



a world class African city

## **SHAREHOLDER COMPACT**

**FOR THE YEAR 2015/16**

**CONCLUDED BY AND BETWEEN**

**THE CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY**  
(Hereinafter referred to as the City or the Shareholder”)

HEREIN REPRESENTED BY

**THE EXECUTIVE MAYOR**  
(IN HIS CAPACITY AS THE SHAREHOLDER)

**AND**

**THE BOARD OF DIRECTORS OF JOHANNESBURG ROADS AGENCY**

**SOC Ltd (RF)**

(Hereinafter referred to as the Accounting Authority)

HEREIN REPRESENTED BY

**CHAIRPERSON OF BOARD**  
(IN HIS CAPACITY AS THE CHAIRPERSON OF THE BOARD OF JRA)

**ON BEHALF OF THE BOARD OF DIRECTORS**

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## 1. PREAMBLE

- A. WHEREAS the City of Johannesburg Metropolitan Municipality (“the City”) is in terms of the Constitution and other applicable legislation charged with the responsibility of ensuring the sustainable provision of municipal services within its area of jurisdiction;
- B. WHEREAS the City has adopted an alternative service delivery model for the provision of municipal services through an external mechanism as contemplated in section 76(b) of the Municipal Systems Act 32 of 2000 (“the Systems Act”);
- C. WHEREAS the City has established Municipal Owned Entities (MEs) in terms of the Systems Act;
- D. WHEREAS the MEs were incorporated in terms of the Companies Act 71 of 2008 (“the Companies Act”) and therefore have to comply with the provisions thereof;
- E. WHEREAS the Systems Act empowers the City as parent municipality to exercise the shareholder, statutory, contractual or other rights and powers it may have over the MEs;
- F. WHEREAS the City is committed to implementing and maintaining a culture of effective corporate governance in line with the Code of Corporate Governance Principles for South Africa (“King III Code”) and the Companies Act;
- G. WHEREAS in order to ensure effective management of City’s shareholding interests in these MEs, the City has entered into the Service Delivery Agreement (“SDA”) with the MEs in line with section 81(2) of the Systems Act;
- H. WHEREAS section 93B of the Systems Act requires the City to exercise sole control of its MEs by ensuring the establishment of annual performance objectives, and the performance of the MEs against the agreed performance objectives and indicators;

- I. WHEREAS section 93E of the Systems Act empowers the City to appoint the board of directors of the MEs (“the Board”), whose mandate is to manage the business and affairs of the MEs;
- J. WHEREAS realizing the need to mutual co-operation and a shared vision between the Board and the City,
- K. AND WHEREAS the City has resolved to conclude the Shareholder’s Compact with the Board in order to facilitate effective performance monitoring, evaluation and corrective action;
- L. AND WHEREAS acknowledging that the Shareholder Compact is not intended to replace the Memorandum of Incorporations (“MOIs”), the Group Governance Framework, the SDAs, Integrated Development Plans and the Business Plans, but is rather complimentary to these;
- M. AND WHEREAS the Shareholder Compact aims to improve the ability of the Board of the MEs to manage the MEs effectively and to provide accountability to the City as a shareholder with respect to performance expectations and parameters;
- N. AND WHEREAS the Shareholder Compact is based on mutual respect and understanding between the City as a Shareholder and the Board as an accounting authority of the MEs;
- O. AND WHEREAS in a mutual effort of enhance business performance and good governance within the MEs, the City and the Board hereby agree to enter into the Shareholder Compact under the terms and conditions set out below:

**NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:**

**2. DEFINITIONS AND INTERPRETATION**

- 2.1. In this Agreement, words importing any one gender include the other gender, the singular includes the plural and vice versa; natural persons include juristic persons and *vice versa*.

- 2.2. Unless inconsistent with the context, the words and expressions set forth below shall bear the following meanings and cognate expressions shall bear corresponding meanings.
- 2.2.1. **“Accounting Authority”** means the Board of Directors of the MEs;
- 2.2.2. **“Accounting Officer”** in relation to the City as a municipality, means the City Manager as referred to in section 60 of the MFMA and in relation to the Municipal Entities, means the chief executive officer of the ME appointed in terms of section 93J of the Systems Act;
- 2.2.3. **“Agreement”** means this Agreement as set out in this document together any annexure thereto, which agreement herein after as a Shareholder Compact;
- 2.2.4. **“the Board”** means the Board of Directors of the MEs appointed by the City from time to time;
- 2.2.5. **“Business Day”** means a day other than a Saturday, Sunday or public holiday in the Republic of South Africa;
- 2.2.6. **“CEO”** means the Chief Executive Officer of the municipal entity appointed in terms of section 93E of Systems Act;
- 2.2.7. **“the Chairperson”** means the Chairperson of the Board appointed from time to time;
- 2.2.8. **“the City”** means the City of Johannesburg Metropolitan Municipality established by notice no. 6766 of 2000 published in the Gauteng Provincial Gazette No. 141 by the MEC responsible for Local Government in Gauteng in terms of section 12(1) of the Structures Act, or its successors-in-title, and includes duly authorised officials of the municipality who have been delegated any powers, functions and duties necessary to give effect to this Agreement and decide upon and administer the matters referred to herein;

- 2.2.9. **“Commencement Date”** shall mean 03 February 2015, notwithstanding the date of signature to this Agreement;
- 2.2.10. **“Companies Act”** means the Companies Act 71 of 2008, as amended from time to time;
- 2.2.11. **“COJ Group Governance”** means COJ Department of Corporate Governance;
- 2.2.12. **“Constitution”** means the Constitution of the Republic of South Africa 108 of 1996, as amended from time to time;
- 2.2.13. **“Council”** refers to the Municipal Council of COJ as defined in section 157(1) of the Constitution;
- 2.2.14. **“Compact”** means this Shareholder Compact;
- 2.2.15. **“the Company”** means Johannesburg Road Agency SOC Ltd, a State Owned Company incorporated in terms of the Companies’ Act, No 63 of 1973, which has now been replaced by the Companies’ Act 71 of 2008, with registration number 2000/028993/07;
- 2.2.16. **“Directors”** mean the Directors of the Company appointed from time to time;
- 2.2.17. **“Effective Date”** means 03 February 2014;
- 2.2.18. **“GDS 2040”** means the City Growth and Development Strategy 2040;
- 2.2.19. **“JRA”** means Johannesburg Road Agency SOC Ltd;
- 2.2.20. **“the Mayor”** means the Executive Mayor of the City of Johannesburg Metropolitan Municipality;

- 2.2.21. **“MEs”** means Municipal Entities;
- 2.2.22. **“MFMA”** means the Local Government: Municipal Finance Management Act 56 of 2003;
- 2.2.23. **“KPA”** means the Key Performance Area which is the explicit statement of a performance objective and outcome results that relate to a major functional, operational, technical, financial or behavioural area of the role and accountability of the individual or entity whose performance is being assessed;
- 2.2.24. **“KPI”** means the Key Performance Indicator and means the deliverables, standards or measures used to indicate whether or not a KPA has been met. These must be within the control of the individual or entity whose performance is being assessed, as well as being objective, observable and capable of being measured;
- 2.2.25. **“MMC”** means a Member of the Mayoral Committee;
- 2.2.26. **“Municipal Council”** means Municipal Council of the City as defined in section 157(1) of the Constitution;
- 2.2.27. **“Party” and “Parties”** means JRA and the City and their successors in title, as the context requires;
- 2.2.28. **“PIP’s”** means priority implementation programme
- 2.2.29. **“IDP”** means Integrated Development Plan;
- 2.2.30. **“SDA”** means the service delivery agreement entered into between the City and its MEs, in respect of the Municipal Services rendered by MEs on behalf of the City
- 2.2.31. **“SDBIP”** means Service Delivery and Budget Implementation Plan;

2.2.32. **“Shareholder”** means the City of Johannesburg Metropolitan Municipality represented by the Executive Mayor;

2.2.33. **“Systems Act”** means the Local Government: Municipal Systems Act 32 of 2000, as amended;

### **3. PURPOSE OF THE SHAREHOLDER COMPACT**

3.1. The purpose of the Shareholders Compact is to regulate the relationship between the City as the Shareholder of the Company and the Board of Directors of the Company as the Accounting Authority of the Company.

3.2. In particular, the Shareholder Compact seeks to:

3.2.1. Outline and strengthen the accountability of the Board of Directors to the shareholder with respect to the service delivery mandate of the Company;

3.2.2. Promote transparency;

3.2.3. Promote good governance in line with the applicable laws and regulations, Service Delivery Agreements and the Service Standards Charter that bind the Company;

3.2.4. Set out the mandated key performance measures and indicators to be attained by the Company as agreed to between the City as the Shareholder and the Board of Directors as the accounting authority.

### **4. CONFLICT**

4.1. The parties acknowledges that this Agreement seeks to give effect to the provisions of various governing or constitutive documents of the Company and applicable legal framework.

- 4.2. If the provisions of this Agreement are in any way inconsistent with the provisions of any applicable legislative framework, the provisions of the MFMA and the Companies Act shall prevail.
- 4.3. In the event the provisions of this Agreement are in any way inconsistent with the provisions of Memorandum of Incorporation (“MOI”) of the Company and the Service Delivery Agreement (“SDA”), the provisions of the MOI and the SDA shall prevail.

## **5. RESPONSIBILITIES OF THE PARTIES**

### **5.1. Primary relationship between the parties**

This Agreement establishes and regulates the relationship between the City as the Shareholder of the Company and the Board of Directors of the Company as the Accounting Authority of the Company;

### **5.2. Responsibilities of the Shareholder**

5.2.1. The Executive Mayor as a Shareholder Representative is accountable to the Municipal Council for the exercise of this powers and the performance of the Board.

5.2.2. The Group Governance Department shall be the point of contact in dealing with the Company unless otherwise delegated;

5.2.3. The Shareholder’s responsibilities include oversight of the performance of the Board, including the following:

5.2.3.1. The overall monitoring and reporting to Municipal Council on the financial performance, service delivery performance and overall political mandate entrusted to the Company;

5.2.3.2. Introducing new and/or additional items in the Compact through a process of consultation with the Board;

- 5.2.3.3. Continuously monitoring and evaluating the performance of Company under this Agreement;
- 5.2.3.4. Identifying and developing criteria in terms of which progress in the implementation of the strategies, programmes and services in the Company can be evaluated, including key performance indicators which are specific to the City and common to local government in general;
- 5.2.3.5. Maintaining policy and implementation direction while allowing the Board to exercise management in executing their fiduciary duties in terms of the Companies Act;
- 5.2.3.6. Ensuring that the City's strategic objectives are communicated and understood by the Board;
- 5.2.3.7. Providing assistance through funding, policy advocacy and facilitation of intergovernmental relationships to enable the Company to meet its performance objectives;
- 5.2.3.8. Monitoring the extent to which the Board achieves the objectives and specific performance targets as set out in this Agreement and where necessary, effect remedial action;
- 5.2.3.9. Ensuring that relevant structures are put in place where the Board shall be held accountable prior to the final Shareholder Mayoral Committee so that any relevant stakeholders can satisfy themselves on the substance of the information from the Board;
- 5.2.3.10. Assessing the performance of the Board on an annual basis against agreed performance;
- 5.2.3.11. Attending the Board as well as the Board Committees' meetings of the Company through its representative in order to protect the shareholder's value and to secure a return on the City's investments.

5.3. Role and Responsibilities of the Board of Directors

- 5.3.1. The Directors shall be appointed in accordance with the City Group Policy or any other policy determined by the Shareholder from time to time.
- 5.3.2. The Board of Directors is mandated to manage the affairs and the business of the Company and is accountable to the Shareholder for compliance with the applicable legal framework.
- 5.3.3. The Board shall ensure that the Company complies with the provisions of the Companies Act, MFMA, the Systems Act and other applicable legislations, regulations and/or guidelines issued by the National Treasury and/or any other document or agreement governing the relationship between the parties.
- 5.3.4. The fiduciary duties of the Board of Directors are determined by the provisions of the MFMA and the Companies Act;
- 5.3.5. Without limiting the provisions of the MFMA, Companies Act, the Systems Act and any other legal framework governing the Company, the functions of the Board shall include the following:
  - 5.3.5.1. Managing, monitoring and controlling the activities of the Company;
  - 5.3.5.2. Providing leadership and determining the strategic direction of the Company Dealing with the City as a Shareholder in good faith;
  - 5.3.5.3. Ensuring that the Company fulfils its mandates and adheres to the applicable legal framework governing the Company;
  - 5.3.5.4. Ensuring sound and prudent financial management policies and practices;

- 5.3.5.5. Ensuring that sound corporate governance policies and practices are adhered to and in particular adhering to the City Group Governance Framework and the prescripts of King III on Corporate Governance and any other applicable legal framework governing the MEs;
  - 5.3.5.6. Ensuring the implementation of the City Growth and Development Strategy 2040 (“GDS 2040) and the business plan;
- 5.3.6. The Board shall in addition to the above:
- 5.3.6.1. Ensure that the Company has a strategy that is set out in a business plan which is in line with the Integrated Development Plan (“IDP”) and the Institutional/Group Service Delivery Budget Implementation Plan (“SDBIP”);
  - 5.3.6.2. Ensure that the Company meets all the performance targets as set in any particular financial year of the Company;
  - 5.3.6.3. Ensure that the Company spends 100% of its allocated Capital Expenditure Budget during the period of the Compact;
  - 5.3.6.4. Ensure that the Company adheres to and reports on its achievements against the Service Standards Charter.
  - 5.3.6.5. Ensure that the Company maintains effective Internal Controls for the period of the Compact.
  - 5.3.6.6. Ensure that the Company achieves a Clean Audit for the period of the Compact.
  - 5.3.6.7. Ensure that the Company, through its internal processes and operations, that the Company is able to pay its debts as they become due and payable in the normal course of business;

5.3.6.8. Ensure that the Shareholder or his representative, through the Office of the Group Governance Department, is furnished with sufficient and timely information about the date, location and agenda of any meetings of the Board or its sub-committees, as well as the full and timely information regarding the issues to be decided at any of the aforementioned meetings.

5.3.7. The Chairperson of the Board shall, at each Shareholder Mayoral Committee meeting, present the Company's performance.

5.3.8. The information presented as contemplated above shall be of the appropriate quality based on the guidelines of openness, accuracy and substance over form, addressing material matters of significant interest and concern to the Shareholder and other relevant stakeholders.

#### 5.4. Role and Responsibilities of the Chairperson of the Board

5.4.1. The Board must be led by a chairperson, who shall be independent non- executive director duly appointed in terms of the City's Group Policy.

5.4.2. The Chairperson of the Board of the Company together with the CEO shall be the point of contact in dealings with the Shareholder unless otherwise delegated;

5.4.3. The chairperson's responsibilities must be separate from those of management led by the CEO.

5.4.4. The chairperson is the head of the Board and his responsibilities include, amongst others, the following:

5.4.4.1. Ensuring that all Board Members are fully involved and informed of any business issue on which a decision has to be taken;

- 5.4.4.2. Ensuring that the executive directors play an effective management role and participate fully in the operation and governance of the Company;
- 5.4.4.3. Ensuring that executive directors monitor the business and contribute to the business decisions of the Company;
- 5.4.4.4. Exercising independent judgment, acting objectively and ensuring that all relevant matters are placed on the agenda and prioritised properly.
- 5.4.4.5. Working closely with the company secretary in ensuring that at all times all board members fully understand the nature and extent of their responsibilities as directors;
- 5.4.4.6. Ensuring that the performance of the CEO is appraised on an annual basis.

5.5. Role and Responsibilities of the CEO or MD

- 5.5.1. The Board shall in consultation with the City procure the appointment of the CEO and who shall be appointed as a full-time employee of the Company and manager of the Company's office.
- 5.5.2. The CEO shall be a member of the Board and is accountable to the Board for the management of the Company.
- 5.5.3. The CEO must ensure that the operations of the Company, ensuring that the Company are run effectively and effectively in accordance with the strategic decisions of the Board.
- 5.5.4. The CEO shall be responsible for the day to day management of the Company and to provide the Board with accurate and relevant information provided to the Board timeously.

5.5.5. The CEO must ensure that all Board members have unrestricted access to accurate, relevant and timely information of the Company, to enable the Board to give the necessary strategic objectives.

5.6. Term of office and Removal

5.6.1. The term of office of each Director shall be determined by the City Group Policy or any policy determined by the City from time to time.

5.6.2. A member may resign by giving three (3) months' notice to the City or such notice as determined by the City from time to time.

5.6.3. The resigning director must promptly return to the Company all confidential information and other documentation, which may have been given to him as a result of his position as director of the Company.

5.6.4. The City shall have sole and absolute discretion to remove or recall one or more Directors of the Company without giving reason thereof.

5.6.5. The City may remove one or more directors of the Company in the following circumstances:

5.6.5.1. non-attendance of the Board's meetings for at least 3 (three) consecutive meetings;

5.6.5.2. If the performance of the director is unsatisfactory.

5.6.5.3. If a director, either through illness or for any other reason, is unable to perform the functions of office effectively.

5.6.5.4. If a director is convicted of fraud or theft nor any offence relating to fraudulent conduct.

5.6.5.5. As a consequences of the Director:

- acting without the necessary authority;

- acquiescing to the Company carrying on business recklessly;
- being present or participating in a decision or failing to vote against certain specified decisions which contravene the provisions of any other applicable legislations.
- being party to any act or omission intended to defraud the Company; and
- signing or authorizing the publication of any false or misleading financial statements

#### 5.7. Undertakings by the Board of Directors

- 5.7.1. The Board undertakes to commit itself to exercising strategic leadership, enterprise and integrity in directing the affairs of the Company to fulfil its mandates and to ensure that the Company is financially sustainable.
- 5.7.2. The Board shall ensure that the Company is financially viable and properly managed so as to enhance the interest of the Company in the fulfilment of its mandates;
- 5.7.3. The Board undertakes to use its best endeavours to respond to any request from the Shareholder for information or any circumstances requiring a decision of the Board within 30 (thirty) days of receipt of such written request;
- 5.7.4. The Board is responsible for the overall performance of the Company and is fully accountable to the Shareholder for such performance.
- 5.7.5. The Board must effectively control the affairs of the Company and closely monitor the management in implementing the board plans and strategies.

- 5.7.6. The Board must act in good faith and use its best endeavours to assist the City to ensure proper provision of the municipal services.
- 5.7.7. The Board should have an agreed procedure in terms of which a director/s may, if necessary, solicit independent professional advice at the expense of the company.
- 5.7.8. The Board undertakes on an annual basis to review and evaluate its performance as a collective, the performance of the Chairperson of the Board, the performance of the individual director, the performance of Board Committees and the performance of the CEO of the Company.
- 5.7.9. Such evaluation shall include but not limited to the performance of the individual office bearers in terms of, amongst others, the following:
  - 5.7.9.1. The overall annual performance of the Company;
  - 5.7.9.2. Implementation of the Company's strategy as contained in the Business Plan, SDA and the SDBIP
  - 5.7.9.3. Compliance with the provisions of this Agreement;
  - 5.7.9.4. Upholding the City's corporate governance policies.
- 5.7.10. The Board undertakes to establish an appropriate mechanism for reporting the results of the evaluation referred to in 4.4.5 above to the Shareholder in accordance with the applicable legal framework.
- 5.7.11. The Board undertakes to develop an effective and pro-active Risk Management Strategy as well as the mitigation of such risks, which will be submitted to the Shareholder.

5.7.12. The Board undertakes to report to the Shareholder in its quarterly reports on the effective implementation of the Risk Management Strategy.

5.8. Undertakings by the Shareholder

5.8.1. The Shareholder shall use its best endeavours to respond to any request from the Board for information or any situation that requires any decision within 30 (thirty) days of receipt of such written request..

5.8.2. The City shall through its structures evaluate or assess the performance of the Board on an annual basis against agreed performance standards as set out in this Agreement.

5.8.3. The Shareholder undertakes for the duration of this Agreement:

- not to introduce new or additional requirements that will impose a significant financial burden on the Company, other than through a process of consultation with the Board;
- to give the Board sufficient notices of the proposed new or additional requirements to the Business Plan or otherwise.

5.9. Co-operations and Good Faith

5.9.1. The parties undertake to co-operate with each other in all respects in order to give effect to the intent and import to this Agreement.

5.9.2. The parties to this undertake to support each other in achieving the respective objectives of the parties. The support includes sharing information as may be reasonably requested and to observe utmost good faith.

5.10. Applicable laws

5.10.1. The relationship between the Company and its Shareholder shall be regulated by the provisions of the laws and regulations applicable to MEs, the Governance Framework and the terms and conditions contained in this Compact.

5.10.2. All parties to this Compact agree that the Compact will not be utilised to contradict any of the laws and regulations.

## **6. FINANCIAL CONTROLS AND REPORTING**

6.1. The Board of Directors shall, on a Quarterly basis, prepare and present a report to the following Shareholder structures:

6.1.1. Chairpersons' Quarterly Meetings with the Member of Mayoral Committee responsible for the service delivery mandate of the Company;

6.1.2. The Group Audit Committee;

6.1.3. The Group Performance Audit Committee;

6.1.4. The Shareholder Mayoral Committee.

6.2. The CEO shall present the report to the administrative and political clusters of the City in line with the Governance Model.

6.3. The Board shall ensure that in each financial year, an annual report is prepared in accordance with the requirements of the MFMA and submitted together with the annual report to the Group Governance.

6.4. The Financial Statement delivered to Shareholder shall be certified by the Board as giving a true and fair view of the Company's financial condition and operations as at the date at which those Financial Statements were drawn up.

- 6.5. The Board shall develop an annual Business Plan and Budget which shall be approved within the time limits provided for in terms of section 87 of the MFMA as read with the Municipal Budget and Reporting regulations.

## **7. KEY PERFORMANCE INDICATORS**

- 7.1. The City shall establish a performance management system in line with the priorities, objectives, indicators and targets contained in its IDP.
- 7.2. The Board shall on a quarterly basis submit progress report and/or any other reports required by the City with sufficient information to enable the City to assess its performance towards attaining the set service delivery objectives.
- 7.3. The Board is ultimately responsible for the performance management of the Company and all employees of the Company and shall develop and implement such internal performance management tools and protocols as are deemed to be in the best interests of the Company.
- 7.4. The performance objectives and targets that must be met by the Board and time frame within these must be met are detailed in Annexure "A" of this Agreement.

## **8. CONFIDENTIALITY**

- 8.1. The parties agree:
- 8.1.1. During the period of the Compact, it is imperative and necessary for the effective and efficient discharge of roles and responsibilities that they make available and disclose to each other information relating to the Company and its activities that may otherwise be confidential;
- 8.1.2. They shall keep all information obtained and received from the other party for purposes of this Compact confidential.

- 8.1.3. If a party is required by a legal process to disclose any information, it shall provide the other party with prompt notice of such requirement in order to ensure that such party may seek legal advice or obtain legal protection, or to waive its rights to such protection.
- 8.1.4. The information disclosed by one party to the other shall not be used for any purpose other than that contemplated in terms of this Compact.
- 8.2. Each Party shall treat as strictly confidential all information received or obtained as a result of entering into or performing this Agreement which relates to:
  - 8.2.1. the provisions of this Agreement;;
  - 8.2.2. the negotiations relating to this Agreement;
  - 8.2.3. the subject matter of this Agreement; and/or the other Party.
- 8.3. A Party may disclose information which would otherwise be confidential if and to the extent:
  - 8.3.1. required by law;
  - 8.3.2. required to vest the full benefit of this Agreement in either Party;
  - 8.3.3. disclosed to the professional advisers, auditors and bankers of each
  - 8.3.4. the information has come into the public domain through no fault of that Party;
  - 8.3.5. the other Party has given prior written approval to the disclosure, such approval not to be unreasonably withheld or delayed;
  - 8.3.6. provided that any information so disclosed shall be disclosed only after notification to the other Party.

## **9. AMENDMENTS, CANCELLATION OR WAIVER**

- 9.1. Upon retirement or rotation of the Board members, the Compact shall be reviewed by the new Board of Directors and any amendments discussed and agreed to.
- 9.2. The Compact may be amended at any time during the financial year of the Company through a consultative process of the parties involved.
- 9.3. Changes in the board composition do not alter or nullify the terms of this Compact.
- 9.4. No variation of the terms of this Agreement, or consensual cancellation of this Agreement, shall be effective unless reduced to writing and signed by or on behalf of the Parties

## **10. DURATION**

This Agreement shall commence on the Effective Date and shall remain in full force and effective for the financial year 2015/16 and reviewed annually at the Annual General Meeting for the MEs.

## **11. SETTLEMENT OF DISPUTES**

Any dispute arising between the parties in this compact relating to the terms contained herein or its implementation shall be dealt with in accordance with the City's internal dispute resolution mechanism as determined by the City from time to time.

## **12. BREACH**

Should either party commit a breach of any of the provisions of this Compact and fail to remedy such breach within the stipulated period prescribed by the City from time to time, the City shall invoke consequential management. Failure by the Board to meet performance target shall constitute a breach of this Agreement.

## **13. DOMICILIUM CITANDI ET EXECUTANDI**

13.1 All notices to be given in connection with this Agreement shall be in writing and shall be delivered by hand, transmitted by facsimile or sent by prepaid registered post.

13.2. The Parties choose hereto *domicilium citandi et executandi* for all purposes under this Agreement, whether for any court processes, document or any notices or any other communications of whatsoever nature arising from this Agreement as follows:

13.2.1 The City of Johannesburg Metropolitan Municipality:

Metropolitan Centre  
158 Loveday Street  
Braamfontein  
Johannesburg  
telefax no: 011 403 1012  
marked for the attention of: The Executive Mayor

13.2.2. JOHANNESBURG ROADS AGENCY SOC LTD (RF) AT:

66 Sauer Street  
Cnr. Jeppe Str.  
Johannesburg  
2001

Tel +27(0) 11 298 5000

Fax +27(0) 11 298 5178

[www.jra.org.za](http://www.jra.org.za)

marked for the attention of: The Managing Director or Chief Executive Officer

which physical addresses the Parties select as their *domicilium citandi et executandi*.

13.3. A notice shall be deemed to have been received:

13.3.1. 14 (fourteen) days after posting, if posted by registered post to the Party's address;

13.3.2. on delivery, if delivered to a responsible person during normal business hours at the Party's physical address;

13.2.3. on despatch, if sent to the Party's then telefax number and such transmission is independently confirmed.

134. Notwithstanding the foregoing a written communication actually received by a Party shall be deemed to have been received by such Party notwithstanding that it was not sent to or delivered at such Party's chosen domicilium.

13.5. Either party shall be entitled to change its *domicilium citandi et executandi* to any address within the municipal area of Johannesburg, on not less than 7 days written notice to the other party, provided that such address shall be a physical address.

#### **14. ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement between the Parties with regard to the matters dealt with herein. There are no terms, conditions or warranties, express or implied, other than those contained in this Agreement and there have been no prior representations made by the Parties or any agent or other person purporting to act for the Parties shall be of any force or effect if not set out herein.

**THUS DONE AND SIGNED AT JOHANNESBURG ON THIS THE \_\_\_\_\_ FEBRUARY 2015**

As Witnesses:

1.

.....  
2.  
.....  
.....

.....  
**EXECUTIVE MAYOR**

who warrants that he is duly authorised

For and on behalf of

**CITY OF JOHANNESBURG  
METROPOLITAN MUNICIPALITY**

**(Herein referred to as “the City”)**

**THUS DONE AND SIGNED AT JOHANNESBURG ON THIS THE \_\_\_\_\_ FEBRUARY  
2015**

As Witnesses:

1.

.....  
2.  
.....

**CHAIRPERSON OF THE BOARD**

who warrants that he or she is duly authorised

For and on behalf of

**THE BOARD OF DIRECTORS OF  
JOHANNESBURG ROADS AGENCY  
SOC Ltd (RF)**

**(Herein referred to as “the Board”)**

