

Site Lease Agreement	Document #:	RAD/TEMP/483
	Date:	5 Nov 2018
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	Originator:	Manager Radio
	Approved By:	Manager Radio



MEMORANDUM OF LEASE AGREEMENT

Contract No

Site

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MEMORANDUM OF LEASE AGREEMENT

Made and entered into and between:

AMWIIMBI COMBINED SCHOOL
EPEMBE CIRCUIT
P.O BOX 13526, Eenhana

AND

MOBILE TELECOMMUNICATIONS LIMITED

A Company incorporated under the laws of the Republic of Namibia, herein represented by its duly authorized representative,

Mr. Ludwig Tjitandi

in his/her capacity as GM: Network Access & Transmission
having its registered office at

c/o Moses Tjitendero and Hamutenya Wanehepo Ndadi Street

Windhoek

P O Box 23051

Windhoek

Namibia

(hereinafter referred to as "the Lessee")

[collectively referred to as "the parties"]

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fences and/or other structures, including security and/or safety equipment; foundation flooring; lightning protection- and earthing systems; micro-cells; paving and other related and accessory structures; any and all equipment related to fiber installation ;

1.1.5 "escalation"

annually in accordance NCPI rate.

1.1.6 "the expiry date"

means the date set out as such in the **Schedule**.

2. **LEASE**

2.1 The Lessor lets the premises to the Lessee, subject to the provisions of this Agreement.

2.2 The lease shall commence on the commencement date and expire on the expiry date.

2.3 Should the Lessee's license to operate a mobile radio telecommunications system be suspended or revoked for whatever reason, or should buildings be erected adjacent to the premises which will have measurable interference with the Lessee's radio telecommunication network, then the Lessee shall be entitled to cancel this Agreement on 30 (thirty) days' notice. The Lessor indemnifies the Lessee against any losses that may incur as a result of such cancellation.

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3. OPTION TO RENEW

3.1 The Lessee shall have an option to renew this Agreement on the same terms and conditions for the further period, reckoned from the expiry date, set out in paragraph 5 of **Schedule**.

3.2 The said option shall be automatically renewed at the expiry date, save that in the event that the Lessee does not so wish to renew this lease, it shall notify the Lessor in writing 3 (three) months prior to the applicable expiry date.

4. PURPOSE

4.1 Unless otherwise approved in writing by the Lessor, the premises shall only be used for the purposes of a telecommunications base station and related and ancillary purposes, as the Lessee may deem expedient.

4.2 Without limiting the generality of 4.1, the Lessee shall be entitled, at its own expense, to -

4.2.1 erect, maintain, renew and replace the equipment referred to in clause 1.1.4, as well as all required support structures upon the premises, and to remove the same at any time;

4.2.2 affix fittings and fixtures, cables, piping, wiring, conductors and other equipment is kept, as well as all required support structures upon the premises, and to remove the same at any time.

4.3 The Lessor shall, at all reasonable times, allow the Lessee or its employees, agents or contractors to bring, lay and relay cables, pipes, telephone and earth wires and other equipment across the property to the Lessee, and in general shall allow such persons access to the premises.

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5. SUBLEASE

5.1 The Lessee shall be entitled to sublease part or the whole of the premises to other entities or suppliers of telecommunication services to use the premises or equipment thereon on terms not in conflict with this Agreement.

5.2 The Lessee shall be entitled to share or allow the occupation of the premises as well as facilities thereon by a company or entity associated with the Lessee.

6. INDEMNITY

6.1 The Lessee shall be liable for and indemnify the Lessor against any loss or damage that any entity or supplier referred to in clause 5 shall cause to the Lessor on the property in the exercise of its rights conferred by the Lessee.

6.2 The parties agree that the Lessee, for purposes of using any structure and/or equipment constructed and/or erected in terms of clause 11, shall require the supply thereto of electric current. Any costs in relation to the installation of supply shall be paid for by the Lessee. It is further recorded that only persons appointed by the Lessee shall be entitled to supply and install, in terms of this clause, the necessary wiring and earthing systems for the equipment and/or structure constructed in terms of clause 10, after consenting by the Lessor to the proposed works.

7. COSTS

7.1 Subject to the provisions of clause 6.2, all costs in relation to the consumption of electricity of the premises, as well as all expenses relating to the metering of such consumption, shall be for the cost of the Lessee.

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7.2 The Lessee shall be entitled at its cost to upgrade the electricity supplied to the premises to the extent acceptable to the Lessee.

7.3 The Lessee shall pay all its own costs incurred in the drafting of this Agreement, as well as all stamp duty payable in respect hereof.

8. RENTAL

The parties agree that the Lessee shall erect a tower on the Lessor's property and in return the Lessor shall affix only the Antennas as specified in the schedule to the Lessee's tower.

9. TAXES

N/A

10. ERECTION OF EQUIPMENT

10.1 The Lessee shall be entitled at its own cost and expense, to erect all or any equipment and/or structures on the premises.

10.2 The Lessee shall further be entitled to allow any other entity supplier, referred to in clause 5 above, to likewise affix such structures or equipment thereon.

11. CONSENTS

11.1 The Lessee shall at its own cost use all reasonable endeavors to obtain the municipal and other relevant consents necessary for the construction, erection and/or fixture of the equipment referred to in above as speedily as possible.

11.2 Should any municipal or other consent referred to in 11.1 not be obtained within a reasonable time after the Lessee has applied therefore, or should such consent and/or approval, having been granted, be suspended or

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revoked by the relevant authority, the Lessee shall be entitled to cancel this Agreement forthwith.

12. OWNERSHIP

Any equipment and/or structures constructed and/or erected in terms of this agreement shall remain the property of the party erecting/installing such equipment, and the parties agree that same shall at all times be regarded as moveable property, and that the erecting of installing party shall be obliged, at the termination of this Agreement, for whatever reason to remove such equipment within a period of 6 (six) months after termination of the contract.

13. SECURITY

The Lessee shall at all time ensure that the entrance to the premises shall be locked during the construction and maintenance of the premises.

14. WARRANTY

The Lessor does warrant that the premises and all electrical and other utility services thereto are fit and adequate for the purposes of the business of the Lessee as set out in clause 4, and that it shall remain so throughout the currency of the Agreement.

15. ALTERATIONS

Save as provided for in this Agreement, the Lessee shall not make any additions or alterations whatsoever to the premises without the prior written consent of the Lessor, provided that should the Lessor grant such consent, then and in such event additions or alterations shall be affected by the Lessee at the Lessee's own cost and expense, provided further that should the Lessor so require at the termination of this lease, the Lessee shall restore the premises to

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the good order and condition in which they were at the commencement date, fair wear and tear excepted.

16. DAMAGE TO THE PREMISES

Any damage caused to the premises as a result to any dismissing or removal of equipment or as a result of the Lessee's failure to maintain the premises in such good order and condition, shall be make good by the Lessee at the Lessee's own cost and expense within 30 (thirty) days after written notice received from the Lessor.

17. ALTERATIONS TO PREMISES

The Lessor shall not change, move, alter or interfere with any installation construction, erection, structure or equipment in or upon the premises constructed and/or erected by the Lessee, nor shall the Lessor attached any electrical appliances to the electric system in the premises, supplied for the purposes of any such installation, construction, erection, structure or equipment, or interfere, alter or do any repairs to the electric system referred to above, without the prior written consent of the Lessee first having been obtained, and the Lessor shall not appoint any person other than such persons that may from time to time be approved by the Lessee for the execution of any such works, whether in relation to wiring, the repair of equipment or the joining of cabling or otherwise.

18. MAINTENANCE

18.1 Each party shall be responsible for the maintenance of it's own infrastructure.

18.2 The parties equally shall share the cost of the maintenance of the road.

18.3 Road maintenance shall be carried out by the Lessee and at the sole discretion of the Lessee.

18.4 The Lessee shall make use of it's preferred suppliers.

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19. LIABILITY AND INDEMNITY

- 19.1 The Parties shall indemnify each other together with their officers, agents, contractors or employees from any loss (including loss of profit or business which shall be calculated by taking into account the down-time and average revenue for the period of the last 30 days), damages, demand or liability for personal injury, including death and damage to property save where such claim is arising out of willful default or negligence of the other Party, its officers, employees, agents or contractors.
- 19.2 The Lessee's liability towards the Lessor shall be limited to the value of twelve (12) months' rental.
- 19.3 The Parties shall not be held liable for any indirect, consequential, and non-patrimonial losses and or damages, howsoever occurring.
- 19.4 The Lessor shall not be afforded the right or be allowed to insure MTC's infrastructure. MTC shall be responsible for insurance of their own infrastructure.

20. COMPLIANCE WITH LAWS

The Lessee shall at all times comply with all laws, by-laws, Ordinances, Proclamations and Regulations relating to the tenancy of the premises and to fire appliances on the premises.

21. CESSION

The Lessor shall for whatever reason during the currency of this Agreement not cede, assign, transfer or make over any of the Lessors rights in terms of this agreement without prior consent from the Lessee which consent shall not be unreasonably withheld.

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22. DAMAGE TO PREMISES

22.1 If the Premises are destroyed or so damaged that they can no longer be beneficially occupied, this lease shall terminate when that happens unless the parties agree otherwise in writing.

22.2 If the Premises are significantly damaged but can still be beneficially occupied, this lease shall remain in force and the Lessor shall repair the damage without undue delay, but the rent shall be abated so as to compensate the Lessee fairly for the effects of the damage and repair works on the enjoyment of the Premises. Failing agreement on such abatement or on the applicability of this clause to any particular circumstances, the matter shall be referred to an expert appointed by the parties jointly or, if they do not agree on such appointment, nominated by the President for the time being of The Institute of Estate Agents of South Africa, and the decision of such expert shall be final and binding. The expert's fees and disbursements, including any inspection costs, shall be borne and paid by the parties in equal shares. Pending determination of the abatement, the Lessee shall continue to pay the full rent for the Premises as if they had not been damaged (*or be excused from the payment of rent for the Premises*), and as soon as the matter has been resolved, the Lessor shall make the appropriate repayment to the Lessee (*or the Lessee shall make up the arrears in the rent as abated*).

22.3 Subject to clause 20.2, if any damage to the Premises or the destruction thereof is caused by an act or omission for which either party is responsible in terms of this lease or in law, the other party shall not be precluded by reason of any of the foregoing provisions of this clause from exercising or pursuing any alternative or additional right of action or remedy available to the latter party under the circumstances (whether in terms of this lease or in law).

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23. DAMAGE TO LESSEE'S PROPERTY

23.1 Should the Lessee's Property be damaged whether by natural causes or through conduct or omission of the Lessee, its agents or employees, the Lessee shall have the option at it's sole discretion to either rectify its property so damaged or cancel the Agreement all together without incurring any consequences or liabilities.

23.2 Should the Lessee's Property be damaged as a result of the Lessor, it's agents or employee's conduct or omission, the Lessee shall have the option to recover the damages from the Lessor and or cancel the Agreement.

24. BREACH

24.1 Should the Lessee -

24.1.1 fail to pay rental or any other monies due by the Lessee in terms of this lease on the due date and thereafter fail to make payment thereof within 30 (thirty) days after receipt of the Lessor's demand to such effect;

24.1.2 commit any breach of any material term of this lease and fail to remedy such breach within 30 (thirty) days after receipt of the Lessor's notice to the Lessee requiring such breach to be remedied; or

24.1.3 be liquidated or sequestrated or be placed under judicial management (whether provisionally or finally),

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then and in such events, the parties shall have 30 (thirty) days to resolve the breach amongst themselves should there be no resolve the Lessor shall be entitled, without prejudice to any other claim of any nature whatsoever which it may have against the Lessee as a result of such breach, invoke any remedy in law against the Lessee with the exception of cancellation of the agreement.

24.2 Should the Lessor breach any material term of this Agreement and fail to remedy such breach within 30 (thirty) days or receipt of the Lessee's written notice or the Lessor be liquidated or sequestrated (whether finally or provisionally), the Lessee shall be entitled in any such event and without prejudice to any other claim of any nature whatsoever which it may have against the Lessor as a result of such breach, to cancel this lease forthwith and claim compensation for any damages suffered by the Lessee.

25. NOTARIAL REGISTRATION OF LEASE

Should any party request the registration of this Agreement in any Deeds registry against the title deed of the property, the parties shall procure that the necessary land surveyor's diagram shall be drawn up, that this Agreement be notarially executed, and that such notarial deed shall be registered against such title deed, so as to effect such registration at the cost of the Lessee.

26. DOMICILIUM

26.1 The parties choose as their *domicilium citandi et executandi* their respective addresses set out or referred to in this clause for all purposes arising out of or in connection with this Agreement at which addresses all processes and notices arising out of or in connection with this Agreement, its breach or termination may validity be served upon or delivered to the parties.

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26.2 For purposes of this Agreement the parties' respective addresses shall be -

26.2.1 as regards the Lessor at the address set out in the **Schedule** hereto;

26.2.2 as regards the Lessee at the address above:

or at such other address, not being a post office box or *poste restante*, of

which the party concerned may notify the other in writing.

26.3 Any notice given in terms of this Agreement shall be in writing and shall -

26.3.1 if delivered by hand deemed to have been duly received by the addressee on the date of delivery;

26.3.2 if posted by prepaid registered post deemed to have been received by the addressee on the 21st (twenty first) day following the date of such posting;

26.3.3 if transmitted by facsimile deemed to have been received by the addressee 1 (one) day after dispatch.

26.4 Notwithstanding anything to the contrary contained in this Agreement, a written notice or communication actually received by one of the parties from another, including by way of facsimile transmission, shall be adequate written notice or communication to such party.

27. NON-WAIVER

No addition to or variation, consensual cancellation or novation of this Agreement and no waiver of any right arising from this Agreement or its breach

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or termination shall be of any force or effect unless reduced to writing and signed by all the parties of their duly authorized representatives.

28. GOVERNING LAW

This Agreement shall be construed, interpreted and governed by the laws of the Republic of Namibia, both parties consent to the jurisdiction of the courts of the Republic of Namibia.

29. WHOLE AGREEMENT

This Agreement constitutes the whole Agreement between the parties as to the subject matter and no agreements, representations or warranties between the parties regarding the subject matter hereof other than those set out herein are binding on the parties.

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	Approved By:	Manager Radio

DATED and SIGNED at Amwiimbi C.S on this 30-11-2022 day of

_____ in the presence of the undersigned witnesses:

FOR AND ON BEHALF OF THE LESSOR :

Signature: 

Name: Hilya Naambo Anwaama

Title: Principal



AS WITNESSES:

1. Signature: 

Name: GERHARD KANAWA (CHAIRPERSON SCHOOL BOARDS)

2. Signature: 

Name: CHRISPIN Mwanamwali Mwanamwali
School Management member

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	Approved By:	Manager Radio

DATED and **SIGNED** at _____ on this _____ day of

_____ in the presence of the undersigned witnesses:

FOR AND ON BEHALF OF MTC:

Signature: _____

Name: Ludwig Tjitandi

Title: General Manager: Network Access & Transmission

AS WITNESSES:

1. Signature: _____

Name: Patience Kanalelo

Title: Head: Corporate Legal Services & Regulatory Affairs

2. Signature: _____

Name: Thinus Smit

Title: Chief Financial Officer

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Lease Agreement Schedule	Document #:	RAD/TEMP/484
	Effective Date:	15 Nov 2018
	Revision:	3
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BS No	
BS Name	
OWNER	

1. DESCRIPTION OF PREMISES (areas (m²) municipal/ farm description, address)	81m ² on Amwiimbi Primary School field, Ohangwena Region. (S17.68016 E16.45524)
2. COMMENCEMENT DATE:	When Construction Start.
3. EXPIRY DATE:	
4. CONTRACT PERIOD:	9 years and 11 months
5. OPTION PERIOD AFTER EXPIRY DATE:	9 years and 11 months
6. RENTAL:	N\$ 1500.00 per month
7. ESCALATION:	As per clause 1.1.5
8. METHOD OF PAYMENT: (monthly debit order/annually in advance)	Monthly Debit Order
9. LESSOR'S DOMICILIUM (PHYSICAL ADDRESS):	AMWIIMBI COMBINED SCHOOL OHAMWIIMBI VILLAGE EPEMBE CONSTITUENCY
10. POSTAL ADDRESS:	P O Box 13526, EENHANA Tel: 081 2047024 Fax: N/A
11. BANK DETAILS:	Acc. 62058161664 Branch ONDANGWA
12. ROUTE DESCRIPTION: (how to get to MTC site)	
13. SPECIAL CONDITIONS: (any specifics to be noted)	



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FIRST NATIONAL BANK OF NAMIBIA LIMITED
130 Cnr of Independence Avenue and Fidel Castro Street
@Parkside
Windhoek, Namibia
PO Box 285
Windhoek, Namibia
web: www.fnbnamibia.com.na
Tel: +264 61 299 2222



21 November 2022

FIRST NATIONAL BANK
OF NAMIBIA LIMITED

21 November 2022

ENQUIRIES
+264 61 299 2222

Dear Reader

ACCOUNT CONFIRMATION LETTER

We hereby confirm that **AMWIIMBI COMBINED SCHOOL**, with identity/registration number **72041410086**, holds the following account with First National Bank of Namibia Limited ("**FNB**"):

Account Name	AMWIIMBI COMBINED SCHOOL		
Account Type	PLATINUM BUSINESS ACCOUNT	Account Number	62058161664
Branch Code	281373	Branch Name	ONDANGWA
Swift / BIC Code	FIRNNANX	Date Opened	1999/03/26

FNB issues this letter at the specific request of the account holder and for informational purposes only. This letter serves only to confirm that the above information is, according to the records available to FNB, factually correct as at the date of this letter.

Accordingly, FNB provides no warranties, guarantees, assurances or undertakings of any nature relating to the above information, the account and/or the account holder, cannot be held responsible for any reliance which may be placed on this letter.

Without limiting the above in any way:

- (i) This letter does not constitute a letter of guarantee or a letter of credit.
- (ii) This letter does not imply or infer in any way that FNB has reserved the funds held in the account in favour of any person, nor that FNB has placed a hold on or limited the amount available in the account. The amount available in the account may change at any time without prior notice to you; and
- (iii) FNB will not be held responsible for any change in the information contained in this letter.
- (iv) This letter is issued to you without any liability for FNB or its employees. You are to treat this letter as confidential.

Your Banking Partner

FIRST NATIONAL BANK OF NAMIBIA LIMITED

Board of Directors: Il Zaa mwani (Chairperson), OLP Capelao, J Coetzee, C Dempsey* (Chief Executive), P Grüttemeyer, CLR Haikali, R Makanjee**, IN Nashandi, E Tjipuka,
E van Zyl

*South African with Namibian Permanent Residence

Company Secretary: N Makemba

First National Bank of Namibia Limited, Reg. No. 2002/0180