

# LEASE AGREEMENT

entered into and between

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**("Lessor")**

and

---

**("Lessee")**

**LEASE INFORMATION**

**i. LESSEE INFORMATION**

- a. Name: \_\_\_\_\_
- b. Identity number: \_\_\_\_\_
- c. Physical address: \_\_\_\_\_
- d. Postal address: \_\_\_\_\_
- e. Telephone number: \_\_\_\_\_
- f. Email address: \_\_\_\_\_

**ii. LESSOR INFORMATION**

- a. Name: \_\_\_\_\_
- b. Identity number: \_\_\_\_\_
- c. Physical address: \_\_\_\_\_
- d. Postal address: \_\_\_\_\_
- e. Telephone number: \_\_\_\_\_
- f. Email address: \_\_\_\_\_

**iii. LEASED PREMISES**

- a. Address: \_\_\_\_\_
- b. Erf number: \_\_\_\_\_
- c. Intended use of premises: Residential purposes
- d. Garage number(s): \_\_\_\_\_
- e. Number of Parking Bays: \_\_\_\_\_

**iv. LEASE PERIOD**

- a. Commencement Date: \_\_\_\_\_
- b. Expiry Date: \_\_\_\_\_

**v. RENTAL AMOUNTS**

- a. Deposit: \_\_\_\_\_
- b. Monthly Rental: \_\_\_\_\_
- c. Annual Escalation Percentage: \_\_\_\_\_

**vi. BANKING DETAILS**

- a. Name: \_\_\_\_\_
- b. Bank: \_\_\_\_\_
- c. Branch: \_\_\_\_\_
- d. Account No. \_\_\_\_\_
- e. Type of account: \_\_\_\_\_
- f. Reference: \_\_\_\_\_

## 1. PARTIES

The Parties to this Agreement are -

- 1.1. the Party identified in the Lease Information as the Lessor (“**the Lessor**”); and
- 1.2. the Party identified in the Lease Information as the Lessee (“**the Lessee**”).

## 2. DEFINITIONS AND INTERPRETATION

### 2.1. Definitions

In this Agreement, unless the context otherwise requires, the following capitalised terms shall have the meanings assigned to them below and cognate expressions shall have corresponding meanings:

- 2.1.1. “**Commencement Date**” means the date identified in the Lease Information, notwithstanding the Signature Date;
- 2.1.2. “**Consumer Protection Act**” means the Consumer Protection Act 68 of 2008 and its accompanying regulations;
- 2.1.3. “**Deposit**” means the deposit described in the Lease Information (if applicable);
- 2.1.4. “**Expiry Date**” means the date identified in the Lease Information, unless such date has by mutual agreement between the Parties been extended to a later date;
- 2.1.5. “**Lease Information**” means the schedule at the front of this Agreement containing key reference information regarding this Agreement and which forms an integral part of this Agreement;
- 2.1.6. “**Lease Period**” means the period for which this lease continues, as from the Commencement Date and subsisting for an indefinite period until terminated in accordance with the provisions of this Agreement;
- 2.1.7. “**Parties**” means the “**Lessor**” and “**Lessee**”, and any reference to “a Party” shall refer to one of the relevant Parties as required by the context;
- 2.1.8. “**Parking Bays**” means the number of parking bays and/or garages as indicated in the Lease Information available for use by the Lessee at the Leased Premises, if any;
- 2.1.9. “**Rates and Taxes**” means those

charges levied by a competent local authority or body, upon and in respect of the Leased Premises at any time during the currency of this lease, including any increase in those charges or any new tax, levy or impost that may be imposed in respect of the Leased Premises;

- 2.1.10. “**Rental**” means the monthly rental amount as indicated in the Lease Information (but excluding the utilities contemplated in clause 14 (Utilities) that may be payable, but including the Parking Bays) for the rental of the Leased Premises, with any part of the monthly rental calculated on a *pro rata* basis for any part of the month;
- 2.1.11. “**Signature Date**” means the date of last signature of this Agreement by the Parties hereto;
- 2.1.12. “**Termination Date**” means any date on which this Agreement is terminated in accordance with its terms other than by way of effluxion of time;
- 2.1.13. “**the/this Agreement**” means this lease agreement between the Parties; and
- 2.1.14. “**VAT**” means any value-added tax in terms of the Value Added Tax Act 89 of 1991, or any similar tax which is imposed in place of or in addition to such tax.

### 2.2. Interpretation

This Agreement shall be interpreted according to the following provisions, unless the context requires otherwise:

- 2.2.1. References to “**clauses**” and “**sub-clauses**” are references to the clauses and sub-clauses of this Agreement.
- 2.2.2. The headings of clauses and sub-clauses are included for convenience only and shall not affect the interpretation of this Agreement.
- 2.2.3. References to a “**person**” shall include an individual, firm, company, corporation, juristic person, and any trust, organisation, association or partnership, whether or not having separate legal personality.
- 2.2.4. Words importing the singular number shall include the plural and *vice versa*, and words importing either gender or the neuter shall include both genders and the

- neuter.
- 2.2.5. Unless specifically otherwise provided, the number of days indicated to commit an act or indicated for any other purpose, is calculated by excluding the first day and including the last day.
- 2.2.6. Reference to "**days**" shall be construed as calendar days unless qualified by the word "**business**", in which instance a "**business day**" will be any day other than a Saturday, Sunday or public holiday as gazetted by the government of the Republic of South Africa from time to time. References to "**months**" shall be construed as calendar months.
- 2.2.7. Defined terms appearing in this Agreement in title case shall be given their meaning as defined, while the same terms appearing in lower case shall be interpreted in accordance with their plain English meaning.
- 2.2.8. ANY PROVISION OF THIS AGREEMENT IMPOSING A RESTRAINT, PROHIBITION OR RESTRICTION ON THE LESSEE SHALL BE SO CONSTRUED THAT THE LESSEE IS NOT ONLY BOUND TO COMPLY THEREWITH BUT IS ALSO OBLIGED TO PROCURE THAT THE SAME RESTRAINT, PROHIBITION OR RESTRICTION IS OBSERVED BY EVERYBODY OCCUPYING OR ENTERING THE LEASED PREMISES OR ANY OTHER PART THEREOF THROUGH, UNDER, BY ARRANGEMENT WITH, OR AT THE INVITATION OF, THE LESSEE, INCLUDING (WITHOUT LIMITATION) THE FAMILY, RELATIVES, VISITORS, GUESTS, CONTRACTORS OR INVITEES OF THE LESSEE.
- 2.2.9. The Parties acknowledge that each of them has had the opportunity to take legal advice concerning this Agreement, and agree that no provision or word used in this Agreement shall be interpreted to the disadvantage of either Party because that Party was responsible for or participated in the preparation or drafting of this Agreement or any part of it.
- 2.2.10. All rentals and charges referred to in this Agreement exclude VAT and the Lessee shall be liable to pay the VAT which may be payable in respect of all such rentals and charges levied.

- 2.2.11. If any provision of this Agreement is contrary to the provisions of the Rental Housing Act 50 of 1999 (the "**Rental Housing Act**"), such provision shall be deemed to have been replaced by the provision of that Act.

### 3. LEASE

The Lessor lets to the Lessee, who hires the Leased Premises subject to the terms and conditions set out on this Agreement.

### 4. DURATION OF LEASE

- 4.1. This Agreement and the rights and obligations of the Parties under this Agreement shall take effect with effect from the Commencement Date and terminate on the earlier of the Expiry Date or the Termination Date, when it shall, subject to the provisions of this clause 4, automatically expire.
- 4.2. The Lessor shall not more than 80 (EIGHTY) and not less than 40 (FORTY) business days prior to the Expiry Date notify the Lessee in writing of the impending Expiry Date, and shall in such notice to the Lessee indicate –
- 4.2.1. that, unless terminated at the option of the Lessee, this Agreement shall after the Expiry Date automatically continue on a month-to-month basis, subject to any material changes as indicated in clause 4.2.2;
- 4.2.2. a list of all material changes proposed by the Lessor to this Agreement as would be required in the event of the automatic continuation of this Agreement in accordance with clause 4.2.1 or a renewal of this Agreement in accordance with clause 4.2.3 and which material changes may not be contrary to the Consumer Protection Act;
- 4.2.3. the option available to the Lessee to renew this agreement for a further period of 12 (TWELVE) months, provided that such option shall only be available to the Lessee if the Lessee has faithfully carried out the terms and conditions of this Agreement and is not in breach of a material provision of this Agreement as at the Expiry Date; and
- 4.2.4. that the Lessee may opt to –
- 4.2.4.1. terminate the Agreement on the Expiry Date; or

- 4.2.4.2. continue with the Agreement on a month-to-month basis as contemplated in clause 4.2.1; or
- 4.2.4.3. exercise its option to renew the Agreement as contemplated in clause 4.2.3.
- 4.3. Any dispute as to the amount of any rental payable by the Lessee upon the automatic continuation or renewal of this Agreement, shall be determined by a professional valuer registered in terms of the Property Valuers Profession Act 47 of 2000.
- 4.4. Without prejudice to clauses 4.1 and 4.2, the Lessee may at any time during the existence of this Agreement on 20 (TWENTY) business days' notice to the Lessor terminate this Agreement, provided that upon such cancellation –
  - 4.4.1. the Lessee shall remain liable to the Lessor for any amounts owing to the Lessor in terms of this Agreement up to such date of cancellation; and
  - 4.4.2. the Lessor shall be entitled to charge the Lessee a reasonable cancellation penalty as determined in accordance with the Consumer Protection Act provided such cancellation penalty may not have the effect of negating the Lessee's right to cancel this Agreement.

## 5. RENTAL AND DEPOSIT

### 5.1. Rental

- 5.1.1. The Rental shall be payable monthly in advance on or before the 1st (FIRST) day of each month, commencing on the Commencement Date, free of exchange and without deduction or set-off to the Lessor into the bank account as identified in the Lease Information or such other bank account as the Lessor may from time to time direct to the Lessee in writing.
- 5.1.2. The Rental shall annually escalate with the escalation percentage indicated in the Lease Information, compounded on each anniversary of the Commencement Date on the Rental of the immediately preceding year, with the first escalation to take effect on the first anniversary of the Commencement Date.
- 5.1.3. All rentals and charges referred to in this Agreement exclude VAT and the Lessee shall be liable to pay the VAT which may be payable in respect of all such rentals

and charges levied.

- 5.1.4. The Lessee shall not withhold, set off, delay, or make any deduction from any payment due to the Lessor for any reason whatsoever, irrespective of whether the Lessor is indebted to the Lessee or in breach of any obligation to the Lessee.

### 5.2. Deposit

- 5.2.1. On entering this Agreement, the Lessee shall on demand of the Lessor, immediately pay the Lessor the Deposit amount indicated in the Lease Information, which amount the Lessor shall retain as security for fulfilment by the Lessee of its obligations in terms of this Agreement.
- 5.2.2. The Lessor may, subject to this clause 5.2, at its discretion apply the Deposit for payment of any expenses incurred by the Lessor in order to rectify damages in respect of the Leased Premises, and for which the Lessee is liable, or for payment of any amounts for which the Lessee shall be liable towards the Lessor in terms of this Agreement, provided that the Lessor's right to claim damages or any other amounts owing shall not be limited as a result thereof and the Lessee shall within 14 (FOURTEEN) days of being notified by the Lessor that the Deposit has thus been applied, reinstate the Deposit to the original amount thereof.
- 5.2.3. The Deposit must be invested by the Lessor in an interest-bearing account with a financial institution, and the Lessor must, subject to clause 5.2.6 pay the Lessee such interest at the rate applicable to such account which may not be less than the rate applicable to a savings account with that financial institution, and the Lessee may, during the Lease Period, request the Lessor to provide written proof in respect of interest accrued on such Deposit, and the Lessor must provide such proof on request.
- 5.2.4. The Lessor and Lessee shall jointly, prior to the Lessee taking occupation of the Leased Premises, inspect the Leased Premises to ascertain the existence or not of any defects or damage therein with a view to determining the Lessor's responsibility for rectifying any defects or damage. A list of defects or damage

must be attached as 'Annexure A' to this Agreement.

- 5.2.5. At the expiration of this Agreement the Lessor and Lessee shall jointly inspect the Leased Premises at a mutually convenient time within a period of 3 (THREE) days prior to such expiration or at a later time agreed upon between the Parties (which shall in any event not be later than 7 (SEVEN) days after the expiration of the Agreement) with a view to ascertaining if there was any damage caused to the Leased Premises during the Lessee's occupation thereof.
- 5.2.6. On the expiration of this Agreement, the Lessor may apply such Deposit and interest towards the payment of all amounts for which the Lessee is liable under this Agreement, including the reasonable cost of repairing damage to the Leased Premises and the cost of replacing lost keys and the balance of the Deposit and interest, if any, must then be refunded to the Lessee by the Lessor not later than 7 (SEVEN) days of restoration of the Leased Premises to the Lessor.
- 5.2.7. The relevant receipts which indicate the costs which the Lessor incurred, as contemplated in clause 5.2.6, must be available to the Lessee for inspection as proof of such costs incurred by the Lessor.
- 5.2.8. Should no amounts be due and owing to the Lessor in terms of this Agreement, the Deposit, together with the accrued interest in respect thereof, must be refunded by the Lessor to the Lessee, without any deduction or set-off, within 7 (SEVEN) days of expiration of this Agreement.
- 5.2.9. Failure by the Lessor to inspect the Leased Premises in the presence of the Lessee as contemplated in clause 5.2.5, is deemed to be an acknowledgement by the Lessor that the Leased Premises is in a good and proper state of repair, and the Lessor will have no further claim against the Lessee who must then be refunded the full Deposit plus interest by the Lessor.
- 5.2.10. Should the Lessee fail to respond to the Lessor's request for an inspection as contemplated in clause 5.2.5, the Lessor must, on expiration of this Agreement,

inspect the Leased Premises within 7 (SEVEN) days from such expiration in order to assess any damages or loss which occurred during the lease. The Lessor may in these circumstances without detracting from any other right or remedy of the Lessor, deduct from the Lessee's Deposit and interest the reasonable cost of repairing damage to the Leased Premises and the cost of replacing lost keys. The balance of the Deposit and interest, if any, after deduction of the amounts contemplated in this clause, must be refunded to the Lessee by the Lessor not later than 21 (TWENTY-ONE) days after expiration of this Agreement and the relevant receipts which indicate the costs which the Lessor incurred, must be available to the Lessee for inspection as proof of such costs incurred by the Lessor.

## 6. PARKING BAYS

- 6.1. The Rental payable by the Lessee includes the cost of the use by the Lessee of the Parking Bays contemplated in the Lease Information availed to the Lessee in terms of this Agreement.
- 6.2. The Lessee shall comply with such access control system as may be introduced by the Lessor from time to time, and display any required parking identification required on vehicles.
- 6.3. The Lessee will be responsible for keeping the Parking Bays in a clean and tidy condition.

## 7. INCREASE IN RATES AND TAXES

SHOULD THE RATES AND TAXES PAYABLE IN RESPECT OF THE LEASED PREMISES OR IN RESPECT OF ANY IMPROVEMENTS THEREON (OR THE PROPERTY ON WHICH THE LEASED PREMISES ARE SITUATED) BE INCREASED DURING THE CURRENCY OF THIS LEASE, THEN THE LESSOR MAY BY WRITTEN NOTICE TO THE LESSEE, INCREASE THE MONTHLY RENTAL FOR THE LEASED PREMISES BY THE AMOUNT BY WHICH THE RATES AND TAXES ARE INCREASED, BY AN AMOUNT EQUAL TO 1/12<sup>TH</sup> (ONE TWELFTH) OF THE ANNUAL AMOUNT (ATTRIBUTABLE TO THE LESSEE) OF THAT INCREASE, WITH EFFECT FROM THE DATE ON WHICH SUCH INCREASE TAKES EFFECT, CALCULATED PRO RATA ON THE BASIS OF THE RATIO WHICH THE LEASED PREMISES BEARS TO THE OVERALL

PROPERTY HOUSING THE LEASED PREMISES WHICH IS AFFECTED BY SUCH AN INCREASE.

## 8. USE OF THE LEASED PREMISES

- 8.1. The Lessor shall make the Leased Premises available to the Lessee on the Commencement Date and the Lessee shall use the Leased Premises solely for the purposes indicated in the Lease Information. The Leased Premises shall not be used for any other purpose other than those referred to above without the Lessor's prior written consent, and any other use of the Leased Premises without such consent shall constitute a material breach of this Agreement.
- 8.2. IF THE LEASED PREMISES ARE AVAILABLE FOR OCCUPATION ON THE COMMENCEMENT DATE BUT THE LESSEE DOES NOT MOVE IN WITHIN 72 (SEVENTY-TWO) HOURS, THE LESSOR MAY CANCEL THIS AGREEMENT WITHOUT NOTICE AND HOLD THE LESSEE LIABLE FOR ANY DAMAGE SUFFERED BY THE LESSOR. THIS CLAUSE DOES NOT APPLY IF THE PARTIES HAVE AGREED IN WRITING THAT THE LESSEE WILL NOT MOVE IN ON THE COMMENCEMENT DATE.
- 8.3. The Lessee shall comply with any rules prescribed by the Lessor from time-to-time and communicated to the Lessee relating to the use and enjoyment of the Leased Premises, including matters relating to security, fire, safety, access, animals, deliveries, storage, parking, security, and all matters incidental thereto.
- 8.4. The Lessee acknowledges that if he/she fails within 3 (THREE) days of signing of this Agreement, to notify the Lessor of not having received all keys in respect of the Leased Premises, it shall be deemed that he/she has received all keys in respect of the Leased Premises and the Lessee undertakes to return all such keys to the Lessor at the expiration or termination of this Agreement.
- 8.5. The Lessee must clean the carpets and other floor coverings and tiles regularly, it being understood that such will be replaced at the expense of the Lessee should they be damaged beyond reasonable wear and tear.
- 8.6. The Lessee shall only be entitled to keep any pet or domestic animal on the Leased Premises with the Lessor's prior consent thereto in writing. The Lessee hereby undertakes and agrees to remedy and pay

for any damage caused to the Leased Premises and/or contents of the Leased Premises which shall have been caused by any pet or domestic animal residing in the Leased Premises. For the avoidance of doubt any such damage shall not be deemed to be fair wear and tear.

- 8.7. The Lessee shall not –
  - 8.7.1. without the Lessor's prior written consent cede or assign or in any way alienate or encumber any of the Lessee's rights or obligations in terms hereof; and/or sublet or permit anyone else to occupy the Leased Premises or any part thereof;
  - 8.7.2. contravene or permit a contravention of any law, by-law, ordinance, proclamation, statutory regulation which applies to the Leased Premises or which the Lessor is required to observe as owner of the Leased Premises;
  - 8.7.3. contravene or permit a contravention of any of the conditions of title under which the Lessor owns the Leased Premises;
  - 8.7.4. do anything or permit anything to be done in or on the Leased Premises which may constitute a nuisance, danger or hazard to adjoining properties or cause annoyance, disturbance or discomfort to tenants or occupiers of adjoining buildings or which amounts to improper, indecent or objectionable conduct or use of the Leased Premises;
  - 8.7.5. do anything which creates a nuisance or blockage of the Parking Bays and shall at its cost at all times keep the Parking Bays clean and tidy, and on termination of the Agreement hand over the Parking Bays in the same condition;
  - 8.7.6. do anything which detracts from the appearance of the Leased Premises and shall at its cost at all times keep the interior of the Leased Premises clean, free from insects and rodents, tidy and hygienic, including the cleaning of all glass, windows (internal and external), office fronts and external doors, and on termination of the Agreement hand over the Leased Premises in the same condition;
  - 8.7.7. leave waste or allow the accumulation of waste, refuse, junk, wreckage or perishable articles in or about the Leased Premises except in refuse bins or designated refuse storage areas;

- 8.7.8. interfere with any electrical, plumbing, gas or other system installations at the Leased Premises, except as may be necessary to enable the Lessee to carry out its obligations of maintenance and repair in terms of this Agreement, including taking reasonable measures to prevent blockages and obstructions in drains, sewerage pipes, gutters and water pipes servicing the Leased Premises, including at its cost removing any obstruction or blockage and repairing piping or drainage where necessary;
- 8.7.9. install any electrical installations which separately or cumulatively has the potential to overload, short circuit, unduly strain and/or exceed the electrical loading capacity of any electrical installation(s) on the Leased Premises;
- 8.7.10. keep any animals on the Leased Premises or shall only be entitled to keep such animals on the Leased Premises as the Lessor may consent to in writing;
- 8.7.11. install any equipment which could harm the structure of the building without the consent of the Lessor; and/or
- 8.7.12. do anything or permit anything to be done in or on the Leased Premises which may be or may constitute a nuisance to users of adjoining properties or other tenants and shall be responsible for the conduct of its employees, agents and contractors in or about the Leased Premises.

**9. ALTERATIONS TO THE LEASED PREMISES**

- 9.1. The Lessee shall not make any alterations, structural or otherwise, additions or other improvements to the Leased Premises or to any plant, equipment or installation therein without the prior written consent of the Lessor, and should the Lessor consent to such alterations or additions, then the Lessee shall obtain all necessary local authority approvals and permits for such alterations or additions, and the Lessee shall if so requested by the Lessor in writing, upon termination of this Agreement, remove where possible the same and reinstate the Leased Premises or any plant, equipment or installation therein to the same condition they were in the Commencement Date (fair wear and tear excepted). Any such alterations, additions or improvements must be effected in a proper and workmanlike manner by contractors that have been approved by the Lessor in advance

and strictly in accordance with any approved plans and specifications.

- 9.2. Save for any improvements which is removed from the Leased Premises as required by the Lessor, all improvements to the Leased Premises shall belong to the Lessor and may not be removed from the Leased Premises at any time, and the Lessee shall have only a claim for reasonable compensation for any improvements to the Leased Premises and shall have no right of retention in respect of any such improvements.

**10. MAINTENANCE AND REPAIRS**

- 10.1. The Lessee shall at its own cost and expense throughout the term of this Agreement –
  - 10.1.1. maintain in good order and repair the interior of the Leased Premises including all electrical, gas, water, drainage, sanitary works and other installations, appurtenances, fixtures and fittings as well as the terrain surrounding any buildings on the Leased Premises, but excluding any maintenance of a structural nature, and on termination of this Agreement return to the Lessor the Leased Premises with all items referred to above in good order and repair (fair wear and tear excepted);
  - 10.1.2. where necessary, replace fixtures and fittings with articles of equal or better quality, corresponding value and appearance, which for reference purposes may include, but shall not be limited to, wash- and lavatory basins, lavatory seats, flushing apparatus, glass panes, plate glass, taps, window-, door- and cupboard locks, hinges, fittings and keys, sinks, electrical fittings including switches and plugs, gas fittings and regulators, light bulbs, light fixtures and fluorescent lights; and
  - 10.1.3. promptly repair or make good all damage to the Leased Premises irrespective of its cause, unless the damage is of a structural nature, in which event the Lessee must without delay notify the Lessor of such damage and the cause of such damage.
- 10.2. In the event of the Lessee failing to maintain or repair the Leased Premises in accordance with its obligations stated in this clause, and remaining in default for such period as the Lessor may reasonably stipulate in a written notice calling on the Lessee to remedy the default, due regard being had to the nature hereof, then the Lessor shall be entitled to

effect the necessary maintenance or repairs and to claim cost so incurred from the Lessee.

- 10.3. On termination of this Agreement the Lessee shall deliver the Leased Premises to the Lessor in the same good order and condition, fair wear and tear excepted, as it existed at the Commencement Date or as it existed after any upgrading work or alterations and improvements had been done pursuant to the provisions of this Agreement.
- 10.4. Should any defect manifest itself in or about the Leased Premises for the repair of which the Lessor is responsible, the Lessee shall as soon as reasonably possible after the manifestation thereof give the Lessor notice of the defect. Should the Lessor fail to effect any maintenance or repairs for which it is responsible within a reasonable time after having being given written notice to do so by the Lessee, due regard being had to the nature of the maintenance or repair to be carried out, the Lessee shall be entitled itself to do so at the cost of the Lessor.

#### **11. FIXTURES AND FITTINGS**

- 11.1. The Lessee shall be entitled to add such fixtures and fittings to the Leased Premises as is necessary for the lease purposes, but which shall be in keeping with the general finish of the Leased Premises and which shall, at the termination of this Agreement, be removed at the Lessee's cost including any repairs required so that the Leased Premises are restored to its original condition as at the time of the Commencement Date (fair wear and tear excepted).
- 11.2. The Lessee shall not, except for normal fixturing purposes, drive or permit to be driven into the walls or ceiling of the Leased Premises any nails, screws or other instruments or articles, nor in any manner whatsoever do or permit anything to be done that may damage the walls or ceilings or any other portion of the Leased Premises.

#### **12. UTILITIES** *(Please mark the correct option)*

##### **[Option 1]**

The Lessee shall promptly pay the supplier of electricity, water and other utilities in each case directly to the relevant supplier concerned. Should the Lessor for any reason be required to pay any of these amounts, then the Lessee shall refund the amount in question to the Lessor on demand and if required by the Lessee, upon

proof of payment by the Lessor of the same.

##### **[Option 2]**

- 12.1. The costs of water and electricity are measured via a pre-paid meter which the Lessee shall be responsible for payment of as from the Commencement Date.
- 12.2. Should the Lessor for any reason be required to pay any of these amounts, then the Lessee shall refund the amount in question to the Lessor on demand and if required by the Lessee, upon proof of payment by the Lessor of the same.

##### **[Option 3]**

The costs of water and electricity are included in the monthly Rental payable by the Lessee.

##### **[Option 4]**

The costs of water and electricity, but excluding other utilities which shall be paid directly to the supplier thereof by the Lessee, shall be paid to the relevant supplier concerned by the Lessor who shall monthly invoice the Lessee, in addition to the Rental, the cost of such water and electricity as paid by the Lessor to the relevant supplier, and the Lessee shall be entitled to request the Lessor to provide information in support of the invoice for such utilities rendered to the Lessee.

#### **13. DAMAGE TO OR DESTRUCTION OF THE LEASED PREMISES**

- 13.1. Should the Leased Premises be destroyed or damaged to an extent which prevents the Lessee from having beneficial occupation of the whole or part of the Leased Premises, then –
- 13.1.1. this Agreement shall not terminate, except in instances where the Lessee is deprived of total or substantial beneficial occupation of the Leased Premises;
- 13.1.2. the Lessee shall be entitled to a remission in the Rental payable by the Lessee in accordance with the period and the extent to which the Lessee is deprived of beneficial occupation of part of the Leased Premises, which amount shall, in the event that the Parties fail to reach agreement between them, be determined on request by any of the Parties, by a person appointed by the then acting President of the Law Society of the Free State whose decision shall be final and binding on the Parties (the costs of which person shall be borne by the Parties in equal amounts);
- 13.1.3. the Lessee shall have no claim of any

nature whatever against the Lessor as a result thereof.

#### 14. BREACH

Should any Party (the “**guilty party**”) commit a breach of this Agreement and fail or refuse to rectify that breach within 14 (FOURTEEN) days after receipt of a written notice from the other Party (the “**innocent party**”), calling upon the guilty party to rectify that breach, the innocent party shall be entitled, without prejudice to any other of his rights, to forthwith cancel this Agreement by written notice to the guilty party.

#### 15. HOLDING OVER

15.1. Should the Lessor cancel this Agreement and the Lessee disputes the Lessor's right to do so and continues to occupy the Leased Premises pending the determination of that dispute, then –

15.1.1. the Lessee shall continue to pay all amounts which would be due by the Lessee in terms of this Agreement on the due dates thereof;

15.1.2. the Lessor shall be entitled to recover and accept those payments;

15.1.3. the recovery or acceptance by the Lessor of such payments shall be without prejudice to and shall not in any manner whatsoever affect the Lessor's claim to cancellation of this Agreement or for damages of any other nature whatsoever.

15.2. Should the dispute between the Lessor and the Lessee be determined in the Lessor's favour, then the payments made to the Lessor in terms of the above shall be regarded as amounts paid by the Lessee on account of the loss and/or damages sustained by the Lessor as a result of the holding over by the Lessee of the Leased Premises.

#### 16. WAIVER OF PREFERENCE

THE LESSEE OR HIS SUCCESSORS-IN-TITLE, HEREBY WAIVES ANY PREFERENCE WHICH HIS RIGHTS IN TERMS OF THIS AGREEMENT MAY HAVE ABOVE ANY BOND OR BONDS WHICH THE LESSOR OR HIS SUCCESSORS-IN-TITLE MAY REGISTER AFTER THE DATE OF SIGNATURE HEREOF, AND THE LESSEE OR HIS SUCCESSORS-IN-TITLE, HEREBY CONSENTS THAT THE LESSOR OR HIS SUCCESSORS-IN-TITLE SHALL BE ENTITLED TO REGISTER THE BOND OR BONDS OVER THE LEASED PREMISES AT ANY TIME

HEREAFTER OR TO INCREASE THE AMOUNT OF ANY EXISTING BOND OR TO OBTAIN A RE-ADVANCE UNDER AN EXISTING BOND. THE LESSEE OR HIS SUCCESSORS-IN-TITLE FURTHERMORE HEREBY CONSENTS THAT HIS RIGHTS SHALL NOT HAVE PREFERENCE ABOVE THE RIGHTS OF SUCH BONDHOLDER OR BONDHOLDERS AND THAT IF SUCH BONDHOLDER OR BONDHOLDERS MAY AT ANY TIME TAKE ACTION TO CALL UP SUCH BOND OR BONDS AND SELL THE LEASED PREMISES IN EXECUTION, THIS DEED OF LEASE SHALL IN THAT CASE TERMINATE WHEN THE LEASED PREMISES ARE SOLD IN EXECUTION, WITHOUT PREJUDICE TO THE RIGHTS OF THE LESSEE OR HIS SUCCESSORS-IN-TITLE, TO CLAIM DAMAGES IN THAT EVENT FROM THE LESSOR OR HIS SUCCESSORS-IN-TITLE.

#### 17. MISCELLANEOUS

17.1. No provision of this Agreement (including, without limitation, the provisions of this clause) may be amended, substituted or otherwise varied, and no provision may be added to or incorporated in this Agreement, except (in any such case) by an agreement in writing signed by the duly authorised representatives of the Parties.

17.2. This Agreement supersedes all prior agreements, representations, communications, negotiations and understandings between the Parties concerning the subject matter of this Agreement.

17.3. Any relaxation, indulgence or delay (collectively referred to as “**Indulgence**”) by either Party in exercising, or any failure by either Party to exercise, any right under this Agreement shall not be construed as a waiver of that right and shall not affect the ability of that Party subsequently to exercise that right or to pursue any remedy, nor shall any Indulgence constitute a waiver of any other right (whether against that Party or any other person).

17.4. The waiver of any right under this Agreement shall be binding on the waiving Party only to the extent that the waiver has been reduced to writing and signed by the duly authorized representative(s) of the waiving Party.

17.5. Whenever possible, each provision of this Agreement shall be interpreted in a manner which makes it effective and valid under applicable law, but if any provision of this

Agreement is held to be illegal, invalid or unenforceable under applicable law, that illegality, invalidity or unenforceability shall not affect the other provisions of this Agreement, all of which shall remain in full force.

- 17.6. This Agreement may be executed in any number of identical counterparts, all of which when taken together shall constitute one agreement. Any single counterpart or a set of counterparts taken together which, in either case, are executed by the Parties shall constitute a full original of this Agreement for all purposes.
- 17.7. The Parties agree to perform, or procure the performance, of all further things, and execute and deliver (or procure the execution and delivery) of all further documents, as may be required by law or as may be desirable or necessary to implement or give effect to this Agreement and the transactions contemplated therein.
- 17.8. By entering into this Agreement, the Parties warrant that there are no impediments or restrictions to their doing so and that this Agreement does not violate the provisions of any Agreement between any of the Parties and any third party.

**18. DOMICILIUM AND NOTICES**

- 18.1. The Parties hereby choose as their respective addresses for all notices arising out of this Agreement and as their *domicilium citandi et executandi* ("**domicilium**") their addresses as indicated in the Lease Information.
- 18.2. Each of the Parties shall be entitled from time to time by written notice to the other to vary its *domicilium* to any other address within the Republic of South Africa.

- 18.3. Any notice required or permitted to be given in terms of this Agreement shall be valid and effective only if in writing.
- 18.4. Any notice given by one Party to the other ("**the addressee**") which:
  - 18.4.1. is delivered by hand during the normal business hours of the addressee at the addressee's *domicilium* for the time being shall be presumed, until the contrary is proved, to have been received by the addressee at the time of delivery;
  - 18.4.2. is transmitted by electronic mail to the addressee at the addressee's specified electronic mail address shall be rebuttably presumed to have received by the addressee on the date of transmission as reflected on the sender's electronic mail records.
  - 18.4.3. is posted by prepaid registered post from an address within the Republic of South Africa to the addressee at the addressee's *domicilium* for the time being shall be presumed, until the contrary is proved, to have been received by the addressee on the seventh day after the date of posting.
- 18.5. Notwithstanding anything to the contrary contained or implied in this Agreement, a written notice or communication actually received by the Parties from one another, including by way of facsimile transmission or electronic mail, shall be adequate written notice or communication to such Party.

**19. COSTS**

Each Party shall be responsible for paying their own costs and expenses incurred in connection with the negotiation, preparation and execution of this Agreement.

Thus done and signed at.....on this.....day of.....20.....

As witnesses:

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

\_\_\_\_\_  
For and on behalf of  
**THE LESSOR**  
by  
  
\_\_\_\_\_  
who warrants his/her authority hereto

Thus done and signed at.....on this.....day of.....20.....

As witnesses:

\_\_\_\_\_

\_\_\_\_\_

For and on behalf of

**THE LESSEE**

by

\_\_\_\_\_

\_\_\_\_\_ who warrants his/her authority hereto

**ANNEXURE A: LIST OF DEFECTS**