

18.5 Disposal of Shares

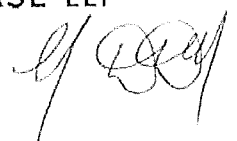
- 18.5.1 SANP will, notwithstanding the provisions of Clause 18, approve any sale of shares or other beneficial interest in the Concessionaire and permit that the Shareholders or beneficiaries sell any such shares or beneficial interest provided that:
- 18.5.1.1 the Concessionaire informs SANP of its intention to sell or permit the sale of such shares or beneficial interest at least 30 (thirty) Business Days before such sale is scheduled to take place;
- 18.5.1.2 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 and the Loan Agreements, as demonstrated by the Concessionaire's ability to meet the criteria set out in Part A of Annexure VII.
- 18.5.2 SANP shall only have the right to refuse such sale of shares or beneficial interest if either of the two 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 in the Republic of South Africa or elsewhere.

19 GOVERNING LAW AND RESOLUTION OF DISPUTES**19.1 Governing Law**

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

19.2 Resolution of Disputes

- 19.2.1 Any dispute between the Parties in regard to:
- 19.2.1.1 the interpretation of;
- 19.2.1.2 the effect of;
- 19.2.1.3 the Parties respective rights and obligations under;
- 19.2.1.4 a breach of;
- 19.2.1.5 any matter arising out of this Concession Contract shall -
- 19.2.1.5.1 in the first instance, be referred to the Parties respective representatives, who shall attempt to resolve the dispute amicably between themselves within 5 (five) Business Days of the dispute arising, and if the dispute is still unresolved, then

WHITE & CASE LLP

- 19.2.1.5.2 in the second instance, be referred to the Chief Executive Officer (“CEO”) of SANP and the Chairman of the Concessionaire, who shall attempt to resolve the dispute within 10 (ten) Business Days, and if it still remains unresolved, then
- 19.2.1.5.3 as a last resort, be submitted to arbitration in the manner set out in this Clause 19.
- 19.2.2 The said arbitration shall be held subject to the provisions of this clause:
- 19.2.2.1 at Pretoria;
- 19.2.2.2 informally;
- 19.2.2.3 otherwise in accordance with the provisions of the Arbitration Act, 1965 (Act No. 42 of 1965), as amended;
- 19.2.2.4 it being the intention that if possible it shall be held and concluded within 21 (twenty one) Business Days after it has been demanded.
- 19.2.3 The arbitrator shall be, if the question in issue is -
- 19.2.3.1 primarily an accounting matter, an independent accountant agreed upon between the Parties;
- 19.2.3.2 primarily a legal matter, a practising Senior Counsel of no less than 10 (ten) years standing agreed upon between the Parties;
- 19.2.3.3 any other matter, a suitably qualified and experienced independent person agreed upon between the Parties.
- 19.2.4 If the Parties cannot agree upon a particular arbitrator in terms of Clause 19.2.3 above within 7 (seven) Business Days after the arbitration has been demanded, the nomination in terms of Clauses 19.2.3.1, 19.2.3.2 and 19.2.3.3, as the case may be, shall be made by the President of the Attorneys Association of Gauteng within 7 (seven) Business Days after the parties have so failed to agree.
- 19.2.5 The Parties irrevocably agree that the decision in these arbitration proceedings:
- 19.2.5.1 shall be binding on them;
- 19.2.5.2 shall be carried into effect; and
- 19.2.5.3 may be made an order of any Court of competent jurisdiction.

19.3 **Obligations During Arbitration**

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

19.4 **Costs of Arbitration**

The costs of arbitration shall be paid by the unsuccessful Party, irrespective of whether SANP or the Concessionaire referred the matter to arbitration.

20 **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 actions 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.

21 **MISCELLANEOUS PROVISIONS**

21.1 **Primacy of this Concession Contract**

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

21.1.2 The Schedules and Annexures attached hereto shall be deemed a part of this Concession Contract and shall have binding effect. If the content of any of the Annexures is in conflict with the content of this Concession Contract, the content of this Concession Contract shall prevail.

21.2 **Confidentiality**

21.2.1 **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, program, device, method, technique, drawing, process, financial data, or list of actual or potential customers or suppliers, which:

- (a) derives economic value, actual or potential, from not being generally known to other Persons who can obtain economic value from its disclosure or use;
- (b) is the subject of efforts which are reasonable under the circumstances to maintain its secrecy; or

WHITE & CASE LLP

