



Otjozondjupa Regional Council

LEASE AGREEMENT

Between

the Otjozondjupa Regional Council

Herein represented by **Mrs. Agatha Mwet**, in her capacity as

Chief Regional Officer

Duly authorized thereto;

(Hereinafter referred to as 'the Lessor')

AND

POWERCOM

Herein represented by in his/her capacity as:

Full name:.....

ID No:.....

Postal Address:.....

Marital Status.....

Contact number:

Applicant

(Hereinafter referred to as 'the Lessee')

1. LETTING AND HIRING

The Lessor lets and the Lessee hereby hires certain **site on the road to Mount Etjo behind the Business Centre in Kalkfeld Settlement**, in Otjozondjupa Region, measuring **sixty four (64) square meters**, without improvements. (“Hereinafter referred to as “the Property”)

2. DURATION

2.1. This lease shall come into operation from **1st October 2020** and shall be one (1) year renewable conditionally.

3. USE OF PROPERTY

The Lessee shall use the Property solely for the purpose of **Telecommunication Tower** and for no other purposes without the prior written consent having been obtained from the Lessor.

4. RENT

- (a) The rent payable by the Lessee under this lease shall be the sum of **N\$2,560-00 (Two Thousand Five Hundred and sixty Namibian Dollars)**, per month.
- (b) Such rent shall be payable:
 - (i) in advance on the first day of the month with effect from the commencement of the Lease and thereafter on or before the seventh of each and every month, (the first payment to be made on the date of signing hereof on a pro rata basis) provided that the above rental shall be increased by 10% (ten percent) after completion of each 12 months cycle from commencement of this Agreement. Further to that, the adjustment to rent shall be made in accordance with the Regional Council’s Tariff Structure.
 - (ii) to the Settlement office in Kalkfeld receiving payment on behalf of Regional Council of Otjozondjupa.

5. ASSIGNMENT AND SUBLETITNG

- a) The Lessee shall not be entitled, except with the prior written consent of the Lessor;
 - (i) to cede or assign all of any of the rights and obligations of the Lessee under this Agreement
 - (ii) to sublet the Property whole or in part; or
 - (iii) to give up possession of the Property to any third party.

6. LESSEE NOT TO CONTRAVENE LAWS

The Lessee shall not contravene, or permit any contravention of any law, by-law, regulation or directives of any competent authority, relating to or affecting owners, tenants or occupiers of the Property, or the conditions under which the said Property is

owned by the Lessor, or the nature of which conditions the Lessee hereby acknowledges to be aware.

7. LESSOR'S RIGHT OF INSPECTION, ETC

The Lessor's representatives may at all reasonable times, without thereby giving rise to any claim or right of action on the part of the Lessee or any other occupier shall be entitled:

- 7.1 enter the Property in order to inspect it, to carry out any work or to perform any other lawful function in the bona fide interest of the Lessor or any occupiers of the Property; or
- 7.2 carry out on the Property any necessary work. But the Lessor shall ensure that this right is exercised with due regard for and a minimum interference with the beneficial enjoyment of the Lessee.

8. BEACONS

The Lessee shall keep in good order at his/her own expense the boundaries of the allotment and the Lessor shall have the right at any time to call upon the Lessee to effect or replace the dilapidated or damages beacons.

9. IMPROVEMENTS

- 9.1 The improvements shall be in accordance with the basic standard agreed upon.
- 9.2 The Lessee shall be entitled to fence the Property and to erect structures as authorized by the lessor, and in any event to the minimum standards required by the Lessor.
- 9.3 Failure to adhere to 9.1 and 9.2 above will result in termination of this lease agreement. Upon termination the Lessee shall remove all structures and fences and restore the Property in its original state of repair inclusive but not limited to the removal of any concrete or similar material; failing which the Lessor may enter the Property and restore the same to its original state of repair and then recover the cost incurred from the Lessee.
- 9.4 The Lessor shall not be held liable for any form of compensating the Lessee for such improvements upon termination of the Lease Agreement.

10. REMEDIES FOR BREACH

- 10.1 Should the Lessee default in any payment due under this lease or be in breach of its terms in any other way and fail to remedy such default or breach with 30 days after receiving a written demand that it be remedied, the Lessor shall be entitled, without prejudiced of any alternative or additional right or action or remedy available to the Lessor under the circumstances without further notice, to cancel this lease with immediate effect, be repossessed of the Property and recover from the Lessee damages for the default or breach and the cancellation of this lease.

- 10.2** Clause 10.1 shall not be construed as excluding the ordinary lawful consequences of a breach of this lease by either party (save any such consequence as are expressly excluded by any of the other provisions of this lease) and in particular any right of cancellation of this lease on the ground of a material breach going to the root of lease.
- 10.3** In the event of the Lessor having cancelled this lease justifiably but the Lessee remaining in occupation of the Premises, with or without disputing the cancellation, and continuing to tender payments of rent and any other amounts which would have been payable to the Lessor but for the cancellation, the Lessor may accept such payments without affecting the cancellation, in all respects as if they had been payments on account of the damages suffered by the Lessor by reason of the unlawful holding over on the part of the Lessee.

11. NON - WAIVER

- (i) Neither party shall be regarded as having waived, or be precluded in any way from exercising, any right under or arising from this lease by reason of such party having at any time granted any extension of time for, or having shown any indulgence to the other party with reference to, any payment or performance hereunder, or having failed to enforce, or delayed in the enforcement of, any right of action against the other party.
- (ii) The failure of either party to comply with any non-material provision of this lease shall not excuse the other party from performing the latter's obligations hereunder fully and timeously.

12. INDEMNITY TO LESSOR

- (i) The Lessee shall have no claim for damages against the Lessor and may not withhold or delay any payment due to the Lessor by reason directly or indirectly of a breach by the Lessor of any of its obligations under this lease;
- (ii) any act or omission of the Lessor or any agent or servant of or contractor to the Lessor, whether or not negligent, or otherwise actionable at law, and including (without limiting the generality of the afore-going) any act or omission of any maintenance person, handyman, artisan, Labourer, workman, the condition or state of repair at any time of the Property, or any part of the Property.

13. VARIATION, ALTERATION OR AMENDMENT

No variation, alteration or amendment shall be of any force unless reduced to writing and signed by the Parties.

14. RENEWAL

The Lessee shall have the right to renew this lease upon the terms and subject to the condition set out below:

- (i) The period of which this lease may be renewed is three months before the expiry of the initial term of this lease.
- (ii) All the terms of this lease shall continue to apply during the renewal period.
- (iii) Should the option be exercised in terms of this clause, rent escalation for such further period shall be in accordance with the provisions of clause 4 above.

15. LAW TO APPLY AND JURISDICTION

This Agreement is in all respects governed and construed in accordance with the laws of Namibia.

16. JURISDICTION OF THE MAGISTRATE COURT

The Lessee hereby consents to the jurisdiction of the Magistrate's Court having jurisdiction over it, him or her in respect of all legal proceedings connected with this Agreement, notwithstanding the fact that the value of the matter in dispute exceeds the jurisdiction of the Magistrate's Court.

17. WHOLE AGREEMENT

17.1 This and any Annexures attached to this Agreement constitute the entire Agreement between the Parties.

17.2 Neither party relies in entering into this Agreement on any warranty, representation, or expression of opinion, which have not been incorporated into this Agreement as warranty or undertaking.

18. OPTION TO PURCHASE

Should title to the allotment become possible, the Regional Council shall give the holder the first option of purchase thereof, the price being equal to the average of two sworn valuers; one to be appointed by the Regional Council and the other by the holder.

19. DOMICILIUM CITANDI ET EXECUTANDI

19.1 The Parties chooses as their *domicilia citandi et executandi* the addresses mentioned in clause 19.2 below, provided that such *domicilium* of either Party may be changed by written notice from such Party to the other Parties with effect from the date of receipt or deemed receipt by the latter of such notice.

19.2

19.2.1 Lessor Office of the Chief Regional Officer
Otjozondjupa Regional Council
22 Henk Willemse Street
OTJIWARONGO
Tel: 067-303702
Fax: 067-302760

19.2.2 Lessee:.....

Postal address: -----

Contact number: -----

19.3 Any notice, acceptance, demand or other communication properly addressed by either Party to the other Parties at the latter's *domicilia* in terms hereof and sent by prepaid registered mail, shall be deemed to have been received by the latter on the seventh (7th business day from the date of posting thereof.

19.4 Any notice, acceptance, demand or other communication addressed by either Party to the other Parties may be send by telefax to the telefax number of the Party concerned as specified in 19.2 above.

20. DISPUTE RESOLUTION

20.1 Any dispute, controversy or claim arising out of or in relation to this Agreement shall be resolved by mutual agreement.

20.2 If the Parties fail to resolve the dispute through negotiation, the dispute shall be settled by arbitration by a single arbitrator to be appointed by the Parties. If an agreement cannot be reached, the Arbitrator shall be appointed by the incumbent President of the Law Society of Namibia.

20.3 The arbitration proceeding shall be conducted in terms of the Arbitration Act, 1965 (Act 42 of 1965).

20.4 The decision of the arbitrator shall be final and binding and the Arbitration shall be bound to give his/her decision within thirty (30) days from the conclusion of the proceedings.

20.5 The costs for arbitration shall be borne by the Parties in equal shares.

20.6 Arbitration proceedings shall be held in Windhoek, Namibia.

21. SEVERABILITY

In the event that any of the terms of this Agreement is found to be or held to be invalid or unenforceable, such term shall be severable from the remaining terms, which shall continue to be valid and enforceable. If any term is capable of amendment in order to render it valid, the Parties agree to negotiate an amendment to remove the invalidity.

THUS DONE AND SIGNED AT KALKFELD ON THIS DAY OF 2020.
In accordance with Regional Council's Resolution Number OTRC RC 005/18/08/2020/10.1

LESSOR:

.....
Mrs. Agatha Mwet:
Chief Regional Officer

LESSEE

.....
Ms./Mr.
.....
Powercom

AS WITNESSES

1. For Lessor: Name: Signature:

2. For Lessee: Name: Signature: