

**Part 5: Performance management****49. SYSTEMS FOR PERFORMANCE MANAGEMENT AND DEVELOPMENT**

- (1) The National Commissioner must determine and implement a system for the performance management and development of *employees* in the Service, excluding *employees* who are members of the SMS.
- (2) Before utilising a performance management and development system referred to in subregulation (1), the National Commissioner must —
  - (a) pilot the system on groups of *employees* in all occupational categories sufficient to enable reasonable validity; and
  - (b) consult with trade unions represented in the Safety and Security Sectoral Bargaining Council.
- (3) The period in respect of which performance is to be assessed (the “performance cycle”) may not exceed one year and, for the purposes of planning, pay progression, performance incentives and non-financial awards, must be linked to the period of a *financial year*.
- (4) For each *employee* other than an *employee* in the SMS, the National Commissioner must determine —
  - (a) an annual date for written assessment of performance; and
  - (b) a commander responsible for monitoring, supervising and assessing the performance of the *employee*.
- (5) The commander must —
  - (a) as far as possible, meet on a regular basis with the *employee* to discuss the basic objectives of his or her component and the role of the *employee* in the success or failure in achieving those objectives;
  - (b) before the performance cycle commences, or within four months after appointment to a post, explain the performance assessment procedure to the *employee*; and
  - (c) inform the *employee* of the criteria used for his or her performance assessment.
- (6) The commander must monitor the performance of the *employee* on a continuous basis and give the *employee* feedback on his or her performance —
  - (a) (i) verbally, if the performance of the *employee* is satisfactory; and  
(ii) in writing if the performance of the *employee* is unsatisfactory;
  - (b) at least twice in the six months preceding the annual formal assessment date of the *employee*; and
  - (c) in writing, on the annual performance assessment date, using the instrument referred to in regulation 51(1)(b).

**50. PERFORMANCE AGREEMENTS**

- (1) An *employee* must enter into a performance agreement or an agreement of similar nature within two months of his or her date of appointment and thereafter within four months of the beginning of each *financial year*.

- (2) If, during the performance cycle, an *employee* is appointed to a new position at the same salary level, a new performance agreement or agreement of a similar nature must be entered into for the new position and the performance assessment must take both periods of work in the cycle into consideration.
- (3) A performance agreement or an agreement of similar nature must include the following —
  - (a) a personal number, *job* title and post *grade* as well as a clear description of the *employee's job*, with emphasis on the main objectives, *job* purpose and the relevant outputs or key performance areas (generic assessment factors);
  - (b) a workplan containing the outputs, activities and resource requirements; and
  - (c) a personal development plan (PDP) that identifies the developmental needs of the *employee* in terms of the *job* requirements and how the needs will be addressed.
- (4) If both the *employee* and his or her commander cannot sign the performance agreement or an agreement of similar nature due to a dispute relating to the content of the agreement, the National Commissioner must appoint an *employee* within one month after the expiry of the period stipulated in subregulation (1), to consider the dispute.
- (5) The *employee* appointed in terms of subregulation (4) must within one month of his or her appointment consider the dispute and recommend to the National Commissioner a performance agreement or an agreement of similar nature to be signed.
- (6) The *employee* and his or her commander must sign the recommended performance agreement or an agreement of similar nature within two weeks of receipt thereof.
- (7) An *employee* will not be eligible for performance assessment or qualify for performance incentives and awards if he or she has not signed a performance agreement or an agreement of similar nature.

## 51. PERFORMANCE ASSESSMENT

- (1) The National Commissioner —
  - (a) may establish separate performance assessment measures for different occupational categories or levels of work; but
  - (b) must designate a single assessment instrument to assist in deciding on performance incentives, non-financial awards, pay progression and the performance development of an *employee*.
- (2) While conducting formal performance assessments, a rating scale must be utilized that has a mid-point, indicating that the performance of the *employee* meets the requirements of the *job* and the standards agreed upon.

- (3) The National Commissioner must institute performance moderation measures to ensure reasonability and consistency in the application of the performance management system.
- (4) Assessment must be based only on the information contained in the designated performance assessment instrument, but where an appeal is lodged against an assessment, the information furnished in connection with the appeal, must also be considered.
- (5) The National Commissioner must ensure that performance assessments are finalised within six months after the end of a performance cycle.
- (6) The National Commissioner must ensure that accurate records of all performance assessments and the outcomes thereof are kept.
- (7) An *employee* acting in a higher position must be assessed at the level of his or her permanent position.
- (8) The incentive of an *employee* acting in a higher position must be calculated at the level of his or her permanent position, regardless of whether or not an acting allowance was paid.

## **52. OUTCOME AND COMMUNICATION OF ASSESSMENT RESULTS**

- (1) The commander of the *employee* must in writing inform the *employee* of the outcome of the assessment and, if the assessment is unsatisfactory, of the reasons for that assessment.
- (2) An *employee* who is not satisfied with the outcome of his or her assessment, may refuse to sign it.
- (3) The commander of the *employee* must inform the *employee* of the appeal procedure to follow if the *employee* is not satisfied with the outcome of his or her assessment.
- (4) At any appeal against the outcome of his or her assessment, the *employee* may be assisted by a fellow *employee* or a representative of a trade union forming part of the Safety and Security Sectoral Bargaining Council.
- (5) The National Commissioner may communicate the performance assessment results of an *employee* to a person not employed in the Service only if the *employee* gives his or her written consent.

## **53. MANAGING UNSATISFACTORY PERFORMANCE**

In the case of unsatisfactory performance, the commander must —

- (a) provide systematic remedial or developmental support to assist the *employee* to improve his or her performance; or
- (b) if the performance is so unsatisfactory as to be poor and the desired improvement cannot be effected, consider to initiate the process to have

the *employee* discharged on account of his or her unfitness or incapacity to carry out his or her duties.

**54. PERFORMANCE INCENTIVE AND AWARD SCHEME**

- (1) The National Commissioner must establish a performance incentive and award scheme for *employees* or any category of *employees* of the Service and from time to time determine a percentage of the remuneration budget of the Service that may not be exceeded for the purpose of granting performance incentives.
- (2) To establish a performance incentive and award scheme for *employees*, the National Commissioner must —
  - (a) in writing determine the nature, rules and control measures of the scheme;
  - (b) communicate the nature and rules of the scheme to all *employees*;
  - (c) ensure that *employees* who implement the quality and quantity control measures of the scheme, are not entrusted with the implementation of that scheme in relation to themselves; and
  - (d) include provisions for the introduction of non-financial incentives if deemed appropriate.

**55. SUGGESTIONS, IMPROVEMENTS AND INNOVATIONS**

- (1) If an *employee* makes a suggestion, improvement or innovation of exceptional value to the Service or the public service as a whole, the State shall have the right to make use of any such suggestion, improvement or innovation without the *employee* being entitled to any compensation for such suggestion, improvement or innovation.
- (2) If an *employee* makes a suggestion, improvement or innovation of exceptional value to the Service or the public service as a whole or has exceptional ability, a special qualification or has rendered meritorious service to the Service or the public service as a whole the National Commissioner may, reward the *employee* through —
  - (a) a non-monetary reward;
  - (b) a non-pensionable cash award to be determined by the National Commissioner; or
  - (c) such a non-monetary reward and a cash award.

**Part 6: Training**

**56. INSTITUTIONAL ARRANGEMENTS REGARDING TRAINING, EDUCATION AND DEVELOPMENT**

- (1) The National Commissioner must oversee and ensure the participation of the Service in any institution aimed at promoting training in the public service.
- (2) The National Commissioner must, where appropriate, ensure that any institution responsible for training in the Service gains accreditation from the South African Qualifications Authority in accordance with the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995).

- (3) The National Commissioner must ensure that funds are available for the training and development of *employees*.
- (4) A commander must provide training and development opportunities for *employees* under his or her command in accordance with the training plan of the Service.
- (5) A member of the SMS must avail himself or herself to train *employees* in the Service or to present training.
- (6) A training institution offering any training directed by the National Commissioner must issue certificates upon the successful completion thereof.

**57. OCCUPATIONAL SPECIFIC COMPETENCIES AND TRAINING**

The National Commissioner must determine the required competencies and training for various occupational categories or specific *employees* in the Service.

**58. TRAINING ASSISTANCE**

- (1) If it will contribute to the performance of the work of the Service, the National Commissioner may grant any financial or other assistance for any study, training or research where —
  - (a) he or she has requested an *employee* to undertake such study, training or research; or
  - (b) the *employee* has requested such assistance.
- (2) The National Commissioner may grant any financial or other assistance for part-time or full-time activities at either local or international institutions. He or she may also grant assistance for studies and training through training interventions, such as short courses, congresses, symposia, seminars, conferences, workshops, lectures and study tours.
- (3) The National Commissioner may —
  - (a) grant bursaries for *higher education* and training to both serving and prospective *employees*, but may allocate bursaries for *general education* and *further education and training* only to serving *employees*; and
  - (b) not require contractual service in recompense for assistance received where an *employee* receives assistance for *general education* or *further education and training*.
- (4) The National Commissioner may defray any expenses associated with study, research or training, but need not cover the full expenses.
- (5) A serving *employee* must retain his or her salary, which shall count as part of the financial assistance from the Service, during any study, research or training.
- (6) Subject to *the Treasury Regulations*, the National Commissioner may waive the whole or any part of study debts.

- (7) Where the National Commissioner provides a bursary for *higher education* to an *employee* or prospective *employee* —
- (a) the bursary holder must enter into a contract with the Service in terms of which he or she —
- (i) in the case of a bursary holder who undertakes full-time study, will redeem the bursary by serving the Service on the basis of one year for each year of study, or any part thereof; or
- (ii) in the case of a bursary holder who undertakes part-time study will redeem the bursary by serving the Service for at least one year after attaining the relevant qualification; and
- (b) a bursary holder who undertakes full-time study, must commence serving the Service after he or she has met all the requirements for the attainment of the relevant qualification.
- (8) An *employee* who fails to complete the relevant qualification must redeem any obligation in terms of the contract either through service or repayment of the bursary amount plus interest at a rate determined by the Minister of Finance in terms of section 80(1)(b) of the *Public Finance Management Act*.
- (9) In the case of an *employee* who studies or undergoes training for short periods, the National Commissioner may, as a precondition for providing assistance, require the *employee* to enter into a contract with the Service in terms of which he or she will serve the Service for a commensurable period.
- (10) For the purpose of this regulation —
- “further education and training”** means further education and training as defined in section 1 of the Further Education and Training Act, 2006 (Act No. 16 of 2006);
- “general education”** means the compulsory school attendance phase as referred to in section 3 of the South African Schools Act, 1996 (Act No. 84 of 1996); and
- “higher education”** means higher education as defined in section 1 of the Higher Education Act, 1997 (Act No. 101 of 1997).

#### **Part 7: Labour matters**

#### **59. MANDATING AND MANAGEMENT OF NEGOTIATIONS**

- (1) The *Minister* may enter into an agreement on a matter of mutual interest only if he or she —
- (a) is responsible for managing collective bargaining on behalf of the State as employer in that forum;
- (b) has authority to deal with the matter concerned; and
- (c) meets the fiscal requirements contained in regulation 60.
- (2) Collective bargaining shall be regulated by the *Labour Relations Act*.
- (3) On matters specific to the Service, the *Minister* must manage bargaining in the Safety and Security Sectoral Bargaining Council.

- (4) The *Minister* must provide the Minister of Public Service and Administration with a copy of any collective agreement concluded in the Safety and Security Sectoral Bargaining Council.

**60. MATTERS WITH FISCAL IMPLICATIONS**

Subject to regulation 59, the *Minister* may enter into a collective agreement in the Safety and Security Sectoral Bargaining Council on any matter that has financial implications only if —

- (a) he or she has a realistic calculation of the costs involved in both the current and the subsequent fiscal year;
- (b) the agreement does not conflict with *the Treasury Regulations*; and
- (c) he or she can cover the cost —
  - (i) from his or her departmental budget;
  - (ii) on the basis of a written commitment from the Treasury to provide additional funds; or
  - (iii) from the budgets of other departments or agencies with their written agreement and Treasury approval.

## CHAPTER 5

### SENIOR MANAGEMENT SERVICE (SMS)

#### 61. ESTABLISHMENT OF SMS

- (1) The National Commissioner must create an appropriate number of posts at senior management level.
- (2) The persons occupying *SMS* posts must be managed as a public service-wide pool of scarce resources to be utilised in the best interest of the Service.
- (3) The conditions of service of the persons occupying *SMS* posts must accord with their positions as high-level managers or specialists, while employment practices must be fair and take into account the need to redress the imbalances of the past.

#### 62. COMPOSITION OF SMS AND GRADING OF POSTS

- (1) The number of members of the *SMS* and their functions must be determined by the National Commissioner through the processes of planning and work organisation.
- (2) The grading of *SMS* posts must be determined through the *job* evaluation system determined by the National Commissioner.

#### 63. FLEXIBLE EMPLOYMENT PRACTICES WITHIN A FRAMEWORK OF UNIFORM NORMS AND STANDARDS

- (1) The National Commissioner must appoint and utilise members of the *SMS* within a framework of uniform norms and standards.
- (2) *The Act, these Regulations* and the directives issued and determinations made by the *Minister*, constitute the framework of uniform norms and standards applicable to members of the *SMS*.
- (3) *These Regulations* apply to members of the *SMS*, unless otherwise indicated. If any conflict arises between a provision of this Chapter and a provision of any other Chapter of *these Regulations*, the provisions of this Chapter shall prevail.

#### 64. HANDBOOK FOR SMS

The *Minister* may include any or all of the determinations, directives, guidelines and provisions applicable to the *SMS* in a Handbook for the *SMS*.

#### 65. ADVERTISING OF POSTS AND EMPLOYMENT EQUITY

The National Commissioner may issue directives on how *SMS* posts are to be advertised and the application forms to be utilised and targets to be achieved in promoting a *SMS* that is broadly representative of the South African people, including representation according to race, gender and disability.



**66. COMPETENCY-BASED SELECTION**

The National Commissioner may issue directives on the desired managerial and leadership competencies of members of the SMS and the selection processes for the filling of SMS posts.

**67. NURTURING OF TALENT TO SUSTAIN SMS**

The National Commissioner may introduce programmes to identify and nurture talented individuals for possible appointment to SMS posts.

**68. EMPLOYMENT CONTRACTS**

- (1) A person newly appointed to the SMS, other than the National Commissioner, must, within two months of his or her date of appointment conclude a contract of employment, which must be based on the provisions of the contracts set out in Annexure 2 or 3.
- (2) The National Commissioner, must, as soon as reasonably possible after his or her date of appointment, conclude a contract of employment, which must be based on the provisions of the contract set out in Annexure 1.

**69. PERFORMANCE MANAGEMENT AND DEVELOPMENT**

- (1) Any person appointed to a post in the SMS must enter into a performance agreement within two months of his or her date of appointment and thereafter within four months of the beginning of each *financial year*.
- (2) The National Commissioner must, as soon as reasonably possible after his or her date of appointment and the beginning of each *financial year*, enter into a performance agreement.
- (3) Such performance agreement must —
  - (a) assist the member of the SMS to define his or her key responsibilities and priorities;
  - (b) encourage improved communication between that member and the person he or she reports to; and
  - (c) enable the person that member reports to, to assess his or her work and provide appropriate support.

**70. DETERMINATION OF CONDITIONS OF SERVICE**

- (1) The *Minister* must annually make determinations regarding the conditions of service of members of the SMS.
- (2) Any determination made by the *Minister* in regard to the conditions of service of members of the SMS, must take into account the advice of the panel established in terms of regulation 71.

**71. PANEL FOR REVIEW OF CONDITIONS OF SERVICE OF MEMBERS OF SMS****(1) Establishment of Panel**

- (a) The *Minister* must once every three years appoint a panel to inquire into conditions of service of members of the SMS and to advise him or her accordingly.

- (b) The *Minister* must announce the names of the members of the panel, their terms of reference and terms of office by a notice in the *Gazette*.

**(2) Constitution of Panel**

- (a) The panel must consist of such number of persons as determined by the *Minister*.
- (b) Persons must be appointed to the panel on the basis of their knowledge of, or a vested interest in, matters relating to the functions of the panel.
- (c) A member of the panel must serve in a part-time capacity.
- (d) The *Minister* must designate one member as chairperson and another as deputy chairperson of the panel.
- (e) If the chairperson is absent or for any reason is unable to act as chairperson, the deputy chairperson must act as the chairperson of the panel.

**(3) Remuneration of members**

Members of the panel who are appointed on the basis of their knowledge of matters relating to the functions of the panel must be remunerated on the basis of and according to the scales approved by the National Treasury.

**(4) Meetings of Panel**

- (a) The panel must meet at a time and place determined by the chairperson of the panel.
- (b) The decision of a majority of members of the panel present at a meeting of the panel, constitutes a decision of the panel, and, in the event of an equality of votes on any matter, the person presiding at the meeting concerned has a casting vote in addition to that person's deliberative vote.

**(5) Administration of Panel**

The National Commissioner must designate such *employees* of the Service as may be necessary to perform the work incidental to the functions of the panel.

**72. DEPLOYMENT OF MEMBERS OF SMS**

- (1) The *Minister* may, on his or her own initiative, facilitate —
  - (a) the transfer of a member of the *SMS* from one post or position to another post or position;
  - (b) the transfer of a member of the *SMS* from one department to another department in accordance with section 14 of the *Public Service Act*; or
  - (c) the secondment of a member of the *SMS* in accordance with section 39 of the *Act*.
- (2) A vacant post in the *SMS* that is to be filled through a transfer as contemplated in subparagraphs (1)(a) or (b), need not be advertised in terms of regulation 65.
- (3) The personal circumstances of a member of the *SMS* must be taken into account before she or he is transferred or seconded in terms of paragraph (1).

**73. TRAINING AND DEVELOPMENT PRINCIPLES**

The National Commissioner must oversee the development of programmes to equip members of the SMS for their responsibilities. The programmes to be developed must be based on the competencies required of members of the SMS in terms of both their current and future responsibilities.

**74. STANDARD TRAINING PROGRAMMES**

The National Commissioner must —

- (a) identify the generic managerial and leadership training needs of members of the SMS;
- (b) arrange that standard courses and programmes be developed on the basis of those training needs; and
- (c) continuously evaluate those courses and programmes with due regard to their relevance and value for money.

**75. ETHICS AND CONDUCT**

(1) Members of the SMS must —

- (a) display the highest possible standards of ethical conduct;
- (b) set an example to their subordinates and maintain high levels of professionalism and integrity in their interaction with political office-bearers and the public;
- (c) ensure that they minimise conflicts of interest and that they put the public interest first in the performance of their functions; and
- (d) avoid any conflict of interest that may arise in representing the interests of the Service and being a member of a trade union, as defined in section 213 of the *Labour Relations Act*.

(2) The *Minister* may, after consultation with the Public Service Commission, make determinations to promote ethical conduct amongst members of the SMS and to supplement the South African Police Service Code of Conduct Regulations and the Financial Disclosure Framework contained in Chapter 2.

(3) The *Minister* may provide such guidance and assistance to members of the SMS as he or she may deem necessary to minimize conflicts of interest and to promote professional conduct.

**76. EMPLOYER-EMPLOYEE RELATIONS**

Employer-employee relations for the SMS must aim to protect the rights and interests of its members in a manner appropriate to their positions as high-level employees.

**77. MISCONDUCT AND INCAPACITY**

The *Minister* may, subject to the *Labour Relations Act*, issue directives to establish misconduct and incapacity procedures for members of the SMS.

**78. EXIT MANAGEMENT**

- (1) The termination of service of members of the *SMS* must be done in a manner that is fair to the individuals concerned and takes into account the public interests.
- (2) The *Minister* may issue directives and provide guidelines on the procedures to be followed and benefits to be paid when terminating the services of members of the *SMS*.

## CHAPTER 6

### REPEAL, SAVING AND TRANSITIONAL ARRANGEMENTS

#### 79. REPEAL OF REGULATIONS AND SAVING

- (1) The South African Police Service Employment Regulations, 1999 (published in Government Notice No. R. 1 of 5 January 2001), are hereby repealed.
- (2) Anything done under the South African Police Service Employment Regulations, 1999, which could be done under a provision of *these Regulations*, shall be deemed to have been done under that provision.
- (3) Any process, provided for in the South African Police Service Employment Regulations, 1999 (published by Government Notice No. R. 1 of 5 January 2001), that was initiated prior to the coming into operation of *these Regulations* but was not yet completed at the time of the coming into operation of *these Regulations*, may be proceeded with and be finalized in terms of the South African Police Service Employment Regulations, 1999 as if *these Regulations* had not come into operation.

#### 80. TRANSITIONAL ARRANGEMENTS

Notwithstanding the provisions of regulation 38, all vacancies advertised before the coming into operation of *these Regulations* in respect of posts to be filled on or after that date, shall be filled in accordance with the provisions, prescripts and requirements applicable and in force immediately before that date.

#### 81. SHORT TITLE AND COMMENCEMENT

*These Regulations* shall be called the South African Police Service Employment Regulations, 2008, and shall come into operation on the date of publication thereof in the Gazette.

## ANNEXURE 1

## EMPLOYMENT CONTRACT FOR THE NATIONAL COMMISSIONER

**EMPLOYMENT CONTRACT**  
FOR THE  
**NATIONAL COMMISSIONER**  
OF THE  
**SOUTH AFRICAN POLICE SERVICE**

**ENTERED INTO**

by and between the

**GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA**

herein represented by

\_\_\_\_ (full name)

in his or her capacity as

**PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA**

(hereinafter referred to as the Employer)

AND

\_\_\_\_ (full name)

(hereinafter referred to as the Employee)

**WHEREAS** the parties have agreed to enter into a Contract which will govern the terms and conditions of employment of the Employee by the Employer,

**NOW THEREFORE** the parties agree as follows:

**1. Appointment**

1.1 In terms of section 207 of the Constitution, the Employer hereby appoints the Employee as National Commissioner of the South African Police Service and the Employee hereby accepts the appointment.

1.2 This Contract shall be in force for the period commencing on the \_\_\_\_\_ day of \_\_\_\_\_ and ending on the \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_ and is entered into in terms of section 7 of the South African Police Service Act, 1995 (Act No. 68 of 1995), hereinafter referred to as "the Act".

- 1.3 During the period of this Contract, the Employee shall —
- 1.3.1 serve the Employer as National Commissioner of the South African Police Service and Head of the Department of Safety and Security at such place as may from time to time be directed by the Employer;
- 1.3.2 be responsible for the efficient management and administration of the South African Police Service (hereinafter referred to as the Service) as contemplated in section 207(2) of the Constitution, the Act, section 7(3)(b) read with section 7(4) of the Public Service Act, 1994 (Proclamation No. 103 of 1994) and as set out in the performance agreement referred to in clause 6.1; and
- 1.3.3 be responsible for exercising the powers and performing the functions specifically entrusted to the office of the National Commissioner of the South African Police Service and the Head of the Department of Safety and Security, in particular as set out in the Constitution, the Act or any other law.
- 1.4 The employment of the Employee is subject to —
- (a) the submission by the Employee of certificates of his or her academic and professional qualifications and service certificates; and
  - (b) a security clearance of top secret being obtained.

## **2. Remuneration**

- 2.1 The remuneration that the Employee shall receive as from the date of assuming duty as stated in clause 1, shall be as agreed from time to time in writing between the parties.
- 2.2 The salary and benefits will be payable in twelve (12) equal monthly instalments.
- 2.3 The general conditions of service and benefits of the Employee shall be as stipulated and provided for by the Act and these Regulations. The parties to this Contract accept that the general conditions of service and benefits may be changed from time to time by means of collective agreements or by determinations and directives by the Minister for Safety and Security.
- 2.4 Subject to section 7(4)(b) of the Public Service Act, 1994, the Employee will also qualify for participation in other benefits and special privileges normally bestowed upon a Head of Department as set out in this Contract or other applicable prescripts.
- 2.5 When required from the Employee to perform official duties away from his or her headquarters, the Employee shall travel at the expense of the Employer and shall be paid a subsistence and travelling allowance as may from time to time be determined.

### **3. Termination of employment**

- 3.1 The term of office of the Employee may be terminated as provided for in the Act.
- 3.2 Pension and other payable benefits are directly linked to the specific section of the Act which is utilised, as regulated by the Government Employees Pension Law, 1996 (Proclamation No. 21 of 1996), the regulations promulgated thereunder as applicable to a Head of Department and these Regulations.
- 3.3 Subject to the provisions of the Act, either party may, after consultation and agreement with the other party, terminate this Contract before the expiry of its term or an extended term by giving to the other party three months' notice of termination, which notice shall be given in writing on or before the last day of a month and take effect on the first day of the succeeding month.
- 3.4 Should notice of termination be given as contemplated in clause 3.3, the Employer has the right to require the Employee to vacate the office occupied by him or her and to leave the premises of the Department on a day stipulated by the Employer before the expiry of the three months' notice period and not to present himself or herself for duty any time thereafter.
- 3.5 Should the Employer invoke the provisions of clause 3.4, the Employee will still be entitled to all such benefits as contained in the relevant prescripts.

### **4. Renewal and extension of term of office**

- 4.1 The Employer shall, in writing, inform the Employee at least two calendar months prior to the expiry of the term contemplated in clause 1 (above) whether he or she proposes to retain such an Employee in service for any extended period not exceeding 5 years (60 calendar months). If the Employee is so informed, he or she shall in writing inform the Employer, within one calendar month from the date of that communication, of his or her acceptance or not of such extended employment.
- 4.2 In the event that agreement is reached that the Employee shall enter into a further contract on termination or completion of this Contract, the continued service of the Employee will be recognised under the new contract so as to avoid any break of service and any accrued or *pro rata* entitlement will be carried forward into the new contract.
- 4.3 Should the Employer not renew the contract period beyond the initial period as stated in clause 1 (above), the Employee shall be entitled to the pension and other benefits directly linked to the specific section of the Act in terms of which his or her services are terminated.

### **5. Conduct**

- 5.1 The Employee undertakes —
- 5.1.1 not to, without the applicable consent and during his or her employment or at any time thereafter, disclose any record, as defined in section 1 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), that must or may be



refused upon a request for access to a record of a public body in terms of that Act;

- 5.1.2 not to, during his or her employment or at any time thereafter, use any record so defined and obtained as a result of his or her employment, to the detriment of the State, except if it is used in the exercise or protection of any right, or legitimate expectation, conferred by law;
- 5.1.3 if so requested by the Employer during his or her employment or on the termination of his or her employment, to submit to the Employer any record so defined and in the Employee's possession as a result of his or her employment and not to retain any copies of or extracts from such record, except with consent of the Employer; and
- 5.1.4 to comply with the prescribed Code of Conduct.

5.2 The Employee —

- 5.2.1 acknowledges that he or she fully understands the implications of this clause;
- 5.2.2 agrees that this clause is, after taking all relevant circumstances into account, reasonable and necessary for the proper protection of the interests of the Employer and that if he or she should at any time dispute the reasonableness of this clause, the onus of proving such unreasonableness will be upon him or her; and
- 5.2.3 acknowledges that he or she enters into this Contract freely and voluntarily and that no circumstances exist for him or her to allege, either now or at any future time, that he or she was at a disadvantage in agreeing to the restraints set out in this clause or was other than in an equal bargaining position with the Employer in agreeing to such restraints.

**6. Additional terms and conditions**

The Employer and the Employee hereby agree to the following additional terms and conditions as contemplated in section 12(4) of the Public Service Act, 1994 (delete if not applicable):

- 6.1 The Employee shall enter into an annual performance agreement with the Minister, linked to a specific financial year, which shall include at least the following:
  - 6.1.1 Salary increases will be based on the performance of the Employee. Performance will be assessed in accordance with his or her responsibilities and key performance areas contained in his or her performance agreement and the extent to which the Employee complied therewith. Salary increases for the Employee will be based on individual consultation. The Employer and the Employee must consult annually regarding his or her salary increase and cash bonus within the restrictions of the budget based on the performance of the Employee. In consulting on the salary increase and cash bonus of the

Employee, the guidelines forwarded by the Minister for Public Service and Administration should always be borne in mind.

- 6.1.2 An annual performance agreement provided for in terms of clause 6.1 linked to a specific financial year, stating clear performance areas/criteria/deliverables of the Department and the Employee must be entered into for the duration of this Contract. As performance agreements are linked to financial years, it should be entered into and presented to the Employer at the latest on 30 April every year for the duration of this Contract. The Employee should enter into his or her first performance agreement not later than three months after assumption of duty.
- 6.1.3 The performance agreement shall be revised if, at any time during its term, the work or environment of the Department or the Service is so altered (whether as a result of Government or management decision or otherwise) that the contents of it are no longer appropriate.
- 6.1.4 This Contract is directly linked to the performance agreement referred to in clause 6.1. In the event that the Employee does not achieve the objectives/milestones of the Department as set out in the performance agreement, the Employee acknowledges that the Employer may deal with him or her, in accordance with the relevant labour legislation and any other directives issued by the Minister.

## **7. General**

### **7.1 Good faith**

In the implementation of this Contract, the parties undertake to observe the utmost good faith and they warrant in their dealing with each other that they will neither do nor refrain from doing anything which might prejudice or detract from the rights, assets or interests of the other of them.

### **7.2 Applicability of the Act and the Public Service Act**

Any matters arising from this Contract, which are not specifically provided for herein, shall be dealt with in accordance with the provisions of the Act, the Public Service Act, 1994, regulations issued under these Act, and any other legal provisions applicable to the Employee.

### **7.3 Interpretation of this Contract**

The interpretation of this Contract shall be governed by the laws and legal principles applicable in the Republic of South Africa.

### **7.4 Jurisdiction of courts**

The Employee submits to the jurisdiction of the Courts of the Republic of South Africa in the event of any legal proceedings arising from the provisions of this Contract.

### **7.5 Variation**

- 7.5.1 This Contract constitutes the whole of the agreement between the parties to this Contract relating to the subject matter of this Contract, and save as otherwise

provided, no amendment, alteration, addition or variation of any term of this Contract will be of any force or effect unless reduced to writing and signed by the parties to this Contract.

- 7.5.2 The parties agree that there are no other conditions, warranties or representations, whether oral or in writing and whether express or implied or otherwise, save those contained in this Contract, the Act, the Public Service Act, 1994, regulations issued under these Acts, collective agreements and other relevant legislation (e.g. Government Employees Pension Law, 1996).

**7.6 Waiver**

No waiver of any of the terms and conditions of this Contract will be binding for any purpose unless reduced to writing and signed by the parties to this Contract, and any such waiver will be effective only in the specific instance and for the purpose given. No failure or delay on the part of either party in exercising any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege by that party.

**8. Notice and Domicilium**

- 8.1 The parties choose as their respective *domicilium citandi et executandi* for the purpose of legal proceedings and for the purpose of giving or sending any notice provided for or necessary in terms of this Contract, the following addresses:

Employer

Employee

Physical address

Postal address

Fax Number

Provided that a party report any change to his or her address to any other physical address or postal address by written notice to the other party to that effect. Such change of address will be effective seven days after receipt of notice of the change of address.

- 8.2 All notices to be given in terms of this Contract will —

8.2.1 be given in writing; or

8.2.2 be delivered or sent by prepaid registered post or by fax; and

8.2.3 if delivered, be presumed to have been received on the date of delivery; or

8.2.4 if sent by prepaid registered post, be presumed to have been received within three working days of posting unless the contrary is proved; or

8.2.5 if sent by fax, be presumed to have been received on the first working day following the date of sending of the fax unless the contrary is proved.

SIGNED by the Employer at \_\_\_\_\_ on the \_\_\_\_\_ of  
\_\_\_\_\_

AS WITNESSES:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
**EMPLOYER**

SIGNED by the Employee at \_\_\_\_\_ on the \_\_\_\_\_ of  
\_\_\_\_\_

AS WITNESSES:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
**EMPLOYEE**

## ANNEXURE 2

**PERMANENT EMPLOYMENT CONTRACT FOR MEMBERS OF THE SENIOR  
MANAGEMENT SERVICE****PERMANENT EMPLOYMENT CONTRACT  
FOR THE  
SENIOR MANAGEMENT SERVICE  
OF THE  
SOUTH AFRICAN POLICE SERVICE**

**ENTERED INTO**  
by and between the

**GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA**  
herein represented by

\_\_\_\_\_ (full name)

in his or her capacity as

\_\_\_\_\_  
(hereinafter referred to as the Employer)

**AND**

\_\_\_\_\_ (full name)

(hereinafter referred to as the Employee)

**WHEREAS** the parties have agreed to enter into a Contract which will govern the terms and conditions of employment of the Employee by the Employer,

**NOW THEREFORE** the parties agree as follows:

**1. Appointment**

- 1.1 The Employer hereby appoints the Employee on a permanent basis in accordance with regulation 68 of the South African Police Service Employment Regulations, 2008 (hereinafter referred to as the Regulations) as \_\_\_\_\_. The Employee agrees and accepts the appointment as a member of the SMS commencing on the \_\_\_\_\_ day of \_\_\_\_\_. The Employee's employment and conditions of service shall be governed by the South African Police Service Act, 1995 (Act No. 68 of 1995)

(hereinafter referred to as the Act), the Regulations, any relevant collective agreements or other legal provisions applicable to the Employee.

1.2 In terms of this Contract —

1.2.1 the Employee shall serve the Employer as \_\_\_\_\_ in the South African Police Service (hereinafter referred to the Service) at \_\_\_\_\_ or at such other place as may from time to time be determined by the Employer or any/or other person duly authorised thereto in this respect;

1.2.2 the Employee will hold the rank of \_\_\_\_\_ and will be responsible for the duties and functions set out in the Performance Agreement referred to in clause 5;

1.2.3 the employment of the Employee is subject to —

- (a) the submission by the Employee of certificates of his or her academic and professional qualifications and service certificates; and
- (b) a security clearance of (state confidential, secret or top secret) being obtained.

1.2.4 the Employee may be required to perform other duties or to work at other places that may reasonably be required by the Employer; and

1.2.5 any matter arising, which are not specifically provided for herein, shall be dealt with in accordance with the provisions of the Act, the Regulations, relevant collective agreements and any other legal provisions applicable to the Employee.

**2. Remuneration**

2.1 The remuneration that the Employee shall receive as from the date of assuming duty as stated in clause 1, shall be as agreed from time to time in writing between the parties.

2.2 The salary and benefits will be payable in 12 equal monthly instalments.

2.3 The general conditions of service and benefits of the Employee shall be as stipulated and provided for by the Act and the Regulations. The parties to this Contract accept that the general conditions of service and benefits may be changed from time to time by means of relevant collective agreements determinations and directives by the Minister for Safety and Security.

2.4 When required from the Employee to perform official duties away from his or her headquarters, the Employee shall travel at the Employer's expense and shall be paid a subsistence and travelling allowance as may from time to time be determined.

**3. Termination of employment**

3.1 This Contract may be terminated under the following circumstances:

3.1.1 on reaching the prescribed retirement age (section 45(1)(a) of the Act);

- 3.1.2 premature retirement upon own request by the Employee (section 45(2) of the Act);
- 3.1.3 discharge in terms of section 35 of the Act;
- 3.1.4 voluntary resignation; or
- 3.1.5 death.
- 3.2 Pension and other payable benefits are directly linked to the specific section of the Act which is utilised, as regulated by the Government Employees Pension Fund Law, 1996, the regulations promulgated thereunder, as applicable to members of the SMS, and these Regulations.
- 3.3 Should notice of termination be given in cases contemplated in clause 3.1.3, the Employer has the right to require the Employee to vacate the office occupied by him or her and to leave the premises of the Service before the expiry of the notice period on a day stipulated by the Employer and not to present himself or herself for duty any time thereafter.
- 3.4 Should the Employer invoke the provisions of clause 3.3, the Employee will still be entitled to all such benefits as contained in the relevant prescripts.
- 3.5 In the case of inefficiency and misconduct, the Employer may deal with the Employee in accordance with the relevant legislation.
- 4. **Conduct**
- 4.1 The Employee undertakes —
  - 4.1.1 not to, without the applicable consent and during his or her employment or at any time thereafter, disclose any record, as defined in section 1 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), that must or may be refused upon a request for access to a record of a public body in terms of that Act;
  - 4.1.2 not to, during his or her employment or at any time thereafter, use any record so defined and obtained as a result of his or her employment, to the detriment of the State, except if it is used in the exercise or protection of any right, or legitimate expectation, conferred by law;
  - 4.1.3 if so requested by the Employer during his or her employment or on the termination of his or her employment, to submit to the Employer any record so defined and in the Employee's possession as a result of his or her employment and not to retain any copies of or extracts from such record, except with consent of the Employer; and
  - 4.1.4 to comply with the prescribed Code of Conduct.
- 4.2 The Employee —

- 4.2.1 acknowledges that he or she fully understands the implications of this clause;
- 4.2.2 agrees that this clause is, after taking all relevant circumstances into account, reasonable and necessary for the proper protection of the interests of the Employer and that if he or she should at any time dispute the reasonableness of this clause, the onus of proving such unreasonableness will be upon him or her; and
- 4.2.3 acknowledges that he or she enters into this Contract freely and voluntarily and that no circumstances exist for him or her to allege, either now or at any future time, that he or she was at a disadvantage in agreeing to the restraints set out in this clause or was other than in an equal bargaining position with the Employer in agreeing to such restraints.

**5. Additional terms and conditions**

- 5.1 The Employee shall enter into an annual performance agreement with the Employer, linked to a specific financial year, which shall include at least the following:
  - 5.1.1 Salary increases will be based on the performance of the Employee. Performance will be assessed in accordance with his or her responsibilities and key performance areas contained in his or her performance agreement and the extent to which the Employee complied therewith, as well as any directives which the Minister for Safety and Security may issue. Salary increases for the Employee will be based on individual consultation. The Employee and the Employer must consult annually regarding his or her salary increase and cash bonus within the restrictions of the budget based on the performance of the Employee. The salary increase and cash bonus of the Employee, shall be based on determinations, directives and guidelines issued by the Minister for Safety and Security.
  - 5.1.2 An annual performance agreement provided for in terms of clause 5.1, linked to a specific financial year, stating clear performance areas/criteria/deliverables of the Service and the Employee must be entered into. As performance agreements are linked to financial years, it should be entered into at the latest on 30 April every year. The Employee should enter into his or her first performance agreement not later than two months after assumption of duty.
  - 5.1.3 The performance agreement shall be revised if, at any time during the period of its duration, the work or environment of the Service (unit, directorate, branch, component, etc.) is so altered (whether as a result of Government or management decision or otherwise) that the contents of it are no longer appropriate.
  - 5.1.4 This Contract is directly linked to the performance agreement referred to in clause 5.1. In the event that the Employee does not perform satisfactorily in relation to the requirements of his or her performance agreement, the Employee acknowledges that the Employer may deal with him or her, in accordance with



the procedure contained in the relevant legislation and any other directives issued by the Minister.

**6. General**

**6.1 Good faith**

In the implementation of this Contract, the parties undertake to observe the utmost good faith and they warrant in their dealing with each other that they will neither do anything nor refrain from doing anything that might prejudice or detract from the rights, assets or interests of each other.

**6.2 Applicability of the Act**

Any matters arising from this Contract, which are not specifically provided for herein, shall be dealt with in accordance with the provisions of the Act, the Regulations, relevant collective agreements and other relevant legislation.

**6.3 Interpretation of this Contract**

The interpretation of this Contract shall be governed by the laws and legal principles applicable in the Republic of South Africa.

**6.4 Jurisdiction of courts**

The Employee submits to the jurisdiction of the Courts of the Republic of South Africa in the event of any legal proceedings arising from the provisions of this Contract.

**6.5 Variation**

6.5.1 The Contract constitutes the whole of the agreement between the parties to this Contract relating to the subject matter of this Contract, and save as otherwise provided, no amendment, alteration, addition or variation of any right, term or condition of this Contract will be of any force or effect unless reduced to writing and signed by the parties to this Contract.

6.5.2 The parties agree that there are no other conditions, warranties or representations, whether oral or written and whether expressed or implied or otherwise, save those contained in this Contract, the Act, these Regulations, relevant collective agreements and other relevant legislation (e.g. Government Employees Pension Fund Law, 1996).

**6.6. Waiver**

No waiver of any of the terms and conditions of this Contract will be binding for any purpose unless reduced to writing and signed by the party giving the same, and any such waiver will be effective only in the specific instance and for the purpose given. No failure or delay on the part of either party in exercising any right, power or privilege precludes any other or further exercise thereof or the exercise of any other right, power or privilege.

**7. Notice and Domicilium**

- 7.1 The parties choose as their respective *domicilium citandi et executandi* for the purpose of legal proceedings and for the purpose of giving or sending any notice provided for or necessary in terms of this Contract, the following addresses:

Employer  
Physical address  
Postal address  
Fax Number

Employee

Provided that a party reports any change of his or her domicilium to any other physical address, postal address or fax number by written notice to the other party. Such change of address will be effective seven days after receipt of notice of the change of domicilium.

- 7.2 All notices to be given in terms of this Contract will —

7.2.1 be given in writing; or

7.2.2 be delivered or sent by prepaid registered post or by fax; and

7.2.3 if delivered, be presumed to have been received on the date of delivery; or

7.2.4 if sent by prepaid registered post, be presumed to have been received within three working days of posting unless the contrary is proved; or

7.2.5 if sent by fax, be presumed to have been received on the first working day following the date of sending of the fax unless the contrary is proved.

SIGNED by the Employer at \_\_\_\_\_ on the \_\_\_\_\_ of

AS WITNESSES:

\_\_\_\_\_

\_\_\_\_\_  
**EMPLOYER**

SIGNED by the Employee at \_\_\_\_\_ on the \_\_\_\_\_ of

AS WITNESSES:

\_\_\_\_\_

\_\_\_\_\_  
**EMPLOYEE**

## ANNEXURE 3

**EMPLOYMENT CONTRACT FOR A FIXED TERM OR A SPECIFIC PROJECT FOR  
MEMBERS OF THE SENIOR MANAGEMENT SERVICE****FIXED TERM EMPLOYMENT CONTRACT  
FOR THE  
SENIOR MANAGEMENT SERVICE  
OF THE  
SOUTH AFRICAN POLICE SERVICE****ENTERED INTO**

by and between the

**GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA**  
herein represented by

\_\_\_\_ (full name)

in his or her capacity as

\_\_\_\_\_  
(hereinafter referred to as the Employer)  
**AND**

\_\_\_\_ (full name)

(hereinafter referred to as the Employee)

**WHEREAS** the parties have agreed to enter into a Contract which will govern the terms and conditions of employment of the Employee by the Employer,**NOW THEREFORE** the parties agree as follows:**1. Appointment**

- 1.1 The Employer hereby appoints the Employee on a temporary basis in accordance with regulation 68 of the South African Police Service Employment Regulations, 2008. (hereinafter referred to as the Regulations) as \_\_\_\_\_. The Employee agrees and accepts the appointment as member of the SMS. The appointment is for the period commencing on the \_\_\_\_\_ day of \_\_\_\_\_ and ending on the \_\_\_\_\_ day of \_\_\_\_\_. The Employee's employment and conditions of service shall be governed by the South African Police Service Act, 1995 (Act No. 68 of 1995)

(hereinafter referred to as the Act), Regulations, relevant collective agreements and any other legal provisions applicable to the Employee.

1.2 In terms of this Contract —

1.2.1 the Employee shall serve the Employer as \_\_\_\_\_ in the South African Police Service, (hereinafter referred to as the Service) at \_\_\_\_\_ or at such place as may from time to time be determined by the Employer or any other person duly authorised thereto in this respect;

1.2.2 the Employee will hold the rank of \_\_\_\_\_ and will be responsible for the duties and functions set out in the Performance Agreement referred to in clause 5;

1.2.3 the employment of the Employee is subject to —  
(a) the submission by the Employee of certificates of his or her academic and professional qualifications and service certificates; and  
(b) a security clearance of (state confidential, secret or top secret) being obtained.

1.2.4 the Employee may be required to perform other duties or to work at other places that may reasonably be required by the Employer; and

1.2.5 any matter arising, which are not specifically provided for herein, shall be dealt with in accordance with the provisions of the Act, the Regulations and any other legal provisions applicable to the Employee.

**2. Remuneration**

2.1 The remuneration that the Employee shall receive as from the date of assuming duty as stated in clause 1, shall be as agreed from time to time in writing between the parties.

2.2 The salary and benefits will be payable in twelve (12) equal monthly instalments.

2.3 The general conditions of service and benefits of the Employee shall be as stipulated and provided for by the Act and the Regulations. The parties to this Contract accept that the general conditions of service and benefits may be changed from time to time by means of relevant collective agreements and determinations and directives by the Minister for Safety and Security.

2.4 When required from the Employee to perform official duties away from his or her headquarters, the Employee shall travel at the Employer's expense and shall be paid a subsistence and travelling allowance as may from time to time be determined.

**3. Termination of employment**

3.1 The term of office of the Employee may be terminated in the following ways:

- 3.1.1 on completing a term or extended term of office;
- 3.1.2 discharge in terms of section 35 of the Act; or
- 3.1.3 death.
- 3.2 Pension and other payable benefits are directly linked to the specific section of the Act which is utilised, as regulated by the Government Employees Pension Fund Law, 1996, the regulations promulgated thereunder, as applicable to member of the SMS, and these Regulations.
- 3.3 Subject to the provisions of the Act and the Labour Relations Act, 1995, either party may, after consultation and agreement, terminate the Contract before the expiry of an original term of office or an extended term of office, by giving to the other party one month's notice of termination, which notice shall —
  - 3.3.1 be given in writing; and
  - 3.3.2 be given on or before the last day of a month and take effect on the first day of the succeeding month.
- 3.4 Should notice of termination be given as contemplated in clause 3.1.2, the Employer has the right to require the Employee to vacate the office occupied by him or her and to leave the premises of the Service before the expiry of the notice period on a day stipulated by the Employer and not to present himself or herself for duty any time thereafter.
- 3.5 Should the Employer invoke the provisions of clause 3.4, the Employee will still be entitled to all such benefits as contained in the relevant prescripts.
- 3.6 In the case of inefficiency and misconduct, the Employer may deal with the Employee, in accordance with the relevant legislation.

#### **4. Conduct**

- 4.1 The Employee undertakes —
  - 4.1.1 not to, without the applicable consent and during his or her employment or at any time thereafter, disclose any record, as defined in section 1 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), that must or may be refused upon a request for access to a record of a public body in terms of that Act;
  - 4.1.2 not to, during his or her employment or at any time thereafter, use any record so defined and obtained as a result of his or her employment, to the detriment of the State, except if it is used in the exercise or protection of any right, or legitimate expectation, conferred by law;
  - 4.1.3 if so requested by the Employer during his or her employment or on the termination of his or her employment, to submit to the Employer any record so

defined and in the Employee's possession as a result of his or her employment and not to retain any copies of or extracts from such record, except with consent of the Employer; and

4.1.4 to comply with the prescribed Code of Conduct.

4.2 The Employee —

4.2.1 acknowledges that he or she fully understands the implications of this clause;

4.2.2 agrees that this clause is, after taking all relevant circumstances into account, reasonable and necessary for the proper protection of the interests of the Employer and that if he or she should at any time dispute the reasonableness of this clause, the onus of proving such unreasonableness will be upon him or her; and

4.2.3 acknowledges that he or she enters into this Contract freely and voluntarily and that no circumstances exist for him or her to allege, either now or at any future time, that he or she was at a disadvantage in agreeing to the restraints set out in this clause or was other than in an equal bargaining position with the Employer in agreeing to such restraints.

**5. Additional terms and conditions**

5.1 The Employee shall enter into an annual performance agreement with the Employer, linked to a specific financial year, which shall include at least the following:

5.1.1 Salary increases will be based on the performance of the Employee. Performance will be assessed in accordance with his or her responsibilities and key performance areas contained in his or her performance agreement and the extent to which the Employee complied therewith, as well as any directives which the Minister for Safety and Security may issue. Salary increases for the Employee will be based on individual consultation. The Employee and the Employer must consult annually regarding his or her salary increase within the restrictions of the budget based on the performance of the Employee. The salary increase of the Employee, shall be based on determinations, directives and guidelines issued by the Minister for Safety and Security.

5.1.2 An annual performance agreement provided for in terms of clause 5.1 linked to a specific financial year, stating clear performance areas/criteria/deliverables of the Service and the Employee must be entered into. As performance agreements are linked to financial years, it should be entered into at the latest on 30 April every year. The Employee should enter into his or her first performance agreement not later than two months after assumption of duty.

5.1.3 The performance agreement shall be revised if, at any time during the period of its duration, the work or environment of the Service (unit, directorate, branch, component etc.) is so altered (whether as a result of Government or

management decision or otherwise) that the contents of it are no longer appropriate.

- 5.1.4 This Contract is directly linked to the performance agreement referred to in clause 5.1. In the event that the Employee does not perform satisfactorily in relation to the requirements of his or her performance agreement, the Employee acknowledges that the Employer may deal with him or her, in accordance with the procedure contained in the relevant legislation and any other directives issued by the Minister.

## **6. General**

### **6.1 Good faith**

In the implementation of this Contract, the parties undertake to observe the utmost good faith and they warrant in their dealing with each other that they will neither do anything nor refrain from doing anything that might prejudice or detract from the rights, assets or interests of each other.

### **6.2 Applicability of the Act**

Any matters arising from this Contract, which are not specifically provided for herein, shall be dealt with in accordance with the provisions of the Act, the Regulations, relevant Collective agreements and other relevant legislation.

### **6.3 Interpretation of this Contract**

The interpretation of this Contract shall be governed by the laws and legal principles applicable in the Republic of South Africa.

### **6.4 Jurisdiction of courts**

The Employee submits to the jurisdiction of the Courts of the Republic of South Africa in the event of any legal proceedings arising from the provisions of this Contract.

### **6.5 Variation**

- 6.5.1 The Contract constitutes the whole of the agreement between the parties to this Contract relating to the subject matter of this Contract, and save as otherwise provided, no amendment, alteration, addition or variation of any right, term or condition of this Contract will be of any force or effect unless reduced to writing and signed by the parties to this Contract.

- 6.5.2 The parties agree that there are no other conditions, warranties or representations, whether oral or written and whether expressed or implied or otherwise, save those contained in this Contract, the Act, these Regulations, relevant collective agreement and other relevant legislation (e.g. Government Employees Pension Fund Law, 1996).

### **6.6 Waiver**

No waiver of any of the terms and conditions of this Contract will be binding for any purpose unless reduced to in writing and signed by the party giving the same, and any such waiver will be effective only in the specific instance and for the purpose given. No failure or delay on the part of either party in exercising

any right, power or privilege precludes any other or further exercise thereof or the exercise of any other right, power or privilege.

**7. Notice and Domicilium**

- 7.1 The parties choose as their respective domicilium *citandi et executandi* for the purpose of legal proceedings and for the purpose of giving or sending any notice provided for or necessary in terms of this Contract, the following addresses-

Employer

Employee

Physical address

Postal address

Fax Number

Provided that a party reports any change of his or her domicilium to any other physical address, postal address or fax number by written notice to the other party. Such change of address will be effective seven days after receipt of notice of the change of domicilium.

- 7.2 All notices to be given in terms of this Contract will —

7.2.1 be given in writing; or

7.2.2 be delivered or sent by prepaid registered post or by fax; and

7.2.3 if delivered, be presumed to have been received on the date of delivery; or

7.2.4 if sent by prepaid registered post, be presumed to have been received within three working days of posting unless the contrary is proved; or

7.2.5 if sent by fax, be presumed to have been received on the first working day following the date of sending of the fax unless the contrary is proved.

SIGNED by the Employer at \_\_\_\_\_ on the \_\_\_\_\_ of \_\_\_\_\_

AS WITNESSES:

\_\_\_\_\_

EMPLOYER

\_\_\_\_\_

SIGNED by the Employee at \_\_\_\_\_ on the \_\_\_\_\_ of \_\_\_\_\_

AS WITNESSES:

\_\_\_\_\_

EMPLOYEE

\_\_\_\_\_