and other related expressions shall be construed accordingly;

1.2.12 references to materials, information, data and other records shall be to materials, information, data and other records whether stored in electronic, written or other form;

1.2.13 when any number of days or other period is prescribed, it shall be calculated exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or legally recognised public holiday in the Republic of South Africa, in which case the last day shall be the next day which is not a Saturday, Sunday or legally recognised public holiday in the Republic of South Africa;

1.2.14 save where otherwise provided, whenever this Concession Contract provides for approvals, consents or expressions of satisfaction by any one of the Parties, that Party shall give that approval, consent or expression of satisfaction without undue delay, unless it has reasonable grounds for withholding such approval, consent or expression of satisfaction;

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- 1.2.15 each Party shall ensure that any decision, determination, instruction, inspection, examination, testing, consent, approval, expression of satisfaction, acceptance, agreement, exercise of discretion (whether sole or otherwise) or similar act required by it from another Party in respect of this Concession Contract or any Associated Agreements shall be applied for or requested promptly;
- 1.2.16 references in this Concession Contract to an amount "as at the Signature Date" mean that such amount shall, for the purposes of this Concession Contract, be escalated on the Effective Date and annually thereafter in accordance with the CPIX in order that its value as at the Signature Date will be maintained relative to the percentage year-on-year increase in the CPIX for such period.

## 2 CONDITIONS PRECEDENT

- 2.1 This Concession Contract shall, save for Clauses 1, 2, 29 and 31, be subject to the following conditions precedent:
- 2.1.1 the Mohale's Gate Site will have been registered in the name of the Government acting through the appropriate department, and will have been rezoned or designated for Special Use by the Relevant Authorities;
- 2.1.2 the Concessor will have constructed or procured the construction of the Utilities and all other critical bulk infrastructure needs (excluding the provision of bulk sewage which is to be provided by the Concessionaire) of the Interpretation Centre and the Orientation Centre up to the respective boundaries of the Mohale's Gate Site and the Sterkfontein Site, as identified in Schedule 14;
- 2.1.3 the Concessionaire will at its cost have appointed an independent environmental consultant to undertake an EIA in respect of the Project in accordance with applicable Regulatory Provisions and guideline documents published by the South African Department of

Environmental Affairs and Tourism ("DEAT") and in accordance with the principles of Integrated Environmental Management adopted from time to time by DEAT, the provisions of the Environmental Guidelines; and

2.1.4 that EIA will have reached that phase in its process where public comments have been received and dealt with to the satisfaction of DEAT and the Parties;

2.1.5 the Concessionaire will have delivered to the Concessor both the Construction Bond and the O&M Bond, each of which shall be to the satisfaction of the Concessor and Wits.

2.2 Forthwith after the Signature Date the Parties shall use their reasonable endeavours and provide to one another any reasonable assistance as may be required to procure the fulfilment of the conditions precedent in this Clause 2 no later than 90 (ninety) days after the Signature Date ("Final Date").

2.3 The conditions precedent in:

2.3.1 Clause 2.1.2 has been stipulated for the benefit of the Concessionaire. The Concessionaire shall accordingly be entitled (at its sole discretion) before the Final Date to extend that date by up to 60 (sixty) days or waive fulfilment of such condition by giving written notice to that effect to the Concessor.

2.3.2 Clause 2.1.5 has been stipulated for the benefit of the Concessor and Wits. The Concessor and Wits (together, but not either of them separately) shall accordingly be entitled (at their sole discretion) before the Final Date to extend that date by up to 60 (sixty) days or waive fulfilment of such condition by giving written notice to this effect to the Concessionaire.

2.3.3 Clauses 2.1.1, 2.1.3 and 2.1.4 have been stipulated for the benefit of the Concessor, Wits and the Concessionaire. These Parties shall be

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entitled before the Final Date, to extend that date by mutual agreement by up to 60 (sixty) days or waive fulfilment of any such conditions.

2.4 If the Final Date is extended in respect of any condition in terms of Clause 2.3, that extension shall also apply in respect of all other conditions stipulated in this Clause 2.

2.5 Unless the conditions are fulfilled by the Final Date (as extended in terms of Clause 2.3, if applicable) the provisions of this Clause 2 and Clauses 1, 29 and 31 shall continue to be of force and effect, but the remainder of this Agreement shall cease to be of any force, and the Parties shall be restored to their positions prior to the Signature Date.

### 3 CONCESSION RIGHTS AND OBLIGATIONS

#### 3.1 Concessionaire Obligations

##### 3.1.1 The Concessionaire:

3.1.1.1 shall, unless otherwise agreed by the Concessor and Wits, be a single purpose company with the sole object and business of implementing the Project and the Concessionaire shall not assume any liability other than in connection with the Project. The memorandum and articles of association of the Concessionaire shall include a provision to such effect;

3.1.1.2 shall provide in its memorandum of association, as special conditions as contemplated in Section 53 of the Companies Act 61 of 1973, as amended, for the restrictions on its powers required in Clause 5.4, in a form acceptable to the Concessor and Wits;

3.1.1.3 shall have no subsidiaries except with the prior consent of the Concessor; and

3.1.1.4 shall not change any provision of its memorandum or articles

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of association without the prior written consent of the Concessor and of Wits.

- 3.1.2 The Concessionaire will undertake the Project at its own cost (apart from the subscription proceeds received by it in respect of the Convertible Shares) and risk in accordance with the provisions of this Concession Contract. None of the Concessor Parties, the Government or any Relevant Authority shall provide any guarantee or support to the Concessionaire except as otherwise specifically provided herein. This Concession Contract shall not be deemed to grant the Concessionaire any right or impose any obligations on the Concessor Parties, the Government or any Relevant Authority except as specifically stated in this Concession Contract.
- 3.1.3 The Concessionaire will, at its cost, obtain all environmental permits, approvals and authorisations required by law for the Project, including (without limitation) all authorisations prescribed under Environmental Laws and the required Record(s) of Decision.
- 3.1.4 The Concessionaire will at its cost, obtain all permits, licences, consents, approvals and authorisations from the Concessor and any Relevant Authority and such other Persons whose consents and approvals are necessary for the Concessionaire to operate the Project, as envisaged in this Concession Contract and the Associated Agreements.
- 3.1.5 Notwithstanding that this Concession Contract permits or requires the Concessionaire to engage third parties to perform part of the Project, such engagements shall not release the Concessionaire from any of its obligations and responsibilities to any of the Concessor Parties under this Concession Contract, and the Concessionaire shall be fully responsible for the acts and omissions of such third parties.

### 3.2 Exclusive Grant of Concession Rights

3.2.1 Subject to the terms of this Concession Contract, the Concessor grants exclusively to the Concessionaire the Concession Rights from the Effective Date until the termination or expiry of this Concession Contract in accordance with the terms of this Concession Contract.

3.2.2 Wits and the PBO acknowledge the Concessor's grant of the Concession Rights to the Concessionaire in terms of this Concession Contract. Each of them undertakes to the extent that it has the power to do so, to give effect to those Concession Rights in accordance with the terms of this Concession Contract.

### 3.3 Term of Concession Period

3.3.1 Subject to the remainder of this Clause 3.3, the initial Concession Period shall be the period beginning on the Effective Date and expiring at midnight of the day preceding the tenth anniversary of the date on which the Construction Works have been certified as complete pursuant to Clause 13.

3.3.2 The Concession Period shall be automatically extended provided that:

3.3.2.1 each such extension shall be for a period of 5 (five) years, the first of which shall commence on the expiry of the initial Concession Period;

3.3.2.2 there shall be no more than 2 (two) such extensions of the initial Concession Period;

3.3.2.3 as at the date of termination of the initial Concession Period or the first extension of the initial Concession Period (as the case may be), the Concessionaire will not have committed any breach of any of its obligations in terms of the Concession Contract which remains unremedied at the relevant date;

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## 3.3.2.4

the average number of visitors to the Concession Area during the initial Concession Period (in relation to the first extension) or the 15 (fifteen) year period from the beginning of the Concession Period (in relation to the second extension), will have been at least 300 000 (three hundred thousand) per year and the average spend per visitor at the ICC will have been at least R40.00 (forty Rand) (escalated annually from the Effective Date to compensate for inflation in accordance with the CPLX). The Concessionaire shall, no later than 6 (six) months but no earlier than 9 (nine) months prior to the expiry of the initial Concession Period or the first extension of the initial Concession Period (as the case may be), deliver to the Concessor and Wits a certificate signed by its auditors certifying that this milestone regarding minimum annual visitor numbers and minimum spend per visitor, has been met during that portion of the initial Concession Period or the relevant 15 (fifteen) years (as the case may be) which commences on the commencement date thereof and ends on the date of such certificate. That certificate shall be used to determine whether the requirements of this Clause have been met, but the Concessor and Wits shall be entitled to require that it be substantiated if they (or either of them) so require(s).

## 3.3.2.5

The Concessor, Wits and the Concessionaire will no later than 6 (six) months but no earlier than 9 (nine) months prior to the expiry of the initial Concession Period or the first extension of the initial Concession Period (as the case may be), have reached agreement that the extension of the Concession Period will enhance the primary purposes of the Concessor and Wits in relation to the ICC being:

- (i) for DACEL, the cultural and environmental protection and sustainable development of, and related activities within the

  
  
  
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COH WHS; promoting, managing, overseeing, marketing and facilitating tourism and related development in connection with the COH WHS; ensuring the identification and transmission to future generations of the cultural and national heritage of South Africa; and ensuring the protection, conservation and preservation of such cultural and natural heritage;

(ii) providing social and economic benefits for the communities in and around the COH WHS including, job creation and promoting empowerment and advancement of HDI's; and

(iii) facilitating and encouraging scientific research and education in and in respect of the COH WHS.

3.3.2.6

the Parties have reached agreement in accordance with clause 3.3.3 on the Annual Concession Fee Payment by no later than 12 (twelve) months prior to the expiry of the initial Concession Period, or the first extension of the initial Concession Period (as the case may be),

3.3.3

No later than 18 (eighteen) months prior to the expiry of the initial Concession Period, or the first extension of the initial Concession Period (as the case may be), the Concessionaire shall submit a proposal for the Annual Concession Fee Payment (as defined in Clause 19.1.1) to be applicable to such extended period. The Parties shall then meet in order to reach agreement on the Annual Concession Fee Payment to be applicable for the extended period.

3.3.4

If the requirements of Clauses 3.3.2 and 3.3.3 are satisfied, the initial Concession Period or extended Concession Period (as the case may be) shall be extended or further extended for a period of 5 (five) years on the same terms and conditions of this Concession Contract, save in respect of the value of the Annual Concession Fee Payment.

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- 3.3.5 If the Parties are unable to reach agreement in terms of Clause 3.3.2 or on the Annual Concession Fee Payment in terms of Clause 3.3.3, this Agreement shall terminate on the expiry of the initial Concession Period, or the first extension of the initial Concession Period (as the case may be).
- 3.3.6 In the event that this Agreement terminates in accordance with Clause 3.3.5, the Concessor undertakes not to concession the ICC thereafter except by means of a public bidding process in which the Concessionaire shall be entitled to participate.
- 3.3.7 This Agreement shall remain in force for the Concession Period unless previously terminated in accordance with the provisions of this Concession Contract.

#### 4 **PAYMENTS**

- 4.1 Save as expressly provided in this Concession Contract, the Concessor shall not require payment by the Concessionaire for or in respect of the Concession Rights or otherwise for or in connection with the Project.
- 4.2 The Concessionaire will be responsible for all taxes applied in respect of the Project.

#### 5 **CONCESSIONAIRE COVENANTS**

- 5.1 Compliance with Requirements

The Concessionaire warrants that the Project shall be carried out in conformity with the Technical Requirements and Best Industry Practice and the provisions of this Concession Contract, and using equipment and materials which are of suitable quality for the purpose and uses intended.

- 5.2 Compliance with Laws, Regulations and Standards

The Concessionaire and the Concessor shall comply with all laws and

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regulations of the Republic of South Africa during the Development Period and the Concession Period.

### 5.3 Funding

5.3.1 The Concessionaire shall obtain and have access to all funding required by it for purposes of performing any and all of its obligations under this Concession Contract throughout the Concession Period (other than the subscription price in respect of Convertible Shares) from Equity or from facilities from third parties which do not and will not require any encumbrance of the Mohale's Gate Site, the Sterkfontein Site, any immovable improvement on either of them, or any of the Concessionaire's rights under this or any of the Associated Agreements.

5.3.2 The Concessionaire shall not encumber the ICC or any immovable Project Asset.

5.3.3 The Concessionaire shall not encumber any movable Project Asset (save for any Excluded Asset) without the prior approval of the Concessor.

5.3.4 The Concessionaire shall be entitled to encumber the Excluded Assets.

5.3.5 If any Project Asset is encumbered, and is removed from the Project Site pursuant to such encumbrance, the Concessionaire shall forthwith replace such Project Asset at its cost.

### 5.4 Limitation on Financial Indebtedness

The Concessionaire shall not:

5.4.1 incur, assume or permit to exist any indebtedness including guarantees issued to third parties in excess of an aggregate amount outstanding at any time of R1 000 000.00 (one million Rand); and

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5.4.2

pledge, hypothecate or otherwise encumber its assets (save for the Excluded Assets),

otherwise than in accordance with this Concession Contract or the Associated Agreements or in the ordinary course of business in furtherance of the Project, without the prior written consent of the Concessor.

5.5

If the Concessionaire wishes to use any asset owned by a third party, as a Project Asset (which is not an Excluded Asset), the Concessionaire shall, prior to using such asset procure the consent of the owner of such asset in order to ensure that the Concessor, in respect of a Project Asset at the Mohale's Gate Site, or Wits, in respect of a Project Asset at the Sterkfontein Site is entitled at the end of the Concession Period to use such asset on the same terms and conditions as that applicable to such asset prior to the expiry of the Concession Period. To the extent that the owner of such asset withholds or denies such consent or grants it only subject to any condition, the Concessionaire shall not use such asset as a Project Asset without the prior written approval of the Concessor, in respect of the Mohale's Gate Site or Wits, in respect of the Sterkfontein Site.

5.6

The Concessionaire to Make Documents Available to the Concessor

The Concessionaire shall, upon the written request of the Concessor, and at no cost to the Concessor make available to the Concessor at all times documents which are or were required to be brought into existence for the purposes of the Project by the Concessionaire or supplied to the Concessionaire by other parties to the Associated Agreements, including without limitation, the Associated Agreements and the Concessionaire's own memorandum and articles of association and its certificates of incorporation and entitling it to commence business.

5.7

No interest in the ICC

Unless otherwise agreed in writing by the Concessor or Wits, the

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Concessionaire and Concessionaire Parties shall have no interest in nor receive remuneration from the Concessor or Wits in connection with the ICC except as provided for in the Concession Contract or the Associated Agreements. Subject to the proper enforcement of rights under the Associated Agreements, the Concessionaire shall not (and shall take all reasonable steps to ensure that Concessionaire Parties shall not) engage in any activity which might conflict with the interests of the Concessor or Wits under the Concession Contract or the Associated Agreements, unless such activity is carried out pursuant to the enforcement of its or their rights thereunder.

## 5.8

## Transfer of Concession Area and the ICC

At the end of the Concession Period or at such earlier time as may be provided herein, the Concessionaire shall hand over the Concession Area, the ICC and the Project Assets owned by it as well as those Project Assets, not owned by it but in respect of which it has procured the consent of the owner of such asset for such transfer in accordance with Clause 5.5, and all rights or interests therein to the respective owners of the Mohale's Gate Site and the Sterkfontein Site, free of liens, hypothecs, claims or encumbrances of any kind whatsoever (other than as provided by law or in terms of any provision of this Concession Contract) and free of any liabilities, in good condition, fair wear and tear excepted, having regard to the Concessionaire's obligations under this Concession Contract, and to the extent it is reasonably able to do so, shall transfer to the Concessor and Wits all the Concessionaire's remaining rights and interests in and to the Project Assets. The Concessionaire shall not, other than as provided for in this Concession Contract, be entitled to payment of any compensation in connection therewith. In the event of a dispute between any of the Parties relating to whether the Concessionaire has complied with its obligations as aforesaid, the matter shall be determined in accordance with the provisions of Clause 29. The Concessionaire shall ensure that from the date which is 3 (three) years prior to the expiry of the Concession Period, and for the



remainder of such period, the ICC shall be in the condition that will meet the standards required at the end of the Concession Period as set out in the Technical Requirements.

## 5.9 Related Party Transactions

5.9.1 Unless otherwise agreed by the Concessor in writing, the Concessionaire will not enter into any Related Party Transactions which are less favourable to the Concessionaire than those that could have been obtained in a comparable arm's-length transaction by the Concessionaire with an unrelated person, provided that the prior written approval of the Concessor shall be required in respect of any Related Party Transaction which results in an aggregate cost to the Concessionaire in excess of R5 000 000.00 (five million Rand) or which results in the Concessionaire earning revenue which in aggregate exceeds R5 000 000.00 (five million Rand), even where its terms are no less favourable to the Concessionaire than those that could have been obtained in a comparable arm's-length transaction by the Concessionaire with an unrelated person.

5.9.2 The Concessor shall have the right to review the basis for all costs charged, directly or indirectly, to the Concessionaire by a Related Party. The Concessionaire shall give prior written notice to the Concessor of any Related Party Transaction prior to entry therein together with all relevant details relating thereto.

## 5.10 Copyright and Confidentiality

5.10.1 In the event that any Project Software is owned by the Concessionaire it shall on termination of the Concession Contract or expiry of the Concession Period whichever is the earlier, grant to each of the Concessor and Wits a non-exclusive, royalty-free licence to use the same for the Operation and Maintenance of the ICC, which licences shall be capable of being freely transferred by the Concessor and Wits to the other of them or to third parties at no cost, and solely

for continuing the Operation and Maintenance of the ICC but to no other parties without the prior written consent of the Concessionaire. In the event that any such Project Software is not owned by the Concessionaire but was specifically developed for the Project, the Concessionaire shall procure that it is at all times entitled to grant to each of the Concessor and Wits a non-exclusive, licence, on terms no less favourable than those applicable to it, to use the same for the Operation and Maintenance of the ICC, which licences shall be capable of being further transferred as set out above, or to assign all its rights in and to such Project Software to each of the Concessor and Wits on the basis that such rights shall be capable of being further assigned as set out above. In the event that the Concessionaire wishes to use any other software owned by any third party in the Project, the Concessionaire shall prior to using such software procure the consent of the relevant owner of such software in order to ensure that the Concessionaire is at all times entitled to grant to each of the Concessor and Wits a non-exclusive licence, on terms no less favourable than those applicable to it, to use the same for the operation and maintenance of the ICC, which licences shall be capable of being further transferred as set out above, or to assign all of its rights in and to such software to each of the Concessor and Wits on the basis that such rights shall be capable of being further assigned as set out above. In the event that the owner of such software withholds or denies such consent, the Concessionaire shall not use any such software as Project Software without the prior written approval of the Concessor and Wits. Upon termination of this Concession Contract or expiry of the Concession Period the Concessionaire shall in respect of Project Software owned by it as well as Project Software owned by any third party but in respect of which the consent of the relevant owner has been obtained for such transfer, grant each of the Concessor and Wits such non-exclusive, licences, on terms no less favourable than those applicable to it, or assign to each of the Concessor and Wits all its rights to such Project

Software, as the case may be, on the basis that such licences shall be capable of being further transferred as set out above or that such rights shall be capable of being further assigned as set out above, as the case may be. In respect of that Project Software in respect of which the Concessionaire is unable to either grant a licence or transfer its rights to the Concessor and Wits, the Concessionaire shall render the Concessor and Wits reasonable assistance in negotiating comparable rights of use with the owners of the Project Software in question.

5.10.2

Subject to the restrictions attaching to the relevant Project Software, the Concessionaire may at its cost (and shall allow other parties to Associated Agreements at their cost to) copy, use and communicate any Project Software for the purposes of the respective Associated Agreements. The Concessionaire shall not, without the Concessor's consent, use, copy or communicate to any other third party Project Software, except as strictly necessary for the purposes of the Associated Agreements.

5.10.3


To the extent that the Concessionaire has the right to do so, the Concessionaire agrees, upon request by the Concessor, to make available to each of the Concessor Parties, or to any Relevant Authority designated by the Concessor against reimbursement of costs actually incurred by the Concessionaire in making and delivering, for their use in relation to the Construction Works and Operation and Maintenance of the ICC, copies of all drawings, data, books, reports, documents, software, source codes and manuals and other information ("Proprietary Materials") which the Concessionaire, and/or any of its contractors have been using and which are necessary for continuing performance of the Construction Works, and Operation and Maintenance of the ICC as the Concessor may reasonably require in the performance of its functions under this Concession Contract or in the performance of its, or the Relevant Authority's statutory duties.



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5.10.4

In the event that any Proprietary Materials are owned by the Concessionaire, the Concessionaire shall on termination of this Concession Contract or expiry of the Concession Period, whichever is the earlier, grant to each of the Concessor and Wits a non-exclusive, royalty-free licence to use those Proprietary Materials, which licence shall be capable of being freely transferred by the Concessor and Wits to third parties at no cost, and solely for continuing the Construction Works and the Operation and Maintenance of the ICC, but to no other parties without the prior written consent of the Concessionaire. In the event that any Proprietary Materials are not owned by the Concessionaire but were specifically developed for the Project, the Concessionaire shall procure that it is at all times entitled to grant to each of the Concessor and Wits a non-exclusive, licence, on terms no less favourable than those applicable to it, to use those Proprietary Materials for the Construction Works and the Operation and Maintenance of the ICC, which licence shall be capable of being further transferred as set out above, or to assign all of its right in and to such Proprietary Materials to each of the Concessor and Wits on the basis that such rights shall be capable of being further assigned as set out above. In the event that the Concessionaire wishes to use any other Proprietary Materials owned by any third party in the Project, the Concessionaire shall prior to using such Proprietary Materials procure the consent of the relevant owner of such Proprietary Materials in order to ensure that the Concessionaire is at all times entitled to grant to each of the Concessor and Wits a non-exclusive licence, on terms no less favourable than those applicable to it, to use the same for the Construction Works and the Operation and Maintenance of the ICC, which Proprietary Materials shall be capable of being further transferred as set out above, or to assign all of its rights in and to such Proprietary Materials to each of the Concessor and Wits on the basis that such rights shall be capable of being further assigned as set out above. In the event that the owner of such Proprietary Materials

  
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withholds or denies such consent, the Concessionaire shall not use any such Proprietary Materials without the prior written approval of the Concessor and Wits. Upon termination of this Concession Contract or expiry of the Concession Period the Concessionaire shall in respect of Proprietary Materials owned by it as well as Proprietary Materials owned by any third party but in respect of which the consent of the relevant owner has been obtained for such transfer, grant each of the Concessor and Wits such non-exclusive licences, on terms no less favourable than those applicable to it, or assign to each of the Concessor and Wits all its rights to such Proprietary Materials, as the case may be, on the basis that such licences shall be capable of being further transferred as set out above or that such rights shall be capable of being further assigned as set out above, as the case may be. In respect of Proprietary Materials for which the Concessionaire is unable to either grant a licence or transfer its rights, the Concessionaire shall render the Concessor and Wits reasonable assistance in negotiating comparable rights of use with the owners of the Proprietary Materials in question.

## 5.10.5

The Concessionaire indemnifies each of the Concessor Parties against and holds the Concessor Parties harmless from any liability or cost which is suffered or incurred by any of the Concessor Parties as a result of the infringement of any third party rights arising from the use by any of the Concessor Parties or any Relevant Authority of the Proprietary Materials or Project Software in relation to the Project and/or the ICC, in accordance with the provisions of a licence granted to it by the Concessionaire in respect thereof, save to the extent that such liability or cost was occasioned by any intentional act or omission by a Concessor Party or Relevant Authority in question, or by its gross negligence.

## 5.10.6

The Concessionaire indemnifies each of the Concessor Parties against and holds the Concessor Parties harmless from any liability or cost which is suffered or incurred by any of the Concessor Parties as

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a result of the infringement of any third party rights arising from the use by the Concessionaire of the Proprietary Materials or Project Software, as the case may, be in relation to the Project and/or the ICC during the Concession Period.

5.11 Concessor Parties Intellectual Property

5.11.1 It is specifically recorded that all rights in respect of the Concessor Parties Intellectual Property shall remain the sole property of the relevant Concessor Party. It is specifically recorded, to avoid doubt, that no fossils or other artefacts shall form part of or be included in any of the Concessor Parties Intellectual Property but any knowledge acquired by any Concessor Party as a result of any research in respect of any fossil or artefact shall form part of and be included in such Concessor Party's Intellectual Property.

5.11.2 Subject to existing rights and obligations, the relevant Concessor Party may, on application by the Concessionaire, grant a non-exclusive right and licence to the Concessionaire to use that Concessor Party's Intellectual Property.

5.11.3 In order to establish and maintain high standards of style and quality associated with the Concessor Parties, in the event, the Concessionaire desires to use any of the Concessor Party's Intellectual Property in any way, the Concessionaire shall first submit the concept or a sample of the proposed use to the relevant Concessor Party for approval. Under no circumstances shall any use of a Concessor Party's Intellectual Property, which such Concessor Party has not approved, be used by the Concessionaire. The relevant Concessor Party shall use its best efforts to advise the Concessionaire of its approval or disapproval of the concept or sample within 15 (fifteen) Business Days of its receipt of the concept or sample or such longer period that is reasonable in the circumstances. If the Concessor Party approves the concept or sample, the Concessionaire

  
  
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shall not depart therefrom in any material respect without the Concessor Party's further written approval. Any use of the Concessor Parties' Intellectual Property which has been approved may be undertaken only in connection with the Project.

5.11.4

The relevant Concessor Party may withdraw approval immediately upon written notice to the Concessionaire if the Concessionaire or any Concessionaire Party commits any act or engages in any conduct which constitutes a crime, is contrary to any Regulatory Provision or offends public morals and decency and in the relevant Concessor Party's opinion, materially prejudices the reputation and public goodwill of that Concessor Party or any of the other Concessor Parties, the COH WHS or the ICC. The Concessionaire acknowledges that the names of the COH WHS, Orientation Centre, Interpretation Centre and ICC (the "Protected Names") are or will be associated with and peculiar to the COH WHS and the Project and form part of the Concessor Parties Intellectual Property. The Concessionaire agrees that the sole and exclusive ownership of the Protected Names shall vest in the Concessor Parties and the Concessionaire shall only utilise any of the Protected Names with the prior written approval of the relevant Concessor Party and in terms of this Concession Contract.

5.11.5

In circumstances where the Concessionaire utilises any of the Protected Names, either individually or in combination or association with any other name, it does so only in terms of this Concession Contract and on termination of this Concession Contract, the Concessionaire shall not be entitled to operate or conduct any business using any of the Protected Names either individually or in combination or association with any other name.

5.11.6

The naming of the Concessionaire's business operation shall be done in consultation with the Concessor and subject to the Concessor's approval.



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5.11.7

In circumstances where or to the extent that the name chosen by the Concessionaire and approved by the Concessor is not part of the Concessor Parties Intellectual Property, then the rights of the Concessor Parties contemplated in this Clause 5.11 shall not be applicable to such name which shall be the sole property of the Concessionaire.

6

## THE CONCESSOR'S AND BLUE IQ'S CONTRIBUTIONS

Except as otherwise provided in this Concession Contract, the contributions of the Concessor and Blue IQ shall be limited to the following:

6.1

the provision by the Concessor of Utilities and all other critical infrastructure needs of the ICC up to the Mohale's Gate Site and the Sterkfontein Site boundaries (as identified in Schedule 14);

6.2

the granting by the Concessor of the Concession Rights upon the terms and conditions set out herein; and

6.3

payment by Blue IQ of the subscription price of R163 000 000.00 (one hundred and sixty three million Rand) plus interest plus bulk sewage costs of R1 784 477.00 (one million seven hundred and eighty four thousand four hundred and seventy seven Rand) in respect of the Convertible Shares to be subscribed for by it and applied by the Concessionaire in connection with the capital costs of the Project on the terms and conditions set out in Clause 6.4;

and the Concessionaire shall not be entitled to receive by virtue of this Concession Contract any other financial assistance or payment, including any grants, incentives or subsidies from the Government, the Concessor, Blue IQ, the PBO, Wits or any Relevant Authority.

Convertible Shares

It is recorded that on or about 6 March 2003 Blue IQ deposited an amount of R163 000 000.00 (one hundred and sixty three million

Rand) into fixed deposit accounts opened by Blue IQ at ABSA bank and Nedcor bank ("the Fixed Deposit Accounts"). The Fixed Deposit Accounts have a fixed repayment profile in the amounts and on the dates set out in the Schedule of Repayments being Schedule 15 hereto. On each date on which amounts fall due for repayment from those accounts, the amounts repaid (together with interest thereon) shall be deposited by Blue IQ into a call account ("the Call Account") opened and maintained by Blue IQ at ABSA bank or Nedcor bank.

6.4.2 On the achievement of each of the milestones set out in the Construction Schedule as certified by the Concessor's Quantity Surveyor, Blue IQ shall subscribe for a Convertible Share at an aggregate issue price (inclusive of the par value of R0.01 (one cent) plus a premium thereon) equal to the lessor of-

6.4.2.1 the amount set out in the Schedule 12; and

6.4.2.2 the sum of the balance standing to the credit of the Call Account and any amount due to be paid to the Call Account from the Fixed Deposit Accounts on that date less bank charges.

provided that upon achievement of the final milestone, Blue IQ shall subscribe for a Convertible Share at an issue price equal to the balance standing to the credit of the Call Account (irrespective of the amount set out in Schedule 12). If, after the payment of the issue price in respect of the final milestone achieved, there is any further amount paid to the Call Account from the Fixed Deposit Accounts, then within five Business Days of receipt of such payment, Blue IQ shall subscribe for one further Convertible Share at an issue price equal to the amount so repaid. Once the entire balance of the Fixed Deposit Accounts and the Call Account (including interest thereon) has been utilised to discharge the issue price in respect of Convertible Shares, the Concessionaire shall have no further claims against the Concessor in respect of any milestone payments. The

Concessor shall provide the Concessionaire with a copy of each Quantity Surveyor's certificate referred to above within 5 (five) Business Days of the date of issue thereof.

The subscription price in respect of the Convertible Shares subscribed for in accordance with Clause 6.4.1 shall be paid within 5 (five) Business Days of receipt by Blue IQ of each Quantity Surveyor's certificate contemplated in Clause 6.4.1 by Blue IQ to the Concessionaire at such bank account in the Republic of South Africa as the Concessionaire shall advise Blue IQ, from time to time, and payment of any subscription price or part thereof into the said account shall discharge Blue IQ from its payment obligations to the Concessionaire in respect of each such payment. Against receipt of such payment, the Concessionaire shall issue the relevant Convertible Share, credited as fully paid and shall deliver to Blue IQ the share certificate in respect of the relevant Convertible Share.

6.4.3

The Concessionaire shall apply the subscription price of the Convertible Shares solely for and in connection with the capital costs of the Design and Construction of the ICC.

6.4.4

To the extent that the subscription price in respect of the Convertible Shares is insufficient to enable the Concessionaire to comply fully with its obligations in respect of the Construction Works or the Project, the Concessionaire shall be solely responsible, at its own cost, for providing any additional finance and shall have no claim against the Concessor, Blue IQ, Wits, the PBO, the Government or any Relevant Authority in this regard nor shall the Concessionaire in any way be relieved of any of its obligations in respect of the Construction Works or the Project as provided for in this Concession Contract.

## 7 THE CONCESSOR'S UNDERTAKINGS

### 7.1 Concessor Assistance

Except as otherwise provided in this Concession Contract, the Concessor shall give reasonable assistance to the Concessionaire in its dealings with the Relevant Authorities in connection with implementing the Project in accordance with the terms and conditions set forth herein;

### 7.2 Entering onto Land by the Concessionaire

7.2.1 The Concessionaire through its designated representatives shall be entitled to enter upon such land under the control of the Concessor as may be necessary for any investigation, survey or other act necessary for the purposes of the Project and any preparatory work in respect of the Project.

7.2.2 Where the Concessionaire through its designated representatives enters land pursuant to Clause 7.2.1, the Concessionaire shall through its designated representatives, promptly notify the proprietor or person in charge of the relevant land prior to such entry and inform such person of the reason for the Concessionaire's presence. The Concessionaire undertakes not to, and shall procure that its designated representatives do not represent or commit any of the Concessor Parties or the Government in any way with regard to such entry and the Concessionaire indemnifies the Concessor Parties and the Government against all claims, expenses or costs incurred by any of the Concessor Parties and the Government in legal proceedings or compensation to owners or users of the property arising from any act or omissions of any person entering such land for such purposes. The Concessionaire shall repair or pay compensation to the owners or users of such property for any damage caused by the exercise of the power conferred on it under this Clause 7.2.



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### Access

The Concessor shall ensure that, for the duration of this Concession Contract, the Concessionaire and its sub-contractors have reasonable access to the Concession Area, subject to the provisions of this Concession Contract and any legislation which may be in force from time to time.

### Disclaimer

Save as otherwise specifically provided for in this Concession Contract, no warranties, representations or undertakings are given by any of the Concessor Parties as to the accuracy or completeness of any information provided to the Concessionaire by any of the Concessor Parties, the Government or any Relevant Authority. None of the Concessor Parties, nor any of their employees, nor their advisers, shall be liable for any act, error, misrepresentation, misstatement or omission of any of the Concessor Parties, the Government or any Relevant Authority in relation to such information.

### Visitor Levels

The Concessor Parties shall have no liability to the Concessionaire for the number of visitors to the ICC or any part of it and/or the Concession Area and/or the COH WHS or for any reduction or fluctuation thereof.

## ACQUISITION, DELIVERY OF CONCESSION AREA AND RIGHTS OF WAY, OWNERSHIP AND RISK

### Concession Area Possession

The Concessor shall, on the date specified in the delivery schedule set forth in the Construction Schedule and otherwise as required by any provision of this Concession Contract, deliver undisturbed possession of the Concession Area to the Concessionaire and shall thereafter ensure that the Concessionaire continues to be entitled to

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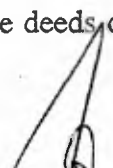


undisturbed possession of the Concession Area, to enable the Concessionaire to perform its obligations under this Concession Contract, and to enjoy the Concession Rights, from the date of such delivery until termination of the Concession Contract or expiry of the Concession Period, whichever is the earlier. Notwithstanding the foregoing, the Concessionaire acknowledges that Wits shall be entitled to develop, or procure the development of a limestone exhibit or museum associated with the old limestone kilns located on the Sterkfontein Site, provided that:

- 8.1.1.1 any such exhibit or museum is integrated into the Concessionaires Detailed Design;
- 8.1.1.2 the prior written approval of the Concessionaire is obtained in relation to any such proposed exhibition or museum; and
- 8.1.1.3 upon completion of such development, such exhibit or museum is operated by the Concessionaire as part of the Concession Rights.

8.1.2 For the purposes of this Clause 8.1, undisturbed possession of the Concession Area means that there will be no claims to occupy or use any part of it (other than the Concessionaire's or as set out in this Concession Contract) and there will be no tenants or legal or illegal occupants on or with rights in respect of any part of the Concession Area.

8.1.3 The Concessor shall supply the Concessionaire with the required diagrams, copies of title deeds, information and the like to enable the Concessionaire to occupy the Concession Area and to have access to and egress from the Concession Area.

8.1.4 The Concessionaire shall be entitled to require the Concessor and Wits respectively to register Servitudes (substantially in the form of Schedule 7) against the title deeds of the various properties making

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up the Concession Area, in favour of the Concessionaire. Wits and the Concessor each undertake to do all such things and to sign all such documents as may reasonably be necessary to procure the registration of the Servitudes as soon as reasonably possible after being called upon to do so by the Concessionaire's conveyancer. The Concessionaire shall be liable for all costs associated with the preparation, execution and registration of such Servitudes.

- 8.1.5 Until the Servitudes are registered, Wits and the Concessor respectively undertake not to sell the Sterkfontein Site or the Mohale's Gate Site, as the case may be, unless the purchaser of the relevant property agrees in the agreement of sale or in a separate agreement to recognise the terms of this Concession Contract and to give effect to the Concessionaire's rights under it in respect of that property. Wits and the Concessor undertake to notify the Concessionaire of any such sale as soon as reasonably possible.

## 8.2 Clearance of the Concession Area

- 8.2.1 The Concessionaire shall be responsible, at its own cost and risk, for the clearance of the Concession Area from the date on which undisturbed possession of the Concession Area is delivered to it.

- 8.2.2 The Concessionaire shall make the necessary applications to the Relevant Authorities for all approvals or authorisations required for the clearance of the Concession Area.

- 8.2.3 Notwithstanding the provisions of Clauses 8.2.1 and 8.2.2, if in the clearing of the Concession Area, the Concessionaire discovers any Potentially Hazardous Material or any pollution or the effect of any such pollution (whether or not such pollution or the effects thereof arise from the Concession Area), which arose prior to the delivery of undisturbed possession of the Concession Area, the Concessor indemnifies the Concessionaire against all loss or claims:

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8.2.3.1

which may be sustained or suffered by the Concessionaire by reason of the Concessionaire having to remove such Potentially Hazardous Material or any pollution or the effects of any such pollution from the Concession Area; and/or

8.2.3.2

which may be sustained or suffered by the Concessionaire by reason of a Relevant Authority taking legal or any other action against the Concessionaire in respect of any violation of the Environmental Laws arising from or related to that Potentially Hazardous Material, pollution or the effects of such pollution.

8.3

### Acquisition Costs

The Concessionaire shall not be liable for any costs or expenses relating to the acquisition of ownership or the rights to occupy and use any part of the Concession Area, save as contemplated in this Concession Contract.

8.4

### Assistance

Each Party shall use reasonable endeavours in assisting the other Party in complying with its obligations under this Clause 8.

8.5

### Archaeological Matters and National Heritage Resources

8.5.1

The Concessionaire shall comply with all requirements of the National Heritage Resources Act, 1999 (Act No. 25 of 1999), the South African Heritage Resources Agency ("SAHRA") and any other relevant heritage resources authority, in relation to the Concession Area.

8.5.2

The Concessionaire shall not acquire any rights in respect of any archaeological objects, palaeontological material, fossils, articles of value or antiquity, structures and other remains or things of geological, palaeontological or archaeological interest or cultural significance or burial sites discovered or existing on the Concession Area.

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8.5.3

The Concessionaire shall take all reasonable steps to prevent all Concessionaire Parties, and visitors to the ICC or Concession Area or other Persons from removing or damaging any such article or thing.

8.5.4

The Concessionaire shall, immediately upon discovery of such article or thing:

8.5.4.1

at the Sterkfontein Site, advise Wits of that discovery and shall liaise with the SAHRA;

8.5.4.2

at the Mohale's Gate Site, advise the Concessor of that discovery and shall liaise with the relevant heritage resources authority, and

shall follow all instructions issued by SAHRA or the relevant heritage resources authority, as the case may be, for dealing with it.

8.5.5

The Concessionaire shall be responsible for all costs associated with following such instructions provided that any instructions issued by SAHRA or the relevant heritage resources authority, as the case may be, results in delays in the Construction Works which in aggregate do not exceed 14 (fourteen) days.

8.5.6

If following any instructions issued by SAHRA or the relevant heritage resources authority, as the case may be, results in delays in the Construction Works which in aggregate exceed (fourteen) days, the Parties shall meet in order to agree a solution for dealing with the matter and the continuation of the Project, which solution shall, unless the Parties agree otherwise, include at least-

8.5.6.1

an extension of time for completion of the Construction Works; and

8.5.6.2

a 50% (fifty percent) reduction in the portion of the applicable Annual Concession Fee Payment that relates to the periods of delay in the Construction Works, excluding the first 14

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(fourteen) days of such delays.

8.5.7

The provisions of Clauses 8.5.5 and 8.5.6 shall only apply to any period during which the Concessionaire is unavoidably delayed solely as a result of following the relevant instructions. The Concessionaire shall use its best endeavours to avoid or mitigate any such delays.

8.5.8

The Concessionaire shall procure that the Concessionaire Parties shall familiarise themselves with the provisions of the National Heritage Resources Act, 1999, (Act No. 25 of 1999) and all regulations thereunder and shall comply fully with the provisions thereof.

8.6

#### Physical Conditions/Obstructions/Protester Action

8.6.1

The Concessionaire shall bear all risks and costs with regard to any weather conditions, including floods, and with regard to physical conditions or obstructions (both above-ground and subsurface and whether artificial or not) whether foreseen or unforeseen, which are encountered during the Construction Works or otherwise.

8.6.2

Where at any time following delivery of undisturbed possession of the Concession Area to the Concessionaire pursuant to Clause 8.1, the Concession Area or any part thereof is subjected to protester action which has not resulted or arisen from any breach of Law, default or negligence on the part of the Concessionaire or any Concessionaire Party, the Parties shall take all reasonable steps to minimise and mitigate the effect of such protester action on the performance of the Concessionaire's obligations under this Concession Contract.

The Concessionaire shall be solely responsible for any protester action which results or arises from any breach of Law, default or

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negligence on the part of the Concessionaire or any Concessionaire Party.

- 8.6.4 The Concessionaire shall not be entitled to any monetary compensation from any of the Concessor Parties nor to any other relief as a result of or in consequence of any such protester action.

8.7 Utilities

The Concessor or its lawful agent will procure the supply of Utilities to the boundaries of the Mohale's Gate Site and the Sterkfontein Site from the relevant service providers, to the extent that they are required for the purposes of the Project. The Concessionaire shall bear all costs of connecting those Utilities from the boundary of the respective Site to the remainder of the Site, and of the consumption or use of them at those Sites.

8.8 Safety and Security

Subject to Clause 9.9.3, the Concessionaire shall, at its cost, be responsible for all safety and security at the Concession Area. The Concessionaire shall further ensure that the necessary security measures are in place so as to ensure that visitors are restricted from gaining access to the Protected Sites (save as contemplated in Clauses 9.9.1, 9.9.2 and 16.5) and the Standard Bank Property so as to prevent any animals on the Standard Bank Property from crossing over onto the Mohale's Gate Site. For the purposes of this Clause "Standard Bank Property" means the property that borders the Mohale's Gate Site on the western and northern boundaries.

8.9 Concessionaire Without Ownership Interest in the Land

- 8.9.1 The Concessionaire has, and shall have, no title to, or ownership interest in, or liens over the Concession Area.

- 8.9.2 The Concessionaire has no and shall have no rights with respect to the airspace above, or the area below the surface of, the Concession

Area, except the right to use such land for the sole purpose of the Project during the Concession Period.

- 8.9.3 The Concessor shall be entitled to grant to the Concessionaire all rights with respect to the airspace above and the area below the surface of the Concession Area.

## 9 CONSTRUCTION WORKS

### 9.1 Approval

The Concessor will review and approve the Preliminary Design and the Detailed Design as contemplated in this Clause, in respect of the whole ICC. Wits will review and approve the Preliminary Design and the Detailed Design as contemplated in this Clause, in respect of the Orientation Centre only. All references in this Clause 9 to reviews or approvals or other decisions of actions by either of the Concessor or Wits shall be construed accordingly.

### 9.2 Design and Construction

- 9.2.1 If the Preliminary Design has not been reviewed and approved by the Concessor and/or Wits by the Signature Date, then the Concessor and/or Wits and the Concessionaire shall endeavour to conclude the Preliminary Design approval process as soon as possible thereafter. As part of that process, the Concessionaire shall, if it has not done so by the Signature Date, provide the Concessor and Wits with its Site Development Plans for the Mohale's Gate Site and the Sterkfontein Site, as soon as possible after the Signature Date, and these plans shall be included as part of the Preliminary Design for the review and approval process related to it.

- 9.2.2 The scope of any review by the Concessor and/or Wits of the Preliminary Design after the Signature Date will be restricted to assessing compliance of the Preliminary Design with the Technical Requirements and the Conceptual Design, and the Concessor and/or

Wits may request changes to the Preliminary Design to the extent that it is not in accordance with them.

9.2.3

If changes are requested, the Preliminary Design shall be revised as expeditiously as possible and re-submitted to the Concessor and/or Wits for further review until the Concessor and/or Wits is satisfied that the Preliminary Design fully complies with the Technical Requirements and the Conceptual Design, or is satisfied with any departures from them.

9.2.4

If the review process in relation to the Preliminary Design continues after the Signature Date, then upon the Concessor and/or Wits completing its review process and being satisfied with the Preliminary Design as envisaged in this Clause 9.2, the Concessor and/or Wits shall issue the Concessionaire with a written notice authorising it to proceed with the Detailed Design.

9.2.5

From the Signature Date (if the review process for the Preliminary Design has been completed by the Signature Date) or the date of issue of the notice to proceed referred to in Clause 9.2.4 (if the review process has not been completed prior to the Signature Date), the Concessionaire shall prepare the Detailed Design, based on the approved Preliminary Design and in accordance with the Technical Requirements. The Detailed Design shall include details of the bulk sewage system to be constructed and used at each of the Mohale's Gate Site and the Sterkfontein Site, in accordance with the principles agreed between the Concessor, Wits and the Concessionaire at the Signature Date.

9.2.6

The Concessionaire shall submit the Detailed Design to the Concessor and/or Wits for review and approval. Again the Concessor's and/or Wits' review shall be restricted to ensuring that the Detailed Design is in accordance with the Technical Requirements and the approved Preliminary Design. The

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Concessionaire shall submit the Detailed Design to the Concessor and/or Wits within 90 (ninety) days of the date of fulfilment of the condition referred to in Clause 2.1.4 (if the Preliminary Design has been approved prior to such date) or the date on which the Concessor and/or Wits issues the notice to proceed in accordance with Clause 9.2.4 (if the Preliminary Design has not been approved by the Signature Date). The Concessor and/or Wits shall review the Detailed Design and may request changes to it so that it is in accordance with the Technical Requirements and the Preliminary Design. If it does so, the Concessionaire shall amend the Detailed Design as required and resubmit it to the Concessor and/or Wits within 30 (thirty) days of the changes being requested, and this process shall be repeated until the Detailed Design has been approved by the Concessor and/or Wits.

9.2.7

Notwithstanding any approval by the Concessor and/or Wits of the Preliminary Design and/or Detailed Design in accordance with this Clause 9.2, the Concessionaire shall be responsible for and shall bear all risk in relation to the Preliminary Design and/or Detailed Design and their adequacy for the purposes of the Project. In reviewing the Preliminary Design and/or Detailed Design, making any requests or giving any approval in terms of this Clause 9.2, the Concessor and Wits assume no risk or liability in relation to the Preliminary Design and/or Detailed Design, and all such risk and liability shall at all times remain solely vested in the Concessionaire. The approval by the Concessor and/or Wits of the Preliminary Design and/or Detailed Design in accordance with this Clause 9.2 shall in no way relieve the Concessionaire from any of its obligations in terms of or arising from this Concession Contract.

9.2.8

If the Concessor and/or Wits does not grant any requisite approval referred to in Clauses 9.2.2 or 9.2.6, the Concessionaire shall be entitled to refer the matter for resolution to Eyvind Finsen or such other independent architect as may agreed by the Parties. The



independent architect shall be required to determine whether the refusal to grant such approval by the Concessor and/or Wits was in accordance with the provisions of Clause 9.2.2 or Clause 9.2.6, as the case may be, as soon as possible, be given terms of reference determined by the Parties stating the reasons for which the relevant referral is being made to it. The affected Parties may each provide the independent architect with a written argument and whatever supporting evidence they think appropriate and shall provide the independent architect with such supporting evidence as is requested by the independent architect. The independent architect shall not be bound to choose the submission made by any Party but shall be free to make its own determination of the point referred to it. The independent architect shall act as an expert in determining the matter referred to it and not as an arbitrator. The independent architect will be requested to give its decision as soon as practicable and, in any event, within 20 (twenty) Business Days or such longer period as is agreed between the Parties to the dispute after the date of receipt of its terms of reference. The independent architect's determination shall (save in the case of manifest error) be final and binding on the affected Parties. The costs of the independent architect shall be borne by the unsuccessful Party.

9.2.9 Upon approval of the Detailed Design by the Concessor and/or Wits on the basis set out in this Clause 9.2, the Concessionaire shall undertake the Construction Works in accordance therewith and in compliance with this Concession Contract and all applicable law or legally binding requirements in the Republic of South Africa.

9.2.10 The Concessionaire shall undertake or procure the Construction Works in accordance with the Technical Requirements, the Detailed Design and the requirements of the Concession Contract, in so far as they relate to the Construction Works, and, subject thereto, in accordance with Best Industry Practice.

The Concessionaire bears sole responsibility for the procurement of all construction materials and the adequacy of such materials in terms of quality and safety.

The Concessionaire may at any time submit to the Concessor and/or Wits written proposals for modifications by the Concessionaire to the Detailed Design, which in the Concessionaire's opinion would improve quality or safety. The Concessor and/or Wits shall consider such proposals and either reject or approve them on the basis set out in this Clause 9.2.

### Variation

In the event the Concessor and/or Wits requires any suspension of or variation to the Construction Works or any change to the Detailed Design after it has been approved by the Concessor and/or Wits, the Concessor shall issue a proposal ("Variation Proposal") to the Concessionaire specifying the details of the proposed variation.

Where, in the opinion of Concessionaire, a Variation Proposal will result in a delay in the commencement or completion of the Construction Works or give rise to an increase in expenditure by the Concessionaire, the Concessionaire shall within 10 (ten) Business Days of receipt of the Variation Proposal (or within such other reasonable period as may be agreed by the Parties), provide to the Concessor:

an estimate of the likely impact on the Construction Works (if any); and/or

an estimate of the increase or decrease in costs to the Concessionaire as a result of implementation of the Variation Proposal.

The Concessor, Wits and the Concessionaire shall attempt in good faith to agree on the consequences of any Variation Proposal. In the

event that they are unable to agree on such consequences, the Concessor shall withdraw the relevant Variation Proposal.

The Concessionaire shall minimise, mitigate or avoid, and shall procure that its Contractors and any other relevant third parties minimise, mitigate or avoid the consequences of any delay.

#### Construction Schedule

9.4.1 Subject to the Concessor having provided to the Concessionaire the Concession Area, the Concessionaire shall undertake the Construction Works in accordance with the Construction Schedule, as amended by the Concessionaire from time to time, provided that the dates scheduled for commencement and completion of the Construction Works, which shall be dates not later than those set out in Clauses 10 and 11 respectively, shall not be amended without the prior approval of the Concessor.

9.4.2 The Construction Schedule shall serve as a mechanism to enable the Concessor to monitor the Construction Works, to plan when Convertible Shares will be subscribed for in accordance with Clause 6.4, and to plan other developments for the Concession Area.

9.4.3 The Construction Schedule will further assist the Concessionaire in the planning of the Construction Works, so as to ensure completion thereof within the time period specified in the Construction Schedule.

9.4.4 As soon as the Concessionaire becomes aware of any delay or anticipated delay in commencement or completion of the Construction Works in accordance with the Construction Schedule, the Concessionaire shall forthwith furnish the Concessor and Wits with notice of such delay which notice shall specify:

9.4.4.1 the reason for the delay or anticipated delay;

9.4.2  
9.4.3  
9.4.4

the expected duration of the delay;  
steps to be taken by the Concessionaire in minimising such delay; and  
a programme for the implementation of such steps.

9.5

Contracts

9.5.1

The Concessionaire shall as soon as reasonably possible after the conclusion of this Concession Contract enter into the Associated Agreements and such other contracts as are necessary to ensure the timely and proper completion of the Design, Construction Works, Exhibition Installation and Operation and Maintenance of the ICC, and such future design and construction as may be necessary to meet the Concessionaire's obligations in terms of the Concession Contract

9.5.2

The Concessionaire must satisfy itself that the terms of such agreements fully describe the rights, obligations, risk allocation and protection of the Concessionaire's rights under this Concession Contract. The Concessor, Wits, the PBO, their advisers, the Government and Relevant Authorities shall have no liability whatsoever arising from any of the Associated Agreements, unless it or they shall have become a signatory to any such Associated Agreement.

9.5.3

The Concessionaire shall take all reasonable steps to ensure that the relevant Contractor performs the Construction Works in accordance with the terms of the relevant Construction Contracts.

9.6

Access to the Concession Area

The Concessor Parties or any of their designated representatives may at any time enter any part of the Concession Area but, in respect of those parts of the Concession Area on which Construction Works are being carried out, only at reasonable times and on reasonable prior notice to the

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Concessionaire and the relevant Contractor, and any such Concessor Party or its designated representatives must comply with the reasonable safety requirements of the Concessionaire or Contractor which then generally apply at that part of the Concession Area. The Concessor (in relation to the Mohale's Gate Site) and Wits (in relation to the Sterkfontein Site) each indemnifies the Concessionaire against and holds the Concessionaire harmless from any liability or cost which is suffered or incurred by the Concessionaire as a result of any failure by such designated representative to observe the Concessionaire or Contractor's safety requirements applicable at the Concession Area.

9.7

#### Information Relating to the Construction Works

9.7.1

The Concessionaire shall furnish to the Concessor or any of its designated representatives all such reports and other information relating to the Construction Works as the Concessor may reasonably request from time to time.

9.7.2

Upon completion of the Construction Works, the Concessionaire shall supply the Concessor with copies of all as-built drawings and other technical and design information and completion records relating to the finished Construction Works.

9.8

#### Costs Recoverable from Contractors and Third Parties

9.8.1

Where the Concessionaire is entitled under any Construction Contract or any contract for Operation and Maintenance to recover costs which have been or are reasonably expected to be incurred by the Concessor in connection with the Project, the Concessionaire shall enforce its rights to recover such costs and shall pay any amounts so recovered promptly to the Concessor.

The Concessionaire shall ensure that, on completion of the Construction Works, the ICC shall be free of all defects and shall have been Designed and Constructed in accordance with the Detailed Design. The Concessionaire shall forthwith remedy all patent defects

which are notified to the Concessionaire in writing within 12 (twelve) months of the date of issue of the Completion Certificate in respect of the Construction Works.

#### 9.9 Protected Sites

9.9.1

The Parties acknowledge that the geophysical conditions at the Protected Sites are such as to limit the structures that can be built there. These Protected Sites are not suitable for the main structures of the Orientation Centre. Accordingly, the Concessionaire shall only be entitled to construct facilities at the Protected Sites which are ancillary to the Sterkfontein Cave tours and the research activities being conducted at those Protected Sites.

9.9.2

At the Protected Sites the Concessionaire shall upgrade existing visitor facilities and provide additional visitor facilities so as to extend and enhance the experience of visitors to the Sterkfontein Caves and other areas of palaeontological or other interest at the Protected Sites, provided that these facilities are provided in a way that does not interfere with any scientific research being conducted at the Protected Sites. These facilities may include, but are not limited to, viewing platforms, elevated walkways, handrails and observation windows.

9.9.3

The Protected Sites will at all times remain under the control of Wits. Save as contemplated in Clauses 9.9.1, 9.9.2 and 16.5, the Concessionaire shall not be entitled or obliged to carry out any other activities at, or have any other rights in respect of, the Protected Sites. Unless a contrary intention clearly appears, all obligations of a general nature imposed on the Concessionaire in terms of this Concession Contract shall also apply in respect of the Protected Sites, save that the Concessionaire shall not, except in regard to those portions thereof referred to in Clause 16.5, be responsible for safety and security at the Protected Sites. The Concessionaire shall be

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responsible for safety and security at those portions of the Protected Sites referred to in Clause 16.5, and safety and security at the remainder of the Protected Sites shall be the responsibility of Wits.

### COMMENCEMENT

The Construction Works shall commence not later than 30 (thirty) days after the later of the date of approval of the Detailed Design and the issue of a final Record of Decision in relation to the EIA, subject to the Concessor having delivered undisturbed possession of the Concession Area to the Concessionaire in accordance with this Concession Contract.

### COMPLETION

The Construction Works shall be completed no later than 448 (four hundred and forty eight) Working Days after the date on which the Construction Works are to commence in accordance with Clause 10, except as such date may be otherwise extended pursuant to this Concession Contract.

### EXHIBITION INSTALLATIONS

12.1 The Concessionaire will design, construct, compile, install and operate permanent and temporary exhibits at the ICC and (under the aegis of the ICC) at such other place/s as the Concessionaire may from time to time choose.

12.2 The Concessionaire shall construct, compile, install and operate all exhibitions based on the Technical Requirements and in accordance with this Clause 12.

12.3 Prior to the construction, compilation, installation and operation of any proposed exhibition (including any refreshed or changed exhibition), the Concessionaire shall, in accordance with Clause 12.4, submit to the Concessor and Wits, for their joint approval, details of the proposed exhibition, and the Concessionaire shall not proceed with any such construction, compilation, installation or operation until that approval is

given, or otherwise than in accordance with that approval. The Concessor and Wits shall be entitled to reject any proposed exhibition in the event that, the proposed exhibition:

12.3.1

does not accord with prevailing academic practice; or

12.3.2

does not accurately reflect the Story Line (as defined in the Technical Requirements),

provided that nothing in this Clause shall prevent the Concessionaire from reflecting a range of scientific views or hypotheses in the exhibits within the broader ambit of what is known to be scientifically accurate and authentic (or what has not been established to be scientifically inaccurate or inauthentic). Any dispute between Wits and the Concessor, or between them and the Concessionaire, in relation to the granting of the joint approval of the Concessor and Wits for any proposed Exhibition Installation shall be referred to the Wits Vice Chancellor whose decision shall be final and binding and no Party shall be entitled to refer the matter to dispute resolution in accordance with Clause 29.

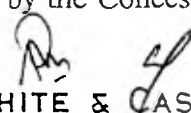
12.4

It is recorded that the Parties have established a committee consisting of representatives of the Concessor, Wits and the Concessionaire (the "Exhibition Committee") in order to facilitate the approval of proposed exhibitions as contemplated in Clause 12.3. All proposed exhibitions shall be submitted by the Concessionaire to the Exhibition Committee which will, in accordance with the programme detailed in Schedule 10 or any other programme agreed to by the Parties from time to time whether as a replacement to Schedule 10 or as an *ad hoc* programme to deal with a specific Exhibition Installation, consider whether such proposed exhibition meets the requirements stipulated in Clause 12.3. The Exhibition Committee shall make recommendations to the Concessor and Wits. The provisions of this Clause 12.4 shall not prejudice or limit the rights of the Concessor and/or Wits pursuant to Clause 12.3.

12.5

Any amendments to an exhibition already approved by the Concessor and

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Wits shall require further approval on the basis set out in Clause 12.3, read with Clause 12.4.

Notwithstanding any approval by the Concessor and Wits of the design, construction, compilation, installation and/or operation of all temporary and permanent exhibitions in accordance with this Clause 12, the Concessionaire shall be responsible for and shall bear all risk in relation to the design, construction, compilation, installation and/or operation of all temporary and permanent exhibitions, and their adequacy for the purposes of the Project. In reviewing the design, construction, compilation, installation and/or operation of all temporary and permanent exhibitions, making any requests or giving any approval in terms of this Clause 12, the Concessor and Wits assume no risk or liability in relation to the design, construction, compilation, installation and/or operation of all temporary and permanent exhibitions, and all such risk and liability shall at all times remain solely vested in the Concessionaire. The approval by the Concessor and Wits of the design, construction, compilation, installation and/or operation of all temporary and permanent exhibitions in accordance with this Clause 12 shall in no way relieve the Concessionaire from any of its obligations in terms of or arising from this Concession Contract.

12.7 On completion of any Exhibition Installation pursuant to this Clause, the Concessionaire shall seek the issue of the requisite Completion Certificate pursuant to Clause 13.

12.8 Fossils

12.8.1 The Concessor, Wits and the Concessionaire affirm their commitment to original fossils and casts in the Wits collection or under Wits's control being made available for educational purposes in connection with the ICC. Those Parties also recognise that scientists with academic and research interests in those fossils and casts are entitled to have those interests protected in a reasonable way. Those Parties shall endeavour in good faith to deal with those

fossils and casts in a manner which to best effect recognises that commitment and those interests.

Wits shall make available original fossils to the Concessionaire for display in exhibitions at the ICC, provided that Wits shall be entitled to refuse access to original fossils that are, at the relevant time, reasonably required for scientific research being conducted under the auspices of Wits or where the Deputy Vice Chancellor: Research at Wits decides that such original fossils are too fragile to be transported to and from such exhibitions. The Concessor, Wits and the Concessionaire specifically record their intention to facilitate and enhance the visitor experience at the ICC, and Wits accordingly undertakes not to unreasonably refuse access to or use in exhibitions or for making casts of any original fossils. The fossils to be displayed from time to time shall be agreed between the Concessionaire and Wits on an annual basis, and Wits shall not be entitled to withdraw any such fossils unless it shall have given the Concessionaire not less than 6 (six) months prior notice of such intended withdrawal.

12.8.3

Should the Concessionaire wish to use any original fossils in exhibitions curated by it outside the ICC, this shall be subject to the prior written approval of Wits, on a 'case by case' basis and on terms agreed in each case between the Concessionaire and Wits. Wits shall act reasonably in relation to that approval and those terms.

12.8.4

While any fossils are in the possession or under the control of the Concessionaire:

2.8.4.1

the Concessionaire shall bear all risk in relation to such fossils;  
and

2.8.4.2

the Concessionaire shall ensure the security and preservation of such fossils.

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Wits shall provide the Concessionaire with access to any first generation fossil casts owned by Wits in order to enable the Concessionaire to reproduce such casts or make images of them in any form, at the Concessionaire's cost and risk, and subject to the Concessionaire complying with the reasonable requirements of Wits in relation to the security and preservation of those fossil casts.

2.8.6

To the extent that Wits has custody or control of any fossils in respect of which no first generation casts exist and the Concessionaire wishes to have such fossils cast, Wits shall either make casts of those fossils or make the original fossils available to the Concessionaire for it to have casts made at the Concessionaire's cost, as Wits and the Concessionaire agree on each occasion. Any –

2.8.6.1

casts made by Wits shall be at the Concessionaire's cost;

2.8.6.2

fossils made available to the Concessionaire shall be made available on the basis that they are at the Concessionaire's risk, and that they are made available subject to the Concessionaire complying with the reasonable requirements of Wits in relation to the security and preservation of those fossils;

2.8.6.3

casts made by the Concessionaire shall be made under the supervision of Wits.

2.9

#### Exhibition Refreshment

The Concessionaire shall ensure that all Exhibition Installations are regularly refreshed, upgraded and/or replaced so as to enhance the visitor experience by ensuring that the Exhibition Installations reflect developments and knowledge current from time to time, on the subject matter of such Exhibition Installation or in respect of the COH WHS in general. The provisions of Clauses 12.1 to 12.8 shall apply to any refreshed, upgraded and/or replaced Exhibition Installation.

  
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## COMMISSIONING

Within 30 (thirty) days of the Effective Date, the Concessor and Wits shall nominate and appoint an independent expert (the "Independent Expert") with relevant qualifications who shall have the responsibility of examining the completed Interpretation Centre, the completed Orientation Centre and the completed Exhibition Installations and issuing certificates certifying that the Construction Works and Exhibition Installations respectively have been duly completed (the "Completion Certificates"). The Concessor shall notify the Concessionaire in writing as soon as reasonably possible of the identity of the Independent Expert.

13.2

Upon the Concessionaire being satisfied that the Construction Works in respect of the Interpretation Centre have been completed and that the Interpretation Centre is operational and connected to the Utilities and all other necessary infrastructure and services in accordance with the Construction Contracts and the Concession Contract, the Concessionaire shall give notice to the Concessor, Wits and the Independent Expert that it is so satisfied.

13.3

The Independent Expert shall as soon as reasonably possible but in any event no later than 5 (five) days after the date of receipt of the notice referred to in Clause 13.2:

13.3.1

issue an Interpretation Centre Completion Certificate certifying that the Construction Works in respect of the Interpretation Centre have been duly completed and that the Interpretation Centre is operational and connected to the Utilities and all other necessary infrastructure and services in accordance with the Construction Contracts and the Concession Contract; or

13.3.2

give notice to the Concessionaire in writing specifying those aspects of the Construction Works in respect of the Interpretation Centre, the Interpretation Centre, the Utilities, the infrastructure and/or services which in the opinion of the Independent Expert do not comply with

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the Construction Contracts and/or the Concession Contract. The Independent Expert shall act reasonably in reaching its opinion.

Upon the Concessionaire being satisfied that the Construction Works in respect of the Orientation Centre have been completed and that the Orientation Centre is operational and connected to the Utilities and all other necessary infrastructure and services in accordance with the Construction Contracts and the Concession Contract, the Concessionaire shall give notice to the Concessor, Wits and the Independent Expert that it is so satisfied.

The Independent Expert shall as soon as reasonably possible but in any event no later than 5 (five) days after the date of receipt of the notice referred to in Clause 13.4:

13.5.1 issue an Orientation Centre Completion Certificate certifying that the Construction Works in respect of the Orientation Centre have been duly completed and that the Orientation Centre is operational and connected to the Utilities and all other necessary infrastructure and services in accordance with the Construction Contracts and the Concession Contract; or

13.5.2 give notice to the Concessionaire in writing specifying those aspects of the Construction Works in respect of the Orientation Centre, the Orientation Centre, the Utilities, the infrastructure and/or services which in the opinion of the Independent Expert do not comply with the Construction Contracts and/or the Concession Contract. The Independent Expert shall act reasonably in reaching its opinion.

13.6 Upon the Concessionaire being satisfied that any Exhibition Installation has been completed in accordance with the design for that Exhibition Installation approved in accordance with Clause 12, the Concessionaire shall give notice to the Concessor, Wits and the Independent Expert that it is so satisfied.

The Independent Expert shall as soon as reasonably possible but in any event no later than 5 (five) days after the date of receipt of the notice referred to in Clause 13.4:

issue an Exhibition Installation Completion Certificate certifying that the relevant Exhibition Installation has been duly completed in accordance with the design approved for the said Exhibition Installation in accordance with Clause 12; or

give notice to the Concessionaire in writing specifying only those aspects of the Exhibition Installation, which in the opinion of the Independent Expert do not comply with the approved design for the relevant Exhibition Installation in accordance with Clause 12. The Independent Expert shall act reasonably in reaching its opinion.

Upon receipt by the Concessionaire of any notice from the Independent Expert pursuant to Clauses 13.3.2, 13.5.2 or 13.7.2, the Concessionaire shall forthwith remedy the defects in respect of the items outlined in such notice, whereafter the Concessionaire shall forthwith deliver to the Independent Expert a written notice indicating that the defective aspects of the work have been so remedied, and the provisions of Clauses 13.2, 13.3, 13.4 and 13.5 or Clauses 13.6 and 13.7, as the case may be, and this Clause 13.8 shall apply repeatedly in respect of those defective aspects until the relevant Completion Certificate has been issued.

The Concessionaire shall bear all risk and shall be responsible for all costs in relation to any additional works required pursuant to any notice by the relevant Independent Expert contemplated in Clauses 13.3.2, 13.5.2 and 13.7.2.

The ICC and/or the Exhibition Installations shall not be deemed to be operational until the Independent Expert has issued the relevant Completion Certificate in relation thereto.

  
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Notwithstanding the issuing of a Completion Certificate by an Independent Expert pursuant to this Clause 13, none of the Independent Expert, the Concessor or Wits make any representation or warranty as to the value, design, construction, maintenance, operation or fitness for purpose of the ICC and the Exhibition Installations or any parts thereof, and the Concessionaire shall bear all risk in relation thereto.

#### 14 ENVIRONMENTAL COMPLIANCE AND COMPLIANCE WITH LAWS, REGULATIONS AND STANDARDS

14.1 During the Development Period and the Concession Period, the Concessionaire shall, and shall take all reasonable steps to ensure that all Concessionaire Parties, guests and invitees, and all other visitors to the ICC adhere to, abide by and comply with the Regulatory Provisions generally in respect of the COH WHS and specifically in respect of the Concession Area, the EIA and any valid and enforceable directives or rules issued by the Concessor, Wits or any Relevant Authority from time to time.

14.2 The Parties record that certain portions of the Sterkfontein Site have been declared historical monuments, national monuments or heritage sites in terms of the National Heritage Resources Act No. 25 of 1999. The Concessionaire undertakes that in developing the Orientation Centre, it will comply fully with all requirements of all applicable legislation in respect of those portions of the Sterkfontein Site.

14.3 The Concessionaire shall bear all risks and costs with respect to Material Damage to the natural environment caused by or arising from the implementation of the Project during the Concession Period.

14.4 Should the Concessionaire fail to fulfil any of its obligations in respect of the Construction Works or the Operation and Maintenance of the ICC or in relation to the Concession Area or permit behaviour which results, or in the reasonable opinion of the Concessor (which opinion shall be subject to the provisions of Clause 29) may result, in Material Damage to the environment, then, without prejudice to the Concessionaire's obligations

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hereunder and at law, the Concessor shall be entitled to give written notice to the Concessionaire to immediately cease and desist from such conduct or behaviour, and in such notice shall set out in full its reasons for its directive. The Concessor shall be entitled forthwith to exercise any authority granted to it in terms of the Regulatory Provisions in respect of the Conservation Management of the Concession Area and the Concessionaire shall on demand make payment to the Concessor for its costs, expenses and other damages suffered or incurred in connection with the execution of such authority.

14.5 The Concessionaire shall, at its cost, appoint an independent environmental control officer who shall be responsible for ensuring that Construction Works and the Operation and Maintenance of the ICC are performed in accordance with the Technical Requirements and relevant environmental Regulatory Provisions and for monitoring and ensuring the implementation and effectiveness of mitigation measures and other requirements and targets set forth in the EIA.

14.6 The Concessionaire shall deliver monthly reports prepared by the environmental control officer to the Concessor during the Construction Phase. Thereafter it shall deliver such reports at half-yearly intervals, or more frequently if requested to do so by the Concessor.

14.7 The Concessor shall use all reasonable endeavours in assisting the Concessionaire to obtain environmental permits, provided, however that the Concessor shall bear no liability for any failure of the Concessionaire to obtain such permits.

14.8 The Concessionaire shall take all necessary steps to ensure that appropriate pollution control and other environmental protection measures are taken in accordance with any Environmental Laws and all other applicable laws or regulations.

  
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## OWNERSHIP OF AND RIGHTS IN AND TO THE SITES

- 15.1 The Parties agree that ownership of the Mohale's Gate Site and all immovable assets thereon shall be and shall remain vested in the Concessor or its successors-in-title, and ownership of the Sterkfontein Site and all immovable assets thereon shall be and shall remain vested in Wits or its successors-in-title.
- 15.2 All movable Project Assets forming part of the Concession Area (other than those contemplated in Clause 5.5) shall vest in the Concessionaire until termination of this Concession Contract. Upon termination of this Concession Contract, ownership of the movable Project Assets at each of the Mohale's Gate Site and the Sterkfontein Site shall, subject to Clause 5.5, vest in the owner of that Site (or any other person or entity agreed on by the Concessor and Wits at that time) and shall be transferred by the Concessionaire to such new owners.
- 15.3 The following terms shall govern access to the Sterkfontein Site for academic purposes –
- 15.3.1 Wits's staff members and students requiring access to the Sterkfontein Site and to the facilities provided for them in the Orientation Centre (as designated in Part C of Schedule 1) shall be clearly identified, and the Concessionaire shall be informed from time to time of the details of all Wits identification documentation that it will be expected to accept. The Concessionaire shall not be required to accept any other identification documentation for Wits staff members and students.
- 15.3.2 Wits staff members and students conducting scientific research and other activities of an educational nature on parts of the Sterkfontein Site where the Concessionaire is not at the relevant time conducting any operations which would be interfered with shall, subject only to their displaying the appropriate identification, be given access to the

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relevant areas and shall be entitled to conduct their research or educational activities there without other restriction.

15.3.3

Where Wits staff members or students wish to conduct scientific research or other activities of an educational nature in parts of the Sterkfontein Site where the Concessionaire is at the relevant time conducting operations, the following shall apply –

15.3.3.1

up to 60 (sixty) Wits staff members and students per day shall be entitled to have access to the relevant parts of the Sterkfontein Site, subject only to their producing the appropriate identification, without having to make prior arrangements with the Concessionaire in respect of that access or their activities;

15.3.3.2

in respect of any numbers of Wits staff members and students per day in excess of 60 (sixty) but up to a maximum of 200 (two hundred), those Wits staff members and students shall be entitled to have access to the relevant parts of the Sterkfontein Site for their scientific research and educational activities, provided that they comply with the identification requirements, and that arrangements for their access on each day concerned will have been made with the Concessionaire by Wits (through the representative of the Concessor Parties contemplated in Clause 31.12.6) before the day on which that access is required;

15.3.3.3

not more than an aggregate of 200 (two hundred) Wits staff members and students shall be entitled to access to any of these parts of the Sterkfontein Site on any day to conduct scientific research or other activities of an educational nature, without the prior consent of the Concessionaire having been obtained;

15.3.3.4

Wits's staff members and students conducting scientific research and other activities of an educational nature at the Sterkfontein Site as contemplated in this Clause 15.3 shall be

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entitled to do so without making any payment to the Concessionaire for their access to the Sterkfontein Site.

15.4

Wits's staff members shall be entitled to go across the Sterkfontein Site, free of charge, in order to gain access to the area marked "Staff Accommodation" and indicated in blue on the map attached hereto as Part B of Schedule 1. The provisions of Clause 15.3 relating to identification of Wits staff members shall apply to all of those staff members.

15.5

The following terms shall apply in respect of tours of the Sterkfontein Caves or other parts of the Sterkfontein Site on which the Concessionaire is at the relevant time conducting operations –

15.5.1

Where any of Wits's staff members or students, or the staff of any other Concessor Party, wishes to undertake a tour at the Sterkfontein Sites, they shall utilise the tours offered by the Concessionaire as contemplated in Clause 16.5, and each person doing so shall pay the applicable entrance fee;

15.5.2

Notwithstanding the provisions of Clause 15.5.1, Wits shall be entitled to have tours of the Sterkfontein Caves by its visitors conducted by its staff instead of the Concessionaire's guides but shall pay the Concessionaire the fee that would have been payable to it had any such tour been conducted by one of the Concessionaire's guides.

15.5.3

Without prejudice to the provisions of Clauses 15.3 and 15.4, the Concessor Parties shall be entitled to purchase tickets for visitors to the Orientation Centre, and/or for visitors on guided tours of the Sterkfontein Caves. However, if the Concessionaire informs the relevant Concessor Party when the purchase of those tickets is sought by it that the Orientation Centre and/or the Sterkfontein Caves have been fully booked for the period in question, then that Concessor Party shall have no right to obtain tickets for its visitors for that period.

Notwithstanding any other provision of this Clause 15.5, the Concessor and Wits shall be entitled to arrange access to the Sterkfontein Site and participation in special tours of the Sterkfontein Caves, the Orientation Centre and any other part of the Sterkfontein Site for Heads of State or their equivalent. The Concessionaire shall not levy any entrance fee on any Heads of State or their equivalent or any members of their accompanying parties, in respect of those visits and tours. The Concessor and Wits shall give the Concessionaire as much notice as is reasonably possible of any such visit or tour, after which the Concessionaire shall make the necessary arrangements with the Concessor or Wits for those visits. Where the Concessor or Wits wishes to include any special requirements in those visits or tours, they shall be specified in the relevant notice, and the Concessionaire shall endeavour to give effect to those special requirements in the arrangements that it makes where doing so is reasonably practical and does not entail unreasonable costs to it.

15.6 During the Concession Period, the Concessionaire and its employees, sub-contractors and agents shall (and the Concessionaire shall procure that the Concessionaire Parties and their employees, sub-contractors and agents shall) undertake the Project in a manner that does not unduly impair or interfere with the exercise by Wits of its rights at the Sterkfontein Site pursuant to this Clause 15.

15.7 The Concessor Parties and any of their designated representatives may at any time enter any part of the Concession Area, and shall (subject only to Clause 9.6) be given unrestricted access to it for the purpose of inspecting any part of it at all times, provided that such designated representatives shall adhere to all site controls applicable in respect of the Concession Area, and shall comply with all identification requirements agreed from time to time between the Concessor (in respect of the Mohale's Gate Site) or Wits (in respect of the Sterkfontein Site) and the Concessionaire.

## OPERATION AND MAINTENANCE

### 16.1 Operation and Maintenance by the Concessionaire

16.1.1 The Concessionaire shall be obliged during the Concession Period to undertake the Operation and Maintenance of the ICC; provided that, with the Concessor's and Wits's prior written consent, the Concessionaire shall be entitled to procure that the Operation and Maintenance of certain facilities comprising the ICC be undertaken by third parties on terms approved by the Concessor and Wits and subject to any agreed adjustment to the Variable Concession Fee Commitment. Notwithstanding the provisions of Clause 1.2.14, the Concessor and Wits shall be entitled to withhold or qualify their consent on any grounds that they deem fit, whether reasonable or otherwise.

16.1.2 The Concessionaire shall provide to the Concessor copies of manuals, reasonably satisfactory to the Concessor, for the Operation and Maintenance of the ICC no later than 60 (sixty) Business Days from the date of the Completion Certificate for the Construction Works referred to in Clause 13. The Concessionaire shall provide the Concessor with copies of any amended manuals when such amended manuals are published.

16.1.3 The Concessionaire shall furnish the Concessor with quarterly reports in a form reasonably acceptable to the Concessor regarding the Operation and Maintenance of the ICC. Such reports shall be furnished to the Concessor no later than 45 days after the end of the quarter in question.

### 16.2 Standards of Operation and Maintenance

16.2.1 Operation and Maintenance shall be –

16.2.1.1 carried out in conformity with the Operation and Maintenance manuals referred to in Clause 16.1.2, the Technical

Requirements and Best Industry Practice and using equipment and materials which are of suitable quality for the purposes and uses intended, and in accordance with the Operation and Maintenance manuals;

16.2.1.2

carried out throughout the Concession Period, so that regular Operation and Maintenance activities continue throughout that period, and extraordinary Operation and Maintenance activities required to deal with special occurrences, emergencies, breakdown of any item of equipment or similar circumstances are implemented without undue delay;

16.2.1.3

carried out in such a way as to ensure that at the expiry of the initial Concession Period and at the expiry of any extension of the Concession Period, as contemplated in Clause 3.3 (if any occurs), all Exhibition Installations reflect then up-to-date knowledge and practice, and have been updated so as to be reasonably fresh and attractive to potential visitors to the ICC, and the ICC and all Exhibition Installations and other Project Assets are in good working order (fair wear and tear excepted), and capable of being handed over to the Concessor and Wits at the end of the Concession Period in accordance with Clause 27.3 as part of a going concern which will continue operating.

16.2.2

The Operation and Maintenance manuals and any changes to any such manual which may be made by the Concessionaire from time to time shall be subject to the other provisions of this Concession Contract.

16.3

Inspection by the Concessor and Wits

16.3.1

The Concessor and Wits or their designated representatives may inspect the ICC or any part of it to ensure that the Concessionaire's obligations in respect of Operation and Maintenance are being

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discharged in accordance with the terms of this Concession Contract. Such inspection shall be conducted during Business Days and on reasonable notice to the Concessionaire. The Concessor and Wits shall at all such times ensure that such inspections do not unduly interfere with the Concessionaire's ordinary business operations.

16.3.2

If the Concessionaire has failed to Operate and Maintain the ICC in accordance with the terms hereof, the Concessor may, in addition to any rights conferred on it in this Concession Contract, give notice to the Concessionaire thereof and, if any such failure is not remedied within 14 (fourteen) Business Days or any longer period as is reasonably required by the Concessor, the Concessor shall be entitled to remedy such failure (and shall have access to the Concession Area for such purpose) at the expense of the Concessionaire which shall on demand make payment to the Concessor of its costs, expenses and other damages suffered or incurred in connection with such remedial acts. The Concessor shall be entitled to draw against the O&M Bond for such amounts if they have not been paid within 14 (fourteen) Business Days of the relevant demand.

16.4

#### Fossil-preparation centre

The Concessionaire acknowledges that the fossil-preparation centre forming part of the Orientation Centre will be made available to and used by researchers for their work on fossils at the COH WHS. As part of its Operation of the ICC, the Concessionaire shall give researchers access to that fossil-preparation centre and facilitate their use of it for fossil preparation and related activities.

16.5

#### Sterkfontein Caves Tours

16.5.1

As part of its Operation and Maintenance rights, the Concessionaire shall be entitled to organise and conduct guided tours of the Sterkfontein Caves which are part of the Sterkfontein Site. If it does so it shall (except as provided for in Clause 16.5.2) ensure that those

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tours are restricted to the parts of the Caves which Wits designates from time to time as being open to the public, and that they do not interfere with research activities being conducted at any time at or in connection with those Caves or any part of them. As part of those tours, the Concessionaire shall be entitled to erect viewing platforms or other facilities at areas where research activities are being undertaken, provided that those platforms and facilities are physically separated from those research activities by suitable partitions or barriers so that visitors using them do not and are unable to interfere with the research activities concerned.

In addition to the guided tours contemplated in Clause 16.5.1, the Concessionaire shall be entitled to organise and conduct special guided tours for limited numbers of visitors to areas in the Sterkfontein Caves not normally open to the public, but where interesting or important research activities are being undertaken or were undertaken at a previous time. The Parties contemplate that these will be restricted to areas of special scientific or heritage interest, and will be conducted by researchers or guides with specialised knowledge relevant to the research undertaken and/or being undertaken there. Accordingly, those visits will be subject to the availability of those researchers or guides, and will be organised in accordance with arrangements set out from time to time for those visits by the Concessionaire. The Concessionaire shall, as part of those arrangements, arrange for the researchers and guides who will conduct those visits to be paid for their services in doing so.

#### Final Works

Between 12 (twelve) and 18 (eighteen) months prior to the expiry of the initial Concession Period and the expiry of each extension thereof, if any, as contemplated in Clause 3.3, DACEL, Wits and the Concessionaire shall jointly appoint one or more independent third parties (the "Experts") to carry out a survey (the "Final Survey") to



assess whether the Concessionaire has complied with the requirements of Clauses 16.1 and 16.2. The costs of carrying out the Final Survey shall be shared by DACEL and Wits, as to one half, and the Concessionaire, as to the other half. The Expert shall be requested, and DACEL, Wits and the Concessionaire shall each do whatever is in its power to procure, that the Final Survey is completed not less than 12 (twelve) months before the expiry of the initial Concession Period or the applicable extension thereof, if any, as contemplated in Clause 3.3. If DACEL and Wits, on the one hand, and the Concessionaire on the other are unable to agree on the identity of the Expert to carry out the Final Survey within 14 (fourteen) days of either of them calling on the other to do so, the Expert shall be nominated by the senior office bearer for the time being of the South African Facilities Management Association. DACEL and Wits, on the one hand, or the Concessionaire, on the other, shall be entitled at any time after the expiry of that 14 (fourteen) day period to request that senior office bearer for the time being of the South African Facilities Management Association to make that nomination, and in doing so shall furnish the other with a copy of any such request.

6.6.2

The Concessionaire shall co-operate fully with the Expert in its carrying out of the Final Survey and shall, on reasonable prior notice, provide such access as the Expert may reasonably require for purposes of carrying out the Final Survey, and to enable the Expert to inspect the ICC and the Exhibition Installations. The Concessionaire shall furthermore make available appropriate personnel to provide reasonable information to the Expert concerning the ICC and the Exhibition Installations.

6.3

DACEL, Wits and the Concessionaire shall procure that on completion of the Final Survey, the Expert shall provide a written report to the Parties which report shall provide details of the following:




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any existing defects in any part of the ICC or any of the Project Assets;

the nature, replacement, upgrading, maintenance and/or repairs, if any, required to bring the ICC and the Project Assets (save for the Excluded Assets) into conformity with the requirements of this Agreement. The replacement, upgrading, maintenance and/or repairs, if any, so required shall constitute the "Final Works";

a timetable for carrying out the Final Works (the "Final Works Programme").

In the event that such Final Survey indicates that any Final Works have to be carried out, the Concessionaire shall forthwith carry out the Final Works, so that they are complete before the expiry of the initial Concession Period or the relevant extension thereof, as the case may be, and the Concessionaire shall then procure that the ICC and the Project Assets are maintained in the same order and condition as applies after completion of the Final Works, fair wear and tear excepted, until the end of the initial Concession Period or the relevant extension thereof, as the case may be.

In the event or to the extent that the Concessionaire fails to carry out the Final Works in accordance with the Final Works Programme, the Concessor and Wits shall be entitled (without prejudice to any other rights that they might have under this Agreement or in law) to call on the O&M Bond to the extent of the costs of such Final Works.

#### CONCESSION AREA MANAGEMENT

Other than the specified responsibilities assumed by the Concessionaire and set out elsewhere in this Concession Contract, all Conservation Management and Field management of the Concession Area, including bush clearing and other modifications to the biosphere, erosion control, management of water points,

development of new water points and controlled burning, will be undertaken by the Concessionaire in accordance with the EIA and all applicable Environmental Laws and other laws. The Concessionaire shall be responsible, at its cost, for the maintenance of all roads within the Concession Area.

### CONSTRUCTION AND O&M BONDS

The Concessionaire shall provide to Concessor the Construction Bond no later than the Effective Date. The Construction Bond shall be issued by a bank or financial institution acceptable to Concessor and shall substantially accord with the format set out in Schedule 5. The Construction Bond shall be in the amount of R18 000 000.00 (eighteen million Rand).

The Construction Bond shall remain valid and enforceable in accordance with the provisions hereof until and including expiry of a period of 12 (twelve) months following the issue of the Construction completion certificate referred to in Clause 13.8.

On or before the Effective Date, the Concessionaire shall provide to Concessor the O&M Bond. The O&M Bond shall be issued by a bank or financial institution acceptable to Concessor and shall substantially accord with the format set out in Schedule 6.

The amount to be guaranteed by the O&M Bond for the first twelve month period following the issue of the Completion Certificate in respect of the Construction Works shall be equal to R4 000 000.00 (four million Rand).

The O&M Bond shall be reinstated in full and its amount adjusted annually not later than 60 (sixty) days prior to the expiry of each Concession Year such that the amount to be guaranteed by the O&M Bond for the relevant Concession Year is not less than the figure indicated in Clause 18.4 as adjusted to reflect changes in the CPIX since Bid Submission.

The O&M Bond shall remain valid and enforceable in accordance with the provisions hereof from the date of the issuing of the Completion Certificate in respect of the Construction Works until 40 (forty) Business Days after

the expiry or earlier termination of this Concession Contract.

Within 10 (ten) Business Days of the expiry of the period referred to in Clause 18.6, the Concessor shall release to the Concessionaire all or so much of the O&M Bond as shall remain undrawn after such expiry or termination.

The O&M Bond shall secure the Concessionaire's performance under this Concession Contract and may be called on by the Concessor to the extent of any costs, losses, damages or expenses suffered or incurred by the Concessor as a result of breach by the Concessionaire of this Concession Contract, including, but not limited to, compensation to the Concessor for any actions taken by the Concessor as a result of breach by the Concessionaire of any Regulatory Provision and payment obligations hereunder.

The O&M Bond may also be called upon for any delay in the payment of sums due to the Concessor in respect of the Annual Concession Fee Payment or for any penalties for failing to meet its empowerment obligations, or for any failure by the Concessionaire to comply with any of its obligations Clause 12.9, or Clause 16 and other obligations hereunder.

Prior to enforcing the O&M Bond, the Concessor shall give notice to the Concessionaire, informing the Concessionaire of the breach giving rise to the right of enforcement of the O&M Bond. If such breach is not remedied within 14 (fourteen) Business Days or such longer period as may be agreed between the Concessionaire and the Concessor, the Concessor may enforce the O&M Bond. The notice contemplated in Clause 16.3.2 shall be the notice required under this Clause in relation to any failure to pay amounts due pursuant to the provisions of this Clause 18.

The O&M Bond may only be enforced to the extent of any costs, losses, damages or expenses suffered or incurred as a result of the breach that gave rise to the right to enforce the O&M Bond, plus interest on the amount concerned from the date so suffered or incurred to the actual payment date,

calculated at the rate which is the prime rate quoted from time to time by Standard Bank for unsecured overdraft facilities provided to its customers in the private sector, as certified by any manager of that Bank, whose appointment and authority it shall not be necessary to prove.

Without prejudice to the provisions of Clause 18.5, in the event that the Concessor calls on either the Construction Bond or the O&M Bond, pursuant to the terms of this Concession Contract, the Concessionaire shall within 14 (fourteen) Business Days of such drawdown under the relevant Bond or such longer period as may be agreed between the Concessionaire and the Concessor, reinstate such Bond in any amount equivalent to the value of the said Bond immediately prior to the drawdown by the Concessor or any increased value in terms of Clause 18.5, if applicable.

#### CONCESSION FEES

For the purposes of this Clause 19,

“Annual Concession Fee Payment” means the annual fee payable by the Concessionaire for the Concession Rights, calculated on the basis set out in this Clause 19.

“Concession Year” means for the first Concession Year, the period commencing on the Signature Date and ending on the last day of the Financial Year in which the Signature Date occurs, and for subsequent Concession Years, each succeeding Financial Year until the end of the Concession Period, provided that if the Concession Period ends on a day other than the last day of a Financial Year, then the final Concession Year shall be the period from the end of the immediately preceding Concession Year to the last day of the Concession Period;

“Minimum Concession Fee” means, in respect of the Concession Year in question, R2 000 000.00 (two million Rand) escalated annually to compensate for inflation in accordance with the CPI as

indicated in Clause 19.9 below, and pro rated in respect of any Concession Year which is less than twelve months;

“Variable Concession Fee Commitment” means, in respect of each Concession Year, unless agreed to the contrary between the Concessor, Wits and the Concessionaire in accordance with the provisions of Clause 16.1.1, an amount equal to 7.5% (seven and one half percent) of the Concessionaire’s annual Gross Revenues during that year;

The Concessionaire shall compensate the Concessor for the Concession Rights granted to it by paying to PBO every Concession Year the Annual Concession Fee Payment.

The Annual Concession Fee Payment shall be payable from the Signature Date.

The Annual Concession Fee Payment payable by the Concessionaire to the PBO for any given Concession Year shall be the higher of:

1 the Minimum Concession Fees for that Concession Year; or

2 the Variable Concession Fee Commitment for that Concession Year.

The Annual Concession Fee Payment shall accrue and be payable in arrears by the Concessionaire to the PBO no later than 30 (thirty) Days following the end of the relevant Concession Year. Such amount shall be paid into a bank account designated by the PBO and notified to the Concessionaire.

The Gross Revenues which form the basis for the Annual Concession Fee Payment must be consistent with both Concessionaire’s tax statements and audited accounts. The Parties acknowledge that there are certain to be differences in timing between the Concessionaire’s Financial Year and the Concession Years. In order to ensure that the Concessionaire’s tax statements are consistent with the basis of determining the actual Annual Concession Fee Payment, the following verification and adjustment

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process will be followed. Within 120 (one hundred and twenty) days after the end of each Financial Year, the Concessionaire will make available its audited accounts to the Concessor, which must clearly show the Gross Revenue for the part of each Concession Year falling in that Financial Year. The Gross Revenue that is indicated in these audited accounts, and those for the previous Financial Year, will be used to produce a revised calculation of the Annual Concession Fee Payment for the Concession Year in question. If this figure is different from the Annual Concession Fee Payment which has already been paid for that Concession Year the difference will be paid by means of an adjustment to the next payment due by the Concessionaire to the PBO, unless no further payments are due in which case the difference will be refunded by the PBO to the Concessionaire, or paid by the Concessionaire to the PBO, as the case may be, within 30 (thirty) Business Days of the termination of this Concession Contract. Such payments will be subject to the interest charges described in Clause 19.7 below.

Any overdue payment by either the Concessor or the Concessionaire shall be subject to an interest charge of 1% (one per centum) per month.

All fees or other amounts payable in terms of this Concession Contract shall be exclusive of Value Added Tax or any other transactional tax.

Calculation of the Annual Concession Fee Payment requires the Minimum Concession Fee to be adjusted for inflation as measured by CPIX. This adjustment for inflation will take place with effect from the first day of the Concession Year in question, and the figures will then be applied for the entirety of the forthcoming Concession Year. For all Concession Years, except Concession Year 1, the adjustment will take the most recent published index for CPIX and compare it to the published index for CPIX for exactly one year previously, and adjust the financial data accordingly. For Concession Year 1, the adjustment will take the most recent published index for CPIX and compare it to the published index for CPIX for exactly one year previously and adjust the financial data accordingly.

The Concessor acknowledges that payment by the Concessionaire of the Annual Concession Fee Payment to the PBO shall constitute due performance by the Concessionaire of its payment obligations under this Concession Contract and any such payment by the Concessionaire to the PBO shall discharge it of its payment obligations in respect of such payment.

## EMPOWERMENT

### The Concessor Empowerment Objectives

When making decisions affecting the performance of its obligations in respect of the Project and under this Concession Contract, the Concessionaire shall take into account and comply with the policies and objectives of the Concessor, the Government and the National Government, on affirmative action and the empowerment of HDIs and HDGs.

The Concessionaire shall make every effort and use all appropriate opportunities to foster the empowerment of HDIs and HDGs, including creating business and employment opportunities for HDIs and HDGs and empowering those HDIs and HDGs living in communities in the vicinity of the Concession Area, provided always that such empowerment is consistent with the conservation principles set out in Schedule 3 and the Concessionaire's empowerment plan attached hereto as Schedule 9.

The Concessionaire shall ensure compliance with all regulatory provisions relating to affirmative action and empowerment.

### Specific Empowerment Obligations of the Concessionaire

Notwithstanding the generality of the obligations set forth in Clauses 20.1.1, 20.1.2 and 20.1.3 above, the Concessionaire shall implement and adhere to the specific and quantifiable undertakings relating to



empowerment that were included in its Bid Submission and which are set forth in Schedule 9 hereto.

The Concessionaire shall provide an annual report to the Concessor on the extent to which these specific objectives have been met, and shall document any other achievements in promoting the empowerment of HDIs and HDGs.

#### Monitoring of Empowerment Performance

The Concessor shall compare the Concessionaire's achievements in the empowerment of HDIs and HDGs with the quantifiable targets included in the Schedule 9, and award points for compliance, according to the system of weighting used in the bid evaluation process which resulted in the selection of the Concessionaire. In the event the Concessionaire fails to achieve any of the specific and quantifiable empowerment obligations set out in Schedule 9, it shall pay penalties in accordance with Clause 20.4.

#### Penalties

In the event the Concessionaire fails to meet its empowerment obligations as stipulated in Schedule 9, the Concessionaire shall be liable for and shall pay penalties in accordance with Schedule 9.

All penalties payable under this Clause 20 and Schedule 9 shall be paid by the Concessionaire to the PBO at a bank account designated by the PBO and notified to the Concessionaire.

### EMPLOYMENT ISSUES

#### Labour Laws

The Concessionaire agrees to abide by all laws in force, as amended from time to time, relating to the employment of employees employed in relation to the Project and shall take all reasonable steps to ensure similar compliance by Concessionaire Parties, and furthermore agrees to adhere to

and ensure, as far as practicably possible, adherence to fair labour practices.

#### Breach Caused by Employees and Penalties

During the Concession Period, the Concessionaire shall take all the necessary appropriate measures to ensure that its staff adheres to, abides by and complies with the Regulatory Provisions and the principles of Conservation Management, and shall take all reasonable steps to ensure similar compliance by Concessionaire Parties.

In the event of any Concessionaire Party causing the Concessionaire to breach a provision of this Concession Contract the following shall apply:

Subject to Clause 21.1, the Concessionaire shall forthwith charge any of its employees who is party to that breach, and shall procure that the relevant Concessionaire Party charges any of its employees who is party to that breach, with committing a mandatory serious offence in terms of the Concessionaire's disciplinary code and failing the existence of the Concessionaire's disciplinary code, the Concessor's disciplinary code. If the relevant employee is found to be guilty, the Concessionaire shall (or shall procure that the relevant Concessionaire Party shall) apply the remedies for dismissal (if that is permitted) or the strongest other permitted legal remedies (if dismissal is not permitted).

The Concessionaire shall without delay furnish the Concessor with a copy of the written record of such disciplinary proceedings, finding and sentence.

The Concessionaire shall in any event be liable to remedy at its sole cost any environmental or other damage caused by such employee, in such manner as may be stipulated by the Concessor, acting

reasonably, and within 30 (thirty) Business Days or such longer period as may be agreed by the Concessor.

#### Skills Development

The Concessionaire shall use the Project as an opportunity to facilitate skills transfers and develop its employees, Small, Medium and Micro-Business Enterprises ("SMMEs") and Black Empowerment Entities ("BEEs") by engaging its employees, SMMEs and BEEs in various aspects of the Construction Works and Operation and Maintenance on the basis set out in Schedule 9.

### LIABILITY WITH RESPECT TO THIRD PARTIES

#### Concessionaire Indemnification

The Concessionaire indemnifies each of the Concessor Parties, and holds the Concessor Parties harmless from any liability, loss, damage, or costs of any kind whatsoever incurred or suffered by any third party or any of the Concessor Parties on or after the Effective Date, including any claim against a Concessor Party by a Relevant Authority, as a result of any act or omission of any Concessionaire Party or any of their directors, officers, employees or representatives, (including any default or failure by the Concessionaire under this Concession Contract) within or in consequence of any act or omission within the Concession Area and/or related to the Project except to the extent directly caused by any negligence, material default or material breach of statutory duty on the part of the relevant Concessor Party or such Relevant Authority.

Without limiting the generality of the foregoing, the Concessionaire indemnifies each Concessor Party against all liability, loss, damage, or costs and claims in respect of:

- (a) the death or injury to any Person; or

- (b) the loss of or damage to any property; or
- (c) any economic loss;

arising out of any such act or omission.

The provisions of this Clause 22.1 do not apply to any loss incurred by any of the Concessor Parties in discharging its obligations under this Concession Contract for which the Concessionaire is not otherwise liable except to the extent that such amount is lost or incurred or arises from any negligence or material default or breach of statutory duty on the part of the relevant Concessionaire Party or its directors, officers, employees or representatives.

#### Extension of the Concessionaire Indemnity

The Concessionaire further indemnifies each of the Concessor Parties, and holds the Concessor Parties harmless from and shall be responsible to the relevant Concessor Party for any liability, loss, damage or costs of any kind whatsoever incurred or suffered by such Concessor Party as a result of the Concessionaire failing to comply with its obligations under the Concession Contract.

#### Legal Action

If any legal action is brought or claim is made against any of the Concessor Parties in respect of which the relevant Concessor Party is indemnified under Clause 22.1 or Clause 22.2, the Concessionaire shall, at its election, defend or settle any such action or claim. The Concessionaire shall at all times keep the Concessor Party informed of the progress of any such claim that is being defended, or of any settlement of any such claim that is reached.



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### Concessor Parties Indemnification

Each Concessor Party indemnifies the Concessionaire and holds the Concessionaire harmless from any liability, loss, damage, or costs incurred or suffered by any third party on or after the Effective Date, as a result of any act or omission of that Concessor Party within the Concession Area except to the extent caused by any negligence, default or breach of the Concession Contract, the Associated Agreements or of a statutory duty on the part of any Concessionaire Party.

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## INSURANCE

23.1

### Construction

During the period of any Construction Works, the Concessionaire shall, to the satisfaction of the Concessor, maintain and/or shall procure that each Contractor maintains adequate insurance on the ICC and its other insurable properties located at the Concession Area in the sums and on the terms more fully set out in Schedule 8, including Contractor's all risks insurance, third party liability insurance, employer's liability insurance and, where appropriate, consequential loss/completion delay insurance. Adequate insurance cover means sufficient insurance cover to place the affected Concessor Party/ies in the position it would have been had the risk insured against not occurred.

23.2

### Operation

During the period starting at the delivery of undisturbed possession of the Concession Area or any portion thereof and ending on the date of the termination or expiry of this Concession Contract, the Concessionaire shall, to the satisfaction of the Concessor, maintain or procure maintenance of adequate insurance over the ICC and its other insurable properties located at the Concession Area in the sums and on the terms set out in Schedule 8, including casualty insurance, business interruption insurance,

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third party liability insurance and employer's liability insurance. Adequate insurance cover means sufficient insurance cover to place the affected Concessor Party/ies in the position it would have been had the risk insured against not occurred.

### Covenants Relating to Insurance

23.3

23.3.1

The Concessionaire shall ensure that the insurance policies set forth in Clauses 23.1 and 23.2 provide cover for the benefit of the Concessionaire and each Contractor and consultant engaged in the Construction Works, Exhibition Installation and Operation and Maintenance of the ICC.

23.3.2

The Concessionaire will maintain the insurance contemplated by, and to the levels specified in Schedule 8. To the extent commercially reasonable, the Concessionaire shall seek to ensure that each Contractor provides insurance coverage by the same underwriter as the Concessionaire.

23.3.3

The interest of the Concessor Parties shall be noted on the policies set forth in Clauses 23.1 and 23.2. The Concessionaire shall provide the Concessor with certified copies of the certificates of all such insurance and, if so requested, of the policies, and shall periodically review the extent and adequacy of the coverage provided by such insurance in the context of this Clause 23 and the prevailing conditions in the Republic of South Africa.

23.3.4

The proceeds of any claims under the all risks insurance policies referred to in Clause 23.1 and under the property and casualty insurance policies referred to in Clause 23.2 hereof shall be applied to the repair or restoration of the ICC and/or other insured assets required for the Operation and Maintenance of the ICC.

If the Concessionaire is unable to obtain insurance in the sums specified in Schedule 8 or on the terms required by Clauses 23.1 and 23.2, at a reasonable commercial rate, it shall immediately notify the

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Concessor of any material areas of change in the terms or level of the insurance cover and shall restore the terms and level of cover to the required levels as soon as such become available.

23.3.6

Should the Concessor and the Concessionaire disagree with respect to what is "commercially reasonable" in Clause 23.3.2 or as to what is "a reasonable commercial rate" in Clause 23.3.5, either Party may request the other Party to agree within 7 Business Days on an independent insurance expert to make a determination in that regard. Should those Parties be unable to agree on the identity of such expert within 7 Business Days of the second Party being so requested, such expert shall be chosen by the President of the South African Institute of Chartered Accountants from among those leading national insurance brokers that are, at that time, active in the South African market to make such determination. The expert shall act as an expert and not as an arbitrator and the determination by such expert shall be final and binding on the Parties.

23.4

#### Terms of Insurance

23.4.1

The Concessionaire shall maintain the aforementioned insurance on the best terms available in the domestic insurance market with reliable insurers of adequate financial strength and experience which are authorised by the relevant South African authorities to provide the respective coverage.

23.4.2

Unless the Concessor agrees otherwise such terms shall include:

23.4.2.1

waiver of subrogation against the Concessor Parties, their agents, servants, officers, employees and contractors;

23.4.2.2

a provision whereby the insurance shall apply to each of the insured as if a separate policy had been issued to each of them other than in the event of exhaustion of the sum insured or limit or indemnity;

23.4.2.3

a breach of a condition or warranty/severability/non-vitiation provisions acceptable to the Concessor or if such provisions are not generally available in equivalent policies written in the South African insurance market, the Concessionaire shall covenant in writing to the Concessor, that for the duration of such non-availability, it will not make any misrepresentations to, or breach any condition or warranty made to the relevant insurer or take or omit to take any action which would cause the relevant insurance policy to fail;

23.4.2.4

a provision which requires the insurer to send copies of all notices of cancellation or any other notices given under or in relation to policies hereunder to the Concessor;

23.4.2.5

a provision whereby the policy shall only be cancelled subject to 90 (ninety) Business Days' notice, or 30 (thirty) Business Days' notice in respect of non-payment of premium;

23.4.2.6

a provision that a notice of claim given to the insurer by the Concessor or the Concessionaire or any other insured under the policy, shall, in the absence of manifest error, be accepted by the insurer as valid notification of a claim in respect of the interests of all insured parties, a copy of which must be given to the other of them and any other insured; and

23.4.2.7

a provision that such insurance shall be primary and no other policy shall be called into contribution.

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## FINANCIAL ACCOUNTS AND REPORTS, MANAGEMENT

24.1

### Appointment of Auditors

The Concessionaire shall arrange at its own expense for an accounting and cost control system consistent with Generally Accepted Accounting Principles and for the appointment as auditors to the Concessionaire of a

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firm of internationally recognised independent accountants. The accounts of the Concessionaire will be kept in Rand and shall be audited annually. The Concessionaire shall keep all of its books and records for 6 years and at all times within the Republic of South Africa. Such accounts and the reports of such accountants shall be provided to the Concessor as soon as the Concessionaire receives them. The Concessor may meet with the Concessionaire's auditors, together with the Concessionaire on reasonable notice and at a mutually convenient time, regarding the Concessionaire's accounts and operations from time to time. The Concessor may also conduct or require that a firm of independent accountants conduct reasonable additional audits of the Concessionaire, at the Concessor's expense.

24.2

#### Right of Inspection

The Concessionaire shall furnish to the Concessor on a confidential basis, any information the Concessor may reasonably request. The Concessionaire shall further permit representatives of the Concessor to visit, at reasonable times and with minimum disruption to the Concessionaire, the Construction Works, the Concession Area, the ICC and any of the other offices where the business of the Concessionaire is conducted and shall cause each Operation and Maintenance contractor to make such information, relating to the Operation and Maintenance of the ICC available to the Concessor. Without limiting the generality of this Clause 24.2, the Concessor shall have access to the Concessionaire's books of accounts, working papers and records, and all other data assembled in connection with the Project.

24.3

The Concessionaire shall immediately report to the Concessor details of the following events:

24.3.1

any hypothec, charge, lien or attachment imposed on any of the Concessionaire's property and any seizure thereof which hypothec, charge, lien, attachment or seizure will have a material adverse effect

on the ability of the Concessionaire to perform its obligations under this Concession Contract;

any transaction in respect of the shares of the Concessionaire;

any matter which might influence the validity of this Concession Contract or any matter that constitutes a material breach, including any possible termination event, the circumstances thereof, and possible results as viewed by the Concessionaire.

The Concessionaire shall provide a half-yearly written report to the Concessor, on a confidential basis, with respect to significant or new financial matters.

The Concessionaire shall provide a half-yearly report detailing compliance, or any failure to comply, with all environmental requirements stated herein and any environmental Regulatory Provision including the measures (if any) taken and/or proposed to be taken to remedy any such failure. The report shall also include details of any additional required EIAs undertaken or required to be undertaken.

#### Periodic Reports

The Concessionaire shall furnish to the Concessor as soon as practicable but in any event not later than 120 (one hundred and twenty) days after the end of each Financial Year:

three copies of the Concessionaire's complete audited annual financial statements for such Financial Year;

a copy of any management letter or other communication sent by the auditors to the Concessionaire or to its management in relation to the Concessionaire's financial, accounting and other systems, management and accounts;

an annual report by the auditors certifying that, based on its said financial accounting and other systems, management and

accounts, the Concessionaire was in compliance with its financial obligations under this Concession Contract as of the end of the relevant Financial Year or, as the case may be detailing any non-compliance therewith;

projected profit and loss accounts and budgets for the following year, together with analyses thereof.

The Concessionaire shall furnish to the Concessor as soon as practicable, but in any event no later than 75 (seventy-five) days after the end of each Financial Year:

a list of its creditors to which the Concessionaire owes a sum in excess of R50 000 (fifty thousand Rand) including the amounts due to each of them;

a statement describing in reasonable detail any Related Party Transaction during the respective period;

a report on the implementation and progress of the Project, containing such information as the Concessor may require and disclosing any factors of which the Concessionaire is aware which have or may likely affect the carrying out of the Project, both materially and adversely; and

a report on the Operation and Maintenance of the ICC.

#### Delivery of Records

For a period of not more than 120 (one hundred and twenty) days following the termination of this Concession Contract for whatever reason, the Concessionaire shall retain in safe storage all such records as are referred to in Clause 24.6, and all records relating to Operation and Maintenance, which were in existence at the date of termination.

Upon expiry of such 120 (one hundred and twenty) day period or such earlier date as may be requested by the Concessor, the

Concessionaire shall deliver at its cost, all such records (or where such records are required by legislation to remain with the Concessionaire or any Concessionaire Party, copies thereof) to the Concessor or to its order in such manner and at such location as the Concessor shall specify.

The costs of retaining such records in safe storage shall be borne by the Concessionaire.

#### Management of Concessionaire

The Concessionaire shall at all times ensure that it and each Concessionaire Party has sufficient suitable personnel to undertake the responsibilities vested in the Concessionaire hereunder and that, save for non-executive members of the Concessionaire's Board of Directors, all such personnel shall be located in the Republic of South Africa. Without limiting the generality of the foregoing the Concessionaire shall ensure that the Key Personnel positions are always filled as soon as reasonably possible.

#### Reporting of Changes

The Concessionaire shall report to the Concessor at least 35 (thirty five) Business Days prior to its entering into effect on:

any change in its corporate documents or Shareholders' Agreement or in its Financial Year;

any change in the Concessionaire's organisational structure, or any other material change which might affect the fulfilment of the Concessionaire's obligations under this Concession Contract;

any change in the constitution of its Board of Directors;

any material Related Party Transaction contract (as defined in Clause 5.9.1); and

any proposed change to its memorandum or articles of association (without detracting from the provisions of Clause 3.1.1.4).

In respect of the following matters the Concessionaire shall notify the Concessor as soon as it becomes aware of the relevant event:

any contract or liability entered into or incurred not in the ordinary course of business;

any change in the insurance policies contemplated in Clause 23;

any claim brought or threatened which is reasonably likely to have a material adverse effect on the Concessionaire or on its ability to perform its obligations under this Concession Contract.

#### **FORCE MAJEURE**

For the purposes of this Concession Contract, Force Majeure shall mean an event beyond the control of the Party claiming the occurrence of an event of Force Majeure, whose occurrence could not have been reasonably foreseen at Signature Date and which, despite the exercise of diligent efforts, such Party was unable to prevent, limit or minimise, specifically: of the following events or circumstances:

war, civil war, armed conflict or terrorism; or

nuclear contamination unless the Concessionaire and/or any Concessionaire Party is the cause of such contamination; or

chemical or biological contamination of the Construction Works and/or the ICC and/or the Concession Area from any such event unless the Concessionaire and/or any Concessionaire Party is the cause of such contamination,

which directly causes any Party to be unable to comply with all or a material part of its obligations under this Concession Contract.

Subject to Clauses 25.3 and 25.4 the Party claiming relief shall be relieved from performance of its obligations under this Concession Contract to the extent that as a result of the Force Majeure, it is unable to perform such obligations.

Where any Party is (or claims to be) affected by an event of Force Majeure:

it shall take all reasonable steps to mitigate the consequences of such an event upon the performance of its obligations under this Concession Contract, resume performance of its obligations affected by the event of Force Majeure as soon as practicable and use all reasonable endeavours to remedy its failure to perform; and

it shall not be excused from performance of its obligations under this Concession Contract to the extent that it is unable to perform those obligations due to its failure to comply with Clause 25.3.1.

The Party claiming relief shall serve written notice on the other Parties within 5 (five) Business Days of it becoming aware of the relevant event of Force Majeure. Such notice shall give sufficient details to identify the particular event claimed to be an event of Force Majeure.

The Party claiming the occurrence of an event of Force Majeure shall within 5 (five) Business Days of delivery of the notice referred to in Clause 25.4 deliver a further notice to the other Parties, which notice shall contain all information relating to its failure to perform (or delay in performing) as is available, including:

the date of the occurrence of the event of Force Majeure;

the action being taken to mitigate such effects in accordance with Clause 25.3;

an estimate of the period of time required to overcome it and/or its effects; and

the effect of the event of Force Majeure on the ability of the Party to perform.

The Party claiming relief shall as soon as the event or the consequences of the event of Force Majeure have ceased, notify the other Parties and shall further notify the Parties of the date when performance of its affected obligations can be resumed.

To the extent that the consequences of an event of Force Majeure fall within the terms of the insurance cover required by Clauses 23.1 and 23.2, the Concessionaire shall forthwith make the appropriate claims thereunder and shall apply the proceeds as required by Clause 23.3.4.

If an event of Force Majeure (or its consequences) continues for 180 (one hundred and eighty) or more consecutive days and the Parties do not reach a mutually satisfactory resolution to the changed circumstances and the effect of event of Force Majeure continues, or, where the event of Force Majeure is an uninsurable event or, if insured, there is a material shortfall in the proceeds of such insurance as contemplated in Clause 23, this Concession Contract may, upon 25 (twenty five) Business Days prior notice, be terminated by the Concessor or the Concessionaire.

If the Concession Contract is terminated pursuant to this Clause 25 as a result of Force Majeure, the Concessor shall not be obliged to pay to the Concessionaire any compensation.

The foregoing provisions of Clause 25 shall not excuse or release the Party claiming the occurrence of an event of Force Majeure from obligations due or performable, or compliance required, under this Concession Contract prior to the above-mentioned failures or delays in performance due to the occurrence of Force Majeure or obligations not affected by the event of Force Majeure. Subject to Clause 25.8, a Party excused from performance by the occurrence of Force Majeure shall continue its performance under the Concession Contract when the effects of the event of Force Majeure are removed. WA

  
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## MATERIAL ADVERSE GOVERNMENTAL ACTION

### Material Adverse Governmental Action Defined

A Material Adverse Governmental Action shall be deemed to have occurred if any Relevant Authority introduces, applies, or changes any law, decree, order, regulation or bylaw having the force of law after the date of this Agreement, or fails to carry out its obligations as prescribed by law:

the principal effect of which is directly borne by the Concessionaire and only incidentally by other persons or which renders the performance by the Concessionaire or the Concessor of any or all of the obligations under this Agreement illegal, and such action or failure materially and adversely affects the general economic position of the Concessionaire; or

which, if it (or comparable acts or omissions) had been done or omitted by the Concessor would have constituted a Concessor event of default pursuant to Clause 27.2.

### Exclusions

A Material Adverse Governmental Action shall be deemed not to have occurred under circumstances where:

an action or omission of any Relevant Authority is in response to any act or omission in turn on the part of any Concessionaire Party which is illegal or in violation of agreements to which any Concessionaire Party is a party; or

an action or omission of any Relevant Authority was reasonably foreseeable at the Signature Date of this Concession Contract; or

an increase in taxes of general application does not discriminate against the Concessionaire specifically, or against the Concessionaire and other companies undertaking similar projects; or

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such action by any Relevant Authority is required as a result of an event of Force Majeure.

#### Notice of Material Adverse Governmental Action

The Concessionaire shall promptly provide written notice to the Concessor of a perceived occurrence of a Material Adverse Governmental Action and its likely consequences to the Concessionaire.

Any disagreement as to whether a Material Adverse Governmental Action has occurred shall be resolved in terms of Clause 29.

#### Continuation of Project

To the extent permitted by law, the Concessionaire shall take all steps necessary to ensure that it complies with its obligations under this Concession Contract in accordance with the terms of this Concession Contract (including, without limitation, complying with all laws) following the occurrence of any Material Adverse Governmental Action.

#### Mitigation of Material Adverse Governmental Action

The Concessionaire shall minimise or mitigate the effect of any Material Adverse Governmental Action.

#### Remedy for Material Adverse Governmental Action

Should any Material Adverse Governmental Action occur, then, subject to Clause 26.5, the Concessionaire shall be entitled to an extension of the Concession Period equivalent to the period for which the Concessionaire was unable to fully comply with its obligations under this Concession Contract as a direct result of such Material Adverse Governmental Action.

**TERMINATION****Termination by the Concessor for Fault of Concessionaire**

The Concessor shall have the right to terminate this Concession Contract upon the occurrence of any of the following events:

the granting of any judgement (which is not subject to review or appeal or, if it is, such review or appeal is not diligently pursued) in excess of R250 000,00 (two hundred and fifty thousand Rand), and which amount remains unpaid for a period of 10 (ten) Business Days or in respect of which the Concessionaire does not institute proceedings to set aside or rescind such judgement within 10 (ten) Business Days and does not diligently pursue such proceedings; or


the passing of any resolution, or the granting of any order for the dissolution and/or judicial management and/or liquidation of the Concessionaire (whether provisionally or finally) except for the purposes of amalgamation or reconstruction on terms approved in advance by the Concessor in writing; or

the Concessionaire commences voluntary liquidation proceedings; or

the Concessionaire fails to report material Related Party Transactions in accordance with this Concession Contract or if any material Related Party Transaction is in breach of a term of this Concession Contract and results in material damage to the Concessor; or

the Concessionaire commits a material breach of this Concession Contract (other than a breach contemplated in Clause 27.1.1.7); or

any Concessionaire Party, or any of its directors, officers,

  
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employees or representatives in their capacity as such or in respect of acts or omissions in any of those capacities, is found guilty of a crime involving fraud or dishonesty and is sentenced to a jail sentence with or without the option of a fine for a period in excess of one year and the Concessionaire has not within 30 (thirty) Business Days thereafter instituted appropriate steps with the aim of terminating the appointment or employment as the case may be of that person, and to duly prosecute those proceedings to a final conclusion; or

the books of account of the Concessionaire are found to have been falsified or published in such a manner as to reflect a position that is materially different to the true financial position of the Concessionaire; or

the Concessionaire fails to pay any amount due under this Concession Contract on its earliest due date or any extended date as may be agreed between the Concessor, the PBO and the Concessionaire; or

any other provision of this Concession Contract expressly entitles the Concessor to terminate this Concession Contract.

The Concessor shall, prior to exercising its rights to terminate this Concession Contract under this Clause 27.1, send a written notice to the Concessionaire notifying it of the event giving rise to such right and requesting the Concessionaire to remedy the event giving rise to such right of termination within 15 (fifteen) Business Days or any longer period agreed to between the Concessor and the Concessionaire; provided, however, that:

no Remedy Period (and so no remedy notice) shall be required for the events described in Clauses 27.1.1.1 or 27.1.1.2; and

the Remedy Period for the events described in Clause 27.1.1.7

shall be 5 (five) Business Days.

If such events are not remedied by the Concessionaire by the expiry of the Remedy Period, if any, or the relevant event does not require a Remedy Period, the Concessor may terminate this Concession Contract forthwith by notice in writing to the Concessionaire.

Upon any termination pursuant to Clause 27.1.3 above, the Concessor shall be entitled to call on the O&M Bond and to pursue all available remedies, including the recovery of any damages suffered by the Concessor as a result of the default of the Concessionaire that gave rise to such termination which may be available to the Concessor at law, which in turn may include:

all costs and expenses incurred and/or reasonably expected to be incurred in restoring or remedying Material Damage to the environment caused by any Concessionaire Party and/or any Person for whom any such Concessionaire Party is legally responsible; and

all costs and expenses reasonably incurred in re-launching the bid process; and

all reasonably foreseeable economic losses suffered or reasonably expected to be suffered by the Concessor, PBO and/or Wits as a result of the breach or breaches by the Concessionaire of this Concession Contract which resulted in termination of this Concession Contract pursuant to Clause 27.1.3; and

interest on all damages and other recoverable amounts at the rate referred to in Clause 27.4.3 from the date of termination to the date of actual payment.

Should the Concessor not exercise its rights to terminate pursuant to Clause 27.1.3, the Concessionaire shall compensate any Concessor

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Party for all damages suffered and costs and expenses incurred by that Concessor Party as a result of the events set forth in Clause 27.1.1.

#### Termination by Concessionaire

The Concessionaire shall have the right to terminate this Concession Contract if:

the Concessor commits a material breach of this Concession Contract; or

any part(s) of the Concession Area and/or the ICC are nationalised, compulsorily acquired or expropriated which results in a material impairment of the Concession Rights; or

the COH WHS ceases to be recognised as a World Heritage Site.

The Concessionaire shall, before exercising its rights to terminate this Concession Contract pursuant to Clause 27.2.1, give written notice to the Concessor requiring the Concessor to remedy the event referred to in Clause 27.2.1. If said event is not remedied before the expiry of the Remedy Period of 15 (fifteen) Business Days in the case of events described in Clause 27.2.1.1 and 6 (six) months in the case of events described in Clauses 27.2.1.2 or 27.2.1.3, or any longer period agreed between the Concessor and the Concessionaire, the Concessionaire may, upon expiry of the Remedy Period, terminate this Concession Contract upon written notice to the Concessor.

If the Concession Contract is terminated pursuant to this Clause 27.2 after the Effective Date, the Concessor shall pay to the Concessionaire an amount ("the Concessor Default Compensation Sum") equal to the aggregate (without double counting) of:

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all amounts properly due and payable under any contracts (including employment contracts) entered into by the Concessionaire in connection with the Project, for the purpose of discharging its obligations under this Concession Contract, prior to the date of such termination (including amounts arising as a result of such termination) provided always that such contracts have been entered into on *bona fide* arm's length terms; and

loss of profits by the Concessionaire which shall be determined using the average of the profits earned by it in each of the two completed Concession Years preceding the date of termination multiplied by the number of years (and parts of a year) remaining from the date of termination of the Concession Contract to the expiry of the initial Concession Period, but for the termination. For the purposes of this sub-Clause 27.2.3.2, profits shall mean the Concessionaire's earnings before interest, tax and depreciation as reflected in the Concessionaire's audited financial statements for the relevant years, submitted to the Concessor in accordance with Clause 24.6; or

in the event that the Concession Contract is terminated prior to the second anniversary of date on which the Completion Certificate in respect of the Construction Works has been issued, 50% (fifty per centum) of the Concessionaire's anticipated profits for the period from the date of termination of the Concession Contract to the expiry of the initial Concession Period, but for the termination, calculated in accordance with the Concessionaire's Business Plan.

The amount payable by the Concessor under Clause 27.2.3 shall accrue interest at the rate specified in Clause 27.4.3 from the date of termination to the date of actual payment.

### Effect of Termination

On the expiry or termination of this Concession Contract and/or the Concession Period for whatever reason and without prejudice to any rights of the Parties hereto (subject as herein provided):

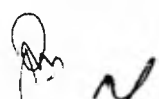
this Concession Contract (other than Clauses 1, 2, 29 and 31 shall cease to have effect, subject to all rights and obligations of the Parties existing prior to such termination;

such rights as the Concessionaire may have over the Concession Area and the ICC and all other immovable property thereon shall terminate;

the Concessionaire shall forthwith relinquish any interest in any immovable property at the Concession Area or constituting part of the ICC in favour of the Concessor or Wits (as the case may be) and shall convey such immovable Project Assets free of all liens, charges, claims or encumbrances of any kind to the Concessor or Wits (as the case may be);

subject to Clause 5.10.1 the Concessionaire shall deliver all Project Software to the Concessor and Wits in accordance with this Concession Contract;

subject to Clause 5.5, the Concessionaire shall forthwith relinquish any interest in any movable Project Assets (save for the Excluded Assets) which the Concessor or Wits becomes entitled to in favour of the Concessor or Wits (as the case may be), and shall transfer the possession of those assets to the Concessor or Wits (as the case may be), who shall be entitled to use those assets on the same terms and conditions as those applicable to such assets prior to expiry or termination.

  
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Upon expiry or termination of this Concession Contract or in the case of any dispute in relation to such termination, on resolution of such dispute:

the Concessionaire shall procure that all Shareholders (excluding Blue IQ) sell all of their shares and loan accounts, if any, in the Concessionaire to Blue IQ at a price, for each such Shareholder, equal to the par value of its shares in Blue IQ, and R1.00 (one Rand) for its loan account, if any, and Blue IQ shall be obliged to purchase all of those shares and loan accounts, if any. On payment of the purchase price for those shares, the Concessionaire shall issue new share certificates to Blue IQ in respect of all of those shares, together with signed share transfer forms in respect of those shares and the Shareholder's share certificates in respect of the shares being sold by them;

the Concessionaire shall pass the required resolutions and generally do all things and sign all documents necessary to give effect of the provisions of Clause 27.3.2.1;

the Concessor and Wits shall have the right to enter and take immediate operational control of the ICC, the Concession Area, all immovable Project Assets and any movable Project Assets (save for the Excluded Assets) which they become entitled to, and all Construction Works; and

the Concessor shall select and substitute a new concessionaire for the Concessionaire.

The Concessionaire undertakes to procure that the Shareholders Agreement, as amended from time to time, contains provisions acceptable to Blue IQ binding all Shareholders to obligations which give effect to the provisions of Clause 27.3.2.



If, prior to the expiry of the Concession Period, or on earlier termination of this Concession Contract, the Concessor wishes to procure tenders in respect of the ICC with a view to entering into an agreement for the operation and maintenance of the ICC (which may or may not be the same as, or similar to, the Project or any part thereof) following the termination or expiry of this Concession Contract, the Concessionaire shall co-operate with the Concessor fully in such competitive process including (without limitation) by:

providing any information which the Concessor may require to conduct such tender process; and


assisting the Concessor by providing all (or any) participants in such competitive process with access to the Concession Area, and the ICC.

#### Payment Procedure

Except as otherwise provided for expressly in this Concession Contract, whenever under this Concession Contract an amount is required to be paid by any Party, such Party shall make payment of such amount to the other Party within 5 (five) Business Days of such amount being determined at such account with such bank in the Republic of South Africa as the other Party may have specified for this purpose.

Without prejudice to any other right or remedy, each Party shall be entitled to receive interest on an amount due under this Concession Contract, at the rate referred to in Clause 27.4.3. Interest that has accrued on an amount due under this Concession Contract shall be paid on the same date as payment of such amount.

Unless otherwise provided in this Concession Contract, interest payable under this Concession Contract shall accrue at a rate equal to the prime rate charged by the Standard Bank of Southern Africa to its

  
  
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customers in the private sector (as certified by any manager of that Bank, whose authority and appointment it shall not be necessary to prove). Such interest shall be computed on a daily basis from the due date of payment until the relevant amount together with accrued interest is fully paid by the defaulting Party.

All payments to be made under this Concession Contract shall be made in Rand.

#### Other Rights and Remedies

No Party shall have any rights or remedies against any other Party arising on termination save for the rights and remedies specified in this Concession Contract.

#### Calculations

Save as specifically provided to the contrary elsewhere in this Concession Contract, if any forecast or calculation is required to be made for the purposes of determining an amount payable by one Party to another Party hereunder, the same shall be made by agreement between the Parties, and failing agreement by an internationally recognised firm of accountants appointed by the affected Parties. In the absence of agreement, each affected Party shall nominate an independent expert, each of whom will produce its forecast or calculation. If the difference between the results of both forecasts or calculations is 10% or less, then the amount payable shall be based on the average of both results. Should the difference exceed 10%, then both independent experts shall, by agreement, appoint a third independent expert which will make its own forecast or calculation, and the amount payable will be based on the average of the three results. In the absence of agreement on the appointment of the third independent expert, the President of the South African Institute of Chartered Accountants shall appoint that expert.



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Each forecast or calculation to be made by an independent expert shall be made in accordance with prevailing best industry practice. For the purpose of making any such calculation or forecast, the independent expert shall not be obliged to rely on the information submitted by the Concessionaire prior to the Effective Date but must have reference to the actual financial experience of the Concessionaire during the existence of the Concession Contract.

## TRANSFERS, DISSOLUTION AND DISPOSAL OF SHARES

### Transfer by the Concessionaire

The Concessionaire may not without the prior written consent of the Concessor, cede, assign or transfer:

this Concession Contract or any Associated Agreement;

any of its rights, interests or obligations thereunder; or

any of the Project Assets.

### Dissolution of the Concessor

The Concessor may not at any time, cede, delegate, assign, sub-contract or otherwise dispose of its rights and obligations under this Concession Contract except to any entity which replaces it as the Management Authority of the COH WHS, or to an assignee which has the legal capacity, power and authority to become a party to and perform the obligations of the Concessor under this Concession Contract. It may at any time and without seeking the consent of the Concessionaire cede, delegate, assign, sub-contract or otherwise dispose of those rights and obligations to any of those permitted recipients. The Concessor shall as soon as reasonably possible after it becomes aware that it will be replaced as the Management Authority of the COH WHS or that it will be succeeded by such an assignee, notify the Concessionaire of that fact and of the identity of its

successor (to the extent that it knows this).

### Disposal of Shares

The Concessionaire shall procure that its Shareholders (other than Blue IQ) do not dispose of their respective shareholdings without the prior approval of the Concessor, provided that the approval of the Concessor shall not be required in respect of any transfer of shares as contemplated in Schedule 16 being the Shareholders' Agreement as it exists at the Signature Date.

The Concessor will, notwithstanding the provisions of Clause 28, approve any sale of shares or other beneficial interest in the Concessionaire and permit that the relevant Shareholders or beneficiaries sell any such shares or beneficial interest provided that:

the Concessionaire informs the Concessor of the relevant seller's intention to sell and the Concessor permits the sale of such shares or beneficial interest at least 30 (thirty) Business Days before such sale is scheduled to take place;

the sale of such shares or beneficial interest does not alter the financial and technical capability of the Concessionaire to perform and assume the obligations of the Concessionaire under the Concession Contract, as demonstrated by the Concessionaire's ability to meet the criteria set out in the RFP and the Technical Requirements;

the sale of such shares or beneficial interest does not adversely impact on the Concessionaire's ability to perform its empowerment obligations; and

the sale of any shares or beneficial interest held by an HDI or HDG shareholders may only be sold to HDIs or HDGs.

The Concessor shall only have the right to refuse such sale of shares or beneficial interest if any of the criteria above are not met, or if the proposed buyer has been convicted or otherwise fined in a court of law, or other Relevant Authority, for breaches of environmental regulations or any legislation relating to heritage resources in the Republic of South Africa or elsewhere.

#### Blue IQ Transfer

It is recorded that the Blue IQ Investment Holdings (Proprietary) Limited Act, 2003 ("Blue IQ Act") has been passed and assented to by the Premier of the Gauteng Province and is in the process of being promulgated.

Once the Blue IQ Act is in full force and effect, a company named Blue IQ Investment Holdings (Proprietary) Limited will be incorporated.

In accordance with the provisions of section 10 of the Blue IQ Act, upon the incorporation of that company, the rights and obligations under this Agreement of the Gauteng Department of Finance and Economic Affairs (Blue IQ Programme), acting for and on behalf of the Gauteng Provincial Government will automatically become the rights and obligations of that company and that company will for the purposes of this Concession Contract be the Party defined as Blue IQ.

#### GOVERNING LAW AND RESOLUTION OF DISPUTES

##### Governing Law

This Concession Contract shall be governed by the laws of the Republic of South Africa.

### Resolution of Disputes

Any dispute between any of the Parties in regard to any matter arising out of this Concession Contract shall be referred to the affected Parties respective representatives (in terms of Clause 31.12), who shall attempt to resolve the dispute amicably between themselves within 5 (five) Business Days of the dispute arising.

If the dispute is still unresolved after expiry of that period, then the dispute shall be referred to the respective senior representatives of the affected Parties specified below, who shall attempt to resolve the dispute within 10 (ten) Business Days. The senior representatives are the Chairman of the Concessionaire, the Head of Department of the Concessor, the Vice-Chancellor of Wits, the Chairman of Blue IQ and the Chairman of Trustees of the PBO.

Any dispute that arises and has not been resolved pursuant to Clauses 29.2.1 or 29.2.2 within the periods provided for in those clauses shall be finally settled under the arbitration rules of the Arbitration Foundation of Southern Africa, as in effect at the date of commencement of the arbitration, by 3 (three) arbitrators appointed in accordance with those Rules.

The place of arbitration shall be Johannesburg. All hearings shall take place in Johannesburg.

Arbitration proceedings shall be conducted in the English language. The award rendered by the arbitrators shall be final and binding and may be made an order of any court of competent jurisdiction.

Arbitration proceedings under this Agreement may be consolidated with arbitration proceedings pending between other Parties if the arbitration proceedings arise from the same transaction or relate to the same subject matter. Consolidation will be by an order of the arbitral tribunal in any of the pending cases or, if the arbitral tribunal

  
  
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fails to make such an order, the parties may apply to any court of competent jurisdiction for such an order.

Nothing in this Agreement shall prevent any Party from seeking urgent interim relief from any High Court of South Africa having jurisdiction, and any such request shall not be deemed incompatible with the agreement to arbitrate or a waiver of the right to arbitrate.

#### Obligations During Arbitration

Pending any attempt at amicable settlement or any award of an arbitral panel, all parties shall continue to perform their obligations hereunder unless otherwise agreed in writing.

#### Costs of Arbitration

The costs of arbitration shall be paid by the unsuccessful Party, irrespective of which Party referred the matter to arbitration.

#### SUPPORT

The Parties undertake at all times to do all such things, to perform all such acts and to take all such steps and to procure the doing of all such things, the performance of all such acts and the taking of all such steps as may be open to them and necessary for or incidental to the putting into effect or maintenance of the terms, conditions and import of this Concession Contract.

#### MISCELLANEOUS PROVISIONS

##### Primacy of this Concession Contract

This Concession Contract shall govern all aspects of, and all contractual relationships relating to, the Project as between the Parties. In the event of conflict between this Concession Contract and any Associated Agreement on a matter affecting the Parties,

     
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including all questions of interpretation, this Concession Contract shall prevail.

If the content of any of the Schedules is in conflict with the content of this Concession Contract, the content of this Concession Contract shall prevail.

### Confidentiality

#### Confidential Information Defined

As used in this Concession Contract, the term "**Confidential Information**" shall mean:

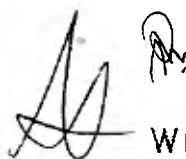
information, including trade secrets, technical or non-technical data, a formula, pattern, strategy, compilation, programme, device, method, technique, drawing, process, financial data, or list of actual or potential customers or suppliers, which:

derives economic value, actual or potential, from not being generally known to other Persons who can obtain economic value from its disclosure or use; or

is the subject of efforts which are reasonable under the circumstances to maintain its secrecy; or

is identified as Confidential Information.

any information relating to any discovery, finding, scientific research, any other research or any other activity of similar nature, in relation to archaeological objects, palaeontological material, fossils, articles of value or antiquity, structures and other remains or things of geological, palaeontological or archaeological interest or cultural significance or burial sites discovered or existing on the Concession Area.



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### Exclusions

Confidential Information shall not include any information which:

is or becomes generally known to the public through no fault of the Party receiving it;

is received without restriction from a third party not bound by any duty of confidentiality with respect to such Confidential Information;

was developed through any Party's own efforts, provided that such development can be documented as having been developed without the use of any Confidential Information;

is required to be disclosed in terms of any Regulatory Provision;

a Party uses or discloses in order to pursue any legal remedies available to it.

### Importance of Non-Disclosure

Each Party recognises and acknowledges that:

Confidential Information of the other Parties may be commercially valuable proprietary property of such Party, the design and development of which may have involved the expenditure of substantial amounts of money and the use of skilled development experts over a long period of time and which may afford such Party a commercial advantage over its competitors or other Persons;

the loss of this competitive advantage due to unauthorised disclosure or use of Confidential Information may cause great injury and harm to such Party; and

the restrictions imposed upon the Parties under this Concession Contract are necessary to protect the confidentiality of Confidential Information and to prevent the occurrence of such injury and harm.

#### Identification of Confidential Information

Each Party shall take appropriate steps to enable the other Parties to identify information provided by it which should be protected as Confidential Information. Accordingly, each Party shall use its best efforts to designate any Confidential Information provided to any other Party. In addition, any information involving Confidential Information, which is communicated orally, shall be identified as Confidential Information in such communication.

#### Protection of Confidential Information

To protect the Confidential Information of the Parties, each Party shall adopt and maintain basic security measures of the kind commonly observed in industries which rely extensively on proprietary information. Such security measures shall include, to the extent appropriate, physical security measures, restrictions on access by unauthorised personnel, use of confidentiality agreements with personnel, legending, systematic segregation and appropriate record retention systems.

#### Prohibitions and Indemnities

Each Party receiving Confidential Information (the "Receiving Party") shall not, without the prior written consent of the Party from whom such Confidential Information was obtained (the "Disclosing Party"), disclose or divulge to or permit any Person not authorised to receive such Confidential Information to obtain any Confidential Information disclosed to the Receiving Party or any of its employees,

agents, advisors or other third parties acting on behalf of the Receiving Party by the Disclosing Party (whether or not such Confidential Information is in tangible or intangible form) for as long as the Confidential Information remains Confidential Information. Each Receiving Party shall use any Confidential Information disclosed by the Disclosing Party hereunder (whether or not such Confidential Information is in tangible or intangible form) only for purposes of this Concession Contract. Each Receiving Party hereby indemnifies and holds harmless the Disclosing Party and its affiliates from and against all claims, losses, damages, liabilities, costs and expenses (including reasonable expenses of investigation and reasonable legal fees on an attorney and client scale, and pre- and post-judgment interest and penalties) arising from any such unauthorised disclosure or use by the Receiving Party or any of its employees, agents, advisors or other third parties acting on behalf of the Receiving Party.

#### Avoidance of Unnecessary Disclosure

In providing information hereunder, each Party shall take care, and shall ensure that its respective representatives take care, to avoid the overboard disclosure of competitively sensitive financial, operating or similar data, if any, as to which disclosure would have adverse consequences to the other or both Parties.

#### Procedures Prior to Disclosure

The Parties acknowledge that each of them may be required to disclose Confidential Information to governmental agencies or authorities by operation of law, and each Party shall take advice of counsel and otherwise endeavour to limit disclosure of Confidential Information to that purpose. Each Party will give the other Parties prior written notice of any disclosure of Confidential Information, which notice shall specify so far as possible all material aspects of

any such disclosure, so that the other Parties can seek a protective order or other action preventing such disclosure. The Receiving Party shall refrain for as long as reasonably possible from disclosing such Confidential Information so as to allow the other Party to seek such protective order or other action.

#### Applicability to Contractors, Sub-Contractors and Shareholders

The Concessionaire shall take all reasonable steps to ensure that all Concessionaire Parties and their directors, officers, employees and representatives comply with the provisions of this Clause 31.2.

#### Public Announcements

The Concessionaire shall not (and shall procure that the Concessionaire Parties do not) make any public announcements in relation to the Project or the ICC without the prior approval of the Concessor and Wits.

#### Variations in Writing

All additions, amendments, variations and any consensual cancellation of this Concession Contract shall be binding only if in writing and signed by duly authorised representatives of each of the Parties.

#### Entire Agreement

This Concession Contract, including the Schedules attached thereto, represents the entire agreement between the Parties in relation to the subject matter thereof and supersedes any RFP, Bid Submission or actual tender, and any or all previous agreements or arrangements, whether oral or written, between the Parties in respect of the Project and the Concession Rights or the other contents of this Concession Contract. No representations, warranties or other terms and conditions of whatever nature not contained or recorded herein have been made or agreed to.

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#### Waiver

No waiver by any Party of any default or variation by any other Party in the performance of any of the provisions of this Concession Contract shall operate or be construed as a waiver of any other or further default or variation whether of a like or different character, or shall be effective, unless in writing duly executed by an authorised representative of such Party.

#### Time and Indulgence

Any time or other indulgence allowed by one Party to the other in which to perform its duties and obligations hereunder or to remedy any breach hereof shall not be, and shall not be construed as, a waiver by the Party giving such time or indulgence of any of its rights hereunder.

#### No Third Party Beneficiaries

This Concession Contract is made exclusively for the benefit of the Parties and no third party shall have any rights hereunder or be deemed to be a beneficiary hereof except as may be expressly provided herein.

#### Language

This Concession Contract has been drawn up and shall be interpreted in the English language.

#### Notices

Any notice or correspondence to be given under this Concession Contract shall be in writing in English unless otherwise agreed and shall be delivered personally by hand or sent by fax followed by the original delivered by hand.

31.10.2

The addresses for Notices are as follows:

the Concessor:

Marked for the attention of the Head of Department

Physical address: Department of Agriculture Conservation,  
Environment and Land Affairs  
68 Diamond Building  
cnr Eloff and Market Streets  
Johannesburg

Telephone: (011) 355 1900

Facsimile: (011) 337 2292

Blue IQ:

Marked for the attention of the Chief Executive Officer

Physical Address: Matlotlo House  
94 Main Street  
Cnr Harrison and Main Streets  
Johannesburg

Telephone: (011) 355 8705

Facsimile: (011) 355 8500

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**Wits:**

Marked for the attention of the Vice Chancellor

Physical address: 1 Jan Smuts Avenue  
Braamfontein  
Johannesburg

Telephone: (011) 717 1242/3

Facsimile: (011) 339 8215

**PBO:**

Marked for the attention of the Head of the Department

Physical address: Department of Agriculture, Conservation,  
Environment and Land Affairs  
68 Diamond Building  
cnr Eloff and Market Streets  
Johannesburg

Telephone: (011) 355 1900

Facsimile: (011) 337 2292

**Concessionaire:**

Marked for the attention of the Chief Executive Officer

Physical address 113 Indianapolis Drive  
Kyalami Business Park  
Kyalami

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Telephone: (011) 466 2320

Facsimile: (011) 466 2621

31.10.3 Any Party may change its nominated address to another address in the Republic of South Africa by prior written notice to the other Parties.

31.11 Severability

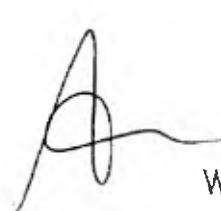
If any one or more of the covenants, agreements, provisions or terms of the Concession Contract shall be held wholly or partly invalid, illegal or unenforceable for any reason whatsoever, then those covenants, agreements, provisions or terms shall be deemed severable from the remaining covenants, agreements, provisions or terms of the Concession Contract and shall in no way affect the validity, legality or enforceability of the Concession Contract. The Parties shall meet as soon as possible and negotiate in good faith upon a replacement provision that is legally valid and that achieves as nearly as possible the objective of the Concession Contract and produces an equivalent economic effect.

31.12 Representatives

31.12.1 The Concessor shall be represented by its Accounting Officer, or such other representative as shall from time to time be notified to the other Parties.

31.12.2 Wits shall be represented by its Vice Chancellor, or such other representative as shall from time to time be notified to the other Parties.

31.12.3 The PBO shall be represented by the Chairperson of its Trustees, or such other representative as shall from time to time be notified to the other Parties.






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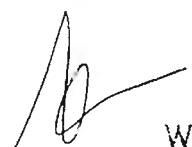



- 31.12.4 Blue IQ shall be represented by its Chief Executive Officer, or such other representative as shall from time to time be notified to the other Parties.
- 31.12.5 The Concessionaire shall be represented by its Managing Director, or such other representative as shall from time to time be notified to the other Parties.
- 31.12.6 Notwithstanding the other provisions of this Clause 31.12, all of the Concessor Parties shall, for purposes of day-to-day communications from them to the Concessionaire or from the Concessionaire to them (including without limitation seeking or conveying approvals, consents or expressions of satisfaction as required by any provision of this Concession Contract) be represented by Michael Worsnip, who is the Concessor's Programme Manager for the COH WHS or such other representative as shall from time to time be notified to the Concessionaire. For all other purposes, each of the Concessor Parties shall be represented in accordance with the applicable provision of this Clause 31.12.

## 32 REPRESENTATIONS AND WARRANTIES

### 32.1 Representations and Warranties by the Concessionaire

The Concessionaire hereby represents and warrants to the Concessor and the PBO as follows:

- 32.1.1 The Concessionaire is duly organised under the laws of the Republic of South Africa with all requisite juristic power to carry out its obligations under this Concession Contract and to execute and deliver this Concession Contract, and acknowledges that, except as the Concessor may otherwise agree in writing, its sole purpose is to implement the Project.

     
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- 32.1.2 The Concessionaire has as its shareholders or beneficiaries the Shareholders specified in Schedule 16.
- 32.1.3 This Concession Contract has been duly authorised by all necessary legal and corporate action, is legally valid and binding upon it and does not require approval in any form in order to give full effect thereto.
- 32.1.4 The Concessionaire is not prevented or restrained legally, commercially or otherwise from entering into and undertaking the provisions of this Concession Contract in accordance with its terms.
- 32.1.5 The Concessionaire has fully familiarised itself with all aspects of the Project and has all the knowledge, experience, ability (particularly financial ability) to carry out the Project in accordance with the terms of this Concession Contract.
- 32.1.6 The Concessionaire has reviewed and checked as an expert the Concession Area and its surroundings, and the physical condition of the Concession Area and its surroundings and is fully familiar with the terms of all relevant laws and regulations including all laws and regulations relating to the COH WHS, the establishment of the ICC and its rights and obligations thereunder and hereunder, and pursuant to such review the Concessionaire finds the Concession Area suitable for the fulfilment of its obligations and undertakings under this Concession Contract, including the completion of the Design and Construction, Exhibition Installation and Operation and Maintenance of the ICC. The Concessionaire further acknowledges its willingness to enter into this Concession Contract with full awareness of, among other things, the rights and obligations derived from the physical position of the Concession Area and the ICC, the provisions of this Concession Contract and its ability to fulfil all of its obligations under this Concession Contract adequately and in a timely manner.

  
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32.1.7 The Concessionaire has conducted a full inquiry and has satisfied itself, and accordingly accepts responsibility for the fact that the execution of the Project or any part thereof shall not involve any infringement of any patent or trade secret or know-how or copyright belonging to any third party.

32.1.8 The Concessionaire has evaluated all factors that may reasonably be deemed to affect the carrying out of its obligations under this Concession Contract, including geological conditions, Design and Construction risks, technical risks, tourism risks, and any other risk involved herein, and such other conditions that may reasonably be deemed to affect the progress, completion or success of the Project in accordance with the terms of this Concession Contract.

32.1.9 All representations, warranties, information and data of the Concessionaire contained in any written Government certificate, exhibit or schedule or any other document (including financial statements) delivered pursuant to any pre-qualification questionnaire, RFP, or in connection with this Concession Contract, is true and correct in all material respects as of the date hereof.

## 32.2 Concession Contract Legally Binding

Notwithstanding the representations and warranties provided in this Clause 31.12.6, each Party hereto hereby represents and warrants that after the Effective Date this Concession Contract is legally valid and binding upon it.

## 32.3 Representations and Warranties of the Concessor

The Concessor hereby represents and warrants to the Concessionaire as follows:

32.3.1 in executing the Concession Contract for the purposes of accepting the benefits hereof and the granting of the Concession Rights, the

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CEO of the Concessor acts for and on behalf of the Concessor and in accordance with law;

32.3.2 the Concessor is duly established under the Act and the Concession Contract is legally valid and binding upon the Concessor and enforceable in accordance with its terms; and

32.3.3 save as specifically provided otherwise in this Concession Contract, there are no servitudes or restrictions noted against the title to the Concession Area, which will impede the activities of the Concessionaire in the Concession Area or prevent the Concessionaire from operating in the Concession Area and the Concession Area is not the subject of expropriation proceedings.

### 33 SEPARATE EXERCISE OF RIGHTS

Each Concessor Party shall be entitled separately to exercise any of its rights under this Concession Contract directly against the Concessionaire.

### 34 COUNTERPARTS

This Concession Contract may be executed in any number of counterparts, but all of such counterparts taken together shall be deemed to constitute one and the same instrument.

### 35 THIRD PARTY CONTRACTS

35.1 The Concessionaire may use a third party or third parties to carry out all or part of its obligations under this Concession Contract. The engagement of a third party shall, however, not release the Concessionaire from any of its obligations hereunder.

35.2 Without prejudice to the provisions of Clause 16.1.1, the terms of any such sub-contract shall in all respects be subject to the prior written approval of the Concessor and Wits. Notwithstanding the provisions of Clause 1.2.14, the Concessor and Wits shall be entitled to withhold or qualify their



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approval on any grounds that they deem fit, whether reasonable or otherwise.

### 36 MODIFICATIONS DURING CONCESSION PERIOD

Modifications to the ICC during the Concession Period shall be subject to the prior written consent of the Concessor and (in respect of the Orientation Centre) Wits.

### 37 HAZARD PREVENTION

The Parties shall take all reasonable steps in the performance of their respective obligations hereunder to prevent the occurrence of any environmental or security hazards.

### 38 ANCILLARY OBLIGATIONS

38.1 The Parties acknowledge that Persons other than the Concessor and the Concessionaire have business interests in and to the Concession Area. The Parties recognise that to facilitate integrated development of the Concession Area the co-operation of such Persons is necessary.

38.2 It is recorded that the café at the Sterkfontein Site is operated by a third party on behalf of Wits, Wits shall give the required notice to the operator terminating its operations at the café and shall ensure that such termination is effective no later than the Effective Date.

38.3 Furthermore the Concessionaire acknowledges the rights granted to Standard Bank of South Africa ("Standard Bank") under the agreement between it and the Concessor relating to the Mohale's Gate Site, pursuant to which Standard Bank has been granted the exclusive right to install, place and/or locate Standard Bank-branded Automated Teller Machines ("ATMs") at the Mohale's Gate Site. The Concessionaire undertakes not to grant to any Person, other than Standard Bank, rights to install, place and/or locate ATMs at the Mohale's Gate Site during the Concession Period, without the prior approval of the Concessor.

Execution on behalf of the Concessor:

SIGNED AT SANDTON ON 19 OCTOBER 2003.

For and on behalf of The Gauteng Department of  
Agriculture, Conservation, Environment and Land  
Affairs, acting for and on behalf of the Gauteng  
Provincial Government.

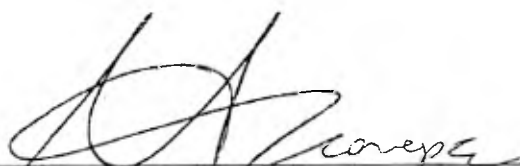


Who warrants his/her authority hereto

Execution on behalf of Wits:

SIGNED AT SANDTON ON 19 OCTOBER 2003.

For and on behalf of The University of the  
Witwatersrand, Johannesburg

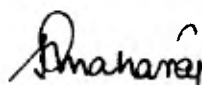


Who warrants his/her authority hereto

**Execution on behalf of The Gauteng Department of Finance and Economic Affairs  
(Blue IQ Programme), acting for and on behalf of the Gauteng Provincial  
Government:**

SIGNED AT SANDTON ON 19 OCTOBER 2003.

For and on behalf of the Gauteng Department of  
Finance and Economic Affairs (Blue IQ  
Programme), acting for and on behalf of the  
Gauteng Provincial Government



Who warrants his/her authority hereto

**Execution on behalf of the PBO:**

SIGNED AT SANDTON ON 19 OCTOBER 2003.

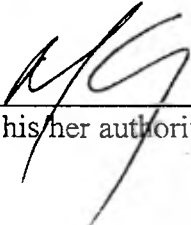
For and on behalf of The Cradle of Humankind  
Trust



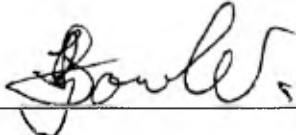
Who warrants his/her authority hereto

**Execution on behalf of the Concessionaire:**

SIGNED AT SANDTON ON 19 OCTOBER 2003.

For and on behalf of FSG Special Purpose  
Company (Proprietary) Limited  
\_\_\_\_\_  
Who warrants his/her authority hereto**Executed in compliance with section 66 of the Public Finance Management Act, 1999  
(Act No. 1 of 1999) by the MEC for Finance and Economic Affairs, Gauteng  
Province**

SIGNED AT SANDTON ON 19 OCTOBER 2003.

as the MEC for Finance and Economic Affairs,  
Gauteng Province  
\_\_\_\_\_  
Who warrants his/her authority hereto



## LIST OF SCHEDULES

- SCHEDULE 1**      **Concession Area:**  
Part A – Description  
Part B – Plan of Concession Area, including Protected Sites and Staff Accommodation  
Part C – Orientation Centre facilities for Wits staff and students  
*(Concession Area definition; Protected Sites definition, Sterkfontein Site definition, Clauses 15.3.1 and 15.4)*
- SCHEDULE 2**      **Preliminary Design**  
*(Preliminary Design definition)*
- SCHEDULE 3**      **Environmental Guidelines**  
*(Environmental Guidelines definition, Clause 20.1.2)*
- SCHEDULE 4**      **Business Plan**  
*(Business Plan definition)*
- SCHEDULE 5**      **Construction Bond**  
*(Construction Bond definition, Clause 18.1)*
- SCHEDULE 6**      **O&M Bond**  
*(O&M Bond definition, Clause 18.3)*
- SCHEDULE 7**      **Servitudes**  
  
Part A              Mohale's Gate Site  
  
Part B              Sterkfontein Site  
*(Servitudes Definition, Clause 8.1.4)*
- SCHEDULE 8**      **Insurance**  
*(Clauses 23.1, 23.2, 23.3.2 and 23.3.5)*

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- SCHEDULE 9      **Empowerment**  
*(Clauses 20.1.2, 20.2.1, 20.3, 20.4 and 21.3)*
- SCHEDULE 10     **Exhibition Committee Programme**  
*(Clause 12.4)*
- SCHEDULE 11     **Key Personnel Positions**  
*(Key Personnel Positions definition)*
- SCHEDULE 12     **Construction Schedule**  
*(Construction Schedule definition and Clauses 6.4.1, 6.4.2, 6.4.4, 8.1.1, 9.4.2 and 9.4.3)*
- SCHEDULE 13     [Not Used]
- SCHEDULE 14     **Technical Requirements**  
*(Technical Requirements definition, Clauses 2.1.2, 6.1 and 12.2)*
- SCHEDULE 15     **Schedule of Repayments**  
*(Clause 6.4.1)*
- SCHEDULE 16     **Shareholders' Agreement**  
*(Shareholders' Agreement definition, Clauses 28.3 and 32.1.2)*
- SCHEDULE 17     **Convertible Share Rights**  
*(Construction Schedule definition, Gross Revenues definition, Convertible Shares definition; Clauses 3.1.2, 5.3.1, 6.3, 6.4 and 9.4.2)*



**SCHEDULE 1**

**TO**

**CONCESSION CONTRACT**

**FOR THE**

**DESIGN, CONSTRUCTION, EXHIBITION INSTALLATION,  
OPERATION AND MAINTENANCE OF THE INTERPRETATION  
CENTRE COMPLEX**

**FOR THE**

**CRADLE OF HUMANKIND WORLD HERITAGE SITE /**

---

**CONCESSION AREA**

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*R* *H*  
*A* *WA*

**SCHEDULE 1**

**TO**

**CONCESSION CONTRACT**

**FOR THE**

**DESIGN, CONSTRUCTION, EXHIBITION INSTALLATION,  
OPERATION AND MAINTENANCE OF THE INTERPRETATION  
CENTRE COMPLEX**

**FOR THE**

**CRADLE OF HUMANKIND WORLD HERITAGE SITE**

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**PART A**

**DESCRIPTION**

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*[Handwritten signatures]*

# SCHEDULE 1

## PART A

### DESCRIPTION

#### MOHALE'S GATE SITE

The land situated adjacent to the COH WHS, forming part of the Concession Area and over which the Interpretation Centre will be established being the farm Interpretation Centre 932-JQ, comprising Portion 4 of the farm Waterkloof 515-JQ, Portion 1 of the farm Waterpoort 585-JQ, and Portion 3 of the farm Spring Farm 588-JQ, measuring 100 (one hundred) hectares.

#### STERKFORNTEIN SITE

(a) Portion 1 called the Isaac Edwin Stegmann Nature Reserve of the farm Zwartkrans 172, Registration Division I.Q. Province of Gauteng; in extent 17,1306 hectares; and

(b) the Remaining Extent of the farm Zwartkrans 172, Registration Division I.Q. Province of Gauteng; in extent 61,941 hectares, indicated on the plan attached hereto as Part B of Schedule 1, forming part of the Concession Area over which the Orientation Centre will be established, and shall include the Protected Sites but exclude the area marked "Staff Accommodation" and indicated in blue on the plan.

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*A* *R* *J* *WA*

**SCHEDULE 1**

**TO**

**CONCESSION CONTRACT**

**FOR THE**

**DESIGN, CONSTRUCTION, EXHIBITION INSTALLATION,  
OPERATION AND MAINTENANCE OF THE INTERPRETATION  
CENTRE COMPLEX**

**FOR THE**

**CRADLE OF HUMANKIND WORLD HERITAGE SITE**

---

**PART B**

**PLAN OF CONCESSION AREA, INCLUDING  
PROTECTED SITS AND STAFF ACCOMMODATION**

---

*AR 7 WA*

**COMPONENTS**

1. The figure ABCDE~~H~~JKLMNPQR represents the Remainder of the farm vide Diagram S.G. No. A~~1255/1954~~ 10003/1861 Deed of Transfer no.
2. The figure <sup>D</sup>EFGH represents Portion 1 vide Diagram S.G. No. A5068/1957 Deed of Transfer No. 20082/1958

**NOTES**

1. The figure abcdefg represents a Proclamation Area vide Diagram S.G. No. A275/1945
2. The figure hjkm represents a Proclamation Area vide Diagram S.G. No. A 4382/1992

S.G. No.

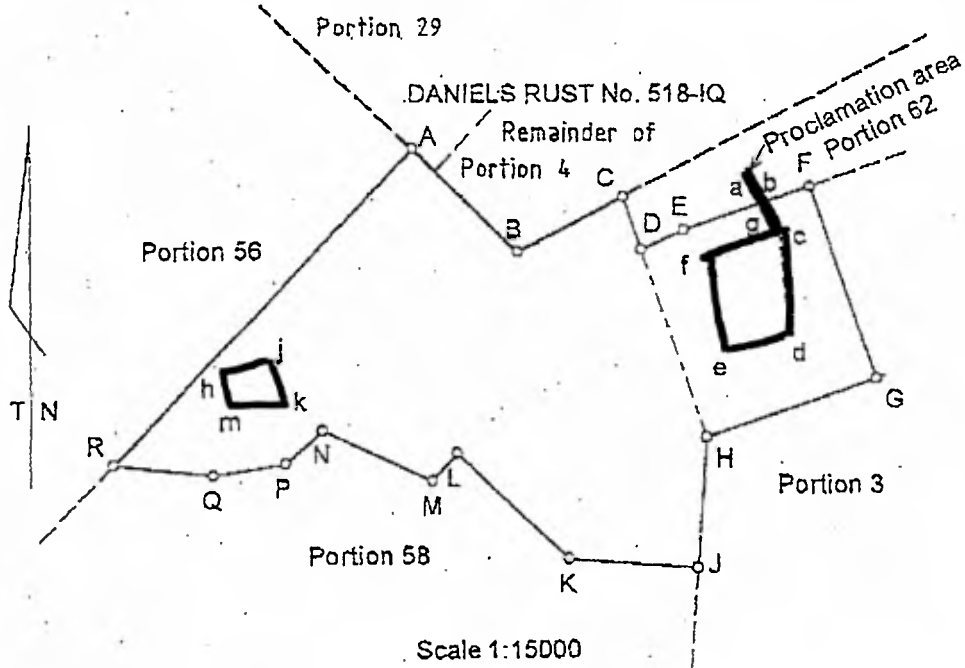
3461/2002

Approved

*W. Marshall*

for  
SURVEYOR-  
GENERAL

2002-06-21



The figure ABCDEFGHJKLMNPQR.

represents 79,0725 hectares of land being  
PORTION 65 of the farm  
ZWARTKRANS No. 172-IQ  
and comprises components 1 and 2 as listed above

Gauteng Province  
Compiled in May 2002 by me

*W. Marshall*

A.P. MARSHALL (PLS 0378)  
Professional Land Surveyor

This diagram is annexed to	The original diagram are as listed above	File -/21
No.		S.R.
d.d.		G.P.
i.f.o.		Comp. IQND-2
Registrar of Deeds Pretoria		

# ANNEXURE "6"

SIDES Metres	ANGLES OF DIRECTION	COORDINATES Y System: WG 27° X		
Constants:		- 0,00	+ 2 800 000,00	
AB	500,88	227 33 40	A - 65 768,41	+ 73 615,52
BC	678,08	235 26 50	B - 66 138,06	+ 73 277,52
CD	97,73	239 25 00	C - 66 596,52	+ 72 892,93
DE	160,50	344 52 36	D - 66 780,66	+ 72 843,21
EF	480,54	41 39 50	E - 66 822,53	+ 72 998,15
FG	262,44	343 01 50	F - 66 503,09	+ 73 357,15
GH	216,80	15 51 30	G - 66 579,68	+ 73 608,16
HJ	1065,81	324 39 25	H - 66 520,44	+ 73 816,70
JK	206,67	99 04 40	J - 67 136,96	+ 74 688,09
KL	36,35	97 32 00	K - 66 932,90	+ 74 653,49
LM	21,42	94 52 10	L - 66 896,86	+ 74 648,72
MN	156,66	92 39 00	M - 66 875,51	+ 74 646,90
NP	58,81	83 48 20	N - 66 719,02	+ 74 639,66
PQ	64,01	80 28 20	P - 66 660,55	+ 74 646,01
QR	118,21	73 12 30	Q - 66 597,42	+ 74 656,60
RA	1291,72	146 20 47	R - 66 484,25	+ 74 690,75
<b>INDICATORY DATA</b>				
D-D1	0,64	59 25 00	D1 - 66 780,11	+ 72 843,53
E-E1	0,66	73 00 00	E1 - 66 821,90	+ 72 998,34
H-H1	0,23	195 51 30	H1 - 66 520,50	+ 73 816,48
		HEKPOORT (2527) Δ 20	- 62 985,35	+ 70 558,25
		WELTEVREDEN W (2527) Δ 87	- 67 575,60	+ 72 626,17

3472/2002

Approved

*Howard*

for  
SURVEYOR-  
GENERAL

2002-06-21

SHEET 1  
OF  
3 SHEETS

- COMPONENTS :**
- 1) The figure *ABJKLMNPQR* represents Portion 3 of the farm  
*SPRING FARM* No. 588-JQ, vide Diagram SG No. 3471/2002  
Deed
  - 2) The figure *BabGH* represents Portion 4 of the farm  
*WATERKLOOF* No. 515-JQ, vide Diagram SG No. 3469/2002  
Deed
  - 3) The figure *aCDEPb* represents Portion 1 of the farm  
*WATERPOORT* No. 585-JQ, vide Diagram SG No. 3470/2002  
Deed

The figure *ABCDEFGHIJKLMNPQR* represents  
100,0000 hectares of land, being  
the farm INTERPRETATION CENTRE No. 932-JQ  
and comprises components 1 to 3 as shown above.

Province of Gauteng. Surveyed in October and November 1993  
and in March and April 2002 by me

*JAE*  
JAE Morley (PLS 418)  
Professional Land Surveyor

This diagram is annexed to	The existing diagrams and deeds	File JQ 932
No.	are as shown above.	SR 1522/2002
Registrar of Deeds PRETORIA		Comp: JQSY- 32 JQSY 34





Servitude Notes :

- 1) The line km represents the centre line of a Power Line Servitude 22,00 metres wide vide Diagram SG No. ~~A 5670/1980~~ 2137/1998 Deed of Servitude No. K 2416/1991.
- 2) The figure .defg represents a Servitude vide Diagram SG No. A 6460/1973, Deed of Servitude No. K 854/1977s.
- 3) The line hj represents an Underground Pipeline Servitude 2,50 metres wide vide Diagram SG No. 12679/1995, Deed of Servitude No. K 6124/1997s.

347212002

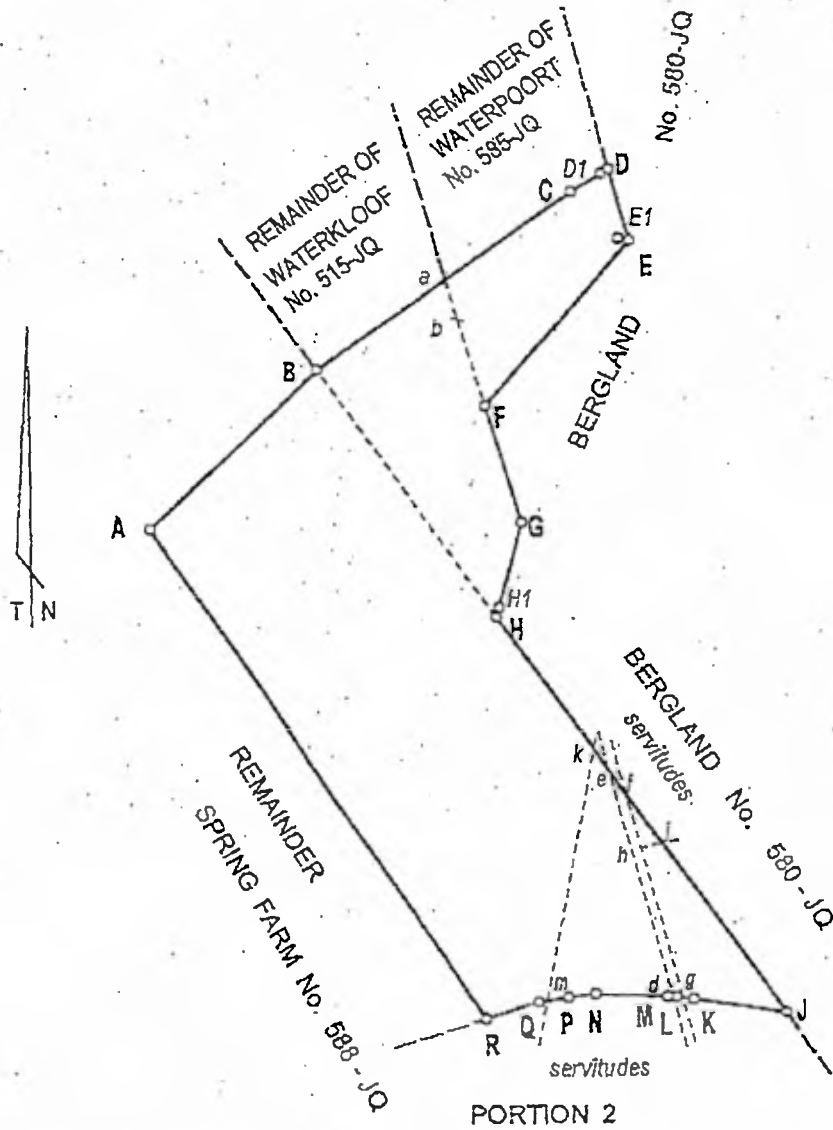
Approved

*[Signature]*

for  
SURVEYOR-  
GENERAL

2007-06-21

SHEET 2  
OF  
3 SHEETS



Scale 1:15 000

the farm INTERPRETATION CENTRE No. 932-JQ

Surveyed in October and November 1993  
and in March and April 2002 by me

J A E Morley (PLS 418)  
Professional Land Surveyor.

3472/2002  
Approved  
*[Signature]*  
for  
SURVEYOR-  
GENERAL  
2002-06-21

SHEET 3  
OF  
3 SHEETS

Description of Beacons

- A, B, R ..... 15mm X 600mm steel pegs.
- C ..... tubular fence post.
- D, E, H ..... not beacons.
- D1 ..... 20mm steel peg.
- E1 ..... 20mm iron peg (next to corner fence post)
- F ..... 20mm steel peg (6,7 metres east of corner fence post)
- G ..... fencing standard (next to old rail fence post).
- H1 ..... old rail fence post (1,6 metres high).
- J ..... 20mm X 900mm steel peg (1,4 metres west of corner fence post).
- K ..... tubular gate post.
- L, M ..... 20mm X 900mm steel pegs.
- N, Q ..... tubular corner fence posts.
- P ..... 20mm X 900mm steel peg (next to fencing standard).

the farm INTERPRETATION CENTRE No. 932-JQ

Surveyed in October and November 1993  
and in March and April 2002 by me

*[Signature]*  
J A E Mordy (PLS 418)  
Professional Land Surveyor.

*[Handwritten initials]*

**SCHEDULE 1**

**TO**

**CONCESSION CONTRACT**

**FOR THE**

**DESIGN, CONSTRUCTION, EXHIBITION INSTALLATION,  
OPERATION AND MAINTENANCE OF THE INTERPRETATION  
CENTRE COMPLEX**

**FOR THE**

**CRADLE OF HUMANKIND WORLD HERITAGE SITE**

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**PART C**

**ORIENTATION CENTRE FACILITIES FOR WITS  
STAFF AND STUDENTS**

---

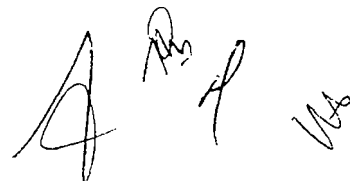
## SCHEDULE 1

### PART C

## ORIENTATION CENTRE FACILITIES FOR WITS STAFF AND STUDENTS

The facilities in the Orientation Centre to which Wits staff members and students will require access will be designated in the Detailed Design of the Orientation Centre when it is approved in accordance with the terms of the Concession Contract.

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Four handwritten signatures in black ink, arranged horizontally from left to right. The first signature is a large, stylized 'A'. The second is a smaller, more complex signature. The third is a signature that appears to be 'P'. The fourth is a signature that appears to be 'W'.

A P P W

**SCHEDULE 2**

**TO**

**CONCESSION CONTRACT**

**FOR THE**

**DESIGN, CONSTRUCTION, EXHIBITION INSTALLATION,  
OPERATION AND MAINTENANCE OF THE INTERPRETATION  
CENTRE COMPLEX**

**FOR THE**

**CRADLE OF HUMANKIND WORLD HERITAGE SITE**

---

**PRELIMINARY DESIGN**

---

*Handwritten signatures and initials*

**CRADLE OF HUMANKIND - AREAS OF PROPOSED FACILITIES**

16th April 2003

		COVERED	UNCOVERED	TOTAL
<b>A</b>	<b>ENTRANCE</b>			
<b>B</b>	<b>TUMULUS</b>			
	Basement - Lake / service / back of house	1,089		1,089
	Ground - Entrance / ablutions / conference / temporary exhibition	1,678	1,500	3,178
	First - Restaurant	812		812
	Second - Viewing gallery	167	167	334
<b>C</b>	<b>MUSEUM CAVE</b>	m2		
		2,625	300	2,925
<b>D</b>	<b>KIDDIES CAVE EXPERIENCE</b>	m2		
		300	300	600
<b>E</b>	<b>MARKET</b>			
	Paving	m2		
			2,500	2,500
	Cover	m2		
		720		720
	Extra for lockup facilities	m2		
		200		200
<b>F</b>	<b>AMPHITHEATRE</b>			
	Amphitheatre stage and lockup	m2		
		200		200
	Open terraced area	m2		
			5,000	5,000
<b>G</b>	<b>LEARNERS ACCOMODATION</b>	m2		
		450	100	550
<b>H</b>	<b>LUXURY TENT ACCOMODATION</b>	m2		
		1,299	100	1,399
<b>I</b>	<b>SITWORKS</b>			
	Landscaping	m2		
			187,000	187,000
	Road	m2		
			15,375	15,375
	Pathways	m2		
			1,760	1,760
	Parking	m2		
			20,000	20,000
	Ablutions to parking area	m2		
		25		25
	Main entrance guardhouse	m2		
		25		25
	Refuse yard, etc	m2		
		100		100
	Workshops, etc	m2		
		100		100
<b>J</b>	<b>STERKFORTEIN UPGRADE</b>			
	Primary fossil preparation centre	m2		
		360		360
	Backroom preparing room	m2		
		100		100
	Storage / display	m2		
		100		100
	Auditorium / high tech lecture	m2		
		240		240
	Open courtyard	m2		
			200	200
	Kiosk / coffee / shop	m2		
		100		100
	Curio shop	m2		
		50		50
	Toilet / refreshment area	m2		
		50		50
	Specialist offices	m2		
		80		80
	Provision for hominid exhibition space, etc.	m2		
		200		200
	Provision for upgrading roads, carpark area, etc.	m2		
			5,000	5,000
	Landscaping			
			80,000	80,000
		<b>11,070</b>	<b>319,302</b>	<b>330,372</b>

*[Handwritten signatures and initials]*

# STANDARD SPECIFICATION AND FINISHES

-12 APRIL 2003

## CRADLE OF HUMANKIND

This specification denotes the standard finishes applicable to this project. Any upgraded finishes will be an extra cost to the contract.

### 1.0. SECTION A: EXTERNAL WORKS

#### 1.1 ENTRANCE PYLONS

The seven feature entrance pylons approximately 20 m high are to be constructed of reinforced concrete and finished off shutter.

#### 1.2 ENTRANCE ROAD INTO FACILITY

The main access-way into the ICC will be a two-way road that will be partly sunk into the landscape to provide maximum visual impact to the visitor. The road will have a black-top surfacing. The lighting will be in the form of bollard type fittings.

#### 1.3 MAIN PARKING / INTERMODAL TRANSFER FACILITY (20000m<sup>2</sup>)

This terraced parking facility will be able to accommodate approximately 800 vehicles, with circulation designed to facilitate bus and taxi articulation. To achieve visual consistency, this will similarly be black-top surfacing. The parking area will be lit by means of standard street lighting poles.

#### 1.4 LANDSCAPING

Generally, as part of the unobtrusive design philosophy, the bushveld will be rehabilitated, with grassing to sides of roads and pathways. There will be savannah establishment, manipulated landscape, and irrigation to these areas. Further, there will be rock placement at certain areas.

#### 1.5 FEATURES ALONG THE LANDSCAPE

As per the original storyline, an integrated set of "primary and secondary" beacons will be positioned at pre-determined spots to assist the visitor with orientating himself relative to the COH site.

#### 1.6 PERIMETER FENCING

The existing fence will generally be used, save for where the fencing poses a security threat. These portions will be replaced with new, and a new game fence will be erected alongside the Standard Bank site.

*[Handwritten initials and signatures]*

### 1.7 MAIN ENTRANCE GATEHOUSE

A gatehouse will be constructed, approximately 25m<sup>2</sup> to house security guards, an ablution facility with associated septic tank.

### 1.8 PATHWAYS / GENERAL AREAS

Generally, pathways will be constructed in paving, with accentuated lighting in the forms of bollards.

A provision has been made for a dedicated refuse yard and a workshop for estate maintenance.

### 1.9 AMPHITHEATRE

The amphitheatre will be landscaped to achieve its desired form, and approximately 300 m<sup>2</sup> of hardstand will be constructed to cater for stage performances, etc.

## 2.0 SECTION B: TUMULUS

### 2.1 Outside areas

Substantial hard surface made up of carefully chosen interlocking paving blocks to provide circulatory and milling space for visitors.

### 2.2 Entrance foyers and public areas

To achieve the earthy aesthetic appeal, specialist tinted concrete applications will be used for floor finishes. The same treatment will apply to walls and soffits of slabs.

Suspended ceilings will be used where overhead services are required.

Carefully selected areas will receive specialist feature panels clad with applied materials.

### 2.3 Underground lake.

The underground lake will be a recessed slab able to accommodate approximately 500 mm of water. The lake will be appropriately waterproofed. The lake enclosure will be mechanically ventilated and two extraction fans will be used for smoke ventilation.

### 2.4 Conference facility

Appropriate heavy-duty carpeting will be employed for the main facility including pre-assembly and breakaway spaces.

Acoustic treatment of walls and ceilings will be provided, where required.

Flush plastered ceilings and bulkheads will adorn special areas

Carefully selected areas will receive specialist feature panels clad with applied materials.

Flexibility in the conference area will be achieved by the utilisation of acoustic sliding folding partitions.

The conference facility will be air-conditioned.

Ry

M

WA

*[Handwritten signature]*



## 2.5 Ablutions

Generally, there will be slate flooring, with walls clad in full height ceramic tiling. The ceilings will be suspended flush-plastered with crown mouldings. Dado wall mouldings will be introduced where deemed appropriate. Internal toilet divisions will be constructed in brickwork.

Water closets and urinals will be high quality vitreous china, with flush actuators. Vanity slabs will be constructed out of concrete with decorative stand in bowls. Tapware will be chosen to complement the stand in bowls.

## 2.6 Restaurant

Generally, floor finishes will be a combination of heavy-duty carpet and ceramic floor finishes. Ceilings will be designed to integrate drop in suspended ceilings, flush plastered bands and dropped bulkheads. Wall finishes will be consistent as with the rest of the building, which will be high quality off shutter, with specialist feature panels. The restaurant will be air-conditioned.

## 2.7 Main kitchen

The main kitchen will be carefully designed to ensure total functionality to suit the operator.

## 2.8 Back of house

The management and support staff offices will be provided for. The fitout will be similar to an office installation, i.e. carpet tiles to floors, suspended vinyl faced ceilings, and 12,7 mm drywall partitioning to cellular offices.

## 2.9 Vertical transportation

There will be provision for two lifts to allow vertical access.

There will also be staircases with balustrading in mild and stainless steel.

## 2.10 Services

## 2.11 External dome finish

The external dome form will be finished in deeply contrasting materials. On the one side, the dome will represent all that's earthly which can be achieved by specialised paint techniques, and the other side of the dome will be construed to look "high tech" which could entail a mixture of glass and metallic products.

*Handwritten signatures and initials:*  
 [Signature] [Initials] [Initials]  
 [Signature]

### **3.0 SECTION C: UNDERGROUND MUSEUM CAVE**

#### **3.1 Construction**

The cave will be partially underground with approximately 500 mm soil cover over. The cave shell is constructed typically with reinforced concrete with retaining waterproofed walls. The internal walkway is designed to be single span.

The internal finish will be high quality off shutter. Above ground portions will be constructed with brickwork and durable plaster and paint.

Internal walkways will assimilate the general theme of specialised concrete finishes. The roof over the internal walkway will cater for in design the attainment of proportional natural light. This natural light will be either in the form of skylights or light monitors.

Service troughs will dissect the floor at intervals, to ensure maximum distribution of services for the exhibits. The soffit of the tunnel will be off-shutter with built in hooks for sub-assemblies or suspension of exhibit material.

The cave will be fully air-conditioned, with an allowance for 4 smoke extraction fans.

### **4.0 SECTION D: CRAFT MARKET**

The market will consist of approximately 1000m<sup>2</sup> of covered area, 2500m<sup>2</sup> of paving and 250m<sup>2</sup> of lock-up facilities. The market area will have electrical distribution and lighting.

### **5.0 SECTION E: LEARNERS ACCOMODATION**

The learner accommodation building will be constructed with stone clad finishes externally, and internal walls bagged. The floor finishes will be composed of either carpet tiles or ceramic tiles. There will be a common ablution area with finishes consistent with dormitory type living.

### **6.0 SECTION F: LUXURY TENTED ACCOMODATION**

There will be provision for 24 such suites, each comprising a bedroom, living area, bathroom and external patio area. The design provides for an outdoor living experience, with floors suspended off the ground. The bathroom cores will be constructed in a concrete surface bed, with brick walls. The frame of the tent will be a robust structure, capable of carrying a suitable weatherproof covering. Internally, the rooms will be finished with earthy wall treatment, and ceilings will be left exposed. The bathrooms will be finished with slate floor tiling and a mixture of wall tiles and decorative textured finishes. Sanitary fittings and ironmongery will be carefully chosen to compliment the general themeing. A bath-tub, enclosed shower, water closet, bidet and wash hand basins will be provided. Fume extraction will be provided.

Associated back of house facilities will be provided in terms of an administration office, senior staff accommodation, and a laundry / housekeeping facility.

Public facilities to be included would be a bar-lounge including a drinks bar, reception area and warm-up facilities for light meals. A business centre would be incorporated.

The public facilities will be housed in a tent-like structure, and all internal finishes will be consistent with the earthy look.

A small splashpool and boma area will be provided in addition.

*Handwritten signatures and initials:*  
A large signature on the right side of the page.  
A smaller signature above it.  
A mark resembling the number '7' or '4' to the left of the signature.  
A mark resembling the number '10' or '11' above the '7' mark.

**7.0 SECTION G: KIDDIES CAVE EXPERIENCE**

The kiddies cave will resemble a partly underground structure, with “caverns” constructed internally to allow the kids to explore various educational amenities.

**8.0 SECTION H: PICNIC AREA**

There will be a series of pathways leading to a dedicated picnic area, for families to take in the breathtaking views and enjoy light snacks.  
Provision will be made for refuse bins, there will be accentuated lighting, benches, etc.

**9.0 SECTION I: GENERAL**

**ELECTRICAL**

- Provision is made for a 800 Kva Generator for standby power (40% of total load)
- Provision for a 200Kva UPS (10% of total load)
- Provision for 11KV cable reticulation on site (overhead and underground)
- Provision for Low Voltage reticulation
- Provision for data and voice reticulation only
- Provision of access control
- Provision of CCTV at Tumulus reception and tunnel only
- Provision of a BMS system
- Provision of an evacuation and PA system

**FIRE PROTECTION**

Generally signage, extinguishers and hosereels are provided at each building

**SCHEDULE 3**

**TO**

**CONCESSION CONTRACT**

**FOR THE**

**DESIGN, CONSTRUCTION, EXHIBITION INSTALLATION,  
OPERATION AND MAINTENANCE OF THE INTERPRETATION  
CENTRE COMPLEX**

**FOR THE**

**CRADLE OF HUMANKIND WORLD HERITAGE SITE**

---

**ENVIRONMENTAL GUIDELINES**

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R  
WA  
A

## SCHEDULE 3

### ENVIRONMENTAL GUIDELINES

#### Sustainable Development Best Practice

Sustainable development best practice is to be incorporated into the planning, design and practice of all aspects of the ICC (including architecture, landscaping, exhibition design, construction, operation and Story Line). The social aspects of sustainable development are referred to elsewhere. In terms of environmental aspects, the basic principles to be considered and integrated into the fabric of the total design and plan include, as output specifications:

- The adoption of an approach to development that strives to conserve resources;
- Minimising the use of non-renewable resources;
- Mechanisms and activities that are:
  - Non-damaging to natural ecosystems;
  - Non-polluting to the greatest extent possible;
  - Not a danger to the well-being of people;
- Take a long-term rather than a short-term view of the impact of all activities and conditions;
- Considers, at a minimum:
  - Passive energy design of all buildings to regulate climate and conserve energy;
  - Energy conservation and appropriate use of renewable energy;
  - Ensuring a positive impact on health and the environment in all aspects of the life cycle of the buildings, their exhibits and materials used;
  - Water conservation and water demand management;
- Appropriate use of local materials for buildings and displays;

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WA  
WA  
WA  
A

- Minimisation and recycling of solid waste and gray water;
- Innovative sewage treatment;
- Incorporation of a non-polluting internal transport system;
- The smallest possible ecological footprint for the development; and
- The reduction and management of air, noise and visual pollution.

R  
M  
W  
A

**SCHEDULE 4**

**TO**

**CONCESSION CONTRACT**

**FOR THE**

**DESIGN, CONSTRUCTION, EXHIBITION INSTALLATION,  
OPERATION AND MAINTENANCE OF THE INTERPRETATION  
CENTRE COMPLEX**

**FOR THE**

**CRADLE OF HUMANKIND WORLD HERITAGE SITE**

---

**BUSINESS PLAN**

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*R* *M* *WA*  
*A*

**SCHEDULE 4**  
**BUSINESS PLAN**

See the Business Plan Annexure to the Shareholders' Agreement which is Schedule 16 to this Agreement.

*R*  
*A*  
*Z*  
*WS*



**SCHEDULE 5**

**TO**

**CONCESSION CONTRACT**

**FOR THE**

**DESIGN, CONSTRUCTION, EXHIBITION INSTALLATION,  
OPERATION AND MAINTENANCE OF THE INTERPRETATION  
CENTRE COMPLEX**

**FOR THE**

**CRADLE OF HUMANKIND WORLD HERITAGE SITE**

---

**CONSTRUCTION BOND**

---

*R* *U*  
*[Signature]*

SCHEDULE 5

CONSTRUCTION BOND

Part A

Form of Construction Bond

To be provided to the Department of Agriculture, Conservation, Environment and Land Affairs of the Gauteng Province having its principal place of business at [ ] (hereinafter referred to as "the Department")

Whereas:

- (a) The Department has awarded a contract for the design and construction of and installation of exhibitions at the Interpretation Centre Complex for the Cradle of Humankind World Heritage Site under a construction contract (hereinafter called the "Agreement") to [Name of Concessionaire] (hereinafter called "Project Company"); and
- (b) Project Company is obliged by the terms of the Agreement to provide this Bond to the Department to secure the performance of its obligations under the Agreement.

We, the undersigned

\_\_\_\_\_ and \_\_\_\_\_  
(Name) (Name)

acting herein as

\_\_\_\_\_ and \_\_\_\_\_  
(Position) (Position)

of \_\_\_\_\_  
(hereinafter called the "Bank")

*Handwritten signatures and initials:*  
A large signature with a flourish, and the initials "WA" to its right.

being duly authorised to sign and incur obligations in the name of the Bank under and in terms of a Resolution of the Board of Directors of the Bank, a certified copy of which is annexed hereto, hereby irrevocably and unconditionally guarantee and undertake on behalf of the Bank that:

1. The Bank shall pay amounts not exceeding [R163 million or such greater amount as specified in the Bid Submission] R \_\_\_\_\_ (\_\_\_\_\_ Rand) in aggregate (the "Maximum Amount") without delay, on receipt by the Bank of the first written demand of the Department that the amount is due and payable and without proof of any breach or other default. The Bank shall pay such amount(s) to the Department upon receipt of a certificate (the "Certificate") in the form attached signed by an authorised representative of the Department certifying that the Department is entitled to draw on this Bond pursuant to the provisions of the Agreement. The Department may make partial and/or multiple demands under this Bond provided that the aggregate of amounts paid under this Bond shall not exceed the Maximum Amount.
2. The demand for payment together with this Bond (or a certified copy hereof) and the Certificate shall constitute prima facie proof of the Bank's indebtedness hereunder for the purposes of any proceedings including but not limited to provisional sentence proceedings instituted against the Bank in any court of law having jurisdiction.
3. Neither the failure of the Department nor of Project Company respectively to enforce strict or substantial compliance by Project Company or any contractor or sub-contractor with their respective obligations nor any act, conduct, or omission by the Department or Project Company prejudicial to the interests of the Bank including, without limitation, the granting of time or any other indulgence to Project Company, any contractor or sub-contractor or any other person or by amendment to or variation or waiver of terms of the Agreement, any sub-contract or any ancillary or related document (the "Underlying Documents") will discharge the Bank from liability under this Bond. For the avoidance of doubt, the Bank's liability under this Bond will not be discharged notwithstanding the winding up, dissolution or judicial management of Project Company, any contractor or sub-contractor or any other person and the Bond shall be honoured

R

WA

WA

regardless of the invalidity, illegality or unenforceability of the Underlying Documents.

4. The Bond shall:

- 4.1. remain in full force and effect from the date hereof, and shall expire on the earlier of:
    - 4.1.1. the issuance of a replacement Bond in accordance with the terms of the Agreement;
    - 4.1.2. 90 (ninety) Business Days after the expiry or earlier termination of the Agreement; or
    - 4.1.3. the date when the Bank has paid to the Department an amount which is equal to (or amounts which in aggregate total) the Maximum Amount;
  - 4.2. exist independently of the Agreement or any amendment, variation or novation thereof;
  - 4.3. be returned to the Bank on its expiry, cancellation, withdrawal or this Bond being fully drawn; and
  - 4.4. be governed by the laws of the Republic of South Africa.
5. The Bank shall deposit any payment made under this Bond into an account designated by the Department.
6. The Bank shall make any payment demanded under this Bond free, clear of and without any deduction, withholding, counterclaim or set-off of any kind. If the Bank is required by law to make payments subject to the deduction or withholding of tax, it will make such further payments as are necessary to ensure that the amounts paid to the Department equal the amounts that would have been paid to the Department had no such deduction or withholding been made or been required to be made.

*[Handwritten initials and signatures]*

7. The obligations of the Bank under this Bond shall not in any way be affected by the invalidity, illegality or unenforceability for any reason of the obligations of Project Company.

8. The Bank shall have no rights of recourse or claim of whatever nature against the Department arising out of its obligation to pay or arising out of actual payment under this Bond to the Department.

9. Addresses and Notices:

9.1. The parties hereto choose *domicilium citandi et executandi* for all purposes of and in connection with the Bond as follows:

the Department: \_\_\_\_\_

Telefax: \_\_\_\_\_

The Bank: \_\_\_\_\_

Telefax: \_\_\_\_\_

9.2. Any party hereto shall be entitled to change its *domicilium* from time to time, provided that any new *domicilium* selected by it shall be a physical address in the Republic of South Africa, and any such change shall only be effective upon receipt of notice in writing by the other party of such change.

9.3. All notices, demands, communications or payments intended for any party shall be made or given at such party's *domicilium* for the time being.

9.4. Any notice required or permitted to be given under this Bond shall be valid and effective only if in writing.

9.5. A notice sent by one party to another party shall be deemed to be received:

9.5.1. on the same day, if delivered by hand;

*R* *W* *W*

9.5.2. on the same day of transmission, if sent by telefax with a receipt confirming completion of transmission.

9.6. Notwithstanding anything to the contrary herein contained a written notice or communication received by a party shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen *domicilium citandi et executandi*.

SIGNED ON \_\_\_\_\_ 20\_\_

AT \_\_\_\_\_ (Place)

SIGNATURE \_\_\_\_\_ SIGNATURE \_\_\_\_\_

[NAME] [NAME]

[TITLE] [TITLE]

WITNESS 1 \_\_\_\_\_ WITNESS 2 \_\_\_\_\_



SCHEDULE 5

Part B

Form of Certificate

To: [Name and address of Bank]

Attention:

From: Department of Agriculture, Conservation, Environment and Land Affairs of the Gauteng Province ("the Department")

Address:

Dated:

Dear Sirs

**Performance Bond Dated [insert date] (the "Bond")**

We refer to the above Bond issued by you. Terms defined in the Bond shall have the same meaning when used in this Certificate.

The Department is entitled to call on this Bond under the Agreement and we demand payment of the sum of R[ ] under the Bond. Payment is to be made in accordance with the provisions of the Bond.

Payment must be made without delay to [the Department's bank account details].

Yours faithfully,

.....

for and on behalf of

Department of Agriculture, Conservation, Environment and Land Affairs of the Gauteng Province

*R. Z. W.*  
*[Signature]*

**SCHEDULE 6**

**TO**

**CONCESSION CONTRACT**

**FOR THE**

**DESIGN, CONSTRUCTION, EXHIBITION INSTALLATION,  
OPERATION AND MAINTENANCE OF THE INTERPRETATION  
CENTRE COMPLEX**

**FOR THE**

**CRADLE OF HUMANKIND WORLD HERITAGE SITE**

---

**O&M BOND**

---

*Handwritten mark*

*Handwritten mark*

*Handwritten signature*



SCHEDULE 6

O & M BOND

Part A

Form of O&M Bond

To be provided to the Department of Agriculture, Conservation, Environment and Land Affairs of the Gauteng Province having its principal place of business at [ ] (hereinafter referred to as "the Department")

Whereas:

- (a) The Department has awarded a contract for the operation and maintenance of the Interpretation Centre Complex for the Cradle of Humankind World Heritage Site under a operation and maintenance contract (hereinafter called the "Agreement") to [Name of Concessionaire] (hereinafter called "Project Company"); and
- (c) Project Company is obliged by the terms of the Agreement to provide this Bond to the Department to secure the performance of its obligations under the Agreement.

We, the undersigned

\_\_\_\_\_ and \_\_\_\_\_  
(Name) (Name)

acting herein as

\_\_\_\_\_ and \_\_\_\_\_  
(Position) (Position)

of \_\_\_\_\_  
(hereinafter called the "Bank")

being duly authorised to sign and incur obligations in the name of the Bank under and in terms of a Resolution of the Board of Directors of the Bank, a certified copy of

*[Handwritten signatures and initials]*

which is annexed hereto, hereby irrevocably and unconditionally guarantee and undertake on behalf of the Bank that:

5. The Bank shall pay amounts not exceeding R \_\_\_\_\_ (\_\_\_\_\_ Rand<sup>1</sup>) in aggregate (the "Maximum Amount") without delay, on receipt by the Bank of the first written demand of the Department that the amount is due and payable and without proof of any breach or other default. The Bank shall pay such amount(s) to the Department upon receipt of a certificate (the "Certificate") in the form attached signed by an authorised representative the Department certifying that the Department is entitled to draw on this Bond pursuant to the provisions of the Agreement. The Department may make partial and/or multiple demands under this Bond provided that the aggregate of amounts paid under this Bond shall not exceed the Maximum Amount.
6. The demand for payment together with this Bond (or a certified copy hereof) and the Certificate shall constitute prima facie proof of the Bank's indebtedness hereunder for the purposes of any proceedings including but not limited to provisional sentence proceedings instituted against the Bank in any court of law having jurisdiction.
7. Neither the failure of the Department nor of Project Company respectively to enforce strict or substantial compliance by Project Company or any contractor or sub-contractor with their respective obligations nor any act, conduct, or omission by the Department or Project Company prejudicial to the interests of the Bank including, without limitation, the granting of time or any other indulgence to Project Company, any contractor or sub-contractor or any other person or by amendment to or variation or waiver of terms of the Agreement, any sub-contract or any ancillary or related document (the "Underlying Documents") will discharge the Bank from liability under this Bond. For the avoidance of doubt, the Bank's liability under this Bond will not be discharged notwithstanding the winding up, dissolution or judicial management of Project Company, any contractor or sub-contractor or any other person and the Bond shall be honoured

---

<sup>1</sup> Such amount shall equal the Concessionaire's proposed Concession Fee, as set out in the Bid Submission.

*Handwritten initials and signatures:*  
R  
W  
R  


regardless of the invalidity, illegality or unenforceability of the Underlying Documents.

8. The Bond shall:

- 4.1. remain in full force and effect from the date hereof, and shall expire on the earlier of:
  - 4.1.1. the issuance of a replacement Bond in accordance with the terms of the Agreement;
  - 4.1.2. 90 (ninety) Business Days after the expiry or earlier termination of the Agreement; or
  - 4.1.3. the date when the Bank has paid to the Department an amount which is equal to (or amounts which in aggregate total) the Maximum Amount;
- 4.2. exist independently of the Agreement or any amendment, variation or novation thereof;
- 4.3. be returned to the Bank on its expiry, cancellation, withdrawal or this Bond being fully drawn; and
- 4.4. be governed by the laws of the Republic of South Africa.
5. The Bank shall deposit any payment made under this Bond into an account designated by the Department.
6. The Bank shall make any payment demanded under this Bond free, clear of and without any deduction, withholding, counterclaim or set-off of any kind. If the Bank is required by law to make payments subject to the deduction or withholding of tax, it will make such further payments as are necessary to ensure that the amounts paid to the Department equal the amounts that would have been paid to the Department had no such deduction or withholding been made or been required to be made.

*[Handwritten signatures]*

10. The obligations of the Bank under this Bond shall not in any way be affected by the invalidity, illegality or unenforceability for any reason of the obligations of Project Company.

11. The Bank shall have no rights of recourse or claim of whatever nature against the Department arising out of its obligation to pay or arising out of actual payment under this Bond to the Department.

12. Addresses and Notices:

12.1. The parties hereto choose *domicilium citandi et executandi* for all purposes of and in connection with the Bond as follows:

the Department: \_\_\_\_\_

Telefax: \_\_\_\_\_

The Bank: \_\_\_\_\_

Telefax: \_\_\_\_\_

12.2. Any party hereto shall be entitled to change its *domicilium* from time to time, provided that any new *domicilium* selected by it shall be a physical address in the Republic of South Africa, and any such change shall only be effective upon receipt of notice in writing by the other party of such change.

12.3. All notices, demands, communications or payments intended for any party shall be made or given at such party's *domicilium* for the time being.

12.4. Any notice required or permitted to be given under this Bond shall be valid and effective only if in writing.

12.5. A notice sent by one party to another party shall be deemed to be received:

12.5.1. on the same day, if delivered by hand;

*Handwritten signatures and initials:*  
A  
W  
M  
A

12.5.2. on the same day of transmission, if sent by telefax with a receipt confirming completion of transmission.

12.6. Notwithstanding anything to the contrary herein contained a written notice or communication received by a party shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen *domicilium citandi et executandi*.

SIGNED ON \_\_\_\_\_ 20\_\_

AT \_\_\_\_\_ (Place)

SIGNATURE \_\_\_\_\_ SIGNATURE \_\_\_\_\_

[NAME]

[NAME]

[TITLE]

[TITLE]

WITNESS 1 \_\_\_\_\_ WITNESS 2 \_\_\_\_\_



SCHEDULE 6

Part B  
Form of Certificate

To: [Name and address of Bank]

Attention:

From: Department of Agriculture, Conservation, Environment and Land  
Affairs of the Gauteng Province ("the Department")

Address:

Dated:

Dear Sirs.

**Performance Bond Dated [insert date] (the "Bond")**

We refer to the above Bond issued by you. Terms defined in the Bond shall have the same meaning when used in this Certificate.

the Department is entitled to call on this Bond under the Agreement and we demand payment of the sum of R[ ] under the Bond. Payment is to be made in accordance with the provisions of the Bond.

Payment must be made without delay to [the Department's bank account details].

Yours faithfully,

.....

for and on behalf of

Department of Agriculture, Conservation, Environment and Land Affairs of the  
Gauteng Province



**SCHEDULE 7**  
**TO**  
**CONCESSION CONTRACT**  
**FOR THE**  
**DESIGN, CONSTRUCTION, EXHIBITION INSTALLATION,**  
**OPERATION AND MAINTENANCE OF THE INTERPRETATION**  
**CENTRE COMPLEX**  
**FOR THE**  
**CRADLE OF HUMANKIND WORLD HERITAGE SITE**

---

**SERVITUDES**

---

*R* *MA*  
*Z*  
*A*

**SCHEDULE 7**

**TO**

**CONCESSION CONTRACT**

**FOR THE**

**DESIGN, CONSTRUCTION, EXHIBITION INSTALLATION,  
OPERATION AND MAINTENANCE OF THE INTERPRETATION  
CENTRE COMPLEX**

**FOR THE**

**CRADLE OF HUMANKIND WORLD HERITAGE SITE**

---

**PART A**

**MOHALE'S GATE SITE**

---

*R*  
*Ut*  
*A*



PROTOCOL NO.

**NOTARIAL DEED OF SERVITUDE**

BE IT HEREBY MADE KNOWN

THAT on • 2003 before me

ANDREW EDWARD SEABER

Notary Public by lawful authority duly sworn and admitted, practising at Sandton in the Province of Gauteng, Republic of South Africa, and in the presence of the undersigned witnesses, personally came and appeared

SANET ESTHER VAN ZYL



in her capacity as the duly authorised attorney and agent of

the Gauteng Department of Agriculture, Conservation,  
Environment and Land Affairs

acting for and on behalf of the Gauteng Provincial Government

(the "Grantor")

by virtue of a power of attorney granted to her at Sandton on the • day of • 2003 by  
•, he having been duly authorised thereto by virtue of a resolution of the Grantor.

And also appeared before me, the Notary –

SANET ESTHER VAN ZYL

in her capacity as the duly authorised attorney and agent of the

**FSG SPECIAL PURPOSE COMPANY (PROPRIETARY) LIMITED**

Registration Number 2002/032101/07

(the "Grantee")

by virtue of a power of attorney granted to her at Sandton on the • day of • 2003 by  
•, he having been duly authorised thereto by virtue of a resolution of the Grantee,

which powers of attorney and certified copies of which resolutions have this day  
been exhibited to me and now remain filed in my protocol.

And the appearer declared that –

*[Handwritten signatures and initials]*

The Grantor is the registered owner of -

1. Portion 4 of the farm Waterkloof No. 515, Registration Division J.Q., Province of Gauteng,

MEASURING: [insert] ([insert in words]) hectares

Held by Deed of Transfer [insert];

and

2. Portion 1 of the farm Waterpoort No. 585, Registration Division J.Q., Province of Gauteng,

MEASURING: [insert] ([insert in words]) hectares

Held by Deed of Transfer [insert].

and

3. Portion 3 of the Farm Spring Farm No. 588, Registration Division J.Q., Province of Gauteng;

MEASURING 100 (One Hundred) Hectares;

Held by Deed of Transfer [insert].

(the "Properties")

Whereas the Gauteng Provincial Government, through its Department of Agriculture, Conservation, Environment and Land Affairs, the Grantor, the Public Benefit Organisation ("The Cradle of Humankind Trust", Registration Number I Trust 7264/03), Blue IQ Holdings Limited and the Grantee have entered into the Concession Contract;

and whereas in terms of the Concession Contract, the Grantee has been granted the Rights for the Grant Period;

and whereas in order to secure the Rights, the Grantor and the Grantee have agreed to enter into this Deed of Servitude and to cause it to be registered against the Grantor's title deeds to the Properties.

Now therefore the Appearer declares -

## 1 DEFINITIONS AND INTERPRETATION

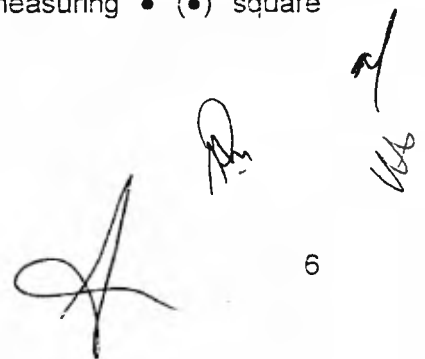
### 1.1 Definitions

In this Deed of Servitude, unless clearly inconsistent with or otherwise indicated by the context -

- 1.1.1 "**Businesses**" means the businesses which the Grantee is entitled to operate within the Servitude Area in terms of the Concession Contract, namely (• to be advised);
- 1.1.2 "**Concession Contract**" means the written contract entered into between the Gauteng Provincial Government through its Department of Agriculture, Conservation, Environment and Land Affairs, the Grantor, the Public Benefit Organisation (The Cradle of Humankind Trust), Blue IQ Investment Holdings (Proprietary) Limited and the Grantee dated •, *inter alia*, for the design, construction, exhibition installation, operation and maintenance in the Servitude Area of certain conference and educational resource centres, amphitheatres, food and retail outlets and the Orientation Centre;
- 1.1.3 "**Deed of Servitude**" means this notarial deed of servitude and its Appendices;
- 1.1.4 "**Grantee**" means the grantee referred to in the preamble to this Deed of Servitude, namely FSG Special Purpose Company (Proprietary) Limited, its contractors, sub-contractors, officers, servants, representatives, employees, agents, invitees or persons having business in the Servitude Area with the Grantee;

- 1.1.5 "Grantor" means the grantor referred to in the preamble to this Deed of Servitude, namely; the Gauteng Department of Agriculture, Conservation, Environment and Land Affairs, acting for and on behalf of the Gauteng Provincial Government;
- 1.1.6 "Grant Period" means the grant period referred to in 3;
- 1.1.7 "Mohale's Gate Site" means one of the concession areas granted to the Grantee under the Concession Contract located in the Servitude Area as depicted on land surveyor's diagram S.G. No. A● dated ●;
- 1.1.8 "Operation and Maintenance Contracts" means the contracts to be entered into to which the Grantee will be a party, for the operation and maintenance of the Orientation Centre, the Sterkfontein Site, the Roads, the installations and any other improvements on the Servitude Area for which the Grantee has, in terms of the Concession Contract, assumed the responsibility to operate and maintain;
- 1.1.9 "Orientation Centre" means the buildings and other improvements to be constructed and operated by the Grantee on the Servitude Area (Sterkfontein Site) comprising, *inter alia*, a fossil preparation centre, an auditorium and an educational resource centre, depicted on the land surveyor's diagram S.G. No. A●, dated ●, attached as **Appendix 1**;
- 1.1.10 "Parties" means the Grantor and the Grantee, and "Party" means any one of them as the context may indicate;
- 1.1.11 "Project" means the execution of the Works, and the other activities contemplated in the Concession Contract which have been assigned to the Grantee, including the Operation and Maintenance Contracts in respect of the Servitude Area (Sterkfontein Site);

- 1.1.12 "Properties" means the properties referred to in the preamble to this Deed of Servitude;
- 1.1.13 "Rights" means the rights granted as more fully set out in 4 by the Grantor to the Grantee, and includes, *inter alia*, the rights -
- 1.1.13.1 of access;
- 1.1.13.2 to occupy;
- 1.1.13.3 to construct the Works;
- 1.1.13.4 and responsibilities under the Operation and Maintenance Contracts;
- 1.1.13.5 to implement the Project;
- 1.1.13.6 to operate the Orientation Centre;
- 1.1.13.7 to operate the Businesses; and
- 1.1.13.8 to egress,
- on an exclusive basis on the Servitude Area (Mohale's Gate Site);
- 1.1.14 "Roads" means the roads already in existence and to be constructed within the Servitude Area and the other roads between the Servitude Area and the other areas on the Properties to which the Grantee has been granted servitudinal rights and between such areas and the nearest public road/s as depicted on land surveyor's diagram S.G. No. A●, dated ●;
- 1.1.15 "Servitude Area" means that portion of the Properties indicating the Mohale's Gate Site and the Roads depicted on land surveyor's diagram S.G. NO. A●, dated ●, and measuring ● (●) square metres;



- 1.1.16 "Utilities" means the facilities and infrastructural development required in the Servitude Area for the provisions of water, electricity, telecommunications, secondary roads, solid waste removal and bulk sewerage facilities;
- 1.1.17 "VAT" means value-added tax payable in terms of the Value-Added Tax Act, No. 89 of 1991, as amended; and
- 1.1.18 "Works" means the building and engineering works on the Servitude Area, comprising the building works necessary to construct the Orientation Centre, the Roads and other improvements on the Servitude Area and the Utilities.

## 1.2 Interpretation

- 1.2.1 In this Deed of Servitude, unless clearly inconsistent with or otherwise indicated by the context –
- 1.2.1.1 any reference to the singular includes the plural and *vice versa*;
- 1.2.1.2 any reference to natural persons includes legal persons and *vice versa*; and
- 1.2.1.3 any reference to a gender includes the other genders.
- 1.2.2 Where appropriate, meanings ascribed to defined words and expressions in 1.1, shall impose substantive obligations on the Parties.
- 1.2.3 The clause headings in this Deed of Servitude have been inserted for convenience only and shall not be taken into account in its interpretation.
- 1.2.4 Words and expressions defined in any sub-clause shall, for the purposes of the clause of which that sub-clause forms part, bear the meanings assigned to such words and expressions in that sub-clause.

- 1.2.5 This Deed of Servitude shall be governed by and construed and interpreted in accordance with the law of the Republic of South Africa.

## 2 GRANT OF REAL RIGHT



The Grantor hereby grants to the Grantee, which hereby accepts, the Rights upon the terms and conditions in this Deed of Servitude.

## 3 GRANT PERIOD

Notwithstanding the date of execution and the date of registration of this Deed of Servitude, the Grantee shall be entitled to exercise the Rights from ●, and the Rights shall endure for the concession period as defined in the Concession Contract.

## 4 RIGHTS

- 4.1 Without in any way limiting the rights which the Grantee may require for the proper exercise and enjoyment of its rights in terms of the Deed of Servitude or the Concession Contract or have at law, the Grantor, in so far as it is legally entitled to do so, for the duration of the Grant Period grants to the Grantee -
- 4.1.1 the rights of access to, right of way over, and egress from the Servitude Area for the Grantee, by way of pedestrian or vehicular traffic or other method of transport;
- 4.1.2 the rights to operate the Businesses for its own account within the Servitude Area;
- 4.1.3 the rights to bring any material, installations, machinery, attachments, equipment onto the Servitude Area which the Grantee may deem necessary, with the right to install and maintain same for the duration of the Grant Period;



- 4.1.4 the rights to generally to do all such things as the Grantee may deem necessary for the implementation of its activities on the Servitude Area pursuant to this Deed of Servitude;
- 4.1.5 the right, at all times to carry out, construct, lay down, in or under the Servitude Area the Works, pursuant to the Concession Contract, the Operation and Maintenance Contracts, and/or the Project as may now or hereafter be necessary or desirable for use by the Grantee, and at all times to enter upon and use the Servitude Area for the purposes aforesaid, and to carry out, in, on or under the Servitude Area all or such part of the Works as may in the opinion of the Grantee or its duly authorised representatives be necessary or desirable from time to time for the purposes of this Deed of Servitude;
- 4.1.6 the right to construct the Works and all appurtenances thereto in such a manner and of such materials as stipulated in the Concession Contract and the Operation and Maintenance Contracts and in the absence of such stipulations in such a manner and of such materials as in the opinion of the Grantee shall be necessary or desirable;
- 4.1.7 the right to bring upon the Servitude Area all such workmen, conveyances, tools, machinery and materials as, in the opinion of the Grantee or the authorised representatives, may be necessary or desirable for the construction and laying of the Works, or for the cleansing, repairing, maintaining, renewing or replacing of the same from time to time and to make such excavations on the Servitude Area of such depth and in such manner as may be necessary or desirable for the purposes aforesaid;
- 4.1.8 the right to deposit temporarily on the land adjoining the Servitude Area such materials as may be excavated by the Grantee during the course of construction, repair, maintenance, removal or replacement of the Works as the Grantee in its sole and absolute discretion may deem necessary. Should any damage be caused to the Properties as a direct result only of the process of

construction, repair, maintenance, removal or replacement of the Works, such damage shall be made good by the Grantee;

- 4.1.9 the right to at all times before or after the completion of the Works or any part thereof as aforesaid have full and free access by its officials, assistants, workmen, employees, vehicles or agents to the Servitude Area for the purpose of carrying out, constructing, laying down, examining, cleaning, clearing, maintaining, repairing and removing or replacing the Works or a portion thereof;
- 4.1.10 the right to enter the Servitude Area as may be necessary for any investigation, survey or other act necessary for the purposes of the Project and any preparation work in respect of the Project;
- 4.1.11 the right to pursue such activities as the Grantee may deem necessary in the exploitation and exercise of its rights hereunder;
- 4.1.12 the right to erect telephone lines, power lines, pipelines and pump installations; and
- 4.1.13 the right to obtain such consents, licences, permits and authorities as may legally be required (and this grant shall serve as the Grantor's written consent thereto) in order to enable the Grantee to conduct the activities herein envisaged, on the Servitude Area.

## 5 GRANTOR'S WARRANTIES AND UNDERTAKINGS

The Grantor warrants and undertakes in favour of the Grantee that -

- 5.1 it is the registered owner of the Properties;
- 5.2 for the duration of the Grant Period, it has and will continue to have the necessary legal capacity and authority to grant the Rights;
- 5.3 no usufruct, mortgage bond, deed of hypothecation, judicial attachment, *fideicommissum*, option, pre-emptive right, lease, prospecting contract, mineral lease, grant or cession of real rights or servitude relating to the Rights or restrictive condition exist in respect of the Properties;

- 5.4 it will not interfere or allow any interference by third parties in the activities of the Grantee, has not previously granted, nor during the Grant Period will it grant, without the prior written consent of the Grantee, any preferent right, mineral lease, prospecting contract, option, overriding option, pre-emptive right, cession or grant of real rights, servitude, or alienation in respect of the Rights or in respect of the Properties, and which rights shall in any such event be subject to the rights of the Grantee in terms hereof and the Grantor shall not do or permit to be done anything which may hinder or prejudice the rights of the Grantee hereunder; and
- 5.5 for the duration of the Grant Period, the Grantor shall have and enjoy undisturbed possession of the Servitude Area and without derogating from the generality of the foregoing, the Grantor warrants that there will be no tenants, or legal or illegal occupants on, or with rights to any part of the Servitude Area.

## 6 CESSION

The Grantee shall not be entitled to cede, transfer, make over, let, sublet, grant, sub-grant or in any other way dispose of any of or all of its rights and/or obligations under and in terms of this Deed of Servitude.

## 7 TRANSFER

The Grantor shall not transfer either or both of the Properties, or any portion thereof, without giving the Grantee 1 (one) month's written notice prior to the date of registration of transfer at the appropriate deeds registry.

## 8 GENERAL

- 8.1 Should the Grantor at any time obtain any extension or alteration to the existing title to the Properties, then and in such case the extended or substituted title shall be issued subject to the Deed of Servitude, it being the intention of these presents to secure to the Grantee in perpetuity the Rights hereby granted to the Grantee.

Handwritten signatures and initials in the bottom right corner of the page, including a large signature and the initials 'R' and '1/14'.

8.2 This Deed of Servitude shall be registered against the title deeds of the Properties.

8.3 The costs of the drawing and registration of the Deed of Servitude, including the costs of any necessary diagrams and plans, shall be paid and borne by the Grantee.

8.4 No consideration is payable by the Grantee to the Grantor for the grant of the servitude.

8.5 These conditions shall not prejudice in any way the rights conferred upon the Grantee by any act, ordinance, by-law, regulation or any other law and the rights hereby granted shall be deemed to be in addition to the Grantee's statutory rights and not in substitution thereof.

8.6 The terms and conditions contained herein shall be binding upon the Grantor, its successors, successors in title, or its lessees, agents, servants or any other person occupying the Properties on behalf of, or by arrangement with the Grantor.

And the appearer declared in the name and on behalf of the Grantee to accept the Rights, agreeing to fulfil all the conditions imposed upon the Grantee as set out in this Deed of Servitude.

Thus done and signed on the day, month and year first aforewritten in the presence of the undersigned competent witnesses and of me, the Notary.

AS WITNESSES

1. \_\_\_\_\_  
2. \_\_\_\_\_

QUOD ATTESTOR

NOTARY PUBLIC

*[Handwritten signatures and initials]*



**SCHEDULE 7**

**TO**

**CONCESSION CONTRACT**

**FOR THE**

**DESIGN, CONSTRUCTION, EXHIBITION INSTALLATION,  
OPERATION AND MAINTENANCE OF THE INTERPRETATION  
CENTRE COMPLEX**

**FOR THE**

**CRADLE OF HUMANKIND WORLD HERITAGE SITE**

---

**PART B**

**STERKFONTein SITE**

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*[Handwritten signatures and initials]*

PROTOCOL NO.

## NOTARIAL DEED OF SERVITUDE

BE IT HEREBY MADE KNOWN

THAT on 2003 before me

ANDREW EDWARD SEABER

Notary Public by lawful authority duly sworn and admitted, practising at Sandton in the Province of Gauteng, Republic of South Africa, and in the presence of the undersigned witnesses, personally came and appeared

SANET ESTHER VAN ZYL

in her capacity as the duly authorised attorney and agent of



MS

University of the Witwatersrand

(the "Grantor")

by virtue of a power of attorney granted to her at Sandton on the    day of    2003 by  
  , he having been duly authorised thereto by virtue of a resolution of the Grantor.

And also appeared before me, the Notary –

SANET ESTHER VAN ZYL

in her capacity as the duly authorised attorney and agent of the

**FSG SPECIAL PURPOSE COMPANY (PROPRIETARY) LIMITED**

Registration Number 2002/032101/07

(the "Grantee")

by virtue of a power of attorney granted to her at Sandton on the    day of    2003 by  
  , he having been duly authorised thereto by virtue of a resolution of the Grantee,

which powers of attorney and certified copies of which resolutions have this day  
been exhibited to me and now remain filed in my protocol.

And the appearer declared that –

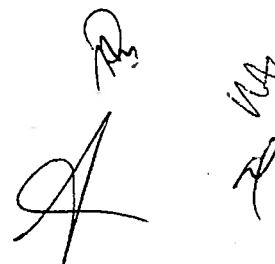
The Grantor is the registered owner of -

1. Portion 1 of the farm Zwartkrans No. 172, Registration Division I.Q., Province of  
Gauteng,

MEASURING: 17,1306 (SEVENTEEN comma ONE THREE ZERO SIX)  
hectares

Held by Deed of Transfer T20082/1958;

and



2. Remaining Extent of the farm Zwartkrans No. 172, Registration Division I.Q., Province of Gauteng,

MEASURING: 61,9419 (SIXTY ONE comma NINE FOUR ONE NINE) hectares

Held by Deed of Transfer T23384/1968.

(the "Properties").

Whereas the Gauteng Provincial Government, through its Department of Agriculture, Conservation, Environment and Land Affairs, the Grantor, the Public Benefit Organisation, (The Cradle of Humankind Trust, Registration Number I Trust 7264/03), Blue IQ Holdings Limited and the Grantee have entered into the Concession Contract;

and whereas in terms of the Concession Contract, the Grantee has been granted the Rights for the Grant Period;

and whereas in order to secure the Rights, the Grantor and the Grantee have agreed to enter into this Deed of Servitude and to cause it to be registered against the Grantor's title deeds to the Properties.

Now therefore the Appearer declares -

## 1 DEFINITIONS AND INTERPRETATION

### 1.1 Definitions

In this Deed of Servitude, unless clearly inconsistent with or otherwise indicated by the context -

1.1.1 "Businesses" means the businesses which the Grantee is entitled to operate within the Servitude Area in terms of the Concession Contract, namely ( to be advised);

1.1.2 "Concession Contract" means the written contract entered into between the Gauteng Provincial Government through its

*[Handwritten signatures and initials]*



Department of Agriculture, Conservation, Environment and Land Affairs, the Grantor, the Public Benefit Organisation (The Cradle of Humankind Trust), Blue IQ Investment Holdings (Proprietary) Limited (still to be registered) and the Grantee dated , *inter alia*, for the design, construction, exhibition installation, operation and maintenance in the Servitude Area of certain conference and educational resource centres, amphitheatres, food and retail outlets and the Orientation Centre;

- 1.1.3 "Deed of Servitude" means this notarial deed of servitude and its Appendices;
- 1.1.4 "Grantee" means the grantee referred to in the preamble to this Deed of Servitude, namely the Concessionaire (FSG Special Purpose Company (Proprietary) Limited), its contractors, sub-contractors, officers, servants, representatives, employees, agents, invitees or persons having business in the Servitude Area with the Grantee;
- 1.1.5 "Grantor" means the grantor referred to in the preamble to this Deed of Servitude, namely University of the Witwatersrand;
- 1.1.6 "Grant Period" means the grant period referred to in 3;
- 1.1.7 "Operation and Maintenance Contracts" means the contracts to be entered into to which the Grantee will be a party, for the operation and maintenance of the Orientation Centre, the Sterkfontein Site, the Roads, the installations and any other improvements on the Servitude Area for which the Grantee has, in terms of the Concession Contract, assumed the responsibility to operate and maintain;
- 1.1.8 "Orientation Centre" means the buildings and other improvements to be constructed and operated by the Grantee on the Servitude Area (Sterkfontein Site) comprising, *inter alia*, a fossil preparation centre, an auditorium and an educational

resource centre, depicted on the land surveyor's diagram S.G. No. A , dated , attached as **Appendix 1**

- 1.1.9 **"Parties"** means the Grantor and the Grantee, and **"Party"** means any one of them as the context may indicate;
- 1.1.10 **"Project"** means the execution of the Works, and the other activities contemplated in the Concession Contract which have been assigned to the Grantee, including the Operation and Maintenance Contracts in respect of the Servitude Area (Sterkfontein Site);
- 1.1.11 **"Properties"** means the properties referred to in the preamble to this Deed of Servitude;
- 1.1.12 **"Rights"** means the rights granted as more fully set out in 4 by the Grantor to the Grantee, and includes, *inter alia*, the rights -
- 1.1.12.1 of access;
- 1.1.12.2 to occupy;
- 1.1.12.3 to construct the Works;
- 1.1.12.4 and responsibilities under the Operation and Maintenance Contracts;
- 1.1.12.5 to implement the Project;
- 1.1.12.6 to operate the Orientation Centre;
- 1.1.12.7 to operate the Businesses; and
- 1.1.12.8 to egress,

on an exclusive basis on the Servitude Area (Sterkfontein Site);

- 1.1.13 "Roads" means the roads already in existence and to be constructed within the Servitude Area and the other roads between the Servitude Area and the other areas on the Properties to which the Grantee has been granted servitudinal rights and between such areas and the nearest public road/s as depicted on land surveyor's diagram S.G. No. A , dated ;
- 1.1.14 "Servitude Area" means that portion of the Properties indicating the Sterkfontein Site and the Roads depicted on land surveyor's diagram S.G. NO. A , dated , and measuring ( ) square metres;
- 1.1.15 "Sterkfontein Site" means one of the concession areas granted to the Grantee under the Concession Contract located in the Servitude Area as depicted on land surveyor's diagram S.G. No. A dated ;
- 1.1.16 "Utilities" means the facilities and infrastructural development required in the Servitude Area for the provisions of water, electricity, telecommunications, secondary roads, solid waste removal and bulk sewerage facilities;
- 1.1.17 "VAT" means value-added tax payable in terms of the Value-Added Tax Act, No. 89 of 1991, as amended; and
- 1.1.18 "Works" means the building and engineering works on the Servitude Area, comprising the building works necessary to construct the Orientation Centre, the Roads and other improvements on the Servitude Area and the Utilities.
- 1.2 **Interpretation**
- 1.2.1 In this Deed of Servitude, unless clearly inconsistent with or otherwise indicated by the context –
- 1.2.1.1 any reference to the singular includes the plural and *vice versa*;





- 1.2.1.2 any reference to natural persons includes legal persons and *vice versa*; and
- 1.2.1.3 any reference to a gender includes the other genders.
- 1.2.2 Where appropriate, meanings ascribed to defined words and expressions in 1.1, shall impose substantive obligations on the Parties.
- 1.2.3 The clause headings in this Deed of Servitude have been inserted for convenience only and shall not be taken into account in its interpretation.
- 1.2.4 Words and expressions defined in any sub-clause shall, for the purposes of the clause of which that sub-clause forms part, bear the meanings assigned to such words and expressions in that sub-clause.
- 1.2.5 This Deed of Servitude shall be governed by and construed and interpreted in accordance with the law of the Republic of South Africa.

## 2 GRANT OF REAL RIGHT





The Grantor hereby grants to the Grantee, which hereby accepts, the Rights upon the terms and conditions in this Deed of Servitude.

## 3 GRANT PERIOD

Notwithstanding the date of execution and the date of registration of this Deed of Servitude, the Grantee shall be entitled to exercise the Rights during the concession period defined in the Concession Contract.

## 4 RIGHTS

- 4.1 Without in any way limiting the rights which the Grantee may require for the proper exercise and enjoyment of its rights in terms of the Deed of

*Handwritten signatures:*  





Servitude or the Concession Contract or have at law, the Grantor, in so far as it is legally entitled to do so, for the duration of the Grant Period grants to the Grantee -

- 4.1.1 the rights of access to, right of way over, and egress from the Servitude Area for the Grantee, by way of pedestrian or vehicular traffic or other method of transport;
- 4.1.2 the rights to operate the Businesses for its own account within the Servitude Area;
- 4.1.3 the rights to bring any material, installations, machinery, attachments, equipment onto the Servitude Area which the Grantee may deem necessary, with the right to install and maintain same for the duration of the Grant Period;
- 4.1.4 the rights to generally to do all such things as the Grantee may deem necessary for the implementation of its activities on the Servitude Area pursuant to this Deed of Servitude;
- 4.1.5 the right, at all times to carry out, construct, lay down, in or under the Servitude Area the Works, pursuant to the Concession Contract, the Operation and Maintenance Contracts, and/or the Project as may now or hereafter be necessary or desirable for use by the Grantee, and at all times to enter upon and use the Servitude Area for the purposes aforesaid, and to carry out, in, on or under the Servitude Area all or such part of the Works as may in the opinion of the Grantee or its duly authorised representatives be necessary or desirable from time to time for the purposes of this Deed of Servitude;
- 4.1.6 the right to construct the Works and all appurtenances thereto in such a manner and of such materials as stipulated in the Concession Contract and the Operation and Maintenance Contracts and in the absence of such stipulations in such a manner and of such materials as in the opinion of the Grantee shall be necessary or desirable;



- 4.1.7 the right to bring upon the Servitude Area all such workmen, conveyances, tools, machinery and materials as, in the opinion of the Grantee or the authorised representatives, may be necessary or desirable for the construction and laying of the Works, or for the cleansing, repairing, maintaining, renewing or replacing of the same from time to time and to make such excavations on the Servitude Area of such depth and in such manner as may be necessary or desirable for the purposes aforesaid;
- 4.1.8 the right to deposit temporarily on the land adjoining the Servitude Area such materials as may be excavated by the Grantee during the course of construction, repair, maintenance, removal or replacement of the Works as the Grantee in its sole and absolute discretion may deem necessary. Should any damage be caused to the Properties as a direct result only of the process of construction, repair, maintenance, removal or replacement of the Works, such damage shall be made good by the Grantee;
- 4.1.9 the right to at all times before or after the completion of the Works or any part thereof as aforesaid have full and free access by its officials, assistants, workmen, employees, vehicles or agents to the Servitude Area for the purpose of carrying out, constructing, laying down, examining, cleaning, clearing, maintaining, repairing and removing or replacing the Works or a portion thereof;
- 4.1.10 the right to enter the Servitude Area as may be necessary for any investigation, survey or other act necessary for the purposes of the Project and any preparation work in respect of the Project;
- 4.1.11 the right to pursue such activities as the Grantee may deem necessary in the exploitation and exercise of its rights hereunder;
- 4.1.12 the right to erect telephone lines, power lines, pipelines and pump installations; and
- 4.1.13 the right to obtain such consents, licences, permits and authorities as may legally be required (and this grant shall serve as the

Grantor's written consent thereto) in order to enable the Grantee to conduct the activities herein envisaged, on the Servitude Area.

- 4.2 Notwithstanding anything to the contrary herein contained, the Rights granted to the Grantee shall be subject to the limitations contained in the Concession Contract in respect of the protected sites as defined in the Concession Contract and the limestone exhibit or museum referred to in the Concession Contract.

## 5 GRANTOR'S WARRANTIES AND UNDERTAKINGS

The Grantor warrants and undertakes in favour of the Grantee that -

- 5.1 it is the registered owner of the Properties;
- 5.2 for the duration of the Grant Period, it has and will continue to have the necessary legal capacity and authority to grant the Rights;
- 5.3 no usufruct, mortgage bond, deed of hypothecation, judicial attachment, *fideicommissum*, option, pre-emptive right, lease, prospecting contract, mineral lease, grant or cession of real rights or servitude relating to the Rights or restrictive condition exist in respect of the Properties;
- 5.4 it will not interfere or allow any interference by third parties in the activities of the Grantee, has not previously granted, nor during the Grant Period will it grant, without the prior written consent of the Grantee, any preferent right, mineral lease, prospecting contract, option, overriding option, pre-emptive right, cession or grant of real rights, servitude, or alienation in respect of the Rights or in respect of the Properties, and which rights shall in any such event be subject to the rights of the Grantee in terms hereof and the Grantor shall not do or permit to be done anything which may hinder or prejudice the rights of the Grantee hereunder; and
- 5.5 for the duration of the Grant Period, the Grantor shall have and enjoy undisturbed possession of the Servitude Area and without derogating from the generality of the foregoing, the Grantor warrants that there will

*[Handwritten signatures]*

be no tenants, or legal or illegal occupants on, or with rights to any part of the Servitude Area, save for the Grantor's students and staff.

## 6 CESSION

The Grantee shall not be entitled to cede, transfer, make over, let, sublet, grant, sub-grant or in any other way dispose of any of or all of its rights and/or obligations under and in terms of this Deed of Servitude.

## 7 TRANSFER

The Grantor shall not transfer either or both of the Properties, or any portion thereof, without giving the Grantee 1 (one) month's written notice prior to the date of registration of transfer at the appropriate deeds registry.

## 8 GENERAL

- 8.1 Should the Grantor at any time obtain any extension or alteration to the existing title to the Properties, then and in such case the extended or substituted title shall be issued subject to the Deed of Servitude, it being the intention of these presents to secure to the Grantee in perpetuity the Rights hereby granted to the Grantee.
- 8.2 This Deed of Servitude shall be registered against the title deeds of the Properties.
- 8.3 The costs of the drawing and registration of the Deed of Servitude, including the costs of any necessary diagrams and plans, shall be paid and borne by the Grantee.
- 8.4 No consideration is payable by the Grantee to the Grantor for the grant of the servitude.
- 8.5 These conditions shall not prejudice in any way the rights conferred upon the Grantee by any act, ordinance, by-law, regulation or any other law and the rights hereby granted shall be deemed to be in addition to the Grantee's statutory rights and not in substitution thereof.



8.6 The terms and conditions contained herein shall be binding upon the Grantor, its successors, successors in title, or its lessees, agents, servants or any other person occupying the Properties on behalf of, or by arrangement with the Grantor.

And the appearer declared in the name and on behalf of the Grantee to accept the Rights, agreeing to fulfil all the conditions imposed upon the Grantee as set out in this Deed of Servitude.

Thus done and signed on the day, month and year first aforewritten in the presence of the undersigned competent witnesses and of me, the Notary.

AS WITNESSES

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_

QUOD ATTESTOR

NOTARY PUBLIC



**SCHEDULE 8**

**TO**

**CONCESSION CONTRACT**

**FOR THE**

**DESIGN, CONSTRUCTION, EXHIBITION INSTALLATION,  
OPERATION AND MAINTENANCE OF THE INTERPRETATION  
CENTRE COMPLEX**

**FOR THE**

**CRADLE OF HUMANKIND WORLD HERITAGE SITE**

---

**INSURANCE**

---

*RB*  
*WA*  
*H*

Glenrand M.I.B Professional Services  
A Division of Glenrand M.I.B Limited  
Reg. No. 1997/008001/06  
288 Kent Avenue, Randburg, 2184  
P O Box 2544, Randburg, 2125  
South Africa



**GLENRAND M.I.B**

Tel: (011) 228-1111  
Fax: (011) 228-1111  
Docket: 043 Johannesburg  
E-mail: info@glenrandmib.co.za  
www.glenrandmib.co.za  
www.professionalindemnity.co.za

23 April 2003

Our ref: Helen Fink  
Direct Line: 329-1941

**TO WHOM IT MAY CONCERN**

Dear Sirs

**PROOF OF INSURANCE LETTER**

This letter serves to confirm that **FOCUS PROJECT MANAGERS** have the following insurance's in place:

Cover	:	Professional Indemnity Insurance
Limit of Indemnity	:	R10 000 000.00
Period of Insurance	:	01 March 2003 to 29 February 2004
Insurers	:	Admiral Underwriting Group on behalf of Santam

We confirm that the policy is currently in full force and effect and is subject to the usual terms and conditions.

Yours faithfully

**GLENRAND M.I.B PROFESSIONAL SERVICES**

VISIT OUR WEBSITE AT  
[www.professionalindemnity.co.za](http://www.professionalindemnity.co.za)

**International Risk Management: Consultants and Insurance Brokers**

Divisional Directors : E S van Rensburg (Chairman), M A de Roos (Managing Director), H O Fink (Chief Administration Officer),  
A Bettelemann, C Smythe, M Parker, D H H Paurh-Oomphef, M J Swann  
Group Directors : A W Mansfield (Chairman), D J Harper (Chief Executive Officer), S G Beaver, R G Catron, G T Ferreira,  
G R George, J H Henderson, M P Hutton, G W Keey, M P Kuhens, M B Martin (AU), G Munro (AG), M D W Ryan, B H Bosch  
Group Secretary : E Price

07/02

\* British



SAFETA  
Member



17<sup>th</sup> October 2003



Houghton Place  
51 West Street  
P.O. Box 3211  
Houghton  
2041  
Tel : 483-1212  
Fax : 483-1300

**TO WHOM IT MAY CONCERN**

---

This serves to confirm that Stocks Building Africa (Pty) Ltd have affected cover for the following risks:-

**ASSETS**

Insurers : S.A. Eagle Insurance Company Ltd  
Policy No. : SACOM4315045  
Cover : Loss or damage as a result of fire, explosion, earthquake, storm and allied perils, malicious damage, accidental damage including loss or damage to money, goods in transit, accidental damage and computer equipment.  
Sum Insured : Full Value

**CONTRACTORS ALL RISKS**

Insurers : Santam Limited  
Policy No. : 08108985510-1  
Cover : Physical loss or damage to the works during construction including materials for incorporation therein.

Directors: DJ Sanders, L Bain, AG Calmeyer, GJ Coetzer, D Gamsy, V Ho-Hip, JD Jackson, R Nancarrow, DO Norton, HL Smith, GD Taliadoros



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Main Extensions : Surrounding Property  
Debris Removal  
Claims Preparation Costs  
Escalation  
Transit of Materials  
Off Site Storage  
Maintenance  
Consequences of Defective Workmanship  
Design and Materials

**PUBLIC LIABILITY**

Insurers : Santam Ltd  
Policy No. : 08108985510-1  
Cover : Legal Liability to third parties as a result of  
accidental death injury disease and/or illness to any  
person.  
Accidental loss or damage to third party property.  
Limit of Indemnity : R20,000,000 any one occurrence unlimited in the  
period.  
Main Extensions : Cross Liabilities  
Joint Insured Clause  
Legal Defence Costs  
Defamation Liable and Slander

**MOTOR VEHICLES**

Insurer : Santam Limited  
Policy No. : 19874073  
Cover : Comprehensive cover on all vehicles owned, hired,  
leased by the insured.  
Main Extension : Passenger Liability  
Third Party Liability

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**CONSTRUCTIONAL PLANT**

Insurer : Santam Limited  
Policy No. : 07808985512-7  
Cover : All risks on Mobile and Non-Mobile Plant and Equipment.  
Limit of Indemnity : R3,500,000 any one item  
Main Extension : Replacement Plant  
Indemnity Period – 3 months  
Hired-In Plant

**PROFESSIONAL INDEMNITY**

Insurers : Santam Limited  
Policy No. : 20212771  
Cover : Errors and Omissions as a result of Stocks Building Africa's professional activities.  
Limit of Indemnity : R20,000,000

**EMPLOYERS LIABILITY**

Insurers : S.A. Eagle  
Policy No. : SA COM 4315043  
Cover : Employers Legal Liability as a result of death and/or injury to employees.  
Limit of Indemnity : R20,000,000

We confirm the premiums have been paid.

Yours faithfully  
**GIB INSURANCE BROKERS (PTY) LTD**



**LANCE PATCHING**



# CERTIFICATE OF INSURANCE

## GLENRAND M.I.B PROFESSIONAL INDEMNITY SCHEME FOR MEMBERS OF THE ASSOCIATION OF SOUTH AFRICAN QUANTITY SURVEYORS



ISSUED BY GLENRAND M.I.B PROFESSIONAL SERVICES A DIVISION OF GLENRAND M.I.B LIMITED (Reg. No. 97 08001 06) Reg. Office, 263 Kent Avenue Randburg P.O. Box 2544, Randburg 2125 Republic of South Africa

ON BEHALF OF THE UNDERWRITERS' INSURERS' ADMIRAL PROFESSIONAL UNDERWRITING AGENCY (PTY) LIMITED ON BEHALF OF SAUTANT LIMITED (Reg. No. 1515 01250 03)

IT IS HEREBY CERTIFIED THAT THE INSURED IS INDEMNIFIED BY INSURERS UNDER MASTER POLICY NO. 20155175 AS FOLLOWS.

Certificate No. : 02/0120  
 The Insured : WALKER MARE CONSULTING QUANTITY SURVEYORS  
 Business : QUANTITY SURVEYORS  
 Postal Address : P O BOX 67834, BRYANSTON, 2021  
 Date of Proposal : 11 SEPTEMBER 2002  
 Period of Insurance : 1 NOVEMBER 2002 TO 31 OCTOBER 2003

Section	Limit of Liability		Excess/Deductible	Premium (VAT Inclusive)
	Per Claim	Per Policy Period		
Professional Indemnity	R2 000 000.00	Unlimited	R3 500.00	R10 712.61
Public Liability	R1 000 000.00	R 1 000 000.00	R 500.00	Included in above

Extension	Limit of Liability		Excess/Deductible
	Per Claim	Per Policy Period	
Dishonesty of employees	R2 000 000.00	Unlimited	R 3 500.00
Sub Contractors Duties	R2 000 000.00	Unlimited	R 3 500.00
Loss of Documents	R 25 000.00	R50 000.00	R 250.00

Retro-Active Date : NONE BUT 1 November 2002 IN RESPECT OF EXTENSIONS

Claims Notification: Any circumstances which may give rise to a claim hereunder must be notified immediately to Glenrand M.I.B Professional Services P.O. Box 2544, Randburg, 2125 Telephone number (011) 329-1111 Facsimile (011) 329-1993

Dated at Randburg this 3<sup>rd</sup> day of October 2002.

*[Signature]*

FOR AND ON BEHALF OF THE UNDERWRITERS / INSURERS

*[Handwritten initials and signatures]*

Glenrand M.I.B. Professional Services  
 A Division of Glenrand M.I.B. Limited  
 Reg. No. 1997/000001/08  
 288 Korl Avenue, Randburg, 2154  
 P O Box 2646, Randburg, 2129  
 South Africa



GLENRAND M.I.B.

Tel: (011) 329-1956  
 Fax: (011) 329-1959  
 Contact: SAG Johannesburg  
 Email: info@glenrandmib.co.za  
 www.glenrandmib.co.za  
 www.professionalindemnity.co.za

26 AUGUST 2003

**TO WHOM IT MAY CONCERN:**

Our Ref: Michael Parker  
 Direct Line: 011 329-1956

Dear Sirs

**PROFESSIONAL INDEMNITY INSURANCE:**  
**PD HAIDOO & ASSOCIATES (PTY) LTD**

This letter serves to confirm that we have placed a Professional Indemnity Insurance Policy on behalf of the above-mentioned client. Briefly, the terms of the policy are as follows:-

Insurers	:	Santam Insurance Company Limited
Limit of Indemnity	:	R10,000,000 each and every claim
Certificate Number	:	Certificate 0671/02 in terms of the Professional Indemnity Insurance Scheme arranged for and on behalf of members of the South African Association of Consulting Engineers underwritten by Santam Limited
Period of Insurance	:	01 August 2002 to 31 October 2003*

\* The initial annual policy has been extended for a period of three months.

We also confirm that the policy is currently of full force and effect.

Yours faithfully

**GLENRAND M.I.B. PROFESSIONAL SERVICES**

**International Risk Management Consultants and Insurance Brokers**

Divisional Directors : E S van Rensburg (Chairman), M A de Rooz (Managing Director), H C Fink (Chief Administration Officer), A Besterbosch, G Smyth, M Parker, D H H Poulter-Campbell, M J Shawson, S J A Kunene (AG)  
 Group Directors : A W Mansfield (Chairman), D J Harper (Chief Executive Officer), G C Beaver, R G Cutrae, G T Ferraris, G R George, J H Henderson, M P Hudson, C W Kooy, M F Kunene, M B Martin (AG), G Murray (AG) M D W Ryan, B H Seede  
 Group Secretary : E Price



SAFSIA  
 Member



0209 152627

\* English

Handwritten signatures and initials, including a large signature at the bottom right and initials 'MSA' at the top right.



Glenrand MIB Professional Services  
A Division of Glenrand MIB Limited  
Reg. No. 1997/008001/06  
288 Kent Avenue, Randburg, 2194  
P O Box 2544, Randburg, 2128  
South Africa



GLENRAND MIB

Tel: (011) 329-1111  
Fax: (011) 329-1969  
Dooex: 343 Johannesburg  
E-mail: info@glenrandmib.co.za  
www.glenrandmib.co.za  
www.professionalindemnity.co.za

03 April 2003

**LECTORI SALUTEM**

This serves to confirm that we have arranged Professional Indemnity Insurance cover on behalf of Crane Registered Quantity Surveyors (Pty) Ltd on the following basis:

- Limit of Liability : R2 000 000 any one claim but limited to R4 000 000 in the aggregate, during the period of Insurance.
- Excess : R3 500.00 each and every claim
- Insurers : Admiral Underwriting Group
- Period of Insurance : 1 February 2003 to 31 January 2004
- Retro-Active Date : 1 February 2001 but 01 February 2002 in respect of Extensions

Subject to the terms and conditions of the policy.

**CLAUDIA FIGUEIRA**  
**GLENRAND MIB PROFESSIONAL SERVICES**  
**TEL: (011) 329-1882**  
**FAX: (011) 329-1969**  
**E-MAIL: cfigueira@glenrandmib.co.za**

International Risk Management Consultants and Insurance Brokers

Divisional Directors : E S von Rantz (Chairman), M A de Roos (Managing Director), H C Fink (Chief Administration Officer), A Bertelsmann, C Smythe, M Parker, D H H Peulh-Campbell, M J Shewan  
Group Directors : A W Mansfield (Chairman), D J Harpur (Chief Executive Officer), G C Beaver, R G Cottrell, G T Ferreira, G R George, J H Henderson, M P Hutton, C W Keay, M F Kunene, M B Merth (AK), G Munro (AK) M DW Ryan, B H Seach  
Group Secretary : F J Vorster

03/02

\* British



SAFSIA  
Member



**THE SCHEDULE**

<b>Policy Number</b>	03/5759SP/8
<b>Broker</b>	Protector Insurance Brokers (Pty) Ltd
<b>Insured/Assured</b>	Gapp Architects and Urban Designers (Pty) Ltd
<b>Address</b>	97 Second Avenue Melville Johannesburg 2092
<b>Business</b>	Architects, Town Planners and Urban Designers
<b>Period of Insurance</b>	<b>From:</b> 01 September 2003 <b>To:</b> 31 August 2004
<b>Retroactive Date</b>	01 September 1995

Underwriters / Insurers	Reference Number	%	Premium	Y.A.T.	Total
Santam Limited	0	100	R 85,158.78	R 11,922.23	R 97,081.01


This Policy is payable monthly. Premium is payable in advance in 12 equal monthly installments of F: 8899.09 (Which includes the 10% monthly loading)

Section	Limit of Liability		Excess/Deductible
	Per Claim	Per Policy Period	
Professional Indemnity	R 2,000,000.00	R 4,000,000.00	R 35,000.00

Extension	Limit of Liability		Excess/Deductible
	Per Claim	Per Policy Period	
Dishonesty of Employees	R 2,000,000.00	Included in the Policy Period Limit shown above	R 35,000.00
Fee Recovery	R 200,000.00	Included in the Policy Period Limit shown above	R 17,500.00
Loss of Documents	R 25,000.00	Included in the Policy Period Limit shown above	R 250.00

Date of Proposal / Underwriting Information: 05 September 2003

Signed at Johannesburg on this 8th day of October, 2003



Authorized Signatory for and on behalf of the Insurers

