

SERVICE LEVEL AGREEMENT

entered into between:

KWAZULU-NATAL TOURISM AUTHORITY

(established in terms of section 2 of the KwaZulu-Natal Tourism Act 11 of 1996, as amended)

and

URBAN-ECON DEVELOPMENT ECONOMISTS (PROPRIETARY) LIMITED

(Registration Number: 2012/220355/07)

1. INTERPRETATION

1.1. In this Agreement, unless inconsistent with the context, words referring to:

- 1.1.1 one gender includes a reference to the other;
- 1.1.2 the singular includes the plural and vice versa;
- 1.1.3 natural persons include juristic persons and vice versa; and
- 1.1.4 references to clauses, schedules, parts and sections are, unless otherwise provided, references to clauses, schedules, parts and sections of this Agreement.
- 1.2. Any schedules to this Agreement shall be deemed to form part of this Agreement.
- 1.3. Any reference to legislation or a statute in this Agreement shall be a reference to such legislation as amended, varied or re-enacted from time to time.
- 1.4. Titles of clauses and schedules of and to this Agreement are inserted for the sake of convenience only and shall not be used in respect of any provision of this Agreement.
- 1.5. In this Agreement, the following words and phrases will, unless the contrary intention appears, bear the following meanings; derivative expressions will have a corresponding meaning: -
- 1.5.1. **"Agreement"** means this Service Level Agreement and the annexures and/or schedules hereto;
- 1.5.2. **"Commencement Date"** means the date of appointment of the Service Provider;
- 1.5.3. **"Days"** means any day, other than a Saturday, Sunday or statutory public holiday in South Africa;
- 1.5.4. **"Default"** means any failure by either Party to comply with its obligations in terms of this Agreement;
- 1.5.5. **"Good Industry Practice"** means, when used in this Agreement in relation to a particular industry, or particular type of service, that level of service which would reasonably and ordinarily be expected from skilled and experienced persons engaged in providing the same or similar services as those services required by this Agreement;
- 1.5.6. **"Intellectual Property"** means any trademarks, copyright, designs, patents, confidential information, data, know-how and methodology, whether registered or not;
- 1.5.7. **"KZN"** means the province of KwaZulu-Natal;
- 1.5.8. **"Legislation"** means all applicable legislation, law, regulations, directives or amendments thereto;
- 1.5.9. **"Materials"** means all copyrighted works, confidential information, know-how and methodology, whether or not it is reduced to writing, and includes any other Intellectual Property which is created or

brought into being as a direct or indirect result of this Agreement, or by utilising funds given to the Service Provider under this Agreement, or in anticipation of this Agreement;

- 1.5.10. **"Party"** or **"Parties"** means TKZN and/or the Service Provider;
- 1.5.11. **"Personnel"** means any employee, agent, consultant, sub-contractor or other representative of the Parties;
- 1.5.12. **"Proposals"** means the technical and financial proposals submitted by the Service Provider dated 26 September 2022, annexed hereto and marked **Schedule A** and **B**;
- 1.5.13. **"RSA"** means the Republic of South Africa;
- 1.5.14. **"Services"** means the services to be provided by the Service Provider to TKZN as set out in this Agreement incorporating the Terms of Reference annexed hereto as **Schedule C**;
- 1.5.15. **"Service Levels"** mean the stipulated criteria applicable, if any, to the Services, as set out in this Agreement;
- 1.5.16. **"Service Provider"** means Urban-Econ Development Economists (Proprietary) Limited, a limited liability company incorporated and registered in terms of the Company Laws of the Republic of South Africa with Registration Number: 2012/220355/07;
- 1.5.17. **"Study"** means the study of the cruise tourism industry in RSA, specifically KZN, for purposes of formulating a cruise tourism strategy to determine the demand and supply within KZN. It further entails the development of a marketing strategy for TKZN for purposes of collaboration and the creation of appropriate branding tools. perception, awareness of KwaZulu-Natal and/or experience of visitors to KwaZulu-Natal;
- 1.5.18. **"TKZN"** means the KwaZulu-Natal Tourism Authority, established in terms of the KwaZulu-Natal Tourism Act 11 of 1996, as amended; and
- 1.5.19. **"Termination Date"** means the 30 March 2022, which is the date upon which the final report of the Study shall be submitted to TKZN.

2. INTRODUCTION

TKZN hereby appoints the Service Provider with effect from the Commencement Date to undertake a study, as an independent contractor, the Service Provider accepts such appointment on the terms and conditions set out in this Agreement. The appointment of the Service Provider is subject to Supply Chain Management Practices as promulgated from time to time by the National and Provincial Treasury.

3. DURATION

- 3.1. This Agreement shall become effective from date of appointment of the Service Provider and subsist until the Termination Date, unless extended on written agreement between the Parties.
- 3.2. The extension of this Agreement shall be effected at least 30 (thirty) days before the Termination Date, and approved in writing by the TKZN's Chief Executive Officer.
- 3.3. The Agreement may be renewed, provided such renew is does not contravene the Supply Chain Management Regulations.

4. SERVICES

- 4.1. The Service Provider shall formulate a cruise tourism strategy for the province of KwaZulu-Natal, which Study shall comprise of: -
 - 4.1.1. analysing any relevant document that will apply to this strategy, including the national cruise tourism strategy;
 - 4.1.2. sourcing markets in RSA;
 - 4.1.3. profiling of the passenger;
 - 4.1.4. sourcing markets of passengers;
 - 4.1.5. the size of the market;
 - 4.1.6. shore experiences, products and activities required by passengers;
 - 4.1.7. the supply of goods and services such as food, entertainment, tours conducted for passengers in KZN;
 - 4.1.8. berthing and use of cruise terminal;
 - 4.1.9. processing and logistics of dis and embarkation of passengers;
 - 4.1.10. identification of opportunities for Small Medium and Micro Enterprises;

- 4.1.11. product development/experience development;
 - 4.1.12. market mapping exercise of the top 10 cruise companies;
 - 4.1.13. develop a cruise brand and marketing strategy for TKZN so as to allow for collaboration and the creation of appropriate branding tools for identified cruise platforms;
 - 4.1.14. reviewing and formulation of TKZN's cruise marketing tools. Review current brochures, website, packages and sales linkages; create social media account; development of electronic brochures, etc.; and
 - 4.1.15. workshops with relevant stakeholders.
- 4.2. The services outlined in clause 4.1 shall be reviewed by TKZN as and when deemed necessary, to evaluate the level of service and progress of the Service Provider.
- 4.3. The services will be rendered in accordance with the Project Approach and Study Methodology outlined in the Proposal, which Proposal was accepted by TKZN and deemed fit for purposes of the Study.

5. REPORTING

- 5.1. TKZN hereby appoints the Acting Research Manager or his duly authorised representative to serve as a liaison officer between the Parties for purposes of:-
- 5.1.1. monitoring the services and ensuring the Service Provider performs the Study in accordance with the Project Execution Plan outlined in the Proposal;
 - 5.1.2. issuing instructions and accepting the final report from the Service Provider;
 - 5.1.3. overseeing and evaluating the work executed and delivered by the Service Provider;
 - 5.1.4. receiving and authorising invoices for payment for services duly rendered by the Service Provider;
 - 5.1.5. ensuring timeous payments of invoices and/or claims by the Service Provider, and doing all other things incidental to the carrying out of these functions.
 - 5.1.6. The Acting Research Manager is further authorised to: -
 - 5.1.6.1. may take any action that is required or is permitted to be taken, for purposes of the Study, under this Agreement; and

5.1.6.2. execute any document that is required or is permitted to be executed, under this Agreement or as instructed by the Chief Executive Officer of TKZN.

5.2. The Service Provider will be required to report directly to the Acting Research Manager at TKZN.

5.3. The Service Provider shall provide bi-weekly top-line reports to the Acting Research Manager for the duration of the Study, unless otherwise agreed upon in writing by the Parties.

5.4. The Service Provider undertakes that the Acting Research Manager is assigned to perform the duties outlined in clause 5.1 above, for the duration of this contract, unless TKZN advises the Service Provider to the contrary, in writing.

6. PAYMENT

6.1. TKZN shall make payment to the Service Provider for the Study in the amount of **R 182 413.00 (one hundred and eighty two thousand four hundred and thirteen rand zero cents)**, VAT inclusive, within 30 (thirty) days from date of submission of the Close-Out Report.

6.2. For payments to be made, the Service Provider must request payment in writing, accompanied by an original invoice and supporting source document(s) in a format that TKZN may reasonably require for purposes of establishing the specific nature, extent and quality of the Services rendered by the Service Provider.

6.3. All approved invoices shall be settled within 30 (thirty) days from date of receipt from the Service Provider.

6.4. TKZN shall pay the Service Provider either by bank transfer to a bank account in South Africa nominated by the Service Provider, in writing.

6.5. All invoices shall be accompanied by the Service Provider's banking details. Should the Service Provider omit to furnish TKZN with its banking details, the Service Provider shall do so within 7 (seven) days upon request by TKZN. Such invoice shall be settled within 30 (thirty) days from date of receipt of such banking details.

6.6. In the event this Agreement is terminated for whatsoever reason other than the Service Provider's failure to deliver the Services in terms of this Agreement, the Service Provider may levy a reasonable

termination fee as payment for any services rendered up to and including the date of termination.

TKZN shall assess such claimed termination fee payable to the Service Provider having regard to the following factors:-

- 6.6.1. the Services rendered to date by the Service Provider;
- 6.6.2. TKZN's financial position; and
- 6.6.3. the onus of the Service Provider to undertake other work to mitigate any losses which it may have incurred in relying upon the fees to be paid to it pursuant to this Agreement.

6.7. All amounts payable in terms of this Agreement will be inclusive of value-added tax. The Service Provider shall submit invoices inclusive of the value-added tax applicable and required by law.

7. OBLIGATIONS OF TKZN

TKZN shall:-

- 7.1. the Service Provider reasonable access to all materials, data, equipment, software and documentation which the Service Provider reasonably requires to render the Services and which TKZN owns or controls;
- 7.2. ensure that any person over whom it has direct control performs his/her duties and functions as may reasonably be required to render the Services; and
- 7.3. provide the Service Provider with such assistance as may be reasonably required by the Service Provider to enable the Service Provider to comply with its obligations in terms of this Agreement.

8. OBLIGATIONS OF THE SERVICE PROVIDER

8.1. The Service Provider shall:-

- 8.1.1. provide bi-weekly progress reports to the Acting Research Manager;
- 8.1.2. be responsible for supplying any item, which is necessary for the provision of the Services, including all and any costs associated therewith;
- 8.1.3. keep records of its activities in terms of this Agreement for the duration of this Agreement and shall furnish TKZN with reports, at its own cost;
- 8.1.4. not bring the name of TKZN into disrepute or cause its reputation or standing to be lowered in any way whatsoever;

- 8.1.5. ensure that all its Personnel, and any other third party it may utilise, complies with the terms of this Agreement;
- 8.1.6. in rendering services to TKZN, procure the services of suitably qualified, registered and adequately trained Personnel, in order to render services of a high standard and otherwise to comply with its obligations in terms of this Agreement; and
- 8.1.7. in rendering Services to TKZN, achieve, or procure the achievement of the Service Levels set out by TKZN.
- 8.2. Should the Service Provider at any time fail and/or neglect and/or refuse to meet the Service Levels, the Service Provider shall, without prejudice to TKZN's rights:-
- 8.2.1. provide all additional resources as may be necessary to perform the Services in accordance with the Service Levels, as early as practicable after being alerted to its default, at no additional charge to TKZN;
- 8.2.2. at the request of TKZN, promptly remedy any default that it has been given written notice of or ensure that the Service, which did not meet the Service Levels, is properly performed at no additional charge to TKZN; and
- 8.2.3. be liable for any direct loss, harm or damage suffered by TKZN that is not beyond the reasonable control of the Service Provider, including (without limitation) any fine or penalty imposed by legislation on TKZN for any failure to comply with that legislation.
- 8.3. Should the Service Provider fail and/or neglect and/or refuse to remedy any default or non-compliance with the Service Levels, such omission shall constitute material breach of this Agreement entitling TKZN to exercise its rights in law.

9. RELATIONSHIP BETWEEN THE PARTIES

- 9.1. This Agreement shall not be construed so as to create an exclusive relationship between TKZN and the Service Provider.

9.2. This Agreement shall not be construed so as to create a relationship of partnership or agency between the Service Provider and TKZN. Neither Party shall have the authority to assume or incur any obligations or responsibility for, or on behalf of, or in the name of, the other Party.

9.3. The Parties undertake to discharge their obligations under this Agreement and behave towards one another having regard to the principles of good faith.

9.4. A Party shall not, without the prior written consent of the other Party, employ as one of its Personnel:

9.4.1. an employee of the other Party; or

9.4.2. a former employee of the other Party within 12 months of the termination of such employee's employment with the other Party.

10. TERMINATION OF AGREEMENT

10.1. In addition to any other legal remedies, which the Parties may have, this Agreement may be terminated with immediate effect if either Party commits a material breach of the Agreement.

10.2. It is recorded that the following circumstances will, inter alia, constitute material breaches of the Agreement: -

10.2.1. a breach of this Agreement by either Party, which the Party in breach fails to remedy within 14 Days from receiving written notice of the breach from the affected Party;

10.2.2. a second or subsequent breach of this Agreement by either Party, after that Party remedied a similar breach during the preceding 12 months pursuant to a written notice;

10.2.3. the provisional or final liquidation, whether voluntary or compulsory, of the Service Provider or the placing under judicial management or business rescue of the Service Provider;

10.2.4. the de-registration of the Service Provider;

10.2.5. an act of insolvency, as defined in the Insolvency Act 24 of 1936 at the Commencement Date, by the Service Provider; and

10.2.6. a failure to comply with any of the provisions of this Agreement by the Service Provider.

11. INTELLECTUAL PROPERTY

- 11.1. The Service Provider recognises that it is TKZN's intention to use and disseminate all materials created by the Service Provider in terms of this Agreement in order to further TKZN's aims within the broader community within which it operates. The Service Provider agrees irrevocably to such use and dissemination of all Materials, whether under the TKZN 's control or not, and whether supplied to or developed by the Service Provider or not. The provisions of this clause are subject to any third-party proprietary rights as defined in clause 14 below.
- 11.2. Any Materials, other data, equipment, software and documentation which TKZN owns or controls, and to which it may give the Service Provider access pursuant to clause 7 above, may only be used by the Service Provider to comply with its obligations in terms of this Agreement and may not, without TKZN's prior written consent, be used for any other purposes whatsoever.
- 11.3. The Service Provider undertakes that it will not challenge TKZN's right to use and disseminate the Materials utilised or derived under this Agreement.

12. INTELLECTUAL PROPERTY OF THIRD PARTIES

- 12.1. The Service Provider warrants that it has the right to use all Intellectual Property it utilises under this Agreement and that no aspect of the Services will infringe any patent, design, copyright, trade secret or other proprietary right of any third party ("third party proprietary rights").
- 12.2. The Service Provider shall, at its cost, defend any claim against TKZN that the Services, or a part thereof, infringe on any third party proprietary rights, provided that the TKZN delivers prompt notice to the Service Provider of such claim.
- 12.3. Should any third party succeed in a claim mentioned in clause 12.1, the Service Provider shall, within 30 (thirty) days of such a ruling:
- 12.3.1. obtain the right for TKZN to continue using the subject of the infringement; or

- 12.3.2. replace the subject of the infringement with another product or service which does not infringe any third party proprietary rights and which is materially similar to the subject of infringement; or
- 12.3.3. alter the subject of the infringement in such a way as to render it compliant with the ruling while still achieving substantially the same result as the subject of the infringement; or
- 12.3.4. withdraw the subject of the infringement, provided that this does not adversely affect the rendering by the Service Provider of the Services or the operations of TKZN.
- 12.4. The Service Provider undertakes not to utilize the data and insights obtained in this study, for other studies, without the prior written consent of TKZN.

13. CONFIDENTIALITY OF AGREEMENT

- 13.1. Each Party undertakes to treat the subject and content of this Agreement and all negotiations connected with it in strict confidence.
- 13.2. No Party shall disclose the provisions of this Agreement or make any public announcements with regard to the Agreement, unless the other Party gives its prior written consent or unless it is necessary to do so: -
- 13.2.1. to enforce the provisions of this Agreement; or
- 13.2.2. to comply with statutory obligations or the requirements of a competent government authority or registered stock exchange.

14. CONFIDENTIAL INFORMATION

- 14.1. The Parties undertake not to disclose any confidential information as defined in this clause,
- 14.2. Any information belonging to a Party ("**the disclosing Party**") or regarding the disclosing Party, which the other Party ("**the receiving Party**") may become privy to during the currency of this Agreement, and which the disclosing Party indicates as confidential, or all the disclosing Party's:
- 14.2.1. software and associated material and documentation;
- 14.2.2. information relating to its business activities, products, services and constituents and their employees;

14.2.3. technical knowledge, intellectual property and trade secrets; and

14.2.4. Materials shall be "**confidential information**" for the purposes of this clause.

14.3. The receiving Party agrees that, in order to protect the interests of the disclosing Party in its confidential information, it will:

14.3.1. make the confidential information available only to those of its Personnel who are actively involved in carrying out this Agreement and then only if it is necessary to do so for the purposes of this Agreement;

14.3.2. adopt internal security procedures acceptable to the disclosing Party, acting reasonably, to prevent unauthorised disclosure;

14.3.3. take all practicable steps to impress upon those Personnel who need to be given access to confidential information, the secret and confidential nature thereof;

14.3.4. not at any time, whether during the currency of this Agreement or thereafter, either use any confidential information of the disclosing Party, or directly or indirectly disclose any confidential information of the disclosing Party to third parties, subject to the provisions of clause 15.2;

14.3.5. bring the provisions of this confidentiality clause to the attention of any third parties who are required to know such confidential information for the purposes of this Agreement, and obtain a written undertaking from them to adhere *mutatis mutandis* to the confidentiality obligations contained in this clause;

14.3.6. hand over to the disclosing Party all written instructions, drawings, Intellectual Property, notes, memoranda and records of whatever nature relating to confidential information of the disclosing Party which have or will come into the possession of the receiving Party and its personnel when this information is no longer required for the purposes of this Agreement; and

14.3.7. deliver to the disclosing Party, upon termination or expiry of this Agreement, all originals and copies (including electronic copies of files where these are not in printed form) of confidential information in its possession and will subsequently ensure that remaining electronic copies of confidential documentation are destroyed or deleted, except insofar as legislation requires otherwise.

14.4. The receiving Party may only disclose any confidential information which:

14.4.1. is lawfully in the public domain;

14.4.2. the receiving Party receives from a source (other than the disclosing Party) who is lawfully entitled without any restriction to disclose the confidential information; or

14.4.3. must be disclosed as required by legislation or a court order.

14.5. The receiving Party undertakes to compensate the disclosing Party for any loss or damage which the disclosing Party may suffer as a result of a breach of this clause by the receiving Party or its Personnel.

14.6. The provisions of this clause are severable from the rest this Agreement, shall survive its termination and shall continue to be in full force after its termination.

15. RIGHT OF REVIEW

15.1. The Service Provider shall keep full records of all Services provided in terms of this Agreement and shall retain such records for the currency of this Agreement. After the termination of this Agreement, the Service Provider shall handover all records to TKZN.

15.2. If TKZN wants to satisfy itself that the Service Provider is complying with all relevant statutory and regulatory provisions relevant to the provision of Services; or this Agreement, as well as policies and procedures determined by TKZN from time to time in respect of the Services, or specific aspects thereof; the Service Provider shall on 7 (seven) or more days' written notice:

15.2.1. participate in a restricted review to be conducted by an independent third party; and

15.2.2. provide the independent third party with reasonable information, documentation and access to personnel, premises and records as he may require in order to conduct the restricted review.

15.3. TKZN shall bear the cost of the review contemplated in 15.2.

15.4. Should the review demonstrate the Service Provider's non-compliance with clause 15.1, the Service Provider shall, at its cost, immediately initiate actions to ensure compliance.

16. INDEMNITY

- 16.1. The Service Provider irrevocably indemnifies TKZN against any action taken against TKZN, which flows from, or is incidental to this Agreement or the provision of the Services under this Agreement. This indemnity covers, but is not limited to, any act or omission of the Service Provider or its Personnel.
- 16.2. TKZN shall not be liable to the other party or any cessionary or third party or sub-contractor claiming through or on behalf of such party for any indirect, special or consequential damages arising out of or related to this Agreement; and
- 16.3. The Service Provider shall ensure that its Personnel and any persons related to it are aware of, and have accepted, the terms of this Agreement to the extent that they apply to them.

17. CESSION

- 17.1. Subject to the provisions of clause 17.2, the Service Provider shall not cede, assign or otherwise encumber any of its rights, or delegate any of its obligations, in terms of this Agreement without the prior written consent of TKZN's Chief Executive Officer, provided that such consent shall not be unreasonably withheld.
- 17.2. The Service Provider consents, by its signature of this Agreement, to TKZN that assigning or ceding its rights or delegating its obligations (or any parts of it) to any third party, shall be subject to approval by TKZN's Chief Executive Officer.
- 17.3. Notwithstanding the provisions of 17.1, the Service Provider may employ sub-contractors to fulfil the Service Provider's obligations under this Agreement. If the Service Provider employs sub-contractors, the Service Provider shall cause its sub-contractors to agree in writing to comply *mutatis mutandis* with this Agreement.

- 17.4. Upon termination or expiry of the agreement, the Service Provider shall provide TKZN with such assistance as TKZN may require in order to ensure the orderly transition of the service to either TKZN or such service provider as TKZN would have appointed.
- 17.5. Without derogating from the generality of clause 18.4 below, the Service Provider shall assign to TKZN or any designated service provider, such licenses or software agreements as would have been signed by the Vendor and which are necessary in order to ensure continuity in the provision of the services.
- 17.6. The Service Provider shall return immediately to TKZN any and all property (and all copies thereof) on any media belonging to TKZN or received from any third party by TKZN or comprising any materials in which TKZN owns or has any intellectual property rights, which is in the Service Provider's possession or under its control.

18. DISPUTE RESOLUTION

- 18.1. Any dispute, which arises between the Parties pursuant to the conclusion of this Agreement, shall be referred to a joint committee consisting of the CEO of TKZN , CFO and any other person nominated by the CEO and two representatives of the Service Provider. The joint committee shall use its best endeavours to resolve the dispute within fourteen days after the dispute has been referred to them.
- 18.2. Should the joint committee be unable to resolve the dispute, either party may refer the dispute for arbitration by written notice to the other Party. Such a written notice will set out the particulars of the dispute. No dispute between the Parties, which is not resolved in accordance with 18.1, shall be referred to any other forum but arbitration.
- 18.3. The Service Provider agrees to continue providing the Services pending the outcome of arbitration.
- 18.4. A dispute referred to arbitration under 18.2 shall be finally resolved in accordance with the Rules of the Arbitration Foundation of Southern Africa by an arbitrator or arbitrators appointed by the Arbitration Foundation of South Africa ("AFSA").

- 18.5. After an arbitrator or arbitrators have been appointed, either of the Parties may call on the arbitrator or arbitrators to fix a date on which the arbitration will be held.
- 18.6. The arbitration will be held in English in Durban (or at such a place as the Parties may agree upon in writing) according to the formalities and procedures settled by the arbitrator or arbitrators. It may be held in an informal and summary manner, without the procedure, formalities or rules of evidence, which would be applicable to a civil suit in a court of law. However, a proper record should be kept and stored of all the proceedings.
- 18.7. Subject to any exceptional circumstances, the arbitration must take place within thirty days of the arbitrator or arbitrators being appointed.
- 18.8. The arbitrator or arbitrators will be entitled to make an award settling the dispute between the Parties. Such an award may include an award for specific performance, an interdict, damages, account of profits, a penalty or otherwise. The nature and extent of the award are in the sole discretion of the arbitrator or arbitrators. The arbitrator or arbitrators may also make an award as to the costs of the proceedings that they deem fit, including, if applicable, an award for costs on the attorney and client scale.
- 18.9. Any decision (including an award) made by the arbitrator or arbitrators shall be final and binding on the Parties and any such award may be made an order of any court of competent jurisdiction.
- 18.10. Nothing in this clause will preclude either Party from obtaining interim relief from a court of competent jurisdiction pending the decision of the arbitrator or arbitrators.

19. FORCE MAJEURE

- 19.1. Neither Party shall be liable for any failure to fulfil its obligations under this Agreement if such failure is caused by any circumstances beyond its reasonable control. Such circumstances include, but are not limited to:

- 19.1.1. flood, fire, earthquake, war, tempest or hurricane;

19.1.2. industrial action beyond the control of either party;

19.1.3. amendment of statute; or

19.1.4. the issue of regulations or government restrictions.

19.2. Should either Party be unable to fulfil a material part of its obligations under this Agreement due to any circumstances recorded in clause 20.1, for a period in excess of thirty cumulative days, the other Party may immediately terminate this Agreement by written notice to this effect.

20. EXTRAORDINARY EVENTS

20.1. In the event of significant and extraordinary changes in the business conditions or practices of the Parties prevailing at the Commencement Date, which materially and adversely affect the commercial interests of either of the Parties, the Party affected by such changes may propose amendments to the Agreement to the other Party and the other Party shall consider these amendments in good faith.

20.2. The Parties agree to negotiate with one another and to take all reasonable steps to agree upon equitable amendments to this Agreement, which shall preserve the Parties respective commercial interests as at the Commencement Date, to the extent that this is practicable and reasonable under the circumstances.

21. DOMICILIUM AND NOTICES

The Parties choose domicilium citandi et executandi for all purpose relating to this Agreement and or the Finance Documents, including the giving of any notice and the serving of any process as follows-

21.1. TKZN:-

Postal address :

P.O Box 4245

Durban

4001

Physical address: 29 Canal Quarry Road
Ithala Trade Centre
Durban
4069

E-mail: wayne@zulu.org.za

Telephone no.: (031) 305 6693

21.2. Service Provider:

Postal address : Postnet Suite 43
Private Bag X04
Dalbridge

Physical address: 37 Hunt Road
Glenwood
Durban
4062

E-mail: tinotenda@urban-econ.com

Telephone no.: 031 202 9673

21.3. Any notice to be given by the one party to the other in terms of this Agreement shall be in writing and shall be-

21.3.1. delivered by hand, in which case it shall irrefutably be deemed to have been given and such other Party shall be deemed to have been informed of the contents of the notice when the notice is so delivered;

21.3.2. sent electronically, in which case it shall rebuttably be deemed to have been given and such other party shall be deemed to have been informed of the contents of the notice upon the successful completion of the relevant transmission; or

21.3.3. sent by prepaid registered post, in which case it shall be rebuttably be deemed to have been given and such other party shall be deemed to have informed of the contents of the notice on the 7th (seventh) Business Day following the date of such transmission.

21.4. it is specifically recorded that the provisions of the Electronic Transactions and Communications Act 25 of 2002, as amended, are applicable.

22. SEVERABILITY

22.1. All provisions of this Agreement are, notwithstanding the manner in which they have been grouped together and linked grammatically, severable from each other.

22.2. Any provision of this Agreement, which is or becomes unenforceable, whether due to voidness, invalidity, illegality, unlawfulness or for any other reason whatever, shall only be extend that it is so unenforceable, be treated as *pro non scripto* and the remaining provisions of this Agreement shall remain of full force and effect.

22.3. The Parties declare that it is their intention that this Agreement will be executed without such unenforceable provision if they were aware of such unenforceability at the Signature Date.

23. WHOLE AGREEMENT

23.1. This Agreement constitutes the sole record of the Agreement between the Parties in relation to the subject matter hereof. No party shall be bound by any term, representation, warranty, promise or the like not recorded therein. This Agreement supersedes and replaces all prior commitments, undertakings or representations, whether oral or written between the Parties in respect of the subject matter thereof.

23.2. No additional to variation, novation or agreed cancellation of any provision of this Agreement shall be binding upon the Parties unless reduced to writing and signed by or on behalf of the Parties.

23.3. No indulgence on extension of time which any party may grant to the other/s under this Agreement shall constitute a waiver of or, whether by estoppel or otherwise, limit any of the existing or further

rights of the grantor in terms of this Agreement or at law, save in the event and to extent that TKZN has signed a written document expressly waiving or limiting such rights.

23.4. Without prejudice to any other provision this Agreement, any successor- in title including any executor, heir, liquidator, business rescue practitioner, curator or trustee, of a Party shall be bound by this Agreement.

23.5. This Agreement may be executed in several counterparts, each of which when executed will be deemed an original, but all of which taken together shall constitute one and the same Agreement.

23.6. For purposes hereof, an electronic version including but not limited to a facsimile or electronic scan, shall constitute a valid counterpart.

Signed at _____ on this _____ day of _____ 2023.


ICFO | 742ff0b2-a977-4f68-8a92-86b85476

31/01/2023 12:28:53 PM

Digitally Signed by:
Phindile Makwakwa
COO
11c3c145-99d4-4722-ab79-7e8faddefb6d
IP Address: 41.157.147.47
Date: 1/31/2023 1:21:50 PM
Powered By RealSign

31/01/2023 01:21:50 PM

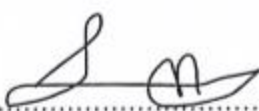
1.

For and on behalf of TKZN

2.


Signed at **DURBAN** on this **16TH** day of **JANUARY** 2023.

Witnesses:

1. 



.For and on behalf of the Service Provider

2. 

DRAFT

DRAFT

DRAFT